

Resolution 2023-R-154

**A resolution authorizing the execution of an agreement with
Racetrac, Inc. f/n/a Racetrac Petroleum, Inc. for fire department training purposes**

BE IT HEREBY RESOLVED by the City Council of the City of Irondale, Alabama, in regular meeting duly assembled, a quorum being present that Mayor James D. Stewart, Jr., or his designee, is hereby authorized to execute an agreement (in substantially the form attached hereto as Exhibit A) with Racetrac, Inc. f/n/a Racetrac Petroleum, Inc. for use of the property located at 2000 Crestwood Boulevard, Irondale, Alabama for fire department training purposes.

ADOPTED & APPROVED: This 4th day of October, 2023.

David Spivey, City Council President

APPROVED:

James D. Stewart, Jr., Mayor

ATTESTED:

Leigh Ann Allison, City Clerk

CERTIFICATION

I, Leigh Ann Allison, the City Clerk of the City of Irondale, Alabama, hereby certify that the above to be a true and correct copy of a resolution adopted by the City Council of the City of Irondale at its regular meeting held on the 4th day of October, 2023, as the same appears in the minutes of record of said meeting.

Leigh Ann Allison, City Clerk

EXHIBIT A



*City of Irondale Fire Department
5308 Beacon Drive
Irondale, AL 35210
Phone: (205)951-1408*

WAIVER AND RELEASE OF CLAIMS AND INDEMNITY AGREEMENT

THIS WAIVER AND RELEASE OF CLAIMS AND INDEMNITY AGREEMENT (“Agreement”) is made and entered into on the date of the last party to execute this Agreement by and between **THE CITY OF IRONDALE, ALABAMA**, an Alabama municipal corporation (hereinafter “City”), and **RACETRAC, INC, a Georgia corporation, f/n/a RACETRAC PETROLEUM, INC.** (hereinafter “Owner”).

NOW THEREFORE, in consideration of the terms herein contained and other good and valuable consideration, the receipt of which is hereby acknowledged, City and Owner hereby certify, understand, acknowledge, and agree to the following:

1. **PROPERTY OWNERSHIP.** Owner is the owner of the property located at 2000 Crestwood Boulevard, Irondale, Alabama (the “Property”).

2. **CONSENT TO USE OF PROPERTY FOR FIRE TRAINING PURPOSES.** The Property and the structure located thereon (the “Building”) may be utilized by the City of Irondale Fire Department (“Department”) for fire training purposes as the Department sees fit from the ____ day of October, 2023 until the ____ day of October, 2023 or at such other time as agreed upon between the Department and the Owner (“Training Date”).

3. **RELEASE AND WAIVER OF LIABILITY FOR PROGRAM PARTICIPATION.** In consideration of the Department agreeing to utilize the Property and the Building for fire training purposes, Owner agrees that the Department and the City of Irondale (“City”), its employees, representatives, officials, agents, and assigns (collectively, “Released Parties” or individually, a “Released Party”) shall not be responsible or liable for any injury, damage, loss or expense to the Property incurred during the Department’s use of the Property for fire training purposes.

Owner hereby releases, discharges, and waives any and all liability, claims and/or causes of action that Owner may have against the Released Parties as a result of damage to the Building. Owner agrees that this release from liability is intended to be as broad and inclusive as is permitted by the laws of the State of Alabama, and that if any portion is held invalid, then it is agreed that the balance shall remain in full legal force and effect. This release does not apply to unforeseen damage to the Property, or to claims of third parties related to or arising out of the Department’s use of the Property for training, or to any claims related to or arising out of the negligence or willful misconduct of the Department or its agents, contractors or employees (including, without limitation, any claims of loss or damage to any other property or third party occurring during or as a result of the Department’s use of the Property).

4. **INDEMNIFICATION.** Owner agrees to indemnify the Released Parties from any liability from and against any and all actions, causes of actions, suits, debts, claims, demands, damages, liability, and/or expenses (including attorney’s fees and costs) of every kind and nature incurred or arising out of the

lack of Owner's authority to permit use of the Property for fire training purposes and/or Owner's lack of clear title to the Property. The Department agrees to indemnify Owner from any liability from and against any and all actions, causes of actions, suits, debts, claims, demands, damages, liability, and/or expenses (including attorney's fees and costs) of every kind and nature incurred or arising out of claims of third parties related to or arising out of the Department's use of the Property for training, or to any claims related to or arising out of the negligence or willful misconduct of the Department or its agents, contractors or employees, including, without limitation, any claims of loss or damage to any other property or a third party, occurring during or as a result of the Department's use of the Property.

5. **ASSUMPTION OF RISKS.** Owner is aware that there may be certain risks involved in the use of Owner's Property by Department for fire training purposes. These risks may include injury or damage to the Property or other loss. Owner freely, voluntarily, and with such knowledge, assumes all risks of loss to the Building in allowing fire training to occur on the Property, including any damage to the Building that may arise or result from such training. Owner understands that the Released Parties are not responsible for conditions that Owner creates on the Property.

6. **WORKERS' COMPENSATION.** Employees of the City of Irondale Fire and/or Police Departments are covered by the City of Irondale's workers' compensation insurance to compensate for any work related injuries and/or deaths that may occur during their employment with the City and during the use of the Property for fire training purposes. Owner shall not be responsible for the payment of any such workers' compensation amounts.

7. **CANCELLATION OF INSURANCE AND UTILITY SERVICES.** Owner certifies that Owner has no insurance on the structure on the Property. Owner assumes all responsibility (i) for the disconnection of all utility services, including but not limited to gas, electric, water, telephone, television cables and antennas, and (ii) for removal of fuel oil, other hazardous substance and conditions, removal of any fixtures, items or equipment that Owner wishes to preserve prior to any Department training activities pursuant to this agreement. If the Owner has not completed these tasks at least twenty-four (24) hours before the Training Date, the Owner shall immediately notify the Department.

7. **POST TRAINING CONDITION OF STRUCTURE.** The post-training condition of the Property and the Building will be the responsibility of Owner. The intent of this agreement is to allow the use the Property and the Building for fire training sessions by the Department. Owner assumes all liability for securing the Building following the use of the Property by the Department. Further, Owner agrees to comply with all applicable ordinances and regulations of the City, county and state with respect to making the Property safe at the conclusion of the Department's training activities until such time as the structure on the Property is demolished by Owner.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed as of the dates set forth below.

CITY:

BY: Josh McDaniel

ITS: Fire Chief

DATE: _____

By my signature hereon, I certify that I have read, understand and acknowledge that this waiver discharges the Released Parties as set forth herein from any liability or claim that I may have against the Released Parties with respect to property damage that may result from the Department's use of the Property or any part thereof for fire training purposes. I hereby warrant that I am above the age of nineteen (19) years and am legally competent to execute a valid release.

OWNER:

**RACETRAC, INC.
f/n/a RACETRAC PETROLEUM, INC.**

By: _____

Printed Name: _____

Its: _____

Date: _____

STATE OF _____)

_____ COUNTY)

I, _____, a Notary Public in and for said County in said State, hereby certify that _____, whose name is signed to the foregoing instrument as _____ of RACETRAC, INC., a Georgia corporation, f/n/a Racetrac Petroleum, Inc., acknowledged before me on this day that, being informed of the contents of the instrument, he/she, as such officer, and with full authority, executed the same voluntarily for and as the act of said corporation.

Given under my hand and official seal this _____ day of _____, 2023.

My Commission Expires:

(SEAL)

Notary Public