OPELIKA CITY COUNCIL
" REGULAR MEETING AGENDA "
204 South 7th Street
December 6, 2016
TIME: 7:00 PM

1. CALL TO ORDER

2. ROLL CALL
    1. Patricia Jones, Tiffany Gibson-Pitts, Dozier Smith T, David Canon, Eddie Smith

3. INVOCATION

4. PLEDGE OF ALLEGIANCE
    1. Liliana Aleman and Karmel Torbert from Northside Intermediate School.

5. READING OF MINUTES
    1. Minutes for the 11-15-16 City Council Meeting.

6. UNFINISHED BUSINESS

7. REMARKS BY THE MAYOR
    1. Appointment to Planning Commission - Dale Vaughn. Term ends 2-15-18.
    2. Recognize Police Officer of the Quarter - Sergeant Alfred White.
    3. Recognize Firefighter of the Year - Noah Allmond. Runner-ups Zach Nelson & Bradley Bowen.

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

9. REPORT OF DISBURSEMENTS

10. COMMITTEE REPORTS

11. GENERAL BUSINESS
    1. Super Mini Mart Request a Retail Beer & Wine Off Premise License.
    2. Public Hearing Weed Abatement Assessment - 225 Vero Ct.
    3. Public Hearing Weed Abatement Assessment - 229 Vero Ct.
    4. Notice of Public Hearing, Hunting Permit, 1103 Andrews Road
    5. Public Hearing, Amend Text of Zoning Ordinance, Section 2.2 & 7.3, Truck Fueling Station.

12. AWARDING OF BIDS
    1. Oral Recommendation - Destination Downtown-Shared Use Path 17003 - ENG

13. RESOLUTIONS
    1. Weed Abatement Assessment - 1109 Magnolia St. - TABLED

2. Travel Advance for Zack Hester - OPS.
3. Travel Advance for Shane Childs - OPS.
4. Designate City Personal Property Surplus and Authorize Disposal
5. One (1) 2017 Nissan Frontier King Cab P/U - Inspection Dept.
6. Purchase - Cisco Equipment - IT
7. Purchase - Aerial Photogrammetric Services - IT
8. Weed Abatement Assessment - 225 Vero Ct
9. Weed Abatement Assessment - 229 Vero Ct.
10. Hunting Permit, 1103 Andrews Road, 50.5 Acres, R-1 Zone
11. Interconnection and Commercial Agreement with Bellsouth (OPS)
12. Guaranteeing Payments, Southeast Al. Gas District.
13. Contract for Appropriation to Ala. Council on Human Relations.
14. Special Appropriation to the East Ala. Community Ballet.
15. Sale of Power Pole to Jeffery A. Hilyer
16. Authorize Higher Entry Level Salary - Senior Accountant.

14. ORDINANCES
    1. Amend Zoning Ordinance & Map from R-3, GC to C-2, GC at 2004 Yarbrough Dr. - 2Nd Reading.
    2. Amend Text of Zoning Ordinance, Section 2.2 & 7.3, Truck Fueling Station - 1St Reading.
    3. Convey Real Property on Commanche Dr. to the Utilities Board - First Reading.
    4. Amend City Code, Chapter 29 Vehicles for Hire - First Reading.
    5. Amending Business License Code - First Reading.

15. APPOINTMENTS

16. ADJOURN

City Council
204 South 7Th Street
Opelika, AL

SCHEDULED

CM MINUTES (ID # 2032)

Meeting: 12/06/16 07:00 PM
Department: City Clerk
Category: CM Minutes
Prepared By: Robert Shuman
Initiator: Robert Shuman
Sponsors:
DOC ID: 2032

Minutes for the 11-15-16 City Council Meeting.

OPELIKA CITY COUNCIL
" REGULAR MEETING MINUTES "
204 South 7th Street
November 15, 2016
TIME: 7:00 PM

1. Call to Order

President Smith called this council meeting to order at 7pm then asked Mr. Shuman to call the roll.

2. Roll Call

All council members were present.

   1. Patricia Jones, Tiffany Gibson-Pitts, Dozier Smith T, David Canon, Eddie Smith

3. Invocation

The invocation was provided by Joey Motley, City Administrator.

4. Pledge of Allegiance

The invocation was provided by Councilman Dozier Smith T.

5. Reading of Minutes
   1. Minutes for the 11-1-16 City Council Meeting.

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

   2. Minutes for the 11-07-16 City Council Organizational Meeting.

Mr. Canon asked that Mr. Jones be changed to Ms. Jones under General Business number 7. Said minutes was approved as revised.

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

6. Unfinished Business
7. Remarks By the Mayor

Mayor Fuller advised the city council that he had appointed Mary Bryant to the OHA Board replacing Tasha Fuller. Ms. Bryant will assume the existing term.

Mayor Fuller advised everyone present of the streets that will be blocked temporarily for maintenance work.

Mayor Fuller advised eveyone present of the garbage pickup schedule for Thanksgiving week and wished everyone a safe and happy Thanksgiving.

Mayor Fuller introduced Leigh Krehling, the City's new Community Relations Specialist who will be replacing Jan Gunter at the end of January 2017.

   1. Building Inspection Permit Reports - October, 2016

Mayor Fuller called on Joey Motley, City Administrator, to provide a summary of the City's October building permit report.

2. Present proclamation for Small Business Saturday.

Mayor Fuller presented a proclamation recognizing Small Business Saturday to Barbara Patton, Chamber of Commerce President and Bill Trent, Chamber Chairman.

3. Recognize Police Officer of the Quarter - Sergeant Alfred White.

Due to a major fire at the Old Leshner Mill, this recognition will take place at the 12/6 council meeting.

4. Recognize Firefigher of the Year - Noah Allmond. Runner ups - Zach Nelson & Bradley Bowen.

Due to a major fire at the Old Leshner Mill, this recognition will take place at the 12/6 council meeting.

8. Citizen Communications

(Limit comments to five minutes or less)

Elizabeth Miller, Chairman of the Lee Co. Human Society, thanked Mayor Fuller and the City Council for the City's 2017 appropriation to the LCHS. We appreciate the partnership between the City of the LCHS. I also wish to thank Terry White for his assistance in making our partnership work and paying attention to the details.

9. Report of Disbursements

10. Committee Reports

11. General Business

1. Public Hearing Weed Abatement Assessment - 12 East Johnson Ave

Mr. Shuman stated this pubic hearing was for a weed assessment at 12 East Johnson Avenue. President Smith opened the public hearing asking if there was anyone present that would like to speak for or against said assessment. No one came forward. President Smith closed this public hearing.

2. Public Hearing Weed Abatement Assessment - 308 Brannon Ave

Mr. Shuman stated this pubic hearing was for a weed assessment at 308 Brannon Avenue. President Smith opened the public hearing asking if there was anyone present that would like to speak for or against said assessment. No one came forward. President Smith closed this public hearing.

3. Public Hearing Weed Abatement Assessment - 709 India Rd

Mr. Shuman stated this pubic hearing was for a weed assessment at 709 India Road. President Smith opened the public hearing asking if there was anyone present that would like to speak for or against said assessment. No one came forward. President Smith closed this public hearing.

4. Public Hearing Weed Abatement Assessment - 1109 Magnolia St.

Mr. Shuman stated this pubic hearing was for a weed assessment at 1109 Magnolia Street. President Smith opened the public hearing asking if there was anyone present that would like to speak for or against said assessment. No one came forward. President Smith closed this public hearing.

5. Public Hearing, Amend Zoning Ordinance & Map, 2004 Yarbrough Drive.

Jerry Kelly, Planning Director, provided a summary of an amendment to re-zone the property at 2004 Yarbrough Drive. President Smith opened this public asking if there was anyone that would like to speak for or against said re-zoning.

John Flemming stated his home is behind said property and is concerned about the increased traffic, noise, security and effect on his property value.

Cora McGriff stated she lives near said property and wants to make sure that the neighborhood remains quiet and secure with no big trucks and increased traffic.

Ledge Nettles, the property owner at 2004 Yarbrough Drive stated that his company is provides civil engineering services and has six employees. The company vehicles are small SUV's and I will be building a wooden privacy fence for a buffer.
Jerry Kelly stated that the proposed zoning requires Conditional Use approval.

12. Awarding of Bids

There are no bids.

13. Resolutions

1. Resolution 305-16 Expense Reports from Various Departments.

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

2. Resolution 306-16 Designate City Personal Property Surplus & Authorize Disposal

RESULT:	**APPROVED [UNANIMOUS]**
MOVER:	Dozier Smith T, Council Member
SECONDER:	Tiffany Gibson-Pitts, Council Member
AYES:	Jones, Gibson-Pitts, Smith T, Canon, Smith

3. Resolution 307-16 Purchase - Six Hundred (600) Itron Electric Meters - OPS

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

4. Resolution 308-16 Purchase - Six Hundred (600) TPM Controllers - OPS

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

5. Resolution 309-16 Purchase - Two (2) 2017 Chevrolet 3500 Passenger Vans - P&R

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

6. Resolution 310-16 Purchase - Fifteen (15) Lenel OnGuard Access Control Systems - P/W

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

7. Resolution 311-16 Weed Abatement Assessment - 12 East Johnson Ave

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

8. Resolution 312-16 Weed Abatement Assessment - 308 Brannon Ave

RESULT: **APPROVED [UNANIMOUS]**
MOVER: David Canon, Council Member
SECONDER: Tiffany Gibson-Pitts, Council Member
AYES: Jones, Gibson-Pitts, Smith T, Canon, Smith

9. Resolution 313-16 Weed Abatement Assessment-709 India Rd.

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

10. Resolution Weed Abatement Assessment - 1109 Magnolia St.

Ms. Jones had questions about this assessment and asked the City Council to Table this resolution till the next council meeting.

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

11. Resolution 314-16 IAR Agreement with ALDOT for Cartech - Eng.

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

12. Resolution 315-16 Authorize Grant Application with ALDOT.

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

13. Resolution 316-16 Employment Contract with Robert L. Holley - OPD

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

14. Resolution 317-16 Appropriation Contract with the OIDA.

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

15. Resolution 318-16 Renew Lease Agreement with OHA - Senior Center.

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

16. Resolution 319-16 Designate City Bank Depositories.

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

17. Resolution 320-16 Reappoint the City Clerk - Treasurer.

RESULT: **APPROVED [UNANIMOUS]**
MOVER: Tiffany Gibson-Pitts, Council Member
SECONDER: Dozier Smith T, Council Member
AYES: Jones, Gibson-Pitts, Smith T, Canon, Smith

18. Resolution 321-16 Agreement, Compacting & Baling Services with Lee Co. - OES

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

19. Resolution 322-16 Agreement for Professional Services with Constantine Engineering, Inc. - P/W

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

20. Resolution 323-16 Agreement with American Behavioral Benefits Managers, Inc - H/R

RESULT: **APPROVED [UNANIMOUS]**
MOVER: Tiffany Gibson-Pitts, Council Member
SECONDER: David Canon, Council Member
AYES: Jones, Gibson-Pitts, Smith T, Canon, Smith

21. Resolution 324-16 Revising Job Title and Job Description for Assistant Sportsplex Manager

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

22. Resolution 325-16 Engagement Letter for Legal Services, Samford & Denson, LLP.

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

14. Ordinances

1. Ordinance Amend Zoning Ordinance & Map from R-3, GC to C-2, GC at 2004 Yarbrough Dr. - 1St Reading.

This ordinance was introduced for a 1st reading by Mr. Canon.

RESULT: **FIRST READING INTRODUCED**

15. Appointments

1. Appoint Vanessa Darden to P&R Board to replace Rod Herring who has resigmed. The existing term ends 3-15-17.

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

16. Adjourn

The City Council meeting minutes of 11-15-16 are hereby adopted and approved this the _____ day of __________________, 2016.

/S/

____

President of the City Council

City of Opelika, Alabama

ATTEST:

/s/

____

City Clerk - Treasurer

1. Motion to Adjourn.

This council meeting was adjourned at 7:56 pm.

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

City Council
204 South 7Th Street
Opelika, AL

SCHEDULED

Meeting: 12/06/16 07:00 PM
Department: Purchasing and Revenue
Category: Business & Alcohol License
Prepared By: Martha Wright
Initiator: Lillie Finley
Sponsors:
DOC ID: 2044

GENERAL BUSINESS (ID # 2044)

Super Mini Mart Request a Retail Beer & Wine Off Premise License.

City Council
204 South 7Th Street
Opelika, AL

SCHEDULED

Meeting: 12/06/16 07:00 PM
Department: Purchasing and Revenue
Category: Public Hearing
Prepared By: Jerry Bush
Initiator: Lillie Finley
Sponsors:

GENERAL BUSINESS (ID # 2028)

DOC ID: 2028

Public Hearing Weed Abatement Assessment - 225 Vero Ct.

WEED ABATEMENT INVOICE

Date: 11/21/2016

To: State of Alabama
PO Box 327210
Montgomery Al. 36132

Property Address:
225 Vero Ct.
Opelika Al. 36801
Parcel # 10-03-08-2-002-031.000

On September 30, 2016 in accordance with Opelika City Ordinance 110-12, a notice was sent informing the owner that a weed violation at the above listed property address. After failing to correct the violation within the time specified in the notice, the City of Opelika abated the violation.

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

Cost of Abatement: 226.20

Certified mail: 25.96

Misc. ____________

Total 252.16

To: State of Alabama
P.O. Box 327210
Montgomery Al. 36132

NOTICE OF PUBLIC HEARING ON COST OF ABATEMENT OF WEED NUISANCE LOCATED AT 225 Vero Court, Parcel 43-10-03-08-2-002-031.000

==

NOTICE IS HEREBY GIVEN that the weed nuisance growing upon or in front of the property located at 225 Vero Court, Parcel No. 031.000 in the City of Opelika has been abated by the removal of the noxious or dangerous weeds, and the Mayor has therefore submitted to the City Council an itemized report (attached) in writing showing the cost of removing said nuisance. The total cost of abating such nuisance in front of or upon the above described property is $252.16.

Notice is also given that the City Council of the City of Opelika will meet to hear and to determine any objections or defenses that may be raised by any of the property owners liable to be assessed of the work of abating such nuisance at 7:00 p.m. in the Council Chambers of the Municipal Building, 204 South 7th Street, Opelika, Alabama, on the 6th day of December, 2016.

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

Dated this the 21st day of November, 2016.

____
Jerry Bush
Code Compliance Officer

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

City Council
204 South 7Th Street
Opelika, AL

SCHEDULED

Meeting: 12/06/16 07:00 PM
Department: Purchasing and Revenue
Category: Public Hearing
Prepared By: Jerry Bush
Initiator: Lillie Finley
Sponsors:
DOC ID: 2030

GENERAL BUSINESS (ID # 2030)

Public Hearing Weed Abatement Assessment - 229 Vero Ct.

WEED ABATEMENT INVOICE

Date: 11/21/2016

To: State of Alabama
PO Box 327210
Montgomery Al. 36132

Property Address:
229 Vero Ct.
Opelika Al. 36801
Parcel # 10-03-08-2-002-032.000

On September 30, 2016 in accordance with Opelika City Ordinance 110-12, a notice was sent informing the owner that a weed violation at the above listed property address. After failing to correct the violation within the time specified in the notice, the City of Opelika abated the violation.

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

Cost of Abatement: 233.60

Certified mail: 12.98

Misc. ______

Total 246.58

To: State of Alabama
PO Box 327210
Montgomery Al. 36132

NOTICE OF PUBLIC HEARING ON COST OF
ABATEMENT OF WEED NUISANCE LOCATED AT
229 Vero Court, Parcel 43-10-03-08-2-002-032.000
==

NOTICE IS HEREBY GIVEN that the weed nuisance growing upon or in front of the property located at 229 Vero Court, Parcel No. 032.000 in the City of Opelika has been abated by the removal of the noxious or dangerous weeds, and the Mayor has therefore submitted to the City Council an itemized report (attached) in writing showing the cost of removing said nuisance. The total cost of abating such nuisance in front of or upon the above described property is $246.58.

Notice is also given that the City Council of the City of Opelika will meet to hear and to determine any objections or defenses that may be raised by any of the property owners liable to be assessed of the work of abating such nuisance at 7:00 p.m. in the Council Chambers of the Municipal Building, 204 South 7th Street, Opelika, Alabama, on the 6th day of December, 2016.

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

Dated this the 21th day of November, 2016.

Jerry Bush
Code Compliance Officer

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

City Council
204 South 7Th Street
Opelika, AL

SCHEDULED

Meeting: 12/06/16 07:00 PM
Department: Planning
Category: Request for Permit
Prepared By: Marty Ogren
Initiator: Gerald (Jerry) Kelley
Sponsors:
DOC ID: 2025

GENERAL BUSINESS (ID # 2025)

Notice of Public Hearing, Hunting Permit, 1103 Andrews Road

RESOLUTION NO. ____________

RESOLUTION GRANTING HUNTING PERMIT TO RON HERRING AND ELIZABETH M. HERRING

WHEREAS, Ron Herring and Elizabeth M Herring are the record owners of a parcel of land located at 1103 Andrews Road, in the City of Opelika, Alabama containing approximately 50.5 acres, more or less; and

WHEREAS, on November 3, 2016, Ron Herring and Elizabeth M. Herring submitted to the Planning Department a sworn application for a hunting permit and the requisite application fee; and

WHEREAS, Tuesday, December 6, 2016 at 7:00 p.m. in the City Council Chambers of the Municipal Building, 204 South 7th Street, Opelika, Alabama, was fixed as the time and place when and where the City Council will meet to consider the hunting permit application; and

WHEREAS, notice was given to the adjacent property owners, by certified mail, in accordance with the provisions of Section 19-495(j), *Code of Ordinances*; and

WHEREAS, the City Council met on Tuesday, December 6, 2016 at the aforesaid time and place for the purpose of considering the hunting permit application filed by Ron Herring and Elizabeth M. Herring; and

WHEREAS, the President of the City Council presided over said public hearing and opened the floor for comments from the public and all persons interested in said application; and

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

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

1. That the City Council does hereby approve the hunting permit application submitted by Ron Herring and Elizabeth M. Herring.

2. That the Mayor is hereby authorized and directed to issue a hunting permit to Ron Herring and Elizabeth M. Herring to hunt turkey, deer, dove and squirrel during applicable hunting seasons with shotgun and rifle, on the permittees' land.

3. That the permittees shall comply with all federal, state and municipal hunting rules and regulations.

4. That the hunting permit issued pursuant to this Resolution shall expire on September 1, 2017. The Chief of Police shall be authorized to renew on an annual basis the permit issued by the City Council, provided there have been no violations of the permit during the preceding year.

5. This Resolution shall take effect upon 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

NOTICE OF PUBLIC HEARING
FOR THE DECEMBER 6, 2016 CITY COUNCIL MEETING

Ron and Elizabeth Herring, property owners at 1103 Andrews Road, are requesting a hunting permit on their property (50.5 Acres) located in a R-1 zoning district. See the attachment that provides hunting activities and a map. After Council permission for Planning to proceed with a City Council public hearing, Planning mailed certified letters to property owners adjacent to the proposed hunting property. A list of the adjacent property owners is included in the attachment.

City Council
204 South 7Th Street
Opelika, AL

SCHEDULED

Meeting: 12/06/16 07:00 PM
Department: Planning
Category: Public Hearing
Prepared By: Marty Ogren
Initiator: Gerald (Jerry) Kelley
Sponsors:

GENERAL BUSINESS (ID # 1991)

DOC ID: 1991

Public Hearing, Amend Text of Zoning Ordinance, Section 2.2 & 7.3, Truck Fueling Station.

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that the City Council of the City of Opelika will hold a Public Hearing on Tuesday, December 6, 2016, at 7:00 p.m. in the City Council Chambers of the Municipal Building, 204 S. 7th Street, Opelika, Lee County, Alabama.

PURPOSE

The purpose of said Public Hearing will be to consider the adoption of an ordinance to amend Ordinance Number 124-91 (entitled "Zoning Ordinance of the City of Opelika") adopted on September 17, 1991. At said Public Hearing all who desire to be heard shall have the opportunity to speak for or in opposition to the adoption of the following ordinance:

ORDINANCE NO. ________

AN ORDINANCE TO AMEND THE TEXT OF THE ZONING ORDINANCE OF THE CITY OF OPELIKA

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

Section 1. Amendment. That Ordinance 124-91 entitled "Zoning Ordinance of the City of Opelika, Alabama", adopted on September 17, 1991, as amended, is further amended in the following respect:

(a) That Section 2.2, "DEFINITIONS" is further amended to add the following definition of "Truck Fueling Station"

TRUCK FUELING STATION Any fuel sales facility selling and dispensing motor fuels, other petroleum products or accessories for trucks, tractor-trailer rigs, buses and similar commercial freight vehicles where the gas dispensing facilities are designed to primarily service semi-tractors or tractor-trailer truck vehicles. A truck fueling station shall not include premises where vehicle repair and maintenance activities are conducted by the business. A truck fueling station shall not offer overnight accommodations, shower facilities or restaurant. No more than twelve (12) parking spaces for tractor-trailer vehicles shall be permitted on site. A truck fueling station may include a convenience store where limited food products, beverages and household items are sold.

(b) That the use categories in the matrix table in Section 7.3, as amended, are further amended to provide for the use category of "Truck Fueling Station" as follows:

Truck Fueling Stations shall be allowed in the C-3 (General Commercial), M-1 (Industrial) and GC (Gateway Corridors) as a conditional use. Truck Fueling Stations are not allowed in the R-1, R-1A, R-2, R-3, R-4, R-5, R-5M, C-1, C-2, M-2 or I-1 districts.

The matrix table in Section 7.3 for "Truck Fueling Station" shall read as follows:

Uses:	Districts:													
	R-1	**R-1A**	**R-2**	**R-3**	**R-4**	**R-4M**	**R-5**	**R-5M**	**C-1**	**C-2**	**C-3**	**M-1**	**M-2**	**I-1**	**GC**
Truck Fueling Station	**N**	**N**	**N**	**N**	**N**	**N**	**N**	**N**	**N**	**N**	**C**	**C**	**N**	**N**	**C**

Except as specifically amended or changed therein, all other use categories as shown in the matrix table shall remain in full force and effect.

Section 2. Repeal of Conflicting Ordinances. Any ordinance or part thereof in conflict with provisions of this Ordinance be and the same are hereby repealed.

Section 3. Effective Date. This Ordinance shall become effective upon its adoption, approval and publication as required by law.

Section 4. Publication. This Ordinance shall be published in a newspaper of general circulation in the City of Opelika, Lee County, Alabama.

WITNESS my hand this the ___day of _________________, 2016.

____

CITY CLERK OF THE CITY OF OPELIKA, ALABAMA

TO: PUBLISHER

Opelika, Alabama 36801

Please publish the foregoing Notice one (1) time in the April ____, 2016 issue of your paper.

____
CITY CLERK

At the October 25th meeting, the Planning Commission voted 7 to 0 (one abstain) to send a positive recommendation to the City Council to approve amendments to the Zoning Ordinance: Section 2.2 Definitions adding a definition for "Truck Fueling Station" and Section 7.3 Specific District Regulations, sub-section C. Use Categories, concerning 'Truck Fueling Station'.

City Council
204 South 7Th Street
Opelika, AL

SCHEDULED

BIDS 326-16

Meeting: 12/06/16 07:00 PM
Department: Purchasing and Revenue
Category: Bid - Oral Recommendation
Prepared By: Angela Norrell
Initiator: Lillie Finley
Sponsors:
DOC ID: 2048

Oral Recommendation - Destination Downtown-Shared Use Path 17003 - ENG

FACT SHEET

SUBJECT: Sealed Bid - Bid #17003 - Destination Downtown-Shared Use Path

FACTS:

- Bid opening date - 12/2/16
- User Department - Engineering

RECOMMENDATION:

- **Due to the lateness of the bid opening, I request to make an oral recommendation at the December 6, 2016 Council Meeting.**

RESOLUTION NO. 327-16

Weed Abatement Assessment - 1109 Magnolia St. - TABLED

RESOLUTION NO. ___________

RESOLUTION FIXING AMOUNT OF ASSESSMENT

FOR WEED LIEN AGAINST PROPERTY LOCATED AT

1109 Magnolia St, Parcel No. 022.000

==

WHEREAS, the weed nuisance growing upon or in front of the property located at 1109 Magnolia St, parcel no. 022.000 has been removed as provided for and required by law: and

WHEREAS, the enforcing official has prepared and submitted to the City Council an itemized statement of the actual expenses incurred by the City for the abatement of the weed nuisance located at 1109 Magnolia St., a copy of said itemized statement being attached hereto as Exhibit “A”; and

WHEREAS, the 15th day of November, 2016 at 7:00 p.m. in the City Council Chambers in the

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

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

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

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

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

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

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

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

and

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

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

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

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

follows:

1. The itemized statement of expenses submitted by the enforcing official to the City Council is hereby affirmed.
2. The cost for abating such weed nuisance, in the amount of $216.68 is hereby assessed against the parcel of land mentioned in said itemized statement, to wit: 1109 Magnolia St, Parcel no. 022.000 Opelika, Alabama. The cost stated in this Resolution shall constitute a lien on the above referenced property.
3. The tax identification number for said parcel(s) of land is 43-10-04-18-2-001-022.000 according to the records of the Revenue Commissioner of Lee County Alabama.
4. The Purchasing-Revenue Manager shall cause a certified copy of this Resolution assessing the cost of abatement to be filed for recording in the Office of the Judge of Probate of Lee County, Alabama, and shall forward a copy to the Lee County Revenue Commissioner. Upon filing, the Lee County Revenue Commissioner

shall add the amount of the lien to the ad valorem tax bill on the property and shall collect the amount as if it were a tax, using all methods available for collecting ad valorem tax, and remit the amount to the City.

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

ADOPTED AND APPROVED this the __________ day of ____________________, 2016.

____

President of the City Council

City of Opelika, Alabama

Attest:

____

R. G. “Bob” Shuman, CMC

City Clerk - City Treasurer

WEED ABATEMENT INVOICE

Date: 11/02/2016

To: State of Alabama
PO Box 327210
Montgomery Al. 36132

Property Address:
1109 Magnolia St
Opelika Al. 36801
Parcel # 10-04-18-2-001-022.000

On August 18, 2016 in accordance with Opelika City Ordinance 110-12, a notice was sent informing the owner that a weed violation at the above listed property address. After failing to correct the violation within the time specified in the notice, the City of Opelika abated the violation.

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

Cost of Abatement: 203.70

Certified mail: 12.98

Misc. ____________

Total 216.68

RESOLUTION NO. 328-16

Travel Advance for Zack Hester - OPS.

RESOLUTION NO. ______________

WHEREAS, Journeyman Line worker, Zack Hester, is requesting a travel advance from the City Treasury for the purpose of attending the Advanced Line Worker Program in Newnan, Georgia from December 14, 2016 through December 15, 2016.

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

1) That the Opelika Power Services Director is hereby authorized to process the appropriate paperwork to the Accounting Department so a check for Seventy dollars ($70.00) can be prepared payable to Zack Hester.

2) That the City Treasurer is hereby authorized and directed to sign said advance check for $70.00 payable to Zack Hester for travel expenses while attending the Advanced Line Worker Program. That said Journeyman Line Worker shall present an itemized expense report immediately upon his return to the City.

APPROVED and ADOPTED this the ______ day of _____________, 2016.

____

C.E. “Eddie” Smith, Jr.

President City Council

Opelika, Alabama

ATTEST:

____

Robert G. Shuman, CMC

City Clerk - Treasurer

Fact Sheet

Subject:
Travel Advance

Facts:
Journeyman Line Worker Zack Hester is attending the Advanced Line Worker Program in Newnan, Georgia, which begins on December 14, 2016.

Zack is requesting 6 meals, and fuel for a City vehicle with an estimated cost of $70.00

6 Meals ~ $50.00
Fuel for City vehicle while in Newnan ~ $20.00

Recommendations:
The Council to approve the travel advance for Zack Hester during the December 6, 2016 Council Meeting.

2016 PowerLine School Calendar of Events

January 27 - 28	Florida Advanced Lineworker Program - Module 2	KUA
February 1 - 5	Groundman School	Newnan
February 22 - 26	Powerline Workers Apprenticeship Class 48B	Newnan
February 29 - March 4	Florida Groundman School	KUA
March 16 - 17	GA Advanced Lineworker Program - Module 1	Adel
April 11 - 15	Powerline Workers Apprenticeship Class 46C	Newnan
April 27 - 28	Florida Advanced Lineworker Program - Module 3	KUA
May 16 - 20	Florida Powerline Workers Apprenticeship Class 1B	KUA
May 23 - 27	Powerline Workers Apprenticeship Class 50A	Newnan
June 15 - 16	Florida Underground Line Locating School	KUA
June 17	Graduation - Class 45	Adel
June 22 - 23	GA Advanced Lineworker Program - Module 2	Newnan
July 20 - 21	Florida Advanced Lineworker Program - Module 4	KUA
August 1 - 5	Florida Powerline Workers Apprenticeship Class 2A	KUA
August 15 - 19	Powerline Workers Apprenticeship Class 47C	Adel
August 31 - September 1	GA Advanced Lineworker Program - Module 3	Adel
September 12 - 16	Groundman School	Adel
October 21	Graduation - Class 46	Newnan
October 24 - 28	Powerline Workers Apprenticeship Class 49B	Adel
November 9 - 10	Florida Advanced Lineworker Program - Module 1	KUA
November 15 - 16	Underground Line Locating School	Newnan
December 5 - 9	Powerline Workers Apprenticeship Class 51A	Adel
December 14 - 15	GA Advanced Lineworker Program - Module 4	Newnan

For information about our training and programs, please contact: Jon Beasley | 770.563.0328 | jbeasley@ecoga.org

RESOLUTION NO. 329-16

Travel Advance for Shane Childs - OPS.

RESOLUTION NO. ______________

WHEREAS, Journeyman Line worker, Shane Childs, is requesting a travel advance from the City Treasury for the purpose of attending the Advanced Line Worker Program in Newnan, Georgia from December 14, 2016 through December 15, 2016.

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

1) That the Opelika Power Services Director is hereby authorized to process the appropriate paperwork to the Accounting Department so a check for Seventy dollars ($70.00) can be prepared payable to Shane Childs.

2) That the City Treasurer is hereby authorized and directed to sign said advance check for $70.00 payable to Shane Childs for travel expenses while attending the Advanced Line Worker Program. That said Journeyman Line Worker shall present an itemized expense report immediately upon his return to the City.

APPROVED and ADOPTED this the ______ day of _____________, 2016.

____

C.E. "Eddie" Smith, Jr.

President City Council

Opelika, Alabama

ATTEST:

____

Robert G. Shuman, CMC

City Clerk - Treasurer

Fact Sheet

Subject:
Travel Advance

Facts:
Journeyman Line Worker Shane Childs is attending the Advanced Line Worker Program in Newnan, Georgia, which begins on December 14, 2016.

Shane is requesting 6 meals, and fuel for a City vehicle with an estimated cost of $70.00

6 Meals ~ $50.00
Fuel for City vehicle while in Newnan ~ $20.00

Recommendations:
The Council to approve the travel advance for Shane Childs during the December 6, 2016 Council Meeting.

2016 PowerLine School Calendar of Events

January 27 - 28	Florida Advanced Lineworker Program - Module 2	KUA
February 1 - 5	Groundman School	Newnan
February 22 - 26	Powerline Workers Apprenticeship Class 48B	Newnan
February 29 - March 4	Florida Groundman School	KUA
March 16 - 17	GA Advanced Lineworker Program - Module 1	Adel
April 11 - 15	Powerline Workers Apprenticeship Class 46C	Newnan
April 27 - 28	Florida Advanced Lineworker Program - Module 3	KUA
May 16 - 20	Florida Powerline Workers Apprenticeship Class 1B	KUA
May 23 - 27	Powerline Workers Apprenticeship Class 50A	Newnan
June 15 - 16	Florida Underground Line Locating School	KUA
June 17	Graduation - Class 45	Adel
June 22 - 23	GA Advanced Lineworker Program - Module 2	Newnan
July 20 - 21	Florida Advanced Lineworker Program - Module 4	KUA
August 1 - 5	Florida Powerline Workers Apprenticeship Class 2A	KUA
August 15 - 19	Powerline Workers Apprenticeship Class 47C	Adel
August 31 - September 1	GA Advanced Lineworker Program - Module 3	Adel
September 12 - 16	Groundman School	Adel
October 21	Graduation - Class 46	Newnan
October 24 - 28	Powerline Workers Apprenticeship Class 49B	Adel
November 9 - 10	Florida Advanced Lineworker Program - Module 1	KUA
November 15 - 16	Underground Line Locating School	Newnan
December 5 - 9	Powerline Workers Apprenticeship Class 51A	Adel
December 14 - 15	GA Advanced Lineworker Program - Module 4	Newnan

For information about our training and programs, please contact: Jon Beasley | 770.563.0328 | jbeasley@ecoga.org

RESOLUTION NO. 330-16

Designate City Personal Property Surplus and Authorize Disposal

RESOLUTION NO. ________

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

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

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

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

No.	Qty.	Unit	Item Description	Fixed Asset #
1.	3	Ea.	365/80/R20 Tires	N/A
2.	1	Lot	Hydraulic fittings and hydraulic hose	N/A
3.	1	Lot	Automobile filter, switches and hardware	N/A
4.	1	Ea.	2007 Dodge Magnum 2D4GV47VX7H725381	87002465
5.	1	Ea.	2008 Dodge Magnum 2D4GV47V58H216218	87002506

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. 331-16

One (1) 2017 Nissan Frontier King Cab P/U - Inspection Dept.

RESOLUTION NO. ____________

WHEREAS, the Opelika Inspection Department desires to purchase one (1) 2017 Nissan Frontier King Cab 4x2 SV Auto with certain options utilizing the NJPA Coop Contract; and

WHEREAS, National Auto Fleet Group is the Contract Vendor for the one (1) 2017 Nissan Frontier; 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 National Auto Fleet Group utilizing the NJPA Coop Contract.

2. That the Purchasing-Revenue Manager is hereby authorized to issue a purchase order to National Auto Fleet Group in the amount of $22,467.54.

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

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

APPROVED AND ADOPTED this the ______day of ____________________, 2016.

C. E. “Eddie” Smith, Jr.

President of the City Council

City of Opelika, Alabama

ATTEST:

Robert G. Shuman, CMC

City Clerk - Treasurer

National Auto Fleet Group

A Division of Chevrolet of Watsonville
490 Auto Center Drive, Watsonville, CA 95076
(855) 289-6572 • (855) BUY-NJPA • (831) 480-8497 Fax
Fleet@NationalAutoFleetGroup.com

11/16/2016

QuoteID: **2679**

Mr Jeff Kappelman
City of Opelika

Automotive Shop
700 Fox Tril

Opelika, Alabama, 36801

Dear Jeff Kappelman,

National Auto Fleet Group is pleased to quote the following vehicle(s) for your consideration.
One (1) New/Unused (2017 Nissan Frontier (31317) King Cab 4x2 SV Auto, factory Order) and delivered to your specified location, each for

One Unit	
Base Price	$22,467.54
factory Order	$0.00
Tax (0.0000 %)	$0.00
Tire fee	$0.00
Total	$22,467.54

- per the attached specifications.

This vehicle(s) is available under the **National Joint Powers Alliance Contract 102811.** Please reference this Bid number on all purchase orders to National Auto Fleet Group. Payment terms are Net 30 days after receipt of vehicle.

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

Sincerely,

Jesse Cooper	Neil Carroll
National Fleet Manager	BodyUpfitter
Email: Fleet@NationalAutoFleetGroup.com	Fleet@nationalautofleetgroup.com
Office: (855) 289-6572	(855) 289-6572
Fax: (831) 480-8497	

CHEVROLET Ford NISSAN TOYOTA GMC

2017 Fleet/Non-Retail Nissan Frontier King Cab 4x2 SV Auto

WINDOW STICKER

2017 Nissan Frontier King Cab 4x2 SV Auto 5.0 L/302 Regular Unleaded V-8 6 Speed Automatic w/OD	Interior: Exterior 1: GLACIER WHITE Exterior 2: No color has been selected.

CODE	MODEL	MSRP
31317	2017 Nissan Frontier King Cab 4x2 SV Auto	$23,910.00
	OPTIONS	
QAK	GLACIER WHITE	$0.00
___	STANDARD PAINT	$0.00
C	BEIGE, CLOTH SEAT TRIM	$0.00
FED	[C02] FEDERAL EMISSIONS	$0.00
	SUBTOTAL	**$23,910.00**
	Advert/ Adjustments	$0.00
	Manufacturer Destination Charge	$940.00
	TOTAL PRICE	**$24,850.00**
		-disc. (2382.46)
		22467.54

Est City: 15 (Est) MPG
Est Highway: 21 (Est) MPG
Est Highway Cruising Range: 483.00 mi

Any performance-related calculations are offered solely as guidelines. Actual unit performance will depend on your operating conditions.

RESOLUTION NO. 332-16

Purchase - Cisco Equipment - IT

RESOLUTION NO. ____________

WHEREAS, the City of Opelika Information Technology department desires to purchase Cisco Equipment to refresh the network infrastructure utilizing the State of Alabama Contract #T637; and

WHEREAS, CDW Government, Inc. is the State Contract Vendor for the Cisco Equipment; and

WHEREAS, the is a budgeted purchase from Capital Outlay;

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

1. That the purchase be awarded to CDW Government, Inc. utilizing the State of Alabama Contract #T637, authorizing the following expenditures:

Qty.	**Description**	**Per Unit**	**Total**
3	Cisco Meraki MS220-48FP-HW Switch	$4,086.89	$12,260.67
1	Cisco Meraki MS220-24P-HW Switch	$1,978.93	$1,978.93
5	Cisco Meraki MR84-HW Wireless AP	$1,560.83	$7,804.15
5	Cisco Meraki MR-52 Wireless AP MR52-HW	$832.41	$4,162.05
4	Cisco Meraki MA-SFP-1GB-TX SFP Transceiver	$278.90	$1,115.60
6	Cisco Meraki MA-SFP-1GB-LX10 SFP Transceiver	$663.00	$3,978.00
10	Cisco Meraki Dual-Band Antenna MA-ANT-20	$118.41	$1,184.10
3	Cisco Meraki LIC-MS220-48FP-3YR License	$427.52	$1,282.56
1	Cisco Meraki License LIC-MS220-24P-3YR	$207.48	$207.48
10	Cisco Meraki Enterprise license LIC-ENT-3YR	$194.94	$1,949.40
		TOTAL	**$35,922.94**

2. That the Purchasing-Revenue Manager is hereby authorized to issue a purchase order to CDW Government, Inc. in the total amount of $35,922.94.

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

ADOPTED AND APPROVED 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

RESOLUTION NO. ____________

WHEREAS, the City of Opelika Information Technology department desires to purchase Cisco Equipment to refresh the network infrastructure utilizing the State of Alabama Contract #T637; and

WHEREAS, CDW Government, Inc. is the State Contract Vendor for the Cisco Equipment; and

WHEREAS, the is a budgeted purchase from Capital Outlay;

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

1. That the purchase be awarded to CDW Government, Inc. utilizing the State of Alabama Contract #T637, authorizing the following expenditures:

Qty.	Description	Per Unit	Total
3	Cisco Meraki MS220-48FP-HW Switch	$4,086.89	$12,260.67
1	Cisco Meraki MS220-24P-HW Switch	$1,978.93	$1,978.93
5	Cisco Meraki MR84-HW Wireless AP	$1,560.83	$7,804.15
5	Cisco Meraki MR-52 Wireless AP MR52-HW	$832.41	$4,162.05
4	Cisco Meraki MA-SFP-1GB-TX SFP Transceiver	$278.90	$1,115.60
6	Cisco Meraki MA-SFP-1GB-LX10 SFP Transceiver	$663.00	$3,978.00
10	Cisco Meraki Dual-Band Antenna MA-ANT-20	$118.41	$1,184.10
3	Cisco Meraki LIC-MS220-48FP-3YR License	$427.52	$1,282.56
1	Cisco Meraki License LIC-MS220-24P-3YR	$207.48	$207.48
10	Cisco Meraki Enterprise license LIC-ENT-3YR	$194.94	$1,949.40
		TOTAL	**$35,922.94**

2. That the Purchasing-Revenue Manager is hereby authorized to issue a purchase order to CDW Government, Inc. in the total amount of $35,922.94.

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

ADOPTED AND APPROVED this the ________ day of ____________________________, 2016.

____

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

Attest:

____

Robert G. Shuman
City Clerk - Treasurer

QUOTE CONFIRMATION

CDW•G PEOPLE WHO GET IT

DEAR STEPHEN DAWE,

Thank you for considering CDW•G for your computing needs. The details of your quote are below. Click here to convert your quote to an order.

QUOTE #	QUOTE DATE	QUOTE REFERENCE	CUSTOMER #	GRAND TOTAL
HMHJ999	11/2/2016	HMHJ999	0936449	$35,922.94

QUOTE DETAILS

ITEM	QTY	CDW#	UNIT PRICE	EXT. PRICE
Cisco Meraki Cloud Managed MS220-48FP - switch - 48 ports - managed - rack- Mfg. Part#: MS220-48FP-HW UNSPSC: 43222612 Contract: National IPA Technology Solutions (130733)	3	3418533	$4,086.89	$12,260.67
Cisco Meraki Cloud Managed MS220-24P - switch - 24 ports - managed - rack-m Mfg. Part#: MS220-24P-HW UNSPSC: 43222612 Contract: National IPA Technology Solutions (130733)	1	3334612	$1,978.93	$1,978.93
Cisco Meraki MR84 Cloud Managed - wireless access point Mfg. Part#: MR84-HW UNSPSC: 43222631 Contract: National IPA Technology Solutions (130733)	5	4298871	$1,560.83	$7,804.15
Cisco Meraki MR52 - wireless access point Mfg. Part#: MR52-HW UNSPSC: 43222631 Contract: State of Alabama Networking-T637 (T637-4013346)	5	4136977	$832.41	$4,162.05
Cisco Meraki - SFP (mini-GBIC) transceiver module - Gigabit Ethernet Mfg. Part#: MA-SFP-1GB-TX UNSPSC: 43201553 Contract: National IPA Technology Solutions (130733)	4	3416208	$278.90	$1,115.60
Cisco Meraki - SFP (mini-GBIC) transceiver module - Gigabit Ethernet Mfg. Part#: MA-SFP-1GB-LX10 UNSPSC: 43201553 Contract: National IPA Technology Solutions (130733)	6	3364140	$663.00	$3,978.00
Meraki Dual-Band Omni Antenna (4/7 dBi Gain) Set - antenna Mfg. Part#: MA-ANT-20 UNSPSC: 43221706 Contract: State of Alabama Networking-T637 (T637-4013346)	10	3605173	$118.41	$1,184.10
Cisco Meraki MS Series 220-48FP - subscription license (3 years) Mfg. Part#: LIC-MS220-48FP-3YR UNSPSC: 43233204 Electronic distribution - NO MEDIA	3	3418535	$427.52	$1,282.56

QUOTE DETAILS (CONT.)				
Contract: National IPA Technology Solutions (130733)				
Cisco Meraki MS Series 220-24P - subscription license (3 years)	1	3345303	$207.48	$207.48
Mfg. Part#: LIC-MS220-24P-3YR				
UNSPSC: 43233204				
Electronic distribution - NO MEDIA				
Contract: National IPA Technology Solutions (130733)				
Cisco Meraki Enterprise Cloud Controller - subscription license (3 years)	10	3342939	$194.94	$1,949.40
Mfg. Part#: LIC-ENT-3YR				
UNSPSC: 43232901				
Electronic distribution - NO MEDIA				
Contract: National IPA Technology Solutions (130733)				

PURCHASER BILLING INFO	SUBTOTAL	$35,922.94
Billing Address: CITY OF OPELIKA ACCOUNTS PAYABLE PO BOX 390 OPELIKA, AL 36803-0390 **Phone:** (334) 705-5120 **Payment Terms:** Net 30 Days-Govt State/Local	SHIPPING	$0.00
	GRAND TOTAL	$35,922.94
DELIVER TO	**Please remit payments to:**	
Shipping Address: CITY OF OPELIKA STEPHEN DAWE 204 S 7TH ST OPELIKA, AL 36801 **Shipping Method:** DROP SHIP-GROUND	CDW Government 75 Remittance Drive Suite 1515 Chicago, IL 60675-1515	

Need Assistance? CDW•G SALES CONTACT INFORMATION

Griffin Curcio | (877) 635-6656 | grifcur@cdwg.com

This quote is subject to CDW's Terms and Conditions of Sales and Service Projects at
http://www.cdwg.com/content/terms-conditions/product-sales.aspx
For more information, contact a CDW account manager

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

NETWRKING/TEL PROD&SVS-CISCO
CONTRACT

T-NUMBER....... : T637
USAGE.......... : STATEWIDE CONTRACT
PERIOD......... : SEPTEMBER 1, 2015 TO AUGUST 31, 2017
SOLICITATION NO : 2273610

CONTRACT BUYER...... : JENNIFER LORETZ

BUYER PHONE.. : (334) 242-7370 PURCHASING NUMBER......... : (334) 242-7250
FAX NUMBER... : (334) 242-4419
DATE PRINTED. : 08/26/16

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 : 2273610

PURPOSE:
ESTABLISH A CONTRACT FROM THE ITEMS LISTED FOR ALL STATE AGENCIES. CONTRACT PRICES ARE AVAILABLE TO ALL LOCAL GOVERNMENTAL AGENCIES AND SCHOOLS.

NOTE THAT THIS CONTRACT IS FOR CISCO, INC. NETWORK AND TELEPHONY PRODUCTS AND SERVICES ONLY. ITEMS SUCH AS SERVERS AND ANY OTHER NON-CORE NETWORK, TELEPHONY OR ENDPOINT DEVICES ARE NOT AVAILABLE.

DIVISION OF PURCHASING
CONTRACT NOTICE OF AWARD

TERMS AND CONDITIONS

DEFAULT:
WHEN A VENDOR DEFAULTS ON A CONTRACT/PURCHASE ORDER, THE STATE CAN PROCURE THE GOODS OR SERVICES FROM OTHER SOURCES AND HOLD THE VENDOR RESPONSIBLE FOR ANY EXCESS IN PRICE/HANDLING. THE VENDOR MAY BE BARRED FROM BIDDING FOR AN INDETERMINATE PERIOD PER THE CODE OF ADMINISTRATIVE PROCEDURE.

FREIGHT:
BID IS F.O.B. DESTINATION. ANY FREIGHT CHARGES MUST BE INCLUDED IN THE BID PRICES.

IF EXPEDITED SHIPPING IS REQUESTED, THOSE CHARGES MAY BE PASSED ON TO THE AGENCY. ANY EXPEDITED RATE CHARGES MUST BE SUBSTANTIATED WITH WRITTEN DOCUMENTATION FROM THE COURIER OR USPS.

CONTRACT PERIOD:
ESTABLISH A 12 MONTH CONTRACT WITH AN OPTION TO EXTEND FOR A SECOND, THIRD, FOURTH, AND FIFTH 12 MONTH PERIOD WITH THE SAME PRICING, TERMS AND CONDITIONS. THE SECOND, THIRD, FOURTH, OR FIFTH 12 MONTH PERIOD, IF AGREED BY BOTH PARTIES, WOULD BEGIN THE DAY AFTER THE FIRST, SECOND, THIRD, OR FOURTH 12 MONTH PERIOD EXPIRES. ANY SUCCESSIVE EXTENSION MUST HAVE WRITTEN APPROVAL OF BOTH THE STATE AND VENDOR NO LATER THAN 30 DAYS PRIOR TO EXPIRATION OF THE PREVIOUS 12 MONTH PERIOD.

BIDDABLE SITUATION:
BIDS MAY BE SOLICITED FOR ANY PRODUCT INCLUDED IN THIS CONTRACT WHERE AN IMMEDIATE/EMERGENCY NEED EXISTS, INCLUDING LARGE QUANTITIES. THE DECISION OF THE PURCHASING DIRECTOR AS TO WHAT CONSTITUTES A BIDDABLE SITUATION SHALL BE FINAL AND SHALL NOT BE CONSTRUED AS A

DIVISION OF PURCHASING
CONTRACT NOTICE OF AWARD

TERMS AND CONDITIONS

BREACH OF CONTRACT.

THE STATE RESERVES THE RIGHT TO BID THE FINANCING OF A PROJECT ASSOCIATED WITH A PURCHASE MADE FROM THIS CONTRACT.

QUOTE REQUIREMENT:
ALL QUOTES TO CONTRACT USERS SHALL INCLUDE THE CATALOG PRICE AS WELL AS THE DISCOUNTED PRICE.

AN AWARDED BIDDER MAY OFFER VOLUME DISCOUNTS FOR LARGE QUANTITY PURCHASES.

DIVISION OF PURCHASING
CONTRACT NOTICE OF AWARD

CONTRACT VENDORS

CONTRACT NUMBER	VENDOR NUMBER NAME AND ADDRESS	CONTACT PERSON PHONE NUMBERS/FAX	TERMS AND DELIVERY
4013345	200089494-02 LEE INVESTMENT CONSULTANTS LLC 5296 OLD US HWY 278 EAST HOKES BLUFF AL 35903	SCOTT LEE 256-494-9080 800-494-9080 256-492-9109	NET AS SPECIFIE
4013346	364230110-01 CDW GOVERNMENT LLC 230 N. MILWAUKEE AVE VERNON HILLS IL 60061	AMANDA EWERTOWSKI 847-371-5800 800-808-4239 847-465-6800	NET 2-10 DAYS A
4013348	462359490-02 NET-FIT SOLUTIONS, INC. 5308 S BROKEN BOW DR BIRMINGHAM AL 35242	FREDERIC THERRIEN 205-423-5962 205-423-5120	NET AS SPECIFIE
4013349	621543977-00 DIGITAL CONNECTIONS INC DIGITAL CONNECTIONS INC 805 TEAL DRIVE GALLATIN TN 37066	TERRY WILLIAMS 800-264-6564 800-264-6564 877-687-2115	NET 15-30 DAYS
4013350	631200720-00 INFORMATION TRANSPORT	STEVEN MEANY 334-567-1993	NET 30 DAYS ARO

RESOLUTION NO. 333-16

Purchase - Aerial Photogrammetric Services - IT

RESOLUTION NO. __________

WHEREAS, the City of Opelika has previously recognized that it is in the best interest of the City of Opelika to implement an aerial imagery project at least every three years; and

WHEREAS, data collected from aerial imagery projects are used to locate, identify, measure, model, and plan the City's growth, infrastructure, and public safety; and

WHEREAS, data collected from the aerial imagery project is to be shared between Lee County, Alabama, the City of Opelika, the City of Auburn, and Auburn University; and

WHEREAS, the price of the project is to be shared based on geographic area between Lee County, Alabama, the City of Opelika, the City of Auburn, and Auburn University; and

WHEREAS, a Request for Qualifications for photogrammetric services was issued and Kucera International, Inc. was selected as the company best meeting the project requirements; and

WHEREAS, the final negotiated price is $476,222.42 for the entire imagery project; and

WHEREAS, the City of Opelika's share of the project is $75,950.46 and will be distributed as follows: Lodging Fund Tax - $39,494.46, OPS - $26,000.00, and Opelika Utilities Board - $10,456.00;

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

1) That Mayor Gary Fuller is hereby authorized to execute all documents pertaining to this contract and purchase.

2) That the Controller is authorized to make any necessary budget adjustments.

3) That the Purchasing Agent is authorized to issue a purchase order to Kucera International, Inc. in the amount of $75,950.46.

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

AGREEMENT FOR PROFESSIONAL SERVICES

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AGREEMENT

This is an AGREEMENT for PROFESSIONAL SERVICES made and entered into between Auburn University, The City of Auburn, The City of Opelika, and Lee County Alabama hereinafter designated as "COOPERATIVE" and the Kucera International, Inc., hereinafter designated as "PHOTOGRAMMETRIST", on December 6th, 2016. The parties agree to professional Photogrammetrist services and conditions hereinafter stated. The COOPERATIVE requires PHOTOGRAMMETRIST to perform professional Photogrammetrist services, to serve as COOPERATIVE's representative and to provide professional advice for the following PROJECT:

Orthographic Imagery, LiDAR, Planimetric Mapping and Data Enhancement as described in the BASIC SERVICES below, EXHIBIT A – Deliverables, and EXHIBIT C – Scope of Services.

PHOTOGRAMMETRIST shall be compensated with a fee of $476,103.00 in accordance with this AGREEMENT and the Basic Services of Photogrammetrist. Compensation will be derived per product requested, per square mile, among the COOPERATIVE as such:

Lee County - $219,152.39
City of Auburn - $161,002.94
City of Opelika - $75,950.46
Auburn University - $19,997.21

1. BASIC SERVICES OF PHOTOGRAMMETRIST

1.1. PHOTOGRAMMETRIST SERVICES

1.1.1. PHOTOGRAMMETRIST shall provide for the COOPERATIVE, Professional Services in connection with the PROJECT to which this AGREEMENT applies as hereinafter provided. The services will include serving as Professional Representative for the PROJECT, providing consultation and advice, and furnishing professional services delivered in accordance with Basic Services of Photogrammetrist applicable to the PROJECT's scope established by COOPERATIVE included hereto. Said services are customarily rendered in phases as set forth in this Section.

1.1.2. PHOTOGRAMMETRIST shall provide deliverables to the COOPERATIVE in accordance with EXHIBIT C.

1.2. PLANNING PHASE (10%)

After written Authorization to Continue (Section 3.2), PHOTOGRAMMETRIST shall:

1.2.1. Prepare a detailed project plan outlining the schedule, methodology, QA/QC procedures and client interaction. This plan will be reviewed and approved by the COOPERATIVE before continuing to the next phase.

1.2.2. Prepare a detailed Ground Survey and Control Plan for review as described in EXHIBIT C.

1.2.3. Prepare a detailed Flight Plan for review as described in EXHIBIT C.

1.3. DATA ACQUISITION PHASE (40%)

After written Authorization to Continue with the Data Acquisition Phase, PHOTOGRAMMETRIST shall:

1.3.1. Conduct Ground Survey and Data Acquisition and Control in accordance with

EXHIBIT C.

1.4. DATA PROCESSING PHASE (40%)
After written Authorization to Continue with the Data Processing Phase, PHOTOGRAMMETRIST shall:

1.4.1. Produce pilot products for client review and acceptance in accordance with EXHIBIT C.
1.4.2. Process Orthoimagery and LiDAR data in accordance with EXHIBIT C.
1.4.3. Produce Planimetric Features in accordance with EXHIBIT C.

1.5. DELIVERY PHASE (10%)
After written Authorization to Continue with the Delivery Phase, PHOTOGRAMMETRIST shall:

1.5.1. Deliver all products described in EXHIBIT A in accordance with the Scope of Services detailed in EXHIBIT C.

2. <u>COOPERATIVE RESPONSIBILITIES</u>
COOPERATIVE shall do the following as not to delay the services of PHOTOGRAMMETRIST:

2.1. Assist PHOTOGRAMMETRIST by placing at PHOTOGRAMMETRIST'S disposal available information pertinent to the Project including previous reports and any other data relative to design or construction of the Project.
2.2. Furnish to PHOTOGRAMMETRIST, as required for performance of PHOTOGRAMMETRIST'S Basic Services, the following:
2.2.1. Arrange for access to and make all provisions for PHOTOGRAMMETRIST to enter upon public and private property as required for PHOTOGRAMMETRIST to perform services under this AGREEMENT.
2.3. Give prompt written notice to PHOTOGRAMMETRIST whenever COOPERATIVE observes or otherwise becomes aware of any development that affects the scope or timing of PHOTOGRAMMETRIST'S services, or any defect or non-conformance in the work of any PHOTOGRAMMETRIST.
2.4. Furnish, or direct PHOTOGRAMMETRIST to provide additional services or other services as required.

3. <u>PERIOD OF SERVICE</u>
Prior to full execution of this Agreement, PHOTOGRAMMETRIST shall provide COOPERATIVE with an expected starting date for the services to be rendered and submit a schedule for the same with acceptable detailed information depicting the completion time of each phase. The final deadline for delivery of all products is September 29, 2017. All dates shall conform to the timeline provided in EXHIBIT B. In the event that this deadline must be extended due to unfavorable weather, hindering flight and data acquisition, the PHOTOGRAMMETRIST will notify the COOPERATIVE in writing with an explanation of expected delays and a new delivery schedule.

3.1. AUTHORIZATION TO CONTINUE
Each "Authorization To Continue" to initiate Basic Services of PHOTOGRAMMETRIST shall specify the Period of Service, PHOTOGRAMMETRIST'S Compensation, Scope of Services, Deliverables and Schedule and shall be agreed to by COOPERATIVE and

PHOTOGRAMMETRIST for services to be rendered. Unless otherwise noted, PHOTOGRAMMETRIST shall not start the work until said Authorization To Continue is fully executed by both parties and an Authorization To Continue is issued by the COOPERATIVE.

4. COOPERATIVE'S DESIGNATED REPRESENTATIVE

4.1. It is understood and agreed that COOPERATIVE designates the City of Auburn GIS Manager or his assigned representative to represent the COOPERATIVE in all technical and administrative matters pertaining to and arising from the work and performance of this contract.

4.2. The authority of the representative shall include, but not be limited to, the following:

4.2.1. Examination of all reports, sketches, drawings, estimates, proposals, and other documents presented by the PHOTOGRAMMETRIST and rendering, in writing, decisions pertaining thereto within a reasonable time so as not to materially delay the work of the PHOTOGRAMMETRIST and approval of PHOTOGRAMMETRIST'S application for payment.

4.2.2. Transmission of instructions, receipt of information, interpretation and definition of COOPERATIVE policies and decisions with respect to design, materials, and other matters pertinent to the work covered by this contract.

4.2.3. Give prompt written notice to the PHOTOGRAMMETRIST whenever the COOPERATIVE observes or otherwise becomes aware of any defects or changes necessary in the project.

5. PHOTOGRAMMETRIST'S COMPENSATION

5.1. Compensation due to PHOTOGRAMMETRIST shall in the amount of $476,103.00 paid on receipt and acceptance of all deliverables. On acceptance compensation will be billed to each entity in the COOPERATIVE through the COOPERATIVE's representative as such:

Lee County - $219,152.39
City of Auburn - $161,002.94
City of Opelika - $75,950.46
Auburn University - $19,997.21

6. INSURANCE

6.1. PHOTOGRAMMETRIST shall be responsible for all damage to person and or property resulting from its negligent acts, errors, or omissions or those of their subcontractors, agents, or employees in connection with such services and shall be responsible for all parts of its work, both temporary and permanent.

6.2. It is expressly understood that the PHOTOGRAMMETRIST shall indemnify, hold harmless and defend the COOPERATIVE, its officials, representatives, agents, servants, and employees from and against any and all claims, actions, lawsuits, damages, judgments, liability and expense, including attorney's fees and litigation expenses, in whole or in part arising out of, connected with, or in any way associated with the activities of the PHOTOGRAMMETRIST, its employees, or its sub-contractors in connection with the work to be performed under the agreement.

PHOTOGRAMMETRIST will purchase liability insurance to cover this indemnity obligation as set forth in Section 6.1.4.

6.3. The PHOTOGRAMMETRIST will not be given an Authorization to Continue until the PHOTOGRAMMETRIST has furnished a certificate or certificates in a form satisfactory to the COOPERATIVE, showing that PHOTOGRAMMETRIST has complied with this Section.

6.4. The PHOTOGRAMMETRIST will be required to provide certificates of insurance showing that it carries, or has in force, automobile liability insurance, general liability insurance, professional liability insurance, aircraft liability insurance and workers' compensation insurance. Limits of liability for automobile liability insurance shall be, at a minimum, $1,000,000.00 combined single limit. Limits of liability for general liability insurance shall be, at a minimum, $1,000,000.00 per occurrence, $1,000,000.00 personal and advertising injury, $1,000,000.00 general aggregate and $1,000,000.00 products/completed operations aggregate. General liability insurance will include coverage for contractually assumed liability. Limits of liability for professional liability shall be, at a minimum, $1,000,000.00 per occurrence or claim and $1,000,000.00 aggregate. Limits of liability for aircraft liability insurance shall be, at a minimum, $2,000,000.00 per occurrence or claim and $2,000,000.00 aggregate. If general liability coverage, aviation liability coverage and/or professional liability coverage is on a claims-made basis, the contractor will maintain coverage in force for a period of two (2) years following completion of the work specified in the agreement at the coverage limits specified in this paragraph. Workers' compensation insurance shall provide statutory workers' compensation coverage and employers' liability coverage with limits of, at a minimum, $500,000.00 each accident, $500,000.00 disease- each employee and $500,000.00 disease – policy limit. The PHOTOGRAMMETRIST shall be responsible for the payment of any deductibles or self-insured retentions. The PHOTOGRAMMETRIST's insurance is primary. If the PHOTOGRAMMETRIST carries higher coverage limits, the higher limits will apply.

The City of Auburn, City of Opelika, Auburn University and Lee County, Alabama will be named as additional insured under the contractor's general liability insurance, aircraft liability insurance and automobile liability insurance policies. The PHOTOGRAMMETRIST shall require certificates of insurance from subcontractors. Subcontractors will carry limits of insurance equal to or greater than those carried by the PHOTOGRAMMETRIST. These certificates shall evidence waivers of subrogation in favor of the PHOTOGRAMMETRIST and COOPERATIVE and shall be made available to the COOPERATIVE prior to the Authorization to Continue being given to the PHOTOGRAMMETRIST.

6.5. The PHOTOGRAMMETRIST shall furnish to the COOPERATIVE Certificates of: Insurance allowing thirty (30) days written notice for any change, cancellation, or non-renewal. Such Certificates shall contain the following wording:

> (ACCORD) "SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING COMPANY WILL MAIL THIRTY (30) DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED HEREIN."

6.6. If the insurance policies expire during the terms of the Contract, a renewal certificate or binder shall be filed with the COOPERATIVE fifteen (15) days prior to the renewal date.

6.7. STATUS OF CLAIM
The PHOTOGRAMMETRIST shall be responsible for keeping the COOPERATIVE currently advised as to the status of any claims made for damages against the PHOTOGRAMMETRIST resulting from services performed under this AGREEMENT. The PHOTOGRAMMETRIST shall send notice of claims related to work under this AGREEMENT to the COOPERATIVE. Copies of the notices shall be sent to:

James Buston (Asst. City Manager/CIO) 334-501-7201

6.8. The PHOTOGRAMMETRIST shall maintain documentation for all charges against the COOPERATIVE under this contract. The books, records and documents of the PHOTOGRAMMETRIST, insofar as they relate to work performed or money received under this contract, shall be maintained for a period as required by law, and shall be subject to audit, at any reasonable time and upon reasonable notice, by the COOPERATIVE. These records shall be maintained in accordance with generally accepted accounting principles.

7. OWNERSHIP OF DOCUMENTS

7.1. Except as otherwise provided herein, PHOTOGRAMMETRIST documents, drawings, databases and specifications prepared by PHOTOGRAMMETRIST as part of the services shall become the property of the COOPERATIVE, provided, that PHOTOGRAMMETRIST shall have the right to their use with approval of the COOPERATIVE. PHOTOGRAMMETRIST shall retain its rights in its standard drawing details, designs, specifications, databases, computer software and any other proprietary property. Rights to intellectual property developed, utilized, or modified in the performance of the service shall remain the property of the PHOTOGRAMMETRIST.

7.2. The PHOTOGRAMMETRIST shall not be liable for any use by the COOPERATIVE of said documents or data if modified in any manner without written approval of the PHOTOGRAMMETRIST.

8. WORK COMMENCEMENT/ PROGRESS/ DELAYS

8.1. The services to be rendered by the PHOTOGRAMMETRIST shall be commenced subsequent to the submittal of PHOTOGRAMMETRIST'S schedule to render the services, execution of the AGREEMENT and written Authorization to Continue from the COOPERATIVE. Services will be completed and submitted to the COOPERATIVE as specified by the AGREEMENT, Basic Services of PHOTOGRAMMETRIST, and an Authorization to Continue required hereto.

8.2. The PHOTOGRAMMETRIST agrees to provide a schedule for performance of the contracted services, with milestones for significant elements as agreed by the COOPERATIVE, on or before receipt of Authorization to Continue and, thereafter to provide monthly Project Schedule Progress reports. The COOPERATIVE will be entitled at all times to be advised, in writing, at its request, as to the status of work being done by the PHOTOGRAMMETRIST and of the details thereof.

8.3. In the event there are delays on the part of the COOPERATIVE or regulatory agencies as to the approval of any of the plans, permits, and drafts of special provisions submitted by the PHOTOGRAMMETRIST which delay the Project Schedule completion date, the COOPERATIVE shall grant to the PHOTOGRAMMETRIST, in writing, an extension of the contract time equal to the aforementioned delays. If the PHOTOGRAMMETRIST claims an extension pursuant to this provision, same must claim within ten days of the alleged delay and PHOTOGRAMMETRIST must furnish appropriate documentation.

8.4. The PHOTOGRAMMETRIST shall maintain an adequate competent staff of professional Photogrammetrists, technicians and support staff personnel within reasonable distance from the PROJECT in the State of Alabama and may associate with other qualified firms for the purpose of rendering services hereunder without cost to the COOPERATIVE and upon written approval by the COOPERATIVE. The PHOTOGRAMMETRIST, however, shall not sublet, assign or transfer any work under this AGREEMENT without the prior written consent of the COOPERATIVE.

9. STANDARD OF CONTRACT

9.1. The work done under this contract must be done solely within United States.

9.2. The PHOTOGRAMMETRIST warrants that he has not employed or retained any company or person, other than a bona fide employee working solely for the PHOTOGRAMMETRIST to solicit or secure this contract and that he has not paid or agreed to pay any person, company, corporation, individual or firm other than a bona fide employee working solely for the PHOTOGRAMMETRIST any fee, commission, percentage, gift, or any other consideration contingent upon or resulting from the award of this contract.

9.3. The PHOTOGRAMMETRIST is an independent contractor and will not, under any circumstances, be considered an employee, servant or agent of the COOPERATIVE. Neither the PHOTOGRAMMETRIST nor its employees have any authority to bind the COOPERATIVE in any respect.

9.4. The COOPERATIVE reserves the right to cancel and terminate this contract, without penalty, in the event that the PHOTOGRAMMETRIST or any employee, servant, or agent of the PHOTOGRAMMETRIST is indicted for any crime arising out of or in conjunction with any work being performed by the PHOTOGRAMMETRIST for or on behalf of the COOPERATIVE. It is understood and agreed that in the event of such termination all tracings, plans, specifications, maps and data prepared or obtained under this AGREEMENT shall immediately be turned over to the COOPERATIVE. The PHOTOGRAMMETRIST shall be compensated for its services accepted up to the time of any such termination. The COOPERATIVE also reserves the right to terminate and cancel this contract in the event the PHOTOGRAMMETRIST shall be placed in either voluntary or involuntary bankruptcy or should an assignment be made for the benefit of creditors.

9.5. PHOTOGRAMMETRIST undertakes performance of the services as an independent contractor and shall be wholly responsible for the method of performance. COOPERATIVE shall have no right to supervise the methods used, but COOPERATIVE shall have the right to observe such performance. PHOTOGRAMMETRIST shall work closely with COOPERATIVE in performing services under this AGREEMENT.

9.6. PHOTOGRAMMETRIST shall consider all information provided by COOPERATIVE and all drawings, reports, studies, design calculations, specifications, and other documents resulting from the PHOTOGRAMMETRIST'S performance of the services to be proprietary unless such information is available from public sources. PHOTOGRAMMETRIST shall not publish or disclose proprietary information for any purpose other than the performance of the services without the prior written authorization of COOPERATIVE or in response to legal process.

9.7. The invalidity, illegality, or unenforceability of any provision of this AGREEMENT, or the occurrence of any event rendering any portion or provision of this AGREEMENT void, shall in no way affect the validity or enforceability of any other portion or provision of the AGREEMENT. Any void provision shall be deemed severed from the AGREEMENT and the balance of the AGREEMENT shall be construed and enforced as if the AGREEMENT did not contain the particular portion or provision held to be void. The parties further agree to reform the AGREEMENT to replace any stricken provision with a valid provision that comes as close as possible to the intent of the stricken provision.

9.8. Neither COOPERATIVE nor PHOTOGRAMMETRIST shall be considered to be in default of this AGREEMENT if delays in or failure of performance shall be due to uncontrollable forces the effect of which, by the exercise of reasonable diligence, the non-performing party could not avoid.

9.9. The term “uncontrollable forces” shall mean any event which results in the prevention or delay of performance by a party of its obligations under this AGREEMENT and which is beyond the control of the non-performing party. It includes, but is not limited to, fire, flood, earthquakes, storms, lighting, epidemic, war, riot, civil disturbance, sabotage, inability to procure permits, licenses, or authorizations from any state, local, or federal agency or person for any of the supplies, materials, accesses or services required to be provided by either COOPERATIVE or PHOTOGRAMMETRIST under this AGREEMENT, strikes, work slowdowns or other labor disturbances, and judicial restraint. Neither party shall, however, be excused from performance if non-performance is due to uncontrollable forces which are removal or remediable and which the non-performing party could have, with the exercise of reasonable diligence, removed or remedied with reasonable dispatch.

9.10. The provisions of this AGREEMENT shall not be interpreted or construed to require PHOTOGRAMMETRIST or COOPERATIVE to prevent, settle, or otherwise avoid a strike, work slowdown, or other labor action. The non-performing party shall, within a reasonable time of being prevented or delayed from performance by an uncontrollable force, give written notice to the other party describing the circumstances and uncontrollable forces preventing continued performance of the obligations of this AGREEMENT.

10. <u>TERMINATION</u>

10.1. COOPERATIVE reserves the right to terminate this Agreement at any time, for any reason, upon 30 days written notice to PHOTOGRAMMETRIST. In the event that COOPERATIVE shall fail to make timely payment of any sum owed to PHOTOGRAMMETRIST, PHOTOGRAMMETRIST shall have the right, notwithstanding any other provision of this AGREEMENT, to terminate this AGREEMENT, upon 30 days written notice to COOPERATIVE. In either event, payment shall be due to PHOTOGRAMMETRIST only for those services accepted and substantially performed prior to notice of termination. Upon termination, PHOTOGRAMMETRIST shall provide and turn over to COOPERATIVE all data and documentation, analyses, drawings, reports, etc. prepared up to and including the date of termination.

11. <u>COMPLIANCE WITH FEDERAL, STATE AND LOCAL LAWS</u>

11.1. This contract shall be governed by the laws of the State of Alabama. Legal action arising from the performance of this contract will be filed in the Circuit Court of Lee County, Alabama located in Opelika, Alabama or the Federal District Court for the Middle District of Alabama – Eastern Division located in Opelika, Alabama.

11.2. All contractors are required to be compliant with the Beason-Hammon Alabama Taxpayer and Citizen Protection Act, Act No. 2011-535 (Code of Alabama (1975) § 31-13-9) as amended May 16, 2012 regarding employment practices. For all contractors that employ persons in the State of Alabama, documentation of enrollment in E-Verify should be included with the bid and will be required as a condition for the award of any contract. All contractors are advised that the award of the contract is conditioned on the contractor not knowingly employing, hiring for employment or continuing to employ an unauthorized alien within the State of Alabama. The awarded contract will contain a provision whereby the vendor pledges not to violate federal immigration law.

11.3. No person on the grounds of disability, age, race, color, religion, sex, national origin, veteran status or any other classification protected by Federal and/or Alabama state constitutional and/or statutory law shall be excluded from participation in, or be denied benefit of, or be otherwise subjected to discrimination in the performance of this contract. The contractor shall, upon request, show proof of such non-discrimination, and shall post in conspicuous places, available to all employees and applicants, notice of non-discrimination.

11.4. PHOTOGRAMMETRIST shall procure the permits, certificates, and licenses necessary to allow PHOTOGRAMMETRIST to perform the services.

11.5. The PHOTOGRAMMETRIST will be required to obtain a City of Auburn business license in order to conduct business in the City.

11.6. The PHOTOGRAMMETRIST will be required to obtain a City of Opelika business license in order to conduct business in the City.

12. ASSIGNABILITY

12.1. The PHOTOGRAMMETRIST shall not assign any interest in this contract, and shall not transfer any interest in the same without the prior written approval of the COOPERATIVE, provided that claims for the money due or to become due to the PHOTOGRAMMETRIST from the COOPERATIVE under this contract may be assigned to a bank, trust company or other financial institution, or to a Trustee in Bankruptcy, without such approval. Notice of any such assignment or transfer shall be furnished promptly to the COOPERATIVE.

13. THIRD PARTY RIGHTS

13.1. Nothing in this Agreement shall be construed to give any rights or benefits to anyone other than COOPERATIVE and PHOTOGRAMMETRIST.

13.2. This AGREEMENT (consisting of Pages 1 to 9 inclusive) together with Exhibits A-C, constitute the entire AGREEMENT between COOPERATIVE and PHOTOGRAMMETRIST.

IN WITNESS WHEREOF, the parties hereto have made and executed this AGREEMENT as to the day and year first above written.

Kucera International, Inc.

By: ______________________________

Title: ______________________________

Date: ____________________

Auburn University

By: ______________________________

Title: ______________________________

Date: ____________________

City of Auburn

By: ______________________________

Title: ______________________________

Date: ____________________

City of Opelika

By: ______________________________

Title: ______________________________

Date: ____________________

Lee County, Alabama

By: ______________________________

Title: ______________________________

Date: ____________________

RESOLUTION NO. 334-16

Weed Abatement Assessment - 225 Vero Ct

RESOLUTION NO. ___________

RESOLUTION FIXING AMOUNT OF ASSESSMENT

FOR WEED LIEN AGAINST PROPERTY LOCATED AT

225 Vero Court, Parcel No. 031.000

==

WHEREAS, the weed nuisance growing upon or in front of the property located at 225 Vero Court, parcel no. 031.000 has been removed as provided for and required by law: and

WHEREAS, the enforcing official has prepared and submitted to the City Council an itemized statement of the actual expenses incurred by the City for the abatement of the weed nuisance located at 225 Vero Court, a copy of said itemized statement being attached hereto as Exhibit “A”; and

WHEREAS, the 6th day of December, 2016 at 7:00 p.m. in the City Council Chambers in the

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

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

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

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

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

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

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

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

and

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

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

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

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

follows:

1. The itemized statement of expenses submitted by the enforcing official to the City Council is hereby affirmed.
2. The cost for abating such weed nuisance, in the amount of $252.16 is hereby assessed against the parcel of land mentioned in said itemized statement, to wit: 225 Vero Court, Parcel no. 031.000 Opelika, Alabama. The cost stated in this Resolution shall constitute a lien on the above referenced property.
3. The tax identification number for said parcel(s) of land is 43-10-03-08-2-002-031.000 according to the records of the Revenue Commissioner of Lee County Alabama.
4. The Purchasing-Revenue Manager shall cause a certified copy of this Resolution assessing the cost of abatement to be filed for recording in the Office of the Judge of Probate of Lee County, Alabama, and shall forward a copy to the Lee County Revenue Commissioner. Upon filing, the Lee County Revenue Commissioner

shall add the amount of the lien to the ad valorem tax bill on the property and shall collect the amount as if it were a tax, using all methods available for collecting ad valorem tax, and remit the amount to the City.

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

ADOPTED AND APPROVED this the ___________ day of ______________________, 2016.

____

President of the City Council

City of Opelika, Alabama

Attest:

____

R. G. “Bob” Shuman, CMC

City Clerk - City Treasurer

WEED ABATEMENT INVOICE

Date: 11/21/2016

To: State of Alabama
PO Box 327210
Montgomery Al. 36132

Property Address:
225 Vero Ct.
Opelika Al. 36801
Parcel # 10-03-08-2-002-031.000

On September 30, 2016 in accordance with Opelika City Ordinance 110-12, a notice was sent informing the owner that a weed violation at the above listed property address. After failing to correct the violation within the time specified in the notice, the City of Opelika abated the violation.

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

Cost of Abatement: 226.20

Certified mail: 25.96

Misc. ____________

Total 252.16

RESOLUTION NO. 335-16

Weed Abatement Assessment - 229 Vero Ct.

RESOLUTION NO. ___________

RESOLUTION FIXING AMOUNT OF ASSESSMENT

FOR WEED LIEN AGAINST PROPERTY LOCATED AT

229 Vero Court, Parcel No. 032.000

==

WHEREAS, the weed nuisance growing upon or in front of the property located at 229 Vero Court, parcel no. 032.000 has been removed as provided for and required by law: and

WHEREAS, the enforcing official has prepared and submitted to the City Council an itemized statement of the actual expenses incurred by the City for the abatement of the weed nuisance located at 229 Vero Court, a copy of said itemized statement being attached hereto as Exhibit "A"; and

WHEREAS, the 6th day of December, 2016 at 7:00 p.m. in the City Council Chambers in the

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

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

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

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

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

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

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

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

and

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

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

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

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

follows:

1. The itemized statement of expenses submitted by the enforcing official to the City Council is hereby affirmed.
2. The cost for abating such weed nuisance, in the amount of $246.58 is hereby assessed against the parcel of land mentioned in said itemized statement, to wit: 229 Vero Court, Parcel no. 032.000 Opelika, Alabama. The cost stated in this Resolution shall constitute a lien on the above referenced property.
3. The tax identification number for said parcel(s) of land is 43-10-03-08-2-002-032.000 according to the records of the Revenue Commissioner of Lee County Alabama.
4. The Purchasing-Revenue Manager shall cause a certified copy of this Resolution assessing the cost of abatement to be filed for recording in the Office of the Judge of Probate of Lee County, Alabama, and shall forward a copy to the Lee County Revenue Commissioner. Upon filing, the Lee County Revenue Commissioner

shall add the amount of the lien to the ad valorem tax bill on the property and shall collect the amount as if it were a tax, using all methods available for collecting ad valorem tax, and remit the amount to the City.

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

ADOPTED AND APPROVED this the __________ day of ____________________, 2016.

____

President of the City Council

City of Opelika, Alabama

Attest:

____

R. G. "Bob" Shuman, CMC

City Clerk - City Treasurer

WEED ABATEMENT INVOICE

Date: 11/21/2016

To: State of Alabama
PO Box 327210
Montgomery Al. 36132

Property Address:
229 Vero Ct.
Opelika Al. 36801
Parcel # 10-03-08-2-002-032.000

On September 30, 2016 in accordance with Opelika City Ordinance 110-12, a notice was sent informing the owner that a weed violation at the above listed property address. After failing to correct the violation within the time specified in the notice, the City of Opelika abated the violation.

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

Cost of Abatement: 233.60

Certified mail: 12.98

Misc. ____________

Total 246.58

RESOLUTION NO. 336-16

Hunting Permit, 1103 Andrews Road, 50.5 Acres, R-1 Zone

RESOLUTION NO. _____________

RESOLUTION GRANTING HUNTING PERMIT

TO RON HERRING AND ELIZABETH M. HERRING

WHEREAS, Ron Herring and Elizabeth M Herring are the record owners of a parcel of land located at 1103 Andrews Road, in the City of Opelika, Alabama containing approximately 50.5 acres, more or less; and

WHEREAS, on November 3, 2016, Ron Herring and Elizabeth M. Herring submitted to the Planning Department a sworn application for a hunting permit and the requisite application fee; and

WHEREAS, Tuesday, December 6, 2016 at 7:00 p.m. in the City Council Chambers of the Municipal Building, 204 South 7th Street, Opelika, Alabama, was fixed as the time and place when and where the City Council will meet to consider the hunting permit application; and

WHEREAS, notice was given to the adjacent property owners, by certified mail, in accordance with the provisions of Section 19-495(j), *Code of Ordinances*; and

WHEREAS, the City Council met on Tuesday, December 6, 2016 at the aforesaid time and place for the purpose of considering the hunting permit application filed by Ron Herring and Elizabeth M. Herring; and

WHEREAS, the President of the City Council presided over said public hearing and opened the floor for comments from the public and all persons interested in said application; and

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

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

1. That the City Council does hereby approve the hunting permit application submitted by Ron Herring and Elizabeth M. Herring.

2. That the Mayor is hereby authorized and directed to issue a hunting permit to Ron Herring and Elizabeth M. Herring to hunt turkey, deer, dove and squirrel during applicable hunting seasons with shotgun and rifle, on the permittees' land.

3. That the permittees shall comply with all federal, state and municipal hunting rules and regulations.

4. That the hunting permit issued pursuant to this Resolution shall expire on September 1, 2017. The Chief of Police shall be authorized to renew on an annual basis the permit issued by the City Council, provided there have been no violations of the permit during the preceding year.

5. This Resolution shall take effect upon 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

RESOLUTION NO. 337-16

Interconnection and Commercial Agreement with Bellsouth (OPS)

RESOLUTION NO. _____________

RESOLUTION APPROVING AMENDMENT TO INTERCONNECTION AGREEMENT AND COMMERCIAL AGREEMENT WITH BELLSOUTH TELECOMMUNICATIONS, LLC D/B/A AT&T ALABAMA

WHEREAS, the City of Opelika, Alabama, a municipal corporation, (the "City"), acting by and through Opelika Power Services ("OPS"), owns and operates a Smart Grid Fiber Optic Network capable of providing advanced services to the community; and

WHEREAS, the City operates a telecommunications service through OPS; and

WHEREAS, the Telecommunications Act of 1996 (the "Act") was enacted to promote competition in the telecommunications industry and reduce regulation in order to secure lower prices and high quality services for American telecommunication services; and

WHEREAS, Section 251 of the Act requires companies that traditionally provide local telephone service-known as Incumbent Local Exchange Carriers ("ILECs")-to interconnect their networks with networks of competitors-known as Competing Local Exchange Carriers ("CLECs"); and

WHEREAS, in 2012, the City entered into an Interconnection Agreement with Bellsouth Telecommunications, LLC, d/b/a AT&T Alabama ("AT&T"); and

WHEREAS, the City and AT&T desire to modify certain provisions of the Interconnection Agreement; and

WHEREAS, a proposed Amendment between AT&T and the City was 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; and

WHEREAS, the City and AT&T desire to adopt a new Commercial Agreement that reflects significant regulatory changes; and

WHEREAS, a proposed Commercial Agreement (the "Agreement") was 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 Amendment to be entered into between the City and AT&T, a copy of which is attached hereto and marked Exhibit "A", be and the same is hereby approved, authorized, ratified and confirmed in the form substantially submitted to the City Council with such changes thereto (by addition, deletion or substitution) as the Mayor shall approve, which approval shall be conclusively evidenced by execution and delivery of said Amendment.

2. That the Mayor and the City Clerk are hereby authorized and directed to execute and deliver said Amendment in the name and on behalf of the City.

3. That the Commercial Agreement to be entered into between the City and AT&T, a copy of which is attached hereto and marked Exhibit "B", be and the same is hereby approved, authorized, ratified and confirmed in the form substantially submitted to the City Council with such changes thereto (by addition, deletion or substitution) as the Mayor shall approve, which approval shall be conclusively evidenced by execution and delivery of said Agreement.

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

5. 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 Amendment and Agreement.

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

AGREEMENT

BETWEEN

BELLSOUTH TELECOMMUNICATIONS, LLC D/B/A AT&T ALABAMA

AND

THE CITY OF OPELIKA, ALABAMA AKA OPELIKA POWER SERVICES

Signature: ______________________________

Name: ______________________________
(Print or Type)

Title: ______________________________
(Print or Type)

Date: ______________________________

The City of Opelika, Alabama aka Opelika Power Services

Signature: ______________________________

Name: ______________________________
(Print or Type)

Title: ______________________________
(Print or Type)

Date: ______________________________

BellSouth Telecommunications, LLC d/b/a AT&T ALABAMA by AT&T Services, Inc., its authorized agent

State	Resale OCN	CLEC OCN
ALABAMA	626G	625G

Description	ACNA Code(s)
ACNA(s)	YOP

GENERAL TERMS AND CONDITIONS

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COMMERCIAL AGREEMENT
GENERAL TERMS AND CONDITIONS

This Agreement by and between one or more of the AT&T Inc. owned ILECs hereinafter referred to as BellSouth Telecommunications, LLC d/b/a AT&T ALABAMA, AT&T FLORIDA, AT&T GEORGIA, AT&T LOUISIANA, AT&T MISSISSIPPI, AT&T SOUTH CAROLINA, and AT&T TENNESSEE; Illinois Bell Telephone Company d/b/a AT&T ILLINOIS, Michigan Bell Telephone Company d/b/a AT&T MICHIGAN, Nevada Bell Telephone Company d/b/a AT&T NEVADA and AT&T Wholesale, and Wisconsin Bell, Inc. d/b/a AT&T WISCONSIN (only to the extent that the agent for each such AT&T-owned ILEC executes this Agreement for such AT&T Inc. owned ILEC and only to the extent that such AT&T Inc. owned ILEC provides Telephone Exchange Services as an ILEC in each of the state(s) listed below) and The City of Opelika, Alabama aka Opelika Power Services ("CLEC" also referenced as "The City of Opelika, Alabama aka Opelika Power Services"), (a Alabama Municipality), (referred to herein collectively as, the "Parties"; each, a "Party"), and shall apply to the State(s) of Alabama. This Agreement sets forth the rates, terms and conditions under which AT&T-11STATE agrees to provide CLEC with Transit Traffic Service.

WHEREAS, the Parties acknowledge and agree that the provisions set forth in this Agreement are not subject to and/or required by the Communications Act of 1934, as amended ("Act") including, without limitation, Sections 251/252 of the Telecommunications Act of 1996 and any regulation or rule of the FCC or any state commission, and are not subject to negotiation and/or arbitration under Section 252 of the Act unless both Parties otherwise agree in a writing signed by both Parties.

WHEREAS, for purposes of this Agreement, CLEC represents that it has acquired, or intends to acquire, the authority to offer Telephone Exchange Service and Exchange Access to residential and business End Users and operate where <u>one or more of the AT&T Inc. entities,</u> hereinafter referred to, as applicable for the state to which this Agreement by its terms applies: BellSouth Telecommunications, LLC d/b/a AT&T ALABAMA, , the Incumbent Local Exchange Carrier(s).

NOW, THEREFORE, the Parties hereby agree as follows:

1.0 <u>INTRODUCTION</u>

1.1 This Agreement is composed of the foregoing recitals, the General Terms and Conditions (GT&C), set forth below, and certain Attachments, Schedules, Exhibits and Addenda immediately following this GT&C, all of which are hereby incorporated in this Agreement by this reference and constitute a part of this Agreement.

2.0 <u>DEFINITIONS</u>

2.1 "Accessible Letter(s)" means the correspondence AT&T-11STATE posts to AT&T CLEC Online website to communicate certain information to the CLEC community.

2.2 "Act" means the Communications Act of 1934 [47 U.S.C. 153], as amended by the Telecommunications Act of 1996, Public Law 104-104, 110 Stat. 56 (1996) codified throughout 47 U.S.C.

2.3 "Affiliate" is as defined in the Act.

2.4 "Alternate Billing Service (ABS)" or "Alternately Billed Traffic (ABT)", as described in Attachment Alternate Billing Service, means the service that allows End Users to bill calls to accounts that may not be associated with the originating line. There are three types of ABS/ABT calls: calling card, collect and third number billed calls.

2.5 "Applicable Law" means all laws, statutes, common law, regulations, ordinances, codes, rules, guidelines, orders, permits, tariffs and approvals, including those relating to the environment or health and safety, of any Governmental Authority that apply to the Parties or the subject matter of this Agreement.

2.6 "AT&T Inc." (AT&T) means the holding company which directly or indirectly owns the following ILECs: BellSouth Telecommunications, LLC d/b/a AT&T ALABAMA, AT&T FLORIDA, AT&T GEORGIA, AT&T LOUISIANA, AT&T MISSISSIPPI, AT&T SOUTH CAROLINA and AT&T TENNESSEE; Illinois Bell Telephone Company d/b/a AT&T ILLINOIS, Michigan Bell Telephone Company d/b/a AT&T MICHIGAN, Nevada Bell Telephone Company d/b/a AT&T NEVADA and AT&T Wholesale, and/or Wisconsin Bell, Inc. d/b/a AT&T WISCONSIN. As used in this Agreement, AT&T refers to the AT&T Inc. ILECs only.

2.7 "AT&T-11STATE" means the AT&T-owned ILEC(s) doing business in Alabama, Florida, Georgia, Illinois, Louisiana, Michigan, Mississippi, Nevada, South Carolina, Tennessee, and Wisconsin.

2.8 "AT&T-7STATE" means the AT&T-owned ILEC(s) doing business in Alabama, Florida, Georgia, Louisiana, Mississippi, South Carolina and Tennessee.

2.9 "AT&T-3STATE" means the AT&T-owned ILEC(s) doing business in Illinois, Michigan, and Wisconsin.

2.10 "AT&T ALABAMA" means the AT&T-owned ILEC doing business in Alabama.

2.11 "AT&T FLORIDA" means the AT&T-owned ILEC doing business in Florida.

2.12 "AT&T GEORGIA" means the AT&T-owned ILEC doing business in Georgia.

2.13 "AT&T ILLINOIS" means the AT&T-owned ILEC doing business in Illinois.

2.14 "AT&T LOUISIANA" means the AT&T-owned ILEC doing business in Louisiana.

2.15 "AT&T MICHIGAN" means the AT&T-owned ILEC doing business in Michigan.

2.16 " AT&T MISSISSIPPI" means the AT&T-owned ILEC doing business in Mississippi.

2.17 "AT&T NEVADA" means the AT&T-owned ILEC doing business in Nevada.

2.18 "AT&T SOUTH CAROLINA" means the AT&T-owned ILEC doing business in South Carolina..

2.19 "AT&T TENNESSEE" means the AT&T-owned ILEC doing business in Tennessee.

2.20 "AT&T WISCONSIN" means the AT&T-owned ILEC doing business in Wisconsin.

2.21 "Audited Party" means the Party being audited by the Auditing Party.

2.22 "Auditing Party" means the Party conducting an audit of the Audited Party's books, records, data and other documents.

2.23 "Bill Due Date" means thirty (30) calendar days from the bill date.

2.24 "Billed Party" means the recipient Party of a bill rendered from the Billing Party.

2.25 "Billing Party" means the Party rendering a bill.

2.26 "Business Day" means Monday through Friday, excluding holidays on which the applicable AT&T-11STATE ILEC does not provision new retail services and products.

2.27 "CABS" means the Carrier Access Billing System.

2.28 "Calling Party Number" or "CPN" is as defined in 47 C.F.R. § 64.1600(c).

2.29 "Carrier" means a Telecommunications Carrier as defined in the Act and certificated by the Commission to provide local Telephone Exchange Service.

2.30 "Cash Deposit" means a cash security deposit in U.S. dollars held by AT&T-11STATE.

2.31 "Central Office Switch (CO)" means the switching entity within the public switched telecommunications network, including but not limited to:

2.31.1 "End Office Switch" or "End Office" means the switching machine that directly terminates traffic to and receives traffic from purchasers of local Telephone Exchange Services. An End Office Switch does not include a PBX.

2.31.2 "Tandem Office Switch" or "Tandem(s)" are used to connect and switch trunk circuits between and among other Central Office Switches. A Tandem Switch does not include a PBX.

2.32 "Claim" means any pending or threatened claim, action, proceeding or suit.

2.33 "Commercial Mobile Radio Service(s) (CMRS)" is as defined in the Act and FCC rules.

2.34 “Commission” means the applicable State agency with regulatory authority over certain Telecommunications Services. The following is a list of the appropriate State agencies:

2.34.1 the Alabama Public Service Commission;

2.34.2 the Florida Public Service Commission;

2.34.3 the Georgia Public Service Commission;

2.34.4 the Illinois Commerce Commission;

2.34.5 the Louisiana Public Service Commission;

2.34.6 the Michigan Public Service Commission;

2.34.7 the Mississippi Public Service Commission;

2.34.8 the Public Utilities Commission of Nevada;

2.34.9 the Public Service Commission of South Carolina;

2.34.10 the Tennessee Regulatory Authority; and

2.34.11 the Public Service Commission of Wisconsin.

2.35 “Competitive Local Exchange Carrier (CLEC)” means a telephone company certificated by the Commission to provide local Telephone Exchange Service within AT&T-11STATE’s franchised area.

2.36 “Delaying Event” means any failure of a Party to perform any of its obligations set forth in this Agreement, caused in whole or in part by:

2.36.1 the failure of the other Party to perform any of its obligations set forth in this Agreement, including but not limited to a Party’s failure to provide the other Party with accurate and complete Service Orders;

2.36.2 any delay, act or failure to act by the other Party or its End User, agent or subcontractor; or

2.36.3 any Force Majeure Event.

2.37 “Digital Subscriber Line (xDSL)” describes various technologies and services. The “x” in “xDSL” is a place holder for the various types of DSL services, including, but not limited to ADSL (Asymmetric Digital Subscriber Line), HDSL (High-Speed Digital Subscriber Line), IDSL (ISDN Digital Subscriber Line), SDSL (Symmetrical Digital Subscriber Line), UDSL (Universal Digital Subscriber Line), VDSL (Very High-Speed Digital Subscriber Line), and RADSL (Rate-Adaptive Digital Subscriber Line).

2.38 “Discontinuance Notice” means the written Notice sent by the Billing Party to the other Party that notifies the Non-Paying Party that in order to avoid disruption or disconnection of the Products and/or Services, furnished under this Agreement, the Non-Paying Party must remit all Unpaid Charges to the Billing Party within fifteen (15) calendar days following receipt of the Billing Party’s Notice of Unpaid Charges.

2.39 “Disputed Amounts” means the amount that the Disputing Party contends is incorrectly billed.

2.40 “Disputing Party” means the Party to this Agreement that is disputing an amount in a bill rendered by the Billing Party.

2.41 “End User(s)” means a Third Party residence or business that subscribes to Telecommunications Services provided by any of the Parties at retail. As used herein, the term “End User(s)” does not include any of the Parties to this Agreement with respect to any item or service obtained under this Agreement.

2.42 “Exchange Access” means as defined in the Act.

2.43 “Exchange Area” means an area, defined by the Commission, for which a distinct local rate schedule is in effect.

2.44 “FCC” means the Federal Communications Commission.

2.45 “Fraud Monitoring System” means an off-line administration system that monitors suspected occurrences of ABT-related fraud.

2.46 "Governmental Authority" means any federal, state, local, foreign, or international court, government, department, commission, board, bureau, agency, official, or other regulatory, administrative, legislative, or judicial authority with jurisdiction over the subject matter at issue.

2.47 "Incumbent Local Exchange Carrier (ILEC)" is as defined in the Act.

2.48 "Intellectual Property" means copyrights, patents, trademarks, trade secrets, mask works and all other intellectual property rights.

2.49 "Integrated Digital Loop Carrier" means a subscriber loop carrier system that is twenty-four (24) local Loop transmission paths combined into a 1.544 Mbps digital signal which integrates within the switch at a DS1 level.

2.50 "Integrated Services Digital Network (ISDN)" means a switched network service that provides end-to-end digital connectivity for the simultaneous transmission of voice and data. Basic Rate Interface-ISDN (BRI-ISDN) provides for a digital transmission of two (2) 64 Kbps bearer channels and one (1) 16 Kbps data channel (2B+D).

2.51 "Interexchange Carrier (IXC)" means a carrier that provides, directly or indirectly, interLATA or intraLATA Telephone Toll Services.

2.52 "InterLATA" is as defined in the Act."

2.53 "IntraLATA Toll Traffic" means the IntraLATA traffic, regardless of the transport protocol method, between two locations within one LATA where one of the locations lies outside of the mandatory local calling area as defined by the Commission.

2.54 "Late Payment Charge" means the charge that is applied when a CLEC fails to remit payment for any charges by the Bill Due Date, or if payment for any portion of the charges is received from CLEC after the Bill Due Date, or if payment for any portion of the charges is received in funds which are not immediately available or received by AT&T-11STATE as of the Bill Due Date, or if the CLEC does not submit the Remittance Information.

2.55 "LEC-carried" means the transport of calls or messages on a Carrier's network.

2.56 "Letter of Credit" means the unconditional, irrevocable standby bank letter of credit from a financial institution acceptable to AT&T-11STATE naming the AT&T-owned ILEC(s) designated by AT&T-11STATE as the beneficiary(ies) thereof and otherwise on the AT&T-11STATE Letter of Credit form.

2.57 "Line Information Data Base (LIDB)" means a transaction-oriented database system that functions as a centralized repository for data storage and retrieval. LIDB is accessible through CCS networks. LIDB contains records associated with End User line numbers and special billing numbers.

2.58 "Local Access and Transport Area (LATA)" is as defined in the Act.

2.59 "Local Exchange Carrier (LEC)" is as defined in the Act.

2.60 "Local Service Provider (LSP)" means the LEC that provides retail local Telephone Exchange Service to an End User. "Loss" or "Losses" means any and all losses, costs (including court costs), claims, damages (including fines, penalties, or civil judgments and settlements), injuries, liabilities and expenses (including attorneys' fees).

2.61 "Non-Paying Party" is the Party that has not made payment by the Bill Due Date of all amounts within the bill rendered by the Billing Party.

2.62 "North American Numbering Plan (NANP)" means the numbering architecture in which every station in the NANP Area is identified by a unique ten (10)-digit address consisting of a three (3)-digit NPA code, a three (3)-digit central office code of the form NXX, and a four (4)-digit line number of the form XXXX.

2.63 "Numbering Plan Area (NPA)" also called area code, means the three (3)-digit code that occupies the A, B, C positions in the ten (10)-digit NANP format that applies throughout the NANP Area. NPAs are of the form NXX, where N represents the digits two (2) through nine (9) and X represents any digit zero (0) through nine (9). In the NANP, NPAs are classified as either geographic or non-geographic: a) Geographic NPAs are NPAs which correspond to discrete geographic areas within the NANP Area: b) Non-geographic NPAs are NPAs that do not correspond to discrete geographic areas, but which are instead assigned for services with attributes, functionalities, or requirements that transcend specific geographic boundaries. The common examples are NPAs in the N00 format, (e.g., 800).

2.64 "NXX" or "Central Office Code" is the three (3)-digit switch entity indicator that is defined by the fourth (4th) through sixth (6th) digits of a ten (10)-digit telephone number within the NANP. Each NXX Code contains ten thousand (10,000) station numbers.

2.65 "Operating Company Number (OCN)" means the numeric Company Code assigned by NECA identifying CLEC as a Resale or UNE provider.

2.66 "Operations Support Systems (OSS)" means the suite of functions which permits CLEC to interface to the ILEC for pre-ordering, ordering, provisioning, maintenance/repair and billing as described in the Attachment OSS herein.

2.67 "Other Third Party" refers to any person or entity directly or indirectly involved in the originating, routing, transporting, transmitting, or terminating of either telecommunications or other communication services on or over the Public Switched Telephone Network (PSTN).

2.68 "Out of Exchange LEC (OE-LEC)" means a LEC providing Telecommunications services outside AT&T-11STATE's incumbent local Exchange Area utilizing NPA-NXXs identified to reside in a Third Party ILEC's local Exchange Area.

2.69 "Out of Exchange Traffic" is defined as local, transit, or intraLATA traffic to or from a non-AT&T-11STATE Exchange Area.

2.70 "Party" means either CLEC or the AT&T-owned ILEC; use of the term "Party" includes each of the AT&T-owned ILEC(s) that is a Party to this Agreement. "Parties" means both CLEC and the AT&T-owned ILEC.

2.71 "Past Due" means when a CLEC fails to remit payment for any charges by the Bill Due Date, or if payment for any portion of the charges is received from CLEC after the Bill Due Date, or if payment for any portion of the charges is received in funds which are not immediately available to AT&T-11STATE as of the Bill Due Date (individually and collectively means Past Due).

2.72 "Person" means an individual or a partnership, an association, a joint venture, a corporation, a business or a trust or other entity organized under Applicable law, an unincorporated organization or any Governmental Authority.

2.73 "Remittance Information" means the information that must specify the Billing Account Numbers (BANs) paid; invoices paid and the amount to be applied to each BAN and invoice.

2.74 "Section 251(b)(5) Traffic" means Telecommunications Traffic in which the originating End User of one Party and the terminating End User of the other Party are both physically located in the same incumbent local Exchange Area as defined by the ILEC Local (or "General") Exchange Tariff on file with the applicable Commission or regulatory agency; or both physically located within neighboring incumbent local Exchange Areas that are within the same common mandatory local calling area. This includes but is not limited to, mandatory Extended Area Service (EAS), mandatory Extended Local Calling Service (ELCS), or other types of mandatory expanded local calling scopes. For Section 251(b)(5) Traffic exchanged between CLEC's End users and the End users of a CMRS provider that terminates the call, such traffic shall originate and terminate within the same Major Trading Area (MTA) as defined in 47 CFR§ 24.202(a).

2.75 "Surety Bond" means a bond from a Bond company with a credit rating by AMBEST better than a "B". The bonding company shall be certified to issue bonds in a state in which this Agreement is approved.

2.76 "Tax" or "Taxes" means any and all federal, state, or local sales, use, excise, gross receipts, transfer, transaction or similar taxes or tax-like fees of whatever nature and however designated, including any charges or other payments, contractual or otherwise, for the use of streets or rights-of-way, whether designated as franchise fees or otherwise, and further including any legally permissible surcharge of or with respect to any of the foregoing, which are imposed or sought to be imposed on or with respect to, or measured by the charges or payments for, any products or services purchased under this Agreement.

2.77 "Telecommunications" is as defined in the Act.

2.78 "Telecommunications Carrier" is as defined in the Act.

2.79 "Telecommunications Service" is as defined in the Act.

2.80 "Telephone Exchange Service" is as defined in the Act.

2.81 "Telephone Toll Service" is as defined in the Act.

2.82 "Third Party" is any Person other than a Party.

2.83 "Third Party Originating Carrier" means a Carrier that originates traffic that transits AT&T-11STATE's network and is delivered to CLEC.

2.84 "Third Party Terminating Carrier" means a Carrier to which traffic is terminated when CLEC uses AT&T-11STATE's Transit Traffic Service.

2.85 "Third Party Trunk Group" (AT&T-7STATE) is a trunk group between CLEC and AT&T-7STATE's Tandem that is designated and utilized to transport Traffic that neither originates with nor terminates to an AT&T-7STATE End User. All such traffic is collectively referred to as Third Party Traffic.

2.86 "Transit Service Provider" means AT&T-11STATE when providing its Transit Traffic Service.

2.87 "Transit Traffic" means traffic originating on CLEC's network that is switched and transported by AT&T-11STATE and delivered to a Third Party's network, or traffic originating on a Third Party's network that is switched and transported by AT&T-11STATE and delivered to CLEC's network. A call that is originated or terminated by a CLEC purchasing local switching pursuant to a commercial agreement from AT&T-11STATE including, but not limited to; 271 Local Switching (271-LS), Local Wholesale Complete, Wholesale Local Platform Service agreement(s) is not considered a transit call for the purposes of this Agreement. Additionally, Transit Traffic may include but is not limited to, EAS calls and ELC calls but does not include traffic to/from IXCs.

2.88 "Transit Traffic MOUs" means all Transit Traffic minutes of use to be billed at the Transit Traffic rate by AT&T-11STATE.

2.89 "Transit Traffic Service" is an optional switching and intermediate transport service provided by AT&T-11STATE for Transit Traffic between CLEC and a Third Party Originating or Terminating Carrier, where CLEC is directly interconnected with an AT&T-11STATE Tandem.

2.90 "Trunk" means a communication line between two switching systems.

2.91 "Unpaid Charges" means any charges billed to the Non-Paying Party that the Non-Paying Party did not render full payment to the Billing Party by the Bill Due Date, including where funds were not accessible.

3.0 INTERPRETATION AND CONSTRUCTION

3.1 Definitions:

3.1.1 For purposes of this Agreement, certain terms have been defined in this Agreement to encompass meanings that may differ from, or be in addition to, the normal connotation of the defined word. Unless the context clearly indicates otherwise, any term defined or used in the singular will include the plural. Whenever the context may require, any pronoun shall include the corresponding masculine, feminine and neuter forms. The words "include", "includes" and "including" shall be deemed to be followed by the phrase "without limitation" and/or "but not limited to". The words "will" and "shall" are used interchangeably throughout this Agreement and the use of either connotes a mandatory requirement. The use of one or the other will not mean a different degree of right or obligation for either Party. A defined word intended to convey its special meaning is capitalized when used. Other terms that are capitalized and not defined in this Agreement will have the meaning in the Act, or in the absence of their inclusion in the Act, their customary usage in the Telecommunications industry as of the Effective Date.

3.2 Headings Not Controlling:

3.2.1 The headings and numbering of Sections, Parts, Attachments, Schedules and Exhibits to this Agreement are for convenience only and shall not be construed to define or limit any of the terms herein or affect the meaning or interpretation of this Agreement.

3.2.2 This Agreement incorporates an Attachment which, together with associated Exhibits, Schedules and Addenda, constitute the entire Agreement between the Parties. It is understood that groupings in the Attachment are for convenience of reference only, and are not intended to limit the applicability of the Attachment, Exhibit, Schedule or Addenda may otherwise have.

3.3 Referenced Documents:

3.3.1 Any reference throughout this Agreement to an industry guideline, AT&T-11STATE's technical guideline or referenced AT&T-11STATE business rule, guide or other such document containing processes or specifications applicable to the services provided pursuant to this Agreement, shall be construed to refer to only those provisions thereof that are applicable to these services, and shall include any successor or replacement versions thereof, all as they are amended from time to time and all of which are incorporated herein by reference, and may be found at AT&T-11STATE's CLEC Online website.

3.4 References:

3.4.1 References herein to Sections, Paragraphs, Attachments, Exhibits, Parts and Schedules shall be deemed to be references to Sections, Paragraphs, Attachments and Parts of, and Exhibits, Schedules to this Agreement, unless the context shall otherwise require.

3.5 Conflict in Provisions:

3.5.1 If any definitions, terms or conditions in any given Attachment, Exhibit, Schedule or Addenda differ from those contained in the main body of this Agreement, those definitions, terms or conditions will supersede those contained in the main body of this Agreement, but only in regard to the products, services or activities listed in that particular Attachment, Exhibit, Schedule or Addenda. In particular, if an Attachment contains a Term length that differs from the Term length in the main body of this Agreement, the Term length of that Attachment will control the length of time that services or activities are to occur under that Attachment, but will not affect the Term length of the remainder of this Agreement.

3.6 Joint Work Product:

3.6.1 This Agreement is the joint work product of the Parties and has been negotiated by the Parties and their respective counsel and shall be fairly interpreted in accordance with its terms and, in the event of any ambiguities, no inferences shall be drawn against either Party.

3.6.2 If any provision of this Agreement is rejected or held to be illegal, invalid or unenforceable, each Party agrees that such provision shall be enforced to the maximum extent permissible so as to effect the intent of the Parties, and the validity, legality and enforceability of the remaining provisions of this Agreement shall not in any way be affected or impaired thereby. If necessary to affect the intent of the Parties, the Parties shall negotiate in good faith to amend this Agreement to replace the unenforceable language with enforceable language that reflects such intent as closely as possible. The Parties negotiated the terms and conditions of this Agreement for Products and/or Services as a total arrangement and it is intended to be non-severable.

3.7 Incorporation by Reference:

3.7.1 All of the rates, terms and conditions ("Provisions") set forth in this Agreement (including any and all Attachments, and/or Schedules hereto) and every Product and/or Service provided hereunder, are subject to all other Provisions contained in this Agreement and all such Provisions are integrally related.

3.8 State-Specific Rates, Terms and Conditions:

3.8.1 For ease of administration, this multi-state Agreement may contain certain specified rates, terms and conditions which may apply only in a designated state ("state-specific terms").

3.8.2 State-specific terms, as the phrase is described in Section 3.8.1 above, have been negotiated by the Parties only as to the states where this Agreement has been executed. When the Parties negotiate an agreement for an additional state, neither Party shall be precluded by any language in this Agreement from negotiating state-specific terms for the state in which they are to apply.

3.9 Scope of Obligations:

3.9.1 Notwithstanding anything to the contrary contained herein, AT&T-11STATE's obligations under this Agreement shall apply only to:

3.9.1.1 the specific operating area(s) or portion thereof in which AT&T-11STATE is then deemed to be the ILEC under the Act (the "ILEC Territory"), and only to the extent that the CLEC is operating and offering service to End Users identified to be residing in such ILEC Territory; and

3.9.1.2 assets that AT&T-11STATE owns or leases and which are used in connection with AT&T-11STATE's provision to CLEC of any Products and/or Services provided or contemplated under this Agreement referenced herein (individually and collectively, the "ILEC Assets").

3.9.2 This Agreement sets forth the terms and conditions pursuant to which AT&T-11STATE agrees to provide CLEC with access to the products and services governed by the rates, terms and conditions set forth in this Agreement in AT&T-11STATE's incumbent local Exchange Areas for the provision of CLEC's Telecommunications Services. AT&T-11STATE has no obligation to provide such products and/or services to CLEC for the purposes of CLEC providing and/or extending service outside of AT&T-11STATE's incumbent local Exchange Areas. Therefore, the Parties understand and agree that the rates, terms and conditions set forth in this Agreement shall only apply to the Parties and be available to CLEC for provisioning Telecommunication Services within an AT&T-11STATE incumbent local Exchange Area(s) in the State in which this Agreement is in effect.

3.10 Affiliates:

3.10.1 This Agreement, including subsequent amendments, if any, shall bind AT&T-11STATE, CLEC and any entity that currently or subsequently is owned or controlled by or under common ownership or control with CLEC. CLEC further agrees that the same or substantially the same terms and conditions shall be incorporated into any separate agreement between AT&T-11STATE and any such CLEC Affiliate that continues to operate as a separate entity. This Agreement shall remain effective as to CLEC and any such CLEC Affiliate for the term of this Agreement as stated herein, (subject to any early termination due to default), until either AT&T-11STATE or CLEC or any such CLEC Affiliate institutes renegotiation consistent with the provisions of this Agreement for renewal and term. Notwithstanding the foregoing, this Agreement will not supersede a currently effective agreement between any such CLEC Affiliate and AT&T-11STATE until the expiration of such other agreement.

4.0 NOTICE OF CHANGES - SECTION 251(C)(5)

4.1 Nothing in this Agreement shall limit either Party's ability to upgrade its network through the incorporation of new equipment, new software or otherwise or to otherwise change and/or modify its network including, without limitation, through the retirement and/or replacement of equipment, software or otherwise. Each Party agrees to comply with the Network Disclosure rules adopted by the FCC in CC Docket No. 96-98, Second Report and Order, codified at 47 C.F.R 51.325 through 51.335, as such rules may be amended from time to time (the "Network Disclosure Rules").

5.0 RESPONSIBILITIES OF THE PARTIES

5.1 Each Party is solely responsible for all products and services it provides to its End Users and to other Telecommunications Carriers.

5.2 Each Party shall act in good faith in its performance under this Agreement and, in each case in which a Party's consent or agreement is required or requested hereunder, such Party shall not unreasonably withhold or delay such consent or agreement.

6.0 INSURANCE

6.1 At all times during the term of this Agreement, CLEC shall keep and maintain in force at its own expense the following minimum insurance coverage and limits and any additional insurance and/or bonds required by Applicable Law:

6.1.1 With respect to CLEC's performance under this Agreement, and in addition to CLEC's obligation to indemnify, CLEC shall at its sole cost and expense:

6.1.1.1 maintain the insurance coverage and limits required by this Section 6.0 and any additional insurance and/or bonds required by law:

6.1.1.1.1 at all times during the term of this Agreement and until completion of all work associated with this Agreement is completed, whichever is later;

6.1.1.2 require each subcontractor who may perform work under this Agreement or enter upon the work site to maintain coverage, requirements, and limits at least as broad as those listed in this Section 6.0 from the time when the subcontractor begins work, throughout the term of the subcontractor's work; and

6.1.1.3 procure the required insurance from an insurance company eligible to do business in the state or states where work will be performed and having and maintaining a Financial Strength Rating of "A-" or better and a Financial Size Category of "VII" or better, as rated in the A.M. Best Key Rating Guide for Property and Casualty Insurance Companies, except that, in the case of Workers' Compensation insurance, CLEC may procure insurance from the state fund of the state where work is to be performed; and

6.1.1.4 deliver to AT&T-11STATE certificates of insurance stating the types of insurance and policy limits. CLEC shall provide or will endeavor to have the issuing insurance company provide at least thirty (30) days advance written notice of cancellation, non-renewal, or reduction in coverage, terms, or limits to AT&T-11STATE. CLEC shall deliver such certificates:

6.1.1.4.1 prior to execution of this Agreement and prior to commencement of any Work;

6.1.1.4.2 prior to expiration of any insurance policy required in this Section 6.0.

6.1.2 The Parties agree:

6.1.2.1 the failure of AT&T-11STATE to demand such certificate of insurance or failure of AT&T-11STATE to identify a deficiency will not be construed as a waiver of CLEC's obligation to maintain the insurance required under this Agreement;

6.1.2.2 that the insurance required under this Agreement does not represent that coverage and limits will necessarily be adequate to protect CLEC, nor be deemed as a limitation on CLEC's liability to AT&T-11STATE in this Agreement;

6.1.2.3 CLEC may meet the required insurance coverages and limits with any combination of primary and Umbrella/Excess liability insurance; and

6.1.2.4 CLEC is responsible for any deductible or self-insured retention.

6.2 The insurance coverage required by this Section 6.0 includes:

6.2.1 Workers' Compensation insurance with benefits afforded under the laws of any state in which the work is to be performed and Employers Liability insurance with limits of at least:

6.2.1.1 $500,000 for Bodily Injury – each accident; and

6.2.1.2 $500,000 for Bodily Injury by disease – policy limits; and

6.2.1.3 $500,000 for Bodily Injury by disease – each employee.

6.2.1.4 To the fullest extent allowable by Law, the policy must include a waiver of subrogation in favor of AT&T-11STATE, its Affiliates, and their directors, officers and employees.

6.2.2 In states where Workers' Compensation insurance is a monopolistic state-run system, CLEC shall add Stop Gap Employers Liability with limits not less than $500,000 each accident or disease.

6.2.3 Commercial General Liability insurance written on Insurance Services Office (ISO) Form CG 00 01 12 04 or a substitute form providing equivalent coverage, covering liability arising from premises, operations, personal injury, products/completed operations, and liability assumed under an insured contract (including the tort liability of another assumed in a business contract) with limits of at least:

6.2.3.1 $2,000,000 General Aggregate limit; and

6.2.3.2 $1,000,000 each occurrence limit for all bodily injury or property damage incurred in any one (1) occurrence; and

6.2.3.3 $1,000,000 each occurrence limit for Personal Injury and Advertising Injury; and

6.2.3.4 $2,000,000 Products/Completed Operations Aggregate limit; and

6.2.3.5 $1,000,000 each occurrence limit for Products/Completed Operations; and

6.2.3.6 $1,000,000 Damage to Premises Rented to You (Fire Legal Liability).

6.2.4 The Commercial General Liability insurance policy must:

6.2.4.1 include AT&T-11STATE, its Affiliates, and their directors, officers, and employees as Additional Insureds and

6.2.4.2 be primary and non-contributory with respect to any insurance or self-insurance that is maintained by AT&T-11STATE.

6.2.5 Automobile Liability insurance with minimum limits of $1,000,000 combined single limit per accident for bodily injury and property damage, extending to all owned, hired, and non-owned vehicles.

6.3 This Section 6.0 is a general statement of insurance requirements and shall be in addition to any specific requirement of insurance referenced elsewhere in this Agreement or a Referenced Instrument.

7.0 ASSIGNMENT

7.1 CLEC may not assign or transfer this Agreement or any rights or obligations hereunder, whether by operation of law or otherwise, to a non-affiliate without the prior written consent of AT&T-11STATE. Any attempted assignment or transfer that is not permitted is void ab initio.

7.2 CLEC may assign or transfer this Agreement and all rights and obligations hereunder, whether by operation of law or otherwise, to an Affiliate by providing sixty (60) calendar days advance written Notice of such assignment or transfer to AT&T-11STATE; provided that such assignment or transfer is not inconsistent with Applicable Law (including the Affiliate's obligation to obtain and maintain proper Commission certification and approvals) or the terms and conditions of this Agreement. Notwithstanding the foregoing, CLEC may not assign or transfer this Agreement, or any rights or obligations hereunder, to an Affiliate if that Affiliate is a Party to a separate interconnection agreement with AT&T-11STATE under Sections 251 and 252 of the Act. Any attempted assignment or transfer that is not permitted is void ab initio.

7.3 Corporate Name Change and/or change in "d/b/a" only:

7.3.1 Any assignment or transfer of an Agreement wherein only the CLEC name is changing, and which does not include a change to a CLEC OCN/ACNA, constitutes a CLEC Name Change under this Section. For such a CLEC Name Change, CLEC will incur a record order charge for each CLEC CABS BAN. Rates for service order charges are contained in the Pricing Schedule(s) of one or more Interconnection Agreements by or between AT&T-11STATE and CLEC pursuant to Sections 251/252 of the Act ("Currently Effective Interconnection Agreement").

7.4 Company Code Change:

7.4.1 Any assignment or transfer of an Agreement associated with the transfer or acquisition of "assets" provisioned under that Agreement, where the OCN/ACNA formerly assigned to such "assets" is changing constitutes a "CLEC Company Code Change" under this Section. For the purposes of this Section 7.0, "assets" means any product or service provided under that Agreement. CLEC shall provide AT&T-

11STATE with ninety (90) days advance written Notice of any assignment associated with a CLEC Company Code Change and obtain AT&T-11STATE's consent. AT&T-11STATE shall not unreasonably withhold consent to a CLEC Company Code Change; provided, however, AT&T-11STATE's consent to any CLEC Company Code Change is contingent upon payment of any outstanding charges, owed under this Agreement and/or CLEC's Currently Effective Interconnection Agreement, and payment of any outstanding charges associated with the "assets" subject to the AT&T Wholesale Customer Merger and Acquisition process published on the AT&T CLEC Online website. In addition, CLEC acknowledges that CLEC may be required to tender additional assurance of payment to AT&T-11STATE if requested under the terms of this Agreement.

8.0 EFFECTIVE DATE, TERM AND TERMINATION

8.1 Effective Date:

8.1.1 In AT&T-11STATE, the Effective Date of this Agreement including without limitation, the rates and charges contained herein, shall be ten (10) Calendar Days after both Parties' final authorizing signatures have been affixed to this Agreement (the "Effective Date").

8.2 Term:

8.2.1 Except as otherwise provided herein, the term ("the Term") of this Agreement shall commence upon the Effective Date of this Agreement. As of the Effective Date, AT&T-11STATE and CLEC are Parties to one or more Interconnection Agreements pursuant to Sections 251/252 of the Act ("Currently Effective Interconnection Agreement(s)"), in one or more states AT&T service area. For each such state, the Term of this Agreement shall continue until the termination date of the Currently Effective Interconnection Agreement. Thereafter, this Agreement shall remain in effect until the effective date of a successor agreement governing Transit Traffic Service, as defined in the Transit Traffic Service Attachment, including either a commercial agreement or an interconnection agreement pursuant to Sections 251/252 of the Act; provided, however, that this Agreement shall at all times be subject to termination as provided in this Agreement. Upon termination of this Agreement, neither Party shall have any further obligation under this Agreement, except as otherwise provided in Section 8.2.2 below, and pursuant to Section 37 - Survival.

8.2.2 Either on or following the termination date of this Agreement, if the Parties have not entered into a new agreement or are in active negotiations as described herein, neither Party should have any further obligation under this Agreement in such state (or states) except that:

8.2.2.1 Each Parties' confidentiality obligations shall survive; and

8.2.2.2 Each Party shall promptly pay all amounts (including any late fees as applicable) owed under this Agreement:

8.2.2.2.1 As provided in Section 37 - Survival; and

8.2.2.2.2 As may be provided elsewhere in this Agreement (including the Attachments)

8.3 Termination for Nonperformance or Breach:

8.3.1 Notwithstanding any other provision of this Agreement, either Party may terminate this Agreement and the provision of any Product and/or Services provided pursuant to this Agreement, at the sole discretion of the terminating Party, in the event that the other Party fails to perform a material obligation or breaches a material term of this Agreement and the other Party fails to cure such nonperformance or breach within forty-five (45) calendar days after written Notice thereof. If the Party against which the claim of nonperformance or breach is made materially and in good faith disagrees with the claim, it shall notify the claiming Party of its disagreement in writing by 5:00p.m. Central Time of the fourteenth (14th) day following receipt of the nonperformance/breach notice, providing with specificity the basis for its disagreement, and the dispute shall then be resolved between the Parties pursuant to Section 11 (as to billing disputes) and Section 8 above. If the nonperformance/breach is not disputed in a timely manner, the Party shall cure the nonperformance/breach and certify in writing to the other by deadline on the forty-fifth (45th) day that the nonperformance/breach has been cured. If the nonperforming Party fails to cure such nonperformance or breach within the forty-five (45) calendar day period provided for within the original Notice, then the terminating Party will provide a subsequent written Notice of the termination of this Agreement and such termination shall take effect immediately upon delivery of written Notice to the other Party.

8.4 Termination for Federal or State Governmental Action:

8.4.1 AT&T-11STATE shall have the right to terminate this Agreement in whole or in part, upon written notice to CLEC, in the event that any federal action, or state government (including by a regulatory agency, a court, or a legislature) requires AT&T-11STATE to: a) provide, modify, or otherwise make available this Agreement or any part of this Agreement to CLEC, any other telecommunications carrier, or any other person or entity, or b) permit or otherwise allow, CLEC, any other telecommunications carrier or any other person or entity to obtain any of the provisions of this Agreement as they were agreed to by the Parties, including by way of example, at prices or price structure/application or arrangements different than agreed to in this Agreement as a whole by the Parties. If such state government action only occurs in one state, AT&T-11STATE shall have the right to terminate the Agreement in that state by written notice to CLEC. If such government action occurs at the federal level or in two or more states, AT&T-11STATE shall have the right to terminate, at its election, the Agreement in its entirety or, alternatively, only in one or more of the affected states, by written notice to CLEC.

8.4.2 Any termination or invalidation of this Agreement under this Section 8.4 shall be effective as of the day before the CLEC effective date of such governmental action that triggered the invalidation or right to terminate, and AT&T-11STATE and CLEC agree to expeditiously adopt and implement a transition plan to avoid or minimize impact on CLEC's customers (including without limitation its end user customers) who are being served using the products and/or services hereunder.

8.5 Termination due to Event of Default:

8.5.1 In addition, AT&T-11STATE shall have the right, at its sole discretion, to terminate this Agreement if an Event of Default occurs, with neither any notice of default by AT&T-11STATE nor an opportunity for cure by CLEC required. Such right shall be exercised by providing a written notice to terminate to CLEC. Events of Default include the following, each of which the Parties agree would be a material breach of this Agreement:

8.5.1.1 The filing of a bankruptcy by CLEC or any of its Affiliates (including the corporate parent of CLEC, if any), pursuant to Chapter 7 or 11 of Title 11 of the United States Bankruptcy Code.

8.5.1.2 The assignment, subcontracting, or otherwise transferring of CLEC's rights or obligations under this Agreement in violation of Section 7, Assignment.

8.6 Termination of Agreement after initial term expiration:

8.6.1 Where CLEC has no End Users or is no longer purchasing any services under this Agreement, either Party may terminate the Agreement by providing "Notice of Termination" to the other Party at any time after the initial term of this Agreement.

8.6.2 Where CLEC has End Users and/or is purchasing Transit Traffic Service under this Agreement and either Party seeks to terminate this Agreement, CLEC shall cooperate in good faith to effect an orderly transition of service under this Agreement. CLEC shall be solely responsible (from a financial, operational and administrative standpoint) to ensure that its End Users are not impacted by the expiration or termination of this Agreement prior to the expiration or termination date of this Agreement.

8.6.3 If at any time within one hundred and eighty (180) days or any time thereafter of the expiration of the Term, if either Party serves "Notice of Expiration", CLEC shall have ten (10) calendar days to provide AT&T-11STATE written confirmation to the Notice of Expiration indicating if CLEC wishes to pursue a successor agreement with AT&T-11STATE or terminate its Agreement. If CLEC wishes to pursue a successor agreement with AT&T-11STATE, CLEC shall attach to its written confirmation or Notice of Expiration, a written request to commence negotiations with AT&T-11STATE and identify each of the state(s) to which the successor agreement will apply. Upon receipt of CLEC's request, the Parties shall commence good faith negotiations for a successor agreement.

8.6.4 The rates, terms and conditions of this Agreement shall continue in full force and effect until the earlier of: (i) the effective date of the successor agreement, if any; or (ii) the Termination Date set forth in Section 8.2 above; or (iii) any other termination date pursuant to any other terms of this Agreement. For avoidance of doubt, nothing in this Agreement obligates AT&T-11STATE after the Termination Date to continue to offer or provide any services and/or product that were provided under this Agreement.

8.6.5 In any event, AT&T-11STATE shall be under no obligation to provision any products and/or services pursuant to this Agreement as of and after the Expiration Date or Termination Date.

9.0 FRAUD, INCLUDING END USER OR OTHER THIRD PARTY FRAUD

9.1 AT&T-11STATE shall not be liable to CLEC for any fraud, including fraud associated with CLEC's End User account, whether regarding 1+ IntraLATA toll, ported numbers, ABT or any other kinds of traffic, whatever the nature of said traffic.

9.2 The Parties agree to cooperate with one another to investigate, minimize, and take corrective action in cases of fraud or suspected fraud of any nature, including but not limited to fraud or suspected fraud involving 1+ IntraLATA toll calls, ABT ported numbers or any other kinds of traffic, whatever the nature of said traffic. The Parties' fraud minimization procedures are to be cost-effective and implemented so as not to unduly burden or harm one Party as compared to the other.

9.3 In cases of suspected fraudulent activity, at a minimum, the cooperation referenced in Section 9.2 above will include providing to the Requesting Party information concerning End Users or Other Third Parties who originate, terminate or route traffic to or through the Non-Requesting Party when it is suspected that the Requesting Party has been impaired from appropriately and timely billing all relevant charges. The Non-Requesting Party, as the Party obligated to provide such information, is responsible for securing the End User's or Other Third Party's permission to provide such information to the Requesting Party, to the extent such permission is legally required.

9.4 AT&T-11STATE will use a Fraud Monitoring System to determine suspected occurrences of ABT-related fraud and will provide notification messages to CLEC on suspected occurrences of ABT-related fraud on CLEC accounts stored in the applicable LIDB.

9.5 CLEC understands that Fraud Monitoring System alerts only identify potential occurrences of fraud. CLEC understands and agrees that it will need to perform its own investigations to determine whether a fraud situation actually exists. CLEC understands and agrees that it will also need to determine what, if any, action CLEC should take as a result of a Fraud Monitoring System alert.

9.6 The Parties will provide contact names and numbers to each other for the exchange of Fraud Monitoring System alert notification.

10.0 ASSURANCE OF PAYMENT

10.1 Upon request by AT&T-11STATE, CLEC will provide AT&T-11STATE with the AT&T-11STATE Credit Profile form and provide information to AT&T-11STATE regarding CLEC's credit and financial condition.

10.2 Assurance of payment may be requested by AT&T-11STATE:

10.2.1 If based on AT&T-11STATE's analysis of the AT&T-11STATE Credit Profile and other relevant information regarding CLEC's credit and financial condition, there is an impairment of the credit, financial health, or credit worthiness of CLEC. Such impairment will be determined from information available from Third Party financial sources; or

10.2.2 CLEC fails to timely pay a bill rendered to CLEC by AT&T-11STATE (except such portion of a bill that is subject to a good faith, bona fide dispute and as to which CLEC has complied with all requirements set forth in Section 12.4 below); and/or

10.2.3 CLEC's gross monthly billing has increased, AT&T-11STATE reserves the right to request additional security (or to require a security deposit if none was previously requested) and/or file a Uniform Commercial Code (UCC-1) security interest in CLEC's "accounts receivables and proceeds"; or

10.2.4 When CLEC admits its inability to pay its debts as such debts become due, has commenced a voluntary case (or has had an involuntary case commenced against it) under the U.S. Bankruptcy Code or any other law relating to insolvency, reorganization, winding-up, composition or adjustment of debts or the like, has made an assignment for the benefit of creditors or is subject to a receivership or similar proceeding.

10.3 If AT&T-11STATE requires CLEC to provide a security deposit, CLEC shall provide such security deposit prior to the inauguration of service or within fifteen (15) calendar days of AT&T-11STATE's request, as applicable. Deposit request notices will be sent to CLEC via certified mail or overnight delivery. Such notice period will start the day after the deposit request notice is rendered by certified mail or overnight delivery. Interest on a cash security deposit shall accrue and be applied or refunded in accordance with the terms in AT&T-11STATE's applicable Tariff.

10.4 Unless otherwise agreed by the Parties, the assurance of payment will consist of:

10.4.1 a Cash Deposit; or

10.4.2 a Letter of Credit; or

10.4.3 a Surety Bond.

10.5 The Cash Deposit, Letter of Credit or Surety Bond must be in an amount up to three (3) months anticipated charges (including, but not limited to, recurring, non-recurring and usage sensitive charges, termination charges and advance payments), as reasonably determined by AT&T-11STATE, for products or services to be furnished by AT&T-11STATE under this Agreement. Estimated billings are calculated based upon the monthly average of the previous six (6) months current billings, if CLEC has received service from AT&T-11STATE during such period at a level comparable to that anticipated to occur over the next six (6) months. If either CLEC or AT&T-11STATE has reason to believe that the level of service to be received during the next six (6) months will be materially higher or lower than received in the previous six (6) months, CLEC and AT&T-11STATE shall agree on a level of estimated billings based on all relevant information.

10.6 To the extent that AT&T-11STATE elects to require a Cash Deposit, the Parties intend that the provision of such Cash Deposit shall constitute the grant of a security interest in the Cash Deposit pursuant to Article 9 of the Uniform Commercial Code in effect in any relevant jurisdiction.

10.7 Interest on a Cash Deposit shall accrue and be applied or refunded in accordance with the terms in the appropriate AT&T-11STATE Tariff. AT&T-11STATE will not pay interest on a Letter of Credit or a Surety Bond.

10.8 AT&T-11STATE may, but is not obligated to, draw on the Letter of Credit or the Cash Deposit, as applicable, upon the occurrence of any one of the following events:

10.8.1 CLEC owes AT&T-11STATE undisputed charges under this Agreement that are more than thirty (30) calendar days past due; or

10.8.2 CLEC admits its inability to pay its debts as such debts become due, has commenced a voluntary case (or has had an involuntary case commenced against it) under the U.S. Bankruptcy Code or any other law relating to insolvency, reorganization, winding-up, composition or adjustment of debts or the like, has made an assignment for the benefit of creditors or is subject to a receivership or similar proceeding; or

10.8.3 The expiration or termination of this Agreement.

10.9 If AT&T-11STATE draws on the Letter of Credit or Cash Deposit, upon request by AT&T-11STATE, CLEC will provide a replacement or supplemental Letter of Credit, Surety Bond or Cash Deposit conforming to the requirements of Section 10.4 above.

10.10 Notwithstanding anything else set forth in this Agreement, if AT&T-11STATE makes a request for assurance of payment in accordance with the terms of this Section 10.0 then AT&T-11STATE shall have no obligation thereafter to perform under this Agreement until such time as CLEC has furnished AT&T-11STATE with the assurance of payment requested; provided, however, that AT&T-11STATE will permit CLEC a minimum of fifteen (15) calendar days to respond to a request for assurance of payment before invoking this Section 10.10.

10.11 In the event CLEC fails to provide AT&T-11STATE with a suitable form of security deposit or additional security deposit as required herein, defaults on its account(s), or otherwise fails to make any payment or payments required under this Agreement in the manner and within the time required, service to CLEC may be suspended, discontinued or terminated in accordance with the terms of Section 10.0 above. Upon termination of services, AT&T-11STATE shall apply any security deposit to CLEC's final bill for its account(s). If CLEC fails to furnish the requested adequate assurance of payment on or before the date set forth in the request, AT&T-11STATE may also invoke the provisions set forth in Section 12.0 below.

10.12 A Cash Deposit held by AT&T-11STATE shall be returned to CLEC if the following conditions have been met:

10.12.1 Payment was made on bills rendered to CLEC by AT&T-11STATE (except such portion of a bill that is subject to a good faith, bona fide dispute and as to which CLEC has complied with all requirements set forth in Section 12.4 below) as of the Bill Due Date for all but one time during the prior twelve month period and all payments were made with checks that were honored; and

10.12.2 There has been no impairment of the established credit and/or financial health from information available from financial sources, including but not limited to Moody's, Standard and Poor's, and the Wall Street Journal. Financial information about CLEC that may be considered includes, but is not limited to, investor warning briefs, rating downgrades, and articles discussing pending credit problems.

10.13 The fact that a Cash Deposit or Letter of Credit is requested by AT&T-11STATE shall in no way relieve CLEC from timely compliance with all payment obligations under this Agreement (including, but not limited to, recurring, non-recurring and usage sensitive charges, termination charges and advance payments), nor does it constitute a waiver or modification of the terms of this Agreement pertaining to disconnection or re-entry for non-payment of any amounts required to be paid hereunder.

10.14 At least seven (7) calendar days prior to the expiration of any Letter of Credit provided by CLEC as security under this Agreement, CLEC shall renew such Letter of Credit or provide AT&T-11STATE with evidence that CLEC has obtained a suitable replacement for the Letter of Credit. If CLEC fails to comply with the foregoing, AT&T-11STATE shall thereafter be authorized to draw down the full amount of such Letter of Credit and utilize the cash proceeds as security for CLEC accounts(s). If CLEC provides a security deposit or additional security deposit in the form of a Surety Bond as required herein, CLEC shall renew the Surety Bond or provide AT&T-11STATE with evidence that CLEC has obtained a suitable replacement for the Surety Bond at least seven (7) calendar days prior to the cancellation date of the Surety Bond. If CLEC fails to comply with the foregoing, AT&T-11STATE shall thereafter be authorized to take action on the Surety Bond and utilize the cash proceeds as security for CLEC's account(s). If the credit rating of any bonding company that has provided CLEC with a Surety Bond provided as security hereunder has fallen below "B", AT&T-11STATE will provide written Notice to CLEC that CLEC must provide a replacement bond or other suitable security within fifteen (15) calendar days of AT&T-11STATE's written Notice. If CLEC fails to comply with the foregoing, AT&T-11STATE shall thereafter be authorized to take action on the Surety Bond and utilize the cash proceeds as security for CLEC's account(s). Notwithstanding anything contained in this Agreement to the contrary, AT&T-11STATE shall be authorized to draw down the full amount of any Letter of Credit or take action on any Surety Bond provided by CLEC as security hereunder if CLEC defaults on its account(s) or otherwise fails to make any payment or payments required under this Agreement in the manner and within the time, as required herein.

11.0 BILLING

11.1 Unless otherwise stated, AT&T will render monthly bill(s), remittance in full by the Bill Due Date, to CLEC for Products and Services provided hereunder at the applicable rates set forth in the attached Pricing Schedule and the underlying Currently Effective Interconnection Agreement .

11.2 A Late Payment Charge will be assessed for all Past Due payments as provided below, as applicable.

11.2.1 If any portion of the payment is not received by AT&T-11STATE on or before the payment due date as set forth above, or if any portion of the payment is received by AT&T-11STATE in funds that are not immediately available to AT&T-11STATE, then a late payment and/or interest charge shall be due to AT&T-11STATE. The late payment and/or interest charge shall apply to the portion of the payment not received and shall be assessed as set forth in the applicable state tariff, or, if no applicable state tariff exists, as set forth in the Guidebook as referenced on the AT&T CLEC Online website, or pursuant to the applicable state law as determined by AT&T-11STATE. In addition to any applicable late payment and/or interest charges, CLEC may be charged a fee for all returned checks at the rate set forth in the applicable state tariff, or, if no applicable tariff exists, as set forth in the Guide Book or pursuant to the applicable state law.

11.3 The Remittance Information to apply payments must accompany the payment. Payment is considered to have been made when the payment and Remittance Information are received by AT&T-11STATE. If the Remittance Information is not received with payment, AT&T-11STATE will be unable to apply amounts paid to CLEC's accounts. In such event, AT&T-11STATE shall hold such funds until the Remittance Information is received. If AT&T-11STATE does not receive the Remittance Information by the Bill due date for any account(s), Late Payment Charges shall apply.

11.4 CLEC shall make all payments to AT&T-11STATE via electronic funds transfers (EFTs) through the Automated Clearing House Association (ACH) to the financial institution designated by AT&T-11STATE. Remittance Information will be communicated together with the funds transfer via the ACH network. CLEC must use the CCD+ or the CTX Standard Entry Class code. CLEC and AT&T-11STATE will abide by the National Automated Clearing House Association (NACHA) Rules and Regulations. Each ACH payment must be received by AT&T-11STATE no later than the Bill Due Date of each bill or Late Payment Charges will apply. AT&T-11STATE is not liable for any delays in receipt of funds or errors in entries caused by CLEC or Third Parties, including CLEC's financial institution. CLEC is responsible for its own banking fees.

11.5 Prior to establishing EFT, CLEC will complete a Customer Information Form for Electronic Payments (ECF11 Form) found on AT&T-11STATE's CLEC Online website. This form provides AT&T-11STATE with CLEC's set up and contract information for electronic payments. AT&T-11STATE banking information will be provided by AT&T-11STATE Treasury & Remittance Operations on AT&T-11STATE approved forms after the CLEC's completed ECF11 form is received, testing has completed and certification confirmed.

11.6 Processing of payments not made via electronic funds transfers through the ACH network may be delayed. CLEC is responsible for any Late Payment Charges resulting from CLEC's failure to use electronic funds transfers through the ACH network.

11.7 If Unpaid Charges are subject to a billing dispute between the Parties, the Non-Paying Party must, prior to the Bill Due Date, give written notice to the Billing Party of the Disputed Amounts and include in such written notice the specific details and reasons for disputing each item listed in Section 13.4 below. The Disputing Party should utilize the preferred form or method provided by the Billing Party to communicate disputes to the Billing Party. On or before the Bill Due Date, the Non-Paying Party must pay: (i) all undisputed amounts to the Billing Party and (ii) all Disputed Amounts into an interest bearing escrow account with a Third Party escrow agent that is mutually agreed upon by the Parties.

11.8 Requirements to Establish Escrow Accounts:

11.8.1 To be acceptable, the Third Party escrow agent must meet all of the following criteria:

11.8.1.1 The financial institution proposed as the Third Party escrow agent must be located within the continental United States; and

11.8.1.2 The financial institution proposed as the Third Party escrow agent may not be an Affiliate of either Party; and

11.8.1.3 The financial institution proposed as the Third Party escrow agent must be authorized to handle ACH credit transfers.

11.8.2 In addition to the foregoing requirements for the Third Party escrow agent, the Disputing Party and the financial institution proposed as the Third Party escrow agent must agree in writing furnished to the Billing Party that the escrow account will meet all of the following criteria:

11.8.2.1 The escrow account must be an interest bearing account;

11.8.2.2 all charges associated with opening and maintaining the escrow account will be borne by the Disputing Party;

11.8.2.3 that none of the funds deposited into the escrow account or the interest earned thereon may be used to pay the financial institution's charges for serving as the Third Party escrow agent;

11.8.2.4 all interest earned on deposits to the escrow account will be disbursed to the Parties in the same proportion as the principal; and

11.8.2.5 disbursements from the escrow account will be limited to those:

11.8.2.5.1 authorized in writing by both the Disputing Party and the Billing Party (that is, signature(s) from representative(s) of the Disputing Party only are not sufficient to properly authorize any disbursement); or

11.8.2.5.2 made in accordance with the final, non-appealable order of the arbitrator appointed pursuant to the provisions of Section 13.7 below; or

11.8.2.5.3 made in accordance with the final, non-appealable order of the court that had jurisdiction to enter the arbitrator's award pursuant to Section 13.7 below.

11.9 Disputed Amounts in escrow will be subject to Late Payment Charges as set forth in Section 11.2 above.

11.10 Issues related to Disputed Amounts shall be resolved in accordance with the procedures identified in the Dispute Resolution provisions set forth in Section 13 below.

11.11 If the Non-Paying Party disputes any charges and any portion of the dispute is resolved in favor of such Non-Paying Party, the Parties will cooperate to ensure that all of the following actions are completed:

11.11.1 the Billing Party will credit the invoice of the Non-Paying Party for that portion of the Disputed Amounts resolved in favor of the Non-Paying Party, together with any Late Payment Charges assessed with respect thereto no later than the second Bill Due Date after resolution of the dispute;

11.11.2 within ten (10) Business Days after resolution of the dispute, the portion of the escrowed Disputed Amounts resolved in favor of the Non-Paying Party will be released to the Non-Paying Party, together with any interest accrued thereon;

11.11.3 within ten (10) Business Days after resolution of the dispute, the portion of the escrowed Disputed Amounts resolved in favor of the Billing Party will be released to the Billing Party, together with any interest accrued thereon; and

11.11.4 no later than the third (3rd) Bill Due Date after the resolution of the dispute, the Non-Paying Party will pay the Billing Party the difference between the amount of accrued interest the Billing Party received from the escrow disbursement and the amount of Late Payment Charges the Billing Party is entitled to receive pursuant to Section 11.8 above.

11.12 If the Non-Paying Party disputes any charges and the entire dispute is resolved in favor of the Billing Party, the Parties will cooperate to ensure that all of the actions required by Section 11.12.1 above and Section 11.12.3 above are completed within the times specified therein.

11.13 Failure by the Non-Paying Party to pay any charges determined to be owed to the Billing Party within the time specified in Section 11.12 above shall be grounds for termination of the Products and/or Services provided under this Agreement.

11.14 CLEC will notify AT&T-11STATE at least ninety (90) calendar days or three (3) monthly billing cycles prior to any billing changes. At that time a sample of the new invoice will be provided so that AT&T-11STATE has time to program for any changes that may impact validation and payment of the invoices. If notification is not received in the specified time frame, then invoices will be held and not subject to any Late Payment Charges, until the appropriate amount of time has passed to allow AT&T-11STATE the opportunity to test the new format and make changes deemed necessary.

11.15 If either Party requests one or more additional copies of a bill, the requesting Party will pay the Billing Party a reasonable fee for each additional copy as specified in CLEC's Currently Effective Interconnection Agreement Pricing Schedule, unless such copy was requested due to failure in delivery of the original bill or correction(s) to the original bill.

12.0 NONPAYMENT AND PROCEDURES FOR DISCONNECTION

12.1 If a Party is furnished Products and/or Services under the terms of this Agreement in more than one (1) state, Section 12.2 below through Section 12.10 below, inclusive, shall be applied separately for each such state.

12.2 Failure to pay charges shall be grounds for disconnection of Products and/or Services furnished under this Agreement. If a Party fails to pay any charges billed to it under this Agreement, including but not limited to any Late Payment Charges or Unpaid Charges, and any portion of such Unpaid Charges remain unpaid after the Bill Due Date, the Billing Party will send a Discontinuance Notice to such Non-Paying Party. The Non-Paying Party must remit all Unpaid Charges to the Billing Party within fifteen (15) calendar days of the Discontinuance Notice.

12.3 AT&T-11STATE will also provide any written notification to any Commission if required by any State Order or Rule.

12.4 If the Non-Paying Party desires to dispute any portion of the Unpaid Charges, the Non-Paying Party must complete all of the following actions not later than fifteen (15) calendar days following receipt of the Billing Party's notice of Unpaid Charges:

12.4.1 notify the Billing Party in writing which portion(s) of the Unpaid Charges it disputes, including the total Disputed Amounts and the specific details listed in Section 13.4 below of this Agreement, together with the reasons for its dispute; and

12.4.2 pay all undisputed Unpaid Charges to the Billing Party; and

12.4.3 pay all Disputed Amounts (other than Disputed Amounts arising from Intercarrier Compensation) into an interest bearing escrow account that complies with the requirements set forth in Section 11.9 above; and

12.4.4 furnish written evidence to the Billing Party that the Non-Paying Party has established an interest bearing escrow account that complies with all of the terms set forth in Section 11.9 above and deposited a sum equal to the Disputed Amounts into that account (other than Disputed Amounts arising from Intercarrier Compensation). Until evidence that the full amount of the Disputed Charges (other than Disputed Amounts arising from Intercarrier Compensation) has been deposited into an escrow account that complies with Section 11.9 above is furnished to the Billing Party, such Unpaid Charges will not be deemed to be "disputed" under Section 13.0 below.

12.5 Issues related to Disputed Amounts shall be resolved in accordance with the procedures identified in the Dispute Resolution provision set forth in Section 13.0 below.

12.6 If the Non-Paying Party fails to:

12.6.1 Pay any undisputed Unpaid Charges in response to the Billing Party's Discontinuance Notice as described in Section 12.2 above.

12.6.2 Deposit the disputed portion of any Unpaid Charges into an interest bearing escrow account that complies with all of the terms set forth in Section 11.9 above within the time specified in Section 12.2 above.

12.6.3 Timely furnish any assurance of payment requested in accordance with Section 10.4 above; or

12.6.4 make a payment in accordance with the terms of any mutually agreed payment arrangement, the Billing Party may, in addition to exercising any other rights or remedies it may have under Applicable Law, provide written demand to the Non-Paying Party for payment of any of the obligations set forth in (a) through (d) of this Section 12.0 within ten (10) Business Days. On the day that the Billing Party provides such written demand to the Non-Paying Party, the Billing Party may also exercise any or all of the following options:

12.6.4.1 Suspend acceptance of any application, request or order from the Non-Paying Party for new or additional Products and/or Services under this Agreement; and/or

12.6.4.2 suspend completion of any pending application, request or order from the Non-Paying Party for new or additional Products and/or Services Service under this Agreement.

12.7 If required, a copy of the demand provided to CLEC under Section 12.6 above will also be provided to the Commission at the same time.

12.8 Notwithstanding anything to the contrary in this Agreement, the Billing Party's exercise of any of its options under Section 12.6 above, and Sections 12.6.4.1 above and 12.6.4.2 above:

12.8.1 will not delay or relieve the Non-Paying Party's obligation to pay all charges on each and every invoice on or before the applicable Bill Due Date; and

12.8.2 will exclude any affected application, request, order or service from any otherwise Performance Measure.

12.9 For AT&T-3STATE only, if the Non-Paying Party fails to pay the Billing Party on or before the date specified in the demand provided under Section 12.6 above of this Agreement, the Billing Party may, in addition to exercising any other rights or remedies it may have under Applicable Law:

12.9.1 cancel any pending application, request or order for new or additional Products and/or Services, under this Agreement; and

12.9.2 disconnect any Products and/or Services furnished under this Agreement.

12.9.3 discontinue providing any Products and/or Services furnished under this Agreement.

12.10 Limitation on Back-billing and Credit Claims; Exceptions to Limitation for Certain Situations (True-Ups):

12.10.1 Notwithstanding anything to the contrary in this Agreement, a Party shall be entitled to:

12.10.1.1 Back-bill for or claim credit for any charges for services provided pursuant to this Agreement that are found to be unbilled, under-billed or over-billed, but only when such charges appeared or should have appeared on a bill dated within the twelve (12) months immediately preceding the date on which the Billing Party provided written notice to the Billed Party of the amount of the back-billing or the Billed Party provided written notice to the Billing Party of the claimed credit amount. The Parties agree that the twelve (12) month limitation on back-billing and credit claims set forth in the preceding sentence shall be applied prospectively only after the Effective Date of this Agreement, meaning that the twelve (12) month period for any back-billing or credit claims may only include billing periods that fall entirely after the Effective Date of this Agreement and will not include any portion of any billing period that began prior to the Effective Date of this Agreement. Nothing herein shall prohibit either Party from rendering bills or collecting for any Products and/or Services more than twelve (12) months after the Products and/or Services was provided when the ability or right to charge or the proper charge for the Products and/or Services was the subject of an arbitration or other Commission docket or any FCC order, including any appeal of such arbitration, docket or FCC order. In such cases (hereinafter a "true-up") the time period for billing shall be the longer of (a) the period specified by the Commission in the final order allowing or approving such change or (b) eighteen (18) months from the date of the final order allowing or approving such charge (c) twelve (12) months from the date of approval of any executed amendment to this Agreement required to implement such charge.

12.10.1.2 Back-billing and credit claims, and true-ups, as limited above, will apply to all Products and/or Services purchased under this Agreement.

13.0 DISPUTE RESOLUTION

13.1 Finality of Disputes:

13.1.1 Except as otherwise specifically provided for in this Agreement, no claim may be brought for any dispute arising from this Agreement more than twelve (12) months from the date the occurrence which gives rise to the dispute is discovered or reasonably should have been discovered with the exercise of due care and attention.

13.1.2 Notwithstanding anything contained in this Agreement to the contrary, a Party shall be entitled to dispute only those charges which appeared on a bill dated within the twelve (12) months immediately preceding the date on which the Billing Party received notice of such Disputed Amounts.

13.2 Alternative to Litigation:

13.2.1 The Parties desire to resolve disputes arising out of this Agreement without litigation. Accordingly, the Parties agree to use the following Dispute Resolution procedures with respect to any controversy or claim arising out of or relating to this Agreement or its breach.

13.3 Commencing Dispute Resolution:

13.3.1 Dispute Resolution shall commence upon one Party's receipt of written Notice of a controversy or claim arising out of or relating to this Agreement or its breach. No Party may pursue any claim unless such written Notice has first been given to the other Party. There are three (3) separate Dispute Resolution methods:

13.3.1.1 Service Center Dispute Resolution

13.3.1.2 Informal Dispute Resolution; and

13.3.1.3 Formal Dispute Resolution, each of which is described below.

13.4 Service Center Dispute Resolution - The following Dispute Resolution procedures will apply with respect to any billing dispute arising out of or relating to the Agreement. Written Notice sent to AT&T-11STATE for Disputed Amounts must be made on the "Billing Claims Dispute Form".

13.4.1 If the written Notice given pursuant to Section 13.3 above discloses that the dispute relates to billing, then the procedures set forth in Section 12.4 above shall be used.

13.4.2 For a dispute submitted by the CLEC, the dispute shall first be processed by the appropriate service center for resolution.

13.4.3 In order to resolve a billing dispute, the Disputing Party shall furnish the other Party written Notice of:

13.4.3.1 the date of the bill in question;

13.4.3.2 the account number or other identification (CLEC must provide the CBA/ESBA/ASBS or BAN number) of the bill in question;

13.4.3.3 telephone number, circuit ID number or trunk number in question;

13.4.3.4 any USOC (or other descriptive information) information relating to the item questioned;

13.4.3.5 amount billed;

13.4.3.6 amount in question; and

13.4.3.7 the reason that the Disputing Party disputes the billed amount.

13.4.4 When CLEC is the Disputing Party, CLEC must provide evidence to AT&T-11STATE that it has either paid the disputed amount or established an interest bearing escrow account that complies with the requirements set forth in Section 11.9 above of this Agreement and deposited all Unpaid Charges relating to Products and/or Services provided under this Agreement into that escrow account in order for that billing claim to be deemed a "dispute". Failure to provide the information and evidence required by this Section 13.0 not later than twenty-nine (29) calendar days following the Bill Due Date shall constitute CLEC's irrevocable and full waiver of its right to dispute the subject charges.

13.4.5 The Parties shall attempt to resolve Disputed Amounts appearing on current billing statements thirty (30) to sixty (60) calendar days from the Bill Due Date (provided the Disputing Party furnishes all requisite information and evidence under Section 13.4 above by the Bill Due Date). If not resolved within thirty (30) calendar days, upon request, the non-Disputing Party will notify the Disputing Party of the status of the dispute and the expected resolution date.

13.4.6 The Parties shall attempt to resolve Disputed Amounts appearing on statements prior to the current billing statement within thirty (30) to ninety (90) calendar days, but resolution may take longer depending on the complexity of the dispute. If not resolved within thirty (30) calendar days from the date Notice of the Disputed Amounts was received (provided that 13.4 above furnishes all requisite information and evidence under Section 13.4 above, upon request, the non-Disputing Party will notify the Disputing Party of the status of the dispute and the expected resolution date.

13.4.7 If the Disputing Party is not satisfied by the resolution of the billing dispute under this Section 13.4 above, the Disputing Party may notify the Billing Party in writing that it wishes to invoke the Informal Resolution of Disputes afforded pursuant to Section 13.5 below of this Agreement.

13.5 Informal Dispute Resolution:

13.5.1 Upon receipt by one Party of Notice of a dispute by the other Party pursuant to Section 13.3 above or Section 13.4.7 above, each Party will appoint a knowledgeable, responsible representative to meet and negotiate in good faith to resolve any dispute arising under this Agreement. The location, form, frequency, duration, and conclusion of these discussions will be left to the discretion of the representatives. Upon agreement, the representatives may utilize other alternative Dispute Resolution procedures such as mediation to assist in the negotiations. Discussions and the correspondence among the representatives for purposes of settlement are exempt from discovery and production and will not be admissible in the arbitration described below or in any lawsuit without the concurrence of both Parties. Documents identified in or provided with such communications that were not prepared for purposes of the negotiations are not so exempted, and, if otherwise admissible, may be admitted in evidence in the arbitration or lawsuit.

13.6 Formal Dispute Resolution:

13.6.1 If the Parties are unable to resolve the dispute through the informal procedure described in Section 13.5 above, then either Party may invoke the formal Dispute Resolution procedures described in this Section 13.6. Unless agreed among all Parties, formal Dispute Resolution procedures, including arbitration or other procedures as appropriate, may be invoked not earlier than sixty (60) calendar days after receipt of the letter initiating Dispute Resolution under Section 13.3 above.

13.6.2 Claims Subject to Mandatory Arbitration:

13.6.2.1 The following claims, if not settled through informal Dispute Resolution, will be subject to mandatory arbitration pursuant to Section 13.7 below:

13.6.2.1.1 Each unresolved billing dispute involving one percent (1%) or less of the amounts charged to the Disputing Party under this Agreement in the state in which the dispute arises during the twelve (12) months immediately preceding receipt of the letter initiating Dispute Resolution under Section 13.3 above. If the disputing Party has not been billed for a minimum of twelve (12) months immediately preceding receipt of the letter initiating Dispute Resolution under Section 13.3 above, the Parties will annualize the actual number of months billed.

13.6.3 Claims Subject to Elective Arbitration:

13.6.3.1 Claims will be subject to elective arbitration pursuant to Section 13.7 below, if, and only if, the claim is not settled through informal Dispute Resolution and both Parties agree to arbitration. If both Parties do not agree to arbitration, then either Party may proceed with any remedy available to it pursuant to law, equity or agency mechanism.

13.6.4 Claims Not Subject to Arbitration:

13.6.4.1 If the following claims are not resolved through informal Dispute Resolution, they will not be subject to arbitration and must be resolved through any remedy available to a Party pursuant to law, equity or agency mechanism.

13.6.4.2 Actions seeking a temporary restraining order or an injunction related to the purposes of this Agreement.

13.6.4.3 Actions to compel compliance with the Dispute Resolution process.

13.6.4.4 All claims arising under federal or state statute(s), including antitrust claims.

13.7 Arbitration:

13.7.1 Disputes subject to mandatory or elective arbitration under the provisions of this Agreement will be submitted to a single arbitrator pursuant to the Commercial Arbitration Rules of the American Arbitration Association or pursuant to such other provider of arbitration services or rules as the Parties may agree. The arbitrator shall be knowledgeable of telecommunications issues. Each arbitration will be held in Atlanta, Georgia for AT&T-7-STATE; Chicago, Illinois for AT&T-3STATE; Reno, Nevada for AT&T NEVADA; as appropriate, unless the Parties agree otherwise. The arbitration hearing will be requested to commence within sixty (60) calendar days of the demand for arbitration. The arbitrator will control the scheduling so as to process the matter expeditiously. The Parties may submit written briefs upon a schedule determined by the arbitrator. The Parties will request that the arbitrator rule on the dispute by issuing a written opinion within thirty (30) calendar days after the close of hearings. The Federal Arbitration Act, 9 U.S.C. Secs. 1-16, not state law, shall govern the arbitrability of all disputes. Notwithstanding any rule of the AAA Commercial Arbitration Rules to the contrary, the Parties agree that the arbitrator will have no authority to award punitive damages, exemplary damages, Consequential Damages, multiple damages, or any other damages not measured by the prevailing Party's actual damages, and may not, in any event, make any ruling, finding or award that does not conform to the terms and conditions of this Agreement. The times specified in this Section 13.0 may be extended or shortened upon mutual agreement of the Parties or by the arbitrator upon a showing of good cause. Each Party will bear its own costs of these procedures, including attorneys' fees. The Parties will equally split the fees of the arbitration and the arbitrator. The arbitrator's award shall be final and binding and may be entered in any court having jurisdiction thereof. Judgment upon the award rendered by the arbitrator may be entered in any court having jurisdiction.

13.8 Subject to the restrictions set forth in Section 20.0 below and except as may be otherwise expressly provided in this Agreement, the Auditing Party may audit the Audited Party's books, records, data and other documents, as provided herein, the purpose of verification of compliance with any provision of this Agreement of whatever nature, including any that affect the accuracy of Auditing Party's billing and invoicing of the services provided to Audited Party hereunder. Audits may be requested not more than once a year. Audits are to be at the Auditing Party's expense. Where an audit results in findings requiring adjustments by, changes by, or other corrective action the part of the Audited Party, the Audited Party shall pay the Auditing Party for the expenses of the audit.

13.9 Each Party shall maintain reports, records and data relevant to the billing of any services that are the subject matter of this Agreement for a period of not less than twenty-four (24) months after creation thereof, unless a longer period is required by Applicable Law.

13.10 If any audit confirms any undercharge or overcharge, then Audited Party shall (i) promptly correct any billing error, including making refund of any overpayment by Auditing Party in the form of a credit on the invoice for the first full billing cycle after the Parties have agreed upon the accuracy of the audit results and (ii) for any undercharge caused by the actions of the Audited Party, immediately compensate Auditing Party for such undercharge, and (iii) in each case, calculate and pay interest as provided in Section 11.2.1 above (depending on the AT&T-owned ILEC(s) involved), for the number of calendar days from the date on which such undercharge or overcharge originated until the date on which such credit is issued or payment is made and available.

13.11 Any disputes concerning audit results shall be referred to the Parties' respective personnel responsible for informal resolution. If these individuals cannot resolve the dispute within thirty (30) calendar days of the referral, either Party may pursue resolution subject to Section 13.6 herein.

14.0 DISCLAIMER OF REPRESENTATIONS AND WARRANTIES

14.1 DISCLAIMER. EXCEPT AS SPECIFICALLY PROVIDED TO THE CONTRARY IN THIS AGREEMENT, NEITHER PARTY MAKES ANY REPRESENTATIONS OR WARRANTIES TO THE OTHER PARTY CONCERNING THE SPECIFIC QUALITY OF ANY SERVICES, OR FACILITIES PROVIDED UNDER THIS AGREEMENT. THE PARTIES DISCLAIM, WITHOUT LIMITATION, ANY WARRANTY OR GUARANTEE OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, ARISING FROM COURSE OF PERFORMANCE, COURSE OF DEALING, OR FROM USAGES OF TRADE.

15.0 LIMITATION OF LIABILITY

15.1 Except for any indemnification obligations of the Parties hereunder, each Party's liability to the other for any Loss relating to or arising out of any cause whatsoever, including any negligent act or omission (whether willful or inadvertent) whether based in contract, tort, strict liability or otherwise, relating to the performance of this Agreement, shall not exceed a credit for the actual cost of the facilities, products, services or functions not performed or provided or improperly performed or provided.

15.2 Except as otherwise expressly provided in specific Attachments, in the case of any Loss alleged or claimed by a Third Party to have arisen out of the negligence or willful misconduct of any Party, each Party shall bear, and its obligation shall be limited to, that portion (as mutually agreed to by the Parties or as otherwise established) of the resulting expense caused by its own negligence or willful misconduct or that of its agents, servants, contractors, or others acting in aid or concert with it.

15.3 A Party may, in its sole discretion, provide in its tariffs and contracts with its End Users or Third Parties that relate to any Products and/or Services provided or contemplated under this Agreement that, to the maximum extent permitted by Applicable Law, such Party shall not be liable to such End User or Third Party for (i) any Loss relating to or arising out of this Agreement, whether in contract, tort or otherwise, that exceeds the amount such Party would have charged the End User or Third Party for the Products and/or Services that gave rise to such Loss and (ii) any Consequential Damages. If a Party elects not to place in its tariffs or contracts such limitation(s) of liability, and the other Party incurs a Loss as a result thereof, the first Party shall indemnify and reimburse the other Party for that portion of the Loss that would have been limited had the first Party included in its tariffs and contracts the limitation(s) of liability described in this Section 15.0.

15.4 Neither CLEC nor AT&T-11STATE shall be liable to the other Party for any Consequential Damages suffered by the other Party, regardless of the form of action, whether in contract, warranty, strict liability, tort or otherwise, including negligence of any kind, whether active or passive (and including alleged breaches of this Agreement and causes of action alleged to arise from allegations that breach of this Agreement constitutes a violation of the Act or other statute), and regardless of whether the Parties knew or had been advised of the possibility that such damages could result in connection with or arising from anything said, omitted, or done hereunder or related hereto, including willful acts or omissions; provided that the foregoing shall not limit a Party's obligation under Section 15.0 to indemnify, defend, and hold the other Party harmless against any amounts payable to a Third Party, including any Losses, and Consequential Damages of such Third Party; provided, however, that nothing in this Section 15.4 shall impose indemnity obligations on a Party for any Loss or Consequential Damages suffered by that Party's End User in connection with any affected Products and/or Services. Except as provided in the prior sentence, each Party ("Indemnifying Party") hereby releases and holds harmless the other Party ("Indemnitee") (and Indemnities' Affiliates, and its respective officers, directors, employees and agents) against any Loss or Claim made by the Indemnifying Party's End User.

15.5 AT&T-11STATE shall not be liable for damages to an End User's premises resulting from the furnishing of any Products and/or Services, including, if applicable, the installation and removal of equipment and associated wiring, unless the damage is caused by AT&T-11STATE's gross negligence or willful misconduct. AT&T-11STATE does not guarantee or make any warranty with respect to Products and/or Services when used in an explosive atmosphere.

15.6 CLEC hereby releases AT&T-11STATE from any and all liability for damages due to errors or omissions in CLEC's End User listing information as provided by CLEC to AT&T-11STATE under this Agreement, including any errors or omissions occurring in the Directory Database or the White Pages directory, or any claims by reason of delay in providing the Directory Assistance listing information, printing or provisioning of non-published numbers or the printing or providing of CLEC End User information in the White Pages directory including, but not limited to, special, indirect, Consequential, punitive or incidental damages.

15.7 AT&T-11STATE shall not be liable to CLEC, its End User or any other Person for any Loss alleged to arise out of the provision of access to 911 service or any errors, interruptions, defects, failures or malfunctions of 911 service.

15.8 This Section 15.0 is not intended to exempt any Party from all liability under this Agreement, but only to set forth the scope of liability agreed to and the type of damages that are recoverable. Both Parties acknowledge that they negotiated regarding alternate limitation of liability provisions but that such provisions would have altered the cost, and thus the price, of providing the products and services available hereunder, and no different pricing reflecting different costs and different limits of liability was agreed to.

16.0 INDEMNITY

16.1 Except as otherwise expressly provided herein or in specific Attachments, each Party shall be responsible only for the Products and/or Services which are provided by that Party, its authorized agents, subcontractors, or others retained by such Parties, and neither Party shall bear any responsibility for the Products and/or Services, provided by the other Party, its agents, subcontractors, or others retained by such Parties.

16.2 Except as otherwise expressly provided herein or in specific Attachments, and to the extent not prohibited by Applicable Law and not otherwise controlled by tariff, each Party (the "Indemnifying Party") shall release, defend and indemnify the other Party (the "Indemnified Party") and hold such Indemnified Party harmless against any Loss to a Third Party arising out of the negligence or willful misconduct ("Fault") of such Indemnifying Party, its agents, its End Users, contractors, or others retained by such Parties, in connection with the Indemnifying Party's provision of Products and/or Services under this Agreement; provided, however, that (i) with respect to employees or agents of the Indemnifying Party, such Fault occurs while performing within the scope of their employment, (ii) with respect to subcontractors of the Indemnifying Party, such Fault occurs in the course of performing duties of the subcontractor under its subcontract with the Indemnifying Party, and (iii) with respect to the Fault of employees or agents of such subcontractor, such Fault occurs while performing within the scope of their employment by the subcontractor with respect to such duties of the subcontractor under the subcontract.

16.3 In the case of any Loss alleged or claimed by a End User of either Party, the Party whose End User alleged or claimed such Loss (the "Indemnifying Party") shall defend and indemnify the other Party (the "Indemnified Party") against any and all such Claims or Losses by its End User regardless of whether the underlying product and/or Service giving rise to such Claim or Loss was provided or provisioned by the Indemnified Party, unless the Claim or Loss was caused by the gross negligence or willful misconduct of the Indemnified Party.

16.4 A Party (the "Indemnifying Party") shall defend, indemnify and hold harmless the other Party ("Indemnified Party") against any Claim or Loss arising from the Indemnifying Party's use of Products and/or Services provided under this Agreement involving:

16.4.1 Any Claim or Loss arising from such Indemnifying Party's use of Products and/or Services offered under this Agreement, involving any Claim for libel, slander, invasion of privacy, or infringement of Intellectual Property rights arising from the Indemnifying Party's or its End User's use.

16.4.1.1 The foregoing includes any Claims or Losses arising from disclosure of any End User-specific information associated with either the originating or terminating numbers used to provision Products and/or Services provided hereunder and all other Claims arising out of any act or omission of the End User in the course of using any Products and/or Services provided pursuant to this Agreement.

16.4.1.2 The foregoing includes any Losses arising from Claims for actual or alleged infringement of any Intellectual Property right of a Third Party to the extent that such Loss arises from an Indemnifying Party's or an Indemnifying Party's End User's use of Products and/or Services, provided under this Agreement; provided, however, that an Indemnifying Party's obligation to defend and indemnify the Indemnified Party shall not apply:

16.4.1.2.1 where an Indemnified Party or its End User modifies Products and/or Services, provided under this Agreement; and

16.4.1.2.2 no infringement would have occurred without such modification.

16.4.2 Any and all penalties imposed on either Party because of the Indemnifying Party's failure to comply with the Communications Assistance to Law Enforcement Act of 1994 (CALEA); provided that the Indemnifying Party shall also, at its sole cost and expense, pay any amounts necessary to modify or replace any equipment, facilities or services provided to the Indemnified Party under this Agreement to ensure that such equipment, facilities and services fully comply with CALEA.

16.5 All costs associated with the extension of Intellectual Property rights to CLEC pursuant to Section 17.1 below, including the cost of the license extension itself and the costs associated with the effort to obtain the license, shall be a part of the cost of providing product and/or service to which the Intellectual Property rights relate and apportioned to all requesting carriers using that product and/or service including AT&T-11STATE.

16.6 AT&T-11STATE hereby conveys no licenses to use such Intellectual Property rights and makes no warranties, express or implied, concerning CLEC's (or any Third Parties') rights with respect to such Intellectual Property rights and contract rights, including whether such rights will be violated by products and/or services in AT&T-11STATE's network or CLEC's use of other functions, facilities, products or services furnished under this Agreement. Any licenses or warranties for Intellectual Property rights associated with products and/or service furnished under this Agreement are subject to the ownership terms stated in Section 17 of this Agreement.

16.7 AT&T-11STATE does not and shall not indemnify, defend or hold CLEC harmless, nor be responsible for indemnifying or defending, or holding CLEC harmless, for any Claims or Losses for actual or alleged infringement of any Intellectual Property right or interference with or violation of any contract right that arises out of, is caused by, or relates to CLEC's use of functions, facilities, products or services furnished under this Agreement. Any indemnities for Intellectual Property rights associated with products and/or services furnished under this Agreement shall be vendor's indemnities and are subject to the ownership terms stated in Section 17 of this Agreement.

16.8 CLEC shall reimburse AT&T-11STATE for damages to AT&T-11STATE's facilities utilized to provide Products and/or Services hereunder caused by the negligence or willful act of CLEC, its agents or subcontractors or CLEC's End User or resulting from CLEC's improper use of AT&T-11STATE's facilities, or due to malfunction of any facilities, functions, products, services or equipment provided by any person or entity other than AT&T-11STATE. Upon reimbursement for damages, AT&T-11STATE will cooperate with CLEC in prosecuting a claim against the person causing such damage. CLEC shall be subrogated to the right of recovery by AT&T-11STATE for the damages to the extent of such payment.

16.9 Notwithstanding any other provision in this Agreement, each Party agrees that should it cause any non-standard digital subscriber line ("xDSL") technologies (as that term is defined in herein and/or the applicable Commission-ordered tariff, as appropriate) to be deployed or used in connection with or on AT&T-11STATE facilities, that Party ("Indemnifying Party") will pay all costs associated with any damage, service interruption or other Telecommunications Service degradation, or damage to the other Party's ("Indemnitee's") facilities.

16.10 Indemnification Procedures:

16.10.1 Whenever a claim shall arise for indemnification under this Section 16.0, the relevant Indemnified Party, as appropriate, shall promptly notify the Indemnifying Party and request in writing the Indemnifying Party to defend the same. Failure to so notify the Indemnifying Party shall not relieve the Indemnifying Party of any liability that the Indemnifying Party might have, except to the extent that such failure prejudices the Indemnifying Party's ability to defend such claim.

16.10.2 The Indemnifying Party shall have the right to defend against such liability or assertion, in which event the Indemnifying Party shall give written notice to the Indemnified Party of acceptance of the defense of such claim and the identity of counsel selected by the Indemnifying Party.

16.10.3 Until such time as Indemnifying Party provides written notice of acceptance of the defense of such claim, the Indemnified Party shall defend such claim, at the expense of the Indemnifying Party, subject to any right of the Indemnifying Party to seek reimbursement for the costs of such defense in the event that it is determined that Indemnifying Party had no obligation to indemnify the Indemnified Party for such claim.

16.10.4 Upon accepting the defense, the Indemnifying Party shall have exclusive right to control and conduct the defense and settlement of any such claims, subject to consultation with the Indemnified Party. So long as the Indemnifying Party is controlling and conducting the defense, the Indemnifying Party shall not be liable for any settlement by the Indemnified Party unless such Indemnifying Party has approved such settlement in advance and agrees to be bound by the agreement incorporating such settlement.

16.10.5 At any time, an Indemnified Party shall have the right to refuse a compromise or settlement, and, at such refusing Party's cost, to take over such defense; provided that, in such event the Indemnifying Party shall not be responsible for, nor shall it be obligated to indemnify the refusing Party against, any cost or liability in excess of such refused compromise or settlement.

16.10.6 With respect to any defense accepted by the Indemnifying Party, the Indemnified Party will be entitled to participate with the Indemnifying Party in such defense if the claim requests equitable relief or other relief that could affect the rights of the Indemnified Party, and shall also be entitled to employ separate counsel for such defense at such Indemnified Party's expense.

16.10.7 If the Indemnifying Party does not accept the defense of any indemnified claim as provided above, the Indemnified Party shall have the right to employ counsel for such defense at the expense of the Indemnifying Party.

16.10.8 In the event of a failure to assume the defense, the Indemnified Party may negotiate a settlement, which shall be presented to the Indemnifying Party. If the Indemnifying Party refuses to agree to the presented settlement, the Indemnifying Party may take over the defense. If the Indemnifying Party refuses to agree to the presented settlement and refuses to take over the defense, the Indemnifying Party shall be liable for any reasonable cash settlement not involving any admission of liability by the Indemnifying Party, though such settlement may have been made by the Indemnified Party without approval of the Indemnifying Party, it being the Parties' intent that no settlement involving a non-monetary concession by the Indemnifying Party, including an admission of liability by such Party, shall take effect without the written approval of the Indemnifying Party.

16.11 Each Party agrees to cooperate and to cause its employees and agents to cooperate with the other Party in the defense of any such claim and the relevant records of each Party shall be available to the other Party with respect to any such defense, subject to the restrictions and limitations set forth in Section 20.0 below.

17.0 INTELLECTUAL PROPERTY/LICENSE

17.1 Any Intellectual Property originating from or developed by a Party shall remain in the exclusive ownership of that Party.

17.2 Except as otherwise expressly provided in this Agreement, no license under patents, copyrights or any other Intellectual Property right (other than the limited license to use consistent with the terms, conditions and restrictions of this Agreement) is granted by either Party or shall be implied or arise by estoppel with respect to any transactions contemplated under this Agreement.

18.0 NOTICES

18.1 Notices given by CLEC to AT&T-11STATE under this Agreement shall be in writing (unless specifically provided otherwise herein), and unless otherwise expressly required by this Agreement to be delivered to another representative or point of contact, shall be pursuant to at least one of the following methods:

18.1.1 delivered by electronic mail.

18.1.2 delivered by facsimile.

18.2 Notices given by AT&T-11STATE to the CLEC under this Agreement shall be in writing (unless specifically provided otherwise herein), and unless otherwise expressly required by this Agreement to be delivered to another representative or point of contact, shall be pursuant to at least one of the following methods:

18.2.1 delivered personally, delivered by express delivery service or mail first class U.S. Postal Service, with postage prepaid and a return receipt requested.

18.2.2 delivered by electronic mail (email) provided CLEC has provided such information in Section 18.4 below.

18.2.3 delivered by facsimile provided CLEC has provided such information in Section 18.4 below.

18.3 Notices will be deemed given as of the earliest of:

18.3.1 the next Business Day when sent via express delivery service.

18.3.2 five (5) calendar days after mailing in the case of first class or certified U.S. Postal Service.

18.3.3 the date of actual receipt;

18.3.4 notice by email shall be effective on the date it is officially recorded as delivered by delivery receipt and in the absence of such record of delivery, it shall be presumed to have been delivered on the date sent;

18.3.5 on the date set forth on the confirmation produced by the sending facsimile machine when delivered by facsimile prior to 5:00 p.m. in the recipient's time zone, but the next Business Day when delivered by facsimile at 5:00 p.m. or later in the recipient's time zone;

18.4 Notices will be addressed to the Parties as follows:

NOTICE CONTACT	CLEC CONTACT
NAME/TITLE	Derek Lee Director
STREET ADDRESS	600 Fox Run Parkway, P.O. Box 2168
CITY, STATE, ZIP CODE	Opelika, AL 36801
FACSIMILE NUMBER	334.705.5177
PHONE NUMBER*	334.705.5591
EMAIL ADDRESS	derek.lee@opelikapower.com

	AT&T CONTACT
NAME/TITLE	Contract Management ATTN: Notices Manager
FACSIMILE NUMBER	(214) 712-5792
EMAIL ADDRESS	The current email address as provided on AT&T's CLEC Online website

*Informational only and not to be considered as an official notice vehicle under this Section.

18.5 Either Party may unilaterally change its designated contact name, address, email address, and/or facsimile number for the receipt of notices by giving written Notice to the other Party in compliance with this Section 18.0. Unless explicitly stated otherwise, any change to the designated contact name, address, email address, and/or facsimile number will replace such information currently on file. Any Notice to change the designated contact name, address, email address, and/or facsimile number for the receipt of Notices shall be deemed effective ten (10) calendar days following receipt by the other Party.

18.6 In addition, CLEC agrees that it is responsible for providing AT&T-11STATE with CLEC's OCN and ACNA numbers for the states in which CLEC is authorized to do business and in which CLEC is requesting that this Agreement apply. In the event that CLEC wants to change and/or add to the OCN and/or ACNA information in the CLEC Profile, CLEC shall send written notice to AT&T-11STATE to be received at least thirty (30) days prior to the change and/or addition in accordance with this Section 18 notice provision; CLEC shall also update its CLEC Profile through the applicable form and/or web-based interface.

18.7 AT&T-11STATE communicates official information to CLECs via its Accessible Letter, or other applicable, notification processes. These processes involve electronic transmission and/or posting to the AT&T CLEC Online website, inclusive of a variety of subjects including declaration of a force majeure, changes on business processes and policies, and other product/service related notices not requiring an amendment to this Agreement.

19.0 PUBLICITY AND USE OF TRADEMARKS OR SERVICE MARKS

19.1 Neither Party nor its subcontractors or agents shall use in any advertising or sales promotion, press releases, or other publicity matters any endorsements, direct or indirect quotes, or pictures that imply endorsement by the other Party or any of its employees without such first Party's prior written approval. The Parties will submit to each other for written approval, prior to publication, all publicity matters that mention or display one another's name and/or marks or contain language from which a connection to said name and/or marks may be inferred or implied; the Party to whom a request is directed shall respond promptly.

19.2 Nothing in this Agreement shall grant, suggest, or imply any authority for one Party to use the name, trademarks, service marks, logos, proprietary trade dress or trade names of the other Party in any advertising, press releases, publicity matters, marketing and/or promotional materials or for any other commercial purpose without prior written approval from such other Party.

20.0 CONFIDENTIALITY

20.1 Both Parties agree to treat Proprietary Information received from the other in accordance with the provisions of Section 222 of the Act.

20.2 Each Party anticipates and recognizes that it will come into possession of technical or business information or data about the other Party and/or its customers (including without limitation its end user customers) as a result of this Agreement which will be considered confidential by such other Party. The Parties agree (1) to treat all such information and data as strictly confidential; and (2) to use such information only for the purposes of performance under this Agreement. Each Party agrees not to disclose confidential information and/or data of or pertaining to the other Party or its customers (including without limitation its end user customers) to any Third Party without first securing the written consent of such Party. The foregoing shall not apply to information which is in the public domain. Nothing in this Agreement prevents either Party from disclosing operations results or other data that might reflect the results of this Agreement as a part of that Party's aggregate operation data as long as the disclosed data is at a level of aggregation sufficient to avoid disclosing with specificity information obtained in the operation of this Agreement.

20.3 If a court or governmental agency orders or a Third Party requests a Party to disclose or to provide any data or information covered by this Section 20, that Party will immediately inform the other Party, both by telephone and certified mail, of the order or request before such data or information is provided. Notification and consent requirements described above are not applicable in cases where a court order requires the production of billing and/or usage records of, or pertaining to, an individual customer (including without limitation an end user customer).

20.4 Unless otherwise agreed, the obligations of confidentiality and non-use do not apply to such Proprietary Information that:

20.4.1 Is rightfully received from a Third Party having no direct or indirect secrecy or confidentiality obligation to the Disclosing Party with respect to such information; provided that such Receiving Party has exercised commercially reasonable efforts to determine whether such Third Party has any such obligation; or

20.4.2 Is independently developed by an agent, employee representative or Affiliate of the Receiving Party and such Party is not involved in any manner with the provision of services pursuant to this Agreement and does not have any direct or indirect access to the Proprietary Information; or

20.4.3 Is disclosed to a Third Party by the Disclosing Party without similar restrictions on such Third Party's rights; or

20.4.4 Is approved for release by written authorization of the Disclosing Party, but only to the extent of the authorization granted; or

20.4.5 Is required to be made public or disclosed by the Receiving Party pursuant to Applicable Law or regulation or court order or lawful process.

21.0 SEVERABILITY

21.1 This Agreement is the result of good faith negotiations between the Parties. Notwithstanding any provisions contained in Section 8 herein, if any action by federal regulatory or legislative body or court of competent jurisdiction invalidates, modifies, or stays the enforcement of laws or regulations that were the basis or rationale for any rate(s), term(s) and/or condition(s) ("Provisions") of the Agreement and/or otherwise affects the rights or obligations of either Party that are addressed by this Agreement, the Parties shall negotiate diligently in good faith to amend this Agreement to replace the unenforceable provision(s) in order to comport with such actions while maintaining the spirit and intent of this agreement. Provided, however, that failure to reach such mutually acceptable new provisions within ninety (90) days after such rejection or holding shall permit either Party to terminate this Agreement upon ninety (90) days written notice in accordance with Section 18.0 above ("Written Notice"), during which time the Parties shall work cooperatively to establish an orderly transition of CLECs (as above) customers/End Users to other serving arrangements. In any situation in which the right to terminate under this Section 21.1 is triggered by State government action, the right to terminate shall arise only in the State in which such action occurred and would apply for that State only unless this Agreement otherwise permits a Party to terminate this Agreement in more than one State.

21.2 If the Parties are unable to agree upon the conforming modifications within ninety (90) days from the Written Notice, and neither Party elects to terminate this Agreement subject to the provisions herein, any remaining disputes between the Parties concerning such actions shall be resolved pursuant to the dispute resolution process provided for in this Agreement.

22.0 GOVERNING LAW

22.1 Unless otherwise provided by Applicable Law, this Agreement shall be governed by and construed in accordance with the Act, the FCC Rules and Regulations interpreting the Act and other applicable federal law. To the extent that federal law would apply state law in interpreting this Agreement, the domestic laws of the state in which the Products and Services at issue are furnished or sought shall apply, without regard to that state's conflict of laws principles.

22.2 Except as specified below, the Parties agree that the only proper venue for any judicial or regulatory proceeding involving or arising out of the interpretation or enforcement of this Agreement as it pertains to any state shall be the city in which the state commission that approved the Currently Effective Interconnection Agreement for that state is located. Notwithstanding the foregoing, the Parties agree that the only proper venue in the following states is as follows: Illinois, Chicago; Michigan, Detroit; and Missouri, St. Louis.

23.0 FILING OF AGREEMENT: GOVERNMENTAL REQUIREMENT

23.1 To the extent required (and not exempted), the Parties understand and agree that this Agreement will be filed with the FCC pursuant to 47 U.S.C. § 211.

23.2 The Parties further understand and agree that to the extent a Party ("Disclosing Party") is requested, required or ordered by a state regulatory body, or a court of competent jurisdiction finds, that this Agreement should be filed, or that such Agreement should be submitted to a state regulatory body for approval, or should a regulatory body or court of competent jurisdiction find that its provisions should be tariffed pursuant to applicable law or regulation, the Disclosing Party shall provide the other Party ("Receiving Party") with written notice of such requirement as soon as possible and the Receiving Party shall cooperate with the Disclosing Party in expeditiously complying with any such request, order or finding.

24.0 INTENTIONALLY OMITTED

25.0 COMPLIANCE AND CERTIFICATION

25.1 Each Party shall comply at its own expense with all Applicable Laws that relate to that Party's obligations to the other Party under this Agreement. Nothing in this Agreement shall be construed as requiring or permitting either Party to contravene any mandatory requirement of Applicable Law.

25.2 Each Party warrants that it has obtained all necessary state certification required in each state covered by this Agreement prior to ordering any Products and/or Services from the other Party pursuant to this Agreement. Upon request, each Party shall provide proof of certification.

25.3 Each Party shall be responsible for obtaining and keeping in effect all approvals from, and rights granted by, Governmental Authorities, building and property owners, other carriers, and any other Third Parties that may be required in connection with the performance of its obligations under this Agreement.

25.4 Each Party represents and warrants that any equipment, facilities or services provided to the other Party under this Agreement comply with the CALEA, to the extent applicable.

25.5 CLEC shall provide AT&T-11STATE with CLEC's complete and valid OCNs/AECNs as assigned by NECA and ACNA as assigned by Telcordia ("Profile Codes"), for each state to which this Agreement applies. For renegotiated agreements, CLEC shall also provide a list of all OCNs/AECNs and ACNAs associated with products and services purchased prior to the Effective Date of this Agreement. The CLEC shall provide the Profile Codes via the appropriate OSS, (e.g., CLEC Profile) within thirty (30) calendar days of the effective date of this Agreement. CLEC shall not order products or services under this Agreement until it has provided its Profile Codes as set forth in this Section.

26.0 LAW ENFORCEMENT

26.1 AT&T-11STATE and CLEC shall reasonably cooperate with the other Party in handling law enforcement requests as follows:

26.1.1 Intercept Devices:

26.1.1.1 Local and federal law enforcement agencies periodically request information or assistance ("Requesting Authority") from a Telecommunications Carrier. When either Party receives a request ("Receiving Party") associated with an End User of the other Party and the Receiving Party does not provide the network end-office/loop switching functionality to such End User, the Receiving Party will promptly notify the Requesting Authority so that the Requesting Authority may redirect its request to the appropriate Party that provides such functionality. Notwithstanding the foregoing, a Receiving Party shall comply with any valid request of a Requesting Authority to attach a pen register, trap-and-trace or form of intercept on the Receiving Party's Facilities.

26.1.2 Subpoenas:

26.1.2.1 If a Receiving Party receives a subpoena (or equivalent legal demand regardless of nomenclature, e.g., warrant) for information concerning an End User the Receiving Party knows to be an End User of the other Party and for whom the Receiving Party has no responsive information, the Receiving Party shall promptly notify the person or entity that caused issuance of such subpoena so that it may redirect its subpoena to the other Party.

26.1.3 Emergencies:

26.1.3.1 If a Receiving Party receives a request from a law enforcement agency for a temporary number change, temporary disconnect, or one-way denial of outbound calls by the Receiving Party's switch regarding an End User of the other Party, the Receiving Party will comply with a valid emergency request. However, neither Party shall be held liable for any claims or Losses alleged by the other Party's End Users arising from compliance with such requests on behalf of the other Party's End User and the Party serving such End User agrees to indemnify and hold the other Party harmless against any and all such claims or Losses.

26.2 Each of the Parties agree to comply with the applicable state and federal law enforcement authorities, laws, and requirements, including but not limited to, the Communications Assistance for Law Enforcement Act (CALEA) and to report to applicable State and Federal law enforcement authorities as required by law.

27.0 RELATIONSHIP OF THE PARTIES/INDEPENDENT CONTRACTOR

27.1 Each Party is an independent contractor, and has and hereby retains the right to exercise full control of and supervision over its own performance of its obligations under this Agreement and retains full control over the employment, direction, compensation and discharge of its employees assisting in the performance of such obligations. Each Party and each Party's contractor(s) shall be solely responsible for all matters relating to payment of such employees, including the withholding or payment of all applicable federal, state and local income taxes, social security taxes and other payroll taxes with respect to its employees, as well as any taxes, contributions or other obligations imposed by applicable state unemployment or workers' compensation acts and all other regulations governing such matters. Each Party has sole authority and responsibility to hire, fire and otherwise control its employees.

27.2 Nothing contained herein shall constitute the Parties as joint venturers, partners, employees or agents of one another, and neither Party shall have the right or power to bind or obligate the other. Nothing herein will be construed as making either Party responsible or liable for the obligations and undertakings of the other Party. Except for provisions herein expressly authorizing a Party to act for another, nothing in this Agreement shall constitute a Party as a legal representative or agent of the other Party, nor shall a Party have the right or authority to assume, create or incur any liability or any obligation of any kind, express or implied, against or in the name or on behalf of the other Party unless otherwise expressly permitted by such other Party. Except as otherwise expressly provided in this Agreement, no Party undertakes to perform any obligation of the other Party, whether regulatory or contractual, or to assume any responsibility for the management of the other Party's business.

28.0 NO THIRD PARTY BENEFICIARIES; DISCLAIMER OF AGENCY

28.1 This Agreement is for the sole benefit of the Parties and their permitted assigns, and nothing herein expressed or implied shall create or be construed to create any Third Party beneficiary rights hereunder. This Agreement shall not provide any Person not a Party hereto with any remedy, claim, liability, reimbursement, cause of action, or other right in excess of those existing without reference hereto.

29.0 SUBCONTRACTING

29.1 If either Party retains or engages any subcontractor to perform any of that Party's obligations under this Agreement, each Party will remain fully responsible for the performance of this Agreement in accordance with its terms, including any obligations either Party performs through subcontractors.

29.2 Each Party will be solely responsible for payments due that Party's subcontractors.

29.3 No subcontractor will be deemed a Third Party beneficiary for any purposes under this Agreement.

29.4 No contract, subcontract or other agreement entered into by either Party with any Third Party in connection with the provision of Products and/or Services hereunder will provide for any indemnity, guarantee or assumption of liability by the other Party to this Agreement with respect to such arrangement, except as consented to in writing by the other Party.

29.5 Any subcontractor that gains access to Customer Proprietary Network Information (CPNI) or Proprietary Information covered by this Agreement shall be required by the subcontracting Party to protect such CPNI or Proprietary Information to the same extent the subcontracting Party is required to protect such CPNI or Proprietary Information under the terms of this Agreement.

30.0 FORCE MAJEURE

30.1 No Party shall be responsible for delays or failures in performance of any part of this Agreement (other than an obligation to make monetary payments) resulting from a "Force Majeure Event" or any Delaying Event caused by the other Party or any other circumstances beyond the Party's reasonable control. A Force Majeure Event" is defined as acts or occurrences beyond the reasonable control of a Party or the Parties, including without limitation acts of nature, acts of civil or military authority, any law, order, regulation, ordinance of any Governmental Authority, embargoes, epidemics, terrorist acts, riots, insurrections, fires, explosions, earthquakes, nuclear accidents, hurricanes, floods, labor difficulties, including without limitation, strikes, slowdowns, picketing, boycotts or other work stoppages, equipment failures, cable cuts, power blackouts, volcanic action, other major environmental disturbances, unusually severe weather conditions, inability to secure products or services of other persons or transportation facilities or acts or omissions of transportation carriers, individually and collectively a Force Majeure Event. If a Force Majeure Event shall occur, the Party affected shall give notice to the other Party of such Force Majeure Event within a reasonable period of time following such an event specifying the nature, date of inception and expected duration of such Force Majeure Event, whereupon such obligation or performance shall be suspended to the extent such Party is affected by such Force Majeure Event during the continuance thereof or be excused from such performance depending on the nature, severity and duration of such Force Majeure Event (and the other Party shall likewise be excused from performance of its obligations to the extent such Party's obligations relate to the performance so interfered with). The affected Party shall use its reasonable efforts to avoid or remove the cause of nonperformance and the Parties shall give like Notice and proceed to perform with dispatch once the causes are removed or cease.

31.0 TAXES

31.1 CLEC shall be responsible for all federal, state or local, sales, use, excise, gross receipts, municipal fees, transfer, transaction or similar taxes, fees or surcharges (herein ("Tax(es)") imposed on or with respect to the products and/or services provided under this Agreement including those Taxes the incidence of which is imposed on AT&T-11STATE other than taxes imposed on the income of AT&T-11STATE. CLEC shall reimburse AT&T-11STATE for the amount of any such Taxes that AT&T-11STATE is required to pay or collect. CLEC agrees to indemnify and hold harmless

AT&T-11STATE for any costs incurred by AT&T-11STATE as a result of actions taken by the applicable taxing authority to collect the Tax from AT&T-11STATE due to the failure of CLEC to pay or collect and remit any Tax to such authority. Nothing shall prevent the providing Party from paying any Tax to the appropriate Governmental Authority prior to the time: (i) it bills the purchasing Party for such Tax, or (ii) it collects the Tax from the purchasing Party. If the providing Party fails to bill the purchasing Party for a Tax at the time of billing the products or services to which the Tax relates, then, as between the providing Party and the purchasing Party, the providing Party shall be liable for any penalties or interest thereon. However, if the purchasing Party fails to pay any Tax properly billed by the providing Party, then, as between the providing Party and the purchasing Party, the purchasing Party shall be solely responsible for payment of the Tax and any penalties or interest thereon. Subject to the provisions of this Section 31.0 governing contests of disputed Taxes, the purchasing Party shall be liable for and the providing Party may collect from the purchasing Party any Tax, including any interest or penalties for which the purchasing Party would be liable under this subsection, which is paid by Providing Party to the respective Governmental Authority; within the applicable statue of limitations periods for assessment or collection of such Tax, including extensions; provided, however, that the providing Party notifies the purchasing Party within the earlier of (i) sixty (60) days following the running of such limitations period for, including extensions, or (ii) six (6) years following the purchasing Party's payment for the products or services to which such Tax relates.

31.2 With respect to any purchase under this Agreement of products or services that are resold by the purchasing Party to a Third Party or used as a component part of or integrated into a product or service sold to a Third Party, if any Tax is imposed on or with respect to such sale by the purchasing Party, the purchasing Party shall pay or remit such Tax to the respective Governmental Authority. If the purchasing Party fails to pay or remit any Tax as required by Applicable Law, then, as between the providing Party and the purchasing Party, the purchasing Party shall remain liable for such Tax and any interest and penalties thereon. Notwithstanding any other provision of this Agreement, the purchasing Party agrees to protect, indemnify and hold harmless (and defend at the purchasing Party's expense) the providing Party from and against any Tax, any interest or penalties thereon, and any costs or expenses (including attorney fees) incurred by the providing Party as a result of any claim asserted or actions taken by the respective Governmental Authority to assess against or collect from the providing Party any Tax related to any sale by the purchasing Party to a Third Party.

31.3 To the extent a purchase of products or services under this Agreement is claimed by the purchasing Party to be for resale or otherwise exempt from a Tax, the purchasing Party shall furnish to the providing Party an exemption certificate in the form prescribed by the providing Party and any other information or documentation required by Applicable Law or the respective Governmental Authority. Prior to receiving such exemption certificate and any such other required information or documentation, the Providing Party shall have the right to bill, and the Purchasing Party shall pay, Tax on any products or services furnished hereunder as if no exemption were available, subject to the right of the Purchasing Party to pursue a claim for credit or refund of any such Tax pursuant to the provisions of this Section 31.0 and the remedies available under Applicable Law. If it is the position of the purchasing Party that Applicable Law exempts or excludes a purchase of products or services under this Agreement from a Tax, or that the Tax otherwise does not apply to such a purchase, but Applicable Law does not also provide a specific procedure for claiming such exemption or exclusion or for the purchaser to contest the application of the Tax directly with the respective Governmental Authority prior to payment, then the providing Party may in its discretion agree not to bill and/or not to require payment of such Tax by the purchasing Party, provided that the purchasing Party (i) furnishes the providing Party with any exemption certificate requested by and in the form prescribed by the providing Party, (ii) furnishes the providing Party with a letter signed by an officer of the purchasing Party setting forth the basis of the purchasing Party's position under Applicable Law; and (iii) furnishes the providing Party with an indemnification agreement, reasonably acceptable to the providing Party, which holds the providing Party harmless from any Tax, interest, penalties, loss, cost or expenses (including attorney fees) that may be incurred by the providing Party in connection with any claim asserted or actions taken by the respective Governmental Authority to assess or collect such Tax from the providing Party.

31.4 To the extent permitted by and pursuant to Applicable Law, and subject to the provisions of this Section 31.0, the purchasing Party shall have the right to contest with the respective Governmental Authority, or if necessary under Applicable Law to have the providing Party contest (in either case at the purchasing Party's expense) any Tax that the purchasing Party asserts is not applicable, from which it claims an exemption or exclusion, or which it claims to have paid in error; provided, however, that (i) the purchasing Party shall ensure that no lien is attached to any asset of the providing Party as a result of any contest of a disputed Tax; (ii) with respect to any Tax that could be assessed against or collected from the providing Party by the respective Governmental Authority, the providing Party shall retain the right to determine the manner of contesting such disputed Tax, including but not limited to a decision that the disputed Tax will be contested by pursuing a claim for credit or refund; (iii) except to the extent that the providing Party has agreed pursuant to this Section 31.0 not to bill and/or not to require payment of such Tax by the purchasing Party pending the outcome of such contest, the purchasing Party pays any such Tax previously billed by the providing Party and continues paying such Tax as billed by the providing Party pending the outcome of such contest. In the event that a disputed Tax is to be contested by pursuing a claim for credit or refund, if requested in writing by the purchasing Party, the providing Party shall facilitate such contest (i) by assigning to the purchasing Party its right to claim a credit or refund, if such an assignment is permitted under Applicable Law; or (ii) if an assignment is not permitted, by filing and pursuing the claim on behalf of the purchasing Party but at the purchasing Party's expense. Except as otherwise expressly provided in this Section 31.0, nothing in this Agreement shall be construed to impair, limit, restrict or otherwise affect the right of the providing Party to contest a Tax that could be assessed against or collected from it by the respective Governmental Authority. With respect to any contest of a disputed Tax resulting in a refund, credit or other recovery, as between the purchasing Party and the providing Party, the purchasing Party shall be entitled to the amount that it previously paid, plus any applicable interest allowed on the recovery that is attributable to such amount, and the providing Party shall be entitled to all other amounts.

31.5 If either Party is audited by or on behalf of a Governmental Authority with respect to a Tax, and in any contest of a Tax by either Party, the other Party shall cooperate fully and timely by providing records, testimony and such additional information or assistance as may reasonably be necessary to expeditiously resolve the audit or pursue the contest. All Notices, affidavits, exemption certificates or other communications required or permitted to be given by either Party to the other under this Section 31.0 shall be sent in accordance with Section 18.0 above hereof.

32.0 NON WAIVER

32.1 Except as otherwise specified in this Agreement, no waiver of any provision of this Agreement and no consent to any default under this Agreement shall be effective unless the same is in writing and properly executed by or on behalf of the Party against whom such waiver or consent is claimed. Waiver by either Party of any default by the other Party shall not be deemed a waiver of any other default. Failure of either Party to insist on performance of any term or condition of this Agreement or to exercise any right or privilege hereunder shall not be construed as a continuing or future waiver of such term, condition, right or privilege. No course of dealing or failure of any Party to strictly enforce any term, right, or condition of this Agreement in any instance shall be construed as a general waiver or relinquishment of such term, right or condition.

33.0 NETWORK MAINTENANCE AND MANAGEMENT

33.1 The Parties will work cooperatively to implement this Agreement. The Parties will exchange appropriate information (for example, maintenance contact numbers, network information, information required to comply with law enforcement and other security agencies of the government, escalation processes, etc.) to achieve this desired result.

33.2 AT&T will administer its network to ensure acceptable service levels to all users of its network services. Service levels are generally considered acceptable only when End Users are able to establish connections with little or no delay encountered in the network. Each Party will provide a twenty-four (24)-hour contact number for Network Traffic Management issues to the other's surveillance management center.

33.3 AT&T maintains the right to implement protective network traffic management controls, such as "cancel to", "call gapping" or seven (7)-digit and ten (10)-digit code gaps, to selectively cancel the completion of traffic over its network, when required to protect the public-switched network from congestion as a result of occurrences such as facility failures, switch congestion or failure or focused overload.

33.4 Where the capability exists, originating or terminating traffic reroutes may be implemented by AT&T to temporarily relieve network congestion due to facility failures or abnormal calling patterns. Reroutes shall not be used to circumvent normal trunk servicing.

33.5 CLEC shall not use any products and/or services hereunder in any manner that interferes with or impairs or undermines service over any facilities of AT&T-11STATE, its Affiliated companies or another connecting telecommunications carriers, prevents any telecommunications carrier from using its telecommunications service, impairs the quality or the privacy of telecommunications service to other carriers or to either Party's end users, causes hazards to either Party's personnel or the public, damage to either Party's or any connecting carrier's facilities or equipment, including any malfunction of ordering or billing systems or equipment. Upon such occurrence either Party may discontinue using or refuse to provide the products and/or services hereunder, but only for so long as the other Party is violating this provision. Upon any such violation, either Party shall provide the other Party notice of the violation at the earliest practicable time.

34.0 INTENTIONALLY OMITTED

35.0 EXPENSES

35.1 Except as expressly set forth in this Agreement, each Party will be solely responsible for its own expenses involved in all activities related to the matters covered by this Agreement.

36.0 CONFLICT OF INTEREST

36.1 The Parties represent that no employee or agent of either Party has been or will be employed, retained, paid a fee, or otherwise received or will receive any personal compensation or consideration from the other Party, or any of the other Party's employees or agents in connection with the negotiation of this Agreement or any associated documents.

37.0 SURVIVAL

37.1 The Parties' obligations under this Agreement which by their nature are intended to continue beyond the termination or expiration of this Agreement shall survive the termination or expiration of this Agreement. Without limiting the general applicability of the foregoing, the following terms and conditions of the General Terms and Conditions are specifically agreed by the Parties to continue beyond the termination or expiration of this Agreement: Section 8.0 above and Section 8.1.1 above on Termination; 10.6 above on Cash Deposits, Section 10.7 above on Deposit Interest, Section 10.8 above on Drawing on Cash Deposits; Section 11.9 above, Escrow requirements; Sections 11.1 above thru Section 11.6 above on Billing & Payment of Charges; Section 12.0 above on Non Payment and Procedures for Disconnection, Section 13.8 thru Section 13.10 on Audits, Section 14.0 above on Warranties, Section 16.0 above on Indemnity; Section 17.0 above on Intellectual Property/License; Section 18.0 above on Notices; Section 19.0 above on Publicity and Use of Trademarks or Service Marks; Section 20.0 above on Confidentiality; Section 22.0 above on Governing Law; Section 16.4.2 CALEA Compliance; Section 31.0 above on Taxes; Section 32.0 above on Non Waivers and Section 39.0 below on Amendments and Modifications.

38.0 SCOPE OF AGREEMENT

38.1 This Agreement is the arrangement under which the AT&T-11STATE may provide Transit Traffic Service, as outlined by the terms and conditions herein. Except as agreed upon in writing, neither Party shall be required to provide the other Party a function, facility, product, service or arrangement described in the Act that is not expressly provided herein.

38.2 Except as specifically contained herein or provided by the FCC or any Commission within its lawful jurisdiction, nothing in this Agreement shall be deemed to affect any access charge arrangement.

39.0 AMENDMENTS AND MODIFICATIONS

39.1 Except as otherwise provided for in this Agreement, no provision of this Agreement shall be deemed amended or modified by either Party unless such an amendment or modification is in writing, dated, and signed by an authorized representative of both Parties.

40.0 AUTHORITY

40.1 Each of the AT&T-owned ILEC(s) for which this Agreement is executed represents and warrants that it is a corporation or limited partnership duly organized, validly existing and in good standing under the laws of its state of incorporation or formation. Each of the AT&T-owned ILEC(s) for which this Agreement is executed represents and warrants that AT&T Services, Inc. has full power and authority to execute and deliver this Agreement as agent for that AT&T-owned ILEC. Each of the AT&T-owned ILEC(s) for which this Agreement is executed represents and warrants that it has full power and authority to perform its obligations hereunder.

40.2 CLEC represents and warrants that it is a Municipality duly organized, validly existing and in good standing under the laws of the State of Alabama and has full power and authority to execute and deliver this Agreement and to perform its obligations hereunder. CLEC represents and warrants that it has been or will be certified as a LEC by the Commission(s) prior to submitting any orders hereunder and is or will be authorized to provide the Telecommunications Services contemplated hereunder in the territory contemplated hereunder prior to submission of orders for such Service.

40.3 Each Person whose signature (including e.g., an electronic signature) appears on the signature page represents and warrants that he or she has authority to bind the Party on whose behalf he or she has executed this Agreement.

41.0 COUNTERPARTS

41.1 This Agreement may be executed in counterparts. Each counterpart shall be considered an original and such counterparts shall together constitute one and the same instrument.

42.0 ENTIRE AGREEMENT

42.1 AT&T-11STATE only:

42.1.1 The terms contained in this Agreement and any Attachments, Exhibits, Schedules, and Addenda constitute the entire agreement between the Parties with respect to the subject matter hereof, superseding all prior understandings, proposals and other communications, oral or written between the Parties during the negotiations of this Agreement and through the execution and/or Effective Date of this Agreement. This Agreement shall not operate as or constitute a novation of any agreement or contract between the Parties that predates the execution and/or Effective Date of this Agreement.

TRANSIT TRAFFIC SERVICE ATTACHMENT

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1.0 INTRODUCTION

1.1 This Transit Traffic Service Attachment ("Attachment") sets forth the rates, terms and conditions for AT&T-11STATE's Transit Traffic Service when AT&T-11STATE acts as a Transit Service Provider for CLEC. AT&T-11STATE's Transit Traffic Service is provided to Telecommunications Carriers for Telecommunications traffic that does not originate with, or terminate to, AT&T-11STATE's End Users. Transit Traffic Service allows CLEC to exchange CLEC originated traffic with a Third Party Terminating Carrier, to which CLEC is not directly interconnected, and it allows CLEC to receive traffic originated by a Third Party Originating Carrier.

1.2 AT&T-11STATE's offers Transit Traffic Services to interconnected CLECs,CMRS, iVoIP or to interconnected Out of Exchange Local Exchange Carriers ("OE-LEC(s)").

2.0 RESPONSIBILITIES OF THE PARTIES

2.1 AT&T-11STATE will provide CLEC with AT&T-11STATE's Transit Traffic Service to all Third Party Terminating Carriers with which AT&T-11STATE is interconnected, but only in the LATA, or outside of the LATA to the extent a LATA boundary waiver exists.

2.2 Transit Traffic Service rates apply to all Transit Traffic that originates on CLEC's network. Transit Traffic Service rates are only applicable when calls do not originate with (or terminate to) an AT&T-11STATE End User.

3.0 CLEC ORIGINATED TRAFFIC

3.1 CLEC acknowledges and agrees that it is solely responsible for compensating Third Party Terminating Carriers for Transit Traffic that CLEC originates. AT&T-11STATE will directly bill CLEC CLEC-originated Transit Traffic. AT&T-11STATE will not act as a billing intermediary, i.e., clearinghouse, between CLEC and Third Party Terminating Carriers, nor will AT&T-11STATE pay any termination charges to the Third Party Terminating Carriers on behalf of CLEC.

3.2 If CLEC originates Transit Traffic destined to a Third Party Terminating Carrier with which CLEC does not have a traffic compensation arrangement, then CLEC will indemnify, defend and hold harmless AT&T-11STATE against any and all Losses, including, without limitation, charges levied by such Third Party Terminating Carrier against AT&T-11STATE for such Transit Traffic. Furthermore, if CLEC originates Transit Traffic destined for a Third Party Terminating Carrier with whom CLEC does not have a traffic compensation arrangement, and a regulatory agency or court orders AT&T-11STATE to pay such Third Party Terminating Carrier for the Transit Traffic AT&T-11STATE has delivered to the Third Party Terminating Carrier, then CLEC will indemnify AT&T-11STATE for any and all Losses related to such regulatory agency or court order, including, but not limited to, Transit Traffic termination charges, interest on such Transit Traffic Termination charges, and any billing and collection costs that AT&T-11STATE may incur to collect any of the foregoing charges, interest or costs from CLEC.

3.3 CLEC shall be responsible for sending CPN and other appropriate information, as applicable, for calls delivered to AT&T-11STATE's network. CLEC shall not strip, alter, modify, add, delete, change, or incorrectly assign or re-assign any CPN. If AT&T-11STATE identifies improper, incorrect, or fraudulent use of local exchange services, or identifies stripped, altered, modified, added, deleted, changed, and/or incorrectly assigned CPN, then CLEC agrees to cooperate to investigate and take corrective action. If CLEC is sending CPN to AT&T-11STATE, but AT&T-11STATE is not receiving proper CPN information, then CLEC will work cooperatively with AT&T-11STATE to correct the problem. If AT&T-11STATE does not receive CPN from CLEC, then AT&T-11STATE cannot forward any CPN to the Third Party Terminating Carrier, and CLEC will indemnify, defend and hold harmless AT&T-11STATE from any and all Losses arising from CLEC's failure to include CPN with Transit Traffic that AT&T-11STATE delivers to a Third Party Terminating Carrier on behalf of CLEC.

3.4 CLEC, when acting as an originating carrier of Transit Traffic, has the sole responsibility for providing appropriate information to identify Transit Traffic to Third Party Terminating Carriers.

4.0 CLEC TERMINATED TRAFFIC

4.1 CLEC shall not charge AT&T-11STATE when AT&T-11STATE provides Transit Traffic Service for calls terminated to CLEC.

4.2 Where AT&T-11STATE is providing Transit Traffic Service from a Third Party Originating Carrier to CLEC, AT&T-11STATE will pass the CPN received from the Third Party Originating Carrier to CLEC. If AT&T-11STATE does not receive CPN from the Third Party Originating Carrier, then AT&T-11STATE cannot forward CPN to CLEC; therefore, CLEC will indemnify, defend and hold harmless AT&T-11STATE from any and all Losses arising from or related to the lack of CPN in this situation. If AT&T-11STATE or CLEC identifies stripped, altered, modified, added, deleted, changed, and/or incorrectly assigned CPN from a Third Party Originating Carrier, CLEC agrees to cooperate with AT&T-11STATE and the Third Party Originating Carrier to investigate and take corrective action. If the Third Party Originating Carrier is sending CPN, but AT&T-11STATE or CLEC is not properly receiving the information, then CLEC will work cooperatively with AT&T-11STATE and the Third Party Originating Carrier to correct the problem.

4.3 CLEC agrees to seek terminating compensation for Transit Traffic directly from the Third Party Originating Carrier. AT&T-11STATE, as the Transit Service Provider, is not obligated to pay CLEC for such Transit Traffic, and AT&T-11STATE is not to be deemed as the default originator of such Transit Traffic.

5.0 TRANSIT TRAFFIC TRUNK GROUPS

5.1 In AT&T-3STATE and AT&T Nevada, the Parties will route Transit Traffic over the same facilities and trunking that they route Section 251(b)(5) traffic pursuant to the Parties' Currently Effective Interconnection Agreement.

5.2 In AT&T-7STATE

5.2.1 The same facilities and trunking (ordering, provisioning, servicing, etc.) used pursuant to CLEC's Currently Effective Interconnection Agreement for Transit Trunk Groups or Third Party Trunk Groups will be utilized for the routing of Transit Traffic.

5.3 Transit Traffic not routed to the appropriate AT&T-11STATE Tandem shall be considered misrouted. Transit Traffic routed by CLEC through any AT&T-11STATE End Office Switch shall be considered misrouted. Upon written notification from AT&T-11STATE of misrouting of Transit Traffic, CLEC will correct such misrouting within sixty (60) days.

6.0 DIRECT TRUNKING REQUIREMENTS

6.1 When Transit Traffic from CLEC through the AT&T-11STATE tandem to another Local Exchange Carrier, CLEC or CMRS carrier requires twenty-four (24) or more trunks, upon AT&T-11STATE written request, CLEC shall establish a direct trunk group or alternate transit arrangement between itself and the other Local Exchange Carrier, CLEC or CMRS carrier within sixty (60) calendar days. Once this trunk group has been established, CLEC agrees to cease routing Transit Traffic through the AT&T-11STATE Tandem to the Third Party Terminating Carrier, unless the Parties mutually agree otherwise.

7.0 TRANSIT TRAFFIC RATE APPLICATION

7.1 Unless otherwise specified, Transit Traffic Services rates apply to all Minutes of Use ("MOU" or "MOUs") when CLEC sends Transit Traffic to a Third Party Terminating Carrier's network through AT&T-11STATE's Tandem switch where an AT&T-11STATE end user is neither the originating nor the terminating Party. CLEC agrees to compensate AT&T-11STATE operating as a Transit Service Provider at the applicable rates set forth in Transit Traffic Service Appendix Pricing.

7.1.1 Transit Rate Elements – the following rate elements apply, (the corresponding rates are specified in Transit Traffic Service Appendix Pricing, attached hereto):

7.1.1.1 AT&T-3STATE

7.1.1.1.1 Tandem Switching - compensation for the use of Tandem switching.

7.1.1.1.2 Tandem Transport - compensation for the transmission of traffic between the local Tandem and the end offices subtending that Tandem consisting of a transport termination (per minute) rate element and transport facility mileage (per minute) rate element.

7.1.1.2 AT&T-7STATE

7.1.1.2.1 Local Intermediary Charge (LIC) - charge for Transit Service on a per MOU basis.

7.1.1.3 AT&T NEVADA

7.1.1.3.1 Terminating MOU Tandem Transit

7.2 AT&T-7STATE

7.2.1 Traffic between CLEC and CMRS providers that do not engage in Meet Point Billing with AT&T-7STATE shall not be treated as Transit Traffic from a routing or billing perspective until such time as such traffic is identifiable as Transit Traffic.

7.2.2 CLEC shall send all IntraLATA toll traffic to be terminated by a Third Party ILEC to the End User's IntraLATA toll provider and shall not send such traffic to AT&T-7STATE as Transit Traffic. IntraLATA toll traffic shall be any traffic that originates outside of the terminating ILEC's local calling area.

8.0 RESERVATION OF RIGHTS/INTERVENING LAW

8.1 In entering into this Agreement and this Attachment, each Party agrees to abide by and honor the rates, terms, conditions set forth in this Agreement and this Attachment without challenging its provisions throughout the Term of this Agreement.

PRICING SHEETS

Attachment	State	Product	Rate Element Description	COS (Class of Service)	USOC	Zone	Monthly Recurring Charge (MRC)	Non-Recurring Charge (NRC) First	Non-Recurring Charge (NRC) Additional	Per Unit
TRANSIT	AL	TRANSIT TRAFFIC SERVICE	Local Intermediary Charge, composite, per MOU				$0.0030			MOU

AMENDMENT

BETWEEN

BELLSOUTH TELECOMMUNICATIONS, LLC D/B/A AT&T ALABAMA

AND

THE CITY OF OPELIKA, ALABAMA AKA OPELIKA POWER SERVICES

Signature: ______________________________

Name: ______________________________
(Print or Type)

Title: ______________________________
(Print or Type)

Date: ______________________________

The City of Opelika, Alabama aka Opelika Power Services

Signature: ______________________________

Name: ______________________________
(Print or Type)

Title: ______________________________
(Print or Type)

Date: ______________________________

BellSouth Telecommunications, LLC d/b/a AT&T ALABAMA by AT&T Services, Inc., its authorized agent

State	Resale OCN	CLEC OCN
ALABAMA	626G	625G

Description	ACNA Code(s)
ACNA(s)	YOP

AMENDMENT TO THE AGREEMENT
BETWEEN
THE CITY OF OPELIKA, ALABAMA AKA OPELIKA POWER SERVICES
AND
BELLSOUTH TELECOMMUNICATIONS, LLC D/B/A AT&T ALABAMA

This amendment ("Amendment") amends the Interconnection Agreement by and between BellSouth Telecommunications, LLC d/b/a AT&T ALABAMA ("AT&T") and The City of Opelika, Alabama aka Opelika Power Services ("CLEC"). AT&T and CLEC are hereinafter referred to collectively as the "Parties" and individually as a "Party."

WHEREAS, AT&T and CLEC are Parties to an Interconnection Agreement under Sections 251 and 252 of the Communications Act of 1934, as amended (the "Act"), approved November 6, 2012 and as subsequently amended ("Agreement"); and

WHEREAS, the Parties desire to amend the Agreement to implement the *Lifeline and Link Up Reform and Modernization et al*., WC Docket No. 11-42 et al., Second Report and Order, FCC 15-71, Released June 22, 2015 ("FCC Lifeline Order"); and

WHEREAS, the Parties desire to amend the Agreement to implement to the *Connect America Fund et al.,* WC Docket No. 10-90 et al, Report and Order issued by the Federal Communications Commission ("FCC") on November 18, 2011 (FCC 11-161), and as amended by the FCC on December 23, 2011 (FCC 11-189) ("FCC ICC Reform Order"), and

WHEREAS, the Parties desire to amend the Agreement to implement the *Petition of USTelecom for Forbearance Pursuant to* 47 U.S.C. § 160(c) from Enforcement of Obsolete ILEC Legacy Regulations That Inhibit Deployment of Next-Generation Networks, WC Docket No. 14-192, Released December 28, 2015 ("FCC US Telecom Forbearance Order"), and

WHEREAS, the Parties desire to modify certain provisions related to Termination of Agreement After Initial Term Expiration and to modify certain provisions related to Customer Information Services.

NOW, THEREFORE, in consideration of the promises and mutual agreements set forth herein, the Parties agree to amend the Agreement as follows:

1. The Amendment is composed of the foregoing recitals, the terms and conditions, contained within, Exhibit A - Customer Information Services and Exhibit B - Pricing Sheet, all of which are hereby incorporated within this Amendment by this reference and constitute a part of this Amendment.

2. Lifeline and Link Up Services

   2.1. Delete the rates, terms and conditions related to Lifeline and Link Up service offerings from the Agreement. AT&T will stop providing resold Lifeline and Link Up services in all jurisdictions as required by the FCC Lifeline Order. Lifeline and Link Up service will no longer be available under the Agreement beginning 180 days after Federal Register publication of the Office of Management and Budget's (OMB) approval.

3. Intercarrier Compensation

   3.1. The Parties hereby implement the intercarrier compensation rates reflected in the Pricing Sheet attached hereto as Exhibit C, for the termination of all Section 251(b)(5) Traffic exchanged between the Parties in the applicable state(s). The intercarrier compensation rates included in Exhibit C hereby supersede the existing rate elements included in the Agreement for purposes of reciprocal compensation.

4. Forbearance

   4.1. Delete the rates, terms and conditions related to the unbundling of a 64 kbps voice-grade channel to provide narrowband services over fiber where an incumbent LEC retires a copper loop it has overbuilt with a fiber-to-the-home or fiber-to-the-curb loop. .

5. Termination of Agreement After Initial Term Expiration

5.1. Sections 8.4.3 and 8.4.5 of the General Terms and Conditions of the Agreement is hereby amended and restated as follows:

8.4.3 If at any time within one hundred and eighty (180) days or any time thereafter of the expiration of the Term, if either Party serves "Notice of Expiration" or Notice of Termination (if served after Expiration), CLEC shall have ten (10) calendar days to provide AT&T-21STATE written confirmation to the Notice of Expiration indicating if CLEC wishes to pursue a successor agreement with AT&T-21STATE or terminate its Agreement. CLEC shall identify the action to be taken in each of the applicable state(s). If CLEC wishes to pursue a successor agreement with AT&T-21STATE, CLEC shall attach to its written confirmation or Notice of Expiration, a written request to commence negotiations with AT&T-21STATE under Sections 251/252 of the Act and identify each of the state(s) to which the successor agreement will apply. Upon receipt of CLEC's Section 252(a)(1) request, the Parties shall commence good faith negotiations for a successor agreement.

8.4.5 Either on or following the expiration date of this Agreement, if the Parties have not entered into a new agreement or are not in Active Negotiations as described in Section 8.4.4 above, the Agreement shall remain in full force and effect on a month to month basis unless both Parties mutually agree to terminate, or either Party provides "Notice of Termination" as provided for in Section 8.4.

6. Customer Information Services (CIS)

6.1. With the exception of 6.3 herein, delete all rates, terms and conditions pertaining to Customer Information Services, including but not limited to services related to Operator Services (OS), Directory Assistance (DA), Directory Assistance Listings (DAL), Inward Assistance Operator Services (INW) and White Pages (.) from the Agreement.

6.2. Add Attachment 06 - Operator Services and Directory Assistance (OS/DA), attached hereto as Exhibit B; and the Operator Services and Directory Assistance (OS/DA) rates reflected in the Pricing Sheet, attached hereto as Exhibit C, to the Agreement.

6.3. Add the following provisions to the Attachment or Appendix for Resale

CIS.1 For Resale service, AT&T will provide Customer Information Services to CLEC's End Users where technically feasible and/or available to AT&T retail End Users. Dialing, response, and sound quality will be provided in parity to AT&T retail End Users.

CIS.2 CLEC is solely responsible for the payment of all charges for all services furnished under this Attachment, including but not limited to calls originated or accepted at CLEC's location and its End Users' service locations.

CIS.3 Interexchange carrier traffic (e.g., sent-paid, information services and alternate operator services messages) received by AT&T for billing to Resale End User accounts will be returned as unbillable and will not be passed to CLEC for billing. An unbillable code will be returned with those messages to the carrier indicating that the messages were generated by a Resale account and will not be billed by AT&T.

CIS.4 AT&T shall not be responsible for the manner in which utilization of Resale Services or the associated charges are allocated to End Users or others by CLEC. Applicable rates and charges for services provided to CLEC under this Attachment will be billed directly to CLEC and shall be the responsibility of CLEC.

Charges billed to CLEC for all services provided under this Attachment shall be paid by CLEC regardless of CLEC's ability or inability to collect from its End Users for such services.

If CLEC does not wish to be responsible for payment of charges for calling card, collect, or third number billed calls (Alternately Billed Traffic or "ABT") or toll and information services (for example, 900 calls), CLEC must order the appropriate available blocking for lines provided under this Attachment and pay any applicable charges. It is the responsibility of CLEC to order the appropriate toll restriction or blocking on lines resold to End Users. CLEC acknowledges that blocking is not available for certain types of calls, including without limitation 800, 888, 411 and Directory Assistance Express Call Completion. Depending on the origination point, for example, calls originating from correctional facilities, some calls may bypass blocking systems. CLEC acknowledges all such limitations and accepts all responsibility for any charges associated with calls for which blocking is not available and any charges associated with calls that bypass blocking systems.

7. The Parties agree to replace Section 20.0 from the Agreement with the following language:

20.0 Notices

20.1 Notices given by CLEC to AT&T under this Agreement shall be in writing (unless specifically provided otherwise herein), and unless otherwise expressly required by this Agreement to be delivered to another representative or point of contact, shall be pursuant to at least one of the following methods:

20.1.1 delivered by electronic mail (email).

20.1.2 delivered by facsimile.

20.2 Notices given by AT&T to the CLEC under this Agreement shall be in writing (unless specifically provided otherwise herein), and unless otherwise expressly required by this Agreement to be delivered to another representative or point of contact, shall be pursuant to at least one of the following methods:

20.2.1 delivered personally, delivered by express delivery service or mail first class U.S. Postal Service, with postage prepaid and a return receipt requested.

20.2.2 delivered by electronic mail (email) provided CLEC has provided such information in Section 20.4 below.

20.2.3 delivered by facsimile provided CLEC has provided such information in Section 20.4 below.

20.3 Notices will be deemed given as of the earliest of:

20.3.1 the next Business Day when sent via express delivery service.

20.3.2 five (5) calendar days after mailing in the case of first class or certified U.S. Postal Service.

20.3.3 the date of actual receipt.

20.3.4 notice by email shall be effective on the date it is officially recorded as delivered by delivery receipt and in the absence of such record of delivery, it shall be presumed to have been delivered on the date sent.

20.3.5 on the date set forth on the confirmation produced by the sending facsimile machine when delivered by facsimile prior to 5:00 p.m. in the recipient's time zone, but the next Business Day when delivered by facsimile at 5:00 p.m. or later in the recipient's time zone.

20.4 Notices will be addressed to the Parties as follows:

NOTICE CONTACT	CLEC CONTACT
NAME/TITLE	Derek Lee Director
STREET ADDRESS	600 Fox Run Parkway, P.O. Box 2168
CITY, STATE, ZIP CODE	Opelika, AL 36801-8603
PHONE NUMBER*	334.705.5591
FACSIMILE NUMBER	334.705.5177
EMAIL ADDRESS	derek.lee@opelikapower.com

	AT&T CONTACT

NAME/TITLE	Contract Management ATTN: Notices Manager
FACSIMILE NUMBER	(214) 712-5792
EMAIL ADDRESS	The current email address as provided on AT&T's CLEC Online website

*Informational only and not to be considered as an official notice vehicle under this Section.

20.5 Either Party may unilaterally change its designated contact name, address, email address, and/or facsimile number for the receipt of Notices by giving written Notice to the other Party in compliance with this Section 20. Unless explicitly stated otherwise, any change to the designated contact name, address, email address, and/or facsimile number will replace such information currently on file. Any Notice to change the designated contact name, address, email address, and/or facsimile number for the receipt of Notices shall be deemed effective ten (10) calendar days following receipt by the other Party.

20.6 In addition, CLEC agrees that it is responsible for providing AT&T with CLEC's OCN and ACNA numbers for the states in which CLEC is authorized to do business and in which CLEC is requesting that this Agreement apply. In the event that CLEC wants to change and/or add to the OCN and/or ACNA information in the CLEC Profile, CLEC shall send written notice to AT&T to be received at least thirty (30) days prior to the change and/or addition in accordance with this Section 20.0 notice provision; CLEC shall also update its CLEC Profile through the applicable form and/or web-based interface.

20.6.1 CLEC may not order services under a new account and/or subsequent state certification, established in accordance with this Section until thirty (30) days after all information specified in this Section is received from CLEC.

20.6.2 CLEC may be able to place orders for certain services in AT&T without having properly updated the CLEC Profile; however, at any time during the term of this Agreement without additional notice AT&T may at its discretion eliminate such functionality. At such time, if CLEC has not properly updated its CLEC Profile, ordering capabilities will cease, and CLEC will not be able to place orders until thirty (30) days after CLEC has properly updated its CLEC Profile.

20.7 AT&T communicates official information to CLECs via its Accessible Letter, or other applicable, notification processes. These processes involve electronic transmission and/or posting to the AT&T CLEC Online website, inclusive of a variety of subjects including declaration of a force majeure, changes on business processes and policies, and other product/service related notices not requiring an amendment to this Agreement.

8. There shall be no retroactive application of any provision of this Amendment prior to the Effective Date of an adopting CLEC's agreement.

9. This Amendment shall be deemed to revise the terms and provisions of the Agreement only to the extent necessary to give effect to the terms and provisions of this Amendment. In the event of a conflict between the terms and provisions of this Amendment and the terms and provisions of the Agreement (including all incorporated or accompanying Appendices, Addenda, and Exhibits to the Agreement), this Amendment shall govern, provided, however, that the fact that a term or provision appears in this Amendment but not in the Agreement, or in the Agreement but not in this Amendment, shall not be interpreted as, or deemed grounds for finding, a conflict for purposes of this Amendment.

10. In entering into this Amendment, neither Party waives, and each Party expressly reserves, any rights, remedies or arguments it may have at law or under the intervening law or regulatory change provisions in the underlying Agreement (including intervening law rights asserted by either Party via written notice predating this Amendment) with respect to any orders, decisions, legislation or proceedings and any remands thereof, which the Parties have not yet fully incorporated into this Agreement or which may be the subject of further review.

11. This Amendment shall not modify or extend the Effective Date or Term of the underlying Agreement, but rather, shall be coterminous with such Agreement.

12. EXCEPT AS MODIFIED HEREIN, ALL OTHER TERMS AND CONDITIONS OF THE UNDERLYING AGREEMENT SHALL REMAIN UNCHANGED AND IN FULL FORCE AND EFFECT.

13. Signatures by all Parties to this Amendment are required to effectuate this Amendment. This Amendment may be executed in counterparts. Each counterpart shall be considered an original and such counterparts shall together constitute one and the same instrument.

14. For Alabama: This Amendment shall be filed with and is subject to approval by the applicable state Commission and shall become effective ten (10) days following approval by such Commission.

ATTACHMENT 06 – OPERATOR SERVICES AND DIRECTORY ASSISTANCE

(f/k/a CUSTOMER INFORMATION SERVICES)

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1.0 INTRODUCTION

1.1 This Attachment sets forth the rates, terms and conditions under which AT&T-21STATE shall provide Operator Services/Directory Assistance (OS/DA) and Listings.

1.2 OS/DA:

1.2.1 This Attachment sets forth the rates, terms and conditions under which the Parties shall jointly carry out OS/DA on a wholesale basis for CLEC End Users residing in AT&T-21STATE's local Exchange territory, regardless of whether CLEC is serving its End Users via:

1.2.1.1 CLEC's own physical Switches; or

1.2.1.2 Resale of AT&T-21STATE Retail OS/DA service.

1.2.2 CLEC shall be the retail OS/DA provider to its End Users, and AT&T-21STATE shall be the wholesale provider of OS/DA operations to CLEC. AT&T-21STATE shall answer CLEC's End User OS/DA calls on CLEC's behalf, as follows:

1.2.2.1 When the End User dials 0- or 0+ the telephone number, AT&T-21STATE shall provide the Operator Services described in Section 3.4 below. CLEC may set its own retail OS/DA rates, and CLEC therefore acknowledges its responsibility to obtain (a) End User agreement to the OS/DA retail rates (e.g., by tariff or contract), and (b) any necessary regulatory approvals for its OS/DA retail rates.

1.2.2.2 In response to CLEC End User inquiries about OS/DA rates, where available and technically feasible, AT&T-21STATE operators shall quote CLEC retail OS/DA rates, provided by CLEC (see Section 3.6 below). If further inquiries are made about rates, billing and/or other "business office" questions, AT&T-21STATE's OS/DA operators shall direct the calling party's inquiries to a CLEC-provided contact number (also see Section 3.6 below).

1.2.3 CLEC shall pay the applicable OS/DA rates found in the Pricing Sheet based upon CLEC's status as a Facilities-Based CLEC or a reseller. Provided however, CLEC may serve both as a reseller and as a facilities-based provider and CLEC may convert its facilities-based End Users to Resale service, or vice versa, as described below in Section 3.6.7 below.

1.2.3.1 CLEC acknowledges and understands that wholesale OS/DA rates differ between Resale and facilities-based service, and that both types of OS/DA wholesale rates are listed in the Pricing Sheet.

1.2.3.2 Billing and payment details, including the assessment of late payment charges for unpaid balances, are governed by the General Terms and Conditions in this Agreement.

1.3 Listings:

1.3.1 This Attachment sets forth terms and conditions that apply to Resale and Facility-Based CLECs for subscriber listing information provided by AT&T-21STATE.

2.0 DEFINITIONS

2.1 "Consolidated Reference Rater (CRR)" provides reference information (business office and repair numbers) and rate quotes for CLEC End Users.

2.2 "Facilities-Based CLEC" means a CLEC that provides service through its own switch or a Third Party provider's switch.

2.3 "General Assistance" means a service in which the End User dialing - 0 asks the OS operator for assistance. The operator will respond in accordance with OS methods and practices that are in effect at the time the End User makes an OS call where available and technically feasible.

2.4 "Listings" means information identifying the listed names of subscribers of carriers and subscribers' telephone numbers, addresses or primary advertising classification or any combination, and that carrier or affiliate has published, caused to be published or accepted for publication in any directory format.

2.5 "Services" means Operator Services/Directory Assistance (OS/DA) and Listings.

2.6 "Toll Center Code" means the three digit access tandem code ("ATC") that uniquely identifies a tandem switch in the Local Exchange Routing Guide (LERG) designated as providing access to operator services functions.

3.0 OPERATOR SERVICES (OS) / DIRECTORY ASSISTANCE (DA)

3.1 Dialing Parity:

3.1.1 AT&T-21STATE will provide OS/DA to CLEC's End Users with no unreasonable dialing delays and at dialing parity with AT&T-21STATE retail OS/DA services.

3.2 Response Parity:

3.2.1 Where available and technically feasible, CLEC's End Users shall be answered by AT&T-21STATE's OS and DA platforms with the same priority and using the same methods as for AT&T-21STATE's End Users.

3.2.2 Any technical difficulties in reaching the AT&T-21STATE OS/DA platform (e.g., cable cuts in the OS/DA trunks, unusual OS/DA call volumes, etc.) will be experienced at parity with AT&T-21STATE End Users served via that same AT&T-21STATE End Office Switch.

3.3 Requirements to Physically Interconnect:

3.3.1 This section describes the physical interconnection and trunking requirements for a Facilities-Based CLEC to interconnect with AT&T-21STATE's OS/DA switches.

3.3.2 The demarcation point for OS/DA traffic between the Parties' networks need not coincide with the point of interconnection for the physical interconnection of all other inter-carrier voice traffic, but at a minimum must be in the Local Access and Transport Area (LATA) in which the CLEC's OS/DA traffic originates.

3.3.2.1 Because CLEC's switch may serve End Users in more than one LATA, the Parties agree that CLEC's OS/DA traffic originates from the physical location of the End User dialing 0, 411, or 555-1212 and not the physical location of CLEC's switch.

3.3.2.2 To the extent CLEC is serving via circuit-switched wireless technology, the physical location of the End User dialing 0, 411, or 555-1212 shall be deemed the End User's physical billing address, regardless of whether the End User may be roaming at the time of placing the OS/DA call.

3.3.3 The Parties will establish an OS/DA demarcation point at the AT&T-21STATE's OS/DA switch. By mutual agreement, an alternative OS/DA demarcation point may be determined based on the following factors:

3.3.3.1 The size and type of facilities needed to carry CLEC's switch-based OS/DA traffic;

3.3.3.2 Whether CLEC wishes to interconnect for OS or DA, or both;

3.3.3.3 Whether CLEC or CLEC's Affiliate is collocated in an AT&T-21STATE local tandem office and wishes to use the collocation as the OS/DA demarcation point; and

3.3.3.4 Whether CLEC or CLEC's Affiliate already has existing OS/DA facilities in place to the AT&T-21STATE's OS/DA platforms.

3.3.4 CLEC shall be financially responsible for the transport facilities to the AT&T-21STATE's switch(es). CLEC may self-provision these OS/DA facilities, lease them from Third Parties, or lease them from AT&T-21STATE's intrastate Special Access Tariff. CLEC shall remain financially responsible for the transport facilities to the AT&T-21STATE's switch(es) and/or any one-way trunk groups from its designated operator assistance and directory assistance (or OA/DA) switch to the AT&T-21STATE operator assistance switch until CLEC initiates and successfully disconnects such transport facilities and/or trunk groups.

3.3.5 General OS/DA Trunking Requirements:

3.3.5.1 CLEC will initiate an Access Service Request (ASR) for all OS/DA trunk groups from its switch to the appropriate AT&T-21STATE OS/DA switches as a segregated one-way trunk group utilizing Multi-Frequency (MF) signaling. Unless technically infeasible, AT&T-21STATE will provision all such one-way trunk groups in the same manner and at the same intervals as for all other interconnection trunks between the Parties.

3.3.5.2 CLEC will employ Exchange Access Operator Services Signaling (EAOSS) from the AT&T-21STATE End Offices to the AT&T-21STATE OS/DA switches that are equipped to accept 10-Digit Signaling for Automatic Number Identification (ANI).

3.3.5.3 Where EAOSS is not available, Modified Operator Services Signaling (MOSS) will be utilized, and a segregated one-way trunk group with MF signaling will be established from CLEC to each AT&T-21STATE OS/DA switch for each served Numbering Plan Area (NPA) in the LATA.

3.3.6 Specific OS/DA Trunk Groups and Their Requirements

3.3.6.1 Operator Service Trunks:

3.3.6.1.1 CLEC shall establish a one-way trunk group from CLEC's switch to the AT&T-21STATE OS switch serving OS End Users in that LATA. An OS only trunk group will be designated with the appropriate OS traffic use code and modifier. If the trunk group transports combined OS/DA/DACC over the same trunk group, then the group will be designated with a different traffic use code and modifier for combined services. CLEC will have administrative control for the purpose of issuing ASRs on this one-way trunk group.

3.3.6.2 DA/DA Call Completion (DACC) Trunks:

3.3.6.2.1 Where permitted, CLEC shall establish a one-way trunk group from CLEC's switch to the AT&T-21STATE DA switch serving DA End Users in that LATA. If the trunk group transports DA/DACC only, but not OS, then the trunk group will be designated with the appropriate DA traffic use code and modifier.

3.3.6.2.2 In AT&T-12STATE, if OS/DA/DACC is transported together on a combined trunk group, then the group will be designated with a different appropriate traffic use code and modifier from that used for a DA/DACC only trunk group. CLEC will have administrative control for the purpose of issuing ASRs on this one-way trunk group.

3.3.6.2.3 In AT&T SOUTHEAST REGION 9-STATE, if OS/DA/DACC is transported together on a combined trunk group, then the group will be designated with an appropriate traffic use code and modifier. CLEC will have administrative control for the purpose of issuing ASRs on this one-way trunk group.

3.4 Operator Services Call Processing and Rates:

3.4.1 AT&T-21STATE will assess its OS charges based upon whether the CLEC End User is receiving (a) manual OS (i.e., provided via an operator), or (b) automated OS (i.e., an OS switch equipment voice recognition feature, functioning either fully or partially without operators where available and technically feasible). The Pricing Sheet contains the full set of OS recurring and nonrecurring rates.

3.4.2 AT&T-21STATE will provide OS to CLEC End Users where available and technically feasible to AT&T-21STATE End Users served in accordance with OS methods and practices in effect at the time the CLEC End User makes an OS call.

3.5 Directory Assistance Call Processing and Rates:

3.5.1 AT&T-21STATE DA charges are assessed on a flat rate per call, regardless of call duration. The Pricing Sheet contains the recurring and nonrecurring rates.

3.5.2 AT&T-21STATE will provide DA Services to CLEC End Users where available and technically feasible to AT&T-21STATE End Users served in accordance with DA Services methods and practices that are in effect at the time CLEC End User makes a DA call. AT&T-21STATE will provide the following DA services to a CLEC End User:

3.5.2.1 Local Directory Assistance - Consists of providing published name and telephone number.

3.5.2.2 Directory Assistance Call Completion (DACC) - A service in which a local or an intraLATA call to the requested number is completed.

3.5.2.3 National Directory Assistance (NDA) - A service whereby callers may request published name and telephone number outside their LATA or local calling area for any listed telephone number in the United States.

3.5.2.4 Reverse Directory Assistance (RDA) - Consists of providing listed local and national name and address information associated with a telephone number.

3.5.2.5 Business Category Search (BCS) - A service whereby callers may request business telephone number listings for a specified category of business, when the name of the business is not known. Telephone numbers may be requested for local and national businesses.

3.6 OS/DA Non-recurring Charges for Loading Automated Call Greeting (i.e., Brand Announcement), Rates and Reference Information:

3.6.1 CLEC End Users will hear silence upon connecting with the OS/DA switch. As an alternative to silence, CLEC may custom brand for which custom brand charges will apply.

3.6.1.1 CLEC will provide announcement phrase information, via Operator Services Translations Questionnaire (OSTQ), to AT&T-21STATE in conformity with the format, length, and other requirements specified for all CLECs on the AT&T CLEC Online website.

3.6.1.2 AT&T-21STATE will then perform all of the loading and testing of the announcement for each applicable OS/DA switch prior to live traffic. CLEC may also change its pre-recorded announcement at any time by providing a new announcement phrase in the same manner. CLEC will be responsible for paying subsequent loading and testing charges.

3.6.1.3 CLEC understands that End Users may not perceive silent announcements as ordinary mechanical handling of OS/DA calls.

3.6.1.4 CLEC agrees that if it does not brand the call, CLEC shall indemnify and hold AT&T-21STATE harmless from any regulatory violation, consumer complaint, or other sanction for failing to identify the OS/DA provider to the dialing End User.

3.6.2 AT&T-21STATE will be responsible for loading the CLEC provided recording into all applicable OS and/or DA switches prior to live traffic, testing the announcement for sound quality at parity with that provided to AT&T-21STATE End Users. CLEC will be responsible for paying the initial recording announcement loading charges, and thereafter, the per-call charge as well as any subsequent loading charges if new recordings or silent announcements are provided as specified above.

3.6.3 Branding load charges are assessed per loaded recording, per OCN, per switch. For example, a CLEC Reseller may choose to brand under a different name than its facilities-based operations, and therefore two separate recordings could be loaded into each switch, each incurring the branding or silent load charge. These charges are mandatory, nonrecurring, and are found in the Pricing Sheet.

3.6.4 Where Consolidated Reference Rater ("CRR") is available and technically feasible, the applicable CLEC-charged retail OS/DA rates and a CLEC-provided contact number (e.g., reference to a CLEC business office or repair center) are loaded into the system utilized by the OS operator.

3.6.5 Where CRR is available and technically feasible, AT&T-21STATE will be responsible for loading the CLEC-provided OS/DA retail rates and the CLEC provided contact number(s) into the OS/DA switches. CLEC will be responsible for paying the initial reference and rate loading charges.

3.6.6 CRR load charges are assessed per loaded set of rates/references, where CRR is available and technically feasible, per OCN, per state. For example, a CLEC reseller may choose to rate differently than its Facilities-Based CLEC operations, or may change its rates/references during the life of the contract, and therefore separate sets of rates/references could be loaded for each OCN, per state, with each loading incurring the rate/reference charge. These charges are mandatory, nonrecurring and are found in the Pricing Sheet.

3.6.7 Converting End Users from prior branded service to CLEC or silent-branded service, or between Resale and facilities-based service:

3.6.7.1 To the extent that CLEC has already established the branding/silent announcement recording in AT&T-21STATE OS/DA switches for both Resale and facilities-based service, then no non-recurring charges apply to the conversion of End Users from prior Resale OS/DA wholesale service to facilities-based OS/DA wholesale service, or vice versa.

3.6.7.2 To the extent that CLEC has not established the branding announcement recording in AT&T-21STATE OS/DA switches for Resale and/or facilities-based service, then non-recurring charges apply to set up the OS/DA call for the new type of service, as is described in Section 3.6 above, and at the rates set forth in the Pricing Sheet.

4.0 LISTINGS

4.1 General Provisions:

4.1.1 Subject to AT&T-21STATE's practices, as well as the rules and regulations applicable to the provision of listings, AT&T-21STATE will make available to CLEC, for CLEC End Users, non-discriminatory access to listings, as described herein.

4.1.2 AT&T-21STATE will meet state requirements to make available listings through itself or a contracted vendor to provide listings for its ILEC Territory, as defined in the General Terms and Conditions of this Agreement.

4.2 Responsibilities of the Parties:

4.2.1 Subject to AT&T-21STATE's practices, as well as the rules and regulations applicable to the provision of white page directories, AT&T-21STATE will include in appropriate white pages directories the primary alphabetical listings of CLEC End Users located within the AT&T-21STATE ILEC Territory. When CLEC provides its subscriber listing information to AT&T-21STATE listings database, CLEC will receive for its End User, one primary listing in AT&T-21STATE white pages directory and a listing in AT&T-21STATE's DA database at no charge, other than applicable service order charges as set forth in the Pricing Sheet.

4.2.1.1 Except in the case of a Local Service Request (LSR) submitted solely to port a number from AT&T SOUTHEAST REGION 9-STATE, if such listing is requested on the initial LSR associated with the request for services, a single manual service order charge or electronic service order charge, as appropriate, will apply to both the request for service and the request for the directory listing. Where a subsequent LSR is placed solely to request a directory listing, or is placed to port a number and request a directory listing, separate service order charges as set forth in AT&T-21STATE's tariffs shall apply, as well as the manual service order charge or the electronic service order charge, as appropriate.

4.2.1.2 Listing Information Confidentiality:

4.2.1.2.1 AT&T-21STATE will afford CLEC's directory listing information the same level of confidentiality that AT&T-21STATE affords its own directory listing information.

4.2.1.3 Unlisted/Non-Published End Users:

4.2.1.3.1 CLEC will provide to AT&T-21STATE the names, addresses and telephone numbers of all CLEC End Users who wish to be omitted from directories. Non-listed/Non-Published listings will be subject to the rates as set forth in AT&T-21STATE's tariffs and/or service guidebooks. AT&T-21STATE does not provide a resale discount for any listings.

4.2.1.4 Additional Listings:

4.2.1.4.1 Where a CLEC End User requires listings in addition to the primary listing to appear in the white pages directory, AT&T-21STATE will offer such listings at rates as set forth in AT&T-21STATE's tariffs and/or service guidebooks. AT&T-21STATE does not provide a resale discount for any listings. CLEC shall furnish to AT&T-21STATE subscriber listing information pertaining to CLEC End Users located within the AT&T-21STATE ILEC Territory, along with such additional information as AT&T-21STATE may be required to include in the alphabetical listings of said directory. CLEC shall refer to the AT&T CLEC Online website for methods, procedures and ordering information.

4.2.2 CLEC will provide accurate subscriber listing information of its subscribers to AT&T-21STATE via a mechanized feed of the directory listing information to AT&T-21STATE's Directory Listing database. CLEC agrees to submit all listing information via a mechanized process within six (6) months of the Effective Date of this Agreement, or upon CLEC reaching a volume of two hundred (200) listing updates per day, whichever comes first. CLEC's subscriber listings will be interfiled (interspersed) in the directory among AT&T-21STATE's subscriber listing information. CLEC will submit listing information within one (1) business day of installation, disconnection or other change in service (including change of non-listed or non-published status) affecting the DA database or the directory listing of a CLEC End User. CLEC must submit all listing information intended for publication by the directory close (a/k/a last listing activity) date.

4.2.3 Distribution of Directories:

4.2.3.1 Subject to AT&T-21STATE's practices, as well as the rules and regulations applicable to the provision of white page directories, each CLEC subscriber may receive one copy per primary End User listing, as provided by CLEC, of the appropriate AT&T-21STATE white pages directory in the same manner, format and at the same time that they are delivered to AT&T-21STATE's subscribers.

4.2.4 AT&T-21STATE shall direct its publishing vendor to offer CLEC the opportunity to include in the "Information Pages", or comparable section of its white pages directories (covering the territory where CLEC is certified to provide local service), information provided by CLEC for CLEC installation, repair, customer service and billing information.

4.2.5 Use of Subscriber Listing Information:

4.2.5.1 Subject to AT&T-21STATE's practices, as well as the rules and regulations applicable to the provision of white page directories, AT&T-21STATE agrees to serve as the single point of contact for all independent and Third Party directory publishers who seek to include CLEC's subscriber (i.e., End User) listing information in an area directory, and to handle the CLEC's subscriber listing information in the same manner as AT&T-21STATE's subscriber listing information. In exchange for AT&T-21STATE serving as the single point of contact and handling all subscriber listing information equally, CLEC authorizes AT&T-21STATE to include and use the CLEC subscriber listing information provided to AT&T-21STATE DA databases, and to provide CLEC subscriber listing information to directory publishers. Included in this authorization is release of CLEC listings to requesting competing carriers as required by Section 271(c)(2)(B)(vii)(II) and Section 251(b)(3) and any applicable state regulations and orders. Also included in this authorization is AT&T-21STATE's use of CLEC's subscriber listing information in AT&T-21STATE's DA, DA related products and services, and directory publishing products and services.

4.2.5.2 AT&T-21STATE further agrees not to charge CLEC for serving as the single point of contact with independent and Third Party directory publishers, no matter what number or type of requests are fielded. In exchange for the handling of CLEC's subscriber list information to directory publishers, CLEC agrees that it will receive no compensation for AT&T-21STATE's receipt of the subscriber list information or for the subsequent release of this information to directory publishers. Such CLEC subscriber list information shall be interfiled (interspersed) with AT&T-21STATE's subscriber list information and the subscriber list information of other companies that have authorized a similar release of their subscriber list information by AT&T-21STATE.

4.2.6 CLEC further agrees to pay all costs incurred by AT&T-21STATE and/or its Affiliates as a result of CLEC not complying with the terms of this Attachment.

4.2.7 This Attachment shall not establish, be interpreted as establishing, or be used by either Party to establish or to represent their relationship as any form of agency, partnership or joint venture.

4.2.8 Breach of Contract:

4.2.8.1 If either Party is found to have materially breached the Listings terms of this Attachment, the non-breaching Party may terminate the Listings terms of this Attachment by providing written Notice to the breaching Party, whereupon this Attachment shall be null and void with respect to any issue of white pages directory published sixty (60) or more calendar days after the date of receipt of such written Notice. CLEC further agrees to pay all costs incurred by AT&T-21STATE and/or its Affiliates and vendor as a result of such CLEC breach.

4.2.9 General Conditions for Listings:

4.2.9.1 Notwithstanding the foregoing, AT&T-21STATE reserves the right to suspend, modify or terminate, without penalty, any Listings Service offerings that are provided under this Attachment on ninety (90) days' written notice in the form of an Accessible Letter.

4.2.9.2 CLEC shall be solely responsible for any and all legal or regulatory requirements for the modification or discontinuance of Listings products and/or services to CLEC End Users under this Section.

5.0 GENERAL CONDITIONS FOR OPERATOR SERVICES (OS), DIRECTORY ASSISTANCE (DA)

5.1 Notwithstanding the foregoing, AT&T-21STATE reserves the right to suspend, modify or terminate, without penalty, any OS and/or DA feature of Service(s) offerings that are provided under this Attachment on ninety (90) days' written notice in the form of an Accessible Letter.

5.2 Termination:

5.2.1 If the CLEC terminates OS and/or DA service prior to the expiration of the term of this Agreement, CLEC shall pay AT&T-21STATE, within thirty (30) calendar days of the issuance of any bills by AT&T-21STATE, all amounts due for actual services provided under this Attachment. Estimated charges will be based on an average of the actual monthly amounts billed by AT&T-21STATE pursuant to this Attachment prior to its termination. The rates applicable for determining the amount(s) under the terms outlined in this Section are those specified in the Pricing Sheet.

5.3 CLEC shall be solely responsible for any and all legal or regulatory requirements for the modification or discontinuance of OS and/or DA products/services to CLEC End Users under this Attachment.

6.0 TERMINATION – ENTIRE ATTACHMENT 06 – OPERATOR ASSISTANCE AND DIRECTORY ASSISTANCE SERVICES

6.1 The Parties reserve the right to suspend or terminate, without penalty, this Attachment in its entirety on one hundred eighty (180) days' written notice. The Attachment will be coterminous with the ICA or will continue until the Party desiring to terminate this Attachment provides one hundred eighty (180) days' written Notice to the other Party of the date the Attachment will terminate ("Termination Date"), whichever date is earlier.

PRICING SHEETS
EXHIBIT B

Attachment	State	Product	Rate Element Description	COS (Class of Service)	USOC	Zone	Monthly Recurring Charge (MRC)	Non-Recurring Charge (NRC) First	Non-Recurring Charge (NRC) Additional	Per Unit
2MR-AT	AL	LOCAL INTERCONNECTION (CALL TRANSPORT AND TERMINATION)	Rate for all ISP-Bound and Section 251(b)(5) Traffic as per FCC-01-131, per MOU (Effective through 6/30/17)				0.0007			MOU
2MR-AT	AL	LOCAL INTERCONNECTION (CALL TRANSPORT AND TERMINATION)	Rate for all ISP-Bound and Section 251(b)(5) Traffic as per FCC-01-131, per MOU (Effective 7/01/17)				0.00bk			MOU
2MR-AT	AL	LOCAL INTERCONNECTION (CALL TRANSPORT AND TERMINATION)	Common Transport - Per Mile, Per MOU (Effective through 6/30/18)				0.0000023			MILE/MOU
2MR-AT	AL	LOCAL INTERCONNECTION (CALL TRANSPORT AND TERMINATION)	Common Transport - Per Mile, Per MOU (Effective 7/1/2018)				0.00bk			MILE/MOU
2MR-AT	AL	LOCAL INTERCONNECTION (CALL TRANSPORT AND TERMINATION)	Common Transport - Facilities Termination Per MOU (Effective through 6/30/18)				0.0003224			MOU
2MR-AT	AL	LOCAL INTERCONNECTION (CALL TRANSPORT AND TERMINATION)	Common Transport - Facilities Termination Per MOU (Effective 7/1/2018)				0.00bk			MOU
6	AL	BRANDING - DIRECTORY ASSISTANCE	Recording and Provisioning of DA Custom Branded Announcement	AMT	CBADA			3,000.00	3,000.00	announcement
6	AL	BRANDING - DIRECTORY ASSISTANCE	Loading of Custom Branded Announcement per Switch per OCN	AMT	CBADC			1,170.00	1,170.00	per Switch per OCN
6	AL	DIRECTORY ASSISTANCE SERVICES	Directory Assistance Access Service Calls, Charge Per Call				0.31			per call
6	AL	DIRECTORY ASSISTANCE SERVICES	Directory Assistance Call Completion Access Service (DACC), Per Call				0.10			per call
6	AL	BRANDING - DIRECTORY ASSISTANCE	Directory Assistance - Rate Reference Initial Load per state per OCN					5,000.00		per state per OCN
6	AL	BRANDING - DIRECTORY ASSISTANCE	Directory Assistance - Rate Reference Subsequent Load per state per OCN						1,500.00	per state per OCN
6	AL	DIRECTORY ASSISTANCE DATABASE SERVICE (DADS)	Directory Assistance Database Service (DADS) - Initial Load, per listing					0.04		listing
6	AL	DIRECTORY ASSISTANCE DATABASE SERVICE (DADS)	Directory Assistance Database Service (DADS) - Update, per listing				0.04			listing
6	AL	DIRECTORY ASSISTANCE DATABASE SERVICE (DADS)	Directory Assistance Database Service (DADS) - Monthly Recurring Fee				150.00			monthly
6	AL	BRANDING - OPERATOR CALL PROCESSING	Recording of Custom Branded OA Announcement	AMT	CBAOS			7,000.00	7,000.00	announcement
6	AL	BRANDING - OPERATOR CALL PROCESSING	Loading of Custom Branded OA Announcement per shelf/NAV per OCN	AMT	CBAOL			500.00	500.00	per shelf/NAV per OCN
6	AL	OPERATOR CALL PROCESSING	Oper. Call Processing - Oper. Provided, Per Min. - Using BST LIDB				1.20			Minute
6	AL	OPERATOR CALL PROCESSING	Oper. Call Processing - Oper. Provided, Per Min. - Using Foreign LIDB				1.24			Minute
6	AL	OPERATOR CALL PROCESSING	Oper. Call Processing - Fully Automated, per Call - Using BST LIDB				0.20			call
6	AL	OPERATOR CALL PROCESSING	Oper. Call Processing - Fully Automated, per Call - Using Foreign LIDB				0.20			call
6	AL	BRANDING - OPERATOR CALL PROCESSING	Operator Services - Rate Reference Initial Load per state per OCN					5,000.00		per state per OCN
6	AL	BRANDING - OPERATOR CALL PROCESSING	Operator Services - Rate Reference Subsequent Load per state per OCN						1,500.00	per state per OCN
6	AL	BRANDING - DIRECTORY ASSISTANCE	Unbranding - Loading of DA per OCN (1 OCN per Order)					420.00	420.00	OCN
6	AL	BRANDING - DIRECTORY ASSISTANCE	Unbranding - Loading of DA per Switch per OCN					16.00	16.00	per Switch per OCN
6	AL	BRANDING - OPERATOR CALL PROCESSING	Unbranding - Loading of OA per OCN (Regional)					1,200.00	1,200.00	OCN
6	AL	BRANDING - OPERATOR CALL PROCESSING	Loading of OA Custom Branded Announcement per Switch per OCN					1,170.00	1,170.00	per Switch per OCN
6	AL	DIRECTORY LISTING PRODUCT	White Page Directory Listings - Initial Listing				0.00	0.00	0.00	initial listing is no charge

PRICING SHEETS
EXHIBIT B

Attachment	State	Product	Rate Element Description	COS (Class of Service)	USOC	Zone	Monthly Recurring Charge (MRC)	Non-Recurring Charge (NRC) First	Non-Recurring Charge (NRC) Additional	Per Unit
6	AL	DIRECTORY LISTING PRODUCT	Non Published / Non List / Additional Directory Listings							See Tariffs and / or Service Guidebook
6	AL	OTHER RESALE - DIRECTORY ASSISTANCE/OPERATOR SERVICES	Directory Assistance Services				16.30%	N/A	N/A	Flat Rate Discount for Resale
6	AL	OTHER RESALE - DIRECTORY ASSISTANCE/OPERATOR SERVICES	Local Operator Assistance Service				16.30%	N/A	N/A	Flat Rate Discount for Resale

Hermina A. Smith
Manager – Interconnection Agreements

AT&T Wholesale
m41654@att.com

at&t

November 17, 2016

Gary Fuller
Mayor
The City of Opelika, Alabama aka Opelika Power Services
P.O. Box 390
Opelika, AL 36801

Dear Gary Fuller:

Attached is the proposed amendment ("Provisions") between The City of Opelika, Alabama aka Opelika Power Services and BellSouth Telecommunications, LLC d/b/a AT&T ALABAMA ("AT&T") for review and signature.

The following documents should be eSigned:

1. Amendment which amends the existing ICA to reflect the changes resulting from the FCC's USF/ICC, Lifeline and Link Up Reform and Modernization, Technology Transition and USTelecom Forbearance Orders; replacement of the OS/DA language and rates; and revised electronic notification and expiration language

Note that in light of the significant regulatory, legislative and legal changes impacting the telecommunications industry on a frequent basis, the attached documents will be considered automatically withdrawn thirty (30) days from the date of this letter if your company has not signed and returned them by that date. If, after that time, your company still wishes to obtain this type of amendment, it must submit a new request to AT&T for consideration.

After AT&T executes, a fully executed document will be returned via email.

Finally, please note the OCN and ACNA for each applicable state have been inserted on the signature pages based upon the information provided from AT&T's CLEC Profile. If there are discrepancies in the reflection of the OCN and/or ACNA, please contact your Senior Carrier Account Manager to have the CLEC Profile updated. This information is required for execution. State certification status and number, if appropriate, is required to complete the filing process.

If you have questions regarding the attached, please contact Jim Tamplin at (404) 927-8997.

Sincerely,

Hermina A. Smith
Manager – Interconnection Agreements

Attachments

Hermina A. Smith
Manager – Interconnection Agreements
AT&T Wholesale
m41654@att.com

November 17 2016

Gary Fuller
Mayor
The City of Opelika, Alabama aka Opelika Power Services
P.O. Box 390
Opelika, AL 36801-8603

Dear Gary Fuller:

Attached is the proposed Commercial Agreement ("Commercial Agreement") between our companies for your review and eSignature.

Please note that in light of the significant regulatory, legislative and legal changes impacting the telecommunications industry on a regular basis, the attached Commercial Agreement may be withdrawn or changed at any time by AT&T prior to its effective date, and will be considered automatically withdrawn by thirty (30) calendar days from the date of this letter if your company has not returned signed and dated signature page(s) as provided above by that date. If, after that time, your company still wishes to negotiate/enter into a Commercial Agreement with AT&T, it must submit a new request to AT&T for consideration.

After AT&T executes, a fully executed document will be returned via email and AT&T will forward the fully executed Commercial Agreement to its D.C. office for filing with the FCC as provided for in such Commercial Agreement.

If you have questions regarding the attached, please contact Jim Tamplin at (404) 927-8997.

Sincerely,

Hermina A. Smith
Manager – Interconnection Agreements

Attachment

RESOLUTION NO. 338-16

Guaranteeing Payments, Southeast Al. Gas District.

RESOLUTION NO. _____________

RESOLUTION GUARANTEEING FINANCIAL ASSURANCE PAYMENTS TO SOUTHEAST ALABAMA GAS DISTRICT

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

1. Findings. The Council hereby finds and declares that the following facts are true and correct:

(a) Opelika Industrial Development Authority (herein called "OIDA") is an industrial development authority organized under Alabama Code §11-92A-1, et. seq., and is the owner if fee simple of the Northeast Opelika Industrial Park.

(b) The Southeast Alabama Gas District (herein called "SEAGD") is a gas district organized under Alabama Code §11-50-390, et. seq., and owns and operates a natural gas transmission and distribution system serving portions of Southeast Alabama, including portions of Lee County, Alabama.

(c) On August 26, 2005, SEAGD and OIDA entered into a Gas Service Development Agreement (herein called "the Agreement") pursuant to which SEAGD agreed to extend a sixteen-mile, eight-inch high pressure steel pipeline from Griffin Mill to the Northeast Opelika Industrial Park and to supply gas to new tenants in the park.

(d) As part of said Agreement, OIDA agreed to provide financial assurance with respect to the gas line, including a covenant by OIDA to deliver to SEAGD, a surety bond or letter of credit on terms reasonably acceptable to SEAGD in the amount of 2.5 million dollars, to secure the obligations of OIDA under the Agreement.

(e) Pursuant to Resolution No. 174-05, adopted by the Council on August 25, 2005, the City agreed to pay the annual cost of providing said letter of credit or surety bond.

(f) Pursuant to Article III of the Agreement, OIDA promised to pay to SEAGD an Assurance Amount which amount as of September 30, 2016 was $706,763.81.

(g) SEAGD and OIDA desire to enter into an "Amendment to Gas Service Development Agreement" (herein called the "Amendment"), a copy of which is attached hereto as Exhibit "A".

(h) As part of the Amendment, OIDA has agreed to a payment schedule set forth in sections 2 and 3 of the Amendment, in lieu of the final payment due on October 1, 2016.

(i) OIDA seeks a commitment from the City to guarantee payment to SEAGD of the annual amounts anticipated by the Amendment.

Section 2. Acknowledgement of Amendment to Gas Service Development Agreement. The Council hereby acknowledges receipt of a copy of the Amendment to Gas Service Development Agreement to be entered into between SEAGD and OIDA.

Section 3. Guarantee of Annual Payments Under the Amendment. The City hereby agrees to guarantee payment to SEAGD of all annual payments anticipated by the Amendment. The City agrees to reimburse OIDA from the Economic Development Tax Fund, annually, as of the end of each fiscal year ended September 30, 2016 through September 30, 2020, such amounts as are needed to reduce the Unamortized Amount according to the schedules in the Amendment. After the end of each fiscal year (beginning with the fiscal year ended September 30, 2016), OIDA shall submit a request for reimbursement together with such evidence of payment as shall be required by the City. Within ten (10) days after receipt of each request for reimbursement, the City shall pay to OIDA an amount equal to the annual payment due from OIDA to SEAGD under the Amendment.

Section 4. Budget and Accounting Entries. The Mayor and Controller are hereby authorized and directed to make any and all necessary budget and accounting entries to carry into effect the intent of this Resolution.

Section 5. Effective Date. This Resolution shall take effect upon its 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

EXHIBIT "A"

AMENDMENT TO

GAS SERVICE DEVELOPMENT AGREEMENT

by and between

THE SOUTHEAST ALABAMA GAS DISTRICT

and

OPELIKA INDUSTRIAL DEVELOPMENT AUTHORITY

Dated as of December 1, 2016

STATE OF ALABAMA

LEE COUNTY

AMENDMENT TO GAS SERVICE DEVELOPMENT AGREEMENT

THIS AMENDMENT TO GAS SERVICE DEVELOPMENT AGREEMENT (the "Amendment") is made and entered into as of December 1, 2016, by and between **The Southeast Alabama Gas District** ("Southeast Gas") and the **Opelika Industrial Development Authority** ("Authority") and amends that certain Gas Service Development Agreement (the "Agreement") made and entered into as August 26, 2005 between Southeast Gas and the Authority.

RECITALS

WHEREAS, pursuant to the Agreement Southeast Gas installed natural gas service facilities to the Northeast Opelika Industrial Park (the "Park"), which installation by Southeast Gas supported by the promise of the Authority to pay the Assurance Amount as provided in Article III of the Agreement;

WHEREAS, in lieu of the final payment on October 1, 2016 contemplated by Section 3.4 of the Agreement, the Parties have agreed to the payment schedule set forth in this Amendment;

NOW THEREFORE, in consideration of the mutual promises and covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereto agree as follows:

1. The Parties do hereby confirm that the Unamortized Amount as of September 30, 2016, was $706,763.81.

2. Section 3.4 of the Agreement is deleted and the following substituted therefore:

> 3.4 **Financial Assurance, Promise to Pay.** Annually, as of the end of each fiscal year ended September 30, 2016 through September 30, 2020, the Authority shall pay such amount as is needed to reduce the Unamortized Amount according to the following schedule:

Beginning balance at September 30, 2016	$ 706,763.81
Balance at September 30, 2017	$ 480,000.00
Balance at September 30, 2018	$ 300,000.00
Balance at September 30, 2019	$ 140,000.00
Balance at September 30, 2020	$ 0.00

The commitments of the Authority in this Agreement, including without limitation this Section 3.4, are *evidence of indebtedness* as those terms are used in *Alabama Code* Section 11-92A-16(c).

3. Southeast Gas shall continue to maintain the Amortization Account pursuant to Section 3.3 of the Agreement, providing reduction to the Unamortized Amount for sales to customers in the Park, and shall render a statement to the Authority within 30 days after the end of each fiscal year. The Authority shall make such further payment to Southeast Gas within 60 days of the end of each fiscal year so as to cause the reduction in Unamortized Amount as set forth above. Assuming customer usage continues at present volumes and spreads, the following chart provides an example of the payments from the Authority anticipated by this Amendment:

	BBEGINNING UNAMORTIZED AMOUNT BALANCE	ESTIMATED CUSTOMER USAGE	PAYMENT FROM AUTHORITY	ENDING UNAMORTIZED AMOUNT BALANCE
FYE 9/30/2017	$706,763.81	$80,000	$146,763.81	$480,000
FYE 9/30/2018	$480,000	$80,000	$100,000	$300,000
FYE 9/30/2019	$300,000	$80,000	$75,000	$145,000
FYE 9/30/2020	$145,000	$80,000	$65,000	$0

Increases or decreases in gas usage will affect the customer contribution and the amount of the Authority payment. New customers in the Park will likewise affect both such payments.

Except as otherwise herein stated, the Agreement shall remain in full force and effect.

(Signature Pages Follows)

IN WITNESS WHEREOF, the undersigned have hereunto set forth their signatures as of the date first set forth above.

THE SOUTHEAST ALABAMA GAS DISTRICT

By: ______________________________________

J. Gregory Henderson, President and CEO

OPELIKA INDUSTRIAL DEVELOPMENT AUTHORITY

By: ______________________________________

Name: ____________________________________

Its: ______________________________________

RESOLUTION NO. 339-16

Contract for Appropriation to Ala. Council on Human Relations.

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 Alabama Council on Human Relations, Inc., a copy of which is hereto attached as Exhibit "A", be and the same is hereby approved, adopted, authorized, ratified and confirmed.

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

ADOPTED and APPROVED 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

STATE OF ALABAMA
LEE COUNTY

This Contract is made and entered into as of the 1st day of October, 2016 by and between the City of Opelika and the Alabama Council on Human Relations, Inc. (Child Development Program).

ACHR, Inc. agrees

1. to provide safe, affordable, quality child care for infants, toddlers, and after-school children up to twelve years of age who are from low-income families whose parent(s) is working or in school or training.

2. to provide child care during the hours of 6:00 a.m. to 5:30 p.m.

3. to provide snacks and meals under the Child Care Feeding Program.

4. to base parent fees on a sliding fee scale.

5. to accept payments through the Child Care Block Grant.

6. to accept payments from families if the family is just over the limit for outside sources of funding.

Knowing that safe, affordable, quality child care is needed for children to enable parents to receive training or to work in jobs that will give them the experience needed to obtain better paying jobs and become productive citizens;

And knowing that the reimbursement rate provided through the Family Guidance Center or the Block Grant is not sufficient to maintain a quality child care program, Opelika City agrees:

1. to provide ACHR, Inc. with $20,000 for FY 2016-2017 to supplement the funds attainable through the reimbursement programs and parent fees based on a sliding scale so that quality child care can be provided to families with low-income at a cost that is affordable to them.

2. to provide one fourth of the supplement, or $5,000, at the beginning of each quarter.

This contract is entered into this 1st day of October, 2016.

Signature of ACHR Representative	Signature of City of Opelika Representative
Nancy S. Spears, CEO Name/Title	Gary Fuller, Mayor Name/Title
11-14-16 Date	Date

RESOLUTION NO. 340-16

Special Appropriation to the East Ala. Community Ballet.

RESOLUTION NO. ________

WHEREAS, the Mayor of Opelika and the City Council fully supports the various programs provided by the East Alabama Community Ballet (EACB), and

WHEREAS, EACB will be producing their 20th performance of the Nutcracker and will provide a free field trip to Opelika Third graders for their own Nutcracker experience, and

WHEREAS, City Council President Eddie Smith Ward 4, President Pro-tem Patricia Jones Ward 1, Councilwoman Tiffany Pitts Ward 2, Councilman Dozier Smith T Ward 3 and Councilman David Canon Ward 5 each wishes to appropriate $200.00 each from their respective discretionary funds, to assist with funding the 20th Nutcracker performance.

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 total special appropriation of $1,000.00 to the East Alabama Community Ballet to assist in funding the 20th Nutcracker performance.
2. The Opelika City Council hereby declares and determines that said expenditure of these public funds serve a public purpose for the City of Opelika and approves the attached Funding Agreement.
3. The Mayor and the Controller is hereby authorized and directed to move the discretionary funds as detailed below to the appropriate account(s):

Patricia Jones	Ward 1	Reserve fund	$ 200.00
Tiffany Pitts	Ward 2	Current year	$ 200.00
Dozier Smith T	Ward 3	Reserve fund	$ 200.00
Eddie Smith	Ward 4	Reserve fund	$ 200.00
David Canon	Ward 5	Reserve fund	$ 200.00

4. The City Clerk-Treasurer is hereby authorized and directed to prepare the appropriate documents so that a check for $1,000.00 payable to the East Alabama Community Ballet can be prepared and delivered with said funds being earmarked and designated for the 20th performance of the Nutcracker.

APPROVED and ADOPTED 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. 341-16

Sale of Power Pole to Jeffery A. Hilyer

RESOLUTION NO. ____________

RESOLUTION APPROVING SALE OF POWER POLE TO JEFFERY A. HILYER

WHEREAS, the City of Opelika, Alabama (the "City"), d/b/a Opelika Power Services ("OPS") is the owner of a 35 foot wood power pole (the "power pole") located at 614 Second Avenue, Opelika, Alabama, which is no longer for public or municipal purposes; and

WHEREAS, §11-43-56, *Code of Alabama* of 1975, authorizes the municipal governing body to dispose of unneeded personal property; and

WHEREAS, the City has received an offer from Jeffery A. Hilyer to purchase the power pole for the sum of $200.00, and it is hereby declared to be in the public interest to sell said power pole to Jeffery A. Hilyer for said purchase price; and

WHEREAS, a Bill of Sale has been prepared and submitted to the City Council for approval.

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

1. It is hereby established and declared that the 35 foot power pole located at 614 Second Avenue is not needed for public or municipal purposes.

2. That the Mayor is hereby authorized to sell said power pole to Jeffery A. Hilyer for the price of $200.00.

3. That the Mayor is hereby authorized and directed to execute for and on behalf of the City a Bill of Sale between the City and Jeffery A. Hilyer. Said Bill of Sale shall be substantially in the form attached hereto as Exhibit "A" to this Resolution, which form is hereby adopted in all respects as if set forth in full in this Resolution, with such changes as shall be approved by the Mayor.

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

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

____

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

ATTEST:

____

CITY CLERK

STATE OF ALABAMA)
: BILL OF SALE
COUNTY OF LEE)

KNOW ALL MEN BY THESE PRESENTS, that for the consideration of the sum of two hundred dollars ($200.00), the receipt of which is hereby acknowledged, the undersigned Seller, the City of Opelika, Alabama, a municipal corporation, d/b/a Opelika Power Services, does hereby sell, transfer and deliver to Jeffery A. Hilyer, the Buyer, one (1) 35 foot wood power pole located on the premises of 614 Second Avenue, Opelika, Alabama.

TO HAVE AND TO HOLD unto Buyer and Buyer's heirs, executors, administrators and assigns forever.

The Seller warrants that the Seller is the true and lawful owner of the power pole and that the pole is free from any and all legal claims and encumbrances by others. Other than the Seller's warranty of ownership stated above, Seller disclaims all other warranties, either express or implied. The Buyer hereby accepts the power pole in its present condition "AS-IS" and "WHERE IS" without any warranties, either express or implied, as to its condition. The Seller acknowledges and agrees that the power pole is being sold without any warranties of merchantability or fitness for a particular purpose.

IN WITNESS WHEREOF, each of the parties has caused this Bill of Sale to be duly executed and delivered on this the ______ day of December, 2016.

CITY OF OPELIKA, ALABAMA--SELLER
a municipal corporation

BY:____________________________________
Its Mayor

____
JEFFERY A. HILYER,
BUYER

RESOLUTION NO. 342-16

Authorize Higher Entry Level Salary - Senior Accountant.

RESOLUTION NO. _____________

RESOLUTION AUTHORIZING HIGHER ENTRY LEVEL SALARY FOR POSITION OF SENIOR ACCOUNTANT

WHEREAS, pursuant to Resolution No. 286-16, the City Council of the City of Opelika, Alabama, (the "City Council") authorized the new position of Senior Accountant in the Accounting Department at pay grade 21; and

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 Senior Accountant is $48,204 and the maximum rate of pay is $72,306; and

WHEREAS, the Human Resources Department prepared and posted a vacancy notice for the position of Senior Accountant as provided in Section 5.3 of the City's Personnel Manual; and

WHEREAS, the position of Senior Accountant 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 Senior Accountant be raised to any amount 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 Senior Accountant with a qualified applicant at a starting salary of no more than $72,306.

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

3. 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. 128-16-ORD

Amend Zoning Ordinance & Map from R-3, GC to C-2, GC at 2004 Yarbrough Dr. - 2Nd Reading.

ORDINANCE NO. ________

AN ORDINANCE TO AMEND THE ZONING

ORDINANCE AND ZONING MAP OF THE CITY OF OPELIKA

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

Section 1. That Ordinance No. 124-91 entitled "Zoning Ordinance of the City of Opelika" adopted on September 17, 1991, and the Zoning Map of the City of Opelika provided for and referred to therein, as previously amended and/or modified, be and the same is hereby amended by rezoning or redistricting the parcels of land hereinafter in this section described from one class of district to another class of district as follows:

(a) From a R-3, GC District (Low-Density Residential, Gateway Corridor Overlay District) to a C-2, GC District (Office/Retail, Gateway Corridor Overlay District), the parcels of land hereinafter described:

PARCEL 1

Commence at Southwest corner of Section 15, Township 19 North, Range 26 East, Opelika, Lee County, Alabama, thence North 84°37'46" East, a distance of 855.42 feet to the point of beginning of a parcel of land more fully described as follows: From this point of beginning, thence North 52°43'57" East, a distance of 192.58 feet; thence South 50°59'55" East, a distance of 128.47 feet; thence South 39°04'49" West, a distance of 229.41 feet; thence North 37°18'55" West, a distance of 178.94 feet to the point of beginning, said parcel contains 31,966.2 square feet, or 0.73 acres, more or less.

PARCEL 2

Commence at Southwest corner of Section 15, Township 19 North, Range 26 East, Opelika, Lee County, Alabama, thence North 84°37'46" East, a distance of 855.42 feet, thence South 37°18'55" East, a distance of 164.67 feet to the point of beginning of a parcel of land more fully described as follows: From this point of beginning, thence South 37°18'55" East, a distance of 14.27 feet; thence South 46°38'21" West, a distance of 419.64 feet; thence North 35°44'35" West, a distance of 14.94 feet; thence North 46°43'26" East, a distance of 419.16 feet to the point of beginning, said parcel contains 6,081.9 square feet, or .014 acres, more or less.

The above-described parcels are further described as 2004 Yarbrough Drive, Opelika, AL

Section 2. Any ordinance or part thereof in conflict with provisions of this Ordinance be and the same are hereby repealed.

Section 3. This Ordinance shall be published one (1) time in a newspaper of general circulation in the City of Opelika, Lee County, Alabama.

ADOPTED AND APPROVED this the _____day of ____________________, 2016.

____

PRESIDENT OF THE CITY COUNCIL OF THE

CITY OF OPELIKA, ALABAMA

ATTEST:

____

CITY CLERK

TRANSMITTED TO MAYOR on this the _____day of _______________, 2016.

____

CITY CLERK

ACTION BY MAYOR

APPROVED this the _____day of _________________, 2016.

____

MAYOR

ATTEST:

CITY CLERK

ORDINANCE NO. (ID # 1992)

Amend Text of Zoning Ordinance, Section 2.2 & 7.3, Truck Fueling Station - 1St Reading.

ORDINANCE NO. ________

AN ORDINANCE TO AMEND THE TEXT OF THE ZONING ORDINANCE OF THE CITY OF OPELIKA

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

Section 1. Amendment. That Ordinance 124-91 entitled "Zoning Ordinance of the City of Opelika, Alabama", adopted on September 17, 1991, as amended, is further amended in the following respect:

(a) That Section 2.2, "DEFINITIONS" is further amended to add the following definition of "Truck Fueling Station"

TRUCK FUELING STATION Any fuel sales facility selling and dispensing motor fuels, other petroleum products or accessories for trucks, tractor-trailer rigs, buses and similar commercial freight vehicles where the gas dispensing facilities are designed to primarily service semi-tractors or tractor-trailer truck vehicles. A truck fueling station shall not include premises where vehicle repair and maintenance activities are conducted by the business. A truck fueling station shall not offer overnight accommodations, shower facilities or restaurant. No more than twelve (12) parking spaces for tractor-trailer vehicles shall be permitted on site. A truck fueling station may include a convenience store where limited food products, beverages and household items are sold.

(b) That the use categories in the matrix table in Section 7.3, as amended, are further amended to provide for the use category of "Truck Fueling Station" as follows:

Truck Fueling Stations shall be allowed in the C-3 (General Commercial), M-1 (Industrial) and GC (Gateway Corridors) as a conditional use. Truck Fueling Stations are not allowed in the R-1, R-1A, R-2, R-3, R-4, R-5, R-5M, C-1, C-2, M-2 or I-1 districts.

The matrix table in Section 7.3 for "Truck Fueling Station" shall read as follows:

Uses:	Districts:														
	R-1	**R-1A**	**R-2**	**R-3**	**R-4**	**R-4M**	**R-5**	**R-5M**	**C-1**	**C-2**	**C-3**	**M-1**	**M-2**	**I-1**	**GC**
Truck Fueling Station	**N**	**N**	**N**	**N**	**N**	**N**	**N**	**N**	**N**	**N**	**C**	**C**	**N**	**N**	**C**

Except as specifically amended or changed therein, all other use categories as shown in the matrix table shall remain in full force and effect.

Section 2. Repeal of Conflicting Ordinances. Any ordinance or part thereof in conflict with provisions of this Ordinance be and the same are hereby repealed.

Section 3. Effective Date. This Ordinance shall become effective upon its adoption, approval and publication as required by law.

Section 4. Publication. This Ordinance shall be published in a newspaper of general circulation in the City of Opelika, Lee County, Alabama.

ADOPTED AND APPROVED this the _____day of ____________________, 2016.

____

PRESIDENT OF THE CITY COUNCIL OF THE

CITY OF OPELIKA, ALABAMA

ATTEST:

____

CITY CLERK

TRANSMITTED TO MAYOR on this the ______day of ______________________, 2016.

____

CITY CLERK

ACTION BY MAYOR

APPROVED this the ______day of ___________________, 2016.

____

MAYOR

ATTEST:

CITY CLERK

ORDINANCE NO. (ID # 2050)

Convey Real Property on Commanche Dr. to the Utilities Board - First Reading.

ORDINANCE NO. _____________

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

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

(a) The following described real property of the City Opelika, Alabama (the "City"), is no longer needed for public or municipal purposes, to-wit:

> Commencing at the Northwest corner of Section 29, T-19-N, R-27-E, in Opelika, Lee County, Alabama; thence South, 1208.6 feet, thence East 2759.2 feet; thence N 44°35'00" E, 69.81 feet to the true point of beginning of the parcel of land herein described; thence N 45°14'00" W, 100.00 feet; thence N 44°46'37" E, 100.00 feet to a point within the margin of Commanche Drive; thence , along said drive, S 45°12'46" E, 100.00 feet; thence, leaving said drive, S 44°46'37" W, 99.96 feet to the true point of beginning; that the buildings and structures thereon are located with respect to the boundaries thereof, that there are no encroachments, rights-of-way, easements or joint driveways on, over or across said parcel visible on the surface except as shown on the plat of survey prepared by Mark L. Miller, a registered surveyor, on August 22, 2003.
>
> Being further described as Parcel No. 43-10-09-29-0-000-054.002 according to the records maintained in the Lee County Revenue Commissioner's Office.

(b) The property described above has been utilized by The Utilities Board of the City of Opelika (the "Utilities Board") as a water storage tank and pump station.

(c) The Utilities Board has maintained the property described above for more than 35 years.

(d) The City is desirous of conveying the property to the Utilities Board.

Section 2. It is hereby declared to be in the best interest of the public and the City to convey the real property described in Section 1, above, to The Utilities Board of the City of Opelika.

Section 3. 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 The Utilities Board of the City of Opelika without consideration.

Section 4. This ordinance shall become effective immediately upon its adoption and publication as required by law.

Section 5. 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

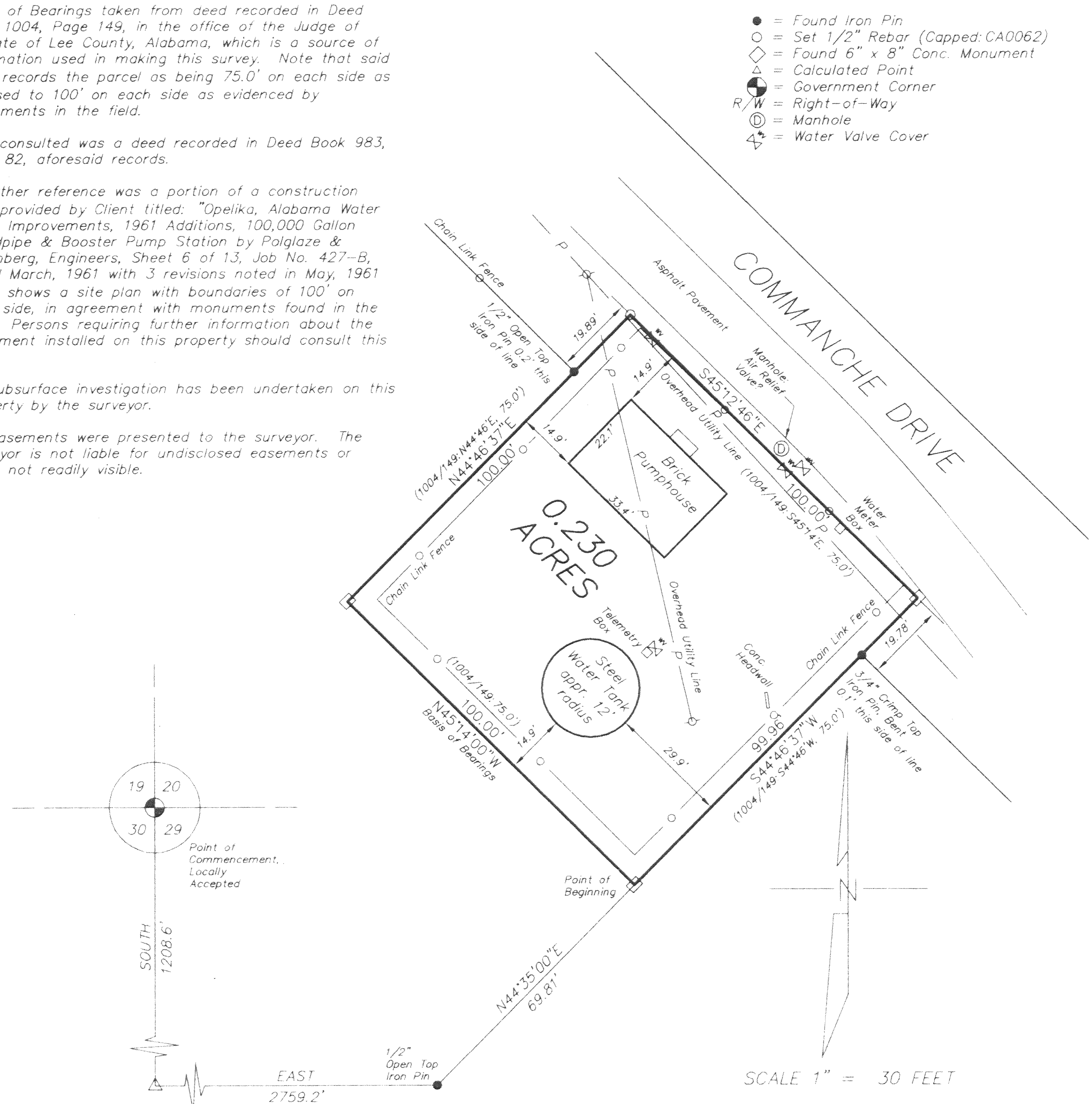
NOTE:
Basis of Bearings taken from deed recorded in Deed Book 1004, Page 149, in the office of the Judge of Probate of Lee County, Alabama, which is a source of information used in making this survey. Note that said deed records the parcel as being 75.0' on each side as opposed to 100' on each side as evidenced by monuments in the field.

Also consulted was a deed recorded in Deed Book 983, Page 82, aforesaid records.

A further reference was a portion of a construction plan provided by Client titled: "Opelika, Alabama Water Works Improvements, 1961 Additions, 100,000 Gallon Standpipe & Booster Pump Station by Polglaze & Basenberg, Engineers, Sheet 6 of 13, Job No. 427–B, dated March, 1961 with 3 revisions noted in May, 1961 which shows a site plan with boundaries of 100' on each side, in agreement with monuments found in the field. Persons requiring further information about the equipment installed on this property should consult this plan.

No subsurface investigation has been undertaken on this property by the surveyor.

No Easements were presented to the surveyor. The surveyor is not liable for undisclosed easements or those not readily visible.



BOUNDARY SURVEY FOR
THE UTILITIES BOARD OF THE CITY OF OPELIKA

OPELIKA	LEE COUNTY	ALABAMA
SEC. 29	T–19–N	R–27–E

I, MARK L. MILLER, A REGISTERED SURVEYOR IN THE STATE OF ALABAMA, HEREBY CERTIFY THAT ALL PARTS OF THIS SURVEY AND DRAWING OF THE FOLLOWING DESCRIBED PARCEL OF LAND HAVE BEEN COMPLETED IN ACCORDANCE WITH THE CURRENT REQUIREMENTS OF THE STANDARDS OF PRACTICE FOR SURVEYING IN THE STATE OF ALABAMA, TO THE BEST OF MY KNOWLEDGE, INFORMATION AND BELIEF: COMMENCING AT THE NORTHWEST CORNER OF SECTION 29, T–19–N, R–27–E, IN OPELIKA, LEE COUNTY, ALABAMA; THENCE SOUTH, 1208.6 FEET; THENCE EAST, 2759.2 FEET; THENCE N44°35'00"E, 69.81 FEET TO THE TRUE POINT OF BEGINNING OF THE PARCEL OF LAND HEREIN DESCRIBED; THENCE N45°14'00"W, 100.00 FEET; THENCE N44°46'37"E, 100.00 FEET TO A POINT WITHIN THE MARGIN OF COMMANCHE DRIVE; THENCE, ALONG SAID DRIVE, S45°12'46"E, 100.00 FEET; THENCE, LEAVING SAID DRIVE, S44°46'37"W, 99.96 FEET TO THE TRUE POINT OF BEGINNING; THAT THE BUILDINGS AND STRUCTURES THEREON ARE LOCATED WITH RESPECT TO THE BOUNDARIES THEREOF; THAT THERE ARE NO ENCROACHMENTS, RIGHTS–OF–WAY, EASEMENTS OR JOINT DRIVEWAYS ON, OVER OR ACROSS SAID PARCEL, VISIBLE ON THE SURFACE, EXCEPT AS SHOWN ON THIS PLAT; ACCORDING TO MY SURVEY OF AUGUST 22, 2003.

THIS IS TO CERTIFY THAT I HAVE CONSULTED THE FEDERAL INSURANCE ADMINISTRATION FLOOD HAZARD BOUNDARY MAP COMMUNITY PANEL NOS. 010145 0001–100 & 0100B, DATED SEPTEMBER 16, 1981 AND FOUND THAT THE ABOVE–DESCRIBED PARCEL OF LAND LIES IN ZONE "C" (MINIMAL), WHICH IS NOT A SPECIAL FLOOD HAZARD AREA.

Mark L. Miller
Cert. No. 18677

BOLES ENGINEERING, INC.
9324 LEE ROAD 146
OPELIKA, AL 36804
(334) 745–2108
www.bolesengineering.com
OpUtilBdCommancheDr82203.dwg

ORDINANCE NO. (ID # 2049)

Amend City Code, Chapter 29 Vehicles for Hire - First Reading.

ORDINANCE NO.__________

AN ORDINANCE AMENDING CHAPTER 29 OF THE *CODE OF ORDINANCES*; REGULATING VEHICLES FOR HIRE

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

Section 1. **Amendments to Chapter 29 of the *Code of Ordinances*.** That Chapter 29 of the *Code of Ordinances* of the City of Opelika, Alabama, is hereby amended to read as follows:

Chapter 29 VEHICLES FOR HIRE

ARTICLE I. VEHICLES FOR HIRE AND TRANSPORTATION COMPANIES

DIVISION 1. - GENERALLY

Sec. 29-1. - Definitions.

Unless the context clearly indicates a different meaning, the following words and phrases, wherever used in this article, shall have the meanings respectively described in this section:

Business license means the license required by chapter 14 to operate a taxicab within the city, or a transportation network company permit under Section 29-91.

Executive sedan means a motor vehicle that furnishes transportation for hire in the city, not over fixed routes, operated by a chauffeur on a prearranged basis, which has a seating capacity of five (5) to seven (7) passengers and is a large sedan or sport utility vehicle. Executive sedans may include Lincoln, Cadillac, Mercedes, Chevrolet Tahoes, Ford Expeditions and other like vehicles. The Revenue Officer or his designee has the discretion to allow and deny vehicles based on type. However, the classification "executive sedan" shall not apply to any motor vehicle which is classified as a taxicab, transportation network company (TNC) vehicle, or shuttle vehicle, used exclusively by or under a written agreement with a hotel, motel, airport, hospital, club or such entity for the transportation of its members, guests, patients or clients, or operated as a bus on fixed routes.

Limousine means a motor vehicle that furnishes transportation for hire in the city, not over fixed routes, operated by a chauffeur on a prearranged basis which meets the manufacturers specifications for luxury limousine, with a minimum of six (6) seats located behind the operator of the vehicle, with a designed seating capacity for no more than ten (10) passengers, and with a door at the rear of the vehicle designed to allow passenger entry or exit. Provided, however, the classification "limousine" shall not apply to any motor vehicle which is classified as a taxicab, TNC vehicle, or shuttle vehicle, used exclusively by or under a written agreement with a hotel, motel, airport, hospital, club or such entity for the transportation of its members, guests, patients or clients, or operated as a bus on fixed routes.

Owner, operator means any person engaged in the business of operating a vehicle for hire company in the city or its police jurisdiction.

Specialty limousine means the requirements and rules for specialty limousines shall be the same as for limousines. They shall be defined as an antique or special interest vehicle which is maintained in excellent condition. The antique or vintage vehicle shall also be a private passenger automobile weighing not more than twenty-six thousand (26,000) pounds gross weight, over thirty (30) years old, and operated as a collector's item. Specialty limousines must comply with Section 29-18 unless the vehicle was manufactured without required equipment the code enumerates.

Taxicab means a motor vehicle not operated over a fixed route furnishing transportation for hire within the city to no more than seven (7) passengers at the same time, from points of origin to destinations as directed by the passengers. Provided, however, the classification "taxicab" shall not apply to any motor vehicle which is:

(1) Classified as a limousine, TNC vehicle, or shuttle vehicle as herein defined.

(2) Used exclusively by or under a written agreement with a hotel, motel, airport, hospital, club or other such entity for the transportation of its members, guests, patients or clients, provided, that each vehicle under such agreement will have the same distinctive visible outside painted appearance as each other vehicle under the agreement to any such hotel, motel, airport, hospital, club or other such entity.

(3) Operated as bus under a franchise granted by the city.

Transportation network company or TNC means an entity licensed pursuant to division 4 that uses a digital network or online-enabled application service to connect passengers to transportation network company services provided by transportation network company drivers. The vehicles used to provide transportation network company services are not taxicabs or vehicles for hire for purposes of this article. A transportation network company shall not be deemed to control, direct, or manage the transportation network company vehicles or transportation network company drivers that connect to its digital network or online-enabled application service, except where agreed to by written contract.

Transportation network company (TNC) driver means an individual who operates a motor vehicle that is:

(1) Owned, leased or otherwise authorized for use by the individual;

(2) Not classified as a taxicab or vehicle-for-hire under this article;

(3) Used to provide transportation network company services;

(4) Inspected and insured as required by this article; and

(5) Capable of carrying no more than seven (7) passengers at the same time.

Transportation network company (TNC) services means the transportation of a passenger beginning when a TNC driver accepts a request for transportation received through the TNC's digital network or online-enabled application service, continuing while the TNC driver transports the passenger in the TNC driver's vehicle, and ending when the passenger exits the TNC driver's vehicle. TNC service is not taxicab or vehicles for hire service for purposes of this article.

Transportation network company (TNC) vehicle means a vehicle that is used by a TNC driver and is owned, leased, or otherwise authorized for use by the individual, and not classified as a taxicab or vehicle for hire under this article.

Vehicle for hire means a vehicle providing shared transport, which transports one (1) or more passengers between locations of the passengers' choice for a fee, including but not limited to executive sedans, limousines, specialty limousines and taxicabs.

Sec. 29.2 - Exclusions from this chapter.

(a) The provisions of this chapter shall not apply to the following categories of vehicles and services:

(1) buses as defined in this chapter.

(2) hearses and mortuary limousines when used as funeral vehicles

(3) ambulances and other emergency vehicles

(4) school and church buses when used for school or church purposes

(5) vehicles rented or leased to the public without a driver

(6) vehicles operated by the Lee-Russell Public Transit

(7) vehicles operated on a share-the-expense plan such as carpools

(8) courtesy vehicles such as limousine or van provided by a hotel for free transportation over fixed route or an automobile furnished by an automobile provided by a garage or repair shop for use while a person's own car is being repaired.

(9) government owned or leased vehicles.

(b) The provisions of this chapter shall not be construed to limit any powers that Auburn University Regional Airport may have to regulate the operation of transportation service vehicles on airport premises.

Sec. 29-3. - License or permit required.

No person shall operate or drive a vehicle for hire without first being licensed or permitted as otherwise provided in this article and no person shall operate a TNC under this article without first being permitted as provided.

Sec. 29-4. - Prerequisite to issuance of license.

No privilege license, or permit under any license schedule or ordinance shall be issued to any person to engage in the business of operating a vehicle for hire or TNC in the city unless the applicant has a valid unrevoked permit to operate a vehicle for hire or TNC in the city as provided in this article.

Sec. 29-5. - Application.

Application for a permit required by this article shall be made on a form to be furnished by the city Revenue Department.

Sec. 29-6. - Term and conditions.

A permit issued as provided in this article shall be for such a length of time, not to exceed twelve (12) months at a time, and upon such terms and conditions as may be prescribed by the governing body.

Sec. 29-7. - Out-of-city vehicles.

Vehicles for hire permitted under this article having no city business license and licensed in another jurisdiction may bring passengers into the city but may not pick up any passenger for any destination or accept any business within the city. A TNC driver that is affiliated with a TNC that has no city business license and licensed in another jurisdiction may bring riders into the city but may not pick up any riders for any destination or accept any ride requests within the city.

Sec. 29-8. - Unauthorized use of driver's license.

It shall be unlawful for any person to hold such person's self out as a licensed driver of a vehicle permitted under this article, unless such person is so licensed. It shall further be unlawful to borrow or lend such person's license or permit, or for any person to use a license or permit of any other person.

Sec. 29-9. - Drivers to use most direct route; designation of routes between terminals and hotels.

It shall be the duty of every driver of a vehicle permitted under this article to carry passengers to their destination by the most direct available route unless otherwise directed by such passengers; provided, that, in order to minimize traffic congestion, the Revenue Officer may, by written order, designate the routes to be followed in carrying passengers from passenger terminals to hotel and vice versa.

Sec. 29-10. - Refusal of passengers.

It shall be unlawful for any person engaged in operation of a taxicab business or other business permitted under this article in the city, or the driver of any taxicab or other vehicle permitted under this article, to refuse without sufficient cause, to carry any passenger, including handicapped persons with seeing eye dogs, to any designation in the city designated by the passenger; provided, however, no person shall be required to carry any person who is intoxicated or disorderly or who is afflicted with a contagious or infectious disease, or who refuses to pay in advance when requested to do so, or who, for other good reasons, deemed adequate by the court, shall be excluded.

Sec. 29-11. - Maintaining the vehicle in a clean and sanitary condition.

It shall be the duty of every person operating a vehicle permitted under this article to keep and maintain the interior and exterior of any such vehicle permitted under this article in a clean and sanitary condition at all times. Any unclean or unsanitary vehicle permitted under this article may be ordered out of service at any time by the Revenue Officer or his representative until such time as the vehicle has been cleaned. It shall be the duty of every person operating a vehicle permitted under this article to keep and maintain any such vehicle at all times in accordance with Section 29-19.

Sec. 29-12. - Lost property.

Drivers of vehicles for hire must conduct a search of the interior of their vehicles at the termination of each trip. If the driver discovers any property of a passenger, the driver shall immediately report the property discovered to his employer and, as soon as practicable, deliver the property to his employer. The employer shall, when able, make every reasonable effort to notify passenger or recovery of lost property. The employer shall also maintain property in his possession in a secured location for a minimum of thirty (30) days. A sign reflecting this policy shall be placed in each vehicle for hire.

Sec. 29-13. - Appearance and conduct of drivers.

(a) *Appearance.* All drivers of vehicles permitted under this article shall be neat and clean in appearance.

(b) *Demeanor.* No driver of a vehicle permitted under this article shall be discourteous or use vulgar or profane language while on duty.

(c) *Possession of alcoholic beverages prohibited.* No driver of a vehicle permitted under this article, while in charge of or operating the same, shall have any alcoholic beverages in his possession.

(d) *Use of drugs.* No driver of any vehicle permitted under this article shall consume or be under the influence of any prescription or nonprescription drug which impairs driving ability or any alcoholic beverage while on duty.

(e) *Smoking.* It shall be unlawful for the driver of any vehicle permitted under this article operated upon the streets of the city to smoke or allow any other person to smoke in such vehicle.

Sec. 29-14. - Use for purpose of prostitution, lewdness or any illegal purpose.

It shall be unlawful for the driver of any vehicle permitted under this article to permit any person to occupy or use such vehicle for the purpose of prostitution, lewdness or for any illegal purpose, with knowledge or reasonable cause to know that the same is or is to be used for such purpose, or to direct, take or transport, or offer or agree to direct, take or transport any person to any building or place or to any other person, with knowledge or reasonable cause to know that the persons purpose of such directing, taking or transporting is prostitution, lewdness or for any illegal purpose.

Sec. 29-15. - Reports concerning passengers.

It shall be the duty of the owner or operator or dispatching office of the owner or operator of any vehicle, or any affiliated TNC permitted under this article to keep a daily record of the following information:

(1) The time and place at which all passenger or passengers engage the vehicle.

(2) The time and place at which such passengers were delivered to their destination.

(3) The amount of the fare received.

(4) It shall be the duty of every owner or operator of every vehicle permitted under this article to preserve all reports required by this section for not less than three (3) months and to exhibit the same to the city upon demand. The audit provisions of TNC's in Section 29-100 shall satisfy the exhibition requirement of this subsection.

Sec. 29-16. - Failure to pay.

It shall be unlawful for any person to refuse to pay the driver of any vehicle permitted under this article the rate fixed for the services rendered such person. On the trial of any person for a violation of this section, it may be shown in mitigation or justification of the offense that the permitted vehicle did not have posted therein, or in the associated digital network or online-enabled application service, if applicable, the schedule of rates to be charged, as required by this article.

Sec. 29-17. - Application for chauffeur's licenses.

(a) An application for a chauffeur's license shall be filed with the Revenue Officer on forms provided by the city. Such form shall be verified under oath subject to the penalty of perjury, and shall contain the following information:

(1) That the applicant is a citizen of the United States or an alien admitted for permanent residence who has otherwise been granted employment authorization by the United States Immigration and Naturalization Service.

(2) That the applicant is nineteen (19) years of age or over.

(3) That the applicant:

a. Does not have a record of more than three (3) moving violations in the prior three (3) year period, or one (1) major violation in the prior three (3) year period (including, but not limited to, attempting to evade the police, reckless driving, or driving on a suspended or revoked license);

b. Has not been convicted, within the past seven (7) years, of driving under the influence of drugs or alcohol, fraud, sexual offenses, use of a motor vehicle to commit a felony, a crime involving property damage, and/or theft, acts of violence, or acts of terror;

c. Is not a match in the National Sex Offender Registry database;

d. Possesses a valid driver's license.

e. Does not have a general reputation for turbulence, violence or instability of character in the community where he resides;

f. On making application for a chauffer's license each applicant shall submit with the application the following: thirty dollars ($30.00) for the processing fee, a money order or cashier's check in the amount of five dollars and seventy-five cents ($5.75) payable to the Alabama Department of Public Safety for the applicant's driver's history, a cashier's check or money order in the amount of eighteen dollars ($18.00) payable to the Treasury of United States for the applicant's Federal Bureau of Investigation background check and twenty-five dollars ($25.00) by cashier's check or money order made payable to the State of Alabama, along with a release form to the state, to obtain a criminal background history from the state. All forms are available at the Revenue Department. Once completed, all forms must be submitted to the Revenue Officer or his designee.

g. The foregoing notwithstanding, in lieu of complying with the application procedures set out in this section, the driver of a vehicle for hire may comply with the TNC driver requirements in Section 29-96 and present evidence of said compliance to the Revenue Department.

Sec. 29-18. - Investigation of applicant; duties of the Revenue Officer; issuance of temporary license.

(a) When applying for a chauffeur's license under Section 29-17, each applicant shall, at the applicant's expense, obtain a comprehensive criminal background check from the National Crime Information Center ("NCIC"). The NCIC report shall include a list of all misdemeanors or felonies of which the applicant has been convicted, stating the names and locations of the court in which, and the date on which, such convictions were issued and the penalties imposed therefor.

(b) (1) Any applicant who has been convicted, within the past seven (7) years of driving under the influence of drugs or alcohol, fraud, sexual offenses, use of a motor vehicle to commit a felony, a crime involving property damage, and/or theft, acts of violence or acts of terror shall be ineligible for a chauffeur's license.

(2) Any applicant who is a match on the National Sex Offender Registry data base shall be ineligible for a chauffeur's license.

(3) Any applicant who has been placed on probation or parole or forfeited a cash bond to appear in court to answer to one (1) of the offenses listed in subsection (b)(1) may be found ineligible for a chauffeur's license.

(4) Any applicant charged with one (1) of the criminal offenses listed in subsection (b)(1) during the application process may be found ineligible for a chauffeur's license until the charges are resolved, and, upon conviction, shall be ineligible.

(c) The applicant shall accompany the application and release form submitted to the Revenue Officer or his designee with a certified cashier's check or money order payable to Treasury of the United States in an amount sufficient to obtain a comprehensive criminal background check. The Revenue Officer or his designee will mail the completed application and payment to NCIC.

(d) Upon receipt of the application, the Revenue Officer or his designee shall perform a preliminary criminal background check for the purpose of determining whether the applicant is eligible for a temporary chauffer's license pending receipt of the NCIC comprehensive criminal background check. The preliminary background check shall include an investigation of the applicant's character, reputation, driving record, record of arrests and convictions, if any. The Revenue Officer or his designee may secure such information as may be required to insure compliance with the requirements of this article, including photographing and fingerprinting of the applicant.

(e) Upon completion of the initial examination of the applicant's qualifications, an applicant found to meet all eligibility requirements shall be issued a temporary city driver's license. The temporary certificate shall be valid for a period not exceeding one hundred eighty (180) days (subject to extension for such longer period as may be necessary to receive a report from NCIC provided the delay results solely from the acts or omissions of NCIC). On the completion of the investigation by the Revenue Officer, or his designee, the Revenue Officer or his designee shall either:

(1) Issue a temporary chauffer's license to the applicant; or

(2) Refuse to issue such license and notify the applicant of the reasons for such refusal.

(f) If at any time after issuance of a temporary chauffeur's license the Revenue Officer or his designee learns that the applicant cancelled his or her request for a comprehensive criminal background check from NCIC, the temporary license shall immediately be withdrawn and the applicant shall thereafter be ineligible for a chauffeur's license.

(g) The applicant shall bring the NCIC report to the Revenue Officer or his designee upon receipt. If the report establishes that the applicant fails to meet the requirements for a chauffeur's license, the temporary license shall be revoked and the applicant will be found ineligible for a chauffer's license. If the report establishes that the applicant meets the requirements, the Revenue Officer or his designee shall issue a chauffeur's license. On the issuance of a chauffeur's license, the temporary license shall automatically terminate.

Sec. 29-19 General Condition and Maintenance of Vehicles

(a) Each passenger motor vehicle for hire permitted under this article, including taxicabs and TNC vehicles, shall be maintained by the owner in good mechanical and safe condition at all times.

(b) Each vehicle permitted in this article shall be in a clean condition free of foreign matter and offensive odors. There shall be no litter in the vehicle or trunk. The seats shall be clean and without holes or large wear spots. The vehicle shall contain a spare tire, a jack, sufficient trunk space (within reason) for passenger’s luggage, a functional means of communication for limousines, sedans and shuttles and a functional two-way radio for taxicabs which will serve as means of communication between the company and the driver.

(c) There shall be no tears or rust holes in the vehicle body. The paint shall not be peeling or in a faded condition. No loose pieces such as fenders, bumpers or trim shall be hanging from the vehicle body. There shall be no unrepaired body damage or any body condition which would create a safety problem or interfere with the operation of the vehicle.

(d) The Revenue Department may conduct random inspections of any vehicle permitted under this article at any time. The inspections shall be made to determine that the vehicle is in a reasonably good state of repair, clean, and equipped and being operated in compliance with all requirements of this article. The inspection shall be made at a place designated by the Revenue Officer. Inspections may include, but are limited to, foot brakes, parking brake, head lamps, tail lamps, license plate lamps, windshield wipers, heating, ventilating and air conditioning systems, safety belts and air bags, speedometer, turn indicator lights, stop lights, horn, rearview mirror, all glasses, cleanliness, safety, condition of paint, steering mechanism, tires, mufflers and exhaust system, condition of the body of the vehicle and fenders. If the inspection reveals that the vehicle is not in a reasonably good operating condition, from the standpoint of safety, health and comfort of passengers, the Revenue Officer shall order the vehicle out of service until remedial repairs and corrections have been made. When the repairs and corrections have been made, the vehicle shall be reinspected to determine whether or not proper repairs and corrections have been made, and in no case shall the vehicle be permitted to resume its operation until repairs and corrections have been made. It shall be unlawful for a permittee to utilize any vehicle for hire that has been ordered out of service until the vehicle has been reinspected and the Revenue Officer authorizes resumption of its use.

Sec. 29-20. - Suspension and revocation.

(a) Violations of any regulations of this article may be cause for suspension of the permit or license to operate a vehicle permitted under this article. The Revenue Officer or his designee may suspend a permit or license for cause.

(1) Upon receipt of notification of suspension, the permittee or licensee, within fifteen (15) days, may submit a written request for a hearing to be held before the City Council. The receipt of a written request by the Revenue Officer or his designee for a hearing within the prescribed time shall stay the suspension pending final disposition unless it is determined by the Revenue Officer that it would endanger public safety to allow the permittee or licensee to continue operating.

(2) A hearing shall be held at the next regularly scheduled public City Council meeting provided that it is at least seven (7) days following the receipt of the hearing request. At such public hearing the permittee or licensee shall be provided an opportunity to be heard. The City Council may require the Revenue Officer to appear.

(3) The City Council shall render a decision within ten (10) days from the date of such hearing.

(4) The Revenue Department shall reinstate the permit or license upon written application after the period of suspension has elapsed and after the Revenue Department has determined that such permittee or licensee is in compliance with all the regulations pertaining to drivers of vehicles permitted under this article.

(b) If any violations of any regulations pertaining to vehicles permitted under this article are deemed to be of such an emergency nature as to endanger public safety, the Revenue Department shall immediately suspend the permit or license for committing such a violation.

(c) Any permit or license granted under this article may be revoked by the city council at their discretion, at any time after not less than thirty (30) days in writing shall have been given the permit or license holder thereof that such may appear before the city council and show cause why the permit or license shall not be revoked. Such notice shall be signed by the Revenue Officer or his designee or as may be otherwise directed by the city council and may be served upon the permittee or licensee personally or by certified mail. Any permit or license shall be deemed suspended upon initiation of revocation proceedings and shall remain suspended pending city council's action on revocation.

Secs. 29-21-29-49. - Reserved.

DIVISION 2. - INSURANCE

Sec. 29-50. - Insurance for all vehicles permitted under this article.

(a) It shall be unlawful for any person, either as owner, operator, driver or lessee, to operate or drive, or permit to be operated or driven, a vehicle permitted under this article in the city, unless such vehicle is covered by a public liability insurance policy complying with the terms of this article. It shall likewise be unlawful for any person to display any sign indicating that the person provides the services permitted under this article, without complying with all of the provisions of this division.

(b) Any holder of a permit under this article automatically forfeits such permit, and such permit shall become void and of no effect, if such permit holder operates or permits the operation of any vehicle permitted by this article in the city without such vehicle being at the time covered by a liability insurance policy as provided in this division.

(c) The policy of insurance required by this division shall be subject to approval by the Revenue Officer or Revenue Department as to the sufficiency of the insurer and by the city attorney as to the form and terms of the policy, and, when so approved, shall be filed with and remain on file in the Revenue Department.

(d) The insurance policy required by this division shall provide that it cannot be cancelled until thirty (30) days written notice of such cancellation shall have been filed with the Revenue Officer, stating the day and time when such cancellation shall become effective. If such policy is cancelled and the owner or operator of the vehicle permitted under this article fails to provide another policy of insurance complying with the provisions of this division on or before the effective date of such cancellation, then the license or permit issued for such vehicle shall automatically become null and void and of no effect. The cancellation of any policy shall in no way effect or terminate any liability for accident occurring prior to the effective day and time of such cancellation. No cancellation notice shall be recalled by a letter of reinstatement.

(e) No license or permit to operate a vehicle permitted under this article in the city shall be issued to any person until he has complied with all the provisions of this division.

Sec. 29-51. - Insurance requirements pertaining to vehicles for hire

(a) This insurance policy required by this division shall provide liability coverage in the minimum limits required by the state public service commission but in any event not less than one hundred thousand dollars ($100,000.00) for the injury or death of any one (1) person and three hundred thousand dollars ($300,000.00) for injury or death of any number of persons in any one (1) accident and also for a coverage of at least one hundred thousand dollars ($100,000.00) for property damage in any one (1) accident, such coverage to be effective whether the vehicle for hire was, at the time of any accident, being driven by the owner, agent, employee, lessee or licensee. Such policy shall not be canceled or suspended, either by the insured or the insurer, unless at least thirty (30) days' notice in writing of the intention to cancel or suspend policy has been filed with the revenue department, and upon such suspension or cancellation of insurance, the vehicle for hire of said insured shall stand suspended until such time as an acceptable policy and certificate of insurance shall be on file with the revenue department.

(b) It is not required that such coverage shall apply to bodily injury or to death of any employee of the insured while engaged in the employment, other than domestic, of the insured, or while engaged in the operation, maintenance or repair of such vehicle for hire, nor any obligation for which the insured or any company as such person's insurer may be held liable under any worker's compensation law.

(c) The insurance coverage required by this section shall be commercial vehicle for hire insurance and the city shall be named as an additional insured endorsed on the policy.

(d) Proof of insurance must be physically present in each licensed vehicle for hire.

(e) The insurance policy required by this division shall be issued by a solvent, incorporated insurance company authorized to write automobile liability insurance in this state and whose agent is engaged in business in this county.

(f) The policy of insurance required by this division shall recite the year, model, body type, motor number and trade name or name of the maker of the vehicle for hire covered thereby.

Sec. 29-52. - Insurance requirements pertaining to transportation network company vehicles.

Transportation network companies and transportation network company drivers shall at all times maintain insurance coverage as set out in Act No. 2016-409 of the Legislature of Alabama.

Secs. 29-53-29-69. - Reserved.

DIVISION 3. - VEHICLE FOR HIRE; TAXI CABS

Sec. 29-70. - Identification of vehicles.

(a) All taxicabs shall have the words "taxi" or "taxicab" or "cab" painted or decaled on at least one (1) door on each side of the taxicab in letters not less than two (2) inches in height and of corresponding width, in paint of a different color from that of remainder of the door so as to be easily read. For LSV taxicabs, the vehicle body may be used to comply, in a manner as approved by the city Revenue Department, to paint or affix by decal the words "taxi" or "taxicab" or "cab" to the vehicle.

(b) All taxicabs shall have a unit number painted or decaled on both sides of the body of each taxicab on the front end and rear end of each taxicab in numerals of at least three (3) inches in height. Any person with more than one (1) taxicab shall have a different unit number painted on each taxicab. For LSV taxicabs, the vehicle body may be used to comply, in a manner as approved by the Revenue Department, to paint or affix by decal a number to the vehicle.

(c) All taxicabs shall have a sign on top of the taxicab that includes the words "taxi" or "taxicab" or "company name" that is visible both day and night.

(d) All taxicabs shall have the name of the corporation or person that is the owner or operator painted on both sides of the taxicab in letters not less than two (2) inches in height and corresponding width, in paint of a different color from that of the remainder of the door so as to be easily read.

(e) The color scheme for taxicabs shall be the same as that proposed in the application for a license and all taxicabs within any company must be the same. A diagram of the vehicle with colors, color number, name, and any logo must be attached. Any changes must be approved by the Revenue Officer or his/her designee. This section shall not apply to any licensed vehicle for hire in operation at the time of the adoption of the ordinance from which this section is derived. Effective January 1, 2017, all taxicab companies must have on file a registered color scheme.

Sec. 29-71. - Unlicensed vehicles not to operate under taxicab license plates; surrender of license plates.

It shall be unlawful for any person to operate a private motor vehicle in the city under a state taxicab license plate without also having obtained a taxicab license plate from the city. If a taxicab ceases to operate as such a vehicle, all taxicab license plates shall be turned over by the operator to the Revenue Officer on the day that the operation of such vehicle as a taxicab ceases. The Revenue Officer shall retain such license plates until such vehicle qualifies as a taxicab under the provisions of this article or until such plates expire. The fact that a vehicle is not insured or identified as a taxicab as required by this article shall be prima facie evidence that such vehicle is a private one and not a taxicab.

Sec. 29-72. - Posting fares.

(a) The rates of fares for any taxicab shall be posted in a conspicuous place in such taxicab at a place where the same is well lighted and is clearly discernible and visible to any passenger within such vehicle.

(b) The foregoing notwithstanding, no owner or driver of a vehicle under permitted under this division shall be in violation of this section for charging a fare that is made known to the customer and accepted by the customer before the customer decides to accept the services offered.

Sec. 29-73. - Amounts charged.

(a) It shall be unlawful for the owner, driver, or operator of any taxicab to charge any passenger a fare for the use of such taxicab which is in excess of the rate displayed within the taxicab. Passengers shall have the right to pro-rate charges among themselves as they see fit. In the event the passengers cannot reach agreement as to their respective share of the total fare, the driver then shall be allowed to collect the fare to the point of final destination from the first passenger engaging the taxicab.

(b) No driver shall allow or permit any other person to occupy or ride in such taxicab unless the person or persons first employing the taxicab shall consent to the acceptance of additional passengers.

(c) If a vehicle for hire is carrying two (2) or more persons to different destinations, the driver shall be the sole judge of the order in which such persons shall be delivered to their destination, and the shortest possible route to all destinations shall be followed.

(d) No vehicle for hire driver shall stop to pick up any additional passengers while proceeding to the destination of any passengers then occupying the vehicle for hire without the consent of all such passengers.

Sec. 29-74. - Transportation of passenger's baggage without charge.

Each passenger of any taxicab shall be allowed to have conveyed with such passenger in such vehicle, without charge, therefore, such person’s traveling baggage, not exceeding in the aggregate forty (40) pounds in weight.

Sec. 29-75. - Prohibition against preferences and referral fees.

It shall be unlawful for any hotel, motel, restaurant, cab starter, bell person, maitre d', or other person having the ability or authority to control the selection of taxicabs available for hire at any business premises to solicit a fee or other compensation or favor for the purpose of granting preference or priority rights to any taxi.

Sec. 29-76. - Driver to give certain information upon request.

Every driver of a vehicle for hire in the city, upon request to do so, shall give to any person who has been a passenger in the vehicle, or who is about to become a passenger, or to any police officer, the license number and name of such driver, the license number of such vehicle, the name of the person by whom the driver is employed, and the rate per mile, and the odometer reading if related to the service being offered.

Secs. 29-77-29-89. - Reserved.

DIVISION 4. - TRANSPORTATION NETWORK COMPANIES

Sec. 29-90. - Purpose; authorization.

Transportation network services provide an alternate form of transportation for residents and visitors to the city. The purpose of this division is to authorize use of the city's rights-of-way by transportation network company drivers in a manner that is safe, convenient and serves the public welfare.

Sec. 29-91. - TNC permit required.

(a) A person shall not operate a TNC in the city without first having obtained a permit from the city, however, a person operating a TNC in the city as of the effective date of this article may continue to operate for a period of thirty (30) days following the effective date of this article so as to permit the person or entity to obtain a permit from the city pursuant to this section.

(b) Each applicant for a permit to operate a TNC shall comply with the requirements of this article and pay an annual fee of one thousand dollars ($1,000.00), due January 1 and last payable without penalty February 15 of each year.

(c) A TNC permit is a privilege and not a right. A TNC shall be subject to suspension or revocation of its permit for failing to comply with the requirements of this article.

Sec. 29-92. - Agent.

The TNC must at all times it operates in the municipal limits of the city or its police jurisdiction provide the city with current contact information including an agent to accept service of process in the state.

Sec. 29-93. - Fare charged for services.

On behalf of a TNC driver, a TNC may charge a fare for the services provided to riders; provided that, if a fare is charged, the TNC shall disclose to riders, the fare or fare calculation method on its website or within the online-enabled application service. The TNC shall provide riders with the applicable rates being charged and provide riders the option to receive an estimated fare before riders decide to accept the services offered.

Sec. 29-94. - Identification of TNC vehicles and drivers.

(a) The TNC's online-enabled application or website shall provide:

(1) the potential rider a picture of the TNC driver, and

(2) The license plate number of the motor vehicle utilized for providing the TNC service before the rider enters the TNC driver's vehicle.

(b) All vehicles operating through transportation network company shall have a sign not less than two (2) inches in height and of corresponding width on at least one (1) door identifying the transportation network company or the associated digital platform, and color contrasted so as to be visible from a distance of at least twenty (20) feet. A magnet or other temporary sign shall satisfy this section if the height and width requirements are met.

Sec. 29-95. - Receipt.

Within a reasonable period of time following the completion of a trip, a TNC shall transmit a receipt to the passenger that lists:

(1) The origin and destination of the trip;

(2) The total time and distance of the trip; and

(3) An itemization of the total fare paid, if any.

Sec. 29-96. - TNC driver requirements.

(a) Prior to permitting an individual to act as a TNC driver on its digital platform, the TNC shall:

(1) Require the individual to submit an application to the TNC, which includes information regarding his or her address, age, driver's license, motor vehicle registration, automobile liability insurance, and other information required by the TNC;

(2) Conduct, or have a third party conduct, a local and national criminal background checks for each applicant that shall include:

a. Multi-state/multi-jurisdiction criminal records locator or other similar commercial nationwide database with validation (primary source search); and

b. U.S. Department of Justice National Sex Offender Public Website.

(b) The TNC shall not permit an individual to act as a TNC driver on its digital platform who:

(1) Has had more than three (3) moving violations in the prior three (3) year period, or one (1) major violation in the prior three (3) year period (including, but not limited to, attempting to evade the police, reckless driving, or driving on a suspended or revoked license);

(2) Has been convicted, within the past seven (7) years, of driving under the influence of drugs or alcohol, fraud, sexual offenses, use of a motor vehicle to commit a felony, a crime involving property damage, and/or theft, acts of violence, or a violation that constitutes a felony under the Anti-Terrorism Act of 2002, Code of Ala. 1975, § 13A-10-150 et al., or a similar felony under the laws of another jurisdiction.

(3) Is a match in the U.S. Department of Justice National Sex Offender Public Website.

(4) Does not possess a valid driver's license;

(5) Does not possess proof of registration for the motor vehicle(s) used to provide TNC services;

(6) Does not possess proof of automobile liability insurance for the motor vehicle(s) used to provide TNC services; or

(7) Is not at least nineteen (19) years of age.

Sec. 29-96. - No street hails.

A TNC driver shall exclusively accept rides booked through a TNC's digital network or online-enabled application service and shall not solicit or accept street hails.

Sec. 29-97. - No discrimination; accessibility.

(a) The TNC shall adopt a policy of non-discrimination on the basis of destination, race, color, national origin, religious belief or affiliation, sex, disability, age with respect to passengers and potential passengers and notify TNC drivers of such policy.

(b) TNC drivers shall comply with all applicable laws regarding nondiscrimination against passengers or potential passengers on the basis of destination, race, color, national origin, religious belief or affiliation, sex, disability, age, sexual orientation.

(c) TNC drivers shall comply with all applicable laws relating to accommodation of service animals.

(d) A TNC shall not impose additional charges for providing services to persons with physical disabilities because of those disabilities.

(e) A TNC shall provide passengers an opportunity to indicate whether they require a wheelchair-accessible vehicle. If a TNC cannot arrange wheelchair accessible TNC service in any instance, it shall direct the passenger to an alternate provider of wheelchair-accessible service, if available.

Sec. 29-98. - Records.

A TNC shall maintain:

(1) Individual trip records for at least two (2) years from the date each trip was provided;

(2) TNC driver records at least until the two (2) year anniversary of the date on which a TNC driver's activation on the TNC digital network has ended; and

(3) When requested, and no more frequently than on a biannual basis, the TNC shall allow the city to visually inspect or audit the records of the TNC for purposes of verifying that the TNC is in compliance with the requirements of this article including, but not

limited to, vehicle inspections, proper completion of criminal background checks, and proper insurance. The audit shall take place at a mutually agreed locale in the city. The city does not assume any responsibility for the operations of the TNC, its drivers or any actions or omissions arising in connection with its activities, which, at all times, shall remain the responsibility of the TNC.

Secs. 29-99-29-109. - Reserved.

ARTICLE II. PEDICABS

Sec. 29-110. - Definitions

"Pedicab" means a multi-wheeled, hooded or unhooded vehicle that is primarily propelled by human power, is used in the transport of passengers and is available for hire on the public streets.

"Operator" means the person who is in actual physical control of the pedicab.

"Person" means an individual, corporation, firm, partnership, limited liability company, association or organization.

Sec. 29-111 - Pedicab operating area.

Boundaries of the pedicab operating area shall be shown on Exhibit "A", the pedicab operating area map, adopted herein by reference and shall remain on file in the Opelika Revenue Department. Generally, its boundaries are all areas within a two (2) mile radius of the Opelika Train Depot located at 1032 South Railroad Avenue. Pedicabs are further restricted to not traveling on any street or section of a street with a posted speed limit of greater than thirty-five (35) mph. The Revenue Officer or his or her designee may extend the operating area beyond the boundaries described herein for special events. Any extension of the operating boundaries must be in writing limited to a specified date and time and be in the possession of any operator who travels into the extended area.

Sec. 29-112 - Pedicab equipment.

Each pedicab shall be equipped at all times and maintained in good operating condition with the following items and equipment:

(a) Headlights;

(b) Taillights;

(c) Turn indicators for left and right turn on the back of the pedicab;

(d) A braking system;

(e) Rubber on all wheels;

(f) A slow-moving vehicle triangle attached to the rear of the pedicab with an orange fluorescent center and red reflective borders. The triangle shall be at least sixteen (16) inches wide at the bottom and at least fourteen (14) inches in height.

(g) Reflective tape, a minimum of eighteen (18) inches in length x two (2) inches in width of seven-inch white x eleven-inch red Alabama Department of Transportation (ALDOT) compliance prismatic conspicuity retro-reflective tape displayed on both sides of the pedicab;

(h) Proof of insurance;

(i) Reserved;

(j) Side mirrors;

(k) Brake lights and turn indicators;

(l) Horn;

(m) Reserved;

(n) Name and telephone number of the company operating the pedicab along with a unit number. The lettering shall be plainly visible of a size and location to be approved by the Revenue Officer or his or her designee.

Sec. 29-113 - Rules for operation of pedicabs.

(a) [*Insurance*.] Each pedicab shall be insured for at least the following minimum limits: one hundred thousand dollars ($100,000.00) bodily injury for each person, three hundred thousand dollars ($300,000.00) bodily injury for each accident and property damage limits of one hundred thousand dollars ($100,000.00).

(b) Pedicab width. No pedicab shall be wider than ninety-five (95) inches at its widest point.

(c) [Speed]. No pedicab shall operate on a street with a posted speed limit of greater than 35 mph except for the purpose of crossing that street.

(d) [Vehicle identification number.] No pedicab shall operate without a clearly visible manufacturer’s vehicle identification number.

(e) Passengers restriction. No pedicab shall be operated transporting more than the manufactured recommended maximum number of passengers or exceeding the manufacturer’s recommended weight limit.

(f) *Standing*. No pedicab shall stand or park on any public street or walkway for longer than is necessary to load or unload passengers.

(g) *Fares*. The fare and schedule of fares shall be available upon request to any passengers upon entry into or while seated in the pedicab.

(h) *[Condition of pedicab.]* All pedicabs shall be in good mechanical working order, have no exposed rust, ripped upholstery or fabric, have no visible chips or scratches on painted surfaces, have no exposed untreated wood and the passenger compartment shall be kept in a clean and sanitary condition.

(i) *[Operator identification card.]* No person shall operate a pedicab without a valid operator identification card.

(j) *[Inspection decal.]* No person shall operate a pedicab without a valid inspection decal.

(k) *[Required equipment.]* No person shall operate a pedicab without all equipment required by section 29-112.

(l) *[Area of operation]* No person shall operate a pedicab outside of the operating area defined by section 29-110.

ARTICLE III HORSE-DRAWN CARRIAGES

Sec. 29-114 Permit Required.

Except in connection with special events authorized by City officials, including but not limited to, parades and weddings, it shall be unlawful for any person to drive or permit to drive a horse-drawn carriage on the streets of the City. The Revenue Officer may issue permits for special events subject to such reasonable conditions as the Revenue Officer may impose.

Sec. 29-115 Diapers.

No equine shall pull a horse-drawn carriage unless the equine is wearing a diaper. Diapers must be properly fitting and constructed of a sturdy material to enforce comfort to the equine and complete waste disposal. Any excrement which shall fall upon the streets of the City shall be immediately removed by the driver. If any excrement should fall on the streets of the City and is not immediately removed by the driver, it may be removed by the City and the expense of the removal shall be recovered from the permittee.

Sec. 29-116 Shoes.

No equine shall be used to pull a horse-drawn carriage without properly fitted shoes on each properly trimmed hoof.

Sec. 29-117 Water.

Adequate water for equine pulling horse-drawn carriage will be provided at all times as often as needed and as climate conditions require.

Sec. 29-118 Trailers.

Any trailer or vehicle involved in transporting equine governed by this article must be in good working order and must be near the working location to provide speedy removal of any equine in an emergency situation.

Sec. 29-119 Fares.

A schedule of fares shall be conspicuously displayed on signs that shall be hung or painted on the exterior sides of the carriage. The signs should bear the amount to be charged per trip and the maximum number of passengers to be carried. It shall be unlawful to charge any rate in excess of the fare so displayed or to carry more than the specified number of passengers.

Sec. 29-120 Operating Regulations.

(a) Equine drawn vehicles shall observe applicable traffic rules and regulations.

(b) The driver of an equine drawn carriage shall:

(1) Possess and display at all times his or her special event permit from the Revenue Officer.

(2) Not drive a carriage when a passenger is standing in the carriage or not seated securely inside the carriage.

(3) Provide humane care of the equine under his or her direct supervision or control.

(4) Not drive or operate an equine drawn carriage on any public street in the City or any day or time unless approved by the Revenue Officer.

Sec. 29-121 Permit Application.

An application for a special event permit hereunder shall include the following information:

(a) The name, address and telephone number of the applicant.

(b) The carriages to be operated.

(c) The operators of the carriages.

(d) The horses which will be pulling the carriages.

(e) A general description of the area and the streets on which the carriages are to be operated.

(f) The dates and times the carriages will be operated.

(g) The locations for loading and unloading passengers.

(h) Such other information as the Revenue Officer may require.

Sec. 29-122. Insurance Requirements.

No permit shall be issued or remain in effect unless the permittee, at the permittee's expense and without cost to the City, shall procure, maintain in force and on file with the Revenue Office, sufficient evidence of a general liability policy naming the City as an additional insured covering bodily injury, including death, in the amount of $100,000 for any one person, $300,000 for bodily injury for each accident and property damage limits of $100,000.00.

Sec. 29-123. Fees.

The fees for special event permits under this article shall be as follows:

Annual Permit Fee $10.00 per carriage

Sec. 29-124. - 29-149--- Reserved.

ARTICLE IV ENFORCEMENT; VIOLATIONS; AND PENALTIES.

Sec. 29-150. Violations; Penalties

(a) Any person who violates a provision of this chapter or fails to perform an act required of the person by this chapter commits an offense. A person commits a separate offense for each day during which a violation is committed

(b) An offense under this chapter is punishable as provided in Section 1-8 of this *Code* and the City may enforce the provisions of this chapter through any other means prescribed in this chapter.

Sec. 29-151. Civil Remedies and Enforcement.

(a) The City Council is hereby authorized to institute any appropriate action or proceeding, including suit for injunctive relief in order to prevent or abate any violations of this chapter. Filing a suit for injunctive relief shall not be a bar against or a prerequisite for taking any other action against the offender.

(b) The City Council shall have the right to revoke or refuse to renew the business license of any non-compliant owner or operator.

Sec. 29-152. Remedies Not Exclusive.

The remedies provided for in this chapter are not exclusive. The City may take any, all or any combination of actions against a non-compliant owner, operator or business.

Section 2. **Incorporation Into the *Code of Ordinances.*** The provisions of this Ordinance shall be included in and incorporated into the *Code of Ordinances* of the City of Opelika, Alabama, and shall replace the provisions of Chapter 29 of the *Code of Ordinances* and shall be renumbered to conform to the uniform numbering system of the *Code.*

Section 3. **Severability Clause.** If any section, subsection, clause, sentence or phrase of this ordinance is held to be invalid or unconstitutional by any court of valid jurisdiction, said section shall in no way effect the validity of the remaining portions of this Ordinance.

Section 4. **Repealer Clause.** All ordinances or parts of ordinances in all sections of the *Code* of the City of Opelika in conflict herewith or to the extent of such conflict, are hereby repealed.

Section 5. **Effective Date**. This ordinance and the section adopted shall become effective and enforced immediately upon its passage and publication as required by law.

Section 6. **Publication**. The City Clerk of the City of Opelika, Alabama is hereby authorized and directed to cause this Ordinance to be published one (1) time in a newspaper of general circulation published in the City of Opelika, Lee County, Alabama.

ADOPTED AND APPROVED this the _____day of _________________, 2016.

____

PRESIDENT OF THE CITY COUNCIL OF THE

CITY OF OPELIKA, ALABAMA

ATTEST:

____

CITY CLERK

TRANSMITTED TO MAYOR on this the _____day of ______________________, 2016.

____

CITY CLERK

ACTION BY MAYOR

APPROVED this the _____day of __________________________, 2016.

____

MAYOR

ATTEST:

CITY CLERK

ORDINANCE NO. (ID # 2035)

Amending Business License Code - First Reading.

ORDINANCE NO.__________

AN ORDINANCE AMENDING THE BUSINESS LICENSE CODE OF THE CITY OF OPELIKA, ALABAMA BY AMENDING SECTIONS 14-326 AND 14-327 OF THE *CODE OF ORDINANCES* OF THE CITY OF OPELIKA

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

Section 1. **Amendment to Section 14-326 of the *Code of Ordinances*.** That Section 14-326 of the *Code of Ordinances*--**CLASSIFICATION OF BUSINESSES; TAX RATES-**as amended, be and is further amended in the following respect:

(a) That NAICS Sub-Sector 8128, General Services-Manicurist is hereby amended to read as follows:

8128	General Services -Manicurist	GS

(b) That NAICS Sub-Sector 485320-Limousine Services is hereby amended to read as follows:

485320	Limousine Services Before a license can be issued, applicant must meet all regulations and prerequisites of all City of Opelika ordinances pertaining thereunto.	GS

(c) That NAICS Sub-Sector 4921 Services/Delivery Services (local) is hereby deleted.

(d) That Section 141-326 is further amended to add the following NAICS Sub-Sector 48599-Other Transit; Ground Passage Transportation as follows:

48599	Other Transit; Ground Passenger Transportation Before a license can be issued, applicant must meet all regulations and prerequisites of all City of Opelika ordinances pertaining thereunto.	GS

(e) That NAICS Sub-Sector 48511-Miscellaneous Taxicab Company is amended to read as follows:

48511	Miscellaneous - Taxicabs; Pedicabs	MS

(f) Except as specifically amended or changed above, all other classifications, NAICS Sectors and Sub-Sectors shall remain in full force and effect.

Section 2. **Amendment to Section 14-327 of the *Code of Ordinances*.** That Section 14-327 of the *Code of Ordinances*, as amended, be and is further amended in the following respect:

(a) That Schedule 48511-Taxicab Company is amended to read as follows:

NAICS #:	485	
	11 Taxicab and Pedicab Company	
	All Taxicab and Pedicab company licenses are $100.00 plus $30.00 for each taxi vehicle and pedicab. Before a license can be issued, applicant must meet all regulations and prerequisites of all City of Opelika ordinances pertaining thereunto	

(b) Except as specifically amended or changed above, all of the schedules of license fees as shown in Section 14-327 shall remain in full force and effect.

Section 3. **Non Repealer Clause.** Nothing in this ordinance shall be construed to repeal or amend any other portion of Article XII of Chapter 14 of the *Code of Ordinances*, except as expressly provided herein.

Section 4. **Severability Clause.** If any section, subsection, clause, sentence, phrase or word of this ordinance is declared or judged to be invalid or unconstitutional such declaration or adjudication shall not affect the remaining portions of this ordinance which shall remain in full force and effect as if the portion so declared or adjudged invalid or unconstitutional was not originally a part of this ordinance.

Section 5. **Effective Date**. This ordinance shall become effective upon its passage and publication as required by law.

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

ADOPTED AND APPROVED this the _____day of __________________, 2016.

____

PRESIDENT OF THE CITY COUNCIL OF THE

CITY OF OPELIKA, ALABAMA

ATTEST:

____

CITY CLERK

TRANSMITTED TO MAYOR on this the _____day of ____________________, 2016.

____

CITY CLERK

ACTION BY MAYOR

APPROVED this the _____day of _______________________, 2016.

____

MAYOR

ATTEST:

____

CITY CLERK