

MEMORANDUM OF AGREEMENT

AGREEMENT FOR MAINTENANCE OF VILLAGE GREEN GAZEBO

This Memorandum of Agreement is entered into by and between the City of Madison, Alabama, a municipal corporation (“City”) and the Madison Station Historical Preservation Society, Inc., an Alabama non-profit corporation (“Society”), and shall be effective as of the date this Agreement is executed by the parties hereto. In the event the authorized signatures are affixed on different dates, the latter date of execution shall be the effective date.

WHEREAS, the City leases land adjacent to the railroad tracks in historic downtown Madison from Norfolk Southern Railway Co., and it has possession of and routine maintenance responsibilities for the condition of the village green gazebo structure (“Gazebo”); and

WHEREAS, the Society’s objective is to promote and preserve City history and historical structures, and it desires to perform and fund certain maintenance and upkeep of the Gazebo; and

WHEREAS, the parties desire to partner in the stewardship of the Gazebo, and the Society’s maintenance and upkeep of the Gazebo will serve the public’s interest;

NOW, THEREFORE, in light of the mutual promises and obligations contained herein, and in exchange for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by each of the parties, the parties agree as follows;

1. **Gazebo Maintenance**: Pursuant to applicable laws and regulations, the City and Society agree to partner on Gazebo maintenance and upkeep, and City grants permission to Society, its officials, agents, contractors, and representatives to enter the Gazebo and perform said maintenance services.
2. **Project Management**: When Society desires to complete a Gazebo Project, it will present its proposal and plans to the Facilities & Grounds Department for applicable City Department approvals. Society acknowledges that certain projects may require the approval of the Historical Commission of the City. Society, in coordination with City, will plan, design, manage, complete, pay for, and inspect its proposed projects using qualified, licensed, bonded, and insured contractors in accordance with city code requirements. Society will cause its contractors and representatives to name City as an additional insured for work performed for its projects.
3. **Project Funding**: Society agrees to pay for all project costs associated with its proposed projects, including design, construction, and project management. City shall not have responsibility for any Society project costs unless the parties specify otherwise by written agreement. Society acknowledges that any City-funded projects will be completed pursuant to applicable laws and regulations.
4. **Basic Upkeep and Maintenance**: City will continue electrical service and maintenance of the Gazebo, remedy roofing and structural defects, and retain structural insurance

coverage. Society will perform and fund other general maintenance, repairs, and landscaping as needed, and it shall give notice of maintenance activities to the Facilities & Grounds Department at least thirty (30) days before performing said maintenance, unless in the event of an emergency, in which case it shall give notice as soon as practicable. Society shall maintain insurance for its property located in the Gazebo.

5. Term & Termination: The term of this Agreement shall arise on the effective date, and this Agreement shall automatically renew unless terminated by either party thirty (30) days before the renewal date. Either party may terminate this agreement with or without cause upon thirty (30) days' written notice to the other party.
6. Hold Harmless & Indemnification: To the extent allowed by law, the parties agree to indemnify, defend, save, and hold harmless each other and their officers, officials, agents, employees, grantees, and assigns, from and against all claims, actions, liabilities, damages, costs, expenses, and judgments, including attorney's fees, which relate to, arise out of, or are in any way related to this Agreement on account of performance of its work, injury to persons, or damage at the Gazebo and Village Green. This promise to indemnify shall survive expiration of the Agreement.
7. Independent Contractor Relationship: It is mutually understood and agreed, and it is the intent of the parties, that an independent contractor relationship be and is hereby established under the terms and conditions of this Agreement. Employees of City are not nor shall they be deemed to be employees of Society.
8. Excused Performance: In case performance of any terms or provisions hereof shall be delayed or prevented because of compliance with any law, decree or order of any governmental agency or authority, whether the same shall be of Local, State or Federal origin, or because of riots, war, public disturbances, strikes, lockouts, differences with workmen, fires, floods, acts of God or any other reason whatsoever which is not within the control of the party whose performance is interfered with and which, by the exercise of reasonable diligence, said party is unable to prevent, the party so suffering may, at its option, suspend, without liability, the performance of its obligations hereunder during the period of such suspension of performance of duties hereunder.
9. Entire Agreement: This Agreement, including the recitals set forth herein, constitutes the complete agreement between the parties regarding the Project, and it supersedes all prior negotiations, representations, or agreements, either written or oral.
10. Headings: The headings of each section are inserted for reference purposes only. Any conflict between a descriptive heading and the content of the section shall be resolved in favor of the language contained in the section.
11. Notices. All notices will be in writing and served by postage prepaid certified mail, by next day delivery (such as Federal Express), or by e-mail transmission to the addresses shown below. All such notices shall be deemed delivered on the date initiated.

For the City:

City of Madison
Facilities & Grounds Director

100 Hughes Road
Madison, AL 35758

With a copy to:
City Attorney
100 Hughes Road
Madison, AL 35758

For Society:

Madison Station Historical Preservation
Society

Attn: Debbie Overcash
P.O. Box 2114
Madison, AL 35758

12. Amendment. This Agreement may only be amended in a writing executed by both parties.
13. Assignment. Neither Society nor City may assign or transfer this Agreement or any part thereof without the express, written consent of the other party.
14. Governing Laws & Regulations. This Agreement shall be governed by and construed in accordance with the laws of the State of Alabama and applicable Federal laws and City regulations. Furthermore, the parties acknowledge that Norfolk Southern Railway, Co., which is the landlord of the Village Green property, may need to approve certain activities of both parties under this Agreement and will work cooperatively to obtain said approval when necessary.
15. Severability & Waiver. If any provision of this Agreement shall be held to be invalid or unenforceable for any reason, the remaining provisions shall continue to be valid and enforceable. If a court finds that any provision of the Agreement is invalid or unenforceable, but that by limiting such provision it would become valid and enforceable, then such provision shall be deemed to be written, construed and enforced as so limited. 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. Third Parties. Nothing contained herein shall create a contractual relationship with, or any rights in favor of, any third party.

IN WITNESS WHEREOF, the parties hereto affirm that they have the authority to

execute this Agreement on behalf of their respective entities for the entire term and have hereunto set their hands and seals on the day and year respectively noted.

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

Attest:

Paul Finley, Mayor

Lisa D. Thomas, City Clerk-Treasurer

Date: _____

STATE OF ALABAMA §
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COUNTY OF MADISON §

I, the undersigned Notary Public, in and for said County, in said State, hereby certify that Paul Finley and Lisa D. Thomas, whose names as Mayor and the City Clerk-Treasurer, respectively, of the City of Madison, 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 instrument, they, as such officers 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 June 2025.

Notary Public

For Society:

Debbie Overcash, President

Date: _____

STATE OF ALABAMA §

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COUNTY OF MADISON §

I, the undersigned authority, a Notary Public in and for said County, in said State, hereby certify that Debbie Overcash, whose name as President of the Madison Station Historical Preservation Society, Inc., a non-profit 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 the instrument, she, as such officer and with full authority, executed the same voluntarily for and as the act of said corporation.

Given under my hand and official seal this the _____ day of June 2025.

Notary Public