

SIDEWALK CONSTRUCTION, MAINTENANCE, & EASEMENT AGREEMENT

THIS SIDEWALK CONSTRUCTION, MAINTENANCE, & EASEMENT AGREEMENT (the "Agreement") is entered into as of the ____ day of _____, 2025, by and between the HERITAGE PLANTATION HOMEOWNERS' ASSOCIATION, INC., an Alabama non-profit corporation ("HOA"), and the CITY OF MADISON, ALABAMA, a municipal corporation in the State of Alabama ("City").

WHEREAS, the HOA owns certain real property located at the end of Lansdowne Drive in the City of Madison, Madison County, Alabama, pursuant to Plat Book 36, Page 39, as recorded in the Office of the Judge of Probate of Madison County, Alabama, within the residential subdivision known as Heritage Plantation (the "Subdivision"); and

WHEREAS, City has agreed to construct a pedestrian sidewalk connection from the cul-de-sac of Lansdowne Drive to the Bradford Creek Greenway, a public greenway owned by the City; and

WHEREAS, City has requested, and the HOA has agreed to grant to City temporary construction and permanent pedestrian easements over, across, and upon a portion of HOA property to complete the sidewalk connection to provide a public connection from existing right of way to the Bradford Creek Greenway, subject to the terms, provisions, and conditions contained in this Agreement; and

WHEREAS, HOA is willing to maintain the sidewalk within the sidewalk easement in accordance with the terms of this Agreement; and

WHEREAS, all parties are desirous of entering into this Agreement for the purpose of confirming the mutual understanding of the parties.

NOW, THEREFORE, in consideration of the recitals and of the agreements and covenants herein contained, the sum of Ten and No/100 Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. Sidewalk Easement Area.

- (a) HOA shall grant at no cost to City both (1) a temporary construction easement; and (2) a perpetual, non-exclusive sidewalk easement for pedestrian and non-motorized vehicular travel, for use by the public (collectively, the "Sidewalk Easement Area") on, over, upon, across, and along the following described tract or parcel of land lying in the City of Madison, Madison County, Alabama as generally described in Exhibit "A" attached hereto and incorporated herein.

- (b) Prior to construction, City shall conduct a survey of the Sidewalk Easement Area at its expense to determine the official boundaries of the Sidewalk Easement Area.
- (c) City, at its expense, shall draft and present deeds for both easements to the HOA for its approval, which shall not be unreasonably withheld. Unless it makes a reasonable objection, HOA shall execute the deeds within fourteen (14) calendar days after presentation by the City. City will record the deeds in the Probate Court of Madison County at its own expense. City will not begin construction of the sidewalk until the HOA has properly executed both deeds.
- (d) Subject to any and all existing improvements or conditions, HOA shall not construct, erect, or maintain any barriers, gates, walls, or structures on, over, across, upon, or above the Sidewalk Easement that would interfere with or that would materially impair the useability of the sidewalk or greenway access. This paragraph shall survive expiration of this Agreement and shall be incorporated into the pedestrian easement deed.

2. Construction of Sidewalk. City agrees, at its sole cost and expense, to construct an improved sidewalk or paved pedestrian walkway for public use within the Sidewalk Easement as generally depicted in Exhibit A to be constructed in accordance with the City's rules and regulations regarding sidewalks.

- (a) City will use best efforts to complete construction by December 31, 2025. City will provide notice to the HOA's designated representative prior to the start of construction, which is expected to take approximately two (2) weeks once started, subject to weather-related delays.
- (b) During construction, City shall keep the Sidewalk Easement Area in a clean and orderly condition and in compliance with all applicable municipal rules, guidelines, and regulations pertaining to sidewalks and/or pedestrian walkways.
- (c) Following construction, City shall restore, straw, and seed the area in a manner comparable to other similar sidewalk projects.
- (d) The construction schedule remains within the sole discretion of the City. City may suspend, delay, interrupt, or terminate all or any part of its work for such period of time as may be determined to be appropriate for the convenience of the City. In such event, City shall not be liable to HOA for any delay, impact, consequential, indirect, or other damages.

3. Grass Cutting within Sidewalk Easement Area. HOA agrees, at its sole cost and expense, to provide routine grass cutting and lawn maintenance services, including grass mowing, trimming, edging, and weed maintenance, within the Sidewalk Easement Area and agrees to maintain all landscaping within the Sidewalk Easement Area, including any grass, trees, shrubs, plants or other landscaping located therein. HOA may contract with a third party to perform all

grass cutting and/or landscaping services required within the Maintenance Area. All work performed must be done by properly licensed and insured contractors. This paragraph shall survive expiration of this Agreement and shall be incorporated into the pedestrian easement deed.

4. Maintenance and Repair. HOA, at its sole cost and expense, shall maintain or cause to be maintained in good repair and condition, the sidewalk and any and all improvements constructed or installed by City on or within the Sidewalk Easement Area. Additionally, HOA shall keep the Sidewalk Easement Area in a clean and orderly condition and in compliance with all applicable municipal rules, guidelines, and regulations pertaining to sidewalks and/or pedestrian walkways. Furthermore, HOA agrees to make the Sidewalk Easement Area available to City to allow City to inspect the sidewalk, landscaping, and any improvements located therein to assure the sidewalk is properly maintained. In the event of any failing, poor condition, or lack of repair and/or maintenance, City shall be entitled, but not obligated, to expend such sums as are reasonably necessary to put such sidewalk improvements or landscaping in good repair and condition and may recover the cost thereof from HOA within ten (10) days of providing written demand to HOA. This paragraph shall survive expiration of this Agreement and shall be incorporated into the pedestrian easement deed.

5. Amendment; Termination. The parties reserve the right to modify, amend, or terminate this Agreement by mutual written agreement. No amendment shall be effective unless in writing and signed by the parties.

6. Reservation by HOA. HOA reserves, for itself, its successors, and assigns, as well as HOA, and all residents and guests of the Subdivision, the right to use the Sidewalk Easement Area for the purposes not inconsistent with the rights granted herein. HOA further reserves all rights of ownership in and to the Sidewalk Easement Area, which are not inconsistent with the Sidewalk Easement.

7. Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

8. Severability. If any term, covenant, condition or provision of this Agreement, or the application thereof to any person or circumstance, shall ever be held to be invalid or enforceable, then in each event the remainder of this Agreement or the application of such term, covenants, condition or provision to any person or any other circumstance (other than those as to which it shall be invalid or unenforceable) shall not be thereby affected, and each term, covenant, condition and provision hereof shall remain valid and enforceable to the fullest extent permitted by law.

9. Governing Law & Dispute Resolution: The laws of the State of Alabama shall govern the validity of this Agreement, the construction of its terms, the interpretation of the rights, the duties of the parties, the enforcement of its terms, and all other matters relating to this Agreement. All claims, disputes, and any other matters in question between City and HOA arising out of or relating to this Agreement shall be decided by a court located in Madison County, Alabama.

10. Counterparts; Separate Signature Pages. This Agreement may be executed in one or more counterparts and on separate signature pages, and as so executed all of which shall constitute one and the same document.

11. Entire Agreement. This Agreement contains the entire agreement between the parties. No promise, representation, warranty or covenant not included in this Agreement has been relied upon by either party. Each party has had a full opportunity to examine this Agreement and/or has had an opportunity to have its counsel review said Agreement on its behalf.

12. Term. This Agreement shall come into effect when the authorized representatives of each party finally execute and affix their respective signatures hereto in their duly authorized capacities. In the event the signatures are affixed on different dates, the date of the latter signature shall be the date the Agreement comes into effect. This Agreement shall expire upon the City's completion of the work described in Section 2. This Agreement may be terminated by either party, with or without cause, upon the provision of thirty (30) days' notice to the other party.

13. Hold Harmless & Indemnification. To the fullest extent permitted by law, the HOA shall indemnify and hold harmless City and all of its agents, officers, elected officials, members, managers, and employees from and against all claims, damages, losses, and expenses, including but not limited to, court costs, and reasonable attorney's fees, arising out of, related to, or resulting from this Agreement, regardless of whether such claims, damages, losses, and expenses are caused by, or are alleged to be caused by, in whole or in part, the acts, omissions, or negligence of a party indemnified hereunder.

14. No Third-Party Beneficiaries: Nothing contained herein shall create a contractual relationship with, or any rights in favor of, any third party.

15. Waiver: The failure of either party to enforce any provision of this Agreement shall not be construed as a waiver or limitation of that party's right to subsequently enforce and compel strict compliance with every provision of this Agreement.

16. Notices:

All notices to the City shall be addressed as follows:

City of Madison Public Works Department
Attn: Director
240 Palmer Road
Madison, Alabama 35758

With a copy to:

City of Madison Legal Department
Attn: City Attorney
100 Hughes Road
Madison, Alabama 35758

All notices to HOA shall be addressed as follows:

[Name/Title]
[Mailing Address]
Madison, Alabama 35758

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed on the
day and year first written below.

[Signature Pages to Follow.]

HERITAGE PLANTATION HOMEOWNERS'
ASSOCIATION, INC., an Alabama non-profit
corporation

By: _____
President

STATE OF ALABAMA

COUNTY OF MADISON

I, the undersigned, a Notary Public in and for said County, in said State, hereby certify that _____, whose name as President of Heritage Plantation Homeowners' Association, Inc., an Alabama non-profit corporation, is signed to the foregoing conveyance and who is known to me, acknowledged before me on this day that, being informed of the contents of this instrument, she/he, as such President and with full authority, executed the same voluntarily for and as the act of said non-profit corporation, on the day the same bears date.

Given under my hand and official seal on the ____ day of _____, 2025.

NOTARY PUBLIC
My commission expires: _____

CITY:

CITY OF MADISON, ALABAMA, a municipal
corporation in the State of Alabama

By: _____
Paul Finley, Mayor

ATTEST:

By: _____
Name: Lisa D. Thomas
Its: City Clerk-Treasurer

STATE OF ALABAMA

COUNTY OF MADISON

Before me, the undersigned authority, a Notary Public in and for said County and State, hereby certify that Paul Finley and Lisa D. Thomas, whose names as Mayor and City Clerk-Treasurer, respectively, of the City of Madison, Alabama, a municipal corporation in the state of Alabama, are signed to the foregoing instrument and who are known to me, acknowledged before me on this day that, being informed of the contents of the foregoing instrument, they executed the same voluntarily for and as the act of the City of Madison, Alabama, on the day the same bears date.

GIVEN under my hand and official seal this the _____ day of _____, 2025.

NOTARY PUBLIC
My Commission Expires: _____

Exhibit “A”
(Preliminary Sidewalk Easement)

[SEE ATTACHMENT]