

UTILITY EXPENSE SHARING AGREEMENT

THIS UTILITY EXPENSE SHARING AGREEMENT (the "*Agreement*") is made and entered into on this ____ day of _____ (the "*Effective Date*") by and between **INTERGRAPH IMPROVED PROPERTIES, LLC**, a Delaware limited liability company ("*Intergraph*"), and the **CITY OF MADISON, ALABAMA**, an Alabama municipal corporation (the "*City*"). Intergraph and the City may hereinafter be referred to individually as a "*Party*" and collectively as the "*Parties*."

RECITALS

WHEREAS, the City of Madison recently acquired a building from Intergraph located at 23 Ludie Richard Drive, Madison AL 35758 (herein the "*Public Safety Annex*");

WHEREAS, Intergraph continues to own and maintain an adjacent building to the Public Safety Annex known as building 23-8 ("*Building 23-B*");

WHEREAS, Huntsville Utilities continues to meter electricity usage for the Public Safety Annex and Building 23-B with one meter and remits electricity bills for both buildings to the City in accordance with the Utility Expense Sharing Agreement dated March 11, 2024;

WHEREAS, the Parties must continue to cooperate with each other with respect to issues relative to payment for their proportionate usage of such electricity; and

WHEREAS, the Parties desire to enter into this Agreement in consideration of the mutual covenants and agreements contained herein and for the mutual convenience and benefit of both Parties.

NOW, THEREFORE, the Parties contract and agree as follows:

1. The Parties enter into this Agreement for a term of one (1) year from the Effective Date. The Agreement shall automatically renew for an additional one-year term unless either Party gives thirty (30) days' notice to the other in advance that they intend to terminate the Agreement.

2. The City shall maintain a fully operational electricity meter on the switchgear that services Building 23-B (at the City's sole cost and expense) to measure Intergraph's electricity usage in Building 23-B.

3. The City agrees that, in the event the electricity meter breaks or is in need of replacement or maintenance, the City shall provide Intergraph with prompt written notice of such break or required maintenance, and the City shall bear the full cost and expense for such meter replacement or maintenance. The City agrees to use best efforts to fix the broken or non-operational meter within a reasonable period of time. If, however, the meter is down for a billable period preventing a Reading of Intergraph's electricity usage during such billable period, then Intergraph shall remit payment to the City for an amount equal to twenty percent (20%) of the electricity bill for both Building 23-B and the Public Safety Annex within fourteen (14) days of receipt of such bill.

4. Intergraph and the City agree to maintain the electricity utility in the name of the City. The City agrees to allow Intergraph as much access to billing information and reporting of problems, repairs and other issues as Huntsville Utilities policies allow.

5. Within seven (7) days of the City receiving an electricity bill from Huntsville Utilities for the combined electricity use of both 23-B Building and the City's Public Safety Annex for a billable period, the City shall obtain a reading in kilowatt-hours (the "*Reading*") from the installed meter on the switchgear

that services Building 23-B. Intergraph's representative is entitled to be present at that time to confirm the Reading obtained by the City. The Reading obtained by the meter shall determine Intergraph's electrical wattage usage for the billable period.

6. After obtaining an accurate Reading, the City shall submit an e-mail to Intergraph facilities staff members Amy Pendleton (amy.pendleton@hexagon.com) and Donna Vickery (donna.vickery@hexagon.com). The e-mail must include the Reading from the meter on the switchgear that services Building 23-B and a copy of the electricity bill from Huntsville Utilities showing the electricity usage in kilowatt-hours for both the 23-B Building and the Public Safety Annex combined and the current rate Huntsville Utilities charges per kilowatt-hour (the "**Payment Notice**").

7. Intergraph shall, within thirty (30) days of receipt of the Payment Notice, remit payment to the City in an amount equal to: (a) a number in kilowatt-hours derived from the applicable Reading, *multiplied by* (b) the current rate of electricity per kilowatt-hour as stated in the Payment Notice. Any payment issued by Intergraph to the City that is remitted thirty-five (35) days after receipt of the Payment Notice shall be subject to a five percent (5%) late fee.

8. The City shall promptly and timely pay all electricity bills to Huntsville Utilities during the term of this Agreement. If the City fails to promptly and timely pay for any reason, then the City shall be solely responsible for any late fees or additional charges.

9. If the City receives any notices from Huntsville Utilities, including, without limitation, notices for failure to timely pay, notices for disconnection of service, or notices for increased rates for electricity, then the City shall forward such notices to Amy Pendleton (amy.pendleton@hexagon.com) and Donna Vickery (donna.vickery@hexagon.com).

10. Either Party may terminate this Agreement at will by providing thirty (30) days' written notice to the other Party if the other Party breaches the terms of this Agreement.

11. This Agreement constitutes the entire agreement of the Parties pertaining to its subject matter and supersedes any prior or contemporaneous negotiations, representations, agreements, and understandings of the Parties with respect to such matters, whether written or oral.

12. This Agreement may be modified only by a writing signed by each Party.

13. Neither Party may assign any of its rights or delegate any of its obligations hereunder without the prior written consent of the other Party. Any purported assignment or delegation in violation of this Section 13 shall be null and void. No assignment or delegation shall relieve the assigning or delegating Party of any of its obligations hereunder. Notwithstanding the aforementioned, Intergraph may assign this Agreement to an affiliate without receiving prior written consent.

14. Each person signing below on behalf of an entity does hereby represent and warrant that such person is duly authorized to execute this Agreement on behalf of the entity for whom they have signed and that the Parties to this Agreement have relied upon such representation and warranty in entering into this Agreement.

15. If any Party hereto fails to perform any of its obligations under this Agreement or if a dispute arises between the Parties hereto concerning the meaning or interpretation of any provision of this Agreement, and an action is filed, the prevailing Party in any such action shall be entitled to recover from the other Party, in addition to any other relief that may be granted, its court costs and reasonable attorneys' fees and disbursements, including such incurred in connection with any appeal.

16. The Parties will use their best efforts to cooperate with each other regarding the amount due between them for the electrical bill each billable period as well as regarding any other issues which may arise concerning the shared electrical connection. If a dispute should arise between the Parties concerning the subject matter in this Agreement, both Parties agree to meet to try to work out their differences in good faith prior to filing any legal action. This Agreement shall be governed by and construed in accordance with the laws of Alabama, without giving effect to any choice or conflict of law provision or rule.

17. Any notices required or permitted to be given hereunder shall be given in writing via email to the respective email address(es) of each Party as listed in Section 6 and on the signature page below. Notice shall be deemed to be delivered on the date sent by email if sent during normal business hours of the recipient (provided that the sender does not receive any notification within seven (7) hours after such transmission that such transmission was not properly received by the recipient), and on the next business day if sent after normal business hours of the recipient.

18. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall be deemed to be one and the same agreement. A signed copy of this Agreement delivered by facsimile, email, or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original signed copy of this Agreement.

[Signature page to follow.]

SIGNATURE PAGE TO UTILITY EXPENSE SHARING AGREEMENT

IN WITNESS WHEREOF, the Parties have caused their duly authorized representatives to execute, seal and deliver this Agreement, on the Effective Date.

**INTERGRAPH IMPROVED PROPERTIES, LLC, a
Delaware Limited Liability Company**

By: _____
Name: Anthony Zana
Its: Secretary

Email address(es) for notices:
[TBD]
Date of Execution: _____

CITY OF MADISON, ALABAMA an Alabama
municipal corporation

By: _____
Name: Ranae Bartlett
Its: Mayor

Email address(es) for notices:
Legal@madisonal.gov
Date of Execution: _____

ATTEST:

Lisa D. Thomas, CMC
City Clerk-Treasurer