



402 LEE STREET
DECATUR, AL 35601

MAY 15, 2023

Council Chambers	Regular City Council Meeting	10:00 AM
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I. CALL MEETING TO ORDER:

II. INVOCATION:

III. PLEDGE OF ALLEGIANCE:

IV. ROLL CALL OF ELECTED OFFICIALS:

Council President Jacob Ladner, District 5
Council Pro-Tempore Carlton McMasters, District 3
Council Member Billy Jackson, District 1
Council Member Kyle Pike, District 2
Council Member Hunter Pepper, District 4

V. PROCLAMATION:

Decatur High School Tennis Team

VI. APPROVAL OF MINUTES:

- A. April 24, 2023 - 5:00 PM Council Work Session
[04 24 2023 WS.pdf](#)
- B. May 1, 2023 - 5:30 PM Council Work Session
[05 01 2023 WS.pdf](#)
- C. May 1, 2023 - 6:00 PM Council Meeting
[05 01 2023 CM.pdf](#)

VII. APPROVE MONTHLY BILLS:

- A. Approve April 2023 Bills
[Copy of AP CHECKS WRITTEN IN APRIL 2023 FOR COUNCIL APPROVAL.pdf](#)

VIII. APPEAL:

- A. Resolution No. 23-140: Decatur Morgan EMS appeal
[Res No 23-140 DMEMS Appeal-1.pdf](#)

IX. RESOLUTIONS:

- A. Resolution No. 23-119: Approve request for a Special Use Permit for Tillman Infrastructures, LLC to construct a new wireless telecommunication tower for AT&T at Runnymede Avenue SW
[Res No 23-119 ATT - Runnymead Avenue SW NEW.pdf](#)
- B. Resolution No. 23-120: Approve MUB Expenditure of \$16,724,650 for Sewer Pipe Rehab (Pipe Burst Method) - Contract B
[Res No 23-120 CC_Sewer_Pipe_Rehab_Pipe_Burst_Method_Contract_B_2023.pdf](#)
[Council Letter 05 15 23.pdf](#)
- C. Resolution No. 23-121: Approve MUB Expenditure of \$530,926 for FY23 Boring and Trenching Contract
[Res No 23-121 CC_FY23_Boring_and_Trenching_Contract.pdf](#)
[Council Letter 05 15 23.pdf](#)
- D. Resolution No. 23-122: Approve Payment for Permit Renewal of Decatur Morgan Regional Landfill No. 52-03
[Res No 23-122 MSW_PERMIT_52-03_.pdf](#)
[ADEM Fee Schedule_PermitRenewal.pdf](#)
- E. Resolution No. 23-123: Approve proposal from TTL Inc. to provide Construction Quality Assurance (CQA) services for geosynthetic destructive testing for Cell 16 construction project at the Decatur-Morgan County Regional Landfill
[Res No 23-123_TTLProposalGeosyntheticTesting.pdf](#)
[TTL Proposal Phase II Geosynthetic TEsting.pdf](#)
- F. Resolution No. 23-124: Accept ADEM grant for Recycling Education
[Res No 23-124 ADEM Recycling Grant.pdf](#)
[M ARF Decatur-Morgan 4-26-23.pdf](#)
- G. Resolution No. 23-125: Approve ALDOT 5310 Grant Application
[Res No 23-125 ALDOT 5310 Grant App.pdf](#)
- H. Resolution No. 23-126: Authorize Paleowest to conduct mapping survey at Garth Cemetery
[Res No 23-126 Paleowest Mapping Garth Cemetery.pdf](#)
[Garth Cemetery Contract FINAL.docx](#)
- I. Resolution No. 23-127: Authorize Paleowest to complete mapping at Sykes Cemetery
[Res No 23-127 Paleowest Mapping Sykes Cemetery.pdf](#)
[Sykes Cemetery Contract Part II FINAL.docx](#)

- J. Resolution No. 23-128: Approve Supplemental Agreement No. 1 - ATRP2-52-2023-176 Sandlin Road & Central Parkway
[Res No 23-128 Supplemental_Agreement_ATRP2-52-2020-176_Central_Pkwy-Sandlin.pdf](#)
[Supplemental_Agreement__ATRP-Central-Sandlin.pdf](#)
- K. Resolution No. 23-129: Approve Champion Auto Bore Sewer Contract between the City of Decatur and Decatur Utilities
[Res No 23-129 Champion_Auto_Sewer_Bore_sewer_warranty.pdf](#)
[Champion_Auto_Sewer_Bore_1_year_sewer_warranty.pdf](#)
- L. Resolution No. 23-130: Award bid #23-016 for Litter Fencing to Southwestern Sales Co.
[Res No 23-130 Southwestern Sales - Litter Fencing.pdf](#)
[Bid Tab 23-016.xlsx](#)
- M. Resolution No. 23-131: Award bid #23-017 for LED Christmas Light Wrapping for 2nd Avenue Trees to Lights of Christmas being the sole respondent
[Res No 23-131 Lights of Christmas - 2nd Ave trees .pdf](#)
[Bid Tab 23-017.xlsx](#)
- N. Resolution No. 23-132: Declare surplus of vehicles no longer needed by the Police Department
[Res No 23-132 Surplus_Police_Vehicles.pdf](#)
[Camaros to surplus.xlsx](#)
- O. Resolution No. 23-134: Approve Verizon providing a short-term communication facility at Point Mallard Park
[Res No 23-134 Verizon_providing_short-term_communication_facility_at_Point_Mallard.pdf](#)
[Point Mallard SPOT Agreement with Verizon.pdf](#)
- P. Resolution No. 23-135: Approve FY2023 Midyear Budget Adjustments
[Res No 23-135 Midyear_Budget_FY23.pdf](#)
[Midyear 2023 Adj Detail - V2.pdf](#)
- Q. Resolution No. 23-136: Approve for Mayor to sign the Carrier agreement for Aquadome HVAC
[Res No 23-136 Aquadome_split_HVAC_Units.pdf](#)
[Carrier Sourcewell Turnkey Proposal - Aquadome Meeting Room Mini Split Installations.pdf](#)
- R. Resolution No. 23-137: Authorize the Mayor to sign contract with Frameworks for Event Center located at Point Mallard
[Res No 23-137 Pt Mallard Event Center-Frameworks.pdf](#)
[Point Mallard B101-2017 \(For Execution\).pdf](#)
- S. Resolution No. 23-138: Declare Surplus of Items no longer needed by Parks and Recreation
[Res No 23-138 Surplus PR Equipt.pdf](#)

- T. Resolution No. 23-139: Accept and Approve Mayor to sign American Cruise Lines' Docking Lease for Tennessee River Sites
[Res No 23-139 American_Cruise_Lines_Lease.pdf](#)
[American Cruise Lines, Inc. Docking Lease.pdf](#)
- U. Resolution No. 23-141: Approve DYS Lease Agreement for Facilities - Relocation of Aquadome Staff
[Res No 23-141 Youth_Services_Aquadome_Relocation-1.pdf](#)
[1502 Central Parkway Lease Unit A City of Decatur - Youth Services v1.doc](#)
[1502 Central Pkwy floor plan Unit A Layout.pdf](#)

X. ORDINANCES:

- A. Ordinance No. 23-4556: Approval of duplicated street McClellan Drive SE to be changed to Emma Drive SE
[Ord No 23-4556 Change Street Name to Emma Dr SE.pdf](#)
[Signed Resolution No 007-23.pdf](#)

XI. ADJOURNMENT:

Due to the Memorial Day Holiday (May 29, 2023) the next Council Work Session will be held on Monday, June 5, 2023 at 5:00pm.

The next regular City Council meeting will be held on Monday June 5, 2023 at 6:00pm.

Note: Changes to a City Council Agenda may be necessary prior to the City Council Meeting; therefore, such changes may not be included on the City Council Agenda on the website.

PLEASE BE ADVISED: ANYONE PLANNING TO MAKE A PRESENTATION TO THE COUNCIL AT A WORK SESSION OR RELATED TO AN ITEM BEING ADDRESSED AT A COUNCIL MEETING THAT WILL REQUIRE AUDIO/VISUAL EQUIPMENT (I.E. POWERPOINT, SCREEN, PROJECTOR, ETC.) ARE REQUIRED TO NOTIFY THE INFORMATION SYSTEMS DEPARTMENT **TWO BUSINESS DAYS** BEFORE THE PRESENTATION AT 256-341-4700.

CITY COUNCIL AGENDA ITEM REPORT

DATE: May 15, 2023

SUBMITTED BY: Stephanie Simon, City Clerk

ITEM TYPE: Minutes

AGENDA SECTION: APPROVAL OF MINUTES:

SUBJECT: April 24, 2023 - 5:00 PM Council Work Session

FINANCIAL IMPACT: NA

SUGGESTED ACTION:

ATTACHMENTS:
[04 24 2023 WS.pdf](#)

CITY HALL, DECATUR, ALABAMA, APRIL 24, 2023 – 5:00 PM WORK SESSION

The members of the City Council of the City of Decatur, Alabama met on Monday, April 24, 2023 at 5:00 p.m. in the Council Chambers on the 1st floor of Decatur City Hall located at 402 Lee Street, Decatur, AL.

The following members were present: Ladner, McMasters, Jackson (5:09pm), Pike and Pepper

Present at the work session were Mayor Bowling, City Attorney Herman Marks, CFO Kyle Demeester, Police Captain Silvestri, Fire Chief Thornton, Community Development Manager Allen Stover, Purchasing Agent Jeremy Sherrill, Parks & Recreation Director Jason Lake, Youth Services Director Brandon Watkins, IT Director Brad Phillips, City Engineer Carl Prewitt, Environmental Services Director Daniel Boutwell, Planning Manager Lee Terry, Parks & Recreation Admin Specialist Nita Harris, Community Development Inspection Manager David Lee and City Clerk Stephanie Simon.

Council reviewed the May 1, 2023 agenda.

Resolution No. 23-014: Abatement of unsafe conditions - 16 Cherry St NE
Council Member Pike stated this property had sold and to allow the new owner one (1) month to correct the property issues.

Resolution No. 23-113: Purchase of Vehicles – CFO Kyle Demeester stated there are 2 DU surplus vehicles available and asked to add them to the resolution. Council President Ladner stated to update the resolution.

Resolution No. 23-114: MOU with DCS and City for Decatur Youth Services to use Austin Junior High Gym for summer camp.

DYS Director Brandon Watkins stated there may be additional school building(s) in addition to Austin Junior High.

There being no further business the meeting adjourned at 5:21 pm.

CITY COUNCIL AGENDA ITEM REPORT

DATE: May 15, 2023

SUBMITTED BY: Stephanie Simon, City Clerk

ITEM TYPE: Minutes

AGENDA SECTION: APPROVAL OF MINUTES:

SUBJECT: May 1, 2023 - 5:30 PM Council Work Session

FINANCIAL IMPACT: NA

SUGGESTED ACTION:

ATTACHMENTS:
[05 01 2023 WS.pdf](#)

The members of the City Council of the City of Decatur, Alabama met on Monday, May 1, 2023 at 5:30 p.m. in the Council Chambers on the 1st floor of Decatur City Hall located at 402 Lee Street, Decatur, AL.

Absent: Pepper

Council reviewed the May 1, 2023 agenda.

Resolution No. 23-014: Abatement of unsafe conditions - 16 Cherry St NE

Resolution No. 23-113: Purchase of Vehicles – Council Member Jackson stated the 2 DU vehicles need to be on a separate resolution. After discussion the DU vehicles in question were removed from Resolution 23-113 and a new resolution (#23-118) was added to accommodate the request.

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CITY COUNCIL AGENDA ITEM REPORT

DATE: May 15, 2023

SUBMITTED BY: Stephanie Simon, City Clerk

ITEM TYPE: Minutes

AGENDA SECTION: APPROVAL OF MINUTES:

SUBJECT: May 1, 2023 - 6:00 PM Council Meeting

FINANCIAL IMPACT: NA

SUGGESTED ACTION:

ATTACHMENTS:
[05 01 2023 CM.pdf](#)



MINUTES
REGULAR CITY COUNCIL MEETING
MAY 1, 2023 – 6:00 PM

I. CALL MEETING TO ORDER:

Council President Jacob Ladner called the meeting to order at 6:00pm.

II. INVOCATION:

Pastor Jonathan Sherrill, Harvestfield Church

III. PLEDGE OF ALLEGIANCE:

Pastor Jonathan Sherrill with Harvestfield Church led the Pledge of Allegiance.

IV. ROLL CALL OF ELECTED OFFICIALS:

Present - Council President Jacob Ladner, District 5

Present - Council Pro-Tempore Carlton McMasters, District 3

Present - Council Member Billy Jackson, District 1

Present - Council Member Kyle Pike, District 2

Absent - Council Member Hunter Pepper, District 4

V. PRESENTATION:

Robert Maddox with the Alabama Forestry Commission - Tree City USA

VI. PROCLAMATION:

Historic Preservation Month - May 2023

Mayor Bowling presented the proclamation to members of the Historic Preservation Commission.

VII. APPROVAL OF MINUTES:

A. April 3, 2023 - 6:00 PM Council Meeting

[04 03 2023 CM.pdf](#)

Moved by Carlton McMasters; seconded by Kyle Pike to Approve .

Motion Passed: 4- 0

Voting For: Jacob Ladner, Carlton McMasters, Billy Jackson, Kyle Pike

Voting Against: None

B. April 10, 2023 - 5:00 PM Council Work Session

[04 10 2023 WS.pdf](#)

Moved by Carlton McMasters; seconded by Kyle Pike to Approve .

Motion Passed: 4- 0

Voting For: Jacob Ladner, Carlton McMasters, Billy Jackson, Kyle Pike

Voting Against: None

C. April 17, 2023 - 9:30 AM Council Work Session

[04 17 2023 WS.pdf](#)

Moved by Carlton McMasters; seconded by Kyle Pike to Approve .

Motion Passed: 4- 0

Voting For: Jacob Ladner, Carlton McMasters, Billy Jackson, Kyle Pike

Voting Against: None

D. April 17, 2023 - 10:00 AM Council Meeting

[04 17 2023 CM.pdf](#)

Moved by Carlton McMasters; seconded by Kyle Pike to Approve .

Motion Passed: 4- 0

Voting For: Jacob Ladner, Carlton McMasters, Billy Jackson, Kyle Pike

Voting Against: None

E. April 18, 2023 - 4:00 PM Special Called Council Meeting

[04 18 2023 SCCM.pdf](#)

Moved by Carlton McMasters; seconded by Kyle Pike to Approve .

Motion Passed: 3- 0

Voting For: Jacob Ladner, Carlton McMasters, Kyle Pike

Voting Against: None Abstain: Billy Jackson

VIII. SET PUBLIC HEARINGS:

- A. Ordinance No. 23-4555: Approve Re-Zoning Request 1414-23 for 53 acres more or less located at 2037 Moulton Heights Road SW, from an R-2, Single-Family Residential District to an R-4, Multi-Family Residential District
Public Hearing was set for June 5, 2023.
[Ord No 23-4555 Re-Zoning 1414-23 Magnus Capital -Moulton Heights.pdf](#)
[Legal 1 - 1414-23 Rezoning Magnus Capital - Moulton Heights .doc](#)
[Legal 2 - 1414-23 Rezoning Magnus Capital - Moulton Heights.doc](#)
[Rezoning 1414-23 - Zoning.pdf](#)
[Moulton Heights Re-zoning Exhibit A.jpg](#)
[ZONING DISTRICT COMPARISON R-2 to R4.docx](#)
[Pages from April 2023 Planning Commission Agenda .pdf](#)
- B. Ordinance No. 23-4557: Approve Re-Zoning Request 1416-23 for 14.88 acres more or less located at 60 Woodall Road SW, from an AG-1, Agricultural District to a M-1, Light Industry District
Public Hearing was set for June 5, 2023.
[Ord No 23-4557 Re-Zoning 1416-23 Davis - Woodall Road.pdf](#)
[Legal 1 - 1416-23 Rezoning Davis - Woodall Road SW .doc](#)
[Legal 2 - 1416-23 Rezoning Davis - Woodall Road SW.doc](#)
[1416-23Zoning.pdf](#)
[Rezoning 1416-23 - Aerial.pdf](#)
[Davis-Prestwood \(AG-1 to M-1\)- Legal.pdf](#)
[April 2023 Special Called Mtg Agenda 4.27.23pdf 3.pdf](#)
[ZONING DISTRICT- AG1 TO M-1.docx](#)

IX. PUBLIC HEARINGS:

- A. Resolution No. 23-014: Approve abatement of unsafe conditions at 16 Cherry St. NE
Public Hearing was set April 3, 2023
This being the date, time and place for the hearing Council President Ladner opened the meeting for comment.
Discussion:
Council Member Pike stated the property had sold and asked to give new owners 60 days to correct property issues.
[Res No 23-014 16 Cherry St. NE DEMO RESOLUTION.pdf](#)
- Moved by Kyle Pike; seconded by Carlton McMasters to Table .
Motion Passed: 4- 0

Voting For: Jacob Ladner, Carlton McMasters, Billy Jackson, Kyle Pike

Voting Against: None

X. RESOLUTIONS:

- A. Resolution No. 23-103: Assess demolition cost in the amount of \$7330 against 303 11th Ave. NW

[Res No 23-103 Demo Assessment 303 11th Ave NW.pdf](#)

Moved by Carlton McMasters; seconded by Kyle Pike to Approve .

Motion Passed: 4- 0

Voting For: Jacob Ladner, Carlton McMasters, Billy Jackson, Kyle Pike

Voting Against: None

- B. Resolution No. 23-104: Assess demolition cost in the amount of \$9830 against 2259 Graham Ave. SW

[Res No 23-104 Demo Assessment 2259 Graham Ave SW.pdf](#)

Moved by Carlton McMasters; seconded by Kyle Pike to Approve .

Motion Passed: 4- 0

Voting For: Jacob Ladner, Carlton McMasters, Billy Jackson, Kyle Pike

Voting Against: None

- C. Resolution No. 23-105: Approve ATRP2-52-2023-176 Agreement, State-City, State Route 67 and Upper River Road

[Res No 23-105 ATRP2-52-2023-176 Agreement -SR67-Upper River Road.pdf](#)

[ATRP2-52-2023-176_Agreement_w-City-SR67__Upper_River_Road.pdf](#)

[Funding ATRP2-52-2023-176 Route SR67-Upper River Rd.pdf](#)

Moved by Carlton McMasters; seconded by Kyle Pike to Approve .

Motion Passed: 3- 1

Voting For: Carlton McMasters, Billy Jackson, Kyle Pike

Voting Against: Jacob Ladner

- D. Resolution No. 23-106: Declare Surplus of Municipal Vehicles no longer needed by Environmental Services

[Res No 23-106 Vehicle Surplus Environmental Services.pdf](#)

Moved by Kyle Pike; seconded by Carlton McMasters to Approve .

Motion Passed: 4- 0

Voting For: Jacob Ladner, Carlton McMasters, Billy Jackson, Kyle Pike

Voting Against: None

- E. Resolution No. 23-107: Approve Purchase of one Kenworth T380 Loader Truck for Solid Waste

[Res No 23-107 Knuckle Boom \(\\$1 Fee GL\).pdf](#)

[Ingram KB20 PX9 Specs 1-26-2023.PDF](#)

[Ingram quote Knucklebooms.PDF](#)

Moved by Carlton McMasters; seconded by Kyle Pike to Approve .

Motion Passed: 4- 0

Voting For: Jacob Ladner, Carlton McMasters, Billy Jackson, Kyle Pike

Voting Against: None

- F. Resolution No 23-108: Approve Purchase of one Kenworth T380 Loader Truck for Solid Waste

[Res No 23-108 Knuckle Boom Vehicle 2.pdf](#)

[Ingram KB20 PX9 Specs 1-26-2023.PDF](#)

[Ingram quote Knucklebooms.PDF](#)

Moved by Carlton McMasters; seconded by Kyle Pike to Approve .

Motion Passed: 4- 0

Voting For: Jacob Ladner, Carlton McMasters, Billy Jackson, Kyle Pike

Voting Against: None

- G. Resolution No. 23-109: Approve Mayor to sign agreement with Brycer Compliance Engine for fire service inspection services.

[Res No 23-109 Brycer Compliance Engine.pdf](#)

[Brycer and Decatur Fire Contract 05.01.23.docx](#)

Moved by Carlton McMasters; seconded by Kyle Pike to Approve .

Motion Passed: 4- 0

Voting For: Jacob Ladner, Carlton McMasters, Billy Jackson, Kyle Pike

Voting Against: None

- H. Resolution No. 23-110: Approve application for the US Department of Homeland Security Port Security Grant

[Res No 23-110 Fire - Port Security Grant Boat.pdf](#)

[Port Security Grant Boat Quote.2 05.01.23.docx](#)

Moved by Kyle Pike; seconded by Carlton McMasters to Approve .

Motion Passed: 3-1

Voting For: Jacob Ladner, Billy Jackson, Kyle Pike

Voting Against: Carlton McMasters

- I. Resolution No. 23-111: Approve budget amendment for moving of the Horton House (CEOTA Project) from Room Occupancy Fund

[Res No 23-111 Hospitality Horton House funding Room Occupancy.pdf](#)

Moved by Kyle Pike; seconded by Carlton McMasters to Approve .

Motion Passed: 4- 0

Voting For: Jacob Ladner, Carlton McMasters, Billy Jackson, Kyle Pike

Voting Against: None

- J. Resolution No. 23-112: Approve the replacement of seven HVAC units, Building Controls, and three exhaust fans at The Princess Theatre

[Res No 23-112 Princess HVAC Units Replacement.pdf](#)

[Carrier Sourcewell Turnkey Proposal - Princess Theater Equipment and Controls Retrofit \(4-12-23\).pdf](#)

Moved by Kyle Pike; seconded by Carlton McMasters to Approve .

Motion Passed: 4- 0

Voting For: Jacob Ladner, Carlton McMasters, Billy Jackson, Kyle Pike

Voting Against: None

- K. Resolution No. 23-113: Authorize Purchase of Vehicles for Various Departments

[Res No 23-113 Midyear Vehicle Bid.pdf](#)

[Lynn Layton.pdf](#)

[Stivers State Bid F150 2.pdf](#)

[Stivers State Bid Cargo Van 2.pdf](#)

Moved by Carlton McMasters; seconded by Kyle Pike to Approve .

Motion Passed: 4- 0

Voting For: Jacob Ladner, Carlton McMasters, Billy Jackson, Kyle Pike

Voting Against: None

- L. Resolution No. 23-114: Approve MOU between City and Decatur City Schools regarding Austin Junior High Gym usage by DYS

[Res No 23-114 MOU City-DCS for DYS summer program use of gym.pdf](#)

[DCS and DYS MOU Austin Junior High School.pdf](#)

Moved by Carlton McMasters; seconded by Kyle Pike to Approve .

Motion Passed: 4- 0

Voting For: Jacob Ladner, Carlton McMasters, Billy Jackson, Kyle Pike

Voting Against: None

- M. Resolution No. 23-115: Declare Stiver's Ford Lincoln Inc to be the sole source provider of replacement vehicle for Animal Control

[Res No 23-115 Animal Shelter Vehicle - Stivers.pdf](#)

[Sole Source Justification.pdf](#)

[Stivers Quote F250.pdf](#)

Moved by Kyle Pike; seconded by Carlton McMasters to Approve .

Motion Passed: 4- 0

Voting For: Jacob Ladner, Carlton McMasters, Billy Jackson, Kyle Pike

Voting Against: None

- N. Resolution No. 23-116: Award bid #23-018 to Eskola Roofing for replacing roof on Fire Station #2

[Res No 23-116 Fire Station 2 Roof - Eskola.pdf](#)

[Bid Tab 23-018.xlsx](#)

Moved by Carlton McMasters; seconded by Kyle Pike to Approve .

Motion Passed: 4- 0

Voting For: Jacob Ladner, Carlton McMasters, Billy Jackson, Kyle Pike

Voting Against: None

- O. Resolution No. 23-117: Approve bank signatories for Warrant Series 2023

[Res No 23-117 Warrant Series 2023 Signatories.pdf](#)

Moved by Kyle Pike; seconded by Carlton McMasters to Approve .

Motion Passed: 3- 1

Voting For: Jacob Ladner, Carlton McMasters, Kyle Pike

Voting Against: Billy Jackson

- P. Resolution No. 23-118: Authorize Purchase of Vehicles for Parks & Recreation Department

[Res No 23-118 PR Vehicles.pdf](#)

[DU Fleet Assets List.pdf](#)

Moved by Carlton McMasters; seconded by Kyle Pike to Approve .

Motion Passed: 3- 1

Voting For: Jacob Ladner, Carlton McMasters, Kyle Pike

Voting Against: Billy Jackson

XI. ORDINANCES - FIRST READING:

- A. Ordinance No. 23-4556: Approval of duplicated street McClellan Drive SE to be changed to Emma Drive SE

[Ord No 23-4556 Change Street Name to Emma Dr SE.pdf](#)
[Signed Resolution No 007-23.pdf](#)

XII. ORDINANCES:

- A. Ordinance No. 23-4552: Approve FY24 Ad Valorem Tax Levy

[Ord No 23-4552 Ad Valorem Tax Levy FY24.pdf](#)

Moved by Carlton McMasters; seconded by Kyle Pike to Approve .

Motion Passed: 4- 0

Voting For: Jacob Ladner, Carlton McMasters, Billy Jackson, Kyle Pike

Voting Against: None

XIII. BOARDS AND COMMITTEES:

- A. Reappoint Tim Lovelace to the Decatur Morgan County Port Authority term expiring May 17, 2028

Moved by Kyle Pike; seconded by Carlton McMasters to Approve .

Motion Passed: 4- 0

Voting For: Jacob Ladner, Carlton McMasters, Billy Jackson, Kyle Pike

Voting Against: None

XIV. ADJOURNMENT:

THE NEXT COUNCIL WORK SESSION WILL BE HELD ON MAY 8, 2023 AT 5:00PM.

THE NEXT REGULAR CITY COUNCIL MEETING WILL BE HELD ON MAY 15, 2023 AT 10:00AM.

NOTE: CHANGES TO A CITY COUNCIL AGENDA MAY BE NECESSARY PRIOR TO THE CITY COUCIL MEETING. SUCH CHANGES MAY NOT BE INCLUDED ON THE CITY COUNCIL AGENDA ON THE WEBSITE.

There being no further business the meeting adjourned at 6:26pm.

CITY COUNCIL AGENDA ITEM REPORT

DATE: May 15, 2023

SUBMITTED BY: Stephanie Simon, City Clerk

ITEM TYPE: Bills

AGENDA SECTION: APPROVE MONTHLY BILLS:

SUBJECT: Approve April 2023 Bills

FINANCIAL IMPACT: Multiple

SUGGESTED ACTION:

ATTACHMENTS:

[Copy of AP CHECKS WRITTEN IN APRIL 2023 FOR COUNCIL APPROVAL.pdf](#)

CHECK NUMBER	VENDOR NAME	CHECK AMOUNT
8521	A-Z OFFICE RESOURCE, INC.	106.63
8522	AL MOUNTAIN LAKES TOURIST ASSOCIATION	150.00
8523	AMAZON CAPITAL SERVICES, INC.	11,419.00
8524	AMERICAN STEEMER	1,800.00
8525	ANDERSON WILLIAMS MCKINNIS	335.50
8526	ATHENS UTILITIES	682.88
8527	BAILEY, JETAUN	3,125.00
8528	BRANUM'S INC	210.00
8529	CAGLE BROTHERS CONCRETE PUMPING	1,952.50
8530	CARRIER CORPORATION	41,761.20
8531	CASEY, GEREY	1,580.00
8532	CENTEREDGE SOFTWARE	346.00
8533	GARRISON, JOSH	1,700.00
8534	DRAKE, BILLY JOE	500.00
8535	CITY MACHINE INC	495.02
8536	CITY WHOLESALE GROCERY	425.62
8537	COUCH, MARTHA	120.00
8538	CRAIG, STACIE M.	331.38
8539	DECATUR PUBLIC LIBRARY	39,755.25
8540	DECATUR YOUTH SYMPHONY	280.00
8541	DELL MARKETING	17,578.00
8542	DIVERSIFIED MAINTENANCE LLC	613.62
8543	LOPEZ, DENNIS	4,400.00
8544	DOBBS EQUIPMENT CO INC	463.77
8545	DOWNTOWN REDEVELOPMENT	150,000.00
8546	DUMAS FLOOR COVERING INC	1,301.52
8547	EFFECTIVE MANAGEMENT, LLC	330.00
8548	FMLASOURCE, INC	2,392.50
8549	GARNER, THOMAS	2,100.00
8550	GENESIS DISTRIBUTING LLC	2,508.00
8551	GEORGE PLUMBING LLC	2,611.55
8552	GRUBER, JONATHAN	45.85
8553	HAMILTON, KEN	66.81
8554	HASTINGS, TAMMY	300.00
8555	HCS CULLMAN, LLC	4,043.00
8556	HUNTSVILLE FITNESS EQUIPMENT, LLC	150.00
8557	HUNTSVILLE TRACTOR & EQUIPMENT	157.49
8558	INGRAM EQUIPMENT COMPANY	127.32
8559	NOWLIN, H M	250.00
8560	INVESTMENTS GROUPS INC	2,250.00
8561	J & M CYLINDER GASES INC	66.72
8562	KENWORTH OF HUNTSVILLE INC	67.26
8563	KING, ORLANDUS	112.01
8564	KOORSEN FIRE & SECURITY INC	2,963.53
8565	LAMAR COMPANIES	1,010.00

CHECK NUMBER	VENDOR NAME	CHECK AMOUNT
8566	LINLEY, VICKI G	450.00
8567	LITTRELL LUMBER MILL INC	413.75
8568	LYNN LAYTON CADILLAC-NISSAN INC	300.00
8569	MARTIN AQUATIC DESIGN & ENGINEERING	21,120.00
8570	MCCLARY TIRE COMPANY INC	10,715.92
8571	MCGRIFF TIRE COMPANY, INC.	1,121.48
8572	MCPHERSON ALABAMA TAX EXEMPT	8,238.96
8573	MILLER, CHRISTY M	3,395.28
8574	MITCHELL, TIMMIE	230.70
8575	MORGAN CO EMCD (911)	38,370.50
8576	MORGAN CO GENERAL FUND	100,000.00
8577	MSCO MARTIN SUPPLY	380.00
8578	NAFECO INC	151,662.16
8579	NETHERTON AUTO PARTS, INC	2,480.98
8580	NEVILLE, RICKEY D	4,307.00
8581	NO AL CHEMICAL INC	4,038.40
8582	NO AL GLASS CO INC	550.10
8583	NU IMAGE ENGRAVING & AWARD INC	420.00
8584	MORGAN, THOMAS D	880.00
8585	OSBORN GRAVE SERVICES INC	3,425.00
8586	PANTER, CAROLYN STRONG	168.00
8587	PENCE, JAMES MARVIN	60.00
8588	PEPSI COLA DECATUR, LLC	1,179.55
8589	PEREZ, ANNA	21.29
8590	PERRY COMPANY INC	660.00
8591	PIRTLE, MICHAEL L.	120.00
8592	POWELL, WILLIAM R	60.00
8593	PRIME CONSULTING GROUP	2,256.00
8594	PUGH WRIGHT MCANALLY INC	14,260.00
8595	RIVERTREE SYSTEMS INC	2,400.00
8596	ROBERTS GROUP INC	306.75
8597	ROBERTS, DONNA J	160.00
8598	ROGERS GROUP, INC	353.07
8599	RUMER, JACKIE	48.40
8600	SATTERFIELDS AUTO TECH	2,465.56
8601	SEAL, CURT BAXTER	60.00
8602	SERDA, TIMOTHY C	120.00
8603	SHERWIN-WILLIAMS	726.88
8604	SOUTHERN PRINTING COMPANY INC	537.00
8605	SOUTHLAND INTL TRUCKS INC	2,506.75
8606	SPECTRUM	115.14
8607	STAPLES ADVANTAGE INC	8.79
8608	SUPERIOR SERVICES	20,123.00
8609	TERRY, JIMMY LEE	503.96
8610	THE LIOCE GROUP INC	249.06

CHECK NUMBER	VENDOR NAME	CHECK AMOUNT
8611	THOMPSON TRACTOR CO INC	3,893.54
8612	TRADEBE ENVIRONMENTAL SERVICES, LLC	6,443.97
8613	TRI CITY AUTO PARTS LLC-CARQUEST	549.28
8614	TRIPLE POINT INDUSTRIES	668.20
8615	DECATUR FIREFIGHTER ASSOCIATION	1,425.00
8616	UNITED HEALTHCARE INSURANCE CO	4,318.00
8617	VALLEY OVERHEAD DOOR INC	205.00
8618	VC3, INC	7,597.00
8619	VULCAN MATERIALS	1,398.10
8620	WATSON, CHRISTOPHER	120.00
8621	WEAKLEY, WILLIAM	320.00
8622	WHITE, OAKES & IVERSON, LLC	1,582.00
8623	10-S TENNIS SUPPLY	3,951.58
8624	ADORAMA INC	664.05
8625	ALDRIDGE, BOBBY	448.50
8626	ALLIANCE SAND & AGGREGATES LLC	46,751.40
8627	AMAZON CAPITAL SERVICES, INC.	4,293.30
8628	AMERICAN PAPER & TWINE CO	48.16
8629	ANDERS POOL COMPANY INC.	1,272.00
8630	ANDERSON, SCOTT***FINES***	14,061.12
8631	AUTOZONE	61.98
8632	BEARDED APPLIANCE REPAIR LLC	325.00
8633	BLAKESLEY, STEPHEN	442.50
8634	BODY SHOP, INC	1,933.02
8635	MORGAN COUNTY SPORTS HALL OF FAME	500.00
8636	BRANUM'S INC	75.00
8637	BROOKS LOCK & KEY INC	265.08
8638	CARRIER CORPORATION	4,770.90
8639	CITY MACHINE INC	59.76
8640	CITY WHOLESALE GROCERY	1,253.04
8641	CLABORN, JASON DWAIN	120.00
8642	CONSOLIDATED ELECTRICAL DISTRIBUTORS INC	90.06
8643	COOK MUSEUM OF NATURAL SCIENCE	5,417.81
8644	CORPORATE PAYMENT SYSTEMS	45,304.46
8645	COUCH, MARTHA	120.00
8646	DECATUR PLUMBING SUPPLY INC	179.78
8647	DECATUR UTILITIES	19,784.58
8648	DECATUR/MORGAN CO CVB	99,255.96
8649	DELL MARKETING	85,018.99
8650	DIXIE DIAMOND SPORTS INC	439.80
8651	DOBBS EQUIPMENT CO INC	525.00
8652	DOFORMS, INC.	143.53
8653	EMC CORPORATION	353.48
8654	FBI-LEEDA INC	1,590.00
8655	FOUR SEASONS CLEANERS INC	3,182.75

CHECK NUMBER	VENDOR NAME	CHECK AMOUNT
8656	GADSDEN GOLF CARTS, INC	1,000.00
8657	GEORGE PLUMBING LLC	7,148.18
8658	GULF STATES DISTRIBUTORS INC	17,150.00
8659	HARRIS, MATTHEW JOHN	120.00
8660	W & M SUPPLIES, LLC	199.50
8661	HUNTSVILLE-MADISON COUNTY AIRPORT AUTHORITY	1,666.00
8662	J & M CYLINDER GASES INC	91.67
8663	JULIA'S POOLS INC	1,615.90
8664	KENWORTH OF HUNTSVILLE INC	2,593.30
8665	KOORSEN FIRE & SECURITY INC	334.05
8666	LYNN, MICHAEL T	16,500.00
8667	LIMESTONE COUNTY DISTRICT ATTORNEY'S OFFICE	153.50
8668	MARKET SHOPPES WARRANT, LLC	12,713.66
8669	MAYFIELD, PRESTON	1,556.22
8670	MCBRIDE RICHARDSON, PC	2,642.50
8671	MCCLARY TIRE COMPANY INC	2,024.16
8672	MCPHERSON ALABAMA TAX EXEMPT	9,515.98
8673	MCPHERSON OIL CO INC	10,230.10
8674	MOODY, ALAN	442.50
8675	MOONLIGHT INVESTIGATIVE SERVICES	125.00
8676	MSCO MARTIN SUPPLY	932.87
8677	NAFECO INC	2,072.35
8678	NETHERTON AUTO PARTS, INC	1,999.31
8679	NO AL CHEMICAL INC	151.80
8680	NORTHWEST REFRIGERATION	685.00
8681	NU IMAGE ENGRAVING & AWARD INC	109.00
8682	MORGAN, THOMAS D	690.00
8683	PENCE, JAMES MARVIN	60.00
8684	PEPSI COLA DECATUR, LLC	448.71
8685	PERRY COMPANY INC	4,096.00
8686	PHUNG, DAVID	73.50
8687	PIRTLE, MICHAEL L.	120.00
8688	POWELL, WILLIAM R	60.00
8689	PRIME CONSULTING GROUP	8,019.85
8690	PUGH WRIGHT MCANALLY INC	38,270.49
8691	REID, ANDREW	442.50
8692	RIPPLEWORX INC	2,400.00
8693	ROGERS GROUP, INC	1,686.30
8694	SATTERFIELDS AUTO TECH	625.00
8695	SEAL, CURT BAXTER	60.00
8696	SECURITY ENGINEERS, INC	155.30
8697	SHERWIN-WILLIAMS	699.53
8698	SHI (SOFTWARE.HARDWARE.INTER)	2,044.48
8699	SOFTRAC, LLC	585.00
8700	SOUTHLAND INTL TRUCKS INC	1,092.38

CHECK NUMBER	VENDOR NAME	CHECK AMOUNT
8701	SPRINGER, NATHAN	173.06
8702	STAPLES ADVANTAGE INC	466.27
8703	STATE INDUSTRIAL PRODUCTS	529.10
8704	STRICKLAND COMPANIES	133.41
8705	TATE SERVICES INC	220.00
8706	THE LIOCE GROUP INC	82.94
8707	THE TRADING POST WESTERN & OUTDOOR	278.98
8708	THOMAS, W.H. OIL CO INC	678.68
8709	THOMPSON TRACTOR CO INC	3,567.27
8710	TN VALLEY MEDIA	3,525.90
8711	TRI CITY AUTO PARTS LLC-CARQUEST	613.06
8712	VULCAN MATERIALS	838.43
8713	WASTE AWAY DUMPSTER SERVICE, LLC	63.25
8714	TOMANDLILAENTRPRISES LLC	1,890.00
8715	WATSON, CHRISTOPHER	120.00
8716	WILLIAMS, BYRON	324.50
8717	DECATUR PLUMBING SUPPLY INC	690.75
8718	DOBBS EQUIPMENT CO INC	323.37
8719	GEORGE PLUMBING LLC	1,071.50
8720	A-Z OFFICE RESOURCE, INC.	517.49
8721	ALLIANCE SAND & AGGREGATES LLC	2,301.00
8722	AMAZON CAPITAL SERVICES, INC.	3,446.56
8723	AQUA SERVICES, INC.	10,514.00
8724	BOLAN, JOSH	360.00
8725	BOWLING, TAB	288.50
8726	CITY WHOLESALE GROCERY	1,298.04
8727	CLABORN, JASON DWAIN	120.00
8728	COUCH, MARTHA	240.00
8729	CRAIG, STACIE M.	331.38
8730	DECATUR CITY SCHOOLS	1,423,161.74
8731	DECATUR PLUMBING SUPPLY INC	54.55
8732	DIRTY SOUTH TOWING & RECOVERY LLC	205.00
8733	DOBBS EQUIPMENT CO INC	67.98
8734	ENERGY DEVELOPMENTS, INC.	52,324.14
8735	FBI-LEEDA INC	795.00
8736	GEORGE PLUMBING LLC	222.00
8737	GULF STATES DISTRIBUTORS INC	23,688.00
8738	HARRIS, MATTHEW JOHN	360.00
8739	HEAVY MACHINES INC	4,391.58
8740	HEINZ LABORATORIES	3,000.00
8741	HUMPHREY, BRANDI LA COLE	120.00
8742	HUNTSVILLE BROADCAST CORP/WAAY	2,450.00
8743	J & M CYLINDER GASES INC	28.00
8744	JONES, GRANT	1,174.62
8745	KENWORTH OF HUNTSVILLE INC	473.46

CHECK NUMBER	VENDOR NAME	CHECK AMOUNT
8746	LADNER, JACOB	683.88
8747	LOCALITY MEDIA	9,852.00
8748	MCCLARY TIRE COMPANY INC	826.76
8749	MCPHERSON OIL CO INC	8,524.41
8750	MWM RAVEN LLC	21.46
8751	METAL FASTENER SUPPLY CO INC	16.50
8752	NAFECO INC	10,161.56
8753	NETHERTON AUTO PARTS, INC	1,272.03
8754	NO AL CHEMICAL INC	371.90
8755	NU IMAGE ENGRAVING & AWARD INC	25.00
8756	OSBORNE, STEVEN CLAY	6,966.00
8757	PENCE, JAMES MARVIN	180.00
8758	PEPSI COLA DECATUR, LLC	1,827.91
8759	PERRY COMPANY INC	6,496.44
8760	PINION, TIMOTHY TODD	750.00
8761	PIRTLE, MICHAEL L.	120.00
8762	POWELL, WILLIAM R	60.00
8763	PRIME CONSULTING GROUP	6,357.60
8764	PUGH WRIGHT MCANALLY INC	421.00
8765	RED SAGE COMMUNICATIONS, INC	10,120.50
8766	ROBERTS GROUP INC	116.73
8767	ROGERS GROUP, INC	812.30
8768	SAFETY-KLEEN CORP	363.32
8769	SCHAEFER SYSTEMS INTERNATIONAL	6,075.00
8770	SCHOEL ARCHITECTURE LLC	7,627.57
8771	SEAL, CURT BAXTER	180.00
8772	SERDA, TIMOTHY C	240.00
8773	SHERWIN-WILLIAMS	240.20
8774	SOUTHERN PRINTING COMPANY INC	714.75
8775	SOUTHLAND INTL TRUCKS INC	310.74
8776	SPECTRUM	10,852.85
8777	STAPLES ADVANTAGE INC	121.88
8778	TATE SERVICES INC	390.00
8779	TEMPLE INC	746.87
8780	TN VALLEY MEDIA	819.00
8781	TRADEBE ENVIRONMENTAL SERVICES, LLC	6,203.34
8782	TRIDENT SECURITY SOLUTIONS LLC	12,504.75
8783	TTL, INC	262,549.69
8784	WASTE AWAY DUMPSTER SERVICE, LLC	3,436.64
8785	WATSON, CHRISTOPHER	240.00
8786	WEAKLEY, WILLIAM	120.00
8787	WELLS FARGO FINANCIAL LEASING, INC.	15,358.87
8788	AECOM TECHNICAL SERVICE, INC.	48,370.59
8789	ALVAREZ-CALDERON, HEDILBERTO	200.00
8790	AMAZON CAPITAL SERVICES, INC.	2,569.61

CHECK NUMBER	VENDOR NAME	CHECK AMOUNT
8791	ANDERS POOL COMPANY INC.	954.00
8792	ANDERSON OFFICE INTERIORS LLC	358.00
8793	CLARK, VETERINARY SERVICES INC	10.00
8794	BODY SHOP, INC	6,536.54
8795	BOLAN, JOSH	120.00
8796	BRANUM'S INC	75.00
8797	BROOKS LOCK & KEY INC	185.00
8798	CITY MACHINE INC	104.68
8799	CITY WHOLESALE GROCERY	176.99
8800	CLABORN, JASON DWAIN	120.00
8801	CONSOLIDATED ELECTRICAL DISTRIBUTORS INC	550.00
8802	COOK'S PEST CONTROL INC. (MADISON)	135.00
8803	COUCH, MARTHA	120.00
8804	DECATUR PLUMBING SUPPLY INC	40.33
8805	DOBBS EQUIPMENT CO INC	712.97
8806	E-TECH CONSTRUCTION, LLC	63,401.81
8807	EMC CORPORATION	2,988.44
8808	FLEMING, LINDA SUE	350.00
8809	FOUR SEASONS CLEANERS INC	162.00
8810	GENESIS DISTRIBUTING LLC	1,197.00
8811	KRISTIN SCROGGIN	3,500.00
8812	GEORGE PLUMBING LLC	1,193.54
8813	HARRIS, MATTHEW JOHN	120.00
8814	HEAVY MACHINES INC	75,610.60
8815	HOLSTON GASES INC	283.42
8816	HUMPHREY, BRANDI LA COLE	120.00
8817	HUNTSVILLE TRACTOR & EQUIPMENT	166.83
8818	INGRAM EQUIPMENT COMPANY	1,964.46
8819	INVESTMENTS GROUPS INC	5.00
8820	KEELING COMPANY INC	406.67
8821	KENWORTH OF HUNTSVILLE INC	11,296.11
8822	KOORSEN FIRE & SECURITY INC	4,129.58
8823	LYNN, MICHAEL T	2,997.00
8824	LAMAR COMPANIES	1,696.00
8825	PRE-PAID LEGAL SERVICES, INC	198.45
8826	MCCLARY TIRE COMPANY INC	242.14
8827	MCPHERSON ALABAMA TAX EXEMPT	18,232.42
8828	MCPHERSON OIL CO INC	10,689.37
8829	METAL FASTENER SUPPLY CO INC	26.75
8830	MIMS, JOHN	771.21
8831	MOTOROLA SOLUTIONS INC	13,951.68
8832	MURPHY, BRADLEY	214.65
8833	MUTUAL OF OMAHA	8,813.25
8834	NAFECO INC	2,319.51
8835	NETHERTON AUTO PARTS, INC	2,762.10

CHECK NUMBER	VENDOR NAME	CHECK AMOUNT
8836	NEXTRAN CORPORATION	384.64
8837	NO AL CHEMICAL INC	1,299.55
8838	NORTHWEST REFRIGERATION	575.00
8839	NU IMAGE ENGRAVING & AWARD INC	290.00
8840	OHIOPYLE PRINTS INC	594.39
8841	MORGAN, THOMAS D	690.00
8842	PENCE, JAMES MARVIN	60.00
8843	PEPSI COLA DECATUR, LLC	2,091.36
8844	PERRY COMPANY INC	2,626.00
8845	PINTO, ESTHER	75.00
8846	PIRTLE, MICHAEL L.	240.00
8847	POWELL, WILLIAM R	120.00
8848	PRIME CONSULTING GROUP	134,908.59
8849	PUGH WRIGHT MCANALLY INC	51,147.71
8850	QUICKSCORES LLC	231.00
8851	REGALO INC.	1,908.70
8852	ROBERTS GROUP INC	157.50
8853	ROGERS GROUP, INC	1,464.75
8854	SANSOM EQUIPMENT CO INC	1,616.69
8855	SATTERFIELDS AUTO TECH	793.14
8856	SCHOEL ARCHITECTURE LLC	7,650.00
8857	SEAL, CURT BAXTER	120.00
8858	SERDA, TIMOTHY C	120.00
8859	SHERWIN-WILLIAMS	123.50
8860	SOUTHERN PRINTING COMPANY INC	938.40
8861	SOUTHLAND INTL TRUCKS INC	3,293.74
8862	SPECTRUM	727.58
8863	STANDARD INSURANCE COMPANY	2,356.67
8864	STAPLES ADVANTAGE INC	310.89
8865	T&K CONSTRUCTION LLC	234,441.27
8866	TEMPLE INC	9,340.00
8867	THOMAS, W.H. OIL CO INC	1,914.83
8868	THOMPSON TRACTOR CO INC	796.69
8869	TRACTOR & EQUIPMENT CO INC	1,380.00
8870	TTL, INC	162,267.06
8871	TYLER, WANDA	175.50
8872	US FLEET TRACKING LLC	1,438.20
8873	VAUGHAN GAS	1,053.16
8874	VULCAN MATERIALS	517.78
8875	WASTE AWAY DUMPSTER SERVICE, LLC	1,094.32
8876	WATSON, CHRISTOPHER	240.00
8877	WILLIS, ROBBIE	737.50
8878	WINTERGREEN CORPORATION	366.82
8879	XEROX CORPORATION	1,184.09
233773	ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT	30,400.00

CHECK NUMBER	VENDOR NAME	CHECK AMOUNT
233774	ABORN, KASSANDRA	406.00
233775	ADT SECURITY SERVICES INC	133.53
233776	AIRGAS USA, LLC	533.10
233777	AL CHILD SUPPORT PAYMENT	5,054.88
233778	ALACOURT.COM INC	113.61
233779	APPLIANCE PARTS DECATUR	16.99
233780	AT&T	90.95
233781	BRENNTAG MID-SOUTH INC	12,241.48
233782	BRINDLEE MOUNTAIN FIRE APPARATUS, LLC	712.50
233783	MILBERG FACTORS INC	2,279.48
233784	BROWNSFERRY MERCANTILE, LLC	1,650.00
233785	CINTAS CORPORATION	1,127.34
233786	COTTON LOVE LLC	718.75
233787	CRAIG BATTERIES SALES INC	159.75
233788	CUMULUS-MEDIA INC- HUNTSVILLE	4,000.00
233789	D & S SERVICE, INC.	35.00
233790	DECATUR LOCKMASTER INC	11.25
233791	EAGLE CONSULTING LLC	315.00
233792	ESTATE MANAGEMENT SERVICE INC.	974.69
233793	FLEETPRIDE INC	45.99
233794	FLORIDA STATE DISBURSEMENT UNIT	174.00
233795	GORDAN, LEONARD SR	1,400.00
233796	GUARDIAN	23,329.50
233797	HILL, DENISE MATTHESS	2,940.00
233798	HUMPHRIES FARM TURF INC	132.08
233799	I.C.E. CONTRACTORS INC	325.00
233800	IHEART MEDIA INC	5,000.00
233801	IVERSON GULF SERVICE	98.98
233802	JMS RUSSEL METALS CORP	650.00
233803	JOHNSON CONTROLS SECURITY SOLUTIONS LLC	828.47
233804	KIMBALL-MIDWEST	276.15
233805	LAW ENFORCEMENT RISK MANAGEMENT	550.00
233806	LEHR MIDDLEBROOKS VREELAND & THOMPSON PC	1,750.00
233807	LIBERTY NATIONAL LIFE INS	327.84
233808	LOWE'S COMPANIES	3,575.38
233809	MARSHALL, GEORGE J INC.	1,168.64
233810	THE ADVERTISER COMPANY	887.88
233811	MUNICIPAL WORKERS' COMP FUND	33,022.46
233812	NEW SOUTH OUTDOOR	2,500.00
233813	NORTHEAST AL LAW ENFORCEMENT	10,500.00
233814	O'REILLY AUTOMOTIVE INC	23.06
233815	OFFICE DEPOT	229.93
233816	PATTERSON VETERINARY SUPPLY	364.00
233817	ALABAMA POLICE OFFICERS ANNUITY & BENEFIT FUND	210.00
233818	SIMON, STEPHANIE	60.00

CHECK NUMBER	VENDOR NAME	CHECK AMOUNT
233819	SOUTHERN LINC	2,575.69
233820	STAR ASSET SECURITY LLC	938.85
233821	THE GLASS GUY	353.34
233822	US FOODSERVICE INC	4,099.10
233823	VERIZON WIRELESS	2,532.53
233824	WILCOR INTERNATIONAL INC	691.05
233825	WILKS TRUCK/HWY 20	1,015.88
233827	AL CRIME VICTIMS	1,607.42
233828	AL DEPT OF REVENUE/DMV	24.25
233829	NICUSA INC	135.00
233830	AL INTERLOCK INDIGENT FUND	137.00
233831	AL PEACE OFFICERS'	3,082.54
233832	ALACOURT.COM INC	107.00
233833	AMERICAN VILLAGE CITIZENSHIP	666.90
233834	ARRINGTON, KIRK	438.75
233835	BAGBY ELEVATOR CO INC	1,102.08
233836	BEST ALUMINUM STRIPING EQUIPMENT	1,114.19
233837	BOUND TREE MEDICAL, LLC	1,455.61
233838	BRINDLEE MOUNTAIN FIRE APPARATUS, LLC	2,462.54
233839	BROWNSFERRY MERCANTILE, LLC	550.00
233840	BRYAN ANIMAL CLINIC	261.00
233841	CDW GOVERNMENT INC	1,252.80
233842	CINTAS CORPORATION	1,019.97
233843	COMMUNITY ACTION PARTNERSHIP	59,999.23
233844	FINANCE DEPARTMENT-COMPTROLLER'S OFFICE	45,468.74
233845	CRAFT TRAINING FUND	10,515.00
233846	DECATUR LOCKMASTER INC	22.50
233847	DORTCH, JACOB VERDELL	140.00
233848	EAGLE CONSULTING LLC	600.00
233849	EMERGENCY EQUIPMENT (EEP)	650.40
233850	ERANGE INC.	524.97
233851	FAMILY PET HEALTH CARE	1,035.00
233852	FENNELL, WANDA	200.00
233853	FLEETPRIDE INC	197.71
233854	H & R AGRI-POWER INC	20,686.29
233855	HENRY SCHEIN INC.	1,879.89
233856	HIGHWAY TRAFFIC SAFETY FUND	170.00
233857	HQ98, LLC	209.86
233858	HUMPHRIES FARM TURF INC	2,181.60
233859	IDENTITY AUTOMATION LP	3,465.00
233860	J'S ICE COMPANY	110.00
233861	JMS RUSSEL METALS CORP	475.00
233862	JOE WHEELER EMC	1,628.06
233863	JOHNSON, TRENTON TONY	13.00
233864	JUD ADMIN/CT JUDGE	1,521.40

CHECK NUMBER	VENDOR NAME	CHECK AMOUNT
233865	LEXISNEXIS RISK SOLUTIONS	446.70
233866	LOWE'S COMPANIES	2,122.56
233867	CIRCUIT CLERKS' JUDICIAL ADMIN FUND	1,526.93
233868	MORGAN COUNTY CIRCUIT COURT	25.00
233869	MRL EQUIPMENT CO	219.10
233870	MUNICIPAL WORKERS' COMP FUND	2,295.81
233871	NATIONAL SAFETY COUNCIL	1,051.00
233872	NFOCUS	649.00
233873	NORTH ALABAMA CBF/CWC	5,775.00
233874	O'REILLY AUTOMOTIVE INC	992.02
233875	OSPREY INITIATIVE	16,250.00
233876	PEDRO, FRANCISCO ANDRES	5.00
233877	PONTER, ISLETA QUINTANA	55.00
233878	READY MIX USA, LLC	2,633.00
233879	RELX INC.	765.00
233880	SPATIAL NET INC	17,500.00
233881	SPRINT	60.81
233882	STATE JUDICIAL ADMIN FUND	6,169.74
233883	T-MOBILE	74.68
233884	THREE SISTERS BAIL BONDING CO	245.00
233885	TRAVELERS	26,285.23
233886	UNIVERSAL PROTECTION SERVICE	4,702.28
233887	VALENT GROUP, LLC	350.00
233888	VERIZON WIRELESS	6,728.18
233889	WILKS TRUCK/HWY 20	1,485.30
233890	WRISTBAND RESOURCES	5,389.82
233891	XEROX FINANCIAL SERVICES LLC	1,558.36
233892	ABORN, KASSANDRA	406.00
233893	ADT SECURITY SERVICES INC	126.57
233894	AL CHILD SUPPORT PAYMENT	4,069.86
233895	AL DEPT OF LABOR	600.00
233896	AL DEPT OF REVENUE/COLLECTION	293.47
233897	AL FIRE COLLEGE	700.00
233898	AL LAW ENFORCEMENT AGENCY	7,515.00
233899	AT&T	203.06
233900	AT&T	14.92
233901	AT&T MOBILITY/CELL PHONES	1,238.91
233902	CINTAS CORPORATION	1,544.92
233903	COLBERT COUNTY CIRCUIT COURT	300.00
233904	CONTRACTOR SERVICE & FABRICATION INC	8,089.74
233905	COOPERATIVE PERSONNEL SERVICES	555.50
233906	CROSCO HEATING & AIR	90.00
233907	DECATUR MORGAN CO CHAMBER OF	30.00
233908	DECATUR MORGAN OCCUPATIONAL MEDICINE	3,734.00
233909	DECATUR PRINTING SOLUTIONS LLC	1,286.25

CHECK NUMBER	VENDOR NAME	CHECK AMOUNT
233910	EMERGENCY EQUIPMENT (EEP)	1,948.65
233911	EVANS, TERESA	200.00
233912	FLORIDA STATE DISBURSEMENT UNIT	174.00
233913	GMBCA INC	1,164.00
233914	JOE WHEELER EMC	5,617.47
233915	LOWE'S COMPANIES	724.18
233916	MCLAIN, STEPHANIE	15,000.00
233917	MORGAN COUNTY DISTRICT COURT	520.51
233918	MORGAN FARMERS CO-OP	325.00
233919	MULTIVAC INC	3,044.81
233920	NUCOR SHEET MILL-DECATUR, LLC	20,825.10
233921	OFFICE DEPOT	72.27
233922	PETSMART	156.97
233923	RAWLINGS SPORTING GOODS CO INC	2,640.00
233924	RAYCO DOORS AND DOCKS INC.	3,043.00
233925	SOUTHERN MOVING SYSTEMS, INC	74.85
233926	T-MOBILE	1,185.71
233927	THE GLASS GUY	272.90
233928	TRANSUNION RISK INC	277.00
233929	TRAVELERS	51,239.85
233930	UNITED STATES BANKRUPTCY COURT	1,134.00
233931	UNIVERSAL ENVIRONMENTAL SERVICES, LLC	37.50
233932	US FOODSERVICE INC	7,443.42
233933	VERIZON CONNECT	16.19
233934	VERIZON WIRELESS	840.23
233935	VISUAL EDGE INC.	35.37
233936	VOLKERT, INC.	17,516.25
233937	XEROX BUSINESS SOLUTIONS SOUTHEAST	6.89
233940	AAMA	75.00
233941	ADT SECURITY SERVICES INC	247.41
233942	ADVANCED DOOR SPECIALISTS, INC.	5,691.95
233943	AL DEPT OF LABOR	220.00
233944	AL DEPT OF REVENUE/DMV	97.00
233945	ALACOURT.COM INC	112.00
233946	ALEA	720.00
233947	AT&T LONG DISTANCE SERVICE	1,008.84
233948	AT&T/MONTHLY PHONE SERVICE	886.83
233949	AUTO-CHLOR SERVICES, LLC	179.95
233950	BAGBY ELEVATOR CO INC	800.70
233951	BRINDLEE MOUNTAIN FIRE APPARATUS, LLC	2,138.18
233952	BRYANT, CHARLES EDWARD	255.26
233953	BRYANT, TINA DIANNE	75.00
233954	CINTAS CORPORATION	2,039.55
233955	CLAY, CORDELL L	150.00
233956	DECATUR LOCKMASTER INC	109.50

CHECK NUMBER	VENDOR NAME	CHECK AMOUNT
233957	DECATUR MORGAN OCCUPATIONAL MEDICINE	3,204.00
233958	DECATUR UTILITIES	155.00
233959	DIEGO, MAGDALENO	75.00
233960	DISH	90.80
233961	DRAKE, MAYA	142.00
233962	FRANCOTYP-POSTALIA, INC	197.94
233963	GARRISON, HEATHER	100.00
233964	GUARDIAN	7,910.39
233965	GUTHRIE, BRAXTON	75.00
233966	HAND ARENDALL HARRISON SALE LLC	10,157.25
233967	HARP-JONES, SELINDA LASHEA	50.00
233968	HAYNES, JERRY L	80.00
233969	HOBBY LOBBY	75.00
233970	HUMPHRIES FARM TURF INC	209.68
233971	JACKSON, CARRIE LANE	40.00
233972	JOE WHEELER EMC	5,978.03
233973	JOHNSON, ANITA K	100.00
233974	KELLEY, GEORGE	45.50
233975	KIMBALL-MIDWEST	222.40
233976	LOCAL GOVERNMENT HEALTH INS BD	820,368.00
233977	LOWE'S COMPANIES	3,335.96
233978	LOWER BROS CO INC	14,600.00
233979	LOYD, ROBBIE	80.00
233980	LYNN LAYTON FORD	140,745.00
233981	MARSH, SUSAN KAY	800.00
233982	MARSHALL, CHRISTINA	186.84
233983	METRO PCS	60.00
233984	MINARDI, LUIZ FELIPE	75.00
233985	MORGAN CO RECYCLING FUND	25,049.50
233986	MR. SHINE HAND CAR WASH & DETAIL	410.00
233987	NELSON, CURTIS	75.00
233988	NORTH ALABAMA CBF/CWC	1,365.00
233989	O'REILLY AUTOMOTIVE INC	326.23
233990	OFFICE DEPOT	1,103.96
233991	PARSONS, MARK	45.50
233992	PIONEER MFG CO	363.79
233993	PROGRESS BANK	231.93
233994	READY MIX USA, LLC	152.00
233995	BRUMBACK RESTAURANT EQUIPMENT, INC	79.98
233996	SALES, VERONDA LYNETTE	75.00
233997	SALGADO, JESSE	220.00
233998	SKIPPER CONSULTING, INC	625.00
233999	SLS QUICK STOP	844.00
234000	SMITH, KINA TOLONIA SMILEY	150.00
234001	STORY, CLAUD EDWIN	50.00

CHECK NUMBER	VENDOR NAME	CHECK AMOUNT
234002	T-MOBILE	10.38
234003	TAPIA, ANTONIO NAVA	75.00
234004	TARGET	49.98
234005	THOMPSON, QORTIEA	60.00
234006	TRINITY WATER DEPARTMENT	20.00
234007	UNITED HEALTHCARE	779.42
234008	UNITED LAUNCH ALLIANCE	75.00
234009	US FOODSERVICE INC	2,311.41
234010	VERIZON WIRELESS	1,151.36
234011	VILLANUEVA, MARLEN	75.00
234012	WALLACE, LASHUNTA	60.00
234013	WALMART	2,190.16
234014	WALMART NEIGHBORHOOD	100.00
234015	WILDER, ARABELLE JERIGAN	150.00
234016	WILKS TRUCK/HWY 20	29.00
234017	WOJTAS, JACKIE	81.00
234018	YARBROUGH, FREIDA D	248.00
234019	Z PRO WATERSPORTS	4,063.15
	TOTAL	5,768,209.66

CITY COUNCIL AGENDA ITEM REPORT

DATE: May 15, 2023

SUBMITTED BY: Chip Alexander, Legal

ITEM TYPE: Appeals

AGENDA SECTION: APPEAL:

SUBJECT: Resolution No. 23-140: Decatur Morgan EMS appeal

FINANCIAL IMPACT: NA

SUGGESTED ACTION:

ATTACHMENTS:

[Res No 23-140 DMEMS Appeal-1.pdf](#)

FAILED PASSAGE

RESOLUTION NO. 23-140

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF DECATUR, ALABAMA that Penalty #23-001 in the amount of the \$5000 and Five (5) penalty points approved by the Ambulance Regulatory Board against Decatur Morgan Ambulance Service be upheld due to not meeting their 2022 4th Quarter Fractile Response Times.

Approved this the ____ day of May, 2023.

CITY COUNCIL AGENDA ITEM REPORT

DATE: May 15, 2023

SUBMITTED BY: Stephanie Simon, City Clerk

ITEM TYPE: Special Use Permit

AGENDA SECTION: RESOLUTIONS:

SUBJECT: Resolution No. 23-119: Approve request for a Special Use Permit for Tillman Infrastructures, LLC to construct a new wireless telecommunication tower for AT&T at Runnymede Avenue SW

FINANCIAL IMPACT: NA

SUGGESTED ACTION:

ATTACHMENTS:

[Res No 23-119 ATT - Runnymede Avenue SW NEW.pdf](#)

RESOLUTION NO. 23-119

WHEREAS, Tillman Infrastructures, LLC has requested a Special Use Permit for the construction of a new wireless telecommunication facility to be located at Runnymede Avenue SW (Parcel 0207264001008001), Decatur, AL to provide enhanced wireless services for AT&T, essentially within the corporate limits and police jurisdiction of the City of Decatur, and;

WHEREAS, Tillman Infrastructures, LLC proposes to construct a one hundred twenty-seven (127) foot monopole tower inside a 109.3' by 81.4' by 93' lease area, and;

WHEREAS, AT&T will be the anchor tenant on the wireless telecommunication facility, and;

WHEREAS, Article XII, Section 7-311 of the City of Decatur's Code states that, unless waived by the council for good cause shown, the maximum permitted total height of a new tower or support structure outside of the Right-of-Way shall be one hundred (100) feet above pre-construction ground level, and;

WHEREAS, Tillman Infrastructures, LLC has submitted the required letter requesting relief from the tower height requirement of the City's Wireless Telecommunication facilities Siting Ordinance, the City Council, after review and approval of the required justification provided in Tillman Infrastructure's application for construction, will permit a new tower located at Runnymede Avenue SW (Parcel 0207264001008001), at the proposed height of one hundred twenty-seven (127) foot, and;

WHEREAS, Article XII, Section 7-316 of the City of Decatur's Code states that, unless waived by the council for good cause shown, all proposed towers and any new proposed support structures shall be set back from abutting parcels, recorded rights-of-way and road and street lines by the greater of the following distances: i) a distance equal to the height of the proposed tower or support structure plus ten (10) percent of the height of the tower or other structure, otherwise known as the fall zone; or the existing setback requirement of the underlying zoning district, whichever is greater. Any accessory structure shall be located within the fenced compound area as approved in the special use permit and so as to comply with the applicable minimum setback requirements for the property on which it is situated. The fall zone shall be measured from the nearest edge of the tower to the nearest portion of the right-of-way of any public road or thoroughfare and any occupied building or domicile, as well as any property boundary lines., and;

WHEREAS, Tillman Infrastructures, LLC has submitted the required letter requesting relief from the setback requirement of the City's Wireless Telecommunication facilities Siting Ordinance, the City Council, after review and approval of the required justification provided in Tillman Infrastructure's application for construction, will permit a new tower located at Runnymede Avenue SW (Parcel 0207264001008001), at the proposed height of one hundred twenty-seven (127) foot, and;

WHEREAS, the City Council of the City of Decatur, hereby grants relief from Section 7-311 and Section 7-316 of the City's Wireless Telecommunication Facility Siting Ordinance, and;

WHEREAS, Tillman Infrastructures, LLC has complied with City's Ordinance No. 19-4351 with exception to the tower height and setback for the facility and has demonstrated the need for a wireless facility to consistently deliver reliable services in the identified area, and;

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

THEREFORE, BE IT RESOLVED by the City Council of the City of Decatur, Alabama that Tillman Infrastructures, LLC is hereby granted a Special Use Permit to for the construction of a wireless telecommunications facility, located at Runnymede Avenue SW (Parcel 0207264001008001).

As recommended by CMS, the Special Use Permit is subject to compliance with the following condition prior to the issuance of said permit and/or a Certificate of Completion:

1. Prior to the issuance of the Building Permit, AT&T or the tower owner shall submit for review and approval by the City, a geotechnical study for the proposed facility.
2. Prior to the issuance of the Building Permit, AT&T or the tower owner shall submit for review and approval by the City, a FAA determination of hazard for the proposed facility.
3. Prior to the issuance of the Building Permit, AT&T or the tower owner shall submit for review and approval by the City, a amended final construction drawings for the proposed facility.
4. To prevent warehousing of permits or authorizations and to assure the best service to the City's residents as expeditiously as possible, the facility must be built, activated and be providing service no

later than one hundred eighty (180) days after the issuance of the Special Use Permit or other applicable authorization, subject to commonly accepted force majeure exceptions acceptable to the City. Tillman Infrastructures, LLC may petition the City of an extension of this for good cause shown, but the decision whether or not to grant the extension shall exclusively be the prerogative of the City.

5. Tillman Infrastructures, LLC must provide contractor information with construction schedule to City and to CMS prior to issuance of the Building Permit.
6. At the completion of construction, the Applicant must notify the City's consultant and provide proof that all inspections have been satisfactorily completed and the project is ready for a final on-site inspection. Upon passing the final inspection, a recommendation to issue a Certificate of Occupancy shall be made.
7. Tillman Infrastructures, LLC or AT&T shall not be permitted to actually provide service commercially until the Certificate of Occupancy or its functional equivalent is issued or risk forfeiting its Permit.
8. The Certificate of Occupancy shall not be issued until all fees and costs associated with this Permit, including inspections, have been paid.
9. The provision of the Certificate of Completion for this work shall be a pre-condition for any future modifications of any kind by this carrier, at this facility.

ADOPTED this 15th day of May, 2023.

CITY COUNCIL AGENDA ITEM REPORT

DATE: May 15, 2023

SUBMITTED BY: Rebecca Sheets, Utilities

ITEM TYPE: Resolutions

AGENDA SECTION: RESOLUTIONS:

SUBJECT: Resolution No. 23-120: Approve MUB Expenditure of \$16,724,650 for Sewer Pipe Rehab (Pipe Burst Method) - Contract B

FINANCIAL IMPACT: NONE

SUGGESTED ACTION: Item has been approved by MUB

ATTACHMENTS:

[Res No 23-120 CC_Sewer_Pipe_Rehab_Pipe_Burst_Method_Contract_B_2023.pdf](#)
[Council Letter 05 15 23.pdf](#)

RESOLUTION NO. 23-120

BE IT RESOLVED by the City Council of the City of Decatur in the State of Alabama that in accordance with the request of the Municipal Utilities Board of Decatur, Morgan County, Alabama by letter dated April 26, 2023, a copy of which shall be recorded in the minutes of this meeting, that the City Council does hereby consent to and approve of the following estimated expenditure by the Board of \$16,724,650 for Sewer Pipe Rehab (Pipe Burst Method) – Contract B.

CERTIFICATE

I, Stephanie Simon, City Clerk of the City of Decatur, Alabama hereby certify that the above and foregoing is a true and correct copy of a resolution adopted by the City Council of the City of Decatur at a regular meeting of the same held on _____, 2023, as the same appears of record in the minutes of said meeting in my custody and control.

IN WITNESS WHEREOF, I have hereunto set my hand as City Clerk of the City of Decatur and affixed the seal of the City of Decatur to the certificate on this _____ day of _____, 2023.

Stephanie Simon
City Clerk



April 26, 2023

Mayor & City Council
City of Decatur
P.O. Box 488
Decatur, AL 35602

Dear Mayor and Council Members:

At its regular meeting on April 26, 2023, the Municipal Utilities Board approved the following projects exceeding the previously approved amount by the Council, and requests your approval of same in accordance with Section 15 of the legislative act that created the Board:

<u>Description of Project</u>	<u>Expenditure Amount</u>
FY23 Boring and Trenching Contract	\$530,926
This expenditure is for the boring and trenching contract to furnish all labor, equipment, machinery, and tools to perform gas, water, wastewater, and electric work described in contract documents.	
Sewer Pipe Rehab (Pipe Burst Method) – Contract B	\$16,724,650
This expenditure is for the rehabilitation of 100,000 feet of 8" clay sewer mains, 16,000 feet of 10" clay sewer mains, and 22,000 feet of 12" clay sewer mains, along with the replacement of 2,800 service lines.	

We respectfully request that the Council consider these items at the May 15, 2023 meeting. If you have any questions, please feel free to contact me.

Respectfully submitted,

DECATUR UTILITIES

Ray Hardin
General Manager

cc: Stephanie Simon
Herman Marks

ELECTRICITY / NATURAL GAS / WATER / WASTEWATER

1002 CENTRAL PARKWAY SW • P.O. BOX 2232 • DECATUR, AL 35609
PHONE (256) 552-1440 • FAX (256) 552-1412

CITY COUNCIL AGENDA ITEM REPORT

DATE: May 15, 2023

SUBMITTED BY: Rebecca Sheets, Utilities

ITEM TYPE: Resolutions

AGENDA SECTION: RESOLUTIONS:

SUBJECT: Resolution No. 23-121: Approve MUB Expenditure of \$530,926 for FY23 Boring and Trenching Contract

FINANCIAL IMPACT: NONE

SUGGESTED ACTION: Item has been approved by MUB

ATTACHMENTS:

[Res No 23-121 CC_FY23_Boring_and_Trenching_Contract.pdf](#)
[Council Letter 05 15 23.pdf](#)

RESOLUTION NO. 23-121

BE IT RESOLVED by the City Council of the City of Decatur in the State of Alabama that in accordance with the request of the Municipal Utilities Board of Decatur, Morgan County, Alabama by letter dated April 26, 2023, a copy of which shall be recorded in the minutes of this meeting, that the City Council does hereby consent to and approve of the following estimated expenditure by the Board of \$530,926 for FY23 Boring and Trenching Contract.

CERTIFICATE

I, Stephanie Simon, City Clerk of the City of Decatur, Alabama hereby certify that the above and foregoing is a true and correct copy of a resolution adopted by the City Council of the City of Decatur at a regular meeting of the same held on _____, 2023, as the same appears of record in the minutes of said meeting in my custody and control.

IN WITNESS WHEREOF, I have hereunto set my hand as City Clerk of the City of Decatur and affixed the seal of the City of Decatur to the certificate on this _____ day of _____, 2023.

Stephanie Simon
City Clerk



April 26, 2023

Mayor & City Council
City of Decatur
P.O. Box 488
Decatur, AL 35602

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This expenditure is for the rehabilitation of 100,000 feet of 8" clay sewer mains, 16,000 feet of 10" clay sewer mains, and 22,000 feet of 12" clay sewer mains, along with the replacement of 2,800 service lines.	

We respectfully request that the Council consider these items at the May 15, 2023 meeting. If you have any questions, please feel free to contact me.

Respectfully submitted,

DECATUR UTILITIES

Ray Hardin
General Manager

cc: Stephanie Simon
Herman Marks

ELECTRICITY / NATURAL GAS / WATER / WASTEWATER

1002 CENTRAL PARKWAY SW • P.O. BOX 2232 • DECATUR, AL 35609
PHONE (256) 552-1440 • FAX (256) 552-1412

CITY COUNCIL AGENDA ITEM REPORT

DATE: May 15, 2023

SUBMITTED BY: Wanda Tyler, Landfill and Recycling

ITEM TYPE: Expenditures

AGENDA SECTION: RESOLUTIONS:

SUBJECT: Resolution No. 23-122: Approve Payment for Permit Renewal of
Decatur Morgan Regional Landfill No. 52-03

FINANCIAL IMPACT: \$37,270 Landfill Enterprise 082-035-82-000-53169

SUGGESTED ACTION:

ATTACHMENTS:

[Res No 23-122 MSW_PERMIT_52-03_.pdf](#)

[ADEM Fee Schedule._PermitRenewal.pdf](#)

RESOLUTION NO. 23-122

APPROVE PERMIT RENEWAL PAYMENT FOR DECATUR MORGAN COUNTY
REGIONAL LANDFILL PERMIT NO. 52-03

WHEREAS, Pursuant to the Alabama Solid Waste and Recyclable Materials Management Act, Code of Alabama 1975, 22-27-1, as amended, and attendant regulations promulgated thereunder by the Alabama Department of Environmental Management (ADEM), a permit was issued to operate a solid waste disposal facility, known as the City of Decatur-Morgan County Sanitary Landfill, on December 13, 2018,

WHEREAS, this permit expires December 12, 2023.

BE IT RESOLVED BY THE CITY COUNCIL OF DECATUR, MORGAN COUNTY, IN THE STATE OF ALABAMA, that the Mayor approves the payment for the permit reissuance in the amount of \$37,270, which is based on the ADEM Fee Schedule E.

BE IT FURTHER RESOLVED that this expense will be recorded under Account 082-035-82-000-53169.

Approved this 15th day of May, 2023.

FEE SCHEDULE E
SOLID WASTE PERMITS/REGISTRATION

Type of Activity	Initial Issuance	Modification	Reissuance
Medical Waste Transfer Facility	\$2,035	\$725	\$1,330
New Technology Review	\$10,205	-----	-----
Commercial Treatment Facility	\$16,460	\$7,280	\$9,180
Commercial Transportation of Medical Waste	\$3,490	\$1,460	\$2,035
Storage of Untreated Medical Waste	\$2,630	\$665	\$1,960
Municipal Solid Waste Landfill/ CCR Unit	\$83,880	-----	\$37,270
Minor Mod. ^{(1)*}	-----	\$3,275	-----
Major Mod. ^{(2)*}	-----	\$32,615	-----
Construction/Demolition Waste Landfill	\$7,145	-----	\$5,400
Minor Mod. ^{(1)*}	-----	\$1,460	-----
Major Mod. ^{(2)*}	-----	\$2,915	-----
Industrial Waste Landfill	\$12,670	-----	\$8,150
Minor Mod. ^{(1)*}	-----	\$1,460	-----
Major Mod. ^{(2)*}	-----	\$4,375	-----
Compost Facility	\$4,860		\$3,670
Minor Mod.	-----	\$1,225	-----
Major Mod	-----	\$1,945	-----
Additive Fees			
Geological Review	\$4,865	\$3,275	\$3,275
Solid Waste Disposal Notification	\$215	\$215	\$215
Variance Request	\$1,460	\$1,460	\$1,460
Beneficial Use Facility Registration		\$550	
Beneficial Use Generator	\$1680	-----	\$1680
Beneficial Use Distributor	\$3360	-----	\$3360
Beneficial Use FPR Treatment Facility	\$5050	-----	\$5050

CITY COUNCIL AGENDA ITEM REPORT

DATE: May 15, 2023

SUBMITTED BY: Wanda Tyler, Landfill and Recycling

ITEM TYPE: Resolutions

AGENDA SECTION: RESOLUTIONS:

SUBJECT: Resolution No. 23-123: Approve proposal from TTL Inc. to provide Construction Quality Assurance (CQA) services for geosynthetic destructive testing for Cell 16 construction project at the Decatur-Morgan County Regional Landfill

FINANCIAL IMPACT: Landfill Enterprise Fund Account 082-000-00-000-16510

SUGGESTED ACTION:

ATTACHMENTS:

[Res No 23-123_TTLProposalGeosyntheticTesting.pdf](#)
[TTL Proposal Phase II Geosynthetic TEsting.pdf](#)

RESOLUTION NO. 23-123

Approve proposal from TTL, Inc. to provide Construction Quality Assurance (CQA) services for geosynthetic destructive testing for Cell 16 construction project at the Decatur-Morgan County Regional Landfill.

BE IT RESOLVED BY THE CITY COUNCIL OF DECATUR, MORGAN COUNTY, IN THE STATE OF ALABAMA, with the recommendation from the Director of Landfill/Recycling, Wanda Tyler, that the attached proposal for TTL, Inc. to perform destructive testing on the geosynthetic materials during geosynthetic material installation is hereby approved.

BE IT FURTHER RESOLVED that the Mayor is authorized to execute this attached proposal on behalf of the City with TTL, Inc. Construction Summary - Estimated Budget for Services (Task No.1-2) is \$7,361.00. Funding shall be provided by the Landfill Enterprise fund. This expense will be recorded under Account 082-000-00-000-16510.

Approved this 15th day of May, 2023.



3516 Greensboro Avenue
Tuscaloosa, AL 35401
205.345.0816
www.TTLUSA.com

April 26, 2023

Director – Morgan County Regional Landfill
Attn: Ms. Wanda Tyler
500 Landfill Drive
Trinity, AL 35673

P: (256).341.4991
E: wtyler@decatur-al.gov

CC: Nathan Tomberlin, P.E.

P: (256).353.3937
E: nathant@pughwrightmcanally.com

**RE: Construction Quality Assurance Services – Addendum 2
DMCRLF Cell 16 Geosynthetic Destructive Testing
Trinity, Morgan County, Alabama
TTL Project No. 000220501051.00**

Dear Ms. Tyler:

TTL, Inc. (TTL) appreciates the opportunity to submit a proposal for providing Construction Quality Assurance (CQA) services for geosynthetic destructive testing at the existing Decatur-Morgan County Regional Landfill in Trinity, Alabama. Our proposal contains our understanding of the project, the proposed scope of services, and fee and scheduling information.

PROJECT INFORMATION

Information about the project (services requested) was provided by Nathan Tomberlin (Pugh Wright McAnally) in several email transmissions and telephone calls between March 17, 2023 and March 20, 2023. We were provided copies of the following files:

- A PDF document titled “Construction Specifications and Contract Documents for Development Plan for Subtitle D-Cell 16 Decatur-Morgan County Regional MSW Landfill”, prepared by Pugh Wright McAnally dated October 31, 2022, no revision stated, providing technical specifications for the Phase 2 scope of work.

The project will include construction of the compacted clay liner (minimum of 24 inches) and installation of the composite liner system. The cell construction (structural fill) was performed under Phase 1 and previously completed in 2022. The composite liner system will include a 60 mil HDPE geomembrane liner and a double-sided drainage media (geocomposite).

TTL, Inc has been requested to perform destructive testing on the geosynthetic materials during geosynthetic material installation (by others).

Pugh Wright McAnally did not provide an approximate construction schedule of activities for this proposal. A milestone completion date schedule of May 2023 was provided during the Phase 2 pre-construction meeting.

SCOPE OF SERVICES

Our proposed scope of services includes providing CQA services for the project. TTL will provide a part-time technician to collect and transport destructive test samples in general accordance to the technical specifications. In addition, TTL, Inc. will subcontract a geosynthetic laboratory to perform the destructive testing. Submittals of resumes, certifications, and experience of individuals assigned to the project can be provided for review and acceptance, upon request, prior to field activities.

We will provide a Project Manager and Principal Engineer (based in our Tuscaloosa, AL regional office) to provide project oversight and record keeping to include in final project certifications, as required. Our representative will prepare and submit a daily field and testing report (electronically) for each sampling event. The Project Manager will review the field report and test results before these documents are issued as final documents submitted to the project team and will also be available for consultation, if needed.

Based on our understanding of the project, we expect our scope of services for CQA services will include the following:

Geosynthetic Destructive Testing

During geosynthetic material destructive testing, the services will include the following:

- Obtain representative samples from the designated geosynthetic material, locations will be selected by others and samples provided to TTL.
 - TTL, Inc. has assumed a testing frequency of 1 sample for every 500 linear feet of welded seam (fusion and extrusion welding).
- Prepare and ship samples to the geosynthetic laboratory for testing.
- Review conformance testing results in accordance with the technical specifications.

TTL understands that SKAPS is the previously approved geosynthetic material manufacturer. The facilities are located in Athens, GA and Commerce, GA respectively.

Subcontractor Information

It is our intention to utilize Geotechnics to perform geosynthetic testing of the previously approved geosynthetic materials. Geotechnics holds accreditation through the Geosynthetic Accreditation Institute – Laboratory Accreditation Program (GAI-LAP) for testing of geosynthetic materials. The samples will be obtained by TTL representatives at the manufacturer, sealed in containers, and shipped to Geotechnics. upon completion of sampling.

COMPENSATION

Our services to complete the outlined scope above will be invoiced on a time and materials basis in accordance with the appended Schedule of Fees. We recommend a budget for our services to be

approximately **\$7,400.00**. Our actual fees will depend on the quality of the work and rate of progress achieved by the contractor, weather conditions, and other factors beyond our control.

Our estimate does not include project delays and/or re-inspections; those items will be tracked separately for invoicing. For your convenience, we have appended a preliminary budget based on our assumptions and estimated construction schedule provided. This preliminary budget is intended to be a reference only; our services will be performed as requested and invoiced based on actual time and materials.

CLOSING

The presence of our field representative will be for the purpose of providing observation and field testing. Our work does not include supervision or direction of the actual work of the contractor, his employees or agents. The contractor should also be informed that neither the presence of our field representative, nor the observation and testing by our firm shall excuse the contractor in any way from defects discovered in his work. Our firm will not be responsible for job or site safety on this project. Job and site safety will be the sole responsibility of the contractor.

The proposal provided is based on the project documents provide and our assumptions from prior projects. No additional requirements from the State of Alabama for testing or inspection services are included in our scope of work. If additional requirements are required, TTL reserves the right to modify our scope and budget accordingly.

Enclosed are TTL's Schedule of Fees and Professional Services Agreement (PSA) which hereby become a part of the contract. If this proposal meets with your approval, please execute and return the PSA prior to commencement of work and contact the writer to finalize the schedule.

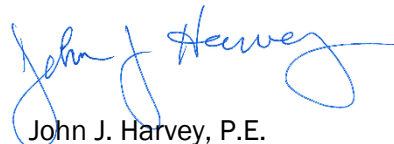
We appreciate the opportunity to submit a proposal for providing Construction Quality Control services for this project. If you need additional information or have any questions, do not hesitate to contact us.

Sincerely,

TTL, Inc.



M. Tyler Hitt, P.E.
Regional Leader – CQA Services



John J. Harvey, P.E.
Regional Construction Services
Leader / Vice President

Attachments: *TTL's Schedule of Fees*
 Professional Services Agreement

2023 Schedule of Fees

Staff Position:	Rate		
Project Technician V	\$67.00	/	Hour
Senior Project Professional III	\$194.00	/	Hour
Laboratory Costs:			
Geosynthetic Conformance Testing	Cost +15%	/	Each

Note: Additional laboratory testing and rates are available and can be provided upon request.

1. Hourly rates for holidays, weekends, or work over 40 hours per week shall be 1.3 times the standard unit rates.
2. Services provided in subsequent years to be billed at 1.05 times above rates unless new rate schedule is approved.
3. Equipment, tests, vehicle mileage, meals, lodging, air travel, freight, delivery, printing, non-general overhead, etc. are not included in above personnel rates. Unless stated otherwise, such costs will be invoiced at cost plus 20%.
4. A two-hour minimum charge per site visit will be applied to all technician level staff positions.
5. A 24-hour advance notice is requested for scheduling or canceling all personnel field services.
6. Sub-Consultants billed through TTL shall be subject to an additional 15 percent administrative fee.

TTL'S SCHEDULE OF FEES - 2023

Client Name	City of Decatur		
Project Name	Protovision Entrance Modification		
Project Location	Trinity, Alabama		
Proposal Number	P00220501051.00		
Proposal Date	04.26.2023	Revision	Addendum 2
Construction Services - Construction Quality Control			
Task No. 1	Earthwork (Assuming 14 Weeks, *50 HR/Wk)		
	Scope: Obtain soil backfill samples, perform Proctor density tests, observe soil backfill, perform field density testing on soil materials.		
Est. Quantity	Description	Unit Cost	Est. Cost
30 hours	Project Technician V	\$67.00	\$2,010.00
61 each	Destructive Samples	\$75.00	\$4,575.00
Estimated Subtotal for Task No.1			\$6,585.00
Task No. 2	Construction Quality Documentation and Reporting		
	Scope: Attend project meetings, visit site and review daily reports and test data. Review construction documents and coordinate with Construction Manager.		
Est. Quantity	Description	Unit Cost	Est. Cost
4 hours	SR. Project Professional III	\$194.00	\$776.00
Estimated Subtotal for Task No.2			\$776.00
Construction Summary - Estimated Budget for Services (Task No.1-2)			\$7,361.00
Assumptions and Exclusions			
*Construction Summary provided is assumed based on conditions and information provided to TTL, Inc. at time of proposal. Additional services or testing requested will be invoiced at the reflected unit rate in the appended schedule of fees.			



PROFESSIONAL SERVICES AGREEMENT

TTL PROJECT NO.: 000220501051.00

PROJECT NAME: DMCRLF Cell 16 Geosynthetic Destructive Testing

This Agreement made and entered into on _____ by and between TTL, Inc., hereinafter called "Consultant" and Morgan County Regional Landfill hereinafter called "Client" is for the services described under this Agreement.

☐ By checking this box, Consultant and Client indicate that this Agreement will also serve as a Master Services Agreement (MSA) between the two entities. The term for the MSA shall commence upon the full execution of this Agreement and expire on _____.

1. **SCOPE OF SERVICES:** Consultant's services are described in the Scope of Services (Services) section of the Proposal, which is attached to and made a part of this Agreement. Portions of the Services may be subcontracted. Consultant's Services do not include the investigation or detection of, nor do recommendations in Consultant's reports address the presence or prevention of biological pollutants (e.g., mold, fungi, bacteria, viruses, or their byproducts) or occupant safety issues, such as vulnerability to natural disasters, terrorism, or violence, unless specifically addressed in Consultant's proposal. Consultant's findings, opinions, and recommendations are based solely upon data and information obtained by and furnished to Consultant at the time of the Services.
2. **ACCEPTANCE:** Client agrees that execution of this Agreement is a material element of the consideration Consultant requires to execute the Services, and if Services are initiated by Consultant prior to execution of this Agreement as an accommodation for Client at Client's request, both parties shall consider that commencement of Services constitutes formal acceptance of all terms and conditions of this Agreement. Additional terms and conditions may be added or changed only by written amendment to this Agreement signed by both parties. In the event Client uses a purchase order or other form to administer this Agreement, the use of such form shall be for convenience purposes only and both parties agree that this Agreement takes precedence over any additional or conflicting terms provided in other documents. This Agreement shall not be assigned by either party without prior written consent of the other party.
3. **CHANGE ORDERS:** Client may request changes to the Services by altering or adding to the Services to be performed. If Client so requests, Consultant will return to Client a statement (or supplemental proposal) of the change setting forth an adjustment to the Services and fees for the requested changes. Similarly, if project conditions change materially from those observed at the site or described to Consultant at the time of proposal, Consultant is entitled to a change order equitably adjusting its Services and fee. Following Client's review and concurrence with the change order request, Client shall provide written acceptance.
4. **COMPENSATION:** Client shall compensate Consultant for the Services performed at the fees stated in the Proposal. Fee schedules provided shall be valid for the calendar year in which they are issued. Consultant may invoice Client at least monthly and payment is due upon receipt of invoice. Client shall notify Consultant in writing within 15 days of the date of the invoice if Client objects to any portion of the charges on the invoice, and shall promptly pay the undisputed portion. Client shall pay a finance fee of 1.5% per month, but not exceeding the maximum rate allowed by law, for all unpaid amounts 30 days or older. Client agrees to pay all collection-related costs that Consultant incurs, including attorney's fees. Consultant may suspend or terminate Services for lack of timely payment without liability to Client in connection with such suspension or termination.
For some projects and, prior to provision of services, the Consultant may require the Client to make an initial retainer payment. As it pertains to this Agreement, Client is requested to deposit a retainer of \$N/A with the Consultant. The retainer amount shall be credited upon completion of the services on the final invoice.
5. **THIRD PARTY RELIANCE:** This Agreement and the Services provided are for Consultant's and Client's sole benefit and exclusive use with no third-party beneficiaries made or intended. Reliance upon Consultant's work product Services is limited to Client. Permission to rely on Consultant's work product is not granted to third parties. **For a limited time period, not to exceed three months from the date of the report, Consultant will issue additional reports to others agreed upon with Client; however, Client understands that such reports will be issued strictly for informational purposes only and not for reliance. Reliance by any third party will not be granted until those third parties sign and return Consultant's reliance agreement and Consultant receives the agreed-upon reliance fee.** Client also acknowledges that such third-party disclosures for reliance could create a conflict of interest for Consultant and Client hereby waives any and all claims of conflict of interest against Consultant, Consultant's employees or sub-consultants or subcontractors regarding any disclosure to a third party for informational or reliance purposes. Consultant may rely upon information provided to Consultant by or on behalf of Client or third parties without any duty to independently verify the accuracy or completeness or currency of same, and Consultant shall have no liability to Client arising from any deficiency of such information.
6. **LIMITATION OF LIABILITY:** CLIENT AND CONSULTANT HAVE EVALUATED THE RISKS AND REWARDS ASSOCIATED WITH THIS PROJECT, INCLUDING CONSULTANT'S FEE RELATIVE TO THE RISKS ASSUMED, AND AGREE TO ALLOCATE CERTAIN OF THE ASSOCIATED RISKS. TO THE FULLEST EXTENT PERMITTED BY LAW, THE TOTAL MAXIMUM AGGREGATE LIABILITY OF CONSULTANT (AND ITS RELATED CORPORATIONS AND CONSULTANT'S SUBCONSULTANTS AND SUBCONTRACTORS AND THE OFFICERS, DIRECTORS, MANAGERS, MEMBERS, SHAREHOLDERS, AGENTS, REPRESENTATIVES AND EMPLOYEES OF ALL OF THE FOREGOING) TO CLIENT AND THIRD PARTIES GRANTED RELIANCE IS LIMITED TO THE GREATER OF \$50,000 OR CONSULTANT'S FEE, FOR ANY AND ALL INJURIES, DAMAGES, CLAIMS, LOSSES, OR EXPENSES (INCLUDING ATTORNEY AND EXPERT FEES) ARISING OUT OF CONSULTANT'S SERVICES OR THIS AGREEMENT. THIS LIMITATION SHALL APPLY REGARDLESS OF AVAILABLE INSURANCE COVERAGE, CAUSE(S) OR THE THEORY OF LIABILITY, INCLUDING NEGLIGENCE, INDEMNITY, STATUTORY, TORT, CONTRACTUAL OR EQUITABLE CONTRIBUTION OR INDEMNITY OBLIGATION OR ANY OTHER THEORY OF RECOVERY. THIS LIMITATION SHALL NOT APPLY TO THE EXTENT THE DAMAGE IS PAID UNDER CONSULTANT'S COMMERCIAL GENERAL LIABILITY POLICY.



PROFESSIONAL SERVICES AGREEMENT

- 7. INDEMNIFICATION:** Consultant and Client shall insure and hold harmless the other and their respective employees from and against legal liability for claims, losses, damages, and expenses to the extent such claims, losses, damages, or expenses are legally determined to be caused by their negligent acts, errors, or omissions. In the event such claims, losses, damages, or expenses are legally determined to be caused by the joint or concurrent negligence of Consultant and Client, they shall be borne by each party in proportion to its own negligence under comparative fault principles. Neither party shall have a duty to defend the other party, and no duty to defend is hereby created by this indemnity provision and such duty is explicitly waived under this Agreement. Causes of action arising out of Consultant's services or this Agreement regardless of cause(s) or the theory of liability, including negligence, or other recovery shall be deemed to have accrued and the applicable statute of limitations shall commence to run not later than the date of Consultant's substantial completion of services on the project.
- 8. STANDARD OF CARE (WARRANTY):** The standard of care for all professional engineering, surveying, testing and related services performed or furnished by the Consultant under this Agreement will be the care and skill ordinarily used by members of the subject profession practicing with the same education and experience, under similar circumstances at the same time and in the same locality. Consultant makes no warranties, express or implied, under this Agreement or otherwise, in connection with any services performed or furnished. Subject to the foregoing standard of care, the Consultant may use or rely upon design elements and information ordinarily or customarily furnished by others, including, but not limited to manufacturers, suppliers, and publishers of technical standards.
- 9. INSURANCE:** Consultant represents that it now carries, and will continue to carry: (i) workers' compensation insurance in accordance with the laws of the states having jurisdiction over Consultant's employees who are engaged in the Services, and employer's liability insurance (\$1,000,000); (ii) commercial general liability insurance (\$1,000,000 occurrence / \$2,000,000 aggregate); (iii) automobile liability insurance (\$1,000,000 Bodily Injury and Property Damage combined single limit); and (iv) professional liability insurance (\$1,000,000 claim / aggregate). Certificates of insurance will be provided upon request. Client and Consultant shall waive subrogation against the other party on all general liability and property coverage.
- 10. CONSEQUENTIAL DAMAGES:** Neither party shall be liable to the other for loss of profits or revenue; loss of use or opportunity; loss of good will; cost of substitute facilities, goods, or services; cost of capital; or for any special, consequential, indirect, punitive, or exemplary damages.
- 11. OPINIONS OF COST:** Consultant's opinions (if any) of probable construction costs are made on the basis of Consultant's experience, qualifications, and general familiarity with the construction industry. However, because Consultant has no control over the cost of labor, materials, equipment, or services furnished by others, or over contractors' methods of determining prices, or over competitive bidding or market conditions, Consultant's opinion of probable construction costs is not and shall not be considered a guaranteed estimate or exact price for construction of the Project. If Owner requires greater assurance as to probable construction cost, then Owner agrees to obtain an independent cost estimate.
- 12. SUBSURFACE EXPLORATION:** Subsurface conditions throughout the site may vary from those depicted on logs of discrete exploratory borings, test pits, or other subsurface exploratory services. Client understands Consultant's layout of exploratory boring and test locations is approximate and that Consultant may deviate a reasonable distance from those locations. Consultant will take reasonable precautions to reduce damage to the site when performing Services; however, Client accepts that invasive services such as drilling or sampling may damage or alter the site. Site restoration is not provided unless specifically included in the Services and Client assumes responsibility for site restoration.
- 13. TESTING AND OBSERVATIONS:** Client understands that testing and observation are discrete sampling procedures, and that such procedures indicate conditions only at the depths, locations, and times the procedures were performed. Consultant will provide test results and opinions based on tests and field observations only for the work tested. Client understands that testing and observation are not continuous or exhaustive, and are conducted to reduce - not eliminate - project risk. Client agrees to the level or amount of testing performed and the associated risk. Client is responsible (even if delegated to contractor) for requesting services, and notifying and scheduling Consultant so Consultant can perform these Services. Consultant is not responsible for damages caused by services not performed due to failure to request or schedule services. Consultant shall not be responsible for the quality and completeness of Client's contractor's work or Client's contractor's adherence to the project documents, and Consultant's performance of testing and observation services shall not relieve Client's contractor in any way from Client's contractor's responsibility for defects discovered in Client's contractor's work, or create a warranty or guarantee from Consultant of any nature. Consultant will not supervise or direct the work performed by Client's contractor or Client's contractor's subcontractors at any tier and Consultant explicitly is not responsible for their means and methods.
- 14. SAMPLE DISPOSITION:** Samples are consumed in testing or disposed of upon completion of tests (unless stated otherwise in the Services). Client shall furnish or cause to be furnished to Consultant all documents and information known or available to Client that relate to the identity, location, quantity, nature, or characteristic of any hazardous waste, biohazard, toxic, radioactive, or contaminated materials ("Affected Materials") at or near the site, and shall immediately transmit new, updated, or revised information as it becomes available. Client agrees that Consultant is not responsible for the disposition of Affected Material unless specifically provided in the Scope of Services submitted by Consultant, and that Client is responsible for directing such disposition. In the event that test samples obtained during the performance of Services (i) contain substances hazardous to health, safety, or the environment, or (ii) equipment used during the Services cannot reasonably be decontaminated, Client shall sign documentation (if necessary) required to ensure the equipment and/or samples are transported and disposed of properly, and agrees to pay Consultant the fair market value of this equipment and all reasonable disposal costs. In no event shall



PROFESSIONAL SERVICES AGREEMENT

Consultant be required to sign a hazardous waste manifest or take title to any Affected Materials. Client shall have the obligation to make all spill or release notifications to appropriate governmental agencies. The Client agrees that Consultant neither created nor contributed to the creation or existence of any Affected Materials conditions at the site. Accordingly, Client waives any claim against Consultant and agrees to indemnify and save Consultant, Consultant's related companies, Consultant's sub-consultants or subcontractors, and the agents, representatives, officers, directors, members, managers and shareholders of all of the foregoing harmless from any claim, liability or defense cost, including attorney and expert fees, for injury or loss sustained by any person or entity from such exposures allegedly arising out of Consultant's non-negligent performance of services hereunder, or for any claims against Consultant as a generator, disposer, or arranger of Affected Materials under federal, state, or local law or ordinance.

- 15. UNFORESEEN CIRCUMSTANCES:** It is possible that unforeseen conditions or occurrences may be encountered at the site which could substantially alter the necessary services or the risks involved in completing Consultant's services. If this occurs, Consultant will promptly notify and consult with Client, but will act based on Consultant's sole judgment where risk to Consultant's personnel, the public or where professional duties to disclose hazards or conditions are involved. Possible actions could include: (a.) Complete the original Scope of Services in accordance with the procedures originally intended in Consultant's Proposal, if practicable in Consultant's judgment; (b.) Agree with Client to modify the Scope of Services and the estimate of charges to include assessment of the unforeseen conditions or occurrences, with such revision agreed to in writing; (c.) Terminate the services effective on the date specified by Consultant in writing; (d.) Disclose information to regulators or government authorities when required by statute or professional canons of ethics.
- 16. UTILITIES:** Client shall provide the location and/or arrange for the marking of private utilities and subterranean structures. Consultant shall take reasonable precautions to avoid damage or injury to subterranean structures or utilities. Consultant shall not be responsible for damage to (or claims arising out of damage to) subterranean structures or utilities that are not called to Consultant's attention or are not correctly marked, including being marked by a utility location service, or are incorrectly shown on the plans furnished to Consultant.
- 17. GROUND PENETRATING RADAR:** If TTL's Services include providing ground penetrating radar (GPR) services to Client, Client acknowledges and agrees that there are inherent limitations associated with use of the GPR equipment. In using GPR data, Client will be solely responsible for making any determinations to drill, excavate, or perform any other destructive processes and Client will indemnify and hold TTL harmless from liability associated with such determinations. Client further acknowledges that (a) unless otherwise indicated in the accompanying TTL proposal, any maps or drawings provided in connection with the Services are not survey quality; (b) TTL only reports GPR-retrieved data and, unless specifically stated as additional Services under the associated proposal, TTL does not include any investigation, analysis, or interpretation of soil composition, soil conditions, or geophysical, geological, engineering, or land surveying information; and (c) TTL makes no warranty or representation that use of the GPR equipment will locate all subsurface structures/obstacles.
- 18. SITE ACCESS AND SAFETY:** Client shall secure all necessary site related approvals, permits, licenses, and consents necessary for Consultant to commence and complete the Services and will execute any necessary site access agreement. Consultant will be responsible for supervision and site safety measures for its own employees, but shall not be responsible for the supervision or health and safety precautions for any other parties, including Client, Client's contractors and subcontractors, or other parties present at the site.
- 19. OWNERSHIP OF DOCUMENTS:** All documents, including plans, drawings, specifications, reports, logs, data, calculations, and surveys prepared by the Consultant are instruments of service and shall remain the property of the Consultant. Such documents may not be used by CLIENT for any other endeavor without express written consent from TTL. Any unauthorized re-use is at Client's or the recipients' sole and exclusive risk and is without liability to TTL. Proprietary concepts, systems, and ideas developed during performance of the Services shall remain the sole property of Consultant. Files shall be maintained in general accordance with Consultant's document retention policies and practices. Upon Client's request, Consultant's work product may be provided via electronic media. If Consultant's work product includes delivery of a design model or survey data file via electronic media, Consultant makes no warranty or representation to Client that the electronic copy is accurate or complete and Client shall be required to sign a separate Electronic Document Release Form evidencing this understanding. Consultant may rely upon information provided to Consultant by or on behalf of Client or third parties without any duty to independently verify the accuracy or completeness or currency of same, and Consultant shall have no liability to Client arising from any deficiency of such information.
- 20. WAIVER:** Any failure by Consultant to require strict compliance with any provision of this contract shall not be construed as a waiver of such provision, and Consultant may subsequently require strict compliance at any time, notwithstanding any prior failure to do so.
- 21. DISPUTE RESOLUTION:** In the unlikely event a dispute arises out of or relates to this contract, or the breach thereof, the parties will attempt to settle the matter through amicable discussion. Client shall not be entitled to assert a claim against Consultant based on any theory of professional negligence unless and until Client has obtained the written opinion of a registered, independent, and reputable engineer, surveyor, or geologist licensed in the jurisdiction in which the work in question was performed indicating that Consultant has violated the standard of care applicable to Consultant's performance of the Services. Client shall provide this opinion to Consultant and the parties shall endeavor to resolve the dispute within 30 days. If no agreement can be reached, the parties agree to use mediation before resorting to a judicial forum. The cost of a third-party mediator shall be shared equally by the parties with proceedings to be held in Tuscaloosa, Alabama. In the event of litigation, reasonable costs and attorneys' fees will be awarded to the prevailing party.
- 22. GOVERNING LAW:** Client and Consultant agree this Agreement and any legal actions related to its validity, interpretation and performance shall be governed by and according to laws of the state of Alabama.



PROFESSIONAL SERVICES AGREEMENT

23. **SURVIVAL:** All provisions of this Agreement for indemnity or allocation of responsibility or liability between Client and Consultant shall survive the completion of the services and the termination of this Agreement.
24. **TERMINATION:** This Agreement may be terminated at any time by either party by written notice in the event of substantial failure to perform in accordance with the terms herein by the other party through no fault of the terminating party. If this Agreement is so terminated by either party, regardless of reason, Client shall pay TTL compensation for work satisfactorily completed up to date of termination for said work and for reasonable termination expenses incurred as the result of termination. This Agreement shall remain in effect until completion of proposed scope of services unless terminated as provided herein, or extended by mutual agreement in writing.
25. **SEVERABILITY:** Any term or provision of this Agreement found to be invalid under any applicable statute or rule of law shall be deemed to be omitted and the remainder of this Agreement shall remain in full force and effect.

IN WITNESS WHEREOF, this Agreement is accepted on the date last written below, subject to the terms and conditions above stated and the provisions set forth herein.

CLIENT

ENTITY NAME: Morgan County Regional Landfill

CONTACT NAME: _____

TITLE: _____

ADDRESS: _____

CITY AND STATE: _____

OFFICE PHONE: _____

CELL PHONE: _____

EMAIL: _____

SIGNED: _____

DATE: _____

CONSULTANT

ENTITY NAME: TTL, Inc.

CONTACT NAME: _____

TITLE: _____

ADDRESS: _____

CITY, STATE, ZIP: _____

OFFICE PHONE: _____

CELL PHONE: _____

EMAIL: _____

SIGNED: _____

DATE: _____

CITY COUNCIL AGENDA ITEM REPORT

DATE: May 15, 2023

SUBMITTED BY: Allen Stover,Community Development

ITEM TYPE: Grant

AGENDA SECTION: RESOLUTIONS:

SUBJECT: Resolution No. 23-124: Accept ADEM grant for Recycling Education

FINANCIAL IMPACT: None

SUGGESTED ACTION:

ATTACHMENTS:

[Res No 23-124 ADEM Recycling Grant.pdf](#)

[M ARF Decatur-Morgan 4-26-23.pdf](#)

RESOLUTION NO. 23-124

WHEREAS, the City Council of the City of Decatur, Alabama, is committed to the recycling efforts in the City of Decatur; and

WHEREAS, funds have been made available by Alabama Department of Environmental Management, from a Alabama Recycling Fund Grant; and

WHEREAS, this grant will allow the City to help educate residents of Decatur on the City's Recycling efforts; and

WHEREAS, this \$50,000.00 grant does not require a match,

THEREFORE BE IT RESOLVED, by the City Council of the City of Decatur, Alabama, that Mayor Tab Bowling is hereby authorized on behalf of the City to accept this Alabama Department of Environmental Management grant.

Adopted this the 15th day of May, 2023.

April 26, 2023

Wanda Tyler
City of Decatur / Morgan County Regional Landfill
625 Landfill Dr.
Trinity, AL 35673

RE: FY2023 ARF Supplemental Grant Award

Dear Ms. Tyler,

Congratulations on your Supplemental FY2023 Alabama Recycling Fund Grant Award. Please find enclosed two copies of the grant agreement between City of Decatur / Morgan County Regional Landfill and the Alabama Department of Environmental Management. Please review the agreement thoroughly. Once your review is complete, initial the top of each page of both copies and have the responsible official sign them where indicated. Your main point of contact at ADEM for the grant, Alexis Rogers may be reached at (334) 271-7874 or via email at alexis.rogers@adem.alabama.gov. Return all signed copies to our office:

ATTN: Alexis Rogers
ADEM/Solid Waste Branch
P O Box 301463
Montgomery, AL 36130-1463

Congratulations again on your grant award and I look forward to working with you in increasing recycling and waste minimization in Alabama.

Sincerely,



Richard T. Kelsey, Chief
Materials Management Section
Solid Waste Branch
Land Division

RTK/amr

Enclosure: Grant Agreement (2)

Grantee Initials _____

Alabama Recycling Fund Grant Agreement

Grantee: City of Decatur / Morgan County Regional Landfill
Contact Person: Wanda Tyler
Address: 625 Landfill Dr.
Trinity, AL 35673
Email: wtyler@decatur-al.gov
Telephone: (256)-341-4991

Responsible Person: Wanda Tyler, City of Decatur Recycling Facility
Address: 625 Landfill Dr.
Trinity, AL 35673
Email: wtyler@decatur-al.gov
Telephone: (256)-341-4991

Grant reimbursements should be made payable to:
City of Decatur / Morgan County Regional Landfill

Grant reimbursements mailed to this address:
402 Lee Street NW
Decatur, AL 35601

Grant Period: October 1, 2022 - September 30, 2023
Amount Awarded: \$50,000.00

Semiannual Report Due Dates:
Semiannual Report Due: September 30, 2023

The Alabama Department of Environmental Management (ADEM) is the administrative agency for recycling projects approved for expenditure of funds under the Alabama Recycling Fund Grant Program. The Alabama Recycling Funds Grant Program is further defined in Chapter 335-13-10 of the Alabama Solid Waste Regulations.

A maximum of \$50,000.00 inclusive of all costs will be granted for this project to the City of Decatur / Morgan County Regional Landfill (hereinafter referred to as the Grantee) by ADEM (hereinafter referred to as Department). Reimbursement of expenditures will be limited to and in accordance with the program budget submitted by the grantee and may be found as Attachment B of this Agreement.

Grantee Initials _____

GENERAL REQUIREMENTS

The Grantee is responsible for compliance with state and any applicable local Solid Waste Management Plans and regulations and requirements of Alabama Recycling Fund and completion of the activities in the Grant Application that was submitted by the Grantee, except as modified and superseded by this agreement.

I. GENERAL PROJECT SUMMARY

City of Decatur / Morgan County Regional Landfill is receiving ARF funding to establish a master recycling education program to enhance their robust municipal recycling program.

A. MILESTONES/TIMELINE OF ACTIVITIES

The grantee agrees to begin the implementation of the project during the grant period outlined in this agreement, conditional upon the grant agreement being signed and becoming a binding contract.

B. REGIONAL PARTNERSHIPS

If this grant agreement involves multiple entities as the grantee, written agreements including those concerning grant funds, revenue disbursement, and the responsibilities of each entity shall be required. All such agreements are binding as if incorporated herein.

II. BUDGET AND EXPENDITURES

The approved project budget and maximum reimbursable expenditures are further detailed in Attachment B of this Agreement. Any exceptions must be attached to this Agreement as an amendment which has been signed by the Department and Grantee. The approved budget is further categorized as follows:

Itemized Budget

Master Recycler Education Program	\$50,000.00
Total	\$50,000.00

Categorized Budget

Infrastructure (equipment, buildings, land, etc.)	\$0.00
Personnel (salaries, benefits, etc.)	\$0.00
Education (materials, radio/TV, hand-outs, etc.)	\$50,000.00
Professional Services (consultants, engineering, planning)	\$0.00
Total Budget	\$50,000.00

A. ALLOWABLE COSTS

Expenditures shall be limited to the allowable costs as stated in this agreement and in accordance with the Alabama Recycling Fund Grants Program as stated in Chapter 335-13-10. The Grantee shall not retain any grant funds in excess of actual Recycling Program expenses.

Grantee Initials _____

B. REVENUE DISBURSEMENT

Funds will be reimbursed to the responsible official as indicated on page 1 of this agreement unless otherwise stated below.

C. REIMBURSEMENT

To receive reimbursement, records to include receipts, proof of payment (cancelled checks and/or credit card statements), and invoices shall be submitted with each semiannual report. All reimbursement requests shall be signed by the responsible official as indicated on page 1 unless otherwise specified herein. All requests for advance funds shall be made to and approved by the Department before purchasing. Reimbursement for any purchases or agreement to purchase made prior to the effective date of this grant agreement without prior written approval may be determined to be ineligible for reimbursement. All requests for reimbursement must be submitted with the semiannual report received by September 30. The Department, at its sole discretion, may request additional justification or documentation relating to any expenditure of grant funds. If this grant agreement includes the disbursement of funds for any purpose as may be deemed operating subsidies by the Department, the grantee shall provide to the Department, in the form of a written report submitted within one (1) year of grant execution, documentation that such subsidies will no longer be required from any future Alabama Recycling Fund Grant or Fund disbursement.

D. SWMP CONSISTENCY

If the Grantee has been awarded funding to revise a Solid Waste Management Plan (SWMP), the SWMP must first be revised and approved by the Department before reimbursement will be made for any other activities associated with this agreement.

III. AMENDMENTS

Any amendments or modifications to this grant agreement must be submitted by the listed responsible official and be approved by the Department in writing before becoming effective. Any and all amendments shall be as if incorporated herein.

IV. REPORTING REQUIREMENTS

The grantee shall provide the Department semiannual reports as required by Attachment A: Scope of Services and shall comply with requests for information as the Department may require in order to fulfill the requirements of this agreement and applicable regulations regarding Alabama Recycling Fund Grants and recycling facility (materials recovery facility and recovered materials processing facility) regulations contained in Code of Alabama 335-13-10.

Grantee Initials _____

V. EVALUATION METHOD

The Grantee will evaluate the overall project as detailed in the Scope of Services. Such evaluations shall be reported in semi-annual and/or final reports submitted to the Department and are conditional for continued reimbursement as detailed in this Agreement.

VI. RETENTION OF DOCUMENTS

Department personnel will monitor the implementation and timeline of activities and expenditures covered under this agreement. All documents related to this agreement including requests for proposals, invoices, contractual agreements, reports, approvals and correspondence with the Department associated with this agreement must be kept updated and readily accessible to Department staff for at least five (5) years from the execution of the grant agreement and as otherwise required herein. Copies of records shall also be included with each semi-annual report submitted by the Grantee.

VII. FAILURE TO COMPLY

The Department may terminate a grant award in whole or in part and demand refund of grant funds when there is substantial non-compliance with the terms of the award or these rules, a determination made by the Department that the grant was obtained by fraudulent means, found that grant monies have been used for non-allowable costs, or a determination made by the Department that gross abuse or corrupt practices have been used in the administration of the grant project by the Grantee. The Department shall give written notice to the Grantee (via certified mail, return receipt requested) of its intent to terminate a Fund grant, in whole or in part, at least 30 days prior to the intended date of termination. The Department shall afford the Grantee an opportunity for consultation prior to any termination. After such opportunity for consultation, the Department may, in writing (via certified mail, return receipt requested) terminate the Fund in whole or in part. Such action may also result in the Department declaring the Grantee ineligible for further participation in the program until the Grantee complies with the terms of the grant agreement.

VIII. PROMOTIONAL, EDUCATIONAL AND OTHER MATERIALS

A copy of promotional and educational materials developed as part of this agreement shall be submitted electronically to the Department prior to public distribution. The Department shall have the right to use any printed materials developed as part of this agreement in any manner the Department deems appropriate. The use of grant funds provided through this agreement utilized for the development and or publication of promotional, educational, and other materials shall cause the same to include the Department logo and the following statement, *"This project was funded or partially funded by the Alabama Department of Environmental Management through a grant from the Alabama Recycling Fund."* Such materials shall be maintained by the grantee according to requirements for document retention included herein. Such materials may also not be copyrighted or reserved in any manner.

IX. COMPLIANCE WITH RELEVANT LAWS

The Recipient agrees to comply with all relevant federal, state, and local laws, ordinances or other requirements in the design, construction and operation of the facility, to

Grantee Initials _____

specifically include environmental regulations. The Recipient shall comply with Affidavit and E-Verify requirements for Ala. Code §§ 31-13-9(a) and (b). Continued, substantial non-compliance may be considered as a failure to comply and result in termination of this agreement for cause. The Recipient is also subject to all provisions of the ADEM Administrative Code, the Solid Waste and Materials Management Act (SWRMMA), and other applicable requirements.

Grantee Initials _____

STATE OF ALABAMA)
)
 MONTGOMERY COUNTY)

This Agreement is entered into between the City of Decatur / Morgan County Regional Landfill (Grantee) and the Alabama Department of Environmental Management (Department) pursuant to an appropriation from the Alabama Recycling Fund (Fund). This Agreement will provide for a recycling project in Morgan County, Trinity, AL.

The parties hereto agree as follows:

1. Scope of Services

The Grantee will provide services as set out in the Scope of Services, which is included with this Agreement as Attachment A and which is incorporated as if fully set out herein.

2. Payment

A. The Department agrees to reimburse the Grantee an amount not to exceed \$50,000.00 for the services performed under this Agreement. Unless otherwise specified in the workplan, any mileage, travel and per diem costs identified in the budget located herein will be reimbursed in accordance with state law.

B. Unless pre-approved by the Department, the Grantee shall submit invoices not more than once per semi-annual period and in conjunction with the semi-annual report to the Department for actual cost(s) incurred. The final invoice shall be submitted by October 15, 2024 .

C. Prior to the purchase of any items or the execution of any printing contracts under this agreement with a value less than \$1,000.00, one quote or attempt for a quote of outside costs, including but not limited to copying costs and freight terms, must be obtained unless specifically exempted. For items with a value from \$1,000.00 to \$3,000.00, two such quotes or attempts for quotes must be obtained unless specifically exempted. For items with a value greater than \$3,000.00, three such quotes or attempts for quotes must be obtained unless specifically exempted. The purchase of any items or the execution of any contract shall comply with the Alabama Bid Laws Sections 41-16-20 et. Seq. of the Code of Alabama (1975).

3. Term of Agreement

All work performed under this Agreement shall begin on the date on which this Agreement is executed unless previously approved by the Department, and shall terminate 12 months from the date of execution unless extended by the Department. This Agreement is conditioned upon the receipt of sufficient funds from the Fund and is subject to termination in the event of proration of the Fund. If the term of this Agreement extends beyond one fiscal year, this Agreement is subject to termination in the event that funds are not appropriated for the continued payment of the contract in subsequent fiscal years. This

Grantee Initials _____

Agreement may be amended by the mutual written agreement of both parties but under no circumstances shall the expiration date be extended or the contract amount be increased without approval in accordance with Section 29-2-41 Code of Alabama 1975.

4. Termination of Agreement for Cause

If, through any cause, the Grantee shall fail to fulfill in a timely and proper manner its obligation under this Agreement, or if the Grantee shall violate any of the covenants, agreements or stipulations of this Agreement, the Department shall thereupon have the right to terminate this Agreement by giving written notice to the Grantee of such termination and specifying the effective date thereof at least 30 days before the effective date of such termination. In that event, any finished or unfinished studies, reports or other work by the Grantee shall, at the option of the Department, become its property and the Grantee shall be entitled to receive just and equitable compensation for any satisfactory work completed under this Agreement.

5. Termination for Convenience of the Department

The Department may terminate this Agreement at any time by giving written notice to the Grantee of such termination and specifying the effective date thereof, at least 30 days before the effective date of such termination and under the same conditions as herein set forth for the Department, the Grantee may cancel this Agreement. In the event of cancellation, all finished or unfinished studies, reports or other work by the Grantee shall, at the option of the Department, become its property. If the Agreement is terminated by the Department as provided herein, the Grantee shall be paid for all work satisfactorily completed prior to termination.

6. Changes

The Department may, from time to time, require changes in the Scope of Services of the Grantee to be performed hereunder. Such changes, including any increases or decreases in the amount of the Grantee's compensation, which are mutually agreed upon by and between the Department and the Grantee shall be incorporated in written amendments to this Agreement.

7. Title VI and Equal Employment Opportunity

The Grantee will comply with Title VI of the Civil Rights Act of 1964 (88-352) to the end that in accordance with Title VI of that Act, no person in the United States shall, on the ground of race, color, or national origin be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity funded by this Agreement. There shall be no discrimination against any employee who is employed in the work covered by this Agreement, or against any applicant for such employment, because of race, color, religion, sex, national origin, age or disability covered by the Americans with Disabilities Act. This provision shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training including apprenticeship. The Grantee shall insert a similar provision in all subagreements for services covered by this Agreement.

Grantee Initials _____

8. Interest of Members of the Department and Others

No officer, member or employee of the Department and no members of the Environmental Management Commission, and no other public official of the governing body of the locality or localities in which the project is situated or being carried out who exercise any functions or responsibilities in the review or approval of the undertaking or carrying out of this project, shall participate in any decision relating to this Agreement which affects his personal interest or have any personal or pecuniary interest, direct or indirect, in this agreement or the proceeds thereof.

9. Assignability

The Grantee shall not assign any interest in this Agreement and shall not transfer any interest in the same (whether by assignment or novation), without the prior written consent of the Department.

10. Findings Confidential

Any reports, information, data, etc., given to or prepared or assembled by the Grantee under this Agreement which the Department requests to be kept as confidential shall not be made available to any individual or organization by the Grantee without the prior written approval of the Department, unless such confidentiality would be contrary to the law of the State of Alabama or the United States.

11. Acknowledgment

Videos, films, electronic files, printed information or other materials produced for dissemination under this agreement must include the Department's logo, prominently displayed, along with the following acknowledgment:

“This project was funded or partially funded by the Alabama Department of Environmental Management through a grant from the Alabama Recycling Fund.”

12. Reproducible Materials

Any printed information, photographs or art works delivered to the Department under this agreement shall be camera ready and/or computer ready as appropriate. The master tape of any video or audio productions will be delivered to the Department in an immediately reproducible form. Any computer program generated under this agreement will be delivered to the Department in an original and immediately reproducible form.

13. Officials Not to Benefit

No member of or delegate to the Congress of the United States of America, and no resident commissioner, shall be admitted to any share or part hereof or to any benefit to arise herefrom.

Grantee Initials _____

14. Copyright

No reports, maps, or other documents or products produced in whole or in part under this Agreement shall be the subject of an application for copyright by or on behalf of the Grantee.

15. Audits and Access to Records

The Contractor agrees to abide by the requirements of the federal Single Audit Act and OMB's Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards (commonly called Uniform Guidance). When financial statements are prepared and an audit is performed as a result of OMB Uniform Guidance requirements the Contractor shall provide the Department with a copy of its audit report covering the period of this contract within thirty (30) days of receipt by the Contractor of the auditor's report. If OMB Uniform Guidance is applicable the Contractor agrees that the Comptroller General of the United States or any of his/her duly authorized representatives, the Secretary of Commerce or any of his/her duly authorized representatives, the Director of ADEM or any of his/her duly authorized representatives, and the Chief Examiner of the Department of Examiners of Public Accounts and any of his/her duly authorized representatives shall, until the expiration of three (3) years from the date of submission of the final financial report, have access to and the right to audit, examine, and make excerpts or transcripts from any directly pertinent books, documents, papers, and records of the Contractor involving transactions related to this Agreement. The Contractor agrees to provide access to any or all documents, papers, records and directly pertinent books of the Contractor involving transaction related to this Agreement upon written request from the Director of ADEM.

16. Taxes

The Grantee is responsible for reporting and making payment of any applicable federal and state taxes which may be due as a result of payments received pursuant to this Agreement.

17. Grantee Not Entitled to Merit System Benefits

In the case of Non-State Agencies under no circumstances shall the Grantee or any of its employees be entitled to receive the benefits granted to State employees under the Merit System Act by reason of this Agreement unless otherwise provided by law.

18. Not to Constitute a Debt of the State/Settlement of Claims

It is agreed that the terms and commitments contained herein shall not be constituted as a debt of the State of Alabama in violation of Article 11, Section 213 of the Constitution of Alabama, 1901, as amended by Amendment Number 26. It is further agreed that if any provision of this Agreement shall contravene any statute or Constitutional provision or amendment, either now in effect or which may, during the course of this Agreement, be enacted, then the conflicting provision in the Agreement shall be deemed null and void. The Grantee's sole remedy for the settlement of any and all disputes arising under the terms of this agreement shall be limited to the filing of a claim with the Board of Adjustment for the State of Alabama. For any disputes arising under the terms of this

Grantee Initials _____

Agreement, the parties hereto agree, in compliance with the recommendations of the Governor and Attorney General, when considering settlement of such disputes, to utilize appropriate forms of non-binding alternative dispute resolution including, but not limited to, mediation by and through the Attorney General's Office of Administrative hearings or where appropriate, private mediators.

19. Alternative Dispute Resolution

In the event of any dispute between the parties, senior officials shall meet and engage in a good faith attempt to resolve the dispute. Should that effort fail and the dispute involves the payment of money, a party's sole remedy is the filing of a claim with the Board of Adjustments of the State of Alabama.

For any and all other disputes arising under the terms of this contract which are not resolved by negotiation, the parties agree to utilize appropriate forms of non-binding alternative dispute resolution including, but not limited to, mediation. Such dispute resolution shall occur in Montgomery, Alabama, utilizing where appropriate, mediators selected from the roster of mediators maintained by the Center for Dispute Resolution of the Alabama State Bar.

20. Requisite Reviews and Approvals

The Grantee acknowledges and understands that this Agreement is not effective until it has received all requisite state government approvals and shall not begin performing work under this Agreement until notified to do so by the Alabama Department of Environmental Management.

21. Immigration Status.

By signing this contract, the contracting parties affirm, for the duration of the agreement, that they will not violate federal immigration law or knowingly employ, hire for employment, or continue to employ an unauthorized alien within the state of Alabama. Furthermore, a contracting party found to be in violation of this provision shall be deemed in breach of the agreement and shall be responsible for all damages resulting therefrom.

22. Prohibition against Boycotting by Contractors

In compliance with Act 2016-312, the Contractor hereby certifies that it is not currently engaged in, and will not engage in, the boycott of a person or an entity based in or doing business with a jurisdiction with which this State can enjoy open trade.

23. No Funds for Lobbying Cause

No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or any employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the

Grantee Initials _____

entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL," Disclosure Form to Report Lobbying," in accordance with its instructions.

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement.

City of Decatur / Morgan County Regional Landfill

By: _____
Wanda Tyler
Director

Date

ALABAMA DEPARTMENT OF
ENVIRONMENTAL MANAGEMENT

By: _____
Lance R. LeFleur
Director

Date

As to Legal Form

Date

Grantee Initials _____

ATTACHMENT A**SCOPE OF SERVICES**

Upon the effective date of Agreement signature, the City of Decatur / Morgan County Regional Landfill (Grantee), agrees to effectively and expeditiously facilitate the following Scope of Services:

1. The Grantee will follow and abide by the Agreement as approved or amended. The Grantee will obtain permission from the Department for project related changes or modifications, revisions, and/or amendments to the latest approved agreement prior to expenditure of funds.
2. No deviations from the approved project budget or expenditure of funds other than for the purposes stated in the latest approved agreement are authorized without prior approval from the Department.
3. All funded project reports and financial records will be maintained by the recipient and made available for review and disclosure for a minimum of five years following the grant closeout.
4. A comprehensive semiannual report to include an Executive Summary (generalized project summary) will be submitted by the Grantee to the Department by September 30. All project outputs and deliverables must be completed by the project end date, September 30th. These semi-annual reports will, at a minimum, include:
 - The status/outcome of each project objective and milestone per project application agreement
 - Expenditures of any ARF funds and local funds (documentation for local funds is not required). Required documents needed for ARF grant reimbursements shall include invoices, receipts, proof of payment (cancelled checks and/or credit card statements), and any additional documentation the Department deems necessary.
 - Quantity of recyclable materials collected by material type with out-of-state generated materials reported separately from in-state
 - Price(s) received for marketed recyclables by material type
 - Destination of marketed materials,
 - Documented increase in collections and participation (tonnage prior to implementation vs. tonnage at project completion)
 - If asking for education and outreach funding, include a description of any education or public outreach components and an explanation of how the educational component will directly promote the use of existing or planned local recycling projects.
 - Location/addresses of public recycling bins/containers (lat/long if available)

Grantee Initials _____

5. If estimation is utilized in providing data, the method of estimation shall also be included in each semi-annual report. Reports shall not be inconsistent with accounting and record-keeping methods such entities may be required to follow by the Alabama Department of Examiners of Public Accounts.
6. Project related videos, films, computer disks, printed information, and other products or materials produced using Alabama Recycling Grant funds must include the Department logo, prominently displayed, along with the following prominently and conspicuously displayed acknowledgement language: ***"This project was funded or partially funded by the Alabama Department of Environmental Management through a grant from the Alabama Recycling Fund."***
7. All education and training related videos, films, computer diskettes, manuals, brochures, and other products and material outputs/deliverables produced will be submitted by the Grantee in Draft form to the Department for review and approval prior to additional grant funds being expended for Final deliverable/output products to be printed, produced, copied, or disseminated.
8. The Grantee agrees to submit at least one project description or project status news article for distribution to local area newspapers or to various other local public media for potential publication or dissemination in any manner as the Department may determine.
9. New recycling programs must be registered to report as determined by the Department, if applicable and directed to do so by the Department. Existing recycling programs must be registered to report as determined by the Department, if applicable and directed to do so by the Department.
10. The Grantee must have an established account on the Alabama Environmental Permitting and Compliance System (AEPACS).
11. The Grantee agrees to comply with all requirements and conditions specified in local, state, or federal rules, regulations, laws or ordinances. Grant funding for this project is, at a minimum, subject to Alabama Recycling Fund Grant Regulations contained in ADEM Administrative Code 335-13-10.
12. The Grantee will inform the Department as soon as problems, delays, or adverse conditions become known which will materially impair the ability to complete this Agreement, or to meet outputs/outcomes/milestones specified in this Agreement, for the duration of the Agreement.
13. Property (equipment greater than \$5,000 cost) that is purchased in whole or in part with grant funds must be properly managed and used solely for recycling purposes (e.g. inventory, control system, maintenance, storage, etc.) for at least five years.

Grant # ARF23-27-240S

Grantee Initials _____

ATTACHMENT B

PROJECT BUDGET

Master Recycler Education Program	\$50,000.00
Total	\$50,000.00

CITY COUNCIL AGENDA ITEM REPORT

DATE: May 15, 2023

SUBMITTED BY: Allen Stover, Community Development

ITEM TYPE: Grant

AGENDA SECTION: RESOLUTIONS:

SUBJECT: Resolution No. 23-125: Approve ALDOT 5310 Grant Application

FINANCIAL IMPACT: 20,000 Dollar Match

SUGGESTED ACTION:

ATTACHMENTS:

[Res No 23-125 ALDOT 5310 Grant App.pdf](#)

RESOLUTION NO. 23-125

WHEREAS, the Alabama Department of Transportation has Federal Transit Administration Section 5310 grant funds available; and,

WHEREAS, these funds can used to purchase a transit bus for persons with Disabilities; and,

WHEREAS, this grant is for \$100,000.00 and would require a \$20,000.00 match;

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Decatur, in the State of Alabama, that it is in the best interest of the City to apply for the ALDOT grant and Mayor Tab Bowling is authorized on behalf of the City to execute the application for such grant.

ADOPTED this the 15th day of May, 2023.

CITY COUNCIL AGENDA ITEM REPORT

DATE: May 15, 2023

SUBMITTED BY: Allen Stover,Community Development

ITEM TYPE: Contracts

AGENDA SECTION: RESOLUTIONS:

SUBJECT: Resolution No. 23-126: Authorize Paleowest to conduct mapping survey at Garth Cemetery

FINANCIAL IMPACT: General Fund Unassigned Fund Balance

SUGGESTED ACTION:

ATTACHMENTS:

[Res No 23-126 Paleowest Mapping Garth Cemetery.pdf](#)
[Garth Cemetery Contract FINAL.docx](#)

RESOLUTION NO. 23-126

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF DECATUR, ALABAMA that it hereby approves and authorizes the Mayor to enter in to an agreement with Paleowest to complete a grave marker mapping survey at Garth Cemetery. The quote for the project is \$27,850.00. Funding shall be made available from the General Fund Unassigned Fund Balance.

Approved this 15th day of May, 2023.

AGREEMENT BETWEEN THE CITY
OF DECATUR AND
PALEOWEST
FOR GRAVE MARKER MAPPING,
CONDITIONS ASSESSMENT, AND
GROUND PENETRATING RADAR AT
GARTH-DANCY CEMETERY

STATE OF ALABAMA)

COUNTY OF MORGAN)

This Agreement is made by and between the City of Decatur, Alabama, a municipal corporation (hereinafter referred to as “City” or “Client”) and PaleoWest (hereinafter referred to as “PaleoWest” or “Contractor”) for items and related services as described herein. This Agreement shall be effective on the date it is executed by the last party to execute it (“Effective Date”). The City and PaleoWest hereby agree as follows:

STATEMENT OF BACKGROUND AND INTENT

- A. The City has requested professional services to provide a Grave Marker Mapping, Conditions Assessment, and Ground Penetrating Radar survey for the Garth-Dancy Cemetery).
- B. PaleoWest submitted to the City a proposal dated March 6, 2023. This proposal, together with all attachments, is referred to herein as the “Proposal”, and a copy of the same is attached hereto as Exhibit “A” and is incorporated herein by reference.
- C. The City and PaleoWest have negotiated and now desire to enter into an arrangement for PaleoWest to conduct a Grave Marker Mapping, Conditions Assessment, and Ground Penetrating Radar at Garth-Dancy Cemetery in Decatur, in accordance with the terms and conditions set forth herein.

WITNESSETH

NOW THEREFORE, in consideration of the mutual promises and covenants, herein contained, the parties hereby agree as follows, to wit:

1.0 Scope of Work.

PaleoWest will conduct a Grave Marker Mapping, Conditions Assessment, and Ground Penetrating Radar at Garth-Dancy Cemetery. The intent of the project is to determine

location and condition of current gravestones, the location of missing gravestones, and the boundaries of the cemetery, including a possible adjacent cemetery for enslaved persons.

More particularly, the scope of work will be as set forth in the Proposal submitted by PaleoWest, dated March 6, 2023.

2.0 Contract Amount and Payment Schedule.

The City will pay to PaleoWest a total amount of Twenty Eight Thousand, Five Hundred and Fifty Dollars. (\$27,850.00) for the products and services provided pursuant to this Agreement. The City shall pay the said amount in two installments based on milestones reached by PaleoWest. The payment schedule shall be as follows:

<u>Milestone</u>	<u>Amount</u>
<u>Field work commencing in May-June, with delivery draft, September-October 2023</u> <u>(80% of contract)</u>	
<u>Contractor submits final document to the City of Decatur, no later than December 2023</u> <u>(20% of contract)</u>	

Upon reaching each milestone, PaleoWest shall provide an invoice to the City for the agreed amount. The City's Project Director shall determine whether the milestone has been met. Payment shall be due to PaleoWest within thirty (30) days of notification that the milestone has been met.

3.0 General Terms and Conditions

3.1 Notices.

All notices (a) shall be in writing, (b) shall be deemed served on the date on which they are actually received, and (c) shall be served by (i) personal delivery, or (ii) United States First Class Certified or Registered Mail, Return Receipt Requested, properly addressed with postage prepaid or (iii) a nationally recognized overnight courier/delivery service (i.e. Federal Express, United Parcel Service, etc.) or (iv) electronic transmission ("E-mail") or telephonic facsimile transmission ("Fax") in conjunction with one of the other methods of delivery set forth in subparagraphs (i), (ii) or (iii), each addressed as follows:

PaleoWest

1942 2nd Avenue South, Suite H
St. Petersburg, FL 33712
jmoates@paleowest.com

City Of Decatur
Attention: Caroline Swope
P.O. Box 488
Decatur, Alabama 35602
(256) 476-7520
cswope@decatur-al.gov

3.2 Project Staff.

Althea Wunderler-Selby shall be Contractor's designated Project Manager. Caroline Swope shall be the designated Project Manager for the City. The City must approve any changes in PaleoWest's project manager.

3.3 Time Period.

PaleoWest shall commence the work to be done pursuant to this Agreement in May/June 2023 and shall complete said work no later than December 31, 2023.

3.4 Work Outside Scope of Project.

No work outside the scope of work in the Agreement shall be authorized other than by mutually agreeable and properly authorized written change order.

4.0 SUBCONTRACT.

PaleoWest may not associate/hire/contract with any subcontractor/independent contractor/consultant (beyond The Walker Collaborative, which was part of the team under PaleoWest that submitted the initial bid) in order to fulfill the requirements of this Agreement without obtaining the prior written approval of the City's Project Manager. PaleoWest shall be solely responsible for any and all payments/wages/earnings due any such independent contractor for work performed thereby in furtherance of this Agreement. PaleoWest shall be legally responsible for any and all actions of any subcontractor/independent contractor/consultant. Consent by the City to any subcontract shall not constitute approval of the acceptability of any subcontract price or of any amount paid under any subcontract, nor relieve PaleoWest of any responsibility for performing this contract. The City's Project Manager shall have final approval of any proposed subcontractor.

5.0 Confidential Information.

Each party hereto (each, a “Recipient”) shall protect and keep confidential all non-public information disclosed to Recipient by the other party (each, a “Discloser”) and identified as confidential by Discloser (“Confidential Information”) and shall not, except as may be authorized by Discloser in writing, use or disclose any such Confidential Information during and after the term of this Agreement. These obligations of confidentiality shall not apply to information that: (1) was previously known to Recipient; (ii) is or becomes publicly available through no fault of Recipient; (iii) is disclosed to Recipient by a third party having no obligation of confidentiality to Discloser relating to such Confidential Information; (iv) is independently configured by Recipient; or (v) is required to be disclosed as a matter of law.

6.0 Termination

6.1 Termination For Convenience

This agreement may be terminated by the City without cause prior to the completion of the project upon ten (10) days written notice of the intent to terminate to PaleoWest. Notice to terminate shall be given to PaleoWest by written notification mailed or hand delivered to the contact address for PaleoWest listed in Section 3.1 herein. In the event of such termination without cause, PaleoWest shall be compensated for all services actually performed in a timely manner prior to receipt of the notice of termination provided, however, that such compensation shall be conditioned upon PaleoWest providing in a timely manner to the City all documents developed and copies of the work product produced pursuant to the Contract which were performed in furtherance of the Scope or Work up to the receipt of the notice of termination. In such event, PaleoWest shall promptly submit the City its invoice for final payment.

6.2 Termination For Cause

This agreement may be terminated by either party upon thirty (30) days written notice to the other should such other party fail substantially to perform in accordance with its material terms through no fault of the party initiating the termination.

7.0 Nonexclusiveness of Remedies.

Any right or remedy on behalf of the City or PaleoWest provided for in any of these specifications, including but not limited to any guaranty or warranty or any remedy for nonperformance, shall be in addition to and not a limitation of any right or remedy otherwise available by law, equity, or statute.

8.0 Injuries to PaleoWest.

PaleoWest is obligated to obtain sufficient liability insurance coverage (as well as worker’s compensation coverage, if required by law) for the benefit of PaleoWest and its agents

and/or employees. PaleoWest waives any and all rights to recovery from the City for any injuries that PaleoWest (and/or its agents and/or employees) may sustain while performing services under this Agreement.

9.0 Insurance and Indemnity.

PaleoWest shall carry liability insurance with a \$1,000,000.00 general aggregate limit. The City, its officers, employees, elected officials, agents and specified volunteers are to be covered as Additional Insureds, as their interests may appear, as respects: liability arising out of activities performed by or on behalf of PaleoWest for products used by and completed operations of PaleoWest; or automobiles owned, leased, hired or borrowed by PaleoWest. The coverage shall contain no special limitations on the scope of protection afforded to the City, its officers, employees, elected officials, agents or specified volunteers.

PaleoWest's insurance coverage shall be primary insurance as respects the City, its officers, employees, agents and specified volunteers, as their interests may appear. Any insurance or self-insurance maintained by the City, its officers, officials, employees, agents or specified volunteers shall be excess of PaleoWest's insurance and shall not contribute to it.

HOLD HARMLESS AGREEMENT:

1. Other Than Professional Liability Exposures:

PaleoWest, to the fullest extent permitted by law, shall indemnify and hold harmless the City, its elected and appointed officials, employees, agents and specified volunteers against all claims, damages, losses and expenses, including, but not limited to, attorney's fees, arising out of or resulting from the negligent performance of PaleoWest's obligations under this Agreement, provided that any such claim, damage, loss or expense (1) is attributable to personal injury, including bodily injury sickness, disease or death, or to injury to or destruction of tangible property, including loss of use resulting therefrom, and (2) is caused by any negligent act or omission of PaleoWest or any of their consultants, or anyone directly or indirectly employed by them or anyone for whose acts they are legally liable. Such obligation should not be construed to negate, abridge, or otherwise reduce any other right or obligation of indemnity which would otherwise exist as to any party or person described in this paragraph.

2. Professional Liability:

PaleoWest agrees that as respects negligent acts, errors or omissions in the performance of professional services, to indemnify and hold harmless

the City, its officers, agents, employees, and specified volunteers from and against any and all claims, demands, losses and expenses including, but not limited to attorney's fees, liability, or consequential damages of any kind or nature resulting from any negligent acts, errors, or omissions of PaleoWest or any subconsultants or anyone directly or indirectly employed by them or anyone for whose acts they are legally liable.

3. Intellectual Property Rights.

PaleoWest agrees to indemnify, hold harmless and defend City from and against any and all liability, losses, judgments, damages, and expenses arising from third party claims that the Products delivered by and/or Services performed by PaleoWest pursuant to this Agreement infringe on or violate any patents, copyrights, or trade secrets of such third parties. This indemnification is contingent upon City providing prompt written notice of such a claim to PaleoWest, and granting PaleoWest the sole right to defend such claim. In the event of any infringement or claimed infringement, PaleoWest, in its sole discretion, shall: (i) modify the infringing Services to be non-infringing as long as there is no loss of functionality by such modification; (ii) obtain a license for City to use the infringing Services; or (iii) terminate the City's right to use the infringing Services and refund to City all amounts paid for such infringing Services, amortized over a period of (5) years from the acceptance of Services.

9.1 CONSULTANT AND/OR SUBCONTRACTORS WORKING FOR THE CONTRACTOR:

PaleoWest shall require any approved subcontractors and/or consultants working for the City of Decatur pursuant to this Agreement to carry insurance as required under this Agreement.

10. GENERAL PROVISIONS.

10.1 Governing Law and Venue.

This Agreement shall be governed by and construed in accordance with the laws of the State of Alabama without regard to Alabama conflict of laws provisions. Proper venue for any action to enforce the terms of this Agreement shall be in the state or federal courts of Morgan County, Alabama.

10.2 Force Majeure.

Neither party shall be responsible for delays or failure of performance resulting from acts beyond the reasonable control of such party. Such acts shall include, but not be limited to, acts of God, strikes, walkouts, riots, acts of war, epidemics, failure of suppliers to perform, governmental regulations, power failure(s), earthquakes, or other disasters.

10.3 Headings.

The titles and headings of the various sections and paragraphs in this Agreement are intended solely for convenience of reference and are not intended for any other purpose whatsoever, or to explain, modify or place any construction upon or on any of the provisions of the Agreement.

10.4. Agreement Deemed to Have Been Jointly Drafted.

The parties acknowledge that they have thoroughly reviewed this Agreement and bargained over its terms. Accordingly, neither party shall be considered responsible for the preparation of this Agreement which shall be deemed to have been prepared jointly by both parties. The provisions of the Agreement allocate the risks between the parties. The terms and conditions included herein reflect the allocation of risk, and each provision herein is a part of the bargained for consideration of this Agreement.

10.5 Waiver.

The failure of the City to insist in one or more instances upon the performance of any term of this Agreement is not a waiver of its right to future performance of such terms unless such waiver is in writing and signed by a duly authorized officer of the City.

10.6 All Amendments in Writing.

No provisions in either party's purchase orders, or in any other business forms employed by either party will supersede the terms and conditions of this Agreement, and no supplement, modification, or amendment of this Agreement shall be binding, unless executed in writing by a duly authorized representative of each party to this Agreement.

10.7 Property of City.

All work product prepared by PaleoWest pursuant to this agreement shall become and be the sole property of the City.

10.8 Third Parties.

Nothing contained herein shall create a contractual relationship with, or any rights in favor of, any third party.

10.9 Non Discrimination Policy.

In consideration of this agreement, the parties hereto for themselves, their agents, officials, employees, and servants agree not to discriminate in any manner on the basis of race, color, creed, age, sex, disability or national origin with reference to the subject matter of this agreement, no matter how remote.

10.10 No Assignment

Neither party shall assign its rights hereunder, excepting its right to payment, nor shall it delegate any of its duties hereunder without the written consent of the other party.

10.11 Survivability.

The terms of the Section "Hold Harmless Agreement", shall survive termination of this Agreement.

10.12 Entire Agreement.

The parties have read this Agreement, including all Exhibits, and agree to be bound by its terms, and further agree that it constitutes the complete and entire agreement of the parties and supersedes all previous communications, oral or written, and all other communications between them relating to the subject matter hereof. No representations or statements of any kind made by either party, which are not expressly stated herein, shall be binding on such party. In the event any separate Statements of Work are subsequently executed by the parties and are in conflict with the provisions of this Agreement, then the provisions of this Agreement shall prevail over any such conflicting provisions. Any pre-printed terms and conditions of PaleoWest's and City's business forms shall be without legal effect with respect to this Agreement or any subsequent Statements of Work.

10.13 Electronic Signatures

Electronic signatures and other signed copies transmitted electronically in PDF or similar format shall be treated as originals.

Notice: As a condition of contract, grant or incentive performance with the City of Decatur, compliance with the requirements of the Beason-Hammon Alabama Taxpayer and Citizen Protection Act must be provided. Please enter the name of your company and your name and complete the affidavit below. Your signature must be notarized.

BUSINESS NAME: _____

APPLICANT'S NAME: _____

E-VERIFY AFFIDAVIT

I am the applicant listed above. In my capacity as _____ of the business entity listed above, I do hereby execute this affidavit on behalf of the business listed above and, by executing this affidavit, I verify that business' compliance with Section 31-13-9 of the Code of Alabama, 1975, stating affirmatively that it does not knowingly employ, hire for employment or continue to employ an unauthorized alien. Further, the business has registered with and is participating and will participate during the performance of any contract with the City in the federal work authorization program known as "E-verify" web address <https://e-verify.uscis.gov/enroll> , operated by the United States Citizenship and Immigration Service Bureau of the United States Department of Homeland Security to verify information of newly hired employees pursuant to the Immigration Reform and Control Act of 1986 (IRCA), P. L. 99-603, in accordance with the applicable provisions of Alabama's Immigration law. The undersigned further represents that, should the business employ or contract with any subcontractor(s) in connection with the physical performance of services pursuant to the contract with the City, it will secure from such subcontractor(s) verification of compliance with Section 31-13-9 of the Code of Alabama, 1975, in a form substantially similar to this affidavit. The Business further agrees to maintain records of such compliance and provide a copy of each said verification on request of the City.

E-verify Employment Eligibility Verification User Identification Number

Applicant

Sworn to and subscribed before me on this the _____ day of _____, 2023

Notary Public

My Commission Expires: _____

By signing this contract, _____ represents and agrees that it is not currently engaged in, nor will it engage in, any boycott of a person or entity based in or doing business with a jurisdiction with which the State of Alabama can enjoy open trade.

IN WITNESS WHEREOF, the parties hereto, by their respective duly authorized officers or representatives, have each executed this Agreement, effective as of the date first above written.

CITY OF DECATUR, ALABAMA

By: _____
Tab Bowling
Its: Mayor

PALEOWEST & ASSOCIATES

By: _____	Attest: _____
Its: _____	Its: _____

CITY COUNCIL AGENDA ITEM REPORT

DATE: May 15, 2023

SUBMITTED BY: Allen Stover,Community Development

ITEM TYPE: Contracts

AGENDA SECTION: RESOLUTIONS:

SUBJECT: Resolution No. 23-127: Authorize Paleowest to complete mapping at Sykes Cemetery

FINANCIAL IMPACT: General Fund Unsigned Fund Balance

SUGGESTED ACTION:

ATTACHMENTS:

[Res No 23-127 Paleowest Mapping Sykes Cemetery.pdf](#)

[Sykes Cemetery Contract Part II FINAL.docx](#)

RESOLUTION NO. 23-127

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF DECATUR, ALABAMA that it hereby approves and authorizes the Mayor to enter in to an agreement with Paleowest to complete a grave marker mapping survey at Sykes Cemetery. The quote for the project is \$28,550.00. Funding shall be made available from the General Fund Unassigned Balance.

Approved this 15th day of May, 2023.

[illegible]

STATEMENT OF BACKGROUND AND INTENT

- WITNESSETH

1.0 Scope of Work.

91

intent of the survey is to determine both the location of missing headstones and the boundaries of the cemetery.

More particularly, the scope of work will be as set forth in the Proposal submitted by PaleoWest, dated May 4, 2023.

2.0 Contract Amount and Payment Schedule.

The City will pay to PaleoWest a total amount of Twenty Eight Thousand, Five Hundred and Fifty Dollars. (\$28,550.00) for the products and services provided pursuant to this Agreement. The City shall pay the said amount in two installments based on milestones reached by PaleoWest. The payment schedule shall be as follows:

<u>Milestone</u>	<u>Amount</u>
<u>Field work commencing in May-June, with delivery draft, September-October 2023</u> <u>(80% of contract)</u>	
<u>Contractor submits final document to the City of Decatur, no later than December 2023</u> <u>(20% of contract)</u>	

Upon reaching each milestone, PaleoWest shall provide an invoice to the City for the agreed amount. The City's Project Director shall determine whether the milestone has been met. Payment shall be due to PaleoWest within thirty (30) days of notification that the milestone has been met.

3.0 General Terms and Conditions

3.1 Notices.

All notices (a) shall be in writing, (b) shall be deemed served on the date on which they are actually received, and (c) shall be served by (i) personal delivery, or (ii) United States First Class Certified or Registered Mail, Return Receipt Requested, properly addressed with postage prepaid or (iii) a nationally recognized overnight courier/delivery service (i.e. Federal Express, United Parcel Service, etc.) or (iv) electronic transmission ("E-mail") or telephonic facsimile transmission ("Fax") in conjunction with one of the other methods of delivery set forth in subparagraphs (i), (ii) or (iii), each addressed as follows:

PaleoWest
1942 2nd Avenue South, Suite H

St. Petersburg, FL 33712
jmoates@paleowest.com

City Of Decatur
Attention: Caroline Swope
P.O. Box 488
Decatur, Alabama 35602
(256) 476-7520
cswope@decatur-al.gov

3.2 Project Staff.

Althea Wunderler-Selby shall be Contractor's designated Project Manager. Caroline Swope shall be the designated Project Manager for the City. The City must approve any changes in PaleoWest's project manager.

3.3 Time Period.

PaleoWest shall commence the work to be done pursuant to this Agreement in May/June 2023 and shall complete said work no later than December 31, 2023.

3.4 Work Outside Scope of Project.

No work outside the scope of work in the Agreement shall be authorized other than by mutually agreeable and properly authorized written change order.

4.0 SUBCONTRACT.

PaleoWest may not associate/hire/contract with any subcontractor/independent contractor/consultant (beyond The Walker Collaborative, which was part of the team under PaleoWest that submitted the initial bid) in order to fulfill the requirements of this Agreement without obtaining the prior written approval of the City's Project Manager. PaleoWest shall be solely responsible for any and all payments/wages/earnings due any such independent contractor for work performed thereby in furtherance of this Agreement. PaleoWest shall be legally responsible for any and all actions of any subcontractor/independent contractor/consultant. Consent by the City to any subcontract shall not constitute approval of the acceptability of any subcontract price or of any amount paid under any subcontract, nor relieve PaleoWest of any responsibility for performing this contract. The City's Project Manager shall have final approval of any proposed subcontractor.

5.0 Confidential Information.

Each party hereto (each, a “Recipient”) shall protect and keep confidential all non-public information disclosed to Recipient by the other party (each, a “Discloser”) and identified as confidential by Discloser (“Confidential Information”) and shall not, except as may be authorized by Discloser in writing, use or disclose any such Confidential Information during and after the term of this Agreement. These obligations of confidentiality shall not apply to information that: (1) was previously known to Recipient; (ii) is or becomes publicly available through no fault of Recipient; (iii) is disclosed to Recipient by a third party having no obligation of confidentiality to Discloser relating to such Confidential Information; (iv) is independently configured by Recipient; or (v) is required to be disclosed as a matter of law.

6.0 Termination

6.1 Termination For Convenience

This agreement may be terminated by the City without cause prior to the completion of the project upon ten (10) days written notice of the intent to terminate to PaleoWest. Notice to terminate shall be given to PaleoWest by written notification mailed or hand delivered to the contact address for PaleoWest listed in Section 3.1 herein. In the event of such termination without cause, PaleoWest shall be compensated for all services actually performed in a timely manner prior to receipt of the notice of termination provided, however, that such compensation shall be conditioned upon PaleoWest providing in a timely manner to the City all documents developed and copies of the work product produced pursuant to the Contract which were performed in furtherance of the Scope or Work up to the receipt of the notice of termination. In such event, PaleoWest shall promptly submit the City its invoice for final payment.

6.2 Termination For Cause

This agreement may be terminated by either party upon thirty (30) days written notice to the other should such other party fail substantially to perform in accordance with its material terms through no fault of the party initiating the termination.

7.0 Nonexclusiveness of Remedies.

Any right or remedy on behalf of the City or PaleoWest provided for in any of these specifications, including but not limited to any guaranty or warranty or any remedy for nonperformance, shall be in addition to and not a limitation of any right or remedy otherwise available by law, equity, or statute.

8.0 Injuries to PaleoWest.

PaleoWest is obligated to obtain sufficient liability insurance coverage (as well as worker’s compensation coverage, if required by law) for the benefit of PaleoWest and its agents

and/or employees. PaleoWest waives any and all rights to recovery from the City for any injuries that PaleoWest (and/or its agents and/or employees) may sustain while performing services under this Agreement.

9.0 Insurance and Indemnity.

PaleoWest shall carry liability insurance with a \$1,000,000.00 general aggregate limit. The City, its officers, employees, elected officials, agents and specified volunteers are to be covered as Additional Insureds, as their interests may appear, as respects: liability arising out of activities performed by or on behalf of PaleoWest for products used by and completed operations of PaleoWest; or automobiles owned, leased, hired or borrowed by PaleoWest. The coverage shall contain no special limitations on the scope of protection afforded to the City, its officers, employees, elected officials, agents or specified volunteers.

PaleoWest's insurance coverage shall be primary insurance as respects the City, its officers, employees, agents and specified volunteers, as their interests may appear. Any insurance or self-insurance maintained by the City, its officers, officials, employees, agents or specified volunteers shall be excess of PaleoWest's insurance and shall not contribute to it.

HOLD HARMLESS AGREEMENT:

1. Other Than Professional Liability Exposures:

PaleoWest, to the fullest extent permitted by law, shall indemnify and hold harmless the City, its elected and appointed officials, employees, agents and specified volunteers against all claims, damages, losses and expenses, including, but not limited to, attorney's fees, arising out of or resulting from the negligent performance of PaleoWest's obligations under this Agreement, provided that any such claim, damage, loss or expense (1) is attributable to personal injury, including bodily injury sickness, disease or death, or to injury to or destruction of tangible property, including loss of use resulting therefrom, and (2) is caused by any negligent act or omission of PaleoWest or any of their consultants, or anyone directly or indirectly employed by them or anyone for whose acts they are legally liable. Such obligation should not be construed to negate, abridge, or otherwise reduce any other right or obligation of indemnity which would otherwise exist as to any party or person described in this paragraph.

2. Professional Liability:

PaleoWest agrees that as respects negligent acts, errors or omissions in the performance of professional services, to indemnify and hold harmless

the City, its officers, agents, employees, and specified volunteers from and against any and all claims, demands, losses and expenses including, but not limited to attorney's fees, liability, or consequential damages of any kind or nature resulting from any negligent acts, errors, or omissions of PaleoWest or any subconsultants or anyone directly or indirectly employed by them or anyone for whose acts they are legally liable.

3. Intellectual Property Rights.

PaleoWest agrees to indemnify, hold harmless and defend City from and against any and all liability, losses, judgments, damages, and expenses arising from third party claims that the Products delivered by and/or Services performed by PaleoWest pursuant to this Agreement infringe on or violate any patents, copyrights, or trade secrets of such third parties. This indemnification is contingent upon City providing prompt written notice of such a claim to PaleoWest, and granting PaleoWest the sole right to defend such claim. In the event of any infringement or claimed infringement, PaleoWest, in its sole discretion, shall: (i) modify the infringing Services to be non-infringing as long as there is no loss of functionality by such modification; (ii) obtain a license for City to use the infringing Services; or (iii) terminate the City's right to use the infringing Services and refund to City all amounts paid for such infringing Services, amortized over a period of (5) years from the acceptance of Services.

9.1 CONSULTANT AND/OR SUBCONTRACTORS WORKING FOR THE CONTRACTOR:

PaleoWest shall require any approved subcontractors and/or consultants working for the City of Decatur pursuant to this Agreement to carry insurance as required under this Agreement.

10. GENERAL PROVISIONS.

10.1 Governing Law and Venue.

This Agreement shall be governed by and construed in accordance with the laws of the State of Alabama without regard to Alabama conflict of laws provisions. Proper venue for any action to enforce the terms of this Agreement shall be in the state or federal courts of Morgan County, Alabama.

10.2 Force Majeure.

Neither party shall be responsible for delays or failure of performance resulting from acts beyond the reasonable control of such party. Such acts shall include, but not be limited to, acts of God, strikes, walkouts, riots, acts of war, epidemics, failure of suppliers to perform, governmental regulations, power failure(s), earthquakes, or other disasters.

10.3 Headings.

The titles and headings of the various sections and paragraphs in this Agreement are intended solely for convenience of reference and are not intended for any other purpose whatsoever, or to explain, modify or place any construction upon or on any of the provisions of the Agreement.

10.4. Agreement Deemed to Have Been Jointly Drafted.

The parties acknowledge that they have thoroughly reviewed this Agreement and bargained over its terms. Accordingly, neither party shall be considered responsible for the preparation of this Agreement which shall be deemed to have been prepared jointly by both parties. The provisions of the Agreement allocate the risks between the parties. The terms and conditions included herein reflect the allocation of risk, and each provision herein is a part of the bargained for consideration of this Agreement.

10.5 Waiver.

The failure of the City to insist in one or more instances upon the performance of any term of this Agreement is not a waiver of its right to future performance of such terms unless such waiver is in writing and signed by a duly authorized officer of the City.

10.6 All Amendments in Writing.

No provisions in either party's purchase orders, or in any other business forms employed by either party will supersede the terms and conditions of this Agreement, and no supplement, modification, or amendment of this Agreement shall be binding, unless executed in writing by a duly authorized representative of each party to this Agreement.

10.7 Property of City.

All work product prepared by PaleoWest pursuant to this agreement shall become and be the sole property of the City.

10.8 Third Parties.

Nothing contained herein shall create a contractual relationship with, or any rights in favor of, any third party.

10.9 Non Discrimination Policy.

In consideration of this agreement, the parties hereto for themselves, their agents, officials, employees, and servants agree not to discriminate in any manner on the basis of race, color, creed, age, sex, disability or national origin with reference to the subject matter of this agreement, no matter how remote.

10.10 No Assignment

Neither party shall assign its rights hereunder, excepting its right to payment, nor shall it delegate any of its duties hereunder without the written consent of the other party.

10.11 Survivability.

The terms of the Section "Hold Harmless Agreement", shall survive termination of this Agreement.

10.12 Entire Agreement.

The parties have read this Agreement, including all Exhibits, and agree to be bound by its terms, and further agree that it constitutes the complete and entire agreement of the parties and supersedes all previous communications, oral or written, and all other communications between them relating to the subject matter hereof. No representations or statements of any kind made by either party, which are not expressly stated herein, shall be binding on such party. In the event any separate Statements of Work are subsequently executed by the parties and are in conflict with the provisions of this Agreement, then the provisions of this Agreement shall prevail over any such conflicting provisions. Any pre-printed terms and conditions of PaleoWest's and City's business forms shall be without legal effect with respect to this Agreement or any subsequent Statements of Work.

10.13 Electronic Signatures

Electronic signatures and other signed copies transmitted electronically in PDF or similar format shall be treated as originals.

Notice: As a condition of contract, grant or incentive performance with the City of Decatur, compliance with the requirements of the Beason-Hammon Alabama Taxpayer and Citizen Protection Act must be provided. Please enter the name of your company and your name and complete the affidavit below. Your signature must be notarized.

BUSINESS NAME: _____

APPLICANT'S NAME: _____

E-VERIFY AFFIDAVIT

I am the applicant listed above. In my capacity as _____ of the business entity listed above, I do hereby execute this affidavit on behalf of the business listed above and, by executing this affidavit, I verify that business' compliance with Section 31-13-9 of the Code of Alabama, 1975, stating affirmatively that it does not knowingly employ, hire for employment or continue to employ an unauthorized alien. Further, the business has registered with and is participating and will participate during the performance of any contract with the City in the federal work authorization program known as "E-verify" web address <https://e-verify.uscis.gov/enroll> , operated by the United States Citizenship and Immigration Service Bureau of the United States Department of Homeland Security to verify information of newly hired employees pursuant to the Immigration Reform and Control Act of 1986 (IRCA), P. L. 99-603, in accordance with the applicable provisions of Alabama's Immigration law. The undersigned further represents that, should the business employ or contract with any subcontractor(s) in connection with the physical performance of services pursuant to the contract with the City, it will secure from such subcontractor(s) verification of compliance with Section 31-13-9 of the Code of Alabama, 1975, in a form substantially similar to this affidavit. The Business further agrees to maintain records of such compliance and provide a copy of each said verification on request of the City.

E-verify Employment Eligibility Verification User Identification Number

Applicant

Sworn to and subscribed before me on this the _____ day of _____,
2023

Notary Public

My Commission Expires: _____

By signing this contract, _____ represents and agrees that it is not currently engaged in, nor will it engage in, any boycott of a person or entity based in or doing business with a jurisdiction with which the State of Alabama can enjoy open trade.

IN WITNESS WHEREOF, the parties hereto, by their respective duly authorized officers or representatives, have each executed this Agreement, effective as of the date first above written.

CITY OF DECATUR, ALABAMA

By: _____
Tab Bowling
Its: Mayor

PALEOWEST & ASSOCIATES

By: _____	Attest: _____
Its: _____	Its: _____

CITY COUNCIL AGENDA ITEM REPORT

DATE: May 15, 2023

SUBMITTED BY: Gloria Robertson, Engineering Department

ITEM TYPE: Agreements

AGENDA SECTION: RESOLUTIONS:

SUBJECT: Resolution No. 23-128: Approve Supplemental Agreement No. 1 -
ATRP2-52-2023-176 Sandlin Road & Central Parkway

FINANCIAL IMPACT: N/A

SUGGESTED ACTION:

ATTACHMENTS:

[Res No 23-128 Supplemental_Agreement_ATRP2-52-2020-176_Central_Pkwy-Sandlin.pdf](#)
[Supplemental_Agreement__ATRP-Central-Sandlin.pdf](#)

Resolution No. 23-128

Supplemental Agreement No. 1 – ATRP2-52-2020-176
Sandlin Road & Central Parkway

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF DECATUR, ALABAMA, with the recommendation from Carl Prewitt, City Engineer, that the Council hereby approves the attached Supplemental Agreement No. 1 for the ATRP2-52-2023-176, Central Parkway and Sandlin, between the State of Alabama and Wiregrass Construction Company, the contractor, for the project. The agreement is an increase of \$5,161.72 for the total project which will be the City's responsibility.

The Mayor is hereby authorized on behalf of the City, to send a letter to ALDOT stating that the City is in agreement with the Supplemental Agreement.

FURTHER, the City Council of Decatur, AL approves the budget amendment to grant fund match for \$5,161.72. The funding source shall be General Fund unassigned balance.

Adopted this 15th day of May, 2023.



Kay Ivey
Governor

Alabama Department of Transportation
Supplemental Agreement
Form OE-2



John R. Cooper
Transportation Director

STATE OF ALABAMA
MONTGOMERY, ALABAMA

Number 1

Date: 03/13/2023
Contract ID: 20210924043

This agreement is made and entered into by and between the State of Alabama by and through its Department of Transportation and WIREGRASS CONSTRUCTION COMPANY, INC., Contractor, as an amendment to a contract made between the State of Alabama and the Contractor on the 1ST day of DECEMBER, 2021, for the construction of STATE AID, Project No. ATRP2-52-2020-176, in MORGAN County, Alabama; and whereas WESTERN SURETY COMPANY and LIBERTY MUTUAL INSURANCE COMPANY are Sureties therefor; Witnesseth: WHEREAS, certain items of construction encountered necessary to the project are not covered by the original contract on the above project, and in keeping with Section 23-1-60, Code AL, 1975, the following items of work, constitute that which is to be performed by the contractor under this Supplemental Agreement, to-wit:

To compensate the Contractor for installing conflict monitors and SDLC cable at Sandlin Road and Central Parkway intersections.

Item Code Description		ADD TO CONTRACT		Quantity	Unit	Unit Price	Amount
101X275	Generic Item SA#1			2.000	Each	2,580.86	5,161.72
						Total:	\$5,161.72
						NET INCREASED AMOUNT:	\$5,161.72

Any and all certifications and warrants to the original agreement are hereby made applicable to this Supplemental Agreement by reference. The following also are applicable to this Supplemental Agreement:

FUNDS SHALL NOT BE CONSTITUTED AS A DEBT

It is agreed that the terms and commitments contained herein shall not be constituted as a debt of the State of Alabama in violation of Article 11, Section 213 of the Constitution of Alabama, 1901, as amended by Amendment No. 26. It is further agreed that if any provision of this agreement shall contravene any statute or Constitutional provision of amendment, either now in effect or which may, during the course of this agreement, be enacted, then the conflicting provision in the agreement shall be deemed null and void.

TERMINATION DUE TO INSUFFICIENT FUNDS

a. If the agreement term is to exceed more than one fiscal year, then said agreement is subject to termination in the event that funds should not be appropriated for the continued payment of the agreement in subsequent fiscal years.

b. In the event of proration of the fund from which payment under this agreement is to be made, agreement will be subject to termination.

Funding for this project has previously been approved and obligated.

In consideration of the changes set forth in this Supplemental Agreement, NO TIME EXTENSION is granted for completion of the project. NOW, THEREFORE, the parties to the original contract above mentioned do hereby agree that the original contract be and is hereby amended by this Supplemental Agreement consisting of the above mentioned items of work and prices, and agree that this Supplemental Agreement is hereby made a part of the original contract on the above project to be performed under the Specifications thereof, and that the original contract including amendments thereto, if any, is in full force and effect except so far as it is amended by this Supplemental Agreement. The Surety on the performance bond of the original contract joins in the execution of this Supplemental Agreement in recognition and agreement that all bonds executed by the Surety in connection with the original contract are further applicable to this Supplemental Agreement which is hereinabove made a part of the original contract including amendments if any.

IN WITNESS WHEREOF, all parties hereto have executed this agreement by those persons duly authorized to execute same, to be effective upon its approval by the Governor of Alabama.

STATE OF ALABAMA, BY AND THROUGH
ITS DEPARTMENT OF TRANSPORTATION

RECOMMENDED: _____
Curtis W. Vincent, P.E.
Region Engineer

BY: _____
Member of Firm

(Type Name and Title)

RECOMMENDED: _____
Stacey N. Glass, P.E.
State Construction Engineer

WIREGRASS CONSTRUCTION COMPANY, INC.
Contractor Firm

RECOMMENDED: _____
George H. Conner, P.E.
Deputy Director, Operations

WESTERN SURETY COMPANY
Surety

BY: _____
John R. Cooper
Transportation Director

LIBERTY MUTUAL INSURANCE COMPANY
Surety

This agreement has been legally reviewed and approved as to form
and content:

BY: _____
William Patty
Chief Counsel

Attorney in Fact

(Type Name)

The within and foregoing Supplemental Agreement is hereby approved on this
the ____ day of _____, _____.

Kay Ivey
Governor of Alabama



**Alabama
Department of Transportation**

**Office of Region Engineer
North Region**
1525 Perimeter Parkway, Suite 400
Huntsville, AL 35806
Telephone 256-505-4955
Fax: 256-213-7038



Kay Ivey
Governor

John R. Cooper
Transportation Director

April 3, 2023

Mr. Joe Lister, Jr., P.E.
State Office Engineer
Alabama Department of Transportation
Montgomery, Alabama 36110

Re: ATRP2-52-2020-176
Morgan County

Dear Mr. Lister:

Attached is Supplemental Agreement No. 1 for the above referenced project in the amount of \$5,161.72. This document is necessary to place conflict monitors and SDLC cables at Sandlin Road and Central Parkway intersections not specified in the plans. The following pay items will be necessary to perform this additional work:

- Pay Item 101X-275 Conflict Monitor/SDLC Cable

The cost of Item no. 101X-275, Conflict Monitor/SDLC cable, was determined by receiving materials quote from the prime contractor, see attached correspondence. This additional work was approved by the Region in accordance with GFO 4-3 and no additional working days are required.

If any additional information is needed, please advise this office.

Sincerely,

Mr. Curtis Vincent, P.E.
North Region Engineer

MFD/KME/sth
Attachments

cc: Mr. Mark Dale, P.E.
Mr. Kevin Evers, P.E.
Mr. Jared Nix
File

CITY COUNCIL AGENDA ITEM REPORT

DATE: May 15, 2023

SUBMITTED BY: Gloria Robertson, Engineering Department

ITEM TYPE: Agreements

AGENDA SECTION: RESOLUTIONS:

SUBJECT: Resolution No. 23-129: Approve Champion Auto Bore Sewer
Contract between the City of Decatur and Decatur Utilities

FINANCIAL IMPACT: NONE

SUGGESTED ACTION:

ATTACHMENTS:

[Res No 23-129 Champion_Auto_Sewer_Bore_sewer_warranty.pdf](#)

[Champion_Auto_Sewer_Bore_1_year_sewer_warranty.pdf](#)

RESOLUTION NO. 23-129
Champion Auto Bore Sewer Contract
City of Decatur – Decatur Utilities

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF DECATUR, ALABAMA, with the recommendation from Carl Prewitt, City Engineer, that the Council hereby approves the attached Sewer Warranty Contract between the City of Decatur and Decatur Utilities for the Champion Auto Sewer Bore project.

The Mayor is hereby authorized, on behalf of the City, to execute the 1-year sewer warranty contract.

Approved this 15th day of May, 2023.

CONTRACT FOR EXTENSION OF PUBLIC SANITARY SEWER SYSTEM

STATE OF ALABAMA)

MORGAN COUNTY)

THIS CONTRACT made on this the ____ day of _____, 20__ by THE MUNICIPAL UTILITIES BOARD OF THE CITY OF DECATUR, herein "the Board", to City of Decatur, whose address is: 402 Lee Street NE, Decatur, Alabama 35601; herein "the Developer";

WITNESSETH THAT:

WHEREAS, the Developer has requested the Board to relocate its Public Sanitary Sewer System within easements provided by the Developer or rights-of-way to serve Champion of Decatur, Inc., as shown on the plan attached hereto and made a part of this contract and incorporated herein by reference, so that wastewater service will be available for the lots abutting the sewer, and;

WHEREAS, the total cost of construction of said sewers is to be paid by the Developer to an Alabama Licensed Contractor (licensed to do utility contract work) to provide the necessary work to install the referenced sanitary sewer according to the plans and specifications furnished by Pugh Wright McAnally, Inc. and the Board.

NOW, THEREFORE in consideration of the mutual covenants, promises, and agreements of the parties and the premises, it is agreed by and between the parties as follows:

1. The Board agrees that when the Developer's contractor, Armor's Contracting, completes construction of said sewers, clears the rights-of-way and easements for which the sanitary sewers are to be constructed, removes and disposes of all materials excavated during construction, and the Developer's engineer certifies that the work was performed according to plans and specifications; the Board will inspect and approve or disapprove the lines for use.
2. The Developer shall construct all necessary manhole pads as shown on plans.
3. The Board accepts no responsibility with regard to wye locations, proper lot elevations to adequately service Champion of Decatur, Inc. nor accepts responsibility with regard to transportation of sewage to the Public Sanitary Sewer System. This is specifically the responsibility of the Developer.
4. It is understood and agreed that the title to the facilities provided to be constructed under this contract shall be and continue to remain in the Board and the Developer acquires no title or ownership in the Public Sanitary Sewer System to be constructed. It is further understood and agreed that the Board shall have the right and privilege to further extend said system to serve additional properties.
5. The Developer shall give the Board a 12 month warranty for the constructed work. The warranty shall cover any needed repairs for any part of the project within 12 months after acceptance by the Board.

6. Upon completion of the installation of said Public Sanitary Sewer System relocation, this contract shall be terminated except for any work by the Developer during the warranty period and the Board shall have no further obligation hereunder.

IN WITNESS WHEREOF, the parties have executed this contract on this _____ day
of _____, 20_____.

MUNICIPAL UTILITIES BOARD OF THE CITY OF DECATUR

By: _____
Gary Borden
Operations Manager
Decatur Utilities

By: _____
Tab Bowling
Mayor of the City of Decatur

CITY COUNCIL AGENDA ITEM REPORT

DATE: May 15, 2023

SUBMITTED BY: Jeremy Sherrill, Landfill and Recycling

ITEM TYPE: Bid

AGENDA SECTION: RESOLUTIONS:

SUBJECT: Resolution No. 23-130: Award bid #23-016 for Litter Fencing to Southwestern Sales Co.

FINANCIAL IMPACT: 082-000-00-000-16410

SUGGESTED ACTION:

ATTACHMENTS:

[Res No 23-130 Southwestern Sales - Litter Fencing.pdf](#)

[Bid Tab 23-016.xlsx](#)

RESOLUTION NO. 23- 130

BE IT RESOLVED BY THE CITY COUNCIL OF DECATUR, MORGAN COUNTY, IN THE STATE OF ALABAMA, that bid #23-016 for Litter Fencing is hereby awarded Southwestern Sales Co. being the lowest responsible bidder based on the attached bid tabulation and the Purchasing Agent is authorized to approve purchase orders according to the terms and conditions of the bid with funding from Landfill Fund Unassigned Balance.

Approved this 15th day of May, 2023.

Bid Tabulation**23-016 LITTER FENCING****Bid Opening: FEBRUARY 7TH, 2023 2:00 PM**

Bidder	TOTAL PRICE 5 UNITS	TOTAL PRICE ONSITE per UNIT
Metta Technologies, Inc	\$41,890.00	N/A
Southwestern Sales Co.	\$37,900.00	\$1,400.00

3 bids sent, 2 responses

CITY COUNCIL AGENDA ITEM REPORT

DATE: May 15, 2023

SUBMITTED BY: Jeremy Sherrill, City Council

ITEM TYPE: Bid

AGENDA SECTION: RESOLUTIONS:

SUBJECT: Resolution No. 23-131: Award bid #23-017 for LED Christmas Light Wrapping for 2nd Avenue Trees to Lights of Christmas being the sole respondent

FINANCIAL IMPACT: GENERAL FUND UNASSIGNED \$55,048.00

SUGGESTED ACTION:

ATTACHMENTS:

[Res No 23-131 Lights of Christmas - 2nd Ave trees .pdf](#)

[Bid Tab 23-017.xlsx](#)

RESOLUTION NO. 23-131

BE IT RESOLVED BY THE CITY COUNCIL OF DECATUR, MORGAN COUNTY, IN THE STATE OF ALABAMA, that bid #23-017 for LED light wrapping for 2nd Avenue trees is hereby awarded to Lights of Christmas being the lowest responsible bidder based on the attached bid tabulation and the Purchasing Agent is authorized to approve purchase orders according to the terms and conditions of the bid.

Further, a budget amendment in the amount of \$55,048.00 for the Culture Recreation Department is approved.

Funding source shall be General Fund unassigned balance with expense recorded in 001-045-32-000-53044 Contract Services.

Approved this 15th day of May, 2023.

Bid Tabulation**23-017 LED Light Wrapping for 2nd Ave Trees****Bid Opening: APRIL 20TH, 2023 2:00 PM**

Bidder	Total	
Lights of Christmas	\$55,047.98	Lowest Responsible Bidder

5 bids sent

1 Response

CITY COUNCIL AGENDA ITEM REPORT

DATE: May 15, 2023

SUBMITTED BY: George Silvestri, Police Department

ITEM TYPE: Resolutions

AGENDA SECTION: RESOLUTIONS:

SUBJECT: Resolution No. 23-132: Declare surplus of vehicles no longer needed by the Police Department

FINANCIAL IMPACT: none

SUGGESTED ACTION: Declare surplus 2 Chevy Camaros and proceeds from sales deposited into the Drug Seizure Fund.

ATTACHMENTS:

[Res No 23-132 Surplus_Police_Vehicles.pdf](#)
[Camaros to surplus.xlsx](#)

RESOLUTION NO. 23-132

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF DECATUR, ALABAMA
The following vehicles held by the Decatur Police Department are hereby declared surplus and no longer needed for municipal purposes:

1827	2010	2G1FS1EW5A9156784	Chevy Camaro SS
1826	2017	1G1FF3D74H0181433	Chevy SS Camaro Convertible

The Purchasing Agent is hereby authorized to dispose of said property described above in accordance with established policy and thereafter place proceeds of such sale in the Drug Seizure Fund. The City Clerk is hereby authorized to transfer title or ownership of same.

Approved this 15th day of May, 2023.

Vehicles no longer needed by the Police Department

Camaros to be surplused

1827	2010	2G1FS1EW5A9156784	Chevy Camaro SS
1826	2017	1G1FF3D74H0181433	Chevy SS Camaro Convertible

CITY COUNCIL AGENDA ITEM REPORT

DATE: May 15, 2023

SUBMITTED BY: Herman Marks, Legal

ITEM TYPE: Agreements

AGENDA SECTION: RESOLUTIONS:

SUBJECT: Resolution No. 23-134: Approve Verizon providing a short-term communication facility at Point Mallard Park

FINANCIAL IMPACT: None

SUGGESTED ACTION:

ATTACHMENTS:

[Res No 23-134 Verizon_providing_short-term_communication_facility_at_Point_Mallard.pdf](#)
[Point Mallard SPOT Agreement with Verizon.pdf](#)

RESOLUTION NO. 23-134

BE IT RESOLVED by the City Council of the City of Decatur, Alabama that the Mayor is authorized on behalf of the City to execute the attached Agreement with Cellco d/b/a Verizon Wireless to provide a short-term communications facility at Point Mallard Park.

ADOPTED this 15th day of May 2023.

Site Name: Mallard Point SPOT
MDG Location # 5000929271

AGREEMENT

This Agreement made this ____ day of _____, 20__, between **The City of Decatur, Alabama**, with an address at 402 Lee Street NE, Decatur, Alabama 35601, hereinafter referred to as "**Licensor**" and **Cellco Partnership d/b/a Verizon Wireless**, with an address at One Verizon Way, Mail Stop 4AW100, Basking Ridge, New Jersey 07920 (telephone number 866-862-4404), hereinafter referred to as "**Licensee**".

1. Licensor does hereby grant to Licensee a license to use a portion of the parcel located at 2901 Point mallard Circle SE, Decatur, Morgan County, Alabama and being part of Tax Parcel 03 08 34 0 000 001.000, as shown on the tax map of the Assessor's Office of Morgan County, Alabama (the "**Property**"), together with the right to install and operate on the Property a communications facility ("**Facility**"). The Licensor also grants unto the Licensee the non-exclusive right-of-way for ingress and egress, seven (7) days a week, twenty-four (24) hours a day, on foot or motor vehicle, including trucks. The right-of-way and Property are generally described and/or depicted on **Exhibit A**, attached hereto and made a part hereof. Further, the Licensee shall have the right to install and maintain conduits, pipes, fiber, cables and wires to its Facility within the Property as necessary to supply utility service and power to the Facility or as otherwise needed to service the Facility as reasonably determined by Licensee. Licensee may install and maintain a temporary diesel generator on the Property to supply utility service and power to the Facility.

2. The term of this Agreement shall commence on May 1, 2023 and shall terminate July 15, 2023. The Agreement is to provide cellular communications services for the Memorial

Site Name: Mallard Point SPOT

MDG Location # 5000929271

Day and Independence Day Holiday events held at the Property. The Facility may be removed intermittently between the events.

3. In consideration for the rights granted herein, Licensor's Property will receive the benefits of enhanced wireless communications arising from operation of the Facility.

4. Licensee reserves the right to terminate this Agreement on thirty (30) days written notice and upon such termination, Licensee will remove all of its equipment and improvements and restore the Property to its original condition.

5. *To the extent allowed by law,* Licensor and Licensee shall defend, indemnify, and hold the other harmless against any claim of liability or loss from personal injury or property damage resulting from or arising out of the negligence or willful misconduct of the indemnifying party, its employees, contractors or agents, except to the extent such claims or damages may be due to or caused by the negligence or willful misconduct of the other party, or its employees, contractors or agents. Licensee shall maintain at its own expense during the term of this Agreement, commercial general liability insurance with a combined single limit of \$1,000,000.00 for bodily injury and property damage. The Licensee shall provide a certificate of insurance to the Licensor as proof of said coverage. Except with respect to the indemnification set forth in this paragraph, neither party shall be liable to the other, or any of their respective agents, representatives, employees for any lost revenue, lost profits, loss of technology, rights or services, incidental, punitive, indirect, special or consequential damages, loss of data, or interruption or loss of use of service, even if advised of the possibility of such damages, whether under theory of contract, tort (including negligence), strict liability or otherwise.

Site Name: Mallard Point SPOT
MDG Location # 5000929271

6. Licensors covenants that Licensee, upon performing the covenants set forth herein, shall peacefully and quietly have, hold and enjoy the Property. Further, Licensors covenants that Licensors is seized of good and sufficient title and interest to the Property and has full authority to enter into this Agreement.

7. This Agreement may be sold, assigned or transferred by Licensee to Licensee's principal, affiliates, subsidiaries of its principal or to any entity which acquires all or substantially all of Licensee's assets the market defined by the Federal Communications Commission in which the Property is located by reason of a merger, acquisition or other business reorganization, without the consent of the Licensors. As to any other parties, any sale, assignment or transfer must be with the written consent of the Licensors, which consent will not be unreasonably withheld.

8. All notices hereunder must be in writing and shall be sent certified mail, return receipt requested, to:

Licensors: The City of Decatur, Alabama
402 Lee Street NE
Decatur, AL 35601

Licensee: Cellco Partnership
d/b/a Verizon Wireless
Attention: Network Real Estate
180 Washington Valley Road
Bedminster, New Jersey 07921

*****Remainder of page intentionally blank*****

Site Name: Mallard Point SPOT
MDG Location # **5000929271**

IN WITNESS WHEREOF, Licensors and Licensee have executed this Agreement the day
and year first above written.

LICENSOR:

The City of Decatur, Alabama

By: _____
Printed Name: _____
Title: _____

Date: _____

LICENSEE:

**Cellco Partnership
d/b/a Verizon Wireless**

By: _____
Printed Name: _____
Title: _____

Date: _____

Site Name: Mallard Point SPOT
MDG Location # **5000929271**

Exhibit A

Description of Property

(See Attached Site Plan)

Site Address: 2901 Point Mallard Circle SE, Decatur, Morgan County, Alabama and being part of
Tax Parcel 03 08 34 0 000 001.000

CITY COUNCIL AGENDA ITEM REPORT

DATE: May 15, 2023

SUBMITTED BY: Dawn Runager, Finance

ITEM TYPE: Budget Amendment

AGENDA SECTION: RESOLUTIONS:

SUBJECT: Resolution No. 23-135: Approve FY2023 Midyear Budget Adjustments

FINANCIAL IMPACT: VARIOUS

SUGGESTED ACTION:

ATTACHMENTS:
[Res No 23-135 Midyear_Budget_FY23.pdf](#)
[Midyear 2023 Adj Detail - V2.pdf](#)

RESOLUTION 23-135

Midyear Budget Adjustments

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF DECATUR, ALABAMA approves the fiscal year 2023 mid-year funding adjustments from funding sources as indicated on the attached list.

Adopted this 15th day of May, 2023

FY2023 Mid-year Funding Adjustments

Funding Source	Department	Description	Amount
001	Community Development	Training for Historical Preservation Commission	11,500.00
001	Culture	HVAC Repairs at E-Center	3,220.00
001	Culture	Carrier Service Agreement Adjustment/E-Center	6,220.00
001	Culture	Carrier Service Agreement Adjustment/Library	3,500.00
001	Culture	Unplanned Marquee Bulb and Ballast Replacement/Princess Theater	11,845.00
001	Fire	Holiday Pay Adjustment	60,000.00
001	Human Resources	Recruiting Adjustment	7,500.00
001	Information Systems	10 add'l Laserfiche Users -Cityview	9,000.00
001	Information Systems	Temporary Labor Adjustment	24,500.00
001	Information Systems	Overtime Adjustment	7,000.00
001/005	Information Systems	Switches, Cables & Various Hardware Maintenance	75,000.00
001	Information Systems	Spatial Net Aerial Based Mapping - GIS	35,000.00
001	Legal	Part Time Employee	10,000.00
001	Maintenance	Repair and Maintenance HVAC Maintenance Contract	5,000.00
001	Miscellaneous	Postage Adjustment	20,000.00
001	Miscellaneous	Retiree Post Employment Benefits	235,000.00
001	Miscellaneous	Credit Card Fees Adjustment	5,000.00
001	Miscellaneous	Dumpster and Pest Control Adjustment	3,000.00
001	Miscellaneous	Insurance premiums increase	33,000.00
001	Parks & Recreation	Air quality test at Aquadome	15,000.00
001	Parks & Recreation	Carrier Service Agreement Adjustment	25,000.00
001	Parks & Recreation	Carrier Service Agreement Adjustment	2,500.00
001	Parks & Recreation	Carrier Service Agreement Adjustment	3,500.00
001	Parks & Recreation	Alley Mowing Adjustment	32,000.00
001/080	Point Mallard	Storm Damage to Fence & Audio Equipment - Aquatic Ctr	12,000.00
001/080	Point Mallard	Aquatic-Rental for Lifeguard Training	5,400.00
001/080	Point Mallard	Aquatic -AED repairs and Koorsen extinguishers unexpected exp	2,000.00
001/080	Point Mallard	Aquatic -Transformer Relocation	6,970.00
001	Safety	Adjustment for Safety Boots, Glasses, Supplies	8,500.00
001	Sanitation	Fence Repair	3,500.00
001	Train Depot	Carrier Service Agreement Adjustment	950.00

FY2023 Mid-year Funding Adjustments

001	Youth Services	Frameworks Architecture Plan/Boxing Facility	3,000.00
		Fund Total	685,605.00
005	Parks & Recreation	HVAC Unit Meeting Rooms Aquadome	24,120.00
005	Parks & Recreation	Replace Pool Heater at Aquadome	23,000.00
		Fund Total	47,120.00
007	Municipal Court	Medical Insurance Adjustment	11,500.00
		Fund Total	11,500.00
082	Landfill	Crushed Rock/Fiber Mulch	20,000.00
082	Landfill	Equipment Repair Adjustment	90,000.00
082	Landfill	Dozer Rental Adjustment	36,000.00
082	Landfill Recycling	Sublet Repair Adjustment	10,000.00
082	Landfill Recycling	Fire Extinguisher Service & Repair	1,000.00
		Fund Total	157,000.00

Priority 2

001	Beautification	Ford F150 for Beautification	19,000.00
001	Cemetery	Grave Foot Markers	3,000.00
001	Parks/Rec	Shades for Jimmy Johns Tennis Center	70,628.00
001	Parks/Rec	Backhoe	44,000.00
001	Sanitation	Trailer	102,000.00
001	Sanitation	T-880 Day Cab	202,900.00
001	Sanitation	Transfer Compactor/Transfer Station	283,928.00
001	Sanitation	Replacement of Fire Extinguishers	5,751.00
001	Sanitation	Security Cameras	10,000.00
001	Street	Street Resurfacing	1,100,000.00
001	Youth Services	HVAC and Electrical Repairs on Leased Boxing Facility	15,000.00
		Fund Total	1,856,207.00

CITY COUNCIL AGENDA ITEM REPORT

DATE: May 15, 2023

SUBMITTED BY: Jason Lake, Park and Recreation

ITEM TYPE: Resolutions

AGENDA SECTION: RESOLUTIONS:

SUBJECT: Resolution No. 23-136: Approve for Mayor to sign the Carrier agreement for Aquadome HVAC

FINANCIAL IMPACT: reflected in Mid-year resolution from Finance

SUGGESTED ACTION:

ATTACHMENTS:

[Res No 23-136 Aquadome_split_HVAC_Units.pdf](#)

[Carrier Sourcewell Turnkey Proposal - Aquadome Meeting Room Mini Split Installations.pdf](#)

RESOLUTION NO. 23-136

BE IT RESOLVED by the City Council of the City of Decatur, Alabama that they accept and allow the Mayor to sign the agreement with Carrier for the replacement of a split unit in the meeting rooms at Aquadome Recreation Center.

Funding source is on the mid-year request presented by Finance.

Approved this the 15th of May, 2023.



Carrier Sourcewell Turnkey Installation Proposal



Turnkey Proposal

For:

City of Decatur
Aquadome
1202 5th Ave SW B
Decatur, AL 35601

Local Office:

Carrier Commercial Service
238 Cahaba Valley Pkwy
Pelham, AL 35124

Local Representative:

Stuart Rast
Cell: (470) 219-9770

Proposal ID:

00741128

Date: March 31, 2023

© Carrier Corporation 2018



Prepared For: Aaron Lang

Date:

March 31, 2023

Job Name:

City of Decatur Aquadome

Meeting Room Mini Split Installations

Proposal Number: 00741128

Delivery Terms:

Freight Allowed and Prepaid – F.O.B Factory

Payment Terms:

Net 30

Alabama State Contractor License Number:

19045

Proposal Expiration Date:

30 Days

Scope of Work

“Scope of Work” and notations within are based on the following negotiated scope of work with site personnel and based on the site surveys performed in March 2023.

Turnkey Installation of HVAC Equipment:

Carrier Equipment Factory Option Details:

- Quantity (1)
- Carrier 3 Ton Single Zone Heat Pump Ductless System
- Tag: Meeting Room A
- Model Number 38MARBQ36AA3 / 40MAHBQ36XA3
- Voltage: 208-230/1/60
- Variable Speed (Inverter)
- Factory installed Base Pan Heater
- Factory installed Crankcase Heater
- Low Voltage Controls
- Auto-Restart function
- Condenser High Temp Protection
- Modes: Cool, Heat, Dry, Fan, Auto
- Quiet operation
- Anti-corrosive fin coating
- DLS Wired Remote Controller 7 Day Prog



- Quantity (1)
- Carrier 1.5 Ton Single Zone Heat Pump Ductless System
- Tag: Meeting Room B
- Model Number 38MARBQ18AA3 / 40MAHBQ18XA3
- Voltage: 208-230/1/60
- Variable Speed (Inverter)
- Factory installed Base Pan Heater
- Factory installed Crankcase Heater
- Low Voltage Controls
- Auto-Restart function
- Condenser High Temp Protection
- Modes: Cool, Heat, Dry, Fan, Auto
- Quiet operation
- Anti-corrosive fin coating
- DLS Wired Remote Controller 7 Day Prog

Equipment Lead Times Details:

- Current estimated lead time is 6-9 weeks from the factory.

*Lead times are not guaranteed as supply chain impact from the global pandemic is causing longer than usual lead times for component materials. Factory lead time is an estimate and is subject to change due to material availability from our suppliers after an official order is released for scheduling.

Equipment Warranty Details:

- (7) Year complete unit parts only warranty

Mechanical Demolition and Installation

- Coordinate all work with City of Decatur personnel to minimize customer inconvenience and adhere to Carrier safety standards
- Perform all Carrier lock out tag out safety electrical procedures
- Provide the necessary crane, rigging, and riggers required
- Provide and install the new Carrier 1.5 Ton and 3 ton Ductless mini split condensing units
- Provide and install new Carrier 1.5 Ton and 3 ton ductless mini split high wall indoor units
- Provide and install new electrical line set to existing disconnect
- Perform all required programming for the new equipment
- Clean up all work areas
- Check out with the customer upon completion
- Provide a Carrier factory startup of the system once the installation is completed



Proposal Exclusions and Clarifications

- Pricing is based on work to be performed during normal business hours
- City of Decatur is responsible for allowing parking area for staging and rigging of equipment
- Equipment Order Release and Services rendered are dependent on receipt of PO/Subcontract and credit approval
- No Fire alarm wiring or testing is included
- No engineered drawings are included



Pricing and Acceptance

Aaron Lang

1202 5th Ave SW B

Decatur, AL 35601

Below Pricing per Carrier Sourcewell Agreement #070121-CAR

Total Sell Price (Excluding Sales Tax).....**\$24,121**

Pricing is valid for 30 days

A standard prepayment of 25% will be required for this project. Upon receipt of order, Carrier Finance will perform credit review and will advise if additional prepayment amounts or job booking specifics are required. Following guidance from Carrier Finance, Carrier will issue prepayment invoice to customer.

Financial items not included

- Bid Bond, Payment and Performance Bond, Liquidated or Consequential Damages, Demurrage or Storage Charges, Participation in OCIP or CCIP Insurance Programs

Respectfully submitted,

Stuart Rast

Carrier Commercial Service

This proposal is subject to Customer's acceptance of the attached Carrier Terms and Conditions (Installation). We value the confidence you have placed in Carrier and look forward to working with you.

Customer Name (Print)

Title

Customer Acceptance (Signature)

Date

Purchase Order



TERMS AND CONDITIONS – COMMERCIAL INSTALLATION

“Company” shall mean Carrier U.S. Inc.

1. Acceptance; Agreement. These terms and conditions are an integral part of Company’s offer and form the basis of any agreement (the “Agreement”) resulting from Company’s proposal (the “Proposal”) for the commercial goods and/or services described (the “Work”). **COMPANY’S TERMS AND CONDITIONS ARE SUBJECT TO PERIODIC CHANGE OR AMENDMENT.** The Proposal is subject to acceptance in writing by the party to whom this offer is made or an authorized agent (“Customer”) delivered to Company within 30 days from the date of the Proposal. If Customer accepts the Proposal by placing an order, without the addition of any other terms and conditions of sale or any other modification, Customer’s order shall be deemed acceptance of the Proposal subject to Company’s terms and conditions. If Customer’s order is expressly conditioned upon Company’s acceptance or assent to terms and/or conditions other than those expressed herein, return of such order by Company with Company’s terms and conditions attached or referenced serves as Company’s notice of objection to Customer’s terms and as Company’s counter-offer to provide Work in accordance with the Proposal and the Company terms and conditions. If Customer does not reject or object in writing to Company within 10 days, Company’s counter-offer will be deemed accepted. Customer’s acceptance of the Work by Company will in any event constitute an acceptance by Customer of Company’s terms and conditions. This Agreement is subject to credit approval by Company. Upon disapproval of credit, Company may delay or suspend performance or, at its option, renegotiate prices and/or terms and conditions with Customer. If Company and Customer are unable to agree on such revisions, this Agreement shall be cancelled without any liability, other than Customer’s obligation to pay for Work rendered by Company to the date of cancellation.

2. Pricing and Taxes. Unless otherwise noted, the price in the Proposal includes standard ground transportation and, if required by law, all sales, consumer, use and similar taxes legally enacted as of the date hereof for equipment and material installed by Company. Tax exemption is contingent upon Customer furnishing appropriate certificates evidencing Customer’s tax exempt status. Company shall charge Customer additional costs for bonds agreed to be provided. Equipment sold on an uninstalled basis and any taxable labor does not include sales tax and taxes will be added. Following acceptance without addition of any other terms and condition of sale or any other modification by Customer, the prices stated are firm provided that notification of release for immediate production and shipment is received at the factory not later than 3 months from order receipt. If such release is received later than 3 months from order receipt date, prices will be increased a straight 1% (not compounded) for each one-month period (or part thereof) beyond the 3 month firm price period up to the date of receipt of such release. If such release is not received within 6 months after date of order receipt, the prices are subject to renegotiation, or at Company’s option, the order will be cancelled. Any delay in shipment caused by Customer’s actions will subject prices to increase equal to the percentage increase in list prices during that period of delay and Company may charge Customer with incurred storage fees.

3. Exclusions from Work. Company’s obligation is limited to the Work as defined and does not include any modifications to the Work site under the Americans With Disabilities Act or any other law or building code(s). In no event shall Company be required to perform work Company reasonably believes is outside of the defined Work without a written change order signed by Customer and Company.

4. Performance. Company shall perform the Work in accordance with industry standards generally applicable in the area under similar circumstances as of the time Company performs the Work. Company may refuse to perform any Work where working conditions could endanger property or put at risk the safety of persons. Unless otherwise agreed to by Customer and Company, at Customer’s expense and before the Work begins, Customer will provide any necessary access platforms, catwalks to safely perform the Work in compliance with OSHA or state industrial safety regulations.

5. Payment. Customer shall pay Company’s invoices within net 30 days of invoice date. Company may invoice Customer for all equipment or material furnished, whether delivered to the installation site or to an off-site storage facility and for all Work performed on-site or off-site. No retention shall be withheld from any payments except as expressly agreed in writing by Company, in which case retention shall be reduced per the contract documents and released no later than the date of substantial completion. Under no circumstances shall any retention be withheld for the equipment portion of the order. If payment is not received as required, Company may suspend performance and the time for completion shall be extended for a reasonable period of time not less than the period of suspension. Customer shall be liable to Company for all reasonable shutdown, standby and start-up costs as a result of the suspension. Company reserves the right to add to any account outstanding for more than 30 days a service charge equal to 1.5% of the principal amount due at the end of each month. Customer shall pay all costs (including attorneys’ fees) incurred by Company in attempting to collect amounts due and otherwise enforcing these terms and conditions. If requested, Company will provide appropriate lien waivers upon receipt of payment. Customer agrees that, unless Customer makes payment in advance, Company will have a purchase money security interest in all equipment from Company to secure payment in full of all amounts due Company and its order for the equipment, together with these terms and conditions, form a security agreement. Customer shall keep the equipment free of all taxes and encumbrances, shall not remove the equipment from its original installation point and shall not assign or transfer any interest in the equipment until all payments due Company have been made.

6. Time for Completion. Except to the extent otherwise expressly agreed in writing signed by an authorized representative of Company, all dates provided by Company or its representatives for commencement, progress or completion are estimates only. While Company shall use commercially reasonable efforts to meet such estimated dates, Company shall not be responsible for any damages for its failure to do so.

7. Access. Company and its subcontractors shall be provided access to the Work site during regular business hours, or such other hours as may be requested by Company and acceptable to the Work site’ owner or tenant for the performance of the Work, including sufficient areas for staging, mobilization, and storage. Company’s access to correct any emergency condition shall not be restricted.

8. Completion. Notwithstanding any other term or condition herein, when Company informs Customer that the Work has been completed, Customer shall inspect the Work in the presence of Company’s representative, and Customer shall either (a) accept the Work in its entirety in writing, or (b) accept the Work in part and specifically identify, in writing, any exception items. Customer agrees to re-inspect any and all excepted items as soon as Company informs Customer that all such excepted items have been completed. The initial acceptance inspection shall take place within ten (10) days from the date when Company informs Customer that the Work has been completed. Any subsequent re-inspection of excepted items shall take place within five (5) days from the date when Company informs Customer that the excepted items have been completed. Customer’s failure to cooperate and complete any of said inspections within the required time limits shall constitute complete acceptance of the Work as of ten (10) days from date when Company informs Customer that the Work, or the excepted items, if applicable, has/have been completed.

9. Permits and Governmental Fees. Company shall secure (with Customer’s assistance) and pay for building and other permits and governmental fees, licenses, and inspections necessary for proper performance and completion of the Work which are legally required when bids from Company’s



subcontractors are received, negotiations thereon concluded, or the effective date of a relevant Change Order, whichever is later. Customer is responsible for necessary approvals, easements, assessments and charges for construction, use or occupancy of permanent structures or for permanent changes to existing facilities. If the cost of such permits, fees, licenses and inspections are not included in the Proposal, Company will invoice Customer for such costs.

10. Utilities During Construction. Customer shall provide without charge to Company all water, heat, and utilities required for performance of the Work.

11. Concealed or Unknown Conditions. In the performance of the Work, if Company encounters conditions at the Work site that are (i) subsurface or otherwise concealed physical conditions that differ materially from those indicated on drawings expressly incorporated herein or (ii) unknown physical conditions of an unusual nature that differ materially from those conditions ordinarily found to exist and generally recognized as inherent in construction activities of the type and character as the Work, Company shall notify Customer of such conditions promptly, prior to significantly disturbing same. If such conditions differ materially and cause an increase in Company's cost of, or time required for, performance of any part of the Work, Company shall be entitled to, and Customer shall consent by Change Order to, an equitable adjustment in the Contract Price, contract time, or both.

12. Pre-Existing Conditions. Company is not liable for any claims, damages, losses, or expenses, arising from or related to conditions that existed in, on, or upon the Work site before the Commencement Date of this Agreement ("Pre-Existing Conditions"), including, without limitation, damages, losses, or expenses involving Pre-Existing Conditions of building envelope issues, mechanical issues, plumbing issues, and/or indoor air quality issues involving mold and/or fungi. Company also is not liable for any claims, damages, losses, or expenses, arising from or related to work done by or services provided by individuals or entities that are not employed by or hired by Company.

13. Asbestos and Hazardous Materials. Company's Work and other services in connection with this Agreement expressly excludes any identification, abatement, cleanup, control, disposal, removal or other work connected with asbestos, polychlorinated biphenyl ("PCB"), or other hazardous materials (hereinafter, collectively, "Hazardous Materials"). Customer warrants and represents that, except as set forth in a writing signed by Company, there are no Hazardous Materials on the Work site that will in any way affect Company's Work and Customer has disclosed to Company the existence and location of any Hazardous Materials in all areas within which Company will be performing the Work. Should Company become aware of or suspect the presence of Hazardous Materials, Company may immediately stop work in the affected area and shall notify Customer. Customer will be exclusively responsible for taking any and all action necessary to correct the condition in accordance with all applicable laws and regulations. Customer shall be exclusively responsible for and, to the fullest extent permitted by law, shall indemnify and hold harmless Company (including its employees, agents and subcontractors) from and against any loss, claim, liability, fees, penalties, injury (including death) or liability of any nature, and the payment thereof arising out of or relating to any Hazardous Materials on or about the Work site, not brought onto the Work site by Company. Company shall be required to resume performance of the Work in the affected area only in the absence of Hazardous Materials or when the affected area has been rendered harmless. In no event shall Company be obligated to transport or handle Hazardous Materials, provide any notices to any governmental agency, or examine the Work site for the presence of Hazardous Materials.

14. Force Majeure. Company's duty to perform under this Agreement is contingent upon the non-occurrence of an Event of Force Majeure. If Company shall be unable to carry out any material obligation under this Agreement due to an Event of Force Majeure, this Agreement shall at Company's election (i) remain in effect but Company's obligations shall be suspended until the uncontrollable event terminates or (ii) be terminated upon 10 days notice to Customer, in which event Customer shall pay Company for all parts of the Work furnished to the date of termination. An "Event of Force Majeure" shall mean any cause or event beyond the control of Company. Without limiting the foregoing, "Event of Force Majeure" includes: acts of God; acts of terrorism, war or the public enemy; flood; earthquake; tornado; storm; fire; civil disobedience; pandemic insurrections; riots; labor disputes; labor or material shortages; sabotage; restraint by court order or public authority (whether valid or invalid), and action or non-action by or inability to obtain or keep in force the necessary governmental authorizations, permits, licenses, certificates or approvals if not caused by Company; and the requirements of any applicable government in any manner that diverts either the material or the finished product to the direct or indirect benefit of the government.

15. Customer's Breach. Each of the following events or conditions shall constitute a breach by Customer and shall give Company the right, without an election of remedies, to terminate this Agreement or suspend performance by delivery of written notice: (1) Any failure by Customer to pay amounts when due; or (2) any general assignment by Customer for the benefit of its creditors, or if Customer becomes bankrupt or insolvent or takes the benefit of any statute for bankrupt or insolvent debtors, or makes or proposes to make any proposal or arrangement with creditors, or if any steps are taken for the winding up or other termination of Customer or the liquidation of its assets, or if a trustee, receiver, or similar person is appointed over any of the assets or interests of Customer; (3) Any representation or warranty furnished by Customer in this Agreement is false or misleading in any material respect when made; or (4) Any failure by Customer to perform or comply with any material provision of this Agreement. Customer shall be liable to Company for all Work furnished to date and all damages sustained by Company (including lost profit and overhead).

16. Indemnity. To the fullest extent permitted by law, Company and Customer shall indemnify, defend and hold harmless each other from any and all claims, actions, costs, expenses, damages and liabilities, including reasonable attorneys' fees, resulting from death or bodily injury or damage to real or tangible personal property, to the extent caused by the negligence or misconduct of their respective employees or other authorized agents in connection with their activities within the scope of this Agreement. Neither party shall indemnify the other against claims, damages, expenses or liabilities to the extent attributable to the acts or omissions of the other party. If the parties are both at fault, the obligation to indemnify shall be proportional to their relative fault. The duty to indemnify will continue in full force and effect, notwithstanding the expiration or early termination hereof, with respect to any claims based on facts or conditions that occurred prior to expiration or termination.

17. Limitation of Liability. NOTWITHSTANDING ANYTHING TO THE CONTRARY, IN NO EVENT SHALL COMPANY BE LIABLE FOR ANY SPECIAL, INCIDENTAL, INDIRECT CONSEQUENTIAL, OR PUNITIVE OR EXEMPLARY DAMAGES (INCLUDING WITHOUT LIMITATION BUSINESS INTERRUPTION, LOST DATA, LOST REVENUE, LOST PROFITS, LOST DOLLAR SAVINGS, OR LOST ENERGY USE SAVINGS, EVEN IF A PARTY HAS BEEN ADVISED OF SUCH POSSIBLE DAMAGES OR IF SAME WERE REASONABLY FORESEEABLE AND REGARDLESS OF WHETHER THE CAUSE OF ACTION IS FRAMED IN CONTRACT, NEGLIGENCE, ANY OTHER TORT, WARRANTY, STRICT LIABILITY, OR PRODUCT LIABILITY). In no event will Company's liability in connection with the provision of products or services or otherwise under this Agreement exceed the entire amount paid to Company by Customer under this Agreement.

18. Patent Indemnity. Company shall protect and indemnify Customer from and against all claims, damages, judgments and loss arising from infringement or alleged infringement of any United States patent by any of the goods manufactured by Company and delivered hereunder, provided that in the event of suit or threat of suit for patent infringement, Company shall promptly be notified and given full opportunity to negotiate a settlement. Company does not warrant against infringement by reason of Customer's design of the articles or the use thereof in combination with other materials or in the operation



of any process. In the event of litigation, Customer agrees to reasonably cooperate with Company. In connection with any proceeding under the provisions of this Section, all parties concerned shall be entitled to be represented by counsel at their own expense.

19. Limited Warranty. Company warrants for a period of 12 months from the date of substantial completion ("Warranty Period") commercial equipment manufactured by Company against failure due to defects in material and manufacture and that the labor furnished is warranted to have been properly performed (the "Limited Warranty"). **Product manufactured by Company that includes required startup and is sold in North America will not be warranted by Company unless Company performs the product start-up.** Substantial completion shall be the earlier of the date that the Work is sufficiently complete so that the Work can be utilized for its intended use or the date that Customer receives beneficial use of the Work. If such defect is discovered within the Warranty Period, Company will correct the defect or furnish replacement equipment (or, at its option, parts therefor) and, if said equipment was installed pursuant hereto, labor associated with the replacement of parts or equipment not conforming to this Limited Warranty. Defects must be reported to Company within the Warranty Period. Exclusions from this Limited Warranty include damage or failure arising from: wear and tear; corrosion, erosion, deterioration; Customer's failure to follow the Company-provided maintenance plan; refrigerant not supplied by Carrier; and modifications made by others to Company's equipment. Company shall not be obligated to pay for the cost of lost refrigerant. Notwithstanding the foregoing, all warranties provided herein terminate upon termination or cancellation of this Agreement. No warranty liability whatsoever shall attach to Company until the Work has been paid for in full and then said liability shall be limited to the lesser of Company's cost to correct the defective Work and/or the purchase price of the equipment shown to be defective. Equipment, material and/or parts that are not manufactured by Company are not warranted by Company and have such warranties as may be extended by the respective manufacturer. Carrier equipment sold on an uninstalled basis is warranted in accordance with Company's standard warranty for supplied equipment. **THE WARRANTY AND LIABILITY SET FORTH IN THIS AGREEMENT ARE IN LIEU OF ALL OTHER WARRANTIES AND LIABILITIES, WHETHER IN CONTRACT OR IN NEGLIGENCE, EXPRESS OR IMPLIED, IN LAW OR IN FACT, INCLUDING IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE AND/OR OTHERS ARISING FROM COURSE OF DEALING OR TRADE. COMPANY MAKES NO REPRESENTATION OR WARRANTY EXPRESS OR IMPLIED REGARDING PREVENTION BY THE WORK, OR ANY COMPONENT THEREOF, OF MOLD/MOULD, FUNGUS, BACTERIA, MICROBIAL GROWTH, OR ANY OTHER CONTAMINATES. COMPANY SPECIFICALLY DISCLAIMS ANY LIABILITY IF THE WORK OR ANY COMPONENT THEREOF IS USED TO PREVENT OR INHIBIT THE GROWTH OF SUCH MATERIALS.**

20. Insurance. Company agrees to maintain the following insurance while the Work is being performed with limits not less than shown below and will, upon request from Customer, provide a Certificate of evidencing the following coverage:

Commercial General Liability	\$2,000,000 per occurrence
Automobile Liability	\$2,000,000 CSL
Workers Compensation	Statutory Limits

If Customer has requested to be named as an additional insured under Company's insurance policy, Company will do so but only subject to Company's manuscript additional insured endorsement under its primary Commercial General Liability policies. In no event does Company waive its right of subrogation.

21. Commencement of Statutory Limitation Period. Except as to warranty claims, as may be applicable, any applicable statutes of limitation for acts or failures to act shall commence to run, and any alleged cause of action stemming therefrom shall be deemed to have accrued, in any and all events not later than the last date that Company or its subcontractors physically performed work on the project site.

22. General. Except as provided below, to the maximum extent provided by law, this Agreement is made and shall be interpreted and enforced in accordance with the laws of the state or province in which the Work is performed, without regard to choice of law principles which might otherwise call for the application of a different state's or province's law. Any dispute arising under or relating to this Agreement that is not disposed of by agreement shall be decided by litigation in a court of competent jurisdiction located in the state or province in which the Work is performed. Any action or suit arising out of or related to this Agreement must be commenced within one year after the cause of action has accrued. To the extent the Work site is owned and/or operated by any agency of the Federal Government, determination of any substantive issue of law shall be according to the Federal common law of Government contracts as enunciated and applied by Federal judicial bodies and boards of contract appeals of the Federal Government. This Agreement contains all of the agreements, representations and understandings of the parties and supersedes all previous understandings, commitments or agreements, oral or written, related to the subject matter hereof. This Agreement may not be amended, modified or terminated except by a writing signed by the parties hereto. No documents shall be incorporated herein by reference except to the extent Company is a signatory thereon. If any term or condition of this Agreement is invalid, illegal or incapable of being enforced by any rule of law, all other terms and conditions of this Agreement will nevertheless remain in full force and effect as long as the economic or legal substance of the transaction contemplated hereby is not affected in a manner adverse to any party hereto. Customer may not assign, transfer, or convey this Agreement, or any part hereof, or its right, title or interest herein, without the written consent of the Company. Subject to the foregoing, this Agreement shall be binding upon and inure to the benefit of Customer's permitted successors and assigns. This Agreement may be executed in several counterparts, each of which when executed shall be deemed to be an original, but all together shall constitute but one and the same Agreement. A fully executed facsimile copy hereof or the several counterparts shall suffice as an original.

23. Equal Employment Opportunity/Affirmative Action Clause. Company is a federal contractor that complies fully with Executive Order 11246, as amended, and the applicable regulations contained in 41 C.F.R. Parts 60-1 through 60-60, 29 U.S.C. Section 793 and the applicable regulations contained in 41 C.F.R. Part 60-741; and 38 U.S.C. Section 4212 and the applicable regulations contained in 41 C.F.R. Part 60-250 Executive Order 13496 and Section 29 CFR 471, appendix A to subpart A, regarding the notice of employee rights in the United States and with Canadian Charter of Rights and Freedoms Schedule B to the Canada Act 1982 (U.K.) 1982, c. 11 and applicable Provincial Human Rights Codes and employment law in Canada.

CITY COUNCIL AGENDA ITEM REPORT

DATE: May 15, 2023

SUBMITTED BY: Jason Lake, Park and Recreation

ITEM TYPE: Resolutions

AGENDA SECTION: RESOLUTIONS:

SUBJECT: Resolution No. 23-137: Authorize the Mayor to sign contract with Frameworks for Event Center located at Point Mallard

FINANCIAL IMPACT: 2023 Bond Warrants

SUGGESTED ACTION:

ATTACHMENTS:

[Res No 23-137 Pt Mallard Event Center-Frameworks.pdf](#)

[Point Mallard B101-2017 \(For Execution\).pdf](#)

RESOLUTION NO. 23-137

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

That Mayor is hereby authorized to accept and sign Frameworks Architecture's contract for the Event Center located at Point Mallard.

The funding source for this will be the 2023 Bond Warrants.

Approved this the 15th day of May, 2023.



AIA[®] Document B101[™] – 2017

Standard Form of Agreement Between Owner and Architect

AGREEMENT made as of the fifth day of May
in the year two thousand twenty three
(In words, indicate day, month and year.)

BETWEEN the Architect's client identified as the Owner:
(Name, legal status, address and other information)

The City of Decatur Alabama
402 Lee Street
Decatur, Alabama 35601

This document has important
legal consequences.
Consultation with an attorney is
encouraged with respect to its
completion or modification.

and the Architect:
(Name, legal status, address and other information)

Frameworks Architecture PC
709 Bank Street NW
Decatur, Alabama 35601

for the following Project:
(Name, location and detailed description)

Renovation to the existing Point Mallard Ice Complex Building
Point Mallard Park 2901 Point Mallard Circle Decatur, Alabama 35601

Renovate existing 42,000 s.f. Ice Complex Building into a multi-purpose event, exhibition and
performance venue for the City of Decatur Parks and Recreation Department.

In addition to architectural design, provide structural engineering, mechanical (HVAC and Plumbing)
engineering, electrical engineering as needed.

The Owner and Architect agree as follows.

Init.

TABLE OF ARTICLES

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2	ARCHITECT'S RESPONSIBILITIES
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13	SCOPE OF THE AGREEMENT

ARTICLE 1 INITIAL INFORMATION

§ 1.1 This Agreement is based on the Initial Information set forth in this Section 1.1.

(For each item in this section, insert the information or a statement such as "not applicable" or "unknown at time of execution.")

§ 1.1.1 The Owner's program for the Project:

(Insert the Owner's program, identify documentation that establishes the Owner's program, or state the manner in which the program will be developed.)

Convert existing 25,000 sf rink area into open multi-purpose event space.

New mechanical and lighting systems.

Geotechnical and acoustical engineering by Owner.

Existing skate areas converted to convention type support spaces.

Potential addition of restroom facilities.

Interior finish renovations and improvements.

§ 1.1.2 The Project's physical characteristics:

(Identify or describe pertinent information about the Project's physical characteristics, such as size; location; dimensions; geotechnical reports; site boundaries; topographic surveys; traffic and utility studies; availability of public and private utilities and services; legal description of the site, etc.)

Existing building is approximately 42,000 sf. and is located just east of the Point Mallard Aquatic Center in Decatur, Alabama. The majority of the building comprises of a pre-engineered metal building, with the exterior walls a combination of concrete masonry units and metal building wall panels; and the roof of metal building roof panels.

Existing public site utilities are in place and readily accessible. Site parking, circulation and lighting are existing and will be reused.

§ 1.1.3 The Owner's budget for the Cost of the Work, as defined in Section 6.1:
(Provide total and, if known, a line item breakdown.)

Two Million Dollars

§ 1.1.4 The Owner's anticipated design and construction milestone dates:

.1 Design phase milestone dates, if any:

.2 Construction commencement date:

.3 Substantial Completion date or dates:

.4 Other milestone dates:

§ 1.1.5 The Owner intends the following procurement and delivery method for the Project:
(Identify method such as competitive bid or negotiated contract, as well as any requirements for accelerated or fast-track design and construction, multiple bid packages, or phased construction.)

Combination of competitive bid and negotiated contract.

§ 1.1.6 The Owner's anticipated Sustainable Objective for the Project:
(Identify and describe the Owner's Sustainable Objective for the Project, if any.)

Not Applicable

§ 1.1.6.1 If the Owner identifies a Sustainable Objective, the Owner and Architect shall complete and incorporate AIA Document E204™–2017, Sustainable Projects Exhibit, into this Agreement to define the terms, conditions and services related to the Owner's Sustainable Objective. If E204–2017 is incorporated into this agreement, the Owner and Architect shall incorporate the completed E204–2017 into the agreements with the consultants and contractors performing services or Work in any way associated with the Sustainable Objective.

§ 1.1.7 The Owner identifies the following representative in accordance with Section 5.3:
(List name, address, and other contact information.)

Jason Lake
Executive Director
City of Decatur Parks and Recreation
256-341-4930

§ 1.1.8 The persons or entities, in addition to the Owner's representative, who are required to review the Architect's submittals to the Owner are as follows:
(List name, address, and other contact information.)

§ 1.1.9 The Owner shall retain the following consultants and contractors:
(List name, legal status, address, and other contact information.)

.1 Geotechnical Engineer:
TTL
310 Bank Street NE
Decatur, Alabama 35601
256-353-2910

.2 Civil Engineer:

.3 Other, if any:
(List any other consultants and contractors retained by the Owner.)
Acoustic Engineer
Jim Hall Acoustic Research
523 Cartwright Way
Greenbrier, Tn 37073
615-301-1828

§ 1.1.10 The Architect identifies the following representative in accordance with Section 2.3:
(List name, address, and other contact information.)

John S. Godwin, AIA RLA
Frameworks Architecture PC
709 Bank Street NW
Decatur, Alabama 35601
256-355-5212

§ 1.1.11 The Architect shall retain the consultants identified in Sections 1.1.11.1 and 1.1.11.2:
(List name, legal status, address, and other contact information.)

§ 1.1.11.1 Consultants retained under Basic Services:

- .1 Structural Engineer:
Advanced Structural Design, Inc.
1515 Sparkman Street NW
Hartselle, Alabama 35640
256-502-8333
- .2 Mechanical Engineer:
Engineered Solutions, Inc.
1813 University Drive NW
Suite 200
Huntsville, Alabama 35801
256-533-3482
- .3 Electrical Engineer:
APF Engineering, Inc.
963 Bethel Road
Decatur, Alabama 35603
256-751-2794

§ 1.1.11.2 Consultants retained under Supplemental Services:
Not Applicable

§ 1.1.12 Other Initial Information on which the Agreement is based:

§ 1.2 The Owner and Architect may rely on the Initial Information. Both parties, however, recognize that the Initial Information may materially change and, in that event, the Owner and the Architect shall appropriately adjust the Architect's services, schedule for the Architect's services, and the Architect's compensation. The Owner shall adjust the Owner's budget for the Cost of the Work and the Owner's anticipated design and construction milestones, as necessary, to accommodate material changes in the Initial Information.

§ 1.3 The parties shall agree upon protocols governing the transmission and use of Instruments of Service or any other information or documentation in digital form. The parties will use AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, to establish the protocols for the development, use, transmission, and exchange of digital data.

§ 1.3.1 Any use of, or reliance on, all or a portion of a building information model without agreement to protocols governing the use of, and reliance on, the information contained in the model and without having those protocols set forth in AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, and the requisite AIA Document G202™–2013, Project Building Information Modeling Protocol Form, shall be at the using or relying party's

sole risk and without liability to the other party and its contractors or consultants, the authors of, or contributors to, the building information model, and each of their agents and employees.

ARTICLE 2 ARCHITECT'S RESPONSIBILITIES

§ 2.1 The Architect shall provide professional services as set forth in this Agreement. The Architect represents that it is properly licensed in the jurisdiction where the Project is located to provide the services required by this Agreement, or shall cause such services to be performed by appropriately licensed design professionals.

§ 2.2 The Architect shall perform its services consistent with the professional skill and care ordinarily provided by architects practicing in the same or similar locality under the same or similar circumstances. The Architect shall perform its services as expeditiously as is consistent with such professional skill and care and the orderly progress of the Project.

§ 2.3 The Architect shall identify a representative authorized to act on behalf of the Architect with respect to the Project.

§ 2.4 Except with the Owner's knowledge and consent, the Architect shall not engage in any activity, or accept any employment, interest or contribution that would reasonably appear to compromise the Architect's professional judgment with respect to this Project.

§ 2.5 The Architect shall maintain the following insurance until termination of this Agreement. If any of the requirements set forth below are in addition to the types and limits the Architect normally maintains, the Owner shall pay the Architect as set forth in Section 11.9.

§ 2.5.1 Commercial General Liability with policy limits of not less than one million (\$ 1,000,000) for each occurrence and one million (\$ 1,000,000) in the aggregate for bodily injury and property damage.

§ 2.5.2 Automobile Liability covering vehicles owned, and non-owned vehicles used, by the Architect with policy limits of not less than one million (\$ 1,000,000) per accident for bodily injury, death of any person, and property damage arising out of the ownership, maintenance and use of those motor vehicles, along with any other statutorily required automobile coverage.

§ 2.5.3 The Architect may achieve the required limits and coverage for Commercial General Liability and Automobile Liability through a combination of primary and excess or umbrella liability insurance, provided such primary and excess or umbrella liability insurance policies result in the same or greater coverage as the coverages required under Sections 2.5.1 and 2.5.2, and in no event shall any excess or umbrella liability insurance provide narrower coverage than the primary policy. The excess policy shall not require the exhaustion of the underlying limits only through the actual payment by the underlying insurers.

§ 2.5.4 Workers' Compensation at statutory limits.

§ 2.5.5 Employers' Liability with policy limits not less than one million (\$ 1,000,000) each accident, one million (\$ 1,000,000) each employee, and (\$) policy limit.

§ 2.5.6 Professional Liability covering negligent acts, errors and omissions in the performance of professional services with policy limits of not less than one million (\$ 1,000,000) per claim and two million (\$ 2,000,000) in the aggregate.

§ 2.5.7 **Additional Insured Obligations.** To the fullest extent permitted by law, the Architect shall cause the primary and excess or umbrella policies for Commercial General Liability and Automobile Liability to include the Owner as an additional insured for claims caused in whole or in part by the Architect's negligent acts or omissions. The additional insured coverage shall be primary and non-contributory to any of the Owner's insurance policies and shall apply to both ongoing and completed operations.

§ 2.5.8 The Architect shall provide certificates of insurance to the Owner that evidence compliance with the requirements in this Section 2.5.

ARTICLE 3 SCOPE OF ARCHITECT'S BASIC SERVICES

§ 3.1 The Architect's Basic Services consist of those described in this Article 3 and include usual and customary structural, mechanical, and electrical engineering services. Services not set forth in this Article 3 are Supplemental or Additional Services.

§ 3.1.1 The Architect shall manage the Architect's services, research applicable design criteria, attend Project meetings, communicate with members of the Project team, and report progress to the Owner.

§ 3.1.2 The Architect shall coordinate its services with those services provided by the Owner and the Owner's consultants. The Architect shall be entitled to rely on, and shall not be responsible for, the accuracy, completeness, and timeliness of, services and information furnished by the Owner and the Owner's consultants. The Architect shall provide prompt written notice to the Owner if the Architect becomes aware of any error, omission, or inconsistency in such services or information.

§ 3.1.3 As soon as practicable after the date of this Agreement, the Architect shall submit for the Owner's approval a schedule for the performance of the Architect's services. The schedule initially shall include anticipated dates for the commencement of construction and for Substantial Completion of the Work as set forth in the Initial Information. The schedule shall include allowances for periods of time required for the Owner's review, for the performance of the Owner's consultants, and for approval of submissions by authorities having jurisdiction over the Project. Once approved by the Owner, time limits established by the schedule shall not, except for reasonable cause, be exceeded by the Architect or Owner. With the Owner's approval, the Architect shall adjust the schedule, if necessary, as the Project proceeds until the commencement of construction.

§ 3.1.4 The Architect shall not be responsible for an Owner's directive or substitution, or for the Owner's acceptance of non-conforming Work, made or given without the Architect's written approval.

§ 3.1.5 The Architect shall contact governmental authorities required to approve the Construction Documents and entities providing utility services to the Project. The Architect shall respond to applicable design requirements imposed by those authorities and entities.

§ 3.1.6 The Architect shall assist the Owner in connection with the Owner's responsibility for filing documents required for the approval of governmental authorities having jurisdiction over the Project.

§ 3.2 Schematic Design Phase Services

§ 3.2.1 The Architect shall review the program and other information furnished by the Owner, and shall review laws, codes, and regulations applicable to the Architect's services.

§ 3.2.2 The Architect shall prepare a preliminary evaluation of the Owner's program, schedule, budget for the Cost of the Work, Project site, the proposed procurement and delivery method, and other Initial Information, each in terms of the other, to ascertain the requirements of the Project. The Architect shall notify the Owner of (1) any inconsistencies discovered in the information, and (2) other information or consulting services that may be reasonably needed for the Project.

§ 3.2.3 The Architect shall present its preliminary evaluation to the Owner and shall discuss with the Owner alternative approaches to design and construction of the Project. The Architect shall reach an understanding with the Owner regarding the requirements of the Project.

§ 3.2.4 Based on the Project requirements agreed upon with the Owner, the Architect shall prepare and present, for the Owner's approval, a preliminary design illustrating the scale and relationship of the Project components.

§ 3.2.5 Based on the Owner's approval of the preliminary design, the Architect shall prepare Schematic Design Documents for the Owner's approval. The Schematic Design Documents shall consist of drawings and other documents including a site plan, if appropriate, and preliminary building plans, sections and elevations; and may include some combination of study models, perspective sketches, or digital representations. Preliminary selections of major building systems and construction materials shall be noted on the drawings or described in writing.

§ 3.2.5.1 The Architect shall consider sustainable design alternatives, such as material choices and building orientation, together with other considerations based on program and aesthetics, in developing a design that is consistent with the

Owner's program, schedule and budget for the Cost of the Work. The Owner may obtain more advanced sustainable design services as a Supplemental Service under Section 4.1.1.

§ 3.2.5.2 The Architect shall consider the value of alternative materials, building systems and equipment, together with other considerations based on program and aesthetics, in developing a design for the Project that is consistent with the Owner's program, schedule, and budget for the Cost of the Work.

§ 3.2.6 The Architect shall submit to the Owner an estimate of the Cost of the Work prepared in accordance with Section 6.3.

§ 3.2.7 The Architect shall submit the Schematic Design Documents to the Owner, and request the Owner's approval.

§ 3.3 Design Development Phase Services

§ 3.3.1 Based on the Owner's approval of the Schematic Design Documents, and on the Owner's authorization of any adjustments in the Project requirements and the budget for the Cost of the Work, the Architect shall prepare Design Development Documents for the Owner's approval. The Design Development Documents shall illustrate and describe the development of the approved Schematic Design Documents and shall consist of drawings and other documents including plans, sections, elevations, typical construction details, and diagrammatic layouts of building systems to fix and describe the size and character of the Project as to architectural, structural, mechanical and electrical systems, and other appropriate elements. The Design Development Documents shall also include outline specifications that identify major materials and systems and establish, in general, their quality levels.

§ 3.3.2 The Architect shall update the estimate of the Cost of the Work prepared in accordance with Section 6.3.

§ 3.3.3 The Architect shall submit the Design Development Documents to the Owner, advise the Owner of any adjustments to the estimate of the Cost of the Work, and request the Owner's approval.

§ 3.4 Construction Documents Phase Services

§ 3.4.1 Based on the Owner's approval of the Design Development Documents, and on the Owner's authorization of any adjustments in the Project requirements and the budget for the Cost of the Work, the Architect shall prepare Construction Documents for the Owner's approval. The Construction Documents shall illustrate and describe the further development of the approved Design Development Documents and shall consist of Drawings and Specifications setting forth in detail the quality levels and performance criteria of materials and systems and other requirements for the construction of the Work. The Owner and Architect acknowledge that, in order to perform the Work, the Contractor will provide additional information, including Shop Drawings, Product Data, Samples and other similar submittals, which the Architect shall review in accordance with Section 3.6.4.

§ 3.4.2 The Architect shall incorporate the design requirements of governmental authorities having jurisdiction over the Project into the Construction Documents.

§ 3.4.3 During the development of the Construction Documents, the Architect shall assist the Owner in the development and preparation of (1) procurement information that describes the time, place, and conditions of bidding, including bidding or proposal forms; (2) the form of agreement between the Owner and Contractor; and (3) the Conditions of the Contract for Construction (General, Supplementary and other Conditions). The Architect shall also compile a project manual that includes the Conditions of the Contract for Construction and Specifications, and may include bidding requirements and sample forms.

§ 3.4.4 The Architect shall update the estimate for the Cost of the Work prepared in accordance with Section 6.3.

§ 3.4.5 The Architect shall submit the Construction Documents to the Owner, advise the Owner of any adjustments to the estimate of the Cost of the Work, take any action required under Section 6.5, and request the Owner's approval.

§ 3.5 Procurement Phase Services

§ 3.5.1 General

The Architect shall assist the Owner in establishing a list of prospective contractors. Following the Owner's approval of the Construction Documents, the Architect shall assist the Owner in (1) obtaining either competitive bids or negotiated proposals; (2) confirming responsiveness of bids or proposals; (3) determining the successful bid or proposal, if any; and, (4) awarding and preparing contracts for construction.

§ 3.5.2 Competitive Bidding

§ 3.5.2.1 Bidding Documents shall consist of bidding requirements and proposed Contract Documents.

§ 3.5.2.2 The Architect shall assist the Owner in bidding the Project by:

- .1 facilitating the distribution of Bidding Documents to prospective bidders;
- .2 organizing and conducting a pre-bid conference for prospective bidders;
- .3 preparing responses to questions from prospective bidders and providing clarifications and interpretations of the Bidding Documents to the prospective bidders in the form of addenda; and,
- .4 organizing and conducting the opening of the bids, and subsequently documenting and distributing the bidding results, as directed by the Owner.

§ 3.5.2.3 If the Bidding Documents permit substitutions, upon the Owner's written authorization, the Architect shall, as an Additional Service, consider requests for substitutions and prepare and distribute addenda identifying approved substitutions to all prospective bidders.

§ 3.5.3 Negotiated Proposals

§ 3.5.3.1 Proposal Documents shall consist of proposal requirements and proposed Contract Documents.

§ 3.5.3.2 The Architect shall assist the Owner in obtaining proposals by:

- .1 facilitating the distribution of Proposal Documents for distribution to prospective contractors and requesting their return upon completion of the negotiation process;
- .2 organizing and participating in selection interviews with prospective contractors;
- .3 preparing responses to questions from prospective contractors and providing clarifications and interpretations of the Proposal Documents to the prospective contractors in the form of addenda; and,
- .4 participating in negotiations with prospective contractors, and subsequently preparing a summary report of the negotiation results, as directed by the Owner.

§ 3.5.3.3 If the Proposal Documents permit substitutions, upon the Owner's written authorization, the Architect shall, as an Additional Service, consider requests for substitutions and prepare and distribute addenda identifying approved substitutions to all prospective contractors.

§ 3.6 Construction Phase Services

§ 3.6.1 General

§ 3.6.1.1 The Architect shall provide administration of the Contract between the Owner and the Contractor as set forth below and in AIA Document A201™–2017, General Conditions of the Contract for Construction. If the Owner and Contractor modify AIA Document A201–2017, those modifications shall not affect the Architect's services under this Agreement unless the Owner and the Architect amend this Agreement.

§ 3.6.1.2 The Architect shall advise and consult with the Owner during the Construction Phase Services. The Architect shall have authority to act on behalf of the Owner only to the extent provided in this Agreement. The Architect shall not have control over, charge of, or responsibility for the construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work, nor shall the Architect be responsible for the Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. The Architect shall be responsible for the Architect's negligent acts or omissions, but shall not have control over or charge of, and shall not be responsible for, acts or omissions of the Contractor or of any other persons or entities performing portions of the Work.

§ 3.6.1.3 Subject to Section 4.2 and except as provided in Section 3.6.6.5, the Architect's responsibility to provide Construction Phase Services commences with the award of the Contract for Construction and terminates on the date the Architect issues the final Certificate for Payment.

§ 3.6.2 Evaluations of the Work

§ 3.6.2.1 The Architect shall visit the site at intervals appropriate to the stage of construction, or as otherwise required in Section 4.2.3, to become generally familiar with the progress and quality of the portion of the Work completed, and to determine, in general, if the Work observed is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. However, the Architect shall not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. On the basis of the site visits, the Architect shall keep the Owner reasonably informed about the progress and quality of the portion of the Work

completed, and promptly report to the Owner (1) known deviations from the Contract Documents, (2) known deviations from the most recent construction schedule submitted by the Contractor, and (3) defects and deficiencies observed in the Work.

§ 3.6.2.2 The Architect has the authority to reject Work that does not conform to the Contract Documents. Whenever the Architect considers it necessary or advisable, the Architect shall have the authority to require inspection or testing of the Work in accordance with the provisions of the Contract Documents, whether or not the Work is fabricated, installed or completed. However, neither this authority of the Architect nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect to the Contractor, Subcontractors, suppliers, their agents or employees, or other persons or entities performing portions of the Work.

§ 3.6.2.3 The Architect shall interpret and decide matters concerning performance under, and requirements of, the Contract Documents on written request of either the Owner or Contractor. The Architect's response to such requests shall be made in writing within any time limits agreed upon or otherwise with reasonable promptness.

§ 3.6.2.4 Interpretations and decisions of the Architect shall be consistent with the intent of, and reasonably inferable from, the Contract Documents and shall be in writing or in the form of drawings. When making such interpretations and decisions, the Architect shall endeavor to secure faithful performance by both Owner and Contractor, shall not show partiality to either, and shall not be liable for results of interpretations or decisions rendered in good faith. The Architect's decisions on matters relating to aesthetic effect shall be final if consistent with the intent expressed in the Contract Documents.

§ 3.6.2.5 Unless the Owner and Contractor designate another person to serve as an Initial Decision Maker, as that term is defined in AIA Document A201–2017, the Architect shall render initial decisions on Claims between the Owner and Contractor as provided in the Contract Documents.

§ 3.6.3 Certificates for Payment to Contractor

§ 3.6.3.1 The Architect shall review and certify the amounts due the Contractor and shall issue certificates in such amounts. The Architect's certification for payment shall constitute a representation to the Owner, based on the Architect's evaluation of the Work as provided in Section 3.6.2 and on the data comprising the Contractor's Application for Payment, that, to the best of the Architect's knowledge, information and belief, the Work has progressed to the point indicated, the quality of the Work is in accordance with the Contract Documents, and that the Contractor is entitled to payment in the amount certified. The foregoing representations are subject to (1) an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, (2) results of subsequent tests and inspections, (3) correction of minor deviations from the Contract Documents prior to completion, and (4) specific qualifications expressed by the Architect.

§ 3.6.3.2 The issuance of a Certificate for Payment shall not be a representation that the Architect has (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work, (2) reviewed construction means, methods, techniques, sequences or procedures, (3) reviewed copies of requisitions received from Subcontractors and suppliers and other data requested by the Owner to substantiate the Contractor's right to payment, or (4) ascertained how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.

§ 3.6.3.3 The Architect shall maintain a record of the Applications and Certificates for Payment.

§ 3.6.4 Submittals

§ 3.6.4.1 The Architect shall review the Contractor's submittal schedule and shall not unreasonably delay or withhold approval of the schedule. The Architect's action in reviewing submittals shall be taken in accordance with the approved submittal schedule or, in the absence of an approved submittal schedule, with reasonable promptness while allowing sufficient time, in the Architect's professional judgment, to permit adequate review.

§ 3.6.4.2 The Architect shall review and approve, or take other appropriate action upon, the Contractor's submittals such as Shop Drawings, Product Data and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. Review of such submittals is not for the purpose of determining the accuracy and completeness of other information such as dimensions, quantities, and installation or performance of equipment or systems, which are the Contractor's responsibility. The Architect's review shall not constitute approval of safety precautions or construction means, methods, techniques, sequences or procedures. The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

§ 3.6.4.3 If the Contract Documents specifically require the Contractor to provide professional design services or certifications by a design professional related to systems, materials, or equipment, the Architect shall specify the appropriate performance and design criteria that such services must satisfy. The Architect shall review and take appropriate action on Shop Drawings and other submittals related to the Work designed or certified by the Contractor's design professional, provided the submittals bear such professional's seal and signature when submitted to the Architect. The Architect's review shall be for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Architect shall be entitled to rely upon, and shall not be responsible for, the adequacy and accuracy of the services, certifications, and approvals performed or provided by such design professionals.

§ 3.6.4.4 Subject to Section 4.2, the Architect shall review and respond to requests for information about the Contract Documents. The Architect shall set forth, in the Contract Documents, the requirements for requests for information. Requests for information shall include, at a minimum, a detailed written statement that indicates the specific Drawings or Specifications in need of clarification and the nature of the clarification requested. The Architect's response to such requests shall be made in writing within any time limits agreed upon, or otherwise with reasonable promptness. If appropriate, the Architect shall prepare and issue supplemental Drawings and Specifications in response to the requests for information.

§ 3.6.4.5 The Architect shall maintain a record of submittals and copies of submittals supplied by the Contractor in accordance with the requirements of the Contract Documents.

§ 3.6.5 Changes in the Work

§ 3.6.5.1 The Architect may order minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time. Subject to Section 4.2, the Architect shall prepare Change Orders and Construction Change Directives for the Owner's approval and execution in accordance with the Contract Documents.

§ 3.6.5.2 The Architect shall maintain records relative to changes in the Work.

§ 3.6.6 Project Completion

§ 3.6.6.1 The Architect shall:

- .1 conduct inspections to determine the date or dates of Substantial Completion and the date of final completion;
- .2 issue Certificates of Substantial Completion;
- .3 forward to the Owner, for the Owner's review and records, written warranties and related documents required by the Contract Documents and received from the Contractor; and,
- .4 issue a final Certificate for Payment based upon a final inspection indicating that, to the best of the Architect's knowledge, information, and belief, the Work complies with the requirements of the Contract Documents.

§ 3.6.6.2 The Architect's inspections shall be conducted with the Owner to check conformance of the Work with the requirements of the Contract Documents and to verify the accuracy and completeness of the list submitted by the Contractor of Work to be completed or corrected.

§ 3.6.6.3 When Substantial Completion has been achieved, the Architect shall inform the Owner about the balance of the Contract Sum remaining to be paid the Contractor, including the amount to be retained from the Contract Sum, if any, for final completion or correction of the Work.

§ 3.6.6.4 The Architect shall forward to the Owner the following information received from the Contractor: (1) consent of surety or sureties, if any, to reduction in or partial release of retainage or the making of final payment; (2) affidavits, receipts, releases and waivers of liens, or bonds indemnifying the Owner against liens; and (3) any other documentation required of the Contractor under the Contract Documents.

§ 3.6.6.5 Upon request of the Owner, and prior to the expiration of one year from the date of Substantial Completion, the Architect shall, without additional compensation, conduct a meeting with the Owner to review the facility operations and performance.

ARTICLE 4 SUPPLEMENTAL AND ADDITIONAL SERVICES

§ 4.1 Supplemental Services

§ 4.1.1 The services listed below are not included in Basic Services but may be required for the Project. The Architect shall provide the listed Supplemental Services only if specifically designated in the table below as the Architect's responsibility, and the Owner shall compensate the Architect as provided in Section 11.2. Unless otherwise specifically addressed in this Agreement, if neither the Owner nor the Architect is designated, the parties agree that the listed Supplemental Service is not being provided for the Project.

(Designate the Architect's Supplemental Services and the Owner's Supplemental Services required for the Project by indicating whether the Architect or Owner shall be responsible for providing the identified Supplemental Service. Insert a description of the Supplemental Services in Section 4.1.2 below or attach the description of services as an exhibit to this Agreement.)

Supplemental Services	Responsibility <i>(Architect, Owner, or not provided)</i>
§ 4.1.1.1 Programming	Not Provided
§ 4.1.1.2 Multiple preliminary designs	Not Provided
§ 4.1.1.3 Measured drawings	Not Provided
§ 4.1.1.4 Existing facilities surveys	Not Provided
§ 4.1.1.5 Site evaluation and planning	Not Provided
§ 4.1.1.6 Building Information Model management responsibilities	Not Provided
§ 4.1.1.7 Development of Building Information Models for post construction use	Not Provided
§ 4.1.1.8 Civil engineering	Not Provided
§ 4.1.1.9 Landscape design	Not Provided
§ 4.1.1.10 Architectural interior design	Not Provided
§ 4.1.1.11 Value analysis	Not Provided
§ 4.1.1.12 Detailed cost estimating beyond that required in Section 6.3	Not Provided
§ 4.1.1.13 On-site project representation	Not Provided
§ 4.1.1.14 Conformed documents for construction	Not Provided
§ 4.1.1.15 As-designed record drawings	Not Provided
§ 4.1.1.16 As-constructed record drawings	Not Provided
§ 4.1.1.17 Post-occupancy evaluation	Not Provided
§ 4.1.1.18 Facility support services	Not Provided
§ 4.1.1.19 Tenant-related services	Not Provided
§ 4.1.1.20 Architect's coordination of the Owner's consultants	Architect
§ 4.1.1.21 Telecommunications/data design	Not Provided
§ 4.1.1.22 Security evaluation and planning	Not Provided
§ 4.1.1.23 Commissioning	Not Provided
§ 4.1.1.24 Sustainable Project Services pursuant to Section 4.1.3	Not Provided
§ 4.1.1.25 Fast-track design services	Not Provided
§ 4.1.1.26 Multiple bid packages	Not Provided
§ 4.1.1.27 Historic preservation	Not Provided
§ 4.1.1.28 Furniture, furnishings, and equipment design	Not Provided
§ 4.1.1.29 Other services provided by specialty Consultants	Not Provided
§ 4.1.1.30 Other Supplemental Services	Not Provided

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Supplemental Services	Responsibility (Architect, Owner, or not provided)

§ 4.1.2 Description of Supplemental Services

§ 4.1.2.1 A description of each Supplemental Service identified in Section 4.1.1 as the Architect's responsibility is provided below.

(Describe in detail the Architect's Supplemental Services identified in Section 4.1.1 or, if set forth in an exhibit, identify the exhibit. The AIA publishes a number of Standard Form of Architect's Services documents that can be included as an exhibit to describe the Architect's Supplemental Services.)

Architect will coordinate with Owner's Geotechnical Engineer and Acoustical Engineer.

§ 4.1.2.2 A description of each Supplemental Service identified in Section 4.1.1 as the Owner's responsibility is provided below.

(Describe in detail the Owner's Supplemental Services identified in Section 4.1.1 or, if set forth in an exhibit, identify the exhibit.)

§ 4.1.3 If the Owner identified a Sustainable Objective in Article 1, the Architect shall provide, as a Supplemental Service, the Sustainability Services required in AIA Document E204™–2017, Sustainable Projects Exhibit, attached to this Agreement. The Owner shall compensate the Architect as provided in Section 11.2.

§ 4.2 Architect's Additional Services

The Architect may provide Additional Services after execution of this Agreement without invalidating the Agreement. Except for services required due to the fault of the Architect, any Additional Services provided in accordance with this Section 4.2 shall entitle the Architect to compensation pursuant to Section 11.3 and an appropriate adjustment in the Architect's schedule.

§ 4.2.1 Upon recognizing the need to perform the following Additional Services, the Architect shall notify the Owner with reasonable promptness and explain the facts and circumstances giving rise to the need. The Architect shall not proceed to provide the following Additional Services until the Architect receives the Owner's written authorization:

- .1 Services necessitated by a change in the Initial Information, previous instructions or approvals given by the Owner, or a material change in the Project including size, quality, complexity, the Owner's schedule or budget for Cost of the Work, or procurement or delivery method;
- .2 Services necessitated by the enactment or revision of codes, laws, or regulations, including changing or editing previously prepared Instruments of Service;
- .3 Changing or editing previously prepared Instruments of Service necessitated by official interpretations of applicable codes, laws or regulations that are either (a) contrary to specific interpretations by the applicable authorities having jurisdiction made prior to the issuance of the building permit, or (b) contrary to requirements of the Instruments of Service when those Instruments of Service were prepared in accordance with the applicable standard of care;
- .4 Services necessitated by decisions of the Owner not rendered in a timely manner or any other failure of performance on the part of the Owner or the Owner's consultants or contractors;
- .5 Preparing digital models or other design documentation for transmission to the Owner's consultants and contractors, or to other Owner-authorized recipients;
- .6 Preparation of design and documentation for alternate bid or proposal requests proposed by the Owner;

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- .7 Preparation for, and attendance at, a public presentation, meeting or hearing;
- .8 Preparation for, and attendance at, a dispute resolution proceeding or legal proceeding, except where the Architect is party thereto;
- .9 Evaluation of the qualifications of entities providing bids or proposals;
- .10 Consultation concerning replacement of Work resulting from fire or other cause during construction; or,
- .11 Assistance to the Initial Decision Maker, if other than the Architect.

§ 4.2.2 To avoid delay in the Construction Phase, the Architect shall provide the following Additional Services, notify the Owner with reasonable promptness, and explain the facts and circumstances giving rise to the need. If, upon receipt of the Architect's notice, the Owner determines that all or parts of the services are not required, the Owner shall give prompt written notice to the Architect of the Owner's determination. The Owner shall compensate the Architect for the services provided prior to the Architect's receipt of the Owner's notice.

- .1 Reviewing a Contractor's submittal out of sequence from the submittal schedule approved by the Architect;
- .2 Responding to the Contractor's requests for information that are not prepared in accordance with the Contract Documents or where such information is available to the Contractor from a careful study and comparison of the Contract Documents, field conditions, other Owner-provided information, Contractor-prepared coordination drawings, or prior Project correspondence or documentation;
- .3 Preparing Change Orders and Construction Change Directives that require evaluation of Contractor's proposals and supporting data, or the preparation or revision of Instruments of Service;
- .4 Evaluating an extensive number of Claims as the Initial Decision Maker; or,
- .5 Evaluating substitutions proposed by the Owner or Contractor and making subsequent revisions to Instruments of Service resulting therefrom.

§ 4.2.3 The Architect shall provide Construction Phase Services exceeding the limits set forth below as Additional Services. When the limits below are reached, the Architect shall notify the Owner:

- .1 Two (2) reviews of each Shop Drawing, Product Data item, sample and similar submittals of the Contractor
- .2 Ten (10) visits to the site by the Architect during construction
- .3 Two (2) inspections for any portion of the Work to determine whether such portion of the Work is substantially complete in accordance with the requirements of the Contract Documents
- .4 Two (2) inspections for any portion of the Work to determine final completion.

§ 4.2.4 Except for services required under Section 3.6.6.5 and those services that do not exceed the limits set forth in Section 4.2.3, Construction Phase Services provided more than 60 days after (1) the date of Substantial Completion of the Work or (2) the initial date of Substantial Completion identified in the agreement between the Owner and Contractor, whichever is earlier, shall be compensated as Additional Services to the extent the Architect incurs additional cost in providing those Construction Phase Services.

§ 4.2.5 If the services covered by this Agreement have not been completed within twenty four (24) months of the date of this Agreement, through no fault of the Architect, extension of the Architect's services beyond that time shall be compensated as Additional Services.

ARTICLE 5 OWNER'S RESPONSIBILITIES

§ 5.1 Unless otherwise provided for under this Agreement, the Owner shall provide information in a timely manner regarding requirements for and limitations on the Project, including a written program, which shall set forth the Owner's objectives; schedule; constraints and criteria, including space requirements and relationships; flexibility; expandability; special equipment; systems; and site requirements.

§ 5.2 The Owner shall establish the Owner's budget for the Project, including (1) the budget for the Cost of the Work as defined in Section 6.1; (2) the Owner's other costs; and, (3) reasonable contingencies related to all of these costs. The Owner shall update the Owner's budget for the Project as necessary throughout the duration of the Project until final completion. If the Owner significantly increases or decreases the Owner's budget for the Cost of the Work, the Owner shall notify the Architect. The Owner and the Architect shall thereafter agree to a corresponding change in the Project's scope and quality.

§ 5.3 The Owner shall identify a representative authorized to act on the Owner's behalf with respect to the Project. The Owner shall render decisions and approve the Architect's submittals in a timely manner in order to avoid unreasonable delay in the orderly and sequential progress of the Architect's services.

§ 5.4 The Owner shall furnish surveys to describe physical characteristics, legal limitations and utility locations for the site of the Project, and a written legal description of the site. The surveys and legal information shall include, as applicable, grades and lines of streets, alleys, pavements and adjoining property and structures; designated wetlands; adjacent drainage; rights-of-way, restrictions, easements, encroachments, zoning, deed restrictions, boundaries and contours of the site; locations, dimensions, and other necessary data with respect to existing buildings, other improvements and trees; and information concerning available utility services and lines, both public and private, above and below grade, including inverts and depths. All the information on the survey shall be referenced to a Project benchmark.

§ 5.5 The Owner shall furnish services of geotechnical engineers, which may include test borings, test pits, determinations of soil bearing values, percolation tests, evaluations of hazardous materials, seismic evaluation, ground corrosion tests and resistivity tests, including necessary operations for anticipating subsoil conditions, with written reports and appropriate recommendations.

§ 5.6 The Owner shall provide the Supplemental Services designated as the Owner's responsibility in Section 4.1.1.

§ 5.7 If the Owner identified a Sustainable Objective in Article 1, the Owner shall fulfill its responsibilities as required in AIA Document E204™–2017, Sustainable Projects Exhibit, attached to this Agreement.

§ 5.8 The Owner shall coordinate the services of its own consultants with those services provided by the Architect. Upon the Architect's request, the Owner shall furnish copies of the scope of services in the contracts between the Owner and the Owner's consultants. The Owner shall furnish the services of consultants other than those designated as the responsibility of the Architect in this Agreement, or authorize the Architect to furnish them as an Additional Service, when the Architect requests such services and demonstrates that they are reasonably required by the scope of the Project. The Owner shall require that its consultants and contractors maintain insurance, including professional liability insurance, as appropriate to the services or work provided.

§ 5.9 The Owner shall furnish tests, inspections and reports required by law or the Contract Documents, such as structural, mechanical, and chemical tests, tests for air and water pollution, and tests for hazardous materials.

§ 5.10 The Owner shall furnish all legal, insurance and accounting services, including auditing services, that may be reasonably necessary at any time for the Project to meet the Owner's needs and interests.

§ 5.11 The Owner shall provide prompt written notice to the Architect if the Owner becomes aware of any fault or defect in the Project, including errors, omissions or inconsistencies in the Architect's Instruments of Service.

§ 5.12 The Owner shall include the Architect in all communications with the Contractor that relate to or affect the Architect's services or professional responsibilities. The Owner shall promptly notify the Architect of the substance of any direct communications between the Owner and the Contractor otherwise relating to the Project. Communications by and with the Architect's consultants shall be through the Architect.

§ 5.13 Before executing the Contract for Construction, the Owner shall coordinate the Architect's duties and responsibilities set forth in the Contract for Construction with the Architect's services set forth in this Agreement. The Owner shall provide the Architect a copy of the executed agreement between the Owner and Contractor, including the General Conditions of the Contract for Construction.

§ 5.14 The Owner shall provide the Architect access to the Project site prior to commencement of the Work and shall obligate the Contractor to provide the Architect access to the Work wherever it is in preparation or progress.

§ 5.15 Within 15 days after receipt of a written request from the Architect, the Owner shall furnish the requested information as necessary and relevant for the Architect to evaluate, give notice of, or enforce lien rights.

ARTICLE 6 COST OF THE WORK

§ 6.1 For purposes of this Agreement, the Cost of the Work shall be the total cost to the Owner to construct all elements of the Project designed or specified by the Architect and shall include contractors' general conditions costs, overhead

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and profit. The Cost of the Work also includes the reasonable value of labor, materials, and equipment, donated to, or otherwise furnished by, the Owner. The Cost of the Work does not include the compensation of the Architect; the costs of the land, rights-of-way, financing, or contingencies for changes in the Work; or other costs that are the responsibility of the Owner.

§ 6.2 The Owner's budget for the Cost of the Work is provided in Initial Information, and shall be adjusted throughout the Project as required under Sections 5.2, 6.4 and 6.5. Evaluations of the Owner's budget for the Cost of the Work, and the preliminary estimate of the Cost of the Work and updated estimates of the Cost of the Work, prepared by the Architect, represent the Architect's judgment as a design professional. It is recognized, however, that neither the Architect nor the Owner has control over the cost of labor, materials, or equipment; the Contractor's methods of determining bid prices; or competitive bidding, market, or negotiating conditions. Accordingly, the Architect cannot and does not warrant or represent that bids or negotiated prices will not vary from the Owner's budget for the Cost of the Work, or from any estimate of the Cost of the Work, or evaluation, prepared or agreed to by the Architect.

§ 6.3 In preparing estimates of the Cost of Work, the Architect shall be permitted to include contingencies for design, bidding, and price escalation; to determine what materials, equipment, component systems, and types of construction are to be included in the Contract Documents; to recommend reasonable adjustments in the program and scope of the Project; and to include design alternates as may be necessary to adjust the estimated Cost of the Work to meet the Owner's budget. The Architect's estimate of the Cost of the Work shall be based on current area, volume or similar conceptual estimating techniques. If the Owner requires a detailed estimate of the Cost of the Work, the Architect shall provide such an estimate, if identified as the Architect's responsibility in Section 4.1.1, as a Supplemental Service.

§ 6.4 If, through no fault of the Architect, the Procurement Phase has not commenced within 90 days after the Architect submits the Construction Documents to the Owner, the Owner's budget for the Cost of the Work shall be adjusted to reflect changes in the general level of prices in the applicable construction market.

§ 6.5 If at any time the Architect's estimate of the Cost of the Work exceeds the Owner's budget for the Cost of the Work, the Architect shall make appropriate recommendations to the Owner to adjust the Project's size, quality, or budget for the Cost of the Work, and the Owner shall cooperate with the Architect in making such adjustments.

§ 6.6 If the Owner's budget for the Cost of the Work at the conclusion of the Construction Documents Phase Services is exceeded by the lowest bona fide bid or negotiated proposal, the Owner shall

- .1 give written approval of an increase in the budget for the Cost of the Work;
- .2 authorize rebidding or renegotiating of the Project within a reasonable time;
- .3 terminate in accordance with Section 9.5;
- .4 in consultation with the Architect, revise the Project program, scope, or quality as required to reduce the Cost of the Work; or,
- .5 implement any other mutually acceptable alternative.

§ 6.7 If the Owner chooses to proceed under Section 6.6.4, the Architect shall modify the Construction Documents as necessary to comply with the Owner's budget for the Cost of the Work at the conclusion of the Construction Documents Phase Services, or the budget as adjusted under Section 6.6.1. If the Owner requires the Architect to modify the Construction Documents because the lowest bona fide bid or negotiated proposal exceeds the Owner's budget for the Cost of the Work due to market conditions the Architect could not reasonably anticipate, the Owner shall compensate the Architect for the modifications as an Additional Service pursuant to Section 11.3; otherwise the Architect's services for modifying the Construction Documents shall be without additional compensation. In any event, the Architect's modification of the Construction Documents shall be the limit of the Architect's responsibility under this Article 6.

ARTICLE 7 COPYRIGHTS AND LICENSES

§ 7.1 The Architect and the Owner warrant that in transmitting Instruments of Service, or any other information, the transmitting party is the copyright owner of such information or has permission from the copyright owner to transmit such information for its use on the Project.

§ 7.2 The Architect and the Architect's consultants shall be deemed the authors and owners of their respective Instruments of Service, including the Drawings and Specifications, and shall retain all common law, statutory and other reserved rights, including copyrights. Submission or distribution of Instruments of Service to meet official regulatory requirements or for similar purposes in connection with the Project is not to be construed as publication in derogation of the reserved rights of the Architect and the Architect's consultants.

§ 7.3 The Architect grants to the Owner a nonexclusive license to use the Architect's Instruments of Service solely and exclusively for purposes of constructing, using, maintaining, altering and adding to the Project, provided that the Owner substantially performs its obligations under this agreement, including prompt payment of all sums due pursuant to Article 9 and Article 11. The Architect shall obtain similar nonexclusive licenses from the Architect's consultants consistent with this Agreement. The license granted under this section permits the Owner to authorize the Contractor, Subcontractors, Sub-subcontractors, and suppliers, as well as the Owner's consultants and separate contractors, to reproduce applicable portions of the Instruments of Service, subject to any protocols established pursuant to Section 1.3, solely and exclusively for use in performing services or construction for the Project. If the Architect rightfully terminates this Agreement for cause as provided in Section 9.4, the license granted in this Section 7.3 shall terminate.

§ 7.3.1 In the event the Owner uses the Instruments of Service without retaining the authors of the Instruments of Service, the Owner releases the Architect and Architect's consultant(s) from all claims and causes of action arising from such uses. The Owner, to the extent permitted by law, further agrees to indemnify and hold harmless the Architect and its consultants from all costs and expenses, including the cost of defense, related to claims and causes of action asserted by any third person or entity to the extent such costs and expenses arise from the Owner's use of the Instruments of Service under this Section 7.3.1. The terms of this Section 7.3.1 shall not apply if the Owner rightfully terminates this Agreement for cause under Section 9.4.

§ 7.4 Except for the licenses granted in this Article 7, no other license or right shall be deemed granted or implied under this Agreement. The Owner shall not assign, delegate, sublicense, pledge or otherwise transfer any license granted herein to another party without the prior written agreement of the Architect. Any unauthorized use of the Instruments of Service shall be at the Owner's sole risk and without liability to the Architect and the Architect's consultants.

§ 7.5 Except as otherwise stated in Section 7.3, the provisions of this Article 7 shall survive the termination of this Agreement.

ARTICLE 8 CLAIMS AND DISPUTES

§ 8.1 General

§ 8.1.1 The Owner and Architect shall commence all claims and causes of action against the other and arising out of or related to this Agreement, whether in contract, tort, or otherwise, in accordance with the requirements of the binding dispute resolution method selected in this Agreement and within the period specified by applicable law, but in any case not more than 10 years after the date of Substantial Completion of the Work. The Owner and Architect waive all claims and causes of action not commenced in accordance with this Section 8.1.1.

§ 8.1.2 To the extent damages are covered by property insurance, the Owner and Architect waive all rights against each other and against the contractors, consultants, agents, and employees of the other for damages, except such rights as they may have to the proceeds of such insurance as set forth in AIA Document A201–2017, General Conditions of the Contract for Construction. The Owner or the Architect, as appropriate, shall require of the contractors, consultants, agents, and employees of any of them, similar waivers in favor of the other parties enumerated herein.

§ 8.1.3 The Architect and Owner waive consequential damages for claims, disputes, or other matters in question, arising out of or relating to this Agreement. This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination of this Agreement, except as specifically provided in Section 9.7.

§ 8.2 Mediation

§ 8.2.1 Any claim, dispute or other matter in question arising out of or related to this Agreement shall be subject to mediation as a condition precedent to binding dispute resolution. If such matter relates to or is the subject of a lien arising out of the Architect's services, the Architect may proceed in accordance with applicable law to comply with the lien notice or filing deadlines prior to resolution of the matter by mediation or by binding dispute resolution.

§ 8.2.2 The Owner and Architect shall endeavor to resolve claims, disputes and other matters in question between them by mediation, which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Mediation Procedures in effect on the date of this Agreement. A request for mediation shall be made in writing, delivered to the other party to this Agreement, and filed with the person or entity administering the mediation. The request may be made concurrently with the filing of a complaint or other appropriate demand for binding dispute resolution but, in such event, mediation shall proceed in advance of binding dispute resolution proceedings, which shall be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a longer period by agreement of the parties or court order. If an arbitration proceeding is

stayed pursuant to this section, the parties may nonetheless proceed to the selection of the arbitrator(s) and agree upon a schedule for later proceedings.

§ 8.2.3 The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in the place where the Project is located, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.

§ 8.2.4 If the parties do not resolve a dispute through mediation pursuant to this Section 8.2, the method of binding dispute resolution shall be the following:

(Check the appropriate box.)

- ☒ Arbitration pursuant to Section 8.3 of this Agreement
- ☐ Litigation in a court of competent jurisdiction
- ☐ Other: *(Specify)*

If the Owner and Architect do not select a method of binding dispute resolution, or do not subsequently agree in writing to a binding dispute resolution method other than litigation, the dispute will be resolved in a court of competent jurisdiction.

§ 8.3 Arbitration

§ 8.3.1 If the parties have selected arbitration as the method for binding dispute resolution in this Agreement, any claim, dispute or other matter in question arising out of or related to this Agreement subject to, but not resolved by, mediation shall be subject to arbitration, which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Arbitration Rules in effect on the date of this Agreement. A demand for arbitration shall be made in writing, delivered to the other party to this Agreement, and filed with the person or entity administering the arbitration.

§ 8.3.1.1 A demand for arbitration shall be made no earlier than concurrently with the filing of a request for mediation, but in no event shall it be made after the date when the institution of legal or equitable proceedings based on the claim, dispute or other matter in question would be barred by the applicable statute of limitations. For statute of limitations purposes, receipt of a written demand for arbitration by the person or entity administering the arbitration shall constitute the institution of legal or equitable proceedings based on the claim, dispute or other matter in question.

§ 8.3.2 The foregoing agreement to arbitrate, and other agreements to arbitrate with an additional person or entity duly consented to by parties to this Agreement, shall be specifically enforceable in accordance with applicable law in any court having jurisdiction thereof.

§ 8.3.3 The award rendered by the arbitrator(s) shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.

§ 8.3.4 Consolidation or Joinder

§ 8.3.4.1 Either party, at its sole discretion, may consolidate an arbitration conducted under this Agreement with any other arbitration to which it is a party provided that (1) the arbitration agreement governing the other arbitration permits consolidation; (2) the arbitrations to be consolidated substantially involve common questions of law or fact; and (3) the arbitrations employ materially similar procedural rules and methods for selecting arbitrator(s).

§ 8.3.4.2 Either party, at its sole discretion, may include by joinder persons or entities substantially involved in a common question of law or fact whose presence is required if complete relief is to be accorded in arbitration, provided that the party sought to be joined consents in writing to such joinder. Consent to arbitration involving an additional person or entity shall not constitute consent to arbitration of any claim, dispute or other matter in question not described in the written consent.

§ 8.3.4.3 The Owner and Architect grant to any person or entity made a party to an arbitration conducted under this Section 8.3, whether by joinder or consolidation, the same rights of joinder and consolidation as the Owner and Architect under this Agreement.

§ 8.4 The provisions of this Article 8 shall survive the termination of this Agreement.

ARTICLE 9 TERMINATION OR SUSPENSION

§ 9.1 If the Owner fails to make payments to the Architect in accordance with this Agreement, such failure shall be considered substantial nonperformance and cause for termination or, at the Architect's option, cause for suspension of performance of services under this Agreement. If the Architect elects to suspend services, the Architect shall give seven days' written notice to the Owner before suspending services. In the event of a suspension of services, the Architect shall have no liability to the Owner for delay or damage caused the Owner because of such suspension of services. Before resuming services, the Owner shall pay the Architect all sums due prior to suspension and any expenses incurred in the interruption and resumption of the Architect's services. The Architect's fees for the remaining services and the time schedules shall be equitably adjusted.

§ 9.2 If the Owner suspends the Project, the Architect shall be compensated for services performed prior to notice of such suspension. When the Project is resumed, the Architect shall be compensated for expenses incurred in the interruption and resumption of the Architect's services. The Architect's fees for the remaining services and the time schedules shall be equitably adjusted.

§ 9.3 If the Owner suspends the Project for more than 90 cumulative days for reasons other than the fault of the Architect, the Architect may terminate this Agreement by giving not less than seven days' written notice.

§ 9.4 Either party may terminate this Agreement upon not less than seven days' written notice should the other party fail substantially to perform in accordance with the terms of this Agreement through no fault of the party initiating the termination.

§ 9.5 The Owner may terminate this Agreement upon not less than seven days' written notice to the Architect for the Owner's convenience and without cause.

§ 9.6 If the Owner terminates this Agreement for its convenience pursuant to Section 9.5, or the Architect terminates this Agreement pursuant to Section 9.3, the Owner shall compensate the Architect for services performed prior to termination, Reimbursable Expenses incurred, and costs attributable to termination, including the costs attributable to the Architect's termination of consultant agreements.

§ 9.7 In addition to any amounts paid under Section 9.6, if the Owner terminates this Agreement for its convenience pursuant to Section 9.5, or the Architect terminates this Agreement pursuant to Section 9.3, the Owner shall pay to the Architect the following fees:

(Set forth below the amount of any termination or licensing fee, or the method for determining any termination or licensing fee.)

.1 Termination Fee:

5% of total architectural compensation as listed in Article 11, in addition to paying Architect for services rendered up to the Date of Termination.

.2 Licensing Fee if the Owner intends to continue using the Architect's Instruments of Service:
Architect to determine, if required.

§ 9.8 Except as otherwise expressly provided herein, this Agreement shall terminate one year from the date of Substantial Completion.

§ 9.9 The Owner's rights to use the Architect's Instruments of Service in the event of a termination of this Agreement are set forth in Article 7 and Section 9.7.

ARTICLE 10 MISCELLANEOUS PROVISIONS

§ 10.1 This Agreement shall be governed by the law of the place where the Project is located, excluding that jurisdiction's choice of law rules. If the parties have selected arbitration as the method of binding dispute resolution, the Federal Arbitration Act shall govern Section 8.3.

§ 10.2 Terms in this Agreement shall have the same meaning as those in AIA Document A201–2017, General Conditions of the Contract for Construction.

§ 10.3 The Owner and Architect, respectively, bind themselves, their agents, successors, assigns, and legal representatives to this Agreement. Neither the Owner nor the Architect shall assign this Agreement without the written consent of the other, except that the Owner may assign this Agreement to a lender providing financing for the Project if the lender agrees to assume the Owner's rights and obligations under this Agreement, including any payments due to the Architect by the Owner prior to the assignment.

§ 10.4 If the Owner requests the Architect to execute certificates, the proposed language of such certificates shall be submitted to the Architect for review at least 14 days prior to the requested dates of execution. If the Owner requests the Architect to execute consents reasonably required to facilitate assignment to a lender, the Architect shall execute all such consents that are consistent with this Agreement, provided the proposed consent is submitted to the Architect for review at least 14 days prior to execution. The Architect shall not be required to execute certificates or consents that would require knowledge, services, or responsibilities beyond the scope of this Agreement.

§ 10.5 Nothing contained in this Agreement shall create a contractual relationship with, or a cause of action in favor of, a third party against either the Owner or Architect.

§ 10.6 Unless otherwise required in this Agreement, the Architect shall have no responsibility for the discovery, presence, handling, removal or disposal of, or exposure of persons to, hazardous materials or toxic substances in any form at the Project site.

§ 10.7 The Architect shall have the right to include photographic or artistic representations of the design of the Project among the Architect's promotional and professional materials. The Architect shall be given reasonable access to the completed Project to make such representations. However, the Architect's materials shall not include the Owner's confidential or proprietary information if the Owner has previously advised the Architect in writing of the specific information considered by the Owner to be confidential or proprietary. The Owner shall provide professional credit for the Architect in the Owner's promotional materials for the Project. This Section 10.7 shall survive the termination of this Agreement unless the Owner terminates this Agreement for cause pursuant to Section 9.4.

§ 10.8 If the Architect or Owner receives information specifically designated as "confidential" or "business proprietary," the receiving party shall keep such information strictly confidential and shall not disclose it to any other person except as set forth in Section 10.8.1. This Section 10.8 shall survive the termination of this Agreement.

§ 10.8.1 The receiving party may disclose "confidential" or "business proprietary" information after 7 days' notice to the other party, when required by law, arbitrator's order, or court order, including a subpoena or other form of compulsory legal process issued by a court or governmental entity, or to the extent such information is reasonably necessary for the receiving party to defend itself in any dispute. The receiving party may also disclose such information to its employees, consultants, or contractors in order to perform services or work solely and exclusively for the Project, provided those employees, consultants and contractors are subject to the restrictions on the disclosure and use of such information as set forth in this Section 10.8.

§ 10.9 The invalidity of any provision of the Agreement shall not invalidate the Agreement or its remaining provisions. If it is determined that any provision of the Agreement violates any law, or is otherwise invalid or unenforceable, then that provision shall be revised to the extent necessary to make that provision legal and enforceable. In such case the Agreement shall be construed, to the fullest extent permitted by law, to give effect to the parties' intentions and purposes in executing the Agreement.

ARTICLE 11 COMPENSATION

§ 11.1 For the Architect's Basic Services described under Article 3, the Owner shall compensate the Architect as follows:

.1 Stipulated Sum
(Insert amount)

.2 Percentage Basis
(Insert percentage value)

percent (%) of the Owner's budget for the Cost of the Work,
as calculated in accordance with Section 11.6.

.3 Other
(Describe the method of compensation)

Percentage of the actual cost of work based on the attached "FA Schedule of Basic Fee Rates for Group III Projects" See Attachment #1.

§ 11.2 For the Architect's Supplemental Services designated in Section 4.1.1 and for any Sustainability Services required pursuant to Section 4.1.3, the Owner shall compensate the Architect as follows:

(Insert amount of, or basis for, compensation. If necessary, list specific services to which particular methods of compensation apply.)

Not Applicable

§ 11.3 For Additional Services that may arise during the course of the Project, including those under Section 4.2, the Owner shall compensate the Architect as follows:

(Insert amount of, or basis for, compensation.)

Hourly basis. See Section 11.7.

§ 11.4 Compensation for Supplemental and Additional Services of the Architect's consultants when not included in Section 11.2 or 11.3, shall be the amount invoiced to the Architect plus percent

(%), or as follows:

(Insert amount of, or basis for computing, Architect's consultants' compensation for Supplemental or Additional Services.)

§ 11.5 When compensation for Basic Services is based on a stipulated sum or a percentage basis, the proportion of compensation for each phase of services shall be as follows:

Schematic Design Phase	Fifteen percent (	15 %)
Design Development Phase	Fifteen percent (	15 %)
Construction Documents Phase	Fourty percent (	40 %)
Procurement Phase	Five percent (	5 %)
Construction Phase	Twenty Five percent (	25 %)
Total Basic Compensation	one hundred percent	(100%)

§ 11.6 When compensation identified in Section 11.1 is on a percentage basis, progress payments for each phase of Basic Services shall be calculated by multiplying the percentages identified in this Article by the Owner's most recent budget for the Cost of the Work. Compensation paid in previous progress payments shall not be adjusted based on subsequent updates to the Owner's budget for the Cost of the Work.

§ 11.6.1 When compensation is on a percentage basis and any portions of the Project are deleted or otherwise not constructed, compensation for those portions of the Project shall be payable to the extent services are performed on those portions. The Architect shall be entitled to compensation in accordance with this Agreement for all services performed whether or not the Construction Phase is commenced.

§ 11.7 The hourly billing rates for services of the Architect and the Architect's consultants are set forth below. The rates shall be adjusted in accordance with the Architect's and Architect's consultants' normal review practices.
(If applicable, attach an exhibit of hourly billing rates or insert them below.)

Employee or Category	Rate (\$0.00)
Architect	\$190.00
Structural Engineer	\$190.00
Mechanical Engineer	\$190.00
Electrical Engineer	\$190.00

§ 11.8 Compensation for Reimbursable Expenses

§ 11.8.1 Reimbursable Expenses are in addition to compensation for Basic, Supplemental, and Additional Services and include expenses incurred by the Architect and the Architect's consultants directly related to the Project, as follows:

- .1 Transportation and authorized out-of-town travel and subsistence;
- .2 Long distance services, dedicated data and communication services, teleconferences, Project web sites, and extranets;
- .3 Permitting and other fees required by authorities having jurisdiction over the Project;
- .4 Printing, reproductions, plots, and standard form documents;
- .5 Postage, handling, and delivery;
- .6 Expense of overtime work requiring higher than regular rates, if authorized in advance by the Owner;
- .7 Renderings, physical models, mock-ups, professional photography, and presentation materials requested by the Owner or required for the Project;
- .8 If required by the Owner, and with the Owner's prior written approval, the Architect's consultants' expenses of professional liability insurance dedicated exclusively to this Project, or the expense of additional insurance coverage or limits in excess of that normally maintained by the Architect's consultants;
- .9 All taxes levied on professional services and on reimbursable expenses;

- .10 Site office expenses;
- .11 Registration fees and any other fees charged by the Certifying Authority or by other entities as necessary to achieve the Sustainable Objective; and,
- .12 Other similar Project-related expenditures.

§ 11.8.2 For Reimbursable Expenses the compensation shall be the expenses incurred by the Architect and the Architect's consultants plus fifteen percent (15 %) of the expenses incurred.

§ 11.9 Architect's Insurance. If the types and limits of coverage required in Section 2.5 are in addition to the types and limits the Architect normally maintains, the Owner shall pay the Architect for the additional costs incurred by the Architect for the additional coverages as set forth below:

(Insert the additional coverages the Architect is required to obtain in order to satisfy the requirements set forth in Section 2.5, and for which the Owner shall reimburse the Architect.)

§ 11.10 Payments to the Architect

§ 11.10.1 Initial Payments

§ 11.10.1.1 An initial payment of

(N/A) shall be made upon execution of this Agreement and is the minimum payment under this Agreement. It shall be credited to the Owner's account in the final invoice.

§ 11.10.1.2 If a Sustainability Certification is part of the Sustainable Objective, an initial payment to the Architect of

(N/A) shall be made upon execution of this Agreement for registration fees and other fees payable to the Certifying Authority and necessary to achieve the Sustainability Certification. The Architect's payments to the Certifying Authority shall be credited to the Owner's account at the time the expense is incurred.

§ 11.10.2 Progress Payments

§ 11.10.2.1 Unless otherwise agreed, payments for services shall be made monthly in proportion to services performed. Payments are due and payable upon presentation of the Architect's invoice. Amounts unpaid

thirty (30) days after the invoice date shall bear interest at the rate entered below, or in the absence thereof at the legal rate prevailing from time to time at the principal place of business of the Architect.
(Insert rate of monthly or annual interest agreed upon.)

%

§ 11.10.2.2 The Owner shall not withhold amounts from the Architect's compensation to impose a penalty or liquidated damages on the Architect, or to offset sums requested by or paid to contractors for the cost of changes in the Work, unless the Architect agrees or has been found liable for the amounts in a binding dispute resolution proceeding.

§ 11.10.2.3 Records of Reimbursable Expenses, expenses pertaining to Supplemental and Additional Services, and services performed on the basis of hourly rates shall be available to the Owner at mutually convenient times.

ARTICLE 12 SPECIAL TERMS AND CONDITIONS

Special terms and conditions that modify this Agreement are as follows:

(Include other terms and conditions applicable to this Agreement.)

ARTICLE 13 SCOPE OF THE AGREEMENT

§ 13.1 This Agreement represents the entire and integrated agreement between the Owner and the Architect and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both the Owner and Architect.

§ 13.2 This Agreement is comprised of the following documents identified below:

- .1 AIA Document B101™–2017, Standard Form Agreement Between Owner and Architect
- .2 AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, dated as indicated below:

(Insert the date of the E203-2013 incorporated into this agreement.)

- .3 Exhibits:

(Check the appropriate box for any exhibits incorporated into this Agreement.)

☐

AIA Document E204™–2017, Sustainable Projects Exhibit, dated as indicated below:
(Insert the date of the E204-2017 incorporated into this agreement.)

☒

Other Exhibits incorporated into this Agreement:
(Clearly identify any other exhibits incorporated into this Agreement, including any exhibits and scopes of services identified as exhibits in Section 4.1.2.)

Attachment #1: FA Schedule of Basic Fee Rates for Group III Projects

- .4 Other documents:

(List other documents, if any, forming part of the Agreement.)

This Agreement entered into as of the day and year first written above.

OWNER (Signature)

(Printed name and title)



ARCHITECT (Signature)

John S. Godwin, AIA RLA

(Printed name, title, and license number, if required)

Init.



FA Schedule of Basic Fee Rates for Group III Projects

Cost Of The Work	Fee in Percentage	
	A/S/M/E	LA%
Up to \$100,000	11.00%	7.00%
100,001 to 200,000	10.50%	6.30%
200,001 to 300,000	9.50%	5.60%
300,001 to 400,000	9.40%	5.53%
400,001 to 500,000	9.20%	5.46%
500,001 to 600,000	9.00%	5.39%
600,001 to 700,000	8.80%	5.32%
700,001 to 800,000	8.60%	5.25%
800,001 to 900,000	8.40%	5.18%
900,001 to 1,000,000	8.30%	5.11%
1,000,001 to 1,250,000	8.20%	5.04%
1,250,001 to 1,500,000	8.10%	4.97%
1,500,001 to 1,750,000	8.00%	4.90%
1,500,001 to 2,000,000	7.90%	4.83%
2,000,001 to 2,500,000	7.80%	4.76%
2,500,001 to 3,000,000	7.70%	4.69%
3,000,001 to 3,500,000	7.60%	4.62%
3,500,001 to 4,000,000	7.50%	4.55%
4,000,001 to 5,000,000	7.40%	4.48%
5,000,001 to 6,000,000	7.30%	4.41%
6,000,000 to 8,000,000	7.20%	4.34%
8,000,001 to 10,000,000	7.10%	4.27%
10,000,001 to 12,000,000	7.00%	4.20%
12,000,001 to 14,000,000	6.90%	4.13%

A: Architecture
 S: Structural Engineering
 M: Mechanical Engineering (HVAC, Plumbing, Fire Protection)
 E: Electrical Engineering
 LA: Landscape Architecture

Frameworks Architecture

709 Bank Street, Decatur, AL 35601
frameworksarchitecture.com

CITY COUNCIL AGENDA ITEM REPORT

DATE: May 15, 2023

SUBMITTED BY: Jeremy Sherrill, Park and Recreation

ITEM TYPE: Surplus Items

AGENDA SECTION: RESOLUTIONS:

SUBJECT: Resolution No. 23-138: Declare Surplus of Items no longer needed by Parks and Recreation

FINANCIAL IMPACT: NONE

SUGGESTED ACTION:

ATTACHMENTS:

[Res No 23-138 Surplus PR Equipt.pdf](#)

[Surplus Ice Complex and Landscape.xlsx](#)

RESOLUTION NO. 23-138

Declare Surplus Items and Equipment No Longer Needed by Parks and Recreation

BE IT RESOLVED BY THE CITY COUNCIL OF DECATUR, MORGAN COUNTY, IN THE STATE OF ALABAMA,

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

WHEREAS, §11-43-56 of the Alabama Code of 1975 and §2-182 of the Code of Decatur authorizes the governing body to dispose of unneeded personal property,

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Decatur, in the State of Alabama, as follows:

SECTION 1: The attached list of personal property items are hereby declared surplus and no longer needed for municipal purposes: [See attachment]

SECTION 2: The Purchasing Agent is hereby authorized to dispose of said property described in Section 1 in accordance with established policy and thereafter place proceeds of such sale in the General Fund. The City Clerk is hereby authorized to transfer title or ownership.

Approved this 15th day of May, 2023.

<u>New Retail Merchandise</u>	
Assorted long sleeve and short sleeve t-shirts and sweat shirts	
Assorted pairs of socks, gloves, skate laces etc.	
Assorted wraps, shawls scarfs, knit beanies	
Assorted hockey pants, shinguards, practice jerseys, shoulder pads, skate tights	
20 cases non medical face masks	
<u>New Ice Skates</u>	
6 pair assorted figure skates	
1 pair hockey skates	
<u>Used Rental Skates</u>	
Approximately 85 pair children size figure skates	
Approximately 200 pair adult size figure skates	
Approximately 150 pair assorted size adult hockey skates	
<u>Used Fireplace</u>	
2 gas log fireplace	
<u>Used Rink Walls</u>	
NHL size dasher boards and glass	
<u>Used Resurfacing Equipment</u>	
1 electric ice edging machine	
1 gas ice edging machine	
1 1995 Zamboni model 500 (does not run)	
<u>Used Hockey Goals</u>	
4 hockey goals	
1 goal hand truck	
1 youth hockey goal	
<u>Used Lighting</u>	
4 disco style lights with stands	
<u>Used Flooring</u>	
Approximately 3,000 sq. ft. black rubber mats	
<u>Used Equipment</u>	
4 compressors & rack	
<u>Used Equipment</u>	
Motors for subsoil pump system	

<u>Used Equipment</u>	
Dehumidifer system	
<u>Used Equipment</u>	
1 Blade Master 3 station skate sharpener	
<u>Used Equipment</u>	
Approximately 20 metal skate helpers	
<u>Used Broomball Equipment</u>	
Approximately 35 broomball sticks	
Approximately 32 broomball helmets	
<u>Used Equipment</u>	
1 set of soft rink dividers (11 pieces)	
<u>Used Curling Equipment</u>	
32 curling stones	
2 hacks	
6 slider supports	
15 brooms	
<u>Used</u>	
11 picnic tables	
<u>Landscape Equipment</u>	<u>Asset #</u>
1994 Ford Tractor 6640	130
1995 Ford Tractor 3930	450
1998 Vermeer Chipper 1250	206
2000 Goosen Vac Sweeper G-350	
2002 Pull Behind Woods Mower C-114	
2006 Batwing Bushog Mower TD-1100 11'	
2006 Batwing Bushog Mower 2615 Legen 15'	
2006 Batwing Woods Mower 92Q4RD-2 17'	
2013 Rhino Batwing Mower TX1700 17'	
Barreto Trencher 1324-D	

CITY COUNCIL AGENDA ITEM REPORT

DATE: May 15, 2023

SUBMITTED BY: Jason Lake, Park and Recreation

ITEM TYPE: Resolutions

AGENDA SECTION: RESOLUTIONS:

SUBJECT: Resolution No. 23-139: Accept and Approve Mayor to sign
American Cruise Lines' Docking Lease for Tennessee River Sites

FINANCIAL IMPACT: NONE

SUGGESTED ACTION:

ATTACHMENTS:

[Res No 23-139 American_Cruise_Lines_Lease.pdf](#)
[American Cruise Lines, Inc. Docking Lease.pdf](#)

RESOLUTION NO. 23-139

BE IT RESOLVED by the City Council of the City of Decatur, Alabama that the Mayor is authorized on behalf of the City to execute the attached Docking Lease agreement with American Cruise Lines, Inc., a Delaware Corporation

ADOPTED this 15th day of May 2023.

DOCKING LEASE

THIS DOCKING LEASE (the "Docking Lease") is made and entered into as of the _____, 2023, by the City of Decatur, a political subdivision of the State of Alabama ("Lessor"), and American Cruise Lines, Inc., a Delaware corporation ("Lessee" or "ACL").

The following exhibits are attached hereto and incorporated herein by reference:

Exhibit "A" Satellite photo with conceptual boundary of premises

Exhibit "B" Survey and Legal Description

NOW, THEREFORE, in consideration of the agreements, promises and covenants contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Lessor and Lessee hereby agree as follows:

1. **LEASED PREMISES:** Lessee shall lease from Lessor certain docking facilities, upon the terms, covenants and agreements and subject to the conditions set forth herein, with said property being described as a portion of that property located at Rhodes Ferry Park, 100 Market Street NW, Decatur, Alabama 35601, Tennessee River Mile Marker 30534.6142446852804, - 86.9795202273731, (the "Leased Premises" or "Docking Facilities") and as more particularly described and depicted in Exhibit "A" and that certain survey attached as Exhibit "B," together with any and all buildings, docks, docking equipment, barges, gangways, improvements, benefits, rights of way and easements benefiting the Leased Premises now existing and hereafter erected thereon or for the benefit thereof and all rights, privileges and appurtenances belonging thereto. The parties understand and agree that Exhibit "B," which in all respects will be consistent with the intent of Exhibit "A," may or may not be available at the time of the signing of this lease. If it is not available at the signing of this lease, it will be attached through an amendment by the parties.

2. **TERM OF DOCKING LEASE:** The term of this Docking Lease (the "Term") shall be for a period of five (5) years, which shall commence on _____ (the "Commencement Date"), and shall end on the last day of the month following five (5) years after the Commencement Date, unless sooner terminated or extended as herein provided.

3. **OPTIONS TO EXTEND:** Lessor hereby grants to Lessee two (2) separate options to extend the Term for two (2) separate consecutive additional periods (the "Extension Periods") of five (5) years each on the same terms and conditions as are provided herein for the Term. Each option shall be automatically exercised by Lessee unless Lessee shall give notice of its desire to terminate this Docking Lease to Lessor at least six (6) months before the expiration of the Term or any Extension Period then in effect, and upon any such automatic extension, the Extension Period shall become part of the Term.

4. **RENT:** Rent shall be payable in the form of annual docking fees for each vessel utilizing the Docking Facilities, with such payment due on or before January 10th of each subsequent lease year. The annual rental amount shall be \$1.00 per passenger travelling (regardless

of booking numbers) on each vessel that utilizes the Leased Premises, regardless of ownership of such vessel.

5. **USE:** (a) For the purpose of this Docking Lease, Lessee's intended use of the Leased Premises is defined as the operation of the existing docking facilities for the purpose of ensuring suitable docking access for passenger vessels which will allow for the offloading and loading of passengers. Notwithstanding the above, and subject paragraph 6(a), Lessee shall have the sole authority to manage all docking facilities upon the Leased Premises and control any and all docking reservations related thereto. Lessee has the right, but is not obligated, to accept reservations from other vessel operators and to set terms of use and to charge commercially reasonable docking fees associated with such use. Lessee shall make the same per passenger rental payment described in paragraph 5 to Lessor for such other vessel operators.

(b) Lessee's use of the Leased Premises and operation of its business on the Leased Premises shall at all times be in accordance with all applicable laws, rules, regulations, statutes and ordinances.

6. **DOCKING RESERVATIONS:** (a)

Lessee shall have the sole authority to manage control any and all docking reservations for any passenger vessel operator wishing to utilize the Premises, and Lessor agrees to refer all docking reservation requests it receives to ACL ("Scheduling Rights"). Notwithstanding, ACL agrees to recognize and honor any scheduled docking reservations of American Queen Steamboat Operating Company, LLC ("American Queen") at the Premises existing at the Commencement Date. Further, during the original five-year Term, Lessee agrees to accept and to prioritize, including over Lessee's own use of the Premises, any future docking reservations made by American Queen twenty-four (24) months in advance. ACL shall coordinate scheduling directly with any other passenger vessel operator wishing to use the Premises. Subject to American Queen's aforementioned docking rights, Lessor recognizes that ACL has priority docking rights; however, ACL shall not unreasonably withhold any docking reservation from another passenger vessel operator when the Premises is not being utilized by ACL.

(b) On or about November 1 of each Agreement year, Lessee shall submit its proposed docking schedule to Lessor for Lessee's passenger vessels for the following calendar year. Lessee shall notify Lessor of any changes or additions to the docking schedule, including changes or additions to the docking schedule of other vessel operators, as they occur or every three months. ACL has the right to modify the docking schedule due to unforeseen circumstances, including, but not limited to, weather, sea conditions, water levels, equipment failure, or for any other reasons or conditions that may impact ACL's itinerary or the docking of vessels at the Premises.

(c) In the event American Queen terminates its agreement with Lessor, or the agreement otherwise expires, American Queen's priority rights are terminated and any subsequent docking reservation requests from American Queen shall be subject to Lessee's prior docking rights.

7. **QUIET POSSESSION:** (a) Lessor warrants and represents that it has fee simple title to the Leased Premises.

(b) Lessor warrants and represents that there are no laws, endangered species, wetlands, ordinances, governmental rules or regulations, title restrictions, zoning or any other matters whatsoever which will restrict, limit or prevent Lessee's Intended Use of the Leased Premises; and so long as Lessee is not in monetary default hereunder, Lessee shall have quiet and peaceful possession and enjoyment of the Leased Premises and of all easements, rights and appurtenances belonging thereto.

(c) Notwithstanding any other provisions of this Docking Lease to the contrary or any other rights Lessor may have, Lessor covenants and agrees not to encumber the Leased Premises or otherwise alter or permit to the alteration of the status of the title to the Leased Premises such that Lessee's right to use the Leased Premises for Lessee's Intended Use is diminished without Lessee's prior written consent. If Lessor breaches Lessor's covenants as set forth in this paragraph, then Lessee may, in addition to any and all other remedies available at law or in equity, terminate this Docking Lease without owing any liability to Lessor. In the event that Lessor cures such breach within thirty (30) days after written notice from Lessee, then Lessee's termination shall be null and void.

8. **LESSOR'S REPRESENTATIONS:** Lessor hereby covenants, warrants and represents to Lessee that:

(a) Lessor has the sole right, legal power and authority to enter into this Docking Lease.

(b) All requisite municipal actions or any other required action have been taken and satisfied by Lessor to authorize the execution and performance of this Docking Lease. No other proceedings or actions on the part of Lessor are necessary to authorize this Docking Lease or to carry out the transactions contemplated hereby. This Docking Lease constitutes the legal, valid and binding obligation of Lessor enforceable against Lessor in accordance with its terms.

(c) The individual(s) executing this Docking Lease, on behalf of Lessor, has (or have) the full right, legal power and actual authority to bind Lessor to the terms and conditions hereof.

(d) Subject to the agreement between Lessor and American Queen, neither the execution nor the provisions of this Docking Lease violates or breaches or shall violate or breach any term or provision of any agreement, written or oral, between Lessor and any third party, and that if legal proceedings are instituted by any party to prohibit the use, operation or enjoyment of the Leased Premises, or any part thereof, as provided in this Docking Lease, Lessor shall assume the defense of any such legal proceedings and shall indemnify Lessee to the extent allowed by law from and against any and all claims arising from or out of any such legal proceedings and/or the total or partial loss of the use, operation or enjoyment of the Leased Premises.

9. **PERMITS AND APPROVALS:** If Lessee does not receive or is denied or refused any such approval (including, but not limited to building and renovation permits, signage permits, zoning interpretations and confirmations, permits and approvals and all variances, utility

permits, authorizations, or easements necessary for Lessee's Intended Use as described herein (collectively, the "Approvals")) necessary to ensure that Lessee's Intended Use and development of the Leased Premises, as determined in Lessee's sole discretion, or if the necessary Approvals are granted subject to any conditions that Lessee deems will physically or financially impair Lessee's Intended Use and development of the Leased Premises, or if adequate utilities and related facilities, including, without limitation, water, storm water/sewage disposal, telephone service and energy sources, to service the Leased Premises and any improvements thereto for Lessee's Intended Use or easements therefore are not available to the satisfaction of Lessee, then Lessee may terminate this Docking Lease without owing any liability to Lessor by providing written notice to Lessor, and if Lessee has commenced paying Rent, Lessee's obligation to pay Rent shall immediately and automatically terminate, and each party shall be relieved of all further obligations under this Docking Lease.

10. RIGHT TO DESIGN AND BUILD: (a) Subject to the provisions of this Docking Lease and applicable law, Lessee has the right, but is not obligated, to expand and/or renovate, or otherwise improve the existing docking facilities to allow for, or improve, the loading and offloading of passengers from its vessels. Lessee shall have absolute discretion in designing such improvements and selecting a contractor for implementing such improvements to the Docking Facility subject to Lessor's prior approval, with said approval not to be unreasonably withheld. During the Term of this Docking Lease, title to all such improvements constructed by Lessee shall remain in Lessee alone and shall automatically become part of the Leased Premises. Upon the termination or expiration of this Docking Lease, title to all improvements which are abandoned by Lessee (except, without limitation, Lessee's trade fixtures, equipment, furnishings, detachable improvements, merchandise, and/or inventory any or all of which Lessee may remove at its sole option) shall vest in Lessor. Subject to applicable law, Lessee may paint, erect or authorize the installation of signs (which Lessee deems necessary) on the Leased Premises. Lessee shall, at its own expense, make any and all repairs, alterations and improvements deemed necessary by Lessee in compliance with all applicable laws.

(b) All improvements constructed on the Leased Premises by Lessee shall be constructed and maintained in accordance with all applicable laws, rules, regulations, statutes and ordinances and shall be performed by contractors licensed in the State of Alabama, and in good and workmanlike order. Notwithstanding, in the event Lessee determines, in Lessee's sole discretion, that cost for constructing such improvements is prohibitive, then Lessee may terminate the Docking Lease, and if Lessee has commenced paying Rent, Lessee's obligation to pay Rent shall immediately and automatically terminate, and each party shall be relieved of all further obligations under this Docking Lease.

(c) Lessee shall be responsible for all utility costs associated with its use of the Leased Premises during the Term or any Extension Period.

(d) In addition to the improvements Lessee may, but is not required to, construct, Lessee shall make a one-time capital investment in the amount of Thirty Thousand Dollars and 00/100 (\$30,000) for cosmetic enhancement of the existing docking facilities. Said investment may be made to Lessor for Lessor's use in enhancing the existing facilities, or, at Lessor's option, be retained and used by Lessee, in which case Lessee shall be responsible for managing and

overseeing the enhancement work. In any event, no work shall be performed hereunder until both Lessor and Lessee agree to the scope of the work.

11. LESSOR'S MAINTENANCE AND OPERATION OF THE LEASED PREMISES:

Subject to paragraph 6(a), Lessee shall have exclusive authority for managing docking reservations as set forth in Article 6 and enjoy all rights of use of the Leased Premises as set forth in this Agreement in carrying out its Intended Use of the property. Notwithstanding Lessee's Scheduling Rights, Lessee's lease is non-exclusive as Lessor intends the Leased Premises to be enjoyed by the public at large. Accordingly, Lessor shall be responsible for maintaining the Leased Premises in a good, safe, and workmanlike manner and agrees to make any and all repairs to the Leased Premises necessary for Lessee's Intended Use as well as for the public's enjoyment as permitted by Lessor. Lessor shall immediately repair and/or remediate any deficient or deteriorated condition in the Leased Premises within 24 hours of notice of the same. Furthermore, Lessor shall monitor, control, and supervise the public's access to the Leased Premises such that the public's use of the Leased Premises is done in a safe and responsible manner and that it does not interfere with Lessee's Intended Use of the Leased Premises. As a part of Lessor's responsibility, Lessor shall set forth hours of operation during which time the public may safely access the Leased Premises. Lessor shall bear all responsibility for insuring against the risk of loss associated with the public's use of the Leased Premises.

12. LESSOR'S USE AND MAINTENANCE OF ADJACENT PROPERTY:

Lessor, as owner of the property adjacent to the Leased Premises ("Adjacent Property"), shall use its best efforts to use and maintain the Adjacent Property in a manner that promotes Lessee's Intended Use of the Leased Premises. Lessor's maintenance responsibilities include, but are not limited to, maintaining the sidewalks and parking areas around the Leased Premises in a clean and well-light manner and providing for immediate repairs and/or remediation to any part of the Adjacent Property requiring them. Lessor shall bear all attendant costs including, but not limited to all utility expenses incurred for the maintenance and/or use of the Adjacent Property; snow, trash, rubbish, garbage, and other refuse and debris removal; licenses, permits, and other governmental fees and charges for operating the Adjacent Property, if any; signage; painting and striping, and landscaping services and supplies. Notwithstanding the above, Lessor shall remain responsible for paying any and all property taxes for the Leased Premises which are required to be paid by public or quasi-governmental bodies, if any. Lessor shall provide adequate space, at a location mutually agreeable to Lessor and Lessee, for a dumpster for Lessee's use. Lessor grants Lessee an irrevocable license on and across the Adjacent Property during the Term or any subsequent Extension Periods for access to sidewalks, parking lots, and parking spaces. The Adjacent Property may be utilized by Lessee for onshore passenger excursions in and around Decatur, Alabama local attractions. Lessee shall facilitate transportation for its passengers for such excursions.

13. DEFAULT BY LESSEE: (a) If Lessee defaults in the payment when due of Rent, then Lessor shall provide written notice of such default to Lessee, and the failure of Lessee to cure such default within ninety (90) days after the date of receipt of such notice shall at the option of Lessor be grounds for termination of this Docking Lease. In the event of default by

Lessee pursuant to 13(a), and in the event such default is not cured, Lessor shall have the right to terminate this Docking Lease and all rights of Lessee hereunder by giving written notice to Lessee of its election to do so. If Lessor elects to terminate this Docking Lease, then it may recover from Lessee as its sole measure of damages:

(i) The unpaid Rent payable hereunder which had accrued as of the date of such termination; plus,

(ii) The Rent Lessor would be entitled to receive from Lessee for the remaining calendar year of termination had the Docking Lease not been terminated based off of an average of the previous three (3) years' Rent.

(b) If Lessee is in default in the performance of any other terms or provisions of this Docking Lease, and if Lessee fails to cure such default within ninety (90) days after receipt of written notice of such default, or if the default is of such a character as to require more than ninety (90) days to cure and if Lessee fails to use reasonable diligence in curing such default, then Lessor may cure such default for the account of and at the cost and expense of Lessee and the sums so expended by Lessor shall be deemed to be Rent and on demand shall be paid by Lessee on the day when Rent next becomes due and payable.

14. DEFAULT BY LESSOR: If Lessor fails to perform any work, covenant, or agreement required of it under any of the provisions of this Docking Lease or any agreement affecting the Leased Premises, then Lessee, after the continuance of any such failure or default for thirty (30) days after written notice thereof is given by Lessee to Lessor, may elect to cure such defaults on behalf of and at the expense of Lessor and do all necessary work and make all necessary payments in connection therewith. This shall include, without limitation, the payment of any attorney's fees, and costs and charges of or in connection with any legal action which may be brought by Lessee, and Lessee may further take such other proceedings at law or in equity (including injunctive relief) as Lessee deems necessary, notwithstanding any other remedy provided herein. Notwithstanding anything contained herein to the contrary, Lessor agrees to pay to Lessee any amount so paid by Lessee under this Section, and agrees that Lessee may withhold any and all Rent due and becoming due after the expiration of the aforesaid notice period to Lessor pursuant to the provisions of this Docking Lease and may apply the same to the payment of such indebtedness of Lessor until such indebtedness is fully paid or until Lessor's default is cured. Nothing contained herein shall preclude Lessee from proceeding to collect the amount so paid by it, as aforesaid, without waiting for Rent offsets to accrue. In addition, nothing shall require Lessee to wait the above timeframes in order to cure a default of Lessor in an emergency situation. If at the expiration of the Term or any Extension Period, there shall be any sums owing by Lessor to Lessee, then this Docking Lease may, at the election of Lessee, be extended and continued in full force and effect until the last day of the month following the date when the indebtedness of Lessor to Lessee shall have been fully paid. If any alleged non-monetary default by Lessor is of such a nature that it cannot be completely remedied or cured within the thirty (30) day period above provided, then notwithstanding the provisions of this Section to the contrary, Lessee shall not have a right to enforce any of the remedies herein set forth if Lessor commences curing such default within such thirty (30) day period and shall proceed with diligence in good faith to complete the curing thereof.

15. **FORCE MAJEURE:** Lessee shall be entitled to suspend its operations or terminate this agreement in the event a Force Majeure occurrence makes Lessee's performance of its rights, duties, and/or obligations under this Lease economically impracticable, as determined in Lessee's sole discretion. Such Force Majeure events shall include, but are not limited to, acts of God; war; invasion; hostilities; rebellion; strikes; lockouts; fire; flood; hurricanes; epidemics; pandemics; outbreak; earthquake; explosion; decision of any court or other judicial body; unavailability of materials; labor shortages; volatile market conditions; transportation; satellite failure; acts of governments; defaults of third parties; or any other causes beyond the Lessee's control. In the event of Lessee's suspension of operations or termination of this agreement pursuant to this provision, Lessee shall only be entitled to pay a prorated amount of Rent calculated up and through the date of Lessee's notice of suspension or termination. In the event of suspension, Lessee's Rent obligation shall resume when Lessee resumes use of the Leased Premise as determined by Lessee in its sole discretion.

16. **INSURANCE:** Each party will obtain and maintain, at its sole cost and expense at a minimum: (a) general liability insurance in an amount not less than \$1,000,000 per occurrence and \$2,000,000 annual aggregate; (b) comprehensive automobile liability insurance with limits of at least \$1,000,000.00 per accident including coverage for liability arising out of all owned, leased, hired, and non-owned automobiles; and (c) a commercial umbrella insurance policy with limits of at least \$5,000,000.00. Each party shall have the other party named as an additional insured on each of its liability insurance policies. Additionally, Lessor shall maintain property insurance that fully insures the Leased Premises and any improvements thereon.

17. **WAIVER AND SUBROGATION:** Lessor and Lessee mutually waive all rights of subrogation against each other. Lessor and Lessee shall obtain from their respective insurers endorsements whereby the insurers agree to waive any right of subrogation against Lessor or Lessee, as the case may be, in connection with fire or other risks or casualties covered by said insurance. Lessor agrees that it shall make no claim nor authorize any claim to be made against Lessee, its employees, servants or agents in connection with any fire, explosion, or other casualty damaging improvements to the Leased Premises, or for any other casualty covered by either party's insurance. Lessee agrees that it shall make no claim nor authorize any claim to be made against Lessor, its employees, servants or agents in connection with any fire, explosion or other casualty damaging the Leased Premises, or for any other casualty covered by either party's insurance.

18. **INDEMNITY:** (a) To the fullest extent allowed by law, Lessee agrees to indemnify, defend, and hold harmless Lessor and its respective owners, officers, agents, employees, insurers and sureties, (collectively, "Lessor Indemnitees"), from any and all claims, allegations, legal proceedings, damages, costs, actual attorneys' fees, losses or liability, in law or in equity, of every kind attributable to bodily injury, sickness, disease, or death, or to damage to or destruction of property, including loss of use thereof, arising out of or related to, in whole or in part, an act or omission by Lessee in connection with this Docking Lease.

(b) To the fullest extent allowed by law, Lessor agrees to indemnify, defend, and hold harmless Lessee and its respective owners, officers, agents, employees, insurers and sureties, (collectively, "Lessee Indemnitees"), from any and all claims, allegations, legal proceedings,

damages, costs, actual attorneys' fees, losses or liability, in law or in equity, of every kind attributable to bodily injury, sickness, disease, or death, or to damage to or destruction of property, including loss of use thereof, arising out of or related to, in whole or in part, an act or omission by Lessor in connection with this Docking Lease.

(c) To the extent there is a duty to defend as set forth above, the party providing the defense shall obtain the other party's prior written consent to the attorney being engaged.

19. HAZARDOUS SUBSTANCES: (a) As used herein, the term "Hazardous Substances" shall mean, without limitation, any substance that is biologically or chemically active or any hazardous, toxic, or dangerous waste, substance (including, but not limited to, asbestos, lead based paint, radon, PCBs or petroleum derivative substances), or material defined as such in (or for purposes of) (i) any state, federal or local environmental laws, interpretive letters, regulations, decrees or ordinances, (ii) the Comprehensive Environmental Response, Compensation and Liability Act, as amended, (iii) the Resource Conservation and Recovery Act, (iv) any of the so-called state or local "Super Fund", "Super Lien" or "Cleanup Lien" laws or (v) any other federal, state or local statute, law, ordinance, code, rule, interpretive letter, regulation, order or decree regulating, relating to or imposing liability or standards of conduct concerning any such substances or materials or any amendments or successor statutes with respect to any of the foregoing.

(b) To the extent allowed by law, Lessor shall indemnify, save, defend, and hold Lessee harmless from and against any and all costs (including, without limitation, court costs and attorneys' fees), expenses, and damages arising out of any claim for any loss or damage to property, injuries to or death of persons, any contamination of or adverse effects on the environment or any violation of any environmental or other law, caused by or resulting from any hazardous waste, Hazardous Substance or any leakage or contamination from underground tanks on, around, or under the Leased Premises that were present prior to the Commencement Date of this Docking Lease or which do not result from Lessee's operations on the Leased Premises. This indemnification precedes, is concurrent with, and survives the expiration or termination of this Docking Lease in all respects. Notwithstanding anything contained herein to the contrary, Lessor hereby agrees that under no circumstances whatsoever, by statute or otherwise, shall Lessee be held liable as an owner of any Hazardous Substance.

(c) Furthermore, Lessor represents and warrants to Lessee that Lessor has no actual or constructive knowledge of: (1) the presence of any Hazardous Substances on, around, under or within the Leased Premises; (2) any spills, releases, discharges or disposals of Hazardous Substances that have occurred or are presently occurring on, around, under, or onto the Leased Premises; (3) any spills or disposal of Hazardous Substances that have occurred or are occurring adjacent to the Leased Premises as a result of any construction on or operation and use of the Leased Premises or the Lessor's surrounding property; (4) any failure to comply with any or all applicable local, state and federal environmental laws, regulations, ordinances, interpretive letters, and administrative and judicial orders relating to the generation, recycling, reuse, sale, storage, handling, transport and disposal of any Hazardous Substances on the Leased Premises or any property located adjacent thereto; or (5) the presence of any underground storage tanks, septic tanks, water wells or monitoring wells now or in the past on, around, or under the Leased Premises.

20. **CONDEMNATION:** If the whole of the Leased Premises shall be taken or appropriated under any right of eminent domain or under any other legal right whereby the taking authority is obligated to compensate Lessor therefor, then Lessee may terminate and cancel this Docking Lease without owing any liability to Lessor to be effective as of the date on which the condemning authority takes physical possession upon giving to Lessor written notice of such election to terminate and cancel. Lessor agrees to give Lessee written notice after any notice of intended or actual taking or appropriation is received, providing to Lessee full details of such taking or appropriation, including, without limitation, copies of all condemnation plans or surveys submitted by the condemning authority and such other information as might be necessary to enable Lessee to determine its future course of conduct. If this Docking Lease is terminated and canceled as a result of any taking or appropriation, Lessee shall be released from any further liability and Rent shall be prorated and Lessor shall refund to Lessee any sums paid in advance. At the time of such taking or appropriation, the amount of the award attributable to Lessee's improvements shall be payable to Lessee out of any award. Lessee's right to receive compensation for loss of business, moving or similar expenses, or damages for its fixtures and its personal property shall not be affected in any manner whatsoever by this provision of this Docking Lease. In addition, Lessor shall not agree to any award affecting the Leased Premises without the prior written consent of Lessee, which shall not be unreasonably withheld.

If part of the Leased Premises shall be acquired or condemned by use of the power of eminent domain or if access to any street is blocked or restricted by governmental action or requirement and if such partial taking or loss or restriction of access shall render the Leased Premises unusable for the business of Lessee, in its sole and absolute opinion, or if such taking involves a taking of Lessee's improvements, then Lessee, at its option, may terminate this Docking Lease without owing any liability to Lessor to be effective as of the date title is vested in the public body, or the date the access is blocked or restricted and the rights of Lessor and Lessee shall be as set forth above for the taking of the whole. If such partial taking is not sufficiently extensive to render the Leased Premises unusable for the business of Lessee in the sole and absolute opinion of Lessee, Rent shall be prorated and adjusted based on the percentage of such partial taking relative to the original size of the Leased Premises.

21. **ASSIGNMENT:** Lessee may transfer or assign this Docking Lease.

22. **TRANSFER OF TITLE AND RIGHT OF FIRST REFUSAL:** If there is any change in or transfer of title in or to the Leased Premises or any part thereof, Lessee shall continue to make all payments to Lessor, without owing any liability to any other party whatsoever, unless notified in writing by Lessor of such change in title which shall accompany satisfactory proof and given at least ten (10) days before the next such payment is due. Thereafter, Lessee shall submit such payment to the party properly entitled to receive it, without owing any liability to any other party. If the Lessor desires to sell the Leased Premises, Lessee shall have a right of first refusal to purchase the Leased Premises at agreed upon terms. Further, Lessor agrees to deliver to Lessee an agreement signed by any party or parties who may purchase or succeed to all or any part of Lessor's interest in the Leased Premises, which agreement shall formally recognize the obligations of such party or parties as purchasers from and successors to Lessor and the assumption by such.

23. **GENERAL PROVISIONS:** (a) This Docking Lease (and the documents referred to herein) constitutes the entire agreement between the parties pertaining to the subject matter contained herein and supersedes all prior and contemporaneous agreements, representations and understandings, oral or otherwise, between or among the parties with respect to the matters contained herein.

(b) This Docking Lease shall be binding upon, and inure to the benefit of, the parties hereto and their respective heirs, legatees, distributees, legal representatives, successors and assigns.

(c) This Docking Lease shall not be modified, amended or supplemented, in whole or part, without the prior written consent of the parties hereto. Each and every waiver of any covenant, representation, warranty or any other provision hereof must be in writing and signed by each party whose interests are adversely affected by such waiver. No waiver granted in any one instance shall be construed as a continuing waiver applicable in any other instance.

(d) If any legal action or other proceeding is brought for the enforcement hereof, or because of an alleged dispute, breach, default or misrepresentation in connection with any provisions hereof, the successful or prevailing party or parties shall be entitled to recover attorneys' fees, court costs and all expenses even if not taxable as court costs (including, without limitation, all such fees, costs and expenses incident to appeals), incurred in that action or proceeding, in addition to any other relief to which such party or parties may be entitled. "Prevailing Party" shall mean (a) a party who, after set offs, recovers more than 50% of the amount claimed against the other party, or (b) a party against whom, after set offs, the other party receives less than 50% of the amount claimed by that other party. This attorneys' fees provision shall not apply in cases where there is a mutual settlement of claims between the parties.

(e) The parties hereby agree that each party and its attorneys have reviewed and revised this Docking Lease and that the normal rule of construction, to the effect that any ambiguities are resolved against the drafting party, shall not be employed in the interpretation of this Docking Lease and no other rule of strict construction shall be used against any party. All exhibits and schedules attached or to be attached hereto, and all other agreements and instruments referred to herein, are hereby incorporated herein by reference, as fully as if copied herein verbatim.

(f) The parties further agree that upon request, they shall do such further acts and deeds, and shall execute, acknowledge, deliver and record such other documents and instruments, as may be reasonably necessary from time to time to evidence, confirm or carry out the intent and purposes of this Docking Lease.

(g) If any one or more of the provisions hereof shall for any reason be held invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect the validity or enforceability of any other provision hereof, which shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein. The parties intend that if any provision hereof is capable of two constructions, one of which would render the provision void and the other of which would render the provision valid, then the provision shall have the meaning which renders it valid.

(h) This Docking Lease may be executed simultaneously in one or more counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one in the same instrument, and it shall not be necessary that any single counterpart bear the signatures of all parties.

(i) Nothing contained in this Docking Lease shall be deemed or construed by the parties hereto or by any third party to create the relationship of principal and agent or of partnership or of joint venture or of any association between Lessor and Lessee, and no provision contained in this Docking Lease nor any acts of the parties hereto shall be deemed to create any relationship between Lessor and Lessee other than the relationship of Lessor and Lessee.

(j) It is expressly agreed between the parties that in the unlikely event of a dispute of any nature relating to this contract arising between them, that it will be submitted to the American Arbitration Association for binding arbitration, under the Construction Industry Rules or the Commercial Arbitration Rules, whichever may be applicable, and the decision of the arbitrator may be enforced in any court of law having competent jurisdiction. As condition precedent to arbitration, the parties shall endeavor to resolve their claims by mediation. The parties expressly agree that the venue for mediation, arbitration, or any other type of action to enforce the terms of this Agreement shall be Decatur, Alabama unless otherwise agreed to by the parties in writing.

IN WITNESS WHEREOF, the parties hereto have executed this Docking Lease as of the day and year first above written.

LESSOR:

**CITY OF DECATUR, a political
subdivision of the State of ALABAMA**

By: _____

Its: _____

LESSEE:

**AMERICAN CRUISE LINES, INC., a
Delaware corporation**

By: _____

Its: _____

EXHIBIT "A"
DEPICTION OF PREMISES



EXHIBIT A - DECATUR, AL

05/04/2023



EXHIBIT "B"

SURVEY AND LEGAL DESCRIPTION

Leased Premises:



CITY COUNCIL AGENDA ITEM REPORT

DATE: May 15, 2023

SUBMITTED BY: Kyle Demeester, Youth Services

ITEM TYPE: Agreement - Financial

AGENDA SECTION: RESOLUTIONS:

SUBJECT: Resolution No. 23-141: Approve DYS Lease Agreement for Facilities - Relocation of Aquadome Staff

FINANCIAL IMPACT: Unassigned Fund Balance

SUGGESTED ACTION:

ATTACHMENTS:
[Res No 23-141 Youth_Services_Aquadome_Relocation-1.pdf](#)
[1502 Central Parkway Lease Unit A City of Decatur - Youth Services v1.doc](#)
[1502 Central Pkwy floor plan Unit A Layout.pdf](#)

RESOLUTION NO. 23-141

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF DECATUR, ALABAMA that the Mayor is hereby authorized on behalf of the City to execute the attached Commercial Lease with Investment Groups to rent space for a Decatur Youth Services facility; BE IT FURTHER RESOLVED that a budget amendment for the expenditure of funds for the relocation of Decatur Youth Services from Aquadome to mentioned new facility. Total project cost is \$31,000. Breakdown of associated costs are the following:

Lease Payments (FY23 - 4 Months at \$2,255)	\$9,020
Building Renovations	\$5,000
Architect Fire/Safety Plan	\$2,500
HVAC/Electrical	\$6,000
Work Release Labor – Move/Renovations	\$1,980
Information Technology Resources	\$6,500

Funding shall be made available from the Unassigned Fund Balance.

ADOPTED this ____ day of May, 2023.

COMMERCIAL LEASE AND RENT RECEIPT

THIS LEASE, entered into on this the _____ of **May, 2022**, by and between **Investment Groups Inc.**, hereinafter referred to as Lessor, and **City of Decatur - Youth Services.**, hereinafter referred to as Lessee.

RECEIVED FROM **City of Decatur - Youth Services**, LESSEE, the sum of \$2,255.00.00 dollars evidenced by check # _____, or cash in the amount of: \$2,255.00 (two-thousand, two-hundred and fifty-five and no/100s dollars) as rent and which shall belong to Lessor and shall be applied as follows:

	Total Received	Payable Prior To Occupancy
Rent for the period from 6-1-23 to 6-30-23	\$ _____	\$ 2,255.00
TOTAL	\$ _____	\$ 2,255.00

In the event this Lease is not accepted by the Lessor **within 15 days**, the total advanced payments will be refunded.

Lessee offers to lease from Lessor the premises situated in the City of Decatur, County of Morgan, State of Alabama, described as 1502 Central Parkway (Unit A- only), Decatur, AL 35601 upon the following terms and conditions:

1. **TERM:** The lease term will commence on 6-1-23 and end on 1-1-25.
2. **RENT:** The total rent will be \$40,590.00 (forty thousand, five hundred and ninety and no/100s dollars), payable as follows: eighteen (18) monthly payments of \$2,255.00 per month. All rents are due and payable on or before the first day of each month and shall be paid to Lessor or his authorized agent, at the following address: 2934 Legacy Dr. SW, Decatur, AL 35603 or at such other places as may be designated by Lessor from time to time. Rent shall be prorated for any partial month.
3. **PREMISES:** The entire building consists of 3 rentable units: Units A, B, & C. The premises being leased by Lessee is Unit A (see Exhibit "A") and no other unit.
4. **EARLY ENTRY:** After lease has been fully executed and one month's rent (in advance) has been received, Lessee shall be permitted access to the Premises prior to the rental commencement date for the purposes of installing fixtures or for any other purpose permitted by Lessor. Such early entry will be at Lessee's sole risk and subject to all the terms and provisions of this Lease as though the rental commencement date had occurred, except for the payment of rent which shall commence on the above rental commencement date. It being specifically agreed and understood that Lessee shall pay for all charges for temporary water, heating, cooling, and lighting for the Premises from the date upon which Lessee commences to perform any work in the Premises until the rental commencement date. Lessor shall have the right to impose such additional conditions on Lessee's early entry as Lessor, in its sole discretion deems appropriate.
5. **USE:** The premises are to be used for the operation of youth services facility and a boxing arena and for no other purpose, without prior written consent of Lessor.

Lessee will not commit any waste upon the premises, or any nuisance or act which may disturb the quiet enjoyment of any other Lessee in the building.

6. **USES PROHIBITED:** Lessee shall not use any portion of the premises for purposes other than those specified hereinabove, and no use shall be made or permitted to be made upon the premises, nor acts done, which will increase the existing rate of insurance upon the property, or cause cancellation of insurance policies covering the property. Lessee will not conduct or permit any sale by auction on the premises.
7. **ASSIGNMENT AND SUBLETTING:** Lessee will not assign this lease or sublet any portion of the premises without prior written consent of the Lessor, which will not be unreasonably withheld. Any such assignment or subletting without consent will be void and, at the option of the Lessor, will terminate this Lease.
8. **ORDINANCES AND STATUTES:** Lessee will, at Lessee's expense, obtain all necessary licenses to operate legally within the State of Alabama and the City of Decatur. Lessee will comply with all statutes, ordinances, and requirements of all municipal, state and federal authorities now in force, or which may later be in force, regarding the use of the premises. The commencement or pendency of any state or federal court abatement proceeding affecting the use of the premises will, at the option of the Lessor, be deemed a breach of this Lease.
9. **MAINTENANCE, REPAIRS, ALTERATIONS: MAINTENANCE, REPAIRS, ALTERATIONS, AND REPLACEMENT:** Unless otherwise indicated, Lessee acknowledges that the demised Premises are in good order and repair and that Lessee is leasing the Premises in "As Is" condition. Lessee shall keep and maintain in good order, condition and repair as may be required by the rules, regulations and ordinance as the governmental authority having jurisdiction thereof, (including any such replacement and restoration as is required for that purpose) the Premises and every part thereof and any and all appurtenances thereto wherever located. Lessee shall, at his\her own expense and at all times, maintain the interior of the demised premises in a good and safe condition, including; but not limited to, lighting pilot lights, changing all air filters on all heating and air conditioning equipment on a **monthly** basis with an annual inspection of all units, plate glass and broken windows (whether broken from the interior or the exterior), and interior wiring extending to and including the main circuit breaker panels, telephone systems, smoke detectors, carbon monoxide detectors, security and surveillance systems, buying and installing smoke and carbon monoxide detector batteries and monthly tests, fire suppression system, fire suppression systems, fire extinguishers (including installation, recharging and annual inspections), inspections, exit lights (batteries and bulbs), computer systems, phone systems, internet, Ethernet, television & cable services, fax machines, alarm systems, business licenses, permits, business taxes, trash and refuse removal, insect and vermin control, fire suppression system Lessee's business personal property taxes, and any other systems, equipment, or services delivered to the demised Premises for use by Lessee. **Lesssor** will be responsible for cost of repairing and/or replacing all non-working heating and air conditioning units.

Lessee shall also pay for all cleaning, janitorial duties, trash removal, and care of his\her unit. Lessee shall be responsible for those plumbing repairs that are due to the negligence or alleged negligence including un-stopping any toilets or sinks caused by the negligence or alleged negligence of Lessee's employees, agents, or

invitees which shall have allegedly caused the same. **Lessor** will be responsible for fixing the out of order toilet. **Lessor** will also be responsible for repairing and replacing all plumbing fixtures, water pipes, plumbing lines, subterranean water lines and pipes, and drains, that do not function as intended due to mechanical failure, defects in the original installation, damages due to fire and other casualty, or tree roots. The demised Premises will be surrendered, at termination of the Lease, in as a good condition as received, normal wear and tear accepted.

Lessee has permission to paint the walls. The exact color must be approved by Lessor before painting begins. Lessee shall **not** be allowed permission to paint any portion of the ceiling. Exterior Painting is expressly prohibit. No improvement (including but not limited to paint and wallpaper) or alteration of the demised Premises will be made without prior written consent of the Lessor. Prior to the commencement of any substantial repair, improvement, or alteration, Lessee will give Lessor at least **seven (7) days written notice** in order that Lessor may post appropriate notices to avoid any liability for liens. Lessee shall provide for inspection, maintenance and replacement of the heating and air conditioning systems. Lessee will be responsible for replacing the heating and air conditioning air filters once per month. Upon Lessor's request, Lessee shall provide Lessor with copies of such inspection and maintenance reports. Structural changes, exterior alterations or additions to the Demised Premises may be made only with Lessor's written consent. Lessee shall surrender the same, at termination hereof, in as good condition as received, normal wear and tear accepted.

Lessor to be responsible for the required repairs to the exterior or the building including the roof, exterior walls (but not plate glass or broken windows), and structural foundations. Lessee shall surrender the same, at termination hereof, in as good condition as received, normal wear and tear excepted.

10. **IMPROVEMENTS:** Lessor will allow Lessee, at Lessee's expense, to paint the interior Paint the interior of premises a light gray color. At the end of said lease, all improvements made by Lessee shall remain with the building and shall become the property of aid improvements shall become the property of Lessor.

No other improvement or alteration of the premises will be made without the prior written consent of the Lessor. Prior to the commencement of any substantial repair, improvement, or alteration, Lessee will give Lessor at least **two (2) days written notice** in order that Lessor may post appropriate notices to avoid any liability for liens.

11. **ENTRY AND INSPECTION:** Lessee will permit Lessor or Lessor's agents to enter the premises at reasonable times and upon reasonable notice for the purpose of inspecting the premises, and will permit Lessor, at any time **within (60) days** prior to the expiration of this Lease, to place upon the premises any usual "For Lease" or "For Sale" signs, and permit persons desiring to lease the premises to inspect the premises at reasonable times.
12. **INDEMNIFICATION OF LESSOR:** Lessor will not be liable for any damage or injury to Lessee, or any other person, or to any property, occurring on the premises. Lessee agrees to hold Lessor harmless from any claims for damages arising out of Lessee's use of the premises, and to indemnify Lessor for any expense incurred by Lessor in defending any such claims.

13. **POSSESSION:** If Lessor is unable to deliver possession of the premises at the commencement date set forth above, Lessor will not be liable for any damage caused by the delay, nor will this Lease be void or voidable, but Lessee will not be liable for any rent until possession is delivered. Lessee may terminate this Lease if possession is not delivered **within 15 days** of the commencement term in Item 1.
14. **LESSEE'S INSURANCE:** Lessee shall obtain and maintain during the term of this Lease comprehensive, "all risk" general liability coverage for bodily injury and property damage insuring against any and all liability to Lessee and Lessor arising out of the maintenance, and occupancy of the Leased Premises with aggregate liability limits of not less than \$1,000,000.00 for injuries to or death of persons in any one occurrence and of not less than \$500,000.00 for damage to property. Lessee shall additionally maintain in full force and effect during the Term full replacement cost fire and extended coverage insurance insuring Lessee's furniture, furnishings, equipment and other personal property in and about the Leased Premises. In addition to the foregoing, at all times during the term of this Lease, Lessee shall, at its sole expense, procure and maintain insurance on all plate or tempered glass in or enclosing the Leased Premises, for the replacement costs of such glass and workers' compensation insurance as required by applicable law. Lessor and Lessor's agents shall be named insured on all such policies, and all such policies shall provide that they cannot be canceled or modified without first having given Lessor fifteen (15) days written notice thereof. All policies of liability insurance specified in this Lease shall specifically insure Lessee's performance of the indemnity agreements contained in this Lease. Further, Lessee shall give notice to its insurance carrier or carriers of coverage herein required, and any waivers of liability and indemnity agreements contained in this Lease and shall provide Lessor with a certificate of insurance reflecting the coverage obtained. A similar certificate in form acceptable to Lessor renewing coverage for at least one (1) year shall be delivered to Lessor not later than thirty (30) days prior to the expiration date of such policies.
15. **LESSOR'S INSURANCE:** Lessor will maintain hazard insurance covering a minimum of eighty percent (80%) of the actual cash value of the improvements throughout the Lease term. Lessor's insurance **will not** insure Lessee's personal property, leasehold improvements, or trade fixtures.
16. **SUBROGATION:** To the maximum extent permitted by insurance policies which may be owned by the parties, Lessor and Lessee waive any and all rights of subrogation which might otherwise exist.
17. **UTILITIES:** Lessee agrees that he or she will be responsible for the payment of all utilities, including but not limited to: water, gas, sewer, and taxes upon said utilities, electricity, heat, telephone, computer, and other services (including, but not limited to: security, janitorial, and pest control) and any other services delivered to the premises and/or not herein numerated for use by the Lessee.
18. **SIGNS:** Lessee will not place, maintain, nor permit any sign or awning on any exterior door, wall, or window of the premises without the express written consent of Lessor, which will not be unreasonably withheld, and Lessee will pay all expenses necessary to erect any permissible signs and to obtain approval of appropriate governmental authorities.
19. **COMMON AREAS:** The breakroom/kitchenette area highlighted in pink (Exhibit "A") shall be shared, along with cleaning expenses) between Units A & B.

20. **ABANDONMENT OF PREMISES:** Lessee will not vacate or abandon the premises at any time during the term of this Lease. If Lessee does abandon or vacate the premises, or is dispossessed by process of law, or otherwise, any personal property belonging to Lessee left on the premises will be deemed to be abandoned, at the option of the Lessor.
21. **CONDEMNATION:** If any part of the premises is condemned for public use, and a part remains which is susceptible of occupation by Lessee, this Lease will, as to the part taken, terminate as of the date the condemnor acquires possession. Lessee will be required to pay such proportion of the rent for the remaining term as the value of the premises remaining bears to the total value of the premises at the date of condemnation; provided, however, that Lessor may at his/her option, terminate this Lease as of the date the condemnor acquires possession. In the event that the premises are condemned in whole, or the remainder is not susceptible for use by the Lessee, this Lease will terminate upon the date which the condemnor acquires possession. All sums which may be payable on account of any condemnation will belong solely to the Lessor; except that Lessee will be entitled to retain any amount awarded to him/her for his/her trade fixtures or moving expenses.
22. **TRADE FIXTURES:** Any and all improvements made to the premises during the term will belong to the Lessor, except trade fixtures of the Lessee. Lessee may, upon termination, remove all his/her trade fixtures, but will pay for all costs necessary to repair any damage to the premises occasioned by the removal.
23. **DESTRUCTION OF PREMISES:** In the event of a partial destruction of the premises during the term, from any cause, Lessor will promptly repair the premises, provided that such repairs can be reasonably made **within sixty (60) days**. Such partial destruction will not terminate this Lease, except that Lessee will be entitled to a proportionate reduction of rent while such repairs are being made, based upon the extent to which the making of such repairs interferes with the business of Lessee on the premises. If the repairs cannot be made **within sixty (60) days**, this Lease may be terminated at the option of either party by giving written notice to the other party **within the sixty (60) day period**.
24. **HAZARDOUS MATERIALS:** Lessee will not use, store, or dispose of any hazardous substances upon the premises, except the use and storage of such substances that are customarily used in Lessee's business, and are in compliance with all environmental laws. Hazardous substances means any hazardous waste, substance or toxic materials regulated under any environmental laws or regulations applicable to the property. Lessee will be responsible for the cost of removal of any toxic contamination caused by lessee's use of the premises.
25. **INSOLVENCY:** The appointment of a receiver, an assignment for the benefits of creditors, or the filing of a petition in bankruptcy by or against Lessee, will constitute a breach of this Lease by Lessee.
26. **DEFAULT:** In the event of any breach of this Lease by Lessee, Lessor may, at his/her option, terminate the Lease and recover from Lessee: (a) the worth at the time of award of the unpaid rent which had been earned at the time of termination; (b) the worth at the time of award of the amount by which the unpaid rent which would have been earned after termination until the time of the award exceeds the amount of such rental loss the Lessee proves could have been reasonably avoided; (c) the worth

at the time of award of the amount by which the unpaid rent for the balance of the term after the time of award exceeds the amount of such rental loss that the Lessee proves could be reasonably avoided; and (d) any other amount necessary to compensate Lessor for all the detriment proximately caused by the Lessee's failure to perform his/her obligations under the Lease or which in the ordinary course of things would be likely to result therefrom. Lessor may, in the alternative, continue this Lease in effect, as long as Lessor does not terminate Lessee's right of possession, and Lessor may enforce all of Lessor's rights and remedies under the Lease, including the right to recover the rent as it becomes due under the Lease. If said breach of Lease continues, Lessor may, at any time thereafter, elect to terminate the Lease. These provisions will not limit any other rights or remedies which Lessor may have.

27. **SECURITY:** The security deposit will secure the performance of the Lessee's obligations. Any balance remaining upon termination will be returned to Lessee. Lessee will not have the right to apply the security deposit in payment of the last month's rent.
28. **DEPOSIT REFUNDS:** The balance of all deposits will be refunded within three (3) weeks (or as otherwise required by law), from date premises is delivered to Lessor or his or her authorized agent, together with a statement showing any charges made against the deposit by Lessor.
29. **ATTORNEY FEES:** In any action or proceeding involving a dispute between Lessor and Lessee arising out of this Lease, the prevailing party will be entitled to reasonable attorney fees.
30. **WAIVER:** No failure of Lessor to enforce any term of this Lease will be deemed to be a waiver.
31. **NOTICES:** Any notice which either party may or is required to give, will be given by mailing the notice, postage prepaid, to Lessee at the premises, and to Lessor at the address shown in Item 2, or at such other places as may be designated in writing by the parties from time to time. Notice will be effective **five (5) days after mailing**, or on personal delivery, or when receipt is acknowledged in writing.
32. **HOLDING OVER:** Any holding over after the expiration of this Lease, with the consent of Lessor, will be a month-to-month tenancy at a monthly rent of **\$2,550.00 per month + utilities**, payable in advance and otherwise subject to the terms of this Lease, as applicable, until either party will terminate the tenancy by giving the other party **thirty (30) days written notice**.
33. **TIME:** Time is of the essence of this Lease.
34. **HEIRS, ASSIGNS, SUCCESSORS:** This Lease is binding upon the inures to the benefit of the heirs, assigns, and successors of the parties.
35. **OPTION TO RENEW:** Provided that Lessee is not in default in the performance of this, Lessee will have the option to renew the Lease for an additional month-to-month terms in the amount of \$2,550.00 per month. All of the terms and conditions of the Lease will apply during the renewal term. The option will be exercised by written notice give to Lessor **not less than 30 days** prior to the expiration of the initial Lease term. If notice is not given within the time specified, this Option will expire.
36. **AMERICANS WITH DISABILITIES ACT:** The parties are alerted to the existence of the Americans With Disabilities Act, which may require costly structural

modifications. The parties are advised to consult with a professional familiar with the requirements of the Act.

37. **LESSOR'S LIABILITY:** In the event of a transfer of Lessor's title or interest to the property during the term of this Lease, Lessee agrees that the grantee of such title or interest will be substituted as the Lessor under this Lease, and the original Lessor will be released of all further liability, provided, that all deposits will be transferred to the grantee.
37. **FAX, FASCIMILIE OR COUNTERPART SIGNATURES:** This contract may be delivered by either party or all parties by telecopy or facsimile, and shall be binding upon the party so executing it upon the receipt by the other party of the fully executed contract. The original contract should be signed by all parties not later than 10 business days from acceptance unless otherwise agreed in writing; however, this shall not affect the validity and enforceability of the contract executed via facsimile.
38. **CONFIDENTIALITY:** Lessor(s), Lessee(s) and all real estate agents involved in this transaction hereby acknowledge that this Agreement, its concept, and all terms, conditions and negotiations relating to its development are strictly confidential and shall not be discussed with any other parties other than (i) Lessor(s), Lessee(s)'s lender (and Lessor(s), Lessee(s)'s appraiser, and Lessor(s), Lessee(s)'s attorney, and (ii) those directly involved with the development of this Agreement or the satisfaction of the conditions outlined therein.
39. **COMMISSION:** The Lessor agrees to pay to Gateway Commercial Brokerage, the Broker in this transaction, the sum of one month's rent for each year of the lease for services rendered and authorizes Broker to deduct said sum from the deposit received from Lessee. In the event the Lease is extended for a definite period of time or on a month-to-month basis after expiration of the original term, Lessor will pay to Broker an additional commission of 8.3% of the total rental for the extended period. This commission will be due and payable at the commencement of the extended period if for a fixed term, or if on a month-to-month basis at the termination of Lessee's occupancy or one year, whichever is earlier. This agreement shall not limit the rights of Broker provided for in any listing or other agreement which may be in effect between Lessor/Lessor and Broker. In the event Lessee shall purchase the property from Lessor/Lessor prior to the expiration of this lease, Lessor/Lessor agrees to pay the Broker a sales commission of six (6%) of the sale price. In any action for commission, the prevailing party will be entitled to reasonable attorney fees.
40. **ENTIRE AGREEMENT:** The foregoing constitutes the entire agreement between the parties and may be modified only in writing signed by all parties. The following exhibits are a part of this Lease:
Exhibit A: Floor plan of Unit A (not to scale).

The undersigned Lessee acknowledges that he/she has thoroughly read and approved each of the provisions contained in this Offer, and agrees to the terms and conditions specified.

Investment Groups Inc.

Lessor: _____ Date: _____

By Its: _____

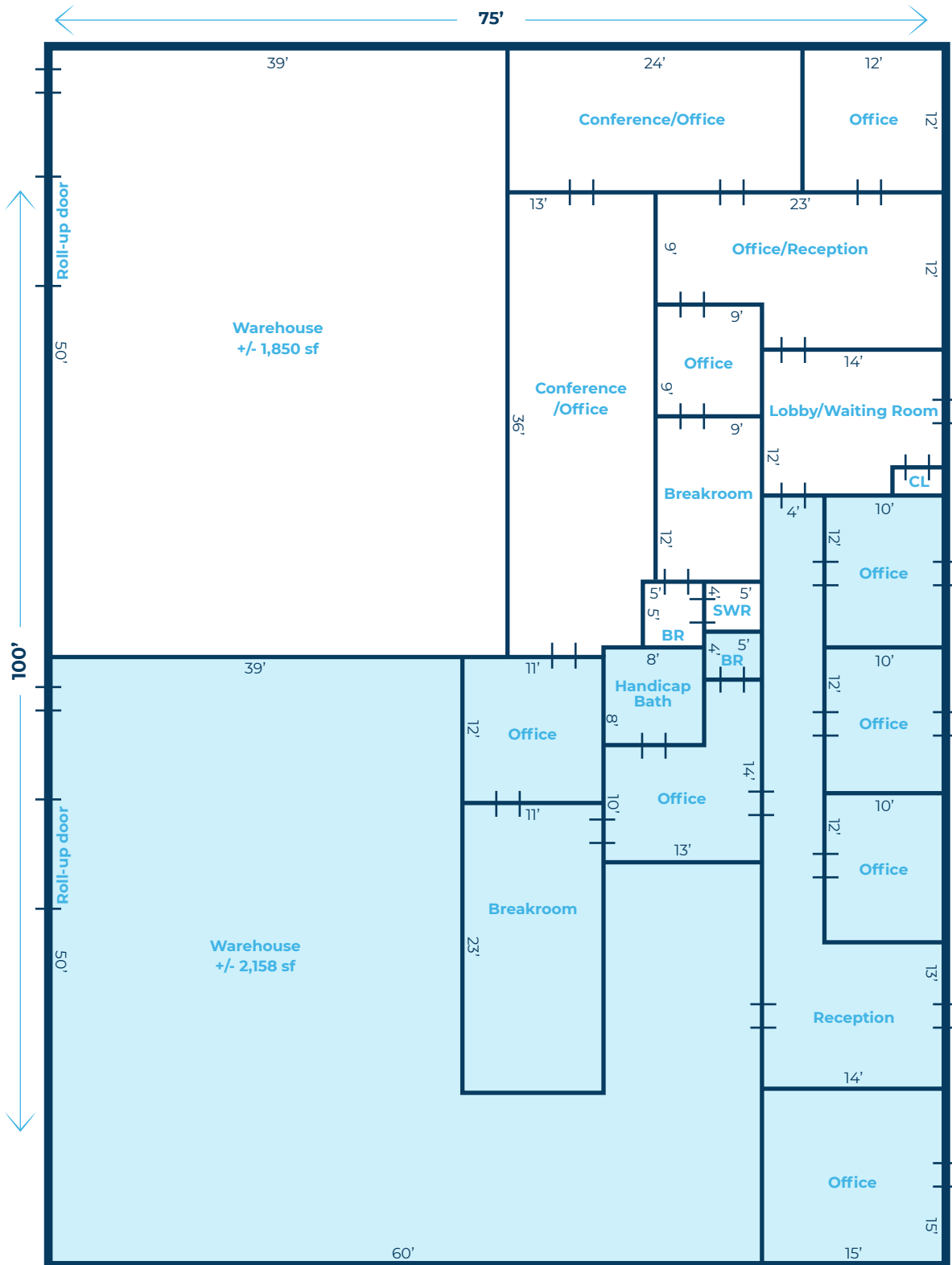
City of Decatur – Youth Services

Lessee _____ Date: _____

By Its: _____

Exhibit “A”
Unit A-Floor Plan

See Page 9



CENTRAL PARKWAY

UNIT A: +/- 4,117 sf **UNIT B: +/- 3,383 sf**

NOTE: ALL SQUARE FOOTAGES ARE APPROXIMATE AND TO SCALE.

The information contained herein is derived from sources deemed reliable. Gateway Commercial Brokerage assumes no liability for errors or omissions. Offering is subject to change or be withdrawn without notice.

CITY COUNCIL AGENDA ITEM REPORT

DATE: May 15, 2023

SUBMITTED BY: Michelle Stinnett, Planning

ITEM TYPE: Ordinances

AGENDA SECTION: ORDINANCES:

SUBJECT: Ordinance No. 23-4556: Approval of duplicated street McClellan Drive SE to be changed to Emma Drive SE

FINANCIAL IMPACT: N/A

SUGGESTED ACTION:

ATTACHMENTS:

[Ord No 23-4556 Change Street Name to Emma Dr SE.pdf](#)
[Signed Resolution No 007-23.pdf](#)

ORDINANCE NO. 23-4556

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DECATUR, ALABAMA;

Whereas, No street name shall be used which will duplicate by spelling or sound or otherwise be confused with the names of existing streets,

Whereas, to resolve an existing duplication, the City of Decatur Planning Commission requests the approval by City Council to approve the name change of McClellan Drive SE, located in the Foxwood Subdivision, to be changed to Emma Drive SE.

THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DECATUR, ALABAMA that the name of McClellan Drive S.E. running west starting at Kiowa Trail in Foxwood Subdivision Phase IV is hereby changed to Emma Drive S.E. effective immediately.

ADOPTED this ____ day of May, 2023.

Authenticated:

Stephanie Simon, City Clerk

APPROVED this _____ day of May, 2023.

Tab Bowling, Mayor

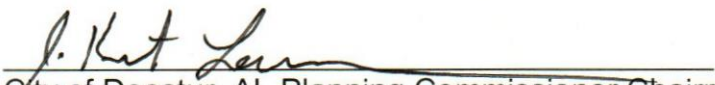
RESOLUTION NO. 007-23

WHEREAS the City Of Decatur's Planning Department is responsible for establishing and maintaining the uniform house number and street naming system;

WHEREAS no street name shall be used which will duplicate by spelling or sound or otherwise be confused with the names of existing streets. No street name shall be repeated more than once as adopted in Section 6 of the City of Decatur Subdivision Regulations,

NOW THEREFORE BE IT RESOLVED the City of Decatur Planning Commission is requesting approval by the City of Decatur City Council the name change of McClellan Drive SE running west starting at Kiowa Trail in Foxwood Subdivision Phase IV. The new name of this street will be Emma Drive SE. The reason for this request is due to a duplication of existing street name.

ADOPTED THIS 18th DAY OF April, 2023.



City of Decatur, AL Planning Commissioner Chairman