



## ORDINANCE NO. 2022-06

### ORDINANCE GRANTING FRANCHISE TO BALDWIN COUNTY SEWER SERVICE, LLC.

**BE IT ORDAINED** by the Town Council of the Town of Magnolia Springs, Alabama, as follows:

**SECTION 1.** The word "Town" as used herein means the Town of Magnolia Springs, Alabama, a municipal corporation. The word "BCSS" as used herein means Baldwin County Sewer Service, L.L.C.

**SECTION 2.** The Town hereby grants to BCSS a non-exclusive franchise to own, operate, construct, enlarge and improve a sewer collection system in the Town as exists upon the date of this franchise agreement, or as the Town limits and police jurisdiction may exist during the term of this franchise agreement. This franchise is to be used for the purpose of supplying wastewater service in the Town for a period of 30 years from the date accepted by BCSS.

**SECTION 3.** In Strict Accordance with all local Ordinances, policies, and directives, and all State and Federal regulations governing the installation, operation and maintenance of the wastewater collection and transmission system; the franchise hereby grants the right to BCSS to lay, construct and maintain pipes and mains and other appurtenances of the system required of BCSS and the Town, in, along, and under the highways, streets, avenues, alleys and other public rights-of-way in the Town, and any extension thereof that connects to any a pre-existing component of pipes and mains and other appurtenances of the BCSS wastewater collection or transmission system that lies within the Town as formally submitted to the Town or its designee and formally approved by the Town or its designee prior to performing such work.

**SECTION 4.** Prior to commencing any construction, laying of pipes, mains, or other related fixtures along, or under any highway, street, avenue, alley or other public right-of-way in the Town as described in SECTION 3 above, BCSS will submit detailed plans and specifications of the proposed work to the Town. Estimated completion date shall also be submitted. No new construction will begin before fourteen (14) days after a written acknowledgement of the receipt of these detailed plans and specifications for the work has been submitted to BCSS by the Town. In the case that any work, as proposed by BCSS is unacceptable to the Town, the parties will attempt a good faith resolution. If, however, the dispute over the proposed construction cannot be resolved, each party will designate an engineer (or engineering firm) as its representative and the two engineers (or engineering firms) shall mutually agree on a third to assist and arbitrate the dispute. Each party shall pay their own engineer and shall split the cost of the third. If they cannot agree on a resolution within thirty (30) days either party may petition a court of competent jurisdiction for resolution. All such proposed work shall be subject to permitting and reasonable inspection by the Town upon receipt of timely notice from BCSS.

The foregoing Section shall not apply to the emergency repair or maintenance of existing lines and facilities. BCSS shall provide the Town written or verbal notice of such repair and its cause as soon as practical, but not as to limit the response time to a repair such emergency work, including work that is to repair known wastewater leaks from damaged mains or backups due to failed pumping or transmission components within the system. New services shall be approved as stated above.

**SECTION 5.** BCSS, will, upon making any excavation in the streets, avenues, alleys, public ways and public places of the Town, restore the surface or paving at the point of such excavation in the same condition as it was before such work was done, and all as promptly as practicable. BCSS shall bore, except individual service lines, under an existing public street and such casing extended beyond the limits of the traffic bearing surfaces of such public street (less turnouts to private property) a minimum of five (5) feet, unless otherwise approved. BCSS shall also be responsible for any damage caused in a public right of way, including vegetation, for any circumstance caused from their construction and/or maintenance activity.

**SECTION 6.** All plans and specifications submitted, as provided herein, must show, if possible, the location of any and all existing utility(ies), equipment and appurtenances of such utility(ies) lines, the depth, type and size thereof, and any other information thereto that is applicable.

**SECTION 7.** Copies of all applications for permits from boards or agencies of the State or County having jurisdiction shall be attached to the plans and specifications submitted to the Town.

**SECTION 8.** BCSS shall charge no rate or fee in excess of a fee or charge greater than any other user of the same class on its system excluding any fees or charges that are being charged to users prior to this franchise which are set by a contract already in existence. It is understood that should the franchisee be regulated by a public entity such as the State of Alabama, or any agency or department thereof that fees and charges authorized by said State agency or department are reasonable and that the Town, or the affected customers, shall address any comments, complaints or objections to said State agency or department prior to or during consideration of the setting of fees and charges.

**SECTION 9.** The Town shall have the right and privilege, under reasonable circumstances to examine the books and records of BCSS for transactions that occur within the town limits of Magnolia Springs. BCSS shall present a quarterly transaction collection register with each quarterly franchise payment.

**SECTION 10.** BCSS will furnish the Town with the names and telephone numbers of its emergency personnel who may be contacted in case of a line break or other defects in the system. BCSS shall make available its list of individual customers within the Town to the extent permitted by law, including privacy laws, upon the request of the Town. The Town shall only use same for its own purposes and shall keep said list confidential.

**SECTION 11.** The rights, privileges, franchises hereby granted may be exercised by BCSS or any successor or assign of the BCSS system that incorporates the Town of Magnolia Springs, including the jurisdiction, in its service and may be mortgaged, assigned, pledged or conveyed in trust as security for any bonds or other obligations of BCSS, or of its successors and assigns, all subject nevertheless to the conditions and obligations herein contained.

**SECTION 12.** In consideration for the rights granted hereunder, BCSS shall obtain from the Town an annually renewable business license to provide aforesaid wastewater treatment services and conduct said business within the Town and shall pay to the Town a franchise fee assessment of 5% of the monthly wastewater treatment charge collected inside the Town limits.

ADOPTED this 20<sup>th</sup> day of December 2022.

ATTEST:

Town of Magnolia Springs


  
Town Clerk

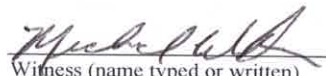
  
Kim Koniar  
As Its Mayor

ACCEPTED:

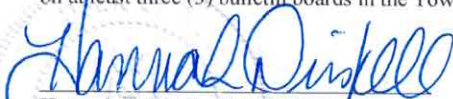
Baldwin County Sewer Service, LLC

Baldwin County Sewer Service, L.L.C.

By:   
Gerry Memanus, ~~Manager~~  
Controller

  
Witness (name typed or written)  
Michael Wheaton

**TOWN OF MAGNOLIA SPRINGS, ALABAMA** Certificate of Publication. This is to certify that Ordinance Number 2022-06, Town of Magnolia Springs, Alabama, was published by posting on at least three (3) bulletin boards in the Town from December 21, 2022, to January 21, 2023.

  
Hannah Driskell – Town Clerk