

DEVELOPMENT AGREEMENT

THIS DEVELOPMENT AGREEMENT (this “**Agreement**”) is hereby made and entered into on this the ____ day of _____, 2021, by and between the **CITY OF VESTAVIA HILLS, ALABAMA**, a municipal corporation under the laws of the State of Alabama (the “**City**”) and **LIBERTY PARK JOINT VENTURE, LLP**, an Alabama limited liability partnership (the “**Developer**”).

RECITALS:

WHEREAS, the City enthusiastically supports and encourages economic development within the City in order to develop a solid and diverse local economy, to increase employment opportunities in the City, to broaden the City’s tax base, to increase revenues, and to provide necessary and improved services to its citizens, thereby improving the quality of life of its citizens; and

WHEREAS, Amendment No. 772 to the Constitution of Alabama (1901) (Section 94.01 of the Recompiled Constitution of Alabama) (as at any time amended or supplemented, or any successor provision of law, the “**Enabling Law**”) authorizes the City to lend its credit to, or grant public funds and things of value in aid of, any business entity for the purpose of promoting the economic development of the City; and

WHEREAS, Developer is the developer of Liberty Park, a partially developed master planned community located within the City limits, and the owner of the Remaining Undeveloped Land (as hereinafter defined) within Liberty Park;

WHEREAS, Developer desires that the Remaining Undeveloped Land be developed either by Developer or by third party purchasers/operators and is presently planned to include single family residential units and the following development components (each, a “**Development Component**” and collectively, the “**Development Project**”), substantially as shown on the preliminary development plan attached as **Exhibit “A”** (the “**Development Plan**”):

- (i) a full service luxury hotel with not less than 100 rooms, conference spaces, fitness and wellness area, one or more restaurants, pool, retail area and parking (the “**Hotel**”);
- (ii) not less than 102,000 square feet of retail and commercial spaces identified on the Development Plan as “Retail/Commercial,” of which not less than 50,000 square feet of such businesses shall be engaged as retail sales as their primary purpose;
- (iii) a great lawn designed to hold events such as farmer’s markets, holiday markets, and other events and to provide a park/gathering area (the “**Great Lawn**”);

- (iv) a luxury multi-family residential housing community, not to exceed 270 units with no more than 10% of the total units to contain 3 bedrooms;
- (v) an age-restricted (55+) multi-family residential community;
- (vi) a healthcare component that is to be further defined;
- (vii) a senior housing community; and
- (viii) community connectivity improvements for walking, jogging, biking, or other forms of pedestrian traffic throughout Liberty Park (the **“Community Connectivity Improvements”**); and

WHEREAS, significant and needed public infrastructure improvements are required within the Remaining Undeveloped Land in order for the Development Project to proceed; and

WHEREAS, if constructed (either by Developer or by third party purchasers/operators) the Development Project (i) is anticipated to involve capital investments in excess of Eight Hundred Fifty Million and No/100 Dollars (\$850,000,000.00) and projected revenue to the City over a 25 year term in excess of Two Hundred Thirty Million No/100 Dollars (\$230,000,000.00)¹, of which One Hundred Twenty Million No/100 Dollars (\$120,000,000.00) of such projected revenue could benefit the Vestavia Hills School Systems; (ii) will promote tourism, local convention, and meeting activity; and (iii) will result in the creation of new jobs and the generation of new sales tax revenue, new lodging tax revenues, increased ad valorem tax revenue, and new permit fees and business license revenue to the City; and

WHEREAS, as Developer would not be willing to undertake the Developer’s Work (as hereinafter defined) without this Agreement and, in order to induce Developer to undertake the Developer’s Work and in further consideration of the agreements set forth herein with respect to Developer’s donation of land for the construction of a future elementary school, (A) the City has agreed to provide certain infrastructure and economic incentives to Developer as hereinafter set forth; and (B) the City has agreed to accept dedication of certain public improvements as hereinafter described; and

WHEREAS, the City does hereby ascertain, determine, declare and find that the Development Project is in the best interest of the City and will serve a public purpose and further enhance the public benefit and welfare by, among other things: (i) promoting local economic development and stimulating the local economy; (ii) increasing employment opportunities in the City; (iii) increasing the City’s tax base, resulting in additional tax revenues for the City; (iv) promoting the development of new business enterprises and retail businesses in the City; (v) providing infrastructure improvements which are of significant value to the City; and (vi)

¹ This number includes projected ad valorem tax revenue to the City from the undeveloped land located in the Old Overton sector of Liberty Park, as it is anticipated that the Development Project will spur the demand for executive housing.

providing the City with a site for a future elementary school; all of which will inure to the economic health of the City and constitute important public benefits to City and its citizens; and

WHEREAS, the obligations undertaken by the City pursuant hereto will result in direct financial benefits to the City and will serve a valid and sufficient public purpose, notwithstanding any incidental benefit accruing to any private entity or entities; and

WHEREAS, the City finds that it is necessary, proper, and in the public interest, in accordance with the Enabling Law, that the City should enter into this Agreement as the same will promote the economic development of the City and, accordingly, is for a public purpose and is authorized by, consistent with, and in furtherance of the objectives of the Enabling Law.

AGREEMENT

NOW, THEREFORE, upon and in consideration of the mutual promises and covenants contained herein and for other valuable consideration, the receipt, adequacy and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

Article I DEFINITIONS

1.1 **Defined Terms.** In addition to the terms previously defined herein, the following terms shall have the following meanings:

(a) **“Amendment to Annexation Agreements”** shall have the meaning set forth in Section 5.3 hereof.

(b) **“City Lodgings Tax”** shall mean the Lodgings Tax as defined in and levied by City pursuant to Chapter 16, Article V, Section 16-51 of the Code of Ordinances of the City.

(c) **“City Net Lodgings Tax Proceeds”** for each Project Year shall mean all proceeds and receipts of City Lodgings Tax from the Hotel, but shall not include (a) any proceeds or receipts received by the City (i) from the levy by the City of lodgings taxes not described in the definition of City Lodgings Tax or (ii) from the levy of lodging taxes of any kind, type or nature by taxing authorities other than the City, or (b) any City Lodgings Tax levied for, or committed to, educational purposes or for capital improvements for education.

(d) **“City Net Lodgings Tax Proceeds Commencement Date”** means the date that the certificate of occupancy is issued for the Hotel.

(e) **“City Net Sales Tax Proceeds”** for each Project Year shall mean all proceeds and receipts of City Sales Tax from businesses within the Town Center, but shall not include (a) 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 the sale of construction materials used in the construction of the Development

Project or Infrastructure Improvements or (b) any privilege license or excise taxes levied for, or committed to, educational purposes or for capital improvements for education.

(f) **“City Net Sales Tax Proceeds Commencement Date”** means the date that the first certificate of occupancy is issued for a retail business in the Town Center (including any retail business that is located in the Hotel).

(g) **“City Net Tax/Permit Proceeds”** shall mean, collectively, City Net Sales Tax Proceeds, the City Net Lodgings Tax Proceeds, and/or the City Permit Proceeds.

(h) **“City Permit Proceeds”** shall mean collectively all permit fees levied by the City pursuant to Chapter 5, Article III of the Code of Ordinances of the City relating to the initial construction of each and all Development Components located within the Town Center (including tenant buildout following the initial construction of any Development Component within the Town Center containing retail businesses and including building permits for the initial construction of those single-family residential units located within the Town Center). For the sake of clarity, building permits for any single-family residential units located outside of the Town Center will not be included in City Permit Proceeds.

(i) **“City Permit Proceeds Commencement Date”** shall mean the Effective Date.

(j) **“City Sales Tax”** shall mean collectively the privilege, license, and excise taxes levied by the City pursuant to Chapter 16, Article III, Sections 16-26 and 16-27 of the Code of Ordinances of the City.

(k) **“Commencement Date”** means, as applicable, the City Permit Proceeds Commencement Date, the City Net Sales Tax Proceeds Commencement Date, the City Net Lodgings Tax Proceeds Commencement Date, or the Infrastructure Assistance Commencement Date.

(l) **“Dedicated Public Infrastructure”** shall mean, collectively, the Infrastructure Improvements that may be dedicated to the City in accordance with this Agreement, consisting of the New Roadway Improvements, the Existing Roadway Improvements, the Great Lawn, and any other green space, parks, or similar spaces intended for use by the general public that may be constructed within the Town Center.

(m) **“Defaulting Party”** shall have the meaning set forth in Section 7.3 hereof.

(n) **“Developer’s Work”** shall mean construction of the Infrastructure Improvements necessary to provide developed sites or land parcels for sale to third party purchasers/operators of the various Development Components. For the sake of clarity, the Developer’s Work does not include the vertical construction of Development Components which are intended to be constructed by third party purchasers/operators; for example, the Hotel is intended to be developed by a hotel developer/operator; the multi-family communities are intended to be developed by one or more multi-family developers/ operators, etc.

(o) **“Development Project”** shall have the meaning set forth in the Recitals. For the sake of clarity, the term “Development Project” shall not include any business in the Publix anchored retail center, On Tap Sports Cafe, Any Time Fitness, or the Moore Oil gas station, each of which are existing businesses in The Bray area of Liberty Park and no Economic Incentive Payments will be payable from City Net Tax/Permit Proceeds from such businesses.

(p) **“Economic Incentive Payments”** shall mean the following:

(i) fifty percent (50%) of City Net Sales Tax Proceeds actually received by the City during each Project Year, beginning on the City Net Sales Tax Proceeds Commencement Date and ending on and including the twentieth (20th) anniversary thereof; and

(ii) fifty percent (50%) of City Net Lodgings Tax Proceeds actually received by the City during each Project Year, beginning on the City Net Lodgings Tax Proceeds Commencement Date and ending on and including the twentieth (20th) anniversary thereof; and

(iii) fifty percent (50%) of City Permit Proceeds actually received by the City during each Project Year, beginning on the City Permit Proceeds Commencement Date and ending on and including the twentieth (20th) anniversary thereof.

(q) **“Economic Incentive Termination Date”** shall have the meaning set forth in Section 4.3 below.

(r) **“Economic Incentive Warrant A,” “Economic Incentive Warrant B,”** and **“Economic Incentive Warrants”** shall have the meanings ascribed to such terms in Section 4.3 below.

(s) **“Effective Date”** shall have the meaning set forth in Section 7.1 hereof.

(t) **“Elementary School Site”** shall have the meaning set forth in Section 5.1 hereof.

(u) **“Escrow Agent”** shall have the meaning set forth in Section 3.4 below.

(v) **“Existing Roadway Improvements”** shall mean, collectively, the existing roads more particularly described on **Exhibit “B”** attached hereto (including all improvements within the right-of-ways of the existing roads other than pedestrian ways (sidewalks/multi-use trails)). Pedestrian ways will continue to be maintained by the Developer or the applicable owners’ associations.

(w) **“Force Majeure”** shall mean acts of God; acts of the public enemy; acts of terrorism; acts of any government in either its sovereign or proprietary capacity; acts, omissions or delays of applicable governmental authorities in processing Developer’s required approvals for the Developer’s Work, provided such approval requests are submitted in correct form; fires; floods; hurricanes; epidemics; quarantine restrictions; freight embargoes; strikes;

unusually severe weather (not including normal seasonal inclement weather); or any other circumstances beyond the reasonable control of Developer.

(x) **“Infrastructure Assistance Commencement Date”** shall mean the following: (i) with respect to the Phase I Infrastructure Improvements, the earlier of the date when Developer provides written notice to City that (y) the Hotel shell is 100% complete (meaning the building envelope of the Hotel is finished), or (z) 25,000 square feet of shell retail space within the Town Center is 100% complete and ready for tenant improvements); and (ii) with respect to Phase II Infrastructure Improvements, the date when Developer provides written notice to City that either the Hotel has opened for business or 25,000 square feet of retail space within the Town Center has opened for business.

(y) **“Infrastructure Assistance Payments”** shall have the meaning set forth in Section 3.1 below.

(z) **“Infrastructure Assistance Termination Date”** shall have the meaning set forth in Section 3.3 below.

(aa) **“Infrastructure Assistance Warrants”** shall have the meaning set forth in Section 3.3 below.

(bb) **“Infrastructure Escrow Account”** shall have the meaning set forth in Section 3.4 below.

(cc) **“Infrastructure Improvements”** shall mean the improvements necessary to provide infrastructure to support the Development Project which may include all or a portion of the following: site grading; the extension (in phases) of South Liberty Parkway to Sicard Hollow Road (the **“South Liberty Parkway Extension”**); construction of all interior roads (including curb and gutters and stormwater conveyance systems) and culverts within the Remaining Undeveloped Land (including streetscapes); installation of sidewalks/multi-use trails; installation of the Great Lawn and development of other usable green space; construction of the Sanitary Sewer Improvements; construction of storm water improvements and other utilities; lighting; installation of directional signage and traffic signalization; and construction of the Community Connectivity Improvements, all in accordance with Project Plans (as hereinafter defined) approved by the City under applicable City ordinances and regulations.

(dd) **“Liberty Park Commercial POA”** means the Liberty Park Commercial Development Area Owners’ Association, Inc., an Alabama nonprofit corporation.

(ee) **“New Roadway Improvements”** shall mean, collectively, South Liberty Parkway Extension, all roads within the new residential areas of the Development Project, and all roads within the new commercial areas of the Development Project (in each case, including all improvements within the right-of-ways of the roads other than pedestrian ways (sidewalks/multi-use trails); pedestrian ways will be maintained by the Developer or applicable owners’ associations).

(ff) **“Payment Date”** shall have the meaning set forth in Section 4.2 below.

(gg) “**Project Plans**” shall have the meaning set forth in Section 2.1 below

(hh) “**Project Year**” shall mean the period of twelve (12) successive months following the applicable Commencement Date (or anniversary thereof, as applicable) during the term of this Agreement.

(ii) “**Remaining Undeveloped Land**” shall have the meaning set forth in the Amendment to Annexation Agreements. The Remaining Undeveloped Land is depicted on **Exhibit “C”** attached hereto.

(jj) “**Road Reserve Funds**” shall have the meaning set forth in Section 2.7 below.

(kk) “**Sanitary Sewer Improvements**” means a new regional pump station/outfall sewer/force main to service the Development Project and which is to be owned and maintained by Enviro Services, LLC.

(ll) “**Total City Economic Incentive Commitment**” shall have the meaning set forth in Section 4.1 below.

(mm) “**Total City Infrastructure Commitment**” shall have the meaning set forth in Section 3.1 below.

(nn) “**Town Center**” means the area of the Development Project identified on **Exhibit “A”** and **Exhibit “A-1”** attached hereto as the “Town Center.” For the sake of clarity, City Net Tax/Permit Proceeds shall be calculated only from Development Components located with the Town Center.

(oo) “**Vestlake Communities POA**” means the Vestlake Communities Property Owners’ Association, Inc., an Alabama nonprofit corporation.

(pp) “**Warrants**” shall mean the Infrastructure Assistant Warrants and the Economic Incentive Warrants, collectively.

Article II

DESIGN AND CONSTRUCTION OF INFRASTRUCTURE IMPROVEMENTS; DEDICATION OF DEDICATED PUBLIC INFRASTRUCTURE

2.1 **Design and Construction Relating to the Infrastructure Improvements.** As part of undertaking the Developer’s Work, Developer shall be responsible for undertaking and completing architectural, engineering, landscaping, lighting, hardscape, and other design work (including preparation of detailed plans, specifications, and drawings related to the Infrastructure Improvements), all of which are subject to any and all required governmental approvals (collectively, the “**Project Plans**”). In connection therewith, Developer shall secure any and all required governmental or regulatory approvals and permits required for the Infrastructure Improvements, including any such separate approvals that may be required by the City, and nothing herein shall be construed as a waiver of such requirements.

2.2 **Commencement of Developer's Work.** Developer anticipates that it will commence the Developer's Work following the Effective Date and receipt of all necessary approvals. Commencement of the Developer's Work shall be deemed to have occurred on the date on which Developer or its contractor mobilizes on the Remaining Undeveloped Land. The obligation of Developer to commence the Developer's Work shall be extended for a reasonable period if Developer's performance is delayed or prevented by Force Majeure. The extent and location of the Community Connectivity Improvements will be determined by Developer following completion of engineering studies.

2.3 **Acknowledgements.** Developer specifically recognizes and agrees that the City's approval of the Development Plan shall not constitute an approval of the conformity of such plan with applicable building codes and other usual regulatory or inspection approvals by the City normal to any construction in the City, which review and approval shall proceed in the normal course. Developer acknowledges and agrees that this Agreement does not constitute an agreement for the exercise of the City's regulatory powers as a municipality. Developer (and any third party purchaser/developer) shall comply with all land use regulations, codes and laws affecting the development of the Remaining Undeveloped Land, and nothing in this Agreement constitutes an exemption or grant of a variance from applicable codes and laws unless otherwise exempted or approved by the City.

2.4 **New Roadway Improvements.** As part of and in conjunction with the construction of the Infrastructure Improvements, Developer will construct the New Roadway Improvements as shall be identified in the Project Plans; provided, however, that South Liberty Parkway will be constructed in phases as part of either the Phase I Infrastructure Improvements or the Phase II Infrastructure Improvements as described herein. It is understood and agreed all of the New Roadway Improvements identified as "Public Roads" in the duly approved Project Plans and any easements or rights-of-way associated therewith are to be constructed as public roads in accordance with City standards and transferred or dedicated to the City upon final completion thereof in accordance with the provisions of Section 2.6 below. As part of the New Roadway Improvements, the drainage system shall be designed, constructed, and installed so that the stormwater conveyance systems located within the right-of-way of such roads or other dedicated easements shall be directed to stormwater management facilities that are, or will be owned, by one of the various property owners associations within Liberty Park, as appropriate; however, such stormwater conveyance systems will be part of the New Roadway Improvements to be dedicated to the City.

2.5 **Construction of the Great Lawn.** As part of and in conjunction with the construction of the Phase I Infrastructure Improvements, Developer will construct the Great Lawn identified in the Project Plans. It is understood and agreed that (i) the Great Lawn and any easements or rights-of-way associated therewith will be transferred or dedicated to the City upon final completion thereof in accordance with the provisions of Section 2.6 below; and (ii) upon such dedication, the City and Developer will enter into a management agreement in form and content acceptable to the parties pursuant to which Developer (or, if elected by Developer, the Liberty Park Master Association, Inc. or other Liberty Park association entity) will be responsible for the maintenance, repair, and proper functioning of the Great Lawn.

2.6 **Dedication of Newly Constructed Public Infrastructure.** Developer may transfer or convey to the City, in accordance with the City's subdivision ordinances, all of its right, title and interest in and to the New Roadway Improvements, the Great Lawn, and any other green space, parks or similar spaces intended for use by the general public within the Town Center.

2.7 **Existing Roadway Improvements.** In further consideration of Developer undertaking the Developer's Work and the benefits that will accrue to the City from the Development Project as described in this Agreement, Developer has requested that the City accept dedication of the Existing Roadway Improvements as public roads in order that, (i) the City, through its Public Service department, will become responsible for maintenance and repair of the Existing Roadway Improvements in perpetuity; and (ii) the Existing Roadways will become subject to jurisdiction of the Vestavia Hills Police Department. Vestlake Communities POA has established a reserve fund for the repair and maintenance of those Existing Roadway Improvements owned by Vestlake Communities POA, the balance of which, as of December 31, 2020, was \$2,660,899.00 and Liberty Park Commercial POA has established a reserve fund for the repair and maintenance of those Existing Roadway Improvements owned by Liberty Park Commercial POA, the balance of which, as of December 31, 2020, was \$10,616.00, for an aggregate amount of \$2,671,515.00 (collectively, the "**Road Reserve Funds**"). As a condition to accepting the Existing Roadway Improvements as public roads, the City requires that the Road Reserve Funds be transferred to the City in order to offset the City's costs of performing any and all work that may be required to bring the Existing Roadway Improvements into compliance with the City's specifications for public roads and the City's costs of maintaining and repairing the Existing Roadway Improvements in perpetuity. Upon the closing of the dedication and acceptance of the Existing Roadway Improvements to the City (which shall be accomplished by a deed of dedication which conveys the Existing Roadway Improvements in their current condition, on an **AS IS WHERE IS** basis (except as to title)), the Road Reserve Funds (in the amount of \$2,671,515.00²) will be transferred to the City's public funds for the upgrading, maintenance, and repair of the Existing Roadway Improvements and neither Vestlake Communities POA or Liberty Park Commercial POA will have any further liability for any repair or maintenance costs associated with the Existing Roadways. As a condition to such transfer, Developer will provide an authorizing resolution from the Board of Directors of each of Vestlake Communities POA and Liberty Park Commercial POA authorizing the dedication of the Existing Roadways and the transfer of the Road Reserve Funds to the City as partial consideration for the City's acceptance of the Existing Roadways as public roads. The closing of the dedication and acceptance of the Existing Roadway Improvements and transfer of the Road Reserve Funds will occur within 30 days of Developer's written notice to City that the required approvals have been obtained from the Vestlake Communities POA and Liberty Park Commercial POA.

Article III INFRASTRUCTURE ASSISTANCE PAYMENTS

²Any funds in excess of \$2,671,515.00 will remain with the applicable POA.

3.1 **Infrastructure Assistance Payments.** In further consideration for Developer’s agreement to undertake the Developer’s Work and the other benefits that will accrue to the City and the public from the overall Development Project as set forth herein, provided that Developer has satisfied the conditions for payment as set forth in Section 3.2 below, the City hereby agrees that it will pay a portion of the costs of certain Infrastructure Improvements (as set forth below) by making payments to Developer, as the owner and holder of the Infrastructure Assistance Warrants, as set forth below (collectively, the “**Infrastructure Assistance Payments**”), up to, but not exceeding Eleven Million and 00/100 Dollars (\$11,000,000.00) in the aggregate (the “**Total City Infrastructure Commitment**”), which shall be payable in accordance with the following provisions:

(a) Up to Five Million Five Hundred Thousand 00/100 Dollars (\$5,500,000.00) in the aggregate shall be payable in accordance with the line item budget below for the following improvements (collectively, the “**Phase I Infrastructure Improvements**”):

Great Lawn and any other green space, parks or similar spaces intended for use by the general public that may be constructed within the Town Center	Lesser of (i) actual out-of-pocket costs incurred and paid by Developer and (ii) \$3,000,000.00
Sanitary Sewer Improvements	Lesser of (i) actual out-of-pocket costs incurred and paid by Developer and (ii) \$2,000,000.00
South Liberty Parkway Extension, Phase I (as depicted on <u>Exhibit “C”</u>)	Lesser of (i) actual out-of-pocket costs incurred and paid by Developer and (ii) \$500,000.00
Other Infrastructure Improvements	Any remaining balance of the \$5,500,000.00 of Infrastructure Assistance Payments not paid towards the Great Lawn, Sanitary Sewer Improvements, or South Liberty Parkway Extension, Phase I

(b) Up to Five Million Five Hundred Thousand 00/100 Dollars (\$5,500,000.00) in the aggregate shall be payable in accordance with the line item budget below for the following improvements (collectively, the “**Phase II Infrastructure Improvements**”):

South Liberty Parkway Extension, Phase II (as depicted on <u>Exhibit “C”</u>)	Lesser of (i) actual out-of-pocket costs incurred and paid by Developer and (ii) \$5,000,000.00
Community Connectivity Improvements	Lesser of (i) actual out-of-pocket costs incurred and paid by Developer and (ii) \$500,000.00

Other Infrastructure Improvements	Any remaining balance of the \$5,500,000.00 of Infrastructure Assistance Payments not paid towards the South Liberty Parkway Extension, Phase II or the Community Connectivity Improvements
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Developer covenants and agrees to provide City with a projected completion schedule for each of the line item categories set forth above in order that the City will be able to include such payments in its upcoming fiscal year budgets.

3.2 Timing of and Conditions to Payment.

(a) Payments of the above Infrastructure Assistance Payments will be made on a quarterly basis as construction progresses for each respective component of the Infrastructure Improvements from and after the Infrastructure Assistance Commencement Date applicable to such component, following delivery by Developer to the City of (i) a draw request setting forth the actual out-of-pocket expenses incurred by Developer in connection with the Developer’s Work included in such draw requests (which may include payment for costs incurred by Developer from and after the date this Agreement is approved by City Council and which may include payments made to affiliated entities for work performed on terms substantially similar to those that would be available on an arms-length basis with third parties) and (ii) written certification from Developer or the contractor performing such work certifying that the work has been performed in accordance with the Project Plans.

(b) Notwithstanding the foregoing, in the event that any of the line item categories for the Phase II Infrastructure Warrant have been completed by the Infrastructure Assistance Commencement Date applicable to the Phase II Infrastructure Warrant (thereby entitling the Developer to be paid the full amount of such line item), the City will have the option to pay such line item in quarterly installments over a period of twenty-four (24) months.

(c) City shall make payment to Developer of the applicable Infrastructure Assistance Payment within thirty (30) days after Developer’s submission of the foregoing draw request and certification.

3.3 The Infrastructure Assistance Warrants.

(a) The obligation of the City to pay the Infrastructure Assistance Payments hereunder shall be evidenced by two (2) warrants, one entitled “General Obligation Economic Development Warrant (Liberty Park Project – Phase I Infrastructure Assistance Payments),” in form and content as the form of warrant attached to this Agreement as **Exhibit “D”** and the other entitled “General Obligation Economic Development Warrant (Liberty Park Project – Phase II Infrastructure Assistance Payments),” in form and content as the form of warrant attached to this Agreement as **Exhibit “E”** (collectively, the “**Infrastructure Assistance Warrants**”). The City shall pay to Developer, as owner and holder of the Infrastructure Assistance Warrants, the

Infrastructure Assistance Payments in installments in accordance with the terms hereof and Sections 3.1 and 3.2 hereof.

(b) The Infrastructure Assistance Warrants shall not bear interest, shall be issued in an aggregate principal amount not exceeding the Total City Infrastructure Commitment, shall be dated the date that the same is delivered to Developer, and shall mature on the Infrastructure Assistance Warrants Termination Date.

(c) The Infrastructure Assistance Warrants shall be duly executed, sealed, and attested by the City, and shall be duly registered and transferred as provided therein.

(d) The obligation of the City for the payment of each Infrastructure Assistance Warrant (by paying Infrastructure Assistance Payments) shall commence after the Infrastructure Assistance Commencement Date applicable to such Infrastructure Assistance Warrant.

(e) The maximum amount the City shall pay under the Infrastructure Assistance Warrants shall be limited to and shall not exceed the Total City Infrastructure Commitment (that is Eleven Million and 00/100 Dollars (\$11,000,000.00 in the aggregate)).

(f) The obligation of the City for the payment of the Infrastructure Assistance Warrants:

(i) is a general obligation of the City for which the full faith, credit and taxing power of the City shall be irrevocably pledged; and

(ii) is subject to, 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 funds and revenues of the City the legitimate and necessary governmental expenses of operating the City.

(g) Anything in this Agreement or in the Infrastructure Assistance Warrants to the contrary notwithstanding, the City shall have no obligation to pay Infrastructure Assistance Payments under this Agreement or the Infrastructure Assistance Warrants:

(i) prior to the applicable Infrastructure Assistance Commencement Date; or

(ii) after (A) the date on which the City shall have paid as Infrastructure Assistance Payments an aggregate amount not less than the Total City Infrastructure Commitment, or (B) termination of this Agreement by the City under Section 7.3 (collectively, the "**Infrastructure Assistance Termination Date**").

3.4 **Phase I Infrastructure Assistance Payments Escrow.**

(a) In order to provide partial security for the payment of the Phase I Infrastructure Assistant Warrant to Developer, the City agrees to establish an escrow account (the "**Infrastructure Escrow Account**") with a bank that is insured by the FDIC and to select a third party escrow agent acceptable to the Developer (the "**Escrow Agent**"). Within one hundred

eighty (180) days of the Effective Date, the City will deposit not less than Four Million and 00/Dollars (\$4,000,000.00) into the Infrastructure Escrow Account in order to partially secure the City's obligations to pay the Phase I Infrastructure Warrant.

(b) City, Developer, and Escrow Agent will enter into an escrow agreement mutually acceptable to the parties which shall authorize the Escrow Agent to release the sums deposited into said escrow account to Developer upon satisfaction of the conditions for payment of Phase I Warrant Infrastructure Assistance Payments as set forth in Section 3.2 above.

(c) The establishment of the escrow account with Escrow Agent and the deposit of the amounts set forth in this Section 3.4 shall in no event affect the status of either of the Infrastructure Assistance Warrants as general obligation warrants for which the full faith, credit and taxing power of the City shall be irrevocably pledged.

Article IV **ECONOMIC INCENTIVE PAYMENTS**

4.1 **Terms and Conditions.** In addition to the Infrastructure Assistance Payments provided for in Article III of this Agreement and in further consideration for Developer's agreement to undertake the Developer's Work and the development of the various Development Components by Developer or third party purchasers/developers, the City agrees to pay to Developer the Economic Incentive Payments, but in no event shall the aggregate amount of such Economic Incentive Payments exceed Twelve Million and No/100 Dollars (\$12,000,000.00) (the "**Total City Economic Incentive Commitment**").

4.2 **Payment of Economic Incentive Payments.**

(a) Economic Incentive Payments will be payable by the City semi-annually on each July 31 (for the preceding January 1 – June 30) and January 31 (for the preceding July 1 – December 31) (each, a "**Payment Date**"), commencing with the first Payment Date after the applicable Commencement Date set forth below) and continuing thereafter until the Economic Incentive Payments Termination Date, as follows:

(i) On the first Payment Date after the City Permit Proceeds Commencement Date and on each Payment Date thereafter, the City shall pay to Developer the amount (if any) of any Economic Incentive Payments from City Permit Proceeds for such preceding period. Payments of Economic Incentive Payments from City Permit Proceeds will be credited first against Economic Incentive Warrant A and second against Economic Incentive Warrant B.

(ii) On the first Payment Date after the City Net Sales Tax Commencement Date, and on each Payment Date thereafter, the City shall pay to Developer the amount (if any) of the Economic Incentive Payments from City Net Sales Tax Proceeds for such preceding period. Payments of Economic Incentive Payments from City Net Sales Tax Proceeds will be credited first against Economic Incentive Warrant A and second against Economic Incentive Warrant B.

(iii) On the first Payment Date after the City Net Lodging Tax Proceeds Commencement Date, and on each Payment Date thereafter, the City shall pay to Developer the amount (if any) of the Economic Incentive Payments from City Net Lodging Proceeds for such preceding period. Payments of Economic Incentive Payments from City Net Lodging Proceeds will be credited first against Economic Incentive Warrant B and second against Economic Incentive Warrant A.

(b) The City will provide such detail and information to Developer as Developer may reasonably request regarding the City's calculation of Economic Incentive Payments, and will permit any attorneys, accountants or other agents or representatives designated by Developer to visit and inspect any of the accounting systems, books of account, and financial records and properties of the City which pertain to City Net Tax/Permit Proceeds, and the determination of Economic Incentive Payments, all at reasonable business times and upon reasonable notice.

4.3 **The Economic Incentive Warrants.**

(a) The obligation of the City to pay the Economic Incentive Payments hereunder shall be evidenced by two (2) separate warrants as follows (collectively, the "**Economic Incentive Warrants**"):

(i) the City's \$7,000,000.00 warrant entitled "Limited Obligation Economic Incentive Warrant A (Liberty Park Project)," in form and content as the form of warrant attached to this Agreement as **Exhibit "F"** ("**Economic Incentive Warrant A**"); and

(ii) a \$5,000,000.00 warrant entitled "Limited Obligation Economic Incentive Warrant B (Liberty Park Project)," in form and content as the form of warrant attached to this Agreement as **Exhibit "G"** ("**Economic Incentive Warrant B**").

(b) The City shall pay to Developer, as owner and holder of the Economic Incentive Warrants, the Economic Incentive Payments in installments in accordance with the terms hereof for application against the Economic Incentive Warrants in the order and manner set forth in Section 4.2 hereof.

(c) The Economic Incentive Warrants shall not bear interest, shall be issued in the individual principal amounts set forth above, shall not exceed, in the aggregate, the Total City Economic Incentive Commitment, shall be dated the date that the same is delivered to Developer, and shall mature on the applicable Economic Incentive Termination Date (as hereinafter defined).

(d) The Economic Incentive Warrants shall be duly executed, sealed, and attested by the City, and shall be registered by the City as a conditional claim against the applicable warrant fund created therein.

(e) The Economic Incentive Warrants shall be duly registered and transferred as provided therein.

(f) The obligation of the City for the payment of the Economic Incentive Warrants (by paying Economic Incentive Payments) shall commence after the Commencement Date applicable to such Economic Incentive Payments.

(g) The obligation of the City for the payment of the Economic Incentive Warrants:

(i) is a limited obligation of the City payable solely from the City Net Tax/Permit Proceeds; and

(ii) is subject to, 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 funds and revenues of the City the legitimate and necessary governmental expenses of operating the City.

(h) Anything in this Agreement or in either Economic Incentive Warrant to the contrary notwithstanding, the City shall have no obligation to pay Economic Incentive Payments under this Agreement or the Economic Incentive Warrants:

(i) prior to the Commencement Date applicable to such Economic Incentive Payments; or

(ii) after (A) the date on which the City shall have paid as Economic Incentive Payments an aggregate amount not less than the Total City Economic Incentive Commitment, or (B) termination of this Agreement by the City under Section 7.3 (collectively, the "**Economic Incentive Termination Date**").

Article V **OTHER AGREEMENTS**

5.1 **Elementary School Site.** Developer agrees to donate, gift, and convey to the City an approximately 15 acres site identified on **Exhibit "H"** attached hereto (the "**Elementary School Site**") for the construction thereon of a Vestavia Hills public elementary school, on the following terms and conditions:

(a) Developer will construct a rough graded pad site within the Elementary School Site which (i) will contain side slopes that will tie to existing grades to accommodate the estimated footprint shown in the conceptual plan attached hereto as **Exhibit "I"**; (ii) will be at consistent cross-slope(s) to direct surface stormwater runoff; and (iii) will be constructed in connection with Developer construction of the adjacent roads (collectively, the "**Grading Work**"); provided, however, that Developer's liability for the cost of the Grading Work shall be capped at \$500,000.00 (the "**Cap**") and the City will be responsible for all costs in excess of the Cap. Developer shall certify and provide notice to the City when the cost of the Grading Work has reached the Cap. Thereafter, Developer shall submit draw requests with supporting evidence setting forth the actual out-of-pocket expenses incurred by Developer in excess of the Cap in connection with the Grading Work and City shall reimburse Developer for such expenses within thirty (30) days after receipt of such draw request.

Developer's obligations under this paragraph (a) shall not include the construction of any retaining walls necessary to support any improvements to be constructed by the City.

(b) Upon completion of the rough graded pad site, Developer shall have the right to use the Elementary School Site prior to Developer's conveyance of the Elementary School Site to the City as set forth below.

(c) The Elementary School Site will be restricted from any use other than as a Vestavia Hills public elementary school, unless the prior written consent of Developer, which may be granted or refused by Developer in its sole discretion, is first obtained.

(d) Closing of the conveyance of the Elementary School Site to the City will occur within one hundred eighty (180) days following the City's written request to Developer requesting the conveyance, which such request must be accompanied by evidence confirming that the City has fully funded the Phase I Infrastructure Escrow Funds as required by Section 3.4 above; provided, however, that such one hundred eighty (180) day period shall be extended for such period of time as may be necessary for the Developer to complete necessary development work, including the construction of South Liberty Parkway Extension and the Sanitary Sewer Improvements necessary for the Elementary School Site, as well as the construction of the rough graded pad site within the Elementary School Site.

(e) Developer will convey fee simple title to the City at the closing, subject to (i) the restriction set forth in paragraph (a) above, (ii) all easements, restrictions, and covenants of record, and (iii), the agreement that the City and its successors and assigns (as such long as such successor or assign is not a private entity) shall be exempt from any and all property owner assessments established under any of the Liberty Park recorded covenants. However, the City will be responsible for standard fees and assessments payable to Enviro Services, LLC for sewer services to the Elementary School Site. The City shall be responsible for all closing costs associated with the conveyance of the Elementary School Site other than the fees of the closing attorney, which will be split between City and Developer.

5.2 **Entertainment District.** The City covenants and agrees to use its best effort to have the Town Center designated as an Entertainment District in accordance with the provisions of Ala. Code 28-3A-17.1 and the applicable City ordinances with respect to Entertainment Districts.

5.3 **Amendment to Annexation Agreements.** In connection with the implementation of the Development Project, certain amendments to the existing annexation agreements between Developer and the City are required. Contemporaneously herewith and as a condition to this Agreement, Developer and City have entered into that certain Amendment to Annexation Agreements which allow for the Development Project to proceed as reflected on the Development Plan ("**Amendment to Annexation Agreements**").

5.4 **Commercial Assessments.** In consideration of this Agreement, effective as of the Effective Date, (i) all of the existing properties owned by the City, the Vestavia Hills Board of Education, or the Vestavia Parks and Recreation Board which are located in Liberty Park will be exempted from assessments payable to the Liberty Park Commercial POA or any other

property owners association in Liberty Park for so long as such properties remain owned by the Vestavia Hills Board of Education, or the Vestavia Parks and Recreation Board and not a private entity, and (ii) all assessments previously assessed by any such associations against the City, the Vestavia Hills Board of Education, or the Vestavia Parks and Recreation Board but not collected (which have been disputed as lawful charges owed by such entities and therefore not paid), will be waived and released.

5.5 **Development Plan.** The Development Plan shall include a mixed-use component that incorporates both residential and commercial uses in a town center (the “**Town Center**”). The Town Center shall incorporate traditional design principles to encourage walkability and convenience and include the following:

- An organized street and block network which incorporates open spaces, promotes flexibility and adaptability, and allows the Town Center and its public spaces to evolve, change and grow over time.
- Arrangement of streets, sidewalks, public spaces, and walkways connecting to parking facilities and surrounding areas. Elements which reinforce one another and work together to create gathering spaces and sidewalk areas where retail and leisure meet.
- Sidewalks sized for their intended use – wider sidewalks where restaurants and al fresco will be concentrated and narrower sidewalks planned on less intensively used streets.
- Scale that is comfortable for pedestrians with buildings that engage the street through windows, awnings, store signage and lighting. Storefronts shall avoid commonality and banality and allow for differentiation.
- On street parking convenient to retail and commercial buildings.
- Landscaping and hardscaping to enhance streetscapes and public places.

Article VI **REPRESENTATION AND WARRANTIES**

6.1 **Representations and Warranties of Developer.** Developer makes the following representations and warranties:

(a) Developer is a duly organized and existing Alabama limited liability partnership, in good standing in the State of Alabama, and has the legal power to enter into this Agreement.

(b) The execution and delivery of this Agreement on the part of Developer’s undersigned officer have been duly authorized by appropriate limited liability partnership action.

(c) Other than the Amendment to Annexation Agreements, the required approvals of the Vestlake Communities POA and the Liberty Park Commercial POA described

in Section 2.7 above, and the approvals described in Section 2.3 above, there are no approvals, authorizations, consents, or other actions by or filings with any person which are required to be obtained or completed by Developer in connection with the execution and delivery of this Agreement or in connection with any other action required to be taken by Developer hereunder. Developer is not and will not be required to give any notice to or obtain any consent from any person or entity in connection with the execution and delivery of this Agreement or the consummation or performance of any of the transactions contemplated hereby.

(d) The execution and performance of this Agreement by Developer does not: (i) constitute and will not result in the breach or violation of any contract, lease, mortgage, bond, indenture, franchise, permit or agreement of any nature to which Developer is a party; (ii) contravene, conflict with, or result in a violation of, or give any governmental body or other person the right to challenge any of the transactions contemplated hereby or to exercise any remedy or obtain any relief under any legal requirement or any order to which Developer, or any of the assets owned or used by Developer may be subject; (iii) contravene, conflict with, or result in a violation or breach of any provision of, or give any person the right to declare a default or exercise any remedy under, or to accelerate the maturity or performance of, any contract, agreement, instrument or understanding by which Developer is bound; or (iv) result in the imposition or creation of any lien, security interest, or encumbrance upon or with respect to any of the assets owned or used by Developer.

(e) To the best of Developer's knowledge, Developer is not in default under, or in violation of, any law or regulation or under any order of any court, board, commission or agency whatsoever, the default under or violation of which would have a material adverse effect on Developer's obligations under this Agreement. Developer has received no written notice of any pending or impending civil or criminal investigation, audit, proceeding, action, or litigation or any nature from any federal, state or local board, commission or agency, which would prevent the construction of the Developer's Work.

(f) There are no outstanding judgments, orders, writs, injunctions, or decrees of any government entity, no pending legal proceedings or material threats of legal proceedings, against or affecting Developer before or by any court, board, commission or agency whatsoever which would have a material effect on Developer's performance of its obligations under this Agreement.

(g) Developer has not experienced bankruptcy, insolvency, or any other form of legal relief from claims of creditors.

6.2 **Representations and Warranties of City.** City makes the following representations and warranties:

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

(b) The Warrants shall be issued, sold, and delivered upon condition, and purchased by Developer thereof in the reliance that this Agreement is enforceable against the City in accordance with the terms hereof.

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

(d) The indebtedness of the City incurred pursuant to the Enabling Law is less than fifty percent (50%) of the assessed value of the taxable property in the City as determined for state taxation purposes for the *fiscal year/calendar year ending* _____, 2020.

(e) The City Net Tax Sale Proceeds and City Net Lodgings Tax Proceeds are, as of the date hereof, calculated based upon the following City tax rates, in each case, which are net of and exclude taxes levied for educational purposes or for capital improvements for education:

City Sales Tax: 4%

City Lodgings Tax: 6%

Article VII GENERAL TERMS

7.1 **Effective Date.** This Agreement shall become effective on the date (the "**Effective Date**") on which a judgment entered by the Circuit Court of Jefferson County, Alabama validating and confirming this Agreement shall have become forever conclusive in accordance with, and as provided in, Section 6-6-755 of the Code of Alabama 1975.

7.2 **Assignment.** Until the Total City Infrastructure Commitment has been paid for the Developer's Work (or Developer has released the City from any further obligation in payment of the City Infrastructure Commitment), Developer may not assign or transfer this Agreement or any interest herein or therein or any part hereof or thereof to another entity other than to a related party without the written consent of the City (which such consent shall not be unreasonably withheld, conditioned, or delayed); provided, (i) that the City acknowledges that Developer may enter into a separate agreement with a Hotel developer to share certain incentive payments if and to the extent paid to Developer, however, the Hotel developer shall not be a party to this Agreement and shall have no claim against the City for any sums due and payable to Developer under this Agreement; and (ii) that Developer may execute a collateral assignment of this Agreement to any lender providing financing for the Developer's Work upon notice to the City but without the City's prior written consent.

7.3 **Default and Termination.**

(a) For purposes of this Agreement, an “**Event of Default**” by either Developer or the City (as applicable, the “**Defaulting Party**”) under this Agreement shall be defined as follows:

(i) such Defaulting Party’s breach or violation of any term or condition of this Agreement which is not cured within a cure period set forth herein or, if no cure period is specified, is not cured within thirty (30) days after written notice from the non-defaulting party, provided, however, that if such cure reasonably cannot be completed within such thirty (30) day period, is not cured within such additional period of time as shall be reasonably necessary to complete the cure as long as the Defaulting Party is diligently and in good faith prosecuting said cure to completion;

(ii) any material representation made by a Defaulting Party in this Agreement, or in any certificate, notice, or request made by such Defaulting Party in writing and delivered to the non-defaulting party pursuant to or in connection with this Agreement shall prove to be untrue or incorrect in any material respect as of the date made;

(iii) the entry of a decree or order for relief by a court having jurisdiction concerning such Defaulting Party in an involuntary case under the federal bankruptcy laws, as now or hereafter constituted, or any other applicable federal or state bankruptcy, insolvency or other similar law, or appointing a receiver, liquidator, trustee (or similar official) of such Defaulting Party for any substantial part of its property, or ordering the winding-up or liquidation of its affairs and the continuance of any such decree or order unstayed and in effect for a period of sixty (60) consecutive days;

(iv) the commencement by such Defaulting Party of a voluntary case under the federal bankruptcy laws, as now or hereafter constituted, or any other applicable federal or state bankruptcy, insolvency or other similar law;

(v) the consent by such Defaulting Party to the appointment of or taking possession by a receiver, liquidator, trustee (or other similar official) of such Defaulting Party or of any substantial part of such Defaulting Party’s property; or

(vi) the making by such Defaulting Party of any assignment for the benefit of creditors.

(b) Upon the occurrence of an Event of Default by a Defaulting Party which is not cured within the applicable notice and periods set forth herein, the non-defaulting party may, in its discretion, pursue any and all remedies at law or in equity, provided however, that the City shall have no right of specific performance against the Developer under this Agreement. The non-defaulting party shall have the right to recover reasonable attorney’s fees and court costs caused by an Event of Default by a Defaulting Party that is not cured within applicable notice and cure periods set forth herein. Neither the City nor Developer shall in any event be responsible or liable for consequential, speculative, exemplary or punitive damages as a result of an Event of Default that is not cured within applicable notice and cure periods set forth herein.

7.4 **Governing Law.** This Agreement, all rights of the parties hereunder, and all disputes which may arise hereunder shall be subject to and governed in accordance with the laws of the State of Alabama. By executing this Agreement, each party consents to the jurisdiction and venue of the federal or state courts for Jefferson County, Alabama with respect to any matter arising hereunder.

7.5 **Severability.** In case any one or more of the provisions contained in this Agreement shall for any reason be held invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision hereof and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

7.6 **Notices.** All communications and notices expressly provided herein shall be sent, by first class mail, postage prepaid, or by a nationally recognized overnight courier for delivery on the following business day, as follows:

If to the City:	City of Vestavia Hills 3162 Vestavia Hills Parkway Vestavia Hills, Alabama 35124 Attn: Mayor's Office
If to Developer:	Liberty Park Joint Venture, LLP 1000 Urban Center Drive, Suite 235 Vestavia Hills, Alabama 35242 Attention: John Bonanno
AND:	Liberty Park Joint Venture, LLP c/o Drummond Company, Inc. Attention: Blake Andrews, Esq. Legal Department 1000 Urban Center Drive, Suite 300 Vestavia Hills, Alabama 35242

or to such other address as the parties shall designate from time to time by written notice.

7.7 **Cost and Expense.** Each party agrees to pay its own costs incurred in connection with the negotiation and preparation of this Agreement. Developer acknowledges that it shall be responsible for all costs of the Developer's Work undertaken by Developer, including but not limited to, the cost of planning, developing and maintaining the Remaining Undeveloped Land (or portions thereof), such as legal, engineering, architectural, construction and environmental services. Developer shall not hold itself out as an agent of the City and shall not make any representation or take any action which shall convey the impression to any contractor, subcontractor, laborer or supplier that the City has any obligation or responsibility for any payment to such contractor, subcontractor, laborer or supplier in connection with the Developer's Work.

7.8 **Section Titles and Headings.** The section titles and headings are for convenience only and do not define, modify or limit any of the terms and provisions hereof.

7.9 **Relationship of Parties.** The City and Developer agree that nothing contained in this Agreement, or any act of Developer or of the City, shall be deemed or construed by either of the parties hereto, or by third persons, to create any relationship of third party beneficiary hereof, or of principal and agent, or of a limited or a general partnership or of a joint venture or of any association or relationship between. Notwithstanding any of the provisions of this Agreement, it is agreed that the City have no investment or equity interest in the business of Developer, and shall not be liable for any debts of Developer, nor shall the City be deemed or construed to be a partner, joint venturer or otherwise interested in the assets of Developer, nor shall Developer at any time or times use the name or credit of the City in purchasing or attempting to purchase any equipment, supplies or other thing whatsoever.

7.10 **Compliance with Laws.**

(a) Developer shall comply, and shall endeavor by its business practices to cause its officers, agents, and employees to comply, in all material respects, with all applicable federal, state and local statutes, regulations, rules, ordinances and other laws, including, but not limited to, the Americans with Disabilities Act, which are applicable to the Developer's Work.

(b) Developer shall not enter into, execute, or be a party to any covenant, agreement, lease, deed, assignment, conveyance, or any other written instrument applicable to the Developer's Work restricting the use of any improvements on the basis of race, ethnicity, color, religion, sex, national origin, age or handicapped status. Developer shall comply with all federal, state and local laws, in effect from time to time, prohibiting discrimination in employment.

(c) Developer shall obtain all licenses and permits required by law, including, but not limited to, all business licenses and development permits required by the City.

7.11 **Binding Effect.** This Agreement and all terms, provisions and obligations set forth herein shall be binding upon and shall inure to the benefit of Developer and its successors and assigns and shall be binding upon and shall inure to the benefit of the City and its successors and assigns.

7.12 **Entire Agreement; Amendment.** This Agreement constitutes one entire and complete agreement, and neither of the parties hereto shall have any rights arising from any separate component of this Agreement without complying in all respects with its duties and obligations under all parts and components hereof. This Agreement constitutes and includes all promises and representations, expressed or implied, made by the City and Developer with respect to the matters set forth herein. No stipulations, agreements or understandings of the parties hereto shall be valid or enforceable unless contained in this Agreement. No oral conditions, warranties or modifications hereto shall be valid between the parties. This Agreement may be amended only by a written instrument executed by both parties.

7.13 **Amendment to Annexation Agreements Controlling.** To the extent of any inconsistency between this Agreement and the Amendment to Annexation Agreements, the Amendment to Annexation Agreements shall be controlling.

[REMAINDER OF PAGE INTENTIONALLY DELETED – SIGNATURE PAGES FOLLOW]

Draft Copy

IN WITNESS WHEREOF, each party hereto has caused this Agreement to be duly executed as of the date first above written.

LIBERTY PARK JOINT VENTURE, LLP,
an Alabama limited liability partnership

By: _____
Name: _____
Its: _____

ATTEST:

CITY OF VESTAVIA HILLS, ALABAMA

By: _____
Name: _____
Its: _____

By: _____
Ashley Curry, Mayor

Draft Copy

EXHIBIT "A"

Development Plan

[See Attached]

Draft Copy



Town Center Detail on Exhibit A-1
 Not included in Development Agreement
 Not included in Development Agreement



EXHIBIT A: DEVELOPMENT PLAN

EXHIBIT "A-1"

Detail of Town Center

[See attached Exhibit A Insert]

Draft Copy

EXHIBIT A INSERT

- i Hotel
- ii Retail/Commercial
- iii Great Lawn
- iv Single Family Residential
- v Luxury Multi-Family
- vi Age Restricted Multi-Family
- vii Healthcare
- viii Senior Housing

Not included in
Development
Agreement

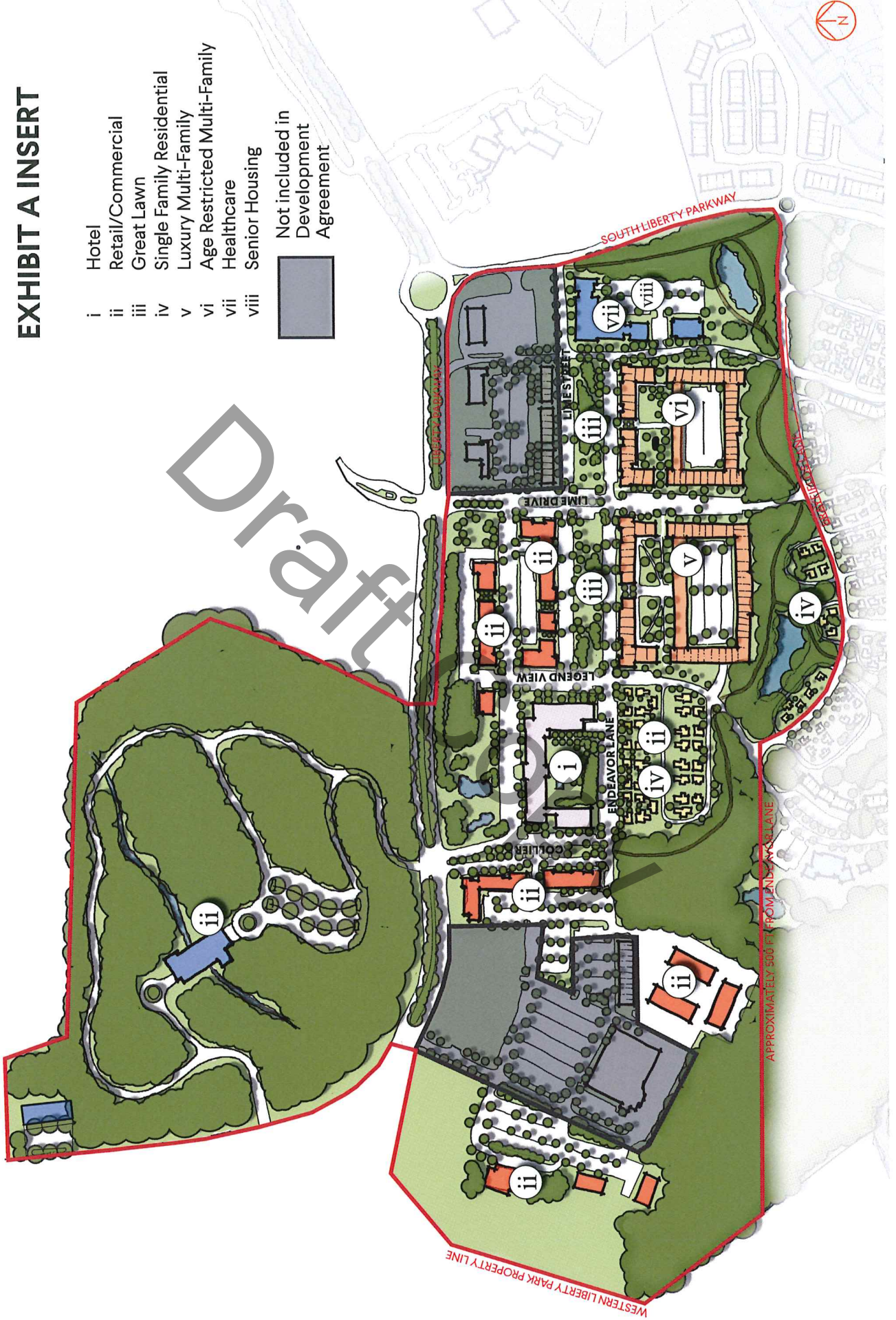


EXHIBIT "B"

Existing Roadway Improvements

[See Attached]

Draft Copy

EXHIBIT "C"

Remaining Undeveloped Land

[See Attached]

Draft Copy

EXHIBIT "D"

Phase I Infrastructure Assistance Warrant

Draft Copy

EXHIBIT "D"

FORM OF PHASE I INFRASTRUCTURE ASSISTANCE WARRANT

This Warrant has not been registered (i) under the Securities Act of 1933, as amended, in reliance upon the exemption provided by Section 4(2) of said act, or (ii) under any state securities law, in reliance upon applicable exemptions, and may not be transferred without registration except pursuant to an exemption therefrom.

THIS WARRANT DOES NOT BEAR INTEREST

**UNITED STATES OF AMERICA
STATE OF ALABAMA**

**CITY OF VESTAVIA HILLS
GENERAL OBLIGATION ECONOMIC DEVELOPMENT WARRANT
(LIBERTY PARK PROJECT – PHASE I INFRASTRUCTURE ASSISTANCE
PAYMENTS)**

No. R- _____
DATED DATE:

MATURITY DATE:

_____, 20__

Infrastructure Assistance Termination Date

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

LIBERTY PARK JOINT VENTURE, LLP, an Alabama limited liability partnership ("**Developer**")

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

FIVE MILLION FIVE HUNDRED THOUSAND AND NO/100 DOLLARS (\$5,500,000.00)

as determined pursuant to the Development Agreement (as hereinafter defined), and hereby orders and directs the City Clerk and Treasurer of the City to pay to the Holder, solely from the Infrastructure Assistant Warrant Fund hereinafter designated, said principal amount, without interest, on each Payment Date, until and including the Maturity Date specified above.

Authority for Issuance

This Warrant is issued pursuant to the authority of the Constitution and laws of the State of Alabama, including particularly and without limitation Amendment No. 772 of the Constitution of Alabama of 1901, as amended (collectively the "**Enabling Law**"), and that certain Development

Agreement the above Dated Date (the “**Development Agreement**”) between the City and Developer.

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

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

Payment

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

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

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

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

Security

The indebtedness evidenced and ordered paid by this Warrant shall be a general obligation of the City and shall be secured by an irrevocable pledge of the full faith, credit and taxing power of the City.

The City has established a special fund designated “**Infrastructure Assistance Warrant Fund**” for the payment of this Warrant and has obligated itself to pay or cause to be paid into the Infrastructure Assistance Warrant Fund, from the revenue or funds of the City lawfully available therefor or other sums received by the City, sums sufficient to provide for the payment of this Warrant.

In addition (but without in anyway limiting the City’s payments obligations hereunder), the indebtedness evidenced and ordered paid by this Warrant is secured by the funds now or hereafter deposited into the Infrastructure Escrow Account as described in the Development Agreement.

Prepayment and Redemption

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

Registration and Transfer

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

This Warrant may be transferred only upon written direction of the registered owner or its legal representative, addressed to the City, presentation of this Warrant to the City accompanied by a written instrument of transfer, satisfactory to the City, duly executed by the registered owner or its attorney duly authorized in writing, and compliance with Article 7(e) of the Development Agreement. Upon presentation of this Warrant to the City for transfer, the City shall record such transfer on said book of registration and shall endorse on the Registration of Ownership hereon the name of the transferee and the principal amount of this Warrant then outstanding. No charge shall be made for the privilege of transfer, but the registered owner of this Warrant requesting any such transfer shall pay any tax or other governmental charge required to be paid with respect thereto.

General

No covenant or agreement contained in this Warrant or in the Development 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 Warrant shall be liable personally on this Warrant or be subject to any personal liability or accountability by reason of the issuance of this Warrant.

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

[Remainder of Page Intentionally Left Blank]

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

CITY OF VESTAVIA HILLS, ALABAMA
a municipal corporation

By: _____
Ashley C. Curry
Its Mayor

SEAL

Attest: _____
City Clerk

REGISTRATION CERTIFICATE

The undersigned hereby certifies that this Warrant has been duly registered as a conditional claim against the City of Vestavia Hills, in the State of Alabama, and the Infrastructure Assistance Warrant Fund referred to herein, and the Economic Incentive Payments pledged to the payment hereof.

City Clerk and Treasurer of the City of
Vestavia Hills, Alabama

VALIDATION CERTIFICATE

Validated and confirmed by judgment of the Circuit Court of Jefferson County, State of Alabama entered on the _____ day of _____, 202_.

Clerk of Circuit Court of
Jefferson County, Alabama

Draft Copy

REGISTRATION OF OWNERSHIP

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

<u>Date of Registration</u>	<u>In Whose Name Registered</u>	<u>Principal Amount Outstanding</u>	<u>Signature of Authorized Office of Municipality</u>
------------------------------------	--	--	--

Dated Date

Draft Copy

ASSIGNMENT

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

Dated: _____

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

Signature Guaranteed:

(Bank or Trust Company)

By: _____
(Authorized Officer)

Draft Copy

EXHIBIT "E"

Phase II Infrastructure Assistance Warrant

Draft Copy

EXHIBIT "E"

FORM OF PHASE II INFRASTRUCTURE ASSISTANCE WARRANT

This Warrant has not been registered (i) under the Securities Act of 1933, as amended, in reliance upon the exemption provided by Section 4(2) of said act, or (ii) under any state securities law, in reliance upon applicable exemptions, and may not be transferred without registration except pursuant to an exemption therefrom.

THIS WARRANT DOES NOT BEAR INTEREST

**UNITED STATES OF AMERICA
STATE OF ALABAMA**

CITY OF VESTAVIA HILLS

**GENERAL OBLIGATION ECONOMIC DEVELOPMENT WARRANT
(LIBERTY PARK PROJECT – PHASE II INFRASTRUCTURE ASSISTANCE PAYMENTS)**

No. R-_____
DATED DATE:

MATURITY DATE:

_____, 20__

Infrastructure Assistance Termination Date

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

LIBERTY PARK JOINT VENTURE, LLP, an Alabama limited liability partnership ("**Developer**")

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

FIVE MILLION FIVE HUNDRED THOUSAND AND NO/100 DOLLARS (\$5,500,000.00)

as determined pursuant to the Development Agreement (as hereinafter defined), and hereby orders and directs the City Clerk and Treasurer of the City to pay to the Holder, solely from the Infrastructure Assistant Warrant Fund hereinafter designated, said principal amount, without interest, on each Payment Date, until and including the Maturity Date specified above.

Authority for Issuance

This Warrant is issued pursuant to the authority of the Constitution and laws of the State of Alabama, including particularly and without limitation Amendment No. 772 of the Constitution of Alabama of 1901, as amended (collectively the "**Enabling Law**"), and that certain Development

Agreement the above Dated Date (the “**Development Agreement**”) between the City and Developer.

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

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

Payment

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

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

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

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

Security

The indebtedness evidenced and ordered paid by this Warrant shall be a general obligation of the City and shall be secured by an irrevocable pledge of the full faith, credit and taxing power of the City.

The City has established a special fund designated “**Infrastructure Assistance Warrant Fund**” for the payment of this Warrant and has obligated itself to pay or cause to be paid into the Infrastructure Assistance Warrant Fund, from the revenue or funds of the City lawfully available therefor or other sums received by the City, sums sufficient to provide for the payment of this Warrant.

Prepayment and Redemption

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

Registration and Transfer

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

This Warrant may be transferred only upon written direction of the registered owner or its legal representative, addressed to the City, presentation of this Warrant to the City accompanied by a written instrument of transfer, satisfactory to the City, duly executed by the registered owner or its attorney duly authorized in writing, and compliance with Article 7(e) of the Development Agreement. Upon presentation of this Warrant to the City for transfer, the City shall record such transfer on said book of registration and shall endorse on the Registration of Ownership hereon the name of the transferee and the principal amount of this Warrant then outstanding. No charge shall be made for the privilege of transfer, but the registered owner of this Warrant requesting any such transfer shall pay any tax or other governmental charge required to be paid with respect thereto.

General

No covenant or agreement contained in this Warrant or in the Development 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 Warrant shall be liable personally on this Warrant or be subject to any personal liability or accountability by reason of the issuance of this Warrant.

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

[Remainder of Page Intentionally Left Blank]

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

CITY OF VESTAVIA HILLS, ALABAMA
a municipal corporation

By: _____
Ashley C. Curry
Its Mayor

SEAL

Attest: _____
City Clerk

REGISTRATION CERTIFICATE

The undersigned hereby certifies that this Warrant has been duly registered as a conditional claim against the City of Vestavia Hills, in the State of Alabama, and the Infrastructure Assistance Warrant Fund referred to herein, and the Economic Incentive Payments pledged to the payment hereof.

City Clerk and Treasurer of the City of
Vestavia Hills, Alabama

VALIDATION CERTIFICATE

Validated and confirmed by judgment of the Circuit Court of Jefferson County, State of Alabama entered on the ____ day of _____, 202_.

Clerk of Circuit Court of
Jefferson County, Alabama

Draft Copy

REGISTRATION OF OWNERSHIP

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

<u>Date of Registration</u>	<u>In Whose Name Registered</u>	<u>Principal Amount Outstanding</u>	<u>Signature of Authorized Office of Municipality</u>
------------------------------------	--	--	--

Dated Date

Draft Copy

ASSIGNMENT

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

Dated: _____

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

Signature Guaranteed:

(Bank or Trust Company)

By: _____
(Authorized Officer)

Draft Copy

EXHIBIT "F"

Economic Incentive Warrant A

Draft Copy

EXHIBIT "F"

FORM OF ECONOMIC INCENTIVE WARRANT A

This Warrant has not been registered (i) under the Securities Act of 1933, as amended, in reliance upon the exemption provided by Section 4(2) of said act, or (ii) under any state securities law, in reliance upon applicable exemptions, and may not be transferred without registration except pursuant to an exemption therefrom.

THIS WARRANT DOES NOT BEAR INTEREST

**UNITED STATES OF AMERICA
STATE OF ALABAMA**

**CITY OF VESTAVIA HILLS
LIMITED OBLIGATION ECONOMIC INCENTIVE WARRANT A
(LIBERTY PARK PROJECT – ECONOMIC INCENTIVE PAYMENTS)**

No. R- _____

DATED DATE:

_____, 20__

MATURITY DATE:

Economic Incentive Termination Date

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

LIBERTY PARK JOINT VENTURE, LLP, an Alabama limited liability partnership ("**Developer**")

or registered assigns (collectively the "**Holder**") in a principal amount not exceeding **SEVEN MILLION AND NO/100 DOLLARS (\$7,000,000.00)** as determined pursuant to the Development Agreement (as hereinafter defined), and hereby orders and directs the City Clerk and Treasurer of the City to pay to the Holder, solely from the Economic Incentive Payments as specified in the Development Agreement, said principal amount, without interest, on each Payment Date, until and including the Maturity Date specified above.

Authority for Issuance

This Warrant is issued pursuant to the authority of the Constitution and laws of the State of Alabama, including particularly and without limitation Amendment No. 772 of the Constitution of Alabama of 1901, as amended (collectively the "**Enabling Law**"), and that certain Development Agreement the above Dated Date (the "**Development Agreement**") between the City and Developer.

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

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

Payment

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

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

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

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

Economic Incentive Warrant B

Pursuant to the Development Agreement, contemporaneously herewith, the City has issued to Developer its Limited Obligation Economic Incentive Warrant B (Liberty Park Project) in the original principal amount of Five Million and No/100 Dollars (\$5,000,000.00) (“**Economic Incentive Warrant B**”).

Security

Each of this Warrant and Economic Incentive Warrant B is a limited obligation of the City payable solely from the Economic Incentive Payments attributable to City Permit Proceeds, City Net Sales Tax Proceeds, and City Net Lodgings Tax Proceeds as provided in the Development Agreement.

The Economic Incentive Payments are hereby pledged to the payment, and for the benefit, of this Warrant and Economic Incentive Warrant B, subject to (i) all prior pledges of the City Net Tax Proceeds for the benefit of long term indebtedness of the City and (ii) in accordance with Johnson v. Sheffield, 183 So. 265 (Ala. 1938), the law-imposed requirement that, if necessary,

there must first be paid from all City Net Tax Proceeds (including without limitation the Economic Incentive Payments) the legitimate and necessary governmental expenses of operating the City.

Neither this Warrant nor Economic Incentive Warrant B shall ever constitute a charge against the general credit or taxing powers of the City within the meaning of any constitutional provision or statutory limitation whatsoever.

The City has established a special fund designated “Economic Incentive Warrant Fund” (the “Economic Incentive Warrant Fund”) for the payment of this Warrant and Economic Incentive Warrant B and has obligated itself to pay or cause to be paid into the Economic Incentive Warrant Fund the City Permit Proceeds, City Net Sales Tax Proceeds, and Net Lodging Tax Warrant, sums sufficient to provide for the payment of this Warrant and Economic Incentive Warrant B. The provision of Section 4.2 of the Development Agreement are incorporate herein by reference as if set forth in full for the application of Economic Incentive Payments from City Permit Proceeds, City Net Sales Tax Proceeds, and Net Lodging Tax Warrant to this Warrant or Economic Incentive Warrant B.

Prepayment and Redemption

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

Registration and Transfer

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

This Warrant may be transferred only upon written direction of the registered owner or its legal representative, addressed to the City, presentation of this Warrant to the City accompanied by a written instrument of transfer, satisfactory to the City, duly executed by the registered owner or its attorney duly authorized in writing, and compliance with Article 7(e) of the Development Agreement. Upon presentation of this Warrant to the City for transfer, the City shall record such transfer on said book of registration and shall endorse on the Registration of Ownership hereon the name of the transferee and the principal amount of this Warrant then outstanding. No charge shall be made for the privilege of transfer, but the registered owner of this Warrant requesting any such transfer shall pay any tax or other governmental charge required to be paid with respect thereto.

General

No covenant or agreement contained in this Warrant or in the Development 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 Warrant shall be liable personally on this Warrant or be subject to any personal liability or accountability by reason of the issuance of this Warrant.

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

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Draft Copy

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

CITY OF VESTAVIA HILLS, ALABAMA
a municipal corporation

By: _____
Ashley C. Curry
Its Mayor

SEAL

Attest: _____
City Clerk

REGISTRATION CERTIFICATE

The undersigned hereby certifies that this Warrant has been duly registered as a conditional claim against the City of Vestavia Hills, in the State of Alabama, and the Net Lodgings Tax Warrant Fund referred to herein, and the Economic Incentive Payments pledged to the payment hereof.

City Clerk and Treasurer of the City of
Vestavia Hills, Alabama

VALIDATION CERTIFICATE

Validated and confirmed by judgment of the Circuit Court of Jefferson County, State of Alabama entered on the ____ day of _____, 2021.

Clerk of Circuit Court of
Jefferson County, Alabama

Draft Copy

REGISTRATION OF OWNERSHIP

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

<u>Date of Registration</u>	<u>In Whose Name Registered</u>	<u>Principal Amount Outstanding</u>	<u>Signature of Authorized Office of Municipality</u>
------------------------------------	--	--	--

Dated Date

Draft Copy

ASSIGNMENT

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

Dated: _____

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

Signature Guaranteed:

(Bank or Trust Company)

By: _____
(Authorized Officer)

Draft Copy

EXHIBIT "G"

Economic Incentive Warrant B

Draft Copy

EXHIBIT "F"

FORM OF ECONOMIC INCENTIVE WARRANT B

This Warrant has not been registered (i) under the Securities Act of 1933, as amended, in reliance upon the exemption provided by Section 4(2) of said act, or (ii) under any state securities law, in reliance upon applicable exemptions, and may not be transferred without registration except pursuant to an exemption therefrom.

THIS WARRANT DOES NOT BEAR INTEREST

**UNITED STATES OF AMERICA
STATE OF ALABAMA**

**CITY OF VESTAVIA HILLS
LIMITED OBLIGATION ECONOMIC INCENTIVE WARRANT B
(LIBERTY PARK PROJECT – ECONOMIC INCENTIVE PAYMENTS)**

No. R- _____

DATED DATE:

_____, 20__

MATURITY DATE:

Economic Incentive Termination Date

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

LIBERTY PARK JOINT VENTURE, LLP, an Alabama limited liability partnership ("**Developer**")

or registered assigns (collectively the "**Holder**") in a principal amount not exceeding **FIVE MILLION AND NO/100 DOLLARS (\$5,000,000.00)** as determined pursuant to the Development Agreement (as hereinafter defined), and hereby orders and directs the City Clerk and Treasurer of the City to pay to the Holder, solely from the Economic Incentive Payments as specified in the Development Agreement, said principal amount, without interest, on each Payment Date, until and including the Maturity Date specified above.

Authority for Issuance

This Warrant is issued pursuant to the authority of the Constitution and laws of the State of Alabama, including particularly and without limitation Amendment No. 772 of the Constitution of Alabama of 1901, as amended (collectively the "**Enabling Law**"), and that certain Development Agreement the above Dated Date (the "**Development Agreement**") between the City and Developer.

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

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

Payment

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

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

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

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

Economic Incentive Warrant A

Pursuant to the Development Agreement, contemporaneously herewith, the City has issued to Developer its Limited Obligation Economic Incentive Warrant A (Liberty Park Project) in the original principal amount of Seven Million and No/100 Dollars (\$7,000,000.00) (“**Economic Incentive Warrant A**”).

Security

Each of this Warrant and Economic Incentive Warrant A is a limited obligation of the City payable solely from the Economic Incentive Payments attributable to City Permit Proceeds, City Net Sales Tax Proceeds, and City Net Lodgings Tax Proceeds as provided in the Development Agreement.

The Economic Incentive Payments are hereby pledged to the payment, and for the benefit, of this Warrant and Economic Incentive Warrant A, subject to (i) all prior pledges of the City Net Tax Proceeds for the benefit of long term indebtedness of the City and (ii) in accordance with *Johnson v. Sheffield*, 183 So. 265 (Ala. 1938), the law-imposed requirement that, if necessary,

there must first be paid from all City Net Tax Proceeds (including without limitation the Economic Incentive Payments) the legitimate and necessary governmental expenses of operating the City.

Neither this Warrant nor Economic Incentive Warrant A shall ever constitute a charge against the general credit or taxing powers of the City within the meaning of any constitutional provision or statutory limitation whatsoever.

The City has established a special fund designated “Economic Incentive Warrant Fund” (the “Economic Incentive Warrant Fund”) for the payment of this Warrant and Economic Incentive Warrant A and has obligated itself to pay or cause to be paid into the Economic Incentive Warrant Fund the City Permit Proceeds, City Net Sales Tax Proceeds, and Net Lodging Tax Warrant, sums sufficient to provide for the payment of this Warrant and Economic Incentive Warrant A. The provision of Section 4.2 of the Development Agreement are incorporate herein by reference as if set forth in full for the application of Economic Incentive Payments from City Permit Proceeds, City Net Sales Tax Proceeds, and Net Lodging Tax Warrant to this Warrant or Economic Incentive Warrant A.

Prepayment and Redemption

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

Registration and Transfer

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

This Warrant may be transferred only upon written direction of the registered owner or its legal representative, addressed to the City, presentation of this Warrant to the City accompanied by a written instrument of transfer, satisfactory to the City, duly executed by the registered owner or its attorney duly authorized in writing, and compliance with Article 7(e) of the Development Agreement. Upon presentation of this Warrant to the City for transfer, the City shall record such transfer on said book of registration and shall endorse on the Registration of Ownership hereon the name of the transferee and the principal amount of this Warrant then outstanding. No charge shall be made for the privilege of transfer, but the registered owner of this Warrant requesting any such transfer shall pay any tax or other governmental charge required to be paid with respect thereto.

General

No covenant or agreement contained in this Warrant or in the Development 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 Warrant shall be liable personally on this Warrant or be subject to any personal liability or accountability by reason of the issuance of this Warrant.

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

[Remainder of Page Intentionally Left Blank]

Draft Copy

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

CITY OF VESTAVIA HILLS, ALABAMA
a municipal corporation

By: _____
Ashley C. Curry
Its Mayor

SEAL

Attest: _____
City Clerk

REGISTRATION CERTIFICATE

The undersigned hereby certifies that this Warrant has been duly registered as a conditional claim against the City of Vestavia Hills, in the State of Alabama, and the Net Lodgings Tax Warrant Fund referred to herein, and the Economic Incentive Payments pledged to the payment hereof.

City Clerk and Treasurer of the City of
Vestavia Hills, Alabama

VALIDATION CERTIFICATE

Validated and confirmed by judgment of the Circuit Court of Jefferson County, State of Alabama entered on the ____ day of _____, 2021.

Clerk of Circuit Court of
Jefferson County, Alabama

Draft Copy

REGISTRATION OF OWNERSHIP

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

<u>Date of Registration</u>	<u>In Whose Name Registered</u>	<u>Principal Amount Outstanding</u>	<u>Signature of Authorized Office of Municipality</u>
------------------------------------	--	--	--

Dated Date

Draft Copy

ASSIGNMENT

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

Dated: _____

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

Signature Guaranteed:

(Bank or Trust Company)

By: _____
(Authorized Officer)

Draft Copy

EXHIBIT "H"

Elementary School Site

[See Attached]

Draft Copy

EXHIBIT "I"

Elementary School Conceptual Plan

[See Attached]

Draft Copy

CONCEPTUAL ELEMENTARY SCHOOL SITE PLAN

DATE: 2021-09-14
SCALE: 1" = 100'



NOTE: GRADING SHOWN IS CONCEPTUAL
AND WILL NEED TO BE ADJUSTED BASED
ON FINAL ROADWAY DESIGN AND GRADES.