CITY COUNCIL
REGULAR MEETING

Thursday, April 17, 2025

Council Meeting - 6:30 PM
CENTER POINT CITY HALL

A. Call to Order

B. Invocation

C. Pledge of Allegiance to the Flag

D. Roll Call

E. Public Comment

F. Approval of Agenda

G. Approval of Minutes from Previous Meeting

G.1. February 20, 2025, Meeting Minutes
April 3, 2025, Meeting Minutes

H. Consent Agenda

H.1. *Resolved*, That Resolution No. 2025-25 Authorizes a Travel Advance for Municipal Officials (Mayor Scott & Council)

H.2. Resolved, That Resolution No. 2025-26 Greater Humane Society Animal Control (Councilwoman Moore)

I. Presentation

J. Discussion/Action

J.1. *Announce* 2nd ITB for the staircase by city hall. Bid Opening is scheduled for May 16, 2025, at 10 am. The Pre-bid conference is scheduled for May 8th at 10:00 am for contractors interested in submitting a bid. (Mayor Scott)

J.2. *Ordained*, That Ordinance No. 2025- Grants a Non-Exclusive Franchise to Farmers Telecommunications Corp. for Construction and Operation of Broadband Internet Access Service System (Mayor Scott)

All items designated as “Consent” are routine and non-controversial and will be approved by one motion. NO separate discussion of these items will be permitted unless a Councilmember or the Mayor is interested in further discussion or hearing so requests, if so, such item (s) will revert to its normal place on the Agenda Order of Business.

K. Reports- Mayor & Committee Chairs

K.1. Economic Development/Park & Recreation- President D.M. Collins

K.2. Public Safety- Councilman Glenn Williams, Sr.

K.3. Public Works- Councilwoman Tiffany Moore

K.4. Education & Library- Councilwoman Sharon Jones

K.5. Finance Report-Councilwoman Ebonee Copeland, Chair

L. Adjournment

RESOLUTION NUMBER: 2025-25

A RESOLUTION APPROVING THE ADVANCING OF TRAVEL EXPENSES FOR VARIOUS CITY OFFICIALS

WHEREAS, the City Council and the Mayor of the City of Center Point, Alabama find and determine that the educational opportunities offered for city employees and officials are beneficial to the City and assist the City's Officials in keeping abreast of pertinent issues related to Municipal operations; and

WHEREAS, the following City Official has submitted requests for authorization to attend a conference for approval of the following anticipated Travel/Convention Expenses, over the duration of the Conference:

(a).	Glenn Williams	\$259.00 (Meals) \$135.52 (Mileage) ALM \$301.00 (Meals) ICSC \$185.00 (Meals) \$415.80 (Mileage) ACCMA
(b)	Mayor Scott	\$259.00 (Meals) ALM \$215.00 (Meals) ICSC
(c)	Ebonee Copeland	\$259.00 (Meals) \$135.52 (Mileage) ALM \$301.00 (Meals) ICSC \$185.00 (Meals) \$399.70 (Mileage) ACCMA
(d)	D.M. Collins	\$259.00 (Meals) \$135.52 (Mileage)ALM \$301.00 (Meals) ICSC \$259.00 (Meals) \$399.14 (Mileage) ACCMA
(e)	Debbie Wagner	\$54.99 (Meals) \$112.00 (Mileage)
(f)	Emily Martin	\$238.00 (Meals) \$148.40 (Mileage)
(g)	Shameika Coleman	\$259.00 (Meals)

(h)	Tameeka Vann	$259.00 (Meals) $382.69 (Mileage)AAMCA $259.00 (Meals) $385.42 (Mileage) ACCMA
(i)	Michael Shine	$374.00 (Meals) $70.00 (1 Luggage) NAConference
(j)	Michael Edwards	$374.00 (Meals) $160.00 (2Luggage) NA Conference
(k)	Marvin Kimbrough	$374.00 (Meals) $160.00 (2Luggage) NA Conference
(l)	Moses Whitaker	$374.00 (Meals) $70.00 (Luggage) NA Conference
(m)	Angelica Jefferson	$374.00 (Meals) $160.00 (Luggage) NA Conference
(n)	Octavious Pierce	$407.00 (Meals) $397.60 (Mileage) COAA
(o)	Leonard Bell	$374.00 (Meals) $160.00 (Luggage) NA Conference

WHEREAS, the foregoing considered, the City Council and the Mayor of the City of Center Point, Alabama find and determine that the Costs estimated by the anticipated Attendees of the various conferences are reasonable and that it be wise and prudent to use U.S. General Services Administration (GSA) per diem guidelines for the ultimate determination of advancement of expenses; that the payment of such Costs is a wise and beneficial use of City resources; and that the advancing of such Costs is appropriate, just to subsequent determination and reconciliation of

BE IT THEREFORE RESOLVED by the City Council of the City of Center Point; Alabama as follows:

(1). The City Council of the City of Center Point, Alabama hereby authorizes and directs the Mayor and/or City Clerk to cause to be issued and disbursed to the City Official named herein, the sums requested by them to be advanced as Travel and Conference Expenses for attendance at the various conferences.

(2). Moreover, the City Council of the City of Center Point, Alabama hereby directs that, following the conference the City Clerk shall collect from Attendees Receipts and other appropriate documentation for reconciliation and determination of 'Actual Expenditures'. Any prior acts taken by the mayor or his staff related to the budgeted travel advances are hereby ratified.

DONE and ADOPTED on this 17th Day of April 2025

____
D. M. Collins, Council President

____
Glenn Williams, Sr., Council Member

____
Tiffany Moore, Council Member

____
Sharon Jones, Council Member

____
Ebonee Copeland, Council Member

APPROVED, this ______ Day of ______________________________________

20______.

Bobby Scott, Mayor

ATTEST:

Tameeka Vann, City Clerk

RESOLUTION NO. 2025-26

A RESOLUTION TO CONTRACT WITH THE GREATER BIRMINGHAM HUMANE SOCIETY FOR ANIMAL CONTROL AND POUND SERVICES

WHEREAS, on November 2021, the Jefferson County Commission issued an Invitation to Bid No. 7-22 ("ITB") on behalf of the Purchasing Association of Central Alabama ("PACA") and its Members, whereby it would accept sealed bids for Animal Control and Pound Services pursuant to the ITB; and

WHEREAS, on February 2022, Jefferson County awarded the bid pursuant to the ITB No. 7-22 as amended, to The Greater Birmingham Humane Society, Inc. ("GBHS"); and

WHEREAS, the Services, defined herein, to be performed under the ITB may be performed by a subcontractor of the GBHS which The Greater Birmingham Humane Society Animal Care and Control is, LLC ("Vendor"); and

WHEREAS, the City of ____Center Point__________ ("City"), as a Member of PACA, is entitled to enter into an Agreement for Animal Control Services as set out in the ITB (the "Services"); and

WHEREAS, the ITB includes pound services to be paid on a pro rata basis to Jefferson County (the "Pound Services") but does not include animal control field services for municipalities with a population over 5,000 pursuant to the Code of Alabama 1975, Section Title 3-7A-7; and

WHEREAS, the City desires to retain GBHS to perform Services, excluding where applicable Pound Services; and

NOW, THEREFORE, BE IT RESOLVED by the City Council (the "Council") of the City:

Section 1. Recitals. The foregoing Recitals are incorporated herein by reference and form an integral part of this Resolution.

Section 2. Invitation to Bid 7-22. GBHS has acknowledged that the terms of the ITB are hereby offered to the City and shall be incorporated into the provision of Services provided for in this resolution.

Section 3. Public Purpose. The Council does hereby ascertain, determine, declare, and find that GBHS provision of the Services and entering into an agreement as provided in Section 5 will serve a public purpose and is necessary and desirable, and in the best interest of the City and the health, safety, and welfare of its inhabitants, by allowing for the humane control and care of animals in the City and access to pound facilities. The Council finds that the above-cited items constitute important public benefits to the City and its citizens.

Section 4. Approval to Perform the Services. GBHS submitted a "Price Sheet" in response to the ITB, which is attached as Exhibit "A" hereto and incorporated by reference as if set out fully herein, (the "Price Sheet") and the Council hereby approves and authorizes GBHS to perform the Services as set out in the ITB in the City and the City shall pay GBHS the cost not to exceed the amounts set forth in the Price Sheet, excluding where applicable Pound Services paid pro-rata to Jefferson County, as provided in the ITB.

Section 5. Agreement for Services. The Price Sheet sets forth the prices for the Services to be performed by GBHS in the City. The Mayor of the City is hereby authorized and directed to negotiate with GBHS on behalf of the City and execute and deliver on behalf of the City an agreement in substantially the form set forth in Exhibit "B", with such changes or additions to such agreement as the Mayor of the City shall approve, which approval shall be conclusively evidenced by his or her execution of the agreement and attestation by the City Clerk.

Section 6. Approved Subcontractor. Vendor was expressly incorporated into the response to the ITB to perform services for GBHS as a subcontractor. Vendor, as a subcontractor, is hereby approved to perform all or a portion of the Services for the City.

Section 7. Other Necessary Action. The officers and staff of the Council and Mayor are hereby authorized to take such other action as may be necessary or desirable to carry out the provisions of this resolution.

Section 8. Relationship. GBHS is an independent contractor of the City. This resolution does not create any partnership, joint venture, or principal-agent relationship between the City and GBHS. Further, the City retains no control or authority with respect to its means and methods in which GBHS (or any of its employees, subcontractors, or representatives) performs the Services.

Section 9. Provisions of Resolution a Contract. The terms, provisions and conditions set forth in this resolution constitute a contract between the City and GBHS conferring all necessary legal authority for GBHS to perform the Services in the City and shall remain in effect until an agreement is executed in accordance with Section 5 of this resolution or one year, whichever is earlier.

Section 10. Severability. If any provision in this resolution shall be invalid, illegal, or enforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

ADOPTED AND APPROVED this the ___ day of ____________, 20___.

____
President - City Council

ATTEST:

____
City Clerk

ACTION BY MAYOR

APPROVED this the ___ day of __________, 20___.

____
Mayor

ATTEST:

____
City Clerk

EXHIBIT B

[FORM OF]

Animal Control Services
Fee for Service Contract

THIS AGREEMENT entered into this _____ day of ______________, 20___, by and between the City of ______________, (hereinafter "City") and The Greater Birmingham Humane Society, Inc. (hereinafter "Vendor").

WHEREAS, on November 2021, the Jefferson County Commission issued an Invitation to Bid No. 7-22 ("ITB") on behalf of the Purchasing Association of Central Alabama ("PACA") and its Members, whereby it would accept sealed bids for Animal Control and Pound Services pursuant to the ITB; and

WHEREAS, on February 2022, Jefferson County awarded the bid pursuant to the ITB No. 7-22, as amended, to The Greater Birmingham Humane Society, Inc.; and

WHEREAS, the Services, defined herein, to be performed under the ITB may be performed by a sub-Contractor of the GBHS which The Greater Birmingham Humane Society Animal Care and Control is, LLC; and

WHEREAS, the City, as a Member of PACA, is entitled to enter into an Agreement with for Animal Control Services as set out in the ITB (the "Services"); and

WHEREAS, the ITB includes pound services to be paid on a pro-rata basis to Jefferson County (the "Pound Services") but does not include animal control field services for municipalities with a population over 5,000 pursuant to the Code of Alabama 1975, Section Title 3-7A-7; and

WHEREAS, the City desires to Contract for Services, excluding where applicable Pound Services, on a fee for service basis; and

WHEREAS, the Vendor desires to furnish said services to the City;

NOW THEREFORE, the parties hereto mutually agree as follows:

1. ENGAGEMENT OF VENDOR: The City hereto agrees to engage the Vendor and the Vendor hereby agrees to perform the services hereinafter set forth.

2. SCOPE OF SERVICE: This contract results from the ITB. The terms of which are included herein by reference. The City desires to enter into a contract with the Vendor to provide the Services, excluding where applicable Pound Services, on a fee for services basis as described in the ITB and attached Price Sheet.

3. **TERMS OF AGREEMENT AND AUTHORIZATION TO PERFORM WORK**: This contract is for the earlier of one (1) year or until ___________, 20____, effective upon signatures of the below designated officials, and shall continue in effect unless termination notice is given as herein provided.

a. This term is subject to a sixty (60) day cancellation by either party for any reason, so long as proper notice is sent to the addresses as provided under Number 13 "Notices" of this Agreement.

b. Vendor shall provide at least a thirty (30) day notification of change to any hourly rate or boarding fee. Should a rate change occur, and municipal funding is lacking, the City shall be permitted to terminate all services on the thirtieth day following the notification of a rate change.

4. **COMPENSATION:** The Vendor shall be compensated for services rendered, excluding where applicable Pound Services paid pro-rata to Jefferson County, as shown on the Price Sheet attached as Exhibit "A". With respect to Animal Control Field Services, Vendor will provide those services at $41 per hour for __6__ hours per week. Vendor will invoice the City for the Services including basic monthly charge, veterinary fees, and animal care fees no later than ten (10) days after the beginning of each month for the preceding month. City shall reimburse Vendor for invoiced services in a timely manner, not to exceed fourteen (14) days following receipt.

5. **ASSIGNMENT:** No portion of the proposal or resulting project contract may be sold, assigned, transferred, or conveyed to a third party without the express written consent of the City. The City hereby approves all sub-Contractors included in the Vendor's response to the ITB. Should the City authorize Vendor to subcontract (assign) any portion of this contract, Vendor will maintain the ultimate legal responsibility for all services according to contract specifications. In the event of a subcontract, Vendor must maintain a continuous effective business relationship with the sub-Contractor(s) including, but not limited to, regular payment of all monies owed to any sub-Contractor. Failure to comply with these requirements, in whole or part, will result in termination of the contract and/or legal ramifications, due to nonperformance.

6. **GOVERNING LAW/DISPUTE RESOLUTION:** The parties agree that this contract is made and entered into in Jefferson County, Alabama and that all services, materials and equipment to be rendered pursuant to said Agreement are to be delivered to the City in Jefferson County, Alabama. The interpretation and enforcement of this Agreement will be governed by the laws of the State of Alabama. The parties agree that jurisdiction and venue over all disputes arising under this Agreement shall be the Circuit Court of Jefferson County, Alabama.

7. **STATEMENT OF CONFIDENTIALITY:** Vendor agrees that any information accessed or gained in performance of those duties will be maintained in absolute confidence and will not be released, discussed, or made known to any party or parties for any reason whatsoever, except as required in the conduct of duties required, or where disclosure is required by law or mandated by a court of law.

8. **INDEPENDENT CONTRACTOR:** The Vendor acknowledges and understands that the performance of this contract is as an Independent Contractor and as such, the Vendor is obligated for Workmen's Compensation, FICA taxes, Occupational Taxes, all applicable federal, state and local taxes, etc. and that the City will not be obligated for same under this contract.

9. **NON-DISCRIMINATION POLICY:** The Vendor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin, age, disability or veteran status, pursuant to the provisions of Title VII of the Civil Rights Act of 1964, 42 U.S.C. 1981, 1983, 1986 and all amendments thereto relevant to discriminatory employment practices. The Vendor will ensure that qualified applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, national origin, age, disability, or veteran status. Such action shall include, but not be limited to, the following: employment, promotion, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and, selection for training, including apprenticeship. In the event of Vendor's non-compliance with the equal opportunity clause of this contract, this contract may be cancelled, terminated, or suspended in whole or in part and the Vendor may be declared ineligible for further City contracts. This paragraph must also be included in any subcontract or purchase order by Vendor on behalf of the City. Vendor agrees to furnish to the City, upon request, reports, notices, policies and/or information certifying compliance with this policy.

10. **MISCELLANEOUS REQUIREMENTS:** Upon execution of this contract, the Vendor shall furnish the City with information required for Form 1099 reporting and other pertinent data required by law.

11. **TERMINATION OF CONTRACT:** This contract may be terminated by the City with a sixty (60) day written notice to the other party regardless of reason. Any violation of this agreement shall constitute a breach and default of this agreement. Upon such breach, the City shall have the right to immediately terminate the contract and withhold further payments. Such termination shall not relieve the Vendor of any liability to the City for damages sustained by virtue of a breach by the Vendor.

12. **LIABILITY:** The Vendor will indemnify and hold harmless the City, its elected officials and its employees from claims, suit, action, damage and cost of every name and description resulting from the performance of the Vendor, its agents, sub-Contractors or employees under this contract. The City agrees, to the extent allowed by law, to indemnify and save harmless the Vendor, its corporate officers and its employees from claims, suit, action, damage and cost of every name and description resulting from the performance of services unless negligence is found on part of Vendor.

13. **NOTICES:** Unless otherwise provided herein, all notices or other communications required or permitted to be given under this contract shall be in writing and shall be deemed to have been duly given if delivered personally in hand or sent via certified mail, return receipt requested, postage prepaid, and addressed to the appropriate party at the following addresses or to any other person at any other address as may be designated in writing by the parties:

City of _______________
____

The Greater Birmingham Humane Society, Inc.
300 Snow Drive
Birmingham, AL 35209

14. <u>AMENDMENT OF AGREEMENT</u>: This contract contains the entire understanding of the parties, does not change any term or provision of the contract and shall be valid or binding unless so amended by written instrument which has been executed or approved by the City. Any such amendment shall be attached to and made a part of this contract. A written request must be made to the City and an amended agreement will be executed.

15. <u>INSURANCE</u>: Vendor will maintain such insurance as required in the ITB and as will protect him and the City from claims under Workmen's Compensation Acts and from claims for damage and/or personal injury, including death, which may arise from operations under this contract. Insurance will be written by companies authorized to do business in Jefferson County, Alabama. Evidence of insurance will be furnished to the Purchasing Agent upon request.

16. <u>HOLD HARMLESS AND INDEMNIFICATION</u>: Contracting party agrees to indemnify, hold harmless and defend the City, its elected officers and employees, and agents (hereinafter referred to in this paragraph collectively as "City"), from and against any and all loss expense or damage, including court cost and attorney's fees, for liability claimed against or imposed upon the City because of bodily injury, death or property damage, real or personal, including loss of use thereof arising out of or as a consequence of the breach of any duty or obligations of the contracting party included in this agreement, negligent acts, errors or omissions, including engineering and/or professional error, fault, mistake or negligence of integrator, its employees, agents, representatives, or sub-Vendors, their employees, agents or representative in connections with or incident to the performance of this agreement, or arising out of Worker's Compensation claims, Unemployment Compensation claims, or Unemployment Disability Compensation claims of employees of the company and/or its sub-Vendors or claims under similar such laws or obligations. Company obligation under this Section shall not extent to any liability caused by the sole negligence of the City, or its employees. Before beginning work, contract party shall file with the City a certificate from his insurer showing the amounts of insurance carried and the risk covered thereby. Liability insurance coverage must be no less than $1,000,000. During performance, the company must have in effect and maintain insurance from a company licensed to do business in the State of Alabama. Coverage required includes 1) Comprehensive General Liability; 2) Comprehensive Automobile Liability; and 3) Worker's Compensation and Employer's Liability.

17. <u>STATEMENT OF COMPLIANCE WITH ALABAMA CODE SECTION 31-13-9</u>: By signing this contract, the contracting parties affirm, for the duration of the Agreement, that they will not violate federal immigration law or knowingly employ, hire for employment, or continue to employ an unauthorized alien within the State of Alabama. Furthermore, a contracting party found to be in violation of this provision shall be deemed in breach of the Agreement and shall be responsible for all damages resulting therefrom.

18. **COMPLETE CONTRACT**: The above seventeen paragraphs or sections constitute the entire agreement. Any amendments or extensions must be made in accordance with the provisions stated herein.

THE GREATER BIRMINGHAM
HUMANE SOCIETY ANIMAL
CARE & CONTROL, LLC

____
Signature

____
Print

____
Title

CITY OF ________________
A Municipal Corporation

____
Signature

____
MAYOR

____
Date

ATTEST:

____
CITY CLERK

INSTRUCTION TO BIDDERS

1) GENERAL

These instructions are issued to provide prospective bidders with all the information necessary to submit complete and acceptable bids.

2) USE OF BID FORMS

These Bid Documents include a BID FORM which is for the convenience of bidders.

In addition, the Contractor must also submit a BID BOND. Form also included.

3) BIDS

a. All bids must be submitted on forms supplied by the Owner, and shall be subject to all requirements of the Bid Documents and these INSTRUCTIONS TO BIDDERS. All bids must be regular in every respect and no interlineations, excisions or special conditions shall be made or included in the Bid Form by the Bidder.

b. Bid Documents including the Bid and the Bid Bond, shall be enclosed in a sealed envelope. The outside of the envelope should contain the following:

(1) "SEALED BID"
(2) "DO NOT OPEN"
(3) "NAME OF PROJECT AND PROJECT NUMBER"
(4) ATTENTION: City of Center Point
(5) CONTRACTOR'S NAME AND ADDRESS
(6) ALABAMA LICENSE NUMBER

c. The Owner may consider as irregular any Bid on which there is an alteration of or departure from the Bid form hereto attached and at its option may reject the same.

4) ALTERNATIVE BIDS

No alternative bids will be considered unless alternative bids are specifically requested.

5) BID GUARANTY

a. The Bid must be accompanied by a Bid Guaranty which shall be five percent (5%) of the bid amount but not to exceed $10,000.00. The guaranty must be a certified check. The bid bond shall be secured by a guaranty or a surety company listed in the latest issue of U.S. Treasury Circular 570. The amount of such Bid bond shall be within the maximum amount specified for such Company in said Circular 570. No Bid will be considered unless it is accompanied by the required guaranty. Certified check must be made payable to the order of the Owner. Cash deposits will not be accepted. The Bid guaranty shall insure the execution of the final contract documents and the furnishing of the surety bond or bonds by the successful Bidder, all as required by the Bid Documents.

b. Revised Bids submitted before the opening of Bids, whether forwarded by mail or telegram, if representing an increase in excess of two percent (2%) of the original Bid, must have the bid guaranty adjusted accordingly; otherwise the Bid will not be considered.

c. Certified checks of unsuccessful Bidders will be returned as soon as practical after the opening of the Bid.

6) INTERPRETATIONS OR ADDENDA

No oral interpretation will be made to any Bidder as to the meaning of the Bid Documents or any part thereof. Every request for such an interpretation shall be made in writing to both Mark Self, Public Works Director, at 5193 Pinson Heights Road, Center Point, AL 35126 and Ray Filmore, Building Inspections Superintendent, at 2209 Center Point Parkway, Center Point, AL 35215 representing the Owner. Any inquiry received seven or more days prior to the date fixed for opening of Bids will be given consideration. Every interpretation made to a Bidder will be in the form of an Addendum to the Bid Documents, and when issued, will be on file in the City Clerk’s Office, 2209 Center Point Parkway, Center Point, AL 35215, at least five days before Bids are opened. In addition, all Addenda will be forwarded to each person holding Bid Documents, but it shall be the Bidder's responsibility to make inquiry as to the Addenda issued. All such Addenda shall become part of the final contract documents and all Bidders shall be bound by such Addenda, whether or not received by the Bidders.

7) INSPECTION OF SITE

Each Bidder should visit the site of the proposed work and become fully acquainted with the existing conditions relating to construction and labor, and should be fully informed as to the facilities involved, the difficulties and restrictions attending the construction of the proposed project. The Bidder should thoroughly examine and be familiar with the Bid Documents and site to be able to submit plans, drawings, and specification for construction of the proposed project to the owner if its bid is awarded. The Contractor by the execution of the final contract documents shall in no ways be relieved of any obligation under it due to failure to receive or examine any form or legal instrument or to visit the site and be acquainted with the conditions there existing. The Owner will be justified in rejecting any claim based on facts which the Contractor should have been on notice as a result thereof.

8) STATEMENT OF BIDDERS QUALIFICATIONS

Each bidder may be required on request to submit to the Owner a statement of the Bidders Qualifications, his experience record in constructing the type of improvements embraced in these Bid Documents, and his organization and equipment available for the work contemplated. Also, when specifically requested by the Owner, the Bidders Qualifications and a detailed financial statement shall be submitted expeditiously. The Owner shall have the right to take such steps as it deems necessary to determine the ability of the Bidder to perform his obligations to construct the proposed project, and the Bidder shall furnish the Owner all such information and data for this purpose as it may request. The right is reserved to reject any Bid where an investigation of the available evidence or information does not satisfy the Owner that the

Bidder is qualified to properly construct the proposed project.

9) CORRECTIONS

Erasures or other changes in the Bids must be explained or noted over the signature of the Bidder.

10) TIME FOR RECEIVING BIDS

a. Bids will be received by and opened on May 16, 2025, at 10:00 A.M. at City of Center Point City Hall, 2209 Center Point Pkwy, Center Point, AL

All bids must be in a sealed envelope. The outside of the envelope should contain the following:

(1) "SEALED BID"
(2) "DO NOT OPEN"
(3) "NAME OF PROJECT AND PROJECT NUMBER"
(4) ATTENTION: City of Moody, Alabama
(5) CONTRACTOR'S NAME AND ADDRESS
(6) ALABAMA LICENSE NUMBER

b. Bidders are cautioned that any modification or amendments of the sealed Bids, either handwritten or received by telegraphic means, shall be explicit in its intent; otherwise, it is subject to rejection by the Owner.

11) OPENING OF BIDS

At the time and place fixed for the opening of bids, the Owner will cause to be opened and publicly read aloud every Bid received within the time set for receiving Bids, irrespective of any irregularities therein. Bidders and other persons properly interested may be present, in person or by representative.

12) WITHDRAWAL OF BIDS

Bids may be withdrawn by written or telegraphic request if received by the Owner before the time fixed for opening; or if received after said fixed time but post-marked prior to the opening. If all conditions are met as specified herein, the bid guaranty of the withdrawing Bidder will be promptly returned.

13) AWARD OF CONTRACT: REJECTION OF BIDS

a. The Owner, however, reserves the right to reject any and all Bids and to waive any informality in Bids received whenever such rejection or waiver is in its interest.

b. The Owner reserves the right to consider as unqualified to do the work of general construction any Bidder who does not habitually perform with his own forces the major portions of the work involved in the Bid Documents.

14) EXECUTION OF AGREEMENT: PERFORMANCE AND PAYMENT BOND

a. Subsequent to the award and within fifteen days after the prescribed

forms are presented for signature, the successful Bidder shall execute and deliver to the Owner final contract documents in the such form and in such number of copies as the Owner may require.

b. Having satisfied all conditions of award as set forth elsewhere in these documents, the successful Bidder shall, within the period specified in paragraph "a" above, furnish a surety bond in a penal sum not less than the amount of the bid as awarded, as security for the faithful performance of the final contract documents and a bond for the payment of all persons, firms or corporations to whom the Contractor may become legally indebted for labor, materials, tools, equipment, or services of any nature including utility and transportation services, employed or used by him in performing the work. Such bonds shall be in the same form as that included in the Bid Documents and shall bear the same date as, or date subsequent to that of the final contract documents. The current power of attorney for the person who signs for any surety company shall be attached to each bond. The bonds shall be signed by a guaranty or surety company listed in the latest issue of the U.S. Treasury Circular 570 and the penal sum shall be within the maximum specified for such company in said Circular 570.

c. The failure of the successful Bidder to execute such final contract documents and to supply the required bond or bonds within fifteen days after the prescribed forms are presented for signature, or within such extended period as the Owner may grant, based upon reasons determined sufficient by the Owner, shall constitute a default, and the Owner may either award the Contract to the next lowest responsible Bidder or readvertise for Bids, and may charge against the Bidder the difference between the amount of the Bid and the amount for which a contract for the work is subsequently executed, irrespective of whether the amount thus due exceeds the amount of the Bid Bond. If a more favorable Bid is received by readvertising, the defaulting Bidder shall have no claim against the Owner for a refund.

CONTRACT **City of Center Point New Stair**

CONTRACT NUMBER **ITB # 2025-1**

____

____

NAME OF BIDDER____

GENERAL CONTRACTORS LICENSE NUMBER____

BONDING COMPANY____

GRAND TOTAL OF BASE BID____

CONTINGENCY REQUIRED_____**$25,000 (Twenty-Five Thousand Dollars)**______________________

ADDITIVE ALTERNATE BID____

OWNER **City of Center Point, Alabama**

BID FORM FOR LUMP SUM CONTRACT

Place City of Center Point

Project No- ITB # 2025-1 __

Date______________________

Proposal of

____

hereinafter called "Bidder", a corporation, organized and existing under the laws of the State of _______________, a partnership, or an individual doing business as ____

TO: City of Center Point, Alabama

____

Ladies and Gentlemen:

The Bidder, in compliance with your invitation for Bids for the

__Center Point New Stair having examined the site of the proposed work, and being familiar with all of the conditions surrounding the construction of the proposed project including the availability of materials and labor, hereby proposes to furnish all labor and supplies: and to construct the project in accordance with the Bid Documents, within the time set forth therein, for

the sum of ____ Dollars

($_____________). This sum covers all expenses incurred in performing the work required under the Bid Documents, of which this proposal is a part.

Bidder hereby agrees to commence work under this contract on or before a date to be specified in the written "Notice to Proceed" of the Owner and to fully complete the project within______calendar days. The Construction Duration will be negotiated with the Owner based on the proposed schedule submitted by the Bidder based on his best estimate in consideration of Current Industry Trends and Supply Chain Disruptions.

Bidder acknowledges receipt of the following addendum:

Addendum No. 1	**YES____**	**NO____**
Addendum No. 2	**YES____**	**NO____**
Addendum No. 3	**YES____**	**NO____**

The attached unit prices (if any), shall include all labor, materials, overhead, profit, insurance, etc., to cover the finished work of the several kinds called for.

Bidder understands that the OWNER reserves the right to reject any or all Bids and waive any informalities in the Bidding.

The Bidder agrees that this Bid shall be good and may not be withdrawn for a period of Sixty (60) calendar days after the scheduled closing time for receiving Bids.

Upon receipt of written notice of the acceptance of this Bid, Bidder will execute the final contract documents within 15 days and deliver a Surety Bond or Bonds as required by Paragraph 131, PART I, GENERAL CONDITIONS. The Bid security, equal to 5% of the bid amount but not to exceed $10,000.00, attached in the sum of ______________________________ ($____________) is to become the property of the Owner in the event that: (1) the bidder fails to meet any of the qualifications required in the bid specifications stated herein; (2) the bidder misrepresents or falsifies any information required to be provided by the owner; (3) for any reason that the bidder fails to qualify, causing his bid to be withdrawn or rejected and such withdrawal or rejection results in delay or substantial additional expense to the owner; (4) the final contract documents and bond are not executed within the time above set forth, as liquidated damages for the delay and additional expense to the Owner caused thereby.

Attached hereto is an affidavit in proof that the undersigned has not entered into a collusive agreement with any person in respect to this particular Bid or any other Bid which has been submitted, for the work elements listed in this Contract document.

The Bidder is prepared to submit a financial and experience statement upon request.

_____________________, _____

____

Name of Bidder

Official Address:
(Including ZIP CODES)

____

____

By____________________________

SEAL:

Title_________________________

(if Bid is by a corporation)

BID BOND

KNOW ALL MEN BY THESE PRESENTS, that we, the undersigned,

____

____

as Principal, and ____

_______________________ **as Surety, are hereby held and firmly**

bound unto **City of Center Point, Alabama**

as owner in the penal sum of **5% of Bid Amount, not to exceed $10,000.00 for the payment of which, well and truly to be made, we hereby jointly and severally bind ourselves our heirs, executors, administrators, successors and assigns. Signed, this __________ day of _________, 20_____**

The condition of the above obligation is such that whereas the Principal has submitted to **City of Center Point, Alabama a certain Bid, attached hereto and hereby made a part hereof to enter into a contract in writing for the** **Center Point New Stair -Project Number ITB # 2025-1.**

NOW, THEREFORE,

(a) If said Bid shall be rejected, or in the alternate,

(b) If said Bid shall be accepted and the Principal shall execute and deliver a contract in the Form of Contract attached hereto (properly completed in accordance with said Bid) and shall furnish a bond for his faithful performance of said contract, and for the payment of all persons performing labor or furnishing materials in connection therewith, and shall in all other respects perform the agreement created by the acceptance of said Bid,

then this obligation shall be void, otherwise the same shall remain in force and effect; it being expressly understood and agreed that the liability of the Surety for any and all claims hereunder shall, in no event, exceed the panel amount of this obligation as herein stated.

The Surety for value received, hereby stipulates and agrees that the obligations of said Surety and its bond shall be in no way impaired or affected by any extension of the time within which the Owner may accept such Bid; and said Surety does hereby waive notice of any such extension.

IN WITNESS WHEREOF, the Principal and the Surety have hereunto set their hands and seals, and such of them as are corporations have caused their corporate seals to be hereto affixed and these presents to be signed by their proper officers the day and year first set forth above.

__________________________ (L.S.)
Principal

____
Surety

SEAL By __________________________

LABOR AND MATERIAL PAYMENT BOND

KNOW ALL MEN BY THESE PRESENTS, that we,

____

hereinafter called the principal, and

hereinafter called the Surety, do acknowledge ourselves to be held and firmly

bound unto City of Center Point, Alabama

hereinafter called the Owner, in the penal sum of

($),

____

for payment of which sum well and truly to be made in lawful money of the United States we bind ourselves, our successors, heirs, executors, administrators, assigns and personal representatives, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION OR BOND IS THIS: WHEREAS, the principal has entered into a certain written contract with the Owner, bearing the date Of ____________________________, _____, for the

a copy of which contract is attached hereto, incorporated herein by reference, and made a part of to the same extent as if set out herein in full, and the principal and Surety are bound under this Bond which shall remain in full force and effect until all claims and demands with respect to labor and materials connected with the work under the contract have been satisfied, subject however to statutory limitations and to such other conditions as hereinafter stated,

NOW, THEREFORE, if the principal and all Subcontractors to whom any portion of the work provided for in the contract is sublet, and all assignees of said principal and said Subcontractors, shall promptly make payment to all persons, firms, subcontractors and corporations for furnishing said principal and said Subcontractors with labor, materials, equipment, machinery, or equipment used in or incorporated in the work, for performing any work in connection with the prosecution of the work under the Contract, and under any modifications or extensions thereof, for all insurance premiums in connection with the work, for all labor performed in connection with the work whether by subcontractor or otherwise, or for reasonable attorney's fees incurred by any claimant or claimants in suits under this Bond, then this obligation shall be void; otherwise it shall remain in full force and effect.

PROVIDED FURTHER, that the said Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the Contract or to the work to be performed thereunder or to the Specifications accompanying the same, shall in any wise affect the obligation of the Surety under this Bond, and the Surety does hereby waive notice of any such change, extension of time, or alteration or addition to the terms of the Contract or to the Specifications.

PROVIDED FURTHER, that this Bond is subject to the following limitations and conditions:

(a) Any person, firm or corporation who has furnished labor, materials, equipment, machinery, fuel, parts, foodstuffs, supplies, or repairs for machinery or equipment used or incorporated in the prosecution of the work under the Contract, or amendment or extension thereof, and who has not received due payment for furnishing such times, shall have a direct right of action in his or their name or names against the Principal and Surety on, this Bond, which right of action shall be asserted in a proceeding instituted in a Court of competent jurisdiction in the area in which the work under the contract has been performed. Such right of action shall be asserted in a proceeding brought in the name of the claimant for his or their use and benefit against said Principal or Surety, or either of them not later than one year after the final settlement of the contract, in which action such claim or claims shall be adjudicated and judgement thereon.

(b) In addition to any other legal mode of service, service of summons and other process in suits brought on this Bond may be had on the Principal or Surety by leaving a copy of the summons and complaint, or other pleading or process, with the City of Center Point

and the principal and the Surety agree to be bound by such mode of service above described, and consent that such service shall be the same as personal service on the Principal or Surety.

(c) The Surety shall not be liable hereunder for any damage or compensation recoverable under any workmen's compensation, or employer's liability statute.

(d) In no event shall the surety be liable for a greater sum than the penalty of this bond, or subject to any suit, action or preceding thereon that is instituted later than one year after final settlement of said Contract.

(e) No final settlement between the Owner and the Principal shall abridge the right of any beneficiary hereunder, whose claim may be unsatisfied.

IN WITNESS WHEREOF, this instrument is executed in ____________________ counterparts, each one of which shall, without proof of or accounting for the other counterparts, be deemed an original, on this the ________ day of ____________________, _____

ATTEST:

____
Principal

By ____________________________
(Principal) Secretary

By

____

Title

____

Address

____

____
Witness as to Principal

____
Surety

____
Address

ATTEST:

____
(Surety) Secretary

By ______________________________
Attorney-in-Fact

____

____
Address

____
Witness as to Surety

____

Countersigned ____________________________

____
Address

____

Resident
Agent of Surety

PERFORMANCE BOND

KNOW ALL MEN BY THESE PRESENTS: that

(Name of Contractor)

(Address of Contractor)

a ____ hereinafter called Principal,
(Corporation, Partnership, or Individual)

and

(Name of Surety)

_ (Address of Surety)

hereinafter called Surety, are held and firmly bound unto

City of Center Point, Alabama
2209 Center Point Pkwy, Center Point, Alabama 35215

hereinafter called Owner, in the penal sum of
____ Dollars, ($_____________) in lawful money of the United States, for the payment of which sum well and truly to be made, we bind ourselves, successors, and assign jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION is such that whereas, the Principal entered into a certain contract with the Owner, dated the ___ day of ______________, _____, a copy of which is hereto attached and made a part hereof for the construction of:

NOW, THEREFORE, if the Principal shall well, truly and faithfully perform its duties, all the undertakings, covenants, terms, conditions and agreements of said contract during the original term thereof, and any extensions thereof which may be granted by the Owner, with or without notice to the Surety and during the one year guaranty period, and if he shall satisfy all claims and demands incurred under such contract, and shall fully indemnify and save harmless the Owner from all costs and damages which it may suffer by reason of failure to do so, and shall reimburse and repay the Owner all outlay and expense which the Owner may incur in making good any default, then this obligation shall be void; otherwise to remain in full force and effect.

PROVIDED FURTHER, that the said surety, for value received hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the contract or to work to be performed thereunder or the specifications accompanying the same shall in any wise affect its obligation on this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the contract or to the work or to the specifications.

PROVIDED FURTHER, that no final settlement between the Owner and the Contractor shall abridge the right of any beneficiary hereunder, whose claim may be unsatisfied.

IN WITNESS WHEREOF, this instrument is executed in Two (2) Counterparts, each one of which shall be deemed an original, this the _____day of ___________________, _____

ATTEST:

By ______________________________

____
(Principal) Secretary **Principal**

By

____

(SEAL)

______________________________ **______________________________**
Witness as to Principal **Address**

____

____
Address

ATTEST:

____
By:______________________________
(Surety) Secretary **Attorney-in-Fact**

(SEAL)

Witness as to Surety **Address**

____

____
(Address)

____

NOTE: Date of Bond must not be prior to date of Contract. If Contractor is Partnership, all partners should execute bond.

ORDINANCE NO. __________

AN ORDINANCE TO GRANT A NON-EXCLUSIVE FRANCHISE TO FARMERS TELECOMMUNICATIONS CORPORATION, FOR CONSTRUCTION AND OPERATION OF A BROADBAND INTERNET ACCESS SERVICE SYSTEM IN THE CITY

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CENTER POINT, ALABAMA, as follows:

Section 1. Franchise Granted; Term. There is hereby granted to Farmers Telecommunications Corporation (the "Franchisee") a franchise to construct, operate and maintain a broadband internet access system within the City of Center Point (the "City") for a term of up to ten (10) years with two renewal terms of ten (10) years.

Section 2. Franchise Agreement. The use granted to Franchisee shall be solely in accordance with the terms set forth in the agreement between the City and Franchisee attached hereto as **EXHIBIT A** (the "Agreement"). The Mayor is hereby authorized to execute the Agreement on behalf of the City. Franchisee shall, within a reasonable time following passage of this ordinance, execute the Agreement and file an executed original with the City Clerk of the City.

Section 3. Non-Exclusive Franchise. Nothing in this ordinance shall be constructed as granting to the Franchisee the exclusive use of the right of way in the City's for the purpose set forth herein. The City may grant use of right of way to more than one person or entity, within all or any portion of the City.

Section 4. Repealer. All ordinances or parts of ordinances heretofore adopted by the City Council, which are inconsistent with the provisions of this ordinance, are hereby expressly repealed.

Section 5. Severability. The provisions, sections, paragraphs, sentences, clauses, phrases, and parts thereof of this ordinance are severable, and if any provision, section, paragraph, sentence, clause, phrase, or part thereof of this ordinance shall be declared unconstitutional or invalid by a court of competent jurisdiction, then such ruling shall not affect any other provision, section, paragraph, sentence, clause, phrase, or part thereof, since the same would have been enacted by the City Council without the incorporation of any such unconstitutional or invalid provision, section, paragraph, sentence, clause, phrase, or part thereof.

Section 6. Effective Date. This ordinance shall become effective on the seventh (7^{th}) day following its adoption and approval by the Mayor and Council of the City and publication in accordance with the applicable provisions of Section 11-45-8 of the *Code of Alabama 1975*. All costs of publication shall be borne by the Franchisee.

ADOPTED this ____ day of _________, 2025.

____
D. M. Collins, Council President – Place 1

____
Glenn Williams, Sr., Council Member – Place 2

____
Tiffany Moore, Council Member – Place 3

____
Sharon Jones, Council Member – Place 4

____
Ebonee Copeland, Council Member – Place 5

APPROVED this ___ day of ________, 2025.

____
Bobby Scott, Mayor

ATTESTED: ______________________________
Tameeka Vann, City Clerk

CERTIFICATION:

I, Tameeka Vann, as Clerk of Center Point, Alabama, hereby certify that the above and foregoing copy of Ordinance No. 2025-__ is a true and correct copy of such ordinance that was duly adopted by the Council of Center Point, Alabama, on the ___ day of ________, 2025, as same appears in the official records of said City.

Posted at Center Point City Hall, Center Point Senior Center, and U.S. Post Office, Center Point, Alabama this the ___ day of _________, 2025.

____
Tameeka Vann, Clerk

EXHIBIT A

FRANCHISE AGREEMENT

BROADBAND SERVICES FRANCHISE AGREEMENT

This Broadband Services Franchise Agreement (“**Agreement**”) is by and between City of Center Point, Alabama, a municipal corporation, organized and existing under the laws of the State of Alabama (“**Municipality**” or “**City**”), and Farmers Telecommunications Corporation, an Alabama corporation, (“**Franchisee**”).

RECITALS

A. Municipality has jurisdiction over the use of public rights-of-way in Municipality in which it now or hereafter holds any property interest, including, but not limited to public streets, roadways, highways, bridges, land paths, boulevards, avenues, lanes, alleys, sidewalks, circles, drives, public easements, public utility easements, dedicated utility strips, and rights-of-way dedicated for compatible uses now or hereafter held by Municipality (but excluding Municipality parks or recreation areas)(“**Public ROW**”).

B. Franchisee desires, and Municipality desires to permit Franchisee to construct, install, maintain, operate, and control a middle mile fiber optic infrastructure network in Public ROW (“**Network**”) for the purpose of offering communications services (“**Services**”), including broadband Internet access service as defined in 47 C.F.R. § 8.1(b) (“**Broadband Internet Services**”) and Voice over Internet Protocol services, but excluding multichannel video programming services that would be subject to a video services franchise and telecommunications services as defined in 47 C.F.R. § 153(53), to residents and businesses in Municipality (“**Customers**”).

C. The Network consists of equipment and facilities that may include fiber optic cables, lines, wires, or strands; conduits, vaults, access manholes and handholes; electronic equipment; power generators; batteries; pedestals; boxes; cabinets; vaults; and other similar facilities (“**Network Facilities**”). When feasible, Franchisee will endeavor to place the Network Facilities underground.

DEFINED TERMS

A. “Broadband Services” means the transmission of information using optical fiber.

B. “City” means the City of Center Point, Alabama.

C. “Gross Revenues” means the recurring revenue, determined in accordance with generally accepted accounting principles, that is received or accrued by Franchisee from Franchisee’s provision of Franchisee’s Broadband Services to Customers within the City with a deduction for Franchisee’s uncollectible accounts, but without deduction for operating expenses, accruals, or any other expenditure. Notwithstanding the foregoing, Gross

Revenue shall not include any taxes or fees on Broadband Services furnished by Franchisee that are imposed by any municipality, state, or other governmental unit and collected by Franchisee for such governmental unit.

D. "Person" means any natural or corporate person, business association or other business entity including, but not limited to, a partnership, sole proprietorship, political subdivision, public or private agency of any kind, utility, successor or assign of any of the foregoing, or any other legal entity.

E. "Use Fee" means the fee paid by the Franchisee to the City for locating, maintaining and operating Network Facilities in the Rights-of-Way.

AGREEMENT

In consideration of the mutual promises made below, Municipality and Franchisee agree as follows:

Permission to Use and Occupy.

Permission to Use and Occupy Public ROW. Municipality grants Franchisee permission to use and occupy the Public ROW (the "**License**") for the purpose of constructing, installing, repairing, maintaining, operating, and if necessary removing the Network and the related Network Facilities (the "**Work**"). This Agreement and the License do not authorize Franchisee to use any property other than the Public ROW as agreed herein. Franchisee's use of any other Municipality property, including poles and conduits, will be, subject to mutual agreement, governed under a separate written agreement regarding that use.

Subject to State of Alabama and Local Law. This Agreement and the License are subject to Municipality's valid authority under the State of Alabama (at times, herein "State") and local laws as they exist now or may be amended from time-to-time, and subject to the conditions set forth in this Agreement.

Subject to Municipality's Right to Use Public ROW. This Agreement and the License are subject and subordinate to Municipality's prior and continuing right to use the Public ROW, including constructing, installing, operating, maintaining, repairing, or removing sewers, water pipes, storm drains, gas pipes, utility poles, overhead and underground electric lines and related facilities, and other public utility and municipal uses.

Subject to Pre-Existing Property Interests. Municipality's grant of the License is subject to all valid pre-existing easements, restrictions, conditions, covenants, encumbrances, claims of title or other property interests that may affect the Public ROW. Franchisee will obtain at its own cost and expense any permission or rights as may be necessary to accommodate such pre-existing property interests.

No Grant of Property Interest. The License does not grant or convey any property interest.

Non-Exclusive. The rights granted to Franchisee pursuant to this Agreement are non-exclusive. Municipality expressly reserves the right to grant licenses, permits, franchises, privileges or other rights to any other individual, corporation, partnership, limited liability company, trust, joint stock company, business trust, unincorporated association, joint venture, governmental authority or other entity of any nature whatsoever ("**Person**"), as well as the right in its own name as a municipality, to use the Public ROW for similar or different purposes allowed Franchisee under this Agreement. This Agreement does not establish any priority for the use of the Public ROW by Franchisee or by any present or future franchisees or other permit holders. In the event of any dispute as to the priority of use of the Public ROW the first priority shall be to the public generally, the second priority to Municipality in the performance of its various functions, and thereafter, as between Franchisee and other franchisees and permit holders, as determined by Municipality in the exercise of its reasonable powers, including the police power and other powers reserved to and conferred on it by the State of Alabama consistent with the rights granted to Franchisee pursuant to this Agreement.

Backup Power. Franchisee shall not use a permanent or semi-permanent internal combustion engine (such as a gasoline or natural gas-powered electric generator) to provide backup power at any point or points on the Network Facilities without Municipality's prior written approval. Such approval may be granted subject to conditions, such as relating to testing times (e.g., not in the middle of the night -after 10pm), screening, noise levels, and temperature and safe discharge of hot exhaust gasses. Municipality hereby grants Franchisee approval to use backup power generating devices, including devices with permanent or semi-permanent internal combustion engines, at its network hut sites and inside buildings or on land owned by Franchisee subject to the specific conditions provided for in the network hut leases entered into between Franchisee and Municipality for the use of land owned by Municipality, and any applicable building code requirements.

Limitation on Use Rights. Nothing in this Agreement shall be construed as requiring Franchisee to alter the manner in which Franchisee attaches equipment to the poles, if any poles are allowed by Municipality, or alter the manner in which it operates and maintains its equipment. Placement of equipment or assets on municipal poles must conform to industry best practices.

Franchisee's Obligations.

Individual Permits Required. Franchisee will obtain Municipality's approval of required individual encroachment, construction, repair and maintenance of the Network Facilities and other necessary permits before placing its Network Facilities in the Public ROW or other property of Municipality as authorized. Franchisee will pay all lawful permit, processing, field marking, engineering, and inspection fees associated with the issuance of individual permits by Municipality.

Franchisee's Sole Cost and Expense. Franchisee will perform the Work at its sole cost and expense.

Compliance with Laws. Franchisee will comply with all applicable federal, state and local laws, regulations and ordinances when performing the Work. Franchisee shall comply in all respects with all applicable codes. Franchisee will place its Network Facilities in conformance with the required permits, plans, and drawings approved by Municipality.

Reasonable Care. Franchisee will exercise reasonable care when performing the Work and will use commonly accepted practices and equipment to minimize the risks of personal injury, property damage, soil erosion, and pollution of surface or groundwater.

No Nuisance. Franchisee will maintain its Network Facilities in good and safe condition so that its Network Facilities do not cause a public nuisance.

No Burden on Public ROW; Minimum Interference. Franchisee shall not erect, install, construct, repair, replace or maintain the Network Facilities in such a fashion as to unduly burden the present or future use of the Public ROW. The Network Facilities shall be erected and maintained by Franchisee so as to cause the minimum interference with the use of the Public ROW and with the rights or reasonable convenience of property owners who adjoin any of the Public ROW. The location of Network Facilities within, on, over, under, across or through the Public ROW shall, in all cases, be subject to prior Municipality approval through the applicable permitting process.

Limitation on Franchise Rights. Except as may otherwise be agreed upon in writing by Municipality and Franchisee, the rights granted to Franchisee herein do not include the right to (i) excavate in, occupy or use any Municipality park, recreational areas or other Municipality property other than the Public ROW, or (ii) attach or locate any Network Facilities to or on, or otherwise utilize any of, any Municipality-owned property or facilities or structures other than Public ROW, including without limitation light poles, towers, buildings and trees. The use of such Municipality-owned property or facilities by Franchisee shall be considered by Municipality on a case-by-case basis and may be subject to payment of additional compensation to Municipality. Similarly, the rights granted herein by Municipality to Franchisee do not include the right to situate any Network Facilities on poles or other property owned by entities other than Municipality and situated in the Public ROW. It shall be the responsibility of Franchisee to negotiate any pole-attachment agreements or similar agreements with the owners of such poles or facilities, and to pay to such owners any required compensation.

Preconstruction Meetings. Franchisee shall attend all reasonably necessary preconstruction meetings as mutually agreed with Municipality.

Restoration of Property. Franchisee shall restore and replace at its sole cost and expense, in a manner reasonably approved by Municipality, any public or private property, real or personal, or portion of the Public ROW, that is disturbed, damaged or injured by the construction, operation, maintenance or removal of the Network Facilities to at least as good condition as that which existed prior to the disturbance if such damage is directly caused by Franchisee’s Work and no other Person (other than Franchisee’s personnel, employees, agents, contractors, subcontractors or Affiliates) is responsible for the damage (e.g., where a Person other than Franchisee fails to accurately or timely locate its underground facilities as required by applicable law). Franchisee's obligation in this subsection shall be limited by, and consistent with, any applicable seasonal or other restrictions on construction or restoration work. Franchisee's restoration work shall start promptly but not more than sixty (60) days from Franchisee being notified of the problem in question. Upon the failure of Franchisee to effect such repair or restoration, Municipality may effect the same, and Franchisee shall promptly reimburse Municipality for Municipality's actual, reasonable, and documented costs in connection with such repair or restoration.

Emergency Notification. Franchisee shall provide Municipality with a twenty-four (24) hour emergency telephone number at which a representative of Franchisee (not voicemail or a recording) can be accessed in the event of an Emergency.

Duty to Underground. It is the policy of Municipality to have lines and cables placed underground to the greatest extent reasonably practicable, as determined by the Municipality. In furtherance of this policy, Franchisee agrees that it shall place its constructed lines and cables underground to the extent reasonably practicable, as determined by the Municipality, provided however the Franchisee’s network hut sites may be above ground.

Discontinuance and Removal of the Network Facilities. Upon the revocation, termination, or expiration of this Agreement, unless an extension is granted by Municipality in its discretion, Franchisee shall discontinue the provision of Services and all rights of Franchisee to use the Public ROW for the provision of Services shall cease. Franchisee, at the direction of Municipality, shall remove any portion of the Network Facilities and restore such Public ROW and other affected property in accordance with Section 2.9 hereof within the Public ROW. Alternatively, if mutually agreed by Franchisee and Municipality, such Network Facilities may be abandoned in place or transferred to Municipality. This Section 2.12 shall not apply to facilities constructed and owned by the Franchisee or an Affiliate of Franchisee, where such facilities are used by Franchisee or such Affiliate to lawfully provide other services. No surety on any right-of-way bond (“**ROW Bond**”) nor any letter of credit shall be discharged until Municipality has certified to Franchisee in writing that the Network Facilities has been dismantled, removed, and all other property restored, to the satisfaction of Municipality.

Tree Trimming. Franchisee may trim trees upon and overhanging the Public ROW so as to prevent the branches of such trees from coming into contact with the Network Facilities. Franchisee shall minimize the trimming of trees to trimming only those trees that are essential to maintain the integrity of the Network Facilities. Except in emergencies, (i) all trimming of trees in the Public ROW or on Municipal property shall have the prior approval of Municipality and shall be done under the direction of the Municipality's horticulturist, or in the event that office is vacant, the Municipality’s Public Works director, and (ii) all trimming of trees on private property shall require the consent of the property owner. All trimming shall be done at the expense of Franchisee.

Location of Facilities. Franchisee shall keep accurate, complete, and current maps and records of the Network Facilities and all Franchisee facilities and, subject to applicable confidentiality provisions, shall make available electronic copies of such maps and records to Municipality, as set forth below.

Franchisee shall furnish "as-built" maps and records to Municipality in electronic, ESRI-compatible format (or in another mapping format mutually agreed to by the Parties). Franchisee shall provide Municipality copies of any new or revised "as-built" or comparable drawings as and if they are generated for portions of the Network Facilities located within Municipality and will provide them to Municipality upon reasonable request and on a mutually-agreed timetable (e.g., piecemeal following the closure of each permit, or all at once after all the Work is complete), subject to applicable confidentiality protections. Upon request by Municipality in an emergency, Franchisee, as soon as reasonably practicable, shall inform Municipality of any changes from such maps and records previously supplied and shall mark up any maps provided by Municipality so as to show the location of the Network Facilities.

The "as built" maps shall include at a minimum all Network Facilities located in a given segment, and facility routings and shall be drawn to scale.

Municipality agrees that Franchisee may provide route maps rather than the as-built maps specified above. "Route maps" means "as-built" maps with only the following information removed: information on the number of lines, whether the lines are copper or fiber and the nature of any electronics. Concrete pads for pedestals and enclosures for equipment or pedestals shall be shown on Route maps.

Utility Notification Program. Franchisee shall comply with applicable state and local utility location and notification laws.

Inspection by Municipality. Network Facilities shall be subject to inspection by Municipality to the extent reasonably requested by Municipality and reasonably necessary to assure compliance by Franchisee with the terms of this Agreement. Municipality shall inspect Network Facilities at reasonable, mutually agreed upon times and upon reasonable notice to Franchisee; provided, however, the inspection shall not interrupt or interfere with any services provided by Franchisee.

Franchise Fee. As consideration for the use of the City's Public ROW as set forth in this Agreement, the Franchisee shall pay the City a Use Fee of five percent (5%) of its Gross Revenues collected by the Franchisee during each calendar year of operation under this agreement based on audited financials. The Franchisee will pay the Use Fee collected from its Customers for the Broadband Services annually, within one hundred twenty (120) days of the close of Franchisee's fiscal year, which ends December 31. Each Use Fee payment shall be accompanied by a certified report from a representative of the Franchisee, which shows the basis for the computation of all recurring monthly Broadband Service charges from the provision of Broadband Services to Persons located within the City limits during the Franchisee's fiscal year for which such payment is made. In the event that the Use Fee payment is not actually received by the City on or before the applicable due date set forth in this section or is underpaid, Franchisee shall pay in addition to the Use Fee payment, or sum due, interest from the due date at the state legal interest rate of 6% annually (Alabama Code § 8.8.1). If the Franchisee does not provide Broadband Services to Customer(s) within the boundaries of the City or the Use Fee is less than $1,000 annually, then the

Franchisee shall pay the City annually $1,000 for the use of the City's Public ROW once the fiber is lit and carrying traffic commercially. All amounts paid shall be subject to audit and recomputation by City and acceptance of any payment shall not be construed as an accord that the amount paid is in fact the correct amount. In the event the City should conduct a review of Franchisee's books and records and such review indicates a Use Fee underpayment of five percent (5%) or more during the entire period reviewed, the Franchisee shall assume all reasonable documented costs of such audit, and pay same upon demand by the City. All documents pertaining to financial matters, which may be the subject of an audit by the City, shall be retained by the Franchisee for a minimum period of six (6) years. City may not seek to review a period of time beyond six (6) years.

Municipality's Obligations.

Emergency Removal or Relocation by Municipality. In the event of a public emergency that creates an imminent threat to the health, safety, or property of Municipality or its residents, Municipality may remove or relocate the applicable portions of the Network Facilities without prior notice to Franchisee. Municipality will, however, make best efforts to provide prior notice to Franchisee before making an emergency removal or relocation. In any event, Municipality will promptly provide to Franchisee a written description of any emergency removals or relocations of Franchisee's Network Facilities. Franchisee will reimburse Municipality for its actual, reasonable, and documented costs or expenses incurred for any such work performed by Municipality, the direct cause of which was Franchisee's construction, installation, operation, maintenance, repair, or removal of its Network Facilities.

Relocation to Accommodate Governmental Purposes. If Franchisee's then- existing Network Facilities would interfere with Municipality's planned use of the Public ROW or other Municipality property for a legitimate noncommercial governmental purpose, such as the construction, installation, repair, maintenance, or operation of a new water, sewer, or storm drain line, or a public road, curb, gutter, sidewalk, park, or recreational facility, or in the event the affected Public ROW is lawfully vacated, eliminated, discontinued, or closed by the Municipality, Franchisee will, upon written notice from Municipality, relocate its Network Facilities at Franchisee's own expense to such other location or locations in the Public ROW as may be mutually agreed by the parties, taking into account the needs of the Municipality's governmental purpose and Franchisee's interest in maintaining the integrity and stability of its Network. Franchisee will relocate its Network Facilities within a commercially reasonable period of time agreed to by the parties, taking into account the urgency of the need for relocation, the difficulty of the relocation, and other relevant facts and circumstances, except that Municipality may not require Franchisee to relocate or remove its Network Facilities with less than one hundred eighty (180) days' notice. Upon the failure of Franchisee to relocate any Network Facilities within a reasonable period of time in accordance with this subsection, Municipality may effect such relocation, and Franchisee shall promptly reimburse Municipality for all actual, reasonable, and documented costs and expenses incurred by Municipality in connection with such relocation.

Relocation to Accommodate Non-Governmental Purposes. If Franchisee's then- existing Network Facilities would interfere with (a) Municipality's planned use of the Public ROW for a non-governmental (e.g., commercial) purpose, or (b) a third-party's use of the Public ROW, Franchisee will not be required to relocate its Network Facilities.

Non-Discrimination. Any agreements between Municipality and Franchisee that provide Franchisee access to public infrastructure, poles, conduits, assets, and Public ROW will be available to other network operators that offer broadband Internet access services, on rates, terms, and conditions that are as favorable as those Municipality provides Franchisee for the same access.

Contractors and Subcontractors.

Use of Contractors and Subcontractors. Subject to the requirements of this section and section 5 below, Franchisee may retain contractors and subcontractors to perform the Work on Franchisee's behalf.

Contractors to be Licensed. Franchisee's contractors and subcontractors used for the Work will be properly licensed under applicable law, regulations and ordinances. Additionally, Franchisee must obtain a city license to operate within City limits.

Authorized Individuals. Franchisee's contractors and subcontractors may submit individual permit applications to Municipality on Franchisee's behalf, so long as the permit applications are signed by individuals that Franchisee has authorized to act on its behalf via a letter of authorization provided to Municipality in the form attached as **Exhibit A** ("**Authorized Individuals**"). Municipality will accept for review permit applications under this Agreement submitted and signed by Authorized Individuals, and will treat those applications as if they had been submitted by Franchisee under this Agreement.

Defense and Indemnity.

Indemnification. Franchisee shall indemnify, defend, and hold harmless Municipality, and governmental subdivisions thereof, and its respective elected officials, appointed officials, officers, boards, commissions, attorneys, agents, and employees (hereinafter referred to as "Indemnitees"), from and against any and all liability, obligation, damages, penalties, claims, costs, charges, losses and expenses (including, without limitation, reasonable fees and expenses of attorneys) arising from any third-party claim of personal injury or property damage that may be imposed upon, incurred by or be asserted against the Indemnitees by reason of any negligent or wanton act or omission of Franchisee, its personnel, employees, agents, contractors, subcontractors or affiliates, which may arise out of (i) the construction, installation, operation, maintenance or condition of the Network Facilities, or (ii) the Franchisee's failure to comply with any applicable Federal, State or local statute, ordinance or regulation ("**Third Party Legal Proceeding**"). Franchisee's indemnification obligation shall not extend to liability to the extent caused by the negligence or willful misconduct by any Indemnitee or any other third party (to the extent such third parties are not Franchisee personnel, employees, agents, contractors, subcontractors or affiliates as described above in this Section 5.1).

Assumption of Risk. Franchisee undertakes and assumes for its officers, agents, contractors and subcontractors and employees, all risk of dangerous conditions, if any, on or about any Municipality-owned or controlled property, including Public ROWs.

Defense of lndemnitees. In the event any Third Party Legal Proceeding shall be brought against the Indemnitees upon written notice from Municipality in accordance with Section 5.4 hereof, Franchisee shall, at Franchisee's sole cost and expense, assume sole control of the indemnified portion of the Third Party Legal Proceeding, subject to the following: (i) Municipality may appoint its own non-controlling counsel, at its own expense; and (ii) any settlement requiring Municipality to admit liability, pay money, or take (or refrain from taking) any action, will require Municipality's prior written consent..

Notice, Cooperation and Expenses. Municipality must give Franchisee written notice of any Third Party Legal Proceeding not later than twenty (20) days after Municipality becomes aware of the Third Party Legal Proceeding. Municipality shall reasonably cooperate with Franchisee in the defense of the Third Party Legal Proceeding and nothing herein shall be construed to prevent Municipality from appointing its own non-controlling counsel at Municipality's sole cost and expense.

Limitation of Liability. NEITHER PARTY WILL BE LIABLE FOR ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, EXEMPLARY OR PUNITIVE DAMAGES IN CONNECTION WITH THIS AGREEMENT. THE PARTIES ACKNOWLEDGE THAT THIS LIMITATION WILL BE SUBJECT TO AND MAY BE LIMITED BY APPLICABLE LAW.

ROW Bond. Within thirty (30) days of the Effective Date, Franchisee shall provide Municipality with, and shall maintain, a ROW Bond from a surety company in the amount of Fifty Thousand Dollars ($50,000) and in a form reasonably acceptable to Municipality, as security for the faithful performance by Franchisee of the provisions of this Agreement.

The rights provided Municipality by this Section and its bond are in addition to all other rights of Municipality whether reserved by this Agreement or authorized by law, and no action, proceeding or exercise of a right with respect to such bond or guarantee shall affect any other rights Municipality may have, except that Municipality shall not be entitled to multiple remedies for the same violation.

Insurance.

Franchisee will carry and maintain:

Commercial General Liability (CGL) insurance, with policy limits not less than $2,000,000 in aggregate and $2,000,000 for each occurrence covering bodily injury and property damage with the following features: (a) CGL primary insurance endorsement; and (b) CGL policy will include an endorsement which names Municipality, its employees, and officers as additional insureds.

Workers' Compensation insurance with policy limits not less than the Municipality's requirements.

All insurance certificates, endorsements, coverage verifications and other items required pursuant to this Agreement will be provided directly to Municipality's City Clerk within thirty (30) calendar days of the execution of this Franchise. Franchisee shall provide Municipality with certificates of insurance evidencing such coverage prior to applying for its first permit. Franchisee shall annually provide Municipality with a certificate of insurance evidencing such coverage. Failure to obtain any insurance policy required by this Section, maintain any insurance policy required by this Section, or provide certificates of insurance to the Municipality evidencing the Municipality is an additional insured on Franchisee's policy within thirty (30) days of Execution of this Agreement or within thirty (30) calendar days of any change in Franchisee's policy shall be deemed a material breach of this Agreement and shall be grounds for termination of this Agreement and the Franchise.

Contractors. Franchisee's contractors and subcontractors working in the Public ROW shall carry in full force and effect commercial general liability, automobile liability and workers' compensation and employer's liability insurance commensurate with the scope of their work. In the alternative, Franchisee, at its expense, may provide such coverages for any or all its contractors or subcontractors (such as by adding them to Franchisee policies).

Insurance Primary. Franchisee's insurance coverage shall be primary insurance with respect to Municipality, its officers, agents, employees, elected and appointed officials, departments, boards, and commissions (collectively "them"), but only for actions of Franchisee and for whom Franchisee is responsible. Any insurance or self-insurance maintained by any of them shall be in excess of Franchisee's insurance and shall not contribute to it (where "insurance or self- insurance maintained by any of them" includes any contract or agreement providing any type of indemnification or defense obligation provided to, or for the benefit of them, from any source, and includes any self-insurance program or policy, or self-insured retention or deductible by, for or on behalf of them).

Term. This Agreement is effective on the later of (a) the date the last party to sign executes this Agreement and (b) the date on which any implementing ordinance becomes effective in accordance with its terms and State law ("**Effective Date**"). This Agreement will expire automatically on the tenth (10th) anniversary of the Effective Date ("**Original Term**"), unless earlier terminated in accordance with the provisions herein. Thereafter, the Agreement will automatically renew for two (10) year terms (the "**Renewal Term**"), unless earlier terminated in accordance with the provisions herein, or unless a party provides written notice of its intent not to renew this Agreement at least one hundred and eighty days prior to the expiration of the Original Term or Renewal Term.

Termination.

Termination by Municipality. Municipality may terminate this Agreement if Franchisee is in material breach of the Agreement, provided that Municipality must first provide Franchisee written notice of the breach and not less than one hundred eighty (180) days to cure, unless the cure cannot be reasonably accomplished in that time period, in which case the Municipality may in its discretion grant Franchisee additional time upon the request of Franchisee, provided that Franchisee must commence its efforts to cure within that time period and the cure period will continue as long as such diligent efforts continue, provided further if such period is anticipated to, or does, extend more than one hundred eighty (180) days, it shall be in the sole discretion of the Municipality whether to grant such cure extension beyond one hundred eighty (180) days. No termination under this subsection will be effective until the relevant cure period has expired.

Termination by Franchisee. Franchisee may terminate this Agreement if Municipality is in material breach of this Agreement, provided that the Franchisee must first provide Municipality written notice of any breach and not less than one hundred eighty (180) days to cure, unless the cure cannot be reasonably accomplished in that time period in which case the Franchisee may in its discretion grant the Municipality additional time upon the Municipality's request, provided the Municipality must commence its efforts to cure within that time period and the cure period will continue as long as such diligent efforts continued, provided further if such period is anticipated to or does extend more than one hundred eighty (180) days, it shall be in the sole discretion of the Franchisee whether to grant such cure extension beyond one hundred eighty (180) days. No termination under this subsequent will be effective until the relevant cur period has expired.

Assignment. Except as set forth below, neither party may assign or transfer its rights or obligations under this Agreement, in whole or part, to a third party, without the written consent of the other party. Any agreed upon assignee will take the place of the assigning party, and the assigning party will be released from all of its rights and obligations upon such assignment. Following any assignment of this Agreement to an Affiliate, Franchisee will remain responsible for such Affiliate's performance under the terms of this Agreement. For purposes of this Section, (a) "Affiliate" means any Person that now or in the future, directly or indirectly controls, is controlled with or by, or is under common control with Franchisee; and (b) "control" means, with respect to: (i) a U.S. corporation, the ownership, directly or indirectly, of fifty percent (50%) or more of the voting power to elect directors thereof, or (ii) a non-U.S. corporation, if the voting power to elect directors thereof is less than fifty percent (50%), the maximum amount allowed by applicable law; and (iii) any other Person, fifty percent (50%) or more ownership interest in said Person, or the power to direct the management of such Person. In the event this Franchise is assigned as provided above, Franchisee shall provide written notice of its assignment to the Municipality along with the required contact and notification information of the assignee.

Notice. All notices related to this Agreement will be in writing and sent, if to Franchisee to the email addresses set forth below, and if to Municipality to the address set forth in Municipality's signature block to this Agreement. If Franchisee does not acknowledge receipt of electronic mail, notice to Franchisee may be given to the address set forth in Franchisee's signature block to this Agreement. Notices are effective (a) when delivered in person, (b) upon confirmation of a receipt when transmitted by electronic mail, (c) on the next business day if transmitted by registered or certified mail, postage prepaid (with confirmation of delivery), (d) on the next business day if transmitted by overnight courier (with confirmation of delivery), or (e) three (3) days after the date of mailing, whichever is earlier.
Franchisee's e-mail address for notice is FJohnson@staff.farmerstel.com.

Municipality's e-mail address for notice is cityclerk@centerpointal.org.

General Provisions

Franchise Records. Franchisee shall prepare and maintain any records or reports that are required of it by federal, State, or local law. Municipality shall have the right to obtain, in the format kept by Franchisee in the ordinary course of business, copies of such records and reports as appropriate and reasonably necessary to determine whether Franchisee is in compliance with this Agreement. Franchisee reserves the right to object to any request made under this Section as unnecessary, unreasonable, or inappropriate under the circumstances and to seek appropriate confidentiality protections for any information to be produced to Municipality.

Entire Franchise. This Agreement, including the Exhibits attached hereto, contains the entire agreement between the parties and all prior franchises, negotiations and agreements relating to the Network Facilities or provision of Broadband Services are merged herein and hereby superseded.

Conferences. As may be mutually agreed upon between the parties from time to time, the parties hereby agree to meet at reasonable times on reasonable notice to discuss any aspect of this Agreement, the provision of Broadband Services or the Network Facilities during the Term hereof.

Governing Law. This Agreement shall be deemed to have been made and shall be construed and interpreted in accordance with the law of the State of Alabama. Each party to this Agreement hereby irrevocably agrees that any legal action or proceeding arising out of or related to this Agreement or any of the agreements or transactions contemplated hereby shall be brought to the Circuit Court of Jefferson County, Alabama and hereby expressly submits to the personal jurisdiction and venue of such courts for the purposes thereof and expressly waives any claim of improper venue and any claim that such courts are an inconvenient forum.

Waiver of Compliance. No failure by either party to insist upon the strict performance of any covenant, agreement, term or condition of this Agreement, or to exercise any right, term or remedy consequent upon a breach thereof shall constitute a waiver of any such breach or such covenant, agreement, term or condition. No waiver of any breach shall affect or alter this Agreement, but each and every covenant, agreement, term, or condition of this Agreement shall continue in full force and effect with respect to any other then existing or subsequent breach thereof. Municipality may waive any obligation of Franchisee under this Agreement, in whole or in part, at any time, but such waiver must be in writing, and signed by the Municipality's Mayor or their designee.

Independent Contractor Relationship. The relationship of Franchisee to Municipality is and shall continue to be an independent contractual relationship, and no liability or benefits, such as worker's compensation, pension rights or liabilities, insurance rights or liabilities or other provisions or liabilities, arising out of or related to a contract for hire or employer/employee relationship, shall arise or accrue to either party or either party's agents or employees as a result of the performance of this Agreement, unless expressly stated in this Agreement.

Severability. If any section, paragraph, or provision of this Agreement shall be held to be invalid or unenforceable for any reason, the invalidity or unenforceability of such section, paragraph, or provision shall not affect any of the remaining provisions of this Agreement.

Captions. All captions are for convenience of use and have no substantive effect.

Franchise Accepted. Franchisee further acknowledges by execution and delivery of this Agreement that it has carefully read the terms and conditions of this Agreement and the Ordinance and accepts the obligations imposed hereby and thereby regardless of whether such obligations are contained in this Agreement or the Ordinance, or both.

Binding Agreement. Subject to Section 2.3, the parties agree that this Agreement complies with State and Federal law as of the Effective Date and agree to be bound by the provisions hereof during the full term hereof, except that the parties also agree to recognize and be bound by any change in any State or Federal law, even if such law materially affects the terms of this Agreement.

Other Covenants. Franchisee for itself and its Affiliates covenants that Franchisee and its Affiliates shall not bring or support, directly or indirectly, any suit, claim, or proceeding (judicial or administrative) challenging any term of this Agreement or contending that Municipality or Franchisee did not have the authority to impose or agree to such terms.

Reserved Rights. Municipality reserves all rights and powers under (i) its police powers and (ii) powers conferred by Federal, State, or local law of which Municipality may not legally and contractually divest itself. In particular, Municipality reserves the right to alter, amend or repeal its municipal code as it determines shall be conducive to the health, safety and welfare of the public, or otherwise in the public interest; provided that any such alteration, amendment or repeal shall be applicable to all similarly situated franchisees of the Municipality, in such a manner and to such an extent so as not to place Franchisee at a material competitive disadvantage. In the event the municipal code or other applicable local law is amended in a manner that would materially alter Franchisee's rights and obligations under this Agreement, the Municipality will provide Franchisee with reasonable advance notice of such pending amendment and, upon written request of Franchisee, negotiate in good faith to modify this Agreement to ameliorate any adverse effects such amended municipal code provisions would have on Franchisee's performance under this Agreement. Municipality agrees that by accepting this Agreement, Franchisee has not waived its right to object to the application to it of actions by Municipality pursuant to its reserved rights or police powers.

Representation Regarding Ethical Standards for Municipality Officers and Employees and Former Municipality Officers and Employees. Franchisee represents that to the best of its knowledge, it has not (1) provided an illegal gift or payoff to a Municipality officer or employee or former Municipality officer or employee, or his or her relative or business entity; (2) retained any person to solicit or secure this contract upon an agreement or understanding for a commission, percentage, brokerage or contingent fee, other than bona fide employees or bona fide commercial selling agencies for the purpose of securing business; (3) breached any of the ethical standards set forth in the Municipality's conflict of interest ordinance; or (4) influenced, and hereby promises that it will not knowingly influence, a Municipality officer or employee or former Municipality officer or employee to breach any of the ethical standards set forth in the Municipality's conflict of interest ordinance.

City Representative. The Mayor, or his or her designee as provided in writing by the Mayor to the Franchisee (the "City Representative"), shall be Municipality's representative for all purposes of this Agreement. Except where City Council action is required by this Agreement or by law, all decisions, judgments, approvals, requests, notices or other actions of Municipality required or permitted under this Agreement shall be made, obtained, issued or delivered or otherwise effected on behalf of Municipality by the City Representative, or his or her designee.

Authority. Franchisee represents, covenants and warrants to Municipality as of the Effective Date that: (a) Franchisee is duly constituted, in good standing and qualified to do business in the State of Alabama, (b) Franchisee will file when due all forms, reports, fees and other documents necessary to comply with applicable laws, and (c) the signatories signing on behalf of Franchisee have the requisite authority to bind Franchisee pursuant to Franchisee's organizational documents.

[*Signature page follows*]

Signed by authorized representatives of the parties on the dates written below.

City of Center Point, Alabama	Farmers Telecommunications Corporation
BY:	BY:
______________________________	______________________________
Bobby Scott	J. Frederick Johnson
Title: Mayor	Title: Chief Executive Officer
Address: 2209 Center Point Parkway	Address: 144 McCurdy Avenue
Center Point, Alabama 35215	North Rainsville, Alabama 35986
Date: ______________________________	Date: ______________________________

ATTEST:

____

Date: ______________________________

EXHIBIT A
FORM OF LETTER OF AUTHORIZATION

Farmers Telecommunication Corporation

144 McCurdy Avenue North
Rainsville, Alabama 35986

City of Center Point
2209 Center Point Parkway
Center Point, Alabama 35215

Dear Mayor,

In accordance with Section 4.3 of the Broadband Services Franchise Agreement dated ________ between City of Center Point, Alabama and Farmers Telecommunications Corporation hereby designates the following Authorized Individuals (as that term is defined in the Agreement), who may submit and sign permit applications on behalf of the Franchisee.

1.Name,Title
2.Name, Title
3. Name, Title
4. Name, Title

This authorization may be withdrawn or amended and superseded by a written amendment to this Letter of Authorization, which will be effective 24 hours after receipt by the Municipality.

Kind regards,

____

J. Frederick Johnson, CEO
Farmers Telecommunications Corporation

BROADBAND SERVICES FRANCHISE AGREEMENT

This Broadband Services Franchise Agreement ("**Agreement**") is by and between City of Center Point, Alabama, a municipal corporation, organized and existing under the laws of the State of Alabama ("**Municipality**" or "**City**"), and Farmers Telecommunications Corporation, an Alabama corporation, ("**Franchisee**").

RECITALS

A. Municipality has jurisdiction over the use of public rights-of-way in Municipality in which it now or hereafter holds any property interest, including, but not limited to public streets, roadways, highways, bridges, land paths, boulevards, avenues, lanes, alleys, sidewalks, circles, drives, public easements, public utility easements, dedicated utility strips, and rights-of-way dedicated for compatible uses now or hereafter held by Municipality (but excluding Municipality parks or recreation areas)("**Public ROW**").

B. Franchisee desires, and Municipality desires to permit Franchisee to construct, install, maintain, operate, and control a middle mile fiber optic infrastructure network in Public ROW ("**Network**") for the purpose of offering communications services ("**Services**"), including broadband Internet access service as defined in 47 C.F.R. § 8.1(b) ("**Broadband Internet Services**") and Voice over Internet Protocol services, but excluding multichannel video programming services that would be subject to a video services franchise and telecommunications services as defined in 47 C.F.R. § 153(53), to residents and businesses in Municipality ("**Customers**").

C. The Network consists of equipment and facilities that may include fiber optic cables, lines, wires, or strands; conduits, vaults, access manholes and handholes; electronic equipment; power generators; batteries; pedestals; boxes; cabinets; vaults; and other similar facilities ("**Network Facilities**"). When feasible, Franchisee will endeavor to place the Network Facilities underground.

DEFINED TERMS

A. "Broadband Services" means the transmission of information using optical fiber.

B. "City" means the City of Center Point, Alabama.

C. "Gross Revenues" means the recurring revenue, determined in accordance with generally accepted accounting principles, that is received or accrued by Franchisee from Franchisee's provision of Franchisee's Broadband Services to Customers within the City with a deduction for Franchisee's uncollectible accounts, but without deduction for operating expenses, accruals, or any other expenditure. Notwithstanding the foregoing, Gross Revenue shall not include any taxes or fees on Broadband Services furnished by Franchisee that are imposed by any municipality, state, or other governmental unit and collected by Franchisee for such governmental unit.

D. "Person" means any natural or corporate person, business association or other business entity including, but not limited to, a partnership, sole proprietorship, political subdivision, public or private agency of any kind, utility, successor or assign of any of the foregoing, or any other legal entity.

E. "Use Fee" means the fee paid by the Franchisee to the City for locating, maintaining and operating Network Facilities in the Rights-of-Way.

AGREEMENT

In consideration of the mutual promises made below, Municipality and Franchisee agree as follows:

1. Permission to Use and Occupy.

1.1 Permission to Use and Occupy Public ROW. Municipality grants Franchisee permission to use and occupy the Public ROW (the "**License**") for the purpose of constructing, installing, repairing, maintaining, operating, and if necessary removing the Network and the related Network Facilities (the "**Work**"). This Agreement and the License do not authorize Franchisee to use any property other than the Public ROW as agreed herein. Franchisee's use of any other Municipality property, including poles and conduits, will be, subject to mutual agreement, governed under a separate written agreement regarding that use.

1.2 Subject to State of Alabama and Local Law. This Agreement and the License are subject to Municipality's valid authority under the State of Alabama (at times, herein "State") and local laws as they exist now or may be amended from time-to-time, and subject to the conditions set forth in this Agreement.

1.3 Subject to Municipality's Right to Use Public ROW. This Agreement and the License are subject and subordinate to Municipality's prior and continuing right to use the Public ROW, including constructing, installing, operating, maintaining, repairing, or removing sewers, water pipes, storm drains, gas pipes, utility poles, overhead and underground electric lines and related facilities, and other public utility and municipal uses.

1.4 Subject to Pre-Existing Property Interests. Municipality's grant of the License is subject to all valid pre-existing easements, restrictions, conditions, covenants, encumbrances, claims of title or other property interests that may affect the Public ROW. Franchisee will obtain at its own cost and expense any permission or rights as may be necessary to accommodate such pre-existing property interests.

1.5 No Grant of Property Interest. The License does not grant or convey any property interest.

1.6 Non-Exclusive. The rights granted to Franchisee pursuant to this Agreement are non-exclusive. Municipality expressly reserves the right to grant licenses, permits, franchises, privileges or other rights to any other individual, corporation, partnership, limited liability company, trust, joint stock company, business trust, unincorporated association, joint venture, governmental authority or other entity of any nature whatsoever ("**Person**"), as well as the right in its own name as a municipality, to use the Public ROW for similar or different purposes allowed Franchisee under this Agreement. This Agreement does not establish any priority for the use of the Public ROW by Franchisee or by any present or future franchisees or other permit holders. In the event of any dispute as to the priority of use of the Public ROW the first priority shall be to the public generally, the second priority to Municipality in the performance of its various functions, and thereafter, as between Franchisee and other franchisees and permit holders, as determined by Municipality in the exercise of its reasonable powers, including the police power and other powers reserved to and conferred on it by the State of Alabama consistent with the rights granted to Franchisee pursuant to this Agreement.

1.7 Backup Power. Franchisee shall not use a permanent or semi-permanent internal combustion engine (such as a gasoline or natural gas-powered electric generator) to provide backup power at any point or points on the Network Facilities without Municipality's prior written approval. Such approval may be granted subject to conditions, such as relating to testing times (e.g., not in the middle of the night -after 10pm), screening, noise levels, and temperature and safe discharge of hot exhaust gasses. Municipality hereby grants Franchisee approval to use backup power generating devices, including devices with permanent or semi-permanent internal combustion engines, at its network hut sites and inside buildings or on land owned by Franchisee subject to the specific conditions provided for in the network hut leases entered into between Franchisee and Municipality for the use of land owned by Municipality, and any applicable building code requirements.

1.8 Limitation on Use Rights. Nothing in this Agreement shall be construed as requiring Franchisee to alter the manner in which Franchisee attaches equipment to the poles, if any poles are allowed by Municipality, or alter the manner in which it operates and maintains its equipment. Placement of equipment or assets on municipal poles must conform to industry best practices.

2. Franchisee's Obligations.

2.1 Individual Permits Required. Franchisee will obtain Municipality's approval of required individual encroachment, construction, repair and maintenance of the Network Facilities and other necessary permits before placing its Network Facilities in the Public ROW or other property of Municipality as authorized. Franchisee will pay all lawful permit, processing, field marking, engineering, and inspection fees associated with the issuance of individual permits by Municipality.

2.2 Franchisee's Sole Cost and Expense. Franchisee will perform the Work at its sole cost and expense.

2.3 Compliance with Laws. Franchisee will comply with all applicable federal, state and local laws, regulations and ordinances when performing the Work. Franchisee shall comply in all respects with all applicable codes. Franchisee will place its Network Facilities in conformance with the required permits, plans, and drawings approved by Municipality.

2.4 Reasonable Care. Franchisee will exercise reasonable care when performing the Work and will use commonly accepted practices and equipment to minimize the risks of personal injury, property damage, soil erosion, and pollution of surface or groundwater.

2.5 No Nuisance. Franchisee will maintain its Network Facilities in good and safe condition so that its Network Facilities do not cause a public nuisance.

2.6 No Burden on Public ROW; Minimum Interference. Franchisee shall not erect, install, construct, repair, replace or maintain the Network Facilities in such a fashion as to unduly burden the present or future use of the Public ROW. The Network Facilities shall be erected and maintained by Franchisee so as to cause the minimum interference with the use of the Public ROW and with the rights or reasonable convenience of property owners who adjoin any of the Public ROW. The location of Network Facilities within, on, over, under, across or through the Public ROW shall, in all cases, be subject to prior Municipality approval through the applicable permitting process.

2.7 Limitation on Franchise Rights. Except as may otherwise be agreed upon in writing by Municipality and Franchisee, the rights granted to Franchisee herein do not include the right to (i) excavate in, occupy or use any Municipality park, recreational areas or other Municipality property other than the Public ROW, or (ii) attach or locate any Network Facilities to or on, or otherwise utilize any of, any Municipality-owned property or facilities or structures other than Public ROW, including without limitation light poles, towers, buildings and trees. The use of such Municipality-owned property or facilities by Franchisee shall be considered by Municipality on a case-by-case basis and may be subject to payment of additional compensation to Municipality. Similarly, the rights granted herein by Municipality to Franchisee do not include the right to situate any Network Facilities on poles or other property owned by entities other than Municipality and situated in the Public ROW. It shall be the responsibility of Franchisee to negotiate any pole-attachment agreements or similar agreements with the owners of such poles or facilities, and to pay to such owners any required compensation.

2.8 Preconstruction Meetings. Franchisee shall attend all reasonably necessary preconstruction meetings as mutually agreed with Municipality.

2.9 Restoration of Property. Franchisee shall restore and replace at its sole cost and expense, in a manner reasonably approved by Municipality, any public or private property, real or personal, or portion of the Public ROW, that is disturbed, damaged or injured by the construction, operation, maintenance or removal of the Network Facilities to at least as good condition as that which existed prior to the disturbance if such damage is directly caused by Franchisee’s Work and no other Person (other than Franchisee’s personnel, employees, agents, contractors, subcontractors or Affiliates) is responsible for the damage (e.g., where a Person other than Franchisee fails to accurately or timely locate its underground facilities as required by applicable law). Franchisee's obligation in this subsection shall be limited by, and consistent with, any applicable seasonal or other restrictions on construction or restoration work. Franchisee's restoration work shall start promptly but not more than sixty (60) days from Franchisee being notified of the problem in question. Upon the failure of Franchisee to effect such repair or restoration, Municipality may effect the same, and Franchisee shall promptly reimburse Municipality for Municipality's actual, reasonable, and documented costs in connection with such repair or restoration.

2.10 Emergency Notification. Franchisee shall provide Municipality with a twenty-four (24) hour emergency telephone number at which a representative of Franchisee (not voicemail or a recording) can be accessed in the event of an Emergency.

2.11 Duty to Underground. It is the policy of Municipality to have lines and cables placed underground to the greatest extent reasonably practicable, as determined by the Municipality. In furtherance of this policy, Franchisee agrees that it shall place its constructed lines and cables underground to the extent reasonably practicable, as determined by the Municipality, provided however the Franchisee's network hut sites may be above ground.

2.12 Discontinuance and Removal of the Network Facilities. Upon the revocation, termination, or expiration of this Agreement, unless an extension is granted by Municipality in its discretion, Franchisee shall discontinue the provision of Services and all rights of Franchisee to use the Public ROW for the provision of Services shall cease. Franchisee, at the direction of Municipality, shall remove any portion of the Network Facilities and restore such Public ROW and other affected property in accordance with Section 2.9 hereof within the Public ROW. Alternatively, if mutually agreed by Franchisee and Municipality, such Network Facilities may be abandoned in place or transferred to Municipality. This Section 2.12 shall not apply to facilities constructed and owned by the Franchisee or an Affiliate of Franchisee, where such facilities are used by Franchisee or such Affiliate to lawfully provide other services. No surety on any right-of-way bond ("**ROW Bond**") nor any letter of credit shall be discharged until Municipality has certified to Franchisee in writing that the Network Facilities has been dismantled, removed, and all other property restored, to the satisfaction of Municipality.

2.13 Tree Trimming. Franchisee may trim trees upon and overhanging the Public ROW so as to prevent the branches of such trees from coming into contact with the Network Facilities. Franchisee shall minimize the trimming of trees to trimming only those trees that are essential to maintain the integrity of the Network Facilities. Except in emergencies, (i) all trimming of trees in the Public ROW or on Municipal property shall have the prior approval of Municipality and shall be done under the direction of the Municipality's horticulturist, or in the event that office is vacant, the Municipality's Public Works director, and (ii) all trimming of trees on private property shall require the consent of the property owner. All trimming shall be done at the expense of Franchisee.

2.14 Location of Facilities. Franchisee shall keep accurate, complete, and current maps and records of the Network Facilities and all Franchisee facilities and, subject to applicable confidentiality provisions, shall make available electronic copies of such maps and records to Municipality, as set forth below.

2.14.1 Franchisee shall furnish "as-built" maps and records to Municipality in electronic, ESRI-compatible format (or in another mapping format mutually agreed to by the Parties). Franchisee shall provide Municipality copies of any new or revised "as-built" or comparable drawings as and if they are generated for portions of the Network Facilities located within Municipality and will provide them to Municipality upon reasonable request and on a mutually-agreed timetable (e.g., piecemeal following the closure of each permit, or all at once after all the Work is complete), subject to applicable confidentiality protections. Upon request by Municipality in an emergency, Franchisee, as soon as reasonably practicable, shall inform Municipality of any changes from such maps and records previously supplied and shall mark up any maps provided by Municipality so as to show the location of the Network Facilities.

2.14.2 The "as built" maps shall include at a minimum all Network Facilities located in a given segment, and facility routings and shall be drawn to scale.

2.14.3 Municipality agrees that Franchisee may provide route maps rather than the as-built maps specified above. "Route maps" means "as-built" maps with only the following information removed: information on the number of lines, whether the lines are copper or fiber and the nature of any electronics. Concrete pads for pedestals and enclosures for equipment or pedestals shall be shown on Route maps.

2.15 Utility Notification Program. Franchisee shall comply with applicable state and local utility location and notification laws.

2.16 Inspection by Municipality. Network Facilities shall be subject to inspection by Municipality to the extent reasonably requested by Municipality and reasonably necessary to assure compliance by Franchisee with the terms of this Agreement. Municipality shall inspect Network Facilities at reasonable, mutually agreed upon times and upon reasonable notice to Franchisee; provided, however, the inspection shall not interrupt or interfere with any services provided by Franchisee.

2.17 Franchise Fee. As consideration for the use of the City's Public ROW as set forth in this Agreement, the Franchisee shall pay the City a Use Fee of five percent (5%) of its Gross Revenues collected by the Franchisee during each calendar year of operation under this agreement based on audited financials. The Franchisee will pay the Use Fee collected from its Customers for the Broadband Services annually, within one hundred twenty (120) days of the close of Franchisee's fiscal year, which ends December 31. Each Use Fee payment shall be accompanied by a certified report from a representative of the Franchisee, which shows the basis for the computation of all recurring monthly Broadband Service charges from the provision of Broadband Services to Persons located within the City limits during the Franchisee's fiscal year for which such payment is made. In the event that the Use Fee payment is not actually received by the City on or before the applicable due date set forth in this section or is underpaid, Franchisee shall pay in addition to the Use Fee payment, or sum due, interest from the due date at the state legal interest rate of 6% annually (Alabama Code § 8.8.1). If the Franchisee does not provide Broadband Services to Customer(s) within the boundaries of the City or the Use Fee is less than $1,000 annually, then the Franchisee shall pay the City annually $1,000 for the use of the City's Public ROW once the fiber is lit and carrying traffic commercially. All amounts paid shall be subject to audit and recomputation by City and acceptance of any payment shall not be construed as an accord that the amount paid is in fact the correct amount. In the event the City should conduct a review of Franchisee's books and records and such review indicates a Use Fee underpayment of five percent (5%) or more during the entire period reviewed, the Franchisee shall assume all reasonable documented costs of such audit, and pay same upon demand by the City. All documents pertaining to financial matters, which may be the subject of an audit by the City, shall be retained by the Franchisee for a minimum period of six (6) years. City may not seek to review a period of time beyond six (6) years.

3. Municipality's Obligations.

3.1 Emergency Removal or Relocation by Municipality. In the event of a public emergency that creates an imminent threat to the health, safety, or property of Municipality or its residents, Municipality may remove or relocate the applicable portions of the Network Facilities without prior notice to Franchisee. Municipality will, however, make best efforts to provide prior notice to Franchisee before making an emergency removal or relocation. In any event, Municipality will promptly provide to Franchisee a written description of any emergency removals or relocations of Franchisee's Network Facilities. Franchisee will reimburse Municipality for its actual, reasonable, and documented costs or expenses incurred for any such work performed by Municipality, the direct cause of which was Franchisee's construction, installation, operation, maintenance, repair, or removal of its Network Facilities.

3.2 Relocation to Accommodate Governmental Purposes. If Franchisee's then- existing Network Facilities would interfere with Municipality's planned use of the Public ROW or other Municipality property for a legitimate noncommercial governmental purpose, such as the construction, installation, repair, maintenance, or operation of a new water, sewer, or storm drain line, or a public road, curb, gutter, sidewalk, park, or recreational facility, or in the event the affected Public ROW is lawfully vacated, eliminated, discontinued, or closed by the Municipality, Franchisee will, upon written notice from Municipality, relocate its Network Facilities at Franchisee's own expense to such other location or locations in the Public ROW as may be mutually agreed by the parties, taking into account the needs of the Municipality's governmental purpose and Franchisee's interest in maintaining the integrity and stability of its Network. Franchisee will relocate its Network Facilities within a commercially reasonable period of time agreed to by the parties, taking into account the urgency of the need for relocation, the difficulty of the relocation, and other relevant facts and circumstances, except that Municipality may not require Franchisee to relocate or remove its Network Facilities with less than one hundred eighty (180) days' notice. Upon the failure of Franchisee to relocate any Network Facilities within a reasonable period of time in accordance with this subsection, Municipality may effect such relocation, and Franchisee shall promptly reimburse Municipality for all actual, reasonable, and documented costs and expenses incurred by Municipality in connection with such relocation.

3.3 Relocation to Accommodate Non-Governmental Purposes. If Franchisee's then-existing Network Facilities would interfere with (a) Municipality's planned use of the

Public ROW for a non-governmental (e.g., commercial) purpose, or (b) a third-party's use of the Public ROW, Franchisee will not be required to relocate its Network Facilities.

3.4 Non-Discrimination. Any agreements between Municipality and Franchisee that provide Franchisee access to public infrastructure, poles, conduits, assets, and Public ROW will be available to other network operators that offer broadband Internet access services, on rates, terms, and conditions that are as favorable as those Municipality provides Franchisee for the same access.

4. Contractors and Subcontractors.

4.1 Use of Contractors and Subcontractors. Subject to the requirements of this section and section 5 below, Franchisee may retain contractors and subcontractors to perform the Work on Franchisee's behalf.

4.2 Contractors to be Licensed. Franchisee's contractors and subcontractors used for the Work will be properly licensed under applicable law, regulations and ordinances. Additionally, Franchisee must obtain a city license to operate within City limits.

4.3 Authorized Individuals. Franchisee's contractors and subcontractors may submit individual permit applications to Municipality on Franchisee's behalf, so long as the permit applications are signed by individuals that Franchisee has authorized to act on its behalf via a letter of authorization provided to Municipality in the form attached as **Exhibit A** ("**Authorized Individuals**"). Municipality will accept for review permit applications under this Agreement submitted and signed by Authorized Individuals, and will treat those applications as if they had been submitted by Franchisee under this Agreement.

5. Defense and Indemnity.

5.1 Indemnification. Franchisee shall indemnify, defend, and hold harmless Municipality, and governmental subdivisions thereof, and its respective elected officials, appointed officials, officers, boards, commissions, attorneys, agents, and employees (hereinafter referred to as "Indemnitees"), from and against any and all liability, obligation, damages, penalties, claims, costs, charges, losses and expenses (including, without limitation, reasonable fees and expenses of attorneys) arising from any third-party claim of personal injury or property damage that may be imposed upon, incurred by or be asserted against the Indemnitees by reason of any negligent or wanton act or omission of Franchisee, its personnel, employees, agents, contractors, subcontractors or affiliates, which may arise out of (i) the construction, installation, operation, maintenance or condition of the Network Facilities, or (ii) the Franchisee's failure to comply with any applicable Federal, State or local statute, ordinance or regulation ("**Third Party Legal Proceeding**"). Franchisee's indemnification obligation shall not extend to liability to the extent caused by the negligence or willful misconduct by any Indemnitee or any other third party (to the extent such third parties are not Franchisee personnel, employees, agents, contractors, subcontractors or affiliates as described above in this Section 5.1).

5.2 Assumption of Risk. Franchisee undertakes and assumes for its officers, agents, contractors and subcontractors and employees, all risk of dangerous conditions, if any, on or about any Municipality-owned or controlled property, including Public ROWs.

5.3 Defense of lndemnitees. In the event any Third Party Legal Proceeding shall be brought against the Indemnitees upon written notice from Municipality in accordance with Section 5.4 hereof, Franchisee shall, at Franchisee's sole cost and expense, assume sole control of the indemnified portion of the Third Party Legal Proceeding, subject to the following: (i) Municipality may appoint its own non-controlling counsel, at its own expense; and (ii) any settlement requiring Municipality to admit liability, pay money, or take (or refrain from taking) any action, will require Municipality's prior written consent..

5.4 Notice, Cooperation and Expenses. Municipality must give Franchisee written notice of any Third Party Legal Proceeding not later than twenty (20) days after Municipality becomes aware of the Third Party Legal Proceeding. Municipality shall reasonably cooperate with Franchisee in the defense of the Third Party Legal Proceeding and nothing herein shall be construed to prevent Municipality from appointing its own non-controlling counsel at Municipality's sole cost and expense.

6. **Limitation of Liability.** NEITHER PARTY WILL BE LIABLE FOR ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, EXEMPLARY OR PUNITIVE DAMAGES IN CONNECTION WITH THIS AGREEMENT. THE PARTIES ACKNOWLEDGE THAT THIS LIMITATION WILL BE SUBJECT TO AND MAY BE LIMITED BY APPLICABLE LAW.

7. ROW Bond. Within thirty (30) days of the Effective Date, Franchisee shall provide Municipality with, and shall maintain, a ROW Bond from a surety company in the amount of Fifty Thousand Dollars ($50,000) and in a form reasonably acceptable to Municipality, as security for the faithful performance by Franchisee of the provisions of this Agreement.

7.1 The rights provided Municipality by this Section and its bond are in addition to all other rights of Municipality whether reserved by this Agreement or authorized by law, and no action, proceeding or exercise of a right with respect to such bond or guarantee shall affect any other rights Municipality may have, except that Municipality shall not be entitled to multiple remedies for the same violation.

8. Insurance.

8.1 Franchisee will carry and maintain:

8.1.1 Commercial General Liability (CGL) insurance, with policy limits not less than $2,000,000 in aggregate and $2,000,000 for each occurrence covering bodily injury and property damage with the following features: (a) CGL primary insurance endorsement; and (b) CGL policy will include an endorsement which names Municipality, its employees, and officers as additional insureds.

8.1.2 Workers' Compensation insurance with policy limits not less than the Municipality's requirements.

8.2 All insurance certificates, endorsements, coverage verifications and other items required pursuant to this Agreement will be provided directly to Municipality's City Clerk within thirty (30) calendar days of the execution of this Franchise. Franchisee shall provide Municipality with certificates of insurance evidencing such coverage prior to applying for its first permit. Franchisee shall annually provide Municipality with a certificate of insurance evidencing such coverage. Failure to obtain any insurance policy required by this Section, maintain any insurance policy required by this Section, or provide certificates of insurance to the Municipality evidencing the Municipality is an additional insured on Franchisee's policy within thirty (30) days of Execution of this Agreement or within thirty (30) calendar days of any change in Franchisee's policy shall be deemed a material breach of this Agreement and shall be grounds for termination of this Agreement and the Franchise.

8.3 **<u>Contractors.</u>** Franchisee's contractors and subcontractors working in the Public ROW shall carry in full force and effect commercial general liability, automobile liability and workers' compensation and employer's liability insurance commensurate with the scope of their work. In the alternative, Franchisee, at its expense, may provide such coverages for any or all its contractors or subcontractors (such as by adding them to Franchisee policies).

8.4 **<u>Insurance Primary.</u>** Franchisee's insurance coverage shall be primary insurance with respect to Municipality, its officers, agents, employees, elected and appointed officials, departments, boards, and commissions (collectively "them"), but only for actions of Franchisee and for whom Franchisee is responsible. Any insurance or self-insurance maintained by any of them shall be in excess of Franchisee's insurance and shall not contribute to it (where "insurance or self- insurance maintained by any of them" includes any contract or agreement providing any type of indemnification or defense obligation provided to, or for the benefit of them, from any source, and includes any self-insurance program or policy, or self-insured retention or deductible by, for or on behalf of them).

9. **<u>Term.</u>** This Agreement is effective on the later of (a) the date the last party to sign executes this Agreement and (b) the date on which any implementing ordinance becomes effective in accordance with its terms and State law ("**Effective Date**"). This Agreement will expire automatically on the tenth (10th) anniversary of the Effective Date ("**Original Term**"), unless earlier terminated in accordance with the provisions herein. Thereafter, the Agreement will automatically renew for two (10) year terms (the "**Renewal Term**"), unless earlier terminated in accordance with the provisions herein, or unless a party provides written notice of its intent not to renew this Agreement at least one hundred and eighty days prior to the expiration of the Original Term or Renewal Term.

10. **<u>Termination.</u>**

10.1 <u>Termination by Municipality.</u> Municipality may terminate this Agreement if Franchisee is in material breach of the Agreement, provided that Municipality must first provide Franchisee written notice of the breach and not less than one hundred eighty (180) days to cure, unless the cure cannot be reasonably accomplished in that time period, in which case the Municipality may in its discretion grant Franchisee additional time upon the request of Franchisee, provided that Franchisee must commence its efforts to cure within that time period and the cure period will continue as long as such diligent efforts continue, provided further if such period is anticipated to, or does, extend more than one hundred eighty (180) days, it shall be in the sole discretion of the Municipality whether to grant such cure extension beyond one hundred eighty (180) days. No termination under this subsection will be effective until the relevant cure period has expired.

10.2 Termination by Franchisee. Franchisee may terminate this Agreement if Municipality is in material breach of this Agreement, provided that the Franchisee must first provide Municipality written notice of any breach and not less than one hundred eighty (180) days to cure, unless the cure cannot be reasonably accomplished in that time period in which case the Franchisee may in its discretion grant the Municipality additional time upon the Municipality's request, provided the Municipality must commence its efforts to cure within that time period and the cure period will continue as long as such diligent efforts continued, provided further if such period is anticipated to or does extend more than one hundred eighty (180) days, it shall be in the sole discretion of the Franchisee whether to grant such cure extension beyond one hundred eighty (180) days. No termination under this subsequent will be effective until the relevant cur period has expired.

11. **Assignment.** Except as set forth below, neither party may assign or transfer its rights or obligations under this Agreement, in whole or part, to a third party, without the written consent of the other party. Any agreed upon assignee will take the place of the assigning party, and the assigning party will be released from all of its rights and obligations upon such assignment. Following any assignment of this Agreement to an Affiliate, Franchisee will remain responsible for such Affiliate's performance under the terms of this Agreement. For purposes of this Section, (a) "Affiliate" means any Person that now or in the future, directly or indirectly controls, is controlled with or by, or is under common control with Franchisee; and (b) "control" means, with respect to: (i) a U.S. corporation, the ownership, directly or indirectly, of fifty percent (50%) or more of the voting power to elect directors thereof, or (ii) a non-U.S. corporation, if the voting power to elect directors thereof is less than fifty percent (50%), the maximum amount allowed by applicable law; and (iii) any other Person, fifty percent (50%) or more ownership interest in said Person, or the power to direct the management of such Person. In the event this Franchise is assigned as provided above, Franchisee shall provide written notice of its assignment to the Municipality along with the required contact and notification information of the assignee.

12. **Notice.** All notices related to this Agreement will be in writing and sent, if to Franchisee to the email addresses set forth below, and if to Municipality to the address set forth in Municipality's signature block to this Agreement. If Franchisee does not acknowledge receipt of electronic mail, notice to Franchisee may be given to the address set forth in Franchisee's signature block to this Agreement. Notices are effective (a) when delivered in person, (b) upon confirmation of a receipt when transmitted by electronic mail, (c) on the next business day if transmitted by registered or certified mail, postage prepaid (with confirmation of delivery), (d) on the next business day if transmitted by overnight courier (with confirmation of delivery), or (e) three (3) days after the date of mailing, whichever is earlier.
Franchisee's e-mail address for notice is FJohnson@staff.farmerstel.com.

Municipality's e-mail address for notice is cityclerk@centerpointal.org.

13. General Provisions

13.1 Franchise Records. Franchisee shall prepare and maintain any records or reports that are required of it by federal, State, or local law. Municipality shall have the right to obtain, in the format kept by Franchisee in the ordinary course of business, copies of such records and reports as appropriate and reasonably necessary to determine whether Franchisee is in compliance with this Agreement. Franchisee reserves the right to object to any request made under this Section as unnecessary, unreasonable, or inappropriate under the circumstances and to seek appropriate confidentiality protections for any information to be produced to Municipality.

13.2 Entire Franchise. This Agreement, including the Exhibits attached hereto, contains the entire agreement between the parties and all prior franchises, negotiations and agreements relating to the Network Facilities or provision of Broadband Services are merged herein and hereby superseded.

13.3 Conferences. As may be mutually agreed upon between the parties from time to time, the parties hereby agree to meet at reasonable times on reasonable notice to discuss any aspect of this Agreement, the provision of Broadband Services or the Network Facilities during the Term hereof.

13.4 Governing Law. This Agreement shall be deemed to have been made and shall be construed and interpreted in accordance with the law of the State of Alabama. Each party to this Agreement hereby irrevocably agrees that any legal action or proceeding arising out of or related to this Agreement or any of the agreements or transactions contemplated hereby shall be brought to the Circuit Court of Jefferson County, Alabama and hereby expressly submits to the personal jurisdiction and venue of such courts for the purposes thereof and expressly waives any claim of improper venue and any claim that such courts are an inconvenient forum.

13.5 Waiver of Compliance. No failure by either party to insist upon the strict performance of any covenant, agreement, term or condition of this Agreement, or to exercise any right, term or remedy consequent upon a breach thereof shall constitute a waiver of any such breach or such covenant, agreement, term or condition. No waiver of any breach shall affect or alter this Agreement, but each and every covenant, agreement, term, or condition of this Agreement shall continue in full force and effect with respect to any other then existing or subsequent breach thereof. Municipality may waive any obligation of Franchisee under this Agreement, in whole or in part, at any time, but such waiver must be in writing, and signed by the Municipality's Mayor or their designee.

13.6 Independent Contractor Relationship. The relationship of Franchisee to Municipality is and shall continue to be an independent contractual relationship, and no liability or benefits, such as worker's compensation, pension rights or liabilities, insurance rights or liabilities or other provisions or liabilities, arising out of or related to a contract for hire or employer/employee relationship, shall arise or accrue to either party or either party's agents or employees as a result of the performance of this Agreement, unless expressly stated in this Agreement.

13.7 Severability. If any section, paragraph, or provision of this Agreement shall be held to be invalid or unenforceable for any reason, the invalidity or unenforceability of such section, paragraph, or provision shall not affect any of the remaining provisions of this Agreement.

13.8 Captions. All captions are for convenience of use and have no substantive effect.

13.9 Franchise Accepted. Franchisee further acknowledges by execution and delivery of this Agreement that it has carefully read the terms and conditions of this Agreement and the Ordinance and accepts the obligations imposed hereby and thereby regardless of whether such obligations are contained in this Agreement or the Ordinance, or both.

13.10 Binding Agreement. Subject to Section 2.3, the parties agree that this Agreement complies with State and Federal law as of the Effective Date and agree to be bound by the provisions hereof during the full term hereof, except that the parties also agree to recognize and be bound by any change in any State or Federal law, even if such law materially affects the terms of this Agreement.

13.11 Other Covenants. Franchisee for itself and its Affiliates covenants that Franchisee and its Affiliates shall not bring or support, directly or indirectly, any suit, claim, or proceeding (judicial or administrative) challenging any term of this Agreement or contending that Municipality or Franchisee did not have the authority to impose or agree to such terms.

13.12 Reserved Rights. Municipality reserves all rights and powers under (i) its police powers and (ii) powers conferred by Federal, State, or local law of which Municipality may not legally and contractually divest itself. In particular, Municipality reserves the right to alter, amend or repeal its municipal code as it determines shall be conducive to the health, safety and welfare of the public, or otherwise in the public interest; provided that any such alteration, amendment or repeal shall be applicable to all similarly situated franchisees of the Municipality, in such a manner and to such an extent so as not to place Franchisee at a material competitive disadvantage. In the event the municipal code or other applicable local law is amended in a manner that would materially alter Franchisee's rights and obligations under this Agreement, the Municipality will provide Franchisee with reasonable advance notice of such pending amendment and, upon written request of Franchisee, negotiate in good faith to modify this Agreement to ameliorate any adverse effects such amended municipal code provisions would have on Franchisee's performance under this Agreement. Municipality agrees that by accepting this Agreement, Franchisee has not waived its right to object to the application to it of actions by Municipality pursuant to its reserved rights or police powers.

13.13 Representation Regarding Ethical Standards for Municipality Officers and Employees and Former Municipality Officers and Employees. Franchisee represents that to the best of its knowledge, it has not (1) provided an illegal gift or payoff to a Municipality officer or employee or former Municipality officer or employee, or his or her relative or business entity; (2) retained any person to solicit or secure this contract upon an agreement or understanding for a commission, percentage, brokerage or contingent fee, other than bona fide employees or bona fide commercial selling agencies for the purpose of securing business; (3) breached any of the ethical standards set forth in the Municipality's conflict of interest ordinance; or (4) influenced, and hereby promises that it will not knowingly influence, a Municipality officer or employee or former Municipality officer or employee to breach any of the ethical standards set forth in the Municipality's conflict of interest ordinance.

13.14 City Representative. The Mayor, or his or her designee as provided in writing by the Mayor to the Franchisee (the "City Representative"), shall be Municipality's representative for all purposes of this Agreement. Except where City Council action is required by this Agreement or by law, all decisions, judgments, approvals, requests, notices or other actions of Municipality required or permitted under this Agreement shall be made, obtained, issued or delivered or otherwise effected on behalf of Municipality by the City Representative, or his or her designee.

13.15 Authority. Franchisee represents, covenants and warrants to Municipality as of the Effective Date that: (a) Franchisee is duly constituted, in good standing and qualified to do business in the State of Alabama, (b) Franchisee will file when due all forms, reports, fees and other documents necessary to comply with applicable laws, and (c) the signatories signing on behalf of Franchisee have the requisite authority to bind Franchisee pursuant to Franchisee's organizational documents.

[*Signature page follows*]

Signed by authorized representatives of the parties on the dates written below.

City of Center Point, Alabama

BY:

____

Bobby Scott

Title: Mayor

Address: 2209 Center Point Parkway

Center Point, Alabama 35215

Date: ____________________________

Farmers Telecommunications Corporation

BY:

____

J. Frederick Johnson

Title: Chief Executive Officer

Address: 144 McCurdy Avenue

North Rainsville, Alabama 35986

Date: ____________________________

ATTEST:

____

Date: ____________________________

EXHIBIT A
FORM OF LETTER OF AUTHORIZATION

Farmers Telecommunication Corporation

144 McCurdy Avenue North
Rainsville, Alabama 35986

City of Center Point
2209 Center Point Parkway
Center Point, Alabama 35215

Dear Mayor,

In accordance with Section 4.3 of the Broadband Services Franchise Agreement dated ________ between City of Center Point, Alabama and Farmers Telecommunications Corporation hereby designates the following Authorized Individuals (as that term is defined in the Agreement), who may submit and sign permit applications on behalf of the Franchisee.

1.Name,Title
2.Name, Title
3. Name, Title
4. Name, Title

This authorization may be withdrawn or amended and superseded by a written amendment to this Letter of Authorization, which will be effective 24 hours after receipt by the Municipality.

Kind regards,

____

J. Frederick Johnson, CEO
Farmers Telecommunications Corporation