

MUNICIPAL BUILDING, MOBILE, ALABAMA, FEBRUARY 17, 2021

The Council of the City of Mobile, Alabama met remotely via virtual meeting on Wednesday, February 17, 2021, at 9:00 a.m.

Present:

Councilmembers: Richardson, Small, Williams and Daves

Absent: Manzie, Rich and Gregory

The meeting was called to order. The Council reviewed and discussed the agenda for their meeting to be held today at 10:30 a.m.

Approved:

COUNCIL VICE PRESIDENT

CITY CLERK

MUNICIPAL BUILDING, MOBILE, ALABAMA, FEBRUARY 17, 2021

The City Council of the City of Mobile, Alabama met remotely via virtual meeting on Wednesday, February 17, 2021, at 10:30 a.m., in regular meeting.

The meeting was called to order by City Clerk Lisa C. Lambert.

Pastor Gregory West, Rehoboth Missionary Baptist Church, offered the invocation.

The Presiding Officer led the Pledge of Allegiance.

Present on Roll Call:

Chairman: Manzie

Councilmembers: Richardson, Small, Williams, Daves and Gregory

Absent: Rich

STATEMENT OF RULES BY PRESIDING OFFICER:

The Presiding Officer provided an overview of the City Council rules of procedure, to include special provisions to facilitate social distancing because of the Covid-19 virus.

APPROVAL OF MINUTES:

The minutes of the meeting of February 9, 2021, were approved as submitted.

COMMUNICATIONS FROM THE MAYOR:

Mayor Stimpson commended City employees for preparing Mobile for Fat Tuesday.

Mayor Stimpson thanked Mobile Fire-Rescue for battling a warehouse fire for 36 hours.

Mayor Stimpson announced that USA Health vaccinated 2,220 citizens this past Saturday.

ADOPTION OF THE AGENDA:

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Councilmember Daves moved to adopt the agenda and to declare the items on the agenda Essential/Covid-19 related, which move was seconded by Councilmember Williams and the vote was as follows:

Ayes: Richardson, Manzie, Small, Williams, Daves and Gregory

Nays: None

The vote was then announced by the City Clerk whereupon the Presiding Officer declared the agenda adopted and all items declared Essential/Covid-19 related.

APPEALS

Request of Nathan Park, 2125 Wildwood Place, for a waiver of the Noise Ordinance on March 5, 2021, from 7:00-8:30 p.m. (District 4).

Councilmember Daves moved to grant the waiver, which motion was seconded by Councilmember Small and the vote was as follows:

Ayes: Richardson, Manzie, Small, Williams, Daves and Gregory

Nays: None

The vote was then announced by City Clerk, whereupon the Presiding Officer declared the waiver granted.

Request of Tony Pope for a waiver of the Noise Ordinance in Cathedral Square on March 27, 2021, from 1:00 - 5:00 p.m. (District 2).

Councilmember Daves moved to grant the waiver, which motion was seconded by Councilmember Small and the vote was as follows:

Ayes: Richardson, Manzie, Small, Williams, Daves and Gregory

Nays: None

The vote was then announced by City Clerk, whereupon the Presiding Officer declared the waiver granted.

Request of Tony Pope for a waiver of the Noise Ordinance in Bienville Square on March 6, 13 & 20, 2021, from 1:00 - 5:00 p.m. (District 2).

Councilmember Daves moved to grant the waiver, which motion was seconded by Councilmember Small and the vote was as follows:

Ayes: Richardson, Manzie, Small, Williams, Daves and Gregory

Nays: None

The vote was then announced by City Clerk, whereupon the Presiding Officer declared the waiver granted.

Request of Tony Pope for a waiver of the Noise Ordinance at 2570 Government Boulevard, every Tuesday in February and March, 5:00 - 8:00 p.m. (District 5).

Councilmember Daves moved to grant the waiver, which motion was seconded by Councilmember Small and the vote was as follows:

Ayes: Richardson, Manzie, Small, Williams, Daves and Gregory

Nays: None

The vote was then announced by City Clerk, whereupon the Presiding Officer declared the waiver granted.

PUBLIC HEARINGS

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PUBLIC HEARING TO REZONE PROPERTY LOCATED AT 107 AND 111 NORTH LAFAYETTE STREET AND 106 PROVIDENCE STREET (NORTH SIDE OF OLD SHELL ROAD, EXTENDING TO THE EAST SIDE OF PROVIDENCE STREET AND THE WEST SIDE OF NORTH LAFAYETTE STREET) FROM B-1 AND R-1 TO R-1 (DISTRICT 2).

The Presiding Officer announced that today was the day for the public hearing to rezone property located at 107 and 111 North Lafayette Street and 106 Providence Street and asked if there was anyone present to speak for or against this matter.

No one appeared.

The Presiding Officer declared the hearing concluded and that the necessary ordinance authorizing the proper action would be introduced at a later date.

PRESENTATIONS OF PETITIONS AND OTHER COMMUNICATIONS TO THE COUNCIL:

AGENDA ITEMS:

None

NON-AGENDA ITEMS:

None

ESSENTIAL/COVID-19 ITEMS HELD OVER:

ORDINANCE TO REGULATE FOOD TRUCKS. The following ordinance, which was introduced and read at the regular meeting of July 28, 2020, and held over until the regular meetings of August 18, September 22, November 3 & December 15, 2020 and February 17, 2021, was called up by the Presiding Officer.

ORDINANCE: 27-024-2020

Sponsored by: Councilmember Manzie

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MOBILE, ALABAMA, as follows:

Section One. Definitions.

a) Food truck means a food service establishment (as defined in Chapter 34 of the Mobile City Code) that is mobile and located upon or within a vehicle, or which can be pulled by a vehicle, or which can be pulled or pushed by human or animal power (such as a pushcart), where food or beverage is cooked, prepared and/or served for individual portion service. This definition shall not apply to coffee, frozen dessert or ice cream trucks that move from place to place and are stationary in the same location for no more than 15 minutes at a time.

b) Commissary means a designated facility or fixed food establishment that the food truck operates from and reports to for supplies and for cleaning and service operations.

Section Two. License Requirements.

a) It shall be unlawful for any food truck to sell, or offer for sale, any food or beverage without first obtaining a business license as provided in Chapter 34 of the Mobile City Code.

b) In addition to any other requirements, each applicant for a food truck business license must provide:

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- 1) The name, home and business address of the applicant and copy of their current food permit and any other permits required by state or county health departments.
- 2) A description of the food and/or beverage to be sold.
- 3) A description and photograph or drawing of the food truck for which a license is sought.
- 4) Proof of at least one million dollars (\$1,000,000) of liability/personal injury insurance coverage.
- 5) Such information as the applicant may choose or as may be reasonably requested by the city.

Section Three. Locations.

a) Subject to the restrictions and limitations set forth in this ordinance, food trucks shall be permitted on private property, and at locations in the public right-of-way and in public parking lots that have posted permanent signs identifying parking reserved for food trucks.

b) Food trucks may not:

1) Operate within three-hundred (300) feet of any restaurant located within a permanent structure or building.

2) Operate at any City park or other City property unless:

A) At a special event hosted by the City; or,

B) At a designated mobile food vending site approved by the City Planning Department (designated as such by appropriate signage).

3) Operate in R-1, R-2 or R-3 zoning districts without first obtaining a special, single use/single day permit for operation for no more than two hours, from the City of Mobile. No such permit shall be issued for the same location more than two times per year.

Section Four. Specific Regulations.

a) A food truck shall only sell food and beverages. No other merchandise or items of any kind shall be sold at a food truck. A food truck shall meet or exceed all federal, state and local regulations pertaining to the quality of food products offered for sale.

b) In addition to any and all other ordinances, laws, rules and regulations, the food truck shall:

1) Display a valid City of Mobile business license.

2) Display a valid permit issued by the Mobile County Health Department.

3) If operating on private property, provide, upon request, a written agreement between the property owner and the food truck operator stating permission has been granted to operate at said location. An agreement must be provided for each location of operation.

4) Contain food preparation completely within the food truck.

5) Not obstruct the flow of traffic on the public right-of-way.

6) If parked other than on the public right-of-way, meet setback requirements for all respective zoning districts.

7) Be parked a minimum of twenty (20) feet from any street intersection.

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- 8) If operating on a public right-of-way, be parked so that the food/beverage distribution side is away from traffic.
- 9) Not occupy an area that would be greater than two parking spaces.
- 10) Not utilize public utility connections. Utility service is the responsibility of the operator.
- 11) Constantly contain and police waste materials and refuse.
- 12) Provide a trash receptacle for use by customers.
- 13) Not set out or provide tables or chairs for customer use.
- 14) Not be left overnight at any location or left unattended at any time.
- 15) Only operate, and only be parked on public right-of-way or property, between the hours of 6:00 a.m. and 10:00 p.m.
- 16) Return to commissary on a daily basis to service the food truck. This includes getting fresh water, dumping waste, restocking supplies and disposing of garbage.
- 17) Not leave any location without first picking up, removing and disposing of all trash and refuse remaining from sales made by the food truck.
- 18) Not set up, maintain or permit the use of any table, crate, carton, rack or any other device to increase the selling or display capacity of the food truck.
- 19) Not solicit or conduct business with persons in a motor vehicle; that is, no drive-up business.
- 20) Not create sound or permit sound to emit from any device, including but not limited to, loud mechanisms, or equipment which produces a loud and raucous noise (except for generators as further set forth in this ordinance); or operate any loud speaker, public address system, radio, music player, sound amplifier or similar device to attract attention of the public or otherwise.
- 21) Not burn wood or charcoal or produce smoke.
- 22) Permit any advertising on the food truck except to identify the name or identity of the food/beverage for sale, the name of the owner and/or business, and the posting of prices.
- 23) Secure all signs flat against the food truck. Signs may not project more than six inches from the exterior of the food truck.
- 24) Provide exterior lighting which must be hooded or shielded so that the light source is not scattering light to surroundings other than to the food truck and its adjacent service area.
- 25) Obtain electrical service only by an onboard generator, or, if the food truck is set up on private property, from a source on the private property. The total decibel level for any generator(s) shall not exceed eighty (80) dBA at any time.
- 26) If parking in public right-of-way or city owned parking lots with parking meters or fee based parking, pay on a daily basis all parking fees.

Section Five. Special Events.

The City of Mobile may issue a special event permit to allow the operation of food trucks outside of normal requirements. Applications will be accepted by the City department hosting or in charge of the event and permits will be issued on a first come, first serve basis until the maximum number of allowed food trucks, as determined by such department, is reached. The number of food trucks allowed at an event will be dependent

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on the space available where the event is being held. In order to provide variety, the City of Mobile reserves the right to refuse to permit "same type" food trucks when issuing permits where space limitations are involved. Special event hours will be the duration of the event itself. Setup may occur beginning one hour prior to the start of the event and clean-up must be completed within one hour of the end of event.

Section Six. Repealer.

All City ordinances in conflict with the provisions of this ordinance are hereby repealed to the extent of such conflict.

Section Seven. Severability.

The provisions of this Ordinance are severable. If any part of this Ordinance is declared invalid or unconstitutional by a court of competent jurisdiction, that declaration shall not affect the part or parts that remain.

Section Eight. Effective Date.

The Ordinance shall be effective within the corporate limits and police jurisdiction of the City of Mobile on January 1 of the first year following its enactment and publication as required by law.

The ordinance was read by the City Clerk; whereupon Councilmember Daves moved that the ordinance be tabled, which was seconded by Councilmember Gregory and the vote was as follows:

Ayes: Richardson, Manzie, Small, Williams, Daves and Gregory

Nays: None

The vote was then announced by the City Clerk, whereupon the Presiding Officer declared the ordinance tabled.

AMEND CHAPTER 57, ARTICLE II, DIVISION 2 OF THE MOBILE CITY CODE TO ADD A NEW SECTION ON FOOD TRUCKS. The following ordinance, which was introduced and read at the regular meeting of January 19, 2021, and held over until the regular meeting of February 17, 2021, was called up by the Presiding Officer.

ORDINANCE: 57-001-2021

Sponsored by: Councilmember Manzie

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MOBILE, ALABAMA, that Chapter 57, Article II, Division 2 of the Mobile City Code, 1991, is hereby amended to be titled with the heading "Food Trucks" and to add new code sections therein as follows:

Section One. Definitions.

Food truck means a food service establishment (as defined in Chapter 34, Mobile City Code, 1991) that is mobile and located upon or within a vehicle, or which can be pulled by a vehicle, or which can be pulled or pushed by human or animal power (such as a pushcart), where food or beverage is cooked, prepared and/or served. This definition shall not apply to coffee, frozen dessert or ice cream trucks that move from place to place and are stationary in the same location for no more than 15 minutes at a time.

Section Two. Locations.

Subject to the restrictions and limitations set forth in this ordinance. Food trucks may operate in parking spaces within the public right-of-way, on City owned property at locations and times as may be approved by the City department in primary control of such property, and in such other areas as may be permitted by the City's zoning ordinance. Provided, that Food trucks may not operate on the public right-of-way within fifty (50) feet

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of the primary entrance of any type of restaurant, as defined in Sec. 64-2, Mobile City Code, 1991, located within a permanent structure or building.

Section Three. Specific Regulations.

In addition to any and all other ordinances, laws, rules and regulations, Food Trucks shall:

- a) Display a valid City of Mobile business license and any food or health permit required by law.
- b) Continuously contain and police waste and refuse.
- c) Provide a trash receptacle for use by customers.
- d) Service/replenish the Food Truck on a daily basis. This includes getting fresh water, disposing of waste and refuse and restocking supplies.
- e) Provide exterior lighting which must be hooded or shielded so that the light source is not scattering light to surroundings other than to the Food truck and its adjacent service area.
- f) Not utilize City utility connections.
- g) Not leave any location without first picking up, removing and disposing of all waste and refuse remaining from sales made by the Food truck.
- h) Not solicit or conduct business with occupants of a motor vehicle.
- i) Not create sound or permit sound to emit from any device, including but not limited to, loud mechanisms, or equipment which produces a loud and raucous noise (except for generators as further set forth in this ordinance); or operate any loud speaker, public address system, radio, music player, sound amplifier or similar device to attract attention of the public or otherwise.
- j) Not operate generator(s) with a total sound level that exceeds sixty-five (65) dBA.
- k) If operating on a public right-of-way or City property contain food preparation within the Food truck.
- l) If operating on a public right-of way park at least twenty (20) feet from any intersection,
- m) If operating on a public right-of-way distribute food/beverage away from vehicular traffic flow.
- n) If operating on a public right-of-way utilize no more than two parking spaces,
- o) Only operate on public right-of-way between the hours of 6:00 a.m. and 10:00 p.m., provided, however, that Food Trucks may operate within the Downtown Development District during the same hours bars and restaurants may operate within that area,
- p) Be subject to payment of any and all applicable parking fees.
- q) If operating in a City park, obtain a permit, follow applicable park rules, regulations and policies, and pay a permit fee, on an annual, quarterly, or daily basis, in an amount to be established by the City Parks and Recreation Department but not to cumulatively exceed \$150.00 per year.
- r) Not obstruct traffic or the public right-of-way or public sidewalks or walkways,
- s) If operating on the public right-of-way not be left overnight or unattended at any time,
- t) Not burn wood or charcoal or produce smoke while operating on the public right-of-way.

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Section Four. Penalty.

It shall be unlawful for any person or entity to violate any of the provisions of this Ordinance. Any person or entity found guilty of violating any provision of this Ordinance shall, upon conviction for such violation, be punished by a fine of one hundred fifty dollars (\$150.00).

BE IT FURTHER ORDAINED that Sec. 1-31, Mobile City Code, 1991, is hereby amended to include and reference this Ordinance on the table(s) set forth therein.

BE IT FURTHER ORDAINED that Sec. 1-32, Mobile City Code, 1991, the Schedule of Fines, is hereby amended to include and reference this Ordinance and the above stated minimum fine in the table(s) set forth therein.

BE IT FURTHER ORDAINED that:

a) All City Ordinances in conflict with the provisions of this Ordinance are hereby repealed to the extent of such conflict.

b) The provisions of this Ordinance are severable. If any part of this Ordinance is declared invalid or unconstitutional by a court of competent jurisdiction, that declaration shall not affect the part or parts that remain.

c) The Ordinance shall be effective within the corporate limits and police jurisdiction of the City of Mobile immediately upon its enactment and publication as required by law.

The ordinance was read by the City Clerk; whereupon Councilmember Daves moved that the ordinance be held over until the regular meeting of February 17, 2021, which was seconded by Councilmember Williams and the vote was as follows:

Ayes: Richardson, Manzie, Small, Williams, Daves and Gregory

Nays: None

The vote was then announced by the City Clerk, whereupon the Presiding Officer declared the ordinance held over.

The ordinance was read by the City Clerk; whereupon Councilmember Daves moved that the ordinance be tabled, which was seconded by Councilmember Gregory and the vote was as follows:

Ayes: Richardson, Manzie, Small, Williams, Daves and Gregory

Nays: None

The vote was then announced by the City Clerk, whereupon the Presiding Officer declared the ordinance tabled.

ORDINANCE TO AMEND CHAPTER 57 OF THE CITY CODE TO ADD A NEW CODE SECTION FOR FOOD TRUCKS. The following ordinance, which was introduced and read at the regular meeting of February 9, 2021 and held over until the meeting of February 17, 2021, was called up by the Presiding Officer.

ORDINANCE: 57-008-2021

Sponsored by: Councilmember Manzie

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MOBILE, ALABAMA, that Chapter 57, Article II, Division 2 of the Mobile City Code, 1991, is hereby amended to be titled with the heading "Food Trucks" and to add new code sections therein as follows:

Section One. Definitions.

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Food truck means a food service establishment (as defined in Chapter 34, Mobile City Code, 1991) that is mobile and located upon or within a vehicle, or which can be pulled by a vehicle, or which can be pulled or pushed by human or animal power (such as a pushcart), where food or beverage is cooked, prepared and/or served. This definition shall not apply to coffee, frozen dessert or ice cream trucks that move from place to place and are stationary in the same location for no more than 15 minutes at a time.

Section Two. Locations.

Subject to the restrictions and limitations set forth in this ordinance, Food trucks may operate in parking spaces within the public right-of-way, on City owned property at locations and times as may be approved by the City department in primary control of such property, and in such other areas as may be permitted by the City's zoning ordinance. Provided, that Food trucks may not operate on the public right-of-way within one hundred and fifty (150) feet of the seating area of any type of restaurant, as defined in Sec. 64-2, Mobile City Code, 1991, located within or attached to a permanent structure or building.

Section Three. Specific Regulations.

In addition to any and all other ordinances, laws, rules and regulations, Food trucks shall:

- a) Display a valid City of Mobile business license and any food or health permit required by law.
- b) Continuously contain and police waste and refuse.
- c) Provide a trash receptacle for use by customers.
- d) Service/replenish the Food truck on a daily basis. This includes getting fresh water, disposing of waste and refuse and restocking supplies.
- e) Provide exterior lighting which must be hooded or shielded so that the light source is not scattering light to surroundings other than to the Food truck and its adjacent service area.
- f) Not utilize City utility connections.
- g) Not leave any location without first picking up, removing and disposing of all waste and refuse remaining from sales made by the Food truck.
- h) Not solicit or conduct business with occupants of a motor vehicle.
- i) Not create sound or permit sound to emit from any device, including but not limited to, loud mechanisms, or equipment which produces a loud and raucous noise (except for generators as further set forth in this ordinance); or operate any loud speaker, public address system, radio, music player, sound amplifier or similar device to attract attention of the public or otherwise.
- j) Not operate generator(s) with a total sound level that exceeds sixty-five (65) dBA.
- k) If operating on a public right-of-way or City property contain food preparation within the Food truck.
- l) If operating on a public right-of way park at least twenty (20) feet from any intersection.
- m) If operating on a public right-of-way distribute food/beverage away from vehicular traffic flow.
- n) If operating on a public right-of-way utilize no more than two parking spaces.

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o) Only operate on public right-of-way between the hours of 6:00 a.m. and 10:00 p.m., provided, however, that Food trucks may operate within the Downtown Development District during the same hours bars and restaurants may operate within that area.

p) Be subject to payment of any and all applicable parking fees.

q) If operating in a City park, obtain a permit, follow applicable park rules, regulations and policies, and pay a permit fee, on an annual, quarterly, or daily basis, in an amount to be established by the City Parks and Recreation Department but not to cumulatively exceed \$150.00 per year.

r) Not obstruct traffic or the public right-of-way or public sidewalks or walkways.

s) If operating on the public right-of-way not be left overnight or unattended at any time.

t) Not burn wood or charcoal or produce smoke while operating on the public right-of-way.

Section Four. Penalty.

It shall be unlawful for any person or entity to violate any of the provisions of this Ordinance. Any person or entity found guilty of violating any provision of this Ordinance shall, upon conviction for such violation, be punished by a fine of one hundred fifty dollars (\$150.00).

BE IT FURTHER ORDAINED that Sec. 1-31, Mobile City Code, 1991, is hereby amended to include and reference this Ordinance on the table(s) set forth therein.

BE IT FURTHER ORDAINED that Sec. 1-32, Mobile City Code, 1991, the Schedule of Fines, is hereby amended to include and reference this Ordinance and the above stated minimum fine in the table(s) set forth therein.

BE IT FURTHER ORDAINED that:

a) All City Ordinances in conflict with the provisions of this Ordinance are hereby repealed to the extent of such conflict.

b) The provisions of this Ordinance are severable. If any part of this Ordinance is declared invalid or unconstitutional by a court of competent jurisdiction, that declaration shall not affect the part or parts that remain.

c) The Ordinance shall be effective within the corporate limits and police jurisdiction of the City of Mobile immediately upon its enactment and publication as required by law.

The ordinance was read by the City Clerk; whereupon Councilmember Daves moved that the ordinance be adopted, which was seconded by Councilmember Williams. Following comments by Councilmember Daves and the vote was as follows:

Ayes: Richardson, Manzie, Small, Williams, Daves and Gregory

Nays: None

The vote was then announced by the City Clerk, whereupon the Presiding Officer declared the ordinance adopted.

ORDINANCE TO AMEND CHAPTER 34 OF THE CITY CODE TO INCLUDE THE REAL PROPERTY BUSINESS PRIVILEGE TAX APPLICABLE TO LESSORS OF RESIDENTIAL BUILDINGS AND DWELLINGS TO THE SCHEDULE OF LICENSES. The following ordinance, which was introduced and read at the regular meeting of February 9, 2021 and held over until the meeting of February 17, 2021, was called up by the Presiding Officer.

ORDINANCE: 34-003-2021

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Sponsored by: Mayor Stimpson

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MOBILE, ALABAMA, as follows:

SECTION ONE. That the unnumbered section of Ordinance 34-028-2012, adopted October 2, 2012, entitled "Sunset Provision" shall be, and the same hereby is, amended so that it now reads in its entirety as follows:

SUNSET PROVISION: The additional tax imposed by Ordinance 34-028-2012, and the "Dedication" of the proceeds thereof as established in Ordinance 34-052-2014, adopted November 18, 2014, shall sunset effective September 30, 2023.

SECTION TWO: All other sections and provisions of Ordinance 34-028-2012, adopted October 2, 2012, as amended, and Ordinance 34-052-2014, adopted November 18, 2014, not in conflict with this Ordinance, shall remain in full force and effect.

SECTION THREE: This ordinance shall be in full force and effective following its adoption and publication as required by law.

The ordinance was read by the City Clerk; whereupon Councilmember Daves moved that the ordinance be held over until the regular meeting of March 2, 2021, which was seconded by Councilmember Williams. Following comments by Councilmember Daves the vote was as follows:

Ayes: Richardson, Manzie, Small, Williams, Daves and Gregory

Nays: None

The vote was then announced by the City Clerk, whereupon the Presiding Officer declared the ordinance held over.

ORDINANCE TO AMEND CHAPTER 57 ARTICLE VIII OF THE CITY CODE AND TO ADD A NEW ARTICLE IX, SMALL CELL FACILITIES ON PUBLIC RIGHTS-OF-WAY.
The following ordinance, which was introduced and read at the regular meeting of February 9, 2021 and held over until the meeting of February 17, 2021, was called up by the Presiding Officer.

ORDINANCE: 57-009-2021

Sponsored by: Mayor Stimpson

WHEREAS, pursuant to Ordinance 57-026-2017, adopted 12-12-17, the City Council of the City of Mobile adopted an amendment to Chapter 57, Article VIII, to address the permitting of small wireless facilities and poles in the City rights of way; and,

WHEREAS, said Ordinance 57-026-2017 is codified in Sections 57-231 through 236, Appendix A and Appendix B, of the Code of the City of Mobile, Alabama 1991 ("Code"); and,

WHEREAS, subsequent to the adoption of that ordinance, federal law changed, and the City Council desires to repeal certain provisions adopted in 2017 and substitute therefore a new Chapter 57, Article IX to be in compliance with applicable federal laws, orders and regulations relating to the permitting of small wireless facilities in public rights-of-way; and,

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MOBILE, ALABAMA, as follows:

ARTICLE 1. Chapter 57, Article VIII, is hereby amended to repeal the following provisions:

A. Section 57-232. – "Definitions" is amended to delete the following definitions as they appear unnumbered therein:

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- i. "Transmission Equipment"
- ii. "Wireless Communications Services"
- iii. "Wireless Facilities"

B. Section 57-234. – Right-of-Way Permits is amended to delete subsection (e) in its entirety.

C. Section 57-236. – Wireless facilities findings and requirements is deleted in its entirety.

D. Appendix A. Schedule of Fees is amended to delete the following items:

Non-refundable application fee per each, Major Project (up to 20 antennas can be applied for under one major project)	\$500.00 each
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Non-refundable application fee per each Minor Project	\$250.00 each
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Non-refundable, additional application fee, per each antenna over the 20 antennae contained in Major Project application	\$ 25.00 each
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E. Appendix B is amended to delete Section 1.3 in its entirety.

ARTICLE 2. A new Chapter 57, Article IX, Small Cell Facilities on Public Rights-of-Way is adopted as follows:

CHAPTER 57

ARTICLE IX.

SMALL CELL FACILITIES ON PUBLIC RIGHTS-OF-WAY

Section 1. Purpose and scope.

(a) The purpose of this article is to amend and modify the current City of Mobile ordinance relating to the permitting of small wireless facilities and poles in the rights of way in order to be in compliance with applicable federal laws, orders and regulations relating to the permitting of small wireless facilities in public rights of way and, in particular, with *Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Inv.*, 33 FCC Rcd. 9088 (2018), *review granted in part and vacated in part sub nom. City of Portland v. United States*, 969 F.3d 1020 (9th Cir. 2020), *reh'g en banc denied*, No. 18-72689 (9th Cir. Oct. 22, 2020), from which the deadline for filing a petition for certiorari with the United States Supreme Court has not yet expired.

(b) Adopted under the powers and authorities of the City, including its police powers, this Article is intended to:

(1) Prevent interference with the use of streets, sidewalks, alleys, parkways, and other public ways and places by pedestrians, vehicular traffic, and utilities;

(2) Prevent the creation of visual and physical obstructions and other conditions that are hazardous to vehicular and pedestrian traffic;

(3) Prevent interference with the facilities and operations of facilities lawfully located in rights-of-way, or installed on public infrastructure;

(4) Protect against environmental damage, including damage to trees;

(5) Preserve the character of areas with existing or proposed decorative poles, and to support Citywide street beautification initiatives; and

(6) Facilitate the deployment of small cell facilities to provide the benefits of wireless services to City residents and businesses.

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(7) Protect other important City interest, including the public health, safety, aesthetics and local property values while establishing an orderly process for siting small cell wireless facilities in the right-of-way.

(8) It is not the purpose or intent of this article to: prohibit or have the effect of prohibiting wireless communication services; unreasonably discriminate among providers of functionally equivalent wireless communication services; regulate the placement, construction or modification of small cell facilities on the basis of the environmental effects of radio frequency emissions where it is demonstrated that the wireless communications facility does or will comply with applicable FCC regulations; or prohibit or effectively prohibit collocations or modification that the City must approve under state or federal law.

Section 2. Definitions.

The following words, terms, and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning.

Abandon, including its derivations, means that, following the placement of small cell facilities or support structures in the City pursuant to a SCF permit issued to a grantee, any of the following has occurred: (1) for any reason the small cell facilities or support structure ceases to be used to transmit signals, data or messages or otherwise be used for their intended purposes for a period of 180 days without the grantee otherwise notifying the City and obtaining City approval; (2) the City revokes the SCF permit for placement and use of those facilities or the support structure due to nonpayment of applicable fees, the failure of the grantee to comply with conditions in the SCF permit or the requirements of this article or other City law, or other valid reason; or (3) the grantee fails to perform any of its responsibilities, obligations and requirements in this article, any franchise, use agreement, license, or SCF permit that relates to the installation, construction, maintenance, use or operation of the small cell facilities or support structures, and that breach remains uncured for the applicable cure period.

Accessory equipment or *equipment* means any equipment, other than an antenna, that is used in conjunction with a small cell facility. This equipment must be attached to or in the immediate vicinity of a small cell support structure, and includes cabinets, optical converters, power amplifiers, radios, DWDM and CWDM multiplexers, radio units, fiber optic and coaxial cables, wires, meters, pedestals, power switches, and related equipment.

Affiliate or *affiliated person* means any person, directly or indirectly, controlling, controlled by, or under common control with a grantee or applicant; provided, however, that affiliate shall not include any limited partner or shareholder holding an interest of less than 15 percent of grantee or applicant, or any creditor of a grantee or applicant solely by virtue of its status as a creditor and which is not otherwise an affiliate by reason of owning a controlling interest in, being owned by, or being under common ownership, common management, or common control with, a grantee or applicant.

Annual license fee means the rental amount and annual fee pursuant to this article.

Antenna means communications equipment that transmits or receives electromagnetic radio signals, electromagnetic waves, radio or other wireless signals used in the provision of wireless communication services, is attached to a small cell support structure and is used to communicate wireless service. The use of the term 'antenna' shall also refer to the antenna concealment enclosure when such concealment enclosure is required by this article or the applicable design standards. A concealment element otherwise will not count against the volumetric cap for an antenna when determining if a facility qualifies as a "small cell facility" under this article.

Applicable codes mean the duly adopted technical codes of the City, including the building, fire, electrical, plumbing, or mechanical codes, which are adopted by reference from the codes of a national code organization, including any local amendments made thereto at any time and from time to time, or codes that are otherwise applicable in the City. The term

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includes the regulations of the FCC and the Occupational Safety and Health Administration, as well as any local standards or regulations governing the use of rights-of-way, including article 2 of this article.

Applicable law means any or all Federal, State, or City statutes, ordinances, rules, regulations, standards, and other laws, that are now existing or hereafter adopted, as such laws are amended or as they may be from time to time amended or superseded, which apply to an applicant's or grantee's communications services, its facilities, or the matters covered by this article, including City laws. Where reference is made to a specified law, including a specified City law, the United States Code, and the Code of Federal Regulations, it shall mean and include such laws as amended or as may be from time to time amended or superseded.

Applicant means a wireless provider that has applied for a license or SCF permit pursuant to this article, and upon issuance of the license or SCF permit, the term shall include those wireless providers that have been issued same.

Application means an application for a license or SCF permit issued under this article.

Application fee means a SCF permit application fee assessed pursuant to this article for the City's review of a small cell site application.

City means the City of Mobile, Alabama.

City laws mean the duly adopted laws and legislation of the City including the Code of Ordinances of the City and any codes, regulations, standards, or specifications adopted by reference; and shall also include the subarticle regulations and any other such rules or regulations that departments, agencies, commissions, boards, or bureaus of the City are authorized to establish; all of which are as amended or as may from time to time be amended or superseded.

City Manager is the City representative delegated responsibility for management of the right-of-way.

City-owned pole means (i) a pole owned by the City in the right-of-way that provides street lighting functions, including light poles, (ii) traffic signal poles and stanchions owned by the City, and (iii) a pole or similar structure owned or operated by the City in the right-of-way that supports only wireless facilities. Notwithstanding the foregoing, the term does not include the utility facilities owned by public utilities.

City-owned structure means any facility, structure or infrastructure located in the rights-of-way to which the City holds title, including City-owned poles, towers, and communications infrastructure.

City-owned support structure means a City-owned pole or City-owned structure that is available or approved for collocation or attachment of a small cell facility.

Collocate, or its derivations, means to place or install a small cell facility on an existing support structure that is owned, controlled, or leased by a utility, the City, or other person or entity, including applicant; or the modification or replacement of such a structure for the purpose of such placement or installation.

Distributed antenna system or *DAS* means a network or facility that distributes radio frequency signals to provide wireless services and consisting of: (1) remote antenna nodes deployed throughout a desired coverage area; (2) a high-capacity signal transport medium connected to a central hub site; and, (3) equipment located at the hub site to process or control the radio frequency signals through the antennas and meets the height and size characteristics of a small cell facility.

Emergency means a condition that (1) constitutes an immediate danger to the health, welfare, or safety of the public, or (2) has caused or is likely to cause substantial damage to the right-of-way or to facilities in the right-of-way, or adjacent thereto.

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FCC means the Federal Communications Commission of the United States or any successor agency.

City Manager means the person authorized, assigned, or delegated the responsibility to administer and enforce this article on behalf of the City, and that person's designee.

Grantee means an applicant that is granted a license under this article.

Historic District – geographically definable area designated by the City Council as a historic district, including properties along Government Street from Water Street to the intersection of Government Street and Dauphin Island Parkway, and the Downtown Development District (bounded by Canal Street, Broad Street, Beauregard Street, and Water Street).

Include, or its derivations, does not limit a term to its specified example.

Install, or its derivations, means to install, construct, place, locate, collocate, relocate, replace, or modify a small cell facility or support structure in the rights-of-way.

License means the franchise or authorization granted by the City to an applicant pursuant to this article allowing applicant to install and operate small cell facilities or support structures in the rights-of-way. The term does not include a business license issued by the City to conduct business in the city.

Make-ready work means work that an authority reasonably determines to be required to accommodate a wireless provider's installation on a City-owned support structure under this article and to comply with all applicable standards. The work may include repair, rearrangement, replacement and construction of poles; inspections; engineering work and certification; permitting work; tree trimming (other than tree trimming performed for normal maintenance purposes); site preparation; and electrical power configuration. The term does not include a wireless provider's routine maintenance.

Private property means real property located in the City that does not lie within the right-of-way, including such appurtenances or easements attached to or associated with such property, and that is not owned by the City, State, or other public body.

Replacement means installing a new small cell support structure of comparable or smaller proportions and of comparable or shorter height to a preexisting small cell support structure in order to accommodate collocation of small cell facilities, and the associated removal of the preexisting small cell facilities or support structure. To qualify as a replacement, the replacement support structure must be installed no more than five feet of the location of the existing support structure that it will replace.

Rights-of-way means the surface of and the space on, above, and below any public street, public road, public highway, public freeway, public lane, public way, public alley, public sidewalk, public boulevard, public parkway, public drive, public right-of-way, or public utility easement immediately adjacent to and parallel with any such street, road, highway, lane, alley, or sidewalk (to the extent of the City's interest or authority), now or hereafter held by the City which shall, within its proper use and meaning, entitle grantee to the use thereof for the purpose of installing and operating its facilities and providing its wireless communications services. This term shall not include any state or federal rights-of-way or any property owned or controlled by any person other than the City, except as provided by applicable law or pursuant to an agreement between the City and any such governmental entity or person. The term shall also not include property, such as City parks, City buildings, City property, public works facilities, or public utility facilities owned or leased by the City that is not used or is not typically used as rights-of-way for vehicular or pedestrian transport or the installation of utility distribution facilities.

Separate property means real property, whether private property or property publicly owned or controlled, that does not lie in the rights-of-way.

SCF permit means a permit issued by the City Manager to a granted small cell wireless facility in the City right-of-way in accordance with this article.

Small cell facilities or *facilities* mean the following types of wireless facilities: antenna and associated accessory equipment, which meet the following requirements: (1) each antenna associated with the deployment, excluding associated accessory equipment, is no more than three cubic feet in volume; (2) all other accessory equipment associated with the structure, including the wireless equipment associated with the antenna and any pre-existing associated equipment on the structure, is no more than 28 cubic feet in volume; (3) the facilities are mounted on structures 50 feet or less in height including their antennas, or are mounted on structures no more than ten percent taller than other adjacent structures located within 100 feet and on the same portion of the right-of-way, or do not extend existing structures on which they are located to a height of more than 50 feet or by more than ten percent, whichever is greater; (4) the facilities do not require antenna structure registration under the FCC's rules; and (5) the facilities do not result in human exposure to radio frequency emissions in excess of the standard specified in applicable FCC rules, as these rules may be hereafter amended. The term includes micro wireless facilities, DAS and other wireless technologies that fall within the above specifications and may be referred to as a "node(s)" when referencing the numbers of small cell facilities per application or elsewhere in this chapter. Where reference is made in this article to small cell facilities or facilities, it shall mean the antenna or associated accessory equipment, or both.

Small cell support structure or *support structure* means a freestanding structure designed or used to support, or capable of supporting, small cell facilities. The term includes utility poles, street light poles, and similar structures, which are located solely in the rights-of-way. The term does not include the City-owned poles or City-owned structures that are not available or approved for collocation or attachment of a small cell facility.

Stealth technology or *stealth* means a method of concealing or minimizing the visual impact of a small cell facility and support structure by incorporating features or design elements which either totally or partially conceal such small cell facilities. All wiring associated with the small cell facilities shall be shrouded or concealed in shrouding on the facility. The use of these design elements is intended to produce the result of having such facilities blend into the surrounding environment or disguise, shield, hide or create the appearance that the small cell facilities are an architectural component of the support structure.

Technically feasible means that by virtue of engineering or spectrum usage the proposed placement for a small cell facility, or its design, concealment measure, or site location can be implemented without a material reduction in the functionality of the small cell facility.

Transmission media refers to the point within a small cell facility or its support structure at which radio waves are guided along a physical path; examples of guided media include twisted pair cables, coaxial cables, and optical fibers, all of which shall be shrouded or concealed within the facility or support structure.

Utility pole means a pole or similar structure located in the right-of-way that is used in whole or in part to provide landline telecommunications services or for electric distribution or a similar utility function. The term does not include such a pole or similar structure 15 feet in height or less unless the City has granted a waiver to permit its use for small cell facilities.

Wireless communications services or *wireless services* mean communications services made available to subscribers through wireless facilities, including any FCC licensed or unlicensed radio communications services, whether used for transmission or reception of voice, video, or data, including, wireless fidelity ("WiFi") and personal wireless services as defined by the Communications Act, which includes FCC licensed commercial wireless telecommunications services, including cellular, personal communication services (PCS), specialized mobile radio (SMR), enhanced specialized mobile radio (ESMR), paging and similar services that currently exist or that may in the future be developed. The term does

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not include broadcast radio or television services, private business radio services, or amateur radio services.

Wireless facilities mean equipment at fixed location which enables wireless communications between user equipment and a communications network, including radio transceivers, antennas, DAS, wires, coaxial or fiber-optic cable or other cables, regular and backup power supplies, and comparable equipment, regardless of technological configuration, and equipment associated with wireless communications. The term does not include: (1) the structure or improvements on, under, within, or adjacent to the structure on which the equipment is collocated; (2) wireline backhaul facilities; or (3) coaxial or fiber-optic cable that is between wireless structures or utility poles or that is otherwise not immediately adjacent to or directly associated with a particular antenna.

Wireless infrastructure provider means any person, including a person authorized to provide telecommunications service in the state, that builds or installs small cell facilities or support structures, but that is not a wireless services provider.

Wireless provider means a wireless infrastructure provider or a wireless service provider. "Wireless provider" does not include utility companies that provide gas, electricity, water, or sewer services that install wireless facilities that are used exclusively for internal utility company communications related to the provision of utility services, such as (a) advanced metering infrastructure (also known as "smart metering" systems), (b) monitoring the security of utility sites and network systems, or (c) monitoring network usage, capacity, or performance. However, if a utility company or any of its affiliates use any such facility to provide services within the definition of "wireless communications services," or if a utility company or any of its affiliates engages in activities that would make it a "wireless infrastructure provider," then it shall be considered a "wireless provider" to the extent of its provision of such services or engagement in such activities.

Wireless service provider means a person that provides personal wireless communication services to the public or citizens of the City on a commercial basis and is authorized by the FCC to provide those services.

Section 3. Grant of authority; license.

(a) (1) *Grant*. Upon application by a wireless provider on forms provided by the City, the City may grant a non-exclusive franchise or license to construct, maintain, and operate small cell facilities or support structures in the rights-of-way in accordance with and subject to the provisions of this article, applicable law, and any acceptable additional terms as negotiated by the City or permitted by applicable law. The grant of a non-exclusive franchise or license shall be approved by the City Council. Approval of installation of facilities at specific locations or on specific support structures will be administered through the SCF permit process set forth in this section.

(2) Each license shall contain the following certifications by the grantee:

a. Grantee is a _____, duly organized, validly existing, and in good standing under the laws of the State of _____, is qualified to do business under the laws of the State of Alabama, and has the power and authority to own its properties, to carry on its business as now being conducted, to execute and deliver the acceptance of this license, to carry out the transactions contemplated hereby, and to perform and carry out all obligations on its part to be performed under and pursuant to this license.

b. Grantee, as of the date of the grant of the license, has adequate financial resources to install the small cell facilities or support structures in accordance with the provisions of chapter 57, article VIII, of the City Code, and knows of no technical or legal impediment which would prevent it from performing as contemplated in said article.

c. Grantee is not prohibited by any agreement or applicable law from executing and accepting a license.

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d. All corporate actions and consents required on grantee's part to execute and deliver the acceptance of the license have been completed.

The foregoing certifications are material to the grant of the license. A breach of any of the certifications above shall constitute a non-curable default under the license, and shall entitle the City to immediately revoke the license for cause. A breach of the certification contained in subsection d. shall constitute a curable default under the license, wherein following written notice, grantee will have reasonable time to cure such default.

(3) *Nonexclusive*. Grantee's use of the rights-of-way pursuant to this article shall be nonexclusive. The City specifically reserves the right to grant, at any time and from time to time, such additional franchises, licenses, use agreements or other rights to use the rights-of-way for any purpose as determined by the City, and to any other person, including itself, as it deems appropriate, subject to applicable law.

(4) *No title*. The grant of a license shall not convey title, equitable or legal, in the rights-of-way, and the rights granted by the license do not excuse the grantee from obtaining appropriate access or attachment agreements before locating its facilities on any support structures or City support structures in the rights-of-way.

(b) Term of license.

(1) *Term*. Subject to termination or revocation in accordance with this article, the license granted pursuant to subsection (a) shall be valid for a period of five years from its effective date and shall be subject to renewal as provided in this subsection. Upon a grantee's written certification to the City Manager within 30 days of the expiration of the license that grantee remains in compliance with the provisions of this article, including its license and each SCF permit, then the license will be automatically renewed for an additional five year term without further action required by the City.

(2) *Operation after termination; holding over*. Notwithstanding anything to the contrary contained in this article, in the event a grantee, at the sufferance of the City, holds over beyond the term of its license and continues to operate all or any part of its small cell facilities, provide all or any of its wireless communications services, or otherwise exercise all or any of the rights granted under the license, after the term of the license, then grantee shall continue to comply with and be subject to all applicable provisions of this article, including all fee and other payment provisions, throughout the period of such holding over, provided that any such holding over shall in no way be construed as a renewal or other extension of the license. In the event the term of a license has expired and the parties are in the process of re-negotiating, applying for, or processing an application for a renewal of the license or a new license, or as they may otherwise agree, the license shall continue on a month-to-month basis, unless either party gives 30-days' advance written notice to the other that they desire to terminate the lease.

(c) Franchise or use agreements for other uses of rights-of-way.

(1) The license granted pursuant to this article only relates to, and only grants a grantee authority with respect to, the placement of small cell facilities on or in the immediate vicinity of support structures, including fiber optic cable for up to 10 feet on either side of the support structure, that are located or proposed to be located in the rights-of-way. No provision in this article is intended to permit, regulate or authorize the placement by a grantee or applicant of wire or fiber optic lines, coaxial cable, switches, pedestals or networking equipment of any type that is used to transport communication signals, data or messages between support structures or between any other points in the rights-of-way. In the event a grantee or applicant desires to place communications equipment or other facilities along the rights-of-way of a kind not authorized by the license, it will need to obtain a separate franchise or similar authorization from the City that would authorize, govern and apply to the construction of other kinds of facilities or use of other locations on or along the rights-of-way.

(2) If a grantee or applicant desires to use any of its small cell facilities for the purpose of providing any services other than the provision of telecommunications or information

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service, such as cable service, other subscription multichannel video programming services, utility, or other non-utility services to existing or potential subscribers or resellers, or by providing any other use of small cell facilities to existing or potential consumers, an applicant shall seek such additional and separate franchise, use agreement or authorization from the City and other authority as may be required by applicable law.

(d) *Only small cell facilities allowed.* No wireless facilities, other than small cell facilities or small cell support structures, shall be allowed or permitted in the rights-of-way.

(e) *Compliance with law.* A grantee shall at all times comply with and abide by all applicable laws.

(f) *Records and reports.* Grantee shall cooperate with the City with respect to the administration of this article and to this end, shall furnish or make available to the City upon request, at no cost to the City, such records, reports, and other information reasonably necessary, as determined by the City, for the administration and enforcement of this article and in such form and manner as prescribed by the City.

(g) *Revocation.* The City may revoke a license in accordance with this article.

Section 4. Notice of transfer, sale or assignment.

(a) *Notice of transfer.* A grantee shall not sell, transfer, lease, assign, sublet, or dispose of, in whole or in part, its facilities in the rights-of-way without providing the City with prior written notice: (1) identifying the person (hereinafter referred to in this section as "successor in interest") that will acquire control of the grantee, or the facilities; (2) a summary of the proposed transaction; and (3) a statement from a person with authority to bind the successor in interest certifying under penalty of perjury that the successor in interest agrees to and accepts, and is able to meet the terms and conditions of, this article.

(b) *Notice of consummation.* Within 45 days after the closing of the transaction, or such additional time as the City Manager may allow, grantee's successor in interest shall submit to the City: (i) a written certification, executed by an authorized representative of the successor in interest, certifying under penalty of perjury that (1) the successor in interest accepts and agrees to be bound by, and to assume all liabilities and obligations of its predecessor under this article, and (2) all required licenses, consents, certificates of public convenience and necessity, or other governmental authorizations issued by the FCC, the Alabama Public Service Commission or any other agency with jurisdiction over the successor in interest's acquisition of an interest in the grantee's facilities have been obtained; (ii) proof of insurance and the posting of any required security in accordance with this article; and (iii) the names and addresses of those persons to whom notice should be sent in accordance with this section. In the event the applicant/licensee has outstanding compensation, other payments or other liabilities due to the City that have not been paid or satisfied prior to close of the transaction, both the grantee and its successor in interest shall be jointly and severally liable to the City for same. The post-transaction notice requirements of this subsection (b) shall also apply to transfers or mergers with an affiliated person.

Section 5. SCF permits when required.

(a) *Requirement.*

(1) *Pre-application review.* Prior to the submission of an application, the applicant is encouraged to have a voluntary pre-application meeting with the City Manager to review preliminary documents and graphic exhibits of the proposed facilities or support structure and discuss the application, location, and design requirements for the proposed facilities. The primary purposes of the review are to streamline application processing and reduce site plan and design revisions, as well as the multiple reviews associated therewith. Any applicant desiring a pre-application review will agree in writing that the applicable timeline for application review will be tolled during such review period.

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(a) A SCF permit application must be submitted for each small cell facility or new support structure on a form, paper or electronic, provided by the City. If the applicant has a good faith belief that any information submitted is proprietary or confidential, then the applicant must so mark each page prior to submittal. An application packet will be maintained by the City Manager.

(b) *When SCF permit not required.* Subject to Article VIII of Chapter 57 concerning right-of-way construction, a SCF permit and the one-time application fee shall not be required for small cell facilities and support structures previously awarded a SCF permit in the following instances:

(1) For routine maintenance or repairs.

(2) For replacements or modifications that do not appreciably change position, characteristic, size, or appearance of the existing facility, unless such change would violate a provision of this article, the license, or the SCF permit.

(c) *Emergency.* Where a facility has been installed without a SCF permit due to an emergency, a SCF permit shall be required after-the-fact within ten days if a SCF permit would have originally been required to perform the work undertaken in the right-of-way in connection with the emergency. Once the emergency is abated, the small cell facilities in question must be removed unless SCF permitted without the emergency as a basis for the SCF permit.

(d) *Inspection and Notice of Completion.* In addition to any inspections that may be required in connection with building and electrical permitting, the City reserves the right to inspect all small cell facility or support structure work to ensure compliance with this article, including applicable SCF permits. Upon completion of a facility or support structure installation, the applicant or grantee shall provide a written notice and certification of compliance, as required by the City Manager, that the facilities or support structure were constructed in accordance with the approved specifications. No operation at the facility shall occur unless the City Manager, should he elect to do so, has conducted a final inspection and issued a certificate of completion, provided that if the City Manager elects not to inspect the site, the certificate of completion will be deemed issued within 14 days of the applicant's submission of its notice and certification of compliance, or upon any required final inspections and approvals required under applicable building and electrical permitting, whichever is later.

Section 6. Fees – Applications for SCF permits and Annual License Fees.

(a) *One-time application fees.* Unless otherwise provided by law, all applications for SCF permits pursuant to this article shall be accompanied by a nonrefundable fee for actual, direct, and reasonable costs incurred by the City to process and review the application, in the following amounts:

(1) \$500.00 for an application seeking up to five small cell facilities attached to existing support structures, with an additional \$100.00 for each attached small cell facility in excess of five; or

(2) \$1,000.00 for an application to install a new pole or other support structure (i.e., not a collocation) intended to support one or more small wireless facilities.

(b) *Annual license fee.*

(1) As compensation for the installation of its facilities and support structures in the rights-of-way, a grantee shall pay in advance an annual license fee of \$270 per facility, new pole or other support structure.

(2) Notwithstanding the foregoing, the City may increase the amount of the foregoing annual license fee as long as the increased fee is either:

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a. (i) a reasonable approximation of the City's objectively reasonable costs associated with or allocable to applicant's use and occupancy of the rights-of-way, or

(ii) no higher than the fees charged to similarly situated competitors for their installation of similar communications facilities in the rights-of-way.

b. otherwise consistent with applicable law.

(3) License fee computation and payment; report.

a. The license fee (or contingent license fee, as applicable) shall be due the January 1st following issuance of an SCF permit and last payable without penalty on January 30th.

b. The license fee shall be due and paid annually thereafter no later than January 30 for each succeeding year. Each annual license fee payment shall be accompanied by a report, certified as true and accurate by an officer of applicant, setting forth the basis for the computation of that year's annual license fee and listing the location of each of applicant's facilities and support structures in the rights-of-way during the preceding calendar year.

(4) Inspection and audit; verification.

a. Subject to subsection (4)b. below, the City shall have the right to inspect and audit, upon reasonable written notice and no more frequently than every year, at grantee's offices where such records are located, all business records relevant to calculating the license fee in the form and manner as reasonably prescribed by the City to verify compliance with the license fee or other payment requirements of this article.

b. Should grantee's business records be located in another city or state, applicant shall, upon the written request of the City, make such records or information available to the City at a convenient location in the city within a time agreed to by the City and the grantee. The City and grantee shall each pay its own costs and expenses incurred in connection with any such audit, except in the event there is an underpayment of five percent or more of the amount that was due and payable to the City, in which case, in addition to making full payment of the relevant obligation, grantee will promptly pay to the City the actual costs and expenses incurred by the City associated with the audit, including attorneys' fees and the professional services of the auditor to perform the audit; provided, however, grantee's obligations to pay such costs and expenses shall be capped at \$15,000.00 for any one audit. The City may not retain any person or entity to perform the audit whose compensation for performing the audit is dependent in any manner upon the outcome of any such audit, including the audit findings, the recovery of fees, or the recovery of any other payments.

c. Any additional amount due to the City as a result of the audit, including any applicable interest, shall be paid by grantee within 30 days after grantee receives a written notice from the City accompanied by a copy of the audit report and any other supporting document necessary to determine the alleged amount due is correct.

(5) *Final payment.* In the event grantee quits its operations or facilities within the City, whether by transfer or otherwise, it shall make a final payment of any amounts owed to the City within 90 calendar days thereof, and shall provide a report for the calendar year through the date of cessation of the operations or facilities, which report shall contain the information and certification required.

(6) *Evasion of license fee prohibited.* Any transactions which have the effect of circumventing grantee's payment of the license fee, including evasion of payment of the license fee by non-reporting of facilities, or grantee constructed or owned support structures, or by granting title to the facilities or support structures to any entity other than grantee, or any other means which evade the City's collection of license fee revenues, are prohibited. For a violation of this section, the City may, in addition to other remedies it may have under this article or applicable law, require the grantee to remove, at its sole expense and risk, any non-reported facility or support structure and pay a penalty of three times the

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annual license fee that would be due, without any proration. The removal of the non-reported facility or support structure shall be subject to the removal, repair and restoration requirements contained in this article, including article 3 which is incorporated herein by reference.

(7) *Affiliate facilities.* Facilities or support structures owned by any affiliate of grantee shall be included in the calculation of the license fee unless a fee is paid to the City by such affiliate for the use contemplated by this article.

(8) *No waiver of City rights.* No acceptance of any payment by the City shall be construed as an accord that the amount paid is in fact the correct amount, nor shall such acceptance of payment be construed as a release of any claim the City may have for further or additional sums payable under the provisions of this article. All amounts paid shall be subject to audit and re-computation by the City in compliance with this article.

(9) *Application of interest.* In the event any payment is not made on the due date, interest on the amount due shall accrue from such date at the annual rate comparable to the then-current rate used by City for late payment of delinquent taxes.

(10) *City office for payment.* Unless the City permits electronic payments or provides another payment method, all remittances for the monies due according to the terms of this article are to be made payable to the City and mailed or delivered to the address provided by the City Manager. Such remittances shall clearly identify or reference the applicant and its license.

(11) *Removal fee may be applicable.* A fee for removal of small cell facilities or grantee's support structure may be applicable and is hereby authorized as necessary unless the removal does not hinder vehicular or pedestrian traffic or an ongoing City project or improvement, and the City incurs no additional cost to ensure safe removal.

(12) *Additional cost for make-ready work for attachment.* Grantee may be required to bear additional costs for any necessary make-ready work estimate or construction for attachment to City-owned support structures.

(13) *Escalation of fees.* Notwithstanding anything to the contrary contained in this section, the fees required under subsections (a) and (b) of this section may be adjusted (1) to recover a reasonable approximation of the City's actual and reasonable costs in administering and overseeing the small cell facilities and support structures installed pursuant to this article, or (2) as otherwise permitted, or not prohibited, by applicable laws.

Section 7. Application requirements.

(a) *Application requirements.* A right-of-way permit application filed pursuant to this article shall be made by the wireless provider or its duly authorized representative and shall contain the following:

(1) A detailed deployment plan, pre-approved by the City for location, collocation, and pole placement, describing construction planned for a minimum 12-month period following the deployment plan submission including descriptions of the completed deployment;

(2) The applicant's name, address, telephone number, and e-mail address;

(3) The names, addresses, telephone numbers, and e-mail addresses of all duly authorized representatives and consultants, if any, acting on behalf of the applicant with respect to the filing of the application;

(4) The most adjacent address and geographic coordinates (GPS) accurate to six (6) decimal places of the proposed small cell facility;

(5) A technical description of the proposed small cell facility including detailed diagrams with dimensions, volumes, materials, finishing, color, etc. and photo-simulations accurately depicting the antenna facility and associated pole(s), if applicable. The scope

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and detail of such description shall be appropriate to the nature and character of the work to be performed, with special emphasis on those matters likely to be affected or impacted by the physical work proposed;

(6) Site and elevation plans drawn to scale prepared and stamped by a professional engineer licensed in the State of Alabama identifying the proposed small cell facility, including the number, size, type of the antenna facilities and associated pole(s), conduit, cables, electrical power source, meter and disconnect, proximity to the other small cell facilities in the area, and surface and underground infrastructure existing and proposed;

(7) Structural plans and calculations for the pole and associated foundation prepared and stamped by a professional engineer licensed in the State of Alabama meeting all Applicable Codes including specifications on the loading, material strengths, height, depth, diameter, reinforcement;

(8) A certification from a licensed engineer that the small cell facility and any support structure will comply with all applicable codes and FCC rules and regulations;

(9) Letters of authorization; certification that applicant is a licensed wireless provider under this article authorized to construct, maintain and operate small cell facilities or support structures in the City's rights-of-way.

(10) A declaration signed by an authorized representative of the applicant stating that the information in the application is true and accurate and that the small cell facility and (if applicable) associated pole(s) will be built and/or erected in conformance with the specifications set forth in the application;

(11) In the case of a new pole, a statement relating to the new pole's ability to collocate additional small cell facilities;

(12) In the case of a new pole, documentation demonstrating collocation does not provide a feasible alternative for the provision of wireless services in the area;

(13) In the case of a proposed attachment to a City-owned facility or pole in the City rights-of-way, an executed attachment agreement with the City;

(14) In the case of a proposed attachment to an investor owned pole in the City rights-of-way, an executed attachment agreement or proof thereof with the pole owner; and

(15) In the case of ground mounted equipment, a concealment element plan.

(b) *Information updates.* Any amendment to information contained in a permit application shall be submitted in writing to the City within 10 days after the change necessitating the amendment. Any amendment that materially changes the scope or nature of the application shall restart the timelines set forth in this article.

Section 8. Effect of SCF permit.

(a) *Authority granted; no property right or other interest created.* A SCF permit from the City authorizes an applicant to undertake only certain activities in accordance with this article. A SCF permit does not create a property right or grant authority to the applicant to impinge upon the rights of others who may already have an interest in the rights-of-way.

(b) *Duration.*

(1) *For use in general.* No SCF permit issued to conduct construction, installation or other activities in the right-of-way shall be valid for a period greater than 180 days.

(2) *Limitations on construction.* When the SCF permit application is approved to undertake the activities described in this article, every SCF permit issued shall become invalid unless the work on the site authorized by such SCF permit is completed within 180 days after its issuance, or if the work authorized on the site by such SCF permit is suspended or

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abandoned for a period of 180 days after the time the work is commenced. The City Manager is authorized to grant, in writing, one additional extension of time, for periods that collectively do not exceed more than 180 days, provided that any extension shall be requested in writing with justifiable cause demonstrated, and further provided that:

- a. If no request for extension is received, then the SCF permit will become invalid;
 - b. If construction has not commenced by the 180th day of SCF permit issuance, then the applicant must re-apply and be subject to the same provisions of this article as if the applicant is applying for the first time; and
 - c. Nothing in this section shall be construed to give an applicant a period for use of the right-of-way greater than 12 months without applying for a new SCF permit.
- (c) *No warranties.* The City makes no warranties or representations regarding the fitness, suitability, or availability of the City's right-of-way or City-owned support structures. A grantee's or applicant's use of the City's right-of-way or City-owned support structures for installation and operation of small cell facilities or for provision of wireless service is at its sole risk.
- (d) *Revocation of SCF permits.* Revocation of SCF permits shall be governed by this article.

Section 9. Action on SCF permit applications subject to this article.

- (a) The City Manager shall review an application for a right-of-way permit subject to this article considering its conformity with applicable provision of this article and shall issue a right-of-way permit on nondiscriminatory terms and conditions subject to the following requirements.
- (b) The City may deny an application subject to this article if the proposed small cell facility, new pole, modified pole, or replaced pole:
- (1) Interferes with the safe operation of traffic control equipment;
 - (2) Interferes with sight lines or clear zones for transportation, vehicular traffic, or pedestrians;
 - (3) Interferes with or fails to comply with the Alabama Department Transportation Utility Manual, as it may be applicable and amended;
 - (4) Fails to comply with the Americans with Disabilities Act or similar federal or state standards regarding pedestrian access or movement;
 - (5) Fails to comply with American Association of State Highway Transportation Offices (AASHTO) or other applicable codes; or
 - (6) Fails to comply with the provisions of this article, including but not limited to the requirements for the grant of a license or franchise or other applicable law.
 - (7) Is proposed to be located closer than five feet from the street curb or edge of pavement if no curb is present, unless otherwise approved by the City Manager;
 - (8) In the case of small cell facilities, being placed on any arms or any horizontal structure used to support or mount traffic control signals or other traffic control devices;
 - (9) In the case of small cell facilities, interfering with electrical lines, cable lines, or their associated equipment, in that small cell facilities must be placed at least ten feet away from energized electrical distribution lines, unless otherwise approved by the electric utility;
 - (10) In the case of small cell facilities, being hung from energized electrical lines; or

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(11) In the case of small cell facilities, being mounted on abandoned poles or poles to be removed in conjunction with the undergrounding of electrical utilities in a particular area.

Section 10. Application review; decisions; timeframes.

(a) *Standards for review.* Review of applications shall be in light of its conformity with applicable provisions of this article and the licenses issued hereunder, and shall be issued on a nondiscriminatory basis.

(b) *Review for completeness; notice of deficiency.* In the case of a small cell facility application, the City Manager will, within ten days after receiving the application, determine and notify the applicant by electronic mail to the email address provided in the application whether the application is complete. An application shall not be deemed complete until the applicant has submitted all documents, information, forms and fees specifically enumerated in this article that pertain to the location, construction, or configuration of the small cell facilities or support structures at the requested location(s). If an application is deemed materially incomplete, the City must specifically identify (i) the missing documents or information, and (ii) the specific rule, regulation or code provision creating the underlying obligation to provide same. If the applicant makes a supplemental submission to address or provide the missing information or documents identified by the City within 60 days of the notice sent by the City, the City shall have ten days from receipt of such supplemental submission to verify that the application is complete and, if not, notify the applicant in writing that the supplemental submission was not sufficient to render the application complete and specifically identify the missing documents or information that still need to be submitted pursuant to the City's original notice. The additional documents or information provided in the supplemental submission shall be limited to the deficiencies cited in the original notice from the City and no material changes shall be made to the original application other than those necessary to cure any identified deficiencies. If a supplemental submission includes material changes to the proposed small cell facilities identified in the original application, proposes or requests a small cell facility not identified in the original application, or otherwise includes or makes a material change to the original application other than as necessary to cure the deficiencies identified by the City, such supplemental submission shall be deemed a new application. If an applicant fails to submit sufficient documents or information to render the application complete within 60 days of the notice sent by the City, the original notice sent by the City shall serve as written notice of the denial of the application, and the application shall be deemed denied.

(c) *Timeline for action on applications.* Unless otherwise agreed to by the applicant and the City Manager, the City Manager will approve or deny an application for a SCF permit within the applicable time period set forth in this subsection, plus any tolling period(s) pursuant to subsection (c)(2) below.

(1) *General time period for action on application.* Subject to the tolling provisions set forth below, the City, by and through the City Manager, will make its final decision to approve or deny the application(s) within the following time periods, unless the City Manager and the applicant agree to toll the applicable deadline:

a. For an application(s) to collocate a small cell facility on an existing structure, within 60 days of receipt of such application(s); or

b. For an application(s) to deploy a small cell facility on a new structure, within 90 days of receipt of such application(s); or

c. For multiple applications or a single, consolidated application for a small cell facility network project which seeks approval of a mix of collocated small cell facilities and new structures (i.e., one or more of the applications is for a new structure), within 90 days of receipt of such applications.

(2) *Tolling period.* Unless otherwise agreed to in writing by the applicant and the City, the tolling period for an application, if any, shall be as follows:

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a. If within ten days of receipt of an application for a SCF permit to install a small cell facility in the right-of-way, the City Manager notifies the applicant that an application is materially incomplete and specifically identifies (i) the missing documents or information and (ii) the specific rule, regulation or code provision creating the obligation to submit same to the City, the time period for action on an application shall reset and not begin until the applicant submits all of the documents and information identified by the City Manager to render the application complete (i.e., the date the applicant submits all of the documents and information identified by the City in the deficiency notice is day zero).

b. For resubmitted applications (or supplemental submissions) following a notice of deficiency from the City pursuant to subsection (c)(2) of this section, the tolling period shall be the number of days from:

(i) The day after the date the City sends written notice to the applicant that the applicant's supplemental submission is not sufficient to render the application complete and specifically identifies the missing documents or information that need to be submitted based on the City's original notice under subsection (c)(2)a. of this section, until

(ii) The date the applicant submits all the documents and information identified by the City to render the application complete, provided that such notice regarding the insufficiency of the supplemental submission is sent by the City to the applicant within ten days following the City's receipt of the supplemental submission in response to the City's original notice under subsection (c)(2)a. of this section.

(3) *Final decision.* The City Manager will inform the applicant in writing of his/her final decision and, if such final decision is to deny the application, provide the basis for such denial, including identifying the City Code, rule, regulation, or application form provision, or other applicable law on which the denial was based.

(4) *Effect of timelines.* The City's failure to issue a final decision within the processing timelines set forth shall not constitute, or be construed to constitute, a grant of an applicant's application(s). Upon expiration of these timelines, applicant may pursue whatever remedies are available to it under applicable law.

(d) *Consolidated applications.* An applicant may file a consolidated application and receive a single SCF permit for approval of up to five small cell facilities, provided that the proposed facilities are in reasonably close proximity to one another. If the application includes multiple facilities, then the City may separately address each facility for which incomplete information has been received or for which the application is denied.

(e) *Batched applications.* Applicants or their agents of record may submit applications for multiple facilities or locations with the following conditions:

(1) No single batched submittal shall contain more than ten (10) applications;

(2) There must be a minimum of ten (10) calendar days between submittals of batched applications by the same applicant;

(3) No more than three (3) batched applications per applicant shall be accepted in any thirty-consecutive-day period.

(4) In the interest of time efficiency, the City reserves the right to negotiate the amount of batched applications that may be submitted by an applicant on large scale installations. The negotiation shall require the parties, the applicant and the City, to agree in writing to the process, time and the costs that will be required for the initial review of the project.

(f) *Burden of Proof.* The burden of proof shall at all times be on the applicant to establish compliance with requirement of applicable law.

(g) *Appeal of decision by City Manager.* Upon denial of its application by the City Manager, the applicant may, at its option, either seek review in a court of competent jurisdiction or file a written appeal to the City Clerk within 15 days for reconsideration by the City Council

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and placement on the next regularly scheduled agenda of the City Council. If the applicant appeals to the City Council, it may seek review of an adverse council decision in a court of competent jurisdiction.

Section 11. Small Cell Facilities in the Rights-of-Way; Collocation, Design, Concealment, and Aesthetic Requirements

(a) Collocation requirements. Small cell facilities and any new, modified, or replaced pole for the collocation of small cell facilities in the rights-of-way shall meet the following collocation requirements:

(1) Collocation First. Small cell facilities may be installed on new poles only if the applicant demonstrates that (i) no reasonable collocation opportunities exist in the area where the small cell facility is proposed to be placed; or (ii) attachment to a new structure will achieve a more visually appealing design, demonstrably, more effective service coverage, or some of the public benefit not achieved by collocation. The applicant must support its claim through written evidence including, but not limited to, affidavits, correspondence, engineering report, or other written information that demonstrates that the applicant has taken all commercially reasonable actions to achieve collocation in the requested location that the applicant has pursued but has received no response or has been denied access to all potential collocation sites in the subject area (and the reasons any such denial(s)), and otherwise show that the applicant is unable to co-locate on an existing support structure. Only entities granted a certificate of convenience and necessity by the state public service commission pursuant to Code of Ala., § 37-4-28 or licensed by the Federal Communications Commission may erect new poles in the City's right-of-way.

(2) New poles; collocation compatible design. New poles approved for the primary purpose of small cell facilities shall be designed to accommodate the collocation of multiple wireless providers' antennas and related equipment to the maximum extent feasible, but no less than one (1) similarly sized small cell facility.

(3) Secondary use. Where small cell facilities are collocated on existing poles, use of a pole for small cell facilities shall be considered secondary to the primary function of the pole. If the primary function of a pole serving as the host site for a small cell facility becomes unnecessary, obsolete, and/or no longer in use, the pole shall not be retained for the sole purpose of accommodating the small cell facility and the small cell facility, all associated equipment, and the pole shall be removed promptly unless a SCF permit is obtained approving a new pole for the primary purpose of small cell facilities.

(4) Collocation on City street light poles or City traffic signal poles; additional requirements.

a. Small cell facilities are not permitted on traffic signal poles unless the applicant can demonstrate that denial of the SCF permit will effectively prohibit the provision of telecommunications service or personal wireless service in violation of any applicable law.

b. Before collocating on existing street light poles, the applicant must show structural evidence that the current pole and foundation design can meet current AASHTO design standards for wind loads with the addition of the small cell equipment.

c. If poles cannot meet AASHTO requirements for wind loads with the addition of the small cell equipment, the applicant has the option of replacing the current pole with a new pole capable of supporting the existing and proposed additions. Luminaires on new poles must maintain the same height as that replaced and/or adjacent luminaires and be of the same design as the existing luminaires.

d. The antenna shall be attached to the top of pole only. No mountings are allowed on the luminaire mast arms.

e. Accessory equipment shall not be mounted on the pole. Accessory equipment shall be located either within or as an extension of the pole, within an underground vault, or within an enclosure/cabinet adjacent to the pole camouflaged to appear as a public amenity as shown on the concealment element plan.

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f. The pole design must be capable of accommodating a street light arm even if one is not installed initially.

g. The application must provide analysis that the proposed small cell facility will not cause any interference with the City traffic signal systems, emergency signal control devices, other smart City applications, other signal communication components, or any other unforeseen interferences.

h. Small cell facilities shall have their own power supply with disconnect and City workers and contractors shall have the ability to easily shut off radio signals and power while working on City street lights, signal system elements, poles or other facilities, if necessary.

i. Any fiber or power cables supporting the small cell facility shall be labeled and housed in its own conduit(s) separating them from City fiber or power cables.

(b) Pole construction, placement, height, and diameter requirements. Small cell facilities and any new, modified, or replaced pole for the collocation of small cell facilities in the rights-of-way shall meet the following requirements:

(1) Pole spacing. Poles shall be no less than 200 feet from any other pole considering only poles on the same side of the roadway.

(2) New poles. Any new pole shall be a metal pole.

(3) Pole setback. Poles shall be placed as far back from the roadway as technically feasible without any encroachment of the pole and antenna facilities onto private property unless alignment with other street poles, trees, features is more aesthetically desirable as determined by the City.

(4) Pole placement. Any new poles, replacement poles and/or antenna facilities shall be placed where they:

a. Do not obstruct the line of sight for transportation, vehicular, or pedestrian traffic;

b. Do not obstruct the clear zone or have a breakaway design;

c. Comply with the Americans with Disabilities Act (ADA) similar federal or state standards, City construction and sidewalk clearance standards and applicable laws, in order to provide a clear and safe passage within the rights-of-way. Further, the location of any replacement or new pole must: be physically possible, comply with applicable traffic uniform warrants, not interfere with utility or safety fixtures (e.g., fire hydrants, traffic control devices), and not adversely affect the public health, safety, or welfare; and

d. Any replacement pole shall be placed as close to the original pole as possible, and no more than five feet from the existing pole location.

(5) Pole heights. The height of poles above the ground including the antennas shall:

a. Be fifty (50) feet or less in non-residentially zoned areas;

b. Be forty (40) feet or less in residentially zoned areas with above ground power; and

c. Be thirty-five (35) feet or less in residentially zoned areas with underground power.

(6) Metal pole construction requirements.

a. Structural/Foundation Design. The pole and pole foundation shall be designed in accordance with the most current version of American Association of State Highway Transportation Officials (AASHTO) Standard Specifications for Structural Supports for Highway Signs, Luminaires and Traffic Signals;

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b. Material. The pole material shall be aluminum, hot dipped galvanized steel, or other corrosion resistant metal;

c. Diameter. The pole diameter shall be twelve (12) inches maximum at existing grade unless otherwise approved by the City not including the base of the pole; and

d. Pole Coloring. The pole shall be black in color unless another color scheme is determined to be more aesthetically desirable by the City.

(7) Wooden pole construction requirements for collocation:

a. The existing wooden pole diameter shall be sixteen (16) inches maximum at existing grade unless otherwise approved by the City; and

b. The grantee must show structural evidence that the existing wooden pole and foundation design can meet the current wind load requirements based on NESC extreme wind category with the addition of the small cell facilities.

(8) Decorative poles; additional requirements

a. Decorative poles shall be metal poles only;

b. Antennae shall be mounted on top of the pole only;

c. Accessory equipment shall not be mounted on the pole. Accessory equipment shall be located either within or as an extension of the pole, within an underground vault, or within an enclosure/cabinet adjacent to the pole camouflaged to appear as a public amenity as shown on the concealment element plan; and

d. Aesthetics. Pole shall match the design of decorative poles in the area.

(c) Antenna and accessory equipment size, location, and dimensional restrictions.

(1) General. The applicant shall minimize to the extent possible the antenna and accessory equipment space and shall use the smallest amount of enclosure possible to fit the necessary equipment.

(2) Vertical clearance. All antennae and accessory equipment shall be a minimum of ten (10) feet above the existing adjacent grade and shall not be installed in such a manner as to obstruct the line of sight or pedestrian paths

(3) Mounting/projection off pole. Unless the applicant can demonstrate that more space is needed to be technically feasible, all antennae and accessory equipment including the enclosure shall be as close to the pole as possible and shall be mounted no greater than four (4) inches off the pole and the furthest point of all antennae and accessory equipment including the enclosure shall not project more than twenty-eight (28) inches from the face of the pole.

(4) Antenna size and dimensional restrictions. Unless the applicant can demonstrate that more space is needed to be technically feasible, the size of antennas shall:

a. Be no greater than three (3) cubic feet;

b. In the case of top mounted canister antennas, be no greater than six (6) feet in height and share a reasonably similar diameter as the top of the pole not to exceed sixteen (16) inches;

c. In the case of omnidirectional antennas, be no greater than four (4) feet in height; and

d. In the case of microwave dishes, be no greater than two (2) feet in diameter and no more than three (3) microwave dishes per pole.

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(5) Accessory equipment size and dimensional restrictions. Unless the applicant can demonstrate that more space is needed to be technically feasible, the size of accessory equipment shall:

- a. Be no greater than twenty-eight (28) cubic feet total considering accessory equipment for all small cell facilities attached to the pole collectively not including the electrical equipment;
- b. Be designed to be long and narrow along the pole with a reasonably greater vertical dimension than horizontal; and
- c. Be no greater than twenty-four (24) inches in width.

(6) Antennas and accessory equipment shall not be illuminated except for security reasons, as required by a Federal or State authority, or unless approved as part of a concealment element plan.

(7) Antennas, equipment enclosures, and ancillary equipment, conduit and cable shall not dominate the structure or pole upon which they are attached.

(d) Concealment and objective aesthetic requirements. Small cell facilities and any new, modified, or replaced pole for the collocation of small cell facilities in the rights of way shall meet the following concealment and aesthetic requirements:

(1) Collocated replacement poles. Match neighboring pole design. Any pole replaced for the purposes of collocation shall substantially conform to the design of the pole it is replacing or the neighboring pole design standards utilized within the contiguous right-of-way.

(2) Special districts. In Historic Districts, any new or replacement poles shall be metal Poles. If the neighboring poles are decorative poles, then any new or replacement pole shall be decorative poles of matching dimensions and design.

(3) Pole material reservation. The City reserves the right to require or allow certain pole material types.

(4) Concealment within poles. With the exception of wooden poles, all conduit, cables, wires and fiber must be routed within the pole.

(5) Concealment outside of poles. The full concealment of antennae, accessory equipment, and all conduit, cables, wires and fiber is required and shall meet the following requirements:

- a. Accessory equipment shall be covered with an enclosure;
- b. Canister antennae shall be placed to look as if it is an extension of the pole. All cables shall be concealed either within the canister antenna or within a sleeve between the antenna and the pole;
- c. Spools and/or coils of excess fiber optic or coaxial cables or any other wires shall not be stored on the pole except completely within the approved enclosures or cabinets; and
- d. All cables, wires, and fiber associated with the small cell facility shall be flush-mounted to the support structure where internal installation is not feasible and shall be shrouded or encased in a cover or conduit.

(6) Antenna and accessory equipment coloring. The antenna, accessory equipment, and all visible attachments, equipment, and hardware shall be colored to match the pole unless another color scheme is determined to be more aesthetically desirable by the City.

(7) The preferred location of a small cell facility on a pole is the location with the least visible impact.

(8) Ground-mounted equipment in the rights-of-way is prohibited, unless such facilities are placed underground or the applicant can demonstrate that pole-mounted or undergrounded equipment is technically infeasible. If ground-mounted equipment is necessary, then the applicant shall submit a concealment element plan. Generators located in the rights-of-way are prohibited.

(9) The City may consider the cumulative visual effects of small cell facilities mounted on poles within the rights-of-way when assessing proposed siting locations so as to not adversely affect the visual character of the City. This provision shall not be applied to limit the number of permits issued when no alternative sites are reasonably available nor to impose a technological requirement on the applicant.

(10) These design standards are intended to be used solely for the purpose of concealment and siting. Nothing herein shall be interpreted or applied in a manner which dictates the use of a particular technology. When strict application of these requirements would unreasonably impair the function of the technology chosen by the applicant, alternative forms of concealment or deployment may be permitted which provide similar or greater protections from negative visual impacts to the streetscape.

(e) Electrical service and equipment requirements:

(1) All electronic service equipment shall be installed in accordance with the applicable provisions of the National Electrical Safety Code of the National Bureau of Standards and National Electrical Code of the National Board of Fire Underwriters.

(2) An electric meter, if required, will be support structure-mounted where feasible to the extent authorized by the support structure owner and electric utility.

(3) A separate electrical permit is required by the City for the electrical service.

(4) No equipment shall be operated so as to produce noise in violation of the City Code.

(f) Cable strung small cell facilities. Small cell facilities mounted on cables strung between existing utility poles shall conform to the following standards:

(1) Each strand-mounted facility shall not exceed three cubic feet in volume;

(2) Only one strand-mounted facility is permitted between any two existing poles;

(3) The strand-mounted devices shall be placed as close as possible to the nearest utility pole, in no event more than five feet from the pole unless a greater distance is technically necessary or is required by the pole owner for safety clearance;

(4) No strand-mounted device shall be located in or above the portion of the roadway open to vehicular traffic;

(5) Ground-mounted equipment to accommodate a shared mounted facility is not permitted except when placed in preexisting equipment cabinets;

(6) Pole-mounted equipment shall comply with the all other requirements this section;

(7) Such strand-mounted devices must be installed to cause the least visual impact and without excess exterior cabling or wires (other than the original strand); and

(8) Strand-mounted facilities are only permitted on poles that have existing overhead wirelines.

(g) Signage Requirements.

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(1) A plate no larger than four inches by six inches with the location of the pole and the pole owner's name, contact information, and emergency telephone number shall be permanently affixed to the pole or shroud.

(2) No signage, message or identification other than the manufacturer's identification or such other identification required by applicable law is allowed to be displayed on any antenna or equipment enclosure. Any permitted signage shall be located on the equipment enclosures and be of the minimum amount possible to achieve the intended purpose (no larger than four by six inches); provided, that banners may be permitted as concealment element techniques where appropriate.

Section 12. Removal, relocation, or modification of small cell facility in the rights-of-way.

(a) *Notice.* Except as provided in paragraph (b), on 90 days prior written notice from the City, the grantee or applicant shall, at its own expense, protect, support, temporarily or permanently disconnect, remove, relocate, change or alter the position of any small cell facilities within the rights-of-way whenever the City has determined that such removal, relocation, change or alteration, is reasonably necessary for the construction, repair, maintenance, or installation of any City improvement in or upon, or the operations of the City in or upon, the rights-of-way.

(b) *Emergency removal or relocation of facilities.* In the event of an emergency, as the City may determine to be necessary, appropriate or useful in response to any imminent danger to public health, safety, or property, the City retains the right and privilege, without prior notice, to cut, disconnect, remove, move, or relocate any small cell facility or structure located within the rights-of-way of the city. If circumstances permit, the City shall notify the grantee or applicant and provide the grantee or applicant an opportunity to move its own facilities prior to cutting or removing a facility and shall notify the grantee or applicant promptly after cutting or removing a small cell facility.

(c) *Abandonment of facilities.* A wireless provider is required to notify the City at least 30 days prior to any intentional abandonment of a small cell facility. Absent non-usage arising from lack of commercial power or other circumstances beyond the grantee or applicant's control, a small cell facility shall be deemed abandoned if it remains unused for a period of more than one year. In the event of abandonment, the City may direct the grantee or applicant to remove all or any portion of the small cell facility that the City, or any of its departments, determines would be in the best interest of the public health, safety and welfare to remove. If the grantee or applicant fails to remove the abandoned facility within 90 days after such notice, the City may undertake to do so and recover the actual and reasonable expenses of doing so from the grantee or applicant, its successors or assigns.

(d) *Damage and repair.* The City may require a grantee or applicant to repair all damage to the rights-of-way directly caused by the activities of the grantee or applicant and return the rights-of-way to its functional equivalence before the damage. If the grantee or applicant fails to make the repairs within 120 days after written notice, the City may affect those repairs and charge the applicable party the reasonable, documented cost of such repairs.

Section 13. Insurance and security.

(a) *Insurance.*

(1) *Commercial general liability.* A grantee or applicant shall, at its sole expense, maintain, throughout the term of its license and any extension or renewal thereof, and such other period of time during which the grantee or applicant operates or is engaged in the removal of its facilities or structures (hereinafter referred to as "coverage period"), commercial general liability insurance using carriers licensed, authorized or permitted to conduct business in the state of Alabama and maintaining a Best rating of not less than "A." Such insurance shall include coverage for premises and operations, underground, collapse and explosion, and products and completed operations, independent contractors, contractual liability and personal and advertising injury, and shall include as additional insureds the City's present and future officers, elected or appointed officials, council, boards,

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commissions, agents, representatives, volunteers performing authorized City functions, and employees. Such insurance shall be in the amount of \$2,000,000.00 per occurrence for bodily injury (including death) and property damage and \$3,000,000.00 general aggregate. The grantee or applicant shall insure any contractors and subcontractors providing services in connection with its license or permit maintain appropriate levels of insurance and that the City is included as an additional insured under each policy except workers compensation and employer's liability. Insurance will be written on an occurrence basis.

(2) *Commercial automobile liability.* A grantee or applicant shall, at its sole expense, maintain during the coverage period commercial automobile liability insurance with a limit of \$2,000,000.00 combined single limit for any one accident or loss for bodily injury, including death, and property damage covering owned, leased, non-owned, and hired automobiles used in conjunction with its operations under its license or permit. Such insurance shall include the City and the City's present and future officers, elected or appointed officials, council, boards, commissions, agents, representatives, volunteers performing authorized City functions, and employees as additional insureds.

(3) *Workers' compensation and employer's liability.* A grantee or applicant shall, at its sole expense, maintain, during the coverage period, workers' compensation coverage as prescribed by the laws of the State of Alabama and employer's liability coverage in an amount of \$1,000,000.00 each accident/disease/policy limit.

(4) *Umbrella or excess liability.* A grantee or applicant shall, at its sole expense, maintain during the coverage period umbrella or excess liability insurance in the amount of \$2,000,000.00. Such insurance shall include the City and the City's present and future officers, elected or appointed officials, council, boards, commissions, agents, representatives, volunteers performing authorized City functions, and employees as additional insureds.

(5) *Evidence of insurance; deductibles; approval; reservation.* On grant of a license pursuant to this article and upon each policy renewal thereafter, a grantee or applicant shall, at no cost to the City, furnish to the City certificates of insurance (or proof of self-insurance) evidencing all of the aforementioned types and limits of insurance to be in effect. The City reserves the right to require proof of self-insurance at any time and from time to time, at no cost to the City. A grantee or applicant has the right to maintain reasonable deductibles and the City reserves the right to review and approve such deductibles, which approval shall not be unreasonably withheld or delayed. The policies obtained by applicant and proof thereof, shall be subject to the City's reasonable approval. The City reserves the right to review these insurance requirements during the coverage period and upon prior written notice to, and review and acceptance by applicant, to adjust insurance coverages and their limits when deemed necessary and prudent by the City Manager, based upon changes in statutory law, court decisions, or the claims history of the industry, or a grantee or applicant.

(6) *Maintenance of insurance policies; grantee's coverage primary.* The liability insurance policies required under this section, if any, shall be maintained by applicant through the coverage period. Upon receipt of notice from its insurer(s), grantee or applicant shall provide the City with 30 days' prior written notice of cancellation or non-renewal of any required coverage to the City. Grantee or applicant's coverage shall be primary and non-contributory to any other insurance carried by the City, if applicable to a loss, is excess.

(7) *No limit of liability.* The legal liability of grantee or applicant to the City and any person for any of the matters that are the subject of the insurance policy(ies) required by this section, shall not be limited by said insurance policy(ies) or by the recovery of any amounts thereunder.

(8) *Certificate of insurance.* Certificates of insurance, if any, shall include the City and the City's present and future officers, elected or appointed officials, council, boards, commissions, agents, representatives, volunteers performing authorized City functions and employees as additional insureds, in the case of commercial general liability, commercial automobile liability, and umbrella or excess liability insurance. Worker's

compensation and employer's liability insurance shall waive rights of subrogation in favor of the City. All subsequent notices or certificates shall be delivered to the City Manager and the City Attorney. All deductibles under said policy shall be the sole responsibility of the grantee or applicant.

(9) *Self-insurance*. Notwithstanding any other provision of this section to the contrary, a grantee or applicant is given the option, at any time throughout the term of its license, to self-insure any or all of the types or limits of insurance coverage described in this section. If a grantee or applicant elects to self-insure, it shall submit to the City with a statement certifying such self-insurance, and a request for the City to approve such self-insurance, together with sufficient information to show that it has sufficient financial resources to self-insure without posing additional risk to the City. Provided that the grantee or applicant provides adequate information concerning its financial resources, the City will not unreasonably withhold, condition, or delay its approval of grantee's or applicant's request to self-insure.

(b) *Security*.

(1) Subject to the following subsection (2), grantee or applicant shall obtain, maintain, and replenish, at its sole cost and expense, and file with the City Manager, an irrevocable standby letter of credit in favor of the City or surety bond in the amount of \$100,000.00, or in such other amount established by the City Manager, and suitable in form and content, including any amendments thereto, to the City Manager ("letter of credit", "bond", or "security"), both to guarantee the timely completion and faithful performance of all work required in connection with the license including the construction and operation of the facilities and to secure performance of grantee's or applicant's obligations and faithful adherence to all requirements of this article. Throughout the term of its license, and for 120 days thereafter, applicant shall maintain the required letter of credit or bond in the amount specified in accordance with this section. To the extent that the applicant maintains security under any separate franchise or its wireline right-of-way use agreement with the City, such security may, at grantee's or applicant's option, serve to fulfill its obligation under this subsection (b)(1), provided that said security shall refer to and include this article and shall be subject to the terms and conditions applicable to security under this article, including the right to increase the amount of security.

(2) Based on then-current factors, including the construction activity of the grantee or applicant, whether grantee or applicant is engaged in the removal of the facilities, applicant's history of compliance with this article, or such other factors which reasonably necessitate the contemplated action, the City Manager may, in his sole discretion, modify the obligations of the foregoing subsection (1). Such modifications may include: (i) upon the written request of grantee or applicant, a waiver of the requirement to post security, or a whole or partial release of the security posted; provided that at any time and from time to time the City Manager may require the posting of any security so waived or released; and (ii) upon the written notice to grantee or applicant, an increase in the amount of security posted. Grantee or applicant shall post the required security within 30 days or such additional time as the City Manager may allow, without the right of an additional cure period, and the City Manager may delay any construction activity of applicant until the required security is posted.

(3) The letter of credit may be drawn on directly by the City at any time and from time to time for the payment of the following purposes but not before the expiration of any notice or cure provisions to the extent applicable:

a. To secure the faithful performance by grantee or applicant of all terms, conditions, and obligations of this article and any later enacted regulations and ordinances pertaining to the rights-of-way or their use, including the proper installation, maintenance, operation, and removal of the facilities;

b. To compensate the City for any loss or damage to any City-owned pole or structure or other property of the City, during the course of any construction of the facilities by grantee or applicant, its agents, or employees, or any contractors or subcontractors of applicant;

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c. To compensate the City for any expenditure, damage, or loss incurred by the City occasioned by grantee's or applicant's non-compliance with the provisions of this article or default under any later enacted regulations and ordinances pertaining to the rights-of-way or their use, or its failure to comply with all rules, regulations, orders, permits, and other directives of the City, issued pursuant to this article or other present or future ordinances adopted by the City;

d. To secure the payments of premiums for the liability insurance required pursuant to this article; or

e. The payment to the City of any amounts for which applicant is liable that are not paid by grantee's or applicant's insurance.

(4) For the City to recover under this subsection (b) for any failure to properly construct or operate the facilities or any alteration, repair, maintenance, or restoration of City structures or property, in connection with such construction or operation, it is not necessary that the City first perform such work.

(5) The rights reserved to the City with respect to the letter of credit are in addition to all other rights of the City, whether provided for in this article or otherwise authorized by law; and no action, proceeding, or exercise of a right with respect to such letter of credit shall affect any other rights the City may have.

(c) *Right to require replacement of letter of credit or insurance.* If the financial condition of any company issuing a letter of credit pursuant to this section materially and adversely changes, the City may, at any time and from time to time, require that any such letter of credit be replaced with such other insurance policy or letter of credit consistent with the requirements set forth in this section.

(d) *Notice.*

(1) Each insurance policy shall contain a covenant or endorsement of the insurer to provide 30 days' advance written notice by certified mail of such insurer's intention to cancel, substantially change, or not to renew such policy to both the City Manager, City Attorney, and grantee or applicant; provided, however, in the event said policy fails to so contain such a notice provision to the City Manager and City Attorney, then grantee or applicant shall be responsible for providing notice to the City Manager or City Attorney. Grantee or applicant shall, in the event of any such notice, obtain, pay premiums for, and file with the City Manager and City Attorney written evidence of the issuance of replacement policies prior to the expiration of any such policy.

(2) In no event shall the letter of credit be canceled without 60 days' advance written notice by certified mail to both the City Manager and City Attorney. Grantee or applicant shall, in the event of any such cancellation, obtain and file with the City Manager and City Attorney written evidence of the issuance of a replacement letter of credit that conforms to the requirements of this section prior to the expiration of any such letter of credit.

(3) Failure to carry or keep such insurance and letter of credit in force throughout the period set forth in this section shall constitute a violation of this article. The City, through its City Manager, reserves the right to stop any work related to the facilities until proper evidence of insurance and the letter of credit is furnished.

(e) *Commencement of work.* Grantee or applicant shall not commence any work in the rights-of-way, including the work of installing any facilities, until the insurance and letter of credit requirements of this section have been complied with.

Section 14. Damages and defense.

(a) *Hold harmless and indemnification.*

(1) Grantee by its acceptance of its license agrees to and does thereby indemnify, defend, and hold the City and the City's present and future officers, elected or appointed officials,

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council, boards, commissions, agents, representatives, volunteers performing authorized City functions, and employees whole and harmless from and against all claims, costs, losses, expenses through appeal (including reasonable attorneys' fees, and costs or expenses incidental to the investigation of claims and lawsuits), demands, payments, suits, actions, recoveries, penalties, fines, liabilities, judgments, and damages, of any nature and description, including any suit or claim for personal injury, property damage, defamation, antitrust, errors and omission, theft, fire, royalties, license fees, or infringement of copyright or patent rights, resulting from or arising out of or by reason of: (1) grantee's actions pursuant to its license, and each SCF permit issued thereunder, and the rights awarded thereunder, or the procedures leading thereto, (2) any act or omission of grantee, its agents, employees, representatives, contractors, or sub-contractors, including in the construction, installation or operation of, or the provision of service over, the small cell facilities or support structure in the City, or any portion thereof, (3) any failure by grantee to comply with any applicable law or the terms and conditions of this article, its license and each SCF permit, (4) grantee's performance under its license and each SCF permit, (5) the use of portions of grantee's small cell facilities or support structures by other persons, including other communications service providers, or (6) the presence of any hazardous substance or environmental hazard brought into the rights-of-way by grantee or by any person acting on its behalf or under the rights granted under its license and SCF permits.

(2) The foregoing obligations of this subsection (a) shall survive the expiration, termination, or revocation of the license.

(b) *Notice.* In order for the City to assert its rights to be indemnified, defended, or held harmless, the City must notify grantee within a reasonable time of any claim or legal proceeding which gives rise to such right.

(c) *Defense.* With respect to all grantee's indemnity obligations set forth in this article, grantee shall provide the defense of any claims brought against the City by selecting counsel of grantee's choice to represent the City and defend the claim, subject to the consent of the City, which shall not be unreasonably withheld. Nothing herein shall be deemed to prevent the City from cooperating with grantee and participating in the defense of any litigation by its own counsel at its own cost and expense. After consultation with the City, grantee shall have the right to defend, settle, or compromise, at its cost and expense, any claim or action arising hereunder, and grantee shall have the authority to decide the appropriateness and the amount of any such settlement, provided, however, that any such settlement shall include, at a minimum, a full and final release of all claims against the City and shall include a provision that the settlement does not constitute an admission of wrongful conduct by the City. In the event that the terms of any such settlement do not include a full and final release of the City, grantee shall not settle the claim or action raised against the City. All of grantee's right to enter a settlement shall entail only payment of monetary amounts by grantee or obligations to be performed fully by grantee, and under no circumstances shall grantee have the power to bind the City to any obligation to pay any monetary amounts, perform any particular action, or refrain from performing any action (although the City may in its discretion independently agree to any such condition).

(d) *Indemnification not limited.* The indemnification obligations hereunder are not limited in any way by limitation of the amount or type of damages or compensation payable by or for grantee under worker's compensation, disability or other employee benefits acts, or the acceptance of insurance certificates required hereunder, or the terms, applicability, or limitations of any insurance held by grantee.

(e) *No waiver of City rights.* The City does not and shall not waive any rights against grantee which it may have by reason of grantee's indemnification, or because of the acceptance by the City of grantee's proof of insurance or deposit with the City of any insurance policies described herein.

Section 15. Limitation of liability; immunity.

Except to the extent expressly provided for otherwise in this article, the City shall be responsible for its own acts of negligence, or intentional or willful misconduct committed

by the City for which the City is legally responsible, subject to defenses, immunities, and limitations of liability provided by applicable law; provided, however, notwithstanding anything to the contrary contained in this article and in no event shall the City, its present and future officers, elected or appointed officials, council, boards, commissions, agents, representatives, volunteers performing authorized City functions, or employees be liable to grantee, its affiliates, officers, directors, agents, employees, customers, tenants, licensees, contractors, subcontractors, or assigns for any special, indirect, or consequential damages, including any loss, expense, or damage to profits, business, revenue, or income (whether arising out of the damage to or destruction of the small cell facilities or support structures, in whole or in part, transmission interruptions or problems, any interruption or degradation of service or otherwise), arising in any manner, including the City's negligence, and grantee shall indemnify, defend, and save harmless the City and its present and future officers, elected or appointed officials, council, boards, commissions, agents, representatives, volunteers performing authorized City functions, and employees from and against any and all claims, costs, losses, expenses through appeal (including reasonable attorneys' fees, and costs or expenses incidental to the investigation of claims and lawsuits), demands, payments, suits, actions, recoveries, penalties, fines, liabilities, and judgments, of any nature and description, with respect to such special, indirect, or consequential damages. The foregoing obligations of this section shall survive the expiration, termination or revocation of the license.

Section 16. Applicability.

(a) *Amendments.* The City may, at any time and from time to time, amend this article, as it shall find necessary in the lawful exercise of its police powers and in the management of the rights-of-way or otherwise in the exercise of its control and authority over the rights-of-way and City property located therein. The provisions hereof shall be applicable to all small cell facilities and support structures placed in the rights-of-way on or after the effective date of the ordinance adopting or amending these provisions, as applicable. Further, to the full extent permitted by applicable law, the provisions hereof shall be applicable to all existing small cell facilities and support structures placed in the rights-of-way prior to the effective date of the ordinance adopting or amending these provisions, as applicable, except that any provision of this article regarding the design, size, composition, or location of small cell facilities shall not apply to any facilities lawfully placed within any right-of-way prior to the effective date of the ordinance from which such provision is derived.

(b) *Exemptions and non-applicability.* This article regulates the placement of small cell facilities and support structures located or proposed to be located on the rights-of-way. This article does not apply to the placement of such facilities or structures on City-owned property not located within the right-of-way, which placement will be allowed only through a lease or similar agreement with the City. The placement of an antenna, facilities or equipment related to the following types of wireless communication services are exempt from regulation under this article: facilities owned or controlled, or dedicated to primary use by any federal, state or local government or agency to provide safety or emergency services. Further, the provisions in this article are not intended to alter, affect or modify the provisions of existing franchises, licenses, use agreements or ordinances relating to the franchising of cable systems, cable operators, or any landline telecommunications and related facilities, providers or services. No provision in this section or elsewhere in this article is intended to permit, regulate or authorize the placement by grantee or applicant or other wireless provider of fiber optic lines, coaxial cable, switches, pedestals or networking equipment of any type that is used to transport telecommunication signals, data, messages, or cable services between support structures or between any other points on the right-of-way. In the event any such grantee or applicant or wireless provider desires to place telecommunications or cable system equipment along the right-of-way at points not regulated by this article, it must obtain from the City a separate franchise or similar agreement or authorization that authorizes, governs and applies to such use of other locations on or along the right-of-way.

(c) *Existing agreements.* If a wireless provider has an existing franchise agreement, lease, right-of-way use agreement or other similar agreement with the City that addresses the placement of small cell facilities or support structures that was in effect prior to the

enactment of this article, the existing franchise or agreement shall remain in force for its remaining term (but not for any extension or renewal thereof), and its provisions shall control over any conflicting provisions of this article. Thereafter, the wireless provider's small cell facilities or support structures shall be regulated by this article. Notwithstanding the foregoing, any such wireless provider with an existing franchise or agreement related to small cell facilities may, at its sole option, elect to terminate the franchise or agreement and become immediately subject to this article.

Section 17. Enforcement.

(a) Notice of violation; opportunity to cure.

(1) If the City Manager is of the opinion that a grantee is in violation of a provision of this article, including a license or a SCF permit issued under the authority of this article, he shall provide grantee with a written notice of violation describing the nature of the violation and requirements for correction.

(2) Within ten business days of receiving a notice of apparent violation, grantee shall present facts and arguments in refutation or excuse of the alleged violation, or present a plan for correction of the violation including an estimated schedule for completion of the corrective action. The City Manager shall thereafter determine whether the violation has been refuted or excused, or may approve the corrective plan in whole or part, or require changes thereto. The cure period for any corrective action shall be reasonably established by the City Manager, provided that the period shall not be less than 30 days in the case of any fees or other charges due and not less than 60 days in all other cases, except in the case of an emergency or except as otherwise expressly provided for in this article or the license or a SCF permit.

(3) During the cure period any action to prosecute the violation, including revocation of the license, shall be held in abeyance.

(b) Revocation.

(1) In addition to all other rights or remedies which the City has pursuant to law or equity or under this article or a license or SCF permit issued hereunder, and subject to applicable law, the City may revoke the license and all rights and privileges pertaining thereto including each and every SCF permit issued thereunder, or to revoke one or more SCF permits, in the event that:

a. Grantee is in violation of any material provision of this article, its license, or a SCF permit, and the violation is not capable of being cured or grantee has not, to the City's satisfaction, refuted or excused the failure to comply or has not complied with the cure provisions set forth hereinabove in subsection (a).

b. Grantee has engaged in an evasion or attempt to evade any material provision of this article, its license, or a SCF permit, and fails or refuses to cure it.

c. Grantee has perpetrated or attempted to perpetrate any fraud or deceit upon the City.

d. There is any material misrepresentation of fact by grantee in any permit application or report filed pursuant to this article.

(2) The City Manager shall have the authority to revoke a SCF license, subject to the right of appeal to the City Council provided that the grantee files a written notice of appeal with the City Manager within 30 days of the revocation. The City Council shall have the authority to revoke a license, which includes all SCF permits issued thereunder. Prior to revoking the license, the City Council shall schedule a hearing on the matter and grantee shall be given at least 30 days' advance notice of the date and time for the hearing and the grounds for revocation of the license. At such hearing, grantee shall have the right to be heard on the matter and may present evidence on its behalf, including proof refuting or excusing the violation.

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(3) Within 30 days of the conclusion of the hearing, the City Council may adopt a resolution revoking the license or upholding the revocation of a license, where it finds that there is a basis to do so and grantee shall, thereafter, be notified in writing of the council's decision.

(c) Stop work order.

(1) The City Manager may, at any time and from time to time, issue a stop work order for construction of all or any portion of the facilities or a support structure when the City Manager determines, in his/her sole discretion: (1) that, subject to the cure provisions in subsection (a) of this section, the activity is being performed contrary to the provisions of the SCF permit issued for the site; or (2) that the activity has caused, or is likely to cause, a situation to exist that poses or would pose a clear and immediate danger: (i) to life or health, (ii) of a significant loss of property or services, or (iii) of significant damage to or destruction of the rights-of-way (there is no opportunity to cure in this instance). The order may be issued, at the City Manager's option, on site or to the provider's technical contact person. The City Manager will lift any such stop work order as soon as possible after he/she determines that the situation giving rise thereto no longer exists.

(2) It shall be a violation of this article for a provider, or those persons working on its behalf, to disobey a stop work order. Each day that the violation continues constitutes a separate offense, and is subject to the fines in Section 1-31, and 1-32, Schedule of Fines.

(d) *Violation by wireless provider.* Subject to the cure provisions set forth in subsection (a) of this section, it shall be a violation of this article for a wireless provider to fail to comply with this article and any terms or conditions of its license or a SCF permit. The penalty provisions of section 1-31 and 1-32 of this Code apply. Each day that the violation continues, after the applicable cure period, if any, constitutes a separate offense.

(e) Unauthorized facilities or support structure.

(1) It shall be a violation of this article for any person, its contractor, servant, agent, or employee, to construct, operate, or maintain, a small cell facility or support structure in the rights-of-way without having obtained a license from the City and a SCF permit for the particular location from the City Manager. The penalty provisions of section 1-31 and 1-32 of this Code apply. Each day a violation continues is a separate offense.

(2) In addition to prosecution of the violation in accordance with subsection (1) above, a wireless provider who has failed to obtain a SCF permit for a particular location shall pay an additional administrative fee of \$500.00 per month for each such location that does not have a SCF permit.

(f) The remedies and penalties set forth herein are nonexclusive and the exercise of one or more of such remedies or penalties shall not preclude the exercise of another.

(g) In addition to the other remedies previously set forth herein, the City may take all necessary civil action to enforce the provisions hereof and may seek appropriate legal or equitable remedies or relief, including injunctive relief. The remedies set forth in this section are in addition to and cumulative of all other remedies provided by law.

ARTICLE THREE:

No other portion of the Mobile City Code, Chapter 57, Streets and Sidewalks, Article VIII, Right-of-Way Construction and Administration, nor any other portion of said Chapter 57, shall be affected by this amendment.

ARTICLE FOUR:

Publication. A copy of this ordinance shall be published pursuant and according to law, after its adoption.

ARTICLE FIVE:

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Repealer. All laws and all parts of laws in conflict with these provisions are hereby repealed. All other portions of said Chapter 57, including those portions of Article VIII not hereby expressly amended, shall continue in full force and effect.

ARTICLE SIX:

Severability. If any section, sentence, paragraph, clause, phrase or word of this ordinance is for any reason held or declared to be unconstitutional, inoperative or void, such holding of invalidity shall not affect the remaining portions of this ordinance, and it shall be construed to have been the intent of the City Council of Mobile to pass this ordinance without such unconstitutional, invalid, or inoperative part therein, and the remainder of this ordinance shall be deemed and held to be valid as if such parts had not been included therein.

ARTICLE SEVEN:

Separation Clause. If any section, subsection, sentence, clause or phrase of this Code is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this Code. The City Council of the City of Mobile hereby declares that it would have passed this Code and each section, subsection, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences or phrases be declared unconstitutional.

ARTICLE EIGHT:

Effect of Ordinance. This ordinance shall be effective following its adoption and publication as required by law. This Ordinance shall be in full force and effect within the City of Mobile and its police jurisdiction following said date.

The ordinance was read by the City Clerk; whereupon Councilmember Daves moved that the ordinance be held over until the regular meeting of February 23, 2021, which was seconded by Councilmember Williams and the vote was as follows:

Ayes: Richardson, Manzie, Small, Williams, Daves and Gregory
Nays: None

The vote was then announced by the City Clerk, whereupon the Presiding Officer declared the ordinance held over.

ORDINANCE TO REZONE PROPERTY LOCATED AT 1901 HURTEL STREET (SOUTH SIDE OF HURTEL STREET, 210' WEST OF PRAIRIE AVENUE) FROM R-1 TO R-3 (DISTRICT 3). The following ordinance, which was introduced and read at the regular meeting of February 9, 2021 and held over until the meeting of February 17, 2021, was called up by the Presiding Officer.

ORDINANCE: 64-010-2021

Sponsored by: Mayor Stimpson

AN ORDINANCE AMENDING THE ORDINANCE ADOPTED BY THE BOARD OF COMMISSIONERS OF THE CITY OF MOBILE ON THE 16TH DAY OF MAY, 1967, SAID ORDINANCE BEING COMMONLY KNOWN AS THE ZONING ORDINANCE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MOBILE AS FOLLOWS:

Section One: That the Ordinance commonly known as the Zoning Ordinance and adopted on May 16, 1967, together with the Zoning Map of the City of Mobile, 1967, be, and the same hereby is changed and altered in respect to that certain property in the City of Mobile, State of Alabama, described as follows to-wit:

COMMENCING AT THE INTERSECTION OF THE EAST RIGHT-OF-WAY LINE OF FULTON ROAD (60' R/W) WITH THE SOUTH LINE OF SECTION 33, TOWNSHIP 4

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SOUTH, RANGE 1 WEST, MOBILE COUNTY, ALABAMA; THENCE RUN NORTHWARDLY ALONG SAID EAST RIGHT-OF-WAY LINE A DISTANCE OF 1,944.50 FEET; THENCE RUN NORTH 85°-18' EAST ALONG THE NORTH LINE OF BELLE COUR SUBDIVISION, AS RECORDED IN MAP BOOK 4, PAGE 693 OF THE RECORDS IN THE OFFICE OF THE JUDGE OF PROBATE, MOBILE COUNTY, ALABAMA, A DISTANCE OF 1,208.15 FEET TO A 4"x4" CONCRETE MONUMENT AT THE SOUTHEAST CORNER OF FARMINGDALE, AS RECORDED IN MAP BOOK 6, PAGE 481-484 OF THE RECORDS IN THE OFFICE OF THE JUDGE OF PROBATE, MOBILE COUNTY, ALABAMA, SAID POINT BEING THE POINT OF BEGINNING OF THE FOLLOWING DESCRIBED PARCEL: THENCE RUN NORTH 85°-32'-56" EAST ALONG THE NORTH LINE OF SAID BELLE COUR SUBDIVISION A DISTANCE OF 507.08 FEET TO A 6"x6" CONCRETE MONUMENT; THENCE RUN NORTH 05°-34'-57" EAST A DISTANCE OF 446.96 FEET TO A 6"x6" CONCRETE MONUMENT AT THE SOUTHWEST CORNER OF PRICE WILLIAMS ESTATES, AS RECORDED IN MAP BOOK 4, PAGE 678 OF THE RECORDS IN THE OFFICE OF THE JUDGE OF PROBATE, MOBILE COUNTY, ALABAMA; THENCE RUN NORTH 05°-40'-50" EAST A DISTANCE OF 957.82 FEET TO A CRIMP TOP PIPE AT THE NORTHWEST CORNER OF SAID PRICE WILLIAMS ESTATES; THENCE RUN NORTH 79°-23'-29" WEST ALONG THE SOUTH RIGHT-OF-WAY LINE OF HURTEL STREET (50' R/W) A DISTANCE OF 182.19 FEET TO A CAPPED REBAR (WATTIER); THENCE RUN WESTWARDLY ALONG THE ARC OF A CURVE TO THE RIGHT (HAVING A DELTA OF 05°-56'-40", A RADIUS OF 2,069.60', A CHORD BEARING OF NORTH 76°-25'-29" WEST, AND A CHORD LENGTH OF 318.32') AN ARC DISTANCE OF 318.47 FEET TO A CRIMP TOP PIPE AT THE NORTHEAST CORNER OF SAID FARMINGDALE; THENCE RUN SOUTH 05°-44'-21" WEST ALONG THE EAST LINE OF SAID FARMINGDALE A DISTANCE OF 1,553.36 FEET TO THE POINT OF BEGINNING. THE DESCRIBED PARCEL CONTAINS 16.85 ACRES, MORE OR LESS.

The classification of said property is hereby changed from R-1, Single-Family Residential District to R-3, Multi-Family Residential District, and it shall hereafter be lawful to construct on such property any structures permitted by the Ordinance of May 16, 1967, commonly known as the Zoning Ordinance and to use said premises for any use permitted by the terms of said Ordinance in an R-3, Multi-Family Residential District, provided, however, that the plans for any structure or building sought to be erected on said property shall be in compliance with the building laws of the City of Mobile, and that any structure shall be approved by the Building Inspector of the City of Mobile, and that any such structure be erected only in compliance with such laws, including the requirements of said Zoning Ordinance of May 16, 1967, and further provided, however, that no lot or parcel of land herein above described shall be used for any use allowed in an R-3, Multi-Family Residential District, until all of the conditions set forth below have been complied with: 1. Completion of the subdivision process; and 2. Full compliance with all other municipal codes and ordinances.

Section Two: This Ordinance shall be in force and effect from and after its adoption and publication.

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VOLUNTARY CONDITIONS AND USE RESTRICTIONS

I, the undersigned, as the owner of the property located at 1901 Hurtle Street, Mobile AL (the property), more specifically described in the attached legal description, and in consideration for Planning Commission and City Council rezoning approval, I hereby voluntarily covenant with the City of Mobile that the following uses shall be prohibited on the property:

Furthermore, I voluntarily place the following conditions and restrictions on the property as a part of the rezoning of the property:

During construction of each phase of the proposed redevelopment, owner agrees to construct an 8' high fence between the property on that phase and adjoining single family home lots that back up to the Mae Eanes School property containing the respective phases.

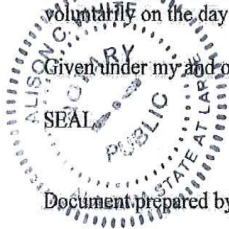
The above stated restrictions shall run with the land and are fully enforceable by the City of Mobile as a condition of the rezoning.

Owner Signature: _____ Date: _____

Applicant Signature: Weggy Date: 2-16-20

STATE OF ALABAMA
COUNTY OF MOBILE

I, the undersigned authority, a Notary Public in and for said State and County, do hereby certify that Winton Yerby III, whose name is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day that, being informed of the contents of said instrument, executed the same voluntarily on the day the same bears date.



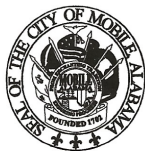
Given under my official seal this the 16th day of Feb, 2021.

Olson White
Notary Public
MY COMMISSION EXPIRES 9-7-22

Document prepared by: Winton Yerby III
Applicant

Received by: _____ Date: _____

MINUTES OF FEBRUARY 17, 2021



VOLUNTARY CONDITIONS AND USE RESTRICTIONS

I, the undersigned, as the owner of the property located at 1901 Hurtle Street, Mobile AL (the property), more specifically described in the attached legal description, and in consideration for Planning Commission and City Council rezoning approval, I hereby voluntarily covenant with the City of Mobile that the following uses shall be prohibited on the property:

Furthermore, I voluntarily place the following conditions and restrictions on the property as a part of the rezoning of the property:

During construction of each phase of the proposed redevelopment, owner agrees to construct an 8' high fence
between the property on that phase and adjoining single family home lots that back up to the Mae Eanes School
property containing the respective phases.

The above stated restrictions shall run with the land and are fully enforceable by the City of Mobile as a condition of the rezoning.

Owner Signature: _____ Date: _____

Applicant Signature: *Weggy #1* Date: 2-16-20

STATE OF ALABAMA
COUNTY OF MOBILE

I, the undersigned authority, a Notary Public in and for said State and County, do hereby certify that _____, whose name is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day that, being informed of the contents of said instrument, executed the same voluntarily on the day the same bears date.

Given under my and official seal this the _____ day of _____, _____.

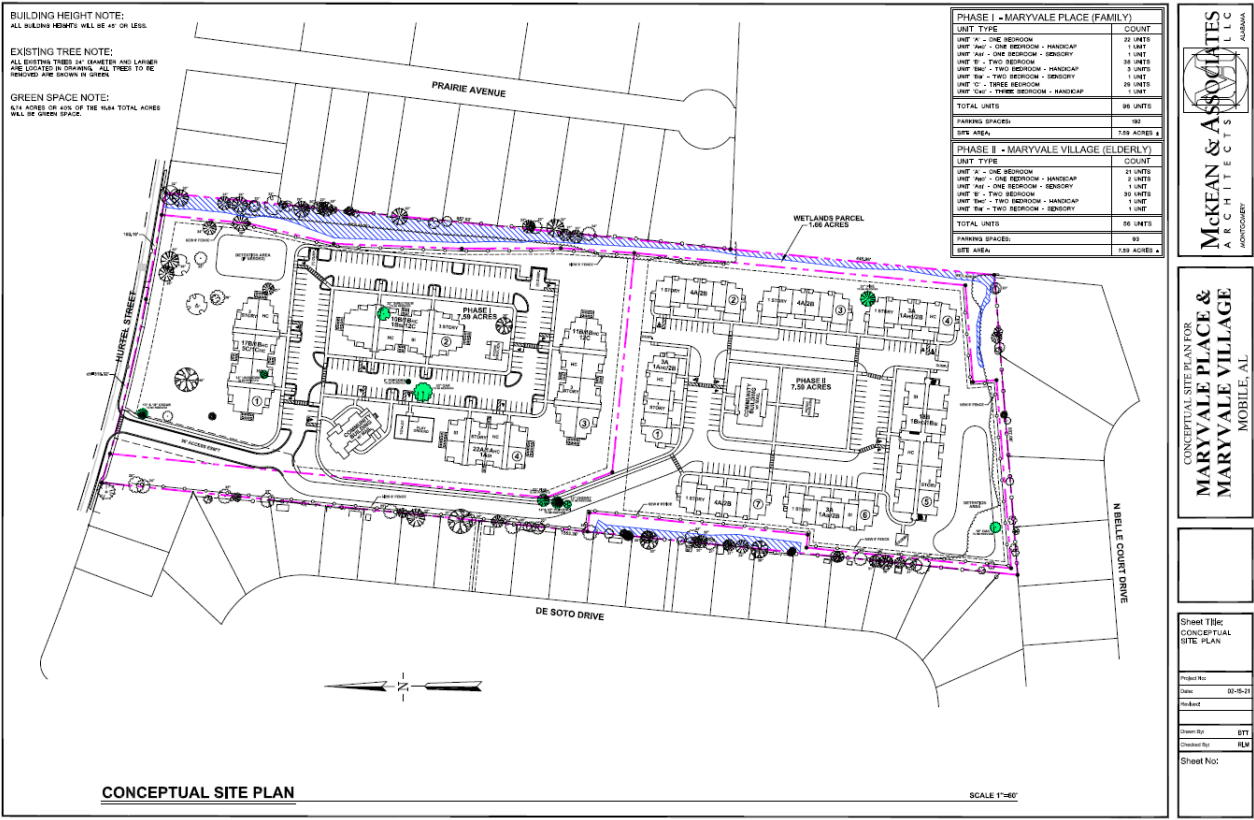
SEAL

Notary Public
MY COMMISSION EXPIRES _____

Document prepared by:

Received by: _____ Date: _____

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The ordinance was read by the City Clerk; whereupon Councilmember Small moved to adopt, subject to and contingent on the voluntary conditions agreement signed by the applicant dated February 16, 2021, which was seconded by Councilmember Daves. Following comments by Councilmember Small the vote was as follows:

Ayes: Richardson, Manzie, Small, Williams, Daves and Gregory
Nays: None

The vote was then announced by the City Clerk, whereupon the Presiding Officer declared the ordinance adopted.

ORDINANCE TO REZONE PROPERTY LOCATED AT THE EAST TERMINUS OF BLUE RIDGE BOULEVARD, EXTENDING TO THE WEST TERMINUS OF OLD DOBBIN DRIVE NORTH, THE WEST TERMINUS OF HARNESS WAY, THE NORTH TERMINUS OF CREEKLINE DRIVE AND THE NORTH TERMINUS OF VALLEYDALE DRIVE FROM R-1, R-2, AND B-1 TO R-1 (DISTRICT 6). The following ordinance, which was introduced and read at the regular meeting of October 13, 2020, and held over until the regular meetings of October 20, 2020, January 19, 2021, February 2 & 17, 2021, was called up by the Presiding Officer.

ORDINANCE: 64-036-2020
Sponsored by: Councilmember Rich

AN ORDINANCE AMENDING THE ORDINANCE ADOPTED BY THE BOARD OF COMMISSIONERS OF THE CITY OF MOBILE ON THE 16TH DAY OF MAY, 1967, SAID ORDINANCE BEING COMMONLY KNOWN AS THE ZONING ORDINANCE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MOBILE AS FOLLOWS:

Section One: That the Ordinance commonly known as the Zoning Ordinance and adopted on May 16, 1967, together with the Zoning Map of the City of Mobile, 1967, be, and the same hereby is changed and altered in respect to that certain property in the City of Mobile, State of Alabama, described as follows to-wit:

PARCEL A:

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COMMENCING AT A POINT ON THE EAST LINE OF THE NORTHEAST QUARTERS OF THE SOUTHWEST QUARTER OF SECTION 5, TOWNSHIP 5 SOUTH RANGE 2 WEST, MOBILE COUNTY, ALABAMA WHERE IT IS INTERSECTED BY THE SOUTH RIGHT OF WAY LINE OF A 40 FOOT SERVICE ROAD SOUTH OF AND PARALLEL WITH COTTAGE HILL ROAD, SAID POINT BEING THE NORTHEAST CORNER OF ASHVILLE, UNIT ONE, ACCORDING TO PLAT RECORDED IN MAP BOOK 66 PAGE 111 OF THE PROBATE COURT RECORDS OF MOBILE COUNTY, ALABAMA, RUN SOUTH 00 DEGREES 09 MINUTES 20 SECONDS WEST ALONG THE EASTERN BOUNDARY OF ASHVILLE, UNIT ONE 280.70 FEET TO A POINT; THENCE CONTINUING ALONG SAID EASTERN BOUNDARY OF ASHVILLE, UNIT ONE RUN NORTH 89 DEGREES 18 MINUTES 55 SECONDS EAST 221.41 FEET TO A POINT; THENCE CONTINUING ALONG SAID EASTERN BOUNDARY RUN SOUTH 68 DEGREES 34 MINUTES 44 SECONDS EAST 130.86 FEET TO THE NORTHWEST CORNER OF CARRIAGE HILLS, UNIT TWO, ACCORDING TO THE PLAT RECORDED IN MAP BOOK 24, PAGE 92 OF THE AFOREMENTIONED PROBATE COURT RECORDS OF MOBILE COUNTY, ALABAMA, SAID POINT BEING THE POINT OF BEGINNING OF THE PROPERTY HEREIN DESCRIBED; THENCE ALONG THE WESTERN BOUNDARY OF SAID CARRIAGE HILLS, UNIT TWO, RUN AS FOLLOWS: SOUTH 16 DEGREES 14 MINUTES 47 SECONDS WEST 111.93 FEET, SOUTH 22 DEGREES 30 MINUTES 13 SECONDS EAST 170.00 FEET, SOUTH 04 DEGREES 24 MINUTES 43 SECONDS EAST 109.05 FEET, SOUTH 17 DEGREES 08 MINUTES 07 SECONDS WEST 70.0 FEET, SOUTH 00 DEGREES 08 MINUTES 07 SECONDS WEST 665.10 FEET TO THE NORTHWEST CORNER OF CARRIAGE HILLS, UNIT FOUR, ACCORDING TO PLAT RECORDED IN MAP BOOK 26 PAGE 31 OF THE AFOREMENTIONED PROBATE COURT RECORDS OF MOBILE COUNTY, ALABAMA; THENCE ALONG THE WESTERN BOUNDARY OF SAID CARRIAGE HILLS UNIT FOUR, RUN AS FOLLOWS: SOUTH 42 DEGREES 38 MINUTES 07 SECONDS WEST 158.00 FEET SOUTH 19 DEGREES 08 MINUTES 51 SECONDS WEST 32.09 FEET, SOUTH 11 DEGREES 06 MINUTES 39 SECONDS EAST 170.00 FEET, SOUTH 00 DEGREES 36 MINUTES 39 SECONDS EAST 250.0 FEET, SOUTH 21 DEGREES 36 MINUTES 39 SECONDS EAST 260 FEET, NORTH 69 DEGREES 08 MINUTES 38 SECONDS EAST 71.40 FEET, SOUTH 08 DEGREES 15 MINUTES 32 SECONDS WEST 225.00 FEET, SOUTH 04 DEGREES 45 MINUTES 32 SECONDS WEST 205.00 FEET TO THE SOUTHWEST CORNER OF SAID CARRIAGE HILLS, UNIT FOUR; THENCE ALONG THE SOUTHERN BOUNDARY OF SAID CARRIAGE HILLS, UNIT FOUR, RUN SOUTH 71 DEGREES 14 MINUTES 28 SECONDS EAST 170.00 FEET TO THE NORTHWEST CORNER OF CARRIAGE HILLS, UNIT FIVE ACCORDING TO PLAT RECORDED IN MAP BOOK 26 PAGE 51 OF THE AFOREMENTIONED PROBATE COURT RECORDS OF MOBILE COUNTY, ALABAMA; THENCE ALONG THE WESTERN BOUNDARY OF SAID CARRIAGE HILLS, UNIT FIVE, RUN SOUTH 39 DEGREES 05 MINUTES 43 SECONDS EAST 44.49 FEET TO THE NORTHWEST CORNER OF CARRIAGE HILLS, UNIT SIX ACCORDING TO PLAT RECORDED IN MAP BOOK 26 PAGE 109 OF THE AFOREMENTIONED PROBATE COURT RECORDS OF MOBILE COUNTY, ALABAMA; THENCE ALONG THE WESTERN BOUNDARY OF SAID CARRIAGE HILLS, UNIT SIX, RUN AS FOLLOWS: SOUTH 35 DEGREES 47 MINUTES 57 SECONDS WEST 344.67 FEET, SOUTH 82 DEGREES 11 MINUTES 57 SECONDS WEST 84.95 FEET, SOUTH 00 DEGREES 12 MINUTES 03 SECONDS EAST 750.00 FEET, SOUTH 13 DEGREES 00 MINUTE 57 SECONDS WEST 215.05 FEET TO THE NORTHEAST CORNER OF CHELSEA, UNIT TWO, ACCORDING TO PLAT RECORDED IN MAP BOOK 58 PAGE 121 OF THE AFOREMENTIONED PROBATE COURT RECORDS OF MOBILE COUNTY, ALABAMA; THENCE ALONG THE NORTHERN BOUNDARY OF SAID CHELSEA, UNIT TWO RUN AS FOLLOWS: NORTH 67 DEGREES 58 MINUTES 45 SECONDS WEST 23.28 FEET, SOUTH 73 DEGREES 23 MINUTE 36 SECONDS WEST 37.80 FEET, SOUTH 88 DEGREES 01 MINUTES 28 SECONDS WEST 100.40 FEET, NORTH 78 DEGREES 17 MINUTES 13 SECONDS WEST 38.00 FEET, SOUTH 73 DEGREES 35 MINUTES 25 SECONDS WEST 45.53 FEET, SOUTH 83 DEGREES 56 MINUTES 56 SECONDS WEST 82.26 FEET, SOUTH 80 DEGREES 05 MINUTES 10 SECONDS WEST 84.51 FEET, SOUTH 77 DEGREES 36 MINUTES 42 SECONDS WEST 96.74 FEET, SOUTH 69 DEGREES 00 MINUTES 48 SECONDS WEST 145.45 FEET, NORTH 66 DEGREES 00 MINUTES 52 SECONDS WEST 87.50 FEET, NORTH 70 DEGREES 01 MINUTES 43 SECONDS WEST 28.57 FEET, SOUTH 80 DEGREES 43 MINUTES 13 SECONDS WEST 55.18 FEET, SOUTH

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44 DEGREES 07 MINUTES 19 SECONDS WEST 42.54 FEET, SOUTH 70 DEGREES 36 MINUTES 08 SECONDS WEST 149.28 FEET, SOUTH 44 DEGREES 56 MINUTES 38 SECONDS WEST 250 FEET, MORE OR LESS TO THE CENTER OF MILKHOUSE CREEK THENCE ALONG THE MEANDERING OF SAID CENTER OF MILKHOUSE CREEK RUN NORTHWARDLY 1350 FEET MORE OR LESS TO THE SOUTHEAST CORNER OF SHADOW CREEK, ACCORDING TO PLAT RECORDED IN MAP BOOK 84 PAGE 40 OF THE AFOREMENTIONED PROBATE COURT RECORDS OF MOBILE COUNTY, ALABAMA; THENCE ALONG THE EASTERN BOUNDARY OF SAID SHADOW CREEK, SAID EASTERN BOUNDARY BEING THE CENTER OF MILKHOUSE CREEK RUN NORTHWARDLY 200 FEET, MORE OR LESS, TO THE NORTHEAST CORNER OF SHADOW CREEK, SAID CORNER BEING THE SOUTHEAST CORNER OF CHARLESTON OAKS, UNIT FOUR, ACCORDING TO THE PLAT RECORDED IN MAP BOOK 52 PAGE 77 OF THE AFOREMENTIONED PROBATE COURT RECORDS OF MOBILE COUNTY, ALABAMA; THENCE ALONG THE EASTERN BOUNDARY OF SAID CHARLESTON OAKS, UNIT FOUR SAID EASTERN BOUNDARY BEING THE CENTER OF MILKHOUSE CREEK RUN NORTHWARDLY 620 FEET, MORE OR LESS TO THE NORTHEAST CORNER OF SAID CHARLESTON OAKS, UNIT FOUR, SAID POINT BEING THE SOUTHEAST CORNER OF CHARLESTON OAKS, UNIT FIVE ACCORDING TO PLAT RECORDED IN MAP BOOD 53 PAGE 31 OF THE AFOREMENTIONED PROBATE COURT RECORDS OF MOBILE COUNTY, ALABAMA; THENCE ALONG THE EASTERN BOUNDARY OF CHARLESTON OAKS, UNIT FIVE, SAID EASTERN BOUNDARY BEING THE CENTER OF MILKHOUSE CREEK, RUN NORTHWARDLY 1670 FEET MORE OR LESS, TO THE NORTHEAST CORNER OF SAID CHARLESTON OAKS, UNIT FIVE, SAID POINT BEING ON THE NORTH LINE THE SOUTHEAST CORNER OF THE SOUTHWEST QUARTER OF SECTION 5 TOWNSHIP 5 SOUTH RANGE 2 WEST; THENCE ALONG THE NORTH LINE OF THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 5 TOWNSHIP 5 SOUTH RANGE 2 WEST, RUN SOUTH 89 DEGREES 50 MINUTES 05 SECONDS EAST 843.76 FEET MORE OR LESS TO A POINT ON THE EAST LINE OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 5, TOWNSHIP 5 SOUTH, RANGE 2 WEST; THENCE ALONG THE EAST LINE RUN NORTH 00 DEGREES 09 MINUTES 20 SECONDS WEST 25.00 FEET TO A POINT; THENCE RUN NORTH 89 DEGREES 50 MINUTES 05 SECONDS WEST 451 FEET, MORE OR LESS TO THE CENTER OF MILKHOUSE CREEK; THENCE ALONG SAID CENTER OF MILKHOUSE CREEK RUN NORTHWARDLY 344 FEET, MORE OR LESS TO A POINT THAT WOULD BE A WESTWARD EXTENSION OF THE SOUTHERN BOUNDARY OF THE AFOREMENTIONED ASHVILLE, UNIT ONE; THENCE ALONG SAID EXTENSION AND ALONG SAID SOUTHERN BOUNDARY OF ASHVILLE, UNIT ONE, RUN NORTH 76 DEGREES 18 MINUTES 45 SECONDS EAST 404 FEET MORE OR LESS TO A POINT; THENCE CONTINUING ALONG SAID SOUTHERN BOUNDARY OF ASHVILLE, UNIT ONE RUN NORTH 85 DEGREES 48 MINUTES 45 SECONDS EAST 238.07 FEET TO A POINT; THENCE ALONG THE SOUTHEASTERN BOUNDARY OF ASHVILLE, UNIT ONE, RUN AS FOLLOWS: NORTH 38 DEGREES 35 MINUTES 05 SECONDS EAST 150.00 FEET, NORTH 34 DEGREES 37 MINUTES 21 SECONDS EAST 50.12 FEET, NORTH 43 DEGREES 05 MINUTES 05 SECONDS EAST 165.00 FEET, NORTH 51 DEGREES 09 MINUTES 25 SECONDS EAST 170.38 FEET TO THE POINT OF BEGINNING.

PARCEL B:

COMMENCE AT THE SOUTHWEST CORNER OF SECTION 8, TOWNSHIP 5, RANGE 2 WEST, ST. STEPHENS MERIDIAN AND RUN SOUTH 89 DEGREES 33 MINUTES 29 SECONDS EAST, FOR A DISTANCE OF 1330.59 FEET FOR A POINT OF BEGINNING; THENCE RUN NORTH 00 DEGREES 12 MINUTES 50 SECONDS WEST, 3050.01 FEET; THENCE RUN NORTHEASTWARDLY 380 FEET, MORE OR LESS, THENCE RUN NORTHWARDLY 830 FEET, MORE OR LESS, TO THE NORTHEAST CORNER OF UNO SUBDIVISION, PHASE ONE AS SHOWN BY MAP OR PLAT THEREOF RECORDED IN MAP BOOK 121, PAGE 22; THENCE RUN SOUTH 88 DEGREES 02 MINUTES 54 SECONDS WEST, 63.01 FEET; THENCE RUN NORTH 00 DEGREES 12 MINUTES 28 SECONDS EAST, 276.71 FEET; THENCE RUN SOUTH 88 DEGREES 47 MINUTES 57 SECONDS EAST, ALONG THE SOUTH MARGIN OF SHADOW CREEK SUBDIVISION, AS SHOWN ON MAP OR PLAT THEREOF RECORDED IN MAP BOOK

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84, PAGE 40, FOR A DISTANCE OF 615 FEET, MORE OR LESS TO A POINT IN THE CENTER OF MILKHOUSE CREEK; THENCE RUN SOUTHWARDLY ALONG THE CENTERLINE OF THE MEANDERINGS OF MILKHOUSE CREEK A DISTANCE OF 1350 MORE OR LESS, TO A POINT ON THE NORTH BOUNDARY OF CHELSEA SUBDIVISION, UNIT TWO AS SHOWN BY MAP OR PLAT THEREOF RECORDED AT MAP BOOK 58, PAGE 121, THENCE RUN SOUTH 44 DEGREES 56 MINUTES 38 SECONDS WEST, A DISTANCE OF 42 FEET, MORE OR LESS, THENCE RUN SOUTH 17 DEGREES 28 MINUTES 54 SECONDS EAST, ALONG THE WEST LINE OF SAID CHELSEA SUBDIVISION, UNIT TWO AND ALSO CHELSEA SUBDIVISION, UNIT ONE, AS SHOWN BY MAP OR PLAT THEREOF RECORDED AT MAP BOOK 39, PAGE 82, FOR A DISTANCE OF 890.57 FEET, THENCE RUN SOUTH 14 DEGREES 34 MINUTES 24 SECONDS EAST, A DISTANCE OF 169.91 FEET; THENCE RUN SOUTH 04 DEGREES 54 MINUTES 01 SECONDS WEST A DISTANCE OF 430.02 FEET, THENCE RUN SOUTH 16 DEGREES 37 MINUTES 54 SECONDS EAST, A DISTANCE OF 659.14 FEET; THENCE RUN SOUTH 25 DEGREES 35 MINUTES 52 SECONDS EAST, A DISTANCE OF 405.03 FEET; THENCE RUN SOUTH 39 DEGREES 35 MINUTES 49 SECONDS EAST, A DISTANCE OF 200.01 FEET; THENCE RUN SOUTH 00 DEGREES 35 MINUTES 58 SECONDS EAST, A DISTANCE OF 360.02 FEET; THENCE RUN SOUTH 20 DEGREES 42 MINUTES 15 SECONDS EAST, A DISTANCE OF 278.19 FEET; THENCE RUN SOUTH 56 DEGREES 34 MINUTES 43 SECONDS, A DISTANCE OF 412.01 FEET, THENCE RUN NORTH 89 DEGREES 33 MINUTES 29 SECONDS, A DISTANCE OF 1673.23 FEET TO THE POINT OF BEGINNING.

The classification of said property is hereby changed from R-1, Single-Family Residential District, R-2, Two-Family Residential District. And B-1, Buffer Business District to R-1, Single-Family Residential District, and it shall hereafter be lawful to construct on such property any structures permitted by the Ordinance of May 16, 1967, commonly known as the Zoning Ordinance and to use said premises for any use permitted by the terms of said Ordinance in an R-1, Single-Family Residential District, provided, however, that the plans for any structure or building sought to be erected on said property shall be in compliance with the building laws of the City of Mobile, and that any structure shall be approved by the Building Inspector of the City of Mobile, and that any such structure be erected only in compliance with such laws, including the requirements of said Zoning Ordinance of May 16, 1967, and further provided, however, that no lot or parcel of land herein above described shall be used for any use allowed in an R-1, Single-Family Residential District, until all of the conditions set forth below have been complied with: 1) full compliance with all municipal codes and ordinances.

Section Two: This Ordinance shall be in force and effect from and after its adoption and publication.

The ordinance was read by the City Clerk; whereupon Councilmember Daves moved that the ordinance be held over until February 23, 2021, which was seconded by Councilmember Gregory and the vote was as follows:

Ayes: Richardson, Manzie, Small, Williams, Daves and Gregory

Nays: None

The vote was then announced by the City Clerk, whereupon the Presiding Officer declared the ordinance held over.

APPROVE PURCHASE ORDER TO DEERE & COMPANY FOR SIX JOHN DEERE UTILITY VEHICLES, \$58,826.16. The following resolution, which was introduced and read at the regular meeting of February 9, 2021 and held over until the meeting of February 17, 2021, was called up by the Presiding Officer.

RESOLUTION: 08-083-2021

Sponsored by: Mayor Stimpson

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BE IT RESOLVED BY THE CITY COUNCIL OF MOBILE, ALABAMA, that the Purchasing Agent is authorized to execute, for and on behalf of the City of Mobile, a purchase order to the indicated vendor in the approximate amount stated, and to approve the supporting bid award if required, for the following requisition as indicated below and attached herein:

Requisition	Fiscal Year	Department	Description	Amount	Vendor
<u>5279</u>	2021	(F7000) MOTOR POOL	SIX 2021 JOHN DEERE GATOR TX UTILITY VEHICLES (SOURCEWELL COOPERATIVE PURCHASING AGREEMENT, NOT ON STATE CONTRACT)	\$58,826.16	<u>(295477) DEERE & COMPANY</u>

BE IT FURTHER RESOLVED THAT the City Council of the City of Mobile, Alabama, finds that this resolution is either necessary to respond to COVID-19 or necessary to perform essential minimum functions of the Council.

The resolution was read by the City Clerk; whereupon Councilmember Daves moved that the resolution be adopted, which was seconded by Councilmember Gregory and the vote was as follows:

Ayes: Richardson, Manzie, Small, Williams, Daves and Gregory
Nays: None

The vote was then announced by the City Clerk, whereupon the Presiding Officer declared the resolution adopted.

APPROVE PURCHASE ORDER TO THE FLORIDA-CARIBBEAN CRUISE ASSOCIATION FOR ANNUAL MEMBERSHIP, \$15,000.00. The following resolution, which was introduced and read at the regular meeting of February 9, 2021 and held over until the meeting of February 17, 2021, was called up by the Presiding Officer.

RESOLUTION: 08-084-2021
Sponsored by: Mayor Stimpson

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BE IT RESOLVED BY THE CITY COUNCIL OF MOBILE, ALABAMA, that the Purchasing Agent is authorized to execute, for and on behalf of the City of Mobile, a purchase order to the indicated vendor in the approximate amount stated, and to approve the supporting bid award if required, for the following requisition as indicated below and attached herein:

Requisition	Fiscal Year	Department	Description	Amount	Vendor
<u>5778</u>	2021	(F6020) CRUISE TERMINAL	ANNUAL MEMBERSHIP IN FLORIDA-CARIBBEAN CRUISE ASSOCIATION (SOLE SOURCE)	\$15,000.00	<u>(294038)</u> <u>FLORIDA-</u> <u>CARIBBEAN</u> <u>CRUISE ASSOC</u> <u>INC</u>

BE IT FURTHER RESOLVED THAT the City Council of the City of Mobile, Alabama, finds that this resolution is either necessary to respond to COVID-19 or necessary to perform essential minimum functions of the Council.

The resolution was read by the City Clerk; whereupon Councilmember Daves moved that the resolution be adopted, which was seconded by Councilmember Gregory and the vote was as follows:

Ayes: Richardson, Manzie, Small, Williams, Daves and Gregory
Nays: None

The vote was then announced by the City Clerk, whereupon the Presiding Officer declared the resolution adopted.

AUTHORIZE CHANGE ORDER #2 TO THE CONTRACT WITH HARRIS CONTRACTING SERVICES, INC. FOR RICKARBY PARK – GRADING & DRAINAGE IMPROVEMENTS, PR-034-20, \$9,092.00. The following resolution, which was introduced and read at the regular meeting of February 9, 2021 and held over until the meeting of February 17, 2021, was called up by the Presiding Officer.

RESOLUTION: 13-085-2021

Sponsored by: Councilmember Manzie and Mayor Stimpson

BE IT RESOLVED BY THE CITY COUNCIL OF MOBILE, ALABAMA, that the Mayor and the City Clerk be, and they hereby are, authorized and directed to execute and attest, respectively, for and on behalf of the City of Mobile, a Change Order No. two (2) to the contract with Harris Contracting Services, that is necessary to perform essential minimum functions of the council, by and between the City of Mobile, and the company listed below, whereby the sum of \$9,092.00 will be added to the original contract amount. A copy of said contract is on file in the office of the City Clerk.

Name of Company: Harris Contracting Services, Inc.
Project Name: Rickarby Park – Grading & Drainage Improvements
Project Number: PR-034-20
Amount: \$9,092.00

The resolution was read by the City Clerk; whereupon Councilmember Daves moved that the resolution be adopted, which was seconded by Councilmember Gregory and the vote was as follows:

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Ayes: Richardson, Manzie, Small, Williams, Daves and Gregory
Nays: None

The vote was then announced by the City Clerk, whereupon the Presiding Officer declared the resolution adopted.

AUTHORIZE CONTRACT CHANGE ORDER NO. TWO (2) WITH JOHN G. WALTON CONSTRUCTION COMPANY, INC., FOR BALTIMORE STREET, STREET AND DRAINAGE REHABILITATION FROM ANN STREET TO I-10 SERVICE ROAD, \$72,693.96 (TOTAL CONTRACT AMOUNT- \$5,978,010). The following resolution, which was introduced and read at the regular meeting of February 9, 2021 and held over until the meeting of February 17, 2021, was called up by the Presiding Officer.

RESOLUTION: 13-086-2021

Sponsored by: Councilmember Small and Mayor Stimpson

BE IT RESOLVED BY THE CITY COUNCIL OF MOBILE, ALABAMA, finds that the subject of this Resolution is either necessary to respond to COVID 19, or necessary to perform essential minimum functions of the Council.

WHEREAS, the Mayor and the City Clerk be, and they hereby are, authorized and directed to execute and attest, respectively, for and on behalf of the City of Mobile, Change Order No. 2 to the contract, by and between the City of Mobile and the company listed below, for work as outlined in the Change order attached hereto and made a part hereof as set forth in full, subject to the company signing the Change Order. A copy of said executed Change Order will be on file in the office of the City Clerk.

Name of Company: John G. Walton Construction Co., Inc.

Project Name: Baltimore St., Street and Drainage Rehabilitation
from Ann St. to I-10 Service Road
City of Mobile Project No. 2016-202-17
Change Order No. 2

Estimated Cost: \$72,693.96

The resolution was read by the City Clerk; whereupon Councilmember Daves moved that the resolution be adopted, which was seconded by Councilmember Gregory and the vote was as follows:

Ayes: Richardson, Manzie, Small, Williams, Daves and Gregory
Nays: None

The vote was then announced by the City Clerk, whereupon the Presiding Officer declared the resolution adopted.

AUTHORIZE CONTRACT WITH GRANT NICHOLS CONTRUCTION FOR CONSTRUCTION OF OLD SHELL ROAD TAP SIDEWALK FROM UNION AVENUE TO HYLAND AVENUE, \$280,803.80 (G-TAPHYLAN). The following resolution, which was introduced and read at the regular meeting of February 9, 2021 and held over until the meeting of February 17, 2021, was called up by the Presiding Officer.

RESOLUTION: 21-087-2021

Sponsored by: Councilmember Richardson

WHEREAS, the City Council of the City of Mobile, Alabama, finds that the subject this resolution is either necessary to respond to COVID 19, or necessary to perform essential minimum functions of the Council.

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BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MOBILE, ALABAMA, that the Mayor and the City Clerk be, and they hereby are, authorized and directed to execute and attest, respectively, for and on behalf of the City of Mobile, a contract, by and between the City of Mobile, and the company listed below; to construct sidewalks along Old Shell Road, as outlined in the contract attached hereto and made a part hereof as though set forth in full. A copy of said contract is on file in the office of the City Clerk.

Name of Company: Grant Nichols Construction, Inc.

Project Name: TAPMB-TA16(947) Old Shell TAP Sidewalk

Capital Project No.: G-TAPHYLAN

Amount: \$280,803.80

The resolution was read by the City Clerk; whereupon Councilmember Daves moved that the resolution be adopted, which was seconded by Councilmember Gregory and the vote was as follows:

Ayes: Richardson, Manzie, Small, Williams, Daves and Gregory
Nays: None

The vote was then announced by the City Clerk, whereupon the Presiding Officer declared the resolution adopted.

AUTHORIZE SERVICE CONTRACT WITH TAW POWER SYSTEMS INC FOR EMERGENCY GENERATORS-PREVENTATIVE MAINTENANCE & SERVICE – VARIOUS CITY FACILITIES, \$80,810.00 3-YEAR TOTAL. The following resolution, which was introduced and read at the regular meeting of February 9, 2021 and held over until the meeting of February 17, 2021, was called up by the Presiding Officer.

RESOLUTION: 21-088-2021

Sponsored by: Mayor Stimpson

BE IT RESOLVED BY THE CITY COUNCIL OF MOBILE, ALABAMA, that the Mayor and the City Clerk be, and they hereby are, authorized and directed to execute and attest, respectively, for and on behalf of the City of Mobile, a Contract, by and between the City of Mobile, and the company listed below, for work as outlined in the contract attached hereto and made a part hereof as though set forth in full. A copy of "said contract is on file in the office of the City Clerk.

Name of Company: TAW POWER SYSTEMS, INC.

Project Name: VARIOUS CITY FACILITIES -
EMERGENCY GENERATORS-PREVENTATIVE
MAINTENANCE AND SERVICE (3-YEAR SERVICE
CONTRACT)

Project Number: SC-034-20

Amount: \$80,810.00 TOTAL FOR 3 YEARS
Year One = \$41,280.00
Year Two = \$19,440.00
Year Three = \$20,090.00

BE IT FURTHER RESOLVED that the City Council of the City of Mobile, Alabama, finds that this Resolution is either necessary to respond to COVID-19 or necessary to perform essential minimum functions of the Council.

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The resolution was read by the City Clerk; whereupon Councilmember Daves moved that the resolution be adopted, which was seconded by Councilmember Gregory and the vote was as follows:

Ayes: Richardson, Manzie, Small, Williams, Daves and Gregory

Nays: None

The vote was then announced by the City Clerk, whereupon the Presiding Officer declared the resolution adopted.

AUTHORIZE CONTRACT WITH GORAM AIR CONDITIONING COMPANY, INC. FOR A DEHUMIDIFIER REPLACEMENT IN THE THERAPY POOL ROOM AT THE CONNIE HUDSON SENIOR CENTER, \$28,460.00 (200020000-48010 FM-129-21). The following resolution, which was introduced and read at the regular meeting of February 9, 2021 and held over until the meeting of February 17, 2021, was called up by the Presiding Officer.

RESOLUTION: 21-089-2021

Sponsored by: Councilmember Rich and Mayor Stimpson

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MOBILE, ALABAMA, that the Mayor and the City Clerk be, and they hereby are, authorized and directed to execute and attest, respectively, for and on behalf of the City of Mobile, a Contract, by and between the City of Mobile, and the company listed below, for work as outlined in the contract attached hereto and made a part hereof as though set for the in full. A copy of said contract is on file in the office of the City Clerk.

Name of Company: GORAM AIR CONDITIONING COMPANY, INC.

Project Name: CONNIE HUDSON SENIOR CENTER –
THERAPY POOL ROOM DEHUMIDIFIER REPLACEMENT

Project Number: FM-129-21

Amount: \$28,460.00

BE IT FURTHER RESOLVED, that the City Council of Mobile, Alabama, finds that this Resolution is either necessary to respond to COVID-19 or necessary to perform essential minimum functions of the Council.

The resolution was read by the City Clerk; whereupon Councilmember Daves moved that the resolution be adopted, which was seconded by Councilmember Gregory and the vote was as follows:

Ayes: Richardson, Manzie, Small, Williams, Daves and Gregory

Nays: None

The vote was then announced by the City Clerk, whereupon the Presiding Officer declared the resolution adopted.

ACCEPT DEEDS FOR RIGHT-OF-WAY FOR THE MCGREGOR AVENUE WIDENING PROJECT (AIRPORT BLVD. TO DAUPHIN ST.) (TRACTS 10, 14, 15, 18, 25, 26, 36, 38, 39, 41). The following resolution, which was introduced and read at the regular meeting of February 9, 2021 and held over until the meeting of February 17, 2021, was called up by the Presiding Officer.

RESOLUTION: 23-090-2021

Sponsored by: Councilmember Daves and Mayor Stimpson

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MOBILE, ALABAMA, that the Mayor and the City Clerk be, and hereby are, authorized to accept Deeds for the

MINUTES OF FEBRUARY 17, 2021

acquisition of right-of-way tracts for City Engineering Project No. 2013-202-07; ALDOT Project No. STPMB-7508(600) McGregor Avenue Widening from Dauphin Street to Airport Boulevard as set out in the instruments attached hereto for the price of \$109,678.50.

Said property is being conveyed to the City of Mobile in accordance with that certain Agreement for Right-of-Way Acquisition between the State of Alabama ("ALDOT") and the City of Mobile as adopted by Resolution #01-290 on July 31, 2012.

Be it resolved that the Executive Director of Finance be and is authorized and directed to request acquisition funds from ALDOT in the amount of the sales price less prorate share of property taxes payable to Jones Walker, LLP.

Be it further resolved that the City Engineer and/or Deputy Director of Real Estate Asset Management of the City of Mobile is hereby authorized and directed to execute for and in the name and on behalf of the City of Mobile what ever supporting documents, affidavits, closing statements, or other ancillary forms necessary to complete the sale of said property.

Be it finally resolved that the City Council of the City of Mobile, Alabama, finds that this resolution is either necessary to respond to COVID-19 or necessary to perform essential minimum functions of the Council.

The resolution was read by the City Clerk; whereupon Councilmember Daves moved that the resolution be adopted, which was seconded by Councilmember Gregory and the vote was as follows:

Ayes: Richardson, Manzie, Small, Williams, Daves and Gregory

Nays: None

The vote was then announced by the City Clerk, whereupon the Presiding Officer declared the resolution adopted.

ACCEPT A PERMANENT SIDEWALK EASEMENT FROM USA FOR 2021 CITY WIDE ANNUAL SIDEWALK REPAIR AND MAINTENANCE. The following resolution, which was introduced and read at the regular meeting of February 9, 2021 and held over until the meeting of February 17, 2021, was called up by the Presiding Officer.

RESOLUTION: 25-091-2021

Sponsored by: Councilmember Daves and Mayor Stimpson

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MOBILE, ALABAMA, that the Mayor and the City Clerk be, and hereby are, authorized to accept one (1) permanent sidewalk easement from the University of South Alabama, a public body corporate of the State of Alabama, as needed for Project No. 2021-3005-01, 2021 City Wide Annual Sidewalk Repair and Maintenance. SAID document being attached hereto and made a part hereof as fully as if set forth herein.

Be it further resolved that the City Council of the City of Mobile, Alabama, finds that this resolution is either necessary to respond to COVID-19 or necessary to perform essential minimum functions of the Council.

The resolution was read by the City Clerk; whereupon Councilmember Daves moved that the resolution be adopted, which was seconded by Councilmember Gregory. Following comments by Councilmembers Daves and Richardson the vote was as follows:

Ayes: Richardson, Manzie, Small, Williams, Daves and Gregory

Nays: None

The vote was then announced by the City Clerk, whereupon the Presiding Officer declared the resolution adopted.

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GRANT EASMENT TO ALABAMA POWER COMPANY FOR GUY WIRE INSTALLATION OF ZEIGLER BOULEVARD. The following resolution, which was introduced and read at the regular meeting of February 9, 2021 and held over until the meeting of February 17, 2021, was called up by the Presiding Officer.

RESOLUTION: 25-092-2021

Sponsored by: Councilmember Gregory and Mayor Stimpson

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MOBILE, ALABAMA, that the Mayor and City Clerk be, and they hereby are, authorized and directed to execute and attest, respectively, for and on behalf of the City of Mobile, a permanent easement to ALABAMA POWER COMPANY as set out in W.E. #A655314B320, a copy of which is attached hereto and made a part hereof as though fully set forth herein, for and in consideration of the sum of ONE and 00/100 DOLLARS (\$1.00), needed for the ALABAMA POWER COMPANY to install a guy wire to proposed pole within City of Mobile Right-of-Way along Zeigler Boulevard.

BE IT FURTHER RESOLVED that the City Council of the City of Mobile, Alabama, finds that this resolution is either necessary to respond to COVID-19 or necessary to perform essential minimum functions of the Council.

The resolution was read by the City Clerk; whereupon Councilmember Daves moved that the resolution be adopted, which was seconded by Councilmember Gregory and the vote was as follows:

Ayes: Richardson, Manzie, Small, Williams, Daves and Gregory

Nays: None

The vote was then announced by the City Clerk, whereupon the Presiding Officer declared the resolution adopted.

APPROVE SETTLEMENT AGREEMENT AND RELEASE OF CLAIMS – AUBREY B. SAWYER, ROYALLE J. REESE & MICHAEL & ROBIN FREEMAN. The following resolution, which was introduced and read at the regular meeting of February 9, 2021 and held over until the meeting of February 17, 2021, was called up by the Presiding Officer.

RESOLUTION: 60-108-2021

Sponsored by: Mayor Stimpson

BE IT RESOLVED by the City Council of the City of Mobile, that the City Attorney and the City Council Attorney, or their respective designees, be, and they hereby are, authorized and directed to execute for and on behalf of the City of Mobile and the City Council of the City of Mobile, Alabama, the Settlement Agreements and Releases of Claims to settle the following three claims:

1. The claim for the personal injury of Aubrey Bernie Sawyer suffered on January 7, 2020, when he was involved in an accident with a City vehicle, requiring the City to pay \$14,750.00, in return for a release of all of the claimant's respective claims, as outlined in the Settlement Agreement and Release of Claims attached hereto and made a part hereof as though set forth in full.
2. The claim for damage suffered on January 6, 2021, when a City garbage truck hit Royalle J. Reese's vehicle, requiring the City to pay \$6,700.00, in return for a release of all the claimant's respective claims, as outlined in the Settlement Agreement and Release of Claims attached hereto and made a part hereof as though set forth in full.
3. The claim for damage suffered on October 28, 2020, when a large oak tree on City right of way fell over onto the property of Michael and Robin Freeman, damaging their home, requiring the City to pay \$7,951.30, in return for a release of all claimant's respective

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claims, as outlined in the Settlement Agreement and Release of Claims attached hereto and made apart hereof as though set forth in full.

The resolution was read by the City Clerk; whereupon Councilmember Daves moved that the resolution be adopted, which was seconded by Councilmember Gregory and the vote was as follows:

Ayes: Richardson, Manzie, Small, Williams, Daves and Gregory
Nays: None

The vote was then announced by the City Clerk, whereupon the Presiding Officer declared the resolution adopted.

REALLOCATE \$141,512.09 FROM DISTRICT 7 CAPITAL PROJECTS TO MOBILE BOTANICAL GARDENS. The following resolution, which was introduced and read at the regular meeting of February 9, 2021 and held over until the meeting of February 17, 2021, was called up by the Presiding Officer.

RESOLUTION: 09-110-2021

Sponsored by: Councilmember Gregory

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MOBILE, ALABAMA, that the sum of \$141,512.09 be reallocated from the following Capital Projects listed below to Capital Project #C0246 Botanical Gardens-PC in the Capital Improvement Fund (2000).

C0401	Langan Pk Pavilion Impr	\$ 50,000.00
MWP08	Citywide MAWSS JT Part	25,000.00
DRC21	2021 Citywide Drainage	25,000.00
D0019	Priority Projects-District 7	41,512.09
	Total	\$141,512.09

These funds are to be used for a Performance Contract with Mobile Botanical Gardens to assist with general operations.

The resolution was read by the City Clerk; whereupon Councilmember Daves moved that the resolution be adopted, which was seconded by Councilmember Gregory and the vote was as follows:

Ayes: Richardson, Manzie, Small, Williams, Daves and Gregory
Nays: None

The vote was then announced by the City Clerk, whereupon the Presiding Officer declared the resolution adopted.

AUTHORIZE MANAGEMENT CONTRACT WITH MOBILE BOTANICAL GARDENS, \$150,000.00. The following resolution, which was introduced and read at the regular meeting of February 9, 2021 and held over until the meeting of February 17, 2021, was called up by the Presiding Officer.

RESOLUTION: 21-111-2021

Sponsored by: Councilmember Gregory

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MOBILE, ALABAMA, that the Mayor and the City Clerk be, and they hereby are, authorized and directed to execute and attest, respectively, for and on behalf of the City of Mobile, a performance contract in the amount of \$150,000.00 with the Mobile Botanical Gardens to assist with operation of the Mobile Botanical Gardens, as outlined in the contract attached hereto and made a part hereof as though set forth in full. A copy of said contract is on file in the office of the City Clerk.

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The resolution was read by the City Clerk; whereupon Councilmember Gregory moved that the resolution be tabled, which was seconded by Councilmember Daves and the vote was as follows:

Ayes: Richardson, Manzie, Small, Williams, Daves and Gregory

Nays: None

The vote was then announced by the City Clerk, whereupon the Presiding Officer declared the resolution tabled.

SUSPENSION OF RULES FOR IMMEDIATE CONSIDERATION OF ESSENTIAL/COVID-19 ITEMS BEING INTRODUCED FOR THE FIRST TIME.

Councilmember Daves moved for the suspension of the rules to consider Essential/Covid-19 items 08-115, 37-120 - 60-122 being introduced for the first time. The motion was seconded by Councilmember Richardson and the vote was as follows:

Ayes: Richardson, Manzie, Small, Williams, Daves and Gregory

Nays: None

The Presiding Officer declared unanimous consent granted for the items.

ESSENTIAL/COVID19 ITEMS BEING INTRODUCED:

ORDINANCE TO REZONE PROPERTY LOCATED AT 107 AND 111 NORTH LAFAYETTE STREET AND 106 PROVIDENCE STREET (NORTH SIDE OF OLD SHELL ROAD, EXTENDING TO THE EAST SIDE OF PROVIDENCE STREET AND THE WEST SIDE OF NORTH LAFAYETTE STREET) FROM B-1 AND R-1 TO R-1 (DISTRICT 2).
The following ordinance was held over until the regular meeting of February 23, 2021.

ORDINANCE: 64-011-2021

Sponsored by: Councilmember Manzie

AMENDING THE ORDINANCE ADOPTED BY THE BOARD OF COMMISSIONERS OF THE CITY OF MOBILE ON THE 16TH DAY OF MAY, 1967, SAID ORDINANCE BEING COMMONLY KNOWN AS THE ZONING ORDINANCE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MOBILE AS FOLLOWS:

Section One: That the Ordinance commonly known as the Zoning Ordinance and adopted on May 16, 1967, together with the Zoning Map of the City of Mobile, 1967, be, and the same hereby is changed and altered in respect to that certain property in the City of Mobile, State of Alabama, described as follows to-wit:

BEGINNING AT THE SOUTHWEST CORNER OF LOT 4, MCGILL-TOOLEN HIGH SCHOOL SUBDIVISION AS RECORDED IN MAP BOOK 83 PAGE 114, PROBATE COURT RECORDS, MOBILE COUNTY, ALABAMA, THENCE NORTH 03°-04'-17" EAST ALONG THE EAST LINE OF PROVIDENCE STREET 400.86 FEET TO THE NORTHWEST CORNER OF SAID LOT 4; THENCE NORTH 87°-00'-11" WEST 5.44 FEET TO THE SOUTHWEST CORNER OF LOT 23, PROVIDENCE PLACE AS RECORDED IN DEED BOOK 118 PAGE 471 OF THE AFORESAID RECORDS; THENCE NORTH 03°-11'-09" EAST ALONG THE EAST LINE OF PROVIDENCE STREET 50.06 FEET TO THE NORTHWEST CORNER OF SAID LOT 23; THENCE SOUTH 87°-00'-11" EAST 118.75 FEET TO THE NORTHEAST CORNER OF 23; THENCE SOUTH 03°-16'-38" WEST 50.06 FEET; THENCE SOUTH 02°-14'-25" WEST 55.40 FEET; THENCE SOUTH 87°-19'-43" EAST 225.48 FEET TO A POINT ON THE WEST LINE OF LAFAYETTE STREET; THENCE SOUTH 04°-53'-39" WEST ALONG SAID WEST LINE 46.14 FEET TO THE NORTHEAST CORNER OF LOT 4, MCGILL-TOOLEN HIGH SCHOOL SUBDIVISION; THENCE SOUTH 04°-53'-56" WEST 300.34 FEET; THENCE NORTH 87°-04'-57" WEST 328.46 FEET TO THE POINT OF BEGINNING WHICH INCLUDES LOT 23, PROVIDENCE PLACE AS RECORDED IN DEED BOOK 118 PAGE

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471 AND LOT 4, MCGILL-TOOLEN HIGH SCHOOL SUBDIVISION AS RECORDED IN MAP BOOK 83 PAGE 114, PROBATE COURT RECORDS, MOBILE COUNTY, ALABAMA.

The classification of said property is hereby changed from B-1, Buffer Business District, and R-1, Single-Family Residential District, to R-1, Single-Family Residential District, and it shall hereafter be lawful to construct on such property any structures permitted by the Ordinance of May 16, 1967, commonly known as the Zoning Ordinance and to use said premises for any use permitted by the terms of said Ordinance in R-1, Single-Family Residential District, provided, however, that the plans for any structure or building sought to be erected on said property shall be in compliance with the building laws of the City of Mobile, and that any structure shall be approved by the Building Inspector of the City of Mobile, and that any such structure be erected only in compliance with such laws, including the requirements of said Zoning Ordinance of May 16, 1967, and further provided, however, that no lot or parcel of land herein above described shall be used for any use allowed in an R-1, Single-Family Residential District until all of the conditions set forth below have been complied with: (1) Provision of a residential buffer, in compliance with Section 64-4.D.1. of the Zoning Ordinance, where the site abuts residential properties. (2) Completion of the Rezoning process prior to signing the Final Plat for the Subdivision; and (3) Full compliance with all municipal codes and ordinances.

Section Two; This Ordinance shall be in force and effect from and after its adoption and publication.

APPROVE PURCHASE ORDER TO BAGBY & RUSSELL COMPANY, INC. FOR PARTS & INSTALLATION FOR STREET LIGHTS IN BATTERY HEIGHTS, \$151,172.50. The following resolution was held over until the regular meeting of February 23, 2021.

RESOLUTION: 08-113-2021

Sponsored by: Councilmember Manzie and Mayor Stimpson

BE IT RESOLVED BY THE CITY COUNCIL OF MOBILE, ALABAMA, that the Purchasing Agent is authorized to execute, for and on behalf of the City of Mobile, a purchase order to the indicated vendor in the approximate amount stated, and to approve the supporting bid award if required, for the following requisition as indicated below and attached herein:

Requisition	Fiscal Year	Department	Description	Amount	Vendor
<u>1668</u>	2021	(2060) TRAFFIC ENGINEERING	PARTS AND INSTALLATION FOR 17 STREET LIGHTS IN BATTERY HEIGHTS (MOBILE COUNTY BID 133-20)	\$151,172.50	<u>(020320) BAGBY & RUSSELL ELECTRIC CO INC</u>

BE IT FURTHER RESOLVED THAT the City Council of the City of Mobile, Alabama, finds that this resolution is either necessary to respond to COVID-19 or necessary to perform essential minimum functions of the Council.

APPROVE PURCHASE ORDER TO DEERE & COMPANY FOR SEVEN (7) ZERO TURN MOWERS, \$131,075.28. The following resolution was held over until the regular meeting of February 23, 2021.

RESOLUTION: 08-114-2021

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Sponsored by: Mayor Stimpson

BE IT RESOLVED BY THE CITY COUNCIL OF MOBILE, ALABAMA, that the Purchasing Agent is authorized to execute, for and on behalf of the City of Mobile, a purchase order to the indicated vendor in the approximate amount stated, and to approve the supporting bid award if required, for the following requisition as indicated below and attached herein:

Requisition	Fiscal Year	Department	Description	Amount	Vendor
<u>2024 & 2025</u>	2021	(F7000) MOTOR POOL	7 2021 JOHN DEERE Z950R 72IN ZERO TURN MOWERS (4 DIESEL, 3 GAS) (SOURCEWELL COOPERATIVE PURCHASING AGREEMENT, NOT ON STATE CONTRACT)	\$131,075.28	<u>(295477) DEERE & COMPANY</u>

BE IT FURTHER RESOLVED THAT the City Council of the City of Mobile, Alabama, finds that this resolution is either necessary to respond to COVID-19 or necessary to perform essential minimum functions of the Council.

APPROVE PURCHASE ORDER TO BLUE RENTS, INC. FOR TENT SET UP AND RENTAL FOR CIVIC CENTER DRIVE-THRU COVID VAX SITE, \$43,822.73. The following resolution was introduced by Councilmember Daves.

RESOLUTION: 08-115-2021

Sponsored by: Mayor Stimpson

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BE IT RESOLVED BY THE CITY COUNCIL OF MOBILE, ALABAMA, that the Purchasing Agent is authorized to execute, for and on behalf of the City of Mobile, a purchase order to the indicated vendor in the approximate amount stated, and to approve the supporting bid award if required, for the following requisition as indicated below and attached herein:

Requisition	Fiscal Year	Department	Description	Amount	Vendor
<u>6412</u>	2021	(2560) PROCUREMENT	TENT SET UP AND RENTAL FOR CIVIC CENTER DRIVE- THROUGH COVID VAX SITE	\$43,822.73	<u>(24500) BLUE RENTS INC</u>

BE IT FURTHER RESOLVED THAT the City Council of the City of Mobile, Alabama, finds that this resolution is either necessary to respond to COVID-19 or necessary to perform essential minimum functions of the Council.

The resolution was read by the City Clerk; whereupon Councilmember Daves moved that the resolution be adopted, which was seconded by Councilmember Williams and the vote was as follows:

Ayes: Richardson, Manzie, Small, Williams, Daves and Gregory
Nays: None

The vote was then announced by the City Clerk, whereupon the Presiding Officer declared the resolution adopted.

AUTHORIZE REALLOCATION OF FUNDS FROM OPERATING BUDGET TO CAPITAL BUDGET FOR SECURITY UPGRADES AT MULTIPLE PUBLIC WORKS FACILITIES.
The following resolution was held over until the regular meeting of February 23, 2021.

RESOLUTION: 09-116-2021

Sponsored by: Mayor Stimpson

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MOBILE, ALABAMA, that the sum of \$50,000.00 be reallocated from Public Services Maintenance Hauling in the General Fund (10042086.42060) to Capital Project #C0462 Public Works Security Improvements in the Capital Improvement Fund (2000).

AUTHORIZE CONTRACT WITH SOUTHERN EARTH SCIENCES, INC. (GEOTECH ENGINEERING SERVICES) FOR TEXAS STREET REHABILITATION FROM ANN STREET TO BROAD STREET & ANN STREET REHABILITATION FROM TENNESSEE STREET DITCH TO VIRGINIA STREET, COM PROJECT NO. 2021-3005-04 (D 2 & 3); \$150,000.00. The following resolution was held over until the regular meeting of February 23, 2021.

RESOLUTION: 21-117-2021

Sponsored by: Councilmembers Manzie & Small and Mayor Stimpson

BE IT RESOLVED BY THE CITY COUNCIL OF MOBILE, ALABAMA, that the Mayor and the City Clerk be, and they hereby are, authorized and directed to execute and attest, respectively, for and on behalf of the City of Mobile, a contract, by and between the City

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of Mobile and the company listed below, for work as outlined in the contract attached hereto and made a part hereof as set forth in full, subject to the company signing the contract and furnishing the required bonds and insurance. A copy of said executed contract will be on file in the office of the City Clerk.

BE IT FURTHER RESOLVED that the City Council of the City of Mobile, Alabama, finds that this resolution is either necessary to respond to COVID-19 or necessary to perform essential minimum functions of the Council.

Name of Company: Southern Earth Sciences, Inc.

Project Name: Texas Street Rehabilitation from Ann Street to Broad Street & Ann Street Rehabilitation from Tennessee Street Ditch to Virginia Street, (D#2 & 3) COM

Project No.: 2021-3005-04

Estimated Cost: \$150,000.00

AUTHORIZE CONTRACT WITH MCCRORY & WILLIAMS, INC. (CONSTRUCTION ENGINEERING/INSPECTION) FOR TEXAS STREET REHABILITATION FROM ANN STREET TO BROAD STREET & ANN STREET REHABILITATION FROM TENNESSEE STREET DITCH TO VIRGINIA STREET, COM PROJECT NO. 2021-3005-04 (D 2 & 3); \$330,875.00. The following resolution was held over until the regular meeting of February 23, 2021.

RESOLUTION: 21-118-2021

Sponsored by: Councilmembers Manzie & Small and Mayor Stimpson

BE IT RESOLVED BY THE CITY COUNCIL OF MOBILE, ALABAMA, that the Mayor and the City Clerk be, and they hereby are, authorized and directed to execute and attest, respectively, for and on behalf of the City of Mobile, a contract, by and between the City of Mobile and the company listed below, for work as outlined in the contract attached hereto and made a part hereof as set forth in full, subject to the company signing the contract and furnishing the required bonds and insurance. A copy of said executed contract will be on file in the office of the City Clerk.

BE IT FURTHER RESOLVED that the City Council of the City of Mobile, Alabama, finds that this resolution is either necessary to respond to COVID-19 or necessary to perform essential minimum functions of the Council.

Name of Company: McCrory & Williams, Inc.

Project Name: Texas Street Rehabilitation from Ann Street to Broad Street & Ann Street Rehabilitation from Tennessee Street Ditch to Virginia Street, (D#2 & 3) COM

Project No.: 2021-3005-04

Estimated Cost: \$330,875.00

AUTHORIZE GRANT APPLICATION TO THE SOUTHERN RAIL COMMISSION FOR AN ALTERNATE SITE ANALYSIS TO SUPPORT THE RETURN OF PASSENGER RAIL SERVICE ALONG THE GULF COAST (MATCHING FUNDS: \$80,100.00). The following resolution was held over until the regular meeting of February 23, 2021.

RESOLUTION: 31-119-2021

Sponsored by: Mayor Stimpson

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BE IT RESOLVED BY THE CITY COUNCIL OF MOBILE, ALABAMA, that the Mayor is authorized to apply, accept and receive from the Southern Rail Commission, a Notice of Award and Memorandum of Agreement for grant assistance in the approximate amount of \$160,200.00, to identify alternate sites needed to support the return of passenger rail service along the Gulf Coast.

BE IT FURTHER RESOLVED that the Council authorizes the expenditure of matching funds in the amount of \$80,100.00 in the event this grant is received.

BE IT FURTHER RESOLVED that the Mayor or his designee be authorized to accept said grant if offered and to sign any agreements or other documents in connection with the grant application and to provide any information required by the Southern Rail Commission, the Federal Railroad Administration, or any other federal agency. Any agreements for grant assistance, together with the exhibits, shall be filed with the City Clerk after award and execution.

BE IT FURTHER RESOLVED that the City Council of the City of Mobile, Alabama, finds that this Resolution is either necessary to respond to COVID-19 or necessary to perform essential minimum functions of the Council.

RECOMMEND APPROVAL TO THE ABC BOARD FOR ISSUANCE OF A RESTAURANT RETAIL LIQUOR LICENSE FOR CRACKER BARREL 439, 43 E. I-65 SERVICE ROAD SOUTH. The following resolution was introduced by Councilmember Daves.

RESOLUTION: 37-120-2021

Sponsored by: Councilmember Richardson

BE IT RESOLVED BY THE CITY COUNCIL OF MOBILE, ALABAMA, that the following application to the Alabama Alcoholic Beverage Control Board of the State of Alabama, is hereby recommended for grant of such license by said Board.

BE IT FURTHER RESOLVED that the City Council of the City of Mobile, Alabama, finds that this resolution is either necessary to respond to COVID-19 or necessary to perform essential minimum functions of the Council.

Type of application: Restaurant Retail Liquor

Submitted by: Cracker Barrel Old Country Store Inc

Location: Cracker Barrel 439
43 E. I-65 Service Road South

The resolution was read by the City Clerk; whereupon Councilmember Daves moved that the resolution be adopted, which was seconded by Councilmember Williams and the vote was as follows:

Ayes: Richardson, Manzie, Small, Williams, Daves and Gregory

Nays: None

The vote was then announced by the City Clerk, whereupon the Presiding Officer declared the resolution adopted.

DECLARE WEEDS NOXIOUS, WEED LIEN GROUP 1612. The following resolution was introduced by Councilmember Daves.

RESOLUTION: 58-121-2021

A RESOLUTION DECLARING WEEDS GROWING UPON THE STREETS OR SIDEWALKS AND UPON PRIVATE PROPERTY WITHIN THE CORPORATE LIMITS OF THE CITY OF MOBILE TO BE NOXIOUS OR DANGEROUS AND TO BE PUBLIC NUISANCES AND PROVIDING FOR THE ABATEMENT OF SUCH NUISANCES.

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WHEREAS, a survey has been made to determine the properties upon which or in front of which noxious or dangerous weeds are growing and the agents or employees of the City of Mobile have obtained the legal description of parcels of property in the City of Mobile upon which or in front of which such weeds are growing, and it has been determined to follow the provisions of Act No. 329 of the Legislature of the State of Alabama, approved on April 28, 1988, and to have caused such weeds to be cut or otherwise abated as public nuisances:

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF MOBILE AS FOLLOWS:

SECTION 1: It has been determined by the City Council of Mobile that the weeds growing on the privately owned lots or parcels of land described in Exhibit "A," a copy of which is on file in the Office of the City Clerk and made a part thereof as though set forth in full, known as Group #1612 under the caption "NOXIOUS OR DANGEROUS WEEDS GROWING ON PROPERTY," are noxious and dangerous, and such weeds are hereby declared to be public nuisances. The properties upon which such weeds are growing are all located within the corporate limits of the City of Mobile, about the streets referred to in the description which are more particularly described in said Exhibit "A."

SECTION 2: The weeds growing on or in front of the above described parcels of property shall be abated by the removal of such noxious or dangerous weeds or they will be removed and the nuisances abated by the City of Mobile, in which case the cost of such removal will be assessed against the respective parcels of lands from which such weeds are removed, and such cost will constitute a lien upon such respective parcels of land until paid. A public meeting is hereby called to be held in the Auditorium of the Mobile Government Plaza, 205 Government Street, Mobile, Alabama, on the 23rd day of March, 2021, at ten thirty a.m., for the purpose of hearing any objections to the declarations contained in this resolution and to the proposed removal of such weeds, at which time all objections will be heard and given due consideration by the City Council of Mobile; and it is directed that there shall be conspicuously posted in front of each parcel of property, a notice headed "NOTICE TO DESTROY WEEDS," such heading to be in words not less than one inch in height and substantially in the form set out in such Act No. 329, approved April 29, 1988.

SECTION 3. The City Council finds this resolution is necessary to perform essential minimum functions of the Council.

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WEED LIEN						
1612						Res. No.
2/16/2021	LOTS TO BE DECLARED					58-
3/23/2021	LOTS FOR PUBLIC HEARING					58-
//2021	LOTS TO BE ASSESSED FOR COST					58-
No.	Address	SRO No.	CASE #	Amount Assessed	Dis	N/A
1	0 Chisam Ave/1417 Chisam Ave Parcel No (29 06 13 0 003 169.XXX)	8229	9574		2	
2	0 Chisam Ave Parcel No (29 06 13 0 003 168.XXX)	8223	9575		2	
3	3553 Elwood Dr	8416	9576		3	
4	1558 Driftwood Dr South	8506	9594		3	
5	1211 Jessie St	8641	9578		1	
6	1383 E Rivera Dr	8568	9579		3	
7	909 Jakes Lane	7506	9580		2	
8	1106 Rotterdam St	5600	9581		2	
9	2224 Dauphin Island Pkwy	5794	9583		3	
10	3901 Bay Front Dr	5587	9584		3	
11	2107 Robinson Dr	5615	9585		3	
12	2457 Dauphin Island Pkwy	6195	9586		3	
13	4014 Sonia Ct	9085	9587		3	
14	2311 Shelby St	8852	9588		2	
15	3608 Ashmont Dr	9324	9589		5	
16	565 Marcus Dr	9332	9590		5	
17	625 Azalea Rd	9275	9592		5	
18	811 Wildwood Dr	8939	9593		4	
				\$ -		
District total for this group		Numbers of lots cut				
1	1		1			
2	5		2			
3	8		3			
4	1		4			
5	3		5			
6	0		6			
7	0		7			
	18		0			
*ADD Added in from other Groups		*CBC Cut By Contractor				
*CBO Cut By Owner		*UDL Undeveloped Lot				
*N/A Taken out by Inspector						

The resolution was read by the City Clerk; whereupon Councilmember Daves moved that the resolution be adopted, which was seconded by Councilmember Williams and the vote was as follows:

Ayes: Richardson, Manzie, Small, Williams, Daves and Gregory

Nays: None

The vote was then announced by the City Clerk, whereupon the Presiding Officer declared the resolution adopted.

APPROVE AWARD OF SPECIAL BONUS TO THE JANUARY 2021 FIREFIGHTER OF THE MONTH, STEVEN J. PLEDGER. The following resolution was introduced by Councilmember Daves.

RESOLUTION: 60-122-2021

Sponsored by: Mayor Stimpson

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BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MOBILE, ALABAMA, that the Mayor, upon nomination by City supervisors, recommends to the City Council that it authorize awards, pursuant to Section 11-40-22 Code of Alabama 1975, of \$500 each to the following employee(s):

Firefighter Steven J. Pledger

This employee is to be commended for his exemplary work performance or innovations that significantly reduce costs or results in an outstanding improvement in service to the public.

The resolution was read by the City Clerk; whereupon Councilmember Daves moved that the resolution be adopted, which was seconded by Councilmember Williams and the vote was as follows:

Ayes: Richardson, Manzie, Small, Williams, Daves and Gregory

Nays: None

The vote was then announced by the City Clerk, whereupon the Presiding Officer declared the resolution adopted.

AUTHORIZE MANAGEMENT AGREEMENT WITH MOBILE BOTANICAL GARDENS, \$150,000.00. The following resolution was held over until the regular meeting of February 23, 2021.

RESOLUTION: 21-123-2021

Sponsored by: Councilmember Gregory

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MOBILE, ALABAMA, that the Mayor and the City Clerk be, and they hereby are, authorized and directed to execute and attest, respectively, for and on behalf of the City of Mobile, a performance contract in the amount of \$150,000.00 with the Mobile Botanical Gardens to assist with operation of the Mobile Botanical Gardens, as outlined in the contract attached hereto and made a part hereof as though set forth in full. A copy of said contract is on file in the office of the City Clerk.

CALL FOR PUBLIC HEARINGS

CALL FOR PUBLIC HEARING TO CONSIDER THE VACATION OF RIGHT OF WAY BETWEEN LOTS 3 & 4, WESTWOOD FARMS RESUBDIVISION ON HALLS MILL ROAD (DISTRICT 4). The following resolution was introduced by Councilmember Williams.

RESOLUTION: 41-123-2021

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MOBILE, ALABAMA, that the City Clerk be, and she hereby is, instructed to publish in a newspaper of general circulation within the municipality the attached notice stating the time and place a proposed resolution is to be considered by the City Council and further stating that at such time and place all persons who desire shall have an opportunity of being heard in opposition to or in favor of the proposed resolution.

BE IT FURTHER RESOLVED that the City Council of the City of Mobile, Alabama, finds that this resolution is either necessary to respond to COVID-19 or necessary to perform essential minimum functions of the Council.

NOTICE OF HEARING TO CONSIDER VACATION OF RIGHT OF WAY LOCATED BETWEEN LOTS 3 & 4, WESTWOOD FARMS RESUBDIVISION ON HALLS MILL ROAD

Notice is hereby given that the Mobile City Council proposes to consider the adoption of a resolution assenting to the vacation of right of way located between Lots 3 & 4, Westwood Farms Resubdivision on Halls Mill Road.

MINUTES OF FEBRUARY 17, 2021

The adoption of such resolution will be considered by the Mobile City Council on the day of March, 2021, at 10:30 a.m., in the Mobile Government Plaza Auditorium, 205 Government Street, provided, however, that if the Mobile City Council is still meeting remotely at that time as authorized by the March 18, 2020, Proclamation of the Governor of Alabama, the public hearing will be held on said date at said time via Zoom video conference and participants will be invited to participate directly in the Zoom meeting remotely or via a video and audio station set up outside the Council Chambers at 205 Government St., Mobile, Alabama.

Any citizen alleging to be affected by the proposed vacation may submit a written objection or may speak at the public hearing.

Councilmember Williams then moved to call for the public hearing, which move was seconded by Councilmember Small and the vote was as follows:

Ayes: Richardson, Manzie, Small, Williams, Daves and Gregory
Nays: None

The vote was then announced whereupon the Presiding Officer set the date for the public hearing as March 16, 2021.

CALL FOR PUBLIC HEARING TO CONSIDER THE VACATION FEE FOR VACATION OF RIGHT OF WAY LOCATED BETWEEN LOTS 3 & 4, WESTWOOD FARMS RESUBDIVISION ON HALLS MILL ROAD (DISTRICT 4) (PROPOSED AMOUNT: \$5,662.02). The following resolution was introduced by Councilmember Williams.

RESOLUTION: 41-124-2021

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MOBILE, ALABAMA, that the City Clerk be, and she hereby is, instructed to publish in a newspaper of general circulation within the municipality the attached notice stating the time and place a proposed resolution is to be considered by the City Council and further stating that at such time and place all persons who desire shall have an opportunity of being heard in opposition to or in favor of the proposed resolution.

BE IT FURTHER RESOLVED that the City Council of the City of Mobile, Alabama, finds that this resolution is either necessary to respond to COVID-19 or necessary to perform essential minimum functions of the Council.

NOTICE OF HEARING TO CONSIDER A VACATION OF RIGHT OF WAY FEE AS A CONDITION OF THE VACATION OF RIGHT OF WAY LOCATED BETWEEN LOTS 3 & 4, WESTWOOD FARMS RESUBDIVISION ON HALLS MILL ROAD

The City of Mobile has been requested to vacate right of way located between Lots 3 & 4, Westwood Farms Resubdivision on Halls Mill Road

The City of Mobile may require abutting landowners who will directly benefit from such vacation to pay a vacation of right-of-way fee equal to the fair market value of the land. The fair market value shall be determined by the Mobile City Council after a public hearing which will be held on Tuesday, March 16, 2021, at 10:30 a.m., in the Mobile Government Plaza Auditorium, 205 Government Street, Mobile, Alabama, provided, however, that if the Mobile City Council is still meeting remotely at that time as authorized by the March 18, 2020, Proclamation of the Governor of Alabama, the public hearing will be held on said date at said time via Zoom video conference and participants will be invited to participate directly in the Zoom meeting remotely or via a video and audio station set up outside the Council Chambers at 205 Government St., Mobile, Alabama.

Any citizen who desires will be allowed to speak for or against this matter at the public hearing.

MINUTES OF FEBRUARY 17, 2021

Councilmember Williams then moved to call for the public hearing, which move was seconded by Councilmember Small and the vote was as follows:

Ayes: Richardson, Manzie, Small, Williams, Daves and Gregory

Nays: None

The vote was then announced whereupon the Presiding Officer set the date for the public hearing as March 16, 2021.

ANNOUNCEMENTS:

Councilmember Gregory made comments in support of Resolution 21-125.

Councilmember Gregory announced Friendship Missionary Baptist Church is hosting a food giveaway today at 2:00 p.m.

Councilmember Gregory stated that the Administrative Committee meeting was well attended and informative.

Councilmember Richardson offered comments about "Black History Month."

Councilmember Williams requested that the Administration provide a red-line copy of Ordinances 34-003 and 65-006 for the purpose of tracking changes.

Councilmember Small gave kudos to the employees in the D.I.P. S.A.I.L. center for providing senior citizens with socially distanced walks at Trimmier Park.

Councilmember Small provided updates on the upgrades to Trimmier Park.

Councilmember Daves thanked the Public Works employees and first responders for preparing the city for the Mardi Gras weekend and freezing temperatures.

Councilmembers Daves and Manzie commended firefighters for continuing their efforts to fight the fire on Papermill Road for 36 hours.

Councilmember Manzie thanked all City employees for a job well done.

Councilmember Manzie encouraged citizens to get the Covid-19 vaccination.

Councilmember Williams moved to adjourn the meeting, which move was seconded by Councilmember Daves and the vote was as follows:

Ayes: Richardson, Manzie, Small, Williams, Daves and Gregory

Nays: None

The vote was then announced by the City Clerk, whereupon the Presiding Officer declared the regular meeting adjourned at approximately 11:30 a.m.

Adopted:

COUNCIL PRESIDENT

CITY CLERK