

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

**Vestavia Hills
City Council Agenda
March 14, 2022
6:00 PM**

1. Call to Order
2. Roll Call
3. Invocation – Jim Cartledge, Vestavia Hills Chaplain
4. Pledge Of Allegiance
5. Approval Of The Agenda
6. Announcements, Candidates and Guest Recognition
 - a. Upcoming Vacancy On Vestavia Hills Board Of Education – Kimberly Cook
7. City Manager’s Report
8. Councilors’ Reports
9. Approval Of Minutes – February 21 and 22, 2022 (Annual Strategic Work Session) and February 28, 2022 (Regular Meeting)

Old Business

10. Public Hearing – Ordinance Number 3085 – An Ordinance Authorizing The Mayor And City Manager To Execute And Deliver A Second Amendment To The Annexation Agreement With Liberty Park Joint Venture
11. Public Hearing Under Amendment 772 Of The Alabama Constitution – Development Agreement With Liberty Park Joint Venture LLP And Consideration And Action Of Resolution Number 5378 – A Resolution Authorizing A Development Agreement With Liberty Park Joint Venture LLP

New Business

12. Public Hearing – Resolution Number 5377 –A Resolution Authorizing The Installation Of A New Support Structure For A Small Cell Facility To Be Located In The Right-Of-Way Adjacent To 2727 Briarberry Circle

New Business (Requesting Unanimous Consent)

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

13. Public Hearing – Ordinance Number 3088 – An Ordinance Granting A Franchise Agreement With Telepak Networks Inc., And Teklinks, Inc., Doing Business As C-Spire Business
14. Citizens Comments
15. Time Of Adjournment

SPECIAL NOTICE CONCERNING CITY COUNCIL MEETINGS

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

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

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

Using the icons on the Zoom screen, you can:

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

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

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

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

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

CITY OF VESTAVIA HILLS

WORK SESSION

FEBRUARY 21, 2022

The City Council met in special work session on this date following posting/publication as required by Alabama law. The Mayor called the work session to order and the Clerk checked the roll:

MEMBERS PRESENT:

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

OTHER OFFICIALS PRESENT:

Jeff Downes, City Manager
Rebecca Leavings, City Clerk
Melvin Turner, III, Finance Director
Zach Clifton, Deputy Finance Director
Brian Davis, Public Services Director
Sandi Wilson, Superintendent Seniors & Programming
Melinda Burnett, Senior Programmer
Christopher Brady, City Engineer
Dan Rary, Police Chief
Sean Richardson, Police Captain
Shane Ware, Police Captain
Jared Freeman, Police Lt.
Keith Blanton, Building Official
Mike Roy, Building Inspection Officer
Marvin Green, Fire Chief
Ryan Farrell, Asst. Fire Chief
Shawn Jackson, Asst. Fire Chief
Taneisha Tucker, Library Director
Daniel Tackett
Derek Anderson
Umang Patel, Court Director
Cinnamon McCulley, Communication Specialist
Darrin Estes, IT Director

EXECUTIVE SESSION

The Mayor opened the Work Session and indicated that the Council needed to move into Executive Session for discussion involving the good name and character of individual(s) for an

estimated 30 minutes. Mr. Downes indicated he has a letter with the opinion of the City Attorney that this is a permissible reason. The Mayor opened the floor for a motion:

MOTION Motion to enter into Executive Session for an estimated 30 minutes for the good name and character was by Mrs. Cook, seconded by Mr. Weaver. Roll Call as follows:

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

At 8:36 AM, the Council re-entered the Chamber and exited Executive Session. The Mayor called the Work Session back to order at 8:40.

TCU BRIEFING

Ken Upchurch and Raynor Boles, TCU, were present in regard to this update.

Mr. Boles showed several schemes for the third phase of Wald Park. Each schematic showed a different option for placement of various activities. He explained they would like to commence construction during the summertime when schools are closed.

Discussion ensued regarding the off-site drainage corrections that were needed previously and were funded. Mr. Boles explained that the engineering design for this work has been completed and construction is on-going.

Mr. Downes explained that the original bid for Phase III was \$3.8 million several months ago and was rejected. He indicated the City's anticipated costs for the evolving Phase III plans remain similar to this amount. The original budget was \$1.7 million. Due to the collections in the Community Spaces Fund, which are in excess of what was projected, Mr. Downes stated that he feels the current design options for Phase III can be completed without additional debt. He stated if construction begins and reaches into FY2023, there might be other additional revenues available. However, given the existing intergovernmental agreement with Jefferson County that requires reimbursement of certain construction costs associated with the Crosshaven Drive project, there will be stresses on project cash flow. He stated this does make for a tight budget, but the Phase III project is doable if the Council so chooses.

Discussion ensued concerning safety issues at the construction site, whether or not to add an outdoor basketball court, etc. The Council also discussed the various scenarios. Mrs. Cook added that she likes to have some park areas for unstructured play.

In summary, the Council determined that Scheme B was the preferable option complete with 6 tennis courts, 6 pickleball courts, 80-85 additional parking spaces, a small tennis building and an additional parking of 22 spaces near that tennis building. The Schematic also included a dog park and some nature trails. Mr. Weaver pointed out that parking might be shifted toward the tennis building as the ADA entrance is at that point. Mr. Boles stated that they can look at options

on the feasibility of ramps for accessibility to the other courts. Mrs. Cook commented that all parts of the recreational areas should have some form of accessibility.

Mr. Boles updated the Council on the Crosshaven Drive project. He indicated that last week, the road was closed in order to do some of the project that could not be done while open. The roadway was opened on time and, over the next month, the City's portion of the project below Green Valley will be completed. The other half will be completed as soon as possible but this is a residential area, with not as much commercial, so they will be less constrained during the times of construction.

Mr. Upchurch updated the Council on the new Civic Center. He stated that the contractor continues to struggle. He stated that he had a good meeting with staff and the contractor. At this point, TCU is driving the schedule. He stated that the contractor's anticipated delivery date is April, but he doesn't think they will make it. There are various reasons for the delay. Mr. Upchurch stated that, while the quality and costs associated with construction are important, the most important goal is for the contractor to finish in a way that is acceptable to the City.

Discussion ensued that Amason is currently doing several large construction projects both locally and throughout the state and this may have contributed to our project stresses. The contractor was requalified at the time of the bid.

Discussion also ensued concerning the plans to pave streets affected by the City's Crosshaven Drive project. The plan is to repave the entire area once all construction is completed.

FINANCIAL REVIEW

Mr. Downes introduced Mr. Melvin Turner, Finance Director, and Zach Clifton, the new Deputy Finance Director who will be replacing George Sawaya when he retires in December.

Mr. Turner gave the status of the year ending fund balances for FY2021 as well as detail of the revenue generators. He indicated that the utility franchise fees are coming in lower than projected and this may prompt an audit of their records. Mr. Downes indicated that these are consumption taxes which go up and down depending on use. He indicated that it is not a large number.

He stated that, when he looks at a 14% increase in revenues and an increase in expenses of 9%, it is important to realize the expenses include several interfund transfers to various funds and the Board of Education. Mrs. Cook stated that it would be helpful to see the increase in expenses that were a result of the transfers.

Mr. Downes explained that he is recommending that last fiscal year's surplus should be split: half of it going to Capital Fund for equipment funding and half remaining in the General Fund emergency reserves. With operating costs per day going up with inflation, the City has a total of 110 funded days in emergency reserves.

Discussion ensued regarding “other” reserved funds. He explained that the council controls when these funds are spent. He stated that Mrs. Cook has asked about earmarking funding for emergency storm water repairs within the City. Mr. Downes stated that will be discussed more in depth at a later time.

Mr. Clifton explained the revenues for FY2022 through the first quarter. He reviewed the sales tax distribution and collections for the first quarter.

Mr. Downes explained the there is approximately \$2 million in the Community Spaces fund accumulating annually, and this can be used for various purposes.

Mr. Clifton also presented the tag fulfillment program sales and benefits. He stated that this is a popular service among residents. The cost of the program is paid for by the revenues obtained. Boat registrations were begun this year.

ACTION CENTER

Mr. Downes reviewed the Action Center for 2021. He highlighted the changes that occurred with trash/debris, food trucks in neighborhood and change in trash provider. He indicated that there were also challenges with sanitation service staffing associated with Covid-19. The City added an expedited waste collection request type for bigger items such as mattresses.

He explained how people can request permission for block parties and food truck permits through the Action Center. Mr. Downes showed the types of requests that have come in during the last year: public service requests, code violations, administrative questions, and utilities. The number of registered users has grown from 1,400 the first year to 9,997 during the 7th year. He stated that with non-registered users, there are over 10,000 users in the system with a 55.4% of Vestavia Hills households have a registered user. He stated that approximately 66% of the requests are entered by residents themselves. About 88% of the requests are on behalf of residents are waste collection. Mr. Downes explored the turnaround time of various requests in the Action Center.

In summary, the garbage request numbers are improving along with the turnaround time of said requests, including bulk pickups.

Mrs. Cook asked that these statistics be highlighted for the public because many do not realize that the sanitation provider has changed and we have seen improvements in satisfaction.

Mrs. Cook suggested adding an Action Center service to provide pick-up notice to residents to advise them when they should place bulk items at the curb to decrease the time it sits there.

RISK MANAGEMENT

Mr. Downes highlighted the status of risk management of the City. He stated that, in the world that we live in, social inflation is increasing claim values. This could be catastrophic to the City's finances.

Mr. Downes reviewed the risk management facts of the City which currently are good. The insurance premiums are reflective of the City's past claims experience. He utilized a chart of the cost of risk for the City and explained the historical incurred claims. The historical claim frequency has been low through the years with about 37% being auto claims and 40% being general liability claims. Claim severity, evaluated over the past 10 years, has shown a reduced severity over the most recent 5 years.

Overall, Mr. Downes indicated that the City has done well with its self-insurance program, but the Council should recognize the potential need to raise the limits of liability and level of reserves for the program. He stated that, currently, the City keeps \$500,000 in emergency reserves that is assigned for insurance and pension related liabilities. He stated that he recommends moving this from assigned reserve and move it to a dedicated self-insurance reserve and evaluate it from time to time. He stated the excess liability insurance limits of liability should be considered for an increase from \$5,000,000 to a \$10,000,000 limit of liability.

Discussion ensued as to City policies for employee use of City vehicles. Mr. Weaver suggested the City might want to do a policy review from time to time. Mr. Downes stated that both the PD and FD have a policy to perform an annual review of driver safety records.

OPEB - OTHER POST-EMPLOYMENT BENEFITS

Mr. Downes explained other post-employment benefits which include some health and life insurance benefits for employees who have retired, commonly referred to as OPEB. He explained that there is a calculation per employee. He stated that financial statements have shown an increase over the last year. He stated that ours is significantly less than many area cities but we will likely see its effects as the City evaluates how we fund liability. He explained the offset shows a transfer of a certain amount. Auditors have made a recommendation to steadily increase this amount through the years.

DEPARTMENTAL UPDATES

IT Update:

Mr. Estes explained three primary issues with cyber security: two-factor authentication, end-user training, and backups. He explained the planned and completed IT Infrastructure updates including remote switches, domain controllers, and VxRail.

Discussion ensued as to the threat that is presented the most often. Mr. Estes stated phishing emails always present a problem along with internet infiltration. He explained the steps the City takes to train employees on how to detect phishing emails, etc. Mr. Estes explained that employees are trained in identification and are tested on phishing emails. He stated that it appears that most of those come around Christmas and holidays, so they remain vigilant.

City Clerk Update:

Ms. Leavings explained that the City has drafted a sample public records policy for the City because of an increase of larger record requests that might take a significant amount of employee time. She explained that the draft is in the hands of the City Attorney for a legal review.

Building Safety:

Mr. Blanton introduced the new software OpenGov and explained its capabilities and how various departments hope will help with productivity and transparency. He explained the system and how it would move his department, as well as other departments, into a more accessible system through digitization instead of paper records. He explained the two-face system which includes a public side for storefront and a private side for City staff.

He explained the public side functions to the City Council. The Contractor Licenses are currently active and permits and noise waivers are following closely. The software sends various emails to the staff and the applicant to advise them of steps to take in the process.

Mr. Blanton stated that his department is also utilizing Bluebeam which allows the City to send markups and recommendations to architects or contractors, allowing them to redo their plans to bring them to code.

Mr. Downes stated that the opportunity to cross departmental lines for permitting and review helps with productivity but also shows where the problems are so they can make the process more efficient. He stated that the contractor's license function is active, noise waivers are online, and the beginning of the small cell permits are being tested. Keith is working on permit activity and Engineering is working on soil erosion activity. This also helps to track the activity in the City. This software is getting us to this point, but must be built to get there. The process was only begun in December.

Municipal Court:

Mr. Patel explained the changes in technology in Municipal Court. One was a change in the credit card vendor which helped to provide kiosk and a more refined way to pay citations. He showed that prior to COVID, then when the change to the new provider and how payments are done today. He stated that payments increased and also allowed for partial payments and automatic renewal of court dates. This allows for the access of cash bond ability online which can be done by the offender as well as a family member or friend. He explained the ability to do an online driving school. He stated that they utilized Drive Safe Alabama where the offender logs in and

takes the Course online and sends the Court the certificate. He stated that this is in the test phase at the moment, but he hopes it'll expand soon.

Mr. Patel stated that his goal is to be completely paperless when it comes to citations. He relayed the old system and wanted to utilize the current software soon. All citations are digitized which allows the magistrate and the officer to swear in an online fashion and presents an eCitation for the judge to sign. Once adjudicated, the judge can review and sign and filed digitally. This is also being tested beginning January, but so far it seems to be working well. He stated hopefully next year they'll be primarily paperless.

Library in the Forest:

Mrs. Tucker presented a video which highlighted Library programming, including a new initiative to promote the City: #PictureYourselfieVH. The Library provided residents a studio where they could take family portraits and pictures with Santa. The campaign was a success, producing a profit of \$20,000 for continuation of services at the Library. The library asked people to use the hashtag #pictureyourselfieVH to stimulate interest in the city and show all the ways you can love the city you live in.

Communications:

Mrs. McCulley stated that one of the most exciting projects for this year is the kickoff of the new Vestavia Hills Dogwood Festival. She stated that events in this festival include City events as well as community driven events. Mrs. McCulley showed the list of events and indicated that the listing is ever-expanding. The City designed a unique QR code which brings the user directly to the website where ads and events are located. Special social media pages have been created which further promote use of the hashtag #pictureyourselfieVH. The event will be further promoted by the Chamber of Commerce and area businesses. She stated that this event will be well publicized on three Lamar digital billboards around the City and even in Hoover.

Mrs. McCulley stated that the Vestavia Hills Parks and Recreation website has been redesigned. She invited everyone to look at the new site.

Mr. Pierce commended Mrs. McCulley for doing this event and bringing it to a new level. With the support of the community, it will only grow. He credited Mrs. Ann Boston for the original concept and her attempts to keep it alive. Mrs. McCulley stated that Mrs. Boston has been a part of this and that it is continuing to grow with the addition of, hopefully, a pickleball tournament.

Mrs. Cook stated she likes to see that the City supporting new fun activities to engage the public. She believes this newer Dogwood Festival will help to bring the community together.

Police Department:

Lt. Dease described the 2020-2021 crime statistics. He stated the City had the lowest number of burglaries for the year. He indicated that some of that was due to Covid-19 and the fact that many people were working from home, meaning homes were not as vacant as usual. There was also a decrease in neighborhood vehicle theft. There was an increase in Fraud and a corresponding decrease in Theft, due to a NIBRS classification change. He also pointed out increases in drug offenses and weapon offenses due to more proactive policing.

Capt. Evans described the rise of fraud in the City and in all areas around. He described the method of the fraud that are occurring.

Lt. Deese followed up stating that he cannot obtain statistics on criminal activities at sister cities, but that Vestavia Hills issued more than 15,000 citations and warnings for last year which averages one per officer per shift which is not a huge number. However, it does show that the City is proactive in enforcement. He showed crime rates for surrounding cities. There are 3 cities in Alabama that are NIBRS-compliant. Those include Vestavia Hills, Opelika, and Robertsedale. These cities were the Beta-test cities. He showed the City's crime statistics compared to those of the state and the U.S. He described the efficacy of recent efforts to reduce response rates in various beats of the City. He showed how the response rates have dropped throughout the City.

Capt. Richardson described the reduction of overtime and holiday pay. He stated this was a reduction of 160 working weeks. He explained that the new Ford Explorer Interceptors arrived early and are awaiting equipment installation, which is expected to happen in the fall because of supply problems.

Lt. Freeman explained the new substation/training facility which is set to break ground in October 2022. He stated that there are preliminary cost discussions with Blaylock Construction for the propose of obtaining information for grant applications.

Lt. Deese followed up with the prospect of the VHPD utilizing a shooting range in Childersburg Industrial Park. He stated that this is an old former military base. He stated that they have been working with the City of Childersburg to obtain about 50 +/- acres and utilize it as a new shooting range. He indicated that there is some terrain that lends to some good backdrops. The nearest home is more than one mile away. He thinks this will be a great spot if the due diligence does work out. He indicated this would be a long-term building project. He indicated that it is 31 miles from our City Hall but that is the most convenient location that they could find.

Lt. Freeman stated they are working with the Personnel Board of Jefferson County to begin a Master Police Officer (MPO) program to provide a new career development path for VHPD by providing additional professional development training. He stated that this would allow a new position which gives a 10% bump in pay and a two-step advancement in the City's pay grade. He gave the requirements of MPO qualification.

Lt. Gaston described the challenges of the VHPD for the future. He indicated that the department is constantly trying to stay on top of addressing crime. He stated that he feels that the

VHPD has the best talent in the state. Their focus would be to develop this training and provide financial incentives to officers for obtaining that training.

Fire Department:

Chief Green detailed the incident totals over the past 5 years. He pointed out the new transport unit that was added in Liberty Park. He announced that our City has now achieved an ISO rating of 1 – the very best rating in the nation. He stated that is a huge achievement for the City as this is a nationwide rating based on many factors within the City. Our areas of improvement were increased personnel, ladder service, and deployment.

Mr. Pierce asked if that varies throughout the country since the city is so spread out geographically. Chief Green explained the grading system.

The Chief explained the service improvements along with a detail of the Cahaba Heights transport versus the Liberty Park transport. He explained that by putting that transport into service in May, the increase in call volume would have increased too much. The timing of this truck was important.

Discussion ensued as to the increase demand of services should The Bray development be approved. Chief Green stated they analyze the anticipated demands and feel this is sufficient servicing even if the development occurs.

Chief Green analyzed the timeline for response at Patchwork Farms along with the time needed to respond. The average response time for Cahaba Heights is 4 minutes 46 seconds while the average time to Patchwork is 8 minutes 24 seconds. He stated that there is just no easy way to get there. Right now, 42% of the calls are coming from Patchwork area. Drive-time analysis is approximately 5 minutes; but there are a few areas that cannot be accessed in that time. He indicated that before ISO comes back to grade, the Patchwork area will need to be addressed. He stated the addition of a station in that area would solve many of the issues with response, etc. Overall, approximately 9.5% of the total calls are run in the Patchwork/Acton/Altadena area. He stated that Rocky Ridge Fire District has a fire station in this area and some assistance through mutual aid has been utilized. He stated that does assist with the calls, but it is not a City department.

Parks and Recreation:

Mr. Davis stated that he is very excited about the new facilities that are coming on board soon. He stated that the City Parks received two awards including Professional of the Year award, Ms. Sandi Wilson.

Ms. Wilson revealed the new Parks logo. She reviewed last year's accomplishments including the new upgraded Christmas decorations and the Beautification Board's new banner. The new Aquatic Complex exceeded 4,400 total membership the first year. The New Merkel House opened and has expanded programs and hours since then for seniors with the dog park open.

Plans for opportunities at Altadena Valley Park with grant opportunities. The Grand Lawn at Wald Park has been utilized continuously by citizens for walking, picnics, music, playgrounds, etc. The opening and utilization of the Miracle League has been a huge inspiration and widely supported by the residents of the City along with other communities. New Parks and Recreation staff has been hired including: Bevia Robinson, Athletic program coordinator softball and baseball; Doug Rogers Athletic Program Coordinator Adult Athletics; William Laatsch, Athletic Program Coordinator Aquatics and Youth Sports; Melinda Burnett, Senior Events Coordinator; Mike Prociuk, Athletic Program Coordinator Youth Sports.

Ms. Wilson gave some construction updates including the covering of batting cages at liberty park, the new Civic Center, the Pedestrian Tunnel and Dog Park at SHAC; new synthetic turf at Wald and SHAC, Shade structures at Wald Park. She highlighted the goals for 2022 including the new Civic Center with enhanced programs, special events and camps; summer camps with sports and specialty camps; spring concert series beginning with the spring sports celebration and closing at the I Love America Day; and improved recreational opportunities at Altadena Valley with a completed master plan. She showed photos of the Aquatic Center in action.

Mrs. Cook asked about activities at Altadena Valley Park. Mr. Davis stated that they have met with the Shelby County Manager and they think there's opportunities there that may take place this summer with Shelby County as a partner.

Mr. Bevill stated that they had a great meeting with Shelby County and feel it'll help in getting some programs started in that park.

Mr. Downes stated that they looked at a phased approach and Shelby County indicated they could do several of the phases so bidding will be held off until they decide what the City would need to do and what the partnership with Shelby County might offer.

Mr. Davis stated that parking, playground and bathroom facilities are the first planned priority improvements for the property.

Public Services:

Mr. Davis highlighted traffic improvement projects: Columbiana/Highway 31 intersection, Rocky Ridge/Dolly Ridge turn lane improvements which are both still in design phase.

Mr. Davis explained the status of the sidewalk projects in the City including East Street; Mountainview, Rocky Ridge, Cahaba Heights alternative plan and the commencement of revised sidewalk master planning committee which they are hoping to reestablish.

Mr. Brady described the Cahaba Heights project which should give a pedestrian connection from the Heights Shopping Center to the Figtree restaurant.

William Thomas, Schoel Engineering, described the proposed stormwater management plan for the City within a study area beginning at Shades Crest coming down to Vestavia Lake and the drainage patterns. He stated that the first part of the study was to obtain the most information possible to determine constraint areas and move to the next phase to offer drainage improvements. Most of the common factors are undersized drainage pipes which is common in many older communities.

Mr. Brady updated the Council on the Dolly Ridge Road and Oakview Lane drainage study to determine what long-range endeavors might be needed in order to address the issue. The Poe Drive and Fairhaven Drive project and a new one of Ridgedale Drive area. Ongoing projects include Kyle Lane and Oakview Lane areas.

Mr. Davis updated on ALDOT projects: Starting with the Pedestrian Bridge across 31 which is alive; the Massey Road project and the Liberty Park/SHAC tunnel.

Mrs. Cook asked for more information on Massey Road. Mr. Brady stated that they have been meeting with affected property owners in order to obtain some needed ROW. He stated that they have successfully negotiated with 20 of the 26 property owners. Some are holding out and slow to responding and will be turned over to the consultants. Once that's obtained, it'll be packaged and sent to ALDOT before they'll move forward.

Mrs. Cook asked if more resources could be put toward that project. Mr. Downes explained that the remaining property is difficult to obtain and there's several corporate entities they are dealing with. ALDOT is requiring this to be complete and they are beginning to look at a ROW professional to obtain the ROW needed. He stated they cannot say with 100% certainty that this will move to the next phase, but the City is following ALDOT's instructions.

Mr. Brady highlighted the completed paving for 2019 and 2022. He stated that they are looking at rebidding the pavement plan and are looking at a new assessment plan for streets in the City by rating all streets on a rating system.

Mr. Davis stated that they hired a new engineering inspector to ensure that the regular inspector can finish all inspections needed. He stated that the new OpenGov presents a great opportunity. Requests of traffic calming continue through the Action System. Also a new computer access system to address the 31 traffic lights all the way down to Alabaster allowing communications between cities to allow better traffic coordination during accidents, etc.

The Mayor asked if a mention of the traffic calming system could be advertised through the Communications Director. Mr. Brady stated there is a link on the website that can be pushed out by Mrs. McCulley.

The Council Work Session adjourned to begin an on-site tour of the Civic Center. There being no further business, the Mayor recessed the work session until 8 AM, Tuesday, February 22, 2022.

CITY OF VESTAVIA HILLS

WORK SESSION

FEBRUARY 21, 2022

The City Council met in special work session on this date following posting/publication as required by Alabama law as recessed from Monday, February 21, 2022. The Mayor called the work session back to order and the Clerk checked the roll:

MEMBERS PRESENT:

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

Paul Head, Councilor

OTHER OFFICIALS PRESENT:

Jeff Downes, City Manager
Rebecca Leavings, City Clerk
George Sawaya, Deputy Finance Director
Zach Clifton, Deputy Finance Director
Brian Davis, Public Services Director
Dan Rary, Police Chief
Sean Richardson
Keith Blanton
Mike Roy
Marvin Green, Fire Chief
Taneisha Tucker, Library Director
Umang Patel, Court Director
Cinnamon McCulley, Communication Specialist
Darrin Estes, IT Director

The Mayor called the Work Session back to order at 8 AM. The Clerk checked the roll with the following.

Mr. Downes opened by clarifying a part of the VHPD presentation concerning the Pine Ridge project. He explained that this is a possible project assisted by the State of Alabama Mine Reclamation Office who are in charge of reclaiming land for safety and economic purposes. The City has been the recipient of some of these funds for the development of SHAC. The economic part also includes pickle ball courts and the dog park. This area makes the City a prime recipient of these funds. There's a new wave of this type of funding and a mine reclamation project has been approved for safety improvement reasons. He showed an area that contains some unsafe conditions because it's old mine land. It has little access but the mine reclamation folks want to assist in reclaiming this land. Part of the property is owned by the City while some is owned by Glenwood and LPJV. To get to these properties, an access road must be built to cross City property which is good because it gives future access to this area. He stated that all of these actions might support a VHPD structure hidden behind the SHAC fields in what would otherwise be

undevelopable land. He stated that there is no immediate action, but he wanted the Council to be aware of it as the Mine Reclamation office is currently designing the initial stages of their project. He stated that this plan is what's referred to as the Pine Ridge Project.

FOLLOW-UP

Mr. Downes asked the Council if there were any follow-up questions from the departmental reports from yesterday.

Mr. Cook stated she'd like to see more reports for services from each department to determine the level of services provided.

EXECUTIVE SESSION

The Mayor opened the Work Session and indicated that the Council needed to move into Executive Session for purchase/sale of real estate and matters of commerce for an estimated 60 minutes. The Mayor opened the floor for a motion:

MOTION Motion to enter into Executive Session for an estimated 60 minutes for the purchase/sale of real estate and matters of commerce was by Mr. Weaver, seconded by Mr. Pierce. Roll Call vote as follows:

Mrs. Cook – yes

Mr. Pierce – yes

Mr. Weaver – yes

Mayor Curry – yes

Motion carried.

At 10:06 AM, the Council re-entered the Chamber and exited Executive Session. The Mayor called the Work Session back to order at 10:15.

LEGISLATIVE MATTERS/ISSUES

The Mayor stated that he tries to monitor any matters that are scheduled for the Alabama Legislature that might affect municipalities. He indicated that is a challenge to keep up with the legislation because new ones arrive every day.

- HB 287 – Mayor Curry stated that the first issues involve the City ambulance services. He stated that statewide, there's a shortage of available ambulance service, especially affecting smaller cities.
 - Chief Green stated that RPS began offering services to various cities. At first, RPS could have 50 trucks on the road daily, but now are down to only dozen. Therefore, many of the cities with the private contract to RPS, were at a loss for transport. He explained other areas that needed to be addressed including certification through a national registry and use of state certifications in lieu of national registry along with the misuse of 911 services.

- Discussion ensued concerning market driven salaries, demand for paramedics vs. the pay for said medics, the cost to smaller cities, the reimbursement rate of Medicare and Medicaid, etc.
 - The Mayor stated another problem is the wait time that ambulance drivers have to wait with a patient at a hospital until the hospital will accept the patient and relieve the ambulance drivers.
- SB 203 – Statewide database for fines and fees. The Mayor indicated that this is not a good bill as there's no need for this duplication.
 - Umang Patel explained the stats for trials, etc.
- SB 39 – Compensation of Mayors that serve as Superintendents of Utilities in Jefferson County. The Mayor stated that this would amend Section 1 of Act 258 so that a Mayor employed as a superintendent of a municipal utility in Jefferson County can receive compensation as set pursuant to Section 11-43-8, Code of Alabama, 1975.
- Medical Marijuana Bill – The Alabama Medical Marijuana Law which passed last year allows municipalities to opt in to improve the Bill from last year. Cities can opt in if it chooses to have a dispensary in the City. If not, there's no requirement to adopt an Ordinance. He indicated that the City can limit the City's exposure to ancillary businesses by adopting local ordinances. The Mayor indicated that the City of Vestavia Hills has not opted into allowing a dispensary. He stated he'd be interested to see the results from cities that did opt in, such as Pelham.
 - Mrs. Cook stated that, the day before the Bill passed, she had requested an amendment from a Legislator. She stated that an amendment was accepted through the adoption and gave a background of suggestions made by Mrs. Christine Carr. Pelham allows some mobile dispensaries and she hasn't had the time to study the issue but loopholes do need to be observed.
 - Chief Rary stated that most of the marijuana that they confiscate is grown in states where the growing is legal. He stated that you cannot control that.
 - Mr. Weaver clarified that the City would never be a dispensary, the adoption of an Ordinance would be to allow a private business to act as so. He cautioned against passing an Ordinance that is redundant and/or non-enforceable. The Council needs to do independent research.
 - A Marijuana Police Tool kit for municipalities was prepared by Christine Carr, a representative of Drug Free Alabama. Mayor Curry has copies of the policy.
- Alabama Competitive Bid Law changes – Mr. Downes explained that many professional organizations are with keeping the Alabama Competitive Bid Law up to date. Sometimes the Bid Law are decades old with a cap of \$15,000 and the Public Works Law of \$50,000. The ability to raise these to keep in line with inflation has not followed. He explained that as they get opportunities to advocate, he'd like the Council to concur that the bid process does slow the ability to perform some things that need to have attention at a faster rate. Sometimes it's not an emergency, but it is deemed to be an important need. He asked the Council if there's any thoughts regarding this issue.
 - Mrs. Cook stated she believes it should at least keep up with inflation and market conditions. She asked if there's anything proposed.
 - Mr. Downes stated he's not aware of anything that's been proposed but, with the Council's concurrence, he'd like to begin to explore the limitations. Discussion ensued.

BOARD OF EDUCATION SELECTION PROCESS

Mrs. Cook explained the current selection process along with some proposed updates to the Resolution just to refresh the process. She stated that a previous version outlined some qualifications of candidates. The document was refreshed by this Council in 2017 and stated the general items of considerations in candidates. The Resolution is not binding. She stated that she has recommended some revisions and asked the Council for feedback.

Mr. Pierce stated he thinks there needs to be an outline of when Board positions are coming available and ensure that they are publicized prior to that appointment coming up. That way, when the Council is to consider a Board appointment, everyone has had an opportunity to be familiar with the position and the recommended appointment. Sometimes, its good to have a little new blood in these positions.

Mrs. Cook reviewed her suggested revisions to the Resolution. Deletion of a sentence concerning scheduling of applicants and an additional phrase regarding communication skills.

Discussion ensued.

WRAP UP ISSUES

Mr. Downes stated that Mr. Pierce wanted to discuss some speed limit signs which do not seem consistent throughout the City. He said that over the City's history, one of the strategies for traffic calming and diminishing speeding was to install stop signs or change the speed limit in an inconsistent manner. This has resulted in a legacy issue that does not accurately represent the City's current process of utilizing traffic engineering standards for traffic calming purposes.

There being no further business, the Work Session adjourned at 11:30 AM.

Ashley C. Curry
Mayor

ATTESTED BY:

Rebecca Leavings
City Clerk

CITY OF VESTAVIA HILLS

CITY COUNCIL

MINUTES

FEBRUARY 28, 2022

The City Council of Vestavia Hills met in regular session on this date at 6:00 PM, following publication and posting pursuant to Alabama law. A number of staff and members of the general public also attended virtually, via Zoom.com, following publication pursuant to Alabama law. The Mayor Pro-Tem called the meeting to order. The City Clerk called the roll with the following:

MEMBERS PRESENT: Rusty Weaver, Mayor Pro-Tem (*presiding*)
Kimberly Cook, Councilor
Paul Head, Councilor
George Pierce, Councilor

MEMBERS ABSENT: Mayor Ashley C. Curry

OTHER OFFICIALS PRESENT: Jeff Downes, City Manager
Patrick Boone, City Attorney
Rebecca Leavings, City Clerk
Jason Hardin, Asst. Police Chief
Melvin Turner, Finance Director
Zach Clifton, Accountant
Christopher Brady, City Engineer
Umang Patel, Court Director*
**present virtually via Zoom or telephone*

Ron Higey, a Vestavia Hills Chaplain, led the invocation which was followed by the Pledge of Allegiance.

APPROVAL OF THE AGENDA

The Mayor Pro-Tem opened the floor for a motion of approval of the agenda as presented. Mr. Weaver indicated that the two items of old business have been delayed until March 14, 2022, but the delays were written into the agenda prior to publication so there's no changes to the agenda.

MOTION Motion to approve the agenda as presented was by Mr. Pierce seconded by Mrs. Cook. Roll call vote was, as follows:

Mrs. Cook – yes Mr. Head – yes
Mr. Pierce – yes Mr. Weaver – yes

motion carried.

ANNOUNCEMENTS, CANDIDATES, GUEST RECOGNITION

- Mr. Pierce welcomed Gary Jordan, Chamber of Commerce Board member present representing the Chamber. He added that Mr. Jordan was the chairman of the Viva Vestavia Committee this year.
- Mr. Weaver announced, on behalf of the Mayor, that the gateway temple at the southern entrance to Vestavia Hills at the intersection of I-65 north and Montgomery Highway, will be illuminated with blue lights tonight as a part of the Rare Disease Day Awareness Campaign. Vestavia Hills will be joining with the cities of Hoover and Homewood and various sites in the Birmingham metro area (including Regions Field, Children's Hospital of Alabama and SouthPoint Bank) in order to raise awareness of the more than 300 million people living with a rare disease around the world. The Rare Disease Day campaign goal is to achieve equitable access to diagnosis, treatment, health and social care and social opportunity for people affected by a rare.

CITY MANAGER'S REPORT

- Mr. Downes announced that tomorrow, March 1, kicks off the Dogwood Festival. He stated that information and scheduling can be found on the City's website under "community." March 3rd will have Party on the Patio at The Heights Village; March 4, Spring Sports Kick-off at Wald Park, etc.

COUNCILOR REPORTS

- Mrs. Cook stated that she did host the Coffee and Conversation on February 18, 2022 at O'Henrys in Patchwork Farms. She stated it was a very nice coffee shop. She indicated that two residents showed up with conversation regarding two issues in the City. She stated she appreciates these residents coming to the event.

FINANCIAL REPORTS

Mr. Clifton, Deputy Finance Director, presented the financial reports for month ending January 2022. He read the balances and explained the reports.

Mr. Clifton mentioned that, at the Strategic Work Session, there was a discussion of the decrease in franchise fees from FY2021. He indicated that they found that Charter Communications's license was included in prior years' numbers, but they have since moved their physical location outside the city; those are the revenues that are no longer included in the franchise fees calculations.

APPROVAL OF MINUTES

The Mayor stated that the approval of the February 14, 2022 (Regular Meeting) was needed and opened the floor for a motion.

MOTION Motion to approve the minutes of the regular meeting of the February 14, 2022 (Regular Meeting) was made by Mrs. Cook and second was by Mr. Pierce. Roll call vote as follows:

Mrs. Cook – yes

Mr. Head – yes

Mr. Pierce – yes

Mr. Weaver – yes

motion carried.

OLD BUSINESS

ORDINANCE NUMBER 3085

Ordinance Number 3085 – An Ordinance Authorizing The Mayor And City Manager To Execute And Deliver A Second Amendment To The Annexation Agreement With Liberty Park Joint Venture (public hearing delayed to March 14, 2022)

Mr. Weaver stated that, as previously announced, this item has been delayed until March 14, 2022 for a public hearing as negotiations continue to occur.

ORDINANCE NUMBER 3081

Ordinance Number 3086 – An Ordinance Authorizing The Mayor And City Manager To Execute And Deliver A Development Agreement With Liberty Park Joint Venture LLP For Economic Development In Liberty Park (public hearing delayed to March 14, 2022)

Mr. Weaver stated that, as previously announced, this item has been delayed until March 14, 2022 for a public hearing as negotiations continue to occur.

NEW BUSINESS

RESOLUTION NUMBER 5375

Resolution Number 5375 – A Resolution Designating The Mayor As The City’s Voting Delegate At The 2022 League Of Municipalities Annual Convention

MOTION Motion to approve Resolution Number 5375 was by Mrs. Cook and seconded by Mr. Pierce.

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

Mrs. Cook – yes	Mr. Head – yes
Mr. Pierce – yes	Mr. Weaver – yes

motion carried.

RESOLUTION NUMBER 5376

Resolution Number 5376 – A Resolution Amending Resolution 4294 To Update The Board Of Education Selection Process

Mrs. Cook explained that this process was revised when this Council first took office in 2017. She indicated that there is no change to procedure but slight differences in the wording of the application just to update and refresh the process.

MOTION Motion to approve Resolution Number 5376 was by Mr. Head and seconded by Mr. Pierce.

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

Mrs. Cook – yes	Mr. Head – yes
Mr. Pierce – yes	Mr. Weaver – yes

motion carried.

NEW BUSINESS (UNANIMOUS CONSENT REQUESTED)

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

None.

CITIZEN COMMENTS

4. Mr. Head welcomed Emory Brooks who was in attendance representing Boy Scout Troop

At 6:25 PM, Mrs. Cook made a motion to adjourn. The meeting adjourned at 6:10 PM.

Ashley C. Curry
Mayor

ATTESTED BY:

Rebecca Leavings
City Clerk

ORDINANCE NUMBER 3085

**AN ORDINANCE AUTHORIZING THE MAYOR AND CITY MANAGER
TO EXECUTE AND DELIVER A SECOND AMENDMENT TO THE
ANNEXATION AGREEMENT WITH LIBERTY PARK JOINT VENTURE**

WHEREAS, on September 30, 1992, a certain Annexation Agreement (the “Original Annexation Agreement”) was executed among Liberty Park Joint Venture (“LPJV”), Torchmark Development Corporation, An Alabama corporation (“TDC”) and the City of Vestavia Hills regarding the annexation(s) of acreage developed as the Liberty Park Planned Unit Development (“Liberty Park PUD”); and

WHEREAS, on October 29, 1996, a Supplemental Annexation Agreement was executed in connection with an additional 798 +/- acres; and

WHEREAS, on February 2, 1998, an Agreement was executed among LPJV, TDC, Drummond Company Inc., (“Drummond”) and the City of Vestavia Hills Board of Education (the “Board”) which set forth certain terms and conditions for a payout by the LPJV pursuant to Section 6 of the Original Annexation Agreement; and

WHEREAS, a certain Supplemental and Amendatory Agreement dated March 6, 1998 among the City, LBJV, TDC, Drummond and the Board in which the parties desired to amend certain provisions of the Original Annexation Agreement relating to public school improvements (See Section 1(c), of the Supplemental and Amendatory Agreement dated March 6, 1998) and the Amendatory Agreement fully and completely superseded the provisions of Section 6 of the Original Annexation Agreement (but no others); and

WHEREAS, LPJV believes the best use of the remaining undeveloped land of Liberty Park located within the most recent 798 +/- annexation is a mixed use development including retail, commercial, office, hospitality and residential dwelling units with a traditional neighborhood town center to be known as “The Bray at Liberty Park” on approximately 50 +/- acres of the property currently zoned PUD PB (planned business) for proposed uses such as retail, mixed-use residential, office and medical/medical office in lieu of a regional mall which was proposed in the earlier Annexation Agreements; and

WHEREAS, LPJV is requesting amendments to the Annexation agreements previously described; and

WHEREAS, LPJV has submitted an “Amendment to Annexation Agreements for Liberty Park” (the “Amended Agreement”), a copy of which is marked as Exhibit A, attached to and incorporated into this Ordinance Number 3085 as if written fully therein; and

WHEREAS, the Mayor and City Council feel it is in the best public interest to accept this Amended Agreement.

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

1. The Mayor and City Manager are hereby authorized to execute and deliver the Amendment to Annexation Agreements for Liberty Park; and
2. Said agreement shall be signed by the Mayor and City Manager and the City Clerk shall attest said agreement; and
3. A copy of the Amended Agreement shall be submitted to the City Clerk’s office for official record; and
4. This Ordinance Number 3085 shall become effective immediately upon adoption and publication/posting as required by Alabama law.

DONE, ORDERED, ADOPTED and APPROVED this the 14th day of March, 2022.

Ashley C. Curry
Mayor

ATTESTED BY:

Rebecca Leavings
City Clerk

CERTIFICATION:

I, the undersigned City Clerk of the City of Vestavia Hills, Alabama hereby certify that the foregoing Ordinance No. 3085 constitutes a true, correct and complete copy of said Ordinance adopted by the City Council of the City of Vestavia Hills, Alabama on the 14th, day of March 2022, pertaining to the matters set out therein, as same appear in the records of the City.

Under my signature as City Clerk and under seal of the City of Vestavia Hills, this ____ day of _____, 2022.

[SEAL]

City Clerk

AMENDMENT TO ANNEXATION AGREEMENTS FOR LIBERTY PARK

THIS AMENDMENT TO ANNEXATION AGREEMENTS FOR LIBERTY PARK (this “**Amendment**”) is made and entered into on this ____ day of _____, 2022, between and among the **CITY OF VESTAVIA HILLS, ALABAMA**, an Alabama municipal corporation (the “**City**”), and **LIBERTY PARK JOINT VENTURE, LLP**, an Alabama limited liability partnership (successor to Liberty Park Joint Venture, an Alabama general partnership) (“**LPJV**”).

RECITALS

A. LPJV is the developer of an approximately 3,500 acre master-planned community known as Liberty Park, which is located within the City limits (the “**Development**”). The Development is subject to the following agreements (collectively, the “**Annexation Agreements**”):

1. That certain Annexation Agreement (the “**Original Annexation Agreement**”) dated September 20, 1992 among LPJV, Torchmark Development Corporation, an Alabama corporation (“**TDC**”), and the City in connection with the annexation of approximately 2,500 acres into the municipal City limits. Among other things, the Original Annexation Agreement set forth certain agreements of LPJV and TDC to dedicate up to thirty-five (35) acres located within the Development to the City for municipal facilities and schools. In addition, the Original Annexation Agreement required LPJV, under certain conditions, to pay to the City the sum of up to Fifteen Million and No/100 Dollars (\$15,000,000.00) as required by the City to accommodate the increased student population generated by the addition of the Development to the Vestavia Hills School System, all as set forth in Section 6 of the Original Annexation Agreement.

2. That certain Supplemental Annexation Agreement dated October 29, 1996 among LPJV, TDC, and the City in connection with the annexation of an additional approximately 798 acres into the municipal City limits.

3. That certain Agreement dated February 2, 1998 among LPJV, TDC, Drummond Company, Inc. (“**Drummond**”) and the City of Vestavia Hills Board of

Education (the “**Board**”) which set forth certain terms and conditions for the partial payment of the Fifteen Million and No/100 Dollars (\$15,000,000.00) owed by LPJV pursuant to Section 6 of the Original Annexation Agreement.

4. That certain Supplemental and Amendatory Agreement dated March 6, 1998 among the City, LPJV, TDC, Drummond, and the Board in which the parties desired to amend certain provisions of the Original Annexation Agreement relating to public school improvements “*and – as the public schools are constructed and operated by the Board – to include the Board as party to this Agreement regarding public schools to serve the Development.*” (See Section 1(c), of the Supplemental and Amendatory Agreement dated March 6, 1998). The provisions of the March 6, 1998 Supplemental and Amendatory Agreement fully and completely superseded the provisions of Section 6 of the Original Annexation Agreement (but no others).

5. That certain Agreement dated August 20, 1998 among the City, LPJV, TDC, Drummond and the Board in connection with the issuance of additional warrants by the City for the New School Facilities (as defined in said Agreement) and LPJV’s payment obligations in regards to such warrants. In such Agreement, the City, LPJV, TDC, and the Board each ratified and confirmed each of the prior Annexation Agreements, with the caveat that “*it being understood that since the School Board is not a party to the [Original] Annexation Agreement, it is not appropriate for it to ratify and confirm that instrument.*” (See Section 5, August 20, 1998 Agreement).

B. All of the obligations of LPJV set forth in the Annexation Agreements with respect to the dedication of land to the City for municipal and school purposes have been duly completed. Furthermore, all of the obligations of LPJV set forth in the Annexation Agreements to pay the sum of Fifteen Million Dollars (\$15,000,000) to the City have been satisfied.

C. All obligations contained in the Annexation Agreements relating to matters involving the Board (namely, matters relating to school construction and improvements necessitated by the addition of the Development to the Vestavia Hills School System) have been completed. This Amendment is not related to matters within the legislative powers and authority

of the Board, but instead to matters solely within the legislative power and authority of the City. Therefore, the Board (with its consent and concurrence) is not a party to this Amendment.

D. The Annexation Agreements currently specify a maximum density of 2,336 single family units (the “**Single Family Density Allowance**”) and a maximum density of 890 units for multi-family units (the “**Multi-Family Density Allowance**”), for a total residential density of 3,226 units (the “**Residential Density Allowance**”). The Annexation Agreements further provide that the total number of Multi-Family Rental Units (as hereinafter defined) within the Multi-Family Density Allowance shall not exceed 300. The Colonial Grand at Liberty Park located within the Development is a 300-unit luxury rental apartment community and as such, the number of Multi-Family Rental Units is currently allocated in full (the “**Allocated Multi-Family Rental Units**”).

E. Approximately 300 acres within the Development (the “**PB Land**”) was zoned Planned Business (PB) on or around 1996 in connection with a possible development of a regional shopping center within the Development; however, due to the development of The Summit at the Highway 280/I-459 interchange and other retail shopping centers in close proximity of the Development, the development of a regional shopping center is no longer viable, thus leaving the Development with an overabundance of commercially zoned land. In addition, Enviro Services, LLC, a wholly owned subsidiary of LPJV, no longer requires approximately 130 acres (commonly called the “**Spray Fields**”) for its purposes and such land is now available for additional residential development. In addition to the PB Land and the Spray Fields, there are approximately 435 acres of land zoned for residential use located south of Liberty Parkway (collectively with the PB Land and the Spray Fields, the “**Remaining Undeveloped Land**”).

F. LPJV believes the best use of the Remaining Undeveloped Land is mixed-use development including retail, commercial, office, hospitality, and Residential Dwelling Units (as hereinafter defined). LPJV intends to develop a traditional neighborhood town center to be known as “The Bray at Liberty Park” on approximately 50 acres of the PB Land for proposed uses such as retail, hotel, mixed-use residential, office, and medical/medical office (the “**Town Center**”).

G. Based on the foregoing, LPJV is requesting amendments to the Annexation Agreements.

NOW, THEREFORE, in consideration of the premises and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

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

“Age-Restricted Rental Units” means Multi-Family Rental Units available for rent to individuals 55 years or older in compliance with the Housing for Older Persons Act of 1995.

“Market-Rate Rental Units” means Multi-Family Rental Units available for rent to the general public under The Fair Housing Act, 42 U.S.C. 3601 et. seq.

“Multi-Family Rental Units” means all multifamily units (including Senior Housing Rental Units) which are offered for rent. Multi-Family Rental Units shall not include individual units held for rent by an individual owner.

“Residential Dwelling Units” means all Single-Family Units and Multi-Family Rental Units.

“Restricted Rental Units” means Age-Restricted Rental Units and Senior Housing Rental Units.

“Senior Housing Rental Units” means rental units within a senior housing community which provide services marketed towards seniors or the elderly in a congregate setting such as independent living, assisted living, memory care, or skilled nursing care.

“Single Family Units” means residential dwellings for single family use.

2. **Amendments.** The Annexation Agreements are hereby modified and amended as follows:

(a) The Residential Density Allowance is hereby increased by 644 to a total of 3,870 Residential Dwelling Units.

(b) The Multi-Family Density Allowance shall be decreased to 870, to consist solely of Multi-Family Rental Units. Of that Multi-Family Density Allowance, Market Rate Rental Units shall not exceed 570 units, consisting of the Allocated Multi-Family Rental Units and up to 270 additional Market Rate Rental Units with no more than 10% of the total additional Market Rate Rental Units to contain 3 bedrooms.

(c) It is agreed and understood that the additional Market Rate Rental Units allowed by this Amendment are to be located within the Town Center.

3. **Applicable Laws.** This Amendment is governed by the laws of the State of Alabama.

4. **Counterparts.** This Amendment may be executed in multiple counterparts, each of which when so executed shall be deemed to be an original, and such counterparts shall together constitute but one and the same instrument.

5. **Successors and Assigns.** This Amendment shall be binding upon, and inure to the benefit of, the parties hereto and their respective successors and/or assigns.

6. **Ratification.** Except as herein specifically modified, the Annexation Agreements are hereby ratified and affirmed and remain in full force and effect.

IN WITNESS WHEREOF, the parties have hereunto caused this Amendment to be executed as of the day first above written.

[REMAINDER OF PAGE LEFT BLANK INTENTIONALLY]

[SIGNATURE PAGES FOLLOW]

CITY OF VESTAVIA HILLS, ALABAMA,
an Alabama municipal corporation

By: _____
Print Name: _____
Title: _____

SEAL

Attest: _____
City Clerk

STATE OF ALABAMA)
COUNTY OF JEFFERSON)

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

Given under my hand and official seal this the _____ day of _____, 2022.

Notary Public
My Commission Expires: _____

[SEE NEXT PAGE FOR ADDITIONAL EXECUTION]

CITY OF VESTAVIA HILLS, ALABAMA,
an Alabama municipal corporation

By: _____
Print Name: _____
Title: _____

SEAL

Attest: _____
City Clerk

STATE OF ALABAMA)
COUNTY OF JEFFERSON)

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

Given under my hand and official seal this the ____ day of _____, 2022.

Notary Public
My Commission Expires: _____

[SEE NEXT PAGE FOR ADDITIONAL EXECUTION]

LIBERTY PARK JOINT VENTURE, LLP,
an Alabama limited liability partnership
(successor to Liberty Park Joint Venture, an Alabama
general partnership)

By: _____
Print Name: _____
Title: _____

STATE OF ALABAMA)
COUNTY OF JEFFERSON)

I, the undersigned authority, a Notary Public in and for said County in said State, hereby certify that _____, whose name as _____ of Liberty Park Joint Venture, LLP, an Alabama limited liability partnership (successor to Liberty Park Joint Venture, an Alabama general partnership), is signed to the foregoing instrument, who is known to me, acknowledged before me on this day that, being informed of the contents of such instrument, he, as such officer and with full authority, executed the same voluntarily for and as the act of said limited liability partnership.

Given under my hand and official seal this the ____ day of _____, 2022.

Notary Public
My Commission Expires: _____

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

**Development Agreement
by
City of Vestavia Hills, Alabama
and
Liberty Park Joint Venture, LLP**

The City Council of the City of Vestavia Hills, Alabama met in regular public session at City Hall in the City of Vestavia Hills, Alabama, at 6:00 p.m. on March 14, 2022.

The meeting was called to order by the Mayor, and the roll was called with the following results:

Present: Ashley Curry, Mayor
Rusty Weaver, Mayor Pro-Tempore
Kimberly Cook
Paul Head
George Pierce

Absent: None

* * *

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

* * *

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

RESOLUTION NO. 5378

A RESOLUTION AUTHORIZING A DEVELOPMENT AGREEMENT BY THE CITY OF VESTAVIA HILLS, ALABAMA AND LIBERTY PARK JOINT VENTURE, LLP

WHEREAS, the City Council of the City of Vestavia Hills, Alabama (“the City Council”), has been asked to consider and approve a development agreement (“Agreement”) with Liberty Park Joint Venture, LLP, an Alabama limited liability partnership (hereinafter referred to as the “Company”), which Agreement is attached hereto as Exhibit A, made a part hereof, and incorporated herein by reference; and

WHEREAS, on or about February 28, 2022, the City Clerk was directed to publish Legal Notice of Action Proposed to be Taken by the City of Vestavia Hills, Alabama with regard to a Development Agreement, pursuant to and in conformity with Amendment 772 to the Constitution of Alabama (1901) (Article 94.01 of the Recompiled Constitution of Alabama); and

WHEREAS, such Notice, attached hereto as Exhibit B, was published in the Birmingham News, the newspaper having the largest circulation in the City of Vestavia Hills, on March 4, 2022, which publication was at least seven days prior to the date of the meeting at which this Resolution is being considered; and

WHEREAS, such Notice further invited members of the public to attend the meeting and submit comments regarding the actions the City Council is considering with respect to the transactions and agreements described in the Notice; and

WHEREAS, the City Council, at its meeting on the present date, offered members of the public the opportunity to comment on the matters set forth in the Notice and those comments have been considered by the City Council.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF VESTAVIA HILLS, ALABAMA, as follows:

ARTICLE 1

Definitions

Agreement means the Development Agreement by the City and the Developer attached to this Resolution as Exhibit A.

Amendment No. 772 means Amendment No. 772 to the Constitution of Alabama of 1901, as amended.

Bond Counsel means Maynard, Cooper & Gale, PC.

City means the City of Vestavia Hills, Alabama.

Council means the City Council of the City.

Developer means Liberty Park Joint Venture, LLP.

Effective Date shall have the meaning assigned in the Agreement.

Public Notice means the notice attached to this Resolution as Exhibit B.

Transaction Documents means collectively:

- (a) the Agreement;
- (b) the Warrants.

Validation Act means Article 17 of Chapter 6 of Title 6 of the Code of Alabama 1975.

Warrants shall have the meaning assigned in the Agreement.

ARTICLE 2

Representations

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

(a) The delivery and performance of the Agreement by the City will provide for the economic growth and development of the City in furtherance of the public interest thereof.

(b) The expenditure of public funds for the purposes and in the manner specified in the Agreement, and the execution of the Agreement approved in this Resolution serve valid and sufficient public purposes, notwithstanding any incidental benefit accruing to Liberty Park Joint Venture, LLP or any other private entity or entities.

(c) The public benefits to the City resulting from the Agreement and transactions hereby approved include promotion of local, economic and commercial development and the stimulation of the local economy; increasing employment opportunities in the City; increasing the City's sales tax base by attracting additional and high quality tenants; increasing the City's lodging tax revenues; promoting the location, expansion, and retention of commercial enterprises in Liberty Park; preserving and improving the aesthetic quality of commercial development in Liberty Park; expansion of and enhancement to the public street network used by its residents; installation of road improvements designed to improve traffic flow and increase safety; extension of sidewalks and pedestrian ways throughout the property and improved connections thereof; construction of stormwater improvements; development of usable green and recreational space; donation of a public school site and the generation of significant revenues for the City and for its public schools; all of which inure to the economic health and public benefit of the City.

(d) Any exchange of consideration resulting from the Development Agreement herein approved was fully negotiated between the parties to it and the City Council specifically finds and concludes that such consideration is based upon and equal to the fair market value of the interests being acquired.

(e) The City caused the Public Notice to be published on March 4, 2022 in *The Birmingham News*, which newspaper has the largest circulation in the City.

(f) The aggregate indebtedness of the City (including without limitation the Total City Economic Incentive Commitment under the Agreement) which will be outstanding under, and chargeable against the limitation upon indebtedness prescribed by, Amendment No. 772 on the Effective Date of the Agreement will not exceed fifty percent (50%) of the assessed valuation of the taxable property of the City as assessed for state taxation for the tax year ending September 30, 2021.

ARTICLE 3

The Transaction Document

(a) The Council approves and authorizes the terms and provisions of, the representations and warranties of the City set forth in, and the obligations and transactions to be undertaken by the City, pursuant to the Transaction Documents, with such changes thereto (by addition or deletion) which (i) do not (individually or in the aggregate) create any additional obligation, or extend or increase any stated obligation, of the City under the Transaction Documents and (ii) the officers of the City conclusively approve by execution and delivery of the Transaction Documents as provided by this Resolution.

(b) The Council authorizes and directs the Mayor, Finance Director, and City Clerk of the City, from and after the Effective Date and when and as directed by Bond Counsel, to, (i) execute under seal, register, attest and deliver the Transaction Documents, and (ii) execute, deliver, file and record such certificates, documents and notices with respect to such matters of fact as Bond Counsel determines to be necessary in connection with the Transaction Documents, and (iii) effect the performance of the Transaction Documents.

ARTICLE 4

Ratification

The Council ratifies and confirms all prior action taken, and all certificates, documents, petitions, proceedings and public notices delivered, by or on behalf of the City in furtherance of the transactions herein authorize

ARTICLE 5

Validation

The City desires to determine the authority thereof to deliver and perform the Agreement, the legality of all proceedings had or taken in connection therewith, the validity of the means provided for the payment of the obligations of the City under the Agreement, and the validity of all covenants and

provisions contained in the Agreement, and therefor authorizes and directs Bond Counsel to file a petition in the name and on behalf of the City against the taxpayers and citizens of the City and the Developer in the Circuit Court of Jefferson County, Alabama, pursuant to the Validation Act and thereupon take all actions necessary or required to effect the judicial validation of the covenants, obligations and terms of the Agreement pursuant to the Validation Act.

ARTICLE 6

Effect of Resolution

The Council authorizes this Resolution to take effect immediately and repeals any provision of any resolution, order, ordinance, or proceeding of the City to the extent of any conflict or inconsistency thereof with the provisions of this Resolution.

Exhibit A
Development Agreement

DEVELOPMENT AGREEMENT

THIS DEVELOPMENT AGREEMENT (this “**Agreement**”) is hereby made and entered into on this the ____ day of _____, 2022, 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 grocery 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 – Tranche A Infrastructure Improvements, the date when Developer records a memorandum of agreement evidencing its enforceable agreements with respect to the Elementary School Site as set forth in Section 5.1 hereof;

(ii) with respect to the Phase I – Tranche B Infrastructure Improvements, the date when Developer provides written notice to City that: (a) the Hotel shell is 100% complete (meaning the building envelope of the Hotel is finished); and (b) either 25,000 square feet of shell retail space within the Town Center is 100% complete and ready for tenant improvements or 25,000 square feet of shell retail or commercial space within the Development Project is 100% complete and ready for tenant improvements²; and

(iii) with respect to the Phase II Infrastructure Improvements, the date when Developer provides written notice to City that two (2) of the following have occurred: (a) 25,000 square feet of retail space within the Town Center has opened for business; or (b) 25,000 square feet of retail or commercial space within the Development Project is 100% complete and ready for occupancy³; or (c) the Hotel has opened for business. For the avoidance of doubt, no Infrastructure Assistance Payments for Phase II Infrastructure Improvements will be paid until after the conditions for Infrastructure Assistance Payments for Phase I – Tranche B Infrastructure Improvements are satisfied.

(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.

² The outparcels at the grocery anchored retail center shall be included in the Town Center and the Development Project solely for the purposes of determining the Infrastructure Assistance Commencement Date, but no Economic Incentive Payments will be payable from City Net Tax/Permit Proceeds from any businesses that may hereafter be developed on such outparcels.

³ In the event that Developer provides written notice that clauses (a) and (b) are being used to establish the Infrastructure Assistance Commencement Date for the Phase II Infrastructure Improvements, the 25,000 square feet of retail or commercial space within the Development Project provided in clause (b) must be in addition to the 25,000 square feet of retail space in the Town Center as provided for in clause (a), without duplication.

(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 Road to Sicard Hollow Road (the **“South Liberty Road 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 Road 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) **“Phase I Infrastructure Assistance Warrant”** and **“Phase II Infrastructure Assistance Warrant”** shall have the meanings set forth in Section 3.3 below.

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

(ii) **“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.

(jj) **“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.

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

(ll) **“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.

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

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

(oo) “**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.

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

(qq) “**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 Road 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 shall 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 Great Lawn and the New Roadway Improvements. Additionally, Developer may also transfer or convey to the City, in accordance with the City’s subdivision ordinances, all of its right, title and interest in and to 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 \$2,671,515.00⁴) 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

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) Commencing on the Phase I – Tranche A Infrastructure Assistance Commencement Date, up to Two Million Seven Hundred Fifty Thousand and No/100 Dollars (\$2,750,000.00) in the aggregate shall be payable to Developer with respect to costs incurred

⁴Any funds in excess of \$2,671,515.00 will remain with the applicable POA.

with respect to the line item budget below⁵ 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 Road 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 Phase I Infrastructure Assistance Payments not paid towards the Great Lawn, Sanitary Sewer Improvements, or South Liberty Road Extension, Phase I

(b) Commencing on the Phase I – Tranche B Infrastructure Assistance Commencement Date, the remaining balance of the Phase I Infrastructure Assistance Payments (e.g., Two Million Seven Hundred Fifty Thousand and No/100 Dollars (\$2,750,000.00)) shall be payable for all remaining Phase I Infrastructure Improvements.

(c) Commencing on the Phase II Infrastructure Assistance Commencement Date, 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 Road 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

⁵ For the sake of clarity, the budget includes the total cost included in the Phase I Infrastructure Assistance Warrant. The terms “Phase I – Tranche A Infrastructure Improvements” and “Phase I – Tranche B Infrastructure Improvements” pertain only to the Infrastructure Assistance Commencement Date.

	Payments not paid towards the South Liberty Road Extension, Phase II or the Community Connectivity Improvements
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(d) 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 the applicable Infrastructure Improvements have been completed prior to the Infrastructure Assistance Commencement Date applicable to either the Phase I Infrastructure Improvements or the Phase II Infrastructure Improvements (thereby entitling the Developer to be paid the full amount of such line item upon the respective Infrastructure Commencement Date), the City will have the option to pay for such Infrastructure Improvements in quarterly installments over a period of twenty-four (24) months. For the sake of clarity, no Infrastructure Assistance Payments shall be paid for either the Phase I Infrastructure Improvements or the Phase II Infrastructure Improvements prior to the respective Infrastructure Assistance Commencement Date.

(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, each of which shall be in the face amount of Five Million Five Hundred Thousand and No/100 Dollars (\$5,500,000.00), 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”** (the “**Phase I Infrastructure Assistance Warrant**”) 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”** (the “**Phase II Infrastructure Assistance Warrant**” and, collectively with the Phase I Infrastructure Assistance Warrant, 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, (B) termination of this Agreement by the City under Section 7.3, or (C) twenty (20) years from the applicable Commencement Date (collectively, the “**Infrastructure Assistance Termination Date**”).

(h) The registered owner of each of the Infrastructure Assistance Warrants, by acquisition thereof, agrees that such Warrants may be transferred only as provided therein and

subject to (i) all payments of principal of such Warrants theretofore made and (ii) all rights and defenses of the City at law or in equity.

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

(a) In order to provide partial security for the payment of the Phase I Infrastructure Assistance 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 Assistance 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 3.1 and 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 December 1 – May 31) and January 31 (for the preceding June 1 – November 30) (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 until such warrant is paid in full 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 until such warrant is paid in full 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 until such warrant is paid in full 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, (y) all prior pledges of the City Net Tax Proceeds for the benefit of long term indebtedness of the City and (z) 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, (B) termination of this Agreement by the City under Section 7.3, or (C) twenty (20) years from the applicable Commencement Date (collectively, the “**Economic Incentive Termination Date**”).

(i) The registered owner of each of the Economic Incentive Warrants, by acquisition thereof, agrees that such Warrants may be transferred only as provided therein and subject to (i) all payments of principal of such Warrants theretofore made and (ii) all rights and defenses of the City at law or in equity.

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 Road 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.

Developer will finalize design guidelines (“**Design Guidelines**”) in the Town Center that implement the design principles set forth in this Section 5.5 to serve as a guideline for development of individual projects in the Town Center. Developer will consider in good faith all suggestions of the City’s Design Review Board which are in furtherance of the design principles set forth in this Section 5.5 prior to finalizing the Design Guidelines. The covenants for both the residential and commercial projects in the Town Center will incorporate the Design Guidelines by reference.

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 ending September 30, 2021 (\$879,598,800.00).

(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 or dedicated by the City for public school and 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, terminate this Agreement or 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 except with respect to Developer's obligations under Section 5.1 hereof. 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]

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

By: _____
Jeffrey D. Downes, City Manager

EXHIBIT "A"

Development Plan

[See Attached]



- See Exhibit A Insert
- Not included in Development Agreement

EXHIBIT A: DEVELOPMENT PLAN

EXHIBIT "A-1"

Detail of Town Center

[See attached Exhibit A Insert]

EXHIBIT A INSERT

- i Hotel
 - ii Commercial/Retail
 - 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]

EXHIBIT 'B'
 ROAD DEDICATION - LIBERTY PARK
 VESTAVIA HILLS, ALABAMA

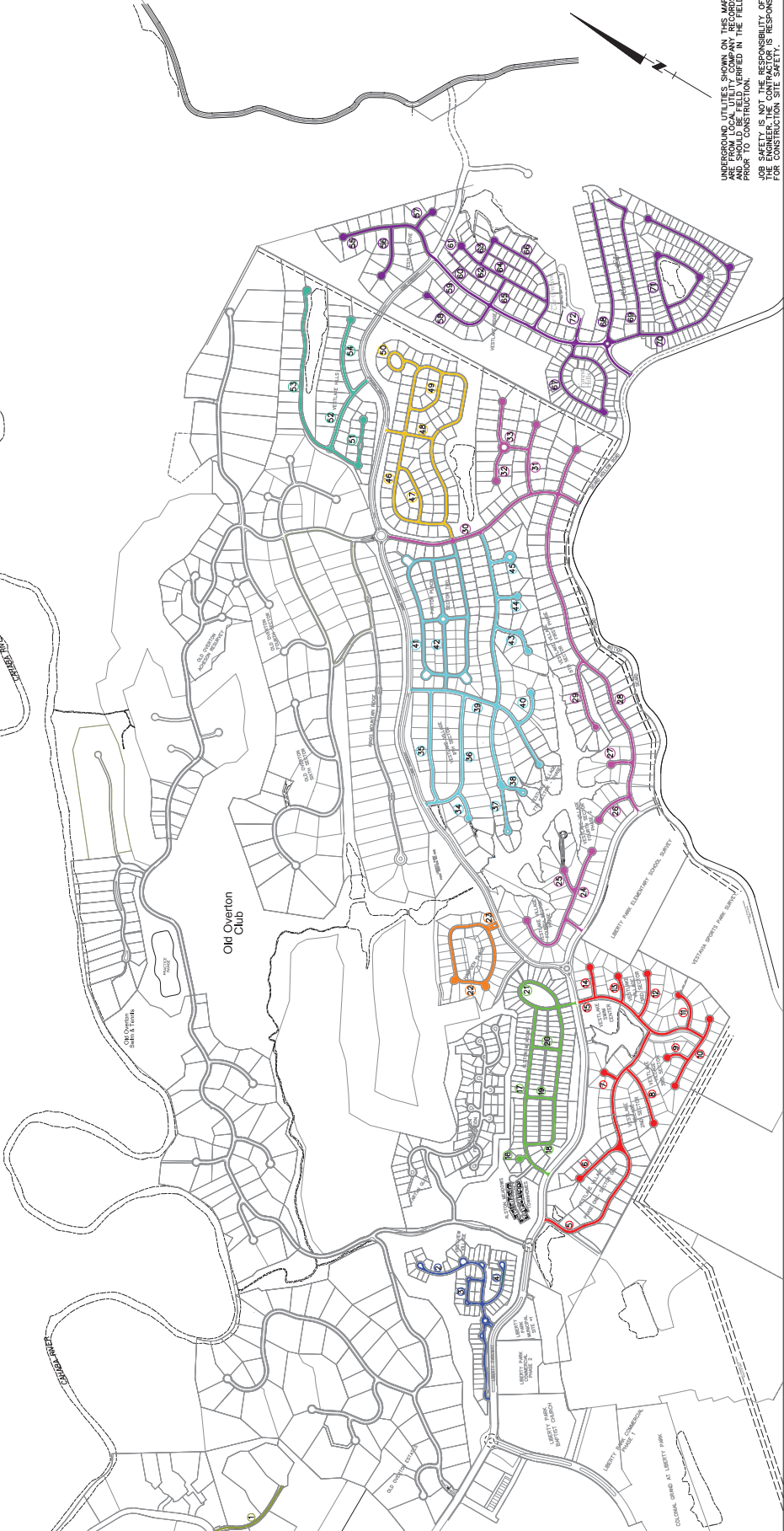
DRAWING SET:
 REFERENCE:

DRAWN BY: JES.
 CHECKED BY: J.P.
 FILE NAME: 0918770362.dwg
 07/27/2014 09:49am

EXHIBIT 'B'
 LIBERTY PARK

LEGEND:

ROAD NO.	ROAD NAME	ROAD NO.	ROAD NAME	ROAD NO.	ROAD NAME	ROAD NO.	ROAD NAME	ROAD NO.	ROAD NAME
1	CORPORATE WOODS DRIVE	16	ALSTON COURT	34	LAMBERT COVE	55	VESTLAKE COVE DRIVE		
2	VESTVIEW DRIVE	17	ALSTON WAY	35	LAMBERT TRAIL	56	LANDOR COURT		
3	VESTVIEW CIRCLE	18	ALSTON LANE	36	LAMBERT TERRACE	57	VESTLAKE COVE		
4	VESTVIEW LANE	19	ALSTON TRAIL	37	REYNOLDS LANE	58	VESTLAKE RIDGE		
5	LAKE RUN DRIVE	20	ALSTON PLACE	38	REYNOLDS TRAIL	59	VESTLAKE RIDGE DRIVE		
6	LAKE RUN CIRCLE	21	ALSTON PARK DRIVE	39	REYNOLDS CREST	60	VESTLAKE RIDGE ALLEY		
7	LAKE VISTA CIRCLE	22	HAMPDEN PLACE DRIVE	40	REYNOLDS COVE	61	STONECREST COURT		
8	LAKE HOLLOW CIRCLE	23	HAMPDEN PLACE COURT	41	PAXTON PLACE	62	REFLECTION DRIVE		
9	PARK CREST ROAD	24	LAKE COLONY DRIVE	42	PAXTON WAY	63	REFLECTION ALLEY		
10	PARK CREST ROAD	25	LAKE COLONY POINTE	43	REYNOLDS PLACE	64	REFLECTION ALLEY		
11	PARK VIEW CIRCLE	26	LAKE COLONY TRAIL	44	REYNOLDS WAY	65	VESTLAKE RIDGE WAY		
12	PARK VIEW CIRCLE	27	LAKE COLONY CIRCLE	45	REYNOLDS CIRCLE	66	REFLECTION COVE		
13	PARK LAKE CIRCLE	28	LAKE COLONY LANE	46	BOULDER LAKE CIRCLE	67	JACKSON LOOP		
14	PARK LAKE CIRCLE	29	LAKE COLONY RUN	47	BOULDER LAKE WAY	68	HERSHEY FARMS LANE		
15	PARK HILL DRIVE	30	GALLEN WAY	48	BOULDER LAKE DRIVE	69	PROVIDENCE WAY		
		31	GALLEN COURT	49	BOULDER LAKE LANE	70	PROVIDENCE DRIVE		
		32	GALLEN COVE	50	BOULDER LAKE COURT	71	ENCLAVE CIRCLE		
		33		51	HAWKIN PLACE	72	ENCLAVE COURT		
				52	MARGEN DRIVE				
				53	TERRIVIN ROAD				
				54	MARGEN WAY				

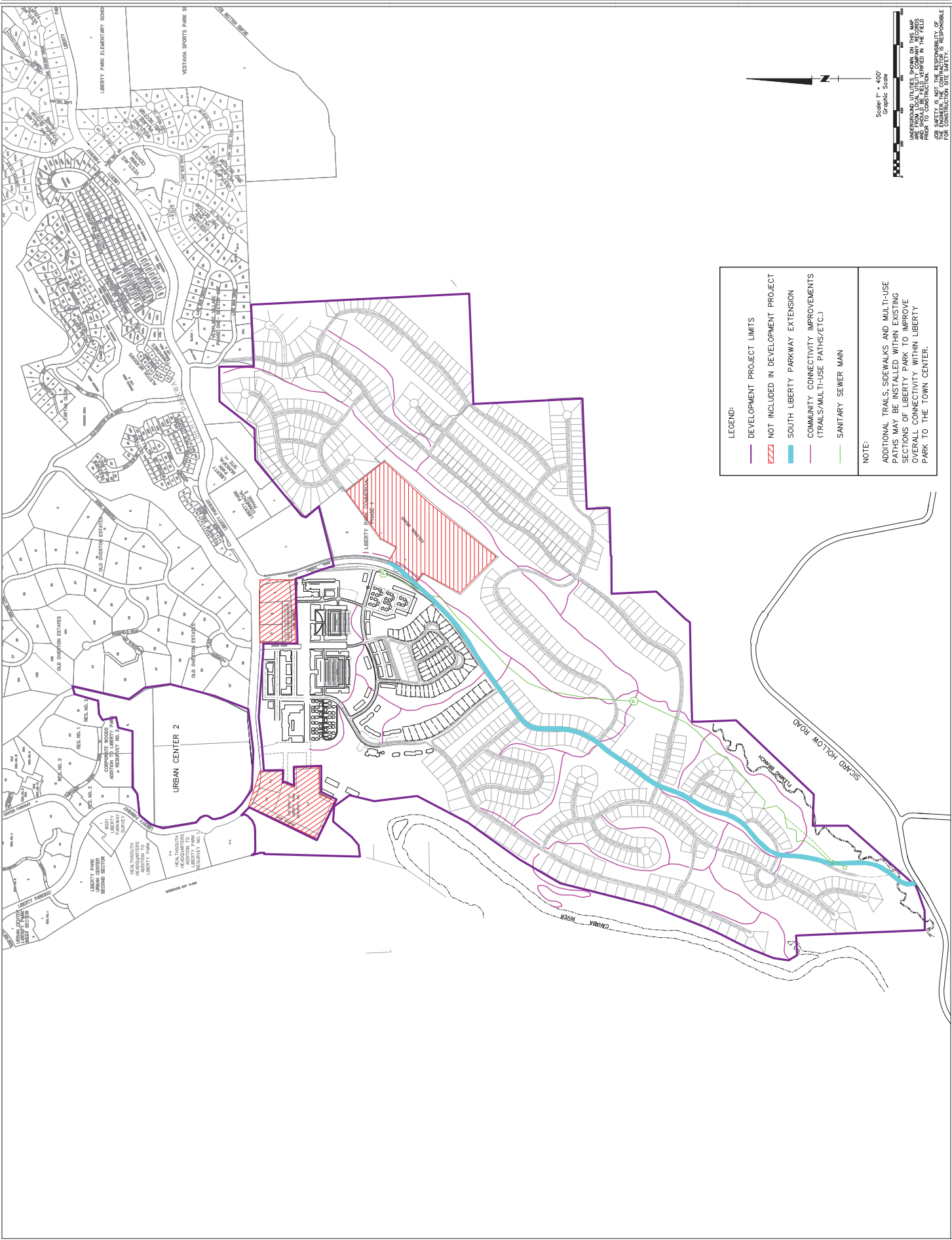


UNDERGROUND UTILITIES SHOWN ON THIS MAP
 ARE FROM LOCAL UTILITY COMPANY RECORDS
 PRIOR TO CONSTRUCTION.
 JOB SAFETY IS NOT THE RESPONSIBILITY OF
 SCHOFEL COMPANY.
 FOR CONSTRUCTION SITE SAFETY.

EXHIBIT "C"

Remaining Undeveloped Land

[See Attached]



LEGEND:

- DEVELOPMENT PROJECT LIMITS
- ▨ NOT INCLUDED IN DEVELOPMENT PROJECT
- SOUTH LIBERTY PARKWAY EXTENSION
- COMMUNITY CONNECTIVITY IMPROVEMENTS (TRAIL/S/MULTI-USE PATHS/ETC.)
- SANITARY SEWER MAIN

NOTE:
 ADDITIONAL TRAILS, SIDEWALKS AND MULTI-USE PATHS MAY BE INSTALLED WITHIN EXISTING SECTIONS OF LIBERTY PARK TO IMPROVE OVERALL CONNECTIVITY WITHIN LIBERTY PARK TO THE TOWN CENTER.

Scale: 1" = 400'
 Graphic Scale

UNDERGROUND UTILITIES SHOWN ON THIS MAP AND SHOULD BE FIELD VERIFIED IN THE FIELD FOR ACCURACY. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE ACCURACY OF THE DATA.

EXHIBIT “D”

Phase I Infrastructure Assistance Warrant

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 Finance Director 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 in the name of the owner hereof on the book of registration maintained for such purpose by the City. The registered owner of this Warrant may transfer this Warrant, in whole and not in part, upon written direction of such registered owner, or the legal representative thereof, addressed to the City, upon compliance with applicable federal and state securities laws, and upon presentation and surrender of this Warrant to the City, accompanied by a written instrument of transfer (as provided hereon) duly executed by the registered owner hereof or its attorney duly authorized in writing, and subject to the applicable provisions of the Development Agreement. Upon presentation of this Warrant to the City for transfer, the City shall record such transfer on such book of registration and execute and deliver to the transferee, in exchange for this Warrant, a new Warrant of like tenor, registered in the name of the transferee, in a principal amount equal to the unpaid principal amount of this Warrant. No charge shall be made for transfer of this Warrant but the registered owner of this Warrant shall pay any tax or other governmental charge required to be paid for transfer of this Warrant.

As provided in the Development Agreement, each transferee of this Warrant acquires this Warrant subject to all payments of principal theretofore made and to all rights and defenses of the City at law or in equity.

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.

Finance Director of the City of Vestavia
Hills, Alabama

VALIDATION CERTIFICATE

Validated and confirmed by judgment of the Circuit Court of Jefferson County, State of Alabama entered on the _____ day of _____, 2022.

Clerk of Circuit Court of
Jefferson County, Alabama

REGISTRATION OF OWNERSHIP

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

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

Dated Date

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)

EXHIBIT “E”

Phase II Infrastructure Assistance Warrant

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 Finance Director 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 in the name of the owner hereof on the book of registration maintained for such purpose by the City. The registered owner of this Warrant may transfer this Warrant, in whole and not in part, upon written direction of such registered owner, or the legal representative thereof, addressed to the City, upon compliance with applicable federal and state securities laws, and upon presentation and surrender of this Warrant to the City, accompanied by a written instrument of transfer (as provided hereon) duly executed by the registered owner hereof or its attorney duly authorized in writing, and subject to the applicable provisions of the Development Agreement. Upon presentation of this Warrant to the City for transfer, the City shall record such transfer on such book of registration and execute and deliver to the transferee, in exchange for this Warrant, a new Warrant of like tenor, registered in the name of the transferee, in a principal amount equal to the unpaid principal amount of this Warrant. No charge shall be made for transfer of this Warrant but the registered owner of this Warrant shall pay any tax or other governmental charge required to be paid for transfer of this Warrant.

As provided in the Development Agreement, each transferee of this Warrant acquires this Warrant subject to all payments of principal theretofore made and to all rights and defenses of the City at law or in equity.

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 Finance Director of the City
of Vestavia Hills, Alabama

VALIDATION CERTIFICATE

Validated and confirmed by judgment of the Circuit Court of Jefferson County, State of Alabama entered on the _____ day of _____, 2022.

Clerk of Circuit Court of
Jefferson County, Alabama

REGISTRATION OF OWNERSHIP

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

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

Dated Date

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)

EXHIBIT “F”

Economic Incentive Warrant A

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:

MATURITY DATE:

_____, 20__

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 Finance Director 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 in the name of the owner hereof on the book of registration maintained for such purpose by the City. The registered owner of this Warrant may transfer this Warrant, in whole and not in part, upon written direction of such registered owner, or the legal representative thereof, addressed to the City, upon compliance with applicable federal and state securities laws, and upon presentation and surrender of this Warrant to the City, accompanied by a written instrument of transfer (as provided hereon) duly executed by the registered owner hereof or its attorney duly authorized in writing, and subject to the applicable provisions of the Development Agreement. Upon presentation of this Warrant to the City for transfer, the City shall record such transfer on such book of registration and execute and deliver to the transferee, in exchange for this Warrant, a new Warrant of like tenor, registered in the name of the transferee, in a principal amount equal to the unpaid principal amount of this Warrant. No charge shall be made for transfer of this Warrant but the registered owner of this Warrant shall pay any tax or other governmental charge required to be paid for transfer of this Warrant.

As provided in the Development Agreement, each transferee of this Warrant acquires this Warrant subject to all payments of principal theretofore made and to all rights and defenses of the City at law or in equity.

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]

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.

Finance Director of the City of Vestavia
Hills, Alabama

VALIDATION CERTIFICATE

Validated and confirmed by judgment of the Circuit Court of Jefferson County, State of Alabama entered on the _____ day of _____, 2022.

Clerk of Circuit Court of
Jefferson County, Alabama

REGISTRATION OF OWNERSHIP

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

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

Dated Date

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)

EXHIBIT "G"

Economic Incentive Warrant B

EXHIBIT "G"

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:

MATURITY DATE:

_____, 20__

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 Finance Director 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 in the name of the owner hereof on the book of registration maintained for such purpose by the City. The registered owner of this Warrant may transfer this Warrant, in whole and not in part, upon written direction of such registered owner, or the legal representative thereof, addressed to the City, upon compliance with applicable federal and state securities laws, and upon presentation and surrender of this Warrant to the City, accompanied by a written instrument of transfer (as provided hereon) duly executed by the registered owner hereof or its attorney duly authorized in writing, and subject to the applicable provisions of the Development Agreement. Upon presentation of this Warrant to the City for transfer, the City shall record such transfer on such book of registration and execute and deliver to the transferee, in exchange for this Warrant, a new Warrant of like tenor, registered in the name of the transferee, in a principal amount equal to the unpaid principal amount of this Warrant. No charge shall be made for transfer of this Warrant but the registered owner of this Warrant shall pay any tax or other governmental charge required to be paid for transfer of this Warrant.

As provided in the Development Agreement, each transferee of this Warrant acquires this Warrant subject to all payments of principal theretofore made and to all rights and defenses of the City at law or in equity.

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]

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.

Finance Director of the City of Vestavia
Hills, Alabama

VALIDATION CERTIFICATE

Validated and confirmed by judgment of the Circuit Court of Jefferson County, State of Alabama entered on the _____ day of _____, 2022.

Clerk of Circuit Court of
Jefferson County, Alabama

REGISTRATION OF OWNERSHIP

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

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

Dated Date

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)

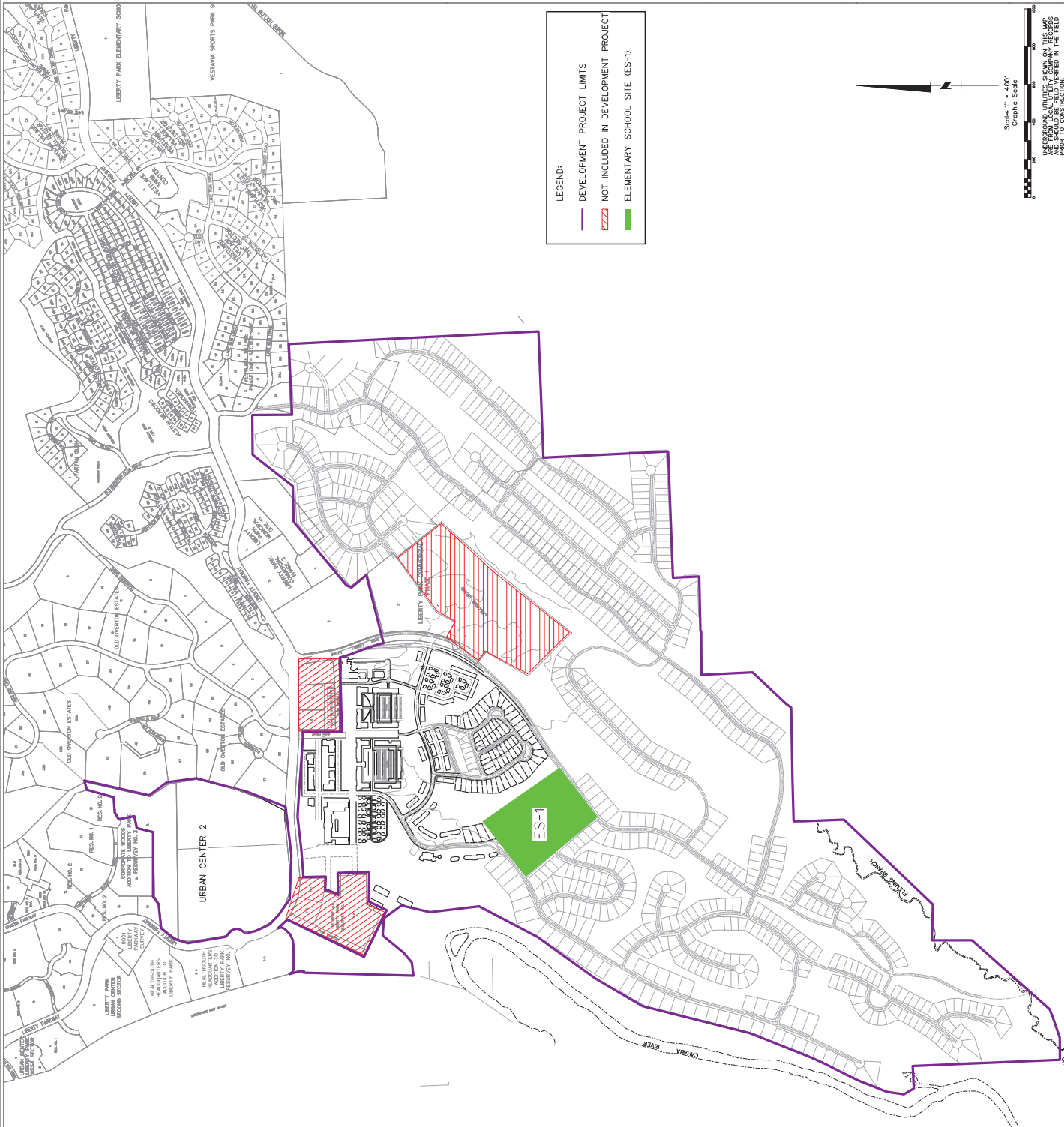
EXHIBIT “H”

Elementary School Site

[See Attached]

EXHIBIT 'H' MUNICIPAL SITE OPTIONS THE BRAY AT LIBERTY PARK VESTAVIA HILLS, ALABAMA

DRAWN BY:	
REVISED:	
CHECKED BY:	
FILE NAME:	
DATE:	
SCALE:	
SHEET:	
TOTAL SHEETS:	
DRAWN BY:	
CHECKED BY:	
FILE NAME:	
DATE:	
SCALE:	
SHEET:	
TOTAL SHEETS:	
EXHIBIT 'H'	



- LEGEND:
- DEVELOPMENT PROJECT LIMITS
 - ██ NOT INCLUDED IN DEVELOPMENT PROJECT
 - ELEMENTARY SCHOOL SITE (ES-1)



UNDERGROUND UTILITIES SHOWN ON THIS MAP AND SHOWN HEREIN ARE FIELD SURVEYED IN THE FIELD AND SHOULD BE VERIFIED BY THE USER. THE USER'S RESPONSIBILITY FOR THE ACCURACY OF THE INFORMATION CONTAINED HEREIN IS NOT THE RESPONSIBILITY OF THE CONSULTING ENGINEER OR ARCHITECT.

EXHIBIT "I"

Elementary School Conceptual Plan

[See Attached]



CONCEPTUAL ELEMENTARY SCHOOL SITE PLAN

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

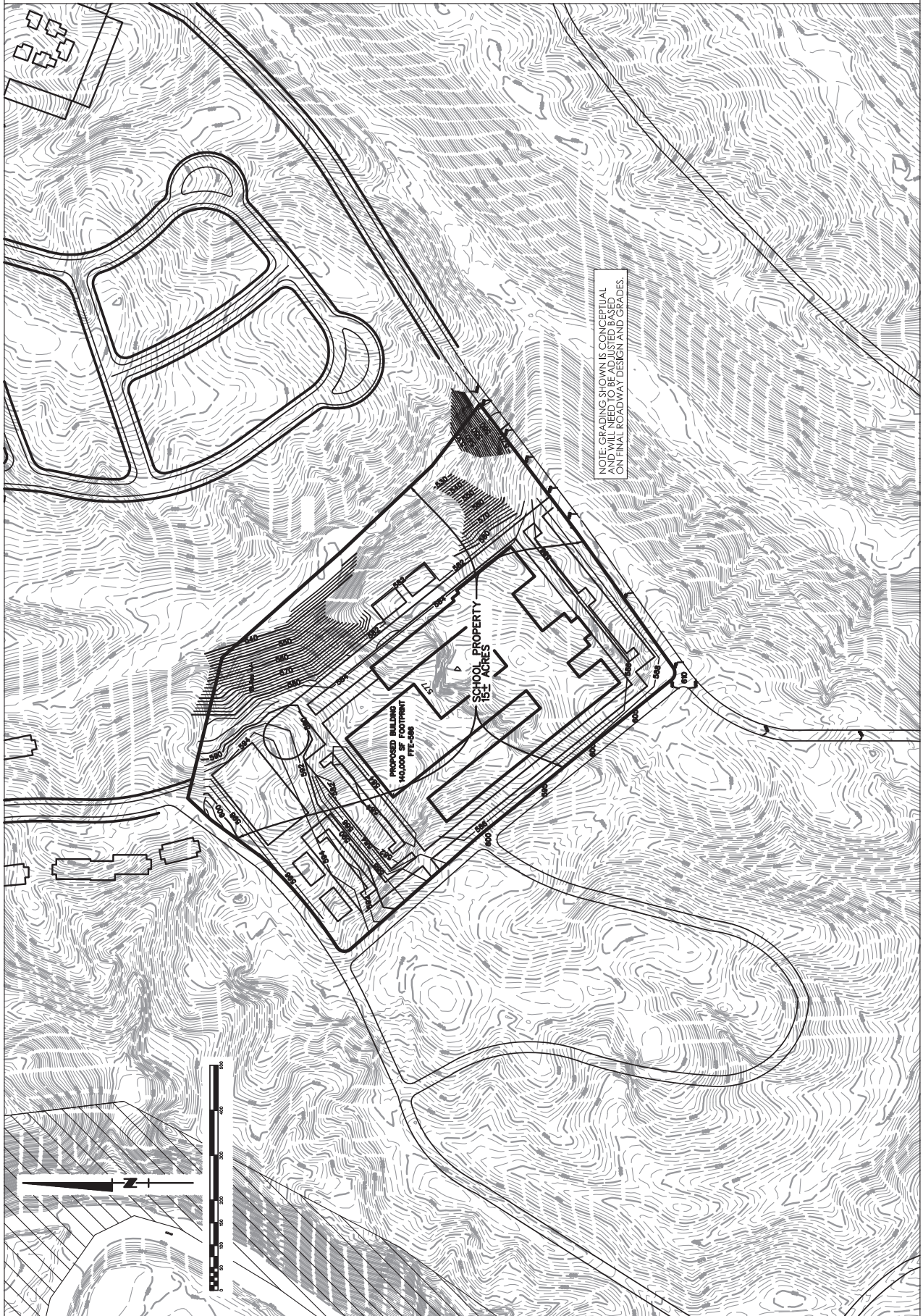


Exhibit B

Notice

Ad Content Proof

LEGAL NOTICE OF ACTION
 PROPOSED TO BE TAKEN BY
 THE CITY OF VESTAVIA HILLS, ALABAMA
 WITH REGARD TO A
 DEVELOPMENT AGREEMENT

Pursuant to Amendment No. 772 to the Constitution of Alabama (1901) (Section 94.01(a)(3) of the Recompiled Constitution of Alabama, the City of Vestavia Hills, Alabama (the "City") gives notice that its City Council, as the governing body of the City, will consider at a public meeting to be held on March 14, 2022, beginning at 6:00 p.m. in the City Council meeting room at Vestavia Hills City Hall, 1032 Montgomery Hwy, Vestavia Hills, Alabama, approving a resolution that authorizes the execution and delivery of a Development Agreement (the "Agreement") with Liberty Park Joint Venture, LLP, an Alabama limited liability partnership ("Developer").

BACKGROUND

Developer is the owner of approximately 865 undeveloped acres located in Liberty Park in the City of Vestavia Hills, Alabama ("Remaining Undeveloped Land"). Developer proposes that Remaining Undeveloped Land be developed by either by Developer or by third party purchasers/developers for hotel, retail and commercial, and residential uses as provided in a preliminary development plan filed with City (the "Development Project"). If developed, the Development Project will generate significant sales, lodging and property taxes for the City and its schools, will provide public infrastructure enhancements, will improve roads and circulation in the area, will provide for usable green space (including a "Great Lawn" designed to provide a public park/gathering area), and will include the donation of land for a future elementary school site.

SUMMARY OF TERMS OF THE AGREEMENT

In consideration and as an inducement for the development of the Development Project, the City is considering the execution of the Agreement with Developer whereby the City would reimburse Developer for infrastructure improvements in two phases as follows: (1) \$5,500,000.00 for the Phase I Infrastructure Improvements, including construction of the Great Lawn, sanitary sewer improvements, and part of the South Liberty Road extension (which shall be payable in two tranches of \$2,750,000 each) and (2) \$5,500,000.00 for Phase II Infrastructure Improvements, including the completion of the South Liberty Road extension to Sicard Hollow Road and other community connectivity improvements. The reimbursements for both Phase I and Phase II infrastructure improvements shall not be due and payable until after costs have been incurred by Developer on such improvements and then shall be paid only to the extent of those costs. Further, those reimbursements shall not be paid until certain development

and construction benchmarks have occurred as set forth in the Agreement.

In further consideration and as an inducement for the development of the Development Project, the City would share with Developer 50% of the sales and lodging taxes and 50% of certain permit proceeds resulting from the Development Project for a period of no more than twenty years from the date the sales or lodging taxes sales are first generated until \$12,000,000.00 is reached. Property taxes, sales tax on construction materials, permit fees on activities that are not in the "Town Center," and the portion of the City's Sales Tax earmarked for schools shall not be subject to revenue sharing.

As part of the Development Project, the Developer would be required to donate to the City an approximately 15 acre site with a rough graded pad for the construction of a future elementary school site. The Vestavia Hills Board of Education will benefit from all increased taxes resulting from the Development Project and from the donation of land for a school site.

The business entity to whom and for whose benefit the City proposes to grant public funds is the Developer, as described above. While Developer would receive certain benefits under the Agreement (summarized above), the City Council expects to determine at its public meeting that the expenditure of public funds in connection with the Agreement will serve a valid and sufficient public purpose, notwithstanding any incidental benefit accruing to Developer or any other private business. The public benefits sought and expected to be achieved by the approval of the Agreement include: promotion of local, economic and commercial development and the stimulation of the local economy; increasing employment opportunities in the City; increasing the City's sales tax base by attracting additional and high quality tenants; increasing the City's lodging tax revenues; promoting the location, expansion, and retention of commercial enterprises in Liberty Park; preserving and improving the aesthetic quality of commercial development in Liberty Park; expansion of and enhancement to the public street network used by its residents; installation of road improvements designed to improve traffic flow and increase safety; extension of sidewalks and pedestrian ways throughout the Remaining Undeveloped Land and improved connections thereof; construction of sanitary sewer improvements; development of usable green and recreational space; donation of a public school site and the generation of significant revenues for the City and for its public schools; all of which inure to the economic health and public benefit of the City.

INVITATION TO ATTEND AND COMMENT

All members of the public are invited to attend the meeting described above or to submit written opinions or comments regarding the proposed action to the City Council prior to the meeting.

s/ Rebecca Leavings, City Clerk
City of Vestavia Hills, Alabama

March 1, 2022

Exhibit B - Resolution No. 3085

Bham News: March 4, 2022

The above Resolution was duly passed and adopted this ____ day of _____, 2022.

Mayor

SEAL

Attest: _____
City Clerk

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

Ayes:

Ashley Curry, Mayor
Rusty Weaver, Mayor Pro-Tempore
Kimberly Cook
Paul Head
George Pierce

Nays: None

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

* * *

There being no further business to come before the meeting, it was moved and seconded that the meeting be adjourned. Motion carried.

Approval of Minutes:

Each of the undersigned does hereby approve, and waive notice of, the date, time, place and purpose of the meeting of the Vestavia Hills City Council recorded in the above and foregoing minutes thereof and does hereby approve the form and content of the above and foregoing minutes and resolution therein.

Mayor

Member of Council

Member of Council

Member of Council

Member of Council

SEAL

Attest: _____
City Clerk

CERTIFICATE OF CITY CLERK

_____, 2022

I, the undersigned, do hereby certify that: (1) I am the duly elected, qualified and acting Clerk of the City of Vestavia Hills, Alabama (the "City"), (2) as City Clerk of the City I have access to all original records of the City and I am duly authorized to make certified copies of its records on its behalf, (3) the above and foregoing pages constitute a complete, verbatim and compared copy of excerpts from the minutes of a regular meeting of the City Council of the City duly held on March 14, 2022, the original of which is on file and of record in the minute book of the City Council in my custody, (4) the resolution set forth in such excerpts is a complete, verbatim and compared copy of such resolution as introduced and adopted by the City Council on such date, and (5) said resolution is in full force and effect and has not been repealed, amended or changed.

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

Clerk of the City of Vestavia Hills, Alabama

SEAL

RESOLUTION NUMBER 5377

A RESOLUTION AUTHORIZING THE INSTALLATION OF A NEW SUPPORT STRUCTURE FOR A SMALL CELL FACILITY TO BE LOCATED IN THE RIGHT-OF-WAY ADJACENT TO 2727 BRIARBERRY CIRCLE

WHEREAS, on December 17, 2018, the City Council adopted and approved Ordinance 2814A to adopt regulations for small cell technology facilities (“Nodes”) in the City of Vestavia Hills, Alabama; and

WHEREAS, §2.B.7 recommends that said Nodes shall be collocated when possible, however, when not possible the request shall be recommended by the City Manager and then approved by the City Council following a public hearing; and

WHEREAS, on the 9th day of February, 2022, Acquanetta Love, on behalf of Crown Castle Fiber, LLC, submitted an application for a new support structure to be located in the right-of-way (“ROW”) of Southland Drive immediately adjacent to 2727 Briarberry Circle; Rollingwood Apartments owned by Benchmark Rollingwood Apt LP; and

WHEREAS, a sign was erected on the ROW and the property owners were notified of a public hearing to be held on March 14, 2022 regarding said new support request; and

WHEREAS, the City Manager and the City Staff have reviewed the application and recommend approval of said request; and

WHEREAS, the Mayor and the City Council feel it is in the best public interest to accept the recommendation and authorize installation of said new support structure.

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

1. The Mayor and City Council hereby accept the recommendation of the City Manager and authorize the installation of a new support structure to be located in the ROW adjacent to 2727 Briarberry Circle as detailed in the supporting information marked as Exhibit A, attached to and incorporated into this Resolution 5377 as if written fully therein; and
2. This Resolution shall become effective immediately upon adoption and approval.

DONE, ORDERED, ADOPTED and APPROVED this the 14th day of March, 2022.

Ashley C. Curry
Mayor

ATTESTED BY:

Rebecca Leavings
City Clerk



City of Vestavia Hills, Alabama
Small Cell Facilities for Facilities Requiring New Support Structures
Application

For Staff Use Only:

Application Submitted: Date: _____/Time: _____

Date Accepted as Complete: _____

Received by: _____

Please fill out this form completely, supplying all necessary information and documentation to support your request. If your application is not complete with all required documentation, the application will not be processed until all information and documentation is furnished pursuant to Ordinance Number 2814.

APPLICATION:

Indicate one contact person for this request: Applicant Representative

Applicant (individual making the request):

Crown Castle Fiber LLC

Person/Company Name

8000 Avalon Blvd., Suite 700, Alpharetta, GA 30009

Mailing Address

acquanetta.love@crowncastle.c

470.235.6287

724-416-4761

Contact Email

Contact Phone

Fax Number

Representative/Agent (if different from the applicant)

N/A

Person/Company Name

Mailing Address

Contact Email

Contact Phone

Fax Number

The undersigned acknowledges that additional City of Vestavia Hills zoning and/or permitting review requirements may be identified during the review of this small cell telecommunication permit application and the fulfillment of such requirements I the responsibility of the applicant.

Acquanetta Love

Signature of Applicant or Representative

Printed name of Applicant or Representative

Date: February 8, 2022

General Information (please provide detailing information as required by Ordinance 2814).

2727 Briarberry Circle, Vestavia Hills, AL 35226

Address/Tax Parcel ID # of proposed location

2nd wood pole south of Parking entrance on the east side of Southland Dr.

Legal Description and/or Tax Parcel ID Number of proposed location

Will the proposed Support Structure be located in public Right-of-way? Yes No

Support Structure Owner: Crown Castle Fiber LLC

Contractor Information

Name of Contractor TBD

Address _____

City _____ State _____ Zip _____

Phone _____ Licensed? Yes No

Mobile Phone _____ Email _____

License Numbers:

City of Vestavia Hills License No. _____

State of Alabama License No. _____

Bid Limit _____

From: [Ferlazzo, Michael](#)
To: [Love, Acquanetta](#)
Subject: RE: [External] VESTAVIA HILLS - CCF New Pole - BRM310
Date: Wednesday, February 9, 2022 4:28:12 PM
Attachments: [BRM310 Coverage Area.jpg](#)
[image004.png](#)
[BRM310 Coverage Area with secondary poles.jpg](#)

Hi Netta,

I have attached an image of the intended coverage area of BRM310. The intent is to cover the Rollingwood apartment complex that is on both sides of the street. We are placing a new pole because there isn't a useable non-primary pole in the area.

I also included the same image with the two secondary power poles shown as triangles if you think that would be better. They are both too far away from the center of the complex. The one to the south also looks to be on private property.

Thanks,

MICHAEL FERLAZZO

Sr RF Engineer
O: (470) 235-6339 | M: (954) 829-5710

CROWN CASTLE

8000 Avalon Boulevard, Suite 700, Alpharetta, GA 30009
[CrownCastle.com](#)

From: Love, Acquanetta <Acquanetta.Love@crowncastle.com>
Sent: Tuesday, February 8, 2022 10:01 AM
To: Ferlazzo, Michael <Michael.Ferlazzo@crowncastle.com>
Subject: FW: [External] VESTAVIA HILLS - CCF New Pole - BRM310
Importance: High

Hi Michael, Hope all is well!

Can you by chance forward me a coverage map for this location, and details of why a new pole is needed.

I'd like to forward this to the JX asap.

Thanks much,
Netta

ACQUANETTA LOVE

Network Permitting Specialist
Permitting and Utilities - South Region
Office: 470.235.6287
Fax: 724.416.4761

CROWN CASTLE FIBER LLC



BIRMINGHAM, ALABAMA

Jurisdiction: CITY OF VESTAVIA HILLS

County: JEFFERSON

Small Cell Wireless Facility

Pole Type: New CCF 45' Brown Wood Pole (with 6'-6" embedment)

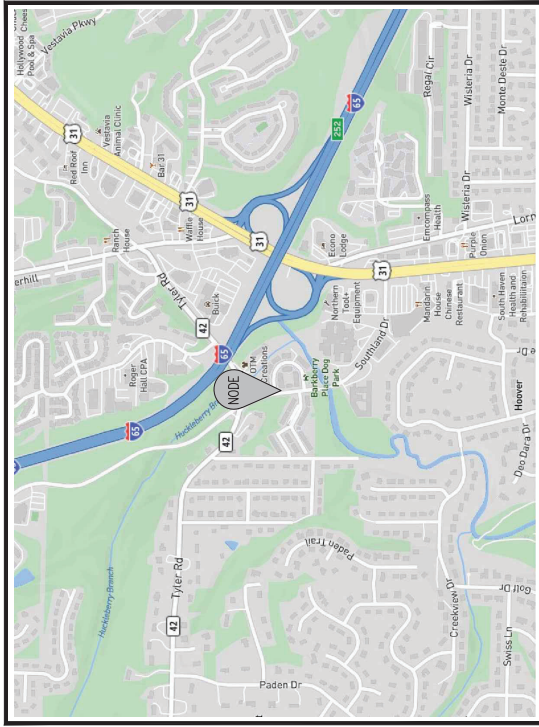
Placed Within The Public Right of Way



Team	Member's Review	Reviewed/Date
RF Engineering		
Product Management		
Network Real Estate Team		
Utility Team		
Implementation		
Operations		

DESIGN CRITERIA:

1. 2012 INTERNATIONAL BUILDING CODE WITH LOCAL AMENDMENTS WIND LOADS PER ASCE 7-10.
 - A. ULTIMATE WIND SPEED (3-second gust): 115mph CONVERTED TO A NOMINAL WIND SPEED (3-second gust) OF 89mph.
 - B. RISK CATEGORY: II
 - C. WIND EXPOSURE: C
 - D. TOPOGRAPHIC CATEGORY: I
2. DEAD LOAD
 - A. EQUIPMENT WEIGHT PER MANUFACTURER DATA.
3. SEISMIC LOAD DOES NOT GOVERN THIS DESIGN.



NOT TO SCALE

LOCATION MAP

Latitude: 33.412076°N

Longitude: -86.810646°W

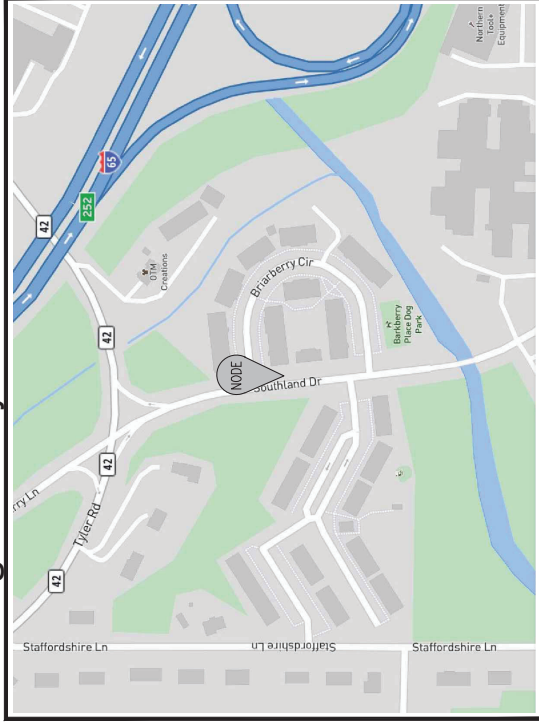
NAME: _____
EXPIRES: _____

SIGNATURE _____

DATE _____

PE STATE SEAL

NOT TO SCALE



NODE PLACEMENT

2727 Briarberry Cir

2nd wood pole south of Parking Entrance
on the east side of Southland Dr

POLE TOP ENGINEERING STANDARD DRAWING

UNDERGROUND SERVICE ALERT
CALL ALABAMA 811 OR TOLL
FREE 1-800-292-8825
48 HOURS BEFORE YOU DIG



NOTE:

BRM310

PROJECT MANAGEMENT

FIRM: CROWN CASTLE FIBER, LLC
8000 AVALON BOULEVARD
SUITE 700
ALPHARETTA, GA 30004

ENGINEERING

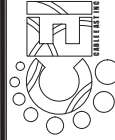
FIRM: CABLE EAST, INC.
1940 STAFFHAM DR
STAFFHAM, GA 30066

CONTACT: ANDY FANNER
PHONE: 706-844-6883

INDEX TO SHEETS

- T-01. TITLE, LOCATION MAP, NODE PLACEMENT
- C-01. SITE PLAN
- C-02. PROPOSED POLE CONFIGURATION
- C-03. EQUIPMENT DETAILS
- C-04. PHOTO SIMS
- C-05. WIRING & FIBER DIAGRAMS
- SP-01. DETAILS
- SP-02. DETAILS

ENGINEER



OWNER

OWNER DEVELOPER:
CROWN CASTLE



TITLE: CROWN CASTLE FIBER LLC
2727 Briarberry Cir
BIRMINGHAM, ALABAMA
JURISDICTION: CITY OF VESTAVIA HILLS
JEFFERSON COUNTY

REVISIONS

NO.	DATE	DESCRIPTION	BY
01	10/28/2021	PER VESTAVIA HILLS REVIEW	DP

DRAWN BY: DP

CHECKED BY: AT

APPROVED BY: _____

PROJECT NUMBER: 68-3559

FILE NAME: BRM310

DATE DRAWN: 10/28/2021

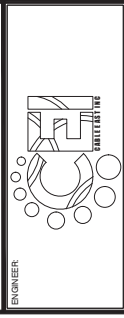
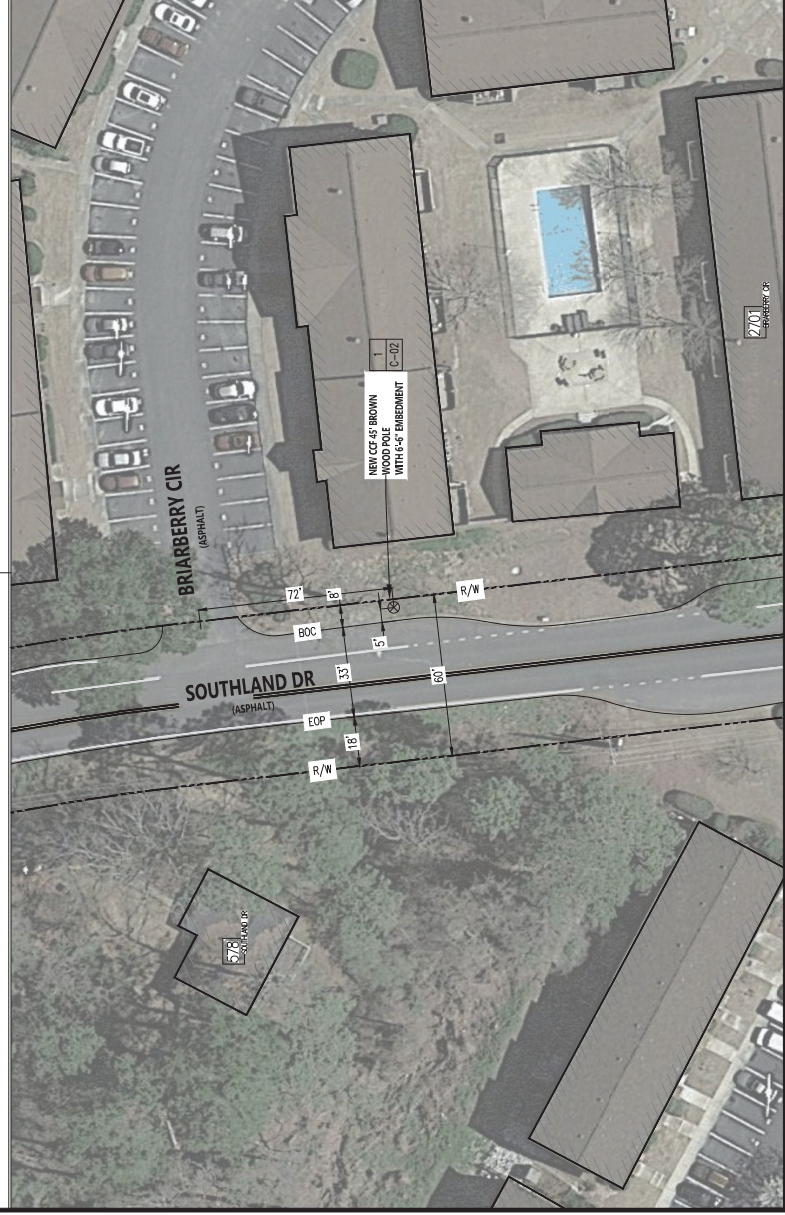
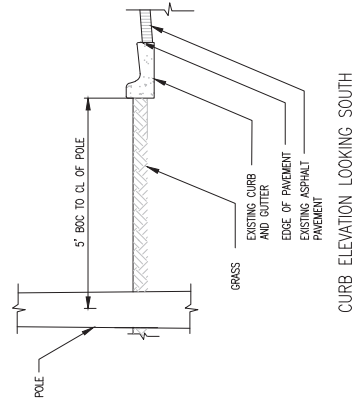
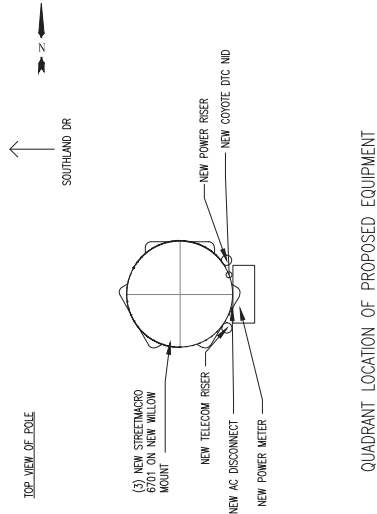
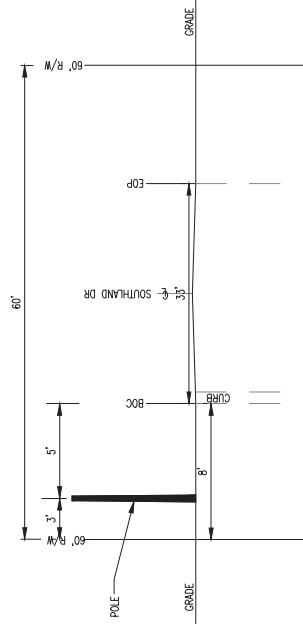
SCALE: AS SHOWN

SHEET: T-01

BRM310

NOTE:

CROWN CASTLE FIBER LLC
SITE PLAN



ENGINEER
TRAFFIC TECH

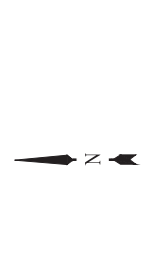


OWNER/DEVELOPER:
CROWN CASTLE FIBER LLC
2727 Briarberry Cir
BIRMINGHAM, ALABAMA
JURISDICTION: CITY OF VESTAVIA HILLS
JEFFERSON COUNTY

REVISIONS	DATE	DESCRIPTION	BY
01	10/28/2021	PER VESTAVIA HILLS REVIEW	DP

DRAWN BY	DP	CHECKED BY	AT	APPROVED BY	
----------	----	------------	----	-------------	--

PROJECT NUMBER	68-3559
FILE NAME	BRM310
DATE DRAWN	10/28/2021
SCALE	AS SHOWN
SHEET	C-01



MINIMUM CLEAR ZONES ILLUSTRATED USING ADOT GUIDELINES FOUND IN AASHTO ROADSIDE GUIDE (RGS) UPDATED JULY 2012.

POSTED SPEED LIMIT:
30 MPH

UNDERGROUND SERVICE ALERT
CALL TOLL FREE 1-800-292-8525
48 HOURS BEFORE YOU DIG

- NOTES:
- CONTRACTOR SHALL MAINTAIN UNINTERRUPTED ACCESS TO ALL DRIVEWAYS, SIDE STREETS AND WALKWAYS AT ALL TIMES UNLESS OTHERWISE PERMITTED.
 - CONTRACTOR SHALL PREPARE A MAINTENANCE OF TRAFFIC (M.O.T) PLAN FOR ALL EXISTING AND PROPOSED WORK WITHIN THE RIGHT-OF-WAY, INCLUDING VEHICLE PROTECTION AND CONSTRUCTION OF TEMPORARY TRAFFIC CONTROL DEVICES.
 - CONTRACTOR SHALL RESTORE ANY DISTURBED AREAS TO ORIGINAL CONDITION OR BETTER.

SYMBOL LEGEND		MANHOLE	
POWER CONDUIT	TELCO CONDUIT	EXISTING/REPLACEMENT UTILITY POLE	PROPOSED WOOD UTILITY POLE
RIGHT OF WAY	EOP/BOC	PROPOSED METAL UTILITY POLE	PROPOSED CONCRETE UTILITY POLE
GRASS	FENCE	WATER	SEWER
STORM	UTILITY LINE OF ROAD	1	REPRESENTS DETAIL #
1	REPRESENTS SHEET #	C7	REPRESENTS SHEET #

BRM310

CROWN CASTLE FIBER LLC
PROPOSED POLE CONFIGURATION

NOTE: NEW RF WARNING SIGNS
TO BE APPLIED 6' BELOW TOP
OF PROPOSED POLE.

ALL REQUIRED NESC
CLEARANCES TO BE MET OR
EXCEEDED

**(3) NEW ERICSSON 6701
5G ANTENNAS
ATTACHED TO
WILLOW MOUNT**

NEW QUBE WILLOW ANTENNA
MOUNT INSTALLED ON POLE TOP

TOP OF ANTENNA MOUNT - EL 40'-03"
 TOP OF POLE - EL 38'-06"
 PROPOSED RAD CENTER - EL 38'-04"
 BOTTOM OF 5G ANTENNA - EL 37'-04"
 BOTTOM OF WILLOW BRACKET - EL 36'-10"

HIGHEST POSSIBLE PWR ATTACHMENT - EL 33'-06"
 NEW APCO PWR SERVICE - EL 28'-06"
 NEW PWR WEATHERHEAD - EL 28'-00"

NEW 1" SCH 80 CONDUIT FOR
POWER SERVICE TO 5G ANTENNAS
 NEW 1" SCH 80 CONDUIT FOR
FIBER SERVICE TO 5G ANTENNAS

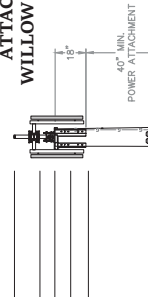
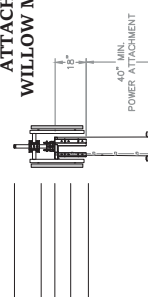
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NEW 1" SCH 80 CONDUIT FOR
POWER SERVICE TO 5G ANTENNAS
 NEW 1" SCH 80 CONDUIT FOR
FIBER SERVICE TO 5G ANTENNAS



NEW COYOTE DTC NID - EL 12'-00"
 NEW 240V/100A AC DISCONNECT -
 EL 11'-00"
 NEW UGUARD - EL 10'-00"

NEW RING STYLE, SINGLE PHASE,
4-TERMINAL 100/125 AMP METER BASE
 EL 05'-00"

REFERENCE EL. 0'-0"
 GRADE LEVEL

NEW 8" x 10' GROUND ROD
 EMBEDMENT - 06'-06"

PROPOSED POLE DETAIL
LOOKING WEST

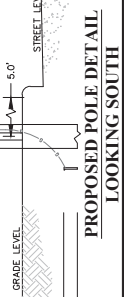
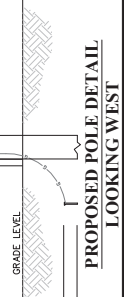
NEW COYOTE DTC NID - EL 12'-00"
 NEW 240V/100A AC DISCONNECT -
 EL 11'-00"
 NEW UGUARD - EL 10'-00"

NEW RING STYLE, SINGLE PHASE,
4-TERMINAL 100/125 AMP METER BASE
 EL 05'-00"

REFERENCE EL. 0'-0"
 GRADE LEVEL

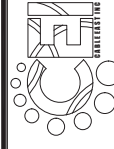
NEW 8" x 10' GROUND ROD
 EMBEDMENT - 06'-06"

PROPOSED POLE DETAIL
LOOKING SOUTH



Note: Equipment
quadrant may vary
per utility or condition.

ENGINEER



OWNER/DEVELOPER:
CROWN CASTLE FIBER LLC
2727 Briarberry Cir
BIRMINGHAM, ALABAMA
JURISDICTION: CITY OF VESTAVIA HILLS
JEFFERSON COUNTY



PROJECT NUMBER: 68-5539
FILE NAME: BRM310
DATE DRAWN: 10/28/2021
SCALE: AS SHOWN

REV#	DATE	DESCRIPTION	BY
01	10/28/2021	PER VESTAVIA HILLS REVIEW	DP

DRAWN BY: DP
CHECKED BY: AT

SHEET: C-02

BRM310

CROWN CASTLE FIBER, LLC
PROPOSED EQUIPMENT DETAILS

DETAIL 'A' MRS-21 60" QUBE SHROUD

STREETMACRO 6701 AC (28GHZ)

Spectrum: 28 GHz-3257
IBW Full Band
OBW Up to 800 MHz
EIRP 55 dBm

#Antenna Elements
Antenna Type: 2x2 MIMO
Throughput: Up to 1600 Mbps (600MHz 2x2)
Size and Weight:

SKU 6701 - 28 or 30 GHz	Height	Width	Depth	Weight
w/ protruding items	20.2 in. (511 mm)	7.9 in. (200 mm)	5 in. (125 mm)	~31 lbs (-14 kg)
w/ protruding items and GPS Ant	21.2 in. (538 mm)	8.1 in. (204 mm)	5.1 in. (130 mm)	

RI ports: 2
TNI/DL ports: 2
TN I/F: AC 100-200V
Operational conditions: -40° to +55° C; IP 65
Cooling: Air and Pressure: TBD
Power: <400W Max
Misc: 4 External Alarms, USB connector, PoE, GPS (optional), 1588 Sync

Product data sheet Characteristics

OR EQUIVALENT



Street Macro 6701 28 GHz - B257 AC
KRK10101/11

DETAIL 'B' 240V/100A AC DISCONNECT

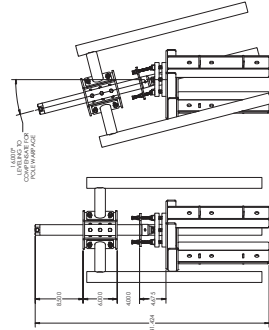
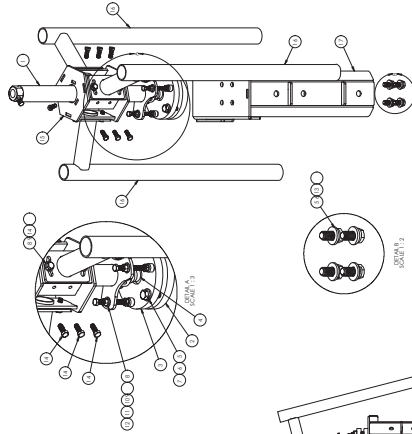
QO612L100RB
LOAD CENTER QO MLO 240V 100A 1PH 6SP
Product availability: Stock - Normally stocked in distribution facility

Main

Commercial Status	Commercialised
Product or component type	Load Center
Range of product	QO
Load center type	Fixed Mains (lugs)
[In] rated current	100 A
Number of spaces	6
Short-circuit current	10 kA
Number of circuits	12
Number of tandem circuit breakers	6
Network number of phases	1 phase
[UL] rated operational voltage	120/240 V AC

DETAIL 'C' QUBE WILLOW ANTENNA MOUNT

ITEM NO.	ITEM NAME	QTY
1	ANTENNA	1
2	ANTENNA MOUNT	1
3	ANTENNA MOUNT BRACKET	1
4	ANTENNA MOUNT BRACKET	1
5	ANTENNA MOUNT BRACKET	1
6	ANTENNA MOUNT BRACKET	1
7	ANTENNA MOUNT BRACKET	1
8	ANTENNA MOUNT BRACKET	1
9	ANTENNA MOUNT BRACKET	1
10	ANTENNA MOUNT BRACKET	1
11	ANTENNA MOUNT BRACKET	1
12	ANTENNA MOUNT BRACKET	1
13	ANTENNA MOUNT BRACKET	1
14	ANTENNA MOUNT BRACKET	1
15	ANTENNA MOUNT BRACKET	1
16	ANTENNA MOUNT BRACKET	1
17	ANTENNA MOUNT BRACKET	1



APPROX. WEIGHT: 75.06

DETAIL 'D' COYOTE DTC NID

COYOTE® DTC4/DTC6
(Drop Termination Closure)
4/6 Grommet Design

- Key Features:**
- Size: 10.8" x 7.8" x 3.2" (274 x 198 x 82 mm)
 - Max Splice Capacity: 24
 - Max Adapter Capacity: See table for adapter options
 - Grommet Quantity: 4 or 6 - See table for grommet options
 - Flexible grommet sealing system supports a wide range of flat or round cable profiles
 - Factory installed sealing materials
 - Reusable and resealable
 - Designed to CE-771 Generic Requirements for Fiber Splice Closures
 - Constructed with flame retardant UV stabilized material
 - Applications:
 - DTC4 - IP-68 rated
 - Aerial, below grade, direct buried, pole mount or interior applications
 - DTC6 - IP-68 rated
 - Aerial, below grade, direct buried, pole mount or interior applications



REVISIONS

REV	DATE	DESCRIPTION	BY
01	1/20/2021	PER VESTAVIA HILLS REVIEW	DP

ENGINEER:

OWNER/DEVELOPER:



TITLE: CROWN CASTLE FIBER LLC
2727 Bribery Cir
BIRMINGHAM, ALABAMA
JURISDICTION: CITY OF VESTAVIA HILLS
JEFFERSON COUNTY

DRIVEN BY: DP
CHECKED BY: AT

PROJECT NUMBER: 68-3539
FILE NAME: BRM310
DATE DRAWN: 10/28/2021
SCALE: AS SHOWN

SHEET: C-03

CROWN CASTLE FIBER, LLC
PHOTO SIMS

NOTE:

BRM310

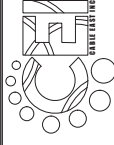


EXISTING CONDITION



PHOTO SIMULATION

ENGINEER



OWNER

STATE OF ALABAMA: I HEREBY CERTIFY THAT I AM A LICENSED PROFESSIONAL ENGINEER IN THE STATE OF ALABAMA. I AM NOT PROVIDING ENGINEERING SERVICES TO ANY OTHER ENTITY. I AM NOT PROVIDING ENGINEERING SERVICES TO ANY OTHER ENTITY. I AM NOT PROVIDING ENGINEERING SERVICES TO ANY OTHER ENTITY. I AM NOT PROVIDING ENGINEERING SERVICES TO ANY OTHER ENTITY.

OWNER/DEVELOPER



TITLE: CROWN CASTLE FIBER, LLC
2727 Briarberry Cir
BIRMINGHAM, ALABAMA
JURISDICTION: CITY OF VESTAVIA HILLS
JEFFERSON COUNTY

REVISIONS

REV	DATE	DESCRIPTION	BY
01	10/28/2021	PER VESTAVIA HILLS REVIEW	DP

DRAWN BY: DP CHECKED BY: AT APPROVED BY: _____

PROJECT NUMBER	68-3539
FILE NAME	BRM310
DATE DRAWN	10/28/2021
SCALE	AS SHOWN

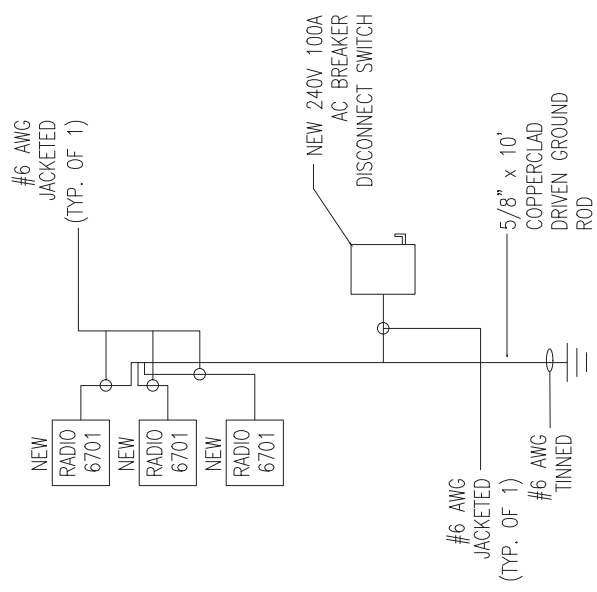
SHEET: C-04

NOTE:

BRM310

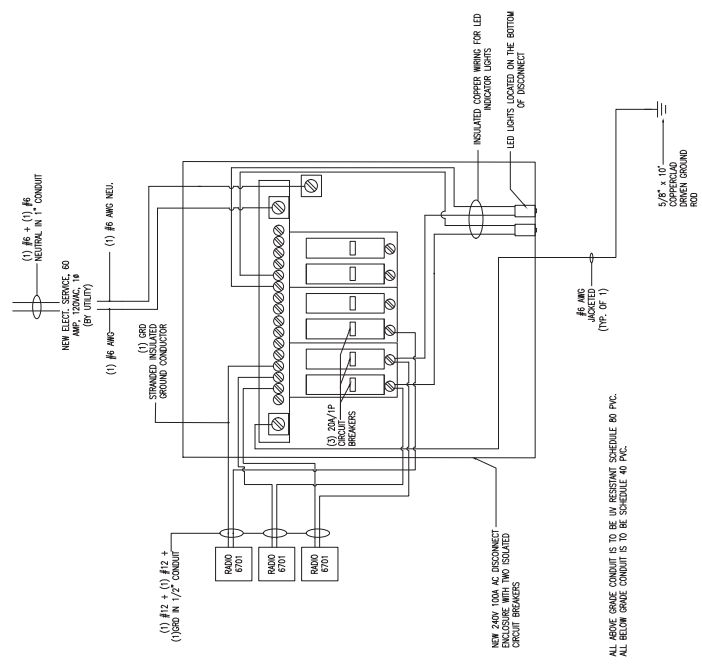
CROWN CASTLE FIBER LLC
WIRING DIAGRAM

GROUNDING DIAGRAM



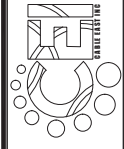
PER CROWN GROUNDING STANDARDS

WIRING DIAGRAM



TO BE VERIFIED BY LICENSED ELECTRICIAN

ENGINEER



CLAIM:
I HEREBY CERTIFY THAT I AM THE ENGINEER OF RECORD FOR THIS PROJECT AND I AM A LICENSED PROFESSIONAL ENGINEER IN THE STATE OF ALABAMA. I HAVE REVIEWED AND APPROVED THIS DRAWING AND I AM NOT PROVIDING ANY GUARANTEE OR WARRANTY FOR THE WORK SHOWN HEREON.

OWNER/DEVELOPER



TITLE: CROWN CASTLE FIBER LLC
2727 Briarberry Cir
BIRMINGHAM, ALABAMA
JURISDICTION: CITY OF VESTAVIA HILLS
JEFFERSON COUNTY

REVISIONS

REV	DATE	DESCRIPTION	BY
01	10/28/2021	PER VESTAVIA HILLS REVIEW	DP

DRAWN BY:	DP	CHECKED BY:	AT
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PROJECT NUMBER	68-3539
FILE NAME	BRM310
DATE DRAWN	10/28/2021
SCALE	AS SHOWN

SHEET: Q-01

GENERAL NOTES:

1. ALL WORK PRESENTED ON THESE DRAWINGS MUST BE COMPLETED BY THE CONTRACTOR, UNLESS NOTED OTHERWISE. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM ALL AFFECTED AGENCIES AND AGENCIES OF THE STATE AND FEDERAL GOVERNMENT. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM ALL AFFECTED AGENCIES AND AGENCIES OF THE STATE AND FEDERAL GOVERNMENT.
2. ALL MATERIALS AND EQUIPMENT FURNISHED SHALL BE PROPOSED AND OF GOOD QUALITY, FREE FROM FAULTS AND DEFECTS, AND IN CONFORMANCE WITH THE CONTRACT DOCUMENTS. ANY AND ALL SUBSTITUTIONS MUST BE PROPERLY APPROVED AND AUTHORIZED IN WRITING BY THE OWNER AND ENGINEER PRIOR TO INSTALLATION. THE CONTRACTOR SHALL FURNISH SATISFACTORY EVIDENCE AS TO THE KIND AND QUALITY OF THE MATERIALS AND EQUIPMENT BEING SUBSTITUTED.
3. THE CONTRACTOR SHALL BE RESPONSIBLE FOR INITIATING, MAINTAINING, AND SUPERVISING ALL SAFETY PRECAUTIONS AND PROGRAMS COMPLYING WITH ALL APPLICABLE LOCAL, STATE, AND FEDERAL SAFETY CODES AND REGULATIONS GOVERNING THIS WORK.
4. ALL DIMENSIONS SHALL BE VERIFIED WITH THE PLANS (LATEST REVISION) PRIOR TO COMMENCING CONSTRUCTION. NOTIFY THE OWNER IMMEDIATELY IF DISCREPANCIES ARE DISCOVERED.
5. ALL MATERIALS AND WORKMANSHIP SHALL BE WARRANTED FOR ONE (1) YEAR FROM DATE OF ACCEPTANCE.

STRUCTURAL NOTE:

1. DESIGN REQUIREMENTS PER ALABAMA BUILDING CODE (6TH EDITION, 2017) AND THE EMB/TIA-222-G-2 STRUCTURAL STANDARDS FOR STEEL ANTENNA TOWERS AND ANTENNA SUPPORTING STRUCTURES; BASIC WIND SPEED AND ULTIMATE DESIGN WIND SPEED AS LISTED ON SHEET T-01.

EXISTING CONDITIONS AND STRUCTURES:

1. SHOULD ANY ERROR OR INCONSISTENCY APPEAR IN THE DRAWINGS OR SPECIFICATIONS, THE CONTRACTOR BEFORE PROCEEDING WITH THE WORK SHALL NOTIFY THE OWNER AND OWNER FOR PROPER ADJUSTMENT, AND IN NO CASE PROCEED WITH THE WORK IN UNCERTAINTY, OR WITH INSUFFICIENT DRAWINGS.
2. THE CONTRACTOR AND EACH SUBCONTRACTOR SHALL BE RESPONSIBLE FOR VERIFICATION OF ALL MEASUREMENTS AT THE SITE. DIFFERENCES BETWEEN ACTUAL DIMENSIONS AND DIMENSIONS INDICATED ON THE CONSTRUCTION DRAWINGS, ANY DISCREPANCY IN DIMENSIONS WHICH MAY BE FOUND SHALL BE SUBMITTED TO THE ENGINEER AND THE OWNER REPRESENTATIVE FOR CONSIDERATION BEFORE THE CONTRACTOR PROCEEDS WITH THE WORK IN THE AFFECTED AREAS. THE CONTRACTORS WORK SHALL NOT VARY FROM THE PLANS WITHOUT THE EXPRESSED APPROVAL OF THE OWNER OR ITS REPRESENTATIVE.
3. PRIOR TO STARTING CONSTRUCTION, THE CONTRACTOR SHALL PROTECT ALL AREAS FROM DAMAGES WHICH MAY OCCUR DURING CONSTRUCTION. THE CONTRACTOR SHALL BE RESPONSIBLE FOR PROTECTING EXISTING UTILITIES, STRUCTURES, AND OTHER ADJACENT AREAS. ALL DAMAGES TO EXISTING UTILITIES, STRUCTURES, AND OTHER ADJACENT AREAS SHALL BE REPAIRED OR REPLACED TO ORIGINAL CONDITION OR BETTER. THE CONTRACTOR SHALL BEAR THE COST OF REPAIRING OR REPLACING ANY DAMAGED AREAS.
4. THE CONTRACTOR SHALL TAKE ALL PRECAUTIONARY MEASURES AND EFFORTS TO PROTECT THE STRUCTURAL INTEGRITY OF EXISTING STRUCTURES WHEN WORK IS PERFORMED IN THE VICINITY OF EXISTING STRUCTURE. THE STRUCTURAL INTEGRITY AND STABILITY SHALL BE MONITORED AT ALL TIMES, DURING EVERY PHASE OF THE CONSTRUCTION.
5. THE PLANS SHOW EXISTING UTILITIES, ABOVE-GROUND STRUCTURES, AND/OR UTILITIES BELIEVED TO EXIST IN THE WORKING AREA. EXACT LOCATION OF WHICH MAY VARY FROM THE LOCATIONS INDICATED. IN PARTICULAR, THE CONTRACTOR IS WARNED THAT THE EXACT, OR EVEN APPROXIMATE, LOCATION OF SUCH PIPELINES, SUBSURFACE STRUCTURES, AND/OR UTILITIES IN THE AREA MAY BE SHOWN, OR MAY NOT BE SHOWN; IT SHALL BE HIS RESPONSIBILITY TO PROCEED WITH GREAT CARE IN EXECUTING ANY WORK, BEFORE YOU DIG, DRILL, OR BLAST, CALL THE UNDERGROUND SERVICES ALERT NUMBER ON SHEET T-01 AT THE REQUIRED TIME.
6. THE CONTRACTOR SHALL RESTORE ALL PUBLIC OR PRIVATE PROPERTY DAMAGED OR REMOVED TO AT LEAST AS GOOD OF CONDITION AS BEFORE DISTURBED, AS DETERMINED BY THE OWNER OR OWNER'S REPRESENTATIVE.
7. PROTECT FINISHED SURFACES INCLUDING JAMBS AND HEADS OF OPENINGS USED AS PASSAGEWAYS THROUGH WHICH EQUIPMENT AND MATERIALS WILL PASS.
8. MAINTAIN FINISHED SURFACES CLEAN, UNHARMED, AND SUITABLY PROTECTED UNTIL JOB SITE IS ACCEPTED BY THE OWNER.

ACCESS:

1. USE MOST DIRECT ROUTE FROM PUBLIC STREET AS AGREED TO BY COMPOUND OR BUILDING OWNER, FOR ACCESS TO AN EXISTING BUILDING INTERIOR, USE LOADING DOCK AS AGREED TO BY BUILDING OWNER.
2. COORDINATE CONSTRUCTION SCHEDULES & SITE ACCESS WITH SITE OWNER. ENSURE THAT THE OWNER OF PARENT PARCEL IS NOTIFIED IN WRITING OF CONSTRUCTION ACTIVITIES.
3. A LIST OF WORKERS INVOLVED IN THIS PROJECT SHALL BE PROVIDED TO THE PROPERTY OWNER OR ITS REPRESENTATIVE.
4. THE CONTRACTOR SHALL COORDINATE ALL SPECIAL CONSIDERATIONS OF CONSTRUCTION - SUCH AS NOISE OPERATION, INTERRUPTION OF ANY MECHANICAL AND/OR ELECTRICAL SERVICES, MATERIAL DELIVERIES AND STORAGE, STAGING AREA OR CRANE LIFTS WITH THE OWNER PRIOR TO THE START OF THE WORK.
5. CONTRACTOR SHALL COORDINATE WITH AN OWNER REPRESENTATIVE FOR THE TEMPORARY REMOVAL OF FENCE, LANDSCAPING, AND ANY EXPECTED DAMAGE TO ACCESS ROAD OR ADJACENT REPAIR OF PROPERTY PRIOR TO COMMENCING THE WORK.
6. THE CONTRACTOR SHALL COORDINATE WORK HOURS & STAGING AREAS WITH OWNER.
7. CONTRACTOR TO NOTIFY PROPERTY OWNER OF CONSTRUCTION START DATE WELL IN ADVANCE OF CONSTRUCTION.

DEMOLITION SPECIFICS:

1. GENERAL CONTRACTOR IS TO DEMOLISH AND REMOVE FROM SITE (AND DISPOSE OF APPROPRIATELY) ALL ITEMS NOTED FOR DEMOLITION IN THE ARCHITECTURAL, CIVIL, ELECTRICAL, AND/OR STRUCTURAL DRAWINGS, INCLUDING BELOW GRADE FOUNDATION AND STRUCTURES. CONTRACTOR SHALL COORDINATE WITH THE OWNER REPRESENTATIVE THE DISPOSAL OF EQUIPMENT & MATERIALS.

2. GENERAL CONTRACTOR IS TO EXERCISE UTMOST CARE DURING DEMOLITION, AND PROMPTLY INFORM THE ENGINEER OF ANY DEVIATION TO THE EXISTING STRUCTURE FROM WHAT IS SHOWN IN THESE PLANS PRIOR TO PROCEEDING WITH THE WORK.

3. GENERAL CONTRACTOR IS SOLELY RESPONSIBLE FOR THE SHORING, BRACING, PROVIDING LATERAL SUPPORT, AND FOR MAINTAINING THE INTEGRITY OF THE EXISTING STRUCTURE DURING ALL PHASES OF THE DEMOLITION AND CONSTRUCTION, AND SHALL PROVIDE, IF REQUIRED, SIGNED & SEALED SHOP DRAWINGS, BY A REGISTERED PROFESSIONAL ENGINEER, FOR THE SHORING OF ALL WALLS, BEAMS, SLABS, ROOF JOISTS, OR OTHER ELEVATED STRUCTURAL ITEMS, THAT ARE HAVING THE SUPPORT BELOW NOTED FOR DEMOLITION.

CUTTING AND PATCHING:

1. MAKE OPENINGS OF PROPER SIZE FOR CONDUIT, DUCTS, PIPES, AND OTHER ITEMS PASSING THROUGH OPENINGS. MAKE SURE ALL NEW HOLES OR OPENINGS BE WEATHER TIGHT, OR ARE SAFE AS REQUIRED BY LOCAL BUILDING CODES & ORDINANCES.
2. PREPARE, SUBMIT AND RECEIVE APPROVAL OF SLEEVES AND OPENING DRAWINGS BEFORE LOCATING SLEEVES AND OPENINGS IN NEW CONSTRUCTION AND BEFORE DRILLING EXISTING STRUCTURE. SHOW EACH OPENING AND SLEEVE IN THE ENTIRE PROJECT.

CLEARING AND GRUBBING:

1. CLEARING OF TREES AND VEGETATION ON THE SITE SHOULD BE HELD TO A MINIMUM. ONLY THE TREES NECESSARY FOR THE CONSTRUCTION OF THE FACILITY SHALL BE REMOVED. ANY DAMAGES TO PROPERTY OUTSIDE THE CONSTRUCTION UNIT SHALL BE REPAIRED OR REPLACED AT THE CONTRACTORS' EXPENSE. OBTAIN PERMIT FOR TREE REMOVAL, IF REQUIRED.
2. THE CONTRACTOR SHALL PROTECT EXISTING TREES, VEGETATION, LANDSCAPING MATERIALS, AND SITE IMPROVEMENTS NOT SCHEDULED FOR CLEARING OR REMOVAL, WHICH MIGHT BE DAMAGED BY CONSTRUCTION ACTIVITIES.
3. TRIM EXISTING TREES AND VEGETATION AS RECOMMENDED BY THE ARBORIST FOR PROTECTION DURING CONSTRUCTION.

EXCAVATION AND BACKFILL:

1. ALL SUITABLE BORROW MATERIAL FOR BACKFILL OF THE SITE SHALL BE INCLUDED IN THE BID. EXCESS TOPSOIL AND UNSUITABLE MATERIAL SHALL BE DISPOSED OF OFF SITE AT LOCATION APPROVED BY GOVERNING AGENCIES PRIOR TO DISPOSAL.
2. ALL SITE FILL SHALL MEET SELECTED FILL STANDARDS AS DEFINED BY THE LOCAL OR STATE PUBLIC ROAD REQUIREMENTS, AS APPLICABLE, OWNER'S REPRESENTATIVE, OR GEOTECHNICAL REPORT RECOMMENDATIONS - WHICHEVER IS MORE STRINGENT.
3. THIS PROJECT INCLUDES:
 - . EXCAVATION, TRENCHING, FILLING, COMPACTING, AND GRADING FOR SITE IMPROVEMENTS AND UTILITIES.
 - . ALL MATERIALS FOR SUBBASE, DRAINAGE FILL, BACK FILL, AND GRAVEL FOR SLABS, PAVEMENT, AND IMPROVEMENTS.
 - . SUPPLY OF ADDITIONAL MATERIALS FROM OFF SITE AS REQUIRED.
 - . REMOVAL AND LEGAL DISPOSAL OF EXCAVATED MATERIALS AS REQUIRED.
4. ALL LAYERS THAT REQUIRE COMPACTION SHALL HAVE A MAXIMUM THICKNESS OF 6 INCHES.
5. THE COMPACTING UNDER STRUCTURES, PAVEMENT, AND WALKWAYS SHALL BE 95% MAXIMUM DENSITY, ASTM D-1557, IN EACH OF THE EXISTING LAYERS OF EACH COMPACTING SITE, AND AT LEAST EACH 1000CU. PER YARD OF MATERIAL VOLUME UNLESS OTHERWISE REQUIRED BY APPLICABLE LOCAL, ROAD CONSTRUCTION STANDARDS.
6. THE COMPACTING UNDER LAWNS OR UNPAVED AREAS SHALL BE 85% MAXIMUM DENSITY, ASTM D-1557.
7. AREAS THAT DO NOT MEET ASTM 0-1557 REQUIREMENTS MUST BE RECOMPACTED AT THE CONTRACTORS' EXPENSE.
8. ALL TRENCH EXCAVATIONS AND ANY REQUIRED SHEETING AND SHORING SHALL BE DONE IN ACCORDANCE WITH OSHA REGULATIONS FOR CONSTRUCTION.

DRAINAGE:

1. THE CONTRACTOR IS RESPONSIBLE FOR MAINTAINING EXISTING DRAINAGE. ANY FROM BUILDING AND EQUIPMENT ON THE SITE AT ALL TIMES. THE PERMANENT CONTROL SHALL BE MAINTAINED ON THE SITE AT ALL TIMES. ANY DAMAGE TO EXISTING PROPERTIES WILL BE CORRECTED AT THE CONTRACTORS' EXPENSE. SEDIMENT CONTROL MEASURES SHALL BE REMOVED AND THE SITE AREA RESTORED PRIOR TO COMPLETION OF WORK, UPON APPROVAL OF THE PERMIT INSPECTOR.

2. THE CONTRACTOR SHALL BE RESPONSIBLE FOR DEMATERING, AND THE MAINTENANCE OF SURFACE DRAINAGE DURING THE COURSE OF WORK.

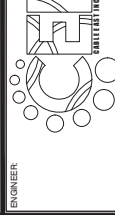
3. ANY DRAIN, FIELD TILE, OR DRAINAGE STRUCTURE ENCOUNTERED DURING CONSTRUCTION SHALL BE RETURNED TO ITS ORIGINAL OR BETTER CONDITIONS AFTER CONSTRUCTION, AND BE NOTED ON THE RECORD DOCUMENTS.

INSPECTIONS:

1. DURING AND UPON COMPLETION OF WORK, ARRANGE AND PAY ALL ASSOCIATED INSPECTIONS OF ALL WORK INSTALLED UNDER THIS CONTRACT AND IN ACCORDANCE WITH THE CONDITIONS OF THE CONTRACT.
2. INSPECTIONS REQUIRED: AS PER THE LAWS AND REGULATIONS OF THE LOCAL AND/OR STATE AGENCIES HAVING JURISDICTION AT THE PROJECT SITE.
3. INSPECTION AGENCY: APPROVED BY THE LOCAL MUNICIPALITY OR STATE AGENCIES HAVING JURISDICTION AT THE PROJECT SITE.

PROJECT INFORMATION:

1. THIS IS AN UNMANNED FACILITY AND WILL BE USED FOR THE TRANSMISSION OF RADIO SIGNALS FOR THE PURPOSE OF PROVIDING PUBLIC CELLULAR SERVICE.
2. THIS EQUIPMENT FACILITY WILL BE SERVICED ONLY BY CROWN CASTLE EMPLOYEES AND SUBCONTRACTORS - THE WORK ASSOCIATED WITH ANY EQUIPMENT CANNOT BE PERFORMED BY HANDICAPPED PERSONS. THIS FACILITY WILL ONLY BE FREQUENTED BY SERVICE PERSONNEL FOR REPAIR PURPOSES ONLY.
3. NO POTABLE WATER SUPPLY IS TO BE PROVIDED AT THIS LOCATION.
4. NO WASTEWATER, AND NO SOLID WASTE, WILL BE GENERATED AT THIS LOCATION.



OWNER/DEVELOPER:
CROWN CASTLE FIBER LLC
2727 Briarberry Cir
BIRMINGHAM, ALABAMA
JEFFERSON COUNTY

REV#	DATE	DESCRIPTION	BY
01	10/26/2021	PER VESTAVIA HILLS REVIEW	DP

CHECKED BY	DATE	APPROVED BY
DP	AT	-

PROJECT NUMBER	FILE NAME	DATE DRAWN	SCALE	SHEET
68-3559	BRM310	10/26/2021	AS SHOWN	SP-01

GENERAL ELECTRICAL NOTES:

1. ALL ELECTRICAL WORK SHALL CONFORM TO THE NATIONAL ELECTRICAL CODE (EDITION ADOPTED BY LOCAL JURISDICTION) AND APPLICABLE LOCAL CODES.
2. GROUNDING SHALL COMPLY WITH ARTICLE 250 OF THE NATIONAL ELECTRIC CODE.
3. ALL ELECTRICAL EQUIPMENT AND ACCESSORIES SHALL BE U.L. APPROVED OR LISTED.
4. ALL POWER WIRING SHALL BE STRANDED COPPER, TYPE THHN/THHW, AND 90° C RATED.
5. GROUNDING ELECTRODE CONDUCTORS SHALL BE BARE, TIN COATED COPPER, AND EQUIPMENT GROUND CONDUCTORS SHALL BE GREEN INSULATED, UNLESS OTHERWISE NOTED.
6. ALL POWER WIRING SHALL BE INSTALLED IN GALVANIZED RIGID STEEL CONDUIT, PVC, OR FLEXIBLE LIQUID TIGHT CONDUIT, AS INDICATED.
7. CONTRACTOR SHALL OBTAIN ALL PERMITS, PAY PERMIT FEES, AND SCHEDULE INSPECTIONS.
8. CONTRACTOR SHALL APPLY FOR ELECTRICAL SERVICE AS SOON AS POSSIBLE, AND COORDINATE REQUIREMENTS, SERVICE ROUTING, AND METER SOCKET TYPE WITH LOCAL POWER COMPANY.
9. CONTRACTOR SHALL APPLY FOR TELEPHONE SERVICE AS SOON AS POSSIBLE, AND COORDINATE REQUIREMENTS AND SERVICE ROUTING WITH TELEPHONE COMPANY.
10. PROVIDE ALL LABOR AND MATERIAL DESCRIBED ON THIS DRAWING, AND ALL ITEMS INCIDENTAL TO COMPLETING AND PRESENTING THIS PROJECT AS FULLY OPERATIONAL.
11. WHERE LONG POWER CABLE RUNS PREVAIL, CONTRACTOR SHALL CALCULATE THE VOLTAGE DROP, SIZE WIRES, AND CONDUIT ACCORDINGLY.
12. WHERE TRANSFORMER IS REQUIRED FOR ELECTRICAL SERVICE, TRANSFORMER SECONDARY SHALL BE GROUNDED PER N.E.S.C. ARTICLE 250-28.
13. REFER TO SITE SPECIFIC DRAWINGS FOR ELEVATIONS.
14. ALL ELECTRICAL DEVICES EXPOSED TO WEATHER SHALL BE OF RAINPROOF CONSTRUCTION AND SHALL REQUIRE WATER TIGHT CONDUIT HUBS. NEMA 3R TYPICAL.
15. CONTRACTOR SHALL COIL CABLES AT HANDHOLE WITH LENGTHS AS REQUIRED BY ELECTRICAL UTILITY FOR CONNECTION.
16. ALL UNDERGROUND SERVICE ENTRANCE POWER CABLES SHALL BE OF THE TYPE FOR SUCH USE. CONTRACTOR SHALL CALCULATE VOLTAGE DROP AND RE-SIZE CABLES PER N.E.S.C. REQUIREMENTS FOR CABLE RUNS EXCEEDING 250 FEET.

POWER CABLE AND SERVICE:

1. CONTRACTOR SHALL PROVIDE CONDUIT AND WIRING, AND VERIFY EXACT CONDUIT ROUTING, RACEWAY SYSTEM MATERIALS AND DEVICES FURNISHED SHALL BE IN ACCORDANCE WITH APPLICABLE STANDARDS OF ANSI, NEMA, AND UL. RACEWAY SYSTEM COMPONENTS SHALL BE INSTALLED IN ACCORDANCE WITH APPLICABLE REQUIREMENTS OF THE N.E.S.C.
2. CONTRACTOR SHALL SEAL AROUND ALL CONDUIT PENETRATIONS THROUGH WALLS, FLOORS, AND ROOFS TO PREVENT MOISTURE PENETRATION OR VERMIN INFESTATION.
3. CONDUCTORS RUNNING ALONG HORIZONTAL SURFACES (ROOFTOP OR SLAB) SHALL BE INSTALLED IN RIGID CONDUIT SUPPORTED ON ELECTRICAL CONDUIT SUPPORT.
4. ALL VERTICAL RUNS OF POWER CABLE EXCEEDING 80 FEET IN LENGTH SHALL BE SUPPORTED PER N.E.S.C. ARTICLE 300 USING KELLEMS GRIPS OR ACCEPTABLE EQUAL CABLE SUPPORT SYSTEM.
5. WHERE A SEPARATE ELECTRICAL SERVICE DROP IS ADDED, CONTRACTOR SHALL INSTALL PERMANENT SERVICE DISCONNECT OR GROUPING THEREOF, DENOTING ALL OTHER SERVICE ENTRANCES, LOCATIONS OF EACH, AND THE AREAS SERVED BY EACH.
6. WHERE ELECTRICAL POWER IS TO BE SUB-FED FROM AN EXISTING DISTRIBUTION SYSTEM, THE FOLLOWING SHALL APPLY:
 - A. CONTRACTOR SHALL PERFORM LOAD TESTING TO DETERMINE MAXIMUM FEEDER DEMAND PER N.E.S.C. ARTICLE 220-35.
 - B. CONTRACTOR SHALL VERIFY THE EXISTING FEEDER CAPACITY VALUE CALCULATED PER N.E.S.C. ARTICLE 220-35.
 - C. CONTRACTOR SHALL VERIFY THE EXISTING FEEDER INTERLOCKING AND PROTECTIVE DEVICES PER N.E.S.C. ARTICLE 220-35.
 - D. PREFERRED MEANS OF SUPPLY SHALL BE A BRANCH CIRCUIT PROTECTIVE DEVICE LOCATED IN EXISTING PANEL.
 - E. IF A BRANCH CIRCUIT PROTECTIVE DEVICE CANNOT BE OBTAINED, OR SPACE IS NOT AVAILABLE, A BRANCH CIRCUIT MAY BE TAPPED TO THE EXISTING FEEDER USING THE FOLLOWING METHODS:
 1. USE OF A BRANCH CIRCUIT INTERRUPTER (BCI) USED DISCONNECTED FROM THE FEEDER INTERRUPTING RATING AS LISTED (100 AMP MAXIMUM). THE CONDUCTORS, TUBED DISCONNECT SHALL BE LISTED SAME OR BETTER INTERRUPTING RATING AS EXISTING SOURCE OF SUPPLY.

RF (COAX) AND LOW VOLTAGE CABLE:

1. RF CABLES AND LOW VOLTAGE CABLING BETWEEN EQUIPMENT AND ANTENNA SHALL BE SUPPORTED USING ANDREW "SNAP-IN" HANGERS OR ACCEPTABLE EQUAL.

IDENTIFICATION:

1. LOCATE NAMEPLATE, MARKING, OR OTHER IDENTIFICATION MEANS ON OUTSIDE EQUIPMENT OR BOX FRONT COVERS.
2. PROVIDE NAMEPLATE ENGRAVED WITH EQUIPMENT DESIGNATION FOR EACH SAFETY SWITCH, AND ALL OTHER ELECTRICAL CABINETS, ETC.
3. DURING TRENCH BACK-FILLING FOR EACH UNDERGROUND ELECTRICAL, TELEPHONE, SIGNAL, AND COMMUNICATIONS LINE, PROVIDE A CONTINUOUS UNDERGROUND WARNING TAPE TWELVE INCHES BELOW FINISHED GRADE.

GENERAL GROUNDING NOTES:

1. INSTALLATION OF GROUNDING-ELECTRODE SYSTEM SHALL COMPLY WITH ARTICLE 250 OF THE NATIONAL ELECTRIC SAFETY CODE AND WITH ALL BUILDING CODES OF AUTHORITIES HAVING JURISDICTION.
2. GROUNDING CONDUCTORS SHALL BE #2 AWG TINNED SOLID BARE COPPER BELOW AND ABOVE GRADE. UNLESS OTHERWISE NOTED, AND SHALL BE ROUTED IN A DOWNWARD PATH TOWARDS GROUND BARS.
3. GROUNDING CONDUCTORS SHALL BE KEPT AS SHORT AND DIRECT AS POSSIBLE WITH A MINIMUM BEND RADIUS OF 12 INCHES.
4. ALL BELOW GRADE CONNECTIONS SHALL BE CADWELD TYPE CONNECTIONS AND ALL CONNECTIONS TO EQUIPMENT AND GROUND BARS SHALL BE 2-HOLE BRONZE COMPRESSION CONNECTIONS, UNLESS OTHERWISE NOTED.
5. CONTRACTOR SHALL INSTALL NEW GROUNDING SYSTEM PER SPECIFICATIONS, AND INTERCONNECT NEW SYSTEMS TO ANY EXISTING GROUNDING SYSTEMS AS REQUIRED BY NFPA 70 AND 780 (THIS APPLIES TO ELECTRICAL POWER DISTRIBUTION GROUNDING SYSTEM, LIGHTNING PROTECTION GROUNDING SYSTEM, COAX CABLE GROUNDING SYSTEM, AND ANY OTHER EXISTING GROUNDING SYSTEMS).
6. GROUNDING CONDUCTORS SHALL BE BONDED TO ANTENNA FRAME, AND ANY SUPPORT FRAMES OR RACKS USING CADWELD OR MECHANICAL CONNECTIONS.
7. CONTRACTOR SHALL PROVIDE LOCK WASHERS FOR ALL MECHANICAL CONNECTIONS FOR GROUND CONDUCTORS, STAINLESS STEEL HARDWARE SHALL BE USED THROUGHOUT.
8. GROUNDING CONDUCTORS EMBEDDED IN CONCRETE OR PENETRATING WALLS AND FLOORS BE ENCASED IN PVC CONDUIT. NO METALLIC CONDUIT SHALL BE USED FOR GROUNDING CONDUCTORS, UNLESS REQUIRED BY LOCAL CODES OR OTHERWISE INDICATED ON DRAWINGS. CONTRACTOR SHALL SEAL AROUND ALL CONDUIT PENETRATIONS TO PREVENT MOISTURE PENETRATION AND VERMIN INFESTATION.
9. CONTRACTOR SHALL BOND GROUNDING SYSTEM VIA THE MASTER GROUND BAR TO ALL METAL OBJECTS WITHIN 12 FEET OF EQUIPMENT, CONDUIT, AND CABLES.
10. BONDING OF GROUNDED CONDUCTOR (NEUTRAL) AND GROUNDING CONDUCTOR SHALL BE AT SERVICE DISCONNECTING MEANS, BONDING JUMPER SHALL BE INSTALLED PER N.E.S.C. ARTICLE 250-28.
11. CONTRACTOR SHALL VERIFY EXACT CONDUIT ROUTING FOR GROUNDING CONDUCTORS WHERE APPLICABLE.
12. CONDUIT SHALL BE ARRANGED IN THE FOLLOWING THREE GROUPS:
 - SURGE PRODUCERS (COAXIAL CABLE GROUND KITS, TELCO CABINET, AND POWER PEDESTAL GROUND).
 - NON-SURGING OBJECTS (EGB GROUND IN BITS).
 - NON-SURGING OBJECTS (EGB GROUND IN BITS).
13. DOUBLING OR STACKING OF ANY GROUNDING CONNECTIONS IS NOT ACCEPTABLE.
14. ALL GROUND BARS SHALL BE INSTALLED WITH STAND OFF INSULATORS.

PREPARATION:

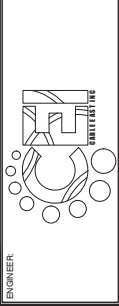
1. SURFACES: ALL CONNECTIONS SHALL BE MADE TO BARE METAL. ALL PAINTED SURFACES SHALL BE FIELD INSPECTED TO ENSURE PROPER CONTACT. ALL GALVANIZED SURFACES ON WHICH GALVANIZING HAS BEEN REMOVED BY CUTTING, DRILLING, OR ANY OTHER OPERATION SHALL BE RE-GALVANIZED IN ACCORDANCE WITH ASTM A780 USING "ZINC RICH" COATING AS MANUFACTURED BY ZRC CHEMICAL COMPANY (LOCATED ON QUINCY, MASSACHUSETTS), OR ACCEPTABLE EQUAL. NO WASHERS ARE ALLOWED BETWEEN ITEMS BEING GROUNDED. ALL CONNECTIONS ARE TO HAVE A NON-OXIDIZING AGENT ("COPPER SHIELD") APPLIED PRIOR TO INSTALLATION.
2. GROUND BAR: ALL COPPER GROUND BARS SHALL BE CLEANED, POLISHED, AND A NON-OXIDIZING AGENT ("COPPER SHIELD") APPLIED. NO FINGER PRINTS OR DISCOLORED COPPER SHALL BE PERMITTED.

LAND BUILDS AND CO-LOCATE:

1. THE GROUND ELECTRODE SYSTEM SHALL CONSIST OF DRIVEN GROUND RODS UNIFORMLY SPACED AROUND THE EQUIPMENT FOUNDATION AND AROUND THE PERIMETER OF THE TOWER FOUNDATION. THE GROUND RODS SHALL BE A 85% x 10'-0" COPPER CLAD STEEL ROD WITH A MINIMUM OF 10 FEET OF EXPOSED LENGTH. THE SURFACE OF THE SOIL A MINIMUM OF 1 FOOT AND A MAXIMUM OF 3 FEET CLEARANCES SHALL BE MAINTAINED FROM FOUNDATIONS, TOWER AND EQUIPMENT GROUND RINGS SHALL BE INTERCONNECTED WITH TWO GROUNDING CONDUCTORS OF EQUAL LENGTH AND MATERIALS.
2. GROUND RODS SHALL BE BONDED TO GROUND RINGS AND INTERCONNECTING CONDUCTORS AT EQUAL INTERVALS OF APPROX. 10 FEET.
3. GROUND BARS SHALL BE BONDED TO GROUND RING WITH SINGLE GROUNDING CONDUCTOR.
4. BONDS TO ANTENNA MASTS, FENCE POSTS, WAVEGUIDE BRIDGE, TOWER STEEL (UNLESS PROHIBITED BY TOWER MANUFACTURER) AND THOSE BELOW GRADE SHALL BE EXOTHERMIC TYPE (CADWELD). ALL OTHER BONDS SHALL BE BRONZE 2-HOLE COMPRESSION FITTINGS UNLESS OTHERWISE NOTED.
5. GROUNDING CONDUCTORS MAKING A TRANSITION FROM ABOVE TO BELOW GRADE SHALL BE INSULATED FROM EARTH CONTACT BY PASSING THROUGH PVC CONDUIT. THE CONDUIT SHALL EXTEND AT LEAST 6 INCHES ABOVE AND 12 INCHES BELOW GRADE LEVEL.

GROUNDING REQUIREMENTS:

1. CONTRACTOR SHALL INSPECT AND TEST ANY NEW OR EXISTING COI GROUNDING SYSTEM WITH A BIDDLE-MEGER TESTER UTILIZING THE ALL POTENTIAL METHOD. CONTACT CONSTRUCTION MANAGER RE RESISTANCE EXCEEDS 5 OHMS, AND SHALL FIELD VERIFY CORRECTING WORKING NECESSARY TO ACHIEVE COMPLIANCE. TEST RESULTS AND CONCLUSIONS SHALL BE RECORDED FOR PROJECT CLOSE-OUT DOCUMENTATION.
2. COAX CABLE OUTER CONDUCTORS (SHIELDS) SHALL BE GROUNDED USING COAX GROUNDING KITS AT A MINIMUM OF TWO POINTS INCLUDING AT ANTENNA AND AT MASTER GROUND BAR. THE COAXIAL CABLE SHALL NOT EXCEED 100 FEET BETWEEN GROUNDING KITS.



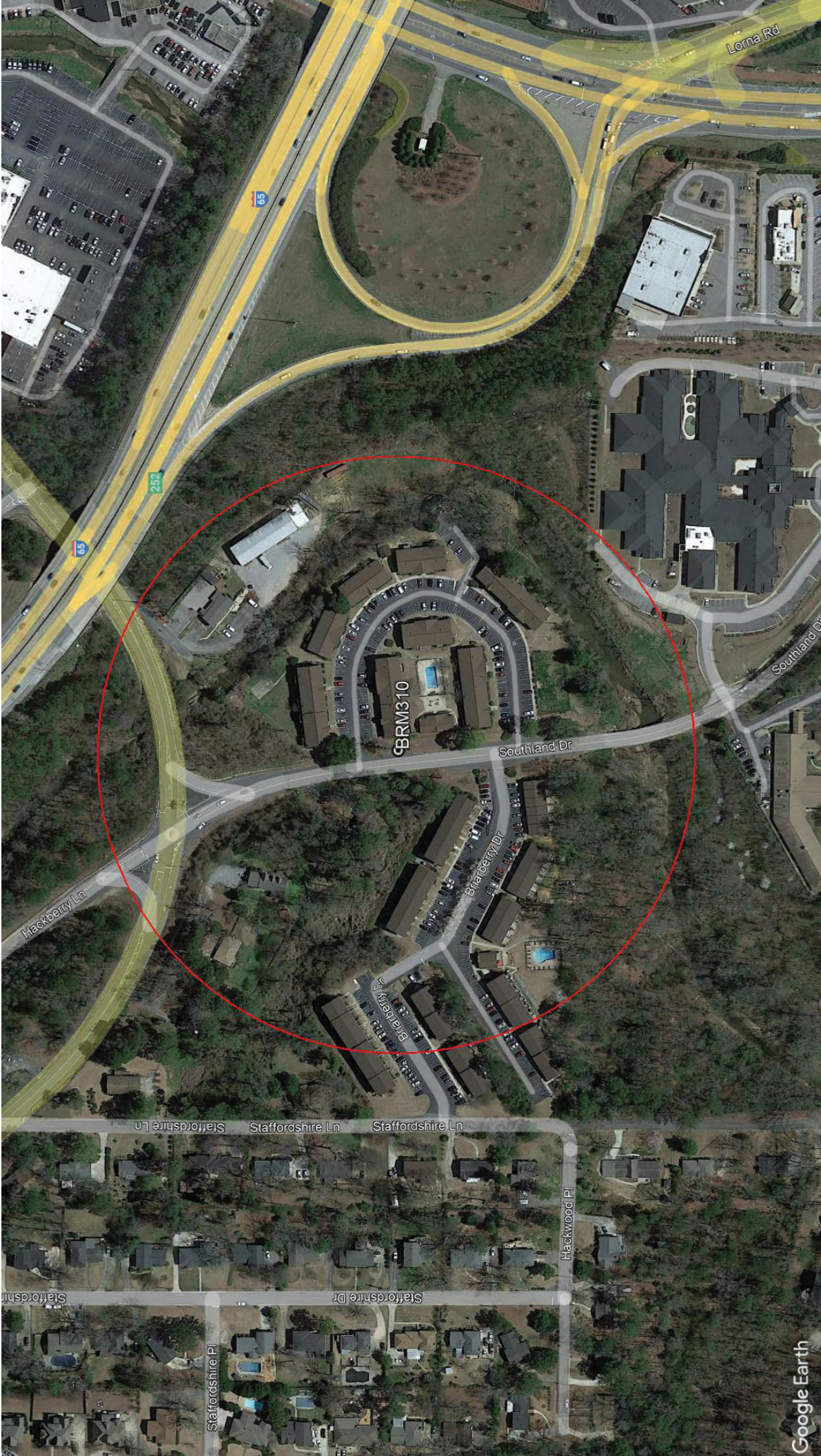
ENGINEER
 TITLE: ENGINEER
 FIRM: CROWN CASTLE FIBER LLC
 ADDRESS: 2727 Briarberry Cir
 BIRMINGHAM, ALABAMA
 JURISDICTION: CITY OF VESTAVIA HILLS
 JEFFERSON COUNTY



OWNER/DEVELOPER:
 TITLE: CROWN CASTLE FIBER LLC
 ADDRESS: 2727 Briarberry Cir
 BIRMINGHAM, ALABAMA
 JURISDICTION: CITY OF VESTAVIA HILLS
 JEFFERSON COUNTY

REVISION	DATE	DESCRIPTION	BY	DP
		PER VESTAVIA HILLS REVIEW		

DRAWN BY		CHECKED BY	
DP		AT	
PROJECT NUMBER	68-3559		
FILE NAME	BRM310		
DATE DRAWN	10/28/2021		
SCALE	AS SHOWN		
SHEET	SP-02		





BRV310

Southland Dr

Barberry Dr

20 Westgate

Staffordshire Ln

Staffordshire Ln

Staffordshire Ln

Hackwood Pl

Google Earth

ORDINANCE NUMBER 3088

AN ORDINANCE GRANTING A FRANCHISE AGREEMENT WITH C SPIRE

FRANCHISE AGREEMENT

THIS FRANCHISE AGREEMENT, by and between the **CITY of VESTAVIA HILLS, ALABAMA**, a municipal corporation (hereinafter referred to as the “City”), and **TELEPAK NETWORKS, INC.**, a Mississippi corporation, individually and through its wholly owned subsidiary, **TEKLINKS, INC.**, a Delaware corporation, both doing business as **C SPIRE BUSINESS**, whose address is **1018 Highland Colony Parkway, Suite 400, Ridgeland, Mississippi 39157** (hereinafter referred to as the “Franchisee”).

WHEREAS, the City has and reserves the right to exercise control over the highways, streets, alleys and public places and to require City’s consent prior to using such highways, streets, alleys and public places; and

WHEREAS, State law confers to the City certain rights and requirements for franchises and permission to use the public ways of City; and

WHEREAS the Franchisee has requested from the City a franchise to use the streets and public ways of the City to construct, maintain and operate a Telecommunications System (as defined in Section 1(b)) to provide the Services (as defined in Section 1(b)); and

WHEREAS the City and the Franchisee have negotiated this Franchise Agreement which is mutually agreeable to both parties.

NOW, THEREFORE, in consideration of the mutual covenants contained herein and intending to be legally bound thereby, the City and the Franchisee enter into this Franchise Agreement and agree as follows:

SECTION 1. GRANT OF NON-EXCLUSIVE FRANCHISE.

(a) A non-exclusive franchise is hereby granted to the Franchisee to construct, maintain and operate in, over, under, across and through the public rights-of-way of the City of Vestavia Hills, Alabama, a Telecommunications System to provide the Services within the City of Vestavia Hills, Alabama and any future additions thereto. The grant of this non-exclusive franchise is for the use by the Franchisee for the purpose of providing the Services, including dark fiber, within the City of Vestavia Hills as a "competitive access provider" which directly connects customers within the City of Vestavia Hills with other businesses, local area networks, a local exchange carrier and interexchange carriers and for such other telecommunications-related services, including, but not limited to local exchange and enhanced services, as may be authorized by the Alabama Public Service Commission (“PSC”) or federal law, but excluding Cable Services over a Cable System (as both terms are defined in the Cable Communications Policy Act of 1984, as amended (47 USC §521 *et seq.*) (the “Cable Act”). The Franchisee shall not operate a Cable System or provide Cable Services in the City without first having obtained a separate cable franchise or video services

agreement from the City. The Franchisee shall not provide services directly regulated by the PSC unless authorized by the PSC to do so. The Franchisee is permitted to operate a "Telecommunications System," defined as Franchisee's Facilities (as defined in Section 1(d)) within the City consisting of a set of fiber optic cables and associated signal generation, reception and control equipment or other communications equipment and facilities used to provide the Services to subscribers in the City.

(b) As used herein, the term "Telecommunications Service" has the meaning given to it by the Communications Act of 1934, as amended (47 U.S.C. § 153) (the "Communications Act"), but excludes Other Services. The term "Other Services" means "information services," as defined in the Communications Act, as well as other communications services but excluding Cable Service lawfully provided by the Franchisee in addition to and separate from Telecommunications Services, including, without limitation, private network services, broadband services, Internet access services, voice mail, call waiting, call forwarding, conference calling, voice-over-Internet-protocol, dark fiber and distance learning services. The term "Services" means, collectively, Telecommunications Services and Other Services. The Services do not include Cable Services. The Franchisee shall not operate a Cable System or provide Cable Service within the City without first having obtained a separate cable franchise or video services agreement from the City.

(c) This franchise shall continue in full force and effect for an initial term of ten (10) years (the "Initial Term") beginning on the Effective Date (as defined in Section 31), and the Initial Term of this Franchise Agreement shall be renewed automatically for one (1) successive term of ten (10) years (the "Renewal Term" and collectively with the Initial Term, the "Term"), on the same terms and conditions set forth herein, provided that statutory authority shall exist for the City of Vestavia Hills to renew this franchise. New terms and conditions may be required by either party for the Renewal Term if the telecommunications and broadband technology and rights-of-way laws change after the Effective Date of this franchise ordinance and such change substantially affects service types, availability, character of service, system technology, franchise fees or the regulatory environment. New terms, provisions, or conditions may also be negotiated by either party for the Renewal Term which are applicable generally to other franchisees for similar services or applicable generally to the industry to clarify the intent of this franchise, which may arise from any unforeseen circumstances or interpretations of this franchise, and/or which are based on the history of performance of the Franchisee. The parties agree to negotiate new terms and conditions in good faith. Nothing in this Section is intended to expand or contract any rights that the Franchisee may have as a matter of state or federal law to obtain a franchise from City. Any further renewals shall be in accordance with applicable laws.

(d) When used herein, the term "Facilities" shall mean all or any part of a network of fiber optic cables and all related property, including but not limited to, fiber optic wires, wires, telecommunications, amplifiers, electronics, transmission and reception equipment, supporting hardware, conduit, carrier pipe, fiber optic cables, poles, handholes, manholes, repeaters, power sources, and other attachments and appurtenances necessary for the Franchisee's Telecommunications System and located within the City's rights of way. For the purposes of this Franchise Agreement, the term Facilities excludes "microcell" facilities, "small cell facilities," "macro cell" facilities, and other similar wireless facilities, including towers and new base stations and other similar facilities used for the provision of "personal wireless services" as such terms are

defined in the Communications Act and in the City of Vestavia Hills's Small Cell Ordinance, as amended.

SECTION 2. GENERAL TERMS. The Franchisee, for the Term of this franchise and for the purposes hereinabove expressed, shall have the privilege to construct, operate and maintain Facilities and to make any and all necessary excavations therefor, in, over, under, across and through all or any of the portions of the streets, alleys, avenues or public ways of the City of Vestavia Hills, and to utilize, with permission of the affected utility companies, their facilities within public rights-of-way for the purpose of installing and operating a Telecommunications System within the City of Vestavia Hills, to be exercised in such manner only, however, as to offer the least interference with the public use of said streets, alleys, avenues and public ways; and the Franchisee shall be subject to and shall comply with all laws and ordinances of the City of Vestavia Hills and shall be further subject to and shall comply with all rules, regulations and other restrictions of the City of Vestavia Hills set forth herein. The granting of this franchise shall not prohibit the City from granting other non-exclusive franchises or otherwise allowing or making other uses of the City's rights-of-way. The granting of this franchise shall in no way interfere with or hinder the use by the City of the rights-of-way for any purpose.

SECTION 3. SCOPE OF FRANCHISE. The franchise hereby granted shall extend to and include all portions of streets, alleys, avenues and other public ways that conform to the General Terms set forth in Section 2, above, as may be necessary to carry out the purpose of this franchise.

SECTION 4. INDEMNIFICATION. (a) The Franchisee hereby agrees to indemnify, defend and hold harmless the City, its Mayor and Council, CityManager, appointed boards and commissions, officials, officers, employees (collectively, the City's "Representatives") and insurance carriers, individually and collectively, from all losses, damages, claims, suits, judgments, demands, expenses, subrogation, attorney's fees, costs or actions of any kind and nature (collectively, "Losses") resulting from the Franchisee's or its agent's or contractor's installation, operation, repair or maintenance of the Telecommunications System or provision of the Service within the City. Without limiting the foregoing, it is agreed that the Franchisee shall indemnify, defend and hold harmless the City, its Mayor and Council, City Manager, appointed boards and commissions, officials, officers, employees and insurance carriers, individually and collectively, from all Losses resulting from personal injury to any person (including bodily injury and death), including employees of the Franchisee or of any contractor or subcontractor employed by the Franchisee, or damages to any property, arising out of the acts or omissions of the Franchisee, its contractors, subcontractors, officers, agents and employees while exercising any of the rights or privileges granted by this franchise. The amount and type of insurance coverage requirements set forth herein will in no way be construed as limiting the scope of indemnity in this Section. The terms and provisions of this Section are intended to be for the benefit of the City and the Franchisee and are not intended to be for the benefit of any third party. Notwithstanding the foregoing, the Franchisee shall not be obligated to indemnify the City, its Representative and insurance carriers, individually and collectively, for Losses resulting solely from the negligent or willful misconduct of the City or its Representatives.

(b) The City shall provide the Franchisee with prompt written notice of any claims for which the City or the aforementioned parties seeks indemnification from the Franchisee. The City shall afford the Franchisee the opportunity to participate in and control any compromise, settlement

or other resolution or disposition of any such claim or proceeding, and the City will cooperate with reasonable requests of the Franchisee in connection with any such compromise, settlement or resolution or other disposition of such claim or proceeding subject to this Section.

SECTION 5. CITY TAKING PART IN LITIGATION. The Franchisee shall promptly notify the City of any litigation which would affect this franchise. To the extent allowed by applicable law, the City shall have the right to take part, by intervention or otherwise at its option and at its sole cost, in any suit, action, or proceeding instituted by or against the Franchisee in which any judgment, decree, or order can be rendered affecting the rights, powers or duties of the Franchisee to do or not to do anything which, by its franchise, it is obligated or may be required to do or not to do or affecting, such as by foreclosure or lien, the Franchisee's title to any facility. The Franchisee shall not object to the City's exercise of such right.

SECTION 6. BOND. Franchisee shall obtain and maintain, or cause to be obtained and maintained, during the entire term of the franchise and any extensions and renewals thereof, at its cost and expense, and file with the City Clerk a corporate surety bond in the amount of Fifty Thousand Dollars (\$50,000), both to guarantee the timely construction and full activation of the Franchisee's Telecommunications System and to secure the faithful performance of the Franchisee of all its obligations provided under the franchise. Failure to timely obtain, file, assign and/or maintain said bond at all times at the required amount shall constitute a substantial violation of this Franchise Agreement.

The performance bond shall provide that:

(1) There shall be recoverable by the City, jointly and severally from the principal and surety any and all fines and penalties due to the City and any and all damages, losses, costs, and expenses suffered, incurred by or resulting from failure of the Franchisee to: faithfully comply with the provisions of the franchise; comply with all applicable orders, permits and directives of any City agency or body having jurisdiction over its acts or defaults; pay any claims, liens or taxes due to the City which arises from or by reason of the construction, operation, maintenance or repair of the Telecommunications System.

(2) The total amount of the bond shall be forfeited in favor of the City in the event:

- (a) The Franchisee abandons its Telecommunications System at any time during the Term of the franchise or extension thereof or ceases operation of the Telecommunications System for a period in excess of six (6) months not due to an Event of Force Majeure (as defined in Section 13(a)); and/or
- (b) The Franchisee assigns the franchise without the express written consent of the City, if such consent is required by the terms of this franchise, which consent shall not be unreasonably withheld.

The performance bond required herein shall be in a form satisfactory to the City Attorney. The surety bond shall at all times be maintained at the amount and levels as required in this Section and shall be a continuing obligation for the duration of the franchise and thereafter until the

Franchisee has liquidated all of its obligations with the City that may have arisen by reason of the construction, operation or maintenance of the Telecommunications System or breach or termination of the franchise. If the bond is drawn-down for any reason, the bond shall be renewed to the amounts required by the City.

The City shall notify the Franchisee in writing and allow the Franchisee thirty (30) days to cure, unless such time to cure is extended by the City Attorney, before calling the surety bond.

SECTION 7. INSURANCE REQUIREMENTS. On the Effective Date of this Franchise Agreement, Franchisee shall file with the City a certificate of insurance and thereafter continually maintain in full force and effect at all times for the full Term of the franchise, at the expense of Franchisee, a commercial general liability insurance policy, including coverage for explosion, collapse and underground, written by a company authorized to do business in the State of Alabama with a rating of at least A or higher, including the City as an additional insured as its interest may appear, protecting the City against liability for claims of bodily injury and property damage occasioned by the installation, removal, maintenance or operation of the Telecommunications System by the Franchisee in the following amounts:

- (1) Five Million Dollars (\$5,000,000) combined single limit per occurrence for bodily injury and for real property damage.
- (2) Five Million Dollars (\$5,000,000) general aggregate.

The policy must be on an “occurrence” basis.

The Franchisee shall also file with the City Clerk a certificate of insurance for a commercial automobile liability insurance policy written by a company authorized to do business in the State of Alabama with a Best Rating of at least A or higher, covering all owned, non-owned, hired and leased vehicles operated by Franchisee, with a combined single limit of One Million Dollars (\$1,000,000) each accident for bodily injury and property damage.

The Franchisee shall also maintain, and by its acceptance of any franchise granted hereunder, specifically agrees that it will continually maintain throughout the Term of the franchise, workers compensation coverage in compliance with the statutory requirements of the State of Alabama and employers liability with a limit of One Million Dollars (\$1,000,000) each accident/disease/policy limit.

The Franchisee shall maintain, during the course of this Agreement, Commercial Umbrella or Excess Liability Insurance to provide excess coverage above the Commercial Liability, Commercial Automobile Liability and the Employer’s Liability coverage of Worker’s Compensation with Excess/Umbrella Limits of \$5,000,000 per Occurrence and \$5,000,000 per Aggregate. The policy must be on an “occurrence” basis.

The commercial general liability and commercial automobile liability insurance and the Commercial Umbrella or Excess Liability insurance policy required pursuant to this Section shall include the City of Vestavia Hills and its Mayor, members of the City Council, City Manager,

officers, employees, board members and elected officials as additional insureds as their interests may appear under this Franchise Agreement and shall be kept in full force and effect by the Franchisee during the Term of the franchise and until after the removal of all poles, wires, cables, underground conduits, manholes and any other conductors and fixtures installed by the Franchisee incident to the maintenance and operation of the Telecommunications System; provided however, that any fiber optic cable and associated conduits, manholes, poles, wires, cables and other facilities which are provided to the City as part of this Franchise Agreement shall not be removed without the written consent of the City. Failure to obtain and maintain continuously the required insurance shall constitute a substantial violation of this Franchise Agreement. Upon receipt of notice from its insurer(s), Franchisee shall use commercially reasonable efforts to provide the City thirty (30) days' prior written notice of cancellation of any coverage required herein and shall promptly obtain replacement coverage as required by this Franchise Agreement.

The Franchisee agrees that should any of its Facilities installed pursuant to this franchise be damaged or destroyed or the network be disrupted or damaged by the City, its agents, employees, contractors or subcontractors, the Franchisee shall repair or replace such facilities at its own expense or with the proceeds of the insurance it maintains and shall waive any right, claim or action for damages or other available remedies which it may have against the City, its agents, employees, contractors or subcontractors. The foregoing sentence shall not extend to intentional, willful, negligent or malicious damage to the Franchisee's Facilities by City employees. The City will endeavor to use its best efforts to avoid damage to the Franchisee's Facilities, provided that the Franchisee participates in Alabama's 811 program.

During construction or maintenance, if the Franchisee or its employees damage or break any lines, cables, ducts, conduit or other facilities located in the City's rights-of-way, notice shall be given promptly to the affected third party and to the City.

SECTION 8. ASSIGNMENT. The Franchisee's interest in this Franchise Agreement shall not be sold, transferred, assigned or otherwise encumbered or disposed of, either by forced or voluntary sale or otherwise, without the prior written consent of the City Council, which consent shall not be unreasonably withheld. Notwithstanding the foregoing, however no consent shall be required (i) to transfer or assign this Franchise Agreement to any entity that controls, is controlled by, or is under common control with the Franchisee (with "control" meaning ownership of a majority interest or the actual working control and day to day management of Franchisee), (ii) for a transfer in trust, by mortgage, hypothecation, or by assignment of any rights, title or interest in Franchisee, in the Agreement, or in the Telecommunications System in order to secure indebtedness, provided, however, that any lender or creditor in such transaction must obtain the City's consent and approval as provided in this Section for any assignment of rights granted by this Franchise Agreement following such lender or creditor's exercise of any rights against the Franchisee upon the Franchisee's default, and (ii) a transfer of this Franchise Agreement in connection with the assignment, transfer or conveyance carried out as a part of a merger, restructuring or sale or transfer of all or substantially all of the assets of the Franchisee. The Franchisee will provide written notice to the City of any of the foregoing transfers for which the City's consent is not required.

(a) Except as set forth above, the rights granted by this Agreement or any interest therein shall not be assigned or transferred to any other unrelated entity without the express written consent of the City. A written copy of any such proposed assignment for which the City's consent is requested must be filed by the Franchisee with the City. The City reserves the right to be reimbursed by the Franchisee for reasonable costs incurred by it in reviewing the request for the City's consent to such assignment or transfer. Any required consent is to be evidenced by an ordinance of the City Council that fully recites the terms and conditions, if any, upon which consent is given. No assignment or transfer of the Franchise Agreement, as allowed hereunder, shall be effective unless and until the vendee or assignee has filed in the office of the City Clerk an instrument, duly executed, reciting the fact of such assignment or transfer, accepting the terms of this Franchise Agreement and agreeing to perform all the conditions thereof, and the City has approved said transfer in writing, which approval shall not be unreasonably withheld. The City shall take action on such request for approval of transfer within sixty (60) days of filing of all information required by this Section. This Section shall not apply in connection with execution of secured financing agreements made by the Franchisee or other transfers for which consent is not required as set forth above. In making a determination of whether to allow an assignment to an unrelated entity for which the City's consent is required, the City may consider any factors that the City deems necessary to make a determination concerning assignment of the Franchise Agreement, including, but not limited to, the following factors:

- (1) Experience of the proposed assignee or transferee (including conducting an investigation of proposed assignee's or transferee's service record in other communities);
- (2) Qualifications of the proposed assignee or transferee;
- (3) Legal integrity of the proposed assignee or transferee;
- (4) Financial ability and stability of the proposed assignee or transferee;
- (5) If requested by the City, submittals from the proposed assignee or transferee, regarding changes, if any, it intends to make in the operation and maintenance of the Telecommunications System;
- (6) The corporate connection, if any, between the Franchisee, and proposed assignee or transferee and/or between the Franchisee and any holder of a like franchise within the City;
- (7) Any other aspect of the proposed assignee's or transferee's background which could affect the health, safety, and welfare of the citizenry of the City as it relates to the operation of the Telecommunications System; or
- (8) Effect of the proposed action on competition.

A copy of the completed sales or transfer agreement, or a functionally equivalent instrument between the Franchisee and proposed assignee or transferee, shall be provided on a confidential basis to the City Attorney for review, so that the City may review the assumption of obligations of the Franchisee by the assignee with respect to the Telecommunications System. After receipt of the request for approval of a proposed transfer or assignment, the City may, as it deems necessary or appropriate, schedule a public hearing before the City Council on the request. Further, the City Council may review the Franchisee's performance under the terms and conditions of this Franchise Agreement. The Franchisee shall provide reasonably requested assistance to the City Council in connection with any such inquiry and, if requested by the City, shall use its best efforts to secure the cooperation and assistance of persons involved in said action. Should the Franchisee sell, assign, transfer, convey or otherwise dispose of any of its rights or interests under this Franchise Agreement or attempt to do so in violation of the requirements of this Section to obtain prior written consent, the City may revoke this Franchise Agreement for default and the purported sale, transfer, assignment or conveyance shall be null and void.

(b) The Franchisee shall notify any potential lessee of the necessity of obtaining a separate franchise from the City.

(c) A complete description of the ownership and control of the Franchisee as of January 1, 2021 in Exhibit 1 attached hereto.

SECTION 9. LOCATION AND CONSTRUCTION OF FACILITIES.

(a) Except as provided in Section 11, Facilities maintained or installed by the Franchisee within the City shall be so located and constructed as not to:

- (1) Interfere with usual travel (automotive and/or pedestrian) within the public rights-of-way;
- (2) Interfere with the rights or reasonable convenience of property owners who adjoin such public rights-of-way;
- (3) Interfere with access to or use of any water or fire hydrant;
- (4) Obscure the vision of or interfere with the installation of any traffic control device or traffic or information sign or signal;
- (5) Interfere with sight distance established by any ordinance or law;
- (6) Obscure the light from any street light;
- (7) Cross any water or sewer line except at a ninety degree (90°) angle, except in accordance with a specific permit for such crossing issued by the City;
- (8) Damage irrigation, landscaping or trees owned or maintained by the City;

(9) Damage any communications lines owned or maintained by the City.

(b) Placement of Facilities in the paved sidewalk area is prohibited unless authorized by the City.

(c) The City shall have authority to require the Franchisee to remove or relocate any Facility located in violation of this Section at the Franchisee's sole expense. Such relocation or removal shall be completed with thirty (30) days of written notice from the City. In the event that thirty (30) days is not sufficient, the Franchisee may in writing request an additional thirty (30) days to accomplish the relocation. The notice shall prescribe the area where the Facility is located and any other special conditions deemed necessary by the City.

(d) Map of Network. Upon request, the Franchisee shall provide the City with its fiber optics location data in digital files in AutoCAD or other industry standard reasonable formats described in Exhibit 2 hereto that are acceptable to the City. The City shall provide necessary data to serve as the base for the fiber optics location data. Specific data layers that make up the base shall be defined in discussions with the Franchisee. The fiber optics location data shall be returned to the City on the medium and in the format agreed to by the parties.

After construction of new network facilities or extensions of existing network facilities, as a separate requirement, the Franchisee shall develop as built drawings and maps in AutoCAD or other industry standard reasonable formats as requested by the City and be provided to the City in that format. A Professional Engineer seal or "P.E. stamp" shall not be required for such drawings.

(e) The Franchisee is under no obligation to build its Facilities to cover the entire City, or to serve any specific persons within the City. The decision of whether to construct its Facilities or what Services to provide is solely within the discretion of the Franchisee.

SECTION 10. WORK IN PUBLIC RIGHT-OF-WAY: RESTORATION OF DAMAGED AREAS.

(a) Whenever the Franchisee excavates or does other work in the public right-of-way, such excavation or other work shall be done in compliance with the laws and regulations of the City in effect at the time of such excavation or other work.

(b) Prior to the erection or installation by the Franchisee of any poles, underground conduits, or fixtures for use in connection with the installation, construction, maintenance or operation of the Telecommunications System, the Franchisee shall obtain any required permits in accordance with City code. If poles are erected by the Franchisee, the City requests that it be granted access privileges to those poles for the City's use.

(c) The Franchisee shall not excavate or do other work in any public right-of-way unless the Franchisee has applied for and received a written permit entitled "Street Cut Permit" from the City, or its designee, granting permission for such excavation or other work. The permit shall describe the area where the excavation and/or work is expected to be completed, the method of construction and the contractor performing the work and any other conditions. If directional boring, trenching or other excavation is the method of construction, detailed plans shall be submitted

describing how the work will be performed so as not to damage other lines and conduit located in the right-of-way. If the installation utilizes facilities of another entity, the Franchisee shall provide written authorization for use of such facilities prior to a permit being issued. If the excavation or other work requires closure of a street lane or sidewalk, the Franchisee shall, five (5) working days prior to such closure, submit a Traffic Control Plan to the City for approval. In emergencies involving service outages, the Franchisee shall proceed with all necessary operations without first obtaining the permit, but shall obtain the required permit at its earliest opportunity.

(d) The Franchisee shall not open, disturb or encumber, at any one time, any more public rights-of-way than may, in the opinion of the City, be necessary to enable the Franchisee to economically install or repair its Facilities; nor shall the Franchisee permit any public right-of-way to remain open, disturbed or encumbered for a longer period of time than shall, in the opinion of the City, be necessary.

(e) Immediately upon completion of repairs or installation of any Facility, the Franchisee shall refill and compact any trench or excavation to the standards required by the City and the State of Alabama Department of Transportation's "Standard Specifications of Roads and Structures." Promptly, and in no less than ten (10) business days after the completion of repair or installation, unless otherwise approved by the City, the Franchisee shall restore or replace any pavement, sidewalk, curb, gutter, grass, landscaping material or other materials or structure damaged in the course of its work to City standards at the Franchisee's sole expense. In the event excavation or disturbance of special sidewalk pavement areas is necessary, the Franchisee shall restore those areas to their preexisting conditions which restoration shall meet City standards. Failures within an area which has been disturbed, excavated or encumbered by the Franchisee which are discovered within twelve (12) months of the restoration or replacement specified herein, shall be the responsibility of the Franchisee pursuant to this provision.

(f) If Franchisee fails, neglects or refuses to refill any trench or excavation or to restore or replace any pavement, sidewalk, curb, gutter, grass, landscaping material, or other material or structure or to repair failed materials as specified herein, the City may do all or any part of the work that remains undone at the cost or expense of the Franchisee. Failure of the Franchisee to reimburse the City within thirty (30) days' of the City's presentation of a bill for the reasonable and verifiable costs incurred by the City shall result in denial of any permit request made by the Franchisee until payment is made. City may, at its option, recover such amount from the performance bond required herein.

(g) In any case where a public right-of-way is being excavated, disturbed or encumbered by the Franchisee, the Franchisee shall take all precautions required by law, in particular, the Manual on Uniform Traffic Control Devices, or otherwise necessary or proper for the protection of the public and shall maintain adequate warning signs, barricades, signals, and other devices necessary or proper to give notice and warning to the public of the existence of actual conditions present. Nothing in this Section shall alter or waive any rights enjoyed by the Franchisee or any other party under Alabama's underground damage prevention law (Ala. Code, Title 37, Section 37-15-1, -11).

(h) Any construction project authorized by a specific permit shall be completed within one year from the date that any necessary permits are issued, provided that the City may allow

reasonable extension due to weather or Acts of God, or other reasonable circumstances that in the sole discretion of the City justifies an extension of the project target completion date.

SECTION 11. USE OF STREETS.

(a) All installations shall be underground in those areas of the City where public utilities providing telephone and electric service are underground at the time of installation, unless otherwise agreed by the City. In areas where either telephone or electric utility facilities are above ground at the time of installation, the Franchisee may install its Facilities above ground, provided that, at such time as those telephone or electric utility facilities are required to be placed underground by the City, the Franchisee shall likewise place its Facilities underground without additional cost to the City, unless otherwise agreed by the City. Where not otherwise required to be placed underground by this Franchise Agreement, the Franchisee's Telecommunications System shall be located underground at the request of the adjacent property owner, provided that the excess cost over the aerial location shall be borne by the adjacent property owner making the request. All new cable passing under the roadway shall be installed in conduit no less than eighteen (18) inches from the top of the conduit to the surface of the ground, private property and utilities. Franchisee's Telecommunications System and Facilities, including poles, lines, equipment and all appurtenances, shall be located, erected and maintained so that such Facilities shall:

- (1) Not endanger or interfere with the health, safety or lives of persons;
- (2) Not interfere with any improvements the City, County or State may deem proper to make;
- (3) Not interfere with the free and proper use of public streets, alleys, bridges, easements or other public ways, places or property, except to the minimum extent possible during actual construction or repair;
- (4) Not interfere with the rights and reasonable convenience of private property owners, except to the minimum extent possible during actual construction or repair; or
- (5) Not obstruct, hinder or interfere with any gas, electric, traffic control, water or telephone facilities or other utilities located within the City.

(b) Work within Right-of-Way. The closing of any part of a publicly maintained street or right-of-way must be approved by the City Engineer, and may be prohibited during peak travel hours, 7-9 A.M. and 4-6 P.M., Monday through Friday. During repairs or improvements, traffic on streets must be maintained. Where full closing of the street is required, the request for approval must be submitted to the City Engineer at least 10 business days in advance. The notice requirement in this Section may be superseded by the terms and conditions of a subsequent ordinance(s) enacted by the City. All closings are to be protected with signage in accordance with the Manual on Uniform Traffic Control Devices (MUTCD).

(c) Removal of City Property. No City property is to be removed from the right-of-way, including signage on utility poles, without proper permission from the City.

SECTION 12. ACQUISITION OF RIGHT-OF-WAY. In acquiring or widening public rights-of-way, the City shall determine the minimum right-of-way necessary to accommodate paved streets, pedestrian walkways, landscaping, traffic signals, drainage, water and sewer lines and other governmental facilities.

SECTION 13. RELOCATION OF FACILITIES.

(a) Wherever a public right-of-way or other public property is being constructed, paved (whether or not such paving is part of a more extensive improvement project), resurfaced, relocated or otherwise altered or improved (including, but not limited to, the installation of sidewalk, curb, gutter, drainage facilities, water mains, or sewer mains, traffic signals or trees), the Franchisee shall, within ninety (90) days (or such longer period of time as mutually agreed by the parties) after written notice from the City and at no cost (direct or indirect) to the City, remove or relocate any of the Franchisee's facility located within such public right-of-way or public property or perform such work as the City deems necessary for the extension of new facilities. If the Franchisee believes it will be unable to complete the relocation within such ninety (90) day period, the Franchisee shall explain the reasons for its inability in detail, and the City and the Franchisee shall attempt to agree on an alternate schedule, subject, however, to the City's right make a final determination as to such schedule in its reasonable discretion. Nothing in this franchise is intended to eliminate or waive any right the Franchisee may have to reimbursement from a third party under applicable law or the terms of any public funding grant for a project.

(b) Failure of the Franchisee to remove or relocate the Facility to a location approved and permitted by the City within ninety (90) days of the City's written notice (unless otherwise agreed by parties) shall entitle the City to recover liquidated damages from the Franchisee except to the extent said failure is for reasons beyond the Franchisee's control. Any delays in the performance of any obligation of the Franchisee under this Franchise Agreement shall be excused to the extent that such delays are caused by an Event of Force Majeure¹ not within the control of the Franchisee, and any time periods required for performance shall be extended for the period of the Event of Force Majeure. The liquidated damages assessed to the Franchisee, if any, shall be the same as liquidated damages specified in the City's contract with the prime contractor (either as executed at the time of the City's removal or relocation request or which will be executed prior to any construction for the project which requires the relocation or extension of new facilities). (If work which requires removal or relocation of Franchisee's facilities is being constructed by a developer, who has submitted a plan which indicates said work will be dedicated to the City, and there is no City contract with a prime to establish the amount of liquidated damages, then the liquidated damages for Franchisee's failure to remove or relocate a facility shall be Two Hundred Fifty Dollars (\$250) per diem.) If the Franchisee believes it will be unable to complete the relocation within ninety (90) days from receipt of written notice from the City, Franchisee shall explain the reasons for its inability in detail and City and Franchisee shall attempt to agree on an alternate schedule, subject, however, to the City's right make a final determination as to such

¹ An "Event of Force Majeure" is defined as an act of God, fire, earthquake, hurricane, flood, riot, civil commotion, terrorist act, terrorist threat, storm, washout, wind, lightning, landslide, explosion, epidemic, pandemic, national emergency, natural disaster, inability to obtain materials or supplies, accident to machinery or equipment, any law, ordinance, rule, regulation, or order of any public or military authority stemming from the existence of economic or energy controls, hostilities or war, or any other cause or occurrence outside the reasonable control of the Franchisee and which by the exercise of due diligence could not be reasonably prevented or overcome.

schedule and subject to the City's right to liquidated damages. Absent an Event of Force Majeure, the Franchisee shall be responsible to the City under the terms of this Franchise Agreement only for the amount of liquidated damages caused by its own failure to remove or relocate the Facility to a location approved by the City within a timeline provided for herein.

The City may collect any such liquidated damages owed by the Franchisee either through the draw-down of the security required in Section 6, or through other means allowed by law. Unless the delay is excused by the City, the City may immediately request payment of any liquidated damages due to the City by the Franchisee.

SECTION 14. TREES. Trimming of the trees and shrubbery within the public right-of-way to prevent contact with Franchisee's facilities shall be done only in accordance with standards approved by the City. Removal or severe pruning of any tree or shrub, work on the surface within five (5) feet of any tree or shrub, and underground excavation within the drip line of a tree or shrub, which will require cutting of ten percent (10%) or more of the circumference of the root system, may be undertaken only in accordance with a specified permit obtained from the City and in compliance with the special conditions of such permit and other standards established by this franchise or other law. Where trees or shrubs in the public right-of-way are damaged as a result of work undertaken by or on behalf of the Franchisee, the Franchisee shall pay the City, within thirty (30) days of submission of a statement by the City, the reasonable and verifiable cost of any treatment required to preserve the tree or shrub and/or the reasonable and verifiable cost for removal and replacement of the tree or shrub with landscaping of equal value and/or the value of the tree or shrub prior to the damage or removal as determined by the City.

The City may collect such damages through draw-down of the security required in Section 6, through the insurance required in Section 7 or through other means allowed by law.

SECTION 15. CONSTRUCTION STAFFING. During the franchise Term, the Franchisee shall have sufficient full-time supervisors on staff solely to supervise construction plans and the construction practices of its subcontractors. The Franchisee shall provide the means for immediate notification and communication by the City with the supervisor in the field by means of a pager, cellular phone or other similar means of communication during all phases of construction. All construction work or any other work performed by the Franchisee, its employees, agents, its duly licensed contractors and sub-contractors shall be in compliance with the plans and specifications approved by the City, and shall be subject to all applicable ordinances, rules and regulations, including licensing and permitting, as well as any licensing and permitting fees charged to all persons and businesses for construction and street opening.

SECTION 16. FRANCHISE NOT A JOINT VENTURE. Nothing herein shall be deemed to create a joint venture or principal-agent relationship between the parties, and neither party is authorized to, nor shall either party act toward third persons or the public in the manner which would indicate any such relationship with the other.

SECTION 17. FRANCHISEE FEE; CONDITIONS.

(a) As consideration for this franchise, the Franchisee shall pay to the City an amount equal to five percent (5%) of the Gross Revenue (as defined in Section 17(f)) from sales of local Telecommunications Services to Subscribers located within the City, collected by the Franchisee.

(b) In consideration of the agreement of the Franchisee to make such franchise fee payments, the City agrees that no additional business license fee shall be imposed upon or required of the Franchisee by the City during the Term of this franchise. This provision shall not exempt the property of the Franchisee from lawful ad valorem taxes and local improvement district assessments. This provision shall also not exempt the Franchisee from conditions, exactions, fees and charges, which are generally applicable during the Franchisee's real property development or use as required by the City's ordinances.

(c) Commencing the month following the month in which the Effective Date of this franchise occurs, the franchise fee shall be paid quarterly on the 20th day of April, July, October and January; such franchise fee shall be paid for Gross Revenues received by the Franchisee for the preceding quarter. The Franchisee shall furnish to the City with each payment of franchise fees required by this Section a written statement, showing the amount of Gross Revenue collected by the Franchisee within the City for the period covered by the payment. Such statement will be accorded confidential treatment to the extent permitted by law. Upon receipt of such payment the City shall issue a receipt to the Franchisee. Nothing herein shall preclude the Franchisee and the City from agreeing to a revised payment schedule.

(d) On or before the first (1st) day of February of each succeeding year, the Franchisee shall submit to the City, a statement of the franchise fee actually due to the City based upon the actual gross revenue for the previous calendar year, together with a check for any amount due from the Franchisee or a statement for any amount due from the City. Such statement will be accorded confidential treatment to the extent permitted by law.

(e) Acceptance by the City of any payment due under this Section shall not be deemed to be a waiver by the City of any breach of this franchise occurring prior thereto, nor shall the acceptance by the City of any such payments preclude the City from later establishing that a larger amount was actually due, or from collecting any balance due to the City. Payment by the Franchisee of any amounts due under this Section shall not be deemed to be a waiver by the Franchisee of any breach of this Agreement by the City occurring prior thereto.

(f) As used in this Section, "Gross Revenue" shall mean all revenues (exclusive of sales tax) collected by the Franchisee from the operation of the Telecommunications System to provide local Telecommunications Services pursuant to this franchise to subscribers within the corporate limits of the City, including, but not limited to:

- (1) All revenues from installation service charges directly related to the provision of local Telecommunications Services to subscribers in the City over the Telecommunications System,

- (2) All revenues from connection or disconnection fees directly related to the provision of local Telecommunications Services to subscribers in the City over the Telecommunications System,
- (3) All revenues from penalties or charges to customers for checks returned from banks, net of bank costs paid, and penalties, interest or charges for late payment directly related to the provision of local Telecommunications Services to subscribers in the City over the Telecommunications System,
- (4) All revenues from equipment sold or rented to customer upon customer premises directly related to the provision of local Telecommunications Services to subscribers in the City over the Telecommunications System,
- (5) All revenues from authorized rental of conduit space located within the corporate limits of the City,
- (6) All recoveries of bad debts previously written off and revenues from the sale or assignment of bad debts directly related to the provision of local Telecommunications Services to subscribers in the City over the Telecommunications System. Unrecovered bad debts charged off after diligent, unsuccessful efforts to collect are excludable from Gross Revenue, and
- (7) The value of any free local Telecommunications Services provided by the Franchisee except (i) any discounted or free services required under this Franchise Agreement; (ii) local Telecommunications Services provided as a credit against non-recurring charges imposed on the Franchisee's customers by a local exchange carrier for converting circuits to the Franchisee.

Notwithstanding the foregoing, Gross Revenue *does not include*: (i) Any tax of general applicability imposed upon the Franchisee; (ii) any regulatory fees or surcharges collected from customers as well as amounts reflecting cost-recovery of regulatory fees and surcharges; (iii) those revenues that the Franchisee receives from another telecommunications service provider and upon which the other telecommunications service provider has paid or will pay a franchise fee to the City; (iv) pass through revenues which are in turn paid to a local exchange carrier for interconnection for long distance service; and (v) revenues that the Franchisee receives from its corporate parent, subsidiary, or affiliate.

(g) Payment of franchise fees under this Section shall in no way limit or inhibit any of the privileges or rights of the City of Vestavia Hills, whether under this franchise or otherwise. Nothing in this Section 17 is intended to alter, amend, modify or expand the taxes and fees that may lawfully be assessed on the Franchisee's business activities under this franchise under applicable law. Except as provided elsewhere in this Franchise Agreement, all payments made by the Franchisee to the City pursuant to this franchise shall be made to the Chief Financial Officer. Nothing in this Franchise Agreement shall be construed to prevent the Franchisee from passing through some or all of the franchise fee to its customers.

(h) Any transactions which have the effect of circumventing payment of required franchise fees and/or evasion of payment of franchise fees by non-collection or non-reporting of Gross Receipts, bartering, or any other means which evade the actual collection of revenues for business pursued by the Franchisee are prohibited and may constitute a default of this Franchise Agreement.

(i) If as a result of such audit or any other review, the City determines that the Franchisee has underpaid its franchise fees by ten percent (10%) or more for any twelve (12) month period, then in addition to making full payment of the relevant obligation, the Franchisee shall reimburse the City for all of the reasonable and verifiable costs associated with the audit or review, including all reasonable out-of-pocket costs for attorneys, accountants and other consultants. The City may collect the costs associated with such audit or review either through the draw-down of the security required in Section 6, or through other means as allowed by law.

If as a result of such audit or other review, the City determines that the Franchisee has underpaid its franchise fees for any twelve (12) month period, then the Franchisee shall pay interest on such underpayment at the rate of ten percent (10%) interest or prime plus two percent (2%), whichever is greater. The underpayment and interest thereon may be collected by the City through the drawdown of the security required in Section 6, or through other means as allowed by law.

SECTION 18. ADDITIONAL BENEFIT TO THE CITY. In addition to any franchise fee collected pursuant to Section 17 of this Agreement, the Franchisee shall provide fiber and facilities to the City's governmental and institutional facilities as follows:

(a) Within ninety (90) days after the City's written request for the same, Franchisee shall provide to the City without recurring rental, use or maintenance charges (collectively, "Recurring Charges") solely for its noncommercial telecommunications purposes, two (2) dark fiber pairs (four (4) fibers) in all City rights-of-way where Franchisee deploys at least 288 fiber strands ("backbone network"), whether underground or aerial (the "City Fibers") in up to a maximum of 10 miles of Franchisee's network (i.e., a total of 40 fiber miles). The City may divide the dark fiber pairs within the backbone network as it determines to best serve the City's facilities, but each division must include at least two (2) fibers. Franchisee shall not be entitled to offset against Gross Revenues the amount of any Recurring Charges associated with the provision of the City Fibers as set forth herein, but Franchisee shall be entitled to offset against Gross Revenues non-recurring installation and non-recurring maintenance costs associated with the City Fibers.

(b) Franchisee shall create a maximum of six (6) splice points at the request of the City among existing Franchisee access points. The City shall have its own handhole for such splice points, so the City's use of and connection to the City Fibers is separate and apart from Franchisee's Telecommunications System. The City shall reimburse Franchisee for Franchisee's costs for any splice points requested by the City beyond six (6). Franchisee shall perform all splicing of City lateral cables to the City Fibers. The City shall provide Franchisee with at least ninety (90) days' prior written notice of the need to splice to the City Fibers.

(c) Franchisee agrees that the cost of any routine maintenance of the City Fibers shall be borne by Franchisee, and Franchisee shall perform such routine maintenance on the maintenance schedule for Franchisee's Telecommunications System. To arrange for non-routine maintenance,

the City will provide at least sixty (60) days' prior written notice to Franchisee that such maintenance is required and will pay or reimburse Franchisee for the cost thereof. Notwithstanding the foregoing, however, the City shall pay only actual incremental labor costs to Franchisee to repair the City's share of dark fibers within any cable that is damaged as the result of any natural disaster or casualty other than normal wear and tear. Nothing in this subsection (c) shall supersede the provisions of this Agreement relating to the relocation of equipment at Franchisee's expense in the event of a City project.

(d) Franchisee acknowledges that the City has the right to connect its own equipment to the City Fibers to be provided hereunder for internal non-commercial municipal purposes, and to make full use at no Recurring Charges to the City of the fibers to be dedicated to the use of the City hereunder.

(e) The City recognizes that Franchisee's agreements, if any, to occupy rights-of-way or for pole attachments may be subject to the control of third parties who may require Franchisee to relocate its cable. In the event of such required relocation by Franchisee that impacts the City Fibers, Franchisee shall provide notice thereof to the City as soon as reasonably possible. Franchisee shall provide replacement dark fibers to the City in any Franchisee replacement cable as soon as reasonably possible.

(f) Franchisee acknowledges and agrees that in connection with the assignment or transfer of Franchisee's interests under this Franchise Agreement, any assignee shall be bound by all of the provisions of this Section 18, including without limitation, the requirement to provide the City Fibers at no Recurring Charges to the City.

SECTION 19. REPORTS AND INVESTIGATIONS.

(a) The Franchisee shall keep the City fully informed as to all matters in connection with or affecting the construction, reconstruction, removal, maintenance, operation and repair of Franchisee's Telecommunications System in the City in the context of the permitting process.

(b) The City may, at any time, make inquiries pertaining to the Franchisee's operation of its Telecommunications System within the City of Vestavia Hills. The Franchisee shall respond to such inquiries on a timely basis.

SECTION 20. RESERVATION OF RIGHTS. It is hereby reserved to the Franchisee every right and privilege available to the Franchisee under applicable law, and the Franchisee by its execution of this Franchise Agreement, shall not be deemed in any way to waive, relinquish, release or abrogate any of its lawful rights and privileges. Nothing in this Franchise Agreement is intended to alter, amend, modify or expand the taxes and/or fees that may lawfully be assessed on the Franchisee's business activities under this franchise pursuant to applicable law.

SECTION 21. FORFEITURE AND TERMINATION.

(a) In addition to all other rights and powers of the City, the City reserves the right to forfeit and terminate this franchise and all rights and privileges of the Franchisee in the event of a

material or substantial breach of its terms and conditions including, but not limited to, the following:

- (1) The appointment of a receiver or trustee in bankruptcy to take over and conduct the business of the Franchisee;
- (2) A failure to provide insurance, bonds, certificates of deposit or letters of credit as required herein;
- (3) Permitting the use of its Telecommunications System or Facilities in any manner that would avoid the need for a franchise with the City for the business of another person; or
- (4) A failure to operate the Telecommunications System for a period of six (6) months not due to an Event of Force Majeure.

(b) The Franchisee shall not be excused by mere economic hardship, nor by nonfeasance or malfeasance of its directors, officers, agents, subcontractors or employees.

(c) The City shall notify the Franchisee in writing of any breach specifying the nature of the breach. The Franchisee shall have thirty (30) days after the date of such notice to come back into compliance (as set forth in Section 34), unless such cure period is extended in writing by the City Attorney. Should the Franchisee fail or refuse to comply with the notice given by the City, the City may consider the franchise in default and pursue remedies as it determines. If the remedy elected by the City is to forfeit and terminate this franchise, the Franchisee may request an appeal of such decision to the Council of the City of Vestavia Hills which appeal must be filed in writing with the City Clerk no later than ten (10) days after the date of written notice of forfeiture and termination to the Franchisee. The City Council shall set a public hearing on such appeal within thirty days after notice of appeal is received. Nothing herein shall be construed as a waiver or forfeiture of any right or remedy that either party may have concerning or arising out of this Franchise Agreement, including the right to seek judicial redress for any breach or violation of the terms of this Franchise Agreement.

(d) The Franchisee reserves the right to forfeit and terminate this Franchise Agreement and all rights and privileges to the City hereunder for any reason. If the Franchisee exercises that right, it shall be required to submit payment of Gross Revenues until such time that the facilities are removed and otherwise cease providing Services and remove its Facilities from the rights of way at its sole cost and expense.

SECTION 22. REMEDIES AND PENALTIES NOT EXCLUSIVE.

(a) All remedies and penalties under this franchise are cumulative and not exclusive, and the recovery or enforcement by one available remedy or imposition of any penalty is not a bar to recovery or enforcement by any other such remedy or imposition of any other penalty. The City reserves the right to enforce the penalty provisions of any ordinance or resolution and to avail itself of any and all remedies available at law or in equity. Failure to enforce shall not be construed as a waiver of a breach of any term, condition or obligation imposed upon the Franchisee or the City by or pursuant to this Franchise Agreement. A specific waiver of a particular breach of any term,

condition or obligation imposed upon the Franchisee or the City by or pursuant to this Franchise Agreement shall not be a waiver of any other or subsequent or future breach of the same or any other term, condition or obligation, or a waiver of the term, condition or obligation itself.

(b) For any period of performance or cure under this Agreement, the time period within which the Franchisee is to perform or cure, as the case may be, shall be extended, without liability to the Franchisee, for at least as long as the Franchisee's ability to perform or cure is delayed for reasons beyond the Franchisee's control provided that the Franchisee shall employ all commercially reasonable efforts to eliminate or mitigate the impact of said reasons and to thereafter reasonably accelerate, where feasible, its performance or cure.

(c) Prior to taking any adverse action against the Franchisee or this franchise, the City shall provide the Franchisee with such notice and due process, including a reasonable period of time to cure, as is required by applicable law, but in all cases no less than reasonable notice and opportunity to cure.

SECTION 23. CONTINUING OBLIGATION. In the event the Franchisee continues to operate all or any part of the Telecommunications System after the Term of this Franchise Agreement expires or is terminated, and before any renewal of the franchise by the City, then the Franchisee shall continue to comply with all applicable provisions of this franchise throughout the period of such continued operation, provided that any such continued operation shall in no way be construed as a renewal or other extension of this franchise.

SECTION 24. LIMITATION ON PRIVILEGES. All rights, authority and grants herein contained or conferred are also conditioned upon the understanding and agreement that these privileges in the rights-of-way and other public ways of the City are not to operate in any way so as to be an enhancement of the Franchise's properties or values or to be an asset or item of ownership in any appraisal thereof.

SECTION 25. CONFIDENTIALITY. To the fullest extent permissible under applicable law, the City shall protect from disclosure any confidential, proprietary information, including maps, submitted to or made available by the Franchisee to the City under this Franchise Agreement, provided that the Franchisee notifies the City of, and clearly labels, the information which the Franchisee deems to be confidential, proprietary information as such. Such confidential, proprietary information shall include, but not be limited to any customer names and lists, financial information, technical information or maps regarding placement of equipment with the exception of any map(s) attached to the Franchise Agreement, or other information clearly identified as "Confidential" pertaining to Services provided to its customers. Confidential, proprietary information disclosed by the Franchisee to the City shall be regarded as confidential and proprietary as to third parties. If the City receives a request to disclose such information, the City shall notify the Franchisee of such request and allow the Franchisee a reasonable opportunity to defend its information from disclosure.

SECTION 26. CAPTIONS. The captions given to various provisions of this Franchise Agreement are for purposes of convenience only and are to have no impact upon the interpretation of any such provisions.

SECTION 27. ENTIRE AGREEMENT. This Franchise Agreement, with its exhibits, comprises the entire agreement between the City and the Franchisee for purposes of this franchise and supersedes any prior agreements or understandings between the parties with respect to the subject matter hereof.

SECTION 28. COMPLIANCE WITH APPLICABLE LAWS AND ORDINANCES. The Franchisee shall, at all times during the Term of its franchise, be subject to the present ordinances, resolutions, rules, regulations, and laws of the City of Vestavia Hills and of the State of Alabama, and to the provisions of any further ordinance, resolution, rule, regulation, or law of the City or of the State of Alabama, so far as they may be applicable.

SECTION 29. ALABAMA LAW GOVERNS. In any controversy or dispute under this franchise, the laws and jurisdiction of the State of Alabama shall apply to the extent such law has not been superseded or preempted.

SECTION 30. NOTICE. Any notice required or permitted under this Franchise Agreement shall be deemed given if sent by registered or certified mail, return receipt requested, postage prepaid, or by nationally recognized overnight courier, in either case, and addressed as follows:

To the City:

Vestavia Hills City Clerk
Vestavia Hills Municipal Center
1032 Montgomery Highway
Vestavia Hills, AL 35216

With copies sent to both of the following email addresses:

City Manager Jeffrey D. Downes
jdownes@vhal.org

City Clerk Rebecca Leavings
rleavings@vhal.org

To the Franchisee:

Telepak Networks, Inc.
Alan Jones, Sr. Vice President
1018 Highland Colony Parkway, Suite 400
Ridgeland, Mississippi 39157

With copies to (except for invoices):

Charles L. McBride Jr.
SVP- Legal & General Counsel
1018 Highland Colony Parkway, Suite 700
Ridgeland, Mississippi 39157

or such other address as may be designated in the future in writing by either party.

SECTION 31. EFFECTIVE DATE AND PUBLICATION. After the execution hereof, this franchise shall be published once in a daily newspaper published in the City of Vestavia Hills at the Franchisee's expense, and shall not take effect until such publication or thirty (30) days after the Ordinance authorizing this franchise, whichever is later (the later date being, the "Effective Date").

SECTION 32. MODIFICATION. This Franchise Agreement, including all documents specifically incorporated herein, cannot be changed orally but only by an agreement in writing properly executed by the parties.

SECTION 33. SEVERABILITY. Should any part, term or provision of this Franchise Agreement be held invalid or unenforceable by any court of competent jurisdiction, such part, term, or provision shall be deemed a separate, distinct and independent provision and such holding shall not invalidate or render unenforceable any other provision of this franchise.

SECTION 34. RIGHT TO NOTICE AND CURE. Other provisions herein to the contrary notwithstanding, prior to exercising its right to terminate or revoke this Franchise Agreement as provided herein, the City shall first give written notice to the Franchisee setting out the circumstance or basis on which the City has the right to terminate or revoke this Franchise Agreement, and the Franchisee shall have a period of thirty (30) days after the receipt of the notice within which to cure, correct, or resolve the circumstance or basis, and if the Franchisee is successful in the cure, correction, or resolution thereof, then the City shall not exercise its right to terminate or revoke this Franchise Agreement. If the Franchisee has commenced the cure, correction or resolution within thirty (30) days after its receipt of notice, but additional time is necessary to the completion thereof, then Franchisee shall have an additional thirty (30) days or such additional time upon which the parties can agree, not to be unreasonably withheld by either party, to accomplish the cure, correction, or resolution.

(signatures on the following page)

IN WITNESS WHEREOF, the parties have executed this franchise as of the dates set forth below.

CITY OF VESTAVIA HILLS, ALABAMA, a municipal corporation

By: _____

Printed Name: Ashley C. Curry

Its: Mayor

Date: _____

By: _____

Printed Name: Jeffrey D. Downes

Its: City Manager

Date: _____

ATTESTED BY:

Rebecca Leavings
City Clerk

TELEPAK NETWORKS, INC., a corporation

By: _____

Name & Title: Alan Jones, Sr. Vice President

Date: _____

Exhibit 1

Complete Description of the Ownership and Control of the Franchisee as of January 1, 2021

TELEPAK NETWORKS, INC., a Mississippi corporation, is a wholly owned subsidiary of TELAPEX, INC., a Mississippi corporation

TEKLINKS, INC., a Delaware corporation, is the wholly owned subsidiary of TELEPAK NETWORKS, INC., a Mississippi corporation

Exhibit 2

Plans shall be submitted either digitally or by paper in a PDF Adobe format or half size drawings (11" X 17") as requested