

**Vestavia Hills
City Council Agenda
February 11, 2019
6:00 PM**

1. Call to Order
2. Roll Call
3. Invocation – Butch Williams, Vestavia Hills Senior Chaplin; Pastor Of Care And Support Ministries, Vestavia Hills United Methodist Church
4. Pledge Of Allegiance
5. Announcements and Guest Recognition
 - a. Severe Weather Preparedness Tax Holiday – February 22 – 24, 2019
6. City Manager’s Report
7. Councilors’ Reports
8. Approval of Minutes – January 28, 2019 (Regular Meeting)

Old Business

9. Resolution Number 5122 – A Resolution Establishing A Sidewalk Construction Policy For The Installation Of Public Sidewalks With Financial Assistance From Area Residents (*public hearing*)
10. Ordinance Number 2828 – An Ordinance Authorizing The Mayor And City Manager To Execute And Deliver An Agreement With KADCO, LLC For Construction Of Sidewalks On Poe Drive (*public hearing*)

New Business

11. Resolution Number 5123 – A Resolution In Support Of 2019 Legislation Regarding Tier I And Tier II Of The Employee Retirement System Similar In House Bill Number 344 Proposed In The 2018 Regular Session Of The Alabama Legislature
12. Resolution Number 5124 – A Resolution In Support Of Protecting Local Control Over Public Streets And Public Assets And A Call On Congress To Reaffirm Such Local Control By Reversing Recent FCC Actions Related To Wireless Facilities By Enacting H.R. 53
13. Resolution Number 5125 – A Resolution To Change The Regularly Scheduled City Council Meeting From March 25, 2019 To March 18, 2019 In Lieu Of Spring Break
14. Resolution Number 5126 - A Resolution Expressing Support For The Alabama Legislature During The 2019 Regular Session To Add An Additional Motor Fuel Excise Tax And

Requesting The Legislators To Support Said Legislation And To Provide For An Alternate Formula For Distribution Of Revenues To More Adequately Represent The Demographics Of Cities And Towns In The State Of Alabama

15. Resolution Number 5127 – A Resolution Expressing Support For The Alabama Legislature During The 2019 Regular Session To Add Placement Of Municipal Employees Under The Protection Of The Municipal Liability Caps

New Business (Unanimous Consent Requested)

First Reading (No Action Taken At This Meeting)

16. Ordinance Number 2826 – Rezoning – 3945 Crosshaven Drive; 3955 And 3959 Wall Street From Vestavia Hills R-4 (Medium Density Residential District) To Vestavia Hills B-2 (General Business District) (*public hearing*)
17. Ordinance Number 2827 – Conditional Use Approval – Granting A Conditional Use For A Home Occupation For 727 Hampden Place Circle, Lot 931, Hampden Place Resurvey #2; Macy Teresa Yates, Owner (*public hearing*)
18. Ordinance Number 2829 – An Ordinance Authorizing The Mayor And City Manager To Execute And Deliver A Memorandum Of Understanding With The Vestavia Hills Board Of Education (*public hearing*)
19. Ordinance Number 2830 – An Ordinance Authorizing The Mayor And City Manager To Execute And Deliver An Access And Parking Agreement With HCI Vestavia I, LLC, An Alabama Limited Liability Company (“HCI”) (*public hearing*)
20. Citizen Comments
21. Motion For Adjournment

CITY OF VESTAVIA HILLS

CITY COUNCIL

MINUTES

JANUARY 28, 2019

The City Council of Vestavia Hills met in regular session on this date at 6:00 PM, following publication and posting pursuant to Alabama law. Mayor Curry 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
Paul Head, Councilor
George Pierce, Councilor

OTHER OFFICIALS PRESENT:

Jeff Downes, City Manager
Patrick H. Boone, City Attorney
Rebecca Leavings, City Clerk
George Sawaya, Asst. Finance Director
Dan Rary, Police Chief
Marvin Green, Fire Chief
Christopher Brady, City Engineer
Cinnamon McCulley, Communications Specialist
Keith Blanton, Building Official

Tom Bell, Vestavia Hills Chaplin, led the invocation followed by the Pledge of Allegiance.

ANNOUNCEMENTS, GUEST RECOGNITION

- Mr. Pierce stated he was going to attend the retreat for new members of the Chamber of Commerce to be held Thursday at the Vestavia Country Club.

CITY MANAGER'S REPORT

- Mr. Downes stated that City offices are anticipated to be closed due to an inclement winter weather event and the Public Works staff along with first responders are on emergency alert.

- Mr. Downes announced that February 4 and 5 will be dedicated to Strategic Planning with the City Council. These work sessions are open to the public and the agenda will be posted. He stated there will be a lot of information discussed and he looks forward to working with the Council and gaining direction for the 2019 year. He indicated that the Vestavia Listens portal has received a great response to survey questions in anticipation of these work sessions.

COUNCILOR REPORTS

- Mrs. Cook stated that the Sidewalk Task Force has found team leaders for each school campus and is working to gather information. She stated that she appreciates the help and support of City staff in this endeavor.
- Mrs. Cook stated that the Board of Education met earlier today to discuss a \$9 million capital improvement loan that will fund reimbursement of the cost of Gresham school purchase and other critical capital needs.
- Mr. Pierce stated the Annexation Committee met, last Thursday, and discussed two annexation requests.
- Mr. Pierce attended the planning session for the Vestavia Hills Chamber of Commerce. He welcomed Gary Jordan, 2019 Chairman of the Board.
- Mayor Curry announced that the next Freedom from Addiction Coalition meeting is April 4, 2019, at the Vestavia Hills United Methodist Church beginning at 7 AM. He stated that the meeting includes breakfast and invited everyone to attend and help to bring awareness to the issue of opioid addiction.
- Mrs. Cook stated she met with the Help the Hills Coalition this month. She stated that there was a lot of great information given in that group and they are doing all they can to help students resist the lure of illicit drugs. She stated she is looking forward to working with this coalition.
- The Mayor stated that Help the Hills is also looking at the issue of teen vaping. He stated that vaping is not a “treat” for teens, but it actually encourages teens to begin smoking cigarettes.

FINANCIAL REPORTS

Mr. Sawaya presented the financial reports for month ending December 2018. He read and explained the report balances.

APPROVAL OF MINUTES

The minutes of the following meeting was presented for approval: January 14, 2019 (Regular Meeting).

MOTION Motion to dispense with the reading of the minutes of the January 14, 2019 (Regular Meeting) and approve them as presented was by Mr. Weaver and second by Mr. Pierce. Roll call vote as follows:

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

OLD BUSINESS

ORDINANCE NUMBER 2817

Ordinance Number 2817 – Rezoning – 3791 Poe Drive; That Part Of Lot 1, Overton Village Resurvey Which Lies In The Vestavia Hills Corporate Limits; Rezone From Vestavia Hills B-2 (General Business District) To VH R-9 (Planned Residential District); Overton Condos, LLC, Mark Perlman, Owners (*public hearing*)

MOTION Motion to approve Ordinance Number 2817 was by Mr. Weaver seconded by Mr. Pierce.

Mr. Weaver gave the report from the Planning and Zoning Commission held in December. He explained that this is a request to build townhomes and was approved for recommendation unanimously.

Ron Durham, Overton Partners LLC, explained that the property was originally zoned for condominiums, which were never constructed. He stated that, on a lot adjacent to this property, in Mountain Brook, Overton Condos, LLC, has been approved to construct condominiums, but this request is to construct five townhomes instead of condominiums.

Mrs. Cook asked if there are any renderings of the proposed townhomes.

The Mayor opened the floor for a public hearing.

Robert Debuys, 3467 Mossbrook Lane, stated that he does not object to this request as drawn but that he feels the zoning should have been an R-8 zoning classification. He stated that R-9 zoning has no cap for residential density and this constitutes a risk to the community.

Ms. Leavings explained that the zoning is planned residential and is tied to the plan presented with the zoning.

Mr. Boone concurred.

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

Mrs. Cook – yes	Mr. Head – yes
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Mr. Pierce – yes
Mayor Curry – yes

Mr. Weaver – yes
Motion carried.

ORDINANCE NUMBER 2818

Ordinance Number 2818 – Rezoning – 3771 And 3783 Fairhaven Drive; Lots 24, 25, 31 And 32, Block 1, Glass Addition To New Merkle; Rezone From Vestavia Hills INST (Institutional District) To Vestavia Hills R-9 (Planned Residential District); Overton Investments, LLC, Owners (*public hearing*)

MOTION Motion to approve Ordinance Number 2818 was by Mr. Weaver seconded by Mr. Head.

Jason Kessler explained that the request is to construct seven townhomes on what are currently four institutional lots. He stated that three luxury townhomes would be constructed on one side of the retirement facility and four on the other. He showed renderings of the proposed townhomes.

Mr. Weaver explained that this came to Planning and Zoning and was originally zoned institutional and R-9 is requested. The application comes with a unanimous recommendation for approval.

The Mayor opened the floor for a public hearing.

Julie McDaniel, 3776 Fairhaven Drive, stated she is not opposed to development in her neighborhood, but they are in fear of too much traffic from the Mountain Brook development and now this proposed additional development, both of which are located on her street. She stated neighbors are concerned about parking. She wanted to know why this cannot be single-family homes.

Mr. Kessler stated that the property is currently zoned institutional, which could have more dense uses. He stated they are providing covered garages for their parking along with driveways, which should prevent any on-street parking.

Mr. Boone explained the laws concerning rezoning of property in that the owner of the property has the right to either use the property as it is zoned or may request a rezoning of property if he wishes a different use. He explained the laws governing the process of rezoning, for consideration of the governing body in their deliberation.

Mr. Head explained that the petition before them is for R-9 zoning for townhomes.

Ms. McDaniel stated that the roadway is not wide enough for additional development and cannot handle this additional traffic.

Mr. Brady stated that the Mountain Brook Overton Condos, LLC, development was defined to include street improvements, some of which would extend toward this development, but there are no concrete plans for total road redevelopment and improvements at this time.

Mayor Curry stated this request is to rezone from Institutional to R-9. The City Council cannot dictate the zoning classification requested by an applicant.

Mr. Kessler stated that each unit will have either a one-car or two-car garage.

Mr. Pierce stated the City does not allow parking on the street, except for short periods of time.

Mr. Kessler stated there will be driveway parking.

Mrs. Cook stated that the City would not issue permits for homes with no provided parking. Mr. Brady concurred and explained the requirements of the code.

Robert Debuys stated his objection is the same as the last request and this should have been requested as R-8.

Peter Hanna, 3764 Crosshaven Drive, stated he is opposed to this because of potential increased drainage from the property. He stated there are no retention requirements in R-9 zoning classifications and the higher density will only increase drainage that drains directly behind his home with a culvert that goes under Midland Drive. He requested additional lighting along the street and reported a herd of feral cats are in the area also that will be displaced into his yard. He stated that all of the roadways in this area are in horrible shape and he sees better roadways in smaller communities. He stated if the drainage and the roadways were improved, he would not object as much to this request.

Mr. Brady stated that new MS-4 storm water ordinances were adopted this last summer, which govern post-construction storm water and requires the amount of drainage off the property be no more than pre-construction.

Mr. Hanna stated he did not see it in these plans but acknowledged that they were in the previous request plans.

Mr. Kessler stated they plan to install lighting in front of their development.

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

Mrs. Cook – yes

Mr. Head – yes

Mr. Pierce – yes

Mr. Weaver – yes

Mayor Curry – yes

Motion carried.

ORDINANCE NUMBER 2819

Ordinance Number 2819 – Annexation – 90-Day Final – 3421 Coventry Drive; Lot 6, Block 2, Coventry, 1st And 2nd Sector; Barbara French, Owner (public hearing)

Mr. Boone explained that the laws of the State of Alabama allows annexation of property by municipalities under three methods. He explained the three methods by election, overnight and 90-day methods. He then explained the differences and purposes of overnight versus 90-day annexations.

MOTION Motion to approve Ordinance Number 2819 was by Mr. Weaver seconded by Mrs. Cook.

Mayor Curry stated that he wanted to address some issues that have been raised on this property because the owner has a tax exemption. He stated that that exemption is controlled by the County, pursuant to Alabama law. This owner met the requirements and is tax exempt. He stated that the resident paid the City an amount that equals three years of ad valorem taxes or the cost of eight years of garbage pickup. He indicated that there are other properties in the City that qualify for this exemption and others that fall off when the property owner no longer meets the requirements.

The Mayor opened the floor for a public hearing.

David Harwell, 1803 Catala Road, stated he has emailed the City Council about this request because it is ad valorem tax exempt. He thanked Mr. Pierce and Mrs. Cook for their responses to his concern. He stated he has studied several other properties in the City that are tax exempt for various reasons. His biggest concern is that this property is in Jefferson County and not in the City, but the Council is looking at annexing the property. He stated that, in the future, the Council should consider whether or not the property pays taxes to the City or not.

Mayor Curry stated there are aging residents in the City that might qualify for this tax exemption if they meet the criteria.

Mrs. Cook stated that it is based upon age and income.

Mr. Harwell stated there is an exemption on state taxes when you become age 65. Then there are other reasons for additional County exemptions, which are based upon blindness, disability, etc. He stated his point is that he does not have an objection to someone meeting those requirements, but he does object to annexing property that is already tax-exempt.

Mr. Pierce stated that annexations should be advantageous to the City. He stated he does not see the advantage to the City and the City should not harm the City schools.

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

Mrs. Cook – yes

Mr. Head – yes

Mr. Pierce – no
Mayor Curry – yes

Mr. Weaver – yes
Motion carried.

ORDINANCE NUMBER 2820

Ordinance Number 2820 – Rezoning - 3421 Coventry Drive; Lot 6, Block 2, Coventry, 1st And 2nd Sector; Rezone From Jefferson County R-1 (Medium Density Residential District) To Vestavia Hills R-2 (Medium Density Residential District); Barbara French, Owner (*public hearing*)

MOTION Motion to approve Ordinance Number 2820 was by Mr. Weaver seconded by Mr. Head.

Mr. Weaver explained that this is the compatible rezoning of the property annexed by the previous ordinance and was unanimously recommended for approval.

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

Mrs. Cook – yes
Mr. Pierce – no
Mayor Curry – yes

Mr. Head – yes
Mr. Weaver – yes
Motion carried.

ORDINANCE NUMBER 2821

Ordinance Number 2821 – Annexation – 90-Day Final – 3531 Valley Circle; Lot 6, Block 1, Dolly Ridge Estates, 2nd Add; Alan And Patricia Foster, Owners (*public hearing*)

MOTION Motion to approve Ordinance Number 2821 was by Mr. Weaver seconded by Mrs. Cook.

The Mayor explained that this Ordinance is the 90-day final annexation of this property which was annexed via the overnight method 3 months ago.

Mr. and Mrs. Foster explained that they are renovating the home to sell at a later date. Mr. Foster stated that they are in the process of renovation and hope to sell it soon.

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

Mrs. Cook – yes
Mr. Pierce – yes
Mayor Curry – yes

Mr. Head – yes
Mr. Weaver – yes
Motion carried.

ORDINANCE NUMBER 2822

Ordinance Number 2822 – Rezoning – 3531 Valley Circle; Lot 6, Block 1, Dolly Ridge Estates, 2nd Add; Rezone from Jefferson County R-1 (Medium Density Residential District) To Vestavia Hills R-2 (Medium Density Residential District); Alan And Patricia Foster, Owners (public hearing)

MOTION Motion to approve Ordinance Number 2822 was by Mrs. Cook seconded by Mr. Pierce.

Mr. Weaver explained that this is the compatible rezoning of the property annexed by the previous ordinance and was unanimously recommended for approval.

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

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

ORDINANCE NUMBER 2823

Ordinance Number 2823 – Annexation – 90-Day Final – 2532 Skyland Drive; Lot 8, Block 2, Dolly Ridge Estates, 2nd Add; Jason And Laura Sparks, Owners (public hearing)

MOTION Motion to approve Ordinance Number 2823 was by Mr. Weaver seconded by Mr. Cook.

MOTION Motion to approve Ordinance Number 2823 was by Mr. Weaver seconded by Mrs. Cook.

The Mayor explained that this Ordinance is the 90-day final annexation of this property which was annexed via the overnight method 3 months ago.

Jason Sparks was present in regard to the request.

Mrs. Cook asked whether the drain pipe repair issues, previously discussed in the prior annexation, have been addressed. Mr. Foster said they had not, but were not currently causing an issue. Mr. Brady concurred that this would be coordinated at the appropriate time, when other City pipe repairs were made.

Mr. Sparks stated they will work with the City to get it fixed when the City is ready to coordinate.

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

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

ORDINANCE NUMBER 2824

Ordinance Number 2824 – Rezoning – 2532 Skyland Drive; Lot 8, Block 2, Dolly Ridge Estates, 2nd Add; Rezone from Jefferson County R-1 (Medium Density Residential District) To Vestavia Hills R-2 (Medium Density Residential District); Jason And Laura Sparks, Owners (public hearing)

Mr. Weaver explained that this is the compatible rezoning of the property annexed by the previous ordinance and was unanimously recommended for approval.

MOTION Motion to approve Ordinance Number 2824 was by Mr. Weaver seconded by Mr. Pierce.

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

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

NEW BUSINESS

RESOLUTION NUMBER 5120

Resolution Number 5120 – A Resolution Determining That Certain Personal Property Is Not Needed For Public Or Municipal Purposes And Directing The Sale/Disposal Of Said Surplus Property

MOTION Motion to approve Resolution Number 5120 was by Mr. Pierce seconded by Mr. Weaver.

Mr. Downes stated that this is an older Crown Victoria used by Building Safety which has been replaced by a newer vehicle and is no longer needed by the City.

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

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

RESOLUTION NUMBER 5121

Resolution Number 5121 – A Resolution Approving An Alcohol License For Slice LLC D/B/A Wing Ding 2019; Jeffrey Saied Bajalieh, Jason Brian Bajalieh, Christopher Saleh Bajalieh, Executives For A Special Event At 1032 Montgomery Highway (public hearing)

MOTION Motion to approve Resolution Number 5121 was by Mr. Weaver seconded by Mr. Pierce.

Denise Koch, Slice LLC, stated this request is to be a concessionaire for Wing Ding 2019 to be held here at City Hall like it was last year.

Mrs. Cook stated the City has already approved a license for this vendor.

Mr. Pierce asked if there were any issues last year.

Chief Rary stated there have been no issues either at Wing Ding or at the Slice restaurant.

Ms. Koch explained their policy and the use of wristbands to identify customers old enough to purchase.

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

Mrs. Cook – yes

Mr. Head – yes

Mr. Pierce – yes

Mr. Weaver – yes

Mayor Curry – yes

Motion carried.

NEW BUSINESS (REQUESTING UNANIMOUS CONSENT)

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 February 11, 2019, at 6:00 PM.

- Resolution Number 5122 – A Resolution Establishing A Sidewalk Construction Policy For The Installation Of Public Sidewalks With Financial Assistance From Area Residents (public hearing)
- Ordinance Number 2828 – An Ordinance Authorizing The Mayor And City Manager To Execute And Deliver An Agreement With Kadco, LLC For Construction Of Sidewalks On Poe Drive (public hearing)

CITIZEN COMMENTS

Robert Debuys, 3467 Mossbrook Lane, reiterated his objections to R-9 zoning and stated that, if restrictions are not specifically written into the ordinance, the property owner cannot be held to those restrictions. He stated that he feels that the ordinances should be modified to clarify density, use, etc.

At 7:34 PM, Mr. Weaver made a motion to adjourn. The meeting adjourned at 7:35 PM.

Ashley C. Curry
Mayor

ATTESTED BY:

Rebecca Leavings
City Clerk

RESOLUTION NUMBER 5122

A RESOLUTION ESTABLISHING A SIDEWALK CONSTRUCTION POLICY FOR THE INSTALLATION OF PUBLIC SIDEWALKS WITH FINANCIAL ASSISTANCE FROM AREA RESIDENTS

WHEREAS, the City of Vestavia Hills has established a Master Sidewalk Plan detailing locations of present and predetermined locations for public sidewalks; and

WHEREAS, a copy of the City's Master Sidewalk Plan is marked as Exhibit A attached to and incorporated into this Resolution Number 5122 as if written fully therein; and

WHEREAS, residents have expressed interest in installation of sidewalks in areas outside of the City's Master Sidewalk Plan; and

WHEREAS, the City Manager has drafted a Sidewalk Construction Policy to be used as a guide for evaluation of proposed sidewalks following a request made by a neighborhood or a collection of residents; and

WHEREAS, the Mayor and City Council feel it is in the best public interest to establish the recommended Sidewalk Construction Policy.

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

1. A Sidewalk Construction Policy is hereby established as follows: In the event a neighborhood or collection of residents' request installation of a sidewalk not included in the Master Sidewalk Plan, then the City Council may elect to authorize the construction of sections of requested sidewalks upon the consideration of the following factors:
 - a. Residents will contribute funds toward the design and construction of the requested section of sidewalk at an amount adequate to offset costs after City Council consideration of available funds and other priorities.
 - b. The proposed section of sidewalk will connect existing links of sidewalks.
 - c. The proposed sidewalk will connect to City-owned property, parks, merchant areas, or schools.
 - d. The proposed sidewalk is warranted for public safety considerations.
2. This Resolution Number 5122 will become effective immediately upon adoption and approval.

DONE, ORDERED, ADOPTED and APPROVED this the 11th day of February, 2019.

Ashley C. Curry
Mayor

ATTESTED BY:

Rebecca Leavings
City Clerk

ORDINANCE NUMBER 2828

AN ORDINANCE AUTHORIZING THE MAYOR AND CITY MANAGER TO EXECUTE AND DELIVER AN AGREEMENT WITH KADCO, LLC FOR CONSTRUCTION OF SIDEWALKS ON POE DRIVE

WHEREAS, the City of Vestavia Hills is desirous to install public sidewalks along Poe Drive; and

WHEREAS, Kadco, LLC has offered to partner with the City in the installation of sidewalks along Poe Drive; and

WHEREAS, a contract has been drafted authorizing Kadco, LLC to construct 1,200 linear feet of public sidewalks along the rights-of-way of Poe Drive at a cost estimated at One Hundred, Thirty Thousand, Four Hundred and Thirty Eight Dollars (\$130,438.00) with the City paying the sum of Forty-nine Thousand, Nine Hundred Ninety-nine and 99/100 Dollars (\$49,999.99) of the cost for the construction of the sidewalk and Kadco, LLC paying any and all other costs exceeding that amount.; and

WHEREAS, a copy of said Contract is marked as Exhibit A, attached to and incorporated into this Ordinance Number 2828 as though written fully therein; and

WHEREAS, the Mayor and City Council feel it is in the best public interest to accept said offer from Kadco and authorize the Mayor and City Manager to execute and deliver the agreement detailed in Exhibit A.

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

1. The Mayor and City Manager are hereby authorized to execute and deliver the agreement detailed in Exhibit A attached; and
2. This Ordinance Number 2828 shall become effective immediately following approval, adoption and posting as required by Alabama law.

ADOPTED and APPROVED this the 11th day of February, 2019.

Ashley C. Curry
Mayor

ATTESTED BY:

Rebecca Leavings
City Clerk

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

TELEPHONE (205) 324-2018

FACSIMILE (205) 324-2295

December 4, 2018

By Hand Delivery

City Manager Jeff Downes
Vestavia Hills Municipal Center
1032 Montgomery Highway
Vestavia Hills, Alabama 35216

In Re: Contract Between Kadco, LLC and the City of Vestavia Hills for Construction of Sidewalk
on Poe Drive

Dear Mr. Downes:

I have prepared and enclose a suggested Contract by and between the City and Kadco for
the construction of a sidewalk on the easterly side of Poe Drive.

If Kadco contracts with a licensed general contractor to perform the work, then in such
event both Kadco and the Contractor shall be liable to the City under the Contract.

Please review and advise me of any necessary additions, deletions, changes and/or
corrections. Thank you.

Sincerely,



Patrick H. Boone
Vestavia Hills City Attorney

PHB:gp
Enclosure

STATE OF ALABAMA

JEFFERSON COUNTY

CONTRACT

WITNESSETH THIS CONTRACT, made and entered into on this the _____ day of December, 2018, by and between the City of Vestavia Hills, Alabama, a municipal corporation, located at 1032 Montgomery Highway, Vestavia Hills, Alabama 35216 (hereinafter referred to as “City”), and Kadco, LLC, an Alabama limited liability company, with its principal address of 3505 Bent River Road, Birmingham, Alabama 35216 (hereinafter referred to as “Developer”).

WITNESSETH THESE RECITALS:

WHEREAS, Poe Drive, by virtue of Title 11-49-80, *Code of Alabama, 1975*, became a dedicated public street owned by the City of Vestavia Hills, Alabama (“City”) because of the annexation of substantially all of the Cahaba Heights Fire District to the corporate boundaries on May 14, 2002; and

WHEREAS, the City owns the entire right-of-way of Poe Drive by virtue of Title 35-2-51(b), *Code of Alabama, 1975*;

WHEREAS, municipalities in Alabama are authorized by Title 11-48-4, *Code of Alabama, 1975*, to spend public funds for the construction, repair, maintenance and improvements of public streets and sidewalks; and

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

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

WHEREAS, Title 34-11-10, *Code of Alabama, 1975*, provides as follows:

“It shall be unlawful for the state or any of its departments, boards or agencies or any county, municipality or political subdivision or any department, board or agency of any county, municipality or political subdivision to engage in the construction of any public work involving the practice of engineering unless the engineering drawings, plans, specifications and estimates have been

prepared by and the construction executed under the direct supervision of a professional engineer; provided, that nothing in this chapter shall be held to apply to any public work wherein the expenditure for the complete project of which the work is a part does not exceed \$20,000.00.”; and

WHEREAS, Alabama law at Title 34-8-1(a), *Code of Alabama, 1975*, requires that a public works project be performed by a licensed general contractor and defines a "general contractor" to be:

"One who, for a fixed price, commission, fee, or wage undertakes to construct or superintend or engage in the construction, alteration, maintenance, repair, rehabilitation, remediation, reclamation, or demolition of any building, highway, sewer, structure, site work, grading, paving or project or any improvement in the State of Alabama where the cost of the undertaking is fifty thousand dollars (\$50,000.00) or more, shall be deemed and held to have engaged in the business of general contracting in the State of Alabama."; and

WHEREAS, Title 39-2-2(a), *Code of Alabama, 1975*, provides in pertinent part as follows:

"(a) Before entering into any contract for a public works involving an amount in excess of fifty thousand dollars (\$50,000), the awarding authority shall advertise for sealed bids. If the awarding authority is the state or a county, or an instrumentality thereof, it shall advertise for sealed bids at least once each week for three consecutive weeks in a newspaper of general circulation in the county or counties in which the improvement or some part thereof, is to be made. With the exception of the Department of Transportation, for all public works contracts involving an estimated amount in excess of five hundred thousand dollars (\$500,000), awarding authorities shall also advertise for sealed bids at least once in three newspapers of general circulation throughout the state."; and

WHEREAS, Title 39-2-2(b)(1), *Code of Alabama, 1975*, provides as follows:

“An awarding authority may let contracts for public works involving fifty thousand dollars (\$50,000.00) or less with or without advertising or sealed bids.”; and

WHEREAS, Alabama law, at Title 39-1-1 (a), *Code of Alabama, 1975*, reads as follows:

"(a) Any person entering into a contract with an awarding authority in this state for the prosecution of any public works shall, before commencing the work, execute a performance bond, with penalty equal to 100 percent of the amount of the contract price. In addition, another bond, payable to the awarding authority letting the contract, shall be executed in an amount not less than 50 percent of the contract price, with the obligation that the contractor or contractors shall promptly make payments to all persons supplying labor, materials, or supplies for or in the prosecution of the work provided in the, contract and for the, payment of reasonable attorneys' fees incurred by successful claimants or plaintiffs in civil actions on the bond."; and

WHEREAS, Developer has heretofore built new homes on Poe Drive for sale to members of the general public; and

WHEREAS, Developer intends to construct additional new homes on Poe Drive; and

WHEREAS, Developer desires that Poe Drive be pedestrian friendly by installing a sidewalk; and

WHEREAS, Developer will cause a sidewalk extending approximately one thousand two hundred (1,200) linear feet to be constructed on the easterly right-of-way of Poe Drive; and

WHEREAS, the estimated cost of construction of the sidewalk is approximately One Hundred Thirty Thousand Four Hundred Thirty-eight and 50/100 Dollars (\$130,438.50); and

WHEREAS, Developer has requested the City to pay the sum of Forty-nine Thousand Nine Hundred Ninety-nine and 99/100 Dollars (\$49,999.99) of the cost for the construction of the sidewalk with the Developer paying any and all other costs exceeding that amount; and

WHEREAS, the City agrees to pay the sum of Forty-nine Thousand Nine Hundred Ninety-nine and 99/100 Dollars (\$49,999.99) of the cost for construction of the sidewalk based upon the terms, provisions, conditions and requirements set forth in sections I through XXVIII below; and

WHEREAS, the Developer expressly agrees to the terms, provisions and conditions of the sections I through XXVIII set forth below; and

WHEREAS, the City and the Contractor have agreed to the terms, provisions, conditions and requirements of this Contract and have further agreed that it is in the best interests of the parties that this Contract be reduced to writing.

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS, that in consideration of the mutual covenants, promises and premises contained herein and other good and valuable consideration, the receipt and sufficiency is whereof is hereby acknowledged by each of the parties hereto, the City and the Developer mutually and expressly agree as follows:

I. RECITALS

The recitals set forth in the premises above are hereby incorporated into this Contract by reference as though set out fully herein.

II. THE WORK

Developer shall cause a sidewalk to be constructed on the easterly side of Poe Drive in the City of Vestavia Hills, Alabama 35243 pursuant to the following terms, provisions, conditions and requirements:

A. The sidewalk shall be constructed all in accordance with Article 2 of the *Public Works Manual of the City of Vestavia Hills, Alabama*. A copy of Article 2 is attached hereto, marked as Exhibit 1 and is incorporated into this Contract by reference as though set out fully herein; and

B. The sidewalk shall extend for a distance of approximately one thousand two hundred (1,200) linear feet; and

C. The sidewalk shall be constructed on the site shown on the map, which is attached hereto, marked as Exhibit 2 and is incorporated into this Contract by reference as though set out fully herein; and

D. The sidewalk shall be constructed all in accordance with the design prepared by HagerCo-LLC, a copy of which is attached hereto, marked as Exhibit 3 and is incorporated into this Contract by reference as though set out fully herein; and

E. The work shall include any and all items set forth on the Engineer Estimate for total Project Cost, a copy of which is attached hereto, marked as Exhibit 4 and is incorporated into this Contract by reference as though set out fully herein; and

F. The sidewalk, curb, gutter, double wing inlets, trench train in sidewalk, landscaping, traffic control and other improvements shall be constructed all in accordance with the final and full engineering design, plans and specifications prepared by HagerCo-LLC.

G. The labor, material and services described above shall hereinafter be referred to as the "work."

III. LICENSED GENERAL CONTRACTOR

The Work shall be done and completed by a licensed general contractor ("Contractor") as required by Title 34-8-1, *Code of Alabama, 1975*.

IV. CONTRACT PRICE

It is contemplated by Developer and City, based upon the preliminary cost estimate of One Hundred Thirty Thousand Four Hundred Thirty-eight and 50/100 Dollars (\$130,438.50) prepared by HagerCo-LLC (Exhibit 4) will be approximately that amount. Both parties recognize and agree that the final cost of the work may be more than \$130,438.50.

V. PAYMENT OF CONTRACT PRICE

A. CITY: The City shall pay Forty-nine Thousand Nine Hundred Ninety-nine and 99/100 Dollars (\$49,999.99) of the contract price upon:

1. completion of the work by the licensed general contractor; and
2. final inspection, written approval and acceptance by the City of the work by Developer.

B. DEVELOPER: The Developer shall pay any and all of the contract price exceeding \$49,999.99.

VI. TERM OF CONTRACT

Time is of the essence of the performance of the Contract. The term of this Contract shall be for a period of _____ (_____) days after the Developer receives a written Notice to Proceed from City. The City will not issue a Notice to Proceed until after the City:

A. approves in writing the final drawings, plans and specifications prepared by HargerCo-LLC as required by Section X of this Contract; and

B. the City receives from Developer the duly executed Performance Bond as required by Section VII of this Contract; and

C. the City receives from Developer the duly executed Work and Labor Bond as required by Section VIII of this Contract; and

D. the City receives from Developer the Certificates of Insurance as required by Section XIV-F of this Contract.

VII. PERFORMANCE BOND

The Developer, prior to the commencement of the work, shall execute and deliver a Performance Bond equal to one hundred percent (100%) of the contract price as required by Title 39-1-1(a), *Code of Alabama, 1975*. The form of the Performance Bond shall be AIA Document A312-2010, a copy of which is attached hereto, marked as Exhibit 5 and is incorporated into this Contract by reference as though set out fully herein.

VIII. PAYMENT BOND

The Developer, prior to the commencement of the work, shall execute and deliver a Payment Bond equal to fifty percent (50%) of the contract price as required by Title 39-1-1(a), *Code of Alabama, 1975*. The form of the Payment Bond shall be AIA Document A312-2010, a copy of which is attached hereto, marked as Exhibit 6 and is incorporated into this Contract by reference as though set out fully herein.

IX. FINAL DRAWINGS, PLANS AND SPECIFICATIONS

The final drawings, plans and specifications for the work must be prepared by a professional engineer as required by Title 34-11-10, *Code of Alabama, 1975*.

X. APPROVAL OF FINAL DRAWINGS, PLANS AND SPECIFICATIONS BY CITY

The work shall not commence unless and until the City has approved in writing the final drawings, plans and specifications prepared by professional engineers, HagerCo-LLC.

XI. APPROVAL OF CONSTRUCTION CONTRACT

Any and all Construction Contracts by and between Developer and Contractor for the performance of the work must be approved in writing by the City prior to commencement of the work.

If Developer enters into a Construction Contract with a Licensed General Contractor ("Contractor") for the performance of the work, then in such event both Developer and Licensed General Contractor shall be legally obligated to the City for compliance with any and all terms, provisions, conditions and requirements of this Contract. The Contract by and between Developer and Licensed General Contractor shall contain the following language:

"The Licensed General Contractor hereby agrees to be legally obligated to the City of Vestavia Hills, Alabama for compliance with any and all terms, provisions, conditions and requirements of Developer set forth in Sections I through XXVIII of that certain Contract by and between Kadco, LLC, as "Developer," and the City of Vestavia Hills, Alabama, as "City." A copy of said Contract is attached hereto, marked as Exhibit A and is incorporated into this Contract by reference as though set out fully herein."

XII. QUALITY OF WORK

All labor, construction and installation of equipment, materials and supplies applied/installed by the Developer in the performance of this Contract shall be done in a professional, proficient and workmanlike manner.

XIII. LIABILITY INSURANCE

The Developer shall carry Manufacturer's and Contractor's General Comprehensive Liability and Public Liability Insurance with limits of One Million Dollars (\$1,000,000.00), per person, and Two Million Dollars (\$2,000,000.00), per occurrence, to cover and protect the City, its Mayor, City Manager, individual City Council members, servants, agents, employees or representatives, the Developer and its Licensed General Contractor, its subcontractors against claims or injury to or death of one or more than one person because of accidents which may occur or result from operations under the contract; such insurance shall cover the use of any and all equipment, including but not limited to machinery, tractors, rollers, mixers, motor vehicles and other related equipment necessary to perform the work and installations and embraced in this Contract.

The Developer shall carry, during the life of this Contract, property damage insurance in the amount of not less than Five Hundred Thousand Dollars (\$500,000.00) to protect the Developer, the Licensed General Contractor and its subcontractors from claims for property damage which might arise from the work performed under this contract.

Before commencing work, the Developer shall submit evidence of the coverages required above to the City for review and approval. Such insurance shall be carried with financially responsible insurance companies, licensed in the state and approved by the City and shall be kept in full force and effect until the Developer's work is accepted by the City. Contracts of insurance (covering all operations under this contract) which expire before the Developer's work is accepted by the City shall be renewed and evidence of such renewal shall be submitted to the City for its approval.

XIV. ADDITIONAL INSURED

The Developer shall cause all of the insurance policy coverages described in Section XIII of the Contract above (except for the Worker's Compensation coverages) to include:

A. The City of Vestavia Hills, Alabama, and its Mayor, City Manager, individual City Council members, servants, agents, employees or representatives as additional insureds for claims caused in whole or in part by the Developer's negligent acts or omissions during the Developer's operations; and

B. The City of Vestavia Hills, Alabama, and its Mayor, City Manager, individual City Council members, servants, agents, employees or representatives as additional insureds for claims caused in whole or in part by the Developer's negligent acts or omissions during the Developer's completed operations; and

C. The insurance policy coverages shall state that these coverages shall be primary insurance for the additional insureds; and

D. Contain no exclusions of the additional insureds relative to job accidents; and

E. The policies must be on an "occurrence" basis.

F. Certificates of Insurance shall be provided by Developer to City prior to commencement of the work. A Notice to Proceed for the commencement of work shall not be issued by the City unless and until the City has provided written notice of acceptance of said Certificate of Insurance to the Developer.

XV. WORKERS' COMPENSATION

The Developer shall carry Worker's Compensation insurance for all of its employees and those of the Licensed General Contractor and its subcontractors engaged in the work at the site in accordance with the State of Alabama Worker's Compensation Law. This insurance coverage provided by the Developer under the Worker's Compensation Act shall provide protection from any and all claims for bodily injury, death or property damage, which may arise from the performance of any servant, agent, employee or other representative of Developer or the Licensed General Contractor and its subcontractors under this contract. Certificates of insurance issued by competent insurance companies qualified and licensed to do business in the State of Alabama and approved by the City evidencing that the Licensed General Contractor and all of said subcontractors of the Developer are covered by said Worker's Compensation insurance coverage and furnished to the Developer and the City by the Licensed General Contractor and the individual subcontractors shall meet the requirements of this section.

XVI. INDEMNITY

The Developer shall indemnify and save harmless the City, its Mayor, City Manager, individual City Council members, servants, agents, employees and representatives from any and all claims, demands, controversies, actions, causes of action, liabilities of action, lawsuits, liabilities, damages and losses and expenses, including but not limited to attorney fees, arising out of or resulting from property damage, personal injury and/or death suffered or alleged to have been suffered by any person as a result for work performed under this Contract by Developer, the Licensed General Contractor, a subcontractor and anyone directly or indirectly employed by them. 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.

XVII. INDEPENDENT CONTRACTOR

The Developer is an independent contractor for purposes of this agreement. Nothing contained herein shall be construed to mean that said Developer is the servant, agent or employee of the City of Vestavia Hills, Alabama.

XVIII. ASSIGNMENT

This Contract shall not be assignable by the Developer in any respect without having first obtained the written consent of the City of Vestavia Hills, Alabama evidenced by a properly enacted resolution of the City Council.

XIX. GENERAL COMPLIANCE WITH APPLICABLE LAWS

Developer shall comply with the provisions of the labor law and any and all federal, state and local laws, statutes, codes, rules, regulations, ordinances and resolutions that are applicable to the performance of this Contract between the City and Developer, including specifically, but not limited to Ordinance Numbers 2769, 2770 and 2771 enacted by the City Council of the City of Vestavia Hills, Alabama on June 11, 2018.

XX. EXISTING UNDERGROUND UTILITIES

Before any work is done in the vicinity of an existing underground utility line, the Developer shall check with the owner of the utility lines to determine and verify its exact location. The Developer shall be held liable for any damage to utilities in the execution of this Contract.

XXI. ACCIDENT PREVENTION

The Developer shall exercise proper precaution at all times for the protection of persons and property and shall be responsible for all damages to person or property, either on or off the site, which occur as a result of its prosecution of the work. The safety provisions of applicable laws and building and construction codes shall be observed. Machinery, equipment and all hazards shall be guarded in accordance with the safety provisions of the "*Manual of Accident Prevention in Construction*" published by the Associated Contractors of America, Inc., to the extent that such provisions are not in conflict with applicable local laws.

XXII. INSPECTION

All materials and workmanship shall be subject to inspection, examination or test by the City at any and all times during manufacture or construction and at any and all places where such manufacture or construction is carried on. The City shall have the right to reject defective materials and defective, incorrect or incomplete work and/or require its correction. Unacceptable workmanship shall be satisfactorily corrected. Rejected material shall be promptly segregated and removed from the project area and be replaced with material of specified quality without charge therefore. If the Developer fails to proceed at once with the correction of rejected workmanship or defective material, the City may contract for or otherwise have the defects remedied or rejected materials removed from the project area and charge the cost of the same against any moneys which may be due the Developer, without prejudice to any other rights or remedies of the City.

XXIII. TERMINATION

The Contract, of which statement of work described in paragraph II hereof form a part, may be terminated by the City for any one of the following reasons:

- A. Substantial evidence that the progress made by the Developer is insufficient to complete the work within the specified time.
- B. Deliberate failure on the part of the Developer to observe the requirements of this Contract.
- C. Failure on the part of the Developer to promptly make good any defects in materials or workmanship that may be indicated to it by the City.
- D. Any other breach of contract by the Developer.

XXII. GENERAL GUARANTY BY DEVELOPER

Neither the final certificate of payment nor any provision in the Contract nor partial or entire use of the improvements embraced in this Contract by the City or the public shall constitute an acceptance of work not done in accordance with the Contract or relieve the Developer of liability in respect to any express warranties of responsibility for faulty materials or workmanship. The Developer shall promptly remedy any defects in the work and pay for any damage to other work resulting therefrom which shall appear within a period of twelve (12) months from the date of final acceptance of the work. The City will give notice of defective material and work with reasonable promptness. The Developer shall deliver to the City any and all written warranties guaranteed by the manufacturers of any of the materials installed in said road at the completion of the work.

XXV. REMOVAL OF DEBRIS AND CLEANING

The Developer shall, periodically or as directed during the progress of the work, remove and legally dispose of all surplus excavated material and debris, and keep the Project Area and public rights of way reasonable clear. Upon completion of the work, it shall remove all temporary construction facilities, debris and unused materials provided for the work, and put the whole site of the work and public rights of way in a neat and clean condition. Trash burning on the site of the work will be subject to the approval of the City and existing state and local regulations.

XXVI. IMMIGRATION

By signing this Contract, the contracting parties affirm, for the duration of the Contract, 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 Contract and shall be responsible for all damages resulting therefrom.

XXVII. COMPLIANCE WITH TITLE 41-16-5, CODE OF ALABAMA, 1975, BOYCOTT LIMITATIONS

Act 2016-312 of the Alabama Legislature prohibits a governmental entity from entering into certain public contracts with a business entity unless the contract includes a representation that the business is not currently engaged in, and an agreement that the business will not engage in, the boycott of a person or an entity based upon the person or business doing business with a jurisdiction with which the state can enjoy open trade. The prohibition does not apply if a business offers to provide goods or services for at least 20 percent less than the lowest certifying business entity or to a contract with a value less than \$15,000.00. The Developer represents and warrants that it is not currently engaged in, and will not engage in, the boycott of a person or an entity based in or doing business with a jurisdiction with which this state can enjoy open trade.”

XXVIII. MISCELLANEOUS

A. NON WAIVER: The failure of the City to insist, in any one or more instances, upon a strict performance of any of the covenants of this Contract, or to exercise any option herein contained, shall not be construed as a waiver, or a relinquishment for the future of such covenant or option, but the same shall continue and remain in full force and effect.

B. WAIVER OF MODIFICATION: Any waiver, alteration or modification of any of the provisions of this Contract or cancellation or replacement of this agreement shall not be valid unless in writing and signed by the parties hereto. This Contract may be amended at any time by written agreement of the parties signatory hereto.

C. NOTICES: Any and all notices required or permitted to be given under this agreement will be sufficient if furnished in writing and sent by Registered Mail to the parties' last known address.

D. GOVERNING LAW: This agreement shall be interpreted, construed and governed to the laws of the State of Alabama.

E. 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.

F. CONSTRUCTION OF TERMS: Any ambiguities of this Contract shall be construed fairly and equitably regardless of the participation of either party in drafting this Contract. The reference in terms to gender and number shall be modified as may be appropriate.

G. EXECUTION IN COUNTERPARTS: The Contract may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

H. BINDING EFFECT: The Contract shall inure to the benefit of, and shall be binding upon City and Developer and their heirs, successors and assigns.

I. SEVERABILITY: In the event any provision of this Contract shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

J. ENTIRE AGREEMENT: This written Contract contains the entire agreement between the City and the Developer.

IN WITNESS WHEREOF, the City and Developer have hereunto caused this Contract to be executed by their duly authorized officers and their respective seals to be affixed hereto on this the _____ day of December, 2018.

CITY:
CITY OF VESTAVIA HILLS, ALABAMA
A Municipal Corporation

By _____
Ashley C. Curry
Its Mayor

By _____
Jeffrey D. Downes
Its City Manager

ATTESTED

By _____

DEVELOPER:
KADCO, LLC
An Alabama limited liability company

By _____
Its _____

ATTESTED

By _____

**STATE OF ALABAMA
JEFFERSON COUNTY**

ACKNOWLEDGMENT

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

Given under my hand and official seal, this the _____ day of December, 2018.

Notary Public

My Commission Expires:

SEAL
STATE OF ALABAMA
JEFFERSON COUNTY

ACKNOWLEDGMENT

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

Given under my hand and official seal, this the _____ day of December, 2018.

Notary Public

My Commission Expires:

SEAL

Contract
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**STATE OF ALABAMA
JEFFERSON COUNTY**

ACKNOWLEDGMENT

I, the undersigned authority, a Notary Public in and for said County, in said State, hereby certify that _____, whose name as _____ of Kadco, LLC, an Alabama limited liability company, is signed to the foregoing Contract, and who is known to me, acknowledged before me on this day that, being informed of the contents of the instrument, he, as such officer and with full authority, executed the same voluntarily for and as the act of said Kadco, LLC, an Alabama limited liability company.

Given under my hand and official seal, this the _____ day of December, 2018.

Notary Public

My Commission Expires:

SEAL

CITY OF VESTAVIA HILLS

PUBLIC WORKS MANUAL Engineering Standards



Adopted by the Planning and Zoning Commission
of the City of Vestavia Hills, Alabama on

April 8, 2010

EXHIBIT 1

Article 2 CONSTRUCTION STANDARDS

§2.1. Clearing and Grubbing

All areas that receive fill material shall be cleared of vegetation, trees, stumps, large rocks, and other objectionable or unsuitable material prior to placing fill material.

§2.2. Embankment

The City Engineer or designated agent shall determine what material is suitable for embankment. Natural ground areas shall be properly compacted prior to placing embankment. Embankment material shall be placed in uniform lifts of ten (10) inches or less and compacted to ninety-five (95) percent of standard density as determined by ALDOT (Alabama Department of Transportation) standards. In-place density method pursuant to ALDOT standards may be used.

§2.3. Sub-grade

Finish grade shall conform to the lines, grades and cross-section as shown on the approved plan unless specific permission is acquired in writing from the City Engineer. All sub-grade construction shall be compacted to a 95 percent of modified Proctor density as determined by ASTM designation D-1557, as revised from time to time.

§2.4. Bases

Prior to placing any base material, the subgrade shall be prepared and tested. The type material to be used for base and required thickness shall be stated on the approved plan.

Base material consisting of crushed rock, stone particles, or slag shall contain an approved filler of sand or other fine mineral filler. Required six (6) inch base of this material shall be spread without segregation and may be placed and compacted to full depth in one (1) layer. Required base layer greater than six (6) inches shall be placed in approximately equal layers. Compaction shall be by vibratory, steel wheel rollers or other approved rollers to obtain a density of 100 percent when tested as determined by ALDOT standards method. In place density method pursuant to ALDOT standards may be used.

§2.5. Paving Requirements

All public streets, alleys and driveways shall be paved and conform to the following minimum requirements:

- 2.5.1. A two (2) inch bituminous binder and a one (1) inch seal course on a suitable primed macadam base eight (8) inches thick on a properly drained and compacted sub-grade is required.
- 2.5.2. Minimum plant mix requirements for all residential streets will be as follows:
Binder - 140 lbs. per square yard Seal - 80 lbs. per square yard.
- 2.5.3. Greater thickness may be required dependent upon street classification as provided in the Subdivision Regulations. Should any problem be encountered with the sub-grade, base, or binder layers, or should much immediate construction traffic be projected following road construction, the City Engineer may require the placement of seal course of plant mix be delayed for a minimum period of six (6) months. If problems are encountered relative to pavement thickness, coring or plant mix may be required. Double Bituminous Surface Treatment pavement on an approved crushed stone base may be approved, where curbs and gutters are not required, for the following cases:

1. Entrance roads into subdivided areas where projected average weekday volumes will not exceed 400.
 2. Roads serving large lot subdivisions.
- 2.5.4. On all roadways the seal course shall not be applied until one (1) year after the binder has been properly installed. Before the seal is applied, all work previously required shall be repaired to meet minimum City standards.

§2.6. Culverts

A special design drawing shall be required for any drainage structure having a required end area of twenty (20) sq. ft. or more. Reinforced concrete drainage structures shall be constructed in accordance with standard drawings and specifications approved by the City Engineer. Standard specification drawings for many minor structures may be obtained through ALDOT or some concrete companies.

- 2.6.1. Reinforced concrete pipe and arch pipe class and installation shall be in accordance with current specifications of ALDOT.
- 2.6.2. Corrugated metal pipe and arch pipe culverts shall be fully coated with asphalt with a paved invert or fully coated with a polymeric coating. Gauge, corrugations and installation shall be in accordance with current specifications of ALDOT.
- 2.6.3. All storm drainpipes shall be a minimum of eighteen (18) inches and subject to review and approval by the City Engineer.

§2.7. Swales and Ditches

- 2.7.1. The minimum flow line slope for paved ditches shall be 0.33% and shall be 1.0% for unpaved ditches.
- 2.7.2. Eight (8) inches of masonry, stone, tile, concrete block or brick walls shall have a minimum flair or one (1) inch per foot and a maximum flair of six (6) inches per foot. Culvert pipe may be utilized if such sewers and drainage ditches shall be of sufficient size to provide for future extensions into adjacent areas.

§2.8. Headwalls

Headwall with wing walls and end walls shall be installed on pipe culverts. Headwalls for pre-cast concrete or brick masonry construction shall be approved by the City Engineer. Headwalls for pipe sizes larger than forty-eight (48) inches shall be shown on the approved plans. Headwalls for multi-line installation shall be shown on the approved plans.

§2.9. Combination Curb and Gutters, Valley Curbs

- 2.9.1. Portland cement concrete having a compressive strength of 3000 PSI at twenty-eight (28) days shall be used. Granite, as approved by the City Engineer, may be substituted. Combination curb and gutter and valley curbs shall be constructed of Portland cement concrete. Installation shall be on a prepared sub-grade and conform to the cross-section shown on the plans. The surface finish of the concrete shall have a light broomed or burlap drag texture. The edges shall be smoothed with a radius type tool.
- 2.9.2. Transverse contraction joints shall be constructed at intervals not exceeding twenty (20) feet in combination curb and gutter and valley curb. Joint depth shall be no less than 1/5 of the cross-section and concrete. Sawed contraction joints shall be done early after the concrete has set to prevent the formation of uncontrolled cracking. Expansion joints shall be constructed at immovable structures and at points of

curvature for short radius curves. Filler material for expansion joints shall be approved by the City Engineer or authorized agent. Construction joints may be either expansion or butt-type joints.

- 2.9.3. No combination curb and gutter, valley curb or sidewalk shall be placed on frozen or soft earth or when other unsuitable conditions exist.
- 2.9.4. Gutters shall be constructed of 3,000 PSI concrete six (6) inches thick. Valley gutters shall not be less than thirty (30) inches wide.
- 2.9.5. Combination curb and gutter shall be used where negative grade entering or within a circle exceeds two (2) percent.

§2.10. Inlets

Inlet design for installation on eighteen (18) inch through forty-two (42) inch pipe shall be approved by the City Engineer. Depth for this type inlet shall not exceed six (6) feet from invert of inlet to top of pipe. Storm drain inlet shall not be supported by the storm drainpipe. Special design installation shall be required for pipes larger than forty-two (42) inches in diameter. This design shall be submitted with street drainage plan for approval by the City Engineer.

§2.11. Sidewalks

Sidewalks shall be constructed in accordance with the specifications shown in Figure 2.11 and as provided herein.

- 2.11.1. Sidewalk installation shall be on an unfrozen prepared sub-grade.
- 2.11.2. Concrete mix: straight cement mix, no fly ash, ochre coloring added at 25 lbs./yd. , maximum 5 inch slump.
- 2.11.3. Sidewalks shall have expansion joints at all concrete-to-concrete connections, such as driveways, curbs, curb ramps and private sidewalks and every thirty (30) ft on straight runs. One-half (1/2) inch expansion joints shall be provided between all fixed objects including steps and walls.
- 2.11.4. Five (5) foot wide sidewalks shall have contraction joints every five (5) feet; wider sidewalks shall have contraction joints spaced as required by the City Engineer.
- 2.11.5. All construction debris shall be removed and disposed off site.
- 2.11.6. Contact City Engineer for final approval of work.

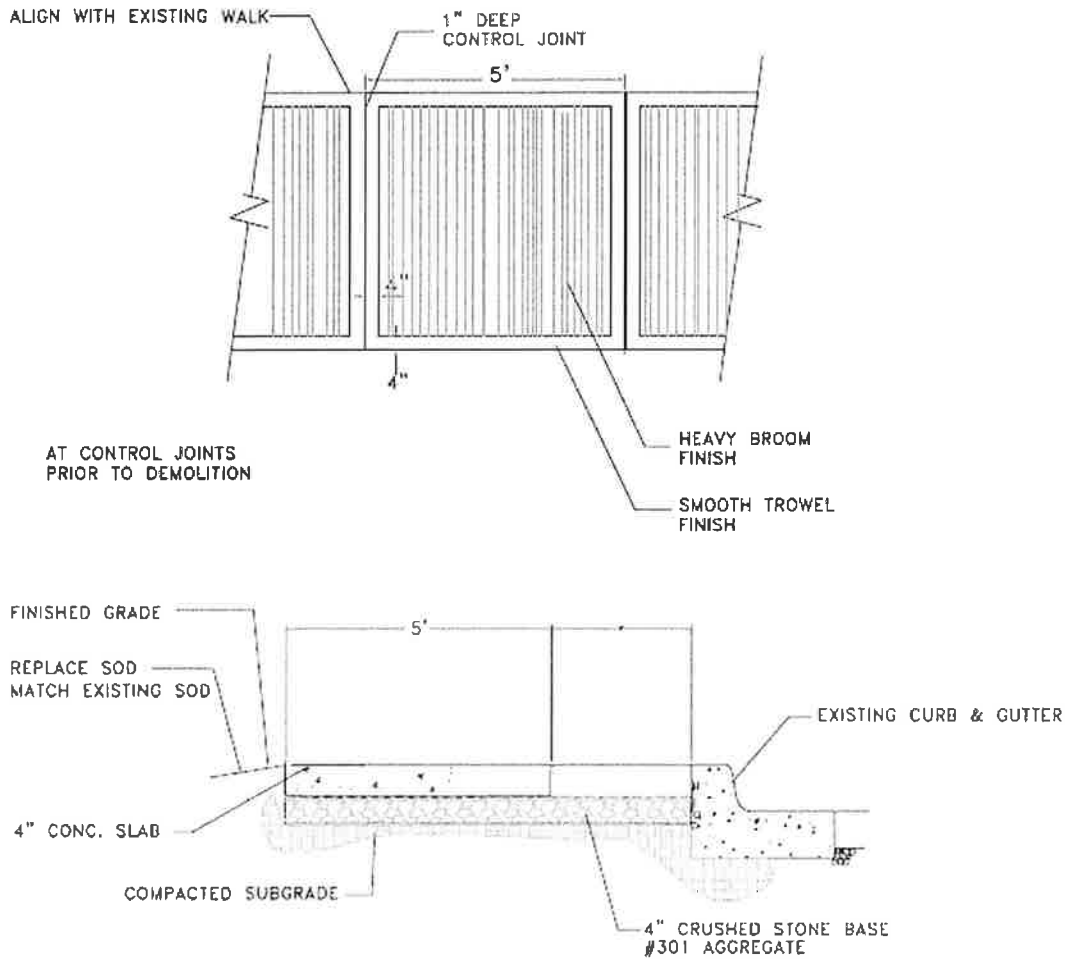


Figure 2.11 Sidewalk Specifications

2.11.7. The cross slope of a sidewalk shall be a minimum of 0.25 inch per foot and a maximum of 0.5 inch per foot sloping to the street. The planting strip between the curb and the edge of the sidewalk shall have minimum cross slopes as provided in Table 2.11. In cases of extreme topography, the City Engineer may permit greater cross slopes within planting strips only. Adjustments to such cross slopes should be gradual to avoid abrupt grade changes.

Table 2.11 Planting Strip Slope Requirements			
Centerline Grade of Street	1 -4%	4.1- 8%	Greater than 8%
Planting Strip Cross Slope	0.5" inch per ft	1 inch per ft	1 ½" inch per ft

§2.12. Drainage and Grading

- 2.12.1. The finished slope along the bottom centerline of any lot drainage easement shall not be less than one (1) percent.
- 2.12.2. The side slopes of any lot drainage easement shall not be greater than 4 (horizontal) to 1 (vertical).

§2.13. Utilities

- 2.13.1. Water, gas, and sanitary mains, and appurtenances if applicable, will be constructed prior to installation of paving with all mains being extended for service to all lots so that no subsequent cutting of pavement will be required to permit service to all lots.
- 2.13.2. Permits for utility installation on existing or proposed rights-of-way. Any person, firm, or corporation wishing to place a utility facility within a street right-of-way shall apply to the agency controlling said street on the proper prescribed utility permit forms.
- 2.13.3. Location and Trench Backfill. Utilities shall generally be located a minimum of six (6) feet from the edge of existing or proposed paving. In areas where location less than the minimum is approved, incompressible backfill material (sand, slag, crushed stone or gravel) shall be required.
- 2.13.4. Backfill for utilities crossing any proposed roadway section shall conform to the ALDOT Standard Specifications for Highways and Bridges in force at the time of installation.
- 2.13.5. Incompressible backfill material may be used to backfill such open trenches in lieu of compacted backfill material. The material used shall be of a type approved by the City Engineer for this purpose.
- 2.13.6. All open cuts, under existing paving shall be backfilled with compacted stone. The stone used must be of a type approved by the City Engineer for this purpose. A permanent pavement patch shall be in accordance with the typical repair section made available by the City Engineer.
- 2.13.7. Cased and Uncased Construction. All polyvinyl chloride (PVC) pipe used for water lines shall be encased with a casing approved by the Public Works Director, City Engineer or authorized agent.

§2.14. Road and Street Inspection and Testing

- 2.14.1. Notification of Work. It shall be the duty and responsibility of the developer or contractor to give notification to the City Engineer, twenty-four (24) hours prior to starting each phase of construction and to notify the City Engineer the day work is resumed after a delay for any reason. This includes all phases of construction, clearing, grading, drainage, gutters, inlets, base, surfacing and any work that pertains to streets or development. Failure to notify as specified may be grounds for non-acceptance.
- 2.14.2. Inspection. The contractor and developer shall be notified of any unacceptable work found by the City Engineer or authorized agent.
- 2.14.3. Testing. Testing shall be at the cost of the developer and shall be by a testing company approved by the City.
- 2.14.4. Embankment density tests shall be required by the City Engineer or authorized agent. Subgrade and base minimum density testing shall include one test representative of each 1000 linear feet of each street or portion thereof. Additional tests may be required by the City Engineer or authorized agent.
- 2.14.5. See §2.5 regarding density requirements.



**KADCO Homes
Poe Drive Sidewalk and Roadway**

**** Updated - June 2018**

Curb and Gutter	788 LF	\$	21.00	\$	16,548.00
4" Thick Sidewalk (4'-0" Wide)	360.0 SY	\$	85.00	\$	30,600.00
6" Thick Conc. For Driveways with Ramps	195.1 SY	\$	105.00	\$	20,485.50
Removal and Saw Cut Asphalt/Drives	95.1 SY	\$	50.00	\$	4,755.00
Asphalt Patch Stone and Binder	325.0 SY	\$	40.00	\$	13,000.00
ADA Ramps at Overton	2.0 Ea	\$	2,400.00	\$	4,800.00
				<u>\$</u>	<u>4,800.00</u>

Storm Drainage

New Double Wing Inlet	1 Ea	\$	3,500.00	\$	3,500.00
New Trench Drain in Sidewalk	1 Ea	\$	2,500.00	\$	2,500.00

Landscape / Sod	1 LS	\$	7,500.00	\$	7,500.00
Tree Removal	5 Ea	\$	850.00	\$	4,250.00
Remove and Replace Mailboxes	15 Ea	\$	200.00	\$	3,000.00
Erosion Control		\$		\$	10,000.00
Traffic Control		\$		\$	5,000.00

Construction Stakeout		\$		\$	4,500.00
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Engineers Estimate for Total Project Cost	\$ 130,438.50
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*** Estimate is based on concept design and published maps. Costs are taken from completed projects with similar scope of work. All costs are intended for planning and budget.*

A full engineering design will be required for a construction estimate and Plans.

AIA Document A312™ – 2010

Performance Bond

CONTRACTOR:
(Name, legal status and address)

SURETY:
(Name, legal status and principal place of business)

OWNER:
(Name, legal status and address)

CONSTRUCTION CONTRACT

Date:
Amount: \$
Description:
(Name and location)

BOND

Date:
(Not earlier than Construction Contract Date)

Amount: \$
Modifications to this Bond: None See Section 16

CONTRACTOR AS PRINCIPAL
Company: *(Corporate Seal)*

SURETY
Company: *(Corporate Seal)*

Signature: _____
Name and Title:

Signature: _____
Name and Title:

(Any additional signatures appear on the last page of this Performance Bond.)

(FOR INFORMATION ONLY — Name, address and telephone)

AGENT or BROKER:

OWNER'S REPRESENTATIVE:
(Architect, Engineer or other party:)

ADDITIONS AND DELETIONS:

The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

Any singular reference to Contractor, Surety, Owner or other party shall be considered plural where applicable.

EXHIBIT 5

Init.

§ 1 The Contractor and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors and assigns to the Owner for the performance of the Construction Contract, which is incorporated herein by reference.

§ 2 If the Contractor performs the Construction Contract, the Surety and the Contractor shall have no obligation under this Bond, except when applicable to participate in a conference as provided in Section 3.

§ 3 If there is no Owner Default under the Construction Contract, the Surety's obligation under this Bond shall arise after

- .1 the Owner first provides notice to the Contractor and the Surety that the Owner is considering declaring a Contractor Default. Such notice shall indicate whether the Owner is requesting a conference among the Owner, Contractor and Surety to discuss the Contractor's performance. If the Owner does not request a conference, the Surety may, within five (5) business days after receipt of the Owner's notice, request such a conference. If the Surety timely requests a conference, the Owner shall attend. Unless the Owner agrees otherwise, any conference requested under this Section 3.1 shall be held within ten (10) business days of the Surety's receipt of the Owner's notice. If the Owner, the Contractor and the Surety agree, the Contractor shall be allowed a reasonable time to perform the Construction Contract, but such an agreement shall not waive the Owner's right, if any, subsequently to declare a Contractor Default;
- .2 the Owner declares a Contractor Default, terminates the Construction Contract and notifies the Surety; and
- .3 the Owner has agreed to pay the Balance of the Contract Price in accordance with the terms of the Construction Contract to the Surety or to a contractor selected to perform the Construction Contract.

§ 4 Failure on the part of the Owner to comply with the notice requirement in Section 3.1 shall not constitute a failure to comply with a condition precedent to the Surety's obligations, or release the Surety from its obligations, except to the extent the Surety demonstrates actual prejudice.

§ 5 When the Owner has satisfied the conditions of Section 3, the Surety shall promptly and at the Surety's expense take one of the following actions:

§ 5.1 Arrange for the Contractor, with the consent of the Owner, to perform and complete the Construction Contract;

§ 5.2 Undertake to perform and complete the Construction Contract itself, through its agents or independent contractors;

§ 5.3 Obtain bids or negotiated proposals from qualified contractors acceptable to the Owner for a contract for performance and completion of the Construction Contract, arrange for a contract to be prepared for execution by the Owner and a contractor selected with the Owner's concurrence, to be secured with performance and payment bonds executed by a qualified surety equivalent to the bonds issued on the Construction Contract, and pay to the Owner the amount of damages as described in Section 7 in excess of the Balance of the Contract Price incurred by the Owner as a result of the Contractor Default; or

§ 5.4 Waive its right to perform and complete, arrange for completion, or obtain a new contractor and with reasonable promptness under the circumstances:

- .1 After investigation, determine the amount for which it may be liable to the Owner and, as soon as practicable after the amount is determined, make payment to the Owner; or
- .2 Deny liability in whole or in part and notify the Owner, citing the reasons for denial.

§ 6 If the Surety does not proceed as provided in Section 5 with reasonable promptness, the Surety shall be deemed to be in default on this Bond seven days after receipt of an additional written notice from the Owner to the Surety demanding that the Surety perform its obligations under this Bond, and the Owner shall be entitled to enforce any remedy available to the Owner. If the Surety proceeds as provided in Section 5.4, and the Owner refuses the payment or the Surety has denied liability, in whole or in part, without further notice the Owner shall be entitled to enforce any remedy available to the Owner.

§ 7 If the Surety elects to act under Section 5.1, 5.2 or 5.3, then the responsibilities of the Surety to the Owner shall not be greater than those of the Contractor under the Construction Contract, and the responsibilities of the Owner to the Surety shall not be greater than those of the Owner under the Construction Contract. Subject to the commitment by the Owner to pay the Balance of the Contract Price, the Surety is obligated, without duplication, for

- .1 the responsibilities of the Contractor for correction of defective work and completion of the Construction Contract;
- .2 additional legal, design professional and delay costs resulting from the Contractor's Default, and resulting from the actions or failure to act of the Surety under Section 5; and
- .3 liquidated damages, or if no liquidated damages are specified in the Construction Contract, actual damages caused by delayed performance or non-performance of the Contractor.

§ 8 If the Surety elects to act under Section 5.1, 5.3 or 5.4, the Surety's liability is limited to the amount of this Bond.

§ 9 The Surety shall not be liable to the Owner or others for obligations of the Contractor that are unrelated to the Construction Contract, and the Balance of the Contract Price shall not be reduced or set off on account of any such unrelated obligations. No right of action shall accrue on this Bond to any person or entity other than the Owner or its heirs, executors, administrators, successors and assigns.

§ 10 The Surety hereby waives notice of any change, including changes of time, to the Construction Contract or to related subcontracts, purchase orders and other obligations.

§ 11 Any proceeding, legal or equitable, under this Bond may be instituted in any court of competent jurisdiction in the location in which the work or part of the work is located and shall be instituted within two years after a declaration of Contractor Default or within two years after the Contractor ceased working or within two years after the Surety refuses or fails to perform its obligations under this Bond, whichever occurs first. If the provisions of this Paragraph are void or prohibited by law, the minimum period of limitation available to sureties as a defense in the jurisdiction of the suit shall be applicable.

§ 12 Notice to the Surety, the Owner or the Contractor shall be mailed or delivered to the address shown on the page on which their signature appears.

§ 13 When this Bond has been furnished to comply with a statutory or other legal requirement in the location where the construction was to be performed, any provision in this Bond conflicting with said statutory or legal requirement shall be deemed deleted herefrom and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein. When so furnished, the intent is that this Bond shall be construed as a statutory bond and not as a common law bond.

§ 14 Definitions

§ 14.1 **Balance of the Contract Price.** The total amount payable by the Owner to the Contractor under the Construction Contract after all proper adjustments have been made, including allowance to the Contractor of any amounts received or to be received by the Owner in settlement of insurance or other claims for damages to which the Contractor is entitled, reduced by all valid and proper payments made to or on behalf of the Contractor under the Construction Contract.

§ 14.2 **Construction Contract.** The agreement between the Owner and Contractor identified on the cover page, including all Contract Documents and changes made to the agreement and the Contract Documents.

§ 14.3 **Contractor Default.** Failure of the Contractor, which has not been remedied or waived, to perform or otherwise to comply with a material term of the Construction Contract.

§ 14.4 **Owner Default.** Failure of the Owner, which has not been remedied or waived, to pay the Contractor as required under the Construction Contract or to perform and complete or comply with the other material terms of the Construction Contract.

§ 14.5 **Contract Documents.** All the documents that comprise the agreement between the Owner and Contractor.

§ 15 If this Bond is issued for an agreement between a Contractor and subcontractor, the term Contractor in this Bond shall be deemed to be Subcontractor and the term Owner shall be deemed to be Contractor.

§ 16 Modifications to this bond are as follows:

(Space is provided below for additional signatures of added parties, other than those appearing on the cover page.)

CONTRACTOR AS PRINCIPAL

SURETY

Company: _____ *(Corporate Seal)*

Company: _____ *(Corporate Seal)*

Signature: _____
Name and Title: _____
Address: _____

Signature: _____
Name and Title: _____
Address: _____

AIA[®] Document A312[™] – 2010

Payment Bond

CONTRACTOR:
(Name, legal status and address)

SURETY:
(Name, legal status and principal place of business)

OWNER:
(Name, legal status and address)

CONSTRUCTION CONTRACT

Date:
Amount: \$
Description:
(Name and location)

BOND
Date:
(Not earlier than Construction Contract Date)

Amount: \$
Modifications to this Bond: None See Section 18

CONTRACTOR AS PRINCIPAL **SURETY**
Company: *(Corporate Seal)* Company: *(Corporate Seal)*

Signature: _____ Signature: _____
Name and Name and
Title: Title:
(Any additional signatures appear on the last page of this Payment Bond.)

(FOR INFORMATION ONLY — Name, address and telephone)
AGENT or BROKER: **OWNER'S REPRESENTATIVE:**
(Architect, Engineer or other party.)

ADDITIONS AND DELETIONS:
The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

Any singular reference to Contractor, Surety, Owner or other party shall be considered plural where applicable.

EXHIBIT 6

§ 1 The Contractor and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors and assigns to the Owner to pay for labor, materials and equipment furnished for use in the performance of the Construction Contract, which is incorporated herein by reference, subject to the following terms.

§ 2 If the Contractor promptly makes payment of all sums due to Claimants, and defends, indemnifies and holds harmless the Owner from claims, demands, liens or suits by any person or entity seeking payment for labor, materials or equipment furnished for use in the performance of the Construction Contract, then the Surety and the Contractor shall have no obligation under this Bond.

§ 3 If there is no Owner Default under the Construction Contract, the Surety's obligation to the Owner under this Bond shall arise after the Owner has promptly notified the Contractor and the Surety (at the address described in Section 13) of claims, demands, liens or suits against the Owner or the Owner's property by any person or entity seeking payment for labor, materials or equipment furnished for use in the performance of the Construction Contract and tendered defense of such claims, demands, liens or suits to the Contractor and the Surety.

§ 4 When the Owner has satisfied the conditions in Section 3, the Surety shall promptly and at the Surety's expense defend, indemnify and hold harmless the Owner against a duly tendered claim, demand, lien or suit.

§ 5 The Surety's obligations to a Claimant under this Bond shall arise after the following:

§ 5.1 Claimants, who do not have a direct contract with the Contractor,

- .1 have furnished a written notice of non-payment to the Contractor, stating with substantial accuracy the amount claimed and the name of the party to whom the materials were, or equipment was, furnished or supplied or for whom the labor was done or performed, within ninety (90) days after having last performed labor or last furnished materials or equipment included in the Claim; and
- .2 have sent a Claim to the Surety (at the address described in Section 13).

§ 5.2 Claimants, who are employed by or have a direct contract with the Contractor, have sent a Claim to the Surety (at the address described in Section 13).

§ 6 If a notice of non-payment required by Section 5.1.1 is given by the Owner to the Contractor, that is sufficient to satisfy a Claimant's obligation to furnish a written notice of non-payment under Section 5.1.1.

§ 7 When a Claimant has satisfied the conditions of Sections 5.1 or 5.2, whichever is applicable, the Surety shall promptly and at the Surety's expense take the following actions:

§ 7.1 Send an answer to the Claimant, with a copy to the Owner, within sixty (60) days after receipt of the Claim, stating the amounts that are undisputed and the basis for challenging any amounts that are disputed; and

§ 7.2 Pay or arrange for payment of any undisputed amounts.

§ 7.3 The Surety's failure to discharge its obligations under Section 7.1 or Section 7.2 shall not be deemed to constitute a waiver of defenses the Surety or Contractor may have or acquire as to a Claim, except as to undisputed amounts for which the Surety and Claimant have reached agreement. If, however, the Surety fails to discharge its obligations under Section 7.1 or Section 7.2, the Surety shall indemnify the Claimant for the reasonable attorney's fees the Claimant incurs thereafter to recover any sums found to be due and owing to the Claimant.

§ 8 The Surety's total obligation shall not exceed the amount of this Bond, plus the amount of reasonable attorney's fees provided under Section 7.3, and the amount of this Bond shall be credited for any payments made in good faith by the Surety.

§ 9 Amounts owed by the Owner to the Contractor under the Construction Contract shall be used for the performance of the Construction Contract and to satisfy claims, if any, under any construction performance bond. By the Contractor furnishing and the Owner accepting this Bond, they agree that all funds earned by the Contractor in the performance of the Construction Contract are dedicated to satisfy obligations of the Contractor and Surety under this Bond, subject to the Owner's priority to use the funds for the completion of the work.

§ 10 The Surety shall not be liable to the Owner, Claimants or others for obligations of the Contractor that are unrelated to the Construction Contract. The Owner shall not be liable for the payment of any costs or expenses of any Claimant under this Bond, and shall have under this Bond no obligation to make payments to, or give notice on behalf of, Claimants or otherwise have any obligations to Claimants under this Bond.

§ 11 The Surety hereby waives notice of any change, including changes of time, to the Construction Contract or to related subcontracts, purchase orders and other obligations.

§ 12 No suit or action shall be commenced by a Claimant under this Bond other than in a court of competent jurisdiction in the state in which the project that is the subject of the Construction Contract is located or after the expiration of one year from the date (1) on which the Claimant sent a Claim to the Surety pursuant to Section 5.1.2 or 5.2, or (2) on which the last labor or service was performed by anyone or the last materials or equipment were furnished by anyone under the Construction Contract, whichever of (1) or (2) first occurs. If the provisions of this Paragraph are void or prohibited by law, the minimum period of limitation available to sureties as a defense in the jurisdiction of the suit shall be applicable.

§ 13 Notice and Claims to the Surety, the Owner or the Contractor shall be mailed or delivered to the address shown on the page on which their signature appears. Actual receipt of notice or Claims, however accomplished, shall be sufficient compliance as of the date received.

§ 14 When this Bond has been furnished to comply with a statutory or other legal requirement in the location where the construction was to be performed, any provision in this Bond conflicting with said statutory or legal requirement shall be deemed deleted herefrom and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein. When so furnished, the intent is that this Bond shall be construed as a statutory bond and not as a common law bond.

§ 15 Upon request by any person or entity appearing to be a potential beneficiary of this Bond, the Contractor and Owner shall promptly furnish a copy of this Bond or shall permit a copy to be made.

§ 16 Definitions

§ 16.1 **Claim.** A written statement by the Claimant including at a minimum:

- .1 the name of the Claimant;
- .2 the name of the person for whom the labor was done, or materials or equipment furnished;
- .3 a copy of the agreement or purchase order pursuant to which labor, materials or equipment was furnished for use in the performance of the Construction Contract;
- .4 a brief description of the labor, materials or equipment furnished;
- .5 the date on which the Claimant last performed labor or last furnished materials or equipment for use in the performance of the Construction Contract;
- .6 the total amount earned by the Claimant for labor, materials or equipment furnished as of the date of the Claim;
- .7 the total amount of previous payments received by the Claimant; and
- .8 the total amount due and unpaid to the Claimant for labor, materials or equipment furnished as of the date of the Claim.

§ 16.2 **Claimant.** An individual or entity having a direct contract with the Contractor or with a subcontractor of the Contractor to furnish labor, materials or equipment for use in the performance of the Construction Contract. The term Claimant also includes any individual or entity that has rightfully asserted a claim under an applicable mechanic's lien or similar statute against the real property upon which the Project is located. The intent of this Bond shall be to include without limitation in the terms "labor, materials or equipment" that part of water, gas, power, light, heat, oil, gasoline, telephone service or rental equipment used in the Construction Contract, architectural and engineering services required for performance of the work of the Contractor and the Contractor's subcontractors, and all other items for which a mechanic's lien may be asserted in the jurisdiction where the labor, materials or equipment were furnished.

§ 16.3 **Construction Contract.** The agreement between the Owner and Contractor identified on the cover page, including all Contract Documents and all changes made to the agreement and the Contract Documents.

§ 16.4 **Owner Default.** Failure of the Owner, which has not been remedied or waived, to pay the Contractor as required under the Construction Contract or to perform and complete or comply with the other material terms of the Construction Contract.

§ 16.5 **Contract Documents.** All the documents that comprise the agreement between the Owner and Contractor.

§ 17 If this Bond is issued for an agreement between a Contractor and subcontractor, the term Contractor in this Bond shall be deemed to be Subcontractor and the term Owner shall be deemed to be Contractor.

§ 18 Modifications to this bond are as follows:

(Space is provided below for additional signatures of added parties, other than those appearing on the cover page.)

CONTRACTOR AS PRINCIPAL

SURETY

Company: _____ *(Corporate Seal)*

Company: _____ *(Corporate Seal)*

Signature: _____
Name and Title: _____
Address: _____

Signature: _____
Name and Title: _____
Address: _____

RESOLUTION NUMBER 5123

A RESOLUTION IN SUPPORT OF 2019 LEGISLATION REGARDING TIER I AND TIER II OF THE EMPLOYEE RETIREMENT SYSTEM SIMILAR IN HOUSE BILL NUMBER 344 PROPOSED IN THE 2018 REGULAR SESSION OF THE ALABAMA LEGISLATURE

WHEREAS, Section 36-27-605, *Code of Alabama, 1975* which separates all employees hired after January 1, 2013 into “Tier II” of Employee Retirement System (“ERS”); and

WHEREAS, the Tier I and II separation created by Section 36-27-605, *Code of Alabama, 1975*, has proven detrimental to the City in the need to retain employees as the Tier 2 retirement benefits are not attractive to younger/newer employees; and

WHEREAS, the City of Vestavia Hills has recognized the need for retainage and longevity of employees, especially Police and Fire Departments; and

WHEREAS, House Bill 344 was filed in the 2018 Regular Session of the Alabama Legislature which included, but is not limited to the following:

- Allowed municipalities to allow employees to change to Tier I benefits if the municipality passes a Resolution to allow said option; and
- If the municipalities elected to opt in, HB 344 provides Tier II employees under the ERS Tier I benefits when that employee is eligible to retire; and
- The cost of the change in benefits is covered by an increase in payroll contributions by the employee: General employees contribution will be 7.5% and public safety employees will pay 8.5%; and
- If the municipality elects to allow the opt in, the change will be made effective the next fiscal year following receipt by ERS; and
- Said opt in is irrevocable once accepted by the municipality; and

WHEREAS, a copy of proposed House Bill 344, 2018 Regular Session of the Alabama Legislature is marked as Exhibit A, attached to and incorporated into this Resolution Number 5123 as if written fully therein. The proposed Bill was passed the House during the 2018 Session, but failed in the Senate prior to the end of the Session; and

WHEREAS, proponents of the proposed House Bill 344 have expressed intentions of prefiling another Bill for the 2019 Regular Session of the Alabama Legislature which basically resembles HB 344; and

WHEREAS, the City Manager has reviewed the information from personnel regarding proposed HB 344 and has recommended that the City support the passage of the legislation; and

WHEREAS, the Mayor and City Council have reviewed the proposed House Bill 344 from the 2018 Alabama Legislative Session and feel it is in the best public interest to support the passage of the legislation that will be pre-filed in the 2019 Legislative Session and join together to urge the legislators to stand in support of proposed legislation.

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

1. The Mayor and City Council of the City of Vestavia Hills urges the congressional delegation to support all efforts to pass and enact proposed 2019 version of the previous Session House Bill 344 of the 2018 Legislative Session; and
2. This Resolution Number 5123 shall be signed and a copy filed with each Representative and Senator representing this district; and
3. This Resolution Number 5123 shall become effective immediately upon adoption and approval.

DONE, ORDERED, ADOPTED and APPROVED this the 11th day of February, 2019.

Ashley C. Curry
Mayor

ATTESTED BY:

Rebecca Leavings
City Clerk

1 190679-2:n:01/30/2018:KBH*/cr LSA2018-541R1
2
3
4
5
6
7

8 SYNOPSIS: Under existing law, a local governing body
9 or local public organization can elect to have its
10 officers and employees participate in the
11 Employees' Retirement System.

12 This bill would provide that a local
13 employer participating in the Employees' Retirement
14 System could elect to provide the same retirement
15 benefits given to Tier I plan members to its Tier
16 II plan members.

17
18 A BILL
19 TO BE ENTITLED
20 AN ACT
21

22 To add Section 36-27-6.5 to the Code of Alabama
23 1975, relating to retirement for members of the Employees'
24 Retirement System; to provide that a local employer
25 participating in the ERS could elect to provide the same
26 retirement benefits given to Tier I plan members to its Tier
27 II plan members.

1 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

2 Section 1. Section 36-27-6.5 is added to the Code of
3 Alabama 1975, to read as follows:

4 §36-27-6.5.

5 (a) Any employer participating in the Employees'
6 Retirement System of Alabama pursuant to Section 36-27-6, may,
7 by adoption of a resolution within 24 months of the effective
8 date of the act adding this section, elect to provide to its
9 Tier II plan members the same retirement benefits provided to
10 Tier I plan members. Such election shall be irrevocable and
11 shall be effective at the beginning of the fiscal year
12 following the date the resolution is received by the ERS.

13 (b) Beginning in the month the election becomes
14 effective, Tier II plan members shall contribute to the
15 Employees' Retirement System seven and one-half percent of
16 their earnable compensation and Tier II plan members who are
17 firefighters, law enforcement officers, or correctional
18 officers, as defined in Section 36-27-59(a), shall contribute
19 to the Employees' Retirement System eight and one-half percent
20 of their earnable compensation.

21 Section 2. This act shall become effective
22 immediately following its passage and approval by the
23 Governor, or its otherwise becoming law.

1 HB344
2 190679-2
3 By Representatives Ledbetter, Pettus, Whorton (R), Ainsworth,
4 Shedd, Hanes and Lovvorn
5 RFD: Ways and Means General Fund
6 First Read: 01-FEB-18

RESOLUTION NUMBER 5124

A RESOLUTION IN SUPPORT OF PROTECTING LOCAL CONTROL OVER PUBLIC STREETS AND PUBLIC ASSET AND A CALL ON CONGRESS TO REAFFIRM SUCH LOCAL CONTROL BY REVERSING RECENT FCC ACTION RELATED TO WIRELESS FACILITIES BY ENACTING H.R. 530.

WHEREAS local governments have long been the stewards of local public streets and public assets (such as street lighting) vital to ensure the free flow people and goods and to maintain vibrant communities; and

WHEREAS local governments have long advocated for universal access to reliable, high-speed broadband services, as these services are critical for the delivery of education, economic development, employment, and a variety of essential services necessary for success and progress in the 21st century; and

WHEREAS, local governments have been leaders in developing innovative solutions for ensuring reliable, high-speed broadband wireline and wireless services are widely available in their communities through their management of public streets and of other public assets in a manner that balances the competing interests and needs of various constituents; and

WHEREAS, by means of orders issued on August 2, 2018 and September 26, 2018, the Federal Communications Commission took unprecedented, sweeping action to prevent local governments from effectively managing public assets and to severely compromise their ability manage the public streets effectively and equitably, taking into account considerations for public safety, public utility services such as water, sewer, and electricity, the travelling public, environmental concerns, and economic development; and further effectively requires local taxpayers to subsidize use of public streets and other public assets by the wireless industry; and

WHEREAS, the orders also adversely affect the ability of locally owned utility companies to deliver services safely and cost-effectively; and

WHEREAS, Representative Anna Eshoo has introduced H.R. 530, legislation to overturn the FCC's actions of August 2 and September 26, 2018.

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

1. The Mayor and City Council of the City of Vestavia Hills, Alabama, thanks Congresswoman Eshoo for her leadership and calls on Congress to enact and President

Trump to sign H.R. 530, or similar legislation to invalidate the recent actions taken by the Federal Communications Commission; and

2. That a copy of this resolution be forwarded to Representative Gary Palmer and Senators Richard Shelby and Doug Jones with a request on behalf of the City of Vestavia Hills that they support H.R. 530 or similar legislation; and
3. This Resolution Number 5124 shall become effective immediately upon adoption and approval.

ADOPTED and APPROVED this the 11th day of February, 2019.

Ashley C. Curry
Mayor

ATTESTED BY:

Rebecca Leavings
City Clerk

RESOLUTION NUMBER 5125

**A RESOLUTION RESCHEDULING REGULAR MEETINGS AND/OR
WORK SESSIONS OF THE VESTAVIA HILLS CITY COUNCIL**

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

1. The regularly scheduled meeting of the Vestavia Hills City Council scheduled for March 25, 2019 is hereby rescheduled for Monday, March 18, 2019 beginning at 6 PM on observance of the Spring Break holidays; and
2. The regularly scheduled work session of the Vestavia Hills City Council scheduled for March 18, 2019 at 6 PM is hereby rescheduled for Monday, March 18, 2019 beginning at 5 PM; and
3. This Resolution Number 5125 shall become effective immediately upon adoption and approval.

ADOPTED and APPROVED this the 11th day of February, 2019.

Ashley C. Curry
Mayor

ATTESTED BY:

Rebecca Leavings
City Clerk

RESOLUTION NUMBER 5126

A RESOLUTION EXPRESSING SUPPORT FOR THE ALABAMA LEGISLATURE DURING THE 2019 REGULAR SESSION TO ADD AN ADDITIONAL MOTOR FUEL EXCISE TAX AND REQUESTING THE LEGISLATORS TO SUPPORT SAID LEGISLATION AND TO PROVIDE FOR AN ALTERNATE FORMULA FOR DISTRIBUTION OF REVENUES TO MORE ADEQUATELY REPRESENT THE DEMOGRAPHICS OF CITIES AND TOWNS IN THE STATE OF ALABAMA

WHEREAS, the need for additional infrastructure funding has been debated during the past two legislative sessions and continued to be studied by the Joint Legislative Infrastructure Study Task Force since the conclusion of the 2018 Regular Session of the Alabama Legislature; and

WHEREAS, Task Force members and the City of Vestavia Hills agree that these additional revenues are needed to address infrastructure demands for ongoing maintenance as well as expansion of current roadways; and

WHEREAS, the current distribution formula for fuel revenues was implemented in the 1960's and does not reflect the 2019 demographics of the population of the State of Alabama; and

WHEREAS, cities and towns are where 65 percent of Alabama's citizens live, work, shop and find entertainment, yet the current proposals only provide a 10 percent distribution to municipalities; and

WHEREAS, the Mayor and City Council of the City of Vestavia Hills, Alabama feel it is in the best public interest to join with other cities and towns to urge the Jefferson County Delegation and all Alabama Legislators to support an additional motor fuel tax, a license fee on hybrid and electric vehicles and to urge legislators to develop a formula for distribution of fuel revenues to more adequately mirror the demographics of the State of Alabama and provide equitable distribution of said municipal revenues more in keeping with current Alabama demographics.

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

1. The Mayor and City Council join with other cities and towns in the State of Alabama to urge the Jefferson County delegation as well as all other Alabama Legislators to support an additional motor fuel excise tax; and

2. The Mayor and City Council further urges the Jefferson County Delegation and all Alabama Legislators to develop a more equitable formula to distribute fuel revenues to more adequately mirror the demographics of the State of Alabama to provide a more equitable distribution of said revenues to cities and towns within the State; and
3. This Resolution Number 5126 shall become effective immediately upon approval and adoption.

ADOPTED and APPROVED this the 11th day of February, 2019.

Ashley C. Curry
Mayor

ATTESTED BY:

Rebecca Leavings
City Clerk

RESOLUTION NUMBER 5127

A RESOLUTION EXPRESSING SUPPORT AND URGING LEGISLATORS TO ADD PLACEMENT OF MUNICIPAL EMPLOYEES UNDER THE PROTECTION OF MUNICIPAL LIABILITY CAPS FOR THE 2019 REGULAR SESSION OF THE ALABAMA LEGISLATURE

WHEREAS, the City of Vestavia Hills, along with other cities and towns, have experienced a major shift in municipal litigation with lawsuits naming municipal employees as co-defendants and lawyers including municipal employees as co-defendants when suing on behalf of a plaintiff by naming the employee from actions arising from the scope of his or her employment; and

WHEREAS, in several cases, state courts have ruled these employees are exposed to liability through actions within their scope of his or her employment that doesn't fall within the \$100,000 existing municipal cap; and

WHEREAS, these actions have jeopardized the financial security of the City's municipal employees; and

WHEREAS, the Alabama League of Municipalities has identified the need for municipal employee liability caps as a priority for the 2019 Legislative Session and intends to pre-file legislation to place a cap on municipal employee liability; and

WHEREAS, the Mayor and the City Council feel it is in the best public interest to join with the League of Municipalities and other cities and towns to urge the Jefferson County Delegation and all Alabama Legislators to support and adopt the League's pre-filed legislation in the 2019 Regular Session of the Alabama Legislature in order to place municipal employees under the protection of municipal liability caps during the.

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

1. The Mayor and City Council hereby joins with the Alabama League of Municipalities and all other Alabama cities and towns and urge the Jefferson County Delegation, along with all other Alabama Legislators, to support and adopt the legislation to be filed by the Alabama League of Municipalities to place municipal employees under the protection of municipal liability caps for the financial security of the City's municipal employee; and

2. A copy of this Resolution Number 5127 shall be filed with the City's representatives and senator of the City's district; and
3. This Resolution Number 5127 shall become effective immediately upon adoption and approval.

ADOPTED and APPROVED this the 11th day of March, 2019.

Ashley C. Curry
Mayor

ATTESTED BY:

Rebecca Leavings
City Clerk

ORDINANCE NUMBER 2826

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-4 TO VESTAVIA HILLS B-2

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-4 (medium density residential district) to Vestavia Hills B-2 (general business district):

3945 Crosshaven Drive; 3955 and 3959 Wall Street
Village Gardens, Owner(s)

More Particularly Described as Follows:

Parcel I. A part of the South $\frac{1}{2}$ of the SE $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Section 15, Township 18 Range 2 West, more nearly described as follows: Begin 495 feet North of the SW corner for the point of beginning; thence run East 100 feet; thence run North 82.5 feet; thence run West 100 feet; thence run South 82.50 feet to the point of beginning. Situated in Jefferson County, Alabama.

Parcel II. A part of the South $\frac{1}{2}$ of the SE $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Section 15, Township 18 Range 2 West, more nearly described as follows: Begin 330 feet North of the SW corner thence run East 296 feet for the point of beginning; thence run North 82.5 feet; thence run east 100 feet; thence South 82.50 feet; thence West 100 feet to the point of beginning. Situated in Jefferson County, Alabama.

Parcel III. The East 190 feet of the North 82.5 feet of the South 495 feet of the West 396 feet of the SE $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Section 15, Township 18, Range 2 West, situated in Jefferson County, Alabama.

BE IT FURTHER ORDAINED, that said zoning is conditioned upon the following conditions:

1. Approval of zoning shall be based substantially upon the site plan presented;
2. No access to Wall Street;
3. Rezoning will not be file until property has been re-platted to a single lot, approved by the Vestavia Hills Planning and Zoning Commission, recorded with the Jefferson County Judge of Probate and a copy submitted to the Office of the City Clerk.

APPROVED and ADOPTED this the 25th day of February, 2019.

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 # 2826 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 25th day of February, 2019, 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 _____, 2019.

Rebecca Leavings
City Clerk

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

Date: **JANUARY 19, 2019**

- **CASE:** P-0119-02
- **REQUESTED ACTION:** Rezoning From Vestavia Hills R-4 to Vestavia Hills B-2
- **ADDRESS/LOCATION:** 3945 Crosshaven Dr. & 3955 Wall St.
- **APPLICANT/OWNER:** Village Gardens, LLC
- **REPRESENTING AGENT:** Todd Rogers
- **GENERAL DISCUSSION:** Applicant is seeking to rezone 3945 Crosshaven Dr. & 3955 Wall St. from Vestavia Hills R-4 to Vestavia Hills B-2 for a Chick-fil-A restaurant. A portion of the land of the land required is already zoned B-2 and is exempt from the request. The proposed request meets all the requirements for the B-2 zoning, including parking.

The project takes into account the expansion improvements on Crosshaven Dr. Additionally; CFA will be responsible for a left turn lane into the site as required by a traffic study. On the frontage facing Wall St., fencing and landscaping will buffer the edge with no access granted. Access to the Rite-Aid has been stubbed but will not be used at this time.

- **CAHABA HEIGHTS COMMUNITY PLAN:** The plan calls for Retail/Mixed Use for the frontage along Crosshaven Dr. and for High Density Residential along Wall St. The request is less intense than what the plan call for along Wall St. since there will be no access granted.
- **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. Gilchrist made a motion to recommend rezoning approval for 3945 Crosshaven Dr., 3955 & 3959 Wall St. from Vestavia Hills R-4 to Vestavia Hills B-2 with the following conditions:

1. Approval based on site plan presented;
2. No access will be granted to Wall St.;
3. Rezoning will not be final until property is replatted.

Additionally, the Commission suggests that the Design Review Board pay special attention the landscaping along Wall St. Second was by Mr. House. Motion was carried on a roll call; vote as follows:

Mr. Goodwin – yes
Mr. Romeo – yes
Mr. Weaver – yes
Mrs. Barnes – yes
Motion carried.

Mr. Gilchrist – yes
Mr. Larson – yes
Mr. House – yes



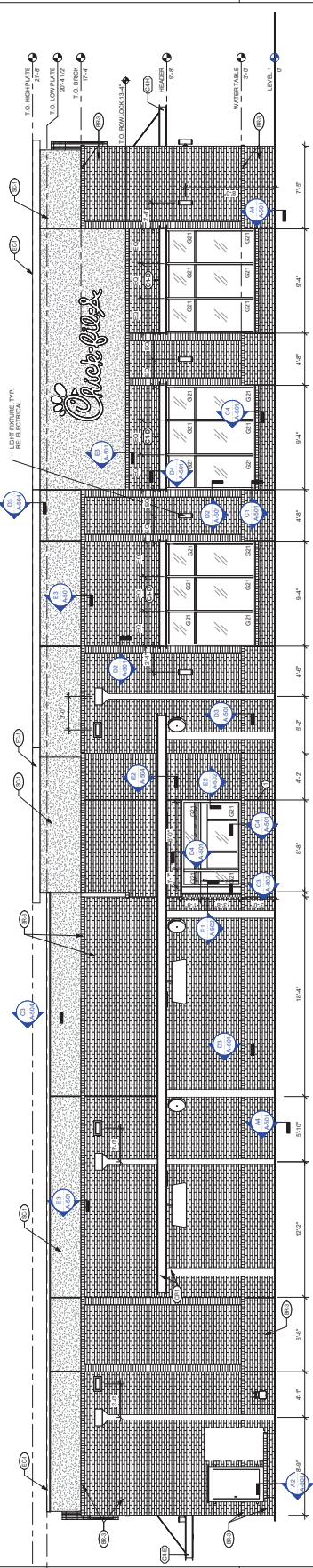
CHICK-FIL-A CAHABA HEIGHTS FSR

FSR#039748
 BUILDING TYPE: FSR
 PROJECT: CHICK-FIL-A
 DATE: 08/20/2024

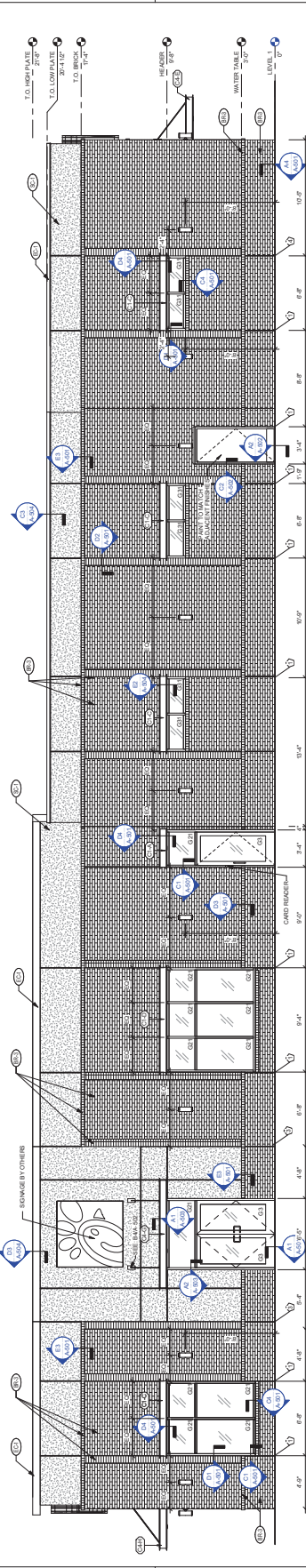
Ordinance No. 2826

PERMIT
 ATTACHED CANOPY SCHEDULE
 ATTACHED CANOPY SCHEDULE

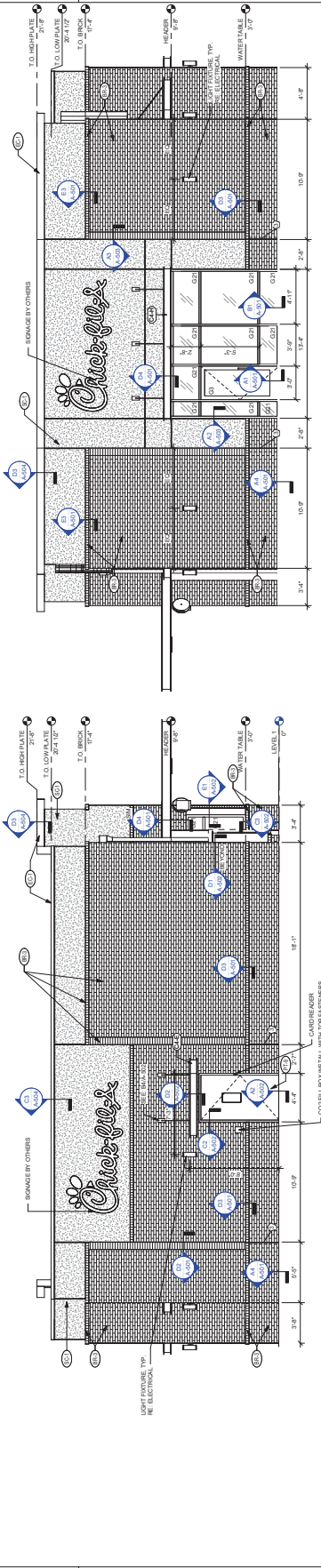
A-301



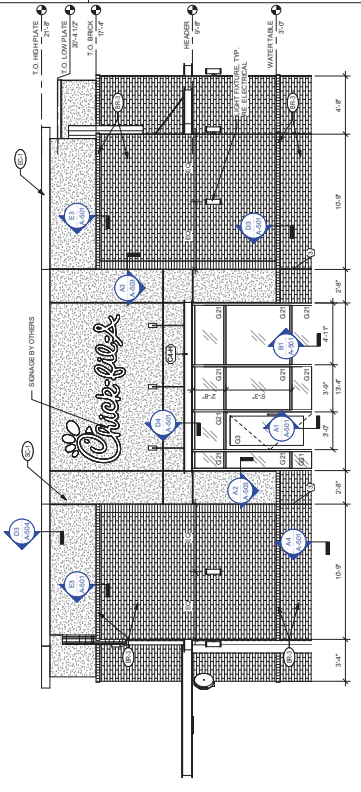
D1 EXTERIOR ELEVATION
10' x 17'



C1 EXTERIOR ELEVATION
10' x 17'



B3 EXTERIOR ELEVATION
10' x 17'



B1 EXTERIOR ELEVATION
10' x 17'

A31 APPROVED BRICK ALTERNATES
 (SEE NATIONAL ACCOUNTS LIST FOR CONTACT INFORMATION)

MARK	DESCRIPTION	MANUFACTURER	MODEL NAME	COLOR	NOTE
BR1	BRICK	AMERICAN BRICK	AMERICAN	REDFIELD	SEE APPROVED BRICK ALTERNATES
BR2	BRICK	AMERICAN BRICK	AMERICAN	REDFIELD	SEE APPROVED BRICK ALTERNATES
BR3	BRICK	AMERICAN BRICK	AMERICAN	REDFIELD	SEE APPROVED BRICK ALTERNATES
BR4	BRICK	AMERICAN BRICK	AMERICAN	REDFIELD	SEE APPROVED BRICK ALTERNATES
BR5	BRICK	AMERICAN BRICK	AMERICAN	REDFIELD	SEE APPROVED BRICK ALTERNATES
BR6	BRICK	AMERICAN BRICK	AMERICAN	REDFIELD	SEE APPROVED BRICK ALTERNATES
BR7	BRICK	AMERICAN BRICK	AMERICAN	REDFIELD	SEE APPROVED BRICK ALTERNATES
BR8	BRICK	AMERICAN BRICK	AMERICAN	REDFIELD	SEE APPROVED BRICK ALTERNATES
BR9	BRICK	AMERICAN BRICK	AMERICAN	REDFIELD	SEE APPROVED BRICK ALTERNATES
BR10	BRICK	AMERICAN BRICK	AMERICAN	REDFIELD	SEE APPROVED BRICK ALTERNATES

GLAZING SCHEDULE

MARK	THICKNESS	TYPE	TINT	REMARKS
G01	1/4"	TEMPERED	CLEAR	DUAL LAYER
G02	1/4"	LAMINATED	CLEAR	DUAL LAYER
G03	1/4"	TEMPERED	CLEAR	PROVIDE THERMALLY BROKEN AT EXTERIOR LOCATIONS
G04	1"	TEMPERED	ACID ETCHED - LOW-E	PROVIDE THERMALLY BROKEN AT EXTERIOR LOCATIONS

NOTES:
 1. ALL GLASS TO BE 60% UGLO.
 2. SHGC 0.38 CLEAR GLASS - TINTED GLASS WILL NOT BE ACCEPTED. ACTING VALUES PER LOCAL CODE REQUIREMENTS RE SPECIFICATIONS SECTION 08900.

A31 ATTACHED CANOPY SCHEDULE

MARK	DESCRIPTION	MANUFACTURER	MODEL NAME	COLOR	NOTE
CA1	ATTACHED CANOPY	AMERICAN CANOPY	AMERICAN	REDFIELD	SEE APPROVED BRICK ALTERNATES
CA2	ATTACHED CANOPY	AMERICAN CANOPY	AMERICAN	REDFIELD	SEE APPROVED BRICK ALTERNATES
CA3	ATTACHED CANOPY	AMERICAN CANOPY	AMERICAN	REDFIELD	SEE APPROVED BRICK ALTERNATES
CA4	ATTACHED CANOPY	AMERICAN CANOPY	AMERICAN	REDFIELD	SEE APPROVED BRICK ALTERNATES
CA5	ATTACHED CANOPY	AMERICAN CANOPY	AMERICAN	REDFIELD	SEE APPROVED BRICK ALTERNATES
CA6	ATTACHED CANOPY	AMERICAN CANOPY	AMERICAN	REDFIELD	SEE APPROVED BRICK ALTERNATES
CA7	ATTACHED CANOPY	AMERICAN CANOPY	AMERICAN	REDFIELD	SEE APPROVED BRICK ALTERNATES
CA8	ATTACHED CANOPY	AMERICAN CANOPY	AMERICAN	REDFIELD	SEE APPROVED BRICK ALTERNATES
CA9	ATTACHED CANOPY	AMERICAN CANOPY	AMERICAN	REDFIELD	SEE APPROVED BRICK ALTERNATES
CA10	ATTACHED CANOPY	AMERICAN CANOPY	AMERICAN	REDFIELD	SEE APPROVED BRICK ALTERNATES

FINISH SCHEDULE

MARK	DESCRIPTION	MANUFACTURER	MODEL NAME	COLOR	NOTE
FIN1	EXTERIOR PAINT	BEHR	PRIME	REDFIELD	SEE APPROVED BRICK ALTERNATES
FIN2	EXTERIOR PAINT	BEHR	PRIME	REDFIELD	SEE APPROVED BRICK ALTERNATES
FIN3	EXTERIOR PAINT	BEHR	PRIME	REDFIELD	SEE APPROVED BRICK ALTERNATES
FIN4	EXTERIOR PAINT	BEHR	PRIME	REDFIELD	SEE APPROVED BRICK ALTERNATES
FIN5	EXTERIOR PAINT	BEHR	PRIME	REDFIELD	SEE APPROVED BRICK ALTERNATES
FIN6	EXTERIOR PAINT	BEHR	PRIME	REDFIELD	SEE APPROVED BRICK ALTERNATES
FIN7	EXTERIOR PAINT	BEHR	PRIME	REDFIELD	SEE APPROVED BRICK ALTERNATES
FIN8	EXTERIOR PAINT	BEHR	PRIME	REDFIELD	SEE APPROVED BRICK ALTERNATES
FIN9	EXTERIOR PAINT	BEHR	PRIME	REDFIELD	SEE APPROVED BRICK ALTERNATES
FIN10	EXTERIOR PAINT	BEHR	PRIME	REDFIELD	SEE APPROVED BRICK ALTERNATES

PERMIT NOTES:
 1. ALL GLASS TO BE 60% UGLO.
 2. SHGC 0.38 CLEAR GLASS - TINTED GLASS WILL NOT BE ACCEPTED. ACTING VALUES PER LOCAL CODE REQUIREMENTS RE SPECIFICATIONS SECTION 08900.
 3. LOCAL CODE REQUIREMENTS RE SPECIFICATIONS SECTION 08900.

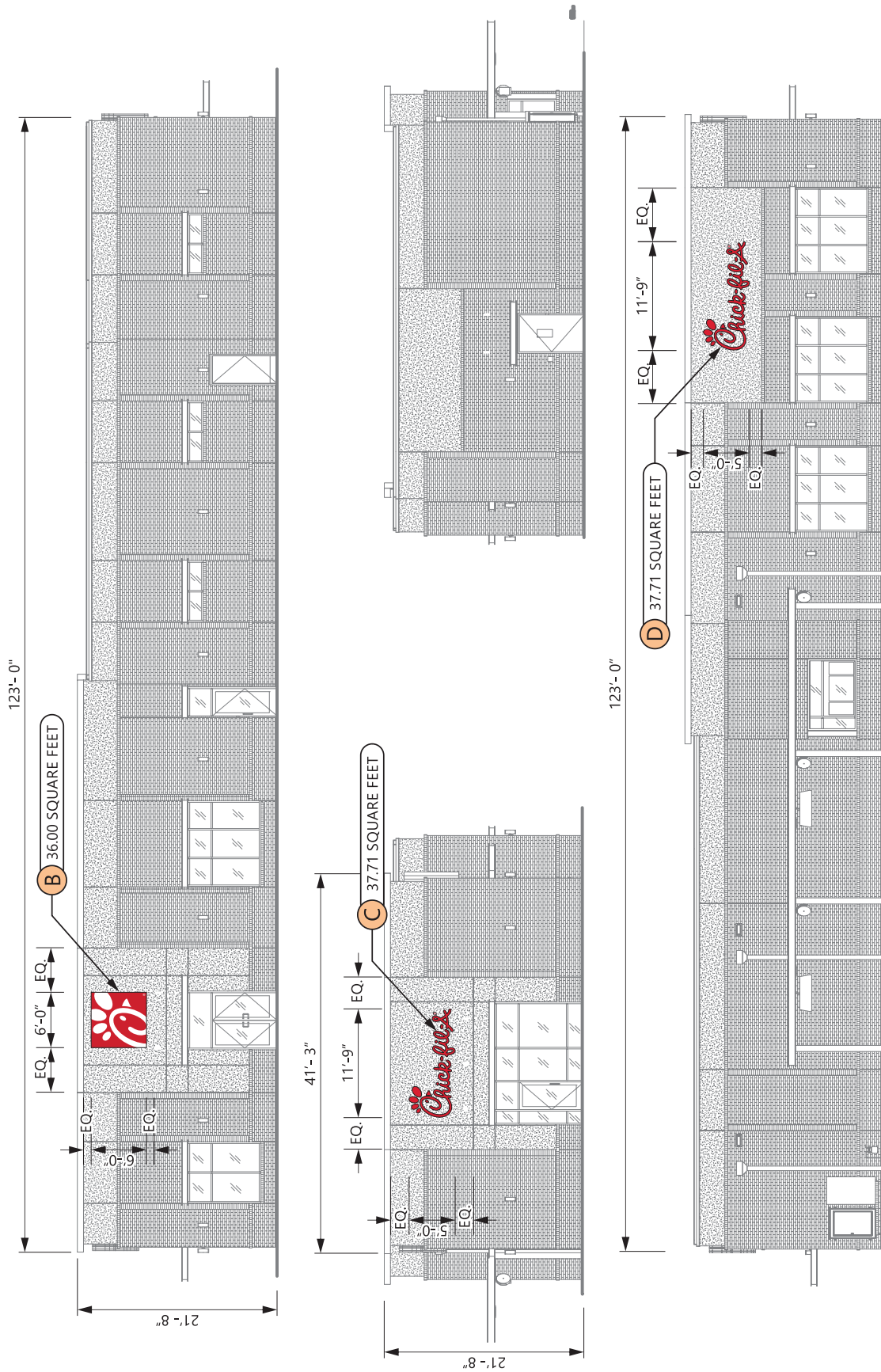
FINISH SCHEDULE

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FIN8	EXTERIOR PAINT	BEHR	PRIME	REDFIELD	SEE APPROVED BRICK ALTERNATES
FIN9	EXTERIOR PAINT	BEHR	PRIME	REDFIELD	SEE APPROVED BRICK ALTERNATES
FIN10	EXTERIOR PAINT	BEHR	PRIME	REDFIELD	SEE APPROVED BRICK ALTERNATES

PERMIT NOTES:
 1. ALL GLASS TO BE 60% UGLO.
 2. SHGC 0.38 CLEAR GLASS - TINTED GLASS WILL NOT BE ACCEPTED. ACTING VALUES PER LOCAL CODE REQUIREMENTS RE SPECIFICATIONS SECTION 08900.
 3. LOCAL CODE REQUIREMENTS RE SPECIFICATIONS SECTION 08900.

FINISH SCHEDULE

MARK	DESCRIPTION	MANUFACTURER	MODEL NAME	COLOR	NOTE
FIN1	EXTERIOR PAINT	BEHR	PRIME	REDFIELD	SEE APPROVED BRICK ALTERNATES
FIN2	EXTERIOR PAINT	BEHR	PRIME	REDFIELD	SEE APPROVED BRICK ALTERNATES
FIN3	EXTERIOR PAINT	BEHR	PRIME	REDFIELD	SEE APPROVED BRICK ALTERNATES
FIN4	EXTERIOR PAINT	BEHR	PRIME	REDFIELD	SEE APPROVED BRICK ALTERNATES
FIN5	EXTERIOR PAINT	BEHR	PRIME	REDFIELD	SEE APPROVED BRICK ALTERNATES
FIN6	EXTERIOR PAINT	BEHR	PRIME	REDFIELD	SEE APPROVED BRICK ALTERNATES
FIN7	EXTERIOR PAINT	BEHR	PRIME	REDFIELD	SEE APPROVED BRICK ALTERNATES
FIN8	EXTERIOR PAINT	BEHR	PRIME	REDFIELD	SEE APPROVED BRICK ALTERNATES
FIN9	EXTERIOR PAINT	BEHR	PRIME	REDFIELD	SEE APPROVED BRICK ALTERNATES
FIN10	EXTERIOR PAINT	BEHR	PRIME	REDFIELD	SEE APPROVED BRICK ALTERNATES



ELEVATIONS

SCALE - 3/32" = 1'-0"

5198 North Lake Drive
 Lake City, GA 30260
 404.361.3800
 www.daytonsigns.com



ELEVATIONS

DRAWING FILE - CFA - VESTAVIA HILLS, AL (CHABABA) SIGNAGE.CDR

ALL ELECTRICAL
 SIGNS ARE
 120 VOLTS
 UNLESS
 OTHERWISE INDICATED

DRAWN BY Ben Holliday
 ACCOUNT REP. Ben Holliday
 DRAWING DATE September 16, 2016
 REVISION DATE December 7, 2018

STORE NUMBER
L03948

STORE ADDRESS
 Chick-fil-A at Vestavia Hills, AL (Chababa)
 3949 Crosshaven Drive
 Vestavia Hills, Alabama 35243

THE DRAWING IS AN ORIGINAL UNPUBLISHED DESIGN CREATED BY CLAYTON SIGNS, INC. IT IS NOT TO BE REPRODUCED, CHANGED, OR EMITTED TO ANYONE OUTSIDE OF YOUR COMPANY IN WHOLE OR IN PART WITHOUT WRITTEN PERMISSION FROM THE OWNER OF CLAYTON SIGNS, INC. ANY SUGGESTIONS MUST BE MADE AT THE TIME OF THE ORIGINAL DESIGN.
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BUILDING
 ELEVATIONS



Zoning

PARCELID	2800154013014000
DISTRICT	020
ESN_NUM	62
PROPADD	3955 WALL ST
VH_ZONING	R-4
ZNG_ORD	1983
ZNG_ORD_DT	03/21/2003
ZNG_ORD2	
ZNG_ORD_1	
ZNG_ORD3	
ZNG_ORD_2	
ZNG_ORD4	
ZNG_ORD_3	

Zoom to

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

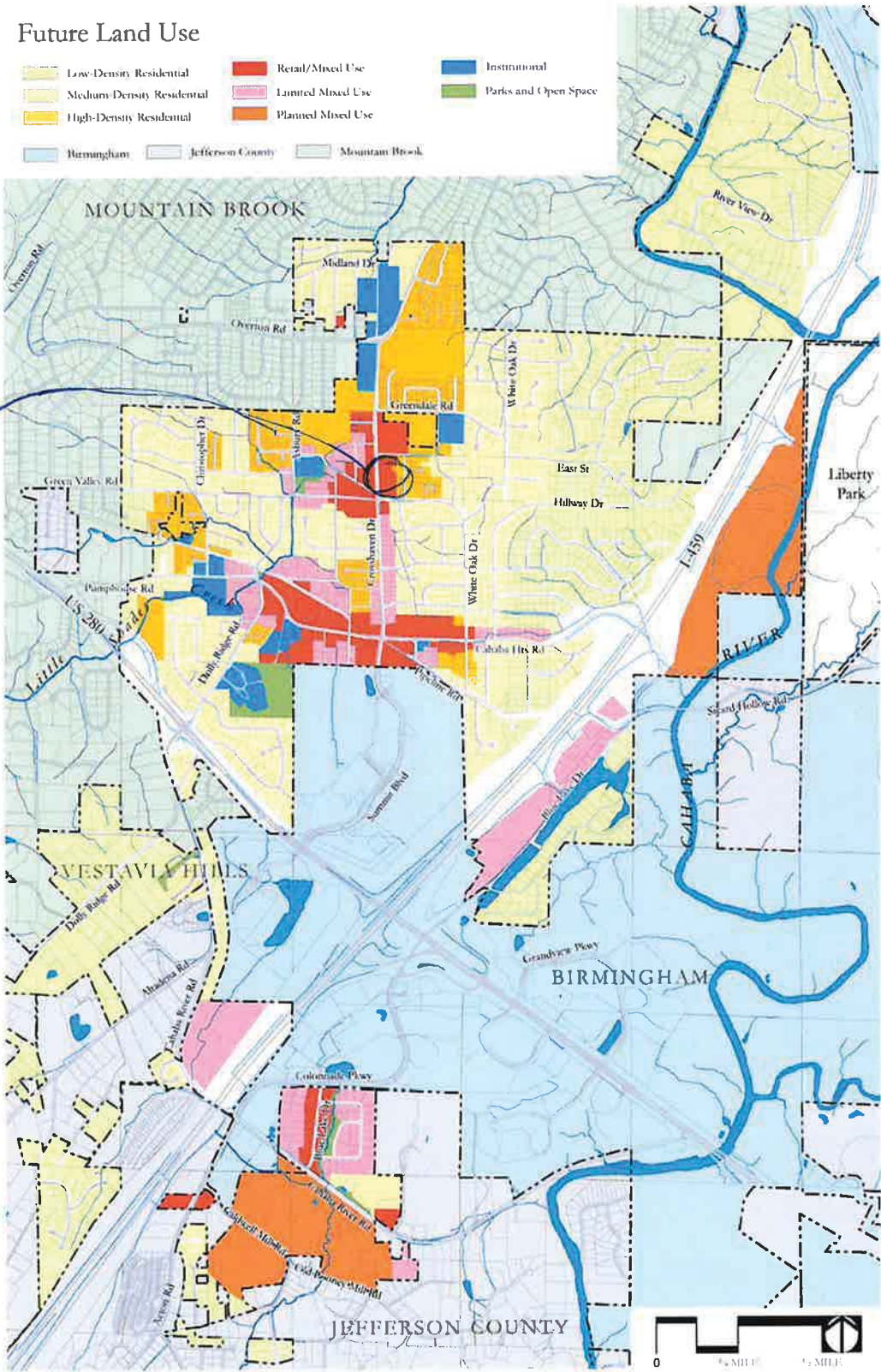


Figure 4: Future Land Use Map

ORDINANCE NUMBER 2827

**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, Macy Teresa Yates is the owner of the property located at 727 Hampden Place Circle, currently zoned Vestavia Hills PUD PR-1 (planned unit development planned residential district) more particularly described as Lot 931, Hampden Place Resurvey #2; and

WHEREAS, Macy Teresa Yates has submitted application for Conditional Use Approval for a home occupation to be operated in her residence located at 727 Hampden Place Circle, Vestavia Hills, Alabama located in the Liberty Park P.U.D.; and

WHEREAS, Macy Teresa Yates has indicated in her application for Conditional Use Approval that she will operate an office for promotional products and apparel out of her home pursuant to the specifications of a home occupation; and

WHEREAS, a copy of said application dated November 20, 2018 is marked as Exhibit A, attached and hereby incorporated into this Ordinance Number 2827.

**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 Macy Teresa Yates for a home occupation as described in the above-referenced application for her residence located at 727 Hampden Place Circle, 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 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 Macy Teresa Yates 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 Macy Teresa Yates vacate the premises located at 727 Hampden Place Circle, Vestavia Hills, Alabama, discontinue or relocate this business, this Conditional Use Approval shall be nullified and said Ordinance Number 2827 shall be automatically repealed.
5. This Ordinance Number 2827 shall become effective immediately upon adoption, approval and publishing/posting pursuant to Alabama law.

DONE, ORDERED, ADOPTED and APPROVED this the 25th day of February, 2019.

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 # 2827 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 22nd day of May, 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
SYNOPSIS AND STAFF RECOMMENDATION CONCERNING
APPLICATION BEFORE THE PLANNING AND ZONING COMMISSION

Date: **JANUARY 10, 2019**

- **CASE: P-0417-15**
- **REQUESTED ACTION:** Conditional Use Approval for a home based business
- **ADDRESS/LOCATION:** 727 Hampden Place Circle
- **APPLICANT/OWNER:** Mary Teresa Yates
- **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.

MOTION Mr. Gilchrist made a motion to recommend Conditional Use Approval for a home occupation for 727 Hampden Place Circle 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.

Second was by Mr. Weaver. Motion was carried on a roll call; vote as follows:

Mr. Goodwin – yes

Mr. Romeo – yes

Mr. Weaver– yes

Mrs. Barnes – yes

Motion carried.

Mr. Gilchrist – yes

Mr. Larson – yes

Mr. House – yes

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: Mary Teresa Yates dba All About Advertising, LLC

ADDRESS: 727 Hampden Place Circle

Vestavia, AL 35242

MAILING ADDRESS (if different from above) SAME

PHONE NUMBER: Home 205-563-1750 Office 205-563-1750

NAME OF REPRESENTING ATTORNEY OR OTHER AGENT: N/A

III. ACTION REQUESTED

Request that the above described property be approved conditional use approval pursuant to Section _____ of the Vestavia Hills Zoning Code.

Current Zoning of Property: _____

Requested Conditional use For the intended purpose of: _____

(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.)

Property size: _____ feet X _____ feet. Acres: _____

V. INFORMATION ATTACHED:

Attached Checklist complete with all required information.

Application fees submitted.

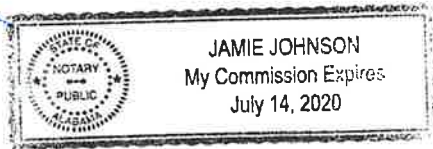
VI. I do hereby declare the above statements are true and that I, the owner, and/or my duly appointed representative will be at the scheduled hearing.

M. [Signature] 11-20-18
Owner Signature/Date

Representing Agent (if any)/date

Given under my hand and seal
this 12th day of November, 2018.

[Signature]
Notary Public
My commission expires _____
day of _____, 20____.





November 12, 2018

Rebecca Leavings, City Clerk
City of Vestavia Hills
Vestavia Hills City Hall
Vestavia Hills, Alabama 35216

Re: M. Teresa Yates
727 Hampden Place Circle
Vestavia Hills, AL 35242

Dear Ms. Leavings:

We are writing in connection with the above matter. We understand Teresa Yates 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.

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 205-945-6459.

Very truly yours,

LIBERTY PARK JOINT VENTURE, LLP

By: _____

A handwritten signature in black ink, appearing to read "S. Arterburn", is written over a horizontal line.

Shawn Arterburn
Vice President
an Authorized Representative

CITY OF VESTAVIA HILLS, ALABAMA BUSINESS APPLICATION 978-0179
The City Does Not Impose the Business License Tax in its Police Jurisdiction

(CONFIDENTIAL)

Complete and Mail/Fax/Email To:

CITY OF VESTAVIA HILLS
1032 Montgomery Highway
Vestavia Hills, AL 35216

(205) 978-0100 Fax (205) 978-0132
*Contractors License:
(205) 978-0125 Fax (205) 978-0213

Send Shannon
Acct. #

Applicant Complete This Box
FEIN 26-346 7295
ST of ALA TAX # R00 6058415
FORM OF OWNERSHIP (Check One)
Sole Prop. Partnership
Corp. Prof Assoc
LLC X Other

Please Print or Type
SEE REVERSE SIDE FOR INSTRUCTIONS AND FURTHER INFORMATION

Application Type: New X Owner Change Name Change Location Change

Legal Business Name: All About Advertising LLC

Trade Name: (If different from above)

Type of Business: Promotional Products & Apparel

Business Activities: (Brief description- Retail clothing sales, contractor, specialty trade contractor, rental of industrial equip., computer consulting, etc) Sell promo/apparel items per customer order

Physical Address: 727 Hampden Place Circle, Vestavia AL 35242

Mailing Address: 727 Hampden Place Circle, Vestavia AL 35242

Telephone: 205-563-1750 205-563-1750 205-563-1750

Name & Phone # for Contact Person (owner) M. Teresa Yates (205) 563-1750

Email address for contact: tyates@allaboutadvertisingllc.com

List Following for Owner(s), Partners, or Officers (Attach separate sheet if necessary)

Table with columns: Name, Residence Address, SSN (if not publicly traded co.), Title. Row: M. Teresa Yates, 727 Hampden Place Circle, Vestavia AL 35242, 418-90-6049, Owner

Date Business Activity Initiated or Proposed in Vestavia Hills: 11-1-18 # of Employees in Vestavia Hills: self

This application has been examined by me and is, to the best of my knowledge, a true and complete representation of the above named entity, and person(s) listed.

Date 10-31-18 Signature M. Teresa Yates Title Owner

THIS AREA FOR MUNICIPAL USE ONLY
NAICS # # # # License Clerk:
PHYSICAL LOCATION: CITY POLICE JURISDICTION OUTSIDE CORP LIMITS & PJ
Tax Types: Sales/Seller's Use Consumer Use Rental Lodgings Alcohol
Occupational Tobacco Gas/Motor Fuel Business License
Tax Filing Frequency: Monthly Quarterly Annual Other
Business Type: Retail Wholesale Building Contractor Service Professional
Manufacturer Rental Other

Pam Eaton

Liberty Park: Sales office 945-6401, 945-6458

OCCUPANCY RELEASE

To be completed by Owner:

Business Name: All About Advertising, LLC

Business Address: 727 Hampden Place Circle

Vestavia AL 35242
City State Zip

Type of Business: Promotional Products ; Apparel

*****Home Occupations, Please Complete Page 4 of Application if located in City Limits*****

To be completed by the City Clerk's Office:

Current Zoning _____

Approved: _____ Disapproved: _____

City Clerk/Zoning Inspector: _____

Comments: _____

To be completed by Building/Fire Department:

- Business Mercantile Office Storage Assembly
- Residential Institutional Education Industrial Other

Building Construction: Type: 1 _____ 2 _____ 3 _____ 4 _____ 5 _____

Construction Required: Type: 1 _____ 2 _____ 3 _____ 4 _____ 5 _____

Approved: _____ Disapproved: _____

Building Official: _____

Fire Official: _____

Improvements Required: _____

HOME OCCUPATION INFORMATION**To be completed by owner:**

Are you the primary resident in the home in which you will be conducting business: *Yes*

Are there any employees in your business? *NO*

If yes, do the employees come to/go from your home? *N/A*

Do Customers come to/go from your home? *NO*

Do you have inventory to be stored on-premise? *YES (only self promo items)*

Do you have frequent and/or large deliveries to your home? *NO*

Do you do any type of repair from your home? *NO*

Does your business require any outdoor or large machinery (i.e. lawn mowers, etc)? *NO*

If yes, where is this machinery stored when not in use? *N/A*

***** Please note, this home occupation questionnaire DOES NOT apply to residents of LIBERTY PARK. Home occupations in the residential areas of Liberty Park can only be approved by the Vestavia Hills City Council by Conditional Use Approval. For Details on Conditional Use Approval, please contact the Vestavia Hills City Clerk, 205-978-0131.**

Signed: 
Owner of Business

ORDINANCE NUMBER 2829

AN ORDINANCE AUTHORIZING THE MAYOR AND CITY MANAGER TO EXECUTE AND DELIVER A MEMORANDUM OF UNDERSTANDING WITH THE VESTAVIA HILLS BOARD OF EDUCATION

WHEREAS, the Vestavia Hills City School System (“School System”) is a foundational element of the success of the City of Vestavia Hills (“City”) as evidenced by the reliable statistic that nearly 75% of city residents move to Vestavia Hills due to the school system and

WHEREAS, the financial sustainability of the School System is directly correlated with the long term economic success of the City thus requiring inter organizational collaboration in areas such as finance, operations and recreation/athletics; and

WHEREAS, the School System and City are both currently engaging in an unprecedented building program to improve the quality and capacity of its assets; and

WHEREAS, the Mayor and City Council agree that it is in the best public interest that an explicit memorandum of understanding (“MOU”) is warranted for clear expression of the desires of both entities along with a tool for planning and communication that can be utilized by each as well. As such, the following narrative is a comprehensive list of items that will support the collaboration mentioned above this MOU is designed for a collaboration of these efforts through both the City and the School System through a Memorandum of Understanding, a copy of which is marked as Exhibit A, attached to and incorporated into this Ordinance Number 2829 as if written fully therein.

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

1. The Mayor and City Manager are authorized to execute and deliver this MOU to the Vestavia Hills Board of Education;
2. The Mayor and City Council acknowledge that the approval, authorization and the execution by the Vestavia Hills Board of Education and the Vestavia Hills Superintendent of Education must be obtained before this MOU is effective; and
3. This Ordinance Number 2829 is effective immediately upon adoption and posting/publishing as required by Alabama law.

APPROVED and ADOPTED this the 25th day of February, 2019.

Ashley C. Curry
Mayor

ATTESTED BY:

Rebecca Leavings
City Clerk

Draft Concept of MOU with VH City Schools

February 4, 2019

Whereas, Vestavia Hills City School System ("school system") is a foundational element of the success of the City of Vestavia Hills ("City") as evidenced by the reliable statistic that nearly 75% of city residents move to Vestavia Hills due to the school system and

Whereas, the financial sustainability of the school system is directly correlated with the long term economic success of the City thus requiring inter organizational collaboration in areas such as finance, operations and recreation/athletics and

Whereas, the school system and City are both currently engaging in an unprecedented building program to improve the quality and capacity of its assets

Now therefore, the City and school system agree that an explicit memorandum of understanding ("MOU") is warranted for clear expression of the desires of both entities along with a tool for planning and communication that can be utilized by each as well. As such, the following narrative is a comprehensive list of items that will support the collaboration mentioned above. This MOU is designed as a letter of intent for both parties, and it is recognized that many of the items listed will require formal approval of the school system and the City before they can be considered finally approved.

- The school system has an unanticipated financial need associated with components of its building program that include traffic/parking infrastructure, site improvements and roofing requirements. The additional costs will require an additional \$9mm added to the school system program to be financed over 10 years. The City agrees to utilize surplus Community Space funds to cover 25% of the cost of debt service on this additional need. The anticipated annual City support will be \$280,000 per year for ten years.
- The school system agrees to construct two new ball fields on its new Pizitz campus as illustrated on exhibit A. Construction is scheduled to commence on October 1, 2019. These ballfields will be available to the City as recreational fields consistent with a mutually acceptable field/facility agreement policy attached as exhibit B.
- The City shall collaborate and agree to construct mutually acceptable pedestrian crossings between the new Wald Park and West Elementary School (VHEW) for safety purposes.
- The City and school system agree that the current property lines at the Cahaba Heights Elementary School (VHECH) adjacent to the City's recreation facilities do not represent the current space needs for each entity. As such, the school system and the City agree to resurvey and plat new property lines similar to exhibit C to this document.
- Given the facility needs of both entities a mutual conveyance of assets will occur as follows:
 - The school system will convey excess property at Cahaba Heights in return for the City's conveyance of excess property at Wald Park as illustrated in exhibit D to this document. The City shall only use the conveyed Cahaba Heights property for recreational purposes and the school system shall only use the conveyed Wald Park property for educational purposes.

- The City shall demolish the current New Merkel facility and convey the site of such demolished structure to the school system when a new facility is constructed adjacent to the City's athletic fields.
- Upon conveyance of the excess property at Wald Park, the current gymnasium can be utilized by the City consistent exhibit B as long as it is still in operations by the school system for athletic purposes.
- The City and school system agree to utilize a master scheduling system for its recreational and athletic facilities consistent with exhibit B
- The City and school system agree to develop a formal shared parking agreement for all adjacent real estate/ facilities

This MOU is agreed to serve as a letter of intent by both parties as evidenced by the signature of the following

Superintendent of Vestavia City Schools

Vestavia Hills Board of Education, Chair

Vestavia Hills City Manager

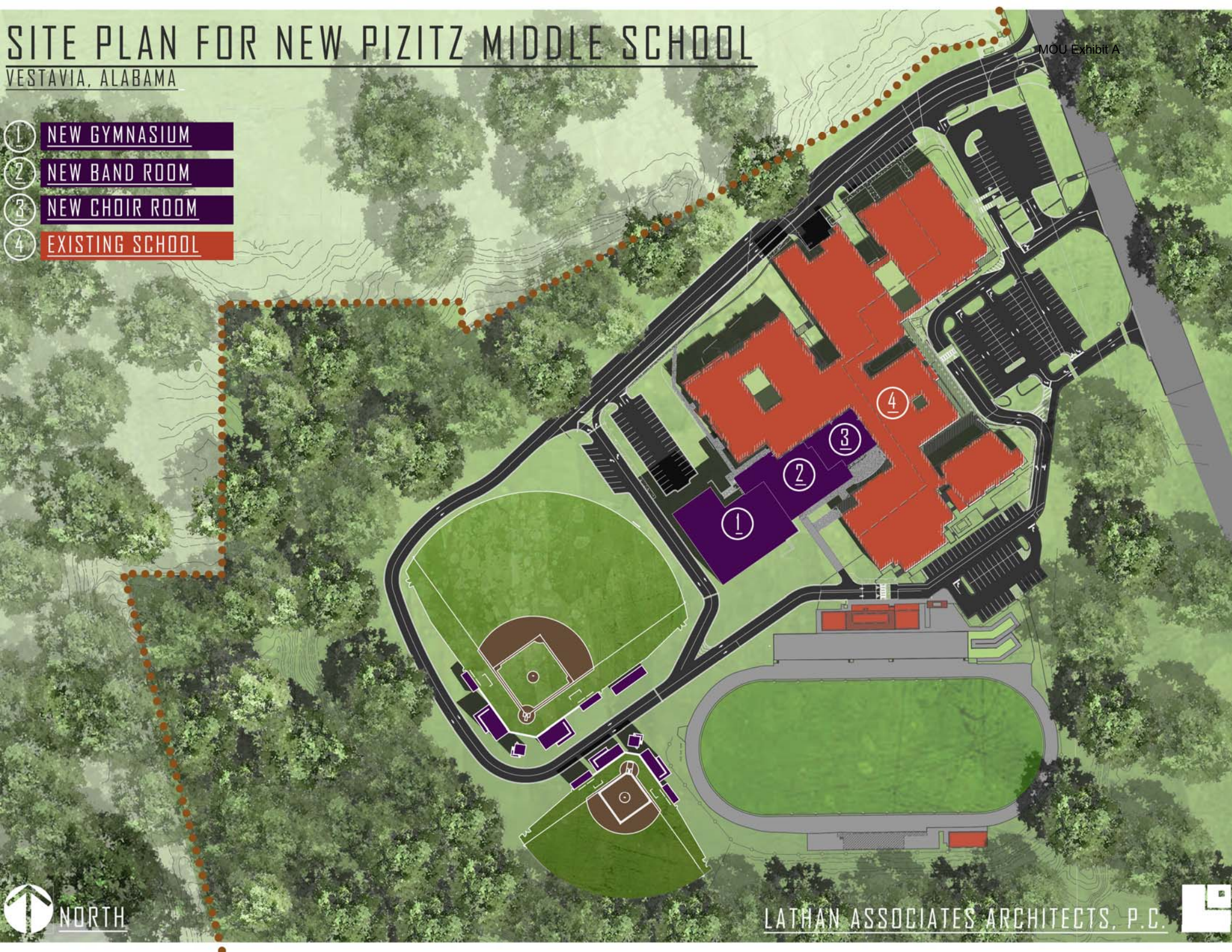
Vestavia Hills Mayor

SITE PLAN FOR NEW PIZITZ MIDDLE SCHOOL

VESTAVIA, ALABAMA

MOU Exhibit A

- ① NEW GYMNASIUM
- ② NEW BAND ROOM
- ③ NEW CHOIR ROOM
- ④ EXISTING SCHOOL



LATHAN ASSOCIATES ARCHITECTS, P.C.





**Intergovernmental Facility and Public Space Use Agreement
 Vestavia Hills City Schools
 City of Vestavia
 November 19, 2018**

Vestavia Hills City Schools Facility Sites

VHHS	9th Grade	Pizitz	LPMS	Central	Elementaries
Competition Gym	Competition Gym	Grass Field	Competition Gym	Grass Field	Gym Spaces
Practice Gym	Practice Gym	Competition Gym	Weight Room	Gym	Dolly Ridge (Baseball Field)
Turf Field	Grass Field	Auxiliary Gym	Grass Field		Dolly Ridge (soccer Field)
Track	Weight Room	Track			
Grass Field	Activity Courts	Proposed Baseball			
Baseball Turf Field		Proposed Softball			
Softball Field (off campus)		Weight Room			
Wrestling Room		Wrestling Room			
Cheer Room					
Weight Room (2)					
Tennis Courts					

Vestavia Hills Park and Recreation Facility Sites

Wald Park	McCallum	Cahaba Heights	Liberty Park	SHAC	Community Building
Tennis Courts	Picnic Pavilion	Baseball Fields (4)	Baseball/Softball Diamonds (9)	Full Size - multipurpose turf rectangles (4)	Basketball Courts (3)
Swimming Pool	Walking Trails	Playground (2)	Soccer Fields (5)	Smaller - multipurpose turf rectangle (1)	Multipurpose Activity Space
Baseball Fields (3)	Bike Trails	Picnic Pavilion	Playgrounds (2)	1 mile of walking trails	Indoor Walking Track
Miracle League Field	Open Green Space	New Merkel House	Walking Tracks - baseball fields	Playgrounds (2)	VH Hall of Fame
Recreation Center		Dog Park	Meeting Space	Picnic Pavilion	Meeting Space
Rental Lodge				Splash Pad	Banquet Space
Walking Track/Trails				Meeting Space	
Playgrounds					
Dog Park					
Meeting Space					

Athletic Facility Usage Agreement:

1. The Vestavia Hills Park and Recreation Board and the Vestavia Hills Board of Education have a reciprocal agreement with regards to facility usage.
 - All Park and Recreation requests for VHCS athletic facilities should be made by the Park and Recreation Superintendent to the Vestavia Hills Athletic Director.
 - All Board of Education requests for Park and Recreation athletic facilities should be made by the VHCS Athletic Director to the Park and Recreation Superintendent.
 - Each entity agrees that there must be an employee of either the Park and Recreation Board and/or VHCS at all indoor sanctioned events and must be present during the entirety of the event. For outdoor events, there will be a designated point person with ultimate responsibility for the facility in use agreed to by each entity.
 - The Park and Recreation Superintendent will coordinate directly with the individual school representatives with regard to scheduling recreation basketball at the VHCS sites.

2. The owner of the property has first priority with regards to scheduling.
 - In general, requests should only be made when there are no additional options available to either entity.

3. General maintenance of any facilities is the responsibility of the owner.
4. Any issues beyond general wear and tear of facilities is the responsibility of the group who caused the issues.
 - All issues that arise should be addressed immediately between the Park and Recreation Superintendent and VHCS Athletic Director
 - Each entity reserves the right through this agreement to terminate an individual group or groups right to use a facility
5. It will be the responsibility of each entity to coordinate and facilitate an up to date Emergency Action Plan, as well as provide proper equipment (i.e. AED, etc.) for the facility used.
6. Maintenance on shared properties such as the high school tennis courts will be completed with a 50/50 split of costs.
 - All expenses anticipated and incurred must be discussed between each entity prior to the authorization and approval of maintenance.

Additional Considerations:

1. All efforts will be made by the VHBOE and VH City Council to created specs and jointly bid for lawn maintenance for athletic fields and other shared public spaces.



ORDINANCE NUMBER 2830

AN ORDINANCE AUTHORIZING THE MAYOR AND CITY MANAGER TO EXECUTE AND DELIVER AN ACCESS AND PARKING AGREEMENT WITH HCI VESTAVIA I, LLC, AN ALABAMA LIMITED LIABILITY COMPANY (“HCI”)

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

1. The Mayor and City Manager are authorized to execute and deliver an Access and Parking Agreement with HCI Vestavia I, LLC, an Alabama limited liability company for parking at Wald Park; and
2. A copy of said Access and Parking Agreement is marked as Exhibit A and is attached to and incorporated into this Ordinance Number 2830 as though written fully therein; and
3. This Ordinance Number 2830 is effective immediately upon adoption and posting/publishing as required by Alabama law.

APPROVED and ADOPTED this the 25th day of February, 2019.

Ashley C. Curry
Mayor

ATTESTED BY:

Rebecca Leavings
City Clerk

The City of Vestavia Hills, Alabama hereby agrees to use good faith efforts to seek approval of this Access and Parking Agreement by the City Council of the City of Vestavia Hills for use by HCI Vestavia I, LLC post-closing on the real property described as Lot A, according to the Survey of Wald Park Survey No. 1, as recorded in Map Book 249, page 28, in the Probate Office of Jefferson County, Alabama.

CITY OF VESTAVIA HILLS, ALABAMA
A Municipal corporation

By: Ashley C. Curry

— Name: Ashley Curry
Its: Mayor

By: Jeffrey D. Downes

— Name: Jeffrey D. Downes
Its: City Manager

ACCESS AND PARKING AGREEMENT

THIS ACCESS AND PARKING AGREEMENT (“Agreement”) is made this _____ day of January, 2019, by and among **THE CITY OF VESTAVIA HILLS, ALABAMA, a municipal corporation (“City”)** and **HCI VESTAVIA I, LLC, an Alabama limited liability company (“HCI”)**.

WITNESSETH:

WHEREAS, City is the owner of that certain real property located in Vestavia Hills, Alabama, more particularly described in Exhibit “A” attached hereto and by this reference incorporated herein (the “City Property”); and

WHEREAS, HCI is the owner of that certain real property located in Vestavia Hills, Alabama, more particularly described in Exhibit “B” attached hereto and by this reference incorporated herein (the “HCI Property”); and

WHEREAS, HCI, contemporaneously with the execution of this Agreement, has acquired the HCI Property from City; and

WHEREAS, HCI, in the acquisition needs access and parking rights for the HCI Property on the City Property as shown on the drawing attached hereto as Exhibit “C” and incorporated herein by reference (the “Parking Area”); and

WHEREAS, City and HCI have agreed to the terms of this Parking Agreement as further defined herein.

NOW, THEREFORE, for Ten and no/100 Dollars (\$10.00), the covenants and conditions herein contained and to be observed and performed by each of the parties hereto, and other good and valuable consideration, the sufficiency of which is hereby acknowledged, including the purchase of the HCI Property by HCI, each of the parties hereto covenants and agrees as follows:

1. Access Grant. City does hereby agree, for the benefit of the HCI Property, that the owners, tenants, and users of the HCI Property shall have the right to access the Parking Area and use the same for parking of overflow parking on the HCI Property.

2. Parking Lot Usage. City does hereby permit HCI, its tenants, invitees and permittees, the right to use the parking lot shown as the Parking Area for purposes of allowing the HCI Property to have parking rights on the Parking Area. City shall further allow access to the Parking Area for multi-person transportation to the HCI Property for patrons and employees, such as ATV’s, golf carts or similar transportation vehicles. The Parking Area may also be used for recreational vehicle parking benefitting the HCI Property.

3. Maintenance and Restoration. City shall maintain the Parking Area in accordance with standard city procedures. No structures, walls, fences or other barriers shall be constructed or maintained on the Parking Area which would unreasonably restrict the rights granted herein.

4. Governing Law and Jurisdiction. This Agreement is made and entered into as a contract respecting land and is to be governed, construed and enforced pursuant to and in accordance with the laws of the State of Alabama.

5. No Waiver. No waiver of any provision of this Agreement shall be effective unless it is in writing and signed by the party against whom it is asserted, and any such written waiver shall only be applicable to the specific instance to which it relates and shall not be deemed to be a continuing or future waiver. This Agreement may only be amended or terminated by a written agreement signed by both of the owners of the City Property and the HCI Property.

8. Counterparts. This Agreement may be signed in multiple counterparts, but each such counterpart shall constitute but one original.

9. Severability. If any term, covenant or condition of this Agreement or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, such provision, or the application of such term, covenant or condition to persons or circumstances other than those as to which it is held invalid or unenforceable, shall be deemed severable, and the remainder hereof shall not be affected thereby and each term, covenant, or condition of this Agreement shall be valid and enforced to the full extent permitted by law.

10. Notices. Any notice to be sent to any party hereunder shall be deemed to have been given when delivered personally, when sent by facsimile, or one day after sending via nationally recognized overnight courier service, or two days after depositing such notice in the United States mail, postage prepaid, certified mail or registered mail, return receipt requested, and properly addressed to the party to be notified at the following address(es):

HCI: HCI Vestavia I, LLC
3075 Healthy Way
Vestavia Hills, Alabama 35243
Attention: Jordy Henson
Facsimile: _____

City: City of Vestavia Hills, Alabama
1032 Montgomery Highway
Attention: Mayor
Vestavia Hills, Alabama 35216
Facsimile: _____

[SIGNATURES ON THE NEXT TWO PAGES]

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seals as of the day and year first above written.

CITY:

CITY OF VESTAVIA HILLS, ALABAMA
A Municipal corporation

By: _____
Name: Ashley Curry
Its: Mayor

By: _____
Name: Jeffrey D. Downes
Its: City Manager

HCI:

HCI VESTAVIA I, LLC
An Alabama limited liability company

By: _____
Name: Jordy Henson
Its: Manager

EXHIBIT "A"

City Property

EXHIBIT "B"

HCI Property

EXHIBIT "C"

Parking Area