

**Vestavia Hills
City Council Agenda
December 23, 2013
5:00 PM**

1. Call to Order
2. Roll Call
3. Invocation – George Sawaya, Deputy Finance Director
4. Pledge of Allegiance
5. Announcements, Candidate and Guest Recognition
6. City Manager’s Report
7. Councilors’ Reports
8. Financial Reports – Melvin Turner, III, Finance Director
9. Approval Of Minutes – December 9, 2013 (Regular Meeting)

Old Business

10. Resolution Number 4535 – A Resolution Authorizing The Mayor And City Manager To Execute And Deliver A Document Entitled “Vacation, Termination And Release Of Parking Easement” (*public hearing*)
11. Resolution Number 4536 – A Resolution Accepting Dedication Of A Street And Public Improvements In The Castlehill Subdivision (*public hearing*)
12. Ordinance Number 2475 – An Ordinance Calling For A Special Election To Be Held On March 11, 2014 For Renewal Of A Special Municipal School Tax (*public hearing*)
13. Ordinance Number 2476 – A Resolution Authorizing The Mayor And City Manager To Execute And Deliver An Agreement With AT&T Alabama, A Georgia Corporation For Programming Services (*public hearing*)

New Business

14. Ordinance Number 2478 – An Ordinance To Rescind Ordinance Number 2466 – Authorizing And Directing The Sale Of Real Estate Situated At 1112 Montgomery Highway

New Business (Requesting Unanimous Consent)

15. Ordinance Number 2477 – Series 2013-A General Obligation Warrant Issue (*public hearing*)

First Reading (No Action Taken At This Meeting)

16. Resolution Number 4539 – A Resolution Authorizing The City Manager To Execute An Agreement With Walter Schoel Engineering For Design And Survey Services For Additional Parking At The Library In The Forest (*public hearing*)
17. Citizens Comments
18. Motion For Adjournment

CITY OF VESTAVIA HILLS

CITY COUNCIL

MINUTES

DECEMBER 9, 2013

The City Council of Vestavia Hills met in regular session on this date at 5:00 PM. The Mayor called the meeting to order and the City Clerk called the roll with the following:

MEMBERS PRESENT:

Mayor Alberto C. Zaragoza, Jr.
Steve Ammons, Mayor Pro-Tem
George Pierce
John Henley
Jim Sharp

OTHER OFFICIALS PRESENT:

Jeff Downes, City Manager
Patrick H. Boone, City Attorney
Rebecca Leavings, City Clerk
Melvin Turner, Finance Director
George Sawaya, Deputy Treasurer
Brian Davis, Public Services Director
Christopher Brady, City Engineer
Lynn Bonner, Deputy Fire Chief
Danny Rary, Police Chief
Keith Blanton, Building Official
Greg Gilchrist, Fire Marshal
Taneisha Tucker, Library Director

Invocation was given by Roger Salter, St. Matthew's Episcopal Church.

ANNOUNCEMENTS, GUEST RECOGNITION

- David Wheeler, 2532 Crossgate Place, introduced himself and declared that he is a candidate for State House District 47.

CITY MANAGER REPORT

- Mr. Downes recognized Deputy Fire Chief Lynn Bonner who has announced his retirement after more than 40 years of fire service with the City.

- Chief Bonner thanked Mr. Downes, the Mayor and the Council for the opportunities that have been afforded to him during his career with the City.
- Mr. Downes stated that the City's Police Department has received a Community Grant from Walmart for the second year in a row to be used toward local policing efforts and programs
- Design efforts are continuing for the new City Hall facility.
- There will be a 3-day planning charrette for the Patchwork Farms Development at the Hilton Perimeter Park on Wednesday, Thursday and Friday. Mr. Downes indicated that the kick-off party begins at 6 PM Wednesday and invited everyone to attend.

COUNCILOR REPORTS

- Mayor Zaragoza stated that the tree lighting ceremony was very well done. He recognized Brian Davis and the Holiday in the Hills committee for the efforts on these events.
- The Mayor stated that over 350 people attended the pancake breakfast. He stated it was a fun event and continues to grow every year.
- The Christmas parade in Liberty Park was cancelled due to the weather.
- Mr. Pierce thanked Karen Odle and the Chamber for promoting shopping within the City and their assistance in the Holiday in the Hills events.
- Mayor Zaragoza welcomed John and Peter Shields, 1625 Sunnywoods Circle. These young men are Scouts from Troop 1 and were attending for merit badges.
- Mr. Pierce commended the Mayor and Mr. Henley for making the pancakes for the breakfast. He said that they take their own time to shop for the ingredients and then make hundreds of pancakes for the breakfast.
- Mr. Ammons announced that the annual Run for the Hills event will be held this Saturday by the Sunrise Rotary with proceeds going to support the high school band and the "We the People" Competition.
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APPROVAL OF MINUTES

The minutes of the November 13, 2013 (Regular Meeting), November 14 & 15, 2013 (Work Session/Retreat) And November 21, 2013 (Meeting With The Mayor), were presented for approval.

MOTION Motion to dispense with the reading of the minutes of the meeting of November 13, 2013 (Regular Meeting), November 14 & 15, 2013 (Work Session/Retreat) And November 21, 2013 (Meeting With The Mayor) and approve them as presented was by Mr. Ammons and second by Mr. Pierce. Roll Call vote as follows:

Mr. Pierce – yes
Mr. Ammons – yes
Mayor Zaragoza – yes

Mr. Henley – yes
Mr. Sharp – yes
Motion carried.

The minutes of the November 25, 2013 (Regular Meeting) were presented for approval.

MOTION Motion to dispense with the reading of the minutes of the meeting of November 25, 2013 (Regular Meeting) and approve them as presented was by Mr. Henley and second by Mr. Sharp. Roll Call vote as follows:

Mr. Pierce – yes
Mr. Ammons – abstained
Mayor Zaragoza – yes

Mr. Henley – yes
Mr. Sharp – yes
Motion carried.

OLD BUSINESS

RESOLUTION NUMBER 4522

Resolution Number 4522 – A Resolution Ordering The Demolition Of A Building Or Structure Located At 4321 Dolly Ridge Road, Vestavia Hills, Alabama, Parcel ID# 28-22-2-010-011.000, In Compliance With Sections 11-40-30 Through 11-40-36, Sections 11-53B-1 Through 11-53B-16, Inclusive Of The Code Of Alabama, And Incompliance With Ordinance Number 2382 Of The City Of Vestavia Hills, Alabama; And Calling For The City Of Vestavia Hills To Cause Said Demolition To Be Performed And Directing The City Attorney And The City Clerk To Cause The Cost Of Such Demolition To Be Charged Against The Land On Which The Building Or Structure Exists As A Municipal Lien Or Cause Such Cost To Be Recovered In A Suit At Law Against The Owner Or Owners (*public hearing*)

MOTION Motion to approve Resolution Number 4522 was by Mr. Pierce and second was by Mr. Ammons.

Ben Goldman and Mark Waggoner, attorneys from Hand Arendall were present in regard to this request.

Mr. Goldman stated that packets of information has been distributed to the Clerk and Council giving evidence of notification, pictures of the property, publication of notices, etc. He stated that the owner Robert “Bob” Boyer is in attendance at tonight’s meeting. Mr. Goldman read out an email that he had received today regarding this request and asked that it be made a part of the record. He stated that with Mr. Boyer accepting and executing a demolition agreement, the Council could do an amendment to tonight’s Resolution to accept this agreement and begin the 90-day demolition running.

Keith Blanton, Building Official, stated that he has reviewed the property condition and verified that he felt it was an unsafe structure and represents a public nuisance and danger and is due to be demolished. He stated that he has had discussions with the property owner that dates back to before the 2011 tornado which further damaged the structure but has received no real activity on remediation.

Discussion ensued from the Council concerning whether or not the structure was fit for habitation and if someone presently resides there.

Robert “Bob” Boyer, owner, stated that he has been slow to respond because his work schedule takes him out of state and sometimes out of the Country. He indicated that he is hitting a lull in his work schedule and can finally address the problem but asked for an extension.

Discussion ensued about the time he has taken to respond, the salvaging and storage of items in and around the structure, the timeline for demolition and construction of a new home and the variance needed for a storage structure on the property.

Mr. Goldman pointed that that Mr. Boyer runs the risk of exceeding the 90-day demolition promised in the remediation agreement if he delays construction, etc.

Mr. Boyer stated that he accepts that risk.

The Mayor opened the floor for a public hearing. There being no one present to address the Council regarding this matter, the Mayor closed the public hearing and opened the floor for a motion on the amendment.

MOTION Motion to amend Resolution Number 4522 to include the changes suggested by Mr. Goldman and accepting the demolition agreement was by Mr. Pierce and second was by Mr. Ammons. Roll call vote as follows:

Mr. Pierce – yes	Mr. Henley – yes
Mr. Sharp – yes	Mr. Ammons – yes
Mayor Zaragoza – yes	motion carried.

There being no further discussion, the Mayor called for the question. Roll call vote, as follows:

Mr. Pierce – yes	Mr. Henley – yes
Mr. Sharp – yes	Mr. Ammons – yes
Mayor Zaragoza – yes	motion carried.

RESOLUTION NUMBER 4529

Resolution Number 4529 – A Resolution Authorizing The City Manager To Take All Actions Necessary To Secure A Separate Meter And Breaker Box For Sicard Hollow Park (Public Hearing)

MOTION Motion to approve Resolution Number 4529 was by Mr. Ammons and second was by Mr. Pierce.

Mr. Downes stated that this change would allow a power savings of approximately \$8000 annually with a proposed payout within six months.

Discussion ensued about the price difference between recreational lighting, press box lighting, etc.

The Mayor opened the floor for a public hearing. There being no one present to address the Council regarding this matter, the Mayor closed the public hearing and opened the floor for a motion on the amendment.

There being no further discussion, the Mayor called for the question. Roll call vote, as follows:

Mr. Pierce – yes	Mr. Henley – yes
Mr. Sharp – yes	Mr. Ammons – yes
Mayor Zaragoza – yes	motion carried.

RESOLUTION NUMBER 4530

Resolution Number 4530 – Vacation – 10’ Sanitary Sewer Easement On Lot 1, Vestavia Office Park; Taralane Properties; Randy Phillips, Representing (Public Hearing)

MOTION Motion to approve Resolution Number 4530 was by Mr. Henley and second was by Mr. Pierce.

Mr. Downes stated that this request is to relocate a sanitary sewer which handles a private sewer access for two properties on Taralane. The history shows that owners of the office building wish to build a wall on their property and it appears to encroach into a private sewer easement. When they researched it, they found that the sewerline wasn’t in the location of the easement. This request vacates the old sewer easement so the new one can be dedicated by way of a plat by Planning and Zoning.

Randy Phillips, surveyor, was in attendance.

The Mayor opened the floor for a public hearing. There being no one present to address the Council regarding this matter, the Mayor closed the public hearing and called for the question.

Roll call vote, as follows:

Mr. Pierce – yes	Mr. Henley – yes
Mr. Sharp – yes	Mr. Ammons – yes
Mayor Zaragoza – yes	motion carried.

RESOLUTION NUMBER 4531

Resolution Number 4531 - A Resolution Authorizing The City Manager To Execute And Deliver An Agreement To Conduct An Asbestos Survey And An Environmental Inspection Determining The Presence Of Polychlorinated Biphenyls (PCB), Mercury And Chlorofluorocarbons (CFC) At The Old Motor Lodge Motel, 1459 Montgomery Highway, Vestavia Hills, Alabama

MOTION Motion to approve Resolution Number 4531 was by Mr. Sharp and second was by Mr. Pierce.

Mr. Downes stated that this request is to abate asbestos at the old Vestavia Lodge Motel if the owner fails to follow through with his agreement to demolish the structure by the deadline date later in December.

Mayor Zaragoza explained the progress of the owner toward that demolition to date.

The Mayor opened the floor for a public hearing. There being no one present to address the Council regarding this matter, the Mayor closed the public hearing and called for the question.

Roll call vote, as follows:

Mr. Pierce – yes	Mr. Henley – yes
Mr. Sharp – yes	Mr. Ammons – yes
Mayor Zaragoza – yes	motion carried.

NEW BUSINESS

RESOLUTION NUMBER 4532

Resolution Number 4532 - A Resolution Appointing A Member And To Re-Appoint A Member To The Vestavia Hills Library Board

MOTION Motion to approve Resolution Number 4532 was by Mr. Pierce and second was by Mr. Sharp.

Mayor Zaragoza stated that the Council received one application for the vacancy on the Library Board and, after interviews, the Council concurred to appoint Ms. Rebecca Walden to fill that vacancy. The Mayor stated that consensus was to re-appoint Mr. Jason Gardner to fill the other vacancy on the Board.

Ms. Walden and Mr. Gardner were in attendance.

Roll call vote, as follows:

Mr. Pierce – yes	Mr. Henley – yes
Mr. Sharp – yes	Mr. Ammons – yes
Mayor Zaragoza – yes	motion carried.

RESOLUTION NUMBER 4533

Resolution Number 4533 - A Resolution Appointing A Member To The Vestavia Hills Park And Recreation Board

MOTION Motion to approve Resolution Number 4533 was by Mr. Ammons and second was by Mr. Henley.

Mr. Ammons stated that several qualified individuals applied for the vacancy on the Park and Recreation Board. He stated that after the Council interviewed them, they concurred to appoint Ms. Anne Smythe. Mr. Ammons indicated that Ms. Smythe wasn't present tonight because of other commitments.

Roll call vote, as follows:

Mr. Pierce – yes	Mr. Henley – yes
Mr. Sharp – yes	Mr. Ammons – yes
Mayor Zaragoza – yes	motion carried.

RESOLUTION NUMBER 4534

Resolution Number 4534 – A Resolution Declaring Certain Personal Property As Surplus And Directing The Sale/Disposal Of Said Property

MOTION Motion to approve Resolution Number 4534 was by Mr. Pierce and second was by Mr. Ammons.

Mr. Downes stated that this request is to declare a fire department sedan as surplus to allow the sale of the vehicle. The vehicle is located at the City Shop and is inoperable and of no use.

Roll call vote, as follows:

Mr. Pierce – yes	Mr. Henley – yes
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Mr. Sharp – yes
Mayor Zaragoza – yes

Mr. Ammons – yes
motion carried.

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

The Mayor stated that the following Resolutions and/or Ordinances will be presented at a public hearing at the Council's next regularly scheduled meeting on December 23, 2013 at 5 PM.

- Resolution Number 4535 – A Resolution Authorizing The Mayor And City Manager To Execute And Deliver A Document Entitled “Vacation, Termination And Release Of Parking Easement”
- Resolution Number 4536 – A Resolution Accepting Dedication Of A Street And Public Improvements In The Castlehill Subdivision
- Ordinance Number 2475 – An Ordinance Calling For A Special Election To Be Held On March 11, 2014 For Renewal Of A Special Municipal School Tax
- Ordinance Number 2476 – A Resolution Authorizing The Mayor And City Manager To Execute And Deliver An Agreement With AT&T Alabama, A Georgia Corporation For Programming Services

CITIZENS COMMENTS

None.

MOTION Motion to adjourn was by Mr. Henley and second was by Mr. Ammons. Meeting adjourned at 6:12 PM.

Alberto C. Zaragoza, Jr.
Mayor

Attested by:

Rebecca Leavings
City Clerk

RESOLUTION NUMBER 4535

A RESOLUTION AUTHORIZING AND DIRECTING THE MAYOR AND CITY MANAGER TO EXECUTE AND DELIVER A DOCUMENT ENTITLED “VACATION, TERMINATION AND RELEASE OF PARKING EASEMENT”

THIS RESOLUTION NUMBER 4535 is approved and adopted by the City Council of the City of Vestavia Hills, Alabama on this the 23rd day of December, 2013.

WITNESSETH THESE RECITALS:

WHEREAS, BAC Vestavia Realty, LLC, an Alabama limited liability company (“BAC”), and the City of Vestavia Hills, Alabama, an Alabama municipal corporation (“City”), entered into a Conveyance and Parking Easement Agreement on May 15, 2006; and

WHEREAS, the Conveyance and Parking Easement Agreement was filed in the office of the Judge of Probate of Jefferson County, Alabama on June 12, 2006 and recorded at Bk: LR200609 Pg: 2716; and

WHEREAS, the Conveyance and Parking Easement Agreement is incorporated into this Vacation, Termination and Release of Parking Easement by reference as though set out fully herein; and

WHEREAS, the Conveyance and Parking Easement Agreement provides in paragraph 5 as follows:

“5. Duration, Binding Effect. The Parking Easement, and rights and obligations relating thereto under this Agreement, shall run with the BAC Tract and shall be binding upon and inure to the benefit of the owner(s) of the BAC Tract and the City only as long as the City operates the Library on the Library Tract. If for any reason the Library shall cease to operate on the Library Tract, the Parking Easement granted herein shall immediately terminate and all rights and responsibilities thereunder shall cease.”; and

WHEREAS, the City utilized the property situated at 1112 Montgomery Highway in the City of Vestavia Hills, Alabama, which is more particularly described as the “Library Tract” in Exhibit B attached to the Conveyance and Parking Easement Agreement as a public library for the period beginning February 10, 1994 and ending December 12, 2010; and

WHEREAS, the City no longer utilizes the property designated as the Library Tract (Exhibit B to Conveyance and Parking Easement Agreement) as a public library; and

WHEREAS, BAC has requested that the City acknowledge and agree that the parking easement described in the Conveyance and Parking Easement Agreement is vacated, terminated and released.

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

1. The Mayor and City Manager are authorized and directed to execute and deliver the document entitled "Vacation, Termination and Release of Parking Easement," a copy of which is attached hereto and incorporated into this Resolution Number 4535 by reference as though set out fully herein.

2. The duly executed Vacation, Termination and Release of Parking Easement shall be filed for record in the office of the Judge of Probate of Jefferson County, Alabama.

3. If any part, section or subdivision of this Resolution shall be held unconstitutional or invalid for any reason, such holding shall not be construed to invalidate or impair the remainder of this Resolution, which shall continue in full force and effect notwithstanding such holding.

RESOLVED, APPROVED, ADOPTED, DONE and ORDERED, on this the 23rd day of December, 2013.

Alberto C. Zaragoza, Jr.
Mayor and Council President

ATTESTED BY:

Rebecca Leavings
City Clerk

STATE OF ALABAMA

JEFFERSON COUNTY

**VACATION, TERMINATION AND
RELEASE OF PARKING EASEMENT**

WITNESSETH THIS VACATION, TERMINATION AND RELEASE OF PARKING EASEMENT, executed and delivered by the City of Vestavia Hills, Alabama on this the 9th day of December, 2013.

WITNESSETH THESE RECITALS:

WHEREAS, BAC Vestavia Realty, LLC, an Alabama limited liability company (“BAC”), and the City of Vestavia Hills, Alabama, an Alabama municipal corporation (“City”), entered into a Conveyance and Parking Easement Agreement on May 15, 2006; and

WHEREAS, the Conveyance and Parking Easement Agreement was filed in the office of the Judge of Probate of Jefferson County, Alabama on June 12, 2006 and recorded at Bk: LR200609 Pg: 2716; and

WHEREAS, the Conveyance and Parking Easement Agreement is incorporated into this Vacation, Termination and Release of Parking Easement by reference as though set out fully herein; and

WHEREAS, the Conveyance and Parking Easement Agreement provides in paragraph 5 as follows:

“5. Duration, Binding Effect. The Parking Easement, and rights and obligations relating thereto under this Agreement, shall run with the BAC Tract and shall be binding upon and inure to the benefit of the owner(s) of the BAC Tract and the City only as long as the City operates the Library on the Library Tract. If for any reason the Library shall cease to operate on the Library Tract, the Parking Easement granted herein shall immediately terminate and all rights and responsibilities thereunder shall cease.”; and

WHEREAS, the City utilized the property situated at 1112 Montgomery Highway in the City of Vestavia Hills, Alabama, which is more particularly described as the “Library Tract” in Exhibit B attached to the Conveyance and Parking Easement Agreement as a public library for the period beginning February 10, 1994 and ending December 12, 2010; and

WHEREAS, the City no longer utilizes the property designated as the Library Tract (Exhibit B to Conveyance and Parking Easement Agreement) as a public library; and

WHEREAS, BAC has requested that the City acknowledge and agree that the parking easement described in the Conveyance and Parking Easement Agreement is vacated, terminated and released.

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS: That for and in consideration the terms, provisions and conditions of the Conveyance and Parking Easement Agreement, dated May 15, 2006, as follows:

1. The parking easement set forth in Section 5 of the Conveyance and Parking Easement Agreement is hereby vacated, terminated, released and of no legal force and effect.

IN WITNESS WHEREOF, the undersigned, City of Vestavia Hills, Alabama, a municipal corporation, has hereunto set its hand and seal on this the 9th day of December, 2013.

CITY OF VESTAVIA HILLS, ALABAMA
a Municipal Corporation

By _____
Alberto C. Zaragoza, Jr.
Its Mayor

By _____
Jeffrey D. Downes
Its City Manager

ATTESTED

By _____

STATE OF ALABAMA

JEFFERSON COUNTY

ACKNOWLEDGMENT

I, the undersigned authority, a Notary Public in and for said County, in said State, hereby certify that Alberto C. Zaragoza, Jr. whose name as Mayor of the City of Vestavia Hills, Alabama, a municipal corporation, is signed to the foregoing Vacation, Termination and Release of Parking Easement and who is known to me, acknowledged before me on this day that, being informed of the contents of the instrument, he, as such officer and with full authority, executed the same voluntarily for and as the act of said City of Vestavia Hills, Alabama.

Given under my hand and official seal this 9th day of December, 2013.

Notary Public

My Commission expires:

SEAL

STATE OF ALABAMA

JEFFERSON COUNTY

ACKNOWLEDGMENT

I, the undersigned authority, a Notary Public in and for said County, in said State, hereby certify that Jeffrey D. Downes, whose name as City Manager of the City of Vestavia Hills, Alabama, a municipal corporation, is signed to the foregoing Vacation, Termination and Release of Parking Easement and who is known to me, acknowledged before me on this day that, being informed of the contents of the instrument, he, as such officer and with full authority, executed the same voluntarily for and as the act of said City of Vestavia Hills, Alabama.

Given under my hand and official seal this 9th day of December, 2013.

Notary Public

My Commission expires:

SEAL

This instrument prepared by:
L.E. "Buddy" Goodwin
Stoll Keenon Ogden, PLLC
300 West Vine Street, Suite 2100
Lexington, Kentucky 40507-1801



20060612002633830 1/11
Bk: LR200609 Pg:27216
Jefferson County, Alabama
I certify this instrument filed on:
06/12/2006 11:17:44 AM D
Judge of Probate- Mark Gaines

STATE OF ALABAMA

JEFFERSON COUNTY

CONVEYANCE AND PARKING EASEMENT AGREEMENT

THIS CONVEYANCE AND PARKING EASEMENT AGREEMENT (the "Agreement") is made and entered into effective as of the 15th day of May, 2006, by and between BAC VESTAVIA REALTY, LLC, an Alabama limited liability company, whose address is 239 South Limestone, Suite 100, Lexington, Kentucky 40508 ("BAC"), and THE CITY OF VESTAVIA HILLS, ALABAMA, an Alabama municipal corporation, whose address is 513 Montgomery Highway, Vestavia Hills, Alabama 35216 (the "City").

WITNESSETH:

WHEREAS, the City is the owner of that certain real property known as Lot 3, Survey of CVS Vestavia and more particularly described on Exhibit "A" attached hereto and incorporated herein by reference ("Lot 3").

WHEREAS, the City is also the owner and operator of a library located at 1112 Montgomery Highway, Vestavia Hills, Alabama 35216, immediately adjacent to Lot 3 (the "Library"), which located upon the real property described on Exhibit "B" attached hereto and incorporated herein by reference ("Library Tract");

WHEREAS, BAC is the owner of that certain real property known as Lot 2, Survey of CVS Vestavia, and more particularly described on Exhibit "C" attached hereto and incorporated herein by reference ("Lot 2").

WHEREAS, BAC is currently in the process of building a Gold's Gym facility and parking lot on Lot 2 and desires to extend the parking lot and drainage system onto portions of Lot 3.

WHEREAS, the City desires to convey ownership of Lot 3 to BAC in exchange for BAC's granting to the City of a parking easement on Lot 3 and Lot 2 (hereinafter collectively referred to as the "BAC Tract") to allow patrons of the Library the limited use of up to fifty (50) parking spaces in the parking areas on the BAC Tract (the "Parking Lot"), and ingress and egress thereto using the driveways as might exist on the BAC Tract, under the terms and conditions set forth herein (the "Parking Easement").

WHEREAS, BAC and the City desire to more fully set forth the mutual rights, obligations and responsibilities of the parties hereto, with regard to the conveyance of Lot 3 to BAC, use of the Parking Easement, and maintenance of the area covered thereby.

NOW, THEREFORE, in consideration of the agreements herein contained and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, BAC and the City hereby agree as follows:

1. **Conveyance of Lot 3.** The City shall convey to BAC title to Lot 3 within fifteen (15) days of the execution of this Agreement, together with all easements and appurtenances thereto, by Statutory Warranty Deed (the "Deed") in the form attached hereto as Exhibit "D", in accordance with the laws of the State of Alabama, conveying a fee simple marketable title to BAC, free and clear of all liens, encumbrances and other matters affecting title except matters affecting title as may be approved in writing by BAC prior to the time of execution of this Agreement.
2. **Effective Date.** This Agreement and all of the parties' obligations hereunder, with the exception of the Parking Easement and all rights and obligations thereto, shall commence on the date of execution of this Agreement by all of the parties hereto. The Parking Easement described herein, and all obligations and rights thereto, shall be granted and become effective upon satisfaction of the last to occur of the following conditions: (i) the receipt by BAC of the properly executed and recorded Deed conveying Lot 3 to BAC in accordance with the terms of Section 1 above, and (ii) the completion of the construction of the parking lot and access thereto by BAC.
3. **Parking Easement.** Upon the satisfaction of the conditions precedent in Section 2 above, BAC hereby grants and conveys to the City the Parking Easement as more particularly described herein and declares that the Parking Easement shall hereafter exist, unless terminated under the terms of this Agreement, as a parking easement for the limited use by Library patrons of up to fifty (50) parking spaces, as available, in the Parking Lot on Special Event Days, and for occasional Library patron overflow parking when the Library's own parking lot is full. The Parking Easement granted herein shall not be assigned in any way by the City, is only for the use of Library patrons when visiting the Library, and Library patrons shall use the Parking Lot in common with BAC's tenants. Provided, the number of persons permitted to use the Parking Lot, including Library patrons, shall at no time exceed the number of parking spaces in the Parking Lot. For the purposes of this Agreement, "Special Event Days" shall mean days upon which the Library customarily and traditionally has held special events, such as the Imagination Book Fair Day.
4. **Restrictions.** No parking shall be permitted in the Parking Easement, except in specifically designated parking spaces, nor shall the City cause any building, structure or other obstruction be built, maintained or permitted to exist in the Parking Easement. Use of the Parking Lot under the Parking Easement, and any stairs, steps or paths servicing the Parking Lot, is reserved for Library patron use only; neither Library employees nor any other party may make use of the Parking Easement. The owner(s) of the BAC Tract shall have the right to modify the Parking Lot, including the modification of vehicular traffic circulation, landscaping, parking areas, and buildings and structures thereon, so long as the total number of available parking spaces is not materially

reduced.

5. **Duration, Binding Effect.** The Parking Easement, and rights and obligations relating thereto under this Agreement, shall run with the BAC Tract and shall be binding upon and inure to the benefit of the owner(s) of the BAC Tract and the City only as long as the City operates the Library on the Library Tract. If for any reason the Library shall cease to operate on the Library Tract, the Parking Easement granted herein shall immediately terminate and all rights and responsibilities thereunder shall cease.

6. **Maintenance.** The owner(s) of the BAC Tract shall be responsible for the following: (a) the maintenance, management and repair of the Parking Lot including, but not limited to, resurfacing, repaving, re-striping, and mowing and maintenance of the landscaping in the areas immediately adjacent thereto. The owner(s) of the BAC Tract shall have the right to restrict access to the Parking Lot or parts thereof from time to time for the purposes of making necessary repairs and improvements. In the event any damage to the improvements in the Parking Lot is caused by or attributable to any party to this Agreement or beneficiary of the Parking Easement, such party shall be solely responsible for the cost of repair thereof.

7. **Insurance.** City, at its sole cost and expense, shall maintain comprehensive public liability insurance in a combined single limit amount of not less than One Million Dollars (\$1,000,000) insuring against damage to property and injury or death to any person or persons using the Parking Lot under the Parking Easement. Such liability insurance shall specifically insure the performance of the City of the indemnity agreement as contained herein and shall name the owner(s) of the BAC Tract as an additional insured(s).

8. **No Dedication.** Nothing herein shall create a gift or dedication of any portion of the BAC Tract or the Parking Lot, including the Parking Easement, to the general public. Notwithstanding any other provision hereof to the contrary, the owner(s) of the BAC Tract may periodically restrict access over the Parking Easement in order to prevent a prescriptive easement from arising by continued public use of the Parking Easement. Any restriction on access shall (i) be limited to the minimum time period necessary to prevent creation of a prescriptive easement, and (ii) occur at such times as to have minimum affect on the operations of the Library.

9. **Default/Remedies.** In the event of a default by any party(s) to this Agreement, the non-defaulting party(s) shall be reimbursed for all costs and expenses arising out of such default, including, but not limited to, reasonable accounting fees, attorney fees, engineering and/or survey fees, the costs of recording documents and court costs. City shall indemnify and hold the owner(s) of the BAC Tract harmless from all loss, damage, liability or expense resulting from any injury to or death of any person, or any loss of or damage to any property, caused by or resulting from any act or omission of City or any officer, agent, employee, patient, guest, invitee or visitor of City in or about the Parking Lot, but the foregoing provision shall not be construed to make City responsible for injuries to third parties caused by the negligence of the owner(s) of the BAC Tract or any agent or employee of the owner(s) of the BAC Tract.

10. **Modification.** No part of this Agreement or the Parking Easement created herein may be amended, modified or terminated without the prior mutual, written consent of the owner(s) of the BAC Tract and the City, except as otherwise specifically provided for herein.

11. **No Association, Etc.** This Agreement shall not create an association, partnership, joint venture or a principal and agency relationship among the owner(s) of the BAC Tract or the City, or any occupant thereof, or any tenants, or licensee of the owner(s) of the BAC Tract.

12. **Waiver.** No waiver of any provision hereof shall be deemed to imply or constitute a further waiver hereof or of any other provision set forth herein.

13. **Severability.** Should any provision hereof be declared invalid by a legislative, administrative or judicial body, the other provisions hereof shall remain in full force and effect and shall be unaffected by same.

14. **Good Faith Effort.** The owner(s) of the BAC Tract and the City shall make a good faith effort to cooperate in all matters involving the placement, use, maintenance and granting of all easement rights referred to herein and both the owner(s) of the BAC Tract and the City agree to execute, acknowledge and record any and all further instruments, easements, agreements, declarations or other documents which are reasonably necessary to fulfill the terms and intentions of this Agreement.

15. **Authority.** Each person executing this Agreement represents and warrants that: (i) he or she has been authorized to execute and deliver this Agreement by the entity for which he or she is signing; and (ii) this Agreement is the valid and binding agreement of such entity, enforceable in accordance with its terms.

16. **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of Alabama.

IN WITNESS WHEREOF, BAC and the City have executed this Agreement as of the day and year first above written.

"BAC"

BAC Vestavia Realty, LLC,
an Alabama limited liability company

By: Stephen D. Dawahare
Stephen D. Dawahare
its Sole Member

"CITY"

THE CITY OF VESTAVIA HILLS, ALABAMA
an Alabama municipality

By: Charles A. McCallum
Charles A. McCallum
Mayor

STATE OF ALABAMA Kentucky Fayette Co
COUNTY OF JEFFERSON

I, the undersigned authority, a Notary Public in and for said County, in said State, hereby certify that STEPHEN D. DAWAHARE, whose name as sole member of BAC Vestavia Realty, an Alabama limited liability company, is signed to the foregoing instrument and who is known to me, acknowledged before me on this day that, being informed of the contents of said instrument, he, in his capacity as member and with full authority, executed the same voluntarily for and as the act of said limited liability company on the same that bears date.

Given my hand and official seal this the 2 day of June, 2006.

[NOTARY SEAL]

Notary Public - Risa Lawson (Maurer)
My Commission Expires: 8-23-06

STATE OF ALABAMA
COUNTY OF JEFFERSON

I, the undersigned authority, a Notary Public in and for said County, in said State, hereby certify that Charles A. McCallum, whose name as Mayor of The City of Vestavia Hills, Alabama, an Alabama municipal corporation, is signed to the foregoing instrument and who is known to me, acknowledged before me on this day that, being informed of the contents of said instrument, he, in his capacity as Mayor and with full authority, executed the same voluntarily for and as the act of said municipality on the same that bears date.

Given my hand and official seal this the 15th day of May, 2006.

[NOTARY SEAL]

Notary Public - Little Jeff Robinson
My Commission Expires: March 20, 2007

EXHIBIT "A"

Lot 3, according to the Survey of CVS Vestavia, as recorded in Map Book 213, Page 31, in the Probate Office of Jefferson County, Alabama.

EXHIBIT B

A parcel of land situated in the Northeast Quarter of the Southwest Quarter of Section 30, Township 18 South, Range 2 West, Jefferson County, Alabama, being more particularly described as follows:

From the Southwest corner of said quarter-quarter section run thence in an Easterly direction along the South line of same for a distance of 589.77 feet to the point of beginning of the parcel herein described; thence turn an angle to the left of 103 degrees 33 minutes 57 seconds and run in a Northwesterly direction for a distance of 206.63 feet; thence turn an angle to the right of 101 degrees 35 minutes 18 seconds and run in an Easterly direction for a distance of 359.60 feet to a point on the Westerly right-of-way of U.S. Highway 31, said point being in a curve to the right having a radius of 3173.97 feet and a central angle of 3 degrees 54 minutes 57 seconds and being concave to the West with a chord which forms an interior angle of 98 degrees 29 minutes 45 seconds with the previous call; thence run along the arc of said curve in said right-of-way line in a southerly direction for a distance of 216.93 feet to the South line of said quarter-quarter section, the chord of said curve forming an interior angle of 79 degrees 31 minutes 36 seconds with said South line of said quarter-quarter section; thence run in a Westerly direction along said South line for a distance of 350.34 feet to the point of beginning

EXHIBIT C

Lot 2, according to the Survey of CVS Vestavia, as recorded in Map Book 213, Page 31, in the Probate Office of Jefferson County, Alabama.

EXHIBIT D

[Deed begins on following page]

SEND TAX NOTICE TO:
BAC Vestavia Realty, LLC
239 South Limestone, Suite 100
Lexington, Kentucky 40508

This instrument was prepared by:
Patrick H. Boone, Attorney at Law
705 New South Federal Savings Building
215 Richard Arrington, Jr. Boulevard North
Birmingham, Alabama 35203-3720

STATE OF ALABAMA
JEFFERSON COUNTY

STATUTORY WARRANTY DEED

KNOW ALL MEN BY THESE PRESENTS: That in consideration of Ten Dollars (\$10.00), the execution and delivery of a Parking Easement Agreement and other valuable consideration to the undersigned Grantor in hand paid by the Grantee herein, the receipt whereof is acknowledged, the said Grantor, The City of Vestavia Hills, Alabama, a municipal corporation (herein referred to as "Grantor"), does grant, bargain, sell and convey unto BAC Vestavia Realty, LLC (herein referred to as "Grantee"), the following described real estate situated in Jefferson County, Alabama, to-wit:

Lot 3, according to the Survey of CVS Vestavia, as recorded in Map Book 213, Page 31, in the Probate Office of Jefferson County, Alabama.

This conveyance is made subject to taxes due October 1, 2006, and further subject to easements, restrictions and right-of-ways of record, if any, and any matters that would be disclosed by an inspection or a survey of the property.

It is the intent of the Grantor to convey to Grantee any and all of its right, title and interest in and to the real property more particularly described in that certain Statutory Warranty Deed, dated May 1, 2006, from Sidney Aultman, a married man; Hunter Williams, a married man; and Brady Development and Investments, Inc., an Alabama corporation, to The City of Vestavia Hills, Alabama, a municipal corporation, which was filed in the office of the Judge of Probate of Jefferson County, Alabama on May 10, 2006 and recorded at Instrument 20060510000454260 (Bk:LR200608 Pg:6432). This deed is prepared using information furnished by the Grantee. No examination of title was made. No title opinion was rendered.

TO HAVE AND TO HOLD to the said Grantee, its successors and assigns forever.

IN WITNESS WHEREOF, the Grantor, The City of Vestavia Hills, Alabama, a municipal corporation, by Charles A. McCallum, as Mayor, who is authorized to execute this conveyance, hereto set its signature and seal, on this the 15th day of May, 2006.

THE CITY OF VESTAVIA HILLS, ALABAMA
a Municipal Corporation

By _____
Charles A. McCallum
Its Mayor

Statutory Warranty Deed
page 2

ATTEST:

By _____
Rebecca Leavings
City Clerk

STATE OF ALABAMA

JEFFERSON COUNTY

CORPORATE ACKNOWLEDGMENT

I, the undersigned authority, a Notary Public, in and for said County, in said State, hereby certify that Charles A. McCallum, whose name as Mayor of The City of Vestavia Hills, Alabama, a municipal corporation, is signed to the foregoing conveyance, and who is known to me, acknowledged before me on this day that being informed of the contents of the conveyance, he, as such officer and with full authority, executed the same voluntarily for and as the act of said The City of Vestavia Hills, Alabama, a municipal corporation.

Given under my hand and official seal, this the 15th day of May, 2006.

Notary Public

20080612000633898 11/11
Bk: LR200609 Pg:27216
Jefferson County, Alabama
06/12/2006 11:17:44 AM D
Fee - \$30.50

Total of Fees and Taxes-\$30.50
WILSONN

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

November 18, 2013

By Hand Delivery

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

Re: Conveyance and Parking Easement Agreement, Dated May 15, 2006, By and Between
BAC Vestavia Realty, LLC ("BAC") and the City of Vestavia Hills, Alabama ("City")

Dear Mr. Downes:

As you know, the *Southminister* case recently settled. During the course of concluding the Settlement Agreement, Bent Owens learned that BAC is selling its property. BAC has requested that I certify that the Conveyance and Parking Easement Agreement ("Agreement") is terminated and no longer in force and effect.

FACTS

On February 10, 1994, HealthSouth Medical Center, Inc., as Lessor ("HMC"), and the City, as Lessee, entered into a Ground Lease Agreement whereby HMC leased the property situated at 1112 Montgomery Highway in the City of Vestavia Hills, Alabama (the "property") to the City for a period of thirty (30) years for a total annual rent of Ten Dollars (\$10.00) per year provided that the property be used for a public library and not for any purposes other than a public library.

On January 1, 1998, HMC and the City amended the Ground Lease Agreement whereby the City leased the property for a period of thirty (30) years with annual rent of Ten Dollars (\$10.00) with an option to purchase the property at the end of the term for One Hundred Ten Dollars (\$110.00).

On August 2, 2005, HMC and the City terminated the Ground Lease Agreement. This eliminated the requirement that the property be used for a public library and for no other purpose.

November 18, 2013

Page 2

On August 19, 2005, HMC conveyed the property to the City for and in consideration of Seven Hundred Ten Dollars (\$710.00) by virtue of that certain Corporation Quitclaim Deed, dated August 19, 2005, which said Deed was filed in the office of the Judge of Probate of Jefferson County, Alabama on August 24, 2005 and recorded at Instrument 200511/9612.

BAC Vestavia Realty, LLC, an Alabama limited liability company ("BAC"), and the City of Vestavia Hills, Alabama, an Alabama municipal corporation ("City"), entered into a Conveyance and Parking Easement Agreement on May 15, 2006 which was filed in the office of the Judge of Probate of Jefferson County, Alabama on June 12, 2006 and recorded at Bk: LR200609 Pg: 2716 and provides in paragraph 5 as follows:

"5. Duration, Binding Effect. The Parking Easement, and rights and obligations relating thereto under this Agreement, shall run with the BAC Tract and shall be binding upon and inure to the benefit of the owner(s) of the BAC Tract and the City only as long as the City operates the Library on the Library Tract. If for any reason the Library shall cease to operate on the Library Tract, the Parking Easement granted herein shall immediately terminate and all rights and responsibilities thereunder shall cease."

The City used the property for public library purposes until December 12, 2010 when the new Vestavia Hills Library in the Forest was completed and opened to the public. Since then, the City Council has decided that the property (old Library property) is no longer needed for public purposes and has offered it for sale.

LEGAL OPINION

It is my legal opinion that the City Council must adopt a resolution authorizing you and the Mayor to sign a Vacation, Termination and Release of Parking Easement in order to comply with the request of BAC. Title 11-43-56, *Code of Alabama, 1975*, provides that the City Council shall have the management and control over all real property owned by the City. Therefore, as City Attorney, I cannot make the certification requested by BAC.

MY RECOMMENDATIONS

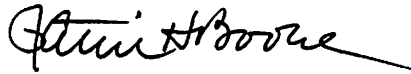
1. Schedule the enclosed resolution on the agenda for a first reading at the December 9, 2013 meeting of the City Council.
2. The Council should consider the resolution at the second meeting in December.
3. If the City Council enacts the resolution, then in such event the Mayor and you should sign the enclosed Vacation, Termination and Release of Parking Easement.

November 18, 2013
Page 3

3. Once it is signed by the Mayor and you, the Vacation, Termination and Release of Parking Easement should be filed for record in the office of the Judge of Probate of Jefferson County, Alabama.

Please call me if you have any questions regarding this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Patrick H. Boone", with a long horizontal flourish extending to the right.

Patrick H. Boone
Vestavia Hills City Attorney

PHB:gp

Enclosures

cc: Mayor Alberto C. Zaragoza, Jr.
City Clerk Rebecca Leavings

RESOLUTION NUMBER 4536

**A RESOLUTION ACCEPTING THE DEDICATION OF THE STREET
KNOWN AS CASTLEHILL DRIVE LOCATED IN CASTLEHILL
SUBDIVISION**

WHEREAS, Willow Trace Partners, LLC is the developer of Castlehill Subdivision in Vestavia Hills, Alabama. This dedication consists of the street named Castlehill Drive; such dedication to include the public portions of said subdivision; and

WHEREAS, the streets and improvements were partially constructed according to the City of Vestavia Hills' specifications and the development company failed to fulfill the subdivision agreement prior to the completion for said subdivision; and

WHEREAS, the subdivision has been substantially completed according to the City Engineer with only one lot left vacant (Lot 22) and, in a memorandum dated December 3, 2013 to the City Manager, has recommended acceptance of dedication of the street and public improvements so that the City may use sureties to repair and/or resurface the public improvements and begin maintenance of the street; and

WHEREAS, the Mayor and City Council feel it is in the best public interest to accept dedication of said public improvements within the Castlehill Subdivision.

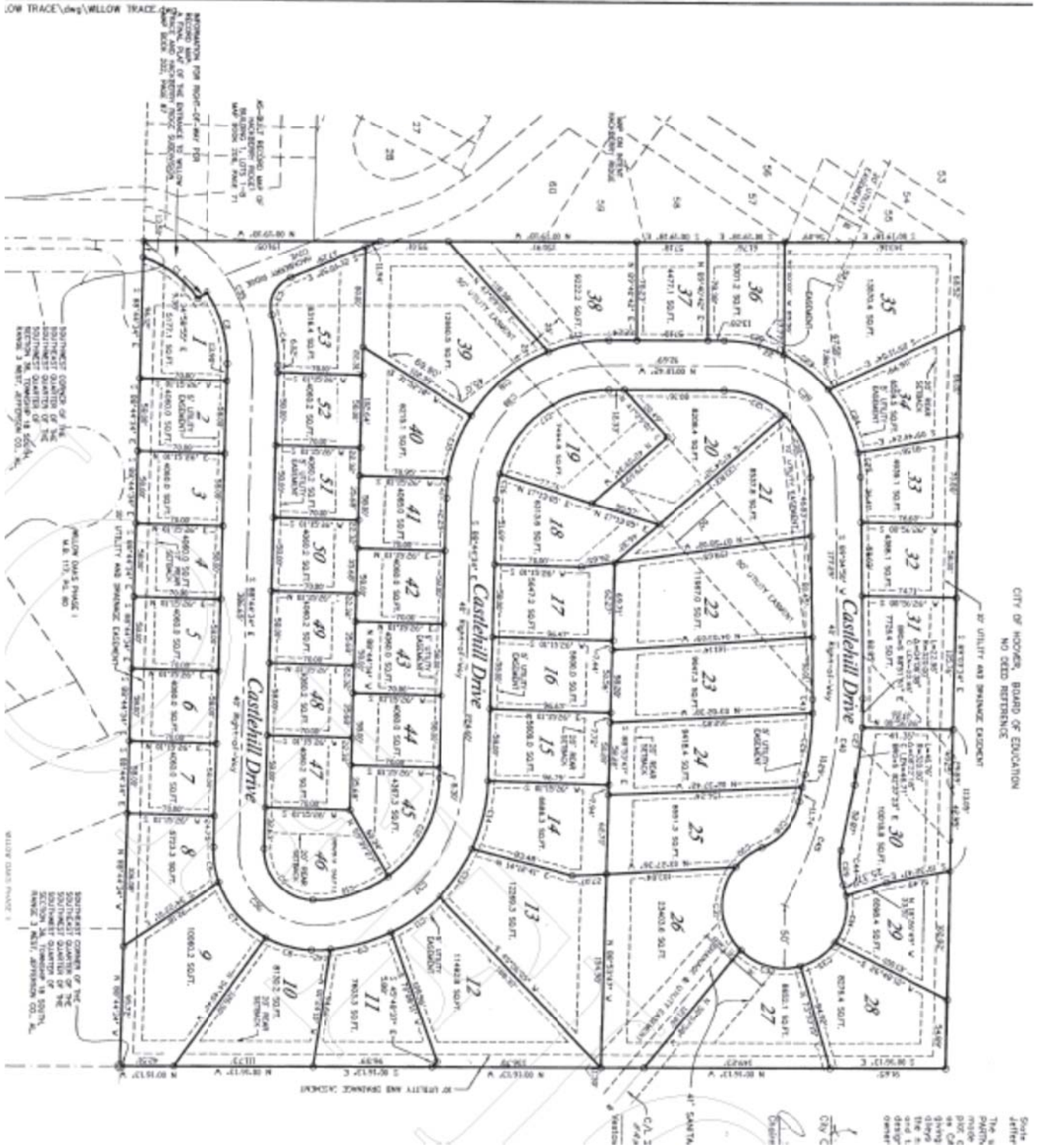
NOW THEREFORE BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF VESTAVIA HILLS, ALABAMA, that the City hereby accepts the dedication for the Castlehill Subdivision and said street shall be and is hereby a public street.

ADOPTED and APPROVED this the 23rd day of December, 2013.

Alberto C. Zaragoza, Jr.
Mayor

ATTESTED BY:

Rebecca Leavings
City Clerk



CITY OF HOOVER, BOARD OF EDUCATION
NO GRID REFERENCE

Scale
1" = 20'
0' 10' 20'

CITY OF VESTAVIA HILLS
DEPARTMENT OF PUBLIC SERVICES
OFFICE OF CITY ENGINEER
INTER-DEPARTMENT MEMO

December 3, 2013

To: Jeff Downes, City Manager

CC: Brian Davis, Director of Public Services
Rebecca Leavings, City Clerk

From: Christopher Brady, City Engineer

RE: infrastructure repair and completion items for Castlehill Subdivision
Dedication of public right-of-way

Resolution 4521 adopted on Nov 25th, 2013, authorized expenditure to repair and complete "public" infrastructure items within the Castlehill Subdivision. Technically, since this has been a private development, "public" infrastructure does not currently exist. In review of documentation, the City needs to accept the roadway and other items as "public" infrastructure in order to proceed.

I recommend the City adopt recognition of the dedication and acceptance of the platted "public" infrastructure items pending the anticipated completion of the items identified in Resolution 4521. I anticipate working with Becky in wording of this resolution.

Please let me know if any questions,

-Christopher



ORDINANCE NO. 2475

AN ORDINANCE CALLING FOR A SPECIAL ELECTION TO BE HELD ON MARCH 11, 2014 FOR RENEWAL OF A SPECIAL MUNICIPAL SCHOOL TAX

BE IT ORDAINED BY THE CITY COUNCIL ("THE COUNCIL") OF THE CITY OF VESTAVIA HILLS ("THE CITY"), IN THE STATE OF ALABAMA, AS FOLLOWS:

Section 1. Findings of Fact. The Council, upon evidence duly submitted to and considered by it, does hereby find and declare that the following facts are true and correct:

(a) A special election was duly called and held in the City on May 8, 1990, pursuant to the laws and Constitution of Alabama of 1901, at which election a majority of the qualified electors of the City voting thereat did vote in favor of the levy and collection of the City's 15.1 mill annual ad valorem tax at an increased rate of 25.6 mills for the purpose of providing ad valorem tax revenue for public school purposes for each tax year of the City until and including the tax year for which taxes will be due and payable on October 1, 2018.

(b) At the request of the Vestavia Hills City Board of Education, the Council proposes, subject to approval at a referendum, to continue to levy the said tax annually, commencing with the tax year for which taxes will become due and payable on October 1, 2018, and for each consecutive tax year thereafter, without limit as to time.

Section 2. Call of Election. A special municipal election is hereby called to be held in the City on the 11th day of March, 2014, between the hours of 7:00 a.m. and 7:00 p.m. for the purpose of submitting the following question or proposition to the qualified electors of the City and determining by ballot their will with respect thereto:

Shall the 10.5 mill (or \$1.05 on each \$100 of the assessed value of taxable property) ad valorem tax presently being levied by the City of Vestavia Hills, Alabama, for use by the Vestavia Hills City Board of Education for public school purposes, pursuant to the general provisions of the Constitution and laws of the State of Alabama and an election held in the City on May 8, 1990, as part of an annual special municipal school tax now being levied at the rate of 25.6 mills on each dollar (or \$2.56 on each \$100) of the assessed value of taxable property in the City until and including the tax year for which municipal taxes will become due and payable on October 1, 2017, continue to be levied annually, commencing with the tax year for which taxes will become due and payable on October 1, 2018, and for each consecutive tax year thereafter, without limit as to time, in continuation of the tax increase approved at the election held in the City on May

8, 1990?

Section 3. Notice of Election. The City Clerk is hereby directed to give notice of the said election in the manner provided by law in substantially the following form by posting in three public places in the City (there being no newspaper published in the City), the first publication to be made not later than the second Tuesday in January, 2014, and not less than sixty days (60) days prior to the said election:

NOTICE OF SPECIAL MUNICIPAL ELECTION

Notice is hereby given that a special municipal election will be held in the City of Vestavia Hills in the State of Alabama on Tuesday, the 11th day of March, 2014, between the hours of 7:00 a.m. and 7:00 p.m., Central Time, at which there will be submitted to the qualified electors of the said City, for their determination by ballot, the following proposition:

Shall the 10.5 mill (or \$1.05 on each \$100 of the assessed value of taxable property) ad valorem tax presently being levied by the City of Vestavia Hills, Alabama, for use by the Vestavia Hills City Board of Education for public school purposes, pursuant to the general provisions of the Constitution and laws of the State of Alabama and an election held in the City on May 8, 1990, as part of an annual special municipal school tax now being levied at the rate of 25.6 mills on each dollar (or \$2.56 on each \$100) of the assessed value of taxable property in the City until and including the tax year for which municipal taxes will become due and payable on October 1, 2017, continue to be levied annually, commencing with the tax year for which taxes will become due and payable on October 1, 2018, and for each consecutive tax year thereafter, without limit as to time, in continuation of the tax increase approved at the election held in the City on May 8, 1990?

Location of Voting Places

Vestavia Hills United Methodist Church
2061 Kentucky Avenue
Vestavia Hills, Alabama

Horizon Church
2345 Columbiana Road
Vestavia Hills, Alabama

Liberty Park Baptist Church
12001 Liberty Parkway
Vestavia Hills, Alabama

Mountaintop Community Church
225 Centerview Drive
Vestavia Hills, Alabama

Town Village Vestavia Hills
2385 Dolly Ridge Road
Vestavia Hills, Alabama

Cahaba Heights Community and
Senior Citizens Center
4401 Dolly Ridge Road
Vestavia Hills, Alabama

Absentee Balloting -
Vestavia Hills Municipal Center
513 Montgomery Highway
Vestavia Hills, Alabama

All registered and qualified electors of the state, who reside within the corporate limits of the City of Vestavia Hills, and have resided therein for thirty (30) days or more immediately preceding the date of the election, and who are qualified to vote in the county precinct which embraces and covers that part of the corporate limits of the City in which the elector resides, will be authorized to participate in the election.

By order of the City Council.

Alberto C. Zaragoza, Jr.
Mayor of the City of Vestavia Hills

(End of form of notice)

Section 4. Form of Ballot. The following is hereby adopted as the form of the official ballot to be used at the said election on the proposition referred to in the notice of election set out in Section 3 of this ordinance, which ballot shall be prepared under the direction of the City Clerk for use in the voting machines at the respective voting places:

OFFICIAL BALLOT

SPECIAL MUNICIPAL TAX ELECTION ON
THE RENEWAL AND CONTINUATION
OF CITY-LEVIED SCHOOL TAX
(Amendment No. 56)

City of Vestavia Hills, Alabama

March 11, 2014

INSTRUCTIONS TO VOTERS: [The appropriate instructions to voters shall be printed here.]

PROPOSITION

Shall the 10.5 mill (or \$1.05 on each \$100 of the assessed value of taxable property) ad valorem tax presently being levied by the City of Vestavia Hills, Alabama, for use by the Vestavia Hills City Board of Education for public school purposes, pursuant to the general provisions of the Constitution and laws of the State of Alabama and an election held in the City on May 8, 1990, as part of an annual special municipal school tax now being levied at the rate of 25.6 mills on each dollar (or \$2.56 on each \$100) of the assessed value of taxable property in the City until and including the tax year for which municipal taxes will become due and payable on October 1, 2017, continue to be levied annually, commencing with the tax year for which taxes will become due and payable on October 1, 2018, and for each consecutive tax year thereafter, without limit as to time, in continuation of the tax increase approved at the election held in the City on May 8, 1990?

[] FOR continued levy of said additional 10.5 mills of taxation (as part of the special 25.6 mill municipal tax now being levied for public school purposes) for each successive tax year of the City of Vestavia Hills commencing with the tax year for which municipal taxes will become due and payable on October 1, 2018, and for each consecutive tax year thereafter, the proceeds of which shall be used by the Vestavia Hills City Board of Education for public school purposes

[] AGAINST continued levy of said additional 10.5 mills of taxation (as part of the special 25.6 mill municipal tax now being levied for public school purposes) for each successive tax year of the City of Vestavia Hills commencing with the tax year for which municipal taxes will become due and payable on October 1, 2018, and for each consecutive tax year thereafter, the proceeds of which shall be used by the Vestavia Hills City Board of Education for public school purposes

(End of form of ballot)

The form of the official absentee ballot to be used at the said election shall be the same as the foregoing form of the official ballot with the following exceptions:

In lieu of the words "Official Ballot" appearing at the head of the form thereof, there shall be inserted in the official absentee ballot the words "Official Absentee Ballot"; and there shall be added to the end of the official absentee ballot the forms of affidavit for absent voters substantially equivalent to the forms of affidavit prescribed therefor by law.

Section 5. Polling Places and Election Officials. The polling or voting places in the City for the holding of the said election are hereby designated and appointed as follows:

Location of Voting Places

Vestavia Hills United Methodist Church
2061 Kentucky Avenue
Vestavia Hills, Alabama

Horizon Church
2345 Columbiana Road
Vestavia Hills, Alabama

Liberty Park Baptist Church
12001 Liberty Parkway
Vestavia Hills, Alabama

Mountaintop Community Church
225 Centerview Drive
Vestavia Hills, Alabama

Town Village Vestavia Hills
2385 Dolly Ridge Road
Vestavia Hills, Alabama

Cahaba Heights Community and
Senior Citizens Center
4401 Dolly Ridge Road
Vestavia Hills, Alabama

Absentee Balloting -
Vestavia Hills Municipal Center
513 Montgomery Highway
Vestavia Hills, Alabama

Ordinance Number 2475

The Council will by resolution hereinafter to be adopted appoint and designate the election officials to conduct the said election at the said voting places.

ADOPTED by the City Council of the City of Vestavia Hills, Alabama, this 23rd day of December, 2013.

Mayor

ATTEST:

City Clerk

ORDINANCE NUMBER 2476

AN ORDINANCE AUTHORIZING THE MAYOR AND CITY MANAGER TO EXECUTE AND DELIVER AN AGREEMENT WITH BELLSOUTH TELECOMMUNICATIONS, LLC D/B/A AT&T ALABAMA, A GEORGIA CORPORATION TO PROVIDE IP ENABLED BROADBAND AND PROGRAMMING SERVICES TO THE CITY

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF VESTAVIA HILLS, ALABAMA, AS FOLLOWS:

1. The Mayor and City Manager are hereby authorized to execute and deliver an agreement with BellSouth Telecommunications, LLC d/b/a AT&T Alabama (“AT&T Alabama”), a Georgia corporation for IP broadband and programming services for the City of Vestavia Hills; and
2. A copy of said agreement is marked as Exhibit A is attached and incorporated into this Ordinance Number 2476 as though written fully therein; and
3. This Ordinance Number 2476 is effective upon adoption and approval, publication and/or posting as required by Alabama law.

ADOPTED and APPROVED this the 23rd day of December, 2013.

Alberto C. Zaragoza, Jr.
Mayor

ATTESTED BY:

Rebecca Leavings
City Clerk

AGREEMENT

THIS AGREEMENT (“Agreement”) dated _____, 2013 (“Effective Date”) is made by and between BellSouth Telecommunications, LLC d/b/a AT&T Alabama (“AT&T Alabama”), a Georgia corporation, and the City of Vestavia Hills, Alabama, a municipal corporation (“City”). AT&T Alabama and City shall sometimes be referred to separately as a “Party,” and collectively as the “Parties.”

RECITALS:

WHEREAS, AT&T Alabama is in the process of modifying its existing telecommunications network to provide an integrated Internet Protocol (“IP”) enabled broadband platform of voice, data and video services (“IP Network”), the video component of which is a switched, two-way, point-to-point and interactive service (“IP-enabled Video Service”). The IP Network upgrade will involve the use of the public right-of-way in the City (“ROW”); and

WHEREAS, the City Council of the City of Vestavia Hills, Alabama finds and determines that the execution and delivery of this Agreement will promote the public welfare and best interests of the citizens of the City of Vestavia Hills.

NOW, THEREFORE, in consideration of and reliance upon the respective representations, promises, concessions, terms and conditions contained herein, City and AT&T Alabama agree as follows:

1. **Term:** The term of this Agreement shall be from the Effective Date of this Agreement through December 31, 2018. The term may be extended upon mutual agreement of the Parties.

A. The parties agree to consult in the event that, after the Effective Date, any court, agency, commission, legislative body, or other authority of controlling jurisdiction issues a finding that limits the validity or enforceability of this Agreement, in whole or in part. Should the finding be final, non-appealable and binding upon either City or AT&T Alabama, this Agreement shall be deemed modified or limited to the extent necessary to address the subject of the finding unless either Party, within thirty (30) days of receipt of the finding, provides written notice to the other party of election to terminate, in which case this Agreement shall terminate within six (6) months or such earlier period as the Parties mutually may agree. Where the effect of a finding is a modification, the Parties shall enter into good faith negotiations to modify this Agreement in the manner which best effectuates its overall purposes and the intentions of the Parties. Failure to reach a mutually satisfactory modification within ninety (90) days of the commencement of such efforts shall entitle either Party to terminate the Agreement on the provision of thirty (30) days’ written notice.

B. In addition to the termination rights set forth in Section 1(A) above, AT&T Alabama shall have the right to terminate this Agreement and all obligations hereunder upon ninety (90) days notice to the City, if (a) AT&T Alabama concludes in its reasonable business judgment that IP Video Service in the City is no longer technically, economically or financially consistent with AT&T Alabama’s business objectives; (b) Title VI of the Communications Act of 1934, as amended obligations or any similar obligations are imposed on

AT&T Alabama; or (c) it becomes clear that AT&T Alabama must offer or provide IP Video Service pursuant to a franchise (cable or otherwise) and/or franchise-like requirements or other local authorization.

2. **Compensation to City.** During the term of this Agreement, AT&T Alabama shall pay to City a fee equal to five percent (5%) of the Gross Revenues from subscription fees collected from each subscriber to AT&T Alabama's IP Video Services product delivered over the IP Network in the City's ROW; such product to be defined by AT&T Alabama when it is offered to the public. The fee ("IP Video Services Provider Fee") will be identified and passed through on any subscriber bill by AT&T Alabama, and all such fees collected will be forwarded to City quarterly and shall be due forty-five (45) days after the end of each quarter. If during the term of this agreement, AT&T Alabama should pay to any other municipality in Alabama a fee greater than five percent (5%) of the gross revenues from subscription fees collected from each subscriber to AT&T Alabama's IP Video Services product delivered over the IP Network over that City's right-of-way, then in such event the compensation to the City of Vestavia Hills shall automatically be increased to that amount. Should, during the term of this agreement, AT&T Alabama pay to any other municipality in Alabama the compensation any sooner than forty-five (45) days after the end of each quarter, then in such event this agreement shall be automatically amended so that the City of Vestavia Hills, Alabama shall receive payments at the same time.

A. For purposes of this Agreement, Gross Revenues are limited to amounts billed to and collected from AT&T Alabama IP Video Services product subscribers for the following:

- (a) recurring charges for IP Video Services;
- (b) event-based charges for IP Video Services, including but not limited to pay-per-view and video-on-demand charges;
- (c) rental of set top boxes and other IP Video Services equipment;
- (d) service charges related to the provision of IP Video Services, including, but not limited to, activation, installation and repair; and
- (e) administrative charges related to the provision of IP Video Services, including, but not limited to, service order and service termination charges.

B. For purposes of this Agreement, Gross Revenues do not include:

- (a) uncollectible fees, provided that all or part of uncollectible fees which is written off as bad debt but subsequently collected fees, less expenses of collection, shall be included in Gross Revenues in the period collected;
- (b) discounts, refunds and other price adjustments that reduce the amount of compensation received by AT&T Alabama;
- (c) late payment fees;

- (d) maintenance charges;
- (e) amounts billed to IP Video Services subscribers to recover taxes, fees or surcharges imposed upon IP Video Services subscribers in connection with the provision of IP Video Services, including the IP Video Services Provider Fee authorized by this section;
- (f) revenue from the sale of capital assets or surplus equipment; or
- (g) charges, other than those described in subparagraph A that are aggregated or bundled with amounts billed to IP Video Services subscribers including but not limited to any revenues received by AT&T Alabama or its affiliates for telecommunications services, information services, or the provision of directory or Internet advertising, including yellow pages, white pages, banner advertisement and electronic publishing.

City shall have the right to inspect, upon reasonable notice, AT&T Alabama's books and records showing its gross revenues for any of the services provided herein from which the fee specified herein is computed. No acceptance of any such fee by City shall be construed as a release of or an accord or satisfaction of any claim City might have for further or additional sums payable under the terms of the Agreement.

3. Public, Educational and Governmental Programming. In recognition of the technical architecture of IP Video Services AT&T Alabama and the City shall reasonably cooperate to investigate a web-based methodology to make such PEG programming available with AT&T Alabama's IP Video Service network, at such time as AT&T Alabama achieves ten percent (10%) market share of the pay TV subscriber market within City or within one hundred eighty (180) days of AT&T Alabama's launch of IP Video Services and subject to reasonable economic and technical feasibility considerations.

Any operation of any PEG access channel by City shall be the responsibility of City, and AT&T Alabama's only obligation, if any, is the responsibility for the transmission of such channel. The City will be responsible to ensure that all transmissions, retransmissions, content or programming that may be requested to be transmitted over a channel or facility by AT&T Alabama in the future, if any, are provided or submitted to AT&T Alabama, at the AT&T Alabama's designated connection point, in a manner or form that is capable of being accepted and transmitted by AT&T Alabama, without requirement for additional alteration or change in the format or content by AT&T Alabama, over the network of the AT&T Alabama, and which is compatible with the technology or protocol utilized by AT&T Alabama to deliver IP Video Services.

4. Emergency Message. AT&T Alabama shall carry all Federal, State and Local alerts provided over the "Federal Emergency Alert System" through AT&T Alabama's IP-enabled Video Services in the event of a public safety emergency, which at a minimum will include the concurrent rebroadcast of local broadcast channels.

5. Customer Service. AT&T Alabama shall comply with customer service requirements consistent with 47 C.F.R. Section 76.309(c).

6. **Obligations of City.** During the term of this Agreement, City will not subject, nor attempt to subject, the provision of AT&T Alabama's IP-enabled Video Services over the IP Network to regulation under any cable television franchise ordinance or similar ordinances. In addition, City agrees:

(a) To subject the construction and installation of the IP Network to the same process and review as it subjects the installation and construction of AT&T Alabama's existing telecommunications infrastructure.

(b) Not to unreasonably block, restrict or limit the construction and installation of the IP Network.

(c) To process any and all applicable permits for the installation, construction, maintenance, repair, removal and other activities associated with the IP Network in a timely and prompt manner.

7. **Indemnification:**

A. AT&T Alabama agrees to indemnify, defend and hold harmless City, its officers, agents and employees, from and against any liability for damages and for any liability or claims resulting from tangible property damage or bodily injury (including accidental death), to the extent proximately caused by AT&T Alabama's negligent construction, operation or maintenance of its IP Network, provided that City shall give AT&T Alabama written notice of its obligation to indemnify City within ten (10) days of receipt of a claim or action pursuant to this subsection. Notwithstanding the foregoing, AT&T Alabama shall not indemnify City for any damages, liability or claims resulting from the negligence or willful misconduct of City, its officers, agents, employees, attorneys, consultants, independent contractors or third parties or for any activity or function conducted by any person or entity other than AT&T Alabama in connection with PEG programming.

B. With respect to AT&T Alabama's indemnity obligations set forth above, AT&T Alabama shall provide the defense of any claims brought against City by selecting counsel of AT&T Alabama's choice to defend the claim, subject to the consent of City, which shall not be unreasonably withheld. Nothing herein shall be deemed to prevent City from cooperating with AT&T Alabama and participating in the defense of any litigation by its own counsel at its own cost and expense; provided, however, that after consultation with City, AT&T Alabama shall have the right to defend, settle or compromise any claim or action arising hereunder, and AT&T Alabama shall have the authority to decide the appropriateness and the amount of any such settlement.

C. Anything contained herein to the contrary notwithstanding, City shall maintain no responsibility or liability for claims or damages resulting from tangible property damage or bodily injury (including accidental death) arising out of AT&T Alabama's construction, operation or maintenance of its IP Network or operations authorized hereby. AT&T Alabama shall maintain no responsibility or liability for any damages, liability or claims resulting from the negligence or willful misconduct of City, its officers, agents, employees, attorneys, consultants or independent contractors or third parties or for any activity or function

conducted by any person or entity other than AT&T Alabama in connection with PEG programming, or for other independent acts of City, its agents, employees or assigns.

8. **Breach of Agreement.** Should either party claim that a breach of any part of this Agreement has occurred, that party will provide prompt written notice to the other, specifying the nature of the breach; and upon receipt the other party shall cure such breach within sixty (60) days.

9. **Dispute Resolution.** Except as otherwise provided in this Agreement, the Parties shall make diligent good faith efforts to resolve all issues and disputes that arise in the administration of this Agreement through discussions between designated representatives of the Parties and use of a mediator when such discussions have failed.

10. **Force Majeure:** In the event performance of this Agreement, or any obligation hereunder, is either directly or indirectly prevented, restricted or interfered with by a force majeure, the Party affected, upon giving prompt notice to the other Party, shall be excused from such performance on a day-to-day basis to the extent of such prevention, restriction or interference.

11. **Non-Discrimination:** AT&T Alabama shall not deny access to its IP Video Services to any group of potential customers because of the income of the residents of the local area in which the group resides.

12. **Notices.** Any notice to be given under this Agreement shall be in writing and may be delivered to either personally, by facsimile or by certified or registered mail with postage prepaid and return receipt requested, addressed as follows:

If to City:

Honorable Butch Zaragoza, Jr., Mayor
City of Vestavia Hills
513 Montgomery Highway
Vestavia Hills, Alabama 35216

If to AT&T Alabama:

AT&T Alabama
General Counsel—Alabama
Suite 28A2
600 19th Street N
Birmingham, Alabama 35203.

13. **Modification.** This Agreement may be amended or modified only by a written instrument executed by both Parties.

14. **Assignment.** AT&T Alabama may not assign or transfer this Agreement or any interest therein without the prior consent of City except to any affiliate of AT&T Alabama.

15. **Entire Agreement.** This Agreement constitutes the entire agreement between City and AT&T Alabama with respect to the subject matter contained herein and supersedes all prior or contemporaneous discussions, agreements and/or representations of or between City and AT&T Alabama regarding the subject matter hereof.

16. **Waiver.** Failure on the part of either Party to enforce any provision of this Agreement shall not be construed as a waiver of the right to compel enforcement of such provision or any other provision.

17. **Miscellaneous.**

A. AT&T Alabama and City each hereby warrants that it has the requisite power and authority to enter into this Agreement and to perform according to the terms hereof.

B. The headings used in this Agreement are inserted for convenience or reference only and are not intended to define, limit or affect the interpretation of any term or provision hereof. The singular shall include the plural; the masculine gender shall include the feminine and neutral gender.

C. AT&T Alabama and City shall cooperate fully with one another in the execution of any and all other documents and in the completion of any additional actions including, without limitation, the processing of permits that may be necessary or appropriate to give full force and effect to the terms and intent of this Agreement.

D. Nothing contained in this Agreement is intended or shall be construed as creating or conferring any rights, benefits or remedies upon, or creating any obligations of the Parties hereto toward any person or entity not a party to this Agreement, unless otherwise expressly set forth herein.

18. **Binding Effect.** This Agreement shall be binding upon and for the benefit of each of the Parties and their respective past and present principals, managers, City Council members, officers, directors, shareholders, agents, employees, attorneys, successors and assigns and any parents, subsidiaries or affiliated corporations or entities, as applicable.

19. **Counterpart Execution.** This Agreement may be signed in one or more counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same agreement. Signature pages may be transmitted by facsimile and any signature transmitted by facsimile will be given the same force and effect as an original signature.

[signatures on page 7]

IN WITNESS WHEREOF, the parties hereto, by their duly authorized representatives, have executed this Agreement and made the same effective as of this the _____ day of _____, 2013.

AT&T ALABAMA

By: _____
Name: Fred McCallum, Jr.
Title: President-- AT&T Alabama

**STATE OF ALABAMA
COUNTY OF JEFFERSON**

SWORN TO and SUBSCRIBED before me this the ____ day of _____, 2013.

Notary Public SEAL

My Commission Expires: _____

CITY OF VESTAVIA HILLS

By: _____
Name: Butch Zaragoza, Jr.
Title: Mayor

**STATE OF ALABAMA
COUNTY OF JEFFERSON**

SWORN TO and SUBSCRIBED before me this the ____ day of _____, 2013.

Notary Public SEAL

My Commission Expires: _____

ORDINANCE NUMBER 2478

**A RESOLUTION TO RESCIND ORDINANCE NUMBER 2466
AUTHORIZING AND DIRECTING THE SALE OF REAL ESTATE
SITUATED AT 1112 MONTGOMERY HIGHWAY**

WHEREAS, October 14, 2013, the City Council adopted and approved Ordinance Number 2466 authorizing the Mayor and City Manager to execute an agreement for the sale of property located at 1112 Montgomery Highway; and

WHEREAS, the Mayor and City Council have determined it is in the best public interest to rescind Ordinance Number 2466 at the written request of the purchaser.

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

1. Ordinance Number 2466 is hereby rescinded in its entirety and all earnest funds paid relative to said purchase shall be refunded as soon as practical; and
2. This Ordinance Number 2478 shall become effective immediately upon adoption and approval.

DONE, ORDERED, ADOPTED and APPROVED this the 23rd day of December, 2013.

Alberto C. Zaragoza, Jr.
Mayor

ATTESTED BY:

Rebecca Leavings
City Clerk



COMMERCIAL REALTY PARTNERS

**TERMINATION OF SALES CONTRACT
AGREEMENT**

This Indenture made this 4th day of December, 2013.

Pursuant the contract by and between **Commercial Realty Partner, LLC.**, as Purchaser and **City of Vestavia Hills**, as Seller, the Purchaser terminates the Commercial Sales Agreement dated October 23, 2013 for property located at 1112 Montgomery Highway, Vestavia Hills, Alabama 35216.

Purchaser has canceled the General Sales Contract which has been declared null and void and of no other effect. Earnest money in the amount of \$ 1,000.00 shall be refunded to Commercial Realty Partners, LLC.

By: Sammy Johnson
Authorized Signature for Purchaser
Its: President
Date 12-4-13

ORDINANCE NUMBER 2466

AN ORDINANCE FINDING AND DETERMINING THAT REAL PROPERTY OWNED BY THE CITY OF VESTAVIA HILLS, ALABAMA BEING APPROXIMATELY 1.66± ACRES OF THE PROPERTY LOCATED AT 1112 MONTGOMERY HIGHWAY AND AN APPROXIMATELY 22,000 SQUARE FOOT BUILDING LOCATED ON THE PROPERTY (“PROPERTY”) IS NOT NEEDED FOR PUBLIC OR MUNICIPAL PURPOSES; TO ACCEPT AN OFFER BY COMMERCIAL REALTY PARTNERS, LLC AND/OR ASSIGNS, AN ALABAMA LIMITED LIABILITY COMPANY OR ITS ASSIGNS (“THE PURCHASER”) TO PURCHASE THE PROPERTY FOR SEVEN HUNDRED AND FIFTY THOUSAND DOLLARS (\$750,000.00) AND TO AUTHORIZE AND DIRECT THE MAYOR AND CITY MANAGER TO EXECUTE ALL DOCUMENTS NECESSARY TO COMPLETE THE SALE

THIS ORDINANCE NUMBER 2466 is approved and adopted by the City Council of the City of Vestavia Hills, Alabama on this the 14th day of October, 2013.

WITNESSETH THESE RECITALS:

WHEREAS, the City of Vestavia Hills, Alabama (“City”) is the owner of a parcel of land situated in the City of Vestavia Hills, Jefferson County, Alabama commonly referred to as the former Library property; and

WHEREAS, Commercial Realty Partners, LLC and/or Assigns, an Alabama Limited Liability Company or its Assigns (“Purchasers”) has offered to purchase from the City the property consisting of approximately 1.66 +/- acres with all improvements located on the property for a price of Seven Hundred and Fifty Dollars Thousand (\$750,000.00) (“offer”) in an Purchase and Sale Agreement (“Agreement”) a copy of which is marked as “Exhibit A,” attached to and incorporated into this Ordinance Number 2466 as though written fully therein; and

WHEREAS, the City finds and determines that it is willing to accept the offer by the Purchasers; and

WHEREAS, Title 11-47-20, *Code of Alabama, 1975*, reads as follows:

“The governing body of any city or town in this state may, by ordinance to be entered on its minutes, direct the disposal of any real property not needed for public or municipal purposes and direct the mayor to make title thereto, and a conveyance made by the mayor in accordance with such ordinance invests the grantee with the title of the municipality,” and

WHEREAS, Title 11-47-5, *Code of Alabama, 1975*, reads as follows:

“Contracts entered into by a municipality shall be in writing, signed and executed in the name of the city or town by the officers authorized to make the same and by the party contracting. In cases not otherwise directed by law or ordinance, such contracts shall be entered into and executed by the mayor in the name of the city or town and all obligations for the payment of money by the municipality, except for bonds and interest coupons, shall be attested by the clerk. This section shall not be construed to cover purchases for the ordinary needs of the municipality;” and

WHEREAS, the City Council of the City of Vestavia Hills, Alabama finds and determines that the Property is not needed for municipal or public purposes; and

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

1. The Property, more particularly described in Section 3 below, is hereby found and determined not to be needed for public or municipal purposes by the City of Vestavia Hills, Alabama and is hereby declared as surplus property all in accordance with the requirements of Title 11-47-20, *Code of Alabama, 1975*.

2. The Mayor and City Manager are hereby authorized to sell the Property described in paragraph 3 below for and in consideration of the sum of Seven Hundred and Fifty Thousand Dollars (\$750,000.00).

3. The exact legal description of the Property (approximately 1.66± acres) is described as follows:

A parcel of land situated in the NE ¼ of the SW ¼ of Section 30, Township 18 South, Range 2 West, Jefferson County, Alabama, being more particularly described as follows:.

From the SW corner of said 1/4-1/4 Section run thence in an Easterly direction along the South line of same for a distance of 589.77 feet to the point of beginning of the parcel herein described; thence turn an angle to the left of 103 degrees 33 minutes 57 seconds and run in a Northwesterly direction for a distance of 206.63 feet; thence turn an angle to the right of 101 degrees 35 minutes 18 seconds and run in an easterly direction for a distance of 359.60 feet to a point on the westerly right-of-way of US Highway 31 said point being in a curve to the right having a radius of 3173.97 feet and a central angle of 3 degrees 54 minutes 57 seconds and being concave to the west with a chord which forms an interior angle of 98 degrees 29 minutes 45 seconds with the previous call; thence run along the arc of said curve in a right of way line in a southerly direction for a distance of 216.93 feet to the South line of said 1/4-1/4 section, the chord of said curve forming an interior angle of 79 degrees 31 minutes 36 seconds with said

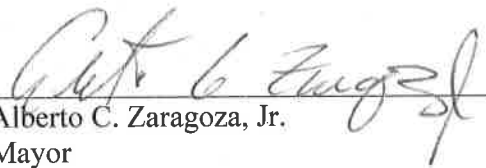
South line of Said 1/4-1/4 section; thence run in a Westerly direction along said South line for a distance of 350.34 feet to the point of beginning.

5. Upon approval, adoption and enactment of this Ordinance Number 2466, the Mayor and City Manager are hereby authorized and directed to execute any and all documents necessary to close the sale of the Property to the Purchasers pursuant to the authority of Title 11-47-5, *Code of Alabama, 1975*.

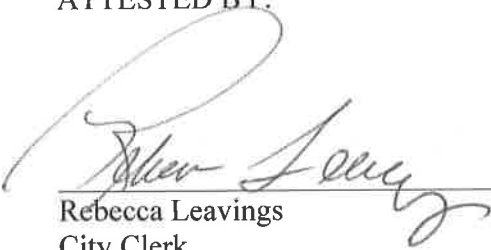
6. This Ordinance shall become effective immediately upon its approval, adoption and enactment.

7. If any part, section or subdivision of this Ordinance shall be held unconstitutional or invalid for any reason, such holding shall not be construed to invalidate or impair the remainder of this Ordinance which shall continue in full force and effect notwithstanding such holding.

DONE, ORDERED, APPROVED and ADOPTED, on this the 14th day of October, 2013.


Alberto C. Zaragoza, Jr.
Mayor

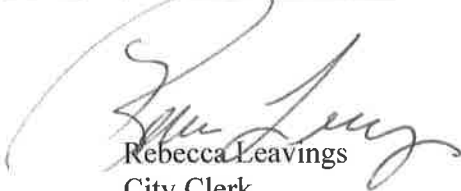
ATTESTED BY:


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 # 2466 is a true and correct copy of such Ordinance that was duly adopted by the City Council of the City of Vestavia Hills on the 14th day of October, 2013 as same appears in the official records of said City.

Posted at Vestavia Hills Municipal Center, Vestavia Hills New Merkle House, Vestavia Hills Library in the Forest this the 15th day of Oct, 2013.



Rebecca Leavings
City Clerk

PURCHASE AND SALE AGREEMENT

PURCHASE AND SALE AGREEMENT (this "Agreement" is entered into on or before as of this 23rd day of September, 2013, by and between The City of Vestavia Hills, Alabama (the "Seller"), and Commercial Realty Partners, LLC and/or assigns, an Alabama limited liability company or its assigns (the "Purchaser").

Recitals

A. Seller is the owner of that certain parcel of improved real property, being known as the old Vestavia Hills library property comprised of +/- 1.66 acres and an approximate 22,000 square foot building, located at 1112 Montgomery Highway in Vestavia Hills, Alabama, as depicted on the attached Exhibit A and made a part hereof (the "Property").

B. Purchaser desires to purchase the Property, and Seller desires to sell the Property, pursuant to the terms and conditions of this Agreement.

Agreement

NOW, THEREFORE, in consideration of the above Recitals and other good and valuable consideration, including the mutual covenants and promises herein contained, the receipt and sufficiency of which are hereby acknowledged, Seller and Purchaser hereby agree as follows:

1. **Purchase Price; Closing Date.** The purchase price for the Property shall be \$750,000.00 (the "Purchase Price"), to be paid as hereinafter provided. The closing of the sale and purchase of the Property (the "Closing") shall occur on the Closing Date, as defined in paragraph 5.
2. **Earnest Money; Inspection Period.** No later than three (3) business days after the Effective Date (defined in Section 24 hereof), Purchaser shall pay to Seller immediately available funds in the amount of \$1,000.00 (the "Earnest Money"), to be held and disbursed by the Seller in accordance with the terms of this Agreement. Commencing on the Effective Date, Purchaser shall have 90 days (the "Inspection Period") to perform such inspections as Purchaser deems necessary to evaluate the Property, at Purchaser's sole expense. Purchaser shall indemnify and hold Seller harmless from any and all claims, damages and losses, including attorney fees, arising from such inspections. If Purchaser deems any inspection unsatisfactory, for any reason or no reason, Purchaser shall have the right to terminate this Agreement prior to the end of the Inspection Period, by written notice to Seller received prior to the end of the Inspection Period, and receive a full refund of the Earnest Money. If Purchaser does not terminate this Agreement prior to the end of the Inspection Period, all inspections shall be deemed satisfactory, and the parties shall proceed to Closing.
3. **Application of Earnest Money.** Unless this Agreement is terminated prior to the end of the Inspection Period, the Earnest Money shall become non-refundable and shall be applied to the Purchase Price to be paid by Purchaser at Closing.
4. **Possession.** Seller shall deliver possession of the Property to Purchaser on the Closing Date.

5. Place and Date of Closing. The Closing shall be on or before the date which is 30 days following the end of the Inspection Period. The actual date of Closing is referred to herein as the "Closing Date". Time shall be of the essence with respect to the Closing Date.

6. Conveyance. Seller shall convey to Purchaser good and marketable fee simple title to the Property by general warranty deed.

7. Costs and Fees. Purchaser shall pay all other costs and fees related to closing including any updated survey, appraisal, environmental audits, title, mortgage tax, recording fees, etc. Seller and Purchaser shall pay the fees of their own attorneys for services related to the preparation and negotiation of this Agreement and the sale and purchase of the Property. All taxes will be prorated as of the day of closing.

Seller agrees to provide its most recent survey of the Property to Seller, together with other readily accessible reports, easements and other agreements relating to the Property now in Seller's possession, all within five (5) business days from the Effective Date.

8. Option to Extend Inspection Period. The Purchaser may, at their sole discretion, extend the original ninety (90) day Inspection Period by an additional ninety (90) days by notifying the Seller, in writing, at least fourteen days prior to end of existing Inspection Period and paying the Seller the amount of \$9,000.00 for the ninety (90) day extension. This extension payment is a fee which does not apply to the purchase and are non-refundable.

9. Representations and Warranties of Seller. To induce Purchaser to enter into this Agreement, Seller makes the following representations and warranties, all of which are true as of the date hereof (unless otherwise specified) and shall also be true as of the Closing Date:

(a) Seller has full power and authority to enter into this Agreement and to perform all of its obligations hereunder.

(b) The execution and delivery of this Agreement and the performance by Seller of its obligations hereunder have been duly authorized by all requisite action, except for the approval by the Seller of the Company (as defined in Section 25, Closing Condition One) submitted by the Purchaser.

(c) That unless excepted herein, Seller has not received notification from any lawful authority regarding any assessments, pending public improvements, repairs, replacement, or alterations to the Property that have not been satisfactorily made. Seller warrants it is the fee owner of the Property or is authorized to execute this document for the fee owner.

(d) Seller has no actual knowledge that the Property has in the past been used or is presently used for the handling, storage, manufacturing, refining, transportation or disposal



of "toxic material", "hazardous substances" or "hazardous waste". The terms "hazardous wastes", "hazardous substances", and "toxic material" include, without limitation, any flammable explosives, radioactive materials, hazard materials, hazardous wastes, hazardous or toxic substances or related materials defined in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (42USC§1801 et seq), the Resource Conservation and Recovery Act, as amended (42USC§9601 et seq), the regulations adopted and publications promulgated pursuant to the foregoing and any other federal, state or local environmental law, ordinance, rule or regulation. Furthermore, Seller has not received a summons, citation, directive, letter or other communication, written or oral, from any governmental authority as to any of the above environmental concerns.

(e) Seller shall neither market the Property for sale nor enter into a "back-up" contract with any other party for said Property throughout the term of this Agreement.

At Closing, Seller shall be deemed to have represented and warranted to Purchaser that Seller's representations and warranties as stated herein are true and correct as of the Closing. Purchaser shall have the right, at its expense, to have a Phase 1 ESA performed on the Property.

THESE WARRANTIES SHALL SURVIVE THE DELIVERY OF THE DEED.

10. Documents for Closing.

(a) Seller, at Seller's sole cost and expense, shall deliver or cause to be delivered to Purchaser the following documents (the "Closing Documents"):

- (i) The Deed;
- (ii) A certificate of non-foreign status to insure Seller's compliance with Foreign Investment in Real Property Tax Act ("FIRPTA") (Section 1445 of the Internal Revenue Code of 1986, as amended) in the form attached hereto as Exhibit B;
- (iii) Such additional documents and instruments as the title company may reasonably require to transfer Seller's interest in the Property pursuant to the terms of this Agreement, each of which shall be in form and substance reasonably satisfactory to Seller.

(b) At the Closing, Purchaser shall deliver, or cause to be delivered, to Seller in accordance with the terms of this Agreement, the Purchase Price less the Earnest Money and prorations.

11. Default: Remedies. If Purchaser fails to perform its obligations under this Agreement within the time specified, Seller shall have the right to retain the Earnest Money as liquidated damages as its sole and exclusive remedy. If Seller fails to perform any of the covenants of this Agreement, then the Earnest Money paid by Purchaser shall be returned to Purchaser and

J.D.

thereupon Seller shall be released from any and all liability under the terms of this Agreement, or, alternatively, Purchaser may seek the remedy of specific performance so long as such action is filed within thirty (30) days of the alleged breach and/or pursue any other remedies afforded to it under the law. If either party fails to comply with all of the terms, covenants and conditions of this Agreement, the prevailing party in any lawsuit will be entitled to all expenses, including a reasonable attorney's fee, incurred as a result of such failure.

12. Condemnation and Destruction. If, on the Closing Date, all or any reasonably substantial portion of the Property is the subject of a pending or contemplated taking by eminent domain which has not been consummated or if the Property has been materially damaged or destroyed, Seller shall notify Purchaser of such fact and Purchaser shall have the option to terminate this Agreement and, in the event Purchaser shall elect to terminate this Agreement, Seller shall refund to Purchaser the Earnest Money. If this Agreement is terminated and the Earnest Money is returned, as foresaid, neither party shall have any further rights or obligations hereunder. If, after receipt of Seller's notice, as aforesaid, Purchaser does not exercise its option to terminate this Agreement, the parties hereto shall remain bound hereunder and Seller shall assign and turn over, and Purchaser shall be entitled to receive and keep, all awards for the taking by eminent domain described in said notice or all insurance proceeds payable as a result of such destruction or damage.

13. Final Agreement. This Agreement represents to the final agreement of the parties and no agreements or representations, unless incorporated in this Agreement, shall be binding on any of the parties, and no portion hereof shall be amended or modified unless such change shall be in writing and signed by both parties thereto.

14. Notice. Any notice required hereunder shall be in writing and sent by certified mail, return receipt requested. Notice shall be deemed to be given when deposited in the United States mail, postage prepaid. Personal delivery and delivery by recognized overnight delivery service may be substituted for certified mail. Notice shall be sent to the following individuals:

If to Purchaser: Tammy Johnson
 Wade Robinett
 304 Office Park Circle, Suite 304
 Birmingham, Alabama 35223

If to Seller: Jeff Downes
 City Manager
 City of Vestavia Hills, Alabama
 513 Montgomery Highway
 Vestavia Hills, Alabama 35216

With a copy to: Patrick H. Boone
 City Attorney
 705 New South Federal Savings Building
 215 Richard Arrington, Jr. Boulevard North
 Birmingham, Alabama 35203-3720

15. Number and Gender. Whenever the singular number is used herein and when required by the context, the same shall include the plural, and the masculine gender shall include the feminine and neuter genders, and the word "person" shall include a corporation, firm, partnership, joint venture, trust, or estate.

16. Governing Law. This Agreement shall be governed by, and construed and enforced in accordance with, the laws of the State of Alabama.

17. Assignment. Purchaser may transfer, assign or encumber its rights and/or obligations under this Agreement without prior written consent of Seller, which approval may be withheld in Seller's sole and absolute discretion; provided, however, that Purchaser shall have the right to transfer and assign this Agreement to any entity which is controlled by Purchaser.

18. Survival. The representations, warranties and indemnities contained herein shall be deemed to have been made again by the parties as of the Closing Date, and shall survive the expiration or termination of this Agreement, the discharge of all other obligations owed by the parties to each other, and any transfer of title to the Property, and shall not be affected by any investigation by or on behalf of Purchaser, or by any information which Purchaser may have obtained with respect thereto.

19. Severability. In the event that any condition or covenant herein contained is held to be invalid or void by any court of competent jurisdiction, the same shall be deemed severable from the remainder of this Agreement and shall in no way affect any other covenant or conditions herein contained. If such condition, covenant or other provision shall be deemed invalid due to its scope or breadth, such provision shall be deemed valid to the extent of the scope or breath permitted by law.

20. Waiver. No breach of any provision hereof can be waived unless in writing. Waiver of any one breach shall not be deemed to be a waiver of any other breach of the same or any other provision hereof.

21. Captions and Interpretations. Paragraph titles or captions contained herein are inserted as a matter of convenience and for reference, and in no way define, limit, extend or describe the scope of this Agreement or any provision hereof. No provision in this Agreement is to be interpreted for or against either party because that party or such party's legal representative drafted such provision.

22. Broker. Seller and Purchaser shall indemnify each other against any and all claims for broker's fees, costs or commissions which might arise in connection with the purchase and sale of the Property as a result of either's action. The provisions of this Paragraph shall survive closing. Each party hereby represents to the other that it has not utilized the services of any real estate agent or broker in connection with this Agreement.

J. D.

23. Patriot Act Representations. Seller and Purchaser each represent and warrant to the other that they are not acting, directly or indirectly, for or on behalf of any person, group, entity, or nation named by the United States Treasury Department as a Specifically Designated National and Blocked Person, or for or on behalf of any person, group, entity, or nation designated in Presidential Executive Order 13224 as a person who commits, threatens to commit, or supports terrorism; and that they are not engaged in this transaction directly or indirectly on behalf of, or facilitating this transaction directly or indirectly in behalf of any such person, group, entity, or nation.

24. Effective Date. The Effective Date of this Agreement is the date which is the sixth (6th) day following the posting of the ordinance approved and enacted by the City Council authorizing the directing the City Manager and the Mayor to sign the Agreement for and on behalf of the Seller.

25. Contingencies and Conditions for Closing. Anything contained in this Agreement to the contrary notwithstanding, this Agreement is subject to and contingent upon the completion and satisfaction of the following on or before the Seller is required to close this sale, hereinafter referred to collectively as "Closing Conditions":

(a) **Closing Condition One:** Title 11-47-20, Code of Alabama, 1975, reads as follows:

"The governing body of any city or town in this state may, by ordinance to be entered on its minutes, direct the disposal of any real property not needed for public or municipal purposes and direct the mayor to make title thereto, and a conveyance made by the mayor in accordance with such ordinance invests the grantee with the title of the municipality."

In order for the seller to be required to close this sale pursuant to this Agreement, the City Council shall first make a determination, on or before the Effective Date set forth in Paragraph 24 hereof, that the Property is no longer needed for public or municipal purposes. If the City Council fails or refuses to make a determination that the Property is no longer needed for public or municipal purposes as aforesaid, then in such event the Seller shall not be required to close this sale and this Agreement shall be automatically terminated, be null and void and of no legal force and effect.

- (b) **Closing Condition Two:** The Purchaser shall, on or before ninety (90) days from the Effective Date, produce to Seller a tenant or company (the "Company" or the "Tenant") that will, prior to the end of said ninety (90) day period provide written confirmation to the Seller stating that it, the Company, pending and in accordance with a fully executed commercial lease with Purchaser, and provided this Agreement closes and the Company actually opens for business:
- (i) Will locate within the corporate boundaries of the City of Vestavia Hills and open and operate a commercial retail sales business on the Property; and
 - (ii) Will purchase from Seller a business license the cost of which shall be based upon a fee and percentage of gross retail sales; and
 - (iii) Will be engaged in the commercial business of retail sales, more specifically a sit-down restaurant; and

- (iv) Expects to generate annual retail sales in an amount necessary to collect and pay over to the City annually municipal sales tax revenue, (which is presently calculated at three percent (3%) of gross retail sales) sufficient to justify, in the sole opinion of Seller, selling the Property at less than the 2013 appraised value.

In order for the Seller to be required to close this sale pursuant to this Agreement, the City Council shall first accept, agree and approve the Company to locate and operate in the City of Vestavia Hills as completion and satisfaction of this Closing Condition Two. The acceptance by the Seller shall be in writing and approved by the enactment of a resolution at a public hearing, all within fourteen (14) days from Purchaser's submission of a Company to Seller for its approval or disapproval. In addition, Purchaser will use best effort to provide Seller will all market data collected and obtained during the ninety (90) day Inspection Period.

Purchaser and Seller agree that the Seller shall have the sole, unfettered and absolute discretion to approve or disapprove the Company offered by Purchaser in an effort to complete and satisfy this Closing Condition Two. If the City Council fails or refuses to accept the Company as completion and satisfaction of this Closing Condition Two, then in such event the Seller shall have no legal obligation to close this sale and this Agreement shall be automatically terminated, be null and void and of no legal force and effect and the Earnest Money shall be immediately returned to Purchaser.

Anything to the contrary in this Closing Condition Two notwithstanding, Purchaser shall have ninety (90) days from the Effective Date to continue to submit prospective tenants to Seller for Seller's approval or disapproval. If after said ninety (90) day period Seller has not approved of a Company, then and only then shall the Seller have the right but not the obligation to terminate the Agreement by immediately refunding the Earnest Money to Purchaser.

- (c) Closing Condition Three: Seller shall have no legal obligation to close this sale unless and until the Property is rezoned by the City of Vestavia Hills so as to permit the contemplated use by the Purchaser or Company referred to in Closing Condition Two. If the property is not rezoned as aforesaid, then in such event the Seller shall have no obligation to close the sale of the Property and this Agreement shall be automatically terminated, be null and void and of no force and effect and the Earnest Money shall be immediately returned to Purchaser.
- (d) Closing Condition Four: If the sale of the Property is not closed on or before the closing Date, then in such event this Agreement shall automatically be terminated, cancelled, null and void and of no legal force or effect.

The Seller shall have no legal obligation to close this sale unless and until all four Closing Conditions have been completed and satisfied, then in such event this Agreement shall be

automatically terminated and of no legal force and effect and the Earnest Money shall be immediately refunded to Purchaser.

26. Condition of the Property. The Property is sold in "as is condition with any and all faults". Purchaser expressly acknowledges and agrees that Seller makes no representations or warranties regarding the condition of the Property, except to the extent expressly and specifically set forth herein.

27. Construction of Terms: Descriptive headings are for convenience only and shall not control or affect the meaning or construction of any provision. Any ambiguities of this Agreement shall be construed fairly and equitably regardless of the participation of either party in drafting this Agreement. The reference in terms to gender and number shall be modified as may be appropriate.

IN WITNESS WHEREOF, Seller and Purchaser have caused this Agreement to be executed as of the date first above written.

SELLER:

THE CITY OF VESTAVIA HILLS, ALABAMA

BY: Jeff Downes
Jeff Downes, City Manager

BY: Alberto C. Zaragoza, Jr.
Alberto C. Zaragoza, Jr., Mayor

WITNESS: [Signature]

PURCHASER:

COMMERCIAL REALTY PARTNERS, LLC

BY: Tammy G. Johnson
Tammy G. Johnson, President

WITNESS: [Signature]

J.J.

EXHIBIT A
TO
PURCHASE AND SALE AGREEMENT

A parcel of land situated in the Northeast Quarter of the Southwest Quarter of Section 30, Township 18 South, Range 2 West, Jefferson County, Alabama, being more particularly described as follows:

Form the Southwest corner of said quarter-quarter section run thence in an Easterly direction along the South line of same for a distance of 589.77 feet to the point of beginning of the parcel herein described; thence turn an angle to the left of 103 degrees 33 minutes 57 seconds and run in a Northwesterly direction for a distance of 206.63 feet; thence turn an angle to the right of 101 degrees 35 minutes 18 seconds and run in an Easterly direction for a distance of 359.60 feet to a point on the Westerly right-of-way of U.S. Highway 31, said point being in a curve to the right having a radius of 3173.97 feet and a central angle of 3 degrees 54 minutes 57 seconds and being concave to the West with a chord which forms an interior angle of 98 degrees 29 minutes 45 seconds with the previous call; thence run along the arc of said curve in said right-of-way line in a southerly direction for a distance of 216.93 feet to the South line of said quarter-quarter section, the chord of said curve forming an interior angle of 79 degrees 31 minutes 36 seconds with said South line of said quarter-quarter section; thence run in a Westerly direction along said South line for a distance of 350.34 feet to the point of beginning.



COMMERCIAL REALTY PARTNERS

PO BOX 131184
BIRMINGHAM, AL 35213

2292

DATE Oct. 18, 2013 61-118620
1314

PAY TO THE ORDER OF

City of Vestavia Hills

One thousand dollars & no cents
20.00 - 3389-000-708



Compass Bank
Birmingham, AL

\$ 1,000.00 DOLLARS

Specific Features
are on the
Back

FOR former library 1112 Vestly Hwy

⑈002292⑈ ⑆06200186⑆ 299 3351 0⑈

Jimmy Johnson

MP

**EXCERPTS FROM THE MINUTES OF A REGULAR MEETING OF
THE CITY COUNCIL OF THE CITY OF VESTAVIA HILLS, ALABAMA**

The City Council of the City of Vestavia Hills met in regular public session at the City Hall in the City of Vestavia Hills, Alabama, at 5:00 p.m. on December 23, 2013. The meeting was called to order by the Mayor, and the roll was called with the following results:

Present: Alberto C. Zaragoza, Jr., Mayor
 Steve Ammons, Mayor Pro-Tempore
 John Henley
 George Pierce
 Jim Sharp

Absent: _____

* * *

The Mayor stated that a quorum was present and that the meeting was open for the transaction of business.

* * *

Thereupon, the following ordinance was introduced in writing by the Mayor, and considered by the City Council:

ORDINANCE NO. 2477

CITY OF VESTAVIA HILLS, ALABAMA

For

**\$10,000,000
GENERAL OBLIGATION WARRANTS
SERIES 2013-A**

Adopted: December 23, 2013

ORDINANCE NO. 2477

AN ORDINANCE AUTHORIZING THE ISSUANCE AND MAKING PROVISION FOR
THE PAYMENT OF \$10,000,000 GENERAL OBLIGATION WARRANTS, SERIES 2013-A

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF VESTAVIA HILLS,
ALABAMA, as follows:

ARTICLE 1

**Definitions; Provisions of General Application;
and Representations and Warranties of City**

Section 1.01 Definitions and Use of Phrases.

For all purposes of this Ordinance, except as otherwise expressly provided or unless the context otherwise requires:

(a) The terms defined in this Article have the meanings assigned to them in this Article and include the plural as well as the singular.

(b) All references in this Ordinance to designated "Articles", "Sections" and other subdivisions are to the designated Articles, Sections and subdivisions of this Ordinance as originally adopted.

(c) The terms "herein", "hereof" and "hereunder" and other words of similar import refer to this Ordinance as a whole and not to any particular Article, Section or other subdivision.

(d) The following words and phrases and others evidently intended as the equivalent thereof shall, in the absence of clear implication herein otherwise, be given the following respective interpretations herein:

Authorized Denominations means with respect to all Warrants the amount of \$5,000 and any integral multiple thereof for each maturity.

Beneficial Owner shall have the meaning set forth in Section 3.04(a).

Book-Entry System means a book-entry only system of evidence of purchase and transfer of beneficial ownership interests in the Warrants.

Business Day means a day, other than a Saturday or a Sunday, on which commercial banking institutions are open for business in the state where the principal corporate office of the Paying Agent is located and a day on which the payment system of the Federal Reserve System is operational.

City means shall mean the City of Vestavia Hills, Alabama and its successors and assigns.

Code means the Internal Revenue Code of 1986, as amended, and all references to specific sections of the Code shall be deemed to include any and all respective successor provisions to such sections.

Continuing Disclosure Agreement means the Continuing Disclosure Agreement dated the date of delivery by the City in favor of the Holders.

Direct Participant or **Direct Participants** means securities brokers and dealers, banks, trust companies, clearing corporations and other financial institutions which have access to the Book-Entry System.

Enabling Law shall mean Section 11-47-2 of the Code of Alabama 1975.

Federal Securities means direct general obligations of the United States of America or any securities on which the payment of the principal and interest are unconditionally guaranteed by the United States of America.

Fiscal Year means the period beginning on October 1 of one calendar year and ending on September 30 of the next succeeding calendar year or such other Fiscal Year as may hereafter be adopted by the City.

Holder when used with respect to any Warrant means the Person in whose name such Warrant is registered in the Warrant Register.

Indirect Participant or **Indirect Participants** means securities brokers and dealers, banks, trust companies, clearing corporations and other financial institutions for which the Securities Depository holds Warrants as securities depository through a Direct Participant.

Interest Payment Date shall mean August 1, 2014 and each February 1 and August 1 thereafter.

Letter of Representation means and includes (i) the Letter of Representation with respect to the Warrants among the City, the Paying Agent and the Securities Depository and (ii) any other or subsequent agreement by whatever name or identification with respect to the Warrants among said parties from time to time in effect.

Official Statement shall have the meaning assigned in Section 9.02(a).

Ordinance means this Ordinance as originally adopted or as it may from time to time be supplemented, modified or amended.

Outstanding when used with respect to Warrants means, as of the date of determination, all Warrants theretofore authenticated and delivered under this Ordinance, except: (1) Warrants theretofore canceled by the Paying Agent or delivered to the Paying Agent for cancellation; and (2) Warrants for whose payment or redemption money in the necessary amount has been theretofore deposited with the Paying Agent in trust for the Holders thereof, provided that, if such warrants are to be redeemed, notice of such redemption has been duly given pursuant to this Ordinance or provision therefor satisfactory to the Paying Agent has been made; and (3) Warrants for the payment of which provisions have been made in accordance with Article 10; and (4) Warrants in exchange for or in lieu of which other warrants have been authenticated and delivered under this Ordinance.

Paying Agent means (i) The Bank of New York Mellon Trust Company, National Association, the bank designated by the City as the paying agent for the Warrant Fund and the paying agent and registrar

for the Warrants, and (ii) any successor bank designated as such depository, paying agent and registrar pursuant to Section 8.03 hereof.

Person shall include any individual, corporation, partnership, limited liability company, joint venture, association, trust, unincorporated organization and any government or agency or political subdivision thereof.

Principal Office of the Paying Agent means the office where the Paying Agent maintains its designated trust office for purposes of this Ordinance, or such other office as shall be designated by the Paying Agent by written notice to the City and the Holders.

Qualified Investments means:

- (a) Federal Securities or a trust or fund consisting of Federal Securities;
- (b) Obligations of any of the following federal agencies, which obligations represent the full faith and credit of the United States of America:
 - (1) Farmers Home Administration;
 - (2) General Services Administration;
 - (3) U.S. Maritime Administration;
 - (4) Small Business Administration;
 - (5) Government National Mortgage Association (GNMA);
 - (6) U.S. Department of Housing and Urban Development (HUD);
 - (7) Federal Housing Administration (FHA);
- (c) U.S. dollar denominated deposit accounts and certificates of deposit with banks or savings associations which are qualified public depositories under the laws of the State of Alabama; or
- (d) any investment, obligation, or security at any time permitted by the laws of the State of Alabama for the investment or security of municipal or public funds, including without limitation Section 11-81-21 of the Code of Alabama 1975.

Record Date means, for each Interest Payment Date, the fifteenth day of the month (whether or not a Business Day) next preceding any Interest Payment Date.

Securities Depository means The Depository Trust Company, a limited purpose trust company organized under the laws of the State of New York, and the successors and assigns thereof, and any substitute securities depository therefor that maintains a Book-Entry System for the Warrants.

Securities Depository Nominee means the Securities Depository or the nominee of such Securities Depository in whose name there shall be registered on the Warrant Register the Warrants to be delivered to such Securities Depository during a period in which the Warrants are held pursuant to the Book-Entry System.

Series 2013 / 2014 Capital Improvements means and includes real and personal property to be financed by the proceeds of the Warrants and the proposed Series 2014 Warrants for use by the City as a City Hall and related facilities and improvements.

Tax Certificate and Agreement means that certain Tax Certificate and Agreement delivered by the City with respect to the Warrants on the date of issuance thereof.

Taxable shall mean that interest on the Warrants is includable in the gross income of any Holder thereof in the computation of federal income tax liability. Interest on the Warrants shall not be deemed "Taxable" because interest is includable in any calculation of income for any other type of taxation other than the regular federal tax imposed on income.

Warrant Fund means the fund established pursuant to Section 5.01 hereof.

Warrant Purchase Agreement shall mean the Warrant Purchase Agreement dated December 17, 2013 by the City and Sterne, Agee & Leach Inc.

Warrant Registrar means the agent of the City appointed as such pursuant to Section 3.02 for the purpose of registering Warrants and transfers of Warrants.

Warrants means the General Obligation Warrants, Series 2013-A, dated the date of delivery, authorized to be issued pursuant to the provisions of this Ordinance.

Section 1.02 Effect of Headings and Table of Contents

The Article and Section headings herein are for convenience only and shall not affect the construction hereof.

Section 1.03 Binding Effect Upon Successors and Assigns

All the covenants, stipulations, promises and agreements in this Ordinance contained by or on behalf of the City shall inure to the benefit of and bind its successors and assigns.

Section 1.04 Governing Law

This Ordinance shall be construed in accordance with and governed by the laws of the State of Alabama.

Section 1.05 Enforceability

The provisions of this Ordinance are severable. In the event that any one or more of such provisions or the provisions of the Warrants shall, for any reason, be held illegal or invalid, such illegality or invalidity shall not affect the other provisions of this Ordinance or of the Warrants, and this Ordinance and the Warrants shall be construed and enforced as if such illegal or invalid provision had not been contained herein or therein.

Section 1.06 Repeal of Conflicting Provisions

All ordinances, resolutions and orders or parts thereof in conflict with this Ordinance are, to the extent of such conflict, hereby repealed.

Section 1.07 Ordinance a Contract

The terms, provisions and covenants set forth in this Ordinance shall constitute a contract with the registered owners from time to time of the Warrants and shall remain in effect until the principal of and interest on the Warrants shall have been paid in full.

Section 1.08 Findings of Fact and Representations

The City, upon evidence duly presented to and considered by it, does hereby find, determine and represent as follows:

(a) It is necessary and desirable and in the public interest for the City to issue the Warrants to provide for the following purposes:

- (1) to provide for the payment of the costs of the Series 2013 / 2014 Capital Improvements; and
- (2) to pay issuance expenses of the Warrants.

(b) The assessed valuation of the taxable property in the City for the preceding fiscal year (ending September 30, 2013) is not less than \$630,314,820, and the total indebtedness of the City chargeable against the debt limitation for the City prescribed by the Constitution of Alabama of 1901 is not more than twenty percent of said assessed valuation.

ARTICLE 2

Source of Payment; Security

Section 2.01 Source of Payment of Warrants

The indebtedness evidenced and ordered paid by the Warrants shall be a general obligation of the City for the punctual payment of the principal of and interest on which the full faith, credit and taxing power of the City are hereby sacredly and irrevocably pledged.

Section 2.02 Officers and Members of the Governing Body of the City Exempt from Individual Liability

By acceptance of a Warrant, the Holder or Beneficial Owner thereof shall have agreed that no recourse under or upon any covenant or agreement of this Ordinance or of any Warrant, or for any claim based thereon or otherwise in respect thereof, shall be had against any past, present or future officer, employee, or member of the governing body of the City, or of any successor of any thereof, and all such liability of every name and nature, either at common law or in equity or by constitution or statute, and any

and all such rights and claims against every such officer, employee, or member of the governing body of the City as such, are hereby expressly waived and released as a condition of, and as a consideration for, the issuance of the Warrants.

Section 2.03 Expenses of Collection; Interest After Maturity

The City hereby covenants and agrees that, if the principal of and interest on the Warrants are not paid promptly as such principal and interest matures and comes due, it will pay to the Holders of the Warrants all expenses incident to the collection of any unpaid portion thereof, including reasonable attorneys' fees.

ARTICLE 3

The Warrants

Section 3.01 Authorization and Description of Warrants

(a) (1) Pursuant to the Constitution and laws of the State of Alabama, including particularly the Enabling Law, there is hereby authorized to be issued a series of warrants in the aggregate principal amount of \$10,000,000 for the purposes set forth in Section 1.08(a).

(2) The Warrants shall be issued pursuant to a Book Entry System.

(b) The Warrants shall be designated "General Obligation Warrants, Series 2013-A," shall be in fully registered form, without coupons, shall be in Authorized Denominations, shall be numbered for identification as determined by the Paying Agent, and shall be dated the date of delivery.

(c) The Warrants shall mature on February 1 in the following year and in the following principal amount and shall bear interest at the following per annum rate:

<u>Year of Maturity</u>	<u>Principal Amount Maturing</u>	<u>Interest Rate</u>
2031	\$3,115,000	4.100%
2032	\$3,365,000	4.000
2033	\$3,520,000	4.000

(d) Interest on the Warrants shall be payable on August 1, 2014 and on each February 1 and August 1 thereafter on the basis of a 360-day year of 12 consecutive 30-day months.

(e) The principal of, premium (if any) and interest on the Warrants shall be payable as provided therein in lawful money of the United States of America without deduction for exchange, fees or expenses.

(f) The Warrants are subject to redemption prior to maturity upon the circumstances, in the manner, on the dates, in the amounts and order, at the redemption prices and upon the notice as provided in this Ordinance and as set forth in the Warrants.

(g) The form of the Warrants and the authentication and registration certificates and the assignments appertaining thereto shall be substantially as follows, with appropriate changes, variations and insertions as provided herein; provided that for the purpose of printing the Warrants the face of the Warrants need not include the entire text so long as the paragraphs not appearing on the face of the printed Warrant appear on the reverse side thereof:

UNITED STATES OF AMERICA
STATE OF ALABAMA

CITY OF VESTAVIA HILLS, ALABAMA
GENERAL OBLIGATION WARRANTS
SERIES 2013-A

No. R-1

DATED DATE:	MATURITY DATE:	INTEREST RATE:	CUSIP:
December 30, 2013	February 1, 20__	____%	925479__

The **CITY OF VESTAVIA HILLS**, a municipal corporation organized and existing under and by virtue of the laws of the State of Alabama (the "City"), for value received, hereby acknowledges itself indebted to

CEDE & Co.

or registered assigns in the principal amount of

_____ DOLLARS
(\$10,000,000)

and hereby orders and directs the Finance Director (or any successor to the duties and functions thereof) of the City to pay to said payee or registered assigns, solely from the Warrant Fund hereinafter designated, said principal amount on the Maturity Date specified above, and to pay to said payee or registered assigns from said Warrant Fund interest on said principal amount from the date hereof at the Interest Rate per annum specified above, computed on the basis of a 360-day year of 12 consecutive 30-day months, payable on August 1, 2014 and on February 1 and August 1 in each year thereafter.

Authority for Issuance; Source of Payment and Security; Reference to Ordinance

This warrant is one of a duly authorized issue of \$10,000,000 General Obligation Warrants, Series 2013-A (the "Warrants"), issued pursuant to the authority of the Constitution and laws of the state of Alabama and an ordinance and proceedings of the City duly held, passed and conducted (the "Ordinance").

In the Ordinance the City has appointed The Bank of New York Mellon Trust Company, National Association, as the Paying Agent and Warrant Registrar for the Warrants (the "Paying Agent").

Capitalized terms used herein without definition shall have the respective meanings assigned thereto in the Ordinance.

The indebtedness evidenced by the Warrants is a general obligation of the City and the full faith and credit of the City are hereby sacredly and irrevocably pledged to the punctual payment of the principal thereof and interest thereon.

The Warrants shall never constitute an indebtedness, pecuniary liability, or charge against the general credit or taxing power, of the State of Alabama or any political subdivision thereof except the City.

Reference is hereby made to the Ordinance, copies of which are on file at the Principal Office of the Paying Agent, for a description of the nature and extent of the security afforded by the Ordinance, the rights and duties of the City and the Paying Agent with respect thereto, and the terms and conditions upon which the purchase, transfer and exchange of the Warrants are to be made, to and by all of which terms, conditions and provisions of the Ordinance the owner of this Warrant, or of any beneficial interest in this Warrant, by the acquisition hereof, hereby assents and agrees to be bound.

Payment; Warrant Fund

The principal of and interest on the Warrants shall be payable in lawful money of the United States of America, without deduction for exchange, fees or expenses, by the City through the Paying Agent.

During a period in which the Book-Entry System is not in effect for the Warrants: (1) payment of interest on the Warrants shall be made by check or draft mailed by the Paying Agent to the Holders in whose names the Warrants are registered in the Warrant Register maintained by the Paying Agent at close of business on the Record Date (such payments to be deemed timely made if so mailed on the Interest Payment Date or, if such Interest Payment Date is not a Business Day, on the Business Day next following such Interest Payment Date); (2) payment of the principal of (and premium, if any, on) the Warrants shall be made to the Holders only upon surrender of the Warrants at the Principal Office of the Paying Agent; and (3) all such payments of principal of, premium (if any) and interest on the Warrants on behalf of the City or the Paying Agent shall be valid and effectual to satisfy and discharge the liability of the City and the Paying Agent to the extent of the amounts so paid.

During a period in which the Book-Entry System is in effect for the Warrants: (1) payments of principal, interest, and redemption premium, if any, with respect to the Warrants will be paid by the Paying Agent directly to the Securities Depository, or the Securities Depository Nominee, as Holder; provided, that payment of the principal of (and premium, if any, on) such Warrants due at final maturity or upon redemption in whole of any of such Warrants shall be made only upon surrender thereof at the Principal Office of the Paying Agent; (2) the Securities Depository and the Direct Participants and the Indirect Participants shall be responsible for the disbursement of such payments to the Beneficial Owners; and (3) all such payments to the Securities Depository or the Securities Depository Nominee, as Holder, of principal of, premium (if any) and interest on such Warrants on behalf of the City or the Paying Agent shall be valid and effectual to satisfy and discharge the liability of the City and the Paying Agent to the extent of the amounts so paid, and the City and the Paying Agent shall not be responsible or liable for payment to any Beneficial Owner by the Securities Depository or by any Direct Participant or by any Indirect Participant, or for sending transaction statements or for maintaining, supervising or reviewing records maintained by the Securities Depository or Direct Participants or Indirect Direct Participants.

If any payment on the Warrants is due on a day which is not a Business Day, such payment shall be made on the first succeeding day which is a Business Day with the same effect as if made on the day such payment was due.

The City, the Paying Agent and any agent of the City or the Paying Agent may treat the person in whose name any Warrant is registered as the owner of such Warrant for the purpose of receiving payment of principal of, premium (if any) and interest on such Warrant and for all other purposes whatsoever whether or not such Warrant be overdue, and, to the extent permitted by law, neither the City, the Paying Agent nor any such agent shall be affected by notice to the contrary.

The City has established in the Ordinance a special fund designated “Warrant Fund” for the payment of the principal of and interest on the Warrants and has obligated itself to pay or cause to be paid into the Warrant Fund, from the revenues or funds of the City, sums sufficient to provide for the payment of the principal of and interest on the Warrants as the same shall become due and payable.

Redemption

Optional Redemption

The Warrants will be subject to prior redemption at the option and direction, of the City, as a whole or in part in integral multiples of an Authorized Denomination, on February 1, 2022 or on any date thereafter, in such principal amounts as the City may determine and by lot within a maturity, at a redemption price for each Warrant redeemed equal to the principal amount thereof to be redeemed plus accrued interest to the redemption date, without premium or penalty.

General

Warrants to be redeemed shall be selected by the Securities Depository or Paying Agent as provided in the Ordinance, and redemption thereof shall be effected in the manner, upon the notice, and on the terms and conditions provided in the Ordinance.

Notice meeting the requirements of the Ordinance of the intended redemption of any Warrants shall be given by the Paying Agent to the Holder of each Warrant, all or a portion of the principal of which is to be redeemed, not less than 30 days prior to the proposed redemption date, by United States registered or certified mail (first class, postage prepaid), or, if the Securities Depository or Securities Depository Nominee is the Holder, at the times and in the manner as provided in the Letter of Representation, at the address of such Holder appearing in the Warrant Register; provided, however, any Holder may waive the requirement of notice as to the redemption (in whole or in part) of the Warrant or Warrants thereof.

Warrants (or portions thereof) for the redemption and payment of which provision has been made and notice thereof given all in accordance with the Ordinance shall thereupon cease to be entitled to the benefits of the Ordinance and shall cease to bear interest from and after the date fixed for redemption unless default shall be made in the payment of the redemption price.

Warrants Payable on Redemption Date; Interest to Cease to Accrue after Redemption Date

Notice of redemption having been given as aforesaid, the Warrants to be redeemed will, on the redemption date, become due and payable at the redemption price therein specified, and from and after such date (unless the City shall default in the payment of the redemption price) such Warrants will cease to bear interest. Installments of interest due prior to the redemption date will be paid to the registered holders of the Warrants on the relevant record dates.

Registration, Transfer, Exchange; Book Entry System

The Warrants are initially issued in Authorized Denominations pursuant to the Book-Entry System to be administered by the Securities Depository and registered in the name of and held by the Securities Depository Nominee. During the period in which the Securities Depository Nominee is the registered owner of

the Warrants, purchases and transfers of ownership of beneficial interests in the Warrants will be evidenced by book-entry only, as more particularly provided in the Ordinance.

The Securities Depository may determine to discontinue the Book-Entry System with respect to the Warrants at any time upon notice to the City and the Paying Agent and upon discharge of its responsibilities with respect thereto under applicable law. Upon such notice and compliance with law the Book-Entry System for the Warrants will be discontinued unless a successor securities depository is appointed by the City.

In the event the Book-Entry System for the Warrants is discontinued, Warrants in certificated form in Authorized Denominations will be physically distributed to the owners of beneficial interests in the Warrants, the Warrants will be registered in the names of the owners thereof on the registration books of the Paying Agent pertaining thereto, and the following provisions with respect to registration, transfer and exchange of the Warrants by the registered owners thereof shall apply, subject to the further conditions set forth in the Series 2013 Warrants Ordinance with respect thereto:

(a) The Warrants may be transferred by the registered owner in person or by authorized attorney, only on the Warrant Register maintained by the Paying Agent and only upon surrender of the Warrant to the Paying Agent for cancellation with a written instrument of transfer acceptable to the Paying Agent executed by the registered owner or his duly authorized attorney, and upon any such transfer, a new Warrant of like tenor shall be issued to the transferee in exchange therefor.

(b) The registered owner of any Warrant in a face amount of more than the smallest Authorized Denomination may surrender the same in exchange for more than one Warrant, each in the principal amount which is an integral multiple of an Authorized Denomination, having the same year of maturity as the Warrant so surrendered and the same aggregate principal amount. The registered owner of two or more Warrants having the same principal maturity may surrender the same in exchange for a single Warrant in the aggregate principal amount of the Warrants so surrendered.

(c) The Paying Agent shall not be required to transfer or exchange any Warrant during the period from the Record Date and the then next succeeding Interest Payment Date; and in the event that any Warrant (or any part thereof) is duly called for redemption, the Paying Agent shall not be required to register or transfer any such Warrant during the period of forty-five (45) days next preceding the date fixed for such redemption.

No charge shall be made for the privilege of transfer or exchange, but the registered owner of any Warrant requesting any such transfer or exchange shall pay any tax or other governmental charge required to be paid with respect thereto. The registered owner of any Warrant will be required to pay any expenses incurred in connection with the replacement of a mutilated, lost, stolen or destroyed Warrant.

The Ordinance provides that each registered owner of the Warrants, by receiving or accepting the Warrant, consents and agrees and is estopped to deny that, insofar as the City and the Paying Agent are concerned, the Warrant may be transferred only in accordance with the provisions of the Ordinance.

General

The Ordinance provides that, as a condition of, and a consideration of, the issuance of the Warrants, each Holder or Beneficial Owner thereof, by acceptance of a Warrant shall have agreed that no covenant or agreement contained in this warrant or in the Ordinance shall be deemed to be a covenant or agreement of any officer, agent, employee, or member of the governing body of the City or of the Paying Agent in its individual capacity and none of such parties or persons nor any officer executing this warrant shall be liable personally on this warrant or be subject to any personal liability or accountability by reason of the issuance of this warrant.

This warrant shall not be valid or become obligatory for any purpose until the Certificate of Authentication and Registration inscribed hereon shall have been executed by the Paying Agent by the manual signature of one of its authorized officers.

It is hereby recited, certified and declared that the indebtedness evidenced and ordered paid by this warrant is lawfully due without condition, abatement or offset of any description, that this warrant has been registered in the manner provided by law, that all acts, conditions and things required by the Constitution and laws of the State of Alabama to happen, exist and be performed precedent to and in the authorization, execution, registration and issuance of this warrant and the adoption of the Ordinance, have happened, do exist and have been performed in due time, form and manner as so required by law and that the principal amount of this warrant, together with all other indebtedness of the City, are within every debt and other limit prescribed by the Constitution and laws of the State of Alabama.

IN WITNESS WHEREOF, the City, acting by and through the City Council of the City as the governing body thereof, has caused this warrant to be executed in its name and on its behalf by the Mayor of the City, has caused its corporate seal to be affixed hereto and the same attested by the City Clerk of the City, and has caused this warrant to be dated the date and year specified above.

CITY OF VESTAVIA HILLS, ALABAMA

By: _____
Mayor

SEAL

Attest: _____
City Clerk

REGISTRATION CERTIFICATE

The undersigned hereby certifies that this Warrant has been duly registered as a claim against the City of Vestavia Hills, in the State of Alabama, and the Warrant Fund referred to herein.

Finance Director of the
City of Vestavia Hills, Alabama

AUTHENTICATION AND REGISTRATION DATE: December 30, 2013

**CERTIFICATE OF AUTHENTICATION
AND REGISTRATION**

This warrant is hereby authenticated and has been registered by the City of Vestavia Hills, Alabama on the registration books maintained with the Paying Agent in the name of the above registered owner on the Authentication and Registration Date noted above.

**THE BANK OF NEW YORK MELLON TRUST COMPANY,
NATIONAL ASSOCIATION**

By _____
Its Authorized Officer

ASSIGNMENT

For value received _____ hereby sell(s), assign(s), and transfer(s) unto _____ the within Warrant and hereby irrevocably constitute(s) and appoint(s) _____, attorney, with full power of substitution in the premises, to transfer this Warrant on the books of the within mentioned Paying Agent.

Dated this ____ day of _____, ____.

NOTE: The signature on this assignment must correspond with the name of the registered owner as it appears on the face of the within Warrant in every particular, without alteration, enlargement or change whatsoever.

Signature Guaranteed:*

(Bank, Trust Company or Firm)

By _____
(Authorized Officer)

* Signature(s) must be guaranteed by an eligible guarantor institution which is a member of the recognized signature guarantee program, i.e., Securities Transfer Agents Medallion Program (STAMP), Stock Exchanges Medallion Program (SEMP), or New York Stock Exchange Medallion Signature Program (MSP).

Notice By Securities Depository

Unless the within Warrant is presented by an authorized representative of the Securities Depository (as defined in the Ordinance referenced in the within Warrant), to the City or its agent for registration of transfer, exchange, or payment, and any Warrant issued is registered in the name of the Securities Depository or the Securities Depository Nominee (as defined in the Ordinance referenced in the within Warrant), as the case may be, or in such other name as is requested by an authorized representative of the Securities Depository (and any payment is made to the Securities Depository or the Securities Depository Nominee or to such other entity as is requested by an authorized representative of the Securities Depository), ANY TRANSFER, PLEDGE, OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL inasmuch as the registered owner hereof, the Securities Depository or Securities Depository Nominee, as the case may be, has an interest herein.

Section 3.02 Registration of Warrants

(a) The City shall cause to be kept at the Principal Office of the Paying Agent a register (the “Warrant Register”) in which, subject to such reasonable regulations as it may prescribe, the City shall provide for the registration of Warrants and registration of transfers of Warrants entitled to be registered or transferred as herein provided.

(b) The Paying Agent is hereby appointed “Warrant Registrar” for the purpose of registering Warrants and transfers of Warrants as herein provided.

Section 3.03 Execution, Authentication and Delivery of Warrants

(a) The Warrants shall be executed in the name of and on behalf of the City by signature of the Mayor, shall be sealed with the seal of the City imprinted thereon, and said seal and said Warrants shall be attested by the City Clerk of the City. The Warrants shall be registered by the City Clerk of the City as a claim against the City and the Warrant Fund. The Mayor and the City Clerk of the City are hereby authorized and directed to so execute, attest and register the Warrants as provided above. All Warrants bearing the signature of officers in office on the date of signing thereof shall be valid and binding obligations, notwithstanding that before the delivery and payment therefor, such officers whose signatures appear thereon shall have ceased to be officers of the City.

(b) The Paying Agent is hereby directed to execute the Authentication and Registration Certificate appearing on each Warrant.

(c) No Warrant issued hereunder shall be the valid and binding obligation of the City unless said Authentication and Registration Certificate shall have been executed as provided herein.

Section 3.04 Registration, Transfer, and Exchange of Warrants; Replacement of Mutilated, Lost, Destroyed or Stolen Warrants

(a) The Warrants will be registered in the names of the Holders thereof on the Warrant Register. The City, the Paying Agent and any agent of the City or the Paying Agent may treat the person in whose name any Warrant is registered as the owner of such Warrant for the purpose of receiving payment of principal of and interest on such Warrant and for all other purposes whatsoever whether or not such Warrant be overdue, and, to the extent permitted by law, neither the City, the Paying Agent nor any such agent shall be affected by notice to the contrary.

(b) Upon surrender for transfer of any Warrant at the Principal Office of the Paying Agent, the City shall execute, and the Paying Agent shall authenticate, register and deliver, in the name of the designated transferee or transferees, one or more new Warrants of the same series, of any Authorized Denominations and in a principal amount equal to the unpaid or unredeemed portion of the principal of the Warrant so presented.

(c) If and to the extent so provided with respect to the Warrants, at the option of the Holder, Warrants may be exchanged for other Warrants of any Authorized Denomination and of a like aggregate principal amount, upon surrender of the Warrants to be exchanged at the Principal Office of the Paying Agent. Whenever any Warrants are so surrendered for exchange, the City shall execute, and the Paying

Agent shall authenticate, register and deliver, the Warrants which the Holder making the exchange is entitled to receive.

(d) Every Warrant presented or surrendered for transfer or exchange shall (if so required by the City or the Warrant Registrar) be duly endorsed or be accompanied by a written instrument of transfer in form satisfactory to the City and the Warrant Registrar duly executed by the Holder thereof or his attorney duly authorized in writing.

(e) The Paying Agent shall not be required to transfer or exchange any Warrant during the period between the Record Date and the then next succeeding Interest Payment Date; and, in the event that any Warrant (or any part thereof) is duly called for redemption, the Paying Agent shall not be required to transfer or exchange any such Warrant during the period of forty-five (45) days next preceding the date fixed for such redemption.

(f) All Warrants surrendered upon any exchange or transfer provided for in this Resolution and Order shall be cancelled as provided in Section 3.07.

(g) If (1) any mutilated Warrant is surrendered to the Paying Agent, or the City and the Paying Agent receive evidence to their satisfaction of the destruction, loss or theft of any Warrant, and (2) there is delivered to the City and the Paying Agent such security or indemnity as may be required by them to save each of them harmless, then, in the absence of notice to the City or the Paying Agent that such Warrant has been acquired by a bona fide purchaser, the City shall execute and the Paying Agent shall authenticate, register and deliver, in exchange for or in lieu of any such mutilated, destroyed, lost or stolen Warrant, a new Warrant of the same series and of like tenor and principal amount, bearing a number not contemporaneously outstanding.

(h) No charge shall be made for the privilege of transfer or exchange, but the registered owner of any Warrant requesting any such transfer or exchange shall pay any tax or other governmental charge required to be paid with respect thereto. The registered owner of any Warrant will be required to pay any expenses incurred in connection with the replacement of a mutilated, lost, stolen or destroyed Warrant.

(i) All Warrants issued upon any transfer or exchange of Warrants shall be the valid obligations of the City and be entitled to the same security and benefits under this Resolution and Order as the Warrants surrendered upon such transfer or exchange, and every new Warrant issued pursuant to this Section in lieu of any destroyed, lost or stolen Warrant shall constitute an original additional contractual obligation of the City, whether or not the destroyed, lost or stolen Warrant shall be at any time enforceable by anyone.

(j) The provisions of this Section are exclusive and shall preclude (to the extent lawful) all other rights and remedies with respect to the replacement or payment of mutilated, destroyed, lost or stolen Warrants.

Section 3.05 Book-Entry System

(a) The Warrants shall be issued pursuant to a Book-Entry System administered by the Securities Depository with no physical distribution of any Warrant to any Person. One Warrant for each maturity will be issued, registered in the name of the Securities Depository Nominee, and immobilized in the custody of the Securities Depository. Beneficial ownership interests in Warrants held by the Securities

Depository may be purchased by or through Direct Participants. The holders of these beneficial ownership interests in such Warrants are referred to as the “Beneficial Owners”. The Beneficial Owners will not receive certificated warrants representing their beneficial ownership interests. Ownership of the interests in Warrants in Authorized Denominations will be evidenced on the records of the Securities Depository and the Direct Participants and Indirect Participants pursuant to rules and procedures established by the Securities Depository. During a period in which the Book-Entry System is in effect for the Warrants the City and the Paying Agent shall treat the Securities Depository or the Securities Depository Nominee as the only registered owner of such Warrants for all purposes under this Ordinance, including, without limitation, receipt of all principal of, premium (if any) and interest on the Warrants, receipt of notices, voting, and requesting or directing the Paying Agent or City to take or not to take, or consenting to, certain actions under this Ordinance. In the event the Securities Depository or the Securities Depository Nominee assigns its rights to consent or vote under this Ordinance to any Direct Participant or Indirect Participant, the City and the Paying Agent shall treat such assignee or assignees as the only registered owner or owners of the Warrants for the purpose of exercising such rights so assigned.

(b) During a period in which the Book-Entry System is in effect for the Warrants, payments of principal, interest, and redemption premium, if any, with respect to such Warrants will be paid by the Paying Agent directly to the Securities Depository, or the Securities Depository Nominee, as Holder, and as provided in the Letter of Representation; provided, that payment of the principal of (and premium, if any, on) such Warrants due at final maturity or upon redemption in whole of any of such Warrants shall be made only upon surrender thereof at the Principal Office of the Paying Agent. The Securities Depository and the Direct Participants and the Indirect Participants shall be responsible for the disbursement of such payments to the Beneficial Owners. All such payments to the Securities Depository or the Securities Depository Nominee, as Holder, of principal of, premium (if any) and interest on such Warrants on behalf of the City or the Paying Agent shall be valid and effectual to satisfy and discharge the liability of the City and the Paying Agent to the extent of the amounts so paid, and the City and the Paying Agent shall not be responsible or liable for payment to any Beneficial Owner by the Securities Depository or by any Direct Participant or by any Indirect Participant, or for sending transaction statements or for maintaining, supervising or reviewing records maintained by the Securities Depository or Direct Participants or Indirect Direct Participants.

(c) Transfers of ownership interests in the Warrants by the Beneficial Owners thereof, and conveyance of notices and other communications by the Securities Depository to Direct Participants, by Direct Participants to Indirect Participants, and by Direct Participants and Indirect Participants to Beneficial Owners of the Warrants, will be governed by arrangements among the Securities Depository, Direct Participants, Indirect Participants and the Beneficial Owners, subject to any statutory and regulatory requirements as may be in effect from time to time. For every transfer and exchange of beneficial ownership in such Warrants, the Beneficial Owners may be charged a sum sufficient to cover any tax, fee or other governmental charge that may be imposed in relation thereto.

(d) Redemption notices respecting Warrants held by the Securities Depository shall be sent to the Securities Depository Nominee by the Paying Agent and redemption of Warrants shall be effected as provided in Article 4.

(e) The City may enter into a custody agreement with any bank or trust company serving as custodian (which may be the Paying Agent serving in the capacity of custodian) to provide for a Book-Entry System or similar method for the registration and transfer of the Warrants.

(f) During a period in which the Book-Entry System is in effect for the Warrants in accordance herewith, the provisions of this Ordinance and such Warrants shall be construed in accordance with the Letter of Representation and to give full effect to such Book-Entry System.

(g) The Beneficial Owners of all the Warrants, by their acquisition of any beneficial interest in a Warrant or Warrants, and the Securities Depository, the Securities Depository Nominee, and all Direct Participants and all Indirect Participants, severally agree that the City and the Paying Agent shall not have any responsibility or obligation to any Direct Participant or any Indirect Participant or any Beneficial Owner with respect to (1) the accuracy of any records maintained by the Securities Depository or any Direct Participant or any Indirect Participant; (2) the payment by the Securities Depository or any Direct Participant or any Indirect Participant of any amount due to any Beneficial Owner in respect of the principal of, premium (if any) and interest on the Warrants; (3) the delivery or timeliness of delivery by the Securities Depository or any Direct Participant or any Indirect Participant of any notice due to any Beneficial Owner which is required or permitted under the terms of this Ordinance to be given to Beneficial Owners; or (4) any consent given or other action taken by the Securities Depository, or the Securities Depository Nominee, as owner.

(h) The Securities Depository may determine to discontinue the Book-Entry System with respect to the Warrants at any time upon notice to the City and the Paying Agent and upon discharge of its responsibilities with respect thereto under applicable law. Upon such notice and compliance with law the Book-Entry System for the Warrants will be discontinued unless a successor securities depository is appointed by the City.

(i) In the event the Book-Entry System for the Warrants is discontinued, Warrants in certificated form in Authorized Denominations will be physically distributed to the Beneficial Owners thereof and such Warrants will be registered in the names of the owners thereof on the Warrant Register, the Paying Agent will make payments of principal of, premium (if any) and interest on such Warrants to the registered owners thereof as provided in the Warrants and this Ordinance, and the following provisions with respect to registration, transfer and exchange of such Warrants by the registered owners thereof shall apply.

Section 3.06 Payment of Warrants; Payment Dates; Persons Deemed Owners

(a) The principal of, premium (if any) and interest on the Warrants shall be payable at the Principal Office of the Paying Agent and as provided in this Ordinance and in the Warrants; provided, the final principal payment on such Warrants shall be payable only upon presentation thereof at the Principal Office of the Paying Agent.

(b) If any payment on the Warrants is due on a day which is not a Business Day, such payment shall be made on the first succeeding day which is a Business Day with the same effect as if made on the day such payment was due.

(c) The City, the Paying Agent and any agent of the City or the Paying Agent may treat the Person in whose name any Warrant is registered as the owner of such Warrant for the purpose of receiving payment of principal of, premium (if any) and interest on such Warrant and for all other purposes whatsoever whether or not such Warrant be overdue, and, to the extent permitted by law, neither the City, the Paying Agent nor any such agent shall be affected by notice to the contrary.

Section 3.07 Cancellation of Surrendered Warrants

All Warrants surrendered for payment, redemption, transfer or exchange, shall be promptly cancelled by the Paying Agent. No Warrant shall be authenticated in lieu of or in exchange for any Warrant cancelled as provided in this Section, except as expressly provided by this Ordinance. All cancelled Warrants held by the Paying Agent shall be destroyed and certificates thereof furnished to the City.

Section 3.08 Application of Proceeds of Warrants

The net proceeds of the Warrants of \$9,926,344.20 (the principal amount thereof less underwriting discount of \$70,000.00 and less net original issue discount of \$3,655.80) shall be applied as follows on the date of issuance of the Warrants:

(1) the amount of \$57,000.00 shall be held by the City and applied to the payment of issuance expenses, and any balance remaining shall be applied to the payment of the costs of the Series 2013 / 2014 Capital Improvements; and

(2) the amount of \$9,869,344.20 shall be held by the City and applied to the payment of costs of the Series 2013 / 2014 Capital Improvements.

ARTICLE 4

Redemption of Warrants

Section 4.01 General Applicability of Article

The Warrants shall be subject to redemption in accordance with their terms and in accordance with this Article.

Section 4.02 Election to Redeem; Notice to Paying Agent

The election of the City to exercise any right of optional redemption shall be given by written notice to the Paying Agent not less than 45 days prior to the proposed redemption date. In case of any redemption at the option of the City of less than all of the principal amount of the Outstanding Warrants, the City shall, at least 60 days prior to the date fixed by the City for redemption of Warrants (unless a shorter notice shall be satisfactory to the Paying Agent) notify the Paying Agent of such redemption date and of the principal amount of Warrants to be redeemed.

Section 4.03 Selection of Warrants to be Redeemed

(a) If less than all of the Outstanding Warrants are to be redeemed during a period in which the Book-Entry System is in effect for the Warrants, the City shall designate the order and amount of maturities of the Warrants (or portions thereof) to be redeemed not less than 45 nor more than 60 days prior to the redemption date from the Outstanding Warrants which have not previously been called for redemption, and, in accordance with the Letter of Representation, the Securities Depository may determine the amount of the interest of each Direct Participant in those Warrants to be redeemed, on the basis of the

smallest Authorized Denomination of such Warrants, by lot or by such other method as the Securities Depository shall deem fair and appropriate.

(b) If less than all of the Outstanding Warrants are to be redeemed during a period in which the Book-Entry System is not in effect for the Warrants, the City shall designate the order and amount of maturities of the Warrants (or portions thereof) to be redeemed not less than 45 nor more than 60 days prior to the redemption date from the Outstanding Warrants which have not previously been called for redemption, on the basis of the smallest Authorized Denomination of such Warrants, and the Paying Agent shall select, by lot or by such method as the Paying Agent shall deem fair and appropriate, the order and amount of Warrants to be redeemed within a maturity.

(c) For all purposes of this Ordinance, unless the context otherwise requires, all provisions relating to the redemption of Warrants shall relate, in the case of any Warrant redeemed or to be redeemed only in part, to the portion of the principal of such Warrant which has been or is to be redeemed.

Section 4.04 Notice of Redemption

(a) Notice of any intended redemption shall be given by the Paying Agent to the Holder of each Warrant, all or a portion of the principal of which is to be redeemed, not less than 30 days prior to the proposed redemption date, by United States registered or certified mail (first class, postage prepaid), or, if the Securities Depository or Securities Depository Nominee is the Holder, at the times and in the manner as provided in the Letter of Representation, at the address of such Holder appearing in the Warrant Register; provided, however, any Holder may waive the requirement of notice as to the redemption (in whole or in part) of the Warrant or Warrants thereof. During a period in which the Book-Entry System is in effect, notice of any intended redemption may also be given to each Beneficial Owner, all or portion of the interest of which in such Warrants is to be redeemed, by the Direct Participants and, where appropriate, by the Indirect Participants, pursuant to arrangements among said parties, subject to statutory and regulatory requirements in effect from time to time; provided, however, any Beneficial Owner may waive the requirement of notice as to the redemption of the interest thereof in the Warrants.

(b) All notices of redemption shall state:

(1) the redemption date,

(2) the redemption price,

(3) the principal amount of Warrants to be redeemed, and, if less than all Outstanding Warrants are to be redeemed, the identification (and, in the case of partial redemption, the respective principal amounts) of the Warrants to be redeemed,

(4) that on the redemption date the redemption price of each of the Warrants to be redeemed will become due and payable and that the interest thereon shall cease to accrue from and after said date, and

(5) the place or places where the Warrants to be redeemed are to be surrendered for payment of the redemption price.

Section 4.05 Payment of Redemption Price

Prior to any redemption date, the City shall deposit or cause to be deposited with the Paying Agent an amount of money sufficient to pay the redemption price of all the Warrants which are to be redeemed on that date. Such money shall be held in trust for the benefit of the persons entitled to such redemption price.

Section 4.06 Warrants Payable on Redemption Date

(a) Notice of redemption having been given as aforesaid, the Warrants so to be redeemed shall, on the redemption date, become due and payable at the redemption price therein specified and from and after such date (unless the City shall default in the payment of the redemption price) such Warrants shall cease to bear interest. Upon presentation of any such Warrant for redemption, or compliance with the requirements of the Securities Depository with respect to redemption in part, in accordance with said notice such Warrant shall be paid by the City at the redemption price. Installments of interest due on or prior to the redemption date shall be payable to the Holders of the Warrants according to the terms of such Warrants and the provisions of this Ordinance.

(b) If any Warrant called for redemption shall not be so paid upon surrender thereof for redemption, the principal of the Warrant to be so redeemed shall, until paid, continue to bear interest from the redemption date at the rate prescribed in such Warrant.

Section 4.07 Warrants Redeemed in Part

(a) During a period in which the Book-Entry System is in effect for the Warrants, the recordation and evidence of any reduction in the aggregate principal amount of the Warrants as a result of the redemption of a portion thereof shall be made in accordance with the Letter of Representation and the rules and procedures of the Securities Depository with respect thereto from time to time in effect.

(b) During a period in which the Book-Entry System is not in effect for the Warrants, unless otherwise provided herein, any Warrant which is to be redeemed only in part shall be surrendered at the principal corporate trust office of the Paying Agent (with, if the City or the Paying Agent requires, due endorsement by, or a written instrument of assignment or transfer in form satisfactory to the City and the Paying Agent duly executed by the Holder thereof or his attorney duly authorized in writing) and the City shall execute and the Paying Agent shall authenticate and deliver to the Holder of such Warrant, without service charge, a new Warrant or Warrants of any Authorized Denomination as requested by such Holder in aggregate principal amount equal to and in exchange for the unredeemed portion of the principal of the Warrant so surrendered.

ARTICLE 5

The Warrant Fund

Section 5.01 The Warrant Fund

(a) (1) There is hereby established a special fund which shall be designated the "Warrant Fund".

(2) The Paying Agent shall be the depository, custodian and disbursing agent for the Warrant Fund.

(3) The money in the Warrant Fund shall be used only to pay principal of and interest on the Warrants as the same shall become due and payable.

(b) (1) The City shall deposit in the Warrant Fund the following amounts on the following dates:

(i) On or before the twentieth day of each January and July in each year, an amount equal to the interest coming due on the Warrants on the next ensuing Interest Payment Date.

(ii) On or before the twentieth day of each January in each year, an amount equal to the principal maturing or subject to mandatory redemption on the next ensuing principal payment date with respect to the Warrants.

(iii) Any money required to be deposited in the Warrant Fund pursuant to this Ordinance or received by the Paying Agent when accompanied by directions that such money is to be deposited in the Warrant Fund.

(2) The City and Paying Agent covenant and agree that (i) all money transferred to or deposited in the Warrant Fund shall be applied to the payment of principal of and interest on the Warrants within 13 months from the date of such transfer or deposit and (ii) all income and profits received from investment of money in the Warrant Fund shall be applied to the payment of principal of and interest on the Warrants within 12 months from the date of receipt of such income or profits.

(c) (1) The City acknowledges that deposits and transfers to the Warrant Fund required by this Section have been calculated to provide amounts which will be sufficient to pay the principal of and interest on the Warrants as the same shall become due and payable.

(2) If on any principal or interest payment date the amount on deposit in the Warrant Fund is insufficient to pay the principal of and interest on the Warrants due and payable on such date, the City will forthwith pay any such deficiency into the Warrant Fund.

(d) The City hereby authorizes and directs the Paying Agent to withdraw sufficient money from the Warrant Fund to pay the principal of and interest on the Warrants as the same shall become due and payable, whether at maturity or otherwise.

(e) The City shall collect the revenues, income, taxes, assets and resources of the City and the City shall promptly deposit into the Warrant Fund from the aforesaid sources all amounts required to be deposited in the Warrant Fund at the times therefor.

Section 5.02 Investment of and Security For Warrant Fund

(a) The Paying Agent shall invest money in the Warrant Fund at the written direction of the City in Qualified Investments. Investments shall be made so that a sufficient principal amount shall mature or be

redeemable at the option of the holder on or prior to the date or dates the City and the Paying Agent anticipate that money from the Warrant Fund will be required hereunder. The Paying Agent shall not be liable or responsible for any loss resulting from any such investment if made in compliance herewith.

(b) All income derived from the investment of money on deposit in the Warrant Fund shall remain therein and be credited against the next ensuing deposit specified therefor, and all losses resulting from liquidation of investments in the Warrant Fund shall be charged thereto and added to the next ensuing deposit specified therefor.

(c) The moneys at any time on deposit in the Warrant Fund shall be and at all times remain public funds impressed with a trust for the purpose for which the Warrant Fund was created. The Paying Agent shall at all times keep the moneys on deposit in the Warrant Fund continuously secured for the benefit of the City and the registered owners of the Warrants, either (1) by holding on deposit as collateral security Federal Securities or other marketable securities eligible as security for the deposit of public trust funds under regulations of the Comptroller of the Currency, United States Treasury, having a market value at any date of calculation (exclusive of accrued interest) not less than the amount of moneys on deposit in the fund being secured, or (2) if the furnishing of security in the manner provided in (1) above is not permitted by the then applicable law and regulations, then in such other manner as may be required or permitted by the then applicable state and federal laws and regulations respecting the security for, or granting a preference in the case of, the deposit of public trust funds; provided, however, that it shall not be necessary for the Paying Agent to secure any portion of the moneys on deposit in any such fund that may be insured by the Federal Deposit Insurance Corporation or by any agency of the United States of America that may succeed to its functions, or to secure any portion of the moneys that are invested as herein provided.

ARTICLE 6

Special Covenants of the City

Section 6.01 Covenants with Respect to Compliance with the Code

(a) The City covenants and agrees to duly and punctually observe and perform all agreements and covenants thereof under the Tax Certificate and Agreement.

(b) The City covenants and agrees that it will not take any action, or fail to take any action, if such action or failure to act would cause the interest on the Warrants to be Taxable.

Section 6.02 Designation of Warrants Pursuant to Section 265 of the Code

The City hereby designates the Warrants as "qualified tax-exempt obligations" for the purposes of paragraph (3) of subsection (b) of Section 265 of the Code. The City does hereby represent that neither it nor its "subordinate entities" has issued in the aggregate more than \$10,000,000 of "qualified tax-exempt obligations" during calendar year 2013, and the City does hereby further represent that it reasonably anticipates that the amount of neither "qualified tax-exempt obligations" nor "tax-exempt obligations" which will be issued by the City or its "subordinate entities" during calendar year 2013 will exceed \$10,000,000.

Section 6.03 Provision of Ordinance a Contract; Remedies

(a) The terms, provisions and conditions set forth in this Ordinance constitute a contract between the City and the registered owners of the Warrants and shall remain in effect until the principal of and interest on the Warrants shall have been paid in full as provided in Article 10.

(b) The City agrees (i) the registered owners of the Warrants shall have all rights and remedies for the enforcement of the Warrants and this Ordinance as may be provided by the laws of the State of Alabama, including particularly the Enabling Law, and (ii) the Finance Director (or any successor to the duties and functions thereof) of the City is subject to mandamus in the event such officer has money available for payment of principal of and interest on the Warrants and does not, as required by this Ordinance, deposit such money in the Warrant Fund, when and as required by Section 5.01 of this Ordinance in each Fiscal Year, and apply such proceeds (and investment earnings thereon) to the payment of the principal of and interest on the Warrants when and as the same become due and payable in each Fiscal Year in amounts sufficient for such purposes.

ARTICLE 7

Approval of Agreements

Section 7.01 Approval of Continuing Disclosure Agreement

(a) The Continuing Disclosure Agreement, in substantially the form and of substantially the content as the form of Continuing Disclosure Agreement presented to and considered by the City Council of the City, is hereby authorized, approved and adopted.

(b) The Mayor of the City is hereby authorized and directed to execute and deliver the Continuing Disclosure Agreement for and on behalf of and in the name of the City, with such changes or additions thereto or deletions therefrom as he may deem necessary or desirable and shall approve, which approval shall be conclusively evidenced by his executing the Continuing Disclosure Agreement as herein provided, and the City Clerk is hereby authorized and directed to affix to the Continuing Disclosure Agreement the seal of the City and to attest the same.

Section 7.02 Approval of Warrant Purchase Agreement

(a) The Warrant Purchase Agreement, in substantially the form and of substantially the content as the form of Warrant Purchase Agreement presented to and considered by the City, is hereby authorized, approved and adopted.

(b) The Mayor of the City is hereby authorized and directed to execute and deliver the Warrant Purchase Agreement for and on behalf of and in the name of the City, with such changes or additions thereto or deletions therefrom as the Mayor may deem necessary or desirable and shall approve, which approval shall be conclusively evidenced by execution by the Mayor of the City of the Warrant Purchase Agreement as herein provided, and the City Clerk is hereby authorized and directed to affix to the Warrant Purchase Agreement the seal of the City and to attest the same.

(c) Any prior execution of the Warrant Purchase Agreement by the Mayor and City Clerk is hereby ratified and approved.

ARTICLE 8

The Paying Agent

Section 8.01 Designation of Paying Agent

The City does hereby designate and appoint The Bank of New York Mellon Trust Company, National Association as the depository for the Warrant Fund and as Paying Agent, Warrant Registrar and authenticating agent for and with respect to the Warrants.

Section 8.02 Duties of Paying Agent; Payments at Par

(a) The Paying Agent, by acceptance of its duties hereunder, shall have agreed thereby with the registered owners from time to time of the Warrants that it will make all remittances of principal of, premium (if any), and interest on the Warrants from money supplied by the City for such purpose in bankable funds at par and without discount or deduction for exchange, fees or expenses. The City hereby covenants and agrees with the registered owners of the Warrants and with the Paying Agent that it will pay all charges for exchange, fees or expenses which may be incurred by the Paying Agent in the making of remittances in bankable funds at par.

(b) The Paying Agent shall not be liable hereunder except for its noncompliance with the provisions hereof, its willful misconduct or its gross negligence.

(1) It may execute any of the powers conferred on it hereunder or perform any duty hereunder either directly or through agents and attorneys in fact who are not regularly in its employ and who are selected by it with reasonable care, but it shall be responsible for the observance by such agents and attorneys in fact of the terms and conditions hereof.

(2) It may consult with counsel on any matters connected herewith and shall not be answerable for any action taken or failure to take any action in good faith on the advice of counsel, provided that its action or inaction is not contrary to an express provision hereof.

(3) It need not recognize a Holder of a Warrant as such without the satisfactory establishment of his title to such warrant.

(4) It shall not be answerable for any action taken in good faith on any notice, request, consent, certificate or other paper or document which it believes to be genuine and signed or acknowledged by the proper party.

(5) It shall be entitled to reasonable compensation for its services hereunder, including extra compensation for unusual or extraordinary services.

(6) Any action taken by the Paying Agent at the request of and with the consent of the Holder of a Warrant will bind all subsequent Holders of the same Warrant and any warrants issued hereunder in lieu thereof.

(7) It may the Holder of Warrants as if not Paying Agent hereunder.

(8) It shall not be liable for proper application of any moneys other than those that may be paid to or deposited with it.

(9) It shall not unreasonably withhold or delay any consent or approval required of it under the provisions of this Ordinance.

(10) All moneys received by the Paying Agent to be held by it hereunder shall be held as trust funds until disbursed in the manner herein provided therefor. The Paying Agent shall not be liable to pay or allow interest thereon or otherwise to invest any such moneys except as specifically required herein.

(11) It may make any investments permitted hereby through it's own investment department or affiliated entity, and any Qualified Investments issued or held by it hereunder shall be deemed investments and not deposits.

(12) It shall, upon reasonable request, advise the City of the amount at the time on deposit in any of the special funds herein created.

(13) The recitals of fact herein and in the Warrants are statements by the City and not by the Paying Agent, and the Paying Agent is in no way responsible for the validity or security of the Warrants, or the validity or enforceability of the Ordinance. The Paying Agent does, however, assume responsibility for its eligibility to accept and administer the duties created hereby, and it agrees and represents that it is duly authorized to accept and administer such duties and that the acceptance and administration by it of such duties do not violate or contravene, and are not void or voidable under, any applicable state or federal law now existing.

(14) The Paying Agent shall have no obligation to file financing statements or continuation statements.

(15) The Paying Agent's immunities and protections from liability and its right to indemnification in connection with the performance of its duties under this Ordinance shall extend to the Paying Agent's officers, directors, agents, attorneys and employees. Such immunities and protections and rights to indemnification, together with the Paying Agent's right to compensation, shall survive the Paying Agent's resignation or removal, the discharge of this Ordinance, and final payment of the Warrants.

Section 8.03 Resignation and Removal; Appointment of Successor

(a) The Paying Agent may resign and be discharged of all duties imposed upon it as Paying Agent, Warrant Registrar and transfer agent by giving written notice of such resignation by certified or registered mail to the City at least 30 days prior to the date when such resignation shall take effect.

(b) If at any time the Paying Agent shall resign or be or become incapable of acting or shall be adjudged a bankrupt or insolvent or a receiver of the Paying Agent or of its property shall be appointed or any public officer shall take charge or control of the Paying Agent or of its property or affairs for the purpose of rehabilitation, conservation or liquidation, then the City may remove the Paying Agent and the City shall promptly appoint a successor Paying Agent.

Section 8.04 Qualification of and Acceptance of Appointment by Successor

(a) Any successor Paying Agent shall be a bank or trust company authorized to act as Paying Agent and Warrant Registrar and having, at the time of its acceptance of such appointment, combined capital and surplus of at least \$50,000,000.

(b) Every successor Paying Agent appointed hereunder shall execute, acknowledge and deliver to the City and to the retiring Paying Agent an instrument accepting such appointment and thereupon the resignation or removal of the retiring Paying Agent shall become effective and such successor Paying Agent, without any further act, deed or conveyance, shall become vested with all the rights, powers, and duties of the retiring Paying Agent.

Section 8.05 Merger or Consolidation

Any corporation into which the Paying Agent may be merged or with which it may be consolidated, or any corporation resulting from any merger or consolidation to which the Paying Agent shall be a party, or any corporation succeeding to all or substantially all of the corporate trust business of the Paying Agent, shall be the successor of the Paying Agent hereunder, without the execution or filing of any paper or any further act on the part of any of the parties hereto. In case any Warrants shall have been authenticated, but not delivered, by the Paying Agent then in office, any successor by merger or consolidation to such authenticating Paying Agent may adopt such authentication and deliver the Warrants so authenticated with the same effect as if such successor Paying Agent had itself authenticated such Warrants.

ARTICLE 9

Sale of Warrants; Official Statement

Section 9.01 Sale and Delivery of Warrants; Closing Papers

(a) The Warrants are hereby sold to Sterne, Agee & Leach, Inc., upon the payment to the City of the purchase price of \$9,926,344.20, being the principal amount thereof less underwriting discount of \$70,000.00 and less net original issue discount of \$3,655.80. The City has determined that the sale of the Warrants to such purchaser on such terms is most advantageous to the City.

(b) The Warrants shall be delivered to such purchaser through The Depository Trust Company, New York, New York, upon the payment to the City of the aforesaid purchase price. The Mayor and the City Clerk, or either of them, are hereby authorized and directed to effect such delivery and in connection therewith to deliver such closing papers containing such representations as are required to demonstrate the legality and validity of the Warrants; the exclusion of the interest on the Warrants from the gross income of the Holders thereof for federal income taxation; the exemption of interest on the Warrants from State of Alabama income taxation; and the absence of pending or threatened litigation with

respect to any of such matters. The City Clerk shall give a receipt to the purchaser for the purchase price paid, and such receipt shall be full acquittal to the purchaser and said purchaser shall not be required to see to, or be responsible for, the application of the proceeds of the Warrants. Nevertheless, the proceeds of the Warrants shall be held in trust and applied solely for the purposes specified in this Ordinance.

Section 9.02 Approval of Official Statement for the Warrants

(a) The Official Statement dated December 18, 2013 (the “Official Statement”) with respect to the Warrants in substantially the form and of substantially the content as the Official Statement presented to and considered by the City, is hereby authorized, approved and adopted.

(b) The City does hereby find and determine that the Official Statement is true and correct and does not contain an untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein, in light of the circumstances under which they were made, not misleading.

(c) The Mayor of the City is hereby authorized to date the Official Statement the date of delivery thereof and to execute and deliver the Official Statement for and on behalf of and in the name of the City, with such changes or additions thereto or deletions therefrom as the Mayor may deem necessary or desirable in order to state fully and correctly the pertinent facts concerning the City and the Warrants.

(d) The Mayor of the City is authorized and directed to cause distribution of the Official Statement to be made to prospective purchasers of the Warrants.

ARTICLE 10

Payment of Warrants

(a) Warrants for the payment or redemption of which moneys shall have been set aside and held by the Paying Agent on the maturity or redemption date thereof shall be deemed to have been paid and no longer Outstanding under this Ordinance.

(b) Warrants shall, prior to the maturity or redemption date thereof, be deemed to have been paid and no longer Outstanding under this Ordinance if (1) in case any of said Warrants are to be redeemed on any date prior to their maturity, the City shall have given to the Paying Agent in form satisfactory to it irrevocable instructions to give and publish notice of redemption thereof on such date, (2) there shall have been deposited with the Paying Agent either moneys in an amount which shall be sufficient, or Federal Securities the principal of and the interest on which when due will provide moneys which, together with the moneys, if any, deposited with the Paying Agent at the same time and available for such purpose, shall be sufficient, to pay when due the principal of, premium (if any) and interest due and to become due on said Warrants on and prior to the redemption date or maturity date thereof, as the case may be, and (3) in the event said Warrants are not by their terms subject to redemption or payment within the next succeeding 90 days, the City shall have given the Paying Agent in form satisfactory to it irrevocable instructions to mail a notice to the Holders thereof that the deposit required by clause (2) of this subsection has been made with the Paying Agent and that said Warrants are deemed to have been paid in accordance with this Section and no longer Outstanding under this Ordinance and stating such maturity or redemption date or dates upon which moneys are to be available for the payment of the principal of and premium (if any) on said Warrants.

(c) Neither Federal Securities nor moneys deposited with the Paying Agent pursuant to this Section nor principal nor interest payments on any such Federal Securities shall be withdrawn or used for any purpose other than, and shall be held in trust for, the payment of the principal or redemption price, if applicable, and interest on said Warrants; provided that any cash received from such principal or interest payments on such Federal Securities deposited with the Paying Agent, if not then needed for such purpose, shall, to the extent practicable, be reinvested, at the written direction of the City, in Federal Securities maturing at times and in amounts sufficient to pay when due the principal, premium (if any) and interest to become due on said Warrants on and prior to such redemption date or maturity date thereof, as the case may be.

(d) Any amounts remaining in the Warrant Fund after payment in full of the Warrants (or provision having been made therefor in accordance with this Article), and payment of the fees, charges and expenses of the Paying Agent and all other amounts required to be paid hereunder, shall be paid to the City.

DONE, ORDERED, ADOPTED and APPROVED this 23rd day of December, 2013.

Alberto C. Zaragoza, Jr., Mayor

S E A L

Attest: _____
City Clerk

It was moved by Councilmember _____ that all rules and regulations which, unless suspended, would prevent the immediate consideration and adoption of the said ordinance be suspended and that unanimous consent to the immediate consideration and adoption of the said ordinance be given. The motion was seconded by Councilmember _____ and on roll call was unanimously adopted, those answering aye being:

Ayes: Alberto C. Zaragoza, Jr., Mayor
 Steve Ammons, Mayor Pro-Tempore
 John Henley
 George Pierce
 Jim Sharp

Nays: None

The Mayor declared the motion unanimously carried.

After said ordinance had been discussed and considered in full by the Council, it was moved by Councilmember _____ that said ordinance be now placed upon its final passage and adopted. The motion was seconded by Councilmember _____. The question being put as to the adoption of said motion and the final passage and adoption of said ordinance, the roll was called with the following results:

Ayes: Alberto C. Zaragoza, Jr., Mayor
 Steve Ammons, Mayor Pro-Tempore
 John Henley
 George Pierce
 Jim Sharp

Nays: None

The Mayor thereupon declared said motion carried and the ordinance passed and adopted as introduced and read.

* * * *

There being no further business to come before the meeting, it was moved and seconded that the meeting be adjourned. Motion carried.

Minutes approved:

Mayor

Member of the City Council

Member of the City Council

Member of the City Council

Member of the City Council

S E A L

Attest: _____
City Clerk

STATE OF ALABAMA)
JEFFERSON COUNTY)

CERTIFICATE OF CITY CLERK

I, the undersigned, do hereby certify that (1) I am the duly elected, qualified and acting City Clerk of the City of Vestavia Hills, Alabama (the "Municipality"); (2) as Clerk of the Municipality I have access to all original records of the Municipality and I am duly authorized to make certified copies of its records on its behalf; (3) the above and foregoing pages constitute a complete, verbatim and compared copy of excerpts from the minutes of a regular meeting of the City Council of the Municipality duly held on December 23, 2013, the original of which is on file and of record in the minute book of the City Council in my custody; (4) the ordinance set forth in such excerpts is a complete, verbatim and compared copy of such ordinance as introduced and adopted by the City Council on such date; and (5) said ordinance is in full force and effect and has not been repealed, amended or changed.

IN WITNESS WHEREOF, I have hereunto set my hand as Clerk of the Municipality and have affixed the official seal of the Municipality, this 30th day of December, 2013.

Clerk of the City of Vestavia Hills,
Alabama

SEAL

RESOLUTION NUMBER 4539

A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE AN AGREEMENT WITH WALTER SCHOEL ENGINEERING COMPANY, INC. FOR DESIGN AND SURVEY SERVICES FOR ADDITIONAL PARKING AT THE LIBRARY IN THE FOREST

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 an agreement with Walter Schoel Engineering Company, Inc., for design and survey information for additional parking for the Library in the Forest at a cost not to exceed \$29,000; and
2. A copy of said agreement and detail is marked as Exhibit A, attached and incorporated into this Resolution Number 4539 as though written fully therein; and
3. This Resolution Number 4539 is effective immediately upon adoption and approval.

ADOPTED and APPROVED this the 13th day of January, 2014.

Alberto C. Zaragoza, Jr.
Mayor

ATTESTED BY:

Rebecca Leavings
City Clerk

CITY OF VESTAVIA HILLS
DEPARTMENT OF PUBLIC SERVICES
OFFICE OF CITY ENGINEER
INTER-DEPARTMENT MEMO

December 18, 2013

To: Jeff Downes, City Manager

CC: Brian Davis, Director of Public Services
Rebecca Leavings, City Clerk

From: Christopher Brady, City Engineer

RE: library parking addition

In meeting with neighboring residents on Friday, December 13, it seems we are progressing to get a favorable release of the restricted covenants. I am recommending we proceed with design services as proposed by Schoel Engineering. Please see attached detailed scope of services and agreement.

With the additional screen wall requested by neighbor, I anticipate this work to not exceed an approximate cost of \$29,000. I anticipate this expense would be applied to general fund balance.

Please let me know if any questions,

-Christopher



AGREEMENT FOR CONSULTING SERVICES

BETWEEN

CITY OF VESTAVIA HILLS

AND

WALTER SCHOEL ENGINEERING COMPANY, INC.

FOR

VESTAVIA HILLS LIBRARY PARKING ADDITION

VESTAVIA HILLS, ALABAMA

December 4, 2013

This **AGREEMENT**, entered into by and between **City of Vestavia Hills**, hereinafter referred to as the **Client**, and **Walter Schoel Engineering Company, Inc.**, hereinafter referred to as the **Consultant**, is for Consulting Services associated with Vestavia Hills Library Parking Addition, located in Vestavia Hills, Alabama.

SCOPE OF WORK

1. BOUNDARY & TOPOGRAPHIC SURVEY

A field-shot topographic survey of the site to be developed will be prepared. The detailed scope is as follows:

- Shoot topo to the center of all adjacent streets.
- Shoot topo on a 50-foot or equivalent grid including grade breaks on USGS Datum.
- Locate above site improvements including but not limited to the buildings, sidewalks, curb cuts, paved areas, etc.
- Locate visible utilities (water valves and meters, gas valves and meters, sanitary and storm sewers, electrical and telephone appurtenances, etc.).
- Shoot flow line elevations of visible sanitary and storm sewers, including the next upstream and downstream offsite structures
- Research underground utilities with each respective utility company and identify on plat.
- Process field survey data and prepare a Topographic Survey Map for use in design.

Lump Sum Fee \$4,500

2. RESURVEY OF SITE

The Consultant would prepare a resurvey of the site to combine the multiple lots into a single lot. The detailed scope is as follows:

- Coordinate with the City of Vestavia Hills on dates and submittals
- Prepare resurvey plat
- Set any new corner irons, if required
- Prepare vacation documents
- Assist in obtaining required signatures
- Submit to the City of Birmingham
- Attend approval meetings, as required
- Assist in having the plat recorded

Proposed Fee \$ 1,900

4. SCHEMATIC DESIGN AND PLANNING

The Consultant will also prepare preliminary engineering plans for the Client's review. The detailed scope is as follows:

- Consult with the Client, design team, and neighbors as required
- Coordinate with utilities, as necessary
- Drainage and detention study
- Preparation of schematic design plans, including:
 - o Layout Plan
 - o Grading and Drainage Plan
 - o Utility Plan
 - o Stormwater Management Plan

Lump Sum Fee \$ 3,100

5. FINAL CONSTRUCTION DOCUMENTS

The Consultant would perform final design and prepare construction documents. The Final Construction documents would be developed from the Schematic Design Plans. The detailed scope is as follows:

- Preparation of Final Construction Plans, Including:
 - o Cover Sheet
 - o Topographic Map
 - o Site Layout Plan
 - o Grading and Drainage Plan
 - o Erosion & Sediment Control Plan
 - o Site Utility Plan, if necessary
 - o Storm Profile Sheet
 - o Detail Plan(s) (standard details, roadway sections, paving sections, etc.)
- Preparation of Front End & Technical Specifications
- Assistance with submittals and approvals

Lump Sum Fee \$ 7,900

6. BIDDING ASSISTANCE & CONSTRUCTION ADMINISTRATION

The Consultant will assist the Client during the bidding process and will perform Construction Review to evaluate the Contractor's general conformance with plans and specifications. The Consultant will review Shop Drawings, and work with the Contractor and Client in solving any minor construction related problems that may arise. The detailed scope is as follows:

- Review of shop drawings
- Construction observation to be performed on an as-needed basis and at the direction of the Client
- Minor Construction-related revisions – Revisions required as a result of field conditions or as agreed upon by the Client

Hourly Estimate \$3,000

The above is only an estimate and is subject to change. The Client would be charged based on the hourly rates shown below in the "Schedule of Unit Rates". If the Consultant is nearing the end of the above-budget, the Client will be notified prior to billing.

7. LANDSCAPE DESIGN

The Consultant will provide landscape design services to support the parking addition. The landscape architect's proposal is attached for reference.

To be billed at 1.1 times the Landscape Architect's Fee

FEE SUMMARY

1. Boundary & Topo	\$ 4,500
2. Resurvey	\$ 1,900
3. Schematic Design and Planning	\$ 3,100
4. Final Construction Documents	\$ 7,900
5. Construction Administration	\$ 3,000
Subtotal (WSE)	\$ 20,400
Reimbursables (Estimated 6%)	\$ 1,224
Reimbursable Consultant plus 10%	\$ 6,243
TOTAL (BASE)	\$ 27,867
Optional Add for Screen Wall	\$ 1,100

NOT INCLUDED IN SCOPE OF WORK

1. As-built drawings of any type
2. ALTA Survey
3. Easement Vacations
4. Construction Stake-out or stake-out of geotech borings
5. Environmental assessments (T & E Species, Wetland Delineations, Phase 1, Phase 2, etc.)
6. Cultural Resources/Historic Properties Studies
7. Off-Site Utility Upgrades (including Public Sewer Extensions or Water main extensions)
8. Utility Relocations or extensions
9. Wall Design (to be design-build by contractor) – other than screen wall
10. LEED Services
11. ADEM Permitting

PAYMENT TERMS

The Consultant will bill the Client monthly based on work completed during the billing period. Work completed will be based upon a percentage of completion for Lump Sum Fees, and will be based on time and materials at the attached schedule of unit rates for Hourly Estimates and Not to Exceed agreements. Payments are due within thirty (30) days of invoice date. The Client's obligation to pay for services is in no way dependent upon the Client's ability to obtain financing, obtain approval from any governmental or regulatory agencies, real estate closing, receipt of payment from other parties or upon successful completion of the project. If payment is not received within thirty (30) days from date of invoice, the amounts may include a late charge of 1½ % per month, calculated from said thirtieth (30th) day. Should Consultant incur attorney's fees for collection of payment, the amount owed to Consultant shall include any and all said fees. Failure to make payment within sixty (60) days shall constitute a waiver of the right to dispute the accuracy and appropriateness of the invoice. In addition, Consultant reserves the right to suspend services under this Agreement until such time as payment is made in full for all amounts due for services rendered and expenses incurred has been received.

SCHEDULE OF UNIT RATES – EFFECTIVE THROUGH 12/31/2013

Senior Principal	\$ 225.00 per hour
Principal	\$ 170.00 per hour
Chief Land Surveyor	\$ 150.00 per hour
Senior Project Manager	\$ 140.00 per hour
Project Manager 2	\$ 125.00 per hour
Project Manager 1	\$ 110.00 per hour
Senior Professional	\$ 120.00 per hour
Project Professional	\$ 105.00 per hour
Staff Professional	\$ 90.00 per hour
Senior Designer / Survey Draftsman / Specialist	\$ 90.00 per hour
Designer / Survey Draftsman / Specialist 2	\$ 80.00 per hour

Designer / Survey Draftsman / Specialist 1		\$ 70.00 per hour
Field Survey Party		\$ 150.00 per hour
Laser Scanning Field Crew		\$ 400.00 per hour
Laser Scanning Specialist		\$ 125.00 per hour
Intern/Support		\$ 55.00 per hour
Courier		\$ 25.00 per delivery
Transportation		\$ 0.50 per mile
Materials	(Stakes and Hubs)	\$ 0.35 each
	(Flagging)	\$ 2.50 per roll
	(Iron Pins and Caps)	\$ 5.00 each
	(Spray Paint)	\$ 5.00 per can

Printing and other reimbursable expenses will be charged at cost, and are not included in the fee basis described above. Sub-consultant invoices will be billed to the client at a rate of 110% of the sub-consultant invoice. Overtime rates may apply for work required during non-standard work hours.

GENERAL TERMS AND CONDITIONS

- 1) Services performed under this Agreement will be conducted in a manner consistent with that level of care and skill exercised by members of the profession currently practicing under similar conditions. Plans, specifications, and submittals will be prepared in accordance with the written standards of the governing authorities having jurisdiction. Any extraordinary requirements for approvals will be considered additional services. No other warranty, expressed or implied, is made. Nothing in this agreement is intended to create, nor shall it be construed to create, a fiduciary duty owed by either party to the other party.
- 2) The figures given above and in the body of this Agreement are based on the Scope of Work as described herein. If the above outlined Scope of Services is changed, or if there are other services that may be requested by the Client, these additional services will also be performed at the above unit rates, or a revised fee will be negotiated to the satisfaction of both the Client and Consultant at that time. The Consultant reserves the right to adjust these unit rates for inflation costs on a one-year interval from the date of this proposal.
- 3) All claims, disputes, and other matters in controversy between Consultant and Client arising out of or in any way related to this agreement (other than as a result of Client's failure to pay amounts due hereunder) will be submitted to mediation before, and as a condition precedent to, other remedies provided by law. Mediation shall be held in the county where the project is located, and if the parties cannot agree on a mediator then one shall be appointed by the American Arbitration Association (AAA). Parties agree to split cost of mediation 50-50.
- 4) Services not expressly set forth in writing as basic or additional services and listed in the proposal to this Agreement are excluded from the scope of the Consultant's services, and the Consultant assumes no duty to the Client to perform such services.
- 5) Client, at its expense, will provide the Consultant with all required site information, existing plans, reports, studies, project schedules and similar information that is contained in Client's files. The Consultant may rely on the information provided by the Client without verification. The Client shall participate with the Consultant by providing all information and criteria in a timely manner, review documents and make decisions on project alternatives to the extent necessary to allow the Consultant to perform the scope of work within established schedules.
- 6) Consultant shall secure and maintain insurance as required by law or statutory requirements which will protect him from claims under the workers compensation acts and from claims for bodily injury, death, or property damage that may arise from the performance of his services under and pursuant to this Agreement. Certificates of such coverage will be provided to Client upon request.
- 7) All reports, plans, documents, or other materials resulting from the Consultant's efforts shall remain the property of the Consultant and are intended solely for the purpose of this Agreement. Any reuse by Client for purposes outside of this Agreement or any failure to follow Consultant's recommendations without Consultant's written permission shall be at the user's sole risk.

- 8) This Agreement may be terminated by either party upon seven (7) days written notice in the event of substantial failure to perform in accordance with the terms of the agreement by the other party through no fault of the terminating party. If this Agreement is terminated, it is agreed that Consultant shall be paid for total charges for labor performed to the termination notice date, plus reimbursable charges.
- 9) Neither party to this Agreement will be liable to the other party for delays in performing the services, nor for the direct or indirect cost resulting from such delays, that may result from labor strikes, riots, war, acts of governmental authorities, extraordinary weather conditions or other natural catastrophes, or any other cause beyond the reasonable control of either party.
- 10) The invalidity of any portion of this Agreement will not and shall not be deemed to affect the validity of any other provision. In the event that any provision of this Agreement is held to be invalid, the parties agree that the remaining provisions shall be deemed to be in full force and effect.
- 11) The Consultant shall not be responsible for construction site safety or construction procedures, nor will the Consultant be responsible for the quality of the work performed by the contractor or other consultants.
- 12) Consultant may, at Client's request and for Client's convenience, provide documents in electronic format. Data, words, graphical representations, and drawings that are stored on electronic media or which are transmitted electronically, may be subject to uncontrollable alteration. The printed, signed and sealed hard copy is the actual professional instrument of service. In the event of a discrepancy between the electronic document and the hardcopy document, the hardcopy document will prevail.

PROPOSAL ACCEPTANCE

SUBMITTED:

ACCEPTED:

Consultant: Walter Schoel Engineering Company, Inc.

Client: City of Vestavia Hills

Signature: Walter Schoel III

Signature: _____

Name: Walter Schoel III

Name: _____

Title: President

Title: _____

Date: December 4, 2013

Date: _____

Please print or type the following information for the individual, firm or corporation responsible for payment.

Company: _____

Client or Client's authorized representative: _____

Street Address: _____

City, State, Zip: _____

Phone Number: _____ **Fax Number:** _____

Email Address: _____

Client's Project Number: _____ **Client's Purchase Order Number:** _____



December 4, 2013

James Parsons
Walter Schoel Engineering Co., Inc.
1001 22nd Street South
Birmingham AL 35205

Re: Parking Lot, Library in the Forest, Vestavia Hills, Alabama

James:

Thank you for the opportunity to respond to your request for proposal for Landscape Architectural services. We look forward to the opportunity to work with you on this project and others in the future.

Please accept this as our proposal for Landscape Architectural Services for Lighting, Planting and Irrigation design for the Parking Lot, Library in the Forest, Vestavia Hills, Alabama. After your review of the proposal, please call me with any questions and or clarifications that you may require.

We propose our scope of service to be as follows:

Basic Services:

- I. **Meetings:** EDS, Inc. will meet with adjacent property owners, design team, and staff to discuss the proposed plant material and lighting and to receive input prior to proceeding with Construction Documents.

tel: 205.585-8414 web: www.edsincweb.com
P.O. Box 430127, Birmingham, AL 35243

- II. **Planting Plan:** EDS, Inc. will prepare construction documents necessary for bidding, permitting and construction. These documents will include planting plan, planting details and specifications.
- III. **Irrigation Plan:** EDS, Inc. will study the as-built drawings for the existing system and determine feasibility of extension. Prepare irrigation plan, irrigation details and specifications.
- IV. **Electrical Engineering:** EDS, Inc. will provide electrical engineering required for pole-mounted site lighting. Pole lighting is to be visually consistent with existing adjacent parking lot lighting, is to be provided such as to minimize light spill on neighboring residential properties and is to be provided in accordance with sustainable design practices similar to existing lighting systems. Existing sharp-cutoff forward-throw pole lighting at border of existing facility may be relocated as required.
- V. **Construction Observation:** EDS, Inc. will make one site visit at Substantial Completion to observe that, in general, lighting, plantings and irrigation are in compliance with the plans and specifications. At that time we will prepare and distribute to the client a punch list with any items that may need to be remedied.
- VI. **Screening Fence or Wall:** As required, EDS, Inc. will design a screen wall or fence as part of the screening buffer. We will provide plans, elevations, and construction details for permitting and construction.

Additional Services:

Additional Services consist of any professional services provided which are not specifically described above and as mutually agreed upon between the Client and the Landscape Architect. Such services include, but are not limited to: grading plans, site planning, site sections, 3D drawings, substantial increase in drawings or administration due to changes in the scope of work or site plan.

Additional Services will be billed on an hourly basis per our Schedule of Hourly Rates.

Work Specifically Not Included

- 1. LEED certification documentation services.

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2. Design of new electrical power service or modifications to existing electrical power service.
3. Attendance at public hearings, design review meetings.
4. Site sections, aerial perspectives, axonometric drawings.
5. Screening Fence or Wall. See additional fee below.

Schedule of Hourly Rates:

Principal:	\$125.00 / hr.
Project Manager:	\$115.00 / hr.
Landscape Architect / Intern:	\$75.00 / hr.
Administrative / Clerical:	\$35.00 / hr.

Client Responsibilities

The Client will provide full information and program regarding requirements for the project. The Client will furnish as-built planting and irrigation drawings for the Landscape Architect's use.

Reimbursable expenses such as printing, copies, and mileage will be billed at our cost plus a 10% administrative fee.

Environmental Design Studio, Inc. proposes to provide Items I-V for a stipulated fee of \$5,675. We propose to provide Item VI on an as needed basis for an additional \$1,000. We will invoice for services on a percent complete basis through the completion of the project.

Payment for services is due within 21 days of date of invoice. In the event a payment is more than 15 days late, the client agrees to pay a late fee equivalent to five percent (5%) of the outstanding balance compounded on a monthly basis. If payment is more than 30 days past due then the purchaser will be in default of said contract. In the event of default the purchaser agrees to pay all costs of collecting the amount owed to Environmental Design Studio, Inc. under this agreement, including court costs, filing fees, and reasonable attorney fees if the outstanding balance owed exceeds \$500.00 and the debt is referred to collection.

The client agrees that, in no event will Environmental Design Studio, Inc. or any

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of it's officers be liable for any work performed on the project in excess of the proposal amount.

Thank you for your confidence in EDS, Inc. Your signature in the space provided will authorize EDS, Inc. to proceed.

Regards,

Environmental Design Studio, Inc.



Duane Pritchett, RLA

President, Environmental Design Studio, Inc.

Your signature will authorize us to proceed.

Name:

Date:

Title: