

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

Regular Meeting
June 17, 2024
Spanish Fort Community Center
6:00 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 20, 2024
Regular Meeting May 20, 2024

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

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

The City of Spanish Fort and the Spanish Fort Public Library will be closed on Thursday, July 4, 2024, to celebrate the Independence Day Holiday.

Pursuant to Ordinance No. 292-2007, residents of the City of Spanish Fort are allowed to discharge fireworks on July 4, only between the hours of 10:00 a.m. and 10:00 p.m. We request that everyone be courteous of their neighbors and discharge fireworks in a safe manner.

- IX. OLD BUSINESS
- X. NEW BUSINESS

Announcement of Appointment to Planning Commission

Swearing in of Junior City Councilmembers

Ordinance No. 668-2024-----An Ordinance Granting a Non-exclusive Franchise to Mediacom Southeast, LLC, for the Purpose of Maintaining Distribution Lines for the Provision of Cable Television within the Public Rights-of-Way of the City of Spanish Fort

Ordinance No. 670-2024----An Ordinance Granting a Non-exclusive Franchise to Comcast of Alabama, LLC, for the Purpose of Maintaining Distribution Lines for the Provision of Cable Television within the Public Rights-of-Way within the City of Spanish Fort, Alabama

Ordinance No. 671-2024-----An Ordinance Amending Ordinance No. 51-96 of the City of Spanish Fort Establishing the Zoning Classification of Certain Property as B-2 Local Business District

Ordinance No. 672-2024-----An Ordinance Amending Ordinance No. 51-96 of the City of Spanish Fort Changing the Zoning Classification of Certain Property Known as the Kirby P.U.D. to a Planned Unit Development and Establishing the Zoning Classification of Certain Property as Part of the Kirby P.U.D. as a Planned Unit Development

Resolution No. 1414-2024---A Resolution Authorizing the Mayor to Enter into an Agreement with Sunset Contracting, Inc., for Repairs at Mendota Drive

Resolution No. 1415-2024---A Resolution Amending the Employee Pay Classification Guidelines

Resolution No. 1416-2024---A Resolution Authorizing the Mayor to Enter into an Agreement with Emergency Networking for Cloud-based EMS and Fire Reporting Software

Resolution No. 1417-2024---A Resolution Disposing of Surplus Property

Resolution No. 1419-2024---A Resolution Authorizing the Mayor to Enter into a Contract for Services between the City of Spanish Fort, Alabama, and the Spanish Fort Sports Association

Resolution No. 1420-2024---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, July 1, 2024

**Spanish Fort City Council
Minutes, Regular Meeting, June 3, 2024**

CALL TO ORDER

The City Council of the City of Spanish Fort, Alabama, met Monday, June 3, 2024, 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

City Attorney David Conner led the invocation and Pledge of Allegiance.

APPROVAL OF MINUTES OF PREVIOUS MEETINGS

The minutes of the Meeting and Work Session of May 20, 2024, 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

Fire Chief Roger Few reported that the annual kid's Fire Safety Camp will be held the week of June 1, 2024, with 40 first through fifth grade students in attendance.

Councilmember Brabner reported that the Public School Commission reviewed and approved various projects submitted by the local school principals, with the bulk of the money collected to support tutoring programs for underperforming students, STEM and STEAM programs.

PUBLIC PARTICIPATION

Vincent Ross, owner of David's Catfish House, located on Highway 31 in the City of Spanish Fort, addressed the City Council regarding the upcoming ALDOT roadwork to add turn lanes to Highway 31. Mr. Ross expressed concern that it would negatively affect his business. Mayor McMillan and the City Council expressed support for the businesses affected, urged citizens to support all businesses along the affected area and encouraged everyone to have a meal at David's Catfish House.

ANNOUNCEMENTS

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

The annual spring "Tidy the City" event will be held June 6-9, 2024, at Spirit Park, located on Emily Francis Lane directly across from the Spanish Fort Community Center. This event provides an opportunity for Spanish Fort residents to "Tidy the City" by cleaning out accumulated items and clutter from around the house. Two dumpsters will be placed in the gravel parking area at Spirit Park for the collection of unwanted items. Items must be placed inside the dumpsters and not in the surrounding area. Items not accepted include household garbage, tires, electronic items and hazardous chemicals.

The Spanish Fort Public Library Summer Reading Program began June 1, 2024. For information and registration for Summer Reading events, go to the Spanish Fort Public Library website at: <https://www.spanishfortpubliclibrary.org/srregistration>. There are lots of exciting opportunities to read and fantastic events each week!

ALDOT announces the start of construction for the widening of US-31 in Baldwin County to add a center turn lane for motorists. Construction is scheduled to begin Monday, June 3, 2024, and will primarily take place during daytime hours. During lane closures, northbound US-31 traffic will be directed to use Old Highway 31 as a detour route to bypass the construction area. The re-routing of northbound US-31 traffic is expected to last a couple of weeks until widening efforts are completed. Southbound traffic will continue to use US-31 during construction. For updates and information on the project's progress, visit ALDOTNews.com and download the ALGO app.

OLD BUSINESS

There was none.

NEW BUSINESS

Audits for Fiscal Year 2022-2023

• The City of Spanish Fort

Mayor McMillan presented the general audit for the City of Spanish Fort for the Fiscal Year 2022-2023. 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 Curt Smith to approve the 2022-2023 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 2022-2023. 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 Perry to approve the 2022-2023 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 2022-2023. 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 Curt Smith and seconded by Councilmember Gustafson to approve the 2022-2023 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.

Ordinance No. 668-2024

Mayor McMillan presented Ordinance No. 668-2024, an Ordinance granting a non-exclusive franchise to Mediacom Southeast, LLC, for the purpose of maintaining distribution lines for the

provision of cable television within the public rights-of-way of the City of Spanish Fort. David Conner explained the proposed resolution. Discussion followed.

Ordinance No. 669-2024

Mayor McMillan presented Ordinance No. 669-2024, an Ordinance establishing rules for Loyalty Park in the City of Spanish Fort. David Conner explained the proposed resolution. Discussion followed.

A motion was made by Councilmember J. R. Smith and seconded by Councilmember Brabner to adopt Ordinance No. 669-2024. Discussion followed. Mayor McMillan called for a polling of votes. Voting “aye” were Councilmembers Curt Smith, Gustafson, Perry, Brabner, J. R. Smith and Mayor McMillan. Voting “nay” were none. Mayor McMillan declared the Ordinance adopted.

Ordinance No. 670-2024

Mayor McMillan presented Ordinance No. 670-2024, an Ordinance granting a non-exclusive franchise to Comcast of Alabama, LLC, for the purpose of maintaining distribution lines for the provision of cable television within the public rights-of-way of the City of Spanish Fort. David Conner explained the proposed resolution. Discussion followed.

Mayor McMillan opened the public hearing. There were no speakers. Mayor McMillan closed the public hearing. Discussion followed.

Ordinance No. 671-2024

Mayor McMillan presented Ordinance No. 671-2024, an Ordinance amending Ordinance No. 51-96 of the City of Spanish Fort establishing the zoning classification of certain property as B-2 Local Business District. David Conner explained the proposed resolution. Discussion followed.

Mayor McMillan opened the public hearing. There were no speakers. Mayor McMillan closed the public hearing. Discussion followed.

Resolution No. 1409-2024

Mayor McMillan presented Resolution No. 1409-2024, a resolution amending the Personnel Manual of the City of Spanish Fort. David Conner explained the proposed resolution. Discussion followed.

A motion was made by Councilmember Gustafson and seconded by Councilmember J. R. Smith to adopt Resolution No. 1409-2024. Discussion followed. Mayor McMillan called for a polling of votes. Voting “aye” were Councilmembers Curt Smith, Gustafson, Perry, Brabner, J. R. Smith and Mayor McMillan. Voting “nay” were none. Mayor McMillan declared the Resolution adopted.

Resolution No. 1410-2024

Mayor McMillan presented Resolution No. 1410-2024, 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 Perry and seconded by Councilmember Brabner to adopt Resolution No. 1410-2024. Discussion followed. Mayor McMillan called for a polling of votes. Voting “aye” were Councilmembers Curt Smith, Gustafson, Perry, Brabner, J. R. Smith and Mayor McMillan. Voting “nay” were none. Mayor McMillan declared the Resolution adopted.

Resolution No. 1411-2024

Mayor McMillan presented Resolution No. 1411-2024, a resolution amending the Personnel Manual of the City of Spanish Fort. David Conner explained the proposed resolution. Discussion followed.

A motion was made by Councilmember Brabner and seconded by Councilmember J. R. Smith to adopt Resolution No. 1411-2024. Discussion followed. Mayor McMillan called for a polling of votes. Voting “aye” were Councilmembers Curt Smith, Gustafson, Perry, Brabner, J. R. Smith and Mayor McMillan. Voting “nay” were none. Mayor McMillan declared the Resolution adopted.

Resolution No. 1413-2024

Mayor McMillan introduced Resolution No. 1413-2024, a resolution appointing members to the Spanish Fort Junior City Council. David Conner explained the proposed resolution. Discussion followed.

A motion was made by Councilmember Gustafson and seconded by Councilmember Brabner to adopt Resolution No. 1413-2024. Discussion followed. Mayor McMillan called for a polling of votes. Voting “aye” were Councilmembers Curt Smith, Gustafson, Perry, Brabner, J. R. Smith and Mayor McMillan. Voting “nay” were none. Mayor McMillan declared the Resolution adopted.

Resolution No. 1414-2024

Mayor McMillan introduced Resolution No. 1414-2024, a resolution authorizing the Mayor to enter into an agreement with Sunset Contracting, Inc., for repairs at Mendota Drive. David Conner explained the proposed resolution. Discussion followed.

Resolution No. 1415-2024

Mayor McMillan introduced Resolution No. 1415-2024, a resolution amending the employee pay classification guidelines. David Conner explained the proposed resolution. Discussion followed.

Resolution No. 1416-2024

Mayor McMillan introduced Resolution No. 1416-2024, authorizing the Mayor to enter into an agreement with Emergency Networking for cloud-based EMS and fire reporting software. David Conner explained the proposed resolution. Discussion followed.

Resolution No. 1417-2024

Mayor McMillan introduced Resolution No. 1417-2024, a resolution disposing of surplus property. David Conner explained the proposed resolution. Discussion followed.

Resolution No. 1418-2024

Mayor McMillan introduced Resolution No. 1418-2024, a resolution authorizing the Mayor to enter into an agreement with Citizenserve. David Conner explained the proposed resolution. Discussion followed.

A motion was made by Councilmember Brabner and seconded by Councilmember Curt Smith to suspend the rules to allow for immediate consideration of Resolution No. 1418-2024. 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 rules were suspended to allow for immediate consideration of Resolution No. 1418-2024.

A motion was made by Councilmember Gustafson and seconded by Councilmember Brabner to adopt Resolution No. 1418-2024. Discussion followed. Mayor McMillan called for a polling of votes. Voting “aye” were Councilmembers Curt Smith, Gustafson, Perry, Brabner, J. R. Smith 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 6:51 p.m.

Approved this ____ day of June, 2024.

Rebecca A. Gaines
City Clerk.

Spanish Fort City Council

Minutes, Work Session, Monday, June 3, 2024

The City Council of the City of Spanish Fort, Alabama, met Monday, June 3, 2024, at 4:02 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.

City Attorney David Conner 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; and 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. 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 Perry and seconded by Councilmember J. R. Smith to go into executive session at 4:51 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 10 minutes and that the Work Session would resume upon the conclusion of the executive session.

The Council reconvened at 5:00 p.m.

The Council discussed general municipal business.

There being no further business before the Council, the work session adjourned at 5:55 p.m.

Approved this _____ day of June 2024.

Rebecca A. Gaines, CMC
City Clerk

ORDINANCE NO. 668-2024

AN ORDINANCE GRANTING A NON-EXCLUSIVE FRANCHISE TO MEDIACOM SOUTHEAST, LLC, FOR THE PURPOSE OF MAINTAINING DISTRIBUTION LINES FOR THE PROVISION OF CABLE TELEVISION WITHIN THE PUBLIC RIGHTS-OF-WAY WITHIN THE CITY OF SPANISH FORT, ALABAMA

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

SECTION 1. The City Council of the City of Spanish Fort does hereby grant to Mediacom Southeast, LLC, a Delaware limited liability company, a non-exclusive franchise granting the authority to construct and maintain a distribution lines for the provision of cable television in the City of Spanish Fort, subject to the terms and conditions set forth in the following agreement:

=====

FRANCHISE AGREEMENT

This Franchise Agreement (“Franchise”) is between the City of Spanish Fort, AL, hereinafter referred to as “the Franchising Authority” and Mediacom Southeast LLC, a limited liability company duly organized and validly existing under the laws of the State of Delaware, hereinafter referred to as “the Grantee.”

The Franchising Authority hereby acknowledges that the Grantee has substantially complied with the material terms of the current Franchise under applicable law, and that the financial, legal, and technical ability of the Grantee is reasonably sufficient to provide services, facilities, and equipment necessary to meet the future cable-related needs of the community, and having afforded the public adequate notice and opportunity for comment, desires to enter into this Franchise with the Grantee for the construction and operation of a cable system on the terms set forth herein.

SECTION 1
Definition of Terms

1.1 Terms. For the purpose of this Franchise, the following terms, phrases, words, and abbreviations shall have the meanings ascribed to them below. When not inconsistent with the context, words used in the present tense include the future tense, words in the plural number include the singular number, and words in the singular number include the plural number:

- A. “Basic Cable Service” is the lowest priced tier of Cable Service that includes the retransmission of local broadcast television signals.
- B. “Cable Act” means Title VI of the Cable Act of 1934, as amended.
- C. “Cable Services” shall mean (1) the one-way transmission to Subscribers of (a) video programming, or (b) other programming service, and (2) Subscriber interaction, if any, which is required for the selection or use of such video programming or other programming service.
- D. “Cable System” shall mean the Grantee’s facility, consisting of a set of closed transmission paths and associated signal generation, reception, and control equipment that is designed to provide Cable Service which includes video programming and which is provided to multiple Subscribers within the Service Area.
- E. “FCC” means Federal Communications Commission, or successor governmental entity thereto.
- F. “Franchising Authority” means the City of Spanish Fort, AL.
- G. “Grantee” means Mediacom Southeast LLC, or the lawful successor, transferee, or assignee thereof.

- H. “Gross Revenues” means revenues derived from Basic Cable Services received by Grantee from Subscribers in the Service Area; provided, however, that Gross Revenues shall not include franchise fees, the FCC User Fee or any tax, fee or assessment of general applicability collected by the Grantee from Subscribers for pass-through to a government agency.
- I. “Quarter” means every third month of the calendar year.
- Example: Quarter 1= January through March
Quarter 2= April through June
Quarter 3= July through September
Quarter 4= October through December
- J. “Open Video Services or OVS” means any video programming Services provided to any person by a Franchisee certified by the FCC to operate an Open Video System pursuant to Section 47 U.S.C. 573, as may be amended, regardless of the Facilities used.
- K. “Person” means an individual, partnership, association, joint stock company, trust, corporation, or governmental entity.
- L. “Public Way” shall mean the surface of, and the space above and below, any public street, highway, freeway, bridge, land path, alley, court, boulevard, sidewalk, parkway, way, lane, public way, drive, circle, or other public right-of-way, including, but not limited to, public utility easements, dedicated utility strips, or rights-of-way dedicated for compatible uses now or hereafter held by the Franchising Authority in the Service Area which shall entitle the Grantee to the use thereof for the purpose of installing, operating, repairing, and maintaining the Cable System.
- M. “Service Area” means the present boundaries of the Franchising Authority, and shall include any additions thereto by annexation or other legal means, subject to the exceptions in subsection 3.9.
- N. “Standard Installation” is defined as 125 feet from the nearest tap to the Subscriber’s terminal.
- O. “Subscriber” means a Person who lawfully receives Cable Service of the Cable System with the Grantee’s express permission.

SECTION 2

Grant of Franchise

2.1 Grant. The Franchising Authority hereby grants to the Grantee a nonexclusive Franchise which authorizes the Grantee to construct and operate a Cable System in, along, among, upon, across, above, over, under, or in any manner connected with Public Ways within the Service Area, and for that purpose to erect, install, construct, repair, replace, reconstruct, maintain, or retain in, on, over, under, upon, across, or along any Public Way such facilities and equipment as may be necessary or appurtenant to the Cable System for the transmission and distribution of Cable Services, data services, information and other communications services or for any other lawful purposes.

2.2 Other Ordinances. The Grantee agrees to comply with the terms of any lawfully adopted generally applicable local ordinance, to the extent that the provisions of the ordinance do not have the effect of limiting the benefits or expanding the obligations of the Grantee that are granted by this Franchise. Neither party may unilaterally alter the material rights and obligations set forth in this Franchise. In the event of a conflict between any ordinance and this Franchise, the Franchise shall control.

2.3 Other Authorizations. The Franchising Authority shall not permit any person to provide services similar to those provided by the Grantee in the Service Area without first having secured a non-exclusive franchise from the Franchising Authority. The Franchising Authority agrees that any grant of additional franchises or other authorizations including OVS authorizations by the Franchising Authority to provide services similar to those provided by the Grantee pursuant to this Agreement to any other entity shall cover the entire Service Area and shall not be on terms and conditions more favorable or less burdensome to the grantee of any such additional franchise or other authorization than those which are set forth herein. In any renewal of this Franchise, the Franchising Authority, should it seek to impose increased obligations upon the Grantee, must take into account any additional franchise(s) or authorizations previously granted and find that the proposed increased obligations in the renewal, are not

more burdensome and/or less favorable than those contained in any such additional franchise(s) or authorizations.

SECTION 3 **Standards of Service**

3.1 Conditions of Occupancy. The Cable System installed by the Grantee pursuant to the terms hereof shall be located so as to cause a minimum of interference with the proper use of Public Ways and with the rights and reasonable convenience of property owners who own property that adjoins any of such Public Ways.

3.2 Restoration of Public Ways. If, during the course of the Grantee's construction, operation, or maintenance of the Cable System there occurs a disturbance of any Public Way by the Grantee, Grantee shall replace and restore such Public Way to a condition reasonably comparable to the condition of the Public Way existing immediately prior to such disturbance.

3.3 Relocation. The Grantee shall, on the request of the Franchise Authority or any Person holding a lawful permit issued by the Franchising Authority, protect, support, raise, lower, temporarily disconnect, relocate in or remove from the Public Way as necessary any property of the Grantee, provided: (A) the expense of such is paid by said Franchise Authority or Person benefiting from the relocation, including, if required by the Grantee, making such payment in advance; and (B) the Grantee is given reasonable advance written notice to prepare for such changes. For purposes of this subsection, "reasonable advance written notice" shall be no less than thirty (30) business days in the event of a temporary relocation, and no less than one hundred twenty (120) days for a permanent relocation.

3.4 Trimming of Trees and Shrubbery. The Grantee shall have the authority to trim trees or other natural growth in order to access and maintain the Cable System.

3.5 Safety Requirements. Construction, operation, and maintenance of the Cable System shall be performed in an orderly and workmanlike manner. All such work shall be performed in substantial accordance with generally applicable federal, state, and local regulations and the National Electric Safety Code.

3.6 Underground Construction. In those areas of the Service Area where all of the transmission or distribution facilities of the respective public utilities providing telephone communications and electric services are underground, the Grantee likewise shall construct, operate, and maintain its Cable System underground. Nothing contained in this subsection shall require the Grantee to construct, operate, and maintain underground any ground-mounted appurtenances.

3.7 Access to Open Trenches. The Franchising Authority agrees to include the Grantee in the platting process for any new subdivision. At a minimum, the Franchising Authority agrees to require as a condition of issuing a permit for open trenching to any utility or developer that (A) the utility or developer give the Grantee at least ten (10) days advance written notice of the availability of the open trench, and (B) that the utility or developer provide the Grantee with reasonable access to the open trench. Notwithstanding the foregoing, the Grantee shall not be required to utilize any open trench.

3.8 Required Extensions of the Cable System. Grantee agrees to provide Cable Service to all residences in the Service Area subject to the density requirements specified in this subsection. Whenever the Grantee receives a request for Cable Service from a potential Subscriber in an unserved area contiguous to Grantee's existing distribution facilities where there are at least 10 residences within 1320 cable-bearing strand feet (one-quarter cable mile) from the portion of the Grantee's trunk or distribution cable which is to be extended, it shall extend its Cable System to such Subscribers at no cost to said Subscribers for the Cable System extension, other than the published Standard/non-Standard Installation fees charged to all Subscribers. Notwithstanding the foregoing, the Grantee shall have the right, but not the obligation, to extend the Cable System into any portion of the Service Area where another operator is providing Cable Service, into any annexed area which is not contiguous to the present Service Area of the Grantee, or into any area which is financially or technically infeasible due to extraordinary circumstances, such as a runway or freeway crossing.

3.9 Subscriber Charges for Extensions of the Cable System. No Subscriber shall be refused service arbitrarily. However, if an area does not meet the density requirements of subsection 3.9 above, the Grantee shall only be required to extend the Cable System to Subscriber(s) in that area if the Subscriber(s) are willing to share the capital costs of extending the Cable System. Specifically, the Grantee shall contribute a capital amount equal to the construction cost per mile, multiplied by a fraction whose numerator equals the actual number of residences per 1320 cable-bearing strand feet from the Grantee's trunk or distribution cable, and whose denominator equals 10. Subscribers who request service hereunder shall bear the remaining cost to extend the Cable System on a *pro rata* basis. The Grantee may require that payment of the capital contribution in aid of construction borne by such potential Subscribers

be paid in advance. Subscribers shall also be responsible for any Standard/non-Standard Installation charges to extend the Cable System from the tap to the residence.

3.10 Cable Service to Public Buildings. The Grantee, upon request, may voluntarily provide without charge, a Standard Installation and one outlet of Basic Cable Service to those administrative buildings owned and occupied by the Franchising Authority, fire station(s), police station(s), and K-12 public school(s) that are passed by its Cable System. The Cable Service provided shall not be distributed beyond the originally installed outlet without authorization from the Grantee. The Cable Service provided shall not be used for commercial purposes, and such outlets shall not be located in areas open to the public. The Franchising Authority shall take reasonable precautions to prevent any inappropriate use of the Grantee's Cable System or any loss or damage to Grantee's Cable System. The Franchising Authority shall hold the Grantee harmless from any and all liability or claims arising out of the provision and use of Cable Service required by this subsection. The Grantee shall not be required to provide an outlet to such buildings where a non-Standard Installation is required, unless the Franchising Authority or building owner/occupant agrees to pay the incremental cost of any necessary Cable System extension and/or non-Standard Installation. If additional outlets of Basic Cable Service are provided to such buildings, the building owner/occupant shall pay the usual installation and service fees associated therewith. To the extent Grantee ceases this voluntary program to provide service to public buildings at no charge, Grantee shall provide the Franchising Authority with at least one hundred twenty (120) days advance written notice of its intent to cease the program. Such notice shall include the rate Grantee proposes to charge for the service, and during the one hundred and twenty (120) day period, the Franchising Authority shall inform Grantee whether it intends to continue receiving service and pay the rate identified, or whether it will opt to cease receiving such service.

3.11 Emergency Alert. Any Emergency Alert System ("EAS") provided by Grantee shall be operated in accordance with FCC regulations. Any use of such EAS by the Franchising Authority will be only in accordance with the applicable state and local plans as approved in accordance with such FCC regulations. Except to the extent expressly prohibited by law, the Franchising Authority will hold the Grantee, its employees, officers and assigns harmless from any claims arising out of use of the EAS, including but not limited to reasonable attorneys' fees and costs.

3.12 Reimbursement of Costs. If funds are available to any Person using the Public Way for the purpose of defraying the cost of any of the foregoing, the Franchising Authority shall reimburse the Grantee in the same manner in which other Persons affected by the requirement are reimbursed. If the funds are controlled by another governmental entity, the Franchising Authority shall make application for such funds on behalf of the Grantee.

SECTION 4

Regulation by the Franchising Authority

4.1 Franchise Fee.

A. The Grantee shall pay to the Franchising Authority a franchise fee of three percent (3%) of annual Gross Revenues (as defined in subsection 1.1 of this Franchise). In accordance with the Cable Act, the twelve (12) month period applicable under the Franchise for the computation of the franchise fee shall be a calendar year. Grantee's responsibility for payment of Franchise Fee under this Agreement shall commence on the first day of the next Quarter after final execution of this Agreement. Until that time, Grantee shall continue to pay the Franchise Fee under any pre-existing Franchise Agreement with the Local Franchising Authority. The franchise fee payment shall be due annually and payable within 90 days after the close of the preceding calendar year. Each payment shall be accompanied by a brief report prepared by a representative of the Grantee showing the basis for the computation.

B. Limitation on Franchise Fee Actions. The period of limitation for recovery by the Franchising Authority of any franchise fee payable hereunder shall be three (3) years from the date on which payment by the Grantee is due to the Franchising Authority.

4.2 Renewal of Franchise.

The Franchising Authority and the Grantee agree that any proceedings undertaken by the Franchising Authority that relate to the renewal of the Grantee's Franchise shall be governed by and comply with the renewal provisions of federal law.

4.3 Conditions of Sale. If a renewal or extension of the Grantee's Franchise is denied or the Franchise is lawfully terminated, and the Franchising Authority either lawfully acquires ownership of the Cable System or by its actions lawfully effects a transfer of ownership of the Cable System to another

party, any such acquisition or transfer shall be at the price determined pursuant to the provisions set forth in Section 627 of the Cable Act.

The Grantee and the Franchising Authority agree that in the case of a final determination of a lawful revocation of the Franchise, the Grantee shall be given at least twelve (12) months to effectuate a transfer of its Cable System to a qualified third party. Furthermore, the Grantee shall be authorized to continue to operate pursuant to the terms of its prior Franchise during this period. If, at the end of that time, the Grantee is unsuccessful in procuring a qualified transferee or assignee of its Cable System which is reasonably acceptable to the Franchising Authority, the Grantee and the Franchising Authority may avail themselves of any rights they may have pursuant to federal or state law. It is further agreed that the Grantee's continued operation of the Cable System during the twelve (12) month period shall not be deemed to be a waiver, nor an extinguishment of, any rights of either the Franchising Authority or the Grantee.

445 Transfer of Franchise. The Grantee's right, title, or interest in the Franchise shall not be sold, transferred, assigned, or otherwise encumbered, other than to an entity controlling, controlled by, or under common control with the Grantee, without prior written notice to the Franchising Authority. No such notice shall be required, however, for a transfer in trust, by mortgage, by other hypothecation, or by assignment of any rights, title, or interest of the Grantee in the Franchise or Cable System in order to secure indebtedness.

SECTION 5

Books and Records

The Grantee agrees that the Franchising Authority, upon thirty (30) days written notice to the Grantee and no more than once annually may review such of its books and records at the Grantee's business office, during normal business hours and on a nondisruptive basis, as is reasonably necessary to ensure compliance with the terms of this Franchise. Such notice shall specifically reference the subsection of the Franchise that is under review so that the Grantee may organize the necessary books and records for easy access by the Franchising Authority. Alternatively, if the books and records are not easily accessible at the local office of the Grantee, the Grantee may, at its sole option, choose to pay the reasonable travel costs of the Franchising Authority's representative to view the books and records at the appropriate location. The Grantee shall not be required to maintain any books and records for Franchise compliance purposes longer than three (3) years. Notwithstanding anything to the contrary set forth herein, the Grantee shall not be required to disclose information that it reasonably deems to be proprietary or confidential in nature, nor disclose books and records of any affiliate which is not providing Cable Service in the Service Area. The Franchising Authority agrees to treat any information disclosed by the Grantee as confidential and only to disclose it to employees, representatives, and agents thereof that have a need to know, or in order to enforce the provisions hereof. The Grantee shall not be required to provide Subscriber information in violation of Section 631 of the Cable Act.

SECTION 6

Insurance and Indemnification

6.1 Insurance Requirements. The Grantee shall maintain insurance in full force and effect, at its own cost and expense, during the term of the Franchise. The Franchising Authority shall be designated as an additional insured and such insurance shall be noncancellable except upon thirty (30) days prior written notice to the Franchising Authority. Upon written request, the Grantee shall provide a Certificate of Insurance showing evidence of the coverage required by this subsection.

6.2 Indemnification. The Grantee agrees to indemnify, save and hold harmless, and defend the Franchising Authority, its officers, boards and employees, from and against any liability for damages and for any liability or claims resulting from property damage or bodily injury (including accidental death), which arise out of the Grantee's construction, operation, or maintenance of its Cable System in the Service Area provided that the Franchising Authority shall give the Grantee written notice of its obligation to indemnify the Franchising Authority within ten (10) days of receipt of a claim or action pursuant to this subsection. Notwithstanding the foregoing, the Grantee shall not indemnify the Franchising Authority for any damages, liability or claims resulting from the willful misconduct or negligence of the Franchising Authority.

SECTION 7

Enforcement and Termination of Franchise

7.1 Notice of Violation. In the event that the Franchising Authority believes that the Grantee has not complied with any material term of the Franchise, the Franchising Authority shall informally discuss the

matter with Grantee. If these discussions do not lead to resolution of the problem, the Franchising Authority shall notify the Grantee in writing of the exact nature of such alleged noncompliance.

7.2 The Grantee's Right to Cure or Respond. The Grantee shall have thirty (30) days from receipt of the notice described in subsection 7.1: (A) to respond to the Franchising Authority, contesting the assertion of such noncompliance, or (B) to cure such default, or (C) in the event that, by the nature of such default, it cannot be cured within the thirty (30) day period, initiate reasonable steps to remedy such default and notify the Franchising Authority of the steps being taken and the projected date that they will be completed.

7.3 Public Hearing. In the event that the Grantee fails to respond to the notice described in subsection 7.1 pursuant to the procedures set forth in subsection 7.2, or in the event that the alleged default is not remedied within thirty (30) days or the date projected pursuant to 7.2(C) above, if it intends to continue its investigation into the default, then the Franchising Authority shall schedule a public hearing. The Franchising Authority shall provide the Grantee at least ten (10) days prior written notice of such hearing, which specifies the time, place and purpose of such hearing, and provide the Grantee the opportunity to be heard.

7.4 Enforcement. Subject to applicable federal and state law, in the event the Franchising Authority, after the hearing set forth in subsection 7.3, determines that the Grantee is in material default of any provision of the Franchise, the Franchising Authority may:

A. Commence an action at law for monetary damages or seek other equitable relief; or

B. In the case of repeated or ongoing substantial non-compliance with a material term or terms of the Franchise, seek to revoke the Franchise in accordance with subsection 7.5.

7.5 Revocation. Should the Franchising Authority seek to revoke the Franchise after following the procedures set forth in subsections 7.1-7.4 above, the Franchising Authority shall give written notice to the Grantee of its intent. The notice shall set forth the exact nature of the repeated or ongoing substantial noncompliance with a material term or terms of the franchise. The Grantee shall have ninety (90) days from such notice to object in writing and to state its reasons for such objection. In the event the Franchising Authority has not received a satisfactory response from the Grantee, it may then seek termination of the Franchise at a public hearing. The Franchising Authority shall cause to be served upon the Grantee, at least thirty (30) days prior to such public hearing, a written notice specifying the time and place of such hearing and stating its intent to revoke the Franchise.

At the designated hearing, Grantee shall be provided a fair opportunity for full participation, including the right to be represented by legal counsel, to introduce relevant evidence, to require the production of evidence, to compel the relevant testimony of the officials, agents, employees or consultants of the Franchising Authority, to compel the testimony of other persons as permitted by law, and to question witnesses. A complete verbatim record and transcript shall be made of such hearing.

Following the hearing, the Franchising Authority shall determine whether or not the Franchise shall be revoked. If the Franchising Authority determines that the Franchise shall be revoked, the Franchising Authority shall promptly provide Grantee with its decision in writing. The Grantee may appeal such determination of the Franchising Authority to an appropriate court which shall have the power to review the decision of the Franchising Authority *de novo*. Grantee shall be entitled to such relief as the court finds appropriate. Such appeal must be taken within sixty (60) days of Grantee's receipt of the determination of the Franchising Authority.

The Franchising Authority may, at its sole discretion, take any lawful action which it deems appropriate to enforce the Franchising Authority's rights under the Franchise in lieu of revocation of the Franchise.

7.6 Force Majeure. The Grantee shall not be held in default under, or in noncompliance with, the provisions of the Franchise, nor suffer any enforcement or penalty relating to noncompliance or default, where such noncompliance or alleged defaults occurred or were caused by circumstances reasonably beyond the ability of the Grantee to anticipate and control. This provision includes work delays caused by waiting for utility providers to service or monitor their utility poles to which the Grantee's Cable System is attached, as well as unavailability of materials and/or qualified labor to perform the work necessary.

Furthermore, the parties hereby agree that it is not the Franchising Authority's intention to subject the Grantee to penalties, fines, forfeitures or revocation of the Franchise for violations of the Franchise where the violation was a good faith error that resulted in no or minimal negative impact on the Subscribers within the Service Area, or where strict performance would result in practical difficulties and hardship to the Grantee which outweigh the benefit to be derived by the Franchising Authority and/or Subscribers.

SECTION 8
Miscellaneous Provisions

8.1 Actions of Parties. In any action by the Franchising Authority or the Grantee that is mandated or permitted under the terms hereof, such party shall act in a reasonable, expeditious, and timely manner. Furthermore, in any instance where approval or consent is required under the terms hereof, such approval or consent shall not be unreasonably withheld.

8.2 Entire Agreement. This Franchise constitutes the entire agreement between the Grantee and the Franchising Authority and supersedes all other prior understandings and agreements oral or written. Any amendments to this Franchise shall be mutually agreed to in writing by the parties.

8.3 Reservation of Rights. Acceptance of the terms and conditions of this franchise will not constitute, or be deemed to constitute, a waiver, either expressly or impliedly, by Grantee of any constitutional or legal right which it may have or may be determined to have, either by subsequent legislation or court decisions. The Franchising Authority acknowledges that Grantee reserves all of its rights under applicable Federal and State Constitutions and laws.

8.4 Notice. Unless expressly otherwise agreed between the parties, every notice or response required by this Franchise to be served upon the Franchising Authority or the Grantee shall be in writing, and shall be deemed to have been duly given to the required party when placed in a properly sealed and correctly addressed envelope: a) upon receipt when hand delivered with receipt/acknowledgment, b) upon receipt when sent certified, registered mail, c) within five (5) business days after having been posted in the regular mail or d) or the next business day if sent by express mail or overnight air courier.

The notices or responses to the Franchising Authority shall be addressed as follows:

Spanish Fort, AL
P.O. Box 226
Spanish Fort, AL 36527

The notices or responses to the Grantee shall be addressed as follows:

Mediacom Southeast LLC
Attn: Legal Department
1 Mediacom Way
Mediacom Park, NY 10918

With a copy to:

Mediacom Southeast LLC
Government Relations Manager
1613 Nantahala Beach Blvd
Gulf Breeze, FL 32563

The Franchising Authority and the Grantee may designate such other address or addresses from time to time by giving notice to the other in the manner provided for in this subsection.

8.5 Descriptive Headings. The captions to Sections and subsections contained herein are intended solely to facilitate the reading thereof. Such captions shall not affect the meaning or interpretation of the text herein.

8.6 Severability. If any Section, subsection, sentence, paragraph, term, or provision hereof is determined to be illegal, invalid, or unconstitutional by any court of competent jurisdiction or by any state or federal regulatory authority having jurisdiction thereof, such determination shall have no effect on the validity of any other Section, subsection, sentence, paragraph, term or provision hereof, all of which will remain in full force and effect for the term of the Franchise.

8.7 Term and Effective Date. The Effective Date of this Franchise is _____. The parties agree that, during the time between final execution of this Franchise and the Effective Date, the terms and conditions of the previous franchise agreement will govern. This Franchise shall be for a term of fifteen (15) years from such Effective Date and shall expire on _____.

Considered and approved this _____ day of _____, 2024.

The City of Spanish Fort, AL

Mediacom Southeast LLC

Printed Name_____

Printed Name_____

Title _____

Title _____

Date_____

Date_____

SECTION 2. 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 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.

SECTION 4. Effective Date. This Ordinance shall become effective only upon receipt of a written unconditional acceptance by the Franchisee of the terms and conditions contained herein within thirty (30) days of the passage of this Ordinance.

ADOPTED AND APPROVED this _____ *day of* _____, **2024.**

CITY OF SPANISH FORT, ALABAMA

BY:_____
Michael M. McMillan
Mayor

ATTEST:

Rebecca A. Gaines, CMC
City Clerk

ORDINANCE NO. 670-2024

AN ORDINANCE GRANTING A NON-EXCLUSIVE FRANCHISE TO COMCAST OF ALABAMA, LLC, FOR THE PURPOSE OF MAINTAINING DISTRIBUTION LINES FOR THE PROVISION OF CABLE TELEVISION WITHIN THE PUBLIC RIGHTS-OF-WAY WITHIN THE CITY OF SPANISH FORT, ALABAMA

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

SECTION 1. The City Council of the City of Spanish Fort does hereby grant to Comcast of Alabama, an Alabama limited liability company, a non-exclusive franchise granting the authority to construct and maintain a distribution lines for the provision of cable television in the City of Spanish Fort, subject to the terms and conditions set forth in the following agreement:

=====

Franchise Agreement

Between

City of Spanish Fort, Alabama

And

Comcast of Alabama, LLC

TABLE OF CONTENTS

	<u>Page</u>
SECTION 1	GRANT OF AUTHORITY1
SECTION 2	THE CABLE SYSTEM.....4
SECTION 3	CUSTOMER SERVICE7
SECTION 4	COMPENSATION AND OTHER PAYMENTS.....7
SECTION 5	COMPLIANCE REPORTS8
SECTION 6	ENFORCEMENT9
SECTION 7	ASSIGNMENT AND OTHER TRANSFERS11
SECTION 8	INSURANCE AND INDEMNITY11
SECTION 9	PUBLIC, EDUCATION, GOVERNMENT ACCESS12
SECTION 10	MISCELLANEOUS13
APPENDIX A	DEFINED TERMS A-1
APPENDIX B	CUSTOMER SERVICE STANDARDSB-1

AGREEMENT

This **AGREEMENT** is effective as of the ____ day of _____, 2024 (the “Effective Date”), and is between the City of Spanish Fort, Alabama (the “Franchising Authority” or the “City”), and Comcast of Alabama, LLC (the “Company”). For purposes of this Agreement, unless otherwise defined in this Agreement, the capitalized terms, phrases, words, and their derivations, shall have the meanings set forth in Appendix A.

The Franchising Authority, having determined that the financial, legal, and technical ability of the Company is reasonably sufficient to provide the services, facilities, and equipment necessary to meet the current and future cable-related needs of the community, desires to enter into this Agreement with the Company for the construction, operation, and maintenance of a Cable System on the terms and conditions set forth herein. In consideration of the mutual covenants and agreements contained in this Agreement, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereby covenant and agree as follows:

SECTION 1 GRANT OF AUTHORITY

1.1 Grant of Franchise. The Franchising Authority hereby grants under the Cable Act a nonexclusive franchise (the “Franchise”) to occupy and use the Streets within the Franchise Area in order to construct operate, maintain, upgrade, repair, and remove the Cable System, and provide Cable Services through the Cable System, subject to the terms and conditions of this Agreement. This Franchise authorizes Cable Service, and it does not grant or prohibit the right(s) of the Company to provide other services.

1.2 Term of Franchise. This Franchise shall be in effect for a period of ten (10) years commencing on the Effective Date, unless renewed or lawfully terminated in accordance with this Agreement and the Cable Act.

1.3 Renewal. Subject to Section 626 of the Cable Act (47 U.S.C. § 546) and such terms and conditions as may lawfully be established by the Franchising Authority, the Franchising Authority reserves the right to grant or deny renewal of the Franchise.

1.4 Reservation of Authority. The Company specifically agrees to comply with the lawful provisions of the City and applicable regulations of the Franchising Authority. Subject to any express federal or state preemption, the material terms and conditions contained in this Agreement may not be unilaterally altered by the Franchising Authority through subsequent amendments to the City code, ordinances or any regulation of the Franchising Authority, except in the lawful exercise of the City’s or Franchising Authority’s police power. The Company acknowledges that the Franchising Authority may modify its regulatory policies by lawful exercise of the Franchising Authority’s police powers throughout the term of this Agreement. The Company agrees to comply with such lawful modifications to the City code; however, the Company reserves all rights it may have to challenge such modifications to the City code whether arising in contract or at law. The Franchising Authority reserves all of its rights and defenses to such challenges whether arising in contract or at law. Nothing in this Agreement

shall (i) abrogate the right of the Franchising Authority to perform any public works or public improvements of any description, (ii) be construed as a waiver of any codes or ordinances of the Franchising Authority or of the Franchising Authority's right to require the Company or any Person utilizing the Cable System to secure the appropriate permits or authorizations for its use, or (iii) be construed as a waiver or release of the rights of the Franchising Authority in and to the Streets. Notwithstanding the above, in the event of any conflict between this Agreement and any code or ordinance adopted by the Franchising Authority, the terms and conditions of this Agreement shall prevail.

1.5 Competitive Equity and Subsequent Action Provisions.

1.5.1 Purposes. The Company and the Franchising Authority acknowledge that there is increasing competition in the video marketplace among cable operators, direct broadcast satellite providers, telephone companies, broadband content providers, and others; new technologies are emerging that enable the provision of new and advanced services to City residents; and changes in the scope and application of the traditional regulatory framework governing the provision of Video Services are being considered in a variety of federal, state, and local venues. To foster an environment where all Cable Service Providers and Video Service Providers using the Streets can compete on a competitively neutral and nondiscriminatory basis; encourage the provision of new and advanced services to City residents; promote local communications infrastructure investments and economic opportunities in the City; and provide flexibility in the event of subsequent changes in the law, the Company and the Franchising Authority have agreed to the provisions in this Section 1.5, and these provisions should be interpreted and applied with these purposes in mind. The parties agree that the Franchising Authority shall not be required to execute a franchise agreement or authorization with a competitive CSP or VSP that is identical, word-for-word, with this Agreement to avoid triggering the provisions of this Section 1.5, so long as the regulatory and financial burdens on and benefits to each CSP or VSP are materially equivalent to the burdens on and benefits to the Company. "Materially equivalent" provisions include but are not limited to: franchise fees and the definition of Gross Revenues; system build-out requirements; security

instruments; public, education and government access channels and support; customer service standards; and audits.

1.5.2 Fair Terms for All Providers. Notwithstanding any other provision of this Agreement or any other provision of law,

(a) If any VSP or CSP enters into any agreement with the Franchising Authority to provide Video Services or Cable Services to Subscribers in the Franchise Area, the Franchising Authority and the Company, upon written request of the Company, will use best efforts in good faith to negotiate the Company's proposed Franchise modifications, and such negotiation will proceed and conclude within sixty (60) days, unless that period is reduced or extended by mutual agreement of the parties. If the Franchising Authority and the Company agree to Franchise modifications pursuant to such negotiations, then the Franchising Authority shall amend this Agreement to include the modifications.

If there is no written agreement or other authorization between the new VSP or CSP and the Franchising Authority, the Company and the Franchising Authority shall use the sixty (60) day period to develop and enter into an agreement or other appropriate authorization (to the extent the Company determines an agreement or authorization is necessary) that to the maximum extent possible contains provisions that will ensure competitive equity between the Company and other VSPs or CSPs, taking into account the terms and conditions under which the new VSP or CSP is allowed to provide Video Services or Cable Services to Subscribers in the Franchise Area.

(b) Following the Franchise modification negotiations provided for in Section 1.5.2(a), if the Franchising Authority and the Company fail to reach agreement in such negotiations, the Company may, at its option, elect to replace this Agreement by opting in to the same franchise agreement or other lawful authorization that the Franchising Authority has granted to the new VSP or CSP.

(c) The Franchising Authority shall use all commercially reasonable efforts to at all times enforce the state and federal ban on providing Cable Service without a franchise. The Franchising Authority enforcement efforts shall be continuous and diligent throughout the term of this Agreement. Should the Franchising Authority not commence enforcement efforts within sixty (60) days of becoming aware of a VSP or CSP providing Video Service or Cable Service within the Franchise Area, the Company shall have the right to petition the Franchising Authority for the relief provided in Section 1.5.2 above.

1.5.3 Subsequent Change in Law. If there is a change in federal, state, or local law that provides for a new or alternative form of authorization, subsequent to the Effective Date, for a VSP or CSP utilizing the Streets to provide Video Services or Cable Services to Subscribers in the Franchise Area, or that otherwise changes the nature or extent of the obligations that the Franchising Authority may request from or impose on a VSP or CSP

providing Video Services or Cable Services to Subscribers in the Franchise Area, the Franchising Authority and Company agree that, notwithstanding any other provision of law, upon the written request by either party, the Franchising Authority shall: (i) permit the Company to provide Video Services or Cable Services to Subscribers in the Franchise Area on substantially the same terms and conditions as are applicable to a VSP or CSP under the changed law; (ii) modify this Agreement to comply with the changed law; or (iii) modify this Agreement to ensure competitive equity between the Company and other VSPs or CSPs, taking into account the conditions under which other VSPs or CSPs are permitted to provide Video Services or Cable Services to Subscribers in the Franchise Area. The Franchising Authority and the Company shall implement the provisions of this Section 1.5.3 within sixty (60) days after either party submits a written request to the other party. Should the Franchising Authority fail to implement these provisions within the time specified, this Agreement shall, at the Company's option and upon written notice to the Franchising Authority, be deemed amended as initially requested by the Company under this Section 1.5.3. Notwithstanding any provision of law that imposes a time or other limitation on the Company's ability to take advantage of the changed law's provisions, the Company may exercise its rights under this Section 1.5.3 at any time, but not sooner than thirty (30) days after the changed law goes into effect.

1.5.4 Effect on This Agreement. Any agreement, authorization, right, or determination to provide Cable Services or Video Services to Subscribers in the Franchise Area under this Section 1.5 shall supersede this Agreement.

SECTION 2 THE CABLE SYSTEM

2.1 The System and Its Operations.

2.1.1 Service Area. As of the Effective Date, the Company operates a Cable System within the Franchise Area.

2.1.2 System. As of the Effective Date, the Company maintains and operates a Cable System capable of providing over 250 Channels of Video Programming, which Channels may be delivered by analog, digital, or other transmission technologies, at the sole discretion of the Company.

2.1.3 System Technical Standards. Throughout the term of this Agreement, the Cable System shall be designed, maintained, and operated such that quality and reliability of System Signal will be in compliance with all applicable consumer electronics equipment compatibility standards, including but not limited to Section 624A of the Cable Act (47 U.S.C. § 544a) and 47 C.F.R. § 76.630, as may be amended from time to time.

2.1.4 Testing Procedures; Technical Performance. Throughout the term of this Agreement, the Company shall operate and maintain the Cable System in accordance with the testing procedures and the technical performance standards of the FCC.

2.2 Requirements with Respect to Work on the System.

2.2.1 General Requirements. The Company shall comply with ordinances, rules, and regulations established by the Franchising Authority pursuant to the lawful exercise of its police powers. To the extent that local ordinances, rules, or regulations clearly conflict with the terms and conditions of this Agreement, the terms and conditions of such local ordinances, rules, or regulations shall prevail.

2.2.2 Protection of Underground Utilities. The Company shall comply with the Alabama Underground Damage Prevention Act (Ala. Code § 37-15-1, *et seq.*), relating to notification prior to excavation near underground utilities, as may be amended from time to time.

2.3 Permits and General Obligations.

2.3.1 The Company shall be responsible for obtaining all permits, licenses, or other forms of approval or authorization necessary to construct, operate, maintain, or repair the Cable System, or any part thereof, prior to the commencement of any such activity. The Franchising Authority shall make all reasonable efforts to issue permits, licenses, or other approvals within ten (10) business days. The Company shall be solely responsible, either through its employees or its authorized contractors, for constructing, installing, and maintaining the Cable System in a safe, thorough, and reliable manner in accordance with all applicable standards and using materials of good and durable quality. The Company shall assure that any person installing, maintaining, or removing its facilities is fully qualified and familiar with all applicable standards. No third party shall tamper with, relocate, or otherwise interfere with the Company's facilities in the rights-of-way without the Company's approval and supervision; provided, however, that the Company shall make all reasonable efforts to coordinate with other users of the Streets to facilitate the execution of projects and minimize disruption in the public rights-of-way. All transmission and distribution structures, poles, other lines, and equipment installed by the Company for use in the Cable System in accordance with this Agreement shall be located so as to minimize interference with the proper use of the Streets and the rights and reasonable convenience of property owners who own property adjoining the Streets.

2.3.2 Code Compliance. The Company shall comply with all applicable building, safety, and construction codes. The parties agree that at present, Cable Systems are not subject to the low voltage regulations of the National Electric Code, National Electrical Safety Code, or other such codes or regulations. In the event that the applicable codes are revised such that Cable Systems become subject to low voltage regulations without being grandfathered or otherwise exempted, the Company will thereafter be required to comply with those regulations.

2.4 Conditions on Street Occupancy.

2.4.1 New Grades or Lines. If the grades or lines of any Street within the Franchise Area are lawfully changed at any time during the term of this Agreement, then the Company shall, upon at least ninety (90) days' advance written notice from the

Franchising Authority and at its own cost and expense, protect or promptly alter or relocate the Cable System, or any part thereof, so as to conform with the new grades or lines. If public funds are available to any Person using the Street for the purpose of defraying the cost of any of the foregoing work, the Franchising Authority shall make application for such funds on behalf of the Company. The Company shall be entitled to reimbursement of its costs should any other utility be so compensated as a result of a required protection, alteration, or relocation of its facilities. Notwithstanding the above, the Company shall not be liable for the cost of protecting, altering, or relocating facilities, aerial or underground, where such work is required to accommodate a beautification project or private development project.

2.4.2 Relocation at Request of Third Party. The Company shall, upon reasonable prior written request of any Person holding a permit issued by the Franchising Authority to move any structure, temporarily move its wires to permit the moving of such structure; provided (i) the Company may impose a reasonable charge on any Person for the movement of its wires, and such charge may be required to be paid in advance of the movement of its wires; and (ii) the Company agrees to arrange for such temporary relocation to be accomplished as soon as reasonably practicable, not to exceed ninety (90) days without the prior agreement of the Franchising Authority.

2.4.3 Restoration of Streets. If in connection with construction, operation, maintenance, or repair of the Cable System, the Company disturbs, alters, or damages any Street, the Company agrees that it shall at its own cost and expense restore the Street according to the standards set forth in the Alabama Department of Transportation's Utilities Manual. If the Franchising Authority reasonably believes that the Company has not restored the Street appropriately, then the Franchising Authority, after providing ten (10) business days' advance written notice and a reasonable opportunity to cure, may have the Street restored and bill the Company for the cost of restoration.

2.4.4 Trimming of Trees and Shrubbery. The Company shall have the authority to trim trees or other natural growth overhanging any of its Cable System in the Franchise Area so as to prevent contact with the Company's wires, cables, or other equipment, subject to all applicable local ordinances, rules and regulations, and the cost of such trimming shall not be borne by the Franchising Authority.

2.4.5 Aerial and Underground Construction. If at the time of Cable System construction all of the transmission and distribution facilities of all of the respective public or municipal utilities in the construction area are underground, the Company shall place its Cable System's transmission and distribution facilities underground. At the time of Cable System construction, in any place within the Franchise Area where the transmission or distribution facilities of the respective public or municipal utilities are both aerial and underground, the Company shall have the discretion to construct, operate, and maintain all of its transmission and distribution facilities, or any part thereof, aerially or underground; however, at such time as all existing aerial facilities of the respective public or municipal utilities are placed underground, the Company shall likewise place its facilities underground, subject to the provisions of Section 2.4.1. Company facilities placed underground at the property owner's request in any area where any of the

transmission or distribution facilities of the respective public or municipal utilities are aerial shall be installed with the additional expense paid by the property owner. Nothing in this Section 2.4.5 shall be construed to require the Company to construct, operate, or maintain underground any ground-mounted appurtenances such as customer taps, line extenders, system passive devices, amplifiers, power supplies, pedestals, or other related equipment. The Company shall be entitled to expand and upgrade its System as it deems reasonably necessary.

2.4.6 Use of Existing Poles. Where possible, the Company shall attach its facilities to existing utility poles and shall use all reasonable efforts to enter into a pole attachment agreement with the owners of such existing utility poles. The Franchising Authority acknowledges that the Company may pass through to Subscribers the costs of attaching to existing utility poles in the Franchise Area, and does not object.

2.5 Change in Franchise Area. In the event that the borders of the Franchise Area change, through annexation or otherwise, the Franchising Authority shall provide to the Company written notice of such change, including an updated map of the Franchise Area. Franchise fees on gross revenues earned from Subscribers in annexed areas shall not be payable to the Franchising Authority until sixty (60) days after the Company's receipt of such updated map, and shall not be remitted to the Franchising Authority until the next regularly scheduled quarterly franchise fee payment as provided in Section 4.1.2 below.

SECTION 3 CUSTOMER SERVICE

Customer Service. The Company shall comply in all respects with the requirements set forth in Appendix B. A minor violation of those requirements does not constitute a breach of this Agreement.

SECTION 4 COMPENSATION AND OTHER PAYMENTS

4.1 Compensation to the Franchising Authority. As compensation for the Franchise, the Company shall pay or cause to be paid to the Franchising Authority the amounts set forth in this Section 4.1.

4.1.1 Franchise Fees—Amount. The Company shall pay to the Franchising Authority franchise fees in an amount equal to five percent (5%) of Gross Revenues derived from the operation of the Cable System to provide Cable Services in the Franchise Area.

4.1.2 Franchise Fees—Payment. Payments of franchise fees shall be made on a quarterly basis and shall be remitted not later than thirty (30) days after the last day of March, June, September, and December throughout the term of this Agreement.

4.1.3 Company to Submit Franchise Fee Report. The Company shall submit to the Franchising Authority, not later than thirty (30) days after the last day of March, June, September, and December throughout the term of this Agreement, a report setting forth the basis for the computation of Gross Revenues on which the quarterly payment of

franchise fees is being made, which report shall enumerate, at a minimum, the following revenue categories: limited and expanded basic video service, digital video service, premium video service, pay-per-view and video-on-demand, equipment, installation and activation, franchise fees, guide, late fees, ad sales, home shopping commissions, and bad debt.

4.1.4 Franchise Fee Payments Subject to Audit; Remedy for Underpayment. No acceptance of any franchise fee payment by the Franchising Authority shall be construed as an accord and satisfaction that the amount paid is in fact the correct amount or a release of any claim that the Franchising Authority may have for further or additional sums payable under this Agreement. The Franchising Authority may conduct an audit no more than once annually to ensure payments in accordance with this Agreement. The audit of the Company's records shall take place at a location, in the State of Alabama, determined by the Company. The Franchising Authority is prohibited from removing any records, files, spreadsheets, or any other documents from the site of the audit. The audit period shall be limited to three (3) years preceding the end of the quarter of the most recent payment.

If, as a result of an audit or any other review, the Franchising Authority determines that the Company has underpaid franchise fees in any twelve (12) month period by ten percent (10%) or more, then, in addition to making full payment of the relevant obligation, the Company shall reimburse the Franchising Authority for all of the reasonable costs associated with the audit or review, including all reasonable out-of-pocket costs for attorneys, accountants, and other consultants. The Franchising Authority shall provide the Company with a written notice of audit results and a copy of the final report presented to the Franchising Authority. The Company shall remit any undisputed amounts owed to the Franchising Authority as the result of the audit within forty-five (45) days, or other mutually acceptable timeframe, after the date of an executed settlement and release agreement.

4.2 Payments Not to Be Set Off Against Taxes or Vice Versa. The parties agree that the compensation and other payments to be made pursuant to this Section 4 are not a tax and are not in the nature of a tax.

4.3 Interest on Late Payments. If any payment required by this Agreement is not actually received by the Franchising Authority on or before the applicable date fixed in this Agreement, the Company shall pay interest thereon, from the due date to the date paid, at a rate of one percent (1%) per month.

SECTION 5 COMPLIANCE REPORTS

5.1 Compliance. To the best of its knowledge, the Franchising Authority hereby acknowledges that as of the Effective Date, the Company is in material compliance with all material laws, rules, and ordinances of the Franchising Authority.

5.2 Reports. Upon written request by the Franchising Authority and subject to Section 631 of the Cable Act, the Company shall promptly submit to the Franchising Authority such information as may be necessary to reasonably demonstrate the Company's compliance with any term or condition of this Agreement.

5.3 File for Public Inspection. Throughout the term of this Agreement, the Company shall maintain and make available to the public those documents required pursuant to the FCC's rules and regulations.

5.4 Treatment of Proprietary Information. The Franchising Authority agrees to treat as confidential, to the maximum extent allowed under the Alabama Public Records Law (Ala. Code § 36-12-40, *et seq.*) or other applicable law, any requested documents submitted by the Company to the Franchising Authority that are labeled as "Confidential" or "Trade Secret" prior to submission. In the event that any documents submitted by the Company to the Franchising Authority are subject to a request for inspection or production, including but not limited to a request under the Alabama Public Records Law, the Franchising Authority shall notify the Company of the request as soon as practicable and in any case prior to the release of such information, by email or facsimile to the addresses provided in Section 10.6 of this Agreement, so that the Company may take appropriate steps to protect its interests in the requested records, including seeking an injunction against the release of the requested records. Upon receipt of said notice, the Company may review the requested records in the Franchising Authority's possession and designate as "Confidential" or "Trade Secret" any additional portions of the requested records that contain confidential or proprietary information.

5.5 Emergency Alert System. Company shall install and maintain an Emergency Alert System in the Franchise Area only as required under applicable federal and state laws. Additionally, the Franchising Authority shall permit only those Persons appropriately trained and authorized in accordance with applicable law to operate the Emergency Alert System equipment and shall take reasonable precautions to prevent any use of the Company's Cable System in any manner that results in inappropriate use thereof, or any loss or damage to the Cable System. Except to the extent expressly prohibited by law, the Franchising Authority shall hold the Company and its employees, officers, and assigns harmless from any claims arising out of use of the Emergency Alert System, including but not limited to reasonable attorneys' fees and costs.

SECTION 6 ENFORCEMENT

6.1 Notice of Violation. If the Franchising Authority believes that the Company has not complied with the terms of this Agreement, the Franchising Authority shall first informally discuss the matter with the Company. If discussions do not lead to a resolution of the problem, the Franchising Authority shall notify the Company in writing of the nature of the alleged noncompliance ("Violation Notice").

6.2 Company's Right to Cure or Respond. The Company shall have thirty (30) days from the receipt of the Violation Notice, or any longer period specified by the Franchising Authority, to respond; cure the alleged noncompliance; or, if the alleged noncompliance, by its nature, cannot

be cured within thirty (30) days, initiate reasonable steps to remedy the matter and provide the Franchising Authority a projected resolution date in writing.

6.3 Hearing. If the Company fails to respond to the Violation Notice received from the Franchising Authority, or the alleged noncompliance is not remedied within the cure period set forth above, the Franchising Authority's governing body shall schedule a hearing if it intends to continue its investigation into the matter. The Franchising Authority shall provide the Company at least thirty (30) days' prior written notice of the hearing, specifying the time, place, and purpose of the hearing. The Company shall have the right to present evidence and to question witnesses. The Franchising Authority shall determine if the Company has committed a violation and shall make written findings of fact relative to its determination. If a violation is found, the Company may petition for reconsideration before any competent tribunal having jurisdiction over such matters.

6.4 Enforcement. Subject to applicable federal and state law, if after the hearing provided for in Section 6.3, the Franchising Authority determines that the Company is in default of the provisions addressed in the Violation Notice, the Franchising Authority may

- (a) seek specific performance;
- (b) commence an action at law for monetary damages or seek other equitable relief; or
- (c) in the case of a substantial default of a material provision of this Agreement, seek to revoke the Franchise in accordance with subsection 6.5 below.

6.5 Revocation.

6.5.1 After the hearing and determination provided for in Section 6.3 and prior to the revocation or termination of the Franchise, the Franchising Authority shall give written notice to the Company of its intent to revoke the Franchise on the basis of an alleged substantial default of a material provision of this Agreement. The notice shall set forth the exact nature of the alleged default. The Company shall have thirty (30) days from receipt of such notice to submit its written objection to the Franchising Authority or to cure the alleged default. If the Franchising Authority is not satisfied with the Company's response, the Franchising Authority may seek to revoke the Franchise at a public hearing. The Company shall be given at least thirty (30) days' prior written notice of the public hearing, specifying the time and place of the hearing and stating the Franchising Authority's intent to revoke the Franchise.

6.5.2 At the public hearing, the Company shall be permitted to state its position on the matter, present evidence, and question witnesses, after which the Franchising Authority's governing board shall determine whether or not the Franchise shall be revoked. The public hearing shall be on the record and a written transcript shall be made available to the Company within ten (10) business days. The decision of the Franchising Authority's governing board shall be made in writing and shall be delivered to the Company. The Company may appeal such decision to an appropriate court, which shall have the power to review the decision of the Franchising Authority's governing board. The Company

may continue to operate the Cable System until all legal appeals procedures have been exhausted.

6.5.3 Notwithstanding the provisions of this Section 6, the Company does not waive any of its rights under federal law or regulation.

6.6 Technical Violations. The parties hereby agree that it is not the Franchising Authority's intention to subject the Company to penalties, fines, forfeiture, or revocation of the Agreement for so-called "technical" breach(es) or violation(s) of the Agreement, where the violation was a good faith error that resulted in no or minimal negative impact on the Subscribers within the Franchise Area or where strict performance would result in practical difficulties and hardship to the Company which outweigh the benefit to be derived by the Franchising Authority or Subscribers.

SECTION 7 ASSIGNMENTS AND OTHER TRANSFERS

The Franchise shall be fully transferable to any successor in interest to the Company. A notice of transfer shall be filed by the Company to the Franchising Authority within forty-five (45) days of such transfer. The transfer notification shall consist of an affidavit signed by an officer or general partner of the transferee that contains the following:

(a) an affirmative declaration that the transferee shall comply with the terms and conditions of this Agreement, all applicable federal, state, and local laws, regulations, and ordinances regarding the placement and maintenance of facilities in any public right-of-way that are generally applicable to users of the public right-of-way and specifically including the Alabama Underground Damage Prevention Act (Ala. Code § 37-15-1, *et seq.*);

(b) a description of the transferee's service area; and

(c) the location of the transferee's principal place of business and the name or names of the principal executive officer or officers of the transferee.

No affidavit shall be required, however, for (i) a transfer in trust, by mortgage, hypothecation, or by assignment of any rights, title, or interest of the Company in the Franchise or in the Cable System in order to secure indebtedness, or (ii) a transfer to an entity directly or indirectly owned or controlled by Comcast Corporation.

SECTION 8 INSURANCE AND INDEMNITY

8.1 Insurance.

8.1.1 Liability Insurance. Throughout the term of this Agreement, the Company shall, at its sole expense, maintain comprehensive general liability insurance, issued by a company licensed to do business in the State of Alabama with a rating of not less than "A minus," and provide the Franchising Authority certificates of insurance demonstrating

that the Company has obtained the insurance required in this Section 8.1.1. This liability insurance policy or policies shall be in the minimum amount of One Million Dollars (\$1,000,000.00) for bodily injury or death of any one person, One Million Dollars (\$1,000,000.00) for bodily injury or death of any two or more persons resulting from one occurrence, and One Million Dollars (\$1,000,000.00) for property damage resulting from any one accident. The policy or policies shall not be canceled except upon thirty (30) days' prior written notice of cancellation to the City.

8.1.2 Workers' Compensation. The Company shall ensure its compliance with the Alabama Workers' Compensation Law.

8.2 Indemnification. The Company shall indemnify, defend, and hold harmless the Franchising Authority, its officers, employees, and agents acting in their official capacities from and against any liability or claims resulting from property damage or bodily injury (including accidental death) that arise out of the Company's construction, operation, maintenance, or removal of the Cable System, including but not limited to reasonable attorneys' fees and costs, provided that the Franchising Authority shall give the Company written notice of its obligation to indemnify and defend the Franchising Authority within thirty (30) business days of receipt of a claim or action pursuant to this Section 8.2. If the Franchising Authority determines that it is necessary for it to employ separate counsel, the costs for such separate counsel shall be the responsibility of the Franchising Authority. Notwithstanding the foregoing, the Company shall not be obligated to indemnify the Franchising Authority for any damages, liability, or claims resulting from the willful misconduct or negligence of the Franchising Authority or for the Franchising Authority's use of the Cable System.

8.3 Liability and Indemnity. In accordance with Section 635A of the Cable Act, the Franchising Authority, its officials, employees, members, or agents shall have no liability to the Company arising from the regulation of Cable Service or from a decision of approval or disapproval with respect to a grant, renewal, transfer, or amendment of this Franchise. Any relief, to the extent such relief is required by any other provision of federal, state, or local law, shall be limited to injunctive relief and declaratory relief.

SECTION 9 PUBLIC, EDUCATION, GOVERNMENT ACCESS

9.1 Channel Capacity. The Company agrees to make available channel capacity, up to one (1) fully dedicated Channel position, on the digital tier, to be designated for non-commercial, non-revenue generating public, educational, or governmental ("PEG") access purposes. Unused time on the PEG Channel position may be utilized by the Company subject to terms to be mutually agreed upon by the Company and the Franchising Authority. The Company shall provide the PEG channel within one hundred eighty (180) days of the Franchising Authority's request.

9.2 Channel Positions. At any time during the term of this Agreement and at the Company's sole option and discretion, the Company may (i) change the transmission technology by which PEG access programming is delivered to Subscribers, provided, however, that the quality of PEG access programming transmitted over the Cable System to Subscribers is of a quality comparable

to that which was delivered to the Company by the PEG programmer, or (ii) relocate any PEG programming to a Channel position on its lowest digital tier service delivered to all of the Company's Subscribers. The Company shall notify the Franchising Authority at least thirty (30) days in advance of such changes.

9.3 Ownership. The Company does not relinquish its ownership of its ultimate right of control over a Channel position by designating it for PEG access use. A PEG access user, whether such user is an individual, educational, or governmental user, acquires no property or other interest in the Channel position by virtue of the use of a Channel position so designated.

9.4 Equipment. It shall be the sole responsibility of the Franchising Authority to obtain, provide, and maintain any equipment necessary to produce and cablecast PEG programming over the Cable System. The Company shall not be responsible for obtaining, providing, or maintaining any such equipment.

9.5 No Liability. The Company shall have no liability nor shall it be required to provide indemnification to the Franchising Authority for PEG programming cablecast over the Cable System.

SECTION 10 MISCELLANEOUS

10.1 Controlling Authorities. This Agreement is made with the understanding that its provisions are controlled by the Cable Act, other federal laws, state laws, and all applicable local laws, ordinances, and regulations. To the extent such local laws, ordinances, or regulations clearly conflict with the terms and conditions of this Agreement, the terms and conditions of such local laws, ordinances, or regulations shall prevail.

10.2 Appendices. The Appendices to this Agreement and all portions thereof are, except as otherwise specified in this Agreement, incorporated by reference in and expressly made a part of this Agreement.

10.3 Enforceability of Agreement; No Opposition. By execution of this Agreement, the Company and the Franchising Authority acknowledges the validity of the terms and conditions of this Agreement under applicable law in existence on the Effective Date and pledges that it will not assert in any manner at any time or in any forum that this Agreement, the Franchise, or the processes and procedures pursuant to which this Agreement was entered into and the Franchise was granted are not consistent with the applicable law in existence on the Effective Date.

10.4 Governmental Powers. The Franchising Authority expressly reserves the right to exercise the full scope of its powers, including, but not limited to, its police power and contracting and governmental authority, to promote the public interest and to protect the health, safety, and welfare of the citizens of the City of Spanish Fort, Alabama.

10.5 Entire Agreement. This Agreement, including all Appendices, embodies the entire understanding and agreement of the Franchising Authority and the Company with respect to the subject matter hereof and merges and supersedes all prior representations, agreements, and understandings, whether oral or written, between the Franchising Authority and the Company

with respect to the subject matter hereof, including without limitation all prior drafts of this Agreement and any Appendix to this Agreement, and any and all written or oral statements or representations by any official, employee, agent, attorney, consultant, or independent contractor of the Franchising Authority or the Company.

10.6 Notices. All notices shall be in writing and shall be sufficiently given and served upon the other party by first class mail, registered or certified, return receipt requested, postage prepaid; by third-party commercial carrier; or via facsimile (with confirmation of transmission) and addressed as follows:

THE FRANCHISING AUTHORITY:
City of Spanish Fort
Attn: Mayor
7361 Spanish Fort Blvd
Spanish Fort, Alabama 36527

COMPANY:
Comcast of Alabama, LLC
Attn: Vice President, External Affairs
2605 Circle 75 Parkway
Atlanta, Georgia 30339

With a copy to: Comcast Cable Communications, LLC
Attn: Vice President, Government Affairs
2605 Circle 75 Parkway
Atlanta, Georgia 30339

And: Comcast Cable Communications, LLC
Attn: Legal Department
One Comcast Center
1701 John F. Kennedy Boulevard
Philadelphia, Pennsylvania 19103

10.7 Additional Representations and Warranties. In addition to the representations, warranties, and covenants of the Company to the Franchising Authority set forth elsewhere in this Agreement, the Company represents and warrants to the Franchising Authority and covenants and agrees (which representations, warranties, covenants and agreements shall not be affected or waived by any inspection or examination made by or on behalf of the Franchising Authority) that, as of the Effective Date:

10.7.1 Organization, Standing, and Authorization. The Company is a limited liability company validly existing and in good standing under the laws of the State of Alabama and is duly authorized to do business in the State of Alabama and in the Franchise Area.

10.7.2 Compliance with Law. The Company, to the best of its knowledge, has obtained all government licenses, permits, and authorizations necessary for the operation and maintenance of the Cable System.

10.8 Maintenance of System in Good Working Order. Until the termination of this Agreement and the satisfaction in full by the Company of its obligations under this Agreement, in consideration of the Franchise, the Company agrees that it will maintain all of the material properties, assets, and equipment of the Cable System, and all such items added in connection with any upgrade, in good repair and proper working order and condition throughout the term of this Agreement.

10.9 Binding Effect. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors, permitted transferees, and assigns. All of the provisions of this Agreement apply to the Company, its successors and assigns.

10.10 No Waiver; Cumulative Remedies. No failure on the part of the Franchising Authority or the Company to exercise, and no delay in exercising, any right or remedy hereunder including without limitation the rights and remedies set forth in this Agreement, shall operate as a waiver thereof, nor shall any single or partial exercise of any such right or remedy preclude any other right or remedy, all subject to the conditions and limitations established in this Agreement. The rights and remedies provided in this Agreement including without limitation the rights and remedies set forth in Section 6 of this Agreement, are cumulative and not exclusive of any remedies provided by law, and nothing contained in this Agreement shall impair any of the rights or remedies of the Franchising Authority or Company under applicable law, subject in each case to the terms and conditions of this Agreement.

10.11 Severability. If any section, subsection, sentence, clause, phrase, or other portion of this Agreement is, for any reason, declared invalid, in whole or in part, by any court, agency, commission, legislative body, or other authority of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent portion. Such declaration shall not affect the validity of the remaining portions of this Agreement, which shall continue in full force and effect.

10.12 No Agency. The Company shall conduct the work to be performed pursuant to this Agreement as an independent entity and not as an agent of the Franchising Authority.

10.13 Governing Law. This Agreement shall be deemed to be executed in the City of Spanish Fort, Alabama, and shall be governed in all respects, including validity, interpretation, and effect, by and construed in accordance with the laws of the State of Alabama, as applicable to contracts entered into and to be performed entirely within that state.

10.14 Claims Under Agreement. The Franchising Authority and the Company, agree that, except to the extent inconsistent with Section 635 of the Cable Act (47 U.S.C. § 555), any and all claims asserted by or against the Franchising Authority arising under this Agreement or related thereto shall be heard and determined either in a court of the United States located in Alabama ("Federal Court") or in a court of the State of Alabama of appropriate jurisdiction ("Alabama State Court"). To effectuate this Agreement and intent, the Company agrees that if the

Franchising Authority initiates any action against the Company in Federal Court or in Alabama State Court, service of process may be made on the Company either in person or by registered mail addressed to the Company at its offices as defined in Section 10.6, or to such other address as the Company may provide to the Franchising Authority in writing.

10.15 Modification. The Company and Franchising Authority may at any time during the term of this Agreement seek a modification, amendment, or waiver of any term or condition of this Agreement. No provision of this Agreement nor any Appendix to this Agreement shall be amended or otherwise modified, in whole or in part, except by an instrument, in writing, duly executed by the Franchising Authority and the Company, which amendment shall be authorized on behalf of the Franchising Authority through the adoption of an appropriate resolution, letter of agreement, or order by the Franchising Authority, as required by applicable law.

10.16 Delays and Failures Beyond Control of Company. Notwithstanding any other provision of this Agreement, the Company shall not be liable for delay in performance of, or failure to perform, in whole or in part, its obligations pursuant to this Agreement due to strike, war or act of war (whether an actual declaration of war is made or not), insurrection, riot, act of public enemy, accident, fire, flood or other act of God, technical failure, sabotage, or other events, where the Company has exercised all due care in the prevention thereof, to the extent that such causes or other events are beyond the control of the Company and such causes or events are without the fault or negligence of the Company. In the event that any such delay in performance or failure to perform affects only part of the Company's capacity to perform, the Company shall perform to the maximum extent it is able to do so and shall take all steps within its power to correct such cause(s). The Company agrees that in correcting such cause(s), it shall take all reasonable steps to do so in as expeditious a manner as possible. The Company shall promptly notify the Franchising Authority in writing of the occurrence of an event covered by this Section 10.16.

10.17 Duty to Act Reasonably and in Good Faith. The Company and the Franchising Authority shall fulfill their obligations and exercise their rights under this Agreement in a reasonable manner and in good faith. Notwithstanding the omission of the words "reasonable," "good faith," or similar terms in the provisions of this Agreement, every provision of this Agreement is subject to this section.

10.18 Contractual Rights Retained. Nothing in this Agreement is intended to impair the contractual rights of the Franchising Authority or the Company under this Agreement.

10.19 No Third-Party Beneficiaries. Nothing in this Agreement, or any prior agreement, is or was intended to confer third-party beneficiary status on any member of the public to enforce the terms of such agreements or Franchise.

IN WITNESS WHEREOF, the party of the first part, by its Mayor, thereunto duly authorized by the City Council of said Franchising Authority, has caused the name of said Franchising Authority to be hereunto signed and the corporate seal of said Franchising Authority to be hereunto affixed, and the Company, the party of the second part, by its officers thereunto duly authorized, has caused its name to be hereunto signed and its seal to be hereunto affixed as of the date and year first above written.

City of Spanish Fort, Alabama

By: _____

Name:

Title: Mayor

(Seal)

Attest: _____

Date: _____

Comcast of Alabama, LLC

By: _____

Name: Michael McArdle

Title: Regional Senior Vice President

Attest: _____

Date: _____

APPENDIX A DEFINED TERMS

For purposes of the Agreement to which this Appendix A is appended, the following terms, phrases, words, and their derivations shall have the meanings set forth herein, unless the context clearly indicates that another meaning is intended.

“Agreement” means the Agreement to which this Appendix A is appended, together with all Appendices attached thereto and all amendments or modifications thereto.

“Basic Service” means any service tier that includes the retransmission of local television broadcast Signals and any equipment or installation used in connection with Basic Service.

“Cable Act” means Title VI of the Communications Act of 1934 as amended, 47 U.S.C. § 521, *et seq.*

“Cable Service” means the one-way transmission to Subscribers of Video Programming or other programming service and Subscriber interaction, if any, which is required for the selection or use of such Video Programming or other programming service. “Cable Service” does not include any Video Programming provided by a commercial mobile service provider as defined in 47 U.S.C. §332(d).

“Cable Service Provider” or **“CSP”** means any person or group of persons (A) who provides Cable Service over a Cable System and directly or through one or more affiliates owns a significant interest in such Cable System, or (B) who otherwise controls or is responsible for, through any arrangement, the management and operation of such a Cable System.

“Cable System” means a facility, consisting of a set of closed transmission paths and associated Signal generation, reception, and control equipment, that is designed to provide Cable Service, which includes Video Programming and which is provided to multiple Subscribers within a community, but “Cable System” does not include:

(A) a facility that serves only to retransmit the television Signals of one (1) or more television broadcast stations;

(B) a facility that serves Subscribers without using any public right-of-way as defined herein;

(C) a facility of a common carrier which is subject, in whole or in part, to the provisions of 47 U.S.C. §§201–276, except that such facility shall be considered a Cable System, other than for purposes of 47 U.S.C. § 541(c), to the extent such facility is used in the transmission of Video Programming directly to Subscribers, unless the extent of such use is solely to provide interactive on-demand services;

(D) an open video system that complies with 47 U.S.C. § 573; or

(E) any facilities of any electric utility used solely for operating its electric utility system.

“Channel” means a “cable channel” or “channel” as defined in 47 U.S.C. § 522(4).

“Company” means Comcast of Alabama, LLC, a limited liability company validly existing under the laws of the State of Alabama, or lawful successor, transferee, designee, or assignee thereof.

“FCC” means the Federal Communications Commission, its designee, or any successor thereto.

“Franchise Area” means the incorporated areas of the City of Spanish Fort, Alabama, including any areas annexed by the Franchising Authority during the term of the Franchise.

“Franchising Authority” means the City of Spanish Fort, Alabama, or lawful successor, transferee, designee, or assignee thereof.

“Gross Revenues” means: all revenue derived by Company, its affiliates, subsidiaries, or parent, or Person from the operation of its Cable System to provide Cable Service within the Franchise Area. Gross Revenues shall include, but not be limited to, Cable Service fees, advertising sales booked in accordance with Applicable Laws and GAAP, home shopping revenue, installation, disconnection and reconnection fees, equipment rental fees, late fees, guides and Franchise Fees. The term Gross Revenue shall not include refundable deposits, bad debt (provided that if amounts previously representing bad debt are collected, then those amounts shall be included in Gross Revenues for the period in which they are collected), investment income, programming launch support payments so long as not booked as revenue by Company, nor any taxes on services furnished by Company imposed by any county, state, or other governmental unit and collected by Company for such governmental unit or non-sufficient fund charges. A Franchise Fee is not such a tax. The Franchising Authority acknowledges and accepts that Company maintains its books and records in accordance with Generally Accepted Accounting Principles ("GAAP").

Resolution of any disputes over the classification of revenue should first be attempted by agreement of the Parties, but should no resolution be reached, the Parties agree that deference shall be given to generally accepted accounting principles ("GAAP") as promulgated and defined by the Financial Accounting Standards Board ("FASB"), Emerging Issues Task Force ("EITF") and/ or the U.S. Securities and Exchange Commission ("SEC"). Notwithstanding the forgoing, the Franchising Authority reserves its right to challenge Company's calculation of Gross Revenues, including the use or interpretation of GAAP as promulgated and defined by the FASB, EITF and/or the SEC.

Notwithstanding anything in this Agreement to the contrary, the Franchising Authority reserves the right to charge a franchise fee on the gross revenues from services provided by the Company to the extent such service may be considered a cable service under

applicable law, as the same may be amended, and may impose, charge, levy, decrease or increase such fee upon sixty (60) days written notice to the Company.

“Person” means any natural person or any association, firm, partnership, joint venture, corporation, or other legally recognized entity, whether for-profit or not-for-profit, but shall not mean the Franchising Authority.

“Signal” means any transmission of radio frequency energy or of optical information.

“Streets” means the surface of, and the space above and below, any and all streets, avenues, highways, boulevards, concourses, driveways, bridges, tunnels, parkways, and waterways within and belonging to the Franchising Authority and any other property within the Franchise Area to the extent to which there exist public easements or public rights-of-way.

“Subscriber” means any Person lawfully receiving Video Service from a Video Service Provider or Cable Service from a Cable Service Provider.

“Video Programming” means programming provided by or generally considered comparable to programming provided by a television broadcast station, as set forth in 47 U.S.C. § 522(20).

“Video Service” means the provision of Video Programming through wireline facilities located at least in part in the public rights-of-way without regard to delivery technology, including Internet protocol technology. This definition does not include any Video Programming provided by a commercial mobile service provider as defined in 47 U.S.C. § 332(d) or Video Programming provided as part of, and via, a service that enables users to access content, information, electronic mail, or other services offered over the public Internet.

“Video Service Provider” or “VSP” means an entity providing Video Service as defined herein, but does not include a Cable Service Provider.

APPENDIX B
CUSTOMER SERVICE STANDARDS

Code of Federal Regulations

Title 47, Volume 4, Parts 70 to 79

Revised as of October 1, 1998

From the U.S. Government Printing Office via GPO Access

47 C.F.R. § 76.309

Page 561–63

TITLE 47—TELECOMMUNICATION
CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION
PART 76—CABLE TELEVISION SERVICE
Subpart H—General Operating Requirements

§ 76.309 Customer service obligations.

(a) A cable franchise authority may enforce the customer service standards set forth in paragraph (c) of this section against cable operators. The franchise authority must provide affected cable operators ninety (90) days written notice of its intent to enforce the standards.

(b) Nothing in this rule should be construed to prevent or prohibit:

- (1) A franchising authority and a cable operator from agreeing to customer service requirements that exceed the standards set forth in paragraph (c) of this section;
- (2) A franchising authority from enforcing, through the end of the franchise term, pre-existing customer service requirements that exceed the standards set forth in paragraph (c) of this section and are contained in current franchise agreements;
- (3) Any State or any franchising authority from enacting or enforcing any consumer protection law, to the extent not specifically preempted herein; or
- (4) The establishment or enforcement of any State or municipal law or regulation concerning customer service that imposes customer service requirements that exceed, or address matters not addressed by the standards set forth in paragraph (c) of this section.

(c) Effective July 1, 1993, a cable operator shall be subject to the following customer service standards:

(1) Cable system office hours and telephone availability—

(i) The cable operator will maintain a local, toll-free or collect call telephone access line which will be available to its subscribers 24 hours a day, seven days a week.

(A) Trained company representatives will be available to respond to customer telephone inquiries during normal business hours.

(B) After normal business hours, the access line may be answered by a service or an automated response system, including an answering machine. Inquiries received after normal business hours must be responded to by a trained company representative on the next business day.

(ii) Under normal operating conditions, telephone answer time by a customer representative, including wait time, shall not exceed thirty (30) seconds when the connection is made. If the call needs to be transferred, transfer time shall not exceed thirty (30) seconds. These standards shall be met no less than ninety (90) percent of the time under normal operating conditions, measured on a quarterly basis.

(iii) The operator will not be required to acquire equipment or perform surveys to measure compliance with the telephone answering standards above unless an historical record of complaints indicates a clear failure to comply.

(iv) Under normal operating conditions, the customer will receive a busy signal less than three (3) percent of the time.

(v) Customer service center and bill payment locations will be open at least during normal business hours and will be conveniently located.

(2) Installations, outages and service calls. Under normal operating conditions, each of the following four standards will be met no less than ninety five (95) percent of the time measured on a quarterly basis:

(i) Standard installations will be performed within seven (7) business days after an order has been placed. "Standard" installations are those that are located up to 125 feet from the existing distribution system.

(ii) Excluding conditions beyond the control of the operator, the cable operator will begin working on "service interruptions" promptly and in no event later than 24 hours after the interruption becomes known. The cable operator must begin actions to correct other service problems the next business day after notification of the service problem.

(iii) The "appointment window" alternatives for installations, service calls, and other installation activities will be either a specific time or, at maximum, a four-hour time block during normal business hours. (The operator may schedule service calls and other installation activities outside of normal business hours for the express convenience of the customer.)

(iv) An operator may not cancel an appointment with a customer after the close of business on the business day prior to the scheduled appointment.

(v) If a cable operator representative is running late for an appointment with a customer and will not be able to keep the appointment as scheduled, the customer will be contacted. The appointment will be rescheduled, as necessary, at a time which is convenient for the customer.

(3) Communications between cable operators and cable subscribers—

(i) Notifications to subscribers—

(A) The cable operator shall provide written information on each of the following areas at the time of installation of service, at least annually to all subscribers, and at any time upon request:

(1) Products and services offered;

(2) Prices and options for programming services and conditions of subscription to programming and other services;

(3) Installation and service maintenance policies;

(4) Instructions on how to use the cable service;

(5) Channel positions programming carried on the system; and,

(6) Billing and complaint procedures, including the address and telephone number of the local franchise authority's cable office.

(B) Customers will be notified of any changes in rates, programming services or channel positions as soon as possible in writing. Notice must be given to subscribers a minimum of thirty (30) days in advance of such changes if the change is within the control of the cable operator. In addition, the cable operator shall notify subscribers thirty (30) days in advance of any significant changes in the other information required by paragraph (c)(3)(i)(A) of this section. Notwithstanding any other provision of Part 76, a cable operator shall not be required to provide prior notice of any rate change that is the result of a regulatory fee, franchise fee, or any other fee, tax, assessment, or charge of any kind imposed by any Federal agency, State, or franchising authority on the transaction between the operator and the subscriber.

(ii) Billing—

(A) Bills will be clear, concise and understandable. Bills must be fully itemized, with itemizations including, but not limited to, basic and

premium service charges and equipment charges. Bills will also clearly delineate all activity during the billing period, including optional charges, rebates and credits.

(B) In case of a billing dispute, the cable operator must respond to a written complaint from a subscriber within 30 days.

(iii) Refunds—Refund checks will be issued promptly, but no later than either—

(A) The customer's next billing cycle following resolution of the request or thirty (30) days, whichever is earlier, or

(B) The return of the equipment supplied by the cable operator if service is terminated.

(iv) Credits—Credits for service will be issued no later than the customer's next billing cycle following the determination that a credit is warranted.

(4) Definitions—

(i) Normal business hours—The term “normal business hours” means those hours during which most similar businesses in the community are open to serve customers. In all cases, “normal business hours” must include some evening hours at least one night per week and/or some weekend hours.

(ii) Normal operating conditions—The term “normal operating conditions” means those service conditions which are within the control of the cable operator. Those conditions which are not within the control of the cable operator include, but are not limited to, natural disasters, civil disturbances, power outages, telephone network outages, and severe or unusual weather conditions. Those conditions which are ordinarily within the control of the cable operator include, but are not limited to, special promotions, pay-per-view events, rate increases, regular peak or seasonal demand periods, and maintenance or upgrade of the cable system.

(iii) Service interruption—The term “service interruption” means the loss of picture or sound on one or more cable channels.

[58 FR 21109, Apr. 19, 1993, as amended at 61 FR 18977, Apr. 30, 1996]

SECTION 2. 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 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.

SECTION 4. Effective Date. This Ordinance shall become effective only upon receipt of a written unconditional acceptance by the Franchisee of the terms and conditions contained herein within thirty (30) days of the passage of this Ordinance.

ADOPTED AND APPROVED this _____ *day of* _____, **2024.**

CITY OF SPANISH FORT, ALABAMA

BY: _____
Michael M. McMillan
Mayor

ATTEST:

Rebecca A. Gaines
City Clerk, CMC

ORDINANCE NO. 671-2024

AN ORDINANCE AMENDING ORDINANCE NO. 51-96 OF THE CITY OF SPANISH FORT ESTABLISHING THE ZONING CLASSIFICATION OF CERTAIN PROPERTY AS B-2, LOCAL BUSINESS DISTRICT

WHEREAS, the owner of the property, Mag 7 LLC, has requested the property described below be pre-zoned in accordance with Ala. Code § 11-52-85 (1975); and

WHEREAS, the owner has submitted a request in writing that the subject property be zoned B-2, Local Business District, upon its annexation into the corporate limits of the City of Spanish Fort; and

WHEREAS, the Planning Commission of the City of Spanish Fort, Alabama, held a meeting on June 10, 2024, and the City Council of the City of Spanish Fort held a meeting on July 1, 2024, for the purpose of receiving public comments on the proposed zoning classification.

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

SECTION 1. Establishment of Zoning Classification.

In accordance with Ala. Code § 11-52-85 (1975), upon annexation of that certain property, or portion thereof, bearing Baldwin County Tax Parcel No. 05-29-05-16-0-000-001.004, 05-29-05-21-0-000-001.004 and 05-29-05-22-0-000-008.000 into the corporate limits of the City of Spanish Fort, said property being more particularly described as set forth in the legal description in Exhibit “A” which is attached hereto and made a part of this Ordinance as though set forth fully herein, the said property, or any portion thereof annexed into the City, shall be zoned B-2, Local Business District. A map of the subject property is attached as Exhibit “B” hereto.

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 establishment of the zoning classification of B-2, Local 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* _____, 2024.

Michael M. McMillan
Mayor

ATTEST:

Rebecca A. Gaines
City Clerk

EXHIBIT “A” TO ORDINANCE NO. 671-2024

LEGAL DESCRIPTION:

BEGINNING AT THE NORTHWEST CORNER OF LOT 1, WHITEHOUSE CREEK ACRES SUBDIVISION, AS RECORDED IN A MAP OR PLAT THEREOF, IN SLIDE 1262-B, IN THE OFFICE OF THE JUDGE OF PROBATE COURT, BALDWIN COUNTY, ALABAMA:

THENCE RUN SOUTHERLY ALONG THE WEST LINE OF SAID LOT 1, A DISTANCE OF 938 FEET, MORE OR LESS, TO THE SOUTHEAST CORNER OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 22, TOWNSHIP 3 SOUTH, RANGE 2 EAST, BALDWIN COUNTY, ALABAMA;

THENCE RUN WESTERLY ALONG THE SOUTH LINE OF THE NORTHWEST QUARTER OF SECTION 22 AND ALSO THE SOUTH LINE OF THE NORTHEAST QUARTER OF SECTION 21, BOTH BEING IN TOWNSHIP 3 SOUTH, RANGE 2 EAST, BALDWIN COUNTY, ALABAMA, A DISTANCE OF 3960 FEET, MORE OR LESS, TO THE SOUTHWEST CORNER OF THE NORTHEAST QUARTER OF SECTION 21, TOWNSHIP 3 SOUTH, RANGE 2 EAST, BALDWIN COUNTY, ALABAMA;

THENCE RUN NORTHERLY, ALONG THE WEST LINE OF THE NORTHEAST QUARTER OF SECTION 21, TOWNSHIP 3 SOUTH, RANGE 2 EAST, BALDWIN COUNTY, ALABAMA,, A DISTANCE OF 1827, MORE OR LESS, TO A POINT ON THE SOUTHERN BOUNDARY OF PARCEL NUMBER 05-29-05-21-0-000-001.002, CURRENT OWNER BEING DARYL LEE - LIFE ESTATE;

THENCE RUN SOUTHEASTERLY, ALONG SAID SOUTHERN BOUNDARY, A DISTANCE OF 166 FEET, MORE OR LESS, TO THE SOUTHEAST CORNER OF PARCEL NUMBER 05-29-05-21-0-000-001.002, CURRENT OWNER BEING DARYL LEE - LIFE ESTATE;

THENCE RUN NORTHEASTERLY, ALONG THE EASTERN BOUNDARY OF PARCEL NUMBER 05-29-05-21-0-000-001.002, CURRENT OWNER BEING DARYL LEE - LIFE ESTATE, A DISTANCE OF 228 FEET, MORE OR LESS, TO THE NORTHEAST CORNER OF PARCEL NUMBER 05-29-05-21-0-000-001.002, CURRENT OWNER BEING DARYL LEE - LIFE ESTATE;

THENCE RUN NORTHWESTERLY, ALONG THE NORTHERN BOUNDARY OF PARCEL NUMBER 05-29-05-21-0-000-001.002, CURRENT OWNER BEING DARYL LEE - LIFE ESTATE, A DISTANCE OF 118 FEET, TO THE SOUTHEAST CORNER OF PARCEL NUMBER 05-29-05-21-0-000-001.001, CURRENT OWNER BEING DARYL LEE- LIFE ESTATE;

THENCE RUN NORTHEASTERLY, ALONG THE EASTERN BOUNDARY OF PARCEL NUMBER 05-29-05-21-0-000-001.001, CURRENT OWNER BEING DARYL LEE- LIFE ESTATE, A DISTANCE OF 243 FEET, MORE OR LESS, TO THE SOUTHEAST CORNER OF PARCEL NUMBER 05-29-05-16-0-000-006.000, CURRENT OWNER BEING THOMAS EUGENE COOK SR.;

THENCE RUN NORTHERLY, ALONG THE EASTERN BOUNDARY OF PARCEL NUMBER 05-29-05-16-0-000-006.000, CURRENT OWNER BEING THOMAS EUGENE COOK SR., A DISTANCE OF 275 FEET, MORE OR LESS, TO THE NORTHEAST CORNER OF PARCEL NUMBER 05-29-05-16-0-000-006.000, CURRENT OWNER BEING THOMAS EUGENE COOK SR.;

THENCE RUN NORTHWESTERLY, ALONG THE NORTHERN BOUNDARY OF PARCEL NUMBER 05-29-05-16-0-000-006.000, CURRENT OWNER BEING THOMAS EUGENE COOK SR., A DISTANCE OF 334 FEET, MORE OR LESS, TO THE SOUTHEAST CORNER OF PARCEL NUMBER 05-29-05-16-0-000-005.002, CURRENT OWNER BEING MILDRED DIANNE TENNANT;

THENCE RUN NORTHEASTERLY, ALONG THE EASTERN BOUNDARY OF PARCEL NUMBER 05-29-05-16-0-000-005.002, CURRENT OWNER BEING MILDRED DIANNE TENNANT, A DISTANCE OF 370 FEET, MORE OR LESS, TO THE SOUTHERN RIGHT-OF-WAY OF WHITEHOUSE FORK ROAD EXTENSION;

THENCE RUN SOUTHEASTERLY, ALONG SAID SOUTHERN RIGHT-OF-WAY, A DISTANCE OF 1964 FEET, MORE OR LESS, TO A POINT ON SAID SOUTHERN RIGHT-OF-WAY, BEING A DISTANCE OF 50 FEET, MORE OR LESS, FROM THE WESTERN BRIDGE END CROSSING WHITEHOUSE CREEK;

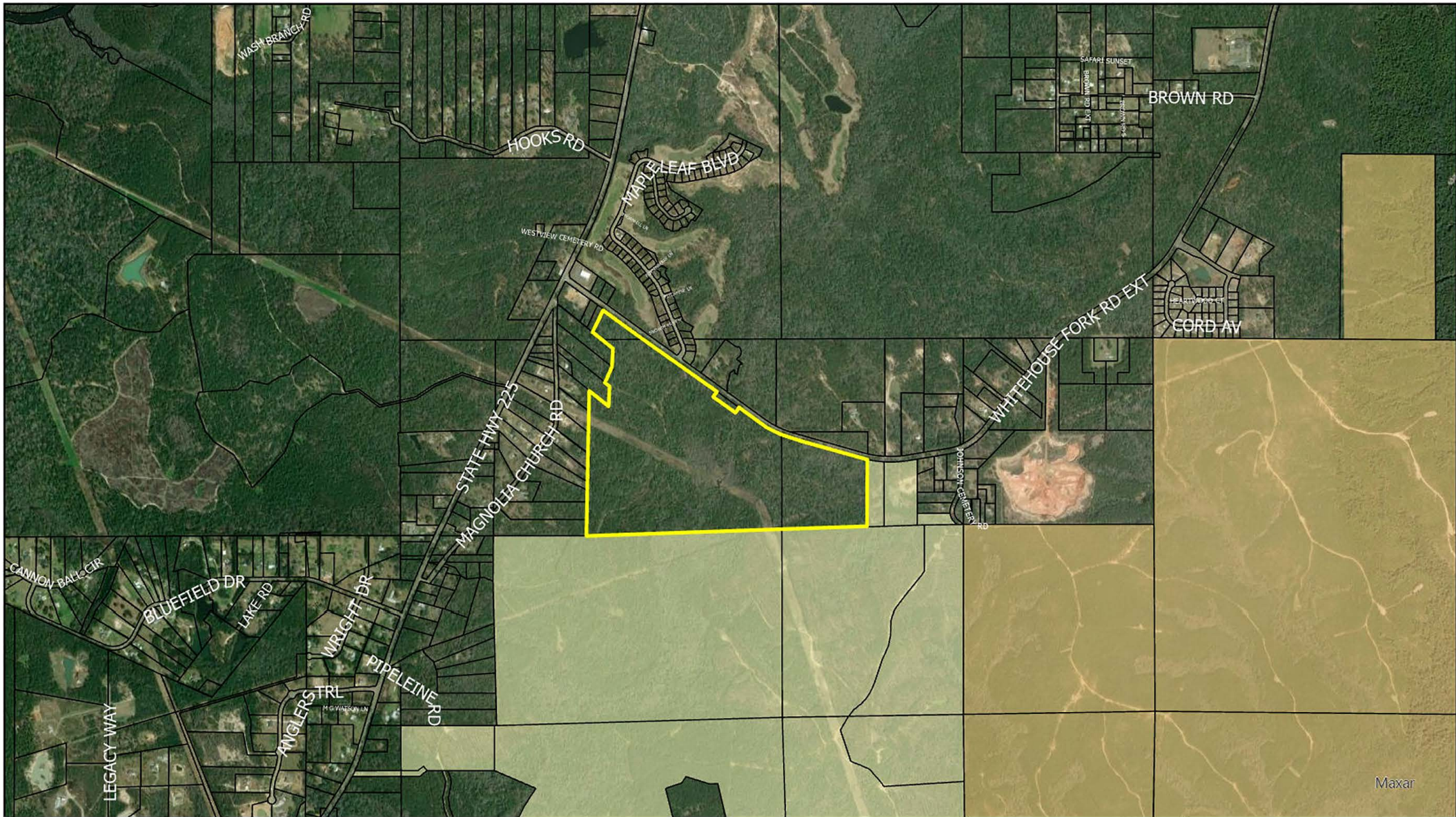
THENCE RUN SOUTHWESTERLY, LEAVING SAID SOUTHERN RIGHT-OF-WAY, A DISTANCE OF 100 FEET, MORE OR LESS;

THENCE RUN SOUTHEASTERLY A DISTANCE OF 332 FEET, MORE OR LESS;

THENCE RUN NORTHEASTERLY, A DISTANCE OF 100 FEET, MORE OR LESS, TO A POINT ON SAID SOUTHERN RIGHT-OF-WAY, BEING A DISTANCE OF 50 FEET, MORE OR LESS, FROM THE EASTERN BRIDGE END CROSSING WHITEHOUSE CREEK;

THENCE RUN SOUTHEASTERLY, ALONG SAID SOUTHERN RIGHT-OF-WAY, A DISTANCE OF 2131 FEET, MORE OR LESS, TO THE POINT OF BEGINNING. SAID ANNEXATION PARCEL, CONTAINING 162 ACRES, MORE OR LESS, AND IS LYING IN AND BEING A PART OF SECTIONS 16, 21, AND 22, ALL BEING IN TOWNSHIP 3 SOUTH, RANGE 2 EAST, BALDWIN COUNTY, ALABAMA.

Exhibit 2



Spanish_Fort_Zoni

ZONING CLASSIFICATION

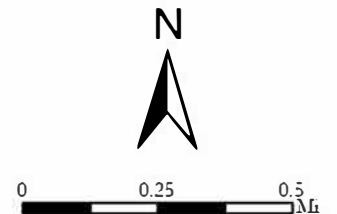
- B-1: Professional Business
- B-2: Local Business

- B-3: General Business
- B-4: Major Business District
- B-5: Hotel/Motel
- M-1: Light Industrial
- T-1: Telecommunication Tower District

- State of Alabama
- Baldwin County
- City of Spanish Fort
- PUD: Planned Unit Development
- R-1: Low-Density Single-Family Residential

- R-2: Medium-Density Single-Family Residential
- R-3: Multi-Family Residential
- R-3D: Medium Density Multi-Family Residential

- R-4: Manufactured/Mobile Home Residential
- <all other values>
- Parcels
- RoadCenterlines_08172



ORDINANCE NO. 672-2024

AN ORDINANCE AMENDING ORDINANCE NO. 51-96 OF THE CITY OF SPANISH FORT CHANGING THE ZONING CLASSIFICATION OF CERTAIN PROPERTY KNOWN AS THE KIRBY P.U.D. TO A PLANNED UNIT DEVELOPMENT AND ESTABLISHING THE ZONING CLASSIFICATION OF CERTAIN PROPERTY AS PART OF THE KIRBY P.U.D. AS A PLANNED UNIT DEVELOPMENT

WHEREAS, the owner of the property, Kirby Properties, LLC, by and through its agent, David Kirby, has requested that those portions of the property described in Exhibit “A” hereto which lie outside the municipal limits of the City of Spanish Fort, Alabama, be pre-zoned in accordance with Ala. Code § 11-52-85 (1975); and

WHEREAS, the owner has submitted a request in writing that those portions of the property described in Exhibit “A” hereto which lie outside the municipal limits of the City of Spanish Fort, Alabama, be zoned as a Planned Unit Development, upon annexation into the corporate limits of the City of Spanish Fort; and

WHEREAS, the owner has requested that the zoning classification of those portions of the property described in Exhibit “A” which lie within the corporate limits of the City of Spanish Fort, Alabama, be changed from B-3, General Business District, to a Planned Unit Development; and

WHEREAS, the Planning Commission of the City of Spanish Fort, Alabama, held a meeting on June 10, 2024, and the City Council of the City of Spanish Fort held a meeting on _____, for the purpose of receiving public comments on the proposed Planned Unit Development.

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

SECTION 1. Establishment of Zoning Classification.

In accordance with Ala. Code § 11-52-85 (1975), upon annexation of those portions of the property described in Exhibit “A” hereto which lie outside the municipal limits of the City of Spanish Fort, Alabama, into the corporate limits of the City of Spanish Fort, said property being more particularly described as set forth in the legal description in Exhibit “A” which is attached hereto and made a part of this Ordinance as though set forth fully herein, the said property, or any portion thereof annexed into the City, shall be zoned as a Planned Unit Development. A map of the subject property is attached as Exhibit “B” hereto.

SECTION 2. Change in Zoning Classification.

Upon annexation of those portions of the property described in Exhibit “A” hereto which lie outside the municipal limits of the City of Spanish Fort, Alabama, Ordinance No. 51-96, as amended, of the City of Spanish Fort, Alabama, is hereby amended by changing the zoning classification of certain property as described in the legal description set forth in Exhibit “A”, which is attached hereto and made a part of this Ordinance as though set forth fully herein, to approve a Planned Unit Development in accordance with the Master Plan attached as Exhibit “C”.

SECTION 3. Change in Zoning Map.

The official zoning map for the City of Spanish Fort is hereby amended, changed or altered to reflect the approval of the Planned Unit Development to be known as Kirby P.U.D..

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 _____, 2024.

Michael M. McMillan
Mayor

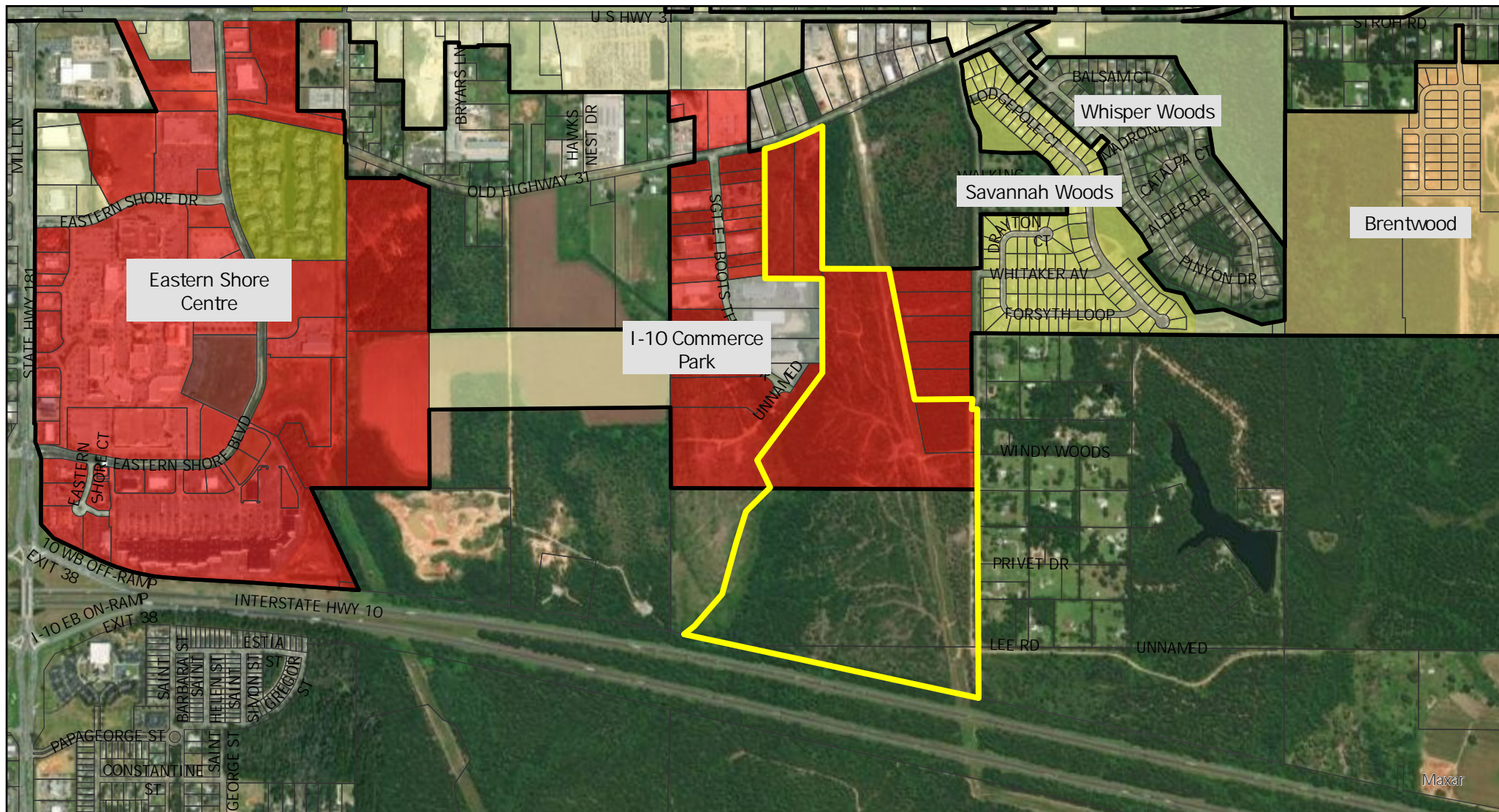
ATTEST:

Rebecca A. Gaines, CMC
City Clerk

EXHIBIT “A” TO ORDINANCE NO. 672-2024

Lot 2 and 3 and 9, I-10 Commerce Center Phase 2 according to the plat thereof recorded on Slide No. 2392-A and 2392-B, of the records in the Office of the Judge of Probate, Baldwin County, Alabama.

Lot 2 of the Resubdivision of I-10 Commerce Center, Phase 2 according to the Plat thereof recorded on Slide No. 2947-F (Document No. 2024-2124792), of the records in the Office of the Judge of Probate, Baldwin County, Alabama.



Spanish_Fort_Zoni

ZONING_CLA



B-1: Professional
Business



B-2: Local Business

B-3: General Business

B-4: Major Business
District

Baldwin County

City of Spanish Fort

M-1: Light Industrial

PUD: Planned Unit
Development

R-1: Low-Density
Single-Family
Residential

R-2: Medium-Density
Single-Family
Residential

R-3: Multi-Family
Residential

R-3D: Medium Density
Multi-Family Residential

R-4: Manufactured/
Mobile Home
Residential

State of Alabama

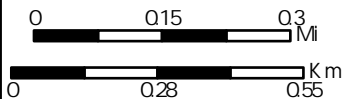
T-1: Telecommunication
Tower District

B-5: Hotel/Motel

< all other values>

SF_City_Limits_0124

N



T:\F_KIRB001 - KIRBY PROJECT MASTER PLANNING\ENGINEERING\DWG\SITE PLAN.DWG - last plotted 6/12/24 by COLIN DAVIS

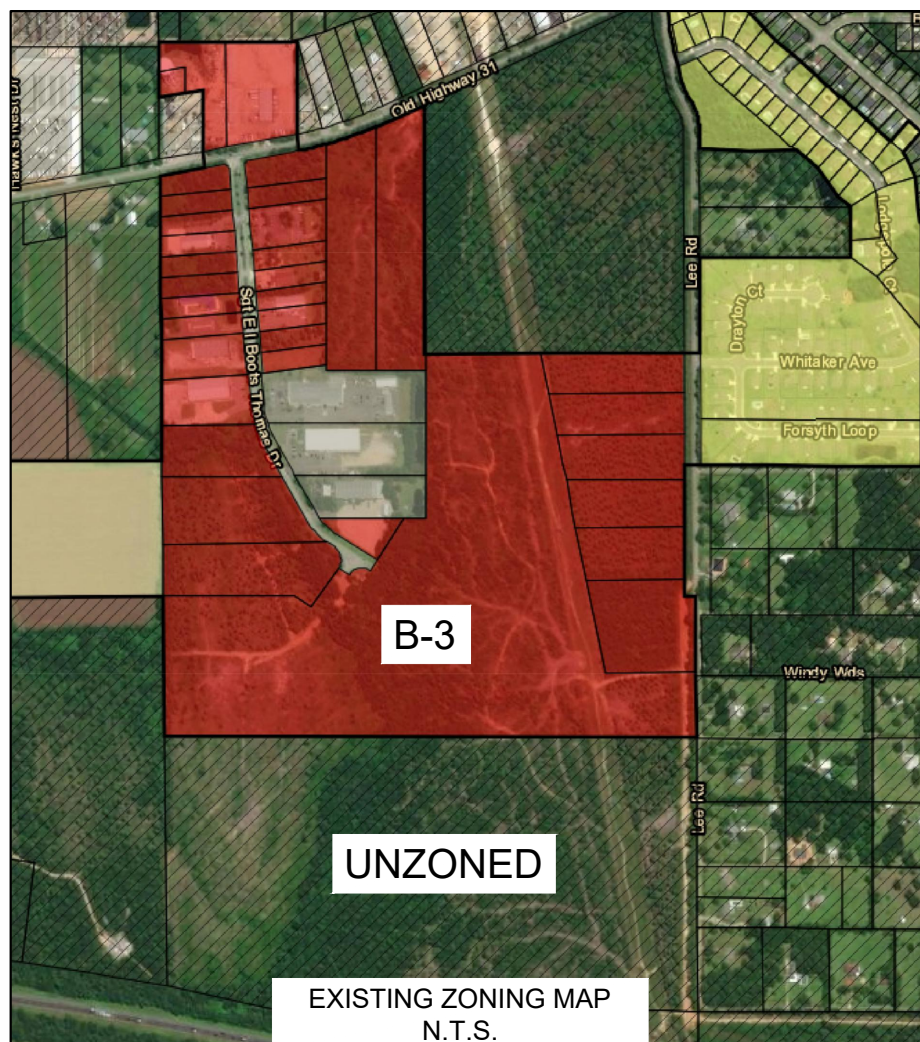
06060

SITE LEGEND

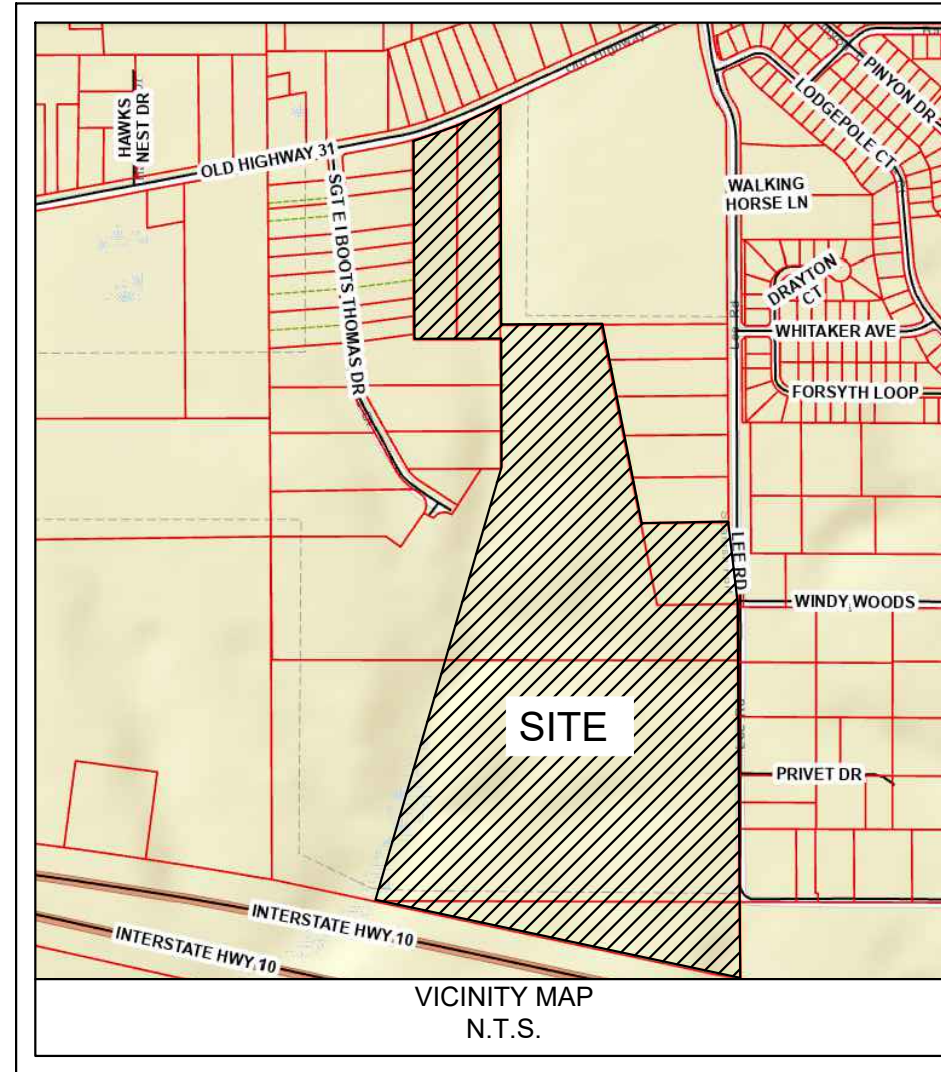
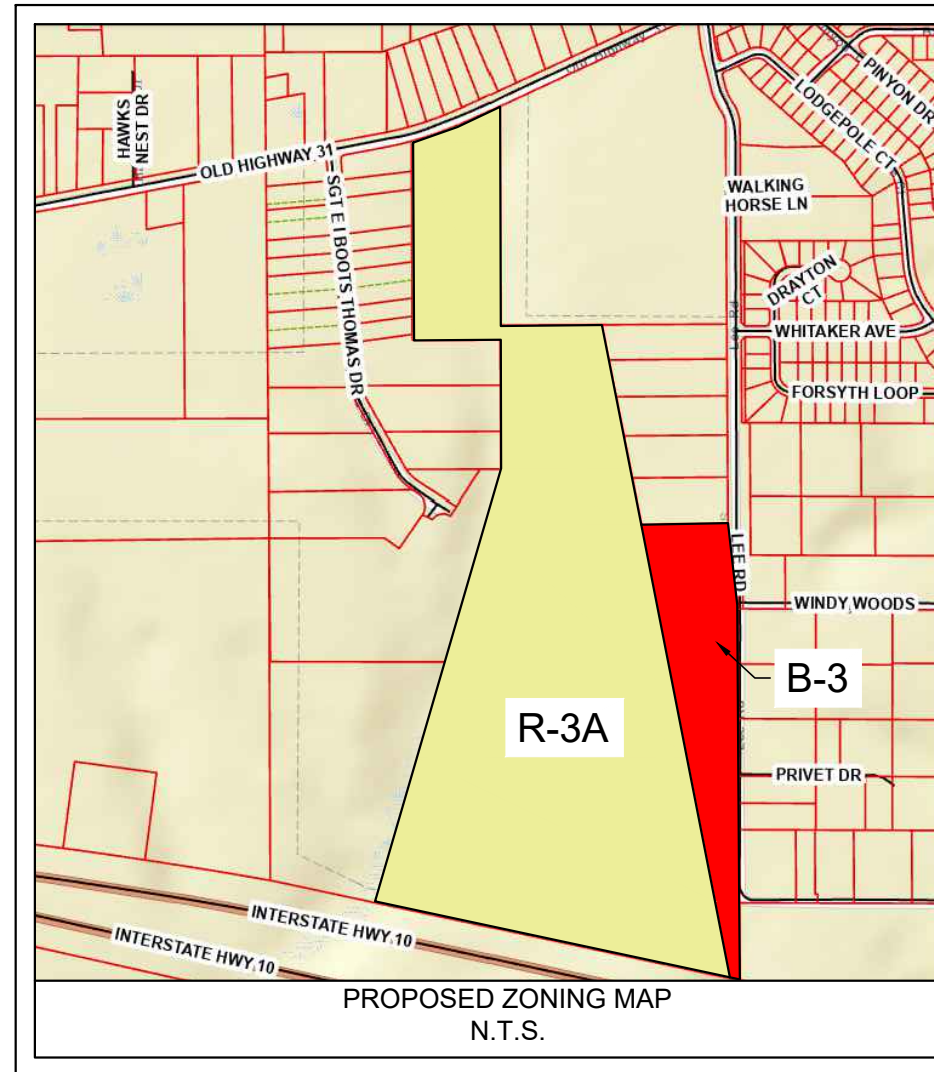
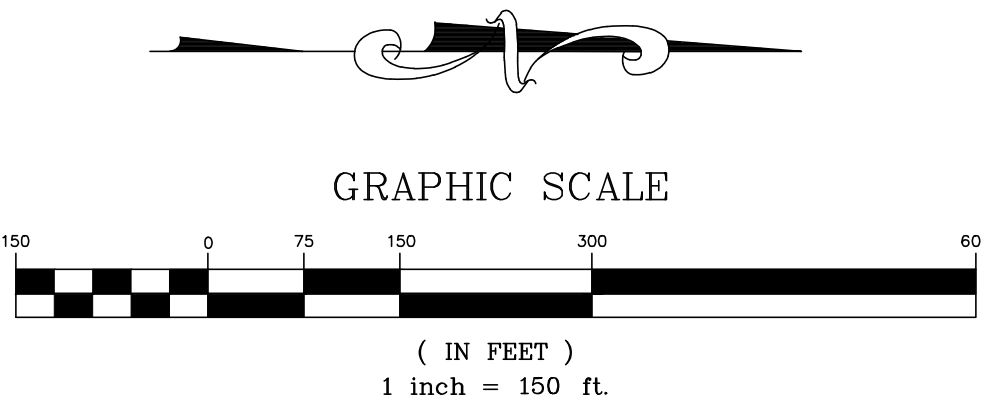
- GREEN/OPEN SPACE
- WETLANDS
- POND AREA
- 70' X 130' LOTS
- 52' X 130' LOTS
- FUTURE MINI-WAREHOUSES

NOTES:

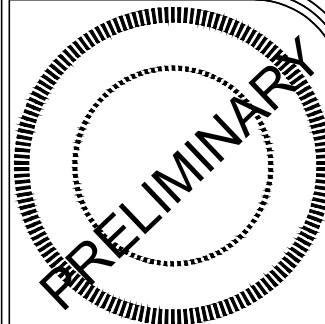
- FUTURE COMMERCIAL AREA FOR THE CONSTRUCTION OF MINI-WAREHOUSES ONLY TO BE DESIGNED AND CONSTRUCTED IN ACCORDANCE WITH THE ZONING ORDINANCE AND ALL APPLICABLE RULES AND REGULATIONS RELATED TO MINI-WAREHOUSES.



KIRBY P.U.D. MASTER PLAN



PRELIMINARY - NOT FOR CONSTRUCTION 6/12/2024



PELHAM, AL
120 BISHOP CIRCLE SUITE 300
PELHAM, AL 35124
(205) 403 - 9158
FOLEY, AL
1000 E. LAUREL STREET
FOLEY, AL 36535
(251) 943 - 8960

ISSUED FOR PUD APPROVAL - 05/08/24

REVISIONS

PROJECT ADDRESS:
OLD HWY 31
SPANISH FORT, ALABAMA

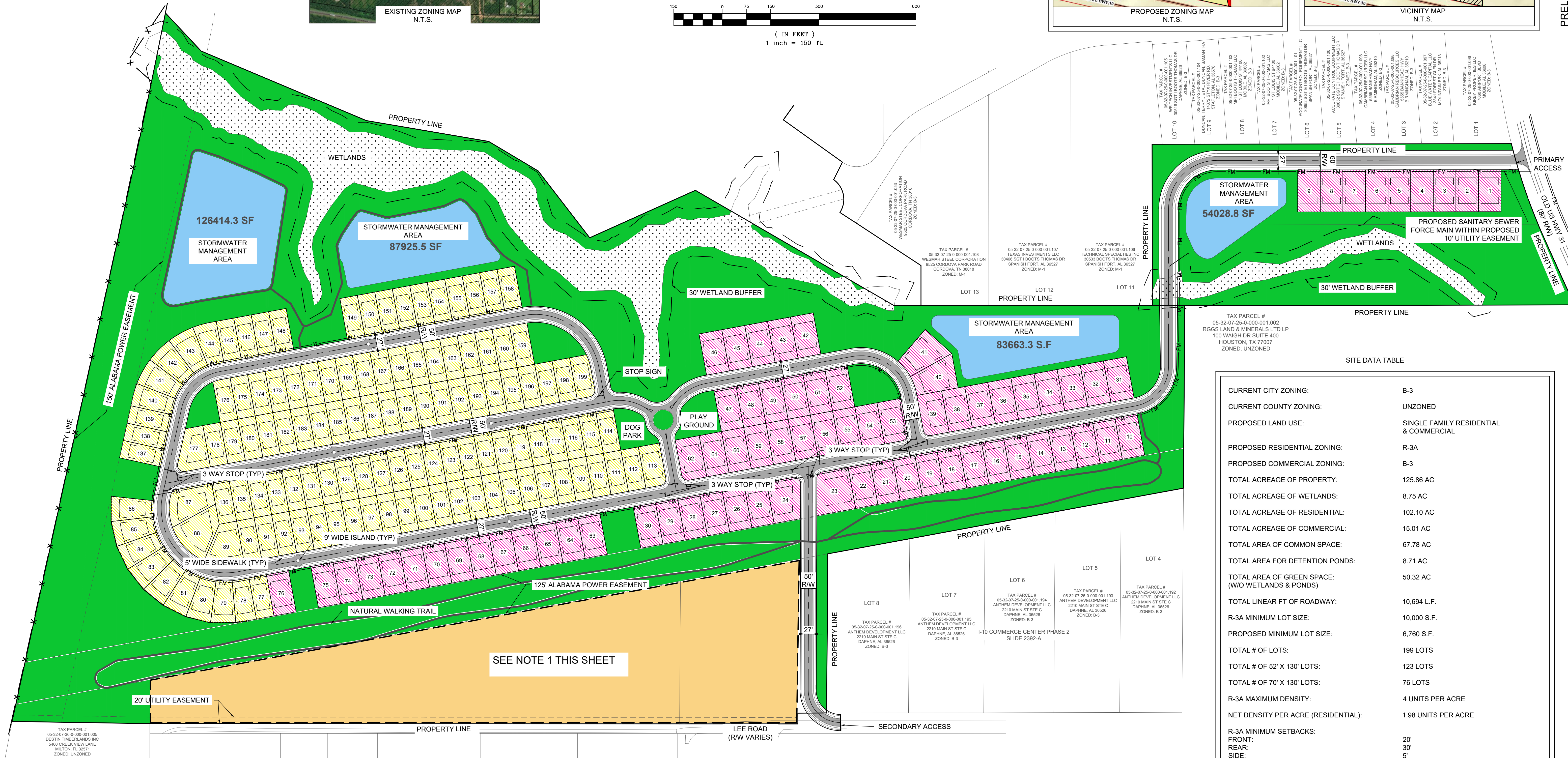
SHEET TITLE:
PUD MASTERPLAN

PROJECT NAME:

DRAWN BY:
CAW
CHECKED BY:
DTS
PROJECT No.:
F_KIRB0001
DATE:
June 12, 2024

SHEET NO.

1 OF 1



OWNER
KIRBY PROPERTIES LLC
7060 AIRPORT BLVD
MOBILE, AL 36608
CONTACT: DAVID KIRBY

CIVIL ENGINEER
ENGINEERING DESIGN GROUP, LLC
1000 E. LAUREL AVE
FOLEY, AL 36535
(251) 943 - 8960
CONTACT: DAVID STOVALL, P.E.

SURVEYOR
ENGINEERING DESIGN GROUP, LLC
1000 E. LAUREL AVE
FOLEY, AL 36535
(251) 943 - 8960
CONTACT: CRAIG JOHNSON, P.L.S.

UTILITY PROVIDERS
WATER - SPANISH FORT WATER
SEWER - BALDWIN COUNTY SEWER
POWER - RIVIERA UTILITIES

FLOOD ZONE
FEMA'S NATIONAL FLOOD HAZARD
VIEWER PER FEMA 01003C0540M,
THIS SITE IS LOCATED IN ZONE X

CURRENT CITY ZONING:	B-3
CURRENT COUNTY ZONING:	UNZONED
PROPOSED LAND USE:	SINGLE FAMILY RESIDENTIAL & COMMERCIAL
PROPOSED RESIDENTIAL ZONING:	R-3A
PROPOSED COMMERCIAL ZONING:	B-3
TOTAL ACREAGE OF PROPERTY:	125.86 AC
TOTAL ACREAGE OF WETLANDS:	8.75 AC
TOTAL ACREAGE OF RESIDENTIAL:	102.10 AC
TOTAL ACREAGE OF COMMERCIAL:	15.01 AC
TOTAL AREA OF COMMON SPACE:	67.78 AC
TOTAL AREA FOR DETENTION PONDS:	8.71 AC
TOTAL AREA OF GREEN SPACE: (W/O WETLANDS & PONDS)	50.32 AC
TOTAL LINEAR FT OF ROADWAY:	10,694 L.F.
R-3A MINIMUM LOT SIZE:	10,000 S.F.
PROPOSED MINIMUM LOT SIZE:	6,760 S.F.
TOTAL # OF LOTS:	199 LOTS
TOTAL # OF 52' X 130' LOTS:	123 LOTS
TOTAL # OF 70' X 130' LOTS:	76 LOTS
R-3A MAXIMUM DENSITY:	4 UNITS PER ACRE
NET DENSITY PER ACRE (RESIDENTIAL):	1.98 UNITS PER ACRE
R-3A MINIMUM SETBACKS:	
FRONT:	20'
REAR:	30'
SIDE:	5'
PROPOSED SETBACKS (RESIDENTIAL)	
FRONT:	25'
REAR:	25'
SIDE:	7.5'
UTILITY EASEMENT:	10' FRONT OF ALL LOTS & COMMON AREAS

RESOLUTION NO. 1414-2024

**A RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO AN
AGREEMENT WITH SUNSET CONTRACTING, INC., FOR REPAIRS AT
MENDOTA DRIVE**

**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 Sunset Contracting, Inc., in the amount of \$5,800.00 to install a concrete flume in an existing weir inlet on the right-of-way at 33850 Mendota Drive. A copy of the proposal for the proposed work is attached hereto as Exhibit 1.

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

ADOPTED AND APPROVED this ____ day of _____, 2024.

Michael M. McMillan
Mayor

ATTEST:

Rebecca A. Gaines, CMC
City Clerk

Exhibit 1 to Resolution No. 1414-2024
Sunset Contracting, Inc.

3030 Lees Lane
Mobile, Al 36693

Estimate

Date	Estimate #
5/28/2024	2015

Name / Address
CITY OF SPANISH FORT 7361 Spainsh Fort Blvd Spanish Fort, Al 36527

			Project
Description	Qty	Cost	Total
Pour a concrete flume around an existing weir inlet at 33850 Mendota Dr 20X2		5,800.00	5,800.00
		Total	\$5,800.00

Customer Signature _____

RESOLUTION NO. 1415-2024

**A RESOLUTION AMENDING THE
EMPLOYEE PAY CLASSIFICATION GUIDELINES**

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

SECTION 1. The Administrative Pay Classification Guidelines adopted by the City Council of the City of Spanish Fort in accordance with Resolution No. 1355-2023 are hereby amended in their entirety by substituting the Administrative Pay Scale which is attached hereto as Exhibit A and incorporated by reference as though set forth fully herein. The Fire Department and Police Pay Scales as established previously established and adopted shall remain in full force and effect.

SECTION 2. 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.

SECTION 3. This Resolution shall become effective immediately upon its adoption.

ADOPTED and APPROVED this ____ day of _____, 2024.

Michael M. McMillan
Mayor

ATTEST:

Rebecca A. Gaines, CMC
City Clerk

Exhibit 1 to Resolution No. 1415-2024

Payscale Admin

2023-24 Administrative and Other

HOURLY RATE				ANNUAL RATE	
JOB TITLE	GRADE	BEGINNING RATE	MAXIMUM RATE	BEGINNING ANNUAL	MAXIMUM ANNUAL
Secretary	I	\$15.44	\$24.68	\$32,105.75	\$51,325.86
Grounds Road Mtce/Custodian/Librarian Asst/Magistrate	II	\$16.30	\$26.06	\$33,912.06	\$54,213.52
	III				
Senior Center Administrative Assistant	IV	\$18.76	\$29.99	\$39,018.59	\$62,377.08
Court Clerk//Permit Clerk	V	\$19.32	\$30.89	\$40,185.03	\$64,241.81
	VI	\$19.53	\$31.22	\$40,619.59	\$64,936.52
	VII	\$20.43	\$32.66	\$42,495.04	\$67,934.70
Administrative Assistant	VIII	\$22.10	\$35.33	\$45,971.80	\$73,492.83
	IX	\$23.47	\$37.51	\$48,807.55	\$78,026.20
Planner & Zoning Official/Environmentalist/Revenue Officer/Building Inspector & Code Enforcement Officer	X	\$24.63	\$39.38	\$51,231.92	\$81,901.92
Librarian	XI	\$24.94	\$39.87	\$51,872.32	\$82,925.69
Public Works and Parks and Recreation Director/ Director of Marketing & Director of Senior Services	XII	\$29.29	\$46.83	\$60,929.39	\$97,404.78
City Clerk	XIII	\$31.39	\$50.19	\$65,297.82	\$104,388.37

Grade	Step A	Step B	Step C	Step D	Step E	Step F	Step G	Step H	Step I	Step J	Step K	Step L	Step M	Step N	Step O	Step P	Step Q	Step R	Step S	Step T
I	\$32,105.75	\$32,908.39	\$33,731.10	\$34,574.38	\$35,438.74	\$36,324.71	\$37,232.83	\$38,163.65	\$39,117.74	\$40,095.68	\$41,098.07	\$42,125.53	\$43,178.66	\$44,258.13	\$45,364.58	\$46,498.70	\$47,661.17	\$48,852.70	\$50,074.01	\$51,325.86
II	\$33,912.06	\$34,759.86	\$35,628.86	\$36,519.58	\$37,432.57	\$38,368.38	\$39,327.59	\$40,310.78	\$41,318.55	\$42,351.52	\$43,410.30	\$44,495.56	\$45,607.95	\$46,748.15	\$47,916.85	\$49,114.77	\$50,342.64	\$51,601.21	\$52,891.24	\$54,213.52
III	\$36,685.71	\$37,602.85	\$38,542.92	\$39,506.50	\$40,494.16	\$41,506.51	\$42,544.18	\$43,607.78	\$44,697.98	\$45,815.42	\$46,960.81	\$48,134.83	\$49,338.20	\$50,571.66	\$51,835.95	\$53,131.85	\$54,460.14	\$55,821.65	\$57,217.19	\$58,647.62
IV	\$39,018.59	\$39,994.05	\$40,993.91	\$42,018.75	\$43,069.22	\$44,145.95	\$45,249.60	\$46,380.84	\$47,540.36	\$48,728.87	\$49,947.09	\$51,195.77	\$52,475.67	\$53,787.56	\$55,132.25	\$56,510.55	\$57,923.32	\$59,371.40	\$60,855.68	\$62,377.08
V	\$40,185.03	\$41,189.66	\$42,219.40	\$43,274.88	\$44,356.75	\$45,465.67	\$46,602.31	\$47,767.37	\$48,961.56	\$50,185.60	\$51,440.24	\$52,726.24	\$54,044.40	\$55,395.51	\$56,780.40	\$58,199.91	\$59,654.90	\$61,146.28	\$62,674.93	\$64,241.81
VI	\$40,619.59	\$41,635.08	\$42,675.96	\$43,742.86	\$44,836.43	\$45,957.34	\$47,106.27	\$48,283.93	\$49,491.03	\$50,728.30	\$51,996.51	\$53,296.42	\$54,628.83	\$55,994.55	\$57,394.42	\$58,829.28	\$60,300.01	\$61,807.51	\$63,352.70	\$64,936.52
VII	\$42,495.04	\$43,557.42	\$44,646.35	\$45,762.51	\$46,906.57	\$48,079.24	\$49,281.22	\$50,513.25	\$51,776.08	\$53,070.48	\$54,397.24	\$55,757.18	\$57,151.10	\$58,579.88	\$60,044.38	\$61,545.49	\$63,084.13	\$64,661.23	\$66,277.76	\$67,934.70
VIII	\$45,971.80	\$47,121.10	\$48,299.12	\$49,506.60	\$50,744.27	\$52,012.87	\$53,313.19	\$54,646.02	\$56,012.17	\$57,412.48	\$58,847.79	\$60,318.99	\$61,826.96	\$63,372.63	\$64,956.95	\$66,580.87	\$68,245.40	\$69,951.53	\$71,700.32	\$73,492.83
IX	\$48,807.55	\$50,027.74	\$51,278.43	\$52,560.39	\$53,874.40	\$55,221.26	\$56,601.79	\$58,016.84	\$59,467.26	\$60,953.94	\$62,477.79	\$64,039.74	\$65,640.73	\$67,281.75	\$68,963.79	\$70,687.89	\$72,455.08	\$74,266.46	\$76,123.12	\$78,026.20
X	\$51,231.92	\$52,512.72	\$53,825.54	\$55,171.17	\$56,550.45	\$57,964.22	\$59,413.32	\$60,898.65	\$62,421.12	\$63,981.65	\$65,581.19	\$67,220.72	\$68,901.24	\$70,623.77	\$72,389.36	\$74,199.10	\$76,054.07	\$77,955.43	\$79,904.31	\$81,901.92
XI	\$51,872.32	\$53,169.13	\$54,498.36	\$55,860.82	\$57,257.34	\$58,688.77	\$60,155.99	\$61,659.89	\$63,201.38	\$64,781.42	\$66,400.96	\$68,060.98	\$69,762.50	\$71,506.57	\$73,294.23	\$75,126.59	\$77,004.75	\$78,929.87	\$80,903.12	\$82,925.69
XII	\$60,929.39	\$62,452.62	\$64,013.94	\$65,614.29	\$67,254.65	\$68,936.01	\$70,659.41	\$72,425.90	\$74,236.55	\$76,092.46	\$77,994.77	\$79,944.64	\$81,943.26	\$83,991.84	\$86,091.63	\$88,243.92	\$90,450.02	\$92,711.27	\$95,029.05	\$97,404.78
XIII	\$65,297.82	\$66,930.27	\$68,603.52	\$70,318.61	\$72,076.58	\$73,878.49	\$75,725.45	\$77,618.59	\$79,559.05	\$81,548.03	\$83,586.73	\$85,676.40	\$87,818.31	\$90,013.77	\$92,264.11	\$94,570.71	\$96,934.98	\$99,358.36	\$101,842.31	\$104,388.37

RESOLUTION NO. 1416-2024

**A RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO AN
AGREEMENT WITH EMERGENCY NETWORKING FOR CLOUD-BASED EMS
AND FIRE REPORTING SOFTWARE**

**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 Emergency Networking for the provision of cloud-based EMS and fire reporting software. A copy of the agreement is attached hereto as Exhibit 1.

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

ADOPTED AND APPROVED this ____ day of _____, 2024.

Michael M. McMillan
Mayor

ATTEST:

Rebecca A. Gaines, CMC
City Clerk



Emergency Networking

BID PROPOSAL

The best choice for your agency



Modern, cloud-based software running on any device, built on a single, secure platform



Fully customizable by department or agency, including advanced rules and calculations



Complete turn-key solution, including full offline functionality for even the most challenging environments



Experienced team with a relentless focus on innovation, user experience, and data insights for better decision making

Created by:

Joby Smith
Emergency Networking

Prepared for:

Roger Few
Spanish Fort Fire Rescue (AL)



A NOTE FROM OUR CEO:

Dear: **Roger Few**

I would like to thank you for giving us an opportunity to demonstrate what we can do for your department with our turn-key Fire and EMS records management software. We truly recognize the effort required to do your homework, evaluate all the options, request demos, compare the products and go through the challenges of changing your fire records management software and we are dedicated to making the transition as smooth as possible.

Emergency Networking has been founded by firefighters and technologists and has worked hard to grow and make the best product on the market through a relentless focus on the user experience and meeting the administration's reporting and management needs.

There has been significant consolidation in the first responder software market in the past couple of years and it seems as if the focus is on shutting down software platforms and "NOT" on the customer. We are dedicated to providing superior customer service and response to your individual needs and will continue to get feedback from our customers to influence our product roadmap.

Many of our employees have experience in the fire and EMS industry, including our founder Chris Schultheis as well as several personnel from our Support, Implementation and Sales teams.

Enclosed you will find a pricing package based on your needs. Please let your salesperson know if you see any errors or need clarification on the proposal. In addition, if you are ready to move forward, we have included our standard contract agreement.

At Emergency Networking we work hard to keep you a customer for life. My door is always open, if you have a suggestion or concern please don't hesitate to call or email so we can address your issue and work to exceed your expectations.

Sean Ramsey

Sean Ramsey

CEO Emergency Networking



Quote Expiration Date:

Billing Cycle Start Date:

08 / 01 / 2024

10 / 01 / 2024

Quote:

Annual Fees (Charges)	QTY	Price	Discount	Subtotal
Fire Suite	1	\$3,000.00	\$0.00	\$3,000.00
Fire Suite Contains ~ Fire/Exposures, Training, Properties, Events, Hydrants, Truck Checks, Inventory, Daily Log, Department Insights (Reporting & Ad Hoc Reporting) & Google Mapping				
Investigations	1	\$995.00	\$0.00	\$995.00
Fire Investigations Module				
CAD Connection	1	\$1,000.00	-\$250.00	\$750.00
CAD Connection - Please reach out to your CAD vendor as there may be a cost to integrate to Emergency Networking.				
				\$4,745.00

One Time Fees (Charges)

Fire Suite Implementation	1	\$1,250.00	\$0.00	\$1,250.00
2 Hour New Customer Training				
(Tier 1) Data Import: Fire Suite - Excluding Training & Nemsis	1	\$2,500.00	-\$750.00	\$1,750.00
Fire Suite Data Import Includes: NFIRS, Properties (PrePlan, Permits & Inspections), Hydrant/Flow Test, Events, Inventory/Maintenance, Events & Fuel Tracker) - Excludes Training & Nemsis Data				

(Tier 1) Data Import: Training	1	\$2,000.00	-\$600.00	\$1,400.00
Training Data Import Includes: Class Information, Training Codes, Personnel & Hours				
				\$4,400.00
			Subtotal	\$9,145.00
			Total	\$9,145.00



Estimated Go Live Date: 07 / 01 / 2024

Account Owner Contact Information:

Name: _____

Phone: _____

Email: _____

Agency Codes: FDID: 0528 EMSID:

CAD Setup Information: (Required if CAD Link was purchased)

Name: _____

Phone: _____

Email: _____

Billing Contact Information:

Name: _____

Phone: _____

Email: _____

Account Implementation Contact Information: (If different from Account Owner Contact)

Name: _____

Phone: _____

Email: _____

A NOTE FROM OUR CUSTOMER SUCCESS TEAM:

Dear: Roger Few

Thank you for choosing Emergency Networking & welcome aboard.

In order to get your account activated as quickly as possible, and if purchased your data imports and / or CAD integration, we're going to need your help with some key account and import information which you will find below.

As soon as the "Account Setup" form is completed, the customer success team will begin the process of setting up your account and importing any data requested by your department.

From a timeline and expectations standpoint we think it's helpful to communicate upfront what you can expect.

Below is our standard activation timeline assuming the "Account Setup Form" is received within 24 hours of signature.

1. No imports: **72 hours** upon receipt of Account Setup Form
2. NFIRS imports: **15 business days** from receipt of NFIRS data in EXCEL or .CSV format
3. NFIRS supplemental data import: 5 business days from the receipt in EXCEL or .CSV format
4. Non-NFIRS data imports: **15 business days** from receipt of data in EXCEL or .CSV format

· Please note that if you wish to import your historical NFIRS data, as a company practice, we will not issue next account access until the bulk of the NFIRS data is imported due to data mapping needs. So, if it's important that you give us a complete data set for import as quickly as possible.

Customer Responsibilities:

1. Completing the account setup and data import forms

2. Scheduling & attending “initial” kick off call with your Customer Success Manager when contacted
3. If importing data, sending data in the proper formats to your Customer Success Manager

Emergency Networking Responsibilities:

1. Setting up your initial “kick off” call within 2 business days of the receipt of your order form & account setup form
2. Provide “best practices” data export instructions from your current RMS software
3. Review data within 24 hours of receipt and communicate to you with any clarifications, deficiencies or concerns.
4. Communicate on a weekly basis the current implementation status on all data imports and hitting the targeted “go live” date
5. Scheduling the onboarding training session(s)

MASTER SERVICE AGREEMENT (MSA)

Prepared for:
Roger Few
Spanish Fort Fire Rescue (AL)



MASTER SERVICE AGREEMENT (MSA)

This Service Agreement (this “**Agreement**”) is entered into as of this date by and between Emergency Networking, LLC, an Ohio limited liability company, located at:

Emergency Networking
PO Box 20559
Columbus, OH, 43220

and with,

Spanish Fort Fire Rescue (AL)
Spanish Fort Boulevard
Spanish Fort, Alabama, 36527

This Agreement governs Customer’s use of the cloud-based, EMS and fire reporting and related modules as known as “**Aldrin**”, (the “**Service**”). The Service permits EMS and Fire Departments to input, collect, store, share, report and otherwise use data and the use of our Aldrin software platform entered by Customer or its representatives (all such data, “**Customer Data**”) and generate documentation and reports for compliance, tracking and reporting purposes. The Service is offered through an html-based Internet website (the “**Site**”) as well as a mobile application.

1. REGISTRATION AND ACCOUNT SECURITY

In order to use the Service, Customer must register an account with Emergency Networking. Customer represents that it has provided, and will provide, current, accurate and complete information (including information about Customer’s users) in all account-related registration materials. Customer agrees to maintain the security of all usernames, passwords and other log-in information relating to Customer’s access to the Service and Customer’s account. Customer agrees to promptly provide Emergency Networking with notice of any information necessary to keep Customer’s account information accurate, current, and complete. ANY PERSON WITH USERNAMES, PASSWORDS OR OTHER LOG-IN INFORMATION RELATING TO CUSTOMER’S ACCOUNT MAY BE ABLE TO ACCESS CUSTOMER DATA. CUSTOMER ASSUMES ALL RISKS OF

UNAUTHORIZED ACCESS OF CUSTOMER'S ACCOUNT BASED ON SHARING OR LOSS OF SUCH USERNAMES, PASSWORDS AND LOG-IN INFORMATION. Customer agrees to promptly provide notice to Emergency Networking if Customer discovers or suspects any security breaches relating to the unauthorized use or disclosure of Customer's username(s), password(s) or log-in information.

2. PROPRIETARY RIGHTS AND LICENSES

2.1 Reservation of Rights

Subject to the limited rights expressly granted hereunder, Emergency Networking and its licensors reserve all of its/their respective right, title and interest in and to the following (collectively, the "Emergency Networking Property"): (a) the Service, the Site, all components of the mobile application functionality, all other software, hardware, technology, documentation and information provided by Emergency Networking in connection with the Service; (b) all ideas, know-how, and techniques that may be developed, conceived or invented by Emergency Networking during the performance of the Service under this Agreement; and (c) all worldwide patent, copyright, trade secret, trademark or other intellectual property rights in and to the property described in subsections 2.1(a) and (b) hereof. Subject to the rights granted to Emergency Networking in Section 2.2, Customer owns and retains all right, title and interest in and to the Customer Data and all intellectual property rights therein.

2.2 License to Use Service.

Subject to the terms of this Agreement, Emergency Networking hereby grants to Customer a non-exclusive, non-transferrable, worldwide license during the Service Term (defined herein) to access and use the Service solely for Customer's legitimate business purposes as contemplated by this Agreement.

2.3 License to Use Customer Data.

Subject to the terms of this Agreement, Customer hereby grants to Emergency Networking and its Affiliates a non-exclusive, worldwide, limited license during the Service Term to host, copy, transmit, display and use all Customer Data as necessary to provide the Service in accordance with this Agreement. Neither Emergency Networking nor its Affiliates acquire any right, title or interest from Customer under this Agreement in or to any Customer Data. As used herein, the term "Affiliates" means one or more providers of necessary services used by Emergency Networking and made available to Customer for purposes of providing the Service. An example of an "Affiliate" for such purposes is the third-party data hosting provider used by Emergency Networking for cloud-based

data storage pertaining to Customer Data submitted by Customer when Customer uses the Service (currently, Amazon Web Services). Emergency Networking may, in its reasonable discretion, change Affiliate relationships during the Service Term.

2.4 Data De-Identification:

We may De-Identify your Information and use and disclose De-Identified Information for any purpose whatsoever. We may create limited data sets from your information and disclose them for any purpose for which you may disclose a limited data set; and you hereby authorize us to enter into data use agreements on your behalf for the use of limited data sets, in accordance with applicable law and regulation. In consideration of our provision of the Services, you hereby transfer and assign to us all right, title and interest in and to all De-Identified Information that we make from your Information. You agree that we may use, disclose, market, license and sell such De-Identified Information for any purpose without restriction, and that you have no interest in such information, or in the proceeds of any sale, license, or other commercialization thereof. You acknowledge that the rights conferred by this Section are the principal consideration for the provision of the Services, without which we would not enter into this Agreement.

2.5 Restrictions.

Except as expressly permitted in this Agreement, Customer shall not directly or indirectly: (a) access, use, sell, distribute, sublicense, broadcast or commercially exploit any of the Emergency Networking Property or any rights under this Agreement; (b) introduce any infringing, obscene, libelous, or otherwise unlawful data or material into the Service; (c) copy, modify or prepare derivative works based on Emergency Networking Property; (d) reverse engineer, decompile, disassemble or attempt to derive source code from any Emergency Networking Property; or (e) remove, obscure, or alter any intellectual property right or confidentiality notices appearing in or on any aspect of any Emergency Networking Property.

3. FEES.

3.1 Fees for Service.

As consideration for the license to use the Service granted hereunder, Customer will pay all fees specified during the account registration process, on a recurring or other basis as established at such time, all as set forth in Bid Proposal, attached hereto.

3.2 Invoicing and Payment.

Emergency Networking bills recurring fees on a monthly basis or annual basis, based the number of modules selected on flat annual monthly or annual fee. Invoiced charges are due net 30 days from invoice date. Customer is responsible for providing complete and accurate billing information to Emergency Networking and notifying Emergency Networking of any changes to such information.

3.3 Overdue Payments.

If Emergency Networking does not receive an invoiced amount by the due date, then, without limiting Emergency Networking's rights or remedies, (a) such overdue charges may accrue late interest at the rate of 1.5% of the outstanding balance per month, or the maximum rate permitted by law, whichever is lower, and/or (b) Emergency Networking may condition future subscription renewals on payment terms and methods shorter than those specified herein, including pre-payment or payment by credit card or electronic transfer.

3.4 Suspension of Service.

If any amount owed by Customer under this Agreement is 30 or more days overdue, Emergency Networking may, without limiting its rights and remedies, accelerate the entire unpaid fee obligations hereunder so that all of Customer's obligations become immediately due and payable, and suspend the Service to Customer until such amounts are paid in full. Emergency Networking shall provide Customer with at least 10 days prior notice that Customer's account is overdue before suspending the Service.

3.5 Taxes.

Emergency Networking's fees do not include taxes, levies, duties or similar governmental assessments of any nature (including for example, sales, use, ad-valorem, value-added or withholding taxes). Customer is responsible for paying all taxes associated with Customer's use of the Service. If Emergency Networking has a legal obligation to pay or collect taxes for which Customer is responsible under applicable law, Emergency Networking will include such taxes in its invoices, and Customer will pay such taxes in addition to the fees for the Service, unless Customer provides Emergency Networking with a valid exemption certificate authorized by the appropriate taxing authority.

4. TERM AND TERMINATION

4.1 Service Term.

The term of this Agreement (the “Service Term”) will commence when Customer registers for the account specified in Section 1 and will continue until terminated in accordance with this Agreement. The term of the subscription period for the Service will be for **12Months**. Service Term subscriptions will automatically renew for additional periods equal to the expiring subscription term, unless either party gives the other written notice of non-renewal at least 60 days before the end of the relevant subscription term. Fees during any annual automatic renewal term will not increase by more than **5%** from the immediately prior term. Any special terms (In Section 12) listed below that modify the term length & price increases will supersede the language in this section.

Customer Initials (*Agreeing to Service Term*)

4.2 Termination.

A party may terminate this Agreement for cause (a) upon 30 days' notice to the other party of a material breach if such breach remains uncured at the expiration of such 30-day period; or (b) immediately if the other party becomes the subject of a petition in bankruptcy or other proceeding relating to insolvency, receivership, liquidation or assignment for the benefit of creditors

4.3 Customer Data Portability and Deletion.

Upon request made by Customer made within 60 days after the effective date of any termination of this Agreement or expiration of the Service Term, Emergency Networking and its Affiliates will make all Customer Data available to Customer for export or download. Customer will have the option to continue to access their data online in a read only mode for a monthly or annual fee. After such 60-day period, Emergency Networking will have no obligation to maintain or provide access to Customer Data, and Emergency Networking and its Affiliates will thereafter be permitted to delete or destroy all copies of Customer Data in its/their systems or otherwise in its/their possession or control as provided in the hosting service provider's terms and conditions, unless prohibited by applicable law.

5. WARRANTIES AND LIMITATIONS

5.1 Representations.

Each party hereby represents to the other that it has validly entered into this Agreement and has the legal power to do so, and that such party will comply with all applicable laws and regulations that may be in effect during the Service Term as they apply to such party's obligations under this Agreement. In addition, Customer represents to Emergency Networking that the Customer Data, and the lawful use thereof by Emergency Networking, does not, and will not, infringe, or constitute an infringement or misappropriation of, any intellectual property rights, privacy rights or other proprietary rights of any third party or breach the terms of any agreement with a third party.

5.2 Emergency Networking Warranties.

Emergency Networking warrants that (a) this Agreement, any Affiliate(s)' terms and conditions and any account sign-up materials accurately describe the safeguards for protection of the security, confidentiality and integrity of Customer Data, (b) Emergency Networking will not materially decrease

overall security of the Service during the Service Term, (c) the Service will perform materially in accordance with this Agreement and any documentation provided to Customer on the Site or otherwise in the account sign-up materials, and (d) other than as required by Affiliate(s)' terms and conditions, Emergency Networking will not materially decrease the functionality of the Service during the Service Term.

5.3 Disclaimers.

EXCEPT AS EXPRESSLY PROVIDED HEREIN, NEITHER PARTY MAKES ANY WARRANTY OF ANY KIND, WHETHER EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE, AND EACH PARTY SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR NON-INFRINGEMENT, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW

6. INDEMNIFICATION

6.1 By Emergency Networking

Emergency Networking will defend Customer from and against any and all loss, damage, liability, and expense arising from or relating to any claim brought against Customer by a third party alleging that the use of the Service in accordance with this Agreement infringes or misappropriates such third party's intellectual property rights.

7. LIMITATIONS ON LIABILITY

7.1 Limitations on Liability

If Emergency Networking fails to perform its duties and obligations under this Agreement, and Customer can establish that as a direct result thereof, Customer has incurred any damages, liabilities, losses, fees, costs or expenses, then Emergency Networking's liability to Customer for actual damages for any cause whatsoever, during the Service Term, whether in contract, tort (including negligence), strict liability or otherwise, shall not exceed in the aggregate the fees that Customer has paid for the Service during the Service Term. IN NO EVENT SHALL EMERGENCY NETWORKING OR ITS OFFICERS, MANAGERS, EMPLOYEES, AFFILIATES OR AGENTS BE LIABLE FOR ANY LOSS OF PROFIT OR ANY INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, MULTIPLE, PUNITIVE OR CONSEQUENTIAL DAMAGES SUSTAINED OR INCURRED BY CUSTOMER OR ANY THIRD PARTY IN CONNECTION WITH THE SERVICE, ANY ACTION ANY OF THEM TAKE OR FAIL TO TAKE AS A RESULT OF COMMUNICATIONS CUSTOMER SENDS TO EMERGENCY NETWORKING OR THE DELAY OR INABILITY TO USE ANY SERVICE, OR EMERGENCY NETWORKING'S OR ITS AFFILIATE(S)' REMOVAL, MODIFICATION, SUSPENSION OR DELETION OF ANY PART OF THE SERVICE PURSUANT TO ITS RIGHTS UNDER THIS AGREEMENT, IN ALL CASES, REGARDLESS OF THE FORM OF THE ACTION AND WHETHER SUCH DAMAGES WERE FORESEEN OR UNFORESEEN AND EVEN IF EMERGENCY NETWORKING HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. EXCEPT FOR AN ACTION FOR NON-PAYMENT BY EMERGENCY NETWORKING, NO ACTION, REGARDLESS OF FORM, ARISING OUT OF THIS AGREEMENT MAY BE BROUGHT BY EITHER PARTY MORE THAN ONE YEAR AFTER THE CAUSE OF ACTION HAS OCCURRED.

8. DATA

8.1 Security

Emergency Networking and its Affiliates will use reasonable efforts to establish and maintain safeguards to protect the security and integrity of the Service and protect against the accidental or unauthorized use, alteration or disclosure of Customer Data. Emergency Networking will arrange for provision of hosting services for Customer Data which provide confidentiality procedures which are consistent with the Privacy Rule set forth in the U.S. Health Insurance Portability and Accountability Act of 1996 (HIPAA). Hosting services provided by Amazon Web are subject to the HIPAA Compliance Guidelines found at: [Security](#). Emergency Networking and its Affiliates will use reasonable efforts to establish and maintain safeguards to protect the security and integrity of the Service and protect against the accidental or unauthorized use, alteration or disclosure of Customer

Data. Emergency Networking will arrange for provision of hosting services for Customer Data which provide confidentiality procedures which are consistent with the Privacy Rule set forth in the U.S. Health Insurance Portability and Accountability Act of 1996 (HIPAA). Hosting services provided by Amazon Web are subject to the HIPAA Compliance Guidelines found at: <https://aws.amazon.com/compliance/hipaa-compliance/>.

8.2 Backups

Emergency Networking and its Affiliates will use reasonable efforts to establish and maintain regularly scheduled backups with respect to all Customer Data.

9. MISCELLANEOUS

9.1 Assignment

Customer may not assign any of its rights or obligations under this Agreement, by operation of law or otherwise, without first obtaining Emergency Networking's written consent, except that Customer may assign this Agreement without Emergency Networking's consent (i) to an affiliate (controlled by or under common control with, Customer); or (ii) in connection with a merger, acquisition, corporate reorganization, or sale of all or substantially all of Customer's assets not involving a direct competitor of Emergency Networking; provided that Customer provides prompt written notice to Emergency Networking of such assignment. Any permitted assignment by Customer shall not modify the terms hereof, including without limitation, the specific geographic location applicable to the Service. Any attempt to assign Customer's rights or obligations under this Agreement in breach of this section shall be void and of no effect. Subject to the foregoing, this Agreement shall bind and inure to the benefit of the parties and their respective successors and permitted assigns.

9.2 Notice

Except as otherwise provided in this Agreement, any notice to Customer that is required or permitted by this Agreement shall be in writing and shall be deemed effective upon transmission when mailed by first class, registered or certified mail, postage prepaid or when sent by overnight courier service, to the address provided by Customer in the account sign-up provided to Emergency Networking in connection with entering into this Agreement or to such other address as provided in writing by Customer to Emergency Networking for such purposes. Except as otherwise provided in this Agreement, any notice to Emergency Networking that is required or permitted by this Agreement shall be in writing and shall be deemed effective upon receipt, when mailed by first class, registered or certified mail, postage prepaid or when sent by overnight courier service, such as Federal Express or equivalent, to: Emergency Networking, LLC, P.O. Box 20559, Columbus, Ohio 43220, Attn: Legal Notice.

9.3 Force Majeure

Due performance of any duty or obligation hereunder by Emergency Networking hereunder shall be excused if prevented by acts of God, information providers or other service providers, public enemy, war, terrorism, any accident, explosion, fire, storm, earthquake, flood, strike, computer outage or virus, telecommunications failure, or any other circumstance beyond or event Emergency Networking's reasonable control.

9.4 Severability

If any one or more of the provisions of this Agreement shall be held to be invalid, illegal or unenforceable for any reason, then the validity, legally or enforceability of the remaining provisions of this Agreement shall not be affected thereby. To the extent permitted by applicable law, the parties waive any provisions of law that render any provision of this Agreement invalid, illegal, or unenforceable in any respect.

9.5 Waiver or Consent

Any failure by either of the Parties to comply with any obligation, covenant, condition, or agreement contained herein may be waived in writing by the party entitled to the benefits thereof, but such waiver or failure to insist on strict compliance with such obligation, covenant, condition or agreement

shall not operate as a waiver of or estoppel with respect to any subsequent or other failure. To be effective, any consent by Emergency Networking must be in writing and signed by an authorized representative of Emergency Networking.

9.6 Entire Agreement

This Agreement constitutes the entire understanding of the Parties with respect to the subject matter hereof and supersedes and replaces all prior writings or oral negotiations or other understandings with respect thereto.

9.7 Independent Parties

Nothing in this Agreement shall be construed as creating a partnership, joint venture, fiduciary, or agency relationship between the parties, or as authorizing either party to act as an agent for the other. The parties to this Agreement are independent parties.

9.8 Governing Law; Forum for Disputes

This Agreement and all terms and conditions included or incorporated by reference herein shall be governed by and interpreted in accordance with the laws of the State of Ohio applicable to agreements made and wholly performed therein. Customer hereby consents to the exclusive jurisdiction of the federal and state courts of competent jurisdiction located in Franklin County, Ohio for the adjudication of any disputes arising out of or relating to this Agreement or Customer's access to or use of the Services. Customer hereby waives any objection to venue or inconvenient forum laid therein.

10. MAINTENANCE AND SUPPORT

10.1. Maintenance

The following items define what is included as part of maintenance:

10.1.1 Included maintenance is defined as updates to either remedy software defects or provide enhancements to all Emergency Networking modules core and customized software. Emergency Networking reserves the right to update software at any time, however, will make efforts to notify Customer in advance of any maintenance.

10.2. Support

These following items define what is included as part of support:

10.2.1 Included support is defined as 24-hour email support; and phone support, Monday – Friday 8:00 am – 6 pm EST. Support requests will be logged via email, phone, and/or within the system and Customer will be notified as to the status of the support request within 12 hours of receipt. In good faith, Emergency Networking will make its best effort to resolve issues in a timely manner depending upon the nature of the request.

10.2.2 Unless otherwise agreed upon in Exhibit A, excluded support is defined as on-site support or support of hardware and software solutions with which Aldrin may require to run on and or integrate with.

11. ATTACHMENTS

11. Attachments. The following attachments are an integral component of this agreement:

IN WITNESS WHEREOF, the parties have entered into this agreement effective as of the date first set forth above.

12. SPECIAL TERMS AND CONDITIONS:

This space reserved for any contractual changes or special agreements.

None

**** Please Submit a Copy of Your Tax-Exempt Certificate with this order or "Tax" will be added to this order.**

Emergency Networking

Customer

RESOLUTION NO. 1417-2024

A RESOLUTION DISPOSING OF SURPLUS PROPERTY

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

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

WHEREAS, Ala. Code §11-43-56 (1975) authorizes the municipal governing body to dispose of unneeded personal property.

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

Section 1. That the following personal property owned by the City of Spanish Fort, Alabama, is not needed for public or municipal purposes:

One 2008 Ford Expedition, 5.4 L V8 SOHC, VIN NO.: 1FMFK15558LA39977

Section 2. That the Mayor and City Clerk be and are hereby authorized and directed to dispose of the personal property owned by the City of Spanish Fort, Alabama, described in Section 1 above, by the best method to receive the most monies as adequate consideration for the personal property.

ADOPTED AND APPROVED this _____ *day of* _____, **2024.**

Michael M. McMillan
Mayor

ATTEST:

Rebecca A. Gaines
City Clerk

RESOLUTION NO. 1419-2024

**A RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO A CONTRACT
FOR SERVICES BETWEEN THE CITY OF SPANISH FORT, ALABAMA, AND THE
SPANISH FORT SPORTS ASSOCIATION**

WHEREAS, the SPANISH FORT SPORTS ASSOCIATION (“the Association”) provides a valuable service to the City of Spanish Fort and its citizens by providing organized league play in baseball and softball activities for the general public within the City; and

WHEREAS, the City has recognized and continues to recognize the benefits conferred upon the City and its citizens as a direct result of the services performed by the Association on an annual basis; and

WHEREAS, the City desires to continue the benefits conferred upon the public as a direct result of the Association’s efforts.

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

The City Council requests and authorizes the Mayor to enter into an agreement with the Association for services rendered to the City of Spanish Fort in the provision of league play activities. In consideration of such services, there is hereby appropriated the sum of Twenty Thousand Dollars (\$20,000.00) to the Spanish Fort Sports Association. A copy of the proposed Agreement is attached hereto as Exhibit A, subject to any changes approved by the Mayor.

ADOPTED and APPROVED this ____th day of _____, 2024.

Michael M. McMillan
Mayor

ATTEST:

Rebecca A. Gaines, CMC
City Clerk

Exhibit A

AGREEMENT

This Agreement is entered into on this the ____ day of _____, 2024, by and between the City of Spanish Fort (“City”) and the SPANISH FORT SPORTS ASSOCIATION (“Association”).

WHEREAS, the SPANISH FORT SPORTS ASSOCIATION provides a valuable service to the City of Spanish Fort and its citizens by providing league play in baseball and softball for the general public within the City; and

WHEREAS, the City has recognized and continues to recognize the benefits conferred upon the City and its citizens as a direct result of the services performed by the Association on an annual basis; and

WHEREAS, the parties desire to enter into an agreement to continue the aforesaid benefits conferred upon the citizens of the City.

WITNESSETH:

For and in consideration of the premises contained herein, the parties hereby agree as follows:

1. The City hereby agrees to provide to the ASSOCIATION the sum of TWENTY THOUSAND DOLLARS (\$20,000.00) as consideration for the services to be performed by the Association.
2. The Association agrees to provide league play in baseball and softball for the general public within the City, without discrimination, and the Association shall be responsible for all aspects of the programs.
3. The term of this Agreement shall be for the remainder of the 2024 calendar year.

DONE THIS ____ DAY OF _____, 2024.

Michael M. McMillan, Mayor

ATTEST:

Rebecca A. Gaines, CMC
City Clerk

SPANISH FORT SPORTS
ASSOCIATION

By: _____

Its: _____

RESOLUTION NO. 1420-2024

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 ____, 2024.

Michael M. McMillan
Mayor

ATTEST:

Rebecca A. Gaines, CMC
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 _____, 2024, 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, 2024, and expire on May 31, 2025. 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 _____, 2024.

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 _____, 2024.

Notary Public, Baldwin County, Alabama
My Commission Expires: _____