

Councilmember \_\_\_\_\_ introduced the following Resolution for adoption, seconded by Councilmember \_\_\_\_\_.



**RESOLUTION 041023-A**

**A RESOLUTION TO ENTER AN AGREEMENT WITH BARGE DESIGN SOLUTIONS, INC RELATED TO VETERANS PARK EXPANSION DESIGN CONSTRUCTION PLANS AND BID DOCUMENTS**

**WHEREAS**, the Mayor and City Council of the City of Alabaster, Alabama, have determined that it is both wise and expedient to enter into an agreement with Barge Design Solutions, INC. for the landscape design, construction plans and bid documents for the Veterans Park renovation project; and

**WHEREAS**, the City of Alabaster, Alabama, wishes enhance Veterans Park by entering an agreement with Barge Design for the design of park improvements and the development of constructions plans to determine construction costs; and

**WHEREAS**, said agreement will include the following services:

<b>Items</b>	<b>Fee Type Fee</b>	<b>Amount</b>
Design FEE		
A. Design Services	Lump Sum	\$ 289,026
B. Permitting Coordination	Lump Sum	\$ 7,465
C. Bidding Assistance (2 bid packages)	Lump Sum	\$ 21,536
D. Construction Administration (2 contracts)	Lump Sum	\$ 68,370
E. Owner Directed Contingency	Cost Plus	\$12,000
<b>Sub-Total</b>		<b>\$398,397</b>

**WHEREAS**, said agreement with **Barge Design Solutions, INC.** shall not exceed **\$398,397.00** plus **Allowable Reimbursables.**

**NOW THEREFORE, BE IT RESOLVED**, that the City Council of the City of Alabaster, does hereby authorize Scott Brakefield, Mayor of the City of Alabaster to sign and Mark Frey, City Clerk, to attest and file all documentation necessary to enter into said contract.

**BE IT FURTHER RESOLVED** that Finance Director is directed to provide funding for said project through the Capital Projects Fun.

	Y / N		Y / N
Sophie Martin	_____	Jamie Cole	_____
Rick Ellis	_____	Zach Zahariadis	_____
Stacy Rakestraw	_____	Kerri Pate	_____
Greg Farrell	_____		

**ADOPTED AND APPROVED THIS 10TH DAY OF APRIL 2023.**

ATTEST:

CITY OF ALABASTER

\_\_\_\_\_  
J. Mark Frey, City Clerk

\_\_\_\_\_  
Sophie Martin, Council President

APPROVED:

\_\_\_\_\_  
Scott Brakefield, Mayor

**Barge Design Solutions, Inc.**  
**PROFESSIONAL SERVICES AGREEMENT**  
**TOPOGRAPHIC SURVEY**

This agreement is made as of April 6, 2023 by and between The City of Alabaster – Design of Veterans Park Improvements (**Client**) and Barge Design Solutions, Inc. (**BARGE**) for professional services for the assignment described as follows:

**Site:** Veterans Park Improvements

**Location:** Veterans Park  
Alabaster, Alabama

**Description of Project:**

Renovations and upgrades to Veterans Park to include conversion of back diamond fields from grass to turf, spectator area upgrades, construction of pickleball courts, playground equipment replacement, rear parking lot lighting, pedestrian access improvements and renovations to Veterans Memorial.

- I. PROFESSIONAL SERVICES:** **BARGE** agrees to perform the following Basic Services under this contract:

See attached Exhibit A for full details of scope.

- II. COMPENSATION:** **Client** shall compensate **BARGE** for the Basic Services as follows:

Lump Sum **\$398,397**       Other

In addition, **Client** shall pay **BARGE** for additional services performed beyond the Basic Services in accordance with the hourly rate schedule attached as Exhibit "A" to this Agreement.

- III. PAYMENTS:** Invoices for services rendered will be issued monthly, and payment is due upon receipt of each invoice. Unless special arrangements are made, a finance charge of 1.5% per month will be added to unpaid balances more than thirty (30) days old. In the event legal action is necessary to enforce the payment terms of this agreement, **BARGE** shall be entitled to a judgment for its attorneys' fees, court costs, and other collection expenses.

- IV. TIME:** Unless agreed otherwise in writing, **BARGE** will commence its services within a reasonable time after receipt of an executed copy of this Agreement. **BARGE** will perform its services in a timely manner commensurate with the exercise of due professional care. Time for performance shall be extended as necessary for delays or suspensions due to circumstances beyond **BARGE**'s control. If such delay or suspension extends more than six months (cumulatively), **BARGE**'s compensation shall be equitably adjusted.


- V. SUSPENSION OF SERVICES:** If **Client** fails to pay any invoice when due or otherwise is in material breach of this Agreement, **BARGE** may at its sole discretion suspend performance of services upon five (5) days' written notice to **Client**. **BARGE** shall have no liability to **Client**, and **Client** agrees to make no claim for any delay or damage as a result of such suspension. Upon cure

of the cause of the suspension, **BARGE** shall resume services within a reasonable time, and there shall be an equitable adjustment of the project schedule and fees to reflect the effects of such suspension.

- VI. STANDARD OF CARE:** Notwithstanding any other provision of this Agreement or any other document describing the services, **BARGE** shall perform its services in accordance with the standard of professional care ordinarily exercised under similar circumstances by reputable members of its profession in the same locality at the time the services are provided. No warranty, expressed or implied, is made or intended by **BARGE**. The parties further agree that **BARGE** is not a fiduciary of **Client**.
- VII. TERMINATION:** The obligation to provide further services under this Agreement may be terminated without cause by either party upon ten (10) days' written notice to the other party. On termination by either the **Client** or **BARGE**, **Client** shall pay **BARGE** all amounts due for any services performed to the date of termination (plus all reimbursable expenses incurred). Upon such termination by **Client**, it shall immediately return to **BARGE** all drawings, reports, documents, and other instruments of professional services prepared by **BARGE**, and **Client** shall make no further use thereof.
- VIII. OWNERSHIP AND REUSE OF DOCUMENTS:** All documents, including without limitation, drawings, specifications, and reports prepared by **BARGE** pursuant to this Agreement are instruments of professional service. **BARGE** shall own all legal and equitable rights therein, including copyrights. Such instruments are not intended or represented to be suitable for reuse by **Client** or others for additions or modifications of the Project or on any other project. Any reuse without written consent of **BARGE** shall be at **Client's** sole risk and without liability to **BARGE**; and to the fullest extent permitted by law, **Client** shall indemnify, defend, and hold harmless **BARGE** from and against any and all claims, damages, losses, and expenses, including reasonable attorneys' fees and costs of defense arising out of or resulting therefrom. **BARGE** shall be entitled to further compensation for services it is requested to perform in connection with any reuse of its instruments of professional service.
- IX. ACCESS TO THE SITE/JOB SITE SAFETY:** Unless otherwise stated, **BARGE** will have access to the site for activities necessary for the performance of its services. **Client** agrees that **BARGE** shall have no responsibility for the means, methods, sequences, procedures, techniques, and scheduling of construction, as these decisions are solely the responsibility of the contractors. **BARGE** further shall have no authority or duty to supervise the construction workforce and shall not be responsible for jobsite safety or for any losses or injuries that occur at the Project site.
- X. INSURANCE:** **BARGE** shall endeavor to secure and maintain insurance in such amounts as it deems necessary to protect **BARGE** from claims of professional negligence arising from the performance of services under this Agreement.
- XI. RISK ALLOCATION:** In recognition of the relative risks, rewards, and benefits of the Project to both **Client** and **BARGE**, to the fullest extent permitted by law, the parties agree to allocate the risks such that **BARGE's** total liability to **Client** for any and all injuries, claims, losses, expenses, damages, and/or claim expenses arising out of **BARGE's** services under this Agreement from any cause or causes shall not exceed the amount of **BARGE's** fee or **One Hundred Thousand Dollars (\$100,000)**, whichever is greater. This limitation shall apply regardless of the cause of action or legal theory pled or asserted.

**XII. DISPUTE RESOLUTION:** It is agreed that all claims, disputes, or other matters in question arising out of or related to this Agreement shall be submitted to nonbinding mediation before any legal proceeding is commenced. The parties shall equally bear the fees and expenses charged by the mediator.

**XIII. GOVERNING LAW:** Unless otherwise specified within this Agreement, this Agreement shall be governed by the laws of the State of Tennessee.

The City of Alabaster – Design of Veterans Park Improvements	Barge Design Solutions, Inc.
By:	By: 
Printed Name: Scott Brakefield	Printed Name: Chris Grace
Title: Mayor	Title: Vice President
Address: 1953 Municipal Boulevard Alabaster, Alabama 35007	Address: 3535 Grandview Parkway, Suite 500 Birmingham, Alabama 35243
Date Signed:	Date Signed: April 6, 2023
Tax I.D. Number:	