

THIRD PARTY BILLING AGREEMENT

THIS AGREEMENT made this _____ day of _____, 2023, by and between the City of Madison, Alabama, a municipal corporation in the State of Alabama (hereinafter referred to as “City”) and, the Huntsville Electric Utility Board, a municipal public utility board created by the City of Huntsville, Alabama, (hereinafter referred to as “HU”).

WITNESSETH:

WHEREAS, the City established and assessed a mandatory trash collection charge for collection, hauling and disposal of trash, yard waste, white metal goods and items other than household garbage and hazardous waste discarded by the public at residential dwellings within the corporate limits of the City; and

WHEREAS, HU has the means to Invoice those residential dwellings and collect from those residential dwellings the fee charged by the City for collecting, hauling and disposing of trash, yard waste, white metal goods and items other than household garbage and hazardous waste discarded; and

WHEREAS, the City established and assessed a mandatory charge for collection, hauling and disposal of trash and household recycling by public at residential dwellings within the corporate limits of the City, which service is currently provided by Madison County; and

WHEREAS, The City has plans to re-bid the garbage/recycling/trash and bundle these services with one provider, and if it did so, would request HU to invoice those residential dwellings and collect from those residential dwellings the fee charged by the City for collecting, hauling and disposing of household garbage, household recycling, and trash collections; and

WHEREAS, the City desires to enter into a five-year agreement with HU to provide fee billing and collection services for the City.

NOW, THEREFORE, for and in consideration of the premises and mutual covenants and conditions set forth herein, the City and HU agree as follows:

Section 1 – Term

This agreement shall commence on January 1, 2024, and shall remain and continue in full force and effect until December 31, 2028, unless Agreement terminated before said date pursuant to the provisions of the Agreement.

Section 2 – Services

HU shall include the trash collection charge on the monthly bills of its residential electric power customers within the corporate limits of the City. If the City were to bundle its household garbage, household recycling, and trash, HU shall include the garbage/recycling charge and the trash collection charge on the monthly bills of its residential electric power customers within the corporate limits of the City.

HU shall collect the fees remitted by residential electric power customers for trash collection charges, or both garbage/recycling charges and trash collection charges as the case may be. HU will collect these charges according to its established policies and procedures, as may be amended from time to time.

Section 3 – Payment for Services

The City will pay and HU will accept a service rate for each trash collection charge listed on each monthly bill of each residential customer within the corporate limits of the City as follows. January 1, 2024 – December 31, 2028, a service rate of \$0.68 for each garbage collection charge listed on each monthly bill of each residential customer within the corporate limits of the City.

Within ninety (90) days prior to the beginning of the third year of the contract and each additional year of the contract, the City and HU will agree upon a service rate recommended though HU's most recent Joint Cost Allocation Study, which the City will pay and HU will accept for providing the services stated in section 2.

Section 4 – No Waiver; Effect of this Agreement

a. Failure to enforce or to insist upon compliance with any of the terms or conditions of this Agreement shall not constitute a general waiver or relinquishment of any such terms or conditions but the same shall be and remain at all times in full force and effect.

b. This Agreement represents the entire understanding and agreement between the parties with respect to the subject matter hereof and shall supersede any prior agreements and understanding between the parties with respect to that subject matter. This Agreement may not be amended or modified except by a written instrument executed by each of the parties hereto.

Section 5 – Remittance of Charges

HU shall remit to the City on a monthly basis the amount received from residential customers for trash collection charges, plus late payment fees received, and the net of bad debt write-offs and recoveries, less the amount owed to HU for billing, payment processing, and collection of bad debt services based on the service rate in Section 3.

Section 6 – HU's Responsibilities

HU shall provide the City, on a monthly basis, financial data such as, but not limited to, the number of residential customers billed trash collection charges, total amount received as payment by HU, late payment penalties, and bad debt write offs and recoveries, total amount collected by HU, total amount recorded as receivables and total amount allowed for accounts uncollectible.

It is understood and agreed that any bad debt collection efforts under this agreement are subject to the terms and conditions of the Huntsville Utilities Collections Process Policy and any amendments thereto. The Parties further agree that HU has no obligation hereunder to bring any legal action against a customer for failure to pay the trash and / or recycling fee to the City.

It is understood that HU shall provide necessary customer information to third-party business providers solely for the purpose of facilitating this Agreement. Furthermore, HU shall retain customer records in accordance with Huntsville Utilities' Record Retention Policy.

Section 7 – City's Responsibilities

The City will ensure that an official, employee or agent of the City provide, in a timely manner to HU, the ordinance, as amended, relating to the Trash Collection Fee assessed by the City, which requires billing and payment processing of such fee by HU

The City agrees to use HU's customer information solely for the purpose of facilitating this Agreement and will ensure that policies and procedures are implemented, and training is provided to individuals who will have access to HU's customer information, to reasonably protect the confidentiality of information regarding HU's customers. City agrees to notify HU's President / CEO or CFO immediately upon learning of any breach or possible misuse of such confidential customer information.

The City shall provide to HU the name and position or title of employees or agents of the City responsible for providing the monthly information regarding the City's trash collection customers to HU. If applicable, the City shall submit a Third-Party Network Access Request form and shall insure that employees or agents are aware of and trained to comply with the information security controls, policies and procedures HU and the City have in place to safeguard customer information. The City will immediately notify HU of a change in a designated employee's or agent's status and any breach or suspected breach of such security controls, processes or procedures.

HU reserves the right to audit the City's capability to ensure adequate controls are in place to safeguard the privacy of such customer information and, at HU's sole discretion, to discontinue City's access to HU's customer information in the event HU determines such adequate controls are not effective or are not being applied and adhered to.

The City may pursue a legal action against a customer for failure to pay the trash and / or recycling fee, after HU has made a determination to cease its collections efforts and so notifies City of that determination. The City shall notify HU prior to initiating any such legal action.

If applicable, the City is responsible for payment of collected utility tax to the Alabama Department of Revenue.

Section 8 – Indemnity

The City agrees to defend, indemnify and hold HU harmless from all claims, lawsuits, actions or causes of action, which may or could arise from performance of billing services by HU under this Agreement or from the assessment of a Trash Collection Fee by the City. The parties agree that such duty to defend, indemnify and hold harmless includes, but is not limited to, any claims, lawsuits, actions or causes of action involving in any way the City's collection and payment of sales tax or any other tax to the Alabama Department of Revenue.

Section 9 – Termination of Agreement

HU may terminate this Agreement by serving a written notice to the City at least six (6) months prior to the termination date. If alternate means of collection are not available for the City, HU shall negotiate reasonable terms for extension of this Agreement. The City may terminate this Agreement by serving a written notice to HU at last six (6) months prior to the termination date. This Agreement shall automatically renew for additional one (1) year terms at the end of the Initial Term and each renewal term thereafter unless the terminating party provides the other party with at least six (6) months' prior written notice.

Section 10 – Notices

If a party desires to give notice to the other party under this Agreement, the notice must be in writing. The party must give the notice either by 1) personal service; 2) delivery by a reputable document delivery service; or 3) mailing in the United States Mail, certified mail, postage prepaid, return receipt requested, addressed to the party as set forth below or such other address as the party may later designate by written notice.

To City: **City of Madison**
Attention: Mayor Paul Finley
100 Hughes Road
Madison, AL 35758

City of Madison
Attention: City Clerk-Treasurer
100 Hughes Road
Madison, AL 35758

To HU: **Huntsville Utilities**
Attention: CFO
112 Spragins Avenue
Huntsville, AL 35801

IN WITNESS WHEREOF, the undersigned have set their hands and seals on this _____ day of _____, 20____.

Huntsville Utilities

By: _____
Robert Wesley Kelley, President and CEO

ATTEST:

Chairman, Huntsville Electric Utility Board

STATE OF ALABAMA)

COUNTY OF MADISON)

I, the undersigned, a Notary Public in and for said County, in said State, do hereby certify that Robert Wesley Kelley, and _____ whose names as President and CEO of Huntsville Utilities, and Chairman, Huntsville Electric Utility Board, respectively, are signed to the foregoing Agreement, who are known to me, acknowledged before me on this day that, being informed of the contents of this Agreement, they as such officers and with full authority, executed voluntarily on the day the same bears date.

Given under my hand and official seal of office this ____ day of _____, 20____.

Notary Public

My Commission Expires: _____

IN WITNESS WHEREOF, the undersigned have set their hands and seals on this _____ day of _____, 20_____.

**City of Madison, a municipal corporation
In the State of Alabama**

By: _____
Paul Finley, Mayor

ATTEST:

City Clerk-Treasurer

STATE OF ALABAMA)

COUNTY OF MADISON)

I, the undersigned, a Notary Public in and for said County, in said State, do hereby certify that Paul Finley, and _____ whose names as Mayor and City Clerk-Treasurer, respectively, of the City of Madison, Alabama are signed to the foregoing Agreement, who are known to me, acknowledged before me on this day that, being informed of the contents of this Agreement, they as such officers and with full authority, executed voluntarily on the day the same bears date.

Given under my hand and official seal of office this _____ day of _____, 20_____.

Notary Public

My Commission Expires: _____