

ORDINANCE NUMBER 3251

AN ORDINANCE AUTHORIZING THE MAYOR AND CITY MANAGER TO EXECUTE AND DELIVER A LICENSE AGREEMENT WITH TDG VESTAVIA, LLC, A DELAWARE LIMITED LIABILITY COMPANY FOR AN ACCESS FROM THE AVIA APARTMENTS TO THE VESTAVIA HILLS CIVIC CENTER


WHEREAS, TDG Vestavia, LLC, a Delaware limited liability company (“Licensee”) is desirous of creating a pedestrian access thorough the adjacent AVIA Apartments to the Vestavia Hills Civic Center; and

WHEREAS, the Mayor and City Council feel it is in the best public interest to approve said request for access through a License Agreement, a copy of which is marked as Exhibit a, attached to and incorporated into this Ordinance Number 3251 as if written fully therein.

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

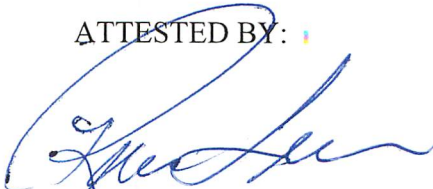
1. The Mayor and City Manager are hereby authorized to execute and deliver the License Agreement in the attached Exhibit A; and
2. This license agreement shall be recorded in the Jefferson County Judge of Probate and a copy retained by the City Clerk; and
3. This Ordinance Number shall be effective immediately up on adoption and approval following posting/publishing pursuant to Alabama law.

DONE, ORDERED, ADOPTED and APPROVED this the 4th day of November, 2024.



Ashley C. Curry
Mayor

ATTESTED BY: 

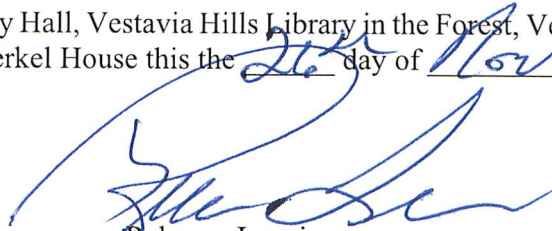


Rebecca Leavings
City Clerk

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 3251 is a true and correct copy of such Ordinance that was duly adopted by the City Council of the City of Vestavia Hills on the 4th day of November, 2024 as same appears in the official records of said City.

Posted at Vestavia Hills City Hall, Vestavia Hills Library in the Forest, Vestavia Hills Civic Center and Vestavia Hills New Merkel House this the 26th day of Nov, 2024.



Rebecca Leavings
City Clerk

This Instrument Was Prepared By:
Patrick H. Boone; Attorney at Law
705 New South Federal Savings Building
215 Richard Arrington, Jr. Boulevard North
Birmingham, Alabama 35203-3720
Telephone No. 205-324-2018

STATE OF ALABAMA

JEFFERSON COUNTY

LICENSE AGREEMENT

THIS LICENSE AGREEMENT (“Agreement”) is made and entered into on this the _____ day of August, 2024, by and between the City of Vestavia Hills, Alabama, a municipal corporation (“Licensor”) and TDG Vestavia, LLC, a Delaware limited liability company (“Licensee”).

WITNESSETH THESE RECITALS:

WHEREAS, the City of Vestavia Hills, Alabama, a municipal corporation, is the “Licensor” in this License Agreement; and

WHEREAS, TDG Vestavia, LLC, a Delaware limited liability company, is the “Licensee” in this License Agreement; and

WHEREAS, Licensee is the owner of the real estate and improvements used and known as Avia Apartment Homes situated on and at 1922 Tree Top Lane in the City of Vestavia Hills, Jefferson County, Alabama; and

WHEREAS, the City of Vestavia Hills, Alabama, Licensor, is the owner in fee simple of the real estate consisting of approximately 0.07± acres or 3,169 square feet more or less particularly described in Exhibit 1 and situated in the City of Vestavia Hills, Jefferson County, Alabama; and

WHEREAS, Licensee has requested that Licensor grant to it the non-exclusive and permissive use of the property described in Exhibit 1 in order to provide tenants of Avia Apartments access to and from said Apartments and the City of Vestavia Hills Civic Center; and

WHEREAS, Licensor is willing to allow Licensee to use the property described in Exhibit 1, without charge, pursuant to and in accordance with the terms, conditions, provisions, restrictions and limitations of this Agreement and set forth below; and

WHEREAS, Licensor and Licensee wish to reduce their agreement to writing.

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

1. **RECITALS.** The recitals set forth above are incorporated herein by reference as though set out fully herein.

2. **EXHIBIT.** Exhibit 1 is attached hereto and is incorporated into this License Agreement by reference as though set out fully herein.

3. **LICENSE REVOCABLE AT WILL.** Licensor and Licensee agree that this License Agreement is revocable at will by Licensor.

4. **GRANT OF LICENSE.** Licensor hereby grants to Licensee the non-exclusive right to use, improve and maintain the property described in Exhibit 1 attached hereto (the "property") for the uses described herein.

5. **USE OF PROPERTY.** The use of the property by Licensee shall be limited to pedestrian access to and from Avia Apartment Homes and the City of Vestavia Hills Civic Center and to plantings and landscaping purposes authorized in single-family zoning districts pursuant to City of Vestavia Hills Zoning Code Ordinance Number 3099 and for no other purpose. During the term of this Agreement, Licensee shall be solely responsible for the maintenance, repair and upkeep of the property. The Licensor shall have no responsibility whatsoever for the upkeep, repair and maintenance of the property.

During the term of this Agreement, Licensee shall make no other improvements to the property.

6. **CANCELLATION AND TERMINATION:** Licensor shall have the right in its sole and absolute discretion to cancel and terminate this License Agreement at any time, for any reason or no reason. In other words, this License Agreement is revocable at the will of the Licensor.

7. **CONSIDERATION:** During the term of this Agreement, Licensee shall not be required to pay any monetary consideration to the Licensor for the permission to use the property described in Exhibit 1 of this Agreement.

8. **INDEMNITY:** Licensee shall indemnify and save harmless the Licensor, its Mayor, City Manager, individual City Council members, servants, agents, employees and representatives from any and all claims, demands, controversies, actions, causes of action, liabilities of action, lawsuits, liabilities, damages and losses and expenses, including but not limited to attorneys' fees, arising out of or resulting from property damage, personal injury and/or death suffered or alleged to have been suffered by any person as a result of the use of the property by Licensee, its tenants and its successors and assigns. This indemnification shall extend to all claims, damages, losses and expenses for injury or damage to adjacent or

neighboring property, or persons injured thereon, that arise out of, relate to or result from the use of the property by Licensee, its tenants and their successors, heirs and assigns.

9. **LIABILITY INSURANCE:** Licensee shall during the entire term of this License Agreement, at Licensee's own expense keep in force by advance payment of premiums, public liability insurance in an amount of not less than \$1,000,000.00 for injury to or death of one person or as a result of one occurrence and not less than \$2,000,000.00 for injury to or death of more than one person as a result of one occurrence and for damage to property in the amount of \$100,000.00, or single limit of \$2,000,000.00, insuring Licensor, the City of Vestavia Hills, Alabama and its Mayor, City Manager, individual City Council members, servants, agents, employees and representatives (as an additional insured) against any liability that may accrue against them or either of them on account of any occurrences in or about the property during the term or in consequence of Licensee's use thereof and resulting in personal injury or death or property damage. Licensee shall on request furnish to Licensor certificates of all insurance required under this Section 9.

10. **COMPLIANCE WITH GOVERNMENTAL REQUIREMENTS:** Licensee shall, at their sole cost and expense, comply in all respects with any and all applicable federal, state and local statutes, regulations, ordinances, rules, judicial decisions, governmental permits and approvals and all other laws now or hereafter in effect for and during the term of this License Agreement.

11. **MISCELLANEOUS**

A. **GOVERNING LAW:** This License Agreement and the rights and obligations of the parties hereto shall be governed by and construed in accordance with the laws of the State of Alabama. The jurisdiction and venue for the resolution of any dispute shall be in Jefferson County, Alabama.

B. **BINDING AGREEMENT:** This License Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, successors and assigns.

C. **SURVIVAL:** All representations and warranties of this License Agreement shall survive the execution and delivery of this License Agreement.

D. **TIME OF THE ESSENCE:** Time is of the essence of this License Agreement.

E. **NO WAIVER:** The failure of either party to exercise any rights under this License Agreement shall not constitute a waiver of any right, nor excuse the other party's full performance. No express waiver of any matter shall affect any other matter under this License Agreement. Express waivers are only effective if in writing.

F. **CONSTRUCTION OF TERMS:** Descriptive headings are for convenience only and shall not control or affect the meaning or construction of any provision. Any ambiguities of this License Agreement shall be construed fairly and equitably regardless of the

participation of either party in drafting this License Agreement. The reference in terms to gender and number shall be modified as may be appropriate.

G. SEVERABILITY: In case of any of the provisions of this License Agreement shall for any reason be held invalid, illegal or unenforceable by any court of competent jurisdiction in any respect, the remaining provisions shall remain in effect and the License Agreement be performed in a fair and equitable manner as to any uncertainties arising from the unenforceable provisions.

H. DATES: If any date provided in this License Agreement falls on a Saturday, Sunday or holiday, the date shall be the next business day.

I. EXECUTION IN COUNTERPARTS: This License Agreement may be executed simultaneously in any number of counterparts, each of which shall be an original, but all of which shall constitute but one and the same instrument.

J. OTHER PROVISIONS: Licensee may not assign any of its rights or obligations under this License Agreement to any party without the prior written consent of Licensor, which consent may be given or withheld in the sole and absolute discretion of Licensor.

K. ENTIRE AGREEMENT: This written License Agreement contains the entire agreement between the parties, incorporating all prior agreements, and may only be amended in writing executed by both parties.

IN WITNESS WHEREOF, the City of Vestavia Hills, Alabama, a municipal corporation, as Licensor, and TDG Vestavia, LLC, a Delaware limited liability company, as Licensee, have hereunto caused this License Agreement to be executed by their duly authorized officers and their respective seals to be affixed hereto as of the date first above written.

LICENSOR:
CITY OF VESTAVIA HILLS, ALABAMA
A Municipal Corporation

By _____
Ashley Curry
Its Mayor

By _____
Jeffrey D. Downes
Its City Manager

ATTESTED

By _____

LICENSEE:

**TDG VESTAVIA, LLC,
A Delaware Limited Liability Company**

**By TDG Vestavia Partners, LLC,
A Delaware limited liability company,
Its Managing Member**

**By: TDG Development Company, LLC
A Delaware limited liability company,
Its Manager**

**By: The Dobbins Group, LLC
An Alabama limited liability company
Its Manager**

**By _____
William D. Dobbins, IV
Its Member**

ATTESTED BY:

By _____

**STATE OF ALABAMA
JEFFERSON COUNTY**

ACKNOWLEDGMENT

I, the undersigned authority, a Notary Public, in and for said County, in said State, hereby certify that William D. Dobbins, IV, whose name as a Member of the Dobbins Group, LLC, the Manager of TDG Development Company, LLC, Manager of TDG Vestavia Partners, LLC, Manager Member of TDG Vestavia, LLC, a Delaware limited liability company, whose name is signed to the foregoing License Agreement and who is known to me, acknowledged before me on this day that being informed of the contents of the instrument, he, as such member of such manager of such manager of such managing member, and with full authority, executed the same voluntarily for and as the act of said limited liability company as such manager of such manager of such managing member of such limited liability company.

Given under my hand and official seal, this the _____ day of August, 2024.

Notary Public

My Commission Expires:

SEAL

**STATE OF ALABAMA
JEFFERSON COUNTY**

ACKNOWLEDGMENT

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

Given under my hand and official seal, this the _____ day of August, 2024.

Notary Public

My Commission Expires:

SEAL

**STATE OF ALABAMA
JEFFERSON COUNTY**

ACKNOWLEDGMENT

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

Given under my hand and official seal, this the _____ day of August, 2024.

Notary Public

My Commission Expires:

SEAL

EXHIBIT 1

LICENSOR'S PROPERTY

A TRACT OF LAND SITUATED IN THE SOUTHWEST 1/4 OF SECTION 30, TOWNSHIP 18 SOUTH, RANGE 2 WEST, JEFFERSON COUNTY, ALABAMA BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGIN AT THE SOUTHWEST CORNER OF THE NORTHEAST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 30, TOWNSHIP 18 SOUTH, RANGE 2 WEST, JEFFERSON COUNTY, ALABAMA, SAID POINT ALSO BEING THE SOUTHWEST CORNER OF LOT 2, ACCORDING TO THE SURVEY OF CVS VESTAVIA, AS RECORDED IN MAP BOOK 213, PAGE 31, IN THE PROBATE OFFICE OF JEFFERSON COUNTY, ALABAMA; THENCE RUN NORTH 01°07'43" WEST ALONG THE WEST LINE OF SAID LOT 2 A DISTANCE OF 45.00 FEET TO A POINT; THENCE LEAVING THE WEST LINE OF SAID LOT 2 RUN SOUTH 89°08'28" EAST A DISTANCE OF 55.00 FEET TO A POINT; THENCE RUN SOUTH 01°07'43" EAST A DISTANCE OF 47.21 FEET TO A POINT ON THE NORTH RIGHT-OF-WAY LINE OF A 10' ALLEY; THENCE RUN SOUTH 01°07'43" EAST A DISTANCE OF 11.47 FEET TO A POINT ON THE SOUTH RIGHT-OF-WAY LINE OF A 10' ALLEY; THENCE RUN NORTH 86°59'35" WEST ALONG THE SOUTH RIGHT-OF-WAY LINE OF A 10' ALLEY A DISTANCE OF 55.11 FEET TO A POINT; THENCE LEAVING SAID ROAD RIGHT-OF-WAY RUN NORTH 01°07'43" WEST A DISTANCE OF 11.61 FEET TO THE POINT OF BEGINNING.

SAID TRACT OF LAND CONTAINING 0.07 ACRES OR 3169 SQ.FT. MORE OR LESS.



GENERAL LOCATION OF AGREEMENT/WORK

Westavia Hills Chamber of Commerce

Westavia Hills Civic Center

Mayland Ln

Mayland Ln

Mayland Ln

11140

11136

11134

11130

11123

13220

13238

13251

13713

13716

13900

13905