

**Vestavia Hills
City Council Agenda
November 23, 2015
5:00 PM**

(amended)

1. Call to Order
2. Roll Call
3. Invocation – David Harwell
4. Pledge Of Allegiance
5. Announcements and Guest Recognition
 - a. Interviews for Vestavia Hills Park and Recreation and Vestavia Hills Library Board on Wednesday, December 2, 2015 beginning at 7:30 AM in the Executive Conference Room
 - b. City Hall closed November 26 & 27, 2015 for Thanksgiving Holidays
6. Public Involvement Meeting for Project Number CMAQ-7030(600) for sidewalk along CR-43 (Massey Road) from SR-3 (US-31, Montgomery Highway) to CR-99 (Columbiana Road) in Vestavia Hills
7. City Manager's Report
8. Councilors' Reports
9. Financial Reports – Melvin Turner, III, Finance Director
10. Approval of Minutes – November 9, 2015 (Regular Meeting)

Old Business

New Business

11. Resolution Number 4769 – Alcohol License – Approving an 020- Restaurant Retail Liquor License for Fig Tree Concepts LLC d/b/a Fig Tree Café; 3160 Cahaba Heights Road; Jon Holland, Executive (*public hearing*)
12. Resolution Number 4771 – A Resolution Declaring A Certain Fire Department Pumper As Surplus And Directing The Sale/Disposal Of Said Property

New Business (Requesting Unanimous Consent)

13. Ordinance Number 2610 – An Ordinance Amending Ordinance Number 2570 Finding And Determining That Real Property (“The Property”) Being Vacant Property Situated At 2253 Great Rock Road, Vestavia Hills, Alabama Owned By The City Of Vestavia Hills, Alabama Is Not Needed For Public Or Municipal Purposes; And To Authorize And Direct The City Manager To Execute And Deliver A Land Sales Contract To Sell Said Property

First Reading (No Action Taken At This Meeting)

14. Resolution Number 4770 - A Resolution Authorizing The Purchase Of Firearms For The Vestavia Hills Police Department (*Public Hearing*)
15. Resolution Number 4772 – A Resolution Accepting A Bid For CWSRF Project At Little Shades Creek At A Negotiated Price And Authorizing Further Expenditures For Park Amenities (*Public Hearing*)
16. Resolution Number 4773 – A Resolution Authorizing The Funding Of RMS Software Through New World From Special Fund 11 – Court And Corrections (*Public Hearing*)
17. Citizens Comments
18. Motion For Adjournment

CITY OF VESTAVIA HILLS

CITY COUNCIL

MINUTES

NOVEMBER 9, 2015

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
George Sawaya, Deputy Treasurer
Danny Rary, Police Chief
Jim St. John, Fire Chief

Invocation was given by Jordy Henson, followed by the Pledge of Allegiance led by visiting Boy Scouts.

ANNOUNCEMENTS, GUEST RECOGNITION, CANDIDATES

- The Mayor recognized all veterans who were in the audience. He thanked them for their service to this Country.
- Mr. Pierce recognized Andrew Burke, representing the Vestavia Hills Chamber of Commerce.
- The Mayor announced a Public Involvement Meeting for Project Number CMAQ-7030(600) for sidewalk along CR-43 (Massey Road) from SR-3 (US-31, Montgomery Highway) to CR-99 (Columbiana Road) in Vestavia Hills on Monday, November 23, 2015 at 5 PM. He invited everyone to attend.
- The Mayor and Mr. Ammons read the applicants who have applied for the Library Board and the Park and Recreation Board vacancies. The Council concurred to schedule interviews for December 2, 2015 beginning at 7:30 AM.
- The Mayor welcomed the following Boy Scouts to the meeting: Archer Williamson, 712 Boulder Lake Lane; Erik Brunsold, 4906 Reynolds Lane; Jonathan Sanders, 4335 Paxton way; Alex Speigel, 4301 10th Avenue South,

Birmingham; Nicholas Wood, 4270 Boulder Lake Drive; Jackson Hayes, 3967 Wall Street; Luke Robinson, 1649 Kristi Circle; Matt Kuehr, 805 Lake Vista Circle; Mason Mills, 4517 Vestlake Ridge Way; Shrijitn Balasundararugun, 1011 Liberty Park Loop; Pritham Sathish, 513 Liberty Lake Drive; Matthew Coleman, 4320 Paxton Way; Shawn Loyal, 508 Lake Colony Drive; Daniel Perkins, 5553 Afton Drive; Nate Siple, 4327 Paxton Way; Harrison Downes, 701 Hampden Place Circle.

PROCLAMATION -

The Mayor presented a proclamation for National Hospice Procurement Month. Mr. Downes read the proclamation and presented it to Shannon Cook, V.P. of Business Development; Kim Smith, Volunteer Coordinator; and Kim Rohloff, Community Educator for Affinity Hospice.

CITY MANAGER'S REPORT

- Mr. Downes gave a PowerPoint presentation to update the Council and audience on sales tax collections and the breakdown for collection areas. He also reviewed the collections from building permits for the past several years.
- Mr. Downes gave examples of building projects in the City along with the Resort Lifestyle building at Patchwork Farms.
- Review of the new Action Center shows that property complaints have risen to more than 400 complaints and are being closed within 30 days which is tremendous progress due to some revision of ordinances and moving the compliance officer to the Police Department. He also showed a locational map depicting where the majority of complaints are derived.
- Photos of the new signage being installed throughout the City bearing the new logo and the branding for the City were shown and explained.
- In closing, Mr. Downes indicated that the City employees are currently raising money for United Way, as well as volunteering their time to dedicate to being a Big Brother/Big Sister.

COUNCILORS' REPORTS

- Mr. Pierce updated the Council on some information that he had received from one of the young men who had recently been awarded a scholarship to the Naval Academy. He stated he is happy to report that the young man is working hard and seems to be very happy in his attendance at the Academy.

APPROVAL OF MINUTES

The minutes of October 26, 2015 (Regular Meeting) were presented for approval.

MOTION Motion to dispense with the reading of the minutes of October 26, 2015 (Regular Meeting) and approve them as presented was by Mr. Henley and second by Mr. Pierce. Roll call vote as follows:

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

OLD BUSINESS

RESOLUTION NUMBER 4767

Resolution Number 4767 – Annexation – 90-Day – 1724 Vestaview Lane; Charles Farrell III, Owner (public hearing)

MOTION Motion to approve Resolution Number 4767 was by Mr. Pierce and second was by Mr. Ammons.

Mr. Pierce gave the report from the Annexation Committee. This property is currently being renovated to be sold at a later date. The property is adjacent to the Shades Mountain Baptist Church and is surrounded by the City.

Charles Farrell III was present in regard to the request.

Mr. Ammons asked about Engineering’s report of inspection of a drainage pipe.

Mr. Brady stated that they did the inspection and found no flaws in the pipe.

The Mayor opened the floor for a public hearing. There being no one to address the Council concerning this request, the Mayor closed the floor and asked for the question.

Roll call vote as follows:

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

ORDINANCE NUMBER 2609

Ordinance Number 2609 - Annexation – Overnight – 1724 Vestaview Lane, Charles Farrell III, Owner (public hearing)

MOTION Motion to approve Ordinance Number 2609 was by Mr. Pierce and second was by Mr. Ammons.

Mr. Pierce stated that this is the overnight annexation of the same property.

The Mayor opened the floor for a public hearing. There being no one to address the Council concerning this request, the Mayor closed the floor and asked for the question. Roll call vote as follows:

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

RESOLUTION NUMBER 4768

Resolution Number 4768 - Annexation – 90-Day – 2739 Rocky Ridge Road; Cameron Eaton and Tison Barganier, Owners (*public hearing*)

MOTION Motion to approve Resolution Number 4768 was by Mr. Pierce and second was by Mr. Ammons.

Mr. Pierce gave the report from the Annexation Committee. Three quarters of the property is already in the City. This request is to annex the remaining quarter and divide the property into four single-family lots.

Brian Harris, Gonzalez Strength, was present in regard to the request. He explained that the intent is to bring a private road in from Rocky Ridge to access the property.

Mr. Sharp asked how the zoning staff reacted to the request.

Ms. Leavings stated that the staff has only seen these tentative drawings, but it appears to be keeping with surrounding properties. The developer is seeking 40-foot front setbacks and will need to request a zoning that allows for those setbacks.

The Mayor opened the floor for a public hearing. There being no one to address the Council concerning this request, the Mayor closed the floor and asked for the question.

Roll call vote as follows:

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

NEW BUSINESS

None.

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 November 23, 2015 at 5 PM.

- None

CITIZENS COMMENTS

The Mayor opened the floor for citizen comments.

- Donald Harwell, 1357 Willoughby Road stated that the new City Hall facility is very beautiful and how good it was for the last Council meeting as compared to controversial meetings in the old facility.
- Mr. Ammons commended the VHPD, especially Lt. York and Lt. Evans, on handling the recent kidnapping recovery case.

MOTION Motion to adjourn was by Mr. Pierce and second was by Mr. Henley.
Meeting adjourned at 5:45 PM.

Alberto C. Zaragoza, Jr.
Mayor

ATTESTED BY:

Rebecca Leavings
City Clerk

RESOLUTION NUMBER 4769

**A RESOLUTION APPROVING ALCOHOL LICENSE
FOR FIG TREE CONCEPTS, LLC D/B/A FIG TREE
CAFÉ; JON HOLLAND, EXECUTIVE**

WHEREAS, the City Council of the City of Vestavia Hills, Alabama, approves the alcohol license for Fig Tree Concepts, LLC d/b/a Fig Tree Café, located at 3160 Cahaba Heights Road, Vestavia Hills, Alabama, for the on-premise sale of 020 Restaurant Liquor; Jon Holland, executive.

APPROVED and ADOPTED this the 23rd day of November, 2015.

Alberto C. Zaragoza, Jr.
Mayor

ATTESTED BY:

Rebecca Leavings
City Clerk

INTEROFFICE MEMORANDUM

DATE: November 13, 2015

TO: Dan Rary, Acting Police Chief

FROM: Rebecca Leavings, City Clerk


RE: Alcohol License Request – 020 Restaurante Liquor License

Please find attached information submitted by Jon Holland who request an alcohol license to sell 020 Restaurante Liquor License at Fig Tree Concepts, LLC d/b/a Fig Tree Cafe, 3160 Cahaba Heights Road, Vestavia Hills, Alabama.

I am scheduling this case to be heard by the City Council on 23rd day of November, 2015 at 5:00 PM (Monday). Please advise me of your recommendation for this license. If you have any questions, please contact me.

Reply

I have reviewed the available background information on the above referenced applicant and submit the following to the City Council:

	Application cleared by P.D. This indicates that there are NO convictions for drug trafficking, convictions regarding arrest involving danger to children, weapon charges, violent felony crimes against persons, felony sexual offenses or habitual alcohol related arrests
	Needs further review. This indicates that the Police Chief has found records of some convictions of alcohol related arrests
	Does not recommend. This indicates that the Police Chief has found records of convictions for drug trafficking, convictions regarding arrest involving danger to children, weapon charges, violent felony crimes against persons, felony sexual offenses or habitual alcohol related arrests

Reviewed:  _____



STATE OF ALABAMA
ALCOHOLIC BEVERAGE CONTROL BOARD
ALCOHOL LICENSE APPLICATION



Confirmation Number: 20151105151431690

Type License: 020 - RESTAURANT RETAIL LIQUOR State: \$300.00 County: \$300.00

Type License: State: County:

Trade Name: FIG TREE CAFE Filing Fee: \$50.00

Applicant: FIG TREE CONCEPTS LLC Transfer Fee:

Location Address: 3160 CAHABA HEIGHTS RD VESTAVIA, AL 35243

Mailing Address: 3160 CAHABA HEIGHTS RD VESTAVIA, AL 35243

County: JEFFERSON Tobacco sales: NO Tobacco Vending Machines:

Type Ownership: LLC

Book, Page, or Document info: LR201317 PG 4858

Date Incorporated: 08/16/2013 State incorporated: AL County Incorporated: JEFFERSON

Date of Authority: 08/16/2013 Alabama State Sales Tax ID: R008811009

Name: Title: Date and Place of Birth: Residence Address:

Table with 4 columns: Name, Title, Date and Place of Birth, Residence Address. Row 1: JON HOLLAND, MEMBER, 09/22/1982 MEMPHIS TN, 4221 MILHAVEN DR VESTAVIA, AL 35243

Has applicant complied with financial responsibility ABC RR 20-X-5-.14? YES
Does ABC have any actions pending against the current licensee? NO
Has anyone, including manager or applicant, had a Federal/State permit or license suspended or revoked? NO
Has a liquor, wine, malt or brewed license for these premises ever been denied, suspended, or revoked? NO
Are the applicant(s) named above, the only person(s), in any manner interested in the business sought to be licensed? YES
Are any of the applicants, whether individual, member of a partnership or association, or officers and directors of a corporation itself, in any manner monetarily interested, either directly or indirectly, in the profits of any other class of business regulated under authority of this act? NO
Does applicant own or control, directly or indirectly, hold lien against any real or personal property which is rented, leased or used in the conduct of business by the holder of any vinous, malt or brewed beverage, or distilled liquors permit or license issued under authority of this act? NO
Is applicant receiving, either directly or indirectly, any loan, credit, money, or the equivalent thereof from or through a subsidiary or affiliate or other licensee, or from any firm, association or corporation operating under or regulated by the authority of this act? NO

Contact Person: JON HOLLAND
Business Phone: 205-969-6711
Fax:

Home Phone: 205-249-0312
Cell Phone: 205-249-0312
E-mail: JUSTIN@THEBIRMINGHAMFIGTREE.COM

PREVIOUS LICENSE INFORMATION:

Trade Name:
Applicant:

Previous License Number(s)
License 1:
License 2:



STATE OF ALABAMA
ALCOHOLIC BEVERAGE CONTROL BOARD
ALCOHOL LICENSE APPLICATION



Confirmation Number: 20151105151431690

If applicant is leasing the property, is a copy of the lease agreement attached? **YES**
 Name of Property owner/lessor and phone number: **RED B LLC 205-972-8774**
 What is lessors primary business? **HAIR SALON**
 Is lessor involved in any way with the alcoholic beverage business? **N/A**
 Is there any further interest, or connection with, the licensee's business by the lessor? **NO**

Does the premise have a fully equipped kitchen? **YES**
 Is the business used to habitually and principally provide food to the public? **YES**
 Does the establishment have restroom facilities? **YES**
 Is the premise equipped with services and facilities for on premises consumption of alcoholic beverages? **YES**

Will the business be operated primarily as a package store? **NO**
 Building Dimensions Square Footage: **700** Display Square Footage:
 Building seating capacity: **27** Does Licensed premises include a patio area? **YES**
 License Structure: **SINGLE STRUCTURE** License covers: **ENTIRE STRUCTURE**
 Location is within: **CITY LIMITS** Police protection: **CITY**

Has any person(s) with any interest, including manager, whether as sole applicant, officer, member, or partner been charged (whether convicted or not) of any law violation(s)?

Name:	Violation & Date:	Arresting Agency:	Disposition:



STATE OF ALABAMA ALCOHOLIC BEVERAGE CONTROL BOARD ALCOHOL LICENSE APPLICATION



Confirmation Number: 20151105151431690

Initial each

Signature page

In reference to law violations, I attest to the truthfulness of the responses given within the application.

In reference to the Lease/property ownership, I attest to the truthfulness of the responses given within the application.

In reference to ACT No. 80-529, I understand that if my application is denied or discontinued, I will not be refunded the filing fee required by this application.

In reference to Special Retail or Special Events retail license, I agree to comply with all applicable laws and regulations concerning this class of license, and to observe the special terms and conditions as indicated within the application.

In reference to the Club Application information, I attest to the truthfulness of the responses given within the application.

In reference to the transfer of license/location, I attest to the truthfulness of the information listed on the attached transfer agreement.

In accordance with Alabama Rules & Regulations 20-X-5-.01(4), any social security number disclosed under this regulation shall be used for the purpose of investigation or verification by the ABC Board and shall not be a matter of public record.

The undersigned agree, if a license is issued as herein applied for, to comply at all times with and to fully observe all the provisions of the Alabama Alcoholic Beverage Control Act, as appears in Code of Alabama, Title 28, and all laws of the State of Alabama relative to the handling of alcoholic beverages.

The undersigned, if issued a license as herein requested, further agrees to obey all rules and regulations promulgated by the board relative to all alcoholic beverages received in this State. The undersigned, if issued a license as herein requested, also agrees to allow and hereby invites duly authorized agents of the Alabama Alcoholic Beverage Control Board and any duly commissioned law enforcement officer of the State, County or Municipality in which the license premises are located to enter and search without a warrant the licensed premises or any building owned or occupied by him or her in connection with said licensed premises. The undersigned hereby understands that he or she violate any provisions of the aforementioned laws his or her license shall be subject to revocation and no license can be again issued to said licensee for a period of one year. The undersigned further understands and agrees that no changes in the manner of operation and no deletion or discontinuance of any services or facilities as described in this application will be allowed without written approval of the proper governing body and the Alabama Alcoholic Beverage Control Board.

I hereby swear and affirm that I have read the application and all statements therein and facts set forth are true and correct, and that the applicant is the only person interested in the business for which the license is required.

Applicant Name (print): *Jon Holland*

Signature of Applicant:

Notary Name (print): *Wendy Abbott*

Notary Signature:

Commission expires: *10-21-18*

Application Taken: *11/5/15* App. Inv. Completed:

Submitted to Local Government:

Forwarded to District Office:

Received from Local Government:

Received in District Office:

Reviewed by Supervisor:

Forwarded to Central Office:

Receipt Confirmation Page

Receipt Confirmation Number: **20151105151431690**
 Application Payment Confirmation Number: **21751742**

Payment Summary	
Payment Item	Fee
Application Fee for License 020	\$50.00
Total Amount to be Charged	\$50.00

License Payment Confirmation Number:

Payment Summary			
Payment Item	County Fee	State Fee	Total Fee
020 - RESTAURANT RETAIL LIQUOR	\$300.00	\$300.00	\$600.00
			\$0.00
Total Amount to be Charged	\$300.00	\$300.00	\$600.00

Application Type

Application Type: APPLICATION

Applicant Information

License Type 1: 020 - RESTAURANT RETAIL LIQUOR
 License Type 2:
 License County: JEFFERSON
 Business Type: LLC
 Trade Name: **FIG TREE CAFE**
 Applicant Name: **FIG TREE CONCEPTS LLC**
 Location Address: 3160 CAHABA HEIGHTS RD
 VESTAVIA, AL 35243
 Mailing Address: 3160 CAHABA HEIGHTS RD
 VESTAVIA, AL 35243
 Contact Person: JON HOLLAND
 Contact Home Phone: 205-249-0312
 Contact Business Phone: 205-969-6711
 Contact Fax:
 Contact Cell Phone: 205-249-0312
 Contact Email Address:
 Contact Web Address:

RESOLUTION NUMBER 4771

**A RESOLUTION DETERMINING THAT CERTAIN
PERSONAL PROPERTY IS NOT NEEDED FOR
PUBLIC OR MUNICIPAL PURPOSES AND
DIRECTING THE SALE/DISPOSAL OF SAID
SURPLUS PROPERTY**

WITNESSETH THESE RECITALS

WHEREAS, the City of Vestavia Hills, Alabama, is the owner of personal property detailed in the attached "Exhibit A; and

WHEREAS, the City has determined that it would be in the best public interest to sell said property.

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

1. The City Manager is hereby authorized to sell and/or dispose of the above-referenced surplus personal property; and
2. This Resolution Number 4771 shall become effective immediately upon adoption and approval.

DONE, ORDERED, APPROVED and ADOPTED on this the 23rd day of November, 2015.

Alberto C. Zaragoza, Jr.
Mayor

ATTESTED BY:

Rebecca Leavings
City Clerk



VESTAVIA HILLS FIRE DEPARTMENT

MEMORANDUM

TO: Jeff Downes, City Manager
FROM: Jim St. John, Fire Chief
DATE: November 13, 2015
RE: Surplus Equipment

The Fire Department has placed into service, a new pumper. I recommend that the 1996 Emergency One Hurricane Pumper, VIN 4EN3AAA88T1005854 with City of Vestavia Hills property tag # 16021 be sold as surplus. The department also has the following cache of surplus equipment that is no longer used or which is obsolete:

- 1 30 foot extension ladder
- 2 25 foot extension ladder
- 1 14 foot extension ladder
- 1 8 foot folding ladder
- 1 10 foot metal hose bed divider
- 6 3 inch hose clamps
- 4 electrical cord reels
- 4 folding metal backboards
- 5 air pack mounting brackets
- 4 fire extinguisher mounting brackets
- 2 hose jackets
- 3 zip male couplings
- 2 yellow scene lights
- 1 set wheel chocks
- 2 2 ½ inch intakes
- 6 steamer caps
- 3 prying tools
- 1 bolt cutter
- 1 electric oxygen bottle bracket
- 1 box of old radio headsets
- 1 box of old miscellaneous radio parts
- 6 ladder bumpers
- 2 sections of 1" booster hose

- 1 deluge gun mount
- 1 box of assorted CID blocks and bases
- 20 5 inch couplings
- 8 sections of 1 ½ inch hose
- 36 sections of 1 ¾ inch hose
- 12 sections of 2 ½ inch hose
- 32 sections of 3 inch hose

I recommend that the City Council authorize you to sell and/or dispose of the above-referenced property in order to obtain the best resale value of said vehicles.

ORDINANCE NUMBER 2610

AN ORDINANCE AMENDING ORDINANCE NUMBER 2570 FINDING AND DETERMINING THAT REAL PROPERTY (“THE PROPERTY”) BEING VACANT PROPERTY SITUATED AT 2253 GREAT ROCK ROAD, VESTAVIA HILLS, ALABAMA OWNED BY THE CITY OF VESTAVIA HILLS, ALABAMA IS NOT NEEDED FOR PUBLIC OR MUNICIPAL PURPOSES; AND TO AUTHORIZE AND DIRECT THE CITY MANAGER TO EXECUTE AND DELIVER A LAND SALES CONTRACT TO SELL SAID PROPERTY.

THIS ORDINANCE NUMBER 2610 is approved and adopted by the City Council of the City of Vestavia Hills, Alabama on this the 23rd day of November, 2015.

WITNESSETH THESE RECITALS:

WHEREAS, the City of Vestavia Hills, Alabama is the owner of a parcel of land situated at 2253 Great Rock Road in the City of Vestavia Hills, Jefferson County, Alabama constituting approximately 0.39± acres, which said property is more particularly described as Lot 15, Block 3, Southridge Addition and shall hereinafter be referred to as “the Property;” and

WHEREAS, a copy of the Land Sales Contract (hereinafter referred to collectively as the “Contract”) is attached hereto, marked as Exhibit A and is incorporated into this Ordinance by reference as though set out fully herein; and

WHEREAS, the Mayor and City Council of the City of Vestavia Hills, Alabama find and determine that the Property above-described is not needed for municipal or public purposes; and

WHEREAS, the execution and delivery of the Contract was considered at a public hearing held on Monday, November 23, 2015, at the Vestavia Hills City Hall located at 1032 Montgomery Highway in the City of Vestavia Hills, Alabama beginning at 5:00 p.m.; and

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

1. The City Council of the City of Vestavia Hills, Alabama finds and determines that the Property more particularly described above is not needed for municipal or public purposes.
2. A public hearing was held by the Vestavia Hills City Council on Monday, November 23, 2015, at the Vestavia Hills City Hall located at 1032 Montgomery Highway in the City of Vestavia Hills, Alabama beginning at 5:00 p.m. to consider the enactment of this Ordinance, the execution and delivery of the Contract and the matters required to be considered.

3. The City Manager is hereby authorized and directed to execute and deliver the written Contract marked as Exhibit A and attached hereto.

4. 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.

5. The provision of the Ordinance shall become effective immediately upon the passage and approval thereof by the City Council of the City of Vestavia Hills, Alabama and the publication and/or posting thereof as required by Alabama law.

DONE, ORDERED, APPROVED and ADOPTED, on this the 23rd day of November, 2015.

Alberto C. Zaragoza, Jr.
Mayor

ATTESTED BY:

Rebecca Leavings
City Clerk

CERTIFICATION:

I, Rebecca Leavings, as Acting City Clerk of the City of Vestavia Hills, Alabama, hereby certify that the above and foregoing copy of 1 (one) Ordinance # 2610 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 23rd day of November, 2015 as same appears in the official records of said City.

Posted at Vestavia Hills City Hall, Vestavia Hills Library in the Forest, New Merkle House and Vestavia Hills Recreational Center this the _____ day of _____, 2015.

Rebecca Leavings
City Clerk

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 17, 2015

By Hand Delivery

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

In Re: Sale of Real Estate Located at 2253 Great Rock Road

Dear Mr. Downes:

This morning, you furnished to me via electronic mail a proposed Real Estate Sales Contract by and between Price Homes, LLC, as Buyer, and the City of Vestavia Hills, Alabama, as Seller, wherein the Buyer agreed to purchase and the Seller agreed to sell the property at 2253 Great Rock Road for and in consideration of \$45,000.00. You requested that I review the contract and provide you with my written legal opinion. The purpose of this letter is to comply with your request.

I do not have any recommendations for additions, deletions, changes and/or corrections to the contract. Therefore, from a legal standpoint, I recommend it as to substance and to form. Please call me if you have any questions regarding this matter.

Sincerely,



Patrick H. Boone
Vestavia Hills City Attorney

PHB:gp

P.S. A copy of the contract is attached hereto.

LOTS OR OTHER UNIMPROVED LAND SALES CONTRACT

Form Approved by Birmingham Association of REALTORS®, Inc.
March 29, 2006 (Previous forms are obsolete and no longer approved)

Date: November 13, 2015

The undersigned Buyer(s) Price Homes, LLC hereby agrees to purchase and
(Please print exact names in which title will be taken)
the undersigned Seller(s) _____ hereby agrees to sell the following
(Please print exact names in which title will be taken)
described lot(s) or other unimproved land and appurtenances thereto (the "Property") situated in the City
of Vestavia, County of Jefferson, Alabama, on the terms stated below:

Address 2253 Great Rock Road Zip Code: 35216

Legal Description : Lot 15 Block 3 Survey Southridge Add to

Vestavia Hills Map Book _____ Page _____

1. THE TOTAL PURCHASE PRICE OF THE PROPERTY SHALL BE ~~\$40,000~~ 45,000
Earnest Money under this Contract shall be \$500
(A) FINANCING: (Check as applicable)

- (1) Buyer will pay cash or obtain a loan for the Property with no financing contingency.
- (2) This Contract is contingent on Buyer obtaining approval of a loan in the amount of \$ _____ or _____ % of the Purchase Price (excluding any financed loan costs) at the prevailing interest rate and loan costs. Buyer will apply for financing within _____ days (7 days if left blank), from the Finalized Date and will provide any and all credit, employment, financial and other information required by the mortgage lender. "Finalized Date" shall mean the date that appears under the signatures of the parties to this Contract. **No term of this financing contingency can be changed without written authorization of the Seller.**

(B) DEVELOPMENT: (Check if applicable)

This Contract is contingent upon Buyer obtaining appropriate financing, applicable building permits, all utilities (electricity, gas, sewer and water) for use on the Property for the purpose intended. In the event there is not a public sewer system, this Contract is also subject to approval by proper Health Department authorities of a permit for installation of a septic tank. In the event of any one of these contingencies cannot be fulfilled on or before December 18, 2015, Seller agrees to refund Earnest Money and this Contract shall become null and void. Buyer is responsible for determining whether all necessary utilities are on the Property and are available for the intended purpose of the Buyer.

2. CLOSING DATE: The sale shall be closed and the deed delivered on or before December 20, 2015 at 3:00 a.m. X p.m.

3. EARNEST MONEY & BUYER'S DEFAULT: Seller and Buyer hereby direct the Listing Company to hold the Earnest Money in trust until this Contract has been accepted and signed by all parties, at which time the Earnest Money will be promptly deposited into the escrow account of the

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Listing Company. In the event an offer or counteroffer is not accepted, the Earnest Money shall be returned to Buyer without a signed release. If the Contract is accepted and signed by all parties and the sale does not close, however, a separate mutual release signed by all parties to this Contract will be required before the Earnest Money will be disbursed. In the event either Buyer or Seller claims the escrowed funds without the agreement of the other party, any holder of the escrowed funds, as prescribed by Alabama Real Estate License Law Rule: 790-X-3-.03 (4), (5), must either retain the escrowed funds until there is a written mutual release among the parties or interplead the disputed portion of the funds into the appropriate court, and shall be entitled to deduct from the escrowed funds for court costs, attorney fees and other expenses relating to the interpleader; provided, however, that any Claim as defined in Paragraph 15 below shall remain subject to mediation and arbitration as set forth in said Paragraph. Seller, at Seller's option, may cancel this Contract if the Earnest Money check is rejected by the financial institution upon which it is drawn. In the event of default by Buyer, all deposits made hereunder may be forfeited as liquidated damages at the option of Seller, provided Seller agrees to the cancellation of this Contract, or alternatively, Seller may elect to pursue his or her available legal or equitable remedies against Buyer pursuant to Paragraph 15 below.

4. AGENCY DISCLOSURE:

The listing company is LAH- Mountain Brook

The selling company is ARC Realty Co

The listing company is: (Two blocks may be checked) An agent of the seller. An agent of the buyer.
 An agent of both the seller and buyer and is acting as a limited consensual dual agent.
 Assisting the buyer seller (check one or both) as a transaction broker.

The selling company is: (Two blocks may be checked) An agent of the seller. An agent of the buyer.
 An agent of both the seller and buyer and is acting as a limited consensual dual agent.
 Assisting the buyer seller (check one or both) as a transaction broker.

Buyer's Initials Seller's Initials

5. TITLE INSURANCE: Seller agrees to furnish Buyer a standard form owner's title insurance policy at Seller's expense, issued by a company qualified to insure titles in Alabama, in the amount of the Purchase Price, insuring Buyer against loss on account of any defect or encumbrance in the title, subject to exceptions herein, including Paragraphs 6 & 8 below; otherwise, the Earnest Money shall be refunded in accordance with Paragraph 3 above. In the event owner's and mortgagee's title policies are required at closing, the total expense of procuring the two policies will be divided equally between Seller and Buyer, even if the mortgagee is the Seller. Seller shall have a reasonable length of time within which to perfect title or cure defects in the title to the Property.

6. SURVEY: Buyer does does not require a survey by a registered Alabama land surveyor of Buyer's choosing. The lender may require a survey and it is recommended that a new survey be obtained on all purchases. Available information indicates that the Property is is not located in a flood plain, but this should be confirmed by a flood plain certification and/or a current surveyor's statement in the survey which shall be the responsibility of Buyer. Further, unless otherwise agreed herein, the Property is purchased subject to utility easements, residential subdivision covenants and restrictions, if any, and building lines of record. It is the responsibility of Buyer to determine, prior to closing of this Contract, whether the foregoing materially impairs the use of the Property for intended purposes. Unless otherwise agreed herein, the survey shall be at Buyer's expense.

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7. **PRORATIONS:** Ad valorem taxes, as determined on the date of closing, accrued interest on mortgage(s) assumed, and homeowners association, fire district or other dues, fees or assessments are to be prorated between Seller and Buyer as of the date of closing, and any existing escrow deposits shall be credited to Seller. Unless otherwise agreed herein, all ad valorem taxes except municipal are presumed to be paid in arrears for purpose of proration; municipal taxes, if any, are presumed to be paid in advance.

8. **CONVEYANCE:** Seller agrees to convey the Property to Buyer by General warranty deed (check if Buyer desires that title be held as joint tenants with rights of survivorship), free of all encumbrances except as permitted in this Contract. Seller and Buyer agree that any encumbrances not herein excepted or assumed may be cleared at the time of closing from sales proceeds. The Property is sold and is to be conveyed subject to any mineral and/or mining rights not owned by Seller. Seller understands that the present zoning classification is: Residential. It is Buyer's responsibility to verify the current zoning classification.

9. **CONDITION OF THE PROPERTY:** **SELLER MAKES NO REPRESENTATIONS OR WARRANTIES REGARDING CONDITION OF THE PROPERTY EXCEPT TO THE EXTENT EXPRESSLY AND SPECIFICALLY SET FORTH HEREIN.** Purchaser has the obligation to determine any and all conditions of the Property material to Buyer decision to buy the Property, including without limitation, subsurface condition, including the presence or absence of sinkholes, mining activity, wells or buried tanks and other objects; soil conditions; and utility and sewer or septic availability and condition. Except as otherwise stated in this Contract, Buyer accepts the Property in its present "as is" conditions.

Buyer's Initials Seller's Initials

10. **DISCLAIMER:** Seller and Buyer hereby acknowledge and agree that they have not relied upon any advice or representation of the Listing Broker or Company or the Selling Broker or Company or any of their sales associates ("brokers and sales associates"), and accordingly Seller and Buyer agree that no broker or sales associate shall be held responsible for any obligations or agreements that Seller or Buyer have to one another hereunder. Further, Seller and Buyer agree to discharge and release the brokers and sales associates from any claims, demands, damages, actions, causes of actions or suits at law arising in any way from this Contract related to the Property, and shall include but not be limited to the availability or location of utilities, sewer or septic system; the investment or resale value of the Property; subsurface or subsoil conditions such as sinkholes, mining or other soil conditions, including radon or other potentially hazardous gases or toxic materials; Property access, easements, covenants, restrictions, development structure, and appurtenances thereto, the availability of utilities or sewer service; and any matters affecting the character of the neighborhood; the past, present, or future financial stability of the developer, if any, or the future insurability of the Property; the investment or resale value of the Property; or any other matters affecting the willingness of the Seller and Buyer to sell or purchase the Property on the terms and at the Purchase Price herein set forth. Seller and Buyer acknowledge and agree that if such matters are of concern to them in the decision to sell or purchase the Property, they have sought and obtained independent advice relative thereto.

Buyer's Initials Seller's Initials

to the best of the Seller's knowledge

11. **SELLER WARRANTY:** Seller warrants that Seller has not received notification from any owners association or lawful authority regarding any unpaid assessments, pending assessments, pending public improvements, or repairs, replacements, or alterations to the Property that have not been satisfactorily made. Seller warrants that there is no unpaid indebtedness on the Property except as described in this Contract. These warranties shall survive the closing.

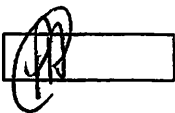
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12. **HAZARDOUS SUBSTANCES:** Seller and Buyer expressly acknowledge that the Broker(s) have not made an independent investigation or determination with respect to the existence or nonexistence of PCB transformers, or other toxic, hazardous or contaminated substances or gases in, on, or about the Property, or for the presence of underground storage tanks. Any such investigation or determination shall be the responsibility of Seller and/or Buyer and Broker(s) shall not be held responsible therefor.

13. **SELECTION OF ATTORNEY:** Buyer and Seller hereby do do not agree to share the fees of a closing attorney. Buyer and Seller acknowledge and agree that such sharing of fees may involve a conflict of interest on the part of the attorney and the attorney will require that an affidavit be signed at closing acknowledging the conflict of interest and Buyer's and Seller's acceptance of the same. The parties further acknowledge that they have a right to be represented at all times by separate and independent counsel in connection with this Contract and the closing thereof by an attorney of their own choosing at their own expense.

14. **OTHER OFFERS WHILE BUYER'S OFFER IS PENDING:** Buyer hereby acknowledges that offers other than Buyer's offer may have been made or may be made before Seller acts on or while Seller is considering Buyer's offer or counteroffer. While the Buyer's offer or counteroffer is pending, and before this Contract becomes effective, Seller hereby expressly reserves the right to reject Buyer's offer or counteroffer or to withdraw any offer previously made by Seller to Buyer relating to the Property, and to accept any other offer or counteroffer.

15. **MEDIATION AND ARBITRATION/WAIVER OF TRIAL BY JURY:** All claims, disputes or other matters in question arising out of or relating in any way to this Contract or the breach thereof, including claims against any broker or sales associate, or relating to the relationship involved with, created by or concerning this Contract, including the involvement of any broker or sales associate ("Claim"), shall be submitted to mediation with a mutually agreed upon mediator within forty-five (45) days of notice of the Claim. In the event no mediated resolution is reached within sixty (60) days of the party's notice of the Claim, all Claims shall be resolved by binding arbitration by a single arbitrator in Birmingham, Alabama in accordance with the Commercial Arbitration Rules of the American Arbitration Association then in effect. EACH PARTY ACKNOWLEDGES THAT HE OR SHE IS KNOWINGLY WAIVING THE RIGHT TO A TRIAL BY JURY RELATING TO ALL CLAIMS. All disputes concerning the arbitrability of any Claim or the enforceability or scope of this provision shall be subject to the same binding arbitration. The parties shall bear equally the cost of the arbitrator and each party shall otherwise bear their own costs; provided the arbitrator shall have the authority to award costs as a part of this award to the extent authorized by applicable law. The arbitrator shall follow the law applicable to any Claim and shall be empowered to award any damages or other relief which would be available under the law applicable to any such Claim. The determination of the arbitrator shall be final, binding on the parties and non-appealable, and may be entered in any court of competent jurisdiction to enforce it. The parties acknowledge and agree that the transactions contemplated by and relating to this Contract, which may include the use of materials and components which are obtained from out-of-state and which otherwise include the use of interstate mails, roadways and commerce, involve interstate commerce, as that term is defined in the Federal Arbitration Act, 9 U.S.C. § 2.

Buyer's Initials  Seller's Initials

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16. **FACSIMILE OR COUNTERPART SIGNATURES:** This Contract may be executed and delivered by any party hereto by sending a facsimile of the signature or by a legally recognized e-signature. Such facsimile signature or legally recognized e-signature shall be binding upon the party so executing it upon the receipt of the signature by any other party.

17. **ADDITIONAL PROVISIONS:** Additional provisions to this Contract are set forth on the attached Addendum(s) # 1 which shall be signed by all parties and shall be part of this Contract.

18. **OBLIGATION FOR FEES AND EXPENSES:** Buyer and Seller acknowledge that in the event this Contract is cancelled or does not close for any reason, fees or costs paid in advance may be non-refundable.

19. **ENTIRE AGREEMENT:** This Contract constitutes the entire agreement between Buyer and Seller regarding the Property, and supersedes all prior discussions, negotiations and agreements between Buyer and Seller, whether oral or written. Neither Buyer, Seller, nor any broker or sales associate shall be bound by any understanding, agreement, promise, or representation concerning the Property, expressed or implied, not specified herein.

THIS IS A LEGALLY BINDING CONTRACT. IF YOU DO NOT UNDERSTAND THE LEGAL EFFECT OF ANY PART OF THIS CONTRACT, SEEK LEGAL ADVICE BEFORE SIGNING.

_____	<u><i>[Signature]</i></u> / <u>Prichard, LLC</u> 11/13/16
Witness to Buyer's Signature	Buyer (Date)
_____	_____
Witness to Buyer's Signature	Buyer (Date)
_____	_____
Witness to Seller's Signature	Seller (Date)
_____	_____
Witness to Seller's Signature	Seller (Date)

Finalized Date: _____, 20____
(Date on which last party signed or initialed acceptance of final offer)

EARNEST MONEY: Receipt of the earnest money in the amount identified in Paragraph 1 is hereby acknowledged.	
<input type="checkbox"/> CASH	<input type="checkbox"/> CHECK
LISTING COMPANY: _____	By: _____ DATE _____, 20____

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Addendum #1 To Sales Contract

Date: November 13, 2015

This Addendum is a part of the Agreement on the Property located at
2253 Great Rock Rd. Vestavia Hills, AL 35216
and dated November 13, 2015 between the undersigned Purchaser(s) and the undersigned Seller(s).

1. Buyer is a licensed real estate broker in the state of Alabama acting as an investor on his sole account. RealtySouth has no ownership interest or liability in this transaction.

2. The buyer has a period of 30 days to conduct due diligence. If the buyer determines that the property is not suitable for his intended purpose, the buyer can terminate this contract and any earnest money will be promptly returned to the buyer. During due diligence priod, the buyer may have access to the property.

3. Closing attorney to be David Snoddy.

4. This offer will expire on November 24th 17, 2015 at noon if not accepted by that time.

RealtySouth / PriceHomes, LLC
Purchaser _____ Witness _____

Purchaser _____ Witness _____

Seller _____ Witness _____

Seller _____ Witness _____

November 13, 2015
Date

RESOLUTION NUMBER 4770

A RESOLUTION AUTHORIZING THE VESTAVIA HILLS POLICE DEPARTMENT TO PURCHASE FIREARMS

WHEREAS, the Police Chief has identified a need of firearms for his department as detailed in an Interoffice Memorandum to the City Manager dated November 13, 2015 in an amount not to exceed \$80,000, a copy of which is marked at “Exhibit A” and is attached to and incorporated into this Resolution Number 4770 as though written fully therein; and

WHEREAS, funding for said firearms shall be derived from the Police Department Confiscation Account; and

WHEREAS, Section 41-16-51(13) of the Code of Alabama, 1975, states “Contractual services and purchases of commodities for which there is only one vendor or supplier and contractual services and purchase of personal property which by their very nature are impossible to award by competitive bidding;” and

WHEREAS, the manufacturer, Glock, has established a non-negotiable price on Law Enforcement weapons thus exempting the firearms from competitive bidding; and

WHEREAS, the City Manager concurs with the Police Chief’s recommendation for said purchase to be funded from Police Confiscations; and

WHEREAS, the Mayor and City Council feel it is in the best public interest to approve said purchase.

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

1. The Police Chief is hereby authorized to purchase firearms as detailed in said “Exhibit A” in an amount not to exceed \$80,000; and
2. Said purchase shall be expensed to the Police Department Confiscations Account; and
3. This Resolution Number 4770 shall be effective immediately upon adoption and approval.

APPROVED and ADOPTED this the 14th day of December, 2015.

Alberto C. Zaragoza, Jr.
Mayor

ATTESTED BY:

Rebecca Leavings
City Clerk

VESTAVIA HILLS POLICE DEPARTMENT

To: Mr. Downes

MEMO

From: Chief Dan Rary

CC: Becky Leavings

Date: 13 Nov 2015

Re: Request for Council agenda

Mr. Downes,

I am requesting that the following item be placed on the City Councils agenda for 23 Nov 15 for first read.

I am requesting to purchase duty handguns for the Police Department. The total price for this project will not exceed \$80,000.00. The breakdown of this expense is below.

Glock 41 45acp handguns [100 X \$504.00=\$50,400]

Surefire X300U lights [100 X \$185.00 = \$18,500.00]

Holster [100 X\$100.00 = \$10,000.00]

Funding will come from the PD Confiscations Account.

We do not have to bid this out due to Glock establishing a non-negotiable price on Law Enforcement weapons. A Glock distributor for Alabama is Gulf States Distributors in Montgomery, AL who we have an existing bid for Police Equipment.

Section 41-16-51

Contracts for which competitive bidding not required.

(13) Contractual services and purchases of commodities for which there is only one vendor or supplier and contractual services and purchases of personal property which by their very nature are impossible to award by competitive bidding.

RESOLUTION NUMBER 4772

A RESOLUTION ACCEPTING A BID FOR CWSRF PROJECT AT LITTLE SHADES CREEK AT A NEGOTIATED PRICE AND AUTHORIZING FURTHER EXPENDITURES FOR PARK AMENITIES

WHEREAS, The City of Vestavia Hills, Alabama, working under a grant/loan from Clean Water State Revolving Fund opened and publicly read sealed bids for a green infrastructure project that will provide water quality and flood control benefits to Little Shades Creek also known as CWSRF Project at Little Shades Creek (“the Project”); and

WHEREAS, the only bid received was submitted by Forestry Environmental Services, Inc., in the amount of \$685,000, a copy of which is marked as Exhibit A, attached to and incorporated into this Resolution Number 4772 as though written fully therein; and

WHEREAS, Forestry Environmental Services, Inc., being the only bid submitted, the City Manager and Public Services Director negotiated a reduced price in the amount of \$452,690 pursuant to the detail marked as Exhibit B, a copy of which is attached to and incorporated into this Resolution Number 4772 as though written fully therein; and

WHEREAS, the Community Foundation of Greater Birmingham has donated \$50,000 to purchase certain amenities for the newly constructed natural area; and

WHEREAS, an additional \$50,000 will be required to cover needed City infrastructure costs such as sidewalks, etc.; and

WHEREAS, the Mayor and City Council feel it is in the best public interest to accept said bid at the negotiated price.

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

1. The bid package submitted by Forestry Environmental Services, Inc., as renegotiated by the City Manager and Public Services Director in a scope and price not to exceed \$452,690 is hereby accepted as detailed in Exhibits A & B; and
2. The City Manager is hereby authorized to expend up to \$50,000 for park amenities from funding of the Community Foundation of Greater Birmingham; and
3. Funding required for project completion shall be derived from the ADEM Clean Water grant/loan until those funds are exhausted. Further funding shall be derived from the City’s Capital Reserve Fund.

4. This Resolution Number 4772 shall become effective immediately upon adoption and approval.

ADOPTED and APPROVED this the 14th day of December, 2015.

Alberto C. Zaragoza, Jr.
Mayor

ATTESTED BY:

Rebecca Leavings
City Clerk

Walter Schoel Engineering Co., Inc.

PROPOSAL FORM

To: City of Vestavia Hills Date: 10/19/2015
(Awarding Authority)

In compliance with your Advertisement for Bids and subject to all the conditions thereof, the undersigned
Forestry Environmental Services, Inc
(Legal Name of Bidder)

hereby proposes to furnish all labor and materials and perform all work required for the construction of
CWSRF Project at Little Shades Creek
in accordance with Drawings and Specifications listed on the "List of Contract Documents" included in
the Project Manual.

The Bidder, which is organized and existing under the laws of the State of Alabama,
having its principal offices located at: 2871 Acton Rd Ste 222
BIRMINGHAM, AL 35243

is: a Corporation a Partnership an individual a Limited Liability Company
(other) _____.

Email Address mhm@forestryenv.com Company Web-site: www.forestryenvironmental.com

LISTING OF PARTNERS OR OFFICERS: If Bidder is a Partnership, list all partners and their
addresses; if Bidder is a Corporation, list the names, titles, and business addresses of its officers:

Mark Lawrence President 126 Highland View Dr Bham AL 35242

BIDDER'S REPRESENTATION: The Bidder declares that it has examined the site of the Work,
having become fully informed regarding all pertinent conditions, and that it has examined the Drawings
and Specifications (including all Addenda received) for the Work and the other Bid and Contract
Documents relative thereto, and that it has satisfied itself relative to the Work to be performed.

ADDENDA: The Bidder acknowledges receipt of Addenda Nos. 1 through 1 inclusively.

BASE BID: For construction complete as shown and specified, the sum of SIX HUNDRED EIGHTY
FIVE THOUSAND AND NO/100 Dollars (\$ 685,000.00)*

* Attach a detailed line item breakdown that supports each of these numbers

Walter Schoel Engineering Co., Inc.

ALTERNATES: If alternates as set forth in the Bid Documents are accepted, the following adjustments are to be made to the Base Bid:

Pavilion \$ 55,000.00 XX

SUBS AND VENDORS: (List of major subcontractors and vendors included in this proposal)

Scope of Work	Subcontractor or Vendor
<u>RCP PIPE</u>	<u>HANSON Precast</u>
<u>Concrete Sidewalk & Curb</u>	<u>Bulls Construction (DBE)</u>
<u>Trees</u>	<u>Green Valley / Hunter Trees</u>
<u>Plants</u>	<u>BAKER Environmental</u>
<u>Bench / water fountain / Picnic Table / Trash</u>	<u>Giffis</u>
<u>Red Rock</u>	<u>Southern Red Rock</u>
<u>Seed</u>	<u>Native American Seed</u>

Walter Schoel Engineering Co., Inc.

BID SECURITY: The undersigned agrees to enter into a Construction Contract and furnish the prescribed Performance and Payment Bonds and evidence of insurance within fifteen calendar days, or such other period stated in the Bid Documents, after the contract forms have been presented for signature, provided such presentation is made within 90 calendar days after the opening of bids, or such other period stated in the Bid Documents. As security for this condition, the undersigned further agrees that the funds represented by the Bid Bond (or cashier's check) attached hereto may be called and paid into the account of the Awarding Authority as liquidated damages for failure to so comply.

Attached hereto is a: (Mark the appropriate box and provide the applicable information.)

Bid Bond, executed by Travelers Casualty and Surety Company of America as Surety,
 a cashier's check on the _____ Bank of _____, for the sum of _____ Dollars (\$ _____) made payable to the Awarding Authority.

BIDDER'S ALABAMA LICENSE:

State License for General Contracting: 21921 License Number U Bid Limit HS Highway & Streets Type(s) of Work EVS Stream Restoration, MU Municipal Utility

CERTIFICATIONS: The undersigned certifies that he or she is authorized to execute contracts on behalf of the Bidder as legally named, that this proposal is submitted in good faith without fraud or collusion with any other bidder, that the information indicated in this document is true and complete, and that the bid is made in full accord with State law. Notice of acceptance may be sent to the undersigned at the address set forth below.

The Bidder also declares that a list of all proposed major subcontractors and suppliers will be submitted at a time subsequent to the receipt of bids as established by the Architect in the Bid Documents but in no event shall this time exceed twenty-four (24) hours after receipt of bids.

Legal Name of Bidder Forestry Environmental Services, Inc
Mailing Address P.O. Box 380185 BIRMINGHAM, AL 35238
* By (Legal Signature) [Signature]
* Name (type or print) Mark Lawrence (Seal)
* Title President
Telephone Number 205-288-7084

* If other than the individual proprietor, or an above named member of the Partnership, or the above named president, vice-president, or secretary of the Corporation, attach written authority to bind the Bidder. Any modification to a bid shall be over the initials of the person signing the bid, or of an authorized representative.

THE AMERICAN INSTITUTE OF ARCHITECTS

AIA Document A310 Bid Bond

KNOW ALL MEN BY THESE PRESENTS, THAT WE Forestry Environmental Services, Inc.

P.O. Box 380185 Birmingham, AL 35238

as Principal, hereinafter called the Principal, and Travelers Casualty and Surety Company of America

One Tower Square , Hartford, CT 06183

a corporation duly organized under the laws of the State of CT

as Surety, hereinafter called the Surety, are held and firmly bound unto City of Vestavia Hills

513 Montgomery Hwy Vestavia Hills, AL 35266

as Obligee, hereinafter called the Obligee, in the sum of Five Percent of Amount Bid Not To Exceed Ten Thousand

Dollars (\$10,000.00),

for the payment of which sum well and truly to be made, the said Principal and the said Surety, bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, the Principal has submitted a bid for CWSRF Project in Cahaba Heights

NOW, THEREFORE, if the Obligee shall accept the bid of the Principal and the Principal shall enter into a Contract with the Obligee in accordance with the terms of such bid, and give such bond or bonds as may be specified in the bidding or Contract Documents with good and sufficient surety for the faithful performance of such Contract and for the prompt payment of labor and materials furnished in the prosecution thereof, or in the event of the failure of the Principal to enter such Contract and give such bond or bonds, if the Principal shall pay to the Obligee the difference not to exceed the penalty hereof between the amount specified in said bid and such larger amount for which the Obligee may in good faith contract with another party to perform the Work covered by said bid, then this obligation shall be null and void, otherwise to remain in full force and effect.

Signed and sealed this 19th day of October, 2015

[Signature]
(Witness)

Forestry Environmental Services, Inc.

(Principal)

(Seal)

By: [Signature]
(Title)

Travelers Casualty and Surety Company of America

(Surety)

(Seal)

By: [Signature]
Attorney-in-Fact Jeffrey W. Cutshall
(Title)

Jennifer Barranco
(Witness)



POWER OF ATTORNEY

Farmington Casualty Company
Fidelity and Guaranty Insurance Company
Fidelity and Guaranty Insurance Underwriters, Inc.
St. Paul Fire and Marine Insurance Company
St. Paul Guardian Insurance Company

St. Paul Mercury Insurance Company
Travelers Casualty and Surety Company
Travelers Casualty and Surety Company of America
United States Fidelity and Guaranty Company

Surety Bond No. Bid Bond

Principal: Forestry Environmental Services, Inc.

OR

Project Description: CWSRF Project in Cahaba Heights

Obligee: City of Vestavia Hills

KNOW ALL MEN BY THESE PRESENTS: That Farmington Casualty Company, St. Paul Fire and Marine Insurance Company, St. Paul Guardian Insurance Company, St. Paul Mercury Insurance Company, Travelers Casualty and Surety Company, Travelers Casualty and Surety Company of America, and United States Fidelity and Guaranty Company, are corporations duly organized under the laws of the State of Connecticut, that Fidelity and Guaranty Insurance Company is a corporation duly organized under the laws of the State of Iowa, and that Fidelity and Guaranty Insurance Underwriters, Inc. is a corporation duly organized under the laws of the State of Wisconsin (herein collectively called the "Companies"), and that the Companies do hereby make, constitute and appoint Jeffrey W. Cutshall of the City of Birmingham, State of AL, their true and lawful Attorney-in-Fact, to sign, execute, seal and acknowledge the surety bond(s) referenced above.

IN WITNESS WHEREOF, the Companies have caused this instrument to be signed and their corporate seals to be hereto affixed, this 10th day of September, 2012.

Farmington Casualty Company
Fidelity and Guaranty Insurance Company
Fidelity and Guaranty Insurance Underwriters, Inc.
St. Paul Fire and Marine Insurance Company
St. Paul Guardian Insurance Company

St. Paul Mercury Insurance Company
Travelers Casualty and Surety Company
Travelers Casualty and Surety Company of America
United States Fidelity and Guaranty Company



State of Connecticut

City of Hartford ss.

By:

Signature of Robert L. Raney
Robert L. Raney, Senior Vice President

On this the 10th day of September, 2012, before me personally appeared Robert L. Raney, who acknowledged himself to be the Senior Vice President of Farmington Casualty Company, Fidelity and Guaranty Insurance Company, Fidelity and Guaranty Insurance Underwriters, Inc., St. Paul Fire and Marine Insurance Company, St. Paul Guardian Insurance Company, St. Paul Mercury Insurance Company, Travelers Casualty and Surety Company, Travelers Casualty and Surety Company of America, and United States Fidelity and Guaranty Company, and that he, as such, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing on behalf of the corporations by himself as a duly authorized officer.

In Witness Whereof, I hereunto set my hand and official seal.

My Commission expires the 30th day of June, 2016.



Signature of Marie C. Tetreault
Marie C. Tetreault, Notary Public

This Power of Attorney is granted under and by the authority of the following resolutions adopted by the Boards of Directors of Farmington Casualty Company, Fidelity and Guaranty Insurance Company, Fidelity and Guaranty Insurance Underwriters, Inc., St. Paul Fire and Marine Insurance Company, St. Paul Guardian Insurance Company, St. Paul Mercury Insurance Company, Travelers Casualty and Surety Company, Travelers Casualty and Surety Company of America, and United States Fidelity and Guaranty Company, which resolutions are now in full force and effect, reading as follows:

RESOLVED, that the Chairman, the President, any Vice Chairman, any Executive Vice President, any Senior Vice President, any Vice President, any Second Vice President, the Treasurer, any Assistant Treasurer, the Corporate Secretary or any Assistant Secretary may appoint Attorneys-in-Fact and Agents to act for and on behalf of the Company and may give such appointee such authority as his or her certificate of authority may prescribe to sign with the Company's name and seal with the Company's seal bonds, recognizances, contracts of indemnity, and other writings obligatory in the nature of a bond, recognizance, or conditional undertaking, and any of said officers or the Board of Directors at any time may remove any such appointee and revoke the power given him or her; and it is

FURTHER RESOLVED, that the Chairman, the President, any Vice Chairman, any Executive Vice President, any Senior Vice President or any Vice President may delegate all or any part of the foregoing authority to one or more officers or employees of this Company, provided that each such delegation is in writing and a copy thereof is filed in the office of the Secretary; and it is

FURTHER RESOLVED, that any bond, recognizance, contract of indemnity, or writing obligatory in the nature of a bond, recognizance, or conditional undertaking shall be valid and binding upon the Company when (a) signed by the President, any Vice Chairman, any Executive Vice President, any Senior Vice President or any Vice President, any Second Vice President, the Treasurer, any Assistant Treasurer, the Corporate Secretary or any Assistant Secretary and duly attested and sealed with the Company's seal by a Secretary or Assistant Secretary; or (b) duly executed (under seal, if required) by one or more Attorneys-in-Fact and Agents pursuant to the power prescribed in his or her certificate or their certificates of authority or by one or more Company officers pursuant to a written delegation of authority; and it is

FURTHER RESOLVED, that the signature of each of the following officers: President, any Executive Vice President, any Senior Vice President, any Vice President, any Assistant Vice President, any Secretary, any Assistant Secretary, and the seal of the Company may be affixed by facsimile to any Power of Attorney or to any certificate relating thereto appointing Resident Vice Presidents, Resident Assistant Secretaries or Attorneys-in-Fact for purposes only of executing and attesting bonds and undertakings and other writings obligatory in the nature thereof, and any such Power of Attorney or certificate bearing such facsimile signature or facsimile seal shall be valid and binding upon the Company and any such power so executed and certified by such facsimile signature and facsimile seal shall be valid and binding on the Company in the future with respect to any bond or understanding to which it is attached.

I, Kevin E. Hughes, the undersigned, Assistant Secretary, of Farmington Casualty Company, Fidelity and Guaranty Insurance Company, Fidelity and Guaranty Insurance Underwriters, Inc., St. Paul Fire and Marine Insurance Company, St. Paul Guardian Insurance Company, St. Paul Mercury Insurance Company, Travelers Casualty and Surety Company, Travelers Casualty and Surety Company of America, and United States Fidelity and Guaranty Company, do hereby certify that the above and foregoing is a true and correct copy of the Power of Attorney executed by said Companies, which is in full force and effect and has not been revoked.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seals of said Companies this 19th day of October, 2015



Kevin E. Hughes, Assistant Secretary



To verify the authenticity of this Power of Attorney, call 1-800-421-3880 or contact us at www.travelersbond.com. Please refer to the Attorney-In-Fact number, the above-named individuals and the details of the bond to which the power is attached.

Project: CWSRF PROJECT LITTLE SHADES CREEK
Bid Date: OCTOBER 19, 2015
By: FORESTRY ENVIRONMENTAL SERVICES, INC

schedule "A"

<i>Item</i>	<i>Description</i>	<i>Qty</i>		<i>Bid Unit Cost</i>	<i>Bid Total</i>
1	MOBILIZATION / GENERAL CONDITIONS	1	LS	50,000.00	\$50,000.00
2	DEMOLITION	1	LS	50,000.00	\$50,000.00
3	CLEAR AND GRUBB	1	LS	8,000.00	\$8,000.00
4	EROSION CONTROL	1	LS	21,500.00	\$21,500.00
5	STRIP TOPSOIL	1	LS	9,300.00	\$9,300.00
6	GRADING	1	LS	100,000.00	\$100,000.00
7	FINE GRADE SITE	1	LS	36,000.00	\$36,000.00
8	RIFFLE CONSTRUCTION	1	LS	9,000.00	\$9,000.00
9	J HOOK CONSTRUCTION	1	LS	11,500.00	\$11,500.00
10	CROSS VANE CONSTRUCTION	1	LS	8,000.00	\$8,000.00
11	STORM SEWER SYSTEM	1	LS	17,800.00	\$17,800.00
12	WATER SERVICE / WATER FOUNTAIN	1	LS	10,800.00	\$10,800.00
13	BIO-SWALE	1	LS	12,800.00	\$12,800.00
14	RIBBON CURB	1	LS	4,500.00	\$4,500.00
15	BACKFILL CURB	1	LS	510.00	\$510.00
16	RED DOG PAVING WITH BASE	1	LS	13,100.00	\$13,100.00
17	CONCRETE APRON	1	LS	5,060.00	\$5,060.00
18	PARKING BUMPERS AND STRIPING	1	LS	5,450.00	\$5,450.00
19	SIDEWALK	1	LS	46,200.00	\$46,200.00
20	REPLATE TOPSOIL	1	LS	15,100.00	\$15,100.00
21	SOD	1	LS	25,000.00	\$25,000.00
22	COIR MATERIAL	1	LS	5,400.00	\$5,400.00
23	MONUMENT SIGN	1	LS	32,200.00	\$32,200.00
24	BENCHES / TRASH / PICNIC TABLE	1	LS	12,300.00	\$12,300.00
25	TREES	1	LS	27,400.00	\$27,400.00
26	PINE / HARDWOOD MIX	1	LS	19,200.00	\$19,200.00
27	WETLAND PLUG MIX	1	LS	60,500.00	\$60,500.00
28	STREAM BANK	1	LS	16,400.00	\$16,400.00
29	MEADOW SEED MIX	1	LS	7,200.00	\$7,200.00
30	FINAL CLEANUP	1	LS	5,400.00	\$5,400.00
31	MAINTENANCE OF WORK	1	LS	39,380.00	\$39,380.00
				Bid Total	\$685,000.00

ALTERNATE 1 PAVILION

1 LS 55,000.00 \$ 55,000.00

STATE OF ALABAMA



BID LIMIT: U

LICENSE NO. 21921

AMOUNT: UNLIMITED

TYPE: RENEWAL

State Licensing Board for General Contractors

THIS IS TO CERTIFY THAT

FORESTRY ENVIRONMENTAL SERVICES INC

BIRMINGHAM, AL 35238

is hereby licensed a General Contractor in the State of Alabama and is authorized to perform the following type(s) of work:

EV-S: STREAM RESTORATION, HS: HIGHWAYS AND STREETS, MU: MUNICIPAL AND UTILITY

until **September 30, 2016** when this Certificate expires. **116629**

Witness our hands, and seal of the Board, dated Montgomery, Ala.

Charles A. Webb, Jr.

1st day **September, 2015**

SECRETARY TREASURER

R. A. C.

CHAIRMAN

Project: CWSRF PROJECT LITTLE SHADES CREEK
Bid Date: OCTOBER 19, 2015 REVISED
By: FORESTRY ENVIRONMENTAL SERVICES, INC

schedule " A "

<i>Item</i>	<i>Description</i>	<i>Qty</i>		<i>Bid Unit Cost</i>	<i>Bid Total</i>
1	MOBILIZATION / GENERAL CONDITIONS	1	LS	48,000.00	\$48,000.00
2	CLEAR AND GRUBB	1	LS	8,000.00	\$8,000.00
3	EROSION CONTROL	1	LS	21,500.00	\$21,500.00
4	STRIP TOPSOIL	1	LS	9,300.00	\$9,300.00
5	GRADING	1	LS	100,000.00	\$100,000.00
6	FINE GRADE SITE	1	LS	25,000.00	\$25,000.00
7	RIFFLE CONSTRUCTION	1	LS	9,000.00	\$9,000.00
8	JHOOK CONSTRUCTION	1	LS	11,500.00	\$11,500.00
9	CROSS VANE CONSTRUCTION	1	LS	8,000.00	\$8,000.00
10	STORM SEWER SYSTEM	1	LS	17,800.00	\$17,800.00
11	BIO-SWALE	1	LS	12,800.00	\$12,800.00
12	REPLATE TOPSOIL	1	LS	15,100.00	\$15,100.00
13	SOD	1	LS	25,000.00	\$25,000.00
14	COIR MATERIAL	1	LS	5,400.00	\$5,400.00
15	TREES	1	LS	27,400.00	\$27,400.00
16	PINE / HARDWOOD MIX (CHANGE TO 3 GALLON)	1	LS	17,600.00	\$17,600.00
17	WETLAND PLUG MIX (CHANGED TO BARE ROOT)	1	LS	46,500.00	\$46,500.00
18	STREAM BANK (CHANGE TO BARE ROOT)	1	LS	12,500.00	\$12,500.00
19	MEADOW SEED MIX	1	LS	7,200.00	\$7,200.00
20	FINAL CLEANUP	1	LS	5,400.00	\$5,400.00
21	MAINTENANCE OF WORK	6	MO	3,281.67	\$19,690.00
				Bid Total	\$452,690.00

There will be a credit of \$55 per load for every load that is hauled off by the City of Vestavia in one of their Triaxle Trucks.

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 3, 2015

Melissa,
please scan
and email a copy
to C. Brady,
R. Leavings + myself
Thx
JC/11-5-15

By Hand Delivery

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

In Re: Competitive Bid Submitted by Forestry Environmental Services, Inc.
for Work at Meadowlawn Estates

Dear Mr. Downes:

On November 2, 2015, you hand delivered to me copies of the following documents with a request that I review the same and furnish you with my written legal opinion:

1. Estimate of Probable Cost in the amount of \$444,578.75 for construction of a passive park on the Meadowlawn property.
2. Summary of Bid submitted by Forestry Environmental Services, Inc. in the amount of \$685,000.00.
3. E-mail from Civil Engineer Taylor Schoel, dated October 29, 2015, regarding the Alabama Competitive Bid Law.

The purpose of this letter is to respond to your request.

I. FACTS

On June 10, 2015, the City of Vestavia Hills, Alabama ("City") purchased Lots 32, 33, 34 and 35 in Meadowlawn Estates along Dolly Ridge Road pursuant to the authority of the Residential Buyouts Along Floodway Program. The City plans to build a passive park on the four lots with an estimated budget in the amount of \$444,578.75. The City advertised for competitive bids. Forestry Environmental Services, Inc. submitted the only bid in the amount of \$685,000.00.

II. LEGAL ISSUE

What legal options does the City have when only one responsible and responsive bid has been received in response to the advertisement for competitive bids?

III. PUBLIC WORKS PROJECT

In my opinion, the work for construction of a passive park at Meadowlawn Estates constitutes a public works project. Alabama law regarding the letting, execution and administration of public improvements contracts ("public works") by municipalities is set forth in Title 39, Chapters 1 through 5, of the *Code of Alabama, 1975*.

The Alabama Public Works Law regarding public works construction projects provides, among other things, that a public works project is the expenditure of public funds on real estate owned by municipalities or on a structure attached to that real estate. Title 39-2-1(6), *Code of Alabama, 1975*, defines "public works" as:

"(6) PUBLIC WORKS. The construction, installation, repair, renovation, or maintenance of public buildings, structures, sewers, waterworks, roads, curbs, gutters, side walls, bridges, docks, underpasses, and viaducts as well as any other improvement to be constructed, installed, repaired, renovated, or maintained on public property and to be paid, in whole or in part, with public funds or with financing to be retired with public funds in the form of lease payments or otherwise."

IV. COMPETITIVE BIDS WERE REQUIRED FOR THIS PROJECT

Alabama law at Title 39-2-2(a) *Code of Alabama, 1975*, required that this contract be awarded after inviting competitive bids and provides in pertinent part as follows:

"(a) Before entering into any contract for a public works involving an amount in excess of fifty thousand dollars (\$50,000), the awarding authority shall advertise for sealed bids. If the awarding authority is the state or a county, or an instrumentality thereof, it shall advertise for sealed bids at least once each week for three consecutive weeks in a newspaper of general circulation in the county or counties in which the improvement or some part thereof, is to be made. If the awarding authority is a municipality, or an instrumentality thereof, it shall advertise for sealed bids at least once in a newspaper of general circulation published in the municipality where the awarding authority is located. If no newspaper is published in the municipality, the awarding authority shall advertise by posting notice thereof on a bulletin board maintained outside the purchasing office and in any other manner and for the length of time

as may be determined. In addition, to bulletin board notice, sealed bids shall also be solicited by sending notice by mail to all persons who have filed a request in writing with the official designated by the awarding authority that they be listed for solicitation on bids for the public works contracts indicated in the request. If any person whose name is listed fails to respond to any solicitation for bids after the receipt of three such solicitations, the listing may be canceled. With the exception of the Department of Transportation, for all public works contracts involving an estimated amount in excess of five hundred thousand dollars (\$500,000), awarding authorities shall also advertise for sealed bids at least once in three newspapers of general circulation throughout the state. The advertisements shall briefly describe the improvement, state that plans and specifications for the improvement are on file for examination in a designated office of the awarding authority, state the procedure for obtaining plans and specifications, state the time and place in which bids shall be received and opened, and identify whether prequalification is required and where all written prequalification information is available for review. All bids shall be opened publicly at the advertised time and place. No public work as defined in this chapter involving a sum in excess of fifty thousand dollars (\$50,000) shall be split into parts involving sums of fifty thousand dollars (\$50,000) or less for the purpose of evading the requirements of this section.”

V. GENERAL LAW RELATIVE TO COMPETITIVE BIDS

A. EXPENDITURE OF PUBLIC FUNDS (SECTION 94, AS AMENDED BY AMENDMENTS 112 AND 558 OF THE CONSTITUTION OF ALABAMA:

1. Everything that a governmental body does must be done in the **best interest of the public.**

2. Government officials must act in **good faith** in executing the requirements of law.

B. SUPREME COURT OF ALABAMA:

1. *White v. McDaniel Ford Tractor Company, Inc.*, 287 Ala. 77 and 248 So.2d 121 (1971).

(a) Public officials must exercise their **discretion** in competitive bid matters.

(b) Public officials must exercise **good faith**.

2. *Mobile Dodge, Inc. v. Mobile County*, 442 So.2d 56 (1983):

- (a) Public officials must act **reasonably**.
- (b) Public officials must act **rationaly**.
- (c) Public officials must exercise **good faith**.
- (d) Public officials must have **proper motives**.
- (e) Public officials cannot **abuse their discretion**.

VI. BIDS AND BIDDING; AWARDS

Title 39-2-6(b), *Code of Alabama, 1975*, provides as follows:

“(b) If no bids or only one bid is received at the time stated in the advertisement for bids, the awarding authority may advertise for and seek other competitive bids, or the awarding authority may direct that the work shall be done by force account under its direction and control or, with the exception of the Department of Transportation, the awarding authority may negotiate for the work through the receipt of informal bids not subject to the requirements of this section. Where only one responsible and responsive bid has been received, any negotiation for the work shall be for a price lower than that bid.”

VII. LEGAL OPTIONS

Based upon the above statute, it is my legal opinion that the City has the following options:

- A. Reject the bid and advertise and seek other competitive bids.
- B. Direct that the work shall be done by “force account” under the direction and control of the City. Title 39-2-1(2), *Code of Alabama, 1975*, defines “force account work” as follows:

“(2) **FORCE ACCOUNT WORK.**—Work paid for by reimbursing for the actual costs for labor, materials, and equipment usage incurred in the performance of the work, as directed, including a percentage for overhead and profit, where appropriate.”

- C. Negotiate for the work through the receipt of informal bids.
- D. If there is only one responsible and responsive bid received, the City may negotiate for the work provided the negotiation results in a price lower than the bid submitted.

VIII. NEGOTIATION OR FORCE ACCOUNT

Title 39-2-6(d), *Code of Alabama, 1975*, provides as follows:

“(d) On any construction project on which the awarding authority has prepared plans and specifications, received bids, and has determined to do by force account or by negotiation, the awarding authority shall make available the plans and specifications, an itemized estimate of cost and any informal bids for review by the Department of Examiners of Public Accounts and, upon completion of the project by an awarding authority, the final total costs together with **an itemized list of cost of any and all changes made in the original plans and specifications** (*emphasis added*) shall also be made available for review by the Department of Examiners of Public Accounts. Furthermore, the above described information shall be made public by the awarding authority upon request. Upon the approval of the awarding authority, its duly authorized officer or officers may, when proceeding upon the basis of force account, **let any subdivision or unit of work by contract on informal bids.**”(*emphasis added*)

Based upon the language of the above statute, it is my legal opinion that if the City rejects the bid and negotiates for the work through the receipt of informal bids, then in such event the City may change the original plans and specifications and/or let any subdivision or unit of work by contract on informal bids.

IX. E-MAIL FROM TAYLOR SCHOEL DATED OCTOBER 29, 2015

A. **ALABAMA PUBLIC WORKS COMPETITIVE BID LAW:** The Alabama law regarding the letting, execution and administration of public improvement contracts by state agencies generally was enacted in 1997 and amended in 2011.

B. **E-MAIL FROM TAYLOR SCHOEL, DATED OCTOBER 29, 2015:** According to Taylor Schoel, all legal authorities supporting his opinions were opinions issued by the Alabama Attorney General prior to 1997. Those opinions were as follows:

<u>Schoel Opinion Number</u>	<u>Attorney General Opinion</u>
1	A/G Opinion, dated December 6, 1985
2	A/G Opinion, dated August 18, 1986; and A/G Opinion, dated August 20, 1985
3	A/G Opinion, dated April 29, 1988

November 3, 2015

Page 6

C. MY OPINION: It is my legal opinion that none of the opinions of the Attorney General referred to in section B above apply to the legal issue under consideration by the City because all of said opinions were issued prior to the enactment of Section 39-2-1 through Section 39-2-14, *Code of Alabama, 1975*.

X. CONCLUSION

I recommend that you attempt to negotiate for the work through the receipt of informal bids authorized by Section 39-2-6(b), *Code of Alabama, 1975*, and if necessary change the plans and specifications as authorized by Section 39-2-6(d), *Code of Alabama, 1975*.

Please call me if you have any questions regarding this legal opinion.

Sincerely,

A handwritten signature in blue ink that reads "Patrick H. Boone". The signature is written in a cursive style with a long horizontal line extending to the right.

Patrick H. Boone
Vestavia Hills City Attorney

PHB:gp

RESOLUTION NUMBER 4773

A RESOLUTION AUTHORIZING THE CITY MANAGER TO FUND ONE-HALF OF ANNUAL MAINTENANCE FOR RMS SOFTWARE FOR NEW WORLD TO SPECIAL FUND 11 – COURT AND CORRECTION

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 fund one-half of annual maintenance for RMS Software through New World from Special Fund Account 11 – Court and Corrections in the amount of \$41,250 (annual maintenance of \$82,500); and
2. This Resolution Number 4773 shall become effective immediately upon adoption and approval.

ADOPTED and APPROVED this the 14th day of December, 2015.

Alberto C. Zaragoza, Jr.
Mayor

ATTESTED BY:

Rebecca Leavings
City Clerk

Melvin Turner

From: Tim Holcomb
Sent: Friday, November 13, 2015 8:32 AM
To: Melvin Turner
Cc: Darrin Estes; Danny Rary
Subject: Funding Request

Mr. Turner,

Darrin advised me that we need additional funding to cover \$41,250 of our yearly maintenance fee to New World Systems for our RMS software in the Police Department.

The total annual fee is \$82,500, but only \$41,250 was actually budgeted.

Deputy Chief Tim Holcomb
Vestavia Hills Police Department
1032 Montgomery Highway
Vestavia Hills, AL 35216
Office- (205)978-0111

