

AGREEMENT

This agreement made and entered into this ____ day of August 2023 by and between MONROE TELECOM ASSOCIATES, LLC d/b/a THE CENTER FOR MUNICIPAL SOLUTIONS (herein after referred to as Consultant) mailing address: 2917 Carriage Meadows Drive, Wake Forest, North Carolina 27587 party of the first part, and the City of Madison, Alabama, a municipal corporation (hereinafter referred to as Client) 100 Hughes Road, Madison, Alabama 35758, party of the second part.

Consultant and Client, for the consideration named, hereby agree as follows:

1. PURPOSE

Client hereby retains Consultant for the purpose of assisting, advising and representing Client on matters relating to the preparation of a Wireless Telecommunications Facilities Local Ordinance for Client, and reviewing and analyzing applications received by Client for Wireless Telecommunications Facilities. The consultant is not a real estate broker or agent. All real estate brokerage services, if any, shall be performed by the Client or the Client's attorney.

2. SPECIFIC SERVICES: LOCAL ORDINANCE

As soon as possible after the execution of this agreement, Consultant shall prepare and deliver to Client for use by Client a draft comprehensive Wireless Telecommunications Facilities Local Ordinance (hereinafter referred to as Ordinance). Subsequently, in consultation with designated officials of Client, Consultant shall devote up to five (5) working hours to draft and deliver to Client, as may be requested, legally permissible revisions to the Ordinance, prior to the public hearing relating to the adoption of the Ordinance. Consultant shall attend one meeting with Client, which Client will schedule in connection with the adoption of the Ordinance.

3. SPECIFIC SERVICES: SERVICES DURING PROCESSING OF APPLICATIONS

The Consultant shall furnish appropriate Wireless Telecommunications Facilities permit application review and analysis, as well as siting assistance and advice, to Client and Client's officials involved in the processing of applications for Wireless Telecommunications Facilities, and, in connection therewith, shall:

- (a) Review all applications filed with Client for Wireless Telecommunications Facilities and any support structures;
- (b) Assist and advise Client as regards all applications, to include attending meetings with the Applicants and/or Client's staff and/or officials as required;
- (c) Recommend in writing to Client whether a particular application should be approved or disapproved, or an alternative sought, and set forth in writing the reasons for such; and,
- (d) Pre-operational inspections of the construction of the facility and in writing recommend when/if the certificate of compliance or a functional equivalent should be issued.

(e) Consultant shall, in conjunction with Client's Attorney and/or staff, advise and assist in the negotiation of all leases for the use of Client-owned property or facilities by wireless communications entities or persons at its normal hourly rate, with such cost to be paid out of the Applicant's escrow deposit or a written commitment by the potential lessee to reimburse Client for the cost of services incurred on behalf of Client.

4. TIMES AND ATTENDANCE: COOPERATION BY CLIENT

Consultant shall perform the services described herein in as expeditious a manner as is reasonably possible and with due consideration of the time requirements of Client. Client recognizes that the timing of the performance of Consultant's services may be affected by previous commitments to other clients (including the delivery of promised services and work product and previously scheduled meetings), and situations normally and traditionally deemed to be matters of a force majeure nature, including those influenced by the weather, strikes, or power outages.

Client agrees to cooperate with Consultant, as needed, and to provide Consultant with copies of any records, documents and other information needed for the fulfillment of this agreement on a timely basis. Client further agrees to provide Consultant with access to appropriate officials and/or employees of Client, as may be needed in the fulfillment of the agreement. Moreover, both parties understand and agree that mutual accountability and responsiveness is critical to the successful completion of the project, and therefore both shall always make their best faith efforts to be accountable and promptly responsive to each other.

5. COMPENSATION

In payment for the services to be performed hereunder by Consultant, Client shall make payments to the Consultant as follows:

(a) For the services to be performed by the Consultant pursuant to paragraph 2 hereof, there shall be no hourly charge for up to five (5) hours of work time. Time beyond five hours customizing the draft ordinance or attendance at more than one meeting related to the customization, consideration, or adoption of the Ordinance shall be billed at the Consultant's normal hourly rate. Based on prior experience, Consultant anticipates that, absent extraordinary circumstances, there will be no charge to Client for the preparation of the Ordinance. In the event that charges are incurred, compensation for attendance at and participation in a hearing for consideration of adoption shall be limited to \$500.00, plus reimbursement of actual out-of-pocket expenses incurred vis-à-vis the hearing.

(b) For the services to be performed by Consultant pursuant to paragraph 3 hereof, Client shall pay Consultant its normal published hourly rate (which at the date of this agreement is \$250.00 per hour, but is subject to reasonable change over time) for each hour of time devoted by Consultant to the performance of such services. For time spent traveling by Consultant in conjunction with the performance of such services Client shall pay Consultant only 50% of the Consultant's normal published hourly rate.

(c) The draft Ordinance as initially provided to Client shall require an applicant to pay, in advance of any work related to the application or the application process, a deposited sum to be placed in an escrow account under Client's control to assure that work related to an application or inspection shall not cost Client or its taxpayers anything.

(d) Consultant shall invoice Client regularly, but no less frequently than monthly, after services have been performed, for any compensation payable pursuant to paragraph 5(b) of this agreement. Such invoices shall be due and payable upon receipt, but in no case later than thirty (30) days.

6. REIMBURSEMENT FOR EXPENSES

For services performed hereunder, Client shall reimburse Consultant, for out-of-pocket expenses for the following items:

(a) Travel-related costs such as airfare, car rental, night lodging accommodations and meals consumed while on-site or enroute; (b) Expedited or overnight delivery service; (c) Any other reasonably necessary expenses directly related and attributable to the fulfillment of this agreement.

Consultant's requests for expense reimbursement shall be included in Consultant's invoice at actual cost, with no markup.

7. TERM OF AGREEMENT; TERMINATION

This agreement shall be for a period of a minimum of three (3) years commencing on the date set forth at the top of page one (1) of this agreement. In the event that the Consultant refuses or fails to provide services hereunder with due diligence or is guilty of a substantial violation of any provision of this agreement, Client shall send Consultant thirty (30) day written notice that the agreement will be terminated. After the three (3) year period, the agreement will continue automatically on a month-to-month basis, unless terminated in writing by either party with thirty (30) day notice.

8. STATUS OF CONSULTANT

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. It is further mutually understood and agreed that employees of Consultant are not nor shall they be deemed to be employees of City and that employees of City are not nor shall they be deemed to be employees of Consultant.

9. NOTICES

Any and all notices, invoices, and payments required hereunder shall be addressed to the parties at their respective addresses set forth in page 1 hereof, or to such other address as may hereafter be designated in writing by either party hereto.

10. CONSTRUCTION OF AGREEMENT

This agreement shall be construed and interpreted in accordance with the Laws of the State of Alabama.

11. COMPLETE AGREEMENT; MODIFICATION

There are no terms, conditions or obligations other than those contained herein, and there are no written or verbal statements or representations, warranties or agreements with respect to this Agreement that have not been embodied herein.

This agreement constitutes the complete understanding of the parties with respect to the subject matter hereof. No modification or amendment of any provisions of this agreement shall be valid unless in writing and signed by both parties.

12. ASSIGNMENT

Neither Consultant nor City may assign or transfer this Agreement or any part thereof without the express, written consent of the other party.

13. SEVERABILITY

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.

14. COMPLIANCE WITH LAWS

Consultant agrees to comply with all applicable Federal, State, and local laws and regulations, including, but not limited to, those pertaining to wages and hours of employment. Consultant shall hold all appropriate and necessary governmental and industry-specific licenses and permits. It is the sole responsibility of the Consultant to obtain the same in a timely manner relevant to the performance of the work contemplated hereunder.

15. INDEMNIFICATION

To the fullest extent permitted by law, Consultant agrees to hold harmless and indemnify City from and against all injuries, deaths, claims, suits, damages, losses, liabilities, judgments, costs, and expenses to the extent caused by the negligent acts, errors, or omissions of Consultant in performance of the work or services rendered pursuant to the instant Agreement. This promise to indemnify shall survive expiration.

16. INSURANCE

Consultant agrees to provide proof of liability insurance coverage of at least one million dollars (\$1,000,000.00) naming the Client as an additional insured.

IN WITNESS, THEREOF, the Consultant and Client by individuals duly authorized to do so, have signed this agreement, the day and year first above written.

CONSULTANT

By: _____
Jackie Hicks
The Center for Municipal Solution

CLIENT

By: _____
Paul Finley, Mayor

Attest: _____
Lisa D. Thomas, City Clerk-
Treasurer