



**SHELBY COUNTY COMMISSION
JULY 13, 2020
MINUTES**

STATE OF ALABAMA
COUNTY OF SHELBY

The Shelby County Commission of Shelby County, Alabama, met at the County Administration Building in the City of Columbiana, Alabama, at 8:30 A.M., Monday, July 13, 2020. The meeting was called to order by Commissioner Bearden. The invocation was given followed by the Pledge of Allegiance. Roll was called and the following members were present:

PRESENT

Commissioner Lindsey Allison
Commissioner Elwyn Bearden
Commissioner Tommy Edwards
Commissioner Robbie Hayes
Commissioner Kevin Morris
Commissioner Jon Parker
Commissioner Rick Shepherd
Commissioner Mike Vest
Commissioner Ward Williams

ABSENT

**APPROVAL OF MINUTES OF JUNE 22, 2020
RESOLUTION 2020-07-13-01**

MOTION: Commissioner Edwards -Motion to approve the Minutes from June 22, 2020 as presented

SECOND: Commissioner Vest

VOTE ON MOTION: 7 Yeas – Commissioner Allison, Commissioner Bearden, Commissioner Edwards, Commissioner Hayes, Commissioner Morris, Commissioner Vest, Commissioner Williams
2 Abstentions – Commissioner Parker and Commissioner Shepherd

**APPROVAL OF BILLS, REQUISITIONS, AND CHECK REGISTER
GOVERNMENTAL FUNDS AND PROPRIETARY FUNDS
RESOLUTION 2020-07-13-02**

MOTION: Commissioner Hayes – Motion to approve the Bills, Requisitions and Check Register for Government and Proprietary Funds

SECOND: Commissioner Williams

VOTE ON MOTION: Unanimous

MOTION CARRIED

**BUDGET, FINANCE & LEGAL
AWARD BID - CHLORINE
RESOLUTION 2020-07-13-03**

MOTION: Commissioner Allison – Motion to approve Resolution 2020-07-13-03 as presented

SECOND: Commissioner Shepherd

VOTE ON MOTION: Unanimous

MOTION CARRIED

RESOLUTION 2020-07-13-03

BE IT RESOLVED, that the Shelby County Commission hereby records the bid award made by the County Manager for Chlorine to the lowest responsive bidder, Allied Universal Corporation.

Vendor	1 Ton Cylinder with 2,000 lbs of product delivered	1 Ton Cylinder with 1,200 lbs of product delivered	150 lb Cylinder delivered
Allied Universal Corporation	\$0.353	\$0.545	\$0.767
DPC Enterprises	\$0.460	\$0.630	\$1.200

Said Ebid# 2020-6-11091 is located within the County Manager’s Office.

**AWARD BID – DOORS AND DOOR HARDWARE
RESOLUTION 2020-07-13-04**

MOTION: Commissioner Allison – Motion to approve Resolution 2020-07-13-04 as presented

SECOND: Commissioner Edwards

VOTE ON MOTION: Unanimous

MOTION CARRIED

RESOLUTION 2020-07-13-04

BE IT RESOLVED, that the Shelby County Commission hereby awards the bid for Door & Door Hardware to the lowest overall responsive and responsible bidder per bid specifications, Building Specialties as follows:

<u>Metal Doors</u>	Building Specialties	Accredited Lock & Door Hardware
3' x 7' Hollow Metal Door 18ga Non Handed Not Rated	\$350.00	No Bid
3'x 6'8" Hollow Metal Door 18ga Non Handed Not Rated	\$325.00	No Bid
3' x 7' Hollow Metal Door Undersized for Cont. Hinge Not Rated	\$370.00	No Bid
3' x 7' Hollow Metal Door 18ga Non Handed 20min Fire Label	\$350.00	No Bid
3' x 7' Hollow Metal Door 18ga Non Handed 45min Fire Label	\$350.00	No Bid
3'x 6'8" Hollow Metal Door 18ga Non Handed 20 min Fire Label	\$325.00	No Bid

3'x 6'8" Hollow Metal Door 18ga Non Handed 45min Fire Label	\$325.00	No Bid
3' x 7' Hollow Metal Frame 16ga Right Hand Not Rated	\$170.00	No Bid
3' x 7' Hollow Metal Frame 16ga Left Hand Not Rated	\$170.00	No Bid
3' x 6'8" Hollow Metal Frame 16ga Right Hand Not Rated	\$165.00	No Bid
3' x 6'8" Hollow Metal Frame 16ga Left Hand Not Rated	\$165.00	No Bid
3' x 7' Hollow Metal Frame 16ga Right Hand 20min Fire Label	\$170.00	No Bid
3' x 7' Hollow Metal Frame 16ga Left Hand 20min Fire Label	\$170.00	No Bid
3' x 7' Hollow Metal Frame 16ga Right Hand 45min Fire Label	\$170.00	No Bid
3' x 7' Hollow Metal Frame 16ga Left Hand 45min Fire Label	\$170.00	No Bid
3' x 6'8" Hollow Metal Frame 16ga Right Hand 20min Fire Label	\$165.00	No Bid
3' x 6'8" Hollow Metal Frame 16ga Left Hand 20min Fire Label	\$165.00	No Bid
3' x 6'8" Hollow Metal Frame 16ga Right Hand 45min Fire Label	\$165.00	No Bid
3' x 6'8" Hollow Metal Frame 16ga Left Hand 45min Fire Label	\$165.00	No Bid
<u>Wood Doors</u>		
3' x 7' Solid Core Wood Door Non Rated	\$180.00	No Bid
3' x 6'8" Solid Core Wood Door Non Rated	\$175.00	No Bid
3' x 7' Solid Core Wood Door 20min Fire Label	\$195.00	No Bid
3' x 7' Solid Core Wood Door 45min Fire Label	\$195.00	No Bid
3' x 6'8" Solid Core Wood Door 20min Fire Label	\$195.00	No Bid
3' x 6'8" Solid Core Wood Door 45min Fire Label	\$195.00	No Bid
3' x 6'8" Solid Wood Dutch Door (No Glass Kit/Glass) 20min Fire Label	\$380.00	No Bid
<u>Glass/Glass Kits</u>		
LT-B1 3x33 Glass Kit	\$45.00	No Bid
LT-B1 22x30 Glass Kit	\$65.00	No Bid
4" x 34" Tempered Glass	\$25.00	No Bid
23" x 31" Tempered Glass	\$45.00	No Bid
Labor to install Glass Kit/Glass in new Door	\$45.00	No Bid
Labor to install Glass Kit/Glass in existing door	\$250.00	No Bid

<u>Door Hardware</u>	Building Specialties	Accredited Lock & Door Hardware
ND53J RHO 626 Schlage Entry Lock Less Cylinder	\$240.00	\$236.50
ND40S RHO 626 Schlage Privacy	\$210.00	\$212.35
ND10S RHO 626 Schlage Passage	\$210.00	\$184.50
ND80JD RHO 626 Schlage Storeroom Lock Less Cylinder	\$240.00	\$236.50
8888F-32D Sargent Exit Device	\$675.00	\$696.60
56-8888F-32D Sargent Electrified Exit Device	\$1350.00	\$1,041.60
713-8 ETL 626 Sargent Exit Trim	\$295.00	\$294.80
1800-3'x689 Silver Yale Exit Device	\$135.00	\$125.75

217F-689 Silver Butterfly Pull Trim for 1800 Series Exit Device	\$30.00	\$37.75
CFM83HD1 Alum Continuous Hinge Full Mortise	\$120.00	\$80.70
QDC111 689 S/TA Stanley Door Closer Cast Iron Body	\$160.00	\$157.50
SC61RwPAX695 Falcon Tri Pac Door Closer	\$80.00	\$68.40
484 26D Sargent Deadlock for Standard Cores	\$110.00	\$120.65
B660J 626 Schlage Deadlock w/ Thumbturn for IC Cores	\$90.00	\$71.30
B660P 626 Schlage Deadlock w/ Thumbturn for Standard Cores	\$90.00	\$86.10
L-VRSG-3 24" x 24" Vandal Louver	\$265.00	\$203.75
SC71RwPA-ALUM Door Closer	\$120.00	\$134.80
315CN Alum Sweep	\$20.00	\$8.00
487 26D Classroom Deadbolt (standard core)	\$135.00	\$85.85
70C 4X16 32D Push Plate	\$14.00	\$8.75
107x70C 4x16 32D Pull Plate	\$30.00	\$32.85

Said eBid #2020-6-11094 is located within the County Manager's Office.

**HIGHWAY 280 PROPERTY ACQUISITION
RESOLUTION 2020-07-13-05**

MOTION: Commissioner Allison – Motion to approve Resolution 2020-07-13-05 as presented
SECOND: Commissioner Shepherd
VOTE ON MOTION: Unanimous **MOTION CARRIED**

RESOLUTION 2020-07-13- 05

BE IT RESOLVED, the Shelby County Commission hereby approves of the purchase of the land parcel located at 19340 U.S. Highway 280, Chelsea, AL 35242, and described as Lot 2 of Crawford Commercial Park, as recorded in Map book 42, Page 55, in the Probate Office of Shelby County, Alabama in the amount of \$430,000. The Shelby County Commission hereby authorizes the County Manager to execute all documents associated with the purchase.

**C-SPIRE CONSTRUCTION RIGHT-OF-WAY
USE & FRANCHISE AGREEMENT
RESOLUTION 2020-07-13-06**

MOTION: Commissioner Allison – Motion to approve Resolution 2020-07-13-06 as presented
SECOND: Commissioner Edwards
VOTE ON MOTION: Unanimous **MOTION CARRIED**

RESOLUTION 2020-07-13- 06

BE IT RESOLVED, the Shelby County Commission hereby approves the Construction, Right-of-Way and Franchise Agreement as provided by C-Spire. This Agreement has been reviewed by the County Attorney and is hereby attached. The County Manager is directed and authorized to execute any and all documents associated with these actions.

**HEALTH AND HUMAN RESOURCES
RESOLUTION ADVISING STRONGER PARTICIPATION
IN COVID-19 GUIDELINES WITHIN SHELBY COUNTY
RESOLUTION 2020-07-13-07**

MOTION: Commissioner Morris – Motion to approve Resolution 2020-07-13-07 as presented

SECOND: Commissioner Allison

VOTE ON MOTION: Unanimous

MOTION CARRIED

RESOLUTION 2020-07-13-07

**COVID-19 RESOLUTION ON FACE COVERINGS
AND SOCIAL DISTANCING IN SHELBY COUNTY**

WHEREAS, Coronavirus Disease 2019 (COVID-19) has been detected in Alabama (the “State”) and Shelby County (the “County”);

WHEREAS, the appearance of COVID-19 in the State and County poses the potential of widespread exposure to an infectious agent that poses significant risk of substantial harm to a large number of people;

WHEREAS, the State Board of Health has designated COVID-19 to be a disease of epidemic potential, a threat to the health and welfare of the public, or otherwise of public health importance;

WHEREAS, on March 13, 2020, on recommendation of the State Health Officer, Kay Ivey, Governor of the State of Alabama, declared a state public health emergency exists in the State of Alabama;

WHEREAS, Ala. Code § 22-2-2 authorizes the State Health Officer, on behalf of the State Board of Health, to direct that conditions prejudicial to health in public places within the State be abated;

WHEREAS, the Alabama State Health Department – Shelby County Office in Pelham is managed, staffed and operated by the Alabama Department of Public Health (ADPH);

WHEREAS, the Shelby County Commission is aware of increasing numbers of COVID-19 cases in the State and County;

WHEREAS, social-distancing and related measures remain necessary in Shelby County to prevent the spread of COVID-19; and

WHEREAS, Shelby County EMA is working with ADPH on additional COVID-19 testing;

WHEREAS, Shelby County EMA is working with the State on additional resources such as masks;

WHEREAS, COVID-19 infection is usually spread from person to person through respiratory droplets produced when an infected person coughs, sneezes, or talks. These droplets can land in the mouth or be inhaled into the lungs, especially when people are in close contact such as six feet or closer;

WHEREAS, facial coverings are devices to cover the nose and mouth of a wearer to impede the spread of saliva or other fluids during speaking, coughing, sneezing, or other intentional or involuntary action and can be fashioned from scarves, bandanas or other suitable fabrics;

WHEREAS, facial coverings and social distancing help prevent the spread of COVID-19 by protecting those who work or interact in public places from potential exposure;

NOW THEREFORE, the Shelby County Commission strongly encourages following ADPH guidelines to help protect yourself and others by wearing face coverings around people from other households when it is necessary to leave the home and maintaining social distancing of six (6) or more feet between persons not from the same household to be in the best interest of public health in Shelby County.

**MOTION TO ADJOURN
RESOLUTION 2020-07-13-08**

MOTION: Commissioner Hayes – There being no further business to come before the Commission, move to adjourn this 13TH day of July, 2020 at 9:19 A.M.

SECOND: Commissioner Edwards

VOTE ON MOTION: Unanimous

MOTION CARRIED

READ & APPROVED:

COMMISSIONER LINDSEY ALLISON

COMMISSIONER ELWYN BEARDEN

COMMISSIONER TOMMY EDWARDS

COMMISSIONER ROBBIE HAYES

COMMISSIONER KEVIN MORRIS

COMMISSIONER JON PARKER

COMMISSIONER RICK SHEPHERD

COMMISSIONER MIKE VEST

COMMISSIONER WARD WILLIAMS

CONSTRUCTION, RIGHT-OF-WAY USE & FRANCHISE AGREEMENT

THIS CONSTRUCTION, RIGHT-OF-WAY USE and FRANCHISE AGREEMENT (this "Agreement") is entered into on this __ day of _____, 20__ (the "Effective Date"), by and between the COUNTY OF SHELBY, ALABAMA (the "County"), and TELEPAK NETWORKS, INC. AND ITS AFFILIATES d/b/a C Spire ("C Spire"). County and C Spire are sometimes referred to individually herein as a "Party" and collectively as the "Parties."

WHEREAS, the County is the owner of certain rights-of-way located along streets maintained by and under the control of the County (the "Rights-of-Way"), and the County is authorized to grant corporations the non-exclusive right to construct, operate, and maintain a telecommunications system within the County; and

WHEREAS, C Spire is qualified to do business in the State of Alabama, has been granted a Certificate to provide utility services in the State of Alabama by the Alabama Public Service Commission and desires to provide Telecommunications Services and Video Services within the County; and

WHEREAS, the County and C Spire desire to enter into this Agreement concerning the installation and maintenance of telecommunications facilities within the County's Rights-of-Way, and certain other matters more fully contained herein.

NOW THEREFORE, in consideration of the mutual covenants and agreements contained herein, and for other good and valuable consideration, the receipt and sufficiency of all of which are hereby acknowledged, the Parties hereto do hereby agree as follows:

1. **Definitions.** For the purposes of this Agreement, the following terms, phrases, words, and abbreviations shall have the following meanings:

(a) "Facilities" means all fiber optic cable, conduit, poles, wires, telecommunications, amplifiers, electronics, transmission and reception equipment, pedestals, towers, dishes, supporting hardware, and related equipment and fixtures necessary and desirable to construct and maintain the Telecommunications System and to provide Services under this Agreement.

(b) "Other Services" means services lawfully provided by C Spire within the County in addition to Telecommunications Services including, without limitation, broadband services, internet access services and Video Services.

(c) "Person" shall mean any person, firm, partnership, association, corporation, limited liability company, or organization of any kind.

(d) "Public Ways" and "Rights of Way" shall mean the area on, below, or above any real property in County in which the County has an interest and which is being

used for a public road right of way, including, but not limited to any street, road, highway, alley, sidewalk, including other dedicated Rights-of-Way for travel purposes. For the avoidance of doubt, Public Ways and Rights of Way shall not include prescriptive roads or rights of way therefor nor any utility easements which are not located within road or street rights of way which are owned by or granted to the County.

(e) “Services” collectively refers to Other Services and Telecommunications Services.

(f) “Subscriber” means a Person who lawfully receives Services with C Spire’s express permission within the County.

(g) “Telecommunications” means the transmission, between or among points specified by the user, of information of the user’s choosing, without change in the form or content of the information as sent and received.

(h) “Telecommunications Services” means the offering of Telecommunications for a fee directly to the public, or to such classes of users as to be effectively available directly to the public, regardless of facilities used.

(i) “Telecommunications System” means C Spire’s Facilities, consisting of a set of closed transmission fiber optic paths and associated signal generation, reception, and control equipment or other communication equipment that is designed to provide Services to Subscribers.

(j) “Video Services” means the one-way transmission to Subscribers within the County of video programming (programming provided by, or generally considered comparable to programming provided by, a television broadcast station) or other programming services typically provided by a Multi-channel Video Programming Distributor (“MVPD”) and made available to all Subscribers within the County generally, but not to include over-the-top services such as Hulu, Netflix or Sling.

(k) “Basic Video Services Tier” means the Video Services tier which includes the retransmission of local television broadcast signals and which is also the tier to which the largest number of Subscribers are currently purchasing.

(l) “Gross Revenues” means any revenue derived by C Spire from the operation of the Telecommunications System to provide Telecommunications Services and/or Video Services to Subscribers within the County, adjusted for non-payment. Gross Revenues shall include (i) Video Services fees for any of C Spire’s Video Services or Video Services Tier and (ii) Telecommunications Services fees for C Spire’s local calling plan offering. Gross Revenues shall also include (i) recurring charges for Video Services, including late fees; (ii) event based charges for Video Services, including pay-per-view and video-on-demand charges; (iii) monthly recurring charges for the rental of Video Services Equipment and Video Services accessories; (iv) customer service charges related to the provision of Video Services, including activation, home installation, and

repair; (v) advertising revenue and home shopping commissions and (vi) administrative charges related to the provision of Video Services, including service order and service termination charges. Gross Revenues shall not include (i) any taxes on Services furnished by C Spire by any municipality, state, or other governmental unit and collected by C Spire for such governmental unit; (ii) amounts passed back to the Subscribers through retail discounts, refunds, rebates or other direct promotions; (iii) non-collectible amounts due Franchisee or its customers after commercially reasonable efforts are made to collect; (iv) non-operating revenues such as interest income or gain from the sale of an asset; (v) site acquisition, construction management or supervision fees related to or incurred in support of the installation of the Facilities; (vi) contributions of capital by any third party to reimburse Franchisee in whole or in part for the installation of the Facilities; (vii) revenues from the sale or lease of customer premise equipment and/or accessories unrelated to Video Services; (ix) charges for Other Services that are aggregated and bundled with amounts billed to Subscribers; and/or (x) other charges unrelated to Video Services or Telecommunications Services that are aggregated or bundled with amounts billed to Subscribers.

2. **Grant.** County subject to the terms and limitations contained in this document, grants C Spire the non-exclusive right and license to construct and operate a Telecommunications System in the Rights-of-Way and a non-exclusive franchise to provide Services to Subscribers located within the County. Subject to the terms of this Agreement and applicable law, and subject to strict compliance with “The Uniform Regulations for Placement of Utility Facilities on Shelby County Rights of Way”(hereinafter sometimes referred to as Uniform Utility Regulations), heretofore adopted by Shelby County and as amended from time to time hereafter by Shelby County, a copy of thereof which is in effect at the time of the execution hereof being attached hereto as Exhibit A. C Spire may erect, install, construct, operate, maintain, repair, replace, expand, and reconstruct its Telecommunications System in any Rights-of-Way.

3. **Term.** The license granted under this Agreement shall be for an initial term of ten (10) years from the Effective Date, unless otherwise lawfully terminated (the “Initial Term”). At the end of the Initial Term this Agreement shall automatically renew for successive five (5) year terms (each, a “Renewal Term”) unless either Party gives the other Party written notice of termination at least twelve (12) months prior to the end of the Initial Term or any Renewal Term, as applicable. The Initial Term and any Renewal Term(s) are collectively referred to herein as the “Term.”

4. **Installation of Facilities.** A map showing the coverage area of Shelby County Water Services is attached hereto as Exhibit A. When C Spire begins to design its Telecommunications system that is, based on the provided map, partially or wholly within the Shelby County Water Service area, C Spire will request, and the County will within ten (10) days provide GIS drawings of the Shelby County Water Service facilities for that design area. The drawings provided shall be considered County Drawings as defined in Section 4. (b) herein. This will serve only to aid C Spire in its design, such that it will aid in minimizing interference with the current Shelby County Water Service facilities. C Spire will provide to the County any such design when it is complete.

C Spire shall not install any new Facilities in any Public Way without having received a permit from the County. The County's permit may include review and approval from Shelby County Water Services if within the County's jurisdiction. C Spire shall install all Facilities so as to minimize interference with the proper use of Public Ways, public utilities, and with the rights and convenience of the County and property owners whose property adjoins any Public Ways. In addition to compliance with the Uniform Utility Regulations and other conditions imposed by the County in connection with any permit which is issued, C Spire agrees to the following conditions, limitations, and restrictions related to the installation of its Facilities in, on or through any portion of the Rights-of-Way:

(a) C Spire shall hold a pre-construction meeting with County at least ten (10) days prior to beginning any construction to advise County of its planned activities.

(b) C Spire agrees to supply the County with digital drawings of construction plans ten (10) days prior to construction and digital as-built drawings within six (6) months of the completion of any construction. Final drawings will be supplied in Autocad 2000 using NAD 83 coordinates, GIS format, or such other digital formats as are reasonably acceptable to the Parties. C Spire agrees to include any information about other utilities on drawings that the County may provide to C Spire ("County Drawings"), provided: (1) such County Drawings are provided in Autocad 2000 using NAD 83 coordinates, GIS format, or such other digital formats as are reasonably acceptable to the Parties; and (2) County agrees to allow C Spire to include, within its construction documents, including but not limited to contracts and construction drawings, information about the County Drawings, including but not limited to: the source of the County Drawings, C Spire's intended use and purpose of the County Drawings, and/or a disclaimer on such drawings that states the following: "Non-C Spire facilities are shown for illustrative purposes only and should not be relied upon. Under no circumstances will C Spire be held responsible for the accuracy of such markings. Third parties should follow state 811 Law to determine location of all underground facilities." All drawings provided by C Spire will contain adequate information to reflect the construction plans of C Spire. No drawings provided by C Spire will be certified or stamped by a Professional Engineer. C Spire is under no obligation to include any utility information on its drawings, whether owned by the County or a third party, other than those provided by the County in the County Drawings.

(c) C Spire agrees to "white-line" its proposed cable location as part of the construction process and for a distance that is expected to be completed for at least that same day.

(d) C Spire lines, unless specifically waived by County in writing via permit approval, shall have at least a 12" separation vertically and at least 24" separation horizontally from all County utility lines, including gas lines, water lines and sewer lines.

(e) C Spire agrees, where feasible, to stay three (3) feet away, measured horizontally, from power poles unless it is utilizing such poles pursuant to a pole attachment arrangement.

(f) C Spire or C Spire's contractor will request locates and County shall provide locates of its facilities as required by Alabama's 811 law and regulations, , regardless of any County Drawings provided to C Spire. C Spire will depend solely on 811 locates, as required by Alabama 811 law, completed by the County, its contractors or agents, or completed by any other utility company, its contractors or agents, for all construction activities. C Spire will not mark other utilities on permit or construction drawings based on such 811 locates performed. During construction, C-Spire or its contractors shall verify the County locates of County underground facilities with "pot hole" or "hand dug holes" prior to excavation and installation of hand holes or man holes. C Spire hand hole and clean-up crews will set hand holes and complete clean-up for each section within 2-3 work days after placement of conduit, weather permitting.

(g) C Spire shall clear the streets of any drill mud, debris and other obstructions that accumulate as a result of C Spire's construction activities and will not permit its activities to create a hazard to any persons or property. In the event that any such drill mud, debris or other obstruction caused by C Spire's activities encroaches upon the street, C Spire shall take immediate corrective action to remove the same.

(h) If streets, shoulders or any part of the right of way, and other Public Ways are damaged by C Spire, its employees, agents or contractors in installation or subsequent maintenance and repair of its Facilities, C Spire, upon written or electronic notice from the County and at C Spire's sole expense, shall promptly repair and restore such streets or public ways to the same or better condition than such streets or public ways were in prior to such damage, and to the reasonable satisfaction of the County.

(i) C Spire shall contact County and any affected property owners to discuss any repairs, dress-up or clean-up of such owners' property necessitated by the installation of C Spire's fiber optic cable, and shall perform any necessary repair, dress-up or clean-up to such property at C Spire's sole expense.

(j) At all times during and after the installation of fiber optic lines, C Spire shall respond to all emergency locates to locate its fiber optic lines as required by Alabama's 811 law and regulations.

(k) At all times, C Spire shall be responsible for safety at, about and around its work and shall, at its sole expense, provide safe and adequate traffic control in conformance with Section 6 of the 2009 MUTCD when necessary and at its own expense provide full and complete warnings to safeguard the public and to prevent injury or damage, including, but not limited to, any and all signage, cones, markings, lighting and otherwise deemed, in the discretion of the Parties, to be adequate and C Spire shall assume all liability for any injury or damage in any way related directly, or indirectly to

the provision or non-provision or inadequate provision of such controls, warnings, etc., and shall, at its sole expense, defend and indemnify the County, its agents, and employees in and from any and all actions in any way related to any injury or damage claimed to be the result of inadequacies in traffic control, warnings, or otherwise.

(l) Where Rights Of Way are owned in fee simple by County, C Spire shall have the authority to trim trees and natural growth on the Rights-of-Way which may affect its Telecommunications System in the Service Area to prevent interference with C Spire's Facilities in accordance with the County ordinance regarding tree cutting and removal.

(m) C Spire shall, on the request of any Person holding a permit to move a building temporarily raise or lower its aerial Facilities, if any, to facilitate the moving of such buildings. The expense of such temporary removal or raising or lowering of such aerial Facilities shall be paid by the Person requesting the same, and C Spire shall have the authority to require such payment in advance. C Spire shall be given at least sixty (60) days' advance notice to arrange such temporary aerial Facility alterations.

(n) The County shall not charge Telepak any permitting fees of any kind during the Term.

(o) The decision is solely within the discretion of C Spire as to the determination of what Services to provide and where to provide them within the County during the Term, subject to the approval of the County as detailed in this Paragraph 4.

Throughout the Term of this Agreement, provided C Spire complies with the foregoing requirements and terms and conditions of this agreement, C Spire shall be entitled to expand and upgrade its Telecommunications System as it deems reasonably necessary.

5. **Relocation of Facilities.** Whenever the County shall make improvements of any kind or perform maintenance of any kind within the County Right of Way, including but not being limited to, grade, regrade, or change the line of any street or Public Way or construct or reconstruct any sewer or water system therein and shall, with due regard to working conditions, order C Spire to relocate or protect its Facilities located in said street or Public Way, C Spire shall relocate or protect its Facilities at its own expense; provided, however, if the County compensates any Person other than a municipality located partially or wholly within the County for similar work then C Spire shall be similarly compensated. Further, where the County has determined that the location of C Spire's Facilities is unsafe, interferes with traffic control devices or unreasonably limits access to infrastructure for maintenance or installation of services, or otherwise may be harmful to the public health, safety, and welfare as determined in the reasonable judgment of the County, C Spire shall move such Facilities to an alternate location as directed by the County. The County shall when feasible give C Spire reasonable notice of plans to grade or change the line of any street or Public Way or to construct or reconstruct any sewer or water system therein or of any demand that the Facilities be relocated for the reasons set forth herein. C Spire may also be required to relocate its Facilities where public utilities or other users of the Public Way require access; provided, however, that nothing herein shall be construed as a

waiver of C Spire's rights under applicable law. Any such movement shall be at the expense of the third party. With respect to location of its existing public utility lines, the County agrees that during the period of C Spire's installation of fiber optic lines pursuant to this Agreement, the County will locate all County public utility lines as required by Alabama's 811 laws. It shall be the duty of C Spire or its contractor(s) to request the County to locate the public utility lines and to thereafter verify the actual location thereof by "pot holing" or "hand dug holes" prior to excavating if the locates by the County show the County's public utility lines are in direct conflict with C Spire construction.

6. **Damage to Existing Utilities.** C Spire hereby agrees that (a) during the installation process, and (b) at any time after such installation, C Spire will immediately notify the appropriate utility provider in the event that C Spire, or any of its related entities, employees, agents or contractors damages a utility line, including private service lines. Provided that the party owning the lines has complied with Alabama's 811 law and regulations then any repairs to such utility lines and private service lines must be made immediately, and at C Spire's sole expense, and shall only be made by appropriately licensed and bonded contractors or Shelby County personnel as directed by the Manager of Shelby County Water Services or other duly authorized County Staff.

7. **Compliance with Codes.** All construction, installation, maintenance, and operation of the Telecommunications System or of any Facilities employed in connection therewith shall comply with the provisions of the National Electrical Safety Code as prepared by the National Bureau of Standards, the National Electrical Code of the National Council of Fire Underwriters, any standards issued by other federal or state regulatory agencies in relation thereto, and local zoning regulations. C Spire shall comply with ordinances, rules, and regulations established by the County pursuant to the lawful exercise of its police powers and generally applicable to all users of the Public Way which are subject to the jurisdiction of the County. To the extent that local ordinances, rules, or regulations clearly conflict with the terms and conditions of this Agreement, the terms and conditions of this Agreement shall prevail. County reserves the right to lawfully exercise its police powers. C Spire will comply with the Federal Communications Commission customer service standards set forth under 47 C.F.R. 76.309(c)(1), (2)(ii)-(v), (3)-(4). The County acknowledges that due to the nature of the equipment and underground fiber installation practices of C Spire which differ substantially from this of traditional cable television service providers, compliance with 47 C.F.R. 76.309©(2)(i) is not practicable or required.

8. **Indemnity to County.** At all times both during and after installation, so long as C Spire's Telecommunications System is located upon any portion of the County's Rights-of-Way, C Spire covenants, warrants and agrees to indemnify and hold harmless the County, its officers, employees, agents and contractors, of and from any and all suits, damages, claims, liabilities, losses and expenses, including reasonable attorney's fees, directly or indirectly arising from or related to: (a) the installation, operation, repair or maintenance by any Person of C Spire's Telecommunications System within the County; (b) provided that the County has complied with Alabama's 811 law and regulations, any injury, loss or damage to the County's utility lines arising from or related to the installation, operation, repair or maintenance of C Spire's Telecommunications System. nd (c) provided that the private service line owner has complied with Alabama's 811 law and regulations, any injury, loss or damage to private service

lines arising from or related to the installation, operation, repair or maintenance of C Spire's Telecommunications System. Without the intent of limiting any of the foregoing, it is agreed that C Spire shall indemnify and hold harmless, the County, its officers, officials, employees, agents and contractors of and from any and all claims for personal injury, wrongful death, property damage, or otherwise alleged to be directly or indirectly attributable, in whole or in part, to the acts or omissions of C Spire or its officers, employees, agents, or contractors in connection with the subject of this Agreement, which indemnity shall be at the sole expense of C Spire, including the obligation to pay any and all sums required, including any settlement, judgment, attorney fees, court costs, or otherwise. In the event County believes it has a claim subject to indemnification it must as soon as reasonably possible give C Spire written notice of such claim. Within sixty (60) days of its receipt of written notice of the County's claim, C Spire shall notify County in writing whether it will defend such claim. If C Spire assumes the defense of such claim it shall be entitled to defend the claim in any manner it sees fit including settlement, provided no settlement imposes liability on County without County's prior written consent

9. **Franchise Fee.**

(a) Franchise Fee. When and if C Spire provides local Telecommunications Services to Subscribers within the County, C Spire shall pay the County a franchise fee equal to (i) two percent (2%) of the monthly service charge revenue from sales of local Telecommunications Services to Subscribers located within the County, and (ii) when and if C Spire provides Video Services to Subscribers located within the County, a video services franchise fee equal to the lesser of: (A) five percent (5%) of Gross Revenues received by C Spire from sale of the Video Services to Subscribers within the County; and (B) the lowest percentage payable by a third party provider of Video Services to Subscribers within the County (collectively, the "Franchise Fee"). The payment of the Franchise Fee shall be made on a quarterly basis and shall be due and payable no later than forty-five (45) days after the last day of each March, June, September and December throughout the Term of this Agreement. Each Franchise Fee payment shall be accompanied by a certified report from a representative of C Spire, which shows the basis for the computation of all monthly service charge revenue from providing local Telecommunications Services and Gross Revenues received by C Spire from sale of the Video Services to Subscribers located within the County limits during the period for which such Franchise Fee payment is made. If the Franchise Fee payment is not actually received by the County on or before the applicable due date set forth in this Section, interest shall accrue on the outstanding amount at the lesser of one percent (1%) per month or the highest rate allowed under Alabama law for the period of delinquency.

(b.) Discounted Rates If C Spire Subscribers are offered what is, in effect, a discount for "bundled" services (i.e. Subscribers obtain Video Services and some other non-video goods or service) then for the purpose of calculating Gross Revenues, the discount shall be applied proportionately to Video and non-Video goods and services, in accordance with the following example:

Assume a Subscriber's charge for a given month of Video Service alone would be \$40, for local telephone service alone would be \$30, and for high speed internet service alone would be \$30, for a total of \$100. In fact, the three (3) services are offered in effect at a combined rate where the Subscriber receives what amounts to a twenty percent (20%) discount from the rates that would apply to a service if purchased individually (i.e. \$80 per month for all three (3) services). The discount (here, \$20) for Gross Revenue computation purposes would be applied pro rata so that the Gross Revenue for Video Service are deemed to be \$32 (\$40 less 20% of \$40). The result would be the same if the Subscriber received a \$20 discount on telephone service on the condition that he or she also subscribes to Video Service at standard rates.

In no event shall C Spire be permitted to evade or reduce applicable Franchise Fee payments required to be made to County due to discounted bundled services.

(c.) Audit. During the Term of this Agreement, once every twelve (12) months and upon reasonable prior written notice, during normal business hours, the County shall have the right to inspect C Spire's financial records used to calculate the County's Franchise Fee, and the right to audit and to re-compute any amounts determined to be payable under this Section at County's expense; provided, however, that any such audit shall take place within two (2) years from the date County received such payment, after which period any such payment shall be considered final. If County believes it is owed any additional compensation from C Spire it will give C Spire notice of same along with a calculation of the additional amount. The Parties shall work together in good faith to resolve the matter. Any additional amounts due to either Party shall be promptly paid within thirty (30) days following resolution of the payment dispute.

10. **Public, Education and Government Access Channel.**

(a) PEG Access Channel. At any time after C Spire begins to offer Video Services on a commercial basis to Subscribers within the County, the County may request C Spire to provide the County one (1) video channel for noncommercial PEG Access use. C Spire shall provide the PEG Access channel within one hundred and eighty (180) days of County's request.

(b) Regulation of PEG Access Channel. The County shall establish reasonable regulations governing use by the public of the PEG Access channel and the content broadcast over the channel. C Spire shall have the right to prohibit the broadcast of inappropriate or illegal programming over the channel in its sole reasonable discretion and in accordance with applicable law. The County shall be solely responsible for all costs, expenses, and equipment necessary for and related to producing or transmitting content over the PEG Access channel. C Spire shall have no obligation, financial or otherwise, other than the obligation to provide access to one video channel for noncommercial PEG Access use.

(c) Return of PEG Access capacity to C Spire. In the event that unused capacity exists on the PEG Access channel, C Spire may request the County to return that capacity to C Spire for C Spire's use. The County shall not unreasonably deny such request.

11. Liability Insurance. At all times, C Spire shall maintain, at its own cost and expense, a general liability policy in the minimum amount of \$1,000,000.00 per occurrence and \$2,000,000 general aggregate limit for bodily injury and property damage. Such policy or policies shall designate the County as an additional insured and shall be non-cancellable except upon thirty (30) days' prior written notice to the County. In the event such policy or policies are cancelled and not immediately replaced, the County, at its option, may procure such insurance at C-Spires sole expense or terminate this agreement without further notice. The County shall be continuously provided with a certificate of such coverage at all times. C Spire also currently maintains umbrella liability policies of at least \$10,000,000 in aggregate. In addition, C Spire shall secure any and all other insurance as C Spire, in its sole discretion deems appropriate. Nothing in this paragraph is intended to be a waiver of the County's immunity under State law.

12. Books and Records. Throughout the Term of this Agreement, C Spire agrees to keep such books and records regarding the operation of the Telecommunications System and the provision of Telecommunications Services in the County as are reasonably necessary to ensure the C Spire's compliance with the terms and conditions of this Agreement. Such books and records shall include, without limitation, any records required to be kept in a public inspection file by C Spire pursuant to the rules and regulations of the FCC. All such documents pertaining to financial matters, which may be the subject of an audit by the County shall be retained by C Spire for a minimum period of three (3) years; provided it is understood that C Spire only retains call records for eighteen (18) months.

13. Transfer of Ownership or Control

(a) C Spire shall not transfer this Agreement or any of C Spire's rights or obligations in or regarding the Agreement without the prior written consent of the County. No such consent shall be required, however, for (i) a transfer in trust, by mortgage, hypothecation, or by assignment of any rights, title, or interest of C Spire in the Agreement or in the System in order to secure indebtedness, (ii) a transfer to any Person controlling, controlled by or under the same common control as C Spire, or (iii) a transfer to any Person purchasing all or substantially all of the assets or common stock of C Spire.

(b) C Spire shall give County prior written notice of any impending transfer of Control of C Spire or its assets under Sections 12 (a)(ii) or(iii). Furthermore, C Spire shall ensure that the Person to whom Control of C Spire or its assets is transferred is authorized by the applicable state or federal authority to occupy the Public Ways pursuant to this Agreement and assumes in writing all of the obligations of C Spire under this Agreement effective as of the date of the transfer of Control or sale. C Spire shall provide County with a copy of such assignment instrument upon request. The transfer of Ownership or Control pursuant to this section shall not be deemed to waive any rights of

County to subsequently enforce noncompliance issues relating to this Agreement even if such issues predated the transaction, whether known or unknown to County.

(c) For purposes of this Section 13 “Control” means ownership of a majority interest or the actual working control and day to day management of C Spire.

14. **Compliance with Applicable Law.** C Spire shall at all times comply with all laws, rules and regulations applicable to its provision of Telecommunications Services in the County. Notwithstanding the foregoing, the Franchise Fees paid pursuant to this Agreement shall replace and be paid in lieu of any business license fees normally assessed to Telepak pursuant to Alabama law.

15. **Enforcement and Termination.**

(a) **Breach.** In addition to all other rights and powers retained by the County under this Agreement or otherwise, the County reserves the right to terminate this Agreement and all rights and privileges of C Spire hereunder in the event of a material breach of its terms and conditions.

(b) **Notice of Violation.** In the event the County believes C Spire has not complied with the provisions of this Agreement, the County shall make a written demand that C Spire comply with any such provision, rule, order, or determination under or pursuant to this Agreement. If the violation by C Spire continues for a period of thirty (30) days following C Spire’s receipt of such written demand without written proof that the corrective action has been taken or is being actively and expeditiously pursued, the County may place the issue of termination of the Agreement before the County Commission. The County shall cause to be served upon C Spire, at least twenty (20) days prior to the date of such a Council meeting, a written notice of intent to request such termination, the provisions of this Agreement under which termination is sought, and the time and place of the meeting. Public notice shall be given of the meeting and issues that the Commission is to consider pursuant to the requirements of Alabama law.

(c) **Consideration of Breach.** The County Commission shall hear and consider the issue and shall hear any Person interested therein and shall determine whether or not any substantial breach by the C Spire has occurred.

(d) **Declaration of Forfeiture.** If the County Commission shall determine the violation by the C Spire was the fault of C Spire and within its control, the Commission may, by resolution (i) seek specific performance of any provisions which reasonably lends itself to such remedy, as an alternative to damages; or (ii) commence or action at law for monetary damages; or (iii) declare a substantial breach and declare that this Agreement shall be terminated unless there is compliance within such period as the Council may fix, such period not to be less than sixty (60) days, provided no opportunity for compliance need be granted for fraud or misrepresentation.

(e) **No Forfeiture of Legal Rights or Remedies.** Nothing herein shall be construed as a waiver or forfeiture of any right or remedy that either Party may have

concerning or arising out of this Agreement, including the right to seek judicial redress for any breach or violation of the terms of this Agreement.

16. Miscellaneous.

(a) Applicable Law. This Agreement will be deemed to be a contract made under the laws of the State of Alabama and for all purposes will be governed by and interpreted in accordance with the laws prevailing in the State of Alabama, without regard to principles of conflict of laws. All parties submit and agree to submit to the sole jurisdiction of the Circuit Court of Shelby County, Alabama to resolve any disputes or legal actions arising in any way out of this agreement or the performance thereof; however nothing shall foreclose the Federal Communications Commission from hearing matters within its jurisdiction.

(b) Entire Agreement. The terms and provisions of this Agreement constitute the entire agreement between the Parties, and there are no collateral agreements or representations or warranties other than as expressly set forth or referred to in this Agreement.

(c) Inurement. This Agreement shall be binding upon, and shall inure to the benefit of, the respective Parties, their successors and assigns, including any and all subsequent owners of the fiber optic lines installed pursuant to this Agreement.

(d) Fees and Costs. In the event of any disputes or controversies arising from the Agreement or its interpretation, each Party will bear its own attorneys' fees and costs incurred in connection with same.

(e) No rights to private property. Nothing in this Agreement shall be construed expressly or impliedly to grant to C Spire any rights with respect to any private property.

(f) C Spire repair, inspection, etc. All of the obligations imposed by this Agreement upon C Spire with regard to construction shall be equally applicable in the event that C Spire or its agents, employees or contractors, repair, inspect, or otherwise, deal with the Rights-of-Way. All obligations, duties and responsibilities imposed upon C Spire by this Agreement shall be continuing and not limited solely to the construction period.

(g) Independent contractor. The Parties stipulate and agree that C Spire is an independent contractor and neither Party shall take any action or make any statement that could, in any way, suggest a different relationship between the Parties. It is specifically agreed that the Parties hereto are not partners or joint venturers and do not occupy any similar relationship.

(h) No guaranty, etc. by County. It is hereby agreed that neither the County nor any of its officers, officials, employees, agents or contractors have made any

guaranty, representation, promise or assurance to C Spire or its officers, officials, employees or contractors, other than as expressly contained in writing in this Agreement and C Spire stipulates and agrees that it is not relying upon any promise, representation, guaranty or assurance, other than as is contained in writing in this Agreement.

(i) Notice. Any notice or response required under this Agreement shall be in writing and shall be deemed given upon receipt: (i) when hand delivered; (ii) when delivered by commercial courier; or (iii) after having been posted in a properly sealed and correctly addressed envelope by certified or registered mail, postage prepaid, return receipt requested. The addresses of the Parties for notice are as follows:

If to County: County of Shelby, Alabama

If to C Spire: Telepak Networks, Inc.
Alan Jones, Sr. Vice President
1018 Highland Colony Parkway, Suite 400
Ridgeland, Mississippi 39157

With copy to: Charles L. McBride Jr.
SVP- Legal & General Counsel
1018 Highland Colony Parkway, Suite 700
Ridgeland, Mississippi 39157

The County and C Spire may designate such other address or addresses from time to time by giving notice to the other as provided in this section.

(j) Severability. If the legislature or a court or regulatory agency of competent jurisdiction determines that any provision of this Agreement is illegal, invalid, or unconstitutional, all other terms of this Agreement will remain in full force and effect for the Term of the Agreement and any renewal.

(k) Change of Law. In the event that any effective legislative, regulatory, judicial, or legal action materially affects any material terms of this Agreement, or the ability of County or C Spire to perform any material terms of this Agreement, the Parties agree to amend this Agreement as necessary to comply with the changes in law within thirty (30) days of receipt of written notice of such change in law.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their duly authorized officers effective as of the Effective Date.

TELEPAK NETWORKS, INC.

Alan Jones, Sr. Vice President

THE COUNTY OF SHELBY, ALABAMA

By: _____

Name: _____

Title: _____

