

**CITY OF SPANISH FORT  
CITY COUNCIL MEETING  
AGENDA**

Regular Meeting  
May 15, 2023  
Spanish Fort Community Center  
5:30 p.m.

- I. CALL TO ORDER
- II. ROLL CALL
- III. INVOCATION
- IV. PLEDGE OF ALLEGIANCE
- V. APPROVAL OF THE MINUTES OF THE PREVIOUS MEETINGS

Work Session May 1, 2023  
Regular Meeting May 1, 2023

- VI. REPORTS OF COMMITTEES AND OFFICERS
- VII. PUBLIC PARTICIPATION
- VIII. ANNOUNCEMENTS

Congressman Jerry Carl recently sent out a survey to Spanish Fort residents asking for feedback about our postal service. Please check your email inbox and fill out that survey. If you did not receive a survey, please send your comments to [jerry.carl@mail.house.gov](mailto:jerry.carl@mail.house.gov). It is important the Congressman and his staff receive your feedback.

The Spanish Fort Community Center and Spanish Fort Public Library will be closed on Monday, May 29, 2023, to commemorate the Memorial Day Holiday. The Library will also be closed on Saturday, May 27, 2023.

- IX. OLD BUSINESS
- X. NEW BUSINESS

Proclamation of May 21-27, 2023, as Emergency Medical Services Week in the City of Spanish Fort

Ordinance No. 635-2023-----An Ordinance Authorizing the Mayor to Execute an Agreement with Direct TV LLC

Ordinance No. 636-2023-----An Ordinance Authorizing the Issuance of a \$15,000,000 City of Spanish Fort, Alabama General Obligation Warrant, 2023

Ordinance No. 637-2023-----An Ordinance Amending Ordinance No. 51-96 of the City of Spanish Fort Changing the Zoning Classification of Certain Property Located at 32128 Broken Branch Circle, Spanish Fort, Alabama, from R-1 to B-2

Resolution No. 1332-2023----A Resolution Authorizing the Mayor to Enter into an Intergovernmental Services Agreement with Baldwin County for the Purpose of Mowing Certain Rights-of-Way

Resolution No. 1333-2023----A Resolution Authorizing the Mayor to Execute a Contract with Sunset Contracting, Inc., for Asphalt Repairs at Southern Way and Battery Heights

Resolution No. 1334-2023----A Resolution Authorizing the Mayor to Execute a Contract with Motorola Solutions for the Purchase

and Installation of a Mobile Dispatch Console for the  
City of Spanish Fort Police Department

Resolution No. 1335-2023----A Resolution Authorizing the Mayor to Execute a  
Contract with the University of Alabama Museums,  
Office of Archaeological Research

Resolution No. 1338-2023----A Resolution Authorizing the Mayor to Execute an  
Agreement for Architectural and Engineering Services  
between the City of Spanish Fort, Alabama, and  
Forrest Daniell & Associates, P.C., for the Addition of  
an Elevator at the Spanish Fort Community Center

Resolution No. 1339-2023----A Resolution Authorizing the Mayor to Execute an  
Agreement for Engineering Services between the City  
of Spanish Fort, Alabama, and Matthew Jones  
Engineering, LLC, for Caisson Trace Drainage  
Improvements

Resolution No. 1340-2023----A Resolution Authorizing the Mayor of the City of  
Spanish Fort, Alabama, to Make a Grant Application  
for the Project Safe Neighborhoods (PSN) Program  
from the United States Department of Justice

Resolution No. 1341-2023----A Resolution Authorizing the Mayor to Enter into a  
Contract for the Provision of Athletic Camps

XI. ADJOURN TO NEXT MEETING  
Work Session and Regular Meeting, June 5, 2023

**Spanish Fort City Council  
Minutes, Regular Meeting, May 1, 2023**

**CALL TO ORDER**

The City Council of the City of Spanish Fort, Alabama, met Monday, May 1, 2023, at 6:00 p.m., at the Spanish Fort Community Center, that being the scheduled date, time and place of such meeting.

**ROLL CALL**

The following Councilmembers were present: Curt Smith, Carl Gustafson, Shane Perry, J. R. Smith, Mary Brabner and Mayor McMillan.

**INVOCATION AND PLEDGE OF ALLEGIANCE**

Councilmember Curt Smith led the invocation and Pledge of Allegiance.

**APPROVAL OF MINUTES OF PREVIOUS MEETINGS**

The minutes of the Meeting and Work Session of April 17, 2023, were distributed to each member, and Mayor McMillan called for any corrections. No corrections being offered, Mayor McMillan declared the minutes approved as written.

**REPORTS OF COMMITTEES AND OFFICERS**

City Clerk Rebecca Gaines thanked City staff for their work in support of the Delta Woods and Waters Expo. Councilmember Gustafson reported on the planned Junior City Council trip to Montgomery on May 16, 2023.

**PUBLIC PARTICIPATION**

Ms. Rita Stacks of 103 Raphael Semmes Court spoke on potential Senior Center classes, including fitness classes.

**ANNOUNCEMENTS**

Congressman Jerry Carl recently sent out a survey to Spanish Fort residents asking for feedback about our postal service. Please check your email inbox and fill out that survey. If you did not receive a survey, please send your comments to [jerry.carl@mail.house.gov](mailto:jerry.carl@mail.house.gov). It is important the Congressman and his staff receive your feedback. Mayor McMillan will be making a trip to Washington, D.C. in June to meet with the Inspector General of the Postal Service to discuss a potential post office.

Please join us for a free concert on Sunday, May 7, 2023. The Mobile Big Band Society Youth Jazz Band will perform at the Community Center at 5:00 p.m. Come out, bring your picnic blanket and tailgate chairs and enjoy the music on the grounds of the Community Center as we celebrate the spring season with a series of concerts.

We would like to thank all of our sponsors, volunteers, committee, staff and all of those who attended our annual Delta Woods and Waters Expo on April 29, 2023, at the 5 Rivers Delta Resource Center. The event is an outstanding showcase for all of the many outdoor activities the area has to offer, and we look forward to seeing everyone next year!

“TIDY THE CITY” Clean Up for the City of Spanish Fort – Dumpsters will be placed at Spirit Park on May 4-7, 2023, for everything except electronics, household garbage, tires and hazardous chemicals.

Join the City of Spanish Fort and the Spanish Fort Public Library in presenting a family movie night on May 5, 2023, at 7:00 p.m. for a showing of “The Princess Bride”. There will be lawn games and activities beginning at 6:00 p.m. Families are invited to bring your picnic blankets and lawn chairs and enjoy the movie on the grounds of the Spanish Fort Community Center, 7361 Spanish Fort Blvd.

The Spanish Fort Community Center and Spanish Fort Public Library will be closed on Monday, May 29, 2023, to commemorate the Memorial Day Holiday. The Library will also be closed on Saturday, May 27, 2023.

## **OLD BUSINESS**

There was none.

## **NEW BUSINESS**

### ***Proclamation of May as Mental Health Month in the City of Spanish Fort and Proclamation of the First Week of May as Tardive Dyskinesia Week in the City of Spanish Fort***

Mayor McMillan issued a proclamation proclaiming the month of May as Mental Health Month in the City of Spanish Fort and the first week of May as Tardive Dyskinesia Week in the City of Spanish Fort. David Conner read the proclamation. Anna and Eddie Hutcheson of the National Allegiance on Mental Illness (NAMI) Baldwin County received the proclamation.

### ***Audits for Fiscal Year ending September 30, 2022, as follows:***

#### **• The City of Spanish Fort**

Mayor McMillan presented the general audit for the City of Spanish Fort for the Fiscal Year 2021-2022. Carly Corte of Avizo Group explained the audit contents and findings. Mayor McMillan opened the public hearing. There were no comments. Mayor McMillan closed the public hearing. Discussion followed.

A motion was made by Councilmember J. R. Smith and seconded by Councilmember Curt Smith to approve the 2021-2022 Fiscal Year Audit for the City of Spanish Fort. Discussion followed. Mayor McMillan called for a polling of votes. Voting “aye” were Councilmembers Curt Smith, Gustafson, Perry, J. R. Smith, Brabner and Mayor McMillan. Voting “nay” were none. Mayor McMillan declared the motion carried and the audit was approved.

#### **• The Cooperative District of the City of Spanish Fort – Highway 181 Public Facilities**

Mayor McMillan presented the audit for the Cooperative District of the City of Spanish Fort -- Highway 181 Public Facilities for the Fiscal Year 2021-2022. Carly Corte of Avizo Group explained the audit contents and findings. Mayor McMillan opened the public hearing. There were no comments. Mayor McMillan closed the public hearing. Discussion followed.

A motion was made by Councilmember Brabner and seconded by Councilmember Gustafson to approve the 2021-2022 Fiscal Year Audit for the Cooperative District of the City of Spanish Fort -- Highway 181 Public Facilities. Discussion followed. Mayor McMillan called for a polling of votes. Voting “aye” were Councilmembers Curt Smith, Gustafson, Perry, J. R. Smith, Brabner and Mayor McMillan. Voting “nay” were none. Mayor McMillan declared the motion carried and the audit was approved.

#### **• The Cooperative District of the City of Spanish Fort – Highway 98 Public Facilities**

Mayor McMillan presented the audit for the Cooperative District of the City of Spanish Fort -- Highway 98 Public Facilities for the Fiscal Year 2021-2022. Carly Corte of Avizo Group explained the audit contents and findings. Mayor McMillan opened the public hearing. There were no comments. Mayor McMillan closed the public hearing. Discussion followed.

A motion was made by Councilmember J. R. Smith and seconded by Councilmember Curt Smith to approve the 2021-2022 Fiscal Year Audit for the Cooperative District of the City of Spanish Fort -- Highway 98 Public Facilities. Discussion followed. Mayor McMillan called for a polling of votes. Voting “aye” were Councilmembers Curt Smith, Gustafson, Perry, J. R. Smith, Brabner and Mayor McMillan. Voting “nay” were none. Mayor McMillan declared the motion carried and the audit was approved.

### ***Public Hearing on Proposed Public Improvement Projects***

Mayor McMillan introduced and outlined the proposed public improvement projects to be undertaken by the City of Spanish Fort. David Conner further explained the proposed projects. Discussion followed. Mayor McMillan opened the public hearing. There were no comments. Mayor McMillan closed the public hearing. Discussion followed.

### ***Ordinance No. 635-2023***

Mayor McMillan introduced Ordinance No. 635-2023, an ordinance authorizing the Mayor to execute an agreement with Direct TV LLC. David Conner explained the proposed Ordinance. Discussion followed.

### ***Ordinance No. 636-2023***

Mayor McMillan introduced Ordinance No. 636-2023, an Ordinance Authorizing the Issuance of a \$15,000,000 City of Spanish Fort General Obligation Warrant, 2023. David Conner explained the proposed Ordinance. Discussion followed. Mayor McMillan opened the public hearing. There were no comments. Mayor McMillan closed the public hearing. Discussion followed.

### ***Resolution No. 1331-2023***

Mayor McMillan introduced Resolution No. 1331-2023, a resolution amending the Spanish Fort Police Department Policy Manual. David Conner explained the proposed resolution. Discussion followed.

A motion was made by Councilmember Brabner and seconded by Councilmember Gustafson to adopt Resolution No. 1331-2023. Discussion followed. Mayor McMillan called for a polling of votes. Voting “aye” were Councilmembers Curt Smith, Gustafson, Perry, J. R. Smith, Brabner and Mayor McMillan. Voting “nay” were none. Mayor McMillan declared the Resolution adopted.

### ***Resolution No. 1332-2023***

Mayor McMillan introduced Resolution No. 1332-2023, a resolution authorizing the Mayor to enter into an Intergovernmental Services Agreement with Baldwin County for the purpose of mowing certain rights-of-way. David Conner informed the Council that he had a conflict of interest in the matter. Mayor McMillan explained the proposed resolution. Discussion followed.

### ***Resolution No. 1333-2023***

Mayor McMillan introduced Resolution No. 1333-2023, a resolution authorizing the Mayor to execute an agreement with Sunset Contracting, Inc., for asphalt repairs at Southern Way and Battery Heights. David Conner explained the proposed resolution. Discussion followed.

### ***Resolution No. 1334-2023***

Mayor McMillan introduced Resolution No. 1334-2023, a resolution authorizing the Mayor to execute a contract with Motorola Solutions for the purchase and installation of a mobile dispatch console for the City of Spanish Fort Police Department. David Conner explained the proposed resolution. Discussion followed.

### ***Resolution No. 1335-2023***

Mayor McMillan introduced Resolution No. 1335-2023, a resolution authorizing the Mayor to execute an agreement with the University of Alabama Museums, Office of Archaeological Research. David Conner explained the proposed resolution. Discussion followed.

### ***Resolution No. 1336-2023***

Mayor McMillan introduced Resolution No. 1336-2023, a resolution declaring an emergency and authorizing the Mayor to execute a contract to perform emergency sidewalk repairs at 11848 Arlington Blvd. David Conner explained the proposed resolution. Discussion followed.

A motion was made by Councilmember J. R. Smith and seconded by Councilmember Brabner to suspend the rules for immediate consideration of Resolution No. 1336-2023. Discussion followed. Mayor McMillan called for a polling of votes. Voting “aye” were Councilmembers Curt Smith, Gustafson, Perry, J. R. Smith, Brabner and Mayor McMillan. Voting “nay” were none. Mayor McMillan declared the rules suspended to allow for immediate consideration of the resolution.

A motion was made by Councilmember Brabner and seconded by Councilmember Gustafson to adopt Resolution No. 1336-2023. Discussion followed. Mayor McMillan called for a polling of votes. Voting “aye” were Councilmembers Curt Smith, Gustafson, Perry, J. R. Smith, Brabner and Mayor McMillan. Voting “nay” were none. Mayor McMillan declared the Resolution adopted.

***Resolution No. 1337-2023***

Mayor McMillan introduced Resolution No. 1337-2023, a resolution authorizing the Mayor to execute a contract for services between the City of Spanish Fort and Uniti Fiber. David Conner explained the proposed resolution. Discussion followed.

A motion was made by Councilmember Brabner and seconded by Councilmember J. R. Smith to rescind Resolution No. 1329-2023, adopted at the April 17, 2023, Council Meeting. Discussion followed. Mayor McMillan called for a polling of votes. Voting “aye” were Councilmembers Curt Smith, Gustafson, Perry, J. R. Smith, Brabner and Mayor McMillan. Voting “nay” were none. Mayor McMillan declared the Resolution rescinded.

A motion was made by Councilmember J. R. Smith and seconded by Councilmember Curt Smith to suspend the rules for immediate consideration of Resolution No. 1337-2023. Discussion followed. Mayor McMillan called for a polling of votes. Voting “aye” were Councilmembers Curt Smith, Gustafson, Perry, J. R. Smith, Brabner and Mayor McMillan. Voting “nay” were none. Mayor McMillan declared the rules suspended to allow for immediate consideration of the resolution.

A motion was made by Councilmember Brabner and seconded by Councilmember Curt Smith to adopt Resolution No. 1337-2023. Discussion followed. Mayor McMillan called for a polling of votes. Voting “aye” were Councilmembers Curt Smith, Gustafson, Perry, J. R. Smith, Brabner and Mayor McMillan. Voting “nay” were none. Mayor McMillan declared the Resolution adopted.

**ADJOURNMENT**

There being no further business before the Council, the meeting adjourned at 6:40 p.m.

***Approved this \_\_\_\_ day of May, 2023.***

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Rebecca A. Gaines  
City Clerk.

## Spanish Fort City Council

### Minutes, Work Session, Monday, May 1, 2023

The City Council of the City of Spanish Fort, Alabama, met Monday, May 1, 2023, at 4:31 p.m., at the Spanish Fort Community Center, that being the scheduled date, time and place of such meeting.

The following Councilmembers were present: Curt Smith, Carl Gustafson, Shane Perry, J. R. Smith, Mary Brabner and Mayor McMillan. A quorum being present, the work session proceeded.

The Council discussed general municipal business.

Mr. David Conner, City Attorney, made a recommendation that the City Council go into executive session in accordance with the Alabama Open Meetings Act to discuss the general reputation and character of certain individuals and, subject to the limitations set out therein, to discuss the job performance of certain public employees; to discuss the legal ramifications of and legal options for pending litigation, controversies not yet being litigated, but imminently likely to be litigated, or imminently likely to be litigated if the governmental body pursues a proposed course of action; to discuss the consideration the governmental body is willing to offer or accept when considering the purchase, sale, exchange, lease, or market value of real property; and to discuss security plans, procedures, assessments, measures, or systems, or the security or safety of persons, structures, facilities, or other infrastructures, the public disclosures of which could reasonably be expected to be detrimental to public safety or welfare. Mr. Conner made an oral declaration that the exceptions under the Open Meetings Act are applicable to the planned discussion. A motion was made by Councilmember Brabner and seconded by Councilmember J. R. Smith to go into executive session at 5:20 p.m. to discuss the aforementioned matters. Mayor McMillan called for the polling of votes. Voting “aye” were Councilmembers Curt Smith, Gustafson, Perry, J. R. Smith, Brabner and Mayor McMillan. Voting “nay” were none. Mayor McMillan announced that the executive session would last approximately 30 minutes and that the Work Session would resume upon the conclusion of the executive session.

The Council reconvened at 5:54 p.m.

The Council discussed general municipal business.

There being no further business before the Council, the work session adjourned at 5:56 p.m.

*Approved this \_\_\_\_\_ day of May, 2023.*

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Rebecca A. Gaines  
City Clerk

## ORDINANCE NO. 635-2023

### AN ORDINANCE AUTHORIZING THE MAYOR TO EXECUTE AN AMENDMENT TO THE AGREEMENT WITH DIRECTV LLC

**WHEREAS**, the City of Spanish Fort and BellSouth Telecommunications, Inc., d/b/a AT&T Alabama previously entered into an agreement for the provision of certain IP-Enabled Video Services, which agreement is set to expire on December 31, 2023 (“the Agreement”); and

**WHEREAS**, DIRECTV LLC (hereinafter referred to as DIRECTV) is the successor in interest to AT&T Alabama; and

**WHEREAS**, DIRECTV has requested a four-year extension of the Agreement, beginning on January 1, 2024, and expiring on December 31, 2027; and

**WHEREAS**, the City Council desires to grant DIRECTV’s request to renew the Agreement for an additional term of four years.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SPANISH FORT, ALABAMA, AS FOLLOWS:**

**SECTION 1.** The City Council hereby agrees to renew with DIRECTV the terms of the Agreement granted to BellSouth Telecommunications, Inc., d/b/a AT&T Alabama for provision of certain IP-Enabled Video Services for a term of four years beginning on January 1, 2024, and expiring on December 31, 2027, in accordance with the terms of the Agreement between the parties, as the same has been amended. The City Council hereby authorizes the Mayor to execute the First Amendment to Video Services Agreement which is attached hereto as Exhibit 1, subject to any changes approved by the Mayor and City Attorney.

**SECTION 2.** Except as expressly amended in this Ordinance and the First Amendment to Video Services Agreement, all terms and conditions contained in Ordinance No. 440-2013, as amended, shall remain in full force and effect.

**SECTION 3.** If any part, section or subdivision of this Ordinance shall be held unconstitutional or invalid for any reason, such holding shall not be construed to invalidate or impair the remainder of this Ordinance, which shall continue in full force and effect notwithstanding such holding.

**SECTION 4.** This Ordinance shall become effective upon its adoption or as otherwise required by state law.

Adopted and approved this \_\_\_\_ *day of* \_\_\_\_\_, 2023.

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Michael M. McMillan  
Mayor

ATTEST:

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Rebecca A. Gaines  
City Clerk



# Exhibit 1

## **FIRST AMENDMENT TO VIDEO SERVICES AGREEMENT**

**THIS FIRST AMENDMENT TO VIDEO SERVICES AGREEMENT** ("First Amendment") is made on this \_\_\_\_\_ day of \_\_\_\_\_, 2023, by and between DIRECTV, LLC ("DIRECTV") and the City of Spanish Fort, Alabama ("City").

### **RECITALS**

**WHEREAS** on or about July 31, 2021, BellSouth Telecommunications, LLC d/b/a AT&T Alabama ("AT&T Alabama") completed the transfer of its interest in the Video Services Agreement ("Agreement") with the City regarding the provision of the U-verse IPTV video service to its affiliate, DIRECTV; and

**WHEREAS** the initial Agreement with the City was entered on August 14, 2013 for a term expiring December 31, 2023, but allows for extending the Agreement upon written mutual request of the parties; and

**WHEREAS** the City and DIRECTV now desire to extend the term of the Agreement through December 31, 2027, and agree that there is sufficient mutual consideration for renewing and extending the term of the Agreement; and

**WHEREAS** DIRECTV and the City of Spanish Fort desire to make one other modification to the terms of the Agreement, which is fully set forth herein below and agree that there is sufficient mutual consideration for renewing and extending the term of the Agreement through December 31, 2027.

### **AGREEMENTS**

**NOW, THEREFORE**, in consideration of the mutual covenants contained herein and in the original Agreement, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, DIRECTV and the City of Spanish Fort agree as follows:

1. Paragraph 2 of the Agreement is hereby amended and acknowledged to read as follows  
Term. The term of this Agreement shall be from the Effective Date of this Agreement through December 31, 2027. The term may be extended upon mutual agreement of the parties in writing.
2. Paragraph 13, the "Notices" paragraph of the Agreement, is amended by changing the address for AT&T Alabama to the following:  
  
DIRECTV  
Legal/External Affairs  
2260 E. Imperial Hwy.  
El Segundo, CA 90245  
  
e-mail: scott.alexander@directv.com
3. Unless amended by the terms of this First Amendment, all other terms and conditions of the Agreement, shall remain unchanged and in full force and effect throughout the extended term. In the event the terms and conditions of the Agreement conflict with the terms of this First Amendment, this First Amendment shall be deemed to supersede and override the terms of the Agreement.
4. This First Amendment incorporates and includes all prior and contemporaneous negotiations, correspondence, conversations, agreements and understandings between the parties concerning the subject matter hereof. No deviation from the terms hereof shall be predicated upon any prior or contemporaneous representations, agreements or understanding, whether oral or written.

**IN WITNESS WHEREOF**, DIRECTV and the City of Spanish Fort have caused this First Amendment to be duly executed on their behalf by their duly authorized representative, as of the date first above written.

**(Signature page immediately follows)**

**DIRECTV, LLC (DIRECTV)**

Printed Name: Scott J. Alexander

Title: Senior Director, External Affairs

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

**City of Spanish Fort Alabama**

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

**ATTEST**

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

## ORDINANCE NO: 636-2023

### AN ORDINANCE AUTHORIZING THE ISSUANCE OF A \$15,000,000 CITY OF SPANISH FORT, ALABAMA GENERAL OBLIGATION WARRANT, 2023

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

**Section 1. Findings.** Having made due and proper investigation of the matters hereinafter referred to, the Council has ascertained and does hereby find and declare that the following facts are true and correct:

- (a) In order to provide financing for the acquisition, construction and installation of capital improvements, including construction, installation and equipping a fire station; construction of six pickleball courts; renovation of the irrigation system at the Spirit Park ball fields; construction of a storage building for storage of fire and public works equipment, construction, installation and equipping of a dog park; construction of an additional phase of the Integrity park baseball and soccer complex and other municipal improvements, all for use by the City (the "Improvements"), it is necessary that the City borrow the sum of \$15,000,000;
- (b) In order to obtain such funds, it is necessary, advisable and in the interest of the public that the City borrow such funds from Synovus Bank and to issue the Warrant hereinafter authorized as evidence of its obligation to such Bank; and
- (c) In order to provide for certain terms and conditions with respect to the loan evidenced by such Warrant, it is necessary, advisable and in the interest of the public that the City enter into a Financing Agreement with Synovus Bank (the "Financing Agreement").

**Section 2. Authorization of Warrant.** Pursuant to the applicable provisions of the constitution and laws of the State of Alabama, including particularly Section 11-47-2 of the Code of Alabama 1975, as amended, and for the purpose of providing the funds necessary to finance the Improvements, to pay the costs of issuance thereof, and for no other purpose, there is hereby authorized to be issued by the City its \$15,000,000 General Obligation Warrant, 2023 (the "Warrant"). The Warrant shall be dated the date of its delivery and shall contain and be subject to the terms and conditions set forth in the form of Warrant attached hereto as Exhibit A and made a part hereof.

**Section 3. Source of Payment; Security.** The indebtedness evidenced and ordered paid by the Warrant is and shall be a general obligation of the City for payment of the principal of and the interest on which the full faith and credit of the City are hereby irrevocably pledged. The City further agrees that, so long as the Warrant remains outstanding and any portion thereof remains unpaid, and to the full extent of the City's power to do so under the constitution and laws of the

State of Alabama, the City will continue to collect and enforce taxes to the extent necessary to pay the principal of and interest on the Warrant.

**Section 4. Creation of Warrant Fund.** There is hereby created a special trust fund of the City, the full name of which shall be "City of Spanish Fort, Alabama Warrant Fund, 2023." Synovus Bank shall be and remain the depository for the Warrant Fund. The monies in the Warrant Fund shall be used to pay the principal of and interest on the Warrant as the same shall become due and payable. There shall be paid into the Warrant Fund, on or before the last business day preceding any date on which a payment of principal of or interest on the Warrant is due, an amount which, when added to the amount then on deposit therein, will equal the principal of (if any) and interest on the Warrant coming due on such payment date.

All monies on deposit in the Warrant Fund shall be used for payment of the principal of and interest coming due on the Warrant.

The Warrant Fund shall be and at all times remain public funds impressed with a trust for the purpose for which the Warrant Fund is herein created. The depository for the Warrant Fund shall at all times keep the monies on deposit with it in the Warrant Fund continuously secured for the benefit of the City and the Holder of the Warrant.

**Section 5. Covenant as to Tax-Exempt Obligation.** The City acknowledges and agrees that the Warrant is to be issued in compliance with the conditions necessary for the interest income thereon to be exempt from federal income taxation pursuant to the relevant provisions of the Code and covenants and agrees that it will not in any way cause or permit the proceeds of the Warrant to be used in a manner which would cause the interest on the Warrant to lose the exemption from federal income taxation as provided under the Code and the applicable regulations thereunder and will comply with all applicable provisions of the Code (including, without limitation, the provisions relating to post-issuance actions affecting tax exemption) to the extent necessary for interest on the Warrant to be excludable from gross income of the holders thereof.

(b) Upon the occurrence of a Determination of Taxability, as hereinafter defined, the City shall promptly notify the Holder of the Warrant and shall make all payments required by the terms of the Warrant. As used herein, the term "Determination of Taxability" shall mean a determination that, as a result of any action or failure to act on the part of the City, the interest income on the Warrant is includable in gross income of the recipient thereof for federal income tax purposes, which determination shall be deemed to have been made upon the occurrence of the first to occur of the following:

- (a) The date on which the City determines that the interest income on the Warrant is includable in gross income for federal income tax purposes by filing with the Warrantholder a statement to that effect;
- (b) The date on which the City or any Warrantholder shall be advised by private ruling, technical advice or any other written communication from an authorized official of the Internal Revenue Service that, based upon any filings by the City, or upon any review or audit of the City, or upon any other grounds whatsoever, the interest income on the Warrant is includable in gross income for federal income tax purposes;

- (c) The date on which the City shall receive notice from the Warrantholder in writing that the Warrantholder has been advised (i) by any Warrantholder that the Internal Revenue Service has notified such Warrantholder that it has determined that the interest income on the Warrant is includable in gross income for federal income tax purposes or (ii) by any authorized official of the Internal Revenue Service that the interest income on the Warrant is includable in gross income for federal income tax purposes; or
- (d) The date on which the City shall receive notice from the Warrantholder that such Warrantholder has become aware of facts that cause such Warrantholder to determine in good faith that the interest income on the Warrant is includable in gross income for federal income tax purposes;

provided, that no Determination of Taxability shall be deemed to have occurred: (1) as a result of a determination by the City pursuant to the preceding clause (a) unless supported by a written opinion of Bond Counsel acceptable to the Warrantholder and the City that the interest income on the Warrant is includable in gross income for federal income tax purposes; (2) as a result of the event described in the preceding clause (d) if within twenty (20) days after the City has received notice of the event described in said clause (d) the City shall deliver to the Warrantholder giving such notice an opinion of Bond Counsel acceptable to the Warrantholder that the interest income on the Warrant is not so includable; or (3) as a result of the events described in either of the preceding clauses (b) and (c) unless and until (A) the City has been afforded a reasonable opportunity, at its expense, to contest such a determination either through its own action (if permitted by law) or by or on behalf of the Warrantholder and (B) all such contests, if made, have been abandoned by the City or have been finally determined by a court of competent jurisdiction from which no further appeal exists.

**Section 6. Authorization of Financing Agreement.** The execution and delivery by the City of the Financing Agreement between the City and Synovus Bank is hereby authorized. The Financing Agreement shall be in substantially the form presented at the meeting at which this Ordinance is adopted, a copy of which is attached hereto as Exhibit "B", with such changes as shall be satisfactory to Synovus Bank and approved by the Mayor, which approval shall be conclusively evidenced by the Mayor's execution of such Financing Agreement.

**Section 7. Authorization.** The Mayor and Clerk of the City are hereby authorized and directed to execute and deliver the Warrant and the Financing Agreement to Synovus Bank, together with such other instruments, directions, notices, consents or other documents as shall be necessary or desirable to consummate the transactions contemplated thereunder.

**Section 8. Contractual Provisions.** The provisions of this Ordinance shall constitute a contract between the City and the Holder of the Warrant. Upon payment in full of the principal of and interest on the Warrant, the obligations of the City hereunder and under the Financing Agreement shall cease.

**Section 9. Severability.** The various provisions of this Ordinance are hereby declared to be severable. In the event any provisions hereof shall be held invalid by a court of competent jurisdiction, such invalidity shall not affect any other portion of this Ordinance.

**Section 10. Effective Date.** This Ordinance shall become effective immediately upon its adoption or otherwise as shall be required by State law.

The Mayor thereupon announced that the motion for the adoption of said Ordinance had been carried.

\* \* \* \* \*

There being no further business to come before the meeting the same was, on motion duly made and adopted, adjourned.

By: \_\_\_\_\_  
Its Mayor

By: \_\_\_\_\_  
Its City Clerk



# EXHIBIT A

## FORM OF WARRANT

UNITED STATES OF AMERICA  
STATE OF ALABAMA  
CITY OF SPANISH FORT, ALABAMA  
GENERAL OBLIGATION WARRANT, 2023

The CITY OF SPANISH FORT, ALABAMA, a municipal corporation under the laws of the State of Alabama (the "City"), for value received, hereby acknowledges that it is indebted in the principal sum of FIFTEEN MILLION AND NO/100 DOLLARS (\$15,000,000.00) and hereby directs its Clerk to pay (but solely out of the Warrant Fund referred to below) such principal sum to SYNOVUS BANK, or registered assigns, and to pay (but solely out of the Warrant Fund) interest on such principal sum from the date hereof until such principal sum shall become due and payable at the rate of 4.40% per annum, calculated on the basis of a 360 day year and 12 consecutive 30-day months and payable on the first day of each May and November, commencing November 1, 2023. The principal hereof shall be payable in twenty (20) annual installments on the first day of May, as follows:

<b>Principal Payment Date</b>	<b>Amount</b>
May 1, 2024	\$483,171.70
May 1, 2025	\$504,431.25
May 1, 2026	\$526,626.23
May 1, 2027	\$549,797.78
May 1, 2028	\$573,988.89
May 1, 2029	\$599,244.40
May 1, 2030	\$625,611.15
May 1, 2031	\$653,138.04
May 1, 2032	\$681,876.12
May 1, 2033	\$711,878.66
May 1, 2034	\$743,201.33
May 1, 2035	\$775,902.18
May 1, 2036	\$810,041.88
May 1, 2037	\$845,683.72
May 1, 2038	\$882,893.81
May 1, 2039	\$921,741.13
May 1, 2040	\$962,297.74
May 1, 2041	\$1,004,638.84
May 1, 2042	\$1,048,842.95
May 1, 2043	\$1,094,992.20

Upon the occurrence of a Determination of Taxability (as defined in the Warrant Ordinance hereinafter described), interest hereon shall accrue at the Taxable Rate (as hereinafter defined), commencing with the payment immediately following receipt by the Holder hereof of notice of such occurrence. In addition, within ten (10) days following any Determination of Taxability, the City shall pay to the Holder hereof (without regard to whether such Holder shall have previously been

the Holder) (1) an amount equal to the difference between (a) the interest paid hereon from the date from which interest hereon became includable in gross income of the Holder to the date of the Determination of Taxability, and (b) the amount of interest which would have been payable hereon if this Warrant had borne interest at the Taxable Rate during that same period, plus (2) an amount equal to any interest, penalties and additions to tax suffered by the Holder. As used herein, the "Taxable Rate" shall mean the per annum rate derived by dividing (x) the rate borne hereby (4.40%) by (y) 1 minus the maximum federal corporate income tax rate as of the date of the Determination of Taxability.

The principal and interest so payable, and punctually paid or duly provided for on any payment date will, as provided in the ordinance adopted by the City Council of the City on May 15, 2023 (the "Warrant Ordinance"), be paid to the person in whose name this Warrant is registered at the close of business on the last business day prior to such payment date.

Pursuant to the Warrant Ordinance, the City has established a special fund for the payment of debt service on the Warrants (the "Warrant Fund") that will be held by Synovus Bank, as depository. The City has obligated itself to pay or cause to be paid into the Warrant Fund from the taxes, revenues or other funds of the City sums sufficient to provide for the payment of debt service on the Warrants as the same becomes due and payable.

Payment of principal of or interest on this Warrant due on each payment date shall be made by check or draft mailed by the City to the person entitled thereto at its address appearing in the warrant register maintained with respect to the Warrants. Such payments of principal and interest shall be credited on the date received by the holder hereof but shall be deemed timely made if so mailed on the payment date or, if such payment date is not a date on which banks are open for business, on the next such day next following such payment date. Payment of the final installment of principal of and interest on this Warrant shall be made only upon surrender of this Warrant to the City. All such payments shall be made in such coin or currency of the United States of America as at the time of payment as legal tender for the payment of public and private debts.

The indebtedness evidenced and ordered paid by this Warrant is a general obligation of the City, for the payment of the principal of and interest on which the full faith and credit of the City have been irrevocably pledged. The City hereby covenants and agrees that so long as this Warrant is outstanding it will levy and collect such taxes as are permitted under the Constitution and laws of the State of Alabama to the extent necessary to pay the principal hereof and interest hereon.

This Warrant is subject to redemption at the option of the City, in whole or in part, upon written notice delivered to the Holder not less than ten (10) days prior to the date of redemption, at a redemption price equal to the principal amount to be redeemed plus the interest accrued thereon to the date of redemption, plus, in the case of any redemption prior to the third anniversary of the date hereof, a redemption premium equal to two percent (2%) of the principal amount to be redeemed.

This Warrant is nonnegotiable and is transferable only by a transfer duly executed by the person in whose name this Warrant is registered on the registry books of the Clerk of the City. Each Holder hereof, by receiving or accepting this Warrant, shall consent and agree and shall be estopped to deny that this Warrant may be transferred only in accordance with the provisions hereof. Without limiting the generality of the foregoing, each Holder hereof takes this Warrant

It is hereby certified and recited that the indebtedness evidenced and ordered paid by this Warrant is lawfully due without condition, abatement or offset of any description; that this Warrant has been registered in the manner provided in the Warrant Ordinance; that all conditions, actions and things required by the Constitution and laws of the State of Alabama to exist, be performed or happen precedent to the issuance of this Warrant exist, have been performed and have happened; and that the indebtedness evidenced and ordered paid by this Warrant, together with all other indebtedness incurred by the City, was at the time the same was created and is now within every debt and other limit prescribed by the Constitution and laws of the State of Alabama.

CITY OF SPANISH FORT, ALABAMA

By: \_\_\_\_\_  
Mayor

[FORM]

---

City Clerk

## Date of Registration: \_\_\_\_\_

Treasurer, City of Spanish Fort, Alabama

## FORM OF ASSIGNMENT

For value received \_\_\_\_\_ hereby sell(s), assign(s) and transfer(s) unto \_\_\_\_\_ the within Warrant and hereby irrevocably constitute(s) and appoint(s) \_\_\_\_\_, attorney, with full power of substitution in the premises, to transfer this Warrant on the books of the within-mentioned City.

Dated this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

NOTE: The signature on this Assignment must correspond with the name of the registered owner as it appears on the face of the within Warrant in every particular, without alteration, enlargement or change whatsoever.

Signature Guarantee:

\_\_\_\_\_  
(Bank, Trust Company or Fund)

By: \_\_\_\_\_  
(Authorized Officer)

# EXHIBIT B

## Form of Financing Agreement

FINANCING AGREEMENT

Between

CITY OF SPANISH FORT, ALABAMA

and

SYNOVUS BANK

## FINANCING AGREEMENT

THIS FINANCING AGREEMENT dated May \_\_, 2023, entered into by the CITY OF SPANISH FORT, ALABAMA, a municipal corporation under the laws of the State of Alabama (the "City"), and SYNOVUS BANK, a Georgia banking corporation (the "Lender").

### Recitals

Simultaneously with the execution and delivery of this Agreement, the City has issued its \$15,000,000 General Obligation Warrant, 2023 (the "Warrant"). The proceeds of the Warrant will be used to finance the acquisition, construction and installation of capital improvements, including without limitation construction, installation and equipping a fire station; construction of six pickleball courts; renovation of the irrigation system at the Spirit Park ball fields; construction of a storage building for storage of fire and public works equipment, construction, installation and equipping of a dog park; and construction of an additional phase of the Integrity park baseball and soccer complex, all for use by the City (the "Improvements"). Pursuant to this Agreement, the Lender has agreed to make a loan (the "Loan") to the City in the amount of \$15,000,000 to provide the financing described above. The City's obligation to repay the Loan will be evidenced by the Warrant.

The terms of the Warrant are described in the City's ordinance adopted by Mayor and City Council of the City on May 15, 2023, authorizing the issuance of the Warrant (the "Ordinance") and in the form of Warrant attached as Exhibit A to the Ordinance.

In order to provide for the issuance of the Warrant, for certain representations and covenants on the part of the City and the Lender and for the other purposes set forth herein, the parties have agreed to enter into this Agreement.

NOW, THEREFORE, for and in consideration of the premises and the mutual covenants hereinafter contained, the parties hereto covenant, agree and bind themselves as follows:

### **Section 1. Agreement to Make the Loan**

Upon the terms and conditions in the Ordinance, the Lender hereby agrees to lend to the City, and the City hereby agrees to borrow from the Lender, \$15,000,000. The City's obligation to repay the Loan shall be evidenced by the Warrant in the principal amount of \$15,000,000. The Warrant shall bear interest at the rate per annum and shall be payable on the dates indicated in the form of the Warrant. Principal of the Warrant shall be payable as described in the form of the Warrant.

The indebtedness evidenced and ordered paid by the Warrant is and shall be a general obligation of the City for payment of the principal of and the interest on which the full faith and credit of the City are hereby irrevocably pledged. So long as the Warrant remains outstanding and any portion thereof remains unpaid, and to the full extent of the City's power to do so under the constitution and laws of the State of Alabama, the City further agrees that it will continue to collect and enforce taxes to the extent necessary to pay the principal of and interest on the Warrant.

### **Section 2. Representations and Warranties**

(a) Representations and Warranties by the City. The City hereby represents and warrants to the Lender as follows:

(1) The City is a municipal corporation duly organized and existing under the general laws of the State of Alabama, with full power to accept the Loan, to enter into this Financing Agreement and to issue the Warrant.

(2) The City has duly adopted the Ordinance and has thereby authorized the acceptance of the Loan, the execution and delivery of this Financing Agreement and the issuance of the Warrant. This Financing Agreement constitutes, and when issued and delivered the Warrant will constitute, the legal, valid and binding obligations of the City enforceable against it in accordance with the terms of each such instrument, except as enforcement thereof may be limited by (i) bankruptcy, insolvency or other similar laws affecting the enforcement of creditors' rights and (ii) general principles of equity, including the exercise of judicial discretion in appropriate cases.

(3) There is no action, suit, proceeding, inquiry or investigation, at law or in equity, or before or by any court, public board or body, pending or, to the knowledge of the City, threatened against the

City to (i) restrain or enjoin the issuance of the Warrant or the execution and delivery by the City of this Financing Agreement, or (ii) wherein an unfavorable decision, ruling or finding would have a material adverse effect on the financial position of the City.

(4) The financial statements provided to the Lender by the City are complete and correct and fairly represent the financial condition of the City. There have been no material adverse changes in the business, properties or financial condition of the City, whether or not arising in the ordinary course of business, since September 30, 2022; the City has not defaulted in the payment of the principal of or the interest on any of its outstanding indebtedness; and, since September 30, 2022, except in the ordinary course of business, the City has not incurred any material liabilities or obligations, direct or contingent, or entered into any transactions material to the City, in any case which would have a material adverse effect upon the financial condition of the City.

(5) The City's Fiscal Year commences on October 1 and ends on September 30.

(b) Representations and Warranties by the Lender. The Lender represents and warrants to the City as follows:

(1) The Lender is acquiring the Warrant for its own account as evidence of a loan in the ordinary course of business and has no present intention of reselling or disposing of the Warrant or engaging in any "distribution" thereof (as that term is used in the Securities Act of 1933, as amended (the "1933 Act"), and the regulations of the Securities and Exchange Commission thereunder). Notwithstanding the foregoing, the Lender shall have the right, but not the obligation, to engage a participant bank or banks suitable to Lender in its sole and absolute discretion; provided, that the City shall not be required to respond to or consult with any such participant or to make payment otherwise than to the registered owner of the Warrant.

(2) The Lender is familiar with the operations and financial condition of the City based upon information available to the Lender and has made such inquiries as it deems appropriate in connection with making the Loan and acquiring the Warrant, and has regularly acquired municipal obligations similar to the Warrant in the normal course of its commercial banking business and is capable of evaluating the merits and risks of making the Loan and acquiring the Warrant.

(3) The Lender has made its own independent evaluation of the creditworthiness of the City and has been provided with or permitted access to all information it has deemed material to formulating its decision to make the Loan and acquire the Warrant. The Lender acknowledges that no credit rating will be assigned to the Warrant, that no official statement or other offering document has been or will be prepared in connection with the issuance of the Warrant and that the City has not undertaken to provide any "continuing disclosure" under Rule 15c2-12 of the United States Securities and Exchange Commission or, except as provided in this Agreement, to provide any other information subsequent to the issuance of the Warrant.

(4) The Lender is aware that there may be no secondary market for the Warrant and that it may be required to hold the Warrant until maturity, although it reserves the right at all times to control the disposition of its assets, including the Warrant, and reserves the right to sell, assign and transfer the Warrant; provided, however, that no public offering of all or any portion of the Warrant, or of any interest therein, shall be made, that any purchaser shall be an "accredited investor" as defined in Regulation D promulgated under the 1933 Act, as amended and/or a qualified institutional buyer within the meaning of Rule 144A under the 1933 Act, and that the Lender shall comply with all federal and state laws relating to the sale of securities.

(5) The Lender acknowledges that the City has retained Hand Arendall Harrison Sale LLC ("Hand Arendall") as its bond counsel with respect to the Loan, the issuance of the Warrant and matters pertaining thereto, that Hand Arendall does not represent the Lender with respect to the Loan, the Warrant or matters related thereto, and that it has determined whether to retain its own counsel based upon its own judgment and is not relying upon Hand Arendall to advise it in any matter relating to the Loan or the Warrant.

### **Section 3. Covenants of the City**

(a) The City shall pay the principal of and the interest on the Warrant at the time and place and in the manner provided in the Warrant.



(b) The City shall within ten (10) days after it acquires knowledge thereof, notify the Lender in writing upon the happening, occurrence, or existence of any Event of Default hereunder, and any event or condition which with the passage of time or giving of notice, or both, would constitute an Event of Default, and shall provide the Lender with such written notice a detailed statement by a responsible officer of the City of all relevant facts and the action being taken or proposed to be taken by the City with respect thereto.

(c) The City shall promptly inform the Lender in writing of any actual or potential contingent liabilities or pending or threatened litigation of any amount that could reasonably be expected to have a material and adverse effect upon the financial condition of the City and upon the ability of the City to perform its obligations under the Warrant.

(d) The City shall maintain such liability, casualty, and other insurance as is reasonable and prudent for similarly situated political subdivisions of the State and shall, upon written request of the Lender, provide evidence of such coverage to the Bank.

(e) The City shall comply with all applicable federal, state and local laws and regulatory requirements applicable to it.

(f) In the event the Warrant should be subject to the any documentary or other excise tax, or any other document should be subject to any excise tax on documents, or any similar tax, the City shall pay such taxes or reimburse the Lender for any such taxes paid by it; provided, that nothing in this clause (f) shall be deemed to impose any obligation with respect to the payment of federal or state income tax with respect to interest paid with respect to the Warrant.

(g) The Lender shall be provided with such financial information regarding the City as Lender may reasonably request, including but not limited to providing annual audited financial statements within 210 days after the end of the City's Fiscal Year.

(h) The City shall provide to the Lender a copy of the City's annual budget promptly upon, but not later than 45 days after, approval thereof by the City Council.

(i) The City shall permit the Lender and any of its authorized representatives, and shall cause such persons and entities to be permitted to visit, examine, inspect and make extracts from books and records of the City and shall discuss with Lender or its representatives the affairs, finances and accounts of the City at such reasonable times and as often as may be reasonably requested.

#### **Section 4. Closing; Construction Fund**

(a) Subject to the conditions described below, not later than 2:00 p.m. (Spanish Fort, Alabama time) on the Closing Date, the City will deliver the Warrant to the Lender in definitive form, duly executed and authenticated, together with the other documents required by this Section 4.

(b) The Lender's obligation to fund the Loan and to accept and pay for the Warrant shall be subject to receipt of the following documents on or prior to the Closing Date:

(1) Ordinance. A certified copy of the Ordinance, together with a certificate of the City Clerk of the City to the effect that the Ordinance is in full force and effect and has not been modified or amended since the date of its adoption.

(2) Warrant. The properly executed, authenticated and delivered Warrant.

(3) Financing Agreement. A duly executed and delivered counterpart of this Financing Agreement.

(4) Tax Certificate. A duly executed and delivered counterpart of a Tax Certificate and Agreement, in form acceptable to Bond Counsel, executed by the City with respect to its compliance with certain provisions of the Internal Revenue Code of 1986, as amended.

(5) Form 8038-G. A report on Form 8038-G, in form satisfactory to Bond Counsel.

(6) Opinion of City Attorney. An opinion of the City Attorney of the City (Blackburn & Conner, P.C.), in form and substance satisfactory to the Lender and Bond Counsel, addressed to the Lender and Bond Counsel and dated the Closing Date.

(7) Opinion of Bond Counsel. An opinion of Hand Arendall Harrison Sale LLC, bond counsel to the City, to the effect that (i) the Warrant, this Financing Agreement and the Ordinance constitute legal, valid and binding obligations of the City, enforceable in accordance with their terms, and (ii) the interest borne by the Warrant is excluded from income for purposes of federal and State of Alabama income taxation, which opinion shall be addressed to the Lender, dated the Closing Date and otherwise in form and substance satisfactory to the Lender.

(c) The proceeds of the Loan will be deposited and maintained in a separate account of the City (the "2023 Construction Fund"), more specifically identified as "City of Spanish Fort, Series 2023 Proceeds," Account Number 1017822097. The Lender shall be the depositary for the 2023 Construction Fund. The entire principal amount of the Warrant shall be paid by the Lender into the 2023 Construction Fund on the Closing Date upon receipt of the Warrant and other required documents. Funds may be drawn from the 2023 Construction Fund from time to time by check or draft signed by the Mayor or other authorized officer of the City or, at the request of the City, by wire transfer or other electronic means.

## **Section 5. Events of Default**

(a) Each of the following shall be an "Event of Default" hereunder:

(1) any representation or warranty made herein, or in connection herewith or with the Warrant or Loan shall prove to be, or have been, false or misleading in any material respect;

(2) default in the payment of the principal of or any interest on the Warrant, as and when due and payable;

(3) the City shall default in the performance of or compliance with any term or covenant contained this Agreement, the Ordinance or the Warrant, which default or noncompliance shall not be cured within thirty (30) days after (i) notice thereof to the City by the Lender or (ii) the Lender is or should have been notified of such noncompliance by the City, whichever is earlier;

(4) the City shall (i) apply for or consent to the appointment of a receiver, trustee or liquidator of the City or any of its respective properties or assets, (ii) admit in writing its inability to pay its debts as they mature, (iii) make a general assignment for the benefit of creditors, (iv) be adjudicated a bankrupt or insolvent, or (v) file a voluntary petition in bankruptcy, or a petition or an answer seeking reorganization or an arrangement with creditors or to take advantage of any bankruptcy, reorganization, insolvency, readjustment of debt, dissolution or liquidation law or statute, or an answer admitting the material allegations of a petition filed against the City in any proceeding under any such law or if any action whatsoever shall be taken for the purpose of effecting any of the foregoing;

(5) an order, judgment or decree shall be entered without the application, approval or consent of the City by any court of competent jurisdiction, approving a petition seeking reorganization or liquidation of the City, or of all or any part of its respective properties or assets, or appointing a receiver, trustee or liquidator of the City;

(6) the dissolution or liquidation of the City.

(b) Upon the occurrence of any such Event of Default, the Lender shall have all such rights and remedies as shall be available under law or in equity, including, without limitation, the right of injunctive relief and specific performance and the right to a writ of mandamus to enforce the obligations of the City hereunder.

## **Section 6. Role of Lender**

The City hereby acknowledges that Lender and its representatives are not registered municipal advisors and do not provide advice to municipal entities or obligated persons with respect to municipal financial products or the issuance of municipal securities (including regarding the structure, timing, terms and similar matters concerning municipal financial products or municipal securities issuances) or engage in the solicitation of municipal entities or obligated persons for the provision by non-affiliated persons of municipal advisory services and/or investment advisory services. With respect to any information, materials or communications provided by the Lender: (a) the Lender and its representatives are not recommending an action to any municipal entity or obligated person; (b) the Lender and its representatives are not acting as an advisor to any municipal entity or obligated person and do not owe a fiduciary duty pursuant to Section 15B of the Securities Exchange Act of 1934 to any municipal entity or obligated

person with respect to any information, materials or communications; (c) the Lender and its representatives are acting for their own interests; and (d) the City has been informed that the City should discuss any such information, materials or communications with any and all internal and external advisors and experts that the City deems appropriate before acting on any such information, materials or communications

**Section 7. Patriot Act**

The City represents and warrants to the Lender that neither it nor any of its principals, shareholders, members, partners, or Affiliates, as applicable, is a Person named as a Specially Designated National and Blocked Person (as defined in Presidential Executive Order 13224) and that it is not acting, directly or indirectly, for or on behalf of any such person. The City further represents and warrants to the Lender that the City and its principals, shareholders, members, partners, or Affiliates, as applicable, are not directly or indirectly, engaged in, nor facilitating, the transactions contemplated by this transaction on behalf of any Person named as a Specially Designated National and Blocked Person

**Section 8. Privately Negotiated Loan; Counsel to Lender**

(a) The City hereby acknowledges and agrees that the Lender is purchasing the Warrant in evidence of a privately negotiated loan and in that connection the Warrant shall not be (i) assigned a separate rating by any municipal securities rating agency, (ii) registered with The Depository Trust Company or any other securities depository, (iii) issued pursuant to any type of offering document or official statement or (iv) assigned a CUSIP® number by Standard & Poor's CUSIP Service.

(b) The City acknowledges that, although the fees paid to Maynard Nexsen in the amount of \$4,000 are being paid by the City, said law firm has performed the services on behalf of the Lender and does not represent and has not represented the City in this transaction.

**Section 9. Notices**

Any notice required to be delivered hereunder shall be in writing and shall be delivered by first class mail at the respective addresses set forth below:

- To the City:

City of Spanish Fort  
Attention: Mayor  
7361 Spanish Fort Boulevard  
Spanish Fort, Alabama 36527
- To the Lender:

Synovus Bank  
Attention: Wholesale Lending  
1148 Broadway  
Columbus, GA 31901
- with a copy to:

Synovus Bank  
Attention: LeeAnn Kirwin  
800 Market Street  
Suite 100  
Chattanooga, TN 37402

**Section 10. Miscellaneous**

- (a) Waiver of Jury Trial. Each of the City and the Lender hereby knowingly, intentionally and voluntarily waives any right to a trial by jury with respect to any matter directly or indirectly relating to the Warrant, this Agreement or any other document or instrument delivered in connection with the Warrant and the transaction contemplated hereby.
- (b) Severability. In the event that any provision hereof shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

- (c) Agreement to Remain in Effect. This Agreement shall be effective as of its date and shall remain in effect until the entire principal of and interest on the Warrant is paid or provision therefor is made to the satisfaction of the Lender.
- (d) Governing Law. This Financing Agreement and the rights and obligations of the City and the Lender shall be governed by and construed in accordance with the laws of the State of Alabama.

**IN WITNESS WHEREOF,** the City and the Lender have caused this Agreement to be executed and delivered by their duly authorized officers or agents.

SYNOVUS BANK

By: \_\_\_\_\_  
Title: \_\_\_\_\_

CITY OF SPANISH FORT, ALABAMA

(SEAL) By \_\_\_\_\_  
Its Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

## ORDINANCE NO. 637-2023

### AN ORDINANCE AMENDING ORDINANCE NO. 51-96 OF THE CITY OF SPANISH FORT CHANGING THE ZONING CLASSIFICATION OF CERTAIN PROPERTY LOCATED AT 32128 BROKEN BRANCH CIRCLE, SPANISH FORT, ALABAMA, FROM R-1 TO B-2

**WHEREAS**, the owner of the property made the subject of this change in zoning classification has requested that the zoning classification on the property be changed from R-1 to B-2; and

**WHEREAS**, the Planning Commission of the City of Spanish Fort, Alabama, held a meeting on Monday, May 8, 2023, and the City Council of the City of Spanish Fort held a meeting on \_\_\_\_\_, 2023, for the purpose of receiving public comments on the proposed change in zoning classification.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SPANISH FORT, ALABAMA, AS FOLLOWS:**

#### **SECTION 1. Change in Zoning Classification.**

Ordinance No. 51-96, as amended, of the City of Spanish Fort, Alabama, is hereby amended by changing the zoning classification of certain property located at 32128 Broken Branch Circle, being further described as Lot 2, Woodside Business Park, bearing tax parcel number 05-33-04-18-0-000-004.002, and being more particularly described in Exhibit 1 which is attached hereto and made a part of this Ordinance as though set forth fully herein, from R-1, Single Family Low Density Residential District, to B-2, Local Business District. A map of the surrounding area is attached as Exhibit 2.

#### **SECTION 2. Change in Zoning Map.**

The official zoning map for the City of Spanish Fort is hereby amended, changed or altered to reflect the change in zoning classification from R-1, Single Family Low Density Residential District, to B-2, General Business District, on the above referenced property.

#### **SECTION 3. Repealer Clause.**

Any ordinance heretofore adopted by the City Council of the City of Spanish Fort, Alabama, which is in conflict with this Ordinance is hereby repealed to the extent of such conflict. Except as expressly amended herein, all terms and provisions contained in Ordinance No. 51-96, as amended, shall remain in full force and effect.

#### **SECTION 4. Severability Clause.**

If any part, section or subdivision of this Ordinance shall be held unconstitutional or invalid for any reason, such holding shall not be construed to invalidate or impair the remainder of this Ordinance, which shall continue in full force and effect notwithstanding such holding.

#### **SECTION 5. Effective Date.**

This Ordinance shall become effective upon its adoption or as otherwise required by state law.

***ADOPTED and APPROVED this \_\_\_\_day of \_\_\_\_\_, 2023.***

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Michael M. McMillan  
Mayor

ATTEST:

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Rebecca A. Gaines  
City Clerk

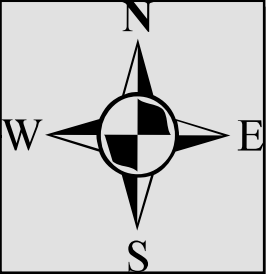
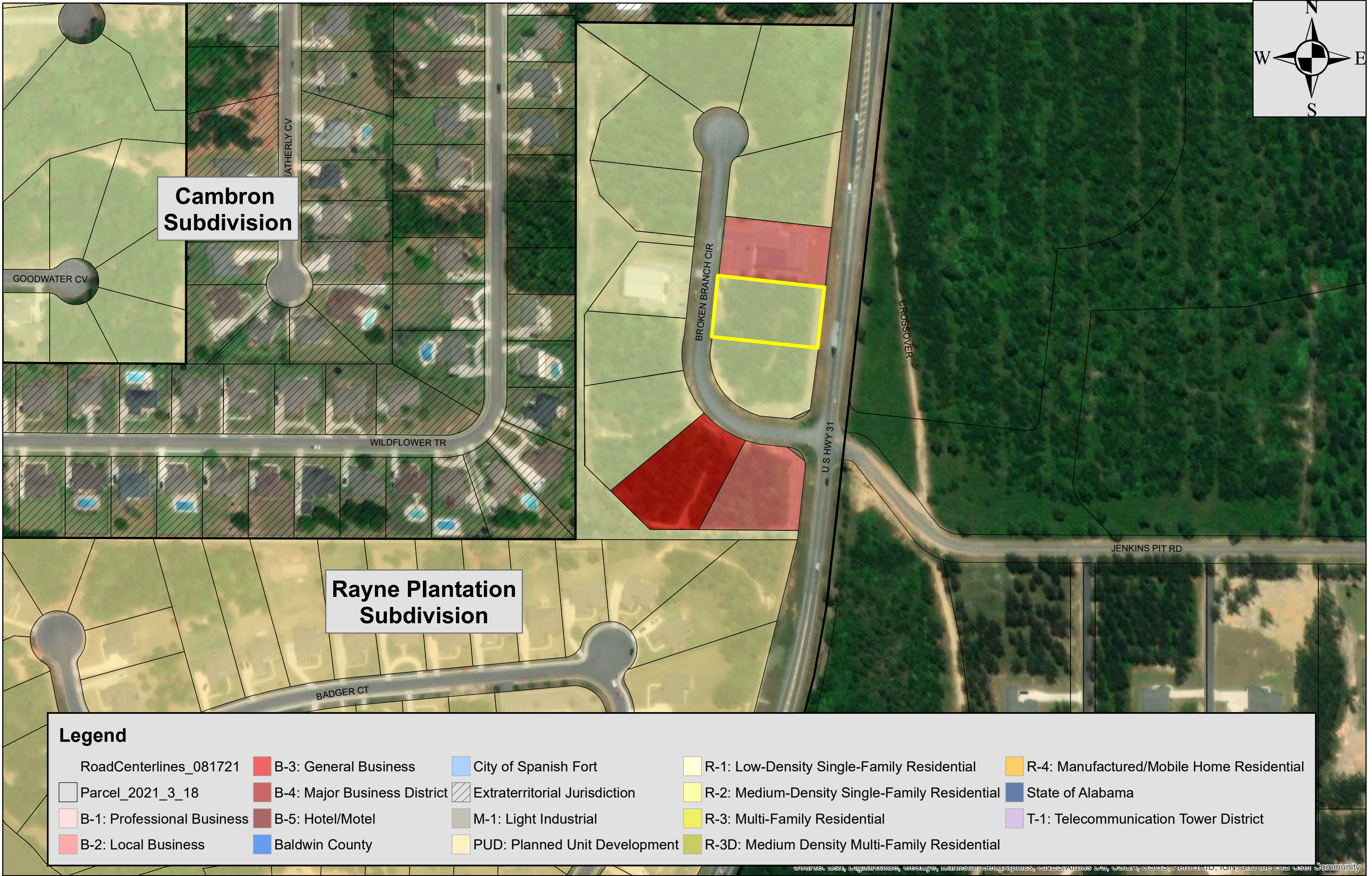
**EXHIBIT “1” TO ORDINANCE NO. 637-2023**

**LEGAL DESCRIPTION:**

LOT 2, WOODSIDE BUSINESS PARK, ACCORDING TO THE PLAT THEREOF RECORDED  
ON SLIDE 2421-F IN THE OFFICE OF THE JUDGE OF PROBATE, BALDWIN COUNTY,  
ALABAMA

# Exhibit 2





**Cambron  
Subdivision**

**Rayne Plantation  
Subdivision**

**Legend**

- |                            |                              |                               |   |   |
|----------------------------|------------------------------|-------------------------------|---|---|
| RoadCenterlines_081721     | B-3: General Business        | City of Spanish Fort          | R-1: Low-Density Single-Family Residential    | R-4: Manufactured/Mobile Home Residential |
| Parcel_2021_3_18           | B-4: Major Business District | Extraterritorial Jurisdiction | R-2: Medium-Density Single-Family Residential | State of Alabama                          |
| B-1: Professional Business | B-5: Hotel/Motel             | M-1: Light Industrial         | R-3: Multi-Family Residential                 | T-1: Telecommunication Tower District     |
| B-2: Local Business        | Baldwin County               | PUD: Planned Unit Development | R-3D: Medium Density Multi-Family Residential |   |



## RESOLUTION NO. 1332-2023

### **A RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO AN INTERGOVERNMENTAL SERVICES AGREEMENT WITH BALDWIN COUNTY FOR THE PURPOSE OF MOWING CERTAIN RIGHTS-OF-WAY**

**WHEREAS**, Baldwin County has assisted the City in mowing certain rights-of-way within the corporate limits of the City of Spanish Fort; and

**WHEREAS**, the City Council desires to seek the assistance of Baldwin County in mowing Bromley Road, County Road 39, D'Olive Road and Jimmy Faulkner Drive.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SPANISH FORT, ALABAMA, AS FOLLOWS:**

**SECTION 1.** The City Council hereby authorizes the Mayor to enter into an Intergovernmental Service Agreement with Baldwin County for the purpose of mowing Bromley Road, County Road 39, D'Olive Road and Jimmy Faulkner Drive quarterly in accordance with quarterly payments for the actual cost. A copy of the agreement is attached hereto as Exhibit 1, subject to any changes approved by the Mayor.

**SECTION 2.** This Resolution shall become effective upon its adoption.

***ADOPTED and APPROVED this \_\_\_\_ day of \_\_\_\_, 2023.***

---

Michael M. McMillan  
Mayor

Attest:

---

Rebecca A. Gaines  
City Clerk

# Exhibit 1

## **INTERGOVERNMENTAL SERVICE AGREEMENT**

This Intergovernmental Service Agreement (“Agreement”) is entered into by and between the Baldwin County Commission (hereinafter “County”) and the City of Spanish Fort, Alabama (hereinafter “City”), as follows:

### **RECITALS**

**Whereas**, County is the duly formed governing body in and for Baldwin County, Alabama, and City is an incorporated municipality of the State of Alabama; and

**Whereas**, County and City are authorized under Alabama law to control, manage, supervise, regulate, repair, maintain and improve (hereinafter collectively “control”) certain public roads inside their respective jurisdictions; and

**Whereas**, with the consent of the City Council of a municipality, the County may establish, construct, and maintain any road or street within the corporate limits of such municipality; and

**Whereas**, County and City acknowledge and agree that those portions of Bromley Road, County Road 39, D’Olive Road and Jimmy Faulkner Drive, as identified and depicted on *Exhibit A* hereto, are situated inside the present incorporated municipal limits of City, and are roads over which City is responsible for and over which City exercises control; and

**Whereas**, the City has requested that the County assist the City in its efforts to mow the portions of Bromley Road, County Road 39, D’Olive Road and Jimmy Faulkner Drive that lie inside the Spanish Fort City Limits; and

**Whereas**, the City agrees to remit to the County any and all costs incurred by the County in its performance of this Agreement; and

**Whereas**, the City agrees to remit to the County any and all actual costs for labor and equipment incurred by County in its performance of this Agreement; and

**Whereas**, County and City now wish to enter into this Agreement to provide mowing on Bromley Road, County Road 39, D’Olive Road and Jimmy Faulkner Drive, inside the City’s jurisdiction.

**NOW, THEREFORE**, in consideration of the premises and the mutual covenants contained herein, the sufficiency of which being hereby acknowledged, County and City do hereby agree as follows:

1. **Recitals:** The recitals set out above are incorporated into this Agreement, as though the same were set out in full in this paragraph.
2. **Purpose:** The parties acknowledge and agree that the purpose of this Agreement is to provide mowing on the above listed public roads and rights-of-way inside the corporate limits of the City.
3. **City Remains Owner of Right-of-Way:** The City, at all times, including during the effective term of this Agreement and beyond, shall retain exclusive responsibility for and control over those portions of Bromley Road, County Road 39, D’Olive Road and Jimmy Faulkner Drive, inside Spanish Fort City Limits specifically identified and depicted on *Exhibit A* hereto. The

County shall obtain no rights, responsibilities or control over the road portions as a result of this Agreement or the duties and/or obligations contained anywhere herein either during or following the effective term of this Agreement. Nothing contained herein shall be construed to require or result in the County assuming responsibility for any public streets inside the Spanish Fort City Limits.

4. **No Joint Ownership of Property:** The parties acknowledge and agree that they will not jointly acquire, own or otherwise come into joint or common possession of any property as a result of or in relation to this Agreement.
5. **Inapplicability to Roads Not Expressly Identified:** The parties acknowledge and agree that this Agreement does not address or affect, and that the parties do not intend by this Agreement to address or affect, the responsibility for or control of any roads or road portions not expressly identified and depicted herein.
6. **Financing and Budgeting:** Each party shall be responsible for financing the obligations undertaken by that party hereunder, and shall not be responsible for financing, or in any other manner contributing to, the costs or expenses of the obligations undertaken by the other party unless expressly identified herein.
7. **Approval and Effective Date:** This Agreement shall become effective upon the date of full execution by both parties ("Effective Date").
8. **Term:** The term of this Agreement shall be for twenty-four (24) months from its Effective Date. This document may be amended only upon written approval by the Parties hereto, and any such amendment shall be approved by the same method by which this original Agreement has been approved by the Parties.
9. **Services to be Performed by County:**
  - A. County forces and equipment to perform mowing on the portions of Bromley Road, County Road 39, D'Olive Road and Jimmy Faulkner Drive, as depicted on *Exhibit A*, inside Spanish Fort City Limits, as the County performs its normal mowing routes of the general area of where the roads are located.
  - B. Remit quarterly invoices to the City for actual labor and equipment costs incurred. **Note: County cannot sell bid item materials to the City.**
10. **Services to be Performed by City (the Project):**
  - A. Comply with all necessary local, State and Federal rules, regulations and laws applicable to the Project and this Agreement.
  - B. Furnish and/or acquire all necessary property rights, including without limitation any necessary access and ownership rights, for access to the right-of-way without cost or liability to the County.
  - C. Adjust and/or relocate all utilities for the project without cost to the County, if applicable.
  - D. Promptly remit payment within 30 days of the receipt of invoice for all actual labor and equipment costs incurred by the County.
11. **Termination and Notice:** Notwithstanding the foregoing, either party may terminate this Agreement, with or without cause, upon written notice to the other party. A party's said notice shall be deemed effective, and the Agreement deemed terminated thirty (30) days after

the date such notice is mailed by certified mail to the other party. In the event of termination by either party, the City shall be responsible for all costs incurred by the County through the date of receipt of the requisite termination notice. All notices provided for herein shall be sent as follows:

To City: City of Spanish Fort  
7361 Spanish Fort Boulevard  
Spanish Fort, Alabama 36527

To County: Baldwin County Commission  
312 Courthouse Square, Suite 12  
Bay Minette, Alabama 36507

12. **Indemnity:** City accepts the improvement, work, property, product and services of the County as a result of the Project in its “WHERE IS”, “AS IS”, condition and acknowledges that the County has made no representation or warranty to City as to, and has no obligation for the condition of the improvements, work, property, product and services of the County. City assumes the risk of any latent or patent defects or problems that are or may be contained in the improvements, work, property, product and services of the County or City. City agrees that the County shall not be liable for any injury, loss or damage on account of any defects or problems. City for itself and City Representatives waive and release the County from any claims for injury to persons or damage to the personal property by reason of the condition of the improvements, work, property, product and services of the County or otherwise.

Furthermore, to the fullest extent allowed by law, City shall defend, indemnify and hold County harmless from and against all demands, actions and claims of any description whatsoever, for property damage, personal injury (including death), actions in trespass and all other claimed loss, injury or damage, including, but not limited to, attorneys' fees and costs, arising out of, relating to, or resulting from, any and all acts or omissions in relation to the obligations hereunder.

All guarantees, duties, representations, assurances, without limitation, contained within this Agreement shall survive and exist beyond the date of termination or expiration of this Agreement, and time, or the lapse thereof, shall not be used for or argued as a defense for the City against the same.

Nothing contained herein shall be construed to limit or modify the laws of Alabama as the same may apply to the County or City or in any way diminish any immunity, absolute or qualified, to which the County and City are otherwise entitled by law.

13. **Entire Agreement:** This Agreement represents the entire and integrated agreement between County and City and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by written instrument signed by the parties.
14. **Both Parties Contributed Equally to the Agreement.** This Agreement shall not be construed more strictly against one party than against the other merely by virtue of the fact that it may have been prepared by counsel for one of the parties, it being recognized that both County and City have contributed substantially and materially to the preparation of this Agreement.

15. **Failure to Strictly Enforce Performance:** The failure of either party to insist upon the strict performance of any of the terms, covenants, agreements and conditions of this Agreement shall not constitute a default or be construed as a waiver or relinquishment of the right of a party to thereafter enforce any such term, covenant, agreement or condition, but the same shall continue in full force and effect.
16. **Assignment:** Neither this Agreement nor any interest herein shall be assigned, transferred or otherwise encumbered without a prior written agreement providing for such assignment, transfer or other encumbrance signed by the parties.
17. **Choice of Law:** The parties acknowledge and agree that this Agreement shall in all respects be governed by the laws of the state of Alabama, including, without limitation, all issues relating to capacity, formation, interpretation and available remedies, without regard to Alabama conflict of law principles.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date of full execution below.

**COUNTY:**  
BALDWIN COUNTY

\_\_\_\_\_  
CHARLES F. GRUBER / DATE  
CHAIRMAN

ATTEST:

\_\_\_\_\_  
RONALD J. CINK / DATE  
INTERIM COUNTY ADMINISTRATOR/  
BUDGET DIRECTOR

STATE OF ALABAMA       )  
COUNTY OF BALDWIN    )

I, \_\_\_\_\_, a Notary Public in and for said County, in said State, hereby certify that Charles F. Gruber and Ronald J. Cink, whose names as Chairman and Interim County Administrator/Budget Director of the Baldwin County Commission, respectively, are signed to the foregoing instrument and who are known to me, acknowledged before me on this date that, being informed of the contents of said instrument, they executed the same voluntarily with full authority to do so for and as an act of the Baldwin County Commission.

Given under my hand and official seal this the \_\_\_\_\_ day of \_\_\_\_\_, 2023.

\_\_\_\_\_  
Notary Public

My Commission Expires: \_\_\_\_\_

**CITY:**  
THE CITY OF SPANISH FORT

\_\_\_\_\_/\_\_\_\_\_  
Mayor Michael M. McMillan /Date

ATTEST:

\_\_\_\_\_/\_\_\_\_\_  
Rebecca A. Gaines /Date  
City Clerk

STATE OF ALABAMA  
COUNTY OF BALDWIN

I, \_\_\_\_\_, a Notary Public, in and for said County in said State, hereby certify that Michael M. McMillan and Rebecca A. Gaines, whose names as Mayor and City Clerk of CITY OF SPANISH FORT, respectively, are signed to the foregoing instrument and who are known to me, acknowledged before me on this day that, being informed of the contents of this instrument, they executed the same voluntarily with full authority to do so for and as an act of the City of Spanish Fort, Alabama.

Given under my hand and official seal this the \_\_\_\_\_ day of \_\_\_\_\_, 2023.

\_\_\_\_\_  
Notary Public

My Commission Expires:\_\_\_\_\_

**RESOLUTION NO. 1333-2023**

**A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A CONTRACT  
WITH SUNSET CONTRACTING, INC., FOR ASPHALT REPAIRS AT SOUTHERN  
WAY AND BATTERY HEIGHTS**

**BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SPANISH  
FORT, ALABAMA, AS FOLLOWS:**

**SECTION 1.** The City Council hereby authorizes the Mayor to execute an agreement with Sunset Contracting, Inc., in the amount of \$11,125.00 to repair asphalt at the intersection of Southern Way and Battery Heights. A copy of the proposed agreement is attached hereto as Exhibit 1.

**SECTION 2.** This Resolution shall become effective immediately upon its

adoption. **ADOPTED AND APPROVED** this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

\_\_\_\_\_  
Michael M. McMillan  
Mayor

ATTEST:

\_\_\_\_\_  
Rebecca A. Gaines  
City Clerk



# Exhibit 1

# SUNSET CONTRACTING, INC.

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3030 Lees Ln. \* Mobile, Alabama 36693  
Phone: (251) 660-0411 Fax: (251) 660-0494

April 10, 2023

City of Spanish Fort  
7581 Spanish Fort Blvd.  
Spanish Fort, AL 36527

Re: Southern Way & Battery Heights Asphalt Mill & Overlay


Attn: Shannon

We offer you a price of \$ **11,125.00** to repair asphalt cracks at above address

Items included are listed below.

1. Mobilization
2. Mill Existing Asphalt ( Aprox.223sy)
3. Traffic Control
4. New Asphalt Patch

Thanks

  
Marion Peterson  
Estimator

**RESOLUTION NO. 1334-2023**

**A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A CONTRACT WITH  
MOTOROLA SOLUTIONS FOR THE PURCHASE AND INSTALLATION OF A  
MOBILE DISPATCH CONSOLE FOR THE CITY OF SPANISH FORT POLICE  
DEPARTMENT**

**BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SPANISH  
FORT, ALABAMA, AS FOLLOWS:**

**SECTION 1.** The City Council hereby authorizes the Mayor to execute a contract with Motorola Solutions for the purchase and installation of a mobile dispatch console for the City of Spanish Fort Police Department. A copy of the contract is attached hereto as Exhibit 1, subject to any changes approved by the Mayor.

**SECTION 2.** This Resolution shall become effective immediately upon its adoption.

***ADOPTED AND APPROVED this 1st day of \_\_\_\_\_, 2023.***

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Michael M. McMillan  
Mayor

ATTEST:

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Rebecca A. Gaines  
City Clerk

# Exhibit 1

**RESOLUTION NO. 1335-2023**

**A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A CONTRACT WITH  
THE UNIVERSITY OF ALABAMA MUSEUMS, OFFICE OF ARCHAEOLOGICAL  
RESEARCH**

**BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SPANISH  
FORT, ALABAMA, AS FOLLOWS:**

**SECTION 1.** The City Council hereby authorizes the Mayor to execute a contract with the University of Alabama Museums, Office of Archaeological Research (OAR) for a cultural resources assessment to be conducted on the Cypress Point property in the City of Spanish Fort, Alabama. A copy of the proposed statement of work and a cost estimate is attached hereto as Exhibit 1, subject to any changes approved by the Mayor.

**SECTION 2.** This Resolution shall become effective immediately upon its adoption.

***ADOPTED AND APPROVED this 1st day of \_\_\_\_\_, 2023.***

---

Michael M. McMillan  
Mayor

ATTEST:

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Rebecca A. Gaines  
City Clerk

# Exhibit 1

April 12, 2023

Mr. Brian Rushing  
The University of Alabama  
Center for Economic Development  
621 Greensboro Avenue  
Box 870138  
Tuscaloosa, Alabama 35487

**Re: Cultural Resources Assessment of a Proposed Recreational Development in Spanish Fort, Baldwin County, Alabama**

Dear Mr. Rushing,

The University of Alabama Museums, Office of Archaeological Research (OAR) is pleased to submit this research design and cost estimate for cultural resources assessment of a Proposed Recreational Development in Spanish Fort, Baldwin County, Alabama. Included in this proposal package are a Statement of Work, Work Schedule, Budget, and Project Information Request Form. The Statement of Work, found in Attachment I, contains a description of the work to be done by The University of Alabama Office of Archaeological Research, as well as additional information relevant to this project. The Work Schedule, found in Attachment II, displays the estimated timetable for completing the work as outlined in Attachment I. The Budget, found in Attachment III, contains an itemized estimation of costs as it relates to the Statement of Work.

The University of Alabama, Office of Archaeological Research looks forward to applying its expertise and experience to this project. In the instance of acceptance, please forward notification to Sam Mizelle to initiate the project. It is understood that funding for the effort will be a departmental transfer.

If you have any questions or comments about the proposal package, please do not hesitate to contact the Office of Archaeological Research. Thank you for your consideration.

Sincerely,



Sam Mizelle  
Cultural Resources Investigator/IT Manager  
The University of Alabama  
Office of Archaeological Research

## ATTACHMENT I

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### Statement of Work

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#### **Project Information**

**Project Title:** Cultural Resources Assessment of a Proposed Recreational Development in Spanish Fort, Baldwin County, Alabama

**Sponsoring Company/Agency:** The University of Alabama, Center for Economic Development

**Point of Contact Info:** Brian Rushing / Sam Mizelle

**Principal Investigator:** Matt Gage

#### **Description of Work**

The University of Alabama Museums, Office of Archaeological Research (OAR) is pleased to submit this research design and cost estimate for cultural resources assessment of a Proposed Recreational Development in Spanish Fort, Baldwin County, Alabama. All phases of the research will be conducted in compliance with the guidelines set forth by the Department of the Interior and the Alabama Historical Commission (AHC) for Section 106 of the National Historic Preservation Act (NHPA) of 1966 as amended 2006 (16 USC 470) and its implementing regulations (36 CFR 800). Included with this research design is an itemized estimation of costs as it relates to the Statement of Work. The budget has been prepared in reliance upon the information provided by your organization.

The property under consideration is approximately 47 hectares (141 acres) and has been previously surveyed by three different entities. It is OAR's opinion that the 70 acres surveyed by Curren et. al. (2004) does not meet the current survey standards and will need to be resurveyed (Figure 1).

The cultural resources assessment will address archaeological resources within the proposed location and historic standing structures and archaeological site distribution will be considered within the immediate vicinity.

Prior to field investigations, the National Register of Historic Places (NRHP) and the Alabama Cultural Resources Online Database housed at OAR will be searched for historic properties, previously recorded sites, and previous cultural resources assessments conducted within the area.

In order to identify and evaluate the APE, the following methodology will be employed:



- (1) The APE will be subject to visual inspection and shovel testing. The proposed APE will be tested in areas that exhibit less than 15 percent slope and less than 50 percent surface visibility by shovel tests (30 cm diameter) excavated at 30 m intervals to a depth of 70 cm or until subsoil is encountered. In areas with greater slope or increased surface visibility, shovel tests will be extended to 60 m intervals. All excavated soils will be screened through 6.35 mm (0.25 inch) hardware cloth, and artifacts recovered shall be bagged and labeled by provenience.
- (2) Should an archaeological site be identified shovel tests will be conducted at 10 m intervals until two negative shovel tests are excavated in an effort to delineate the site boundaries within the proposed undertaking's boundary. Buried deposits up to 2.5 m below surface will be identified with the use of hand augering if necessary. All deposits will be screened through 6.35 mm hardware cloth. Artifacts recovered in the screen will be bagged and labeled by provenience.
- (3) Recommendations of NRHP eligibility or ineligibility for all cultural resources identified during the Phase I cultural resources survey will be made in accordance with the evaluation criteria in 36 CFR 60.4. The findings of this analysis will be included in the survey results section of the cultural resources report. Summary recommendations concerning project impact on any resource recommended eligible will be offered in the concluding chapter of the report (discussed below).
- (4) All standing structures will be assessed by an architectural historian who will discuss the architectural elements of any historic standing structures, existing historic districts, or potential historic districts within the APE and conduct background research on said structures.

## **Deliverables**

Upon completion of the fieldwork, should an archaeological site/sites be identified, OAR will generate site forms to be submitted to the Alabama State Site File. Similarly, should historic standing structures be located, AHC standing structure forms will be completed and submitted to the AHC. Within one week of completion of fieldwork, OAR will submit a Management Summary that outlines the horizontal and vertical extent of archaeological sites within the APE, as well as OAR's recommendations as to the NRHP eligibility status of all cultural resources identified.

OAR will prepare a report that meets accepted professional standards, and incorporates the initial research design, discussion of field and laboratory methodologies, a description of the area surveyed, as well as any field conditions encountered that affected or modified the initial research design (with approval from the lead federal agency and/or AHC). Photographs and diagrams of representative shovel and auger tests and a table of their description will be included. The report will also include a statement regarding the research potential of additional investigations and significance from archaeological and architectural historical perspectives. OAR will submit a digital (PDF) copy of the draft report to you for review and comment. Once you have supplied comments, three bound copies (upon request) and one digital copy (PDF) will be submitted for review and comment by parties from which you are seeking concurrence. After receipt of comments, OAR will incorporate the requested changes and submit up to three bound copies and a digital copy of the final report. The final report will conform to professional standards and the guidelines set forth by the AHC. OAR will provide complete copies of archaeological site survey forms with permanent state site numbers for each site identified during the survey. These forms will be included as an appendix to the final report

OAR meets all requirements in the Secretary of the Interiors Standards and Guidelines (as amended) for professional qualifications for historical, archaeological, and architectural historical personnel.

Fieldwork will begin within 10 working days of a notice to proceed, with the work being completed within one week of the start date.

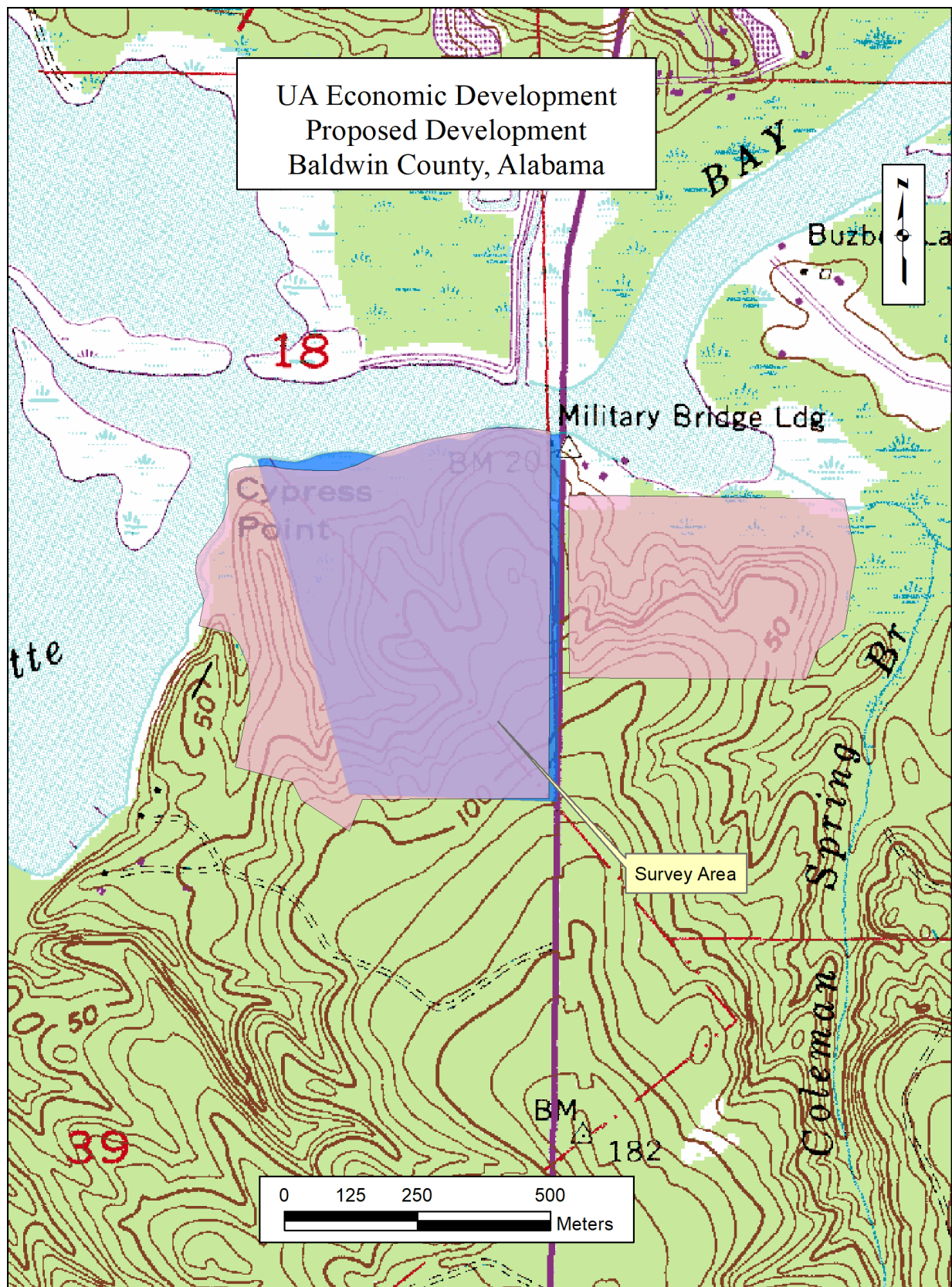


Figure 1. Proposed APE (Pink) and the Curren et. al. 2004 survey to be redone.

**Schedule of Work**

Background Research/Field Work	8 days
Laboratory Analysis and Report Production	1 week
<b>TOTAL ESTIMATED TIME</b>	<b>3 weeks</b>

**The official Period of Performance for this project will be established by final binding Contract. Authorization or notice to proceed dates must fall within the Period of Performance as stated in the Contract.**

**Budget**

<b>Cost Proposal</b>	
<b>Cultural Resources Assessment of a Proposed Recreational Development in Spanish Fort</b>	
<b>Baldwin County, Alabama</b>	
Salaries & Wages	\$6,170.28
Benefits	\$2,626.07
<b>Subtotal Salaries, Wages, Benefits</b>	<b>\$8,796.35</b>
Travel & Per Diem	\$4,117.00
Operating (GPR Equipment, Supplies, etc.)	\$20.00
Curation	\$102.50
<b>Subtotal Operating Expense</b>	<b>\$4,239.50</b>
F&A (@ 26% MTDC)	\$3,389.32
<b>Total Estimated Cost</b>	<b>\$16,425.17</b>

**RESOLUTION NO. 1338-2023**

**A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE AN  
AGREEMENT FOR ARCHITECTURAL AND ENGINEERING SERVICES  
BETWEEN THE CITY OF SPANISH FORT, ALABAMA, AND FORREST  
DANIELL & ASSOCIATES, P.C., FOR THE ADDITION OF AN ELEVATOR AT  
THE SPANISH FORT COMMUNITY CENTER**

**BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SPANISH  
FORT, ALABAMA, AS FOLLOWS:**

**SECTION 1.** The City Council hereby authorizes the Mayor to execute an agreement with Forrest Daniell & Associates, P.C., for architectural and engineering services relating to the addition of an elevator at the Spanish Fort Community Center, in accordance with the proposal which is attached hereto as Exhibit 1, subject to any changes approved by the Mayor.

**SECTION 2.** This Resolution shall become effective upon its adoption.

***ADOPTED AND APPROVED this \_\_\_\_ day of \_\_\_\_\_, 2023.***

---

Michael M. McMillan  
Mayor

ATTEST:

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Rebecca A. Gaines  
City Clerk

# Exhibit 1



Forrest Daniell & Associates, P.C.  
8007 American Way  
Daphne, Alabama 36526  
(251) 625-6490 | (251) 625-6494

May 10, 2023

Mayor Mike McMillan  
7361 Spanish Fort Blvd.  
Spanish Fort, Alabama 36527

Re: Proposal for Elevator Addition  
Spanish Fort Community Center

Dear Mayor McMillan,

Following is a proposal for architectural and engineering services for the addition of an elevator and necessary remodeling required to accommodate the new elevator. This will include the addition of a corridor in the classroom space west of the elevator location that leads from the library to the corridor, and a corridor on the second floor connecting the elevator to the library loft.

Engineering services will include structural engineering required for second floor framing, hoist beam, shaft structure and possible modification of trusses for overhead clearance; electrical engineering for elevator power, and electrical/mechanical engineering for addition of corridors as described above.

We propose to provide the architectural services for a fixed fee of \$18,000.00, and the structural, mechanical and electrical engineering fees for \$10,360.00 as described in the attached proposal from Precision Engineering, for a total fee of \$28,360.00.

If you have any questions or need any additional information, please do not hesitate to call.

Sincerely,

A handwritten signature in blue ink that reads "Forrest Daniell". The signature is written in a cursive, flowing style.

Forrest Daniell  
President





## Forest Daniell & Associate, P.C.

Revision: 0

Spanish Fort Community Center (Elevator Addition)

5/10/2023 9:25

P23003	DESCRIPTION	TOTAL
	Project Management	\$0.00
	Structural Engineering	\$3,400.00
	Civil Engineering	\$0.00
	Mechanical Engineering	\$3,480.00
	Electrical Engineering	\$3,480.00
	Construction Management	\$0.00
<b>Engineering Grand Total</b>		<b>\$10,360.00</b>
	Professional Land Survey Fess Estimate	<b>0.00</b>
	Professional Geotechnical Engineering Fee Estimate	0.00
	Professional Architectural Fee estimate	0.00
10%	Subcontractor Mark-Up	0.00
<b>Sub Contractor Grand Total</b>		<b>\$0.00</b>
	Engineering Sub-Total	\$10,360.00
	Sub Contractor Sub-Total	\$0.00
<b>Grand Total</b>		<b>\$10,360.00</b>
Contingency Rate		0% \$0.00
Escalation Rate		0% \$0.00
<b>TOTAL ENGINEERING FEE</b>		<b>\$10,360.00</b>

### Engineering Fee

#### NOTES:

The original documents show the elevator framing only on the first floor. The structural fee portion includes the effort to design and produce documents for second floor framing and roof truss modification. The Mechanical and Electrical fees are estimates only. The original drawings require that the mechanical and electrical be installed for the future elevator. The Mechanical & Electrical fees represent 24 hrs. ea. @ \$145/hr. This could decrease but we will not know for sure until we take a look at what is actually in place.

**RESOLUTION NO. 1339-2023**

**A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE AN  
AGREEMENT FOR ENGINEERING SERVICES BETWEEN THE CITY OF  
SPANISH FORT, ALABAMA, AND MATTHEW JONES ENGINEERING, LLC,  
FOR CAISSON TRACE DRAINAGE IMPROVEMENTS**

**BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SPANISH  
FORT, ALABAMA, AS FOLLOWS:**

**SECTION 1.** The City Council hereby authorizes the Mayor to execute an agreement with Matthew Jones Engineering, LLC, for the engineering services, including, but not limited to, design plans for removal and replacement of drainage infrastructure, preparation of the project manual, evaluation of bids, preparation of bid tabulations and review of construction for compliance with plans and specifications for drainage improvements along Caisson Trace in the City of Spanish Fort, Alabama, in accordance with the proposal which is attached hereto as Exhibit 1 and contract attached as Exhibit 2, subject to any changes approved by the Mayor.

**SECTION 2.** This Resolution shall become effective upon its adoption.

***ADOPTED AND APPROVED this \_\_\_\_ day of \_\_\_\_\_, 2023.***

---

Michael M. McMillan  
Mayor

ATTEST:

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Rebecca A. Gaines  
City Clerk

# Exhibit 1

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# MATTHEW JONES ENGINEERING, LLC

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October 31, 2021

VIA EMAIL

Mr. Casey Rains, QCI, LEED  
Environmental Planner  
City of Spanish Fort  
7361 Spanish Fort Boulevard  
Spanish Fort, AL 36527

RE: Proposal for Caisson Trace Pipe Replacement

Please find attached a copy of the project narrative, scope, schedule, and lump sum budget for proposed pipe replacement on Caisson Trace.

The design of this project will take approximately 2 months from notice to proceed. The bid phase and construction will commence upon completion of design.

The design, bid, and construction services fee was developed by utilizing a commonly used cost tool for US Treasury funded projects: FEMA Public Assistance Cost Estimating Tool for Engineering and Design Services. In accordance with this curve, a design fee of \$13,850 is proposed (plus an additional \$4,000 for the project expansion).

An additional time and materials, not to exceed fee of \$4,000 is proposed for development of the project manual, and bid/construction services. Bid and construction services will be performed at the request of the City. The standard rate of \$100 per hour will be used for time and material tasks. An additional reimbursable expense of \$400 is included for plan and project manual plotting.

I appreciate the opportunity to work on this project, and look forward to working with you in the future.

Best regards,

A handwritten signature in blue ink that reads "S. Matthew Jones". The signature is fluid and cursive, with the first name "S." being small and the last name "Jones" being larger and more prominent.

S. Matthew Jones, P.E.

## **Background and Proposed Improvements**

The City of Spanish Fort has received complaints in the past in regard to storm water and drainage issues causing small sink holes in a drainage easement for an existing storm water pipe along Caisson Trace. In response to the drainage issues, the City is requesting the following improvements be designed and constructed:

- Removal and replacement of all current drainage infrastructure (pipe, inlets, etc)

The City has previously performed a survey of the project area, which will be utilized for design.

The construction work is to occur within drainage easements between and behind residential homes. For purposes of this proposal, it is assumed the City will provide outreach to the affected residents, and that the City will provide any necessary easements not currently in place. Additionally, if wetland delineation or permits are required, it is assumed that the City will obtain any necessary delineation and permits.

## **Task 1 - 30% Design and Opinion of Probable Budget**

### ***Scope of Work:***

- Generate drainage report for the project area in accordance with Spanish Fort Subdivision Regulations.
- Develop preliminary plan set to include horizontal layout of all features and specification of all material sizes and types, e.g. concrete pipe vs HDPE pipe.
- Develop preliminary opinion of probable budget

### ***Deliverables:***

- Drainage Report
- 30% plan set .pdf
- Preliminary OPB

## **Task 2 - 60% Design and Specifications**

### ***Scope of Work:***

- 30% Design will be updated to include any comments received from the City.
- Design of the preliminary plan set will be advanced to include vertical layout of all features.
- Plan set will be updated with construction details

### ***Deliverables:***

- 60% plan set .pdf
- Updated OPB

## **Task 3 - 90% Design**

### ***Scope of Work***

- 60% Design will be updated to include any comments received from the City.
- Construction contract and other

### ***Deliverables***

- 90% plan set .pdf
- Updated OPB

## **Task 4 - 100% Construction Drawings**

### ***Scope of Work:***

- 100% construction drawings

### ***Deliverables:***

- 100% Issued for Bid Plan Set .pdf and full size hard copy

### **Task 5 - Contract Documents, Bid Services, and Construction Services**

#### **Scope of Work:**

Full, 100% project manual will be prepared under this task. Engineer additionally will arrange plan delivery to the contractors, and hold a mandatory pre-bid meeting at the request of the City. At the request of the City, Engineer will respond to any requests for information during the bid period and issue addendums as needed. After the bid opening, engineer will evaluate bids received and prepare a certified bid tabulation with a recommendation to award. Upon authorization from the City, engineer will issue a notice to proceed to the contractor for construction.

During construction, engineer will make weekly site visits as needed through the duration of construction to ensure compliance with plans and specifications and will review and certify contractor's monthly pay applications.

### **Task 6 - Project Expansion**

Per City staff request, expand the pipe replacement project to encompass the Caisson Trace cross drain pipe.

#### **Scope of Work:**

#### **Fee Schedule**

Tasks are proposed to be lump sum to be invoiced not more than monthly. Tasks will be billed as a percent complete of each task performed.

Task 1 - 30% Design.....	\$6,800 LS
Task 2 - 60% Design.....	\$3,250 LS
Task 3 - 90% Design .....	\$2,400 LS
Task 4 - 100% Const. Drawings.....	\$1,400 LS
Task 5 - Contract, Bid, & Const Services.....	\$4,000 TMNE
Task 6 - Project Expansion.....	\$4,000 LS
Reimbursable.....	\$400 NTE

### **Design Schedule**

Task 1 - To be completed 3 weeks post notice-to-proceed

Task 2 - To be completed 2 weeks after completion of Task 1

Task 3 - To be completed 2 weeks after completion of Task 2

Task 4 - To be completed 2 weeks after completion of Task 3



# Exhibit 2

# **SHORT FORM OF AGREEMENT BETWEEN OWNER AND ENGINEER FOR PROFESSIONAL SERVICES**

This is an Agreement between **the City of Spanish Fort** (Owner) and **Matthew Jones Engineering, LLC** (Engineer). Owner's Project, of which Engineer's services under this Agreement are a part, is generally identified as **Caisson Trace Pipe Replacement** (Project). Engineer's services under this Agreement (Services) are generally identified as **development of construction plans and specifications to address drainage concerns along Caisson Trace, assistance with bid administration, and construction administration services as detailed in the attached proposal dated October 31, 2021 (Proposal).**

Owner and Engineer further agree as follows:

## **1.01 Services of Engineer**

- A. Engineer shall provide or furnish the Services set forth in this Agreement, and any Additional Services authorized by Owner and consented to by Engineer.

## **2.01 Owner's Responsibilities**

- A. Owner shall provide Engineer with existing Project-related information and data in Owner's possession and needed by Engineer for performance of Engineer's Services. Owner will advise the Engineer of Project-related information and data known to Owner but not in Owner's possession. Engineer may use and rely upon Owner-furnished information and data in performing its Services, subject to any express limitations applicable to the furnished items.
  - 1. Following Engineer's assessment of initially-available Project information and data, and upon Engineer's request, Owner shall obtain, furnish, or otherwise make available (if necessary through retention of specialists or consultants) such additional Project-related information and data as is reasonably required to enable Engineer to complete its Services; or, with consent of Engineer, Owner may authorize the Engineer to obtain or provide all or part of such additional information and data as Additional Services.
- B. Owner shall provide necessary direction and make decisions, including prompt review of Engineer's submittals, and carry out its other responsibilities in a timely manner so as not to delay Engineer's performance. Owner shall give prompt notice to Engineer whenever Owner observes or otherwise becomes aware of (1) any relevant, material defect or nonconformance in Engineer's Services, or (2) any development that affects the scope or time of performance of Engineer's Services.

## **3.01 Schedule for Rendering Services**

- A. Engineer shall complete its Services per the schedule detailed in the Proposal.
- B. If, through no fault of Engineer, such periods of time or dates are changed, or the orderly and continuous progress of Engineer's Services is impaired, or Engineer's Services are delayed or suspended, then the time for completion of Engineer's Services, and the rates and amounts of Engineer's compensation, shall be adjusted equitably.

#### 4.01 Invoices and Payments

- A. Invoices: Engineer shall prepare invoices in accordance with its standard invoicing practices and submit the invoices to Owner on a monthly basis. Invoices are due and payable within 30 days of receipt.
- B. Payment: As compensation for Engineer providing or furnishing Services and Additional Services, Owner shall pay Engineer as set forth in this Paragraph 4.01, Invoices and Payments. If Owner disputes an invoice, either as to amount or entitlement, then Owner shall promptly advise Engineer in writing of the specific basis for doing so, may withhold only that portion so disputed, and must pay the undisputed portion.
- C. Failure to Pay: If Owner fails to make any payment due Engineer for Services, Additional Services, and expenses within 30 days after receipt of Engineer's invoice, then (1) the amounts due Engineer will accrue interest at the rate of .5% per month (or the maximum rate of interest permitted by law, if less) from said thirtieth day; (2) in addition Engineer may, after giving 7 days' written notice to Owner, suspend Services under this Agreement until Engineer has been paid in full all amounts due for Services, Additional Services, expenses, and other related charges, and in such case Owner waives any and all claims against Engineer for any such suspension; and (3) if any payment due Engineer remains unpaid after 90 days, Engineer may terminate the Agreement for cause pursuant to Paragraph 5.01.A.2.
- D. Reimbursable Expenses: Engineer is entitled to reimbursement of expenses as detailed in the Proposal.
- E. Basis of Payment
- F. Owner shall pay Engineer for Services as follows:

##### **Fee Schedule**

Tasks are proposed to be lump sum to be invoiced not more than monthly. Tasks will be billed as a percent complete of each task performed.

Task 1 - 30% Design.....	\$6,800 LS
Task 2 - 60% Design.....	\$3,250 LS
Task 3 - 90% Design .....	\$2,400 LS
Task 4 - 100% Const. Drawings.....	\$1,400 LS
Task 5 - Contract, Bid, & Const Services.....	\$4,000 TMNE
Task 6 - Project Expansion.....	\$4,000 LS
Reimbursable.....	\$400 NTE

- G. Additional Services: For Additional Services, Owner shall pay Engineer an amount equal to the cumulative hours charged in providing the Additional Services, times the standard hourly rate of \$100 per hour; plus reimbursement of expenses incurred in connection with providing the Additional Services, or as otherwise agreed upon.

## 5.01 Termination

### A. Termination for Cause

1. Either party may terminate the Agreement for cause upon 30 days' written notice in the event of substantial failure by the other party to perform in accordance with the terms of the Agreement, through no fault of the terminating party.
  - a. Notwithstanding the foregoing, this Agreement will not terminate under Paragraph 5.01.A.1 if the party receiving such notice begins, within 7 days of receipt of such notice, to correct its substantial failure to perform and proceeds diligently to cure such failure within no more than 30 days of receipt thereof; provided, however, that if and to the extent such substantial failure cannot be reasonably cured within such 30-day period, and if such party has diligently attempted to cure the same and thereafter continues diligently to cure the same, then the cure period provided for herein will extend up to, but in no case more than, 60 days after the date of receipt of the notice.
2. In addition to its termination rights in Paragraph 5.01.A.1, Engineer may terminate this Agreement for cause upon 7 days' written notice (a) if Owner demands that Engineer furnish or perform services contrary to Engineer's responsibilities as a licensed professional, (b) if Engineer's services for the Project are delayed or suspended for more than 90 days for reasons beyond Engineer's control, (c) if payment due Engineer remains unpaid for 90 days, as set forth in Paragraph 4.01.C, or (d) as the result of the presence at the Site of undisclosed Constituents of Concern as set forth in Paragraph 6.01.I.
3. Engineer will have no liability to Owner on account of any termination by Engineer for cause.

### B. Termination for Convenience: Owner may terminate this Agreement for convenience, effective upon Engineer's receipt of notice from Owner.

### C. Payments Upon Termination: In the event of any termination under Paragraph 5.01, Engineer will be entitled to invoice Owner and to receive full payment for all services performed or furnished in accordance with this Agreement, and to reimbursement of expenses incurred through the effective date of termination. Upon making such payment, Owner will have the limited right to the use of all deliverable documents, whether completed or under preparation, subject to the provisions of Paragraph 6.01.F, at Owner's sole risk.

1. If Owner has terminated the Agreement for cause and disputes Engineer's entitlement to compensation for services and reimbursement of expenses, then Engineer's entitlement to payment and Owner's rights to the use of the deliverable documents will be resolved in accordance with the dispute resolution provisions of this Agreement or as otherwise agreed in writing.
2. If Owner has terminated the Agreement for convenience, or if Engineer has terminated the Agreement for cause, then Engineer will be entitled, in addition to the payments identified above, to invoice Owner and receive payment of a reasonable amount for services and expenses directly attributable to termination, including, such as reassignment of personnel, costs of terminating contracts with Engineer's subcontractors or subconsultants, and other related close-out costs, using methods and rates for Additional Services as set forth in Paragraph 4.01.F.

## 6.01 General Considerations

- A. The standard of care for all professional engineering and related services performed or furnished by Engineer under this Agreement will be the care and skill ordinarily used by members of the subject profession practicing under similar circumstances at the same time and in the same locality. Engineer makes no warranties, express or implied, under this Agreement or otherwise, in connection with any services performed or furnished by Engineer. Subject to the foregoing standard of care, Engineer may use or rely upon design elements and information ordinarily or customarily furnished by others, including, but not limited to, specialty contractors, manufacturers, suppliers, and the publishers of technical standards.
- B. Engineer shall not at any time supervise, direct, control, or have authority over any Constructor's work, nor will Engineer have authority over or be responsible for the means, methods, techniques, sequences, or procedures of construction selected or used by any Constructor, or the safety precautions and programs incident thereto, for security or safety at the Project site, nor for any failure of a Constructor to comply with laws and regulations applicable to that Constructor's furnishing and performing of its work. Engineer shall not be responsible for the acts or omissions of any Constructor.
- C. Engineer neither guarantees the performance of any Constructor nor assumes responsibility for any Constructor's failure to furnish and perform its work.
- D. Engineer's opinions of probable construction cost (if any) are to be made on the basis of Engineer's experience, qualifications, and general familiarity with the construction industry. However, because Engineer has no control over the cost of labor, materials, equipment, or services furnished by others, or over contractors' methods of determining prices, or over competitive bidding or market conditions, Engineer cannot and does not guarantee that proposals, bids, or actual construction cost will not vary from opinions of probable construction cost prepared by Engineer. If Owner requires greater assurance as to probable construction cost, then Owner agrees to obtain an independent cost estimate.
- E. Engineer shall not be responsible for any decision made regarding the construction contract requirements, or any application, interpretation, clarification, or modification of the construction contract documents, other than those made by Engineer.
- F. All documents prepared or furnished by Engineer are instruments of service, and Engineer retains an ownership and property interest (including the copyright and the right of reuse) in such documents, whether or not the Project is completed. Engineer grants to Owner a limited license to use the deliverable documents on the Project, extensions of the Project, and for related uses of the Owner, subject to receipt by Engineer of full payment due and owing for all Services and Additional Services relating to preparation of the deliverable documents, and subject to the following limitations:
  - 1. Owner acknowledges that such documents are not intended or represented to be suitable for use on the Project unless completed by Engineer, or for use or reuse by Owner or others on extensions of the Project, on any other project, or for any other use or purpose, without written verification or adaptation by Engineer;
  - 2. any such use or reuse, or any modification of the documents, without written verification, completion, or adaptation by Engineer, as appropriate for the specific

purpose intended, will be at Owner's sole risk and without liability or legal exposure to Engineer or to its officers, directors, members, partners, agents, employees, and subconsultants;

3. Such limited license to Owner shall not create any rights in third parties.

- G. Owner and Engineer agree to transmit, and accept, Project-related correspondence, documents, text, data, drawings, information, and graphics, in electronic media or digital format, either directly, or through access to a secure Project website, in accordance with a mutually agreeable protocol.
- H. Waiver of Damages; Limitation of Liability: To the fullest extent permitted by law, Owner and Engineer (1) waive against each other, and the other's officers, directors, members, partners, agents, employees, subconsultants, and insurers, any and all claims for or entitlement to special, incidental, indirect, or consequential damages arising out of, resulting from, or in any way related to this Agreement or the Project, from any cause or causes, and (2) agree that Engineer's total liability to Owner under this Agreement shall be limited to \$100,000 or the total amount of compensation received by Engineer, or the policy limits of Engineer's liability insurance, whichever is greater.
- I. The parties acknowledge that Engineer's Services do not include any services related to unknown or undisclosed Constituents of Concern. If Engineer or any other party encounters, uncovers, or reveals an unknown or undisclosed Constituent of Concern, then Engineer may, at its option and without liability for consequential or any other damages, suspend performance of Services on the portion of the Project affected thereby until such portion of the Project is no longer affected, or terminate this Agreement for cause if it is not practical to continue providing Services.
- J. Owner and Engineer agree to negotiate each dispute between them in good faith during the 30 days after notice of dispute. If negotiations are unsuccessful in resolving the dispute, then the dispute will be mediated. If mediation is unsuccessful, then the parties may exercise their rights at law.
- K. This Agreement is to be governed by the laws of the state in which the Project is located.
- L. Engineer's Services do not include: (1) serving as a "municipal advisor" for purposes of the registration requirements of Section 975 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (2010) or the municipal advisor registration rules issued by the Securities and Exchange Commission; (2) advising Owner, or any municipal entity or other person or entity, regarding municipal financial products or the issuance of municipal securities, including advice with respect to the structure, timing, terms, or other similar matters concerning such products or issuances; (3) providing surety bonding or insurance-related advice, recommendations, counseling, or research, or enforcement of construction insurance or surety bonding requirements; or (4) providing legal advice or representation.

## 7.01 Definitions

- A. Constructor—Any person or entity (not including the Engineer, its employees, agents, representatives, subcontractors, and subconsultants), performing or supporting construction activities relating to the Project, including but not limited to contractors, subcontractors, suppliers, Owner's work forces, utility companies, construction managers, testing firms, shippers, and truckers, and the employees, agents, and representatives of any or all of them.
- B. Constituent of Concern—Asbestos, petroleum, radioactive material, polychlorinated biphenyls (PCBs), lead based paint (as defined by the HUD/EPA standard), hazardous waste, and any substance, product, waste, or other material of any nature whatsoever that is or becomes listed, regulated, or addressed pursuant to laws and regulations regulating, relating to, or imposing liability or standards of conduct concerning, any hazardous, toxic, or dangerous waste, substance, or material.

## 8.01 Successors, Assigns, and Beneficiaries

- A. Successors and Assigns
  - 1. Owner and Engineer are hereby bound and the successors, executors, administrators, and legal representatives of Owner and Engineer (and to the extent permitted by Paragraph 8.01.A.2 the assigns of Owner and Engineer) are hereby bound to the other party to this Agreement and to the successors, executors, administrators, and legal representatives (and said assigns) of such other party, in respect of all covenants, agreements, and obligations of this Agreement.
  - 2. Neither Owner nor Engineer may assign, sublet, or transfer any rights under or interest (including, but without limitation, money that is due or may become due) in this Agreement without the written consent of the other party, except to the extent that any assignment, subletting, or transfer is mandated by law. Unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under this Agreement.
- B. Beneficiaries: Unless expressly provided otherwise, nothing in this Agreement shall be construed to create, impose, or give rise to any duty owed by Owner or Engineer to any Constructor, other third-party individual or entity, or to any surety for or employee of any of them. All duties and responsibilities undertaken pursuant to this Agreement will be for the sole and exclusive benefit of Owner and Engineer and not for the benefit of any other party.

## 9.01 Total Agreement

- A. This Agreement (including any expressly incorporated attachments), constitutes the entire agreement between Owner and Engineer and supersedes all prior written or oral understandings. This Agreement may only be amended, supplemented, modified, or canceled by a duly executed written instrument.

This Agreement's Effective Date is **January 1, 2022**.

Owner:

City of Spanish Fort

(name of organization)

By:

(authorized individual's signature)

Date:

(date signed)

Name: Michael M. McMillan

(typed or printed)

Title: Mayor

(typed or printed)

Address for giving notices:

7361 Spanish Fort Blvd.

Spanish Fort, Alabama 36527

Attest:

Name: Rebecca A. Gaines

(typed or printed)

Title: City Clerk

(typed or printed)

Address:

7361 Spanish Fort Blvd.

Spanish Fort, Alabama 36527

Phone: (251)626-4884

Email: [cityclerk@cityofspanishfort.com](mailto:cityclerk@cityofspanishfort.com)

Engineer:

Matthew Jones Engineering LLC

(name of organization)

By:

(authorized individual's signature)

Date:

(date signed)

Name:

(typed or printed)

Title:

(typed or printed)

Address for giving notices:

Designated Representative:

Name:

(typed or printed)

Title:

(typed or printed)

Address:

Phone:

Email:



## RESOLUTION NO. 1340-2023

### A RESOLUTION AUTHORIZING THE MAYOR OF THE CITY OF SPANISH FORT, ALABAMA, TO MAKE A GRANT APPLICATION FOR THE PROJECT SAFE NEIGHBORHOODS PROGRAM FROM THE UNITED STATES DEPARTMENT OF JUSTICE

**WHEREAS**, the U.S. Department of Justice Project Safe Neighborhoods (PSN) grant program provides funding to law enforcement agencies through the Alabama Department of Economic and Community Affairs (ADECA) to create and foster safer neighborhoods through a sustained reduction in violent crime; and

**WHEREAS**, the City wishes to apply for PSN funding for equipment to protect Spanish Fort citizens and neighborhoods and reduce crime in the City of Spanish Fort; and

**WHEREAS**, the application must be submitted for and on behalf of the City by its Mayor who is authorized by this Resolution to sign the application and any related forms or documents on behalf of the City; and

**WHEREAS**, the agreement shall be executed in the name of the City for and on behalf of the City by its Mayor.

### NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SPANISH FORT, ALABAMA, AS FOLLOWS:

**SECTION 1.** The City Council hereby authorizes the Mayor to make an application for the U.S. Department of Justice Project Safe Neighborhoods (PSN) grant funding for the purpose of funding equipment to protect Spanish Fort citizens and neighborhoods and reduce crime in the City of Spanish Fort. The Mayor is hereby authorized to execute any documents deemed necessary to secure such funding assistance. The grant program Request for Applications is attached as Exhibit 1 to this Resolution, and the narrative portion of the proposed grant application is attached hereto as Exhibit 2, subject to any changes deemed necessary by the Mayor.

**SECTION 2.** This Resolution shall become effective immediately upon its adoption.

*ADOPTED and APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 2023.*

---

Michael M. McMillan  
Mayor

ATTEST:

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Rebecca A. Gaines  
City Clerk

# Exhibit 1

# REQUEST FOR APPLICATIONS



## Project Safe Neighborhoods Grant Program Southern District of Alabama

Issue Date:	May 1, 2023
Application Due Date:	May 21, 2023

## U.S. Department of Justice Bureau of Justice Assistance

**The US Attorney's Office for the Southern District of Alabama is seeking applicants for the Project Safe Neighborhoods (PSN) Grant Program.** The US Attorney's Office in cooperation with the Alabama Department of Economic and Community Affairs (ADECA) acting as a fiscal agent, is making approximately \$160,000 in federal Bureau of Justice Assistance Grant (BJA) funds available for subgrants.<sup>1</sup> Additional information regarding funding limits and purpose areas can be found on page 9 of this RFA.

### **Submission Information:**

Applicants will complete and submit their Project Safe Neighborhoods grant documentation at <https://grants.alabama.gov/>.

Applicants must submit the full application by **11:59 p.m., May 21, 2023**, in Alabama Grants.

### **System Registration:**

- Navigate to <https://grants.alabama.gov/>
- Have an Authorized Official (AO) for your organization register as a new user.
- Complete and submit a registration request.
- Wait for an email confirmation granting access to the system.
- After receiving the confirmation, your AO can login to the system and designate access to your organizational account to other staff members as appropriate. (See the Grantee Admin Manual or Grantee Admin Training Video under the Alabama Grants' Training Materials section)

Based on the organization type selected under the organization profile, a user will see any available funding opportunities under the "My Opportunities" panel of the user's dashboard.

For previous applicants: All sections of the application, except for Miscellaneous Attachments, can be copied forward using the copy forward feature. The option to select this feature is available only when you attempt to initiate an application. The copy forward feature will save time by allowing you to prefill most of the application information with the details from your agency's previous submissions. Please see page seven for detailed instructions on how to use the copy forward feature. You should, however, still ensure that the information provided is up-to-date and accurate for the proposed project period.

Any application or documentation in support of an application not submitted in Alabama Grants will not be accepted for review. The Law Enforcement and Traffic Safety Division reserves the right to reject any incomplete applications without review.

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<sup>1</sup> It is expected that the maximum amount approved for each sub-grant proposal will not exceed \$40,000. Proposals seeking funds above that amount should contain specific and compelling justification for an award in excess of \$40,000. Any sub-grant distributions shall be made on a cost-reimbursement basis over the course of the grant.

**Contact Information:**

For assistance with technical issues, such as forgetting username and/or password, adding dashboard panels, or navigating the website in Alabama Grants, contact the Agate Software Helpdesk at [helpdesk@agatesoftware.com](mailto:helpdesk@agatesoftware.com) or at 1 (800) 820-1890. The Agate Software Helpdesk operates 7:00 a.m. to 7:00 p.m. CST Monday – Friday.

For assistance with the requirements of this request for application, please submit your questions to:

Brian Forster, Justice Programs Supervisor, at [Brian.Forster@adeca.alabama.gov](mailto:Brian.Forster@adeca.alabama.gov) or at (334) 353-4265 or John Rogers at [John.Rogers@adeca.alabama.gov](mailto:John.Rogers@adeca.alabama.gov) or at (334) 242-5831.

If an applicant experiences technical issues with Alabama Grants and is unable to submit its application by the deadline, the applicant must document the issue and email the contacts identified above before the application deadline.

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## **PART I – FUNDING OPPORTUNITY DESCRIPTION**

### **A. BACKGROUND ON PROJECT SAFE NEIGHBORHOODS GRANT PROGRAM:**

Project Safe Neighborhoods (PSN) is designed to create and foster safer neighborhoods through a sustained reduction in violent crime, including, but not limited to, addressing criminal gangs and the felonious possession and use of firearms. The program's effectiveness depends upon the ongoing coordination, cooperation, and partnerships of local, state, tribal, and federal law enforcement agencies -- and the communities they serve -- engaged in a unified approach led by the U.S. Attorney's Office (USAO) in all 94 districts.

**Under this Request for Applications (RFA), applications should focus on activities to reduce violent crime, address criminal gangs and the felonious possession and use of firearms.** Possibilities include, but are not limited to, law enforcement response (including technological systems), offender intervention, supervision or re-entry, victim services and community support programs.

Purchases under this RFA will be funded in whole by the PSN grant program. These grants will be used by agencies to supplement agency efforts in reducing violence and or gun crimes.

### **B. ELIGIBLE ORGANIZATIONS:**

Eligibility Requirements include, but are not limited to the following:

1. Must be a unit of local government with a law enforcement department, or a community service provider actively involved in documents efforts and programs directed at achieving sustained reduction in violent crime, firearms offenses and gang activity.
2. Any local law enforcement department must have been compliant with the Universal Crime Reporting System (UCR) for a minimum of the last three previous consecutive years. This compliance will be validated by information collected from the Alabama Justice Information center. (AJIC)
3. Must provide services within the counties which comprise the Southern District of Alabama: Baldwin, Clarke, Choctaw, Conecuh, Dallas, Escambia, Hale, Marengo, Mobile, Monroe, Perry, Washington, and/or Wilcox.
4. Any community service provider must be : (a) a 501(c)(3) qualified organization with a stated purpose of reducing violent crimes through programs which focus on prevention, education, as well as programs designed to rehabilitate, reduce recidivism and address gang violence; or (b) an organization which has been underway for a minimum of two years with supporting documentation to verify their ongoing activities and programs to reduce violent crime (i.e. charter/by-laws, organizations structure chart. Mission statement, established operation plan, and descriptions of ongoing programs and participants); or (c) an organization which proposes establishment of a pilot program (currently not underway) must provide a detailed proposed operations plan which clearly states qualitative objectives and defines metrics for measuring outcomes.

### **C. COSTS GENERALLY ALLOWABLE:**

In general, PSN funds may be used to provide additional personnel, equipment, supplies, contractual support, training, technical assistance, and information systems for criminal justice, including for any one or more of the following:

- Law enforcement programs
- Prosecution and court programs
- Prevention and education programs
- Crime victim and witness programs (other than compensation)
- Planning, evaluation, and technology improvement programs
- Addressing Violent Crime
- Enforcing Firearms Laws
- Services and support for at-risk youth
- Supervision and services related to high-risk offenders

### **D. COSTS GENERALLY UNALLOWABLE:**

The following services, activities, and costs, although not exclusive, **cannot** be supported with PSN funds at the subgrantee level. PSN funds provided may NOT be used, directly or indirectly, to provide any of the following matters:

- 1) Any security enhancements or any equipment to any nongovernmental entity that is not engaged in criminal justice or public safety.
- 2) Unless the Attorney General certifies that extraordinary and exigent circumstances exist that make the use of such funds to provide such matters essential to the maintenance of public safety and good order—
  - a. vehicles (excluding police cruisers), vessels (excluding police boats), or aircraft including UAVs or drones (excluding police helicopters);
  - b. luxury items;
  - c. real estate;
  - d. construction projects (other than penal or correctional institutions); or
  - e. any similar matters.



## **E. RISK ASSESSMENTS:**

Federal regulations require grantees to conduct a risk assessment of each application before an award can be made. A risk assessment must be based on each applicant with regard to current or previous funding, unresolved audit issues, delinquent programmatic and fiscal reporting, and prior performance. Applicants with any findings may carry special conditions such as increased monitoring and/or prohibitions on drawing funds until certain requirements are met. Applicants with substantial/persistent performance, or compliance issues, i.e., long-standing open audits or open criminal investigations, will possibly not receive an award until all issues are resolved.

However, all assessments are unique and will be handled on a case-by-case basis.

## **F. REVIEW PROCESS:**

Applications are carefully reviewed for completeness and to ensure that only projects with a significant chance of success are funded. All applications will be checked by ADECA staff to make sure they are complete. Complete applications will then continue to the risk assessment stage. After the risk assessment stage, applications will be reviewed by at least two program staff. Once an application is reviewed, a recommendation for funding may be made.

## **G. APPLICATION SECTIONS:**

### **General Instructions for New Applicants:**

To complete an application for PSN funding you must register with Alabama Grants. Instructions are listed on page 2.

After successfully registering in the system, an Authorized Official can add new members through the Organizational Members section. Each agency member can be assigned one of three roles:

Subrecipient Viewer, Subrecipient Staff, and Subrecipient Admin. The role of a Subrecipient Viewer only allows individuals in those roles to view information within the system. The role of Subrecipient Staff allows individuals to enter or alter information but does not have the ability to submit or accept documents. The role of Subrecipient Admin will receive full access within the system.

In the narrative section, please provide an overall explanation of the services that your agency provides.

*Note: Each agency employee must have an Alabama Grants profile, if their position will be requested in a grant application. When completing the application's Personnel Section, you will select employee names from a dropdown box that is prefilled with the names of individuals who have a profile in the system. The selection "TBD" has been programmed in the dropdown box for vacant or unfilled positions.*

After logging in, you will arrive at your personal dashboard. Here you will see the 'My Tasks', 'My Opportunities', and 'Announcements' panels. The My Opportunities panel is where you find links to complete applications for different funding opportunities. Funding opportunities will only be seen once the period opens for application and will disappear once the application period closes. After you select the funding opportunity, you will select whether you agree or decline to begin the selected application. After you agree to begin the application, you will be directed to application landing page where you can begin completing the application. On your dashboard, your application will be found in the My Tasks panel, where it can be accessed until you submit or cancel the application.

### **General Instructions for Previous Applicants**

Navigate to <https://grants.alabama.gov>

After logging in, you will arrive at your personal dashboard. Here you will see the 'My Tasks', 'My Opportunities', and 'Announcements' panels. The My Opportunities panel is where you find links to complete applications for different funding opportunities. Funding opportunities will only be seen once the period opens for application and will disappear once the application period closes. After you select the funding opportunity, you will select whether you agree or decline to begin the selected application. This is also where you can elect to copy your previous application forward.

After you agree to begin the application, you will be directed to application landing page where you can begin completing the application. On your dashboard, your application will be found in the My Tasks panel, where it can be accessed until you submit or cancel the application.

As you complete your application it is imperative that the application be clear, complete, and concise. If the project is not adequately described in the application, it will be impossible to conduct a thorough review of the application. Each narrative should be presented in a manner that is easily understood.

- **Match Requirement.** There is currently no match requirement for PSN funding.
- **Indirect Cost.** In accordance with 2 CFR 200.332(a)(4) and 2 CFR 200.414, subrecipients of federal awards may charge indirect costs to the award unless statutorily prohibited by the federal program and in accordance with any applicable administrative caps on federal funding. ADECA will accept a federally negotiated indirect cost rate. If no approved rate exists, ADECA will collaborate with the subrecipient to determine an appropriate rate. This rate will be either a negotiated rate, which can be based on a prior negotiated rate between a different pass-through entity and the same subrecipient, or the 10% de minimis rate of the modified total direct cost (MTDC) as defined in 2 CFR 200.68. If basing the rate on a previously negotiated rate, ADECA is not required to collect information justifying this rate but may elect to do so. Subrecipients are allowed to allocate and charge direct costs through cost allocation. However, in accordance with 2 CFR 200.403, costs must be consistently charged as either indirect or direct costs but not charged as both or

inconsistently charged to the federal award. Once chosen, the method must be used consistently for all federal awards until such time as a negotiated rate is approved by the subrecipients' federal cognizant agency.

- **Record Keeping.** Sub-recipients must maintain records that clearly show the source, amount, and the allocation date. Backup documentation must be submitted with claims.

## **PART II – AWARD INFORMATION**

### **A. ESTIMATED FUNDING:**

There will be approximately \$160,000 in Project Safe Neighborhoods (PSN) funds available for subgrants. This is a competitive solicitation in which each applicant will be competing against other applicants. Grants may be funded in full or in part, based on the number of qualifying applications, available funding, and geographical representation. Each submitted grant application will be rated on its quality and adherence to these guidelines.

The following factors may also be considered in the evaluation of applications:

- Prior evidence of program success (evidence-based program).
- Qualifications and duties of personnel.
- Ability to complete project in a timely manner.
- Project has a plan for self-sufficiency and sustainability beyond possible grant funding.
- Design Quality of the Applications – The application is clearly written, supported by facts, and contains **measurable** objectives and performance indicators.
- Performance Indicators – The indicators match objectives and are useful measurements to assess the effectiveness of the project. The project has additional measures for evaluating project impact.
- Other Relevant Factors and Requirements – Past or current grant performance maybe considered where applicable. The application must contain all relevant documentation.

### **B. PERIOD OF PERFORMANCE:**

The project period will start no later than October 1, 2023, and will end no later September 30, 2024, unless an extension is provided.

### **C. AWARD TERMS AND CONDITIONS**

All terms and conditions of an award shall be set forth in an agreement between selected applicants and ADECA.

#### **D. FINANCIAL ACCOUNTING PRACTICES:**

The following is a list of questions that applicants will need to consider when applying for Federal funding. *Note: All answers should be an affirmative response and applicants must have documentation supporting each response. ADECA may request a copy of supporting documentation as to any and/or all responses during the application/award process or as part of the grant monitoring process.*

1. Will all funds awarded under this program be maintained in a manner that they will be accounted for, separately and distinctly, from other sources of revenue/funding?
2. Does the applicant have written accounting policies and procedures? How often are these policies and procedures updated? Please provide a brief list of the topics covered in the organization's policies and procedures. ADECA may request a copy for review during the application/award process or as part of the grant monitoring process.
3. Is the applicants' financial management system able to track actual expenditures and outlays with budgeted amounts for each grant or subgrant?
4. Does the applicant have procedures in place for minimizing the time elapsing between transfer of funds from the United States Treasury and disbursement for project activities?
5. Does the applicant have effective internal controls in place to adequately safeguard grant assets and to ensure that they are used solely for authorized purposes?
6. Does the applicant have a documented records retention policy?
7. Is the individual primarily responsible for fiscal and administrative oversight of grant awards familiar with the applicable grants management rules, principles, and regulations including the new Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 CFR Part 200) issued on December 26, 2013?
8. Are the officials and governing body of the organization bonded?

#### **E. GRANT REPORTING REQUIREMENTS:**

Recipients are required to maintain appropriate programmatic and financial records that fully disclose the amount and disposition of funds received (i.e., daily time and attendance records; the total cost of the project; receipts for expenditures); the portion of the project supplied by other sources; and other records. Progress reports are to be submitted in a calendar quarter basis, regardless of the start date of the subgrant project. These reports

must provide an update on the project's objectives. Failure to submit these reports in a timely manner will delay any reimbursements submitted within the grant period. See table below for the progress reports due dates:

<b>Report Period</b>	<b>Due on or before the following dates</b>
October 1 <sup>st</sup> through December 31 <sup>st</sup>	January 15 <sup>th</sup>
January 1 <sup>st</sup> through March 31 <sup>st</sup>	April 15 <sup>th</sup>
April 1 <sup>st</sup> through June 30 <sup>th</sup>	July 15 <sup>th</sup>
July 1 <sup>st</sup> through September 30 <sup>th</sup>	October 15 <sup>th</sup>

**Note: Any subrecipient receiving PSN funding will be required to enter the quarterly reporting data into the Bureau of Justice Assistance (BJA) Performance Measurement Tool (PMT).**

This 'Request for Application' does not indicate acceptance or approval of any application in response to this request. No grant or contract payment can be made until an agreement has been fully executed. Therefore, no work shall begin on projects selected for funding until an executed grant agreement or professional services contract has been received. All awards are contingent upon state receipt of Federal funds awarded.

# Exhibit 2

## **RESOLUTION NO. 1341-2023**

### **A RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO A CONTRACT FOR THE PROVISION OF ATHLETIC CAMPS**

**WHEREAS**, the City Council is committed to assisting in the development of athletic facilities and programs for school aged children in the community; and

**WHEREAS**, the City desires to provide athletic camps for all sports at Spanish Fort High School.

### **NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SPANISH FORT, ALABAMA, AS FOLLOWS:**

**SECTION 1.** The City Council hereby authorizes the Mayor to enter into an Agreement with Chase Smith (hereinafter referred to as “Contractor”) for services to be rendered as an independent contractor for the City of Spanish Fort for the purpose of providing athletic camps for school aged children for sports offered at the Spanish Fort High School. A copy of the proposed Contract is attached hereto as Exhibit A, subject to any changes approved by the Mayor.

**SECTION 2.** Any Resolution heretofore adopted by the City Council of the City of Spanish Fort, Alabama, which is in conflict with this Resolution is hereby repealed to the extent of such conflict.

**SECTION 3.** If any part, section or subdivision of this Resolution shall be held unconstitutional or invalid for any reason, such holding shall not be construed to invalidate or impair the remainder of this Resolution, which shall continue in full force and effect notwithstanding such holding.

***ADOPTED and APPROVED this \_\_\_\_ day of \_\_\_\_, 2023.***

---

Michael M. McMillan  
Mayor

**ATTEST:**

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Rebecca A. Gaines  
City Clerk

**Exhibit A**

STATE OF ALABAMA

COUNTY OF BALDWIN

CONTRACT FOR THE PROVISION OF ATHLETIC CAMPS

This Contract ("the Contract") is entered into this \_\_\_\_ day of \_\_\_\_\_, 2023, by and between THE CITY OF SPANISH FORT, ALABAMA, an Alabama municipal corporation (the "City"), and CHASE SMITH (the "Contractor").

WHEREAS, the City has invested in the construction of certain athletic facilities at Spanish Fort High School; and

WHEREAS, the City desires to assist in the provision of athletic camps for school aged children in the community for all sports offered at Spanish Fort High School.

W I T N E S S E T H:

KNOW ALL MEN BY THESE PRESENTS, that for and in consideration of the mutual promises and covenants herein contained, the receipt and sufficiency of which are hereby acknowledged, the City and Contractor do hereby mutually covenant and agree as follows:

1. The Contractor shall be responsible for providing athletic camps for school aged children in the first through the fourth grade and up for sports offered at Spanish Fort High School, including, but not limited to, football, baseball, softball, wrestling, soccer, volleyball, tennis and track and field. The individual camps shall last for a minimum of two (2) days each, and there shall be no overlapping days for each camp. The Contractor shall be entitled to charge a fee to each participant in each athletic camp in order to defray the cost of the camp in an amount not to exceed Twenty-Five Dollars (\$25.00) per participant for each camp, unless otherwise approved by the City Council, in its discretion.

2. The term of this Contract shall be for one year and shall commence on June 1, 2023, and expire on May 31, 2024. In the event the Contractor is no longer employed by the Baldwin County Board of Education as the Athletic Director and Head Football Coach at Spanish Fort High School, this Contract shall automatically terminate as of the date of such separation or termination of the Contractor's employment with the Baldwin County Board of Education. Furthermore, this Contract may be terminated by either party, for any reason or no reason at all, by giving the other party thirty (30) days written notice of termination.



3. The City will pay Thirty-two Thousand Dollars (\$32,000.00), less the cost of Worker's Compensation Insurance, to the Contractor for the provision of the services outlined pursuant to this Contract, and the aforementioned sum shall be paid as follows:

(a) As soon as possible, the Contractor shall provide a list of coaches assisting the Contractor in providing the services under this Contract and the amount to be paid to each coach, not to exceed, in the aggregate, the sum of Thirty-two Thousand Dollars (\$32,000.00), less the cost of Worker's Compensation Insurance. In order to receive payment, the Contractor shall provide any information requested by the City which shall include, but shall not be limited to, the following:

- (1) List of camps provided including a description of the camp and dates
- (2) Pay schedule approved by the Mayor, Principal and Athletic Director:

Base pay per coach for each camp:	\$1200.00
Base Pay Camp Director for each camp:	\$800.00
Base pay Overall Director:	\$3000.00

- (3) Submit to City for payment for each camp:

Names and addresses of coaches employed by the Baldwin County Board of Education;

Name and address of each child participant;

Name of camp; and

Income/expense statement for each camp.

(b) The City shall write checks directly to the coaches named by the Contractor in the amounts provided by the Contractor, less their portion of the cost of Worker's Compensation Insurance. The City shall not be responsible for other withholding any amounts, including, but not limited to, Federal and State taxes, FICA, Social Security and any other withholdings required by law, which shall be the responsibility of each person receiving payments hereunder. The City shall provide a 1099 form to all parties receiving payment.

(c) The Contractor and the parties receiving payment hereunder acknowledge and agree that the Contractor is an independent Contractor, and the Contractor and the other parties receiving payments hereunder are not employees of the City. No party is entitled to any other compensation or benefit from the City with respect to this Contract, except as expressly set forth herein. The City shall not be responsible for providing any materials,

equipment, uniforms, tools or other items pursuant to this Contract, which shall be the responsibility of the Contractor.

4. Nothing contained in this Contract is intended to create the relationship of employer-employee, and the Contractor shall be and continue to operate under this Contract as an independent contractor. The Contractor shall have no authority to direct any City employee to take or refrain from taking any action.

5. The Contractor recognizes and acknowledges that the services to be rendered by the Contractor are of a special and unique character and that the Contractor may neither assign nor delegate his rights or duties under this Contract.

6. This Contract constitutes the full and complete understanding and agreement of the parties, and cannot be amended, modified or supplemented in any respect except by agreement in writing signed by both parties hereto.

7. This Contract shall be controlled, construed and governed in all respects by the laws of the State of Alabama.

8. Any notice required to be given in writing by any party to this Contract may be delivered personally or by certified mail, return receipt requested, postage prepaid, as follows:

If to the City:                      City of Spanish Fort  
   Post Office Box 7226  
   Spanish Fort, Alabama 36577

If to Contractor:                   Chase Smith  
   1 Plaza De Toros Dr.  
   Spanish Fort, AL. 36527

Either party may change such party's address by giving the other party written notice of such change pursuant to this paragraph.

IN WITNESS WHEREOF, the parties hereto have entered into this Contract, individually or by and through their duly authorized representatives, on the date and year first above written.

---

CHASE SMITH  
Contractor

CITY OF SPANISH FORT

By: \_\_\_\_\_  
MICHAEL M. MCMILLAN Mayor

ATTEST:

\_\_\_\_\_  
REBECCA A. GAINES  
City Clerk

STATE OF ALABAMA

COUNTY OF BALDWIN

I, \_\_\_\_\_, a Notary Public in and for said County in said State, hereby certify that CHASE SMITH, 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 the instrument, he executed the same voluntarily on the date the same bears date.

Given under my hand and seal this the \_\_\_\_\_ day of \_\_\_\_\_, 2023.

\_\_\_\_\_  
Notary Public, Baldwin County, Alabama  
My Commission Expires: \_\_\_\_\_

STATE OF ALABAMA

COUNTY OF BALDWIN

I, \_\_\_\_\_, a Notary Public in and for said County, in said State, hereby certify that MICHAEL M. MCMILLAN, whose name as Mayor of the CITY OF SPANISH FORT, ALABAMA, an Alabama municipal corporation, 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, he, as such officer and with full authority, executed the same voluntarily for and as the act of said municipal corporation.

Given under my hand and seal this the \_\_\_\_\_ day of \_\_\_\_\_, 2023.

\_\_\_\_\_  
Notary Public, Baldwin County, Alabama  
My Commission Expires: \_\_\_\_\_