

## **CULLMAN CITY COUNCIL MEETING ON APRIL 13, 2020 IN THE LUCILLE N. GALIN AUDITORIUM**

Council President Jenny Folsom called the Cullman City Council Meeting to order at 7:03 o'clock p.m. on Monday, April 13, 2020.

Police Chief Kenny Culpepper presented the invocation and led the Pledge of Allegiance.

A roll call by City Clerk Wesley Moore reflected the following: Present - Mayor Woody Jacobs, Council Member Andy Page, President Pro Tem Johnny Cook, Council Member David Moss, Council Member Clint Hollingsworth and Council President Jenny Folsom. Also present were City Attorney Roy Williams and City Clerk Wesley Moore.

Council President Jenny Folsom asked the Council to consider the minutes from March 16, 2020, March 31, 2020, April 3, 2020 and April 6, 2020. Council President Pro Tem Cook made a motion to suspend the rules to consider the minutes. Council Member Hollingsworth seconded the motion to suspend the rules, and the motion was approved by a roll call vote. Mr. Wesley Moore polled the Council Members: Council Member Page: Aye. Council President Pro Tem Johnny Cook: Aye. Council President Folsom: Aye. Council Member Moss: Aye. Council Member Hollingsworth: Aye. Council President Pro Tem Cook made a motion to approve the minutes from March 16, 2020, March 31, 2020, April 3, 2020 and April 6, 2020 as written. Council Member Page seconded the motion to approve the minutes, and the motion was approved by a roll call vote. Mr. Wesley Moore polled the Council Members: Council Member Page: Aye. Council President Pro Tem Johnny Cook: Aye. Council President Folsom: Aye. Council Member Moss: Aye. Council Member Hollingsworth: Aye.

**ADDITIONS/DELETIONS TO AGENDA** – None.

### **REPORTS OF STANDING COMMITTEES**

1. Public Safety (Fire, Police, etc.) - Chairman Andy Page - Fire Chief Bradberry reported during the storms dispatch assisted the county with their calls. Police Chief Culpepper reported the prediction of hail caused problems with people seeking shelter in parking decks. Parking decks are not suitable shelters and can actually be more dangerous. He asked that residents should utilize the storm shelters which have adequate space to accommodate those seeking shelter from storms.
2. Utilities (Water, Sewer, etc.) - Chairman David Moss – City Engineer Erica York reported on the flooding issues resulting from the 5.5 inches of rain falling on already saturated ground. The cause of flooding in many cases was due to brush and miscellaneous household items washed into drainage ditches from the annual spring clean-up. All complaints of flooding and clogged ditches or culverts will be addressed.
3. Public Works (Street, Sanitation, etc.) - Chairman Johnny Cook reported recycling is temporarily discontinued until the recycling drop off location reopens. The spring clean up went very well reporting 1215 man hours, 634 truck hours, 202 tons disposed, for a total cost of \$51,174.57.
4. Tourism (Parks & Recreation, Airport, etc.) - Chairman Clint Hollingsworth announced due to COVID-19, Rock the South has been canceled this year, but will be back next year.
5. General Government (Finance, Economic Development, etc.) – No report.

### **REPORT FROM THE MAYOR**

Mayor Jacobs presented a Cullman Fair Housing Proclamation as April is Fair Housing month, and promoted the daily gift card giveaway for people completing the Census.

**COMMENTS FROM ANYONE NOT ON THE AGENDA** - None.

### **PUBLIC HEARINGS**

Council President Folsom called the public hearing to order at 7:23 p.m. for Ordinance No. 2020-11 to approve the Cullman Arts District. With no one wishing to speak regarding the ordinance, Council President Folsom closed the public hearing at 7:24 p.m.

Council President Folsom called the public hearing to order at 7:24 p.m. for Ordinance No. 2020-24 to rezone property located in the Windbrook Subdivision from R-1 Residential District to R-2 Residential District. With no one wishing to speak regarding the ordinance, Council President Folsom closed the public hearing at 7:25 p.m.

Council President Folsom called the public hearing to order at 7:25 p.m. for the 772 agreement with HomTex. Economic Development Director Dale Greer spoke regarding the 772 agreement enabling HomeTex to create 80 to 120 new jobs. By investing in new equipment for an additional product line, HomTex will be able to sew 400 million masks per year. With no one else wishing to speak regarding the resolution, Council President Folsom closed the public hearing at 7:29 p.m.

**REQUESTS, PETITIONS, APPLICATIONS, COMPLAINTS, APPEALS, AND OTHER** – None.

**RESOLUTIONS, ORDINANCES, ORDERS & OTHER BUSINESS**

Council President Folsom held the third reading of Ordinance No. 2020-11 to establish the Arts District in the City of Cullman, Alabama. Council President Pro Tem Cook made a motion to adopt the following Ordinance No. 2020-11:

**ORDINANCE NO. 2020 – 11**

**AMENDING ORDINANCE NO. 2004-03, AS AMENDED BY ORDINANCE NO. 2013-27 AND ORDINANCE NO. 2017-12 TO ESTABLISH THE CULLMAN ARTS DISTRICT IN THE CITY OF CULLMAN, ALABAMA**  
**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CULLMAN, ALABAMA, AS FOLLOWS:**

**Section 1.** Ordinance No. 2004-03, as Amended by Ordinance No. 2013-27 and Ordinance No. 2017-12, is hereby amended by adding Section 3. D. 3. b. *Cullman Arts District*:

Section 3. D. 3.b. *Cullman Arts District*:

The following boundaries or any portion thereof may be approved for use under the SE-1 District rules:

The District shall begin at the intersection of 3<sup>rd</sup> Avenue SW and 1<sup>st</sup> Street SW; then turn west onto 1st Street SW until Main Avenue SW; then turn south onto Main Avenue SW until the northeast corner of Art Park; then turn west on the north boundary of Art Park until Austin Avenue SW; then turn south onto Austin Avenue SW until 2<sup>nd</sup> Street SW; then turn east onto 2<sup>nd</sup> Street SW until Main Avenue SW; then turn south on Main Avenue SW until 3<sup>rd</sup> Street SW; then turn west onto 3<sup>rd</sup> Street SW until the west boundary of the property located at 305 Main Avenue SW (currently Newman’s Cleaners); then turn south following the west boundary of the property located at 305 Main Avenue SW until the 20’ public alley south of 305 Main Avenue SW; then turn west onto the 20’ public alley south of 305 Main Avenue SW until Austin Avenue SW; then turn south onto Austin Avenue SW until the northeast corner of 311 Austin Avenue SW; then turn west following the north boundary of 311 Austin Avenue SW until Hickory Avenue SW; then turn south onto Hickory Avenue SW until north boundary of the Cullman Housing Authority; then turn east following the north boundary of the Cullman Housing Authority until 5<sup>th</sup> Street SW; then turn east onto 5<sup>th</sup> Street SW until 6<sup>th</sup> Avenue SW; then turn north onto 6<sup>th</sup> Avenue SW until 4<sup>th</sup> Street SW; then turn east onto 4<sup>th</sup> Street SW until 5<sup>th</sup> Avenue SW; then turn south onto 5<sup>th</sup> Avenue SW until 6<sup>th</sup> Street SW; then turn east onto 6<sup>th</sup> Street SW until 3<sup>rd</sup> Avenue SW; and then turn north onto 3<sup>rd</sup> Avenue SW until the point of beginning (1<sup>st</sup> Street SW), all located within the City of Cullman Alabama.

**Section 2.** All other sections of said Ordinance shall remain in full force and effect.

**Section 3.** This ordinance shall take effect upon its passage and publication as required by law.

ADOPTED BY THE CITY COUNCIL this the 13<sup>th</sup> day of April, 2020.

/s/ Jenny Folsom, City Council President

ATTEST:

/s/Wesley M. Moore, Clerk

APPROVED BY THE MAYOR this the 13th day of April, 2020.

/s/ Woody Jacobs, Mayor

Council Member Hollingsworth seconded the motion and the motion was approved by a voice vote. Ayes: All. Nays: None.

Council President Folsom held the first reading of Ordinance No. 2020-24 to rezone property located in the Windbrook Subdivision from R-1 Residential District to R-2 Residential District.

Council President Folsom held the first reading of Ordinance No. 2020-25 to adopt regulations for small cell technology facilities in the City of Cullman. Council President Pro Tem Cook made a motion to suspend the rules to consider Ordinance No. 2020-25 to adopt regulations for small cell technology facilities in the City of Cullman. Council Member Page seconded the motion to suspend the rules, and the motion was approved by a roll call vote. Mr. Wesley Moore polled the Council Members: Council Member Page: Aye. Council President Pro Tem Johnny Cook: Aye. Council President Folsom: Aye. Council Member Moss: Aye. Council Member Hollingsworth: Aye. Council Member Moss made a motion to adopt Ordinance No. 2020-25:

**ORDINANCE NO. 2020-25**

**AN ORDINANCE TO ADOPT REGULATIONS FOR SMALL CELL TECHNOLOGY FACILITIES IN THE CITY OF CULLMAN, ALABAMA**

**WHEREAS**, The City Council of the City of Cullman, Alabama seeks to facilitate the availability of reliable, personal wireless communication services for its citizens and the public by permitting the placement of Small Cell Technology Facilities and associated Support Structures along the Rights-Of-Way, public property, and on private properties in the City; and

**WHEREAS**, the installation, expansion, and maintenance of Small Cell Technology Facilities and associated Structures on or along the Rights-Of-Way and on private properties might have significant impact upon: (1) the aesthetic values and historical character of the City; (2) safe use and passage on or along the Rights-of-Way by the

public; and (3) properties and property values in the City in areas where such Structures are placed; and

**WHEREAS**, the Federal Telecommunications Act of 1996 (the "Act") and regulations promulgated with respect to the Act by the Federal Communications Commission ("FCC) authorize local governments to enact responsible regulations for the placement, expansion, height, and maintenance of Small Cell Technologies Facilities and associated Support Structures; and

**WHEREAS**, as provided in this Ordinance Number 2020-25, the City seeks to mandate, where feasible, the colocation of Small Cell Technology Facilities on existing poles and other Support Structures as opposed to installation of new Structures; and

**WHEREAS**, the above-noted colocation and other provisions of this Ordinance are intended to be consistent with the Act and its associated regulation; and

**WHEREAS**, the adoption of the regulations, procedures, and requirements in this Ordinance will permit Applicants and Providers to enhance the provision of personal wireless service and protect the public welfare, health, safety and interests of the City's citizens.

THEREFORE, BE IT ORDAINED, BY THE MAYOR AND CITY COUNCIL OF THE CITY OF CULLMAN, ALABAMA AS FOLLOWS:

This ordinance for the purpose as herein stated as follows:

## ARTICLE I. SMALL CELL TECHNOLOGY FACILITIES

### Section 1. Definitions.

The following definitions shall apply in the interpretation of this Ordinance:

- A. *Abandonment* or *Abandons* means that, following the placement of Small Cell Technologies Facilities (and associated Accessory Equipment) or Support Structures in the City pursuant to a permit issued to a Provider or an Applicant, any of the following has occurred: (a) for any reason the Facilities cease to be used to transmit signals, data, or messages or otherwise be used for their intended purposes for a period of ninety (90) days; (b) the City revokes the permit for placement and use of those Facilities due to nonpayment of applicable fees, the failure of the Provider or Applicant to comply with conditions in the permit or in this Ordinance concerning them, or other valid reason; or (c) the Provider or Applicant fails to perform any of its responsibilities, obligations and requirements in this ordinance or in a permit that relate to the installation, construction, maintenance, use or operation of the Facilities, Accessory Equipment or Support Structures, and that breach remains uncured for a period of sixty (60) days after the City provides written notice of the breach to the Provider or Applicant.
- B. *Accessory Equipment* means any equipment other than an antenna that is used in conjunction with Small Cell Technology Facility arrangements. This equipment may be attached to or detached from a Small Cell Technology Wireless Support Structure, and includes, but is not limited to, cabinets, optical converters, power amplifiers, radios, DWDM and CWDM multiplexers, microcells, radio units, fiber optic and coaxial cables, wires, meters, pedestals, power switches, and related equipment on or in the immediate vicinity of a Support Structure.
- C. *Antenna* means communications equipment that transmits and receives electromagnetic radio signals, is attached to a Small Cell Technology Wireless Support Structure and is used to communicate wireless service.
- D. *Applicant*, whether singular or plural, means a personal wireless service provider, an entity that is authorized by a personal wireless service provider to apply for or receive a permit to install, construct, modify or maintain a Small Cell Technology Facility and related Accessory Equipment or Support Structure in the City, or an entity certificated by the Alabama Public Service Commission to provide telecommunication service.
- E. *Application* means a formal request submitted to the City for a permit to install, construct, modify or maintain a Small Cell Technology Facility and related Accessory Equipment or Support Structure.
- F. *City* means the City of Cullman, Alabama.
- G. *City Council* means the City Council of the City of Cullman, Alabama.
- H. *Mayor* means the person elected by the City as the Mayor of the City. The Mayor includes any employee of the City or other person designated by that Mayor to perform the responsibilities of this Ordinance.
- I. *Colocation* means the placement or installation of a new Small Cell Wireless Technology Facility or related Accessory Equipment on an existing pole or other Support Structure that is owned, controlled or leased by a utility, the City or other person or entity.
- J. *Personal Wireless Service Provider* or *Provider* means an entity that provides personal wireless

communication services to the public or citizens of the City on a commercial basis and is authorized by the FCC to provide those services.

- K. *Private Property* means real property located within the corporate limits of the City that does not lie within the Right-of-Way.
- L. *Public Property* – property owned by the City of Cullman or Utility formed or authorized by the City Council of the City of Cullman, i.e. (Utility Board of the City of Cullman, Cullman-Jefferson Gas District, Industrial Development Board of the City of Cullman, Cullman Park and Recreation Board et al)
- M. *Provider* - see Personal Wireless Service Provider.
- N. *Right-Of-Way* or *Rights-Of-Way*, whether singular or plural, means the surface and space in, upon, above, along, across, over and below any public streets, avenues, highways, roads, courts, lanes, alleys, boulevards, ways, sidewalks and bicycle lanes, including all public utility easements and public service easements within those places, as the same now or may hereafter exist, that are within the City's corporate boundaries and under the jurisdiction of the City. This term shall not include county, state, or federal Rights-of-Way or any property owned by any person or entity other than the City.
- O. *Small Cell Technology Facility(ies)* or *Facilities*, whether singular or plural, means and includes the following types of Structures: (a) antenna; and (b) associated Accessory Equipment. Photographs and illustrations of the types, relative dimensions and scale of these Facilities that are currently contemplated by this ordinance are attached as Exhibit A to the permanent record of this ordinance that is maintained by the City Clerk.
- O. *Small Cell Technology Wireless Support Structure, Support Structure* or *Structure*, whether singular or plural, means a freestanding structure designed or used to support, or capable of supporting, Small Cell Technology Facilities, including, but not limited to, utility poles, street light poles, traffic signal structures, rooftops, attics, or other enclosed or open areas of a building or accessory structure, a sign, or a flag pole. These terms do not include any decorative and architecturally significant street light poles that are inappropriate for use as a Support Structure as determined by the Mayor.
- P. *Stealth Technology* means one or more methods of concealing or minimizing the visual impact of a Small Cell Technology Facility (and associated Accessory Equipment) and Support Structure by incorporating features or design elements which either totally or partially conceal such Facilities or Equipment. The use of these design elements is intended to produce the result of having said Facilities and associated Structures blend into the surrounding environment and/or disguise, shield, hide or create the appearance that the Facilities architectural component of the Support Structure. Photographs and illustrations of examples of the types of Stealth Technology that may be used when buildings are utilized as Support Structures and other applications of Stealth Technology that are currently contemplated are attached as Exhibit B to the permanent record of the ordinance that is maintained by the City Clerk.

## **Section 2. Permit Required to Place Small Cell Technology Facilities in Rights-Of-Way.**

- A. Provider or Applicant must obtain a permit from the City before placing, installing, or constructing any Small Cell Technology Facility (and associated Accessory Equipment) on any Support Structure that is located on the Right-Of-Way, or substantially modifying the position or characteristics of any such existing Facility thereon.
- B. The Mayor will review and administratively process any request for a permit to determine whether, in the exercise of the Mayor's reasonable discretion, it should be issued for the location and in the manner requested by the Applicant. In this process, the burden is on the Provider or Applicant to demonstrate that the placement of the proposed Small Cell Technology Facility and associated Accessory equipment or Support Structure on the Right-of-Way is the minimal physical installation which will achieve the goal of enhancing the provision of personal wireless service when considering all pertinent factors discussed in the provision immediately below. Except as set forth in this section this permitting process will be administrative and not require the approval of any City Board or City Official other than the Mayor. The factors, requirements and guidelines that the Mayor may consider and will apply when determining whether to issue a permit for placement of Small Cell Technology

Facilities and associated Structure on the Right-Of-Way include, but are not limited to, the following:

1. the demonstrated need for placing the Structures at the requested location and geographic area in order to deliver or enhance personal wireless service;
2. the visual impact of placing the Support Structure or Facilities in the subject area;
3. the character of the area in which the Structures are requested, including surrounding buildings, properties, and uses;
4. whether the appearance and placement of the requested Structures is aesthetically consistent with

the immediate area;

5. whether the Structures are consistent with the historic nature and characteristics of the requested location;
6. the Applicant's or Provider's network coverage objective and whether the Applicant or Provider should use available or previously unconsidered alternative locations to place the Support Structures or Facilities;
7. Colocation. To the extent practical, all Facilities and associated Accessory Equipment that are placed in the City shall be attached to a pre-existing Support Structure that is owned, controlled or leased by a utility, franchisee, the City or other entity. If the Applicant demonstrates that no colocation opportunities exist in the area where a technologically documented need for a Facility exists, the Applicant may request that a new pole or other Support Structure be installed in that area for purposes of constructing the Facilities. Before any new Support Structure is permitted, each of the following must occur:
  - a. The Applicant must have provided the City written evidence that no practical colocation opportunity exists. This evidence shall include, but not be limited to, affidavits, correspondence, or other written information that demonstrates that the Applicant has taken all commercially reasonable actions to achieve colocation in the requested location or area, that the Applicant has perused but been denied access to all potential colocation sites in the subject area (and the reasons for any such denial(s)), and otherwise show that the Applicant is unable to co-locate on an existing Support Structure;
  - b. The Mayor must recommend the placement of a new Support Structure in the Right-of-Way; and
  - c. The City Council must approve the recommendation of the Mayor to issue a permit that includes the placement of a new Support Structure in the Right-of-Way. The City Council will consider whether to approve any such new Structures at a regular Council meeting that will be conducted as soon as practical after the Mayor's recommendation is made.
8. If a Facility is attached to a utility pole or other Support Structure in the Right-Of-Way, no antenna or other part of the Facility shall extend no more than five (5) feet above the height of that structure; provided that, in the event that the Applicant demonstrates that National Electric Safety Code regulations or other factors create an undue hardship in complying with this height requirement, the Mayor may permit a Facility to extend up to ten (10) feet above the height of such Support Structure;
9. The Accessory Equipment shall, if reasonably possible, be placed at least ten (10) feet above the ground;
10. The color of Antenna and Accessory Equipment shall be compatible with that of the Support Structure;
11. The Facility (including the Accessory Equipment) shall not be illuminated;
12. Whether the proposed installation could cause harm to the public or pose any undue risk to public safety;
13. Whether the proposed installation may interfere with vehicular traffic, passage of pedestrians, or other use of the Right-Of-Way by the public; and
14. If the proposed installation will disturb conditions on the Right-Of-Way, whether the Applicant can demonstrate its ability and financial resources to restore the subject area to its pre-existing condition following installation.

C. Application Process.

1. At a minimum, each application for a permit shall contain all of the following:
  - a. Engineering drawings depicting the type of Facilities, Support Structure, and means and points at which such Facilities and associated Accessory Equipment will be attached to a Support Structure;
  - b. Map(s) designating with specificity the location(s) of the requested Facilities;
  - c. If the Facilities will be located on a Support Structure on the Right-Of- Way that is owned by any entity other than the City or the Applicant, a copy of any license, lease, agreement or other documentation evidencing that the owner of that Support Structure authorizes the Facilities to be attached thereto or agrees in principle to authorize that attachment, provided that, if a representation is made to the City that the attachment has been authorized in principle by the owner of the Support Structure but the Applicant subsequently fails to furnish the City documentation that finalizes any such agreement,

the City may refuse to issue the requested permit until that documentation is provided, or, if the City issues the requested permit before receiving such final documentation, the subject permit may be revoked and any license to use that part of the Right-Of-Way be rescinded.

- d. If the Applicant requests permission to place Facilities on a new Support Structure, the substantiation therefor required by Section 2, Paragraph B-7 of this ordinance.
  - e. An application shall not be deemed complete until the Applicant has submitted all documents, information, forms and fees specifically enumerated in this Ordinance that pertain to the location, construction, or configuration of the Facilities or Support Structures at the requested location(s). Within thirty (30) calendar days after an application for permit is submitted, the City shall notify the Applicant in writing if any additional information is needed to complete that application or supplemental information is required to process the request. If the City does not notify the Applicant in writing that the application is incomplete within thirty (30) days following its receipt, the application is deemed complete.
2. Time for Processing Application. Unless another date is specified in a written agreement between the City and the Applicant, the City will have the following time periods to make its final decision to approve or disapprove an application for a permit contemplated in this ordinance and advise the Applicant in writing of that determination:
- a. Sixty (60) calendar days from the date an application for a permit is filed with respect to a request to co-locate Facilities on an existing Support Structure; and
  - b. Ninety (90) calendar days from the date an application for a permit is filed with respect to a request to attach Facilities to a new Support Structure.
- To the extent additional information is required to complete the application after it is filed, the applicable calendar day review period set forth in this subsection shall be tolled and not continue to run until the Applicant has provided any missing or requested supplemental information; provided that tolling shall not occur if the City does not advise the Applicant in writing of the incompleteness of a submitted application within thirty (30) days after that submission.
3. Reconsideration/Appeal. Any Applicant that desires reconsideration of an administrative decision by the Mayor to deny a request for a permit to place a Facility or Support Structure on the Right-Of-Way may seek review, modification or reversal of that decision by the City Council by submitting a request for reconsideration with the City Clerk within twenty-one (21) calendar days following the Mayor's decision. That request for reconsideration will be considered by the City Council at a regular Council meeting that will be conducted as soon as practical after the request for reconsideration is made. If no request of reconsideration is submitted, the decision of the Mayor will be final.
- Additionally, the Applicant, within thirty (30) days following a decision by the City Council to deny either a) a request for reconsideration or b) a decision by City Council to not approve the placement of a new Support Structure on the Right-of-Way, may appeal either of those decisions by the City Council to the Circuit Court of Cullman County, Alabama or as applicable. If no appeal of those decisions of the City Council is made, those will be deemed final.
- D. Additional Requirements. Any Provider or Applicant to whom a permit is issued and that places Facilities and associated Support Structures on the Right-Of-Way also shall comply with the following requirements as long as those Facilities and Support Structures are on or under the Right-of-Way:
1. Prior to installing the Facilities or Support Structures, the Applicant shall provide the City a certificate(s) of insurance evidencing that it has obtained and will maintain the following types of insurance in connection with its operations on or use of the Right-Of-Way; renewal or said coverage shall be provided at each renewal period naming the City of Cullman as an additional insured.
    - a. General Liability Coverage insuring the risk of claims for damages to persons or property arising from or related to the installation, construction, maintenance, operation or any use of the Facility or Support Structure placed on or along the Right-of-Way by the Applicant (or any of their contractors) with minimum limits of \$1,000,000 per occurrence; and
    - b. Workers Compensation Insurance as required by statute.  
The General Liability coverage shall list the City of Cullman, Alabama as an additional

insured, and may be provided through a combination of a primary and umbrella policies. All insurance policies shall be furnished by insurers who are reasonably acceptable to the City and authorized to transact business in the State of Alabama. On an annual basis following initial installation, the Applicant also shall furnish the City a Certificate indicating that the above-noted coverage remains and will remain in effect. The City shall allow the applicant to provide a certificate of self-insurance in lieu of these provisions and must affirm adequate financial security on the part of the self-insured entity.

2. All Facilities and associated Support Structures shall be installed, erected, maintained and operated in compliance with applicable federal and state laws and regulations, including, but not limited to, regulations of the FCC.
  3. Following the installation of any Facilities and associated Support Structures, the Provider or Applicant, upon reasonable request and for good cause, shall furnish the Mayor a written certification from a licensed professional engineer in the State of Alabama stating that those Structures have been inspected and are being maintained, operated and used in compliance with all applicable laws and regulations, including those of the FCC that pertain to the transmission of wireless communication signals. For purposes of this provision, "good cause" shall mean circumstances have arisen that indicate the Facilities and associated Support Structures have been damaged, are not functioning in compliance with applicable laws and regulations, or otherwise pose a hazard to the public. If those Support Structures should fail at any time to comply with applicable laws and regulation, the Provider or Applicant, at either of their expense, shall cause those Structures to be brought into compliance with said laws and regulations within fifteen (15) days of the date of any written notice to them from the Mayor of non-compliance, or cease all personal wireless service operations related to those Structures until the Applicant or Provider comes into full compliance with said laws and regulations.
  4. The Facilities and associated Support Structures must at all times be maintained in good and safe condition. On no more frequent than a triennial basis, the Mayor may request that the Provider or Applicant, at either of their expense, furnish certification from a professional engineer who is licensed in the State of Alabama that the Facilities and Support Structures are in sound condition. Should that engineer deem those Structures unsound, the Provider or Applicant shall furnish to the Mayor a plan to remedy any unsafe conditions or structural defect(s) and take that remedial action at the Provider or Applicant's expense.
  5. Each Applicant or Provider that applies for a permit to place Facilities (including the Accessory Equipment) and Support Structures on the Right-Of- Way and installs and utilizes those Structures shall defend, indemnify and hold the City and its employees or officials, harmless from all demands, losses, expenses (including attorney's fees and court costs), claims for personal injury or property damage, judgments or liabilities of any type that may be asserted or claimed against the City (or its employees or officials) by any third person, firm or entity that arise out of or relate in any manner to the following: 1) the installation, construction, maintenance, use or operation of the permitted Facilities, Accessory Equipment or any Support Structure on or about the Right- Of-Way; and 2) the failure of the Provider or Applicant to perform any of their respective responsibilities, obligations, and permit requirements in this ordinance. Notwithstanding the foregoing, the Provider or Applicant shall not be obligated to indemnify the City for claims resulting from the sole negligence or willful acts of the City (or its representatives).
- E. Permit and License Fees. The Applicant for a permit to place Facilities and associated Support Structures on the Right-of-Way shall pay the following types of fees that are enumerated in the City's officially adopted Fee Structure Ordinance, as amended:
1. A permit application and review fee to be paid when an application is submitted;
  2. A permit issuance fee for each Support Structure on the Right-of-Way contemplated for attachment; and
  3. An annual license fee per each Support Structure on the Right-of-Way pertaining to the ongoing use of public property.
- F. Removal, Relocation or Modification of Small Wireless Facility in the Right-of-Way.
1. Ninety (90) Day Notice to Remove, Relocate or Modify. Whenever the City reasonably determines that the relocation is needed as described below, then within ninety (90) days following written notice from the City, the Applicant shall, at its own expense, protect, support, temporarily or permanently disconnect, remove, relocate, change or alter the position of any small wireless Facilities within the Rights-Of-Way whenever the City has determined that such removal, relocation, change or alteration, is reasonably necessary for (excluding beautification-only

projects), as follows:

- a. the construction, repair, maintenance, or installation of any City improvement in or upon, or the operations of the City in or upon, the Rights-Of-Way; and/or
  - b. if required for the construction, completion, repair, relocation, or maintenance of a City improvement or project in or upon, or the operations of the City in or upon, the Rights-Of-Way; and/or
  - c. because the small cell Facility or its related equipment is interfering with or adversely affecting proper operation of any City-owned light poles, traffic signals, or other equipment in the Public Way; and/or
  - d. to protect or preserve the public health or safety.
  - e. In any such case, the City shall use its best efforts to afford Applicant a reasonably equivalent alternate location. If Applicant shall fail to relocate any Equipment as requested by the City within a reasonable time under the circumstances in accordance with the foregoing provision, the City shall be entitled to relocate the Equipment at Applicant's sole cost and expense, without further notice to Applicant. If, at any time during the Term for which the permit is granted, the City determines that utility Facilities will be placed underground in an area including any City-owned Facilities upon which Applicant has installed Equipment, Applicant and the City will cooperate in good faith on the design and installation, at Applicant's costs, of suitable replacement of Applicant's Facilities, including decorative streetlight poles; and Applicant agrees that if reasonably required by the Mayor or his designee or upon final appeal by the City of Cullman Design Review Board in order to ensure appropriately even and level lighting within a previously unlighted area, additional Facilities, which may include decorative streetlight poles beyond or more numerous than those required for Applicant's Facilities, shall be installed. Applicant agrees that decorative streetlight poles may be required by the City in the future in the place of initially-installed standard-design streetlight poles, in which replacement of the Applicant's Facilities and Equipment on decorative streetlights that were initially installed standard-design streetlight poles shall be solely at Applicant's cost. Further, Applicant agrees that in such instances and at such time as replacement poles are installed, the City may reasonably require that the configuration and/or location of ground furniture (which references any equipment on the ground that is needed to supply power or backhaul services to the small cell Facility) and/or pole-mounted equipment or equipment cages be changed (such as changing from pole-mounted equipment cages to ground furniture), in the discretion of the City.
2. Emergency Removal or Relocation of Facilities. The City retains the Right and privilege to cut or move any small wireless Facility or related structure located within the Rights-of-Way of the City, as the City may determine to be necessary, appropriate or useful in response to any public health or safety emergency. If circumstances permit, the City shall notify the Applicant and provide the Applicant an opportunity to move its own Facilities, if possible, prior to cutting electrical service or removing a Facility and shall notify the wireless Provider after cutting or removing a small wireless Facility.

### Section 3. Placement of Small Cell Technology Facilities on Private Property.

- A. A Provider or Applicant must obtain a permit from the City before placing, installing, or constructing any Small Cell Technology Facility (and associated Accessory Equipment) on any Support Structure that is located on private property, or substantially modifying the position or characteristics of any such existing Facility thereon.
- B. The Mayor will review and administratively process any request for a permit to determine whether, in the exercise of the Mayor's reasonable discretion, it should be issued for the location and in the manner requested. In this process, the burden is on the Applicant to demonstrate that the placement of the proposed Small Cell Technology Facility and associated Accessory Equipment or Support Structure on private property is the minimal physical installation which will achieve the technological goal of enhancing the provision of personal wireless services. Except as set forth in this section, this permitting process will not require the approval of any City Board or City official other than the Mayor. The factors, guidelines and requirements that the Mayor may consider and will apply when determining whether to issue a permit for placement of Facilities and any associated Accessory Equipment or Support Structure on private property include, but are not limited to, the following:



1. The factors and requirements set forth in Section 2 of this Ordinance Number 2020-25;
2. Colocation. The guidelines in Section 2 of this Ordinance Number 2020-25 to utilize existing poles and Support Structures for the placement of Facilities and Accessory Equipment are also applicable when considering whether to permit the installation of those Facilities and Support Structures on private property, provided that City Council approval is not required before a permit is issued to place a new pole or other Support Structure on private property if that action is appropriate.
3. The Provider or Applicant shall use Stealth Technology when installing the Facilities and associated Accessory Equipment on any building or accessory to that building that is located on private property. Further, Stealth Technology should be used when placing Facilities on other types of Support Structures on private property unless the Applicant can reasonably demonstrate that, given the nature of the requested application, the use of such Technology is (a) unnecessary; or (b) impractical.
4. If Facilities are placed on an existing or new building or accessory to that building, the following dimensional regulations shall apply:
  - a. Facade-mounted antennas shall not extend above the face of any wall or exterior surface of the building.
  - b. Roof-mounted antennas and Accessory Equipment may be permitted on buildings in accordance with the following table:

<b>Height of Building</b>	<b>Maximum Height of Facility Required above Highest Point of Roof</b>	<b>Setback from Edge of Roof of Building</b>
Up to 15 feet	8 feet, including antenna	1 foot for every foot height of equipment
15-35 feet	10 feet, including antenna	1 foot for every foot height of equipment
More than 35 feet	12 feet, including antenna	1 foot for every foot height of equipment

- c. The antenna component of the Facilities shall be limited to a maximum height of three (3) feet and a maximum width of two (2) feet; provided that authorization to install antenna up to six (6) feet in height may be permitted if a showing of the technological need for such equipment is made and other requirements of this Section are met.
  - d. Accessory Equipment must be located in an equipment cabinet, equipment room in an existing building or in an unmanned equipment building. If the equipment building is freestanding, it shall conform to the City of Cullman Ordinance with respect to building setbacks, that building shall not exceed 400 square feet, and its overall height shall be limited to 15 feet (if located on the ground) measured from the finished grade. Further, if an equipment building or cabinet is located in a residential zone, or the nearest adjoining property is in a residential zone, that building or cabinet shall be surrounded by landscaping to provide a screen of the same height as the building or cabinet.
5. Application Process. Except as provided in paragraphs a and b immediately below, the same application process that is set forth in Section 2 will be utilized when processing any request for a permit to place Facilities or Support Structures on private property, except that:
  - a. City Council approval to install a new Support Structure on private property is not a condition for a permit to place Facilities thereon; and
  - b. If the Facilities are located on private property that is not owned or exclusively used by the Applicant, instead of providing the documentation contemplated in Section 2(c)(1)(c), the Applicant shall present a license, lease, agreement or other documentation indicating that owner of said property authorizes the Applicant the Rights to place the Facilities thereon and access thereto, or that such owner agrees in principle to grant the Applicant those Rights; provided that, if a representation is made to the City that the owner of private property has agreed in principle to grant those Rights but the Applicant subsequently fails to furnish the City documentation that finalizes any such agreement, the City may refuse

to issue the requested permit until the documentation is provided, or, if the City issues the requested permit before receiving such final documentation, the subject permit and license may be revoked.

6. Additional Requirements. Any Provider or Applicant to whom a permit is issued and that places Facilities and associated Support Structures on private property also shall comply with the following requirements as long as those Facilities and Support Structures are located thereon:
    - a. All Facilities and Support Structures shall be installed, erected, and maintained in compliance with applicable federal and state laws and regulations, including, but not limited to, regulations of the FCC.
    - b. At least triennially following the installation of the Facilities or associated Support Structures, upon reasonable request and for good cause, the Applicant shall furnish the Mayor a written certification from a professional engineer licensed in the State of Alabama indicating that those Structures have been inspected and are being maintained, operated and used in compliance with all applicable laws and regulations, including those of the FCC that pertain to the transmission of wireless communication signals. For purposes of this provision, "good cause" shall mean circumstances have arisen that indicate the Facilities and associated Support Structures have been damaged, are not functioning in compliance with applicable laws and regulations, or otherwise pose a hazard to the public. If those Structures fail at any time to comply with said laws and regulations, the Provider or Applicant shall cause those Structures to be brought into compliance with said laws and regulations within fifteen (15) days of the date of any written notice to either of them of such non-compliance, or cease all personal wireless communications operations related to those Structures until the Provider or Applicant comes into full compliance with applicable laws and regulations.
    - c. The Facilities and associated Support Structures on private property must at all times be maintained in good and safe condition.
- C. Permit and License Fees. The Provider or Applicant for a permit to place Facilities and associated Support Structures on private property shall pay the following types of fees that are enumerated in the City's officially adopted Fee Structure Ordinance as amended:
1. a permit application and review fee to be paid when an application is submitted; and,
  2. a permit issuance fee per each Support Structure on private property contemplated for attachment.

#### Section 4. Abandonment of Facilities on Right-of-Way.

If a Provider or Applicant abandons any Facility (including the Accessory Equipment) or an associated Support Structure (collectively "Facilities" for purposes of this Section) that is located on the Right-Of-Way, the following rights and obligations shall exist. The City may require the Provider or Applicant, at their expense, to remove and reclaim the abandoned Facilities within sixty (60) days from the date of written notice of Abandonment given by the City to them and to reasonably restore the condition of the property at which the Facilities are located to that existing before they were installed. If the Provider or Applicant fails to remove and reclaim its abandoned Facilities within such 60-day period and the Facilities are located on the Right-Of-Way, the City shall have the rights to:

1. remove them and charge its expense of any such removal operation to the account of the Provider or Applicant,
2. purchase all abandoned Facilities at the subject location from the Provider or Applicant in consideration for \$1.00,
3. at the City's discretion, either resell the abandoned Facilities to a third party or dispose and salvage them; provided that the proceeds of any resale of abandoned Facilities by the City to a third party shall be credited to the account of the Applicant or Provider that used those Facilities before the abandonment, and
4. charge any expense incurred by the City to restore the Right-of-Way to the account of the Provider or Applicant.

#### Section 5. Colocation.

To promote the public interest that is served by co-locating Facilities and associated Accessory Equipment on existing Support Structures and thereby mitigating the installation of additional Support Structures throughout the City, no person or entity (including any Provider, Applicant, utility, or franchisee) that utilizes an existing Support

Structure that is located on Right- of-Way or on private property in the City and has space available thereon may deny a Provider or Applicant the Right to use or access an existing Support Structure for purposes of attaching Facilities permitted by this ordinance without sound operational, technological or other good reason.

Section 6. Non-Applicability.

The placement of an antenna(s), Facilities or equipment related to the following types of wireless communication services are exempt from regulation under this ordinance:

- A. Amateur radio service that is licensed by the FCC if the Facilities related thereto are not used or licensed for any commercial purpose; and
- B. Facilities used by any federal, state or local government or agency to provide safety or emergency services.

Section 7. Repealer.

All Ordinances or parts of ordinances heretofore adopted by the City Council of the City of Cullman, Alabama that are inconsistent with the provisions of this Ordinance are hereby expressly repealed.

Section 8. Severability.

If any part, section or subdivision of this ordinance shall be held unconstitutional or invalid for any reason, such holding shall not be construed to invalidate or impair the remainder of this ordinance, which shall continue in full force and effect notwithstanding such holding.

Section 9. Effective Date.

This ordinance shall become effective immediately upon adoption and posting/publication as provided by Alabama law.

**DONE, ORDERED, APPROVED and ADOPTED** this the 13th day of April, 2020.

/s/ Jenny Folsom, City Council President

ATTEST:

/s/Wesley M. Moore, Clerk

APPROVED BY THE MAYOR this the 13th day of April, 2020.

/s/ Woody Jacobs, Mayor

Council President Pro Tem Cook seconded the motion to approve the Ordinance, and the motion was approved by a roll call vote. Mr. Wesley Moore polled the Council Members: Council Member Page: Aye. Council President Pro Tem Johnny Cook: Aye. Council President Folsom: Aye. Council Member Moss: Aye. Council Member Hollingsworth: Aye.

Council President Folsom held the first reading of Ordinance No. 2020-26 to establish a fee structure for small cell technology facilities in the City of Cullman. Council Member Page made a motion to suspend the rules to consider Ordinance No. 2020-26 to establish a fee structure for small cell technology facilities in the City of Cullman. Council Member Hollingsworth seconded the motion to suspend the rules, and the motion was approved by a roll call vote. Mr. Wesley Moore polled the Council Members: Council Member Page: Aye. Council President Pro Tem Johnny Cook: Aye. Council President Folsom: Aye. Council Member Moss: Aye. Council Member Hollingsworth: Aye. Council President Pro Tem Cook made a motion to adopt Ordinance No. 2020-26:

**ORDINANCE NO. 2020-26**

**AN ORDINANCE TO ESTABLISH A FEE STRUCTURE FOR SMALL CELL TECHNOLOGY FACILITIES IN THE CITY OF CULLMAN, ALABAMA AS ESTABLISHED BY ORDINANCE NUMBER 2020-25**

**WHEREAS**, on April 13, 2020, the City Council in a regularly scheduled City Council meeting following a public hearing voted to adopt and approve Ordinance Number 2020-25 to enact new regulations that apply to placement of Small Cell Technology Facilities ("Facilities" as defined in Ordinance Number 2020-25 and used herein) along public rights-of-way and on private properties within the City of Cullman; and

**WHEREAS**, the regulations established in Ordinance Number 2020-25 will be codified in a Chapter 53 of the City

of Cullman Code of Ordinances ("Code") entitled "Telecommunications "; and

**WHEREAS**, Sections 2E and 3C of Ordinance Number 2020-25 provide that certain fees be paid by personal wireless service providers or applicants in connection with the review of applications, initial issuance and annual reissuance of permits required to construct, place, maintain and operate Facilities in the City; and

**WHEREAS**, the City Council herein set forth the level of fees contemplated in Sections 2E and 3C of Ordinance Number 2020-25.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CULLMAN, ALABAMA**, The City of Cullman Code Of Ordinances Be Amended To Include The Fees Set Forth In This **Ordinance Number** 2020-26 As Follows:

**"SMALL CELL TECHNOLOGY FACILITES FEE STRUCTURE**

<b>DESCRIPTION</b>	<b>FEE</b>
<b>Permits to Place and Operate Facilities on Public Right-of-Way</b>	
Permit Application and Review Fee-The First five small wireless facilities included in a single application (Ord. No. 2020-25)	\$500.00
Permit Application and Review Fee- Each Additional small wireless facility in excess of the above initial five included in one application (Ord. No. 2020-25)	\$100.00
Permit Application and Review Fee - For installation of a new pole together with the mounting or installation of an associated small wireless facility in the right-of-way.	1,000.00
Annual License Fee per Support Structure (Ord. No. 2020-25)	\$270.00
<b>Permits to Place and Operate Facilities on Private Property</b>	
Permit Application and Review Fee- The First five small wireless facilities included in a single application (Ord. No. 2020-25)	\$500.00
Permit Application and Review Fee- Each Additional small wireless facility in excess of the above initial five included in one application (Ord. No. 2020-25)	\$100.00

Section 2. Repealer. All ordinances or parts of ordinances heretofore adopted by the City Council of the City of Cullman, Alabama that are inconsistent with the provisions of this ordinance are hereby expressly repealed.

Section 3. Severability. If any part, section or subdivision of this ordinance shall be held unconstitutional or invalid for any reason, such holding shall not be construed to invalidate or impair the remainder of this ordinance, which shall continue in full force and effect notwithstanding such holding.

Section 4. Effective Date. This ordinance shall become effective immediately upon adoption and publication as provided by law.

**DONE, ORDERED, APPROVED and ADOPTED** this the 13<sup>th</sup> day of April, 2020.

/s/ Jenny Folsom, City Council President

ATTEST:

/s/Wesley M. Moore, Clerk

APPROVED BY THE MAYOR this the 13th day of April, 2020.

/s/ Woody Jacobs, Mayor

Council Member Hollingsworth seconded the motion to approve the Ordinance, and the motion was approved by a roll call vote. Mr. Wesley Moore polled the Council Members: Council Member Page: Aye. Council President Pro Tem Johnny Cook: Aye. Council President Folsom: Aye. Council Member Moss: Aye. Council Member Hollingsworth: Aye.

Council Member Moss made a motion to adopt the following resolution:

**RESOLUTION NO. 2020-75**

BE IT RESOLVED by the City Council (the "Council") of THE CITY OF CULLMAN, ALABAMA (the "City"), as follows:

Section 1. The Council does hereby find, declare, and ascertain as follows:

- (a) The City enthusiastically supports and encourages economic development within the City in order to develop a solid and diverse local economy, to increase employment opportunities in the City, to broaden the City's tax base, to increase revenues, and to provide necessary and improved services to the citizens of the City, thereby improving the quality of life of its citizens and promote the health and welfare of its citizens; and
- (b) Amendment No. 772 to the Constitution of Alabama (1901) (Section 94.01 of the Recompiled Constitution of Alabama and hereinafter referred to as "Amendment No 772") authorizes the City to lend its credit to or grant public funds and things of value in aid of or to any business entity for the purpose of promoting the economic development of the City; and
- (c) HomTex, Inc. is a local industry poised to develop a new line of production being surgical and residential mask which are urgently needed to fight the COVID-19 virus; and
- (d) The Industrial Development Board (IDB) or the City of Cullman has been approached by HomTex, Inc. for a loan of One Million Five Hundred Thousand and no/100 Dollars being approximately 1/3 of the cost to retool and purchase the necessary machinery to create this product and to be repaid at 2.2% interest within approximately two (2) years; and
- (e) HomTex, Inc, an Alabama Corporation ("HomTex"), is a premier apparel company in Alabama and one of a few companies capable of manufacturing these masks which are in short supply and necessary to defeat the COVID-19 virus; and
- (f) HomTex desires to acquire certain machines, which are specifically made to produce this product. HomTex is one of a few industrial manufacturers approved to purchase such equipment and has the base material to manufacture this product; and
- (g) HomTex intends to incur a capital investment of approximately \$5,000,000.00 to develop and manufacture this product to be operated in Cullman; and
- (h) HomTex development and implementation of the project are expected to result in the creation of approximately a minimum of 80 new jobs and the generation of approximately \$8,000,000.00 of annual sales, which will generate annual sales tax revenue to the City, in addition to new sales tax revenue dedicated for educational purposes of for capital improvements for education , new business license revenue, new sales, use tax revenue from materials, increased ad valorem tax revenue to the City and combat COVID-19 virus here and nationally; and
- (i) The development and implementation of the project on the project site is in the best interest of the City and will serve a public purpose and further enhance the public benefit and welfare by, among other things (i) promoting local economic development and stimulating the local economy; (ii) increasing employment opportunities in the City; (iii) increasing the City's tax base, resulting in additional tax revenues for the City; (iv) promoting the development of new business enterprises and retail business in the City; and (v) the public health of the City and constitute important public benefits to the City and its citizens; and
- (j) It is necessary, proper, and in the public interest, in accordance with Amendment No. 772, that the City should enter into a Development Agreement (the "Development Agreement") with HomTex pursuant to which HomTex will undertake the project. The City will among other items, (i) provide to IDB funds for the benefit of HomTex up to One Million Five Hundred Thousand (1.5 million) Dollars at 2.2% annualized interest repaid within two (2) years in accordance with the note based on \$.01 cent per mask with balloon payment, if any, on September 30, 2022.
- (k) As required under Amendment No. 772, the City published notice in the April 6, 2020, edition of *The Cullman Times* and *The Cullman Tribune* concerning the proposed action of the Council to approve the Development Agreement; and
- (l) Providing the financial and infrastructure assistance for the project as described in the Development Agreement is consistent with and in furtherance of the objectives of Amendment No. 772 and the expenditure of such public funds for the purposes described herein will serve a valid and sufficient public purpose, notwithstanding any incidental benefit accruing to any private entity or entities; and
- (m) As a result of the City's inducements, HomTex has decided to undertake the project in Cullman, Alabama.

Section 2. The Mayor is hereby authorized and directed, along with the City Clerk, to execute the Development Agreement, in substantially the form attached hereto, containing such changes, modifications, or clarifications as the Mayor shall deem necessary, desirable, or appropriate.

Section 3. The Mayor is hereby authorized and directed, along with the City Clerk, to take all actions as may be necessary, including the negotiation and execution of all additional agreements, notices, certificates, or other documents in furtherance of the intent of the Development Agreement, including without limitation all transactions anticipated, provided for, or made necessary by the Development Agreement.

Section 4. The Council hereby determines that the expenditure (loan) of public funds for the purposes specified within the Development Agreement will serve a valid and sufficient public purpose, notwithstanding any incidental benefit accruing to any private entity or entities.

Section 5. The various provisions of this Resolution are hereby declared to be severable. In the event any provision hereof shall be held invalid, illegal, or unenforceable for any reason, the invalidity, illegality, or unenforceability shall not affect any other provision hereof and this Resolution shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.

DONE this the 13th day of April, 2020.

/s/ Jenny Folsom, City Council President

ATTEST:

/s/Wesley M. Moore, Clerk

APPROVED BY THE MAYOR this the 13th day of April, 2020.

/s/ Woody Jacobs, Mayor

Council Member Page seconded the motion, and the motion was approved by a roll call vote. Mr. Wesley Moore polled the Council Members: Council Member Page: Aye. Council President Pro Tem Johnny Cook: Aye. Council President Folsom: Aye. Council Member Moss: Aye. Council Member Hollingsworth: Aye.

Council President Pro Tem Cook made a motion to adopt the following resolution:

**RESOLUTION NO. 2020-76**

WHEREAS, H&M Land Company owns property contiguous to property in the City limits owned by the City of Cullman, Alabama; and

WHEREAS, H&M Land Company's property is land locked and requires access; and

WHEREAS, H&M Land Company has approached the Mayor requesting an easement of fifty (50) feet across land owned by the City; and

WHEREAS, the City wants the property owned by H&M Land Company to be located into the City for development.

It is Resolved by the City Council of the City of Cullman as follows:

1. The Mayor may convey a fifty (50) foot non-exclusive easement to H&M Land Company subject to H&M Land Company completing an annexation of all property owned by H&M Land Company located near and adjacent to the easement into the City of Cullman, Alabama.
2. The non-exclusive easement is not maintained now and nothing in the Resolution shall be construed to obligate the City to maintain the non-exclusive easement for ingress and egress for use by H&M Land Company.

DONE this the 13th day of April, 2020

/s/ Jenny Folsom, City Council President

ATTEST:

/s/Wesley M. Moore, Clerk

APPROVED BY THE MAYOR this the 13th day of April, 2020.

/s/ Woody Jacobs, Mayor

Council Member Hollingsworth seconded the motion and the motion was approved by a voice vote. Ayes: All. Nays: None.

Council Member Moss made a motion to adopt the following resolution:

**RESOLUTION TO SWAP LAND TO CORRECT**

**EASEMENT DESCRIPTION NO. 2020-77**

WHEREAS, it has come to the attention of the City of Cullman that a portion of its utilities are located on private property currently owned by Catherine Apel (property owner); and

WHEREAS, the easement description vacate alley is not where the utilities are located, which is owned by the city; and

WHEREAS, the property owner is willing to grant an easement to the city where the sewer and water line are currently negotiating relocating the utilities; and

WHEREAS, the value of the easement to be acquired by the city from the property owner, is of equal value to the strip of land adjoining property owner, owned by the city.

It is resolved that the City of Cullman in order to correct and provide the city with an easement where the 10” water line and sewer is located, does hereby in exchange of a 15’ easement from the city to property owner, acquire the following property from the property owner.

To wit:

Easement from property owner to City

A proposed utility easement situated in a part of lots 9, 10 and 11 in block 16 of Arnold's second addition to the City of Cullman as recorded in the Office of the Judge of Probate, Cullman County, Alabama and being more particularly described as follows:

Commence at a set rebar marking the Northwest corner of lot 11 of said subdivision, having an Alabama state plane, West zone, NAD 83. Coordinate value of N. 1522824.05', e. 2167779.49', and run South 89 degrees 31 minutes 03 seconds East, (bearing based on Al. State plane, West zone, NAD 83. Grid.), along the Southerly right-of-way line of Oak Drive Northeast, a distance of 25.87 feet to the point of beginning; thence continue South 89 degrees 31 minutes 03 seconds East, a distance of 15.85 feet to a point; thence South 18 degrees 24 minutes 56 seconds East, a distance of 169.50 feet to a found 5/8 inch rebar; thence South 64 degrees 02 minutes 12 seconds West, a distance of 13.36 feet to a found capped corner (Harris-5742) marking the Southwest corner of lot 9 of said subdivision; thence North 26 degrees 29 minutes 48 seconds West, along the West line of said lot 9, a distance of 12.50 feet to a point; thence North 18 degrees 24 minutes 56 seconds West, a distance of 164.01 feet to the point of beginning.

15’ strip of land to property owner from City

Commence at the southeast corner of lot 3 block 16 of Arnold’s addition to the City of Cullman as recorded in the Office of the Judge of Probate, Cullman County, Alabama in map book 1 page 12; thence run North 15 feet; ;thence West to the South right-of-way of Oak Drive Northeast; thence West along South right-of-way to the Northeast corner of lot 1 of block 16 of Arnold’s addition to the City of Cullman; thence Southeasterly to the point of the beginning.

The Mayor is authorizing to execute whatever documents are required to perfect this swap of co- equal property interests.

DONE this the 13<sup>th</sup> day of April, 2020.

/s/ Jenny Folsom, City Council President

ATTEST:

/s/Wesley M. Moore, Clerk

APPROVED BY THE MAYOR this the 13th day of April, 2020.

/s/ Woody Jacobs, Mayor

Council Member Page seconded the motion and the motion was approved by a voice vote. Ayes: All. Nays: None.

Council President Pro Tem Cook made a motion to adopt the following resolution:

**RESOLUTION NO. 2020 – 78**

**TO ENTER INTO CONTRACT WITH BLACK DESIGN ARCHITECTURE**

WHEREAS, the Cullman City Council has determined that it would serve a public purpose to enter into a contract with Black Design Architecture to develop plans for the renovation of an existing building and the design of a new pavilion at Nesmith Park;

NOW THEREFORE BE IT RESOLVED by the Cullman City Council in the State of Alabama that the Mayor is hereby authorized to enter into a contract with Black Design Architecture to develop plans for the renovation of an existing building and the design of a new pavilion at Nesmith Park in the amount not to exceed \$10,000.

ADOPTED BY THE CITY COUNCIL this the 13<sup>th</sup> day of April, 2020.

/s/ Jenny Folsom, City Council President

ATTEST:

/s/Wesley M. Moore, Clerk

APPROVED BY THE MAYOR this the 13th day of April, 2020.

/s/ Woody Jacobs, Mayor

Council Member Hollingsworth seconded the motion and the motion was approved by a voice vote. Ayes: All. Nays: None.

Council President Pro Tem Cook made a motion to adopt the following resolution:

**RESOLUTION NO. 2020 – 79  
TO ENTER INTO CONTRACT WITH TTL, INC.**

WHEREAS, the Cullman City Council has determined that it would serve a public purpose to enter into a contract with TTL, Inc. to provide CE&I services for the Industrial Access Road to NAFCO;

NOW THEREFORE BE IT RESOLVED by the Cullman City Council in the State of Alabama that the Mayor is hereby authorized to enter into a contract with TTL, Inc. to provide CE&I services for the Industrial Access Road to NAFCO in the amount not to exceed \$52,200.

ADOPTED BY THE CITY COUNCIL this the 13<sup>th</sup> day of April, 2020.

/s/ Jenny Folsom, City Council President

ATTEST:

/s/Wesley M. Moore, Clerk

APPROVED BY THE MAYOR this the 13th day of April, 2020.

/s/ Woody Jacobs, Mayor

Council Member Moss seconded the motion and the motion was approved by a voice vote. Ayes: All. Nays: None.

**BOARD APPOINTMENTS** – None.

Council President Folsom asked for a motion to adjourn. Council Member Hollingsworth made the motion to adjourn. Council Member Moss seconded the motion and the meeting was adjourned at 7:44 p.m.