

**Vestavia Hills  
City Council Agenda  
April 10, 2017  
6:00 PM**

1. Call to Order
2. Roll Call
3. Invocation – Ben Acton, Southminster Presbyterian Church
4. Pledge Of Allegiance
5. Announcements and Guest Recognition
  - a. Board of Education Applicants/Interviews
  - b. Special and Regular Work Session – April 17, 2017
6. Proclamation – Safe Digging Month – April 2017
7. City Manager’s Report
8. Councilors’ Reports
9. Approval of Minutes –March 13, 2017 (Work Session); March 20, 2017 (Work Session & Town Hall Meeting) and March 27, 2017 (Regular Meeting)

**Old Business**

10. Resolution Number 4935 – Accepting A Sanitation Bid For The City Of Vestavia Hills, Alabama (*public hearing*)
11. Resolution Number 4936 – Authorizing A General Fund Supplemental Appropriation And Authorizing The City Manager To Employ A Communication Manager (*public hearing*)
12. Ordinance Number 2702 - An Ordinance Authorizing And Directing The Purchasing And Closing Of The Sale Of Real Estate (*public hearing*)

**New Business**

13. Resolution Number 4937 – Liquor License – Your Pie D/B/A YP Liberty Park LLC For The On- And Off-Premise Sale Of Retail Beer And Retail Table Wine; Lloyd Chandler Peeples, III, Executive (*public hearing*)
14. Resolution Number 4938 – Liquor License – Texas Taco Grill D/B/A New Season LLC For The On-Premise Sale Of Restaurant Retail Liquor; Denis Jerome Gavlik And Larry Maddox Beasley, Jr, Executives (*public hearing*)
15. Resolution Number 4939 – A Resolution Authorizing A Special Economic Development Agreement By The City Of Vestavia Hills Alabama And Slice 280 LLC

16. Resolution Number 4940 – A Resolution Authorizing A Special Economic Development Agreement By The City Of Vestavia Hills, Alabama And Crosshaven 6, LLC
17. Resolution Number 4941 – A Resolution Authorizing A Special Economic Development Agreement By The City Of Vestavia Hills And Satterfields

**New Business (Unanimous Consent Requested)**

**First Reading (No Action Taken At This Meeting)**

18. Resolution Number 4942 – Annexation – 90 Day – 3308 Misty Lane; Lot 1, The Woods At Rocky Ridge; Will And Jill Smith, Owners (*public hearing*)
19. Ordinance Number 2706 - Annexation – Overnight – 3308 Misty Lane; Lot 1, The Woods At Rocky Ridge; Will And Jill Smith, Owners (*public hearing*)
20. Ordinance Number 2703 – An Ordinance Approving Conditional Use Approval For A Home Occupation For Property Located At 4648 Jackson Loop, Lot 1041, Heritage Hills, Phase III, Sector 2; Tammy Williamson, Owner. The Property Is Currently Zoned Vestavia Hills PUD PR-1 (*public hearing*)
21. Ordinance Number 2704 – Rezoning – 3111 And 3115 Timberlake Road; Rezone From Vestavia Hills R-1 (Residential District) To Vestavia Hills O-1 (Office District); Eiffel Partners, LLC, Owners (*public hearing*)
22. Ordinance Number 2705 – Rezoning – 3700 Cahaba Heights Road; Rezone From Vestavia Hills B-3 (Business District With Conditions) To Vestavia Hills R-9 (Planned Residential District); Black Box Management, LLC, Owners (*public hearing*)
23. Resolution Number 4943 – A Resolution Authorizing The Mayor And City Manager To Execute And Deliver An Agreement With The Regional Planning Commission Of Greater Birmingham For An APPLE Project To Study And Further Develop Improvement Plans For A Section Of Crosshaven Drive From Cahaba Heights Road To Overton Road
24. Citizen Comments
25. Motion For Adjournment

## **PROCLAMATION**

WHEREAS, Alabama's underground utility infrastructure is jeopardized by unintentional damage of those who fail to call 811 to have underground lines located prior to digging; and

WHEREAS, Alabama 811 and its 400 utility members promote the National Call-Before-You-Dig Number 811 in an effort to reduce these damages; and

WHEREAS, 811 was designated by the FCC in 2005 to provide potential excavators and homeowners a simple number to reach their local "one call center" to request utility line locations at the intended dig site; and

WHEREAS, through education of safe digging practices, excavators and homeowners can save time and money keeping Alabama safe and connected by making a simple call to 811 in advance of any digging project, waiting the required amount of time, respecting the marked lines by maintaining visual definition throughout the course of excavation and digging with care around the marks; and

WHEREAS, all parties agree that safe digging is a shared responsibility; and

WHEREAS, before you dig, it is important to know what is below and call 811;

NOW, THEREFORE, I, Ashley C. Curry, by virtue of the authority vested in me as Mayor of the City of Vestavia Hills in the State of Alabama, do hereby proclaim April 2017 as

### **SAFE DIGGING MONTH**

in Vestavia Hills and encourage all excavators and homeowners to always call 811 before digging.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the City of Vestavia Hills to be affixed this the 10th day of April, 2017.

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Ashley C. Curry  
Mayor

## CITY OF VESTAVIA HILLS

### CITY COUNCIL

### MINUTES

### WORK SESSION

**MARCH 13, 2017**

The City Council of Vestavia Hills met in a work session on this date at 5:00 PM following posting/publication as required by Alabama law. The Mayor called the meeting to order and the roll with the following:

**MEMBERS PRESENT:**

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

**OTHER OFFICIALS PRESENT:**

Jeff Downes, City Manager  
Rebecca Leavings, City Clerk  
Christopher Brady, City Engineer  
Melvin Turner, III, Finance Director

### EXECUTIVE SESSION

Mayor Curry indicated the Council needed to go into Executive Session for pending/existing litigation for an estimated 60 minutes. He stated that Bent Owens, attorney representing the City, is present in order to address the Council during executive session and opened the floor for a motion.

**MOTION** Motion to enter into Executive Session for an estimated 60 minutes for pending or existing litigation was by Mr. Pierce and second was by Mr. Weaver.

Mrs. Cook – yes

Mr. Head – yes

Mr. Pierce – yes

Mr. Weaver – yes

Mayor Curry – yes

Motion carried.

The Council exited the Chambers at 5:03 PM and entered into Executive Session. At 5:50 PM the Council entered the Chamber and exited from Executive Session.



There being no further discussion, motion to adjourn was by Mr. Pierce. Work session adjourned at 5:52 PM.

Ashley C. Curry  
Mayor

ATTESTED BY:

Rebecca Leavings  
City Clerk

## **CITY OF VESTAVIA HILLS**

### **CITY COUNCIL**

### **MINUTES**

### **WORK SESSION**

**MARCH 20, 2017**

The City Council of Vestavia Hills met in a work session on this date at 5:00 PM following posting/publication as required by Alabama law. The Mayor called the meeting to order and the roll with the following:

**MEMBERS PRESENT:**

Mayor Ashley C. Curry  
Kimberly Cook, Councilor  
George Pierce, Councilor

**MEMBERS ABSENT:**

Rusty Weaver, Mayor Pro-Tem  
Paul J. Head, Councilor

**OTHER OFFICIALS PRESENT:**

Jeff Downes, City Manager  
Rebecca Leavings, City Clerk  
Christopher Brady, City Engineer  
Melvin Turner, III, Finance Director

### **TOWN HALL MEETING**

Mayor Curry stated that this work session is held in coordination with Help the Hills coalition and the Vestavia Hills City School Board to bring awareness to the problems of drug abuse within the City.

Invocation was given by Fire Chief Jim St. John followed by the Pledge of Allegiance led by James Coleman, Boy Scout Troop 4.

**Speakers:**

The Problem:

- Angel Castille, FBI Agent
- Fire Chief Jim St. John, VHFD
- Police Lt. Steve Gurley, VHPD
- Representative Jack Williams
- Chesie Robers, LPC
- CLR Group

Addressing the Problem

- Kym Prewitt, Vestavia Hills Board of Education
- Sadie Daniels & William Tapscott
- Jane-Marie Marlin, VHCS Asst. Superintendent
- Tracy Lemak & Susan Castleberry
- Julie Ellis & Wade Griffith
- Kim Cochran

Community Questions/Input/Dialogue facilitated by Mayor Curry.

Closing Prayer was led by Wade Griffith.

There being no further discussion, work session adjourned at 8:00 PM.

Ashley C. Curry  
Mayor

ATTESTED BY:

Rebecca Leavings  
City Clerk

## **CITY OF VESTAVIA HILLS**

### **CITY COUNCIL**

### **MINUTES**

**MARCH 27, 2017**

The City Council of Vestavia Hills met in regular session on this date at 6:00 PM. The Mayor called the meeting to order and the City Clerk called the roll with the following:

**MEMBERS PRESENT:**

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

**MEMBERS ABSENT:**

Paul Head, Councilor

**OTHER OFFICIALS PRESENT:**

Jeff Downes, City Manager  
Rebecca Leavings, City Clerk  
Jason Hardin, Police Captain  
Kevin York, Police Captain  
Jimmy Coleman, Compliance Officer  
Jim St. John, Fire Chief  
Marvin Green, Deputy Fire Chief  
Terry Ray, Deputy Fire Chief  
Melvin Turner, Finance Director  
George Sawaya, Asst. Treasurer  
Brian Davis, Public Services Director  
Lori Beth Kearley, Assistant City Engineer

Invocation was given by Tyler Hopkins, Minister of Community Connection, Vestavia Hills United Methodist Church. Joe Eshleman, Boy Scout Troop 76, led the Pledge of Allegiance.

### **ANNOUNCEMENTS, GUEST RECOGNITION**

- Mayor Curry welcomed former Mayor Alberto “Butch” Zaragoza.
- The Mayor also welcomed visiting Boy Scouts Joe Eshleman from Troop 76, J.T. Matthews, Troop 83 and Turner Whitley, Troop 1.
- Mr. Pierce welcomed Chamber of Commerce members Linda Parker and Becky Hicks.

### **CITY MANAGER'S REPORT**

- Mr. Downes announced that Fire Chief Jim St. John has announced his intent to retire, effective the end of April. Since the Personnel Board cannot put a certification list together for selection of a new Chief, Mr. Downes stated that it is his intention to appoint Marvin Green to serve as the Interim Fire Chief.
  - Chief St. John addressed the Mayor, Council and the City Manager to thank them all for support throughout his years. He indicated that both Assistant Chiefs Ray and Green are outstanding leaders and he would easily recommend both to serve in the leadership roles.
  - Chief Green also thanked the Mayor, City Manager and Council for the opportunity to serve in the interim until a permanent selection is made.
- Mr. Downes announced that Starr Burbic has also announced her retirement at the end of April. He stated that she has served as secretary for four Mayors and has been an integral part of the administrative offices and she will be missed.
- Mr. Downes stated that the City will soon move into enforcement of the sign ordinance regulations. Beginning tomorrow, the Police Department will notify offenders and warn them of the enforcement. He encouraged everyone to refer possible offenders or those wishing to obtain information to the web page.
- Mr. Downes announced an item on the “first read” portion of the agenda which is the potential purchase of the building adjacent to City Hall. The building currently houses Gold’s Gym. Preliminary purchase negotiations have resulted in an agreement that will be presented at the next meeting of the Council. He stated that there are 10,000 square feet of open space that can be utilized by the City as Gold’s Gym occupies the remainder of the building. If the sale closes, Gold’s Gym lease will be transferred to the City and rental proceeds will go toward paying the debt for the purchase. If it becomes the intent of the City to convert this into a fully operational civic center, negotiations will begin with Gold’s regarding that lease. He noted there was a desire to also purchase a residential property adjacent to Gold’s Gym and there is an agreement but the contract is still in negotiation.

### **COUNCILOR REPORTS**

- Mrs. Cook announced that the City Council is accepting applications for an upcoming vacancy on the Vestavia Hills Board of Education. Applications are available on the public notice webpage of the City’s website. She advised applicants to become familiar with the actions of the Board through minutes, agendas and videos, which can be accessed on the Board’s website. She stated that the deadline for application will be April 10, 2017, at 5 PM. The application may be obtained on the public notice page of the City’s website. The Council will announce the appointment at the April 24<sup>th</sup> meeting and the member will take office at the first regular Board meeting in June.

- Mrs. Cook stated that there will be a special meeting of the Board held on April 12 in order to receive the demographer's report of subdivision yield analysis to determine the growth that could occur within the City and the operational cost of the various options on the table. Information will be posted on the Board's website.
- Mr. Pierce stated that he attended the March Chamber Board meeting. He indicated that they are held on the third Thursday of every month beginning at 7:45 AM. He announced that the annual Mayor's Prayer Breakfast will be held April 18, 2017 at the Vestavia Country Club beginning at 7:30 AM. Tickets are available at the Chamber office.
- Mr. Weaver announced that Councilor Paul Head is in the Dominican Republic on a mission trip during spring break and could not make tonight's meeting.
- Mayor Curry stated that last week's work session became a Town Hall meeting to bring awareness to the abuse of illegal drugs. Statistics shared at that meeting were disturbing in that there is about one call per week of an overdose of heroin where the administration of a drug (Narcan) is needed in order to hopefully save the victim. He indicated the coalition will continue to strive toward bringing awareness and fighting this epidemic.
- Mayor Curry announced the annual Mayor's Prayer Breakfast will be held at the Vestavia Country Club on April 18, 2017, beginning at 7:30. The agenda for the event is almost completed with Edie Hand as the keynote speaker.

### **FINANCIAL REPORTS**

Mr. Turner presented the financial reports for the month ending February 2017. He read and explained the balances.

### **APPROVAL OF MINUTES**

The minutes of the March 13, 2017 (Regular Meeting) were presented for approval:

**MOTION** Motion to dispense with the reading of the minutes of March 13, 2017 (Regular Meeting) and approve them as presented was by Mrs. Cook and second by Mr. Weaver. Roll call vote as follows:

Mrs. Cook – yes

Mr. Pierce – yes

Mr. Weaver – yes

Mayor Curry – yes

Motion carried.

**OLD BUSINESS**

**ORDINANCE NUMBER 2695**

**Ordinance Number 2695 – An Ordinance Granting Conditional Use Approval For A Home Occupation For The Property Located At 517 Lake Colony Way; Lot 17, Vestlake Village, 4<sup>th</sup> Sector, Phase 1; Eric L. Eitzen, Owner (*public hearing*)**

Mr. Downes stated that this is a request for a home occupation in Liberty Park for a construction consultation business. He read the conditions contained within the Ordinance.

**MOTION** Motion to approve Ordinance Number 2695 was by Mr. Weaver and second was by Mr. Pierce.

Mr. Weaver stated that the Planning and Zoning Commission recommended approval.

Eric L. Eitzen was present in regard to this request and explained the parameters of his request.

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

Mrs. Cook – yes	Mr. Pierce – yes
Mr. Weaver – yes	Mayor Curry – yes
	Motion carried.

**ORDINANCE NUMBER 2696**

**Ordinance Number 2696 – Rezoning – 4553 And 4557 Pine Tree Circle; Lots 14 & 15, Topfield Subdivision; Rezone From Vestavia Hills R-1 (Residential District) To Vestavia Hills B-1 (Neighborhood Business District); Bobby And Judy Long And Edward And Marion Jones, Owners (*public hearing*)**

Mr. Downes explained this request is for construction of three commercial buildings in this subdivision which has seen a conversion of residential to commercial. He read the conditions of the approval.

**MOTION** Motion to approve Ordinance Number 2696 was by Mr. Weaver and second was by Mrs. Cook.

Mr. Weaver stated that this neighborhood is in transition to commercial and there are some neighbors who are the reasons the conditions were placed on this rezoning request.

Len Shannon was present in regard to the request along with Chad Bryant, architect for the property. Mr. Shannon stated that he has been developing property in this subdivision for about 12 years.

Discussion ensued concerning possible tenants including professional medical tenants, infrastructure concerns, installation of sewer, etc.

The Mayor opened the floor for a public hearing.

Jeffrey Roe, son of Dr. and Mrs. Roe stated that they live at 4561 Pine Tree Circle and live adjacent to this property. He stated that construction of this development will be on both sides of his parents with the Colonnade behind them. He asks that the City be cognizant of issues such as drainage, lighting and noise pollution and potential traffic impact of continuing development.

Mr. Weaver thanked Mr. Roe for his parents' participation in this process and stated that this kind of partnership allows a better development for everyone.

Mr. Downes explained that lighting would be addressed by DRB in their review.

There being no one to address the Council, the Mayor closed the public hearing and called for the question.

Mrs. Cook – yes

Mr. Pierce – yes

Mr. Weaver – yes

Mayor Curry – yes

Motion carried.

## **NEW BUSINESS**

### **RESOLUTION NUMBER 4932**

#### **Resolution Number 4932 – A Resolution Authorizing The Mayor And City Manager To Enter Into A First Amendment To The Remediation Agreement Regarding Property Located At 1756 Indian Creek Drive, Vestavia Hills, AL 35243**

Mr. Downes explained that this Resolution is a continuation of a nuisance abatement at 1756 Indian Creek Drive. He stated that Mr. Goldman will update the Council on the situation.

**MOTION** Motion to approve Resolution Number 4932 was by Mr. Pierce and second was by Mr. Weaver.



Ben Goldman, Hand Arendall, gave a brief background on this nuisance abatement process. He showed a Power Point presentation and explained the process. He recognized Keith Blanton the Building Official and Jimmy Coleman the Compliance Officer. He explained the original agreement and the recommended amendment to the agreement being presented tonight which includes keeping the original agreement in place; stipulations that the owner cannot be on premise from 11:00 PM to 6 AM; listing the property that is “acceptable to the City;” a “not to exceed” sales price which has been lowered from the original agreement and the ability of the City to inspect the outside of the property at any time and the inside with reasonable notice.

Mrs. Cook stated that she does recall this case and heard all the details. She stated she feels this is a success story. She asked about the pet remaining on premises and asked if that has had an impact on the property condition.

Mr. Goldman stated that he doesn’t believe it has been any issue since the cat can have free access outside as well as inside.

Mr. Downes explained the lingering issues and this new agreement should help them.

There being no one to address the Council, the Mayor called for the question.

Mrs. Cook – yes

Mr. Pierce – yes

Mr. Weaver – yes

Mayor Curry – yes

Motion carried.

### **RESOLUTION NUMBER 4933**

#### **Resolution Number 4933 – A Resolution Changing The City Officials Designated And Authorized To Sign For Certificates Of Deposit At Wells Fargo Bank**

**MOTION** Motion to approve Resolution Number 4933 was by Mrs. Cook and second was by Mr. Weaver.

Mr. Downes explained that this Resolution changes authorized signatures for certain certificates of deposit.

There being no one to address the Council, the Mayor called for the question.

Mrs. Cook – yes

Mr. Pierce – yes

Mr. Weaver – yes

Mayor Curry – yes

Motion carried.

**RESOLUTION NUMBER 4934**

**Resolution Number 4934 – A Resolution Changing The City Officials Designated And Authorized To Sign For Certificates Of Deposit At The Bryant Bank**

**MOTION** Motion to approve Resolution Number 4934 was by Mrs. Cook and second was by Mr. Weaver.

Mr. Downes explained that this Resolution changes signatures.

There being no one to address the Council, the Mayor called for the question.

Mrs. Cook – yes

Mr. Pierce – yes

Mr. Weaver – yes

Mayor Curry – 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 regular meeting on April 10, 2017, at 6:00 PM.

- Resolution Number 4935 – Accepting A Sanitation Bid For The City Of Vestavia Hills, Alabama (*public hearing*)
- Resolution Number 4936 – Authorizing A General Fund Supplemental Appropriation And Authorizing The City Manager To Employ A Communication Manager (*public hearing*)
- Ordinance Number 2702 - An Ordinance Authorizing And Directing The Purchasing And Closing Of The Sale Of Real Estate (*public hearing*)

**CITIZEN COMMENTS**

Donald Harwell, 1357 Willoughby Road, stated that he gave the Council a timeline of the changes that the Transit Authority hopes to attain over the years and a sheet of the new City Connector put into place last Friday sponsored by Coke and BJCC Transit Authority. Riding this Connector is \$0.25 with half price for seniors.

Butch Zaragoza, former Mayor and a resident at 2309 River Grand Drive, thanked Chief St. John for his service to the City during his career. He stated that the City did a good thing nine years ago when they appointed him as Chief. He indicated that the tradition within the department is to have people always ready to assume leadership positions and he’s proud of that and the accomplishments of Chief St. John.

At 7:10 PM, Mrs. Cook made a motion to adjourn, seconded by Mr. Pierce. The meeting adjourned at 7:10 PM.

Ashley C. Curry  
Mayor

ATTESTED BY:

Rebecca Leavings  
City Clerk

## **RESOLUTION NUMBER 4935**

### **A RESOLUTION ACCEPTING A BID FOR SANITATION SERVICES FOR THE CITY OF VESTAVIA HILLS**

**WHEREAS**, invitations to bid for sanitation services for the City of Vestavia Hills for a period of 3-year were received, opened and publicly read at 10:00 AM on March 1, 2017 in the Council Chamber of the Vestavia Hills City Hall; and

**WHEREAS**, seven responses were received, including two “no bids” and five bid packages; and

**WHEREAS**, the Public Services Director has reviewed and detailed the submitted bids and recommended in a memorandum dated March 22, 2017 that the bid package from Republic Services be accepted to provide sanitation services for the City. A copy of said memorandum is marked as “Exhibit A”, a copy of which is attached to and incorporated in this Resolution Number 4935 as though written fully therein; and

**WHEREAS**, the Mayor and City Council feel it is in the best public interest to accept the recommendation of the Public Services Director.

**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 Republic Services is hereby accepted at a cost of \$22.50 per household and detailed in the attached Exhibit A; and
2. The Mayor and City Manager are hereby authorized to execute and deliver an agreement with Republic Services for sanitation services for the City of Vestavia Hills, effective October 1, 2017 for a period of three years; and
3. A copy of said agreement is marked as “Exhibit B” attached and incorporated into this Resolution Number 4935 as though written fully therein; and
4. This Resolution shall become effective immediately upon adoption and approval.

**ADOPTED and APPROVED** this the 10<sup>th</sup> day of April, 2017.

Ashley C. Curry  
Mayor

ATTESTED BY:

Rebecca Leavings  
City Clerk

**Vestavia Hills Public Services  
1032 Montgomery Highway  
Vestavia Hills, AL 35216**

**INTEROFFICE MEMO**

Date: March 22, 2017

TO: Jeff Downes  
City Manager

From: Brian Davis  
Public Service Director

RE: Sanitation Bid

After receiving bids for the sanitation contract, it is my recommendation that we accept the lowest responsible bid from Republic Services. Their cost per household was \$2.45 lower than the next lowest bid. This was still an increase of almost \$3.00 per household over our current contract.

In addition to the base bid we asked for an alternate bid for curbside leaf vacuum service. This would add an estimated additional \$800,000 annually to the contract. I do not recommend that we accept the alternate bid for leaf collection.

In an effort to streamline communication and specific requests with Republic Services and our residents, I recommend that we strive to incorporate representatives from Republic into our Action Center communications. Leadership from Republic have also expressed interest in working with the city to become knowledgeable with the city's Action Center to improve collection efforts.

I would like to request a first read for the March 27, 2017, meeting, with approval at the April 10, 2017, meeting. Please let me know if you have any questions.

Attachments: Contract document  
Republic Services Bid Document

CC: Rebecca Leavings

①	Big Sky	No Bid	
②	Waste Mgt	No Bid	
③	Santek	342,371.42	\$24.99
④	ADSI	343,867.00	24.95
⑤	Republic Services	311,348.90	22.50
⑥	Advanced Disposal	379,825.00	27.40
⑦	Waste Pro	355,469.40	25.74

City of Vestavia Hills, Alabama  
 COLLECTION AND DISPOSAL SERVICES FOR RESIDENTIAL  
 GARBAGE, TRASH, RECYCLABLES, LEAVES, AND STORM DEBRIS

**BID TABLE**

BASE BID					
	Category of Service	Location of Garbage Collection	Estimated Number of Residences	Monthly Recurring Fee Per Unit	Extended Monthly Cost
1	Single-Family Residential Garbage, Trash, and Recyclable Materials	Curbside	13,000	\$24.99	\$324,870.00
2	Single-Family Residential Garbage, Trash, and Recyclable Materials	Rear Door (for those unable to go curbside)	560	\$24.99	\$13,994.40
3	Single-Family Residential Garbage, Trash, and Recyclable Materials	Rear Door (for those who opt for increase)	100	\$24.99	\$2,499.00
2	8-yard Dumpsters emptied two times per week	Vestavia Villa Condos		374.11	\$ 374.11
4	8-Yard Dumpsters emptied two times per week	Southbury Condominiums	Not Applicable	\$ 374.11	\$ 374.11
5	4-Yard Dumpsters emptied two times per week	Cabana Condominiums	Not Applicable	\$259.80	\$ 259.80
2	Hazardous Waste Days	TBD			included Per event
<b>TOTAL BASE BID AMOUNT</b>					342,371.42 \$
Note: Quantities are estimates only and are NOT a commitment to pay for such quantities. The City shall pay for actual quantities during the term of the Contract and renewals, thereof, if any.					

OTHER ITEMS AND SERVICES				
	Item Description	Collection Location	Collection Frequency	Price Per Unit
A	Garbage Cart – 95 Gallon (Each)	Not Applicable	Not Applicable	\$ 75.00
B	Recyclables Cart – 95 Gallon Cart (Each)	Not Applicable	Not Applicable	\$ 75.00
C	Recyclables Cart – 32 Gallon Cart (Each)	Not Applicable	Not Applicable	\$ 63.00
D	Natural Disaster Debris Collection and Disposal Services (Per Cubic Yard)	Curbside	As Needed	\$ 15.13

\* Leaf Vacuum Service (Alternate 1) 453 \$6,879.80  
 13,660



### BID TABLE

BASE BID					
	Category of Service	Location of Garbage Collection	Estimated Number of Residences	Monthly Recurring Fee Per Unit	Extended Monthly Cost
1	Single-Family Residential Garbage, Trash, and Recyclable Materials	Curbside	13,000	\$ 24.95	\$ 324,350.00
2	Single-Family Residential Garbage, Trash, and Recyclable Materials	Rear Door (for those unable to go curbside)	560	\$ 24.95	\$ 13,972.00
3	Single-Family Residential Garbage, Trash, and Recyclable Materials	Rear Door (for those who opt for increase)	100	\$ 32.95	\$ 3,295.00
2	8-yard Dumpsters emptied two times per week	Vestavia Villa Condos	2	\$250 ea	\$ 500.00
4	8-Yard Dumpsters emptied two times per week	Southbury Condominiums	Not Applicable 4	\$ 250 ea	\$ 1000.00
5	4-Yard Dumpsters emptied two times per week	Cabana Condominiums	Not Applicable 5	\$ 150 ea	\$ 750.00
2	Hazardous Waste Days	TBD		\$1500.00	Per event
<b>TOTAL BASE BID AMOUNT</b>					<b>\$ 343,867.00</b>
Note: Quantities are estimates only and are NOT a commitment to pay for such quantities. The City shall pay for actual quantities during the term of the Contract and renewals, thereof, if any.					

OTHER ITEMS AND SERVICES				
	Item Description	Collection Location	Collection Frequency	Price Per Unit
A	Garbage Cart – 95 Gallon (Each)	Not Applicable	Not Applicable	\$ 8.00
B	Recyclables Cart – 95 Gallon Cart (Each)	Not Applicable	Not Applicable	\$ NA
C	Recyclables Cart – 32 Gallon Cart (Each)	Not Applicable	Not Applicable	\$ 5.00
D	Natural Disaster Debris Collection and Disposal Services (Per Cubic Yard)	Curbside	As Needed	\$ Negotiated

City of Vestavia Hills, Alabama  
 COLLECTION AND DISPOSAL SERVICES FOR RESIDENTIAL  
 GARBAGE, TRASH, RECYCLABLES, LEAVES, AND STORM DEBRIS

**BID TABLE**

<b>BASE BID</b>					
	Category of Service	Location of Garbage Collection	Estimated Number of Residences	Monthly Recurring Fee Per Unit	Extended Monthly Cost
1	Single-Family Residential Garbage, Trash, and Recyclable Materials	Curbside	13,000	\$22.50	\$292,500.00
2	Single-Family Residential Garbage, Trash, and Recyclable Materials	Rear Door (for those unable to go curbside)	560	\$22.50	\$12,600.00
3	Single-Family Residential Garbage, Trash, and Recyclable Materials	Rear Door (for those who opt for increase)	100	\$37.64	\$3,764.00
2	8-yard Dumpsters emptied two times per week	Vestavia Villa Condos		\$524.69	\$524.69
4	8-Yard Dumpsters emptied two times per week	Southbury Condominiums	Not Applicable	\$1105.83	\$1,105.83
5	4-Yard Dumpsters emptied two times per week	Cabana Condominiums	Not Applicable	\$854.38	\$854.38
2	Hazardous Waste Days	TBD		0.00	Per event 0.00
					Haz Waste Day included in base rate. (2)
<b>TOTAL BASE BID AMOUNT</b>					<b>\$311,348.90</b>
Note: Quantities are estimates only and are NOT a commitment to pay for such quantities. The City shall pay for actual quantities during the term of the Contract and renewals, thereof, if any.					

<b>OTHER ITEMS AND SERVICES</b>				
	Item Description	Collection Location	Collection Frequency	Price Per Unit
A	Garbage Cart – 95 Gallon (Each)	Not Applicable	Not Applicable	\$15.00 per month
B	Recyclables Cart – 95 Gallon Cart (Each)	Not Applicable	Not Applicable	\$15.00 per month
C	Recyclables Cart – 32 Gallon Cart (Each)	Not Applicable	Not Applicable	\$10.00 per month
D	Natural Disaster Debris Collection and Disposal Services (Per Cubic Yard)	Curbside	As Needed	\$25.00 per Cyd

City of Vestavia Hills, Alabama  
 COLLECTION AND DISPOSAL SERVICES FOR RESIDENTIAL  
 GARBAGE, TRASH, RECYCLABLES, LEAVES, AND STORM DEBRIS

**BID TABLE**

BASE BID					
	Category of Service	Location of Garbage Collection	Estimated Number of Residences	Monthly Recurring Fee Per Unit	Extended Monthly Cost
1	Single-Family Residential Garbage, Trash, and Recyclable Materials	Curbside	13,000	\$ 27.40	\$356,200.00
2	Single-Family Residential Garbage, Trash, and Recyclable Materials	Rear Door (for those unable to go curbside)	560	\$ 35.00	\$ 19,600.00
3	Single-Family Residential Garbage, Trash, and Recyclable Materials	Rear Door (for those who opt for increase)	100	\$ 35.00	\$ 3,500.00
2	8-yard Dumpsters emptied two times per week	Vestavia Villa Condos	per dumpster	200.00	\$ 200.00
4	8-Yard Dumpsters emptied two times per week	Southbury Condominiums	Not Applicable	\$200.00	\$ 200.00
5	4-Yard Dumpsters emptied two times per week	Cabana Condominiums	Not Applicable	125.00	\$ 125.00
2	Hazardous Waste Days	TBD		no Bid	Per event
<b>TOTAL BASE BID AMOUNT</b>					<b>\$ 379,825.00</b>
Note: Quantities are estimates only and are NOT a commitment to pay for such quantities. The City shall pay for actual quantities during the term of the Contract and renewals, thereof, if any.					

OTHER ITEMS AND SERVICES				
	Item Description	Collection Location	Collection Frequency	Price Per Unit
A	Garbage Cart – 95 Gallon (Each)	Not Applicable	Not Applicable	\$ 77.00
B	Recyclables Cart – 95 Gallon Cart (Each)	Not Applicable	Not Applicable	\$ 77.00
C	Recyclables Cart – 32 Gallon Cart (Each)	Not Applicable	Not Applicable	\$ 61.00
D	Natural Disaster Debris Collection and Disposal Services (Per Cubic Yard)	Curbside	As Needed	20.00 \$ per cubic yd

City of Vestavia Hills, Alabama  
**COLLECTION AND DISPOSAL SERVICES FOR RESIDENTIAL  
 GARBAGE, TRASH, RECYCLABLES, LEAVES, AND STORM DEBRIS**

**BID TABLE**

BASE BID					
	Category of Service	Location of Garbage Collection	Estimated Number of Residences	Monthly Recurring Fee Per Unit	Extended Monthly Cost
1	Single-Family Residential Garbage, Trash, and Recyclable Materials	Curbside	13,000	\$ 25.74	\$ 334,620. <sup>00</sup>
2	Single-Family Residential Garbage, Trash, and Recyclable Materials	Rear Door (for those unable to go curbside)	560	\$ 25.74	\$ 14,414. <sup>40</sup>
3	Single-Family Residential Garbage, Trash, and Recyclable Materials	Rear Door (for those who opt for increase)	100	\$ 45.00	\$ 4,500. <sup>00</sup>
2	8-yard Dumpsters emptied two times per week	Vestavia Villa Condos		\$ 370.00	\$ 370.00
4	8-Yard Dumpsters emptied two times per week	Southbury Condominiums	Not Applicable	\$ 740.00	\$ 740.00
5	4-Yard Dumpsters emptied two times per week	Cahana Condominiums	Not Applicable	\$ 825.00	\$ 825.00
2	Hazardous Waste Days	TBD		\$ 19,500. <sup>00</sup>	Per event
<b>TOTAL BASE BID AMOUNT</b>					\$ 355,469. <sup>40</sup>
Note: Quantities are estimates only and are NOT a commitment to pay for such quantities. The City shall pay for actual quantities during the term of the Contract and renewals, thereof, if any.					

OTHER ITEMS AND SERVICES				
	Item Description	Collection Location	Collection Frequency	Price Per Unit
A	Garbage Cart – 95 Gallon (Each)	Not Applicable	Not Applicable	\$ 8.00
B	Recyclables Cart – 95 Gallon Cart (Each)	Not Applicable	Not Applicable	\$ 8.00
C	Recyclables Cart – 32 Gallon Cart (Each)	Not Applicable	Not Applicable	\$ 8.00
D	Natural Disaster Debris Collection and Disposal Services (Per Cubic Yard)	Curbside	As Needed	\$ 12.00 <sup>LCYD.</sup>



March 1, 2017

City Clerk  
Vestavia Hills City Hall  
1032 Montgomery Highway  
Vestavia Hills, AL 35216

**RE: "Sanitation Contract Bid"**

Dear Sir:

Unfortunately, Waste Management will not be capable to submit a bid for the:  
Invitation to Bid – Collection and Disposal Services for Residential Garbage, Trash, Recyclables,  
Leaves and Storm Debris on Wednesday, March 1, 2016 at 10:00 AM.

Waste Management is submitting a "No Bid" for the 2017 bid request. Waste Management requests to be included on all future bid requests and would embrace the opportunity to collaborate with the City of Vestavia Hills in the future.

Sincerely,

A handwritten signature in black ink that reads "M. P. Mitchell".

Michael P. Mitchell  
Waste Management  
*Public Sector*



5100 Flat Top Road  
Adamsville, AL 35005  
Phone: (205) 743-0080  
Fax: (205) 743-0085  
[www.bigskyenv.com](http://www.bigskyenv.com)

March 1, 2017

Mr. Brian Davis, Director Public Works  
City of Vestavia Hills  
1032 Montgomery Highway  
Vestavia Hills, Alabama 35216

Re: Proposal for Solid Waste Collection and Disposal

Dear Mr. Davis,

We at Big Sky Environmental LLC appreciate this opportunity to participate in the bidding process for the above referenced services. However, at this time Big Sky elects to submit a **NO BID** for these services.

Sincerely,  
Big Sky Environmental LLC

  
Winston Massey  
Marketing Specialist

## CONTRACT

THIS CONTRACT, made and entered into on this day \_\_\_\_\_ of \_\_\_\_\_, 2017 by and between the City of Vestavia Hills, Alabama (hereinafter called the "City"), and BFI Waste Services, LLC dba Republic Services of Birmingham (hereinafter called the "Contractor").

### WITNESSETH:

WHEREAS, the Contractor did submit a Proposal to provide services to collect and dispose or residential garbage and trash, collect residential recyclable materials, and collect and dispose of leaves within the City and to perform such work as may be incidental thereto.

NOW THEREFORE, in consideration of the following mutual agreements and covenants, it is understood and agreed by and between the parties hereto as follows:

1. The Contractor is hereby granted the sole and exclusive franchise, license and privilege within the territorial jurisdiction of the City and shall furnish all personnel, labor, equipment, trucks and all other necessary items to provide Residential Garbage and Trash Collection and Disposal, Residential Recycling Collection and Leaf Collection services as specified and to perform all of the work called for and described in the Contract Documents.

2. The Contract Documents shall include the following documents, and this Contract does hereby expressly incorporate same herein as fully as if set forth verbatim in this Contract:

- a. Contract Agreement
  - b. Proposal Form completed by the Contractor
  - c. Request for Bids
  - d. Advertisement for Bids
  - e. Instructions to Bidders
  - General Specifications
  - g. Bid Bond
  - h. Performance Bond
  - i. Certificates of Insurance
- Any addenda or changes to the foregoing documents agreed to by the parties hereto.

3. All provisions of the Contract Documents shall be strictly complied with and conformed to by the Contractor, and no amendment to this Contract shall be made except upon the written consent of the parties, which consent shall not be unreasonably withheld. No amendment shall be construed to release either party from any obligation of the Contract Documents except as specifically provided for in such amendment.

4. The City and the Contractor may by mutual agreement renew this contract all in accordance with the authority of Title 41-16-51 (a) (10) Code of Alabama 1975 pursuant to Section H.4 of III Specifications.

IN WITNESS WHEREOF, the City of Vestavia Hills and Contractor have caused this Agreement to be executed in duplicate original, on this day \_\_\_\_\_ of \_\_\_\_\_, 2017.

**CITY OF VESTAVIA HILLS**

**CONTRACTOR:**

By: \_\_\_\_\_  
Its City Manager

By: \_\_\_\_\_  
Its President

By: \_\_\_\_\_  
Its Mayor

Attested by: \_\_\_\_\_  
City Clerk

SEAL



City of Vestavia Hills, Alabama  
 COLLECTION AND DISPOSAL SERVICES FOR RESIDENTIAL  
 GARBAGE, TRASH, RECYCLABLES, LEAVES, AND STORM DEBRIS

**BID TABLE**

<b>BASE BID</b>					
	Category of Service	Location of Garbage Collection	Estimated Number of Residences	Monthly Recurring Fee Per Unit	Extended Monthly Cost
1	Single-Family Residential Garbage, Trash, and Recyclable Materials	Curbside	13,000	\$22.50	\$292,500.00
2	Single-Family Residential Garbage, Trash, and Recyclable Materials	Rear Door (for those unable to go curbside)	560	\$22.50	\$12,600.00
3	Single-Family Residential Garbage, Trash, and Recyclable Materials	Rear Door (for those who opt for increase)	100	\$37.64	\$3,764.00
2	8-yard Dumpsters emptied two times per week	Vestavia Villa Condos		\$524.69	\$524.69
4	8-Yard Dumpsters emptied two times per week	Southbury Condominiums	Not Applicable	\$1105.83	\$1,105.83
5	4-Yard Dumpsters emptied two times per week	Cabana Condominiums	Not Applicable	\$854.38	\$854.38
2	Hazardous Waste Days	TBD		0.00	Per event 0.00
					Haz Waste Day included in base rate. (2)
<b>TOTAL BASE BID AMOUNT</b>					<b>\$311,348.90</b>
Note: Quantities are estimates only and are NOT a commitment to pay for such quantities. The City shall pay for actual quantities during the term of the Contract and renewals, thereof, if any.					

<b>OTHER ITEMS AND SERVICES</b>				
	Item Description	Collection Location	Collection Frequency	Price Per Unit
A	Garbage Cart – 95 Gallon (Each)	Not Applicable	Not Applicable	\$15.00 per month
B	Recyclables Cart – 95 Gallon Cart (Each)	Not Applicable	Not Applicable	\$15.00 per month
C	Recyclables Cart – 32 Gallon Cart (Each)	Not Applicable	Not Applicable	\$10.00 per month
D	Natural Disaster Debris Collection and Disposal Services (Per Cubic Yard)	Curbside	As Needed	\$25.00 per Cyd



## **The City of Vestavia Hills**

### **Invitation to Bid**

# **Collection and Disposal Services For Residential Garbage, Trash, Recyclables, Leaves and Storm Debris**

**Bid Opening: March 1, 2017  
10:00 AM, Central Time**

**Mandatory Pre-Bid Meeting: February 1, 2017  
10:00 AM, Central Time**

City of Vestavia Hills, Alabama  
 COLLECTION AND DISPOSAL SERVICES FOR RESIDENTIAL  
 GARBAGE, TRASH, RECYCLABLES, LEAVES, AND STORM DEBRIS

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City of Vestavia Hills, Alabama  
COLLECTION AND DISPOSAL SERVICES FOR RESIDENTIAL  
GARBAGE, TRASH, RECYCLABLES, LEAVES, AND STORM DEBRIS

**I. BID INSTRUCTIONS**

**A. INTENT AND PURPOSE**

1. It is the intent and purpose of this bid to enter into a written contract for the efficient, healthful and aesthetic operation of collection, hauling and disposal of non-hazardous and noninfectious solid waste for residences and non-hazardous solid waste for city facilities located in the corporate city limits of the City of Vestavia Hills, Alabama.
2. Such services are to be rendered beginning October 1, 2017, through September 30, 2020.

**B. BID SUBMITTAL INSTRUCTIONS**

1. Bid Forms: All bidders must use the attached bid proposal forms (or copies thereof) to submit their bid. No alternate or substitute forms will be accepted. All bid responses must be typed or written in ink.
2. Submittal of Bids: All bids must be submitted in sealed envelopes that are clearly marked "**Sanitation Contract Bid**". Bid/Proposals must be delivered, no later than the specified bid opening date and time, to the following address:

City Clerk  
Vestavia Hills City Hall  
1032 Montgomery Highway  
Vestavia Hills, AL 35216

3. Electronic Transmittal of Bids is Unacceptable: Bid submittals delivered by fax, electronic mail, or other electronic transmittal methods will NOT be accepted as qualified bids.
4. Late Bids Are Not Acceptable: Late bids will NOT be opened nor accepted as qualified bids.
5. No Bid: If you choose not to bid yet desire to remain on the city's vendor/supplier list for future consideration, please submit an envelope by the bid deadline with "NO BID" clearly marked on the pricing submittal form and on the outside of the sealed envelope.
6. Submit Bids for All Items: Each and every item listed must be bid/quoted or your bid may be disqualified.
7. Notice of Award: Records showing successful bidder and prices will be kept on file within the City Clerk's Office and may be examined upon request.
8. Bid/Contract Documents: Bidders are asked to retain these instructions, conditions, and specifications for future reference. This document and its attachments will become your Contract, or a part thereof, with the City of Vestavia Hills if you are the successful bidder.
9. Inquiries: All inquiries regarding this bid should be directed to:

Brian Davis, Director  
Public Services  
(205) 978-0150  
[bdavis@vhal.org](mailto:bdavis@vhal.org)

City of Vestavia Hills, Alabama  
COLLECTION AND DISPOSAL SERVICES FOR RESIDENTIAL  
GARBAGE, TRASH, RECYCLABLES, LEAVES, AND STORM DEBRIS

10. Technical questions about the items specified within this Invitation to Bid must be submitted no later than the date and time specified within the Invitation to Bid.

**C. RECEIPT AND OPENING OF BIDS**

1. Bids will be received by the City at the Office of The City Clerk of the City of Vestavia Hills, Alabama, 1032 Montgomery Highway, Vestavia Hills, AL 35216, on or before the Submittal Deadline, and then, at said office, shall be publicly opened and read aloud.
2. The City may consider informal any bid not prepared and submitted in accordance with the provisions hereof or may waive any informalities in such submittal.
3. Any bid may be withdrawn prior to the scheduled time for the opening of bids or authorized postponement thereof. However, no Bidder may withdraw a bid within 90 days after the actual date of the opening thereof without forfeiture of Bid security or Bid Bond.
4. The right is reserved to reject any and all bids, to waive any informality in any bid, and to accept any bid considered advantageous to the Owner.

**D. BID (PROPOSAL) FORM**

1. The form of Proposal to be used by the Bidder(s) is included herein. No bid will be considered unless submitted on such form. All papers bound herein attached to the Proposal Form are an integral part thereof and must not be detached.
2. The Bidder(s) shall complete the Proposal Form using ink for writing figures, or figures may be typed. The Bidder(s) must execute the Bid correctly and must state his/her interest and/or title in the company submitting the Bid. If the Bid is submitted by an individual, the full name and address shall be shown; if made by a firm or partnership, the full name and address of each member of the firm or each partner shall be shown; and, if made by a corporation, the full names and addresses of all officers shall be shown.
3. Should the Proposal Form not be fully and properly completed by the Contractor, the Bid may be deemed to be informal and as such may be cause for rejection. Bidders shall not attach any conditions or provisions to the Documents nor alter the Proposal Form in any manner whatsoever.
4. The Proposal Form shall not be altered, nor shall any conditions or provisions be attached hereto.

**E. INTERPRETATIONS OF CONTRACT DOCUMENTS**

1. Explanations desired by a prospective Bidder shall be requested of the City in writing, and if explanations are necessary, a reply shall be made in the form of an Addendum, a copy of which will be forwarded to each Bidder. Every request for such explanation shall be in writing addressed to the City Clerk and shall be received at least 48 hours prior to the opening of bids. Any verbal statements regarding same by any person prior to the award, shall be unauthorized and not binding.
2. Addenda issued to Bidders prior to date of receipt of Proposals shall become a part of the Contract Documents, and all Proposals shall include the work described in the Addenda.

---

End of Bid Instructions Section

City of Vestavia Hills, Alabama  
COLLECTION AND DISPOSAL SERVICES FOR RESIDENTIAL  
GARBAGE, TRASH, RECYCLABLES, LEAVES, AND STORM DEBRIS

**II. GENERAL CONDITIONS**

**A. LEGAL CONDITIONS**

1. By tender of a bid, the Bidder is assumed to have made himself aware of all federal and state laws, and with all local ordinances and regulations which may affect the work, or those engaged or employed on the work, and no arguments or misunderstanding or misinformation regarding same will be heard by the City.
2. All bidders shall comply with the applicable solid waste legislation of the State of Alabama and the rules and regulations of the Jefferson County Health Department that are in existence as of this Bid. In addition, all bidders shall comply with the Federal Motor Carrier Safety Regulations issued by the US. Department of Transportation, Federal Highway Administration.

**B. BID BOND**

1. The Bidder shall furnish a bid bond in the amount of five percent (5%) of the total amount of the bid, not to exceed a maximum of \$10,000.
2. The bidder to whom the contract shall be awarded will be required to execute four (4) copies of the contract on the form attached hereto or such form as may be mutually agreed upon by the City and the selected bidder and to furnish insurance certificates as required.
3. In case of the bidder's refusal or failure to enter into a contract within thirty (30) days of its receipt of formal notice of award, the bidder will be considered to have abandoned all rights and interests in the award, and the bid bond may be declared forfeited to the City as liquidated damages. The award may then be made to the next best-qualified bidder or the work re-advertised for proposals, as the City may elect.
4. Bid bonds will be returned promptly either after the City and the selected bidder have entered into a contract; or, if no proposal has been selected within 90 days after the date of the opening of the bids, upon the demand of the bidder, and anytime thereafter, so long as the bidder has not been notified of the acceptance of its bid.

**C. PERFORMANCE BOND/PAYMENT BOND**

1. The Successfully bidder shall furnish to the City a performance bond or an irrevocable bank letter of credit for the faithful performance of obligations arising out of this bid in an amount equal to 100% of the annual contract amount.
2. Said performance bond shall be executed by a surety company that is satisfactory to the City of Vestavia Hills. The bonding company shall be a duly authorized, corporate surety, authorized to do business in the state of Alabama. A letter from the bonding company or bank shall be attached to the bid stating the contracting company can obtain said performance bond or letter of credit equivalent to 100% of the bid amount. Such letter is to be signed by an authorized representative of the surety together with a certified and effectively dated copy of the power of attorney attached thereto. Premium for the bonds described above shall be paid by the Contractor. A certificate from the surety showing that the bond premiums are paid in full shall accompany the bond. The bonding company will be responsible for Contractor's default should that occur for any reason whatsoever.
3. In addition, the successful bidder will be required to furnish, through an authorized agent in the State of Alabama, a Payment Bond, equivalent to 100% of the bid amount. The Performance Bond must be countersigned by an agent whose office is located in and authorized to do business in the State of Alabama.

City of Vestavia Hills, Alabama  
COLLECTION AND DISPOSAL SERVICES FOR RESIDENTIAL  
GARBAGE, TRASH, RECYCLABLES, LEAVES, AND STORM DEBRIS

**D. AWARD OF CONTRACT**

1. The Contract, if awarded, will be awarded to the lowest responsive, responsible and acceptable bidder, provided a satisfactory bid has been received.
2. The City reserves the right not to accept any Bid or to reject any or all Bids or waive any formality in any bid. In particular, any alteration, erasure or interlineations of the Contract Documents or the Bid may subject the Proposal to rejection by the City.
3. The City intends that the Contract shall be awarded within thirty (30) days following the date that Bids are publicly opened and read.
4. The Bid shall be deemed as having been awarded effective upon the vote or resolution of the City Council and formal notice of such award shall be made by the City to the successful bidder.

**E. ASSIGNMENT OR TRANSFERS**

1. The Contractor shall not assign any portion of this Contract, nor compensation due, without prior written consent of the City Council.
2. Should the Contractor assign any part of any compensation due or to become due under this Contract, the form of assignment shall contain a clause of such wording that the Contractor agrees that the right of the assignee to any monies due or to become due to the Contractor shall be subject to prior valid claims of all persons, firms, and corporations for service rendered or materials supplied for the performance of work under this Contract.

**F. SUBCONTRACTS**

No part of the Contract shall be sublet without the prior written approval of the City Council.

**G. CONDITIONS**

1. Each Bidder shall fully acquaint itself with conditions relating to the scope and restrictions attending the execution of the work under the Contract. Bidders shall thoroughly examine and be familiar with the Specifications. It is also expected that the Bidder will obtain information concerning the conditions that may affect its work.
2. The failure or omission of any Bidder to receive or examine any form, instrument, addendum or other document, or to acquaint itself with existing conditions, shall in no way relieve it of any obligations with respect to this Bid or to the Contract. The City shall make all such documents available to the Bidders.
3. The Bidder shall make its own determination as to conditions and shall assume all risk and responsibility and shall complete the work in and under conditions it may encounter or create, without extra cost to the City.
4. The Bidder's attention is directed to the fact that all applicable State laws, municipal ordinances, and the rules and regulations of all authorities having jurisdiction over the work to be performed shall apply to the Contract throughout, and they will be deemed to be included in the Contract as though written out in full in the Contract.

**H. ARBITRATION**

1. All claims, disputes, and other matters in question between the parties to this agreement arising out of or relating to this agreement or the breach thereof, shall be decided by arbitration in accordance with the rules of the American Arbitration Association, unless the parties mutual agree otherwise.

City of Vestavia Hills, Alabama  
COLLECTION AND DISPOSAL SERVICES FOR RESIDENTIAL  
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2. Notice of demand for arbitration shall be filed in writing with the other party to this agreement and with the American Arbitration Association. The demand shall be made within a reasonable time after the claim, dispute, or other matter in question has arisen.
3. In no event shall the demand for arbitration be made after the date when institution of legal or equitable proceedings based on such claim dispute or other matter in question would be barred by the applicable statute of limitations. The award rendered by the arbitrators shall be final.

**I. INDEMNIFICATION**

1. To the fullest extent permitted by law, the Contractor shall defend, indemnify, and hold harmless the City of Vestavia Hills and, collectively, its agents, elected officials, boards, employees, and consultants (hereinafter collectively referred to as the "Indemnitees") from and against all claims, damages, losses and expenses, including but not limited to attorneys' fees, arising out of, related to, or resulting from performance of the Work, provided that such claim, damage, loss or expense is:
  - a. Attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property, including loss of use, and
  - b. Is caused in whole or in part by negligent act or omission of the Contractor, any subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts they may be liable, regardless of whether or not it is caused in part, or is alleged but not legally established to have been caused in part, by a party indemnified under this contract.
2. This indemnification shall extend to all claims, damages, losses and expenses for injury or damage to adjacent or neighboring property, or persons injured thereon, that arise out of, relate to, or result from performance of the Work.
3. This indemnification does not apply to the extent of the sole negligence of the Indemnitees.

**J. INSURANCE REQUIREMENTS**

**1. GENERAL**

- i. **RESPONSIBILITY.** The Contractor shall be responsible to the City from the time of the signing of the Contract or from the beginning of the first work, whichever shall be earlier, for all injury or damage of any kind resulting from any negligent act or omission or breach, failure or other default regarding the work by the Contractor, a Subcontractor, anyone directly employed by them or anyone for whose acts they may be liable, regardless of who may be the owner of the property.
- ii. **INSURANCE PROVIDERS.** Each of the insurance coverages required below shall be issued by an insurer licensed by the Insurance Commissioner to transact the business of insurance in the state of Alabama for the applicable line of insurance, and such insurer (or, for qualified self-insureds or group self-insureds, a specific excess insurer providing statutory limits) must have a Best Policyholders Rating of "A-" or better and financial size rating of Class V or larger.
- iii. **NOTIFICATION ENDORSEMENT.** Each policy shall be endorsed to provide that the insurance company agrees that the policy shall not be canceled, changed, allowed to lapse or allowed to expire for any reason until thirty days after the



City of Vestavia Hills, Alabama  
 COLLECTION AND DISPOSAL SERVICES FOR RESIDENTIAL  
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City has received written notice by certified mail as evidenced by return receipt or until such time as other insurance coverage providing protection equal to protection called for in the Contract Documents shall have been received, accepted and acknowledged by the City. Such notice shall be valid only as to the Services as shall have been designated by Contract Name in said notice.

- iv. **INSURANCE CERTIFICATES REQUIRED.** The Contractor shall procure the insurance coverages identified below, or as otherwise required in the Contract Documents, at the Contractor's own expense, and to evidence that such insurance coverages are in effect, the Contractor shall furnish the City an insurance certificate(s) acceptable to the City and listing the City as the certificate holder. The insurance certificate(s) must be delivered with the Contract and Bonds for final approval and execution of the Contract. Copies of the insurance certificates and attachments should also be sent to:
  - 1. The City Clerk, 1032 Montgomery Highway, Vestavia Hills, AL 35216; and/or
- v. **INSURANCE CERTIFICATE DOCUMENTATION AND CONTENT.** Each insurance certificate(s) must provide the following:
  - 1. Name and address of authorized agent of the insurance company
  - 2. Name and address of insured
  - 3. Name of insurance company or companies
  - 4. Description of policies
  - 5. Policy Number(s)
  - 6. Policy Period(s)
  - 7. Limits of liability
  - 8. Name and address of City as certificate holder
  - 9. Contract Name and Number, if any
  - 10. Signature of authorized agent of the insurance company
  - 11. Telephone number of authorized agent of the insurance company
  - 12. Mandatory thirty-day notice of cancellation / non-renewal / change
  - 13. Special attachments or endorsements to meet the requirements of the insurance coverages specified should be attached.
- vi. **DEDUCTIBLES AND SELF-INSURED RETENTIONS.** The Contractor will be responsible for deductibles and self-insured retentions for claims made under its policies.
- vii. **ADDITIONAL INSURED; CONTRACTOR'S INSURANCE AS PRIMARY**
  - 1. The Contractor's insurance policies shall name the City of Vestavia Hills, and its agents elected officials, boards, and employees, as Additional Insureds;
  - 2. The Contractor's insurance policies shall state that this coverage shall be primary insurance for Additional Insureds and shall be Noncontributory with regard to any insurance carried by the City and shall contain no exclusions of the Additional Insured(s) relative to job related injuries or illness.

City of Vestavia Hills, Alabama  
 COLLECTION AND DISPOSAL SERVICES FOR RESIDENTIAL  
 GARBAGE, TRASH, RECYCLABLES, LEAVES, AND STORM DEBRIS

- viii. COMBINATION OF COVERAGES. Any combination of primary and umbrella/excess coverage is acceptable as long as it satisfies the combined minimum coverage limits of each line.

2. INSURANCE COVERAGES. The Contractor shall possess the types of insurance coverages with liability limits not less than as follows:

- a. WORKERS' COMPENSATION and EMPLOYER'S LIABILITY INSURANCE as follows:
1. Workers' Compensation coverage shall be provided in accordance with the statutory coverage required in Alabama. A group insurer must submit a certificate of authority from the Alabama Department of Industrial Relations approving the group insurance plan. A self-insurer must submit a certificate from the Alabama Department of Industrial Relations stating the Contractor qualifies to pay its own workers' compensation claims.
  2. Employer's Liability Insurance limits shall be at least:
    - (a) Each accident - \$1,000,000
    - (b) Disease – each employee \$1,000,000
    - (c) Disease – policy limit \$1,000,000
  3. No Proprietor/Partner/Executive Officer/Member of the Contractor shall be excluded.
  4. The Contractor's worker's compensation policy shall contain a waiver of Subrogation Clause in favor of the City.
- b. COMMERCIAL GENERAL LIABILITY INSURANCE:
1. Commercial General Liability Insurance, shall be written on an ISO Occurrence Form (current edition as of the date of Advertisement for Bids) or equivalent. The Commercial General Liability Insurance shall provide at minimum the following:
    - a. \$1,000,000 per occurrence
    - b. \$2,000,000 general aggregate
    - c. Additional insured endorsement
    - d. Blanket contractual liability
    - e. Blasting and explosion, collapse of structure and underground damage (XCU) shall not be excluded
    - f. Bodily Injury and broad form property damage arising from premises operation liability
    - g. Contractor's Liability
    - h. Personal Injury liability
    - i. Products & Completed Operations Liability, maintained for at least two years after completion of Work
    - j. Punitive damages shall not be excluded
    - k. Severability of interests
- c. COMMERCIAL AUTOMOBILE LIABILITY INSURANCE:
1. Commercial Automobile Liability Insurance which shall include coverage for bodily injury and property damage arising from the operation of any owned, non-owned, or hired automobile.
  2. The Commercial Automobile Liability Policy shall provide not less than \$1,000,000 Combined Single Limit for each occurrence.

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- d. **COMMERCIAL UMBRELLA OR EXCESS LIABILITY INSURANCE:**
  - 1. Commercial Umbrella or Excess Liability Insurance to provide excess coverage above the Commercial General Liability, Commercial Automobile Liability and the Employer’s Liability coverage of Workers’ Compensation.
  - 2. Excess/Umbrella Limits of:
    - i. \$10,000,000 per Occurrence
    - ii. \$10,000,000 per Aggregate
    - iii. The policy must be on an “occurrence” basis
- 3. **SUBCONTRACTOR’S INSURANCE:**
  - a. **WORKERS’ COMPENSATION and EMPLOYER’S LIABILITY INSURANCE.** The Contractor shall require each Subcontractor to obtain and maintain Workers’ Compensation and Employer’s Liability Insurance coverages or to be covered by the Contractor’s Workers’ Compensation and Employer’s Liability Insurance while performing Work under the Contract.
  - b. **LIABILITY INSURANCE.** The Contractor shall cover their subcontractor’s liabilities using their own judgment to either cover these liabilities as their own or require their Subcontractor to obtain and maintain coverage. However, the Contractor chooses to cover the Subcontractor’s liability, such coverage shall be in effect at all times that a Subcontractor is performing Work under the Contract.
- 4. **WAIVERS of SUBROGATION.** The Contractor waives all subrogation rights against the City for all claims or actions covered by the Contractor’s insurance.

**K. ALABAMA IMMIGRATION LAW COMPLIANCE REQUIREMENTS**

- 1. Bidder/Vendor agrees that it will fully comply with the Immigration Reform and Control Act of 1986, as amended by the Immigration Act of 1990, and the Beason-Hammon Alabama Taxpayer and Citizen Protection Act, as amended, which makes it unlawful for an employer in Alabama to knowingly hire or continue to employ an alien who is or has become unauthorized with respect to such employment or to fail to comply with the I-9 requirements or fails to use E-Verify to verify the eligibility to legally work in the United States for all of its new hires who are employed to work in the State of Alabama. Without limiting the foregoing, Vendor shall not knowingly employ, hire for employment, or continue to employ an unauthorized alien.
- 2. Vendor shall also enroll in the E-Verify Program prior to performing any work, or continuing to perform any ongoing work, shall remain enrolled throughout the entire course of its performance hereunder, shall supply to the CITY a copy of its E-Verify Memorandum of Understanding and such other documentation as CITY may require to confirm Vendor’s enrollment in the E-Verify Program and shall allow the CITY to inspect its records to confirm such compliance.
- 3. Vendor agrees that it shall, not knowingly, allow any of its suppliers, or any other party with whom it has a contract, to employ in the State of Alabama any illegal or undocumented aliens to perform any work in connection with the Project, and shall include in all of its contracts a provision substantially similar to this paragraph. If Vendor receives actual knowledge of the unauthorized status of one of its employees in the State of Alabama, it will remove that employee from the project, jobsite or premises of CITY and shall comply with the Immigration Reform and Control Act of 1986, as amended by the Immigration Act of 1990, and the Beason-Hammon Alabama Taxpayer and Citizen Protection Act, as amended. Bidder/Vendor shall require each of its suppliers, or other parties with whom it has a contract, to act in a similar fashion. If Vendor violates any term of this provision, this Agreement will be subject to immediate termination by CITY.

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4. To the fullest extent permitted by law, Bidder/Vendor shall defend, indemnify and hold harmless CITY from any and all losses, consequential damages, expenses (including, but not limited to, attorneys' fees), claims, suits, liabilities, fines, penalties, and any other costs arising out of or in any way related to Vendor's failure to fulfill its obligations contained in this paragraph.

5. The following language is required by § 31-13-9 (k) Code of Alabama 1975 to be placed in all contracts covered by the Act: "By signing this contract, the contracting parties affirm, for the duration of the agreement, that they will not violate federal immigration law or knowingly employ, hire for employment, or continue to employ an unauthorized alien within the state of Alabama. Furthermore, a contracting party found to be in violation of this provision shall be deemed in breach of the agreement and shall be responsible for all damages resulting therefrom. If there is no formal written contract between CITY and the Bidder/Vendor, such as where business is conducted by purchase order, this document shall serve as the Alabama Immigration Compliance Contract. If you have received a copy of this Proposal Document and choose to do business with the CITY, it will be deemed that you have accepted the terms even if you fail to sign and return the Agreement.

**L. INDEPENDENT CONTRACTOR**

1. It is expressly agreed and understood that the Contractor is, in all respects, an independent contractor as to the work provided for herein and is, in no respect, an agent, servant or employee of the City.

2. This contract shall not be sublet or assigned except with the written consent of the City. No such consent shall be construed as making the City a party to such assigned contractor approved, or subject said City to liability of any kind to any subcontractor. Further, the City reserves the right to terminate this contract upon sixty (60) days' notice in the event the Contractor makes a substantial change in its corporate structure or its ownership without the written approval of the City. The City shall not unreasonably withhold any consent requested hereunder.

**M. COMPETENCY OF BIDDER**

1. The opening and reading of the Bid shall not be construed as an acceptance of the Bidder as a qualified, responsible Bidder. The City reserves the right to determine the competence and responsibility of a Bidder from its knowledge of the Bidder's qualifications or from other sources.

2. The City shall require with the submission of the Bid, the following supporting data regarding the qualifications of the Bidder in order to determine whether it is a qualified, responsible Bidder. The Bidder will be required to furnish the following information:

- a) A copy of the latest available certified financial statement of Bidder (or its parent corporation if individual subsidiary or division financial statements are not prepared and generally available) certified by a nationally recognized firm or independent certified public accountants.
- b) Evidence that the Bidder is in good standing under the laws of the State of Alabama, and, in the case of corporations organized under the laws of any other State, evidence that the Bidder is licensed to do business and in good standing under the laws of the State of Alabama or a sworn statement that it will take all necessary action to become so licensed if its bid is accepted.
- c) Evidence, in form and substance satisfactory to City, that Bidder has been in continuous existence as a going concern for in excess of five (5) years or more and possesses not less than five (5) years actual operating experience as a going concern in refuse collection and disposal, which will ensure their ability to maintain operations under all conditions. Also, Bidder possesses not less than five (5) years actual operating experience as a going concern in recyclable materials collection.

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d) At least five (5) References and other pertinent evidence, in form and substance satisfactory to City, that Bidder's experience as a going concern in refuse collection and disposal derived from operations of comparable size to that contemplated by the Contract Documents.

e) Evidence, in form and substance satisfactory to City, that Bidder is licensed and permitted to transport and dispose of non-hazardous solid waste and city generated infectious medical waste, including special waste.

f) All bidders shall be required to demonstrate to the satisfaction of the City that they have adequate financial resources, experienced personnel, equipment, and expertise to perform the services required by the specifications. No contract will be awarded to any bidder who, as determined by the City, has an unsatisfactory performance record or inadequate experience or who lacks the necessary capital, organization, and equipment that is no older than five (5) years, to conduct and complete the collection, hauling and disposal services in strict accordance with the specifications of this Bid. The decision of the City will be final.

g) List of cities of comparable size for which Contractor is currently providing a similar service.

h) List of equipment, including quantity, year, make and model that the Contractor proposes to use in fulfilling its contractual obligations if Contractor receives award of this bid.

3. In the event that the City shall require additional certified supporting data regarding the qualifications of the Bidder in order to determine whether he is a qualified responsible Bidder, the Bidder may be required to furnish any or all of the following information sworn to under oath:

a) Evidence that the Bidder is capable of commencing performance as required in the Contract Documents.

b) Evidence, in form and substance satisfactory to City, that Bidder possesses as a going concern the managerial and financial capacities to perform all phases of the work called for in the Contract Documents.

c) Evidence, in form and substance satisfactory to City, that Bidder maintains records of a drug testing program.

d) Evidence, in form and substance satisfactory to City, that Bidder maintains records of an active safety program.

e) Evidence, in form and substance satisfactory to City, that Bidder maintains records of a driver and employee credentialing program.

f) Such additional information as will satisfy the City that the Bidder is adequately prepared to fulfill the Contract.

4. The Bidder may satisfy any or all of the experience and qualifications of the above paragraph by submitting the experience and qualification of its parent organization and subsidiaries or affiliates of the parent.

#### **N. DISQUALIFICATION OF BIDDERS**

1. Although not intended to be an exhaustive list of causes for disqualification, any one or more of the following causes, among others, may be considered sufficient for the disqualification of a Bidder and the rejection of its Bid:

a) Evidence of collusion among Bidders.

b) Lack of competency as revealed by either financial statements, experience or equipment statements as submitted or other factors.

c) Lack of responsibility as shown by past work, judged from the standpoint of workmanship as submitted.

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**End of General Conditions Section**

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### III. SPECIFICATIONS

#### A. DEFINITIONS

1. *"City"* means the City of Vestavia Hills, a municipal corporation acting through its City Manager and Council, or other officials designated by them, as the case may be.
2. *"Owner"* shall mean City Manager and Council, or other officials designated by them.
3. *"Contractor"* shall mean the person, firm, or business entering into the Contract with the City.
4. *"Contract Documents"* shall include the Contract, Bid Form completed by the Contractor, Bid Bond, Invitation to Bid, Instructions to Bidders, Performance Bond, General Conditions, Supplemental Conditions, Special Conditions, Specifications, Addenda to Bid Specifications, Forms, Exhibits, and all Contract Addenda.
5. *"Garbage"* shall mean all solid or semi-solid refuse subject to decay or putrefaction, tin cans, bottles, paper and all waste of animal or vegetable matter, all bagged yard debris, except:
  - a. large appliances, heavy furniture, materials that will not fit into a 95 gallon cart;
  - b. infectious medical waste (not including fire stations and municipal jail);
  - c. trees, wallpaper, roofing material, plaster, concrete, concrete blocks, or other substances that may accumulate as a result of the clearing of lots or land, or of the repairs to or construction of buildings undertaken and performed by licensed contractors; and
  - d. Waste or refuse which is defined, characterized or designated as hazardous by the United States Environmental Protection Agency or appropriate State agency by or pursuant to Federal or State law, or which cannot be lawfully disposed of at a sanitary landfill without special treatment or handling.
6. *"Trash"* shall mean all tree limbs (except trees and limbs which are so large as to be incapable of being handled by the equipment contemplated for use under this contract), old furniture, mattresses, bed springs, small debris, non-putrescible solid waste, cloth, paper, cardboard, cardboard boxes, tin cans, glass and other similar materials excluding
  - a. an item weighing over 700 pounds;
  - b. an item over eight (8) feet long;
  - c. an item excepted in the definition of *"Garbage"* herein.
7. *"Landfill Facility"* shall mean a facility selected by Contractor, approved by the City and operated, sanctioned and licensed under the laws of the State of Alabama.
8. *"Recyclable Materials"* shall include: newsprint, aluminum and bi-metal cans; HDPE clear plastic milk jugs and PET plastic soft drink containers, cardboard and cardboard boxes including certain food packaging made of light cardboard materials, shoe boxes, and all household and office paper products (i.e. office paper, computer paper, magazines, phone books, envelopes, file folders, junk mail); and shall exclude: glass, styrofoam, plastic bags, paper towels, tissue products, and food containers that have come in direct contact with food. The Contractor may add other recyclable materials as desired.
9. *"Hazardous Waste"* - Waste, in any amount, that contains any hazardous materials, wastes or substances; toxic substances, wastes or pollutants; contaminants; pollutants; infectious wastes; medical wastes; or radioactive wastes, each as defined by applicable federal, state or local laws or regulations, or waste, in any amount, which is regulated under Federal or State law. For purposes of this Contract, the term Hazardous Waste shall also include motor oil, gasoline, paint, paint cans, and any other waste materials which require special handling, collection, transportation, or disposal requirements under local, state or federal laws or regulations beyond those required for standard municipal solid waste.

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10. *“Residence”* shall mean an occupied dwelling (whether a single family home or a condominium, or townhouse) within the limits of the City.
11. *“SFR”* or *“Single-Family Residence”* shall mean a detached single-family dwelling.
12. *“Health Department”* shall mean the State, City or County Health Department having jurisdiction over the particular activity or geographical area involved.

**B. CONTRACT PERIOD**

1. This contract shall commence on October 1, 2017, and will expire, unless extended or renewed, on September 30, 2020, subject to any restrictions, limitations, and conditions placed on the City’s contractual authority by State law, it being acknowledged that this contract is related to the performance of a governmental function of the City and is burdened with the law applicable thereto, including that law pertaining to the power to contract.
2. The city and the contractor may renew this contract by mutual consent.

**C. SCOPE OF WORK**

1. **Garbage Collection and Disposal Services**
  - a. The City respectfully requests a transition plan be included with each bid packet.
  - b. It shall be the duty of the Contractor to collect all residential garbage as defined above generated within the corporate limits of the City and to properly dispose of such garbage at an approved Landfill Facility,
  - c. The Contractor shall furnish to the City all routes and schedules used by the Contractor to perform such services and shall notify the City, in advance, of any changes in routing structure, equipment or other services performed or made.
  - d. The Contractor shall use enclosed vehicles to pick up containerized or bagged residential Garbage located at the curbside or, when applicable, at the rear of each dwelling or residence and shall return such containers to their previous location with lids in the closed position. **Carts shall NOT be left in such location that causes streets, driveways, and/or mailboxes to be blocked.**
  - e. The Contractor shall perform such garbage collection services as provided herein at a **frequency of two (2) times per week, Monday through Friday, fifty-two (52) weeks per year.** Garbage collection schedules should allow for a minimum of two days between each pickup.
  - f. The Contractor shall pick up garbage at all municipal buildings, parks, fire stations **(including infectious medical waste at fire stations and jail)**, and other city facilities, excluding schools, two (2) times per week at no additional cost to the City. Dumpsters shall be provided by the contractor as needed.
    - i. A list of city-owned or city-leased facilities is attached to the Contract Documents.
    - ii. The Contractor shall pick up garbage two (2) days per week, and trash one (1) day per week at each city park.
    - iii. The Contractor will be notified by the Department of Public Services of Special City sponsored events for which dumpster and/or roll-off garbage collection and disposal services shall be provided at no additional charge to the City. Such Special Events include but are not limited to:
      1. I Love America Day
      2. Wing Ding

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3. First Responders Picnic

- g. The Contractor shall furnish, at no additional charge, rear door garbage collection services for up to 600 residences who, for whatever reason, are unable to transport garbage to the curb. The City will furnish a list of such addresses to the Contractor.
- h. The Contractor will bill the residents directly for backdoor service at the same rate the City pays the Contractor for residents who are capable of placing garbage at the curb but who elect to pay for such rear door collection services.
- h. Garbage may be transferred from a resident's container into leak-proof containers used by the Contractor for the purpose of carrying garbage to collection trucks. Such transfers, however performed, shall be done in a sanitary manner and the Contractor shall pick up all material spilled in making such transfers. Collection of Garbage shall be made from the place where Garbage cans are located on the property.
- i. Vestavia Villa, Southbury and Cabana Condominiums have 8-yard and 4-yard dumpsters respectively that should be included in pick up two (2) times per week.
- j. When applicable, Containers picked up at the rear of any dwelling or residence shall be returned to the rear with lid(s) closed and shall, under no circumstances, be left at the curb.
- k. Workers and the truck to which they are assigned, shall be performing collection services on the same street at the same time – no stockpiling of garbage shall be permitted.
- l. All areas around garbage carts shall be left free from any refuse spilled during the collection. The Contractor shall not, however, be responsible for cleaning up unsanitary conditions around the refuse containers which were caused by the negligence or carelessness of the tenant or occupant.
- m. Care shall be taken by employees of the Contractor to prevent damage to containers by unnecessary rough treatment.
- n. Employees of the Contractor shall not be required to expose themselves to the danger of being bitten by dogs in order to accomplish the work provided for herein in any case where such animals are allowed to roam at large.
- o. Employees of the Contractor shall not be required to enter fenced areas unless requested to do so in writing by the City of Vestavia Hills or into basements for the purpose of performing the work provided herein.

2. Trash Collection and Disposal Services

- a. The Contractor shall collect all items of trash, as defined above, which are located at the curbside of each Residence in the City at a frequency of two (2) times per week, Monday through Friday, fifty-two (52) weeks per year. Trash collection schedules should allow for a minimum of two days between each pickup.
- b. Contractor will not be required to pick up trees, wallpaper, roofing material, plaster, concrete, concrete blocks, or other substances that may accumulate as a result of the clearing of lots or land, or of the repairs to or construction of buildings undertaken and performed by licensed contractors.
- c. The Contractor will not be responsible for quantities of trash for any one Residence in excess of ten (10) cubic yards per pickup. Quantities in excess thereof will be collected on subsequent trips.



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- d. Collection of trash shall be made from the place where trash is located on the property at curbside and no more than four (4) feet from the curb of the roadway or alley. Further, if containers or bins are used, they shall be replaced in such a manner as not to block driveways or mailboxes. Space about the containers or bins shall be left free from any trash or recyclable material spilled during the collection.
- e. Trash collection and related landfill charges are included in the unit garbage price and will not result in additional charges to the City.

**3. Recyclable Materials Collection and Disposal Services**

- a. The Contractor shall collect such materials one (1) time per week, on Wednesdays, fifty-two (52) weeks per year.
- b. Recyclable materials should be picked up in enclosed trucks designed specifically for recycling collection services in accordance with these specifications. The use of trailers for collection of Recyclable Materials is not acceptable.
- c. The Contractor shall collect recyclable materials, as defined above, which are placed at the curbside of each residence in the City. The recyclable materials may be commingled at curbside and shall be placed in containers supplied by the Contractor. Recyclable materials shall be collected as commingled and later sorted and separated at a facility designed specifically for that purpose.
- d. Once Recyclable Materials have been collected and transferred, carts shall be returned to their prior location. Carts shall NOT be left in such location that causes streets, driveways, and/or mailboxes to be blocked.
- e. The Contractor, pursuant to this Contract, shall be responsible for transporting all recyclable materials to central processing facilities where all materials will be recycled.
- f. All proceeds from the sale of the materials shall be the property of the Contractor. The Contractor shall report quarterly to the Department of Public Services the tonnage of recyclables, which are collected and disposed. Recyclables will not be taken to any landfill under any circumstance.
- g. Collection of Recyclable Materials shall be made from the place where the Recyclable Materials are located on the property at curbside and no more than four (4) feet from the curb of the roadway or alley. Further, if containers or bins are used, they shall be replaced in such a manner as not to block driveways or mailboxes. Space about the containers or bins shall be left free from any trash or recyclable material spilled during the collection.
- h. The Contractor shall furnish, at no additional charge, rear door recyclables collection services for up to 300 residences who, for whatever reason, are unable to transport recyclables to the curb. The City will furnish a list of such addresses to the Contractor.
- i. Collection of Recyclable Materials and related charges are included in the unit garbage price and will not result in additional charges to the City.
- j. Recent Recycled Materials Volume History for the City of Vestavia Hills: Available upon request.

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**4. Hazardous Waste**

- a. Contractor shall hold two days per year, once in April and once in September, a hazardous waste collection day. The location will be determined by the City.

**5. Disaster Debris Collection and Disposal Services**

- b. In the event of a natural disaster, such as a hurricane, tornado, ice storm, earthquake, or snow storm and in the event an unusual or unnatural amount of trash, limbs or debris is deposited by virtue of such natural disaster in the streets of the City, the Contractor will collect and remove this debris to a site designated by the City within the city limits of Vestavia Hills, or a mutually agreed upon site, for the cost indicated on the Bid Proposal.
- c. All debris shall be removed within a sixty-consecutive-day period following authorization to proceed.
- d. In the event of such a natural disaster, the City of Vestavia Hills reserves the right to hire other contractors to perform similar debris collection and disposal services, at then prevailing rates, so as to:
- i. Meet the requirements of FEMA and/or other federal, state, or local government regulations and agencies with regard to Public Assistance Grants; or
  - ii. For the safety, protection, health, and welfare of the public; or
  - iii. To ensure the continuous delivery of government services.

**D. QUALITY AND TIMELINESS OF SERVICE**

1. **Initial Start of Contract.** The Contractor shall be responsible for notifying all residents of the change from the current contractor (if a change is made) with mailings, hang-tags, and social media at the cost of the contractor. The Contractor shall have all equipment and carts in place within two (2) weeks of a signed contract
2. **Hours of Operation.** The collection described herein shall be between the hours of 7:00 A.M. and sunset, not to exceed 7:00 p.m., Monday through Friday, as established by the National Weather Service.
3. **Holidays.** Contractor shall not be required to collect garbage, trash, or recyclable materials on the six (6) following holidays: New Year's Day, Martin Luther King, Jr. Birthday, Fourth of July, Labor Day, Thanksgiving Day and Christmas Day. If a normally scheduled pickup falls on one of the above holidays, collections shall be on the following work day.
4. **Customer Service Office and Telephone.** The Contractor shall maintain a toll free telephone number to be operational, Monday through Friday 8:00 A.M. to 5:00 P.M., except for holidays. The Contractor shall maintain, at its cost, a telephone line listed in the name in which it does business as the Contractor. Calls must be answered and services rendered in a courteous and professional manner, during normal business hours by a live (not recorded), customer service agent employed by the Contractor and working within the Contractor's local office.
5. **Field Manager.** The Contractor shall provide and maintain adequate and competent supervision during the progress of the work through the employment and assignment of a Field Manager who will be in charge of the work performed in Vestavia Hills. All directives given to the Contractor or Field Manager by the City, when consistent with the provisions of the contract, shall be binding upon the Contractor. The Contractor shall further maintain continuous observation of the services performed under the contract to ensure compliance with the standards of quality and timeliness of services as described herein.

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6. **Contractor's Personnel.** The Contractor shall use only personnel who are qualified to perform the work required herein and shall require its employees to serve the public in a courteous, helpful and impartial manner. All work under this contract shall be performed in an efficient and workmanlike manner by careful and competent personnel who are thoroughly familiar with the type of work being performed, and all services performed shall be subject to inspection and approval by the City.
7. **Penalties.** The Contractor shall make every reasonable effort to provide high quality service and have no unresolved complaints. Because of the costs incurred by the City in administering and responding to unresolved complaints and unfulfilled requests, the Contractor shall pay to the City the sum of Two Hundred Dollars (\$200.00) for each complaint or request not satisfied by the Contractor within twenty-four (24) hours after receipt of notification thereof by the City. If there are more than two (2) complaints at the same residence within the same month, the City may double the penalty to Four Hundred Dollars (\$400.00) at the City's discretion, notwithstanding the 24-hour time period. When applicable, the Contractor will be notified of the imposition of such penalties by the Department of Public Services of the City of Vestavia Hills. Penalties shall apply to garbage, trash, recycling and cart delivery. Penalties for failure to provide required knuckle boom equipment is described under the heading "Equipment".
8. **Default.** In the event the Contractor fails to perform the work as described in this contract or neglects or refuses to comply with any of the other provisions of this contract, or in the event the Contractor willfully, knowingly, or repeatedly violates any ordinance of the City or any of the laws of the State of Alabama or any rules or regulations of the Health Department, now or hereinafter enacted pertaining to the collection, removal or disposal of Garbage, Trash or refuse, the City may give notice to the Contractor at its local office address, and the failure of the Contractor to remedy or correct such unsatisfactory condition within three (3) days from the date of mailing of such notice shall constitute a default herein. Furthermore:
  - a. In the event of the termination of this contract or in the event the City is required to initiate litigation to enforce any of its rights under and by virtue of this contract, the Contractor hereby agrees that if the City prevails it will reimburse the City for all costs, fees and expenses including reasonable attorney's fees incurred by the City in any such undertaking.
  - b. The termination of this contract shall not relieve the Contractor of the responsibility from any damages that the City may incur by reason of such default.
  - c. In the event that the performance by the Contractor of any of its obligations or undertakings hereunder shall be interrupted or delayed by an act of God or the common enemy of the result of war, riot, civil commotion, strike or labor unrest, or sovereign conduct or any other event beyond its reasonable control, then it shall be excused from such performance for the duration of such disturbance.
  - d. Additionally, the Contractor hereby agrees that in the event of such termination, interruption or delayed service, at the option of the City, all trucks, machinery and equipment utilized by the Contractor in the performance of this contract shall thereupon be delivered to the City and may be used by the City for a period of one hundred eighty (180) days without cost or charge from the date of such termination, interruption or delayed service.

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**E. EQUIPMENT REQUIREMENTS**

1. Equipment Requirements, Generally:
  - a. The Contractor will provide sufficient mechanical equipment to maintain regular schedules of collections and to fully perform all services in accordance with this contract.
  - b. All equipment shall be no older than five (5) years throughout the duration of the contract and all equipment shall be maintained in good working condition throughout the duration of the contract.
  - c. Vehicles are to be washed thoroughly on the inside and sanitized with a suitable disinfectant and deodorizer at least weekly, and all vehicles are to be washed on the outside at least weekly.
  - d. All trucks shall be equipped with appropriate telecommunication equipment as necessary to provide for direct communications between the Contractor's Resident Manager and the Contractor's personnel on each and every truck operating within the City of Vestavia Hills.
  - e. The Contractor shall provide appropriate telecommunication equipment to the Vestavia Hills Department of Public Services for the purpose of communicating directly with the Resident Manager.
  - f. The Contractor shall keep and retain sufficient back-up equipment to be available to replace equipment that requires maintenance or service.
  - g. All equipment used in the City shall be dedicated to the City of Vestavia Hills's benefit and shall not be scheduled for regular service to any other customer.
  - h. To ensure compliance with these specifications, the City's representative may inspect the Contractor's operation and equipment at reasonable times, and the Contractor shall permit such representative to make such inspection at any reasonable time or place.
  - i. All equipment must be leak free. If a roadway is stained by hydraulic fluid the Contractor will be responsible for cleaning the roadway.
2. Special Equipment Requirements for Garbage Collection:
  - a. All garbage collection trucks are to be equipped with automatic dumpers for the handling of carts.
3. Special Equipment Requirements for Trash Collection:
  - a. The Contractor will provide exclusive use of, at least, four (4) knuckle boom trucks operating for the City at least five (5) days a week.
  - b. In addition to the above knuckle booms, the Contractor will furnish exclusive use of two (2) additional knuckle booms from March 1st through August 31st of each year to provide such additional support and which may be specifically directed and dispatched by the Department of Public Services when needed and where needed.
4. Special Equipment Requirements for Collection of Recyclable Materials:
  - a. Recyclables should be picked up in trucks designed specifically for recycling.
  - b. Trailers are not acceptable.
6. Additional equipment will be provided on an as-needed basis as required by the Department of Public Services (i.e., additional knuckle booms, rear loaders, etc.).

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7. Failure to provide equipment, as specified, will allow the City to assess a \$500 (five hundred dollar) per day per truck penalty to be imposed until the Contractor can provide evidence that all required equipment is active and functioning properly within the City of Vestavia Hills.

**F. CART SPECIFICATIONS FOR GARBAGE AND RECYCLABLE MATERIALS**

1. Carts, Generally:

- a. The Contractor will provide One (1) Garbage Cart AND One (1) Recyclables Cart per dwelling at no cost to the City or resident.
  - i. Garbage Carts shall be an MSD 95-gallon plastic molded refuse cart as specified below.
  - ii. The Contractor shall provide Recyclables Carts in two sizes as described and specified below. The Contractor shall be responsible for contacting each resident to determine which-sized Recyclables Cart is desired and then shall deliver the desired sized cart accordingly:
    1. An MSD 95-gallon plastic cart as specified below (Standard), OR
    2. An MSD 32-gallon plastic cart as specified below (Alternate).
- b. The Contractor will provide one (1) additional MSD plastic molded refuse carts, as requested, at no cost to the homeowner. Any cart above two (2) shall be provided at the cost indicated on the Bid Proposal Form. "Extra" carts refer to carts that are provided to residents over-and-above the two (2) cart provided at no charge to each residence.
- c. Carts that are damaged, lost or stolen shall be replaced promptly, upon request at no additional cost to the city or resident.
- d. When replacement or additional carts are requested, the Contractor will assemble and deliver such fully-assembled cart to the resident within two business days. Failure to deliver carts by the appropriate deadline may, at the city's sole discretion, result in the imposition of penalties as specified under the heading "Standards of Quality and Timeliness of Service" and the sub-heading "Penalties".
- e. The carts proposed for use by the Contractor under this Contract must meet the specifications as described herein and/or be approved by the City of Vestavia Hills.
- f. Contractor will maintain an inventory of a minimum of one-hundred-fifty (150) 95-gallon garbage carts, one-hundred-fifty (150) 95-gallon recycling carts, and one-hundred (100) 32-gallon recycling carts at all times.
- g. The city will accept matching new or refurbished carts. Color must be approved by Public Service Director.

2. Cart Specifications:

- a. **Garbage Cart Specifications (95 Gallon):**
  - i. Cart shall meet minimum qualities and characteristics of MSD 95-gallon cart manufactured by Otto Industries, Incorporated, or equal.
  - ii. Cart body shall be high-density polyethylene plastic body.
  - iii. Container body shall be completely sealed without any open areas and have two rubber wheel assemblies.
  - iv. Cart shall be designed for manual or semi-automated bar lifter systems.
  - v. Cart lid shall be attached securely to the body and fit closely on top and rim of cart. Lid should be domed to facilitate water run-off.

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- vii. Color: 95-gallon Garbage Carts shall be non-facing, ultraviolet stabilized gray
  - viii. Dimensions should be approximately 26" wide, 33" deep and 46" tall.
  - ix. Load rating should be approximately 200 pounds.
  - b. **Primary Recyclables Cart Specifications (95 Gallon):**
    - i. Cart shall meet minimum qualities and characteristics of MSD-95gallon cart manufactured by Otto Industries, Incorporated, or equal.
    - ii. Cart body shall be high-density polyethylene plastic body.
    - iii. Container body shall be completely sealed without any open areas and have two rubber wheel assemblies.
    - iv. Cart shall be designed for manual or semi-automated bar lifter systems.
    - v. Cart lid shall be attached securely to the body and fit closely on top and rim of cart. Lid should be domed to facilitate water run-off.
    - vi. Cart body shall be sequentially numbered with permanent hot stamped 1 ½" high white numbers on front of cart body.
    - vii. Color: 95-gallon Garbage Carts shall be non-facing, ultraviolet stabilized blue
    - viii. Dimensions should be approximately 26" wide, 33" deep and 46" tall. Load rating should be approximately 200 pounds.
  - c. **Alternate Recyclables Cart Specifications (32 Gallon):**
    - i. Cart shall meet minimum qualities and characteristics of MSD-32 gallon cart manufactured by Otto Industries, Incorporated, or equal.
    - ii. Cart body shall be high-density polyethylene plastic body.
    - iii. Container body shall be completely sealed without any open areas and have two rubber wheel assemblies.
    - iv. Cart shall be designed for manual or semi-automated bar lifter systems.
    - v. Cart lid shall be attached securely to the body and fit closely on top and rim of cart. Lid should be domed to facilitate water run-off.
    - vi. Cart body shall be sequentially numbered with permanent hot stamped, 1 ½" high white numbers on front of cart body.
    - vii. Color: 32-gallon Recyclables Carts shall be non-fading, ultraviolet stabilized green.
    - viii. Dimensions should be approximately 19" wide, 24" deep and 38" tall.
    - ix. Load rating should be approximately 125 pounds.
3. **Cart Warranties**
- a. All carts shall have a ten (10) year warranty covering the container body, lid, wheels, axle and all other parts.
  - b. Any component parts which fail, in materials or workmanship, to perform as originally designed, shall be replaced by the Contractor at no charge to the owner including, but not limited to:
    - i. Failure of the lid to prevent rainwater from entering container when closed on the container's body.
    - ii. Failure of the lid and/or container body to prevent penetration by vermin.
    - iii. Damage to the container body, lid, or any component parts through opening or closing of the lid.
    - iv. Failure of the lid hinge to remain fully functional and continually hold the lid in the originally designed and intended position when either opened or closed.

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- v. Failure of axle to remain free of excessive rust and corrosion, to be determined by the City.
- vi. Failure of any plastic component to be resistant to damage in the event of contact with any common household or residential product/chemicals other than those listed by the Contractor.
- vii. Failure of any portion of the bottom of the container body to remain impervious to damage or wear including repeated contact with rough and abrasive surfaces. If at any time during the ten-year warranty period, a container bottom becomes worn or damaged and leaks when filled with water, such container body shall be replaced in its entirety and without charge under the warranty.
- viii. Failure of the rubber tires to remain in place and fully serviceable, as designed and intended.
- ix. Failure of the container body, lid, hardware, or any component parts to maintain their original shape.
- x. Failure of the wheels to provide continuous, easy mobility as originally designed or intended.
- xi. Failure of any container body, lid, wheels, or other component part to conform to the minimum standards specified herein; i.e., failure to use only first quality high-density, virgin resin.
- xii. Damage to or failure of container assemblies caused by any incompatibility of the container and the Contractor's hydraulic dumping units.

**G. UNITS TO BE SERVED**

1. Upon execution of the Contract, or soon thereafter, the City shall provide the Contractor with a list of residential addresses within the City of Vestavia Hills.
2. The Contractor agrees to maintain a detailed list of the addresses of all residences that it serves within the City of Vestavia Hills to substantiate charges invoiced to and paid by the City. The Contractor shall promptly provide such list, upon request by the City, in an electronic spreadsheet or database format, such Microsoft Excel or Microsoft Access, to be compared to and reconciled with the City's current list of residential addresses.
3. The Contractor further agrees to provide such other or further information and data pertinent to this contract as may be reasonably requested by the City, except for confidential and proprietary information of the Contractor.

**H. CHANGES IN PRICE**

**1. Annexations:**

- a. The parties hereto agree that any contiguous areas annexed by the City during the terms of this contract shall be included within the service area for Garbage, Trash, and Recyclable Materials by the Contractor at the same per unit charge as the Proposal.
- b. Fluctuations in the number of units serviced and billed will be adjusted monthly except in an annexation of five (5) or more homes in which case the charges for services related to these specific addresses may be pro-rated based on the date on which services actually begin.

**2. New Construction:**

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- a. The parties hereto agree that any new construction within the city limits during the terms of this contract shall be included within the service area for Garbage, Trash, and Recyclable Materials by the Contractor at the same per unit charge as the Proposal.
  - b. Fluctuations in the number of units serviced and billed will be adjusted monthly except in new construction of five (5) or more homes in which case the charges for services related to these specific addresses may be pro-rated based on the date on which services actually begin.
- 3. Consumer Price Index:**
- a. It is understood that the prices proposed by the Bidder shall be the base prices to be paid to the Contractor for services beginning October 1, 2016.
  - b. It is further understood and agreed by and between the parties hereto that the unit prices may be adjusted at the beginning of year two (2) of the Agreement based upon any change in the cost of living determined as follows:
    - i. As promptly as practicable after September 30, 2017, the City or Contractor may compute the change, if any, in the cost of living, using as the basis of such computation, the "Revised Consumers Price Index For All Urban Consumers – South Region" (hereinafter referred to as "Index") published by the Bureau of Labor Statistics of the United States Department of Labor.
    - ii. In the event there is a change in the cost of living, the parties shall negotiate and may, upon mutual agreement, change the unit prices up to but no more than such percentage change in the Consumer Price Index as computed above.
- 4. Price Adjustment After Three (3) Years:**
- a. In the event this contract is renewed, the Contractor may be allowed an adjustment in contract prices during the second year as stated in the Consumer Price Index section, above, or under the conditions as described below.
  - b. For a change in the contract price to be approved, the Contractor must submit clear documentation to the City detailing the change in such cost. If the change in cost is clearly established, the City may adjust the price accordingly. A change will be allowed only if one of the following conditions exists:
    - i. The Contract specifications are modified.
    - ii. A state or federal law or ruling modifies the existing regulations affecting the Contractor's operations.
- 5. Billing and Payment:** The Contractor shall provide a detailed billing to the City within ten (10) days following the end of each month for services rendered hereunder. The billing shall provide a quantity and rate for each type of service provided. The City shall pay the Contractor before the 30th day following the end of the month to which the bill relates. Such billing and payment shall be based on the rate and number of units set forth herein as determined by the City.

**ALTERNATE 1:** The city requests an alternate cost for vacuumed leaf service annually. This should be a separate cost and the city reserves the right to reject any alternate. A plan of action should be included with the time frame, number of trucks, and home owner procedures.



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## **BID SUBMITTAL MATERIALS CHECKLIST**

Please note: This document is meant to assist the bidder in gathering and preparing Bid Materials and is not a substitute for information contained in the Contract Documents and Specifications. Please refer to the Contract Documents and Specifications for more specific information regarding the Bid Materials listed below.

### **The following materials must be provided with the bid:**

- Contractor's Bid
- Bid Bond
- Copy of the latest available Certified Financial Statement
- Evidence that the Bidder is or can be properly licensed to do business in the state of Alabama
- Evidence that the Bidder is a going concern which has existed for at least five (5) years
- Evidence that the Bidder has at least five (5) years' experience in refuse collection and disposal.
- Evidence that the Bidder has at least five (5) years' experience in handling recyclable materials
- References and other pertinent evidence that the Bidder has served organizations similar in size to the City of Vestavia Hills
- A list of equipment that the Bidder proposes to use in fulfilling the terms of the contract
- Descriptions of Proposed Recycling Programs
- Evidence of Worker's Compensation Insurance
- Evidence of Employer's Liability Insurance
- Evidence of Bodily Injury Insurance (Excepting Automobile Coverage)
- Evidence Automobile Bodily Injury and Property Damage Insurance
- Evidence of Excess Umbrella Liability Insurance

### **The following materials will be required at the execution of the contract:**

- Performance Bond or Irrevocable Letter of Credit
- Certificate showing that Performance Bond Premiums have been paid
- License to do business in the City of Vestavia Hills
- Samples of Educational and Promotional Materials for Proposed Recycling Programs
- Sample of proposed 32-gallon and 95-gallon carts

### **Mandatory Pre-Bid Meeting**

**There will be a mandatory pre-bid meeting to be held in the City Council Chamber of the Vestavia Hills City Hall at 10:00 AM on Wednesday, February 1, 2017. The City Hall is located at 1032 Montgomery Highway, Vestavia Hills, Alabama. Attendance of a representative of the Bidder is required in order for the bid to be considered.**

### **Bid Opening**

**Bids will be opened in the Council Chambers, Vestavia Hills City Hall, at 10:00 AM, Wednesday, March 1, 2017 and will at that time be read publicly aloud.**

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**CITY OF VESTAVIA HILLS**  
**1032 MONTGOMERY HIGHWAY**  
**VESTAVIA HILLS AL 35216**

Sealed bids will be received by the City of Vestavia Hills, Alabama. Please return in a sealed envelope marked with the bid name as listed above. Bids must be returned by 10:00 AM, March 1, 2017 by the date listed above. Bids received in the Office of the City Clerk either by hand delivery or mail after the specified date and hour will not be considered.

\*\*\*\*\*

NAME OF COMPANY: \_\_\_\_\_

PRICE\*: See Bid Table \_\_\_\_\_

Alabama Contractor's License #: \_\_\_\_\_

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

BIDS GOOD THROUGH\*\*: \_\_\_\_\_

*\*See Specifications Enclosed.*

*\*\*All bids must be good for a minimum of 90 days.*

I hereby affirm that I have not been in any agreement or collusion among bidders or prospective bidders in restraint of freedom of competition, by agreement to bid at a fixed price or to refrain from bidding or otherwise.

**This form must be notarized.**

FIRM \_\_\_\_\_

Sworn and Subscribed before me  
this the \_\_\_\_\_ day of \_\_\_\_\_,  
2015.

BY \_\_\_\_\_

ADDRESS \_\_\_\_\_

\_\_\_\_\_  
*Notary Public*

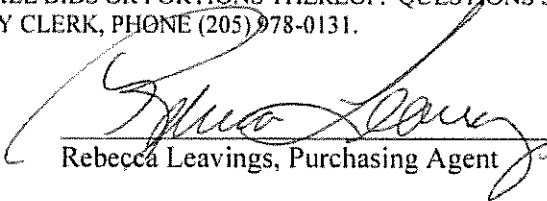
PHONE \_\_\_\_\_

My Commission Expires \_\_\_\_\_

DATE \_\_\_\_\_

\*\*\*\*\*

ALL BIDDERS MUST USE OUR BID FORMS. COMPLETE IN INK OR TYPE. THE CITY RESERVES THE RIGHT TO REJECT OR WAIVE ANY AND ALL BIDS OR PORTIONS THEREOF. QUESTIONS SHOULD BE ADDRESSED TO THE OFFICE OF THE CITY CLERK, PHONE (205) 978-0131.

  
\_\_\_\_\_  
Rebecca Leavings, Purchasing Agent

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**BID TABLE**

BASE BID					
	Category of Service	Location of Garbage Collection	Estimated Number of Residences	Monthly Recurring Fee Per Unit	Extended Monthly Cost
1	Single-Family Residential Garbage, Trash, and Recyclable Materials	Curbside	13,000	\$	\$
2	Single-Family Residential Garbage, Trash, and Recyclable Materials	Rear Door (for those unable to go curbside)	560	\$	\$
3	Single-Family Residential Garbage, Trash, and Recyclable Materials	Rear Door (for those who opt for increase)	100	\$	\$
2	8-yard Dumpsters emptied two times per week	Vestavia Villa Condos			\$
4	8-Yard Dumpsters emptied two times per week	Southbury Condominiums	Not Applicable	\$	\$
5	4-Yard Dumpsters emptied two times per week	Cabana Condominiums	Not Applicable	\$	\$
2	Hazardous Waste Days	TBD			Per event
<b>TOTAL BASE BID AMOUNT</b>					<b>\$</b>
Note: Quantities are estimates only and are NOT a commitment to pay for such quantities. The City shall pay for actual quantities during the term of the Contract and renewals, thereof, if any.					

OTHER ITEMS AND SERVICES				
	Item Description	Collection Location	Collection Frequency	Price Per Unit
A	Garbage Cart – 95 Gallon (Each)	Not Applicable	Not Applicable	\$
B	Recyclables Cart – 95 Gallon Cart (Each)	Not Applicable	Not Applicable	\$
C	Recyclables Cart – 32 Gallon Cart (Each)	Not Applicable	Not Applicable	\$
D	Natural Disaster Debris Collection and Disposal Services (Per Cubic Yard)	Curbside	As Needed	\$

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**REFERENCES**

This page must be submitted with Bid Proposal Form. Please list any governmental/municipal and/or like size organizations for which Bidder has provided similar services in the last five (5) years. These organizations may be contacted by the City of Vestavia Hills. Additional sheets may be attached if more space is needed.

1. Client Name: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

Description of Work: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Contact name: \_\_\_\_\_ Phone # \_\_\_\_\_

2. Client Name: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

Description of Work: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Contact name: \_\_\_\_\_ Phone # \_\_\_\_\_

3. Client Name: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

Description of Work: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Contact name: \_\_\_\_\_ Phone # \_\_\_\_\_

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4. Client Name: \_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_

Description of Work: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Contact name: \_\_\_\_\_ Phone # \_\_\_\_\_

5. Client Name: \_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_

Description of Work: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Contact name: \_\_\_\_\_ Phone # \_\_\_\_\_



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**LIST OF CITY FACILITIES**

Service shall be provided to these locations but is not limited to only these locations.  
Bidders should inspect city facilities to confirm current sizes and quantities of containers and dumpsters.

**Municipal Buildings:**

1. City Hall/Police Department
2. Library in the Forest
3. Civic Center
4. Fire Stations Number 1, 2, 3, 4 and 5

**Parks and Recreation Facilities**

1. Wald Park
2. Liberty Park Sports Complex
3. Sicard Hollow Athletic Complex (SHAC)
4. Cahaba Heights Athletic Complex
5. New Merkle House

**Other Facilities**

1. Fleet Maintenance (Currently located at 1280 Montgomery Highway – soon to move to Liberty Park)
2. Public Works/Parks Maintenance (Wald Park)

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**SAMPLE CONTRACT**

THIS CONTRACT, made and entered into on this \_\_\_\_\_ day of \_\_\_\_\_, 2016 by and between the City of Vestavia Hills, Alabama (hereinafter called the "CITY"), and \_\_\_\_\_ (hereinafter called the "CONTRACTOR").

WHEREAS, the CONTRACTOR did submit a Proposal to provide services to collect and dispose or residential garbage and trash, collect residential recyclable materials, and to perform work as may be incidental thereto.

NOW THEREFORE, in consideration of the following mutual agreements and covenants, it is understood and agreed by and between the parties hereto as follows:

1. The CONTRACTOR is hereby granted the sole and exclusive franchise, license and privilege within the territorial jurisdiction of the CITY and shall furnish all personnel, labor, equipment, trucks and all other necessary items to provide Residential Garbage and Trash Collection and Disposal, and Residential Recycling Collection services as specified and to perform all of the work called for and described in the Contract Documents.
2. The Contract Documents shall include the following documents, and the Contract does hereby expressly incorporate same herein as fully as if set forth verbatim in the Contract:
  - a. Contract Agreement
  - b. Proposal form completed by the CONTRACTOR
  - c. Request for Bids
  - d. Advertisement for Bids
  - e. Instruction for Bidders
  - f. General Specifications
  - g. Bid Bond
  - h. Performance Bond
  - i. Certificates of Insurance
  - j. Any addenda or changes to the foregoing documents agreed to by the parties hereto.
3. All provisions of the Contract Documents shall be strictly complied with and conformed to by the CONTRACTOR, and no amendment to this Contract shall be made except upon the written consent of the parties, which consent shall not be unreasonably withheld. No amendment shall be construed to release either party from any obligation of the Contract Documents except as specifically provided for in such amendment.
4. This Contract is entered into subject to the following conditions:
  - a. The CONTRACTOR shall procure and keep in full force and effect throughout the term of this Contract all of the insurance policies specified in, and required by, the Contract Documents
  - b. Neither the CONTRACTOR nor the CITY shall be liable for the failure to perform their duties if such failure is caused by a catastrophe, riot, war, governmental order or regulation, strike, fire, accident, act of God or other similar or different contingency beyond the reasonable control of the contractor or the City.



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- c. In the event that any provision or portion thereof of any Contract Document shall be found to be invalid or unenforceable, then such provision or portion thereof shall be reformed in accordance with the applicable laws. The invalidity or unenforceability of any provision or portion of any Contract Document shall not affect the validity or enforceability of any other provision or portion of the Contract Documents.

IN WITNESS WHEREOF, we, the contracting parties, by our duly authorized agents, hereto affix our signatures and seal, as of this \_\_\_\_\_ day of \_\_\_\_\_, 2016.

SEAL of the City of  
Vestavia Hills, Alabama

CITY OF VESTAVIA HILLS, ALABAMA

ATTESTED:

\_\_\_\_\_  
Rebecca Leavings, City Clerk

By: \_\_\_\_\_  
Jeffrey Downes, City Manager

CONTRACTOR:

(CORPORATE SEAL)

By: \_\_\_\_\_

Its: \_\_\_\_\_

City of Vestavia Hills, Alabama  
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**NOTARY CERTIFICATE FOR OWNER**

STATE OF ALABAMA  
COUNTY OF JEFFERSON

Before me, the undersigned authority, a Notary Public in and for the said County and State on this day, personally appeared \_\_\_\_\_, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledge to me that he/she executed the same in the capacity therein stated.

Given under my hand and seal of office, this \_\_\_\_\_ day of \_\_\_\_\_, 2016.

\_\_\_\_\_  
Notary Public in and for the State of Alabama  
My commission expires: \_\_\_\_\_

**NOTARY CERTIFICATE FOR CONTRACTOR**

STATE OF ALABAMA  
COUNTY OF JEFFERSON

Before me, the undersigned authority, a Notary Public in and for the said County and State on this day, personally appeared \_\_\_\_\_, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledge to me that he/she executed the same in the capacity therein stated.

Given under my hand and seal of office, this \_\_\_\_\_ day of \_\_\_\_\_, 2016.

\_\_\_\_\_  
Notary Public in and for the State of Alabama  
My commission expires: \_\_\_\_\_

# Add Performance Bond Here

# Add Insurance Certificate Here

**RESOLUTION NUMBER 4936**

**A RESOLUTION AUTHORIZING A GENERAL FUND SUPPLEMENTAL APPROPRIATION AND AUTHORIZING THE CITY MANAGER TO EMPLOY A COMMUNICATIONS MANAGER**

**WHEREAS**, the Mayor and City Council of the City of Vestavia Hills, Alabama have developed a strategic plan for 2017 that includes an objective to implement a communications strategy for the City and to hire additional personnel to assist in that effort; and

**WHEREAS**, a committee of elected officials and City staff has reviewed options to effectively further this objective by utilizing existing Library marketing personnel and adding a Communications Manager to guide the implementation of the Library and City's communication strategies; and

**WHEREAS**, a supplemental appropriation to the FY 2017 General Fund Budget is needed in order to accomplish this goal; and

**WHEREAS**, the City Manager, Mayor and City Council have all reviewed the information in attached exhibits and have declared that it is in best public interest to follow the above-described implementation of the Council's strategic 2017 plan.

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

1. The City Council hereby authorizes a General Fund supplemental appropriation in an amount not to exceed \$18,000 and detailed in Exhibit A, a copy of which is attached to and incorporated into this Resolution Number 4936 as though written fully therein; and
2. The City Council authorizes the City Manager to take any and all necessary actions to employ a communications manager to accomplish the tasks listed above and included in the job description marked as exhibit B, a copy of which is attached to and incorporated into this Resolution Number 4936 as though written fully therein; and
3. This Resolution Number 4936 shall become effective immediately upon adoption and approval.

**ADOPTED and APPROVED** this the 10<sup>th</sup> day of April, 2017.

Ashley C. Curry  
Mayor

ATTESTED BY:

Rebecca Leavings  
City Clerk

**Communication Specialist  
Salary-Expense Implications**

		Description	Salary (Other) Expense Five Months	Fringes and Taxes Expense Five Months	Expected Budget Balance- May 1, 2017	Supplemental Appropriation	FY 18 Annual Expense Total	Increase From FY 17**
<b><u>Option One</u></b>								
Hire Communication Manager- Part Time (25 Hours)		Grade 6/Step 4	\$ 14,210.00	\$ 1,087.07	\$ -	\$ 15,297.07	\$ 39,772.37	\$ 39,772.37
	70-5010-000-500 and 70-5015-0000-500	Cinnamon McCulley						
Utilize Existing Support Position- (17 Hours)		Grade 5/ Step 1	\$ 7,344.00	\$ 561.82	\$ 14,000.00	\$ (6,094.18)	\$ 20,555.12	\$ (3,745.88)
	70-5010-000-500 and 70-5015-0000-500	Holly Turner						
Creative Consultant Support/Materials and Supplies			\$ 10,000.00		\$ 4,000.00	\$ 6,000.00	\$ 20,000.00	\$ -
	42-5840-000-100	TBD						
Cell Phone			\$ 785.00		\$ -	\$ 785.00		\$ 780.00
	70-5720-000-500							
Travel		Marketing Conf	\$ 1,500.00		\$ -	\$ 1,500.00		\$ 3,000.00
	70-5051-000-500							
Savings on Community Newsletter- Layout/Design							\$ (6,000.00)	\$ (6,000.00)
	10-5095-000-100							
<b>TOTAL</b>			\$ 33,839.00	\$ 1,648.88	\$ 18,000.00	\$ 17,487.88	\$ 74,327.49	\$ 33,806.49

\*\* The Library currently budgets \$24,301 for Marketing Manager

\*\* There is a current Digital Marketing Budget of \$20,000 as a component of Acct 42-5840-000-100 in the FY 17 Budget

<b>Library Pay Grade 6 Step 4</b>	
Annual	\$ 59,104.79
Part-Time (25 Hours)	\$ 36,946.00
Hourly	\$ 28.42
<b>Library Pay Grade 5 Step 1</b>	
Annual	\$ 44,925.51
Part-Time (17 Hours)	\$ 19,094.40
Hourly	\$ 21.60



**VESTAVIA HILLS LIBRARY IN THE FOREST**  
**1221 Montgomery Highway**  
**Birmingham, AL 35216**  
**205.978.0155**

**POSITION VACANCY – COMMUNICATIONS MANAGER – PART TIME**  
**POSITION**

**DESCRIPTION**

Work is performed at the Vestavia Hills Library in the Forest under the general supervision of the Library Director with some latitude for independent judgment within established guidelines. The job requires judgment based on knowledge of procedures and policy learned under direct supervision by the Library Director.

The Communications Manager will oversee and manage the creation, production and distribution of marketing materials; manage the library's social media marketing and public relations outreach programs; develop and execute short and long-term marketing and public relations strategies, coordinate or assist in coordinating special events and programming; perform administrative and clerical duties such as budgeting and networking. Perform other library and City-related duties as assigned.

**EXAMPLES OF WORK:**

- Develop comprehensive marketing and public relations strategies that utilize traditional and emerging communication outlets to increase visibility and customer engagement for the library and City
- Oversee planning, implementation, and evaluation of marketing activities that support VHLF mission and goals
- Work with library and City departments in the implementation of activities that further external communications efforts
- Define goals and expected outcomes or results of campaigns, programs and projects.
- Assess library service, program and communication needs of Vestavia Hills residents, library patrons and special target groups via formal and informal market research methods
- Serve as the library's and City departments' content administrator for all social media marketing (i.e. – website, social networks, email blasts etc.) to ensure that quality and integrity are maintained
- Oversee web and communications teams in the continuous development and implementation of the library and City's marketing strategy
- Collaborate with library and City staff to prepare the content, layout and design of marketing and public relations materials
- Communicate with Library Director and City leaders to analyze and determine what information needs to be communicated to the public



- Prepare correspondence to answer questions, address concerns, gather information, solicit support, and/or express appreciation.
- Serve as an informed source to staff for guidance in marketing, public relations, planning and analytical decision-making.
- Develop internal communications messages that ensure staff, the Library Board and City officials are informed and empowered.
- Respond or coordinate responses to questions posed on social media sites and/or through other digital media in a timely manner.
- Provide written and verbal reports on both routine and special projects, including monthly and annual reports.

**DESIRABLE KNOWLEDGE, SKILLS AND ABILITIES:**

- Comprehensive, general knowledge of library and City operations; ability and willingness to give attention to details and ask questions to gain clarity and understanding
- Knowledge of business English to include journalistic and informational writing styles and level of knowledge as needed to create thorough and aesthetically pleasing publications; ability to present written information accurately and in a concise, organized manner
- Ability to write interesting and informative articles, news releases, pamphlets, reports, brochures and related publicity materials
- Possess necessary clerical skills and ability to edit publications for accuracy, correct grammar and punctuation, clarity and relevance as needed to ensure that professional products are created and distributed
- Ability to verbally present information in a concise and expedient manner; ability to speak clearly with appropriate tone, rate and volume to ensure that the message is clearly conveyed in a positive manner
- Knowledge of professional marketing methods, principles and techniques as needed to develop and maintain effective public relations/marketing strategies for the library and City
- Ability to present a positive image of the library and City in person and through various media outlets
- Ability to understand and follow oral and written directions
- Knowledge of computer applications, including hardware and software related to performance of the essential functions of the job
- Ability to understand and apply rules, regulations, policies and procedures as needed to ensure that promotional activities are conducted within appropriate guidelines
- Ability to use presentation, photo and video editing software and audio-visual equipment as needed for public relations and marketing efforts
- Ability to use photographic and video equipment to include digital and video cameras as needed to document various departmental events

- Ability to devise public relations strategies that will communicate the desired message and reach the desired audience; ability to anticipate questions from residents and provide factual information while maintaining a professional image
- Ability to recognize and determine potential crisis situations; the ability to analyze and evaluate situations and information and determine the most appropriate course of action to identify and solve problems
- Ability to prepare and manage a promotional and/or advertising budget to ensure that adequate funding is available for marketing/public relations efforts
- Ability to work with minimal instruction and supervision
- Willingness to establish and maintain effective relationships with associates and with the public
- Ability to read and interpret policies, procedures, regulations and laws to accurately and appropriately communicate organization policies and programs to the public
- Ability to elicit ideas, feelings and perceptions from others as needed to establish and maintain effective working relationships
- Ability to handle irate and concerned citizens in a diplomatic manner

#### **EDUCATION AND EXPERIENCE:**

- Bachelor's degree in public relations, marketing or other job-related field
- At least two years of progressive, responsible, related experience or any combination of education, training and experience that provides the required knowledge, skills and abilities to perform the essential functions of the job
- Working knowledge of both Windows and iOS (Mac) operating system platforms
- Proficiency in Adobe Creative Suite (specifically InDesign, Illustrator and Photoshop) and Microsoft Office products

#### **HOURS AND SALARY:**

- Salary commensurate with experience
- Part-time position 25 hours per week, with the possibility for full-time employment, with benefits, after trial period
- Position may include working nights and weekends as needed, depending on library needs and program schedules
- Please be prepared to submit a college transcript at the time of the interview.
- Applicant must pass a drug test and background check.
- Position available immediately.

**ORDINANCE NUMBER 2702**

**AN ORDINANCE AUTHORIZING AND DIRECTING THE  
PURCHASING AND CLOSING OF THE SALE OF REAL ESTATE**

**THIS ORDINANCE NUMBER 2702** is considered, approved, enacted and adopted by the City Council of the City of Vestavia Hills, Alabama on this the 10th day of April, 2017.

**WITNESSETH THESE RECITALS:**

**WHEREAS**, municipalities in Alabama have the legal authority to acquire real estate by purchase pursuant to Title 11-40-1, *Code of Alabama, 1975*; and

**WHEREAS**, the City Council (the “City Council”) of the City of Vestavia Hills, Alabama, a municipal corporation (the “City”) finds and determines that the consideration of the purchase by the City of the real estate and improvements commonly referred to as the “Gold’s Gym property” hereinafter described in Section 1 below (the “Property”) will promote the health, safety and general welfare of the City; and

**WHEREAS**, the Ordinance Number 2702 will be introduced by a first reading at the regularly scheduled meeting of the City Council on March 27, 2017 and considered for approval by the City Council at its regularly scheduled meeting on April 10, 2017 pursuant to the procedure for adoption of an ordinance set forth at Title 11-45-2(b), *Code of Alabama, 1975*; and

**WHEREAS**, a copy of an Agreement for the Purchase and Sale of Real Estate by and between Store Capital Acquisitions, LLC, a Delaware limited liability company, as “Seller,” and the City of Vestavia Hills, Alabama, a municipal corporation, as “Purchaser,” setting forth a purchase price of Nine Million One Hundred Thousand Dollars (\$9,100,000.00) is attached hereto, marked as Exhibit 1 and is incorporated into this Ordinance Number 2702 by reference as though set out fully herein; and

**WHEREAS**, the City Manager is presently obtaining options from different lenders for a loan in the amount not to exceed Nine Million Five Hundred Thousand Dollars (\$9,500,000.00) to be used for the purchase of said Property and property adjacent to Wald Park; and

**WHEREAS**, the Alabama Open Meetings Act set forth at Title 36-25A-7(a)(7), *Code of Alabama, 1975*, provides that the material terms of a contract to purchase real property shall be disclosed in a public meeting prior to the execution of the contract; and

**WHEREAS**, only the City Council by the enactment of an ordinance or resolution can authorize and direct the execution and delivery of a contract for and on behalf of the municipality (*Van Antwerp, et al v. Board of Commissions of City of Mobile, et al*, 217 Ala. 201, 115 So. 239 (1928); and *Town of Boligee v. Greene County Water and Sewer Authority*, 77 So.3d 1166 (2011)); 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 ordinary needs of the municipality;”  
and

**WHEREAS**, Title 11-43-21(b)(7), *Code of Alabama, 1975*, requires the City Manager to sign all lawful contracts on behalf of the municipality and reads as follows:

“(b) The City Manager shall have the power and it shall be his duty:...

(7) To make and execute all lawful contracts on behalf of the municipality as to matters within the jurisdiction; provided, that no contract, purchase or obligation involving more than \$100.00 shall be binding until after the approval by the governing body.”

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

**1. PROMOTION OF PUBLIC WELFARE:** The City Council of the City of Vestavia Hills, Alabama, a municipal corporation, finds and determines that the purchase by the City of the hereinafter-described real property and improvements (the “Property”) will promote the health, safety and general welfare of the City:

That certain real estate and improvements situated at 1090 Montgomery Highway in the City of Vestavia Hills, Alabama 35216 consisting of approximately 5.27± acres, together with a two-story building containing approximately 63,128 square feet sometimes referred to as the “Gold’s Gym property” and more particularly described as follows:

**Parcel I:** Lot 2 and 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.

**Parcel II:** A nonexclusive easement for ingress and egress as set out in the Access Easement Agreement as recorded in Instrument No. 200408/8594 and assigned by Instrument No. 200602/6382; and a perpetual easement for the construction and maintenance of a sign as set out in the agreement recorded in Instrument No. 200408/8593 and assigned by Instrument No. 200602/6381.

Situated in Jefferson County, Alabama.

The above-described property shall be hereinafter referred to as “the Property.”

2. **PURCHASE PRICE:** The City of Vestavia Hills, Alabama hereby agrees to pay the sum of Nine Million One Hundred Thousand Dollars (\$9,100,000.00) to purchase the Property.

3. **AGREEMENT FOR THE PURCHASE AND SALE OF REAL ESTATE:** The purchase and closing of the sale of the Property shall be completed all in accordance with the terms, provisions, conditions and limitations of an Agreement for the Purchase and Sale of Real Estate (“Agreement”) negotiated, submitted and recommended by the City Manager and City Attorney. The Agreement is by and between Store Capital Acquisitions, LLC, a Delaware limited liability company (“Seller”) and the City of Vestavia Hills, a municipal corporation (“Purchaser”) for the purchase of the Property at a purchase price of Nine Million One Hundred Thousand Dollars (\$9,100,000.00). A copy of said Agreement is attached hereto, marked as Exhibit 1 and is incorporated into this Ordinance Number 2702 by reference as though set out fully herein. The City Council hereby accepts and approves the Agreement and the City Manager and Mayor are hereby authorized to execute and deliver said Agreement and any and all other documents necessary to close the purchase of this sale all in accordance with Exhibit 1.

4. **FINANCING:** The City Manager is hereby authorized and directed to borrow funds in the amount of Nine Million Five Hundred Thousand Dollars (\$9,500,000.00) to be used for the purchase of the Property and property adjacent to Wald Park. The term of the loan, interest rate, the amortization schedule for repayment and other terms and conditions of the loan will be added to this ordinance by amendment thereto upon approval by the City Council on April 10, 2017.

5. **ARTICLE AND SECTION HEADINGS:** The article and section headings and captions contained herein are included for convenience only, and shall not be considered a part hereof or affect in any manner the construction or interpretation hereof.

6. **SEVERABILITY:** 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.

7. **POSTING OF ORDINANCE NUMBER 2702:** If the City Council approves, enacts and adopts Ordinance Number 2702, as written or as amended, then in such event, said Ordinance shall be posted in three (3) public places within the City as required by Title 11-45-8(b)(1), *Code of Alabama, 1975*.

8. **EFFECTIVE DATE OF ORDINANCE NUMBER 2702:** Ordinance Number 2702 shall become effective five (5) days after posting in accordance with Title 11-45-8(b), *Code of Alabama, 1975*.

**DONE, ORDERED, APPROVED and ADOPTED** this the 10th day of April, 2017.

CITY OF VESTAVIA HILLS, ALABAMA

By \_\_\_\_\_  
Ashley C. Curry  
Mayor

ATTESTED BY:

\_\_\_\_\_  
Rebecca Leavings  
City Clerk

**CERTIFICATION:**

I, Rebecca Leavings, as City Clerk of the City of Vestavia Hills, Alabama, hereby certify that the above and foregoing copy of 1 (one) Ordinance #2702 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 \_\_\_\_\_ day of April, 2017 as same appears in the official records of said City.

Posted at Vestavia Hills Municipal Center, Vestavia Hills New Merkle House, Vestavia Hills Civic Center and Vestavia Hills Library in the Forest this the \_\_\_\_ day of April, 2017.

Rebecca Leavings  
City Clerk

## PURCHASE AND SALE AGREEMENT

**THIS PURCHASE AND SALE AGREEMENT** (this "Agreement") is made and entered into as of February \_\_, 2017 (the "Effective Date"), by and between **STORE CAPITAL ACQUISITIONS, LLC**, a Delaware limited liability company ("Seller"), and **CITY OF VESTAVIA HILLS, ALABAMA**, a municipal corporation ("Purchaser"). Except as otherwise expressly defined herein, capitalized terms will have the meanings set forth on Exhibit A attached hereto and incorporated herein by this reference.

For and in consideration of the mutual covenants and promises hereinafter set forth, the parties hereby mutually covenant and agree as follows:

### ARTICLE I

#### PURCHASE OF PROPERTY

**Section 1.01. Agreement To Purchase.** Purchaser agrees to purchase, and Seller agrees to sell, in accordance with the terms, conditions and stipulations set forth in this Agreement (the "Transaction"), all of Seller's right, title and interest in and to (a) the real property as more particularly described on Exhibit B attached hereto, and any and all improvements thereon and appurtenances thereto (collectively, the "Real Property"); (b) the fixtures affixed thereto; (c) all leases and rental agreements relating to the Real Property or any portion thereof, including, without limitation, the Lease, and to the extent held by Seller, all prepaid rent, security deposits and other tenant prepayments and deposits; and (d) all other property interests belonging or appurtenant to the Real Property (all of the foregoing items in clauses (a) through (d) above, now or hereafter existing, collectively, the "Property"). Notwithstanding any provision contained in this Agreement, expressly excluded from the definition of "Property" are the following items: personal property, appliances, furniture and equipment owned or leased by any Tenant in possession of the Property pursuant to the Lease, and/or any subtenant thereof, from time to time situated on or used in connection with the Property.

**Section 1.02. Purchase Price.** The purchase price to be paid by Purchaser to Seller for the Property is \$9,100,000.00 (the "Purchase Price"). The Purchase Price shall be paid by Purchaser in immediately available federal funds at Closing.

**Section 1.03. Earnest Money Deposit.** Within three (3) days after the Effective Date of this Agreement, Purchaser shall deposit with the Title Company the sum of \$25,000 (together with all interest accrued thereon, if any, the "Earnest Money Deposit"). The Earnest Money Deposit shall be held by the Title Company and shall be applied against the Purchase Price at Closing or disbursed as provided herein; *provided, however*, at Purchaser's direction and expense (if any), the Earnest Money Deposit shall be placed in an interest-bearing account by the Title Company. The Earnest Money Deposit shall be non-refundable upon the expiration of the Inspection Period.

**Section 1.04. Prorations.** All taxes, insurance, utilities and maintenance expenses relating to the Property for the year of Closing to be paid by the Tenant pursuant to the Lease shall not be prorated; all other amounts, if any, shall be prorated as of the Closing Date and taxes shall be based on the most recent mill levy and most recent assessed valuation, or, if not



available, on the taxes for the calendar year immediately preceding Closing. Rents actually paid to and received by Seller with respect to the Property for the month in which Closing occurs shall be prorated as of the Closing Date. All prorations shall be final.

**Section 1.05. Condition of Property.** Seller and Purchaser understand and agree that Purchaser's purchase of the Property and other rights to be conveyed, sold, transferred and/or assigned pursuant to this Agreement shall be on an "AS IS" "WHERE IS" physical basis, "WITH ALL FAULTS," without representation or warranty, express or implied, with regard to physical condition, including without limitation, any latent or patent defects, conditions of soils or groundwater, existence or nonexistence of hazardous materials, quality of construction, workmanship, merchantability or fitness for any particular purpose as to the physical measurements or useable space thereof. Purchaser hereby acknowledges that Purchaser has inspected or will inspect the Property to Purchaser's satisfaction and that Seller does not plan to conduct its own inspection and shall not be liable for any latent or patent defects in the Property. Purchaser acknowledges that neither Seller nor any representative or agent of Seller has made any representation or warranty as to any of the following: (a) the physical or environmental condition (including surface and subsurface conditions), state of repair, income, expenses, operations of the Property and surrounding property; (b) the assignability, assumability, transferability or validity of any licenses, permits, government approvals, warranties or guaranties relating to the Property or the use and operation thereof; (c) the accuracy or completeness of any information provided by Seller with respect to the Property or the Tenant; (d) compliance or noncompliance with local, state or federal statutes, ordinances, orders or regulations concerning the Property or the use thereof; (e) prior or current operations conducted on the Property; (f) the financial condition of the Tenant, the operation of the business conducted at the Property or the overall business performance of the Tenant; or (g) any matter or thing affecting or relating to the Property, the Lease or this Agreement not expressly stated in this Section 1.05. Purchaser has not been induced by and has not relied upon any statement, representation or agreement, whether express or implied, not specifically set forth in this Agreement. Seller shall not be liable or bound in any manner by any oral or written statement, agreement or information pertaining to the Property, the Tenant, the Lease or this Agreement furnished by any agent, employee or other Person.

**Section 1.06. Lease.** The parties acknowledge that the Property is subject to the Lease between Seller and the Tenant.

## ARTICLE II

### DUE DILIGENCE

#### Section 2.01. Title Insurance.

(a) ***Title Commitment and Title Policy.*** Within five (5) days of the Effective Date, Seller shall order an owner's title insurance commitment ("Title Commitment") with respect to the Property issued by the Title Company, for an owner's title insurance policy (the "Title Policy"). Seller shall cause a copy of the Title Commitment and copies of the Schedule B-2 exceptions to be delivered to Purchaser. The premium related to the Title Policy shall be paid by Seller and costs for endorsements, if any, shall be the responsibility of Purchaser.

(b) **Title Company.** The Title Company is hereby employed by the parties to act as escrow agent in connection with this Transaction. This Agreement shall be used as instructions to the Title Company, as escrow agent, which may provide its standard conditions of acceptance of escrow; *provided, however*, that in the event of any inconsistency between such standard conditions of acceptance and the terms of this Agreement, the terms of this Agreement shall prevail. The Title Company's receipt of this Agreement and the opening of an escrow pursuant to this Agreement shall be deemed to constitute conclusive evidence of the Title Company's agreement to be bound by the terms and conditions of this Agreement pertaining to the Title Company.

(c) **Title Company Actions.** The Title Company is authorized to pay, from any funds held by it for each party's respective credit and in accordance with the closing statements executed by both parties, all amounts set forth on the closing statements as necessary to procure the delivery of any documents and to pay, on behalf of Purchaser and Seller, all charges and obligations payable by them, respectively. Seller and Purchaser will pay all charges payable by them to the Title Company. The Title Company shall not cause the Transaction to close unless and until it has received written instructions from Seller and Purchaser to do so. The Title Company is authorized, in the event any conflicting demand is made upon it concerning these instructions or the escrow, at its election, to hold any documents and/or funds deposited hereunder until an action shall be brought in a court of competent jurisdiction to determine the rights of Seller and Purchaser or to interplead such documents and/or funds in an action brought in any such court. Deposit by the Title Company of such documents and funds, after deducting therefrom its reasonable expenses and attorneys' fees incurred in connection with any such court action, shall relieve the Title Company of all further liability and responsibility for such documents and funds.

(d) **Title Objections.**

(i) Within seven (7) days after the Purchaser's receipt of both the Title Commitment and the Survey, but in no event after the expiration of the Inspection Period, Purchaser shall notify Seller in writing of Purchaser's objection, if any, to any exceptions or other title matters shown on the Title Commitment or the Survey (each, a "Title Objection"). If any Title Objection is not removed or resolved by Seller to Purchaser's satisfaction on or before the expiration of the Inspection Period, then Purchaser's sole remedy is to terminate this Agreement upon written notice to Seller, in which event the Earnest Money Deposit shall be returned to Purchaser and neither Purchaser nor Seller shall have any further duties or obligations under this Agreement, except as otherwise provided herein.

(ii) Following the Inspection Period, if any supplement to the Title Commitment discloses any additional title defects not previously disclosed in the original Title Commitment and which were not created by or with the consent of Purchaser, and which are not acceptable to Purchaser, Purchaser shall notify Seller in writing of its objection thereto (each, an "Additional Title Objection") within three (3) days following receipt of such supplement or revision. If any Additional Title Objection is not removed or resolved by Seller to Purchaser's

satisfaction within three (3) days of Seller's receipt of the Additional Title Objection, then Purchaser shall have the option, as its sole remedy, to terminate this Agreement upon written notice to Seller within six (6) days of Purchaser sending the Additional Title Objection, but in no event after the Closing Date, in which event the Earnest Money Deposit shall be returned to Purchaser and neither Purchaser nor Seller shall have any further duties or obligations under this Agreement, except as otherwise provided herein. If Purchaser fails to terminate within six (6) days of Purchaser sending the Additional Title Objection, Purchaser shall be deemed to have waived such Additional Title Objection.

(iii) Purchaser's failure to timely deliver a Title Objection or an Additional Title Objection shall be deemed Purchaser's acceptance of the matters disclosed by the Title Commitment and the Survey. If Purchaser does not terminate this Agreement by reason of any Title Objection or Additional Title Objection as provided in this Section, then such Title Objection or Additional Title Objection shall be deemed waived and approved by Purchaser and shall thereafter be deemed a Permitted Encumbrance.

**Section 2.02. Seller Documents.** With reasonable promptness, but in no event later than seven (7) days from the Effective Date, Seller shall deliver to Purchaser the following items which are in Seller's possession or under its control (collectively, the "Seller Documents"):

- (a) any existing survey or site plan related to the Property (the "Survey");
- (b) any existing environmental report related to the Property (the "Environmental Report"); and
- (c) a full and complete copy of the Lease and, upon receipt of an executed non-disclosure agreement, the most recent financial statements of the Tenant delivered to Seller.

Seller makes no representation or warranty regarding the Seller Documents, or any other materials relating to the Property or the Tenant, delivered to Purchaser. Purchaser may be required to deliver a confidentiality agreement with respect to financial statements delivered.

**Section 2.03. Survey.** Purchaser may, at its sole cost and expense, order an update to the Survey (or a new survey) if required by the Title Company or otherwise required by Purchaser.

**Section 2.04. Environmental.** Purchaser may, at its sole cost and expense, order an update to the Environmental Report or a new Phase I environmental assessment report, if deemed necessary by Purchaser in its sole discretion.

**Section 2.05. Tenant Estoppel.** Seller shall obtain and deliver to Purchaser, at least one (1) day prior to the expiration of the Inspection Period, a tenant estoppel certificate from the Tenant in form and substance reasonably satisfactory to Purchaser and Tenant.

**Section 2.06. Inspections.** From the Effective Date and for a period of sixty (60) days (the "Inspection Period"), Purchaser may perform whatever investigations, tests and inspections

upon the Property during normal business hours or as otherwise requested by Seller that Purchaser deems reasonably appropriate (collectively, the "Inspections"); *provided, however*, that prior thereto, Purchaser shall give Seller at least three (3) days' prior notice thereof and Seller and any representative of Seller shall have the right to be present during any Inspection. Absent Seller's prior written consent, Purchaser shall not contact the Tenant without a representative of Seller present. Purchaser shall have the right to terminate this Agreement by written notice to Seller on or before the expiration of the Inspection Period if, based upon the Inspections, Purchaser determines, in its sole discretion, that the Property is not satisfactory, in which event, this Agreement shall terminate without further liability to the parties except as expressly set forth herein and the Earnest Money Deposit shall be returned to Purchaser. In the event that Purchaser fails to provide such written notice to Seller on or before expiration of the Inspection Period, Purchaser shall be deemed to have waived any objections based upon the Inspections and subject to Sections 2.01(d), 6.02(a) and 7.01, the Earnest Money Deposit shall be non-refundable.

### ARTICLE III

#### CLOSING

**Section 3.01. Closing Date.** Subject to the provisions of Article V of this Agreement, the closing date of the Transaction contemplated by this Agreement (the "Closing") shall occur within thirty (30) days following expiration of the Inspection Period, as set by mutual agreement of Seller and Purchaser (the "Closing Date"), but in no event later than May 31, 2017. All Transaction Documents will be prepared by Seller or Seller's counsel. The parties shall deposit all funds and all documents (including without limitation, the executed Transaction Documents) required hereunder with the Title Company on or before the Closing Date.

**Section 3.02. Possession.** Possession of the Property, free and clear of all liens, tenants or other parties in possession, except for the Tenant under the Lease, shall be delivered to Purchaser upon Closing.

**Section 3.03. Transaction Costs.** Except as otherwise expressly provided in this Agreement, Purchaser shall pay for all costs associated with its diligence activities, including without limitation, the updates (if any) of the Survey and Environmental Report, all transfer or excise taxes, the procurement of any financing, all endorsements related to the Title Policy, recording fees related to the Transaction Documents and any escrow costs. Seller shall pay the basic premium of the Title Policy. Each party shall pay its own legal and other professional fees.

### ARTICLE IV

#### REPRESENTATIONS WARRANTIES AND COVENANTS

**Section 4.01. Seller.** Seller represents and warrants to, and covenants with, Purchaser as follows:

(a) **Organization and Authority.** Seller is duly organized or formed, validly existing and in good standing under the laws of its state of formation. Seller has all

requisite power and authority to execute, deliver and perform its obligations under this Agreement and all of the other Transaction Documents, and to carry out the Transaction. The Person who has executed this Agreement on behalf of Seller has been duly authorized to do so.

(b) **Enforceability of Documents.** Upon execution by Seller, this Agreement and the other Transaction Documents shall constitute the legal, valid and binding obligations of Seller, enforceable against Seller in accordance with their respective terms, except as such enforcement may be limited by bankruptcy, insolvency, reorganization, arrangement, moratorium, or other similar laws relating to or affecting the rights of creditors generally, or by general equitable principles.

(c) **No Notice of Violation.** Seller has received no written notice of any violation of any applicable statutes, regulations, rules or ordinances with respect to the Property.

All representations and warranties of Seller made in this Agreement shall be true as of the date of this Agreement, shall be deemed to have been made again at and as of the Closing Date, shall be true at and as of the Closing Date, and, together with the covenants made by Seller herein, shall survive for six (6) months following Closing.

**Section 4.02. Purchaser.** Purchaser represents and warrants to, and covenants with, Seller as follows:

(a) **Organization and Authority.** Purchaser is duly organized and formed, validly existing and in good standing under the laws of its state of formation. Purchaser has all requisite power and authority to execute, deliver and perform its obligations under this Agreement and all of the other Transaction Documents and to carry out the Transaction. The Person who has executed this Agreement on behalf of Purchaser has been duly authorized to do so.

(b) **Enforceability of Documents.** Upon execution by Purchaser, this Agreement and the other Transaction Documents shall constitute the legal, valid and binding obligations of Purchaser, enforceable against Purchaser in accordance with their respective terms, except as such enforcement may be limited by bankruptcy, insolvency, reorganization, arrangement, moratorium, or other similar laws relating to or affecting the rights of creditors generally, or by general equitable principles.

(c) **Litigation.** There are no actions or proceedings pending against or involving Purchaser before any Governmental Authority which in any way adversely affect or may adversely affect Purchaser or Purchaser's ability to perform under this Agreement and the other Transaction Documents.

(d) **OFAC List.** Purchaser is not currently identified on the OFAC List, and is not a Person with whom a citizen of the United States is prohibited from engaging in transactions by any trade embargo, economic sanction, or other prohibition of United States law, regulation, or executive order of the President of the United States.

(e) **Bankruptcy Petition.** Purchaser hereby agrees that it shall not institute against, or join any other Person in instituting against, Seller, any bankruptcy, reorganization, arrangement, insolvency or liquidation proceeding, or any other proceeding under any federal or state bankruptcy or similar law. The provisions of this Section shall survive Closing or termination of this Agreement.

All representations and warranties of Purchaser made in this Agreement shall be true as of the date of this Agreement, shall be deemed to have been made again at and as of the Closing Date, shall be true at and as of the Closing Date, and, together with the covenants made by Purchaser herein, except as otherwise expressly set forth herein, shall survive for six (6) months following Closing.

## ARTICLE V

### CONDITIONS PRECEDENT TO CLOSING

**Section 5.01. Purchaser's Conditions to Closing.** Purchaser shall not be obligated to close and fund the Transaction until the delivery to Purchaser or the Title Company, as applicable, the following items:

- (a) fully executed originals of (i) the Deed; (ii) the Lease; and (iii) all of the other Transaction Documents;
- (b) documents that may be required by the Title Company for issuance of the Title Policy;
- (c) a closing settlement statement reflecting the credits, prorations, and adjustments contemplated by or specifically provided for in this Agreement;
- (d) all documents required to be delivered by this Agreement and the other Transaction Documents; and
- (e) such further documents as reasonably may be required in order to fully and legally close this Transaction.

Upon the fulfillment or Purchaser's written waiver of all of the above conditions, Purchaser shall deposit immediately available federal funds necessary to close this Transaction with the Title Company and this Transaction shall close in accordance with the terms and conditions of this Agreement. Unless otherwise dated, all of the documents to be delivered at Closing shall be dated as of the Closing Date.

**Section 5.02. Seller's Conditions Precedent to Closing.** Seller shall not be obligated to close the Transaction until the fulfillment (or written waiver by Seller) of all of the following conditions:

- (a) Purchaser shall have delivered to the Title Company the Purchase Price, as adjusted pursuant to the requirements of this Agreement, in immediately available federal funds;

(b) Purchaser shall have caused to be executed and delivered to the appropriate Persons fully executed originals of (i) the Lease, and (ii) all of the other Transaction Documents;

(c) Purchaser shall have delivered to the Title Company a closing settlement statement reflecting the credits, prorations, and adjustments contemplated by or specifically provided for in this Agreement;

(d) Seller shall have obtained all third party consents deemed necessary in Seller's sole discretion for (i) the Transaction and (ii) the release of any Seller mortgage or other document (including any securitization document) which encumbers any Property; and

(e) Purchaser shall have delivered to Seller and/or the Title Company such further documents as may reasonably be required in order to fully and legally close this Transaction.

## ARTICLE VI

### DEFAULTS; REMEDIES

**Section 6.01. Default.** Each of the following shall be deemed an event of default (each, an "Event of Default"):

(a) if any representation or warranty of a party set forth in this Agreement or any other Transaction Document is false in any material respect or if a party renders any false statement; or

(b) if a party fails to keep or perform any of the terms or provisions of this Agreement or if any condition precedent is not satisfied by the other party at or prior to the Closing Date.

**Section 6.02. Purchaser Remedies.** In the event of any Event of Default by Seller, Purchaser, as its sole and exclusive remedy, shall be entitled to exercise, at its option, any one of the following:

(a) Purchaser may terminate this Agreement by giving written notice to Seller in which case the Earnest Money Deposit shall be returned to Purchaser and neither party shall have any further obligation or liability, except for the obligations and provisions which are expressly stated to survive termination of this Agreement; or

(b) Purchaser may proceed to Closing.

**Section 6.03. Seller Remedies.** In the event of any Event of Default by Purchaser, Seller, as its sole and exclusive remedy (except for the indemnity obligations of Purchaser under Section 7.04), shall be entitled to receive the Earnest Money Deposit as liquidated damages (and not as a penalty) and to terminate this Agreement whereupon neither party shall have any further obligation or liability, except for the obligations and provisions which are expressly stated to survive termination of this Agreement.

**Section 6.04. Waiver.** Purchaser and Seller each hereby waive all other rights and remedies not expressly provided for herein, whether in law or in equity.

## ARTICLE VII

### MISCELLANEOUS

#### Section 7.01. Risk of Loss.

(a) **Condemnation.** If, prior to Closing, action is initiated to take the Property, or any portion thereof, by eminent domain proceedings or by deed in lieu thereof, Purchaser may elect at or prior to Closing, to (i) terminate this Agreement, in which event the Earnest Money Deposit shall be returned to Purchaser and neither Purchaser nor Seller shall have any further duties or obligations under this Agreement, except as otherwise provided herein, or (ii) proceed to close, in which event all of Seller's assignable right, title and interest in and to the award of the condemning authority, to the extent that the amount of such award does not exceed the Purchase Price, shall be assigned to Purchaser at Closing and there shall be no reduction in the Purchase Price.

(b) **Casualty.** Seller assumes all risks and liability for damage to or injury occurring to the Property by fire, storm, accident, or any other casualty or cause until Closing has been consummated. If the Property, or any part thereof, suffers any damage prior to Closing from fire or other casualty, which Seller, at its sole option, does not elect to repair, Purchaser may elect at or prior to Closing, to (i) terminate this Agreement, in which event the Earnest Money Deposit shall be returned to Purchaser and neither Purchaser nor Seller shall have any further duties or obligations under this Agreement, except as otherwise provided herein; or (ii) consummate Closing, in which event all of Seller's right, title and interest in and to the proceeds of any insurance covering such damage (less an amount equal to any expense and costs incurred by Seller to repair or restore the Property and any portion paid or to be paid on account of the loss of rents or other income from the Property for the period prior to the Closing Date, all of which shall be payable to Seller), to the extent that the amount of such insurance does not exceed the Purchase Price, shall be assigned to Purchaser at Closing.

**Section 7.02. Notices.** All notices, demands, designations, certificates, requests, offers, consents, approvals, appointments and other instruments given pursuant to this Agreement (collectively called "Notices") shall be in writing and given by (a) hand delivery; (b) express overnight delivery service; (c) certified or registered mail, return receipt requested; or (d) electronic mail message, and shall be deemed to have been delivered upon (i) receipt, if hand delivered; (ii) the next Business Day, if delivered by a reputable express overnight delivery service; (iii) the third Business Day following the day of deposit of such notice with the United States Postal Service, if sent by certified or registered mail, return receipt requested; or (iv) transmission. Notices shall be provided to the parties and addresses (or facsimile numbers, as applicable) specified below:



If to Purchaser: City of Vestavia Hills, Alabama  
1032 Montgomery Highway  
Vestavia Hills, Alabama 35216  
Attn: Jeffery Downes, City Manager  
Email: [jdownes@vhal.org](mailto:jdownes@vhal.org)

With a copy to: Patrick H. Boone  
Vestavia Hills City Attorney  
215 Richard Arrington, Jr. Blvd. North  
705 New South Federal Savings Building  
Birmingham, Alabama 35203-3720  
E-Mail: [patrickboone@bellsouth.net](mailto:patrickboone@bellsouth.net)

If to Seller: STORE Capital Acquisitions, LLC  
8377 E. Hartford Drive, Suite 100  
Scottsdale, Arizona 85255  
Attention: Mr. Michael J. Zieg  
Email: [mzieg@storecapital.com](mailto:mzieg@storecapital.com)

With a copy to: Kutak Rock LLP  
1801 California Street, Suite 3000  
Denver, CO 80202  
Attention: Lauren Walker  
Email: [lauren.walker@kutakrock.com](mailto:lauren.walker@kutakrock.com)

or to such other address or such other Person as either party may from time to time hereafter specify to the other party in a notice delivered in the manner provided above. Whenever in this Agreement the giving of Notice is required, the giving thereof may be waived in writing at any time by the Person or Persons entitled to receive such Notice.

**Section 7.03. Assignment.** Purchaser may not assign its rights under this Agreement in whole or in part without the prior written consent of Seller; *provided, however*, Purchaser may assign this Agreement to an entity owned or controlled by Purchaser upon written notice of such assignment delivered to Seller prior to the Closing Date. No assignment of Purchaser's right and interest hereunder shall relieve Purchaser of any liability for the performance of any obligation of Purchaser contained herein. The provisions of this Section 7.03 shall survive Closing.

**Section 7.04. Indemnity.** Purchaser shall indemnify, defend and hold harmless Seller and its directors, officers, shareholders, managers, members, employees, representatives, successors, assigns, agents, lenders, contractors, subcontractors, experts, licensees, affiliates, lessees, mortgagees, trustees and invitees, as applicable (collectively, the "Indemnified Parties"), from and against any and all Losses of any nature arising from or connected with any Inspections performed pursuant to Section 2.06. Purchaser's obligations under this Section 7.04 shall survive Closing or termination of this Agreement.

**Section 7.05. Brokerage Commission.** Each of the parties represents and warrants to the other that neither party has dealt with, negotiated through or communicated with any broker in connection with this Transaction, except for Blake C. Crowe of Southpace Properties, Inc. - Blake C. Crowe on behalf of Seller and Purchaser. At Closing, Seller shall pay a commission equal to 4% of the Purchase Price to such broker. Seller shall indemnify, defend and hold harmless against any and all claims, loss, costs and expenses, including reasonable attorneys' fees, resulting from any claims that may be made against such party by any other broker claiming a commission or fee by, through or under the other party. The parties' respective obligations under this Section 7.05 shall survive Closing or termination of this Agreement.

**Section 7.06. Reporting Requirements.** The parties agree to comply with any and all reporting requirements applicable to the Transaction which are set forth in any law, statute, ordinance, rule, regulation, order or determination of any Governmental Authority, and further agree upon request, to furnish the other party with evidence of such compliance. Seller and Purchaser expressly acknowledge and agree that any and all documents executed and delivered by the parties in order to close this sale, specifically including but not limited to, the Purchase and Sale Agreement, Deed, closing statement, financing documents regarding funds borrowed by Purchaser, Affidavits, all documents referred in sections 5.01 and 5.02, and other closing documents signed by either of the parties incident to closing are "public records" within the meaning of Title 41-13-1, *Code of Alabama, 1975*; that every citizen has a right to inspect and have a copy of said documents in accordance with Title 36-12-40, *Code of Alabama, 1975*, and Title 36-12-41, *Code of Alabama, 1975*.

**Section 7.07. Disclosure.** Except as expressly provided in Section 7.06, in this Section 7.07 and by law or judicial action, neither Seller nor Purchaser will make any public disclosure of this Agreement or the other Transaction Documents, the Transaction or the provisions of the Transaction Documents without the prior written consent of the other party hereto. The parties also agree that, notwithstanding any provision contained in this Agreement, any party (and each employee, representative or other agent of any party) may disclose to *any and all Persons, without limitation of any kind*, any matter required under the Securities Act of 1933, as amended, or the Securities Exchange Act of 1934, as amended.

**Section 7.08. Time is of the Essence.** The parties hereto expressly agree that time is of the essence with respect to this Agreement.

**Section 7.09. Non-Business Days.** If the Closing Date or the date for delivery of a notice or performance of some other obligation of a party falls on a Saturday, Sunday or legal holiday in the state in which any Property is located, then the Closing Date or such notice or performance shall be postponed until the next Business Day.

**Section 7.10. Waiver and Amendment.** No provision of this Agreement shall be deemed waived or amended except by a written instrument unambiguously setting forth the matter waived or amended and signed by the party against which enforcement of such waiver or amendment is sought. Waiver of any matter shall not be deemed a waiver of the same or any other matter on any future occasion.

**Section 7.11. Personal Liability.** Notwithstanding anything to the contrary provided in this Agreement, it is specifically understood and agreed, such agreement being a primary

consideration for the execution of this Agreement by Seller, that (a) there shall be absolutely no personal liability on the part of any shareholder, director, officer, manager, member or employee of Seller with respect to any of the terms, covenants and conditions of this Agreement; and (b) Purchaser waives all claims, demands and causes of action against the shareholders, directors, officers, managers, members or employees of Seller in the event of any breach by Seller of any of the terms, covenants and conditions of this Agreement to be performed by Seller.

**Section 7.12. Headings; Internal References.** The headings of the various sections and exhibits of this Agreement have been inserted for reference only and shall not to any extent have the effect of modifying the express terms and provisions of this Agreement. Unless stated to the contrary, any references to any section, subsection, exhibit and the like contained herein are to the respective section, subsection, exhibit and the like of this Agreement.

**Section 7.13. Construction Generally.** This is an agreement between parties who are experienced in sophisticated and complex matters similar to the Transaction and the other Transaction Documents, is entered into by both parties in reliance upon the economic and legal bargains contained herein and therein, and shall be interpreted and construed in a fair and impartial manner without regard to such factors as the party which prepared the instrument, the relative bargaining powers of the parties or the domicile of any party. Seller and Purchaser were each represented by legal counsel competent in advising them of their obligations and liabilities hereunder.

**Section 7.14. Further Assurances.** Each of the parties agrees, whenever and as often as reasonably requested so to do by the other party or the Title Company, to execute, acknowledge, and deliver, or cause to be executed, acknowledged, or delivered, any and all such further conveyances, assignments, confirmations, satisfactions, releases, instruments, or other documents as may be necessary, expedient or proper, in order to complete any and all conveyances, transfers, sales and assignments herein provided and to do any and all other acts and to execute, acknowledge and deliver any and all documents as so requested in order to carry out the intent and purpose of this Agreement.

**Section 7.15. Attorneys' Fees.** In the event of any controversy, claim, dispute or proceeding between the parties concerning this Agreement, the prevailing party shall be entitled to recover all of its reasonable attorneys' fees and other costs in addition to any other relief to which it may be entitled.

**Section 7.16. Entire Agreement.** This Agreement and all other Transaction Documents, and all other certificates, instruments or agreements to be delivered hereunder and thereunder constitute the entire agreement between the parties with respect to the subject matter hereof, and there are no other representations, warranties or agreements, written or oral, between Seller and Purchaser with respect to the subject matter of this Agreement. Notwithstanding anything in this Agreement to the contrary, upon the execution and delivery of this Agreement by Seller and Purchaser, (a) this Agreement shall supersede any previous discussions, agreements, term sheets or commitment letters relating to the Transaction, including without limitation, the Letter of Intent, and any and all agreements related to confidentiality, exclusivity, non-competition, non-solicitation of employees, non-solicitation or pursuit of any business opportunity represented by the Transaction, or any other term or

condition which restricts any business activity of Seller or its affiliates, (b) the terms and conditions of this Agreement shall control notwithstanding that such terms are inconsistent with or vary from those set forth in any of the foregoing agreements, and (c) this Agreement may only be amended by a written agreement executed by Seller and Purchaser. The provisions of this Section shall survive Closing.

**Section 7.17. Recording.** This Agreement shall not be recorded in any office of any Governmental Authority.

**Section 7.18. Forum Selection; Jurisdiction; Venue; Choice of Law.** For purposes of any action or proceeding arising out of this Agreement, the parties hereto expressly submit to the jurisdiction of all federal and state courts located in Jefferson County, in the State of Alabama, and consent that they may be served with any process or paper by registered mail or by personal service within or without Jefferson County, in the State of Alabama in accordance with applicable law.

**Section 7.19. Separability; Binding Effect; Governing Law.** Each provision hereof shall be valid and shall be enforceable to the extent not prohibited by law. If any provision hereof or the application thereof to any Person or circumstance shall to any extent be invalid or unenforceable, the remaining provisions hereof, or the application of such provision to Persons or circumstances other than those as to which it is invalid or unenforceable, shall not be affected thereby. Subject to the provisions of Section 7.03, all provisions contained in this Agreement shall be binding upon, inure to the benefit of and be enforceable by the successors and assigns of each party hereto, including, without limitation, any United States trustee, any debtor-in-possession or any trustee appointed from a private panel, in each case to the same extent as if each successor and assign were named as a party hereto. This Agreement shall be governed by, and construed with, the laws of the applicable state or states in which the Property is located, without giving effect to any state's conflict of laws principles.

**Section 7.20. Survival.** Except for the conditions of Closing set forth in Article V, which shall be satisfied or waived in writing as of the Closing Date, and except as otherwise expressly set forth herein, all representations, warranties, agreements, obligations and indemnities of Seller and Purchaser set forth in this Agreement shall survive Closing.

**Section 7.21. Waiver of Jury Trial and Certain Damages.** THE PARTIES HERETO SHALL AND THEY HEREBY DO INTENTIONALLY WAIVE ANY AND ALL RIGHTS TO A TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM BROUGHT BY EITHER OF THE PARTIES HERETO AGAINST THE OTHER ON ANY MATTERS WHATSOEVER ARISING OUT OF OR IN ANY WAY CONNECTED WITH THIS AGREEMENT AND/OR ANY CLAIM OR INJURY OR DAMAGE RELATED THERETO. THE PARTIES FURTHER WAIVE THE RIGHT TO SEEK PUNITIVE, CONSEQUENTIAL, SPECIAL AND INDIRECT DAMAGES IN ANY ACTION, PROCEEDING OR COUNTERCLAIM BROUGHT WITH RESPECT TO ANY MATTER ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT AND/OR ANY DOCUMENT CONTEMPLATED HEREIN OR RELATED HERETO.

**Section 7.22. Counterparts.** This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, and all such counterparts shall be deemed to constitute one and the same instrument.

**Section 7.23. IRC Section 1031 Exchange of Property.** The parties agree that a party may elect to complete an Internal Revenue Code 1031 tax-deferred exchange that will not affect the terms and conditions of this Agreement; *provided, however,* that (a) the non-requesting party will cooperate with the requesting party to complete such exchange in a timely manner on the conditions that the non-requesting party shall not be obligated to pay, suffer or incur any additional expenses or liabilities as a result of cooperating in the requesting party's exchange and the non-requesting party shall not be obligated to acquire any other real property in connection with such exchange; (b) the non-requesting party shall not have any liability to the requesting party for failure of the exchange to qualify under the Internal Revenue Code and Treasury Regulations; (c) any assignment(s) made by the requesting party in connection with such exchange shall not relieve the requesting party of its obligations under this Agreement; (d) the requesting party shall cause all documentation necessary or appropriate in connection with such exchange to be prepared and available for execution no later than the Closing Date; (e) the completion of one or more tax-deferred exchanges is not a condition to the performance by the requesting party of its obligations set forth in this Agreement; and (f) the completion of one or more tax-deferred exchanges shall in no way delay Closing.

*[Remainder of page intentionally left blank; signature page(s) to follow]*

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed and delivered as of the Effective Date.

**SELLER:**

**STORE CAPITAL ACQUISITIONS, LLC,**  
a Delaware limited liability company

By: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed and delivered as of the Effective Date.

**PURCHASER:**

**CITY OF VESTAVIA HILLS, ALABAMA,** a  
municipal corporation

By: \_\_\_\_\_

Name: Ashley Curry

Title: Mayor

By: \_\_\_\_\_

Name: Jeffery Downes

Title: City Manager

**EXHIBIT A**  
**DEFINED TERMS**

The following terms shall have the following meanings for all purposes of this Agreement:

*“Additional Title Objection”* has the meaning set forth in Section 2.01(d)(ii).

*“Business Day”* means a day on which banks located in Scottsdale, Arizona are not required or authorized to remain closed.

*“Closing”* shall have the meaning set forth in Section 3.01.

*“Closing Date”* means the date specified as the closing date in Section 3.01.

*“Deed”* means that special warranty deed (or its equivalent under the law of the state in which the Property is located) whereby Seller conveys to Purchaser all of Seller’s right, title and interest in and to the Property.

*“Earnest Money Deposit”* has the meaning set forth in Section 1.03.

*“Effective Date”* has the meaning set forth in the introductory paragraph of this Agreement.

*“Environmental Report”* has the meaning set forth in Section 2.02(b).

*“Event of Default”* has the meaning set forth in Section 6.01.

*“Governmental Authority”* means the United States of America, any state, local or other political subdivision thereof, any other entity exercising executive, judicial, regulatory or administrative functions of or pertaining to government and any corporation or other entity owned or controlled (through stock or capital ownership or otherwise) by any of the foregoing.

*“Indemnified Parties”* has the meaning set forth in Section 7.04.

*“Initial Deposit”* has the meaning set forth in Section 1.03.

*“Inspection Period”* has the meaning set forth in Section 2.06.

*“Inspections”* has the meaning set forth in Section 2.06.

*“Leases”* means that certain Lease Agreement dated December 20, 2010 by and between Seller, as landlord, and Gold's Alabama LLC, as tenant, together with all amendments, modifications and guaranties relating thereto.

*“Letter of Intent”* means that certain Letter of Intent dated September 26, 2016 between STORE Capital Corporation, on behalf of Seller, and Purchaser.



“*Losses*” means any and all claims, lawsuits, suits, liabilities (including, without limitation, strict liabilities), actions, proceedings, obligations, debts, damages, losses, costs, expenses, diminutions in value, fines, interest, penalties, interest, charges, fees, expenses, judgments, decrees, awards, amounts paid in settlement and damages of whatever kind or nature (including, without limitation, attorneys’ fees, court costs and costs incurred in the investigation, defense and settlement of claims).

“*Notices*” has the meaning set forth in Section 7.02.

“*OFAC List*” means the list of specially designated nationals and blocked Persons subject to financial sanctions that is maintained by the U.S. Treasury Department, Office of Foreign Assets Control and any other similar list maintained by the U.S. Treasury Department, Office of Foreign Assets Control pursuant to any legal requirements, including, without limitation, trade embargo, economic sanctions, or other prohibitions imposed by Executive Order of the President of the United States. The OFAC List currently is accessible through the internet website [www.treas.gov/ofac/t11sdn.pdf](http://www.treas.gov/ofac/t11sdn.pdf).

“*Permitted Encumbrances*” means the lien of any real estate taxes, water and sewer charges, not yet due and payable; those recorded easements, restrictions, liens and encumbrances set forth as exceptions in the Title Commitment and in the Title Policy to be issued by Title Company to Purchaser and approved by Purchaser in its sole discretion in connection with this Agreement; and the Lease and all rights of the Tenant thereunder.

“*Person*” means any natural person, firm, corporation, partnership, limited liability company, other entity, state, political subdivision of any state, the United States of America, any agency or instrumentality of the United States of America, any other public body or other organization or association.

“*Property*” has the meaning set forth in Section 1.01.

“*Purchase Price*” means the amount specified in Section 1.02.

“*Real Property*” has the meaning set forth in Section 1.01.

“*Seller Documents*” has the meaning set forth in Section 2.02.

“*Survey*” has the meaning set forth in Section 2.02(a).

“*Tenant*” means, Gold's Alabama LLC , an Alabama limited liability company.

“*Title Commitment*” has the meaning set forth in Section 2.01(a).

“*Title Company*” means First American Title Insurance Company located at 2425 E. Camelback Road, Suite 300, Phoenix, Arizona 85016, Attention: Kristin Brown, National Commercial Services.

“*Title Objection*” has the meaning set forth in Section 2.01(d)(i).

“*Title Policy*” has the meaning set forth in Section 2.01(a).

“*Transaction*” has the meaning set forth in Section 1.01.

“*Transaction Documents*” means this Agreement, the Lease, the Deed, any and all documents referenced herein and therein, and such other documents, payments, instruments and certificates as are reasonably required by the Title Company.

**EXHIBIT B**

**LEGAL DESCRIPTION / PROPERTY ADDRESS**

**Street Address:** 1090 Montgomery Highway Vestavia Hills AL 35216

**Legal Description:**

Parcel I:

Lot 2 and 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.

Parcel II:

A nonexclusive easement for ingress and egress as set out in the Access Easement Agreement as recorded in Instrument No. 200408/8594 and assigned by Instrument No. 200602/6382; and A perpetual easement for the construction and maintenance of a sign as set out in the agreement recorded in Instrument No. 200408/8593 and assigned by Instrument No. 200602/6381.

Situated in Jefferson County, Alabama.

B-1

TO: BRANCH BANKING & TRUST  
FROM: CITY OF VESTAVIA HILLS

THE CITY OF VESTAVIA HILLS ACCEPTS THE FOLLOWING TERMS AS PROPOSED ON MARCH 17, 2017:

**GO WARRANT - \$9,100,000.00**

TERM: 4 YEARS

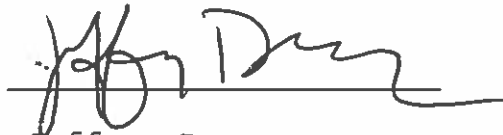
INTEREST RATE: 2.95%

**GO WARRANT - \$400,000.00**

TERM: 4 YEARS

INTEREST RATE: 1.98%

SINCERELY,



Jeffrey Downes

NAME

City Manager

TITLE

March 21, 2017

DATE

City of Vestavia Hills  
Community Center Project

OPTION 5 - TAXABLE/BANK QUALIFIED 4 YEARS WITH BALLOON

<b>\$9.1MM; 2.95%; Taxable; 4 Years; Balloon</b>					
	Date	Payment	Interest	Principal	Balance
Loan	4/28/2017				9,100,000.00
1	4/28/2018	484,750.00	268,450.00	216,300.00	8,883,700.00
2	4/28/2019	484,750.00	262,069.15	222,680.85	8,661,019.15
3	4/28/2020	484,750.00	255,500.06	229,249.94	8,431,769.21
4	4/28/2021	<u>8,680,506.41</u>	<u>248,737.20</u>	<u>8,431,769.21</u>	0.00
Grand Totals		10,134,756.41	1,034,756.41	9,100,000.00	

<b>\$400M; 1.98%; Bank Qualified; 4 Years; Balloon</b>					
	Date	Payment	Interest	Principal	Balance
Loan	4/28/2017				400,000.00
1	4/28/2018	55,250.00	7,920.00	47,330.00	352,670.00
2	4/28/2019	55,250.00	6,982.87	48,267.13	304,402.87
3	4/28/2020	55,250.00	6,027.18	49,222.82	255,180.05
4	4/28/2021	<u>260,232.61</u>	<u>5,052.56</u>	<u>255,180.05</u>	0.00
Grand Totals		425,982.61	25,982.61	400,000.00	

<b>Blended</b>					
	Date	Payment	Interest	Principal	Balance
Loan	4/28/2017				9,500,000.00
1	4/28/2018	540,000.00	276,370.00	263,630.00	9,236,370.00
2	4/28/2019	540,000.00	269,052.02	270,947.98	8,965,422.02
3	4/28/2020	540,000.00	261,527.24	278,472.76	8,686,949.26
4	4/28/2021	<u>8,940,739.02</u>	<u>253,789.76</u>	<u>8,686,949.26</u>	0.00
Grand Totals		10,560,739.02	1,060,739.02	9,500,000.00	

**RESOLUTION NUMBER 4937**

**A RESOLUTION APPROVING ALCOHOL LICENSE  
FOR YOUR PIE D/B/A YP LIBERTY PARK LLC;  
LLOYD CHANDLER PEEPLES III, EXECUTIVE**

**WHEREAS**, the City Council of the City of Vestavia Hills, Alabama, approves the alcohol license for Your Pie d/b/a YP Liberty Park LLC, located at 3735 Corporate Woods Drive, Suite 113, Vestavia Hills, Alabama, for the sale of 040 - Retail Beer (on/off premises) and 060 - Retail Table Wine (on/off premises); Lloyd Chandler Peoples III, executive.

**APPROVED and ADOPTED** this the 10th day of April, 2017.

Ashley C. Curry  
Mayor

ATTESTED BY:

Rebecca Leavings  
City Clerk

# INTEROFFICE MEMORANDUM

**DATE:** April 6, 2017

**TO:** Dan Rary, Police Chief

**FROM:** Rebecca Leavings, City Clerk

**RE:** Alcohol License Request – 040 - Retail Beer (on/off premises) and 060 - Retail Table Wine (on/off premises)

Please find attached information submitted by Lloyd Chandler Peebles III who request an alcohol license to sell 040 - Retail Beer (on/off premises) and 060 - Retail Table Wine (on/off premises) at the Your Pie d/b/a YP Liberty Park LLC, 3735 Corporate Woods Drive, Suite 113, Vestavia Hills, Alabama.

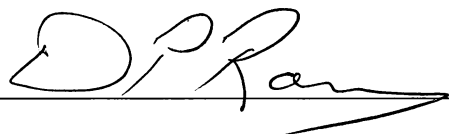
I am scheduling this case to be heard by the City Council on 10th day of April, 2017 at 5:00 PM (Monday). Please advise me of your recommendation for this license. If you have any questions, please contact me.

---

## Reply

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

X	<i>Application cleared by P.D. This indicates that there are <b>NO</b> 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</i>
	<i>Needs further review. This indicates that the Police Chief has found records of some convictions of alcohol related arrests</i>
	<i>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</i>

Reviewed: 



**STATE OF ALABAMA**  
**ALCOHOLIC BEVERAGE CONTROL BOARD**  
**ALCOHOL LICENSE APPLICATION**



**Confirmation Number: 20170302141257043**

**Type License:** 040 - RETAIL BEER (ON OR OFF PREMISES)    **State:** \$150.00    **County:** \$75.00

**Type License:** 060 - RETAIL TABLE WINE (ON OR OFF PREMISES)    **State:** \$150.00    **County:** \$75.00

**Trade Name: YOUR PIE**    **Filing Fee: \$100.00**

**Applicant: YP LIBERTY PARK LLC**    **Transfer Fee:**

**Location Address:** 3735 CORPORATE WOODS DR; SUITE 113    VESTAVIA HILLS, AL 35242

**Mailing Address:** 7309 KINGS MOUNTIAN PLACE    VESTAVIA HILLS, AL 35242

**County:** JEFFERSON    **Tobacco sales:** NO    **Tobacco Vending Machines:**

**Type Ownership:** LLC

**Book, Page, or Document info:** LR201513 20814

**Date Incorporated:** 06/18/2015    **State incorporated:** AL    **County Incorporated:** JEFFERSON

**Date of Authority:** 06/18/2015    **Alabama State Sales Tax ID:** R999999999

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

LLOYD CHANDLER PEEPLES III 6534074 - AL	PRESIDENT	09/23/1973 DOTHAN, AL	7309 KINGS MOUNTAIN PLACE VESTAVIA HILLS, AL 35242

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:** LLOYD PEEPLES III

**Home Phone:** 205-967-1377

**Business Phone:** 205-249-4334

**Cell Phone:** 205-249-4334

**Fax:**

**E-mail:** LPEEPLES@YOURPIE.COM

**PREVIOUS LICENSE INFORMATION:**

**Previous License Number(s)**

**Trade Name:**

**License 1:**

**Applicant:**

**License 2:**





**STATE OF ALABAMA**  
**ALCOHOLIC BEVERAGE CONTROL BOARD**  
 ALCOHOL LICENSE APPLICATION



**Confirmation Number: 20170302141257043**

If applicant is leasing the property, is a copy of the lease agreement attached? **YES**  
 Name of Property owner/lessor and phone number: **SCP AT LIBERTY PARK LLC 205-747-1768**  
 What is lessors primary business? **INVESTMENTS/LANDLORD**  
 Is lessor involved in any way with the alcoholic beverage business? **NO**  
 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: **2500** Display Square Footage:  
 Building seating capacity: **60** Does Licensed premises include a patio area? **YES**  
 License Structure: **SHOPPING CENTER** License covers: **OTHER**  
 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: 20170302141257043**

**Private Clubs / Special Retail / or Special Events licenses ONLY**

**Private Club**

Does the club charge and collect dues from elected members?

Number of paid up members:

Are meetings regularly held?

How often?

Is business conducted through officers regularly elected?

Are members admitted by written application, investigation, and ballot?

Has Agent verified membership applications for each member listed?

Has at least 10% of members listed been confirmed and highlighted?

Agent's Initials:

For what purpose is the club organized?

Does the property used, as well as the advantages, belong to all the members?

Do the operations of the club benefit any individual member(s), officer(s), director(s), agent(s), or employee(s) of the club rather than to benefit of the entire membership?

**Special Retail**

Is it for 30 days or less?

More than 30 days?

Franchisee or Concessionaire of above?

Other valid responsible organization:

Explanation:

**Special Events / Special Retail (7 days or less)**

Starting Date:                      Ending Date:

Special terms and conditions for special event/special retail:

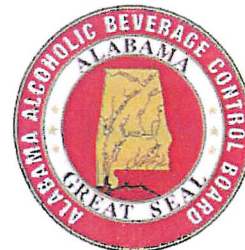
**Other Explanations**

License Covers: SUITE 113





**STATE OF ALABAMA**  
**ALCOHOLIC BEVERAGE CONTROL BOARD**  
**ALCOHOL LICENSE APPLICATION**



**Confirmation Number: 20170302141257043**

**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): *LLOYD PEERLESS*

Signature of Applicant: *[Handwritten Signature]*

Notary Name (print): *Valencia Johnson*

Notary Signature: *[Handwritten Signature]*

Commission expires: *4-22-18*

<b>Application Taken:</b>	<b>App. Inv. Completed:</b>	<b>Forwarded to District Office:</b>
<b>Submitted to Local Government:</b>		<b>Received from Local Government:</b>
<b>Received in District Office:</b>	<b>Reviewed by Supervisor:</b>	<b>Forwarded to Central Office:</b>

**RESOLUTION NUMBER 4938**

**A RESOLUTION APPROVING ALCOHOL LICENSE  
FOR TEXAS TACO GRILL D/B/A NEW SEASON  
LLC; DENIS JEROME GAVLIK AND LARRY  
MADDOX BEASLEY JR., EXECUTIVES**

**WHEREAS**, the City Council of the City of Vestavia Hills, Alabama, approves the alcohol license for Texas Taco Grill d/b/a New Season LLC, located at 633 Montgomery Hwy, Vestavia Hills, Alabama, for the On-Premise sale of 020 - Restaurant Retail Liquor; Denis Jerome Gavlik and Larry Maddox Beasley Jr., executives.

**APPROVED and ADOPTED** this the 10th day of April, 2017.

Ashley C. Curry  
Mayor

ATTESTED BY:

Rebecca Leavings  
City Clerk

# INTEROFFICE MEMORANDUM

**DATE:** April 6, 2017

**TO:** Dan Rary, Police Chief

**FROM:** Rebecca Leavings, City Clerk

**RE:** Alcohol License Request – 020 - Restaurant Retail Liquor

Please find attached information submitted by Denis Jerome Gavlik and Larry Maddox Beasley Jr. who request an alcohol license to sell 020 - Restaurant Retail Liquor at the Texas Taco Grill d/b/a New Season LLC, 633 Montgomery Hwy, Vestavia Hills, Alabama.

I am scheduling this case to be heard by the City Council on 10th day of April, 2017 at 6:00 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:

	<i>Application cleared by P.D. This indicates that there are <b>NO</b> 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</i>
X	<i>Needs further review. This indicates that the Police Chief has found records of some convictions of alcohol related arrests</i>
	<i>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</i>

Reviewed: \_\_\_\_\_





**STATE OF ALABAMA**  
**ALCOHOLIC BEVERAGE CONTROL BOARD**  
 ALCOHOL LICENSE APPLICATION  
 Confirmation Number: 20160922144221350



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

Type License:      State:      County:

Trade Name: TEXAS TACO GRILL      Filing Fee: \$50.00

Applicant: NEW SEASON LLC      Transfer Fee:

Location Address: 633 MONTGOMERY HWY VESTAVIA HILLS, AL 35216

Mailing Address: 633 MONTGOMERY HWY VESTAVIA HILLS, AL 35216

County: JEFFERSON Tobacco sales: NO      Tobacco Vending Machines:

Type Ownership: LLC

Book, Page, or Document info: LR201513 1891

Date Incorporated: 05/21/2015 State incorporated: AL      County Incorporated: JEFFERSON

Date of Authority: 05/21/2015      Alabama State Sales Tax ID: R009256370

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

DENIS JEROME GAVLIK 9487374 - AL	MEMBER	10/14/1961 CORPUS CHRISTI, TX	125 ASTOR CIRCLE CHELSEA, AL 35043
LARRY MADDOX BEASLEY JR 4842040 - AL	MANAGING MEMBER	04/23/1962 FLORENCE, AL	816 LAKE CREST DR HOOVER, AL 35226

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: MAX BEASLEY

Business Phone: 817-992-5856

Fax:

Home Phone: 817-992-5856

Cell Phone: 817-992-5856

E-mail: MAXCBA@SBCGLOBAL.NET

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: 20160922144221350**



If applicant is leasing the property, is a copy of the lease agreement attached? **YES**  
 Name of Property owner/lessor and phone number: **WB CROW INVESTMENT COMPANY INC 205-326-5372**  
 What is lessors primary business? **BANKING**  
 Is lessor involved in any way with the alcoholic beverage business? **NO**  
 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: **2700** Display Square Footage:  
 Building seating capacity: **50** Does Licensed premises include a patio area? **YES**  
 License Structure: **ONE STORY** 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)?

<b>Name:</b>	<b>Violation &amp; Date:</b>	<b>Arresting Agency:</b>	<b>Disposition:</b>
DENIS J GAVLIK	08/12/1981 BURGALRY OF VEHICLE	TEXAS DPS	3 DAYS CONFINEMENT
LARRY M BEASLEY JR	DWI 11/15/1990	HOUSTON PD	COMPLETED PROBATION
LARRY M BEASLEY JR	POSS OF CONTROLLED SUBSTANCE 05/24/2014	RICHMOND PD	REDUCED TO ATTEMPTED POSSESSON/3 DAYS CONFINEMENT



**STATE OF ALABAMA**  
**ALCOHOLIC BEVERAGE CONTROL BOARD**  
**ALCOHOL LICENSE APPLICATION**  
**Confirmation Number: 20160922144221350**



**Initial each**

**Signature page**

**LMB**  
**LMB**

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.

**LMB**

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.

**LMB**

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.

**LMB**

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.

**LMB**

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):

*Larry (max) Beasley*

Signature of Applicant:

*Larry M Beasley (max)*

Notary Name (print):

*Valencia Johnson*

Notary Signature:

*Valencia Johnson*

Commission expires:

*4-22-18*

**Application Taken:**

**App. Inv. Completed:**

**Forwarded to District Office:**

**Submitted to Local Government:**

**Received from Local Government:**

**Received in District Office:**

**Reviewed by Supervisor:**

**Forwarded to Central Office:**





**STATE OF ALABAMA**  
**ALCOHOLIC BEVERAGE CONTROL BOARD**  
 ALCOHOL LICENSE APPLICATION  
**Confirmation Number: 20160922144221350**



**Private Clubs / Special Retail / or Special Events licenses ONLY**

**Private Club**

Does the club charge and collect dues from elected members?

Number of paid up members:

Are meetings regularly held?

How often?

Is business conducted through officers regularly elected?

Are members admitted by written application, investigation, and ballot?

Has Agent verified membership applications for each member listed?

Has at least 10% of members listed been confirmed and highlighted?

Agent's Initials:

For what purpose is the club organized?

Does the property used, as well as the advantages, belong to all the members?

Do the operations of the club benefit any individual member(s), officer(s), director(s), agent(s), or employee(s) of the club rather than to benefit of the entire membership?

**Special Retail**

Is it for 30 days or less?

More than 30 days?

Franchisee or Concessionaire of above?

Other valid responsible organization:

Explanation:

**Special Events / Special Retail (7 days or less)**

Starting Date:            Ending Date:

Special terms and conditions for special event/special retail:

**Other Explanations**

Additional Violations:

Name: LARRY M BEASLEY JR    |    Violation & Date: DWI  
 10/19/1988

Arresting Agency: DALLAS CO SHERIFF'S DEPT    |    Disposition: COMPLETED  
 PROBATION



Alabama Alcoholic Beverage Control Board  
Licensing Division

**Memorandum of Understanding for Restaurant Retail Liquor License**

Restaurant Retail Liquor Licenses shall be issued only to reputable persons for locations which are “habitually and principally” used for the purpose of preparing and serving meals for the public to consume on the licensed premises during normal and reasonable dining hours. Only those locations whose customary and primary business is preparing and serving meals to the public will be issued a Restaurant Retail Liquor License.

Restaurant Retail Liquor Licenses applicants shall comply with all pertinent and related requirements of State, County, and where applicable, Municipal health departments prior to licensing and shall remain in compliance thereafter for as long as said license shall remain valid.

All Restaurant Retail Liquor Licensees shall have a fully equipped and operational kitchen on the licensed premises. The Licensee shall maintain and operate said kitchen and shall, upon order of a customer, prepare and serve all food items shown on its menu during normal and reasonable dining hours. Exceptions shall be made where there is a known and provable shortage or temporary unavailable supply of a food item.

Any applicant or Licensee shall, upon request, provide to the ABC Board, any records, books, ledgers, menus, receipts, or other documentation necessary to demonstrate compliance with this regulation.

In addition to the above Rule and Regulation, Title 28-3-1(23) defines a meal as a “diversified selection of food some of which is not susceptible of being consumed in the absence of at least some articles of tableware and which cannot be conveniently consumed while one is standing or walking about”.

Additionally, Title 28-3A-13 states that a Restaurant Retail License is “for on premise consumption” and does not allow sales for off-premises consumption with the exception of re-corked wine conforming to 28-3A-20.1.

By signing this memorandum of understanding, the Licensee agrees and understands the requirements of obtaining and maintaining a Restaurant Retail Liquor License. Any deviation from these requirements will prohibit the ABC Board from issuing this type of License. Furthermore, failing to follow these requirements after obtaining a Restaurant Retail Liquor License could result in the protest of the renewal of this type license.

Signature Max Beasley Date 9-22-2016  
Print Name Max Beasley Position Held Managing member

**RESOLUTION NO. 4939**

**A RESOLUTION AUTHORIZING  
A SPECIAL ECONOMIC DEVELOPMENT AGREEMENT  
BY THE CITY OF VESTAVIA HILLS, ALABAMA  
AND  
SLICE 280, LLC**

---

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF VESTAVIA HILLS, ALABAMA (THE "COUNCIL"), AS GOVERNING BODY OF THE CITY OF VESTAVIA HILLS, ALABAMA (the "Municipality"), as follows:

Section 1. The Council, upon evidence duly presented to and considered by it, has found and determined, and does hereby find, determine and declare as follows:

(a) Pursuant to the applicable laws of the State of Alabama, the Municipality and Slice 280, LLC (the "Owner") have prepared that certain Special Economic Development Agreement to be dated the date of delivery (the "Special Economic Development Agreement"), as set forth hereinafter, for the purposes referenced therein.

(b) The Municipality is without absolute authority or power under any local constitutional amendment to do any of the actions or undertakings referenced in Amendment No. 772 of the Constitution of Alabama of 1901, as amended ("Amendment No. 772").

(c) The Municipality is authorized under Amendment No. 772 to become indebted, and to issue obligations as referenced therein, upon the full faith and credit of the Municipality, to a principal amount not exceeding 50% of the assessed value of taxable property therein, as determined for state taxation, in furtherance of the powers and authorities granted in Amendment No. 772.

(d) Pursuant to, and for the purposes of, Amendment No. 772, it is necessary, desirable and in the public interest for the Municipality to grant public funds for the economic development of the Municipality, and for such purposes to issue its Limited Obligation Economic Development Revenue Warrant in maximum principal amount of \$500,000 (the "Warrant"), pursuant to the terms of the Special Economic Development Agreement.

(e) The expenditure of public funds for the purposes specified in the Special Economic Development Agreement will serve a valid and sufficient public purpose, notwithstanding any incidental benefit accruing to any private entity or entities.

(f) (1) On March 29, 2017, the Municipality caused to be published in *The Birmingham News*, which newspaper has the largest circulation in the Municipality, the notice required by Amendment No. 772(c)(2), a true and correct copy of which notice is set forth as follows:

**LEGAL NOTICE OF PROPOSED ECONOMIC DEVELOPMENT ACTION  
AND  
RELATED PUBLIC EXPENDITURES BY THE CITY OF VESTAVIA  
HILLS, ALABAMA**

Notice is hereby given that the City Council (the "Council") of the City of Vestavia Hills, Alabama (the "City") will meet in public session at 6:00 p.m. on April 10, 2017 at City Hall in the City of Vestavia Hills, Alabama for the purpose of considering the transaction of business that may properly come before the Council, such business to include, but not be limited to, the authorization by the Council, pursuant to Amendment No. 772 of the Constitution of Alabama of 1901, as amended, of a resolution (the "Resolution") approving the execution and delivery of a Special Economic Development Agreement (the "City Agreement") by the City and Slice 280, LLC, an Alabama limited liability company (the "Developer"), to be dated the date of delivery, pursuant to which City Agreement the City shall issue its Limited Obligation Economic Development Revenue Warrant in an expected principal amount of \$500,000 (the "City Warrant") to the Developer, for purposes referenced in the City Agreement.

The City Warrant shall evidence the agreement of the City to make economic development grants to the Developer (based solely upon a percentage of net sales tax proceeds received by the City from the Developer for a period of ten years) for the purpose of promoting the economic development of the City and in consideration of the establishment by the Developer and the operation of commercial and related facilities in the City.

The City seeks to achieve, by undertaking its obligations pursuant to the City Agreement and the Resolution, to promote the local economic and industrial development of the City, to increase employment in the City, and to increase the tax and revenue base of the City.

The business entity to whom or for whose benefit the City propose to lend its credit or grant public funds or thing of value is the Developer.

All interested persons may examine and review the City Agreement, the Resolution, and all relevant documents pursuant to which the City Warrant is to be issued and secured, and make copies thereof at personal expense, at the offices of the City Manager during normal business hours, before and after the meeting referenced herein.

Further information concerning the information in this notice can be obtained from the City Manager at the offices thereof during normal business hours.

(2) The information set forth in said notice is true and correct.

(3) Publication of said notice is hereby ratified and confirmed.

(h) (1) The assessed valuation of the taxable property in the Municipality for the preceding fiscal year (ending September 30, 2016 and on the basis of which taxes became due and payable on October 1, 2017) was not less than \$700,120,010.

(2) The total indebtedness of the Municipality chargeable against the debt limitation for the Municipality prescribed by Section 225 of the Constitution of Alabama of 1901, as amended, (which indebtedness does not include the Warrant issued under Amendment No. 772), is not more than twenty percent of said assessed valuation.

(3) The total indebtedness of the Municipality chargeable against the debt limitation for the Municipality prescribed by Amendment No. 772(a)(4) (which indebtedness does include the Warrant), is not more than fifty percent of said assessed valuation.

Section 2. The Council does hereby approve, adopt, authorize, direct, ratify and confirm:

(a) the agreements, covenants, and undertakings of the Municipality set forth in the Special Economic Development Agreement, and

(b) the terms and provisions of the Special Economic Development Agreement, in substantially the form and of substantially the content as set forth as follows, with such changes thereto (by addition or deletion) as the President shall approve, which approval shall not extend or increase the obligations of the municipality thereunder and shall be conclusively evidenced by execution and delivery of the Special Economic Development Agreement as hereinafter provided:

---

**SPECIAL ECONOMIC DEVELOPMENT AGREEMENT**

---

---

**Dated Date of Delivery**

---

**by**

**CITY OF VESTAVIA HILLS, ALABAMA**

**and**

**SLICE 280, LLC**

---

**This Special Economic Development Agreement was prepared by Heyward C. Hosch and Ann E. Watford of Maynard, Cooper & Gale, P.C., 1901 Sixth Avenue North, 2400 Regions/Harbert Plaza, Birmingham, Alabama 35203-2618.**

---

## **SPECIAL ECONOMIC DEVELOPMENT AGREEMENT**

This **SPECIAL ECONOMIC DEVELOPMENT AGREEMENT** is made and entered as of the Date of Delivery by the **CITY OF VESTAVIA HILLS, ALABAMA**, an Alabama municipal corporation (the "Municipality"), and **SLICE 280, LLC** (the "Owner").

### **Recitals**

The Owner expects and intends to expand and increase the tax and revenue base of the Municipality by development of commercial enterprises within the corporate limits of the Municipality.

The Municipality has agreed to provide the Owner, as provided herein, the within referenced Annual Economic Development Payments.

Pursuant to the applicable laws of the State of Alabama, and for the purposes, referenced herein, the Municipality and the Owner have delivered this Agreement.

### **Agreement**

NOW, THEREFORE, for and in consideration of the premises, and the mutual covenants and agreements herein contained, the Municipality and the Owner hereby covenant and agree as follows:

**ARTICLE 1**

**DEFINITIONS**

For purposes of this Agreement the following terms shall have the following meanings:

**Annual Economic Development Payment** shall mean, for each Annual Payment Date, an amount equal to fifty percent (50%) of the Municipality Net Sales Tax Proceeds actually received by the Municipality from the Owner during each annual period for which such Annual Economic Development Payment is determined during the 10-year period beginning \_\_\_\_\_ and ending \_\_\_\_\_.

**Annual Payment Date** shall mean the later of the following dates which next succeed the year for which an Annual Economic Development Payment is determined: (i) \_\_\_\_\_ or (ii) 45 days after the receipt by the Municipality of the certificate therefor from the Owner pursuant to Section 4.02(1).

**Date of Delivery** shall mean \_\_\_\_\_, 2017.

**Date of Termination** shall mean that date on which the Municipality shall have no obligation to make any payment of Annual Economic Development Payments under this Agreement or the Warrant in accordance with Section 4.01(4).

**Date of Validation** shall mean that date on which a judgment entered by the Circuit Court of Jefferson County, Alabama validating and confirming the Warrant shall have become forever conclusive in accordance with, and as provided in, Section 6-6-755 of the Code of Alabama 1975.

**Enabling Law** shall mean Amendment No. 772 of the Constitution of Alabama of 1901, as amended, as at any time amended or supplemented, or any successor provision of law.

**Municipality Sales Tax** shall mean collectively the privilege license and excise taxes levied by the Municipality (commonly called sales and use taxes) which consist of (i) a privilege or license (commonly called sales) tax on persons engaged in the business of selling at retail any tangible personal property within the Municipality (subject to exemption of certain property as provided by law) or in the business of conducting places of amusement or entertainment within the Municipality, generally measured by the gross sales or receipts of such businesses and (ii) an excise (commonly called a use) tax on the storage, use or other consumption of tangible personal property (subject to exemptions of certain property as provided by law) within the Municipality, generally measured by the sales price of such property.

**Municipality Net Sales Tax Proceeds** for any year shall (a) mean and include all proceeds and receipts of the Municipality Sales Tax less and except proceeds of the Municipality Sales Tax dedicated for public school purposes and capital reserves, and (b) not include any proceeds or receipts received by the Municipality (i) from the levy by the Municipality of privilege license or excise taxes not described in the definition of Municipality Sales Tax or (ii) from the levy of privilege license or excise taxes of any kind, type or nature by taxing authorities other than the Municipality or (iii) from any increase in the Municipality Sales Tax enacted after the Date of Delivery.



**Owner** shall mean Slice 280, LLC, and the successors and assigns thereof.

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

**Project** shall mean and include those commercial and related facilities established by the Owner within the Municipality from which the Municipality receives Municipality Net Sales Tax Proceeds.

**State** shall mean the State of Alabama.

**Total Municipality Tax Commitment** shall mean the amount of Five Hundred Thousand Dollars (\$500,000).

**Warrant** shall have the meaning set forth in Section 4.03.

## ARTICLE 2

### **REPRESENTATIONS AND WARRANTIES**

#### **SECTION 2.01 The Municipality.**

The Municipality hereby represents as follows:

(1) The Municipality has corporate power and authority to enter into this Agreement, pursuant to the Enabling Law and to carry out its obligations hereunder and by proper corporate action the Municipality has duly authorized the execution, delivery and performance of this Agreement.

(2) The Warrant shall be issued, sold and delivered upon condition, and purchased by the Owner thereof in the reliance, that this Agreement is enforceable against the Municipality in accordance with the terms hereof.

(3) The issuance of the Warrant and the application of the proceeds thereof for the purposes set forth in this Agreement (i) will result in direct financial benefits to the Municipality and (ii) will serve a valid and sufficient public purpose, notwithstanding any incidental benefit accruing to any private entity or entities.

(4) The Municipality represents and certifies that the indebtedness of the Municipality incurred pursuant to the Enabling Law is less than 50 percent of the assessed value of the taxable property in the Municipality as determined for state taxation for the fiscal year immediately preceding the Date of Delivery.

#### **SECTION 2.02 The Owner.**

The Owner hereby represents and warrants as follows:

(1) The Owner is duly organized and validly existing as a limited liability company under the laws of the State of Alabama and has duly authorized the execution, delivery and performance of this Agreement.

(2) The execution, delivery and performance of this Agreement by the Owner does not conflict with or result in a violation of any agreement, contract, instrument, order, writ, judgment or decree to which the Owner is a party or is subject.

(3) No consent or approval by, or filing with, any governmental authority in the State of Alabama is required for the execution or delivery of this Agreement by the Owner or for the full effectiveness or enforceability thereof under the laws of the State of Alabama.

(4) There is no action, suit, proceeding, inquiry or investigation pending before any court or governmental authority, or threatened in writing against or affecting the Owner, which involves the consummation of the transactions contemplated by, or the validity of, this Agreement.

### **ARTICLE 3**

#### **DURATION OF AGREEMENT**

The obligations of the Municipality and the Owner hereunder shall arise on the Date of Validation and shall continue until the Date of Termination, except with respect to any specific agreement or covenant which by its terms expressly survives termination of this Agreement.

### **ARTICLE 4**

#### **AGREEMENTS AND OBLIGATIONS OF THE MUNICIPALITY**

##### **SECTION 4.01 Nature, Amount and Duration of Obligation of Municipality.**

The Municipality and the Owner agree:

(1) Purpose. Pursuant to this Agreement, the Municipality has agreed to pay to the Owner of the Warrant in installments in arrears the Annual Economic Development Payments determined by the Municipality to be due and payable in accordance with the terms hereof.

(2) Limited Obligation. The obligation of the Municipality for the payment of the Warrant:

(a) is a limited obligation payable solely from the Annual Economic Development Payments;

(b) shall never constitute a general obligation, or a charge against the general credit or taxing powers, of the Municipality within the meaning of any constitutional provision or statutory limitation whatsoever;

(c) is subject to (i) all prior pledges of the Municipality Net Sales Tax Proceeds for the benefit of long term indebtedness of the Municipality and (ii) in accordance with Johnson v. Sheffield, 183 So. 265 (Ala. 1938), the law-imposed requirement that, if necessary, there must first be paid from all Municipality Net Sales Tax Proceeds (including without limitation the Annual Economic Development Payments) the legitimate and necessary governmental expenses of operating the Municipality; and

(d) shall commence after the Date of Validation.

(3) Maximum Amount. The maximum amount the Municipality shall pay under this Agreement and the Warrant shall be limited to and shall not exceed the Total Municipality Tax Commitment.

(4) Duration and Termination. Anything in this Agreement or in the Warrant to the contrary notwithstanding, the Municipality shall have no obligation to pay any amount of Annual Economic Development Payments under this Agreement or the Warrant:

(a) prior to the Date of Validation; or

(b) after the first to occur of (i) the Annual Payment Date which occurs after the period of twelve consecutive months ending \_\_\_\_\_ or (ii) that date on which the Municipality shall have paid as Annual Economic Development Payments an aggregate amount not less than the Total Municipality Tax Commitment or (iii) termination of this Agreement by the Municipality under Section 6.02(2).

**SECTION 4.02 Determination and Payment of Annual Economic Development Payments.**

(1) In order to receive an Annual Economic Development Payment, the Owner shall execute and deliver to the Municipality, on or before \_\_\_\_\_ in each year in which this Agreement is in effect, a certificate in form and of content as attached as Exhibit B hereto.

(2) The Municipality shall, on each Annual Payment Date, determine as provided herein, and pay to the Owner, the amount (if any) of the Annual Economic Development Payment due hereunder for the period referenced in such certificate.

(3) The Municipality will permit any attorneys, accountants or other agents or representatives designated by the Owner to visit and inspect any of the accounting systems, books of account, and financial records and properties of the Municipality which pertain to the Municipality Net Sales Tax Proceeds and the determination of Annual Economic Development Payments, all at reasonable business times and upon reasonable notice.

**SECTION 4.03 The Warrant.**

(1) The obligation of the Municipality to pay the Annual Economic Development Payments hereunder shall be evidenced by a limited obligation revenue warrant, payable solely from, and secured by a pledge of, the Annual Economic Development Payments, in form and of content as the form of warrant attached to this Agreement as Exhibit A (the "Warrant").

(2) The Warrant shall not bear interest, shall be issued in an aggregate principal amount not exceeding the Total Municipality Tax Commitment, shall be dated the date of delivery, and shall mature on the Date of Termination.

(3) The Warrant shall be duly executed, sealed, and attested by the Municipality, and shall be registered by the Municipality as a conditional claim against the Annual Economic Development Payments.

(4) The Warrant shall be registered and transferred as provided therein.

**SECTION 4.04 Agreements of the Municipality.**

(1) All proceedings of the governing body of the Municipality heretofore had and taken, and all ordinances and resolutions adopted pursuant thereto with respect to the levy and collection of the Municipality Sales Tax, are hereby ratified and confirmed in all respects from and after the effective date thereof.

(2) The Municipality covenants and agrees the Municipality shall, as long as this Agreement and the Warrant shall be outstanding, continue to levy and to provide for the assessment and collection of the privilege license and excise taxes which provide the Municipality Net Sales Tax Proceeds at rates not less than those in effect on the date of this Agreement.

**ARTICLE 5**

**OBLIGATIONS OF THE OWNER**

(1) The Owner hereby agrees to duly and punctually observe and perform all agreements thereof under this Agreement.

(2) The Owner shall use the proceeds of the Annual Economic Development Payments solely for the purpose of development and operation of the business interests of the Owner within the Municipality.

(3) (a) The Owner agrees to defend, protect, indemnify, and hold harmless the Municipality, its agents, employees, and members of its governing body, from and against all claims or demands, including actions or proceedings brought thereon, and all costs, expenses, and liabilities of any kind relating thereto, including reasonable attorneys fees and cost of suit, arising out of or resulting from any of the following, provided, however, that the foregoing indemnity will not extend to the negligent misconduct of the City, its agents, employees, and members of its governing body: (i) any construction activity performed by

Owner, or anyone claiming by through, or under Owner; and (ii) any loss of life, personal injury, or damage to property arising from or in relation to the entry upon, construction, use, operation or occupancy of the Project, including, without limitation, tenants, customers and invitees of the Project and/or Owner.

(b) The agreements and covenants in this Article 5 shall survive the termination of this Agreement with respect to events or occurrences happening prior to or upon the termination of this Agreement and shall remain in full force and effect until commencement of an action with respect to any thereof shall be prohibited by law.

(4) The Owner shall proceed with due diligence, after the Date of Delivery, to cause to be completed and installed within a reasonable time capital improvements with respect to the Project consisting of the roadway improvements, sanitary and storm water sewage improvements, and sidewalk improvements set forth on Exhibit C hereto.

## ARTICLE 6

### EVENTS OF DEFAULT AND REMEDIES

#### **SECTION 6.01 Events of Default.**

Any one or more of the following shall constitute an event of default by the Municipality or the Owner hereunder (an "Event of Default") under this Agreement:

(1) default in the performance, or breach, of any covenant or warranty of the Municipality in this Agreement, including without limitation default in the payment of any Annual Economic Development Payments under Section 4.02 hereof, and the continuance of such default or breach for a period of 30 days after there has been given, by registered or certified mail, to the Municipality by the Owner a written notice specifying such default or breach and requiring it to be remedied and stating that such notice is a "notice of default" hereunder, provided that if such default is of a kind which cannot reasonably be cured within such thirty-day period, the Municipality shall have a reasonable period of time within which to cure such default, provided that it begins to cure the default promptly after its receipt of such written notice and proceeds in good faith, and with due diligence, to cure such default; or

(2) default in the performance, or breach, of any covenant or warranty of the Owner in this Agreement, and the continuance of such default or breach for a period of 30 days after there has been given, by registered or certified mail, to the Owner by the Municipality a written notice specifying such default or breach and requiring it to be remedied and stating that such notice is a "notice of default" hereunder, provided that if such default is of a kind which cannot reasonably be cured within such thirty-day period, the Owner shall have a reasonable period of time within which to cure such default, provided that it begins to cure the default promptly after its receipt of such written notice and proceeds in good faith, and with due diligence, to cure such default.

#### **SECTION 6.02 Remedies.**

(1) Each party hereto may proceed to protect its rights and interests by suit in equity, action at law or other appropriate proceedings, whether for the specific performance of any covenant or

agreement of any other party herein contained or in aid of the exercise of any power or remedy available at law or in equity.

(2) Anything in this Agreement to the contrary notwithstanding, the Municipality may terminate this Agreement upon the occurrence of an Event of Default under Section 6.01(2), whereupon the Municipality shall have no further obligation hereunder.

**SECTION 6.03 Remedies Subject to Applicable Law.**

All rights, remedies and powers provided by this Agreement may be exercised only to the extent the exercise thereof does not violate any applicable provision of law in the premises, and all the provisions of this Article are intended to be subject to all applicable mandatory provisions of law which may be controlling in the premises and to be limited to the extent necessary so that the same will not render this Agreement invalid or unenforceable.

**ARTICLE 7**

**PROVISIONS OF GENERAL APPLICATION**

**SECTION 7.01 Enforceability.**

The provisions of this Agreement shall be severable. In the event any provision hereof shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any of the remaining provisions hereof.

**SECTION 7.02 Prior Agreements Cancelled.**

This Agreement shall completely and fully supersede all other prior agreements, both written and oral, by the parties hereto relating to the matters contained herein. None of the parties hereto shall hereafter have any rights under any of such prior agreements but shall look to this Agreement for definition and determination of all of their respective rights, liabilities and responsibilities relating to the matters contained herein.

**SECTION 7.03 Counterparts.**

This Agreement may be executed in counterparts, each of which shall constitute but one and the same agreement.

**SECTION 7.04 Binding Effect; Governing Law.**

(1) This Agreement shall inure to the benefit of, and shall be binding upon, the parties hereto and their respective successors and assigns except as otherwise provided herein.

(2) This Agreement shall be governed exclusively by the laws of the State of Alabama.

**SECTION 7.05 Notices.**

(1) All notices, demands, consents, certificates or other communications hereunder shall be in writing, shall be sufficiently given and shall be deemed given when delivered personally to the party or to an officer of the party to whom the same is directed, or mailed by registered or certified mail, postage prepaid, or sent by overnight courier, addressed as follows:

- (a) if to the Municipality: (b) if to the Owner:

City Hall  
513 Montgomery Highway  
Vestavia Hills, Alabama 35216

(2) Any such notice or other document shall be deemed to be received as of the date delivered, if delivered personally, or as of three (3) days after the date deposited in the mail, if mailed, or the next business day, if sent by overnight courier.

**SECTION 7.06 Delegation and Assignment of this Agreement by Owner.**

(1) The Owner agrees that, except as provided in Section 7.06(2):

(a) The Owner shall have no authority or power to, and shall not, delegate to any Person the duty or obligation to observe or perform any agreement or obligation of the Owner hereunder.

(b) The Owner shall not have any authority or power to, and shall not, without the prior written consent of the Municipality (which shall not be unreasonably withheld, delayed or conditioned), assign or pledge to any Person any right of the Owner hereunder or any interest of the Owner herein.

(2) The City agrees that the Owner may, upon prior written notice to the City, assign its rights to receive the Annual Economic Development Payments to 3104 Timberlake LLC or to a financial institution which provides financing for the Project.

**SECTION 7.07 Amendments**

This Agreement may be amended or supplemented only by an instrument in writing duly authorized, executed and delivered by each party hereto.

IN WITNESS WHEREOF, the Municipality has caused this Agreement to be executed in its name, under seal, and the same attested, all by officers thereof duly authorized thereunto, and the Owner has executed this Agreement under seal, and the parties have caused this Agreement to be dated the date and year first above written.

**CITY OF VESTAVIA HILLS, ALABAMA**

By \_\_\_\_\_  
Mayor

By \_\_\_\_\_  
City Manager

SEAL

ATTEST: \_\_\_\_\_  
City Clerk

**SLICE 280, LLC**

By: \_\_\_\_\_

Its: \_\_\_\_\_



**EXHIBIT A**

**Form of Warrant**

**THIS WARRANT HAS NOT BEEN REGISTERED (i) UNDER THE SECURITIES ACT OF 1933, AS AMENDED, IN RELIANCE UPON THE EXEMPTION PROVIDED BY SECTION 4(2) OF SAID ACT, OR (ii) UNDER ANY STATE SECURITIES LAW, IN RELIANCE UPON APPLICABLE EXEMPTIONS, AND MAY NOT BE TRANSFERRED WITHOUT REGISTRATION EXCEPT PURSUANT TO AN EXEMPTION THEREFROM.**

**THIS WARRANT DOES NOT BEAR INTEREST**

**UNITED STATES OF AMERICA  
STATE OF ALABAMA**

**CITY OF VESTAVIA HILLS  
LIMITED OBLIGATION ECONOMIC DEVELOPMENT REVENUE WARRANT  
(SLICE 280, LLC)**

No. R-1

DATED DATE:

\_\_\_\_\_, 20\_\_

MATURITY DATE:

Date of Termination

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

**SLICE 280, LLC**

or registered assigns (collectively the "Owner") in a principal amount not exceeding

**FIVE HUNDRED THOUSAND DOLLARS  
(\$500,000)**

as determined pursuant to the within-referenced Agreement, and hereby orders and directs the Finance Director of the Issuer to pay to the Owner, solely from the Annual Economic Development Payments deposited in the Warrant Fund hereinafter designated, said principal amount, without interest, on each Annual Payment Date, until and including the Maturity Date specified above.

**Authority for Issuance**

This Warrant is issued pursuant to the authority of the Constitution and laws of the State of Alabama, including particularly and without limitation Amendment No. 772 of the Constitution of Alabama of 1901, as amended (collectively the "Enabling Law"), and that certain Special Economic Development Agreement dated the above Dated Date (the "Agreement") by the Issuer and Slice 280, LLC.

Capitalized terms used hereinbefore and hereinafter without definition shall have the respective meanings assigned thereto in the Agreement.

Reference is made to the provisions of the Agreement, to and by which all of which provisions the Owner, by acceptance of this Warrant, assents and agrees to be bound.

### **Payment**

Payment of this Warrant shall be made to or as directed by the Owner; provided the final payment of principal of this Warrant shall be made only upon presentation and surrender of this Warrant to the Issuer for cancellation.

Each payment of principal made on this Warrant shall be reflected by the notations made by the Issuer on its internal records (which may be kept by computer or by other means determined by the Issuer) and the Issuer is hereby authorized so to record thereon all such payments. All payments of principal on this Warrant and the aggregate unpaid principal amount of this Warrant reflected on the internal records of the Issuer (whether by computer or otherwise) shall be rebuttably presumptive evidence of the principal amount of this Warrant outstanding and unpaid.

All payments of principal of this Warrant by the Issuer shall be made at par in such coin or currency of the United States of America as at the time of payment is legal tender for the payment of public and private debts, and shall be valid and effectual to satisfy and discharge the liability of the Issuer upon this Warrant to the extent of the amounts so paid.

The person in whose name this Warrant is registered shall be deemed and regarded as the absolute owner hereof for all purposes and payment of the principal of this Warrant shall be made only to or upon the order of the Owner hereof or its legal representative, and neither the Issuer nor any agent of the Issuer shall be affected by any notice to the contrary.

### **Security**

This Warrant is a limited obligation of the Issuer payable solely from the Annual Economic Development Payments as provided in the Agreement.

The Annual Economic Development Payments are hereby pledged to the payment, and for the benefit, of this Warrant, subject to (i) all prior pledges of the Municipality Net Sales Tax Proceeds for the benefit of long term indebtedness of the Municipality and (ii) in accordance with Johnson v. Sheffield, 183 So. 265 (Ala. 1938), the law-imposed requirement that, if necessary, there must first be paid from all Municipality Net Sales Tax Proceeds (including without limitation the Annual Economic Development Payments) the legitimate and necessary governmental expenses of operating the Municipality.

This Warrant shall never constitute a charge against the general credit or taxing powers of the Issuer within the meaning of any constitutional provision or statutory limitation whatsoever.

The Issuer has established a special fund designated "Warrant Fund" (the "Warrant Fund") for the payment of this Warrant and has obligated itself to pay or cause to be paid into the Warrant Fund, solely from the Annual Economic Development Payments, sums sufficient to provide for the payment of this Warrant.

### **Prepayment and Redemption**

The Issuer may, on any date, pay in advance the entire unpaid principal amount of this Warrant or any lesser portion or portions thereof by paying to the Owner the principal amount to be prepaid without premium or penalty.

### **Registration and Transfer**

This Warrant is registered as to principal and interest in the name of the Owner on the book of registration maintained for that purpose by the Issuer.

This Warrant may be transferred only upon written direction of the registered owner or its legal representative, addressed to the Municipality, presentation of this Warrant to the Municipality accompanied by a written instrument of transfer, satisfactory to the Municipality, duly executed by the registered owner or its attorney duly authorized in writing, and compliance with Section 7.06 of the Agreement. Upon presentation of this Warrant to the Municipality for transfer, the Municipality shall record such transfer on the said book of registration and execute and deliver, in exchange for this Warrant, a new warrant or warrants of like tenor hereof, registered in the name of the transferee in an aggregate principal amount equal to the unpaid or unredeemed portion of the principal of this Warrant. No charge shall be made for the privilege of transfer, but the registered owner of this Warrant requesting any such transfer shall pay any tax or other governmental charge required to be paid with respect thereto.

### **General**

No covenant or agreement contained in this Warrant or in the Agreement shall be deemed to be a covenant or agreement of any officer, agent, employee, or member of the governing body of the Issuer in the individual capacity thereof 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.

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 this Warrant represents a valid claim against the Warrant Fund, 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 execution, registration and issuance of this Warrant, the adoption of the resolution approving the Agreement, and the execution and delivery of the Agreement, 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 Issuer, are within every debt and other limit prescribed by the Constitution and laws of the State of Alabama.

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

**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 conditional claim against the City of Vestavia Hills, in the State of Alabama, and the Warrant Fund referred to herein, and the Annual Economic Development Payments pledged to the payment hereof.

\_\_\_\_\_  
Finance Director of the City of Vestavia Hills,  
Alabama

**VALIDATION CERTIFICATE**

Validated and confirmed by judgment of the Circuit Court of Jefferson County, State of Alabama entered on the \_\_\_\_\_ day of \_\_\_\_\_, 2017.

/s/  
\_\_\_\_\_  
Clerk of Circuit Court of Jefferson County,  
State of Alabama

**REGISTRATION OF OWNERSHIP**

This Warrant is recorded and registered on the warrant register of the City of Vestavia Hills in the name of the last owner named below. The principal of this Warrant shall be payable only to or upon the order of such registered owner.

<u>Date of Registration</u>	<u>In Whose Name Registered</u>	<u>Signature of Authorized Officer of Issuer</u>
Dated Date	Slice 280, LLC	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

**Assignment**

For value received, \_\_\_\_\_ hereby sell(s), assign(s) and transfer(s) unto \_\_\_\_\_ this warrant and hereby irrevocably constitute(s) and appoint(s) \_\_\_\_\_ attorney to transfer this warrant on the books of the within named Issuer with full power of substitution in the premises.

Dated: \_\_\_\_\_

\_\_\_\_\_  
NOTE: The name signed to this assignment must correspond with the name of the payee written on the face of the within warrant in all respects, without alteration, enlargement or change whatsoever.

Signature Guaranteed:

\_\_\_\_\_  
(Bank or Trust Company)

By \_\_\_\_\_  
(Authorized Officer)



**EXHIBIT B**

**Request for Payment of Annual Economic Development Payments**

**Request for Payment of Annual Economic Development Payments**

From: Slice 280, LLC

To: City of Vestavia Hills, Alabama

Date: \_\_\_\_\_, 20\_\_

Re: **Special Economic Development Agreement dated the Date of Delivery by City of Vestavia Hills, Alabama (the "Municipality") and Slice 280, LLC (the "Owner").**

---

The undersigned, as Owner under the above Agreement, hereby requests payment to the Owner by the Municipality of the Annual Economic Development Payment, to be determined by the Municipality as provided in the Agreement, for the following period:

\_\_\_\_\_ 1, 20\_\_ to \_\_\_\_\_ 1, 20\_\_

and in connection therewith does hereby represent, warrant and certify to the Municipality as follows:

1. The total amount paid by the Owner to the Municipality pursuant to the levy of the Municipality Sales Tax for the above period is \$\_\_\_\_\_.
2. The Owner is in full compliance with the agreements and covenants thereof under the Agreement and no Event of Default, or any event which upon notice, or lapse of time, or both shall become an Event of Default, has occurred and is continuing.
3. The Agreement is in full force and effect.
4. The Owner is in full compliance with all applicable ordinances and regulations of the Municipality.

Capitalized terms used herein shall have the respective meanings assigned in the above Agreement.

In Witness Whereof, the undersigned Owner has caused this instrument to be executed in its name, under seal, by an officer thereof duly authorized thereunto.

Slice 280, LLC  
as Owner

By \_\_\_\_\_

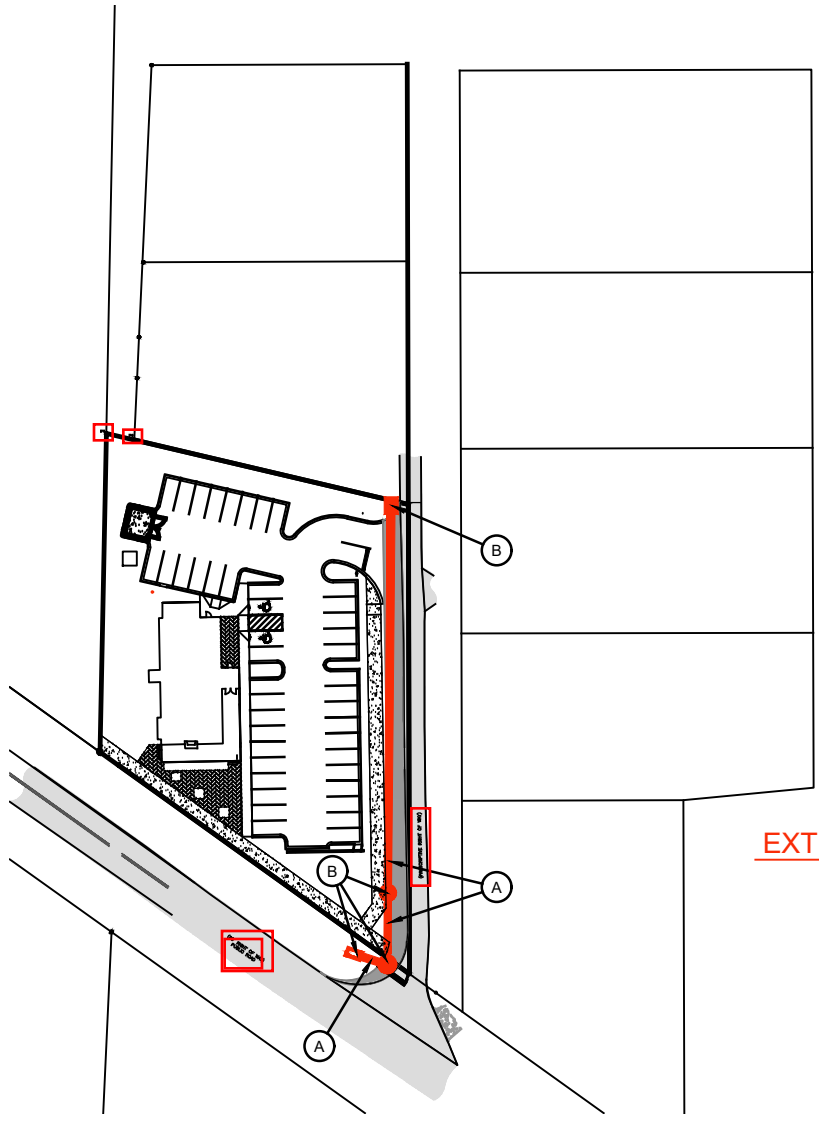
Its \_\_\_\_\_

**EXHIBIT C**

**Capital Improvements**

**EXHIBIT C**

**Capital Improvements**

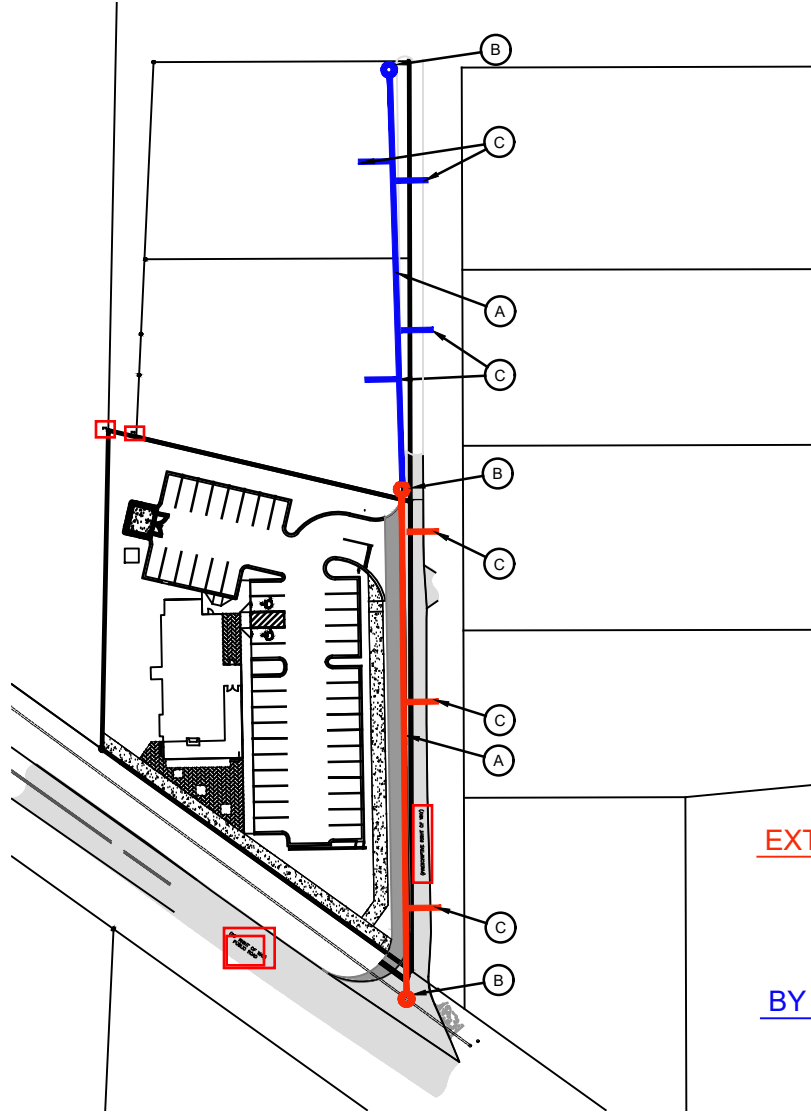


**EXTRAORDINARY SITE COST ELEMENTS**

**#2 STORM DRAINAGE IMPROVEMENTS**

- (A) - 278' 18" RCP PIPE
- (B) - DRAINAGE STRUCTURES

<b>EXHIBIT</b> <small>EXHIBIT 2</small>		<b>GONZALEZ - STRENGTH &amp; ASSOCIATES, INC.</b> <small>CIVIL ENGINEERING, LAND SURVEYING, PLANNING, TRAFFIC &amp; TRANSPORTATION</small> <small>1100 WOODEN, ALABAMA 35244</small> <small>PHONE: (205) 942-2500</small> <small>FAX: (205) 942-2529</small> <small>www.Gonzalez-Strength.com</small>		<b>EXTRAORDINARY SITE COST EXHIBIT</b> <b>3104 TIMBERLAKE ROAD</b> <small>FOR</small> <b>LONGLEAF REALTY PARTNERS, LLC</b> <small>MEADOW, ALABAMA</small> <small>DATE BY: [ ]</small> <small>SCALE: [ ]</small> <small>DESIGNED BY: [ ]</small> <small>CHECKED BY: [ ]</small> <small>DATE: [ ]</small> <small>PROJECT NO. [ ]</small> <small>SECTION 27</small>		<small>REVISIONS</small> <table border="1"> <tr> <th>NO.</th> <th>DATE</th> <th>DESCRIPTION</th> </tr> <tr> <td> </td> <td> </td> <td> </td> </tr> <tr> <td> </td> <td> </td> <td> </td> </tr> <tr> <td> </td> <td> </td> <td> </td> </tr> <tr> <td> </td> <td> </td> <td> </td> </tr> </table>		NO.	DATE	DESCRIPTION												
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<small>ENGINEER</small> <small>EXH-2</small> <small>PROJECT</small> <small>18LPP01</small>		<small>QUARTER - SECTION</small> <small>SOUTHWEST QUARTER</small> <small>TOWNSHIP 19 SOUTH</small> <small>RANGE 2 WEST</small>		<small>DATE</small> <small> </small> <small> </small> <small> </small> <small> </small> <small> </small>																		



**EXTRAORDINARY SITE COST ELEMENTS**

**#3 SANITARY SEWER IMPROVEMENTS**

- (A) - 290 LF - 8" SANITARY SEWER
- (B) - 2 MANHOLES STRUCTURES
- (C) 3 - 20' SERVICE LATERALS

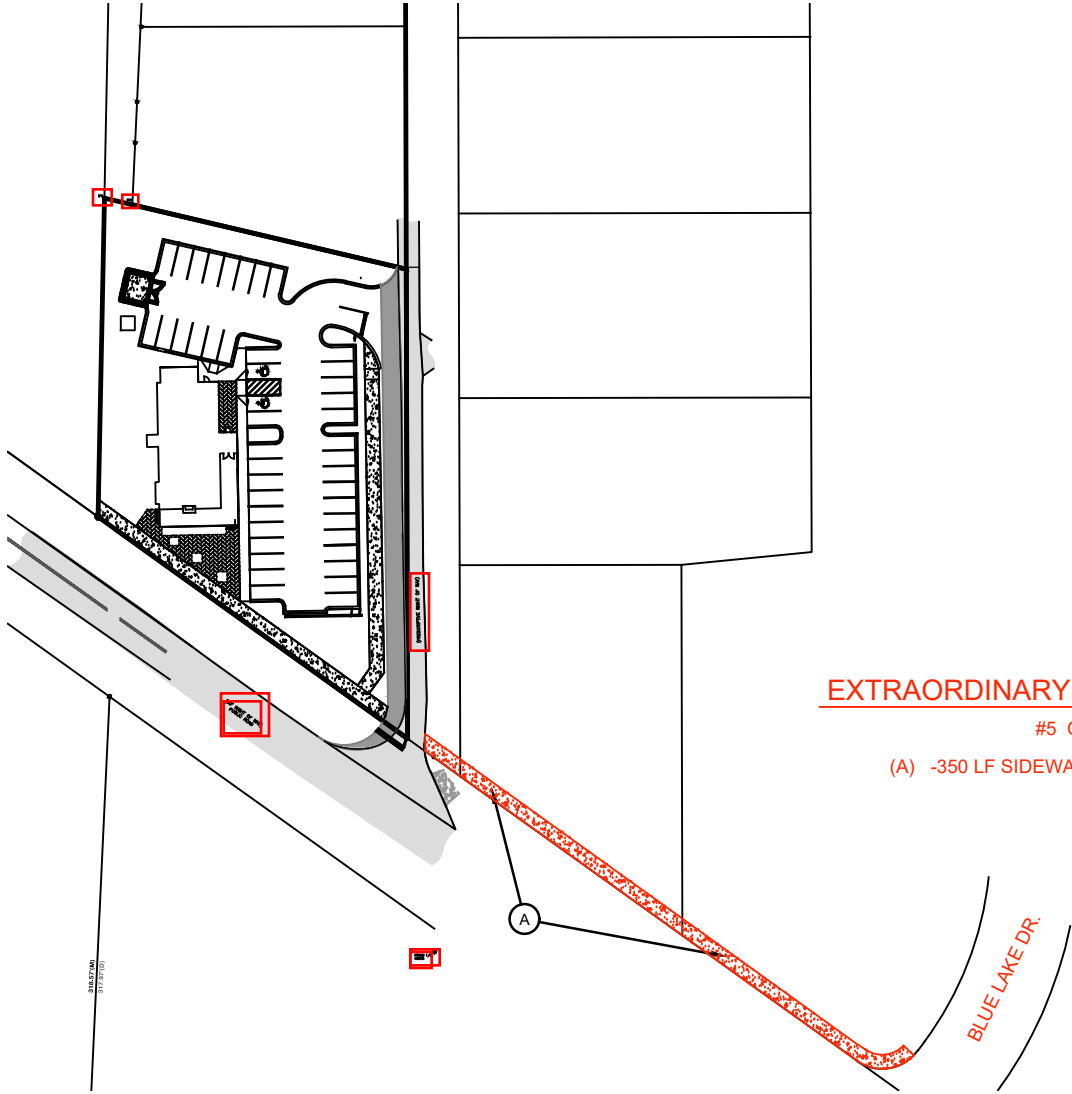
**BY OTHERS**

- (A) - 235 LF - 8" SANITARY SEWER
- (B) - 1 MANHOLES STRUCTURE
- (C) 4 - 20' SERVICE LATERALS



TITLE <b>EXTRAORDINARY SITE COST EXHIBIT</b>	REVISIONS NO. DATE . . . . . . . . .
FOR <b>3104 TIMBERLAKE ROAD</b> VESTAVIA, ALABAMA <b>LONGLEAF REALTY PARTNERS, LLC</b>	QUARTER - SECTION SOUTHWEST QUARTER TOWNSHIP 19 SOUTH RANGE 2 WEST
DRAWN BY CHECKED BY DATE	SCALE CERTIFIED DATE COUNTY OF FILE SECTION 27
<b>GONZALEZ - STRENGTH &amp; ASSOCIATES, INC.</b> CIVIL ENGINEERING, LAND SURVEYING, PLANNING, TRAFFIC & TRANSPORTATION 1100 WENNER, ALABAMA 35244 PHONE: (205) 942-2525 FAX: (205) 942-2529 www.Gonzalez-Strength.com	
<b>EXHIBIT</b>	
EXHIBIT NO. EXH-3 PROJECT BLR001	





**EXTRAORDINARY SITE COST ELEMENTS**

#5 OFF SITE SIDEWALKS

(A) -350 LF SIDEWALKS



REVISIONS	DATE

QUARTER - SECTION  
SOUTHWEST QUARTER  
TOWNSHIP 19 SOUTH RANGE 2 WEST

**EXTRAORDINARY SITE COST EXHIBIT**  
**3104 TIMBERLAKE ROAD**  
 FOR  
 VESTAVIA, ALABAMA  
**LONGLEAF REALTY PARTNERS, LLC**

DATE BY SCALE CERTIFIED SURVEY DATE  
 07/15/2016 JCS/MSB 1"=40' 07/15/2016

TITLE SHEET NO. 1 OF 1

**GONZALEZ - STRENGTH & ASSOCIATES, INC.**  
 CIVIL ENGINEERING, LAND SURVEYING, PLANNING, TRAFFIC & TRANSPORTATION

11000 VENTURE DRIVE  
 HOUSTON, ALABAMA 35244  
 PHONE: (205) 988-2200  
 FAX: (205) 988-2039  
 www.Gonzalez-Strength.com

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**EXHIBIT**

EXHIBIT NO.  
 EXH-5  
 PROJECT  
 16LPP01





Section 3.

(a) The Mayor and the City Manager are each hereby authorized and directed to execute and deliver the Special Economic Development Agreement and the Warrant for and on behalf of and in the name of the Municipality. The City Clerk is hereby authorized and directed to affix the official seal of the Municipality to the Special Economic Development Agreement and the Warrant and to attest the same.

(b) The Mayor, the City Manager, and the officers of the Municipality are each hereby authorized and directed to take all such actions, and execute, deliver and perform all such agreements, documents, instruments, notices, and petitions and proceedings, with respect to the Special Economic Development Agreement and the Warrant, as the Mayor and such officers shall determine to be necessary or desirable to carry out the provisions of this resolution or the Special Economic Development Agreement or duly and punctually observe and perform all agreements and obligations of the Municipality under the Special Economic Development Agreement.

Section 4. The Municipality desires, before the issuance of the Warrant referenced in the Special Economic Development Agreement, to validate the legality of all proceedings had or taken in connection therewith, the validity of the means provided for the payment of the Warrant, and the validity of all covenants and provisions contained in this resolution and the Special Economic Development Agreement and the Warrant, by filing a petition against the taxpayers and citizens of the Municipality in the Circuit Court of Jefferson County, Alabama. A complaint to validate such Warrant, proceedings, and covenants shall be filed and validation proceedings shall be instituted in the name of the Municipality and the members of the governing body of the Municipality. Maynard, Cooper & Gale, P.C., Birmingham, Alabama, and Patrick H. Boone, Esq., are hereby designated and appointed as the attorneys of the Municipality to file such complaint, institute such proceedings, and to take all steps necessary to complete such validation proceedings in accordance with the provisions of Article 17 of Chapter 6 of Title 6 of the CODE OF ALABAMA 1975. Any actions heretofore taken by such attorneys in connection with the filing of such petition or such validation proceedings are hereby ratified and confirmed.

Section 5. All prior actions taken, and agreements, documents or notices executed and delivered, by the Mayor or any officer or member of the Council or other representative of the Municipality, in connection with the agreements, covenants, and undertakings of the Municipality hereby approved, or in connection with the preparation of the Special Economic Development Agreement and the terms and provisions thereof, are hereby approved, ratified and confirmed.

Section 6. All ordinances, resolutions, orders, or parts of any thereof, of the Council in conflict, or inconsistent, with any provision of this resolution hereby are, to the extent of such conflict or inconsistency, repealed.

Section 7. This resolution shall take effect immediately.

After said resolution had been discussed and considered in full by the Council, it was moved by Councilmember \_\_\_\_\_ that said resolution 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 resolution, the roll was called with the following results:

Ayes:            Ashley C. Curry, Mayor  
                     Kimberly Cook  
                     Paul J. Head  
                     George Pierce  
                     Rusty Weaver

Nays:            \_\_\_\_\_

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

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 April 10, 2017, the original of which is on file and of record in the minute book of the City Council in my custody; (4) the resolution set forth in such excerpts is a complete, verbatim and compared copy of such resolution as introduced and adopted by the City Council on such date; and (5) said resolution 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 \_\_\_\_ day of \_\_\_\_\_, 2017.

\_\_\_\_\_  
Clerk of the City of Vestavia Hills, Alabama

SEAL

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

---

**Special Economic Development Agreement  
(Slice 280, LLC)**

---

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 6:00 p.m. on April 10, 2017. The meeting was called to order by the Mayor, and the roll was called with the following results:

Present: Ashley C. Curry, Mayor  
Kimberly Cook  
Paul J. Head  
George Pierce  
Rusty Weaver

Absent: \_\_\_\_\_

\* \* \*

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

\* \* \*

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

**RESOLUTION NO. 4940**

**A RESOLUTION AUTHORIZING  
A SPECIAL ECONOMIC DEVELOPMENT AGREEMENT  
BY THE CITY OF VESTAVIA HILLS, ALABAMA  
AND  
CROSSHAVEN 6, LLC**

---

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF VESTAVIA HILLS, ALABAMA (THE "COUNCIL"), AS GOVERNING BODY OF THE CITY OF VESTAVIA HILLS, ALABAMA (the "Municipality"), as follows:

Section 1. The Council, upon evidence duly presented to and considered by it, has found and determined, and does hereby find, determine and declare as follows:

(a) Pursuant to the applicable laws of the State of Alabama, the Municipality and Crosshaven 6, LLC (the "Owner") have prepared that certain Special Economic Development Agreement to be dated the date of delivery (the "Special Economic Development Agreement"), as set forth hereinafter, for the purposes referenced therein.

(b) The Municipality is without absolute authority or power under any local constitutional amendment to do any of the actions or undertakings referenced in Amendment No. 772 of the Constitution of Alabama of 1901, as amended ("Amendment No. 772").

(c) The Municipality is authorized under Amendment No. 772 to become indebted, and to issue obligations as referenced therein, upon the full faith and credit of the Municipality, to a principal amount not exceeding 50% of the assessed value of taxable property therein, as determined for state taxation, in furtherance of the powers and authorities granted in Amendment No. 772.

(d) Pursuant to, and for the purposes of, Amendment No. 772, it is necessary, desirable and in the public interest for the Municipality to grant public funds for the economic development of the Municipality, and for such purposes to issue its Limited Obligation Economic Development Revenue Warrant in maximum principal amount of \$475,000 (the "Warrant"), pursuant to the terms of the Special Economic Development Agreement.

(e) The expenditure of public funds for the purposes specified in the Special Economic Development Agreement will serve a valid and sufficient public purpose, notwithstanding any incidental benefit accruing to any private entity or entities.

(f) (1) On March 29, 2017, the Municipality caused to be published in *The Birmingham News*, which newspaper has the largest circulation in the Municipality, the notice required by Amendment No. 772(c)(2), a true and correct copy of which notice is set forth as follows:

**LEGAL NOTICE OF PROPOSED ECONOMIC DEVELOPMENT ACTION  
AND  
RELATED PUBLIC EXPENDITURES BY THE CITY OF VESTAVIA  
HILLS, ALABAMA**

Notice is hereby given that the City Council (the "Council") of the City of Vestavia Hills, Alabama (the "City") will meet in public session at 6:00 p.m. on April 10, 2017 at City Hall in the City of Vestavia Hills, Alabama for the purpose of considering the transaction of business that may properly come before the Council, such business to include, but not be limited to, the authorization by the Council, pursuant to Amendment No. 772 of the Constitution of Alabama of 1901, as amended, of a resolution (the "Resolution") approving the execution and delivery of a Special Economic Development Agreement (the "City Agreement") by the City and Crosshaven 6, LLC, an Alabama limited liability company (the "Developer"), to be dated the date of delivery, pursuant to which City Agreement the City shall issue its Limited Obligation Economic Development Revenue Warrant in an expected principal amount of \$475,000 (the "City Warrant") to the Developer, for purposes referenced in the City Agreement.

The City Warrant shall evidence the agreement of the City to make economic development grants to the Developer (based solely upon a percentage of net sales tax proceeds received by the City from the Developer for a period of seven years) for the purpose of promoting the economic development of the City and in consideration of the establishment by the Developer and the operation of commercial and related facilities in the City.

The City seeks to achieve, by undertaking its obligations pursuant to the City Agreement and the Resolution, to promote the local economic and industrial development of the City, to increase employment in the City, and to increase the tax and revenue base of the City.

The business entity to whom or for whose benefit the City propose to lend its credit or grant public funds or thing of value is the Developer.

All interested persons may examine and review the City Agreement, the Resolution, and all relevant documents pursuant to which the City Warrant is to be issued and secured, and make copies thereof at personal expense, at the offices of the City Manager during normal business hours, before and after the meeting referenced herein.

Further information concerning the information in this notice can be obtained from the City Manager at the offices thereof during normal business hours.

(2) The information set forth in said notice is true and correct.

(3) Publication of said notice is hereby ratified and confirmed.

(h) (1) The assessed valuation of the taxable property in the Municipality for the preceding fiscal year (ending September 30, 2016 and on the basis of which taxes became due and payable on October 1, 2017) was not less than \$700,120,010.

(2) The total indebtedness of the Municipality chargeable against the debt limitation for the Municipality prescribed by Section 225 of the Constitution of Alabama of 1901, as amended, (which indebtedness does not include the Warrant issued under Amendment No. 772), is not more than twenty percent of said assessed valuation.

(3) The total indebtedness of the Municipality chargeable against the debt limitation for the Municipality prescribed by Amendment No. 772(a)(4) (which indebtedness does include the Warrant), is not more than fifty percent of said assessed valuation.

Section 2. The Council does hereby approve, adopt, authorize, direct, ratify and confirm:

(a) the agreements, covenants, and undertakings of the Municipality set forth in the Special Economic Development Agreement, and

(b) the terms and provisions of the Special Economic Development Agreement, in substantially the form and of substantially the content as set forth as follows, with such changes thereto (by addition or deletion) as the President shall approve, which approval shall not extend or increase the obligations of the municipality thereunder and shall be conclusively evidenced by execution and delivery of the Special Economic Development Agreement as hereinafter provided:



---

**SPECIAL ECONOMIC DEVELOPMENT AGREEMENT**

---

---

**Dated Date of Delivery**

---

**by**

**CITY OF VESTAVIA HILLS, ALABAMA**

**and**

**CROSSHAVEN 6, LLC**

---

**This Special Economic Development Agreement was prepared by Heyward C. Hosch and Ann E. Watford of Maynard, Cooper & Gale, P.C., 1901 Sixth Avenue North, 2400 Regions/Harbert Plaza, Birmingham, Alabama 35203-2618.**

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## **SPECIAL ECONOMIC DEVELOPMENT AGREEMENT**

This **SPECIAL ECONOMIC DEVELOPMENT AGREEMENT** is made and entered as of the Date of Delivery by the **CITY OF VESTAVIA HILLS, ALABAMA**, an Alabama municipal corporation (the "Municipality"), and **CROSSHAVEN 6, LLC**, an Alabama limited liability company (the "Owner").

### **Recitals**

The Owner expects and intends to expand and increase the tax and revenue base of the Municipality by development of commercial enterprises within the corporate limits of the Municipality.

The Municipality has agreed to provide the Owner, as provided herein, the within referenced Annual Economic Development Payments.

Pursuant to the applicable laws of the State of Alabama, and for the purposes, referenced herein, the Municipality and the Owner have delivered this Agreement.

### **Agreement**

NOW, THEREFORE, for and in consideration of the premises, and the mutual covenants and agreements herein contained, the Municipality and the Owner hereby covenant and agree as follows:

## ARTICLE 1

### DEFINITIONS

For purposes of this Agreement the following terms shall have the following meanings:

**Annual Economic Development Payment** shall mean, for each Annual Payment Date, an amount equal to fifty percent (50%) of the Municipality Net Sales Tax Proceeds actually received by the Municipality from the Owner with respect to the Project during each annual period for which such Annual Economic Development Payment is determined during the 7-year period beginning \_\_\_\_\_ and ending \_\_\_\_\_.

**Annual Payment Date** shall mean the later of the following dates which next succeed the year for which an Annual Economic Development Payment is determined: (i) \_\_\_\_\_ or (ii) 45 days after the receipt by the Municipality of the certificate therefor from the Owner pursuant to Section 4.02(1).

**Date of Delivery** shall mean \_\_\_\_\_, 2017.

**Date of Termination** shall mean that date on which the Municipality shall have no obligation to make any payment of Annual Economic Development Payments under this Agreement or the Warrant in accordance with Section 4.01(4).

**Date of Validation** shall mean that date on which a judgment entered by the Circuit Court of Jefferson County, Alabama validating and confirming the Warrant shall have become forever conclusive in accordance with, and as provided in, Section 6-6-755 of the Code of Alabama 1975.

**Enabling Law** shall mean Amendment No. 772 of the Constitution of Alabama of 1901, as amended, as at any time amended or supplemented, or any successor provision of law.

**Municipality Sales Tax** shall mean collectively the privilege license and excise taxes levied by the Municipality (commonly called sales and use taxes) which consist of (i) a privilege or license (commonly called sales) tax on persons engaged in the business of selling at retail any tangible personal property within the Municipality (subject to exemption of certain property as provided by law) or in the business of conducting places of amusement or entertainment within the Municipality, generally measured by the gross sales or receipts of such businesses and (ii) an excise (commonly called a use) tax on the storage, use or other consumption of tangible personal property (subject to exemptions of certain property as provided by law) within the Municipality, generally measured by the sales price of such property.

**Municipality Net Sales Tax Proceeds** for any year shall (a) mean and include all proceeds and receipts of the Municipality Sales Tax less and except proceeds of the Municipality Sales Tax dedicated for public school purposes and capital reserves, and (b) not include any proceeds or receipts received by the Municipality (i) from the levy by the Municipality of privilege license or excise taxes not described in the definition of Municipality Sales Tax or (ii) from the levy of privilege license or excise taxes of any kind, type or nature by taxing authorities other than the Municipality or (iii) from any increase in the Municipality Sales Tax enacted after the Date of Delivery.

**Owner** shall mean Crosshaven 6, LLC, and the successors and assigns thereof.

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

**Project** shall mean and include those commercial and related facilities established by the Owner within the Municipality from which the Municipality receives Municipality Net Sales Tax Proceeds.

**State** shall mean the State of Alabama.

**Subject Real Property** shall mean the real property described on Exhibit C hereto.

**Total Municipality Tax Commitment** shall mean the amount of Four Hundred Seventy-Five Thousand Dollars (\$475,000).

**Warrant** shall have the meaning set forth in Section 4.03.

## ARTICLE 2

### **REPRESENTATIONS AND WARRANTIES**

#### **SECTION 2.01 The Municipality.**

The Municipality hereby represents as follows:

(1) The Municipality has corporate power and authority to enter into this Agreement, pursuant to the Enabling Law and to carry out its obligations hereunder and by proper corporate action the Municipality has duly authorized the execution, delivery and performance of this Agreement.

(2) The Warrant shall be issued, sold and delivered upon condition, and purchased by the Owner thereof in the reliance, that this Agreement is enforceable against the Municipality in accordance with the terms hereof.

(3) The issuance of the Warrant and the application of the proceeds thereof for the purposes set forth in this Agreement (i) will result in direct financial benefits to the Municipality and (ii) will serve a valid and sufficient public purpose, notwithstanding any incidental benefit accruing to any private entity or entities.

(4) The Municipality represents and certifies that the indebtedness of the Municipality incurred pursuant to the Enabling Law is less than 50 percent of the assessed value of the taxable property in the Municipality as determined for state taxation for the fiscal year immediately preceding the Date of Delivery.

**SECTION 2.02 The Owner.**

The Owner hereby represents and warrants as follows:

- (1) The Owner is duly organized and validly existing as a limited liability company under the laws of the State of Alabama and has duly authorized the execution, delivery and performance of this Agreement.
- (2) The execution, delivery and performance of this Agreement by the Owner does not conflict with or result in a violation of any agreement, contract, instrument, order, writ, judgment or decree to which the Owner is a party or is subject.
- (3) No consent or approval by, or filing with, any governmental authority in the State of Alabama is required for the execution or delivery of this Agreement by the Owner or for the full effectiveness or enforceability thereof under the laws of the State of Alabama.
- (4) There is no action, suit, proceeding, inquiry or investigation pending before any court or governmental authority, or threatened in writing against or affecting the Owner, which involves the consummation of the transactions contemplated by, or the validity of, this Agreement.

**ARTICLE 3**

**DURATION OF AGREEMENT**

The obligations of the Municipality and the Owner hereunder shall arise on the Date of Validation and shall continue until the Date of Termination, except with respect to any specific agreement or covenant which by its terms expressly survives termination of this Agreement.

**ARTICLE 4**

**AGREEMENTS AND OBLIGATIONS OF THE MUNICIPALITY  
FOR ANNUAL ECONOMIC DEVELOPMENT PAYMENTS**

**SECTION 4.01 Nature, Amount and Duration of Obligation of Municipality.**

The Municipality and the Owner agree:

- (1) Purpose. Pursuant to this Agreement, the Municipality has agreed to pay to the Owner of the Warrant in installments in arrears the Annual Economic Development Payments determined by the Municipality to be due and payable in accordance with the terms hereof.
- (2) Limited Obligation. The obligation of the Municipality for the payment of the Warrant:

(a) is a limited obligation payable solely from the Annual Economic Development Payments;

(b) shall never constitute a general obligation, or a charge against the general credit or taxing powers, of the Municipality within the meaning of any constitutional provision or statutory limitation whatsoever;

(c) is subject to (i) all prior pledges of the Municipality Net Sales Tax Proceeds for the benefit of long term indebtedness of the Municipality and (ii) in accordance with Johnson v. Sheffield, 183 So. 265 (Ala. 1938), the law-imposed requirement that, if necessary, there must first be paid from all Municipality Net Sales Tax Proceeds (including without limitation the Annual Economic Development Payments) the legitimate and necessary governmental expenses of operating the Municipality; and

(d) shall commence after the Date of Validation.

(3) Maximum Amount. The maximum amount the Municipality shall pay under this Agreement and the Warrant shall be limited to and shall not exceed the Total Municipality Tax Commitment.

(4) Duration and Termination. Anything in this Agreement or in the Warrant to the contrary notwithstanding, the Municipality shall have no obligation to pay any amount of Annual Economic Development Payments under this Agreement or the Warrant:

(a) prior to the Date of Validation; or

(b) after the first to occur of (i) the Annual Payment Date which occurs after the period of twelve consecutive months ending \_\_\_\_\_ or (ii) that date on which the Municipality shall have paid as Annual Economic Development Payments an aggregate amount not less than the Total Municipality Tax Commitment or (iii) termination of this Agreement by the Municipality under Section 6.02(2).

**SECTION 4.02 Determination and Payment of Annual Economic Development Payments.**

(1) In order to receive an Annual Economic Development Payment, the Owner shall execute and deliver to the Municipality, on or before \_\_\_\_\_, 201\_, and on or before \_\_\_\_\_ in each year thereafter in which this Agreement is in effect, a certificate in form and of content as attached as Exhibit B hereto.

(2) The Municipality shall, on each Annual Payment Date, determine as provided herein, and pay to the Owner, the amount (if any) of the Annual Economic Development Payment due hereunder for the period referenced in such certificate.

(3) The Municipality will permit any attorneys, accountants or other agents or representatives designated by the Owner to visit and inspect any of the accounting systems, books of account, and financial records and properties of the Municipality which pertain to the Municipality

Net Sales Tax Proceeds and the determination of Annual Economic Development Payments, all at reasonable business times and upon reasonable notice.

**SECTION 4.03 The Warrant.**

(1) The obligation of the Municipality to pay the Annual Economic Development Payments hereunder shall be evidenced by a limited obligation revenue warrant, payable solely from, and secured by a pledge of, the Annual Economic Development Payments, in form and of content as the form of warrant attached to this Agreement as Exhibit A (the "Warrant").

(2) The Warrant shall not bear interest, shall be issued in an aggregate principal amount not exceeding the Total Municipality Tax Commitment, shall be dated the date of delivery, and shall mature on the Date of Termination.

(3) The Warrant shall be duly executed, sealed, and attested by the Municipality, and shall be registered by the Municipality as a conditional claim against the Annual Economic Development Payments.

(4) The Warrant shall be registered and transferred as provided therein.

**SECTION 4.04 Agreements of the Municipality.**

(1) All proceedings of the governing body of the Municipality heretofore had and taken, and all ordinances and resolutions adopted pursuant thereto with respect to the levy and collection of the Municipality Sales Tax, are hereby ratified and confirmed in all respects from and after the effective date thereof.

(2) The Municipality covenants and agrees the Municipality shall, as long as this Agreement and the Warrant shall be outstanding, continue to levy and to provide for the assessment and collection of the privilege license and excise taxes which provide the Municipality Net Sales Tax Proceeds at rates not less than those in effect on the date of this Agreement.

**ARTICLE 5**

**OBLIGATIONS OF THE OWNER**

(1) The Owner hereby agrees to duly and punctually observe and perform all agreements thereof under this Agreement.

(2) The Owner shall use the proceeds of the Annual Economic Development Payments solely for the purpose of development and operation of the business interests of the Owner within the Municipality.

(3) (a) The Owner agrees to defend, protect, indemnify, and hold harmless the Municipality, its agents, employees, and members of its governing body, from and against all claims or demands, including actions or proceedings brought thereon, and all costs, expenses, and liabilities of any kind relating thereto, including reasonable attorneys fees and cost of suit, arising out of or resulting from any of the following, provided, however, that the

foregoing indemnity will not extend to the negligent misconduct of the City, its agents, employees, and members of its governing body: (i) any construction activity performed by Owner, or anyone claiming by through, or under Owner; and (ii) any loss of life, personal injury, or damage to property arising from or in relation to the entry upon, construction, use, operation or occupancy of the Project, including, without limitation, tenants, customers and invitees of the Project and/or Owner.

(b) The agreements and covenants in this Article 5 shall survive the termination of this Agreement with respect to events or occurrences happening prior to or upon the termination of this Agreement and shall remain in full force and effect until commencement of an action with respect to any thereof shall be prohibited by law.

## ARTICLE 6

### **PURCHASE AND SALE OF SUBJECT REAL PROPERTY**

#### **SECTION 6.01 Agreement for Conveyance of Subject Real Property; Date of Closing.**

(a) The City and the Owner hereby covenant and agree that the Owner shall sell the Subject Real Property to the City and the City shall purchase the Subject Real Property from the Owner in accordance with the provisions of this Article 6.

(b) The Owner shall deliver title to the Subject Real Property in fee simple to the City by general warranty deed.

(c) The City and the Owner shall agree on a date certain upon which conveyance of the Subject Real Property shall be made to the City and title thereto closed (the "Date of Closing") which date shall be on or before \_\_\_\_\_, 2018.

#### **SECTION 6.02 Agreements of Owner.**

(a) The Owner shall deliver to the City, at the expense of the Owner, not less than 60 days prior to the Date of Closing the following:

(i) The form of general warranty deed by which title to the Subject Real Property shall be conveyed to the City.

(ii) A title insurance commitment providing for insurance of title to the Subject Real Property in the City in the amount of \$134,960, issued by a title insurance company satisfactory to the City and subject to such exceptions as shall be approved by the City.

(iii) An accurate survey of the Subject Real Property by a registered surveyor satisfactory to the City.

(iv) A Phase I Environmental Assessment of the Subject Real Property prepared by an environmental engineering firm approved by the City.



(b) The Owner covenants and agrees that the above documents and instruments must be in form and content satisfactory to the City as a condition precedent to the agreements and obligations of the City in this Article 6.

**SECTION 6.03 Agreements of City.**

The City shall promptly review all documents and instruments provided by the Owner pursuant to Section 6.02 and communicate any comments or need for further information or testing to the Owner as soon as reasonably possible after such review.

**SECTION 6.04 Delivery of Documents and Instruments and Purchase Price on Date of Closing.**

If the City shall have approved the documents and instruments to be provided by the Owner, on the Date of Closing:

- (a) The Owner shall deliver to the City, at the expense of the Owner, the following:
  - (i) the executed general warranty deed;
  - (ii) the final title insurance policy;
  - (iii) the final survey;
  - (iv) the final Phase I Environmental Assessment; and
  - (v) such additional documents and instruments as shall be required by the title insurance company.
  
- (b) The City shall deliver to the Owner the amount of \$134,960 in immediately available funds.

## ARTICLE 7

### **EVENTS OF DEFAULT AND REMEDIES**

#### **SECTION 7.01 Events of Default.**

Any one or more of the following shall constitute an event of default by the Municipality or the Owner hereunder (an "Event of Default") under this Agreement:

(1) default in the performance, or breach, of any covenant or warranty of the Municipality in this Agreement, including without limitation default in the payment of any Annual Economic Development Payments under Section 4.02 hereof, and the continuance of such default or breach for a period of 30 days after there has been given, by registered or certified mail, to the Municipality by the Owner a written notice specifying such default or breach and requiring it to be remedied and stating that such notice is a "notice of default" hereunder, provided that if such default is of a kind which cannot reasonably be cured within such thirty-day period, the Municipality shall have a reasonable period of time within which to cure such default, provided that it begins to cure the default promptly after its receipt of such written notice and proceeds in good faith, and with due diligence, to cure such default; or

(2) default in the performance, or breach, of any covenant or warranty of the Owner in this Agreement, and the continuance of such default or breach for a period of 30 days after there has been given, by registered or certified mail, to the Owner by the Municipality a written notice specifying such default or breach and requiring it to be remedied and stating that such notice is a "notice of default" hereunder, provided that if such default is of a kind which cannot reasonably be cured within such thirty-day period, the Owner shall have a reasonable period of time within which to cure such default, provided that it begins to cure the default promptly after its receipt of such written notice and proceeds in good faith, and with due diligence, to cure such default.

#### **SECTION 7.02 Remedies.**

(1) Each party hereto may proceed to protect its rights and interests by suit in equity, action at law or other appropriate proceedings, whether for the specific performance of any covenant or agreement of any other party herein contained or in aid of the exercise of any power or remedy available at law or in equity.

(2) Anything in this Agreement to the contrary notwithstanding, the Municipality may terminate this Agreement upon the occurrence of an Event of Default under Section 7.01(2), whereupon the Municipality shall have no further obligation hereunder.

#### **SECTION 7.03 Remedies Subject to Applicable Law.**

All rights, remedies and powers provided by this Agreement may be exercised only to the extent the exercise thereof does not violate any applicable provision of law in the premises, and all the provisions of this Article are intended to be subject to all applicable mandatory provisions of law which may be controlling in the premises and to be limited to the extent necessary so that the same will not render this Agreement invalid or unenforceable.

## ARTICLE 8

### **PROVISIONS OF GENERAL APPLICATION**

#### **SECTION 8.01 Enforceability.**

The provisions of this Agreement shall be severable. In the event any provision hereof shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any of the remaining provisions hereof.

#### **SECTION 8.02 Prior Agreements Cancelled.**

This Agreement shall completely and fully supersede all other prior agreements, both written and oral, by the parties hereto relating to the matters contained herein. None of the parties hereto shall hereafter have any rights under any of such prior agreements but shall look to this Agreement for definition and determination of all of their respective rights, liabilities and responsibilities relating to the matters contained herein.

#### **SECTION 8.03 Counterparts.**

This Agreement may be executed in counterparts, each of which shall constitute but one and the same agreement.

#### **SECTION 8.04 Binding Effect; Governing Law.**

(1) This Agreement shall inure to the benefit of, and shall be binding upon, the parties hereto and their respective successors and assigns except as otherwise provided herein.

(2) This Agreement shall be governed exclusively by the laws of the State of Alabama.

#### **SECTION 8.05 Notices.**

(1) All notices, demands, consents, certificates or other communications hereunder shall be in writing, shall be sufficiently given and shall be deemed given when delivered personally to the party or to an officer of the party to whom the same is directed, or mailed by registered or certified mail, postage prepaid, or sent by overnight courier, addressed as follows:

(a) if to the Municipality: (b) if to the Owner:

City Hall  
513 Montgomery Highway  
Vestavia Hills, Alabama 35216

(2) Any such notice or other document shall be deemed to be received as of the date delivered, if delivered personally, or as of three (3) days after the date deposited in the mail, if mailed, or the next business day, if sent by overnight courier.

**SECTION 8.06 Delegation and Assignment of this Agreement by Owner.**

(1) The Owner shall have no authority or power to, and shall not, delegate to any Person the duty or obligation to observe or perform any agreement or obligation of the Owner hereunder.

(2) The Owner shall not have any authority or power to, and shall not, without the prior written consent of the Municipality (which shall not be unreasonably withheld, delayed or conditioned), assign or pledge to any Person any right of the Owner hereunder or any interest of the Owner herein.

**SECTION 8.07 Amendments**

This Agreement may be amended or supplemented only by an instrument in writing duly authorized, executed and delivered by each party hereto.

IN WITNESS WHEREOF, the Municipality has caused this Agreement to be executed in its name, under seal, and the same attested, all by officers thereof duly authorized thereunto, and the Owner has executed this Agreement under seal, and the parties have caused this Agreement to be dated the date and year first above written.

**CITY OF VESTAVIA HILLS, ALABAMA**

By \_\_\_\_\_  
Mayor

By \_\_\_\_\_  
City Manager

SEAL

ATTEST: \_\_\_\_\_  
City Clerk

**CROSSHAVEN 6, LLC**

By: \_\_\_\_\_

Its: \_\_\_\_\_

**EXHIBIT A**

**Form of Warrant**

**THIS WARRANT HAS NOT BEEN REGISTERED (i) UNDER THE SECURITIES ACT OF 1933, AS AMENDED, IN RELIANCE UPON THE EXEMPTION PROVIDED BY SECTION 4(2) OF SAID ACT, OR (ii) UNDER ANY STATE SECURITIES LAW, IN RELIANCE UPON APPLICABLE EXEMPTIONS, AND MAY NOT BE TRANSFERRED WITHOUT REGISTRATION EXCEPT PURSUANT TO AN EXEMPTION THEREFROM.**

**THIS WARRANT DOES NOT BEAR INTEREST**

**UNITED STATES OF AMERICA  
STATE OF ALABAMA**

**CITY OF VESTAVIA HILLS  
LIMITED OBLIGATION ECONOMIC DEVELOPMENT REVENUE WARRANT  
(CROSSHAVEN 6, LLC)**

No. R-1

DATED DATE:

\_\_\_\_\_, 20\_\_

MATURITY DATE:

Date of Termination

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

**CROSSHAVEN 6, LLC**

or registered assigns (collectively the "Owner") in a principal amount not exceeding

**FOUR HUNDRED SEVENTY-FIVE THOUSAND DOLLARS  
(\$475,000)**

as determined pursuant to the within-referenced Agreement, and hereby orders and directs the Finance Director of the Issuer to pay to the Owner, solely from the Annual Economic Development Payments deposited in the Warrant Fund hereinafter designated, said principal amount, without interest, on each Annual Payment Date, until and including the Maturity Date specified above.

**Authority for Issuance**

This Warrant is issued pursuant to the authority of the Constitution and laws of the State of Alabama, including particularly and without limitation Amendment No. 772 of the Constitution of Alabama of 1901, as amended (collectively the "Enabling Law"), and that certain Special Economic Development Agreement dated the above Dated Date (the "Agreement") by the Issuer and Crosshaven 6, LLC.

Capitalized terms used hereinbefore and hereinafter without definition shall have the respective meanings assigned thereto in the Agreement.

Reference is made to the provisions of the Agreement, to and by which all of which provisions the Owner, by acceptance of this Warrant, assents and agrees to be bound.

### **Payment**

Payment of this Warrant shall be made to or as directed by the Owner; provided the final payment of principal of this Warrant shall be made only upon presentation and surrender of this Warrant to the Issuer for cancellation.

Each payment of principal made on this Warrant shall be reflected by the notations made by the Issuer on its internal records (which may be kept by computer or by other means determined by the Issuer) and the Issuer is hereby authorized so to record thereon all such payments. All payments of principal on this Warrant and the aggregate unpaid principal amount of this Warrant reflected on the internal records of the Issuer (whether by computer or otherwise) shall be rebuttably presumptive evidence of the principal amount of this Warrant outstanding and unpaid.

All payments of principal of this Warrant by the Issuer shall be made at par in such coin or currency of the United States of America as at the time of payment is legal tender for the payment of public and private debts, and shall be valid and effectual to satisfy and discharge the liability of the Issuer upon this Warrant to the extent of the amounts so paid.

The person in whose name this Warrant is registered shall be deemed and regarded as the absolute owner hereof for all purposes and payment of the principal of this Warrant shall be made only to or upon the order of the Owner hereof or its legal representative, and neither the Issuer nor any agent of the Issuer shall be affected by any notice to the contrary.

### **Security**

This Warrant is a limited obligation of the Issuer payable solely from the Annual Economic Development Payments as provided in the Agreement.

The Annual Economic Development Payments are hereby pledged to the payment, and for the benefit, of this Warrant, subject to (i) all prior pledges of the Municipality Net Sales Tax Proceeds for the benefit of long term indebtedness of the Municipality and (ii) in accordance with Johnson v. Sheffield, 183 So. 265 (Ala. 1938), the law-imposed requirement that, if necessary, there must first be paid from all Municipality Net Sales Tax Proceeds (including without limitation the Annual Economic Development Payments) the legitimate and necessary governmental expenses of operating the Municipality.

This Warrant shall never constitute a charge against the general credit or taxing powers of the Issuer within the meaning of any constitutional provision or statutory limitation whatsoever.

The Issuer has established a special fund designated "Warrant Fund" (the "Warrant Fund") for the payment of this Warrant and has obligated itself to pay or cause to be paid into the Warrant Fund, solely from the Annual Economic Development Payments, sums sufficient to provide for the payment of this Warrant.



### **Prepayment and Redemption**

The Issuer may, on any date, pay in advance the entire unpaid principal amount of this Warrant or any lesser portion or portions thereof by paying to the Owner the principal amount to be prepaid without premium or penalty.

### **Registration and Transfer**

This Warrant is registered as to principal and interest in the name of the Owner on the book of registration maintained for that purpose by the Issuer.

This Warrant may be transferred only upon written direction of the registered owner or its legal representative, addressed to the Municipality, presentation of this Warrant to the Municipality accompanied by a written instrument of transfer, satisfactory to the Municipality, duly executed by the registered owner or its attorney duly authorized in writing, and compliance with Section 7.06 of the Agreement. Upon presentation of this Warrant to the Municipality for transfer, the Municipality shall record such transfer on the said book of registration and execute and deliver, in exchange for this Warrant, a new warrant or warrants of like tenor hereof, registered in the name of the transferee in an aggregate principal amount equal to the unpaid or unredeemed portion of the principal of this Warrant. No charge shall be made for the privilege of transfer, but the registered owner of this Warrant requesting any such transfer shall pay any tax or other governmental charge required to be paid with respect thereto.

### **General**

No covenant or agreement contained in this Warrant or in the Agreement shall be deemed to be a covenant or agreement of any officer, agent, employee, or member of the governing body of the Issuer in the individual capacity thereof 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.

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 this Warrant represents a valid claim against the Warrant Fund, 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 execution, registration and issuance of this Warrant, the adoption of the resolution approving the Agreement, and the execution and delivery of the Agreement, 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 Issuer, are within every debt and other limit prescribed by the Constitution and laws of the State of Alabama.

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

**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 conditional claim against the City of Vestavia Hills, in the State of Alabama, and the Warrant Fund referred to herein, and the Annual Economic Development Payments pledged to the payment hereof.

\_\_\_\_\_  
Finance Director of the City of Vestavia Hills,  
Alabama

**VALIDATION CERTIFICATE**

Validated and confirmed by judgment of the Circuit Court of Jefferson County, State of Alabama entered on the \_\_\_\_\_ day of \_\_\_\_\_, 2017.

/s/  
\_\_\_\_\_  
Clerk of Circuit Court of Jefferson County,  
State of Alabama

**REGISTRATION OF OWNERSHIP**

This Warrant is recorded and registered on the warrant register of the City of Vestavia Hills in the name of the last owner named below. The principal of this Warrant shall be payable only to or upon the order of such registered owner.

<u>Date of Registration</u>	<u>In Whose Name Registered</u>	<u>Signature of Authorized Officer of Issuer</u>
Dated Date	Crosshaven 6, LLC	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

**Assignment**

For value received, \_\_\_\_\_ hereby sell(s), assign(s) and transfer(s) unto \_\_\_\_\_ this warrant and hereby irrevocably constitute(s) and appoint(s) \_\_\_\_\_ attorney to transfer this warrant on the books of the within named Issuer with full power of substitution in the premises.

Dated: \_\_\_\_\_

\_\_\_\_\_  
NOTE: The name signed to this assignment must correspond with the name of the payee written on the face of the within warrant in all respects, without alteration, enlargement or change whatsoever.

Signature Guaranteed:

\_\_\_\_\_  
(Bank or Trust Company)

By \_\_\_\_\_  
(Authorized Officer)

**EXHIBIT B**

**Request for Payment of Annual Economic Development Payments**

**Request for Payment of Annual Economic Development Payments**

From: Crosshaven 6, LLC

To: City of Vestavia Hills, Alabama

Date: \_\_\_\_\_, 20\_\_

Re: **Special Economic Development Agreement dated the Date of Delivery by City of Vestavia Hills, Alabama (the "Municipality") and Crosshaven 6, LLC (the "Owner").**

---

The undersigned, as Owner under the above Agreement, hereby requests payment to the Owner by the Municipality of the Annual Economic Development Payment, to be determined by the Municipality as provided in the Agreement, for the following period:

\_\_\_\_\_ 1, 20\_\_ to \_\_\_\_\_ 1, 20\_\_

and in connection therewith does hereby represent, warrant and certify to the Municipality as follows:

1. The total amount paid by the Owner to the Municipality pursuant to the levy of the Municipality Sales Tax for the above period is \$\_\_\_\_\_.
2. The Owner is in full compliance with the agreements and covenants thereof under the Agreement and no Event of Default, or any event which upon notice, or lapse of time, or both shall become an Event of Default, has occurred and is continuing.
3. The Agreement is in full force and effect.
4. The Owner is in full compliance with all applicable ordinances and regulations of the Municipality.

Capitalized terms used herein shall have the respective meanings assigned in the above Agreement.

In Witness Whereof, the undersigned Owner has caused this instrument to be executed in its name, under seal, by an officer thereof duly authorized thereunto.

Crosshaven 6, LLC  
as Owner

By \_\_\_\_\_

Its \_\_\_\_\_

**EXHIBIT C**

**Description of Subject Real Property**



Section 3.

(a) The Mayor and the City Manager are each hereby authorized and directed to execute and deliver the Special Economic Development Agreement and the Warrant for and on behalf of and in the name of the Municipality. The City Clerk is hereby authorized and directed to affix the official seal of the Municipality to the Special Economic Development Agreement and the Warrant and to attest the same.

(b) The Mayor, the City Manager, and the officers of the Municipality are each hereby authorized and directed to take all such actions, and execute, deliver and perform all such agreements, documents, instruments, notices, and petitions and proceedings, with respect to the Special Economic Development Agreement and the Warrant, as the Mayor and such officers shall determine to be necessary or desirable to carry out the provisions of this resolution or the Special Economic Development Agreement or duly and punctually observe and perform all agreements and obligations of the Municipality under the Special Economic Development Agreement.

Section 4. The Municipality desires, before the issuance of the Warrant referenced in the Special Economic Development Agreement, to validate the legality of all proceedings had or taken in connection therewith, the validity of the means provided for the payment of the Warrant, and the validity of all covenants and provisions contained in this resolution and the Special Economic Development Agreement and the Warrant, by filing a petition against the taxpayers and citizens of the Municipality in the Circuit Court of Jefferson County, Alabama. A complaint to validate such Warrant, proceedings, and covenants shall be filed and validation proceedings shall be instituted in the name of the Municipality and the members of the governing body of the Municipality. Maynard, Cooper & Gale, P.C., Birmingham, Alabama, and Patrick H. Boone, Esq., are hereby designated and appointed as the attorneys of the Municipality to file such complaint, institute such proceedings, and to take all steps necessary to complete such validation proceedings in accordance with the provisions of Article 17 of Chapter 6 of Title 6 of the CODE OF ALABAMA 1975. Any actions heretofore taken by such attorneys in connection with the filing of such petition or such validation proceedings are hereby ratified and confirmed.

Section 5. All prior actions taken, and agreements, documents or notices executed and delivered, by the Mayor or any officer or member of the Council or other representative of the Municipality, in connection with the agreements, covenants, and undertakings of the Municipality hereby approved, or in connection with the preparation of the Special Economic Development Agreement and the terms and provisions thereof, are hereby approved, ratified and confirmed.

Section 6. All ordinances, resolutions, orders, or parts of any thereof, of the Council in conflict, or inconsistent, with any provision of this resolution hereby are, to the extent of such conflict or inconsistency, repealed.

Section 7. This resolution shall take effect immediately.

After said resolution had been discussed and considered in full by the Council, it was moved by Councilmember \_\_\_\_\_ that said resolution 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 resolution, the roll was called with the following results:

Ayes: Ashley C. Curry, Mayor  
Kimberly Cook  
Paul J. Head  
George Pierce  
Rusty Weaver

Nays: \_\_\_\_\_

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

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 April 10, 2017, the original of which is on file and of record in the minute book of the City Council in my custody; (4) the resolution set forth in such excerpts is a complete, verbatim and compared copy of such resolution as introduced and adopted by the City Council on such date; and (5) said resolution 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 \_\_\_\_ day of \_\_\_\_\_, 2017.

\_\_\_\_\_  
Clerk of the City of Vestavia Hills, Alabama

SEAL

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

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**Special Economic Development Agreement  
(Crosshaven 6, LLC)**

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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 6:00 p.m. on April 10, 2017. The meeting was called to order by the Mayor, and the roll was called with the following results:

Present: Ashley C. Curry, Mayor  
Kimberly Cook  
Paul J. Head  
George Pierce  
Rusty Weaver

Absent: \_\_\_\_\_

\* \* \*

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

\* \* \*

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

**RESOLUTION NO. 4941**

**A RESOLUTION AUTHORIZING  
A SPECIAL ECONOMIC DEVELOPMENT AGREEMENT  
BY THE CITY OF VESTAVIA HILLS, ALABAMA  
AND  
SATTEFIELD VESTAVIA HILLS PROPERTIES, LLC**

---

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF VESTAVIA HILLS, ALABAMA (THE "COUNCIL"), AS GOVERNING BODY OF THE CITY OF VESTAVIA HILLS, ALABAMA (the "Municipality"), as follows:

Section 1. The Council, upon evidence duly presented to and considered by it, has found and determined, and does hereby find, determine and declare as follows:

(a) Pursuant to the applicable laws of the State of Alabama, the Municipality and Satterfield Vestavia Hills Properties, LLC (the "Owner") have prepared that certain Special Economic Development Agreement to be dated the date of delivery (the "Special Economic Development Agreement"), as set forth hereinafter, for the purposes referenced therein.

(b) The Municipality is without absolute authority or power under any local constitutional amendment to do any of the actions or undertakings referenced in Amendment No. 772 of the Constitution of Alabama of 1901, as amended ("Amendment No. 772").

(c) The Municipality is authorized under Amendment No. 772 to become indebted, and to issue obligations as referenced therein, upon the full faith and credit of the Municipality, to a principal amount not exceeding 50% of the assessed value of taxable property therein, as determined for state taxation, in furtherance of the powers and authorities granted in Amendment No. 772.

(d) Pursuant to, and for the purposes of, Amendment No. 772, it is necessary, desirable and in the public interest for the Municipality to grant public funds for the economic development of the Municipality, and for such purposes to issue its Limited Obligation Economic Development Revenue Warrant in maximum principal amount of \$325,000 (the "Warrant"), pursuant to the terms of the Special Economic Development Agreement.

(e) The expenditure of public funds for the purposes specified in the Special Economic Development Agreement will serve a valid and sufficient public purpose, notwithstanding any incidental benefit accruing to any private entity or entities.

(f) (1) On March 29, 2017, the Municipality caused to be published in *The Birmingham News*, which newspaper has the largest circulation in the Municipality, the notice required by Amendment No. 772(c)(2), a true and correct copy of which notice is set forth as follows:

**LEGAL NOTICE OF PROPOSED ECONOMIC DEVELOPMENT ACTION  
AND  
RELATED PUBLIC EXPENDITURES BY THE CITY OF VESTAVIA  
HILLS, ALABAMA**

Notice is hereby given that the City Council (the "Council") of the City of Vestavia Hills, Alabama (the "City") will meet in public session at 6:00 p.m. on April 10, 2017 at City Hall in the City of Vestavia Hills, Alabama for the purpose of considering the transaction of business that may properly come before the Council, such business to include, but not be limited to, the authorization by the Council, pursuant to Amendment No. 772 of the Constitution of Alabama of 1901, as amended, of a resolution (the "Resolution") approving the execution and delivery of a Special Economic Development Agreement (the "City Agreement") by the City and Satterfield Vestavia Hills Properties, LLC, an Alabama limited liability company (the "Developer"), to be dated the date of delivery, pursuant to which City Agreement the City shall issue its Limited Obligation Economic Development Revenue Warrant in an expected principal amount of \$325,000 (the "City Warrant") to the Developer, for purposes referenced in the City Agreement.

The City Warrant shall evidence the agreement of the City to make economic development grants to the Developer (based solely upon a percentage of net sales tax proceeds received by the City from the Developer for a period of eight years) for the purpose of promoting the economic development of the City and in consideration of the establishment by the Developer and the operation of commercial and related facilities in the City.

The City seeks to achieve, by undertaking its obligations pursuant to the City Agreement and the Resolution, to promote the local economic and industrial development of the City, to increase employment in the City, and to increase the tax and revenue base of the City.

The business entity to whom or for whose benefit the City propose to lend its credit or grant public funds or thing of value is the Developer.

All interested persons may examine and review the City Agreement, the Resolution, and all relevant documents pursuant to which the City Warrant is to be issued and secured, and make copies thereof at personal expense, at the offices of the City Manager during normal business hours, before and after the meeting referenced herein.

Further information concerning the information in this notice can be obtained from the City Manager at the offices thereof during normal business hours.

(2) The information set forth in said notice is true and correct.

(3) Publication of said notice is hereby ratified and confirmed.

(h) (1) The assessed valuation of the taxable property in the Municipality for the preceding fiscal year (ending September 30, 2016 and on the basis of which taxes became due and payable on October 1, 2017) was not less than \$700,120,010.

(2) The total indebtedness of the Municipality chargeable against the debt limitation for the Municipality prescribed by Section 225 of the Constitution of Alabama of 1901, as amended, (which indebtedness does not include the Warrant issued under Amendment No. 772), is not more than twenty percent of said assessed valuation.

(3) The total indebtedness of the Municipality chargeable against the debt limitation for the Municipality prescribed by Amendment No. 772(a)(4) (which indebtedness does include the Warrant), is not more than fifty percent of said assessed valuation.

Section 2. The Council does hereby approve, adopt, authorize, direct, ratify and confirm:

(a) the agreements, covenants, and undertakings of the Municipality set forth in the Special Economic Development Agreement, and

(b) the terms and provisions of the Special Economic Development Agreement, in substantially the form and of substantially the content as set forth as follows, with such changes thereto (by addition or deletion) as the President shall approve, which approval shall not extend or increase the obligations of the municipality thereunder and shall be conclusively evidenced by execution and delivery of the Special Economic Development Agreement as hereinafter provided:

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**SPECIAL ECONOMIC DEVELOPMENT AGREEMENT**

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**Dated Date of Delivery**

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**by**

**CITY OF VESTAVIA HILLS, ALABAMA**

**and**

**SATTERFIELD VESTAVIA HILLS PROPERTIES, LLC**

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**This Special Economic Development Agreement was prepared by Heyward C. Hosch and Ann E. Watford of Maynard, Cooper & Gale, P.C., 1901 Sixth Avenue North, 2400 Regions/Harbert Plaza, Birmingham, Alabama 35203-2618.**

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## **SPECIAL ECONOMIC DEVELOPMENT AGREEMENT**

This **SPECIAL ECONOMIC DEVELOPMENT AGREEMENT** is made and entered as of the Date of Delivery by the **CITY OF VESTAVIA HILLS, ALABAMA**, an Alabama municipal corporation (the "Municipality"), and **SATTERFIELD VESTAVIA HILLS PROPERTIES, LLC** (the "Owner").

### **Recitals**

The Owner expects and intends to expand and increase the tax and revenue base of the Municipality by development of commercial enterprises within the corporate limits of the Municipality.

The Municipality has agreed to provide the Owner, as provided herein, the within referenced Annual Economic Development Payments.

Pursuant to the applicable laws of the State of Alabama, and for the purposes, referenced herein, the Municipality and the Owner have delivered this Agreement.

### **Agreement**

NOW, THEREFORE, for and in consideration of the premises, and the mutual covenants and agreements herein contained, the Municipality and the Owner hereby covenant and agree as follows:

## ARTICLE 1

### DEFINITIONS

For purposes of this Agreement the following terms shall have the following meanings:

**Annual Economic Development Payment** shall mean, for each Annual Payment Date, an amount equal to fifty percent (50%) of the Municipality Net Sales Tax Proceeds actually received by the Municipality from the Owner during each annual period for which such Annual Economic Development Payment is determined during the 8-year period beginning \_\_\_\_\_ and ending \_\_\_\_\_.

**Annual Payment Date** shall mean the later of the following dates which next succeed the year for which an Annual Economic Development Payment is determined: (i) \_\_\_\_\_ or (ii) 45 days after the receipt by the Municipality of the certificate therefor from the Owner pursuant to Section 4.02(1).

**Date of Delivery** shall mean \_\_\_\_\_, 2017.

**Date of Termination** shall mean that date on which the Municipality shall have no obligation to make any payment of Annual Economic Development Payments under this Agreement or the Warrant in accordance with Section 4.01(4).

**Date of Validation** shall mean that date on which a judgment entered by the Circuit Court of Jefferson County, Alabama validating and confirming the Warrant shall have become forever conclusive in accordance with, and as provided in, Section 6-6-755 of the Code of Alabama 1975.

**Enabling Law** shall mean Amendment No. 772 of the Constitution of Alabama of 1901, as amended, as at any time amended or supplemented, or any successor provision of law.

**Municipality Sales Tax** shall mean collectively the privilege license and excise taxes levied by the Municipality (commonly called sales and use taxes) which consist of (i) a privilege or license (commonly called sales) tax on persons engaged in the business of selling at retail any tangible personal property within the Municipality (subject to exemption of certain property as provided by law) or in the business of conducting places of amusement or entertainment within the Municipality, generally measured by the gross sales or receipts of such businesses and (ii) an excise (commonly called a use) tax on the storage, use or other consumption of tangible personal property (subject to exemptions of certain property as provided by law) within the Municipality, generally measured by the sales price of such property.

**Municipality Net Sales Tax Proceeds** for any year shall (a) mean and include all proceeds and receipts of the Municipality Sales Tax less and except proceeds of the Municipality Sales Tax dedicated for public school purposes and capital reserves, and (b) not include any proceeds or receipts received by the Municipality (i) from the levy by the Municipality of privilege license or excise taxes not described in the definition of Municipality Sales Tax or (ii) from the levy of privilege license or excise taxes of any kind, type or nature by taxing authorities other than the Municipality or (iii) from any increase in the Municipality Sales Tax enacted after the Date of Delivery.

**Owner** shall mean Satterfield Vestavia Hills Properties, LLC, and the successors and assigns thereof.

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

**Project** shall mean and include those commercial and related facilities established by the Owner within the Municipality from which the Municipality receives Municipality Net Sales Tax Proceeds.

**State** shall mean the State of Alabama.

**Total Municipality Tax Commitment** shall mean the amount of Three Hundred Twenty-Five Thousand Dollars (\$325,000).

**Warrant** shall have the meaning set forth in Section 4.03.

## ARTICLE 2

### **REPRESENTATIONS AND WARRANTIES**

#### **SECTION 2.01 The Municipality.**

The Municipality hereby represents as follows:

(1) The Municipality has corporate power and authority to enter into this Agreement, pursuant to the Enabling Law and to carry out its obligations hereunder and by proper corporate action the Municipality has duly authorized the execution, delivery and performance of this Agreement.

(2) The Warrant shall be issued, sold and delivered upon condition, and purchased by the Owner thereof in the reliance, that this Agreement is enforceable against the Municipality in accordance with the terms hereof.

(3) The issuance of the Warrant and the application of the proceeds thereof for the purposes set forth in this Agreement (i) will result in direct financial benefits to the Municipality and (ii) will serve a valid and sufficient public purpose, notwithstanding any incidental benefit accruing to any private entity or entities.

(4) The Municipality represents and certifies that the indebtedness of the Municipality incurred pursuant to the Enabling Law is less than 50 percent of the assessed value of the taxable property in the Municipality as determined for state taxation for the fiscal year immediately preceding the Date of Delivery.

**SECTION 2.02 The Owner.**

The Owner hereby represents and warrants as follows:

- (1) The Owner is duly organized and validly existing as a limited liability company under the laws of the State of Alabama and has duly authorized the execution, delivery and performance of this Agreement.
- (2) The execution, delivery and performance of this Agreement by the Owner does not conflict with or result in a violation of any agreement, contract, instrument, order, writ, judgment or decree to which the Owner is a party or is subject.
- (3) No consent or approval by, or filing with, any governmental authority in the State of Alabama is required for the execution or delivery of this Agreement by the Owner or for the full effectiveness or enforceability thereof under the laws of the State of Alabama.
- (4) There is no action, suit, proceeding, inquiry or investigation pending before any court or governmental authority, or threatened in writing against or affecting the Owner, which involves the consummation of the transactions contemplated by, or the validity of, this Agreement.

**ARTICLE 3**

**DURATION OF AGREEMENT**

The obligations of the Municipality and the Owner hereunder shall arise on the Date of Validation and shall continue until the Date of Termination, except with respect to any specific agreement or covenant which by its terms expressly survives termination of this Agreement.

**ARTICLE 4**

**AGREEMENTS AND OBLIGATIONS OF THE MUNICIPALITY**

**SECTION 4.01 Nature, Amount and Duration of Obligation of Municipality.**

The Municipality and the Owner agree:

- (1) Purpose. Pursuant to this Agreement, the Municipality has agreed to pay to the Owner of the Warrant in installments in arrears the Annual Economic Development Payments determined by the Municipality to be due and payable in accordance with the terms hereof.
- (2) Limited Obligation. The obligation of the Municipality for the payment of the Warrant:
  - (a) is a limited obligation payable solely from the Annual Economic Development Payments;

(b) shall never constitute a general obligation, or a charge against the general credit or taxing powers, of the Municipality within the meaning of any constitutional provision or statutory limitation whatsoever;

(c) is subject to (i) all prior pledges of the Municipality Net Sales Tax Proceeds for the benefit of long term indebtedness of the Municipality and (ii) in accordance with Johnson v. Sheffield, 183 So. 265 (Ala. 1938), the law-imposed requirement that, if necessary, there must first be paid from all Municipality Net Sales Tax Proceeds (including without limitation the Annual Economic Development Payments) the legitimate and necessary governmental expenses of operating the Municipality; and

(d) shall commence after the Date of Validation.

(3) Maximum Amount. The maximum amount the Municipality shall pay under this Agreement and the Warrant shall be limited to and shall not exceed the Total Municipality Tax Commitment.

(4) Duration and Termination. Anything in this Agreement or in the Warrant to the contrary notwithstanding, the Municipality shall have no obligation to pay any amount of Annual Economic Development Payments under this Agreement or the Warrant:

(a) prior to the Date of Validation; or

(b) after the first to occur of (i) the Annual Payment Date which occurs after the period of twelve consecutive months ending \_\_\_\_\_ or (ii) that date on which the Municipality shall have paid as Annual Economic Development Payments an aggregate amount not less than the Total Municipality Tax Commitment or (iii) termination of this Agreement by the Municipality under Section 6.02(2).

**SECTION 4.02 Determination and Payment of Annual Economic Development Payments.**

(1) In order to receive an Annual Economic Development Payment, the Owner shall execute and deliver to the Municipality, on or before \_\_\_\_\_ in each year in which this Agreement is in effect, a certificate in form and of content as attached as Exhibit B hereto.

(2) The Municipality shall, on each Annual Payment Date, determine as provided herein, and pay to the Owner, the amount (if any) of the Annual Economic Development Payment due hereunder for the period referenced in such certificate.

(3) The Municipality will permit any attorneys, accountants or other agents or representatives designated by the Owner to visit and inspect any of the accounting systems, books of account, and financial records and properties of the Municipality which pertain to the Municipality Net Sales Tax Proceeds and the determination of Annual Economic Development Payments, all at reasonable business times and upon reasonable notice.

**SECTION 4.03 The Warrant.**

(1) The obligation of the Municipality to pay the Annual Economic Development Payments hereunder shall be evidenced by a limited obligation revenue warrant, payable solely from, and secured by a pledge of, the Annual Economic Development Payments, in form and of content as the form of warrant attached to this Agreement as Exhibit A (the "Warrant").

(2) The Warrant shall not bear interest, shall be issued in an aggregate principal amount not exceeding the Total Municipality Tax Commitment, shall be dated the date of delivery, and shall mature on the Date of Termination.

(3) The Warrant shall be duly executed, sealed, and attested by the Municipality, and shall be registered by the Municipality as a conditional claim against the Annual Economic Development Payments.

(4) The Warrant shall be registered and transferred as provided therein.

**SECTION 4.04 Agreements of the Municipality.**

(1) All proceedings of the governing body of the Municipality heretofore had and taken, and all ordinances and resolutions adopted pursuant thereto with respect to the levy and collection of the Municipality Sales Tax, are hereby ratified and confirmed in all respects from and after the effective date thereof.

(2) The Municipality covenants and agrees the Municipality shall, as long as this Agreement and the Warrant shall be outstanding, continue to levy and to provide for the assessment and collection of the privilege license and excise taxes which provide the Municipality Net Sales Tax Proceeds at rates not less than those in effect on the date of this Agreement.

**ARTICLE 5**

**OBLIGATIONS OF THE OWNER**

(1) The Owner hereby agrees to duly and punctually observe and perform all agreements thereof under this Agreement.

(2) The Owner shall use the proceeds of the Annual Economic Development Payments solely for the purpose of development and operation of the business interests of the Owner within the Municipality.

(3) (a) The Owner agrees to defend, protect, indemnify, and hold harmless the Municipality, its agents, employees, and members of its governing body, from and against all claims or demands, including actions or proceedings brought thereon, and all costs, expenses, and liabilities of any kind relating thereto, including reasonable attorneys fees and cost of suit, arising out of or resulting from any of the following, provided, however, that the foregoing indemnity will not extend to the negligent misconduct of the City, its agents, employees, and members of its governing body: (i) any construction activity performed by Owner, or anyone claiming by through, or under Owner; and (ii) any loss of life, personal injury,

or damage to property arising from or in relation to the entry upon, construction, use, operation or occupancy of the Project, including, without limitation, tenants, customers and invitees of the Project and/or Owner.

(b) The agreements and covenants in this Article 5 shall survive the termination of this Agreement with respect to events or occurrences happening prior to or upon the termination of this Agreement and shall remain in full force and effect until commencement of an action with respect to any thereof shall be prohibited by law.

## ARTICLE 6

### **EVENTS OF DEFAULT AND REMEDIES**

#### **SECTION 6.01 Events of Default.**

Any one or more of the following shall constitute an event of default by the Municipality or the Owner hereunder (an "Event of Default") under this Agreement:

(1) default in the performance, or breach, of any covenant or warranty of the Municipality in this Agreement, including without limitation default in the payment of any Annual Economic Development Payments under Section 4.02 hereof, and the continuance of such default or breach for a period of 30 days after there has been given, by registered or certified mail, to the Municipality by the Owner a written notice specifying such default or breach and requiring it to be remedied and stating that such notice is a "notice of default" hereunder, provided that if such default is of a kind which cannot reasonably be cured within such thirty-day period, the Municipality shall have a reasonable period of time within which to cure such default, provided that it begins to cure the default promptly after its receipt of such written notice and proceeds in good faith, and with due diligence, to cure such default; or

(2) default in the performance, or breach, of any covenant or warranty of the Owner in this Agreement, and the continuance of such default or breach for a period of 30 days after there has been given, by registered or certified mail, to the Owner by the Municipality a written notice specifying such default or breach and requiring it to be remedied and stating that such notice is a "notice of default" hereunder, provided that if such default is of a kind which cannot reasonably be cured within such thirty-day period, the Owner shall have a reasonable period of time within which to cure such default, provided that it begins to cure the default promptly after its receipt of such written notice and proceeds in good faith, and with due diligence, to cure such default.

#### **SECTION 6.02 Remedies.**

(1) Each party hereto may proceed to protect its rights and interests by suit in equity, action at law or other appropriate proceedings, whether for the specific performance of any covenant or agreement of any other party herein contained or in aid of the exercise of any power or remedy available at law or in equity.

(2) Anything in this Agreement to the contrary notwithstanding, the Municipality may terminate this Agreement upon the occurrence of an Event of Default under Section 6.01(2), whereupon the Municipality shall have no further obligation hereunder.

**SECTION 6.03 Remedies Subject to Applicable Law.**

All rights, remedies and powers provided by this Agreement may be exercised only to the extent the exercise thereof does not violate any applicable provision of law in the premises, and all the provisions of this Article are intended to be subject to all applicable mandatory provisions of law which may be controlling in the premises and to be limited to the extent necessary so that the same will not render this Agreement invalid or unenforceable.

**ARTICLE 7**

**PROVISIONS OF GENERAL APPLICATION**

**SECTION 7.01 Enforceability.**

The provisions of this Agreement shall be severable. In the event any provision hereof shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any of the remaining provisions hereof.

**SECTION 7.02 Prior Agreements Cancelled.**

This Agreement shall completely and fully supersede all other prior agreements, both written and oral, by the parties hereto relating to the matters contained herein. None of the parties hereto shall hereafter have any rights under any of such prior agreements but shall look to this Agreement for definition and determination of all of their respective rights, liabilities and responsibilities relating to the matters contained herein.

**SECTION 7.03 Counterparts.**

This Agreement may be executed in counterparts, each of which shall constitute but one and the same agreement.

**SECTION 7.04 Binding Effect; Governing Law.**

(1) This Agreement shall inure to the benefit of, and shall be binding upon, the parties hereto and their respective successors and assigns except as otherwise provided herein.

(2) This Agreement shall be governed exclusively by the laws of the State of Alabama.

**SECTION 7.05 Notices.**

(1) All notices, demands, consents, certificates or other communications hereunder shall be in writing, shall be sufficiently given and shall be deemed given when delivered personally to the party



or to an officer of the party to whom the same is directed, or mailed by registered or certified mail, postage prepaid, or sent by overnight courier, addressed as follows:

- (a) if to the Municipality: (b) if to the Owner:

City Hall  
513 Montgomery Highway  
Vestavia Hills, Alabama 35216

(2) Any such notice or other document shall be deemed to be received as of the date delivered, if delivered personally, or as of three (3) days after the date deposited in the mail, if mailed, or the next business day, if sent by overnight courier.

**SECTION 7.06 Delegation and Assignment of this Agreement by Owner.**

(1) The Owner shall have no authority or power to, and shall not, delegate to any Person the duty or obligation to observe or perform any agreement or obligation of the Owner hereunder.

(2) The Owner shall not have any authority or power to, and shall not, without the prior written consent of the Municipality (which shall not be unreasonably withheld, delayed or conditioned), assign or pledge to any Person any right of the Owner hereunder or any interest of the Owner herein.

**SECTION 7.07 Amendments**

This Agreement may be amended or supplemented only by an instrument in writing duly authorized, executed and delivered by each party hereto.

IN WITNESS WHEREOF, the Municipality has caused this Agreement to be executed in its name, under seal, and the same attested, all by officers thereof duly authorized thereunto, and the Owner has executed this Agreement under seal, and the parties have caused this Agreement to be dated the date and year first above written.

**CITY OF VESTAVIA HILLS, ALABAMA**

By \_\_\_\_\_  
Mayor

By \_\_\_\_\_  
City Manager

SEAL

ATTEST: \_\_\_\_\_  
City Clerk

**SATTERFIELD VESTAVIA HILLS  
PROPERTIES, LLC**

By: \_\_\_\_\_

Its: \_\_\_\_\_

**EXHIBIT A**

**Form of Warrant**

**THIS WARRANT HAS NOT BEEN REGISTERED (i) UNDER THE SECURITIES ACT OF 1933, AS AMENDED, IN RELIANCE UPON THE EXEMPTION PROVIDED BY SECTION 4(2) OF SAID ACT, OR (ii) UNDER ANY STATE SECURITIES LAW, IN RELIANCE UPON APPLICABLE EXEMPTIONS, AND MAY NOT BE TRANSFERRED WITHOUT REGISTRATION EXCEPT PURSUANT TO AN EXEMPTION THEREFROM.**

**THIS WARRANT DOES NOT BEAR INTEREST**

**UNITED STATES OF AMERICA  
STATE OF ALABAMA**

**CITY OF VESTAVIA HILLS  
LIMITED OBLIGATION ECONOMIC DEVELOPMENT REVENUE WARRANT  
(SATTEFIELD VESTAVIA HILLS PROPERTIES, LLC)**

No. R-1

DATED DATE:

\_\_\_\_\_, 20\_\_

MATURITY DATE:

Date of Termination

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

**SATTEFIELD VESTAVIA HILLS PROPERTIES, LLC**

or registered assigns (collectively the "Owner") in a principal amount not exceeding

**THREE HUNDRED TWENTY-FIVE THOUSAND DOLLARS  
(\$325,000)**

as determined pursuant to the within-referenced Agreement, and hereby orders and directs the Finance Director of the Issuer to pay to the Owner, solely from the Annual Economic Development Payments deposited in the Warrant Fund hereinafter designated, said principal amount, without interest, on each Annual Payment Date, until and including the Maturity Date specified above.

**Authority for Issuance**

This Warrant is issued pursuant to the authority of the Constitution and laws of the State of Alabama, including particularly and without limitation Amendment No. 772 of the Constitution of Alabama of 1901, as amended (collectively the "Enabling Law"), and that certain Special Economic Development Agreement dated the above Dated Date (the "Agreement") by the Issuer and Satterfield Vestavia Hills Properties, LLC.

Capitalized terms used hereinbefore and hereinafter without definition shall have the respective meanings assigned thereto in the Agreement.

Reference is made to the provisions of the Agreement, to and by which all of which provisions the Owner, by acceptance of this Warrant, assents and agrees to be bound.

### **Payment**

Payment of this Warrant shall be made to or as directed by the Owner; provided the final payment of principal of this Warrant shall be made only upon presentation and surrender of this Warrant to the Issuer for cancellation.

Each payment of principal made on this Warrant shall be reflected by the notations made by the Issuer on its internal records (which may be kept by computer or by other means determined by the Issuer) and the Issuer is hereby authorized so to record thereon all such payments. All payments of principal on this Warrant and the aggregate unpaid principal amount of this Warrant reflected on the internal records of the Issuer (whether by computer or otherwise) shall be rebuttably presumptive evidence of the principal amount of this Warrant outstanding and unpaid.

All payments of principal of this Warrant by the Issuer shall be made at par in such coin or currency of the United States of America as at the time of payment is legal tender for the payment of public and private debts, and shall be valid and effectual to satisfy and discharge the liability of the Issuer upon this Warrant to the extent of the amounts so paid.

The person in whose name this Warrant is registered shall be deemed and regarded as the absolute owner hereof for all purposes and payment of the principal of this Warrant shall be made only to or upon the order of the Owner hereof or its legal representative, and neither the Issuer nor any agent of the Issuer shall be affected by any notice to the contrary.

### **Security**

This Warrant is a limited obligation of the Issuer payable solely from the Annual Economic Development Payments as provided in the Agreement.

The Annual Economic Development Payments are hereby pledged to the payment, and for the benefit, of this Warrant, subject to (i) all prior pledges of the Municipality Net Sales Tax Proceeds for the benefit of long term indebtedness of the Municipality and (ii) in accordance with Johnson v. Sheffield, 183 So. 265 (Ala. 1938), the law-imposed requirement that, if necessary, there must first be paid from all Municipality Net Sales Tax Proceeds (including without limitation the Annual Economic Development Payments) the legitimate and necessary governmental expenses of operating the Municipality.

This Warrant shall never constitute a charge against the general credit or taxing powers of the Issuer within the meaning of any constitutional provision or statutory limitation whatsoever.

The Issuer has established a special fund designated "Warrant Fund" (the "Warrant Fund") for the payment of this Warrant and has obligated itself to pay or cause to be paid into the Warrant Fund, solely from the Annual Economic Development Payments, sums sufficient to provide for the payment of this Warrant.

### **Prepayment and Redemption**

The Issuer may, on any date, pay in advance the entire unpaid principal amount of this Warrant or any lesser portion or portions thereof by paying to the Owner the principal amount to be prepaid without premium or penalty.

### **Registration and Transfer**

This Warrant is registered as to principal and interest in the name of the Owner on the book of registration maintained for that purpose by the Issuer.

This Warrant may be transferred only upon written direction of the registered owner or its legal representative, addressed to the Municipality, presentation of this Warrant to the Municipality accompanied by a written instrument of transfer, satisfactory to the Municipality, duly executed by the registered owner or its attorney duly authorized in writing, and compliance with Section 7.06 of the Agreement. Upon presentation of this Warrant to the Municipality for transfer, the Municipality shall record such transfer on the said book of registration and execute and deliver, in exchange for this Warrant, a new warrant or warrants of like tenor hereof, registered in the name of the transferee in an aggregate principal amount equal to the unpaid or unredeemed portion of the principal of this Warrant. No charge shall be made for the privilege of transfer, but the registered owner of this Warrant requesting any such transfer shall pay any tax or other governmental charge required to be paid with respect thereto.

### **General**

No covenant or agreement contained in this Warrant or in the Agreement shall be deemed to be a covenant or agreement of any officer, agent, employee, or member of the governing body of the Issuer in the individual capacity thereof 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.

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 this Warrant represents a valid claim against the Warrant Fund, 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 execution, registration and issuance of this Warrant, the adoption of the resolution approving the Agreement, and the execution and delivery of the Agreement, 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 Issuer, are within every debt and other limit prescribed by the Constitution and laws of the State of Alabama.

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

**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 conditional claim against the City of Vestavia Hills, in the State of Alabama, and the Warrant Fund referred to herein, and the Annual Economic Development Payments pledged to the payment hereof.

\_\_\_\_\_  
Finance Director of the City of Vestavia Hills,  
Alabama

**VALIDATION CERTIFICATE**

Validated and confirmed by judgment of the Circuit Court of Jefferson County, State of Alabama entered on the \_\_\_\_\_ day of \_\_\_\_\_, 2017.

/s/  
\_\_\_\_\_  
Clerk of Circuit Court of Jefferson County,  
State of Alabama



**REGISTRATION OF OWNERSHIP**

This Warrant is recorded and registered on the warrant register of the City of Vestavia Hills in the name of the last owner named below. The principal of this Warrant shall be payable only to or upon the order of such registered owner.

<u>Date of Registration</u>	<u>In Whose Name Registered</u>	<u>Signature of Authorized Officer of Issuer</u>
Dated Date	Satterfield Vestavia Hills Properties, LLC	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

**Assignment**

For value received, \_\_\_\_\_ hereby sell(s), assign(s) and transfer(s) unto \_\_\_\_\_ this warrant and hereby irrevocably constitute(s) and appoint(s) \_\_\_\_\_ attorney to transfer this warrant on the books of the within named Issuer with full power of substitution in the premises.

Dated: \_\_\_\_\_

\_\_\_\_\_  
NOTE: The name signed to this assignment must correspond with the name of the payee written on the face of the within warrant in all respects, without alteration, enlargement or change whatsoever.

Signature Guaranteed:

\_\_\_\_\_  
(Bank or Trust Company)

By \_\_\_\_\_  
(Authorized Officer)

**EXHIBIT B**

**Request for Payment of Annual Economic Development Payments**

**Request for Payment of Annual Economic Development Payments**

From: Satterfield Vestavia Hills Properties, LLC

To: City of Vestavia Hills, Alabama

Date: \_\_\_\_\_, 20\_\_

Re: **Special Economic Development Agreement dated the Date of Delivery by City of Vestavia Hills, Alabama (the "Municipality") and Satterfield Vestavia Hills Properties, LLC (the "Owner").**

---

The undersigned, as Owner under the above Agreement, hereby requests payment to the Owner by the Municipality of the Annual Economic Development Payment, to be determined by the Municipality as provided in the Agreement, for the following period:

\_\_\_\_\_ 1, 20\_\_ to \_\_\_\_\_ 1, 20\_\_

and in connection therewith does hereby represent, warrant and certify to the Municipality as follows:

1. The total amount paid by the Owner to the Municipality pursuant to the levy of the Municipality Sales Tax for the above period is \$\_\_\_\_\_.
2. The Owner is in full compliance with the agreements and covenants thereof under the Agreement and no Event of Default, or any event which upon notice, or lapse of time, or both shall become an Event of Default, has occurred and is continuing.
3. The Agreement is in full force and effect.
4. The Owner is in full compliance with all applicable ordinances and regulations of the Municipality.

Capitalized terms used herein shall have the respective meanings assigned in the above Agreement.

In Witness Whereof, the undersigned Owner has caused this instrument to be executed in its name, under seal, by an officer thereof duly authorized thereunto.

Satterfield Vestavia Hills Properties, LLC  
as Owner

By \_\_\_\_\_

Its \_\_\_\_\_

Section 3.

(a) The Mayor and the City Manager are each hereby authorized and directed to execute and deliver the Special Economic Development Agreement and the Warrant for and on behalf of and in the name of the Municipality. The City Clerk is hereby authorized and directed to affix the official seal of the Municipality to the Special Economic Development Agreement and the Warrant and to attest the same.

(b) The Mayor, the City Manager, and the officers of the Municipality are each hereby authorized and directed to take all such actions, and execute, deliver and perform all such agreements, documents, instruments, notices, and petitions and proceedings, with respect to the Special Economic Development Agreement and the Warrant, as the Mayor and such officers shall determine to be necessary or desirable to carry out the provisions of this resolution or the Special Economic Development Agreement or duly and punctually observe and perform all agreements and obligations of the Municipality under the Special Economic Development Agreement.

Section 4. The Municipality desires, before the issuance of the Warrant referenced in the Special Economic Development Agreement, to validate the legality of all proceedings had or taken in connection therewith, the validity of the means provided for the payment of the Warrant, and the validity of all covenants and provisions contained in this resolution and the Special Economic Development Agreement and the Warrant, by filing a petition against the taxpayers and citizens of the Municipality in the Circuit Court of Jefferson County, Alabama. A complaint to validate such Warrant, proceedings, and covenants shall be filed and validation proceedings shall be instituted in the name of the Municipality and the members of the governing body of the Municipality. Maynard, Cooper & Gale, P.C., Birmingham, Alabama, and Patrick H. Boone, Esq., are hereby designated and appointed as the attorneys of the Municipality to file such complaint, institute such proceedings, and to take all steps necessary to complete such validation proceedings in accordance with the provisions of Article 17 of Chapter 6 of Title 6 of the CODE OF ALABAMA 1975. Any actions heretofore taken by such attorneys in connection with the filing of such petition or such validation proceedings are hereby ratified and confirmed.

Section 5. All prior actions taken, and agreements, documents or notices executed and delivered, by the Mayor or any officer or member of the Council or other representative of the Municipality, in connection with the agreements, covenants, and undertakings of the Municipality hereby approved, or in connection with the preparation of the Special Economic Development Agreement and the terms and provisions thereof, are hereby approved, ratified and confirmed.

Section 6. All ordinances, resolutions, orders, or parts of any thereof, of the Council in conflict, or inconsistent, with any provision of this resolution hereby are, to the extent of such conflict or inconsistency, repealed.

Section 7. This resolution shall take effect immediately.

After said resolution had been discussed and considered in full by the Council, it was moved by Councilmember \_\_\_\_\_ that said resolution 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 resolution, the roll was called with the following results:

Ayes: Ashley C. Curry, Mayor  
Kimberly Cook  
Paul J. Head  
George Pierce  
Rusty Weaver

Nays: \_\_\_\_\_

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

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 April 10, 2017, the original of which is on file and of record in the minute book of the City Council in my custody; (4) the resolution set forth in such excerpts is a complete, verbatim and compared copy of such resolution as introduced and adopted by the City Council on such date; and (5) said resolution 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 \_\_\_\_ day of \_\_\_\_\_, 2017.

\_\_\_\_\_  
Clerk of the City of Vestavia Hills, Alabama

SEAL

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

---

**Special Economic Development Agreement  
(Satterfield Vestavia Hills Properties, LLC)**

---

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 6:00 p.m. on April 10, 2017. The meeting was called to order by the Mayor, and the roll was called with the following results:

Present: Ashley C. Curry, Mayor  
Kimberly Cook  
Paul J. Head  
George Pierce  
Rusty Weaver

Absent: \_\_\_\_\_

\* \* \*

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

\* \* \*

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



**RESOLUTION NUMBER 4942**

**A RESOLUTION PROPOSING THE ANNEXATION  
OF CERTAIN TERRITORY TO THE CORPORATE  
LIMITS OF THE CITY OF VESTAVIA HILLS,  
ALABAMA**

**WHEREAS**, there has been a petition filed with the City Clerk of the City of Vestavia Hills, Alabama, and herein presented to the City Council of the City of Vestavia Hills, Alabama, dated September 1, 2016, wherein all owners of certain property contiguous to the City Limits of the City of Vestavia Hills, Alabama, ask that their property be annexed to the City of Vestavia Hills, Alabama; and

**WHEREAS**, said Petition has been presented to the City Council of the City of Vestavia Hills, Alabama, on the 24th day of April, 2017; and

**WHEREAS**, it would be in the best interest of the City of Vestavia Hills, Alabama, and to the citizens thereof to consider annexation of said territory and bringing it within the corporate limits of this Municipality; and

**WHEREAS**, said petitioners must comply with Act #604, 1970 Alabama Legislature regarding Fire Districts (property owners are to be responsible for fire dues if they are within another Fire District at the time of the annexation petition).

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Vestavia Hills, Alabama, as follows:

1. That the said Petition shall be published one (1) time in *The Birmingham News*, a newspaper of general circulation in Vestavia Hills, Jefferson County, Alabama, on the 26th day of April, 2017.

2. That on the 28th day of August, 2017, in the Vestavia Hills City Hall, a public hearing will be held to determine the truths of the matter set forth in said petition and to consider any protests or objections filed in writing with the City Clerk prior to such hearing, to determine whether it is in the public interest or not that said property be annexed to the City of Vestavia Hills, Alabama, and to consider adoption of an Ordinance annexing the territory described in said petition to this Municipality.

3. That this Resolution shall become known and referred to as Resolution Number 4942 by the City Council of the City of Vestavia Hills, Alabama, and as

annexation of the following described property by the City Council of the City of Vestavia Hills, Alabama:

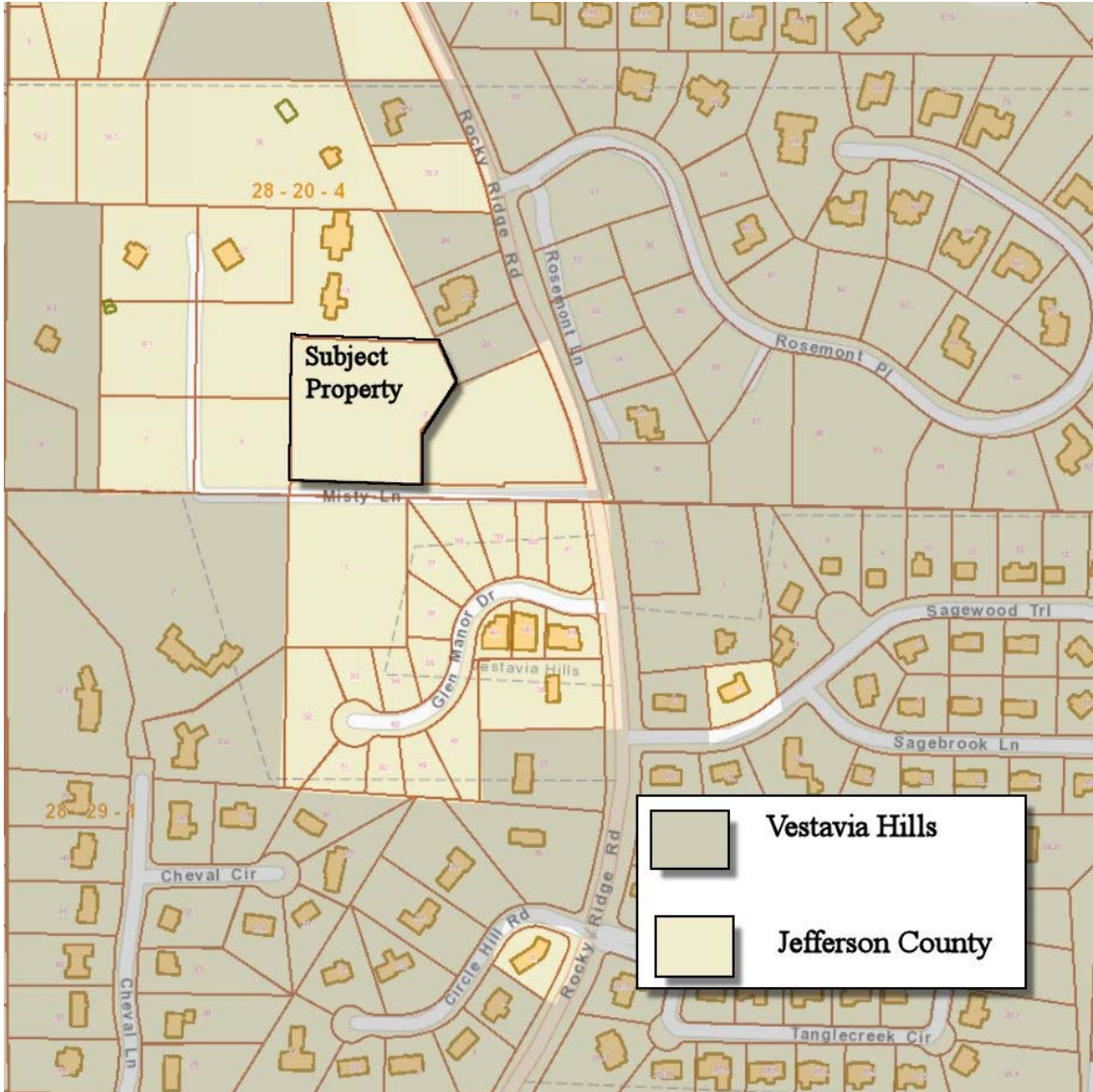
3308 Misty Lane  
Lot 1, The Woods at Rocky Ridge  
Will and Jill Smith, Owner(s)

**APPROVED and ADOPTED** this the 24th day of April, 2017.

Ashley C. Curry  
Mayor

ATTESTED BY:

Rebecca Leavings  
City Clerk



**PARCEL #:** 28 00 20 4 002 012.000  
**OWNER:** SMITH JILL R  
**ADDRESS:** 3308 MISTY LN BIRMINGHAM AL 35243  
**LOCATION:** 3308 MISTY LN AL 35243

[ 111-A+ ] Baths: 3.5 H/C Sqft: 4,460  
 18-011.0 Bed Rooms: 4 Land Sch: A414  
 Land: 214,500 Imp: 560,700 Total: 775,200  
 Acres: 0.000 Sales Info: 08/13/2014  
 \$425,000

<< Prev Next >> [ 1 / 0 Records ] Processing...

Tax Year : 2016

SUMMARY LAND BUILDINGS SALES PHOTOGRAPHS MAPS

**SUMMARY**

**ASSESSMENT**

PROPERTY CLASS: 3 OVER 65 CODE:  
 EXEMPT CODE: 2-2 DISABILITY CODE:  
 MUN CODE: 01 COUNTY HS YEAR: 2016  
 SCHOOL DIST: EXM OVERRIDE AMT: \$0.00  
 OVR ASD VALUE: \$0.00 TOTAL MILLAGE: 50.1  
 CLASS USE: FOREST ACRES: 0 TAX SALE:  
 PREV YEAR VALUE: \$214,500.00 BOE VALUE: 0

**VALUE**

LAND VALUE 10% \$214,500  
 LAND VALUE 20% \$0  
 CURRENT USE VALUE [DEACTIVATED] \$0  
CLASS 2  
CLASS 3  
 UTILITY WOOD OR 26WCCEX \$9,100  
 TENNIS COURT CO 46TCCON \$38,300  
 POOL GUNITE 30 29G0300 \$12,600  
 BLDG 001 111 \$500,700  
 TOTAL MARKET VALUE [APPR. VALUE: \$775,200]: \$775,200  
 Assesment Override:  
 MARKET VALUE:  
 CU VALUE:  
 PENALTY:  
 ASSESSED VALUE:

**TAX INFO**

	CLASS	MUNCODE	ASSD. VALUE	TAX	EXEMPTION	TAX EXEMPTION	TOTAL TAX
STATE	3	1	\$77,520	\$503.88	\$4,000	\$26.00	\$477.88
COUNTY	3	1	\$77,520	\$1,046.52	\$2,000	\$27.00	\$1,019.52
SCHOOL	3	1	\$77,520	\$635.66	\$0	\$0.00	\$635.66
DIST SCHOOL	3	1	\$77,520	\$0.00	\$0	\$0.00	\$0.00
CITY	3	1	\$77,520	\$0.00	\$0	\$0.00	\$0.00
FOREST	3	1	\$0	\$0.00	\$0	\$0.00	\$0.00
SPC SCHOOL1	3	1	\$77,520	\$395.35	\$0	\$0.00	\$395.35
SPC SCHOOL2	3	1	\$77,520	\$1,302.34	\$0	\$0.00	\$1,302.34

TOTAL FEE & INTEREST: (Detail) \$5.00

ASSD. VALUE: \$77,520.00

\$3,883.75

GRAND TOTAL: \$3,835.75

FULLY PAID

**DEEDS**

**PAYMENT INFO**

INSTRUMENT NUMBER	DATE	PAY DATE	TAX YEAR	PAID BY	AMOUNT
<a href="#">201416-3509</a>	8/13/2014	12/8/2016	2016	LERETA	\$3,835.75
<a href="#">9809-4585</a>	06/30/1998	11/20/2015	2015	LERETA	\$2,149.29
		12/30/2014	2014	DAVID P CONDON, PC	\$1,050.09
		1/15/2014	2013	BRUNO CAPITAL MANAGEMENT CORP	\$1,050.09

**Annexation Committee Petition Review**

Property: 3308 Misty Lane

Owners: Will and Jill Smith

Date: 1-23-17

1. The property in question is contiguous to the city limits.  
Yes  No  Comments: \_\_\_\_\_

2. The land use of the petitioned property is compatible with land use in the area.  
Yes  No  Comments: \_\_\_\_\_

3. The property being petitioned is noted in the September 2006 Annexation Policy Task Force Report as an area of interest to the city for annexation.  
Yes  No  Comments \_\_\_\_\_

4. Streets and drainage structures are in substantial compliance with city regulations and building codes, and in good condition at the time of the annexation.  
Yes  No  Comments NARROW ROADWAY 12-14'  
NO PUBLIC TURN AROUND. DRIVEWAY GATE ENCROACHMENT

5. Individual household has a Jefferson or Shelby County Tax Assessor minimum market value of 115,200. Meets city criteria: Yes  No   
Comment: \_\_\_\_\_

6. This street has fewer than 100% of the individual properties within the limits of the city  
Yes  No   
Number of total homes 5 Number in city 1

7. Fire dues pursuant to Act #604 of the State of Alabama, and any other assessments on the property shall be the responsibility of the property owner, and their payment proven to the city.  
Agreed to by petitioner: Yes  No  Comment \_\_\_\_\_

Property: 3308 Misty Lane


8. A non-refundable administrative fee of \$100 has been paid to the city. Furthermore, voluntary contributions, including an application fee, of \$ \_\_\_\_\_ will be paid to offset costs associated with the annexation. Yes \_\_\_\_\_ No \_\_\_\_\_ Comment \_\_\_\_\_

9. Property is free and clear of hazardous waste, debris and materials. Yes  No \_\_\_\_\_ Comment \_\_\_\_\_

10. Are there any concerns from city departments? Yes  No \_\_\_\_\_ Comments: Engineering had concerns with width of street, 12-14', asphalt in poor condition, no drainage in fire structure and driveway gate encroachment

11. Information on children: Number in family 0; Plan to enroll in VH schools Yes \_\_\_\_\_ No \_\_\_\_\_ Comments: \_\_\_\_\_

Other Comments: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

  
\_\_\_\_\_  
George Pierce  
Chairman





STATE OF ALABAMA

JEFFERSON COUNTY

**PETITION FOR ANNEXATION TO THE  
CITY OF VESTAVIA HILLS, ALABAMA**

Date of Petition: Sept. 1, 2016

To the Honorable Mayor and City Council of the City of Vestavia Hills, Alabama:

We, the undersigned owners of the properties set out in red outline in Exhibit "A" attached hereto, which properties are contiguous to the City limits of the City of Vestavia Hills, Alabama, under the authority of Act No. 32 of the Special Session of the Alabama Legislature of 1964, do hereby petition the City of Vestavia Hills, Alabama, that the properties set out in red outline in Exhibit "A" attached, situated in JEFFERSON County, Alabama, be annexed to the City of Vestavia Hills, Alabama. The metes and bounds description of the boundary of the property of the undersigned proposed to be annexed is also set out on said Exhibit "A" and a map showing in red the property proposed for annexation by this petition is also attached and made a part hereof.

The undersigned petitioners do further petition that the Honorable Mayor and City Council of the City of Vestavia Hills, Alabama, set a date for the hearing of this petition and any objections in writing to the petition or protest, on a date certain and that no less than ninety (90) days before said date certain for said hearing on this petition, that a notice of said hearing along with this petition be published in a newspaper of general circulation in Jefferson County, Alabama.

We, the undersigned petitioners do also ask that the Honorable Mayor and City Council of the City of Vestavia Hills, Alabama, do all things necessary and requisite to comply with the terms of Act No. 32 of the Special Session of the Alabama Legislature of 1964.

Will Smith:

WILLSMITH15@GMAIL.COM

205-914-9455



**EXHIBIT "A"**

LOT: 1

BLOCK: \_\_\_\_\_

SURVEY: THE WOODS AT ROCKY RIDGE

RECORDED IN MAP BOOK 239, PAGE 57 IN THE  
PROBATE OFFICE OF JEFFERSON COUNTY, ALABAMA.

COUNTY ZONING: E-1

COMPATIBLE CITY ZONING: E-2

LEGAL DESCRIPTION (METES AND BOUNDS):

Southwest QUARTER of the Southeast QUARTER  
of SECTION 20, TOWNSHIP 18 SOUTH, RANGE  
2 WEST JEFFERSON County ALABAMA.

IN WITNESS WHEREOF, the undersigned have hereunto set their hands and seals, or caused these presents to be executed by their duly authorized representatives, with full authority.

**SIGNATURE(S)**

**DESCRIPTION OF PROPERTY**

\_\_\_\_\_ Lot 1 Block \_\_\_\_\_ Survey THE WOODS AT ROCKY RIDGE

\_\_\_\_\_ Lot \_\_\_\_\_ Block \_\_\_\_\_ Survey \_\_\_\_\_

\_\_\_\_\_ Lot \_\_\_\_\_ Block \_\_\_\_\_ Survey \_\_\_\_\_

*(Use reverse side hereof for additional signatures and property descriptions, if needed).*

STATE OF ALABAMA

JEFFERSON COUNTY

Jim R. Smith being duly sworn says: I am one of the persons who signed the above petition, and I certify that said petition contains the signatures of all the owners of the described property.

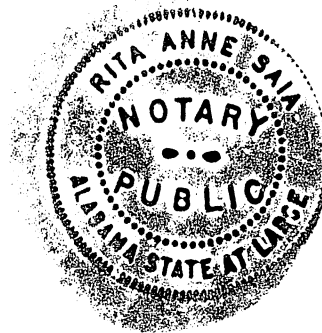
Jim R. Smith  
Signature of Certifier

Subscribed and sworn before me this the 6th day of September, 2016.

Rita Anne Saia  
Notary Public

My commission expires: 12/7/17

RITA ANNE SAIA  
Notary Public - State of Alabama  
My Commission Expires  
December 7, 2017



**EXHIBIT "B"**

**VESTAVIA HILLS BOARD OF EDUCATION**

**1204 Montgomery Highway  
 Vestavia Hills AL 35216**

*(To be completed by the City)*

Date of Annexation Petition \_\_\_\_\_ Action Taken: Grant \_\_\_\_\_  
 Deny \_\_\_\_\_

Resolution: Date: \_\_\_\_\_ Number: \_\_\_\_\_  
 Overnight Ordinance: Date: \_\_\_\_\_ Number: \_\_\_\_\_  
 90 Day Final Ordinance: Date: \_\_\_\_\_ Number: \_\_\_\_\_

*(To be completed by Homeowner)*

Name(s) of Homeowner(s): Jill R. Smith

Address: 3308 Misty Lane

City: Birmingham State: AL Zip: 35243

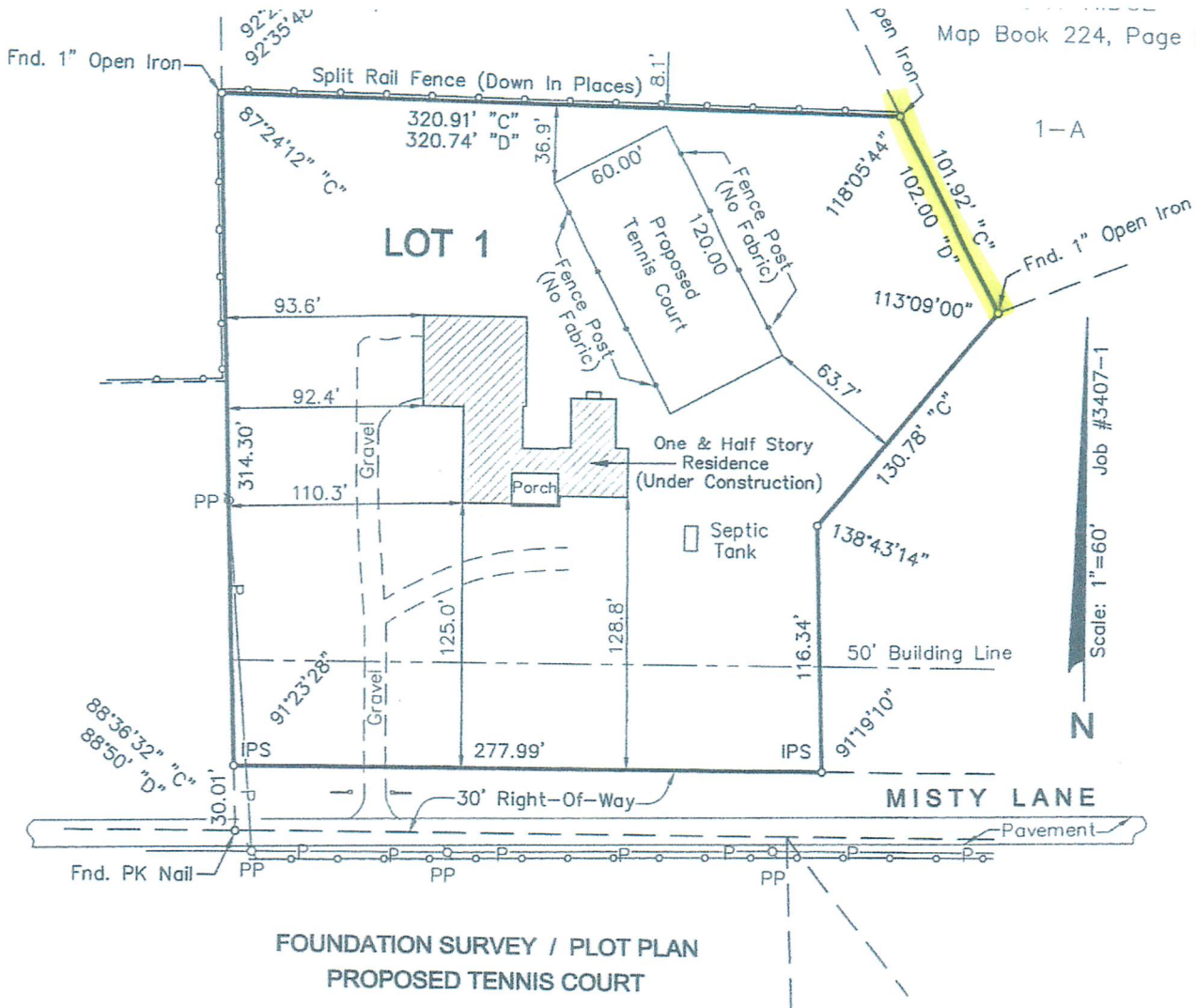
**Information on Children:**

*N/A*

**Plan to Enroll In  
 Vestavia Hills School?**

	<b>Name(s)</b>	<b>Age</b>	<b>School Grade</b>	<b>Yes</b>	<b>No</b>
1.					
2.					
3.					
4.					
5.					
6.					

Approximate date for enrolling students in Vestavia Hills City Schools if above response is "yes": \_\_\_\_\_



**FOUNDATION SURVEY / PLOT PLAN  
PROPOSED TENNIS COURT**

Description: LOT 1, THE WOODS AT ROCKY RIDGE, as recorded in Map Book 239, Page 57, in the Office of the Judge of Probate, Jefferson County, Alabama.

The correct address is: 3308 Misty Lane Birmingham, AL 35243

NOTE: IPS = Iron Pin Set (#5 Rebar)  
PP = Power Pole  
Fnd. = Found

STATE OF ALABAMA:  
JEFFERSON COUNTY:

I, James R. Boatright, Sr., a Licensed Land Surveyor, do hereby certify that all parts of this survey and drawing have been completed in accordance with the current requirements of the Standards of Practice for Land Surveying in the State of Alabama, to the best of my knowledge, information, and belief.

According to my survey this the 27th day of May, 2015



James R. Boatright, Sr., AL REG. NO. 17826  
704 Mary Vann Lane, Birmingham AL 35215  
Phone (205) 854-3669 Fax (205) 854-0071

80/78  
82/17  
82/73

**ORDINANCE NUMBER 2706**

**AN ORDINANCE TO ALTER, REARRANGE, AND EXTEND THE CORPORATE LIMITS OF THE CITY OF VESTAVIA HILLS, ALABAMA, SO AS TO EMBRACE AND INCLUDE WITHIN THE CORPORATE AREA OF SAID CITY ALL TERRITORY NOW WITHIN SUCH CORPORATE LIMITS AND ALSO CERTAIN OTHER TERRITORY CONTIGUOUS TO SAID CITY**

**WHEREAS**, a certain petition signed by Will and Jill Smith dated September 1, 2016, that the property therein described be annexed to the City of Vestavia Hills, Alabama, together with a map of said territory showing its relationship to the corporate limits of the City, has been filed with the City Clerk of the City of Vestavia Hills; and

**WHEREAS**, this Council has determined and found that the matters set forth and alleged in said petition are true and correct, and that it is in the public interest that said territory be annexed to the City of Vestavia Hills;

**NOW, THEREFORE, BE IT ORDAINED** by the Council of the City of Vestavia Hills, Alabama, as follows:

**SECTION 1.** That said Council hereby assents to the annexation of said territory to the City of Vestavia Hills, Alabama, the corporate limits of the City to be extended and rearranged pursuant to the provisions of Title 11, Chapter 42, Article 2, Code of Alabama, 1975 (Sections 11-42-20 through 11-42-23, as amended) so as to embrace and include said territory, in addition to the territory already within its present corporate limits. The new boundary line does not lie at any point more than half the distance between the old city boundary and the corporate boundary of any other municipality. Said territory is described as follows:

3308 Misty Lane  
Lot 1, The Woods at Rocky Ridge  
Will and Jill Smith

**SECTION 2.** That the City Clerk shall file a certified copy of this Ordinance containing an accurate description of said annexed territory with the Probate Judge of Jefferson County, Alabama, and also cause a copy of this Ordinance to be published/posted in accordance with Alabama law.

**APPROVED and ADOPTED** this the 24th day of April, 2017.

Ashley C. Curry  
Mayor

ATTESTED BY:

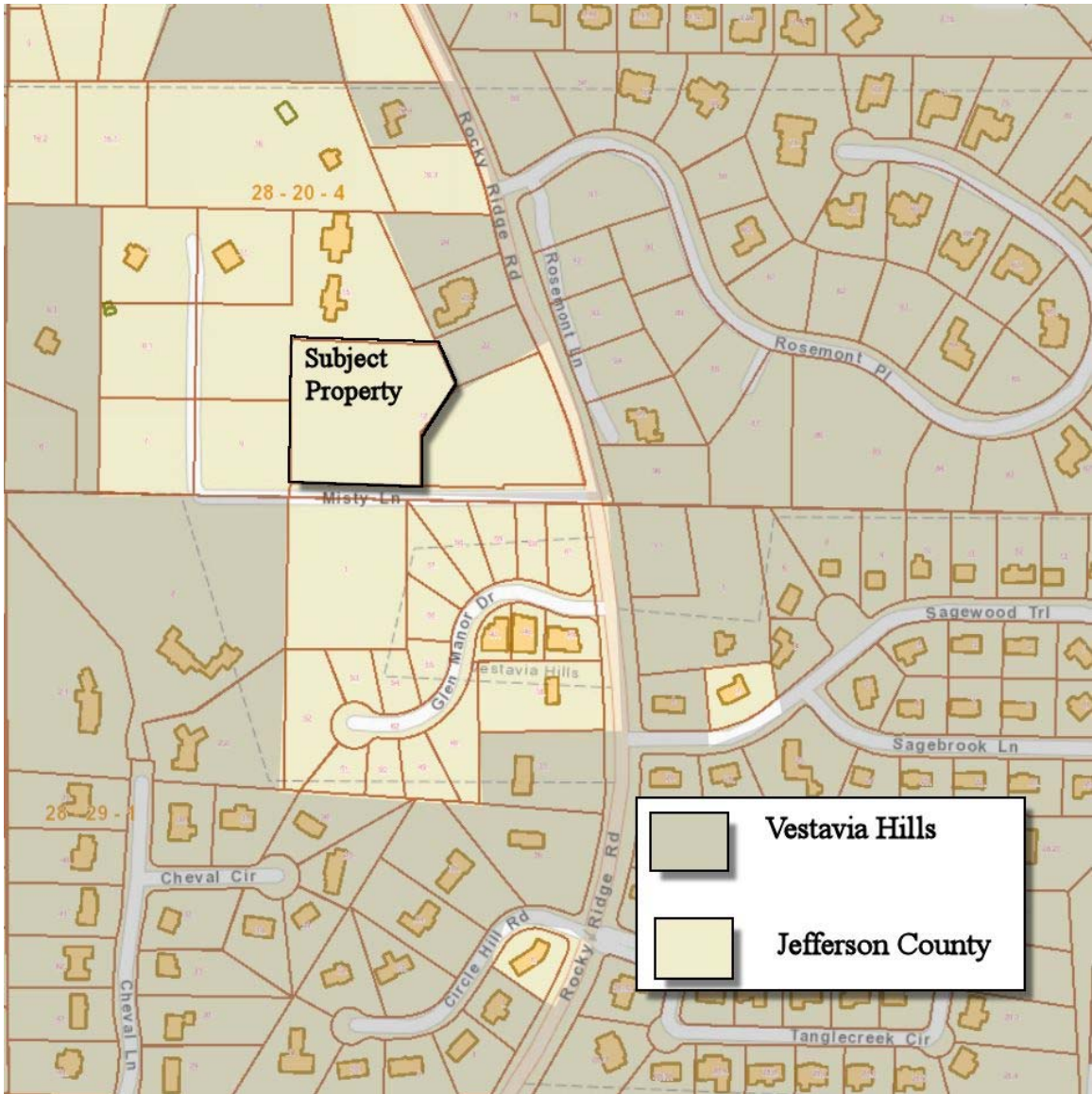
Rebecca Leavings  
City Clerk

**CERTIFICATION:**

I, Rebecca Leavings, as City Clerk of the City of Vestavia Hills, Alabama, hereby certify that the above and foregoing copy of 1 (one) Ordinance # 2706 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 24th day of April, 2017, as same appears in the official records of said City.

Posted at Vestavia Hills Municipal Center, Vestavia Hills Library in the Forest, Vestavia Hills New Merkle House and Vestavia Hills Recreational Center this the \_\_\_\_\_ day of \_\_\_\_\_, 2017.

Rebecca Leavings  
City Clerk



**ORDINANCE NUMBER 2703**

**AN ORDINANCE GRANTING CONDITIONAL USE APPROVAL  
FOR A HOME OCCUPATION**

**WHEREAS**, on December 13, 2010, the City Council of the City of Vestavia Hills, Alabama, adopted and approved Ordinance Number 2331, also known as the City of Vestavia Hills Zoning Code; and

**WHEREAS**, on February 19, 2001 the City Council of the City of Vestavia Hills adopted and approved Ordinance Number 1864 to rezone 3,350 +/- acres from multiple Jefferson County and Vestavia Hills zoning classifications to Vestavia Hills P.U.D.; and

**WHEREAS**, Section 709.5.A.1.b of Ordinance Number 1838 classifies a “home occupation” permitted only as a “Conditional Use” and

**WHEREAS**, Tammy Williamson is the owner of the property located at 4648 Jackson Loop, currently zoned Vestavia Hills PUD PR-1 (planned unit development planned residential district) more particularly described as Lot 1041, Heritage Hills, Phase III, Sector 2; and

**WHEREAS**, Tammy Williamson has submitted application for Conditional Use Approval for a home occupation to be operated in her residence located at 4648 Jackson Loop, Vestavia Hills, Alabama located in the Liberty Park P.U.D.; and

**WHEREAS**, Tammy Williamson has indicated in her application for Conditional Use Approval that she will operate an office for her real estate business out of her home pursuant to the specifications of a home occupation; and

**WHEREAS**, a copy of said application dated February 3, 2017 is marked as Exhibit A, attached and hereby incorporated into this Ordinance Number 2703.

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



1. Conditional Use Approval is hereby approved for Tammy Williamson for a home occupation as described in the above-referenced application for her residence located at 4648 Jackson Loop, Vestavia Hills, Alabama located in Liberty Park P.U.D. subject to the provisions outlined in Article 9 of the Vestavia Hills Zoning Code outlined as follows:
  - a. “Home occupation is defined as any use customarily conducted entirely within a dwelling and carried on solely by the inhabitant thereof, and which use is clearly incidental, accessory, subordinate and secondary to the use of the dwelling for dwelling purposes, and does not change the character of the dwelling itself or any part of parcel of property in the neighborhood surrounding said dwelling; and
  - b. Home occupations shall be conducted only in the main dwelling building on the lot. No more than twenty-five percent (25%) of the said dwelling may be used for a home occupation; and
  - c. There shall be no public display of goods and absolutely no commodities sold on the premises; and
  - d. No sign may be attached to the dwelling or any part of the real estate advertising any home occupation; and
  - e. No home occupation or profession shall be permitted if such occupation creates noise, odors, vibrations or traffic which interferes with the residential qualities of the neighborhood insofar as health, safety, morals, convenience and general welfare are concerned; and

- f. In order to be a permitted home occupation or profession, the use must be one which is habitually, customarily and commonly established as a reasonable incidental, accessory, subordinate and secondary use; and
  - g. Operation of any and all other business of any nature in residential zones is expressly prohibited; and
  - h. The activity carried on as home occupation shall be limited to the hours between 7:00 AM and 10:00 PM; and
  - i. No home occupation shall be permitted that requires the operation or keeping on premises of a commercial vehicle and no additional traffic shall be generated by said conditional use; and
  - j. No persons other than members of the family residing on the premises shall be employed by the home occupation; and
2. Conditional Use Approval is further conditioned upon and subject to all applicable private and restrictive covenants attached to the said property located in the Liberty Park P.U.D.
  3. A City of Vestavia Hills Business License shall be issued upon application and payment by Tammy Williamson working subject to the rules and regulations outlined in the Vestavia Hills Business License Code and shall be renewed each year that the home occupation is operated from the said property located in the Liberty Park P.U.D.
  4. At any time should Tammy Williamson vacate the premises located at 4648 Jackson Loop, Vestavia Hills, Alabama, discontinue or relocate this business,

this Conditional Use Approval shall be nullified and said Ordinance Number 2703 shall be automatically repealed.

5. This Ordinance Number 2703 shall become effective immediately upon adoption, approval and publishing/posting pursuant to Alabama law; and

**DONE, ORDERED, ADOPTED and APPROVED** this the 24<sup>th</sup> day of April, 2017.

Ashley C. Curry  
Mayor

ATTESTED BY:

Rebecca Leavings  
City Clerk

**CERTIFICATION:**

I, Rebecca Leavings, as City Clerk of the City of Vestavia Hills, Alabama, hereby certify that the above and foregoing copy of 1 (one) Ordinance # 2703 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 24<sup>th</sup> day of April, 2017 as same appears in the official records of said City.

Posted at Vestavia Hills Municipal Center, Vestavia Library in the Forest, Vestavia Hills New Merkle House and Vestavia Hills Recreational Center this the \_\_\_\_\_ day of \_\_\_\_\_, 2017.

Rebecca Leavings  
City Clerk

**CITY OF VESTAVIA HILLS**

**APPLICATION**

**PLANNING AND ZONING COMMISSION**

**I. INSTRUCTIONS AND INFORMATION:**

- (1) The Vestavia Hills Planning and Zoning Commission meets regularly on the second Thursday of each month at 6:00 PM in Council Chambers at the Municipal Center.
- (2) All materials and information relating to a zoning/rezoning request or conditional use approval before the Planning and Zoning Commission must be submitted to the Office of the City Clerk no later than **25 working days prior to the scheduled meeting at which it shall be considered**. All information relating to Preliminary Map approvals must be submitted to the Office of the City Clerk no later than 20 days prior to the scheduled meeting at which is shall be considered. All information relating to Final Map approvals must be submitted to the Office of the City Clerk no later than 15 days prior to the scheduled meeting at which it is to be considered.
- (3) This application must be filled out in its entirety complete with zip codes.
- (4) All applicable fees shall accompany this application prior to its being considered complete. Fees include an application fee of \$100.00 along with applicable postage per property owner to be notified for Commission meeting. Fees may also include notification fees for City Council meeting and publication fees which will be billed to applicant at a later date. *\*\*No permits will be issued until all fees have been paid.*
- (5) Appropriate plats and maps with proper legal description shall accompany this application. **Please refer to attached checklist.**

**II. APPLICANT INFORMATION: (owner of property)**

NAME: Tammy Williamson

ADDRESS: 4648 Jackson Loop

Vestavia, AL 35242

MAILING ADDRESS *(if different from above)* \_\_\_\_\_

PHONE NUMBER: Home 2056399147

Office 2056399147

NAME OF REPRESENTING ATTORNEY OR OTHER AGENT: N/A

2017 FEB - 2 A 9 11 33 A 9 44

4648 Jackson Loop

Conditional Use

Tammy Williamson

PR-1

PUD

**III. ACTION REQUESTED**

Request that the above described property be approved conditional use approval pursuant to Section Home Occupation of the Vestavia Hills Zoning Code.

Current Zoning of Property: PUD PR1

Requested Conditional use For the intended purpose of: Conducting business of

Buying and Selling Real Estate

*(Example: From "VH R-1" to "VH O-1" for office building)*

*\*\*if additional information is needed, please attached full description of request\*\**

**IV. PROPERTY DESCRIPTION: (address, legal, etc.)**

HERITAGE HILLS PHASE III SECTO BK 240 PG 18 LOT 1041

Property size: \_\_\_\_\_ feet X \_\_\_\_\_ feet. Acres: \_\_\_\_\_

**V. INFORMATION ATTACHED:**

Attached Checklist complete with all required information.

Application fees submitted.

**VI.** I do hereby declare the above statements are true and that I, the owner, and/or my duly appointed representative will be at the scheduled hearing.

Tammy Williamson  
Owner Signature/Date

\_\_\_\_\_  
Representing Agent (if any)/date

Given under my hand and seal  
this 1<sup>st</sup> day of February 2017.

Starr L. Burbic  
Notary Public

My commission expires 4<sup>th</sup>  
day of March, 2019.



November 20, 2016

**LIBERTY PARK JOINT VENTURE, LLP**

8000 Liberty Parkway, Suite 114

Vestavia Hills, Alabama 35242

ATTN: Ms. Pam Eaton

Executive Administrator - Master Owners' Association

VIA E-MAIL: [arc-moa@libertypark.com](mailto:arc-moa@libertypark.com)

RE: Conditional Use Approval  
517 Lake Colony Drive, Vestavia Hills, AL 35242

Dear Ms. Eaton:

I am seeking to obtain a Conditional Use Approval from the City of Vestavia Hills' Planning and Zoning Commission and City Council, allowing me to conduct business as a Home Occupation in Liberty Park. As such, I am first writing to seek approval from Liberty Park Joint Venture, LLP in regard to this matter.

My wife and I have lived in Liberty Park since 2003, during which time I have worked as Director of Preconstruction and a Partner at Robins & Morton. I have since decided to form an independent consulting business for the purpose of providing preconstruction services. First, let me assure you that my business would perform no actual construction, nor does it involve the use or presence of any commercial vehicles or signage or any type of thing that would be noticeable. Simply stated, my business involves the preparation of construction cost estimates for construction projects. More specifically, the conduct of my business would involve me reviewing construction drawings and specifications for commercial construction projects using specialized software programs on my home computer and providing clients with a professional opinion of the probable cost of construction, and periodically, traveling to the clients' offices for an occasional meeting or presentation.

I am the sole proprietor of my business and I have no employees, so there would be no employees coming and going from my home. As mentioned, meetings with my clients would always be held in their places of business, so there would be no traffic of that sort, either. My business involves no storage of inventory or other goods. Nor, would there be any business deliveries to my home, as my clients provide me with digital construction drawings (sent by e-mail), rather than conventional paper drawings delivered by courier. My business involves no type of repair work, and does not require or involve the presence of any vehicles or large equipment or machinery. In summary, the operation of the business from my home would not be visually or otherwise noticeable in any respects to my neighbors or the casual observer.

I would sincerely appreciate your favorable consideration of my request. If you have any questions or if you need any references or additional information, I would be happy to provide it.

Sincerely,

*Eric L Eitzen*

Eric L. Eitzen  
EITZEN Preconstruction Services

Attachments: Weygand Survey - Lot 17, Vestlake Village

January 18, 2017

Rebecca Leavings, City Clerk  
City of Vestavia Hills  
Vestavia Hills City Hall  
Vestavia Hills, Alabama 35216

Re: Tammy Williamson  
4648 Jackson Loop  
Vestavia Hills, AL 35242

Dear Ms. Leavings:

We are writing in connection with the above matter. We understand Tammy Williamson is in the process of applying for a conditional use within the PR-1 (Planned Single-Family Residential) classification of the Liberty Park PUD to allow him to conduct a home occupation as a consultant in his residence.

We have no objection to the granting of the conditional use to allow a home occupation in this case, provided such use is made subject to the following restrictions:

1. There shall be no customer, client or employee traffic to, at or near the residence that is generated, directly or indirectly, by the home occupation;
2. There shall be no pick ups or deliveries to the residence that are related, directly or indirectly, to the home occupation, including without limitation, pick ups and deliveries by overnight courier services and pick ups and deliveries of inventory, samples or other goods and services related, directly or indirectly, to the home occupation;
3. There shall be no signage on the property related, directly or indirectly, to the home occupation; and
4. In all respects, there shall be no means, visual or otherwise, by which a casual observer would become aware that the residence is being used for any purpose other than strictly residential.

The foregoing restrictions are in keeping with the intent and spirit of the Liberty Park PUD and with the overall plan of development for Liberty Park as addressed in the Covenants, Conditions and Restrictions that are applicable to the subject property.



Rebecca Leavings  
January 18, 2017  
Page 2

Therefore, we respectfully request that if the Planning and Zoning Commission votes to approve the conditional use applied for in the above referenced matter, such approval will be made subject to the above and foregoing restrictions.

If you have questions or comments regarding this matter, or if we can assist in any other way, please call me at 281-3542.

Very truly yours,

LIBERTY PARK JOINT VENTURE, LLP

By: \_\_\_\_\_

  
Samuel G. Lowrey, III  
Project Manager  
and Authorized Representative

cc: Kathryn Carver, Esq.

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

Date: JANUARY 12, 2017

- **CASE:** P-0117-02
- **REQUESTED ACTION:** Conditional Use Approval for a home based business
- **ADDRESS/LOCATION:** 517 Lake Colony Dr.
- **APPLICANT/OWNER:** Eric Eitzen
- **GENERAL DISCUSSION:** The applicant wishes to conduct a home based business in Liberty Park. As required by the Liberty Park PUD a conditional use permit is required for a home based business. A description of the applicants business, as well as an approval letter from Liberty Park is attached. The property is zoned PR-1.
- **LIBERTY PARK MASTER PLAN:** This request is consistent with the procedures of the Liberty Park PUD.
- **STAFF REVIEW AND RECOMMENDATION:**
  1. **City Planner Review:** I have looked at all of the relevant zoning / subdivision requirements related to this proposal, including application, notification, setbacks, area of lot development, etc. Notification has been sent to property owners pursuant to Alabama law. I have reviewed this request and find it does meet the minimum requirements of the proposed zoning.

**City Planner Recommendation:** I recommend the Commission recommend approval with the following conditions:

1. Home occupations shall be conducted only in the principal dwelling. No more than twenty-five (25) percent, up to 500 sq. ft., of the dwelling may be used for a home occupation.
2. There shall be no outdoor display or storage associated with the home occupation and no commodities shall be sold on the premises other than by phone, mail or internet. No goods shall be delivered to a purchaser on the premises.
3. No sign may be attached to the dwelling or any part of the real estate advertising any home occupation.
4. No home occupation shall be permitted if it creates noise, odors, vibrations or traffic congestion, which interferes with the residential qualities of the neighborhood insofar as health, safety, morals, convenience and general welfare are concerned.

5. In order to be a permitted home occupation, the use must be one which is habitually, customarily, and commonly established as a reasonable incidental, accessory, subordinate and secondary use. The existing dwelling shall not be enlarged to accommodate the home occupation; nor shall any accessory structure be built for the purpose of operating the home occupation.

6. No home occupation shall be permitted that requires the operation or keeping on premises of a commercial vehicle.

7. No persons other than members of the family residing on the premises shall be employed by the home occupation.

8. Home occupations shall be limited to the hours between 7:00 a.m. and 10:00 p.m.

2. **City Engineer Review:** I have reviewed the application and I have no issues with this request.
3. **City Fire Marshal Review:** I have reviewed the application and I have no issues with this request
4. **Building Safety Review:** I have reviewed the application and I have no issues with this request.

**ORDINANCE NUMBER 2704**

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

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

3111 and 3115 Timberlake Road  
Eiffel Partners, LLC, Owner(s)

More particularly described as follows:

**PARCEL I:**

Part of the Southwest Quarter (SW  $\frac{1}{4}$ ) of the Southeast Quarter (SE  $\frac{1}{4}$ ), Section 27, Township 18, Range 2 West, more particularly described as follows:

Commencing at the Southwest corner of the Southwest Quarter (SW  $\frac{1}{4}$ ) of the Southeast Quarter (SE  $\frac{1}{4}$ ) of Section 27-18-2 West, run thence North along the quarter section line 794.5 feet; thence to the right 90 degrees a distance of 15 feet to the Northwest corner of that certain tract of land heretofore conveyed on June 23, 1948, by Eston H. Stead and wife Edna Farley Stead to the said William D. Cosper and Mary Louise C Cosper by deed recorded in Volume 4150, Record of Deeds, Page 194, in the Probate Office of Jefferson County, Alabama, and from this point run East along the North line of said tract of land just referred to a distance of 200 feet to the Northeast corner of said tract of land just referred to, thence 90 degrees to the left a distance of 15 feet, thence 90 degrees to the left a distance of 200 feet, thence 90 degrees to the left a distance of 15 feet to the point of beginning of the tract herein conveyed, it being the intention to convey by this deed a strip of land 15 feet wide and running East a distance of 200 feet lying just North of and adjacent to the tract of land conveyed by Stead and wife to the grantees herein as mentioned above.

**PARCEL II:**

Part of the SW  $\frac{1}{4}$  of the SE  $\frac{1}{4}$  of Section 27, Township 18 Range 2 West more particularly described as follows: Commencing at the SW corner of the SW  $\frac{1}{4}$  of the SE  $\frac{1}{4}$  of Section 27-18-2 West, run thence North

along ¼ section line 694.5', thence to the right 90 degrees a distance of 15.0 feet to the point of beginning, thence along same line 200.0 feet, thence 90 degrees to the left a distance of 100.0 feet, thence 90 degrees to the left 200.0 feet, thence 90 degrees to the left 100.0 feet to the point of beginning.

**PARCEL III:**

Part of the Southwest ¼ of the Southeast ¼ of Section 27, Township 18 South, Range 2 West, Jefferson County, Alabama, more particularly described as follows: Begin at the Southwest corner of said ¼ ¼ Section; run thence Northwardly along the West line thereof for a distance of 594.5 feet; thence turning at an angle of 90° to the right and run Eastwardly for a distance of 15 feet to the point of beginning of the tract here described; from the point of beginning thus obtained, continue along the same course last described for a distance of 200 feet; thence turning an angle of 90° to the left, run Northwardly for a distance of 100 feet; thence turning an angle of 90° to the left run Westwardly for a distance of 200 feet; thence turning an angle to the left of 90° run Southwestwardly for a distance of 100 feet to the point of beginning; being situated in Jefferson County, Alabama.

**BE IT FURTHER ORDAINED** that said zoning be contingent upon the following conditions:

1. Buildings must have frontage on Timberlake Road;
2. Building height limited to two (2) stories;
3. Buildings to be designed in a residential style;
4. Developers to follow the Blue Lake Area Study; and
5. Zoning shall not be effective until lots are resurveyed, plat recorded and a copy of recorded plat submitted to the Office of the City Clerk.

**APPROVED and ADOPTED** this the 24<sup>th</sup> day of April, 2017.

Ashley C. Curry  
Mayor

ATTESTED BY:

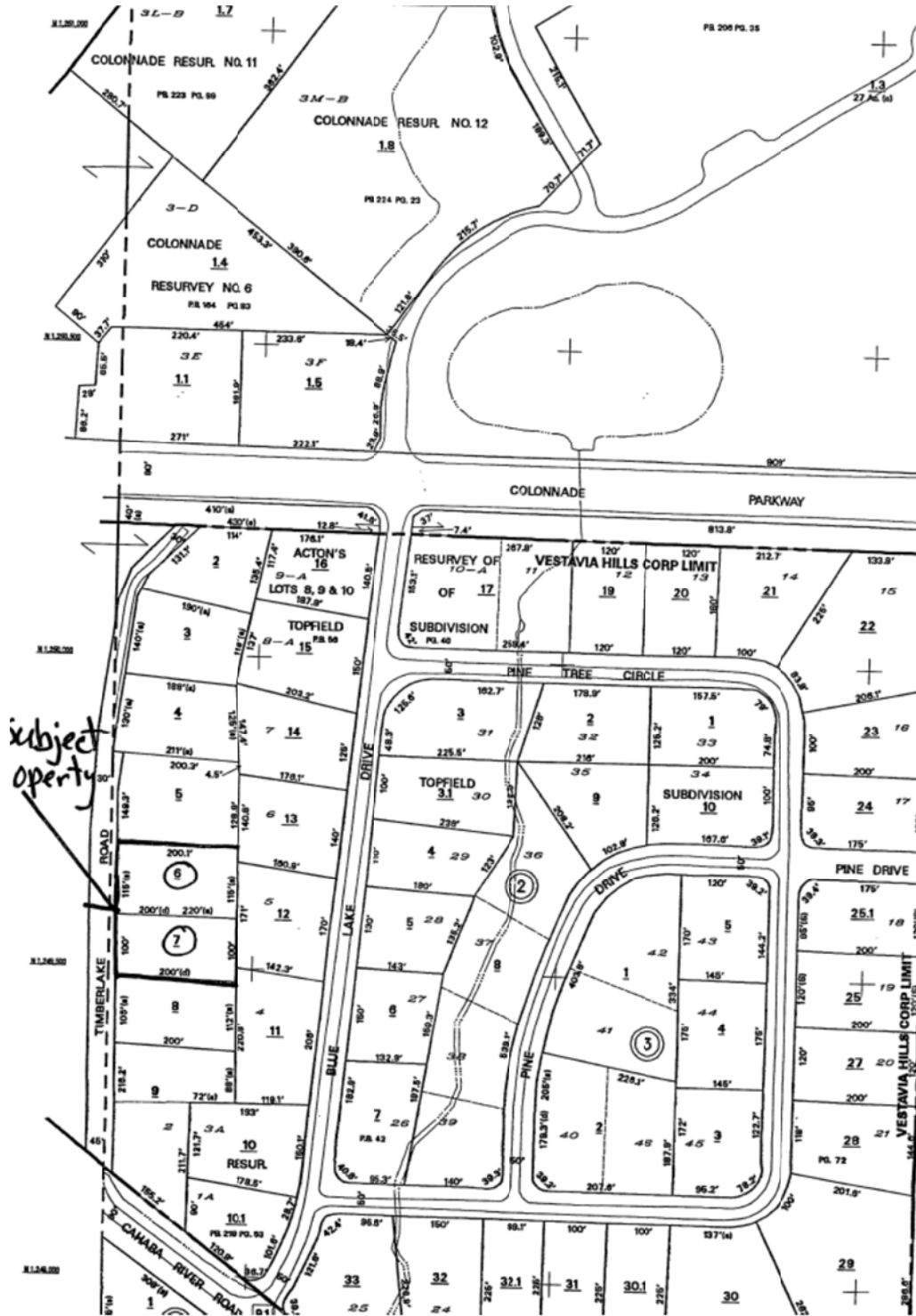
Rebecca Leavings  
City Clerk

**CERTIFICATION:**

I, Rebecca Leavings, as City Clerk of the City of Vestavia Hills, Alabama, hereby certify that the above and foregoing copy of 1 (one) Ordinance # 2704 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 24<sup>th</sup> day of April, 2017 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 \_\_\_\_\_, 2017.

Rebecca Leavings  
City Clerk



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

Date: **MARCH 9, 2017**

- **CASE:** P-0317-07
- **REQUESTED ACTION:** Rezoning Vestavia Hills R-1 Vestavia Hills O-1
- **ADDRESS/LOCATION:** 3111 & 3115 Timberlake Rd.
- **APPLICANT/OWNER:** Eiffel Partners, LLC/Len Shannon
- **REPRESENTING AGENT:** Chad Bryant
- **GENERAL DISCUSSION:** Property is on Timberlake Dr., and immediately adjacent to the rear of the Harris Doyle office building. Applicant is seeking rezoning to build two office buildings. Both buildings would be two stories and 7,875 square feet. A preliminary site is attached.

The lot and building will be under the same ownership as the Harris Doyle building and will share parking and access from Blue Lake Dr. Access to Timberlake Dr. is proposed, however, drive may only be stubbed until Timberlake Rd. improvements are completed. All lots will be resurveyed into 1 lot at the completion of zoning.

- **CAHABA HEIGHTS COMMUNITY PLAN:** The request is consistent with the Cahaba Heights Community Plan for limited mixed use.
- **STAFF REVIEW AND RECOMMENDATION:**
  1. **City Planner Review:** I have looked at all of the relevant zoning / subdivision requirements related to this proposal, including application, notification, setbacks, area of lot development, etc. Notification has been sent to property owners pursuant to Alabama law. I have reviewed this request and find it does meet the minimum requirements of the proposed zoning.

**City Planner Recommendation:** Zoning contingent on resurvey being approved and recorded and buildings be residentially styled, consistent with the neighborhood.
  2. **City Engineer Review:** Will continue to evaluate based on Timberlake Dr. improvements.



3. **City Fire Marshal Review:** I have reviewed the application and I have no issues with this request.

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

**MOTION** Mr. Wolfe made a motion to recommend rezoning approval 3111 & 3115 Timberlake Rd. from Vestavia Hills R-1 to Vestavia Hills B-1 with the following conditions:

- A. Buildings must have frontage on Timberlake Rd.;
- B. Building height limited to two (2) stories;
- C. Buildings be designed in a residential style;
- D. Developers follow Blue Lake Area Study;
- E. Lots must be resurveyed and plat recorded for zoning to take effect.

Second was by Mr. Goodwin. Motion was carried on a roll call; vote as follows:

Mr. Goodwin – yes

Mr. Wolfe – yes

Mrs. Cobb – yes

Motion carried

Mr. Burrell – yes

Mr. Brooks – yes

Mr. Larson – yes

P0317-07//28-27-4-1-6 & 7  
3111 & 3115 Timberlake Rd.  
Rezone to O-1  
Eiffel Partners, LLC  
R-1

Exhibit - Ordinance No. 2704

P&Z Application  
Page 4

## CITY OF VESTAVIA HILLS

### APPLICATION

## PLANNING AND ZONING COMMISSION

### I. INSTRUCTIONS AND INFORMATION:

- (1) The Vestavia Hills Planning and Zoning Commission meets regularly on the second Thursday of each month at 6:00 PM in Council Chambers at the Municipal Center.
- (2) All materials and information relating to a zoning/rezoning request or conditional use approval before the Planning and Zoning Commission must be submitted to the Office of the City Clerk no later than 25 working days prior to the scheduled meeting at which it shall be considered. All information relating to Preliminary Map approvals must be submitted to the Office of the City Clerk no later than 20 days prior to the scheduled meeting at which is shall be considered. All information relating to Final Map approvals must be submitted to the Office of the City Clerk no later than 15 days prior to the scheduled meeting at which it is to be considered.
- (3) This application must be filled out in its entirety complete with zip codes.
- (4) All applicable fees shall accompany this application prior to its being considered complete. Fees include an application fee of \$100.00 along with applicable postage per property owner to be notified for Commission meeting. Fees may also include notification fees for City Council meeting and publication fees which will be billed to applicant at a later date. *\*\*No permits will be issued until all fees have been paid.*
- (5) Appropriate plats and maps with proper legal description shall accompany this application. Please refer to attached checklist.

### II. APPLICANT INFORMATION: (owner of property)

NAME: Eiffel Partners, LLC. (Len Shannon)

ADDRESS: 1616 2nd Ave S #100  
Birmingham, AL 35233

MAILING ADDRESS (if different from above) PO Box 2321  
Birmingham, AL 35201

PHONE NUMBER: Home \_\_\_\_\_ Office 205-222-1664

NAME OF REPRESENTING ATTORNEY OR OTHER AGENT: Chad Bryant 205-223-8602  
Russ Doyle 205-965-5823 / Brooks Harris 205-329-9317

P0317-07//28-27-4-1-6 & 7  
3111 & 3115 Timberlake Rd.  
Rezone to O-1  
Eiffel Partners, LLC  
R-1

VH

P&Z Application  
Page 5

**III. ACTION REQUESTED**

Request that the above described property be zoned/rezoned

From: R-1

To: O-1

For the intended purpose of: Office building

(Example: From "VH R-1" to "VH O-1" for office building)

\*\*if additional information is needed, please attached full description of request\*\*

**IV. PROPERTY DESCRIPTION: (address, legal, etc.)**

(3111) & 3115 Timberlake Road, Vestavia Hills AL 35243

Property size: 115 feet X 200 feet. Acres: .53

**V. INFORMATION ATTACHED:**



Attached Checklist complete with all required information.



Application fees submitted.

**VI.** I do hereby declare the above statements are true and that I, the owner, and/or my duly appointed representative will be at the scheduled hearing.

[Signature]

Owner Signature/Date

[Signature]

Representing Agent (if any)/date

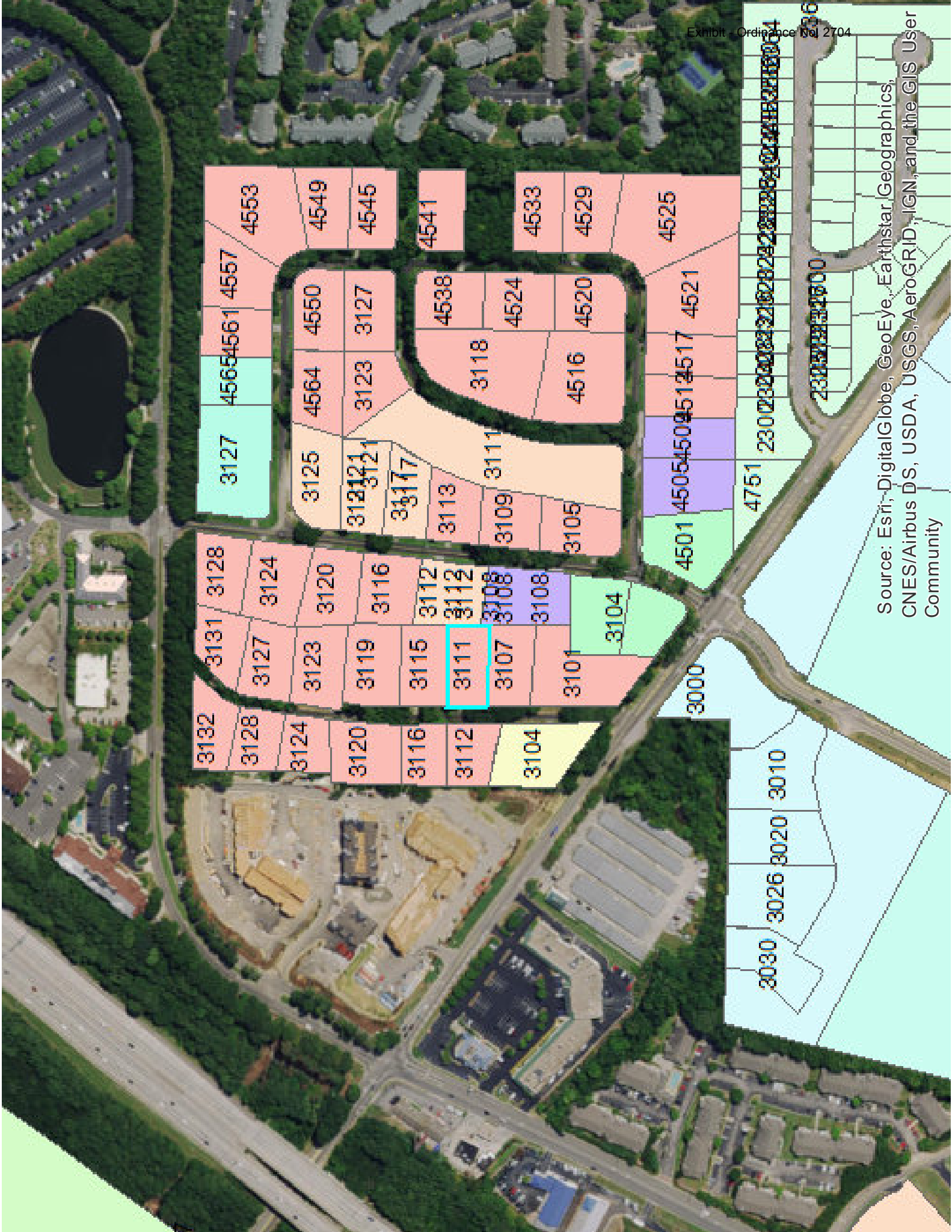
12/31/16

Given under my hand and seal  
this 29 day of December, 2016.

[Signature]  
Notary Public

My commission expires 4  
day of October, 2020.



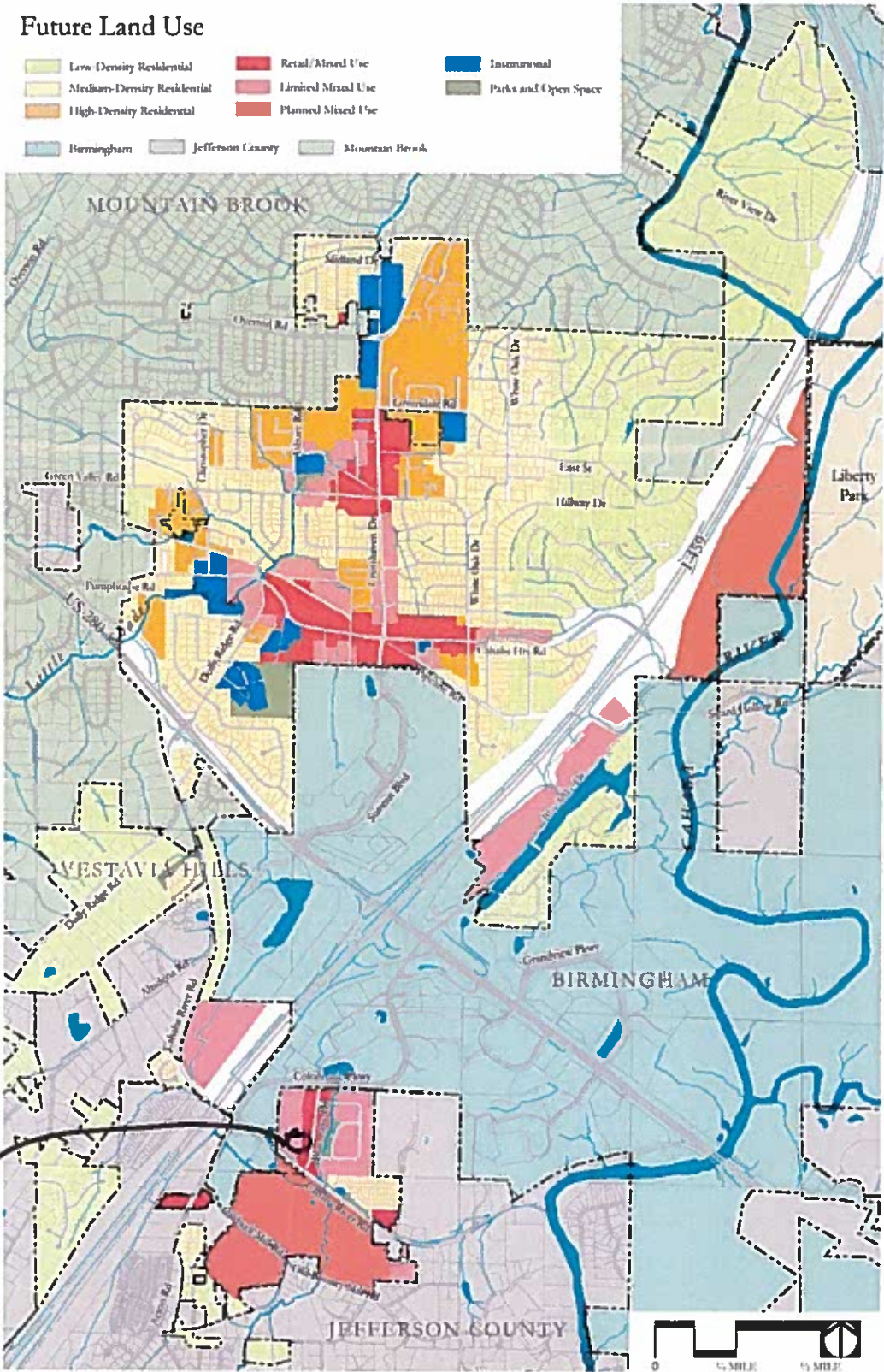


Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community



### Future Land Use

- Low Density Residential
- Medium-Density Residential
- High-Density Residential
- Retail/ Mixed Use
- Limited Mixed Use
- Planned Mixed Use
- Institutional
- Parks and Open Space
- Birmingham
- Jefferson County
- Mountain Brook



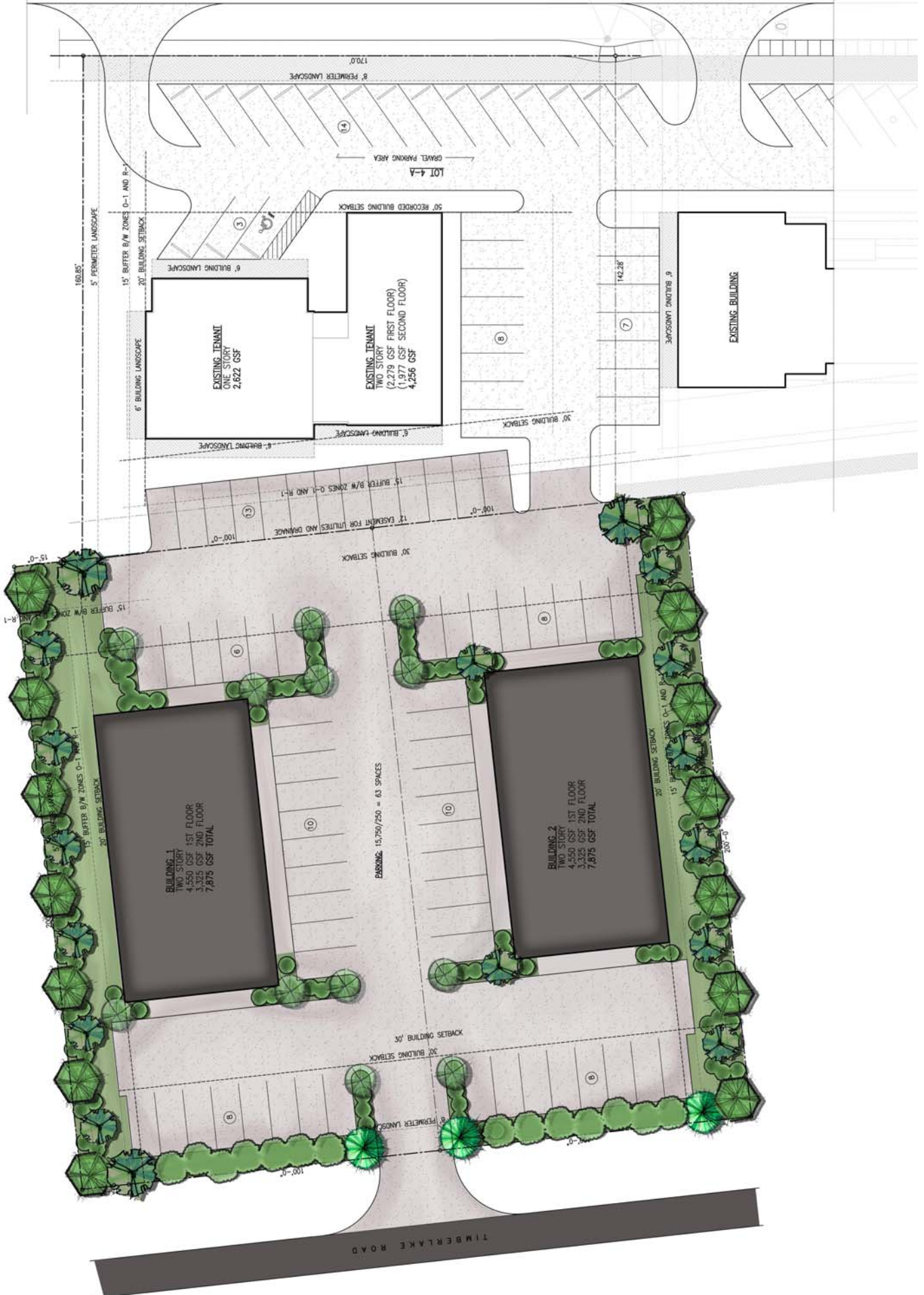
Subject  
Parcels

Figure 4: Future Land Use Map





BLUE LAKE DRIVE  
50' R/W



TIMBERLAKE ROAD

**ORDINANCE NUMBER 2705**

**AN ORDINANCE TO FURTHER AMEND THE ZONING ORDINANCE AND THE ZONING MAP OF THE CITY OF VESTAVIA HILLS, ALABAMA, ADOPTED SEPTEMBER 16, 1985, AND AS LAST AMENDED SO AS TO CHANGE THE CLASS OF DISTRICT ZONING OF PROPERTY FROM VESTAVIA HILLS B-3 TO VESTAVIA HILLS R-9.**

**BE IT ORDAINED** by the City Council of the City of Vestavia Hills, Alabama, as follows: That the Zoning Ordinance and Zoning Map of the City of Vestavia Hills, Alabama, adopted September 16, 1985, and as last amended so as to change the class of district zoning of the following described property from Vestavia Hills B-3 (business district with conditions) to Vestavia Hills R-9 (planned residential district):

3700 Cahaba Heights Road  
Black Box Management, LLC, Owner(s)

More particularly described as follows:

A parcel of land situated in the Northeast  $\frac{1}{4}$  of Section 23, Township 18 South, Range 2 West, Huntsville Meridian, Jefferson County, Alabama, being more particularly described as follows:

Begin at the locally accepted NE corner of the SW  $\frac{1}{4}$  of the NE  $\frac{1}{4}$  of Section 23, Township 18 South, Range 2 West, Huntsville Meridian, Jefferson County, Alabama; thence run South 00 degrees 23'04" East along the East line of said  $\frac{1}{4}$ - $\frac{1}{4}$  Section for a distance of 1334.83 feet to the locally accepted SE corner of said  $\frac{1}{4}$ - $\frac{1}{4}$  Section; thence leaving the said East line run North 88 degrees 38'55" West along the South line of said  $\frac{1}{4}$  Section for a distance of 555.97 feet to the East right-of-way line of Interstate Highway No. 459, (right-of-way width varies); thence leaving said South line run North 33 degrees 45'24" East along said East right-of-way for a distance of 134.15 feet; thence run North 56 Degrees 16'16" West along said East right-of-way line for a distance of 139.86 feet; thence run North 07 degrees 07'33" East along said East right-of-way line for a distance of 543.72 feet; thence run North 22 degrees 39'57" East along said East right-of-way line for a distance of 1748.40 feet; thence run North 33 degrees 00'13" East along said East right-of-way line for a distance of 365.98 feet to the North line of said Section 23; thence leaving said East right-of-way line run South 88 degrees 43'12" East along said north line for a distance of 523.40 feet; thence leaving said North line run South 33 degrees 12'02" West for a distance of 1006.12 feet; thence run South 59 degrees 34'00" West for a distance of 250.06 feet to the locally accepted East line of the NW  $\frac{1}{4}$  of the NE  $\frac{1}{4}$  of Section 23; thence run



South 00 degrees 25'45" East along said East line for a distance of 349.84 feet to the Point of Beginning. Less and except any part lying SE of the Cahaba River.

**BE IT FURTHER ORDAINED** that said zoning be contingent upon the following conditions:

1. City Engineer to review and approve traffic plans;
2. Public Ingress/Egress easement to be dedicated on plat to ensure access to properties beyond subject property; and
3. Access to be reserved for City to access adjacent city-owned property.

**APPROVED and ADOPTED** this the 24<sup>th</sup> day of April, 2017.

Ashley C. Curry  
Mayor

ATTESTED BY:

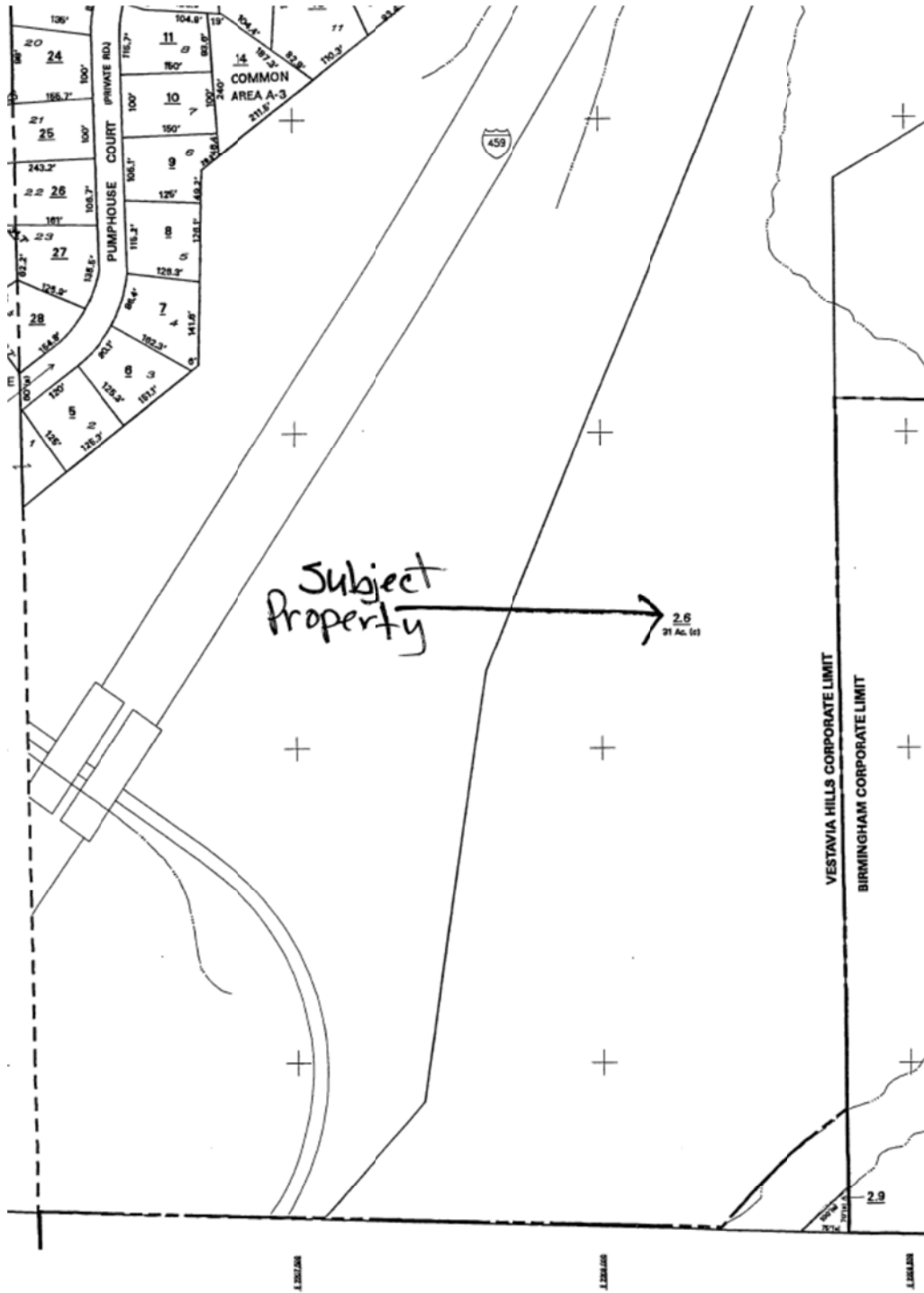
Rebecca Leavings  
City Clerk

**CERTIFICATION:**

I, Rebecca Leavings, as City Clerk of the City of Vestavia Hills, Alabama, hereby certify that the above and foregoing copy of 1 (one) Ordinance # 2705 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 24<sup>th</sup> day of April, 2017 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 \_\_\_\_\_, 2017.

Rebecca Leavings  
City Clerk



! USED FOR TAX PURPOSES ONLY - NOT TO BE USED FOR CONVEYANCE

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

Date: MARCH 9, 2017

- **CASE: P-0317-11**
- **REQUESTED ACTION:** Rezoning for 3700 Cahaba Heights Rd. from Vestavia Hills B-3 to Vestavia Hills R-9 For The Purpose Of Residential Development
- **ADDRESS/LOCATION:** 3700 Cahaba Heights Rd.
- **APPLICANT/OWNER:** Black Box Management, LLC/Stuart Raburn
- **REPRESENTING AGENT:** Engineering Design Group
- **GENERAL DISCUSSION:** Property is undeveloped land between I-459 and Cahaba River. 48 lots are proposed, averaging around a quarter of an acre in size. The proposed setbacks are 10' front, 0' on the side with a minimum of 10' separation between buildings, and 10' in the rear. There are also 3 common areas in the subdivision. The proposed streets will have a 50' ROW and sidewalks on both sides.

At the rear of the development will be a private wastewater system to serve the development. Access to the wastewater plant and private property will be served by an easement at the end of Helen Ridge Dr.

- **CAHABA HEIGHTS COMMUNITY PLAN:** The request is consistent with the Comprehensive Plan for Planned Mixed Use.
- **STAFF REVIEW AND RECOMMENDATION:**
  1. **City Planner Review:** I have looked at all of the relevant zoning / subdivision requirements related to this proposal, including application, notification, setbacks, area of lot development, etc. Notification has been sent to property owners pursuant to Alabama law. I have reviewed this request and find it does meet the minimum requirements of the proposed zoning.

**City Planner Recommendation:** No recommendation

2. **City Engineer Review:** I have reviewed the application and I have no issues with this request.
3. **City Fire Marshal Review:** I have reviewed the application and I have no issues with this request.

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

**MOTION** Mr. Wolfe made a motion to recommend rezoning approval of 3700 Cahaba Heights Rd. from Vestavia Hills B-3 to Vestavia Hills R-9 with the following conditions:

- A. City Engineering to review traffic plans.

Second was by Mr. Cobb. Motion was carried on a roll call; vote as follows:

Mr. Goodwin – yes  
Mr. Wolfe – yes  
Mrs. Cobb – yes  
Motion failed

Mr. Burrell – no  
Mr. Brooks – yes  
Mr. Larson – yes

P0317-11//28-23-1-2-6  
3700 Cahaba Heights Rd.  
Rezone to R-9  
Black Box Management, LLC  
B-3

P&Z Application  
Page 4

# CITY OF VESTAVIA HILLS

## APPLICATION

### PLANNING AND ZONING COMMISSION

#### I. INSTRUCTIONS AND INFORMATION:

- (1) The Vestavia Hills Planning and Zoning Commission meets regularly on the second Thursday of each month at 6:00 PM in Council Chambers at the Municipal Center.
- (2) All materials and information relating to a zoning/rezoning request or conditional use approval before the Planning and Zoning Commission must be submitted to the Office of the City Clerk no later than **25 working days prior to the scheduled meeting at which it shall be considered.** All information relating to Preliminary Map approvals must be submitted to the Office of the City Clerk no later than 20 days prior to the scheduled meeting at which is shall be considered. All information relating to Final Map approvals must be submitted to the Office of the City Clerk no later than 15 days prior to the scheduled meeting at which it is to be considered.
- (3) This application must be filled out in its entirety complete with zip codes.
- (4) All applicable fees shall accompany this application prior to its being considered complete. Fees include an application fee of \$100.00 along with applicable postage per property owner to be notified for Commission meeting. Fees may also include notification fees for City Council meeting and publication fees which will be billed to applicant at a later date. *\*\*No permits will be issued until all fees have been paid.*
- (5) Appropriate plats and maps with proper legal description shall accompany this application. Please refer to attached checklist.

#### II. APPLICANT INFORMATION: (owner of property)

NAME: BLACK BOX MANAGEMENT, LLC / STUART RABURN

ADDRESS: 110 COSHATT TRAIL  
MOOREN, AL 35244

MAILING ADDRESS (if different from above) \_\_\_\_\_

PHONE NUMBER: Home 205-314-6610 Office \_\_\_\_\_

NAME OF REPRESENTING ATTORNEY OR OTHER AGENT: \_\_\_\_\_  
John Nardin

P0317-11//28-23-1-2-6  
3700 Cahaba Heights Rd.  
Rezone to R-9  
Black Box Management, LLC  
B-3

P&Z Application  
Page 5

**III. ACTION REQUESTED**

Request that the above described property be zoned/rezoned

From: 02 B-3

To: R9

For the intended purpose of: SINGLE-FAMILY RESIDENTIAL DEVELOPMENT

(Example: From "VH R-1" to "VH O-1" for office building)

\*\*if additional information is needed, please attached full description of request\*\*

**IV. PROPERTY DESCRIPTION: (address, legal, etc.)**

SEE ATTACHED DEED

Property size: \_\_\_\_\_ feet X \_\_\_\_\_ feet. Acres: 31

**V. INFORMATION ATTACHED:**



Attached Checklist complete with all required information.



Application fees submitted.

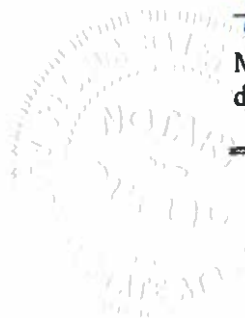
**VI.** I do hereby declare the above statements are true and that I, the owner, and/or my duly appointed representative will be at the scheduled hearing.

[Signature] 2-2-17  
Owner Signature/Date

[Signature] 2/6/17  
Representing Agent (if any)/date

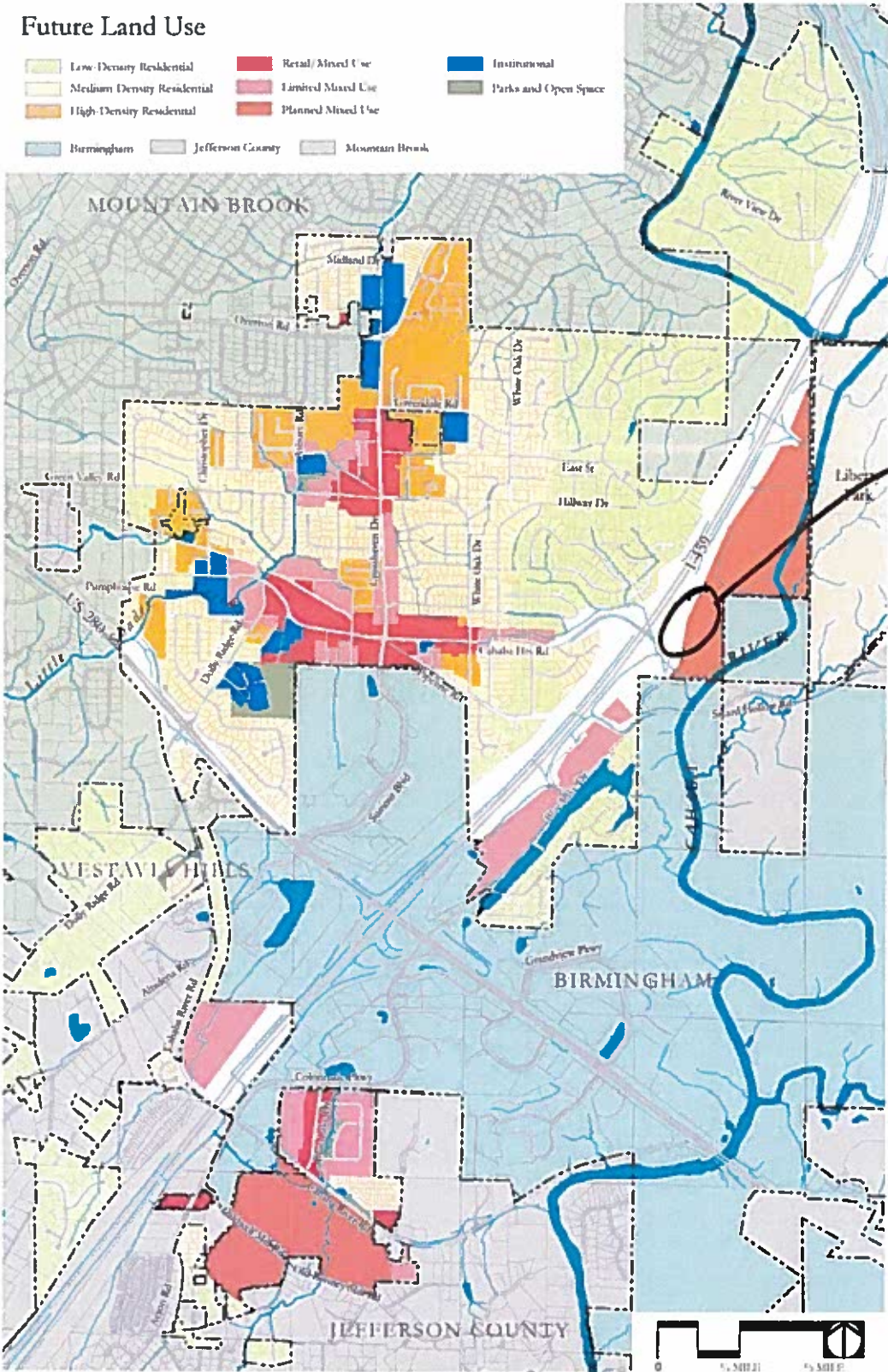
Given under my hand and seal  
this 6th day of Feb., 20 17.

Rhonda B. Partridge  
Notary Public  
My commission expires 22nd  
day of Feb. April, 20 19



### Future Land Use

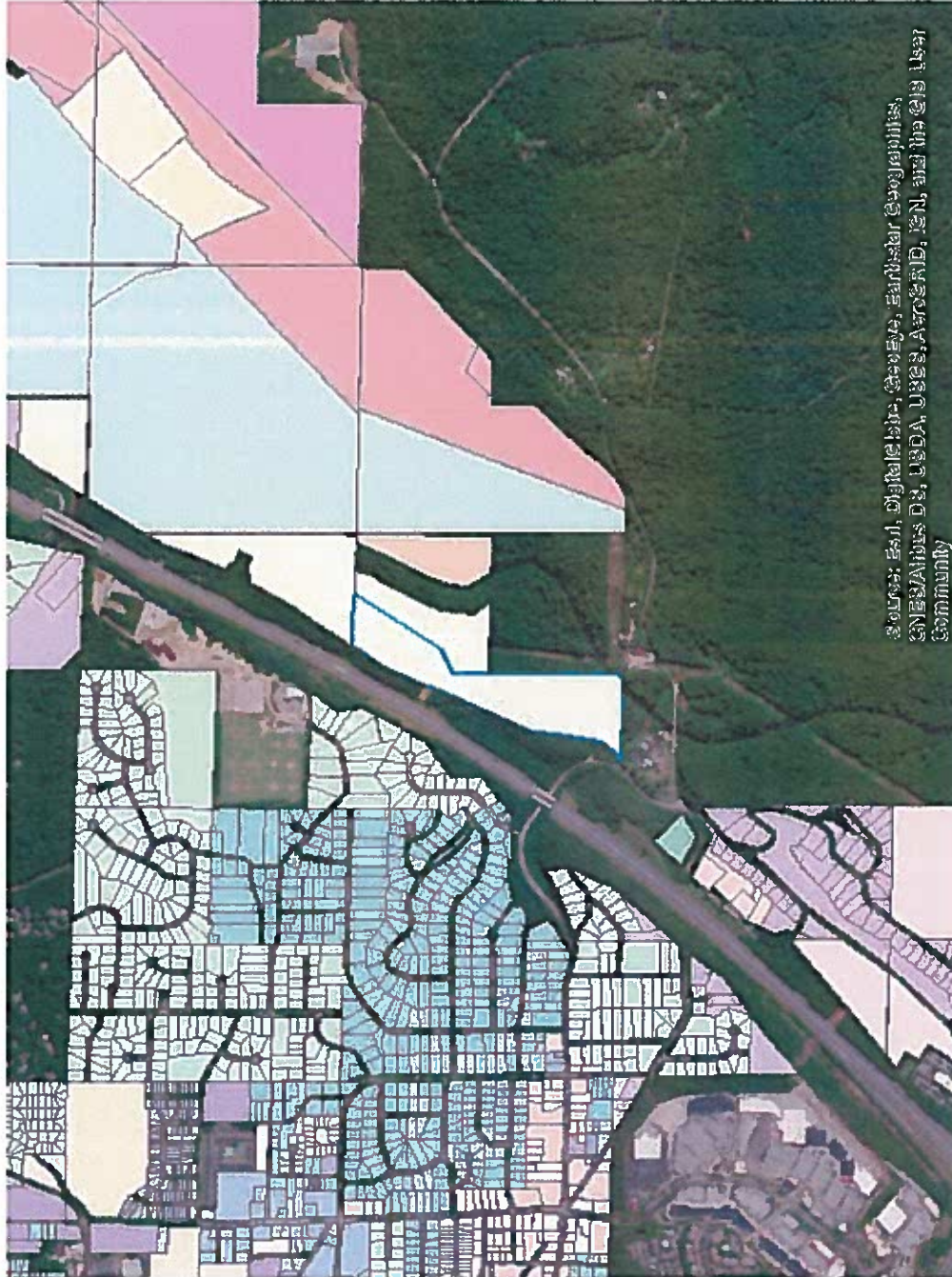
- Low-Density Residential
- Medium Density Residential
- High-Density Residential
- Retail/Mixed Use
- Limited Mixed Use
- Planned Mixed Use
- Institutional
- Parks and Open Space
- Birmingham
- Jefferson County
- Mountain Brook

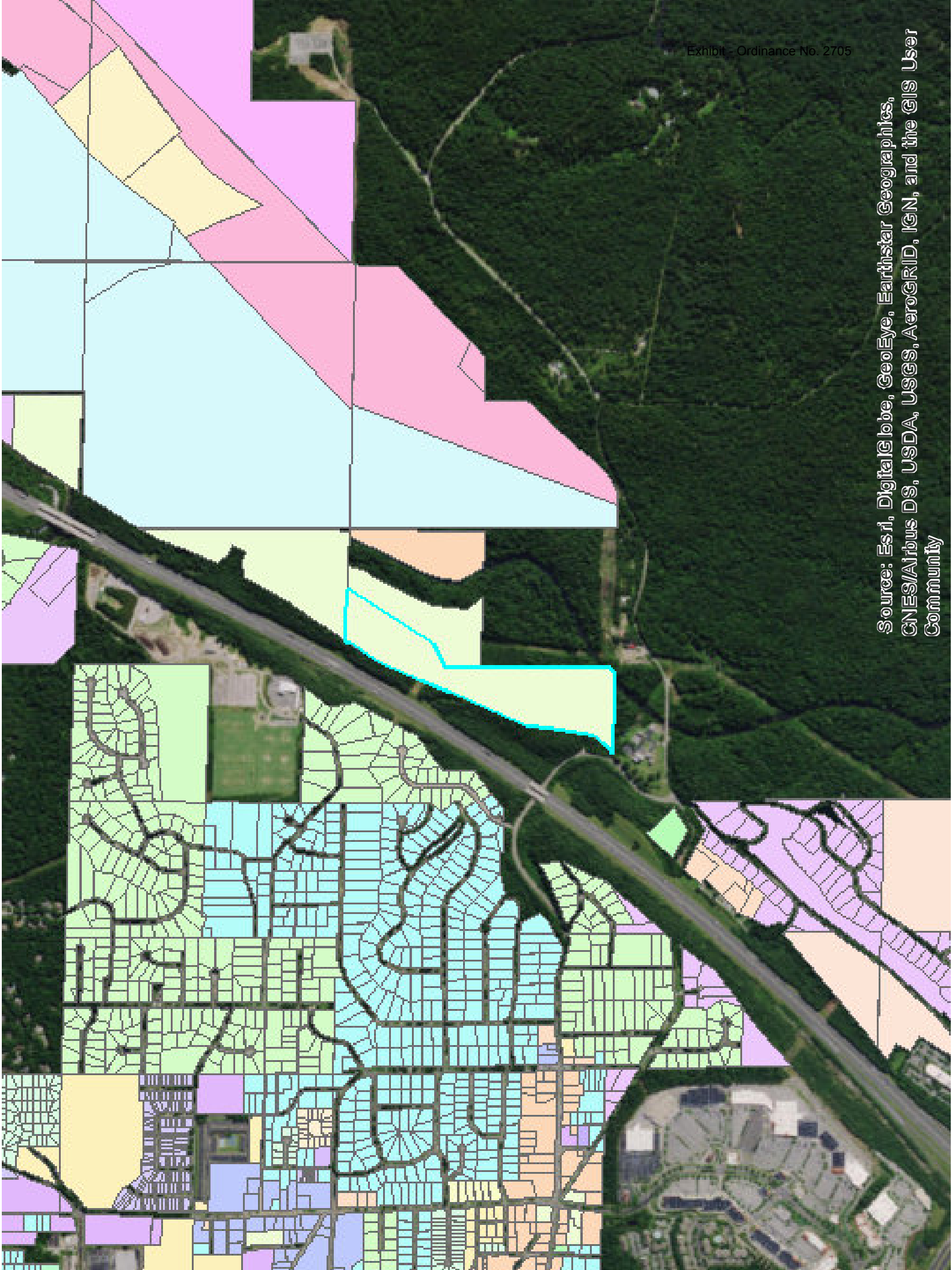


Subject Parcel

Figure 4: Future Land Use Map







Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community

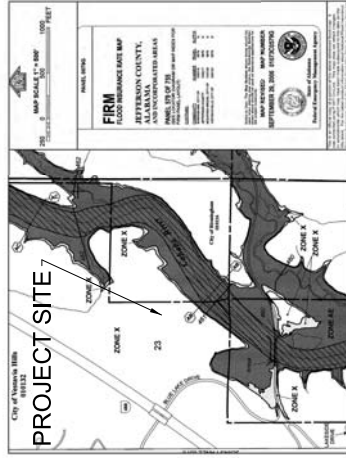
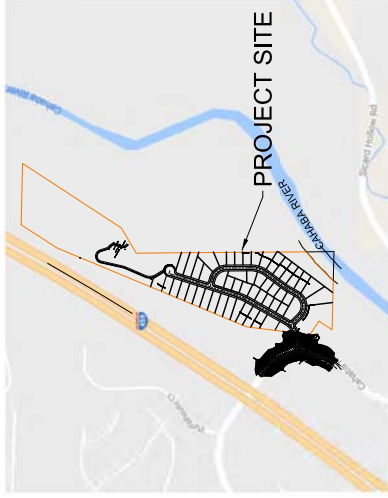
# PRELIMINARY PLAT AND CIVIL ENGINEERING PLANS

FOR A RESIDENTIAL NEIGHBORHOOD KNOWN AS

## HELEN RIDGE

CAHABA HEIGHTS ROAD  
VESTAVIA HILLS, ALABAMA

S1	SHEET INDEX
C0	EXISTING CONDITIONS
C1	NOTES
C1.1	PRELIMINARY PLAT
C1.2	SITE LAYOUT PLAN
C2	PUMP STATION ACCESS ROAD
C2.1	SITE GRADING AND ROADWAY PROFILE
C2.2	SITE GRADING AND ROADWAY PROFILE
C3	SITE STORM PLAN
C3.1	STORM PIPE PROFILE
C3.2	STORM PIPE PROFILE
C4	SITE EROSION CONTROL PLAN
C4.1	EROSION CONTROL DETAILS
C5	SITE UTILITY PLAN
C5.1	WATER MAIN EXTENSION PLAN
C6	SITE DETAILS AND SECTIONS
C6.1	SITE DETAILS AND SECTIONS
C6.2	SITE DETAILS AND SECTIONS
1	SANITARY SEWER COVERSHEET
2	SYMBOLS AND GENERAL NOTES
3	NOTES AND SPECIFICATIONS
4	SCOPE OF WORK
5	TREATMENT AND DISPOSAL SITE PLAN
6	LOWER AND UPPER PLAN
7	SECTIONS A-A, B-B, C-C, D-D
8	4000 GALLON TANK DETAILS
9	ASD 40 FILTER UNIT
10	DISPOSAL ZONE DETAILS



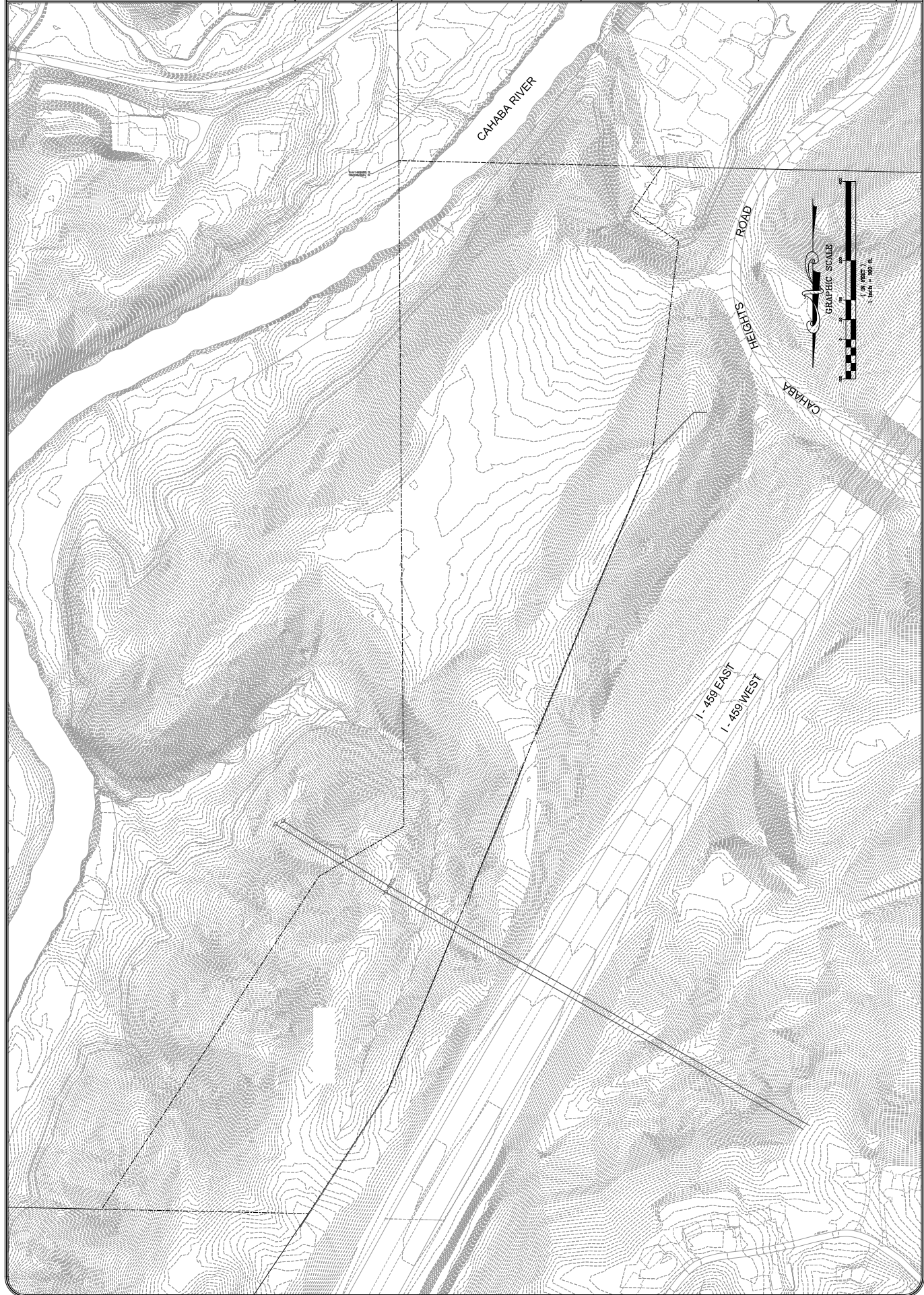


2700  
**EDC**  
 ENGINEERING DESIGN GROUP, L.L.C.  
 CIVIL ENGINEERING - LAND SURVEYING  
 (205) 403-9175

120 BISHOP CIRCLE, SUITE 300  
 PRICHARD, AL 36124  
 TEL - (205) 403-9158  
 FAX - (205) 403-9175

PROJECT: HELEN RIDGE  
 VESTAVIA, ALABAMA  
 TITLE: EXISTING CONDITIONS

DATE PLOTTED	1" = 100'
SCALE	
PROJECT NO.	
DRAWN BY	CAF
CHECKED BY	
DATE	
DESCRIPTION	











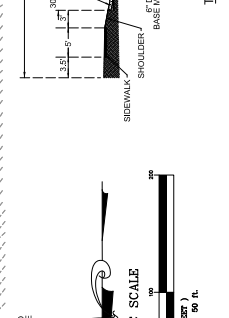
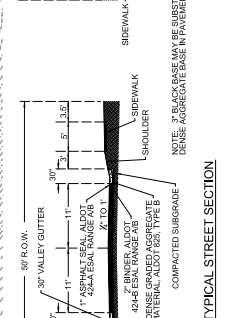
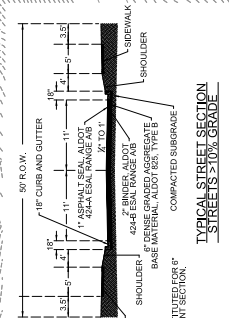
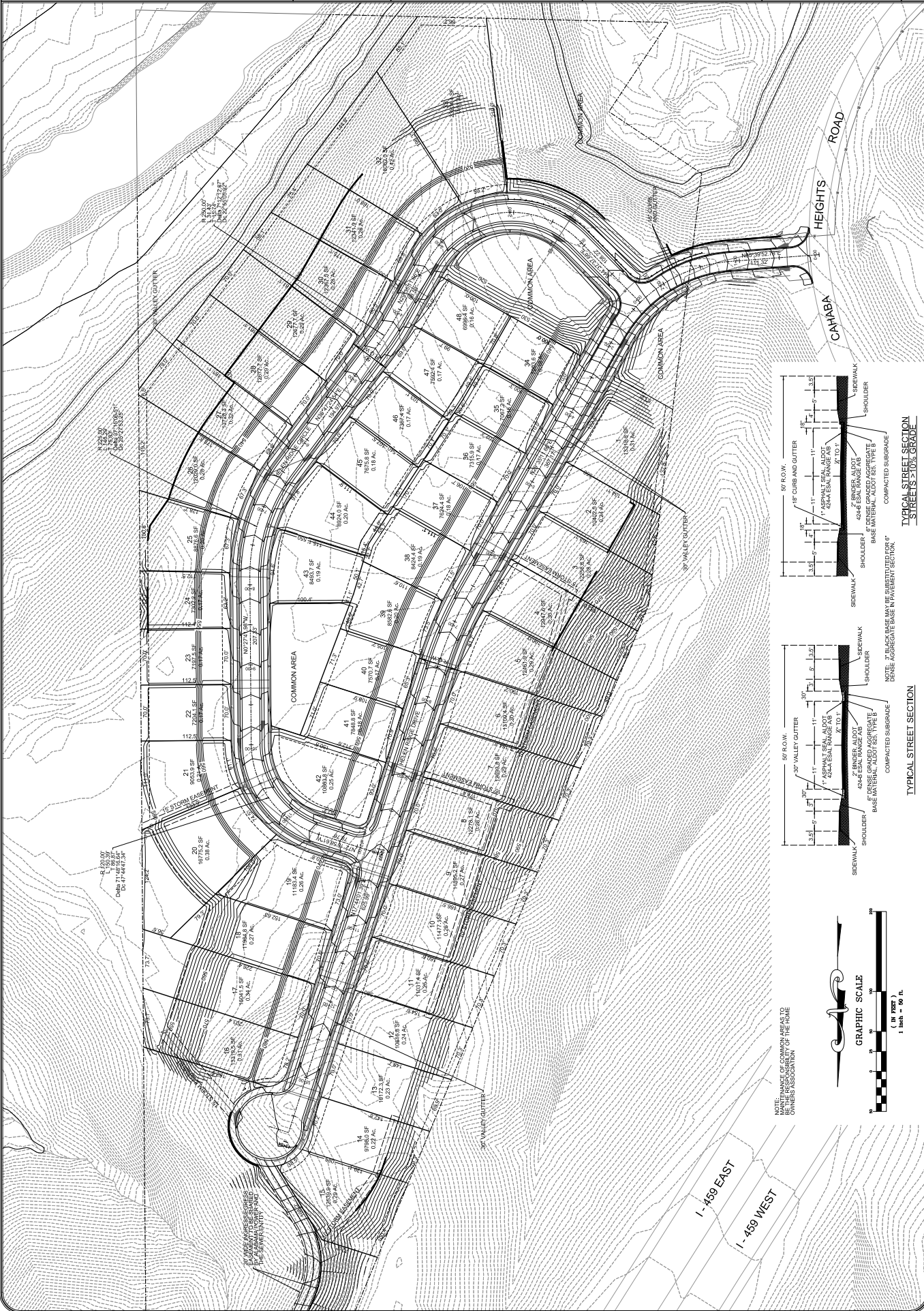
PROJECT NO.	120 BISHOP CIRCLE, SUITE 300
CLIENT	HELEN RIDGE VESTAVA, ALABAMA
DATE	11-20-13
DESIGNED BY	PLP OF PRELIM PLAT
CHECKED BY	HARROLD
DATE	11-20-13
SCALE	AS SHOWN

PROJECT: HELEN RIDGE VESTAVA, ALABAMA  
 PRELIMINARY PLAT  
 DATE: 11-20-13  
 DESIGNED BY: PLP OF PRELIM PLAT  
 CHECKED BY: HARROLD  
 DATE: 11-20-13  
 SCALE: AS SHOWN

PROJECT: HELEN RIDGE VESTAVA, ALABAMA  
 PRELIMINARY PLAT  
 DATE: 11-20-13  
 DESIGNED BY: PLP OF PRELIM PLAT  
 CHECKED BY: HARROLD  
 DATE: 11-20-13  
 SCALE: AS SHOWN

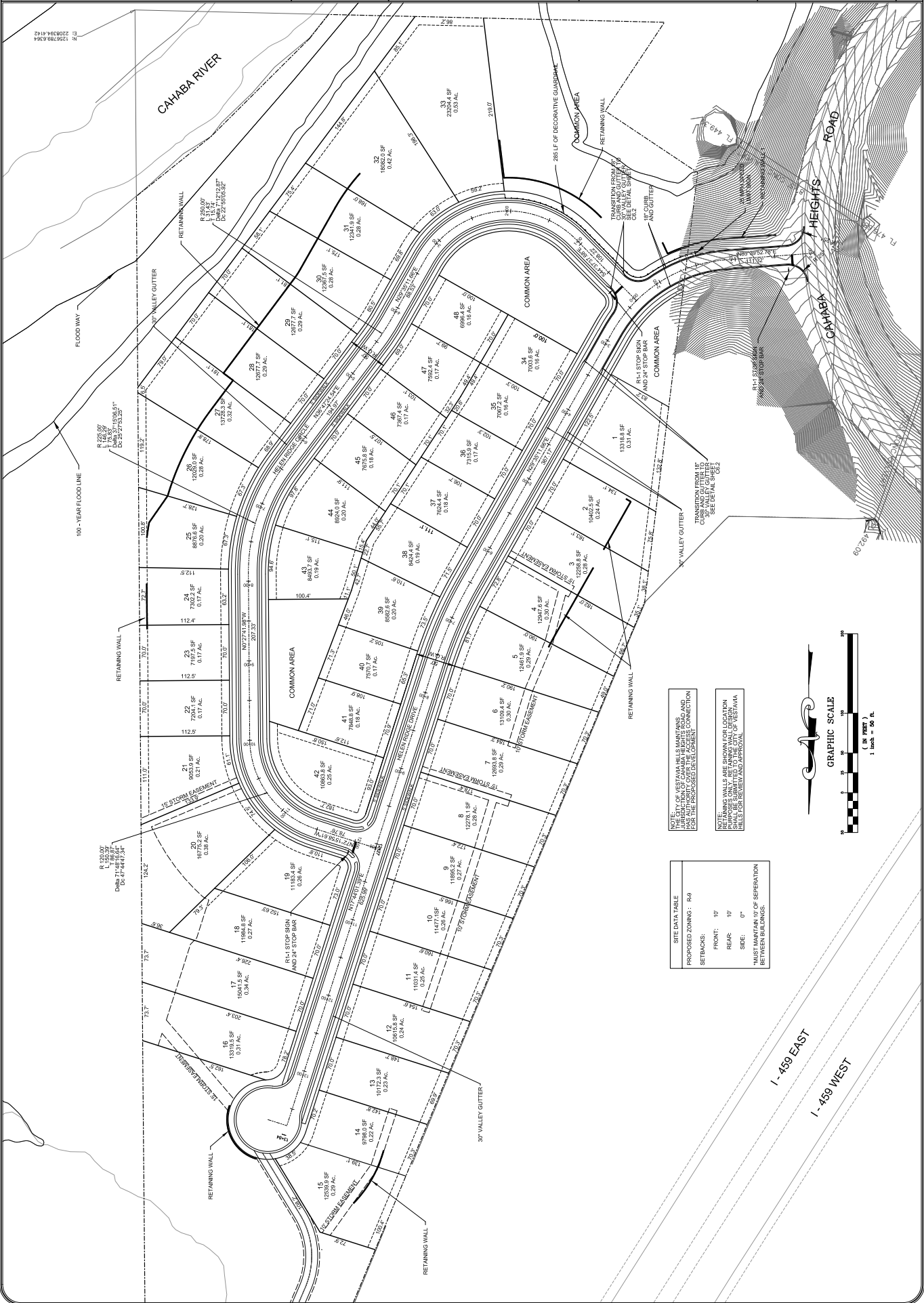
120 BISHOP CIRCLE, SUITE 300  
 TULAHAM, AL 35124  
 TEL - (205) 403-9158  
 FAX - (205) 403-9175  
 EDC Engineering & Land Surveying, Inc.  
 1201 44th Street, Suite 100  
 Birmingham, AL 35243

PROJECT NO. C1



MAINTENANCE OF COMMON AREAS TO BE PROVIDED BY THE HOMEOWNERS ASSOCIATION.



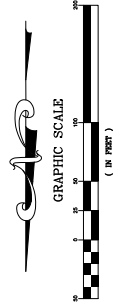


NOTES:  
 1. THE CITY OF VESTAVA HAS MAINTAINED AND HAS AUTHORITY OVER THE ACCESS CONNECTION FOR THE PROPOSED DEVELOPMENT.

NOTES:  
 1. RETAINING WALLS ARE SHOWN FOR LOCATION PURPOSES ONLY. RETAINING WALL DESIGN SHALL BE SUBMITTED TO THE CITY OF VESTAVA FOR REVIEW AND APPROVAL.

**SITE DATA TABLE**

PROPOSED ZONING:	R-6A
SETBACKS:	
FRONT:	10'
REAR:	10'
SIDE:	0'
*MUST MAINTAIN 10' OF SEPARATION BETWEEN BUILDINGS.	





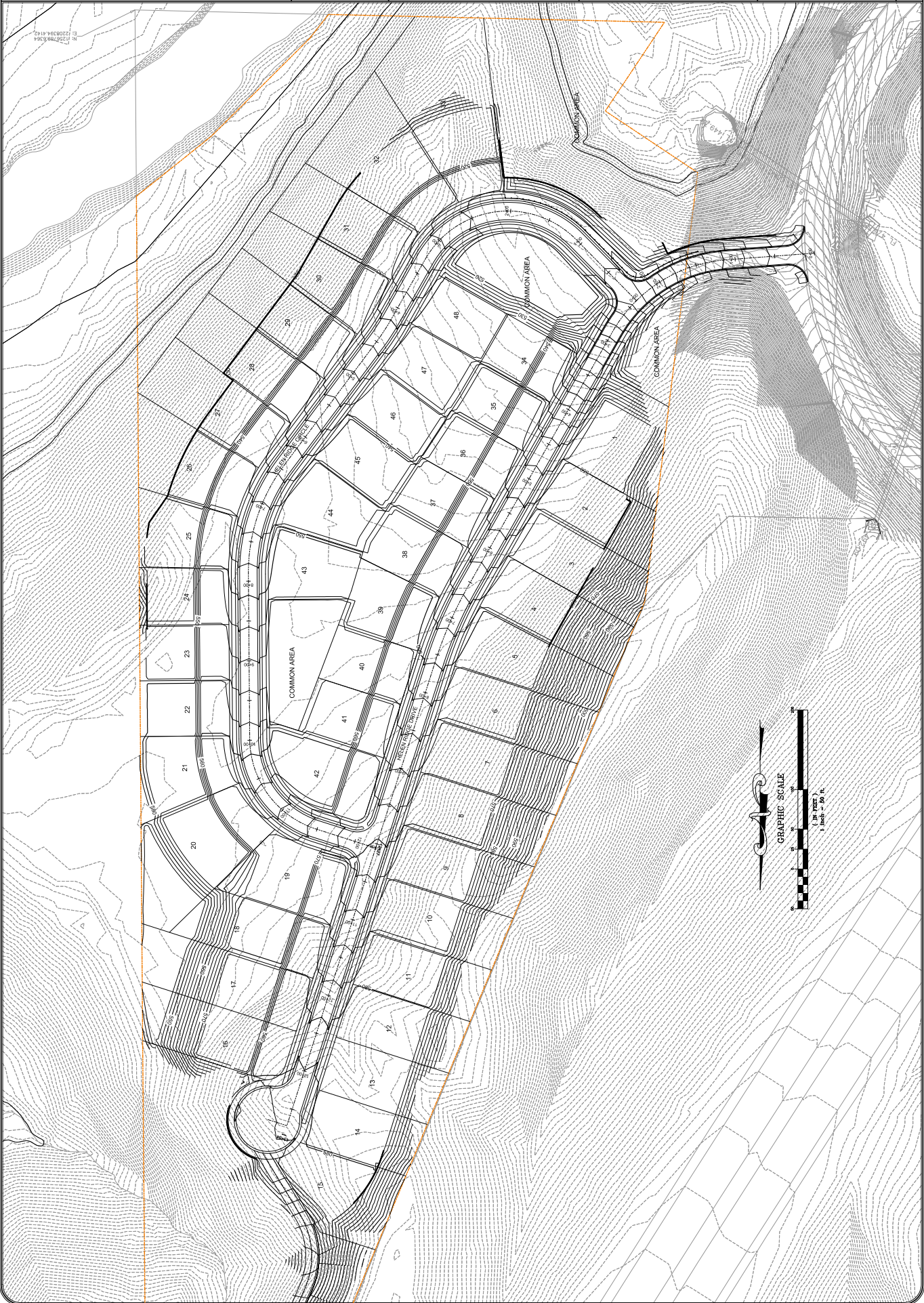


**EDC** 2705  
 ENGINEERING DESIGN GROUP, LLC  
 CIVIL ENGINEERING - LAND SURVEYING  
 (205) 403-9158

120 BISHOP CIRCLE, SUITE 300  
 PRICHARD, AL 35124  
 TEL - (205) 403-9158  
 FAX - (205) 403-9175

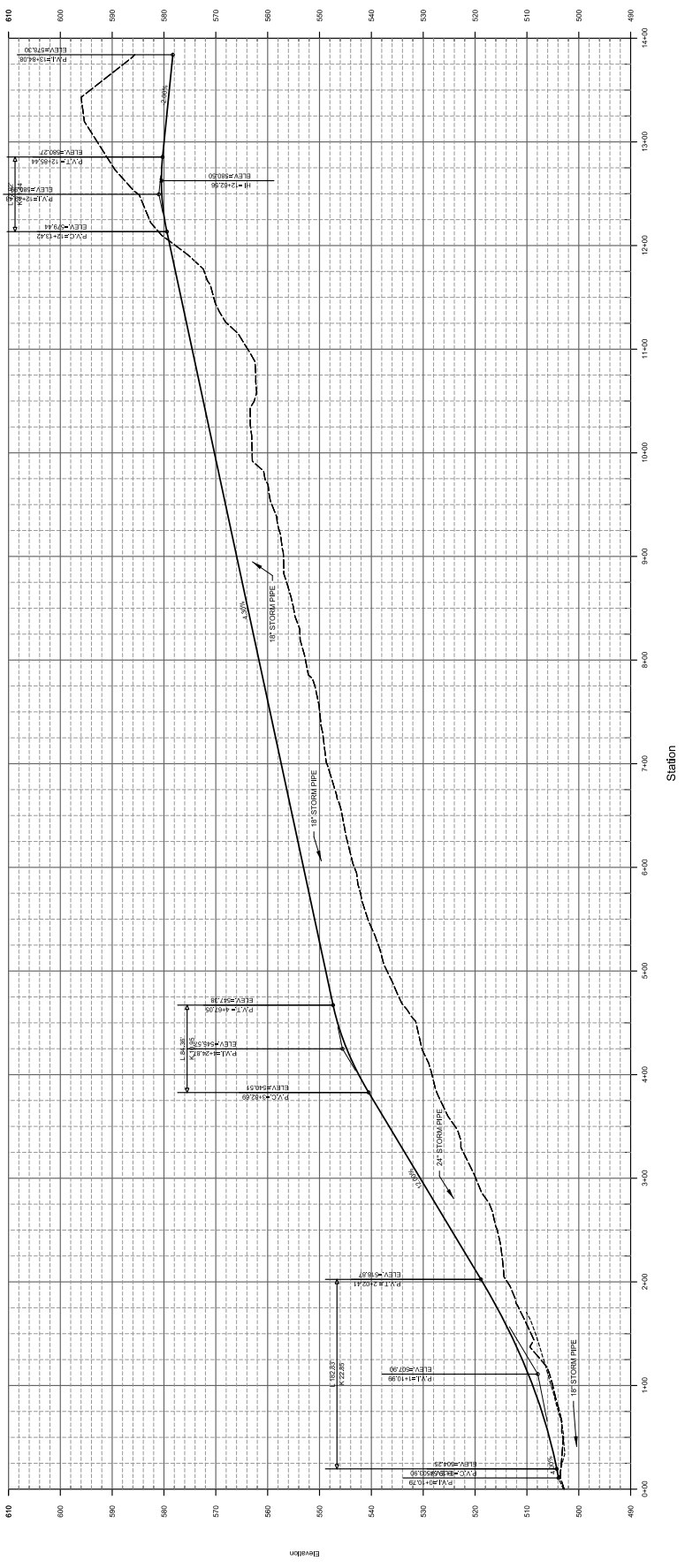
PROJECT: HELEN RIDGE  
 VESTAVIA, ALABAMA  
 TITLE: SITE GRADING PLAN

DRAWN BY: EAF  
 CHECKED BY: DJS  
 HATCHED BY: HARROON  
 DATE: 11-07  
 SCALE: 1" = 50'





HELEN RIDGE DRIVE

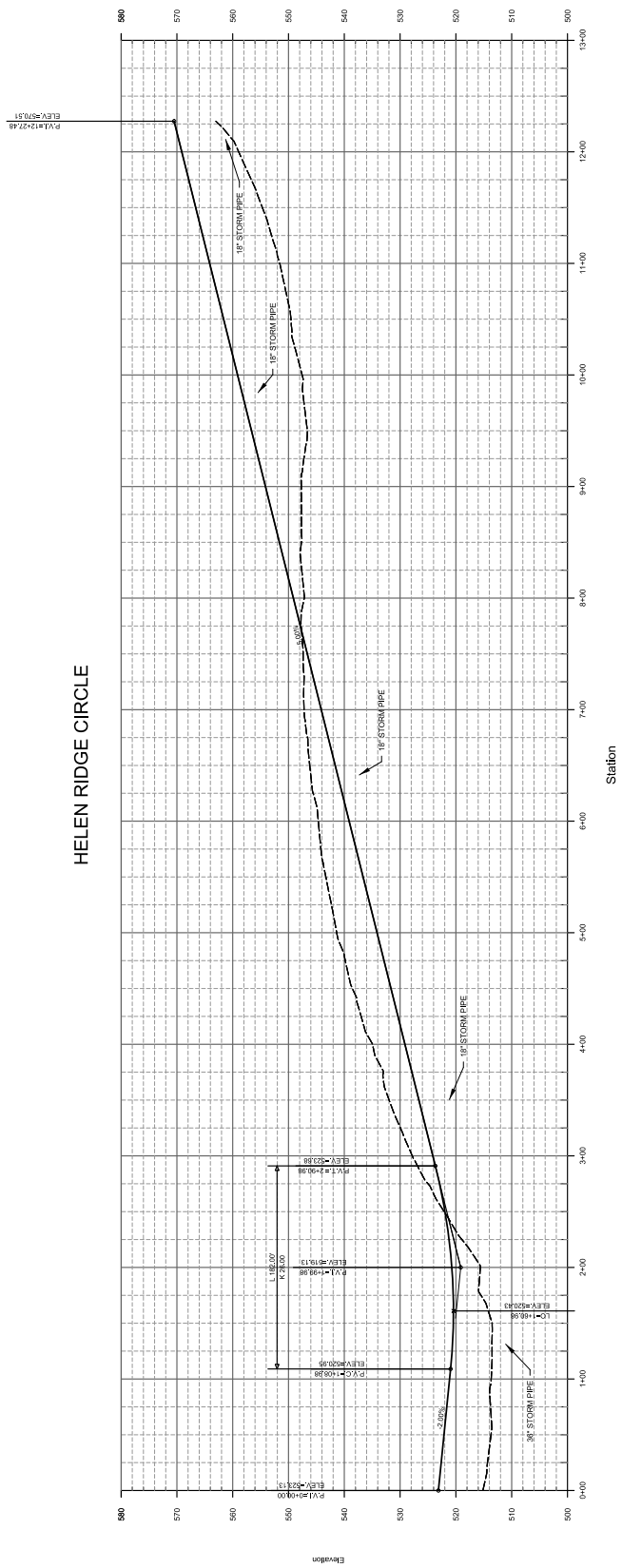


Elevation

Station



HELEN RIDGE CIRCLE







## RESOLUTION NUMBER 4943

**A RESOLUTION AUTHORIZING THE MAYOR AND CITY MANAGER TO EXECUTE AND DELIVER AN AGREEMENT WITH THE REGIONAL PLANNING COMMISSION OF GREATER BIRMINGHAM FOR AN “APPLE” PROJECT TO STUDY AND FURTHER DEVELOP IMPROVEMENT PLANS FOR A SECTION OF CROSSHAVEN DRIVE FROM CAHABA HEIGHTS ROAD TO OVERTON ROAD**

**BE IT RESOLVED BY THE MAYOR AND 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 the Regional Planning Commission of Greater Birmingham (“RPCGB”) for an Advanced Planning Program and Logical Engineering (“APPLE”) project; and
2. A copy of said agreement is marked as “Exhibit A” attached to and incorporated into this Resolution Number 4943 as though fully written therein. Said project has anticipated costs of \$60,000. RPCGB grant at \$48,000 or 80%; Vestavia Hills, as primary sponsor, pledges local match up to \$12,000 (20%); and
3. Said project would be funded from the Capital Improvement Fund; and
4. This Resolution Number 4943 is effective immediately upon adoption and approval.

**ADOPTED and APPROVED** this the 24<sup>th</sup> day of April, 2017.

Ashley C. Curry  
Mayor

**ATTESTED BY:**

Rebecca Leavings  
City Clerk

**(JEFFERSON COUNTY)**

**(STATE OF ALABAMA)**

**AGREEMENT**  
**TO**  
**SHARE RESPONSIBILITIES**

Crosshaven Drive

From Cahaba Heights Road to Overton Road

**RECITAL:**

The City of Vestavia Hills, Alabama (Vestavia) desires to make certain improvements to Crosshaven Drive from Cahaba Heights Road to Overton Road (Project). The Project traverses through one jurisdiction, Vestavia. Party desires to cost share the Corridor Study with the Regional Planning Commission of Greater Birmingham (“RPCGB”). Vestavia and the RPCGB will divide responsibility as follows: Vestavia responsibility being 20% of the costs and RPCGB responsibility being 80% of the costs. Vestavia and the RPCGB desire to establish their agreement herewith.

**WHEREAS**, Vestavia intends to enter into a separate Agreement with the RPCGB to receive service under the Advanced Planning Program and Logical Engineering (APPLE) program for the Project. The total amount of the funding awarded for the APPLE program is \$60,000 with Vestavia’s share being \$12,000.

**WHEREAS**, Vestavia agrees to work in good faith with RPCGB to complete the Project in a timely and professional manner, and

**WHEREAS**, the RPCGB agrees to secure third party contractor(s) for the corridor study, and

**IN CONSIDERATION OF THE PREMISES** stated herein, Vestavia and the RPCGB mutually agree as follows:

1. Vestavia and the RPCGB will jointly select a consultant and prepare the scope of work.
2. Vestavia will pay directly to RPCGB the amount of \$12,000 for the Project.
3. RPCGB shall notify Vestavia and receive written concurrence for any cost overruns that are deemed necessary.
4. The parties expressly agree that the RPCGB does not assume any risk or future liability, or any future responsibility for any portion of Crosshaven Drive located within the municipality of Vestavia Hills.

**IN WITNESS WHEREOF**, the parties have caused this Agreement to be executed by their duly authorized representatives as reflected below.

**CITY OF VESTAVIA HILLS**

\_\_\_\_\_  
Date

By: \_\_\_\_\_  
Ashley C. Curry, Mayor

\_\_\_\_\_  
Date

By: \_\_\_\_\_  
Jeffrey Downes, City Manager

**REGIONAL PLANNING COMMISSION  
OF GREATER BIRMINGHAM**

\_\_\_\_\_  
Date

By: \_\_\_\_\_  
Charles Ball, Executive Director