

THIS INSTRUMENT PREPARED BY: BRIAN KILGORE, CITY ATTORNEY, CITY OF MADISON, ALABAMA; 100 HUGHES ROAD, MADISON, ALABAMA 35758; TELEPHONE NUMBER (256) 774-4404.

PERMISSIVE USE AGREEMENT

This Agreement (“**Agreement**”) is entered into on this the 28th day of May 2024, by and between the **CITY OF MADISON, ALABAMA**, a municipal corporation (“**City**”), and the **SWR HOLDINGS, LLC**.

W I T N E S S E T H:

WHEREAS, SWR HOLDINGS, LLC owns a parcel of approximately 2.88 acres of property with Parcel Identification Number 9-07-36-0-000-113.119 located on the northeast corner of the intersection of Huntsville Brown’s Ferry Road and Burgreen Road in Madison, Alabama (herein described as “the Property”); and

WHEREAS, in conjunction with SWR HOLDINGS, LLC agreement to convey right-of-way and utility and drainage easements to the City for a proposed Roundabout traffic improvement at the intersection of Huntsville Brown’s Ferry Road and Burgreen Road, the parties seek to enter an agreement to allow the City to enter the Property for the purpose of grading and clearing a portion of the Property in addition to the boundaries of the City’s right of way and easements to the Property; and

WHEREAS, SWR HOLDINGS, LLC seeks to have portions of the property, defined more specifically in Exhibit A and Exhibit B to this agreement, cleared of vegetation, graded and altered so as to provide better visibility of traffic from the Property; and

WHEREAS, the City agrees to perform this clearing and grading of the area described in Exhibit A and Exhibit B in exchange for permissive use of the cleared property during the construction of the Roundabout.

NOW, THEREFORE, in consideration of the premises and of the mutual covenants given by the parties hereto, it is understood and agreed as follows:

1. Permission to Enter: Subject to the conditions stated in this Agreement, SWR HOLDINGS, LLC grants the City permission to enter, use and/or the perform alterations to the portion of the Property depicted in Exhibits A and Exhibit B.
2. Permissive Use: That SWR HOLDINGS, LLC's acquiescence to the City's use, right of entry and operations on the Property is permissive only and shall not be deemed to affect or diminish SWR HOLDING, LLC's right to the free and unfettered use of the Property for the purposes for which the City is granted such limited use expressly set forth in this Agreement.
3. Term: This permissive use agreement shall terminate upon the completion of the Roundabout improvement project.
4. Notice of Termination: Either party may provide notice to the other of termination of this agreement within sixty (60) days of the date that the City shall be required to vacate the Property and/or cease to have use of the Property. This notice can be amended upon the written mutual agreement of the parties.
5. Emergencies: Notwithstanding the foregoing, in the event of an emergency, SWR HOLDINGS, LLC may immediately access the portion of the Property designated by this agreement as reasonably necessary to address an emergency with giving the City notice of such emergency as soon as is reasonably practicable given the circumstances.
6. Maintenance: The City shall have no additional obligations to restore, repair and/or maintain any portion of Property, more specifically described in Exhibit A and Exhibit B, after the City has performed the agreed alterations to the Property and the City has completed construction of the Roundabout traffic project.
7. Hold Harmless: To the extent allowed by law, the City will indemnify and hold SWR HOLDINGS, LLC harmless from any expense of any kind associated with the permissive use of the Property other than damage caused by willful misconduct or gross negligence of SWR HOLDINGS, LLC.

[Signature pages follow.]

IN WITNESS WHEREOF, the parties have hereunder set their hands and seals on the date and year first above written.

IN WITNESS WHEREOF, the undersigned have set their hands and seals on this _____ day of May 2024.

**City of Madison, Alabama,
a municipal corporation**

By: _____
Paul Finley, Mayor

Date: _____

STATE OF ALABAMA §
§
COUNTY OF MADISON §

I, the undersigned Notary Public, in and for said County, in said State, hereby certify that Paul Finley, whose name as Mayor of the City of Madison, Alabama, has signed to the foregoing instrument, and is known to me, acknowledged before me on this day that, being informed of the contents of the instrument, he, as such officer and with full authority, executed the same voluntarily for and as the act of the City of Madison, Alabama, a municipal corporation.

Given under my hand and official seal this _____ day of May 2024.

Notary Public

