

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

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

1. Call to Order
2. Roll Call
3. Invocation – Tom Bell, Vestavia Hills Chaplain
4. Pledge Of Allegiance
5. Approval Of The Agenda
6. Announcements, Candidates and Guest Recognition
  - a. Upcoming Vacancy On Vestavia Hills Parks And Recreation Board
  - b. Upcoming Vacancy On The Vestavia Hills Library Board
7. Proclamation – Domestic Violence Awareness Month – October 2021
8. Proclamation – Hospice And Palliative Care Month – November 2021
9. City Manager’s Report
10. Councilors’ Reports
11. Approval Of Minutes – October 11, 2021 (Regular Meeting)

**Old Business**

12. Resolution Number 5349 – A Resolution Authorizing The City Manager To Execute And Deliver And Easement Agreement With Cellco Partnership D/B/A Verizon Wireless To Grant An Easement On The Property Located At 509 Montgomery Highway, Aka Vestavia Hills Bill F. Towers Fire Station No. 1 (*public hearing*)

**New Business**

13. Resolution Number 5353 – A Resolution Declaring Certain Personal Property As Surplus And Directing The City Manager To Sell/Dispose Of Said Equipment
14. Resolution Number 5354 – A Resolution Authorizing A Special Economic Development Agreement By The City Of Vestavia Hills, Alabama And Red B, LLC
15. Ordinance Number 3041 – An Ordinance Accepting A Bid For Renovations To Vestavia Hills Bill F. Towers Fire Station No. 1 And Authorizing The Execution And Deliver Of

The Construction Contract Documents By And Between The City Of Vestavia Hills Alabama As “Owner” And Jared Building Company As “Contractor”

16. Ordinance Number 3042 – An Ordinance Accepting A Bid For Wald Park Field Conversions And Authorizing The Execution And Delivery Of The Construction Contract Documents By And Between The City Of Vestavia Hills, Alabama As Owner And Specialty Turf Supply Inc., As Contractor
17. Ordinance Number 3044 – An Ordinance Authorizing The Mayor And City Manager To Execute And Deliver An Agreement With The Birmingham Water Works Board For Maintenance Of Meters In Sidewalks Along Mountainview Drive
18. Ordinance Number 3043 – An Ordinance Authorizing The Settlement Of The Case Of *Catherine Brooks V. City Of Vestavia Hills, Alabama, Et Al*, Bearing Civil Action Number 01-CV-2020-901202.00 Presently Pending In The Circuit Court For Jefferson County, Alabama; Authorizing And Directing The Mayor And City Manager To Pay The Funds Described Herein And To Take Any Action And Execute And Deliver Any And All Documents Necessary To Effectuate Said Settlement

**New Business (Requesting Unanimous Consent)**

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

19. Citizens Comments
20. Time Of Adjournment

## **SPECIAL NOTICE CONCERNING CITY COUNCIL MEETINGS**

**Due to the COVID-19 safety advice given by the ADPH, the City Council work sessions and meetings are available via video-conference and teleconference. If you choose not to attend in person, you may still participate. Following are instructions for three options to participate remotely.**

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

To participate in by videoconference, click <https://us02web.zoom.us/j/5539517181>. When the Zoom.us window opens in your browser, click “Allow” so that the page may open to a waiting room. The host will open the meeting and bring all into the meeting room at that time. All participants will be automatically muted upon entrance to the meeting. If you wish to speak during time(s) identified for public input, activate the “Raise Hand” feature and unmute yourself by toggling the mute button. When the Mayor recognizes you and gives you the floor, state your name and address for the record and then you may address the Council.

Using the icons on the Zoom screen, you can:

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

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

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

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

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

WHEREAS, one in every four women and one of every seven men will experience domestic violence during her or his lifetime; and

WHEREAS, victims and survivors ought to have the support needed to find dignity, compassion, healing and excellence in service coordination and provision required to address crimes committed against them; and

WHEREAS, offenders who perpetrate interpersonal violence should be punished to the full extent of the law; and

WHEREAS, fleeing domestic violence often causes women and children to comprise the fastest growing homeless population; and

WHEREAS, powerful partnerships exist locally between the City of Vestavia Hills, One Place Metro Alabama Family Justice Center, the YWCA Central Alabama and other community organizations addressing domestic violence; and

WHEREAS, the President of the United States and Congress as well as other federal, state and local agencies have expressed a commitment to eliminating domestic violence both nationally and internationally; and

WHEREAS, in recognition of the pain and perseverance of all victims and survivors of domestic violence and the important work done by domestic violence programs and victims' service providers and our residents mutual responsibility for the health and well-being of our neighbors.

NOW, THEREFORE, I, Ashley C. Curry, by virtue of the authority vested in me as Mayor of the City of Vestavia Hills in the State of Alabama, do hereby proclaim October 2021 as

**DOMESTIC VIOLENCE AWARENESS MONTH**

and I urge all residents of Vestavia Hills to actively participate in the scheduled activities and programs sponsored by One Place Family Justice Center, its partners and all other community organizations that work toward the elimination of interpersonal and institutional violence.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the City of Vestavia Hills to be affixed this the 25<sup>th</sup> day of October 2021.

---

Ashley C. Curry  
Mayor

WHEREAS, for more than 40 years, hospice has helped provide comfort and dignity to millions of people allowing them to spend their final months at home, surrounded by their loved ones; and

WHEREAS, the hospice model involves an interdisciplinary, team-oriented approach to treatment, including expert medical care, quality symptom control, and comprehensive pain management as a foundation of care; and

WHEREAS, hospice also attends to the patient’s emotional, spiritual and family needs, and provides family services like respite care and bereavement counseling; and

WHEREAS, palliative care delivers expertise to improve quality of life and relief from pain, can be provided at any time during an illness, and hospices are some of the best providers of community-based palliative care; and

WHEREAS, in an increasingly fragmented and broken health care system, hospice is one of the few sectors that demonstrates how health care can – and should – work at its best for its patient; and

WHEREAS, 1.55 million Americans living with life-limiting illness, and their families, received care from the nation’s hospice programs in communities throughout the United States; and

WHEREAS, hospice and palliative care organizations are advocates and educators about advance care planning that help individuals make decisions about the care they want.

NOW, THEREFORE, I, Ashley C. Curry, by virtue of the authority vested in me as Mayor of the City of Vestavia Hills in the State of Alabama, do hereby proclaim November 2021 as

**NATIONAL HOSPICE & PALLIATIVE CARE MONTH**

and encourage all residents to increase their understanding and awareness of care at the end of life and to observe this month with appropriate activities and programs.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the City of Vestavia Hills to be affixed this the 25<sup>th</sup> day of October 2021.

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Ashley C. Curry  
Mayor

**CITY OF VESTAVIA HILLS**

**CITY COUNCIL**

**MINUTES**

**OCTOBER 11, 2021**

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. A number of staff and general public/audience members also attended virtually, via Zoom.com, following publication pursuant to Alabama law. The Mayor called the meeting to order. The City Clerk called the roll with the following:

**MEMBERS PRESENT:**

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

**OTHER OFFICIALS PRESENT:**

Jeff Downes, City Manager  
Patrick H. Boone, City Attorney  
David Weaver, Alabama State Representative  
Rebecca Leavings, City Clerk  
Dan Rary, Police Chief  
Jason Hardin, Police Captain  
Brian Davis, Public Services Director  
Sandi Wilson, Superintendent of Programs and  
Senior Services  
Melinda Burnett, Senior Event Manager  
Ryan Farrell, Deputy Fire Chief  
Melvin Turner, Finance Director  
George Sawaya, Asst. Finance Director  
Zachary Clifton, Chief Accountant  
Christopher Brady, City Attorney\*  
Umang Patel, Court Director\*  
*\*present via Zoom or telephone*

Sam Williamson, a Vestavia Hills City Chaplain, led the invocation which was followed by the Pledge of Allegiance.

**APPROVAL OF THE AGENDA**

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

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

**ANNOUNCEMENTS, CANDIDATES, GUEST RECOGNITION**

- Mrs. Cook announced the first annual Menorah lighting ceremony to be held on December 1. She explained that, last year, the Birmingham Jewish Federation and the Chabad of Alabama approached the City and offered to facilitate a lighting that was done on site last year. She stated that Mr. Pierce, the Mayor and she participated in that event last year. This year, Mrs. Cook thanked Rabbi Levi Weinbaum for helping the City to purchase a Menorah so the City may celebrate this event annually. Mrs. Cook has arranged for refreshments to be served and entertainment for children to highlight this first annual event for the City of Vestavia Hills. The Jewish Community Relations Council and their related groups will facilitate the planning and make arrangements for this to be an annual ceremony. For more information on all our winter holiday events, please check the Holiday in the Hills Facebook page.
- Mr. Pierce welcomed Linda Parker, representing the Vestavia Hills Chamber of Commerce Board.
- Mayor Curry stated the Veterans Day celebration will begin on November 9 at Vestavia Hills United Methodist Church and then a subsequent event at the New Merkel House on November 10. He asked everyone to mark their calendars for these events.
- Mr. Head stated that the Parks and Recreation will have a work session at 5:30 PM in the Executive Conference Room on Tuesday, October 19.
- Mr. Head announced an upcoming vacancy on the Vestavia Hills Parks and Recreation Board. Deadline for application is Monday, November 8, 2021. Individual interviews will be conducted with the applicants and appointment of the new member will be on Monday, December 13, 2021.
- Mayor Curry announced an upcoming vacancy on the Vestavia Hills Library Board. Deadline for application is Monday, November 8, 2021. Individual interviews will be conducted with the applicants and the appointment of the new member will be on Monday, December 13, 2021.

**CANDIDATES**

David Wheeler, candidate for State Representative, District 47, introduced himself and asked for everyone's support in November.

## **PROCLAMATION**

The Mayor presented a Proclamation designating October 2021 as “Fire Prevention Week” and October 3-9, 2021 as “Fire Prevention Week.” Mr. Downes read the Proclamation aloud and the Mayor presented it to Ryan Farrell, Fire Marshal.

Chief Farrell thanked the Mayor and Council for the recognition. He stated that he and the remainder of the Department are in every elementary school in the City to bring awareness to this important topic.

## **CITY MANAGER’S REPORT**

- Mr. Downes updated the Council on the newly invigorated Vestavia Hills Dogwood Festival. He explained this is a spinoff of the older Dogwood Festival which was originally the idea of the Beautification Board. A group of merchants, the Chamber of Commerce and the City are planning two months of activities for the months of March and April 2022. Mr. Downes stated that the information will be forthcoming along with a new branding which will help bring many groups together make this a success with new events all throughout the City. He shared the new festival logo that was designed by Cinnamon McCulley, our communications specialist, and Mrs. Cook expressed approval.
- Mr. Downes stated that he, Mrs. Cook and Mr. Pierce had a collaborative meeting with some other sister cities and the Birmingham Jefferson County Transit Authority leaders regarding public transportation. He stated that the conversation turned toward multi-jurisdictional participation, which is needed to really have a robust public transit system. Mr. Downes stated he further conversations will be forthcoming on this important topic.

## **FINANCIAL REPORTS**

Mr. Turner, Finance Director, presented the financial reports for August 2021. He read and explained the balances.

## **COUNCILOR REPORTS**

- Mr. Pierce stated he will be attending the Chamber of Commerce luncheon tomorrow at the Vestavia Country Club.

## **COMMUNITY SPACES UPDATE**

Scott Kenny, TCU, stated that the Civic Center project is progressing. He stated that last month TCU briefed the City Council on potential enhancements in addition to the baseline interiors package. Two items remained open for input and consensus from the Council: these included the furniture package and proposed purchase of cardio equipment. He stated that they



need to begin to order the products so they will be received in time for the center opening, as there is a supply shortage associated with these items. He asked if it is the consensus of the Council that these should be ordered.

Mr. Head stated he thinks the furniture needs to be ordered ASAP.

Mrs. Cook stated she met with the staff and she feels that these furnishings are very durable and she approves ordering now so that the center will provide what groups expect when renting conference or convention space.

Mr. Pierce asked about funding. Mr. Downes stated there is funding available for this from the Community Spaces Fund.

Mr. Pierce asked about the Silver Sneakers program. The Mayor pointed out that some insurance companies do not provide the Silver Sneakers benefit.

Sandi Wilson, Superintendent of Programs and Senior Services, stated that this is one of the benefits provided by insurance programs that many seniors use. She stated she is familiar with the program and understands how cities can receive funding for seniors who take advantage of this insurance benefit.

Mr. Pierce stated that the Civic Center is for the City's residents which are primarily people without children. Rates should be reasonable and affordable.

Mr. Head stated that the seniors have been a primary consideration when planning for this center.

Mr. Kenny stated that there is a significant lead time on the furniture and they are getting concerned about not being able to order. Mr. Pierce asked about supply of the handrails. He stated that steel has also been a supply chain issue but they were able to receive and install the handrails.

Mr. Pierce asked about the top items that keep the center from being finished. Mr. Kenny stated primarily it was steel but there are other issues on other products such as furnishings.

Following discussion, the Council concurred that the furniture and cardio equipment should be ordered now so the Civic Center can be fully functional at opening. (*See attached Exhibit A for detail*). Mrs. Cook pointed out this approval is for the furniture and the cardio equipment as detailed in Exhibit A to these minutes.

Mr. Pierce asked about the projected date of opening. Mr. Kenny stated that they are hoping to open on March 20, 2022.

Melinda Burnett stated that they are waiting on the Park Board to approve their pricing guidelines and everything that goes with it. If someone requests meeting space, staff makes a note of it but it looks like it will be November before staff can begin taking reservations for the Civic Center spaces.

Mr. Pierce warned that there will be a slow period of rentals soon after the building opens because many will not book a space until the building is completed.

### **APPROVAL OF MINUTES**

The Mayor opened the floor for approval of the following minutes: September 20, 2021 (Work Session) And September 27, 2021 (Regular Meeting).

**MOTION** Motion to approve the minutes of September 20, 2021 (Work Session) And September 27, 2021 (Regular Meeting) was by Mrs. Cook and seconded by Mr. Pierce. Roll call vote as follows:

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

### **OLD BUSINESS**

### **NEW BUSINESS**

#### **RESOLUTION NUMBER 5352**

**Resolution Number 5352 – A Resolution Authorizing Preliminary Action For, And Reimbursement Of Qualified Expenditures From General Obligation Warrants, Series 2021**

**MOTION** Motion to approve Resolution Number 5352 was by Mrs. Cook and seconded by Mr. Head.

Heyward Hosch, of Maynard Cooper & Gale, the City's Bond Counsel, was present in regard to this request. He explained the parameters of the preliminary action to call some warrants and refinance the debt. He indicated that further approval will be needed once the rates are set. He stated that this Resolution is non-binding and only allows the bond counsel to put together the proposal for consideration by the City Council.

Mr. Hosch introduced Molly Brannon. She is a Vestavia Hills native and has recently joined their firm. The Mayor welcomed Mrs. Brannon.

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

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

**NEW BUSINESS (UNANIMOUS CONSENT REQUESTED)**

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

- Resolution Number 5349 – A Resolution Authorizing The City Manager To Execute And Deliver And Easement Agreement With Cellco Partnership D/B/A Verizon Wireless To Grant An Easement On The Property Located At 509 Montgomery Highway, Aka Vestavia Hills Bill F. Towers Fire Station No. 1 *(delayed until October 25, 2021)*

**CITIZEN COMMENTS**

None.

At 6:36 PM, Mrs. Cook made a motion to adjourn. The meeting adjourned at 6:37 PM.

Ashley C. Curry  
Mayor

ATTESTED BY:

Rebecca Leavings  
City Clerk

## Exhibit A

**Items for Discussion**

Additional Unforeseen Conditions      TBD  
 Contractor Claims                      TBD  
 Emergency Management System      TBD

Summary of New Program Items	TCU Original Program	Program Enhancements Costs	Variance	Notes
Access Control/ Security		\$ (151,697.00)		Additional Access Control equipment, communication back to city hall, cameras for enhanced security
Audio Visual	\$ 425,000.00	\$ (360,452.00)	\$ (352,399.00)	Increase AV throughout the Building, TV's, Projectors, speakers, microphones, amps, etc.
I.T.		\$ (220,000.00)		Switches, WAP's, Fiber, Data, racks to support backbone for current and future technology
Gym		\$ (45,250.00)		Enhanced Controls for participant experience (e.g. athletic and trade show opportunities)
Furniture		\$ (515,404.75)		Final FFE Program Requirements
Enhanced Electrical Circuitry	\$ 425,000.00	TBD	\$ (240,404.75)	Program Increased by 22 pieces of Equipment fully accessible
Cardio Equipment		\$ (150,000.00)		
<b>TCU Budget Allowance Vs Current Budget</b>	<b>\$ 850,000.00</b>	<b>(1,442,804)</b>	<b>\$ (592,803.75)</b>	This figure includes overall COVID related price increases

**RESOLUTION NUMBER 5349**

**A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE AND DELIVER AN AGREEMENT GRANTING CELLCO PARTNERSHIP D/B/A VERIZON WIRELESS, AN APPURTENANT EASEMENT FOR INGRESS AND EGRESS, INSTALLATION AND OPERATION AND MAINTENANCE OF UTILITIES ON THAT SITE**

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

1. The City Manager is hereby authorized to sign an agreement with Cellco Partnership d/b/a Verizon Wireless, to grant an easement, right and privilege as described in said Exhibit A, attached to and incorporated into this Resolution Number 5349 as if written fully therein; and
2. Resolution Number 5349 shall become effective immediately upon adoption and approval.

**ADOPTED and APPROVED** this the 25<sup>th</sup> day of October, 2021.

Ashley C. Curry  
Mayor

ATTESTED BY:

Rebecca Leavings  
City Clerk

Upon Recording, Return to:

Mary S. Palmer  
Baker, Donelson, Bearman, Caldwell & Berkowitz, PC  
1400 Wells Fargo Tower  
420 20<sup>th</sup> Street North  
Birmingham, AL 35203

Source of Title:  
Deed Book 5266 Page 431  
Deed Book 6935 Page 412  
Map Book 241, Page 82  
Jefferson County, AL

Parcel 28 00 19 3 012 001.001

### **EASEMENT**

For and in consideration of the sum of ONE AND NO/100 Dollars (\$1.00) and other valuable consideration in hand paid, the receipt of which is hereby acknowledged.

**CITY OF VESTAVIA HILLS, A MUNICIPAL CORPORATION (Grantor)**

1032 Montgomery Hwy  
Vestavia Hills, AL 35216

does hereby grant unto

**CELLCO PARTNERSHIP d/b/a VERIZON WIRELESS (Grantee)**

One Verizon Way  
Mail Stop 4AW100  
Basking Ridge, New Jersey 07920

owners of a tract of land described as follows: Part of Section 30, Township 18 South, Range 2 West as described in Deed Book 6935 on Page 412 and Deed Book 5266 on Page 431 and further described as "Lot 2, Resurvey of Lots 4, 8, 9, 10, 11, & 12, Fourth Addition to Beacon Hill" as recorded in Map Book 241, Page 82 in the Office of the Judge of Probate, Jefferson County, Alabama Records, its successors, assigns, lessees and tenants forever, the rights and easements described in this Agreement to further Grantee's access to, and use of, the Parcel for the purposes described in this Agreement, in, under and across the following part of the aforesaid land.

**Grantee** leases from Crown Castle, a portion of, and has acquired leasehold and easements rights in and to, the portions of the real property in Jefferson County, Alabama (the "**Leased Property**") for the purposes of, among others, accessing and operating a communications facility and utilities.

**Grantor** owns the real property to the Leased Property and **Grantor** has agreed to convey to **Grantee** additional rights and easements.

WHEREAS, **Grantor** hereby grants to, and for the benefit of, **Grantee**, its successors and assigns, a perpetual non-exclusive appurtenant easement over, under and across the Grantor Property, as described in **Exhibit A** attached hereto and incorporated herein, for ingress and egress, seven (7) days a week twenty-four (24) hours a day, on foot or motor vehicle, including trucks to and from the Leased Premises to construct, maintain and operate the Facility, and for the installation, operation and maintenance of utilities serving the Facility (the "**Easement**"). This Agreement

shall commence on the first day of the month after Grantee begins installation of Grantee's communication's equipment ("**Commencement Date**").

This Agreement and the Easement are covenants running with the land, burdens on the Easement Parcel, and benefits to **Grantee** and all others entitled to use the Easement under the terms of this Agreement. **Grantee** and all others entitled to use the Easement will have peaceful and quiet possession, use, and enjoyment of the Easement, without any disturbance of their possession, use, and enjoyment.

**Grantor** warrants and will defend the title to said easement during its existence with the **Grantee** for its use and benefit against all parties whatsoever.

**Grantee** accepts this easement with the understanding and on the condition, that whenever it shall make any excavations in the above-described property the **Grantee** will properly backfill all excavations and shall restore the ground as nearly as practicable to its former condition.

NOTICES. All notices under this Agreement must be in writing and shall be deemed validly given if sent by certified mail, return receipt requested or by commercial courier, provided the courier's regular business is delivery service and provided further that it guarantees delivery to the addressee by the end of the next business day following the courier's receipt from the sender, addressed as follows (or any other address that the Party to be notified may have designated to the sender by like notice):

Grantor: City of Vestavia Hills  
1032 Montgomery Hwy  
Vestavia Hills, AL 35216

Grantee: Cellco Partnership d/b/a Verizon Wireless  
180 Washington Valley Road  
Bedminster, New Jersey 07921  
Attention: Network Real Estate

Entire Agreement. This Agreement constitutes the entire agreement and understanding between Grantor and Grantee. Any amendments to this Agreement must be in writing and executed by Grantor and Grantee.

Severability. If any provision of this Agreement is invalid or unenforceable with respect to any Party, the remainder of this Agreement, or the application of such provision to persons other than those as to whom it is held invalid or unenforceable, shall not be affected, and each provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

Due Authorization. If either Party hereto is a corporation, partnership or other legal entity, the individual who executes this Agreement on behalf of that Party represents and warrants to the other Party that he or she is duly authorized to do so.

Binding Agreement. This Agreement shall be binding on and inure to the benefit of the successors and permitted assignees of the Parties.

**\*\*SIGNATURES APPEAR ON FOLLOWING PAGE\*\***

Grantee Site Name: Pumphouse

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

**GRANTOR:**

**CITY OF VESTAVIA HILLS**

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

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

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

Date: \_\_\_\_\_

Signed, Sealed and Delivered  
In the Presence of:

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Notary Public, State of \_\_\_\_\_  
My Commission expires: \_\_\_\_\_  
(Notarial Seal)

**GRANTEE:**

**CELLCO PARTNERSHIP  
d/b/a VERIZON WIRELESS**

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

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

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

Date: \_\_\_\_\_

Signed, Sealed and Delivered  
In the Presence of:

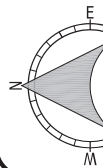
\_\_\_\_\_  
Witness

\_\_\_\_\_  
Notary Public, State of \_\_\_\_\_  
My Commission expires: \_\_\_\_\_  
(Notarial Seal)



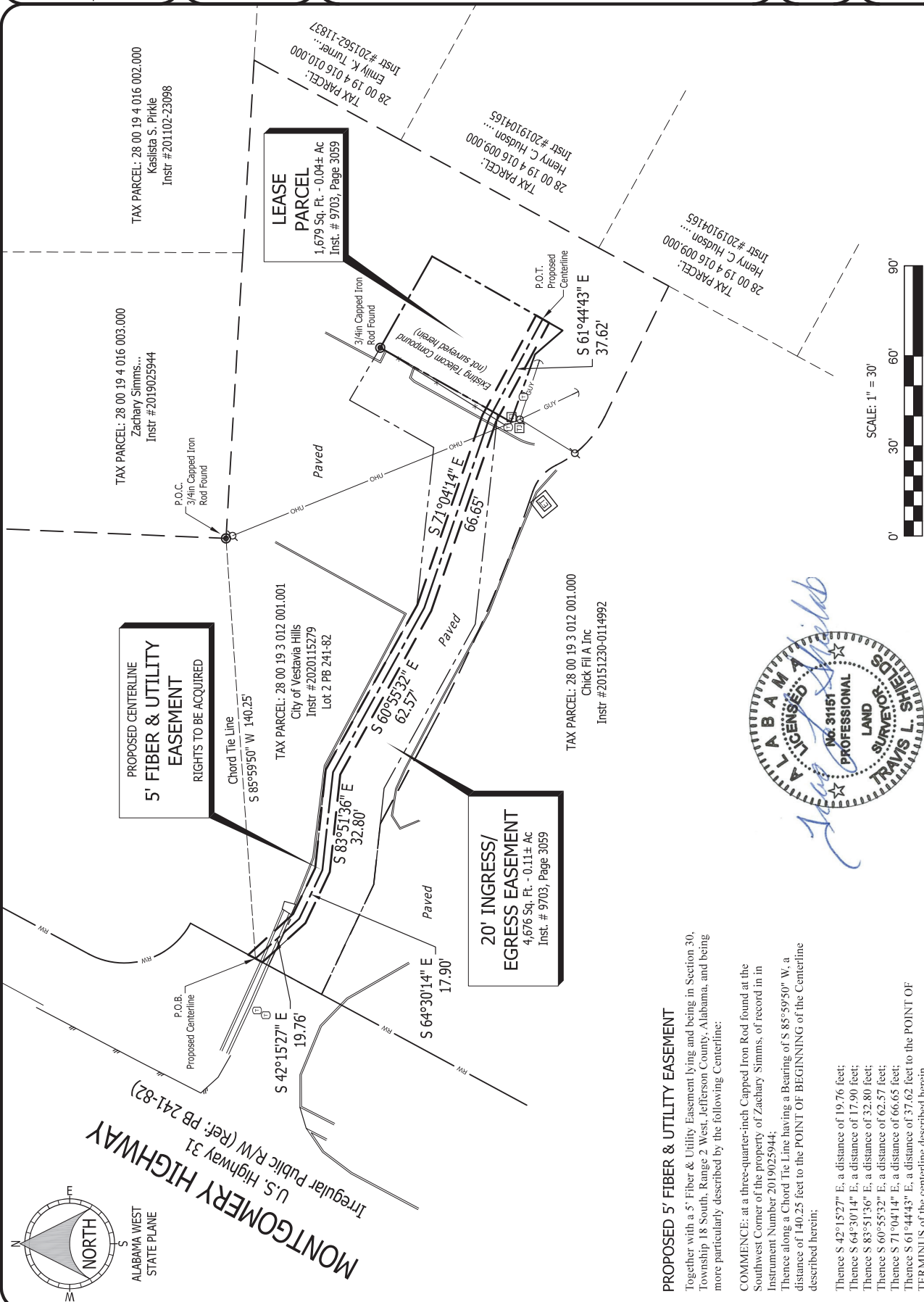
**Exhibit A**

(See Attached Construction Drawings)



ALABAMA WEST  
STATE PLANE

**MONTGOMERY HIGHWAY**  
U.S. Highway 31  
Irregular Public R/W (Ref: PB 241-82)



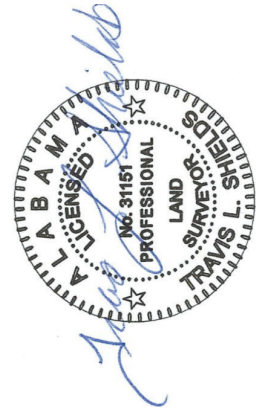
THE LAND CONSULTANTS LLC  
5449 Highway #41  
Jasper, TN 37347  
(423) 304-6722

PREPARED FOR  
**verizon**  
VERIZON WIRELESS

**SPECIFIC PURPOSE SURVEY**  
PUMPHOUSE  
Location Code: 299517  
511 Montgomery Highway, Vestavia Hills, AL 35216  
Section 30, Township 18 South, Range 2 West  
Jefferson County, Alabama

**SITE SURVEY**  
Resolution

DWG#: 21302  
ISSUE #: 1  
ISSUE DATE: 10-06-2021  
SEE SHEET # 1



**PROPOSED 5' FIBER & UTILITY EASEMENT**  
Together with a 5' Fiber & Utility Easement lying and being in Section 30, Township 18 South, Range 2 West, Jefferson County, Alabama, and being more particularly described by the following Centerline:

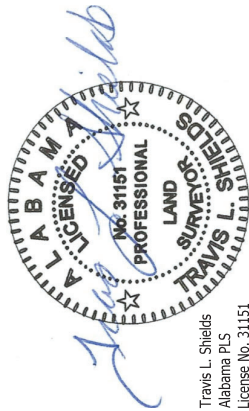
COMMENCE: at a three-quarter-inch Capped Iron Rod found at the Southwest Corner of the property of Zachary Simms, of record in Instrument Number 2019025944;  
Thence along a Chord Tie Line having a Bearing of S 85°59'50" W, a distance of 140.25 feet to the POINT OF BEGINNING of the Centerline described herein;  
Thence S 42°15'27" E, a distance of 19.76 feet;  
Thence S 64°30'14" E, a distance of 17.90 feet;  
Thence S 83°51'36" E, a distance of 32.80 feet;  
Thence S 60°55'32" E, a distance of 62.57 feet;  
Thence S 71°04'14" E, a distance of 66.65 feet;  
Thence S 61°44'43" E, a distance of 37.62 feet to the POINT OF TERMINUS of the centerline described herein.

**GENERAL NOTES:**

- This Survey is prepared exclusively to show site conditions and/or for use in support of instruments related to Leases and Easements as may be shown hereon. Any property boundary information shown hereon is a composite of information gathered from current or previous Surveys, Plat & Deed Description and/or Assessor's Tax Maps as may be referenced hereon. This Survey is not a Boundary Survey of any Tax Parcels or Deed Tracts, and does not create, combine, or divide any existing properties.
- Survey shown hereon was performed under the supervision of a state-registered Land Surveyor and conforms to all applicable State Board Requirements.
- Instruments Used: One or more of: Topcon Total Station, Topcon HiPerLite Plus GPS, Carlson Surveyor Data Collector, DJI UAV.
- Where shown, improvements (utilities, buildings, trees, fences, etc.) are based on field Survey and/or aerial mapping.
- Any Underground Utilities shown according to surface markings made by others, found at time of survey. Additional marked utilities outside the area covered by this survey map may be shown in provided CAD Files. Utility Markings may not be comprehensive; this survey does not relieve design and construction personnel of the responsibility to determine the locations of underground utilities prior to land disturbance activities.
- This Survey is presented in the format required by Clients. Clients are advised that Official Jurisdictions may require the Survey to be presented in another format with additional notes and certifications. In the event other formats, notes or certifications are requested by applicable jurisdictions, it is the responsibility of the Client to request same be prepared by Surveyor. Survey as published is not intended to be suitable for recording as a Subdivision Plat.
- This survey may have been reduced or enlarged in size due to subsequent reproduction. This should be taken into consideration when obtaining scaled data.
- Geographic Coordinates, if published, meet FAA Accuracy Code 1A, accurate to within ± 20 feet horizontally and to within ± 3 feet vertically.
- Any Flood Zone information presented hereon is according to current FEMA Flood Map information as may be referenced hereon. No Flood Elevation Survey of Certification performed.
- This survey is not valid without the original signature seal of a State-Licensed Land Surveyor, and is not complete without the total of sheets as specified in Survey Title Blocks.

**SURVEYOR'S CERTIFICATION**

To: Verizon Wireless  
I hereby certify (or state) that all parts of this survey and drawing have been completed in accordance with the current requirements of the Standards of Practice for Surveying in the State of Alabama to the best of my knowledge, information, and belief



Travis L. Shields  
Alabama PLS  
License No. 31151

**SURVEY ISSUE DATA**

#	DETAILS	DATE	DRAWN	APP
0	Original Survey Issue	10-05-2021	NB	TLS
1	Easement Revised	10-06-2021	NB	TLS

**PARENT TAX PARCEL**  
TAX PARCEL: 28 00 19 3 012 001.001  
City of Vestavia Hills

**NORTH ORIENTATION**

ALABAMA WEST STATE PLANE COORDINATE SYSTEM  
Based on GPS Survey relative to NGS CORS Network, NAD83 (2011)  
ELEVATION DATUM: NAVD88, GEOID 12B  
DATE OF SURVEY: [FieldDate]  
Method: RTK (CORS); Confidence Level: 95%  
Positional Accuracy: HZ ± 0.10'  
EPOCH 2010.0000

**FLOOD DATA**

FEMA FLOOD MAP PANEL: 07073C0558H, Effective Date: 09-03-2010  
Surveyed Area appears to lie within: ZONE X

**TITLE EXAMINATION:**

Not available

**LOCATION MAP**  
NOT TO SCALE



**LEGEND**

- ⊙ IRON ROD FOUND (AS NOTED)
- ⊖ UTILITY POLE
- ⌵ GUY ANCHOR
- ⊠ TELECOM JUNCTION
- ⊡ TELECOM PULLBOX
- ⊞ TRANSFORMER
- R/W RIGHT-OF-WAY
- C/L CENTER LINE
- ESMT EASEMENT
- P.O.C. POINT OF COMMENCEMENT
- P.O.B. POINT OF BEGINNING
- P.O.T. POINT OF TERMINUS
- Sq Ft SQUARE FEET
- PAVEMENT EDGE
- CURB LINE
- OVERHEAD UTILITY LINES
- GUY WIRE
- PUBLIC R/W
- TAX PARCEL BOUNDARY
- TIE LINE
- LESSEES EASEMENT(S)
- FIBER UTILITY C/L
- EXISTING LEASE & EASEMENT

THE LAND CONSULTANTS LLC  
5449 Highway #41  
Jasper, TN 37347  
(423) 304-6722

PREPARED FOR  
**verizon**  
VERIZON WIRELESS

**SPECIFIC PURPOSE SURVEY**  
PUMPHOUSE  
Location Code: 299517  
511 Montgomery Highway, Vestavia Hills, AL 35216  
Section 30, Township 18 South, Range 2 West  
Jefferson County, Alabama

**COVER SHEET**  
Resolution

Sheet  
No. 1 of 7  
DWG#: 21302  
ISSUE #: 1  
ISSUE DATE: 10-06-2021  
SEE SHEET # 1

**RESOLUTION NUMBER 5353**

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

**WITNESSETH THESE RECITALS**

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

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

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

1. The City Manager is hereby authorized to sell or dispose of the above-referenced surplus personal property; and
2. This Resolution Number 5353 shall become effective immediately upon adoption and approval.

**DONE, ORDERED, APPROVED and ADOPTED** on this the 25<sup>th</sup> day of October, 2021.

Ashley C. Curry  
Mayor

ATTESTED BY:

Rebecca Leavings  
City Clerk

03/14/21

To: Rebecca Leavings

From: CPT Sean Richardson, Vestavia Hills Police Department

CC: COP Danny P. Rary, CPT Johnny Evans, SGT Randall Jones, CPL Rob Wilson

Re: Surplus City Property

Please request that the City Council deem the following property surplus at the next meeting:

2012 Chevrolet Tahoe – Mileage 149,798 – VIN # 1GNLC2E05CR189258

Please contact me if you need any further information, or have questions or concerns regarding this action.

Very Respectfully,

Sean E. Richardson  
Captain, VHPD  
Patrol Division  
Ext: 1118 – Cell: (205)470-2409  
srichardson@vhal.org

**RESOLUTION NO. 5354**

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

---

**BE IT RESOLVED** by the City Council (the "Council") of the City of Vestavia Hills, Alabama (the "City"):

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

(a) Pursuant to the applicable laws of the State of Alabama, the City and Red B, LLC (the "Beneficiary") have prepared that certain Special Economic Development Agreement to be dated the Date of Delivery (the "Special Economic Development Agreement"), as set forth hereinafter, for the purposes referenced therein.

(b) Pursuant to Amendment No. 772 of the Constitution of Alabama of 1901, as amended ("Amendment No. 772"), it is necessary, desirable and in the public interest for the City to grant public funds in maximum principal amount of \$47,000 pursuant to and for the purposes of the Special Economic Development Agreement.

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

(d) (1) On October 17, 2021, the City caused to be published in *The Birmingham News*, which newspaper has the largest circulation in the City, the notice required by Amendment No. 772(c)(2), a true and correct copy of which notice is set forth as follows:

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

Notice is hereby given that the City Council (the "Council") of the City of Vestavia Hills, Alabama (the "City") will meet in public session at 6:00 p.m. on October 25, 2021 at City Hall in the City of Vestavia Hills, Alabama for the purpose of considering the transaction of business that may properly come before the Council, such business to include, but not be limited to, the authorization by the Council, pursuant to Amendment No. 772 to the Constitution of Alabama of 1901, as amended, of a resolution (the "Resolution") approving the execution and delivery of a Special Economic Development Agreement (the "Development Agreement") by the City and Red B LLC, and related interests (the "Beneficiary"), pursuant to which Development Agreement the City shall make economic development grants to the Beneficiary, based solely upon a percentage of net sales tax proceeds received by the City from the operation of a restaurant and outdoor tavern on a site owned and improved by the Beneficiary in the maximum aggregate amount of \$47,000, for the purpose of promoting the economic development of the City and in consideration of the establishment by the Beneficiary and the operation of commercial and related facilities in the City.

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

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

All interested persons may examine and review the Development Agreement and the Resolution, and make copies thereof at personal expense, at the offices of the City Manager during normal business hours, before and after the meeting referenced herein.

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

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

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

(e) (1) The assessed valuation of the taxable property in the City for the preceding fiscal year (ending September 30, 2021 and on the basis of which taxes became due and payable on October 1, 2021) was not less than \$879,598,460.

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

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

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

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



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**SPECIAL ECONOMIC DEVELOPMENT AGREEMENT**

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**Dated \_\_\_\_\_, 2021**

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**by**

**CITY OF VESTAVIA HILLS, ALABAMA**

**and**

**RED B, LLC**

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**This Special Economic Development Agreement was prepared by Heyward C. Hosch and Molly R. Brannan of Maynard, Cooper & Gale, P.C., 1901 Sixth Avenue North, Suite 1700, Birmingham, Alabama 35203-2618.**

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**SPECIAL ECONOMIC DEVELOPMENT AGREEMENT**

\_\_\_\_\_  
\_\_\_\_\_, 2021  
\_\_\_\_\_

This Agreement is made and delivered on the above date by:

**Beneficiary:** Red B, LLC

**City:** City of Vestavia Hills, Alabama

---

**Recitals**

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

The City has agreed to provide the Beneficiary, as provided herein, the within referenced Annual Incentive Payments.

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

**Agreement**

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

## Article 1

### Definitions

**Annual Incentive Payment** means an amount equal to fifty percent (50%) of the City Net Sales Tax Proceeds actually received by the City from the Project during an Annual Incentive Period.

**Annual Incentive Payment Certificate** means the Certificate attached hereto as Exhibit B.

**Annual Incentive Payment Date** means that date which occurs after the later of (i) the 45 days after the last day of an Annual Incentive Period or (ii) 30 days after the date of receipt by the City of the Annual Incentive Payment Certificate.

**Annual Incentive Period** means each of the following annual periods which occurs during the Incentive Period:

- (i) the period which begins on the first day of the month in which occurs the Date of Commencement and ends on the last day of the 13<sup>th</sup> consecutive month thereafter, and
- (ii) each successive period thereafter which begins on the first day of the month which next succeeds the last day of the immediately preceding Annual Incentive Period and ends on the last day of the 12<sup>th</sup> consecutive month thereafter.

**Beneficiary** means the Person in whose name this Agreement is last registered on the Registration of Ownership attached hereto.

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

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

**Date of Commencement** means the date on which a certificate of occupancy issued by the City for the Project shall have become effective

**Date of Delivery** means \_\_\_\_\_, 2021.

**Date of Termination** means the first to occur of: (i) the date on which the City shall have paid to the Beneficiary an amount equal to the Total City Commitment, or (ii) the last day of the Incentive Period, or (iii) the date on which City shall have terminated this Agreement under Article 6(b).

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

**Finance Director** means the Finance Director of the City and any successor to the duties and functions thereof.

**Governmental Authority** means and include any federal, state, county, municipal or other government, and any agency, authority, board, bureau, commission, court, department, or instrumentality thereof, having jurisdiction in the premises.

**Incentive Period** means a period of six consecutive Annual Incentive Periods.

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

**Project** means and include those commercial and related facilities established by the Beneficiary at 3160 Cahaba Heights Road within the corporate limits of the City.

**Red B, LLC** means Red B, LLC, an Alabama limited liability company, and its successors and assigns.

**Red B Project Fund** means the fund established pursuant to Section 4.01.

**State** means the State of Alabama.

**Subject Real Property** means the real property described on Exhibit A hereto.

**Total City Commitment** means the amount of Forty-Seven Thousand Dollars (\$47,000).

## Article 2

### Representations

#### Section 2.01 The City.

The City hereby represents and certifies as follows:

(a) (i) The City has duly authorized the execution, delivery and performance of this Agreement pursuant to Amendment No. 772 to the Constitution of Alabama of 1901, as amended.

(ii) The expenditure of public funds for the purposes set forth in this Agreement (A) will result in direct financial benefits to the City and (B) will serve a valid and sufficient public purpose, notwithstanding any incidental benefit accruing to the Beneficiary or any private entity or entities.

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

(b) The City recites, certifies and declares that all acts, conditions, and things required by the Constitution of the State of Alabama of 1901, as amended, and the laws of the State of Alabama to exist, happen and be performed precedent to or in connection with the authorization and delivery of this Agreement do exist, have happened, and have been performed in due time, form and manner as required by law.

#### Section 2.02 The Beneficiary.

The Beneficiary hereby represents and certifies as follows:

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

(b) The Beneficiary is qualified to do business in the State of Alabama to the extent required by the laws thereof.

(c) The Beneficiary has made all filings, given all notices, and received all approvals or consents, required of the Beneficiary by any Governmental Authority in the State of Alabama for the effectiveness and enforceability of this Agreement.

(d) There is no action, inquiry or proceeding by or before any Governmental Authority pending, or threatened in writing, by, against, or concerning, the Beneficiary which involves the validity, or performance by the Beneficiary, of this Agreement.

### **Article 3**

#### **Term of Agreement**

The obligations of the City for the payment of the Annual Incentive Payments shall become effective on the Date of Commencement and shall continue thereafter in accordance with the terms of this Agreement until, and terminate on, the Date of Termination, whereupon all such obligations of the City will be fully satisfied and discharged.

### **Article 4**

#### **Annual Incentive Payments**

##### **Section 4.01 Red B Project Fund**

(a) The City establishes a special fund (by special account or by specific designation on the financial records of the City) designated the "Red B Project Fund" to be maintained by the City for the purposes of this Agreement.

(b) From and after the Date of Commencement the City will deposit in the Red B Project Fund the amount of the City Net Sales Tax Proceeds received by the City from the Project when and as such amounts are actually received by the City.

##### **Section 4.02 Determination and Payment of Annual Incentive Payment**

The City orders and directs the Finance Director to pay to the Beneficiary on each Annual Incentive Payment Date, upon presentation to the Finance Director of the Annual Incentive Payment Certificate and in lawful money of the United States of America, solely from the Red B Project Fund the amount (if any) of the Annual Incentive Payment determined by the Finance Director to be due on such date.

### **Section 4.03 Nature, Amount of Obligations of City.**

The City and the Beneficiary agree, anything in this Agreement to the contrary notwithstanding:

(a) Delivery of Annual Incentive Payment Certificate as Condition Precedent.

The Beneficiary will deliver the Annual Incentive Payment Certificate to the Finance Director following the conclusion of each Annual Incentive Period as a condition precedent to the payment by the City of an Annual Incentive Payment.

(b) Limited Obligation.

The obligation of the City for the payment of the Annual Incentive Payments: (i) is a limited obligation payable solely from the amounts on deposit in the Red B Project Fund allocable to the Annual Incentive Payments; (ii) shall never constitute a general obligation, or a charge against the general credit or taxing powers, of the City within the meaning of any constitutional provision or statutory limitation whatsoever; and (iii) is subject to (A) all prior pledges of the City Net Sales Tax Proceeds for the benefit of long term indebtedness of the City, (B) in accordance with *Johnson v. Sheffield*, 183 So. 265 (Ala. 1938), the law-imposed requirement that, if necessary, there must first be paid from all City Net Sales Tax Proceeds (including without limitation the Annual Incentive Payments) the legitimate and necessary governmental expenses of operating the City, and (C) the application of bankruptcy, insolvency, and other laws affecting creditors' rights.

(c) Maximum Amount.

The maximum amount the City will pay under this Agreement shall be limited to and shall not exceed the Total City Commitment.

(d) No Recourse.

No covenant or agreement contained in this Agreement shall be deemed to be a covenant or agreement of any officer, agent, employee, or member of the governing body of the City in the individual capacity thereof and none of such parties or persons nor any officer executing this Agreement shall be liable personally on this Agreement or be subject to any personal liability or accountability by reason of the delivery of this Agreement.

**Section 4.04 Agreements of the City.**

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

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



## Article 5

### Obligations of the Beneficiary

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

(b) The Beneficiary shall use the proceeds of the Annual Incentive Payments solely for the purpose of development and operation of the business interests of the Beneficiary within the City.

(c) The Beneficiary agrees to defend, protect, indemnify, and hold harmless the City, its agents, employees, and members of its governing body, from and against all claims or demands, including actions or proceedings brought thereon, and all costs, expenses, and liabilities of any kind relating thereto, including reasonable attorneys' fees and cost of suit, arising out of or resulting from any of the following, provided, however, that the foregoing indemnity will not extend to the negligent misconduct of the City, its agents, employees, and members of its governing body: (i) any construction activity performed by Beneficiary, or anyone claiming by through, or under Beneficiary; and (ii) any loss of life, personal injury, or damage to property arising from or in relation to the entry upon, construction, use, operation or occupancy of the Project, including, without limitation, tenants, customers and invitees of the Project or Beneficiary.

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

## ARTICLE 6

### Grant of Easement for Public Parking on Subject Real Property

(a) For and in consideration of the delivery of this Agreement by the City, the undersigned Red B, LLC grants, bargains, sells, and conveys unto the City, for the period beginning on the Date of Delivery and ending on the Date of Termination, the right and privilege of use of, and an easement of free and unrestricted ingress to, and egress from, the parking spaces and parking facilities on the Subject Real Property for public parking for public events to be held by, or with the approval of, the City, as determined by the City Manager of the City; provided, Red B, LLC reserves the right to make use of the Subject Real Property for purposes and in a manner which will not interfere with the enjoyment and use of the interests, privileges and rights described in Article 6(a); provided further, the easement, interests, privileges and rights hereby conveyed and granted shall terminate from and after the Date of Termination.

(b) Red B, LLC covenants with the City that: (i) it is lawfully seized in fee simple of the Subject Real Property; (ii) it has a good right to grant, bargain, sell and convey, and will warrant and defend against the claims of all persons, to the City the interests, privileges and rights described in Article 6(b), and (iii) the Subject Real Property is free from all encumbrances and liens that would inhibit, restrict or prevent the full and free exercise of the interests, privileges and rights described in Article 6(a).

## **Article 7**

### **Remedies**

(a) The City and the Beneficiary have and may exercise all rights of action and remedies available at law or in equity for the protection or vindication of the respective rights and interests thereof under this Agreement to the extent the exercise thereof does not violate any applicable provision of law in the premises.

(b) Anything in this Agreement to the contrary notwithstanding, the City may terminate this Agreement, without further recourse or obligation hereunder, upon default in the performance, or breach, of any covenant or warranty of the Beneficiary in this Agreement and the continuance of such default or breach for a period of 30 days after there has been given, by registered or certified mail, to the Beneficiary by the City a written notice specifying such default or breach and requiring it to be remedied and stating that such notice is a “notice of default” hereunder.

## Article 8

### Assignment and Delegation of Agreement by Beneficiary

#### Section 8.01 Assignment of Interests and Rights by Beneficiary.

(a) This Agreement is not negotiable and may be assigned and transferred by the Beneficiary only as provided in this Section.

(b) The Beneficiary may assign the interests thereof under this Agreement to a related party, or pledge the interests thereof under this Agreement to a creditor of the Beneficiary, upon prior written notice of the name, address and cognizant persons of such pledgee to, and the prior written consent thereto of, the Mayor and City Manager of the City.

(c) The Beneficiary may assign, convey and transfer the rights and interests of the Beneficiary in and to this Agreement to another Person upon:

(i) the prior consent thereto by resolution of the governing body of the City; and

(ii) presentation of this Agreement to the City Manager of the City for endorsement of the Beneficiary ship of the transferee on the Registration of Beneficiary ship hereon.

#### Section 8.02 Delegation of Duties and Obligations by Beneficiary.

The Beneficiary may delegate the performance and observance of the duties and obligations of the Beneficiary under this Agreement only upon the prior consent thereto by resolution of the governing body of the City.

#### Section 8.03 Assignees and Transferees of this Agreement Subject to Defenses and Rights of the City.

(a) Each Person who acquires an interest in this Agreement shall be subject to all defenses and rights of the City at law or in equity and to all payments of Annual Incentive Payments theretofore made by the City.

(b) This Agreement does not constitute a “negotiable instrument” within the meaning or for the purpose of, and a transferee of this Agreement will not have the rights and remedies of a “holder in due course” provided by, Article 3 of the Alabama Uniform Commercial Code.

(c) This Agreement does not constitute a “financial asset” or a “security” within the meaning or for the purpose of, and a transferee of this agreement will not have the rights or remedies of a “purchaser” or “bona fide purchaser” provided by Article 8 of the Alabama Uniform Commercial Code.

## Article 9

### Provisions of General Application

The City and the Beneficiary covenant and agree as follows:

- (a) **Governing Law:** This Agreement shall be governed by and construed in accordance with the laws of the State of Alabama without regard to principles of conflict of laws.
- (b) **Binding Effect:** This Agreement shall be enforceable by and binding upon the respective successors and assigns of the undersigned.
- (c) **Counterparts:** This Agreement may be executed in several counterparts each of which shall constitute one and the same agreement.
- (d) **Amendment:** This Agreement may be amended only in writing duly authorized, executed and delivered by the City and the Beneficiary.
- (e) **Enforceability:** If any provision herein shall be unenforceable, the remaining provisions hereof shall not be affected thereby and shall remain in full force and effect.
- (f) **Notices:** Any notice given hereunder shall be delivered to the respective addresses set forth on the cover page hereof or as otherwise provided in writing.
- (g) **No Jury Trial:** The City and the Beneficiary each (1) irrevocably waives, to the extent permitted by law, any right to trial by jury in any action or proceeding under, or related to, this Agreement and (2) agrees that no Person has represented (by expression or implication) that a party hereto would not seek to enforce such waiver in the event of litigation.
- (h) **No Joint Venture:** This Agreement shall not operate or be construed to create a joint venture or partnership by the City and the Beneficiary.
- (i) **No Other Beneficiaries:** This Agreement is solely for the benefit of the City and the Beneficiary and the successors and assigns thereof and no other Person shall have any benefit, interest or rights under or by virtue of this Agreement.
- (j) **Final and Full Contract:** This Agreement shall constitute the final and full contractual agreement of the City and the Beneficiary and shall supersede all prior or other Agreements (written or oral) thereby relating to the subject matter hereof.

IN WITNESS WHEREOF, the City has caused this Agreement to be executed under seal and attested in the name of the City, and registered as a conditional claim against the City and the within Red B Project Fund and Annual Incentive Payments, by officers thereof duly authorized thereunto on the Date of Delivery.

**CITY OF VESTAVIA HILLS, ALABAMA**

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

By \_\_\_\_\_  
Finance Director

S E A L

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

IN WITNESS WHEREOF, the Beneficiary has caused this Agreement to be executed under seal in the name of the Beneficiary by an officer or legal representative thereof duly authorized thereunto on the Date of Delivery.

**RED B, LLC**

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

Its \_\_\_\_\_

**REGISTRATION OF OWNERSHIP**

This Agreement is recorded and registered on the records of the City of Vestavia Hills in the name of, and may be enforced by, the last Person named below.

<u>Date of Registration</u>	<u>Beneficiary</u>	<u>Signature of Authorized Officer of City</u>
Date of Delivery	Red B, LLC	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

**EXHIBIT A**

**Description of Subject Real Property**



**EXHIBIT B**

**Request for Payment of Annual Incentive Payments**

**Request for Payment of Annual Incentive Payments**

From: Red B, LLC

To: City of Vestavia Hills, Alabama

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

Re: **Special Economic Development Agreement dated the Date of Delivery by City of Vestavia Hills, Alabama (the "City") and Red B, LLC (the "Beneficiary").**

---

The undersigned, as Beneficiary under the above Agreement, hereby represents to the City the Beneficiary is in full compliance with the agreements and covenants thereof under the Agreement and with all applicable ordinances and regulations of the City applicable thereto, and in consequence thereof requests payment to the Beneficiary by the City of the Annual Incentive Payment, as determined by the City as provided in the Agreement, for the following period:

\_\_\_\_\_, 20\_\_ to \_\_\_\_\_ 20\_\_.

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

**Red B, LLC**  
as Beneficiary

By \_\_\_\_\_

Its \_\_\_\_\_

**Section 3.**

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

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

**Section 4.** All prior actions taken, and agreements, documents or notices executed and delivered, by any officer or other representative of the City, in connection with the agreements, covenants, and undertakings of the City hereby approved, or in connection with the preparation of the Special Economic Development Agreement and the terms and provisions thereof, are hereby approved, ratified and confirmed.

**Section 5.** All ordinances, resolutions, orders, or parts of any thereof, of the Council in conflict, or inconsistent, with any provision of this resolution hereby are, to the extent of such conflict or inconsistency, repealed.

**Section 6.** This resolution shall take effect immediately.

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

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

Nays: None

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

**CERTIFICATE OF CITY CLERK**

\_\_\_\_\_  
\_\_\_\_\_, 2021  
\_\_\_\_\_

**Re: Special Economic Development Agreement  
(Red B, LLC Project)**

---

I, the undersigned, do hereby certify that (1) I am the duly elected, qualified and acting City Clerk of the City of Vestavia Hills, Alabama (the "City"); (2) as Clerk of the City I have access to all original records of the City and I am duly authorized to make certified copies of its records on its behalf; (3) the attached pages constitute a complete, verbatim and compared copy of excerpts from the minutes of a regular meeting of the City Council of the City duly held on October 25, 2021, the original of which is on file and of record in the minute book of the City Council in my custody; (4) the resolution set forth in such excerpts is a complete, verbatim and compared copy of such resolution as introduced and adopted by the City Council on such date; and (5) said resolution is in full force and effect and has not been repealed, amended or changed.

IN WITNESS WHEREOF, I have hereunto set my hand as Clerk of the City and have affixed the official seal of the City on the above date.

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

SEAL

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

---

**Special Economic Development Agreement  
(Red B, LLC Project)**

---

The City Council of the City of Vestavia Hills met in regular public session at the City Hall in the City of Vestavia Hills, Alabama, at 6:00 p.m. on October 25, 2021. The meeting was called to order by the Mayor, and the roll was called with the following results:

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

Absent:

\* \* \*

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

\* \* \*

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

**Miss Astrid’s Tavern on Cahaba Heights Road**

*Summary of Terms Applicable to Incentive Agreement for Retail Development on Cahaba Heights Rd*

*As of October 4, 2021*

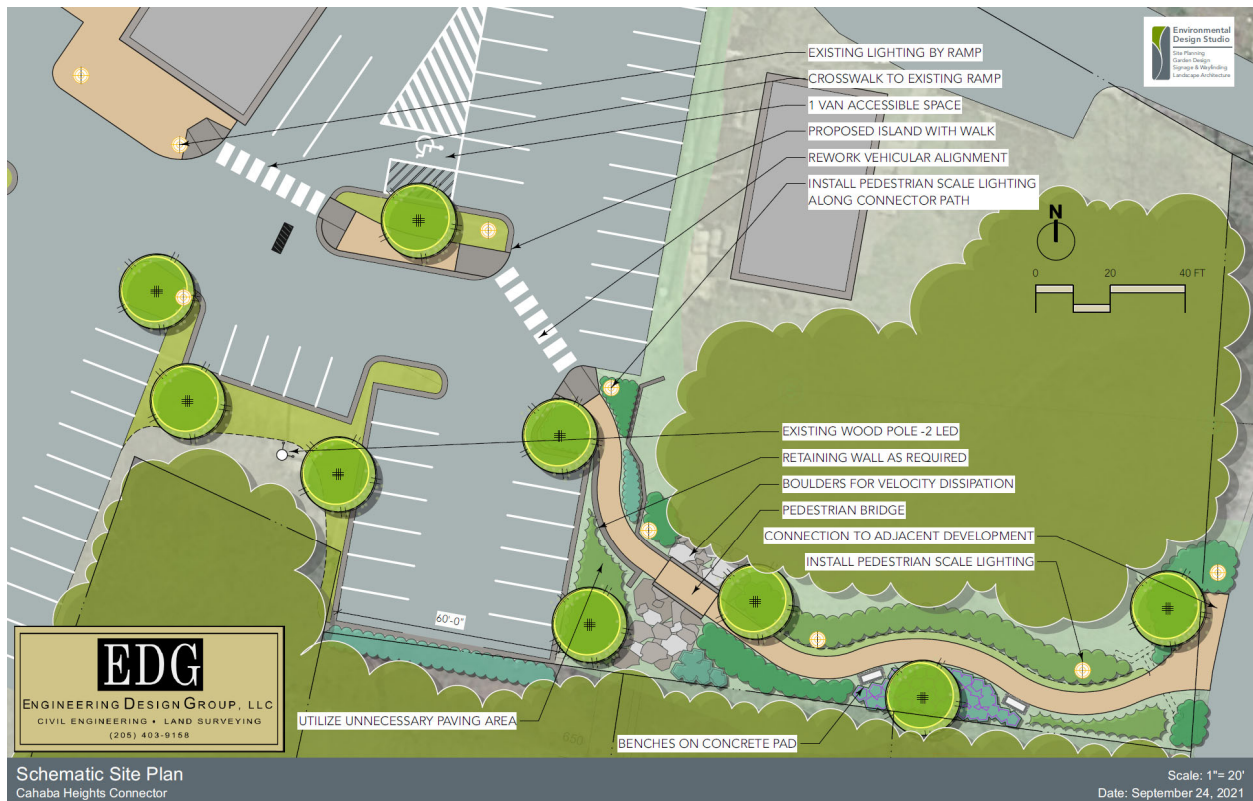
**Narrative:** As an opportunity to enhance the Cahaba Heights Entertainment District and facilitate pedestrian access to multiple retail venues and outdoor entertainment, four property owners have agreed to work together to achieve this goal with assistance from the City of Vestavia Hills. These property owners’ assets are represented on the map provided below and more information is provided in the adjoining table referenced as property owners A, B, C, and D.



Property Label	Owner	Contact
A	R & R Investments, LLC	Raymond Gotlieb
B	Roy Gilbert	Roy Gilbert
C	Red B LLC	Richard Edge
D	Bluwater Properties, LLC	Jared Lewis

Each property owner has a distinct role to play in the collaborative effort and the time line for accomplishment is independent of the other property owners. The completion of each project is not absolutely dependent upon the other projects, but they will complement each other as they reach reality. The project components are described below:

Property owners A and B will grant separate easements to the City of Vestavia Hills so as to allow City construction of a pedestrian park and amenity. This amenity will serve as a connection to multiple retail areas and catalyze cross-parking arrangements that will be mutually beneficial to existing and prospective development on properties A, C, and D. An illustration of this area is included below.



Property Owner D is finalizing an agreement to develop a restaurant on his property that will also include improved parking, stormwater drainage and an outdoor entertainment venue at the rear of his property. His project will not be complete as early as the park project illustrated above nor the Miss Astrid project that is planned for property C. That being said, an existing financial proforma anticipates the need for a public incentive to make the vision feasible. The vision for the project on property D is illustrated in images below.







### **Miss Astrid's Tavern**

Property owner C has finalized construction and site plans that contemplate a building addition to the existing structure that houses the Fig Tree Restaurant. The building addition would function as an outdoor tavern to serve alcoholic beverages while utilizing the kitchen function of the existing restaurant as a companion to the lounge. In addition to the building expansion, the property owner will improve its on-site stormwater structures and improve parking that will anchor the eastern end of the pedestrian access while also serving as phase one of the ultimate restaurant and outdoor venue construction contemplated on property D.

The total construction and site budget for Miss Astrid's as previously described is anticipated to be approximately \$200,000. The annual gross income is anticipated to be \$368,500 per year. Given the crucial nature as far as property location and adjacency for the anticipated location of shared parking and outdoor entertainment venue, a proposed 50% local, non-educational sales tax rebate not to exceed \$47,000 over six years is being proposed. The value of the incentive is intended to cover the project feasibility gap along with the value associated with parking and stormwater enhancements.

A work-in-progress illustration of the completed global site plan is included below.



A work-in-progress illustration of the proposed entertainment venue is included below.



**Basic Terms of Incentive Agreement:**

- (1) Incentive Recipient One- Red B, LLC
  - a. A six-year incentive agreement subject to the following terms
    - i. At the end of operational year one through year six- Rebate of 50% of Actual Local Sales Tax Receipts (less educational and capital fund allocation) from the operation of Miss Astrid's
    - ii. Rebates are subject to a maximum cumulative payout of \$47,000.
  - b. In return for incentives, Red B, LLC shall convey to the City of Vestavia Hills a public parking easement that allows public parking within its realigned parking area and furthermore agrees to work in good faith as property D is redeveloped to plan for a larger shared parking area. The proposed parking improvements are illustrated below.
- (2) Incentive Recipient Two- Bluwater Properties, LLC
  - a. At a subsequent timeframe and as determined from analysis of project feasibility gaps and public improvements

A work-in-progress illustration of shared parking area



**Economic Value of Miss Astrid's to the City of Vestavia Hills (10 Year Analysis/Six Year Incentive):**

- Ten Year Cumulative **Net** New Revenues projected to the City of Vestavia Hills \$73,700
- Six Year Maximum Incentive Payable \$47,000
- Public Parking Enhancement for Future of Entertainment District

**ORDINANCE NUMBER 3041**

**AN ORDINANCE ACCEPTING A BID FOR RENOVATIONS TO VESTAVIA HILLS BILL F. TOWERS FIRE STATION NO. 1 AND AUTHORIZING THE EXECUTION AND DELIVERY OF THE CONSTRUCTION CONTRACT DOCUMENTS BY AND BETWEEN THE CITY OF VESTAVIA HILLS, ALABAMA, AS “OWNER,” AND JARED BUILDING COMPANY, AS “CONTRACTOR.”**

**THIS ORDINANCE NUMBER 3041** is considered, approved, enacted and adopted by the City Council of the City of Vestavia Hills, Alabama on this the 25th day of October, 2021.

**WITNESSETH THESE RECITALS:**

**WHEREAS**, on May 18, 2021 at 2:00 p.m., the City of Vestavia Hills, Alabama publicly read aloud bids submitted for the renovations to Vestavia Hills Bill F. Towers Fire Station No. 1 for the City of Vestavia Hills; and

**WHEREAS**, only one bid was received; and

**WHEREAS**, a copy of the bid is attached hereto, marked as Exhibit A and is incorporated into this Ordinance Number 3041 by reference as though set out fully herein;

**WHEREAS**, the City’s consultant for the Community Spaces Project, Raynor Boles, TCU Consulting Services, LLC, submitted an email to the City Manager, dated October 15, 2021 recommending acceptance of the bid package submitted by Jared Building Company based upon the volatility of the current construction market, a copy of which is marked as Exhibit B and is attached to and incorporated into this Ordinance Number 3041 and

**WHEREAS**, the Bid Specifications included the following contract documents prepared by the City and to be signed by the City of Vestavia Hills, Alabama, as “Owner,” and the lowest responsible bidder as “Contractor”:

- A. Contract AIA Document A101-2017.
- B. General Conditions AIA Document A201-2017.
- C. Performance Bond AIA Document A312-2010.
- D. Payment Bond AIA Document A312-2010.
- E. First Addendum to Contract and General Conditions; and

**WHEREAS**, the Mayor and City Council feel it is in the best public interest to follow the recommendation of the Consultant and accept said bid as detailed above and to authorize the execution and delivery of the contract documents.

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

1. The bid submitted by Jared Building as detailed in Exhibit A is attached and recommended by the City Manager and TCU is hereby accepted; and

2. The Mayor and City Manager are hereby authorized to execute and deliver any and all documents necessary to contract with Jared Building, including specifically but not limited to the following contract documents:

- A. Contract AIA Document A101-2017.
- B. General Conditions AIA Document A201-2017.
- C. Performance Bond AIA Document A312-2010.
- D. Payment Bond AIA Document A312-2010.
- E. First Addendum to Contract and General Conditions; and

3. Funding for said renovation project shall be expensed to the City's Capital Funds Budget; and

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

5. This ordinance shall become effective upon its approval, adoption, enactment and publication by posting as set forth in Title 11-45-8(b), *Code of Alabama, 1975*.

**DONE, ORDERED, APPROVED and ADOPTED** this the 25th day of October, 2021.

CITY OF VESTAVIA HILLS, ALABAMA

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

ATTESTED BY:

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

**CERTIFICATION:**

I, Rebecca Leavings, as City Clerk of the City of Vestavia Hills, Alabama, hereby certify that the above and foregoing copy of 1 (one) Ordinance #3041 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 25<sup>th</sup> day of October, 2021 as same appears in the official records of said City.

Posted at Vestavia Hills Municipal Center, Vestavia Hills New Merkle House, Vestavia Hills Civic Center and Vestavia Hills Library in the Forest this the 25<sup>th</sup> day of October, 2021.

Rebecca Leavings  
City Clerk



C.

Vestavia Hills Bill F. Towers Fire Stn. #1  Bid Form	
Demolition	\$ 3000.00
Structural, Framing, Millwork, Doors	\$ 21000.00
Electrical	\$ 52000.00
Plumbing	\$ 54600.00
Mechanical	\$ 56000.00
Flooring, Ceilings, Finishes	\$ 100000.00
GC Overhead & Fees	\$ 140255.00
Unforeseen Condition Allowance	\$50,000.00
Bond	\$ 16225.93
<b>Total Project Cost</b>	<b>\$ 449,340.00</b>

D. Total Amount of Bid (Insert Amount in Words):

Four hundred ninety nine thousand three hundred  
forty dollars 00/100

\_\_\_\_\_ dollars

(\$ 449,340.00 ), in lawful money of the United States of America.

E. We have included the required security Bid Bond as required by the Instruction to Bidders.

F. We have excluded the value of sales tax as required by instructions to bidders

**1.08 ACCEPTANCE**

A. Submit the Bid as outlined in the Invitation to Bid.

**1.09 CONTRACT TIME**

A. Each Bidder shall indicate on his bid the number of calendar days he or she will require to complete the entire work under the Contractor with all possible diligence within the

**ATTACHMENT A**

**BID FORM**

**VESTAVIA HILLS BILL F. TOWERS FIRE STN. NUMBER ONE**

**LIVING AREA REMODEL**

**THE PROJECT AND THE PARTIES**

**1.01 SUBMITTED TO:**

City of Vestavia Hills  
1032 Montgomery Hwy  
Vestavia Hills, AL 35216

**1.02 SCOPE OF WORK**

- A. The work will include but is not limited to the following items: Modification of existing interior space, including removal of existing interior partitions, finishes, ceilings, doors and other components identified in the construction drawings. The interior improvements includes new construction, modification and/or installation of interior partitions, doors/frames, interior finishes, existing MEP systems, and other items identified in the construction drawings.
- B. Work to be performed according plans and specifications included in these contract documents.

**1.03 QUALIFICATIONS**

- A. Selection of qualified contractors will be conducted through a Pre-Qualification process prior to the Request For Bids. Selection will be based on minimum requirements. See Pre-Qualification documents for instructions.

**1.04 SUBMITTED DATE:** 5-18-2021 (Bidder to enter date)

**1.05 SUBMITTED BY:**

(Bidder to enter name and address)

A. Bidder's Full Name: Jared Building Company

1. Address: 3232 Hwy 28

2. City, State, Zip: Columbiana AL 35051

**ATTACHMENT A**

3. The Undersigned proposes to furnish all labor, services, materials, tools and necessary equipment for the construction of various improvements and to perform the work required at the locations set out by the Plans and Specifications, in strict accordance with the Contract Documents.

4. In submitting this Bid, it is understood that this Bid may not be altered or withdrawn for a minimum of 90 calendar days, and that the Owner has reserved the right to reject any and all Bids.

5. The Undersigned certifies that this Bid is made in good faith, without collusion or connection with any other person, persons, partnership, company, firm, association, or corporation offering Bids on this work.

**1.06 DECLARATION**

A. The undersigned hereby declares that he has visited the site and has carefully examined the Drawings, Specifications, Contract Documents and Bidding Documents related to the work covered by his or her Bid.

**1.07 OFFER**

A. Having examined the Place of The Work and all matters referred to in the Instructions to Bidders and the Contract Documents for the above mentioned project, we, the undersigned, hereby offer to enter into a Contract to perform the Work for the lump sum prices listed in this bid form.

B. Bonds (Price shall be included in Bid):

1. A Bid Bond and Labor, payment and performance bonds as outlined in INSTRUCTIONS TO THE CONTRACTOR of the Contract Documents (complete and attach Attachment F).

a. Premium: \_\_\_\_\_

b. Name and Address of Surety:

1)

2)

time limit as stipulated in the bid. The Owner considers it imperative that the work be completed within 180 days or at the earliest possible date. Consideration will be given to the proposed completion date in determining the Bidders to whom the Contract will be awarded. (Included Adverse Weather Days)

Calendar Days to Completion: 120

- B. Completion time must include time required for testing and field acceptance from all agencies.

Attachment A – Bid form

Page 3 of 7

### 1.10 BASIS OF BIDS

- A. Bids shall be on a lump sum basis and shall include all costs for this Project as described and shown by the Contract Documents. Basis for Bidding shall be on brands, materials, processes, products, persons or organizations, etc., indicated in the Contract Documents.
- B. Bids shall include all Unit Price costs as indicated by the Contract Documents and Bid Form. The bid price submitted by the Contractor shall be the sum of the unit prices times the estimated quantity of each item shown in the bid form. However, the Contractor shall guarantee himself/herself of the accuracy of the quantities shown in the bid form. The quantities shown are estimates only and indicate only the magnitude of the project and a basis for bid comparison. Any discrepancies in quantity or work necessary to fulfill the intent of the plans shall be included, whether a bid item is included or not. Any work required for which a bid item is not shown shall be considered subsidiary to other work items.

### 1.11 SALES TAX

- A. This project is exempt from Sales Tax. Contractor's bids are NOT to include Sales Tax on materials (tangible personal property) to be incorporated into realty.
- B. Under Alabama Act 2013 - 205, Certificate of Exemption from Sales and Use Tax for Governmental Entities, the Contractor is responsible for obtaining a Certificate of Exemption from the Alabama Department of Revenue for purchases of materials and other tangible personal property made part of the Project. Any subcontractors purchasing materials or other tangible personal property made part of the Project will be responsible for obtaining a Certification of Exemption. The Contractor is responsible for providing any subcontractor's with the required project number.
- C. The City or Architect will apply to state for project exception.
- D. It is the Contractor's responsibility to comply with the law and the Department of Revenue regulations throughout the duration of the Project. Any delay in obtaining the Certificate(s) of Exemption due in whole or in part to the fault of the Contractor or subcontractor will not be cause of an extension of time for completion of the Project nor an increase in price.

## 1.12 INSURANCE

- A. Insurance is required as outlined below (Complete Attachment C - Bidder Qualifications and submit with Bid). Provide a sample Certificate of Insurance with the Bid Documents.
1. Workmen's Compensation Insurance coverage shall be provided in accordance with the statutory coverage required in Alabama. A group insurer must submit a certificate of authority from the Alabama Department of Industrial Relations approving the group insurance plan. A self-insurer must submit a certificate from the Alabama Department of Industrial Relations stating that the Contractor qualifies to pay its own workers' compensation claims.
    - a. Carrier: ~~O.M. Hugh~~  
CSU
  2. Employer's Liability Insurance Limits shall provide at least the following:
    - a. Bodily Injury by Accident: \$1,000,000 for each accident
    - b. Bodily Injury by Disease: \$1,000,000 for each employee
    - c. Carrier: CSU
  3. Commercial General Liability Insurance (CGL), written on an ISO Occurrence Form (current edition of ISO CG 00 01 as of the date of Advertisement of Bids), or equivalent, shall include, but need not be limited to coverage for bodily injury and property damage arising from premises and operations liability, products and completed operations liability, blasting and explosion, collapse of structures, underground damage, personal injury liability and contractual liability. The Commercial general Liability Insurance shall provide at least the following:
    - a. General Aggregate - \$2,000,000 per Project
    - b. Products, Completed Operations Aggregate - \$2,000,000 per Project
    - c. Personal and Advertising Injury - \$1,000,000 per Occurrence
    - d. Each Occurrence - \$1,000,000
    - e. Carrier CSU
  4. Additional Requirements for Commercial General Liability Insurance
    - a. The policy shall name the City of Vestavia Hills, Alabama, as Owner, and its public officials and employees, and its agents, consultants and employees as additional insureds (the "Indemnitees"), and state that this coverage shall be

primary insurance for the additional insureds. Evidence that Contractor's insurance is primary with respect to any coverages available to the Indemnitees shall be provided in the form of an endorsement to the Contractor's CGL policy. Evidence that the Indemnitees have been named as additional insureds shall be provided by endorsements equivalent to ISO CG 2010 or CG 2033 and CG 2037.

- b. The policy must include separate per project aggregate limits.

5. Commercial business Automobile Liability Insurance:

- a. Commercial Business Automobile Liability Insurance shall include coverage for bodily injury and property damage arising from the operation of any owned, non-owned or hired automobile. The commercial business Automobile Liability Insurance Policy shall provide not less than \$1,000,000 Combined Single Limits for each occurrence.
- b. The policy shall name the Owner, City of Vestavia Hills, Alabama, its public officials and employees, and its agents, consultants and employees as additional insureds.
- c. Carrier: CSU

6. Commercial Umbrella Liability Insurance

- a. Umbrella Liability Insurance shall provide coverage limits excess of the Commercial General Liability, commercial Business Automobile Liability and the Employers' Liability coverage limits, on a follow-form basis to satisfy the minimum limits set forth herein.
- b. Minimum Combined Primary Commercial General Liability and commercial/excess Umbrella limits of \$5,000,000 per Occurrence and Aggregate.

**1.13 CERTIFICATION OF COMPLIANCE**

- A. For compliance of the City of Vestavia Hills with section Nine of Act 2011-535 Bidders shall complete Attachment K - Certification of Compliance With Section Nine of Act 2011-535

**1.14 INTERPRETATION OF BIDDING DOCUMENTS**

- A. Bidders shall promptly notify the Architect of any ambiguity, inconsistency or error which they may discover upon examination of the Bidding Documents or of the site and local conditions. Conflict in documents not brought to the attention of the Architect during bidding shall be deemed to be provided at no additional cost.
- B. All inquiries shall be submitted to lisa@lcsdesigns.net with a CC to Raynor@tcuconsulting.com
  - 1. Please do not send questions to any other individuals except those listed.
  - 2. A confirmation email will be provided upon receipt of email. If a confirmation is not received within 48 hours please contact Lisa McClure at LCS Designs (205)458-0007.
- C. Submit all questions in writing via e-mail per Section 1.14. B. Replies to questions will be issued to all General Contractors in the form of an Addendum as per section 3.1 of the Instructions to the Contractor.

Attachment A – Bid form

Page 6 of 7

**1.15 ADDENDA**

- A. The following Addenda have been received. The modifications to the Bid Documents noted below have been considered and all costs are included in the Bid Price.

- 1. Addendum # 1 Date: 5-14-21
- 2. Addendum # \_\_\_\_\_ Date: \_\_\_\_\_
- 3. Addendum # \_\_\_\_\_ Date: \_\_\_\_\_
- 4. Addendum # \_\_\_\_\_ Date: \_\_\_\_\_

**1.16 BID FORM SIGNATURES(S)**

A. The Corporate Seal of

Jared Building Company  
(Bidder – print the full name of your firm)

B. was hereunto affixed in the presence of:

Jared Johnson, President  
(Authorized signing officer, Title) (Seal)

**ACKNOWLEDGMENT**

I, the undersigned authority, a Notary Public in and for said County, in said State, hereby certify that Jared Johnson, 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 Company.

Given under my hand and official seal, this the 18<sup>th</sup> day of May, ~~2017~~ 2021

Kitty C. Whitworth  
Notary Public

My Commission Expires:

9/17/2021  
SEAL

END OF BID FORM



**ATTACHMENT B**

Raynor Boles  
[Raynor@tcuconsulting.com](mailto:Raynor@tcuconsulting.com)

**CONTRACTOR QUALIFICATIONS**

**INSTRUCTIONS TO APPLICANTS:**

Complete form by filling in all information. Accompany signed application with:

1. A copy of your Certificate of Insurance (which includes proof of general liability, employer's liability, automobile liability and workman's compensation insurance). Include the City of Vestavia Hills as an additional insured entity.
2. Note Contractor's License numbers for all Alabama Contractor Licenses required for this project. A Commercial General Contractor's License is also required for this project.
3. Certificate of bonding capacity for required Bid, Labor, Payment and Performance bonds.

Company Information

<b>Business Name</b> (as registered with the IRS on the W-9 form):	<b>Application Date:</b>
Jared Building Company	
<b>Doing Business As (DBA):</b>	<b>Tax ID:</b>
Jared Building Company	82-4483587
<b>Business Address</b> (Street, City, State, Zip):	<b>Application Date:</b>
3232 Hwy 28 Columbiana AL 35051	
<b>Commercial General Contractor License Number:</b>	
54800	
<b>Service(s) provided:</b> You may attach to this form any additional information about your company services or products. GC	

**Company History**

<b>Number of Years in Business:</b>	<b>Number of Employees:</b>
3	3
<b>Name of Insurance Company and Agent</b> (Must have a copy of current endorsement):	
O.M. Hughes Insurance	

**ATTACHMENT B**

**Principal(s) of Firm**

Name: <u>Jared Johnson</u>	Title: <u>President</u>
Business Address (Street, City, State, Zip): <u>3232 Hwy 28 Columbiana AL</u>	SSN: <u>422410957</u>
Education: <u>B.S. Civil Engineering, UAB</u>	
Work Experience:	

Name: <u>Anita Johnson</u>	Title: <u>Treasurer</u>
Business Address (Street, City, State, Zip): <u>3232 Hwy 28 Columbiana AL</u>	SSN: <u>422115025</u>
Education:	
Work Experience: <u>30 years in construction management</u>	

**Customer References**

Name: <u>City of Montevallo (see city clerk)</u>	Phone #: <u>205-665-2555</u>
Address (Street, City, State, Zip): <u>541 Main Street Montevallo, AL 35115</u>	
Type of Work Performed <u>Remodel</u>	
Contract Price <u>\$300K</u>	Date Completed: <u>Jan 2021</u>

Name: <u>Morrison &amp; Spann</u>	Phone #: <u>205-669-2220</u>
Address (Street, City, State, Zip): <u>101 N Main Street Columbiana AL 35051</u>	
Type of Work Performed <u>Remodel</u>	
Contract Price <u>\$80K</u>	Date Completed: <u>5-21</u>

Name:	Phone #:
-------	----------

<b>Address</b> (Street, City, State, Zip):	
<b>Type of Work Performed</b>	
<b>Contract Price</b>	<b>Date Completed:</b>

Attachment C – Contractor Qualifications

Page 2 of 3


**ATTACHMENT B**

**Agreement**

The undersigned contractor certifies that all information given is correct.

Jared Building Company, Jared Johnson  
Name of Firm, Ownership

5 - 18 - 2021  
Date

  
Signature

President  
Title



## CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)  
04/19/2021

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

**IMPORTANT:** If the certificate holder is an **ADDITIONAL INSURED**, the policy(ies) must have **ADDITIONAL INSURED** provisions or be endorsed. If **SUBROGATION IS WAIVED**, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER O.M. Hughes Insurance, Inc. 300 Union Hill Drive, Ste 300 Birmingham, AL 35209	CONTACT NAME: Kara Smith
	PHONE (A/C, No., Ext): (205) 956-4500 FAX (A/C, No): (205) 956-5536 E-MAIL ADDRESS: Kara@omhughesinsurance.com
INSURED Jared Building Co 3232 Hwy 28 Columbiana, AL 35051	INSURER(S) AFFORDING COVERAGE INSURER A: Cincinnati Specialty Underwriters NAIC # 13037
	INSURER B:
	INSURER C:
	INSURER D:
	INSURER E:
	INSURER F:

## COVERAGES

## CERTIFICATE NUMBER:

## REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR			CSU0153146	06/30/2020	06/30/2021	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100,000 MED EXP (Any one person) \$ 1,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000
	GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:						
	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> NON-OWNED AUTOS ONLY						COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
	UMBRELLA LIAB <input type="checkbox"/> OCCUR EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED <input type="checkbox"/> RETENTION \$						EACH OCCURRENCE \$ AGGREGATE \$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? <input type="checkbox"/> Y/N If yes, describe under DESCRIPTION OF OPERATIONS below		N/A				PER STATUTE <input type="checkbox"/> OTH-ER <input type="checkbox"/> E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

## CERTIFICATE HOLDER

## CANCELLATION

Alabama Licensing Board of General Contractors  
2525 Fairlane Dr  
Montgomery, AL 36116

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

*Mark Hughes*

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ATTACHMENT 'A' TO PROPOSAL FORM

ACCOUNTING OF SALES TAX  
ATTACHMENT TO FORM OF PROPOSAL

To: City of Vestavia Hills Date: 5-18-21  
(Awarding Authority)

NAME OF PROJECT: Bill F. Towers Fine Stn #1

SALES TAX ACCOUNTING

Pursuant to Act 2013-205, Section 1(g) the Contractor accounts for the sales tax NOT included in the bid proposal form as follows:

	<u>ESTIMATED SALES TAX AMOUNT</u>
BASE BID:.....	\$ <u>3,500.00</u>
Alternate No. 1 (.....) (Insert key word for Alternate)	(add) (deduct) \$ _____
Alternate No. 2 (.....)	(add) (deduct) \$ _____
Alternate No. 3 (.....)	(add) (deduct) \$ _____
Alternate No. 4 (.....)	(add) (deduct) \$ _____
Alternate No. 5 (.....)	(add) (deduct) \$ _____
Alternate No. 6 (.....)	(add) (deduct) \$ _____

Failure to provide an accounting of sales tax shall render the bid non-responsive. Other than determining responsiveness, sales tax accounting shall not affect the bid pricing nor be considered in the determination of the lowest responsible and responsive bidder.

Legal Name of Bidder Jared Building Company

Mailing Address 3734 Columbiana Al Hwy 28 35041

\* By (Legal Signature) Jared Johnson

\* Name (type or print) Jared Johnson (Seal)

\* Title President

Telephone Number 205-434-5692

## Rebecca Leavings

---

**From:** Raynor Boles <raynor@tcuconsulting.com>  
**Sent:** Friday, October 15, 2021 10:43 AM  
**To:** Jeff Downes; Rebecca Leavings  
**Subject:** [External] Jared Building Company- Fire Station 1 Project  
**Attachments:** Jared Building Company.pdf

Dear Jeff,

After careful review of the bid and market conditions, TCU recommends approval of the attached bid for execution to renovate Fire Station 1.

We had over a dozen contractors show at the mandatory pre-bid meeting, all pulling away at the last minute due to market conditions. Despite only receiving one number, we believe it is a good buy and recommend approving.

Thanks

Raynor Boles  
TCU Consulting Services  
256-497-5444

**ORDINANCE NUMBER 3042**

**AN ORDINANCE ACCEPTING A BID FOR WALD PARK FIELD CONVERSIONS AND AUTHORIZING THE EXECUTION AND DELIVERY OF THE CONSTRUCTION CONTRACT DOCUMENTS BY AND BETWEEN THE CITY OF VESTAVIA HILLS, ALABAMA, AS “OWNER,” AND SPECIALTY TURF SUPPLY INC., AS “CONTRACTOR.”**

**THIS ORDINANCE NUMBER 3042** is considered, approved, enacted and adopted by the City Council of the City of Vestavia Hills, Alabama on this the 25th day of October, 2021.

**WITNESSETH THESE RECITALS:**

**WHEREAS**, on October 19, 2021 at 10:00 a.m., the City of Vestavia Hills, Alabama publicly read aloud bids submitted for the Wald Park field conversion for the City of Vestavia Hills (“the Project”); and

**WHEREAS**, only one bid was received; and

**WHEREAS**, a copy of the bid is attached hereto, marked as Exhibit A and is incorporated into this Ordinance Number 3042 by reference as though set out fully herein;

**WHEREAS**, the City’s consultant for the Project, Ed Norton, HNP Landscape Architecture, and the City’s Public Services Director submitted memorandums to the City Manager, dated October 19, 2021 recommending acceptance of the bid package submitted by Specialty Turf Supply, Inc., a copy of which is marked as Exhibit B and is attached to and incorporated into this Ordinance Number 3042 and

**WHEREAS**, the Bid Specifications included the following contract documents prepared by the City and to be signed by the City of Vestavia Hills, Alabama, as “Owner,” and the lowest responsible bidder as “Contractor”:

- A. Contract AIA Document A101-2017.
- B. General Conditions AIA Document A201-2017.
- C. Performance Bond AIA Document A312-2010.
- D. Payment Bond AIA Document A312-2010.
- E. First Addendum to Contract and General Conditions; and

**WHEREAS**, the Mayor and City Council feel it is in the best public interest to follow the recommendation of the Consultant and accept said bid as detailed above and to authorize the execution and delivery of the contract documents.

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

1. The bid submitted by Specialty Turf Supply, Inc., as detailed in Exhibit A is attached and recommended by the City Manager and HNP is hereby accepted; and
2. The Mayor and City Manager are hereby authorized to execute and deliver any and all documents necessary to contract with Specialty Turf Supply, Inc., including specifically, but not limited to the following contract documents:
  - A. Contract AIA Document A101-2017.
  - B. General Conditions AIA Document A201-2017.
  - C. Performance Bond AIA Document A312-2010.
  - D. Payment Bond AIA Document A312-2010.
  - E. First Addendum to Contract and General Conditions; and
3. Funding for said renovation project shall be expensed to the City's Capital Funds Budget; and
4. If any part, section or subdivision of this ordinance shall be held unconstitutional or invalid for any reason, such holding shall not be construed to invalidate or impair the remainder of this ordinance which shall continue in full force and effect notwithstanding such holding.
5. This ordinance shall become effective upon its approval, adoption, enactment and publication by posting as set forth in Title 11-45-8(b), *Code of Alabama, 1975*.

**DONE, ORDERED, APPROVED and ADOPTED** this the 25th day of October, 2021.

CITY OF VESTAVIA HILLS, ALABAMA

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

ATTESTED BY:

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



**CERTIFICATION:**

I, Rebecca Leavings, as City Clerk of the City of Vestavia Hills, Alabama, hereby certify that the above and foregoing copy of 1 (one) Ordinance #3042 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 25<sup>th</sup> day of October, 2021 as same appears in the official records of said City.

Posted at Vestavia Hills Municipal Center, Vestavia Hills New Merkle House, Vestavia Hills Civic Center and Vestavia Hills Library in the Forest this the 25<sup>th</sup> day of October, 2021.

Rebecca Leavings  
City Clerk

## BID TABULATION FORM

Owner: **City of Vestavia Hills**  
 Project: **Wald Park - Baseball Field Conversions**  
 HNP Proj. #: **21067**  
 Announced Budget: **TBD**  
 Bid Opening Date: **Tuesday October 19, 2021**  
 Bid Opening Time: **10am**  
 Location: **Executive Conference Room, VH City Hall, 1032 Montgomery Highway, Vestavia Hills AL 35216**

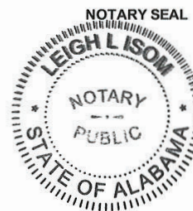
NOTES



#	ADD. RCVD	SECURITY	SALES TAX	LIC. #	BIDDER NAME	BASE BID AMOUNT (\$)	AMMENDMENTS (ENVELOPE, ETC)	ALTERNATE #1 (IF APPLICABLE)	ALTERNATE #2 (IF APPLICABLE)	ALTERNATE #3 (IF APPLICABLE)	TOTAL (\$)	
#1-#2	PROVIDED? : YES/NO											
1				NO BID	Game Day Athletic Surfaces	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	No Dollars and No Cents
2				NO BID	Coston General Contractors	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	No Dollars and No Cents
3				NO BID	Sweetwater Construction	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	No Dollars and No Cents
4	YES	YES	YES	51207	Specialty Turf Supply	\$ 1,056,880.00	NONE	N/A	N/A	N/A	\$ 1,056,880.00	One Million Fifty Six Thousand Eight Hundred Eighty Dollars and No Cents
5				NO BID	Eagle Golf	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	No Dollars and No Cents
6				NO BID	SprinTurf	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	No Dollars and No Cents
7				NO BID	Taylor + Miree	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	No Dollars and No Cents
8				-	-	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	No Dollars and No Cents
9				-	-	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	No Dollars and No Cents
10				-	-	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	No Dollars and No Cents

NOTARY CONFIRMATION:

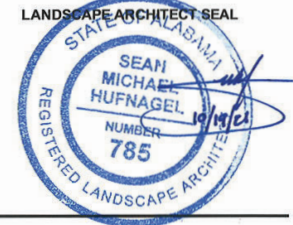
STATE OF Alabama COUNTY OF Shelby  
 SUBSCRIBED AND SWORN TO BEFORE ME THIS 19 DAY OF October YEAR 2021  
 NOTARY PUBLIC: [Signature] COMMISSION EXP.: 7-14-2024



I certify that the above bids were advertised, were received sealed and were publicly opened and read aloud at the time and place indicated and that this is a true and correct tabulation of all bids received for this project.

[Signature] 10/19/21

HNP Landscape Architecture  
 Sean Hufnagel, PLA (AL#785)



CITY OF VESTAVIA HILLS  
WALD PARK  
BASEBALL FIELD CONVERSIONS

**SECTION 00 00 03 – PROPOSAL FORM**

To: City of Vestavia (Awarding Authority) Date: 10/19/21

In compliance with your Advertisement for Bids and subject to all the conditions thereof, the undersigned Specialty Turf Supply Inc. (Legal Name of Bidder) hereby proposes to furnish all labor and materials and perform all work required for the construction of:

**WORK**

Wald Park Baseball Field Conversions

in accordance with Drawings and Specifications, dated Sept. 2021, prepared by HNP landscape architecture, (Architect/Engineer)

The Bidder, which is organized and existing under the laws of the State of Alabama, having its principal offices in the City of Vestavia Hills,

is:  a Corporation,  a Partnership,  an individual,  (other)

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

Michael Hill President  
1449 Panorama Drive B'ham AL 35216

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

CITY OF VESTAVIA HILLS  
WALD PARK  
BASEBALL FIELD CONVERSIONS

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

**BASE BID:** For construction complete as shown and specified, the sum of  
One Million Fifty Six Thousand Eight Hundred Eighty & 00/100 Dollars  
(\$ 1,056,880.<sup>00</sup>)

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

For Alternate No. 1 ( none )  add,  deduct \$

(Insert key word for Alternate)

**SALES TAX -** (See Attachment)

**BID SECURITY:** The undersigned agrees to enter into a Construction Contract and furnish the prescribed Performance and Payment Bonds and evidence of insurance within fifteen calendar days, or such other period stated in the Bid Documents, after the contract forms have been presented for signature, provided such presentation is made within 30 calendar days after the opening of bids, or such other period stated in the Bid Documents. As security for this condition, the undersigned further agrees that the funds represented by the Bid Bond (or cashier's check) attached hereto may be called and paid into the account of the Awarding Authority as liquidated damages for failure to so comply.

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

Bid Bond, executed by Agromant Insurance Company as Surety,

a cashier's check on the \_\_\_\_\_ Bank of \_\_\_\_\_,

for the sum of \_\_\_\_\_ Dollars

(\$ \_\_\_\_\_) made payable to the Awarding Authority.

**BIDDER'S ALABAMA LICENSE:**

State License for General Contracting:

51207 unlimited MU-5 Recreational Areas SC Management of  
License Number Bid Limit Type(s) of Work Athletic Fields

CITY OF VESTAVIA HILLS  
WALD PARK  
BASEBALL FIELD CONVERSIONS

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

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

**LEGAL NAME OF BIDDER:**

Specialty Turf Supply Inc.

Mailing Address:

1449 Panorama Drive Bham AL 35216

\* By (Legal Signature) M Hill (Seal)

\* Name (type or print) Michael Hill

\* Title President

Telephone Number 205 337-8248

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

END OF SECTION

CITY OF VESTAVIA HILLS  
WALD PARK  
BASEBALL FIELD CONVERSIONS

**SECTION 00 00 03.2 – ACCOUNTING OF SALES TAX**  
**ATTACHMENT TO PROPOSAL FORM**

To: City of Vestavia (Awarding Authority) Date: Oct. 19, 2021  
Name of Project Wald Park Baseball Field Conversions

**SALES TAX ACCOUNTING**

Pursuant to Act 2013-205, Section 1(g) the Contractor accounts for the sales tax NOT included in the bid proposal form as follows:

**ESTIMATED SALES TAX AMOUNT**

BASE BID: \$ 0

For Alternate No. 1 ( No Alternate )  add,  deduct \$

(Insert key word for Alternate)

**Failure to provide an accounting of sales tax shall render the bid non-responsive. Other than determining responsiveness, sales tax accounting shall not affect the bid pricing nor be considered in the determination of the lowest responsible and responsive bidder.**

LEGAL NAME OF BIDDER: Specnally Turf Supply Inc.

Mailing Address: 1449 Panorama Drive B'ham AL 35216

\* By (Legal Signature) M. Hill (Seal)

\* Name (type or print) Michael Hill

\* Title President

Telephone Number 205 337 8248

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

END OF SECTION



[How to Apply](#)

[Renewal Info](#)

[Reciprocity](#)

[Forms](#)

[Testing](#)

[License Roster](#)

[Law](#)

[Rules & Regulations](#)

[FAQs](#)

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[Consumer Info](#)

## Search Results Detail

<b>License Number</b>	<b>51207</b>
<b>Name</b>	SPECIALTY TURF SUPPLY INC
<b>Address</b>	1449 PANORAMA DRIVE
<b>City</b>	BIRMINGHAM
<b>State</b>	AL
<b>Zip Code</b>	35216
<b>Phone Number</b>	(205) 337-8248
<b>Fax Number</b>	(000) 000-0000
<b>Bid Limit</b>	U UNLIMITED
<b>Specialty</b>	MU-S: RECREATIONAL AREAS, SC: MANAGEMENT OF ATHLETIC FIELDS
<b>Expiration Date</b>	6/30/2022 <a href="#">More information on License Renewals.</a>
<b>Extension Date</b>	

**IMPORTANT DISCLAIMER:** This database information is current as of date specified on the [search page](#). It **does not** include information received after this date, so it may slightly differ from the complete master listing at the General Contractors Licensing Board. Since this information may not be complete, it is **NOT OFFICIAL**, please **contact** the Board to verify search results if you are unsure and require clarification or if you do not find the information you seek.

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

**INTEROFFICE MEMO**

Date: October 19, 2021

TO: Jeff Downes  
City Manager

From: Brian Davis  
Director of Public Services

RE: Wald Park Synthetic Turf Project

As part of our ongoing effort to improve recreational facilities in Vestavia Hills, we held a bid opening on October 19, 2021, to replace the natural grass on Fields 2, 3, and 4 with synthetic turf. Previously on October 12, 2021, we held a pre-bid meeting on site at Wald Park and four potential bidders were present.

We received one bid in the amount of \$1,056,880 from Specialty Turf Supply. Ed Norton from HNP Landscape Architects was the representative for the city and created the specifications.

It is our recommendation that we accept the bid from Specialty Turf Supply at the earliest possible council meeting. This project was included in the capital expense budget for FY22 and should come from account number 22-60-8600-000-712.

Please let me know if you have any questions.

CC: Rebecca Leavings





19 October 2021

Brian Davis, Director of Public Services  
City of Vestavia Hills  
1032 Montgomery Highway  
Vestavia Hills, Alabama 35216

**Re: Wald Park - Baseball Field Conversions**

Brian:

Our office has reviewed the Bid(s) received and opened 19 October 2021 for the referenced Project.

The low bid was submitted by Specialty Turf Supply (see bid tabulation form).

Our review of the Bids shows Specialty Turf Supply to be a responsible Bidder and bid amount is under budget. Therefore, HNP recommends the City award a construction contract for the reference project to Specialty Turf Supply in the amount of \$1,056,880.00.

Please contact me if you have any questions.

Thank you,  
HNP, LLC

A handwritten signature in black ink, appearing to read "Ed Norton", with a long, sweeping underline.

Ed Norton

Attachments:

Bid Opening Sign-In Sheet  
Notarized Bid Tabulation  
Received Bids  
AL GC License Verification

**ORDINANCE NUMBER 3044**

**AN ORDINANCE AUTHORIZING THE MAYOR AND CITY MANAGER TO EXECUTE AND DELIVER AN AGREEMENT WITH THE BIRMINGHAM WATER WORKS BOARD FOR MAINTENANCE ON WATER METERS IN CITY SIDEWALKS ON MOUNTAINVIEW DRIVE**

**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 hereby authorized to execute and deliver an agreement with the Birmingham Water Works Board (the “BWWB”) for maintenance along new sidewalks located on Mountainview Drive; and
2. A copy of said agreement is marked as “Exhibit A,” attached to and incorporated into this Resolution Number 3044 as if written fully therein; and
3. This Ordinance Number 3044 shall become effective immediately following posting/publication pursuant to Alabama law.

**DONE, ORDERED, ADOPTED and APPROVED** this the 25<sup>th</sup> day of October, 2021.

Ashley C. Curry  
Mayor

ATTESTED BY:

Rebecca Leavings  
City Clerk

**STATE OF ALABAMA**

**JEFFERSON COUNTY**

**AGREEMENT**

**THIS AGREEMENT** is made and entered into on this \_\_\_\_\_ day of October, 2021, by and between the City of Vestavia Hills, Alabama (“City”) and The Water Works Board of the City of Birmingham (“BWW”).

**WITNESSETH THESE RECITALS:**

**WHEREAS**, the City of Vestavia Hills, Alabama (“City”) is a municipal corporation, organized, operating and existing pursuant to the laws of the State of Alabama; and

**WHEREAS**, the Water Works Board of the City of Birmingham (“BWW”) is a domestic non-profit corporation organized, operating and existing pursuant to the laws of the State of Alabama; and

**WHEREAS**, the City owns title to the public right-of-way known as “Mountainview Drive” in the City of Vestavia Hills, Alabama; and

**WHEREAS**, BWW, pursuant to Ordinance Number 2136 enacted on January 18, 2006 has a water franchise to acquire, own, maintain, construct, enlarge or any of them, together with the right, privilege, authority, consent and franchise to lay, construct and maintain pipes, mains and other conductors, fixtures and related appurtenances in, along, across and under the streets, for the purpose of conveying and distributing water in and through the City, and to repair, renew and relay and extend such pipes, mains, conductors, fixtures and related appurtenances, and to make all excavations necessary therefor; and

**WHEREAS**, BWW provides water services to the twenty-three (23) single-family residential homes situated on and along the southside of Mountainview Drive between Kentucky Avenue and Lexington Road and the boxes containing the water meters for those twenty-three (23) houses are situated in and on the right-of-way of Mountainview Drive; and

**WHEREAS**, the City is in the process of completing a public works project for the construction and installation of public sidewalks on the southside of Mountainview Drive between Kentucky Avenue and Lexington Road; and

**WHEREAS**, a map prepared by Engineering Design Group, LLC (“EDG”) showing the sidewalk construction to be completed is attached hereto, marked as Exhibit A and incorporated into this Agreement by reference as though set out fully herein; and

**WHEREAS**, the City has requested that BWW allow the present water meter boxes and water meters serving the twenty-three (23) homes to be a part of the public sidewalks under construction; and

**WHEREAS**, BWW is willing to allow the said water meter boxes and water meters to remain in place and located within the sidewalk provided the City and BWW execute and deliver this Agreement; and

**WHEREAS**, the City and BWW wish to reduce their agreement to writing.

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

1. **RECITALS:** The recitals set forth in the premises above are hereby incorporated into this Agreement by reference as though set out fully herein.

2. **EXHIBIT:** Exhibit A described in the premises above is hereby incorporated into this Agreement by reference as though set out fully herein.

3. **WATER METERS AND WATER METER BOXES:** BWW hereby agrees that:

(a) The water meters serving the residential lots as shown on Exhibit A shall remain in place within the right-of-way of Mountainview Drive; and

(b) The City is hereby authorized to place water meter boxes around the water meters and pour the sidewalks so that the boxes and meters will remain in their present location and within the sidewalk.

4. **LIABILITY:** The City hereby assumes the sole responsibility and liability for the operation, maintenance and repair of the sidewalk along the southside of Mountainview Drive as shown on Exhibit A attached hereto.

5. **FUTURE PUBLIC WORKS PROJECTS FOR THE CONSTRUCTION OF SIDEWALKS:** The City, in future public works projects for the construction of sidewalks, will abide by the policy of BWW that no BWW water meters and/or water meter boxes will be installed in such future public sidewalks.

6. **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 Agreement, 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 Agreement or cancellation or replacement of this Agreement shall not be valid unless in writing and signed by the City and BWW. This Agreement 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) **Construction of Terms:** The City and BWW negotiated the terms, provisions and conditions of this Agreement and both parties had the equal opportunity for input for the drafting of this Agreement. Therefore, any ambiguities of this Agreement shall be construed fairly and equitably regardless of the participation of either party in drafting this Agreement. The reference in terms to gender and number shall be modified as may be appropriate.

(e) **Governing Law:** This Agreement shall be interpreted, construed and governed to the laws of the State of Alabama.

(f) **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.

(g) **Execution in Counterparts:** The Agreement 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 Agreement shall inure to the benefit of, and shall be binding upon City and BWW, and their heirs, successors and assigns.

(i) **Severability:** In the event any provision of this Agreement 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 Agreement contains the entire agreement between the City and the BWW.

IN WITNESS WHEREOF, the City of Vestavia Hills, Alabama, a municipal corporation, and The Water Works Board of the City of Birmingham have hereunto caused this Agreement to be executed by their duly authorized officers and their respective seals to be affixed hereto on this the \_\_\_\_\_ day of October, 2021.

**CITY:**  
CITY OF VESTAVIA HILLS, ALABAMA  
A Municipal Corporation

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

By \_\_\_\_\_  
Jeffrey D. Downes  
Its City Manager

ATTESTED

By \_\_\_\_\_

**STATE OF ALABAMA  
JEFFERSON COUNTY**

**ACKNOWLEDGMENT**

I, the undersigned authority, a Notary Public in and for said County, in said State, hereby certify that Ashley C. Curry, whose name as Mayor of the City of Vestavia Hills, Alabama, a municipal corporation, is signed to the foregoing Agreement, 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 October, 2021.

\_\_\_\_\_  
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 Agreement 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 October, 2021.

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

My Commission Expires:

\_\_\_\_\_  
SEAL

**BWW:**  
**THE WATER WORKS BOARD**  
**OF THE CITY OF BIRMINGHAM**

By \_\_\_\_\_  
Its \_\_\_\_\_

ATTESTED

By \_\_\_\_\_

**STATE OF ALABAMA**  
**JEFFERSON COUNTY**

**ACKNOWLEDGMENT**

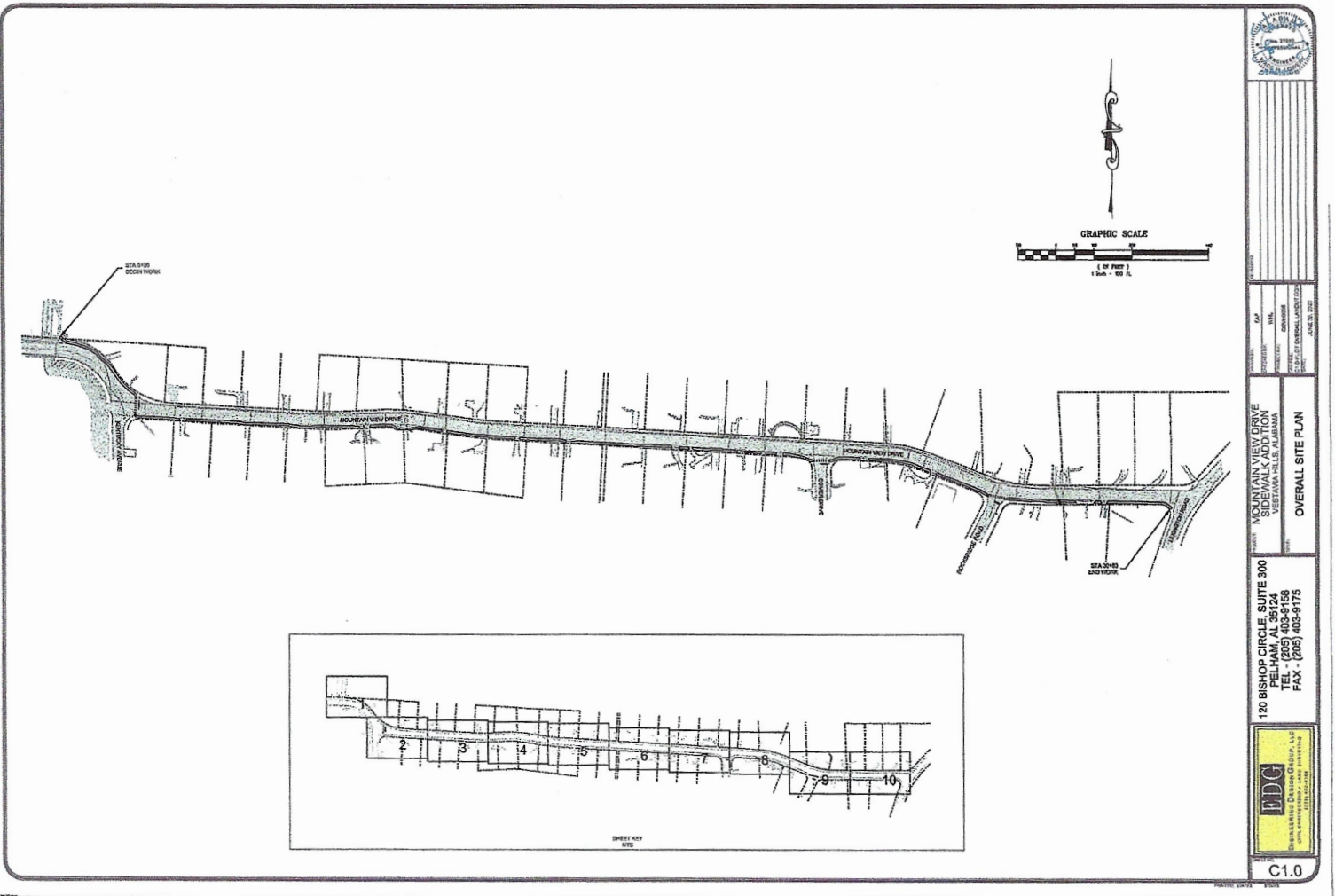
I, the undersigned authority, a Notary Public in and for said County, in said State, hereby certify that \_\_\_\_\_, whose name as \_\_\_\_\_ of The Water Works Board of the City of Birmingham, is signed to the foregoing Agreement and who is known to me, acknowledged before me on this day that, being informed of the contents of the instrument, he/she, as such officer and with full authority, executed the same voluntarily for and as the act of said The Water Works Board of the City of Birmingham.

Given under my hand and official seal, this the \_\_\_\_\_ day of October, 2021.

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

My Commission Expires:

\_\_\_\_\_  
SEAL



DATE	NOV 20 2008
PROJECT	Mountain View Drive
SCALE	AS SHOWN
DESIGNED BY	EDG
CHECKED BY	EDG
DATE OF COMPLETION	NOV 20 2008

PROJECT: MOUNTAIN VIEW DRIVE  
 SIDEWALK ADDITION  
 VESTAVIA HILLS, ALABAMA

120 BISHOP CIRCLE, SUITE 300  
 PELHAM, AL 35124  
 TEL: (205) 403-9199  
 FAX: (205) 403-9175



C1.0



## **ORDINANCE NUMBER 3043**

**AN ORDINANCE AUTHORIZING THE SETTLEMENT OF THE CASE OF *CATHERINE BROOKS V. CITY OF VESTAVIA HILLS, ALABAMA, ET AL*, BEARING CIVIL ACTION NUMBER 01-CV-2020-901202.00 PRESENTLY PENDING IN THE CIRCUIT COURT FOR JEFFERSON COUNTY, ALABAMA; AUTHORIZING AND DIRECTING THE MAYOR AND CITY MANAGER TO PAY THE FUNDS DESCRIBED HEREIN AND TO TAKE ANY ACTION AND EXECUTE AND DELIVER ANY AND ALL DOCUMENTS NECESSARY TO EFFECTUATE SAID SETTLEMENT.**

**THIS ORDINANCE NUMBER 3043** is approved, adopted and enacted by the City Council of the City of Vestavia Hills, Alabama on this the 25th day of October 2021.

### **WITNESSETH THESE RECITALS:**

**WHEREAS**, Alabama law at Title 11-43-56, *Code of Alabama, 1975*, provides that the City Council shall have the management and control of the finances and all of the property, real and personal, belonging to the City; and

**WHEREAS**, Title 11-43-43, *Code of Alabama, 1975*, provides that all legislative powers granted to cities shall be exercised by the City Council; and

**WHEREAS**, Title 11-40-1, *Code of Alabama, 1975*, declares municipalities bodies corporate and gives them the power to contract and be contracted with; provided, however, that the contract is in writing as required by Title 11-47-5, *Code of Alabama, 1975*; that the execution and delivery of the contract shall have first been approved by the City Council, *Town of Boligee v. Greene County Water and Sewer Authority*, 77 So.3d 1166(2011), in the form of an ordinance or resolution, *Van Antwerp, et al v. Board of Commissioners of City of Mobile*, 217 Ala. 201, 115 So. 239 (1928); that the contract be signed by the Mayor as required by Title 11-43-83, *Code of Alabama, 1975*; and that the contract be signed by the City Manager as required by Title 11-43-21(7), *Code of Alabama, 1975*; and

**WHEREAS**, Title 11-47-24(b), *Code of Alabama, 1975*, provides that all municipal corporations of the State of Alabama are authorized to contract at governmental expense for policies of liability insurance to protect the City and its employees in the course of their employment; and

**WHEREAS**, Title 11-47-190, *Code of Alabama, 1975*, provides that municipalities may be liable for negligence; and

**WHEREAS**, Title 11-93-2, *Code of Alabama, 1975*, establishes the maximum amount of damages recoverable against governmental entities with a limit of One Hundred Thousand Dollars (\$100,000.00); and

**WHEREAS**, the case of *Catherine Brooks v. City of Vestavia Hills, Alabama, et al*, (hereinafter referred to as "lawsuit") was filed on March 26, 2020, as civil action number 01-CV-2020-901202.00 in the Circuit Court of Jefferson County, Alabama, against the City and the Water Works Board of the City of Birmingham and said lawsuit is presently pending; and

**WHEREAS**, Brooks alleges in that lawsuit that on or about July 31, 2018 she was riding a bicycle along a public sidewalk adjacent to Canyon Road/Vestaview Lane approaching Shades Mountain Baptist Church in the City of Vestavia Hills, Jefferson County, Alabama; and

**WHEREAS**, Brooks further alleges that as she approached the Church, she rode her bicycle over a utility meter cover which was not flush against the sidewalk and was sticking up and dislodged as she rode over it, causing her to be flipped off her bicycle, thereby causing what she describes as serious, severe and permanent injuries to her body including a broken jaw, hand, finger and several broken teeth; and

**WHEREAS**, the City and the BWWB have denied all liability and have pled contributory negligence as an affirmative defense to Brooks' claims and demand for judgment; and

**WHEREAS**, the Court ordered the parties to mediate the dispute resulting in a Settlement Agreement for a sum total of Seventy-five Thousand Dollars (\$75,000.00) to be split equally between the City and the BWWB, which is an amount less than the self-insured retention on the City's general comprehensive liability policy; and

**WHEREAS**, a copy of the Settlement Agreement dated October 15, 2021 is attached hereto, marked as Exhibit A and is incorporated into this ordinance by reference as though set out fully herein.

**WHEREAS**, attorney J. Bentley Owens, III, legal counsel of record representing the City in the lawsuit, and City Attorney Patrick H. Boone, by letter dated August 19, 2020, have recommended that the City accept the Plaintiffs offer of settlement to the City in the amount of Thirty-seven Thousand, Five Hundred Dollars (\$37,500.00); and

**WHEREAS**, a copy of the letter, dated October 25, 2021, from City Attorney Patrick H. Boone and J. Bentley Owens, III is attached hereto, marked as Exhibit B and is incorporated

into this ordinance by reference as though set out fully herein.

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

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

2. The City Manager and Mayor are hereby authorized and directed to settle the lawsuit described in the premises above pursuant to the written recommendation of City Attorney Patrick H. Boone and special legal counsel and attorney of record, J. Bentley Owens, III, pursuant to the terms, provisions and conditions hereinafter set forth below.

3. The total amount of settlement to be paid by and/or for and on behalf of the City of Vestavia Hills, Alabama ("City") shall be the sum of Thirty-seven Thousand, Five Hundred Dollars (\$37,500.00). Upon payment, the lawsuit against the City and the BWWB shall be dismissed with prejudice and the City and BWWB agree to release each other from the indemnity claims arising from the Water Franchise Agreement by and between them.

4. As part of the Settlement Agreement, Brooks shall forever discharge and release all of the named Defendants in the lawsuit from any and all damages arising out of the incident made the basis of this lawsuit and shall make no claim for any attorney's fee or reimbursement of medical subrogation claims whatsoever against the Defendants.

5. The City Manager is hereby authorized and directed to pay the funds specified in section 3 above and to take any action and execute and deliver any and all documents necessary to effectuate said settlement.

6. While the settlement authorized herein is a compromise of a doubtful and disputed claim and the payment of the sum recited in section 3 above is not an admission of liability by the City for which liability is expressly denied, it is nevertheless in the best interest of the City to amicably resolve the dispute rather than prolong the litigation and the attendant risk of an adverse verdict.

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

8. The provisions of this Ordinance Number 3043 shall become effective immediately upon the passage, approval and adoption thereof by the City Council and the publication and/or posting thereof as required by Alabama law.

**ORDAINED, APPROVED, ADOPTED, DONE and ORDERED** on this the 25th day of October, 2021.

Ashley C. Curry  
Mayor

ATTESTED BY

Rebecca Leavings,  
City Clerk

**CERTIFICATION OF CITY CLERK**

**STATE OF ALABAMA    )**  
**JEFFERSON COUNTY    )**

I, Rebecca Leavings, City Clerk of the City of Vestavia Hills, Alabama, do hereby certify that the above and foregoing is a true and correct copy of an ordinance duly and legally adopted by the City Council of the City of Vestavia Hills, Alabama, on the 25<sup>th</sup> day of October 2021 while in regular session, and the same appears of record in the minute book of said date of said City.

Witness my hand and seal of office this 25<sup>th</sup> day of October, 2021.

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Rebecca Leavings, City Clerk

## SETTLEMENT AGREEMENT & GENERAL RELEASE

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### 1. Recitals

- (a) This Settlement Agreement & General Release (“Agreement”) is entered into by and between Plaintiff Catherine Brooks (“Plaintiff”) and Defendants the City of Vestavia Hills (“City”) and the Water Works Board of the City of Birmingham (BWVB).
- (b) Plaintiff filed this lawsuit against the City and the BWVB in the Circuit Court of Jefferson County, Alabama, bearing case number 01-CV-2020-901202.00
- (c) Plaintiff sued the Defendants for injuries and damages alleged to have occurred while riding her bicycle on a sidewalk adjacent to Canyon Road and Vestaview Drive on July 31, 2018. The accident resulted in personal injuries to Plaintiff for which medical expenses were incurred.
- (d) The City and the BWVB deny Plaintiff’s material allegations and have affirmatively pled contributory negligence as a complete defense to the demands for judgment in the Lawsuit.
- (e) Plaintiff voluntarily and on advice of counsel agrees to compromise and settle the doubtful and disputed claims, including a general release of the City and the BWVB and an indemnification and defense of the Defendants against any and all subrogation liens arising out of the accident.
- (f) Under the authority granted by the City Council in Ordinance \_\_\_\_, adopted October 25, 2021, the City Manager and Mayor are authorized to execute this agreement to compromise and resolve all claims and demands for judgment, including the compromise and release of all subrogation liens.
- (g) Upon receipt of the settlement monies, Plaintiff agrees to dismiss the lawsuit with prejudice and with costs taxed as paid.

### 2. Release

#### (a) Plaintiff’s Release of Defendants

For the consideration of Seventy-Five Thousand Dollars (\$75,000.00), Plaintiff hereby releases and forever discharges the City, the BWVB and their officials, officers, employees, agents, servants and representatives, including their insurers, from any and all claims, demands, damages, causes of action, or suits of any kind that Plaintiff may now have, may have had at any time heretofore, or may have at any time hereafter, arising out of or related to the accident made the basis of the lawsuit. This release includes, but is not limited to, all claims that Plaintiff asserted or could have asserted in the lawsuit and acts as a general release of all claims to the fullest extent permitted under Alabama law.

**3. Payment and Acceptance of Settlement Sum and Dismissal of Claims with Prejudice**

The City and the BWWB agree to deliver the settlement payments of Thirty-seven Thousand, Five Hundred Dollars (\$37,500.00) each to Plaintiff's Attorney to be held in trust pending execution of this Agreement. Within 10 days of Plaintiff's receipt of her portion of the settlement payment, Plaintiff shall dismiss the Lawsuit with prejudice, with costs taxed as paid.

Plaintiff accepts the gross settlement proceeds with the stipulation and understanding that it represents the compromise of all claims for physical injury, mental distress and pain and suffering and not in any way related to any type of lost income, the damages and compensation for which she makes no claim in this lawsuit. Furthermore, the acceptance of the settlement proceeds herein by the Plaintiff in no way represents payment of or consideration for any claims or demands for punitive damages, which are expressly disclaimed and dismissed by the Plaintiff.

**4. Litigation Expenses**

Plaintiff and the City agree and acknowledge that each shall bear their own attorney fees, court costs, and other expenses related to the Lawsuit.

**5. Plaintiff to Compromise and Settle Liens and Claims against the Settlement**

Plaintiff shall be solely responsible for satisfying and compromising any subrogation claim or lien, including those hospitals and health care providers and/or insurers who have placed the Plaintiff on notice of a lien. Plaintiff furthermore agrees to defend, indemnify, and hold the City and the BWWB, their attorneys, agents, servants and employees and their insurers harmless, to the fullest extent permitted under Alabama law, from any expense or claim made against them arising out of Plaintiff's failure or refusal to satisfy any subrogation claim or lien asserted against the settlement proceeds of the Lawsuit. Once payment has been tendered to the Plaintiff, Defendants shall have no responsibility thereafter to direct the distribution of the settlement proceeds.

**6. No Admission of Liability and Confidentiality**

In reaching this settlement, Plaintiff agrees and acknowledges that Defendants have in no way admitted liability, wrongdoing, or fault, and in fact expressly deny any such liability, wrongdoing, or fault. Plaintiff agrees and acknowledges that this Agreement is made as a matter of compromise of a doubtful and disputed claim in order to avoid the effort, expense and uncertainty of further litigation.

The City and the BWWB further agree to mutually release and forever discharge each other from any and all claims for indemnity reflected in and arising out of the Water Franchise and Stand Down Agreements by and between the parties insofar as it relates to this Lawsuit.

Plaintiff further acknowledges and agrees that she will preserve the confidentiality of this Agreement by warranting and covenanting that she will refrain from revealing to anyone the

amount paid in consideration of this settlement, or the terms of this Settlement Agreement and Release.

Plaintiff further acknowledges and agrees that neither she nor her attorney or representatives shall reveal or otherwise disclose the negotiations, offers, counter offers, resolutions or stipulations of this settlement, other than in a generic description that does not mention the amount or the express terms of this settlement. No money was paid in this settlement to secure confidentiality.

Notwithstanding the foregoing, Plaintiff shall have the limited right to disclose this Agreement and its terms: (1) to her counsel; (2) to her accountant, auditor, and/or actuary; (3) to state and federal tax authorities; or (4) pursuant to any court order or requirement by law.

The Court shall retain jurisdiction for purposes of resolving any dispute over any violation of this provision.

#### **7. Voluntary Execution and Acceptance of Agreement**

In entering into this Agreement, Plaintiff and Defendants each represent that they have had the opportunity to consult with their respective attorneys regarding the legal consequences of this Agreement, that they have read and completely understood the terms of this Agreement, and that this Agreement has been voluntarily accepted.

Further, Plaintiff and Defendants each represent that every term of this Agreement was fully negotiated and agreed to by Plaintiff and Defendants and that neither this Agreement nor any provision of this Agreement shall be construed in favor of or against Plaintiff or Defendants.

#### **8. Warranty of Capacity to Execute Agreement**

Plaintiff, the City Manager and Mayor and the General Manager for the BWWB represent and warrant that they have the sole right and exclusive authority to execute this Agreement and have not sold, assigned, transferred, conveyed, or otherwise disposed of any of the claims, demands, damages, causes of action, or suits of any kind referred to in this Agreement.

#### **9. Entire Agreement. Successors in Interest. Modification**

This Settlement Agreement & General Release contains the entire agreement between Plaintiff and Defendants with regard to the matters set forth herein, that all negotiations are hereby merged into the Agreement and shall be binding upon and inure to the benefit of the representatives and assigns of each. This Settlement Agreement & General Release cannot be modified except by a writing signed by Plaintiff and Defendants.

#### **10. Governing Law and Venue**

This Agreement shall be construed and interpreted in accordance with the laws of the State of Alabama. The Jefferson County Circuit Court shall retain jurisdiction for purposes of resolving any dispute over any violation of this provision.

**11. Agreement May be Executed in Counterparts**

This Agreement may be separately executed in two or more counterparts by the parties, each of which shall be deemed an original, but all of which shall collectively constitute one and the same instrument. This Agreement may be executed by facsimile, electronic, or PDF signatures, which shall be deemed the equivalent of original signatures for all purposes.

**12. Severability**

If any provision of this Agreement is held by a court to be invalid, void, or unenforceable, the remaining provisions of the Agreement shall remain valid and enforceable.

Signed and executed the \_\_\_ day of \_\_\_\_\_, 2021.

\_\_\_\_\_  
Catherine Brooks

Witness:

\_\_\_\_\_  
Attorney for Catherine Brooks

The City of Vestavia Hills

\_\_\_\_\_  
By: Jeff Downes  
Its: City Manager

\_\_\_\_\_  
By: Ashley Curry  
Its: Mayor

Witness:

\_\_\_\_\_  
Attorney for the City of Vestavia Hills



The Water Works Board of the  
City of Birmingham

---

By: Michael Johnson  
Its: General Manager

Witness:

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Attorney for the Water Works Board  
of the City of Birmingham

**EXHIBIT A**

**RECOMMENDATION FOR SETTLEMENT OF LAWSUIT**

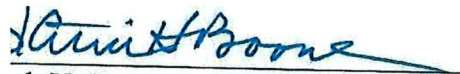
**TO:** City Manager Jeffrey D. Downes

**FROM:** City Attorney Patrick H. Boone and  
Special Legal Counsel J. Bentley Owens, III


**DATE:** October 25, 2021

**RE:** Catherine Brooks, Plaintiff v. City of Vestavia Hills, et al, Defendants  
Jefferson County Circuit Court Case No. 01-CV-2020-901202.00 - CCS

The Plaintiff, by and through her attorney, has offered to settle the above lawsuit upon payment by the City of Thirty-seven Thousand, Five Hundred Dollars (\$37,500.00). We recommend that the City Council accept the offer of settlement all in accordance with the terms and provisions of Ordinance Number 3043.



Patrick H. Boone  
City Attorney



J. Bentley Owens, III  
Special Legal Counsel