OPELIKA CITY COUNCIL
" REGULAR MEETING AGENDA "
204 South 7th Street
March 21, 2017
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. La'Dajah Huguley and John Knitter from the Opelika Middle School.

5. READING OF MINUTES
    1. Minutes for the 3-07-17 City Council Meeting.

6. UNFINISHED BUSINESS

7. REMARKS BY THE MAYOR
    1. Building Permit Reports - February, 2017
    2. Recognition of Gerry Wiggins in OES with a performance award.

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

9. REPORT OF DISBURSEMENTS

10. COMMITTEE REPORTS

11. GENERAL BUSINESS
    1. Request March for Babies Walk on May 13Th.
    2. Public Hearing. Fix Assessment for Removal of Building - 506 S. 4Th Street
    3. Public Hearing. Fix Assessment for Removal of Building - 1405 West Street

12. AWARDING OF BIDS
    1. Meter Testing Equipment - OPS
    2. Installation of Conduit Systems by Directional Boring and Plowing Methods - OPS
    3. Installation of Conduit Systems by Open Trench Excavation Methods - OPS
    4. Viper-ST Solid Dielectric Recloser & SEL-651R2 Control-OPS

13. RESOLUTIONS
    1. Expense Reports from Various Departments.
    2. Refund Request by HND&T for Overpayment of Occupational Fees.
    3. Refund Request West Fraser, Inc. Overpayment Occupational Fee.

4. Resolution. Fix Assessment for Removal of Building - 506 S. 4Th Street
5. Resolution. Fix Assessment for Removal of Building - 1405 West Street
6. Special Use Permit for AT&T at 1051 Douglas Street.
7. Vacate Property Shannon Court, Amend Resolution No.008-14
8. Contract with Decisions Inc. - Fire Lieutenant & Apparatus Operator Validated Selection Procedures.
9. Special Appropriation, 2017 Unity Stampede Walk/Run.
10. Resolution Opposing SB31 and HB58
11. Contract for Engineering Services for the New Central Fire Station - P/W
12. ROW Acquisition for Frederick Road Extension
13. Expense Report, David Canon.

14. ORDINANCES
    1. Amend Zoning Ord & Map: 1310 1St Avenue, 19,000 Sf Lot, from M-1 to R-4 - Tabled.
    2. Change the July 4Th Council Meeting Date to July 5Th. - 2Nd Reading.
    3. Amend City Code, Sec 19-495, Discharge of Weapons - 2Nd Reading.
    4. Amend City Code, Chapter 7 Article III, Erosion & Sediment Control - 1St Reading.
    5. Amend City Code, Chapter 7 Article IV, Post Construction Stormwater Mgt. - 1St Reading.

15. APPOINTMENTS

16. ADJOURN

City Council
204 South 7Th Street
Opelika, AL

SCHEDULED

Meeting: 03/21/17 07:00 PM
Department: City Clerk
Category: CM Minutes
Prepared By: Robert Shuman
Initiator: Robert Shuman
Sponsors:
DOC ID: 2162

CM MINUTES (ID # 2162)

Minutes for the 3-07-17 City Council Meeting.

OPELIKA CITY COUNCIL
" REGULAR MEETING MINUTES "
204 South 7th Street
March 7, 2017
TIME: 7:00 PM

1. Call to Order

President Smith called the council meeting to order asking Mr. Shuman to call the roll.

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

   All council members were present.

3. Invocation

Mr. Jay Walters provided the invocation.

4. Pledge of Allegiance
   1. Erica Wooten and Kylin Fears from the Opelika Middle School.

   Both Erica and Kylin were present to lead the Pledge of Allegiance.

5. Reading of Minutes
   1. Minutes from the 2-21-17 City Council Meeting.

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

6. Unfinished Business

7. Remarks By the Mayor

Mayor Fuller passed out a letter to the city council members documenting a full pardon that he gave to Kenya Cook.

   1. Recognition of John Huling for winning the Merit in Recreation Award from the ARPA.

   Mayor Fuller presented a certificate of recognition to John Huling for winning said award.
   2. Recognition of Reid Pope for winning the Jim Spain Professional of the Year Award from the ARPA.

   Mayor Fuller presented a certificate of recognition to Reid Pope for winning said award.

8. Citizen Communications

(Limit comments to five minutes or less)

Collin Seal introduced himself to Mayor Fuller and all the City Council members and stated his company named Grifols will be opening a new location in Opelika. This new business will be a plasma donation center.

9. Report of Disbursements

10. Committee Reports

11. General Business

12. Awarding of Bids

13. Resolutions
   1. Resolution 040-17 Expense Reports from Various Departments.

Attachment: CM 3-21-17, minutes from 3-07-17 CM (2162 : Minutes for the 3-07-17 City Council Meeting.)

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

2. Resolution 041-17 Travel Advance for OPS Apprentice Linemen

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

3. Resolution 042-17 Designate City Personal Property Surplus and Authorize Disposal

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

4. Resolution 043-17 Annual Authorization to Levy Property Tax.

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

5. Resolution 044-17 Tax Abatement Agreement with AGS Distribution & AGS Holdings.

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

6. Resolution 045-17 Special Appropriaiton to the American Cancer Society - Relay for Life.

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

7. Resolution 046-17 Agreement with LRCOG - MPO, Transportation Planning Process.

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

8. Resolution 047-17 Agreement, Sewer Project, Engineering Services / Sutton Way - P/W

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

9. Resolution 048-17 Contract with Mobile Studio, Carter-Jeter Project, Management Services.

Attachment: CM 3-21-17, minutes from 3-07-17 CM (2162 : Minutes for the 3-07-17 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

14. Ordinances

1. Ordinance Amend Zoning Ord & Map: 1310 1St Avenue, 19,000 Sf Lot, from M-1 to R-4 - Tabled.

This ordinance remained TABLED.

2. Ordinance 105-17-ORD Amend City Code, Sec 9.5, Food Vendors - Tabled.

Mr. Canon made the motion to remove said ordinance from the Table and was seconded by Mr. Smith T. The following vote was recorded:

Ayes: Jones, Pitts, Smith T, Canon, Smith
Nays: None.

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

3. Ordinance Change the July 4Th Council Meeting Date to July 5Th. - 1St Reading.

Ms. Jones introduced this ordinance for a first reading.

RESULT: **FIRST READING INTRODUCED**

4. Ordinance Amend City Code, Sec 19-495, Discharge of Weapons - Indoor Shooting Range

Mr. Canon introduced this ordinance for a first reading.

RESULT: **FIRST READING INTRODUCED**

15. Appointments

1. Reappoint Vanessa Darden to the P&R Board. The new term expires 3-15-22.

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

2. Appoint Tony Hoyett to the P&R Board. The new term expires 3-15-22.

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

3. Reappoint Virginia Graham to the Mental Health Center Board. The new term expires 4-01-23.

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

16. Adjourn

The City Council meeting minutes of March 7, 2017 are hereby adopted and approved this the ____ day of _____, 2017.

/s/

Attachment: CM 3-21-17, minutes from 3-07-17 CM (2162 : Minutes for the 3-07-17 City Council Meeting.)

President of the City Council

City of Opelika, Alabama

ATTEST:

/s/

City Clerk - Treasurer

1. Motion to adjourn.

This council meeting ended at 7:49 PM.

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

Attachment: CM 3-21-17, minutes from 3-07-17 CM (2162 : Minutes for the 3-07-17 City Council Meeting.)

City Council
204 South 7Th Street
Opelika, AL

SCHEDULED

Meeting: 03/21/17 07:00 PM
Department: Building Inspection
Category: Building Permit Report.
Prepared By: William Ott
Initiator: Jeff Kappelman
Sponsors:
DOC ID: 2156

MAYOR'S REMARKS (ID # 2156)

Building Permit Reports - February, 2017

CITY OF OPELIKA - PLANNING DEPARTMENT
BUILDING INSPECTION DIVISION
FEBRUARY, 2017 - MONTHLY BUILDING PERMIT DETAIL REPORT

Issue Date	Main Address	Work Class	Company/Owner	Valuation
2/1/2017	2106 WAVERLY PKWY	Signs	ALL ROOF SOLUTIONS INC	$5,000.00
2/1/2017	2560 PEPPERELL PKWY	Tenant Build Out	JAMAAL SANKEY	$25,000.00
2/2/2017	13 SAMFORD AVE	Signs	LEE'S SIGNS	$2,500.00
2/2/2017	4206 ACADEMY DR	Swimming Pool	MR. POOL	$24,000.00
2/2/2017	2604 3RD AVE	Roofs	RONNIE SMITH BUILDERS INC	$85,349.00
2/3/2017	2603 PEPPERELL PKWY	Roofs	BILL LYNN CONSTRUCTION INC	$3,100.00
2/6/2017	700 8TH AVE 1	Roofs	TURNER SIDING	$2,800.00
2/6/2017	2312 JEWELS WAY	Accessory Buildings	ANTHONY FINLEY	$4,500.00
2/6/2017	2702 2ND AVE	Accessory Buildings	GTR CONTRACTORS LLC	$3,500.00
2/7/2017	273 COLUMBUS PKWY	Roofs	GOLD HILL CONSTRUCTION	$4,500.00
2/7/2017	1505 MONTGOMERY ST	Alteration	GOLD HILL CONSTRUCTION	$2,735.00
2/7/2017	1200 WESTPOINT PKWY	Alteration	HARTLAND FUEL PRODUCTS, LLC	$30,000.00
2/7/2017	115 SPRING HILL AVE	Alteration	LINDA COOPER	$26,250.00
2/7/2017	1203 SAUGAHATCHEE LAKE RD	Alteration	SEARS HOME IMPROVEMENT PROD.	$27,276.00
2/8/2017	2917 STILLWOOD WAY	New Single Family Detached	BUILDERS PROFESSIONAL GRP LLC	$327,671.00
2/8/2017	721 DINGO DR	New Single Family Detached	BUILDERS PROFESSIONAL GRP LLC	$273,606.00
2/8/2017	503 HARWELL HILLS ST	Roofs	TRIPLE B CONSTRUCTION LLC	$8,466.00
2/8/2017	718 DINGO DR	New Single Family Detached	BUILDERS PROFESSIONAL GRP LLC	$225,028.00
2/8/2017	2915 STILLWOOD WAY	New Single Family Detached	BUILDERS PROFESSIONAL GRP LLC	$396,787.00
2/8/2017	2814 SPRING LAKES XING	New Single Family Detached	HOMEWORKS OF ALABAMA INC	$194,910.00
2/10/2017	306 N 9TH ST	Alteration	THOMAS BRUSH	$20,000.00
2/10/2017	212 MORRIS AVE	Alteration	SALMA AKTER	$5,000.00
2/10/2017	1441 FOX RUN PKWY	Signs	CREATIVE SIGNS	$3,204.00
2/13/2017	3700 PEPPERELL PKWY	Signs	ANCHOR SIGN INC	$7,174.00
2/13/2017	3734 PEPPERELL PKWY	Signs	DORRIS SIGN INC	$3,000.00
2/13/2017	1325 SHANNON CT	Building Shell	EVANS HUGHES & COMPANY	$400,000.00
2/13/2017	1809 COLUMBUS PKWY	New	WHATLEY CONSTRUCTION LLC	$1,409,296.00
2/13/2017	600 S 8TH ST	Alteration	A&E HOLDINGS LLC	$1,894.00
2/14/2017	2800 KINGSTON ST	Roofs	TRIPLE B CONSTRUCTION LLC	$6,400.00
2/14/2017	205 N 30TH ST	Roofs	MCCRORY CONTRACTING	$4,882.00
2/14/2017	3762 PEPPERELL PKWY	Signs	ANCHOR SIGN INC	$7,174.00
2/16/2017	2303 JEWELS WAY	New Single Family Detached	DACK HOMES WEST LLC	$215,078.00
2/16/2017	1103 CEDAR CREEK DR	New Single Family Detached	GRAYHAWK HOMES INC	$269,277.00
2/16/2017	700 7TH AVE	Roofs	TURNER SIDING	$2,800.00

Attachment: Building Inspection Reports - February, 2017 (2156 : Building Permit Reports - February,

2/16/2017	1101 CEDAR CREEK DR	New Single Family Detached	GRAYHAWK HOMES INC	$278,981.00
2/16/2017	2834 SPRING LAKES XING	New Single Family Detached	HOMEWORKS OF ALABAMA INC	$281,476.00
2/16/2017	1113 SAWYER DR	New Single Family Detached	GRAYHAWK HOMES INC	$183,981.00
2/17/2017	3250 OAK BOWERY RD BARN	Accessory Buildings	BLAKE SHAW	$120,000.00
2/17/2017	2750 GRAND NATIONAL PKWY	Accessory Buildings	COACHS CONSTRUCTION CO INC	$300,000.00
2/17/2017	3732 PEPPERELL PKWY	Signs	EFFECTIVE SIGNS LLC	$1,900.00
2/17/2017	700 6TH AVE	Alteration	JAMES HAMBLIN	$1,000.00
2/20/2017	2011 ROCKLEDGE CIR	Alteration	HOLLAND HOMES LLC	$69,871.00
2/21/2017	2916 MCKINLEY DR	New Single Family Detached	BUILDERS PROFESSIONAL GRP LLC	$360,232.00
2/21/2017	2901 HANNAH WAY	New Single Family Detached	EDGAR HUGHSTON BUILDER INC	$222,719.00
2/21/2017	510 M L KING BLVD	Alteration	GOLD HILL CONSTRUCTION	$3,075.00
2/22/2017	703 LORI LN	New Single Family Detached	BUILDERS PROFESSIONAL GRP	$240,126.00
2/22/2017	705 LORI LN	New Single Family Detached	BUILDERS PROFESSIONAL GRP	$239,676.00
2/23/2017	1898 PALIN AVE	New Single Family Detached	RLP HOMES	$215,213.00
2/24/2017	1303 CEDAR CREEK DR	New Single Family Detached	MOORES CONSTRUCTION	$270,532.00
2/24/2017	2052 TIGER TOWN PKWY	Alteration	SAFEGUARD CORPORATION	$1,942.00
2/27/2017	1008 TOWNE LAKE PKWY	New Single Family Detached	STONE MARTIN BUILDERS	$265,675.00
2/27/2017	1023 RENFRO AVE	Accessory Buildings	SHIRLEEN STONE	$2,168.00
			Total	**$7,091,724.00**

TAKEN FROM THE RECORDS OF THE BUILDING INSPECTOR

JEFF KAPPELMAN
Chief Building Inspector

Attachment: Building Inspection Reports - February, 2017 (2156 : Building Permit Reports - February,

Planning Department - Building Inspections Division
Telephone 334-705-5420
Fax 334-705-5159

Rich in heritage, with a vision for the future

Monthly Permits For February, 2017

Work & Repair On Buildings:

Building Repairs	Commercial	Residential
Buildings Condemned	0	0
Buildings Demolished	0	0
Building Repairs	2	10
Plumbing Upgrades	1	2
Electrical Upgrades	0	4
Mechanical Upgrades	0	2
Reroofs And Roof Repairs	0	9
Mobile Home Services	0	0
Building Additions/Accessory Structures	0	6

Monthly Totals For February, 2008 - 2017

2008	$4,806,493.00
2009	$2,491,371.00
2010	$3,435,999.00
2011	$2,906,981.00
2012	$7,291,694.00
2013	$4,962,056.00
2014	$5,332,561.00
2015	$82,983,974.00
2016	$11,684,949.00
2017	7,091,724.00

Total Permits Issued:

2	New Buildings: Commercial	$1,809,296.00
2	Commercial Renovations And Repairs	$26,942.00
7	Signs	$29,952.00
17	New Single Family Homes	$4,460,968.00
25	Residential Repairs And Renovations	$764,566.00
0	New Apartment Units	$0.00
0	New Duplex Residences	$0.00
53	Total Building Permits Issued	$7,091,724.00

53	Total Permits Issued For February, 2017	**$7,091,724.00**

TAKEN FROM THE RECORDS OF THE
BUILDING INSPECTOR

Jeff Kappelman
Chief Building Inspector

Attachment: Building Inspection Reports - February, 2017 (2156 : Building Permit Reports - February, 2017)

Planning Department - Building Inspections Division
Telephone 334-705-5420
Fax 334-705-5159

Rich in heritage, with a vision for the future

Fiscal Year To Date Report - 2017

Building Repairs	Commercial	Residential
Buildings Condemned	0	0
Buildings Demolished	0	0
Building Repairs	29	46
Plumbing Upgrades	12	41
Electrical Upgrades	11	44
Mechanical Upgrades	6	25
Reroofs And Roof Repairs	0	21
Mobile Home Services	0	8
Building Additions/Accessory Structures	0	17

Yearly Totals For Oct. 1st - Sept. 30th	
2008	$127,407,288.00
2009	$67,359,271.00
2010	$96,662,342.00
2011	$45,352,237.00
2012	$178,221,004.00
2013	$61,881,917.00
2014	$79,409,560.00
2015	$192,080,600.00
2016	$127,079,852.00
2017	$37,041,822.00

Total Permits Issued:

13	New Buildings: Commercial	$13,616,569.00
29	Commercial Renovations And Repairs	$5,148,463.00
15	Signs	$148,352.00
66	New Single Family Homes	$16,672,843.00
70	Residential Repairs And Renovations	$1,455,595.00
0	New Apartment Units	$0.00
0	New Duplex Residences	$0.00
193	Total Building Permits Issued	$37,041,822.00

193	Total Issued for FY 2017	$37,041,822.00

JEFF KAPPELMAN
Building Official

Attachment: Building Inspection Reports - February, 2017 (2156 : Building Permit Reports - February, 2017)

City Council
204 South 7Th Street
Opelika, AL

SCHEDULED

Meeting: 03/21/17 07:00 PM
Department: City Clerk
Category: Request / Temp Street Closure
Prepared By: Robert Shuman
Initiator: Robert Shuman
Sponsors:
DOC ID: 2158

GENERAL BUSINESS (ID # 2158)

Request March for Babies Walk on May 13Th.

March of Dimes – East Alabama

2135 Interstate Drive, Suite 296
Opelika, AL 36801
Telephone: (334) 513-7381
Mobile: (334) 750-8368
lgross@marchofdimes.org

marchofdimes.org

Linda B. Gross
Development Manager

March 7, 2017

Mayor Gary Fuller
Opelika City Council Members
PO Box 390
Opelika, AL 36803-0390

Dear Mayor Fuller and Opelika City Council Members:

The March of Dimes is committed to a world in which every baby has a fighting chance. Through community programs, advocacy, research, education and support, the March of Dimes works for healthy moms, healthy pregnancies, and healthy babies.

At March for Babies, our signature event, we hope, remember and celebrate together, and make the March of Dimes mission come alive for our participants.

For the past eleven years, more than 400 volunteers have participated annually in March for Babies Day at Opelika Municipal Park. The park is a perfect setting to recognize the accomplishments and efforts of our walk teams, business sponsors, family teams and volunteers who have joined the fight against premature birth.

Mr. Sam Bailey has confirmed the approval of Opelika Parks and Recreation Board of Directors. On behalf of the March of Dimes and our dedicated volunteers, we would like to request your approval and permission to hold our annual March for Babies celebration and walk at Opelika Municipal Park on Saturday, May 13, 2017, via the following route:

Walking from the Municipal Park - turn left onto Park Road, turn left onto Rocky Brook Road; turn left onto India Road; turn left onto Gwen Mill Drive; turn right on McClure Avenue and continue around Collinwood Circle; turn right onto Collinwood Street; turn left onto Renfro Avenue at the intersection of Collinwood Street/North Tenth Street/Renfro Avenue, then turn left onto 7th Avenue and back to Municipal Park.

This walk route is the same as in years past and has gained the approval and support of Captain Healey and Chief McEachern of Opelika Police Department. Capt. Healey has stated he believes this is a safe route for the walkers, and one that will easily flow through the neighborhoods without disruption. He assured us that Opelika Police Dept. officers will be made aware of the walk and will coordinate any necessary patrols during the event. We will also have a designated volunteer car leading the walkers around the route to help ensure their safety. March of Dimes volunteers will put up walk route directional signs the morning of the event and will remove all signs as soon as the event is over. We will also work with Matthew Battles to ensure all guidelines for the park are followed.

The March of Dimes is a 501 (c)(3) nonprofit organization. Federal Tax ID 13-1846366.
No goods or services, in whole or in part, were provided in exchange for
the contribution. This donation is tax deductible to the fullest extent allowed by law.

Attachment: CM 3-21-17, Request. March for Babies Walk on 5-13-17pdf (2158 : Request March for Babies Walk on May 13Th.)

March of Dimes – East Alabama

2135 Interstate Drive, Suite 296
Opelika, AL 36801
Telephone: (334) 513-7381
Mobile: (334) 750-8368
lgross@marchofdimes.org

marchofdimes.org

Linda B. Gross
Development Manager

We would also request an officer from Opelika Police Dept. be present at our registration table from 8:000 a.m. to 9:30 a.m. as money is being turned in by participating teams. This will ensure the safety of the volunteers collecting the money until it can be counted and secured. Capt. Healey has confirmed with me that Chief McEachern has approved this request.

Registration for the walk will begin at 8:00 a.m. The opening ceremonies will begin at 9:00 a.m., with the walk commencing soon thereafter. All activities for the event are scheduled to be completed by noon.

Mayor Fuller and Opelika City Council members, we appreciate your consideration of this request, and welcome each of you to join us on May 13th in the walk to give every baby a fighting chance.

Respectfully,

Linda Gross
Development Manager
March of Dimes East AL Market

Andrew Hardin
2017 Executive Leadership Team
BBVA Compass, City President Auburn

Attachment: CM 3-21-17, Request. March for Babies Walk on 5-13-17pdf (2158 : Request March for Babies Walk on May 13Th.)

The March of Dimes is a 501 (c)(3) nonprofit organization. Federal Tax ID 13-1846366.
No goods or services, in whole or in part, were provided in exchange for
the contribution. This donation is tax deductible to the fullest extent allowed by law.

City Council
204 South 7Th Street
Opelika, AL

SCHEDULED

Meeting: 03/21/17 07:00 PM
Department: Building Inspection
Category: Public Hearing
Prepared By: David Chapman
Initiator: Jeff Kappelman
Sponsors:
DOC ID: 2145

GENERAL BUSINESS (ID # 2145)

Public Hearing. Fix Assessment for Removal of Building - 506 S. 4Th Street

NOTICE OF HEARING TO FIX THE AMOUNT OF ASSESSMENT
FOR THE REMOVAL OF THE BUILDING LOCATED AT
506 SOUTH 4TH STREET

Estate of Mary Helen Bedell
c/o Isaac Dowdell, Jr.
2665 Black Diamond Terrace
Colorado Springs, CO 80918

Isaac Dowdell, Jr.
2665 Black Diamond Terrace
Colorado Springs, CO 80918

Michael Dowdell
49 East School House Lane
Philadelphia, PA 19144

NOTICE is hereby given that the building or structure located at 506 South 4th Street, Opelika, Alabama has been demolished and removed as authorized and provided for by Resolution No. 085-16. The property upon which said building or structure was located is more particularly described as follows:

Commencing at the intersection of the southwesterly margin of South 4th Street with the northwesterly margin of Avenue E in the City of Opelika, Alabama (said point of intersection being the east corner of Block P), and run thence in a northwesterly direction along the southwesterly margin of South 4th Street, 20 feet to the point of beginning of the lot here to be described and conveyed; from said point of beginning run thence in a southwesterly direction, parallel to Avenue E, 150 feet; run thence in a northwesterly direction, parallel to South 4th Street, 80 feet; run thence in a northeasterly direction; parallel to Avenue E, 150 feet, more or less, to the southwesterly margin of South 4th Street; run thence in a southeasterly direction along the southwesterly margin of South 4th Street, 80 feet to the point of beginning.

Also being further described as Parcel Number 43-10-03-08-3-000-103.000, according to records maintained in the Lee County Revenue Commissioner's Office.

NOTICE is also given that the Building Official has caused to be prepared and submitted to the City Council a report showing all costs incurred in the demolition and removal of said building or structure. Said report has been delivered to the City Clerk of the City of Opelika and is now open for inspection in the Office of the City Clerk of the City of Opelika in the Municipal Building of the City of Opelika, Alabama.

NOTICE is also given that the City Council of the City of Opelika will meet on Tuesday, March 21, 2017, at 7:00 p.m. in the City Council Chambers of the Municipal Building, 204 South 7th Street, Opelika, Alabama to hear and determine any objections or defenses that might be filed to the fixing of costs by the City Council which it finds were reasonably incurred in the demolition and removal of said building or structure. The amount of said costs, as determined by the City Council, shall constitute a special assessment against the land upon which the building or structure was located, and shall constitute a lien on said property for the amount of the assessment. The lien shall be superior to all other liens on the property except prior recorded mortgages and other prior recorded security interests and liens for taxes and shall continue in force until paid.

This Notice is given under my hand on this the _____day of March, 2017.

_____

CITY CLERK OF THE CITY OF OPELIKA, ALABAMA

Cost Assessment Worksheet

Address	**Costs**
506 S. 4th Street	
Title Search	$92.00
Lis Pendens	$14.00
Release of Lis Pendens	$8.00
Certified Letters	$19.47
Certified Letters/Bob Shuman	$19.47
Demolition Cost	$4,900.00
Total	$5,052.94

Attachment: Cost Assessment Worksheet - 506 S. 4th Street (2145 : Public Hearing. Fix Assessment for Removal of Building - 506 S. 4Th

City Council
204 South 7Th Street
Opelika, AL

SCHEDULED

Meeting: 03/21/17 07:00 PM
Department: Building Inspection
Category: Public Hearing
Prepared By: David Chapman
Initiator: Jeff Kappelman
Sponsors:
DOC ID: 2147

GENERAL BUSINESS (ID # 2147)

Public Hearing. Fix Assessment for Removal of Building - 1405 West Street

NOTICE OF HEARING TO FIX THE AMOUNT OF ASSESSMENT
FOR THE REMOVAL OF THE BUILDING LOCATED AT
1405 WEST STREET

Frank Sims
2704 George Street
Gulfport, MS 39503

Daniel Sims
15310 Turlington
Harvey, IL 60426

Mary Bynum
1806 Trimble Street
Opelika, AL 36801

Catherine Sims
1806 Trimble Street
Opelika, AL 36801

Calvin Sims
1806 Trimble Street
Opelika, AL 36801

Booker T. Sims
1806 Trimble Street
Opelika, AL 36801

James Kinney Sims
1806 Trimble Street
Opelika, AL 36801

NOTICE is hereby given that the building or structure located at 1405 West Street, Opelika, Alabama has been demolished and removed as authorized and provided for by

Resolution No. 274-16. The property upon which said building or structure was located is more particularly described as follows:

> A certain house and lot situated on the Southeast side of West Street, in the City of Opelika, in Lee County, Alabama, described as follows: To find the beginning point commence at the point where the westerly margin of Auburn Street, intersects the northeasterly margin of Kilgore Street (formerly Price Street), and thence run in a northwesterly direction along said margin of Kilgore Avenue for a distance of 380 feet to West Street, thence run in a Northeasterly direction along the southeasterly side of said West Street 303 feet to an iron stake, which point is the beginning point for the lot to be here described; and from this beginning point run in a southeasterly direction and parallel with Kilgore Avenue for a distance of 180 feet, thence run northeasterly and parallel with West Street 50 feet, thence run northwesterly and parallel with Kilgore Avenue for a distance of 180 feet to West Street and thence Southwesterly along the southeasterly side of West Street 50 feet to the beginning point, together with the dwelling and all other improvements thereon.
>
> Also being further described as Parcel Number 43-10-04-18-2-002-046.000, according to records maintained in the Lee County Revenue Commissioner's Office.

NOTICE is also given that the Building Official has caused to be prepared and submitted to the City Council a report showing all costs incurred in the demolition and removal of said building or structure. Said report has been delivered to the City Clerk of the City of Opelika and is now open for inspection in the Office of the City Clerk of the City of Opelika in the Municipal Building of the City of Opelika, Alabama.

NOTICE is also given that the City Council of the City of Opelika will meet on Tuesday, March 21, 2017, at 7:00 p.m. in the City Council Chambers of the Municipal Building, 204 South 7th Street, Opelika, Alabama to hear and determine any objections or defenses that might be filed to the fixing of costs by the City Council which it finds were reasonably incurred in the demolition and removal of said building or structure. The amount of said costs, as determined by the City Council, shall constitute a special assessment against the land upon which the building

or structure was located, and shall constitute a lien on said property for the amount of the assessment. The lien shall be superior to all other liens on the property except prior recorded mortgages and other prior recorded security interests and liens for taxes and shall continue in force until paid.

This Notice is given under my hand on this the _____day of March, 2017.

_____

CITY CLERK OF THE CITY OF OPELIKA, ALABAMA

Cost Assessment Worksheet

Address	**Costs**
1405 West Street	
Title Search	$97.00
Lis Pendens	$11.00
Release of Lis Pendens	$8.00
Certified Letters	$51.92
Certified Letters/Bob Shuman	$45.29
Demolition Cost	$4,600.00
Total	$4,813.21

Attachment: Cost Assessment Worksheet - 1405 West Street (2147 : Public Hearing. Fix Assessment for Removal of Building - 1405 West

City Council
204 South 7Th Street
Opelika, AL

SCHEDULED

BIDS 049-17

Meeting: 03/21/17 07:00 PM
Department: Purchasing and Revenue
Category: Bid
Prepared By: Angela Norrell
Initiator: Lillie Finley
Sponsors:
DOC ID: 2171

Meter Testing Equipment - OPS

RESOLUTION NO. _____

WHEREAS, the Purchasing Department solicited sealed bids for a purchase for Meter Testing Equipment for Opelika Power Services; and

WHEREAS, Tri-State Utility Products, Inc. is the lowest responsible bidder meeting specifications; and

WHEREAS, this is a budgeted purchase from Repairs and Maintenance;

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

1. That the purchase be awarded to Tri-State Utility Products, Inc. on their low bid meeting specifications.

2. That the Purchasing-Revenue Manager be authorized to issue a purchase order to Tri-State Utility Products, Inc. on an as needed basis.

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

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

APPROVED AND ADOPTED this the _____day of _____, 2017.

_____
Patricia A. Jones, President pro-tem
City of Opelika, Alabama

ATTEST:

_____

Robert G. Shuman, CMC
City Clerk - Treasurer

FACT SHEET

SUBJECT: Sealed Bid #17010 – We are asking the council to approve a purchase for Meter Testing Equipment

FACTS:

- Bid opening date – 3/6/17
- User Department(s) – Opelika Power Services
- The bid was mailed to 27 vendors
- 4 bids were received
- Budgeted purchase
- Bid tabulation sheet attached

RECOMMENDATION:

- **Recommend the purchase be awarded to Tri-State Utility Products, Inc. on their low bid meeting specifications.**

Attachment: 3-21-17 - METER TESTING EQUIPMENT 17010 - BID PKT (049-17 : Meter Testing Equipment - OPS)

BID# 17010 DATE: 3/6/17 DEPT: OPS — **27 VENDORS INVITED**

DESCRIPTION: METER TESTING EQUIPMENT — **4 BIDS RECEIVE**

ITEM 1: POWERMASTER PORTABLE METER TESTER
ITEM 2: POWERMASTER LOAD BOX W/ COMPLIANT KIT
ITEM 3: HIGH VOLTAGE AMP LITEWIRE PROBE
ITEM 4: FLEXIBLE CURRENT PROBE 36"
ITEM 5: FORMAL ONSITE TRAINING FOR OPS TECHS

VENDOR	ITEM 1	ITEM 2	ITEM 3	ITEM 4	ITEM 5	MANUF	DEL	DISC
ACLARA TECHNOLOGIES LLC								
ANIXTER INC								
ATLANTIC ENGINEERING GROUP								
BESCO								
BRASFIELD SALES INC								
CITY ELECTRIC SUPPLY CO								
ELECTRIC POWER SYSTEMS								
ENSALES INC	$ 20,394.00	$ 38,489.00	$ 4,614.50	$ 3,300.00	$ -	TEC Powermetrix	6 weeks	--
ESH								
FIBER INSTRUMENT SALES INC								
GHMR								
GRAYBAR ELECTRIC CO-BMHM								
GRAYBAR ELECTRIC CO-NC								
GRESCO/CAPSTONE UTILITY SUPPLY								
H D SUPPLY POWER SOLUTIONS LTD								
INSTRUMENT TECHNICAL SERVICES								
INTERSTATE ELECTRICAL SUPPLY								
MAYER ELECTRIC FIN CORP-DOTHAN								
MAYER ELECTRIC SUPP CO INC-COLUMBUS								
SOLOMON CORP								
STUART C IRBY CO								
TANTALUS SYSTEMS INC								
TRI-STATE UTILITY PRODUCTS INC	**$ 18,540.00**	**$ 19,995.00**	**$ 4,195.00**	**$ 1,000.00**	**$ -**	**Powermetrix**	**6 weeks**	**--**
TTM SOLUTIONS								
USA BLUE BOOK INC								
VISION METERING LLC								
WESCO DISTRIBUTION INC								
Electrical Resources Co.	$ 20,394.00	$ 21,994.50	$ 4,614.50	$ 3,300.00	$ -	Powermetrix	6-8 weeks	--
Transformer Repair Utility Services	$ 20,394.00	$ 38,489.00	$ 4,614.50	$ 3,300.00	$ -	TEC Powermetrix	6 weeks	--

Attachment: 3-21-17 - METER TESTING EQUIPMENT 17010 - BID PKT (049-17 : Meter Testing Equipment

City Council
204 South 7Th Street
Opelika, AL

SCHEDULED

BIDS 050-17

Meeting: 03/21/17 07:00 PM
Department: Purchasing and Revenue
Category: Bid
Prepared By: Angela Norrell
Initiator: Lillie Finley
Sponsors:
DOC ID: 2173

Installation of Conduit Systems by Directional Boring and Plowing Methods - OPS

RESOLUTION NO. _____

WHEREAS, the Purchasing Department solicited sealed bids for a contract for Installation of Conduit Systems by Directional Boring and Plowing Methods for Opelika Power Services; and

WHEREAS, HDD, Inc. is the lowest responsible bidder meeting specifications; and

WHEREAS, this is a budgeted purchase from System Expansion and Upgrades;

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

1. That the contract be awarded to HDD, Inc. on their low bid meeting specifications.

2. That the Purchasing-Revenue Manager be authorized to issue a purchase order to HDD, Inc. on an as needed basis.

3. That the Mayor is hereby authorized to sign all documents pertaining to this contract.

4. That the Controller be authorized to adjust the budget as necessary for this contract.

APPROVED AND ADOPTED this the _____day of _____, 2017.

_____
Patricia A. Jones, President pro-tem
City of Opelika, Alabama

ATTEST:

_____

Robert G. Shuman, CMC
City Clerk - Treasurer

FACT SHEET

SUBJECT: Sealed Bid #17011 – We are asking the council to approve a contract for Installation of Conduit Systems by Directional Boring and Plowing Methods

FACTS:

- Bid opening date – 3/6/17
- User Department(s) – Opelika Power Services
- The bid was mailed to 10 vendors
- 3 bids were received
- Budgeted contract
- Bid tabulation sheet attached

RECOMMENDATION:

- **Recommend the contract be awarded to HDD, Inc. on their low bid meeting specifications.**

Attachment: 3-21-17 - INSTALLATION OF CONDUIT SYSTEMS BY DIRECTIONAL BORING AND PLOWING METHODS 17011 - BID PKT (050-17 :

BID# 17011 DATE: 3/6/17 DEPT: POWER SERVICES — 10 VENDORS INVITED

DESCRIPTION: INSTALLATION OF CONDUIT SYSTEMS BY DIRECTIONAL BORING AND PLOWING METHODS — 3 BIDS RECEIVE

DIRECTIONAL BORING METHOD:

Item	Num. of Conduits	Conduit Size
1	1	1″
2	2	1″
3	1	2″
4	2	2″

VENDOR NAME	ITEM 1		ITEM 2		ITEM 3		ITEM 4	
	BORING/FT	ROCK ADDER/FT	BORING/FT	ROCK ADDER/FT	BORING/FT	ROCK ADDER/FT	BORING/FT	ROCK ADDER/FT
ATLANTIC ENGINEERING GROUP								
BATSON-COOK COMPANY								
BEEHIVE CONSTRUCTION LLC								
GENERAL MAINTENANCE CONTR	$ 14.00	$ 8.00	$ 16.00	$ 8.00	$ 16.00	$ 8.00	$ 24.00	$ 16.00
HDD INC	**$ 9.45**	**$ 46.00**	**$ 10.95**	**$ 47.00**	**$ 10.40**	**$ 48.00**	**$ 12.60**	**$ 50.00**
INFRATECH CORPORATION								
INSTRUMENT TECHNICAL SVCS								
PFM INC								
UTILIPATH LLC								
WMS UNDERGROUND LLC								
Global Solutions & Logistics LLC	$ 20.00	$ 85.00	$ 30.00	$ 95.00	$ 30.00	$ 95.00	$ 40.00	$ 105.00

DIRECTIONAL BORING METHOD:

Item	Num. of Conduits	Conduit Size
5	3	2″
6	4	2″
7	5	2″

VENDOR NAME	ITEM 5		ITEM 6		ITEM 7	
	BORING/FT	ROCK ADDER/FT	BORING/FT	ROCK ADDER/FT	BORING/FT	ROCK ADDER/FT
ATLANTIC ENGINEERING GROUP						
BATSON-COOK COMPANY						
BEEHIVE CONSTRUCTION LLC						
GENERAL MAINTENANCE CONTR	$ 36.00	$ 20.00	$ 48.00	$ 24.00	$ 58.00	$ 30.00
HDD INC	**$ 19.40**	**$ 70.00**	**$ 26.25**	**$ 90.00**	**$ 29.50**	**$ 110.00**
INFRATECH CORPORATION						
INSTRUMENT TECHNICAL SVCS						
PFM INC						
UTILIPATH LLC						
WMS UNDERGROUND LLC						
Global Solutions & Logistics LLC	$ 50.00	$ 115.00	$ 60.00	$ 125.00	$ 70.00	$ 135.00

Attachment: 3-21-17 - INSTALLATION OF CONDUIT SYSTEMS BY DIRECTIONAL BORING AND PLOWING

BID# 17011 DATE: 3/6/17 DEPT: POWER SERVICES — **10 VENDORS INVITED**

DESCRIPTION: INSTALLATION OF CONDUIT SYSTEMS BY DIRECTIONAL BORING AND PLOWING METHODS — **3 BIDS RECEIVE**

PLOWING METHOD:

Item	Num. of Conduits	Conduit Size
8	1	1"
9	2	1"
10	1	2"
11	2	2"

VENDOR NAME	ITEM 8 PLOWING/FT	ITEM 8 ROCK ADDER/FT	ITEM 9 PLOWING/FT	ITEM 9 ROCK ADDER/FT	ITEM 10 PLOWING/FT	ITEM 10 ROCK ADDER/FT	ITEM 11 PLOWING/FT	ITEM 11 ROCK ADDER/FT
ATLANTIC ENGINEERING GROUP								
BATSON-COOK COMPANY								
BEEHIVE CONSTRUCTION LLC								
GENERAL MAINTENANCE CONTR	$ 14.00	$ 8.00	$ 16.00	$ 8.00	$ 16.00	$ 8.00	$ 24.00	$ 16.00
HDD INC	**$ 3.60**	**$ 25.00**	**$ 4.00**	**$ 26.00**	**$ 4.00**	**$ 27.00**	**$ 6.00**	**$ 28.00**
INFRATECH CORPORATION								
INSTRUMENT TECHNICAL SVCS								
PFM INC								
UTILIPATH LLC								
WMS UNDERGROUND LLC								
Global Solutions & Logistics LLC	NB	NB	NB	NB	NB	NB	NB	NB

VACUUM TRUCK HOURLY PRICING:

Item	Vacuum Truck and Operator
12	Minimum Charge (based on 2 hours)
13	Hourly Rate (for work beyond the 2-hour minimum)

VAULT INSTALLATION:

Item	Vault Installation
14	Drop Vault
15	Small Vault

VENDOR NAME	ITEM 12	ITEM 13	ITEM 14	ITEM 15	DISC	TERMS	DEL
ATLANTIC ENGINEERING GROUP							
BATSON-COOK COMPANY							
BEEHIVE CONSTRUCTION LLC							
GENERAL MAINTENANCE CONTR	$ 500.00	$ 75.00	$ 800.00	$ 800.00	1%/10, 0.5%/15	--	--
HDD INC	**$ 450.00**	**$ 115.00**	**$ 75.00**	**$ 115.00**	**--**	**--**	**--**
INFRATECH CORPORATION							
INSTRUMENT TECHNICAL SVCS							
PFM INC							
UTILIPATH LLC							
WMS UNDERGROUND LLC							
Global Solutions & Logistics LLC	$ 250.00	$ 135.00	$ 180.00	$ 210.00	2%/10,1%/15,1%/20	--	--

Attachment: 3-21-17 - INSTALLATION OF CONDUIT SYSTEMS BY DIRECTIONAL BORING AND

City Council
204 South 7Th Street
Opelika, AL

SCHEDULED

BIDS 051-17

Meeting: 03/21/17 07:00 PM
Department: Purchasing and Revenue
Category: Bid
Prepared By: Angela Norrell
Initiator: Lillie Finley
Sponsors:
DOC ID: 2174

Installation of Conduit Systems by Open Trench Excavation Methods - OPS

RESOLUTION NO. _____

WHEREAS, the Purchasing Department solicited sealed bids for a contract for Installation of Conduit Systems by Open Trench Excavation Methods for Opelika Power Services; and

WHEREAS, Dukes Services is the lowest responsible bidder meeting specifications; and

WHEREAS, this is a budgeted purchase from System Expansion and Upgrades;

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

1. That the contract be awarded to Dukes Services on their low bid meeting specifications.

2. That the Purchasing-Revenue Manager be authorized to issue a purchase order to Dukes Services on an as needed basis.

3. That the Mayor is hereby authorized to sign all documents pertaining to this contract.

4. That the Controller be authorized to adjust the budget as necessary for this contract.

APPROVED AND ADOPTED this the _____day of _____, 2017.

_____
Patricia A. Jones, President pro-tem
City of Opelika, Alabama

ATTEST:

_____

Robert G. Shuman, CMC
City Clerk - Treasurer

FACT SHEET

SUBJECT: Sealed Bid #17012 – We are asking the council to approve a contract for Installation of Conduit Systems by Open Trench Excavation Methods

FACTS:

- Bid opening date – 3/6/17
- User Department(s) – Opelika Power Services
- The bid was mailed to 10 vendors
- 4 bids were received
- Budgeted contract
- Bid tabulation sheet attached

RECOMMENDATION:

- **Recommend the contract be awarded to Dukes Services on their low bid meeting specifications.**

Attachment: 3-21-17 - INSTALLATION OF CONDUIT SYSTEMS BY OPEN TRENCH EXCAVATION METHODS 17012 - BID PKT (051-17 : Installation

BID# 17012 DATE: 3/6/17 DEPT: POWER SERVICES — 10 VENDOR

DESCRIPTION: INSTALLATION OF CONDUIT SYSTEMS BY OPEN TRENCH EXCAVATION METHODS — 4 BIDS RECEIVED

OPEN TRENCH EXCAVATION METHOD:

Item	Num. of Conduits	Conduit Size	Trench Depth
1	1	1″	2′
2	2	1″	2′
3	1	2″	3′
4	2	2″	4′
5	3	2″	4′
6	4	2″	4′
7	5	2″	4′

VENDOR NAME	ITEM 1 EXCAVATION/FT	ITEM 1 ROCK ADDER/FT	ITEM 2 EXCAVATION/FT	ITEM 2 ROCK ADDER/FT	ITEM 3 EXCAVATION/FT	ITEM 3 ROCK ADDER/FT	ITEM 4 EXCAVATION/FT	ITEM 4 ROCK ADDER/FT
ATLANTIC ENGINEERING GROUP								
BATSON-COOK COMPANY								
BEEHIVE CONSTRUCTION LLC								
GENERAL MAINTENANCE CONTR	$ 14.00	$ 8.00	$ 16.00	$ 8.00	$ 16.00	$ 8.00	$ 24.00	$ 16.00
HDD INC	$ 4.60	$ 46.00	$ 5.00	$ 48.00	$ 5.00	$ 50.00	$ 7.50	$ 60.00
INFRATECH CORPORATION								
INSTRUMENT TECHNICAL SVCS								
PFM INC								
UTILIPATH LLC								
WMS UNDERGROUND LLC								
Dukes Services	**$ 5.25**	**$ 15.25**	**$ 7.50**	**$ 17.50**	**$ 6.45**	**$ 16.45**	**$ 8.90**	**$ 18.90**
Global Solutions & Logistics LLC	$ 8.50	--	$ 9.50	--	$ 10.00	--	$ 11.50	--

VENDOR NAME	ITEM 5 EXCAVATION/FT	ITEM 5 ROCK ADDER/FT	ITEM 6 EXCAVATION/FT	ITEM 6 ROCK ADDER/FT	ITEM 7 EXCAVATION/FT	ITEM 7 ROCK ADDER/FT
ATLANTIC ENGINEERING GROUP						
BATSON-COOK COMPANY						
BEEHIVE CONSTRUCTION LLC						
GENERAL MAINTENANCE CONTR	$ 36.00	$ 20.00	$ 48.00	$ 24.00	$ 58.00	$ 28.00
HDD INC	$ 8.50	$ 65.00	$ 9.50	$ 70.00	$ 10.50	$ 75.00
INFRATECH CORPORATION						
INSTRUMENT TECHNICAL SVCS						
PFM INC						
UTILIPATH LLC						
WMS UNDERGROUND LLC						
Dukes Services	**$ 11.35**	**$ 21.35**	**$ 13.80**	**$ 23.80**	**$ 16.25**	**$ 26.25**
Global Solutions & Logistics LLC	$ 13.00	--	$ 14.50	--	$ 16.00	--

Attachment: 3-21-17 - INSTALLATION OF CONDUIT SYSTEMS BY OPEN TRENCH EXCAVATION

BID# 17012 DATE: 3/6/17 DEPT: POWER SERVICES — 10 VENDOR

DESCRIPTION: INSTALLATION OF CONDUIT SYSTEMS BY OPEN TRENCH EXCAVATION METHODS — 4 BIDS RECEIVED

VAULT INSTALLATION:

Item	Vault Installation
8	Drop Vault
9	Small Vault

VENDOR NAME	ITEM 8	ITEM 9	DISC	TERMS	DEL
ATLANTIC ENGINEERING GROUP					
BATSON-COOK COMPANY					
BEEHIVE CONSTRUCTION LLC					
GENERAL MAINTENANCE CONTR	$ 800.00	$ 800.00	1%/10,0.5%/15	--	--
HDD INC	$ 75.00	$ 325.00	--	--	--
INFRATECH CORPORATION					
INSTRUMENT TECHNICAL SVCS					
PFM INC					
UTILIPATH LLC					
WMS UNDERGROUND LLC					
Dukes Services	**$ 75.00**	**$ 200.00**	**3%/10,2%/15,1%20**	--	--
Global Solutions & Logistics LLC	$ 180.00	$ 210.00	2%/10,1%/15,1%20	--	--

Attachment: 3-21-17 - INSTALLATION OF CONDUIT SYSTEMS BY OPEN TRENCH EXCAVATION

City Council
204 South 7Th Street
Opelika, AL

SCHEDULED

BIDS 052-17

Meeting: 03/21/17 07:00 PM
Department: Purchasing and Revenue
Category: Bid
Prepared By: Angela Norrell
Initiator: Lillie Finley
Sponsors:
DOC ID: 2175

Viper-ST Solid Dielectric Recloser & SEL-651R2 Control-OPS

RESOLUTION NO. _____

WHEREAS, the Purchasing Department solicited sealed bids for a contract for a Viper-ST Solid Dielectric Recloser & SEL-651R2 Control for Opelika Power Services; and

WHEREAS, Power Connections, Inc. is the lowest responsible bidder meeting specifications; and

WHEREAS, this is a budgeted purchase from the Equipment fund;

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

1. That the contract be awarded to Power Connections, Inc. on their low bid meeting specifications.

2. That the Purchasing-Revenue Manager be authorized to issue a purchase order to Power Connections, Inc. on an as needed basis.

3. That the Mayor is hereby authorized to sign all documents pertaining to this contract.

4. That the Controller be authorized to adjust the budget as necessary for this contract.

APPROVED AND ADOPTED this the _____day of _____, 2017.

_____
Patricia A. Jones, President pro-tem
City of Opelika, Alabama

ATTEST:

_____

Robert G. Shuman, CMC
City Clerk - Treasurer

FACT SHEET

SUBJECT: Sealed Bid #17013 – We are asking the council to approve a contract for Viper-ST Solid Dielectric Recloser & SEL-651R2 Control

FACTS:

- Bid opening date – 3/6/17
- User Department(s) – Opelika Power Services
- The bid was mailed to 29 vendors
- 3 bids were received
- Budgeted contract
- Bid tabulation sheet attached

RECOMMENDATION:

- **Recommend the contract be awarded to Power Connections, Inc. on their low bid meeting specifications.**

Attachment: 3-21-17 - VIPER-ST SOLID DIELECTRIC RECLOSER & SEL-651R2 CONTROL 17013 - BID PKT (052-17 : Viper-ST Solid Dielectric

BID# 17013 DATE: 3/6/17 DEPT: OPS			29 VENDORS INVITED
DESCRIPTION: VIPER-ST SOLID DIELECTRIC RECLOSER & SEL-651R2 CONTROL			3 BIDS RECEIVED
	ITEM 1: ELECTRIC VIPER-ST SOLID DIELECTRIC RECLOSER		
	ITEM 2: SEL-651R2-ADVANCED RECLOSER CONTROL		
VENDOR	ITEM 1	ITEM 2	DISC
ACCU-TECH CORPORATION			
ANIXTER INC	$ 11,110.00	$ 6,902.00	--
BRASFIELD SALES INC			
CHAIN ELECTRIC COMPANY			
CITY ELECTRIC SUPPLY COMPANY			
COMMUNICATIONS & ELECTRICAL SUPPLY			
DIGICOMM INTERNATIONAL INC			
G & W ELECTRIC COMPANY			
GRAYBAR ELECTRIC COMPANY-BMHM			
GRESCO/CAPSTONE UTILITY SUPPLY	(Siemens)	$ 15,398.00	--
H D SUPPLY POWER SOLUTIONS LTD			
INLINE ELECTRIC SUPPLY			
INNOVATIVE UTILITY PRODUCTS			
INTERSTATE ELECTRICAL SUPPLY			
MAYER ELECTRIC FINANCIAL CORP-DOTHAN			
MAYER ELECTRIC FINANCIAL CORP-MTGM			
MAYER ELECTRIC SUPPLY CO INC-COLUMBUS			
MAYER ELECTRIC SUPPLY INC-BMHM			
OPELIKA BOLT & SCREW INC			
POWER CONNECTIONS INC	**$ 10,673.00**	**$ 6,825.00**	--
RUGGEDCOM INC			
S & C ELECTRIC CO			
SCHWEITZER ENGINEERING LAB INC			
STUART C IRBY CO			
SURVALENT TECHNOLOGY CORP			
SWIFT INDUSTRIAL POWER INC			
TRAFFIC PARTS INC			
TRI-STATE UTILITY PRODUCTS INC			
WESCO DISTRIBUTION INC			

Attachment: 3-21-17 - VIPER-ST SOLID DIELECTRIC RECLOSER & SEL-651R2 CONTROL 17013 - BID

RESOLUTION NO. 053-17

Expense Reports from Various Departments.

RESOLUTION NO. _____

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

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

Employee	Department	$ Amount
Derek Lee	OPS	1,460.45

) That attached is an expense report(s) prepared, dated and signed by the City employee or official covering the various expenses incurred on said trip and reviewed/approved by the City's accounting department and City official(s).

3) That the Opelika City Council hereby approves the attached expense reports for reimbursement to said City employee or official.

4) That the Mayor and/or appropriate City official is hereby directed and authorized to take the necessary steps so a check can be prepared covering the attached expense reports.

5) That the City Treasurer is authorized to sign said check so it can be delivered to the appropriate City employee or official.

ADOPTED and APPROVED this the _____ day of _____, 2017.

_____

Patricia A. Jones

President pro-tem City Council

City of Opelika, Alabama

ATTEST:

_____

Robert G. Shuman, CMC

City Clerk - City Treasurer

EXPENSE REP

NAME Derek S. Lee

DEPARTMENT OPS

PERIOD ENDING

DAY	CITY AND STATE	LODGING	TRANSPORTATION: AIR RAIL, ETC	TRANSPORTATION: RENTAL CAR LIMO ETC.	TRANSPORTATION: LOCAL TAXI, TOLLS & PUBLIC TRANSIT	TRANSPORTATION: AUTO EXPENSES Itemize Below	BUSINESS MEALS Itemize Below: BREAKFAST	BUSINESS MEALS Itemize Below: LUNCH	BUSINESS MEALS Itemize Below: DINNER	ENTERTAINMENT Itemize Below	MISC. EXPENSES Itemize Below	DAILY TOTA
SUN												0.(
MON	Washington DC										17.00	17.(
TUE												0.(
WED												0.(
THU	Washington DC	1,404.93						31.52			7.00	1,443.4
FRI												0.(
SAT												0.(
WEEKLY CATEGORY TOTALS $		1,404.93	0.00	0.00	0.00	0.00	0.00	31.52	0.00	0.00	24.00	1,460.4

WEEKLY TOTAL EXPENSES 1

RECEIVED
MAR 06 2017
BY

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

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

NUMBER OF DAYS AWAY FROM HOME
3 Days

NUMBER OF DAYS AWAY ON PERSONAL AFFAIRS
0

% OF TOTAL DAYS AWAY FOR PERSONAL AFFAIRS
0%

NATURE OR PURPOSE OF TRAVEL
State Legislative Meeting

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

Please send Check to Derek Lee @ OPS

SIGNATURE Derek S Lee

APPROVED BY

ITEMIZED AUTOMOBILE EXPENSES

DATE	MILEAGE, GAS, PARKING REPAIRS, ETC.	AMOUNT

ITEMIZED MISCELLANEOUS EXPENSES

DATE	ITEMS	AMOUNT
2/27	Tips/Taxi	17.00
3/2	Tips	7.00

Attachment: CM 3-21-17, expense reports (053-17 : Expense Reports from Various Departments.)

RESOLUTION NO. 054-17

Refund Request by HND&T for Overpayment of Occupational Fees.

Resolution No. _____

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

1) That Lillie Finley, Purchasing- Revenue Manager, has investigated and confirmed that said refund request is valid and recommends approval.

2) That the Purchasing-Revenue Manager is hereby authorized to prepare and process the appropriate documents so a refund check in the amount of $727.88 can be printed payable to Hypertension Nephrology Dialysis & Transplantation, 2609 Village Professional Drive Suite 3, Opelika, AL 36801, for Occupational License Fees paid in error in 2016.

3) That the City Clerk is hereby authorized to sign and mail said check to the address as detailed in number 2 above.

4) That a copy of the Purchasing-Revenue Manager's recommendation is hereto attached as Exhibit "A".

APPROVED and ADOPTED this the _____ day of March, 2017.

_____

Patricia A. Jones

PRESIDENT PRO-TEM CITY COUNCIL

CITY OF OPELIKA, ALABAMA

ATTEST:

_____

ROBERT G. SHUMAN, CMC

CITY CLERK/TREASURER

RESOLUTION NO. 055-17

Refund Request West Fraser, Inc. Overpayment Occupational Fee.

Resolution No. _____

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

1) That Lillie Finley, Purchasing- Revenue Manager, has investigated and confirmed that said refund request is valid and recommends approval.

2) That the Purchasing-Revenue Manager is hereby authorized to prepare and process the appropriate documents so a refund check in the amount of $914.06 can be printed payable to Charles E. Withrow, PO Box 349, Warm Springs, GA 31830 for Occupational License Fees paid in error in 2016.

3) That the City Clerk is hereby authorized to sign and mail said check to the address as detailed in number 2 above.

4) That a copy of the Purchasing-Revenue Manager's recommendation is hereto attached as Exhibit "A".

APPROVED and ADOPTED this the _____ day of March, 2017.

_____

Patricia A. Jones

PRESIDENT PRO-TEM CITY COUNCIL

CITY OF OPELIKA, ALABAMA

ATTEST:

_____

ROBERT G. SHUMAN, CMC

CITY CLERK/TREASURER

RESOLUTION NO. 056-17

Resolution. Fix Assessment for Removal of Building - 506 S. 4Th Street

RESOLUTION NO._____

RESOLUTION FIXING AMOUNT OF ASSESSMENT FOR
DEMOLITION AND REMOVAL OF BUILDINGS
LOCATED AT 506 SOUTH 4TH STREET

WHEREAS, the building or structure located at 506 South 4th Street, Opelika, Alabama has been demolished and removed as provided for by Resolution No. 085-16, and the Building Official of the City of Opelika has caused to be prepared a report showing the costs incurred in the demolition and removal of said building or structure and the amount proposed to be assessed against the land upon which said building or structure was located; and

WHEREAS, said report was heretofore delivered to the City Clerk of the City of Opelika and was open for inspection in the Office of the City Clerk of the City of Opelika; and

WHEREAS, the 21st day of March, 2017, at 7:00 p.m. in the City Council Chambers in the Municipal Building in the City of Opelika was the date, time and place heretofore appointed to hear and determine any objections or defenses that might be filed to the fixing of said costs, the proposed assessment, or the amount thereof; and

WHEREAS, the City Clerk has heretofore given notice of said meeting at which the fixing of said costs shall be considered by first class mail to all entities having an interest in the property; and

WHEREAS, the City Council met at the designated time and place to pass upon all such

objections to and protests against the proposed assessment; 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 said property should be in accordance with the amount shown on the report heretofore delivered by the Building Official to the City Council.

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

1. That the sum of $5,052.94 is hereby determined to be the amount reasonably incurred in the demolition and removal of the building located at 506 South 4th Street, Opelika, Alabama and said assessment shall constitute a special assessment against the following described real property:

> Commencing at the intersection of the southwesterly margin of South 4th Street with the northwesterly margin of Avenue E in the City of Opelika, Alabama (said point of intersection being the east corner of Block P), and run thence in a northwesterly direction along the southwesterly margin of South 4th Street, 20 feet to the point of beginning of the lot here to be described and conveyed; from said point of beginning run thence in a southwesterly direction, parallel to Avenue E, 150 feet; run thence in a northwesterly direction, parallel to South 4th Street, 80 feet; run thence in a northeasterly direction; parallel to Avenue E, 150 feet, more or less, to the southwesterly margin of South 4th Street; run thence in a southeasterly direction along the southwesterly margin of South 4th Street, 80 feet to the point of beginning.
>
> Also being further described as Parcel Number 43-10-03-08-3-000-103.000,

according to records maintained in the Lee County Revenue Commissioner's Office.

Payment of the assessment shall be made in the manner and as provided in Section 11-40-35, *Code of Alabama*, 1975.

2. If the owner of said property shall elect to pay said assessment in installments, the principal amount of said assessment shall bear interest at the rate of _____ percent per annum.

3. The City Clerk is hereby directed to mail, by certified mail, a copy of this resolution to the owner of the property as the information appears on the records of the Office of the Revenue Commissioner and the Office of the Judge of Probate of Lee County, Alabama.

ADOPTED AND APPROVED this the _____ day of _____ 2017.

_____

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

ATTEST:

_____

CITY CLERK

Cost Assessment Worksheet

Address	**Costs**
506 S. 4th Street	
Title Search	$92.00
Lis Pendens	$14.00
Release of Lis Pendens	$8.00
Certified Letters	$19.47
Certified Letters/Bob Shuman	$19.47
Demolition Cost	$4,900.00
Total	$5,052.94

Attachment: Cost Assessment Worksheet - 506 S. 4th Street (056-17 : Resolution. Fix Assessment for Removal of Building - 506 S. 4Th Street)

RESOLUTION NO. 057-17

Resolution. Fix Assessment for Removal of Building - 1405 West Street

RESOLUTION NO._____

RESOLUTION FIXING AMOUNT OF ASSESSMENT FOR
DEMOLITION AND REMOVAL OF BUILDINGS
LOCATED AT 1405 WEST STREET

WHEREAS, the building or structure located at 1405 West Street, Opelika, Alabama has been demolished and removed as provided for by Resolution No. 274-16, and the Building Official of the City of Opelika has caused to be prepared a report showing the costs incurred in the demolition and removal of said building or structure and the amount proposed to be assessed against the land upon which said building or structure was located; and

WHEREAS, said report was heretofore delivered to the City Clerk of the City of Opelika and was open for inspection in the Office of the City Clerk of the City of Opelika; and

WHEREAS, the 21st day of March, 2017, at 7:00 p.m. in the City Council Chambers in the Municipal Building in the City of Opelika was the date, time and place heretofore appointed to hear and determine any objections or defenses that might be filed to the fixing of said costs, the proposed assessment, or the amount thereof; and

WHEREAS, the City Clerk has heretofore given notice of said meeting at which the fixing of said costs shall be considered by first class mail to all entities having an interest in the property; and

WHEREAS, the City Council met at the designated time and place to pass upon all such objections to and protests against the proposed assessment; 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 said property should be in accordance with the amount shown on the report heretofore delivered by the Building Official to the City Council.

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

1. That the sum of $4,813.21 is hereby determined to be the amount reasonably incurred in the demolition and removal of the building located at 1405 West Street, Opelika, Alabama and said assessment shall constitute a special assessment against the following described real property:

> A certain house and lot situated on the Southeast side of West Street, in the City of Opelika, in Lee County, Alabama, described as follows: To find the beginning point commence at the point where the westerly margin of Auburn Street, intersects the northeasterly margin of Kilgore Street (formerly Price Street), and thence run in a northwesterly direction along said margin of Kilgore Avenue for a distance of 380 feet to West Street, thence run in a Northeasterly direction along the southeasterly side of said West Street 303 feet to an iron stake, which point is the beginning point for the lot to be here described; and from this beginning point run in a southeasterly direction and parallel with Kilgore Avenue for a distance of 180 feet, thence run northeasterly and parallel with West Street 50 feet, thence run northwesterly and parallel with Kilgore Avenue for a distance of 180 feet to West Street and thence Southwesterly along the southeasterly side of West Street 50

feet to the beginning point, together with the dwelling and all other improvements thereon.

Also being further described as Parcel Number 43-10-04-18-2-002-046.000, according to records maintained in the Lee County Revenue Commissioner's Office.

Payment of the assessment shall be made in the manner and as provided in Section 11-40-35, *Code of Alabama,* 1975.

2. If the owner of said property shall elect to pay said assessment in installments, the principal amount of said assessment shall bear interest at the rate of _____ percent per annum.

3. The City Clerk is hereby directed to mail, by certified mail, a copy of this resolution to the owner of the property as the information appears on the records of the Office of the Revenue Commissioner and the Office of the Judge of Probate of Lee County, Alabama.

ADOPTED AND APPROVED this the _____ day of _____ 2017.

_____

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

ATTEST:

_____

CITY CLERK

Cost Assessment Worksheet

Address	**Costs**
1405 West Street	
Title Search	$97.00
Lis Pendens	$11.00
Release of Lis Pendens	$8.00
Certified Letters	$51.92
Certified Letters/Bob Shuman	$45.29
Demolition Cost	$4,600.00
Total	$4,813.21

Attachment: Cost Assessment Worksheet - 1405 West Street (057-17 : Resolution. Fix Assessment for Removal of Building - 1405 West Street)

RESOLUTION NO. 058-17

Special Use Permit for AT&T at 1051 Douglas Street.

RESOLUTION NO. _____

WHEREAS, AT&T has requested to modify their equipment at an existing wireless telecommunication facility located at 1051 Douglas Street, Opelika, AL to provide improved wireless services essentially within the corporate limits and police jurisdiction of the City of Opelika, and

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

WHEREAS, both the City and AT&T customers in Opelika will benefit from improved service, and

WHEREAS, the City's consultant, The Center for Municipal Solutions (CMS), recommends the granting of a Special Use Permit for the modification of AT&T's equipment at this facility located at 1051 Douglas Street, which consist of a 295' self-support tower.

THEREFORE, BE IT RESOLVED by the City Council of the City of Opelika, Alabama that AT&T is hereby granted a Special Use Permit to modify their equipment at the wireless telecommunications facility located at 1051 Douglas Street. As recommended by CMS, the Special Use Permit is subject to compliance with the following conditions prior to the issuance of said permit and/or a Certificate of Completion. Allowing the items addressed in conditions number 1, 2, 3 and 4 to be a condition of this permit is not intended to and does not establish a precedent of any kind, as regards both requiring a complete application and compliance with 47 U.S.C. 332(c)(7)(B)(i)(I):

1. Prior to the issuance of the Building Permit, AT&T or the tower owner must submit for review and approval by the City, a structural analysis performed in compliance with ANSI/TIA-222-G 2012 IBC with an overall structure rating of 100.0% or less. Structural analysis should include all calculations used to determine the results of the report.
2. Prior to the issuance of the Building Permit, AT&T or the tower owner must submit for review and approval by the City, a remediation report for all safety items noted

as deficient on the ANSI/TIA-222-G Annex J: Maintenance and Conditions Assessment, completed by FDH, Inc., dated July 22, 2012.

3. Prior to the issuance of the Building Permit, AT&T or the tower owner must submit for review and approval by the City, a twist and plumb report for the self-support tower. Report must contain all measurements, calculation and allowable tolerances, used to determine the results of the report. Report must be dated within the last five years to be valid.

4. Prior to the issuance of the Building Permit, AT&T or the tower owner must submit for review and approval by the City, verification of scope of work to be performed.

5. To prevent warehousing of permits or authorizations and to assure the best service to the City's residents as expeditiously as possible, the facility must be built, activated and be providing service no later than one hundred eighty (180) days after the issuance of the Special Use Permit or other applicable authorization, subject to commonly accepted force majeure exceptions acceptable to the City. AT&T may petition the City of an extension of this for good cause shown, but the decision weather not to grant the extension shall exclusively be the prerogative of the City.

6. AT&T must provide contractor information to CMS and to the City prior to request for issuance of the Building Permit.

7. Once AT&T has met all the conditions of the permit and any other requirements of the City and a building permit is issued, AT&T must notify the City's consultant for all inspections.

8. At the completion of construction, AT&T must notify the City's consultant and provide proof that all inspections have been satisfactorily completed and the project is ready for a final on-site inspection. Upon passing the final inspection, a recommendation to issue a Certificate of Occupancy shall be made.

9. AT&T shall not be permitted to provide service commercially until the Certificate of Occupancy or its functional equivalent is issued or risk forfeiting its Permit.

10. The Certificate of Occupancy shall not be issued until all fees and costs associated with this Permit, including inspections, have been paid.

ADOPTED and APPROVED this 21st day of March, 2017.

_____

Patricia A. Jones

President pro-tem City Council

Opelika, Alabama

ATTEST:

_____

R. G. Shuman, CMC

City Clerk-Treasurer

RESOLUTION NO. 059-17

Vacate Property Shannon Court, Amend Resolution No.008-14

RESOLUTION NO. _____

RESOLUTION AMENDING RESOLUTION NO. 008-14 ASSENTING TO VACATION OF PORTION OF SHANNON COURT

WHEREAS, on January 7, 2014, the City Council of the City of Opelika, Alabama (the "City Council") adopted Resolution No. 008-14 assenting to the vacation of a portion of Shannon Court; and

WHEREAS, there is a typographical error made in the name of one of the grantees of the property to be conveyed pursuant to said Resolution; and

WHEREAS, in the first full paragraph on page 2 of the original Resolution, J & S Properties of Opelika, LLC was mistakenly referred to as J & S Properties of Alabama, LLC; and

WHEREAS, the correct name of said grantee is J & S Properties of Opelika, LLC; and

WHEREAS, the City Council desires to correct the typographical error made in Resolution No. 008-14.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Opelika that Resolution No. 008-14 is hereby amended to read, in its entirety, as follows:

RESOLUTION ASSENTING TO VACATION OF PORTION OF SHANNON COURT

WHEREAS, J & S Properties of Opelika, LLC and Cimmaron Land and Development Company, LLC have presented to the City Council of the City of Opelika their statement in writing, duly executed and acknowledged, setting forth that they are the owners of all of the lands abutting upon a portion of Shannon Court situated in the City of Opelika, Lee County, Alabama, and they do by their statement vacate the same; and

WHEREAS, it appears to the City Council that the vacation of said portion of Shannon Court is in order and that convenient and reasonable means of ingress and egress is afforded to all other property owners owning properties in the area; and

WHEREAS, the City of Opelika does hereby assent to and approve the vacation thereof and the annulment of said portion of Shannon Court.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Opelika that the vacation of the following portion of Shannon Court is assented to and approved and the same is hereby vacated pursuant to the provisions of Section 23-4-20, et.seq. of the *Code of Alabama*, said roadway being in the City of Opelika, Lee County, Alabama, and being described as follows:

That portion of Shannon Court being more particularly described as follows:

Commence at the Southwest corner of Section 12, Township 19 North, Range 26 East in Opelika, Lee County, Alabama; thence run South 89°15'43" East for 2,377.74 feet; thence run North 1°19'51" East for 98.53 feet to a point on the northerly margin of the Norfolk-Southern Railroad right-of-way; thence run North 73°49'5" East along the northerly margin along the Norfolk-Southern Railroad right-of-way for 391.85 feet to a 5/8" rebar; thence run North 16°10'30" West for 184.00 feet to a point on the southerly margin of the Shannon Court right-of-way and the point of beginning of the property to be described. From the point of beginning, run North 73°49'30" East for 286.83 feet; run thence along an arc in a clockwise direction, such arc having a radius of 330.00 feet and a length of 47.88

feet, a chord bearing of North 84°41’52” West and a chord length of 47.84 feet; thence run North 80°32’28” West for 28.79 feet to a point from the northern margin of the Shannon Court right-of-way; thence run South 73°49’30” West along the northerly along the Shannon Court right-of-way for 516.98 feet to an iron pin of the southerly margin at the intersection of Shannon Court and the easterly margin of Pleasant Drive; thence run in a southerly direction along said margin of Pleasant Drive on the arc of a curve to the left having an arc length of 34.99 feet, a radius 667.0 feet, a chord bearing of South 14°47’32” West of an iron pin at the intersection of the easterly margin of Pleasant Drive and the northerly margin of Shannon Court; thence run North 73°49’30” West along the southerly margin of Shannon Court for 318.64 feet to an iron pin and the point of beginning; containing an area of 0.384 acres, more or less.

Being further described according to and as shown by that certain drawing prepared by the Engineering Department of the City of Opelika attached hereto and marked Exhibit “A”.

BE IT FURTHER RESOLVED that the City of Opelika, Alabama, a municipal corporation, remise, release and quitclaim unto J & S Properties of Opelika, LLC and Cimmaron Land and Development Company, LLC, as their interest appear, whatever right, title and interest the said City of Opelika, Alabama, may have acquired in and to the above portion of Shannon Court by virtue of the dedication or vacation of said roadway or otherwise and that Gary Fuller, the Mayor of the City of Opelika, Alabama, a municipal corporation, be and he is hereby authorized and directed on behalf of the City of Opelika, Alabama, to execute a quitclaim deed to the aforementioned persons for the purpose of carrying out the intent and intention of this paragraph and that Robert G. Shuman, City Clerk, be and he is hereby authorized and directed on behalf of the City of Opelika, Alabama, to attest the same.

BE IT FURTHER RESOLVED that the provisions of this Resolution and the vacation of said portion of Shannon Court shall be expressly conditioned upon the Petitioners granting to the

City of Opelika and all utilities serving the City a 30’ foot wide general utility easement for all utilities presently located within the right-of-way of Shannon Court.

ADOPTED AND APPROVED this the ____ day of _____, 2017.

_____

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

ATTEST:

_____

CITY CLERK

EXHIBIT "A"

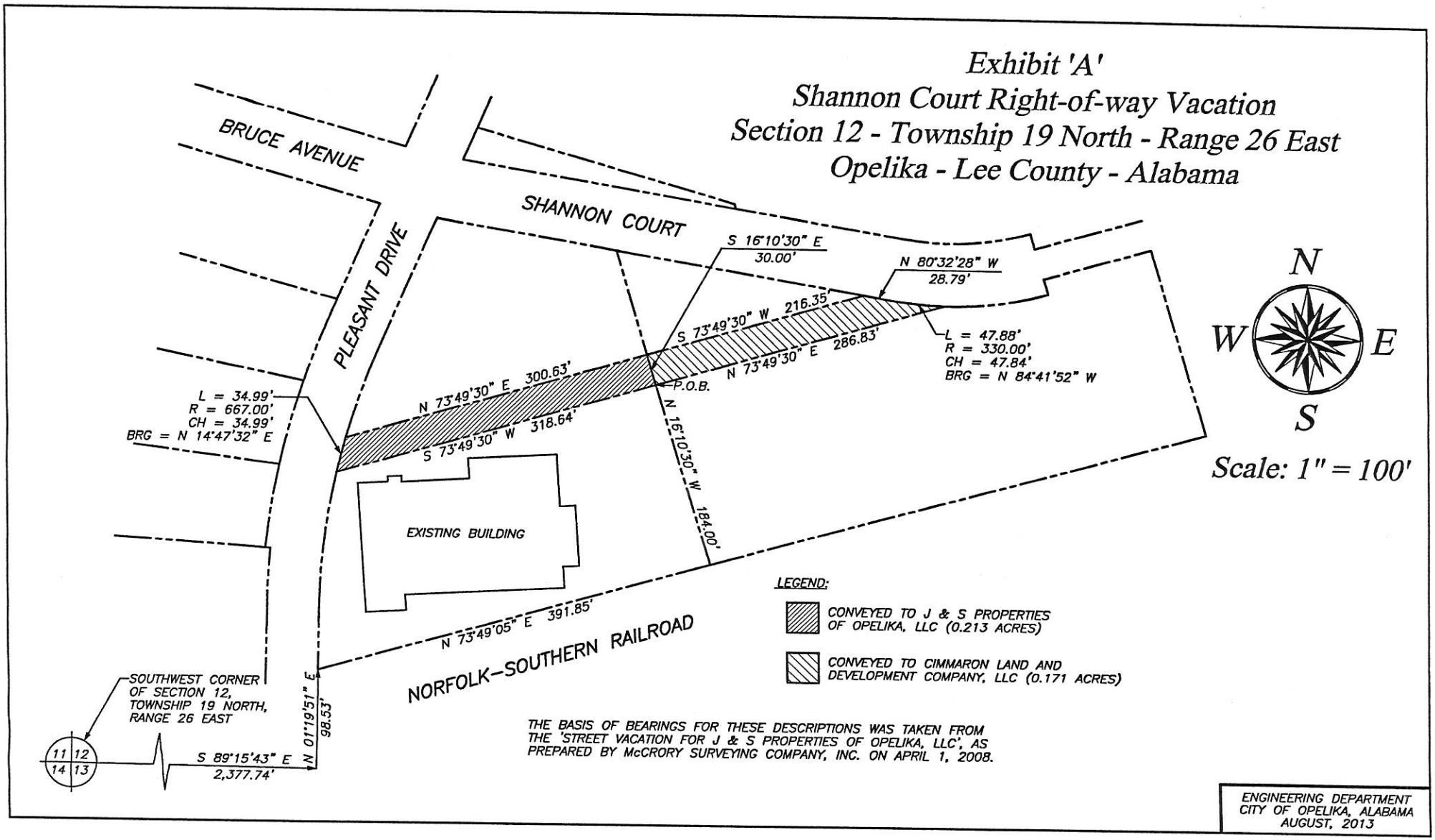
Exhibit 'A'
Shannon Court Right-of-way Vacation
Section 12 - Township 19 North - Range 26 East
Opelika - Lee County - Alabama
BRUCE AVENUE
PLEASANT DRIVE
SHANNON COURT
S 16°10'30" E
30.00'
N 80°32'28" W
28.79'
S 73°49'30" W 216.35'
N 73°49'30" E 286.83'
L = 47.88'
R = 330.00'
CH = 47.84'
BRG = N 84°41'52" W
N 73°49'30" E 300.63'
P.O.B.
S 73°49'30" W 318.64'
N 16°10'30" W 184.00'
L = 34.99'
R = 667.00'
CH = 34.99'
BRG = N 14°47'32" E
EXISTING BUILDING
N 73°49'05" E 391.85'
NORFOLK-SOUTHERN RAILROAD
N 01°19'51" E
98.53'
S 89°15'43" E
2,377.74'
SOUTHWEST CORNER
OF SECTION 12,
TOWNSHIP 19 NORTH,
RANGE 26 EAST
11 12
14 13
N
W
E
S
Scale: 1" = 100'
LEGEND:
CONVEYED TO J & S PROPERTIES
OF OPELIKA, LLC (0.213 ACRES)
CONVEYED TO CIMMARON LAND AND
DEVELOPMENT COMPANY, LLC (0.171 ACRES)
THE BASIS OF BEARINGS FOR THESE DESCRIPTIONS WAS TAKEN FROM
THE 'STREET VACATION FOR J & S PROPERTIES OF OPELIKA, LLC', AS
PREPARED BY McCRORY SURVEYING COMPANY, INC. ON APRIL 1, 2008.
ENGINEERING DEPARTMENT
CITY OF OPELIKA, ALABAMA
AUGUST, 2013

Real Estate Sales Validation Form

This Document must be filed in accordance with Code of Alabama 1975, Section 40-22-1

Grantor's Name: City of Opelika, Alabama
Mailing Address: P.O. Box 390
Opelika, AL 36803

Grantee's Name: J&S Properties of Opelika, LLC
Mailing Address: 603 Pleasant Drive
Opelika, AL 36801

Property Address: A portion of Shannon Court containing 0.213 acres, more or less

Date of Sale: January 7, 2014
Total Purchase Price $ _____
or
Actual Value $ 1,000.00
or
Assessor's Market Value $ _____

The purchase price or actual value claimed on this form can be verified in the following documentary evidence: (check one) (Recordation of documentary evidence is not required)

- ☐ Bill of Sale
- ☐ Sales Contract
- ☐ Closing Statement
- ☐ Appraisal
- ■ Other _____

If the conveyance document presented for recordation contains all of the required information referenced above, the filing of this form is not required.

Instructions

Grantor's name and mailing address - provide the name of the person or persons conveying interest to property and their current mailing address.

Grantee's name and mailing address - provide the name of the person or persons to whom interest to property is being conveyed.

Property address - the physical address of the property being conveyed, if available.

Date of Sale - the date on which interest to the property was conveyed.

Total purchase price - the total amount paid for the purchase of the property, both real and personal, being conveyed by the instrument offered for record.

Actual value - if the property is not being sold, the true value of the property, both real and personal, being conveyed by the instrument offered for record. This may be evidenced by an appraisal conducted by a licensed appraiser or the assessor's current market value.

If no proof is provided and the value must be determined, the current estimate of fair market value, excluding current use valuation, of the property as determined by the local official charged with the responsibility of valuing property for property tax purposes will be used and the taxpayer will be penalized pursuant to Code of Alabama 1975 § 40-22-1 (h).

I attest, to the best of my knowledge and belief that the information contained in this document is true and accurate. I further understand that any false statements claimed on this form may result in the imposition of the penalty indicated in Code of Alabama 1975 § 40-22-1 (h).

Date March 6, 2017

Print J&S Properties of Opelika, LLC By: _____
Its Attorney

x Unattested _____ (verified by)

Sign _____ (Grantor/Grantee/Owner/Agent) circle one

Form RT-1

Attachment: Validation Form (059-17 : Vacate Property Shannon Court, Amend Resolution No.008-14)

GRANTEES' ADDRESS:
J&S Properties of Opelika, LLC
603 Pleasant Drive
Opelika, AL 36801

NO TITLE OPINION RENDERED

STATE OF ALABAMA)
: QUITCLAIM DEED WITH RESERVATION
COUNTY OF LEE) OF UTILITY EASEMENT

KNOW ALL MEN BY THESE PRESENTS, that for and in consideration of the sum of One Dollar ($1.00) and other good and valuable considerations to the undersigned Grantor, the City of Opelika, Alabama, a municipal corporation, in hand paid by J&S Properties of Opelika, LLC, an Alabama limited liability company, the receipt whereof is hereby acknowledged, the undersigned City of Opelika, Alabama, a municipal corporation, does hereby remise, release, quitclaim, and convey unto J&S Properties of Opelika, LLC, all of its right, title, claim and interest in and to the following described real property situated in Lee County, Alabama, to-wit:

> Commence at the southwest corner of Section 12, Township 19 North, Range 26 East in Lee County, Alabama, thence run South 89°15'43" East, 2377.74 feet; thence run North 01°19'51" East, 98.53 feet to an iron pin at the intersection of the easterly margin of Pleasant Drive and the northerly margin of the Norfolk-Southern Railroad; thence run North 73°49'30" East along the said margin of the Norfolk-Southern Railroad, 391.85 feet to an iron pin; thence run North 16°10'30" West, 184.00 feet to an iron pin on the southerly margin of Shannon Court and the point of beginning. FROM SAID POINT OF BEGINNING, thence run South 73°49'30" West along said margin, 318.64 feet to an iron pin at the intersection of the southerly margin of Shannon Court and the easterly margin of Pleasant Drive; thence run in a northerly direction along said margin of Pleasant Drive on the arc of a curve to the right having an arc length of 34.99 feet, a radius of 667.00 feet, a chord bearing of North 14°47'32" East, and a chord length of 34.99 feet to an iron pin at the intersection of the easterly margin of Pleasant Drive and the northerly margin of Shannon Court; thence run North 73°49'30" East along said margin of Shannon Court, 300.63 feet to an iron pin; thence run South 16°10'30" East, 30.00 feet to an iron pin and the point of beginning; containing an area of 0.213 acres, more or less.
>
> Subject, however, to the reservation of a perpetual 30 foot wide general utility easement in favor of The City of Opelika, Alabama, and all utilities serving the City over, across and upon the above-described property
>
> The easement reserved herein encompasses the entire 0.213 acre parcel described above and shall be for the benefit of the City of Opelika and all utility companies serving the City of Opelika. It is the intention of the parties for said easement to run with the land forever.
>
> The above-described property being further described according to and as shown by that certain drawing prepared by the Engineering Department of the City of Opelika attached hereto and marked Exhibit "A".

TO HAVE AND TO HOLD unto J&S Properties of Alabama, LLC, its successors and assigns forever, subject to the reservation of the above described utility easement.

Attachment: QUIT CLAIM J&S Properties 030717 (059-17 : Vacate Property Shannon Court, Amend Resolution No.008-14)

IN WITNESS WHEREOF, the City of Opelika, Alabama, a municipal corporation, has caused this instrument to be executed by Gary Fuller, its Mayor, and its seal to be affixed by Robert G. Shuman, its City Clerk, both of whom are hereunto authorized pursuant to Resolution No. _____ of the City Council of the City of Opelika, Alabama, a copy of which is attached hereto, marked Exhibit "B" on this the ___ day of _____, 2014.

CITY OF OPELIKA, ALABAMA

BY:_____
GARY FULLER, MAYOR

ATTEST:

_____
ROBERT G. SHUMAN
CITY CLERK

STATE OF ALABAMA
COUNTY OF LEE

I, the undersigned authority, a Notary Public in and for said county and state, hereby certify that Gary Fuller and Robert G. Shuman, whose names as Mayor and City Clerk, respectively of the City of Opelika, Alabama, are signed to the foregoing conveyance and who are known to me, acknowledged before me on this day, that, being informed of the contents of said conveyance they executed, as such officers and with full authority the same voluntarily as the act of said municipal corporation on the day the same bears date.

GIVEN under my hand and official seal of office this the ____day of _____, 2014.

(SEAL)

_____
NOTARY PUBLIC
MY COMMISSION EXPIRES:

THIS INSTRUMENT WAS PREPARED BY:
GUY F. GUNTER, III
CITY ATTORNEY
CITY OF OPELIKA
205 SOUTH 6TH STREET
P.O. BOX 390
OPELIKA, AL 36801
334-705-2074
334-705-5515 - FAX

Attachment: QUIT CLAIM J&S Properties 030717 (059-17 : Vacate Property Shannon Court, Amend Resolution No.008-14)

RESOLUTION NO. 060-17

Contract with Decisions Inc. - Fire Lieutenant & Apparatus Operator Validated Selection Procedures.

RESOLUTION NO._____

FIRE LIEUTENANT & APPARATUS OPERATOR VALIDATED

SELECTION PROCEDURE CONTRACT

WHEREAS, a new promotional procedure was adopted in 1997; and

WHEREAS, the last test for Fire Lieutenant was administered on April 15, 2013; and

WHEREAS, the last test for Apparatus Operator was administered on April 22, 2014; and

WHEREAS, the list of eligible candidates has been exhausted; and

WHEREAS, the validated selection procedure must be re-examined at this time to ensure validity; and

WHEREAS, a proposal has been received by Decisions Inc, which was the sub-contractor that assisted in developing the original procedures; and

WHEREAS, the cost of the proposal is $36,000.00, plus expenses; and

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

1. That the Mayor is hereby authorized and directed to execute in the name and on

behalf of the City, an agreement with Decisions, Inc., on substantially the terms mentioned in Exhibit "A".

2. That the Mayor, Controller, and Human Resources Director are hereby authorized to take any and all reasonable, necessary and proper actions to carry out the intent and purposes of this Resolution.

APPROVED AND ADOPTED, this _____ day of _____, 2017

_____

Patricia A. Jones

President pro-tem City Council

Opelika, Alabama

ATTEST:

_____

Robert G. Shuman, CMC

City Clerk - Treasurer

Decisions Inc., Consultants

1014 County Road 196 • Crane Hill, Alabama 35053 • Phone (256) 747-8910
Email: dianejclark@gmail.com

Diane J. Clark, Ph.D., SPHR

March 3, 2017

Lisa McLeod, Human Resources Director
City of Opelika
P.O. Box 390
Opelika, AL 36803

Dear Lisa:

Thank you for contacting Decisions, Inc. regarding the development of promotional examinations for the rank of Fire Lieutenant and Apparatus Operator. A review of the jobs will be conducted by verifying information previously obtained with you and department personnel. In addition, detailed discussion with the Fire Chief would be needed to incorporate any changes in the job responsibilities of a classifications.

Unless there has been a drastic change in the job, similar examination procedures would be used. It is expected that a detailed job simulation would be developed for the Lieutenant and driving and pumping and driving exercises would be used for the Apparatus Operator. A multiple choice written examination would be developed for each rank. A candidate information guide to assist candidates in preparing for the examination would be prepared. Role players would be needed for the job simulation exercises for Lieutenant. Simulation exercises would be videotaped and graded by outside assessors, following the examination procedures. Decisions would train the role players and assessors Fire scenes would be utilized similar to those used for the most recent Captain examination, and they would be graded immediately following the administration. The exercises for Apparatus Operator would be graded on the scene.

I have reviewed the cost carefully and found that a 2014 Apparatus Operator was administered for $18,000, as was the most recent Fire Captain examination. I am willing to perform these examination procedures for the same fee, which would be $36,000.00 plus expenses for both. We look forward to working with you, and the Fire Department on this project.

I have enclosed two copies of our usual Memorandum of Agreement, which I have signed. If approved, please have the Mayor sign them, and forward one to me for my files. If you need additional information, please do not hesitate to call me.

Sincerely,

Diane J. Clark

Diane J. Clark, Ph.D., SPHR

Enclosures (2)

Attachment: Decisions Inc (060-17 : Contract with Decisions Inc. / Fire Promotion Testing)

MEMORANDUM OF AGREEMENT

Between

The City of Opelika, Alabama
And
Decisions Incorporated

Because of an identified need for professional services to assist the City of Opelika, Alabama (hereinafter referred to as the City), in developing, administering, and documenting the validity of the examination procedures used for establishing an eligible list for Apparatus Operator and Lieutenant in the Fire Department, the City and Decisions, Incorporated (hereinafter referred to as Decisions) have entered into an agreement for provision of professional services effective upon signing of this agreement by both parties.

Whereas, the City has statutory authority to enter into a contract with any private person, organization or group; and

Whereas, the City has a need for professional services and Decisions has the capacity to provide such services;

Now, Therefore, the City and Decisions, intending to be mutually bound and in consideration of the mutual covenants and stipulations set out herein, agree as follows:

1. Services to be Provided

   Decisions will provide the City with appropriate examination procedures for the classifications of Apparatus Operator and Lieutenant in the Fire Department that will consist of written multiple choice examinations and job simulation exercises, administer the examination procedures and provide the documentation needed to establish the validity of the examination. The examinations will be designed to comply with federal regulatory and professional standards, such as, the Uniform Guidelines on Employee Selection Procedures (29 CFR 1607) and the Principles for the Validation and Use of Personnel Selection Procedures. When the examinations are completed, the City will be provided with a report that will serve as written documentation of the validity of the testing procedure.

2. Authorization to Conduct Work

   The City reserves the right to specifically and overtly authorize Decisions to engage in activities that will result in financial liability under the terms of this agreement. Decisions acknowledges that the statement of

Attachment: AgrmtAO LT 2017 Fire (060-17 : Contract with Decisions Inc. / Fire Promotion Testing)

services to be provided constitutes the general area of work expected to be performed by Decisions and that specific activities to be performed for which the City will be charged must be specifically and overtly authorized by the City contact person designated in paragraph 5, and that no other person employed by the City may implicitly or explicitly authorize work to be paid under this agreement.

3. Period of Agreement

The term of this agreement will begin on the date it is signed by both parties, which is expected to be prior to April 1, 2017, and end on June 30, 2017

The contract may be terminated at an earlier date upon mutual agreement of the parties or upon ten (10) days written notice by one of the parties to the other.

a. In the event of termination, all work products developed during the course of the agreement by, for, and in behalf of the City will be returned to the City within fifteen days of the receipt of the notice of cancellation.

b. Decisions will cease performance of any work upon the receipt of the notification of cancellation. All costs incurred prior to the issuance and receipt of that notice of cancellation shall be paid by the City.

4. Financial Arrangements

The parties hereto agree that this agreement will be performed for a fixed fee of $36,000.00 plus reimbursable expenses for items such as travel, copying, etc.

a. The City will pay Decisions monthly for work completed prior to the invoice date

b. In the event of cancellation, payment will be on a pro-rata basis of the total work performed pursuant to paragraph 1.

c. Decisions will submit an invoice for each payment, which will include a description of the work performed and any reimbursable expenses since the previous invoice.

d. The City will make all arrangements for facilities for conducting the examinations and in obtaining experts to assist in administering and grading the examinations.

5. Single Source Contact

The City and Decisions agree that each will designate in writing a single source contact for the purpose of coordination and problem solving during the period of this agreement. Decisions designates Diane J. Clark as its contact, and the City designates Lisa McLeod, Human Resources Director as its contact.

6. Terms and Conditions

It is understood and agreed that all terms and conditions are herein included. No oral agreements of any kind shall be binding or recognized. This agreement may be amended by written agreement of the parties.

Attachment: AgrmtAO LT 2017 Fire (060-17 : Contract with Decisions Inc. / Fire Promotion Testing)

7. Personnel System Benefits Excluded

It is understood and agreed that Decisions is an Alabama Corporation and that no one associated with Decisions is entitled to the benefits of the City of Opelika Personnel System.

AGREED:

Gary Fuller., Mayor
City of Opelika, Alabama
P. O. Box 390
Opelika, AL 36803

Date: _____

Diane J. Clark, Ph.D., SPHR
Decisions, Inc.
1014 County Road 196
Crane Hill, AL 35053

Date: March 3, 2017

Attachment: AgrmtAO LT 2017 Fire (060-17 : Contract with Decisions Inc. / Fire Promotion Testing)

RESOLUTION NO. 061-17

Special Appropriation, 2017 Unity Stampede Walk/Run.

RESOLUTION NO. _____

WHEREAS, the Opelika City Council appreciates and fully supports Envision Opelika and the various projects they are currently involved with, and

WHEREAS, Envision Opelika is now in need of additional funds to assist with their 2017 Unity Stampede Walk/Run with all the proceeds being used to fund Character Education, scholarships to Southern Union and promote healthy life styles in the community, and

WHEREAS, City Council President Eddie Smith Ward 4, President Pro-tem Patricia Jones Ward 1, Councilman Tiffany Gibson-Pitts Ward 2, Councilman Dozier Smith T Ward 3 and Councilman David Canon Ward 5 each agrees to appropriate $250.00 from their respective discretionary fund, to assist with funding the 2017 Unity Stampede Walk-Run event.

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

1. The City Council approves a special appropriation of $1,250.00 to Envision Opelika to assist with the cost of the 2017 Unity Stampede Walk-Run event.
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.
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	$ 250.00
Tiffany Pitts	Ward 2	Current year	$ 250.00
Dozier Smith T	Ward 3	Reserve fund	$ 250.00
Eddie Smith	Ward 4	Reserve fund	$ 250.00
David Canon	Ward 5	Reserve fund	$ 250.00

4. The City Clerk-Treasurer is hereby authorized and directed to prepare the appropriate documents so that a check for $1,250.00 payable to Envision Opelika

Foundation can be prepared and delivered with said funds being earmarked and designated for the 2017 Unity Stampede Walk-Run event.

APPROVED and ADOPTED this the _____ day of _____, 2017.

_____

Patricia A. Jones

President pro-tem City Council

City of Opelika, Alabama

Attest:

_____

Robert G. Shuman, CMC

City Clerk - Treasurer

Rec 3/7/17

UNITY STAMPEDE

Envision Opelika

Southern Union Foundation

February 6, 2017

Dear Eddie, Patsy, David, Dozier, and Tiffany,

Envision Opelika and Southern Union State Community College are joining again for the third annual Unity Stampede 5K. We had a wonderful response last year with almost 140 participants in addition to the families and individuals who came to cook food and display their booths. We believe this is a unique community event with an even greater mission: to strengthen relationships among citizens of all cultures in our community.

The Unity Stampede is scheduled for Saturday, April 29, 2017, at Opelika Sportsplex. This 5K/1 Mile Fun Walk/Wheel event has enlarged the popular Unity Run that has been sponsored by Envision Opelika in the past. New opportunities for giving and building goodwill will be added as Southern Union State Community College Health and Wellness Division and the SU Foundation come on board again this year.

Attached you will find various sponsorship opportunities for this event. Please consider supporting this worthwhile cause or by making a financial contribution or a donation of items to be used as door prizes. All proceeds raised will be used to fund Character Education through the Opelika community, provide scholarships for students to Southern Union State Community College, and to promote wellness and healthy lifestyles in the community.

You may send your contribution to SUSCC Foundation, C/O Shondae Brown, PO Box 1000, Wadley, AL 36276. Thank you for your consideration and for helping to make a difference in the lives of others.

Amy Rogers
Southern Union
745-6437, ext. 5530
arogers@suscc.edu

Barbara Patton
Envision Opelika
745-4861
bpatton@opelikachamber.com

Tom Tippett
Envision Opelika
524-9148
thtippett@juno.com

Attachment: CM 3-21-17, special appropriation request, 2017 Unity Stampede (061-17 : Special Appropriation, 2017 Unity Stampede Walk/Run.)

RESOLUTION NO. 062-17

Resolution Opposing SB31 and HB58

Resolution No. _____

Opposing Alabama Senate Bill 31 and House Bill 58

Whereas SB31 (HB58) exempts prescription drug sales from the calculation of gross receipts business licenses; and

Whereas businesses that provide goods or services within the municipal corporate limits take advantage of the financial and other benefits they receive from the municipality including, but not limited to, the use of city streets and roads, the potential use of police and fire protection, and the potential use of city ambulances or rescue services; and

Whereas revenue collected from business licensing provides a financial means for defraying the costs of providing essential municipal services; and

Whereas, monies collected from business licensing are used not just for revenue purposes, but to protect citizens by helping provide services; and

Whereas, loss of revenue from the gross receipts licensing of prescription medications would cost the City of Opelika $43,166.00 in general fund revenue; and

Whereas, legislatively carving out this type of business from the coverage of municipal business licensing creates fundamental unfairness to other businesses and is a slippery slope as other businesses and industries start to request similar legislative limitations on municipal license authority which could potentially cost the municipality a significant loss in revenue thereby resulting in a potential for devastating effects on the quality of life of our citizens.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF OPELIKA expresses its strong opposition to SB31 (HB58) or any similar legislation that would further restrict the municipality's authority to properly license business that is transacted within the municipality.

BE IT FURTHER RESOLVED BY THE COUNCIL OF THE CITY OF OPELIKA that its legislative delegation opposes the passage of SB31 (HB58).

APPROVED AND ADOPTED this the _____day of _____, 2017.

_____

Patricia A. Jones, President pro-tem

City of Opelika, Alabama

ATTEST:

_____

Robert G. Shuman

City Clerk - Treasurer

RESOLUTION NO. 063-17

Contract for Engineering Services for the New Central Fire Station - P/W

Concrete, Soil and Steel Testing for the New Central Fire Station by Carmichael Engineering

RESOLUTION NO. _____

RESOLUTION APPROVING A PROPOSAL SUBMITTED BY CARMICHAEL ENGINEERING, INC., FOR CONSTRUCTION TESTING SERVICES

WHEREAS, Carmichael Engineering., Inc., ("Carmichael") provides geotechnical, environmental and construction monitoring and testing services; and

WHEREAS, the City of Opelika, Alabama (the "City") has determined that there is a need for construction monitoring and materials testing services for work related to the central fire station project; and

WHEREAS, City staff recommends Carmichael to perform said services; and

WHEREAS, a Proposal dated February 14, 2017 (the "Proposal") has been prepared by Carmichael and submitted to the City Council for approval, and the City Council has determined that it is in the best interest of the City and its citizens to approve said Proposal.

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

1. That the Proposal dated February 14, 2017 submitted by Carmichael for construction monitoring and materials testing services, a copy which is attached hereto and marked as Exhibit "A", be and the same is hereby approved, authorized, ratified and confirmed in the form substantially submitted to the City Council with such changes thereto (by addition, deletion or

substitution) as the Mayor shall approve which approval shall be conclusively evidenced by execution and delivery of said Proposal.

2. That the Mayor is hereby authorized and directed to execute and deliver said Proposal in the name and on behalf of the City.

3. That all compensation payable to Carmichael pursuant to the Proposal shall be paid from the Unassigned Fund Balance.

4. The Mayor and the Controller are hereby authorized to make any and all necessary budgetary and accounting entries to carry into effect the intent of this Resolution.

5. That the Revenue-Purchasing Manager is hereby authorized to issue a purchase order to Carmichael in the amount of $17,929.00.

6 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 Proposal.

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

ADOPTED AND APPROVED this the _____ day of _____, 2017.

_____

PRESIDENT PRO-TEM OF THE CITY

COUNCIL OF THE CITY OF OPELIKA

ATTEST:

_____

CITY CLERK

Carmichael Construction Testing

A Division Of Carmichael Engineering, Inc.
P.O. Box 916
Auburn, Alabama 36831
(334) 502-3809 / FAX (334) 502-3839

Testing Station 1

PROPOSAL/WORK ORDER

Carmichael Engineering, Inc., (CEI), is pleased to provide the services described below. The purpose of this form is to obtain written authorization for the work requested and to establish the terms under which these services are to be provided as herein set forth.

Compensation for services rendered will be based on the attached Fee Schedules, Exhibit A, to the agreement, or as herein set forth as part of this work order. If CEI is required to modify the scope of work at your request or it is determined during the execution of the work that a modification of scope is required, CEI will promptly seek a mutually agreeable revision to the scope of work and associated Fee Schedule. Exhibit C to this agreement (entitled General Conditions Of Agreement With The Client) is made an integral part of this agreement and is incorporated herein by reference and this agreement is subject to all the terms and conditions as set forth in Exhibit C.

PROPOSAL NO.: WO# 7603 JOB NAME: New Central Fire Station

JOB LOCATION: Opelika STATE: Alabama

JOB DESCRIPTION: Construction monitoring and materials testing services.

SCOPE OF WORK AUTHORIZED: The scope of work includes construction materials testing services as requested. Testing services will be provided in general accordance with the project plans, specifications, or as requested. Services will be provided on an "on-call" or as needed basis and services will be scheduled by the client or other authorized agent. The services will be invoiced based on the attached fee schedule. As requested we have attached a fee estimate for these professional services.

CEI AGENT: T. Maxwell Sprayberry (Name) Project Manager (Title)

T. Maxwell Sprayberry (SIGNATURE) Date: 2/14/2017

(Information Below To Be Provided By Client)

INVOICE TO BE PAID BY:

FIRM: _____ FEDERAL I.D.#: _____

ADDRESS: _____

CITY: _____ STATE: _____ ZIP: _____

CONTACT: _____ PHONE ( ) _____

WORK AUTHORIZED BY: _____ (PLEASE PRINT NAME)

_____ (PLEASE PRINT TITLE)

DATE: _____ _____ (SIGNATURE)

INSTRUCTIONS: COMPLETE, SIGN AND RETURN ONE COPY TO CEI. RETAIN ONE COPY FOR YOUR RECORDS.

Attachment: cakers@ci.opelika.al.us_20170315_081905 (063-17 : Contract Eng. Services, Carmichael Engineering)

Carmichael Engineering, Inc.
Unit Fee Schedule

Construction Materials Testing Services
New Central Fire Department
Opelika, Alabama
Our Proposal No.: 7603
February 14, 2017

Item#	Item	Unit Fee
	Engineering & Technician Services	
1	Senior Geotechnical Engineer	$150.00 / Hour
2	Geotechnical Engineer	$105.00 / Hour
3	Project Manager	$ 75.00 / Hour
4	Senior Engineering Technician - Level 3(CWI)*	$ 65.00 / Hour
5	Senior Engineering Technician - Level 2**	$ 55.00 / Hour
6	Senior Engineering Technician - Level 1***	$ 45.00 / Hour
7	Metals Technician for UT, MT, etc. (Subcontract Services)****	$950.00 / Day
8	UT / MT Special Inspector (Subcontract Sercices)****	$ 95.00 / Hour
	Laboratory Testing Services	
9	Soil Standard Laboratory Compaction Test	$100.00 / Test
10	Soil Modified Laboratory Compaction Test	$115.00 / Test
11	Soil Particle Size Test	$ 70.00 / Test
12	Soil Atterberg Limit Test	$ 85.00 / Test
13	Concrete Cylinder Curing & Compressive Strength Test	$ 12.00 / Cylinder
14	Grout Prism - Compressive Strength Test	$ 13.00 / Prism
15	Mortar Cubes - Compressive Strength	$ 13.00 / Cube
16	Asphalt Mix Gradation & Asphalt Content	$135.00 / Test
17	Asphalt Core Density & Thickness	$ 35.00 / Core
18	Asphalt Coring Equipment	$200.00 / Day
	Miscellaneous	
19	Personnel Travel (portal to portal)	No Charge
20	Mileage UT / MT Subcontract Services	$ .70 / Mile
21	Monthly NPDES Sediment & Erosion / BMP Inspections	$275.00 / Report
22	Floor Flatness Equipment Charge	$200.00 / Day
23	Nuclear Density Tests	$ 12.00 / Test

Notes:

* A Level 3 Technician will provide visual bolt and weld connections and floor flatness test. If shop inspections are requested our fees will include all travel expenses + 15%.

** A Level 2 Technician rate will be charged for all "Special Inspection" services on an hourly basis that includes foundation examinations, steel reinforcement inspections (foundations and masonry walls), and drilled pier observations.

*** A Level 1 Technician rate will be charged on an hourly basis for standard earthwork testing, concrete testing, and asphalt testing.

A 1.4 factor will be applied to field technician rate for more than 50 hours per week and weekends. A 2.0 factor will be applied to technician hourly rates for holiday services.

A Project Engineer / Manager will review all reports and construction documents as needed and to attend construction meetings. A Project Manager rate of 0.05 hours per technician hour will be applied for data review.

Attachment: cakers@ci.opelika.al.us_20170315_081905 (063-17 : Contract Eng. Services, Carmichael Engineering)

Carmichael Engineering, Inc.

Construction Materials Testing Fee Estimate

New Central Fire Department - Revised
Opelika, Alabama
Our Proposal No. WO# 7603
February 14, 2017

Description	Estimated Quantity	Item	Unit Fees $	Total $
1. Site Work				
1a. Site Work - Soil Testing				
Senior Engineering Technician Level 2	5	Hour	55.00	275
Senior Engineering Technician Level 1	80	Hour	45.00	3600
Soil Nuclear Density Test	75	Test	12.00	900
1b. Site Work - Laboratory Tests				
Soil Particle Size Tests	3	Test	70.00	210
Soil Atterberg Limits Tests	2	Test	85.00	170
Laboratory Standard Proctor	2	Test	100.00	200
Laboratory Modified Proctor	1	Test	115.00	115
1c. Site Work - Concrete Testing				
Senior Engineering Technician Level 1	20	Hour	45.00	900
Concrete Cylinder for Compressive Strength Testing	16	Cylinder	12.00	192
1d. Site Work - Asphalt Testing				
Senior Engineering Technician Level 1	8	Hour	45.00	360
Asphalt Mix Gradation and AC Content	2	Test	135.00	270
Asphalt Core Density & Thickness	4	Core	35.00	140
Asphalt Coring Equipment	1	Day	200.00	200
Site Work - Total				$7,532.00
2. Building Construction				
Foundation Construction				
Senior Engineering Technician Level 2	50	Hour	55.00	2750
Concrete Testing				
Senior Engineering Technician Level 1	30	Hour	45.00	1350
Concrete Cylinders For Compressive Strength Testing	84	Cylinder	12.00	1008
Building Foundation Construction - Total				$5,108.00

Attachment: cakers@ci.opelika.al.us_20170315_081905 (063-17 : Contract Eng. Services, Carmichael Engineering)

3. Slab Construction				
Concrete Testing				
Senior Engineering Technician Level 1	28	Hour	45.00	1260
Concrete Cylinders For Compressive Strength Testing	32	Cylinder	12.00	384
Slab Construction - Total				$1,644.00
4. Structural Steel Inspections				
Senior Engineering Technician Level 3	20	Hour	65.00	1300
Metals Technician for UT, MT, etc..(Subcontract)	1	Day	950.00	950
Structural Steel Inspections - Total				$2,250.00
5. Engineering / Project Management				
Project Manager	13	Hour	75.00	975
Geotechnical Engineer	4	Hour	105.00	420
Engineering / Project Management - Total				$1,395.00
			Fee Estimate Total	**$17,929.00**

* We are a service providing based company; therefore, our services are provided as needed/ requested by our client or other qualified representative involved with the project. As a result, it is difficult to accurately estimate the hours involved with each aspect of the project. There are several factors that influence the demand of our services on a project which we can not control. Our fee estimate is based on the (estimated) rates, quantities, and other listed items necessary to complete the construction materials testing services in a timely manner. Any services requested that exceed the estimated services listed above will be billed based on the provided unit rates.

Attachment: cakers@ci.opelika.al.us_20170315_081905 (063-17 : Contract Eng. Services, Carmichael Engineering)

EXHIBIT C
CARMICHAEL ENGINEERING, INC.
GENERAL CONDITIONS OF AGREEMENT WITH THE CLIENT

1. **PAYMENT TERMS.** CARMICHAEL ENGINEERING, INC., (hereinafter called "CEI") will submit invoices to client monthly and a final bill upon completion of services. Invoice will show charges for different personnel, unit prices and/or expense classifications unless a lump sum payment is agreed to as part of this agreement. Payment is due upon presentation of invoice and is past due thirty (30) days from the invoice date. Client agrees to pay a finance charge of one and one-half percent (1 1/2%) per month (minimum of $15.00 per month) on the principal amount of any past due account. In the event CEI deems it necessary to refer the account to an attorney for collection, client agrees to pay all costs of collection, including a reasonable attorney's fee.

2. **INSURANCE.** CEI maintains Worker's Compensation and Employer's Liability Insurance in conformance with applicable state law. In addition, we maintain Comprehensive General Liability Insurance and Automobile Liability Insurance with bodily injury limits and property damage limits of, to wit $1,000,000 combined single limit. A certificate of insurance can be supplied evidencing such coverage which contains a clause providing that fifteen (15) days written notice be given prior to cancellation. Cost of the above is included in our quoted fees. If additional coverage, such as additional insured endorsements, waiver of subrogation or increased limits of liability are required, CEI will endeavor to obtain the requested insurance and charge separately for costs associated with additional coverage or increased limits.

3. **STANDARD OF CARE.** The only warranty or guarantee made by CEI in connection with the services performed hereunder is that we will use that degree of care and skill ordinarily exercised under similar conditions by reputable members of our profession practicing in the same or similar locality. No other warranty, expressed or implied, is made or intended by our proposal for geotechnical/environmental services or by our furnishing oral or written reports.

4. **LIMITATION OF LIABILITY.** Client agrees to limit CEI's liability to client, and to all construction contractors and subcontractors on the project, arising from CEI's professional acts, errors or omissions or other professional negligence, so that the total aggregate liability of CEI to all those named shall not exceed $50,000 If the client prefers to have higher limits or professional liability, CEI agrees to increase the limits up to a maximum of $1,000,000 upon the clients written request at the time of accepting our proposal, provided that the client agrees to pay an additional consideration of two percent (2%) of our total fee, or $250, whichever is greater. The additional charge for the higher liability limits is because of the greater risk assumed and is not strictly a charge for additional professional liability insurance.

5. **RIGHT OF ENTRY.** Unless otherwise agreed in writing, client will provide for the right of entry for CEI, its agents and employees and all equipment necessary for the completion of the work. While CEI will take reasonable precautions to minimize any damage to the site, it is understood by the client that in the normal course of work some damage may occur and that the cost of correction or repairing such damage is not included in the quoted fee and CEI is not responsible unless specifically stated. If client desires CEI to repair or correct the damage, the cost of such repairs or corrections will be paid by client as an additional fee.

6. **EXISTING MAN MADE OBJECTS.** It is the duty of the client to disclose the presence and accurate location of all hidden or obscure man made objects, including utility lines, relative to field test or boring locations. CEI field personnel are trained to recognize clearly identifiable stakes or markings in the field and, without special written instructions to initiate field testing, drilling and/or sampling within a reasonable distance of each designated location. If CEI is notified in writing of the presence or potential presence of underground or above ground obstructions, such as utilities, CEI will give special instructions to its field personnel. Client agrees to indemnify and save harmless CEI from all claims, suits, losses, personal injuries, deaths and property liability resulting from unusual subsurface structures, owned by client or third parties, occurring in the performance of the proposed services, the presence and exact locations of which were not revealed to CEI in writing, and to reimburse CEI for expenses in connection with any such claims or suits, including reasonable attorney's fees.

7. **SAMPLING OR TESTING LOCATION.** The fees included in the Agreement do not include costs associated with surveying of the site or the accurate horizontal and vertical locations of tests. Field test or boring locations described in CEI's report or shown on sketches are based on specific information furnished by the client or clients agent or estimates made by CEI technicians. Such dimensions, depths or elevations should be considered as approximations unless otherwise stated in the report or contracted for at the inception of the Agreement.

8. **SAMPLE DISPOSAL AGREEMENT.** CEI will retain soil and rock samples which are not used for testing for forty-five (45) days after submission of our report. After forty-five (45) days the retained samples will be discarded unless the client has made written request for storage or transfer of the samples. Client shall be responsible for the expense of such storage or transfer.

Attachment: cakers@ci.opelika.al.us_20170315_081905 (063-17 : Contract Eng. Services, Carmichael Engineering)

9. **SAFETY.** When CEI provides periodic observations or monitoring services at the job site during construction, Client agrees that, in accordance with generally accepted construction practices, the contractor (i.e. not CEI) will be solely and completely responsible for working conditions on the job site, including safety of all persons and property during the performance of the work, and compliance with OSHA regulations, and that these requirements will apply continuously and not be limited to normal working hours. Any monitoring of the contractor's procedures conducted by CEI is not intended to include review of the adequacy of the contractor's safety measures in, on, adjacent to, or near the construction site.

10. **ENGINEERING, EQUIPMENT AND TECHNICAL SERVICES.** Fees for such services are based on all time spent on the project by engineering or technical personnel at the hourly or unit rates of the Fee Schedules. The quoted fee may not cover the cost of conferences, site visits, review of foundation plans and specifications, or other services subsequent to submission of our report. Such additional services will be invoiced at the applicable rates. All engineering and technical work is generally done by CEI's regular employees; however, special services by other firms or consultants may be needed on occasion and will be invoiced at the applicable rates but no "outside" services will be contracted for without clients prior permission.

11. **ASSIGNMENT.** Neither client or CEI may delegate, assign, sublet or transfer its duties or interest in this agreement without the prior written consent of the other party.

12. **OWNERSHIP OF DOCUMENTS.** All reports, boring logs, field data, field notes, laboratory test data, calculations, estimates and other documents prepared by CEI, as instruments or service, shall remain the property of CEI. Client agrees that under no circumstances shall any documents or reports produced by CEI pursuant to this Agreement be used at any location or for any project not expressly provided for in this agreement without the written permission of CEI. Client agrees that all reports and other work furnished to client or its agents, which are not paid for, will be returned upon demand and will not be used by client for any purpose whatsoever. CEI will retain all pertinent written records relating to the services performed for a period of five (5) years following submission of the report, during which period the records will be made available to client at all reasonable times. During this five (5) year period, CEI will provide client with copies of documents created in the performance of the work, at the expense of client.

13. **TERMINATION.** This agreement may be terminated by either party upon fourteen (14) days written notice in the event of material failure by the other party to perform in accordance with the terms hereof. Such termination shall not be effective if the material failure has been remedied before the expiration of the period specified in the written notice. In the event of termination, CEI shall be paid for all services performed and expenses incurred up to the termination notice data plus reasonable termination expenses. The expenses of termination or suspension shall include all direct costs or CEI in completing such analysis, records and reports.

14. **GOVERNING LAW.** This agreement shall be governed and construed in accordance with the laws of the State of Alabama, United States of America.

15. **SEPARABILITY.** The provisions of this agreement are separate and divisible, and, if any court of competent jurisdiction shall determine that any provision hereof is void and/or unenforceable, the remaining provisions shall be construed and shall be valid as if the void and/or unenforceable provisions or were not included in this Agreement.

16. **WAIVER.** Except as otherwise especially provided in this Agreement, no failure on the part of either party to exercise, and no delay in exercising, any rights, privilege or power under this Agreement shall operate as a waiver or relinquishment thereof, nor shall any single partial exercise by either party or any right, privilege or power under this Agreement preclude any other or further exercise thereof, or the exercise of any right, privilege or power. Waiver by any party of any breach of any provisions of the Agreement shall not constitute or be construed as a continuing waiver, or a waiver of any other breach of any provision of this Agreement.

17. **BINDING.** This agreement shall be binding upon all of the parties and their respective estates, heirs, administrators, executors, successors and assigns.

18. **STIPULATION.** Each of the parties to this Agreement as set forth herein and in the Work Order furnished by CEI stipulates that they have read, understand and agree to be bound by all of the terms set forth pursuant to the documents which are the basis of this agreement.

(Revised 1/1/09)

Attachment: cakers@ci.opelika.al.us_20170315_081905 (063-17 : Contract Eng. Services, Carmichael Engineering)

RESOLUTION NO. 064-17

ROW Acquisition for Frederick Road Extension

RESOLUTION NO. _____

RESOLUTION AUTHORIZING THE ACQUISITION OF REAL PROPERTY FROM WILLIAM WISDOM AND MARYANN WISDOM

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

Section 1. It is hereby established and declared that the following described real property is needed by the City of Opelika for the construction, improvement, landscaping, maintenance and repair of a public road project known as the Torbert-Frederick Road Project:

> Parcel No. 13-5 Project 92801B, as identified from the records of the Engineering Office of the City of Opelika, said property being more fully described in Exhibit "A", attached hereto and incorporated herein by reference.

Section 2. The Mayor is hereby authorized and directed to purchase the premises described in Section 1 above from William Wisdom and Maryann Wisdom, Sellers, for and in consideration of the sum of $980.00. The purchase price shall be paid to the property owner in cash at closing and shall be paid from the 2011 Road Construction Fund.

Section 3. The proposed CONTRACT OF SALE to be entered into between William Wisdom and Maryann Wisdom, as Sellers, and the City of Opelika, Alabama, as Purchaser, exhibited in its complete and final form on this date to the City Council and being attached hereto and being incorporated by reference as Exhibit "B", be and the same is hereby approved, authorized, ratified and confirmed. The Mayor is hereby authorized and directed to execute said Contract for and in the name of the City of Opelika.

Section 4. The Mayor and the City Clerk are hereby authorized and directed on behalf of the City to execute, deliver and accept all documents and instruments necessary to consummate this transaction.

Section 5. The City of Opelika does hereby accept the dedication of the real estate described in Section 1 above for public and municipal purposes.

ADOPTED AND APPROVED this the _____ day of _____, 2017.

_____

PRESIDENT PRO-TEM OF THE
CITY COUNCIL OF THE CITY OF OPELIKA

ATTEST:

_____

CITY CLERK

EXHIBIT "B"

STATE OF ALABAMA)
: **CONTRACT OF SALE**
COUNTY OF LEE)

THIS CONTRACT made and entered into this the ____ day of _____, 2017, by and between William Wisdom and Maryann Wisdom, husband and wife., whose address is 1512 Hurst Street, Opelika, Alabama, hereinafter referred to as OWNERS, and the City of Opelika, Alabama, a municipal corporation, whose address is 204 South 7th Street, Opelika, Alabama, hereinafter referred to as the "CITY".

WITNESSETH:

WHEREAS, the CITY requires the hereinafter described real property for a road project in Lee County, Alabama; and

WHEREAS, the OWNERS have agreed to sell and convey and the CITY has agreed to purchase and take title to said real property.

NOW, THEREFORE, for and in consideration of the mutual covenants and conditions herein contained, the parties agree as follows:

1. The OWNERS agree to sell and convey and the CITY agrees to purchase and take title to certain real property known as Right-of-way Parcel No. 13-5 of Public Road Project No. 92801- B identified from the records of the City of Opelika for the purpose of constructing and maintaining a public highway, said property being more fully described in Exhibit "A" attached hereto and incorporated herein by reference.

2. The purchase price for said property shall be $980.00 payable by the CITY to OWNERS in cash at closing. The OWNERS understand the above-mentioned sum includes payment of the following:

Attachment: Exhibit B--Contract of Sale (064-17 : ROW Acquisition for Frederick Road Extension)

0.01 acres of land and damages---------- $980.00

Temporary Construction
Easement, if any----------$ N/A

TOTAL----------$980.00

3. The date of closing shall be at the earliest possible date; however, in no event shall the date of closing be scheduled later than April 15, 2017. Unless otherwise agreed, the sales transaction shall be closed at the office of the City Attorney, 205 South 6th Street, Opelika, Alabama.

4. At closing, said property shall be conveyed to the CITY by general warranty deed, free and clear from all liens and encumbrances whatsoever, except the following permitted exceptions:

(a) Lien for ad valorem taxes not yet due and payable.

(b) All utilities physically in existence across or over said property.

(c) All ordinances, or governmental regulations (including subdivision, building and zoning laws) relating to the possession or use of said property.

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

5. On closing, OWNERS shall deliver possession of the above-described property to the CITY, free and clear of all uses, occupancies and tenancies.

6. In order to induce the CITY to enter into this agreement, OWNERS make the following representations, warranties and covenants, each of which is material and is relied on by OWNERS:

Attachment: Exhibit B--Contract of Sale (064-17 : ROW Acquisition for Frederick Road Extension)

(a) OWNERS are not a party to any litigation affecting said property or OWNERS' right to sell said property or any interest therein and OWNERS know of no litigation or threatened litigation affecting said property.

(b) To the best of the knowledge of OWNERS, said property does not contain: (i) any underground storage tanks; or (ii) any chemical, material or substance the exposure to which is prohibited, limited or regulated by any federal, state, county, regional or local authority, or which, even if not so regulated, may pose a hazard to the health and safety to the occupant of said property.

(c) To the best of the knowledge of OWNERS, said property complies in all respects with applicable environmental laws, regulations and court or administrative orders.

(d) There are no pending claims or threats of claims by private parties or governmental or administrative authorities relating to environmental impairment or regulatory requirements.

(e) There are no areas on said property where hazardous substances have been disposed of, released or found.

7. OWNERS shall be responsible for their own attorney's fees, all costs to prepare and all expenses to record instruments necessary to provide merchantable title unto the CITY free and clear of all liens and encumbrances. The OWNERS covenant that there are no real estate commissions due to any licensed real estate broker and further agrees to defend against and pay any valid claims made in regard to this purchase relating to the covenants made herein by the OWNERS.

8. The CITY shall only be responsible for recording fees and for the preparation of the Warranty Deed.

Attachment: Exhibit B--Contract of Sale (064-17 : ROW Acquisition for Frederick Road Extension)

9. Should either party default on the full and timely performance of any of the obligations under the terms of this Contract, the non-defaulting party may:

(a) Force specific performance of this Contract; or

(b) Terminate the Contract and bring suit for damages against the defaulting party.

10. This Contract shall be binding upon the successors and assigns of the parties hereto.

11. OWNERS' covenants, warranties and representations shall survive the closing and shall not be merged in the deed delivered by the OWNERS.

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

13. This Contract embodies the entire agreement between the parties hereto, and there are no oral or parole agreements existing between the OWNERS and the CITY relating to the subject property which are not expressly set forth herein and covered hereby.

14. Time is of the essence for performance of the OWNERS' and the CITY's obligations hereunder.

15. Words of any gender used herein shall be construed to include any other gender, and words in the singular shall include plural and visa versa unless the context otherwise requires.

16. This Contract is entered into in Lee County, State of Alabama, and the laws of the State of Alabama shall apply.

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

_____
WILLIAM WISDOM

_____

Attachment: Exhibit B--Contract of Sale (064-17 : ROW Acquisition for Frederick Road Extension)

MARYANN WISDOM
OWNERS

WITNESSES:

_____

_____

CITY OF OPELIKA, ALABAMA

By:_____
ITS MAYOR

Attachment: Exhibit B--Contract of Sale (064-17 : ROW Acquisition for Frederick Road Extension)

EXHIBIT "A"

Commencing at the Southwest corner of Section 18, Township 19 North, Range 27 East, Lee County, Alabama, run thence northwardly along the West line of said Section 18, 1162.1 feet to Station 239+79 on the centerline of Highway Project 92801-B on record in the City Engineer's Office of the City of Opelika, Alabama; thence run North 66°25'58" East along said centerline, 469.32 feet to P.C. Station 244+48.32; thence run Northeastwardly along a curve to the left having a radius of 881.47 feet, an arc distance of 754.84 feet to P.T. Station 252+03.16 (the chord bears North 41°54'02" East, and measures 731.99 feet); thence run North 17°22'05" East, 381.55 feet; thence departing said centerline run South 20°40'32" East, 24.48 feet to the point of beginning of the property herein to be described and the Grantors Northwest corner; thence run North 63°23'31" East, along the Grantors North property line 28.51 feet to the Southeastern right-of-way line of the aforementioned project; thence run South 17°22'05" West, along said right-of-way line 46.61 feet; thence run North 20°03'11" West along Grantors West property line 33.76 feet to the point of beginning and containing 0.01 acres, more or less.

Also being described according to and as shown by right-of-way drawing of Parcel No. 13-5 of Project 92801-B, a copy of which is attached hereto and specifically made a part hereof.

Attachment: Exhibit A Resolution (064-17 : ROW Acquisition for Frederick Road Extension)

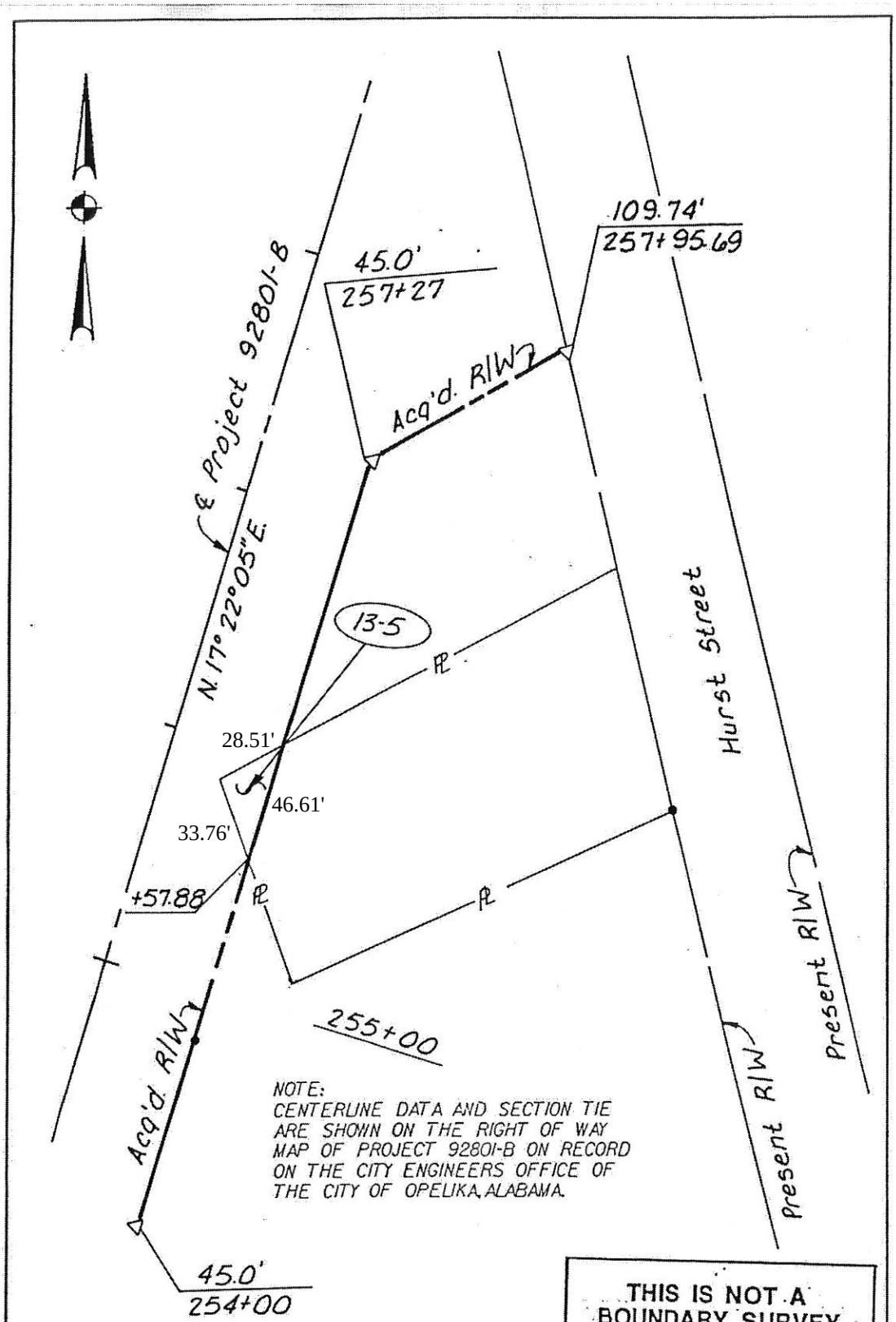

EXHIBIT A

CITY OF OPELIKA

PROJECT NO. 92801-B	SCALE 1"=50'
COUNTY Lee	TOTAL ACREAGE .39
TRACT NO. 13-5	R.O.W. REQUIRED .01 Ac.
OWNER Willie Henry & Mary Ann Carr	REMAINDER .38 Ac.

Attachment: Exhibit A Resolution (064-17 : ROW Acquisition for Frederick Road Extension)

RESOLUTION NO. 065-17

Expense Report, David Canon.

RESOLUTION NO. _____

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

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

Employee	Department	$ Amount
David Canon	City Council	110.22

) That attached is an expense report(s) prepared, dated and signed by the City employee or official covering the various expenses incurred on said trip and reviewed/approved by the City's accounting department and City official(s).

3) That the Opelika City Council hereby approves the attached expense reports for reimbursement to said City employee or official.

4) That the Mayor and/or appropriate City official is hereby directed and authorized to take the necessary steps so a check can be prepared covering the attached expense reports.

5) That the City Treasurer is authorized to sign said check so it can be delivered to the appropriate City employee or official.

ADOPTED and APPROVED this the _____ day of _____, 2017.

_____

Patricia A. Jones

President pro-tem City Council

City of Opelika, Alabama

ATTEST:

_____

Robert G. Shuman, CMC

City Clerk - City Treasurer

EXPENSE REPORT

NAME David Canon **DEPARTMENT** Opelika City Council **PERIOD ENDING** 3/11-3/15 2017

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

DATE	DAY	CITY AND STATE	LODGING	TRANSPORTATION: AIR, RAIL, ETC.	TRANSPORTATION: RENTAL CAR, LIMO, ETC.	TRANSPORTATION: LOCAL TAXI, TOLLS, & PUBLIC TRANSIT	TRANSPORTATION: AUTO EXPENSES Itemize Below	BUSINESS MEALS Itemize Below: BREAKFAST	BUSINESS MEALS Itemize Below: LUNCH	BUSINESS MEALS Itemize Below: DINNER	ENTERTAINMENT Itemize Below	MISC EXPENSES Itemize Below	DAILY TOTAL
	SUN												$ -
	MON												$ -
	TUE												$ -
3/15	WED	Washington to Atlanta 3/15/17					$ 49.11					$ 6.00	$ 55.11
	THU												$ -
	FRI												$ -
3/11	SAT	Atlanta to Washington 3/11/17					$ 49.11					$ 6.00	$ 55.11
	WEEKLY CATEGORY TOTALS $		$ -	$ -	$ -	$ -	$ 98.22	$ -	$ -	$ -	$ -	$ 12.00	$ 110.22

RECEIVED
MAR 17 2017
BY:

WEEKLY TOTAL OF EXPENSES ↑

NUMBER OR DAYS AWAY FROM HOME
5

NUMBER OF DAYS AWAY ON PERSONAL AFFAIRS
0

% OF TOTAL DAYS AWAY FOR PERSONAL AFFAIRS
0

NATURE OR PURPOSE OF TRAVEL
2017 National League of Cites
Congressional City Conference

METHOD OF REIMBURSEMENT
MAIL TO:
David Canon % Bob Shuman

3-16-17
SIGNATURE

APPROVED BY

ITEMIZED ENTERTAINMENT AND BUSINESS MEALS

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

ITEMIZED AUTOMOBILE EXPENSES

DATE	MILEAGE, GAS, PARKING, REPAIRS, ETC	AMOUNT
03/11/17	204 S 7th St to ATL Airport, 91.8 x .535	$ 49.11
03/15/17	ATL Airport to 204 S 7th St, 91.8 x .535	$ 49.11
	Note: Mileage for personal car	

ITEMIZED MISCELLANEOUS EXPENSES

DATE	ITEMS	AMOUNT
03/11/17	Shuttle, Bag Ck, Bellhop	$ 6.00
03/15/17	Shuttle, Bag Ck, Bellhop	$ 6.00
	Note: $2.00 each, cash	

Attachment: CM 3-21-17, expense report Canon, 3-20-17 (065-17 : Expense Report, David Canon.)

ORDINANCE NO. (ID # 2086)

Amend Zoning Ord & Map: 1310 1St Avenue, 19,000 Sf Lot, from M-1 to R-4 - Tabled.

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 124-91 entitled "Zoning Ordinance City of Opelika, Alabama", 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 parcel of land hereinafter in this section described, so as to change such parcel from one class of district to another class of district as follows, to-wit:

From a M-1 District (Industrial District) to a R-4 District (Medium Density Residential District), the parcel of land hereinafter described:

A parcel of land lying in Section 7, Township 19 North, Range 27 East in Opelika, Lee County, Alabama, said parcel being more particularly described as follows: From the intersection of the Northwest line of First Avenue with the Northeast line of 14th Street, run thence North 46°01'35" East along the Northwest line of First Avenue for 102.19 feet to the point of beginning; FROM THIS POINT OF BEGINNING, run thence North 45 degrees West for 188.02 feet to a point on the Southeasterly margin of a twenty foot alley; thence North 44°44'22" East along the Southeasterly margin of said alley for 100.22 feet; thence South 44°55'35" East for 190.02 feet to the Northwest margin of First Avenue; thence along the Northwest margin of said street, South 45°54'59" West for 99.99 feet to the point of beginning. This parcel of land is also known as Lot 1-B of Block 23 of Totten's Real Estate Map of the City of Opelika, Alabama.

The above-described parcel of land is further described as 1310 First Avenue.

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 in a newspaper of general circulation in the City of Opelika, Lee County, Alabama.

ADOPTED AND APPROVED this the _____day of _____, 2017.

_____

PRESIDENT PRO-TEM CITY COUNCIL

CITY OF OPELIKA, ALABAMA

ATTEST:

_____

CITY CLERK

TRANSMITTED TO MAYOR on this the _____day of _____, 2017.

_____

CITY CLERK

ACTION BY MAYOR

APPROVED this the _____day of _____, 2017.

_____

MAYOR

ATTEST:

_____

CITY CLERK

ORDINANCE NO. 106-17-ORD

Change the July 4Th Council Meeting Date to July 5Th. - 2Nd Reading.

ORDINANCE NO. _____

WHEREAS, under the authority of Section 2-161 of the Code of Ordinances of the City of Opelika, regular meetings of the City Council are held on the first and third Tuesday of each month; and

WHEREAS, the meetings of the City Council for the month of July 2017 is scheduled to be held on July 4, 2017 and July 18, 2017; and

WHEREAS, the 4th of July is a National Holiday, therefore the Council desires to re-schedule the first regular meeting in July 2017 from July 4, 2017 to July 5, 2017.

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

Section 1. The meeting of July 4, 2017 of the City Council is hereby canceled.

Section 2. The first regular meeting of the City Council for the month of July 2017 shall be held on July 5, 2017 beginning at 7:00 p.m. in the City Council chambers of the Municipal Building, 204 South 7th Street, Opelika, Alabama.

Section 3. Except as modified herein, the provisions of Section 2-161 of the Code of Ordinances of the City of Opelika shall continue in full force and effect with regular meetings of the City Council to be held on the first and third Tuesday of each month.

Section 4. That the City Clerk is hereby directed to notify the news media and all other interested parties of the change of date for the first regular meetings of the City Council in July 2017.

ADOPTED AND APPROVED this the _____ day of _____, 2017.

_____

PRESIDENT PRO-TEM CITY COUNCIL

THE CITY OF OPELIKA, ALABAMA

ATTEST:

_____

CITY CLERK

TRANSMITTED to the Mayor on this the _____ day of _____, 2017.

_____

CITY CLERK

ACTION BY MAYOR

APPROVED by the Mayor on this the _____ day of _____, 2017.

_____

MAYOR

ATTEST:

_____

CITY CLERK

ORDINANCE NO. 107-17-ORD

Amend City Code, Sec 19-495, Discharge of Weapons - 2Nd Reading.

ORDINANCE NO._____

AN ORDINANCE TO AMEND SECTION 19-495

OF THE *CODE OF ORDINANCES* OF THE CITY OF OPELIKA,

ALABAMA PERTAINING TO THE DISCHARGE OF WEAPONS

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

Section 1. **Amendment to Section 19-495.** That Section 19-495 of the *Code of Ordinances* of the City of Opelika, Alabama, entitled "Discharge of Weapons", is hereby amended to read as follows:

Sec. 19-495. Discharge of weapons.

(a) Generally. Except as specifically provided herein, it shall be unlawful for any person to shoot, fire or discharge an air rifle, pistol, rifle, shotgun or firearm of any kind or nature, anywhere within the corporate limits of the city.

(b) Exceptions. The provisions of subsection (a) of this section do not apply to the following:

(1) Law enforcement officers. Law enforcement officers engaged in their official duties.

(2) Self-defense. Persons exercising the right of self-defense or defense of others.

(3) Military personnel. Members of the Armed Forces of the United States or the

National Guard while such members are engaged in official duties.

(4) Indoor shooting ranges. Indoor shooting ranges (hereinafter referred to as "ranges) are hereby allowed in the City of Opelika subject to the terms, conditions and regulations set out and specified in this subsection. The term "range" is defined as a room, place or enclosure wherein the firing of firearms is permitted to practice marksmanship.

(a) No range shall be located in a zoning district other than specifically authorized by right or by conditional use permit by the City of Opelika zoning ordinance provided; however, that no range shall be located within three hundred (300) feet of any residential use.

(b) The range facility shall not be located within one thousand (1,000) feet of a school, childcare facility or hospital.

(c) The range shall meet all current laws, regulations, rules and requirements as established by the federal government protection agency, state department of environmental management, the National Rifle Association and the U.S. Department of Labor, and all local, state or federal laws, rules or regulations.

(d) The building must be of soundproof construction whereby the sound from the discharge from any firearm shall not be transmitted or detected from any adjoining property line as certified by a registered professional engineer or architect in the state or a qualified acoustical consultant.

(e) Buildings containing ranges shall have walls, ceilings and floors that are either impenetrable to the bullets of the firearms being used within it, or have internal baffling built so that the bullets cannot hit the walls or ceilings. Provisions shall also be made to stop glancing bullets or particles of bullets at the sides of the target area.

(f) The heating and air conditioning system must meet all current standards of the Federal Environmental Protection Agency, state

department of environmental management, OSHA and all other applicable local, state and federal laws, regulations, rules and standards. A registered professional engineer must certify that the systems comply with all applicable laws, regulations, rules and standards.

(g) No person under the age of eighteen (18) years shall be permitted to enter a range unless accompanied by an adult.

(h) It shall be unlawful for any person operating a range to permit any person or persons to bring any alcoholic beverages on the premises of any range, or to permit the consumption of alcoholic beverages on the premises or to permit alcoholic beverages to be left at any place on the premises. It shall also be unlawful for any person operating a range to permit any intoxicated person to be or remain in the premises of a range.

(i) It shall be unlawful for any person operating a range to permit any form of gambling or wagering.

(5) Hunting. The hunting of birds and animals with air rifles, rifles and shotguns shall be permitted in the rural district (R-1 district) only. However, such hunting shall conform to all rules, regulations and restrictions as prescribed in this subsection. The discharge of firearms is strictly prohibited in all zoning districts of the City except the rural district (R-1 district).

(a) Every landowner to whom a permit is issued pursuant to this subsection shall be authorized to allow hunting with a shotgun on undeveloped parcels of land of twenty (20) contiguous acres or more in the rural district (R-1 district). Shotgun ammunition is restricted to number 5 load or smaller. Hunting with a rifle, pistol, air rifle or shotgun using slugs is prohibited. Where shotgun hunting is authorized, it shall be unlawful for any person to discharge a shotgun within three hundred (300) feet of any building or inhabited structure, airport, school, public right-of-way or municipal property. The discharge of firearms across a public road or property line shall be prohibited. Furthermore, shotgun hunting within three hundred (300) feet of an adjacent property line shall be prohibited unless: (i) a hunting permit has been issued to the adjacent property owner; or (ii) the adjacent property owner gives his consent in writing; or (iii) the adjacent property is outside the city limits.

(b) Every landowner to whom a hunting permit is issued pursuant to this subsection by the City Council shall be authorized to allow still hunting from a tree/elevated stand with a rifle or shotgun on undeveloped parcels of land of forty (40) contiguous acres or more in the rural district (R-1 district). Notwithstanding the foregoing, the tree/elevated stand shall be elevated at least twelve (12) feet above ground and the discharge of any firearm shall be in a descending or downhill direction. In hilly terrain, the hunter shall be responsible to elevate a tree/elevated stand at an appropriate height so that a firearm is discharged in a descending/downhill direction. Hunting from the ground or stalking hunting is prohibited on parcels less than forty (40) contiguous acres.

(c) Every landowner to whom a hunting permit is issued pursuant to this subsection shall be authorized to stalk hunt with a rifle or shotgun, with or without slugs on undeveloped parcels of land of two hundred (200) contiguous acres or more in the rural district (R-1 district). In no event shall a rifle or shotgun using slugs be discharged from a tree/elevated stand or discharged while stalk/ground hunting within eight hundred (800) feet of any building or inhabited structure, airport, school, public right-of-way or municipal property. The discharge of firearms across a public road or property line is prohibited. Hunting with a rifle or shotgun using slugs from a tree stand/stalk hunting shall not be allowed within eight hundred (800) feet of any adjacent property line unless the hunting permit has been issued pursuant to this subsection to the adjacent property owner, (i) the adjacent property owner gives his consent in writing, or (ii) the adjacent property is outside the city limits.

(d) In addition to all other requirements prescribed in this subsection, every landowner to whom a hunting permit is issued pursuant to this subsection, or his authorized agent or attorney-in-fact, shall:

(1) Furnish to each hunter written permission that includes the beginning and expiration dates for hunting activities for the approved year. The written permissions shall be renewed annually to be effective. Hunting shall only be allowed with written permission by the landowner or his duly authorized agent or attorney-in-fact.

(2) Furnish to each hunter a copy of the regulations contained in this subsection, the written permission and a map of the hunting area to each hunter. All persons engaging in the hunting of game birds and animals within the City shall carry on his or her person copies of these documents, which shall be open to inspection by any police officer.

(e) In addition to all other laws and regulations, the following restrictions shall apply to all hunting activities within the R-1 district in the City:

(1) Every hunter shall comply with all federal, state and municipal hunting rules and regulations.

(2) Every hunter shall carry on his person a written consent from the landowner or his duly authorized agent or attorney-in-fact for seasonal hunting according to those dates set forth in the Division of Wildlife and Fresh Water Resources of the State of Alabama.

(3) Every landowner to whom a hunting permit is issued pursuant to this subsection shall be authorized to allow deer hunting by persons utilizing any primitive weapons as defined by the Division of Wildlife and Fresh Water Resources of the State of Alabama. The use of primitive weapons shall be permitted on undeveloped parcels of land of twenty (20) acres or more in the R-1 zoning district. The hunting of deer with any firearm or dangerous weapon is prohibited except as allowed in this subsection.

(4) It shall be unlawful for any person to release hunting dogs on private or posted land without the written consent of the owner or lessee of such land. This written consent shall be renewed annually to be effective.

(5) Every hunter, if requested to do so by a police officer, shall exhibit the written consent issued by the landowner which shall

include the beginning and expiration dates for hunting activities as well as a copy of the rules and regulations prescribed by this subsection.

(6) Skeet shoot. Skeet, trap shooting or archery for recreational or instructional purposes shall be authorized with the written consent of the landowner or his duly authorized agent or attorney-in-fact in the R-1 zoning district on undeveloped parcels of land with twenty (20) contiguous acres or more. The consent of the landowner shall include the beginning and expiration dates for such activities for the approved year. Every landowner and hunter shall comply with all rules, regulations and restrictions prescribed in this subsection.

(7) It shall be unlawful for any person to hunt while under the influence of an "impairing substance", defined as alcohol and/or any other drug or cycle active substances capable of impairing a person's physical or mental faculties, or any combination of these substances.

(f) Any landowner desiring a hunting permit shall file with the Planning Department a sworn application, in writing, on a form to be furnished by the City which shall contain the following information:

(1) Name and date of birth, home address, social security number and telephone number of the applicant.

(2) A general description of the property to be used for hunting activities, including the number of acres contained within said parcel of land.

(3) A narrative of all hunting activities which shall be authorized on the premises.

(4) The name and address of each person owning property adjacent to the applicant's property.

(5) A statement by the applicant that he or she will indemnify and hold harmless the City from all losses, costs, expenses, including attorneys' fees, all claims, demands, causes of action arising out of hunting activities on the applicant's property.

(6) A boundary map of the landowner's property showing the relationship of the property to adjacent property shall be attached to the application. The names and addresses of all adjacent property owners shall appear on said map.

(7) Twelve (12) copies of the application form and the requisite application fee shall be submitted to the Planning Director to initiate the processing of the permit.

(g) Persons applying for a hunting permit shall pay a permit fee in the sum of fifty dollars ($50.00), plus the actual cost of providing notices to the adjacent property owners. All applications shall be submitted at least thirty (30) days prior to the City Council meeting at which the application is to be considered.

(h) Upon the receipt of an application for the hunting permit required by this subsection, the Planning Director shall send by certified mail, a notice to all adjacent property owners affected by the proposed application. The notice to the adjacent property owners shall include the name and address of the applicant, a statement that the applicant desires the issuance of a hunting permit for his or her premises and the date on which the application will be considered by the City Council. A copy of the boundary map shall be attached to the notice.

(i) A public hearing shall be held by the City Council after adjoining property owners have been notified of the public hearing by certified mail. The application shall be denied if the City Council finds that the application and record fail to establish compliance with the standards of this subsection. Within ten (10) days of the public hearing on the application, unless an extension of time is agreed to by the applicant, the City Council shall either approve or disapprove the application.

(j) The police chief shall be authorized to renew on an annual basis all hunting permits issued by the City Council, provided there have been no violations of the permit during the preceding year. Permits shall be renewed as of September 1. The City shall send a certified letter to each permittee on or before July 15 of each year, notifying the permittee or his authorized agent or attorney-in-fact of the renewal deadline. The permittee may renew the permit without payment of a renewal fee before September 1 of each year. In any permittee renews his or her permit after September 1, the permittee shall pay a twenty-five dollar ($25.00) late fee to the City. If any permittee shall fail to comply with any of the rules and regulations prescribed by this subsection during the preceding year, his or her application for renewal shall be referred to the City Council for reconsideration and notice shall be given to all adjoining property owners.

(c) Penalties. Any person violating any provision of this section upon conviction shall be punished by a fine of not more than five hundred dollars ($500.00) and by imprisonment for not more than six (6) months, or by both such fine and imprisonment and also cost of court for each offense. Each day such violation continues shall constitute a separate offense.

Section 2. **Repealer Clause.** All former ordinances or parts thereof conflicting or inconsistent with the provisions of this Ordinance or the section hereby adopted are repealed.

Section 3. **Severability Clause.** If any section, subsection, clause, or portion of this ordinance shall be held to be invalid or unconstitutional by any court of competent jurisdiction, said holding shall not affect any other section, subsection, clause or portion of this Ordinance which is not in or of itself invalid or unconstitutional.

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

Section 5. **Publication**. The City Clerk of the City of Opelika, Alabama is hereby authorized and directed to cause this Ordinance to be published one (1) time in a newspaper of general circulation published in the City of Opelika, Lee County, Alabama.

ADOPTED AND APPROVED this the _____day of _____, 2017.

_____

PRESIDENT PRO-TEM CITY COUNCIL

CITY OF OPELIKA, ALABAMA

ATTEST:

_____

CITY CLERK

TRANSMITTED TO MAYOR on this the _____day of _____, 2017.

_____

CITY CLERK

ACTION BY MAYOR

APPROVED this the _____day of _____, 2017.

_____

MAYOR

ATTEST:

_____

CITY CLERK

ORDINANCE NO. (ID # 2170)

Amend City Code, Chapter 7 Article III, Erosion & Sediment Control - 1St Reading.

See attached ordinance

The 2017 ADEM permit for Storm Water Management that the City is obligated to added one major requirement that needed to be placed in the Post Construction Ordinance also being amended. This change was to require developments and property owners (HOA and developers) to inspect their facilities and to maintain these inspections on hand for audits from the City and ADEM. Maintenance of detention ponds, grounds and drainage is already required but inspections was not until now.

With the addition of this requirement into Article IV of this, we decided this was a good time to re-organize and update the language in both Article III and Article IV. Much of the City's land disturbance permitting requirements that were entered in 2014 were entered into Article IV where it should have been Article III. This was relegated to the appropriate location and minor errors and redundancies were corrected with these two amendments.

ORDINANCE NO._____

AN ORDINANCE AMENDING THE *CODE OF ORDINANCES* OF THE CITY OF OPELIKA, BY REPEALING ARTICLE III OF CHAPTER 7— "EROSION AND SEDIMENT CONTROL" IN ITS ENTIRETY AND SUBSTITUTING IN LIEU THEREOF A NEW ARTICLE III ENTITLED "EROSION AND SEDIMENT CONTROL"

WHEREAS, migrating soil from land disturbance sites often creates soil erosion; and

WHEREAS, erosion is defined as the process by which the land surface is worn away by the action of water, ice and gravity; and

WHEREAS, during the construction process, soil is highly vulnerable to erosion by wind and water; and

WHEREAS, eroded soil endangers water resources by reducing water quality and causing the siltation of aquatic habitat for fish and other desirable species; and

WHEREAS, eroded soil also necessitates repair of sewers and ditches and the dredging of lakes; and

WHEREAS, in addition, clearing and grading during construction causes the loss of native vegetation necessary for terrestrial and aquatic habitats; and

WHEREAS, the most effective way to control soil erosion is at its source; and

WHEREAS, erosion control and best management practices (BMPs) are required on all land disturbance sites to provide a defense against soil erosion; and

WHEREAS, BMPs can be either structural or vegetative; and

WHEREAS, localities within the State of Alabama are required to comply with both State and Federal laws, regulations and permits which require a locality to establish a plan to manage storm water run-off occurring during the construction process; and

WHEREAS, the City of Opelika, Alabama (the "City") does enact this erosion and sediment control ordinance to provide for and promote compliance by the City with Federal and State laws governing the discharge of pollutants from the MS4 and to provide for and promote compliance with the City's NPDES permit, issued by the Alabama Department of Environmental Management ("ADEM"); and

WHEREAS, the City does enact this ordinance to provide reasonable guidance to local agencies, engineers, developers or others involved in erosion control and storm water management in the City of Opelika..

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

Section 1. **Replacement of Article III of Chapter 7 of the *Code of Ordinances*; adoption of Section 7-80 through Section 7-94.** That Article III of Chapter 7 of the *Code of Ordinances* of the City of Opelika, Alabama, entitled "Erosion and Sediment Control", is hereby repealed in its entirety and replaced with new Article III entitled "Erosion and Sediment Control", consisting of sections 7-80 through 7-94, which said article shall read as follows:

ARTICLE III. - EROSION AND SEDIMENT CONTROL

DIVISION 1. - GENERALLY

Sec. 7-80. – Introduction and Purpose.

Attachment: Ordinance to amend code of ordinances Article III of Chapter 7 erosion and sediment control final 031317 (2170 : Amend the Erosion and Sediment Control Ordinance Article III

Attachment: Ordinance to amend code of ordinances Article III of Chapter 7 erosion and sediment control final 031317 (2170 : Amend the Erosion and Sediment Control Ordinance Article III

During the construction process, soil is highly vulnerable to erosion by wind and water. Eroded soil endangers water resources by reducing water quality and causing the siltation of aquatic habitat for fish and other desirable species. Eroded soil also necessitates repair of sewers and ditches and the dredging of lakes. In addition, clearing and grading during construction cause the loss of native vegetation necessary for terrestrial and aquatic habitat.

As required by the city's phase II municipal separate storm sewer (MS4) national pollutant discharge elimination system (NPDES) permit, issued by the Alabama Department of Environmental Management (ADEM), the city must develop, implement, and enforce a storm water management program designed to reduce the discharge of pollutants from its MS4 to the "maximum extent practicable," to protect water quality and to satisfy the appropriate water quality requirements of the Clean Water Act (CWA). This article is therefore enacted to preserve, protect, and promote the health, safety, and welfare of the citizens of the city, through the reduction, control, and prevention of the discharge of pollutants from newly developed and redeveloped sites to the MS4. It is the expressed intent of the city in enacting this article to provide for and promote compliance by the city with federal and state laws governing the discharge of pollutants from the MS4 and to provide for and promote compliance with the city's NPDES permit, issued by ADEM pursuant to its authority under the CWA. Additionally, this policy reinforces the need for those sites less than one (1) acre in size to be classified as "permit by rule" construction sites required to implement and maintain best management practices until land disturbing activities have ceased and permanent stabilization has been achieved.

Sec. 7-81. - Definitions.

For the purposes of this article, the following terms shall have the meanings established in this section.

Accidental discharge: A discharge prohibited by this article into the municipal separate storm sewer system that occurs by chance and without planning or consideration prior to occurrence.

ADEM: The Alabama Department of Environmental Management. The state's regulatory agency created under Code of Ala. 1975, §§ 22-22A-1, et seq., responsible for administering and enforcing the storm water laws of the United States of America and the state. Also known as NPDES rules.

Adverse impact: Any deleterious effect on waters or wetlands, including their quality, quantity, surface area, species composition, aesthetics or usefulness, for human or natural uses which are or may be potentially harmful or injurious to human health, welfare, safety or property or to biological productivity, diversity or stability, or which would unreasonably interfere with the enjoyment of life or property.

Agriculture: Activities undertaken on land for the production of plants, crops, and animals that are useful to man.

Alabama Handbook: The most recent edition of the Alabama Handbook for Erosion Control, Sediment Control and Storm water Management on Construction Sites and Urban Areas authored by the Alabama Soil and Water Conservation Committee, Montgomery, Alabama.

Applicant: Any individual, partnership, syndicate, joint venture, group, firm, company, association, trust, public or private corporation, business, estate, commission, board, utility, cooperative, county, city or other political subdivision, or any entity recognized by law including but not limited to any duly authorized agent, or any combination of the foregoing, that executes the necessary forms to procure an effective, issued permit to discharge under the NPDES.

Authority: The definition of "authority" will be defined by each participating entity, i.e. the City of Opelika, The City Engineer is hereby appointed to administer and implement

Attachment: Ordinance to amend code of ordinances Article III of Chapter 7 erosion and sediment control final 031317 (2170 : Amend the Erosion and Sediment Control Ordinance Article III

the provisions of this article. AWPCA: The Alabama Water Pollution Control Act, Code of Ala. 1975, §§ 22-22-1, et seq., and the Alabama Environmental Management Act, Code of Ala. 1975, §§ 22-22A-1, et seq., both as amended, and regulations promulgated thereunder.

Basin:
(1) The surface of the area tributary to a stream or lake.
(2) Space above or below ground capable of retaining or detaining water or debris.

BMPs/Best management practices: Activities, prohibitions of practices, maintenance procedures and management practices, designed and implemented to prevent or reduce the discharge of pollutants to the MS4. Nonstructural BMPs are strategies implemented to control storm water runoff that focus on pollution prevention such as alternative site design, zoning and ordinances, education, and good housekeeping measures. Structural BMPs are engineered devices to control, treat, or prevent storm water runoff pollution. BMPs also include treatment requirements, operating procedures, and practices, to control facility site runoff, spillage or leaks, sludge or waste disposal or drainage from raw material storage and construction sites.

BMP PLAN: Best management practices plan. A set of drawings and/or other documents submitted by the applicant to the authority as a prerequisite to obtaining approval to commence construction activities at a development site falling partially or entirely within the authority's territorial jurisdiction. The site specific BMP PLAN contains all of the information and specifications pertaining to the BMPs the applicant will use to control erosion and sedimentation for its development.

Buffer/stream side management zone (SMZ): Areas adjacent to water bodies that reduce volume and flow of surface runoff reducing sedimentation and are a BMP in the Clean Water Act. The area acts as a filter and promotes stable slopes and high water flows. A vegetated zone adjacent to a stream, wetland, or shoreline where development is restricted or controlled to minimize the effects of development. Buffer zones shall be a minimum of twenty-five (25) feet perpendicular from each side of the stream bank, creek, or waterway under "bank-full conditions". Buffers are applicable to any perennial or intermittent stream as indicated on the United States Geological Survey 7.5 Minute Series topographic map (latest revision) and all water bodies including lakes, ponds, and wetlands. Any area within this buffer shall not be cleared or graded unless written authorization is obtained from the authority. Utilization or reinforcement of existing vegetation is preferred. However, where improvements are required, sodding, plugging, use of stockpiled vegetation, willows, tree stock or seeding is acceptable where approved by the authority.

Clearing: The removal of trees, shrubs, grass, brush and/or other varied ground cover and vegetation from the land, which, in its undisturbed state, is useful for windbreaks, water retention and the maintenance of topsoil. This definition does not include the ordinary mowing of grass or the maintenance of previously cleared land.

Contour: A line of equal elevation above a specified datum. The datum most commonly used is mean sea level having or representing equal elevations.

Community water/Waters of the US: Any or all rivers, streams, creeks, branches, lakes, reservoirs, ponds, drainage systems, springs, wetlands, wells, and other bodies of natural or artificial surface or subsurface water into which the MS4 outfalls flow.

CWA: The Federal Clean Water Act, 33 U.S.C. § 1251, et seq., which was formerly referred to as the Federal Water Pollution Control Act and Federal Water Pollution Control Act Amendments of 1972, Public Law 92-500, as amended by Public Law 95-

217, Public Law 95-576, Public Law 6-483 and Public Law 97-117, 33 U.S.C. § 1251-1387.

Detention pond/Retention pond: A temporary or permanent storm water structure whose primary purpose is to temporarily store storm water runoff and release the stored runoff at a non-erosive or controlled rates.

Development: The process of constructing, improving or adding buildings or facilities to an area of land in its natural state for the purpose of commercial, industrial, residential, retail or any other commercial use that requires the disturbance of said land.

Discharge: The passing of water or other liquid through an opening or along a pipe, conduit, or channel. The rate of flow of water, silt or other mobile substance emerging from the pipe, conduit or channel is usually expressed as cubic feet per second, gallons per minute or million gallons per day. Set out in Alabama Administrative Code Section 335-6-6-.02.

Drainage: The removal of surface water from a given area either by gravity or by pumping; commonly applied to surface water and groundwater.

Drainage area: The area contributing runoff to a single point measured in a horizontal plane, which is enclosed by a ridgeline; the area of a drainage basin or watershed, expressed in acres, square miles or other units of area.

Engineer: A person currently licensed by the state board of registration for professional engineers and land surveyors.

EPA: The environmental protection agency.

Erosion: Process by which land surface is worn away by the action of wind or water also known as geologic weathering.

Erosion and sediment control plan (ESC plan): A site specific drawing or set of drawings prepared by a qualified credentialed professional (QCP) utilizing approved BMP to control erosion and sediment for a development or land disturbance.

Grading: Any act by which soil is cleared, stripped, stockpiled, excavated, scarified, or filled, or any combination thereof.

HOA: In the United States, a homeowner association (HOA) is an entity formed by a real estate developer, comprised of a board of home owners in the development, for the purpose of marketing, managing, and selling of homes and lots in a residential subdivision. Typically these boards are responsible for the perpetual operation and maintenance of grounds, common space features, and drainage systems.

Illicit connection: Any man-made conveyance connecting an illicit discharge directly to the MS4.

Illicit discharge: Any discharge that is not composed entirely of storm water, except discharges pursuant to an NPDES permit and discharges that are specifically excepted from this policy. Not authorized or not permitted.

Land disturbing activities: Activities that include any land change, which may result in erosion and the movement of sediment to the MS4, including but not limited to the clearing, dredging, grading, excavation, transporting, and filling of land.

Minor extension: An addition to an existing utility pipeline or other utility line in which the land disturbed consists of less than one thousand (1,000) linear feet.

MS4: Municipal separate storm sewer system, which is comprised of a system of man-made conveyances designed or used for collecting or conveying storm water, including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, and storm drains which are owned and operated by a city, town, county or other public body created by or pursuant to state law. An MS4 does not include a publicly owned treatment works (POTW) or a combined sewer.

MS4 Cities: Cities with populations identified by the US EPA/Census that must comply with a state water quality program under annual permits granted by the state environmental agency. Cities shall have jurisdiction over its corporate limits and all shall comply with those required permits and statutes. Cities shall have lawful ordinances, covenants and codes to enforce full compliance; nationally known as NPDES.

NOI: Notice of intent. The application that must be submitted to ADEM to obtain coverage under the agency's general permit regulating land disturbing activities, applicable to discharges from sites that result in total land disturbance of one-acre or greater and sites less than one-acre but are part of a common plan of development or sale.

NON-point source: is considered discharge resulting from land runoff, precipitation, atmospheric deposition, drainage, seepage or hydrologic modification. Nonpoint source (NPS) pollution, unlike pollution from industrial and sewage treatment plants, comes from many diffuse sources. NPS pollution is caused by rainfall or snowmelt moving over and through the ground. As the runoff moves, it picks up and carries away natural and human-made pollutants, finally depositing them into lakes, rivers, wetlands, coastal waters and ground waters.

NPDES: National pollutant discharge elimination system. NPDES shall mean the national program of issuing, modifying, revoking, etc., permits under Sections 307, 318, 402, and 405 of the CWA, as well as the state permitting program implemented under the CWA and the AWPCA. NPDES shall be enforced in those MS4 identified cities.

Outfall: A source (meaning any discernible, confined and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, concentrated animal feeding operation, landfill leachate collection system, vessel or other floating craft from which pollutants are or may be discharged, but not including return flows from water runoff at the point of a discharge to waters of the United States of America. It is considered the point it discharges into the streams identified by (NHD) National Hydrologic Database.

Permit: Any permit issued pursuant to this article, permitting discharges to the MS4 under the NPDES.

Permit by rule: The approval of a regulated activity without a formal application and approval process, under the condition that the activity is performed in compliance with all applicable rules. Any failure to comply with applicable rules would subject that activity to penalties for violation and normal application and approval requirements.

Permittee: A person, party, government entity and all others who receive a permit to discharge under the NPDES.

Point sources: of water pollution are described by the CWA as "any discernible, confined, and conveyance from which pollutants are or may be discharged." These include pipes or man-made ditches from stationary locations such as sewage treatment plants, factories, industrial wastewater treatment facilities, septic systems, ships, and other sources that are clearly discharging pollutants into water sources.

Pollutant: Includes but is not limited to, the pollutants specified in Section 22-22-1(b)(3) of the AWPCA and any other effluent characteristics specified in a permit.

Pollutant loading: The amount of a pollutant entering the MS4 storm water system. See TMDLs.

Post-construction strategies: BMPs and other measures for activities that take place after construction occurs, including structural and non-structural controls to obtain permanent storm water management over the life of the property's use. Requires annual inspections.

PSC: Alabama Public Service Commission. The state's regulatory agency created under Code of Ala. 1975, §§ 37-1-1, et seq., responsible for the regulation of utilities including but not limited to those providing electricity, gas, water, and steam.

QCI: Qualified credentialed inspection professional (QCI). Inspection professional hired by the contractor to monitor BMP and ensure compliance with this policy. The inspector certification program shall be as approved by ADEM and refreshed annually.

QCP: Qualified credentialed professional: A certified professional in erosion and sediment control (CPESC) as determined by the Soil and Water Conservation Society or the International Erosion Control Association (IECA). In addition, other registered or certified professionals such as a professional engineer, landscape architect, registered land surveyor, registered architect, registered geologist, registered forester, registered environmental manager as determined by the National Registry of Environmental Professionals (NREP), certified professional soil scientist (CPSS), as determined by the American Registry of Certified Professionals in Agronomy, Crops and Soils (ARCPACS), who can document the necessary education, training and professional certification, registration, or credentials acceptable to the official and can demonstrate proven experience in the field of erosion and sediment control shall be considered a qualified credentialed professional. The QCP must be in good standing with the authority granting the registration and the requirements of Alabama Administrative Code Chapter 335-6-12. The QCP must be familiar and have expertise with current industry standards for erosion and sediment controls and must be able to inspect and assure that nonstructural BMP or other pollution control devices (silt fences, erosion control fabrics, rock check devices, etc.) and erosion control efforts, such as grading, mulching, seeding and growth management, or management strategies have been properly implemented and regularly maintained according to standard practices and permit requirements. A professional engineer (PE) registered in the State of Alabama must certify the design and structural practices such as spill prevention control and counter-measures (SPCC) plan, containment structures, dam construction, etc.

Redevelopment: any land or property where the use of new facilities occurs with the renovation or replacement of existing facilities on a site that has any previously existing uses.

Sediment: Solid material settled from suspension in a liquid that has been transported and deposited from its site of origin by air, water, ice or gravity as a product of erosion and has come to rest on the earth's surface either above or below a water surface, usually inorganic or organic particles originating from weathering, chemical precipitation or biological activity.

Sedimentation: Process by which eroded material is transported and deposited by action of water, wind, ice and gravity.

Settling basin: A temporary sediment trap or ponding area formed by excavation or construction of embankments where runoff is detained and sediment can settle.

Silviculture: The care and cultivation of forest trees, including site preparation, planting, pruning, thinning, and harvesting.

Site: Any tract, lot, or parcel of land or combination of contiguous tracts, lots or parcels of land which are in one ownership, and any combination of tracts, lots or parcels of land which are contiguous and are owned by two (2) or more parties and are to be developed as a unit, subdivision or project.

Stabilization: The prevention of soil movement by any of various vegetative and/or structural means.

Storm water: The excess water running off from the surface of a drainage area during and immediately after a period of rain or snow melt. It is that portion of the surface flow that is in excess of that which can be absorbed through the infiltration capacity of the surface of the basin.

Storm water management: The incorporation of a variety of activities and equipment into a plan to address concerns associated with storm water for the purpose of preventing pollution, improving water quality, keeping pollutants out of the runoff, and the implementation of BMPs.

Storm Water Management Program: A program which covers the duration of the NPDES permit. The program shall include a comprehensive planning process which involves public participation and where necessary, intergovernmental coordination, to reduce the discharge of pollutants to the maximum extent practicable, using management practices, control techniques, system design and engineering methods with other provisions which are appropriate. Aka SWMP Plan.

Stream: A flow course or flow way of running water, usually flowing in a particular direction in a definite channel and discharging into some other flow course of running water or body of water. Recognized streams within the MS4 boundaries are referred to the NHD stream.

TMDL: Total maximum daily load is a calculation of the maximum amount of pollutant that a water body can receive and still safely meet water quality standards.

Structural controls: Measures incorporated into existing storm water drainage systems or newly constructed systems to prevent or to minimize the discharge of pollutants for the purpose of maintaining and/or improving water quantity and quality management, quantitative control by a system of vegetative and structural measures that control the increased volume and rate of surface runoff caused by man-made changes to the land; qualitative control by a system of vegetative, structural and other measures that reduce flow rates and assist to trap or eliminate pollutants that might otherwise be carried by surface runoff.

Turbidity: A condition in water or wastewater caused by the presence of micro or small suspended matter, resulting in the scattering and absorption of light rays. A measure of fine suspended matter in liquids. Given in NTU’s or JTUs. NTUs is the standard.

US-EPA: United States Environmental Protection Agency. Sponsored and passed the 1972 Clean Water Act.

Utility: A business or service which is engaged in regularly supplying the public with some commodity or service which is of public consequence and need such as electricity, gas, water, telephone service and telecommunications service.

Variance: The modification of the minimum storm water management requirements in situations in which exceptional circumstances, applicable to the site with respect to which the variance is requested, exist so that strict adherence to the provisions of this article would result in unnecessary hardship and the granting of such modification would not result in a condition contrary to the intent of this policy.

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Vegetative control measures: The establishment of vegetative ground cover that shields the soil surface from raindrop impact and the scouring effects from overland storm water flow.

Watercourse: A defined channel with bed and banks within which water flows, either continuously or in season. A watercourse is continuous in the direction of flow and may extend laterally beyond the definite banks to include overflow channels contiguous to the ordinary channel. The term does not include artificial channels such as canals and drains, except natural channels trained or restrained by the works of man, nor does it include depressions or swales through which surface or errant waters pass.

10-year rainfall event: The rainfall event having a ten (10) percent chance of being equaled or exceeded in any given year (i.e. 10-year, one-hour rainfall event is approximately two and three-quarter (2.75) inches).

25-year rainfall event: The rainfall event having a four (4) percent chance of being equaled or exceeded in any given year (i.e. 25-year, one-hour rainfall event is approximately two and three-quarter (2.75) inches).

100-year rainfall event: The rainfall event having a one (1) percent chance of being equaled or exceeded in any given year (i.e. 100-year, one-hour rainfall event is approximately three and nine-tenths (3.9) inches).

100-year flood elevation: The boundary delineated by the crest elevations of the 100-year flood which occurs every 100 years on the mean or average.

DIVISION 2. - REQUIREMENTS

Sec. 7-82. - Administration.

The authority shall enforce the provisions of this policy. Whenever "authority" is used in this policy it shall include the authorized agent of the entity. The City of Opelika shall designate the Engineering Department to act as the authority on behalf of the City of Opelika.

Sec. 7-83. - Permits.

No land disturbing activities that disturb either (a) greater than or equal to one-acre as a commercial development; or (b) less than one-acre private residential development, but whose activity is part of a larger common plan of development or sale that disturbs one-acre or more other than those land disturbing activities exempted from the provisions of this article as set out in section 7-84 shall be conducted within the city without first obtaining the necessary permit(s) from the authority and a NPDES NOI permit application or issued permit. Land disturbance activities occurring within impaired areas (303d. listed streams) must have an issued NPDES permit prior to any land disturbance activities.

(1) Commercial development in the form of plat or plan designed by a registered engineer or land surveyor, including subdivisions, to be developed in an area greater than or equal to one-acre and involves land disturbing activities.

Before the commencement of any land disturbing activities, the applicant must file with the authority an application for a permit.

a. Each application for the issuance of a permit shall be accompanied by a nonrefundable fee according to the following scale:

- Less than 5 acres — $60.00
- 5 acres to 10 acres — $90.00
- 10 acres to 25 acres — $120.00
- 25 acres to 50 acres — $150.00

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- 50 acres to 75 acres — $180.00
- 75 acres to 100 acres — $210.00
- Greater than 100 acres — $240.00

b. The authority may require the applicant to post a bond in the form of a government security, cash, irrevocable letter of credit, or any combination thereof up to but not exceeding five thousand dollars ($5,000.00) per acre of the proposed land disturbing activity. The Authority shall determine if a bond is required based on the priority of the watershed, proximity to a waterbody, qualification of the disturbance, and at the discretion of the City Engineer. If the applicant fails to comply with the conditions of the permit, the bond may be called by the authority and used to bring the site into compliance.

c. The authority must be notified immediately upon any change in ownership of property for which a BMP plan has been registered, and/or any change in the person or persons responsible for ensuring compliance with the provisions of this article.

A permit may be amended without the payment of an additional fee upon filing with the authority an amended or restated permit application containing all changes from the original application; provided, that the holder of the permit shows to the reasonable satisfaction of the authority that there are no proposed changes which may affect the quantity and/or quality of storm water runoff. If an amended or restated application is filed with the authority with respect to land disturbing activities for which a permit has been issued, such existing permit shall continue in effect, and the permittee may continue to operate under it unless and until an amended permit is issued, at which time the original permit shall expire and all land disturbing activities must be conducted in accordance with the amended permit.

A permit may be transferred without the payment of an additional fee upon filing with the authority an application for transfer; provided, that a written agreement documenting the transfer accommodate the application. Also, that the current permittee and proposed transferee of the permit show to the reasonable satisfaction of the authority that, upon or following the transfer, there will be no proposed changes which may affect the quantity and/or quality of storm water runoff. If the authority is not satisfied with any such showing by the current permittee and proposed transferee, the new owner or operator must apply for a new permit prior to participating in the operation of such project.

d. All applications and correspondence required by this article to be submitted to the authority must be signed by an individual with adequate legal authority to act for or on behalf of the applicant or permittee. Any person signing any application, correspondence or other documentation required by this article must make the following certification:

"I certify, under penalty of law, that this document and any attachments were prepared under my direction or supervision and that I have personally examined, and I am familiar with, the information in this document and any such attachments. Based on my inquiry of those individuals immediately responsible for obtaining the information, I believe the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and civil penalty."

e. The issuance of a permit shall not excuse the owner from the need to obtain other required federal, state and local permits or licenses.

(2) A private residential development of less than one-acre, but whose activity is part of a larger common plan of development shall require a permit that will be

issued in conjunction with a residential building permit. This permit must include, at a minimum, the following information if it is not already covered in the building permit:

a. Name, address, telephone number, and email address of the applicant;

b. If the applicant is not the owner of the project and/or property, the name, address, telephone number, and email address of the owner of the project, the owner of the property on which the project is to be located, and the ground lessee of the property, if any, on which the land disturbing activities are to be conducted;

c. A map or a plot showing the land on which the land disturbing activities will be conducted shall be submitted. The applicant should utilize the Alabama Handbook for Erosion Control, Sediment Control and Storm water Management on Construction Sites and Urban Areas to implement and maintain erosion control BMP's.

1 Multiple operators conducting land disturbing activities in a common plan of development may jointly submit an application and be covered by the same permit. An application requesting coverage for multiple operators must include a site plan clearly describing each operator's area(s) of operational control.

2 Each application for the issuance of a permit shall be accompanied by a nonrefundable fee of thirty dollars ($30.00), for land disturbing activities associated with individual single family residences.

(3) Post-construction requirements shall be considered during the land disturbance permitting phase. Other post-construction requirements are listed in Article IV. Post-Construction Storm Water Management in Section 7 of the Ordinances.

Sec. 7-84. - Exceptions.

(a) The following land disturbing activities are excluded from the requirements of this article:

(1) Any land change on property about which the owner of the property has submitted information to the authority proving, to the satisfaction of the authority, that such property does not discharge to the MS4.

(2) Any emergency activity that is immediately necessary for the protection of life, property, or natural resources. Immediately upon completion of emergency activity the responsible party shall install all control measures and initiate restoration/cleanup activities as required by this article.

(3) Agriculture.

(4) Silviculture.

(5) Such minor land disturbing activities as home gardens, landscaping, home repairs, home maintenance work, minor additions to houses, the construction, maintenance or repair of accessory structures and other related activities which result in minor erosion.

(6) Minor land disturbing activities, such as minor grading for driveways, yard areas and sidewalks, or individual connections for sewer services for single or two-family residences.

(7) The construction, repair or rebuilding of railroad tracks.

(8) Minor subsurface exploratory excavations under the direction of soils engineers, engineering geologists, or soil scientists.

(9) The opening of individual burial sites in property which has been approved for such use by all necessary governmental authorities.

(10) The construction of water wells or environmental monitoring wells.

(11) All land disturbing activities conducted by entities under the jurisdiction and supervision of the PSC.

(b) Although not required to obtain a permit, persons engaged in excepted activities shall remain responsible for otherwise conducting such activities in accordance with the provisions of this article and any other applicable regulation or permit(s), including the proper control of sediment and discharges to the MS4.

Sec. 7-85. - Review and approval.

The review and approval process shall be as follows:

Before the commencement of any land-disturbing activity that affects one (1) acre or more, the owner of the land on which such activity shall be conducted, or their duly authorized agent, shall file with the authority copies of the ADEM NPDES NOI permit application or issued permit. Land disturbance activities occurring within impaired areas (303d. listed streams) must have an issued NPDES permit prior to any land disturbance activities.

(1) An applicant's BMP plan will either be approved or disapproved by the authority within thirty (30) days of the day a complete application, BMP plan, applicable fee, and bonding requirement, if any, are filed with the authority.

(2) If the BMP plan is disapproved, the authority will inform the applicant, in writing, of the reasons for its disapproval. If the applicant, on one or more occasions, revises the BMP plan or submits to the authority additional documents or information in connection with the BMP plan, the authority will make a written response to the applicant with respect to whether such revised BMP plan and/or additional documents and information have been approved or disapproved by the authority. All such additional responses will be made by the authority to the applicant within ten (10) days of the day such revised BMP plan or additional documents or information are submitted to the authority.

(3) Should the authority fail to approve or disapprove any initial or revised BMP plans within forty-five (45) days of the day said BMP plans are submitted to the authority, the BMP plan shall be deemed approved and the applicant may commence land disturbing activities.

(4) Payment of the applicable fee and bonding requirement, if any, by the applicant, coupled with the authority's approval of the application and BMP plan, shall result in issuance of a permit to the applicant.

Sec. 7-86. - Erosion and sediment control plan.

The erosion and sediment control plan filed with the authority shall include:

(1) A natural resources map identifying soils, forest cover, water bodies and other natural resources to be protected. This map should be at a scale no smaller than 1″ = 100′. Specific map requirements shall be stipulated by the authority.

(2) A sequence of construction of the development site, including stripping and clearing; rough grading; construction of utilities, infrastructure, and buildings; and final grading and landscaping. Sequencing shall identify the expected date on which clearing will begin, the estimated duration of exposure of cleared areas, areas of clearing, installation of temporary erosion and sediment control measures, and establishment of permanent vegetation.

(3) All erosion and sediment control measures necessary to meet the objectives of this policy are required throughout all phases of construction and after completion of development of the site. Depending upon the complexity of the project, the drafting of intermediate plans may be required at the close of each season.

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(4) Seeding mixtures and rates, types of sod, method of seedbed preparation, expected seeding dates, type and rate of lime and fertilizer application, and kind and quantity of mulching for both temporary and permanent vegetative control measures.

(5) Provisions for the maintenance of ESC measures including easements.

(6) A site drainage plan along with calculations supporting the design shall be submitted for all permanent structural BMP (i.e. detention ponds, outlet structures, etc.). The plan and calculations shall be certified by a registered professional engineer licensed by the State of Alabama.

(7) Inspection schedule and reporting requirements as required by ADEM permit or the authority.

(8) The development plan shall include strategies for inspection, operation, and maintenance of post-construction BMP's and shall be incorporated into permittee's pre-project approval, with a statement of inspection/maintenance responsibilities that are transferable to subsequent owners, operators, or HOA who will be responsible for perpetual maintenance of the common spaces, easements, drainage facilities, etc.

(9) Any other pertinent information the authority deems as necessary to complete its review.

Any proposed modification to the erosion and sediment control plan shall be communicated within twenty-four (24) hours or next business day to the authority at which time the authority will determine if a full resubmittal is required or if the modification can be handled as a minor field change.

Sec. 7-87. - Erosion and sediment control criteria.

Criteria for the erosion and sediment control plan shall be as follows:

(1) *Grading, erosion control practices, sediment control practices, and waterway crossings* shall meet the design criteria set forth in the most recent version of the *BMP manual(s) approved by ADEM, and shall be adequate to prevent transportation of sediment from the site to the satisfaction of the authority. Cut and fill slopes shall be no steeper than 3:1, except as approved by the authority to meet other community or environmental objectives. Any cut and fill slope steeper than 3:1, as approved by the authority, shall be stabilized with geo-matting along with the appropriate method of grassing.

(2) *Clearing and grading of natural resources,* such as forests and wetlands, shall not be permitted, except when in compliance with all other federal, state, and local regulations. Clearing techniques that retain natural vegetation and drainage patterns, as described in the BMP manual(s), shall be used to the satisfaction of the authority.

(3) *Buffer/stream side management zone (SMZ) Areas* adjacent to water bodies that reduce volume and flow of surface runoff reducing sedimentation and are a BMP in the Clean Water Act. The area acts as a filter and promotes stable slopes and high water flows. A vegetated zone adjacent to a stream, wetland, or shoreline where development is restricted or controlled to minimize the effects of development. Buffer zones shall be a minimum of twenty-five (25) feet perpendicular from the "top-of-bank" on each side of the stream bank, creek, or waterway under "bank-full conditions". Buffers are applicable to any perennial or intermittent stream as indicated on the United States Geological Survey 7.5 Minute Series topographic map (latest revision) and all water bodies including lakes, ponds, and wetlands. Any area within this buffer shall not be cleared or graded unless written authorization is obtained from the authority. Utilization or reinforcement of existing vegetation is preferred. However, where improvements are required, sodding, plugging, use of stockpiled vegetation, willows, tree stock or seeding is acceptable where approved by the authority.

(4) *Clearing,* except that necessary to establish sediment control devices, shall not begin until all sediment control devices have been installed and have been stabilized. Phasing shall be required on all sites disturbing greater than ten (10)

acres, with the size of each phase to be established at plan review and as approved by the authority.

(5) *Erosion control requirements* shall include but are not limited to the following:

a. Disturbed or exposed soils that have not been worked in thirteen (13) days shall be stabilized with seeding and mulch or covered at the end of each work day.

b. Special techniques that meet the design criteria outlined in the BMP manual(s) on steep slopes or in drainage ways shall be used to ensure stabilization.

c. Soil stockpiles should be protected from erosion throughout the site, stabilized, or covered at the end of each workday and should be seeded and mulched after thirteen (13) idle days.

d. Techniques should be used to prevent the blowing of dust or sediment from the site.

e. Techniques should be used that divert upland runoff around disturbed slopes or stockpiles.

(6) *Sediment control requirements* shall include but are not limited to the following:

a. Settling basins, sediment traps, or perimeter controls.

b. Settling basins that are designed in a manner that allows adaptation to provide long-term storm water management, if required by the authority.

c. Protection for adjacent properties by the use of a vegetated buffer strip in combination with perimeter controls.

(7) *Waterway and watercourse protection requirements* shall include but are not limited to the following:

a. The installation of a temporary watercourse crossing. If a watercourse will be crossed regularly during construction the authority may require a temporary crossing to be constructed in order to prevent streambed damage and or erosion. Watercourse crossings shall be constructed to allow movement of aquatic life.

b. Stabilization of the watercourse channel before, during, and after any in-channel work.

c. All on-site storm water conveyance channels designed according to the criteria outlined in the BMP manual(s).

d. Stabilization adequate to prevent erosion located at the outlets of all pipes and paved channels.

(8) *Construction site access requirements* shall include but are not limited to the following:

a. Temporary construction access, as defined by the authority, at all sites.

b. Other measures required by the authority in order to ensure that sediment is not tracked onto public streets by construction vehicles or washed into storm drains.

(9) *Post development runoff rate.* Except as otherwise provided by other regulations the rate of storm water runoff from any development resulting from the ten-year rainfall occurring within the space of one (1) hour shall not exceed the predevelopment storm water runoff rate for an equivalent event.

(10) *Finished floor elevations.* All finished floor elevations of buildings, garages, carports, and other permanent structures shall be one (1) foot or higher above the expected 100-year flood elevation. Ground elevation ten (10) feet from

a building shall be six (6) inches or more below floor elevation and slope away from the building.

Sec. 7-88. - Responsibilities of the permittee, property owner, and/or developer.

(a) Once received from the authority, the BMP plan bearing the stamp of approval of the authority, along with the permittee's NOI, ADEM NPDES permit, any necessary building or other permits, and/or other required documentation shall be maintained at the site during the progress of the work and until a notice of termination has been filed with ADEM, unless impracticable. If impracticable, the records may be maintained at another reasonable location, so long as they can be produced to the authority within forty-eight (48) hours of a request for said records.

(b) The permittee, agent, contractor, or other representative of same, shall notify the authority at least two (2) working days before the start of construction, unless good cause exists for contacting the authority within a lesser timeframe.

(c) Clearing, except that necessary to establish erosion and sediment controls, shall not begin until all erosion and sediment controls have been installed and have been stabilized.

(d) The person engaged in or conducting land disturbing activities shall be responsible for maintaining all temporary and permanent erosion and sediment controls during the development of a site. Grading, and erosion and sediment controls shall meet the design criteria set forth in the most recent version of the Alabama Handbook.

(e) To the maximum extent practicable, pollutants in runoff water must be minimized by using appropriate BMPs.

(f) Grading and erosion and sediment controls shall be designed and maintained to minimize erosion and the discharge of pollutants to the MS4 to the maximum extent practicable.

(g) Adequate protective measures shall be provided for the containment of hazardous substances and any other materials which may pollute the MS4, including petroleum products, lubricants and paint.

(h) When land disturbing activities are finished and stable vegetative control measures or other permanent controls have been established on all remaining exposed soil, the permittee shall notify the authority and request a final inspection. The authority will inspect the site within five (5) working days after receipt of the notice, and may require additional measures to stabilize the soil and control erosion and sedimentation. If additional measures are required by the authority written notice of such additional measures will be delivered to the permittee, and the permittee shall continue to be covered by the permit until a final and complete inspection is made and the authority approves the project as having been satisfactorily completed. After the authority has approved operational status, Post-construction stipulations and inspections will apply.

Sec. 7-89. - Inspection.

The inspection process shall be carried out as follows:

(1) Plans for grading, stripping, excavating, and filling work bearing the stamp of approval of the authority shall be maintained at the site during the progress of the work.

(2) The permittee shall notify the authority at least two (2) working days before the following:

a. Start of construction.

b. Installation of sediment and erosion measures.

c. Completion of site clearing.

d. Completion of rough grading.

e. Completion of final grading.

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f. Close of the construction season.

g. Completion of final landscaping.

(3) The permittee or his/her agent shall make regular inspections of all control measures in accordance with the inspection schedule outlined on the approved ESC plan(s). The measures shall be inspected at a minimum after every qualifying rain event (.75” or more) and monthly. The qualified credentialed inspection program will be recognized by the authority. The purpose of such inspections will be to determine the overall effectiveness of the ESC plan and the need for additional control measures. All inspections shall be documented in written form, kept on-site, and submitted to the authority as required and requested.

(4) The authority or its designated agent shall retain the right to enter the property of the applicant as deemed necessary to address any complaint and to ensure the validity of the reports filed under item (3).

(5) All detention/retention ponds approved by the authority will have complete design data on file with the authority and will be subject to at least an annual inspection to ensure that they are functioning to their original design criteria. Specific items to be inspected and approved by the authority shall include, but are not limited to, the following: vegetative cover, erosion, sediment, debris, fencing (if applicable), animal/insect control, outlet structure, and inlets.

Sec. 7-90. – Corrective Action.

Upon observing evidence of erosion and/or sediment leaving the disturbed site or upon discovery of illicit discharges, or other deficiencies the authority will issue a verbal warning to the developer, subsequent landowner, or dually authorized representative, requiring the deficiencies to be corrected. Deficiencies noted must be corrected within seventy-two (72) hours. (If the deficiencies are in a highly sensitive area, as deemed by the authority, the corrective action must occur within twenty-four (24) hours of receipt of the notification). If corrective action has not occurred within the specified time, the Authority will issue a written notice of violation, whereas the corrective action must occur within 24 hours of the receipt of notification. If the corrective action does not occur within the specified time, the authority will issue a stop work order and reserves the right to take all necessary steps for reestablishment of the measures with the cost incurred billed to the responsible party. All such expenses are due immediately upon receipt. Nonpayment of such expenses may result in further penalties (see section IX [7-91]).

Sec. 7-91. - Enforcement.

(a) This article authorizes the following storm water and non-storm water discharges: Discharges authorized by, and in compliance with, any separate NPDES permit, discharges from fire-fighting activities; fire hydrant flushing’s; waters used to wash vehicles where detergents are not used; water used to control dust; potable water including uncontaminated water line flushing’s not associated with hydrostatic testing; routine external building wash down associated with construction that does not use detergents; pavement wash waters where spills or leaks of toxic or hazardous materials have not occurred (unless all spilled material has been removed) and where detergents are not used; uncontaminated air conditioning or compressor condensate associated with temporary office trailers and other similar buildings; uncontaminated ground water or spring water; foundation or footing drains where flows are not contaminated with process materials such as solvents; and landscape irrigation.

(b) All discharges not explicitly authorized by this article are prohibited. Any discharge to the MS4 made in violation of this article or of any condition of a permit issued pursuant to this article shall be subject to correction and/or abatement in accordance with applicable law.

(c) The state's phase II MS4 NPDES permit allows the authority to rely upon ADEM for the enforcement of certain violations of this article. The authority hereby expresses its intent to rely upon ADEM for enforcement of violations of this article, as allowed [in] the state's phase II MS4 NPDES if and only if the enforcement by the authority becomes futile and a not effective method of resolving a violation of the current ordinances, and thus agrees to promptly notify

ADEM upon observing evidence of any known or suspected violations. Furthermore, no enforcement action will be taken by the authority for a violation of the terms of this article if any of the following has occurred:

(1) ADEM has issued a notice of violation with respect to the same alleged violation and is proceeding with an enforcement action with respect to such alleged violation;

(2) ADEM has issued an administrative order with respect to the same alleged violation and is proceeding with an enforcement action with respect to such violation; or

(3) ADEM has commenced, and is proceeding with, an enforcement action, or has completed any other type of administrative or civil action, with respect to such alleged violation.

Any determination or resolution made by ADEM with respect to an alleged violation shall be final, and the alleged violation will not be made the subject of any additional enforcement action by the authority for any alleged violations of this article and/or provisions of any permit issued pursuant to this article. However, for violations that have not been appropriately corrected and/or abated pursuant to ADEM's enforcement action, an enforcement action may be pursued by the authority.

(d) Notwithstanding any other provision in this article to the contrary, in the event of an immediate threat to the public health or welfare, the authority may take all appropriate measures to remove or alleviate such threat.

(e) In the event of any accidental discharge of a hazardous substance or a significant spill of a hazardous substance to the MS4 which could constitute a threat to human health or the environment, the permittee of the site shall give notice to the authority and the local emergency management authority in the same manner and within the same time as is required by state regulations for notice to ADEM.

Absent a compelling public interest to the contrary, it shall not be a defense for the permittee in an enforcement action that it would have been necessary to halt or reduce the business or activity of the site, or any project or facility thereon, to maintain water quality and minimize any adverse impact that the discharge may cause.

(f) Whenever the authority finds that any person is in violation of any provision of this article and fails to take corrective action within the specified time, the authority may proceed with the following enforcement action***: (Sec 7-90)***

(1) *Stop-work order; revocation of local approvals*. No person shall construct, enlarge, alter, repair, or maintain any grading, excavation, or fill, or cause the same to be done, contrary to or in violation of any terms of this policy. In the event that any person holding a permit or approval pursuant to this policy violates the terms of the permit or implements site development in such a manner as to materially adversely affect the health, welfare, environment, or safety of persons residing or working in the neighborhood or development site so as to be materially detrimental to the public welfare or injurious to property or improvements in the neighborhood, the authority may suspend or revoke the said approval.

2) *Compliance order*. When the authority finds that any person has violated, or continues to violate, this article, it may issue a compliance order to the violator, directing that, within a specified time period, adequate structures and devices be installed, or procedures implemented, and properly operated, or other action be taken, to remedy such violation. Compliance orders may also contain such other requirements as may be reasonably necessary and appropriate to address such violation, including the construction of appropriate structures, installation of devices and self-monitoring and management practices.

(3) *Cease and desist orders.* When the authority finds that any person has violated, or continues to violate, this article or any order issued under this article in such a manner as to materially adversely affect the health, welfare, environment, or safety of persons residing or working in the neighborhood or development site so as to be materially detrimental to the public welfare or injurious to property or improvements in the neighborhood; the authority may issue an order to such person to cease and desist all land disturbance activities immediately, and direct such person in violation of this article to:

a. Comply with this article forthwith; or

b. Take such appropriate remedial or preventive action as may be required to address properly a continuing or threatened violation of this article.

(g) It shall be unlawful for any person to:

(1) Violate any provision of this article;

(2) Violate the provisions of any permit issued pursuant to this article; or

(3) Fail or refuse to comply with any lawful notice to abate or take corrective action issued by the authority.

Such person shall be guilty of a criminal offense; and each day of such violation, failure or refusal to comply with this article shall be deemed a separate offense and punishable accordingly. Any person found to be in violation of any of the provisions of this article may be punished by a fine of not more than five hundred dollars ($500.00) and/or up to one hundred eighty (180) days in jail.

(h) The authority may initiate proceedings in any court of competent jurisdiction against any person who has, or who, the authority has reason to believe, is about to:

(1) Violate any provision of this article;

(2) Violate any provision of a permit; or

(3) Fail or refuse to comply with any lawful order issued by the authority.

The authority may also initiate civil proceedings in any court of competent jurisdiction seeking monetary damages for any damages caused to public storm water facilities by any person, and may seek injunctive or other equitable relief to enforce compliance with the provisions of this article or to force compliance with any lawful orders of the authority.

DIVISION 3. - PROVISIONS

Sec. 7-92. - Variances and appeals.

The authority may grant a variance from the requirements of this policy if there exist exceptional circumstances applicable to a site such that strict adherence to the provisions of this policy will result in unintended consequences. The developer shall prepare a written request for a variance stating the specific variance sought and the reasons, with supporting data, for granting such variance. This request shall include descriptions, drawings, calculations, and any other information necessary to evaluate the proposed variance. The authority shall review the submitted material and make a determination within fifteen (15) working days. There shall be no appeal process for the variance request. The authority shall be the final arbiter of the variance request.

Sec. 7-93. - Liability.

Neither the approval of an ESC plan under the provisions of this policy nor the compliance with the provisions under this policy shall relieve any person of the responsibility for damage to any person or property otherwise imposed by law, nor shall it impose any liability upon the authority for damage to any person or property.

Sec. 7-94. - Severability.

The provisions of this policy are declared to be severable, and if any provision of this policy is declared to be invalid by a court of competent jurisdiction, this determination shall not affect, impair, or invalidate the remainder of this policy, but shall be confined in its operation to the section, paragraph, subparagraph, clause or phrase of this policy in which such determination shall have been made.

Secs. 7-95—7-100. - Reserved.

Section 2. **Repealer Clause.** All former ordinances or parts thereof conflicting or inconsistent with the provisions of this Ordinance or the article hereby adopted are repealed.

Section 3. **Severability Clause.** If any section, provision or part of this ordinance shall be adjudged invalid or unconstitutional by any court of competent jurisdiction, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

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

Section 5. **Publication**. The City Clerk of the City of Opelika, Alabama is hereby authorized and directed to cause this Ordinance to be published one (1) time in a newspaper of general circulation published in the City of Opelika, Lee County, Alabama.

Section 6. **Codification.** Codification of this ordinance in the *Code of Ordinances* of the City of Opelika is hereby authorized and directed.

ADOPTED AND APPROVED this the _____day of _____, 2017.

_____
PRESIDENT PRO-TEM OF THE CITY
COUNCIL OF THE
CITY OF OPELIKA, ALABAMA

ATTEST:

_____
CITY CLERK

TRANSMITTED TO MAYOR on this the _____day of _____, 2017.

_____
CITY CLERK

ACTION BY MAYOR

APPROVED this the _____day of _____, 2017.

Attachment: Ordinance to amend code of ordinances Article III of Chapter 7 erosion and sediment control final 031317 (2170 : Amend the Erosion and Sediment Control Ordinance Article III

_____

MAYOR

ATTEST:

_____

CITY CLERK

Attachment: Ordinance to amend code of ordinances Article III of Chapter 7 erosion and sediment control final 031317 (2170 : Amend the Erosion and Sediment Control Ordinance Article III

ORDINANCE NO. (ID # 2172)

Amend City Code, Chapter 7 Article IV, Post Construction Stormwater Mgt. - 1St Reading.

ORDINANCE NO._____

AN ORDINANCE AMENDING THE *CODE OF ORDINANCES* OF THE CITY OF OPELIKA, BY REPEALING ARTICLE IV OF CHAPTER 7--"POST-CONSTRUCTION STORM WATER MANAGEMENT" IN ITS ENTIRETY AND SUBSTITUTING IN LIEU THEREOF A NEW ARTICLE IV ENTITLED "POST-CONSTRUCTION STORMWATER MANAGEMENT"

WHEREAS, land development projects and other land use conversions, and their associated changes to land cover, permanently alter the hydraulic response of local watersheds and increase stormwater run-off rates and volumes, which in turn increase flooding, stream channel erosion and sediment transport and deposition; and

WHEREAS, land development projects and other land use conversions also contribute to increased non-point source pollution and degradation of receiving waters; and

WHEREAS, the impacts of post-development stormwater run-off quantity and quality can adversely affect public safety, public and private property, drinking water supplies, recreation, fish and other aquatic life, property values and other uses of lands and waters; and

WHEREAS, these adverse impacts can be controlled and minimized through the regulation of stormwater run-off quantity and quality from new development and redevelopment by the use of both structural facilities as well as non-structural measures; and

WHEREAS, localities in the State of Alabama are required to comply with a number of both State and Federal laws, regulations and permits which require a locality to address the impacts of post-development stormwater run-off quality and non-point source pollution; and

WHEREAS, the City of Opelika, Alabama (the "City") does enact this post-construction stormwater management ordinance to provide for and promote compliance by the City with Federal and State laws governing the discharge of pollutants from the MS4 and to provide for and promote compliance with the City's NPDES permit, issued by the Alabama Department of

Environmental Management ("ADEM"); and

WHEREAS, the City does enact this ordinance to provide reasonable guidance for the regulation of post-development stormwater run-off in order to control and minimize increases in stormwater run-off rates and volumes, post-construction soil erosion and sedimentation, stream channel erosion and non-point source pollution associated with post-development stormwater run-off.

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

Section 1. **Replacement of Article IV of Chapter 7 of the *Code of Ordinances*; adoption of Section 7-101 through Section 7-111.** That current Article IV of Chapter 7 of the *Code of Ordinances* of the City of Opelika, Alabama, entitled "Post-Construction Stormwater Management", is hereby repealed in its entirety and replaced with new Article IV entitled "Post-Construction Stormwater Management", consisting of sections 7-101 through 7-111, which said article shall read as follows:

ARTICLE IV. - POST-CONSTRUCTION STORM WATER MANAGEMENT

Sec. 7-101. - Purpose.

Post-construction storm water management refers to the activities that take place after construction occurs, and includes structural and non-structural controls including low-impact development and green infrastructure practices to obtain permanent storm water management over the life of the property's use.

As required by the city's phase II municipal separate storm sewer (MS4) national pollutant discharge elimination system (NPDES) permit, issued by the Alabama Department of Environmental Management (ADEM), the city must develop, implement, and enforce a post-construction storm water management program designed to reduce the discharge of pollutants from its MS4 to the "maximum extent practicable," to protect water quality and to satisfy the appropriate water quality requirements of the Clean Water Act (CWA). This article is therefore enacted to preserve, protect and promote the health, safety and welfare of the citizens of the city, through the reduction, control and prevention AND OPERATION AND MAINTENANCE OF STRUCTURES FOR THE MANAGEMENT AND the discharge of WATER WITH POTENTIAL POLLUTANTS from newly developed and redeveloped sites to the MS4. It is the expressed intent of the city in enacting this article to provide for and promote compliance by the city with federal and state laws governing the discharge of pollutants from the MS4 and to provide

for and promote compliance with the city's NPDES permit, issued by ADEM pursuant to its authority under the CWA.

Sec. 7-102. - Definitions.

For the purposes of this article, the following terms shall have the meanings established in this section.

Accidental discharge: A discharge prohibited by this article into the municipal separate storm sewer system that occurs by chance and without planning or consideration prior to occurrence.

ADEM: The Alabama Department of Environmental Management. The state's regulatory agency created under Code of Ala. 1975, §§ 22-22A-1, et seq., responsible for administering and enforcing the storm water laws of the United States of America and the state. Also known as NPDES rules.

Adverse impact: Any deleterious effect on waters or wetlands, including their quality, quantity, surface area, species composition, aesthetics or usefulness, for human or natural uses which are or may be potentially harmful or injurious to human health, welfare, safety or property or to biological productivity, diversity or stability, or which would unreasonably interfere with the enjoyment of life or property.

Agriculture: Activities undertaken on land for the production of plants, crops, and animals that are useful to man.

Alabama Handbook: The most recent edition of the Alabama Handbook for Erosion Control, Sediment Control and Storm water Management on Construction Sites and Urban Areas authored by the Alabama Soil and Water Conservation Committee, Montgomery, Alabama.

Applicant: Any individual, partnership, syndicate, joint venture, group, firm, company, association, trust, public or private corporation, business, estate, commission, board, utility, cooperative, county, city or other political subdivision, or any entity recognized by law including but not limited to any duly authorized agent, or any combination of the foregoing, that executes the necessary forms to procure an effective, issued permit to discharge under the NPDES.

Authority: The definition of "authority" will be defined by each participating entity, i.e. the City of Opelika, The City Engineer is hereby appointed to administer and implement the provisions of this article. AWPCA: The Alabama Water Pollution Control Act, Code of Ala. 1975, §§ 22-22-1, et seq., and the Alabama Environmental Management Act, Code of Ala. 1975, §§ 22-22A-1, et seq., both as amended, and regulations promulgated thereunder.

Basin:

(1) The surface of the area tributary to a stream or lake.

(2) Space above or below ground capable of retaining or detaining water or debris.

BMPs/Best management practices: Activities, prohibitions of practices, maintenance procedures and management practices, designed and implemented to prevent or reduce the discharge of pollutants to the MS4. Nonstructural BMPs are strategies implemented to control storm water runoff that focus on pollution prevention such as alternative site design, zoning and ordinances, education, and good housekeeping measures. Structural BMPs are engineered devices to control, treat, or prevent storm water runoff pollution. BMPs also include treatment requirements, operating procedures, and practices, to control facility site runoff, spillage or leaks, sludge or waste disposal or drainage from raw material storage and construction sites.

BMP PLAN: Best management practices plan. A set of drawings and/or other documents submitted by the applicant to the authority as a prerequisite to obtaining approval to commence construction activities at a development site falling partially or entirely within the authority's territorial jurisdiction. The site specific BMP PLAN contains all of the information and specifications pertaining to the BMPs the applicant will use to control erosion and sedimentation for its development.

Buffer/stream side management zone (SMZ): Areas adjacent to water bodies that reduce volume and flow of surface runoff reducing sedimentation and are a BMP in the Clean Water Act. The area acts as a filter and promotes stable slopes and high water flows. A vegetated zone adjacent to a stream, wetland, or shoreline where development is restricted or controlled to minimize the effects of development. Buffer zones shall be a minimum of twenty-five (25) feet perpendicular from each side of the stream bank, creek, or waterway under "bank-full conditions". Buffers are applicable to any perennial or intermittent stream as indicated on the United States Geological Survey 7.5 Minute Series topographic map (latest revision) and all water bodies including lakes, ponds, and wetlands. Any area within this buffer shall not be cleared or graded unless written authorization is obtained from the authority. Utilization or reinforcement of existing vegetation is preferred. However, where improvements are required, sodding, plugging, use of stockpiled vegetation, willows, tree stock or seeding is acceptable where approved by the authority.

Clearing: The removal of trees, shrubs, grass, brush and/or other varied ground cover and vegetation from the land, which, in its undisturbed state, is useful for windbreaks, water retention and the maintenance of topsoil. This definition does not include the ordinary mowing of grass or the maintenance of previously cleared land.

Contour: A line of equal elevation above a specified datum. The datum most commonly used is mean sea level having or representing equal elevations.

Community water/Waters of the US: Any or all rivers, streams, creeks, branches, lakes, reservoirs, ponds, drainage systems, springs, wetlands, wells, and other bodies of natural or artificial surface or subsurface water into which the MS4 outfalls flow.

CWA: The Federal Clean Water Act, 33 U.S.C. § 1251, et seq., which was formerly referred to as the Federal Water Pollution Control Act and Federal Water Pollution Control Act Amendments of 1972, Public Law 92-500, as amended by Public Law 95-217, Public Law 95-576, Public Law 6-483 and Public Law 97-117, 33 U.S.C. § 1251-1387.

Detention pond/Retention pond: A temporary or permanent storm water structure whose primary purpose is to temporarily store storm water runoff and release the stored runoff at a non-erosive or controlled rates.

Development: The process of constructing, improving or adding buildings or facilities to an area of land in its natural state for the purpose of commercial, industrial, residential, retail or any other commercial use that requires the disturbance of said land.

Discharge: The passing of water or other liquid through an opening or along a pipe, conduit, or channel. The rate of flow of water, silt or other mobile substance emerging from the pipe, conduit or channel is usually expressed as cubic feet per second, gallons per minute or million gallons per day. Set out in Alabama Administrative Code Section 335-6-6-.02.

Drainage: The removal of surface water from a given area either by gravity or by pumping; commonly applied to surface water and groundwater.

Drainage area: The area contributing runoff to a single point measured in a horizontal plane, which is enclosed by a ridgeline; the area of a drainage basin or watershed, expressed in acres, square miles or other units of area.

Engineer: A person currently licensed by the state board of registration for professional engineers and land surveyors.

EPA: The environmental protection agency.

Erosion: Process by which land surface is worn away by the action of wind or water also known as geologic weathering.

Erosion and sediment control plan (ESC plan): A site specific drawing or set of drawings prepared by a qualified credentialed professional (QCP) utilizing approved BMP to control erosion and sediment for a development or land disturbance.

Grading: Any act by which soil is cleared, stripped, stockpiled, excavated, scarified, or filled, or any combination thereof.

HOA: In the United States, a homeowner association (HOA) is an entity formed by a real estate developer, comprised of a board of home owners in the development, for the purpose of marketing, managing, and selling of homes and lots in a residential subdivision. Typically these boards are responsible for the perpetual operation and maintenance of grounds, common space features, and drainage systems.

Illicit connection: Any man-made conveyance connecting an illicit discharge directly to the MS4.

Illicit discharge: Any discharge that is not composed entirely of storm water, except discharges pursuant to an NPDES permit and discharges that are specifically excepted from this policy. Not authorized or not permitted.

Land disturbing activities: Activities that include any land change, which may result in erosion and the movement of sediment to the MS4, including but not limited to the clearing, dredging, grading, excavation, transporting, and filling of land.

Minor extension: An addition to an existing utility pipeline or other utility line in which the land disturbed consists of less than one thousand (1,000) linear feet.

MS4: Municipal separate storm sewer system, which is comprised of a system of man-made conveyances designed or used for collecting or conveying storm water, including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, and storm drains which are owned and operated by a city, town, county or other public body created by or pursuant to state law. An MS4 does not include a publicly owned treatment works (POTW) or a combined sewer.

MS4 Cities: Cities with populations identified by the US EPA/Census that must comply with a state water quality program under annual permits granted by the state environmental agency. Cities shall have jurisdiction over its corporate limits and all shall comply with those required permits and statutes. Cities shall have lawful ordinances, covenants and codes to enforce full compliance; nationally known as NPDES.

NOI: Notice of intent. The application that must be submitted to ADEM to obtain coverage under the agency's general permit regulating land disturbing activities, applicable to discharges from sites that result in total land disturbance of one-acre or greater and sites less than one-acre but are part of a common plan of development or sale.

NON-point source: is considered discharge resulting from land runoff, precipitation, atmospheric deposition, drainage, seepage or hydrologic modification. Nonpoint source (NPS) pollution, unlike pollution from industrial and sewage treatment plants, comes

from many diffuse sources. NPS pollution is caused by rainfall or snowmelt moving over and through the ground. As the runoff moves, it picks up and carries away natural and human-made pollutants, finally depositing them into lakes, rivers, wetlands, coastal waters and ground waters.

NPDES: National pollutant discharge elimination system. NPDES shall mean the national program of issuing, modifying, revoking, etc., permits under Sections 307, 318, 402, and 405 of the CWA, as well as the state permitting program implemented under the CWA and the AWPCA. NPDES shall be enforced in those MS4 identified cities.

Outfall: A source (meaning any discernible, confined and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, concentrated animal feeding operation, landfill leachate collection system, vessel or other floating craft from which pollutants are or may be discharged, but not including return flows from water runoff at the point of a discharge to waters of the United States of America. It is considered the point it discharges into the streams identified by (NHD) National Hydrologic Database.

Permit: Any permit issued pursuant to this article, permitting discharges to the MS4 under the NPDES.

Permit by rule: The approval of a regulated activity without a formal application and approval process, under the condition that the activity is performed in compliance with all applicable rules. Any failure to comply with applicable rules would subject that activity to penalties for violation and normal application and approval requirements.

Permittee: A person, party, government entity and all others who receive a permit to discharge under the NPDES.

Point sources: of water pollution are described by the CWA as "any discernible, confined, and conveyance from which pollutants are or may be discharged." These include pipes or man-made ditches from stationary locations such as sewage treatment plants, factories, industrial wastewater treatment facilities, septic systems, ships, and other sources that are clearly discharging pollutants into water sources.

Pollutant: Includes but is not limited to, the pollutants specified in Section 22-22-1(b)(3) of the AWPCA and any other effluent characteristics specified in a permit.

Pollutant loading: The amount of a pollutant entering the MS4 storm water system. See TMDLs.

Post-construction strategies: BMPs and other measures for activities that take place after construction occurs, including structural and non-structural controls to obtain permanent storm water management over the life of the property's use. Requires annual

inspections.

PSC: Alabama Public Service Commission. The state's regulatory agency created under Code of Ala. 1975, §§ 37-1-1, et seq., responsible for the regulation of utilities including but not limited to those providing electricity, gas, water, and steam.

QCI: Qualified credentialed inspection professional (QCI). Inspection professional hired by the contractor to monitor BMP and ensure compliance with this policy. The inspector certification program shall be as approved by ADEM and refreshed annually.

QCP: Qualified credentialed professional: A certified professional in erosion and sediment control (CPESC) as determined by the Soil and Water Conservation Society or the International Erosion Control Association (IECA). In addition, other registered or certified professionals such as a professional engineer, landscape architect, registered land surveyor, registered architect, registered geologist, registered forester, registered environmental manager as determined by the National Registry of Environmental Professionals (NREP), certified professional soil scientist (CPSS), as determined by the American Registry of Certified Professionals in Agronomy, Crops and Soils (ARCPACS), who can document the necessary education, training and professional certification, registration, or credentials acceptable to the official and can demonstrate proven experience in the field of erosion and sediment control shall be considered a qualified credentialed professional. The QCP must be in good standing with the authority granting the registration and the requirements of Alabama Administrative Code Chapter 335-6-12. The QCP must be familiar and have expertise with current industry standards for erosion and sediment controls and must be able to inspect and assure that nonstructural BMP or other pollution control devices (silt fences, erosion control fabrics, rock check devices, etc.) and erosion control efforts, such as grading, mulching, seeding and growth management, or management strategies have been properly implemented and regularly maintained according to standard practices and permit requirements. A professional engineer (PE) registered in the State of Alabama must certify the design and structural practices such as spill prevention control and counter-measures (SPCC) plan, containment structures, dam construction, etc.

Redevelopment: any land or property where the use of new facilities occurs with the renovation or replacement of existing facilities on a site that has any previously existing uses.

Sediment: Solid material settled from suspension in a liquid that has been transported and deposited from its site of origin by air, water, ice or gravity as a product of erosion and has come to rest on the earth's surface either above or below a water surface, usually inorganic or organic particles originating from weathering, chemical precipitation or biological activity.

Sedimentation: Process by which eroded material is transported and deposited by action of water, wind, ice and gravity.

Settling basin: A temporary sediment trap or ponding area formed by excavation or construction of embankments where runoff is detained and sediment can settle.

Silviculture: The care and cultivation of forest trees, including site preparation, planting, pruning, thinning, and harvesting.

Site: Any tract, lot, or parcel of land or combination of contiguous tracts, lots or parcels of land which are in one ownership, and any combination of tracts, lots or parcels of land which are contiguous and are owned by two (2) or more parties and are to be developed as a unit, subdivision or project.

Stabilization: The prevention of soil movement by any of various vegetative and/or structural means.

Storm water: The excess water running off from the surface of a drainage area during and immediately after a period of rain or snow melt. It is that portion of the surface flow that is in excess of that which can be absorbed through the infiltration capacity of the surface of the basin.

Storm water management: The incorporation of a variety of activities and equipment into a plan to address concerns associated with storm water for the purpose of preventing pollution, improving water quality, keeping pollutants out of the runoff, and the implementation of BMPs.

Storm Water Management Program: A program which covers the duration of the NPDES permit. The program shall include a comprehensive planning process which involves public participation and where necessary, intergovernmental coordination, to reduce the discharge of pollutants to the maximum extent practicable, using management practices, control techniques, system design and engineering methods with other provisions which are appropriate. Aka SWMP Plan.

Stream: A flow course or flow way of running water, usually flowing in a particular direction in a definite channel and discharging into some other flow course of running water or body of water. Recognized streams within the MS4 boundaries are referred to the NHD stream.

TMDL: Total maximum daily load is a calculation of the maximum amount of pollutant that a water body can receive and still safely meet water quality standards.

Structural controls: Measures incorporated into existing storm water drainage systems or newly constructed systems to prevent or to minimize the discharge of pollutants for the

purpose of maintaining and/or improving water quantity and quality management, quantitative control by a system of vegetative and structural measures that control the increased volume and rate of surface runoff caused by man-made changes to the land; qualitative control by a system of vegetative, structural and other measures that reduce flow rates and assist to trap or eliminate pollutants that might otherwise be carried by surface runoff.

Turbidity: A condition in water or wastewater caused by the presence of micro or small suspended matter, resulting in the scattering and absorption of light rays. A measure of fine suspended matter in liquids. Given in NTU's or JTUs. NTUs is the standard.

US-EPA: United States Environmental Protection Agency. Sponsored and passed the 1972 Clean Water Act.

Utility: A business or service which is engaged in regularly supplying the public with some commodity or service which is of public consequence and need such as electricity, gas, water, telephone service and telecommunications service.

Variance: The modification of the minimum storm water management requirements in situations in which exceptional circumstances, applicable to the site with respect to which the variance is requested, exist so that strict adherence to the provisions of this article would result in unnecessary hardship and the granting of such modification would not result in a condition contrary to the intent of this policy.

Vegetative control measures: The establishment of vegetative ground cover that shields the soil surface from raindrop impact and the scouring effects from overland storm water flow.

Watercourse: A defined channel with bed and banks within which water flows, either continuously or in season. A watercourse is continuous in the direction of flow and may extend laterally beyond the definite banks to include overflow channels contiguous to the ordinary channel. The term does not include artificial channels such as canals and drains, except natural channels trained or restrained by the works of man, nor does it include depressions or swales through which surface or errant waters pass.

10-year rainfall event: The rainfall event having a ten (10) percent chance of being equaled or exceeded in any given year (i.e. 10-year, one-hour rainfall event is approximately two and three-quarter (2.75) inches).

25-year rainfall event: The rainfall event having a four (4) percent chance of being equaled or exceeded in any given year (i.e. 25-year, one-hour rainfall event is approximately two and three-quarter (2.75) inches).

100-year rainfall event: The rainfall event having a one (1) percent chance of being

equaled or exceeded in any given year (i.e. 100-year, one-hour rainfall event is approximately three and nine-tenths (3.9) inches).

100-year flood elevation: The boundary delineated by the crest elevations of the 100-year flood which occurs every 100 years on the mean or average.

Sec. 7-103. - Administration.

The authority shall enforce the provisions of this policy. Whenever "authority" is used in this policy it shall include the authorized agent of the entity. The City of Opelika shall designate the Engineering Department to act as the authority on behalf of the City of Opelika.

Sec. 7-104. - <u>Post-construction requirements</u> for new development and redevelopment.

*Design of post-construction measures: (Reference “ARTICLE III. - EROSION AND SEDIMENT CONTROL” for permitting process)

(a) The developer, landowner, or authorized representative shall develop and implement post-construction strategies for new development and redevelopment that include, at a minimum, a combination of structural and/or non-structural BMPs designed to require, to the maximum extent practicable, that the volume and velocity of predevelopment storm water runoff is not significantly exceeded as determined by the authority. Said combination of post-construction strategies shall be designed to function during a rainfall with intensity up to that of a two (2) year twenty-four (24) hour storm event. This section shall require that responsible maintenance is performed and the responsibility is assigned to the entity that develops, owns, or manages said grounds and is transferable to the next owner, tenant, or entity or HOA for responsible perpetual care. The authority shall be provided a legally enforceable agreement that assigns permanent responsibility for post BMP maintenance of structural or treatment control management practices.

(b) Post-construction strategies may be incorporated into permittee's BMP plan filed with the authority or in a separate document. Said post-construction strategies shall be reviewed, approved, and updated pursuant to the same requirements as those of the permittee's BMP plan. The plan shall include strategies for inspection, operation, and maintenance and shall be incorporated into permittee's pre-project approval, with a statement of inspection/maintenance responsibilities that are transferable to subsequent owners, operators, or HOA who will be responsible for perpetual maintenance.

(c) Permittee's post-construction strategies must show proposed final site conditions and describe how the volume and velocity of storm water leaving the site will be managed after construction is complete to require, to the maximum

extent practicable, that it does not significantly exceed the volume and velocity of pre-construction storm water runoff.

(d) Upon completion, permittee shall file with the authority a certified copy of as-built drawings of any permanent post-construction strategies implemented at the site. Such filing shall demonstrate, to the maximum extent practicable, that final post-construction site conditions comply with subsection (a). The authority may also require permittee to provide a method of funding to be established or provided to ensure the long-term maintenance of any post-construction BMPs.

Sec. 7-105. - Inspections.

(a) The Permittee shall require the performance of post-construction inspections, at a frequency described in the current Opelika SWMP, to confirm that post-construction BMP's are functioning as designed. The permittee must carry out all applicable inspection requirements set out in ADEM's applicable regulations and NPDES construction general permit. The Permittee shall require the developer/owner/operator to keep records of post-construction BMP inspections, maintenance activities for a period of five (5) years and make them available to the authority upon request.

(b) The authority or its designated agent retains the right to enter property upon which any land disturbing activities are being conducted to carry out its own inspections, investigations, monitoring, observations, sampling, enforcement, and/or to address any complaint. Furthermore, the authority or its designated agent retains the right to enter property upon which any post-construction strategies have been implemented pursuant to the requirements of this article to carry out its own inspections, investigations, monitoring, observations, sampling, enforcement, and/or to address any complaint. Prior to conducting any of the aforementioned activities, the representative(s) of the authority will notify the permittee or an authorized representative at the site, of their presence and anticipated activities on the site. The authority will conduct any such inspection activities at reasonable times, provided however that if the authority has reasonable cause to believe that discharges from land disturbing activities to the MS4 may cause an imminent threat to human health or the environment, inspection of a site may take place at any time and without notice to the permittee, or an authorized representative at the site.

Whenever information from a permittee, site owner, and/or an authorized representative at a site is requested by the authority, said parties may identify certain documents, materials, and/or processes that contain trade secret(s), the inspection of which could potentially jeopardize such trade secret. If the authority has no clear and convincing reason to question the proprietary assertion, omission of such materials, documents and/or processes will be noted by the authority. To the extent practicable, the authority will protect all information which is designated as a trade secret by the permittee, site owner or an authorized

representative.

(c) The authority may seek appropriate legal remedies from any court with competent jurisdiction over the site for any wrongful refusal by a permittee, site owner, and/or authorized representative to allow the authority to enter and/or continue an inspection on a site. If a court grants a remedy to the authority, the site owner must reimburse the city all costs and expenses incurred in obtaining such a remedy.

Sec. 7-106. - Corrective action.

(a) Any poorly functioning erosion and sediment controls, post-construction strategies, non-compliant discharges, or any other deficiencies observed during inspections conducted pursuant to section 7 shall be corrected as soon as possible, but not to exceed five (5) days of the inspection, unless impracticable.

(b) The permittee shall take all reasonable steps to remove, to the maximum extent practicable, pollutants deposited offsite or in any MS4 conveyance structure.

Sec. 7-107. - Enforcement.

(a) This article authorizes the following storm water and non-storm water discharges: Discharges authorized by, and in compliance with, any separate NPDES permit, discharges from fire-fighting activities; fire hydrant flushing's; waters used to wash vehicles where detergents are not used; water used to control dust; potable water including uncontaminated water line flushing's not associated with hydrostatic testing; routine external building wash down associated with construction that does not use detergents; pavement wash waters where spills or leaks of toxic or hazardous materials have not occurred (unless all spilled material has been removed) and where detergents are not used; uncontaminated air conditioning or compressor condensate associated with temporary office trailers and other similar buildings; uncontaminated ground water or spring water; foundation or footing drains where flows are not contaminated with process materials such as solvents; and landscape irrigation.

(b) All discharges not explicitly authorized by this article are prohibited. Any discharge to the MS4 made in violation of this article or of any condition of a permit issued pursuant to this article shall be subject to correction and/or abatement in accordance with applicable law.

(c) The state's phase II MS4 NPDES permit allows the authority to rely upon ADEM for the enforcement of certain violations of this article. The authority hereby expresses its intent to rely upon ADEM for enforcement of violations of this article, as allowed [in] the state's phase II MS4 NPDES if and only if the enforcement by the authority becomes futile and a not effective method of resolving a violation of the current ordinances, and thus agrees to promptly notify

ADEM upon observing evidence of any known or suspected violations. Furthermore, no enforcement action will be taken by the authority for a violation of the terms of this article if any of the following has occurred:

(1) ADEM has issued a notice of violation with respect to the same alleged violation and is proceeding with an enforcement action with respect to such alleged violation;

(2) ADEM has issued an administrative order with respect to the same alleged violation and is proceeding with an enforcement action with respect to such violation; or

(3) ADEM has commenced, and is proceeding with, an enforcement action, or has completed any other type of administrative or civil action, with respect to such alleged violation.

Any determination or resolution made by ADEM with respect to an alleged violation shall be final, and the alleged violation will not be made the subject of any additional enforcement action by the authority for any alleged violations of this article and/or provisions of any permit issued pursuant to this article. However, for violations that have not been appropriately corrected and/or abated pursuant to ADEM's enforcement action, an enforcement action may be pursued by the authority.

(d) Notwithstanding any other provision in this article to the contrary, in the event of an immediate threat to the public health or welfare, the authority may take all appropriate measures to remove or alleviate such threat.

(e) In the event of any accidental discharge of a hazardous substance or a significant spill of a hazardous substance to the MS4 which could constitute a threat to human health or the environment, the permittee of the site shall give notice to the authority and the local emergency management authority in the same manner and within the same time as is required by state regulations for notice to ADEM.

Absent a compelling public interest to the contrary, it shall not be a defense for the permittee in an enforcement action that it would have been necessary to halt or reduce the business or activity of the site, or any project or facility thereon, to maintain water quality and minimize any adverse impact that the discharge may cause.

(f) Whenever the authority finds that any person is in violation of any provision of this article and fails to take corrective action within the specified time, the authority may proceed with the following enforcement action:

(1) Stop-work order; revocation of local approvals. No person shall construct, enlarge, alter, repair, or maintain any grading, excavation, or fill, or cause the same to be done, contrary to or in violation of any

terms of this policy. In the event that any person holding a permit or approval pursuant to this policy violates the terms of the permit or implements site development in such a manner as to materially adversely affect the health, welfare, environment, or safety of persons residing or working in the neighborhood or development site so as to be materially detrimental to the public welfare or injurious to property or improvements in the neighborhood, the authority may suspend or revoke the said approval.

2) Compliance order. When the authority finds that any person has violated, or continues to violate, this article, it may issue a compliance order to the violator, directing that, within a specified time period, adequate structures and devices be installed, or procedures implemented, and properly operated, or other action be taken, to remedy such violation. Compliance orders may also contain such other requirements as may be reasonably necessary and appropriate to address such violation, including the construction of appropriate structures, installation of devices and self-monitoring and management practices.

(3) Cease and desist orders. When the authority finds that any person has violated, or continues to violate, this article or any order issued under this article in such a manner as to materially adversely affect the health, welfare, environment, or safety of persons residing or working in the neighborhood or development site so as to be materially detrimental to the public welfare or injurious to property or improvements in the neighborhood; the authority may issue an order to such person to cease and desist all land disturbance activities immediately, and direct such person in violation of this article to:

a. Comply with this article forthwith; or

b. Take such appropriate remedial or preventive action as may be required to address properly a continuing or threatened violation of this article.

(g) It shall be unlawful for any person to:

(1) Violate any provision of this article;

(2) Violate the provisions of any permit issued pursuant to this article; or

(3) Fail or refuse to comply with any lawful notice to abate or take corrective action issued by the authority.

Such person shall be guilty of a criminal offense; and each day of such violation, failure or refusal to comply with this article shall be deemed a separate offense and punishable accordingly. Any person found to be in

violation of any of the provisions of this article may be punished by a fine of not more than five hundred dollars ($500.00) and/or up to one hundred eighty (180) days in jail.

(h) The authority may initiate proceedings in any court of competent jurisdiction against any person who has, or who, the authority has reason to believe, is about to:

(1) Violate any provision of this article;

(2) Violate any provision of a permit; or

(3) Fail or refuse to comply with any lawful order issued by the authority.

The authority may also initiate civil proceedings in any court of competent jurisdiction seeking monetary damages for any damages caused to public storm water facilities by any person, and may seek injunctive or other equitable relief to enforce compliance with the provisions of this article or to force compliance with any lawful orders of the authority.

Sec. 7-108. - Variances and appeals.

The authority may grant a variance from the requirements of this article if there exist exceptional circumstances applicable to a site such that strict adherence to the provisions of this article will result in unintended consequences. The applicant shall prepare a written request for a variance stating the specific variance sought and the reasons, with supporting data, for granting such variance. This request shall include descriptions, drawings, calculations, and any other information necessary to evaluate the proposed variance. The authority will review the submitted material and make a written determination to approve or disapprove the variance within ten (10) working days after receipt of such a request. There shall be no appeal process for the variance request. The authority is the final arbiter of the variance request.

Sec. 7-109. - Liability.

Neither the issuance of a permit pursuant to this article, nor compliance with the provisions of this article, shall relieve any person of the responsibility for damage to any person or property otherwise imposed by law.

Nothing herein shall be construed to require the city or its officials, employees, agents or attorneys to restore or cause the restoration of property damaged by erosion or sedimentation in violation of this article or to otherwise seek or assist others in seeking compensation to private property owners for any such damage caused by a violation of this article. The city and its officials, employees, agents and attorneys shall not be liable for any condition or damages that result from any failure to observe or recognize a hazardous condition, any failure of an approved plan to prevent erosion or sedimentation, or any failure of the city to cause owners and builders to adhere to the terms of this

article. Nothing herein shall be construed to expand the liability of the city or its officials, employees, agents or attorneys nor shall it create any additional, further, different or expanded claim or cause of action.

Nothing in this article shall be construed to limit the authority to enforce rules and regulations regarding:

(1) Charges, limits and restrictions on the discharge of waste into the sanitary sewerage system of the city;

(2) Health or sanitation ordinances of the city enforced by the county health department; or

(3) Ordinances governing the sanitation of premises where animals are kept.

This article shall be cumulative to and in furtherance of any statutory, common law, or other legal right, duty, power, or authority possessed by the city. Compliance with this article shall not excuse any person from compliance with any other federal, state or local law, ordinance, regulation, rule or order.

It shall be unlawful for any person to provide false information to the authority when such person knows or has reason to know that the information provided is false, whether such information is required by this article or any approval granted under this article.

Sec. 7-110. - Severability.

The provisions of this article are declared to be severable, and if any provision of this article is declared to be invalid by a court of competent jurisdiction, this determination shall not affect, impair, or invalidate the remainder of this article, but shall be confined in its operation to the section, paragraph, subparagraph, clause or phrase of this article in which such determination shall have been made.

Sec. 7-111. - Compatibility with other permit and ordinance requirements.

(a) It is intended that this article be construed to be consistent with previously adopted articles of this chapter.

(b) The requirements of this article shall be considered minimum requirements and where any provision of this chapter imposes restrictions different from those imposed by any other ordinance, rule or regulation or other provision of law, whatever provisions are more restrictive or impose higher restrictive standards for human health or the environment shall be considered to take precedence.

Section 2. **Repealer Clause.** All former ordinances or parts thereof conflicting or inconsistent with the provisions of this Ordinance or the article hereby adopted are repealed.

Section 3. **Severability Clause.** If any section, provision or part of this ordinance shall be adjudged invalid or unconstitutional by any court of competent jurisdiction, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

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

Section 5. **Publication**. The City Clerk of the City of Opelika, Alabama is hereby authorized and directed to cause this Ordinance to be published one (1) time in a newspaper of general circulation published in the City of Opelika, Lee County, Alabama.

Section 6. **Codification.** Codification of this ordinance in the *Code of Ordinances* of the City of Opelika is hereby authorized and directed.

ADOPTED AND APPROVED this the _____day of _____, 2017.

_____

PRESIDENT PRO-TEM OF THE CITY COUNCIL OF THE

CITY OF OPELIKA, ALABAMA

ATTEST:

_____

CITY CLERK

TRANSMITTED TO MAYOR on this the _____day of _____, 2017.

_____

CITY CLERK

ACTION BY MAYOR

APPROVED this the _____day of _____, 2017.

_____

MAYOR

ATTEST:

_____

CITY CLERK