

Join us! In an effort to enhance meetings during the COVID-19 shutdown, the City Council invites you to join and/or participate in a variety of ways: Via computer Zoom meetings (no app is necessary), telephone, email and/or text! See details on page 3.

**Vestavia Hills
City Council Agenda
January 25, 2021
6:00 PM**

1. Call to Order
2. Roll Call
3. Invocation – David J. Harwell, Vestavia Hills United Methodist Church Member
4. Pledge Of Allegiance
5. Approval Of The Agenda
6. Announcements, Candidates and Guest Recognition
7. City Manager’s Report
8. Councilors’ Reports
9. Approval Of Minutes – January 11, 2021 (Regular Meeting)

Old Business

1. Ordinance Number 2989 – Rezoning – 3412 Ridgedale Drive; Lot 6, Rocky Ridge Estates; Request To Rezone From Vestavia Hills R-1 (Low Density Residential District) To Vestavia Hills R-9 (Planned Residential District) For The Construction Of Four Single-Family Homes; Scott Thomson, Owner; Jason Kessler, Representing (*public hearing*)
2. Resolution Number 5297 – A Resolution Authorizing The City Manager To Purchase A Police Vehicle To Replace A Police Vehicle Which Was Recently Totaled (*public hearing*)

New Business

3. Resolution Number 5298 – A Resolution Authorizing The City Manager To Execute And Deliver A Subrecipient Funding Agreement Between The Regional Planning Commission Of Greater Birmingham And The City Of Vestavia Hills For The Purchase Of A Senior Bus

New Business (Requesting Unanimous Consent)

First Reading (No Action To Be Taken At This Meeting)

4. Ordinance Number 2999 – An Ordinance Appropriating Funds To Match A Federal Assistance To Firefighters Grant For The Installation Of Motor Vehicle Exhaust Systems In The Fire Stations In Order To Reduce Carcinogen Exposure (*public hearing*)
5. Citizens Comments
6. Adjournment

SPECIAL NOTICE CONCERNING CITY COUNCIL MEETINGS

Due to the COVID-19 “Stay at Home” Order issued by Gov. Ivey, the City Council work sessions and meetings are available via video-conference and teleconference. If you chose not to attend in person, you may still participate. Following are instructions for three options to participate remotely.

COMPUTER PARTICIPATION (*view/participate in real time*)

To participate in by videoconference, click <https://us02web.zoom.us/j/4555343275>. When the Zoom.us window opens in your browser, click “Allow” so that the page may open to a waiting room. The host will open the meeting and bring all into the meeting room at that time. All participants will be automatically muted upon entrance to the meeting. If you wish to speak during time(s) identified for public input, activate the “Raise Hand” feature and unmute yourself by toggling the mute button. When the Mayor recognizes you and gives you the floor, state your name and address for the record and then you may address the Council.

Using the icons on the Zoom screen, you can:

- Mute/unmute your microphone (far left)
- Turn on/off camera (“Start/Stop Video”)
- View Participants – opens a pop-out screen that includes the “Raise Hand” icon that you may use to raise a virtual hand
- Change your screen name displayed in the participant list and video window
- Toggle between “speaker” and “gallery” views – “Speaker view” shows the active speaker; “Gallery view” tiles all of the meeting participants

TELEPHONE PARTICIPATION (*view/participate in real time*)

To participate by telephone, dial 312.626.6799 and enter the meeting ID: 455 534 3275. All participants will be automatically muted upon entrance to the meeting. If you wish to speak during time(s) identified for public input, press *6 on your phone keypad to unmute yourself. Then state your name and wait for the Mayor to recognize you. When the Mayor recognizes you and gives you the floor, state your name and address for the record and then address the Council.

TEXT AND/OR EMAIL (*prior to the meeting or in real time*)

If you do not wish to join the meeting but would like to ask a question or make a statement regarding an item on the agenda, you may email the City Council directly at City.Council@vhal.org. You may also text your question/statement to City Council at 205.517.1370. Both of these options are available prior to and during each work session and meeting. Be sure to provide your name and address for the record and your comments will be recited to the City Council as the corresponding item is being addressed. Note: As a matter of record, your name and address are required. If identification is not provided, your comment/question will not be presented.

CITY OF VESTAVIA HILLS

CITY COUNCIL

MINUTES

JANUARY 11, 2011

The City Council of Vestavia Hills met in regular session on this date at 5:00 PM, following publication and posting pursuant to Alabama law. Due to the COVID-19 pandemic, in coordination with a Proclamation from Governor Ivey and pursuant to Orders from the Alabama State Health Officer, requiring social distancing along with limits of attendees, this meeting was held with a portion of Staff and general public/audience members attending via Zoom.com following publication pursuant to Alabama law. The Mayor called the meeting to order. The City Clerk called the roll with the following:

MEMBERS PRESENT:

Mayor Ashley C. Curry
Rusty Weaver, Mayor Pro-Tem*
Kimberly Cook, Councilor
Paul Head, Councilor
George Pierce, Councilor*

OTHER OFFICIALS PRESENT:

Jeff Downes, City Manager
Patrick Boone, City Attorney
Rebecca Leavings, City Clerk
Dan Rary, Police Chief
Jason Hardin, Police Captain
Marvin Green, Fire Chief
Melvin Turner, Finance Director
George Sawaya, Asst. Finance Director
Cinnamon McCulley, Communications Specialist*
**present via Zoom or telephone*

Mayor Curry led the invocation followed by the Pledge of Allegiance.

APPROVAL OF THE AGENDA

The Mayor opened the floor for a motion of approval of the agenda as presented.

MOTION Motion to approve the agenda as presented was by Mrs. Cook, seconded by Mr. Head. Roll call vote was, as follows:
Mrs. Cook – yes Mr. Head – yes
Mr. Pierce – yes Mr. Weaver – yes
Mayor Curry – yes motion carried.

ANNOUNCEMENTS, CANDIDATES, GUEST RECOGNITION

- Mayor Curry announced that this is the first meeting of the City Council for 2021 and he stated that he hoped everyone had a safe and happy New Year.
- Mayor Curry stated that January 9, 2021 was National Police Law Enforcement appreciation Day. He commended the City of Vestavia Hills Police Department for the wonderful work that they do for the City and that he wanted to recognize them pursuant to this Appreciation Day.
- Mr. Pierce announced that on January 21, 2021, he will attend the Chamber Board retreat. At this retreat, they pass around a volunteer sheet for Chamber members who will attend Council on behalf of the Chamber.
- Mrs. Cook reminded everyone that the State Department of Health is opening vaccines to those over 75 years of age and older. She encouraged people to get on the list through Jefferson County with an online form to qualify.
- Mr. Head announced that the Parks and Recreation monthly meeting will be held on January 19, 2021 beginning at 7 AM.

PROCLAMATION

The Mayor presented the Proclamation designating January 2021 as ‘Firefighters Cancer Awareness Month.’ The City Manager read the Proclamation and the Mayor presented it to Fire Chief Marvin Green.

Chief Green thanked the Mayor for the Proclamation. He stated that firefighters have 2.5 more chance of getting cancer than in most all occupations. He stated they have tried to reduce the carcinogens to reduce risk. He stated they have been hindered at reducing risk from engine exhaust, but, they have recently received a grant for a source capture to help reduce exhaust fumes within the stations. He stated this purchase will require a 10% match from the City that he will approach the Council at a later date to request.

CITY MANAGER’S REPORT

- Mr. Downes stating that he is planning the annual strategic planning sessions. He stated they currently have scheduled February 11 & 12 here at City Hall. These sessions will be in the Chambers and allowed via Zoom.
- Mr. Downes stated that the permitting for the new stormwater ordinances requires the City to keep annual refreshers on the program plan, a planning document which becomes the roadmap of what the City is doing to manage stormwater. He stated that they are in a public comment period at the moment.
 - Mr. Brady explained that this is one of 2 documents that has to be submitted each year. He stated they are currently seeking public input on the stormwater management plan and what the City does to meet requirements of BMP, etc. He explained the parameters of the plan and stated that they are open for public

involvement through the website and/or email cbrady@vhal.org. Comments are open through January 25, 2021.

COUNCILOR REPORTS

- Mr. Pierce attending the monthly meeting of the Chamber tomorrow via Zoom with key speaker Mark Ingram, UAB Athletic Director.
- Mr. Weaver stated that the Planning and Zoning Commission will have their regular meeting this Thursday at 6 PM offered both via zoom and in person.

FINANCIAL REPORTS

George Sawaya, Asst. Finance Director, presented the City's financial reports for month ending November, 2020. He read and explained the balances.

APPROVAL OF MINUTES

The Mayor opened the floor for approval of the following minutes: December 21, 2020 (Work Session) and December 28, 2020 (Regular Meeting).

MOTION Motion to approve the minutes of December 21, 2020 (Work Session) and December 28, 2020 (Regular Meeting) was by Mrs. Cook and seconded by Mr. Head. Roll call vote as follows:

Mrs. Cook – yes

Mr. Head – yes

Mr. Pierce – yes

Mr. Weaver – yes

Mayor Curry – yes

motion carried.

OLD BUSINESS

NEW BUSINESS

RESOLUTION NUMBER 5295

Resolution Number 5295 – A Resolution Declaring Certain Personal Property As Surplus And Authorizing The City Manager To Sell/Dispose Of Said Property

MOTION Motion to approve Resolution Number 5294 was by Mrs. Cook, and seconded by Mr. Head.

Mr. Downes stated that this includes vehicles and equipment from various departments such as Library, Police and Public Works which have reached end of life and need to be sold.

There being no one else to further address the Council, the Mayor called for the question.
Roll call vote was as follows:

| | |
|-------------------|------------------|
| Mrs. Cook – yes | Mr. Head – yes |
| Mr. Pierce – yes | Mr. Weaver – yes |
| Mayor Curry – yes | motion carried. |

ORDINANCE NUMBER 2990

Ordinance Number 2990 – A Resolution Authorizing The City Manager To Execute And Deliver An Agreement With The Birmingham Water Works Board For A Water Line Easement At SHAC

MOTION Motion to approve Ordinance Number 2990 was by Mrs. Cook, and seconded by Mr. Head.

Mr. Downes explained that is for the tunnel project at SHAC and involves this BWWB agreement to relocate a water line. He stated that the original project contract allowed them to move the water line, but, they need this easement in order to relocate it.

There being no one else to further address the Council, the Mayor called for the question.
Roll call vote was as follows:

| | |
|-------------------|------------------|
| Mrs. Cook – yes | Mr. Head – yes |
| Mr. Pierce – yes | Mr. Weaver – yes |
| Mayor Curry – yes | motion carried. |

NEW BUSINESS (UNANIMOUS CONSENT REQUESTED)

FIRST READING (NO ACTION TO BE TAKEN AT THIS MEETING)

- Ordinance Number 2989 – Rezoning – 3412 Ridgedale Drive; Lot 6, Rocky Ridge Estates; Request To Rezone From Vestavia Hills R-1 (Low Density Residential District) To Vestavia Hills R-9 (Planned Residential District) For The Construction Of Four Single-Family Homes; Scott Thomson, Owner; Jason Kessler, Representing (public hearing)
- Resolution Number 5297 – A Resolution Authorizing The City Manager To Purchase A Police Vehicle To Replace A Police Vehicle Which Was Recently Totaled (public hearing)

CITIZEN COMMENTS

None.

At 5:19 PM, Mrs. Cook made a motion to adjourn. The meeting adjourned at 5:20 PM.

Ashley C. Curry
Mayor

ATTESTED BY:

Rebecca Leavings
City Clerk

ORDINANCE NUMBER 2989

AN ORDINANCE TO FURTHER AMEND THE ZONING ORDINANCE AND THE ZONING MAP OF THE CITY OF VESTAVIA HILLS, ALABAMA, ADOPTED SEPTEMBER 16, 1985, AND AS LAST AMENDED SO AS TO CHANGE THE CLASS OF DISTRICT ZONING OF PROPERTY FROM VESTAVIA HILLS R-1 TO VESTAVIA HILLS R-9

BE IT ORDAINED by the City Council of the City of Vestavia Hills, Alabama, as follows: That the Zoning Ordinance and Zoning Map of the City of Vestavia Hills, Alabama, adopted September 16, 1985, and as last amended so as to change the class of district zoning of the following described property from Vestavia Hills R-1 (low density residential district) to Vestavia Hills R-9 (planned residential district):

3412 Ridgedale Drive
Lot 6, Rocky Ridge Estates
Scott Thomson, Owner(s)

APPROVED and ADOPTED this the 25th day of January, 2021.

Ashley C. Curry
Mayor

ATTESTED BY:

Rebecca Leavings
City Clerk

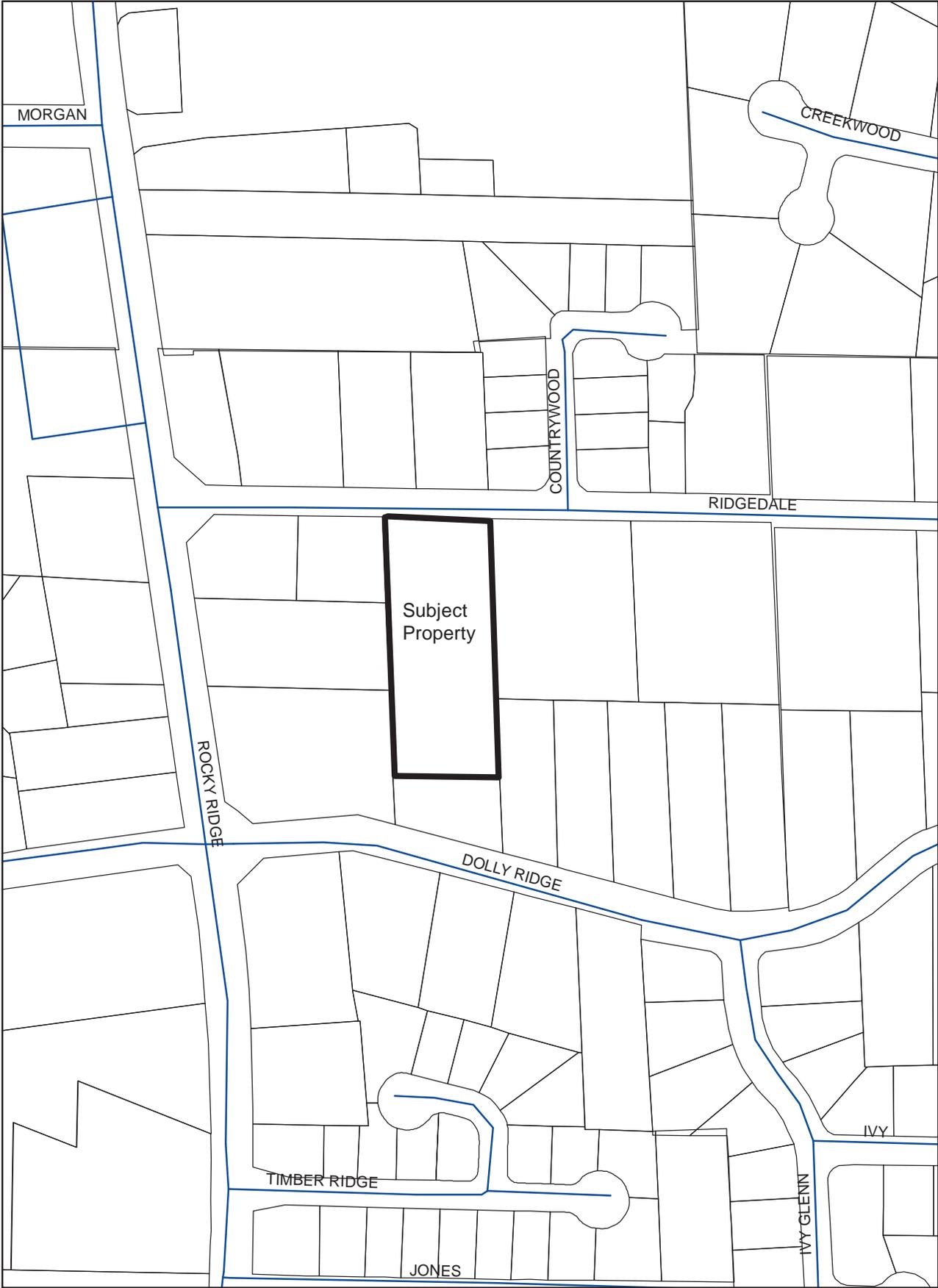
CERTIFICATION:

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 # 2989 is a true and correct copy of such 25th day of January, 2021, 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 _____ day of _____, 2021.

Rebecca Leavings
City Clerk

3412 Ridgedale Drive



CITY OF VESTAVIA HILLS
SYNOPSIS AND STAFF RECOMMENDATION CONCERNING
APPLICATION BEFORE THE PLANNING AND ZONING COMMISSION

Date: NOVEMBER 12, 2020

- **CASE:** P-1120-35
- **REQUESTED ACTION:** Rezoning Vestavia Hills R-1 to Vestavia Hills R-9
- **ADDRESS/LOCATION:** 3412 Ridgedale Dr.
- **APPLICANT/OWNER:** Scott Thomson
- **REPRESENTING AGENT:** Jason Kessler
- **GENERAL DISCUSSION:** Applicant is seeking rezoning Ridgedale Dr. for a four lot single family development. This property is +/- 1.25 acres and is adjacent to El Poblano, Andy's Farmers Market, and a gas station. The request would remove any existing structures and plat four lots that back up to the commercial development. The lots would be serviced by a newly created public street. Proposed setbacks are 25' in the front, 20' un the rear, and 10' on each side.
- **VESTAVIA HILLS COMPREHENSIVE PLAN:** The Comprehensive Plan designates this area for low/medium density. With lots just under a quarter of an acre this development could be considered medium density. The development could also be considered transitional due to the nature of uses next door.
- **STAFF REVIEW AND RECOMMENDATION:**
 1. **City Planner Review:** I have looked at all of the relevant zoning / subdivision requirements related to this proposal, including application, notification, setbacks, area of lot development, etc. Notification has been sent to property owners pursuant to Alabama law. I have reviewed this request and find it does meet the minimum requirements of the proposed zoning.

City Planner Recommendation: Final plat must be recorded before rezoning is final.
 2. **City Engineer Review:** I have reviewed the application and I have no issues with this request.
 3. **City Fire Marshal Review:** I have reviewed the application and I have no issues with this request.

4. **Building Safety Review:** I have reviewed the application and I have no issues with this request.

MOTION Mrs. Barnes made a motion to recommend Rezoning from Vestavia Hills R-1 to Vestavia Hills R-9 for the property located at 3412 Ridgedale Dr. Second was by Mr. Maloof. Motion was carried on a roll call; vote as follows:

Mr. Maloof – yes
Mr. Ferrell – yes
Ms. Vercher – yes
Mrs. Barnes – yes
Motion carried.

Mr. Romeo – yes
Mr. Sykes – yes
Mr. Weaver – yes
Mr. Larson – yes

- R-2
- PUD-PR-1
- R-1
- R-4
- R-6
- R-9
- R-3
- R-8
- R-5
- R-9*
- RC-1
- B-3
- A
- E-2
- B-2
- Inst-1
- R-1*
- O-1
- PUD-PB
- R-8*
- R-6*
- B-1
- B-3
- Inst
- B-2
- O-1
- R-7
- R-4



Zoning1

| | |
|------------|-------------------|
| PARCELID | 2800323003003000 |
| DISTRICT | 020 |
| ESN_NUM | 62 |
| PROPADD | 3412 RIDGEDALE DR |
| TAX_TOWNSH | 28 |
| SECTION | 32 |
| OSECTION | 3 |
| BLOCK | 003 |
| PARCEL | 003000 |
| VH_ZONING | R-1 |
| ZNG_ORD | 1203 |
| ZNG_ORD_DT | 05/06/1991 |
| ZNG_ORD2 | |
| Zoom to | |

Subject Parcel

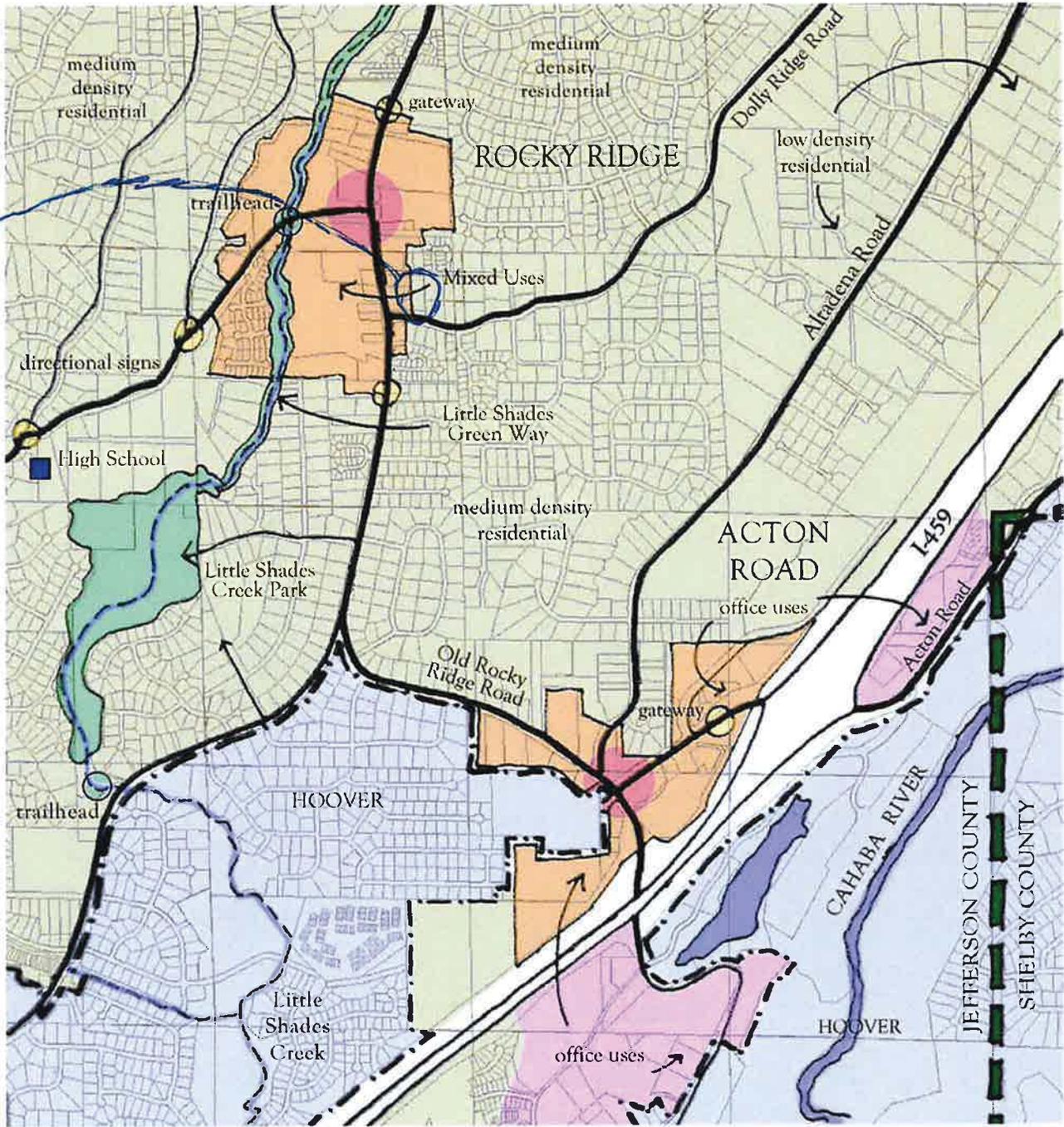


Figure 21: Rocky Ridge Road / Acton Road West
Land Use Analysis

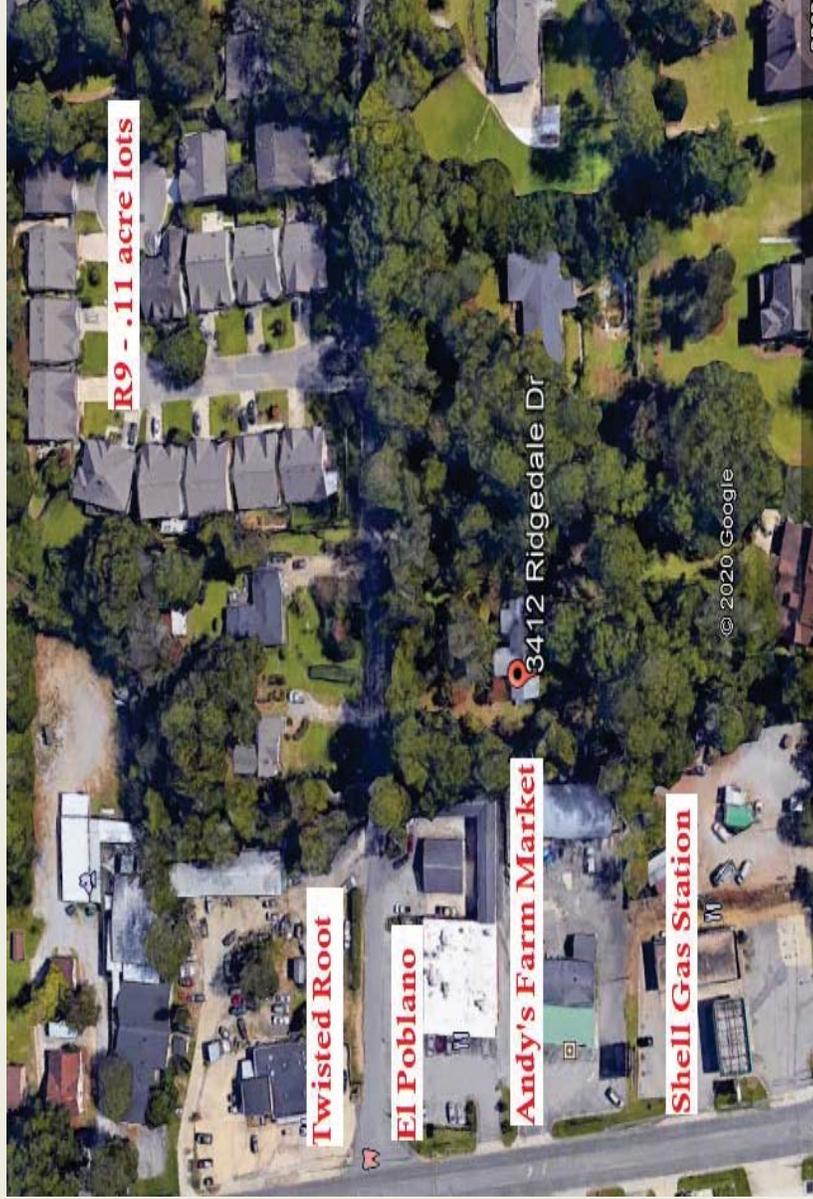
- Neighborhood - primarily low / medium density single-family residential areas with higher densities near village centers). Other uses may include schools, places of worship, recreational areas, and open space.
- Village Center - mixed use centers with highest densities in core areas. Mix of uses should include retail and service businesses, professional offices, high density residential areas, institutions, recreation areas, and public spaces.
- Commercial Core - primarily high density, retail and service business areas with professional offices and multi-family residences on upper floors or on periphery. Other uses may include institutions and public space.
- Gateways and Nodes - Gateways are entryways into the community or village enhanced with consistent signage, landscaping, and other elements. Nodes are sites, such as transit stops, where public spaces, signage, and other public design elements should be considered.
- Professional Offices - primarily professional office uses. Density should vary according to surroundings. Other uses may include retail and services (supporting offices and employees), places of worship, public spaces, and open space.
- Recreation and Open Space - public and private recreation facilities and preserved natural spaces. Recreation facilities may be active, passive or combined. Open spaces are areas preserved in a natural state and may include passive recreational uses.
- Trailheads - Trailheads are public sites along a trail, where bike racks, seating, parking, and public amenities are provided for trail users.
- Schools - School facilities administered by the Vestavia Hills School System.



3412 RIDGEDALE DRIVE

Vestavia Hills, Alabama

Existing Property



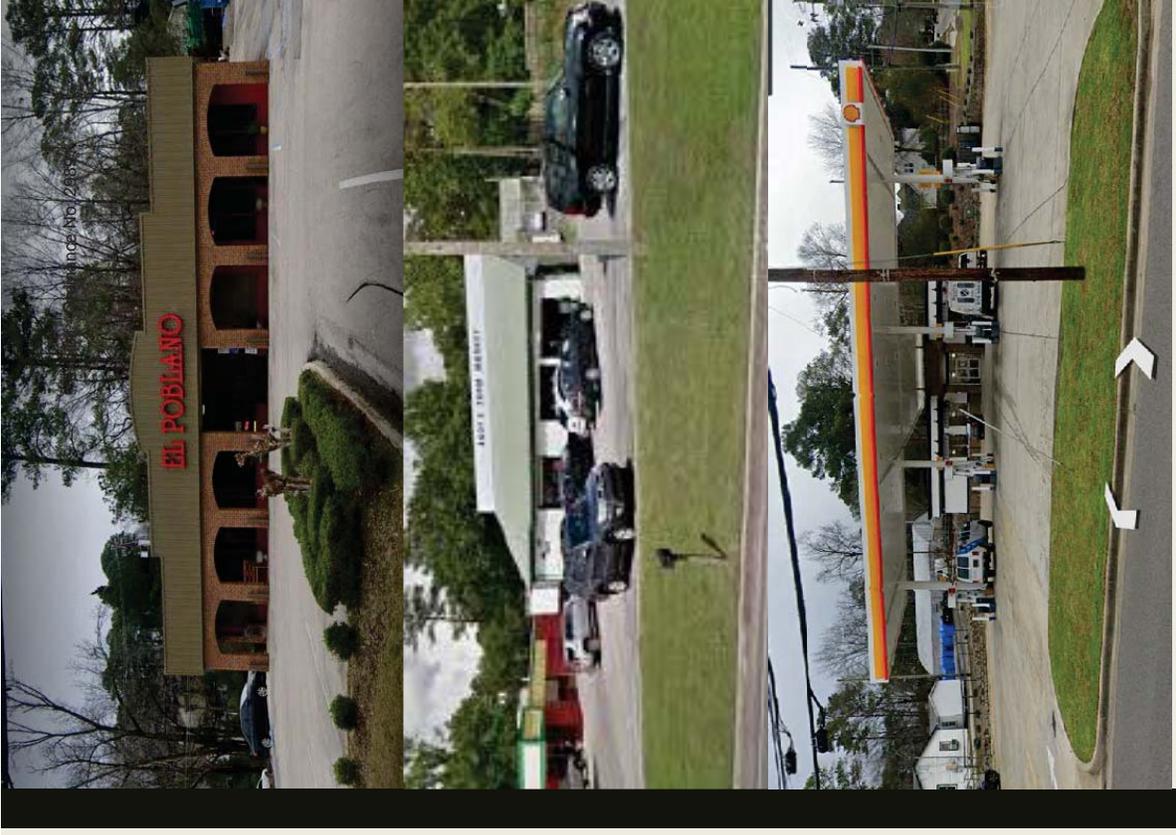
3412 Ridgedale Drive is a 1.23 acre piece of property that is contiguous to multiple commercial properties and is across the street from a densely populated garden home development. We believe a 4 lot subdivision would create the perfect transitional zoning from commercial on Rocky Ridge, to our proposed lots, to larger lots on Ridgedale.

In an effort to create the best and most sensible design, our homes have been placed away from the single family home to the East and closer to the commercial properties to the West. This helps create a buffer between the residential properties. Additionally, we plan to plant a landscape buffer and fence between the home to the East and our newly constructed public road to provide privacy and an aesthetic appeal.

The current zoning would allow for 2 homes to be built on the subject property without a rezone or variance. Ultimately, we are asking to increase the allowed density from 2 to 4 homes and with it will come property value increases and substantial infrastructure improvements that would likely not occur without a rezoning. For these reasons, we feel this would be a great addition to the area that would benefit everyone.

Neighboring Property

Contiguous to the West of the subject property are three separate commercial properties. El Poblano restaurant, Andy's Farm Market, and Shell Gas Station all located on Rocky Ridge Road. Turning onto Ridgedale Drive from Rocky Ridge, the properties transition to single family residential.

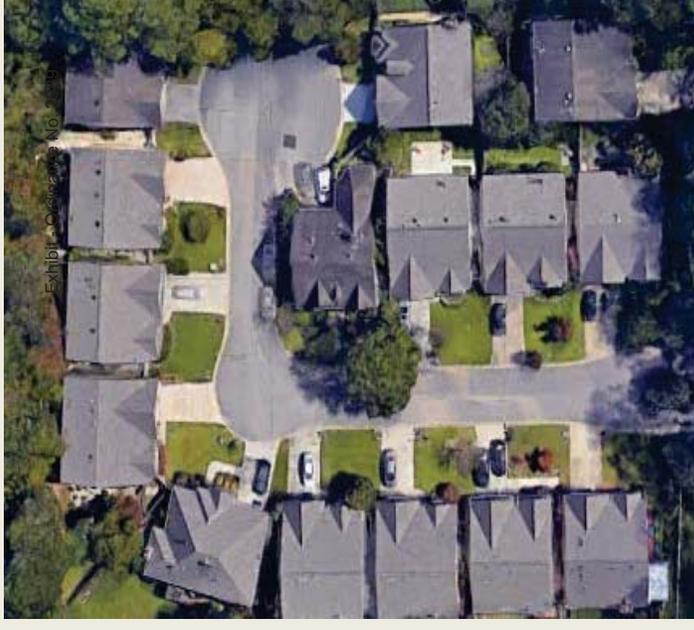


Neighboring Property

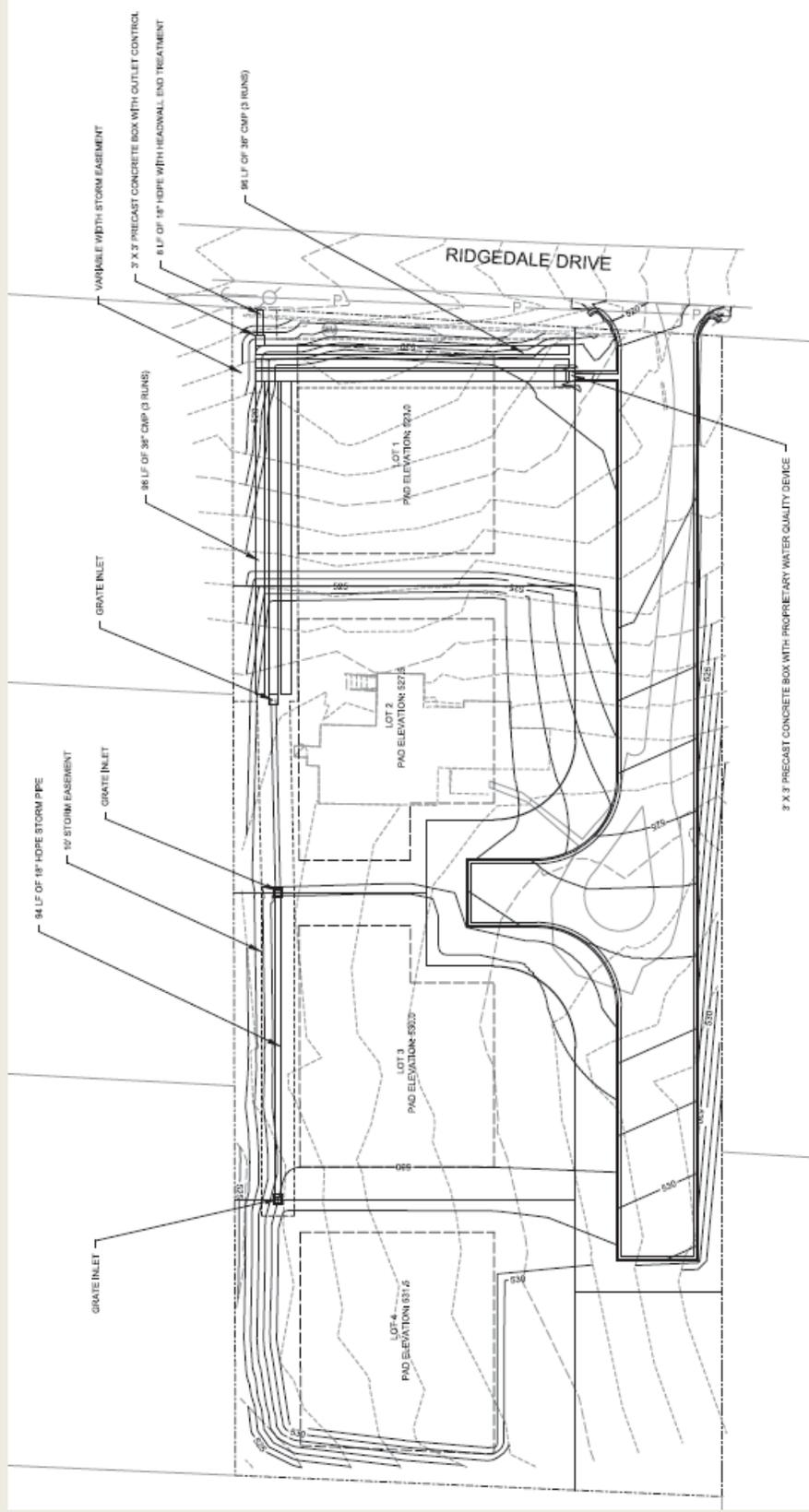
To the North of the subject property is the Country Wood Trace subdivision. This is a garden home development with the majority of lots being about .11 acres a piece. The homes are roughly 10 feet apart from one another.

Conversely, our proposed plan would offer lots that are almost twice that size at .20 acres a piece. The homes would also be a minimum of 20 feet apart.

Ridgedale Drive features homes on larger lots as well. It is our belief that our proposed subdivision is a good fit as medium sized lots interspersed with the garden home lots and larger lots.



Grading and Drainage Plan



Grading and Drainage Plan

One stated concern regarding the property is the current drainage situation. A big part of the problem is there is no storm water infrastructure to speak of on the property. If our rezoning is approved, we will be installing a substantial storm water system that has been designed by Engineering Design Group and reviewed and approved by the City of Vestavia engineers.

The plan currently shows several runs of underground pipe. We are exploring an alternate system that would bury the water in underground chambers. Either way, the drainage situation will only be improved by the system we would install.

Traffic

- We used the Institute of Transportation Engineers' Trip Generation, 8th Edition to determine changes in traffic if our rezoning request is approved. What we found is if we built our proposed 4 homes, there would be an increase of about 1 trip per hour to the existing traffic flow. This is a miniscule amount of traffic to be added to the neighborhood.
- We also set up a time lapse camera to document the number of cars that use Ridgedale Drive on a given day. During the hours of 2pm-6pm, the hours in which school and "rush hour" traffic are highest, the traffic averaged out to roughly 1 car every 2 minutes. This is not, by any means, a high volume of traffic.
- We have agreed to work with the City in their attempts to widen Ridgedale Drive to improve traffic conditions.
- We have also reached out to the City to ask for Ridgedale Drive to be added to the repaving priority list. It currently does not show on the list on the City's website. It is our hope that if we are going to perform infrastructure improvements such as installing sidewalks, helping to widen the road, and installing storm water systems, that the City will agree to expedite repaving of the road, which is needed.

Schools

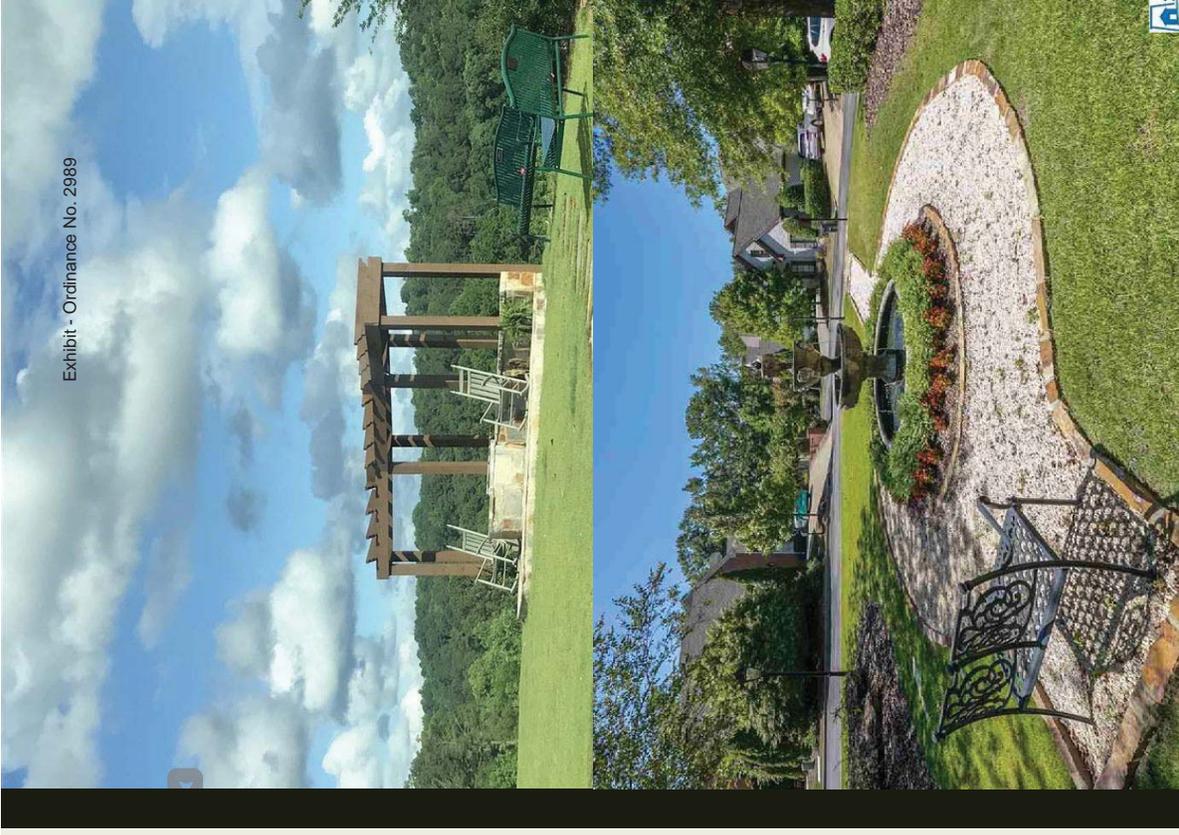
- We contacted the Board of Education regarding any potential school capacity issues. We were informed that the City Council discusses school capacity with the BOE and would ultimately decide if a rezoning would present any issues. It is our opinion that an increase of a possible 2 homes under the current zoning to our proposed 4 would not create an issue.
- In addition, in different parts of Vestavia we are currently building similar homes to what we are proposing here. Of 6 current clients, only 1 have school aged children and the majority of our clients are empty nesters. We have found that homes of this size, with mostly main level living, and smaller yards are very attractive to people without school aged children.

Common Area/Green Space

In addition to substantial infrastructure improvements, our plan incorporates a common area/green space into the design as opposed to trying to add another home to the subdivision.

We believe a green space in which to congregate with neighbors and friends is a positive benefit to any neighborhood. That is even more true in a walkable area such as this one and it should only add to the village-like atmosphere we are all trying to responsibly add to surrounding Rocky Ridge.

These are a couple examples of small common areas we have designed in the past. One from our Westminster neighborhood in Vestavia and Lennox community in the Hoover area.



Previous Work - Pumpphouse Village Vestavia Hills - Selling mostly in the \$600's to \$700's

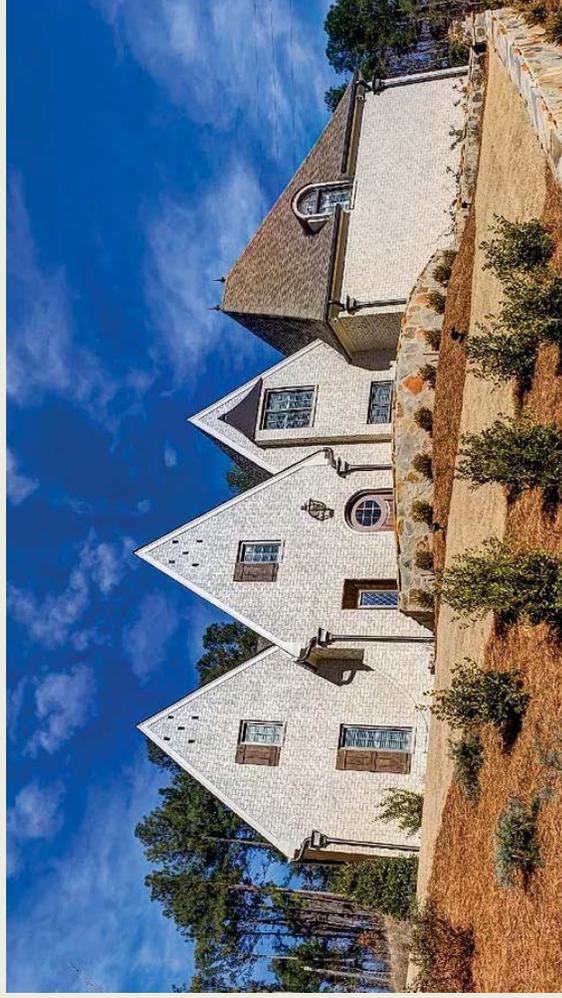


Exhibit - Ordinance No. 2989

Previous Work - The Cove at Overton Vestavia Hills & Mountain Brook - \$800's to \$1mm+



Exhibit - Ordinance No. 2989

Previous Work - The Cove at Overton Vestavia Hills & Mountain Brook - \$800's to \$1mm+



Previous Work - Calton Hill Mountain Brook - \$800's to \$900's

Exhibit - Ordinance No. 2989



Exhibit - Ordinance No. 2989

Previous Work - The Cove at Edgewood

Homewood - \$600's to \$900's



Conceptual Front Elevations

- Our plan is to build homes in the range of 2,800 – 3,000 square feet with Master Bedrooms and 2 car garages on the main level. We would likely offer these homes in the mid \$600's and up which is a substantial part of our niche market. The homes will feature brick and stone exteriors, stainless steel appliances, quartz counters, and other amenities commonly found in our homes. Homes with this type of square footage, amenities, and lot size are very popular and we are confident these homes will sell as well as they do in other parts of Vestavia and other areas.



Exhibit - Ordinance No. 2989





About KADCO Homes

We have been in business here in Birmingham for over 35 years. With a strong and consistent focus on the Vestavia area market, we have helped create communities such as Wellington Park, Cambridge, Kensington, Panorama Brook, Crossbridge, Cobblestone, Westminster, The Cove at Overton, Pumphouse Village, & more.

We are currently working on several communities in Vestavia such as Vestavia Terrace townhomes, Natchez Drive, Poe Drive at Overton Village, Fairhaven Manor, and Winward Lane. You can find out more about us by visiting kadcohomes.com



RESOLUTION NUMBER 5297

**A RESOLUTION AUTHORIZING THE CITY MANAGER TO PURCHASE
A NEW POLICE VEHICLE TO REPLACE A RECENTLY TOTALED
POLICE VEHICLE**

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

1. The City Manager is hereby authorized to purchase a 2021 Ford Explorer Police Interceptor, a replacement vehicle for a police vehicle recently totaled, and up-fit it with all the necessary emergency equipment re-using as much equipment from the previous vehicle as possible; and
2. The City will be receiving an insurance settlement for the previous vehicle in the amount of \$39,471.85 which will partially fund this replacement vehicle; and
3. Any additional funds needed for this purchase shall be derived from the Vehicle Maintenance budget for the Vestavia Hills Police Department; and
4. This Resolution Number 5297 shall become effective immediately upon adoption and approval.

ADOPTED and APPROVED this the 25th day of January, 2021.

Ashley C. Curry
Mayor

ATTESTED BY:

Rebecca Leavings
City Clerk

Rebecca Leavings

From: Danny Rary
Sent: Monday, January 4, 2021 10:17 AM
To: Jeff Downes; Rebecca Leavings
Cc: Sean Richardson
Subject: Wrecked unit 108

Mr. Downes,

I am requesting that we place an item on the council agenda for normal process on Monday 11 January 2021.

The city has reached a settlement on the wreck of Unit 108 VIN # 1FM5K8AR7KGA12700 with Travelers insurance. This settlement was for \$39,471.85.

I am requesting this council action to purchase a 2021 Ford Explorer Police Interceptor and up-fit it with all the necessary emergency equipment. We will re-use every piece of equipment possible from Unit 108 in order to maximize the money from the settlement.

Any funds above the settlement amount for this purchase will come from Vehicle Maintenance.

This item will be purchased from Woody Anderson Ford located in Huntsville Alabama, through the North Alabama Cooperative Purchasing Association.

Thank you,

Dan



Danny P. Rary
Chief of Police
Vestavia Hills Police Department
1032 Montgomery Highway
Vestavia Hills, Alabama 35216
205-978-0109
drary@vhal.org

RESOLUTION NUMBER 5298

A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE AND DELIVER A SUBRECIPIENT FUNDING AGREEMENT BETWEEN THE REGIONAL PLANNING COMMISSION OF GREATER BIRMINGHAM AND THE CITY OF VESTAVIA HILLS FOR THE PURCHASE OF A SENIOR BUS

BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF VESTAVIA HILLS, ALABAMA, AS FOLLOWS:

1. The City Manager is hereby authorized to execute and deliver a Subrecipient Funding Agreement Between the Regional Planning Commission of Greater Birmingham (RPCGB) for a Federal Transit Administration (FTA) grant for the purchase of a Senior bus; and
2. Said grant will pay for 80% of the eligible expenses to a maximum of \$66,774 with the City providing the remaining 20% of \$16,694, said matching funds budgeted for FY21 in the City's Capital Purchases budget; and
3. A copy of this agreement is marked as Exhibit A, attached to and incorporated into this Resolution Number 5298 as if written fully therein; and
4. This Resolution shall become effective immediately upon adoption and approval.

Ashley C. Curry
Mayor

ATTESTED BY:

Rebecca Leavings
City Clerk

**SUBRECIPIENT FUNDING AGREEMENT BETWEEN
REGIONAL PLANNING COMMISSION OF GREATER BIRMINGHAM
and
CITY OF VESTAVIA HILLS**

This Subrecipient Funding Agreement (“Agreement”) is hereby made and entered into by and between Regional Planning Commission of Greater Birmingham (RPCGB) and City of Vestavia Hills (Subrecipient), collectively referred to as Parties.

RECITALS

WHEREAS, RPCGB acts as the Designated Recipient for the federal Transit Administration (FTA) Section 5310 Enhanced Mobility for Seniors and Individuals with Disabilities Birmingham urbanized area apportionment funds (5310); and

WHEREAS, RPCGB, working through FTA, has the authority to fund local projects, provided that an agency receiving grant funds agrees to and can perform the responsibilities required by FTA; and

WHEREAS, Subrecipient has executed an agreement to adhere to the federal fiscal year certifications and assurances for the FTA assistance programs as required; and

WHEREAS, Subrecipient has submitted a project proposal (project) for financial assistance and, based on representations made, the Subrecipient is eligible to receive 5310 grant funding; and

WHEREAS, to the extent required, the project is included in the approved Human Services Coordinated Transportation Plan; and

WHEREAS, RPCGB has agreed to provide Subrecipient with a portion of the 5310 Birmingham urbanized area apportionment.

NOW THEREFORE, the Parties agree, and by the execution hereof are bound, to the mutual obligations, performance, and accomplishment of the tasks hereinafter described.

ARTICLES

I. TERMS AND CONDITIONS

This Agreement begins on January 12, 2021 and remains in effect until December 31, 2022, unless terminated or otherwise modified in an amendment. Costs incurred before the contract period

are not eligible for reimbursement. Any project funds not utilized by the termination date of this Agreement will be used for other eligible 5310 projects.

As a Subrecipient of Section 5310 funds, the Subrecipient understands and agrees that receipt of such funding is contingent and conditioned on its compliance with all RPCGB and federal requirements, and that these requirements necessarily encompass all applicable federal statutes, regulations, terms and conditions of the federal award, as well as those set out in the FTA Master Agreement (Master Agreement), as amended from time to time. The terms and conditions of the Master Agreement are hereby incorporated herein and made a part hereof for all purposes as if fully set out. Any conflict between this Agreement and the Master Agreement will be resolved in favor of the Master Agreement. Any violation of a federal requirement by the Subrecipient can result in an enforcement action undertaken by FTA and termination of this Agreement by RPCGB and/or FTA.

The Subrecipient must not represent itself as an agent or employee of RPCGB and has no authority to bind RPCGB in contract or otherwise.

The Subrecipient agrees to maintain sufficient legal, financial, technical, and managerial capacity to:

- plan, manage and complete the project and provide for the use of project services
- comply with the terms of this Agreement, the approved project budget, and the project schedule, and
- comply with all applicable federal laws, regulations, and requirements, the Master Agreement, and the annual Certifications and Assurances to FTA

Subrecipient must notify RPCGB as soon as possible but not more than thirty (30) days after the occurrence of any change in conditions (including its legal, technical, financial, or managerial capacity), any change in local law, or any other event that may significantly affect Subrecipient's ability to perform the project in accordance with the terms of this Agreement. Subrecipient must provide immediate written notification to RPCGB of any current or prospective major dispute, breach, default, or litigation that may affect RPCGB's or the federal government's interest in the project or the federal government's administration or enforcement of its laws or regulations, and must also inform RPCGB and FTA in writing before naming the federal government as a party to litigation. Subrecipient agrees and understands that FTA retains a right to concur in any compromise or settlement of any claim involving the project.

Parties agree and understand that any given term under this Agreement cannot be extended past the time-period of the grant award from which the funding is originating.

II. PROJECT DESCRIPTION

Subrecipient has submitted and is responsible for implementing and completing the project as described in Exhibit A attached hereto and incorporated herein.

III. FUNDING

To the extent that RPCGB receives Section 5310 funds for the project, RPCGB will pay for 80% of eligible expenses up to a maximum of \$66,774.

Subrecipient understands that the federal funds to be provided under this Agreement are contingent on FTA's approval of the grant application and are subject to the federal lapsing requirements. RPCGB assumes no responsibility for funding any portion of the project. The entering into of this Agreement by RPCGB is subject to RPCGB's receipt of federal funds adequate to carry out the provisions of this Agreement. RPCGB may cancel the project and associated work if RPCGB determines that there will be a lack of adequate funding available for the project. In such event, RPCGB must notify the Subrecipient in writing within thirty (30) days in advance of the date that such cancellation is effective, and the cancellation will be treated as a termination for convenience under Article XI of this Agreement. RPCGB is not responsible for providing any funding to substitute for the federal funds in the event the grant is withdrawn or not provided for any reason. In the event the grant is closed, the Subrecipient must reimburse RPCGB for any funds paid that were no longer available in the FTA grant award.

This is a one-time Grant Award of federal funds by RPCGB to the Subrecipient and does not imply or obligate RPCGB to any future funding commitment.

Subrecipient must provide \$16,694 in local match funding for the project. Subrecipient agrees to provide sufficient funds, together with the federal assistance, that will assure payment of the actual cost of each project activity covered by FTA grant funds. Subrecipient agrees to complete all proceedings necessary to provide the local share of the project costs at or before the time the local share is needed for the project. Subrecipient also agrees to provide the proportionate amount of the local share promptly as it incurs project costs or as project costs become due. No refund or reduction of the local share may be made unless, at the same time, a refund of the proportional amount of the federal funds is made. If unobligated funds remain after the end of the project performance period, RPCGB will release the unused funds to be used on future projects.

Subrecipient must expend federal funds only for eligible project costs, as set forth in the Master Agreement and applicable FTA Circulars. To be eligible for federal participation, costs must:

- be approved by RPCGB prior to initiation of purchase
- conform to the project description and all other terms of this Agreement
- be necessary to accomplish the project
- be reasonable for the goods or services purchased
- be the actual net costs to the Subrecipient

- be incurred for activity within the effective dates of this Agreement, unless otherwise noted
- be satisfactorily documented
- be eligible for federal participation under federal laws, regulations, and/or directives
- be treated consistently in accordance with accounting principles and procedures approved by RPCGB; and
- follow Department of Transportation regulations pertaining to allowable costs (49 C.F.R. §18.22(b) or §19.27) which specify the applicability of Office of Management and Budget (OMB) circulars.

Subrecipient must submit requests for actual and eligible project costs incurred, consistent with the project scope of work. Failure to comply with submission deadlines will be considered a material breach of this Agreement and may result in delay or denial of payment. All payments made by RPCGB are subject to audit.

Payment

Unless otherwise agreed to by both Parties, the request for payment must include an invoice and supporting documentation, along with a check for matching funds in the amount of 20% of the total invoice. Payment will only be made for eligible costs approved by RPCGB in advance of the purchase.

Requests for payment, supporting documentation, and 20% match funding must be addressed to:

Regional Planning Commission of Greater Birmingham
Two 20th St N, Ste 1200
Birmingham, AL 35203

and emailed to: lband@rpcgb.org

RPCGB will pay vendor within five (5) days of the receipt of an approved request for payment, subject to the appropriation and availability of federal funds for this grant. If federal funds are not available to RPCGB for this grant, RPCGB may defer payment to the Subrecipient until the funds become available or terminate this Agreement for Convenience as provided for under Article XI of this Agreement.

RPCGB will not make payment to vendor until all supporting documentation required by this Agreement has been submitted.

Subrecipient understands and agrees that payment for any project cost does not constitute the FTA's final decision about whether that cost is allowable and eligible for payment under the project and does not constitute a waiver of any violation by the Subrecipient of the terms of this Agreement. Subrecipient acknowledges that FTA will not make a final determination about the allowability and eligibility of any cost until an audit of the project has been completed. If the FTA

determines that RPCGB or Subrecipient is not entitled to receive any portion of the federal assistance requested or paid, FTA will notify RPCGB in writing, stating its reasons. Subrecipient agrees that project closeout will not alter Subrecipient's responsibility to return any funds as a result of later refunds, corrections, or other similar transactions, nor will project closeout alter the FTA's right to disallow costs and recover funds provided for the project on the basis of an audit or other review. Unless prohibited by federal law or regulation, FTA may recover any federal financial assistance made available for the project as necessary to satisfy any outstanding monetary claims that it may have. Subrecipient must reimburse RPCGB for any expenditures not in compliance with this Agreement or any FTA requirement, or otherwise disallowed by FTA.

Subrecipient understands that FTA may de-obligate unexpended federal funds before project closeout.

In addition to a payment request, Subrecipient must submit, in a form acceptable to RPCGB, all data RPCGB deems necessary to comply with the 49 U.S.C. Section 5310 grant requirements. Subrecipient agrees to and must fully cooperate with RPCGB in securing the required information for required reporting periods.

IV. AMENDMENTS

All amendments to this Agreement must be executed by both Subrecipient and RPCGB. Before any changes to the Agreement are made, the Party desiring an amendment must notify the other Party in writing by describing the revision and explaining the need.

V. SUBCONTRACTORS

Any subcontract with individuals or organizations to provide services under this Agreement requires RPCGB's approval. Subcontracts must include all applicable federal requirements, including any necessary provisions requiring subcontractor to extend applicable requirements to its subcontractors to the lowest tier necessary.

Subrecipient understands that it is the policy of the United States Department of Transportation (USDOT) that Disadvantaged Business Enterprises (DBE), as defined in 49 C.F.R. 26, will have the opportunity to participate in the performance of contracts financed in whole or in part with federal funds.

Subrecipient is solely responsible for the performance of all subcontractors and the fulfillment of all requirements of this Agreement. RPCGB has privity of contract with and will recognize only the Subrecipient.

Subrecipient assures that each of its subcontractors fully and properly perform their work under the subcontract.

Subrecipient agrees that subcontracts do not relieve it of any duty or liability under this Agreement, nor does it create any duty or liability on the part of RPCGB to any subcontractor. Subrecipient has

sole responsibility for promptly settling any disputes between subcontractors and between the Subrecipient and any subcontractor. Upon request of RPCGB, Subrecipient must provide RPCGB with information regarding the status of any disputes involving any of its subcontractors.

Subrecipient must pay its subcontractors on a timely basis, for work performed by such subcontractors, in accordance with the terms of the respective subcontracts and in accordance with applicable state and federal law. Upon request, Subrecipient must provide RPCGB with information regarding the status of payments to subcontractors, including the reasons for any nonpayment.

VI. ACCOUNTING AND AUDIT

In compliance with applicable federal laws, regulations, and directives, and except to the extent that FTA determines otherwise in writing, Subrecipient agrees as follows:

- Except to the extent that FTA determines otherwise in writing, Subrecipient agrees to support all costs charged to the project, including any approved services or property contributed by the Subrecipient or others, with properly executed payrolls, time records, invoices, contracts, or vouchers describing in detail the nature and propriety of the charges. Subrecipient also agrees to maintain accurate records of all program income derived from project implementation, except certain income FTA determines to be exempt from federal program income requirements. Regarding Program Income, Subrecipient agrees to adhere to the terms and conditions set out in Article VII of this Agreement.
- Subrecipient must provide for control and accountability for all federal and project funds consistent with any applicable grant requirements.
- Subrecipient must establish and maintain proper accounting procedures and cash management records and documents in accordance with general accepted accounting principles.
- Subrecipient must meet or exceed all applicable audit requirements outlined in Title 48 C.F.R. Unless permitted otherwise by federal statute or regulation, Subrecipient must comply with all applicable provisions of 2 C.F.R. Part 200. Subrecipient must perform, if applicable, and provide as promptly as possible, any financial and compliance audits as required by the Single Audit Act Amendments of 1996, 31 U.S.C. 7501 *et seq.*; 2 C.F.R. Part 200, and the most recent applicable OMB Compliance Supplement provisions for the U.S. DOT. Subrecipient must provide RPCGB a copy of the audit reports and bring to RPCGB's attention any audit findings relevant to Subrecipient's use of 49 U.S.C. 5310 funds, along with a statement that clearly describes the expected action of Subrecipient to repay any disallowed costs, make financial adjustment, or take other action. RPCGB may impose conditions on further funding based on such audit findings. In the event Subrecipient fails to provide required audits, or if Subrecipient is unable or unwilling to have a required audit(s) as provided in this agreement, RPCGB may:

- Withhold a percentage of the grant funds until the audit(s) is completed
- Withhold any disallowed costs
- Suspend or condition further grant funding until the audit(s) is completed, or
- Terminate this Agreement

During the period of this Agreement, as set forth in Article I, RPCGB will monitor and may conduct fiscal and/or program audits of Subrecipient under the terms of the Agreement. Representatives of RPCGB and/or the federal government must have access to project facilities, records, and financial statements at all reasonable times relevant to this Agreement for these purposes. Subrecipient agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as RPCGB and/or the federal government deem necessary.

Subrecipient agrees to maintain all documentation and materials relevant to this Agreement for a period as required by the appropriate retention statutes but in no case less than four (4) years after the date of termination or expiration of this Agreement, except in the event of litigation or settlement of claims arising from the performance of this Agreement, in which case Subrecipient agrees to maintain same until all such litigation, appeals, claims or exceptions related thereto have been conclusively resolved.

VII. STANDARDS FOR ADMINISTRATION

For purposes of this Agreement, Subrecipient agrees that its standards for financial administration will conform to the requirements of 49 C.F.R. Part 18, §18.20.

Except for income from royalties and proceeds from the sale of real property or equipment, Subrecipient must retain Program Income, if any, and apply such income to allowable capital or operating expenses. If federally funded, Program Income from royalties and proceeds from sale of real property or equipment must be handled as specified in federal provisions. Program income means gross income received by Subrecipient directly generated by a grant-supported activity or earned only because of this Agreement. Subrecipient must comply with standards governing the receipt and application of program income as set forth in 49 C.F.R. §18.25.

Program income includes income from fees for services performed, from the use or rental of real or personal property acquired with grant funds, from the sale of commodities or items fabricated under an agreement similar to this Agreement, and from payments of principal and interest on loans made with grant funds. Except as otherwise provided in federal regulations, Program Income does not include interest on grant funds, rebates, credits discounts, refunds, etc., and interest earned on any of them.

VIII. PROPERTY

Subrecipient's property/equipment (property) management standards must include, but not be limited to:

- Records that include:
 - Description and source of property
 - Serial number or other identification number
 - Title holder(s)
 - Acquisition date and cost
 - Percentage of federal participation
 - Location, use, and current condition
 - Maintenance history for each vehicle
 - Disposition data, including sale price and date and method of disposal
- Conducting a physical inventory of the property at least once every two (2) years and reconciling the inventory with property records described in the preceding paragraph
- Developing a control system to ensure adequate safeguards to prevent loss, damage, or theft of the property. Any loss, damage, or theft is to be investigated and documented.
- Developing and following procedures to keep the property maintained and in good condition. At a minimum, Subrecipient must follow the vehicle maintenance schedule recommended by the manufacturer, showing the date maintenance was performed. Maintenance records must be provided to RPCGB upon request.
- Requesting disposition instructions from RPCGB, and if authorized to sell the property, using proper sales procedures to ensure the highest possible return.

Subrecipient must comply with all applicable laws including, but not limited to, FTA Circular 5010.1E, to protect public investment in real property and property purchased in whole or in part with federal funds.

If project property is not used in the proper manner or is withdrawn from public transportation services, Subrecipient must immediately notify RPCGB. RPCGB reserves the right to direct the sale or transfer of property acquired under this Agreement upon determination by RPCGB that project property has not been fully or properly used.

All vehicles purchased under this Agreement must comply with the Motor Vehicle Safety Standards established by the US Department of Transportation and the State of Alabama.

Irrespective of coverage by insurance, in the event of loss or damage to project property, whether by casualty or fire, the fair market value will be the value of the property immediately before the casualty or fire.

Subrecipient must notify RPCGB immediately of theft, wreck, vandalism, or other destruction of project-related property.

IX. REPORTS

Subrecipient must, at a minimum, submit the following reports to RPCGB for the duration of the project:

- Requests for Payment/Reimbursement
- Annual FTA Certifications and Assurances
- Annual financial report and audit
- Any other reports or documents that may be requested by RPCGB or FTA.

Reports required to be submitted to RPCGB must be emailed to: lland@rpcgb.org or sent to:

Laurel Land
Regional Planning Commission of Greater Birmingham
Two 20th St N, Ste 1200
Birmingham, AL 35203

Subrecipient must cooperate in and comply with all management reviews, triennial reviews, financial audits, and compliance reviews that RPCGB or FTA may undertake regarding the project.

Subrecipient must promptly notify RPCGB, in writing, any time the transportation services being funded under this agreement will be negatively impacted, including problems, delays, or adverse conditions that will materially affect Subrecipient's ability to provide the transportation services contracted for under this Agreement. This disclosure must be accompanied by a statement of the action taken or contemplated by Subrecipient.

Subrecipient agrees to submit to RPCGB all reports required by federal laws, regulations, and directives, this Agreement, and any other reports RPCGB or FTA may specify. All reports and other documents or information intended for public availability developed during the project and required to be submitted to RPCGB or FTA. As part of the audit requirements under Article VI of this Agreement, during the course of the project and for four (4) years thereafter from the date of transmission of the final expenditure report, Subrecipient agrees to maintain and have readily-accessible all data, documents, reports, records, contracts, and supporting materials relating to the project as the federal government may require.

Subrecipient agrees to permit the U.S. Secretary of Transportation and the Comptroller General of the United States or their authorized representatives, upon request, to examine and inspect all project records, documents, papers, and contracts related to the project as required by 49 U.S.C. § 5325(g).

X. DISPUTES AND REMEDIES

Any dispute arising under or related to this Agreement which is not disposed of by agreement between RPCGB and the Subrecipient must be decided in accordance with the provisions of this Article, provided that by mutual agreement the matter may be taken immediately to any higher step in the dispute resolution process or to litigation. Pending final resolution of a dispute,

Subrecipient must proceed diligently with the performance of the Agreement in accordance with the decision or determination of RPCGB, provided that the action of Subrecipient in proceeding with such performance must not prejudice its position in the dispute resolution process.

All disputes must be initiated through a written dispute notice submitted by either Party to the other Party within ten (10) days after the date the dispute first arises. Within fifteen (15) days after delivery of the dispute notice, the receiving Party must submit a written response to the other Party. The dispute notice and written response must include:

- a statement of the Party's position and a summary of the arguments supporting that position
- evidence supporting the Party's position
- the name of the person who will represent that Party and any other person who will participate in negotiations and/or dispute resolution.

Following a dispute notice and response as specified in the above paragraph, the Parties must first attempt in good faith to promptly resolve the dispute by discussion and negotiation between persons who have authority to settle the controversy and who are at a higher level of management than the persons with direct responsibility for administration of this Agreement. The Parties will meet at a mutually acceptable time and place within fifteen (15) days after delivery of the dispute response and thereafter, as they reasonably deem necessary, to attempt to resolve the dispute. All reasonable requests for information by one Party to the other must be honored.

If the dispute is not resolved within forty-five (45) days after delivery of the dispute notice, either Party may submit the dispute (together with the dispute notice, the response, and any minutes from the process) to a two-person panel consisting of the executive directors for Subrecipient and RPCGB or a designee authorized to bind the respective agency in the agreement. These two individuals must meet within thirty (30) days after the date of the submittal and must attempt to reach a fair and equitable resolution of the dispute. If the two-person panel resolves the dispute, they will issue a written decision to be administratively final and conclusive. If the panel is unable to resolve the dispute, either Party may proceed to mediation.

Any dispute which is not resolved by the Parties through the operation of the preceding provisions of this Article may be submitted by either Party to mediation in accordance with Alabama Civil Court Mediation Rules set forth in Act No. 96-515, 1996 Ala. Acts, codified at §6-6-20, Ala. Code 1975. If not resolved by mediation, either Party may pursue its case in a court of competent jurisdiction.

Pending final resolution of a dispute under this Article, the Subrecipient must proceed diligently with the performance of its obligations under the Agreement (including those matters giving rise to the dispute) in accordance with the direction of RPCGB, provided that the action of the

Subrecipient in proceeding with such performance must not prejudice its position in the dispute resolution process.

If agreed by both Parties, disputes may be resolved by a mutually agreed alternative dispute resolution process, including arbitration, which may include structured negotiations different from that specified in this Article, mediation, arbitration, or fact finding.

This Agreement must not be considered as specifying the exclusive remedy for any default, but all remedies existing at law and in equity may be availed by any Party and must be cumulative.

XI. TERMINATION

RPCGB reserves the right to terminate this Agreement for cause, convenience, or agreement as follows.

Termination for Cause

RPCGB reserves the right to terminate this Agreement and withhold all payments of funds in the event of any of the following circumstances:

- Subrecipient has breached or failed to perform any term or condition of this Agreement
- Subrecipient has violated the terms of FTA's Master Agreement or other federal requirement, or
- Subrecipient fails to make progress in the performance of the project to endanger its performance

Prior to termination, RPCGB must notify Subrecipient in writing of the specific violation and provide a thirty (30) day remedy period, during which time Subrecipient must provide material evidence of an earnest effort to resolve the violation. If, after thirty (30) days, RPCGB is not satisfied with Subrecipient's efforts to remedy the situation, RPCGB may give written notice of termination to Subrecipient specifying the effective date thereof, at least five (5) days before the effective date of termination.

Notwithstanding the above, Subrecipient must not be relieved of liability to RPCGB for damage sustained to RPCGB by virtue of any breach of this Agreement by Subconsultant, and RPCGB may withhold payments to Subrecipient as collateral until such time as the exact amount of damages due RPCGB is determined.

Termination of any financial assistance for the project will not invalidate obligations properly incurred by the Subrecipient by the termination date, to the extent such obligations cannot be cancelled. If, however, RPCGB determines that Subrecipient has willfully misused funds by failing to make adequate progress, failing to make appropriate use of the funds, or failing to comply with

the terms of this Agreement, RPCGB reserves the right to require the Subrecipient to refund the entire amount of federal funds provided for the project.

Except as otherwise provided, settlement of claims under this termination clause must be in accordance with the provisions set forth in 48 C.F.R. Part 49. If a determination is made, either pursuant to a dispute resolution process or by a court of competent jurisdiction, that RPCGB's termination of this Agreement for default was improper or otherwise contrary to this Agreement, then that termination will automatically convert to a Termination by Convenience under this Article, unless the Parties otherwise agree.

The rights and remedies of RPCGB under this Article are not exclusive and are in addition to any other rights and remedies RPCGB may have under this Agreement or applicable law.

Termination for Convenience

This Agreement may be terminated by either Party in accordance with this Article whenever a Party determines that such termination is in their best interest. Any such termination must be affected by delivery to the other Party of a written notice of termination, provided it is not less than thirty (30) days prior to the termination date, specifying the extent to which performance of work under the Agreement is terminated and the date upon which such termination becomes effective.

Upon receipt of a notice of termination under this Article and except as otherwise directed by RPCGB, the Subrecipient must:

- stop work under the Agreement on the date and to the extent specified in the notice of termination
- place no further orders or subcontracts for materials, services, or facilities, except as may be necessary for completion of such portion of the work under the Agreement as is not terminated
- terminate all orders and subcontracts to the extent that they relate to the performance of work terminated by the notice of termination
- assign to RPCGB in the manner, at the times, and to the extent directed by RPCGB, all right, title, and interest of the Subrecipient under the orders and subcontracts so terminated
- settle all outstanding liabilities and all claims arising out of such termination of orders and subcontracts, with the approval or ratification of RPCGB, to the extent RPCGB may require, which approval or ratification will be final for all the purposes of this Article

- transfer title to RPCGB and deliver in the manner, at the times, and to the extent, if any, directed by RPCGB, supplies, equipment, and other material produced as a part of or acquired in connection with the performance of the work terminated, and any information and other property which, if the Agreement had been completed, would have been required to be furnished to RPCGB
- complete any such part of the work that was not terminated by the notice of termination
- act as necessary, or as RPCGB may direct, for the protection and preservation of the property related to this Agreement, which is in the possession of the Subrecipient and in which RPCGB has or may acquire an interest. Except as otherwise provided, settlement of claims by a Contractor must be in accordance with the provisions set forth in 48 C.F.R. Part 49.

Termination by Agreement

This Agreement may be terminated by mutual agreement of the Parties. Such termination will be effective in accordance with a written agreement by the Parties.

Force Majeure

Subrecipient must not be in default for failure in performance of this Agreement if such failure arises out of causes beyond the control and without the fault or negligence of Subrecipient. Such causes may include, but are not limited to, acts of God or of the public enemy, acts of government, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and unusually severe weather.

XII. INDEMNIFICATION

To the extent permitted by law, Subrecipient covenants and agrees to fully indemnify, hold harmless, and defend RPCGB and its Trustees, employees, officers, director, and representatives, individually or collectively, from and against any and all costs, claims, liens, damages, losses, expenses, fees, fines, penalties, proceedings, actions, demands, causes of action, liability, and suits of any kind and nature, personal or bodily injury, death and property damage, made upon RPCGB, caused by Subrecipient's activities under this Agreement, including any acts or omissions of Subrecipient, any agent, officer, director, representative, employee, consultant, or subcontractor and their respective officers, agents, employees, directors, and representatives while exercising or performing the rights or duties under this Agreement. The indemnity provided for in this paragraph does not apply to any liability resulting from the negligence of RPCGB, its officers or employees. In the event Subrecipient and RPCGB are found jointly liable by a court of competent jurisdiction, liability will be apportioned comparatively in accordance with the laws of the State of Alabama, without waiving any governmental immunity available to either Party under Alabama law and without waiving any defenses of the Parties.

The provisions of this indemnification are solely for the benefit of the Parties hereto and not intended to create or grant any rights, contractual or otherwise, to any other person or entity.

Each Party must promptly advise the other in writing of any claim or demand made known to said Party related to or arising out of activities under this Agreement.

Subrecipient acknowledges that it is not an agent, servant, or employee of RPCGB and that it is responsible for its own acts and deeds and for those of its agents, employees, or volunteers during the performance of the Agreement.

XIII. INSURANCE

Subrecipient understands and agrees that any and all directors, employees, agents, and/or representatives of Subrecipient while engaged in the performance of any work for Subrecipient or any work related to this Agreement will be considered directors, employees, agents, representatives of Subrecipient under any Workers' Compensation, Unemployment Compensation or Disability Benefits law or under any similar law.

On or before the commencement date of this Agreement, Subrecipient must furnish copies of Certificates of Insurance and applicable endorsements to RPCGB which must be completed by an agent authorized to bind the named underwriter(s) and their company to the coverage, limit, and termination provisions shown thereon, and which contains all required information referenced or indicated thereon.

RPCGB reserves the right to review the insurance requirements of this Article during the effective period of this Agreement and any extension or renewal of the term thereof and to modify insurance coverage and their limits when deemed necessary and prudent based upon changes in statutory law, court decisions, or circumstances surrounding this Agreement, but in no instance will RPCGB allow modification whereupon RPCGB may incur increased risk.

Subrecipient's financial integrity is of interest to RPCGB, therefore, subject to Subrecipient's right to maintain reasonable deductibles, Subrecipient must obtain and maintain in full force and effect for the duration of this Agreement, and any extension hereof, at Subrecipient's sole expense, insurance coverage written on an occurrence basis, by companies authorized and admitted to conduct business in the State of Alabama, in the types and amounts with limits of liability not less than the following:

- **Workers' Compensation Insurance:** Coverage is required for workers' compensation providing Statutory Benefits in accordance with the Workers' Compensation Act of the State of Alabama and/or any other state or federal law as may be applicable.
- **Employer's Liability Insurance:** Coverage is required for employer's liability with limits of liability not less than \$1,000,000 Each Accident
- Coverage is required for general liability, including coverage for the following where exposure exists:

- Premises/Operations
- Independent Contractors
- Personal Injury
- Contractual Liability

- Broad Form Property Damage
 - General Aggregate: \$2,000,000
 - Personal Injury per occurrence: \$1,000,000
 - Each Occurrence: \$1,000,000
 - Fire Damage to Leased Premises: \$1,000,000

- Coverage is required for automobile liability, covering all owned/leased, hired and non-owned motor vehicles in the amount of \$ 1,000,000 Combined Single Limit

RPCGB is entitled, upon request and without expense, to receive copies of the policies and all endorsements thereto as they apply to the limits required by RPCGB, and may make a reasonable request for deletion, revision, or modification of particular policy terms, conditions, limitations or exclusions (except where policy provisions are established by law or regulation binding upon either of the Parties hereto or the underwriter of any such policies). Upon such request by RPCGB, Subrecipient must exercise reasonable efforts to accomplish such changes in policy coverage and must pay the cost thereof.

Subrecipient agrees that with respect to the above required insurance, all insurance contracts and Certificate(s) of Insurance will contain the following required provisions:

- RPCGB must be named, along with its officers, employees, and Board of Trustees, as additional insureds by endorsement as respects operations and activities of or on behalf of the named insured performed under contract with RPCGB, with the exception of workers compensation.
- Subrecipient's insurance must be deemed primary and noncontributory with respect to any insurance or self-insurance carried by RPCGB for liability arising pursuant to matters under this Agreement.
- Workers' compensation and employers' liability policies will provide a waiver of subrogation in favor of RPCGB.

Subrecipient must notify RPCGB in the event of any notice of cancellation, nonrenewal, or material change in coverage and must give such notices not less than thirty (30) days prior to the change, or ten (10) day notice for cancellation due to nonpayment of premiums, which notice must be accompanied by a replacement Certificate of Insurance. All notices must be provided to RPCGB by emailing stillman@rpcgb.org or mailing to:

Scott Tillman
Regional Planning Commission of Greater Birmingham
Two 20th St N, Ste 1200
Birmingham, AL 35203

Should Subrecipient fail to maintain the insurance or fails to secure and maintain the endorsements, RPCGB may determine Subrecipient to be in default of this Agreement.

Nothing herein contained will be construed as limiting in any way the extent to which Subrecipient may be held responsible for payments of damages to persons or property under this Agreement.

To the extent applicable, the insurance terms and conditions, as outlined in this Article, may be satisfied by and through a Subrecipient's self-insurance program. Self-insurance certificates showing the equivalent in coverage must be provided to RPCGB on or prior to the date this Agreement is signed by Subrecipient. Upon request, Subrecipient agrees to submit evidence of such self-insurance program coverages to RPCGB by providing, at a minimum, a then current self-insurance certificate.

XIV. COMPLIANCE

Subrecipient must comply with all applicable federal, state, and local laws, statutes, ordinances, rules, regulations, and the orders and decrees of any courts or administrative bodies or tribunals in any matter affecting the performance of this Agreement. When required, Subrecipient must furnish RPCGB with satisfactory proof of compliance. This includes all RPCGB policies that are effective or become effective during the term of this Agreement.

In accordance with The Beason-Hammon Alabama Taxpayer and Citizen Protection Act (Act), Subrecipient must not knowingly employ, hire for employment, or continue to employ an unauthorized alien. During the performance of this Agreement, Subrecipient must maintain participation in the E-Verify program and must verify every employee according to the applicable federal rules and regulations.

The Subrecipient will ensure that these requirements are satisfied by each subcontractor in accordance with the Act. Subrecipient must maintain within their files an Affidavit of Alabama Immigration Law Compliance and E-Verify Memorandum of Understanding (MOU) for each subcontractor, and make these documents available upon request by the RPCGB, state authorities, or law enforcement to verify compliance with the Act.

Failure to comply with these requirements may result in breach of contract, termination of this Agreement, and possibly suspension or revocation of business opportunities with the RPCGB.

XV. NONCOLLUSION

Subrecipient warrants and represents that it has not employed or retained any company or person, other than a bona fide employee working for it, to solicit or secure this Agreement and that it has not paid or agreed to pay any company or person, other than a bona fide employee, officer, or director, any fee, commission, percentage, brokerage fee, gift or any other consideration contingent upon or resulting from the award or making of this Agreement. In the event Subrecipient breaches or violates this warranty, RPCGB has the right to annul this Agreement without liability or, in its discretion, to deduct from the amount in Article III of this Agreement, or otherwise recover the full amount of such award, fee, commission, brokerage fee, gift, or contingent fee.

XVI. CIVIL RIGHTS

In accordance with Title VI of the Civil Rights Act, as amended (42 U.S.C. §2000d), Section 303 of the Age Discrimination Act of 1975, as amended (42 U.S.C. §6102), Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. §12132), and federal transit law at 49 U.S.C. §5332, Subrecipient agrees that it will not discriminate against any person employed by Subrecipient or against any person participating in or with Subrecipient because of race, color, religion, national origin, sex, age, or disability.

XVII. SUSPENSION AND DEBARMENT

Subrecipient certifies that it is not suspended or debarred from receiving federal funds and there are no pending proceedings for suspension or debarment. Further, Subrecipient represents that it is not named on any list of suspended or debarred entities as shown on any list maintained by the federal government (Debarment List) and has not been on any such list for the last three years. Subrecipient may not subcontract with any entity that is suspended or debarred from receiving federal funds as listed on any Debarment List or has been on any such list in the last three years. Subrecipient must verify that such entity (and its principals as defined in 2 C.F.R. 180.995) is not suspended or debarred from receiving federal funds (nor are there pending proceedings to do so) and that such entity or its principals are not named on any Disbarment List, that such entity (or its principals) has not been on any such list for the last three years, and Subrecipient must maintain documentation of verification of compliance. The verification may be accomplished by checking the System for Award Management (SAM) maintained by the U.S. General Services Administration (GSA) and available at www.sam.gov/portal/public/SAM or collecting a certification from the entity.

All FTA and other federally mandated terms will be deemed to control in the event of a conflict with any provisions contained in this Agreement. Notwithstanding any other provision in this Agreement, Subrecipient must not perform any act, fail to conform, or refuse to comply with any requests necessary for RPCGB to comply with federal laws and regulations.

Subrecipient must specifically comply with the federal contracting requirements as set forth in the Federal Transit Administration Master Agreement (Master Agreement) which is part of this Agreement.

This Agreement incorporates by reference:

- Project Description (Exhibit A)
- Federal Fiscal Year Certifications and Assurances for FTA grant programs
- FTA Master Agreement

This Agreement, including Exhibit A, the Federal Fiscal Year Certifications and Assurances for FTA, and the FTA Master Agreement, represents the entire Agreement between the Parties concerning the subject matter herein and supersedes any and all prior or contemporaneous oral or written statements, agreements, correspondence, quotations, and negotiations.

The Parties agree and understand that a statutory or regulatory reference made in this Agreement means and refers to the current statutory or regulatory provision as it is or has been amended. Furthermore, the cited references are included only to the extent they are applicable to use of these grant funds and/or this Agreement.

XVIII. DRUG AND ALCOHOL

By execution of this Agreement, Subrecipient certifies that it will comply with all applicable provisions of The Drug-Free Workplace Act of 1988 (41 U.S.C. 81).

Subrecipient agrees to establish and implement a drug and alcohol testing program that complies with 49 C.F.R. parts 655, produce any documentation necessary to establish its compliance with part 655, and permit any authorized representative of the United States Department of Transportation or its operating administrations, or RPCGB to inspect the facilities and records associated with the implementation of the drug and alcohol testing program and review the testing process. Subcontractor agrees further to certify annually its compliance with parts 655.

XIX. SUCCESSORS AND ASSIGNS

Subrecipient binds itself, its successors, assigns, executors, and administrators to all covenants of this Agreement. Subrecipient must not sign, sublet, or transfer their interest in this Agreement without the written consent of RPCGB.

XX. LEGAL CONSTRUCTION

If one or more of the provisions contained in this Agreement are found, for any reason, to be held invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability will not affect any other provision thereof and this Agreement will be construed as if such invalid, illegal, or unenforceable provision had never been contained herein. Exhibits referenced herein are incorporated for all purposes.

XXI. SIGNATORY WARRANTY

The undersigned signatory for Subrecipient hereby warrants and represents that they are an officer of the organization for whom they have executed this Agreement and that they have full

and complete authority to enter into this Agreement on behalf of the organization and bind the organizations to the terms and conditions herein stated.

IN TESTIMONY WHEREOF, the Parties have executed this Agreement on the dates identified below.

CITY OF VESTAVIA HILLS

Signature of Authorized Official

Date

Printed Name/Title of Authorized Official

REGIONAL PLANNING COMMISSION OF GREATER BIRMINGHAM

Charles Ball, Executive Director

Date

**EXHIBIT A
PROJECT DESCRIPTION**

SUBRECIPIENT: CITY OF VESTAVIA HILLS

FUNDING: \$66,774
From FTA Section 5310 Birmingham Urbanized Area Apportionment

MATCH: \$16,694

TOTAL PROJECT: \$83,468

PROJECT DESCRIPTION: Purchase of one lift-equipped extended van
Useful Life: 4 years/100,000 miles
(\$66,000 federal/\$16,500 match = \$82,500)

Purchase one phone and one security camera for van
(\$774 federal/\$194 match = \$968)

PATRICK H. BOONE
ATTORNEY AND COUNSELOR AT LAW
NEW SOUTH FEDERAL SAVINGS BUILDING, SUITE 705
215 RICHARD ARRINGTON, JR. BOULEVARD NORTH
BIRMINGHAM, ALABAMA 35203-3720

TELEPHONE (205) 324-2018
FACSIMILE (205) 324-2295

E-Mail: patrickboone@bellsouth.net

January 20, 2021

By Electronic Mail

City Manager Jeffrey D. Downes
Vestavia Hills Municipal Center
1032 Montgomery Highway
Vestavia Hills, Alabama 35216

In Re: Grant Award/Funding for Senior Van

Dear Mr. Downes:

On January 19, 2021, you sent to me via electronic mail a proposed Subrecipient Funding Agreement between Regional Planning Commission of Greater Birmingham (“RPCGB”) and the City of Vestavia Hills, Alabama (“Subrecipient”) hereinafter referred to as “Agreement” with a request that I review it and provide you with my written legal opinion. The purpose of this letter is to comply with your request.

I. FACTS

RPCGB acts as the Designated Recipient for the Federal Transit Administration (“FTA”), 49 USC §5310 Enhanced Mobility for Seniors and Individuals with Disabilities Birmingham Urbanized Area Apportionment Funds. The City, as Subrecipient, has submitted a project proposal (“project”) for financial assistance for the purchase of a senior transportation van equipped with a phone and security camera.

RPCGB has agreed to fund on a one-time payment 80%-20% basis funds to the City for the purchase of the following equipment:

| <u>Equipment</u> | <u>Federal Funding (80%)</u> | <u>City Funding (20%)</u> |
|--|------------------------------|---------------------------|
| Lift-equipped extended van for senior transportation | \$66,000.00 | \$16,500.00 |
| Phone and security camera for van | <u>774.00</u> | <u>194.00</u> |
| Total | \$66,774.00 | \$16,694.00 |

January 20, 2021

Page 2

In order to receive the funding, the City is required to execute and deliver the Agreement. Section XII on pages 13 and 14 of the Agreement contains indemnity language that requires the City to indemnify, hold harmless and defend RPCGB “from and against any and all costs, claims, liens, damages, losses, expenses, fees, fines, penalties, proceedings, actions, demands, causes of action, liability, and suits of any kind and nature, personal or bodily injury, death and property damage, made upon RPCGB, **caused by Subrecipient’s activities under this Agreement** (*emphasis added*).”

The indemnity section does not require the City to indemnify, hold harmless and defend RPCGB from its wrongful acts. Section XII specifically reads as follows:

“The indemnity provided for in this paragraph **does not apply to any liability resulting from the negligence of RPCGB, its officers and employees** (*emphasis added*).”

II. LEGAL ISSUE

From a legal standpoint, is it necessary to delete the indemnification language set forth in Section XII of the Agreement?

III. LEGAL OPINION

It is my legal opinion that it is not necessary to delete the indemnification language set forth in Section XII of the Agreement.

IV. BASIS FOR LEGAL OPINION

A. MUNICIPAL LIABILITY: Title 11-47-190, *Code of Alabama, 1975*, sets forth when a municipality may be legally liable for the payment of damages on claims of negligence arising out of motor vehicle collisions. That statute reads in pertinent part as follows:

“No city or town shall be liable for damages for injury done to or wrong suffered by any person or corporation, unless such injury or wrong was done or suffered through the **neglect, carelessness, or unskillfulness** of some agent, officer, or **employee** of the municipality engaged in work therefor and while **acting in the line of his or her duty** (*emphasis added*).”

For example, suppose that a City employee while driving the senior van collides with another motor vehicle resulting in personal injuries to other parties. If it is determined that the City employee was operating the senior van in a negligent manner and that the other driver was not guilty of contributory negligence, then in such events the City employee and the City may be liable for the payment of money damages under the above statute.

B. DEFENSE OF MUNICIPAL EMPLOYEES SUED FOR DAMAGES: Title 11-47-24(a), *Code of Alabama, 1975*, under the illustration set forth above, provides that the City would be legally required to provide a legal defense for the City van driver employee and to pay any judgment that may be rendered against him or her. That statute reads as follows:

“(a) Whenever any employee of a municipal corporation of the State of Alabama shall be sued for damages arising out of the performance of his official duties, and **while operating a motor vehicle** or equipment engaged in the course of his employment, such government agency shall be authorized and **required to provide defense counsel** for such employees in such suit and **to indemnify him from any judgment rendered against him in such suit** (*emphasis added*). In no event shall a municipal corporation of the state be required to provide defense and indemnity for employees who may be sued for damages arising out of actions which were either intentional or willful or wanton.”

C. LIABILITY INSURANCE FOR MUNICIPAL EMPLOYEES: Section XIII of the Agreement requires the City to insure the senior van with a policy of liability insurance naming RPCGB as an additional insured or to cover RPCGB pursuant to the City’s self-insurance program. Alabama law at Title 11-47-24(b), *Code of Alabama, 1975*, reads as follows:

“(b) All municipal corporations of the State of Alabama are hereby authorized to contract at governmental expense for policies of liability insurance to protect employees in the course of their employment.”

D. PARTICIPATION BY RPCGB: The City of Vestavia Hills will be the owner and hold title to the senior van. The City is required to submit a request for payment for the van to RPCGB together with an invoice and supporting documentation and a check in the amount of \$16,694.00, which represents the City’s 20% matching funds. RPCGB will pay the vendor within five (5) days of the receipt of those three items from the City. I am not aware of any theory of liability against RPCGB for simply administering funds for the payment of a one-time grant award for the purchase of a motor vehicle.

V. CONCLUSION

Over the years, I have written numerous legal opinions that Alabama law prohibits a municipality from spending public funds for the purpose of indemnifying third parties and holding them harmless from claims of damages arising out of claims of negligence. My opinion has not changed and I continue to base that opinion upon the following Alabama legal authorities:

January 20, 2021

Page 4

A. MUNICIPALITIES IN ALABAMA CANNOT SPEND PUBLIC MONEY FOR PRIVATE PURPOSES:

1. **Constitution of Alabama of 1901:** Section 94 of the *Constitution of Alabama*, as amended by Amendments 112 and 558, prohibits a city from granting public money to any individual, association or corporation whatsoever. Section 94 of the *Constitution of Alabama* as amended by as amended by Amendments 112 and 558, provides as follows:

“The legislature shall not have power to authorize any county, city, town or other subdivision of this state to lend its credit or to grant public money or thing of value in aid of or to any individual, association or corporation whatsoever.”

2. **Supreme Court of Alabama:** Municipalities in Alabama may spend public funds only for public purposes. The Supreme Court of Alabama has interpreted the language of Sections 93 and 94 of the *Constitution of Alabama* to allow appropriations of public funds when the appropriation is used for public purposes. *Alabama Constitution* amend. 93; *Alabama Constitution* amend. 94; *Slawson v. Alabama Forestry Comm’n*, 631 So.2d 953 (Ala.1994). *Opinion of the Justices No. 269*, 384 So.2d 1051 (1980); *Stone v. State*, 251 Ala. 240 (1948).

It is my opinion that the payment of indebtedness owed by a third party is not a public purpose. In this Agreement, however, RPCGB does not require that the City indemnify, hold harmless and defend it from the negligence of RPCGB, its officers and employees.

VI. MY RECOMMENDATION

From a legal standpoint, I recommend the approval, execution and delivery of the Agreement as written.

Please call me if you have any questions regarding any matters set forth in this legal opinion.

Sincerely,



Patrick H. Boone
Vestavia Hills City Attorney

PHB:gp

cc: City Clerk Rebecca Leavings (by e-mail)

ORDINANCE NUMBER 2999

AN ORDINANCE APPROPRIATING FUNDS TO MATCH A FEDERAL ASSISTANCE TO FIREFIGHTERS GRANT FOR THE INSTALLATION OF MOTOR VEHICLE EXHAUST SYSTEMS IN THE FIRE STATIONS IN ORDER TO REDUCE CARCINOGEN EXPOSURE

WHEREAS, the City of Vestavia Hills, Alabama, has made great strides over the last three years to reduce firefighter exposure to carcinogens through implementing best practices for dealing with carcinogen latent turnout gear, improved gear storage, on scene decontamination, skin cancer prevention and PSA testing; and

WHEREAS, bay ventilation improvements to reduce diesel exhaust entering into the occupied areas of the stations have been done which has helped, but not eliminated the exhaust from said areas; and

WHEREAS, the Vestavia Hills Fire Department requested and received a Federal Assistance to Firefighters Grant through the Department of Homeland Security in the amount of \$189,800 for the purpose of purchase and install source capturing exhaust systems for all five fire stations; and

WHEREAS, this grant requires a local match of 10% or \$17,255; and

WHEREAS, the City Manager has recommended said appropriation in order to have all fire stations compliant with the NFPA 1500: Standard for Fire Department Occupational Safety, Health and Wellness Program; and

WHEREAS, the Mayor and the City Council feel it is in the best public interest to authorize the City Manager to take all actions necessary for the purchase and install of said exhaust systems.

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

1. The City Manager is authorized to take all actions necessary to appropriate a sum not to exceed \$17,255 for the purchase and install of the above described exhaust system; and
2. This funding shall be expensed to the City's Capital Funds account; and
3. This Ordinance Number shall become effective immediately upon posting and publishing pursuant to Alabama law.

DONE, ORDERED, ADOPTED and APPROVED this the 8th day of February, 2021.

Ashley C. Curry
Mayor

ATTESTED BY:

Rebecca Leavings
City Clerk



VESTAVIA HILLS FIRE DEPARTMENT

MEMORANDUM

TO: Jeff Downes

FROM: Marvin D. Green

DATE: January 19, 2021

RE: 2019 Assistance to Firefighter Grant

In October of 2019, we applied for a Federal Assistance to Firefighters Grant through the Department of Homeland Security in the amount of \$189,800. The purpose of the grant was to purchase and install source capturing exhaust systems for all five fire stations. This will allow us to remove all of the diesel exhaust emissions through the installation of a fully automatic sealed ventilation system connects directly to the apparatus exhaust and removes 100% of the emissions from the inside of the stations.

We have made great strides over the last three years to reduce our firefighter's exposure to carcinogens. We have implemented best practices for dealing with carcinogen latent turnout gear, improved gear storage, on scene decontamination, skin cancer prevention and PSA testing. We have made some bay ventilation improvements to reduce diesel exhaust entering the occupied areas of the stations but we have been unable to eliminate it entirely.

This equipment will place us in compliance with National Fire Protection Association (NFPA) and International Building Code recommendations.

[NFPA 1500: Standard for Fire Department Occupational Safety, Health, and Wellness Program](#), Chapter 9, specifies that fire departments contain all vehicle exhaust emissions to a level of no less than 100% effective capture. This recommendation also complies with NIOSH's requirement to reduce emissions to the lowest feasible level to limit impact on firefighters' health. The standard states that direct-capture systems are the most effective means to reduce the risk and aid in compliance with NFPA 1500.

The International Building Code recommends that departments invest in diesel exhaust source capture systems that connect directly to the motor vehicle exhaust system. The [IBC International Mechanical Code \(IMC\), 2015 edition, Section 502.14 states](#): "Areas in which stationary motor vehicles are operated shall be provided with a source capture system that connects directly to the

motor vehicle exhaust systems. Such systems shall be engineered by a registered design professional or shall be factory-built equipment designed and sized for the purpose.”

The award will fund the purchase and installation of state-of-the-art exhaust capture systems in each station that connects to every apparatus inside fire station. Not only will this grant reduce our carcinogen exposure, it will keep our stations, workout areas, and equipment cleaner and safer.

The total grant award is \$189,800. The match for the grant is 10% or \$17,255. We are requesting a budget appropriation for the grant match.

Award Letter

U.S. Department of Homeland Security
Washington, D.C. 20472

Donald Whitworth
VESTAVIA HILLS, CITY OF
1032 MONTGOMERY HIGHWAY
VESTAVIA HILLS, AL 35216



EMW-2019-FG-09429

Dear Donald Whitworth,

Congratulations on behalf of the Department of Homeland Security. Your application submitted for the Fiscal Year (FY) 2019 Assistance to Firefighters Grant (AFG) Grant funding opportunity has been approved in the amount of \$172,545.45 in Federal funding. As a condition of this grant, you are required to contribute non-Federal funds equal to or greater than 10.0% of the Federal funds awarded, or \$17,254.55 for a total approved budget of \$189,800.00. Please see the FY 2019 AFG Notice of Funding Opportunity for information on how to meet this cost share requirement.

Before you request and receive any of the Federal funds awarded to you, you must establish acceptance of the award through the FEMA Grants Outcomes (FEMA GO) system. By accepting this award, you acknowledge that the terms of the following documents are incorporated into the terms of your award:

- Summary Award Memo - included in this document
- Agreement Articles - included in this document
- Obligating Document - included in this document
- 2019 AFG Notice of Funding Opportunity (NOFO) - incorporated by reference

Please make sure you read, understand, and maintain a copy of these documents in your official file for this award.

Sincerely,

A handwritten signature in black ink, appearing to read "C Logan".

Christopher Logan
Acting Assistant Administrator
Grant Programs Directorate

Summary Award Memo

Program: Fiscal Year 2019 Assistance to Firefighters Grant

Recipient: VESTAVIA HILLS, CITY OF

DUNS number: 086551827

Award number: EMW-2019-FG-09429

Summary description of award

The purpose of the Assistance to Firefighters Grant program is to protect the health and safety of the public and firefighting personnel against fire and fire-related hazards. After careful consideration, FEMA has determined that the recipient's project or projects submitted as part of the recipient's application and detailed in the project narrative as well as the request details section of the application - including budget information - was consistent with the Assistance to Firefighters Grant Program's purpose and was worthy of award.

Except as otherwise approved as noted in this award, the information you provided in your application for FY2019 Assistance to Firefighters Grants funding is incorporated into the terms and conditions of this award. This includes any documents submitted as part of the application.

Amount awarded

The amount of the award is detailed in the attached Obligating Document for Award.

The following are the budgeted estimates for object classes for this award (including Federal share plus your cost share, if applicable):

| Object Class | Total |
|---------------------|---------------------|
| Personnel | \$0.00 |
| Fringe benefits | \$0.00 |
| Travel | \$0.00 |
| Equipment | \$189,800.00 |
| Supplies | \$0.00 |
| Contractual | \$0.00 |
| Construction | \$0.00 |
| Other | \$0.00 |
| Indirect charges | \$0.00 |
| Federal | \$172,545.45 |
| Non-federal | \$17,254.55 |
| Total | \$189,800.00 |
| Program Income | \$0.00 |

Approved scope of work

After review of your application, FEMA has approved the below scope of work. Justifications are provided for any differences between the scope of work in the original application and the approved scope of work under this award. You must submit scope or budget revision requests for FEMA's prior approval, via an amendment request, as appropriate per 2 C.F.R. § 200.308 and the FY2019 AFG NOFO.

Approved request details:

Modify facilities

Source Capture Exhaust System(s)

DESCRIPTION

Complete Source Capture Exhaust System for 4 Diesel Apparatus.

| QUANTITY | UNIT PRICE | TOTAL |
|----------|-------------|-------------|
| 4 | \$12,000.00 | \$48,000.00 |

BUDGET CLASS

Equipment

Source Capture Exhaust System(s)

DESCRIPTION

Complete Source Capture Exhaust System for 3 Diesel Apparatus.

| QUANTITY | UNIT PRICE | TOTAL |
|----------|-------------|-------------|
| 3 | \$12,600.00 | \$37,800.00 |

BUDGET CLASS

Equipment

Source Capture Exhaust System(s)

DESCRIPTION

Complete Source Capture Exhaust System for 4 Diesel Apparatus.

| QUANTITY | UNIT PRICE | TOTAL |
|----------|-------------|-------------|
| 4 | \$12,000.00 | \$48,000.00 |

BUDGET CLASS

Equipment

| Source Capture Exhaust System(s) | | |
|--|-------------|-------------|
| DESCRIPTION Complete Source Capture Exhaust System for 2 Diesel Apparatus | | |
| QUANTITY | UNIT PRICE | TOTAL |
| 2 | \$14,000.00 | \$28,000.00 |
| BUDGET CLASS Equipment | | |

| Source Capture Exhaust System(s) | | |
|---|-------------|-------------|
| DESCRIPTION Complete Source Capture Exhaust System for 2 Diesel Apparatus. | | |
| QUANTITY | UNIT PRICE | TOTAL |
| 2 | \$14,000.00 | \$28,000.00 |
| BUDGET CLASS Equipment | | |

Agreement Articles

Program: Fiscal Year 2019 Assistance to Firefighters Grant

Recipient: VESTAVIA HILLS, CITY OF

DUNS number: 086551827

Award number: EMW-2019-FG-09429

Table of contents

| | |
|-------------------|---|
| Article 1 | Assurances, Administrative Requirements, Cost Principles, Representations and Certifications |
| Article 2 | DHS Specific Acknowledgements and Assurances |
| Article 3 | Acknowledgement of Federal Funding from DHS |
| Article 4 | Activities Conducted Abroad |
| Article 5 | Age Discrimination Act of 1975 |
| Article 6 | Americans with Disabilities Act of 1990 |
| Article 7 | Best Practices for Collection and Use of Personally Identifiable Information (PII) |
| Article 8 | Civil Rights Act of 1964 – Title VI |
| Article 9 | Civil Rights Act of 1968 |
| Article 10 | Copyright |
| Article 11 | Debarment and Suspension |
| Article 12 | Drug-Free Workplace Regulations |
| Article 13 | Duplication of Benefits |
| Article 14 | Education Amendments of 1972 (Equal Opportunity in Education Act) – Title IX |
| Article 15 | Energy Policy and Conservation Act |
| Article 16 | False Claims Act and Program Fraud Civil Remedies |
| Article 17 | Federal Debt Status |
| Article 18 | Federal Leadership on Reducing Text Messaging while Driving |
| Article 19 | Fly America Act of 1974 |
| Article 20 | Hotel and Motel Fire Safety Act of 1990 |
| Article 21 | Limited English Proficiency (Civil Rights Act of 1964, Title VI) |
| Article 22 | Lobbying Prohibitions |
| Article 23 | National Environmental Policy Act |
| Article 24 | Nondiscrimination in Matters Pertaining to Faith-Based Organizations |

| | |
|----------------|--|
| Article | Non-supplanting Requirement |
| 25 | |
| Article | Notice of Funding Opportunity Requirements |
| 26 | |
| Article | Patents and Intellectual Property Rights |
| 27 | |
| Article | Procurement of Recovered Materials |
| 28 | |
| Article | Rehabilitation Act of 1973 |
| 29 | |
| Article | Reporting of Matters Related to Recipient Integrity and Performance |
| 30 | |
| Article | Reporting Subawards and Executive Compensation |
| 31 | |
| Article | SAFECOM |
| 32 | |
| Article | Terrorist Financing |
| 33 | |
| Article | Trafficking Victims Protection Act of 2000 (TVPA) |
| 34 | |
| Article | Universal Identifier and System of Award Management (SAM) |
| 35 | |
| Article | USA Patriot Act of 2001 |
| 36 | |
| Article | Use of DHS Seal, Logo and Flags |
| 37 | |
| Article | Whistleblower Protection Act |
| 38 | |
| Article | Acceptance of Post Award Changes |
| 39 | |
| Article | Prior Approval for Modification of Approved Budget |
| 40 | |
| Article | Disposition of Equipment Acquired Under the Federal Award |
| 41 | |
| Article | Environmental Planning and Historic Preservation |
| 42 | |
| Article | EHP Compliance Review Required |
| 43 | |

Article 1 Assurances, Administrative Requirements, Cost Principles, Representations and Certifications

DHS financial assistance recipients must complete either the Office of Management and Budget (OMB) Standard Form 424B Assurances – Non-Construction Programs, or OMB Standard Form 424D Assurances – Construction Programs, as applicable. Certain assurances in these documents may not be applicable to your program, and the DHS financial assistance office (DHS FAO) may require applicants to certify additional assurances. Applicants are required to fill out the assurances applicable to their program as instructed by the awarding agency. Please contact the DHS FAO if you have any questions. DHS financial assistance recipients are required to follow the applicable provisions of the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards located at Title 2, Code of Federal Regulations (C.F.R.) Part 200, and adopted by DHS at 2 C.F.R. Part 3002.

Article 2 DHS Specific Acknowledgements and Assurances

All recipients, subrecipients, successors, transferees, and assignees must acknowledge and agree to comply with applicable provisions governing DHS access to records, accounts, documents, information, facilities, and staff. 1. Recipients must cooperate with any compliance reviews or compliance investigations conducted by DHS. 2. Recipients must give DHS access to, and the right to examine and copy, records, accounts, and other documents and sources of information related to the federal financial assistance award and permit access to facilities, personnel, and other individuals and information as may be necessary, as required by DHS regulations and other applicable laws or program guidance. 3. Recipients must submit timely, complete, and accurate reports to the appropriate DHS officials and maintain appropriate backup documentation to support the reports. 4. Recipients must comply with all other special reporting, data collection, and evaluation requirements, as prescribed by law or detailed in program guidance. 5. Recipients of federal financial assistance from DHS must complete the DHS Civil Rights Evaluation Tool within thirty (30) days of receipt of the Notice of Award or, for State Administering Agencies, thirty (30) days from receipt of the DHS Civil Rights Evaluation Tool from DHS or its awarding component agency. Recipients are required to provide this information once every two (2) years, not every time an award is made. After the initial submission for the first award under which this term applies, recipients are only required to submit updates every two years, not every time a grant is awarded. Recipients should submit the completed tool, including supporting materials to CivilRightsEvaluation@hq.dhs.gov. This tool clarifies the civil rights obligations and related reporting requirements contained in the DHS Standard Terms and Conditions. Subrecipients are not required to complete and submit this tool to DHS. The evaluation tool can be found at <https://www.dhs.gov/publication/dhs-civil-rights-evaluation-tool>. 6. The DHS Office for Civil Rights and Civil Liberties will consider, in its discretion, granting an extension if the recipient identifies steps and a timeline for completing the tool. Recipients should request extensions by emailing the request to CivilRightsEvaluation@hq.dhs.gov prior to expiration of the 30-day deadline.

| | |
|------------------|---|
| Article 3 | <p>Acknowledgement of Federal Funding from DHS Recipients must acknowledge their use of federal funding when issuing statements, press releases, requests for proposal, bid invitations, and other documents describing projects or programs funded in whole or in part with federal funds.</p> |
| Article 4 | <p>Activities Conducted Abroad Recipients must ensure that project activities carried on outside the United States are coordinated as necessary with appropriate government authorities and that appropriate licenses, permits, or approvals are obtained.</p> |
| Article 5 | <p>Age Discrimination Act of 1975 Recipients must comply with the requirements of the Age Discrimination Act of 1975, Pub. L. No. 94-135 (1975) (codified as amended at Title 42, U.S. Code, § 6101 et seq.), which prohibits discrimination on the basis of age in any program or activity receiving federal financial assistance.</p> |
| Article 6 | <p>Americans with Disabilities Act of 1990 Recipients must comply with the requirements of Titles I, II, and III of the Americans with Disabilities Act, Pub. L. No. 101-336 (1990) (codified as amended at 42 U.S.C. §§ 12101–12213), which prohibits recipients from discriminating on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities.</p> |
| Article 7 | <p>Best Practices for Collection and Use of Personally Identifiable Information (PII) Recipients who collect PII are required to have a publicly available privacy policy that describes standards on the usage and maintenance of the PII they collect. DHS defines personally identifiable information (PII) as any information that permits the identity of an individual to be directly or indirectly inferred, including any information that is linked or linkable to that individual. Recipients may also find the DHS Privacy Impact Assessments: Privacy Guidance and Privacy Template as useful resources respectively.</p> |
| Article 8 | <p>Civil Rights Act of 1964 – Title VI Recipients must comply with the requirements of Title VI of the Civil Rights Act of 1964 (codified as amended at 42 U.S.C. § 2000d et seq.), which provides that no person in the United States will, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance. DHS implementing regulations for the Act are found at 6 C.F.R. Part 21 and 44 C.F.R. Part 7.</p> |

Article 9 Civil Rights Act of 1968

Recipients must comply with Title VIII of the Civil Rights Act of 1968, Pub. L. No. 90-284, as amended through Pub. L. 113-4, which prohibits recipients from discriminating in the sale, rental, financing, and advertising of dwellings, or in the provision of services in connection therewith, on the basis of race, color, national origin, religion, disability, familial status, and sex (see 42 U.S.C. § 3601 et seq.), as implemented by the U.S. Department of Housing and Urban Development at 24 C.F.R. Part 100. The prohibition on disability discrimination includes the requirement that new multifamily housing with four or more dwelling units—i.e., the public and common use areas and individual apartment units (all units in buildings with elevators and ground-floor units in buildings without elevators)—be designed and constructed with certain accessible features. (See 24 C.F.R. Part 100, Subpart D.)

Article 10 Copyright

Recipients must affix the applicable copyright notices of 17 U.S.C. §§ 401 or 402 and an acknowledgement of U.S. Government sponsorship (including the award number) to any work first produced under federal financial assistance awards.

Article 11 Debarment and Suspension

Recipients are subject to the non-procurement debarment and suspension regulations implementing Executive Orders (E.O.) 12549 and 12689, which are at 2 C.F.R. Part 180 as adopted by DHS at 2 C.F.R. Part 3000. These regulations restrict federal financial assistance awards, subawards, and contracts with certain parties that are debarred, suspended, or otherwise excluded from or ineligible for participation in federal assistance programs or activities.

Article 12 Drug-Free Workplace Regulations

Recipients must comply with drug-free workplace requirements in Subpart B (or Subpart C, if the recipient is an individual) of 2 C.F.R. Part 3001, which adopts the Government-wide implementation (2 C.F.R. Part 182) of Sec. 5152-5158 of the Drug-Free Workplace Act of 1988 (41 U.S.C. §§ 8101-8106).

Article 13 Duplication of Benefits

Any cost allocable to a particular federal financial assistance award provided for in 2 C.F.R. Part 200, Subpart E may not be charged to other federal financial assistance awards to overcome fund deficiencies; to avoid restrictions imposed by federal statutes, regulations, or federal financial assistance award terms and conditions; or for other reasons. However, these prohibitions would not preclude recipients from shifting costs that are allowable under two or more awards in accordance with existing federal statutes, regulations, or the federal financial assistance award terms and conditions.

Article 14 Education Amendments of 1972 (Equal Opportunity in Education Act) – Title IX

Recipients must comply with the requirements of Title IX of the Education Amendments of 1972, Pub. L. No. 92-318 (1972) (codified as amended at 20 U.S.C. § 1681 et seq.), which provide that no person in the United States will, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any educational program or activity receiving federal financial assistance. DHS implementing regulations are codified at 6 C.F.R. Part 17 and 44 C.F.R. Part 19.

Article 15 Energy Policy and Conservation Act

Recipients must comply with the requirements of the Energy Policy and Conservation Act, Pub. L. No. 94- 163 (1975) (codified as amended at 42 U.S.C. § 6201 et seq.), which contain policies relating to energy efficiency that are defined in the state energy conservation plan issued in compliance with this Act.

Article 16 False Claims Act and Program Fraud Civil Remedies

Recipients must comply with the requirements of the False Claims Act, 31 U.S.C. §§ 3729-3733, which prohibits the submission of false or fraudulent claims for payment to the federal government. (See 31 U.S.C. §§ 3801-3812, which details the administrative remedies for false claims and statements made.)

Article 17 Federal Debt Status

All recipients are required to be non-delinquent in their repayment of any federal debt. Examples of relevant debt include delinquent payroll and other taxes, audit disallowances, and benefit overpayments. (See OMB Circular A-129.)

Article 18 Federal Leadership on Reducing Text Messaging while Driving

Recipients are encouraged to adopt and enforce policies that ban text messaging while driving as described in E.O. 13513, including conducting initiatives described in Section 3(a) of the Order when on official government business or when performing any work for or on behalf of the federal government.

Article 19 Fly America Act of 1974

Recipients must comply with Preference for U.S. Flag Air Carriers (air carriers holding certificates under 49 U.S.C. § 41102) for international air transportation of people and property to the extent that such service is available, in accordance with the International Air Transportation Fair Competitive Practices Act of 1974, 49 U.S.C. § 40118, and the interpretative guidelines issued by the Comptroller General of the United States in the March 31, 1981, amendment to Comptroller General Decision B-138942.

Article 20 Hotel and Motel Fire Safety Act of 1990

In accordance with Section 6 of the Hotel and Motel Fire Safety Act of 1990, 15 U.S.C. § 2225a, recipients must ensure that all conference, meeting, convention, or training space funded in whole or in part with federal funds complies with the fire prevention and control guidelines of the Federal Fire Prevention and Control Act of 1974, (codified as amended at 15 U.S.C. § 2225.)

Article 21 Limited English Proficiency (Civil Rights Act of 1964, Title VI)

Recipients must comply with Title VI of the Civil Rights Act of 1964, (42 U.S.C. § 2000d et seq.) prohibition against discrimination on the basis of national origin, which requires that recipients of federal financial assistance take reasonable steps to provide meaningful access to persons with limited English proficiency (LEP) to their programs and services. For additional assistance and information regarding language access obligations, please refer to the DHS Recipient Guidance: <https://www.dhs.gov/guidance-published-help-department-supported-organizations-provide-meaningful-access-people-limited> and additional resources on <http://www.lep.gov>.

Article 22 Lobbying Prohibitions

Recipients must comply with 31 U.S.C. § 1352, which provides that none of the funds provided under a federal financial assistance award may be expended by the recipient to pay any person to influence, or attempt to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any federal action related to a federal award or contract, including any extension, continuation, renewal, amendment, or modification.

Article 23 National Environmental Policy Act

Recipients must comply with the requirements of the National Environmental Policy Act of 1969 (NEPA), Pub. L. No. 91-190 (1970) (codified as amended at 42 U.S.C. § 4321 et seq.) and the Council on Environmental Quality (CEQ) Regulations for Implementing the Procedural Provisions of NEPA, which require recipients to use all practicable means within their authority, and consistent with other essential considerations of national policy, to create and maintain conditions under which people and nature can exist in productive harmony and fulfill the social, economic, and other needs of present and future generations of Americans.

Article 24 Nondiscrimination in Matters Pertaining to Faith-Based Organizations

It is DHS policy to ensure the equal treatment of faith-based organizations in social service programs administered or supported by DHS or its component agencies, enabling those organizations to participate in providing important social services to beneficiaries. Recipients must comply with the equal treatment policies and requirements contained in 6 C.F.R. Part 19 and other applicable statutes, regulations, and guidance governing the participations of faith-based organizations in individual DHS programs.

Article 25 Non-supplanting Requirement

Recipients receiving federal financial assistance awards made under programs that prohibit supplanting by law must ensure that federal funds do not replace (supplant) funds that have been budgeted for the same purpose through non-federal sources.

Article 26 Notice of Funding Opportunity Requirements

All the instructions, guidance, limitations, and other conditions set forth in the Notice of Funding Opportunity (NOFO) for this program are incorporated here by reference in the award terms and conditions. All recipients must comply with any such requirements set forth in the program NOFO.

Article 27 Patents and Intellectual Property Rights

Recipients are subject to the Bayh-Dole Act, 35 U.S.C. § 200 et seq, unless otherwise provided by law. Recipients are subject to the specific requirements governing the development, reporting, and disposition of rights to inventions and patents resulting from federal financial assistance awards located at 37 C.F.R. Part 401 and the standard patent rights clause located at 37 C.F.R. § 401.14.

Article 28 Procurement of Recovered Materials

States, political subdivisions of states, and their contractors must comply with Section 6002 of the Solid Waste Disposal Act, Pub. L. No. 89-272 (1965), (codified as amended by the Resource Conservation and Recovery Act, 42 U.S.C. § 6962.) The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 C.F.R. Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition.

Article 29 Rehabilitation Act of 1973

Recipients must comply with the requirements of Section 504 of the Rehabilitation Act of 1973, Pub. L. No. 93-112 (1973), (codified as amended at 29 U.S.C. § 794,) which provides that no otherwise qualified handicapped individuals in the United States will, solely by reason of the handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.

Article 30 Reporting of Matters Related to Recipient Integrity and Performance

If the total value of any currently active grants, cooperative agreements, and procurement contracts from all federal awarding agencies exceeds \$10,000,000 for any period of time during the period of performance of this federal award, then the recipients must comply with the requirements set forth in the government-wide Award Term and Condition for Recipient Integrity and Performance Matters located at 2 C.F.R. Part 200, Appendix XII, the full text of which is incorporated here by reference in the award terms and conditions.

Article 31 Reporting Subawards and Executive Compensation

Recipients are required to comply with the requirements set forth in the government-wide award term on Reporting Subawards and Executive Compensation located at 2 C.F.R. Part 170, Appendix A, the full text of which is incorporated here by reference in the award terms and conditions.

Article 32 SAFECOM

Recipients receiving federal financial assistance awards made under programs that provide emergency communication equipment and its related activities must comply with the SAFECOM Guidance for Emergency Communication Grants, including provisions on technical standards that ensure and enhance interoperable communications.

| | |
|-------------------|---|
| Article 33 | <p>Terrorist Financing Recipients must comply with E.O. 13224 and U.S. laws that prohibit transactions with, and the provisions of resources and support to, individuals and organizations associated with terrorism. Recipients are legally responsible to ensure compliance with the Order and laws.</p> |
| Article 34 | <p>Trafficking Victims Protection Act of 2000 (TVPA) Recipients must comply with the requirements of the government-wide financial assistance award term which implements Section 106(g) of the Trafficking Victims Protection Act of 2000 (TVPA), codified as amended at 22 U.S.C. § 7104. The award term is located at 2 C.F.R. § 175.15, the full text of which is incorporated here by reference.</p> |
| Article 35 | <p>Universal Identifier and System of Award Management (SAM) Recipients are required to comply with the requirements set forth in the government-wide financial assistance award term regarding the System for Award Management and Universal Identifier Requirements located at 2 C.F.R. Part 25, Appendix A, the full text of which is incorporated here by reference.</p> |
| Article 36 | <p>USA Patriot Act of 2001 Recipients must comply with requirements of Section 817 of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (USA PATRIOT Act), Pub. L. No. 107-56, which amends 18 U.S.C. §§ 175-175c.</p> |
| Article 37 | <p>Use of DHS Seal, Logo and Flags Recipients must obtain permission from their DHS FAO prior to using the DHS seal(s), logos, crests or reproductions of flags or likenesses of DHS agency officials, including use of the United States Coast Guard seal, logo, crests or reproductions of flags or likenesses of Coast Guard officials.</p> |
| Article 38 | <p>Whistleblower Protection Act Recipients must comply with the statutory requirements for whistleblower protections (if applicable) at 10 U.S.C § 2409, 41 U.S.C. § 4712, and 10 U.S.C. § 2324, 41 U.S.C. §§ 4304 and 4310.</p> |
| Article 39 | <p>Acceptance of Post Award Changes In the event FEMA determines that changes are necessary to the award document after an award has been made, including changes to period of performance or terms and conditions, recipients will be notified of the changes in writing. Once notification has been made, any subsequent request for funds will indicate recipient acceptance of the changes to the award. Please call the FEMA/GMD Call Center at (866) 927-5646 or via e-mail to ASK-GMD@dhs.gov if you have any questions.</p> |

Article 40 Prior Approval for Modification of Approved Budget

Before making any change to the DHS/FEMA approved budget for this award, you must request prior written approval from DHS/FEMA where required by 2 C.F.R. § 200.308. DHS/FEMA is also utilizing its discretion to impose an additional restriction under 2 C.F.R. § 200.308(e) regarding the transfer of funds among direct cost categories, programs, functions, or activities. Therefore, for awards with an approved budget where the Federal share is greater than the simplified acquisition threshold (currently \$250,000), you may not transfer funds among direct cost categories, programs, functions, or activities without prior written approval from DHS/FEMA where the cumulative amount of such transfers exceeds or is expected to exceed ten percent (10%) of the total budget DHS/FEMA last approved. You must report any deviations from your DHS/FEMA approved budget in the first Federal Financial Report (SF-425) you submit following any budget deviation, regardless of whether the budget deviation requires prior written approval.

Article 41 Disposition of Equipment Acquired Under the Federal Award

When original or replacement equipment acquired under this award by the recipient or its subrecipients is no longer needed for the original project or program or for other activities currently or previously supported by DHS/FEMA, you must request instructions from DHS/FEMA to make proper disposition of the equipment pursuant to 2 C.F.R. § 200.313.

Article 42 Environmental Planning and Historic Preservation

DHS/FEMA funded activities that may require an EHP review are subject to FEMA's Environmental Planning and Historic Preservation (EHP) review process. This review does not address all Federal, state, and local requirements. Acceptance of Federal funding requires recipient to comply with all Federal, state and local laws. Failure to obtain all appropriate federal, state and local environmental permits and clearances may jeopardize Federal funding. DHS/FEMA is required to consider the potential impacts to natural and cultural resources of all projects funded by DHS/FEMA grant funds, through its EHP Review process, as mandated by the National Environmental Policy Act; National Historic Preservation Act of 1966, as amended; National Flood Insurance Program regulations; and, any other applicable laws and Executive Orders. To access the FEMA's Environmental and Historic Preservation (EHP) screening form and instructions go to the DHS/FEMA website at: <https://www.fema.gov/media-library/assets/documents/90195>. In order to initiate EHP review of your project(s), you must complete all relevant sections of this form and submit it to the Grant Programs Directorate (GPD) along with all other pertinent project information. Failure to provide requisite information could result in delays in the release of grant funds. If ground disturbing activities occur during construction, applicant will monitor ground disturbance, and if any potential archeological resources are discovered, applicant will immediately cease work in that area and notify the pass-through entity, if applicable, and DHS/FEMA.

Article 43 EHP Compliance Review Required

Under the Modification to a Facility, Equipment, or a component in the Wellness and Fitness Activity, this award includes work, such as ground disturbance, that triggers an EHP compliance review. The recipient is prohibited from committing, obligating, expending, or drawing down FY19 Assistance to Firefighters Grant funds in support of the Modification to Facility, Equipment or a component in the Wellness and Fitness Activity that requires the EHP compliance review, with a limited exception for any approved costs associated with the preparation, conducting, and completion of required EHP reviews. See the FY19 Assistance to Firefighters Grant NOFO for further information on EHP requirements and other applicable program guidance, including FEMA Information Bulletin No. 404. The recipient is required to obtain the required DHS/FEMA EHP compliance approval for this project pursuant to the FY19 Assistance to Firefighters Grant NOFO prior to commencing work for this project. DHS/FEMA will notify you when the EHP compliance review is complete and work may begin. If the recipient requests a payment for one of the activities requiring EHP compliance review, FEMA may not make a payment for that work while the EHP compliance review is still pending. If FEMA discovers that work has been commenced under one of those activities prematurely, FEMA may disallow costs incurred prior to completion of the EHP compliance review and the receipt of DHS/FEMA approval to begin the work. Please contact your DHS/FEMA AFG Help Desk at 1-866-274-0960 or FireGrants@fema.dhs.gov to receive specific guidance regarding EHP compliance. If you have questions about this term and condition or believe it was placed in error, please contact the relevant Preparedness Officer.

Obligating document

| | | | | | | |
|---|---|--|---|---|---|--|
| 1. Agreement No. EMW-2019-FG-09429 | 2. Amendment No. N/A | 3. Recipient No. 636002218 | 4. Type of Action AWARD | 5. Control No. WX02929N2020T | | |
| 6. Recipient Name and Address VESTAVIA HILLS, CITY OF 1032 MONTGOMERY HWY BIRMINGHAM, AL 35216 | | 7. Issuing FEMA Office and Address Grant Programs Directorate 500 C Street, S.W. Washington DC, 20528-7000 1-866-927-5646 | | 8. Payment Office and Address FEMA, Financial Services Branch 500 C Street, S.W., Room 723 Washington DC, 20742 | | |
| 9. Name of Recipient Project Officer Donald Whitworth | | 9a. Phone No. 2052814379 | 10. Name of FEMA Project Coordinator Assistance to Firefighters Grant Program | | 10a. Phone No. 1-866-274-0960 | |
| 11. Effective Date of This Action 08/13/2020 | 12. Method of Payment OTHER - FEMA GO | 13. Assistance Arrangement COST SHARING | | 14. Performance Period 08/20/2020 to 08/19/2021 Budget Period 08/20/2020 to 08/19/2021 | | |
| 15. Description of Action a. (Indicate funding data for awards or financial changes) | | | | | | |
| Program Name Abbreviation | Assistance Listings No. | Accounting Data(ACCS Code) | Prior Total Award | Amount Awarded This Action + or (-) | Current Total Award | Cumulative Non-Federal Commitment |
| AFG | 97.044 | 2020-F9-GB01 - P431-xxxx-4101-D | \$0.00 | \$172,545.45 | \$172,545.45 | \$17,254.55 |
| Totals | | | \$0.00 | \$172,545.45 | \$172,545.45 | \$17,254.55 |
| b. To describe changes other than funding data or financial changes, attach schedule and check here: N/A | | | | | | |
| 16. FOR NON-DISASTER PROGRAMS: RECIPIENT IS REQUIRED TO SIGN AND RETURN THREE (3) COPIES OF THIS DOCUMENT TO FEMA (See Block 7 for address) This field is not applicable for digitally signed grant agreements | | | | | | |

| | |
|---|-------------------|
| 17. RECIPIENT SIGNATORY OFFICIAL (Name and Title) | DATE |
| 18. FEMA SIGNATORY OFFICIAL (Name and Title) | DATE |
| Christopher Logan, Acting Assistant Administrator Grant Programs Directorate | 08/13/2020 |