Minutes of the City of Calera Council Meeting May 19, 2025

The Council of the City of Calera met in the Council Chambers of the City Hall at 7901 Highway 31 on Monday, May 19, 2025, at 6:30 p.m. in a regular meeting. Mayor Graham presiding.

Mayor and Council Members Present:

Jon G. Graham, Mayor
Debbie Byers, Council Member
Kenny Dale Cost, Council Member
Ernest Montgomery, Mayor Pro Tem
Calvin Morgan, Council Member
Kay Snowden Turner, Council Member
Alan Watts, Council Member

Attorney:

Brian Kilgore

Department Heads:

James Fuller, David Hyche, Sean Kendrick, Reggie Darden, Kelly Ellison, Bill Hilyer, Seth Gandy, Kevin Shirey

Guests:

Richard Byers, Noah Wortham, Dennis Torrealba, Dee Starkey, Blake Atkins, Dawn Cost, Drew Bradshaw, Donny Cook, Tip Edwards, Ms. Baxley, Chris Bunn, Lee Morrison, Jackie Batson, Calera Main Street, Marcus Snowden, David Moore, Jessie Davis, Kevin Brand

Mayor Graham called the meeting to order at 6:30 p.m.

Word of Prayer and Pledge of Allegiance:

Council Member Watts opened the meeting with prayer and the Pledge of Allegiance.

Approval of Agenda:

Council Member Byers made a motion to approve the Agenda for May 19, 2025 with the addition of Donation Request from Calera Main Street (Rodeo Donation). Council Meeting. Council Member Morgan seconded said motion and upon vote, the results were as follows:

AYES: Byers, Cost, Graham, Montgomery, Morgan, Turner. Watts

NAYS: None

Motion Passed

Approval of Minutes:

Council Member Byers made a motion to approve and dispense with the reading of the following minutes:

Regular Meeting – May 5, 2025
Work Session – May 5, 2025

Council Member Morgan seconded said motion and upon vote, the results were as follows:

AYES: Byers, Cost, Graham, Montgomery, Morgan, Turner, Watts

NAYS: None

Motion Passed

Old Business:

Proclamation – Presentation of the Key to the City of Calera to Torrealba Territories, LLC, Deninson “Dennis” Torrealba

Council Member Turner made a motion to approve the Proclamation as presented. Council Member Morgan seconded said motion and upon vote, the results were as follows:

AYES: Byers, Cost, Graham, Montgomery, Morgan, Turner, Watts

NAYS: None

Motion Passed

New Business:

Resolution No. 2025-31 Traffic Signal-Roadway Lighting Agreement US Highway 31 and 8th Avenue

Council Member Turner made a motion to approve Resolution No. 2025-31. Council Member Watts seconded said motion and upon vote, the results were as follows:

AYES: Byers, Cost, Graham, Montgomery, Morgan, Turner, Watts

NAYS: None

Motion Passed

Kelly Ellison, Finance Director, presented the Audited Financial Statements for September 30, 2024 (Click Link Below)

https://www.cityofcalera.org/ArchiveCenter/ViewFile/Item/2727

James Fuller, IT Director – Shop and Discover Local Presentation

Ordinance No. PZ 2025-01 – Public Hearing – Zoning from MR to A1 Parcel ID 28 1 02 0 000 015.005 664 Meadow Lake Drive Bill & Ann Davis

Council Member Watts moved that unanimous consent of the Council be given for immediate action upon Ordinance No. PZ 2025-01. Council Member Cost seconded said motion and upon vote, the results were as follows:

AYES: Byers, Cost, Graham, Montgomery, Morgan, Turner, Watts

NAYS: None

Thereupon, the Mayor declared said motion carried and unanimous consent given for the consideration of said Ordinance.

Council Member Byers made a motion to approve Ordinance No. PZ 2025-01. Council Member Turner seconded said motion and upon vote, the results were as follows:

AYES: Byers, Cost, Graham, Montgomery, Morgan, Turner, Watts

NAYS: None

Motion Passed – Adopted

Resolution No. 2025-33 Auxiliary Audit Agreement – Avenu Insights & Analytics, LLC

Council Member Cost made a motion to approve Resolution No. 2025-33. Council Member Montgomery seconded said motion and upon vote, the results were as follows:

AYES: Byers, Cost, Graham, Montgomery, Morgan, Turner, Watts

NAYS: None

Motion Passed

David Hyche, Police Chief, Introduction of Dispatcher Brandi Kemp, CARE Program, Update on New Hemp and THC Law, CASE Student Video

Resolution No. 2025-32 Water Drainage Facility Agreement City of Calera / CSX Transportation, Inc.

Council Member Cost made a motion to approve Resolution No. 2025-32. Council Member Turner seconded said motion and upon vote, the results were as follows:

AYES: Byers, Cost, Graham, Montgomery, Morgan, Turner, Watts

NAYS: None

Motion Passed

Ordinance No. 2025-04 – Adopting Title 16, Chapter 27 of the 2024 Code of Alabama

Council Member Watts moved that unanimous consent of the Council be given for immediate action upon Ordinance No. 2025-04. Council Member Morgan seconded said motion and upon vote, the results were as follows:

AYES: Byers, Cost, Graham, Montgomery, Morgan, Turner, Watts

NAYS: None

Thereupon, the Mayor declared said motion carried and unanimous consent given for the consideration of said Ordinance.

Council Member Turner made a motion to approve Ordinance No. 2025-04. Council Member Morgan seconded said motion and upon vote, the results were as follows:

AYES: Byers, Cost, Graham, Montgomery, Morgan, Turner, Watts

NAYS: None

Motion Passed – Adopted

Calera Main Street – Donation Request for the Rodeo - $20,000.00 plus the dirt needed for the arena area.

Council Member Cost made a motion to approve the Calera Main Street Donation Request for $20,000.00. Council Member Turner seconded said motion and upon vote, the results were as follows:

AYES: Byers, Cost, Graham, Montgomery, Morgan, Turner, Watts

NAYS: None

Motion Passed

Guests:

Public Comments:

David Morgan

Council Member Cost made a motion to adjourn the meeting at 7:16 p.m.

Approved this 2nd day of June 2025.

____
Jon G. Graham, Mayor

ATTEST:

____
Connie B. Payton, City Clerk

Proclamation

PRESENTATION OF THE KEY TO THE CITY OF CALERA

TO TORREALBA TERRITORIES, LLC – DENINSON "DENNIS" TORREALBA

WHEREAS, the City of Calera proudly recognizes and honors Mr. Torrealba who has made significant and lasting contributions to the betterment of our community and our Downtown area along with Calera Main Street and Main Street Alabama; and

WHEREAS, Deninson "Dennis" Torrealba has demonstrated an extraordinary commitment to the revitalization and redevelopment of the Downtown area; and

WHEREAS, through his vision, investment, and hands-on involvement, Mr. Torrealba has played a pivotal role in restoring properties, enhancing the aesthetic appeal, and fostering economic and cultural vibrancy in the heart of our Downtown; and

WHEREAS, his dedication and efforts have inspired civic pride, attracted new businesses, and created a welcoming atmosphere for both residents and visitors alike; and

WHEREAS, the City of Calera wishes to express its deepest appreciation and gratitude for his invaluable contributions to the growth and prosperity of our community;

NOW, THEREFORE, I, Jon G. Graham, Mayor of the City of Calera, Alabama, do hereby present the Key to the City to Deninson "Dennis" Torrealba as a symbol of our highest esteem and appreciation, and in recognition of his outstanding service, leadership, and dedication to the revitalization of Downtown Calera.

PRESENTED this 19th day of May, 2025.

CITY OF CALERA, ALABAMA

____

Jon G. Graham, Mayor

Mayor Graham introduced the following Resolution:

RESOLUTION NO. R-2025-31

STATE OF ALABAMA acting by and through the ALABAMA DEPARTMENT OF TRANSPORTATION: AGREEMENT FOR THE INSTALLATION AND/OR OPERATION AND/OR MAINTENANCE OF TRAFFIC CONTROL SIGNALS AND/OR ROADWAY LIGHTING AND CITY OF CALERA, CALERA, ALABAMA

US Highway 31 at 8th Avenue

BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF CALERA, ALABAMA

WHEREAS, the Council hereby agrees to authorize the Mayor to sign the Agreement with State of Alabama, Alabama Department of Transportation Agreement for the Installation and/or Operation and/or Maintenance of Traffic Control Signals and/or Roadway Lighting. Said contract listed below.

For Official Use Only: ALDOT Agreement Number:

Region Tracking Number: Project Number:

Region: East Central County: SHELBY

STATE OF ALABAMA *acting by and through the*
ALABAMA DEPARTMENT OF TRANSPORTATION: *AGREEMENT for the INSTALLATION and/or OPERATION and/or MAINTENANCE OF TRAFFIC CONTROL SIGNALS and/or ROADWAY LIGHTING*

This Agreement, in accordance with resolution number ____ dated (or minutes dated) ____ attached hereto and made part of this Agreement, is made and entered into by and between the Alabama Department of Transportation (herein referred to as STATE) and the City of Calera (herein referred to as **MAINTAINING AGENCY**) for the accomplishment of the following work as hereinafter indicated by the alphabetic letter of "X" marked in the check-boxes below, to wit:

	(A) New Installation	(B) Equipment Upgrade	(C) Complete Removal	(D) Operation	(E) Maintenance
Traffic Control Signal:	☒	☐	☐	☒	☒
Intersection Flashing Signal/Beacon:	☐	☐	☐	☐	☐
Roadway Lighting:	☐	☐	☐	☐	☐
Other:	☐	☐	☐	☐	☐

The accomplishment of the work indicated by the alphabetic letter of "X" marked in the check-box(es) above and hereinafter signified by the use of the corresponding alphabetic letter A, B, C, D, and/or E as applicable, will be at the following location(s): *{Example: AL-3/US-31 @ Main Street [A, D, & E] denotes the installation, operation, and maintenance of the equipment installed}* ***NOTE*** *– if more space is needed, please use continuation sheets.*

US Highway 31 at 8th Avenue [A,D,&E]

1. For the purposes of this Agreement, "equipment and/or associated hardware" shall refer to the equipment and/or associated hardware used to install, upgrade, maintain, and/or operate traffic control signals, intersection flashing signals/beacons, roadway lighting, and/or other as specified in the chart above.

2. In the event the work to be accomplished above is identified by (A) and/or (B), the ☐ STATE ■ MAINTAINING AGENCY will furnish and the ☐ STATE ■ MAINTAINING AGENCY will install the equipment and/or associated

hardware utilized in the accomplishment of the work. In the event the STATE contributes funds to the work and the MAINTAINING AGENCY will be credited or debited for under-runs or overruns respectively, the "***Exhibit O***" is attached to and made part of this Agreement.

3. The equipment and/or associated hardware shall be installed in accordance with the applicable portions of the:

   A. Manual on Uniform Traffic Control Devices for Streets and Highways (MUTCD), current ALDOT approved edition.

   B. State of Alabama Project Details and Special and Standard Highway Drawings, current year version.

   C. National Electrical Code, current edition.

   D. Alabama Department of Transportation (ALDOT) Standard Specifications for Highway Construction, current edition and applicable special provisions.

   E. Code of Alabama, 1975 (as Amended) with specific reference to:

      (1) §23-1-113, Municipal Connecting Link Roads – Stipulations and Conditions [specifically sub-paragraphs (6) and (7)].
      (2) §32-5A-32, Traffic – Control signal legend.
      (3) §32-5A-33, Pedestrian – Control signals.
      (4) §32-5A-34, Flashing signals.
      (5) §32-5A-35, Lane – Direction – Control signals.

4. The STATE shall determine the quantity of the equipment and/or associated hardware to be utilized in the accomplishment of the work identified by (A) and/or (B) above. In the event the MAINTAINING AGENCY furnishes the equipment and/or associated hardware to be utilized in the accomplishment of the work identified by (A) and/or (B) above, the MAINTAINING AGENCY shall ascertain that the type and quality of the equipment and/or associated hardware is in accordance with the STATE's Materials, Sources, and Devices with Special Acceptance Requirements (APL) as maintained by the STATE's Bureau of Materials and Tests.

5. It is the sole responsibility of the MAINTAINING AGENCY to locate and/or relocate any and all utilities in conflict with the installation, upgrade, and/or maintenance of equipment and associated hardware prior to commencing work to install, upgrade, and/or maintain equipment and associated hardware. The MAINTAINING AGENCY will locate and/or relocate such utilities in accordance with all applicable Federal and State laws, regulations, and procedures. Associated utility costs will be at the sole expense of the MAINTAINING AGENCY. In the event utilities are damaged during the installation, upgrade, and/or maintenance of equipment and associated hardware due to failure of the MAINTAINING AGENCY to relocate and/or relocate such utilities, the MAINTAINING AGENCY shall be responsible for providing the funding to pay for any and all associated costs to repair the utilities.

6. Title to any and all equipment and/or associated hardware furnished by the STATE shall remain in the STATE and the STATE is deemed to be the sole owner of such equipment and/or hardware.

7. The equipment and/or associated hardware shall be operated and maintained at the sole expense of the MAINTAINING AGENCY. The MAINTAINING AGENCY agrees to provide electrical energy on a continuing basis as required, beginning at the time of the initial electrical service connection during the construction of the system. The MAINTAINING AGENCY agrees further to maintain the equipment and/or associated hardware in a good state of repair at all times, as required in

accordance with the applicable documents: Manual on Uniform Traffic Control Devices for Streets and Highways and the Alabama Department of Transportation Standard Specifications for Highway Construction and applicable special provisions. Any traffic control signal equipment and/or associated hardware must also be maintained in accordance with any traffic signal operating plan of the STATE which is in effect at the applicable time of the maintenance. If a malfunction of the equipment and/or associated hardware should ever occur, the MAINTAINING AGENCY shall make or cause to be made any repairs immediately. If a malfunction presents a potential hazard to the motoring public and the MAINTAINING AGENCY is unable to repair the equipment and/or associated hardware in a timely manner as determined by the STATE, the MAINTAINING AGENCY agrees that the STATE reserves the right to and may repair the equipment and/or associated hardware, and invoice the MAINTAINING AGENCY for all costs incurred. The MAINTAINING AGENCY agrees to pay the STATE all such costs incurred by the STATE promptly upon receipt of the invoice from the STATE.

7a. In instances where ALDOT maintains a fiber-optic trunk line that is used in conjunction with a closed-loop signal system, the MAINTAINING AGENCY shall maintain the fiber-optic cable from the splice point in the trunk line out to the traffic control equipment.

8a. Installation requests made by the MAINTAINING AGENCY and identified on page one as "(A) New Installation" with "Traffic Control Signal" marked must follow the Traffic Signal Warrant and Justification procedure as identified in the Alabama Department of Transportation Traffic Signal Design Guide and Timing Manual, latest edition. For any warrant study/analysis which does not satisfy a traffic signal warrant or warrants, the MAINTAINING AGENCY agrees to accept any and all responsibility for any damage or injury that may be caused by or related to the installation, location, operation, sequencing, and/or maintenance of the equipment and/or associated hardware and shall defend, indemnify, and hold harmless the State of Alabama, the Alabama Department of Transportation, and its agents, servants, employees, in their official or individual capacities and/or facilities from and against all claims, damages, losses and expenses, including but not limited to attorney's fees, arising out of or resulting from the installation, operation, and maintenance of the equipment and/or associated hardware, or any claim, damage, loss, or expense to the person or property caused. A copy of the warrant study/analysis shall be attached to and made part of this Agreement.

8b. Check one:

The ■ CITY (Incorporated Municipality)

Subject to the limitations on damages applicable to municipal corporations under Alabama Code § 11-47-190(1975), the CITY shall indemnify and hold harmless the State of Alabama, the Alabama Department of Transportation, its officers, officials, agents, servants, and employees from and against (1) claims, damages, losses, and expenses, including but not limited to attorney's fees arising out of, connected with, resulting from, or related to the work performed by the CITY, or its officers, employees, contracts, agents or assigns (2) the provision of any services or expenditure of funds required, authorized, or undertaken by the CITY pursuant to the terms of this Agreement, or (3) any damage, loss, expense, bodily injury, or death, or injury or destruction or tangible property (other than the work itself), including loss of use therefrom, and including but not limited to attorney's fees, caused by the willful, negligent, careless, or unskillful acts of the CITY, its agents, servants, representatives, or employees, or the misuse, misappropriation, misapplication, or misexpenditure of any source of funding, compensation, or reimbursement by the CITY, its agents, servants, representatives, or employees, or anyone for whose acts the CITY may be liable.

The ☐ COUNTY (County Government or Agency)

The COUNTY shall be responsible at all times for all of the work performed under this agreement and, as provided in Alabama Code § 11-93-2(1975), the COUNTY shall indemnify and hold harmless the State of Alabama, the Alabama Department of Transportation, its officers, officials, agents, servants, and employees.

For all claims not subject to Alabama Code § 11-93-2(1975), the COUNTY shall indemnify and hold harmless the State of Alabama, the Alabama Department of Transportation, its officers, officials, agents, servants, and employees from and against any and all damages, claims, loss, liabilities, attorney's fees or expense whatsoever, or any amount paid in compromise thereof arising out of, connected with, or related to (1) work performed under this Agreement, (2) the provision of any services or expenditure of funds required, authorized, or undertaken by the COUNTY pursuant to the terms of this Agreement, or (3) misuse, misappropriation, misapplication, or misexpenditure of any source of funding, compensation or reimbursement by the COUNTY, its officers, officials, agents, servants, and employees.

The term "hold harmless" includes the obligation of the MAINTAINING AGENCY to pay damages on behalf of the State of Alabama, the Alabama Department of Transportation, and its agents, servants, and/or employees.

9. Complete removal of the equipment and/or associated hardware, hereinabove identified by (C), will be at the sole expense of the ☐ STATE ☐ MAINTAINING AGENCY.

10. The STATE reserves the right to demand the removal of the equipment and/or associated hardware should the STATE determine that the signal is no longer required or deem its condition or operation hazardous. Further, the STATE shall have the right to remove the equipment and/or associated hardware should the MAINTAINING AGENCY fail to do so upon demand by the STATE. The MAINTAINING AGENCY agrees to reimburse the STATE for its costs associated with the removal. Any equipment and/or associated hardware which is deemed by the STATE to be non-uniform or obsolete will be removed and disposed of by the MAINTAINING AGENCY. None of the non-uniform or obsolete equipment and/or associated hardware which has been removed shall be reused on the STATE highway system.

11. If future traffic conditions require changes and/or adjustments to said equipment and/or associated hardware (other than ordinary timing), the MAINTAINING AGENCY shall obtain the approval of the STATE before such changes are implemented and the STATE shall make a determination on whether a new Agreement is required to be submitted for the UPGRADING, OPERATION, and MAINTENANCE of the new equipment and/or associated hardware. All such changes shall be at the sole cost and expense of the MAINTAINING AGENCY.

12. At such time as a warrant study is conducted on an existing signalized intersection and the results differ from the previous warrant study conducted at that signalized intersection, a new Agreement for Installation and/or Operation and/or Maintenance of Traffic Control Signals and/or Roadway Lighting shall be executed with the MAINTAINING AGENCY.

13. In the event Federal funds are utilized in the accomplishment of the work hereinbefore described, "***Exhibit M***" is attached to and made a part of this Agreement.

14. FUNDS SHALL NOT BE CONSTITUTED AS A DEBT

It is agreed that the terms and commitments contained herein shall not be construed as a debt of the State of Alabama in violation of Article 11, Section 213 of the Constitution of Alabama, 1901, as amended by Amendment Number 26. It is further agreed that if any provision of this Agreement shall contravene any statute or Constitutional Provision or Amendment, then the conflicting provision in this Agreement shall be deemed null and void.

For any and all disputes arising under the terms of this Agreement, the parties hereto agree, in compliance with the recommendations of the Governor and Attorney General, when considering settlement of such disputes, to utilize appropriate forms of non-binding alternative dispute resolution including, but not limited to, mediation by and through the Attorney General's Office of Administrative Hearings or where appropriate, private mediators.

15. The type and number of signal & pedestrian heads per intersection or roadway lighting hardware are as follows: *{Example: 5 – 3 sec, 12", red ball, yellow/green left arrow. OPTION: If plans are available to convey information below, just enter "**SEE ATTACHED PLANS**".}* ***NOTE*** *– If more space is needed, please use continuation sheets.*

1-4sec 12" red arrow, yellow arrow, green arrow, flashing yellow arrow

8 - 3 sec 12" red ball, yellow ball, green ball

TYPE OF SIGNAL		CONTROLLER	
■ Traffic Control	☐ Pedestrian Control	Make: Econolite	Model #: Cobalt
☐ Flashing	☐ Lane Control	☐ Fixed Time	☐ Two Phase
☐ School Flasher	☐ Railroad Crossing	☐ Semi Actuated	☐ Four Phase
☐ Other:		■ Full Actuated	■ Eight Phase
		☐ Other:	
		SYSTEM ☐ YES ■ NO	

16. In the event the work to be accomplished is identified by (A), (B), and/or (C) and [1] in part or wholly constitutes an interconnected, coordinated, fixed time relationship, signal control operation between two or more intersections (herein referred to as a SYSTEM and hereinabove indicated by the SYSTEM check-box for YES marked in the controller box above), [2] is located within the limits of a SYSTEM, or [3] is within close proximity as to adjoin a SYSTEM, the ☐ STATE ☒ MAINTAINING AGENCY shall substantiate the work identified by (A), (B), and/or (C) to be SYSTEM compatible.

17. By entering into this agreement, the MAINTAINING AGENCY is not an agent of the State, its officers, employees, agents or assigns. The MAINTAINING AGENCY is an independent entity from the State and nothing in this agreement creates an agency relationship between the parties.

18. By signing this contract, the contracting parties affirm, for the duration of this agreement, that they will not violate federal immigration law or knowingly employ, hire for employment, or continue to employ an unauthorized alien within the State of Alabama. Furthermore, a contracting party found to be in violation of this provision shall be deemed in breach of this agreement and shall be responsible for all damages resulting there from.

REMAINDER OF PAGE INTENTIONALLY LEFT BLANK. SIGNATURE PAGE TO FOLLOW.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by those officers, officials, and persons thereunto duly authorized, and the Agreement is deemed to be dated and to be effective on the date stated hereinafter as the date of the approval of the Region Engineer.

(Seal of MAINTAINING AGENCY)

____
Legal Name of MAINTAINING AGENCY

Attest: ____________________________
(Seal or notary signature)

By: ____________________________
Authorized Signature *for* MAINTAINING AGENCY

Agreement Recommended for approval:

By: ____________________________
Area Traffic Engineer Signature

STATE OF ALABAMA acting by and through the ALABAMA DEPARTMENT OF TRANSPORTATION

The within and foregoing Agreement is hereby approved on this _______ day of ____________________, 20____.

APPROVED:

By: ____________________________
Region Engineer Signature

RECORDED:

By: ____________________________
State Traffic Engineer Signature

Date: ____________________________
(Added to Archive)

Council Member Turner moved that Resolution No. R-2025-31 be adopted. Council Member Watts seconded said motion and upon vote, the results were as follows:

AYES: Montgomery, Watts, Morgan, Graham, Cost, Byers, Turner

NAYS: None

Mayor Graham declared Resolution No. R-2025-31 adopted.

Adopted this the 19th of May 2025.

____
Jon G. Graham, Mayor

ATTEST:

____
Connie B. Payton, City Clerk

Mayor Graham introduced the following Ordinance:

ORDINANCE NO. PZ 2025-01

WHEREAS, the Planning Commission of the City of Calera, Alabama conducted a public hearing on **April 14, 2025** and has recommended changes in the City of Calera zoning map, and advises that said zoning is in compliance with the City of Calera Comprehensive Plan, and

WHEREAS, the Council of the City of Calera, Alabama has conducted a public hearing after proper legal and actual notice to landowners to consider changes in the zoning map recommended by the Planning Commission.

IT IS THEREFORE ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF CALERA, ALABAMA AS FOLLOWS:

That the zoning request of property described in **Exhibit A** be rezoned as follows:

From: MR (Municipal Reserve) Parcel ID 28 1 02 0 000 015.005

To: A1 (Agricultural)

Council Member Watts moved that unanimous consent of the Council be given for immediate action upon Ordinance No. PZ 2025-01. Council Member Cost seconded said motion and upon vote, the results were as follows:

AYES: Byers, Cost, Graham, Montgomery, Morgan, Turner, Watts

NAYS: None

Thereupon, the Mayor declared said motion carried and unanimous consent given for the consideration of said Ordinance.

Council Member Byers moved that Ordinance No. PZ 2025-01 be adopted. Council Member Turner seconded said motion and upon vote, the results were as follows:

AYES: Byers, Cost, Graham, Montgomery, Morgan, Turner, Watts

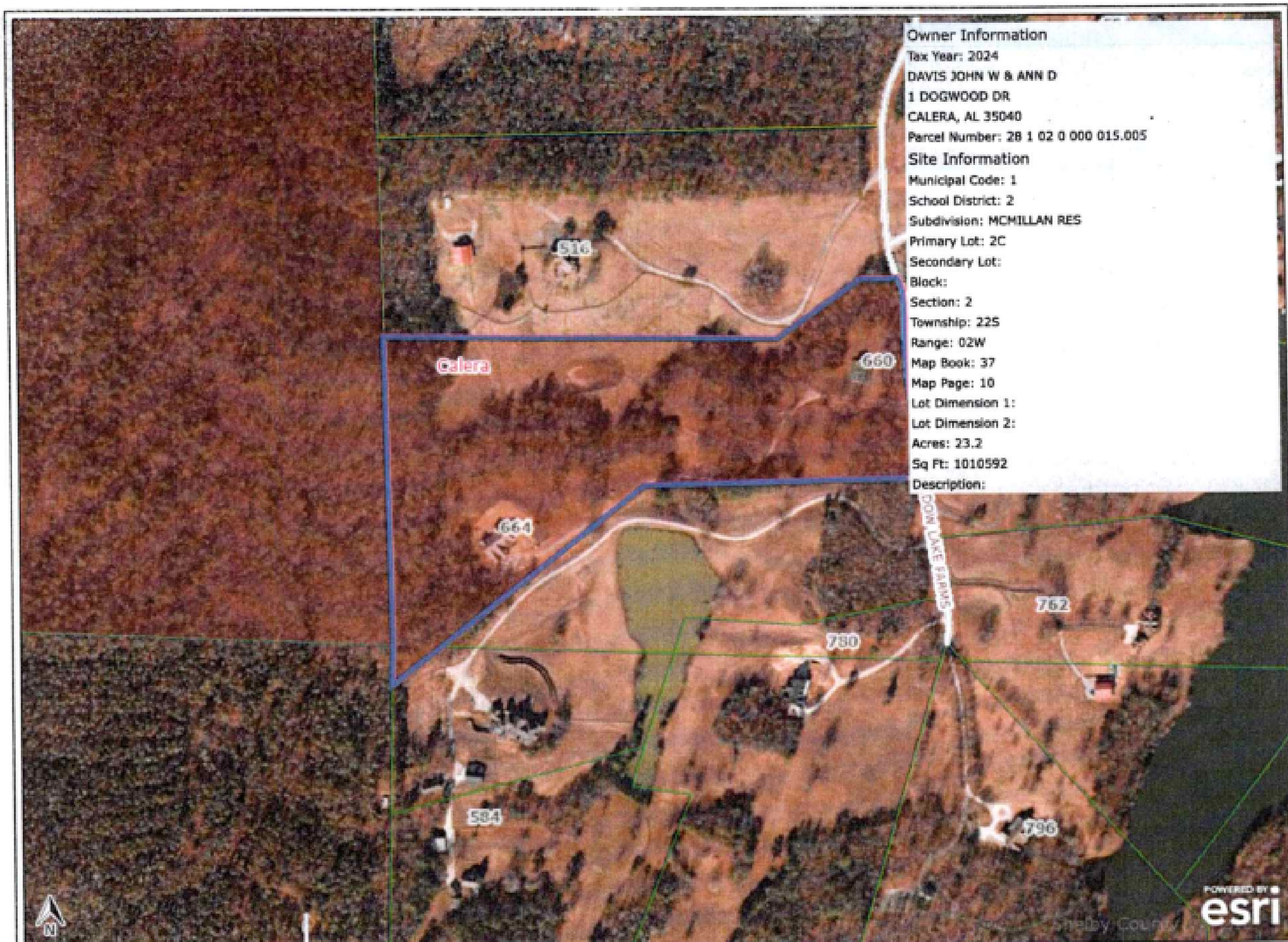
NAYS: None

Mayor Graham declared Ordinance No. PZ 2025-01 adopted.

Adopted this 19th day of May 2025.

____________________________ __________________________

Connie B. Payton, City Clerk | Jon G. Graham, Mayor



Shelby County Land Information
Date Printed: 03/18/2025

City of Calera Zoning

2/13/2025, 1:21:42 PM

1:2,257

0 0.01 0.03 0.06 mi

0 0.03 0.05 0.1 km

Address Points

Zoning

MR,Municipal Reserve

Parcel Data

G-Squared LLC, Maxar, Microsoft, Esri Community Maps Contributors, © OpenStreetMap, Microsoft, Esri, TomTom, Garmin, SafeGraph, GeoTechnologies, Inc, METI/NASA, USGS, EPA, NPS, US Census Bureau, USDA, USFWS

G-Squared LLC, Maxar, Microsoft | Esri Community Maps Contributors, © OpenStreetMap, Microsoft, Esri, TomTom, Garmin, SafeGraph, GeoTechnologies, Inc, METI/NASA, USGS, EPA, NPS, US

Mayor Graham introduced the following Resolution:

RESOLUTION NO. R-2025-33

AUXILIARY AUDIT AGREEMENT BETWEEN AVENU INSIGHTS & ANALYTICS, LLC AND CITY OF CALERA

BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF CALERA, ALABAMA

WHEREAS, the Council hereby agrees to authorize the Mayor to sign the one-year Auxiliary Audit Agreement with Avenu Insights & Analytics, LLC. for audit services. Said contract attached to minutes.

The City of Calera adopted this Resolution at the regular meeting on May 19, 2025 and this Resolution is effective as of May 19, 2025.

Council Member Cost moved that Resolution No. R-2025-33 be adopted.
Council Member Montgomery seconded said motion and upon vote, the results were as follows:

AYES: Montgomery, Watts, Morgan, Graham, Cost, Byers, Turner

NAYS: None

Mayor Graham declared Resolution No. R-2025-33 adopted.

Adopted this the 19th of May, 2025.

____
Jon G. Graham, Mayor

ATTEST:

____
Connie B. Payton, City Clerk

Auxiliary Audit Agreement

This Agreement is made as of February 1, 2025 (“Effective Date”), by and between Avenu Insights & Analytics, LLC (“AVENU”) and City of Calera, a government entity in the State of AL ("CLIENT").

A. Audit Services:

1. Audit Services: AVENU will perform auxiliary audit services for business license fees, sales and use taxes, rental/lease tax, lodging tax and such other taxes as may from time to time be designated by the CLIENT. The Audit Services will include:
   - i. perform research or statistical analysis in relation to an audit, in-house assessment/collection efforts;
   - ii. perform examinations of the records of those taxpayers selected by AVENU or requested by CLIENT on lodging taxes, inclusive of short-term rental taxes as determined by the CLIENT;
   - iii. provide CLIENT staff with a draft engagement announcement letter to be sent to each taxpayer requiring examination;
   - iv. schedule and conduct reviews at the business location or remotely of those taxpayers identified for examination;
   - v. verify accuracy of filed tax returns or fee schedules;
   - vi. review, as needed, taxpayer’s bank statements, tax returns, general ledger accounts, and other books and records;
   - vii. for each error/omission identified, prepare, and provide to taxpayer’s audit reports and schedules explaining the errors/omissions;
   - viii. meet with the taxpayers to explain the results of the examination;
   - ix. provide taxpayers examination findings billing letter and collect such funds;
   - x. issue preliminary assessment, final assessment, liens, and 3rd party collections, as necessary.
   - xi. provide updates on examinations to CLIENT upon request;
   - xii. perform examinations on refund requests by taxpayers over a predetermined amount.
   - xiii. inform CLIENT of pending refunds, special tax issues;
   - xiv. provide representation before the Alabama Tax Tribunal, if requested and for additional compensation, to be agreed upon in writing;

2. AVENU Reciprocal Agreement: To the fullest extent allowed by law, CLIENT hereby authorizes AVENU to act as a facilitator with the Alabama Department of Revenue and other applicable jurisdictions to share audit findings on its behalf.

3. CLIENT Assistance: CLIENT agrees to provide the following assistance for Audit Services:
   - i. CLIENT agrees to return the signed authorization letter on CLIENT letterhead within thirty (30) days of the effective date of the agreement;
   - ii. CLIENT agrees to provide AVENU with its ordinances, codes, and tax rates within thirty (30) days of the effective date of the agreement, and notice of any changes thereafter in the ordinances, codes, and tax rates levied by the CLIENT;
   - iii. CLIENT agrees to timely sign subpoenas, as required;
   - iv. CLIENT agrees to timely sign Final Assessments, as required

4. AVENU Fee: AVENU will receive an amount based on an hourly rate of Ninety Six Dollars and Thirty Cents ($96.30) for audit services. There shall be no contingent fees. The fees associated with Audit Services are adjusted annually at the beginning of each Term of the Agreement by five percent (5%).

   i. If overnight travel or travel more than 25 miles beyond origination point is required, AVENU will pay the auditor and bill the CLIENT for its portion of travel expenses. CLIENT agrees to pay the amount of these fees when due, regardless of any recovery.

   ii. Billing Increment: Time will be recorded in 15-minute intervals (.25 hours);

   iii. Shared Audit Fees: When audits for CLIENT overlap with audits for other AVENU clients or clients of AVENU Affiliates, the fees will be shared as follows:

      1. Travel Time: travel time, expenses, and a daily per diem amount for each audit is distributed evenly among the clients reviewed for each audit.

      2. Interview Time: time billed during the initial interview of each audit is distributed evenly amongst the clients reviewed for each audit – during this process the auditor determines which clients will actually be audited for and billed Audit Time as follows:

         a. Audit Time: Time billed during the actual audit stage of each audit is billed according to actual time spent working for each client;

         b. No Double Billing: In no event will the overlapping audits combined require payment for more than 100% for any one AVENU representative.

5. Notification, Reporting to CLIENT:

   i. AVENU will provide CLIENT with monthly reports including, but not limited to, payment listings showing all taxes received related to net receipts reported, a general ledger distribution that corresponds to CLIENT'S account numbers and all fees paid to AVENU. These reports will be provided by the 10th of the month following the tax month;

   ii. CLIENT AGREES TO EXAMINE THIS REPORT IMMEDIATELY. IF NO ERROR IS REPORTED BY THE CLIENT TO AVENU WITHIN SIXTY (60) DAYS, THE STATEMENT WILL BE DEEMED ACCURATE;

   iii. All items credited will be subject to receipt of payment; and

   iv. AVENU will attend Council meetings at such times as may be reasonably requested by CLIENT.

B. General Provisions

1. Deposit Process: Deposits are made to the extent that funds have been received, via Automated Clearing House of the amounts and to the designated recipients as instructed by the CLIENT for each type of tax collected, as shown in more detail on **Exhibit A**.

2. Information Provided: CLIENT represents that the information provided to AVENU in the performance of services hereunder shall be provided free and clear of the claims of third

parties. CLIENT represents that it has the right to provide this information to AVENU and that said information shall not be defamatory or otherwise expose AVENU to liability to third parties.

3. Changes to **<u>Exhibit A</u>**: CLIENT shall notify AVENU in writing immediately of all changes in amounts to be deposited into the accounts of designated recipients. An amended **<u>Exhibit A</u>** shall be prepared and executed by the Parties as soon as reasonably possible. In addition, AVENU shall provide documentation confirming each change under the preceding sentence with the first monthly report reflecting the applicable change. If the changes reflected in the monthly report do not properly reflect the intended changes of the CLIENT, then the CLIENT shall immediately notify AVENU and, thereafter, AVENU shall take the steps necessary to insure designated recipients receive the amounts intended by CLIENT.
4. Compliance with laws: Each Party accepts responsibility for its compliance with federal, state, or local laws and regulations.
5. Review and Appeal Process: AVENU has adopted and will use a review and appeals process which is based on the *Alabama Taxpayers' Bill of Rights Act* and *Uniform Revenue Procedures Act* codified as Title 40, Chapter 2A, Code of Alabama, 1975, as amended.
6. Payment: AVENU shall submit invoices for all services rendered hereunder. Payment will be made by CLIENT to AVENU within thirty (30) days of receipt of an invoice. Any amounts which remain unpaid after thirty days shall accrue interest at the rate of one and one-half percent per month, or the maximum amount permitted by law.
7. Company Audit: Once a year AVENU will have an auditor prepare an Independent Service Auditor's Report on Controls Placed in Operation and Tests of Operating Effectiveness. This report is commonly called a SOC 1 report and will be made available upon request.
8. Effective Date: The effective date for the performance of services under the terms of this Agreement shall commence February 1, 2025, with collection of February 2025 taxes to be remitted on or before March 20, 2025.
9. Term of the Agreement: This Agreement shall be for a term of one (1) years following the Effective Date or the maximum period allowed by law, whichever is shorter. Either party shall have the right to terminate this Agreement in the event of a material breach by the other party. Any such termination may be made only by providing ninety (90) days written notice to the other party, specifically identifying the breach or breaches on which termination is based. Following receipt of such notice, the party in breach shall have thirty (30) days to cure such breach or breaches. In the event that such cure is not made, this Agreement shall terminate in accordance with the initial ninety (90) days notice.
10. Effect of Termination: Notwithstanding non-renewal or termination of this Agreement, CLIENT shall be obligated to pay AVENU for services performed through the effective date of termination for which AVENU has not been previously paid. In addition, because the services performed by AVENU prior to termination or non-renewal of this Agreement may result in the CLIENT's receipt of revenue after termination which are subject to AVENU's fee, the CLIENT shall remain obligated after termination or non-renewal to provide to AVENU such information as is necessary for AVENU to calculate compensation

due as a result of the receipt of revenue by the CLIENT. The CLIENT shall remain obligated to pay AVENU's invoices therefore in accordance with the terms of this Agreement.

11. Indemnity: To the fullest extent allowed by law, AVENU hereby agrees to indemnify and hold CLIENT harmless from any claims and against all costs, expenses, damages, claims and liabilities based upon or arising solely out of a breach of this Agreement by AVENU. Except as set forth in the preceding sentence, to the full extent allowed by law, CLIENT hereby agrees to indemnify and hold AVENU harmless from any claims and against all costs, expenses, damages, claims and liabilities relating in any way to sales, use and other taxes of CLIENT, including, but not limited to, determination of taxes due from taxpayers, the collection thereof and any refunding related thereto.

12. Limitation of Liability: To the maximum extent permitted by law, in no event shall AVENU, its employees, contractors, directors, affiliates and/ or agents be liable for any special, incidental or consequential damages, such as, but not limited to, delay, lost data, disruption, and loss of anticipated profits or revenue arising from or related to the services, whether liability is asserted in contract or tort, and whether or not AVENU has been advised of the possibility of any such loss or damage. In addition, AVENU's total liability hereunder, including reasonable attorney's fees and costs, shall in no event exceed an amount equal to the fee paid by the CLIENT for the affected service to which the claim pertains. The foregoing sets forth the CLIENT'S exclusive remedy for claims arising from or out of this Agreement. The provisions of this section allocate the risks between AVENU and the CLIENT and AVENU's pricing reflects the allocation of risk and limitation of liability specified herein.

13. Equal Opportunity to Draft: The Parties have participated and had an equal opportunity to participate in the drafting of this Agreement. No ambiguity shall be construed against any Party upon a claim that that party drafted the ambiguous language.

14. Assignment: This Agreement shall be binding upon and inure to the benefit of the Parties, their successors; representatives and assigns. AVENU shall not assign this Agreement, or delegate its duties or obligations under this Agreement, without the prior written consent of CLIENT, which consent shall not be unreasonably withheld, delayed or conditioned. Notwithstanding the foregoing, AVENU may assign this Agreement, in whole or in part, without the consent of CLIENT to any corporation or entity into which or with which AVENU has merged or consolidated; any parent, subsidiary, successor or affiliated corporation of AVENU; or any corporation or entity which acquires all or substantially all of the assets of AVENU. Subject to the foregoing, this Agreement shall be binding upon and inure to the benefit of the parties and their successors or assigns.

15. Force Majeure: AVENU shall not be in default of its obligations hereunder to the extent that its performance is delayed or prevented by causes beyond its control, including but not limited to acts of God, government, weather, fire, pandemic, endemic, quarantine, power or telecommunications failures, inability to obtain supplies, breakdown of equipment or interruption in vendor services or communications.

16. Subcontractors: AVENU shall have the right to hire assistants as subcontractors or to use employees to provide the Services required by this Agreement. AVENU, in rendering performance under this Agreement shall be deemed an independent contractor and nothing

contained herein shall constitute this arrangement to be employment, a joint venture, or a partnership. AVENU shall be solely responsible for and shall hold CLIENT harmless from any and all claims for any employee related fees and costs including without limitation employee insurance, employment taxes, workman's compensation, withholding taxes or income taxes.

17. Intellectual Property Rights: The entire right, title and interest in and to AVENU's database and all copyrights, patents, trade secrets, trademarks, trade names, and all other intellectual property rights associated with any and all ideas, concepts, techniques, inventions, processes, or works of authorship including, but not limited to, all materials in written or other tangible form developed or created in the course of this Agreement (collectively, the "Work Product") shall vest exclusively in AVENU. The foregoing notwithstanding, in no event shall any CLIENT-owned data provided to AVENU be deemed included within the Work Product.
18. Immigration: By signing this Contract, the contracting parties affirm, for the duration of the Contract, that they will not violate federal immigration law or knowingly employ, hire for employment or continue to employ an unauthorized alien within the State of Alabama. Furthermore, a contracting party found to be in violation of this provision shall be deemed in breach of the Contract and shall be responsible for all damages resulting therefrom.
19. Compliance With Title 41-16-5, Code Of Alabama,1975, Boycott Limitations: Act 2016-312 of the Alabama Legislature prohibits a governmental entity from entering into certain public contracts with a business entity unless the contract includes a representation that the business is not currently engaged in, and an agreement that the business will not engage in, the boycott of a person or an entity based upon the person or business doing business with a jurisdiction with which the state can enjoy open trade. The prohibition does not apply if a business offers to provide goods or services for at least 20 percent less than the lowest certifying business entity or to a contract with a value less than $15,000.00. AVENU represents and warrants that it is not currently engaged in, and will not engage in, the boycott of a person or an entity based in or doing business with a jurisdiction with which this state can enjoy open trade.
20. Entire Agreement: This Agreement constitutes the entire agreement between the Parties hereto and supersedes any prior understandings or written or oral agreements between the Parties respecting the subject matter contained herein. Said Agreement shall not be amended, altered, or changed, except by a written Agreement signed by both Parties hereto.
21. Invalidity: If any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision thereof, and this Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained thereof, and this Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.

IN WITNESS WHEREOF, the parties hereto as of the date first above written have duly executed this Agreement.

Avenu Insights & Analytics, LLC	**City of Calera**
By: ______________________________	By: ______________________________
Name:	Name: ____________________________
Title:	Title: ____________________________
Date: _____________________________	Date: _____________________________

Mayor Graham introduced the following Resolution:

RESOLUTION NO. R-2025-32

A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A WATER DRAINAGE FACILITY AGREEMENT BETWEEN THE CITY OF CALERA AND CSX TRANSPORTATION, INC.

WHEREAS, the City of Calera, Calera Alabama, has determined that it is necessary and in the public interest to enter into a Water Drainage Facility Agreement with CSX Transportation, Inc. to address Water Runoff and Stormwater Drainage; and

WHEREAS, it is necessary for the Mayor to be granted authority to execute said agreement on behalf of the City of Calera; and

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Calera, Calera, Alabama as follows:

1. The City Council hereby approves the Water Drainage Facility Agreement between the City of Calera and CSX Transportation, Inc., a copy of which is attached hereto as “Exhibit A” and incorporated by reference.
2. The Mayor is hereby authorized and directed to execute the Agreement, and any related documents, on behalf of the City of Calera, and to take any and all actions necessary to implement the terms and intent of the Agreement.
3. This Resolution shall become effective immediately upon its adoption.
4. A copy will be recorded at Shelby County Probate

Exhibit A

WATER DRAINAGE FACILITY AGREEMENT

THIS AGREEMENT, made and effective as of May 19, 2025 by and between CSX TRANSPORTATION, INC., a Virginia corporation, whose mailing address is 500 Water Street, Jacksonville, Florida 32202, hereinafter called "Licensor," and CITY OF CALERA, a municipality, whose mailing address is 7901 Highway 31, hereinafter called "Licensee," WITNESSETH:

WHEREAS, Licensee desires to install drainage facilities that will connect to the Licensor's channel for the transmission of water runoff and storm drainage only, including ditche(s), swale(s), drain(s), pipeline(s), including necessary subterranean crossing(s), shown on print(s) labeled Exhibit "A", at or near the below described location(s):

1. One (1) thirty-six inch (36") diameter sub-grade drain pipe located adjacent to Licensor's property draining into Licensor's open channel, located at or near Calera, Shelby County, Alabama, Atlanta Division, S & N A South Subdivision, Milepost 000-425.03, Latitude N33:06:07., Longitude W86:45:05.;

hereinafter, called the "Encroachment," as shown on print(s) labeled Exhibit "A," attached hereto and made a part hereof.

NOW, THEREFORE, in consideration of the mutual covenants, conditions, terms and agreements herein contained, the parties hereto agree and covenant as follows:

1. LICENSE:

1.1 Subject to Article 17, Licensor, insofar as it has the legal right, power and authority to do so, and its present title permits, and subject to:

(A) Licensor's present and future right to occupy, possess and use its property within the area of the Encroachment for any and all purposes, including but not limited to Licensor's track(s) structure(s), power lines, communication, signal or other wires, train control system, cellular or data towers, or electrical or electronic apparatus, or any appurtenances thereto ("Licensor's Facilities") and any other facilities as now exist or which may in the future be located in, upon, over, under or across the property;

(B) All encumbrances, conditions, covenants, easements, and limitations applicable to Licensor's title to or rights in the subject property; and

(C) Compliance by Licensee and its agent or contractor with the terms and conditions herein contained;

does hereby license and permit Licensee to construct, maintain, repair, renew, operate, use, alter or change the Facilities at the Encroachment above for the term herein stated, and to remove same upon termination.

1.2 The term <u>Facilities</u>, as used herein, shall include only those structures and ancillary facilities devoted exclusively to the transmission usage above within the Encroachment, and as shown on attached Exhibit A.

1.3 No additional structures or other facilities shall be placed, allowed, or maintained by Licensee in, upon or on the Encroachment except upon prior separate written consent of Licensor.

2. ENCROACHMENT FEE; TERM:

2.1 Licensee shall pay Licensor a one-time nonrefundable Encroachment Fee of FIVE THOUSAND ONE HUNDRED AND 00/100 U.S. DOLLARS ($5,100.00) upon execution of this Agreement. Licensee agrees that the Encroachment Fee applies only to the original Licensee under this Agreement. In the event of a successor (by merger, consolidation, reorganization and/or assignment) or if the original Licensee changes its name, then Licensee shall be subject to payment of Licensor's current administrative and document preparation fees for the cost incurred by Licensor in preparing and maintaining this Agreement on a current basis.

2.2 However, Licensee assumes sole responsibility for, and shall pay directly (or reimburse Licensor), any additional annual taxes and/or periodic assessments levied against Licensor or Licensor's property solely on account of said Facilities or Encroachment.

2.3 This Agreement shall terminate as herein provided, but shall also terminate upon: (a) Licensee's cessation of use of the Facilities or Encroachment for the purpose(s) above; (b) removal of the Facilities; (c) subsequent mutual consent; and/or (d) failure of Licensee to complete installation within five (5) years from the effective date of this Agreement.

2.4 In further consideration for the license or right hereby granted, Licensee hereby agrees that Licensor shall not be charged or assessed, directly or indirectly, with any part of the cost of the installation of said Facilities and appurtenances, and/or maintenance thereof, or for any public works project of which said Facilities is a part. Licensee agrees it shall not assess Licensor any stormwater or drainage fee associated with such Facilities. Furthermore, Licensee shall be responsible for any stormwater or drainage fees assessed by any County or State agency managing such systems.

3. CONSTRUCTION, MAINTENANCE AND REPAIRS:

3.1 Licensee, at its sole cost and expense, subject to Licensor’s consent and to Licensor’s Railroad Operating Rules and labor agreements, covenants to dredge, clear, excavate, construct, maintain, relocate, repair, renew, alter, and/or remove the Facilities, in a prudent, workmanlike manner, using quality materials and complying with any applicable standard(s) or regulation(s) of Licensor (CSXT Specifications), or Licensee's particular industry, or the Manual for Railway Engineering published by the American Railway Engineering and Maintenance-of-Way Association (“AREMA”) or any governmental or regulatory body having jurisdiction over the Encroachment.

3.2 Location and construction of Facilities shall be made strictly in accordance with design(s) and specifications furnished to and approved by Licensor and of material(s) and size(s) appropriate for the purpose(s) above recited.

3.3 All of Licensee's work, and exercise of rights hereunder, shall be undertaken at time(s) satisfactory to Licensor, and so as to eliminate or minimize any impact on or interference with the safe use and operation of Licensor's property and appurtenances thereto, including, but not limited to, impacts or interference arising from drainage, erosion, and/or Licensor's roadbed stabilization.

3.4 In the installation, maintenance, repair and/or removal of said Facilities, Licensee shall not use explosives on or adjacent to Licensor's property of any type or perform or cause any blasting on or adjacent to Licensor's property without the separate express written consent of Licensor. As a condition to such consent, a representative will be assigned by Licensor to monitor blasting, and Licensee shall reimburse Licensor for the entire cost and/or expense of furnishing said monitor.

3.5 Any repairs or maintenance to the Facilities, whether resulting from acts of Licensee, or natural or weather events, which are necessary to protect or facilitate Licensor's use of its property, shall be made by Licensee promptly, but in no event later than thirty (30) days after Licensee has notice as to the need for such repairs or maintenance.

3.6 Licensor, in order to protect or safeguard its property, rail operations, equipment and/or employees from damage or injury, may request immediate repair or renewal of the Facilities, and if the same is not performed, may make or contract to make such repairs or renewals, at the sole risk, cost and expense of Licensee.

3.7 Neither the failure of Licensor to object to any work done, material used, or method of construction or maintenance of said Encroachment, nor any approval given or supervision exercised by Licensor, shall be construed as an admission of liability or responsibility by Licensor, or as a waiver by Licensor of any of the obligations, liability and/or responsibility of Licensee under this Agreement.

3.8 All work on the Encroachment shall be conducted in accordance with Licensor's safety rules and regulations.

3.9 Licensee hereby agrees to reimburse Licensor any loss, cost or expense (including losses resulting from train delays and/or inability to meet train schedules) arising from any failure of Licensee to make repairs or conduct maintenance as required by Section 3.5 above or from improper or incomplete repairs or maintenance to the Facilities or Encroachment.

3.10 Any excavated, cleared or dredged materials shall be properly disposed of, in accordance with all applicable permits or state/local laws or regulations. Such materials may be cast, wasted or spread upon adjacent portions of the right-of-way only in such manner as permitted and as satisfactory to Railroad's Division Engineer.

3.11 In the event it becomes necessary for the Licensee to deviate from the approved Exhibit, Licensee shall seek prior approval from Licensor, or when applicable, an official field representative of Licensor permitted to approve changes, authorizing the necessary field changes and Licensee shall provide Licensor with complete As-Built Drawings of the completed work. As-Built Drawings shall be submitted to Licensor in either electronic or hard copy form upon the substantial completion of the project and upon Licensor's request.

3.12 In the event of large-scale maintenance/construction work to railroad bridges Licensee is required to protect power lines with insulated covers or comparable safety devices at their costs during construction/maintenance for safety of railroad employees.

4. PERMITS, LICENSES:

4.1 Before any work hereunder is performed, or before use of the Encroachment for the contracted purpose, Licensee, at its sole cost and expense, shall obtain all necessary permit(s) (including but not limited to zoning, building, construction, health, safety or environmental matters), letter(s) or certificate(s) of approval. Licensee expressly agrees and warrants that it shall conform and limit its activities to the terms of such permit(s), approval(s) and authorization(s). Licensee shall further comply with all applicable ordinances, rules, regulations, requirements and laws of any governmental authority (State, Federal or Local) having jurisdiction over Licensee's activities, including the location, contact, excavation and protection regulations of the Occupational Safety and Health Act (OSHA) (29 CFR 1926.651(b)), et al., and State "One Call" - "Call Before You Dig" requirements, and the Federal Railroad Administration's Track Safety Standards governing drainage, including but not limited to 49 CFR 213.33.

4.2 Licensee assumes sole responsibility for failure to obtain such permit(s) or approval(s), for any violations thereof, or for costs or expenses of compliance or remedy.

5. MARKING AND SUPPORT:

5.1 With respect to any <u>subsurface</u> installation or maintenance upon Licensor's property, Licensee, at its sole cost and expense, shall:

(A) support track(s) and roadbed in a manner satisfactory to Licensor;

(B) backfill with satisfactory material and thoroughly tamp all trenches to prevent settling of surface of land and roadbed of Licensor; and

(C) either remove any surplus earth or material from Licensor's property or cause said surplus earth or material to be placed and distributed at location(s) and in such manner Licensor may approve.

5.2 After construction or maintenance of the Facilities, Licensee shall:

(A) Restore any track(s), roadbed and other disturbed property; and

(B) Erect, maintain and periodically verify the accuracy of aboveground markers, in a form approved by Licensor, indicating the location, depth and ownership of any underground Facilities or related facilities.

5.3 Licensee shall be solely responsible for any subsidence or failure of lateral or subjacent support in the Encroachment area for a period of three (3) years after completion of installation.

6. TRACK CHANGES:

6.1 If Licensor determines that any portion of Licensee's Facilities should be changed, altered or relocated after initial construction, Licensor shall promptly give written notice thereof to Licensee. Within thirty (30) days of receipt of such notice, Licensee shall protect or move such Facilities, at Licensee's sole cost and expense, and in a manner satisfactory to Licensor. If Licensee fails to do so, Licensor may make or contract to make such changes at Licensee's cost.

6.2 In the event of any relocation of Licensee's Facilities under this Article, Licensor shall not be required to purchase for Licensee any replacement land or right-of-way or to pay Licensee the cost to secure same if there is not sufficient space in Licensor's rail corridor.

7. FACILITY CHANGES:

7.1 Licensee shall periodically monitor and verify the depth or height of the Facilities or Encroachment in relation to the existing tracks and facilities, and shall relocate the Facilities or change the Encroachment, at Licensee's expense, should such relocation or change be necessary to comply with the minimum clearance requirements of Licensor.

7.2 If Licensee undertakes to revise, renew, relocate or change in any manner whatsoever all or any part of the Facilities (including any change in voltage or gauge of wire or any change in circumference, diameter or radius of pipe or change in materials transmitted in and through said pipe), or is required by any public agency or court order to do so, plans therefor shall be submitted to Licensor for approval before such change. After approval, the terms and conditions of this Agreement shall apply thereto.

8. INTERFERENCE WITH RAIL FACILITIES:

8.1 Although the Facilities/Encroachment herein permitted may not presently interfere with Licensor's Facilities, in the event that the operation, existence or maintenance of said Facilities, in the sole judgment of Licensor, causes: (a) interference (including, but not limited to, physical or interference from an electromagnetic induction, or interference from stray or other currents) with Licensor's power lines, communication, signal or other wires, train control system, or electrical or electronic apparatus; or (b) interference in any manner, with the operation, maintenance or use of Licensor's Facilities (including but not limited to erosion or other impacts to the stability of Licensor's Facilities); then and in either event, Licensee, upon receipt of written notice from Licensor of any such interference, and at Licensee's sole risk, cost and expense, shall promptly make such changes in its Facilities or installation, as may be required in the reasonable judgment of the Licensor to eliminate all such interference. Upon Licensee's failure to remedy or change, Licensor may do so or contract to do so at Licensee's sole cost.

8.2 Without assuming any duty hereunder to inspect the Facilities, Licensor hereby reserves the right to inspect same and to require Licensee to undertake repairs, maintenance or adjustments to the Facilities, which Licensee hereby agrees to make promptly, at Licensee's sole cost and expense.

9. RISK, LIABILITY, INDEMNITY:

With respect to the relative risk and liabilities of the parties, it is hereby agreed that:

9.1 To the fullest extent permitted by State law (constitutional or statutory, as amended), Licensee hereby agrees to, defend, indemnify, and hold Licensor harmless from and against any and all liability, loss, claim, suit, damage, charge or expense which Licensor may suffer, sustain, incur or in any way be subjected to, on account of death of or injury to any person whomsoever (including officers, agents, employees or invitees of Licensor), and for damage to or loss of or destruction of any property whatsoever, arising out of, resulting from, or in any way connected with the construction, repair, maintenance, replacement, presence, existence, operations, use or removal of the Facilities or any structure in connection therewith, or restoration of premises of Licensor to good order or condition after removal, EXCEPT when proven to have been caused solely by the willful misconduct or gross negligence of Licensor.

9.2 Use of Licensor's rail corridor involves certain risks of loss or damage as a result of the rail operations. Notwithstanding Section 9.1, Licensee expressly assumes all risk of loss and damage to Licensee's Property or the Facilities in, on, over or under the Encroachment, including loss of or any interference with use or service thereof, regardless of cause, including electrical field creation, fire or derailment resulting from rail operations. For this Section, the term "Licensee's Property" shall include property of third parties situated or placed upon Licensor's rail corridor by Licensee or by such third parties at request of or for benefit of Licensee.

9.3 To the fullest extent permitted by State law, as above, Licensee assumes all responsibility for, and agrees to defend, indemnify and hold Licensor harmless from all claims, costs and expenses, including reasonable attorneys' fees, brought by third parties arising from or related to any flooding, drainage or runoff in connection with the Facilities/Encroachment herein permitted. Notwithstanding Section 9.1, Licensee also expressly assumes all risk of loss which in any way may result from Licensee's failure to maintain either required clearances for any overhead Facilities or the required depth and encasement for any underground Facilities.

9.4 Obligations of Licensee hereunder to release, indemnify and hold Licensor harmless shall also extend to companies and other legal entities that control, are controlled by, subsidiaries of, or are affiliated with Licensor, as well as any railroad that operates over the rail corridor on which the Encroachment is located, and the officers, employees and agents of each.

9.5 If a claim is made or action is brought against Licensor, and/or its operating lessee, for which Licensee may be responsible hereunder, in whole or in part, Licensee shall be notified to assume the handling or defense of such claim or action; but Licensor may participate in such handling or defense.

10. INSURANCE:

10.1 Prior to commencement of surveys, installation or occupation of premises pursuant to this Agreement, Licensee shall procure and shall maintain during the continuance of this Agreement, at its sole cost and expense, a policy of

(i) Statutory Worker's Compensation and Employers Liability Insurance with available limits of not less than ONE MILLION AND 00/100 U.S. DOLLARS ($1,000,000.00).

(ii) Business automobile liability insurance with available limits of not less than ONE MILLION AND 00/100 U.S. DOLLARS ($1,000,000.00) combined single limit for bodily injury and/or property damage per occurrence naming Licensor, and/or its designee, as additional insured.

(iii) Such other insurance as Licensor may reasonably require.

10.2 Licensor, or its designee, may at any time request evidence of insurance purchased by Licensee to comply with this Agreement. Failure of Licensee to comply with Licensor's request shall be considered a default by Licensee.

10.3 To the extent permitted by law and notwithstanding anything to the contrary in this Agreement, the insurance required and provided by Utility shall not be subject to the limitations of sovereign immunity.

10.4 (A) Licensee shall pay Licensor, at Licensor's current rate at time of request, the cost of adding this Encroachment, or additional construction and/or demolition activities, to Licensor's Railroad Protective Liability (RPL) Policy for the period of actual construction. This coverage is offered at Licensor's discretion and may not be available under all circumstances.

11. GRADE CROSSINGS; PROTECTION SERVICES:

11.1 Nothing herein contained shall be construed to permit Licensee or Licensee's contractor to move any vehicles or equipment over the track(s), except at public road crossing(s), without separate prior written approval of Licensor.

11.2 If Licensor deems it advisable, during any construction, maintenance, repair, renewal, alteration, change or removal of said Facilities, to place watchmen, flagmen, field construction managers for protection of operations of Licensor or others on Licensor's rail corridor at the Encroachment, and to keep persons, equipment or materials away from the track(s), Licensor shall have the right to do so at the expense of Licensee, but Licensor shall not be liable for failure to do so.

11.3 Subject to consent of Licensor, in its sole discretion, and subject to Licensor’s operating rules and labor agreements, Licensee may provide flagmen, in place of Licensor’s provision, at Licensee’s sole risk, cost and expense, and in such event, Licensor shall not be liable for the failure or neglect of such flagmen. Such flagmen shall be approved by Licensor and shall meet all Licensor’s requirement for performing such work.

12. LICENSOR'S COSTS:

12.1 Any additional or alternative costs or expenses incurred by Licensor to accommodate Licensee's continued use of Licensor's property as a result of track changes or changes to Licensor’s Facilities shall also be paid by Licensee.

12.2 Licensor's expense for wages ("force account" charges) and materials for any work performed at the expense of Licensee pursuant hereto shall be paid by Licensee within thirty (30) days after receipt of Licensor's bill therefor. Licensor may, at its discretion, request an advance deposit for estimated Licensor costs and expenses.

12.3 Such expense shall include, but not be limited to, cost of railroad labor and supervision under "force account" rules, plus current applicable overhead percentages, the actual cost of materials, and insurance, freight and handling charges on all material used. Equipment rentals shall be in accordance with Licensor's applicable fixed rate. Licensor may, at its discretion, require advance deposits for estimated costs of such expenses and costs.

13. DEFAULT, BREACH, WAIVER:

13.1 The proper and complete performance of each covenant of this Agreement shall be deemed of the essence thereof, and in the event Licensee fails or refuses to fully and completely perform any of said covenants or remedy any breach within thirty (30) days after receiving written notice from Licensor to do so (or within forty-eight (48) hours in the event of notice of a railroad emergency), Licensor shall have the option of immediately revoking this Agreement and the privileges and powers hereby conferred, regardless of encroachment fee(s) having been paid in advance for any annual or other period. Upon such revocation, Licensee shall make removal in accordance with Article 14.

13.2 No waiver by Licensor of its rights as to any breach of covenant or condition herein contained shall be construed as a permanent waiver of such covenant or condition, or any subsequent breach thereof, unless such covenant or condition is permanently waived in writing by Licensor.

13.3 Neither the failure of Licensor to object to any work done, material used, or method of construction or maintenance of said Encroachment, nor any approval given or supervision exercised by Licensor, shall be construed as an admission of liability or responsibility by Licensor, or as a waiver by Licensor of any of the obligations, liability and/or responsibility of Licensee under this Agreement.

14. TERMINATION, REMOVAL:

14.1 All rights which Licensee may have hereunder shall cease upon the date of (a) termination, (b) revocation, or (c) subsequent agreement, or (d) Licensee's removal of the Facility from the Encroachment. However, neither termination nor revocation of this Agreement shall affect any claims and liabilities which have arisen or accrued hereunder, and which at the time of termination or revocation have not been satisfied; neither party, however, waiving any third party defenses or actions.

14.2 Within thirty (30) days after revocation or termination, Licensee, at its sole risk and expense, shall (a) remove the Facilities from the rail corridor of Licensor, unless the parties hereto agree otherwise, (b) restore the rail corridor of Licensor in a manner satisfactory to Licensor, and (c) reimburse Licensor any loss, cost or expense of Licensor resulting from such removal.

15. NOTICE:

15.1 Licensee shall give Licensor at least thirty (30) days written notice before doing any work on Licensor's rail corridor, except that in cases of emergency shorter notice may be given. Licensee shall provide proper notification as follows:

a. For non-emergencies, Licensee shall submit online via the CSX Property Portal from Licensor's web site, via web link:
https://propertyportal.csx.com/pub_ps_res/ps_res/jsf/public/index.faces

b. For emergencies, Licensee shall complete all of the steps outlined in Section 15.1 a. above, and shall also include detailed information of the emergency. Licensee shall also call and report details of the emergency to Licensor's Rail Operations Emergency Telephone Number: 1-800-232-0144. In the event Licensor needs to contact Licensee concerning an emergency involving Licensee's Facility(ies), the emergency phone number for Licensee is: 205-796-7650.

15.2 All other notices and communications concerning this Agreement shall be addressed to Licensee at the address above, and to Licensor at the address shown on Page 1, c/o CSXT Contract Management, J180; or at such other address as either party may designate in writing to the other.

15.3 Unless otherwise expressly stated herein, all such notices shall be in writing and sent via Certified or Registered Mail, Return Receipt Requested, or by courier, and shall be considered delivered upon: (a) actual receipt, or (b) date of refusal of such delivery.

16. ASSIGNMENT:

16.1 The rights herein conferred are the privileges of Licensee only, and Licensee shall obtain Licensor's prior written consent to any assignment of Licensee's interest herein; said consent shall not be unreasonably withheld.

16.2 Subject to Sections 2 and 16.1, this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors or assigns.

16.3 Licensee shall give Licensor written notice of any legal succession (by merger, consolidation, reorganization, etc.) or other change of legal existence or status of Licensee, with a copy of all documents attesting to such change or legal succession, within thirty (30) days thereof.

16.4 Licensor expressly reserves the right to assign this Agreement, in whole or in part, to any grantee, lessee, or vendee of Licensor's underlying property interests in the Encroachment, upon written notice thereof to Licensee.

16.5 In the event of any unauthorized sale, transfer, assignment, sublicense or encumbrance of this Agreement, or any of the rights and privileges hereunder, Licensor, at its option, may revoke this Agreement by giving Licensee or any such assignee written notice of such revocation; and Licensee shall reimburse Licensor for any loss, cost or expense Licensor may incur as a result of Licensee's failure to obtain said consent.

17. TITLE:

17.1 Licensee understands that Licensor occupies, uses and possesses lands, rights-of-way and rail corridors under all forms and qualities of ownership rights or facts, from full fee simple absolute to bare occupation. Accordingly, nothing in this Agreement shall act as or be deemed to act as any warranty, guaranty or representation of the quality of Licensor's title for any particular Encroachment or segment of Rail Corridor occupied, used or enjoyed in any manner by Licensee under any rights created in this Agreement. It is expressly understood that Licensor does not warrant title to any Rail Corridor and Licensee will accept the grants and privileges contained herein, subject to all lawful outstanding existing liens, mortgages and superior rights in and to the Rail Corridor, and all leases, licenses and easements or other interests previously granted to others therein.

17.2 The term "license," as used herein, shall mean with regard to any portion of the Rail Corridor which is owned by Licensor in fee simple absolute, or where the applicable law of the State where the Encroachment is located otherwise permits Licensor to make such grants to Licensee, a "permission to use" the Rail Corridor, with dominion and control over such portion of the Rail Corridor remaining with Licensor, and no interest in or exclusive right to possess being otherwise granted to Licensee. With regard to any other portion of Rail Corridor occupied, used or controlled by Licensor under any other facts or rights, Licensor merely waives its exclusive right to occupy the Rail Corridor and grants no other rights whatsoever under this Agreement, such waiver continuing only so long as Licensor continues its own occupation, use or control. Licensor does not warrant or guarantee that the license granted hereunder provides Licensee with all of the rights necessary to occupy any portion of the Rail Corridor. Licensee further acknowledges that it does not have the right to occupy any portion of the Rail Corridor held by Licensor in less than fee simple absolute without also receiving the consent of the owner(s) of the fee simple absolute estate. Further, Licensee shall not obtain, exercise or claim any interest in the Rail Corridor that would impair Licensor's existing rights therein.

17.3 Licensee agrees it shall not have nor shall it make, and hereby completely and absolutely waives its right to, any claim against Licensor for damages on account of any deficiencies in title to the Rail Corridor in the event of failure or insufficiency of Licensor's title to any portion thereof arising from Licensee's use or occupancy thereof.

17.4 Licensee agrees to fully and completely indemnify and defend all claims or litigation for slander of title, overburden of easement, or similar claims arising out of or based upon the Facilities placement, or the presence of the Facilities in, on or along any Encroachment(s), including claims for punitive or special damages.

17.5 Licensee shall not at any time own or claim any right, title or interest in or to Licensor's property occupied by the Encroachments, nor shall the exercise of this Agreement for any length of time give rise to any right, title or interest in Licensee to said property other than the license herein created.

17.6 Nothing in this Agreement shall be deemed to give, and Licensor hereby expressly waives, any claim of ownership in and to any part of the Facilities.

17.7 Licensee shall not create or permit any mortgage, pledge, security, interest, lien or encumbrances, including without limitation, tax liens and liens or encumbrances with respect to work performed or equipment furnished in connection with the construction, installation, repair, maintenance or operation of the Facilities in or on any portion of the Encroachment (collectively, "Liens or Encumbrances"), to be established or remain against the Encroachment or any portion thereof or any other Licensor property.

17.8 In the event that any property of Licensor becomes subject to such Liens or Encumbrances, Licensee agrees to pay, discharge or remove the same promptly upon Licensee's receipt of notice that such Liens or Encumbrances have been filed or docketed against the Encroachment or any other property of Licensor; however, Licensee reserves the right to challenge, at its sole expense, the validity and/or enforceability of any such Liens or Encumbrances.

18. GENERAL PROVISIONS:

18.1 This Agreement, and the attached specifications, contains the entire understanding between the parties hereto.

18.2 Neither this Agreement, any provision hereof, nor any agreement or provision included herein by reference, shall operate or be construed as being for the benefit of any third person.

18.3 Except as otherwise provided herein, or in any Rider attached hereto, neither the form of this Agreement, nor any language herein, shall be interpreted or construed in favor of or against either party hereto as the sole drafter thereof.

18.4 This Agreement is executed under current interpretation of applicable Federal, State, County, Municipal or other local statute, ordinance or law(s). However, each separate division (paragraph, clause, item, term, condition, covenant or agreement) herein shall have independent and severable status for the determination of legality, so that if any separate division is determined to be void or unenforceable for any reason, such determination shall have no effect upon the validity or enforceability of each other separate division, or any combination thereof.

18.5 This Agreement shall be construed and governed by federal law governing rail transportation and the laws of the state in which the Facilities and Encroachment are located. Notwithstanding any other provision in this Agreement to the contrary, Licensor expressly reserves and does not waive any rights it may have under the Interstate Commerce Commission Termination Act of 1995, 49 U.S.C. § 10101, *et seq.*, the Federal Railroad Safety Act, 49 U.S.C. § 20101, *et seq.*, and/or any other federal law governing rail transportation and related operations.

18.6 If any amount due pursuant to the terms of this Agreement is not paid by the due date, it will be subject to Licensor's standard late charge and will also accrue interest at eighteen percent (18%) per annum, unless limited by local law, and then at the highest rate so permitted.

18.7 Licensee agrees to reimburse Licensor for all reasonable costs (including attorney's fees) incurred by Licensor for collecting any amount due under the Agreement.

18.8 The provisions of this License are considered confidential and may not be disclosed to a third party without the consent of the other party(s), except: (a) as required by statute, regulation or court order, (b) to a parent, affiliate or subsidiary company, (c) to an auditing firm or legal counsel that are agreeable to the confidentiality provisions, or (d) to Lessees of Licensor's land and/or track who are affected by the terms and conditions of this Agreement and will maintain the confidentiality of this Agreement.

18.9 Within thirty (30) days of an overpayment in a cumulative total amount of One Hundred Dollars ($100.00) or more by Licensee to Licensor, Licensee shall notify Licensor in writing with documentation evidencing such overpayment. Licensor shall refund the actual amount of Licensee’s overpayment within one hundred twenty (120) days of Licensor’s verification of such overpayment.

18.10 This Agreement may be executed in any number of counterparts, and such counterparts may be exchanged by electronic transmission. Upon execution by the parties hereto, each counterpart shall be deemed an original and together shall constitute one and the same instrument. A fully executed copy of this Agreement by electronic transmission shall be deemed to have the same legal effect as delivery of an original executed copy of this Agreement for all purposes.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement in duplicate (each of which shall constitute an original) as of the effective date of this Agreement.

Witness for Licensor: **CSX TRANSPORTATION, INC.**

By: ____

Print/Type Name: ________________________________

Print/Type Name: ________________________________

Witness for Licensee: **CITY OF CALERA**

By: ____

Who, by the execution hereof, affirms that he/she has the Authority to do so and to bind the Licensee to the terms And conditions of this Agreement.

Print/Type Name: ________________________________

Print/Type Name: ________________________________

Tax ID No: 63-6001214

Authority under Resolution No. 2025-32
Dated: May 19, 2025

Council Member Cost moved that Resolution No. R-2025-32 be adopted. Council Member Turner seconded said motion and upon vote, the results were as follows:

AYES: Montgomery, Watts, Morgan, Graham, Cost, Byers, Turner

NAYS: None

Mayor Graham declared Resolution No. R-2025-32 adopted.

Adopted this the 19th of May 2025.

____

Jon G. Graham, Mayor

ATTEST:

____

Connie B. Payton, City Clerk

Mayor Graham introduced the following Ordinance:

ORDINANCE NO. 2025-04

AN ORDINANCE OF THE CITY OF CALERA, ALABAMA, TO ADOPT TITLE 16, CHAPTER 27 OF THE 2024 CODE OF ALABAMA, RELATING TO DRIVER EDUCATION AND TRAINING

WHEREAS, Title 16, Chapter 27 of the 2024 Code of Alabama sets forth the provisions regarding driver education and training programs to be administered within the public school system;

WHEREAS, the City Council of the City of Calera, Alabama, recognizes the importance of driver education and training in promoting public safety and responsible driving among students;

WHEREAS, the City Council desires to formally adopt Title 16, Chapter 27 of the 2024 Code of Alabama to ensure the implementation and local alignment with the State's driver education mandates;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CALERA, ALABAMA, AS FOLLOWS:

SECTION 1. ADOPTION

The City of Calera, Alabama, hereby adopts by reference the provisions of Title 16, Chapter 27 of the 2024 Code of Alabama, which governs driver education and training in public schools, including any regulations, requirements, or standards therein.

SECTION 2. IMPLEMENTATION

The appropriate municipal departments and officials are hereby authorized and directed to coordinate with local educational authorities to support the implementation of driver education and training in accordance with the provisions of Title 16, Chapter 27.

SECTION 3. CONFLICTING ORDINANCES

All ordinances or parts of ordinances in conflict with this Ordinance are hereby repealed to the extent of such conflict.

SECTION 4. SEVERABILITY

If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this Ordinance.

SECTION 5. EFFECTIVE DATE

This Ordinance shall take effect immediately upon its adoption and publication as required by law.

Council Member Watts moved that unanimous consent of the Council be given for immediate action upon said Ordinance. Council Member Morgan seconded said motion and upon vote the results were:

AYES: Montgomery, Morgan, Graham, Cost, Byers, Turner, Watts

NAYS: None

The Mayor declared said motion carried and unanimous consent given.

Council Member Turner moved that Ordinance No. 2025-04 be adopted, which motion was seconded by Council Member Morgan and upon vote the results were as follows:

AYES: Montgomery, Morgan, Graham, Cost, Byers, Turner, Watts

NAYS: None

Adopted this 19th day of May 2025.

Mayor Graham declared Ordinance No. 2025-04 adopted.

______________________________ ______________________________

Connie B. Payton, City Clerk Jon G. Graham, Mayor