



OPELIKA CITY COUNCIL
“ REGULAR MEETING MINUTES “
204 South 7th Street
December 17, 2019
TIME: 7:00 PM

1. Call to Order

President Smith call this council meeting to order at 7:02pm and asked Mr. Shuman to call the roll.

2. Roll Call

Mr. Shuman called the roll and all council members were present.

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

3. Invocation

Minister Sunil Mcwan gave the invocation.

1. Minister Sunil Mcwan from the Carpenter's Shop Ministry.

4. Pledge of Allegiance

Carter and Kamania lead the Pledge of Allegiance.

1. Carter Tolbert and Kamaria Tidwell from the West Forest Intermediate School.

5. Reading of Minutes

1. Minutes from the 12-03-19 city council meeting.

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

6. Unfinished Business

7. Remarks By the Mayor

Mayor Fuller announced that Clarence Harris, Jr. passed away on December 16th and served on the city council for over 17 years.

Mayor Fuller advised that CBS will be reporting tomorrow evening at 5:30pm on Opelika's fire department personnel having seven new babies.

Mayor Fuller recognized and thanked Nathan Murphy with Golden State Foods for being present and their continued investment in Opelika.

1. Nov 2019 Monthly Inspection Report

Mayor Fuller called on Joey Motley, City Administrator, to present a summary of the November building inspection report.

2. Dr. Janaki Alavalapati, Professor and Dean School of Forestry & Wildlife Sciences and Mr. Michael Buckman, Manager, Kreher Preserve and Nature Center, School of Forestry & Wildlife Sciences.

Mayor Fuller recognized Dr. Janaki Alavalapati and Michael Buckman as representatives of the Kreher Preserve and Nature Center. They thanked Mayor Fuller and the City Council for their support of the KPNC.

8. Citizen Communications

(Limit comments to five minutes or less)

Mario Mitchell said he was here a few weeks ago and was denied a liquor license. He passed out a letter and read a portion of it. He still does not understand why he was denied a liquor license. Guy Gunter, City Attorney, explained liquor license are given to persons of a good character. Mr Gunter also said his request for a liquor license was denied based on the recommendation of the Police Chief. Mr. Michell said he does not think the process was fair.

9. Report of Disbursements

10. Committee Reports

11. General Business

1. Public Hearing - Weed Abatement Assessment - 101 Spring Hill Ave

Mr. Shuman announced this public hearing for a weed abatement assessment for said property in the amount of \$238.34. President Smith open the public hearing asking if there was anyone present that would like to speak for or against said assessment. No one came forward to speak. President Smith closed this public hearing.

2. Public Hearing - Weed Abatement Assessment - 311 S 3Rd St

Mr. Shuman announced this public hearing for a weed abatement assessment for said property in the amount of \$100.84. President Smith opened the public hearing asking if there was anyone present that would like to speak for or against said assessment. No one came forward to speak. President Smith closed this public hearing.

3. Public Hearing, Amend Wyndham PUD Master Plan

Mr. Shuman announced this public hearing to amend the Wyndham PUD master plan. President Smith opened the public hearing asking if there was anyone present that would like to speak for or against said amendment. No one came forward to speak. President Smith closed this public hearing.

12. Awarding of Bids

13. Resolutions

1. Resolution 388-19 Expense reports from various departments.

RESULT: APPROVED [4 TO 0]

MOVER: Patricia Jones, President Pro-Tem

SECONDER: Dozier Smith T, Council Member

AYES: Patricia Jones, Dozier Smith T, David Canon, Eddie Smith

ABSTAIN: Tiffany Gibson-Pitts

2. Resolution 389-19 Designate City Personal Property as Surplus & Authorize Disposal

RESULT: APPROVED [UNANIMOUS]

MOVER: Dozier Smith T, Council Member

SECONDER: David Canon, Council Member

AYES: Jones, Gibson-Pitts, Smith T, Canon, Smith

3. Resolution 390-19 Change Order Request - Residential Building Demolitions - INSP

RESULT: APPROVED [UNANIMOUS]

MOVER: Tiffany Gibson-Pitts, Council Member

SECONDER: David Canon, Council Member

AYES: Jones, Gibson-Pitts, Smith T, Canon, Smith

4. Resolution 391-19 Emergency Repairs - WW Pump Truck #882 - PW

- RESULT:** **APPROVED [UNANIMOUS]**
MOVER: Patricia Jones, President Pro-Tem
SECONDER: David Canon, Council Member
AYES: Jones, Gibson-Pitts, Smith T, Canon, Smith
5. Resolution 392-19 Purchase - Uniform Purchase and Rental - Omnia Partners Contract #R-BB-19002 - ADM
- RESULT:** **APPROVED [UNANIMOUS]**
MOVER: Dozier Smith T, Council Member
SECONDER: Tiffany Gibson-Pitts, Council Member
AYES: Jones, Gibson-Pitts, Smith T, Canon, Smith
6. Resolution 393-19 Purchase - One (1) Godwin CD 150S Open Unit Pump - Sole Source - PW
- RESULT:** **APPROVED [UNANIMOUS]**
MOVER: David Canon, Council Member
SECONDER: Patricia Jones, President Pro-Tem
AYES: Jones, Gibson-Pitts, Smith T, Canon, Smith
7. Resolution 394-19 Purchase - (1) 2019 Schwarze Hypervac Sweeper - Sourcewell Contr #122017-SWZ - PW
- RESULT:** **APPROVED [UNANIMOUS]**
MOVER: Dozier Smith T, Council Member
SECONDER: David Canon, Council Member
AYES: Jones, Gibson-Pitts, Smith T, Canon, Smith
8. Resolution 395-19 Weed Abatement Assessment - 101 Spring Hill Ave
- RESULT:** **APPROVED [UNANIMOUS]**
MOVER: Patricia Jones, President Pro-Tem
SECONDER: Tiffany Gibson-Pitts, Council Member
AYES: Jones, Gibson-Pitts, Smith T, Canon, Smith
9. Resolution 396-19 Weed Abatement Assessment - 311 S 3Rd St
- RESULT:** **APPROVED [UNANIMOUS]**
MOVER: Dozier Smith T, Council Member
SECONDER: Tiffany Gibson-Pitts, Council Member
AYES: Jones, Gibson-Pitts, Smith T, Canon, Smith
10. Resolution 397-19 Amend CDBG Action Plan PY2017 and PY2018 Budgets.
- RESULT:** **APPROVED [UNANIMOUS]**
MOVER: Patricia Jones, President Pro-Tem
SECONDER: David Canon, Council Member
AYES: Jones, Gibson-Pitts, Smith T, Canon, Smith
11. Resolution 398-19 Tax abatement agreements, Golden State Foods & Wells Fargo.
- RESULT:** **APPROVED [UNANIMOUS]**
MOVER: David Canon, Council Member
SECONDER: Dozier Smith T, Council Member
AYES: Jones, Gibson-Pitts, Smith T, Canon, Smith
12. Resolution 399-19 Retain law firms to prosecute anti-trust claims.

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

13. Resolution 400-19 Employment Contract with Guy F. Gunter, III

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

14. Resolution 401-19 Authorizing Job Description for City Clerk/Treasurer.

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

15. Resolution 402-19 Compensation and benefits of the City Clerk/Treasurer.

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

16. Resolution 403-19 Special appropriation to J. W. Darden Foundation, annual Black Tie Gala.

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

17. Resolution 404-19 Cancel contract with Alabama Power, ROW vegetation.

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

18. Resolution 405-19 Special appropriation to the Dream Day Foundation.

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

19. Resolution 406-19 A memorial resolution honoring Clarence Harris, Jr.

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

14. Ordinances

1. Ordinance 028-19-ORD Amend City Code, Add Chapter 4.5 Entitled "Art and Culture" - 2nd Reading.

Ms. Jones made a motion to adopt this ordinance and was seconded by Mr. Smith T. Then Ms. Jones made a motion to amend said ordinance and read the detailed amendments as outlined in

the City Attorney's protocol and motion to amend procedures for this ordinance. Mr. Smith T seconded the motion to amend. 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: Tiffany Gibson-Pitts, Council Member

AYES: Jones, Gibson-Pitts, Smith T, Canon, Smith

2. Ordinance Amend Wyndham PUD Master Plan - 2nd Reading.

Mr. Smith T introduced this ordinance for a first reading.

RESULT: FIRST READING INTRODUCED

3. Ordinance 029-19-ORD Amend City Code, Chapter 2, Office of City Clerk/Treasurer - 1st Reading.

This ordinance was introduced by Mr. Canon. Then Ms. Jones made the motion to suspend the rules and was seconded by Mr. Canon. The following vote was recorded:

Ayes Jones, Pitts, Smith T, Canon, Smith.

Nays None.

RESULT: FIRST READING AND APPROVED [UNANIMOUS]

MOVER: Patricia Jones, President Pro-Tem

SECONDER: Tiffany Gibson-Pitts, Council Member

AYES: Jones, Gibson-Pitts, Smith T, Canon, Smith

4. Ordinance 030-19-ORD GO Warrants, Series 2019 - A / 1st Reading.

This ordinance was introduced by Mr. Smith T. Then Mr. Canon made the motion to suspend the rules and was seconded by Ms. Jones. The following vote was recorded:

Ayes Jones, Pitts, Smith T, Canon, Smith.

Nays None.

RESULT: FIRST READING AND APPROVED [UNANIMOUS]

MOVER: Dozier Smith T, Council Member

SECONDER: Patricia Jones, President Pro-Tem

AYES: Jones, Gibson-Pitts, Smith T, Canon, Smith

5. Ordinance 031-19-ORD GO Taxable Warrants, Series 2019 - B / 1st Reading.

This ordinance was introduced by Mr. Smith T. Then Ms. Jones made the motion to suspend the rules and was seconded by Mr. Smith T. The following vote was recorded:

Ayes Jones, Pitts, Smith T, Canon, Smith.

Nays None.

RESULT: FIRST READING AND APPROVED [UNANIMOUS]

MOVER: David Canon, Council Member

SECONDER: Patricia Jones, President Pro-Tem

AYES: Jones, Gibson-Pitts, Smith T, Canon, Smith

15. Appointments

16. Adjourn

The City Council meeting minutes of December 17, 2019 are hereby adopted and approved this the _7th day of January, 2020.

/s/ Eddie Smith

President of City Council
City of Opelika, Alabama

ATTEST:

/s/ R. G. Shuman

R. G. "Bob" Shuman, CMC

City Clerk - Treasurer

1. Character Trait of the Month - Compassion, the feeling of sympathy or sorrow for another.
2. Motion to adjourn.

This council meeting ended at 7:53 pm.

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

**City Council**

204 South 7Th Street
Opelika, AL

ADOPTED**CM MINUTES (ID # 3884)**

Meeting: 12/17/19 07:00 PM

Department: City Clerk

Category: CM Minutes

Prepared By: Robert Shuman

Initiator: Robert Shuman

Sponsors:

DOC ID: 3884

Minutes from the 12-03-19 city council meeting.

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



OPELIKA CITY COUNCIL “ REGULAR MEETING MINUTES “

204 South 7th Street

December 3, 2019

TIME: 7:00 PM

1. Call to Order

President Smith called the council meeting to order at 7:01 pm and asked Mr. Shuman to call the roll.

2. Roll Call

Mr. Shuman call the roll and all city council members were present.

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

3. Invocation

Pastor Tom Tippet gave the invocation.

1. Pastor Tom Tippet from the Lee Co, Ministerial Association.

4. Pledge of Allegiance

Maggie Puckett lead the Pledge of Allegiance. Tristen Hodge was not present.

1. Tristen Hodge and Maggie Puckett from West Forest School.

5. Reading of Minutes

1. Minutes from the 11-18-19 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 and Council member Tiffany Pitts presented a proclamation to several representatives from the Golden Rule Masonic Lodge recognizing their leadership in organizing clean up activities in Ward 2.

1. Recognize the Police Officer of the 4th Quarter 2019.

Mayor Fuller and Chief McEachern recognized James Lamar Baker as the police officer of the 4th quarter 2019.

2. Recognize the 2019 Firefighter of the Year and runner ups.

Mayor Fuller and Chief Prayer recognized Phillip Bell and Stephanie Durbin as the runner ups for 2019. Then Chuck Riddle was recognized as the 2019 Firefighter of the Year.

8. Citizen Communications

(Limit comments to five minutes or less)

Ashley Brown and Olivia Nichols was late getting to the work session so President Smith allowed them to speak during Citizen Communications during the regular council meeting. Ashley and Olivia explained the Lee County Remembrance Project and invited the Mayor and City Council to a community meeting on December 9th at Pebble Hill in Auburn from 6-8pm.

9. Report of Disbursements

10. Committee Reports

11. General Business

1. Request 2019 Victorian Front Porch Tour, street closures.

RESULT: APPROVED [UNANIMOUS]

MOVER: Tiffany Gibson-Pitts, Council Member

SECONDER: David Canon, Council Member

AYES: Jones, Gibson-Pitts, Smith T, Canon, Smith

2. Request from Mama Mocha Coffee, Longest Table event on Dec. 8th.

RESULT: APPROVED [UNANIMOUS]

MOVER: Tiffany Gibson-Pitts, Council Member

SECONDER: Dozier Smith T, Council Member

AYES: Jones, Gibson-Pitts, Smith T, Canon, Smith

3. Revised request from Main Street, Christmas in a Railroad Town on 12-13-19.
Mr. Canon made the motion to "deny" this request and was seconded by Mr. Smith T.

RESULT: FAILED [UNANIMOUS]

MOVER: David Canon, Council Member

SECONDER: Dozier Smith T, Council Member

AYES: Jones, Gibson-Pitts, Smith T, Canon, Smith

4. Tru Blu Sports Bar request Lounge Retail Liquor Class I & on Premise Beer license.

RESULT: APPROVED [UNANIMOUS]

MOVER: Dozier Smith T, Council Member

SECONDER: Tiffany Gibson-Pitts, Council Member

AYES: Jones, Gibson-Pitts, Smith T, Canon, Smith

5. Public Hearing - Weed Abatement Assessment - 100 Cottage Ct

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

6. Public Hearing - Weed Abatement Assessment - 101 Cottage Ct.

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

7. Public Hearing - Weed Abatement Assessment - 102 Cottage Ct.

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

8. Public Hearing - Weed Abatement Assessment - 103 Cottage Ct.

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

9. Public Hearing - Weed Abatement Assessment - 104 Cottage Ct.

Mr. Shuman announced this was a public hearing for said weed assessment. President Smith opened the public hearing asking if there was anyone present that would like to speak for or

against said weed assessment. No one came forward to speak. President Smith closed the public hearing.

10. Public Hearing - Weed Abatement Assessment - 106 Cottage Ct.

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

11. Public Hearing - Weed Abatement Assessment - 108 Cottage Ct.

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

12. Public Hearing, Amend Zoning Ord & Map: Rezone 105.6 Acres, 3800 Block Birmingham Hwy.

Mr. Shuman announced this was a public hearing to amend the zoning from R5 to M2 GC-P for property at 3800 Birmingham Highway. President Smith opened the public hearing asking if there was anyone present that would like to speak for or against said zoning amendment. No one came forward to speak. President Smith closed the public hearing.

12. Awarding of Bids

1. Bids 369-19 Carver-Clanton TAPAA-TA17(922) Project - ENG

RESULT: **APPROVED [UNANIMOUS]**

MOVER: Patricia Jones, President Pro-Tem

SECONDER: David Canon, Council Member

AYES: Jones, Gibson-Pitts, Smith T, Canon, Smith

2. Bids 370-19 Geneva Street Improvements - ENG

RESULT: **APPROVED [UNANIMOUS]**

MOVER: Patricia Jones, President Pro-Tem

SECONDER: David Canon, Council Member

AYES: Jones, Gibson-Pitts, Smith T, Canon, Smith

13. Resolutions

1. Resolution 371-19 Expense reports from various departments.

RESULT: **APPROVED [4 TO 0]**

MOVER: David Canon, Council Member

SECONDER: Dozier Smith T, Council Member

AYES: Tiffany Gibson-Pitts, Dozier Smith T, David Canon, Eddie Smith

ABSTAIN: Patricia Jones

2. Resolution 372-19 Designate City Personal Property as Surplus & 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

3. Resolution 373-19 Weed Abatement Assessment - 100 Cottage Ct.

- RESULT:** APPROVED [UNANIMOUS]
MOVER: David Canon, Council Member
SECONDER: Patricia Jones, President Pro-Tem
AYES: Jones, Gibson-Pitts, Smith T, Canon, Smith
4. Resolution 374-19 Weed Abatement Assessment - 101 Cottage Ct.
RESULT: APPROVED [UNANIMOUS]
MOVER: Dozier Smith T, Council Member
SECONDER: Tiffany Gibson-Pitts, Council Member
AYES: Jones, Gibson-Pitts, Smith T, Canon, Smith
5. Resolution 375-19 Weed Abatement Assessment - 102 Cottage Ct.
RESULT: APPROVED [UNANIMOUS]
MOVER: Patricia Jones, President Pro-Tem
SECONDER: David Canon, Council Member
AYES: Jones, Gibson-Pitts, Smith T, Canon, Smith
6. Resolution 376-19 Weed Abatement Assessment - 103 Cottage Ct.
RESULT: APPROVED [UNANIMOUS]
MOVER: Patricia Jones, President Pro-Tem
SECONDER: David Canon, Council Member
AYES: Jones, Gibson-Pitts, Smith T, Canon, Smith
7. Resolution 377-19 Weed Abatement Assessment - 104 Cottage Ct.
RESULT: APPROVED [UNANIMOUS]
MOVER: Tiffany Gibson-Pitts, Council Member
SECONDER: Dozier Smith T, Council Member
AYES: Jones, Gibson-Pitts, Smith T, Canon, Smith
8. Resolution 378-19 Weed Abatement Assessment - 106 Cottage Ct.
RESULT: APPROVED [UNANIMOUS]
MOVER: David Canon, Council Member
SECONDER: Dozier Smith T, Council Member
AYES: Jones, Gibson-Pitts, Smith T, Canon, Smith
9. Resolution 379-19 Weed Abatement Assessment - 108 Cottage Ct.
RESULT: APPROVED [UNANIMOUS]
MOVER: Patricia Jones, President Pro-Tem
SECONDER: Tiffany Gibson-Pitts, Council Member
AYES: Jones, Gibson-Pitts, Smith T, Canon, Smith
10. Resolution 380-19 ALDOT Agreement for Columbus Parkway Roundabout Project
RESULT: APPROVED [UNANIMOUS]
MOVER: David Canon, Council Member
SECONDER: Dozier Smith T, Council Member
AYES: Jones, Gibson-Pitts, Smith T, Canon, Smith
11. Resolution 381-19 ALDOT Agreement for Pepperell Pkwy MPO Project

RESULT: APPROVED [UNANIMOUS]

MOVER: Dozier Smith T, Council Member

SECONDER: Patricia Jones, President Pro-Tem

AYES: Jones, Gibson-Pitts, Smith T, Canon, Smith

12. Resolution 382-19 License Agreement, Right of Way Encroachment, with One Voice Coalition

RESULT: APPROVED [UNANIMOUS]

MOVER: David Canon, Council Member

SECONDER: Tiffany Gibson-Pitts, Council Member

AYES: Jones, Gibson-Pitts, Smith T, Canon, Smith

13. Resolution 383-19 Mando Tax Abatement

RESULT: APPROVED [UNANIMOUS]

MOVER: Patricia Jones, President Pro-Tem

SECONDER: David Canon, Council Member

AYES: Jones, Gibson-Pitts, Smith T, Canon, Smith

14. Resolution 384-19 Contract for Career Firefighter Cancer Supplemental Insurance Coverage with Chubb Insurance Company

RESULT: APPROVED [UNANIMOUS]

MOVER: Patricia Jones, President Pro-Tem

SECONDER: David Canon, Council Member

AYES: Jones, Gibson-Pitts, Smith T, Canon, Smith

15. Resolution 385-19 Authorize purchase agreement, GO Warrants Series 2019-A and 2019-B.

RESULT: APPROVED [UNANIMOUS]

MOVER: Dozier Smith T, Council Member

SECONDER: Tiffany Gibson-Pitts, Council Member

AYES: Jones, Gibson-Pitts, Smith T, Canon, Smith

16. Resolution 386-19 Initiate public process, amend zoning ord., PUD at Capps Landing.

RESULT: APPROVED [UNANIMOUS]

MOVER: Dozier Smith T, Council Member

SECONDER: David Canon, Council Member

AYES: Jones, Gibson-Pitts, Smith T, Canon, Smith

17. Resolution 387-19 Refund of sewer fees.

RESULT: APPROVED [UNANIMOUS]

MOVER: Patricia Jones, President Pro-Tem

SECONDER: David Canon, Council Member

AYES: Jones, Gibson-Pitts, Smith T, Canon, Smith

14. Ordinances

1. Ordinance 027-19-ORD Amend Zoning Ord & Map: Rezone 105.6 Acres, 3800 Block Birmingham Hwy. - 1st Reading.

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

Ayes Jones, Pitts, Smith T, Canon, Smith.

Nays None.

RESULT: FIRST READING AND APPROVED [UNANIMOUS]

MOVER: Patricia Jones, President Pro-Tem

SECONDER: David Canon, Council Member

AYES: Jones, Gibson-Pitts, Smith T, Canon, Smith

2. Ordinance Amend City Code, Add Chapter 4.5 Entitled "Art and Culture" - 1St Reading.
This ordinance was introduced by Mr. Smith T.

RESULT: FIRST READING INTRODUCED

15. Appointments

16. Adjourn

The City Council meeting minutes of December 3, 2019 are hereby adopted and approved this the _____ day of _____, 2019.

/s/

President of City Council

City of Opelika, Alabama

ATTEST:

/s/

R. G. "Bob" Shuman, CMC

City Clerk - Treasurer

1. Character Trait of the Month - Compassion, feeling of sympathy or sorrow for another.
2. Motion to adjourn.

This council meeting ended at 7:52 pm.

RESULT: APPROVED [UNANIMOUS]

MOVER: Patricia Jones, President Pro-Tem

SECONDER: Tiffany Gibson-Pitts, Council Member

AYES: Jones, Gibson-Pitts, Smith T, Canon, Smith

**City Council**

204 South 7Th Street
Opelika, AL

SCHEDULED

Meeting: 12/17/19 07:00 PM
Department: Building Inspection
Category: Building Permit Report.
Prepared By: Tina Mnor
Initiator: Jeff Kappelman
Sponsors:

MAYOR'S REMARKS (ID # 3895)

DOC ID: 3895

Nov 2019 Monthly Inspection Report

COMMENTS - Current Meeting:

Mayor Fuller called on Joey Motley, City Administrator, to present a summary of the November building inspection report.



BUILDING INSPECTIONS

700 Fox Trail
Opelika, AL 36801
(p) 334-705-5420
(f) 334-705-5159
www.opelika-al.gov

Monthly Permits For November, 2019

Work & Repair On Buildings:

Building Repairs	Commercial	Residential
Buildings Condemned	0	0
Buildings Demolished	0	0
Building Repairs	3	5
Plumbing Upgrades	1	4
Electrical Upgrades	2	1
Mechanical Upgrades	2	4
Reroofs And Roof Repairs	0	5
Mobile Home Services	0	0
Building Additions/Accessory Structures	0	3

Monthly Totals For November 2010-2018

2010	\$15,454,374.00
2011	\$2,746,405.00
2012	\$51,311,016.00
2013	\$3,666,190.00
2014	\$5,525,186.00
2015	\$5,632,291.00
2016	\$4,650,764.00
2017	\$6,360,684.00
2018	\$2,986,513.00
2019	\$4,908,110.90

Total Permits Issued:

	New Buildings: Commercial	
6	Commercial Renovations And Repairs	\$875,824.00
	Signs	
15	New Single Family Homes	\$3,720,349.90
5	Residential Repairs And Renovations	\$311,937.00
	New Apartment Units	
	New Duplex Residences	
	Total Building Permits Issued	

26

Total Permits Issued For November, 2019

\$4,908,110.90

TAKEN FROM THE RECORDS OF THE
BUILDING INSPECTOR


Jeff Kappelman
Chief Building Inspector





BUILDING INSPECTIONS

700 Fox Trail
Opelika, AL 36801
(p) 334-705-5420
(f) 334-705-5159
www.opelika-al.gov

Fiscal Year To Date Report - 2020

Building Repairs	Commercial	Residential
Buildings Condemned	0	0
Buildings Demolished	0	0
Building Repairs	7	22
Plumbing Upgrades	1	11
Electrical Upgrades	6	13
Mechanical Upgrades	6	13
Reroofs And Roof Repairs	0	7
Mobile Home Services	0	0
Building Additions/Accessory Structures	1	7

Yearly Totals For Oct. 1st - Sept. 30th	
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	\$166,673,506.00
2018	\$111,654,002.74

Total Permits Issued:

1	New Buildings: Commercial	\$3,511,011.00
10	Commercial Renovations And Repairs	\$1,058,166.00
5	Signs	\$19,150.00
52	New Single Family Homes	\$14,152,525.60
20	Residential Repairs And Renovations	\$723,103.00
0	New Apartment Units	\$0.00
0	New Duplex Residences	\$0.00
0	Total Building Permits Issued	\$0.00

88

Permit Total Issued for FY 2020

\$19,463,955.60

JEFF KAPPELMAN
Chief Building Inspector



City of Opelika Blding Inspections Department
November 2019 Monthly Building Permit Detail Report

Issue Date	Main Address	Company	Work Class	Valuation
11/1/2019	600 ANDREWS RD	Shelley Tuft	Accessory Buildings	\$ 10,000.00
11/4/2019	701 N 10TH ST	GTR CONTRACTORS LLC	Roofs	\$ 36,500.00
11/4/2019	706 ORCHARD AVE	Mattie Clark	Accessory Buildings	\$ 6,000.00
11/4/2019	2000 MARVYN PKWY 4	HANDY DOC IMPROVEMENTS	Alteration	\$ 5,000.00
11/5/2019	1034 ODEN CT	STONE MARTIN BUILDERS	New Single Family Detached	\$ 187,976.00
11/5/2019	128 S 8TH ST	Dusty Stinson	Alteration	\$ 195,000.00
11/5/2019	1082 ODEN CT	STONE MARTIN BUILDERS	New Single Family Detached	\$ 228,486.00
11/6/2019	2605 STONYBROOK RD	FOUNTAINHEAD	New Single Family Detached	\$ 458,569.00
11/7/2019	1060 HAMPSTEAD LN	STONE MARTIN BUILDERS	New Single Family Detached	\$ 181,862.50
11/8/2019	2102 HENDERSON DR	A&E HOLDINGS LLC	Alteration	\$ 4,347.00
11/8/2019	912 GENEVA ST	DOUG HORN ROOFING	Addition	\$ 10,000.00
11/12/2019	113 N 19TH ST	Linda Wilford	Addition	\$ 50,000.00
11/12/2019	1405 COLUMBUS PKWY	FIRE TECH LLC	Alteration	\$ 2,900.00
11/12/2019	2709 BECHET LN	COLUMBUS FOUR SEASONS SUNROOMS	Alteration	\$ 55,600.00
11/13/2019	1201 WESTPOINT PKWY	Life Gate Church	Alteration	\$ 5,000.00
11/13/2019	1403 DOUGLAS ST	WINDOWS USA LLC	Alteration	\$ 10,340.00
11/18/2019	3700 QUAIL TRCE	CONNER BROTHERS CONSTRUCTION	New Single Family Detached	\$ 282,665.00
11/18/2019	725 TOWNE LAKE PKWY	Greg Copeland	Accessory Buildings	\$ 5,000.00
11/18/2019	512 N 8TH ST	R L CORLEY CONSTRUCTION	Alteration	\$ 9,800.00
11/19/2019	795 TOWNE LAKE PKWY	STONE MARTIN BUILDERS	New Single Family Detached	\$ 268,418.40
11/19/2019	778 OWENS WAY	STONE MARTIN BUILDERS	New Single Family Detached	\$ 301,708.90
11/19/2019	819 LILLY CT	STONE MARTIN BUILDERS	New Single Family Detached	\$ 301,708.90
11/20/2019	2101 SANDERS CREEK DR	BACKYARD EXPERIENCE, THE	Swimming Pool	\$ 47,000.00
11/20/2019	1803 NORTHRIDGE DR	BACKYARD EXPERIENCE, THE	Swimming Pool	\$ 61,000.00
11/20/2019	909 LAKESHORE AVE	B&L ROOFING	Roofs	\$ 7,500.00
11/22/2019	2631 MILL LAKES RDG	CLAYTON PROPERTIES GROUP INC	New Single Family Detached	\$ 213,460.00
11/22/2019	1069 HAMPSTEAD LN	STONE MARTIN BUILDERS	New Single Family Detached	\$ 212,589.80
11/22/2019	1048 HAMPSTEAD LN	STONE MARTIN BUILDERS	New Single Family Detached	\$ 188,010.60

11/22/2019	1755 CANNON GATE DR	STONE MARTIN BUILDERS	New Single Family Detached	\$	270,003.80
11/22/2019	2630 MILL LAKES RDG	CLAYTON PROPERTIES GROUP INC	New Single Family Detached	\$	170,135.00
11/22/2019	2710 MILL LAKES RDG	CLAYTON PROPERTIES GROUP INC	New Single Family Detached	\$	227,780.00
11/25/2019	1913 NORTHGATE DR	J&H HOME IMPROVEMENT	Roofs	\$	4,700.00
11/26/2019	3414 WAVERLY PKWY A	DOUG HORN ROOFING CO LLC	Roofs	\$	1,650.00
11/26/2019	2096 INTERSTATE DR	GERALD N CANDITO CONSTRUCTION	Alteration	\$	657,924.00
11/27/2019	2507 3RD AVE	Willie Lauderdale	Roofs	\$	2,500.00
11/27/2019	612 LANKFORD ST	AJH CONSTRUCTION LLC	New Single Family Detached	\$	226,976.00
				\$	4,908,110.90


 Jeff Kappelman
 Chief Building Inspector

**City Council**

204 South 7Th Street
Opelika, AL

SCHEDULED**GENERAL BUSINESS (ID # 3877)**

Meeting: 12/17/19 07:00 PM

Department: Purchasing and Revenue

Category: Public Hearing

Prepared By: Jerry Bush

Initiator: Lillie Finley

Sponsors:

DOC ID: 3877

Public Hearing - Weed Abatement Assessment - 101 Spring Hill Ave

COMMENTS - Current Meeting:

Mr. Shuman announced this public hearing for a weed abatement assessment for said property in the amount of \$238.34. President Smith open the public hearing asking if there was anyone present that would like to speak for or against said assessment. No one came forward to speak. President Smith closed this public hearing.

WEED ABATEMENT INVOICE

Date: 12/03/2019

**To: Vincent Dozier
308 Williams Blvd
Valley Al. 36854**

**Property Address:
101 Spring Hill Ave
Opelika Al. 36801
Parcel # 10-04-18-4-000-041.000**

On October 20, 2019 in accordance with Opelika City Ordinance 110-12, a notice was sent informing the owner that of a weed violation at the above listed property address. After failing to correct the violation within the time specified in the notice, the City of Opelika abated the violation.

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

Cost of Abatement:	<u>225.00</u>
Certified mail:	<u>13.34</u>
Misc.	<u> </u>
Total	<u>238.34</u>

To: **Vincent Dozier**
308 Williams Blvd
Valley AL 36854

**NOTICE OF PUBLIC HEARING ON COST OF
 ABATEMENT OF WEED NUISANCE LOCATED AT
 101 Spring Hill Ave, Parcel 10-04-18-4-000-041.000**

=====

NOTICE IS HEREBY GIVEN that the weed nuisance growing upon or in front of the property located at 101 Spring Hill Ave, Parcel No. 041.000 in the City of Opelika has been abated by the removal of the noxious or dangerous weeds, and the Mayor has therefore submitted to the City Council an itemized report (attached) in writing showing the cost of removing said nuisance. The total cost of abating such nuisance in front of or upon the above described property is \$238.34.

Notice is also given that the City Council of the City of Opelika will meet to hear and to determine any objections or defenses that may be raised by any of the property owners liable to be assessed of the work of abating such nuisance at 7:00 p.m. in the Council Chambers of the Municipal Building, 204 South 7th Street, Opelika, Alabama, on the 17th day of December, 2019.

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

Dated this the 3rd day of December, 2019.

 Jerry Bush
 Code Compliance Officer

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

**City Council**

204 South 7Th Street
Opelika, AL

SCHEDULED**GENERAL BUSINESS (ID # 3875)**

Meeting: 12/17/19 07:00 PM
Department: Purchasing and Revenue
Category: Public Hearing
Prepared By: Jerry Bush
Initiator: Lillie Finley
Sponsors:

DOC ID: 3875

Public Hearing - Weed Abatement Assessment - 311 S 3Rd St**COMMENTS - Current Meeting:**

Mr. Shuman announced this public hearing for a weed abatement assessment for said property in the amount of \$100.84. President Smith opened the public hearing asking if there was anyone present that would like to speak for or against said assessment. No one came forward to speak. President Smith closed this public hearing.

WEED ABATEMENT INVOICE

Date: 12/03/2019

**To: Roderick & Michelle Hillion
PO Box 894
Smith Station, AL 36877**

**Property Address:
311 S 3rd St
Opelika AL 36801
Parcel # 10-03-08-3-000-021.000**

On October 20, 2019 in accordance with Opelika City Ordinance 110-12, a notice was sent informing the owner that of a weed violation at the above listed property address. After failing to correct the violation within the time specified in the notice, the City of Opelika abated the violation.

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

Cost of Abatement:	<u>87.50</u>
Certified mail:	<u>13.34</u>
Misc.	<u> </u>
Total	<u>100.84</u>

Attachment: WEED INVOICE 311 S 3rd St. (3875 : Notice of Public Hearing - Weed Abatement Assessment - 311 S 3Rd St)

To: **Roderick & Michelle Hillion**
PO Box 894
Smith Station, AL 36877

**NOTICE OF PUBLIC HEARING ON COST OF
 ABATEMENT OF WEED NUISANCE LOCATED AT
 311 S 3rd St, Parcel 43-10-03-08-3-000-021.000**

=====

NOTICE IS HEREBY GIVEN that the weed nuisance growing upon or in front of the property located at 311 S 3rd St., Parcel No. 021.000 in the City of Opelika has been abated by the removal of the noxious or dangerous weeds, and the Mayor has therefore submitted to the City Council an itemized report (attached) in writing showing the cost of removing said nuisance. The total cost of abating such nuisance in front of or upon the above described property is \$100.84.

Notice is also given that the City Council of the City of Opelika will meet to hear and to determine any objections or defenses that may be raised by any of the property owners liable to be assessed of the work of abating such nuisance at 7:00 p.m. in the Council Chambers of the Municipal Building, 204 South 7th Street, Opelika, Alabama, on the 17th day of December, 2019.

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

Dated this the 3rd day of December, 2019.

 Jerry Bush
 Code Compliance Officer

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

Attachment: Weeds, NPH-Resolution, cost to abate, 311 S 3rd St. (3875 : Notice of Public Hearing - Weed Abatement Assessment - 311 S 3Rd



City Council

204 South 7th Street
Opelika, AL

SCHEDULED

GENERAL BUSINESS (ID # 3805)

Meeting: 12/17/19 07:00 PM

Department: Planning

Category: Public Hearing

Prepared By: Marty Ogren

Initiator: Charles Mosley

Sponsors:

DOC ID: 3805

Public Hearing, Amend Wyndham PUD Master Plan

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that the City Council of the City of Opelika will hold a Public Hearing on Tuesday, December 17, 2019, at 7:00 p.m. in the City Council Chambers of the Municipal Building, 204 S. 7th Street, Opelika, Lee County, Alabama.

PURPOSE

The purpose of said Public Hearing will be to consider the adoption of an ordinance to amend the Development Plan for Wyndham PUD. The Development Plan for Wyndham PUD was approved by the City Council as required by Section 8.18(n) of the Zoning Ordinance. At said Public Hearing all who desire to be heard shall have the opportunity to speak for or in opposition to the adoption of the following ordinance:

ORDINANCE NO. _____

AN ORDINANCE TO AMEND THE DEVELOPMENT PLAN FOR WYNDHAM PUD

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

Section 1. Findings. The City Council has determined and hereby finds and declares that the following facts are true and correct:

“(a) Wyndham Properties, LLC heretofore submitted to the City a Development Plan for a planned unit development (“PUD”) entitled “Wyndham PUD” consisting of approximately 640 acres.

(b) Pursuant to Ordinance 109-05, adopted on June 8, 2005, the City Council approved said Development Plan for Wyndham PUD and amended the official Zoning Map of the City to designate the zoning classification of PUD for approximately 640 acres

(c) Wyndham PUD is a mixed-use development located south of Hall Avenue, west of Marvyn Parkway and east of Society Hill Road.

(d) Wyndham PUD has been partially developed with an industrial area on Wyndham Industrial Drive and two (2) residential sections consisting of 416 lots.

(e) Opelika Gateway Properties, LLC, has heretofore submitted to the City a proposed Amended Development Plan for the area of Wyndham PUD located south of Gateway Drive and west of Marvyn Parkway.

(f) The Amended Development Plan provides for single-family homes, townhomes, apartments, commercial uses and over 115 acres of open space.

(g) Amenities offered to residents include a swimming pool with pavilion, a dog park, play areas and large open space areas.

(h) The Planning Commission of the City of Opelika heretofore conducted a public hearing on the proposed Amended Development Plan.

(i) The Planning Commission recommended approval of the Amended Development Plan for Wyndham PUD.

(j) It is advisable and in the interest of the City and in the public interest that the Amended Development Plan be approved.

Section 2. Approval of the Amended Development Plan. The Amended Development Plan for Wyndham PUD as submitted for review is hereby approved and confirmed as required by Section 8.18(n) of the Zoning Ordinance of the City.

Section 3. Retention of copies of the Amended Development Plan. Copies of the Amended Development Plan shall be maintained in the offices of the City Clerk, City Planner, City Engineer, and Building Official and shall be open for public inspection.

Section 4. Repealer. Any ordinance or part thereof in conflict with provisions of this Ordinance be and the same are hereby repealed.

Section 5. Effective Date. This Ordinance shall become effective upon its adoption, approval and publication as required by law.

Section 6. Publication. This Ordinance shall be published one (1) time in a newspaper of general circulation in the City of Opelika, Lee County, Alabama.

Copies of the Amended Development Plan are open for public inspection in the offices of the Planning Department and the City Clerk. All interested persons are invited to attend the public hearing and be heard. Written comments concerning the above matter may be mailed to the City Clerk at P.O. Box 390, Opelika, AL 36803 at any time prior to the public hearing and may be further submitted to the City Council at the meeting and the public hearing.

Please contact Kevin Rice, the City's ADA Coordinator, at 334-705-2083 two (2) working days prior to the meeting if you require special accommodations due to any disability.

WITNESS my hand this the ____ day of _____, 2019.

CITY CLERK OF THE CITY OF OPELIKA, ALABAMA

TO: PUBLISHER

Opelika, Alabama 36801

Please publish the foregoing Notice one (1) time in the November ____, 2019 issue of your paper.

CITY CLERK

The public hearing concerns amendments to the Wyndham PUD master plan. The changes are to the proposed uses, streets, access and open space. For the most part, the applicant is changing the multiple residential types (single family, clusters, townhomes) to two standard single-family home sizes with either 65' or 75' lot widths. Other changes along Gateway Drive or Marvyn Parkway previously show office or apartments is now designated as commercial; a buffer area provided between commercial and residential. A new section (21.5 acres) for apartments is along the eastern portion Gateway Drive of the property. The commercial areas in original 2005 master plan are similar to the new plan except the following: change from offices or apartments to commercial and from single family homes & townhomes to commercial. Commercial uses allowed/prohibited based on staff recommendation provided in staff

report. Open space exceeds 115 acres that includes pool, pavilion, dog park. See staff report and map attached. At the October 22nd meeting, the Planning Commission voted 4 to 0 (two abstain) to send a positive recommendation to City Council to approve amendments to the master plan.

COMMENTS - Current Meeting:

Mr. Shuman announced this public hearing to amend the Wyndham PUD master plan. President Smith opened the public hearing asking if there was anyone present that would like to speak for or against said amendment. No one came forward to speak. President Smith closed this public hearing.

City of Opelika Planning Commission Report

Action Requested: Revision to Wyndham PUD Master Plan

Location of Property: Gateway Drive and Marvyn Parkway

Property Owner(s): Opelika Gateway Properties, LLC.
Brandon Bolt, Bolt Engineering, authorized representative

Current Land Use: Undeveloped

Current Zoning: PUD (Planned Unit Development)

Staff Comments:

The applicant is proposing a major revision to the overall master plan for the Wyndham Planned Unit Development. The same applicant submitted a plan at the September 2019 meeting. After receiving a negative recommendation from the Planning Commission, the applicant withdrew the request before it was sent to the City Council.

The original plan was approved in 2005. That plan contained commercial, office, industrial and residential uses including large-lot single family, smaller single family, cottages, duplexes, townhomes, cluster homes, zero lot line and apartments. The development also included large sections of green space and a future development area. Since that time, the industrial area on Wyndham Industrial Drive and two residential sections totaling 416 lots on 137.2 acres have been largely developed. The proposed changes to the PUD and master plan are for the area south of Gateway Drive.

The applicant is proposing multiple changes to the master plan. These include changes to the proposed uses, streets, access and open space. This report will document all the proposed changes.

Land Use

Overall, the applicant is simplifying the residential uses throughout this portion of the development and then adding some more intense uses along the Gateway Drive corridor. The heart of the original development plan is the multiple residential building types found below Gateway Drive. This section originally included large 125-foot width premium lots, smaller 70-100 foot single family lots, cottages, duplexes, cluster homes and townhomes. The more intense uses were located along the primary corridors with alleys serving the townhomes. As the development moved away from those corridors, the lot size increased and density decreased towards the less developable areas. There are no densities assigned to individual sections, only an overall maximum density of 3 units per acre was established.

In the new proposed plan, the residential areas and open space including those previously constructed remains under 3 dwelling units per acre. Below is a table detailing the overall residential break down.

Pod	Type	Acreage	Units	Density (units/acre)
3	Office/Townhomes	12.5	150*	12
10	Apartments	21.5	258*	12
11	Single-Family 65 ft lots	124	355	2.86
12	Single-Family 75 ft lots	65	168	2.58
Wyndham South	Single-Family 75 ft lots	37.2	107	2.9
Wyndham Gates	Single-Family 70 ft lots	100	309	3.1
Overall Open Space	n/a	120	n/a	n/a
Total		480.2	1347	2.81

*potential based off of 12 units per acre proposed in written report

The applicant is now moving from the multiple residential types to two more general single-family home sizes. These sections, Pods 11 and 12, would have 65 foot and 75 foot wide lots respectively. These lots sizes are consistent with those found in Wyndham South and Wyndham Gates to the north. These lots would have the following standards:

	65 foot lot	75 foot lot
Front Setback	25	25
Side Setback	5	8
Rear Setback	20	20
Side Setback on Street	25	25
Max Building Area (%)	40	40
Min. Lot Size (sf)	7,500	10,000

The proposed plan also modifies some areas where apartments or townhomes are located as well. Pod 2 was previously shown as office or apartments and is now designated as commercial. This 10 acre pod previously had a small strip designated as open space where a stream passed between the existing Wyndham South and Pods 1 and 2. While the location of the stream means development is unlikely to extend to the areas close to Wyndham South, staff recommends a residential buffer be required where Pods 1 and 2 adjoin Wyndham South. Much of this buffer could be accomplished with the natural area/open space between the pods.

The applicant is also proposing an apartment section in Pod 10 which is along Gateway Drive towards the eastern portion of the property. This section is 21.5 acres and previously was shown as future development area. While not stated, the applicant is designating this area for more dense development because it is located on the high traffic corridor and closer to the intersection and the commercial properties across Gateway Drive.

Pod 3 is also shown as office or townhomes. This pod is 12.5 acres and was previously shown as apartments and some greenspace/openspace. The townhouse standards are not specifically detailed in the written report. As such staff would recommend that our traditional townhouse regulations found in

the zoning ordinance standards apply to this section. It should also be noted that it is unlikely that the townhouse section can meet the standards of the zoning ordinance and obtain 12 units per acre.

The commercial uses in the master plan are similar to the original configuration with a few modifications. Pod 1 is located on the corner of Marvyn Parkway and Gateway Drive. This was previously shown as a corner shopping center with a gas station and convenience store on the hard corner. Pod 2, which was previously designated as office or apartments, is now designated as commercial. Pods 4 and 5 are designated as office uses and located almost exactly where the previous offices uses were proposed. Pod 6 and 7 are designated industrial. These areas were previously designated as industrial with single layer of office designated lots along the frontage of Marvyn Parkway. The primary difference between the approved master plan and the proposed plan are the addition of Pod 8 and 9. These pods are designated as commercial and located north of the larger residential areas along Gateway Drive. These areas were previously designated as a variety of single-family housing and townhouses. This area is less than one (1) mile from the I-85 interstate exit and the Capps Landing development. The properties directly across the street are part of the commercial area of the Wyndham development.

The applicant has revised the uses allowed in each commercial Pod based on staff recommendations from last month.

Offices (Pods 3, 4 and 5)

Allowed uses include:

- Those listed in Section 7.3 C. under the subheading Offices, Clinical, Research and Services Not Primarily Related to Goods or Merchandise
- Office of a contractor without equipment or material yard
- Day Care Center
- Church
- Medical Related Uses
- Veterinarian with small outdoor run, no outdoor kennel

Commercial (Pod 8 and 9)

Allowed uses include:

- Those uses allowed in the office pods.
- Commercial uses with no storage and display of goods outside
- Dry Cleaner
- Indoor Fitness Center
- Restaurant – standard

Use Not Allowed include:

- Automobile related uses
- Automobile sales and service
- Automobile service station
- Building supplies/contracting yard
- Check Cashing Services
- Drive through businesses (excluding dry cleaning, bank and pharmacy)
- Liquor/Package Store

- Mini-storage warehouses
- Climate control warehouses
- Pawn shops
- Outside storage or display
- Body Art

Commercial Uses (Pod 1 and 2)

Allowed uses include:

- Those uses allowed in Commercial Pod 8
- Gas Station/Convenience Store
- Automobile Maintenance (All activities inside)
- Commercial Uses with minimal outdoor display of goods (less than 5 percent of total area)
- Produce market
- Fast Food Restaurant
- Hotel

Uses Not Allowed include:

- Automobile sales
- Automobile Repairs
- Truck fueling station
- Truck Stop
- Liquor/Package Store
- Mini-storage warehouses
- Climate control warehouses
- Pawn shops
- Outside storage or display
- Building supplies/contracting yard
- Check Cashing Services
- Body Art

Industrial Pods

Allowed uses include:

- Those uses allowed in commercial pods
- Manufacturing – all operations within a fully enclosed building
- Climate Control warehouses
- Storage completely within enclosed structure

Uses Not Allowed include:

- Outside storage exceeding 10 percent total development site
- Mining or Quarrying
- Scrap Material, Salvage Yard, Junkyard
- Automobile sales
- Automobile Repairs
- Truck fueling station
- Truck Stop
- Liquor/Package Store
- Mini-storage warehouses
- Pawn shops

- Check Cashing Services
- Body Art

Access

The master plan maintains the same street connections with one major revision. The approved plan shows the existing Wyndham South as neighborhood without connection to the larger development. The proposed plan shows almost all of the access coming from Gateway Drive. Staff does feel that this will lead to less connectivity and potentially pushes more traffic onto Gateway Drive, instead of spreading it evenly between multiple access points on two streets. Staff also feels that this plan loses much of the original connections between Wyndham South and the rest of the neighborhood. At the last meeting, many of the residents in the existing Wyndham South neighborhood pushed for reduced access.

Open Space

The open space has been revised and clarified with the proposed plan. The previous plan showed various lakes that also were used as detention/retention. These ponds are now shown as dry detention ponds. The applicant is proposing various parks though the development including a pool with a pavilion, a dog park, and two large open space areas. The total open space exceeds 115 acres. In the current configuration there does not appear to be connections to some of the larger areas labeled community parks. Staff recommends that access points be added to cul-de-sacs or other roadways to allow greater connection for the residences. The City has also received funding for a pedestrian, bicycle and greenway master plan. Staff recommends that easements be provided if greenways are designated in this development during the master plan process. Specific easements can be determined at the time of individual phase/pod development.

The previous plan included buffers between commercial/office and residential areas. Staff recommends that buffers meeting the residential buffer requirements be placed between non-single family pods and single-family pods. Otherwise, gateway corridor buffers shall be required along Gateway Drive and Marvyn Parkway.

Staff recommendation:

Staff recommends a positive recommendation be sent to City Council to approve the amendments to the Wyndham Master Plan subject to the following:

- 1. The development shall follow the standards and densities found within the written report.**
- 2. Sidewalks shall be required on at least one side of the street.**
- 3. All utilities shall be underground.**
- 4. Townhouses shall follow the standards of the zoning ordinance.**
- 5. Uses shall follow those listed in the written report**
- 6. Access points for the open space areas shall be provided from cul-de-sacs and other right-of-ways.**
- 7. Residential buffers shall be provided between non-single-family uses and single-family uses.**
- 8. Gateway cladding standards and buffers shall apply to all non-single-family uses.**

Engineering Department Report

The Engineering Department has removed the recommend that the connection of Emory Lane to Marvyn Parkway be made with the development of Pod 12 as illustrated in this plan. As Pod 3 it developed, it would require a separate access to Marvyn Parkway and will be reviewed and approved by ALDOT. The Engineering Department supports a positive recommendation to City Council.

The previous discussion of intersection improvements to roadway adjoining Gateway Drive have been addressed and are being implemented.

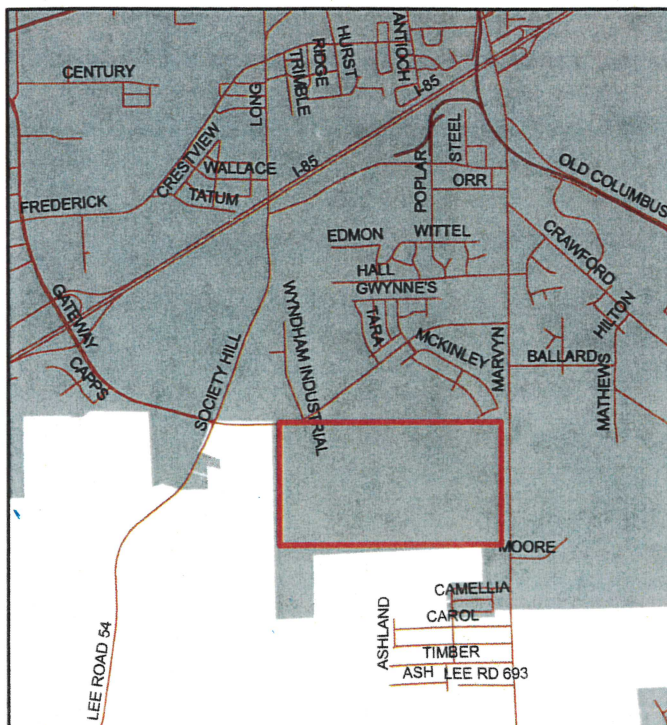
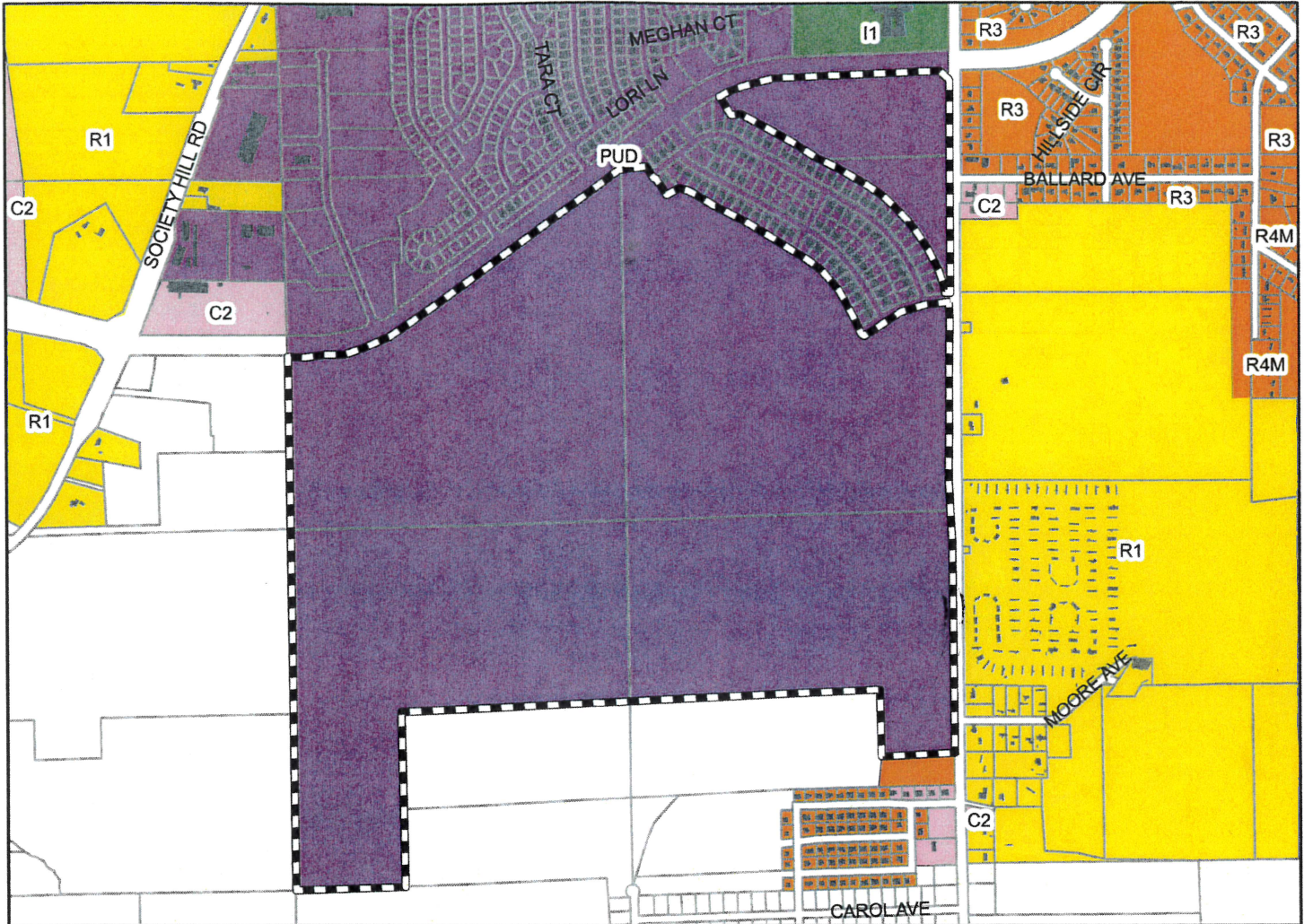
- Capps Landing to Society Hill intersection:
 - A roundabout has been designed and a contract has been awarded for construction. This construction should begin by the end of the year and be completed by early spring.
 - There is a specification in the contract that states traffic will not be detoured off site during the construction of this intersection.
 - The construction will be as painful as any road construction project is, but it is our intention to make it as smooth as the Tiger Town roundabout conversion...or better.
 - We believe this roundabout will allow the majority of flow from the east and west to move smoothly through the intersection without the current back-up or delay.
- Marvyn Parkway/Gateway Drive intersection
 - Within the past few months, I have met an engineering with ALDOT to discuss the intersection improvements.
 - ALDOT has performed a traffic study here and has determined that improvements need to be made and they are in processes of acquiring funding for this improvement. I have not been notified of a schedule of work or type of improvement that is prescribed for this intersection.

The applicant has submitted a traffic impact study for Pods 11 and 12 to the Engineering Department for review. The study obtained traffic counts and turning tendencies from the existing developments and converted this data, with the projected trips generated with Pods 11 and 12 to come up with the conclusions and recommendations for traffic control and access for the proposed development. The Engineering Department agrees with the conclusions and recommendations reported.

At the October 22nd meeting, the Planning Commission voted 4 to 0 (two abstain) to send a positive recommendation to the City Council to amend the Wyndham Master Plan as stated in this report.

This is a request to advertise for a City Council public hearing for amendments to the master plan.

WYNDHAM PUD MASTER PLAN REVISIONS GATEWAY DRIVE AND MARVYN PARKWAY MAJOR AMENDMENTS TO MASTER PLAN, E-16



The new property owner is requesting revisions to the 2005 Wyndham PUD Master Plan. The revisions include primarily single family homes. Commercial uses and apartments are proposed along Gateway Drive and Marvyn Parkway.



Subject Property

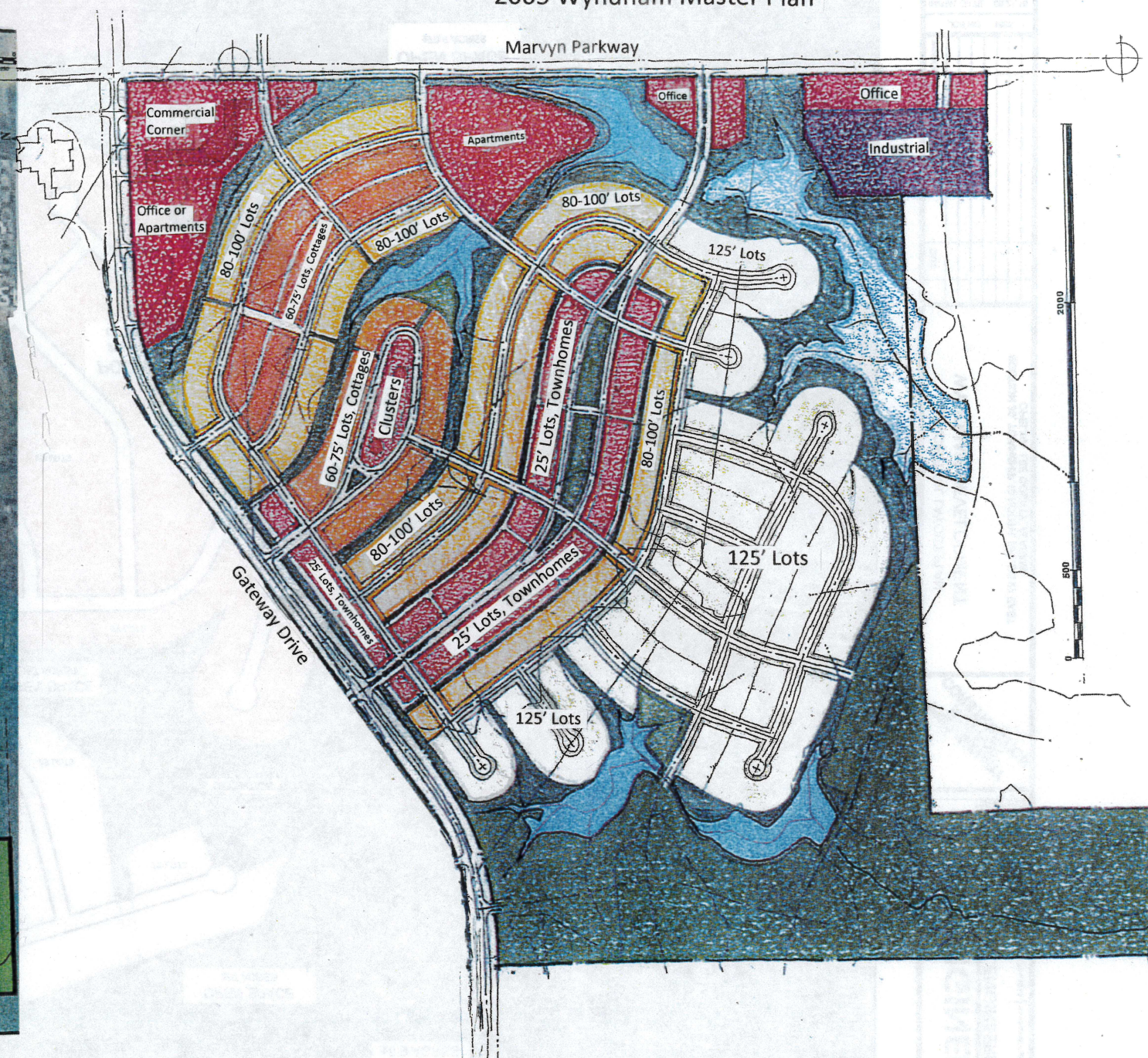
The City of Opelika does not guarantee this map to be free from errors or inaccuracies. The City of Opelika, Alabama disclaims any responsibility or liability for interpretations from this map or decisions based thereon. The information contained on this map is a general representation only and is not to be used without



2019 Wyndham Revised Master Plan



2005 Wyndham Master Plan



RESOLUTION NO. 388-19

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 employee(s) were required by the City of Opelika to travel on City business and/or attend a training session, meeting or conference.

	Employee	Department	\$ Amount
	-----	-----	-----
	Ben Hand	Mun. Judge.	981.43
	Lori Huguley	Economic Dev.	
696.60			
	Russell Jones	Accounting	182.12
	Derek Lee	OPS	488.60
	Tiffany Gibson-Pitts	City Council	117.16
	John Sweatman	Economic Dev.	
1,499.88			
	Denise Rogers	Mun. Court	71.34

-) 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.
- 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(s) can be prepared covering the attached expense report(s).
- 5) That the City Treasurer is authorized to sign said check(s) so it can be delivered to

the appropriate City employee or official.

ADOPTED and APPROVED this the ____ day of _____, 2019.

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

ATTEST:

Robert G. Shuman, CMC
City Clerk - City Treasurer

EXPENSE REPORT

PERIOD ENDING

NAME: Benny Hand
DEPARTMENT: Municipal Court

DAY	CITY AND STATE	LODGING	TRANSPORTATION				BUSINESS MEALS			ENTERTAINMENT Itemize Below	MISC. EXPENSES Itemize Below	DAILY TOTAL
			AIR RAIL, ETC.	RENTAL CAR LIMO, ETC.	LOCAL TAXI, TOLLS & PUBLIC TRANSIT	AUTO EXPENSES Itemize Below	BREAKFAST	LUNCH	DINNER			
SUN	Orange Beach to Opelika	0.00	0.00	0.00	0.00	134.29	0.00	0.00	0.00	0.00	0.00	134.29
MON												
TUE												
WED	Opelika to Orange Beach	353.57	0.00	0.00	0.00	134.29	0.00	0.00	0.00	0.00	280.00	767.86
THU	Orange Beach	353.57	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	353.57
FRI	Orange Beach	353.57	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	353.57
SAT	Orange Beach	353.57	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	353.57
WEEKLY CATEGORY TOTALS \$											1,962.86	

NUMBER OF DAYS AWAY FROM HOME: 4
NUMBER OF DAYS AWAY ON PERSONAL AFFAIRS: 981.43
% OF TOTAL DAYS AWAY FOR PERSONAL AFFAIRS: 0%
NATURE OR PURPOSE OF TRAVEL: Municipal Law Conference: Arrived late Wed. night, all meals were family meals and thus not included herein or billed to the cities.

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

Ben Hand
114 N 8th Street
Opelika, AL 36801
SIGNATURE: 

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

ITEMIZED MISCELLANEOUS EXPENSES		
DATE	ITEMS	AMOUNT
6/12	AAMA Conference Fee	280.00

ITEMIZED AUTOMOBILE EXPENSES		
DATE	MILEAGE, GAS, PARKING REPAIRS, ETC.	AMOUNT
9/25	251 miles from Opelika to Orange	134.29
9/29	251 miles from Orange to Opelika	134.29

EXPENSE REPORT

NAME RUSSELL A JONES DEPARTMENT ACCOUNTING PERIOD ENDING 12/13/2019

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

DATE	DAY	CITY AND STATE	LODGING	TRANSPORTATION				BUSINESS MEALS			ENTERTAINMENT Itemize Below	MISC EXPENSES Itemize Below	DAILY TOTAL
				AIR, RAIL, ETC	RENTAL CAR, LIMO, ETC.	LOCAL TAXI, TOLLS, & PUBLIC TRANSIT	AUTO EXPENSES Itemize Below	BUSINESS MEALS Itemize Below					
	SUN												\$ -
	MON												\$ -
	TUE												\$ -
	WED												\$ -
5-Dec	THU	Opelika, AL - Prattville, AL					\$ 45.53						\$ 91.06
		Prattville, AL - Opelika, AL					\$ 45.53						\$ 91.06
6-Dec	FRI	Opelika, AL - Prattville, AL					\$ 45.53						\$ 91.06
		Prattville, AL - Opelika, AL					\$ 45.53						\$ 91.06
	SAT												\$ -
WEEKLY CATEGORY TOTALS \$			\$ -	\$ -	\$ -	\$ -	\$ 182.12	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 182.12

WEEKLY TOTAL OF EXPENSES ↑

NUMBER OF DAYS AWAY FROM HOME

NUMBER OF DAYS AWAY ON PERSONAL AFFAIRS

% OF TOTAL DAYS AWAY FOR PERSONAL AFFAIRS

NATURE OR PURPOSE OF TRAVEL

Alabama City County Management Assoc

Local Gov Professional Management Cert

METHOD OF REIMBURSEMENT

MAIL TO:

SIGNATURE
Russell A Jones

APPROVED BY
[Signature]

ITEMIZED ENTERTAINMENT AND BUSINESS MEALS			
DATE	NAME OF PERSON(S) ENTERTAINED; COMPANY, TITLE	TIME & PLACE	NATURE & PURPOSE OF ENTERTAINMENT
			ALCOHOLIC BEV
			Bus Voucher
			Fooding
			Inv. Price Big Bros
			Ok to Pay
			A/C # 1000000

ITEMIZED MISCELLANEOUS EXPENSES		
DATE	ITEMS	AMOUNT

ITEMIZED AUTOMOBILE EXPENSES		
DATE	MILEAGE, GAS, PARKING, REPAIRS, ETC	AMOUNT
5-Dec	Mileage to Prattville and back 157 miles	\$ 91.06
6-Dec	Mileage to Prattville and back 157 miles	\$ 91.06

NAME

[illegible]

DATE	NAME OF PERSON(S) DINING;	TIME	PLACE	AMOUNT
			Agree To Pay	
			Elmo Verified	
			Footing Verified	
			Int. Price Elmo Price	
			Ok To Pay	
			AG - 11/1/2002	

[illegible][illegible]

Attachment: CM 12-17-19, expense reports (388-19 : Expense reports from various departments.)

EXPENSE REPORT

PERIOD ENDING 12/3/19

DEPARTMENT

City Council

NAME

Tiffany Gibson-Pitts

DAY	CITY AND STATE	TRANSPORTATION						BUSINESS MEALS			ENTERTAINMENT Itemize Below	MISC. EXPENSES Itemize Below	DAILY TOTAL				
		LODGING	AIR, RAIL, ETC.	RENTAL CAR LIMO ETC.	LOCAL TAXI, TOLLS & PUB- LIC TRANSIT	AUTO EXPENSES Itemize Below	Itemize Below										
							BREAKFAST	LUNCH	DINNER								
SUN 11/24/19						58.58							58.58				
MON													0.00				
TUE 11/19/19						58.58							58.58				
WED													0.00				
THU													0.00				
FRI													0.00				
SAT													0.00				
WEEKLY CATEGORY TOTALS \$												0.00	0.00	0.00	0.00	0.00	117.16

WEEKLY TOTAL EXPENSES

NUMBER OF DAYS AWAY FROM HOME

5

NUMBER OF DAYS AWAY ON PERSONAL AFFAIRS

% OF TOTAL DAYS AWAY FOR PERSONAL AFFAIRS

NATURE OR PURPOSE OF TRAVEL

National League of Cities Conference

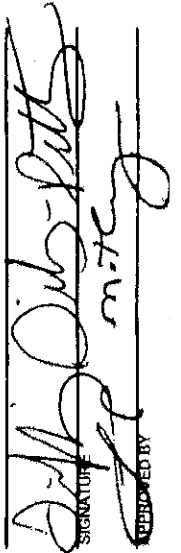
METHOD OF REIMBURSEMENT

☐ DEDUCT FROM
MY ADVANCE☒ MAIL TO

Tiffany Gibson-Pitts

City Council

SIGNATURE



RECEIVED BY

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

ITEMIZED AUTOMOBILE EXPENSES

DATE	MILEAGE, GAS, PARKING REPAIRS, ETC.	AMOUNT
11/19/19	To Atlanta, GA	58.58
11/24/19	To Opelika, AL	58.58

ITEMIZED MISCELLANEOUS EXPENSES

DATE	ITEMS	AMOUNT
	Am. Express	
	Hotel	
	Inv. Price Station	
	Ok To Pay	
	ATC # 171	

10/31/2019

Department Econ Dev

Name John Sweatman

WEEKLY TOTAL EXPENSES

NUMBER OF DAYS AWAY ON PERSONAL AFFAIRS 0 Days

% OF TOTAL DAYS AWAY FOR PERSONAL AFFAIRS 0%

NATURE OR PURPOSE OF TRAVEL

Economic Development Trip

METHOD OF REIMBURSEMENT

☒ MAIL: TO

MY ADVANCE

ITEMIZED MISCELLANEOUS EXPENSES

ITEMIZED AUTOMOBILE EXPENSES**Packet Pg. 45**

13.1.a

Attachment: CM 12-17-19, expense reports (388-19 : Expense reports from various departments.)

TRAVEL TOTAL EXPENSE REPORT

NAME: Denise P. Rogers **DEPT:** Municipal Court **DATE:** 12/10/2019

PURPOSE: Clerk/Magistrate Maintenance Class in Montgomery, Alabama

TRAVEL DATES:	12/6/2019	TRAVEL LOCATION(S)	AOC in Montgomery, Alabama
----------------------	-----------	---------------------------	----------------------------

PURCHASING CARD PURCHASES ONLY[illegible]

PCARD TOTAL	(AMOUNT PAID BY PCARD)	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
							\$ -	

PERSONAL REIMBURSABLE PURCHASES ONLY[illegible]

MILEAGE (ATTACH MAP)	MILES	<u>123.00</u>	RATE/MILE	<u>0.580</u>	\$	71.34	\$	71.34
PERSONAL TOTAL	(AMOUNT OF PERSONAL REIMBURSEMENT)						\$	71.34

	HOTEL	TRANSPORT	AUTO	MEALS	MISC	TOTAL
TRIP TOTALS:	\$ -	\$ -	\$ 71.34	\$ -	\$ -	\$ 71.34

SIGNATURE

APPROVED BY

Additional Notes: Mileage from 300 MLK Blvd. Opelika, Alabama to 300 Dexter Ave Montgomery, Alabama

RESOLUTION NO. 389-19

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

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

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

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

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

No.	Qty.	Unit	Item Description	Fixed Asset
1.	1	Ea.	Safe (Mosler Safe Co.)	NA
2.	1	Ea.	2012 Dodge Ram 2500 VIN 3C7WD5AT3CG180761	87002798

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

APPROVED AND ADOPTED this the _____ day of _____, 2019.

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

ATTEST:

Robert G. Shuman, CMC
City Clerk - Treasurer

RESOLUTION NO. 390-19

Change Order Request - Residential Building Demolitions - INSP**RESOLUTION NO. _____**

WHEREAS, the City Council approved Resolution #284-19 on October 1, 2019 for a contract for Residential Building Demolitions located at 3307 Arnold Ave and 207 Avenue A; and

WHEREAS, AAA General Contractors, Inc. was awarded the contract to perform the work; and

WHEREAS, a Change Order is being requested because the structure located at 207 Avenue A was deemed too unsafe to test for asbestos and pursuant to ADEM regulations, the materials were required to be disposed of as if they contained asbestos; and

WHEREAS, AAA General Contractors, Inc. was charged additional fees by Waste Management for the disposal of these materials and has submitted the records of the additional fees to the Building Official who has reviewed and approved these fees; and

WHEREAS, the Change Order Request is \$2,008.48 to purchase order #1905668;

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

1. That the Change Order request be approved for the additional fees.
2. That the Purchasing-Revenue Manager be authorized to increase PO #1905668 in the amount of \$2,008.48.

APPROVED AND ADOPTED this the _____ day of _____, 2019.

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

ATTEST:

Robert G. Shuman, CMC
City Clerk - Treasurer

AAA GENERAL CONTRACTORS, INC.

P. O. BOX 904
ALEXANDER CITY, AL 35011-0904**Invoice**

DATE	INVOICE NO.
11/15/2019	2019 - 101

BILL TO
2019 - 29 City of Opelika Residential

	TERMS	PROJECT	I.D. NUMBER
DESCRIPTION	QTY	RATE	AMOUNT
Environmental Fees 3307 Arnold Avenue and 207 Avenue A	1	2,008.48	2,008.48
We appreciate your business.		Total	\$2,008.48

Attachment: 12-17-19 - RESIDENTIAL BUILDING DEMOLITIONS 19039 - CHANGE ORDER REQUEST - CNCL PKT (390-19 : Change Order

RESOLUTION NO. 391-19

Emergency Repairs - WW Pump Truck #882 - PW**RESOLUTION NO. _____**

WHEREAS, the Opelika Public Works Department Wastewater Pump Truck #882 is in need of emergency engine repairs; and

WHEAREAS, the pump truck is used to clean out the city's sewer systems; and

WHEREAS, the repair is deemed to be an emergency by the Purchasing-Revenue Manager; and

WHEREAS, W.W. Williams located in Montgomery, Alabama is performing the repairs; and

WHEREAS, the cost of repairs is estimated to be \$42,052.00; and

WHEREAS, the cost of repairs is to come from Capital Outlay;

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

1. That the City Council deem the actions of the Purchasing-Revenue Manager to be correct in awarding the emergency purchase order to W.W. Williams in an estimated amount of \$42,052.00.
2. That the Mayor be authorized to issue a change order for unforeseen repairs not to exceed 10% of the estimated costs.
3. That the Controller be authorized to adjust the budget as necessary for this purchase.

APPROVED AND ADOPTED this the _____ day of _____, 2019.

C.E. "Eddie" Smith, Jr.

President of the City Council

City of Opelika, Alabama

ATTEST:

Robert G. Shuman, CMC

City Clerk - Treasurer



W. W. Williams - Montgomery

1350 Emory Folmar Blvd Montgomery, Alabama 36110
Phone: (334) 279-6083 - Fax: (334) 279-6184

Case Number: 4617059 - Repair Order Number: 2226770
Purchase Order Number: n/a
Service Writer: Allums, Todd - Case Date: 04/09/19 09:07 am CDT

NOT POSTED TO FLEET
UPDATED: 09/30/19 03:12 pm CDT



City Of Opelika	Unit #: 882	
Address: 204 S 7TH ST PO BOX 390 OPELIKA, AL 36801-4904	Asset: 2010 Freightliner M2 - 112HD Serial #: AHAP7945 VIN: 1FVHC7CV6AHAP7945 Engine: 6610280557 Engine Hours: 0	Miles 15,876 
Phone: (334) 705-5150		
Fax:		
Cust #: 973722		

Complaint:

CUSTOMER HEARD NOISE COMING FROM THE ENGINE. SAID IT SOUNDED SERIOUS.

Cause:

customer request

Correction:

Towed truck into shop, pulled oil filter and found metal in filter and coolant in housing as well. Put truck onto jacks in order to remove oil pan, put water in coolant tank and tried to pressurize to see which cylinder was leaking and it was pouring out #2 to bad to build pressure. Turned motor over and was leaking water out every cylinder as well. Was approved to remove cylinder #2 to see what was going on, removed turbo and exhaust, EGR cooler and drained what water I had in block out. Removed air cleaner and intake manifold fuel rail and lines, removed valve cover on cylinder #2 and removed head bolts and found 2 broken valves and other parts melted to top of piston. Pulled #2 unit pump out to see if the cam was ok, cam looked alright but was un-sure of cam bearing and was unable to see. Put all parts that where pulled off and put onto a pallet and put inner fender back on and closed hood. 5126

Operation	Operation	Labor	Parts	Total
1	WheelTime Visual Inspection	\$0.00	\$0.00	\$0.00
2	COMPLETE ENGINE REPLACE Parts: (1.0) MBE4000 ENG POWERCHOICE AJ 0001 1040 US, (1.0) MISC CLAMPS, HOSES AND SEALS, (11.0) DDC GENUINE SAE 15W40 B 0001 EACH, (12.0) NON-CHLOR BRAKE CLNR GS 000000 0012, (6.0) 6/1 GALLON CASES 100% KA 128260 0216	\$8,640.00	\$33,267.00	\$41,907.00
3	Post Repair Inspection	\$0.00	\$0.00	\$0.00

Parts: \$33,267.00
Labor: \$8,640.00
Haz. Waste: \$50.00
Shop: \$95.00
Freight: \$0.00
Tax: \$0.00
TOTAL: \$42,052.00

Item	Declined or Deferred Operations	Labor	Parts	Status
1	REINSTALL PARTS, BOX UP PARTS, AIR UP AND PUSH OUT OF SHOP	\$507.50	\$0.00	not sold
2	TOWING Parts: (1.0) TOWING	\$0.00	\$620.00	not sold
3	DROP AXLE, REMOVE OIL PAN, PRESSURIZE COOLANT SYSTEM	\$805.00	\$0.00	not sold
4	REMOVE NO. 2 CYLINDER KIT	\$575.00	\$0.00	not sold
5	Diagnostic Fee	\$115.00	\$0.00	not sold

I authorize Williams to do the above repair and/or service work, including the installation of all parts and materials to complete such work and incurring travel expense, and grant Williams and/or its agents permission to operate the above equipment or engine on streets, highways or elsewhere for testing and/or inspection. I acknowledge that Williams shall have an express mechanic's or repairman's lien on the equipment or engine to secure the amount due for the above work. I understand that failure of the manufacturer to reimburse Williams shall not alleviate me from the responsibility of the cost of such repairs. Williams shall not be responsible for loss or damage to the vehicle/equipment or to articles left with the above vehicle/ equipment in case of any fire or theft, or any cause beyond your control. In the event that the account for the above work is referred for collection, I agree to pay the account plus interest at the maximum allowable rate, reasonable attorney's fees and court costs. I authorize Williams to dispose of any parts and materials which are replaced in connection with the above work unless otherwise expressly indicated. Vehicles and Equipment left at Williams location more than 30 days after notice of completion will be towed, and I will be responsible for the cost of towing and storage.

AUTHORIZED BY: _____ PRINT NAME: _____ DATE: __/__/____

UNLESS INDICATED SALES TAX IS NOT INCLUDED. Unless indicated this estimate is good for 30 days.

LIMITED WARRANTY, WARRANTY DISCLAIMERS AND LIMITATIONS OF REMEDIES AND LIABILITIES: Seller passes through the manufacturer's warranty on any goods sold hereunder. Seller warrants to Buyer that its services shall be free from defect under normal use and service for a period of 90 days after the completion of those services. At Seller's option, its sole responsibility under the workmanship warranty is limited to the replacement of the faulty services. SELLER EXTENDS NO WARRANTY OTHER THAN THOSE ON THE FACE HEREOF. IN ADDITION THERE ARE NO OTHER EXPRESSOR IMPLIED WARRANTIES, INCLUDING WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. IN NO EVENT SHALL SELLER BE LIABLE FOR ANY INCIDENTAL OR CONSEQUENTIAL DAMAGES, including without limitation loss of income, time, sales, or use.

RESOLUTION NO. 392-19

Purchase - Uniform Purchase and Rental - Omnia Partners Contract #R-BB-19002 - ADM**RESOLUTION NO. _____**

WHEREAS, the Administration Department desires to purchase and rent uniforms and miscellaneous facility service products for various City departments utilizing Omnia Partners Contract #R-BB-19002; and

WHEREAS, Cintas Corporation is the Contract Vendor for the purchase and rental of uniforms and miscellaneous facility service products; and

WHEREAS, this is a budgeted purchase;

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

1. That the contract be awarded to Cintas Corporation utilizing the Omnia Partners Contract.
2. That the Purchasing-Revenue Manager be authorized to issue a purchase order to Cintas Corporation on an as needed basis.
3. The Controller is authorized to adjust the budget as necessary for this contract.
4. That the Mayor is hereby authorized to sign all documents pertaining to this contract.

APPROVED AND ADOPTED this the _____ day of _____, 2019.

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

ATTEST:

Robert G. Shuman, CMC
City Clerk - Treasurer



FACILITIES SOLUTIONS AGREEMENT

Location No. 256

Contract No. _____

Customer No. _____

Main Corporate Code → **New CC 13218**Date 01-01-2020Phone 334-705-5121Customer/Participating Agency City of OpelikaAddress 204 South 7th Street City Opelika State AL Zip 36803

UNIFORM PRODUCT RENTAL PRICING:

Item #	Description	Unit Price
935	Comfort Work Shirt	\$0.17
275	Performance Polo	\$0.34
59935	Enhanced Visibility Work Shirt	\$0.428
970	Lined Service Jacket	\$0.40
270	Cargo Pant	\$0.33
59945	Poly/Cotton Enhanced Visibility Work Pant	\$0.496
381	Carhartt 5-Pocket Jean	\$0.37
382	Carhartt Carpenter Jean	\$0.37

- This agreement is effective as of this date from 01-01-2020 to 01-01-2022, with a minimum term of 36 months. The length of this rental agreement will commence with the actual uniform rental, not affiliated with the start date of the Master Agreement. Any negotiations of price, terms or discounts must be approved by Prince William County Public Schools for the Master Agreement. Any such changes shall take effect on the anniversary date of the master agreement. All requests for price changes must be justified and based upon verifiable criteria which may include the Bureau of Labor Statistics Consumer Price Index (CPI-U).
- Name Emblem \$ 1.00 ea • Company Emblem \$ 1.50 ea
- Customer Emblem \$ 2.00 ea • Embroidery \$ 5.00 ea
- COD Terms \$ per week charge for prior service (if Amount Due is Carried to Following Week)
- Automatic Lost Replacement Charge: Item _____ % of Inventory _____ \$ _____ Ea.
- Automatic Lost Replacement Charge: Item _____ % of Inventory _____ \$ _____ Ea.
- Minimum Charge \$ 35.00 per delivery.
- Make-Up charge \$ 1.50 per garment.
- Non-Standard/Special Cut Garment (i.e., non-standard, non-stocked unusually small or large sizes, unusually short or long sleeve or length, etc.) premium \$ 0.15 per garment.
- Seasonal Sleeve Change \$ 5.00 per garment.
- Under no circumstances will the Company accept textiles bearing free liquid. Shop towels may not be used to clean up oil or solvent spills.
- Artwork Charge for Logo Mat \$ 75.00
- Size Change: Customer agrees to have employees measured by a Cintas representative using garment "size samples". A charge of \$ 5.00 per garment will be assessed for employee's size changed within 4 weeks of installation.
- Other _____

FACILITY SERVICES PRODUCTS PRICING:

Bundle*	Item #	Description	Rental Freq.	Inventory	Unit Price
		3x5 Xtraction Mats	Weekly	Any	\$5.80
		4x6 Xtraction Mats	Weekly	Any	\$6.62
		3x10 Xtraction Mats	Weekly	Any	\$7.45
		24" Dust Mops	Weekly	Any	\$0.84
		36" Dust Mops	Weekly	Any	\$1.13
		48" Dust Mops	Weekly	Any	\$1.38
		Wet Mops	Weekly	Any	\$1.35

*Indicated bundled items/services

- ☐ Initial and check box if Unilease. All Garments will be cleaned by customer
- ☐ Initial and check box if receiving Linen Service. Company will take periodic physical inventories of items in possession or under control
- ☐ Initial and check box if receiving direct embroidery. If service is discontinued for any employee or Customer deletes any of the garments
- all direct embroidered garments at the time they are removed from service at the then current replacement values.

Cintas Loc. No: 256-Columbus, GA CUSTOMER:
Please Sign Name _____

By: Eric McCalpine Please Print Name Lillie Finley

Title: Major Account Manager Please Print Title Purchasing/Revenue Manager

Accepted-GM: _____ Email lfinley@opelika-al.gov

Omnia Partners Public Sector Participating Public Agencies Terms

- Participating Public Agencies: Supplier agrees to extend the same terms, covenants agreed to under the Master Agreement with Lead Public Agency Prince William County Public Schools to other government agencies ("Participating Public Agencies") that, in their discretion, desire to access the Master Agreement in accordance with all terms and conditions contained herein or attached hereto. Each participating Public Agency will be exclusively responsible and deal directly with Supplier on matters relating to length of agreement, ordering, delivery, inspection, acceptance, invoicing, and payment for products and services in accordance with the terms and conditions of the Master Agreement. Any disputes between a Participating Public Agency and Supplier will be resolved directly between them in accordance with and governed by the laws of the State in which the Participating Public Agency exists.
- Master Agreement available at <https://www.omniapartners.com/publicsector>

Supplier General Service Terms Section

- Prices Customer agrees to rent from Company, and Company agrees to provide to Customer, the Merchandise, inventory and services described on Exhibit A, "Merchandise & Pricing" at the prices set forth in Exhibit A. There will be a minimum charge of thirty-five dollars (\$35.00) per week for each Customer location required to purchase its rental services from Company as set forth in this Agreement.
- Buyback of Non-Standard Garments Customer has ordered from Company a garment rental service requiring embroidered garments that may not be standard to Company's normal rental product line. Those non-standard products will be designated as such under-Garment Description in Exhibit C. In the event Customer deletes a non-standard product, alters the design of the non-standard product, fails to renew the Agreement, or terminates the Agreement for any reason other than documented quality of service reasons which are not cured, Customer agrees to buy back all remaining non-standard products allocated to Customer that the Company has in service and out of service at the then current Loss/Damage Replacement Values.
- Service Guarantee: Company guarantees to deliver the highest quality textile rental service at all times. Any complaints about the quality of the service which have not been resolved in the normal course of business must be sent by registered letter to Company's General Manager. If Company then fails to resolve any material complaint in a reasonable period of time, Customer may terminate this agreement provided all rental items are paid for at the then current replacement values or returned to Company in good and usable condition.
- Garments' Lack of Flame Retardant or Acid Resistant Features Unless specified otherwise in writing by the Company, the garments supplied under this Agreement are not flame retardant or acid resistant and contain no special flame retardant or acid resistant features. They are not designed for use in areas of flammability risk or where contact with hazardous materials is possible. Flame resistant and acid resistant garments are available from Company upon request. Customer warrants that none of the employees for whom garments are supplied pursuant to this Agreement require flame retardant or acid resistant clothing.
- Logo Mats In the event that Customer decides to delete any mat bearing the Customer's logo (Logo Mat) from the rental program, changes the design of the Logo Mats, terminates this agreement for any reason or fails to renew this Agreement, the Customer will purchase at the time of deletion, design change or termination, all remaining Logo mats that the Company has in service and out of service held in inventory at the then current Loss/Damage Replacement Value.

8. Adding Employees Additional employees and Merchandise may be added to this Agreement at any time upon written or oral request by the Customer to the Company. Any such additional employees or Merchandise shall automatically become a part of and subject to the terms of this Agreement. If such employees are employed at a Customer location that is then participating under this Agreement, the Customer shall pay Company the one-time preparation fee indicated on Exhibit A. Customer shall not pay Company any one-time preparation fee for garments for employees included in the initial installation of a Customer location. There will be a one-time charge for name and/or company emblems when employees are added to the program in garments requiring emblems.
9. Emblem Guarantee Customer has requested that Company supply emblems designed exclusively for Customer featuring Customer's logo or other specific identification (hereinafter "Customer Emblems"). Company will maintain a sufficient quantity of Customer Emblems in inventory to provide for Customer's needs and maintain a low cost per emblem through quantity purchases.
10. In the event Customer decides to discontinue the use of Customer Emblems, changes the design of the Customer Emblems, terminates this Agreement for any reason or fails to renew this Agreement, the Customer will purchase at the time of deletion, design change, termination or expiration, all remaining Customer Emblems that the Company allocated to Customer at the price indicated on Exhibit A of this Agreement. In no event shall the number of Customer Emblems allocated to Customer exceed the greater of (a) twelve (12) months' volume for each unique Customer Emblem or (b) a quantity agreed to by Company and Customer and noted on Exhibit A.
11. Terminating Employees Subject to the provisions of this Agreement, the weekly rental charge attributable to any individual leaving the employ of the Customer, or on a temporary leave of absence of three (3) weeks or more, shall be terminated upon oral or written notice by the Customer to the Company but only after all garments issued to that individual, or value of same at the then current Loss/Damage Replacement Values, are returned to Company.
12. Replacement In the event any Merchandise is lost, stolen or is not returned to Company, or is destroyed or damaged by fire, welding damage, acid, paint, ink, chemicals, neglect or otherwise, the Customer agrees to pay for said Merchandise at the then current Loss/Damage Replacement Values.
13. Indemnification To the fullest extent permitted by law, Company agrees to defend, indemnify, pay on behalf of and save harmless the Participating Public Agency, its elected and appointed officials, agents, employees and authorized volunteers against any and all claims, liability, demands, suits or loss, including reasonable attorneys' fees and all other costs connected therewith, arising out of or connected to the services provided by Company under this Contract, but only to the extent of Company's negligence.
14. Additional Items: Additional customer employees, products and services may be added to this agreement and shall automatically become a part of and subject to the terms hereof and all of its provisions. If this agreement is terminated early for convenience, the parties agree that the damages sustained by Company will be substantial and difficult to ascertain. Therefore, if this agreement is terminated by Customer prior to the applicable expiration date for any reason other than documented quality of service reasons which are not cured, or terminated by Company for non-payment by Customer at any time Customer will pay to Company, as termination charges and not as a penalty based upon the following schedule:

If this agreement is cancelled for convenience in the first twelve months of the term, Customer shall pay as termination charges equal to 50 weeks of rental service.

If this agreement is cancelled for convenience in months thirteen (13) through eighteen (18) of the term, Customer shall pay as termination charges equal to 36 weeks of rental service.

If this agreement is cancelled for convenience in months nineteen (19) through twenty-four (24) of the term, Customer shall pay as termination charges equal to 23 weeks of rental service.

If this agreement is cancelled for convenience after 24 months of service, Customer shall pay as termination charges of 10 weeks of rental service.

Customer shall also be responsible to return all of the Merchandise allocated to such Customer locations terminating this Agreement at the then current Loss/Damage Replacement Values and for any unpaid charges on Customer's account prior to termination.

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U.S. Communities and National IPA, both wholly-owned subsidiaries of OMNIA Partners, have come together as OMNIA Partners, Public Sector. All public sector participants already registered with National IPA or U.S. Communities continue to have access to all contracts, with certain exceptions, in the portfolio and do not need to re-register to use a legacy National IPA, legacy U.S. Communities, or new OMNIA Partners contract. U.S. Communities and National IPA remain separate legal entities and lead agency contracts completed under each brand are effective and available for use through the contract's approved term. In the event we believe re-registration is necessary for any reason, OMNIA Partners will let you know.

Prince William County Public Schools, VA Contract R-BB-19002, Facilities Management Products and Solutions

Initial term, December 13, 2018 to October 31, 2023
Option to renew for (2) additional (2) year periods

Lead Agency

Prince William County Public Schools, Virginia

Contract Number

R-BB-19002

Executive Summary

- [Uniform Guidance](#)

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Hear from the lead public agency, Prince William County Public Schools and Cintas on this new contract and solutions.



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Response Evaluation

- [Response Evaluation and Notice of Award](#)
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Solicitation Process

- [Original RFP Document](#)
- [RFP Amendment](#)
- [Proof of Publication](#)

Contact Information

Email: omniapartners@cintas.com

Phone: 800-795-7368

[SUPPLIER WEBSITE](#)

Get in Touch

840 Crescent Centre Drive
Suite 600
Franklin, TN 37067

866-875-3299

info@omniapartners.com

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RESOLUTION NO. 393-19

Purchase - One (1) Godwin CD 150S Open Unit Pump - Sole Source - PW**RESOLUTION NO. _____**

WHEREAS, the Public Works Department desires to purchase one (1) Godwin CD 150S Open Unit Pump; and

WHEREAS, this is a sole source purchase; and

WHEREAS, Hydra Service, Inc. is the sole source vendor for the Godwin CD 150S Open Unit Pump; and

WHEREAS, this purchase is budgeted from Capital Outlay;

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

1. That the purchase be awarded to Hydra Service, Inc.
2. That the Purchasing-Revenue Manager be authorized to issue a purchase order to Hydra Service, Inc. as a sole source purchase not to exceed \$53,657.00.
3. That the Controller be authorized to adjust the budget as necessary for this purchase.

APPROVED AND ADOPTED this the _____ day of _____, 2019.

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

ATTEST:

Robert G. Shuman, CMC
City Clerk - Treasurer



Hydra Service, Inc.

SPECIALIST IN FLUID MOVEMENT

HYDRA SERVICE, INC.

P.O. Box 365
2104 Hwy. 160
Warrior, AL 35180
Phone: (205) 647-5326
Fax: (205) 647-7449

Local Office:

2104 State Hwy 160
Warrior AL 35180

Phone: (205) 647-5326
Fax: (205) 647-7449
Cell: (205) 518-2465

Warrior Branch

TO: Derrick Askew
City of Opelika

FROM: Jake Nowakowski

DATE: ~~May 1, 2019~~ 11-4-2019 OK

PHONE: 334-705-5470

QUOTE: 0519-101-JN

EMAIL:

REF: Godwin CD150S Open Unit

We are pleased to offer the following quotation for your consideration.

QTY	DESCRIPTION	PRICE EA	TOTAL PRICE
1	Godwin CD150S Open Unit Pump • 6" x 6" Flange • Powered Isuzu 4LE2X, FT4 • Prime Guard included • 60 Gallon Fuel Tank • Trailer Mounted	\$49,750.00	\$49,750.00
1	Two Float Assembly for Prime Guard	\$485.00	\$485.00
1	Bauer Fittings for Suction	\$331.00	\$331.00
1	Bauer Fittings for Discharge	\$409.00	\$409.00
1	6" x 20' Suction Hose w/ BF	\$462.00	\$462.00
1	6" Strainer	\$257.00	\$257.00
2	6" x 50' Discharge Hose w/ BF	\$638.00	\$1,276.00
1	Delivery per unit	\$450.00	\$450.00
1	Full of Fuel per unit	\$237.00	\$237.00
TOTAL PRICE:			\$53,657.00

Note: Quote is good for 30 days unless otherwise noted. All material is subject to engineer's final approval of submittal, if required. Price is plus any taxes. Delivery, labor and start up are not included unless otherwise noted on the quote. Not included: any applicable taxes, installation costs, wetwell, valves, concrete work, foundation or pole for control panel, electrical connections, offloading, intermediate guide rail brackets, unless otherwise noted. No retainage is allowed.

Jake Nowakowski
REVIEWED BY HSI REPRESENTATIVE

May 1, 2019
DATE OF REVIEW

PURCHASER SIGNATURE

DATE ACCEPTED

Attachment: 12-17-19 - ONE (1) GODWIN CD 150S OPEN UNIT PUMP - SOLE SOURCE - CNCL PKT (393-19 : Purchase - One (1) Godwin CD 150S

CITY OF OPELIKA
Sole Source Justification

DEPARTMENT PUBLIC WORKS- WASTEWATER TREATMENT

REQUISITION NUMBER _____

NAME OF REQUESTING EMPLOYEE Mike Hilyer

VENDOR Hydra Service, Inc

PRODUCT/SERVICE Godwin CD 150S Open Unit Pump

Estimated annual expenditure for the commodity or service \$ 53,657.00

Initial all entries below that apply to the proposed purchase: Attach a detailed explanation containing complete justification and support documents. (More than one entry will apply to most sole source products/services requested).

1. Sole Source Request is for the original manufacturer or provider of item(s) or services, and there are no regional distributors. (Attach the manufacturer's witness certification that no regional distributors exist. Item no.4 also must be completed). _____
2. Sole Source Request is for the only the vendor who supplies this product/services within the State of Alabama (Franchised Protected Area). YES
3. The Parts/Equipment are not interchangeable with similar parts of another manufacturer. (Explain in separate memorandum) Yes
4. This is the only known item or service that will meet the specialized needs of the _____ Department or perform the intended function. (Attach memorandum with details of specialized function(s) or application.) _____
5. The Parts/Equipment are required from this sole source to permit standardization. (Attach memorandum describing basis for standardizing request.) Yes
6. None of the above apply. A detailed explanation and justification for this sole source request is contained in the attached memorandum. _____

The undersigned requests that the State of Alabama Bid Law Title 41 Article 3 Competitive Bidding Requirements be waived and that the vendor identified as the supplier of the service or material described in this sole source justification be authorized as a sole source for the service or material. I further certify that the item(s) requested is of an indispensable nature, all other viable alternatives have been explored and it has been determined that only this product or service will fulfill the function for which the product is needed.

DEPARTMENT HEAD SIGNATURE

DEPARTMENT/DIVISION/DATE

[Signature]
Public Works - Wastewater Treatment

PURCHASING DEPARTMENT USE ONLY

PURCHASING AGENT APPROVAL
(SIGNATURE/DATE)

[Signature] - 12/9/19.

DISAPPROVAL/DATE

COMMENTS

COUNCIL ACTION/DATE

Dewatering Solutions
22 Floodgate Road, Bridgeport NJ 08014
Tel +1.856.467.3636 Fax +1.856.467.4428



July 12, 2018

Hydra Service, Inc.
2104 Hwy. 160
Warrior AL 35180

Attention: Mr. Jimmy Doyle

RE: Authorized Godwin Pumps Distributor

Mr. Doyle,

This letter is to formally confirm that Hydra Service, Inc. is the only authorized Godwin Pump Distributor for the State of Alabama (Sales, Parts, and Service). If further verification is needed, please have the questioning party contact me @ (919)422-7290 or via email @ will.buddin@xylem.com.

Regards,

Will Buddin

Eastern District Manager



Attachment: 12-17-19 - ONE (1) GODWIN CD 150S OPEN UNIT PUMP - SOLE SOURCE - CNCL PKT (393-19 : Purchase - One (1) Godwin CD 150S

RESOLUTION NO. 394-19

Purchase - (1) 2019 Schwarze Hypervac Sweeper - Sourcewell Contr #122017-SWZ - PW**RESOLUTION NO. _____**

WHEREAS, the Public Works department desires to purchase one (1) 2019 Schwarze Hypervac Sweeper with Freightliner M2 Chassis utilizing Sourcewell Contract #122017-SWZ; and

WHEREAS, Tractor & Equipment Company is the Contract Vendor for the Schwarze Hypervac Sweeper with Freightliner M2 Chassis; and

WHEREAS, funding for this purchase is budgeted from Capital Outlay;

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

1. That the purchase be awarded to Tractor & Equipment Company utilizing the Sourcewell Contract.
2. That the Purchasing-Revenue Manager is hereby authorized to issue a purchase order to Tractor & Equipment Company in the total amount of \$281,795.00.
3. That the Controller be authorized to adjust the budget as necessary for this purchase.
4. That the Mayor is hereby authorized to sign all documents pertaining to this purchase.

APPROVED AND ADOPTED this the _____ day of _____, 2019.

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

ATTEST:

Robert G. Shuman, CMC
City Clerk - Treasurer



Tractor & Equipment Company

Serving the Southeast Since 1943.

3285 Selma Hwy - Montgomery Alabama 36108 (334) 288-6580

12.9.2019

Mr. Mike Hilyer
Mr. Roger Allen
City of Opelika
Street Department
Opelika, AL

Mike & Roger,

Tractor and Equipment Company is pleased to quote the following Schwarze Equipment to you. Quote includes all standard equipment per specs, and options requested. Standard Sweeper Unit warranty (12 mos. /1200 hours), and includes a 5 yr. /6000 h hydraulic component warranty. Price includes pre-delivery inspection and freight to your location.

SCHWARZE HYPERVAC EBS (2019)

- 134hp John Deere Tier 4 final engine
- High strength steel 8.4 Cu. Yd. Hopper
- Hopper Dumper Switches Exterior Left Side
- Standard Left and Right Sweep Nozzles
- 250 Gallon Water tank with low pressure front spraybar
- Drop Down screen in hopper (remote button activation) for ease of cleaning
- High pressure wash down with 50' hose reel
- Standard Steel Bristles
- 10 point remote grease /lube manifold
- Camera System
- Strobe and Safety light Pkg. including Arrowboard /Traffic Guide LED's
- PeterBuilt 220 (33,000 GVW 220 HP Dual Steer Cab Over Chassis)
- Standard 12 month/ 1200 hour warranty
- Training at Customer Facility
- Freightliner Model M2 Chassis with dual steer
- 5 year/6000 hour Premier warranty –Sweeper Unit

Sourcewell / City Of Opelika Purchase Price \$ 281,795.00
(Per Schwarze Contract No. 122017-SWZ)

Available in 2019*

Truck Chassis Warranty (standard):
PeterBuilt 220 cab over, 220 HP – Standard manufacturer warranty
Freightliner M2, 200 HP – standard manufacturer warranty

(continued)

Quotations subject to change without notice. All agreements contingent upon strikes, accidents and other
Conditions beyond our control. All contracts are subject to approval by an officer of the company



Tractor & Equipment Company

Serving the Southeast Since 1943.

3285 Selma Hwy - Montgomery Alabama 36108 (334) 288-6580

Mike and Roger,

We appreciate the opportunity to provide this quote. Please contact me at the number below if there are any questions.

* Build times are getting compressed for a year end delivery. I believe with the issue of a purchase order by weeks end, we can deliver in 2019.

Andy Huggins
Tractor and Equipment Company
Montgomery, Al
251-525-0180 - cell

Attachment: 12-17-19 - ONE (1) SCHWARZE HYPERVAC SWEEPER WITH FREIGHTLINER W2 CHASSIS - SOURCEWELL CONTRACT #122017-



Schwarze Industries

Street Sweepers

#122017-SWZ

Maturity Date: 02/20/2022

Products & Services

Sourcewell contract 122017-SWZ gives access to the following types of goods and services:

- Parking Lot Sweepers
- Regenerative Air Sweepers
- Mechanical Sweepers
- Runway Sweepers
- Road Patchers

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RESOLUTION NO. 395-19

Weed Abatement Assessment - 101 Spring Hill Ave

RESOLUTION NO. _____

**RESOLUTION FIXING AMOUNT OF ASSESSMENT
FOR WEED LIEN AGAINST PROPERTY LOCATED AT
101 Spring Hill Ave, Parcel No. 041.000**

=====

WHEREAS, the weed nuisance growing upon or in front of the property located at 101 Spring Hill Ave, parcel no. 041.000 has been removed as provided for and required by law; and

WHEREAS, the enforcing official has prepared and submitted to the City Council an itemized statement of the actual expenses incurred by the City for the abatement of the weed nuisance located at 101 Spring Hill Ave, a copy of said itemized statement being attached hereto as Exhibit "A"; and

WHEREAS, the 17th day of December, 2019 at 7:00 p.m. in the City Council Chambers in the

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

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

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

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

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

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

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

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

and

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

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

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

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

follows:

1. The itemized statement of expenses submitted by the enforcing official to the City Council is hereby affirmed.
2. The cost for abating such weed nuisance, in the amount of \$238.34 is hereby assessed against the parcel of land mentioned in said itemized statement, to wit: 101 Spring Hill Ave, Parcel no. 041.000 Opelika, Alabama. The cost stated in this Resolution shall constitute a lien on the above referenced property.
3. The tax identification number for said parcel(s) of land is 43-10-04-18-4-000-041.000 according to the records of the Revenue Commissioner of Lee County Alabama.
4. The Purchasing-Revenue Manager shall cause a certified copy of this Resolution assessing the cost of abatement to be filed for recording in the Office of the Judge of Probate of Lee County, Alabama, and shall forward a copy to the Lee County Revenue Commissioner. Upon filing, the Lee County Revenue Commissioner

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

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

ADOPTED AND APPROVED this the 17th day of December, 2019.

President of the City Council

City of Opelika, Alabama

Attest:

R. G. "Bob" Shuman, CMC

City Clerk - City Treasurer

WEED ABATEMENT INVOICE**Date: 12/03/2019****To: Vincent Dozier
308 Williams Blvd
Valley Al. 36854****Property Address:
101 Spring Hill Ave
Opelika Al. 36801
Parcel # 10-04-18-4-000-041.000**

On October 20, 2019 in accordance with Opelika City Ordinance 110-12, a notice was sent informing the owner that of a weed violation at the above listed property address. After failing to correct the violation within the time specified in the notice, the City of Opelika abated the violation.

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

Cost of Abatement:	<u>225.00</u>
Certified mail:	<u>13.34</u>
Misc.	<u> </u>
Total	<u>238.34</u>

Attachment: Weed Invoice 101 Spring Hill Ave (395-19 : Weed Abatement Assessment - 101 Spring Hill Ave)

RESOLUTION NO. 396-19

Weed Abatement Assessment - 311 S 3Rd St

RESOLUTION NO. _____

**RESOLUTION FIXING AMOUNT OF ASSESSMENT
FOR WEED LIEN AGAINST PROPERTY LOCATED AT
311 S 3rd St., Parcel No. 021.000**

=====

WHEREAS, the weed nuisance growing upon or in front of the property located at 311 S 3rd St., parcel no. 021.000 has been removed as provided for and required by law; and

WHEREAS, the enforcing official has prepared and submitted to the City Council an itemized statement of the actual expenses incurred by the City for the abatement of the weed nuisance located at 311 S 3rd St., a copy of said itemized statement being attached hereto as Exhibit "A"; and

WHEREAS, the 17th day of December, 2019 at 7:00 p.m. in the City Council Chambers in the

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

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

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

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

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

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

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

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

and

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

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

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

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

follows:

1. The itemized statement of expenses submitted by the enforcing official to the City Council is hereby affirmed.
2. The cost for abating such weed nuisance, in the amount of \$100.84 is hereby assessed against the parcel of land mentioned in said itemized statement, to wit: 311 S 3rd St, Parcel no. 021.000 Opelika, Alabama. The cost stated in this Resolution shall constitute a lien on the above referenced property.
3. The tax identification number for said parcel(s) of land is 43-10-03-08-3-000-021.000 according to the records of the Revenue Commissioner of Lee County Alabama.
4. The Purchasing-Revenue Manager shall cause a certified copy of this Resolution assessing the cost of abatement to be filed for recording in the Office of the Judge of Probate of Lee County, Alabama, and shall forward a copy to the Lee County Revenue Commissioner. Upon filing, the Lee County Revenue Commissioner

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

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

ADOPTED AND APPROVED this the 17th day of December, 2019.

 President of the City Council
 City of Opelika, Alabama

Attest:

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

WEED ABATEMENT INVOICE

Date: 12/03/2019

**To: Roderick & Michelle Hillion
PO Box 894
Smith Station, AL 36877**

**Property Address:
311 S 3rd St
Opelika AL 36801
Parcel # 10-03-08-3-000-021.000**

On October 20, 2019 in accordance with Opelika City Ordinance 110-12, a notice was sent informing the owner that of a weed violation at the above listed property address. After failing to correct the violation within the time specified in the notice, the City of Opelika abated the violation.

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

Cost of Abatement:	<u>87.50</u>
Certified mail:	<u>13.34</u>
Misc.	<u> </u>
Total	<u>100.84</u>

Attachment: WEED INVOICE 311 S 3rd St. (396-19 : Weed Abatement Assessment - 311 S 3Rd St.)

RESOLUTION NO. 397-19

Amend CDBG Action Plan PY2017 and PY2018 Budgets.**SUBJECT:** Amend CDBG Action Plan PY 2017 and PY2018 Budgets

Community Development staff requests the City Council adopt a resolution to amend PY2017 and PY2018 Action Plan budgets as shown below. Staff proposes budget adjustment to transfer \$21,904.87 of PY2017 funds to PY2018 so that PY2017 can be closed out in IDIS. PY2017 Emergency Home Repairs, Homeownership, and Public Facility will be reallocated to the same activity for PY2018. Administration for PY2018 will be reallocated to PY2018 Main Street. Staff proposes budget adjustments transferring \$4,013.70 PY2018 Administration funds to Main Street Façade Program for PY2018 to close out this activity.

RESOLUTION NO. _____

WHEREAS, the City of Opelika, an Entitlement City, receives U.S. Department of Housing and Urban Development (HUD) funds from the Community Development Block Grant (CDBG); and

WHEREAS, the City of Opelika desires to amend their Program Year 2017 and Program Year 2018 Action Plan to provide further public services and to re-allocate unspent CDBG funding amounting to \$25,918.57 from a variety of activities; and

WHEREAS, the City's Consolidated Plan delineates Housing Services and Rehabilitation programs as primary goals of the City to improve the quality of life for all citizens; and

WHEREAS, of the \$25,918.57 in unspent funding will be allocated to Program Year 2018 Action Plan budget as follows: \$13,757.23 to the Emergency Home Repair Loan Program, \$5,263.13 to the Homeownership Loan Program, \$2,884.51 to Main Street and \$4,013.70 Administration funds will be allocated to Main Street Façade Program.

WHEREAS, the proposed amendment was advertised on November 13, 2019 and November 20, 2019 in the Opelika Observer to announce a public hearing on December 2, 2019 and the start of a minimum 15-day citizen comment period ending December 16, 2019; and

WHEREAS, these changes meet the threshold for a substantial amendment to the action

plan and consolidated plan; and

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

1. That the City adopt the Action Plan amendments attached hereto.
2. That Gary Fuller, in his capacity as Mayor, be authorized to execute all agreements necessary to implement the amended Action Plans.

APPROVED and ADOPTED this the _____ day of _____, 2019.

C. E. "Eddie" Smith, Jr.

President City Council

Opelika, Alabama

ATTEST:

R. G. Shuman, CMC

City Clerk - Treasurer

FACT SHEET

SUBJECT: Amend CDBG Action Plan PY 2017 and PY2018 Budgets

Community Development staff requests the City Council adopt a resolution to amend PY2017 and PY2018 Action Plan budgets as shown below. Staff proposes budget adjustment to transfer \$21,904.87 of PY2017 funds to PY2018 so that PY2017 can be closed out in IDIS. PY2017 Emergency Home Repairs, Homeownership, and Public Facility will be reallocated to the same activity for PY2018. Administration for PY2018 will be reallocated to PY2018 Main Street. Staff proposes budget adjustments transferring \$4,013.70 PY2018 Administration funds to Main Street Façade Program for PY2018 to close out this activity.

Description	Current Budget	Increase	Decrease	Ending Budget
Emer Home Repair (2017)	\$ 13,757.23		\$ 13,757.23	\$0.00
Homeownership (2017)	\$ 5,263.13		\$ 5,263.13	\$0.00
Public Facility (2017)	\$ 2,884.51		\$ 2,884.51	\$0.00
Administration (2018)	\$ 4,013.70		\$ 4,013.70	\$0.00
Emer Home Repairs (2018)	\$32,630.96	\$13,757.23		\$46,388.19
Homeownership (2018)	\$16,498.00	\$5,263.13		\$21,761.13
Main Street (2018)	\$ 4,228.75	\$ 4,013.70		\$ 8,242.45
Public Facility (2018)	\$45,000.00	\$ 2,884.51		\$47,884.51

HUD requires a 15-day citizen comment period which commenced on November 29, 2019 and ends on December 16, 2018. As of this time, no comments have been received.

RESOLUTION NO. 398-19

Tax abatement agreements, Golden State Foods & Wells Fargo.

RESOLUTION NO. _____

RESOLUTION APPROVING CERTAIN TAX ABATEMENTS AND
EXEMPTIONS FOR GOLDEN STATE FOODS CORP.
AND WELLS FARGO EQUIPMENT FINANCE, INC.

WHEREAS, Golden State Foods Corp., a Delaware Corporation, (the “Company”) operates a state-of-the-art food processing facility (the “Facility”) in the Northeast Industrial Park within the corporate limits of the City of Opelika (the “City”); and

WHEREAS, the Company and Wells Fargo Finance, Inc. (“Wells Fargo”) have announced plans for a major addition (the “Project”) to the existing Facility located at 4801 Northpark Drive, Opelika, Alabama, within the jurisdiction of the City; and

WHEREAS, the Project, involving a building expansion and the acquisition of new manufacturing machinery and other personal property, will involve a total capital investment of approximately eleven million thirty thousand dollars (\$11,030,000.00); and

WHEREAS, Wells Fargo has announced plans to acquire and install new manufacturing machinery at the Facility and to lease said manufacturing machinery to the Company; and

WHEREAS, Wells Fargo has announced its capital investment in the Project will be approximately \$10,250,000.00; and

WHEREAS, the Company has announced plans to construct a training center addition to the Facility and to purchase new personal property; and

WHEREAS, the Company has announced that its estimated that capital investment in the Project will be approximately \$780,000; and

WHEREAS, the Project is estimated to be placed in service by June 30, 2020; and

WHEREAS, the Project will be operated by the Company as an “industrial or research enterprise” as defined under Alabama Code §40-9B-3(a)(10); and

WHEREAS, the Project is expected to result in the creation of approximately forty-one (41) new jobs; and

WHEREAS, the Company’s NAICS Code 336330 meets the qualifications of an industrial or research enterprise in accordance with §40-9B-3(6), *Code of Alabama*, as amended; and

WHEREAS, pursuant to the Tax Incentive Reform Act of 1992 (Section 40-9B-1, et seq, *Code of Alabama*, 1975) (the “Act”), the Company and Wells Fargo have requested from the City the abatement of (a) all state and local non-education ad valorem taxes (property taxes); and (b) all construction related transaction taxes (sales and use taxes), except those construction related transaction taxes levied for educational purposes or for capital improvements for education; and

WHEREAS, the Company and Wells Fargo have requested that the abatement of state and local non-educational property taxes be extended for a period of ten (10) years in accordance with the Act; and

WHEREAS, pursuant to Article IV of Chapter 51 of Title 11, *Code of Alabama*, the Company and Wells Fargo have requested from the City a complete exemption of non-educational City ad valorem taxes for the Project for a period of fifteen (15) years; and

WHEREAS, the City has considered the requests of the Company and Wells Fargo and their respective completed form Co:CAA Application to Granting Authority for Abatement of Taxes, filed by the Company and Wells Fargo, respectively, with the City in connection with their request (separately the “Abatement Application” or collectively “Abatement Applications”); and

WHEREAS, the City has found the information contained in the Abatement Applications to be sufficient to permit the City to make a reasonable cost/benefit analysis of the proposed Project and to determine the economic benefits to the community; and

WHEREAS, the Project will involve a combined capital investment of approximately eleven million thirty thousand dollars (\$11,030,000.00) which includes a building expansion, the acquisition of new manufacturing machinery and other personal property to be purchased and installed at the Facility and related costs; and

WHEREAS, the City Council has been furnished a copy of a Tax Abatement Agreement between the City and the Company and the City Council has determined that the general terms of such Agreement are acceptable to the City in principle; and

WHEREAS, the City Council has been furnished a copy of a Tax Abatement Agreement between the City and Wells Fargo and the City Council has determined that the general terms of such Agreement are acceptable to the City in principle; and

WHEREAS, the Company and Wells Fargo are duly qualified to do business in the State of Alabama and have the power to enter into and to perform and observe the agreements and covenants on its part contained in the Tax Abatement Agreements; and

WHEREAS, the City represents and warrants to the Company and Wells Fargo that it has the power under the Constitution and the laws of the State of Alabama (including particularly the provisions of the Act) to carry out the provisions of the Tax Abatement Agreements; and

WHEREAS, the City wishes to secure the numerous and significant benefits to the City, its business community and residents that will likely result from the expanded use of the Facility

due to the building expansion and the installation of said new manufacturing machinery and other new personal property.

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

1. Approval is hereby given to the Abatement Applications of the Company and Wells Fargo and abatement is hereby authorized of (1) all state and local non-educational property taxes for a period of ten (10) years; and (2) all construction related transactions (sales and use) taxes, except those construction related transaction taxes levied for educational purposes or for capital improvements for education, as the same may apply to the fullest extent permitted by the Act. The period of abatement for the non-educational property taxes shall extend for a period of ten (10) years measured as provided in Section 40-9B-3(a)12 of the Act.

2. In addition, pursuant to Title 11, Article 4 of Chapter 51, *Code of Alabama*, the City agrees to grant to the Company and Wells Fargo a complete exemption for non-educational City ad valorem taxes for a period of fifteen (15) years.

3. The abatements and exemptions granted herein do not include any ad valorem taxes earmarked for city and county schools and school district purposes. The tax abatements and exemptions for ad valorem taxes under paragraphs 1 and 2 shall not exceed the maximum abatement allowed by state law.

4. The Mayor and the City Clerk are hereby authorized and directed to execute the Tax Abatement Agreements with the Company and Wells Fargo and such other ancillary documents and agreements as may be necessary to provide the abatements and exemptions granted in paragraphs 1 and 2 above.

5. A certified copy of this resolution, with Abatement Applications and Abatement Agreements, shall be forwarded to the Company and Wells Fargo to deliver to the appropriate taxing authorities and to the Alabama Department of Revenue in accordance with the Act.

6. 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 caused 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.

7. This resolution shall take effect upon passage and adoption by the City Council.

ADOPTED AND APPROVED this the _____ day of _____, 2019.

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

ATTEST:

CITY CLERK



ALABAMA DEPARTMENT OF REVENUE Application to Granting Authority for Abatement of Taxes

Under Chapter 9B, Title 40, Code of Alabama 1975

Noneducational Sales and Use Taxes, Noneducational Property Taxes, and/or Mortgage and Recording Taxes

This form is to be submitted to the granting authority for consideration in granting an abatement of all state and local noneducational property taxes, all construction related transaction (sales and use) taxes, except those local construction related transaction taxes levied for educational purposes or for capital improvements for education, and/or mortgage and recording fees, in accordance with the provisions of Section 40-9B-1 et seq., Code of Alabama 1975.

1a. TYPE OF ABATEMENT APPLYING FOR: ☒ Sales & Use Taxes ☒ Property Taxes ☐ Mortgage & Recording Taxes		2. PROJECT NAICS CODE: <table border="1"><tr><td>3</td><td>1</td><td>1</td><td>9</td><td>9</td><td>1</td></tr></table>		3	1	1	9	9	1
3	1	1	9	9	1				
1b. IS APPLICANT REQUESTING PROPERTY TAX ABATEMENT FOR A PERIOD LONGER THAN 10 YEARS? ☐ Yes ☒ No		3. TYPE OF PROJECT: ☐ New Project ☒ Major Addition To An Existing Facility							
4. DOES MAJOR ADDITION EQUAL THE LESSER OF: (CHECK APPLICABLE BOX) ☒ \$2,000,000 - OR - ☐ 30% of original cost of existing property, original cost \$									
5. PROJECT APPLICANT: Golden State Foods Corp DBA:									
6. ADDRESS OF APPLICANT: 4801 Northpark Drive		CITY: Opelika	STATE: AL ZIP CODE: 36801						
7. NAME OF CONTACT PERSON: Nathan Murphy		EMAIL ADDRESS: namurphy@goldenstatefoods.com	TELEPHONE NUMBER: (334) 610-3076						
8. DATE COMPANY ORGANIZED: 1947									
9. PHYSICAL LOCATION OF PROJECT: 4801 Northpark Drive									
CITY (IF OUTSIDE CITY LIMITS, PLEASE INDICATE): Opelika		COUNTY: Lee	ZIP CODE: 36801						
10. BRIEF DESCRIPTION OF PROJECT (ATTACH A COMPLETE AND DETAILED LISTING OF PROJECT PROPERTY COSTS TO ENABLE A COST/BENEFIT ANALYSIS BY GRANTING AUTHORITY): Construction of additional spiral freezer and the addition of a Training Center (1,875 sqft)									
11. ESTIMATED DATE CONSTRUCTION WILL BEGIN: 1/6/20		12. ESTIMATED DATE CONSTRUCTION WILL BE COMPLETED: 6/30/20	13. ESTIMATED DATE PROPERTY WILL BE PLACED IN SERVICE: 6/30/20						
14. HAVE BONDS BEEN ISSUED FOR PROJECT: ☒ No ☐ Yes If yes, date bonds issued:		15. WILL BONDS BE ISSUED FOR PROJECT ☒ No ☐ Yes If yes, projected date of issue:							

16. ESTIMATED NUMBER OF NEW EMPLOYEES	17. ESTIMATED ANNUAL PAYROLL OF NEW EMPLOYEES	Estimated Investment for Project	18. COST OR VALUE FOR PROPERTY TAX	19. COST SUBJECT TO SALES TAX
INITIALLY	INITIALLY		18a	
41	\$ 1,350,000	a. Land (if donated, show market value)		XXXXXXXXXX
YEAR 1	YEAR 1	b. Existing Building(s) (if any)	18b	XXXXXXXXXX
YEAR 2	YEAR 2	c. Existing Personal Property (if any)	18c	XXXXXXXXXX
YEAR 3	YEAR 3	d. New Building(s) and/or New Additions to Existing Building(s) (19d = building materials only)	18d	19d
			\$ 720,000	\$ 360,000
This form may be used as the application to the granting authority required by Section 40-9B-6(a), Code of Alabama 1975. The information requested here is required by Section 40-9B-6 and Section 40-2-11(7), Code of Alabama 1975.		e. New Manufacturing Machinery	18e	19e
		f. Other New Personal Property (non-mfg machinery, office equipment, computers, etc.)	18f	19f
		g. TOTALS (PROPERTY TAX TOTAL MUST EQUAL TOTAL PROJECT INVESTMENT. SALES TAX TOTAL WILL BE LESS.)	18g	19g
			\$ 60,000	\$ 60,000
			\$ 780,000	\$ 420,000

The abatement of noneducational property taxes is based on the market value of specific assets; therefore, the actual amount of taxes abated is determined each year as the property is assessed and valued. An abatement of noneducational sales and use taxes shall apply only to tangible personal property and taxable services incorporated into private use industrial property, the cost of which may be added to capital account with respect to the property, determined without regard to any rule which permits expenditures properly chargeable to capital account to be treated as current expenses. No abatement of sales and use taxes shall extend beyond the date private use industrial property is placed in service. A verification inspection of qualifying property will be conducted by the Alabama Department of Revenue to insure compliance with Section 40-9B-1 et seq., Code of Alabama 1975, as amended.

I hereby affirm that, to the best of my knowledge and belief, the information in this application and any accompanying statement, schedules, and other information is true, correct and complete.

Nathan Murphy

NAME (PRINT)

SIGNATURE

VP of Operations, Protein

TITLE

12/05/2019

DATE



ALABAMA DEPARTMENT OF REVENUE
SALES AND USE TAX DIVISION

ST: EX-A2
6/19

Application For Sales and Use Tax Certificate of Exemption

For an Industrial or Research Enterprise Project

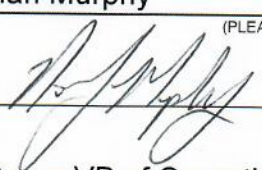
This Certificate of Exemption will be limited to purchases which qualify for an abatement of sales and use taxes pursuant to **Code of Alabama 1975**, Section 40-9B-1, et seq., 40-9C-1, et seq., and/or 40-9G-1, et seq.

APPLICANT'S LEGAL NAME		FEDERAL EMPLOYER IDENTIFICATION NUMBER (FEIN)
Golden State Foods Corp.		95-2670074
MAILING ADDRESS		
4801 Northpark Drive		
CITY, STATE, AND ZIP		
Opelika, AL 36801		
ADDRESS OF THE PROJECT SITE		
4801 Northpark Drive, Opelika, AL 36801		
CONTACT PERSON	IF THIS IS A CONTRACTOR APPLICATION, INCLUDE NAME OF THE PRIVATE USER (I.E. ABATED ENTITY)	
Nathan Murphy		
BUSINESS PHONE NUMBER	DATE ABATEMENT WAS GRANTED	ESTIMATED PROJECT COMPLETION DATE PER ABATEMENT AGREEMENT
(334) 610-3076		June 30, 2020

A **general contractor** must attach a letter from the private user that it will be making purchases of tangible personal property to be incorporated into the project referenced above. A **contractor or subcontractor** must attach a letter from the private user or the general contractor that it will be making purchases of tangible personal property to be incorporated into the project referenced above.

The undersigned hereby makes application for a certificate of exemption (Form STE-2) in accordance with the provisions of Sales and Use Tax Rule 810-6-4-.24 and further agrees to abide by the procedures outlined in Sales and Use Tax Rule 810-6-4-.24.01. See instructions for preparation of Form ST:EX-A2.

Name Nathan Murphy
(PLEASE PRINT)

Signature 

Title VP, Group VP of Operations, Protein

Date 12/05/2019

Mail to:

Alabama Department of Revenue
Attn: Abatement Program Administrator
P. O. Box 327001
Montgomery, AL 36132-7001
(334) 242-1175

Attachment: CM 12-17-19, GSF Abatement Applications (398-19 : Tax abatement agreements, Gold State Foods & Wells Fargo.)



ALABAMA DEPARTMENT OF REVENUE Application to Granting Authority for Abatement of Taxes

Under Chapter 9B, Title 40, Code of Alabama 1975

Noneducational Sales and Use Taxes, Noneducational Property Taxes, and/or Mortgage and Recording Taxes

This form is to be submitted to the granting authority for consideration in granting an abatement of all state and local noneducational property taxes, all construction related transaction (sales and use) taxes, except those local construction related transaction taxes levied for educational purposes or for capital improvements for education, and/or mortgage and recording fees, in accordance with the provisions of Section 40-9B-1 et seq., Code of Alabama 1975.

1a. TYPE OF ABATEMENT APPLYING FOR: ☒ Sales & Use Taxes ☒ Property Taxes ☐ Mortgage & Recording Taxes		2. PROJECT NAICS CODE: 311991	
1b. IS APPLICANT REQUESTING PROPERTY TAX ABATEMENT FOR A PERIOD LONGER THAN 10 YEARS? ☐ Yes ☒ No		3. TYPE OF PROJECT: ☐ New Project ☒ Major Addition To An Existing Facility	
4. DOES MAJOR ADDITION EQUAL THE LESSER OF: (CHECK APPLICABLE BOX) ☒ \$2,000,000 - OR - ☐ 30% of original cost of existing property, original cost \$			
5. PROJECT APPLICANT: Wells Fargo Equipment Finance Inc		DBA:	
6. ADDRESS OF APPLICANT: 600 South 4th Street MAC N9300-100		CITY: Minneapolis	STATE: MN ZIP CODE: 55415
7. NAME OF CONTACT PERSON: Scott Cariolano		EMAIL ADDRESS: scott.cariolano@wellsfargo.com	TELEPHONE NUMBER: (612) 667-9889
8. DATE COMPANY ORGANIZED: 12/5/1968			
9. PHYSICAL LOCATION OF PROJECT: 4801 Northpark Drive			
CITY (IF OUTSIDE CITY LIMITS, PLEASE INDICATE): Opelika		COUNTY: Lee	ZIP CODE: 36801
10. BRIEF DESCRIPTION OF PROJECT (ATTACH A COMPLETE AND DETAILED LISTING OF PROJECT PROPERTY COSTS TO ENABLE A COST/BENEFIT ANALYSIS BY GRANTING AUTHORITY): Construction of additional spiral freezer, X-Ray equipment			
11. ESTIMATED DATE CONSTRUCTION WILL BEGIN: 1/3/20		12. ESTIMATED DATE CONSTRUCTION WILL BE COMPLETED: 6/30/20	13. ESTIMATED DATE PROPERTY WILL BE PLACED IN SERVICE: 6/30/20
14. HAVE BONDS BEEN ISSUED FOR PROJECT: ☒ No ☐ Yes If yes, date bonds issued:		15. WILL BONDS BE ISSUED FOR PROJECT: ☒ No ☐ Yes If yes, projected date of issue:	

16. ESTIMATED NUMBER OF NEW EMPLOYEES	17. ESTIMATED ANNUAL PAYROLL OF NEW EMPLOYEES	Estimated Investment for Project	18. COST OR VALUE FOR PROPERTY TAX	19. COST SUBJECT TO SALES TAX
INITIALLY	INITIALLY		18a	XXXXXXXXXX
YEAR 1	YEAR 1	a. Land (if donated, show market value)	18b	XXXXXXXXXX
YEAR 2	YEAR 2	b. Existing Building(s) (if any)	18c	XXXXXXXXXX
YEAR 3	YEAR 3	c. Existing Personal Property (if any)	18d	19d
		d. New Building(s) and/or New Additions to Existing Building(s) (19d = building materials only)	18e	19e
This form may be used as the application to the granting authority required by Section 40-9B-6(a), Code of Alabama 1975. The information requested here is required by Section 40-9B-6 and Section 40-2-11(7), Code of Alabama 1975.		e. New Manufacturing Machinery	\$ 10,250,000	
		f. Other New Personal Property (non-mfg machinery, office equipment, computers, etc.)	18f	19f
		g. TOTALS (PROPERTY TAX TOTAL MUST EQUAL TOTAL PROJECT INVESTMENT. SALES TAX TOTAL WILL BE LESS.)	18g	19g
			\$ 10,250,000	

The abatement of noneducational property taxes is based on the market value of specific assets; therefore, the actual amount of taxes abated is determined each year as the property is assessed and valued. An abatement of noneducational sales and use taxes shall apply only to tangible personal property and taxable services incorporated into private use industrial property, the cost of which may be added to capital account with respect to the property, determined without regard to any rule which permits expenditures properly chargeable to capital account to be treated as current expenses. No abatement of sales and use taxes shall extend beyond the date private use industrial property is placed in service. A verification inspection of qualifying property will be conducted by the Alabama Department of Revenue to insure compliance with Section 40-9B-1 et seq., Code of Alabama 1975, as amended.

I hereby affirm that, to the best of my knowledge and belief, the information in this application and any accompanying statement, schedules, and other information is true, correct and complete.

Scott Cariolano

NAME (PRINT)

SIGNATURE

TITLE

DATE

Tax Abatement Agreement

This Abatement Agreement is made and entered into as of this 17th day of December, 2019, by and between The City of Opelika (the Granting Authority), and Golden State Foods Corp (the Company), its successors and assigns.

WHEREAS, the Company's North American Industry Classification System (NAICS) Code, 311612 or business activity _____ meets the qualifications of an industrial or research enterprise in accordance with Section 40-9B-3(10), **Code of Alabama 1975**, as amended; and

WHEREAS, the Company has announced plans for a (check one):

☐ new project or ☒ major addition to their existing facility (the Project), located within the jurisdiction of the Granting Authority;

WHEREAS, the Project is estimated to be completed by the 30th day of June, 2020; and

WHEREAS the Project will be located in the County of Lee (check only one)

☒ inside the city limits of Opelika.

☒ inside the police jurisdiction of Opelika.

☐ outside the city limits and police jurisdiction of the City of _____; and

WHEREAS, pursuant to the Tax Incentive Reform Act of 1992 (Section 40-9B1 et seq., **Code of Alabama 1975**) (the Act), the Company has requested from the Granting Authority an Abatement of: (check all that apply)

☒ all state and local noneducational property taxes,

☒ all construction related transaction taxes, except those local construction related transaction taxes levied for educational purposes or for capital improvements for education, and/or

☐ all mortgage and recording taxes with respect to mortgages, deeds, and documents relating to issuing or securing obligations and conveying title into or out of the public authority, county or municipal government;

WHEREAS, the Granting Authority has considered the request of the Company and the completed applications filed with the Granting Authority by the Company, in connection with its request; and

WHEREAS, the Granting Authority has found the information contained in the Company's application to be sufficient to permit the Granting Authority to make a reasonable cost/benefit analysis of the proposed project and to determine the economic benefits to the community; and

WHEREAS, at its meeting held on the 17th day of December, 2019 (the Meeting), the Granting Authority approved the Company's application for abatement of (check all that apply):

☒ All state and local noneducational property taxes;

☒ All construction related transaction taxes, except those local construction related transaction taxes levied for educational purposes or for capital improvements for education; and/or

☐ all mortgage and recording taxes with respect to mortgages, deeds, and documents relating to issuing or securing obligations and conveying title into or out of the public authority, county or municipal government;

WHEREAS, the Project will consist of private use industrial development property, which is composed of all real and/or related personal property to be acquired, constructed, and installed thereon, as described in Attachment One hereto; and

WHEREAS, the private use industrial development property for which the abatement is applied shall be (check whichever is applicable):

☒ Owned by the entity applying for the abatement,

☐ leased from a public authority, municipal, or county government; and

WHEREAS, in the event that the private use industrial development property is leased from a public authority, municipal, or county government, the lessee shall be treated as the owner of such property for federal income tax purposes; and

WHEREAS, it shall be indicated whether the Granting Authority intends to issue bonds in connection with the private use industrial development property herein described, and, if so intends, shall attach a copy of the inducement agreement; and

WHEREAS, for the purposes of abatement of all noneducational property taxes (if applicable), it has been determined that no portion of the Project has been placed in service or operation by the Company or by a related party, as defined in 26 U.S.C. §267, with respect to the Company prior to the Effective Date of this Agreement; and

WHEREAS, for the purposes of the abatement of construction related transaction taxes (if applicable), no portion of the Project which has been requested for abatement has been purchased prior to the Effective Date of this Agreement; and

WHEREAS, the Project conducts trade or business as defined as an industrial or research enterprise:

Predominately as described in the 2012 North American Industry Classification System, promulgated by the Executive Office of the President of the United States, Office of Management and Budget, Sectors 31 (other than National Industry 311811), 32, 33, 55 (if not for the production of electricity); Subsectors 423, 424, 482, 493, 511, 517, 518 (without regard to the premise that data processing and related services be

performed in conjunction with a third party), and 927; Industry Groups 1133, 2121, 4862, 4882, 4883 (other than 48833), 5121 (other than 51213), 5415, and 5417; Industries 48691, 48699, 48819, 51221, 51913, 52232, 54133, 54134, 54138, 56291, 56292, and 92811; and National Industries 115111, 22111, 221330, 541614, 561422 (other than establishments that originate telephone calls), 562213, and 611512 or any similar classification system developed in conjunction with the United States Department of Commerce or Office of Management and Budget, or any industrial or research enterprise as defined in Section 40-9B-3(a)(10), *Code of Alabama 1975*, as amended, or a target of the state's economic development efforts pursuant to the Accelerate Alabama Strategic Economic Development Plan adopted in January 2012 by the Alabama Economic Development Alliance, created by Executive Order Number 21 of the Governor on July 18, 2011, or any amended version or successor document thereto,

A headquarters facility project as described in NAICS 551114 at which not less than 50 jobs are located,

A data processing center as defined in Section 40-9B-3(a)(4), *Code of Alabama 1975*,

A research and development facility as defined in Section 40-9B-3(a)(23), *Code of Alabama 1975*,

A renewable energy facility as defined in Section 40-9B-3(a)(22), *Code of Alabama 1975*,

A facility that produces electricity from alternative energy resources or hydropower production as defined in Section 40-9B-3(a)(10)e, *Code of Alabama 1975*, or

A tourism destination attraction as defined in Section 40-9B-3(a)(25), *Code of Alabama 1975*;

WHEREAS, if the Project is a major addition to an existing facility, the request for abatement of all state and local noneducational property taxes (if applicable) and/or construction related transaction taxes (if applicable) does not include any capitalized repairs, rebuilds, maintenance, replacement equipment, or costs associated with the renovating or remodeling of existing facilities of industrial development property previously placed in service by the Company; and

WHEREAS, if the Project is a major addition to an existing facility the addition equals the lesser of (i) thirty (30) percent of the original cost of the industrial development property, or (ii) \$2,000,000; and

WHEREAS, the Company is duly qualified to do business in the State of Alabama, and has powers to enter into, and perform and observe the agreements and covenants on its part contained in this Agreement; and

WHEREAS, the Granting Authority represents and warrants to the Company (a) that it has power under that constitution and laws of the State of Alabama (including particularly the provisions of the Act) to carry out the provisions of this Agreement, (b) that the execution of this Agreement on its behalf has been duly authorized by resolution adopted by the governing body of the Granting Authority;

NOW, THEREFORE, the Granting Authority and the company, in consideration of the mutual promises and benefits specified herein, hereby agree as follows:

In accordance with the Act, the Granting Authority hereby grants to the Company an abatement from liability for the following taxes as permitted by the Act (check all that apply):

☒ (a) Noneducational Property Taxes: all state and local noneducational property taxes that are not required to be used for educational purposes or for capital improvements for education for 10 years,

☒ (b) Construction Related Transaction Taxes: the transaction taxes imposed by Chapter 23 of Title 40 *Code of Alabama 1975* on the tangible personal property and taxable services to be incorporated into the

Project, the cost of which may be added to the capital account with respect to the Project, except for those local construction related transaction taxes levied for educational purposes or for capital improvements for education; and/or

☐ (c) Mortgage and Recording Taxes: all taxes imposed by Chapter 22 of Title 40 *Code of Alabama 1975* relating to mortgages, deeds, and documents relating to issuing or securing obligations and conveying title into or out of the Granting Authority with respect to the Project.

2. An estimate of the amount of tax abated pursuant to this Agreement is set forth below. The Granting Authority and the Company hereby acknowledge that this estimate reflects the amount of tax abated for the period stated, under current law, and that the actual abatement for such taxes may be for a greater or lesser amount depending upon the actual amount of such taxes levied during the abatement periods stated. (Check all that apply):

☒ (a) If no bonds are to be issued, noneducational property taxes are expected to be approximately \$ 4,099 per year and the maximum period for such abatement shall be valid for a period of 10 years, beginning with the October 1 lien date next proceeding the acquisition date of abated property.

☐ (b) If bonds are issued, noneducational property taxes are expected to be approximately \$ _____ per year and the maximum period for such abatement shall be valid for a period of _____ years, beginning the initial date bonds are issued to finance project.

☒ (c) Construction related transaction taxes, except those local construction related transaction taxes levied for educational purposes or for capital improvements for education, are expected to be approximately \$ 33,600 and such abatement shall not extend beyond the date the Project is placed in service.

(d) Mortgage and recording taxes are expected to be \$ _____.

3. The Company hereby makes the following good faith projections:

(a) Amount to be invested in the Project: \$ 720,000 ;

b) Number of individuals to be employed initially at the Project and in each of the succeeding three years:

Initially 41 Year 1 _____ Year 2 _____ Year 3 _____ ;

(c) Annual payroll initially at the Project and in each of the succeeding three years:

Initially \$ 1,350,000 Year 1 \$ _____ Year 2 \$ _____ Year 3 \$ _____ ;

4. The Company shall file with the Alabama Department of Revenue within 90 days after the date of the Meeting a copy of this agreement as required by Section 40-9B-6(c) of the Act.

GENERALLY

5. Compliance. If the Company fails to comply with any provision in this Agreement or if any of the material statements contained herein or in Attachment Two (*Note: This attachment shall include the*

application for abatement), are determined to have been misrepresented whether intentionally, negligently, or otherwise, the Granting Authority shall terminate this Agreement and take such equitable action available to it as if this Agreement had never existed. If it is determined that certain items, which are identified on the application form for abatement of taxes, are not in compliance with the Act or governing regulations, these items may be subject to taxation for all local and state taxing authorities.

6. Binding Agreement. Each party to this Agreement hereby represents and warrants that the person executing this Agreement on behalf of the party is authorized to do so and that this Agreement shall be binding and enforceable when duly executed and delivered by each party. This Agreement shall be binding upon and inure to the benefit of each of the parties and their respective successors.

7. Limitations. Notwithstanding any provision contained herein to the contrary, this Agreement is limited solely to the abatement of (check all that apply):

☒ all state and local noneducational property taxes,

☒ all construction related transaction taxes, except those local construction related transaction taxes levied for educational purposes or for capital improvements for education, and/or

☐ all mortgage and recording taxes for the periods specified herein. Nothing in this Agreement shall be construed as a waiver by the Company of any greater benefits that the Project or any portion thereof may have available under the provisions of the law other than the Act.

8. Severability. This Agreement may be amended or terminated upon mutual consent of the Company and the Granting Authority. Any such amendment or termination shall not in any manner affect the rights and duties by and between the Company and the Granting Authority.

This Agreement is executed as of the dates specified below.

Golden State Foods Corp.
(the Company)

The City of Opelika
(the Granting Authority)

By: _____

By: _____

Name: _____

Name: Gary Fuller

Title: _____

Title: Mayor

Date: December 17, 2019

Date: December 17, 2019

10/15

Tax Abatement Agreement

This Abatement Agreement is made and entered into as of this 17th day of December, 2019, by and between The City of Opelika (the Granting Authority), and Wells Fargo Equipment Finance Inc. (the Company), its successors and assigns.

WHEREAS, the Company's North American Industry Classification System (NAICS) Code, 311991 or business activity _____ meets the qualifications of an industrial or research enterprise in accordance with Section 40-9B-3(10), **Code of Alabama 1975**, as amended; and

WHEREAS, the Company has announced plans for a (check one):

☐ new project or ☒ major addition to their existing facility (the Project), located within the jurisdiction of the Granting Authority;

WHEREAS, the Project is estimated to be completed by the 30th day of June, 2020; and

WHEREAS the Project will be located in the County of Lee (check only one)

☒ inside the city limits of Opelika.

☒ inside the police jurisdiction of Opelika.

☐ outside the city limits and police jurisdiction of the City of _____; and

WHEREAS, pursuant to the Tax Incentive Reform Act of 1992 (Section 40-9B1 et seq., **Code of Alabama 1975**) (the Act), the Company has requested from the Granting Authority an Abatement of: (check all that apply)

☒ all state and local noneducational property taxes,

☐ all construction related transaction taxes, except those local construction related transaction taxes levied for educational purposes or for capital improvements for education, and/or

☐ all mortgage and recording taxes with respect to mortgages, deeds, and documents relating to issuing or securing obligations and conveying title into or out of the public authority, county or municipal government;

WHEREAS, the Granting Authority has considered the request of the Company and the completed applications filed with the Granting Authority by the Company, in connection with its request; and

WHEREAS, the Granting Authority has found the information contained in the Company's application to be sufficient to permit the Granting Authority to make a reasonable cost/benefit analysis of the proposed project and to determine the economic benefits to the community; and

Attachment: Agreement, tax abatement, Wells Fargo, 12-11-19 (398-19 : Tax abatement agreements, Gold State Foods & Wells Fargo.)

WHEREAS, at its meeting held on the 17th day of December, 2019 (the Meeting), the Granting Authority approved the Company's application for abatement of (check all that apply):

☐ all state and local noneducational property taxes;

☒ all construction related transaction taxes, except those local construction related transaction taxes levied for educational purposes or for capital improvements for education; and/or

☐ all mortgage and recording taxes with respect to mortgages, deeds, and documents relating to issuing or securing obligations and conveying title into or out of the public authority, county or municipal government;

WHEREAS, the Project will consist of private use industrial development property, which is composed of all real and/or related personal property to be acquired, constructed, and installed thereon, as described in Attachment One hereto; and

WHEREAS, the private use industrial development property for which the abatement is applied shall be (check whichever is applicable):

☒ owned by the entity applying for the abatement,

☐ leased from a public authority, municipal, or county government; and

WHEREAS, in the event that the private use industrial development property is leased from a public authority, municipal, or county government, the lessee shall be treated as the owner of such property for federal income tax purposes; and

WHEREAS, it shall be indicated whether the Granting Authority intends to issue bonds in connection with the private use industrial development property herein described, and, if so intends, shall attach a copy of the inducement agreement; and

WHEREAS, for the purposes of abatement of all noneducational property taxes (if applicable), it has been determined that no portion of the Project has been placed in service or operation by the Company or by a related party, as defined in 26 U.S.C. §267, with respect to the Company prior to the Effective Date of this Agreement; and

WHEREAS, for the purposes of the abatement of construction related transaction taxes (if applicable), no portion of the Project which has been requested for abatement has been purchased prior to the Effective Date of this Agreement; and

WHEREAS, the Project conducts trade or business as defined as an industrial or research enterprise:

Predominately as described in the 2012 North American Industry Classification System, promulgated by the Executive Office of the President of the United States, Office of Management and Budget, Sectors 31 (other than National Industry 311811), 32, 33, 55 (if not for the production of electricity); Subsectors 423, 424, 482, 493, 511, 517, 518 (without regard to the premise that data processing and related services be

performed in conjunction with a third party), and 927; Industry Groups 1133, 2121, 4862, 4882, 4883 (other than 48833), 5121 (other than 51213), 5415, and 5417; Industries 48691, 48699, 48819, 51221, 51913, 52232, 54133, 54134, 54138, 56291, 56292, and 92811; and National Industries 115111, 22111, 221330, 541614, 561422 (other than establishments that originate telephone calls), 562213, and 611512 or any similar classification system developed in conjunction with the United States Department of Commerce or Office of Management and Budget, or any industrial or research enterprise as defined in Section 40-9B-3(a)(10), *Code of Alabama 1975*, as amended, or a target of the state's economic development efforts pursuant to the Accelerate Alabama Strategic Economic Development Plan adopted in January 2012 by the Alabama Economic Development Alliance, created by Executive Order Number 21 of the Governor on July 18, 2011, or any amended version or successor document thereto,

A headquarters facility project as described in NAICS 551114 at which not less than 50 jobs are located,

A data processing center as defined in Section 40-9B-3(a)(4), *Code of Alabama 1975*,

A research and development facility as defined in Section 40-9B-3(a)(23), *Code of Alabama 1975*,

A renewable energy facility as defined in Section 40-9B-3(a)(22), *Code of Alabama 1975*,

A facility that produces electricity from alternative energy resources or hydropower production as defined in Section 40-9B-3(a)(10)e, *Code of Alabama 1975*, or

A tourism destination attraction as defined in Section 40-9B-3(a)(25), *Code of Alabama 1975*;

WHEREAS, if the Project is a major addition to an existing facility, the request for abatement of all state and local noneducational property taxes (if applicable) and/or construction related transaction taxes (if applicable) does not include any capitalized repairs, rebuilds, maintenance, replacement equipment, or costs associated with the renovating or remodeling of existing facilities of industrial development property previously placed in service by the Company; and

WHEREAS, if the Project is a major addition to an existing facility the addition equals the lesser of (i) thirty (30) percent of the original cost of the industrial development property, or (ii) \$2,000,000; and

WHEREAS, the Company is duly qualified to do business in the State of Alabama, and has powers to enter into, and perform and observe the agreements and covenants on its part contained in this Agreement; and

WHEREAS, the Granting Authority represents and warrants to the Company (a) that it has power under that constitution and laws of the State of Alabama (including particularly the provisions of the Act) to carry out the provisions of this Agreement, (b) that the execution of this Agreement on its behalf has been duly authorized by resolution adopted by the governing body of the Granting Authority;

NOW, THEREFORE, the Granting Authority and the company, in consideration of the mutual promises and benefits specified herein, hereby agree as follows:

In accordance with the Act, the Granting Authority hereby grants to the Company an abatement from liability for the following taxes as permitted by the Act (check all that apply):

☒ (a) Noneducational Property Taxes: all state and local noneducational property taxes that are not required to be used for educational purposes or for capital improvements for education for 10 years,

☐ (b) Construction Related Transaction Taxes: the transaction taxes imposed by Chapter 23 of Title 40 *Code of Alabama 1975* on the tangible personal property and taxable services to be incorporated into the

Project, the cost of which may be added to the capital account with respect to the Project, except for those local construction related transaction taxes levied for educational purposes or for capital improvements for education; and/or

☐ (c) Mortgage and Recording Taxes: all taxes imposed by Chapter 22 of Title 40 *Code of Alabama 1975* relating to mortgages, deeds, and documents relating to issuing or securing obligations and conveying title into or out of the Granting Authority with respect to the Project.

2. An estimate of the amount of tax abated pursuant to this Agreement is set forth below. The Granting Authority and the Company hereby acknowledge that this estimate reflects the amount of tax abated for the period stated, under current law, and that the actual abatement for such taxes may be for a greater or lesser amount depending upon the actual amount of such taxes levied during the abatement periods stated. (Check all that apply):

☒ (a) If no bonds are to be issued, noneducational property taxes are expected to be approximately \$ 36,198 per year and the maximum period for such abatement shall be valid for a period of 10 years, beginning with the October 1 lien date next proceeding the acquisition date of abated property.

☐ (b) If bonds are issued, noneducational property taxes are expected to be approximately \$ _____ per year and the maximum period for such abatement shall be valid for a period of _____ years, beginning the initial date bonds are issued to finance project.

☐ (c) Construction related transaction taxes, except those local construction related transaction taxes levied for educational purposes or for capital improvements for education, are expected to be approximately \$ _____ and such abatement shall not extend beyond the date the Project is placed in service.

(d) Mortgage and recording taxes are expected to be \$ _____.

3. The Company hereby makes the following good faith projections:

(a) Amount to be invested in the Project: \$ 10,250,000 ;

b) Number of individuals to be employed initially at the Project and in each of the succeeding three years:

Initially _____ Year 1 _____ Year 2 _____ Year 3 _____ ;

(c) Annual payroll initially at the Project and in each of the succeeding three years:

Initially \$ _____ Year 1 \$ _____ Year 2 \$ _____ Year 3 \$ _____ ;

4. The Company shall file with the Alabama Department of Revenue within 90 days after the date of the Meeting a copy of this agreement as required by Section 40-9B-6(c) of the Act.

GENERALLY

5. Compliance. If the Company fails to comply with any provision in this Agreement or if any of the material statements contained herein or in Attachment Two (*Note: This attachment shall include the*

application for abatement), are determined to have been misrepresented whether intentionally, negligently, or otherwise, the Granting Authority shall terminate this Agreement and take such equitable action available to it as if this Agreement had never existed. If it is determined that certain items, which are identified on the application form for abatement of taxes, are not in compliance with the Act or governing regulations, these items may be subject to taxation for all local and state taxing authorities.

6. Binding Agreement. Each party to this Agreement hereby represents and warrants that the person executing this Agreement on behalf of the party is authorized to do so and that this Agreement shall be binding and enforceable when duly executed and delivered by each party. This Agreement shall be binding upon and inure to the benefit of each of the parties and their respective successors.

7. Limitations. Notwithstanding any provision contained herein to the contrary, this Agreement is limited solely to the abatement of (check all that apply):

☒ all state and local noneducational property taxes,

☒ all construction related transaction taxes, except those local construction related transaction taxes levied for educational purposes or for capital improvements for education, and/or

☐ all mortgage and recording taxes for the periods specified herein. Nothing in this Agreement shall be construed as a waiver by the Company of any greater benefits that the Project or any portion thereof may have available under the provisions of the law other than the Act.

8. Severability. This Agreement may be amended or terminated upon mutual consent of the Company and the Granting Authority. Any such amendment or termination shall not in any manner affect the rights and duties by and between the Company and the Granting Authority.

This Agreement is executed as of the dates specified below.

Wells Fargo Equipment Finance Inc.
(the Company)

The City of Opelika
(the Granting Authority)

By: _____

By: _____

Name: _____

Name: Gary Fuller

Title: _____

Title: Mayor

Date: December 17, 2019

Date: December 17, 2019

RESOLUTION NO. 399-19

Retain law firms to prosecute anti-trust claims.

RESOLUTION NO. _____

RESOLUTION RETAINING LAW OFFICES OF NAPOLI SHKOLNIK LLC
AND NICKS LAW FIRM TO PROSECUTE POTENTIAL ANTI-TRUST CLAIMS
AGAINST MANUFACTURERS OF GENERIC PHARMACEUTICALS

WHEREAS, in 2014, the U.S. Department of Justice (“DOJ”) began an investigation into the pricing of various generic pharmaceuticals; and

WHEREAS, in 2016, the DOJ filed criminal charges against a former CEO and former president of a generic pharmaceutical company alleging price fixing, bid reading and customer allocations; and

WHEREAS, on January 9, 2017, the individual defendants pled guilty to the federal charges; and

WHEREAS, in recent years, there have been large price spikes for certain generic drugs and DOJ’s investigation into this market has revealed that some corporations and executives have sought to enrich themselves at the expense of consumers who rely on those crucial medications; and

WHEREAS, evidence uncovered by DOJ indicates that many generic pharmaceutical companies have conspired to fix prices and engaged in collusive conduct; and

WHEREAS, on May 10, 2019, the State Attorney Generals for 48 states, including the State of Alabama, filed a lawsuit alleging that twenty-one (21) major drug manufacturers conspired to artificially inflate and manipulate the prices of 116 generic drugs with said companies making billions of dollars in the process; and

WHEREAS, in addition to the actions brought by the states, numerous healthcare plans,

welfare benefit funds, private insurers and other health coverage providers have brought suit; and

WHEREAS, the City of Opelika, Alabama (the “City”) “self-insures”, meaning that it pays the cost of medical care and pharmaceuticals for its employees and dependents; and

WHEREAS, the City reimburses the costs of medical care, including prescriptions, for numerous employees and families; and

WHEREAS, as demonstrated by the DOJ investigation, the City has overpaid for generic pharmaceuticals; and

WHEREAS, the City desires to retain the services of Napoli Shkolnik, LLC and Nicks Law Firm (collectively the “Law Firms”) to prosecute anti-trust claims and manufacturers of generic pharmaceuticals; and

WHEREAS, said law firms are proposing a contingency fee arrangement of twenty-five percent (25%) of any recovery; and

WHEREAS, a proposed Contract to be entered into between the City and said law firms has been prepared 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 Contract.

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

1. That the City does hereby retain the services of Napoli Shkolnik, LLC and Nicks Law Firm to prosecute potential anti-trust claims against manufacturers of generic pharmaceuticals.

2. That the proposed Contract to be entered into between the law firms, a copy of 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 the execution and delivery of said Contract.

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

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

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

ADOPTED AND APPROVED this the _____ day of _____, 20____.

 PRESIDENT OF THE CITY COUNCIL
 OF THE CITY OF OPELIKA

ATTEST:

 CITY CLERK



**NAPOLI
SHKOLNIK PLLC**
ATTORNEYS AT LAW

**THIS CONTRACT IS SUBJECT TO ARBITRATION
UNDER THE FEDERAL ARBITRATION ACT**

SPECIAL COUNSEL AGREEMENT

Mail or Fax to:

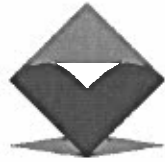
NAPOLI SHKOLNIK PLLC
360 Lexington Avenue – 11th Floor
New York, NY 10017
Telephone: (212) 397-1000
Fax: (646) 843-7603

NICKS LAW FIRM
312-T Schillinger Road
Box 306
Mobile, AL 36608
Telephone: 800-222-7559
Fax: (228) 864-3346

WHEREAS, the undersigned, _____ (“Client”) agrees to retain the law offices of Napoli Shkolnik PLLC and Nicks Law Firm (collectively “the Law Firms”) (collectively, “Parties”) as Client’s attorneys in the prosecution of any legal claim against manufactures of generic pharmaceuticals and/or their executives based upon their actions in fixing prices, allocating markets, and engaging in other antitrust violations or other wrongdoing with respect to generic pharmaceuticals. The Parties specifically agree as follows:

1. **FEE PERCENTAGE:** As consideration for legal services rendered and to be rendered by the Attorneys in carrying out the purpose hereof, Client agrees to pay Law Firm 25% (twenty-five percent) of all gross amounts recovered. Further, if the action is certified as a class action, the law firm shall request an award of common benefit fees and compensation to be award within the discretion of the court irrespective of the stated retainer amount. Client assigns, and the Law Firm accepts and acquires as its fee, a proportionate interest in the subject matter of any claim, action, or suit instituted or asserted under the provisions of this agreement. All expenses and costs will be deducted after the contingent fee calculation. Any liens and subrogation are to be deducted after the contingent fee is calculated. Client’s repayment of costs and expenses is contingent on the outcome from any funds received on the claim in question. If no funds are received on the claim in question, the Client is not liable for any costs and expenses.

2. **DISBURSEMENTS:** The Law Firm shall be reimbursed all reasonable expenses associated with the legal services being rendered including, but not limited to, legal research, long distance telephone calls, fax, postage, copying, travel, litigation, and expert expenses. Costs shall also include, but not be limited to, any “MDL Assessment” imposed by any Multi-District Litigation (“MDL”) Court or withheld from any settlement or favorable judgment by any



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ATTORNEYS AT LAW

defendant. In addition to the above listed individual costs, there may be common benefit costs. Common benefit costs are costs expended for the common benefit of a group of clients. For example, if a deposition of a defendant expert witness is taken in one case, and this deposition can be used for and/or benefits the claims of many other clients, these costs will be classified as common benefit costs. By using this common benefit cost system, no one client has to solely bear the costs which actually benefit the group as a whole, and many of the most substantial costs of litigation can be shared equally by all. Client grants a special privilege to the Law Firm for their professional fees, expenses, costs, interest, and loans, on all monies and properties recovered or obtained for Client. Client's repayment of costs and expenses is contingent on the outcome from any funds received on the claim in question. If no funds are received on the claim in question, the Client is not liable for any costs and expenses.

3. **FINANCING OF CASE:** If the firm borrows money from any lending institution to finance the cost of the client's case, the amounts advanced by this firm to pay the cost of prosecuting or defending a claim or action or otherwise protecting or promoting the client's interest will bear interest at the highest lawful rate allowed by applicable law. In no event will the interest be greater than the amount paid by the firm to the lending institution.

4. **TAX ADVICE:** The Client understands that the Law Firm will not provide any advice regarding the tax consequences of accepting money from a settlement or award. CLIENT SHOULD CONTACT A TAX PROFESSIONAL REGARDING ANY TAX CONCERNS REGARDING ANY SETTLEMENT PRIOR TO THE SETTLEMENT.

5. **TERMINATION:** The Law Firm expressly reserves the right to withdraw its representation at any time upon reasonable notification to the Client, subject to applicable ethical rules, if any. Should the Client terminate the Law Firm, the Law Firm shall continue to be entitled to its legal fees on any and all sums recovered as a result of the claims.

6. **APPEALS:** The above contingency fee does not contemplate any appeal. The Law Firm is under no duty to perfect or prosecute any such appeal until a satisfactory fee arrangement is made between the Parties and is reduced to writing regarding costs and attorneys' fees.

7. **COUNTERCLAIMS:** The above contingency fee does not contemplate the Law Firm's representation of Client against any claims made by a person against the Clients. The Law Firm is under no duty to defend or prosecute any such claim or counterclaim until a satisfactory fee arrangement is made between the Parties and is reduced to writing regarding costs and attorneys' fees.

8. **STATUTE OF LIMITATIONS:** Client understands that the Statute of Limitations period for the case must be investigated and that this Agreement is made subject to that investigation as well as an investigation of the entire case. Client understands that statutes of limitation may have run on the case and agrees to hold the Law Firm harmless in the event the applicable statutes of limitation have run for any reason.



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9. **NO GUARANTEE OF FINAL OUTCOME:** No attorney can accurately predict the outcome of any legal matter. Accordingly, the Law Firm makes no express or implied representations as to the final outcome of the matter(s) contemplated by this Agreement. Client further understands that Client must immediately report any changes in Client's address or telephone number to the Law Firm.

10. **APPROVAL NECESSARY FOR SETTLEMENT:** Client hereby grants the Law Firm power of attorney so that the Law Firm may have full authority to prepare, sign and file all legal instruments, pleadings, drafts, authorizations, and papers as shall be reasonably necessary to conclude the representation including settlement and/or reducing to possession any and all monies or other things of value due to Client under its claim as fully as the Client could do so. The Law Firm is also authorized and empowered to act as Client's sole negotiator in any and all negotiations concerning the subject of this Agreement. To be clear, all decisions regarding final resolution of the litigation, including settlement, are within the sole power of the Client. The decision regarding settlement shall always be held and remain with the Client.

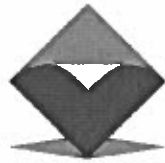
11. **ASSOCIATION OF OTHER ATTORNEYS:** The Law Firm may, at its own expense, use or associate with other attorneys in the representation of the Client. Client understands that the Law Firm is a Professional Limited Liability Company with a number of attorneys. Several of those attorneys may work on Client's case.

12. **ASSOCIATE COUNSEL:** Another attorney may participate in the division of fees in this case and assume joint responsibility for the representation of Client, either in the event that the Law Firm retains associate counsel or in the event that Client later chooses new counsel, provided that the total fee to Client does not decrease as a result of the division of fees and that the attorneys involved have agreed to the division of fees and assumption of joint responsibility.

13. **CLASS ACTION:** Client understands that Attorneys may pursue a class action on behalf of Client and all others similarly situated and client specifically authorizes attorneys to do so. Client understands that Client may serve as a class representative and may be called upon to act in a representative capacity for those who are similarly situated. Client knows of no conflict that would cause Client to be inadequate representative and agrees to vigorously defend the interests of the class if called upon to do so.

14. **NEW YORK STATE LAW TO APPLY:** This Agreement shall be construed under and in accordance with the laws of the State of New York and the rights, duties and obligations of Client and of the Law Firm's representation of Client and the laws of the State of New York shall govern regarding anything covered by this Agreement.

15. **ARBITRATION:** Any and all disputes, controversies, claims or demands arising out of or relating to (i) this Agreement; (ii) any provision of this Agreement; (iii) the provision of services by the Law Firm to Client; and (iv) the relationship between the Parties, whether in contract, tort or otherwise, at law or in equity, for damages or any other relief, shall be resolved by binding arbitration pursuant to the Federal Arbitration Act in accordance with the



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Commercial Arbitration Rules then in effect with the American Arbitration Association. Client shall not file a class action against at the Law Firm or seek to assert any claims or demands against the Law Firm by or through a class action, either as the named plaintiff or as a member of the class, but rather shall submit his/her claims or demands to binding arbitration. Any such arbitration proceeding shall be conducted in New York. This arbitration provision shall be enforceable in either federal or state court in New York, pursuant to the substantive federal laws established by the Federal Arbitration Act. Any party to any award rendered in such arbitration proceeding may seek a judgment upon the award and any Court in New York having jurisdiction may enter that judgment.

16. **PARTIES BOUND:** This Agreement shall be binding upon and inure to the benefit of the Parties hereto and there respective heirs, executors, administrators, legal representative, successors and assigns.

17. **LEGAL CONSTRUCTION:** In case any one or more of the provisions contained in this Agreement shall for any reason be held invalid, illegal or unenforceable, such invalidity, herein illegality, or unenforceability shall not affect any other provisions hereof, and this Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained.

18. **PRIOR AGREEMENTS SUPERSEDED:** This Agreement constitutes the sole and only agreement of the Parties hereto and supersedes all prior understandings or written or oral agreement between the Parties respecting the within subject matter, if any.

Client certifies and acknowledges that Client has had the opportunity to read this Agreement. Client further affirms that Client has voluntarily entered into this Agreement, that Client has been advised that Client may seek legal counsel to review this Agreement before signing, and that Client is fully aware of the terms and conditions contained in this Agreement.

SIGNED AND ACCEPTED ON THIS _____ day of _____, 2019

THIS CONTRACT IS SUBJECT TO ARBITRATION UNDER THE FEDERAL ARBITRATION ACT	
City of Opelika, AL	Napoli Shkolnik PLLC
Signature:	By:
Address:	
	By:



**NAPOLI
SHKOLNIK** PLLC
ATTORNEYS AT LAW

	Nicks Law Firm
	By:

RESOLUTION NO. 400-19

Employment Contract with Guy F. Gunter, III

RESOLUTION NO. _____

**RESOLUTION APPROVING EMPLOYMENT CONTRACT
WITH GUY F. GUNTER, III**

WHEREAS, the City of Opelika, Alabama, (the “City”) requires the services of a part-time City Attorney; and

WHEREAS, Guy F. Gunter, III, has the necessary education, experience, skills and expertise to serve as City Attorney; and

WHEREAS, Guy F. Gunter, III is presently serving the City as City Attorney and has performed the duties of his job in accordance with the requirements of his contract; and

WHEREAS, the City desires to continue to employ Guy F. Gunter, III to serve as City Attorney; and

WHEREAS, the City Council of the City of Opelika desires to renew Guy F. Gunter, III’s Employment Contract to serve as City Attorney; and

WHEREAS, the City Council has been furnished an Employment Contract between the City and Guy F. Gunter, III,, and the City Council has determined that the terms of said Contract are acceptable to the City.

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

1. That the Employment Contract (the “Contract”) to be entered into between the City and Guy F. Gunter, III,, a copy of 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 the execution and delivery of said Contract.

2. That the Mayor is hereby authorized and directed to execute and deliver said Contract in the name of and on behalf of the City of Opelika and the City Clerk is hereby authorized and directed to attest the same.

3. That the Mayor and the Controller are hereby authorized and directed to make budget adjustments as necessary to fund the position.

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

ADOPTED AND APPROVED this the _____ day of _____, 2019.

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

ATTEST:

CITY CLERK

STATE OF ALABAMA)
 :
 COUNTY OF LEE) EMPLOYMENT CONTRACT

THIS AGREEMENT made and entered into this the ____ day of December, 2019, by and between the **CITY OF OPELIKA, ALABAMA**, a municipal corporation, hereinafter called “Employer”, as party of the first part, and **GUY F. GUNTER, III,** hereinafter called “Employee”, as party of the second part.

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

SECTION I. DUTIES AND WORKING HOURS.

Employer hereby employs Employee as City Attorney and Employee accepts such employment, subject to the terms and conditions set forth herein. As City Attorney, Employee shall perform such duties and assume such responsibilities as set forth in the job description incorporated herein and attached hereto as Exhibit “A” and any other job responsibilities and duties as may be assigned by the Mayor and/or City Council from time to time. Employee hereby accepts and agrees to such employment, subject to the general supervision and pursuant to the orders, advice and direction of the Mayor and/or City Council. The Employee agrees that he will at all times faithfully, industriously, and to the best of his ability, experience and talents, perform all of the duties that may be required of and from him pursuant to the express and implicit terms of this agreement and shall assure and perform all additional responsibilities and duties related to his job description that the Mayor and City Council from time to time may assign him.

Employee shall coordinate discovery in the Opelika Municipal Court and file complaints for the appeal cases in the Lee County Circuit Court. Employee’s duties shall not include the prosecution of cases in the Municipal Court or the prosecution of appeal cases in the Lee County

Circuit Court. Employee shall coordinate with law firms and attorneys providing representation to the City in civil litigation and other matters. Employee's duties do not include the representation of the City in civil litigation and outside law firms shall provide these services.

Employee agrees to adhere to all of the policies, procedures, rules and regulations promulgated by the Employer. These policies, procedures, rules and regulations include, but are not limited to, those set forth within the Personnel Policies and Procedures Manual and executive orders. To the extent that the Employer's policies, procedures, rules and regulations conflict with the terms of this Agreement, the specific terms of this Agreement will control.

Employee shall be classified as a part-time employee and shall not be entitled to benefits except as specifically outlined herein. Employee will normally be scheduled to work twenty-nine (29) hours or less per week. Employee's salary includes compensation for all hours worked and Employee shall be classified as an exempt employee for purposes of overtime and wage and hour laws.

Employee shall not engage in any activity, consulting service or enterprise which is actually or potentially in conflict with or inimical to, or which materially interferes with his duties to Employer. The Employee currently represents several clients in litigation and Employer agrees that Employee may continue to represent said clients until the conclusion of litigation. The Employee has no present employment which is adverse to the Employer. The Employee reserves the right to represent the Utilities Board of the City and Lee County E-911 in matters not connected with his representation of the City.

SECTION II. TERM.

Unless sooner terminated in accordance with the provisions of Sections IV and V hereof, this Agreement shall remain in full force and effect for a term of four (4) years beginning

January 2, 2020 to and including January 1, 2024. Either party may, at any time, terminate this Agreement upon ninety (90) days advance prior written notice to the other party.

SECTION III. COMPENSATION

As compensation for his services, Employer shall pay Employee an annual salary of \$90,000.00, payable in installments at the same time as classified employees of the City are paid. All compensation paid to Employee by Employer shall be subject to customary withholding and employment taxes as required by law.

Beginning fiscal year 2020-2021, Employee shall be eligible for merit increases on an annual basis from 1% to 10% per year based on his job performance. All increases shall be awarded at the discretion of the Mayor and will become effective on or after the anniversary date of his contract.

SECTION IV. TERMINATION BY EMPLOYER

- (A) DEATH OF EMPLOYEE. If Employee dies before his employment is otherwise terminated, this Contract shall terminate on the date of the Employee's death and all payments of compensation to which the Employee would have been entitled shall cease as of the date of the Employee's death.
- (B) MISCONDUCT. This Agreement may, at the option of Employer, be terminated immediately by Employer upon the occurrence of any of the following acts:
- (1) The Employee being indicted or convicted for any misdemeanor involving moral turpitude, or a felony.
 - (2) The Employee conducting himself in a fraudulent or dishonest manner with respect to his duties of employment if, in the opinion of the Mayor and/or City Council, that such conduct discredits Employer or is detrimental to the

reputation and standing of Employer. Such option shall be exercised by the Employer giving written notice to Employee of the Employer's intent to terminate and the grounds for such termination.

- (3) Employee having been disciplined by the Employer repeatedly and/or having serious unacceptable conduct in accordance with the provisions of Section 8 of the Personnel Policies and Procedures Manual of the City of Opelika.

Employee shall comply with all policies and procedures of Employer which shall, from time to time, be reasonably promulgated.

- (C) **FAILURE TO MAINTAIN STANDING AS LICENSED ATTORNEY.** Employee represents and warrants at the time of the signing of this Contract and at all times during the term of this Contract that he is licensed to practice law by the Alabama State Bar Association and his privileges as such have not been rescinded, revoked or restricted in any manner. The Employer shall have the right to terminate this Contract immediately in the event of the termination, suspension or nonrenewal of the Employee's law license by the Alabama State Bar Association.

- (D) **OPTION OF EMPLOYER.** Employer may terminate this Agreement, without cause, by giving ninety (90) days advance notice to Employee of its intent to terminate. Upon the effective date of termination, neither party shall have any further obligation to the other.

SECTION V. TERMINATION BY EMPLOYEE

Employee may voluntarily resign his position with Employer before the expiration of the term of his employment, by giving ninety (90) days advance notice of his intent to terminate.

Upon termination by voluntary resignation, neither party shall have any further obligation to the other beyond the effective date of termination.

SECTION VI. EMPLOYEE BENEFITS

Except as provided herein, Employee shall be entitled to all benefits to which a part-time employee may be entitled. During each twelve (12) month period of the term of this Contract, Employee shall be entitled to fifteen (15) paid days of vacation. Any leave not taken during the twelve (12) month period can be carried over to the next leave year. It is specifically understood and agreed that the City shall not provide life and health insurance benefits and shall not provide retirement benefits to the Employee. Employee acknowledges that he shall not be eligible to participate in the Employer's Life and Accidental Death Plan, Health Plan, any other group insurance plan or the Employer's retirement plan. The City shall not make any contributions to the Alabama Retirement System on behalf of the Employee. The Employer shall provide workman's compensation insurance and shall pay Social Security and Medicare taxes.

SECTION VII. EMPLOYER DUTIES.

Employer agrees to provide access to records and information as is necessary for employee to effectively render its professional services under this agreement. The Employer, at Employer's expense, will make available sufficient office space, furniture, telephones, computers and secretarial support that are suitable to his position and appropriate for the performance of his duties.

Employer agrees to subscribe to and pay access to Westlaw Information Services and Alacourt Judicial Information Services.

SECTION VIII. LICENSE FEES AND DUES.

The Employer agrees to budget and pay for all license fees and dues for Employee for his membership and participation in the Alabama State Bar Association, the Lee County Bar Association and the Alabama Association of Municipal Attorneys.

SECTION IX. PROFESSIONAL DEVELOPMENT.

The Employer agrees to budget for and to pay travel and other expenses of employee to attend the Spring and Fall Law Conferences sponsored by the Alabama League of Municipalities.

SECTION X. OWNERSHIP OF DOCUMENTS.

All reports, documents and other materials prepared by Employee shall be the property of the Employer and shall be delivered to the Employer upon request of the Employer or upon termination of this Agreement.

SECTION XI. INDEMNIFICATION.

The Employer shall defend, save harmless and indemnify Employee against any claims, demands, causes of action, losses, damages, expenses or liability of any kind whether stated in or arising from tort, professional liability or any other legal action or equitable theory, whether groundless or otherwise, arising out of an alleged act or omission occurring in the performance of the Employee's duties as City Attorney to the fullest extent allowed by law.

SECTION XII. OTHER TERMS AND CONDITIONS OF EMPLOYMENT.

The Mayor and City Council, in consultation with Employee, shall fix any other terms and conditions of employment as he may determine from time to time, relating to the performance of Employee, provided such terms and conditions are not inconsistent with the provisions of this Agreement, the Employee's job description or any other law.

SECTION XIII. REDUCTION OF BENEFITS.

Employer shall not at any time during the term of this Agreement reduce the salary, compensation or other financial benefits of Employee except to the degree as such a reduction across the board for all employees of the Employer.

SECTION XIV. SEVERABILITY.

If any term, covenant, or condition of this Agreement is held invalid or unenforceable, the remainder of this Agreement and all other terms shall be valid and enforceable to the fullest extent permitted by law.

SECTION XV. ASSIGNMENT.

No assignment of this Agreement or the rights and obligations hereunder shall be valid without the specific written consent of both parties hereto.

SECTION XVI. GOVERNING LAW.

This Agreement has been executed and delivered in, and shall be interpreted, construed and enforced pursuant to and in accordance with the laws of the State of Alabama.

SECTION XVII. AMENDMENTS AND AGREEMENT EXECUTION

This Agreement and amendments thereto shall be in writing and executed in multiple copies. Each multiple copy shall be deemed an original, but all multiple copies together shall constitute one and the same instrument.

SECTION XVIII. WAIVER OF BREACH.

The waiver of either party of a breach or violation of any provision of this Agreement shall not operate as, or be construed to be, a waiver of any subsequent breach of the same or other provision hereof.

SECTION XIX. TIME OF ESSENCE.

Time shall be of the essence with respect to this Agreement.

SECTION XX. ENTIRE AGREEMENT.

This Agreement (including attachments) supersedes all previous contracts and constitutes the entire agreement between the parties hereto.

SECTION XXI. HEADINGS.

Headings in this Agreement are for convenience only and shall not be used to interpret or construe its provisions.

IN WITNESS WHEREOF, the City of Opelika has caused this Agreement to be signed and executed in its behalf by its Mayor, and duly attested by its City Clerk, and the Employee has signed and executed this Agreement the day and year first above written.

THE CITY OF OPELIKA, ALABAMA

By: _____
GARY FULLER, ITS MAYOR

ATTEST:

ROBERT G. SHUMAN, CITY CLERK

GUY F. GUNTER, III,

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, a municipal corporation, are signed to the foregoing instrument who are known to me, acknowledged before me on this day, that, being informed of the contents of said instrument they, in their capacity as Mayor and City Clerk for the City of Opelika, executed the same voluntarily on the day the same bears date.

GIVEN under my hand and official seal of office this the _____ day of December, 2019.

NOTARY PUBLIC
MY COMMISSION EXPIRES:_____

STATE OF ALABAMA
COUNTY OF LEE

Before me, the undersigned authority, a Notary Public in and for said county and state, hereby certify that GUY F. GUNTER, III., whose name is signed to the foregoing conveyance, and who is known to me, acknowledged before me on this day, that, being informed of the contents of said conveyance, she executed the same voluntarily on the day the same bears date.

GIVEN under my hand and official seal of office this the _____ day of December, 2019.

NOTARY PUBLIC
MY COMMISSION EXPIRES:_____

EXHIBIT "A"

CITY OF OPELIKA POSITION DESCRIPTION

City Attorney
Legal Department

Job Summary

This position is FLSA exempt (full-time). Under the strategic direction of the Mayor and City Council, acts as the Chief Legal Officer of the City. Responsible for the proper administration of the legal affairs of the City.

Minimum Qualifications

- Graduation from school of law accredited by the American Bar Association with a juris doctorate degree.
- Must be licensed to practice law in the State of Alabama.
- Requires seven years of professional experience as a practicing attorney, including trial experience.
- Any equivalent combination of education, experience and training which provides the required knowledge, abilities and skills may be considered as determined by the hiring authority.
- Applicants are required to submit to a background check as a condition of employment.

Essential Job Functions

- This position works with other employees in a professional office environment.
- Communicates and exchanges information with others when providing legal advice, written opinions and consultations on matters affecting the City to the Mayor, City Council, City boards, officers and employees.
- Remains in a stationary position while they perform legal research including extensive analysis of legal positions.
- Determines and applies legal principles and precedents to problems and issues.
- Attends all City Council meetings and work sessions.
- Attends regularly scheduled Planning Commission meetings.
- Prepares and reviews necessary legal documents such as resolutions, ordinances, deeds, easements, contracts, etc.
- Monitors pending and potential litigation.
- Trains, motivates, evaluates, disciplines and directs employees of the legal department.
- Answers communications of the public relative to municipal ordinances and legal matters affecting the City.
- Reviews the legality and/or sufficiency of contracts, bonds, bids, leases, etc.

- Coordinates with law firms and attorneys providing representation to the City in litigation and other matters.
- Coordinates discovery in the Opelika Municipal Court.
- Prepares annual department budget and monitors expenditures against budget.

Marginal Job Functions

- This position travels to attend workshops, training seminars, and events to improve technical or professional skills.
- Moves about the office to perform routine office tasks such as preparing correspondence, data entry, filing, faxing, telephoning, and photocopying which may involve transporting equipment weighing up to 10 lbs.
- Occasionally works alone.

EMPLOYMENT POLICY

The City of Opelika is an Equal Opportunity, Affirmative Action, and Americans with Disabilities Act compliant employer. We consider applicants for all positions without regard to race, religion, color, national origin, gender (including pregnancy, childbirth or related medical conditions), sexual orientation, gender identity, gender expression, age, parental status, status as a protected veteran, status as an individual with a disability or any other legally protected status. In accordance with the Department of Justice regulations implementing Subtitle A of Title II of the Americans with Disabilities Act (42 U.S.C. 12131), the City of Opelika welcomes all reasonable requests for accommodations from prospective applicants. The City's ADA Coordinator can be reached at (334) 705-2083 or at ADA@opelika-al.gov.

RESOLUTION NO. 401-19

Authorizing Job Description for City Clerk/Treasurer.

RESOLUTION NO. _____

**RESOLUTION APPROVING AND AUTHORIZING
JOB DESCRIPTION FOR CITY CLERK/TREASURER**

WHEREAS, the Human Resources Director has submitted her recommendation to the City Council to approve and authorize a new job description for City Clerk/Treasurer, a copy of which job description is attached hereto and incorporated herein by reference.

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

1. That the new job description of City Clerk/Treasurer is hereby approved and authorized by the City Council.
2. That the position of City Clerk/Treasurer shall be a non-classified position appointed by the City Council in accordance with the provisions of §11-43-3, *Code of Alabama*, (1975). The position is exempt from the Fair Labor Standards Act requirements for overtime compensation. The salary to be paid to the employee and the benefits the employee shall be entitled to receive shall be fixed by resolution of the City Council.
3. That this Resolution shall take effect upon its passage and adoption by the City Council.

ADOPTED AND APPROVED this the _____ day of _____, 20__.

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

ATTEST:

CITY CLERK

CITY OF OPELIKA POSITION DESCRIPTION

City Clerk/Treasurer
Office of the City Clerk

Job Summary

This position is FLSA exempt (full-time). This position works alone in a professional office environment. The essential function of the position within the organization is to oversee and direct operations of the Legislative Department/Office of the City Council. The position is responsible for planning and conducting City elections, develops agendas for work sessions and council meetings, develops departmental budget, provides information and assistance to the public on request, makes arrangements for Council members traveling on city business, coordinates activities with boards and/or committees, coordinates payments of city appropriations, manages relationships with local banks, invests City funds, prepares resolutions for various City-related issues, prepares the minutes of City Council meetings, handles correspondence on behalf of the City Council, and works under the general supervision of the City Council.

Minimum Qualifications

- Requires education or training equivalent to a bachelor's degree in public administration, accounting, finance, law, or a closely related field.
- Possess a Certified Municipal Clerk designation, or the ability to become a Certified Municipal Clerk, after appointment. Must obtain the designation of Master Municipal Clerk within 4 years of employment.
- Requires ten years of related experience, as determined by the hiring authority.
- Any equivalent combination of education, experience and training which provides the required knowledge, abilities, and skills may be considered as determined by the hiring authority.
- Applicants are required to submit to a background check as a condition of employment.
- The City clerk/treasurer shall be a resident of the City of Opelika, and shall not cease to be a resident during his or her employment by the City. The City Council may remove the appointee for failure to establish and maintain residency in the City during his or her incumbency.

Essential Job Functions

- Attend all regular and special meetings of the city council and attend certain meetings of all committees, boards and commissions of the city to the extent required by law or the council.
- Prepare and maintain the minutes of all meetings of the city council.
- Maintain custody of the seal of the city and impress the seal upon all papers and documents where the seal of the city must appear.
- Attest the execution of city documents.
- Publish notice of public hearings, special meetings of the city council, elections and other official actions as required by state law and city ordinance.

- Maintain copies of all city ordinances and resolutions for public use.
- Receive and file all communications and petitions directed to the city council or to the city generally and indicate thereon the action of the city council taken upon matters in such communications and petitions.
- Inform persons appointed by the mayor or city council to offices in municipal government of their position and the time at which they assume the duties of their office as required by the Mayor or the Council.
- Submit claims, requisitions and demands against the city to the city council at its next regular meeting for approval, unless already provided for by ordinance or resolution.
- Provide information or assistance to the public on request by answering questions, researching records and directing them to appropriate persons and transmitting messages to city staff or officials.
- Prepare certain resolutions, contracts, agreements and notices at the direction of the city council.
- Publish certain legal notices and advertisements as required by law.
- Mail notices to property owners of public improvements made by the city council.
- Ensure city ordinances, resolutions and minutes of the city council are signed and recorded, if necessary.
- Monitor the execution of city agreements, contracts and other legal documents.
- Coordinate, manage and supervise the conduct of municipal elections; receive and file election statements as required by law; direct and supervise election personnel and ensure compliance with federal, state and local laws and regulations.
- Serve as absentee ballot manager in the conduct of all municipal elections.
- Under the supervision of the president of the city council, prepare agendas of all city council meetings and work session meetings.
- Manage the investment of city funds in accordance with state laws and city policies and provide current status, activity and performance reports to the council and mayor as requested.
- Maintain a record of pledged collateral by official depositories to comply with state law.
- Coordinate the information flow between the city council, the mayor and city staff.
- Compose correspondence, reports, memos, letters, notices, resolutions and ordinances on behalf of the city council.
- Conduct necessary research and provide support materials to aid the city council and mayor in making informed decisions.
- Carry out assignments and directives of the city council.
- Act as liaison between the city council and city staff.
- Co-sign city checks and drafts as required by the city council and mayor.
- Collaborate with mayor, city council and city staff to formulate long range plans and goals of the city.
- Perform such other duties as may be required of city clerks and city treasurers by law.
- Perform such other duties as may be required by the city council.
- Regularly attends work.

Marginal Job Functions

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

EMPLOYMENT POLICY

The City of Opelika is an Equal Opportunity, Affirmative Action, and Americans with Disabilities Act compliant employer. We consider applicants for all positions without regard to race, religion, color, national origin, gender (including pregnancy, childbirth or related medical conditions), sexual orientation, gender identity, gender expression, age, parental status, status as a protected veteran, status as an individual with a disability or any other legally protected status. In accordance with the Department of Justice regulations implementing Subtitle A of Title II of the Americans with Disabilities Act (42 U.S.C. 12131), the City of Opelika welcomes all reasonable requests for accommodations from prospective applicants. The City's ADA Coordinator can be reached at (334) 705-2083 or at ADA@opelika-al.gov.

RESOLUTION NO. 402-19

Compensation and benefits of the City Clerk/Treasurer.

RESOLUTION NO. _____

**RESOLUTION ESTABLISHING THE COMPENSATION
OF THE CITY CLERK/TREASURER**

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

1. The salary of the City Clerk/Treasurer shall be an amount equal to the salary provided by Pay Grade 21 as established in the City’s pay plan, to be paid in the same manner as full-time employees of the City.
2. The City Clerk/Treasurer shall be entitled to any benefits normally accruing to any full-time classified employee of the City, including participation in the State of Alabama Employee’s Retirement System. The City Clerk/Treasurer shall be entitled to all employee benefits of the City relating to holidays, sick leave, retirement, insurance, medical and life, or other plans which may now be in effect or which may hereinafter be adopted. The employee shall have the same rights and privileges to participate in such plans and benefits as any other employee during his or her period of employment. The employee’s rights with respect to such benefits shall be subject to (i) the provisions of relevant contracts, policies or plans providing such benefits, and (ii) the right of the City to amend, modify or terminate any of such benefits that occurs with respect to all classes of employees covered by a given benefit.
3. The City Clerk/Treasurer shall be eligible for merit increases on an annual basis from 1% to 10% per year based on his or her job performance.
4. The City Clerk/Treasurer shall have access to a fleet vehicle assigned to City Hall for routine travel within the City limits. The employee shall be reimbursed for travel outside the City limits in accordance with Executive Regulation No. 5. The City Clerk/Treasurer shall not be entitled to receive an automobile allowance.

5. The salary of the City Clerk/Treasurer shall not be diminished during the term of office for which he or she shall be selected or appointed.

6. The provisions of this Resolution shall not apply to the incumbent City Clerk/Treasurer, Robert G. Shuman, but shall apply to his successor in office. The incumbent City Clerk/Treasurer shall continue to receive his full salary, compensation, and emoluments until his retirement date of March 1, 2020.

7. This Resolution shall take effect on March 1, 2020 or the appointment of the successor City Clerk/Treasurer, whichever date shall first occur.

ADOPTED AND APPROVED this the ____ day of _____, 20__.

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

ATTEST:

CITY CLERK

RESOLUTION NO. 403-19

Special appropriation to J. W. Darden Foundation, annual Black Tie Gala.

RESOLUTION NO. _____

WHEREAS, Doctor J. W. Darden was the first African-American medical doctor in Opelika, Alabama, and

WHEREAS, the J. W. Darden Foundation Inc. has been formed to honor and preserve the many contributions that Doctor Darden made to this community, and

WHEREAS, the J. W. Darden Foundation Inc. is holding their annual “Black Tie Legacy Gala” on February 1, 2020 to raise additional funds that are needed to support Medical Scholarships and the Darden Wellness Center, and

WHEREAS, City Council President Eddie Smith Ward 4, President Pro-tem Patricia Jones Ward 1, Councilwoman Tiffany Pitts Ward 2, Councilman Dozier Smith T Ward 3 and Councilman David Canon Ward 5 would like to contribute a portion of their discretionary funds to the J. W. Darden Foundation Inc. to help sponsor the 2020 Black Tie Legacy Gala.

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 \$2000.00 from the City Council discretionary funds as detailed below:

Patricia Jones	Ward 1 Reserve Fund	\$400.00
Tiffany Pitts	Ward 2 Reserve Fund	\$400.00
Dozier Smith T	Ward 3 Reserve Fund	
\$400.00		
Eddie Smith	Ward 4 Reserve Fund	\$400.00
David Canon	Ward 5 Reserve Fund	\$400.00

2. That the City Council hereby declares and determines that the expenditures of said public funds will serve a public purpose for the City of Opelika.
3. That Mayor Fuller and the Controller are hereby authorized and directed to transfer said funds as designated above to the appropriate account(s).

4. That the City Clerk-Treasurer is hereby authorized to prepare and process the appropriate document(s) so that a check can be prepared for \$2,000.00 payable to the J.W. Darden Foundation Inc.

ADOPTED and APPROVED this the ____ day of _____, 2019.

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

ATTEST:

Robert G. Shuman, CMC
City Clerk - Treasurer

RESOLUTION NO. 404-19

Cancel contract with Alabama Power, ROW vegetation.

RESOLUTION NO. _____

**RESOLUTION RESCINDING CONTRACT WITH ALABAMA POWER
COMPANY FOR RIGHT-OF-WAY VEGETATION MANAGEMENT SERVICES**

WHEREAS, an invitation for bids, #19035, was issued for Right-of-Way Vegetation Management Services; and

WHEREAS, on October 1, 2019, pursuant to Resolution No. 283-19, the City of Opelika, Alabama (the “City”) awarded the Contract for Vegetation Management Services (the “Contract”) to Alabama Power Company on its low bid; and

WHEREAS, the City has received a request from Alabama Power Company for rescission of the Contract due to said Company’s misinterpretation of mileage related to its per circuit mileage calculations; and

WHEREAS, the Director of Opelika Power Services has recommended that the City Council approve Alabama Power Company’s request for rescission and authorize the Purchasing/Revenue Manager to rebid the Contract.

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

1. That the request of Alabama Power Company to rescind the Contract for Vegetation Management Services is approved.
2. That the Contract between the City and Alabama Power Company for Vegetation Management Services is hereby rescinded and the vendor is hereby allowed to withdraw its bid.
3. That the Purchasing/Revenue Manager is hereby authorized and directed to return the bid bond previously submitted by Alabama Power Company with its original bid.
4. That the Purchasing/Revenue Manager is hereby authorized to re-advertise and rebid the procurement of the contract for vegetation management services.

5. That this Resolution shall supplement and supersede Resolution 283-19.
6. That this Resolution shall take effect upon its passage and adoption by the City Council.

APPROVED AND ADOPTED this the _____ day of _____, 2019.

C.E. "Eddie" Smith, Jr.

President of the City Council

City of Opelika, Alabama

ATTEST:

Robert G. Shuman, CMC

City Clerk - Treasurer

RESOLUTION NO. 405-19

Special appropriation to the Dream Day Foundation.**RESOLUTION NO. _____**

WHEREAS, the Dream Day Foundation is sponsoring the 21st annual celebration honoring Dr. Martin Luther King, Jr. on January 20, 2020 at the Opelika Performing Arts Center, and

WHEREAS, this event will honor Dr. King's legacy with the theme of "Nonviolence is Love" and will pay tribute to local young people and others that have lost their lives to violence, and

WHEREAS, the Dream Day Foundation will also announce the winners of their Dream Day Scholarships for high school seniors wishing to further their education, and

WHEREAS, President Pro-tem Patricia Jones Ward 1, Councilwoman Tiffany Pitts Ward 2, Councilman Dozier Smith T Ward 3, President Eddie Smith Ward 4 and Councilman David Canon Ward 5 would like to contribute a portion of their discretionary funds to the Dream Day Foundation 2020 celebration honoring Dr. Martin Luther King, Jr..

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 \$2,500.00 from the City Council discretionary funds as detailed below:

Patricia Jones	Ward 1 Reserve Fund	\$500.00
Tiffany Pitts	Ward 2 Reserve Fund	\$500.00
Dozier Smith T	Ward 3 Reserve Fund	
\$500.00		
Eddie Smith	Ward 4 Reserve Fund	\$500.00
David Canon	Ward 5 Reserve Fund	\$500.00

2. That the City Council hereby declares and determines that the expenditures of said public funds will serve a public purpose for the City of Opelika.
3. That Mayor Fuller and the Controller are hereby authorized and directed to

transfer said funds as designated above to the appropriate account(s).

4. That the City Clerk-Treasurer is hereby authorized to prepare and process the appropriate document(s) so that a check can be prepared for \$2,500.00 payable to the Dream Day Foundation.

ADOPTED and APPROVED this the ____ day of _____, 2019.

President of the City Council
City of Opelika, Alabama

ATTEST:

Robert G. Shuman, CMC
City Clerk - Treasurer

RESOLUTION NO. 406-19

A memorial resolution honoring Clarence Harris, Jr.



From the Governing Body of
Opelika, Alabama



Memorial Resolution

no. 406-19



WHEREAS, The Honorable Clarence Harris, Jr. was born in Lee County, Alabama to the late Mr. and Mrs. Clarence (Mary Mattie Tignor) Harris, Sr. on March 9, 1943 and passed away on Monday, December 16, 2019 at his home in Opelika at the age of 76.

WHEREAS, The Honorable Clarence Harris, Jr. attended and graduated from J. W. Darden High School in 1963. He met and married Minnie Pearl Fitzpatrick and was blessed with three children, Charlotte Denise, who preceded him in death, Jeffery Allen, and Jarvis Ramon.

WHEREAS, Councilman Clarence Harris, Jr. was first elected to the Opelika City Council in April 1991 and went on to be re-elected four more times in 1992, 1996, 2000 and 2004. He retired his service as the Councilman for Ward 2 on November 3, 2008 after serving more than seventeen years; and

WHEREAS, Councilman Harris served as President Pro-tem for two different terms, a total of eight years, and during his service on the Opelika City Council voted for various road projects, economic development, and sewer/drainage projects benefiting the citizens of Opelika;

WHEREAS, Councilman Harris represents the continued journey to achieve Dr. Martin Luther King's vision for America. He has demonstrated that he supported Dr. King's philosophy and teachings and has actively contributed to the improvement of civil and human rights, particularly in matters that have positively affected the Opelika community. His favorite daily saying was "I am so blessed and to God be the Glory".

NOW, THEREFORE, BE IT RESOLVED, that Mayor Gary Fuller and the entire City Council recognize with great admiration and appreciation the achievements and contributions of The Honorable Clarence Harris, Jr. and extend their condolences to his family and friends.

ADOPTED and APPROVED this the 17th day of December, 2019.

Gary Fuller
Mayor, City of Opelika

C. E. "Eddie" Smith, Jr., President
City Council – Ward 4

Patricia A. Jones, President Pro-Tem
City Council – Ward 1

Tiffany Gibson-Pitts
City Council – Ward 2

Dozier Smith T
City Council – Ward 3

David Canon
City Council – Ward 5

Attest:

R. G. Shuman, CMC
City Clerk - Treasurer

ORDINANCE NO. 028-19-ORD

Amend City Code, Add Chapter 4.5 Entitled "Art and Culture" - 2nd Reading.

ORDINANCE NO. _____ (REPLACED BY ATTACHMENT)

AN ORDINANCE AMENDING THE *CODE OF ORDINANCES* OF THE CITY OF OPELIKA, ALABAMA, BY ADDING A NEW CHAPTER 4.5 ENTITLED “ART AND CULTURE” ALLOWING FOR THE CREATION OF ART MURALS ON PRIVATE PROPERTY; REGULATING ART MURALS ON PRIVATE BUILDINGS; PROVIDING FOR PERMIT PROCESS; PROVIDING FOR AN APPLICATION AND APPROVAL PROCESS; PROVIDING FOR VIOLATIONS AND ENFORCEMENT PROCESS; PROHIBITING GRAFFITI; PROHIBITING THE POSSESSION OF GRAFFITI IMPLEMENTS NEAR SCHOOLS BY MINORS; PROHIBITING THE POSSESSION OF GRAFFITI IMPLEMENTS IN PUBLIC PLACES; PROVIDING GRAFFITI ABATEMENT PROCEDURES; CONTAINING A REPEALER PROVISION AND SEVERABILITY CLAUSE AND PROVIDING AN EFFECTIVE DATE

WHEREAS, art murals have purposes distinct from signs and confer different benefits;
and

WHEREAS, such purposes include improved aesthetics, avenues for original artistic expression, public access to original works of art, community participation in the creation of original works of art and community-building through the presence of and identification with original works of art; and

WHEREAS, murals can increase community identity and foster a sense of place if they are located in a manner visible to pedestrians; and

WHEREAS, the City Council desires to establish guidelines for the placement of murals on private buildings.

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

Section 1. **Amendment.** That the *Code of Ordinances* (the “Code”) of the City of

Opelika, Alabama, is hereby amended by adding a new chapter to be numbered Chapter 4.5, which chapter shall read as follows:

Chapter 4.5 ARTS AND CULTURE

Article 1. Mural Regulations

Sec. 4.5-1 PURPOSE

The purpose of this chapter is to allow for murals on a content-neutral basis while maintaining specific standards with regard to the location, size, quantity and installation.

Sec. 4.5-2 FINDINGS

The City of Opelika hereby finds that:

- A. Murals comprise a unique medium of expression which serves the public interest.
- B. Murals have purposes distinct from signs and confer different benefits. Such purposes and benefits include: improved aesthetics; avenues for original artistic expression; public access to original works of art; community participation in the creation of original works of art; community building through the presence of and identification with original works of art; and a reduction in the incidence of graffiti and other crime.
- C. Murals can increase community identity and foster a sense of place and enclosure if they are located at heights and scales visible to pedestrians.

Sec. 4.5-3 DEFINITIONS

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

“**ADULT CONTENT**” shall mean any drawing, picture, pictorial representation or image that depicts or describes sexual conduct, breast nudity or genital nudity in a way that is patently offensive applying contemporary community standards. As used in this section, the following words, terms and phrases shall have the meanings respectively assessed to them in §13A-12-200.1 of the *Code of Alabama*: breast nudity, genital nudity and sexual conduct.

“**ALTERATION**” shall mean any change to a permitted mural, including but not limited to any change to the image(s), materials, colors or size of the mural. “Alteration” does not include maintenance or repair of a permitted mural.

“HISTORIC DISTRICT” shall mean a historic district locally designated by the City Council of the City of Opelika.

“MURAL” shall mean a work of visual art which is tiled or painted directly upon, or affixed directly to a fence, wall or an exterior wall of a building and exceeds the maximum size of wall sign allowed in a sign district. Visual art that is intended to communicate an informational message is not considered a mural and is regulated under the sign code.

“PERMITTED MURAL” shall mean a mural for which a permit has been issued by the City of Opelika pursuant to this chapter.

“PLANNING DIRECTOR” shall mean The Opelika Planning Director or his or her designee. For the ease of reference in this chapter, the Planning Director shall be referred to by the term “Director.”

Sec. 4.5-4 PROHIBITED MURALS

Murals that include any of the following are prohibited and are nuisances. A mural shall not depict, include or contain:

1. Electrical or mechanical components; or
2. Changing images or moving parts.
3. Adult content or content that is obscene as defined in §13A-12-200.1 of the *Code of Alabama*
4. Material harmful to minors.
5. Gang symbols or an unreasonable act, utterance, gesture or display that creates a clear and present danger of a breach of peace or imminent threat of violence.
6. Any contemporary commercial message except commercial messages may be allowed under the requirements of Section 4.5-.7(D) Historic Design Criteria.
7. Any licensed, copyrighted, or trademarked characters or likenesses unless the applicant has permission from the holder or owner of the license, copyright or trademark.
8. Murals on sites developed as single-family homes, duplexes or multi-family buildings with five or less dwelling units.
9. Murals within the following zoning districts: R-1, R-1A, R-2, R-3 and R-4, as described in the Zoning Ordinance. Murals shall only be permitted within the following zoning districts: R-4M, R-5, R-5M, C-1, C-2, C-3, M-1, M-2, Planned Unit Developments and Planned Residential Districts. Murals outside these authorized zoning districts shall be in violation of this chapter.
10. Mechanically produced or computer-generated print or images, including but not limited to digitally printed vinyl.

Sec. 4.5-5 EXEMPT MURALS

- A. A mural that is not visible from the public right-of-way and not visible from public property is allowed without a mural permit.
- B. A mural or public work of art may be allowed in a vacant storefront or window without permit provided it does not contain any elements listed in Section 4.5-4.
- C. Temporary writings, drawings, figures or marks of paint that are easily removable chalk or water-soluble markings on public or private structures shall be exempt from these regulations.

Sec. 4.5-6 MURAL PERMIT APPLICATION

A. The Director or designee shall be responsible for the approval of all mural permits. The Director or designee may approve, approve with modifications or deny a permit application upon a finding that the application does not meet the application criteria set forth in Section 4.5-7.

- B. An application for a mural permit must contain the following information:
 1. Proof of ownership of the property where the mural will be located either through the Revenue Commissioner's website information or other relevant act of transfer documentation or written confirmation from the legal owners of the property that the applicant has their permission to erect the mural.
 2. A site plan drawn to scale that shows the location of existing structures and where the mural is to be installed, location of property lines, abutting right-of-way, names of streets, information of other murals on abutting properties and north arrow.
 3. A map (e.g. tax map or aerial map) that shows the existing land use on-site and the surrounding land uses within three-hundred feet (300') of the site.
 4. A color image of the proposed mural with dimensions drawn to scale.
 5. A building elevation depicted to scale showing the proposed building area where the mural is to be installed. Information detailing the existing building materials and architectural features, as well as proposed mural materials, construction size, and depth.
 6. Information regarding the expected life span of the mural and maintenance plan for the life of the mural. The maintenance plan shall specify the frequency of maintenance and provisions to address fading and vandalism

(i.e. durable exterior paints, cleanable surfaces, and/or other measures that will discourage vandalism or facilitate easier and cheaper repair of the mural if needed).

7. A short narrative describing the primary artist(s) qualifications.

Sec. 4.5-7 MURAL DESIGN CRITERIA

All murals permitted under this section shall follow the design guidelines within this section.

A. The Mural is compatible with the aesthetic appearance of adjacent buildings and the surrounding community character. In evaluating this criterion, the following are examples of factors that can be used to measure compatibility and community character.

1. The mural is harmonious with or integrates aspects of special architectural and design features of surrounding buildings or the larger neighborhood.
2. The mural may reflect the diversity of the world.
3. The mural may reflect historic, cultural, or natural heritage.
4. The mural respects the original character of the building and surrounding buildings

B. The mural will enhance the building appearance and overall visual attractiveness of the City. The overall objective is for viewers of all ages to experience a sensation of engagement, humor, wonder or delight, or all of these emotions.

In evaluating this criterion, the following are examples of factors that can be used to measure appearance and attractiveness.

1. The mural will not adversely dominate the building or surrounding area.
2. The mural will not create traffic or safety hazards.
3. The mural is harmonious with the scale, color, details, materials, and proportion of the building.

C. General Design Criteria - All murals shall comply with the following general design criteria.

1. The mural shall not be allowed on the primary facade of a building except those described in Section 4.5-5(B).
2. The mural shall not extend more than 6 inches from the plane of the wall upon which it is tiled or painted or to which it is affixed, unless approved by the Director.

3. The mural shall not extend beyond the wall height of the building.
4. Only one mural permit may be obtained per wall. Where a wall is divided by a recessed or projecting architectural feature such as vertical or horizontal trim, bands or pilasters; each section may be considered a separate wall allowing a distinct mural on that wall.
5. The mural face must be predominantly pictorial with text limited to no more than 15% of mural face.
6. Murals may have up to 5% of the area or two square feet, whichever is less, dedicated to the artists name and/or sponsor.

D. Historic Design Criteria - This section is specific to those murals located within a locally designated historic district.

1. Any mural in a locally designated historic district shall either be located on a site pre-designated by the Opelika Historic Preservation Commission or shall require approval of a Certificate of Appropriateness from the HPC.
2. Murals shall not be painted on unpainted brick.
3. Murals that are not directly painted on the building wall may be attached to unpainted brick provided that the method of attachment has been demonstrated that it will not damage the building material.
 - a. Bolts or similar attachments to brick walls shall occur in the mortar between bricks and not directly to the brick.
4. Murals shall not be applied on or obscure architectural features such as: windows, doors, pilasters, cornices, window, door or other building trim, feature bands, and other recessed or projecting features.

5. Any lighting for murals in the historic district shall comply with lighting standards for the district.

6. Murals in historic districts may replicate painted historic signs that previously existed on the proposed site. Such historic mural shall only be permitted if historic documentation is provided to support the existences of the mural.

Sec. 4.5-8 MURAL PERMIT CRITERIA

No person may commence mural installation on a site without first obtaining a mural permit. Murals without a mural permit are considered graffiti and are regulated by Article II of Chapter 4.5. Use of murals does not affect the amount or type of signage otherwise allowed by the sign regulations of the Zoning Ordinance. For approval, a mural permit application must meet the following criteria.

- A. The mural shall comply with the design standards found in Section 4.5-7.
- B. Devices that illuminate a mural shall be placed and shielded so that the direct light rays reflecting from such devices or from the mural itself shall not be cast into the eyes of any passing motorist.
- C. Murals shall be installed for durability and maintained for the life of the mural or until the mural is removed. Murals shall consist of materials that have proven performance for withstanding the humid climate.
- D. The Mural shall use materials, coatings, or other protective techniques that will be resistive to vandalism and graffiti.
- E. The creator/artist is under contract or other obligation to complete the Mural.
- F. The Mural is an original work of art.
- G. The mural shall be created directly by or under the direction of a qualified artist.

A qualified artist is required to meet at least one of the following criteria:

- 1. An art educator or artist with education/training in large format public art installations.
- 2. An individual or group individuals with documented experience with large format public art installations.
- H. If a mural installation includes any changes to a building that would otherwise require Design Review as described in Section 4.5-7D those changes must be approved through the Design Review process simultaneous with approval of the Mural Permit. Murals may not

otherwise result in the site property or structure becoming out of compliance with other land use code provisions, prior land use approvals, or prior conditions of approval governing the building or property on which the mural is to be located.

In applying the above criteria, the Director shall make his or her decision in accordance with applicable constitutional requirements.

Sec. 4.5-9 PERMIT FEES

Upon approval of an application for a mural permit, a one-time fee of fifty dollars (\$50.00) shall be paid.

Sec. 4.5-10 STRUCTURAL REVIEW

Murals with any element that weighs more than 7 pounds per square foot or in total weigh more than 400 pounds require structural review.

Sec. 4.5-11 SUSPENSION OR REVOCATION

A. The Director may suspend or revoke a permit issued under the provisions of Chapter 4.5. The Director will inform the permit holder of the suspension or revocation in writing. Permits may be suspended or revoked upon a finding that:

1. The permit was issued on the basis of incorrect information supplied by the applicant; or
2. The permit is issued in violation of any provisions of Chapter 4.5.

Sec. 4.5-12 INSPECTIONS AND EXPIRATION OF PERMIT

A. Inspections: The Director will conduct inspection of murals for which a permit has been issued. The permit holder must notify the Director when the work is ready for inspection.

The inspection shall verify that the mural is in conformance with the application and in conformance with the provisions of this Chapter. Structural inspections shall be completed in conjunction with any required building or structural permits and shall verify the applicable requirements from the applicable codes. The inspector shall take at least one photo to be kept on file to document the site, mural size, mural location and mural image consistency.

The Director may conduct inspections whenever it is necessary to enforce any provision of the City Code, to determine compliance with the City Code, or whenever the Director has reasonable cause to believe there exists any violation of the City Code.

B. Expiration of Permit: If inspection approval has not been obtained by the applicant within twelve (12) months of issuance of a mural permit, the permit is void, and no further work on the mural may be done at the premises until a new permit has been secured and a new fee paid.

C. Extensions of Permit: The Director may extend a permit for one period of twelve (12) months upon finding the following criteria have been met.

1. The request for an extension is made in writing prior to expiration of the original approval.
2. There are special or unusual circumstances that exist which warrant an extension.
3. No material changes of surrounding land uses or zoning has occurred.

The Director may deny the request for an extension of the mural permit if new land use regulations have been adopted that affect the applicant's proposal.

Sec. 4.5-13 MAINTENANCE AND REPAIR OF A PERMITTED MURAL

A. **Maintenance.** It shall be the responsibility of the property owner or the responsible party to ensure that the mural is maintained in good condition, free from graffiti, and free from chipped, peeled, torn or faded paint or materials. Failure to properly maintain the mural, including removal of graffiti, will subject the mural to abatement or removal by the Department of Public Works.

B. **Damage and Restoration.** In the event that a mural is damaged, vandalized, removed, altered or destroyed, including graffiti abatement, the property owner or the responsible party, in consultation with the mural artist, shall be responsible for restoring the mural to the original condition, at the property owner's expense, within thirty (30) days from the date a notice is sent to the property owner or the responsible party, remove the mural in its entirety in accordance with the provisions of Section 4.5-32.

Sec. 4.5-14 ALTERATIONS TO A PERMITTED MURAL

Alterations of the mural must be approved by obtaining a new permit through the process described in Section 4.5-6 of this Chapter.

Sec. 4.5-15 REMOVAL OF A PERMITTED MURAL

Prior to removal of a mural the property owner must notify the Planning Department at least 30 days prior to its removal with a letter stating the intent to remove the mural. Any associated materials that were used to affix or secure the mural to the wall must be removed at the time of the removal of the mural or incorporated into a new mural application. This includes, but is not limited to mounting hardware or brackets, caulk or grout, and adhesives or glues.

Sec. 4.5-16 ENFORCEMENT

A. **Violations and Penalties:** It shall be unlawful for any person to violate any provision of, or fail to comply with, any requirement of this article. Any person that has violated, or continues to violate, any provision of this article shall, upon conviction, be subject to a fine of not greater than \$500.00 and/or imprisonment for a period of time not to exceed six (6) months for each violation. Each act of violation and/or day upon which any violations shall occur or continue to occur shall constitute a separate offense.

B. **Abatement Proceedings:** Any unapproved mural is considered graffiti. The

City may institute abatement and cost recovery proceedings for the removal of the graffiti as described in Section 4.5-32 of the City Code.

C. Injunctive Relief and Civil Remedies.

- 1 If a person has violated or continues to violate the provisions of this article, the City may petition the appropriate court for a preliminary and/or permanent injunction restraining the person from activities which would create violations of this article or compelling the person to perform corrective action and/or remediation of any violation.
- 2 The City may also initiate civil proceedings in any court of competent jurisdiction seeking monetary damages for any damages caused by an unauthorized mural or resulting from any violation of this article, including costs incurred for corrective action and remediation, and may seek other equitable relief to enforce compliance with the provisions of this article or force compliance with any lawful orders of the Director.
- 3 Damages sought by the City shall include any and all costs of such action including attorney's fees, trial expenses, court costs and damages to any public properties.

D. Responsibility for enforcement: The regulations of this article may be enforced by the Director pursuant to the provisions of this chapter.

Sec. 4.5-17 APPEALS

All denials, suspensions, revocations, rulings, decisions or interpretations of the Director shall be final and binding upon all parties thereto unless properly appealed to the City Council. Any person receiving a notice of an adverse decision, including a notice of permit application denial, notice of permit revocation or notice of violation, and wishing to appeal the same shall file a written notice in the Office of the City Clerk within ten (10) days from the date of the notice. The hearing on the appeal to the City Council shall be held within thirty (30) days from the date of the filing of the notice of appeal. The decision of the City Council shall be final.

ARTICLE II GRAFFITI

Sec. 4.5-26 PURPOSE AND INTENT

The City Council (the "Council") is enacting this article to help prevent the spread of graffiti vandalism and to establish a program for the removal of graffiti from public and private property. The Council is authorized to enact this article pursuant to its police powers.

The Council finds that graffiti is a public nuisance and destructive of the rights and values of property owners as well as the entire community. Unless the City acts to remove

graffiti from public and private property, the graffiti tends to remain. Other properties then become the target of graffiti, and entire neighborhoods are affected and become less desirable places in which to be, all to the detriment of the City.

The Council intends, through the adoption of this article, to provide additional enforcement tools to protect public and private property from acts of graffiti vandalism and defacement. The Council does not intend for this article to conflict with any existing anti-graffiti state laws.

Sec. 4.5-27 DEFINITIONS

For the purposes of this article, the following words shall have the meanings respectively ascribed to them in this section, except where the context clearly indicates a different meaning:

- a. **Aerosol paint container** shall mean any aerosol container that is adapted or made for the purpose of applying spray paint or other substances capable of defacing property.
- b. **Broad-tipped marker** shall mean any felt tip indelible marker or similar implement with a flat or angled writing surface that, at its broadest width, is greater than one-fourth (1/4th) of an inch, containing ink or other pigmented liquid that is not water soluble.
- c. **Etching equipment** shall mean any tool, device or substance that can be used to make permanent marks on any natural or man-made surface.
- d. **Graffiti** shall mean any unauthorized inscription, word, figure, painting or other defacement that is written, marked, etched, scratched, sprayed, drawn, painted or engraved on or otherwise affixed to any surface of public or private property by any graffiti implement, to the extent that the graffiti was not authorized in advance by the owner or occupant of the property, or, despite advance authorization, is otherwise deemed a public nuisance by the Council. Any unapproved mural is considered graffiti. For the purpose of this article, graffiti shall include drawings, writings, markings or inscriptions regardless of the content or the nature of materials used in the commission of the act. However, it shall not be construed to prohibit temporary, easily removable chalk or other water soluble markings on public or private sidewalks, streets or other paved surfaces which are used in connection with traditional children's activities, such as drawings, or bases for stickball, kickball, handball, hopscotch or similar activities, nor shall it be construed to prohibit temporary, easily removable chalk or public purpose or activity.
- e. **Graffiti implement** shall mean an aerosol paint container, a broad-tipped marker, gum label, paint stick or graffiti stick, etching equipment, brush or any other device capable of scarring or leaving a visible mark on any natural or man-made surface.
- f. **Paint stick or graffiti stick** shall mean any device containing a solid form of

paint, chalk, wax, epoxy or other similar substance capable of being applied to a surface by pressure and leaving a mark of at least one-eighth (1/8th) of an inch in width.

- g. **Person** shall mean any individual, partnership, cooperative association, private corporation, personal representative, receiver, trustee, assignee or any other legal entity.

Sec. 4.5-28 PROHIBITED ACTS

A. **Defacement.** It shall be unlawful for any person to apply graffiti to any natural or man-made surface on any City-owned property or, without the permission of the owner or occupant, on any non-City-owned property.

B. **Possession of Graffiti Implements.**

1. **By Minors at or Near School Facilities.** It shall be unlawful for any person under the age of nineteen (19) years to possess any graffiti implement while on any school property, grounds, facilities, buildings or structures, or in areas immediately adjacent to those specific locations upon public property, or upon private property without the prior written consent of the owner or occupant of such private property. The provisions of this section shall not apply to the possession of broad-tipped markers by a minor attending or traveling to or from a school at which the minor is enrolled if the minor is participating in a class at the school that formally requires the possession of broad-tipped markers. The burden of proof in any prosecution for violation of this section shall be upon the minor student to establish the need to possess a broad-tipped marker.
2. **In Designated Public Places.** It shall be unlawful for any person to possess any graffiti implement while in or upon any public facility, park, playground, swimming pool, recreational facility, or other public building or structure owned or operated by the City or while in or within fifty (50) feet of an underpass, bridge abutment, storm drain or similar types of infrastructure unless otherwise authorized by the City.

Sec. 4.5-29 PENALTIES

A. **Fines and Imprisonment.** Any person violating this article shall, upon conviction, be punished by a fine of two hundred and fifty dollars (\$250.00) for the first offense; and five hundred dollars (\$500.00) for each subsequent offense, or by imprisonment for a term not to exceed sixty (60) days, or by both fine and imprisonment at the discretion of the court.

B. **Restitution.** In addition to any punishment specified in this section, the court shall order any violator to make restitution to the victim for damages or loss caused directly or indirectly by the violator's offense in the amount or manner determined by the court. In the case of a minor, the parents or legal guardian shall be ordered jointly and severally liable with the minor to make the restitution.

C. Community Service. In lieu of, or as part of, the penalties specified in this section, a minor or adult may be required to perform community service at the discretion of the court.

Sec. 4.5-30 GRAFFITI AS NUISANCE

A. The existence of graffiti on public or private property in violation of this Ordinance is expressly declared to be a public nuisance and, therefore, is subject to the removal and abatement provisions specified in this Ordinance.

B. It is the duty of both the owner of the property to which the graffiti has been applied and any person who may be in possession or who has the right to possess such property to at all times keep the property clear of graffiti.

Sec. 4.5-31 REMOVAL OF GRAFFITI BY PERPETRATOR

Any person applying graffiti on public or private property shall have the duty to remove the graffiti within twenty-four (24) hours after notice by the City or private owner of the property involved. Such removal shall be done in a manner prescribed by the Chief of Police, the Director of Public Works, the Planning Director or any additional City department head, as authorized by the Mayor. Any person applying graffiti shall be responsible for the removal or for the payment of the removal. Failure of any person to remove graffiti or pay for the removal shall constitute an additional violation of this article. Where graffiti is applied by an unemancipated minor, the parents or legal guardian shall also be responsible for such removal or for the payment for the removal.

Sec. 4.5-32 REMOVAL OF GRAFFITI BY PROPERTY OWNER OR CITY

If graffiti is not removed by the perpetrator according to Section 4.5-31, graffiti shall be removed pursuant to the following provisions:

- a. Property Owner Responsibility. It is unlawful for any person who is the owner or who has primary responsibility for control of property or for repair or maintenance of property in the City to permit property that is defaced with graffiti to remain defaced for a period of thirty (30) days after service by first class mail of notice of the defacement. The notice shall contain the following information:
 1. The street address and legal description of the property sufficient for identification of the property;
 2. A statement that the property is a potential graffiti nuisance property with a concise description of the conditions leading to the finding;
 3. A statement that the graffiti must be removed within thirty (30) days after receipt of the notice and that if the graffiti is not abated within that time, the City will declare the property to be a public nuisance, subject to the abatement procedures in City Code Section 4.5-32(a); and
 4. An information sheet identifying any graffiti removal assistance programs available through the City and private graffiti removal contractors.

- b. **Exceptions to Property Owner Responsibility.** The removal requirements of subsection (a) above shall not apply if the property owner or responsible party can demonstrate that the property owner or responsible party lacks the financial ability to remove the defacing graffiti.
- c. **Right of City to Remove.**
 - 1. **Use of Public Funds.** Whenever the City becomes aware or is notified and determines that graffiti is located on publicly or privately owned property viewable from a public or quasi-public place, the City shall be authorized to use public funds for the removal of the graffiti, or for the painting or repairing of the graffiti, but shall not authorize or undertake to provide for the painting or repair of any more extensive an area than that where the graffiti is located, unless the Mayor, or the designee of the Mayor, determines in writing that a more extensive area is required to be repainted or repaired in order to avoid an aesthetic disfigurement to the neighborhood or community, unless the property owner or responsible party agrees to pay for the costs of repainting or repairing the more extensive area.
 - 2. **Right of Entry on Private Property.** Prior to entering upon private property or property owned by a public entity other than the City for the purpose of graffiti removal, the City shall attempt to secure the consent of the property owner or responsible party and a release of the City from liability for property damage or personal injury. If the property owner or responsible party fails to remove the offending graffiti within the time specified by this Ordinance, or if the City has requested consent to remove or paint over the offending graffiti and the property owner or responsible party has refused consent for entry on terms acceptable to the City and consistent with the terms of this section, the City shall commence abatement and cost recovery provisions specified below.
- d. **Abatement and Cost Recovery Proceedings**
 - 1. **Notice of Due Process Hearing.** The City Administrator or the designee of the City Administrator serving as the Hearing Officer, shall provide the property owner of record and the party responsible for the maintenance of the property, if a person different than the owner, not less than forty-eight (48) hours notice of the City's intent to hold a due process hearing at which the property owner or responsible party shall be entitled to present evidence and argue that the property does not constitute a public nuisance. Notice shall be served in the same manner as a summons in a civil action in accordance with Rule 4 of the Civil Rules of Procedure. If the owner of record cannot be found after a diligent search, the notice may be served by posting a copy thereof in a conspicuous place upon the property for a period of ten (10) days and publication thereof in a newspaper of general circulation published in the City of Opelika.

2. **Determination of Hearing Officer.** The determination of the Hearing Officer after the due process hearing shall be final and not appealable. If, after the due process hearing, regardless of the attendance of the property owner or the responsible party or their respective agents, the Hearing Officer determines that the property contains graffiti viewable from a public or quasi-public place, the Hearing Officer shall give written notice in an eradication order that, unless the graffiti is removed within ten (10) days, the City shall enter upon the property, cause the removal, painting over (in such color as shall meet with the approval of the Hearing Officer), or such other eradication thereof as the Hearing Officer determines appropriate, and shall provide the property owner and the responsible party thereafter with an accounting of the costs of the eradication effort on a full cost recovery basis.
3. **Eradication Effort.** Not sooner than the time specified in the order of the Hearing Officer, the Director of Public Works or his designee, shall implement the eradication order and shall provide an accounting to the property owner and the responsible party of the costs thereof.
4. **Cost Hearing.** The property owner or responsible party may request a cost hearing before the Hearing Officer on the eradication accounting, and appropriate due process must be extended to the property owner or responsible party. If following the cost hearing or, if no hearing is requested, after the implementation of the eradication order, the Hearing Officer determines that all or a portion of the costs are appropriately chargeable to the eradication effort, the total amount set forth in the eradication accounting, or an amount thereof determined as appropriate by the Hearing Officer, shall be due and payable by the property owner or responsible party within thirty (30) days. Any amount of eradication charges assessed by the Hearing Officer that are less than the total amount set forth in the eradication accounting shall be explained by written letter from the Hearing Officer to the City Council.
5. **Lien.** As to such property, where the responsible party is the property owner, if all or any portion of the assessed eradication charges remain unpaid for thirty (30) days, the portion thereof that remains unpaid shall constitute a lien on the property that was the subject of the eradication effort. The Director of Public Works shall present a lien resolution to the City Council, and upon passage and adoption thereof, shall cause a certified copy of the Lien to be recorded with the Purchasing/Revenue Officer.

Sec. 4.5-33 SEVERABILITY

Severability is intended throughout and within the provisions of this article. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is held to be invalid or unconstitutional by a court of competent jurisdiction, then that decision shall not affect the

validity of the remaining portions of this Ordinance.

Section 2. **Full Force and Effect.** With the exception of the amendment made herein, all other sections and portions the Code shall remain in full force and effect.

Section 3. **Severability Clause.** If any section, sentence or phrase of this ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, said holding shall not affect the remaining portions of this ordinance.

Section 4. **Repealer Clause.** All former ordinances or parts thereof conflicting or inconsistent with the provisions of this Ordinance are repealed.

Section 5. **Effective Date.** This ordinance shall become effective and enforced immediately upon its passage and publication as required by law. Chapter 4.5, as added herein, shall be codified in the *Code of Ordinances* of the City of Opelika, Alabama.

Section 6. **Publication.** The City Clerk of the City of Opelika, Alabama is hereby authorized and directed to cause this Ordinance to be published one (1) time in a newspaper of general circulation published in the City of Opelika, Lee County, Alabama.

ADOPTED AND APPROVED this the ____ day of _____, 2019.

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

ATTEST:

CITY CLERK

TRANSMITTED TO MAYOR on this the ____ day of _____, 2019.

CITY CLERK

ACTION BY MAYOR

APPROVED this the ____ day of _____, 2019.

MAYOR

ATTEST:

CITY CLERK

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE *CODE OF ORDINANCES* OF THE CITY OF OPELIKA, ALABAMA, BY ADDING A NEW CHAPTER 4.5 ENTITLED “ART AND CULTURE” ALLOWING FOR THE CREATION OF ART MURALS ON PRIVATE PROPERTY; REGULATING ART MURALS ON PRIVATE BUILDINGS; PROVIDING FOR PERMIT PROCESS; PROVIDING FOR AN APPLICATION AND APPROVAL PROCESS; PROVIDING FOR VIOLATIONS AND ENFORCEMENT PROCESS; PROHIBITING GRAFFITI; PROHIBITING THE POSESSION OF GRAFFITI IMPLEMENTS NEAR SCHOOLS BY MINORS; PROHIBITING THE POSSESSION OF GRAFFITI IMPLEMENTS IN PUBLIC PLACES; PROVIDING GRAFFITI ABATEMENT PROCEDURES; CONTAINING A REPEALER PROVISION AND SEVERABILITY CLAUSE AND PROVIDING AN EFFECTIVE DATE

WHEREAS, art murals have purposes distinct from signs and confer different benefits; and

WHEREAS, such purposes include improved aesthetics, avenues for original artistic expression, public access to original works of art, community participation in the creation of original works of art and community-building through the presence of and identification with original works of art; and

WHEREAS, murals can increase community identity and foster a sense of place if they are located in a manner visible to pedestrians; and

WHEREAS, the City Council desires to establish guidelines for the placement of murals on private buildings.

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

Section 1. **Amendment.** That the *Code of Ordinances* (the “Code”) of the City of Opelika, Alabama, is hereby amended by adding a new chapter to be numbered Chapter 4.5, which chapter shall read as follows:

Chapter 4.5 ARTS AND CULTURE

Article 1. Mural Regulations

Sec. 4.5-1 PURPOSE

The purpose of this chapter is to allow for murals on a content-neutral basis while maintaining specific standards with regard to the location, size, quantity and installation.

Sec. 4.5-2 FINDINGS

The City of Opelika hereby finds that:

- A. Murals comprise a unique medium of expression which serves the public interest.
- B. Murals have purposes distinct from signs and confer different benefits. Such purposes and benefits include: improved aesthetics; avenues for original artistic expression; public access to original works of art; community participation in the creation of original works of art; community building through the presence of and identification with original works of art; and a reduction in the incidence of graffiti and other crime.
- C. Murals can increase community identity and foster a sense of place and enclosure if they are located at heights and scales visible to pedestrians.

Sec. 4.5-3 DEFINITIONS

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

“ADULT CONTENT” shall mean any drawing, picture, pictorial representation or image that depicts or describes sexual conduct, breast nudity or genital nudity in a way that is patently offensive applying contemporary community standards. As used in this section, the following words, terms and

phrases shall have the meanings respectively assessed to them in §13A-12-200.1 of the *Code of Alabama*: breast nudity, genital nudity and sexual conduct.

“**ALTERATION**” shall mean any change to a permitted mural, including but not limited to any change to the image(s), materials, colors or size of the mural. “Alteration” does not include maintenance or repair of a permitted mural.

“**HISTORIC DISTRICT**” shall mean a historic district locally designated by the City Council of the City of Opelika.

“**MURAL**” shall mean a work of visual art which is tiled or painted directly upon, or affixed directly to a fence, wall or an exterior wall of a building and exceeds the maximum size of wall sign allowed in a sign district. Visual art that is intended to communicate an informational message is not considered a mural and is regulated under the sign code.

“**PERMITTED MURAL**” shall mean a mural for which a permit has been issued by the City of Opelika pursuant to this chapter.

“**PLANNING DIRECTOR**” shall mean The Opelika Planning Director or his or her designee. For the ease of reference in this chapter, the Planning Director shall be referred to by the term “Director.”

Sec. 4.5-4 PROHIBITED MURALS

Murals that include any of the following are prohibited and are nuisances. A mural shall not depict, include or contain any of the following components and shall not be placed on certain property or within specified zoning districts as provided in this Section 4.5-4. Murals, mural types and mural placements and installations listed below are prohibited within the City limits:

1. Electrical or mechanical components; or
2. Changing images or moving parts.
3. Adult content or content that is obscene as defined in §13A-12-200.1 of the *Code of Alabama*
4. Material harmful to minors.
5. Gang symbols or an unreasonable act, utterance, gesture or display that creates a clear and present danger of a breach of peace or imminent threat of violence.
6. Any contemporary commercial message except commercial messages may be allowed under the requirements of Section 4.5-.7(D) Historic Design Criteria.
7. Any licensed, copyrighted, or trademarked characters or likenesses unless the applicant has permission from the holder or owner of the license, copyright or trademark.
8. Murals on sites developed as single-family homes, duplexes, townhomes, mobile homes or multi-family buildings with five or less dwelling units.
9. Murals within the following zoning districts: R-1, R-1A, R-2, R-3, R-4, R-4M, R-5, R-5M and I-1 as described in the Zoning Ordinance. Murals shall only be permitted within the following zoning districts: C-1, C-2, C-3, M-1, M-2, and commercial and manufacturing areas within Planned Unit Developments. Murals outside these authorized zoning districts shall be in violation of this chapter.
10. Mechanically produced or computer-generated print or images, including but not limited to digitally printed vinyl.

Sec. 4.5-5 EXEMPT MURALS

A. A mural that is not visible from the public right-of-way and not visible from public property is allowed without a mural permit.

B. A mural or public work of art may be allowed in a vacant storefront or window without permit provided it does not contain any elements listed in Section 4.5-4.

C. Temporary writings, drawings, figures or marks of paint that are easily removable chalk or water-soluble markings on public or private structures shall be exempt from these regulations.

Sec. 4.5-6 MURAL PERMIT APPLICATION

A. The Director or designee shall be responsible for the approval of all mural permits. The Director or designee may approve, approve with modifications or deny a permit application upon a finding that the application does not meet the application criteria set forth in Section 4.5-7.

B. An application for a mural permit must contain the following information:

1. Proof of ownership of the property where the mural will be located either through the Revenue Commissioner's website information or other relevant act of transfer documentation or written confirmation from the legal owners of the property that the applicant has their permission to erect the mural.
2. A site plan drawn to scale that shows the location of existing structures and where the mural is to be installed, location of property lines, abutting right-of-way, names of streets, information of other murals on abutting properties and north arrow.
3. A map (e.g. tax map or aerial map) that shows the existing land use on-site and the surrounding land uses within three-hundred feet (300') of the site.
4. A color image of the proposed mural with dimensions drawn to scale.
5. A building elevation depicted to scale showing the proposed building area where the mural is to be installed. Information detailing the existing building materials and architectural features, as well as proposed mural materials, construction size, and depth.
6. Information regarding the expected life span of the mural and maintenance plan for the life of the mural. The maintenance plan shall specify the frequency of maintenance and provisions to address fading and vandalism (i.e. durable exterior paints, cleanable surfaces, and/or other measures that will discourage vandalism or facilitate easier and cheaper repair of the mural if needed).
7. A short narrative describing the primary artist(s) qualifications.

Sec. 4.5-7 MURAL DESIGN CRITERIA

All murals permitted under this section shall follow the design guidelines within this section.

A. The Mural is compatible with the aesthetic appearance of adjacent buildings and the surrounding community character. In evaluating this criterion, the following are examples of factors that can be used to measure compatibility and community character.

1. The mural is harmonious with or integrates aspects of special architectural and design features of surrounding buildings or the larger neighborhood.
2. The mural may reflect the diversity of the world.
3. The mural may reflect historic, cultural, or natural heritage.
4. The mural respects the original character of the building and surrounding buildings

B. The mural will enhance the building appearance and overall visual attractiveness of the City. The overall objective is for viewers of all ages to experience a sensation of engagement, humor, wonder or delight, or all of these emotions.

In evaluating this criterion, the following are examples of factors that can be used to measure appearance and attractiveness.

1. The mural will not adversely dominate the building or surrounding area.
2. The mural will not create traffic or safety hazards.
3. The mural is harmonious with the scale, color, details, materials, and proportion of the building.

C. General Design Criteria – All murals shall comply with the following general design criteria.

1. The mural shall not be allowed on the primary facade of a building except those described in Section 4.5-5(B).
2. The mural shall not extend more than 6 inches from the plane of the wall upon which it is tiled or painted or to which it is affixed, unless approved by the Director.
3. The mural shall not extend beyond the wall height of the building.
4. Only one mural permit may be obtained per wall. Where a wall is divided by a recessed or projecting architectural feature such as vertical or horizontal trim, bands or pilasters; each section may be considered a separate wall allowing a distinct mural on that wall.
5. The mural face must be predominantly pictorial with text limited to no more than 15% of mural face.
6. Murals may have up to 5% of the area or two square feet, whichever is less, dedicated to the artists name and/or sponsor.

D. Historic Design Criteria – This section is specific to those murals located within a locally designated historic district.

1. Any mural in a locally designated historic district shall either be located on a site pre-designated by the Opelika Historic Preservation Commission or shall require approval of a Certificate of Appropriateness from the HPC.
2. Murals shall not be painted on unpainted brick without approval of a Certificate of Appropriateness from the Opelika Historic Preservation Commission.
3. Murals that are not directly painted on the building wall may be attached to unpainted brick provided that the method of attachment has been demonstrated that it will not damage the building material.
 - a. Bolts or similar attachments to brick walls shall occur in the mortar between bricks and not directly to the brick.
4. Murals shall not be applied on or obscure architectural features such as: windows, doors, pilasters, cornices, window, door or other building trim, feature bands, and other recessed or projecting features.
5. Any lighting for murals in the historic district shall comply with lighting standards for the district.
6. Murals in historic districts may replicate painted historic signs that previously existed on the proposed site. Such historic mural shall only be permitted if historic documentation is provided to support the existences of the mural.

Sec. 4.5-8 MURAL PERMIT CRITERIA

No person may commence mural installation on a site without first obtaining a mural permit. Murals without a mural permit are considered graffiti and are regulated by Article II of Chapter 4.5. Use of murals does not affect the amount or type of signage otherwise allowed by the sign regulations of the Zoning Ordinance. For approval, a mural permit application must meet the following criteria.

- A. The mural shall comply with the design standards found in Section 4.5-7.
- B. Devices that illuminate a mural shall be placed and shielded so that the direct light rays reflecting from such devices or from the mural itself shall not be cast into the eyes of any passing motorist.
- C. Murals shall be installed for durability and maintained for the life of the mural or until the mural is removed. Murals shall consist of materials that have proven performance for withstanding the humid climate.

- D. The Mural shall use materials, coatings, or other protective techniques that will be resistive to vandalism and graffiti.
- E. The creator/artist is under contract or other obligation to complete the Mural.
- F. The Mural is an original work of art.
- G. The mural shall be created directly by or under the direction of a qualified artist.

A qualified artist is required to meet at least one of the following criteria:

- 1. An art educator or artist with education/training in large format public art installations.
- 2. An individual or group individuals with documented experience with large format public art installations.

H. If a mural installation includes any changes to a building that would otherwise require Design Review as described in Section 4.5-7D those changes must be approved through the Design Review process simultaneous with approval of the Mural Permit. Murals may not otherwise result in the site property or structure becoming out of compliance with other land use code provisions, prior land use approvals, or prior conditions of approval governing the building or property on which the mural is to be located.

In applying the above criteria, the Director shall make his or her decision in accordance with applicable constitutional requirements.

Sec. 4.5-9 PERMIT FEES

Upon approval of an application for a mural permit, a one-time fee of fifty dollars (\$50.00) shall be paid.

Sec. 4.5-10 STRUCTURAL REVIEW

Murals with any element that weighs more than 7 pounds per square foot or in total weigh more than 400 pounds require structural review.

Sec. 4.5-11 SUSPENSION OR REVOCATION

A. The Director may suspend or revoke a permit issued under the provisions of Chapter 4.5. The Director will inform the permit holder of the suspension or revocation in writing. Permits may be suspended or revoked upon a finding that:

- 1. The permit was issued on the basis of incorrect information supplied by the applicant; or
- 2. The permit is issued in violation of any provisions of Chapter 4.5.

Sec. 4.5-12 INSPECTIONS AND EXPIRATION OF PERMIT

A. Inspections: The Director will conduct inspection of murals for which a permit has been issued. The permit holder must notify the Director when the work is ready for inspection.

The inspection shall verify that the mural is in conformance with the application and in conformance with the provisions of this Chapter. Structural inspections shall be completed in conjunction with any required building or structural permits and shall verify the applicable requirements from the applicable codes. The inspector shall take at least one photo to be kept on file to document the site, mural size, mural location and mural image consistency.

The Director may conduct inspections whenever it is necessary to enforce any provision of the City Code, to determine compliance with the City Code, or whenever the Director has reasonable cause to believe there exists any violation of the City Code.

B. Expiration of Permit: If inspection approval has not been obtained by the applicant within twelve (12) months of issuance of a mural permit, the permit is void, and no further work on the mural may be done at the premises until a new permit has been secured and a new fee paid.

C. Extensions of Permit: The Director may extend a permit for one period of twelve (12) months upon finding the following criteria have been met.

- 1. The request for an extension is made in writing prior to expiration of the original approval.

2. There are special or unusual circumstances that exist which warrant an extension.
3. No material changes of surrounding land uses or zoning has occurred.

The Director may deny the request for an extension of the mural permit if new land use regulations have been adopted that affect the applicant's proposal.

Sec. 4.5-13 MAINTENANCE AND REPAIR OF A PERMITTED MURAL

A. **Maintenance.** It shall be the responsibility of the property owner or the responsible party to ensure that the mural is maintained in good condition, free from graffiti, and free from chipped, peeled, torn or faded paint or materials. Failure to properly maintain the mural, including removal of graffiti, will subject the mural to abatement or removal by the Department of Public Works.

B. **Damage and Restoration.** In the event that a mural is damaged, vandalized, removed, altered or destroyed, including graffiti abatement, the property owner or the responsible party, in consultation with the mural artist, shall be responsible for restoring the mural to the original condition, at the property owner's expense, within thirty (30) days from the date a notice is sent to the property owner or the responsible party, remove the mural in its entirety in accordance with the provisions of Section 4.5-32.

Sec. 4.5-14 ALTERATIONS TO A PERMITTED MURAL

Alterations of the mural must be approved by obtaining a new permit through the process described in Section 4.5-6 of this Chapter.

Sec. 4.5-15 REMOVAL OF A PERMITTED MURAL

Prior to removal of a mural the property owner must notify the Planning Department at least 30 days prior to its removal with a letter stating the intent to remove the mural. Any associated materials that were used to affix or secure the mural to the wall must be removed at the time of the removal of the mural or incorporated into a new mural application. This includes, but is not limited to mounting hardware or brackets, caulk or grout, and adhesives or glues.

Sec. 4.5-16 ENFORCEMENT

A. **Violations and Penalties:** It shall be unlawful for any person to violate any provision of, or fail to comply with, any requirement of this article. Any person that has violated, or continues to violate, any provision of this article shall, upon conviction, be subject to a fine of not greater than \$500.00 and/or imprisonment for a period of time not to exceed six (6) months for each violation. Each act of violation and/or day upon which any violations shall occur or continue to occur shall constitute a separate offense.

B. **Abatement Proceedings:** Any unapproved mural is considered graffiti. The City may institute abatement and cost recovery proceedings for the removal of the graffiti as described in Section 4.5-32 of the City Code.

C. **Injunctive Relief and Civil Remedies.**

- 1 If a person has violated or continues to violate the provisions of this article, the City may petition the appropriate court for a preliminary and/or permanent injunction restraining the person from activities which would create violations of this article or compelling the person to perform corrective action and/or remediation of any violation.
- 2 The City may also initiate civil proceedings in any court of competent jurisdiction seeking monetary damages for any damages caused by an unauthorized mural or resulting from any violation of this article, including costs incurred for corrective action and remediation, and may seek other equitable relief to enforce compliance with the provisions of this article or force compliance with any lawful orders of the Director.
- 3 Damages sought by the City shall include any and all costs of such action including attorney's fees, trial expenses, court costs and damages to any public properties.

D. Responsibility for enforcement: The regulations of this article may be enforced by the Director pursuant to the provisions of this chapter.

Sec. 4.5-17 APPEALS

All denials, suspensions, revocations, rulings, decisions or interpretations of the Director shall be final and binding upon all parties thereto unless properly appealed to the City Council. Any person receiving a notice of an adverse decision, including a notice of permit application denial, notice of permit revocation or notice of violation, and wishing to appeal the same shall file a written notice in the Office of the City Clerk within ten (10) days from the date of the notice. The hearing on the appeal to the City Council shall be held within thirty (30) days from the date of the filing of the notice of appeal. The decision of the City Council shall be final.

ARTICLE II GRAFFITI

Sec. 4.5-26 PURPOSE AND INTENT

The City Council (the "Council") is enacting this article to help prevent the spread of graffiti vandalism and to establish a program for the removal of graffiti from public and private property. The Council is authorized to enact this article pursuant to its police powers.

The Council finds that graffiti is a public nuisance and destructive of the rights and values of property owners as well as the entire community. Unless the City acts to remove graffiti from public and private property, the graffiti tends to remain. Other properties then become the target of graffiti, and entire neighborhoods are affected and become less desirable places in which to be, all to the detriment of the City.

The Council intends, through the adoption of this article, to provide additional enforcement tools to protect public and private property from acts of graffiti vandalism and defacement. The Council does not intend for this article to conflict with any existing anti-graffiti state laws.

Sec. 4.5-27 DEFINITIONS

For the purposes of this article, the following words shall have the meanings respectively ascribed to them in this section, except where the context clearly indicates a different meaning:

- a. **Aerosol paint container** shall mean any aerosol container that is adapted or made for the purpose of applying spray paint or other substances capable of defacing property.
- b. **Broad-tipped marker** shall mean any felt tip indelible marker or similar implement with a flat or angled writing surface that, at its broadest width, is greater than one-fourth (1/4th) of an inch, containing ink or other pigmented liquid that is not water soluble.
- c. **Etching equipment** shall mean any tool, device or substance that can be used to make permanent marks on any natural or man-made surface.
- d. **Graffiti** shall mean any unauthorized inscription, word, figure, painting or other defacement that is written, marked, etched, scratched, sprayed, drawn, painted or engraved on or otherwise affixed to any surface of public or private property by any graffiti implement, to the extent that the graffiti was not authorized in advance by the owner or occupant of the property, or, despite advance authorization, is otherwise deemed a public nuisance by the Council. Any unapproved mural is considered graffiti. For the purpose of this article, graffiti shall include drawings, writings, markings or inscriptions regardless of the content or the nature of materials used in the commission of the act. However, it shall not be construed to prohibit temporary, easily removable chalk or other water soluble markings on public or private sidewalks, streets or other paved surfaces which are used in connection with traditional children's activities, such as drawings, or bases for stickball, kickball, handball, hopscotch or similar activities, nor shall it be construed to prohibit temporary, easily removable chalk or public purpose or activity.
- e. **Graffiti implement** shall mean an aerosol paint container, a broad-tipped marker, gum label, paint stick or graffiti stick, etching equipment, brush or any other device capable of scarring or leaving a visible mark on any natural or man-made surface.

- f. **Paint stick or graffiti stick** shall mean any device containing a solid form of paint, chalk, wax, epoxy or other similar substance capable of being applied to a surface by pressure and leaving a mark of at least one-eighth (1/8th) of an inch in width.
- g. **Person** shall mean any individual, partnership, cooperative association, private corporation, personal representative, receiver, trustee, assignee or any other legal entity.

Sec. 4.5-28 PROHIBITED ACTS

A. **Defacement.** It shall be unlawful for any person to apply graffiti to any natural or man-made surface on any City-owned property or, without the permission of the owner or occupant, on any non-City-owned property.

B. **Possession of Graffiti Implements.**

1. **By Minors at or Near School Facilities.** It shall be unlawful for any person under the age of nineteen (19) years to possess any graffiti implement while on any school property, grounds, facilities, buildings or structures, or in areas immediately adjacent to those specific locations upon public property, or upon private property without the prior written consent of the owner or occupant of such private property. The provisions of this section shall not apply to the possession of broad-tipped markers by a minor attending or traveling to or from a school at which the minor is enrolled if the minor is participating in a class at the school that formally requires the possession of broad-tipped markers. The burden of proof in any prosecution for violation of this section shall be upon the minor student to establish the need to possess a broad-tipped marker.
2. **In Designated Public Places.** It shall be unlawful for any person to possess any graffiti implement while in or upon any public facility, park, playground, swimming pool, recreational facility, or other public building or structure owned or operated by the City or while in or within fifty (50) feet of an underpass, bridge abutment, storm drain or similar types of infrastructure unless otherwise authorized by the City.

Sec. 4.5-29 PENALTIES

A. **Fines and Imprisonment.** Any person violating this article shall, upon conviction, be punished by a fine of two hundred and fifty dollars (\$250.00) for the first offense; and five hundred dollars (\$500.00) for each subsequent offense, or by imprisonment for a term not to exceed sixty (60) days, or by both fine and imprisonment at the discretion of the court.

B. **Restitution.** In addition to any punishment specified in this section, the court shall order any violator to make restitution to the victim for damages or loss caused directly or indirectly by the violator's offense in the amount or manner determined by the court. In the case of a minor, the parents or legal guardian shall be ordered jointly and severally liable with the minor to make the restitution.

C. **Community Service.** In lieu of, or as part of, the penalties specified in this section, a minor or adult may be required to perform community service at the discretion of the court.

Sec. 4.5-30 GRAFFITI AS NUISANCE

A. The existence of graffiti on public or private property in violation of this Ordinance is expressly declared to be a public nuisance and, therefore, is subject to the removal and abatement provisions specified in this Ordinance.

B. It is the duty of both the owner of the property to which the graffiti has been applied and any person who may be in possession or who has the right to possess such property to at all times keep the property clear of graffiti.

Sec. 4.5-31 REMOVAL OF GRAFFITI BY PERPETRATOR

Any person applying graffiti on public or private property shall have the duty to remove the graffiti within twenty-four (24) hours after notice by the City or private owner of the property involved. Such removal shall be done in a manner prescribed by the Chief of Police, the Director of Public Works, the Planning Director or any additional City department head, as authorized by the Mayor. Any person applying graffiti shall be responsible for the removal or for the payment of the removal. Failure of any person to remove graffiti or pay for the removal shall constitute an additional violation of this article. Where graffiti is applied by an unemancipated minor, the parents or legal guardian shall also be responsible for such removal or for the payment for the removal.

Sec. 4.5-32 REMOVAL OF GRAFFITI BY PROPERTY OWNER OR CITY

If graffiti is not removed by the perpetrator according to Section 4.5-31, graffiti shall be removed pursuant to the following provisions:

- a. **Property Owner Responsibility.** It is unlawful for any person who is the owner or who has primary responsibility for control of property or for repair or maintenance of property in the City to permit property that is defaced with graffiti to remain defaced for a period of thirty (30) days after service by first class mail of notice of the defacement. The notice shall contain the following information:
 1. The street address and legal description of the property sufficient for identification of the property;
 2. A statement that the property is a potential graffiti nuisance property with a concise description of the conditions leading to the finding;
 3. A statement that the graffiti must be removed within thirty (30) days after receipt of the notice and that if the graffiti is not abated within that time, the City will declare the property to be a public nuisance, subject to the abatement procedures in City Code Section 4.5-32(a); and
 4. An information sheet identifying any graffiti removal assistance programs available through the City and private graffiti removal contractors.
- b. **Exceptions to Property Owner Responsibility.** The removal requirements of subsection (a) above shall not apply if the property owner or responsible party can demonstrate that the property owner or responsible party lacks the financial ability to remove the defacing graffiti.
- c. **Right of City to Remove.**
 1. **Use of Public Funds.** Whenever the City becomes aware or is notified and determines that graffiti is located on publicly or privately owned property viewable from a public or quasi-public place, the City shall be authorized to use public funds for the removal of the graffiti, or for the painting or repairing of the graffiti, but shall not authorize or undertake to provide for the painting or repair of any more extensive an area than that where the graffiti is located, unless the Mayor, or the designee of the Mayor, determines in writing that a more extensive area is required to be repainted or repaired in order to avoid an aesthetic disfigurement to the neighborhood or community, unless the property owner or responsible party agrees to pay for the costs of repainting or repairing the more extensive area.
 2. **Right of Entry on Private Property.** Prior to entering upon private property or property owned by a public entity other than the City for the purpose of graffiti removal, the City shall attempt to secure the consent of the property owner or responsible party and a release of the City from liability for property damage or personal injury. If the property owner or responsible party fails to remove the offending graffiti within the time specified by this Ordinance, or if the City has requested consent to remove or paint over the offending graffiti and the property owner or responsible party has refused consent for entry on terms acceptable to the City and consistent with the terms of this section, the City shall commence abatement and cost recovery provisions specified below.
- d. **Abatement and Cost Recovery Proceedings**
 1. **Notice of Due Process Hearing.** The City Administrator or the designee of the City Administrator serving as the Hearing Officer, shall provide the property owner of record and the party responsible for the maintenance of the property, if a person different than the owner, not less than forty-eight (48) hours notice of the City's intent to hold a due process hearing at which the property owner or responsible party shall be entitled to present evidence and argue that the property does not constitute a public nuisance. Notice shall be served in the same manner as a summons in a civil action in accordance with Rule 4 of the Civil Rules of Procedure. If the owner of record cannot be found after a diligent search, the notice may be served by posting a copy thereof in a conspicuous place upon the

property for a period of ten (10) days and publication thereof in a newspaper of general circulation published in the City of Opelika.

2. **Determination of Hearing Officer.** The determination of the Hearing Officer after the due process hearing shall be final and not appealable. If, after the due process hearing, regardless of the attendance of the property owner or the responsible party or their respective agents, the Hearing Officer determines that the property contains graffiti viewable from a public or quasi-public place, the Hearing Officer shall give written notice in an eradication order that, unless the graffiti is removed within ten (10) days, the City shall enter upon the property, cause the removal, painting over (in such color as shall meet with the approval of the Hearing Officer), or such other eradication thereof as the Hearing Officer determines appropriate, and shall provide the property owner and the responsible party thereafter with an accounting of the costs of the eradication effort on a full cost recovery basis.
3. **Eradication Effort.** Not sooner than the time specified in the order of the Hearing Officer, the Director of Public Works or his designee, shall implement the eradication order and shall provide an accounting to the property owner and the responsible party of the costs thereof.
4. **Cost Hearing.** The property owner or responsible party may request a cost hearing before the Hearing Officer on the eradication accounting, and appropriate due process must be extended to the property owner or responsible party. If following the cost hearing or, if no hearing is requested, after the implementation of the eradication order, the Hearing Officer determines that all or a portion of the costs are appropriately chargeable to the eradication effort, the total amount set forth in the eradication accounting, or an amount thereof determined as appropriate by the Hearing Officer, shall be due and payable by the property owner or responsible party within thirty (30) days. Any amount of eradication charges assessed by the Hearing Officer that are less than the total amount set forth in the eradication accounting shall be explained by written letter from the Hearing Officer to the City Council.
5. **Lien.** As to such property, where the responsible party is the property owner, if all or any portion of the assessed eradication charges remain unpaid for thirty (30) days, the portion thereof that remains unpaid shall constitute a lien on the property that was the subject of the eradication effort. The Director of Public Works shall present a lien resolution to the City Council, and upon passage and adoption thereof, shall cause a certified copy of the Lien to be recorded with the Purchasing/Revenue Officer.

Sec. 4.5-33 SEVERABILITY

Severability is intended throughout and within the provisions of this article. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is held to be invalid or unconstitutional by a court of competent jurisdiction, then that decision shall not affect the validity of the remaining portions of this Ordinance.

Section 2. Full Force and Effect. With the exception of the amendment made herein, all other sections and portions the Code shall remain in full force and effect.

Section 3. Severability Clause. If any section, sentence or phrase of this ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, said holding shall not affect the remaining portions of this ordinance.

Section 4. Repealer Clause. All former ordinances or parts thereof conflicting or inconsistent with the provisions of this Ordinance are repealed.

Section 5. Effective Date. This ordinance shall become effective and enforced immediately upon its passage and publication as required by law. Chapter 4.5, as added herein, shall be codified in the *Code of Ordinances* of the City of Opelika, Alabama.

Section 6. **Publication.** The City Clerk of the City of Opelika, Alabama is hereby authorized and directed to cause this Ordinance to be published one (1) time in a newspaper of general circulation published in the City of Opelika, Lee County, Alabama.

ADOPTED AND APPROVED this the ____day of _____, 2019.

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

ATTEST:

CITY CLERK

TRANSMITTED TO MAYOR on this the ____day of _____, 2019.

CITY CLERK

ACTION BY MAYOR

APPROVED this the ____day of _____, 2019.

MAYOR

ATTEST:

CITY CLERK

Attachment: Ordinance, amend city code, add new Chapter 4.5, art & culture, 12-10-19 (3) (028-19-ORD : Amend City Code, Adding Chapter 4.5 Entitled "Art and Culture" - 2nd Reading.)



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 www.opelika-al.gov

December 10, 2019

Eddie Smith
 Patsy Jones
 Tiffany Gibson-Pitts
 Dozier Smith T
 David Canon

Re: Mural Ordinance

All:

After discussing the Mural Ordinance with Council Member Jones, Matt Mosley is recommending changes to the ordinance to alleviate her concerns. The following is a summary of the proposed changes to the Ordinance:

- (a) That the first paragraph of Section 4.5-4 (Prohibited Murals) is amended to read as follows:

“Murals that include any of the following are prohibited and are nuisances. A mural shall not depict, include or contain any of the following components and shall not be placed on certain property or within specified zoning districts as provided in this Section 4.5-4. Murals, mural types and mural placements and installations listed below are prohibited within the City limits:”

- (b) That Section 4.5-4(8) is amended to read as follows:

“8. Murals on sites developed as single-family homes, duplexes, townhomes, mobile homes or multi-family buildings with five or less dwelling units.”

- (c) That Section 4.5-4(9) is amended to read as follows:

“9. Murals within the following zoning districts: R-1, R-1A, R-2, R-3, R-4, R-4M, R-5, R-5M and I-1 as described in the Zoning Ordinance. Murals shall only be permitted within the following zoning districts: C-1, C-2, C-3, M-1, M-2, and



commercial and manufacturing areas within Planned Unit Developments. Murals outside these authorized zoning districts shall be in violation of this chapter.”

(d) That Section 4.5-7(D)(2) is amended to read as follows:

“2. Murals shall not be painted on unpainted brick without approval of a Certificate of Appropriateness from the Opelika Historic Preservation Commission.”

Attached hereto is a draft of the revised Ordinance with said changes.

The Ordinance was introduced at the December 3 meeting of the City Council. Attached hereto is a suggested protocol and procedure to adopt the mural ordinance. Also attached is a copy of the motion to amend.

If you have any questions or concerns, please don't hesitate to call me or Matt Mosley as needed.

Yours very truly,

Guy F. Gunter, III

GFG,III:jjp

Attachments

Cc: Gary Fuller
Barbara Arrington
Joel Motley
Matt Mosley
Bob Shuman

**PROTOCOL AND PROCEDURE TO ADOPT
ORDINANCE ADDING NEW CHAPTER 4.5 ENTITLED “ART AND CULTURE”**

1. I, (Council Member), move to adopt the Ordinance (adding new Chapter 4.5) on second reading.

2. Seconded by (Council Member).

3. I, (Council Member), move to amend the Ordinance (Mural Ordinance) in the following respects:

(e) That the first paragraph of Section 4.5-4 (Prohibited Murals) is amended to read as follows:

“Murals that include any of the following are prohibited and are nuisances. A mural shall not depict, include or contain any of the following components and shall not be placed on certain property or within specified zoning districts as provided in this Section 4.5-4. Murals, mural types and mural placements and installations listed below are prohibited within the City limits.”

(f) That Section 4.5-4(8) is amended to read as follows:

“8. Murals on sites developed as single-family homes, duplexes, townhomes, mobile homes or multi-family buildings with five or less dwelling units.”

(g) That Section 4.5-4(9) is amended to read as follows:

“9. Murals within the following zoning districts: R-1, R-1A, R-2, R-3, R-4, R-4M, R-5, R-5M and I-1 as described in the Zoning Ordinance. Murals shall only be permitted within the following zoning districts: C-1, C-2, C-3, M-1, M-2, and commercial and manufacturing areas within Planned Unit Developments. Murals outside these authorized zoning districts shall be in violation of this chapter.”

(h) That Section 4.5-7(D)(2) is amended to read as follows:

“2. Murals shall not be painted on unpainted brick without approval of a Certificate of Appropriateness from the Opelika Historic Preservation Commission.”



4. Seconded by (Council Member).
5. The question is put as to the adoption of the motion and the roll is called by the Clerk.
6. The President declares the motion carried.
7. I, (Council Member), move to adopt the Ordinance as amended.
8. Seconded by (Council Member).
9. The question is put as to the final passage and adoption of the Ordinance as amended and the roll is called by the Clerk.
10. The President declares the motion carried and the Ordinance adopted as amended.

**MOTION TO AMEND ORDINANCE ADDING
NEW CHAPTER 4.5 ENTITLED “ART AND CULTURE”
(ORDINANCE NO. ____-19)**

I, _____, move to amend the Ordinance (the “Ordinance adding Chapter 4.5”) in the following respects:

- (a) That the first paragraph of Section 4.5-4 (Prohibited Murals) is amended to read as follows:

“Murals that include any of the following are prohibited and are nuisances. A mural shall not depict, include or contain any of the following components and shall not be placed on certain property or within specified zoning districts as provided in this Section 4.5-4. Murals, mural types and mural placements and installations listed below are prohibited within the City limits.”

- (b) That Section 4.5-4(8) is amended to read as follows:

“8. Murals on sites developed as single-family homes, duplexes, townhomes, mobile homes or multi-family buildings with five or less dwelling units.”

- (c) That Section 4.5-4(9) is amended to read as follows:

“9. Murals within the following zoning districts: R-1, R-1A, R-2, R-3, R-4, R-4M, R-5, R-5M and I-1 as described in the Zoning Ordinance. Murals shall only be permitted within the following zoning districts: C-1, C-2, C-3, M-1, M-2, and commercial and manufacturing areas within Planned Unit Developments. Murals outside these authorized zoning districts shall be in violation of this chapter.”

- (d) That Section 4.5-7(D)(2) is amended to read as follows:

“2. Murals shall not be painted on unpainted brick without approval of a Certificate of Appropriateness from the Opelika Historic Preservation Commission.”

**PROTOCOL AND PROCEDURE TO ADOPT
ORDINANCE ADDING NEW CHAPTER 4.5 ENTITLED "ART AND CULTURE"**

1. I, (Council Member), move to adopt the Ordinance (adding new Chapter 4.5) on second reading.

2. Seconded by (Council Member).

3. I, (Council Member), move to amend the Ordinance (Mural Ordinance) in the following respects:

(e) That the first paragraph of Section 4.5-4 (Prohibited Murals) is amended to read as follows:

"Murals that include any of the following are prohibited and are nuisances. A mural shall not depict, include or contain any of the following components and shall not be placed on certain property or within specified zoning districts as provided in this Section 4.5-4. Murals, mural types and mural placements and installations listed below are prohibited within the City limits:"

(f) That Section 4.5-4(8) is amended to read as follows:

"8. Murals on sites developed as single-family homes, duplexes, townhomes, mobile homes or multi-family buildings with five or less dwelling units."

(g) That Section 4.5-4(9) is amended to read as follows:

"9. Murals within the following zoning districts: R-1, R-1A, R-2, R-3, R-4, R-4M, R-5, R-5M and I-1 as described in the Zoning Ordinance. Murals shall only be permitted within the following zoning districts: C-1, C-2, C-3, M-1, M-2, and commercial and manufacturing areas within Planned Unit Developments. Murals outside these authorized zoning districts shall be in violation of this chapter."

(h) That Section 4.5-7(D)(2) is amended to read as follows:

"2. Murals shall not be painted on unpainted brick without approval of a Certificate of Appropriateness from the Opelika Historic Preservation Commission."



4. Seconded by (Council Member).
5. The question is put as to the adoption of the motion and the roll is called by the Clerk.
6. The President declares the motion carried.
7. I, (Council Member), move to adopt the Ordinance as amended.
8. Seconded by (Council Member).
9. The question is put as to the final passage and adoption of the Ordinance as amended and the roll is called by the Clerk.
10. The President declares the motion carried and the Ordinance adopted as amended.

**MOTION TO AMEND ORDINANCE ADDING
NEW CHAPTER 4.5 ENTITLED "ART AND CULTURE"
(ORDINANCE NO. ____-19)**

I, _____, move to amend the Ordinance (the "Ordinance adding Chapter 4.5") in the following respects:

- (a) That the first paragraph of Section 4.5-4 (Prohibited Murals) is amended to read as follows:

"Murals that include any of the following are prohibited and are nuisances. A mural shall not depict, include or contain any of the following components and shall not be placed on certain property or within specified zoning districts as provided in this Section 4.5-4. Murals, mural types and mural placements and installations listed below are prohibited within the City limits:"

- (b) That Section 4.5-4(8) is amended to read as follows:

"8. Murals on sites developed as single-family homes, duplexes, townhomes, mobile homes or multi-family buildings with five or less dwelling units."

- (c) That Section 4.5-4(9) is amended to read as follows:

"9. Murals within the following zoning districts: R-1, R-1A, R-2, R-3, R-4, R-4M, R-5, R-5M and I-1 as described in the Zoning Ordinance. Murals shall only be permitted within the following zoning districts: C-1, C-2, C-3, M-1, M-2, and commercial and manufacturing areas within Planned Unit Developments. Murals outside these authorized zoning districts shall be in violation of this chapter."

- (d) That Section 4.5-7(D)(2) is amended to read as follows:

"2. Murals shall not be painted on unpainted brick without approval of a Certificate of Appropriateness from the Opelika Historic Preservation Commission."

ORDINANCE NO. (ID # 3806)

Amend Wyndham PUD Master Plan - 2nd Reading.

ORDINANCE NO. _____

AN ORDINANCE TO AMEND THE DEVELOPMENT PLAN
FOR WYNDHAM PUD

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

Section 1. Findings. The City Council has determined and hereby finds and declares that the following facts are true and correct:

“(a) Wyndham Properties, LLC heretofore submitted to the City a Development Plan for a planned unit development (“PUD”) entitled “Wyndham PUD” consisting of approximately 640 acres.

(b) Pursuant to Ordinance 109-05, adopted on June 8, 2005, the City Council approved said Development Plan for Wyndham PUD and amended the official Zoning Map of the City to designate the zoning classification of PUD for approximately 640 acres

(c) Wyndham PUD is a mixed-use development located south of Hall Avenue, west of Marvyn Parkway and east of Society Hill Road.

(d) Wyndham PUD has been partially developed with an industrial area on Wyndham Industrial Drive and two (2) residential sections consisting of 416 lots.

(e) Opelika Gateway Properties, LLC, has heretofore submitted to the City a proposed Amended Development Plan for the area of Wyndham PUD located south of Gateway Drive and west of Marvyn Parkway.

(f) The Amended Development Plan provides for single-family homes, townhomes,

apartments, commercial uses and over 115 acres of open space.

(g) Amenities offered to residents include a swimming pool with pavilion, a dog park, play areas and large open space areas.

(h) The Planning Commission of the City of Opelika heretofore conducted a public hearing on the proposed Amended Development Plan.

(i) The Planning Commission recommended approval of the Amended Development Plan for Wyndham PUD.

(j) It is advisable and in the interest of the City and in the public interest that the Amended Development Plan be approved.

Section 2. Approval of the Amended Development Plan. The Amended Development Plan for Wyndham PUD as submitted for review is hereby approved and confirmed as required by Section 8.18(n) of the Zoning Ordinance of the City.

Section 3. Retention of copies of the Amended Development Plan. Copies of the Amended Development Plan shall be maintained in the offices of the City Clerk, City Planner, City Engineer, and Building Official and shall be open for public inspection.

Section 4. Repealer. Any ordinance or part thereof in conflict with provisions of this Ordinance be and the same are hereby repealed.

Section 5. Effective Date. This Ordinance shall become effective upon its adoption, approval and publication as required by law.

Section 6. Publication. This Ordinance shall be published one (1) time in a newspaper of general circulation in the City of Opelika, Lee County, Alabama.

ADOPTED AND APPROVED this the ____ day of _____, 2020.

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

ATTEST:

CITY CLERK

TRANSMITTED TO MAYOR on this the ____ day of _____, 2020.

CITY CLERK

ACTION BY MAYOR

APPROVED this the ____ day of _____, 2020.

MAYOR

ATTEST:

CITY CLERK

ORDINANCE NO. 029-19-ORD

Amend City Code, Chapter 2, Office of City Clerk/Treasurer - 1st Reading.

ORDINANCE NO. _____

**AN ORDINANCE AMENDING DIVISION 6 OF ARTICLE II OF CHAPTER 2
OF THE *CODE OF ORDINANCES* OF THE CITY OF OPELIKA, ALABAMA
TO ESTABLISH THE OFFICE OF CITY CLERK/TREASURER AND DEFINE THE
POWERS, DUTIES AND FUNCTIONS OF THE CITY CLERK/TREASURER**

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

Section 1. **Amendment of Division 6 of Article II of Chapter 2 of the *Code of Ordinances*.** That Division 6 of Article II of Chapter 2 the *Code of Ordinances* of the City of Opelika, Alabama, entitled “City Clerk/Treasurer” is hereby amended to read as follows:

Division 6. City clerk/treasurer.

Section 2-125.6 Establish.

The nonclassified position of city clerk/treasurer is hereby established, and said offices of clerk and treasurer shall be consolidated in accordance with the provisions of §11-43-3, *Code of Alabama* (1975). The office of city clerk/treasurer shall be filled by the city council at its first regular meeting or as soon thereafter as shall be practicable and such appointee shall hold office until the next general election, and until his successor is elected and qualified. It is the intent of the council that said appointment shall be filled at the complete discretion of the council without posting, notice or compliance with any other selection procedures of the city.

Section 2-125.7 Compensation.

The salary, compensation and emoluments of the city clerk/treasurer shall be fixed by

resolution of the city council and shall not be diminished during the term of office for which he shall have been selected or appointed. The city clerk/treasurer shall not receive for his own use any other fees or other compensation for his services as such officer.

Section 2-125.8 Removal.

Any person appointed to the office of city clerk/treasurer may be removed after a hearing, by a two-thirds vote of all of those elected to the council for incompetency, malfeasance, misfeasance or nonfeasance of office and for conduct detrimental to the good order or discipline of the city, including habitual neglect of duty.

Section 2-125.9 Separation of offices.

The offices of city clerk and treasurer shall remain consolidated until they are separated by vote of a successor council. The council, with the consent of the mayor and a two-thirds vote of the majority, may divide the offices of clerk and treasurer as provided in §11-43-3, *Code of Alabama* (1975). Any such action shall be done at the beginning of a new council to assure that the term of the officeholder is not diminished.

Section 2-125.10 Official custodian of records.

(a) As the lawfully designated custodian of certain city documents and records, the city clerk's office shall maintain a permanent filing system of (1) each resolution and ordinance adopted by the city council; (2) certain contracts, agreements and franchises entered into by the city; (3) deeds to all property acquired or sold by the city; (4) appointment files and expiration notices for city boards and agencies; and (5) reports, plans or studies adopted by the city council.

(b) The city clerk's office shall prepare official minutes of all meetings of the city council as required by law; provide the public with access to all public records in his possession; and assist individuals and groups seeking information about the city and its departments.

Section 2-125.11 Powers and duties of city clerk/treasurer

The city clerk/treasurer shall have the following power and duties:

- (1) Attend all regular and special meetings of the city council and attend certain meetings of all committees, boards and commissions of the city to the extent required by law or the council.
- (2) Prepare and maintain the minutes of all meetings of the city council.
- (3) Maintain custody of the seal of the city and impress the seal upon all papers and documents where the seal of the city must appear.
- (4) Attest the execution of city documents.
- (5) Publish notice of public hearings, special meetings of the city council, elections and other official actions as required by state law and city ordinance.
- (6) Maintain copies of all city ordinances and resolutions for public use.
- (7) Receive and file all communications and petitions directed to the city council or to the city generally and indicate thereon the action of the city council taken upon matters in such communications and petitions.
- (8) Inform persons appointed by the mayor or city council to offices in municipal government of their position and the time at which they assume the duties of their office as required by the Mayor or the Council.
- (9) Submit claims, requisitions and demands against the city to the city council at its next regular meeting for approval, unless already provided for by ordinance or resolution.
- (10) Provide information or assistance to the public on request by answering questions, researching records and directing them to appropriate persons and transmitting messages

to city staff or officials.

(11) Prepare certain resolutions, contracts, agreements and notices at the direction of the city council.

(12) Publish certain legal notices and advertisements as required by law.

(13) Mail notices to property owners of public improvements made by the city council.

(14) Ensure city ordinances, resolutions and minutes of the city council are signed and recorded, if necessary.

(15) Monitor the execution of city agreements, contracts and other legal documents.

(16) Coordinate, manage and supervise the conduct of municipal elections; receive and file election statements as required by law; direct and supervise election personnel and ensure compliance with federal, state and local laws and regulations.

(17) Serve as absentee ballot manager in the conduct of all municipal elections.

(18) Under the supervision of the president of the city council, prepare agendas of all city council meetings and work session meetings.

(19) Manage the investment of city funds in accordance with state laws and city policies and provide current status, activity and performance reports to the council and mayor as requested.

(20) Maintain a record of pledged collateral by official depositories to comply with state law.

(21) Coordinate the information flow between the city council, the mayor and city

staff.

(22) Compose correspondence, reports, memos, letters, notices, resolutions and ordinances on behalf of the city council.

(23) Conduct necessary research and provide support materials to aid the city council and mayor in making informed decisions.

(24) Carry out assignments and directives of the city council.

(25) Act as liaison between the city council and city staff.

(26) Co-sign city checks and drafts as required by the city council and mayor.

(27) Collaborate with mayor, city council and city staff to formulate long range plans and goals of the city.

(28) Perform such other duties as may be required of city clerks and city treasurers by law.

(29) Perform such other duties as may be required by the city council.

Section 2-125.12 Supervision.

The city clerk/treasurer shall report directly to and work under the general supervision of the President of the City Council. The President of the City Council shall evaluate, at least annually, the performance of the city clerk/treasurer. Said evaluation and review shall be conducted in accordance with the established rules and regulations of the Personnel Policies and Procedures Manual. The President of the City Council shall provide the city clerk/treasurer with an adequate opportunity to discuss his evaluation with the President of the City Council. The President of the City Council shall provide copies of the annual evaluation to the city council.

Section 2-125.13 Office Hours.

The hours that the office of the City clerk/treasurer will be open for business shall be between 8:00 a.m. and 5:00 p.m., Monday through Friday except for City-authorized holidays and those days the City clerk/treasurer is on approved leave. The employee's duties may involve expenditures of time in excess of the regularly established workday or in excess of a forty (40) hour work week and may also include time outside of normal office hours.

Section 2-125.14 Residency requirement.

The City clerk/treasurer shall be a resident of the City of Opelika, and shall not cease to be a resident during his or her employment by the City. The City Council may remove the appointee for failure to establish and maintain residency in the City during his or her incumbency.

Section 2. **Amendment of Section 2-17.** That Section 2.17 of the *Code of Ordinances* of the City of Opelika is hereby amended to read as follows:

Sec. 2-17 Absence of clerk/treasurer; assumption of powers and duties by city administrator.

Whenever the clerk/treasurer of the City of Opelika shall be absent from his office or shall be unable to discharge the powers and duties of his office, the city administrator shall immediately assume the powers and duties of the office as acting clerk/treasurer during such time.

Section 3. **Severability Clause.** If any section, subsection, clause, or phrase of this ordinance is held to be invalid or unconstitutional by any court of valid jurisdiction, said holding shall not affect the remaining portion of this Ordinance.

Section 4. **Repealer Clause.** All former ordinances or parts thereof conflicting with this Ordinance or the code sections hereby adopted are repealed to the extent they are in conflict.

All remaining portions of said Ordinance shall remain in full force and effect.

Section 5. **Effective Date.** This Ordinance shall become effective on March 1, 2020, except that the residency requirements of Section 2-125.14 shall not apply to the incumbent city clerk/treasurer.

Section 6. **Publication.** The City Clerk of the City of Opelika, Alabama is hereby authorized and directed to cause this Ordinance to be published one (1) time in a newspaper of general circulation published in the City of Opelika, Lee County, Alabama.

Section 7. **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 _____, 20__.

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

ATTEST:

CITY CLERK

TRANSMITTED TO MAYOR on this the ____ day of _____, 20__.

CITY CLERK

ACTION BY MAYOR

APPROVED this the ____ day of _____, 20__.

MAYOR

ATTEST:

CITY CLERK

ORDINANCE NO. 030-19-ORD
GO Warrants, Series 2019 - A / 1st Reading.

**EXCERPTS FROM THE MINUTES OF A REGULAR MEETING OF
THE CITY COUNCIL OF THE CITY OF OPELIKA**

The City Council of the City of Opelika met in regular public session at City Hall in the City of Opelika, Alabama, at 7:00 o'clock p.m. on the 17th day of December, 2019. The meeting was called to order by the Council President, and the roll was called with the following results:

Present: Charles E. Smith, President
Patricia A. Jones, President Pro Tem
Tiffany Gibson-Pitts
Dozier Smith T
David Canon

Absent: None

Gary Fuller, Mayor, Robert G. Shuman, City Clerk/Treasurer, and Joey Motley, City Administrator, were also present. The President of the Council announced that a quorum was present and that the meeting was open for the transaction of business.

Councilmember _____ moved for unanimous consent of the Council to suspend the rules of procedure to allow for the immediate consideration of the following Ordinance:

ORDINANCE NO. 0____-19

**AN ORDINANCE AUTHORIZING THE ISSUANCE AND PAYMENT OF \$2,705,000 PRINCIPAL
AMOUNT OF GENERAL OBLIGATION WARRANTS, SERIES 2019-A, TO BE DATED
DECEMBER 19, 2019**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF OPELIKA, ALABAMA, AS FOLLOWS:

Section 1. Definitions and Use of Phrases.

The following words and phrases and others evidently intended as the equivalent thereof shall, in the absence of clear implication herein otherwise, be given the following respective interpretations herein:

"Authorized Denominations" means with respect to all Warrants the amount of \$5,000 and any integral multiple thereof for each maturity.

"Authorizing Ordinance" means this ordinance authorizing the issuance of the Warrants.

"Book-Entry System" means a book-entry only system of evidence of purchase and transfer of beneficial ownership interests in the Warrants.

"Business Day" shall mean a day, other than a Saturday or a Sunday, on which commercial banking

institutions are open for business in the state where the principal corporate trust office of the Paying Agent is located and a day on which the payment system of the Federal Reserve System is operational.

"Code" means the Internal Revenue Code of 1986, as amended.

"Direct Participant" or "Direct Participants" means securities brokers and dealers, banks, trust companies, clearing corporations and other financial institutions which have access to the Book-Entry System.

"Eligible Certificates" means interest bearing certificates of deposit issued by any bank organized under the laws of the United States of America or any state thereof having a combined capital, surplus and undivided profits of not less than \$50,000,000, provided that such certificates of deposit are secured by the issuing bank by depositing and pledging with a Federal Reserve Bank Government Obligations having a market value (exclusive of accrued interest) not less than the face amount of such certificates.

"Government Obligations" means direct general obligations of the United States of America or any securities on which the payment of the principal of and interest on which are unconditionally guaranteed by the United States of America.

"Indirect Participant" or "Indirect Participants" means securities brokers and dealers, banks, trust companies, clearing corporations and other financial institutions for which the Securities Depository holds Warrants as securities depository through a Direct Participant.

"Interest Payment Dates" means April 1 and October 1 in each calendar year, beginning April 1, 2020.

"Letter of Representation" means and includes (i) the Letter of Representation with respect to the Warrants from the City to the Securities Depository and (ii) any other or subsequent agreement by whatsoever name or identification with respect to the Warrants between said parties from time to time in effect.

"City" means the City of Opelika, Alabama, a municipal corporation under the laws of the State of Alabama, and any successor to its functions.

"Paying Agent" means The Bank of New York Mellon Trust Company, N.A., the bank designated as (i) the place of payment of the Warrants, (ii) the registrar and authenticating agent of the Warrants and (iii) the paying agent and depository for the Warrant Fund, and any successor bank to The Bank of New York Mellon Trust Company, N.A designated by the City pursuant to the provisions of Section 12 hereof.

"Qualified Investments" shall mean:

- (1) Government Obligations; or
- (2) Eligible Certificates; or
- (3) Money market funds customarily utilized by the Paying Agent for the investment of public funds and rated "AA-m" or "AAm-G" or better by Standard & Poor's Rating Group.

"Record Date" means, with respect to the Warrants, that date which is 15 calendar days before any date on which interest is due and payable on the Warrants.

"Securities Depository" means The Depository Trust Company, a limited purpose trust company organized under the laws of the State of New York, and the successors and assigns thereof, and any substitute securities depository therefor that maintains a Book-Entry System for the Warrants.

"Securities Depository Nominee" means the Securities Depository or the nominee of such Securities Depository in whose name there shall be registered on the Warrant Register the Warrants to be delivered to such Securities Depository during a period in which the Warrants are held pursuant to the Book-Entry System.

"Series 2010-A Warrants" means the City's outstanding General Obligation School Warrants, Series 2010-A, dated July 1, 2010.

"Warrants" means the City's \$2,705,000 principal amount of General Obligation Warrants, Series 2019-A, dated December 19, 2019, authorized hereunder.

"Warrant Fund" means the Series 2019-A General Obligation Warrants Fund, established pursuant to Section 8 hereof.

"Warrant Register" means the register or registers for the registration and transfer of Warrants maintained by the City pursuant to Section 3(e).

"Warrant Registrar" means the agent of the City appointed as such pursuant to Section 3(e) for the purpose of registering Warrants and transfers of Warrants.

The definitions set forth in this section shall be deemed applicable whether the words defined are used herein in the singular or the plural. Wherever used herein, any pronoun or pronouns shall be deemed to include both singular and plural and to cover all genders.

Section 2. Findings and Representations.

The City, by and through its City Council, does hereby find, determine, represent, and warrant as follows:

(a) It is necessary, desirable and in the public interest for the City to (1) currently refund and redeem the Series 2010-A Warrants on January 18, 2020 (or the earliest date thereafter for which notice may be given) in order to realize interest cost savings, and (2) pay issuance expenses.

(b) The assessed valuation of the taxable property in the City for fiscal year 2019 (including motor vehicles) is not less than \$456,159,360 (including motor vehicles), and the total indebtedness of the City (including the Warrants) chargeable against the debt limitation for the City prescribed by the Constitution of the State of Alabama will not be more than twenty percent of said assessed valuation.

(c) The City is not in default under any ordinances or contracts evidencing its general obligation indebtedness and no such defaults thereunder or under any other debt proceedings are imminent.

Section 3. Authorization and Description of Warrants.

(a) Pursuant to the applicable provisions of the laws of the State of Alabama, including particularly Section 11-47-2 of the CODE OF ALABAMA 1975, as amended, there is hereby authorized to be issued a series of warrants designated "General Obligation Warrants, Series 2019-A" in the maximum aggregate principal amount of \$2,705,000. The Warrants shall be dated December 19, 2019, shall be in registered form, without coupons, shall be in the denomination of \$5,000 or any integral multiple thereof, and shall be numbered in such manner as the Paying Agent shall determine will be most useful for the identification thereof. The Warrants shall mature as hereinafter provided, on October 1 in years and principal amounts as follows and shall bear interest at the following per annum rates for all Warrants maturing in the year set opposite such rates:

<u>Year of Maturity</u>	<u>Principal Amount Maturing</u>	<u>Applicable Interest Rate</u>	<u>Year of Maturity</u>	<u>Principal Amount Maturing</u>	<u>Applicable Interest Rate</u>
2020	\$415,000	3.000%	2023	\$455,000	4.000%
2021	430,000	3.000	2024	470,000	4.000
2022	445,000	3.000	2025	490,000	4.000

(b) Subject to the requirements of the Book-Entry System hereinafter described, the principal of and premium (if any) on the Warrants shall be payable only upon presentation and surrender of the Warrants at the designated office of the Paying Agent. Interest on the Warrants shall be remitted by the Paying Agent to the respective registered owners of the Warrants at the addresses thereof shown on the registration books of the Paying Agent pertaining to the Warrants. Interest shall be payable on April 1 and October 1 in each year, first interest payable on April 1, 2020. The principal of, premium, if any, and interest on the Warrants shall be payable in lawful money of the United States at par and without discount, exchange, deduction or charge therefor.

(c) Book-Entry System.

(i) The Warrants shall initially be issued pursuant to a Book-Entry System administered by the Securities Depository with no physical distribution of any Warrant to any person. One Warrant for each maturity of such series will be issued, registered in the name of the Securities Depository Nominee, and immobilized in the custody of the Securities Depository. Beneficial ownership interests in Warrants held by the Securities Depository may be purchased by or through Direct Participants. The holders of these beneficial ownership interests in such Warrants are referred to as the "Beneficial Owners." The Beneficial Owners will not receive certificated warrants representing their beneficial ownership interests. Ownership of the interests in Warrants in Authorized Denominations will be evidenced on the records of the Securities Depository and the Direct Participants and Indirect Participants pursuant to rules and procedures established by the Securities Depository. During a period in which the Book-Entry System is in effect for the Warrants, the City and the Paying Agent shall treat the Securities Depository or the Securities Depository Nominee as the only registered owner of such Warrants for all purposes under the Ordinance, including, without limitation, receipt of all principal of, premium (if any) and interest on the Warrants, receipt of notices, voting, and requesting or directing the Paying Agent or City to take or not to take, or consenting to, certain actions under the Ordinance. In the event the Securities Depository or the Securities Depository Nominee assigns its rights to consent or vote under the Ordinance to any Direct Participant or Indirect Participant, the City and the Paying Agent shall treat such assignee or assignees as the only registered owner or owners of the Warrants of such series for the purpose of exercising such rights so assigned.

(ii) During a period in which the Book-Entry System is in effect for the Warrants, payments of principal and interest, with respect to such Warrants will be paid by the Paying Agent directly to the Securities Depository, or the Securities Depository Nominee, as Holder, and as provided in the Letter of Representations; provided, that payment of the principal of such Warrants due at final maturity of such Warrants shall be made only upon surrender thereof at the designated office of the Paying Agent. The Securities Depository and the Direct Participants and the Indirect Participants shall be responsible for the disbursement of such payments to the Beneficial Owners. All such payments to the Securities Depository or the Securities Depository Nominee, as Holder, of principal of, and interest on such Warrants on behalf of the City or the Paying Agent shall be valid and effectual to satisfy and discharge the liability of the City and the Paying Agent to the extent of the amounts so paid, and the City and the Paying Agent shall not be responsible or liable for payment to any Beneficial Owner by the Securities Depository or by any Direct Participant or by any Indirect Participant, or for sending transaction statements or for maintaining, supervising or reviewing records maintained by the Securities

Depository or Direct Participants or Indirect Direct Participants.

(iii) Transfers of ownership interests in the Warrants by the Beneficial Owners thereof, and conveyance of notices and other communications by the Securities Depository to Direct Participants, by Direct Participants to Indirect Participants, and by Direct Participants and Indirect Participants to Beneficial Owners of the Warrants, will be governed by arrangements among the Securities Depository, Direct Participants, Indirect Participants and the Beneficial Owners, subject to any statutory and regulatory requirements as may be in effect from time to time. For every transfer and exchange of beneficial ownership in such Warrants, the Beneficial Owners may be charged a sum sufficient to cover any tax, fee or other governmental charge that may be imposed in relation thereto.

(iv) Redemption notices respecting Warrants held by the Securities Depository shall be sent to the Securities Depository Nominee by the Paying Agent.

(v) In the event that the Securities Depository ceases to act as the securities depository for the Warrants, the City shall discontinue the Book-Entry System for such Warrants. If the City fails to appoint another qualified securities depository to replace the then acting Securities Depository, the City will cause the Paying Agent to authenticate and deliver fully registered certificated Warrants to each Beneficial Owner in evidence of the ownership interests thereof. The Securities Depository shall provide a list of Warrantholders with addresses to the Paying Agent. If the Book-Entry System is discontinued for the Warrants, payments to, and transfers of such Warrants by the Beneficial Owners shall be governed by the provisions set forth in this Ordinance with respect thereto.

(vi) The City may enter into a custody agreement with any bank or trust company serving as Paying Agent (which may be the Paying Agent serving in the capacity of Paying Agent) to provide for a Book-Entry System or similar method for the registration and transfer of the Warrants.

(vii) During a period in which the Book-Entry System is in effect for the Warrants in accordance herewith, the provisions of this Ordinance and such Warrants shall be construed in accordance with the Letter of Representations and to give full effect to such Book-Entry System.

(viii) The Beneficial Owners of the Warrants, by their acquisition of any beneficial interest in a Warrant or Warrants, and the Securities Depository, the Securities Depository Nominee, and all Direct Participants and all Indirect Participants, severally agree that the City and the Paying Agent shall not have any responsibility or obligation to any Direct Participant or any Indirect Participant or any Beneficial Owner with respect to (1) the accuracy of any records maintained by the Securities Depository or any Direct Participant or any Indirect Participant; (2) the payment by the Securities Depository or any Direct Participant or any Indirect Participant of any amount due to any Beneficial Owner in respect of the principal of, premium (if any) and interest on the Warrants; (3) the delivery or timeliness of delivery by the Securities Depository or any Direct Participant or any Indirect Participant of any notice due to any Beneficial Owner which is required or permitted under the terms of the Ordinance to be given to Beneficial Owners; or (4) any consent given or other action taken by the Securities Depository, or the Securities Depository Nominee, as owner.

(d) Discontinuation of Book-Entry System; Registration; Transfer and Exchange of Warrants; Replacement of Lost, Destroyed or Stolen Warrants.

(i) The Warrants may be issued in certificated form, and not pursuant to a Book Entry System, in accordance with the provisions hereof.

(ii) The Securities Depository may determine to discontinue the Book-Entry System with respect to the Warrants at any time upon notice to the City and the Paying Agent and upon discharge of its responsibilities

with respect thereto under applicable law. Upon such notice and compliance with law the Book-Entry System for such Warrants will be discontinued unless a successor securities depository is appointed by the City.

(iii) In the event the Book-Entry System for the Warrants is discontinued, Warrants in certificated form in Authorized Denominations will be physically distributed to the Beneficial Owners thereof and such Warrants will be registered in the names of the owners thereof on the registration books of the Paying Agent pertaining thereto, and the Paying Agent will make payments of principal of, premium (if any) and interest on such Warrants to the registered owners thereof as provided in the Warrants and this ordinance and the following provisions with respect to registration, transfer and exchange of such Warrants by the registered owners thereof shall apply:

(1) Each of the Warrants may be transferred by the Holder thereof or his duly authorized attorney, only on the Warrant Register upon surrender of such Warrant to the Warrant Registrar for cancellation. Upon surrender for transfer of any Warrant, the City shall execute, and the Paying Agent shall authenticate, register and deliver, in the name of the designated transferee or transferees, one or more new Warrants of any Authorized Denominations and in a principal amount equal to the unpaid or unredeemed portion of the principal of the Warrant so presented.

(2) At the option of the Holder, Warrants may be exchanged for other Warrants of the same series, of any Authorized Denomination and of a like aggregate principal amount, upon surrender of the Warrants to be exchanged at a designated corporate office of the Warrant Registrar. Whenever any Warrants are so surrendered for exchange, the City shall execute, and the Paying Agent shall authenticate, register and deliver, the Warrants which the Holder making the exchange is entitled to receive.

(3) All Warrants surrendered upon any exchange or transfer provided for in this Ordinance shall be canceled.

(4) All Warrants issued upon any transfer or exchange of Warrants shall be the valid obligations of the City and be entitled to the same security and benefits under this Ordinance as the Warrants surrendered upon such transfer or exchange.

(5) Every Warrant presented or surrendered for transfer or exchange shall be duly endorsed or be accompanied by a written instrument of transfer in form satisfactory to the City and the Warrant Registrar duly executed by the Holder thereof or his attorney duly authorized in writing.

(6) The Warrant Registrar shall not be required to transfer or exchange any Warrant during the period between the Record Date and the then next succeeding interest payment date; and, in the event that any Warrant (or any part thereof) is duly called for redemption, the Warrant Registrar shall not be required to transfer or exchange any such Warrant during the period of forty-five (45) days next preceding the date fixed for such redemption.

(7) If (i) any mutilated Warrant is surrendered to the Paying Agent, or the City and the Paying Agent receive evidence to their satisfaction of the destruction, loss or theft of any Warrant, and (ii) there is delivered to the City and the Paying Agent such security or indemnity as may be required by them to save each of them harmless, then, in the absence of notice to the City or the Paying Agent that such Warrant has been acquired by a bona fide purchaser, the City shall execute and the Paying Agent shall authenticate, register and deliver, in exchange for or in lieu of any such mutilated, destroyed, lost or stolen Warrant, a new Warrant of like tenor and principal amount, bearing a number not contemporaneously outstanding.

(8) Upon the transfer or exchange of any Warrant or the issuance of any new Warrant under this Section, the City may require the payment of a sum sufficient to cover any tax or other governmental charge that may be imposed in relation thereto and any other expenses connected therewith; provided no charge shall be made to the Holder for any transfer or exchange of Warrants.

(9) Every new Warrant issued pursuant to this Section in lieu of any destroyed, lost or stolen Warrant shall constitute an original additional contractual obligation of the City, whether or not the destroyed, lost or stolen Warrant shall be at any time enforceable by any person.

(10) The provisions of this Section are exclusive and shall preclude (to the extent lawful) all other rights and remedies with respect to the replacement or payment of mutilated, destroyed, lost or stolen Warrants.

(e) Registration of Warrants.

The City shall cause to be kept at the designated corporate office of the Paying Agent a register (the "Warrant Register") in which, subject to such reasonable regulations as it may prescribe, the City shall provide for the registration of Warrants and registration of transfers of Warrants entitled to be registered or transferred as herein provided. The Paying Agent is hereby appointed "Warrant Registrar" for the purpose of registering Warrants and transfers of Warrants as herein provided.

Section 4. Redemption of Warrants. The Warrants are not subject to redemption prior to maturity.

Section 5. Form of Warrants.

The form of the Warrants and the requisite certificates thereof shall be substantially as follows:

**UNITED STATES OF AMERICA
STATE OF ALABAMA
CITY OF OPELIKA
GENERAL OBLIGATION WARRANT
SERIES 2019-A**

Maturity

Date

Interest Rate

CUSIP

The CITY OF OPELIKA, a municipal corporation organized and existing under and by virtue of the laws of the State of Alabama (the "City"), for value received, hereby acknowledges itself indebted to CEDE & CO. or registered assigns in the principal sum of

_____ DOLLARS (\$_____)

and hereby orders and directs the City Clerk/Treasurer of the City to pay to said payee or registered assigns solely from the Fund hereinafter designated said sum on the Maturity Date specified above, and to pay from said Fund interest on said sum from the date hereof at the per annum Interest Rate specified above, payable on April 1 and October 1 in each year, first interest payable on April 1, 2020. Interest shall be computed on a 360-day year with twelve months of thirty days each. The principal of and interest on this Warrant are payable in lawful money of the United States of America, at par and without deduction for exchange or costs of collection.

The principal of and premium (if any) on this Warrant shall be payable only upon presentation and surrender of this Warrant at the designated office of The Bank of New York Mellon Trust Company, N.A, Birmingham, Alabama (the "Paying Agent"). Subject to the requirements of the Book-Entry System hereinafter described,

interest on this Warrant shall be remitted by the Paying Agent to the then registered owner of this Warrant at the address thereof shown on the registration books of the Paying Agent. Such payments shall be deemed timely made if so mailed on the interest payment date (or if such interest payment date is not a business day, on the business day next following such interest payment date). All such payments shall be valid and effectual to satisfy and discharge the liability of the City or the Paying Agent upon this Warrant to the extent of the sum or sums so paid.

This Warrant is one of a duly authorized issue of General Obligation Warrants, Series 2019-A, of the City (the "Warrants") limited to an aggregate principal amount of \$2,705,000, issued pursuant to the Constitution and laws of the State of Alabama, including the provisions of Section 11-47-2 of the CODE OF ALABAMA 1975, as amended, and ordinances and proceedings of the City duly held, passed and conducted on December 17, 2019 (the "Authorizing Ordinance"). The indebtedness evidenced by the Warrants is a general obligation of the City, and the full faith and credit of the City are hereby pledged to the punctual payment of the principal thereof and interest thereon.

The Warrants are initially issued in Authorized Denominations pursuant to a Book-Entry System to be administered by the Securities Depository and registered in the name of and held by the Securities Depository Nominee, all as more particularly provided in the Authorizing Ordinance. Reference is hereby made to the Authorizing Ordinance for the terms and conditions upon which the purchase, transfer and exchange of beneficial ownership interest in the Warrants are to be made by means of the Book-Entry System administered by the Securities Depository, to and by all of which terms, conditions and provisions of the Authorizing Ordinance the owner of any beneficial interest in the Warrant, by the acquisition hereof, hereby assents and agrees to be bound. In the event the Book-Entry System for the Warrants is discontinued, Warrants in certificated form in Authorized Denominations will be physically distributed to the Beneficial Owners thereof, the hereinafter described Warrants will be registered in the names of the owners thereof on the registration books of the Paying Agent pertaining thereto, the Paying Agent shall make payments of principal of and interest on the Warrants to the registered owners thereof as provided in the Warrants and the Authorizing Ordinance, and the provisions of this warrant and of the Authorizing Ordinance with respect to registration, transfer and exchange of warrants by the registered owners thereof shall apply.

The City has established in the Authorizing Ordinance a special fund designated "Series 2019-A General Obligation Warrants Fund" for the payment of the principal of, premium, if any, and interest on the Warrants and has obligated itself to pay or cause to be paid into said Fund from the revenues or other funds of the City sums sufficient to provide for the payment of the principal of, premium, if any, and interest on the Warrants as the same mature and come due.

The Warrants are not subject to redemption prior to maturity.

The Warrants are issuable only as fully registered Warrants in the denomination of \$5,000 or any integral multiple thereof. Provision is made in the Authorizing Ordinance for the exchange of Warrants for a like aggregate principal amount of Warrants of the same maturity and in authorized denomination, all upon the terms and subject to the conditions set forth in the Authorizing Ordinance with respect thereto.

If the Book-Entry System is not in effect, then the Warrants may be transferred by the registered owner in person or by authorized attorney, only on the books of the Paying Agent and only upon surrender of the Warrant to the Paying Agent for cancellation with a written instrument of transfer acceptable to the Paying Agent executed by the registered owner or his duly authorized attorney, and upon any such transfer, a new Warrant of like tenor shall be issued to the transferee in exchange thereof. Each registered owner, by receiving or accepting this Warrant, shall consent and agree and shall be estopped to deny that insofar as the City and the Paying Agent are concerned, this Warrant may be transferred only in accordance with the provisions of the Authorizing Ordinance.

Provision is made in the Authorizing Ordinance for the replacement of any Warrant which shall be or become mutilated, lost, stolen or destroyed by the issuance, authentication and registration of a new Warrant of like tenor, subject, however, to the terms, conditions and limitations contained in the Authorizing Ordinance with respect thereto.

The Paying Agent shall not be required to transfer or exchange any Warrant during the period of fifteen (15) days next preceding any April 1 or October 1; and in the event that any Warrant (or any principal part thereof) is duly called for redemption and prepayment, the Paying Agent shall not be required to register or transfer any such Warrant during the period of forty-five (45) days next preceding the date fixed for such redemption or prepayment. No charge shall be made for the privilege of transfer, but the registered owner of any Warrant requesting any such transfer shall pay any tax or other governmental charge required to be paid with respect thereto.

It is hereby recited, certified and declared that the indebtedness evidenced and ordered paid by this Warrant is lawfully due without condition, abatement or offset of any description, that this Warrant has been registered in the manner provided by law, that all acts, conditions and things required by the Constitution and laws of the State of Alabama to happen, exist and be performed precedent to and in the execution, registration and issuance of this Warrant, and the adoption of the Authorizing Ordinance have happened, do exist and have been performed as so required and that the principal amount of this Warrant, together with all other indebtedness of the City, are within every debt and other limit prescribed by the Constitution and laws of the State of Alabama.

IN WITNESS WHEREOF, the City has caused this Warrant to be manually executed in its name and on its behalf by its Mayor and manually attested by its City Clerk/Treasurer, who has signed this Warrant and caused its corporate seal to be affixed hereto, and has caused this Warrant to be dated December 19, 2019.

CITY OF OPELIKA, ALABAMA

CITY SEAL

By _____
Its Mayor

Attest: _____
City Clerk/Treasurer

AUTHENTICATION AND REGISTRATION DATE:

AUTHENTICATION AND REGISTRATION CERTIFICATE

This Warrant is hereby authenticated and has been registered by the City of Opelika on the registration books maintained with the Paying Agent in the name of the above registered owner on the Authentication and Registration Date noted above.

**THE BANK OF NEW YORK
MELLON TRUST COMPANY, N.A.**

By _____
Its Authorized Officer

REGISTRATION CERTIFICATE

I hereby certify that this Warrant has been duly registered by me as a claim against the City of Opelika, in the State of Alabama and the Warrant Fund referred to herein.

City Clerk/Treasurer

ASSIGNMENT

For value received _____ hereby sell(s), assign(s) and transfer(s) unto _____ the within Warrant and hereby irrevocably constitute(s) and appoint(s) _____ attorney, with full power of substitution in the premises, to transfer this Warrant on the books of the within mentioned Paying Agent.

Dated this ____ day of _____, 20__

NOTE: The signature on this assignment must correspond with the name of the registered owner as it appears on the face of the within Warrant in every particular, without alteration, enlargement or change whatsoever.

Signature Guaranteed:

(Bank, Broker or Firm*)

By _____

Its _____

Medallion Number: _____

- * Signature(s) must be guaranteed by an eligible guarantor institution which is a member of a recognized signature guarantee program, i.e., Securities Transfer Agents Medallion Program (STAMP), Stock Exchanges Medallion Program (SEMP), or New York Stock Exchange Medallion Signature Program (MSP).

Section 6. Execution of the Warrants, Registration Certificate and Authentication and Registration Certificate.

(a) Each of the Warrants shall be manually executed in the name and on behalf of the City by the Mayor and shall be attested by the City Clerk/Treasurer, and the official seal of the City shall be imprinted thereon. The Warrants shall be registered by the City Clerk/Treasurer of the City in the records maintained by the City Clerk/Treasurer, as a claim against the City and the Warrant Fund, which registration shall be made simultaneously as to all the Warrants. The certificate of registration on each of the Warrants shall be executed by the City Clerk/Treasurer of the City. Said officers are hereby directed to so execute, attest and register the Warrants. In case any officer whose signature shall appear on the Warrants shall cease to be such officer before the authentication and delivery of such Warrants, such signature shall nevertheless be valid and sufficient for all purposes, the same as if he had remained in office until authentication and delivery.

(b) The Authentication and Registration Certificate on each Warrant shall be manually executed by an authorized officer of the Paying Agent, and each Warrant shall be registered in the name of the owner on the registration books maintained with the Paying Agent. No Warrant shall be valid unless such Warrant has been validly authenticated and registered on said registration books by the Paying Agent.

Section 7. Warrants Are General Obligations.

The indebtedness evidenced and ordered paid by the Warrants shall be a general obligation of the City for the punctual payment of the principal of, premium, if any, and interest on which the full faith and credit of the City are hereby pledged. The City represents that ad valorem taxes have been levied and hereby covenants and agrees that such taxes will be levied and collected, insofar as such taxes may be permitted by the present or any future provisions of the Constitution of Alabama, on all taxable property in the City, and applied to the maximum extent permitted by law to the payment of the principal of and interest on the Warrants as such principal matures and such interest comes due, in amounts sufficient for such purposes.

Section 8. The Warrant Fund.

(a) The Warrant Fund, hereby authorized, shall be held by the Paying Agent as paying agent for the Warrants, until the principal of, premium, if any, and interest on the Warrants shall have been paid in full or provision for such payment shall have been made as provided in Section 13 hereof. Moneys in the Warrant Fund shall be used solely for the payment of the principal of, premium (if any) and interest on the Warrants. The City shall pay or cause to be paid into the Warrant Fund the following amounts on or before the following dates:

- (1) On or before December 25, 2019, and on or before the 25th day of each calendar month thereafter, to and including March 25, 2020, the City shall deposit into the Series 2019-A Warrant Fund an amount equal to one-fourth (1/4th) of the interest coming due on the Series 2019-A Warrants on the first ensuing interest payment date of April 1, 2020;
- (2) On or before April 25, 2020, and on or before the 25th day of each calendar month thereafter, to and including September 25, 2025, the City shall deposit into the Series 2019-A Warrant Fund an amount equal to one-sixth (1/6th) of the interest coming due on the Series 2019-A Warrants on the next ensuing interest payment date;
- (3) On or before December 25, 2019, and on or before the 25th day of each calendar month thereafter, to and including September 25, 2020, the City shall deposit into the Series 2019-A Warrant Fund an amount equal to one-tenth (1/10th) of the principal coming due on the Series 2019-A Warrants on the first principal payment date of October 1, 2020; and
- (4) On or before October 25, 2020, and on or before the 25th day of each calendar month thereafter, to and including September 25, 2025, the City shall deposit into the Series 2019-A Warrant Fund an amount equal to one-twelfth (1/12th) of the principal coming due on the Series 2019-A Warrants on the next ensuing principal payment date.

(b) If on any principal or interest payment date the balance in the Warrant Fund is insufficient to pay the principal of, premium, if any, and interest on the Warrants due and payable on such date, the City shall forthwith pay any such deficiency into the Warrant Fund.

(c) The City and the Paying Agent shall cause all money deposited in the Warrant Fund to be applied to the payment of principal or interest on the Warrants within thirteen months from the date of such

deposit and shall cause all income and profits received from the investment of money in the Warrant Fund to be applied to the payment of principal or interest on the Warrants within twelve months from the date of receipt of such income or profits.

(d) Income and profits received from any investment of money in the Warrant Fund shall be credited against the deposit next required to be made into the Warrant Fund.

Section 9. Transfer of Funds.

(a) The City Clerk/Treasurer of the City shall collect the proceeds of the City's revenues and deposit the same in the Warrant Fund in the amounts and at the times that deposits are required by this ordinance to be made into said Fund.

(b) In the event that the proceeds of the City's revenues shall not be sufficient to pay the principal of, premium, if any, and interest on the Warrants and to make the deposits into the Warrant Fund in the amounts and at the times required by this ordinance, the City further covenants and agrees promptly to make up such deficiency from other revenues, income, taxes, assets and resources of the City, and the City Clerk/Treasurer of the City shall promptly deposit into the Warrant Fund from the aforesaid sources all amounts required to make up such deficiency.

Section 10. Security for Warrant Fund.

The money at any time on deposit in the Warrant Fund shall be and at all times remain public funds impressed with a trust for the purpose for which the Warrant Fund is created. The Paying Agent shall at all times keep the money on deposit with it in such Fund continuously secured for the benefit of the City and the registered owners of the Warrants either

(a) by holding on deposit as collateral security Government Obligations having a market value (exclusive of accrued interest) not less than the amount of money on deposit in the Warrant Fund, or

(b) if the furnishing of security in the manner provided in the foregoing clause (a) is not permitted by the then applicable laws and regulations, then in such manner as may be required or permitted by the applicable State of Alabama and Federal laws and regulations respecting the security for or granting a preference in the case of the deposit of public trust funds; provided, however, that it shall not be necessary for the Paying Agent so to secure (i) any portion of the money on deposit in the Warrant Fund that may be insured by the Federal Deposit Insurance Corporation or by any agency of the United States of America that may succeed to its functions, or (ii) any portion of the money on deposit in such Fund that may be invested as provided in Section 11.

Section 11. Investment of Money in Warrant Fund.

The City may cause any money on deposit in the Warrant Fund not then needed for the payment of principal of or interest on the Warrants to be invested or reinvested by the Paying Agent (described in the following section) at the written direction of the City in Qualified Investments. The Paying Agent shall not be held liable or responsible for any loss resulting from any such investments. All such investments must mature or be subject to redemption at the option of the holder on or prior to the respective date or dates when cash funds will be required for the purposes of such Fund. Any such investments shall be held by or under control of the Paying Agent. All interest accruing on such investments and any profit realized therefrom shall be deposited in the Warrant Fund. Any losses resulting from liquidation of investments shall be charged to the Warrant Fund and shall be added to the next ensuing deposit specified herein. The Paying Agent shall sell and reduce to cash a sufficient portion of such investments whenever the cash balance in the Warrant Fund is

insufficient to pay the principal and interest requirements on the Warrants. Although the City recognizes that it may obtain a broker confirmation or written statement containing comparable information at no additional cost, the City hereby agrees that broker confirmations of investments are not required to be issued by the Paying Agent for each month in which a monthly statement is rendered by the Paying Agent.

Section 12. Paying Agent for the Warrant Fund.

(a) The City does hereby designate and appoint The Bank of New York Mellon Trust Company, N.A. as the Paying Agent for the Warrants.

(b) The Paying Agent, by acceptance of its duties hereunder, shall have undertaken to perform only such duties as are specifically set forth in this Authorizing Ordinance and no implied covenants or obligations shall be read in this Authorizing Ordinance against the Paying Agent. The Paying Agent is not required to risk or expend its own funds in the performance of its duties hereunder.

(c) The Paying Agent, by acceptance of its duties hereunder, shall be construed to have agreed thereby with the registered owners from time to time of the Warrants that it will make all remittances of principal of and interest on the Warrants from money supplied by the City for such purpose in bankable funds at par and without discount or deduction for exchange, fees or expenses. The City hereby covenants and agrees with the registered owners of the Series 2019-A Warrants and with the Paying Agent that it will pay all charges for exchange, fees or expenses which may be incurred by the Paying Agent in the making of remittances in bankable funds at par.

(d) The Paying Agent may resign and be discharged of all duties imposed upon it as Paying Agent, Warrant Registrar and transfer agent by giving written notice of such intended resignation by certified or registered mail to the City at least thirty (30) days prior to the date when such resignation shall take effect. The Paying Agent may also be removed and discharged of all duties imposed upon it as Paying Agent, Warrant Registrar and transfer agent by the City after receiving written notice of such intended removal by the City at least thirty (30) days prior to the date when such removal shall take effect.

(e) If at any time the Paying Agent shall resign or be or become incapable of acting or shall be adjudged a bankrupt or insolvent or a receiver of the Paying Agent or of its property shall be appointed or any public officer shall take charge or control of the Paying Agent or of its property or affairs for the purpose of rehabilitation, conservation or liquidation, then the City may remove the Paying Agent and the City shall promptly appoint a successor Paying Agent.

(f) Any successor Paying Agent shall be a bank or trust company authorized to act as Paying Agent and Warrant Registrar and having, at the time of its acceptance of such appointment, combined capital and surplus of at least \$50,000,000.

(g) Every successor Paying Agent appointed hereunder shall execute, acknowledge and deliver to the City and to the retiring Paying Agent an instrument accepting such appointment and thereupon the resignation or removal of the retiring Paying Agent shall become effective and such successor Paying Agent, without any further act, deed or conveyance, shall become vested with all the rights, powers, and duties of the retiring Paying Agent.

(h) Any corporation into which the Paying Agent may be merged or with which it may be consolidated, or any corporation resulting from any merger or consolidation to which the Paying Agent shall be a party, or any corporation succeeding to all or substantially all of the corporate trust business of the Paying Agent, shall be the successor of the Paying Agent hereunder, without the execution or filing of any paper or any further act on the part of any of the parties hereto. In case any Warrants shall have been authenticated, but not

delivered, by the Paying Agent then in office, any successor by merger or consolidation to such authenticating Paying Agent may adopt such authentication and deliver the Warrants so authenticated with the same effect as if such successor Paying Agent had itself authenticated such Warrants.

(i) The Paying Agent shall have the right to accept and act upon directions or instructions in connection with the Warrants and delivered using Electronic Means (defined below); provided, however, that the City shall provide to the Paying Agent an incumbency certificate listing authorized officers with the authority to provide such directions or instructions (each an “Authorized Officer”) and containing specimen signatures of such Authorized Officers, which incumbency certificate shall be amended whenever a person is to be added or deleted from the listing. If the City elects to give the Paying Agent directions or instructions using Electronic Means and the Paying Agent in its discretion elects to act upon such directions or instructions, the Paying Agent’s understanding of such directions or instructions shall be deemed controlling. The City understands and agrees that the Paying Agent cannot determine the identity of the actual sender of such directions or instructions and that the Paying Agent shall conclusively presume that directions or instructions that purport to have been sent by an Authorized Officer listed on the incumbency certificate provided to the Paying Agent have been sent by such Authorized Officer. The City shall be responsible for ensuring that only Authorized Officers transmit such directions or instructions to the Paying Agent and that all Authorized Officers treat applicable user and authorization codes, passwords and/or authentication keys as confidential and with extreme care. The Paying Agent shall not be liable for any losses, costs or expenses arising directly or indirectly from the Paying Agent’s reliance upon and compliance with such directions or instructions notwithstanding such directions or instructions conflict or are inconsistent with a subsequent written direction or written instruction. The City agrees: (i) to assume all risks arising out of the use of Electronic Means to submit directions or instructions to the Paying Agent, including without limitation the risk of the Paying Agent acting on unauthorized directions or instructions, and the risk of interception and misuse by third parties; (ii) that it is fully informed of the protections and risks associated with the various methods of transmitting directions or instructions to the Paying Agent and that there may be more secure methods of transmitting directions or instructions and (iii) that the security procedures (if any) to be followed in connection with its transmission of directions or instructions provide to it a commercially reasonable degree of protection in light of its particular needs and circumstances. “Electronic Means” shall mean the following communications methods: e-mail, facsimile transmission, secure electronic transmission containing applicable authorization codes, passwords and/or authentication keys, or another method or system specified by the Paying Agent as available for use in connection with its services hereunder.

Section 13. Provision for Payment of Warrants

(a) The Warrants shall be deemed fully paid for purposes of this ordinance if:

(i) The City shall have filed with the Paying Agent a fully executed copy of an irrevocable trust agreement between the City and a banking institution with a designated office in the State of Alabama making provision for the retirement of the Warrants by creating for that purpose a trust fund sufficient to provide for payment and retirement of the Warrants then outstanding (including payment of the interest that will mature thereon until and on the dates they are retired, as such interest becomes due and payable, and the premium, if any, required to be paid upon the redemption of the Warrants, if any, being redeemed), either by redemption prior to their respective maturities, by payment at their respective maturities, or by payment of part thereof at their respective maturities and redemption of the remainder prior to their respective maturities, which trust fund shall consist of (A) Government Obligations which are not subject to redemption prior to their respective maturities at the option of the City and which, if the principal thereof and the interest thereon are paid at their respective maturities, will produce funds sufficient so to provide for payment and retirement of such Warrants, or (B) both cash and such Government Obligations which together will produce funds sufficient for such purpose, or (C) cash sufficient for such purpose; and

(ii) Such notice as is required hereunder for the redemption of those Warrants (if any) that, according to such trust agreement, are to be redeemed prior to their respective maturities has been given or provisions satisfactory to the Paying Agent have been made for the giving of such notice.

(b) Any money on deposit in the Warrant Fund (to the extent that such money is not required for the payment of the principal of, premium, if any, and interest on the Warrants previously becoming due and payable, or is not otherwise unavailable for the following use) may at the direction of the City be transferred to and constitute a part of the trust fund created pursuant to the aforesaid trust agreement providing for the retirement of the Warrants.

Section 14. Approval of Warrant Purchase Agreement

The Warrant Purchase Agreement and its prior execution on behalf of the City is hereby ratified, adopted, and approved.

Section 15. Expenses of Collection; Interest After Maturity.

The City covenants and agrees that, if the principal of and interest on the Warrants are not paid promptly as such principal and interest matures and comes due, it will pay to the registered owners of the Warrants all expenses incident to the collection of any unpaid portion thereof, including a reasonable attorneys' fee. The Warrants shall bear interest at the rate of 2% per annum or the maximum rate of interest allowed by law, whichever is less, from and after the respective maturity or due dates thereof, if not then paid.

Section 16. Sale and Delivery of Warrants; Closing Papers.

The Warrants are hereby sold to The Frazer Lanier Company Incorporated, upon the payment to the City of the purchase price of \$2,882,357.70 (representing the principal amount of the Series 2019-A Warrants less an Underwriter's discount of \$20,287.50 and plus an original issue premium of \$197,645.20). The City Council has determined that the sale of the Warrants to such purchaser on such terms is most advantageous to the City. The Warrants shall be delivered to such purchaser upon the payment to the City of the aforesaid purchase price. The Mayor, the City Clerk/Treasurer and the City Clerk/Treasurer, or any of them, are hereby authorized and directed to effect such delivery and in connection therewith to deliver such closing papers, documents and contracts (including a Non-Arbitrage Certificate and United States Treasury Form 8038-G) containing such representations as are required to demonstrate: the legality and validity of the Warrants; the exemption of interest on the Warrants from Federal and State of Alabama income taxation; and the absence of pending or threatened litigation with respect to any of such matters. The City Clerk/Treasurer shall give a receipt to the said purchaser for the purchase price paid, and such receipt shall be full acquittal to the said purchaser and the said purchaser shall not be required to see to, or be responsible for, the application of the proceeds of the Warrants. Nevertheless, the proceeds of the Warrants shall be held in trust and applied solely for the purposes specified in this ordinance.

Section 17. Application of Proceeds.

The proceeds from the sale of the Warrants shall be applied as follows:

(a) \$16,942.58 shall be applied by the Underwriter on behalf of the City to the payment of approved issuance expenses as set forth in the Closing Memorandum.

(b) The sum of \$2,865,415.12 shall be deposited by the Paying Agent into the Series 2010-A

Warrant Fund and applied by the Paying Agent to the current refunding and redemption of the Series 2010-A Warrants on January 18, 2020 (or the earliest date thereafter for which notice may be given).

Section 18. Covenant With Respect to Tax Exemption for Interest.

The City hereby covenants and agrees with the registered owners from time to time of the Warrants that the proceeds of the Warrants shall not be used or applied by it, and the taxes or other revenues of the City shall not be accumulated in the Warrant Fund in such a manner and no investment thereof shall be made, as to cause the Warrants to be or become "arbitrage bonds", as that term is defined in Section 148 of the Code.

With respect to the Code, the City does hereby make the following representations and covenants:

(a) None of the proceeds of the Warrants will be applied for any "private business use" nor will any part of the proceeds of the Warrants be used (directly or indirectly) to make or finance loans to persons other than a governmental unit.

(b) The payment of the principal of and interest on the Warrants is not (i) secured in any way by any property used or to be used for a "private business use" or by payments in respect of such property or (ii) to be derived from payments (whether or not to the City) in respect of property, or borrowed money, used or to be used for a "private business use." The recreational/community complex will be open and available to the public at all times.

(c) The City hereby covenants and agrees with the registered owners of the Warrants that, to the extent permitted by law, it will not take any action, or omit to take any action with respect to the Warrants that would cause the interest on the Warrants not to be and remain excludable from gross income pursuant to the provisions of Section 103 of the Code.

(d) The City will make no use of the proceeds of the Warrants that would cause the Warrants to be or become "arbitrage bonds" under Section 148 of the Code.

(e) The City will comply with the requirements of Section 148(f) of the Code with respect to any required rebate to the United States.

(f) The City will make no use of the proceeds of the Warrants that would cause the Warrants to be "federally guaranteed" under Section 149(b) of the Code and the payment of the principal of and interest on the Warrants shall not be (directly or indirectly) "federally guaranteed" in whole or in part as described in said Section.

(g) The City has designated the Warrants as "qualified tax-exempt obligations" for the purposes of paragraph (3) of subsection (b) of Section 265 of the Code. The Warrants are "bank-qualified."

The City hereby represents and certifies that it has no subordinate entities which have authority to issue "tax-exempt obligations" other than The Waterworks, Gas and Sewer Board of the City of Opelika and those public corporations which have the authority only to issue "tax-exempt obligations" which would be classified as "private activity bonds" under the Code, and the City does not anticipate that it will create any new such subordinate entities during this calendar year. The City does not appoint any members to the City Board of Education of the City of Opelika.

The terms used in this Section in quotation marks shall have the definitions and meanings provided by the Code.

Section 19. Provisions of Ordinance a Contract.

The terms, provisions and conditions set forth in this ordinance constitute a contract between the City and the registered owners of the Warrants and shall remain in effect until the principal of and interest on the Warrants shall have been paid in full, or until payment shall have been provided as set forth in Paragraph 14 hereof.

Section 20. Severability.

The provisions of this ordinance are severable. In the event that any one or more of such provisions or the provisions of the Warrants shall, for any reason, be held illegal or invalid, such illegality or invalidity shall not affect the other provisions of this ordinance or of the Warrants, and this ordinance and the Warrants shall be construed and enforced as if such illegal or invalid provision had not been contained herein or therein.

Section 21. Continuing Disclosure Undertaking.

In accordance with the requirements of Rule 15c2-12 (the "Rule") promulgated by the Securities and Exchange Commission, the City agrees to provide, or cause to be provided, the following to the Municipal Securities Rulemaking Board ("MSRB"):

(i) its annual audited financial statement on the EMMA website by March 31 of each calendar year for the prior fiscal year ending September 30, provided, however, that if the audited financial statement is not available by such date, the City will post reasonably available unaudited draft financial information by said date,

(ii) if not already included in the City's audited financial statement, an annual update to the information contained in "SOURCES OF GENERAL FUND REVENUES," and

(iii) notices ("Material Event Notices") of the occurrence of the following events with respect to the Warrants in a timely manner:

Not in excess of 10 Business Days after the occurrence of a reportable event, to MSRB: (a) principal and interest payments delinquencies, (b) non-payment related defaults, if material, (c) unscheduled draws on debt service reserves reflecting financial difficulties, (d) unscheduled draws on credit enhancements reflecting financial difficulties, (e) substitution of credit or liquidity providers or their failure to perform, (f) adverse tax opinions with respect to the Series 2019-A Warrants, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB) or other material notices or determinations with respect to the tax status of the security, or other material events affecting the tax status of the security; (g) modifications to rights of security holder, if material, (h) bond calls, if material, and tender offers, (i) defeasances, (j) release, substitution or sale of property securing repayment of the securities, if material, (k) rating changes, if any are then in effect, (l) bankruptcy, insolvency, receivership or similar event of the obligated person, (m) merger, consolidation, acquisition or sale of assets involving an obligated person or the sale of all or substantially all of the assets of the obligated person, other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material, (n) appointment of a successor or additional paying agent or the change of name of a paying agent, (o) the incurrence of a financial obligation of the obligated person, if material, or agreement to covenants, events of default, remedies, priority rights, or other similar terms of a financial obligation of the obligated person, any of which affect security holders, if material, and (p) default, an event of acceleration, a termination event, modification of terms, or other similar events under the terms of a financial obligation of the obligated person, any of which reflect financial difficulties; and

(iv) in a timely manner, notice of any failure by the City to provide the required annual financial information on or before the date specified.

The City reserves the right to modify from time to time the specific types of information provided or the format of the presentation of such information, to the extent necessary or appropriate in the judgment of the City; provided that, the City agrees that any such modification will be done in a manner consistent with the Rule. The City reserves the right to terminate its obligation to provide the annual operating information and financial information and notices of material events, as set forth above, if and when the City no longer remains an obligated person with respect to the Warrants within the meaning of the Rule. The City acknowledges that its undertaking, pursuant to the Rule described under this heading is intended to be for the benefit of the registered owners of the Warrants and shall be enforceable by the holders; provided that, the holders' rights to enforce the provisions of this undertaking shall be limited to a right to obtain specific enforcement of the City's obligations hereunder and any failure by the City to comply with the provisions of this undertaking shall not be an event of default with respect to the Warrants and shall not subject the City to money damages in any amount, whether compensatory, penal or otherwise. The name, address and telephone number of the initial contact person at the City are as follows:

Robert G. Shuman or successor as City Clerk/Treasurer
City of Opelika City Hall
PO Box 390
Opelika, Alabama 36803
Phone: 334-705-5150
email: RShuman@opelika-al.gov

The City has not always been in compliance with its continuing disclosure obligations, having failed, among other things, to timely post certain of the City's audited financial statements and other annual financial information, or notices of the failures thereof, on the EMMA website, and failing to post rating change notices.

In its prior continuing disclosure undertakings, the City covenanted to provide annual financial information, including its audit, in most cases within 180 days of the City's fiscal year end, and in three instances by March 31 following the City's fiscal year end (the City's fiscal year ends September 30). The City filed its 2015 audit on the EMMA website on March 29, 2016, its 2016 audit on May 2, 2017, its 2017 audit on May 29, 2018, and its 2018 audit on March 28, 2019. The City filed notice of its failure to timely file its 2016 audit on the EMMA website on March 28, 2017, and notice of its failure to timely file its 2017 audit on March 28, 2018.

The City failed to timely file certain information for fiscal years 2016 and 2017 as required under the continuing disclosure undertaking relative to its Electric System Revenue Warrants, Series 2011, dated March 1, 2011 (which are not presently outstanding). The City filed this information for the 2016 fiscal year on the EMMA website on May 2, 2017. The City filed notice of its failure to timely file this information for the 2016 fiscal year on the EMMA website on March 28, 2017. The City filed this information for the 2017 fiscal year on May 29, 2018. The City filed notice of its failure to timely file this information for the 2017 fiscal year on March 28, 2018.

The City failed to file its fiscal year 2015 budget as required under the continuing disclosure undertaking relative to its General Obligation Warrants, Series 2014, dated December 18, 2014. The City filed this information on the EMMA website on November 30, 2015. The City filed notice of its failure to timely file this information on the EMMA website on December 2, 2015. The City filed its fiscal year 2016 budget on the

EMMA website on November 30, 2015, its 2017 budget on October 3, 2016, its 2018 budget on October 20, 2017, and its 2019 budget on October 10, 2019.

Section 22. Approval of Preliminary Official Statement and Final Official Statement.

The Preliminary Official Statement and the final Official Statement (collectively, the "Official Statements"), with respect to the Warrants, in substantially the form and of substantially the content as the forms of Official Statements presented to and considered at this meeting, are hereby approved and adopted.

The City Council does hereby find and determine that the Official Statements are correct and do not contain an untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein, in light of the circumstances under which they were made, not misleading.

The Mayor of the City is hereby authorized to execute and deliver the final Official Statement for and on behalf of and in the name of the City, with such changes or additions thereto or deletions therefrom as he may deem necessary or desirable in order to state fully and correctly the pertinent facts concerning the City and the Warrants offered thereby.

The distribution of the Preliminary Official Statement to prospective purchasers of the Warrants is hereby ratified and confirmed.

Section 23. Repeal of Conflicting Provisions.

All ordinances, resolutions and orders or parts thereof in conflict with this ordinance are to the extent of such conflict, hereby repealed.

Section 24. Current Refunding and Redemption of the Series 2010-A Warrants

The Series 2010-A Warrants are hereby called for redemption on January 18, 2020, or the earliest date thereafter for which notice may be given (the "Redemption Date"). The Paying Agent is hereby directed to take all action necessary to effect the redemption of the Series 2010-A Warrants on the Redemption Date. The City is not in default in the payment of the principal of or interest on any of the Series 2010-A Warrants and the Series 2010-A Warrants now outstanding are to be retired on the Redemption Date. The Paying Agent shall give notice of redemption of the Series 2010-A Warrants by United States registered or certified mail not less than thirty (30) days prior to the Redemption Date to the registered owners of the Series 2010-A Warrants which are to be redeemed. The Notice shall be in substantially the following form and is hereby ratified and confirmed:

NOTICE OF REDEMPTION

NOTICE IS HEREBY GIVEN that the outstanding General Obligation School Warrants, Series 2010-A, dated July 1, 2010, of the City of Opelika (Alabama), shall be called for redemption on January 18, 2020, or the earliest date thereafter for which notice may be given, and will become due and payable on such date at a redemption price for each warrant redeemed equal to the principal amount thereof to be redeemed, plus accrued interest thereon to the date fixed for redemption, without premium or penalty. All such warrants should be surrendered at the designated corporate trust office of The Bank of New York Mellon Trust Company, N.A., in Birmingham, Alabama, and no such warrants will be paid until so surrendered. All interest on such warrants so called for redemption will cease to accrue after

April 1, 2020, whether or not the warrants are presented for payment.

CITY OF OPELIKA (ALABAMA)

By THE BANK OF NEW YORK
 MELLON TRUST COMPANY, N.A.
 Its duly authorized agent

The motion for unanimous consent was seconded by Councilmember _____ and upon the question, the vote thereon was as follows:

Ayes: Charles E. Smith, President
Patricia A. Jones, President Pro Tem
Tiffany Gibson-Pitts
Dozier Smith T
David Canon

Nays: None

The Council President declared the motion carried and the rules suspended.

After said ordinance had been discussed and considered in full by the Council, Councilmember _____ then moved for the adoption of the Ordinance and to waive the reading of said ordinance at length. The motion was seconded by Councilmember _____. The motion was regularly put, and upon roll call, the vote thereon was as follows:

Ayes: Charles E. Smith, President
Patricia A. Jones, President Pro Tem
Tiffany Gibson-Pitts
Dozier Smith T
David Canon

Nays: None

The Council President thereupon declared said ordinance passed and adopted as introduced.

ADOPTED AND APPROVED this the 17th day of December, 2019.

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

ATTEST:

CITY CLERK/TREASURER

TRANSMITTED TO MAYOR on this the 17th day of December, 2019.

CITY CLERK/TREASURER

ACTION BY MAYOR

APPROVED this the 17th day of December, 2019.

MAYOR

ATTEST:

CITY CLERK/TREASURER

* * *

It was moved and seconded that the meeting be adjourned. Motion carried.

CERTIFICATE OF CITY CLERK/TREASURER

I do hereby certify that I am the duly elected, qualified and acting City Clerk/Treasurer of the City of Opelika, Alabama (the "City"). I do further certify that as City Clerk/Treasurer of the City I have access to all original records of the City and I am duly authorized to make certified copies of its records on its behalf; the above and foregoing pages constitute a complete, verbatim and compared copy of excerpts from the minutes of a meeting of the City Council of the City duly held on the 17th day of December, 2019, the original of which is on file and of record in the minute book of the City Council in my custody; the ordinance set forth in such excerpts is a complete, verbatim and compared copy of said ordinance as introduced and adopted by the City Council on such date; and said ordinance is in full force and effect and has not been repealed, amended or changed.

IN WITNESS WHEREOF, I have hereunto set my hand as City Clerk/Treasurer of the City and have affixed the official seal of the City, this 17th day of December, 2019.

City Clerk/Treasurer

CITY SEAL

ORDINANCE NO. 031-19-ORD

GO Taxable Warrants, Series 2019 - B / 1st Reading.

**EXCERPTS FROM THE MINUTES OF A REGULAR MEETING OF
THE CITY COUNCIL OF THE CITY OF OPELIKA**

The City Council of the City of Opelika met in regular public session at City Hall in the City of Opelika, Alabama, at 7:00 o'clock p.m. on the 17th day of December, 2019. The meeting was called to order by the Council President, and the roll was called with the following results:

Present: Charles E. Smith, President
Patricia A. Jones, President Pro Tem
Tiffany Gibson-Pitts
Dozier Smith T
David Canon

Absent: None

Gary Fuller, Mayor, Robert G. Shuman, City Clerk/Treasurer, and Joey Motley, City Administrator, were also present. The President of the Council announced that a quorum was present and that the meeting was open for the transaction of business.

Councilmember _____ moved for unanimous consent of the Council to suspend the rules of procedure to allow for the immediate consideration of the following Ordinance:

ORDINANCE NO. 0__-19

AN ORDINANCE AUTHORIZING THE ISSUANCE AND PAYMENT OF \$46,835,000 PRINCIPAL AMOUNT OF GENERAL OBLIGATION TAXABLE WARRANTS, SERIES 2019-B, TO BE DATED DECEMBER 19, 2019

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF OPELIKA, ALABAMA, AS FOLLOWS:

Section 1. Definitions and Use of Phrases.

The following words and phrases and others evidently intended as the equivalent thereof shall, in the absence of clear implication herein otherwise, be given the following respective interpretations herein:

"Authorized Denominations" means with respect to all Warrants the amount of \$5,000 and any integral multiple thereof for each maturity.

"Authorizing Ordinance" means this ordinance authorizing the issuance of the Warrants.

"Book-Entry System" means a book-entry only system of evidence of purchase and transfer of beneficial ownership interests in the Warrants.

"Business Day" shall mean a day, other than a Saturday or a Sunday, on which commercial banking

institutions are open for business in the state where the principal corporate trust office of the Paying Agent is located and a day on which the payment system of the Federal Reserve System is operational.

"City" means the City of Opelika, Alabama, a municipal corporation under the laws of the State of Alabama, and any successor to its functions.

"Code" means the Internal Revenue Code of 1986, as amended.

"Direct Participant" or "Direct Participants" means securities brokers and dealers, banks, trust companies, clearing corporations and other financial institutions which have access to the Book-Entry System.

"Eligible Certificates" means interest bearing certificates of deposit issued by any bank organized under the laws of the United States of America or any state thereof having a combined capital, surplus and undivided profits of not less than \$50,000,000, provided that such certificates of deposit are secured by the issuing bank by depositing and pledging with a Federal Reserve Bank Government Obligations having a market value (exclusive of accrued interest) not less than the face amount of such certificates.

"Government Obligations" means direct general obligations of the United States of America or any securities on which the payment of the principal of and interest on which are unconditionally guaranteed by the United States of America.

"Indirect Participant" or "Indirect Participants" means securities brokers and dealers, banks, trust companies, clearing corporations and other financial institutions for which the Securities Depository holds Warrants as securities depository through a Direct Participant.

"Interest Payment Dates" means May 1 and November 1 in each calendar year, beginning May 1, 2020.

"Letter of Representation" means and includes (i) the Letter of Representation with respect to the Warrants from the City to the Securities Depository and (ii) any other or subsequent agreement by whatsoever name or identification with respect to the Warrants between said parties from time to time in effect.

"Paying Agent" means The Bank of New York Mellon Trust Company, N.A., the bank designated as (i) the place of payment of the Warrants, (ii) the registrar and authenticating agent of the Warrants and (iii) the paying agent and depository for the Warrant Fund, and any successor bank to The Bank of New York Mellon Trust Company, N.A designated by the City pursuant to the provisions of Section 12 hereof.

"Qualified Investments" shall mean:

- (1) Government Obligations; or
- (2) Eligible Certificates; or
- (3) Money market funds customarily utilized by the Paying Agent for the investment of public funds and rated "AA-m" or "AAM-G" or better by Standard & Poor's Rating Group.

"Record Date" means, with respect to the Warrants, that date which is 15 calendar days before any date on which interest is due and payable on the Warrants.

"Securities Depository" means The Depository Trust Company, a limited purpose trust company organized under the laws of the State of New York, and the successors and assigns thereof, and any substitute

securities depository therefor that maintains a Book-Entry System for the Warrants.

"Securities Depository Nominee" means the Securities Depository or the nominee of such Securities Depository in whose name there shall be registered on the Warrant Register the Warrants to be delivered to such Securities Depository during a period in which the Warrants are held pursuant to the Book-Entry System.

"Series 2011 Warrants" means the City's outstanding General Obligation Warrants, Series 2011, dated November 1, 2011.

"Warrants" means the City's \$46,835,000 principal amount of General Obligation Taxable Warrants, Series 2019-B, dated December 19, 2019, authorized hereunder.

"Warrant Fund" means the Series 2019-B General Obligation Taxable Warrants Fund, established pursuant to Section 8 hereof.

"Warrant Register" means the register or registers for the registration and transfer of Warrants maintained by the City pursuant to Section 3(e).

"Warrant Registrar" means the agent of the City appointed as such pursuant to Section 3(e) for the purpose of registering Warrants and transfers of Warrants.

The definitions set forth in this section shall be deemed applicable whether the words defined are used herein in the singular or the plural. Wherever used herein, any pronoun or pronouns shall be deemed to include both singular and plural and to cover all genders.

Section 2. Findings and Representations.

The City, by and through its City Council, does hereby find, determine, represent, and warrant as follows:

(a) It is necessary, desirable and in the public interest for the City to (1) pay and advance refund and redeem a \$44,115,000 principal portion (the "Refunded Series 2011 Warrants") of the Series 2011 Warrants on November 1, 2021 in order to realize interest cost savings, and (2) pay issuance expenses.

(b) The assessed valuation of the taxable property in the City for fiscal year 2019 (including motor vehicles) is not less than \$456,159,360 (including motor vehicles), and the total indebtedness of the City (including the Warrants) chargeable against the debt limitation for the City prescribed by the Constitution of the State of Alabama will not be more than twenty percent of said assessed valuation.

(c) The City is not in default under any ordinances or contracts evidencing its general obligation indebtedness and no such defaults thereunder or under any other debt proceedings are imminent.

Section 3. Authorization and Description of Warrants.

(a) Pursuant to the applicable provisions of the laws of the State of Alabama, including particularly Section 11-47-2 of the CODE OF ALABAMA 1975, as amended, there is hereby authorized to be issued a series of warrants designated "General Obligation Taxable Warrants, Series 2019-B" in the maximum aggregate principal amount of \$46,835,000. The Warrants shall be dated December 19, 2019, shall be in registered form, without coupons, shall be in the denomination of \$5,000 or any integral multiple thereof, and shall be numbered in such manner as the Paying Agent shall determine will be most useful for the identification thereof. The Warrants shall mature, subject to prior optional redemption, as hereinafter provided, on November 1 in years

and principal amounts as follows and shall bear interest at the following per annum rates for all Warrants maturing in the year set opposite such rates:

<u>Year of Maturity</u>	<u>Principal Amount Maturing</u>	<u>Applicable Interest Rate</u>	<u>Year of Maturity</u>	<u>Principal Amount Maturing</u>	<u>Applicable Interest Rate</u>
2020	\$405,000	2.002%	2029	\$3,140,000	2.692%
2021	410,000	2.052	2030	3,225,000	2.650
2022	2,650,000	2.115	2031	3,310,000	2.842
2023	2,710,000	2.186	2032	3,100,000	2.892
2024	2,765,000	2.236	2033	3,195,000	2.962
2025	2,825,000	2.363	2034	3,290,000	3.012
2026	2,895,000	2.463	2035	3,390,000	3.035
2027	2,975,000	2.592	2036	3,495,000	3.065
2028	3,055,000	2.662			

(b) Subject to the requirements of the Book-Entry System hereinafter described, the principal of and premium (if any) on the Warrants shall be payable only upon presentation and surrender of the Warrants at the designated office of the Paying Agent. Interest on the Warrants shall be remitted by the Paying Agent to the respective registered owners of the Warrants at the addresses thereof shown on the registration books of the Paying Agent pertaining to the Warrants. Interest shall be payable on May 1 and November 1 in each year, first interest payable on May 1, 2020. The principal of, premium, if any, and interest on the Warrants shall be payable in lawful money of the United States at par and without discount, exchange, deduction or charge therefor.

(c) Book-Entry System.

(i) The Warrants shall initially be issued pursuant to a Book-Entry System administered by the Securities Depository with no physical distribution of any Warrant to any person. One Warrant for each maturity of such series will be issued, registered in the name of the Securities Depository Nominee, and immobilized in the custody of the Securities Depository. Beneficial ownership interests in Warrants held by the Securities Depository may be purchased by or through Direct Participants. The holders of these beneficial ownership interests in such Warrants are referred to as the "Beneficial Owners." The Beneficial Owners will not receive certificated warrants representing their beneficial ownership interests. Ownership of the interests in Warrants in Authorized Denominations will be evidenced on the records of the Securities Depository and the Direct Participants and Indirect Participants pursuant to rules and procedures established by the Securities Depository. During a period in which the Book-Entry System is in effect for the Warrants, the City and the Paying Agent shall treat the Securities Depository or the Securities Depository Nominee as the only registered owner of such Warrants for all purposes under the Ordinance, including, without limitation, receipt of all principal of, premium (if any) and interest on the Warrants, receipt of notices, voting, and requesting or directing the Paying Agent or City to take or not to take, or consenting to, certain actions under the Ordinance. In the event the Securities Depository or the Securities Depository Nominee assigns its rights to consent or vote under the Ordinance to any Direct Participant or Indirect Participant, the City and the Paying Agent shall treat such assignee or assignees as the only registered owner or owners of the Warrants of such series for the purpose of exercising such rights so assigned.

(ii) During a period in which the Book-Entry System is in effect for the Warrants, payments of principal and interest, with respect to such Warrants will be paid by the Paying Agent directly to the Securities Depository, or the Securities Depository Nominee, as Holder, and as provided in the Letter of Representations; provided, that payment of the principal of such Warrants due at final maturity of such Warrants shall be made

only upon surrender thereof at the designated office of the Paying Agent. The Securities Depository and the Direct Participants and the Indirect Participants shall be responsible for the disbursement of such payments to the Beneficial Owners. All such payments to the Securities Depository or the Securities Depository Nominee, as Holder, of principal of, and interest on such Warrants on behalf of the City or the Paying Agent shall be valid and effectual to satisfy and discharge the liability of the City and the Paying Agent to the extent of the amounts so paid, and the City and the Paying Agent shall not be responsible or liable for payment to any Beneficial Owner by the Securities Depository or by any Direct Participant or by any Indirect Participant, or for sending transaction statements or for maintaining, supervising or reviewing records maintained by the Securities Depository or Direct Participants or Indirect Direct Participants.

(iii) Transfers of ownership interests in the Warrants by the Beneficial Owners thereof, and conveyance of notices and other communications by the Securities Depository to Direct Participants, by Direct Participants to Indirect Participants, and by Direct Participants and Indirect Participants to Beneficial Owners of the Warrants, will be governed by arrangements among the Securities Depository, Direct Participants, Indirect Participants and the Beneficial Owners, subject to any statutory and regulatory requirements as may be in effect from time to time. For every transfer and exchange of beneficial ownership in such Warrants, the Beneficial Owners may be charged a sum sufficient to cover any tax, fee or other governmental charge that may be imposed in relation thereto.

(iv) Redemption notices respecting Warrants held by the Securities Depository shall be sent to the Securities Depository Nominee by the Paying Agent.

(v) In the event that the Securities Depository ceases to act as the securities depository for the Warrants, the City shall discontinue the Book-Entry System for such Warrants. If the City fails to appoint another qualified securities depository to replace the then acting Securities Depository, the City will cause the Paying Agent to authenticate and deliver fully registered certificated Warrants to each Beneficial Owner in evidence of the ownership interests thereof. The Securities Depository shall provide a list of Warrantholders with addresses to the Paying Agent. If the Book-Entry System is discontinued for the Warrants, payments to, and transfers of such Warrants by the Beneficial Owners shall be governed by the provisions set forth in this Ordinance with respect thereto.

(vi) The City may enter into a custody agreement with any bank or trust company serving as Paying Agent (which may be the Paying Agent serving in the capacity of Paying Agent) to provide for a Book-Entry System or similar method for the registration and transfer of the Warrants.

(vii) During a period in which the Book-Entry System is in effect for the Warrants in accordance herewith, the provisions of this Ordinance and such Warrants shall be construed in accordance with the Letter of Representations and to give full effect to such Book-Entry System.

(viii) The Beneficial Owners of the Warrants, by their acquisition of any beneficial interest in a Warrant or Warrants, and the Securities Depository, the Securities Depository Nominee, and all Direct Participants and all Indirect Participants, severally agree that the City and the Paying Agent shall not have any responsibility or obligation to any Direct Participant or any Indirect Participant or any Beneficial Owner with respect to (1) the accuracy of any records maintained by the Securities Depository or any Direct Participant or any Indirect Participant; (2) the payment by the Securities Depository or any Direct Participant or any Indirect Participant of any amount due to any Beneficial Owner in respect of the principal of, premium (if any) and interest on the Warrants; (3) the delivery or timeliness of delivery by the Securities Depository or any Direct Participant or any Indirect Participant of any notice due to any Beneficial Owner which is required or permitted under the terms of the Ordinance to be given to Beneficial Owners; or (4) any consent given or other action taken by the Securities Depository, or the Securities Depository Nominee, as owner.

(d) Discontinuation of Book-Entry System; Registration; Transfer and Exchange of Warrants; Replacement of Lost, Destroyed or Stolen Warrants.

(i) The Warrants may be issued in certificated form, and not pursuant to a Book Entry System, in accordance with the provisions hereof.

(ii) The Securities Depository may determine to discontinue the Book-Entry System with respect to the Warrants at any time upon notice to the City and the Paying Agent and upon discharge of its responsibilities with respect thereto under applicable law. Upon such notice and compliance with law the Book-Entry System for such Warrants will be discontinued unless a successor securities depository is appointed by the City.

(iii) In the event the Book-Entry System for the Warrants is discontinued, Warrants in certificated form in Authorized Denominations will be physically distributed to the Beneficial Owners thereof and such Warrants will be registered in the names of the owners thereof on the registration books of the Paying Agent pertaining thereto, and the Paying Agent will make payments of principal of, premium (if any) and interest on such Warrants to the registered owners thereof as provided in the Warrants and this ordinance and the following provisions with respect to registration, transfer and exchange of such Warrants by the registered owners thereof shall apply:

(1) Each of the Warrants may be transferred by the Holder thereof or his duly authorized attorney, only on the Warrant Register upon surrender of such Warrant to the Warrant Registrar for cancellation. Upon surrender for transfer of any Warrant, the City shall execute, and the Paying Agent shall authenticate, register and deliver, in the name of the designated transferee or transferees, one or more new Warrants of any Authorized Denominations and in a principal amount equal to the unpaid or unredeemed portion of the principal of the Warrant so presented.

(2) At the option of the Holder, Warrants may be exchanged for other Warrants of the same series, of any Authorized Denomination and of a like aggregate principal amount, upon surrender of the Warrants to be exchanged at a designated corporate office of the Warrant Registrar. Whenever any Warrants are so surrendered for exchange, the City shall execute, and the Paying Agent shall authenticate, register and deliver, the Warrants which the Holder making the exchange is entitled to receive.

(3) All Warrants surrendered upon any exchange or transfer provided for in this Ordinance shall be canceled.

(4) All Warrants issued upon any transfer or exchange of Warrants shall be the valid obligations of the City and be entitled to the same security and benefits under this Ordinance as the Warrants surrendered upon such transfer or exchange.

(5) Every Warrant presented or surrendered for transfer or exchange shall be duly endorsed or be accompanied by a written instrument of transfer in form satisfactory to the City and the Warrant Registrar duly executed by the Holder thereof or his attorney duly authorized in writing.

(6) The Warrant Registrar shall not be required to transfer or exchange any Warrant during the period between the Record Date and the then next succeeding interest payment date; and, in the event that any Warrant (or any part thereof) is duly called for redemption, the Warrant Registrar shall not be required to transfer or exchange any such Warrant during the period of forty-five (45) days next preceding the date fixed for such redemption.

(7) If (i) any mutilated Warrant is surrendered to the Paying Agent, or the City and the

Paying Agent receive evidence to their satisfaction of the destruction, loss or theft of any Warrant, and (ii) there is delivered to the City and the Paying Agent such security or indemnity as may be required by them to save each of them harmless, then, in the absence of notice to the City or the Paying Agent that such Warrant has been acquired by a bona fide purchaser, the City shall execute and the Paying Agent shall authenticate, register and deliver, in exchange for or in lieu of any such mutilated, destroyed, lost or stolen Warrant, a new Warrant of like tenor and principal amount, bearing a number not contemporaneously outstanding.

(8) Upon the transfer or exchange of any Warrant or the issuance of any new Warrant under this Section, the City may require the payment of a sum sufficient to cover any tax or other governmental charge that may be imposed in relation thereto and any other expenses connected therewith; provided no charge shall be made to the Holder for any transfer or exchange of Warrants.

(9) Every new Warrant issued pursuant to this Section in lieu of any destroyed, lost or stolen Warrant shall constitute an original additional contractual obligation of the City, whether or not the destroyed, lost or stolen Warrant shall be at any time enforceable by any person.

(10) The provisions of this Section are exclusive and shall preclude (to the extent lawful) all other rights and remedies with respect to the replacement or payment of mutilated, destroyed, lost or stolen Warrants.

(e) Registration of Warrants.

The City shall cause to be kept at the designated corporate office of the Paying Agent a register (the "Warrant Register") in which, subject to such reasonable regulations as it may prescribe, the City shall provide for the registration of Warrants and registration of transfers of Warrants entitled to be registered or transferred as herein provided. The Paying Agent is hereby appointed "Warrant Registrar" for the purpose of registering Warrants and transfers of Warrants as herein provided.

Section 4. Optional Redemption of Warrants. The Warrants with stated maturities on November 1, 2030 and thereafter shall be subject to redemption, in whole or in \$5,000 multiples, prior to their stated maturities, at the option of the City, on any date on or after November 1, 2029, at a price equal to the principal amount thereof to be redeemed, plus accrued interest to the date fixed for redemption, without premium or penalty.

Section 5. Form of Warrants.

The form of the Warrants and the requisite certificates thereof shall be substantially as follows:

**UNITED STATES OF AMERICA
STATE OF ALABAMA
CITY OF OPELIKA
GENERAL OBLIGATION TAXABLE WARRANT
SERIES 2019-B**

Maturity
Date

Interest Rate

CUSIP

The CITY OF OPELIKA, a municipal corporation organized and existing under and by virtue of the laws of the State of Alabama (the "City"), for value received, hereby acknowledges itself indebted to CEDE & CO. or registered assigns in the principal sum of

_____ DOLLARS (\$_____)

and hereby orders and directs the City Clerk/Treasurer of the City to pay to said payee or registered assigns solely from the Fund hereinafter designated said sum on the Maturity Date specified above, and to pay from said Fund interest on said sum from the date hereof at the per annum Interest Rate specified above, payable on May 1 and November 1 in each year, first interest payable on May 1, 2020. Interest shall be computed on a 360-day year with twelve months of thirty days each. The principal of and interest on this Warrant are payable in lawful money of the United States of America, at par and without deduction for exchange or costs of collection. The principal of and premium (if any) on this Warrant shall be payable only upon presentation and surrender of this Warrant at the designated office of The Bank of New York Mellon Trust Company, N.A., Birmingham, Alabama (the "Paying Agent"). Subject to the requirements of the Book-Entry System hereinafter described, interest on this Warrant shall be remitted by the Paying Agent to the then registered owner of this Warrant at the address thereof shown on the registration books of the Paying Agent. Such payments shall be deemed timely made if so mailed on the interest payment date (or if such interest payment date is not a business day, on the business day next following such interest payment date). All such payments shall be valid and effectual to satisfy and discharge the liability of the City or the Paying Agent upon this Warrant to the extent of the sum or sums so paid.

This Warrant is one of a duly authorized issue of General Obligation Taxable Warrants, Series 2019-B, of the City (the "Warrants") limited to an aggregate principal amount of \$46,835,000, issued pursuant to the Constitution and laws of the State of Alabama, including the provisions of Section 11-47-2 of the CODE OF ALABAMA 1975, as amended, and ordinances and proceedings of the City duly held, passed and conducted on December 17, 2019 (the "Authorizing Ordinance"). The indebtedness evidenced by the Warrants is a general obligation of the City, and the full faith and credit of the City are hereby pledged to the punctual payment of the principal thereof and interest thereon.

The Warrants are initially issued in Authorized Denominations pursuant to a Book-Entry System to be administered by the Securities Depository and registered in the name of and held by the Securities Depository Nominee, all as more particularly provided in the Authorizing Ordinance. Reference is hereby made to the Authorizing Ordinance for the terms and conditions upon which the purchase, transfer and exchange of beneficial ownership interest in the Warrants are to be made by means of the Book-Entry System administered by the Securities Depository, to and by all of which terms, conditions and provisions of the Authorizing Ordinance the owner of any beneficial interest in the Warrant, by the acquisition hereof, hereby assents and agrees to be bound. In the event the Book-Entry System for the Warrants is discontinued, Warrants in certificated form in Authorized Denominations will be physically distributed to the Beneficial Owners thereof, the hereinafter described Warrants will be registered in the names of the owners thereof on the registration books of the Paying Agent pertaining thereto, the Paying Agent shall make payments of principal of and interest on the Warrants to the registered owners thereof as provided in the Warrants and the Authorizing Ordinance, and the provisions of this warrant and of the Authorizing Ordinance with respect to registration, transfer and exchange of warrants by the registered owners thereof shall apply.

The City has established in the Authorizing Ordinance a special fund designated "Series 2019-B General Obligation Taxable Warrants Fund" for the payment of the principal of, premium, if any, and interest on the Warrants and has obligated itself to pay or cause to be paid into said Fund from the revenues or other funds of the City sums sufficient to provide for the payment of the principal of, premium, if any, and interest on the Warrants as the same mature and come due.

The Warrants with stated maturities on November 1, 2030 and thereafter shall be subject to redemption, in whole or in \$5,000 multiples, prior to their stated maturities, at the option of the City, on any date on or after November 1, 2029, at a price equal to the principal amount thereof to be redeemed, plus accrued interest to the

date fixed for redemption, without premium or penalty.

The Warrants are issuable only as fully registered Warrants in the denomination of \$5,000 or any integral multiple thereof. Provision is made in the Authorizing Ordinance for the exchange of Warrants for a like aggregate principal amount of Warrants of the same maturity and in authorized denomination, all upon the terms and subject to the conditions set forth in the Authorizing Ordinance with respect thereto.

If the Book-Entry System is not in effect, then the Warrants may be transferred by the registered owner in person or by authorized attorney, only on the books of the Paying Agent and only upon surrender of the Warrant to the Paying Agent for cancellation with a written instrument of transfer acceptable to the Paying Agent executed by the registered owner or his duly authorized attorney, and upon any such transfer, a new Warrant of like tenor shall be issued to the transferee in exchange thereof. Each registered owner, by receiving or accepting this Warrant, shall consent and agree and shall be estopped to deny that insofar as the City and the Paying Agent are concerned, this Warrant may be transferred only in accordance with the provisions of the Authorizing Ordinance.

Provision is made in the Authorizing Ordinance for the replacement of any Warrant which shall be or become mutilated, lost, stolen or destroyed by the issuance, authentication and registration of a new Warrant of like tenor, subject, however, to the terms, conditions and limitations contained in the Authorizing Ordinance with respect thereto.

The Paying Agent shall not be required to transfer or exchange any Warrant during the period of fifteen (15) days next preceding any May 1 or November 1; and in the event that any Warrant (or any principal part thereof) is duly called for redemption and prepayment, the Paying Agent shall not be required to register or transfer any such Warrant during the period of forty-five (45) days next preceding the date fixed for such redemption or prepayment. No charge shall be made for the privilege of transfer, but the registered owner of any Warrant requesting any such transfer shall pay any tax or other governmental charge required to be paid with respect thereto.

It is hereby recited, certified and declared that the indebtedness evidenced and ordered paid by this Warrant is lawfully due without condition, abatement or offset of any description, that this Warrant has been registered in the manner provided by law, that all acts, conditions and things required by the Constitution and laws of the State of Alabama to happen, exist and be performed precedent to and in the execution, registration and issuance of this Warrant, and the adoption of the Authorizing Ordinance have happened, do exist and have been performed as so required and that the principal amount of this Warrant, together with all other indebtedness of the City, are within every debt and other limit prescribed by the Constitution and laws of the State of Alabama.

IN WITNESS WHEREOF, the City has caused this Warrant to be manually executed in its name and on its behalf by its Mayor and manually attested by its City Clerk/Treasurer, who has signed this Warrant and caused its corporate seal to be affixed hereto, and has caused this Warrant to be dated December 19, 2019.

CITY OF OPELIKA, ALABAMA

CITY SEAL

By _____
Its Mayor

Attest: _____

City Clerk/Treasurer

AUTHENTICATION AND REGISTRATION DATE:

AUTHENTICATION AND REGISTRATION CERTIFICATE

This Warrant is hereby authenticated and has been registered by the City of Opelika on the registration books maintained with the Paying Agent in the name of the above registered owner on the Authentication and Registration Date noted above.

**THE BANK OF NEW YORK
MELLON TRUST COMPANY, N.A.**

By _____
Its Authorized Officer

REGISTRATION CERTIFICATE

I hereby certify that this Warrant has been duly registered by me as a claim against the City of Opelika, in the State of Alabama and the Warrant Fund referred to herein.

City Clerk/Treasurer

ASSIGNMENT

For value received _____ hereby sell(s), assign(s) and transfer(s) unto _____ the within Warrant and hereby irrevocably constitute(s) and appoint(s) _____ attorney, with full power of substitution in the premises, to transfer this Warrant on the books of the within mentioned Paying Agent.

Dated this ____ day of _____, 20__

NOTE: The signature on this assignment must correspond with the name of the registered owner as it appears on the face of the within Warrant in every particular, without alteration, enlargement or change whatsoever.

Signature Guaranteed:

(Bank, Broker or Firm*)

By _____

Its _____

Medallion Number: _____

- * Signature(s) must be guaranteed by an eligible guarantor institution which is a member of a recognized signature guarantee program, i.e., Securities Transfer Agents Medallion Program (STAMP), Stock Exchanges Medallion Program (SEMP), or New York Stock Exchange Medallion Signature Program (MSP).

Section 6. Execution of the Warrants, Registration Certificate and Authentication and Registration Certificate.

(a) Each of the Warrants shall be manually executed in the name and on behalf of the City by the Mayor and shall be attested by the City Clerk/Treasurer, and the official seal of the City shall be imprinted thereon. The Warrants shall be registered by the City Clerk/Treasurer of the City in the records maintained by the City Clerk/Treasurer, as a claim against the City and the Warrant Fund, which registration shall be made simultaneously as to all the Warrants. The certificate of registration on each of the Warrants shall be executed by the City Clerk/Treasurer of the City. Said officers are hereby directed to so execute, attest and register the Warrants. In case any officer whose signature shall appear on the Warrants shall cease to be such officer before the authentication and delivery of such Warrants, such signature shall nevertheless be valid and sufficient for all purposes, the same as if he had remained in office until authentication and delivery.

(b) The Authentication and Registration Certificate on each Warrant shall be manually executed by an authorized officer of the Paying Agent, and each Warrant shall be registered in the name of the owner on the registration books maintained with the Paying Agent. No Warrant shall be valid unless such Warrant has been validly authenticated and registered on said registration books by the Paying Agent.

Section 7. Warrants Are General Obligations.

The indebtedness evidenced and ordered paid by the Warrants shall be a general obligation of the City for the punctual payment of the principal of, premium, if any, and interest on which the full faith and credit of the City are hereby pledged. The City represents that ad valorem taxes have been levied and hereby covenants and agrees that such taxes will be levied and collected, insofar as such taxes may be permitted by the present or any future provisions of the Constitution of Alabama, on all taxable property in the City, and applied to the maximum extent permitted by law to the payment of the principal of and interest on the Warrants as such principal matures and such interest comes due, in amounts sufficient for such purposes.

Section 8. The Warrant Fund.

(a) The Warrant Fund, hereby authorized, shall be held by the Paying Agent as paying agent for the Warrants, until the principal of, premium, if any, and interest on the Warrants shall have been paid in full or provision for such payment shall have been made as provided in Section 13 hereof. Moneys in the Warrant Fund shall be used solely for the payment of the principal of, premium (if any) and interest on the Warrants. The City shall pay or cause to be paid into the Warrant Fund the following amounts on or before the following dates:

- (1) On or before December 25, 2019, and on or before the 25th day of each calendar month thereafter, to and including April 25, 2020, the City shall deposit into the Series 2019-B Warrant Fund an amount equal to one-fifth(1/5th) of the interest coming due on the Series 2019-B Warrants on the first ensuing interest payment date of May 1, 2020;
- (2) On or before May 25, 2020, and on or before the 25th day of each calendar month thereafter, to and including October 25, 2036, the City shall deposit into the Series 2019-B Warrant Fund an amount equal to one-sixth (1/6th) of the interest coming due on the Series 2019-B Warrants on the next ensuing interest payment date;

- (3) On or before December 25, 2019, and on or before the 25th day of each calendar month thereafter, to and including October 25, 2020, the City shall deposit into the Series 2019-B Warrant Fund an amount equal to one-eleventh (1/11th) of the principal coming due on the Series 2019-B Warrants on the first principal payment date of November 1, 2020; and
 - (4) On or before November 25, 2020, and on or before the 25th day of each calendar month thereafter, to and including October 25, 2036, the City shall deposit into the Series 2019-B Warrant Fund an amount equal to one-twelfth (1/12th) of the principal coming due on the Series 2019-B Warrants on the next ensuing principal payment date.
- (b) If on any principal or interest payment date the balance in the Warrant Fund is insufficient to pay the principal of, premium, if any, and interest on the Warrants due and payable on such date, the City shall forthwith pay any such deficiency into the Warrant Fund.
- (c) The City and the Paying Agent shall cause all money deposited in the Warrant Fund to be applied to the payment of principal or interest on the Warrants within thirteen months from the date of such deposit and shall cause all income and profits received from the investment of money in the Warrant Fund to be applied to the payment of principal or interest on the Warrants within twelve months from the date of receipt of such income or profits.
- (d) Income and profits received from any investment of money in the Warrant Fund shall be credited against the deposit next required to be made into the Warrant Fund.

Section 9. Transfer of Funds.

- (a) The City Clerk/Treasurer of the City shall collect the proceeds of the City's revenues and deposit the same in the Warrant Fund in the amounts and at the times that deposits are required by this ordinance to be made into said Fund.
- (b) In the event that the proceeds of the City's revenues shall not be sufficient to pay the principal of, premium, if any, and interest on the Warrants and to make the deposits into the Warrant Fund in the amounts and at the times required by this ordinance, the City further covenants and agrees promptly to make up such deficiency from other revenues, income, taxes, assets and resources of the City, and the City Clerk/Treasurer of the City shall promptly deposit into the Warrant Fund from the aforesaid sources all amounts required to make up such deficiency.

Section 10. Security for Warrant Fund.

The money at any time on deposit in the Warrant Fund shall be and at all times remain public funds impressed with a trust for the purpose for which the Warrant Fund is created. The Paying Agent shall at all times keep the money on deposit with it in such Fund continuously secured for the benefit of the City and the registered owners of the Warrants either

- (a) by holding on deposit as collateral security Government Obligations having a market value (exclusive of accrued interest) not less than the amount of money on deposit in the Warrant Fund, or
- (b) if the furnishing of security in the manner provided in the foregoing clause (a) is not permitted by the then applicable laws and regulations, then in such manner as may be required or permitted by the applicable State of Alabama and Federal laws and regulations respecting the security for or granting a preference in the case of the deposit of public trust funds; provided, however, that it shall not be necessary for

the Paying Agent so to secure (i) any portion of the money on deposit in the Warrant Fund that may be insured by the Federal Deposit Insurance Corporation or by any agency of the United States of America that may succeed to its functions, or (ii) any portion of the money on deposit in such Fund that may be invested as provided in Section 11.

Section 11. Investment of Money in Warrant Fund.

The City may cause any money on deposit in the Warrant Fund not then needed for the payment of principal of or interest on the Warrants to be invested or reinvested by the Paying Agent (described in the following section) at the written direction of the City in Qualified Investments. The Paying Agent shall not be held liable or responsible for any loss resulting from any such investments. All such investments must mature or be subject to redemption at the option of the holder on or prior to the respective date or dates when cash funds will be required for the purposes of such Fund. Any such investments shall be held by or under control of the Paying Agent. All interest accruing on such investments and any profit realized therefrom shall be deposited in the Warrant Fund. Any losses resulting from liquidation of investments shall be charged to the Warrant Fund and shall be added to the next ensuing deposit specified herein. The Paying Agent shall sell and reduce to cash a sufficient portion of such investments whenever the cash balance in the Warrant Fund is insufficient to pay the principal and interest requirements on the Warrants. Although the City recognizes that it may obtain a broker confirmation or written statement containing comparable information at no additional cost, the City hereby agrees that broker confirmations of investments are not required to be issued by the Paying Agent for each month in which a monthly statement is rendered by the Paying Agent.

Section 12. Paying Agent for the Warrant Fund.

(a) The City does hereby designate and appoint The Bank of New York Mellon Trust Company, N.A. as the Paying Agent for the Warrants.

(b) The Paying Agent, by acceptance of its duties hereunder, shall have undertaken to perform only such duties as are specifically set forth in this Authorizing Ordinance and no implied covenants or obligations shall be read in this Authorizing Ordinance against the Paying Agent. The Paying Agent is not required to risk or expend its own funds in the performance of its duties hereunder.

(c) The Paying Agent, by acceptance of its duties hereunder, shall be construed to have agreed thereby with the registered owners from time to time of the Warrants that it will make all remittances of principal of and interest on the Warrants from money supplied by the City for such purpose in bankable funds at par and without discount or deduction for exchange, fees or expenses. The City hereby covenants and agrees with the registered owners of the Series 2019-B Warrants and with the Paying Agent that it will pay all charges for exchange, fees or expenses which may be incurred by the Paying Agent in the making of remittances in bankable funds at par.

(d) The Paying Agent may resign and be discharged of all duties imposed upon it as Paying Agent, Warrant Registrar and transfer agent by giving written notice of such intended resignation by certified or registered mail to the City at least thirty (30) days prior to the date when such resignation shall take effect. The Paying Agent may also be removed and discharged of all duties imposed upon it as Paying Agent, Warrant Registrar and transfer agent by the City after receiving written notice of such intended removal by the City at least thirty (30) days prior to the date when such removal shall take effect.

(e) If at any time the Paying Agent shall resign or be or become incapable of acting or shall be adjudged a bankrupt or insolvent or a receiver of the Paying Agent or of its property shall be appointed or any public officer shall take charge or control of the Paying Agent or of its property or affairs for the purpose of rehabilitation, conservation or liquidation, then the City may remove the Paying Agent and the City shall

promptly appoint a successor Paying Agent.

(f) Any successor Paying Agent shall be a bank or trust company authorized to act as Paying Agent and Warrant Registrar and having, at the time of its acceptance of such appointment, combined capital and surplus of at least \$50,000,000.

(g) Every successor Paying Agent appointed hereunder shall execute, acknowledge and deliver to the City and to the retiring Paying Agent an instrument accepting such appointment and thereupon the resignation or removal of the retiring Paying Agent shall become effective and such successor Paying Agent, without any further act, deed or conveyance, shall become vested with all the rights, powers, and duties of the retiring Paying Agent.

(h) Any corporation into which the Paying Agent may be merged or with which it may be consolidated, or any corporation resulting from any merger or consolidation to which the Paying Agent shall be a party, or any corporation succeeding to all or substantially all of the corporate trust business of the Paying Agent, shall be the successor of the Paying Agent hereunder, without the execution or filing of any paper or any further act on the part of any of the parties hereto. In case any Warrants shall have been authenticated, but not delivered, by the Paying Agent then in office, any successor by merger or consolidation to such authenticating Paying Agent may adopt such authentication and deliver the Warrants so authenticated with the same effect as if such successor Paying Agent had itself authenticated such Warrants.

(i) The Paying Agent shall have the right to accept and act upon directions or instructions in connection with the Warrants and delivered using Electronic Means (defined below); provided, however, that the City shall provide to the Paying Agent an incumbency certificate listing authorized officers with the authority to provide such directions or instructions (each an "Authorized Officer") and containing specimen signatures of such Authorized Officers, which incumbency certificate shall be amended whenever a person is to be added or deleted from the listing. If the City elects to give the Paying Agent directions or instructions using Electronic Means and the Paying Agent in its discretion elects to act upon such directions or instructions, the Paying Agent's understanding of such directions or instructions shall be deemed controlling. The City understands and agrees that the Paying Agent cannot determine the identity of the actual sender of such directions or instructions and that the Paying Agent shall conclusively presume that directions or instructions that purport to have been sent by an Authorized Officer listed on the incumbency certificate provided to the Paying Agent have been sent by such Authorized Officer. The City shall be responsible for ensuring that only Authorized Officers transmit such directions or instructions to the Paying Agent and that all Authorized Officers treat applicable user and authorization codes, passwords and/or authentication keys as confidential and with extreme care. The Paying Agent shall not be liable for any losses, costs or expenses arising directly or indirectly from the Paying Agent's reliance upon and compliance with such directions or instructions notwithstanding such directions or instructions conflict or are inconsistent with a subsequent written direction or written instruction. The City agrees: (i) to assume all risks arising out of the use of Electronic Means to submit directions or instructions to the Paying Agent, including without limitation the risk of the Paying Agent acting on unauthorized directions or instructions, and the risk of interception and misuse by third parties; (ii) that it is fully informed of the protections and risks associated with the various methods of transmitting directions or instructions to the Paying Agent and that there may be more secure methods of transmitting directions or instructions and (iii) that the security procedures (if any) to be followed in connection with its transmission of directions or instructions provide to it a commercially reasonable degree of protection in light of its particular needs and circumstances. "Electronic Means" shall mean the following communications methods: e-mail, facsimile transmission, secure electronic transmission containing applicable authorization codes, passwords and/or authentication keys, or another method or system specified by the Paying Agent as available for use in connection with its services hereunder.

Section 13. Provision for Payment of Warrants

(a) The Warrants shall be deemed fully paid for purposes of this ordinance if:

(i) The City shall have filed with the Paying Agent a fully executed copy of an irrevocable trust agreement between the City and a banking institution with a designated office in the State of Alabama making provision for the retirement of the Warrants by creating for that purpose a trust fund sufficient to provide for payment and retirement of the Warrants then outstanding (including payment of the interest that will mature thereon until and on the dates they are retired, as such interest becomes due and payable, and the premium, if any, required to be paid upon the redemption of the Warrants, if any, being redeemed), either by redemption prior to their respective maturities, by payment at their respective maturities, or by payment of part thereof at their respective maturities and redemption of the remainder prior to their respective maturities, which trust fund shall consist of (A) Government Obligations which are not subject to redemption prior to their respective maturities at the option of the City and which, if the principal thereof and the interest thereon are paid at their respective maturities, will produce funds sufficient so to provide for payment and retirement of such Warrants, or (B) both cash and such Government Obligations which together will produce funds sufficient for such purpose, or (C) cash sufficient for such purpose; and

(ii) Such notice as is required hereunder for the redemption of those Warrants (if any) that, according to such trust agreement, are to be redeemed prior to their respective maturities has been given or provisions satisfactory to the Paying Agent have been made for the giving of such notice.

(b) Any money on deposit in the Warrant Fund (to the extent that such money is not required for the payment of the principal of, premium, if any, and interest on the Warrants previously becoming due and payable, or is not otherwise unavailable for the following use) may at the direction of the City be transferred to and constitute a part of the trust fund created pursuant to the aforesaid trust agreement providing for the retirement of the Warrants.

Section 14. Approval of Warrant Purchase Agreement and Refunding Trust Agreement.

The Warrant Purchase Agreement and its prior execution on behalf of the City is hereby ratified, adopted, and approved. The Refunding Trust Agreement and Verification Report with respect to the Refunded Series 2011 Warrants is hereby approved and its execution ordered and confirmed.

Section 15. Expenses of Collection; Interest After Maturity.

The City covenants and agrees that, if the principal of and interest on the Warrants are not paid promptly as such principal and interest matures and comes due, it will pay to the registered owners of the Warrants all expenses incident to the collection of any unpaid portion thereof, including a reasonable attorneys' fee. The Warrants shall bear interest at the rate of 2% per annum or the maximum rate of interest allowed by law, whichever is less, from and after the respective maturity or due dates thereof, if not then paid.

Section 16. Sale and Delivery of Warrants; Closing Papers.

The Warrants are hereby sold to The Frazer Lanier Company Incorporated, upon the payment to the City of the purchase price of \$46,449,939.50 (representing the principal amount of the Series 2019-B Warrants less an Underwriter's discount of \$351,262.50 and less an original issue discount of \$33,798.00). The City Council has determined that the sale of the Warrants to such purchaser on such terms is most advantageous to the City. The Warrants shall be delivered to such purchaser upon the payment to the City of the aforesaid purchase price. The Mayor, the City Clerk/Treasurer and the City Clerk/Treasurer, or any of them, are hereby authorized and directed to effect such delivery and in connection therewith to deliver such closing papers,

documents and contracts containing such representations as are required to demonstrate: the legality and validity of the Warrants; the exemption of interest on the Warrants from State of Alabama income taxation; and the absence of pending or threatened litigation with respect to any of such matters. The City Clerk/Treasurer shall give a receipt to the said purchaser for the purchase price paid, and such receipt shall be full acquittal to the said purchaser and the said purchaser shall not be required to see to, or be responsible for, the application of the proceeds of the Warrants. Nevertheless, the proceeds of the Warrants shall be held in trust and applied solely for the purposes specified in this ordinance.

Section 17. Application of Proceeds.

The proceeds from the sale of the Warrants shall be applied as follows:

(a) \$134,655.06 shall be applied by the Underwriter on behalf of the City to the payment of approved issuance expenses as set forth in the Closing Memorandum.

(b) The sum of \$46,315,284.44 shall be deposited into the Escrow Fund established by the Refunding Trust Agreement and applied by the Paying Agent, in its capacity as Escrow Agent, to the payment and advance refunding and redemption, on a taxable basis, of the Refunded Series 2011 Warrants on November 1, 2021, by purchasing open-market securities in the amount of \$46,314,346.32 and retaining the sum of \$938.12 as an initial cash deposit, as set forth in the Verification Report.

Section 18. Reserved.

Section 19. Provisions of Ordinance a Contract.

The terms, provisions and conditions set forth in this ordinance constitute a contract between the City and the registered owners of the Warrants and shall remain in effect until the principal of and interest on the Warrants shall have been paid in full, or until payment shall have been provided as set forth in Paragraph 14 hereof.

Section 20. Severability.

The provisions of this ordinance are severable. In the event that any one or more of such provisions or the provisions of the Warrants shall, for any reason, be held illegal or invalid, such illegality or invalidity shall not affect the other provisions of this ordinance or of the Warrants, and this ordinance and the Warrants shall be construed and enforced as if such illegal or invalid provision had not been contained herein or therein.

Section 21. Continuing Disclosure Undertaking.

In accordance with the requirements of Rule 15c2-12 (the "Rule") promulgated by the Securities and Exchange Commission, the City agrees to provide, or cause to be provided, the following to the Municipal Securities Rulemaking Board ("MSRB");

(i) its annual audited financial statement on the EMMA website by March 31 of each calendar year for the prior fiscal year ending September 30, provided, however, that if the audited financial statement is not available by such date, the City will post reasonably available unaudited draft financial information by said date,

(ii) if not already included in the City's audited financial statement, an annual update to the information contained in "SOURCES OF GENERAL FUND REVENUES," and

(iii) notices ("Material Event Notices") of the occurrence of the following events with respect to the Warrants in a timely manner:

Not in excess of 10 Business Days after the occurrence of a reportable event, to MSRB: (a) principal and interest payments delinquencies, (b) non-payment related defaults, if material, (c) unscheduled draws on debt service reserves reflecting financial difficulties, (d) unscheduled draws on credit enhancements reflecting financial difficulties, (e) substitution of credit or liquidity providers or their failure to perform, (f) adverse tax opinions with respect to the Series 2019-B Warrants, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB) or other material notices or determinations with respect to the tax status of the security, or other material events affecting the tax status of the security; (g) modifications to rights of security holder, if material, (h) bond calls, if material, and tender offers, (i) defeasances, (j) release, substitution or sale of property securing repayment of the securities, if material, (k) rating changes, if any are then in effect, (l) bankruptcy, insolvency, receivership or similar event of the obligated person, (m) merger, consolidation, acquisition or sale of assets involving an obligated person or the sale of all or substantially all of the assets of the obligated person, other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material, (n) appointment of a successor or additional paying agent or the change of name of a paying agent, (o) the incurrence of a financial obligation of the obligated person, if material, or agreement to covenants, events of default, remedies, priority rights, or other similar terms of a financial obligation of the obligated person, any of which affect security holders, if material, and (p) default, an event of acceleration, a termination event, modification of terms, or other similar events under the terms of a financial obligation of the obligated person, any of which reflect financial difficulties; and

(iv) in a timely manner, notice of any failure by the City to provide the required annual financial information on or before the date specified.

The City reserves the right to modify from time to time the specific types of information provided or the format of the presentation of such information, to the extent necessary or appropriate in the judgment of the City; provided that, the City agrees that any such modification will be done in a manner consistent with the Rule. The City reserves the right to terminate its obligation to provide the annual operating information and financial information and notices of material events, as set forth above, if and when the City no longer remains an obligated person with respect to the Warrants within the meaning of the Rule. The City acknowledges that its undertaking, pursuant to the Rule described under this heading is intended to be for the benefit of the registered owners of the Warrants and shall be enforceable by the holders; provided that, the holders' rights to enforce the provisions of this undertaking shall be limited to a right to obtain specific enforcement of the City's obligations hereunder and any failure by the City to comply with the provisions of this undertaking shall not be an event of default with respect to the Warrants and shall not subject the City to money damages in any amount, whether compensatory, penal or otherwise. The name, address and telephone number of the initial contact person at the City are as follows:

Robert G. Shuman or successor as City Clerk/Treasurer
City of Opelika City Hall
PO Box 390
Opelika, Alabama 36803
Phone: 334-705-5150
email: RShuman@opelika-al.gov

The City has not always been in compliance with its continuing disclosure obligations, having failed, among other things, to timely post certain of the City's audited financial statements and other annual financial information, or notices of the failures thereof, on the EMMA website, and failing to post rating change notices.

In its prior continuing disclosure undertakings, the City covenanted to provide annual financial information, including its audit, in most cases within 180 days of the City's fiscal year end, and in three instances by March 31 following the City's fiscal year end (the City's fiscal year ends September 30). The City filed its 2015 audit on the EMMA website on March 29, 2016, its 2016 audit on May 2, 2017, its 2017 audit on May 29, 2018, and its 2018 audit on March 28, 2019. The City filed notice of its failure to timely file its 2016 audit on the EMMA website on March 28, 2017, and notice of its failure to timely file its 2017 audit on March 28, 2018.

The City failed to timely file certain information for fiscal years 2016 and 2017 as required under the continuing disclosure undertaking relative to its Electric System Revenue Warrants, Series 2011, dated March 1, 2011 (which are not presently outstanding). The City filed this information for the 2016 fiscal year on the EMMA website on May 2, 2017. The City filed notice of its failure to timely file this information for the 2016 fiscal year on the EMMA website on March 28, 2017. The City filed this information for the 2017 fiscal year on May 29, 2018. The City filed notice of its failure to timely file this information for the 2017 fiscal year on March 28, 2018.

The City failed to file its fiscal year 2015 budget as required under the continuing disclosure undertaking relative to its General Obligation Warrants, Series 2014, dated December 18, 2014. The City filed this information on the EMMA website on November 30, 2015. The City filed notice of its failure to timely file this information on the EMMA website on December 2, 2015. The City filed its fiscal year 2016 budget on the EMMA website on November 30, 2015, its 2017 budget on October 3, 2016, its 2018 budget on October 20, 2017, and its 2019 budget on October 10, 2019.

Section 22. Approval of Preliminary Official Statement and Final Official Statement.

The Preliminary Official Statement and the final Official Statement (collectively, the "Official Statements"), with respect to the Warrants, in substantially the form and of substantially the content as the forms of Official Statements presented to and considered at this meeting, are hereby approved and adopted.

The City Council does hereby find and determine that the Official Statements are correct and do not contain an untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein, in light of the circumstances under which they were made, not misleading.

The Mayor of the City is hereby authorized to execute and deliver the final Official Statement for and on behalf of and in the name of the City, with such changes or additions thereto or deletions therefrom as he may deem necessary or desirable in order to state fully and correctly the pertinent facts concerning the City and the Warrants offered thereby.

The distribution of the Preliminary Official Statement to prospective purchasers of the Warrants is hereby ratified and confirmed.

Section 23. Repeal of Conflicting Provisions.

All ordinances, resolutions and orders or parts thereof in conflict with this ordinance are to the extent of such conflict, hereby repealed.

Section 24. Advance Refunding and Redemption of the Refunded Series 2011 Warrants

The Refunded Series 2011 Warrants are hereby called for redemption on November 1, 2021 (the “Redemption Date”). The Paying Agent is hereby directed to take all action necessary to effect the redemption of the Refunded Series 2011 Warrants on the Redemption Date. The City is not in default in the payment of the principal of or interest on any of the Series 2011 Warrants and the Refunded Series 2011 Warrants now outstanding are to be retired on the Redemption Date. The Paying Agent shall give notice of redemption of the Refunded Series 2011 Warrants by United States registered or certified mail not less than thirty (30) days prior to the Redemption Date to the registered owners of the Refunded Series 2011 Warrants which are to be redeemed. The Notice shall be in substantially the following form and is hereby ratified and confirmed:

NOTICE OF REDEMPTION

NOTICE IS HEREBY GIVEN that the outstanding General Obligation Warrants, Series 2011, dated November 1, 2011, of the City of Opelika (Alabama), with maturities on November 1, 2022 and thereafter, shall be called for redemption on November 1, 2021 and will become due and payable on such date at a redemption price for each warrant redeemed equal to the principal amount thereof to be redeemed, plus accrued interest thereon to the date fixed for redemption, without premium or penalty. All such warrants should be surrendered at the designated corporate trust office of The Bank of New York Mellon Trust Company, N.A., in Birmingham, Alabama, and no such warrants will be paid until so surrendered. All interest on such warrants so called for redemption will cease to accrue after May 1, 2020, whether or not the warrants are presented for payment.

CITY OF OPELIKA (ALABAMA)

By THE BANK OF NEW YORK
MELLON TRUST COMPANY, N.A.
 Its duly authorized agent

The motion for unanimous consent was seconded by Councilmember _____ and upon the question, the vote thereon was as follows:

Ayes: Charles E. Smith, President
Patricia A. Jones, President Pro Tem
Tiffany Gibson-Pitts
Dozier Smith T
David Canon

Nays: None

The Council President declared the motion carried and the rules suspended.

After said ordinance had been discussed and considered in full by the Council, Councilmember _____ then moved for the adoption of the Ordinance and to waive the reading of said ordinance at length. The motion was seconded by Councilmember _____. The motion was regularly put, and upon roll call, the vote thereon was as follows:

Ayes: Charles E. Smith, President
Patricia A. Jones, President Pro Tem
Tiffany Gibson-Pitts
Dozier Smith T
David Canon

Nays: None

The Council President thereupon declared said ordinance passed and adopted as introduced.

ADOPTED AND APPROVED this the 17th day of December, 2019.

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

ATTEST:

CITY CLERK/TREASURER

TRANSMITTED TO MAYOR on this the 17th day of December, 2019.

CITY CLERK/TREASURER

ACTION BY MAYOR

APPROVED this the 17th day of December, 2019.

MAYOR

ATTEST:

CITY CLERK/TREASURER

* * *

It was moved and seconded that the meeting be adjourned. Motion carried.

CERTIFICATE OF CITY CLERK/TREASURER

I do hereby certify that I am the duly elected, qualified and acting City Clerk/Treasurer of the City of Opelika, Alabama (the "City"). I do further certify that as City Clerk/Treasurer of the City I have access to all original records of the City and I am duly authorized to make certified copies of its records on its behalf; the above and foregoing pages constitute a complete, verbatim and compared copy of excerpts from the minutes of a meeting of the City Council of the City duly held on the 17th day of December, 2019, the original of which is on file and of record in the minute book of the City Council in my custody; the ordinance set forth in such excerpts is a complete, verbatim and compared copy of said ordinance as introduced and adopted by the City Council on such date; and said ordinance is in full force and effect and has not been repealed, amended or changed.

IN WITNESS WHEREOF, I have hereunto set my hand as City Clerk/Treasurer of the City and have affixed the official seal of the City, this 17th day of December, 2019.

City Clerk/Treasurer

CITY SEAL