

**ORDINANCE NUMBER 3186**

**AN ORDINANCE AUTHORIZING THE MAYOR AND CITY MANAGER TO EXECUTE AND DELIVER AN AGREEMENT WITH BAGBY ELEVATOR COMPANY, INC., FOR INSPECTIONS AND SERVICING OF ELEVATORS IN CITY BUILDINGS**

**WHEREAS**, historically the City of Vestavia Hills has utilized Bagby Elevator Company, Inc. (“Bagby Elevator”), to inspect and service elevators at various city buildings; and

**WHEREAS**, the City’s new Facilities Manager has reviewed the multiple older agreements and has recommended bringing all of the City’s facility elevators into a single inspection and service agreement to include the City Hall, Vestavia Hills Police Department, the Library in the Forest and the new Vestavia Hills Civic Center through a newly negotiated 3-year agreement with Bagby Elevator; and

**WHEREAS**, a copy of the recommended agreement is marked as Exhibit A and is attached to and incorporated into this Ordinance Number 3186 as if written fully therein; and

**WHEREAS**, the proposed agreement has been reviewed by the Public Works Director and the City Manager who agree with the Facility Manger and recommend approval; and

**WHEREAS**, the Mayor and City Manager feel it is in the best public interest to accept said recommendation to bring all facility elevators into the single agreement detailed in Exhibit A.

**NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF VESTAVIA HILLS, ALABAMA, AS FOLLOWS:**

1. The Mayor and City Manager are hereby authorized to execute and deliver an agreement with Bagby Elevator as detailed in the attached Exhibit A; and
2. Said funding pursuant to the agreement shall be derived in the City’s General Fund; and
3. This Ordinance Number 3186 shall become effective immediately upon adoption and publishing/posting pursuant to Alabama law.

**DONE, ORDERED, ADOPTED and APPROVED** this the 14<sup>th</sup> day of August, 2023.



Ashley C. Curry  
Mayor

ATTESTED BY:

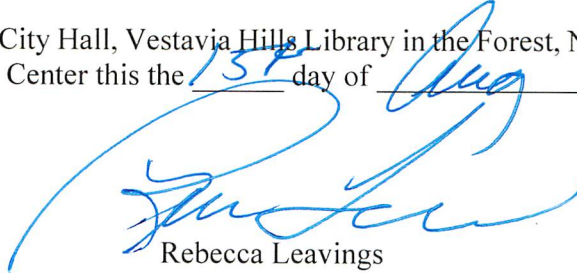


Rebecca Leavings  
City Clerk

**CERTIFICATION:**

I, Rebecca Leavings, as City Clerk of the City of Vestavia Hills, Alabama, hereby certify that the above and foregoing copy of 1 (one) Ordinance Number 3186 is a true and correct copy of such 14<sup>th</sup> day of August, as same appears in the official records of said City.

Posted at Vestavia Hills City Hall, Vestavia Hills Library in the Forest, New Merkle House and Vestavia Hills Recreational Center this the 15<sup>th</sup> day of Aug, 2023.



Rebecca Leavings  
City Clerk

## MAINTENANCE AGREEMENTS

**City of Vestavia Hills**  
**1973 Merryvale Road**  
**Vestavia Hills, AL 35216**  
(Hereinafter called Customer, you).

Bagby Elevator Company, Inc. (hereinafter called the Company, Bagby, we) proposes to furnish its maintenance service, as described herein, on the following:

**VESTAVIA HILLS CITY HALL – TWO (2) HYDRAULIC PASSENGER ELEVATORS – FULL MAINTENANCE**  
**LIBRARY IN THE FOREST – ONE (1) HYDRAULIC PASSENGER ELEVATOR – FULL MAINTENANCE**  
**LIBRARY IN THE FOREST – ONE (1) PASSENGER LIFT – OIL/GREASE MAINTENANCE**  
**REC CENTER – TWO (2) TAC 20 HYDRAULIC PASSENGER ELEVATORS – FULL MAINTENANCE**

### FMB FULL MAINTENANCE COVERAGE

Located at: **Vestavia Hills City Hall – 1032 Montgomery Highway – Vestavia Hills, AL 35216 - \$280.05 MONTHLY**  
**Library in the Forest – 1221 Montgomery Highway – Vestavia Hills, AL 35216 - \$138.42 MONTHLY**  
**Rec Center – 1090 Montgomery Highway – Vestavia Hills, AL 35216 - \$279.00 MONTHLY**

- Under this Contract, Bagby's trained personnel will maintain the elevator equipment as hereinafter described, on the terms and conditions subsequently set forth.
- Bagby will adjust, clean, lubricate, furnish lubricants and hydraulic oil, and when conditions warrant, repair or replace MACHINE, MOTOR, GENERATOR AND CONTROLLER PARTS including:
  - Worms, Gears, Thrusts, Bearings, Brake Magnet Coils, Brake shoes, Brushes, Windings, Commutators, Rotating Elements, Coils, Contacts, Resistors, Magnet Frames, Valves, Pistons, Piston Packing, Pump and other mechanical parts, Hall and Car Button Stations, Hall Lanterns, Position Indicators, Car and Hall Register Lights, Door Guides, Door Hangers, Door Interlocks and Door Operating Equipment.
- Bagby will keep the Guide Rails properly lubricated at all times except where roller guides are used, and when necessary, renew guide shoe gibs or guide rollers in order to assure smooth and quiet operation.
- Bagby will periodically examine all safety devices and governors, and equalize the tension on all hoisting ropes.
- Bagby will renew all wire ropes as often as necessary to maintain an adequate factor of safety, and repair and/or replace conductor cables.
- Bagby will also examine, lubricate, adjust, repair and/or replace the following accessory equipment:
- Bagby will correct any failures which take any Unit out of service as soon as is practicable. However, in the event a Unit is out of service for more than two (2) regular Company workdays from the day we receive notification of the failure, the Customer may request that Bagby credit the Customer in the following month, the amount of the monthly maintenance payment allocable to the Unit, prorated for the period the Unit was out of service beyond such time. The receipt of credits as set forth hereinabove will be Customer's exclusive remedy in the event of a failure taking a Unit out of Service for more than two (2) regular Bagby working days. This provision shall not apply to pre-scheduled repairs, or repairs delayed for any cause excused elsewhere in the Contract.
- The following items of elevator equipment are not included in this contract:
  - Cab, car doors, car flooring, car lights, emergency lighting, telephones and all related equipment, door frame, sills and hatch doors, A.C. service feeders and disconnect switches, fuses, intercoms, underground or unexposed jack assembly and underground, embedded, or unexposed piping, heat sensors, flex hoses, air conditioning units or any parts and components for same smoke sensors or safety signaling equipment or other instructions or warnings in connection with use by passengers (if applicable), or air conditioning units mounted on or about controllers including the parts and components for same.

- It is mutually agreed that Bagby shall not be under any obligation hereunder to make any renewals, repairs or replacements except those incidental to the normal wear and tear of the elevator equipment and that Bagby is not required under this contract to make renewals, repairs or replacements arising from or involving environmental conditions, power surges, water damage, fire, vandalism, negligence (other than that of Bagby), load tests, obsolescence, accident or misuse of machinery or car, work by others, or other similar or dissimilar causes beyond Bagby's control. Bagby shall not be required to make safety tests, nor to install new attachments on the elevator equipment whether or not recommended or directed by Insurance Companies, or Government, State, Municipal, or other authorities, nor to make any replacements with parts of a different design. If Customer requests and receives services for "non-covered" elevator equipment or work excluded under the Contract, Customer will compensate Bagby at the applicable regular or overtime rate for such work.
- For the customer's elevator equipment, Company will perform an annual no load safety test and once every five years a full load test on any traction elevator (if applicable). Any damage to the equipment or equipment resulting from any such testing is not ordinary wear and tear. Damage, renewals, repairs or replacements resulting or necessitated by same are not covered by Company under this contract.
- The Customer agrees to supply the company with all electrical drawings and wiring schematics, or proprietary equipment relating to the equipment covered by this contract.
- Services under this contract shall be performed during regular working hours on regular working days except as follows:
 

Emergency call back service between regular inspections during regular working hours  
of the elevator trade is provided in this contract.
- If overtime work not included in this contract is requested by Customer covering examinations, repairs, or emergency minor callback services, or if Customer requests that services under this contract be performed at other than regular working hours on regular working days, the Company will absorb the regular time portion of each overtime hour worked (at Bagby's standard billing rates). Travel time in addition to hours on the job will be billable to Customer at these rates. Customer shall pay only the double-time portion of each hour worked at the appropriate overtime billing rate. Hourly labor rates for overtime or regular time are available upon request. The foregoing credit for the regular time portion of work is inapplicable where the work arises from environmental conditions, power surges, water damage, fire, vandalism, negligence, load tests, obsolescence, accident or misuse of machinery or car, work by others, or other similar or dissimilar causes beyond Bagby's control.
- Services will be furnished hereunder for a period of **three (3) years**.
- For the service provided hereunder, Customer shall pay to the Company the sum of **Six Hundred Ninety-Seven & 47/100 dollars, (\$697.47), per month** payable upon presentation of invoice. ~~Customer shall pay an addition to the price herein quoted amount of any tax based on sales made hereunder, imposed by any law enacted after the date of this proposal.~~ The foregoing price shall be adjusted in the following manner as of the anniversary of the commencement date ("Adjustment Date"):
  - (1) 25% of the contract price shall be increased or decreased by the percentage of increase or decrease shown by the index of "Wholesale Commodity Prices for Metals and Metal Products" published by the U.S. Department of Labor, Bureau of Statistics, published as of the month within which the yearly adjustment date falls, as compared with the rate on the Commencement Date.
  - (2) 75% of the contract price shall be increased or decreased by the percentage of increase or decrease in the straight time hourly rate for elevator examiners, in the locality where the equipment is to be maintained on the yearly adjustment date as compared with the rate on the Commencement Date.
 

For the purpose of this contract and subsequent adjustments, the straight time hourly rate for elevator examiners shall equal actual hourly rate paid to the elevator examiners plus fringe benefits granted in lieu of, or in addition to, hourly rate increases. Fringe benefits include, but are not limited to, pensions, vacations, paid holidays, group life insurance, hospitalization insurance, F.I.C.A., S.U.I. and Worker's Compensation.
  - (3) The adjustment in price resulting from the above price adjustment provisions shall not increase the contract price to more than the maximum price permitted by any applicable, legally issued government regulation in force on the date that the adjustment becomes effective. In the event retroactive pay or fringe increases are incurred, the contract price will be prorated without regard to the yearly adjustment date.
- Payments in the frequency and amount set forth above are due on or before the last day of the month prior to the billing period, beginning on the Commencement Date.

Payment will be made via \_\_\_\_\_. Where applicable, to enable Bagby to process direct debit payments, Customer agrees to provide a copy of a voided check from Customer's business bank account.

The work shall be performed for the agreed price plus any applicable sales, excise or similar taxes as required by law. ~~In addition to the agreed price, Customer shall pay to Bagby any future applicable tax imposed on Bagby, Bagby's suppliers~~

~~or Customer in performance of the work described.~~

- The Customer shall at all times and at its own cost, maintain comprehensive bodily injury and property damage insurance, including bodily injury and property damage caused by the ownership, use or operation of the equipment described herein.
- The Customer shall not permit persons or firms other than Company to make alterations, additions, adjustments, repairs, or replacements to the equipment covered by this contract. This is a material term of this contract.
- Customer agrees that if any unit is malfunctioning or is in a dangerous condition, then Customer will immediately notify Bagby by using the 24-hour service line. Until the problem is corrected, Customer agrees to remove the unit from service and to take all necessary precautions to prevent access or use of the unit while it is malfunctioning or in a dangerous condition.
- It is agreed that Bagby does not assume possession or control of any part of the Units, that such remains the Customer's solely as owner, lessee, or agent of the owner or lessee, and that the Customer is solely responsible for all requirements imposed by any federal, state or local law, ordinance or regulation. The Customer agrees to give the Company ready access to all areas of the building in which any part of the Units are located and to keep all machine rooms and pit areas free from water, stored materials and excessive debris. The Customer agrees to provide a safe workplace for Company and to remove any waste or hazardous materials in accordance with applicable laws and regulations. The Customer agrees to maintain a maximum temperature of 85 degrees Fahrenheit in the elevator equipment room on all microprocessor controlled elevators.
- Customer agrees to properly post, maintain, and preserve any and all instructions or warnings to passenger in connection with the use of these units.
- Those elevators described in this contract provided with fire fighter service are required by law to be subjected to a test of the special emergency service and a written record kept of the findings. The Customer agrees to be responsible for performing, and keeping a record of, the monthly test of the fire fighter service as required by applicable code.
- If any part delivered hereunder incorporates computer software, the Customer agrees that the transaction is not a sale of such software but merely a license to use such software solely for operating the Unit(s) for which such part was provided. Accepting delivery of such part, the Customer agrees not to copy or let others copy such software for any purpose whatsoever, to keep such software in confidence as a trade secret, and not to transfer possession of such part to others except as a part of a transfer of ownership of the Units(s) in which such part is installed, provided that the Customer informs Bagby of such transfer and the transferee agrees to abide by the above license terms.
- Bagby shall not be held responsible or liable for any loss, damage, detention, or delay caused by accidents, labor troubles, strikes, lockouts, fire, flood, acts of civil or military authorities, or by insurrection or riot, or by any other cause which is unavoidable or beyond its control, or in any event for consequential damages. No work, service or liability on the part of the Company, other than that specifically mentioned herein, is included or intended.
- The Customer understands that Bagby will supply personnel, material, and resources to Customer, the costs of which must be prorated over the course of the contract term. For that reason, in the event of the sale, lease, or other transfer of the ownership of the equipment described herein, or the premises in which it is located, Customer agrees to see that such purchaser is made aware of this Agreement and assumes and agrees to be bound by the terms of the Agreement.
- The Customer hereby appoints the Company as special agent, authorized to act for the Customer in matters concerning elevator maintenance and repair. Specifically, Bagby is authorized to act as a special agent on the Customer's behalf when purchasing parts necessary to honor the maintenance contract. The Customer authorizes Bagby, as special agent for the Customer, to execute, at Bagby's expense, any legal action required to obtain the necessary parts. This contract creates a principal/agent relationship. It is not intended to constitute an employee/independent contractor relationship. The Customer shall retain control of the manner in which the Company may represent the Customer as its agent. Bagby's term as agent is for the duration of the maintenance contract.
- This contract shall constitute the entire agreement with respect to elevator service to be rendered by Bagby to Customer. No agent or employee shall have the authority to waive any clause of this contract. In the event the Customer's acceptance is in the form of a Purchase Order or other kind of document, the provisions, terms, and conditions of this Preventive Maintenance Agreement shall govern in the event of Conflict.
- All prior representations or agreements, whether written or verbal, not incorporated herein are superseded, and no changes in or additions to this agreement will be recognized unless made in writing and signed by both the Mayor and an Executive Officer of Bagby Elevator Company, Inc. Further, any manual changes to this form will not be effective as to Bagby unless initialed in the margin by an Executive Officer of Bagby Elevator Company, Inc.

#### **OIL AND GREASE PROTECTIVE MAINTENANCE COVERAGE**

Located at: **Library in the Forest – 1221 Montgomery Highway – Vestavia Hills, AL 35126 - \$232.20 QUARTERLY**

- Bagby shall make **quarterly** inspections of the Elevator(s) above described:

*including*

Lubricating and cleaning the machine, motor and controller, pump unit, piston, packing head, valves, pipe fittings and drive belts, lubricating the sheave bearings and guides.

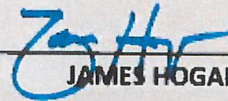
- This service does not include power switches, fuses for same, flex hoses, nor power wiring to controller.
- Bagby will also inspect and lubricate the following accessory equipment: Hoistway doors, door hinges, latches, or knobs and other items of accessory equipment not listed above.
- Materials supplied under this contract are limited to lubricating oils and greases only.
- Reports of inspection shall be made by Bagby and any defects disclosed by such inspections shall be listed on a time ticket and a copy of same shall be given to customer; such listing by Bagby shall constitute complete notification to Customer of any such defect.
- Services under this contract shall be performed during regular working hours on regular working days. If overtime work covering inspections is requested by the Customer, Bagby will absorb the hours worked at single time rates, and the Customer will compensate Bagby for overtime hours at Bagby's usual overtime rate.
- Services will be furnished hereunder from \_\_\_\_\_ (the "Commencement Date") at the price herein named for **three (3) years**.
- For the service provided hereunder, Customer shall pay to Bagby the sum of **Two Hundred Thirty-Two & 20/100 dollars (\$232.20) quarterly**, payable upon presentation of invoice. This price will remain firm for a period of **ninety (90) days**.
- On an annual basis, the foregoing price shall be adjusted by the percentage of increase or decrease in the straight time hourly rate for elevator examiners in the locality where the equipment is inspected on the anniversary of the Commencement Date as compared with the straight time hourly rate for elevator examiners on the Commencement Date. For the purpose of this contract and subsequent adjustments, the straight time hourly rate for elevator examiners shall equal the actual hourly rate paid to the elevator examiners plus the fringe benefits granted in lieu of, or in addition to, hourly rate increases. Fringe benefits include, but are not limited to pensions, vacations, paid holidays, group life insurance, sickness and accident insurance, hospitalization insurance, F.I.C.A., S.U.I., and Workmen's Compensation. The adjustment in price resulting from the foregoing price adjustment provision shall not increase the contract price to more than the maximum price permitted by any applicable, legally issued, government regulation in force on the date that the adjustment becomes effective. These adjustments shall be made on any semi-anniversary date or anniversary date of this contract to become effective immediately.
- Payments in the frequency and amount set forth above are due on or before the last day of the month prior to the billing period, beginning on the Commencement Date.
- Payment will be made via \_\_\_\_\_. Where applicable, to enable Bagby to process direct debit payments, Customer agrees to provide a copy of a voided check from Customer's business bank account.
- The work shall be performed for the agreed price plus any applicable sales, excise or similar taxes as required by law. ~~In addition to the agreed price, Customer shall pay to Bagby any future applicable tax imposed on Bagby, Bagby's suppliers or Customer in performance of the work described.~~
- In states requiring notice prior to filing a lien, this notice requirement is hereby complied with.
- **INSURANCE:** The Customer shall at all times and at its own cost, maintain comprehensive bodily injury and property damage insurance, including bodily injury and property damage covering the ownership, use or operation of the equipment described herein and to name Company, its officers, directors and employees as an additional insured under all limits of that policy or policies except worker's compensation.
- The Customer shall not permit persons or firms other than Company to make alterations, additions, adjustments, repairs, or replacements to the equipment covered by this contract. This is a material term of this contract.
- Customer agrees that if any unit is malfunctioning or is in a dangerous condition, then Customer will immediately notify Bagby by using the 24-hour service line. Until the problem is corrected, Customer agrees to remove the unit from service and to take all necessary precautions to prevent access or use of the unit while it is malfunctioning or in a dangerous condition.
- Customer agrees to properly post, maintain, and preserve any and all instructions or warnings to passenger in connection

with the use of these units. Customer shall not allow persons or entities other than those employed by Company to perform work or adjustments to the equipment described herein.

- It is agreed that Bagby does not assume possession or control of any part of the Units, that such remains the Customer's solely as owner, lessee, or agent of the owner or lessee, and that the Customer is solely responsible for all requirements imposed by any federal, state or local law, ordinance or regulation. The Customer agrees to give the Company ready access to all areas of the building in which any part of the Units is located and to keep all machine rooms and pit areas free from water, stored materials and excessive debris. The Customer agrees to provide a safe workplace for Company and to remove any waste or hazardous materials in accordance with applicable laws and regulations. The Customer understands that it is detrimental to the equipment to allow temperatures in excess of 85 degrees Fahrenheit in the elevator equipment room for any microprocessor controlled elevators.
- Those elevators described in this contract provided with fire fighter service are required by law to be subjected to a test of the special emergency service and a written record kept of the findings. The Customer agrees to be responsible for performing, and keeping a record of, the monthly test of the fire fighter service as required by applicable code.
- Bagby shall not be held responsible or be held liable for failure to make an inspection by reason of strikes, lockouts, fire, flood, acts of civil or military authorities, or by insurrection or riot, or by any other cause which is unavoidable or beyond its control.
- This Contract shall constitute the entire agreement with respect to elevator service to be rendered by Bagby to Customer, and all prior representations, whether written or verbal, are merged herein. No agent or employee shall have the authority to waive any clause of this contract. In the event the Customer's acceptance is in the form of a Purchase Order or other kind of document, the provisions, terms, and conditions of this Preventive Maintenance Agreement shall govern in the event of Conflict.
- The Customer understands that Bagby will supply men, material, and resources to my area, the costs of which must be prorated over the course of the contract term. For that reason, in the event of the sale, lease or other transfer of the ownership of the equipment described herein, or the premises in which it is located, Customer agrees to see that such purchaser is made aware of this Agreement and assumes and agrees to be bound by the terms of this agreement.
- All prior representations or agreements, whether written or verbal, not incorporated herein are superseded, and no changes in or additions to this agreement will be recognized unless made in writing and signed by both the Mayor and an Executive Officer of Bagby Elevator Company, Inc. Further, any manual changes to this form will not be effective as to Bagby unless initialed in the margin by an Executive Officer of Bagby Elevator Company, Inc.
- **Immigration:** By signing this Contract, the contracting parties affirm, for the duration of the Contract, 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 contract and shall be responsible for all damages resulting therefrom.
- **COMPLIANCE WITH TITLE 41-16-5, CODE OF ALABAMA, 1975, BOYCOTT LIMITATIONS:** Act 2016-312 of the Alabama Legislature prohibits a governmental entity from entering into certain public contracts with a business entity unless the contract includes a representation that the business is not currently engaged in, and an agreement that the business will not engage in, the boycott of a person or an entity based upon the person or business doing business with a jurisdiction with which the state can enjoy open trade. The prohibition does not apply if a business offers to provide goods or services for at least 20 percent less than the lowest certifying business entity or to a contract with a value less than \$15,000.00. Bagby represents and warrants that it is not currently engaged in, and will not engage in, the boycott of a person or an entity based in or doing business with a jurisdiction with which this state can enjoy open trade.

**BAGBY ELEVATOR COMPANY, INC.**

BY: \_\_\_\_\_



**JAMES HOGAN, DIRECTOR OF SALES**

**CITY OF VESTAVIA HILLS**

BY: \_\_\_\_\_

(Signature)

\_\_\_\_\_  
(name-typed or printed)

TITLE: \_\_\_\_\_

**The foregoing proposal is hereby accepted at the prices and upon the terms and conditions  
therein stated, this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.**

The proposal and contract is hereby accepted by Bagby Elevator Company, Inc.:

BY: \_\_\_\_\_

Hunter M. Bagby, Executive Vice President

DATE: \_\_\_\_\_