

ORDINANCE NUMBER 3199-A

AN ORDINANCE AMENDING ORDINANCE NUMBER 3199 AUTHORIZING THE MAYOR AND CITY MANAGER TO EXECUTE AND DELIVER A JOINT SERVICES AGREEMENT WITH JEFFERSON COUNTY AND THE CITY OF BIRMINGHAM IN ORDER TO SHARE RESPONSIBILITIES FOR IMPROVEMENTS TO THE BLUE LAKE DRIVE AND SICARD HOLLOW ROAD INTERSECTION FOR JEFFERSON COUNTY PROJECT NO. 37-19-400

WHEREAS, in 2019, the intersection of Blue Lake Drive and Sicard Hollow Road was studied through the Regional Planning Commission of Greater Birmingham's Advanced Planning, Programming, and Logical Engineering (APPLE) program; and

WHEREAS, as part of this study, Sain Associates reviewed this intersection and determined that a roundabout design would help to improve the overall safety and operations of this intersection; and

WHEREAS, in April 2020, the City entered into an agreement with Sain Associates to perform further engineering and surveying due diligence to develop a conceptual layout of the roundabout and determine potential right-of-way and utility impacts; and

WHEREAS, following that effort, the City entered into another agreement with Sain Associates in June 2022 to complete the intersection design and provide construction documents. These design and coordination services will carry the project through design to the project bid; and

WHEREAS, the total sum of both Sain design contract amounts is \$269,650 and

WHEREAS, the project traverses through three jurisdictions: City of Vestavia Hills, Jefferson County, and City of Birmingham which would require that all entities join together to approve said improvements; and

WHEREAS, based on the construction plans prepared by Sain Associates, the estimated construction cost estimate for the Project is \$2,000,000; and

WHEREAS, the City's Engineering Department has reviewed a proposed Joint Services Agreement ("the Agreement") with the City of Birmingham, and Jefferson County that outlines a 50% equal cost share of the total combined costs of Engineering and Construction between Jefferson County and the City of Vestavia Hills, of which the City has already encumbered \$269,650; and

WHEREAS, Jefferson County will be the responsible party to bid the project and will invoice Vestavia Hills for their respective share of the construction costs; and

WHEREAS, on the 10th of October, 2023, the City Council adopted and approving Ordinance Number 3199 subject to legal reviews of Jefferson County and the City of Birmingham; and

WHEREAS, some minor revisions were suggested by both entities which are detailed in the Exhibit A, attached to and incorporated in this Ordinance Number 3199-A as if written fully therein; and

WHEREAS, the City's Public Works Director has reviewed the revised Agreement; and

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

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

1. The Mayor and City Manager are hereby authorized to execute and deliver the revised Joint Services agreement as authorized in the attached Exhibit A; and
2. The City Manager is hereby authorized to execute and deliver any subsequent documents needed to secure said construction plans, bidding, etc., for a project cost of \$2,000,000; and
3. Jefferson County will be the responsible party to bid said project and invoice the City of Vestavia Hills its pro-rata share of said expense of improvement; and
4. This Ordinance Number 3199-A shall become effective immediately upon adoption and publishing/posting as required by Alabama law.

ADOPTED and APPROVED this the 27th day of November, 2023.


Ashley C. Curry
Mayor

ATTESTED BY:


Rebecca Leavings
City Clerk

CERTIFICATION:

I, Rebecca Leavings, as City Clerk of the City of Vestavia Hills, Alabama, hereby certify that the above and foregoing copy of 1 (one) Ordinance Number 3199-A a true and correct copy of such Ordinance that was duly adopted by the City Council of the City of Vestavia Hills on the 27th day of November, 2023 as same appears in the official records of said City.

Posted at Vestavia Hills Municipal Center, Vestavia Hills New Merkle House, Vestavia Hills Civic Center and Vestavia Hills Library in the Forest this the 6th day of November, 2023.


Rebecca Leavings
City Clerk

**JEFFERSON COUNTY)
STATE OF ALABAMA)**

**AGREEMENT
TO
SHARE RESPONSIBILITIES
(Joint Services Agreement)**

Jefferson County Project #37-19-400

Blue Lake Drive and Sicard Hollow Road Intersection Improvement

JEFFERSON COUNTY, ALABAMA (County), the CITY OF BIRMINGHAM, ALABAMA (Birmingham) and the CITY OF VESTAVIA HILLS, ALABAMA (Vestavia), (Collectively, the “Parties”) enter into this agreement on the _____ day of _____, 202_.

WHEREAS, the County, Birmingham, and Vestavia, desire to make certain improvements to the intersection of Blue Lake Drive, Cahaba Heights Road, and Sicard Hollow Road to include construction of a roundabout, installation of roadway lighting, drainage structures, and associated roadway reconfiguration as shown in the attached Exhibit A (the “Project”); and

WHEREAS, the Project traverses through the three jurisdictions: County, Birmingham and Vestavia; and

WHEREAS, Vestavia solicited and contracted for preliminary engineering services to be provided by a qualified engineering firm; and

WHEREAS, the cost for said preliminary engineering services is \$269,650; and

WHEREAS, the total cost of the Project is expected to exceed \$2,000,000; and

WHEREAS, the County and Vestavia desire to divide the total combined costs of Preliminary Engineering and Construction costs equally at 50% each; and

WHEREAS, Birmingham is agreeable to and desirous of the improvements to be made at Sicard Hollow Road; and

WHEREAS, the Project improvements shall meet ALDOT standards and specifications; and

WHEREAS, the Parties have determined that the Project provides a benefit to the traveling public by allowing for the efficient flow of traffic through all three jurisdictions; and

WHEREAS, the Parties desire to establish their agreement herewith; and

WHEREAS, the Alabama Legislature adopted Alabama Code §41-16-50(b) which provides in pertinent part, that:

(b) The governing bodies of two or more contracting agencies, as enumerated in subsection (a), or the governing bodies of two or more counties, or the governing bodies of two or more city or county boards of education, may provide, by joint agreement, for the purchase of labor, services, or work, or for the purchase or lease of materials, equipment, supplies, or other personal property for use by their respective agencies. The agreement shall be entered into by similar ordinances, in the case of municipalities, or resolutions, in the case of other contracting agencies, adopted by each of the participating governing bodies, which shall set forth the categories of labor, services, or work, or for the purchase or lease of materials, equipment, supplies, or other personal property to be purchased, the manner of advertising for bids and the awarding of contracts, the method of payment by each participating contracting agency, and other matters deemed necessary to carry out the purposes of the agreement. Each contracting agency's share of expenditures for purchases under any agreement shall be appropriated and paid in the manner set forth in the agreement and in the same manner as for other expenses of the contracting agency. The contracting agencies entering into a joint agreement, as herein permitted, may designate a joint purchasing or bidding agent, and the agent shall comply with this article. Purchases, contracts, or agreements made pursuant to a joint purchasing or bidding agreement shall be subject to all terms and conditions of this article.

; and

WHEREAS, the Alabama Legislature adopted Alabama Code §11-102-1 which provides that:

Except as otherwise provided in this chapter or as otherwise prohibited by law, any county or incorporated municipality of the State of Alabama may enter into a written contract with any one or more counties or incorporated municipalities for the joint exercise of any power or service that state or local law authorizes each of the contracting entities to exercise individually. For purposes of this chapter, it is sufficient if each of the contracting entities has the authority to exercise or perform the power or service which is the subject of the contract regardless of the manner in which the power or service shall be exercised or performed, provided that at least one of the contracting parties has the authority to exercise the power or service in the manner agreed upon by the parties. The joint contract may provide for the power or service to be exercised by one or more entities on behalf of the others or jointly by the entities.

; and

WHEREAS, all parties find that it is in the public interest that the parties enter into a joint purchasing/service agreement in accordance with Alabama Code §41-16-50(b) and §11-102-1, *et seq.*, in order to authorize County to engage in the purchase of certain services and materials through the competitive bid process for use by the Parties, i.e. in order for County, Birmingham and Vestavia to make certain improvements to the intersection of Blue Lake Drive, Cahaba Heights Road, and Sicard Hollow Road.

IN CONSIDERATION OF THE PREMISES stated herein the Parties mutually agree as follows:

- I. **PURPOSE:** The Parties agree to jointly undertake to provide for the following improvements to the intersection of Blue Lake Drive, Cahaba Heights Road, and Sicard Hollow Road (Project): construct roundabout with associated roadway realignment and widening, drainage, resurfacing, and lighting necessitated by the roundabout installation, as shown in the attached Exhibit A.

- II. **BIDDING:** Vestavia and the County have authorized this agreement pursuant to similar ordinances passed by Vestavia and a similar resolutions passed by the County, adopted by the governing body of each party, which sets forth the categories of labor, services, or work, or for the purchase or lease of materials, equipment, supplies, or other personal property to be purchased, the manner of advertising for bids and the awarding of contracts, the method of payment by each participating contracting agency, and other matters deemed necessary to carry out the purposes of this agreement. The Parties agree to the following:
 - a. County is designated as the joint purchasing or bidding agent and will advertise and accept bids for the construction of the Project.
 - b. County will determine the low bidder and enter into a separate Agreement with the contractor for the construction of the Project.
 - c. County will invoice Vestavia for their respective share of the construction costs, accounting for the Preliminary Engineering costs paid by Vestavia to the qualified engineering firm.
 - d. Vestavia's and the County's share of expenditures for purchases under this agreement shall be appropriated and paid in the manner set forth in this agreement and in the same manner as for other expenses of the entity.
 - e. All advertising costs incurred by the County on behalf of the joint purchasing agreement shall be included in the total combined cost of the project.
 - f. Any permitting costs associated with the project incurred by either the County or Vestavia shall be included in the total combined cost of the project.
 - g. This agreement shall be subject to all terms and conditions of the applicable Alabama Bid Laws.
 - h. Should the bid amounts received for the Project exceed the total amounts budgeted by the County or Vestavia, this Agreement may be terminated by the County or Vestavia prior to the execution of the construction contract without penalty or further obligation by any Party.

- III. **TERM:** The duration of this contract shall not exceed three years from the date of its final execution or end of the Project, whichever first occurs.

- IV. **IMPLEMENTATION:** The Parties agree as follows:

- a. **Management of the Project:** The County will assume responsibility for the management of the Project, ensuring that all work performed by the contractor is completed per contract requirements. The Project shall include construction of a roundabout, installation of roadway lighting, drainage structures, and associated roadway configuration to tie to the roundabout as shown in the attached Exhibit A. The County will provide Construction, Engineering & Inspection during the construction phase of the Project. All Parties, including Birmingham, Vestavia, and the County shall inspect and approve the construction before the project is completed and the municipalities assume responsibility and liability for the roadways within their respective jurisdictions. 10% of the total bid price shall be included in the total combined cost of the Project for Construction, Engineering & Inspection services.
- b. **Cost and Payment:** The County and Vestavia will split the total cost of the Project equally at 50%. The County will invoice Vestavia for its portion of the cost upon award of the construction contract, with the invoice to be paid within 30 days of receipt. Vestavia acknowledges and agrees that any overrun in costs of the Project shall be born equally by Vestavia and the County. If final costs are less than initially invoiced and paid, a refund will be issued to Vestavia accordingly. Birmingham will not be responsible for providing any funding for the construction of this project.
- c. **Coordination:** Prior to project bid, the Parties shall have the right to review and approve the traffic control plans and detour plan, if included. The Parties shall be invited and/or notified of all construction meetings, project updates, design construction modifications, and final project walk thru/acceptance. All parties shall have the right to review the final project prior to acceptance.
- d. **Future Liability:** Except as otherwise provided herein, the Parties expressly agree that neither the County, Vestavia, nor Birmingham assume any risk or future liability, or any future responsibility for any portion of the Project located outside of their municipality.
- e. **Future Maintenance:** The Parties expressly agree that the County shall have jurisdictional authority and responsibility for the maintenance and operation of the roundabout, with exception of the roadway lighting, constructed within the Project, limits bounded to the back of radius of the approach lanes of Blue Lake Drive, Sicard Hollow Road, and Cahaba Heights Road as shown in the attached Exhibit B.
- f. **Lighting:** At the completion of the project, each Party shall notify Alabama Power and be responsible for electrical service for roadway lighting facilities that are to be located within each of the Parties' jurisdiction respectively, as shown in the attached Exhibit C.
- g. **Incurring Debt:** Except as expressly provided in this agreement, no party to the contract shall have any power to incur any debt which shall become the responsibility of any other contracting party.
- h. **Relationship of the Parties:** Except as specifically provided in this agreement, the execution of this agreement or the performance of any act pursuant to the provisions thereof shall not be deemed or construed to have the effect of creating between the parties the relationship of principal or agent or of partnership or of joint venture.

- i. Jurisdictional Authority: Except as otherwise provided by law and as limited by this agreement between the Parties, any entity which contracts to perform or exercise any service or power pursuant to this chapter shall have the full power and authority to act within the jurisdiction of all contracting Parties to the extent necessary to carry out the purposes of the contract.
- j. Authorizations: Each Party to this agreement shall adopt all ordinances, resolutions, or policies necessary to authorize the other contracting entities to carry out their contractual duties and responsibilities. Each of the Parties hereto does represent and warrant that it has taken all necessary action for the approval of this Agreement and the signature of its representative below has been duly authorized and is binding upon such Party. An executed copy of this Agreement shall be filed at the administrative offices of each Party.

V. TERMINATION:

- a. Should the bid amounts received for the Project exceed the total amounts budgeted by the County or Vestavia, this Agreement may be terminated by the County or Vestavia prior to the execution of the construction contract without penalty or further obligation by any Party.
- b. Upon termination, all unused materials purchased by the County under this agreement shall be returned to the County within 30 days of termination.

VI. MISCELLANEOUS PROVISIONS:

- a. Immigration Law Compliance: By signing this Agreement, the Parties affirm, for the duration of the Agreement, that they will not violate federal immigration law or knowingly employ, hire for employment, or continue to employ an unauthorized alien within the State of Alabama. Furthermore, a contracting Party found to be in violation of this provision shall be deemed in breach of the Agreement and shall be responsible for all damages resulting therefrom.
- b. Non-Discrimination: During the performance of this contract the Parties agree as follows:
 - i. The Parties will not discriminate against any employee or applicant for employment because of race, color, religion, sex, gender identity, sexual orientation, disability, familial status, or national origin. The Parties will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, gender identity, sexual orientation, disability, familial status, or national origin. Such action shall include but not be limited to the following: Employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Parties agree to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.
 - ii. In the event of a Parties' noncompliance with the nondiscrimination clauses of this contract, this contract may be canceled, terminated or suspended in whole

or in part and the contractor may be declared ineligible for further municipal contracts with the other Party.

c. **Boycotting Activities:** By signing this contract, the Parties represent and agree that it is not currently engaged in, nor will it engage in, any boycott of a person or entity based in or doing business with a jurisdiction with which the State of Alabama can enjoy open trade.

VII. **SEVERABILITY:** If any provision of this agreement is declared by a court having jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected; the rights and obligations of the parties shall be construed and enforced as if the agreement did not contain the particular provision held to be invalid.

VIII. **GOVERNING LAW:** This agreement shall be governed by and construed in accordance with the laws of the State of Alabama. The parties agree that jurisdiction and venue over all disputes arising under this Agreement shall be the Circuit Court of Jefferson County, Alabama, Birmingham Division.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized representative as reflected below.

JEFFERSON COUNTY, ALABAMA

Date

BY: _____
James A. (Jimmie) Stephens, President
Jefferson County Commission

I, Aleshia Y. Coleman, Minute Clerk of the Jefferson County Commission, hereby certify that the above and foregoing is a true and correct copy and/or transcript of a resolution duly adopted and approved by the Jefferson County Commission at its regular meeting held on the ____ day of _____, 2023, as same appears and is recorded in Minute Book ____ Page(s) ____ of the Official Minutes and Records of said County Commission.

GIVEN, under my hand and seal of Jefferson County, Alabama this the ____ day of _____, 2023.

BY: _____
Aleshia Y. Coleman, Minute Clerk
Jefferson County Commission
My Commission Expires: December 14, 2026

CITY OF BIRMINGHAM, ALABAMA

Date

BY: _____
Randall L. Woodfin, Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM BY LAW DEPARTMENT:

Assistant City Attorney / Date

CITY OF VESTAVIA HILLS, ALABAMA

Date

BY: _____
Ashley Curry, Mayor

ATTEST:

City Clerk

Date

BY: _____
Jeff Downes, City Manager

ATTEST:

City Clerk

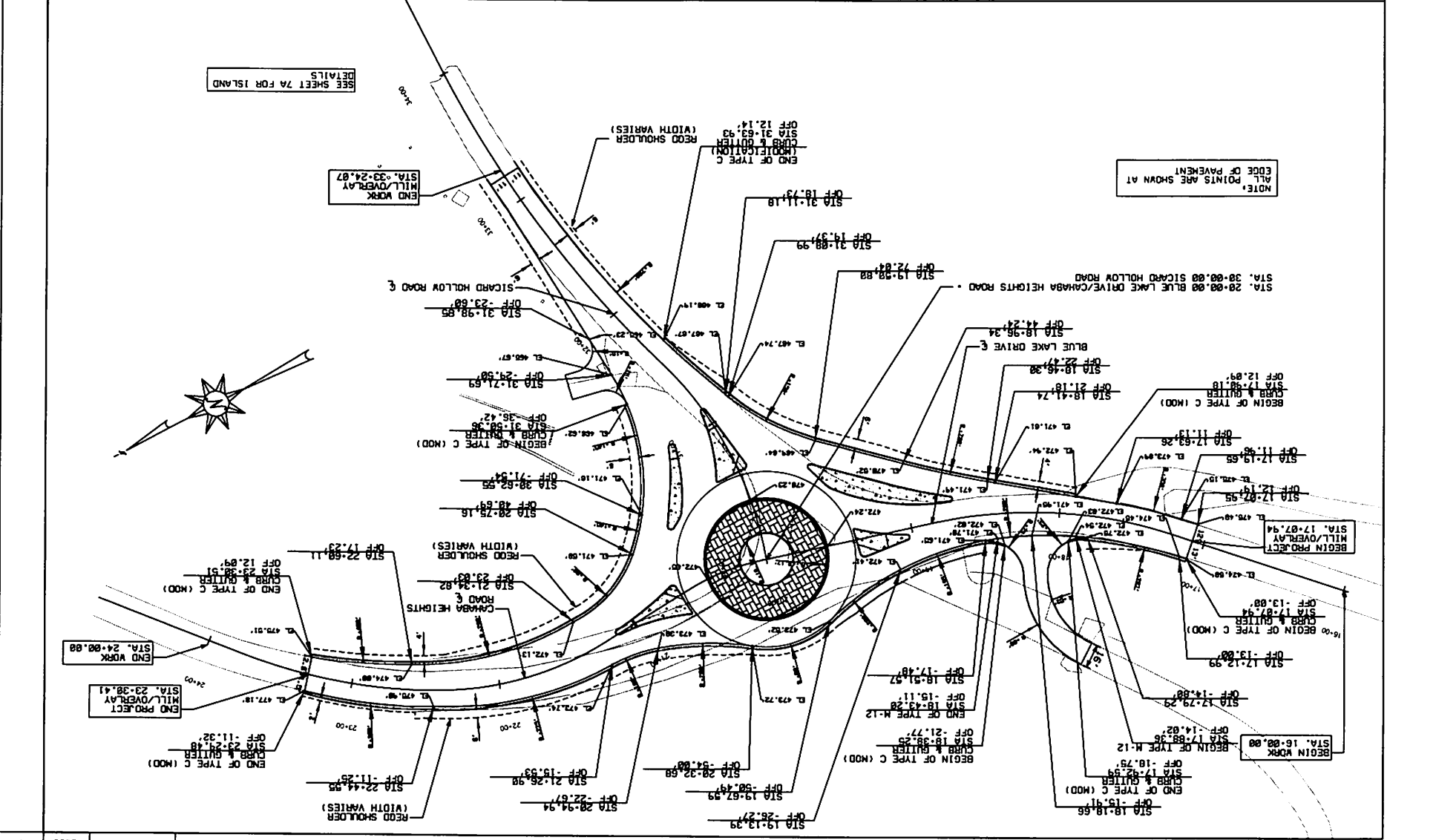
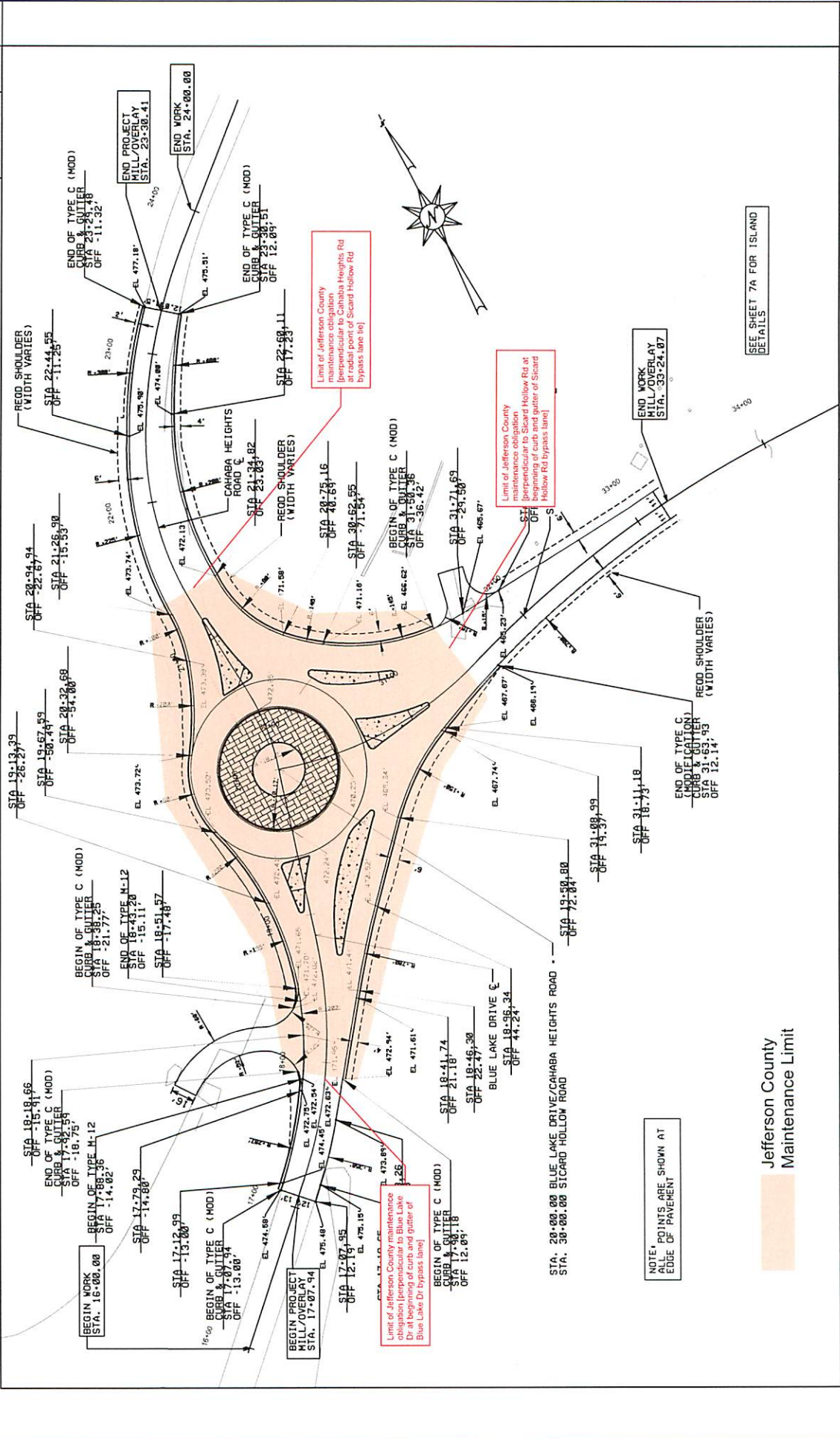


Exhibit A

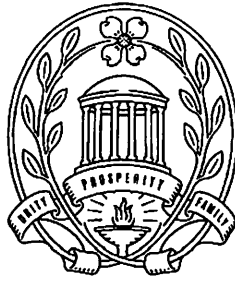
SHEET NO	7	FISCAL YEAR	2023	PROJECT NO	37-19-488	REFERENCE	2023
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Exhibit B

REFERENCE PROJECT NO	37-19-400
FISCAL YEAR	2023
SHEET NO	7



PLAN SUBMITTAL	100%	JEFFERSON COUNTY COMMISSION	HORIZ	SCALE (FEET)	SHEET TITLE	ROUTE
					PAVING LAYOUT SHEET	BLUE LAKE/SYCARD HOLLOW



**CITY OF VESTAVIA HILLS
CITY CLERK
INTER-DEPARTMENT MEMO**

November 27, 2023

To: Jeff Downes, City Manager

Cc:

From: Rebecca Leavings, City Clerk

RE: Resolution Number 5486 - 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 certain properties in the City of Vestavia Hills

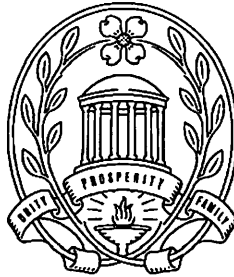
Background:

Ordinance Number 2814A regulates the installation of new support structures for small cell deployment. Applications for these locations were submitted more than a year ago. However, the proposed improvements to Massey Road postponed approval of three proposed locations. Also, Council action postponed the approval of a structure on Forest Haven Lane. These locations have been studied and relocated and are now being submitted for approval. Notifications were sent to property owners on November 9, 2023 with information to refer to the City's website for an abundance of information concerning small cell deployment.

Recommendation:

n/a

Fiscal Impact:



**CITY OF VESTAVIA HILLS
PUBLIC SERVICES
INTER-DEPARTMENT MEMO**

November 27, 2023

To: Jeff Downes, City Manager

Cc: Rebecca Leavings, City Clerk

From: Lori Beth Kearley, Public Services Director

RE: Ordinance Number 3199 - A - An Ordinance Amending Ordinance Number 3199 to Amend Language in the Joint Services Agreement (Exhibit A) Between City of Vestavia Hills, Jefferson County, and City of Birmingham In Order to Share Responsibilities for Improvements to the Blue Lake Drive and Sicard Hollow Road Intersection for Jefferson County Project No. 37-19-400

Background:

Ordinance Number 3199 was approved by Vestavia Hills City Council on October 9, 2023. Changes are required to the Agreement itself (Exhibit A) based upon legal reviews by City of Birmingham and Jefferson County.

Recommendation:

I have reviewed the revisions and recommend acceptance by the City of the changes. The financial obligations did not change, and the overall content and terms remain the same.

A tracked changes version of the document has been included in order to outline the requested revisions.

Fiscal Impact:

The City's contribution toward the construction of the project remains the same and is budgeted in approved FY24 budget's Capital Fund.

Attachments:

1. Ordinance 3199A
2. 37-19-400 Joint Service Agreement
3. 37-19-400 Joint Service Agreement - Revisions per City of Birmingham
Legal Review
4. resized exhibits