



Regular Council Meeting Agenda

281 James D. Nabors Drive
Council Chambers of Municipal Complex
Monday, December 6, 2021 --- Meeting at 5:30 p.m.

Call to Order: Council President

Opening Prayer: Council President Colvin

Pledge of Allegiance: Councilman Hardy

Roll Call:

Approval of Minutes: November 15, 2021

Approval of Agenda: December 6, 2021

Reports from Standing Committees:

Finance Committee: Colvin

Public Safety Committee: Eric Brown

Utilities Committee: Keel

Parks and Recreation: Chris Brown

Public Works Committee: Hardy

Buildings and Properties: Tapley

Reports from Special Committees: None

Public Hearing: None

Report on Status of City Finances: None

Proclamation: None

Unfinished Business: None

New Business:

1. Resolution 22-19: A Resolution to Authorize the Mayor to Execute a Construction Agreement for a Transportation Alternatives Program Project for Sidewalk Improvements Along Central Blvd., James D. Nabors Drive, and Recreation Drive, Project No. TAPAA-TA22(909); CPMS Ref# 100074131
2. Resolution 22-20: A Resolution to Authorize the Mayor to Execute an Engineering Agreement for Design Services with Engineering Environmental and Forestry, Services Company PC for Sidewalk Improvements along Central Blvd., James D. Nabors Drive, and Recreation Drive, Project No. TAPAA-TA22(909)

3. Resolution 22-21: A Resolution to Authorize the Mayor to Execute an Agreement for Examination Services with RiverTree Systems, Inc.
4. Resolution 22-22: A Resolution to Authorize the Mayor to Apply for an Assistance to Firefighters Grant: Operations and Safety for the Fire Department for Hose, Appliances and Nozzles

Executive Session: None

Public Comments (3 minutes per speaker):

Comments from the Mayor:

Comments from the Finance Director:

Comments from the City Clerk:

Comments from the Council:

Adjournment:

RESOLUTION NO. 22-19

A Resolution to Authorize the Mayor to Execute a Construction Agreement for a Transportation Alternatives Program Project for Sidewalk Improvements Along Central Blvd., James D. Nabors Drive, and Recreation Drive, Project No. TAPAA-TA22(909); CPMS Ref#100074131

WHEREAS, the City of Alexander City, Alabama, would like to enhance Central Boulevard, James D. Nabors Drive, and Recreation Drive by adding sidewalks; and

WHEREAS, the Alabama Department of Transportation has awarded the City a TAP grant for said project for an estimated amount of \$694,587.50, which is a **cost reimbursement program**; and

WHEREAS, the State, through Federal Funds, will provide reimbursement for 80%, which is \$555,670.00, and the City will be responsible for 20%, which is estimated to be \$138,917.50 and; and

WHEREAS, funding for the project is included in the FY 2022 Budget; and

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Alexander City, Alabama, be and hereby authorizes the Mayor to execute a Construction Agreement for a Transportation Alternatives Program Project with the State of Alabama for sidewalk improvements along Central Blvd., James D. Nabors Drive, and Recreation Drive.

ADOPTED AND APPROVED this 6th day of December 2021.

ATTEST:

Amanda F. Thomas, City Clerk

Audrey "Buffy" Colvin, Council President

Curtis "Woody" Baird, Mayor

CERTIFICATION OF CITY CLERK

The undersigned, as City Clerk of the City of Alexander City, Alabama, hereby certifies that the foregoing is a true, correct and complete copy of **Resolution No. 22-19** which was adopted by the City Council on this 6th day of December 2021.

WITNESS MY SIGNATURE, as City Clerk of the City Alexander City, Alabama, under the seal thereof, this 6th day of December 2021.

City Clerk of the
City of Alexander City, Alabama

S E A L

Yeas: _____

Nays: _____



Kay Ivey
Governor

ALABAMA DEPARTMENT OF TRANSPORTATION

East Central Region
ALEXANDER CITY AREA
County Transportation Section
P.O. BOX 1179
ALEXANDER CITY, ALABAMA 35011-1179
Telephone: (256) 234-4265 OR (800) 952-5631
Fax: (256) 234-3474



John R. Cooper
Transportation Director

November 8, 2021

Hon. Curtis W. Baird, Mayor
City of Alexander City
Post Office Box 552
Alexander City, Alabama 35011-0552

RE: TAPAA-TA22(909)
City of Alexander City
Sidewalk Improvements along
Central Blvd, James Nabors Dr and Recreation Dr
Tallapoosa County

Dear Mr. Baird:

Attached is the original agreement between the Department of Transportation and the City of Alexander City for the referenced project for your approval.

After signatures, I respectfully request that you return the original document and a copy with original signatures to this office for further handling. A certified resolution affixed with the City seal which authorizes the Mayor (or other) to sign the agreement should be included with the original agreement as well as with the copy. Also, the City seal should be affixed to both signed agreements.

If applicable, the City may now begin to seek permission to select a consultant for construction engineering and inspection (CE&I) per ALDOT's *Consultant Selection Procedures*. However, it is the recommendation of this department that selection be delayed until construction plans have been approved and the project has progressed toward letting.

Thank you for your attention. Please call if you have questions or need further information.

Sincerely,

DeJarvis Leonard, P.E.
Region Engineer

By:

Ken Cush, P.E.
Alexander City Area County Transportation Engineer

KJC/RMT/vp
Attachment
cc: File

**CONSTRUCTION
AGREEMENT
FOR A
TRANSPORTATION ALTERNATIVES PROGRAM
PROJECT**

**BETWEEN THE STATE OF ALABAMA
AND
CITY OF ALEXANDER CITY
Tallapoosa County**

**Sidewalk Improvements along Central Blvd.,
James D. Nabors Dr. and Recreation Dr.
Phase I**

**Project No. TAPAA-TA22(909)
CPMS Ref# 100074131**

PART ONE (1): INTRODUCTION

This Agreement is made and entered into by and between the State of Alabama (acting by and through the Alabama Department of Transportation), hereinafter referred to as the STATE; and the City of Alexander City, Alabama, hereinafter referred to as the CITY.

WHEREAS, the STATE and the CITY desire to cooperate in the sidewalk improvements along Central Blvd., James D. Nabors Dr. and Recreation Dr., Project# TAPAA-TA22(909); CPMS Ref# 100074131.

NOW, THEREFORE, it is mutually agreed between the STATE and the CITY as follows:

PART TWO (2): FUNDING PROVISIONS

- A. **Project Funding:** Funding for this Agreement is subject to availability of Federal Aid funds at the time of authorization. It is expressly understood that federal funds for this project will be provided from Transportation Alternatives Program (TAP) funds as authorized by the U.S. Congress and the STATE will not be liable for any funding. Cost for the project will be financed, when eligible for Federal participation, on the basis of 80 percent Federal funds and 20 percent CITY funds, based on the contract as let price plus CE&I or the estimated costs below, whichever is lower. Any deficiency in Federal Aid or overrun in costs will be borne by the CITY from CITY funds unless approved in writing by the STATE. In the event of an underrun in construction costs, the amount of Federal Aid funds will be the amount stated below, or 80% of eligible costs, whichever is less.

B. The estimated cost and participation by the various parties is as follows:

FUNDING SOURCE	ESTIMATED COSTS
Federal TAP Funds	\$ 555,670.00
City Funds	\$ 138,917.50

TOTAL (Incl CE&I)	\$ 694,587.50

It is further understood that this is a cost reimbursement program and no federal funds will be provided to the CITY prior to accomplishment of the work for which it is requested. Furthermore, no federal funds will be reimbursed for work performed prior to project authorization.

Any cost incurred by the CITY relating to this project which is determined to be ineligible for reimbursement by the Federal Highway Administration (FHWA) or in excess of the limiting amounts previously stated will not be an eligible cost to the project and will be borne and paid by the CITY.

C. **Time Limit:** This project will commence upon written authorization to proceed from the STATE directed to the CITY.

The approved allocation of funds for projects containing Industrial Access funds shall lapse if a contract has not been awarded for construction of the project within (12) months of the date of the funding approval by the Board and the approved allocation shall be returned to the IARB for re-allocation. A time extension may be approved by the IARB upon formal request by the applicant.

The approved allocation of funds for projects containing Federal Transportation Alternatives Set-Aside funds may lapse if a project has not been authorized by FHWA within (24) months of the date of the funding approval by the Governor and the approved allocation shall be returned to the STATE for re-allocation. A time extension may be approved by the STATE upon formal request by the applicant. Failure to meet other project milestones, as set forth in the TAP Guidelines, may result in an approved allocation being returned to the STATE.

PART THREE (3): PROJECT SERVICES

A. The CITY will furnish all Right-of-Way for the project. Associated Right-of-Way acquisition costs will not be an eligible cost to the Project. The Right-of-Way acquisition phase is hereby defined as the appraisal fees, appraisal review fees and the cost of acquisition incurred.

All work accomplished under the provisions of this agreement will be accomplished on property owned by or which will be acquired by the CITY in accordance with applicable Federal and state laws, regulations, and procedures. Any exceptions to this requirement must be approved by the STATE in writing prior to incurring costs for which reimbursement is requested by the CITY. In cases where property is leased, or easements obtained, the terms of the lease or easement will not be less than the expected life of the improvements.

Acquisition of real property by the CITY as a part of this project will conform to and be in accordance with the provisions of the Federal Uniform Relocation Assistance & Real Property Acquisition Policies Act (49 CFR 24, Subpart B), all federal environmental laws, and all other applicable state and federal laws.

Any property acquired shall be in the name of the CITY with any condemnation or other legal proceedings being performed by the CITY.

The CITY shall follow all Federal regulations related to the Management, Leasing, and Disposal of Right-of-Way, uneconomic remnants and excess Right-of-Way as found in CFR 23 § 710 Subpart D. Proceeds for Leases and Disposals shall be credited to the Project or to the Title 23 Collector Account.

No change in use or ownership of real property acquired or improved with funds provided under the terms of this Agreement will be permitted without prior written approval from the STATE or FHWA. The STATE or FHWA will be credited on a prorata share, as provided in Part Two, Section B, any revenues received by the CITY from the sale or lease of property.

- B. The CITY will relocate any utilities in conflict with the project improvements in accordance with applicable Federal and State laws, regulations, and procedures. Associated Utility costs will be an eligible cost to the Project, as approved by the application.
- C. The CITY will make the Survey, perform the Design, complete the Plans and furnish all Preliminary Engineering for the Project with CITY forces or with a consultant approved by the STATE. Associated Survey, Design, Plan Preparation, and Preliminary Engineering costs will not be an eligible cost to the Project.

If any Associated Survey, Design, Plan Preparation, and Preliminary Engineering costs are an eligible cost to the project, the CITY will develop and submit to the STATE a project budget for approval. This budget will be in such form and detail as may be required by the STATE. At a minimum, all major work activities will be described, and an estimated cost and source of funds will be indicated for each activity. All cost for which the CITY seeks reimbursement must be included in a budget approved by the STATE in order to be considered for reimbursement. Budget adjustments may be necessary and may be allowed, subject to the approval of the STATE in writing, in order to successfully carry out the project. However, under no circumstances will the CITY be reimbursed for expenditures over and beyond the amount approved by the STATE.

The CITY will undertake the project in accordance with this Agreement, plans approved by the STATE and the requirements, and provisions, including the documents relating thereto, developed by the CITY and approved by the STATE. The plans, including the documents relating thereto, is of record in the Alabama Department of Transportation and is hereby incorporated in and made a part of this Agreement by reference. It is understood by the CITY that failure of the CITY to carry out the project in accordance with this Agreement and approved plans, including documents related thereto, may result in the loss of federal funding and the refund of any federal funds previously received on the project.

Projects containing Industrial Access funds or State funds, with no Federal funds involved, shall have completed original plans furnished to the STATE in accordance with the Guidelines for Operations for *Procedures for Processing State and Industrial Access Funded County and City Projects*, and attached hereto as a part of this Agreement prior to the CITY letting the contract.

- D. The CITY will furnish all construction engineering for the Project with CITY forces or with a consultant approved by the STATE as part of the cost of the Project. Construction Engineering & Inspection cost are not to exceed 15%, without prior approval by the State. Associated Construction Engineering & Inspection costs will be an eligible cost to the Project.
- E. The STATE will furnish the necessary inspection and testing of materials when needed as part of the cost of the project. The CITY may request the use of an approved third-party materials inspection and testing provider, as approved by the STATE.

PART FOUR (4): CONTRACT PROVISIONS

- A. The CITY shall not proceed with any project work covered under the provisions of this Agreement until the STATE issues written authorization to the CITY to proceed.
- B. Associated Construction cost will be an eligible cost to the project.

For projects let to contract by the STATE, the STATE will be responsible for advertisement and receipt of bids, and the award of the Contract. Following the receipt of bids and prior to the award of the Contract, the STATE will invoice the CITY for its pro rata share of the estimated cost as reflected by the bid of the successful bidder plus Engineering & Inspection and Indirect Costs (if applicable). The CITY shall pay this amount to the STATE no later than 30 days after the date bids are opened. Failure to do so may lead to the rejection of the bid.

For projects let to contract by the CITY, the CITY shall comply with all Federal and State laws, rules, regulations and procedures applicable to the advertisement, receipt of bids, and the award of the contract. The CITY will, when authorized by the STATE, solicit bids and make awards for construction and/or services pursuant to this agreement. The CITY shall not solicit bids until the entire bid package (plans, specifications, estimates, etc.) has been reviewed and approved by the STATE. Following receipt of bids, the CITY will provide all bids to the STATE with a recommendation for award. The CITY shall not award the contract until it has received written approval from the STATE.

For projects with approval by the STATE to use CITY Forces, the Construction for the project will be performed by the CITY at actual costs for labor, materials, and equipment, as approved by the STATE.

The purchase of project equipment and/or services financed in whole or in part pursuant to this Agreement will be in accordance with applicable Federal and State laws, rules, regulations, and procedures, including state competitive bidding requirements applicable to counties and municipalities in the State of Alabama when the purchase is made by any such entity.

- C. If necessary, the CITY will file an Alabama Department of Environmental Management (ADEM) National Pollutant Discharge Elimination System (NPDES) Notice of Registration (NOR) (Code Chapter 335-6-12) for this project without cost to the State or this project. The CITY will be the permittee of record with ADEM for the permit. The CITY and the contractor will be responsible for compliance with the permit and the State will have no obligation regarding the permit. The CITY will furnish the State (Region) a copy of the permit prior to any work being performed by the contractor.

The CITY will secure all permits and licenses of every nature and description applicable to the project in any manner and will conform to and comply with the requirements of any such permit or license, and with each and every requirement of any and all agencies, and of any and all lawful authorities having jurisdiction or requirements applicable to the project or to the project activities.

- D. The CITY will comply with the Alabama Department of Transportation Standard Specifications for Highway Construction, Latest Edition, on this project and will ensure that work associated on this project meets the standards of the Alabama Department of Transportation and the project will be built in accordance with the approved plans.
- E. Subject to the limitations on damages applicable to municipal corporations under Ala. Code § 11-47-190 (1975), the CITY shall indemnify, and hold harmless the State of Alabama, the Alabama Department of Transportation, its officers, officials, agents, servants, and employees from and against (1) claims, damages, losses, and expenses, including but not limited to attorneys' fees arising out of, connected with, resulting from or related to the work performed by the CITY, or its officers, employees, contracts, agents or assigns (2) the provision of any services or expenditure of funds required, authorized, or undertaken by the CITY pursuant to the terms of this Agreement, or (3) any damage, loss, expense, bodily injury, or death, or injury or destruction of tangible property (other than the work itself), including loss of use therefrom, and including but

not limited to attorneys' fees , caused by the negligent, careless or unskillful acts of the CITY its agents, servants, representatives or employees, or the misuse, misappropriation, misapplication, or misexpenditure of any source of funding, compensation or reimbursement by the CITY, its agents, servants, representatives or employees, or anyone for whose acts the CITY may be liable.

- F. The CITY will be obligated for the payment of damages occasioned to private property, public utilities or the general public, caused by the legal liability (in accordance with Alabama and/or Federal law) of the CITY, its agents, servants, employees or facilities.
- G. Upon completion and acceptance of this project by the State, the CITY will assume full ownership and responsibility for the project work and maintain the project in accordance with applicable State law and comply with the Department's Local Road Maintenance Certification Policy.

PART FIVE (5): ACCOUNTING PROVISIONS

- A. The CITY will, when appropriate, submit reimbursement invoices to the STATE for work performed in carrying out the terms of this Agreement. Requests for reimbursement will be made on forms provided by the STATE and will be submitted through the Region Engineer for payment. The CITY may invoice the STATE not more often than once per month for the funds due for work performed under this Agreement. Invoices for payment will be submitted in accordance with state law and will indicate that the payment is due, true, correct, unpaid, and the invoice will be notarized. Invoices for any work performed under the terms of this agreement will be submitted within twelve (12) months after the completion and acceptance by the STATE for the work. Any invoices submitted after this twelve-month period will not be eligible for payment.
- B. The CITY will not assign any portion of the work to be performed under this Agreement or execute any contract, amendment or change order thereto, or obligate itself in any manner with any third party with respect to its rights and responsibilities under this Agreement, without the prior written approval of the STATE.
- C. The CITY will establish and maintain a cost accounting system that must be adequate and acceptable to the STATE as determined by the auditor of the STATE.

All charges to the Project will be supported by properly executed invoices, contracts, or vouchers, as applicable, evidencing in proper detail the nature and propriety of the charges, in accordance with the requirements of the STATE. All checks, invoices, contracts, vouchers, orders or other accounting documents pertaining in whole or in part to the project will be clearly identified, readily accessible and to the maximum extent feasible, kept separate and apart from all other such documents.

The CITY will report to the STATE the progress of the project in such manner as the STATE may require. The CITY will also provide the STATE any information requested by the STATE regarding the project. The CITY will submit to the STATE financial statements, data, records, contracts and other documents and items of any respect related to the project as may be requested by the STATE.

The CITY will permit the STATE, the Comptroller General of the United States, and the Secretary of the USDOT, or either of them or their respective authorized representatives, to inspect, at any time, vehicles and equipment utilized or used in performance of the project; any and all data and records which in any way relate to the project or to the accomplishment of the project. The CITY will also permit the above noted persons to audit the books, records and accounts pertaining to the project at any and all times, and the CITY will give its full cooperation to those persons or their authorized representatives, as applicable.

The CITY will comply with all audit requirements set forth in the 2 CFR Part 200 requirements, or the most current version of those requirements under federal law.

- D. The CITY will retain all books, records, and other documents relative to this Agreement for a minimum of three (3) years after project termination, expiration of Federal interest,

or close out, and the STATE, the Comptroller General of the United States, and the Secretary of the USDOT, or either of them or their respective authorized representatives, will have full access to, and right to examine any of said materials at all reasonable times during said period.

- E. Any user fee or charge to the public for access to any property or services provided through the funds made available under this agreement, if not prohibited by a Federal, State or local law, must be applied for the maintenance and long-term upkeep of the project authorized by this agreement.
- F. An audit report must be filed with the Department of Examiners of Public Accounts, upon receipt by the CITY, for any audit performed on this project in accordance with Act No. 94-414.

PART SIX (6): MISCELLANEOUS PROVISIONS

- A. By entering into this agreement, the CITY is not an agent of the STATE, its officers, employees, agents or assigns. The CITY is an independent entity from the STATE and nothing in this agreement creates an agency relationship between the parties.
- B. It is agreed that the terms and commitments contained in this agreement 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 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 this agreement shall be deemed null and void.
- C. 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.
- D. No member, officer, or employee of the CITY during their tenure of employment, and for one year thereafter shall have any interest, direct or indirect, in this Agreement or the proceeds, profits, or benefits therefrom.
- E. The terms of this Agreement may be modified by revision of this Agreement duly executed by the parties hereto.
- F. This agreement may be terminated by either party upon the delivery of a thirty (30) day notice of termination.
- G. Nothing shall be construed under the terms of this Agreement that shall cause any conflict with Section 23-1-63, Code of Alabama, 1975.
- H. **Exhibits A, E, H, M, and N** are hereby attached to and made a part of this Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by those officers, officials and persons duly authorized to execute same, and the Agreement is deemed to be dated and to be effective on the date hereinafter stated as the date of its approval by the Governor of Alabama.

ATTEST:

City of Alexander City, Alabama

**By: _____
City Clerk (Signature)**

**By: _____
As Mayor (Signature)**

**_____
Type Name of Clerk
(AFFIX SEAL)**

**_____
Type Name of Mayor**

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

**By: _____
William F. Patty,
Chief Counsel**

RECOMMENDED FOR APPROVAL:

**_____
DeJarvis Leonard, P.E.
East Central Region Engineer**

**_____
Bradley B. Lindsey, P.E.
State Local Transportation Engineer**

**_____
Edward N. Austin, P. E.
Chief Engineer**

**STATE OF ALABAMA, ACTING BY AND THROUGH
THE ALABAMA DEPARTMENT OF TRANSPORTATION**

**_____
John R. Cooper, Transportation Director**

**THE WITHIN AND FOREGOING AGREEMENT IS HEREBY EXECUTED AND
SIGNED BY THE GOVERNOR ON THIS _____ DAY OF _____, 20_____.**

**_____
KAY IVEY
GOVERNOR, STATE OF ALABAMA**

RESOLUTION NUMBER _____

BE IT RESOLVED, by the City of Alexander City as follows:

That the City enter into an agreement with the State of Alabama, acting by and through the Alabama Department of Transportation relating to a project for:

Sidewalk improvements along Central Blvd., James D. Nabors Dr. and Recreation Dr., Project# TAPAA-TA22(909); CPMS Ref# 100074131.

Which agreement is before this Council, and that the agreement be executed in the name of the City, by the Mayor for and on its behalf and that it be attested by the City Clerk and the official seal of the City be affixed thereto.

BE IT FURTHER RESOLVED, that upon the completion of the execution of the agreement by all parties, that a copy of such agreement be kept on file by the City.

I, the undersigned qualified and acting Clerk of the City of Alexander City, Alabama, do hereby certify that the above and foregoing is a true copy of a resolution lawfully passed and adopted by the City named therein, at a regular meeting of such Council held on the _____ day of _____, 20____, and that such resolution is on file in the City Clerk's Office.

ATTESTED:

City Clerk

Mayor

_____ day of _____, 20____, and that such resolution is of record in the Minute Book of the City.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the City on this _____ day of _____, 20____.

City Clerk

(AFFIX SEAL)

EXHIBIT A

PARTICIPATION BY DISADVANTAGED BUSINESS ENTERPRISES IN FEDERAL-AID PROGRAM

Policy. It is the policy of the U.S. Department of Transportation that Disadvantaged Business Enterprises (DBE) as defined in 49 CFR Part 26 shall have the opportunity to participate in the performance of contracts financed in whole or in part with Federal funds under this AGREEMENT. Consequently, the DBE requirements of 49 CFR Part 26 apply to this AGREEMENT.

DBE Obligation. The recipient of funds under the terms of this AGREEMENT agrees to ensure that Disadvantaged Business Enterprises as defined in 49 CFR Part 26 have the maximum opportunity to participate in the performance of contracts and subcontracts financed in whole or in part with Federal funds provided under this agreement. The recipient shall take all necessary and reasonable steps in accordance with 49 CFR Part 26 to see that Disadvantaged Business Enterprises have the opportunity to compete for and perform contracts and shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of U.S. Department of Transportation assisted contracts.

Failure of the recipient of funds under the terms of this AGREEMENT, or failure of its subcontractor (if a subcontractor is authorized) to carry out the DBE requirements of this AGREEMENT shall constitute a breach of contract, and may result in termination of the contract by the STATE, or such other remedy may be undertaken by the STATE as it deems appropriate.

EXHIBIT E

TERMINATION OR ABANDONMENT

- a. The STATE has the right to abandon the work or to amend its project at any time, and such action on its part shall in no event be deemed a breach of contract.

- b. The STATE has the right to terminate this AGREEMENT at its sole discretion without cause and make settlement with the CITY upon an equitable basis. The value of the work performed by the CITY prior to the termination of this AGREEMENT shall be determined. In determining the value of the work performed, the STATE shall consider the following:
 1. The ratio of the amount of work performed by the CITY prior to the termination of the AGREEMENT to the total amount of work contemplated by this AGREEMENT less any payments previously made.

 2. The amount of the expense to which the CITY is put in performing the work to be terminated in proportion to the amount of expense to which the CITY would have been put had he been allowed to complete the total work contemplated by the AGREEMENT, less any payments previously made. In determining the value of the work performed by the CITY prior to the termination, no consideration will be given to profit, which the CITY might have made on the uncompleted portion of the work. If the termination is brought about as a result of unsatisfactory performance on the part of the CITY, the value of the work performed by the CITY prior to termination shall be fixed solely on the ratio of the amount of such work to the total amount of work contemplated by this AGREEMENT.

CONTROVERSY

In any controversy concerning contract terms, or on a question of fact in connection with the work covered by this project, including compensation for such work, the decision of the Transportation Director regarding the matter in issue or dispute shall be final and conclusive of all parties.

CONTRACT BINDING ON SUCCESSORS AND ASSIGNS

- a. This contract shall be binding upon the successors and assigns of the respective parties hereto.

- b. Should the AGREEMENT be terminated due to default by CITY, such termination shall be in accordance with applicable Federal Acquisition Regulations.

EXHIBIT H

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EQUAL RIGHTS PROVISIONS

During the performance of this contract, the CITY for itself, its assignees and successors in interest agrees as follows:

a. **Compliance with Regulations**

The CITY will comply with the Regulations of the Department of Transportation relative to nondiscrimination in federally-assigned programs of the Department of Transportation (Title 49, Code of Federal Regulations, Part 21, as amended by 23 CFR 710-405(b), hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this contract.

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "contractor") agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

Pertinent Non-Discrimination Authorities:

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq.*, 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21.
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 *et seq.*), (prohibits discrimination on the basis of sex);
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 *et seq.*), as amended, (prohibits discrimination on the basis of disability); and 49 CFR Part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 *et seq.*), (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982, (49 USC § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131-12189) as implemented by Department of Transportation regulations at 49 C.F.R. parts 37 and 38;

EXHIBIT H

Page 2

- The Federal Aviation Administration's Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures non discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 et seq).

b. **Nondiscrimination**

In accordance with Title VI of the Civil Rights Act, as amended, 42 U.S.C. § 2000d, Section 303 of the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6102, Section 202 of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12132, and Federal transit law at 49 U.S.C. § 5332, the CITY agrees that it will not discriminate against any employee or applicant for employment because of race, color, creed, national origin, sex, age, or disability. The CITY will not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices where the contract covers a program set forth in Appendix B of the Regulations.

The CITY will comply with all provisions of Executive Order 11246 of September 24, 1965 as amended by Executive Order 11375, and of the rules, regulations (41 CFR, Part 60) and relevant orders of the Secretary of Labor.

c. **Solicitations**

In all solicitations either by competitive bidding or negotiation made by the CITY for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor, supplier or lessor shall be notified by the CITY of the CITY'S obligation under this contract and the Regulations relative to nondiscrimination on the ground of race, color, religion, sex or national origin.

d. **Information and Reports**

The CITY will provide all information and reports required by the Regulations, or orders and instructions issued pursuant thereto, and will permit access to its books,

EXHIBIT H

Page 3

records, accounts, other sources of information and its facilities as may be determined by the STATE or the Federal Highway Administration to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of a CITY is in the exclusive possession of another who fails or refuses to furnish this information, the CITY shall so certify to the STATE, or the Federal Highway Administration as appropriate, and shall set forth what efforts it has made to obtain the information.

e. **Sanctions for Noncompliance**

In the event of the CITY'S noncompliance with the nondiscrimination provisions provided for herein, the STATE shall impose such contract sanctions as it may determine to be appropriate, including but not limited to,

1. withholding of payments to the CITY under contract until the CITY complies, and/or
2. cancellation, termination or suspension of the contract, in whole or in part.

f. **Incorporation of Provisions**

The CITY will include the foregoing provisions a. through f. in every subcontract, including procurements of materials and leases of equipment, unless excepted by the Regulations, orders or instructions issued pursuant thereto. The CITY will take such action with respect to any subcontract, procurement, or lease as the STATE may direct as a means of enforcing such provisions, including sanctions for noncompliance; provided, however, that in the event a CITY becomes involved in, or is threatened with, litigation with subcontractors, suppliers, or lessor as a result of such direction, the CITY may request the STATE to enter into such litigation to protect the interest of the STATE.

g. **Equal Employment Opportunity** – The following equal employment opportunity requirements apply to the underlying contract:

1. **Race, Color, Creed, National Origin, Sex** – In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e, and Federal Transit laws at 49 U.S.C. § 5332, the CITY agrees to comply with all applicable equal employment requirements of U.S. Department of Labor (U.S. DOL) regulations, “Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor,” 41 C.F.R. Parts 60 et seq., (which implement Executive Order No. 11246, “Equal Employment Opportunity,” as amended by Executive Order No. 11375, “Amending Executive Order 11246 Relating to Equal Employment Opportunity,” 42 U.S.C. § 2000e note), and with any applicable Federal statutes, executive orders, regulations, and Federal policies that may in the future affect construction activities undertaken in the course of the Project.

EXHIBIT H
Page 4

The CITY agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, creed, national origin, sex, or age. Such action shall include, but not 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. In addition, the CITY agrees to comply with any implementing requirements FTA may issue.

2. Age – In accordance with Section 4 of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. § 623 and Federal transit law at 49 U.S.C. § 5332, the CITY agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, the CITY agrees to comply with any implementing requirements FTA may issue.
3. Disabilities – In accordance with Section 102 of the Americans with Disabilities Act, as amended, 42 U.S.C. § 12112, the CITY agrees that it will comply with the requirements of U.S. Equal Employment Opportunity Commission, “Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act,” 29 C.F.R. Part 1630, pertaining to employment of persons with disabilities. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

COST PRINCIPLES

The STATE'S cost principles for use in determining the allowability of any item of cost, both direct and indirect, in this AGREEMENT, shall be the applicable provisions of Volume I, Federal Acquisition Regulations, Parts 30 and 31. The CITY shall maintain costs and supporting documentation in accordance with the Federal Acquisition Regulations, Parts 30 and 31 and other Regulations referenced with these Parts where applicable. The CITY shall gain an understanding of these documents and regulations. The applicable provisions of the above referenced regulations documents are hereby incorporated by reference herein as if fully set forth.

EXECUTORY CLAUSE AND NON-MERIT SYSTEM STATUS

- a. The CITY specifically agrees that this AGREEMENT shall be deemed executory only to the extent of moneys available, and no liability shall be incurred by the STATE beyond the moneys available for this purpose.

EXHIBIT H

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- b. The CITY, in accordance with the status of CITY as an independent contractor, covenants and agrees that the conduct of CITY will be consistent with such status, that CITY will neither hold CITY out as, or claim to be, an officer or employee of the STATE by reason hereof, and that CITY will not, by reason hereof, make any claim, demand or application to or for any right or privilege applicable to an officer or employee of the STATE under the merit system or any other law of Alabama, including but not limited to workmen's compensation coverage, or retirement membership or credit or any Federal employment law. This paragraph also applies in like manner to the employees of CITY.

CITYS' CERTIFICATIONS

The CITY by acceptance of this contract certifies that the rates or composition of cost noted in Article IV - PAYMENTS are based on the current actual hourly rates paid to employees, estimated non- salary direct cost based on historical prices, the latest available audited indirect cost rate, and estimated cost of reimbursements to employees for travel (mileage, per diem, and meal allowance) based on the current policy of the CITY. The CITY agrees that mileage reimbursements for use of company vehicles is based on the lesser of the approved rate allowed by the General Services Administration of the United States Government or the reimbursement policies of the CITY at the time of execution of the AGREEMENT. The CITY agrees that no mileage reimbursement will be allowed for the purpose of commuting to and from work or for personal use of a vehicle. The CITY agrees that the per diem rate will be limited to the rate allowed by the STATE at the time of execution of the AGREEMENT. The CITY agrees that a meal allowance shall be limited to CITY employees while in travel status only and only when used in lieu of a per diem rate.

The CITY shall submit detailed certified labor rates as requested, and in a timely manner, to the External Audits Section of the Finance and Audits Bureau of The Alabama Department of Transportation. The CITY agrees that material differences between rates submitted with a proposal and rates provided as certified for the same proposal are subject to adjustment and reimbursement.

EXHIBIT M

CERTIFICATION FOR FEDERAL-AID CONTRACTS: LOBBYING

This certification is applicable to the instrument to which it is attached whether attached directly or indirectly with other attachments to such instrument.

The prospective participant/recipient, by causing the signing of and the submission of this Federal contract, grant, loan, cooperative AGREEMENT, or other instrument as might be applicable under Section 1352, Title 31, U. S. Code, and the person signing same for and on behalf of the prospective participant/recipient each respectively certify that to the best of the knowledge and belief of the prospective participant or recipient and of the person signing for and on behalf of the prospective participant/recipient, that:

- a. No Federal appropriated funds have been paid or will be paid, by or on behalf of the prospective participant/recipient or the person signing on behalf of the prospective participant/recipient as mentioned above, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an 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 entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- b. 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 Federal agency, a member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, or other instrument as might be applicable under Section 1352, Title 31, U. S. Code, the prospective participant/recipient shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U. S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The prospective participant/recipient also agrees by submitting this Federal contract, grant, loan, cooperative agreement or other instrument as might be applicable under Section 1352, Title 31, U.S. Code, that the prospective participant/recipient shall require that the language of this certification be included in all lower tier subcontracts, which exceed \$100,000 and that all such subrecipients shall certify and disclose accordingly.

EXHIBIT N

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 Number 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.

When considering settlement of controversies arising from or related to the work covered by this AGREEMENT, the parties may agree to use appropriate forms of non-binding alternative dispute resolution.

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.

NO GOVERNMENT OBLIGATION TO THIRD PARTY CONTRACTORS

The STATE and CITY acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the underlying contract, absent the express written consent by the Federal Government, the Federal Government is not a party to this contract and shall not be subject to any obligations of or liabilities to the STATE, CITY, or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying contract.

The CITY agrees to include the above clause in each subcontract financed in whole or in part with Federal assistance provided to FHWA. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

**STATE OF ALABAMA
DEPARTMENT OF TRANSPORTATION
GUIDELINES FOR OPERATION**

**SUBJECT: PROCEDURES FOR PROCESSING STATE AND INDUSTRIAL
ACCESS FUNDED COUNTY AND CITY PROJECTS**

No work can be performed and no contracts can be let prior to having a fully executed project agreement, submittal of project plans to Region and notification from the Region that advertisement for bids can be made, or, in the case of force account projects, work can begin.

A project agreement will be prepared and furnished to the County/City upon receipt of grant award letter signed by the Director or Governor. The Region will prepare and submit a F-7A Budget Allotment request upon receipt of a project funding agreement at the time it is submitted to the County/City for their execution.

The County/City will submit plans prepared and signed by a registered professional engineer showing work to be performed. Plans must match the project agreement description. It is not necessary for the Region to perform an in-depth review of plans. The County/City will submit a certification signed by a Registered Professional Engineer stating that the plans have been prepared so that all items included in the plans meet ALDOT specifications. The County/City will include a letter certifying that the County/City owns all right-of-way on which the project is to be constructed.

Upon receipt of the executed agreement, the executed F-7A, final plans from the County/City, and right-of-way certification, the Region may notify the County/City to proceed with advertising the project for letting or proceed with work in the case of a force account project.

In the case where a County/City is using an in-place annual bid, the County/City will furnish the Region a copy of their bid and this bid price will be used for reimbursement.

Where the County/City is letting a contract locally, the County/City will furnish to the Region the three lowest bids with their recommendation for award. The Region will review the bids, and, if in order, advise the County/City to proceed with award of the contract to the lowest responsible bidder. The County's/City's estimate for reimbursement will be based on the bid prices concurred in by the State and supported with documentation that the contractor has been paid for work performed (copy of cancelled check).

A certification will be submitted with County/City final estimate stating that the project was constructed in accordance with final plans submitted to the State and with the specifications, supplemental specifications, and special provisions which were shown on the plans or with the State's latest specifications which were applicable at the time of plan approval.

The County/City will notify the Region when the project is complete and the Region will perform a final ride-through to determine whether the project was completed in substantial compliance with original final plans. Final acceptance will be made by the Region with a copy of the letter furnished to the Bureau of Local Transportation.

All required test reports, weight tickets, material receipts and other project documentation required by the specifications, applicable supplemental specifications, and special provisions will be retained by the County/City for a period of three (3) years following receipt of final payment and made available for audit by the State upon request. If an audit is performed and proper documentation is not available to verify quantities and compliance with specifications, the County/City will refund the project cost to the State or do whatever is necessary to correct the project at their cost.

All County/City Industrial Access or State funded projects let to contract by the State will follow normal project procedures and comply with all current plan processing requirements.

RECOMMENDED FOR APPROVAL:


BUREAU CHIEF/REGION ENGINEER

APPROVAL:


CHIEF ENGINEER

APPROVAL:


TRANSPORTATION DIRECTOR

NOVEMBER 1, 2017

DATE

Curtis "Woody" Baird
Mayor
Amanda F. Thomas
City Clerk
Romy Stamps
Finance Director



CITY COUNCIL
Audrey "Buffy" Colvin
Council President
Scott Hardy
President Pro Tempore
Bobby L. Tapley
John Eric Brown
Chris Brown
Jimmy Keel

P.O. Box 552 • Alexander City • Alabama 35011-0552 • (256) 329-6700
www.alexandercityal.gov

October 12, 2021

Alabama Department of Transportation
Attention: Mr. Ken Cush, P.E.
Local Transportation Engineer – Alexander City Area
Post Office Box 1179
Alexander City, Alabama 35011-1179

RE: TAPAA-TA22(909)
Alexander City FY2022 Transportation Alternatives Set-aside Program (TAP)

As discussed during our Pre-Agreement Meeting, there are modifications to the original application that the City would like for ALDOT to consider. First, there is a new business (Chick-fil-A) under construction near the limits of the proposed sidewalk improvements at the intersection a Recreation Drive and James D. Nabors Drive near U.S. Highway 280. The City would like to provide pedestrian connectivity to this business as part of this plan. Second, the existing soccer complex along Recreation Drive has a section of sidewalk missing along the north side of the soccer fields that the City would like to include in this project. As a note, roadway lighting for this section is not requested to be included in the project. In order to keep the project within budget, the City proposes to remove all of the sidewalk north of James D. Nabors Drive on Central Boulevard and the short section that was applied for on Joseph Street. These areas are within the overall sidewalk masterplan approved by the City, and are in existing rights-of-way or property owned by the City. See attached revised Sidewalk Masterplan that identifies these requested changes.

PROJECT DESCRIPTION: Sidewalk Improvements on Central Boulevard, James D. Nabors Drive, and Recreation Drive

Thank you for your consideration of this request. If you need any additional information, feel free to contact me.

Sincerely,

A handwritten signature in blue ink that reads "Curtis W. Baird". The signature is stylized and cursive.

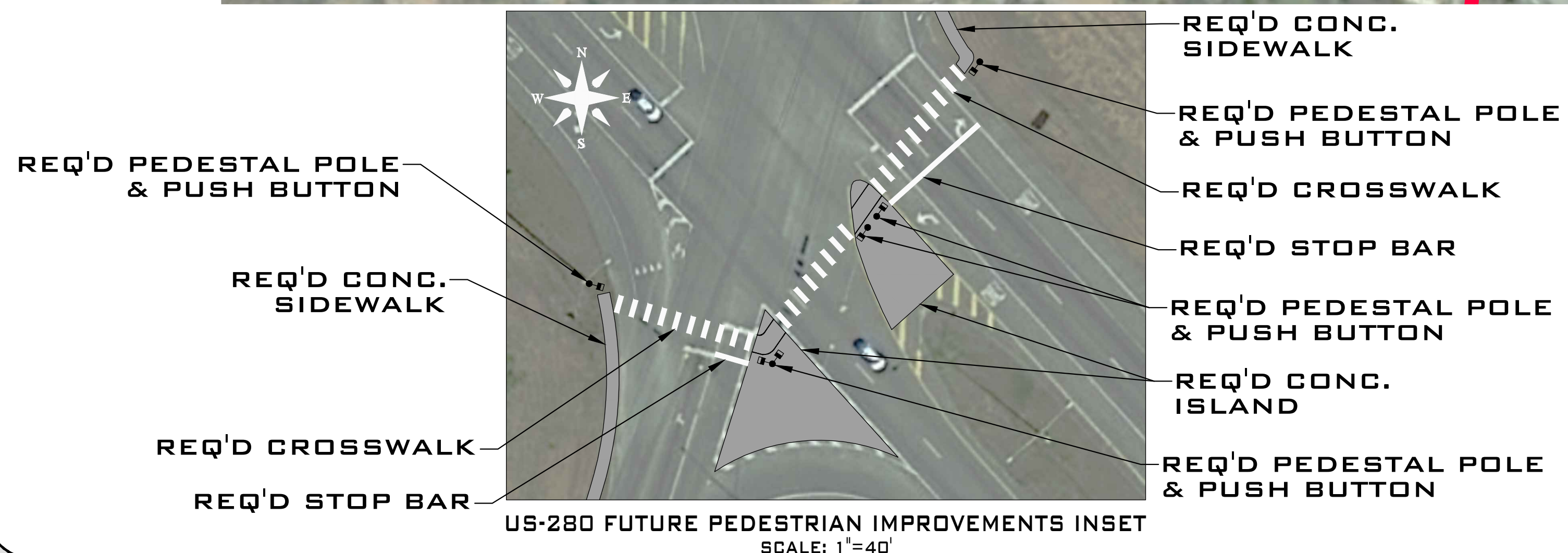
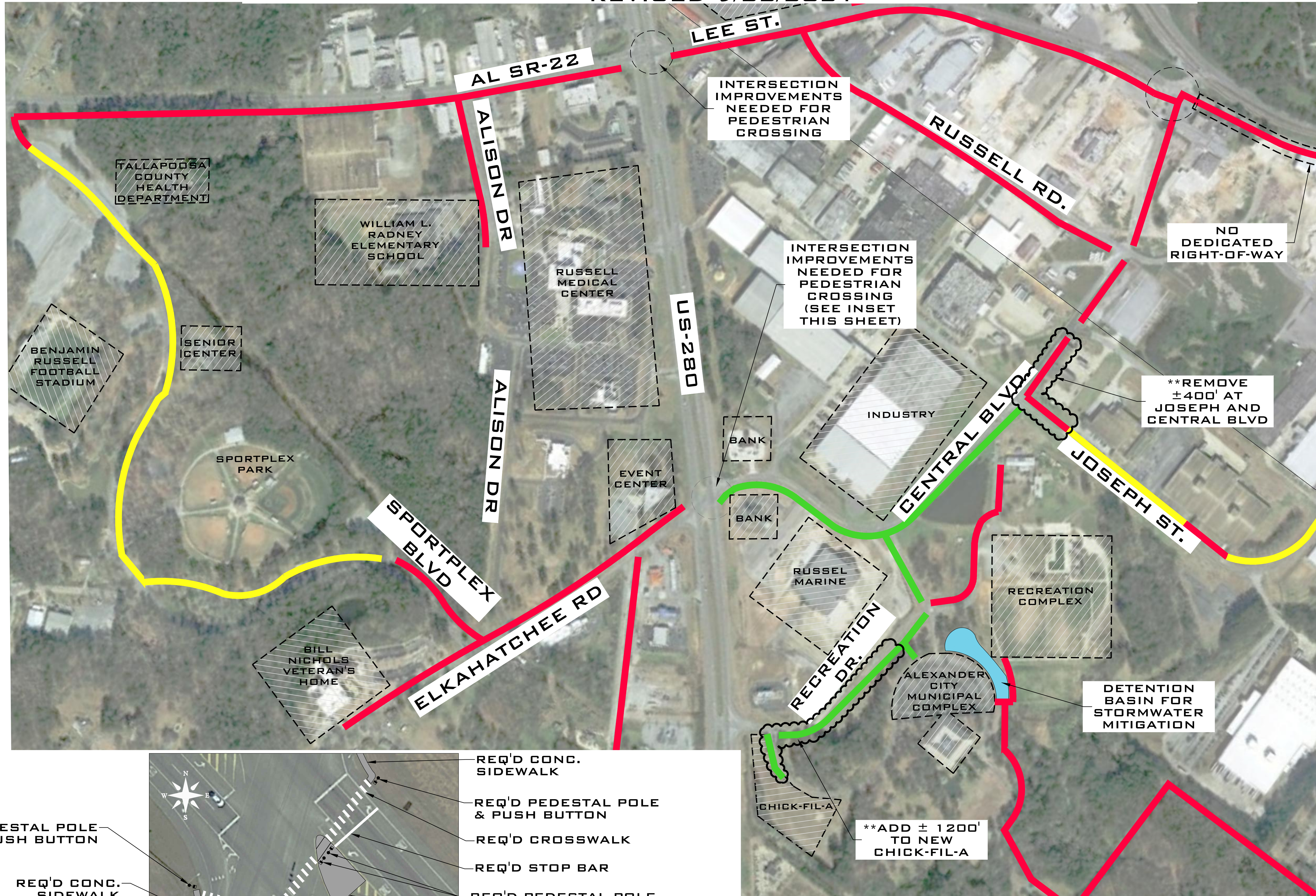
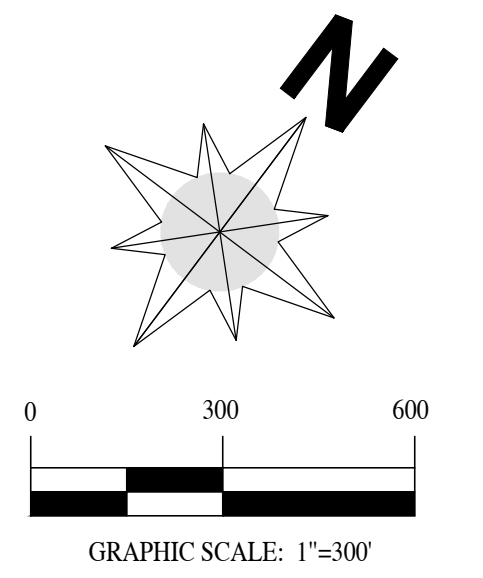
Curtis W. Baird
Mayor

c: Amanda Thomas

ALEXANDER CITY SIDEWALK TAP APPLICATION FY2022

CITY OF ALEXANDER CITY, ALABAMA

REVISED 9/22/2021



**NOTE - THESE ARE AREAS OF REQUESTED CHANGES TO THE PROJECT LIMITS

- TAP PROJECT FY2022
- FUTURE SIDEWALK PROJECTS
- EXISTING SIDEWALK (RETAIN)

RESOLUTION NO. 22-20

A Resolution to Authorize the Mayor to Execute an Engineering Agreement for Design with Engineering Environmental and Forestry Services Company, PC for Sidewalk Improvements along Central Blvd., James D. Nabors Drive, and Recreation Drive, Project No. TAPAA-TA22(909)

WHEREAS, the City of Alexander City, Alabama approved Resolution 22-19 to execute a grant agreement with the Alabama Department of Transportation for sidewalks; and

WHEREAS, the City must provide 100% funding for the design of the project, which is projected to not exceed \$80,000 (\$65,000 for engineering contract plans preparation and bid procurement and \$15,000 for design survey work); and

WHEREAS, funding for design is included in the FY 2022 Budget; and

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Alexander City, Alabama, be and hereby authorizes the Mayor to execute an Engineering Agreement for design services with Engineering Environmental and Forestry Services Company, PC for Sidewalk Improvements along Central Blvd., James D. Nabors Drive, and Recreation Drive for an amount not to exceed \$80,000.

ADOPTED AND APPROVED this 6th day of December 2021.

ATTEST:

Amanda F. Thomas, City Clerk

Audrey "Buffy" Colvin, Council President

Curtis "Woody" Baird, Mayor

CERTIFICATION OF CITY CLERK

The undersigned, as City Clerk of the City of Alexander City, Alabama, hereby certifies that the foregoing is a true, correct and complete copy of **Resolution No. 22-20** which was adopted by the City Council on this 6th day of December 2021.

WITNESS MY SIGNATURE, as City Clerk of the City Alexander City, Alabama, under the seal thereof, this 6th day of December 2021.

City Clerk of the
City of Alexander City, Alabama

S E A L

Yeas: _____

Nays: _____

ENGINEERING AGREEMENT
ENGINEERING ENVIRONMENTAL AND FORESTRY
SERVICES COMPANY, PC AND
THE CITY OF ALEXANDER CITY
CIVIL ENGINEERING SERVICES

THIS AGREEMENT, made and entered into by and between THE CITY OF ALEXANDER CITY hereinafter called the OWNER and ENGINEERING, ENVIRONMENTAL & FORESTRY SERVICES COMPANY, P.C. (EEFS COMPANY, PC) a corporation operating under the laws of the State of Alabama hereinafter called the "Engineer".

WITNESSETH:

WHEREAS, the OWNER has determined that it desires to obtain certain professional engineering services to be rendered for the OWNER and its SIDEWALK IMPROVEMENTS ALONG CENTRAL BOULEVARD, JAMES D. NABORS DRIVE AND RECREATION DRIVE, PROJECT NO. TAPAA-TA22(909).

WHEREAS, the Engineers have previously represented to the OWNER that they have the academic and professional qualifications and personnel to render the necessary engineering services for the OWNER's needs, and

WHEREAS, the Engineer agrees to provide professional engineering services to the OWNER.

WHEREAS, the OWNER requires such services for the purposes hereinafter outlined,

NOW, THEREFORE, the OWNER does hereby employ said "Engineer" to perform certain Engineering services as follows:

ARTICLE I - SCOPE OF WORK

The Engineer will accomplish the following tasks associated with the OWNER as SIDEWALK IMPROVEMENTS ALONG CENTRAL BOULEVARD, JAMES D. NABORS DRIVE AND RECREATION DRIVE, PROJECT NO. TAPAA-TA22(909).

The Engineer shall perform design surveys and professional engineering services to prepare contract plans for the SIDEWALK IMPROVEMENTS ALONG CENTRAL BOULEVARD, JAMES D. NABORS DRIVE AND RECREATION DRIVE, project:

1). Conceptual Design

- a) Prepare a 30% Conceptual Design for presentation to the City of Alexander City for conceptual approval including presentation to the Mayor and/or City Council and public hearing as necessary.

2). Existing conditions survey in state plane coordinates of the right of way and sidewalk area along Central Boulevard, James D. Nabors Drive, Recreation Drive and area along the north side of the soccer complex. The project will consist of approximately 4,000 linear feet of concrete sidewalk, five feet in width, including ADA accessible curb ramps and pedestrian lighting. This project also includes minor unclassified excavation, storm drainage improvements and roadway pipe modifications, minor utility meter/valve resets, landscaping, erosion control, and traffic control. Existing conditions survey includes located utilities and visible improvements.

3). Alabama Department of Transportation Meetings/Utility Coordination

- a) ALDOT coordination, 30% Plans in Hand submittal, PS&E Review Meeting attendance, and utility coordination

4). Environmental Documents and Clearances

- a) ALDOT Coordination and submittal of Programmatic Categorical Exclusion (PCE) checklist for environmental clearance.

5). Geotechnical Exploration/Materials Report

- a) Not included in contract. EEFS can provide upon request.

6). Design Construction Plans

- a) Prepare final construction drawings and construction cost estimate on the basis of Owner approved Conceptual Design.
- b) Furnish and present to Owner final construction drawings for review.
- c) Submit final design drawings to ALDOT for review and approval complying with the requirements of the Transportation Alternative Program (TAP).
- d) Right of Way acquisition is not anticipated; therefore, it is not included in this contract.
- e) Electrical Engineering Services included in the contract are defined as:
 - i. Negotiation with Utilities for Service
 - ii. Final Specification Ready for Reproduction
 - iii. Electrical Drawings Ready for Reproduction
 - iv. Review of Electrical Shop Drawings
 - v. One (1) Intermediate Electrical Field Inspection
 - vi. One (1) Final Field Observation for compliance with life safety

7). Bid Procurement

- a) Provide final cost estimate submittal to ALDOT as required
- b) Coordinate with Owner to obtain required right of way, railroad, and utility certifications

- c) Prepare Contract Documents and bid proposal sheet, including ALDOT specifications that comply with TAP requirements and submit to ALDOT for review and approval
- d) Coordinate/administer opening of bids that comply with federal/state bid laws
 - i. Advertisement costs not included in contract and are the responsibility of the Owner.
- e) Contract Administration is not included in this contract
- f) ADEM NPDES permit is not anticipated due to less than one (1) acre disturbance; therefore, not included in this contract.
- g) Accident data and traffic counts/studies not included in this contract.

ARTICLE II - PAYMENT OF ENGINEERING SERVICES

The Engineer agrees to provide professional services for the tasks in Article I Scope of Work and the owner agrees to pay the engineer an amount not to exceed **\$80,000.00** dollars which includes **\$15,000.00** dollars for design survey work and **\$65,000.00** dollars for engineering contract plans preparation and bid procurement.

1). Partial payment for all engineering services shall be paid under the terms of this agreement. Pay requests shall be made no more that monthly and paid based on hours worked on the project at the hourly rated in Attachment No. 1. Payments shall due and payable within 30 days of receiving the invoice. Any invoice in excess of 30 days may bear an interest rate of one- and one-half percent (1 ½%) per month and owner shall reimburse any expenses including legal cost and collection cost of the outstanding balance due engineer.

2). Additional services shall be paid under the same billing and payment terms as section 1 above.

ADDITIONAL SERVICES

Additional Engineering Services for the OWNER will be billed separately from this Agreement under an amendment to the agreement.

1. Land surveying services to establish property boundaries for property acquisition by the OWNER. This includes boundary surveys and tract sketches.
2. Engineering surveying services for topographic surveys, cross section survey, aerial photographic and LIDAR surveys. Construction base line surveys and construction control surveys.

Additional services, consisting of special projects, may be requested by the OWNER and shall be billed under an Agreement Amendment for any other particular projects.

For the services performed by the Engineer under this agreement the OWNER will compensate the Engineer as follows:

1. The Engineer will invoice monthly for his actual work completed on a percent complete by task, with a price not to exceed task contract totals without approval from the OWNER Engineer. Payment shall be made within thirty (30) days of receiving the invoice.
2. Other engineering services for special projects will be invoiced at the rates in the attached fee schedule in Attachment 1. Any additional services shall be itemized separately from the "Engineer's" primary responsibilities encompassed within this agreement using rates in the attached fee schedule. These special projects include Additional surveying, Geotechnical Reports, Traffic Engineering, Signal Design, Flood Studies and Phase II Environmental. Reasonable and necessary outside expenses incurred in connection with services performed in this contract shall be billed at cost plus 15%. These include advertisement for bid and plan reproduction cost.
3. Reasonable and necessary expenses associated with the primary responsibilities and/or other services rendered in connection with this contract shall be billed at cost plus 15%.
4. Copies of any and all invoices for services and/or expenses submitted for payment to the OWNER shall be directed to the OWNER Engineers office and also copied to the Mayor's office.

ARTICLE III - TERMINATION AND PAYMENT UPON TERMINATION

1. Termination

Termination by either Party: This Agreement may be terminated by either party upon the giving of thirty (30) days written notice of the other party's notice of termination.

2. Payment upon Termination

- A. If termination is affected by the OWNER (1) no amount shall be allowed for anticipated profit on unperformed services or other work by the Engineer, and (2) adjustments due the OWNER may be made to the extent of any additional costs occasioned to the OWNER by reason of the Engineer's default.
- B. Termination: The "Engineer" shall be paid for all services performed prior to receipt of the notice of termination unless special arrangements are negotiated. In addition to payment to "Engineer" for engineering services rendered, the "Engineer" shall also be paid for all reasonable and necessary expenses incurred prior to the Engineer's receipt of notice of termination.

3. **Obligations upon Termination**

Obligations of Engineer: Upon receipt of the notice of termination pursuant to the above paragraphs, the Engineer shall (1) promptly discontinue all services (unless the notice directs otherwise), and (2) deliver or otherwise make immediately available to the OWNER all data, drawings, specifications, reports, estimates, summaries, and such other information and material as may have been accumulated by the Engineer in performing this Agreement, whether completed or in process.

4. **Successors and Assigns**

The OWNER and the “Engineer” each binds himself and his partners, administrators and assigns to the other party of this Agreement and to the partners, successors, executors, administrators, and assigns of such other party, in respect to all covenants of this Agreement. Except as above, neither the OWNER nor the “Engineer” shall assign, sublet or transfer his interest in this Agreement without the written consent of the other. Nothing herein shall be constructed as creating any personal contractual liability on the part of any officer or agent of any organization, which may be a party hereto.

ARTICLE IV - GENERAL TERMS AND CONDITIONS

1. **Authorization to Proceed**

The “Engineer” will proceed with performing engineering services for the OWNER when the Engineering Agreement is signed and received by the engineer.

2. **Insurance**

The Engineer shall secure and maintain Workmen's Compensation and Business and Professional Liability Insurance. A Certificate of Insurance shall be provided to the OWNER. Minimum liability limits in the amount of one million dollars (\$1,000,000) Business Liability and one million dollars (\$1,000,000) Professional Liability shall be maintained. A Certificate of Business and Professional Liability Insurance shall be provided to the OWNER. If the OWNER requires an increase in the insurance liability limit the OWNER shall reimburse the direct cost increase to the engineer.

3. **Successors and Assigns**

The OWNER and the “Engineer” each binds himself and his partners, administrators and assigns to the other party of this Agreement and to the partners, successors, executors, administrators, and assigns of such other party, in respect to all covenants of this Agreements. Except as above, neither the OWNER nor the “Engineer” shall assign, sublet or transfer his interest in this Agreement without the written consent of the other. Nothing herein shall be constructed as creating any personal contractual liability on the part of any officer or agent of any organization which may be party hereto.

4. **Indemnity**

The “Engineer” hereby agrees to indemnify and hold the OWNER harmless on account of any claims the OWNER may receive as result of the “Engineer’s” negligence and/or malfeasance due to the actions taken by the “Engineer”. The OWNER hereby agrees to indemnify and hold the “Engineer” harmless on account of any negligence or malfeasance of the OWNER or OWNER employee’s actions.

5. **Limitation of Liability**

Engineer's Liability Limited to Amount of Insurance Proceeds: Engineer shall procure and maintain insurance as required by and set forth in Article IV-2 to this Agreement. Notwithstanding any other provision of this Agreement, and to the fullest extent permitted by law, the total liability, in the aggregate, of Engineer and Engineer's officers, directors, members, partners, agents, employees, and Consultants, to Owner and anyone claiming by, through, or under Owner for any and all claims, losses, costs, or damages whatsoever arising out of, resulting from or in any way related to a Specific Project or Task Order, or this Agreement, from any cause or causes, including but not limited to the negligence, professional errors or omissions, strict liability, breach of contract, indemnity obligations, or warranty, express or implied, of Engineer or Engineer's officers, directors, partners, agents, employees, or Consultants, or any of them (hereafter "Owner's Claims"), shall not exceed the total insurance proceeds paid on behalf of or to Engineer by Engineer's insurers in settlement or satisfaction of Owner's Claims under the terms and conditions of Engineer's insurance policies applicable thereto (excluding fees, costs and expenses of investigation, claims adjustment, defense, and appeal).

ARTICLE V – OWNER’S RESPONSIBILITIES

1. The OWNER shall assign and designate work to be performed by the Engineer as outlined in this contract.
2. The OWNER shall provide access to public records maintained by the OWNER and required by the Engineer to perform the duties of this Agreement. This shall include deeds, right of way deeds, right of way maps, right of entry for proposed road right of way locations and surveys. Project history, feasibility studies, geotechnical & geological reports and studies, environmental data & studies (including wetlands and endangered species), archeological & historical studies and special site condition studies.
3. Provide utility easement and location of underground public utilities by marking for survey crew location. Uncovering or spot elevations in some locations may be required.
4. All notices provided for in this agreement shall be made in writing and as follows:

i. If to Engineer:

Ronald R. Gilbert, P.E, R.F
Engineering, Environmental & Forestry
Services Company, P.C. (EEFS)
1930 2nd Avenue North
Bessemer, AL 35021

ii. If to Owner:

OWNER
City of Alexander City
281 James D. Nabors Drive
Alexander City, AL 35010

- 5. This agreement contains all the representations made between the parties, states the entire contract between the parties and shall not be amended or modified unless in writing.
- 6. In the event it should become necessary for either party to enforce this agreement then the non-defaulting party shall be entitled to recover from the defaulting party all reasonable costs of enforcement including but not limited to attorney's fees and court costs.

ARTICLE VI – ALABAMA IMMIGRATION LAW COMPLIANCE

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.

IN WITNESS WHEREOF, THE PARTIES HAVE EXECUTED THIS AGREEMENT ON THIS THE _____ DAY OF _____, 20_____.

OWNER

EEFS COMPANY, PC

By: _____
CITY OF ALEXANDER CITY
MAYOR

By: _____
Ronald R. Gilbert, P.E., R.F.
Engineer

Date: _____

Date: _____

ATTEST: _____

ATTEST: _____

ATTACHMENT 1

EEFS COMPANY, PC
1930 SECOND AVENUE NORTH, SUITE 150
BESSEMER, ALABAMA 35020

FEE FOR SERVICES

OWNER agrees to pay EEFS an amount for the time of all personnel engaged directly under this Agreement based on EEFS's Rates for Personnel plus an amount for incurred expenses based on EEFS's Rates for Expenses.

The rates for Personnel used as a basis for payment are as set forth below (these rates are subject to adjustment on January 1 of each year):

Principal Engineer	\$ 145.00 per hour
Professional Engineer	\$ 120.00 per hour
Staff Engineer	\$ 80.00 per hour
Senior Designer	\$ 85.00 per hour
Senior Draftsman	\$ 65.00 per hour
Cad Operator	\$ 50.00 per hour
Engineer Assistant	\$ 55.00 per hour
Clerical	\$ 45.00 per hour
Professional Surveyor	\$ 90.00 per hour
Two-Man Survey Crew	\$ 175.00 per hour
Three-Man Survey Crew	\$200.00 per hour
Survey Party Chief	\$ 45.00 per hour

The Rates for Expenses used as a basis for payments are as set forth below:

A. OUTSIDE EXPENSES:

Outside expenses incurred under this agreement for which EEFS must pay shall be charged at actual cost-plus 15 percent. These expenses may include, but shall not be limited to, costs for transportation and subsistence incidental thereto; mapping, photographic or reproductions services; equipment rental; fees for permits, filings, applications, bonds and special insurance coverage's; long distance telephone charges; services provided by professional firms, outside consultants, and testing firms; postage and freight; etc.

B. IN-HOUSE EQUIPMENT EXPENSES (these rates are subject to adjustment on January 1 of each year):

Mileage for vehicles is included in the above overhead rates.

Page 2 of 2

Fee for Services Attachment

Work done for a client, (OWNER) by ENGINEER'S personnel in connection with litigation, including all time required to prepare for and/or appearance, including standby prior to hearing will be charged at two (2) times the standard rates shown above.

NEGOTIATED CONTRACTS:

Lump Sum, Cost Plus and other forms of Contracts will be entertained on an individual basis.

SUBCONTRACTS:

Subcontracts entered into for the Owner's account will be billed through at cost, plus a fee of 15 % of the subcontract price.

RESOLUTION NO. 22-21

A Resolution to Authorize the Mayor to Execute an Agreement for Examination Services with RiverTree Systems, Inc.

WHEREAS, the City of Alexander City, Alabama, has used RiverTree Systems for many years to audit and collect local taxes and business license fees; and

WHEREAS, RiverTree has collected \$22,611.33 for the City over the last 3 years; and

WHEREAS, the current proposed agreement is for 3 years; and

WHEREAS, funding for said services is included in the FY 2022 Budget; and

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Alexander City, Alabama, be and hereby authorizes the Mayor to execute an agreement for examination services with RiverTree Systems, Inc.

ADOPTED AND APPROVED this 6th day of December 2021.

ATTEST:

Amanda F. Thomas, City Clerk

Audrey "Buffy" Colvin, Council President

Curtis "Woody" Baird, Mayor

CERTIFICATION OF CITY CLERK

The undersigned, as City Clerk of the City of Alexander City, Alabama, hereby certifies that the foregoing is a true, correct and complete copy of **Resolution No. 22-21** which was adopted by the City Council on this 6th day of December 2021.

WITNESS MY SIGNATURE, as City Clerk of the City Alexander City, Alabama, under the seal thereof, this 6th day of December 2021.

City Clerk of the
City of Alexander City, Alabama

S E A L

Yeas: _____

Nays: _____

RIVERTREE SYSTEMS, INC.

P. O. Box 361361

Birmingham AL 35236



AUDITORS FOR THESE ALABAMA CITIES AND COUNTIES:

ALABASTER*ALEXANDER CITY* ANDALUSIA* CALERA
CHELSEA*COLUMBIA*DECATUR*GARDENDALE
GULF SHORES*HARTSELLE* HELENA * HOMEWOOD
HUEYTOWN* IRONDALE*JACKSONVILLE*JASPER*LINCOLN*MADISON
MILLBROOK*MONTEVALLO*MONTGOMERY*MOODY*NORTHPORT
ORANGE BEACH* PELHAM*PELL CITY*PRATTVILLE
TALLADEGA*TRUSSVILLE*TUSCUMBIA*VESTAVIA HILLS
INDIAN SPRINGS VILLAGE & TRINITY (BUSINESS LICENSE)
COLBERT COUNTY*MONTGOMERYCOUNTY*MORGAN COUNTY
SHELBY COUNTY*ST. CLAIR COUNTY

JAMES M. THOMAS
205-988-0331 x301
Fax 205- 988-9687
jimrivertree301@yahoo.com

November 3, 2021

City of Alexander City
Attn: Romy Stamps
Finance Director
P.O. Box 552
Alexander City, AL 35011-0552

RE: Audit Contract Renewal

Dear Ms. Stamps,

My records show that the current 3-year contract is set to expire December 18, 2021. It has been my experience that with City Council members it often takes a few weeks to get approval.

Please note the following:

1. The hourly rate will be \$75.00 an hour.
2. Under 1. (f), the statements on Preliminary Assessments and Final Assessments are based on Act 2016-406. Rivertree will always keep you informed on problem audits and have you sign-off on the Final Assessments

If the City Council approves this contract please mail a signed copy of page 9 for my files. We will also need a new signed and dated Authorization Letter, per Section 40-2A-13(d). I have attached a copy of the current letter we have on file for your information. We have had a good relationship and desire to continue to generate revenue for Alexander City.

Yours truly,

James M. Thomas –President
Certified Revenue Examiner

STATE OF ALABAMA

COUNTY OF TALLAPOOSA

AGREEMENT FOR EXAMINATION SERVICES

THIS AGREEMENT made and entered into on this the ___ day of _____ 2021

by and between the **CITY OF ALEXANDER CITY** hereinafter referred to as the "Client", and **RIVERTREE SYSTEMS, INC.**, an Alabama corporation (hereinafter referred to as "**RIVERTREE**").

1. The Client desires to provide for the collection of all local taxes and fees, regardless of the jurisdiction in which a taxpayer subject to the Client's taxing power maintains its principal office, to provide that all taxpayers are treated equally and to provide that all tax related ordinances are uniformly and consistently applied. In order to accomplish these goals and objectives, the Client desires to retain the services of a company legally qualified as a "private auditing or collecting firm" as defined in the Alabama Taxpayers' Bill of Rights and Uniform Revenue Procedures Act, Code of Alabama (1975) §40-2A-1 et seq. (hereinafter the "Taxpayers' Bill of Rights") to perform audits and examinations of such taxpayers' books and records.

2. RIVERTREE is qualified as a private auditing or collecting firm under the Taxpayers' Bill of Rights and, as such, provides collection, examining and consulting services for local governments throughout the State of Alabama. RIVERTREE has represented to the Client that (i) it is knowledgeable of all laws and regulations applicable to private auditing or collecting firms, (ii) it provides its services in full compliance with all applicable laws and

regulations, and (iii) it obtains all of the legally required certifications, fidelity bonds, and legal letters of authority to act as a private auditing or collecting firm.

3. The Client desires to retain RIVERTREE as a private auditing firm to provide tax auditing and examination services under the terms and conditions, of this Agreement.

NOW, THEREFORE, PREMISES CONSIDERED, RIVERTREE and the Client hereby agree as follows:

1. **RIVERTREE SYSTEMS, Inc.** The Client and RIVERTREE hereby agree that RIVERTREE will provide the following services:

- a) Identify and prepare a written list of "taxpayer candidates for examination "based on objective criteria to be agreed upon by RIVERTREE and the Client in advance of such work.
- b) Pursuant to Code of Alabama (1975) §40-2A-13(d) upon first contact with the taxpayer, RIVERTREE shall disclose in writing the identity of the Client and all other clients represented by RIVERTREE and shall provide a copy of appropriate written authorization of RIVERTREE's representation from the Client and from any such other client.
- c) Inspect and examine on behalf of the Client, all books, records and other documents of taxpayers assigned to be examined by the Client to determine to what extent, if any, the taxpayer owes the Client sales and use taxes, occupational taxes, license fees, lease taxes, tobacco taxes, gasoline taxes, and any other city tax, plus interest, penalties and other charges thereon, as directed by Client and in accordance with the ordinances, resolutions and regulations of the Client.
- d) RIVERTREE acknowledges that Code of Alabama (1975) §40-2A-13(f) provides that when a private examining or collecting firm represents more than one county, city or town on the date it first contacts a taxpayer, the private examining or collecting firm shall examine the taxpayer's books and records for all such counties, cities or towns simultaneously. Therefore, when conducting examinations initiated by other RIVERTREE clients (counties or other cities and towns), RIVERTREE will include Client on the list of entities for which the examination is being conducted. In the event RIVERTREE examines a taxpayer on behalf of other RIVERTREE clients who have not enacted the same taxes as Client, then RIVERTREE's audit of such taxpayer shall include all such taxes of Client.

- e) Perform examinations of taxpayer's records in accordance with "*The Minimum Standard Examination Program*" established by the Alabama Local Tax Institute of Standards and Training (the "Minimum Standards").
- f) Report to the Client that information necessary for the Client to assess the taxpayer's sales and use taxes, license fees, lease taxes, and all other County taxes, plus interest, penalties and other charges thereon for transactions which RIVERTREE reasonably believes may have resulted in an obligation of the taxpayer to pay such taxes to the Client.
- g) Prepare and present to the Client a "Findings Report," which shall include, at a minimum, all information required to prepare a written report under the Minimum Standards and a summary thereof on each examination performed. In the event RIVERTREE's audit indicates that a particular taxpayer has no tax Liability to the Client, RIVERTREE shall provide the Client a written report including the name of the taxpayer audited, the types of tax for which the taxpayer was examined and found to have no liability, and the audit period.
- h) Provide full cooperation to the Client in the preparation of any legal documents, attend any judicial, administrative, departmental, appellate or other legal hearings and be available to testify at hearings that may be required to collect any amounts due to the Client from the taxpayer.
- i) Pursuant to the Code of Alabama (1975) §40-2A-1 3(h) RIVERTREE shall notify the taxpayer if any tax overpayments are discovered and the taxpayer is due any refunds from the Client, or if the taxpayer owes any tax to the Client.
- j) Any additional or incidental services which are allowable by law and are reasonably necessary in order to carry out RIVERTREE's obligations under this Agreement.

RIVERTREE shall collect all taxes with checks payable to the CITY OF ALEXANDER CITY.

2. **Compensation.** It is understood that each RIVERTREE client will only pay a prorated portion of total audit costs when RIVERTREE is conducting examinations for multiple clients at one time. Client agrees to pay RIVERTREE its prorated portion of each audit's total audit costs which shall consist of **seventy-five dollars (\$75.00) per hour.**

RIVERTREE shall be paid monthly based upon hours worked submitted to the Client by the fifteenth (15th) day of the month for the month next proceeding. The parties

acknowledge that the Code of Alabama (1975) §40-2A-6 specifically prohibits the Client from entering into any contract or arrangement with a private examining or contracting firm for the examination of a taxpayer's books on a contingency fee basis and agree that RIVERTREE's compensation under this Agreement is not in any way contingent upon or otherwise related to the amounts discovered during examinations nor contingent upon or related to amounts finally received by the Client.

Billing to Clients

1. The client will receive an Invoice Billing along with a check (made to client) for billable worked hours.
2. The client will receive a Billing Invoice on Final Assessments once a certified mail receipt is received for the Taxpayer. The audit package will be forwarded to the clients to provide an Administrative Law Judge Hearing, if self-administered, or start Legal Action. Rivertree will assist on all hearing matters.
3. Erroneously "Paid Tax" audits, Rivertree Systems will hold the "Notice of Tax Due" for 90-days to allow a refund from the "wrong jurisdiction." Once the 90-days has expired, the Refund Petition, Notice of Tax Due, tax billings, and audit work papers will be forwarded to the client to handle the "underpayment." An invoice will be attached for hours worked.
4. On Client Requested Reviews, at a minimum of 4-hours will be invoiced even if "No Findings."

3 Representations and Warranties. RIVERTREE represents and warrants as follows:

- a. RIVERTREE is a corporation valid and existing and in good standing under the laws of the State of Alabama.
- b. As of the effective date of the Agreement, RIVERTREE and any employee, agent, or independent auditor/examiner of RIVERTREE providing services under this Agreement, shall have obtained all licenses and bonds necessary or appropriate to perform RIVERTREE's obligations under this Agreement and all such licenses and bonds shall be current and in good standing, and shall be maintained throughout the term of this Agreement.
- c. RIVERTREE and its employees, agents and independent auditors/examiners agree to comply with all current and future laws, rules and regulations applicable to all services provided by RIVERTREE under this Agreement,

including, but not limited to, the Local Tax Simplification Act of 1998, the Alabama Local Tax Procedures Act of 1998 and the Taxpayers' Bill of Rights are currently in effect and hereafter amended.

- d. RIVERTREE agrees to comply with all laws and regulations relating to the employees of RIVERTREE, including, without limitation, all tax withholding requirements and worker's compensation laws.

4. **Change in Law.** The parties agree that in the event of any conflict between the requirements of any applicable law and the terms of this Agreement, then the requirements of such applicable law shall control. If any law applicable to the services provided by RIVERTREE under this Agreement shall be amended, or otherwise changed following the effective date of this Agreement, and the Client, in its sole discretion, determines that such amendment, modification or change in the law shall impair or frustrate the Client's purposes for entering into this Agreement, then the Client shall have the option to terminate this Agreement as provided in Paragraph 10 below.

5. **Requirements of Examiners.** All examiners employed by RIVERTREE shall meet all requirements of the Taxpayers' Bill of Rights and other current or future applicable law. At a minimum, all such examiners shall (i) be certified public accountants or accountants licensed by the State Board of Public Accountants, or (ii) be certified by the Alabama Local Tax Institute of Standards and Training, and (iii) maintain fidelity bonds in accordance with the Code of Alabama (1975) §40-23-30, as currently in effect and hereafter amended, and (iv) maintain a business license as required by Code of Alabama (1975) §40-12-2, as currently in effect and hereafter amended. If any assessment based on an audit by RIVERTREE is invalidated due to lack of proper certification of RIVERTREE's auditors, RIVERTREE must either provide an audit of the assessed taxpayer conducted by a certified auditor or reimburse

Client for all amounts paid to RIVERTREE in connection with the audit. RIVERTREE shall indemnify and hold Client harmless from any loss in revenues arising from or in connection with any invalidated assessment based upon an audit conducted by RIVERTREE if such invalidation is due to lack of proper certification of RIVERTREE 's auditors or due to any other fault of RIVERTREE.

6. **Inspection.** The Client reserves the right at all reasonable times to inspect the documents, information, taxpayer examination system and procedures of RIVERTREE to ensure that RIVERTREE and its employees, agents, and independent auditors/examiners are complying with the terms of this Agreement and all applicable laws. Any such inspection or any lack of inspection by the Client, however, shall not be deemed to waive the requirements of, or excuse the foregoing from complying with, the terms of this Agreement and all applicable laws.

7. **Confidentiality of Tax Information.** RIVERTREE and its employees, agents, and independent auditors/examiners shall not print, publish or divulge the return of any taxpayer or any part of a return or any information or data supplied by the Client or secured in arriving at the amount of the tax value reported and shall act in conformance with all current and future federal, state and local laws and regulations concerning the confidentiality of tax information, including, but not limited to, the Taxpayers' Bill of Rights (collectively, the "Confidentiality Laws"). All principals, officers, employees and independent auditors/examiners of RIVERTREE involved with the services provided by RIVERTREE under this Agreement, prior to undertaking such services, shall execute an agreement in form and context acceptable to the Client binding such principals, officers, employees and independent auditors/examiners to observe the Confidentiality Laws.

8. **Independent Contractor.** The parties agree that RIVERTREE is and shall at all times be considered an independent contractor and neither it nor its employees or its independent auditors/examiners shall be considered employees of the Client or entitled to any rights or benefits accorded to employees of the Client. RIVERTREE and the Client affirm that this Agreement does not create a partnership or joint venture and that no expressed, implied or apparent rights are intended to inure to any third parties under the terms and conditions herein.

9. **Term.** This Agreement shall be effective as of the date set forth in the preamble and will continue for a period of 3 year(s) from the date unless terminated as herein provided. Pursuant of the Code of Alabama (1975-40-2A-12, this Agreement shall not be renewed or extended beyond such one year term: provided, however, that parties may negotiate a new contract concerning the subject matter of this Agreement to become effective following expiration of this Agreement.

10. **Default.** If RIVERTREE shall fail in any respect to comply with the terms of this Agreement, the Client shall notify RIVERTREE in writing of the matters with regard to which default is asserted, and RIVERTREE shall have thirty (30) days to cure such default. If RIVERTREE fails to either cure such default within said time, then the Client may terminate this Agreement at any time thereafter by giving written notice to RIVERTREE of its election to terminate.

11. **Termination.** Either party may terminate this Agreement by giving the other party written notice of termination at least ninety (90) days prior to the effective date of termination. Notwithstanding the foregoing, this Agreement shall be terminated automatically, without notice, if RIVERTREE, for any reason loses or foregoes its license

required under Code of Alabama (1975) §40-2A-13 or §40-2A-14. RIVERTREE shall provide the Client all documentation, records, reports, and examinations as of the effective date of the termination with a final itemized statement of fees due.

12. Assignment; Subcontracting of Services. Client acknowledges and agrees that RIVERTREE may retain auditors or examiners on an independent contractor basis to provide the services described in this Agreement and Client consents to RIVERTREE's retention of such auditors or examiners provided, however, that any such auditor or examiner must meet all criteria applicable to auditors and examiners under law or under this Agreement and provided further that all terms and conditions of this Agreement, including but not limited to indemnities, applicable to services provided by RIVERTREE shall apply to any work performed by such auditors and examiners. RIVERTREE shall maintain and, upon Client's request, shall provide to Client a list of all auditors and examiners authorized to provide services on behalf of RIVERTREE. Except as provided in this Paragraph 12, RIVERTREE shall not assign any of its rights or obligations under this Agreement or enter into an agreement with any person, entity or subcontractor to perform the obligations of RIVERTREE under this Agreement. Any such assignment or other agreement by RIVERTREE shall be null and void.

13. Applicable Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Alabama. If a dispute arises out of or relates to this Agreement or its breach, the parties shall endeavor to settle the dispute first through direct discussions and negotiations. If the dispute cannot be settled through direct discussions or negotiations, the parties shall endeavor to settle the dispute by non-binding mediation. The location of the mediation shall be ALEXANDER CITY, Alabama. Either party may

terminate the mediation at any time after the session, but the decision to terminate must be delivered in person to the other party and the mediator. Engaging in mediation is a condition precedent to any other form of binding dispute resolution. If the parties cannot agree on a mutual resolution then any disputes not resolved by mediation shall be decided in the Circuit Court of Tallapoosa County, Alabama and governed by the laws of the State of Alabama between ALEXANDER CITY and RIVERTREE.

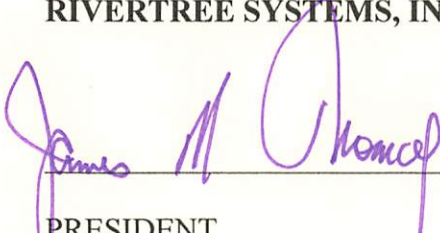
IN WITNESS WHEREOF, the undersigned parties, through their duly authorized officers, have executed this Agreement on the year and day first above written.

CITY OF ALEXANDER CITY

By: _____

Title: _____

RIVERTREE SYSTEMS, INC.



PRESIDENT

RESOLUTION NO. 22-22

A Resolution to Authorize the Mayor to Apply for an Assistance to Firefighters Grant: Operations and Safety for the Fire Department for Hose, Appliances and Nozzles

WHEREAS, the Alexander City Fire Department would like to apply for a grant that would allow them to replace or update old, obsolete equipment with equipment that meets the current National Fire Protection Association (NFPA) standards; and

WHEREAS, other items that will be requested through said grant include 6’ grated intakes that will make connecting to fire hydrants easier and safer than our current method; and

WHEREAS, the City will use Vickers Consulting to assist us with apply for said grant, which professional expenses will be paid for from the FY 2022 Operational Budget; and

WHEREAS, if awarded a 5% match is required (\$2,612.98) that is not included in the current FY 2022 Budget, if awarded it is recommend to amend the budget (FY 2022); and

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Alexander City, Alabama, hereby authorizes the Mayor to apply for the Assistance to Firefighters Grant: Operations and Safety.

ADOPTED AND APPROVED this 6th day of December 2021.

ATTEST:

Amanda F. Thomas, City Clerk

Audrey “Buffy” Colvin, Council President

Curtis “Woody” Baird, Mayor

CERTIFICATION OF CITY CLERK

The undersigned, as City Clerk of the City of Alexander City, Alabama, hereby certifies that the foregoing is a true, correct and complete copy of **Resolution No. 22-22** which was adopted by the City Council on this 6th day of December 2021.

WITNESS MY SIGNATURE, as City Clerk of the City Alexander City, Alabama, under the seal thereof, this 6th day of December 2021.

City Clerk of the
City of Alexander City, Alabama

S E A L

Yeas: _____

Nays: _____

We would like to use our 2020 AFG Operations and Safety grant opportunity to request \$55,010. These funds would be to purchase Fire hose, appliances, tools, adapters, and a portable Compressed air foam system to be mounted in our first due command vehicle.

- Over the years, as we have replaced apparatus, our equipment has been 'handed down' we are still using hose adapters and appliances that are made of solid brass from the 1950s and 60s. Due to the soft nature of the brass alloy threads, we have difficulty connecting hose and adapters. Many of these antiquated items have broken handles and missing parts.
- The 6" intakes will replace older piston type of intakes that leak and cannot be repaired. It will also allow us to place an intake on both sides of our engines. This allows easier access to pump intake regardless of apparatus positioning. It also is a safety item allowing the intake opposite of moving traffic to be used. This allows more egress/access to the fire scene and keeps the apparatus operator out of harm's way.
- The 10-gallon CAFS will be placed on our command vehicle. This first due vehicle could control or even extinguish a small fire prior to engine arrival.
- Due to budget cuts, we have only purchased 4 sections of hose in the past 2 years. We are in desperate need to replace hose that has been taken out of service due to failure of yearly test or damage caused at a fire scene. Some of our existing double jacket, rubber-lined hose has been in service for 30 plus years. We are constantly reloading the 'cleanest' of the dirty hose back on apparatus because our spare hose stock is so depleted. It is not mold and mildew resistant like new hose. It should not be loaded wet and it easily kinked.
- The new SM20 nozzles will replace current nozzles that were placed in service in 1993. These new 75psi nozzles will be a 2-piece system with a 15/16 smooth bore w/shut off and a fog nozzle tip added. These types of nozzles provide for fire attack, crew protection, fire debris penetration, and extended stream reach. The lower 75psi nozzle pressure will cause less fatigue to line firefighters and providing less stress on the fire pumps, hose, and nozzles
- We currently only have 1 piercing nozzle. The 3 additional 90* nozzles, 1 for each additional engine, allows water to be placed on a fire through a vehicle hood or through structure walls and roofs. This could allow for less man power when used.
-

#	Product	Cost per	Cost total
6	Akron Revolution 6" intake	1900	11400
4	Elkhart Water Thief 2.5-1.5x2.5x1.5	1562	6248
4	Elkhart Gated Wye 2.5-1.5x1.5	400	1600
4	Elkhart 1.5 Cellar Nozzle	650	2600
8	Akron Gate Valve 2.5x2.5	702	5616
8	Elkhart SM20 75psi 2-piece pistol nozzle	1100	8800
3	90* piercing nozzle 1062	1062	3186
6	Kochek Hydrant/ Spanner set	119	714
1	Enforcer 10-gallon CAFS	4550	4550
12	50'x2.5 Hose	340	4080
24	50'x1.75 Hose	259	6216
			55010