CITY COUNCIL MEETING

MONDAY, APRIL 17, 2023 | 7:00 PM

City Council meeting in the Mauldin City Hall Council Chambers, 5 East Butler Road

Please note that members of the public are encouraged to participate remotely through Zoom. Please visit the City's website at https://cityofmauldin.org/your-government/meeting-minutes-agendas/ to access the meeting via audio and videoconferencing

CITY OF MAULDIN
COUNCIL MEETING AGENDA
APRIL 17, 2023
7:00 P.M.
CITY HALL COUNCIL CHAMBERS, 5 E. BUTLER ROAD

1. Call to Order — Mayor Merritt
- a. Welcome
- b. Invocation
- c. Pledge of Allegiance

2. Proclamations and Presentations — Mayor Merritt
- a. 12U Girls' Basketball Presentation [Page 4]
- b. Mauldin High School Girls' Basketball Presentation [Page 5]
- c. Habitat for Humanity Presentation
- d. National Day of Prayer Proclamation [Page 6]

3. Reading and Approval of Minutes — Mayor Merritt
- a. City Council Meeting- March 20, 2023 [Pages 7-11]

4. Public Comment — Mayor Merritt

5. Report from City Administrator — City Administrator

6. Report from Standing Committees
- a. Finance and Policy (Chairperson Reynolds)
- b. Public Safety (Chairperson King)
- c. Public Works (Chairperson Kraeling)
- d. Economic Planning & Development (Chairperson Matney)
- e. Building Codes (Chairperson Kuzniar)
- f. Recreation (Chairperson Allgood)

7. Unfinished Business- None — Mayor Merritt

8. New Business — Mayor Merritt

Ordinances – 1st Reading- None

a. Ordinance 1015- Sale of Property on Jenkins Court to McPhail Revocable Trust [Pages 12-17] — Chairman Matney

b. Ordinance 1016- Local Revenue Services Agreement [Pages 18-40] — Chairman Reynolds

Standing Committee Items

c. Comp and Class Plan [Page 41] — Chairman Reynolds

d. Senior Center Roof RFQ [Pages 42-51] Chairman Kraeling

Committee of the Whole- None

9. Public Comment Mayor Merritt

10. Call for Executive Session Mayor Merritt

a. Executive Session on receipt of legal advice regarding business license appeal as allowed by State Statute Section 30-4-70 (a)(2).

b. Possible action on items discussed in executive session

11. Council Concerns Mayor Merritt

12. Adjournment Mayor Merritt

PROCLAMATION

WHEREAS, the 2023 12U Mauldin Girls Basketball team won the 2023 SCAP 12U Girls State Basketball Championship;

WHEREAS, They swept through the bracket to bring home the Championship;

WHEREAS, this is their second straight Championship;

WHEREAS, the 12U Mauldin Girls Basketball Team, through hard work and dedication, won the a e hampionship;

NOW, THEREFORE, BE IT PROCLAIMED, that I, Terry Merritt, Mayor of the City of Mauldin, along with my fellow Councilmembers, do hereby recognize them for winning the State Championship.

_____

Terry Merritt, Mayor

PROCLAMATION

WHEREAS, the 2023 Mauldin High School Girls Basketball team won 17 straight games for e Class AAAAA Upper State championship at Bob Jones University;

WHEREAS, the Girls Basketball Team played against Stratford at USC Aiken for the program's first state title since 1957;

WHEREAS, Freshman guard Zara Leamon scored 24 points and sophomore guard Trinity Jones scored 20 as the Mavericks held on for a 62-57 win over Stratford in the 5-A state championship game at the USC-Aiken Convocation Center;

WHEREAS, the MHS Girls Basketball Team, through hard work and dedication, persevered and won the AAAAA State championship;

NOW, THEREFORE, BE IT PROCLAIMED, that I, Terry Merritt, Mayor of the City of Mauldin, along with my fellow Councilmembers, do hereby recognize the 2023 Mauldin High School Girls Basketball Team for winning the AAAAA State Championship.

_____

Terry Merritt, Mayor

PROCLAMATION

NATIONAL DAY OF PRAYER

WHEREAS, America needs a moral rebirth and nearly every problem facing our nation today springs from a moral base; and

WHEREAS, We need to implore God's blessings on our country; and

WHEREAS, We need to ask God to forgive our sinfulness and restore our moral perspective; and

WHEREAS, We ask that our citizens be reminded of II Chronicles 7:14: "If my people, who are called on by My name, shall humble themselves and pray, and seek My face, and turn from their wicked ways; then I will hear from heaven, and will forgive their sin, and will heal their land."

NOW THEREFORE, I, Terry Merritt, Mayor of the City of Mauldin, do hereby proclaim Thursday, May 4, 2023 as

National Day of Prayer

In the City of Mauldin and urge our citizens to join the millions of other Americans across the nation in praying for a moral rebirth in America.

_____
Terry Merritt, Mayor

ATTEST:

_____
Cindy Miller, Municipal Clerk

GCRA public hearing at 7:00 p.m., immediately before the Council meeting

Imma Nwobodu from Greenville County Redevelopment Authority was present to conduct the public hearing. The hearing started at 7:04 p.m. This year the City's allocation is estimated to be $174,256 in CDBG funds and $86,203 in Home funds. The public hearing was closed at 7:21 p.m.

MINUTES
CITY OF MAULDIN
COUNCIL MEETING
MARCH 20, 2023
7:00 P.M.
CITY HALL COUNCIL CHAMBERS, 5 E. BUTLER ROAD

Members present were Mayor Merritt, Council members Carol King, Taft Matney and Michael Reynolds. Councilman Frank Allgood, Councilman Jason Kraeling and Councilwoman Diane Kuzniar were not present.

Others present: City Attorney John Duggan and City Administrator Seth Duncan

1. Call to Order-Mayor Merritt

a. Welcome- Mayor Merritt

b. Invocation- Councilman Reynolds

c. Pledge of Allegiance- Councilman Reynolds

2. Proclamations and Presentations

a. KCI Presentation- KCI presented their stormwater findings and recommendations for Bishop Heights, Bilo Distribution Center, Harrison Plaza, Holly Springs, Knollwood Drive and Oak Park Drive.

b. Conestee Nature Preserve Presentation- Michael Corley was present from the Conestee Nature Preserve to show Council and the public the natural beauty that is right down the Road from Mauldin.

3. Reading and Approval of Minutes

a. City Council Meeting- February 20, 2023

Motion: Councilman Matney made a motion to approve the minutes with Councilwoman King seconding.

Vote: The vote was unanimous (4-0).

4. Public Comment- None

5. Report from City Administrator

Mr. Duncan reported the Cities of Mauldin and Fountain Inn have received a grant for $525,000, which is split evenly between the two cities for stormwater projects.

WOW, a new Internet provider has come to the City and are starting the installation process. They are digging in the right-of-way.

Councilman Matney asked if WOW was locating utilities and people's irrigation systems before digging. Mr. Duncan answered that they are calling 811 and people are encouraged to mark their irrigation systems with flags.

The next budget workshop is March 30th at 6:00 p.m.

6. Report from Standing Committees

a. Finance and Policy (Chairperson Reynolds)
b. Public Safety (Chairperson King)
Police Employee Awards and Recognition

Chief Miller awarded Kristi Vicars and Jennifer Fletcher with the Civilian Employee of the Year Awards. He then awarded James Madden with the Police Officer of the Year award.

c. Public Works (Chairperson Kraeling)
d. Economic Planning & Development (Chairperson Matney)
e. Building Codes (Chairperson Kuzniar)
f. Recreation (Chairperson Allgood)

7. Unfinished Business- None

8. New Business

Ordinances – 1st Reading- None

Standing Committee Items

a. Judicial Online Court Payment Merchant Agreement

Motion: Chairwoman King made a motion to approve the Statement of Work for the Judicial online payment system. Councilman Reynolds seconded the motion.

Vote: The vote was unanimous (4-0).

b. GLDTC Participation Agreement 600.01

Motion: Councilwoman King made a motion to approve the GLDTC Participation Agreement for paving the City's roadway inventory. Councilman Reynolds seconded the motion.

Vote: The vote was unanimous (4-0).

c. Cultural Center Copier Contract

Motion: Chairman Reynolds made a motion to add a new cultural center copier onto the existing City lease with Dex Imaging, making it co-terminus. Councilwoman King seconded the motion.

Vote: The vote was unanimous (4-0).

Committee of the Whole

d. GCRA resolution

Motion: Councilman Matney made a motion to consider this item informally. Councilwoman King seconded the motion.

Vote: The vote was unanimous (4-0).

Motion: Councilman Matney made a motion to adopt the GCRA resolution with Councilwoman King seconding.

Vote: The vote was unanimous (4-0).

9. Public Comment

a. Rollie Hyust: I live at 104 Swinton Drive. I just wanted to thank everyone here who is involved with the sidewalk that will be taking place on Miller Road. The bridge, as we know, is a death trap, but it will be resolved. I just want to thank everyone for your participation. This is a great thing. Thank you very much.

b. Nick Netchaeff: I am the owner/operator of Distinctive Details at 212 North Main Street. We will be submitting a counteroffer to the City. This is about the City Center and more specifically, about Jenkins. There is a very wide gap between the offers and I just wanted to make Council aware so this would be fair.

I want to apologize on the timeline, but we were waiting on the information, to include

the property value. I would like you to take into consideration that the 12 feet that is needed is 10% of our property. That is pretty easy math. My main entrance will be taken away and there is a big concern with that. The new entrance will be in the back parking lot and the only exit our customers will have is coming on to 276. We all know it is very dangerous to enter 276 without a red light. You also have to consider the footprint with the salability. All of that has been considered in our counteroffer, and I just wanted to come tonight. The GCRA lady said there was some infrastructure money, but anyway, that is above my paygrade.

People know I have been there a long time. I have been very positive about the City Center. I have been interviewed by the media and I have never bashed; I have always been positive. I have always said as long as the business owners are taken care of, but there is a lot of concern about that now. We were told there would be no eminent domain, but eminent domain was served to a business owner in 2022. I have a successful business and I treat people fairly, like I would want to be treated. I would ask you to pretend that is your property. The offer is nowhere near fair, I will put it that way. But I still want to stay positive about the City Center and I also know a detail shop doesn't fit in there. I still want to be compensated. I have been there a long time and have a successful business.

My plan was to sell my business and retire, not move at 61 years old. I would like you to consider that. I hope we can get all of this resolved. This has been stressful on me and my family. It has been going on for a long time. We have been talking about these townhomes for how long? It has been going on and on and will affect my business. I do want to be compensated. It is only a handful of business owners who need to be taken care of. This is the same as 10 years ago, 5 years ago, 3 years ago. I thank you for your time.

c. Dr. Walt McPhail: I am Walt McPhail, owner and operator of McPhail Animal Hospital in City Center. I want to say hello. I like being last. Ms. Black, Taft, Mr. Reynolds, Mayor, and staff, I appreciate your listening to me. Apparently, the stars aligned last month because we have been able to reach an agreement that benefits the City and McPhail Animal Hospital. We are going to do a little bit of horse trading. They are going to get a little property on Jenkins Street and I am going to get a little property on Jenkins Court to allow me to stay in business. I am here to thank you. We appreciate all you have done. Thank you.

Oh, by the way, with this horse trading, you saved a couple hundred thousand dollars. Take that into consideration when you consider my neighbor, Nick.

10. Council Concerns- None
11. Adjournment- Mayor Merritt adjourned the meeting at 8:20 p.m.

Respectfully Submitted,
Cindy Miller
Municipal Clerk

CITY COUNCIL
AGENDA ITEM

MEETING DATE: April 17, 2023

AGENDA ITEM: 8a

TO: City Council

FROM: Seth Duncan, City Administrator

SUBJECT: Ordinance 1015 – Sale of Property on Jenkins Court to McPhail Revocable Trust

REQUEST

Council will consider First Reading of an ordinance for the sale of property along Jenkins Court to McPhail Revocable Trust.

HISTORY/BACKGROUND

The City is currently seeking Right-of-Way (ROW) acquisitions for the purpose of making sidewalk and road improvements on Jenkins Street and Jenkins Court. As part of the ROW agreement with Dr. Walter McPhail, the City conditionally agreed to sell 1,456 square feet of property in front of McPhail Animal Hospital for parking and other uses. SC state law requires that the disposition of real property to be completed by ordinance. The City will also be purchasing additional ROW access for sidewalk installation on Jenkins St., but through a separate action at another time.

FINANCIAL IMPACT

None.

RECOMMENDATION

Staff recommends approval of an ordinance to sell a portion of property along Jenkins Court to McPhail Revocable Trust.

MAULDIN ORDINANCE _____-2023

AN ORDINANCE AUTHORIZING THE CONVEYANCE OF ANY AND ALL INTEREST IN CERTAIN REAL PROPERTY IN THE CITY OF MAULDIN

WHEREAS, the City of Mauldin ("City") owns certain real property located near or at the intersection of Jenkins Court and Jenkins Street identified on the attached deed as 0.033 acres/1,456 square feet (hereinafter "Property") that lies adjacent to property identified as Greenville County Tax Map No. M003010202901 within the city limits of Mauldin, County of Greenville, a portion of which is currently utilized by the property owner of the property identified as M003010202901 as a parking lot (hereinafter "Property"); and,

WHEREAS, pursuant to S.C. Code § 5-7-40, a municipality may convey or dispose of property it owns by Ordinance; and,

WHEREAS, the Mayor and City Council find that it is in the best interest of the City of Mauldin to convey the Property according to the quit-claim deed attached hereto as Exhibit "A".

NOW, THEREFORE, BE IT ORDAINED, by the Mayor and Council of the City of Mauldin, that the Mayor of the City is hereby authorized, empowered, and directed to execute, acknowledge and deliver the quit-claim deed attached hereto as Exhibit "A" to convey any and all interest the City may have in the Property.

This Ordinance shall be effective upon second reading approval thereof and no further authorization is required to execute and deliver all documents related to the conveyance contemplated by this Ordinance.

_____

Terry W. Merritt, Mayor

ATTEST:

_____
Cindy Miller, Municipal Clerk

Introduced by: _____

First Reading: _____

Second Reading: _____

Approved as to form: _____
Daniel R. Hughes

THE STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

QUITCLAIM DEED
Approximate Survey Stations

Road/Route	**Jenkins Court (Mauldin City St.)**
Project ID No.	**GLDTC 586**
Tract	**13**

11 + 42.86 To 12 + 44.33
Left Jenkins Court
_____ To _____
_____ To _____

KNOW ALL MEN BY THESE PRESENTS, that the **City of Mauldin ("Grantor"),** a municipal corporation organized and existing under the laws of the State of South Carolina, in consideration of the sum of **Ten Dollars and No/100ths (<u>$10.00)</u>** to me (or us) in hand paid, receipt of which is hereby acknowledged, do hereby remise, release, and quitclaim unto **Walter A. McPhail, Jr., as Trustee of the Walter A. McPhail, Jr. Revocable Trust u/a/d March 14, 2018, Barbara English McPhail, Trustee of the Barbara English McPahil Revocable Trust u/a/d March 14, 2018, Mary Frances McPhail, and Jane Anderson MPhail (collectively "Grantees")** its successors and assigns, all its right, title, and interest in and to the following described property:

All that certain piece, parcel, or lot of land located on Jenkins Court (City Street) near Jenkins Street (S-23-564), in the State and County aforesaid, containing 1456 square feet (0.033 acres), more or less, and all improvements thereon, if any, owned by the City of Mauldin as shown in the "Exhibit "B"/"Right of Way Acquisition Drawing" attached hereto and made a part hereof.

This being a portion of the property conveyed to the City of Mauldin by deed from DTC Holdings, LLC by deed recorded June 28, 2007 in Deed Book 2275, page 977.

The above-described property is to be combined with Grantees' property identified as Greenville County Tax Map No. M003010202901.

This conveyance is subject to any and all existing reservations, easements, rights of way, zoning ordinances and restrictive covenants that may appear of record or on the premises.

together with all and singular the rights, members, hereditaments and appurtenances to said premises belonging or in any wise incident or appertaining; to have and to hold all and singular the premises before mentioned unto the grantee, and the grantee's heirs, successors and assigns, forever.

WITNESS the Grantors' hands this _____ day of _____, 2023.

SIGNED, sealed and delivered
in the presence of:

The City of Mauldin

_____ _____

Witness By: Terry W. Merritt
Its: Mayor

_____

Witness

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)

ACKNOWLEDGEMENT

I, _____, a Notary Public in and for the State of South Carolina, do hereby certify that Terry W. Merritt, as Mayor for the City of Mauldin, personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

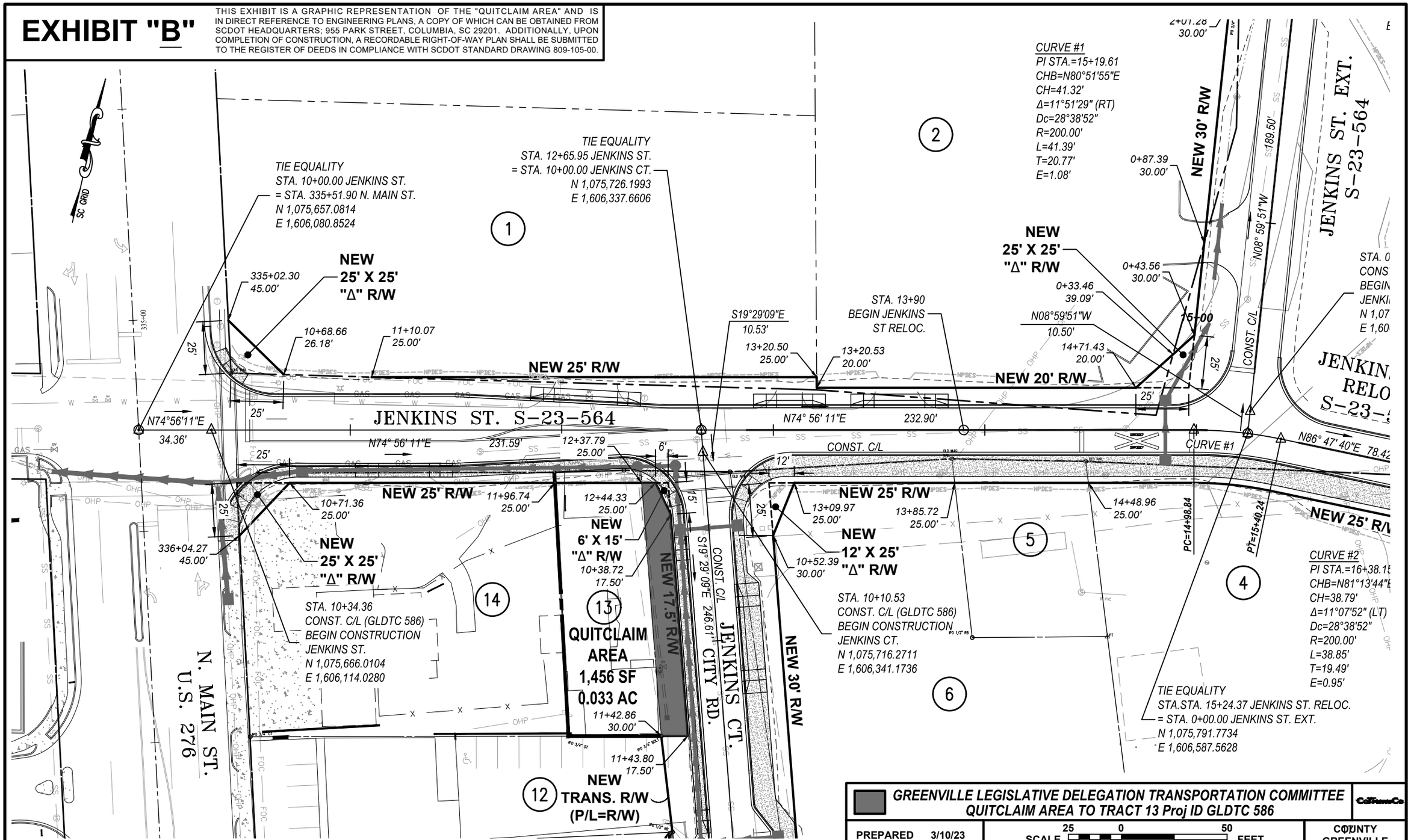
WITNESS my hand and seal this _____ day of _____, 2019.

_____

Notary Public for South Carolina
Greenville County
My Commission Expires:_____

EXHIBIT "B"

THIS EXHIBIT IS A GRAPHIC REPRESENTATION OF THE "QUITCLAIM AREA" AND IS IN DIRECT REFERENCE TO ENGINEERING PLANS, A COPY OF WHICH CAN BE OBTAINED FROM SCDOT HEADQUARTERS; 955 PARK STREET, COLUMBIA, SC 29201. ADDITIONALLY, UPON COMPLETION OF CONSTRUCTION, A RECORDABLE RIGHT-OF-WAY PLAN SHALL BE SUBMITTED TO THE REGISTER OF DEEDS IN COMPLIANCE WITH SCDOT STANDARD DRAWING 809-105-00.



AGENDA ITEM SUMMARY

MEETING DATE: April 17, 2023
AGENDA ITEM: 8

TO:
FROM: City Administrator Seth Duncan
SUBJECT: Ordinance, Agreement, and Supplement for Local Revenue Service Programs

REQUEST

City Council is requested to approve the ordinance, agreement and supplement for Local Revenue Service Programs.

HISTORY/BACKGROUND

For many years, the Municipal Association has offered collection programs for certain business license taxes. These programs include the Insurance Tax Collection Program, the Brokers Tax Collection Program, and the Telecommunication Tax Program. The Municipal Association has collectively rebranded these programs as Local Revenue Services and has renamed the three business license programs as the Insurance Tax Program (ITP), the Brokers Tax Program (BTP), and the Telecommunication Tax Program (TTP).

In addition, by Act 176 of 2020,1 the General Assembly standardized business licensing in the State of South Carolina. Following the adoption of this Act, the Municipal Association provided a revised model business license ordinance. Every municipality in the State has adopted a revised business license ordinance based on Act 176 and the new model ordinance.

As a result of the Local Revenue Services rebranding and the adoption of new local business license ordinances under Act 176, the Association is required to update the ordinances and agreement by which municipalities may participate in Local Revenue Services.

The substantial changes to the Local Revenue Services programs are as follows:

The new agreement is an intergovernmental agreement among all of the participating governments, rather than a series of standalone agreements.

Local Revenue Services will act in its own name as a division of the Municipal Association and will be governed by a committee of the Municipal Association's Board of Directors.

The terms on which the Municipal Association is delegated the authority to resolve litigation on behalf of its members have been clarified.

An appeals process, as required by and consistent with Act 176, has been formally adopted.

TIMELINE/FISCAL IMPACT

The new program documents will not substantially change the operation of the Local Revenue Services programs. The Municipal Association will continue to administer and collect business license taxes within ITP, BTP, and TTP. The rates for the Municipal Association's services will remain exactly the same as they are now. Finally, distributions of collected amounts will be made in the same manner and at approximately the same times as they are now.

RECOMMENDATION

Staff recommends approval of the ordinance, agreement and supplement.

ATTACHMENTS

Ordinance, Agreement, and Supplement

AN ORDINANCE

AUTHORIZING AND DIRECTING THE CITY OF MAULDIN TO ENTER INTO AN INTERGOVERNMENTAL AGREEMENT RELATING TO SOUTH CAROLINA LOCAL REVENUE SERVICES; TO PARTICIPATE IN ONE OR MORE LOCAL REVENUE SERVICE PROGRAMS; TO EXECUTE AND DELIVER ONE OR MORE PARTICIPANT PROGRAM SUPPLEMENTS; AND OTHER MATTERS RELATING THERETO.

WHEREAS, the CITY OF MAULDIN (the "Municipality") is authorized by S.C. Code Section 5-7-30 and Title 6, Chapter 1, Article 3 to impose a business license tax on gross income;

WHEREAS, under State law, certain business license taxes are applicable in a manner or at a rate that applies throughout the State ("Statewide Business License Taxes");

WHEREAS, such Statewide Business License Taxes include without limitation the business license taxes applicable to insurers under Title 38, Chapter 7 of the S.C. Code; to brokers under Title 38, Chapter 45 of the S.C. Code; and to telecommunications companies under Title 58, Chapter 9, Article 20 of the S.C. Code;

WHEREAS, the Municipal Association of South Carolina (the "Association") has previously established local revenue service programs in which the Association administers Statewide Business License Taxes on behalf of and for the benefit of participating municipalities;

WHEREAS, such local revenue service programs include a program known as the Insurance Tax Program ("ITP") that administers business license taxes applicable to insurers under Title 38, Chapter 7 of the S.C. Code; a program known as the Brokers Tax Program ("BTP") that administers business license taxes applicable to brokers under Title 38, Chapter 45 of the S.C. Code; and a program known as the Telecommunications Tax Program ("TTP") that administers business license taxes applicable to telecommunications companies under Title 58, Chapter 9, Article 20 of the S.C. Code;

WHEREAS, the Municipality currently participates in ITP, BTP, and TTP;

WHEREAS, by Act No. 176 of 2020, known as the South Carolina Business License Tax Standardization Act and codified at S.C. Code Sections 6-1-400 to -420 (the "Standardization Act"), the South Carolina General Assembly imposed additional requirements and conditions on the administration of business license taxes;

WHEREAS, following the enactment of the Standardization Act, the Municipality enacted Ordinance No. 928, in order to comply with the requirements of the Standardization Act (the "Current Business License Ordinance");

WHEREAS, in connection with the enactment of the Standardization Act and the adoption of locally compliant business license ordinances, the municipalities of the State have determined that it would be advisable and prudent to update the existing local revenue service programs;

WHEREAS, in particular, the municipalities of the State have determined to establish and join South Carolina Local Revenue Services ("LRS") by intergovernmental agreement, which among other things will administer Statewide Business License Taxes on behalf of its participants, including but not limited to by continuing to offer the services provided by the ITP, BTP, and TTP;

WHEREAS, Article VIII, Section 13(A) of the South Carolina Constitution provides that "(a)ny county, incorporated municipality, or other political subdivision may agree with the State or with any other political subdivision for the joint administration of any function and exercise of powers and the sharing of the costs thereof;"

WHEREAS, the [CITY] Council of the Municipality (the "Council") now wishes to authorize and direct the Municipality to join LRS and to participate in one or more local revenue service programs;

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Council of the [CITY] of [MAULDIN], as follows:

SECTION 1. Direction to Apply to and Join LRS. The form of the Local Revenue Services Agreement (the "Agreement") pursuant to which a municipality may request to participate in LRS and, if approved, become a participant is attached hereto as Exhibit A. The (the "Executive Officer") is hereby authorized and directed to apply to participate in LRS. If the Municipality's application is approved by LRS, then the Executive Officer shall execute and deliver a counterpart to the Agreement in substantially the form attached hereto. The Council hereby approves the terms and conditions of and agrees to comply with the Agreement upon the execution and delivery thereof by the Executive Officer.

SECTION 2. Participation in Local Revenue Service Programs. The Council determines that, if admitted to LRS, the Municipality will participate in the [ITP, the BTP, and the TTP]. The Executive Officer is hereby authorized and directed to execute and deliver any required Participant Program Supplements (as such term is defined in the Agreement) as may be necessary to participate in such local revenue service programs.

SECTION 3. Business License Taxes Applicable to Insurance Companies. Notwithstanding anything in the Current Business License Ordinance to the contrary, the following provisions shall apply to insurance companies subject to Title 38, Chapter 7 of the S.C. Code.

a) Except as set forth below, "gross premiums" for insurance companies means gross premiums written for policies for property or a risk located within the municipality. In addition, "gross premiums" shall include premiums written for policies that are sold, solicited, negotiated, taken, transmitted, received, delivered, applied for, produced or serviced by (1) the insurance company's office located in the municipality, (2) the insurance company's employee conducting business within the municipality, or (3) the office of the insurance company's licensed or appointed producer (agent) conducting business within the municipality, regardless of where the property or risk is located, provided no tax has been paid to another municipality in which the property or risk is

located based on the same premium.

b) As to fire insurance, "gross premiums" means gross premiums (1) collected in the municipality, and/or (2) realized from risks located within the limits of the municipality.

c) As to bail bonds, "gross premiums" shall exclude any amounts retained by a licensed bail bondsman as defined in Title 38, Chapter 53 of the S.C. Code for authorized commissions, fees, and expenses.

d) Gross premiums shall include all business conducted in the prior calendar year. Gross premiums shall include new and renewal business without deductions for any dividend, credit, return premiums, or deposit.

e) Solicitation for insurance, receiving or transmitting an application or policy, examination of a risk, collection or transmitting of a premium, adjusting a claim, delivering a benefit, or doing any act in connection with a policy or claim shall constitute conducting business within the municipality, regardless of whether or not an office is maintained in the municipality.

f) The business license tax for insurance companies under Title 38, Chapter 7 of the S.C. Code shall be established at the rates set forth below. Declining rates shall not apply.

NAICS Code

524113 **Life, Health, and Accident**. 0.75% of Gross Premiums.

524126 **Fire and Casualty**. 2% of Gross Premiums.

524127 **Title Insurance**. 2% of Gross Premiums.

g) License taxes for insurance companies shall be payable on or before May 31 in each year without penalty. The penalty for delinquent payments shall be 5% of the tax due per month, or portion thereof, after the due date until paid.

SECTION 4. Business License Tax Applicable to Brokers. Title 38, Chapter 45 of the S.C. Code (the "Brokers Act") establishes a blended premium tax rate applicable to brokers of 6 percent, comprising a 4 percent State premium tax and a 2 percent municipal premium tax, each to be collected by the South Carolina Department of Insurance. Pursuant to §§ 38-45-10 and 38-45-60 of the Brokers Act, the Municipal Association of South Carolina is designated the municipal agent for purposes of administration of the municipal broker's premium tax.

SECTION 5. Business License Taxes Applicable to Telecommunication Companies.

a) Notwithstanding any other provisions of the Current Business License Ordinance, the business license tax for "retail telecommunications services," as defined in S. C. Code Section 58-9-2200, shall be at the maximum rate authorized by S. C. Code Section 58-9-2220, as it now provides or as provided by its amendment. Declining rates shall not apply.

b) The business license tax year for retail telecommunications services shall begin on January 1 of each year. The business license tax for retail telecommunications services shall be due on January 1 of each year and payable by January 31 of that year, without penalty. The delinquent penalty shall be five percent (5%) of the tax due for each month, or portion thereof, after the due date until paid.

c) In conformity with S.C. Code Section 58-9-2220, the business license tax for "retail telecommunications services" shall apply to the gross income derived from the sale of retail telecommunications services for the preceding calendar or fiscal year which either originate or terminate in the municipality and which are charged to a service address within the municipality regardless of where these amounts are billed or paid and on which a business license tax has not been paid to another municipality. The measurement of the amounts derived from the retail sale of mobile telecommunications services shall include only revenues from the fixed monthly recurring charge of customers whose service address is within the boundaries of the municipality. For a business in operation for less than one year, the amount of business license tax shall be computed on a twelve-month projected income.

d) Nothing in this Ordinance shall be interpreted to interfere with continuing obligations of any franchise agreement or contractual agreement. All fees collected under such a franchise or contractual agreement shall be in lieu of fees or taxes which might otherwise be authorized by this Ordinance.

SECTION 6. No Exemption for Interstate Commerce. Properly apportioned gross income from interstate commerce shall be included in the gross income for every business subject to a business license tax.

SECTION 7. LRS to Appoint Business License Official and to Designate Appeals Board. Pursuant to the Agreement, LRS is hereby authorized to appoint one or more individuals (each, an "LRS Business License Official") to act as the Municipality's business license official for purposes of administering Statewide Business License Taxes. In addition, LRS is hereby authorized pursuant to the Agreement to designate an appeals board (the "Appeals Board") for purposes of appeals arising with respect to such taxes. The LRS Business License Official so appointed and the Appeals Board so designated shall have all of the powers granted to the Municipality's business license official and appeals board under the Current Business License Ordinance, except as may be modified by this ordinance.

SECTION 8. Appeals Process. With respect to the calculation, assessment, and collection of Statewide Business License Taxes, in lieu of the appeals process described in the Current Business License Ordinance, the following appeals process required by S.C. Code Section 6-1-410 shall apply:

a) If a taxpayer fails or refuses to pay a Statewide Business License Tax by the date on which it is due, the LRS Business License Official may serve notice of assessment of the Statewide

Business License Tax due on the taxpayer by mail or personal service. Within thirty days after the date of postmark or personal service, a taxpayer may request, in writing with reasons stated, an adjustment of the assessment. An informal conference between the LRS Business License Official and the taxpayer must be held within fifteen days of the receipt of the request, at which time the taxpayer may present any information or documents in support of the requested adjustment. Within five days after the conference, the LRS Business License Official shall issue a notice of final assessment and serve the taxpayer by mail or personal service with the notice and provide a form for any further appeal of the assessment by the taxpayer.

b) Within thirty days after the date of postmark or personal service, the taxpayer may appeal the notice of final assessment by filing a completed appeal form with the LRS Business License Official, by mail or personal service, and by paying to LRS in protest at least eighty percent of the business license tax based on the final assessment. The appeal must be heard and determined by the Appeals Board. The Appeals Board shall provide the taxpayer with written notice of the hearing and with any rules of evidence or procedure prescribed by the Appeals Board. The hearing must be held within thirty days after receipt of the appeal form unless continued to another date by agreement of the parties. A hearing by the Appeals Board must be held at a regular or specially called meeting of the Appeals Board. At the appeals hearing, the taxpayer and LRS have the right to be represented by counsel, to present testimony and evidence, and to cross-examine witnesses. The hearing must be recorded and must be transcribed at the expense of the party so requesting. The Appeals Board shall decide the assessment by majority vote. The Appeals Board shall issue a written decision explaining the basis for the decision with findings of fact and conclusions and shall inform the taxpayer of the right to request a contested case hearing before the Administrative Law Court. The written decision must be filed with the LRS Business License Official and served on the taxpayer by mail or personal service. The decision is the final decision of LRS on the assessment.

c) Within thirty days after the date of postmark or personal service of LRS's written decision on the assessment, a taxpayer may appeal the decision to the Administrative Law Court in accordance with the rules of the Administrative Law Court.

SECTION 9. Repealer, Effective Date. All ordinances in conflict with this ordinance are hereby repealed. This ordinance shall be effective on the date of final reading.

ENACTED IN REGULAR MEETING, this____day of_____, 20___.

_____

Mayor

ATTEST:

_____

Clerk

First reading: _____

Final reading: _____

LOCAL REVENUE SERVICES AGREEMENT

THIS AGREEMENT, made and entered into this day of A.D., 20 , by and among the Municipal Association of South Carolina (the "Association") and all the parties who are now or may hereafter become participants ("Participants") in South Carolina Local Revenue Services, a division of the Association ("LRS"),

WITNESSETH:

WHEREAS, certain governmental functions may be more efficiently and effectively provided in cooperation with other governments, particularly when the sharing of such functions may deliver economies of scale, avoid redundancies in staffing, facilitate intergovernmental communication and coordination, benefit the citizens and taxpayers of the State by offering single points of contact, and allow retention of highly trained and specialized staff or private contractors in situations in which it would not be cost effective for a single government to retain such professionals;

WHEREAS, Article VIII, sec. 13 of the South Carolina Constitution provides that any incorporated municipality "may agree with . . . any other political subdivision for the joint administration of any function and exercise of powers and the sharing of the costs thereof," and that "[n]othing in this Constitution may be construed to prohibit the State or any of its counties, incorporated municipalities, or other political subdivisions from agreeing to share the lawful cost, responsibility, and administration of functions with any one or more governments, whether within or without this State;"

WHEREAS, S.C. Code § 4-9-41(A) provides that any "incorporated municipality ... may provide for the joint administration of any function and exercise of powers as authorized by Section 13 of Article VIII of the South Carolina Constitution;"

WHEREAS, certain municipalities in the State have determined that it would be effective and efficient to jointly perform certain functions, including without limitation the business license functions more fully described below;

WHEREAS, LRS is a division of the Association and a committee of the board of directors of the Association and will establish or continue one or more Revenue Service Programs (as hereinafter defined); and

WHEREAS, the Participants, through action of their respective governing bodies, have elected to comply with the conditions of this Agreement and to authorize LRS to perform the functions and exercise the powers herein described;

NOW, THEREFORE, for and in consideration of the mutual covenants, promises, and obligations herein contained, which are given to and accepted by each signatory hereof to the other, the parties hereto agree as follows:

Section 1. Definitions. As used in this Agreement, the following terms shall have the meanings set forth below:

(a) “Appeals Board” means the board created pursuant to Section 8 hereof for purposes of hearing and determining appeals under this Agreement.

(b) “Association” means the Municipal Association of South Carolina.

(c) “Gross Proceeds” means, with respect to any Revenue Service Program and for any period of calculation, the total amount of Impositions collected by LRS during such period.

(d) “Imposition” means any tax, fee, rate, charge, fine, penalty, or interest charge that has been lawfully imposed by a Participant and for which a Revenue Service Program has been established. Such Impositions include, without limitation, Statewide Business License Taxes.

(e) “LRS” means South Carolina Local Revenue Services, established by this Agreement.

(f) “LRS Board of Directors” means the board of directors of LRS.

(g) “LRS Business License Official” shall mean the person designated from time to time by the LRS Board of Directors to act as the business license official (as such term in used in S.C. Code §§ 6-1-400 to -420) with respect to one or more Revenue Service Programs. The LRS Board of Directors may, but need not, designate different persons as the LRS Business License Official for different Revenue Service Programs.

(h) “Participant” means a local government that has become a participant in LRS by applying to LRS for admission and, if approved, accepting the terms of participation in LRS by ordinance and signing this Agreement in counterpart.

(i) “Net Proceeds” means, with respect to any Revenue Service Program and for any period of calculation, the amount of Gross Proceeds that remain for distribution to Participants after the payment of operation and maintenance expenses (including, without limitation, LRS’s compensation) for such period.

(j) “Revenue Service Programs” means any one or more programs established or continued by LRS to administer, assess, collect, and enforce Impositions. Such Revenue Service Programs may include, without limitation, programs for the administration, assessment, collection, and enforcement of Statewide Business License Taxes.

(k) “S.C. Code” means the South Carolina Code of Laws of 1976, as amended.

(l) “State” means the State of South Carolina.

(m) “Statewide Business License Taxes” means business license taxes that, pursuant to the S.C. Code, are applicable in a manner or at a rate that applies throughout the State. Such business license taxes include without limitation the business license taxes applicable to insurers under Title 38, Chapter 7 of the S.C. Code; to brokers under Title 38, Chapter 45 of the S.C. Code; to telecommunications companies under Title 58, Chapter 9, Article 20 of the S.C. Code; and such other business license taxes as may now or hereafter be made

applicable throughout the State in a manner or at a rate that has been established by State law.

Section 2. Authorization of LRS. The municipalities that are initial signatories hereto do hereby establish LRS and authorize it to perform the functions and exercise the powers described in this Agreement. The functions to be performed hereunder are more specifically described in Section 5 below and the powers to be exercised are more specifically described in Section 6 below. The Participants, regardless of their respective dates of admission to LRS, further agree as follows:

(a) The functions and powers described in this Agreement would be more efficiently and effectively performed and exercised in cooperation with other governments through LRS;

(b) The Participants shall comply with the conditions of this Agreement and, by joining LRS, shall jointly perform the functions and exercise the powers herein described by contract with LRS.

Section 3. Participation. The right to participate in LRS shall be limited to local governments within the State. A qualifying entity may become a Participant by applying to LRS for admission and, if approved, accepting the terms of participation in LRS by ordinance and signing this Agreement in counterpart. LRS shall be sole judge of whether an applicant shall be admitted as a Participant. A Participant may be suspended or expelled by the LRS Board of Directors from LRS, provided that such suspension or expulsion shall not be effective until 30 days after written notice of suspension or expulsion has been mailed to it.

Section 4. LRS Board of Directors. LRS shall be governed by a Board of Directors containing five Directors. The members of the Association's Executive Committee (comprising the President, First Vice President, Second Vice President, Third Vice President, and Immediate Past President of the Association) shall serve *ex officio* as Directors of LRS, with terms of office coterminous with their terms as officers of the Association. The President of the Association, or in his or her absence the First Vice President of the Association, shall serve as chair at meetings of the LRS Board of Directors. With respect to LRS's officers, the members of the LRS Board of Directors shall occupy the same offices as they do with respect to the Association.

Section 5. Functions of LRS. LRS may, and at the direction of and subject to the control of the LRS Board of Directors shall, establish or continue one or more Revenue Service Programs including, without limitation, for the administration, assessment, collection, and enforcement of Statewide Business License Taxes and other Impositions related to Statewide Business License Taxes. LRS's functions with respect to the Revenue Service Programs shall include, without limitation, training employees; developing resources to assist business license functions; making necessary investigations into entities or individuals subject to Impositions; developing databases for the application, calculation, allocation, and distribution of Impositions; establishing procedures for determining and calculating the amounts due as Impositions; communicating with entities or individuals subject to Impositions; collecting current and delinquent Impositions; initiating, defending, managing, resolving, and settling disputes or litigation matters that affect more than

one Participant; and acquiring, licensing, developing, improving, maintaining, and protecting software and other information technology infrastructure.

Section 6. Powers of LRS. LRS shall have the following powers:

(a) adopt bylaws for the regulation of its affairs and the conduct of its business and prescribe rules and policies and promulgate regulations in connection with the performance of its functions and duties;

(b) adopt an official seal and alter it at its pleasure;

(c) maintain an office at a place it determines;

(d) sue and be sued in its own name and plead and be impleaded;

(e) require documentation of amounts due from taxpayers, including without limitation by requiring reconciliation reports in which the taxpayer provides sufficient information to verify whether revenues of the taxpayer are appropriate for exclusion as non-municipal revenues and to determine the proper allocation of Impositions among Participants;

(f) receive, administer, and comply with the conditions and requirements of a gift, grant, or donation of property or money;

(g) acquire by purchase, lease, gift, or otherwise, or obtain options for the acquisition of, any property, real or personal, improved or unimproved, including an interest in land less than the fee thereof in conformity with state law;

(h) sell, lease, exchange, transfer, mortgage, or otherwise dispose of, or grant options for any such purposes with respect to, any real or personal property or interest therein in conformity with state law;

(i) make and execute contracts, agreements, or other undertakings with such agents, service contractors, persons, firms, corporations, and attorneys as it deems appropriate to performs its functions and exercise its powers;

(j) acquire, license, develop, improve, maintain, and protect software and other information technology infrastructure;

(k) employ professionals, support staff, attorneys, appraisers, financial advisors, and other consultants and employees as required in the judgment of LRS and fix and pay their compensation from funds available to LRS for that purpose;

(l) transact any lawful business that will aid the purposes and functions of LRS;

(m) make payments or donations, or do any other act, not inconsistent with law, that furthers the business and affairs of LRS; and

(n) do all things necessary or convenient, not inconsistent with law, to further the activities and affairs of LRS

Section 7. Attorney-in-Fact Designation; Dispute Resolution and Conduct of Litigation. Each Participant hereby appoints LRS and its designees as its agent and attorney-in-fact to act on its behalf with respect to Impositions. As agent and attorney-in-fact, LRS shall be fully empowered to initiate, defend, manage, resolve, and settle any disputes or litigation (whether in its own name or in the name of the Participants) relating to Impositions owing or payable to one or more Participants; to pay all expenses, costs, and judgments that might be incurred against LRS when acting on behalf of its Participants for communication, investigation, negotiation, enforcement, defense, or settlement with respect to Impositions; and to take all other actions as may be necessary to administer, collect, investigate, enforce, and implement the Revenue Service Programs. Each Participant, pursuant to Rule 17 of the S. C. Rules of Civil Procedure and Rule 17 of the Federal Rules of Civil Procedure, specifically acknowledges the standing of LRS to prosecute a civil action for collection in its behalf and hereby ratifies any such action that LRS may commence.

The LRS Board of Directors may, by majority vote, authorize a third party (including without limitation the Association) to act as attorney-in-fact to the same extent as set forth in this section on behalf of the Participants.

LRS's authority to initiate, defend, manage, resolve, and settle disputes and litigation shall be subject to the following terms and conditions:

(a) If, with respect to any particular dispute, a proposed compromise or settlement would reduce the amount asserted by LRS to be payable to an individual Participant by more than ten percent (10%) of the total amount remitted by LRS to such Participant in the immediately preceding year for the relevant Revenue Service Program, then, notwithstanding subsections 7(b) and 7(c) below, LRS shall be required to secure the written consent of such Participant before compromising or settling such dispute with respect to such Participant. Otherwise, LRS shall be entitled to compromise or settle such dispute on behalf of each Participant without further authorization by such Participants beyond that contained herein.

(b) Any proposed compromise or settlement that would result in a reduction of $100,000 or less from the amount originally claimed to be due and owing by LRS may be approved or denied by LRS without separate approval by the LRS Board of Directors. The LRS Board of Directors shall, by appropriate action from time to time, designate one or more staff members or contractual counterparties who are authorized to compromise or settle such disputes.

(c) Any proposed compromise or settlement that would result in a reduction of more than $100,000 from the amount originally claimed to be due and owing by LRS must be approved or denied by the LRS Board of Directors.

(d) Any proposed compromise or settlement that would result in a waiver of penalties, interest, late charges, or other amounts owing due to late payment of an Imposition must be approved or denied by the LRS Board of Directors.

Section 8. Appeals Process. The Participants acknowledge that, pursuant to local ordinances, regulations, and rules, each Participant has its own procedures by which matters relating to the calculation, assessment, and collection of business license taxes may be appealed. With respect to Impositions subject to this Agreement, however, each Participant has enacted a local ordinance by which appeals relating to such Impositions are excluded from the otherwise applicable local ordinance. Each Participant agrees that the appeals process described in this Section shall apply to all appeals relating to Impositions subject to this Agreement. Each Participant hereby consents to the adoption of the appeals process described in this Section; specifically declares its intention that such appeals process shall be deemed an exception to its otherwise applicable local ordinances, regulations, and rules; and agrees that it has or will approve such appeals process by appropriate local action.

(a) There is hereby created a board for purposes of hearing appeals pursuant to this Section (the "Appeals Board"). The Appeals Board shall contain three members. The President of the Association, the Executive Director of the Association, and the President of the South Carolina Business Licensing Officials Association ("BLOA") shall each serve *ex officio* as members of the Appeals Board, with terms of office coterminous with their terms as officers of the Association or BLOA, as appropriate. The President of the Association, or in his or her absence the Executive Director of the Association, shall serve as chair at meetings of the Appeals Board.

(b) With respect to the calculation, assessment, and collection of Impositions, the following appeals process, as required by Section 6-1-410, shall apply.

(1) If a taxpayer fails or refuses to pay an Imposition by the date on which such Imposition is due, the LRS Business License Official may serve notice of assessment of the Imposition due on the taxpayer by mail or personal service. Within thirty days after the date of postmark or personal service, a taxpayer may request, in writing with reasons stated, an adjustment of the assessment. An informal conference between the LRS Business License Official and the taxpayer must be held within fifteen days of the receipt of the request, at which time the taxpayer may present any information or documents in support of the requested adjustment. Within five days after the conference, the LRS Business License Official shall issue a notice of final assessment and serve the taxpayer by mail or personal service with the notice and provide a form for any further appeal of the assessment by the taxpayer.

(2) Within thirty days after the date of postmark or personal service, the taxpayer may appeal the notice of final assessment by filing a completed appeal form with the LRS Business License Official, by mail or personal service, and by paying to LRS

in protest at least eighty percent of the business license tax based on the final assessment. The appeal must be heard and determined by the Appeals Board. The Appeals Board shall provide the taxpayer with written notice of the hearing and with any rules of evidence or procedure prescribed by the Appeals Board. The hearing must be held within thirty days after receipt of the appeal form unless continued to another date by agreement of the parties. A hearing by the Appeals Board must be held at a regular or specially called meeting of the Appeals Board. At the appeals hearing, the taxpayer and LRS have the right to be represented by counsel, to present testimony and evidence, and to cross-examine witnesses. The hearing must be recorded and must be transcribed at the expense of the party so requesting. The Appeals Board shall decide the assessment by majority vote. The Appeals Board shall issue a written decision explaining the basis for the decision with findings of fact and conclusions and shall inform the taxpayer of the right to request a contested case hearing before the Administrative Law Court. The written decision must be filed with the LRS Business License Official and served on the taxpayer by mail or personal service. The decision is the final decision of LRS on the assessment.

(3) Within thirty days after the date of postmark or personal service of LRS's written decision on the assessment, a taxpayer may appeal the decision to the Administrative Law Court in accordance with the rules of the Administrative Law Court.

Section 9. LRS May Be Separately Organized. Hereafter, the LRS Board of Directors may determine, for corporate governance, recordkeeping, and operational purposes, that LRS should be established as a separate entity, either under the South Carolina Nonprofit Corporation Act, currently codified at Title 33, Chapter 31 of the S.C. Code, or otherwise. If the LRS Board of Directors so determines, it may take all such actions as may be necessary to organize LRS as a separate entity without further approval by the Participants, provided that such organization shall not otherwise vary or modify the terms of this Agreement except to the extent necessary to reflect the new organizational structure of LRS.

Section 10. Participation in a Revenue Service Program. A Participant may elect to participate in a Revenue Service Program by signing and delivering a separate supplement to this Agreement with respect to such Revenue Service Program (each, a "Participant Program Supplement"). The Participant Program Supplements shall be substantially identical within each Revenue Service Program. The form of the Participant Program Supplement is attached hereto as Appendix A.

Section 11. Collection of Impositions; Distributions; Payment for Services; Prohibition on Lobbying Activity.

(a) LRS shall collect, subject to the Participant Program Supplements, all Impositions subject to this Agreement.

(b) The Participants will compensate LRS for its services. Initially, such compensation shall be in the amount of four percent of Gross Proceeds collected for the benefit of each Participant within each Revenue Service Program, subject to any volume discount approved from time to time by the LRS Board of Directors, together with any interest earned on funds held on deposit prior to disbursement. The Participants acknowledge that this amount represents operating expenses payable to LRS for services rendered. For accounting and recordkeeping purposes, LRS will apply this rate to each Participant separately within each Revenue Service Program. Hereafter, and notwithstanding Section 13 below, the LRS Board of Directors by majority vote may amend the compensation method by giving notice to all participating Participants at least ninety days prior to the effective date of such amendment. Such amendment shall become effective after the ninety-day notice period with respect to each Participant without further action by such Participant, provided that such Participant may withdraw from participation at any time within ninety days after notice of the amendment is provided.

(c) LRS will regularly, and not less than once in each calendar quarter, distribute the Net Proceeds to Participants.

(d) No funds or personnel of LRS may be used or employed to influence any election; support or oppose any partisan organization; support or oppose the enactment, repeal, or modification of any federal or state legislation; or seek to influence any federal or state local government officials in the discharge of their official functions.

Section 12. Fiscal Year. LRS shall operate on a fiscal year from 12:01 a.m. January 1 of each year to 12:00 midnight December 31 of the succeeding year (the "LRS Year"). Application for participation, when approved in writing by LRS shall constitute a continuing contract for each succeeding LRS Year unless cancelled by LRS.

Section 13. Amendment. This Agreement may be amended by an agreement executed by those Participants constituting a majority of the Participants in LRS during the current LRS Year. In lieu of this amendment procedure, the Participants hereby appoint a 4/5 majority (i.e., at least four Directors) of the LRS Board of Directors agents to make any amendments to this Agreement that would not fundamentally alter the contemplated arrangement. Written notice of any amendment proposed for adoption by the LRS Board of Directors shall be mailed to each Participant not less than 30 days in advance. Written notice of amendments finally adopted by the LRS Board of Directors shall be mailed to each Participant not more than 30 days after adoption.

Section 14. Terms Applicable on Admission. Any entity that formally applies to participate in LRS and is accepted by LRS shall thereupon become a party to this Agreement and be bound by all of the terms and conditions hereof. A Participant may withdraw from participation by delivery of written notice of withdrawal at least 90 days prior to the end of an LRS Year, to be effective as of the end of such LRS Year.

Section 15. Term; Dissolution. LRS has been established with the bona fide intention that it shall be continued in operation indefinitely and that the contributions to LRS shall continue for an indefinite period. However, the LRS Board of Directors reserves the right at any time to terminate LRS by a written instrument to that effect executed by at least four-fifths (4/5) of the members of the LRS Board of Directors. Such written termination notice shall be delivered to each Participant no less than 120 days prior to the effective date of termination. In the event of such termination, Participant contributions shall cease as of the date of termination and the assets then remaining in the fund shall continue to be used and applied, to the extent available, for the (a) payment of claims arising prior to such termination and (b) payment of reasonable and necessary expenses incurred in such termination. Any monies or other assets thereafter remaining in LRS shall be distributed pro rata to the Participants in LRS as of the day of termination. In no event shall any such assets be returned or distributed to any individual. Upon such termination, the LRS Board of Directors shall continue to serve for such period of time and to the extent necessary to effectuate termination of LRS.

[*signatures appear on following page*]

IN WITNESS WHEREOF, the Participants listed below acknowledge their participation in LRS and acceptance of obligations thereunder, by the due execution hereof, following appropriate governmental body approval, by its mayor or other duly authorized official. Further, LRS has caused these presents to be signed by its President and attested by its Vice President.

MUNICIPAL ASSOCIATION OF SOUTH CAROLINA

_____

B. Todd Glover, Executive Director

LOCAL REVENUE SERVICES, A DIVISION OF THE MUNICIPAL ASSOCIATION OF SOUTH CAROLINA

_____

Mayor Rick Osbon, President of LRS

ATTEST:

_____

Mayor Barbara Blain-Bellamy, Vice President of LRS

PARTICIPANT SIGNATURE PAGE

CITY OF MAULDIN, SOUTH CAROLINA

_____

Name:
Title:

ATTEST:

_____

Name:
Title: Municipal Clerk of Mauldin

APPENDIX A: FORM OF PARTICIPANT PROGRAM SUPPLEMENT

WHEREAS, the City of Mauldin (the "Municipality") has applied for and been approved to participate in South Carolina Local Revenue Services ("LRS");

WHEREAS, the Municipality has executed a counterpart of the Local Revenue Services Agreement (the "Agreement") by and among itself and all other participants in LRS;

WHEREAS, capitalized terms used and not otherwise defined herein have the meaning given to such terms in the Agreement;

WHEREAS, pursuant to the Agreement, LRS has established Revenue Service Programs for Statewide Business Licenses and other Impositions; and

WHEREAS, the Municipality now desires to agree to participate in one or more Revenue Service Programs;

NOW, THEREFORE, the Municipality hereby agrees with LRS as follows:

Section 1. Participation in Revenue Service Programs. The Municipality hereby elects and agrees to participate in the following Revenue Service Programs: [ITP / BTP / TTP].

Section 2. Term. This Participant Program Supplement is effective until December 31, 2023, and shall continue from year-to-year thereafter until terminated by either party upon notice delivered in writing given at least 90 days prior to the next upcoming December 31.

Section 3. Payment for Services. The Municipality agrees that it will compensate LRS for its services as set forth in the Agreement. Initially, such compensation shall be in the amount of four percent of Gross Proceeds collected for the benefit of the Municipality within each Revenue Service Program, subject to any volume discount approved from time to time by the LRS Board of Directors, together with any interest earned on funds held on deposit prior to disbursement. The Municipality acknowledges that this amount represents operating expenses payable to LRS for services rendered. For accounting and recordkeeping purposes, LRS will apply this rate to the Municipality separately within each Revenue Service Program.

Section 4. Expenses; Fund Accounting. (a) The rate for services established herein shall be inclusive of all administrative expenses of LRS, except legal expenses incurred in connection with the services rendered. Legal expenses incurred by LRS are not included in the base rate and shall be prorated to all Participants in direct relationship to the disbursements of the Revenue Service Program to which the legal expenses relate.

(b) LRS will deposit all funds received in an appropriate account for which accurate records will be maintained. Business license taxes collected for the Municipality, less the service charge herein agreed to, will be disbursed to the Municipality on or before March 1 of each calendar year and thereafter as remaining collections permit.

Section 5. Special Provisions for BTP. (a) Pursuant to Title 38, Chapter 45 of the South Carolina Code of Laws (the "Brokers Insurance Statute"), the Municipality designates the Municipal

Association of South Carolina as the municipal agent to act on behalf of the municipality for the purposes of the Brokers Insurance Statute.

(b) The Brokers Insurance Statute governs the receipt from the South Carolina Department of Insurance ("DOI") and distribution to the Municipality of all municipal premium taxes from brokers for non-admitted surplus lines insurance. Upon receipt of the taxes from the DOI, LRS will deposit all funds received in an appropriate account for which accurate records will be maintained. Taxes will be disbursed to the Municipality, less the service charge herein agreed to, as collections permit.

PARTICIPANT PROGRAM SUPPLEMENT

WHEREAS, the City of Mauldin (the "Municipality") has applied for and been approved to participate in South Carolina Local Revenue Services ("LRS");

WHEREAS, the Municipality has executed a counterpart of the Local Revenue Services Agreement (the "Agreement") by and among itself and all other participants in LRS;

WHEREAS, capitalized terms used and not otherwise defined herein have the meaning given to such terms in the Agreement;

WHEREAS, pursuant to the Agreement, LRS has established Revenue Service Programs for Statewide Business Licenses and other Impositions; and

WHEREAS, the Municipality now desires to agree to participate in one or more Revenue Service Programs;

NOW, THEREFORE, the Municipality hereby agrees with LRS as follows:

Section 1. Participation in Revenue Service Programs. The Municipality hereby elects and agrees to participate in the following Revenue Service Programs: [ITP / BTP / TTP].

Section 2. Term. This Participant Program Supplement is effective until December 31, 2023, and shall continue from year-to-year thereafter until terminated by either party upon notice delivered in writing given at least 90 days prior to the next upcoming December 31.

Section 3. Payment for Services. The Municipality agrees that it will compensate LRS for its services as set forth in the Agreement. Initially, such compensation shall be in the amount of four percent of Gross Proceeds collected for the benefit of the Municipality within each Revenue Service Program, subject to any volume discount approved from time to time by the LRS Board of Directors, together with any interest earned on funds held on deposit prior to disbursement. The Municipality acknowledges that this amount represents operating expenses payable to LRS for services rendered. For accounting and recordkeeping purposes, LRS will apply this rate to the Municipality separately within each Revenue Service Program.

Section 4. Expenses; Fund Accounting. (a) The rate for services established herein shall be inclusive of all administrative expenses of LRS, except legal expenses incurred in connection with the services rendered. Legal expenses incurred by LRS are not included in the base rate and shall be prorated to all Participants in direct relationship to the disbursements of the Revenue Service Program to which the legal expenses relate.

(b) LRS will deposit all funds received in an appropriate account for which accurate records will be maintained. Business license taxes collected for the Municipality, less the service charge herein agreed to, will be disbursed to the Municipality on or before March 1 of each calendar year and thereafter as remaining collections permit.

Section 5. Special Provisions for BTP. (a) Pursuant to Title 38, Chapter 45 of the South Carolina Code of Laws (the "Brokers Insurance Statute"), the Municipality designates the Municipal

Association of South Carolina as the municipal agent to act on behalf of the municipality for the purposes of the Brokers Insurance Statute.

(b) The Brokers Insurance Statute governs the receipt from the South Carolina Department of Insurance ("DOI") and distribution to the Municipality of all municipal premium taxes from brokers for non-admitted surplus lines insurance. Upon receipt of the taxes from the DOI, LRS will deposit all funds received in an appropriate account for which accurate records will be maintained. Taxes will be disbursed to the Municipality, less the service charge herein agreed to, as collections permit.

CITY OF MAULDIN, SOUTH CAROLINA

_____

Name:
Title:

ATTEST:

_____

Name:
Title: Municipal Clerk of Mauldin

Date: 4/3/2023

To: Finance Committee

Subject: 2022 Comp and Class Actions

Committee,

Please find below information assembled to move forward with the recommendations made by Evergreen Solutions concerning the 2022 Comp and Class Study.

These recommendations are as follows:

- Follow the Hybrid Parity proposal that would ensure the City's pay rates are brought in line with the market rate. Employees will receive a percentage increase based on factors that include longevity (both with the City and time in position), cost of living, and current pay scale in regards to market compensation values. Percentage increases will vary from employee to employee with no full-time employee receiving less than 4 percent.
- Increase starting pay for Police Officers to $45,000.00 and Fire Fighters to $42,000.00.
- Increase all Sports Center Part-Time employees from $10 per hour up to $11 per hour.

Total cost for implantation of the measures will be approximately $539,000. If approved by City Council on April 17th, staff will make necessary system changes that same week for the pay period ending April 24th. Pay adjustments would be reflected in staff checks beginning April 28th. Cost to implement during the 2022-2023 budget year will be approximately $112,000.

If you have any questions or concerns, please advise.

Regards,

Mark Putnam

HR Director

CITY COUNCIL
AGENDA ITEM

MEETING DATE: April 17, 2023

AGENDA ITEM: 8d

TO: City Council

FROM: Public Works Director, Matthew Fleahman

SUBJECT: Sports Center Roof Replacement RFQ: 2023-PW01

REQUEST

Authorization is requested to execute the attached contract between the City of Mauldin and Guy Roofing for the replacement of the roof on the Sports Center Complex.

HISTORY/BACKGROUND

During the 2022 – 2023 fiscal year budget, City Council budgeted $150,000 for the replacement of the roofing on the Sports Center Complex. The current roofing material was installed in 2006 and has had a significant number of issues over the last few years. Public Works and contractors have dealt with leaks, cracking, and failing flashing around roof penetrations.

ANALYSIS or STAFF FINDINGS

The City sent out an RFQ to replace the flat roof on the Sports Center in January 2023 with a due date of March 1, 2023. At the close of the submission period, seven (7) responsible bids were collected and were reviewed by an RFP committee. Submittals were scored based on organizational qualifications, summary of pricing, and proposed solution. The highest scored submittal by the committee is being recommended. A summary of the RFQ review is presented below:

Sports Center Flat Roof Replacement
RFP# 2023-PW01

Vendor	Curtis	Bart	Matthew	Willie	Total	Price
Guy Roofing	93	75	85	85	338	$ 129,900
Gilstrap	92	85	70	90	337	$ 141,600
RPI	86	80	75	82	323	$ 129,900
Porter Roofing	83	82	70	83	318	$ 159,000
IES Coatings	83	65	75	78	301	$ 130,279
Storm Team	90	60	75	50	275	$ 158,240
Land Roofing	82	38	55	35	210	$ 119,800

FINANCIAL IMPACT

The City allocated $150,000 in its Capital Improvement Plan for the 2022 – 2023 annual budget for the replacement of the Sports Center flat room. The highest scored submittal was 129,000 dollars by Guy Roofing. The submittal included unit prices for items which may increase the price, such as decking and insulation underneath the current roof system.

RECOMMENDATION

Staff recommends the City Council approve the contract with Guy Roofing for 129,900 dollars and authorize the City Administrator to approve all change orders up to 150,000 dollars in the event that deteriorated decking and insulation are discovered during the roof installation.

OVERVIEW

Mauldin Sports Complex
Flat Roof Sections – see aerial ID

Approximately 13,475 square feet

- Obtain a building permit as required by local authorities.
- Provide a pre-roof meeting with an owner's representative.
- Guy Roofing General Terms and Conditions, as attached, apply to this project.
- Guy Roofing, Inc. to provide all dumpsters necessary to complete roofing project.

EXISTING ROOF PREPARATIONS

- Sweep or Blow Clean the existing Modified Bitumen roof surface and dispose of all debris at an offsite location.
- Remove and dispose of all existing base flashings and dispose of all debris at an offsite location.

INSTALLATION OF NEW ROOF

- Provide and adhere in 2-part adhesive a White **115 Mil Fleeceback TPO roof system** over the existing roof system per industry requirements.
- At existing roof drain locations, provide new drain bolts and hardware and flash per industry requirements.
- Flash all parapet walls up and over with new TPO per industry requirements.
- Flash all curbs, pipes, pitch pockets and other penetrations.
- Provide and install new TPO walkway pads at all access locations and at the service side of all HVAC equipment.

INSTALLATION OF SHEET METAL

- Provide and install new 24 ga. Kynar finished **FM Approved GUY GUARD RE-5 Quick Snap** sheet metal edge metal.
- Provide and install new 24 ga. Kynar finished sheet metal curb counter flashing.
- Provide and install new 24 ga. Kynar finished sheet metal surface mounted counter flashing.
- Provide and install new 24 ga. Kynar finished sheet metal slip counter flashing underneath the existing wall panel siding.
- Provide and install new 24 ga. TPO Clad sheet metal overflow scuppers.

WARRANTY

- At the completion of the project and upon final payment, provide the owner with a GUY GUARD Single Source **20 year** Labor and Material Roof Warranty.

BASE BID AMOUNT: $129,900.00

UNIT PRICING

In the event Guy Roofing finds damaged or deteriorated Steel Decking, Guy Roofing will replace the decking on an “as needed” basis only:

- Remove deteriorated and replace with a like or similar decking

  PRICE: ADD $15.00 / Square Foot
- Overlay deteriorated decking with like or similar decking

  PRICE: ADD $11.00 / Square Foot

In the event Guy Roofing finds moderately rusted steel roof decking, Guy Roofing will wire brush and prime the decking on an “as needed” basis only:

- Wire Brush and Prime Steel Decking

  PRICE: ADD $4.00 / Square Foot

In the event Guy Roofing finds damaged or deteriorated insulation or wet roofing areas, Guy Roofing will replace the wet areas with new Polyiso to match existing thickness on an “as needed” basis only:

- Remove Wet or Damaged Insulation or Roofing Areas and Replace with Polyiso

  PRICE: ADD $10.00 / Square Foot

In the event the owner requires additional walkway pads:

- Furnish and install new walkway pads in locations directed by the owner.

  PRICE: ADD $40.00 / Lineal Foot

In the event Guy Roofing finds missing, damaged or deteriorated wood blocking, Guy Roofing will add/replace the wood blocking on an “as needed” basis only:

- Remove deteriorated wood and replace with new wood blocking for metal attachment

  PRICE: ADD $15.00 / Lineal Foot

BID FOOTNOTES

- Price is based on adequate fastener resistance pull out values into the existing decking in accordance with manufacturer specifications.
- Price is based on adequate adhesion values to the existing substrate in accordance with manufacturer specifications.
- Prices are based on the following:
    - No work hour restrictions.
    - Purchaser is responsible for interior protection.
    - Material and dumpster storage location to be directly adjacent to the section(s) described in the above scope of work.
- Purchaser acknowledges that additional weight will be added by the installation of the new roof and assumes all risks and liabilities associated with the performance of the Contract Work, including additional there to and agrees that Contractor has no duty to perform any structural analysis or engineering calculations with respect to the structural capacity of the building.
- Guy Roofing will make a reasonable effort to minimize damage to the lawn and landscaping during the roofing process.
- Standard metal selection is to match existing metal. Initial here to elect standard metal match as your selection and Guy Roofing will order accordingly for you. _____ If this is not a standard metal match, please choose from a Guy Roofing provided standard color chart. Selection must be made in order to begin work. Selected Color: _____
- Contractor will make every effort to protect the roof not in contract that needs to be traversed to gain access to the roof described in the Base Bid; however, in the event of any damage, all repairs will be at the Purchaser's expense.
- If the roof system or attachment method recommended by Guy Roofing in the aforementioned scope of work is not accepted by state and/or local municipalities, Guy Roofing will supply Purchaser with an alternate system and the difference in system cost will be reflected in a change order to be approved by Purchaser prior to commencement of work.
- Purchaser is responsible to protect power lines within a 10-foot radius of work to be performed in accordance with OSHA 29 CFR 1926.416. More specifically, paragraph 29 CFR 1926.416(g)(2) requires that such lines must be: 1) de-energized and grounded, or 2) guarded, isolated or insulated to prevent accidental contact with lines by a body part, materials, tools or equipment.
- Guy Roofing Inc is to secure all necessary building permits.
- Upon receiving awarded contract, any and all unit pricing listed within this Proposal and Contract will only be valid up to 98% substantial completion awaiting inspections. Should Purchaser elect to solicit for additional work based on unit pricing after substantial completion, previously provided unit pricing will be null and void and new pricing will be determined.
- All prices offered in this proposal document are based on Contractor's current OSHA Safety Regulations and Fall Protection Standards which are available upon request. Any requirements above and beyond those outlined in the Contractor's OSHA Standards will result in an additional charge which will be passed on to the owner.
- Purchaser is responsible for all fees and scheduling associated with disconnecting/reconnecting HVAC, lightning protection, electrical and/or mechanical equipment, communication cables, and moving, repositioning, and recalibrating any and all satellite dishes and any other equipment as required to complete the project.
- Purchaser permits Contractor to profile the performance of this project in Contractor's marketing materials. Pricing information will not be published.

Accepted as Contract by:

Guy Roofing, Inc.

Contractor:

By:

Title:

Date:

Accepted as Contract by:

Purchaser:

By:

Title:

Date:

Terms & Conditions

1. Payment Schedule and Terms (select one):

- ☐ Option 1: An initial payment of 25% of the Contract Sum is required with acceptance of proposal. No scheduling or material orders will be processed until this payment is received. 15% of the Contract Sum will be billed upon job commencement, payable upon receipt. The balance of the Contract Sum, including any changes hereunder, will be billed monthly based on job progress, and any unbilled balance will be billed immediately upon job completion. Each monthly progress invoice and the final invoice will be due Net 15 days.
- ☐ Option 2: 50% of the Contract Sum will be billed upon job commencement, payable upon receipt. The balance of the Contract Sum, including any changes hereunder, will be billed monthly based on job progress, and any unbilled balance will be billed immediately upon job completion. Each monthly progress invoice and the final invoice will be payable Net 15 days.
- ☐ Option 3: An initial payment of 25% of the Contract Sum is required with acceptance of proposal. No scheduling or material orders will be processed until this payment is received. 25% of the Contract Sum will be billed upon job commencement, payable upon receipt. The balance of the Contract Sum, including any changes hereunder, will be billed immediately upon job completion, payable Net 15 days.

2. This proposal is being submitted by a representative of the Contractor and such proposal shall not be deemed a contract binding upon Contractor until it has been executed by an authorized officer of the Contractor. The contract sum payable to Contractor shall be the aggregate dollar amount of the Base and/or Alternate Bids selected above by purchaser (including all additions thereto).
3. This offer is for acceptance within thirty (30) days. If Guy Roofing does not receive a written acceptance from the Owner within thirty days, this offer is automatically withdrawn. The offer may only be accepted on the exact terms set forth in the Quotation Form, and no additional terms or modifications shall be accepted. Owner will be deemed to have accepted this offer upon Guy Roofing's receipt of Owner's written acceptance. Upon acceptance hereof, the Quotation Form and Owner's acceptance shall be deemed to be a contract embodying all understandings and agreements between Owner and Guy Roofing. By acceptance of this offer, Owner warrants that the Owner is solvent and will pay in accordance with the terms and conditions herein.
4. This offer is conditional upon Owner having acceptable credit, such acceptability to be determined by Guy Roofing's credit department. Guy Roofing reserves the right, previous to performing any work, to require from Owner satisfactory security for performance of Owner's obligation.
5. Guy Roofing shall furnish the labor and material to perform the work described herein or in the referenced contract documents. Guy Roofing does not provide engineering, consulting or architectural services. It is the Owner's responsibility to retain a licensed architect or engineer to determine proper design and code compliance. If plans, specifications, or other design documents have been furnished to Guy Roofing, Owner warrants that they are sufficient and conform to all applicable laws and building codes. Guy Roofing is not responsible for loss, damage or expense due to defects in plans or specifications or building code violations unless such damage results from a deviation by Guy Roofing from the contract documents.
6. Guy Roofing will assess a finance charge on any past due balances in the amount of 1 1/2% per month (18% per annum). Guy Roofing shall be entitled to recover from Owner costs of collection, including attorney's fees, resulting from Owner's failure to make proper payment when due.
7. The failure of Owner to make proper payment to Guy Roofing when due shall, in addition to all other rights, constitute a material breach of contract and shall entitle Guy Roofing, at its discretion, to suspend all work and shipments, including furnishing warranty, until full payment is made. The time period in that Guy Roofing shall perform the work shall be extended for a period equal to the period during which the Work was suspended, and the contract sum to be paid Guy Roofing shall be increased by the amount of Guy Roofing's reasonable costs of shut-down delay and start-up. In the event of a material breach of this contract by the Owner, Guy Roofing may, at its option, cancel the uncompleted balance of this contract without any liability whatsoever and shall have such other rights and remedies afforded to Guy Roofing for breach of contract under applicable law.
8. Force Majeure: Contractor shall be excused from any schedule obligations or contractual completion requirements due to any intervening or superseding causes not due to or caused by the unlawful acts or negligence of Contractor including, but not limited to, the following acts or events: Acts of God or other natural disasters; Acts of War or Civil Unrest; Acts of Terrorism; Government Order or other Government Action materially impacting Contractor's ability to perform including tariffs and import duties; Strikes or other Labor Work Stoppage; or National or International Pandemics or Epidemics. If any such intervening or superseding cause(s) renders Contractor's performance under this Contract impossible or not commercially reasonable, Contractor may, in its sole discretion, elect to terminate this Contract. Otherwise, Contractor shall be entitled to an extension of time for performance commensurate with the length of delay caused by any such intervening or superseding cause. In no event shall Contractor be liable for any damages of any nature or kind arising out of or relating to any such intervening or superseding causes.
9. Unless a specific time for performance of the work is agreed in writing, Guy Roofing shall perform the work in the course of Guy Roofing's normal operating schedule. Guy Roofing shall not be responsible for any delays occasioned by strikes, accidents, war, act of God, or any other causes beyond Guy Roofing's control, and no penalties or liquidated damages are provided for herein.

10. All labor and materials shall be furnished in accordance with normal industry standards and industry tolerances for uniformity, color, variation, thickness, size, weight, finish and texture. Specified quantities are intended to represent an average over the entire roof area.
11. Deviations from the specifications and any changes in the work, including, but not limited to, extra work, incidental work, or reductions in work, shall be set forth in a written change order and signed by both parties prior to the implementation of such change. Any resulting adjustments to the contract price shall be included in the change order.
12. A manufacturer's warranty shall be furnished to Owner if a manufacturer's warranty is called for in the Quotation Form. It is expressly agreed that in the event of alleged defects in the materials furnished pursuant to this contract, Owner shall have recourse only against the manufacturer of such material.
13. Guy Roofing will provide Workmen's Compensation Insurance for its employees and Guy Roofing's standard Liability and Property Damage Insurance coverages. Copies of Certificate of Insurance will be made available to Owner's upon written request. Owner shall purchase and maintain builder's risk and property insurance, including the labor and materials furnished by Guy Roofing, covering fire, extended coverage, malicious mischief, vandalism and theft on the premises to protect against loss or damage to material and equipment and partially completed work until the job is completed and accepted.
14. Owner shall provide Guy Roofing with suitable access to the project site. If Guy Roofing's work depends upon construction or operations of the Owner's own forces or other contractors or must be performed in conjunction with the Owner's own forces or other contractors, such other work shall be so performed and completed as to permit Guy Roofing to perform its work hereunder in an uninterrupted operation.
15. Owner acknowledges that re-roofing of an existing building may cause disturbance, dust or debris to fall into the interior. Owner agrees to remove or protect property directly below the roof in order to minimize potential interior damage. Guy Roofing shall not be responsible for disturbance, damage, clean up or loss to interior property that Owner did not remove or protect prior to commencement of roofing operations.
16. Owner will make periodic inspections for signs of water intrusion and act promptly including prompt notice to Guy Roofing if Owner believes there are roof leaks, to correct the condition. Upon receiving notice, Guy Roofing will make roof repairs. The Owner is responsible for monitoring any leak areas and for indoor air quality. Guy Roofing is not responsible for indoor air quality.
17. Owner warrants all structures to be in sound condition capable of withstanding normal roofing construction equipment and operations. Guy Roofing is not responsible for location of roof drains, adequacy of drainage, ponding on the roof or structural conditions.
18. This proposal is based on Guy Roofing not coming into contact with asbestos-containing or toxic materials. Guy Roofing is not responsible for expenses, claims or damages arising out of the presence, disturbance or removal of asbestos-containing or toxic materials. Guy Roofing shall be entitled to reasonable compensation for all additional expenses incurred as a result of the presence of asbestos containing or toxic materials at the work site.
19. Indemnification. To the fullest extent permitted by law, Guy Roofing shall indemnify and hold harmless the Owner, and all of their agents, officers, directors, and employees from and against all claims, damages, and losses directly caused by Guy Roofing's work under this contract, provided that any such claim, damage, loss or expense is caused in whole or in part by Guy Roofing, and only to the extent of the negligent act or omission of Guy Roofing or anyone for whose work Guy Roofing is responsible. IN NO EVENT SHALL SUCH LIABILITY INCLUDE INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, PUNITIVE, UNMITIGATED, OR CONSEQUENTIAL DAMAGES.

    In the event of any controversy or claim arising out of or relating to this agreement, or breach thereof, the parties shall endeavor to resolve said dispute by good faith negotiations. If negotiations fail, then the parties shall attempt to resolve this dispute through mediation pursuant to the South Carolina Rules of Alternative Dispute Resolution with both parties paying for their own attorney's fees and costs. If mediation fails, then the parties agree that any subsequent litigation shall be tried non-jury and any action shall be commenced in the Greenville County Court of Common Pleas. The prevailing party in any litigation shall be entitled to recover from the non-prevailing party reasonable attorney's fees and costs incurred by that party in connection with such litigation.
20. In the event of any controversy or claim arising out of or relating to this agreement, or breach thereof, the parties shall endeavor to resolve said dispute by good faith negotiations. If negotiations fail, then the parties shall attempt to resolve this dispute through mediation pursuant to the South Carolina Rules of Alternative Dispute Resolution with both parties paying for their own attorney's fees and costs. If mediation fails, then the parties agree that any subsequent litigation shall be tried non-jury and any action shall be commenced in the Greenville County Court of Common Pleas. The prevailing party in any litigation shall be entitled to recover from the non-prevailing party reasonable attorney's fees and costs incurred by that party in connection with such litigation.
21. The rights and remedies provided Guy Roofing herein shall be cumulative and in addition to any other rights and remedies provided at law or in equity. No waiver of any provision of or default under this contract shall affect Guy Roofing's rights thereafter to enforce such provision or to exercise any right or remedy in the event of any other default, whether or not similar. No waiver shall in any event be effective unless in writing and signed by Guy Roofing.
22. This contract and the rights and obligations of Owner hereunder, including without limitation, the duty of performance, may neither be assigned nor delegated without the prior written consent of Guy Roofing.
23. This contract shall be governed by and construed in accordance with the laws of the State where the project is located.
24. Whenever possible, each provision of this contract shall be interpreted in such a manner as to be effective and valid under applicable law, but if any provision of this contract shall be prohibited by or invalid under applicable law, said provision shall

be ineffective only to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provision of this contract.

This contract constitutes the entire agreement between Guy Roofing and Owner. This contract is an integration of and supersedes any and all understandings, representations, proposals, or negotiations between the Parties, whether oral or written. No oral agreements, representations, course of conduct or dealings between the parties or usage of trade shall be relevant to supplement, explain, contradict, or vary in any way, any provision contained herein. None of the terms and conditions contained in this contract may be amended, added to, modified, supplemented, superseded, or otherwise altered except by a written instrument signed by Guy Roofing and Owner.

25. Electrical and Other Conduits: The performance of the work may result in unintentional damage to electrical and other conduits, especially when such conduits are installed in the flutes of a roof deck, mounted in or to side of roof purlins, or when the underside of the roof is not visible from inside the structure. Customer acknowledges that it has been made aware of the potential for damage to electrical and other conduits and agrees that Guy Roofing will not be liable for any damage or loss due to damage to electrical and other conduits.
26. Material Prices: Contractor's bids, estimates and/or proposals are heavily reliant on pricing provided to Contractor by its material and equipment suppliers. Due to dynamic market conditions over which Contractor has no control, some of these material suppliers enact significant price increases with limited notice to Contractor which materially impact the cost of materials required for Contractor to perform the Work under the Contract. Contractor cannot reasonably plan for or account for the possibility of such increases in its bid, estimate and/or proposal to Owner. Moreover, in order to provide competitive pricing to the Owner, Contractor does not include any contingency for price escalation in its bid or in its contract with Owner. Accordingly, in the event of a price increase by one of its suppliers which materially impacts the cost to Contractor to procure such materials or equipment, Contractor shall be entitled to an equitable adjustment in the contract amount to account for any such unforeseen and unanticipated rise in material costs. For purposes of this provision "material impact" shall be a demonstrated cost increase in any necessary materials or equipment exceeding 5% from the price used in the Contractor's bid, estimate and/or proposal. Contractor shall be entitled to an equitable adjustment for any such material impact in the amount of any direct cost increase (without any mark-up for overhead or profit) for any applicable materials or equipment which shall be supported by sufficient documentation from Contractor to demonstrate a material impact on pricing.

    Furthermore, due to certain market conditions over which Contractor has no control and which may not be reasonably anticipated by Contractor at the time of bid or contract, Contractor's material suppliers may place certain materials on allocation. In such event, this may materially impact Contractor's ability to secure such materials in adequate quantities or in sufficient time to comply with any prior schedule commitments or requirements. In the event of any such material allocation by any of Contractor's suppliers, Contractor will give prompt notice of same to Owner and exercise its best efforts to avoid or minimize impact to the schedule and the Project. However, Contractor shall not be liable for any delays in completion of the Project, including any liquidated damages or other damages of any nature, due to any such action by its material suppliers it being understood that this is an event outside the control of the Contractor and not any condition or event of default by Contractor.
27. Customer agrees to permit Contractor entry onto the Property at the address noted herein, to perform the scope of work described herein. Entry onto the Property includes entry of Contractor's vehicles onto any driveways, parking areas, sidewalks, grass or any other areas of said Property as necessary for Contractor to perform the scope of work. Contractor will take reasonable precautions to prevent property damage when performing its work. Despite such precautions, due to the nature of the equipment required to perform the scope of work which includes, but is not limited to, lifts, cranes and other similar construction equipment, damage to existing driveways, curbs, parking areas, sidewalks, grass, landscaping, sprinkler systems, and any unmarked underground utilities may occur. It shall be Customer's responsibility to prominently mark the location of any underground utilities. Customer acknowledges and agrees that Contractor shall not be held liable for any such property damage and does hereby waive and release any claims against Contractor for such damage.