



**Vestavia Hills
City Council Agenda
September 8, 2025
6:00 PM**

1. Call to Order
2. Roll Call
3. Invocation - Butch Williams, Vestavia Hills Chaplain
4. Pledge Of Allegiance
5. Approval Of The Agenda
6. Announcements, Candidates and Guest Recognition
7. City Manager's Report
8. Councilors' Reports
9. Approval Of Minutes - August 25, 2025 regular meeting minutes
10. Proclamation - Constitution Week - September 17-23, 2025
11. Proclamation - September 2025 as National Suicide Prevention Month

Old Business (Public Hearing)

12. Public Hearing - Ordinance Number 3285 - An Ordinance Approving And Adopting The General Fund Budget, Special Revenue Fund Budget, Capital Project Fund Budget Infrastructure And Community Spaces Project Fund Budget, And Debt Service Fund Budget For The City Of Vestavia Hills For The Period Beginning October 1, 2025 Until September 30, 2026
13. Public Hearing - Resolution Number 5579 - A Resolution Authorizing An Increase In Salary And Wages For Employees
14. Public Hearing - Resolution Number 5880 - A Resolution accepting dedication of right-of-way on the portion of Wooten Drive located adjacent to 3917 Wooten Drive
15. Public Hearing - Resolution Number 5582 - A Resolution dedicating the streets in the Forest Creek Subdivision to the City of Vestavia Hills
16. Public Hearing - Ordinance 3292 - An Ordinance Granting a Franchise Agreement to Uniti Fiber GulfCo, LLC and Authorizing the Mayor and City Manager to Execute the Agreement
17. Public Hearing - Ordinance Number 3294 - An Ordinance Accepting a Bid for City of Vestavia Hills Right-of-Way Mowing and Maintenance and authorizing the Mayor and City Manager to execute any and all agreements for said service

18. Public Hearing - Ordinance Number 3295 - An Ordinance Accepting a Bid for Grounds Mowing and Landscape Maintenance within the City of Vestavia Hills and authorizing the Mayor and City Manager to execute and deliver all agreements needed for said service

New Business

19. Resolution Number 5588 - A Resolution appointing election officers for the municipal runoff election to be held on September 23, 2025

New Business Requesting Unanimous Consent (Public Hearing)

20. Public Hearing - Resolution Number 5587 - A Resolution dedicating the streets in the Magnolia Cove Subdivision known as Magnolia Cove Road and authorizing the City Manager to execute documents needed for calling the bond on said street

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

21. Public Hearing - Ordinance Number 3286 - Annexation - 90-Day Final - 2610 Stony Branch Road; William Green, owner
22. Public Hearing - Ordinance Number 3287 - Annexation - 90-Day Final - 2620 Stony Branch Road; William Paul, owner
23. Public Hearing - Ordinance Number 3288 - Rezoning - 2610 and 2620 Stony Branch Road; Rezoning from Jefferson County E-1 to Vestavia Hills E-2, compatible zoning for annexation; William Green and William Paul, owners
24. Public Hearing - Ordinance Number 3289 - Rezoning - 3112 Sunview Drive; Rezoning from Vestavia Hills R-5 to Vestavia Hills R-4 for an existing home with an approved front setback of 34 feet; Mary Lu Roberts, owner
25. Public Hearing - Ordinance Number 3296 - An Ordinance Accepting a Bid for the City of Vestavia Hills Highway 31 Gateway Sign and Authorizing the Mayor and City Manager to execute any and all agreements for said project
26. Citizens Comments
27. Time Of Adjournment

PUBLIC HEARING PROCEDURES

The following procedures shall be followed for every public hearing of the City Council:

- All comments shall be limited to **3 minutes**. A countdown clock will be provided on the video screens.
- Do not duplicate comments made by previous speakers. For example, if traffic is mentioned as an issue, do not readdress that issue.
- All comments shall be directed to the Mayor and/or presiding officer. Do not address the audience or the applicant.
- Each speaker shall identify himself, including full name and address.

SPECIAL NOTICE CONCERNING CITY COUNCIL MEETINGS

If you prefer not to attend a City Council meeting or work session in person, you may participate remotely:

- **Videoconference:** To participate by videoconference, you may access the meeting via Zoom at <https://us02web.zoom.us/j/5539517181>. When the Zoom.us window opens in your browser, click "Allow" to be placed in a virtual "waiting room." The host will open the meeting and allow all participants to join the meeting 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 "video" 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. Some useful Zoom functions include: microphone Mute/Unmute; Start/Stop Video; and View Participants – opens a pop-out screen that includes the "Raise Hand" icon that you may use to raise a virtual hand.
- **Teleconference:** To participate by telephone, dial 312.626.6799 and enter the meeting ID: 5539517181. All participants will be automatically muted upon entrance to the meeting. If you wish to speak during time(s) identified for public input, unmute yourself by pressing *6 on your keypad. 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.

Meetings may be recorded. By participating in the meeting, you are consenting to be recorded.

"Zoom-bombing." Zoom-bombing is a cyber-crime and is punishable by law. In the event of an attendee intruding into any City of Vestavia Hills Zoom meeting, the online broadcast will be terminated immediately. Council and/or board members may be readmitted but online attendees will not. Although Zoom-bombing is not a frequent occurrence, those wishing to make public comment should attend the meeting in person.



**Vestavia Hills
City Council Minutes
August 25, 2025
6:00 PM**

1. Call to Order

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 called the meeting to order and the City Clerk called the roll with the following:

2. Roll Call

Roll call was as follows:

MEMBERS PRESENT: Mayor Ashley Curry, Mayor Pro-Tem Rusty Weaver, City Councilors Kimberly Cook, Paul Head, and George Pierce

MEMBERS ABSENT: None.

OTHER OFFICIALS PRESENT: Jeff Downes, City Manager; Patrick H. Boone, City Attorney; Cinnamon McCulley, Asst. City Manager; Rebecca Leavings, City Clerk; Shane Ware, Police Chief; Melvin Turner, Finance Director; Zachary Clifton, Asst. Finance Director; Lori Beth Kearley, Public Works Director; Marvin Green, Fire Chief; Umang Patel, Court Director*; Dillon Watts, Building Safety*

3. Invocation - Steve Dedmon, Vestavia Hills Chaplain

4. Pledge Of Allegiance

5. Approval Of The Agenda

The Mayor opened the floor for a motion to approve the agenda as presented.

MOTION: Approve the agenda as presented. Motion By: Rusty Weaver. Seconded By: George Pierce.

VOTE: Roll call vote as follows: Yes: Ashley Curry, Rusty Weaver, Kimberly Cook, Paul Head, George Pierce.

No: None. Abstain: None. Motion passed.

6. Certificate of Recognition - Miss Alabama's Teen 2025 Addison Shoemaker

The Mayor presented a Certificate of Recognition to Miss Alabama's Teen 2025, Miss Addison Shoemaker. Miss Shoemaker is a student at Briarwood Christian and is a resident of Vestavia Hills. Mr. Downes read the Certificate aloud and the Mayor asked her to describe her platform.

Miss Shoemaker stated that her platform is "Cheering on Children's," which is a non-profit organization serving Child Life programs at Children's Hospitals and the Ronald McDonald House Charities. She chose this charity based on a medical experience that she had at age 4 which left a huge impact on her life.

7. Proclamation - September 2025 - Gynecologic Cancer Awareness Month

The Mayor presented a Proclamation designating September 2025 as "Gynecologic Cancer Awareness Month." Mr. Downes read the Proclamation aloud and the Mayor presented it to Beth Black, Executive Director of the Laura Crandall Brown Foundation; Dr. Alice Laurendine and Carolyn Chaffin.

Mrs. Black stated that every 5 minutes a woman is diagnosed with gynecologic cancer and if caught early, she has a 90% survival rate, but many are not caught early. This is a mission to offer hope for early detection and cancer awareness.

Dr. Laurendine spoke of her own experiences with fighting cancer and thanked the Mayor and Council for this support.

Carolyn Chaffin also spoke of her experiences with Ovarian cancer and asked everyone to please get annual exams and tests for early detection.

8. Announcements, Candidates and Guest Recognition

- The following candidates introduced themselves and asked for support in the upcoming municipal election:
 - Brian Demarco, Council, Place Number 3
 - Kimberly Cook, Council, Place Number 2
 - Ashley C. Curry, Mayor
- Mr. Pierce welcomed Chamber Board member Katherine McRee to the meeting. Ms. McRee stated that the Cahaba Heights Merchants Association hosted a Cahaba Cocktail Crawl recently. She noted that the participants were from all areas, including other states. This was a first time event, but it was a great success. The Chamber was also having bargain days all across the City which increased sales for most participants. She stated she appreciates the support from the City. Mr. Pierce thanked Ms. McRee for all her work in bringing together other merchant associations throughout the city. Mrs. Cook stated that she ran into various people last weekend as she was out campaigning. Some of the couples she spoke to were from other cities and were enjoying area restaurants and shopping. She stated that it was a big win for the City
- Mrs. Cook welcomed her husband, Alabama Supreme Court Justice Cook.

9. City Manager's Report

- Mr. Downes called on Lori Beth Kearley to explain city signage for projects.
 - Mrs. Kearley showed examples of signage that will be displayed when the City does various projects throughout the City. He stated that these will call attention to various repairs that the City is making and the investments in infrastructure. Mrs. Cook stated that this is great, and fulfills her request made several weeks ago so that citizens can see where there tax dollars are being spent.
- Mr. Downes stated that the Stormwater Management Plan requires an annual plan to be adopted. The public input period is beginning and everyone is invited to participate in comment on the needed focus of the Plan. Citizens can submit input through a Vestavia Hills Listens topic.
- Mr. Downes stated that the budget work session will be Tuesday September 2, immediately following the canvass meeting on the same day beginning at noon. The work session should last a couple of hours.
- Mr. Downes reminded everyone the election will be held tomorrow. There is an election button on the front page of the website and the results will be updated live as they arrive.
 - Mr. Pierce thanked the candidates for the hard work they did during this election. It's tedious and nerve-wracking. He encouraged everyone to vote.

10. Councilors' Reports

- Mrs. Cook stated that she attended the Senior Citizens Day and it was a wonderful event. There were people attending this event from many areas, and they came here because Vestavia Hills has wonderful Senior events.
- Mr. Pierce stated that he attended the Chamber Board meeting, and they have been advised that the Vestavia Country Club ballroom will not be available next year so they have to find another place to meet. More information to follow on that.

11. Finance Reports - Zachary Clifton, Deputy Finance Director

The financial statements for the month ending July 2025 were presented by Zachary Clifton, Assistant Finance Director. Mr. Clifton read and explained the balances.

12. Approval Of Minutes - August 11, 2025 regular meeting minutes

The Mayor announced that the minutes of the August 11, 2025, regular meeting are being presented for approval. He opened the floor for a motion.

MOTION: Approve the minutes as presented. Motion By: Rusty Weaver. Seconded By: Kimberly Cook.

VOTE: Roll call vote as follows: Yes: Ashley Curry, Rusty Weaver, Kimberly Cook, Paul Head, George Pierce.

No: None. Abstain: None. Motion passed.

Old Business (Public Hearing)

13. Public Hearing - Ordinance Number 3278 - Conditional Use Approval - An Ordinance for conditional use approval to allow the operation of a dog

grooming business at 1064 Montgomery Highway; Shannon Waltchack, owners; Martin Briggs, Splash and Dash Groomeries and Boutique, representing

Mr. Weaver stated that this request came to P&Z and was unanimously recommended for approval to allow a dog grooming facility at this location with no boarding.

MOTION: Approve Ordinance Number 3278 as presented. Motion by: Kimberly Cook. Seconded by: Rusty Weaver.

The Mayor opened the floor for a public hearing. There being no one present to address the Council on this issue, the Mayor closed the public hearing and called for the question.

VOTE: Roll call vote as follows: Yes: Ashley Curry, Rusty Weaver, Kimberly Cook, Paul Head, George Pierce.

No: None. Abstain: None. Motion passed.

14. Public Hearing - Ordinance Number 3279 - Annexation - 90-Day Final - 1720 Vestaview Lane; Jaye Lawrence, Owner

MOTION: Approve Ordinance Number 3279 as presented. Motion by: Rusty Weaver. Seconded by: George Pierce.

Mr. Pierce stated this home was annexed three months ago. This represents the final annexation and rezoning of the property as prescribed by code.

The Mayor opened the floor for a public hearing. There being no one present to address the Council on this issue, the Mayor closed the public hearing and called for the question.

VOTE: Roll call vote as follows: Yes: Ashley Curry, Rusty Weaver, Kimberly Cook, Paul Head, George Pierce.

No: None. Abstain: None. Motion passed.

15. Public Hearing - Ordinance Number 3280 - Rezoning - 1720 Vestaview Lane; Rezone from Jefferson County R-1 to Vestavia Hills R-2 for annexation; Jaye Lawrence, Owner

MOTION: Approve Ordinance 3280 as presented. Motion by: Rusty Weaver. Seconded by: George Pierce.

Mr. Weaver stated that this is the compatible zoning for the house just annexed.

The Mayor opened the floor for a public hearing. There being no one present to address the Council on this issue, the Mayor closed the public hearing and called for the question.

VOTE: Roll call vote as follows: Yes: Ashley Curry, Rusty Weaver, Kimberly Cook, Paul Head, George Pierce.

No: None. Abstain: None. Motion passed.

16. Public Hearing - Ordinance Number 3282 - An Ordinance Authorizing the Mayor and City Manager to execute and deliver an agreement for a drainage improvement and pipe rehabilitation project designated as Project Number IM-I459(324) on I-459 within the city limits of Vestavia Hills.

MOTION: Approve Ordinance Number 3282 as presented. Motion by: Rusty Weaver. Seconded by: Kimberly Cook.

Mr. Downes stated that this is an ALDOT maintenance and improvement project on I-459 right-of-way from Acton Road to Highway 280. Funding for the project is 100% by ALDOT, but it is located in the corporate limits of the City.

The Mayor opened the floor for a public hearing. There being no one present to address the Council on this issue, the Mayor closed the public hearing and called for the question.

VOTE: Roll call vote as follows: Yes: Ashley Curry, Rusty Weaver, Kimberly Cook, Paul Head, George Pierce.

No: None. Abstain: None. Motion passed.

17. Public Hearing - Ordinance Number 3283 - An Ordinance authorizing the Mayor and City Manager to execute any and all documents associated with the engagement of Doster Construction Company, Inc. as its construction manager for FY 26 and FY 27 capital projects

MOTION: Approve Ordinance Number 3283 as presented. Motion by: Rusty Weaver. Seconded by: George Pierce.

Mr. Downes stated that there was a competitive process for prospective construction managers and the approval tonight will launch the project for what is being known as "Plan for Growth".

Ms. Cook asked about the criteria used to select the construction manager. Mr. Downes explained that, in his experience, it is valuable to have a construction manager for very expensive construction projects in order to reduce construction risks. There were some really great construction management companies that presented following the RFP submittals. The Council's consensus after full review was the selection of Doster. He stated that variables included fees, experience in similar projects, getting the "A" team to be our leaders and successful implementation of a project of this scope and size.

Mr. Boone stated that the contract meets requirements of Alabama law.

The Mayor opened the floor for a public hearing. There being no one present to address the Council on this issue, the Mayor closed the public hearing and called for the question.

VOTE: Roll call vote as follows: Yes: Ashley Curry, Rusty Weaver, Kimberly Cook, Paul Head, George Pierce.

No: None. Abstain: None. Motion passed.

18. Public Hearing – Ordinance Number 3284 – An Ordinance approving and adopting the final 10% of the fiscal year 2025 budgets for the City of Vestavia Hills

MOTION: Approve Ordinance Number 3284 as presented. Motion by: Rusty Weaver. Seconded by: George Pierce.

Mr. Downes explained that 90% of the budget was approved at the beginning of the fiscal year. The final 10% will allow expenditures to be paid for the remaining months of the year pursuant to Alabama law.

The Mayor opened the floor for a public hearing. There being no one present to address the Council on this issue, the Mayor closed the public hearing and called for the question.

VOTE: Roll call vote as follows: Yes: Ashley Curry, Rusty Weaver, Kimberly Cook, Paul Head, George Pierce.

No: None. Abstain: None. Motion passed.

New Business

19. Public Hearing - Resolution Number 5581 - A Resolution approving an alcohol license for BBB Cahaba Heights LLC d/b/a Big Bad Breakfast for 020 - Restaurant Retail Liquor; John M. Bodnar, Dean J. Maio and John M. Currence, executives

MOTION: Approve Resolution Number 5581 as presented.. Motion by: Rusty Weaver. Seconded by: Kimberly Cook.

Mr. Pierce asked about training of employees.

Dean Maio, owner, stated that the company participates in the responsible vendor training and any other training offered by the ABC Enforcement.

The Mayor opened the floor for a public hearing. There being no one present to address the Council on this issue, the Mayor closed the public hearing and called for the question.

VOTE: Roll call vote as follows: Yes: Ashley Curry, Rusty Weaver, Kimberly Cook, Paul Head, George Pierce.

No: None. Abstain: None. Motion passed.

20. Public Hearing - Resolution Number 5583 - A Resolution approving an alcohol license for Mega Dimensions Inc., d/b/a Bangkok Street Foods for 020-Restaurant Retail Liquor; Mantana Damrongsak, executive

MOTION: Approve Resolution Number 5583 as presented. Motion by: Rusty Weaver. Seconded by: Kimberly Cook.

Mantana Damrongsak, owner, was present representing this request.

Mr. Pierce asked about training of employees. Mr. Damrongsak stated that they also participate in the responsible vendor and train all employees to card all patrons and watch also for over-intoxication.

Mrs. Cook said the restaurant is very good.

The Mayor opened the floor for a public hearing. There being no one present to address the Council on this issue, the Mayor closed the public hearing and called for the question.

VOTE: Roll call vote as follows: Yes: Ashley Curry, Rusty Weaver, Kimberly Cook, Paul Head, George Pierce.

No: None. Abstain: None. Motion passed.

21. Ordinance Number 3293 - An Ordinance Authorizing the Mayor and City Manager to execute a Supplemental Agreement with Gresham Smith for design of sidewalk at Highway 31 Pedestrian Bridge

MOTION: Approve Ordinance Number 3293 as presented. Motion by: Rusty Weaver. Seconded by: George Pierce.

Mr. Downes stated that this is for a sidewalk connection from the pedestrian bridge to Baumhowers Victory Grill, which has always been planned for the bridge. He stated that this will connect the sidewalks along Montgomery Highway. This agreement authorizes Gresham Smith to draw the design. Commissioner Mike Bolin contributed \$120,000 of his discretionary funds for the project.

Mr. Pierce asked about completion date of the bridge. Mrs. Kearley stated that they are tracking well on the bridge and the elevator tower, so they are looking toward the end of October for a late punchlist.

VOTE: Roll call vote as follows: Yes: Ashley Curry, Rusty Weaver, Kimberly Cook, Paul Head, George Pierce.
No: None. Abstain: None. Motion passed.

New Business Requesting Unanimous Consent (Public Hearing)

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

The Mayor passed the gavel to Mr. Weaver to read the first reading items and then it was passed back to the Mayor.

- 22. Public Hearing - Ordinance Number 3285 - An Ordinance Approving And Adopting The General Fund Budget, Special Revenue Fund Budget, Capital Project Fund Budget Infrastructure And Community Spaces Project Fund Budget, And Debt Service Fund Budget For The City Of Vestavia Hills For The Period Beginning October 1, 2025 Until September 30, 2026 (*This Ordinance will remain in draft form and will be presented for public hearings following work session and subject to Council revisions and/or approvals*)**
- 23. Public Hearing - Resolution Number 5579 - A Resolution Authorizing An Increase In Salary And Wages For Employees (*This Resolution will remain in draft form and will be presented for public hearings following work session and subject to Council revisions and/or approvals*)**
- 24. Public Hearing - Resolution Number 5880 - A Resolution accepting dedication of right-of-way on the portion of Wooten Drive located adjacent to 3917 Wooten Drive**
- 25. Public Hearing - Resolution Number 5582 - A Resolution dedicating the streets in the Forest Creek Subdivision to the City of Vestavia Hills**

- 26. Public Hearing - Ordinance 3292 - An Ordinance Granting a Franchise Agreement to Uniti Fiber GulfCo, LLC and Authorizing the Mayor and City Manager to Execute the Agreement**
- 27. Public Hearing - Ordinance Number 3294 - An Ordinance Accepting a Bid for City of Vestavia Hills Right-of-Way Mowing and Maintenance and authorizing the Mayor and City Manager to execute any and all agreements for said service**
- 28. Public Hearing - Ordinance Number 3295 - An Ordinance Accepting a Bid for Grounds Mowing and Landscape Maintenance within the City of Vestavia Hills and authorizing the Mayor and City Manager to execute and deliver all agreements needed for said service**

29. Citizens Comments

- None.

30. Time Of Adjournment

There being no further business, Mr. Pierce made a motion to adjourn. The Mayor adjourned the meeting at 6:54.

Ashley C. Curry, Mayor

ATTESTED BY:

Rebecca Leavings, City Clerk

WHEREAS, our Founding Fathers, in order to secure the blessings of liberty for themselves and their posterity, did ordain and establish a Constitution for the United States of America; and

WHEREAS, it is of the greatest importance that all citizens fully understand the provisions and principles contained in the Constitution in order to effectively support it, preserve and defend it against all enemies; and

WHEREAS, the 238th anniversary of the signing of the Constitution provides a historic opportunity for all Americans to remember the achievements of the Framers of the Constitution and the rights, privileges, and responsibilities they afforded us in this unique document; and

WHEREAS, the independence guaranteed to American citizens, whether by birth or naturalization, should be celebrated by appropriate ceremonies and activities during Constitution Week, September 17 through 23, as designated by proclamation of the President of the United States of America in accordance with Public Law 915.

NOW, THEREFORE, I, Ashley C. Curry, by virtue of the authority vested in me as Mayor of the City of Vestavia Hills in the State of Alabama, do hereby proclaim September 17 - 23, 2025 as

CONSTITUTION WEEK

in the City of Vestavia Hills, Alabama, and urge our citizens to pay special attention to our Federal Constitution and the advantage of American citizenship.

IN WITNESS WHEREOF, I have
hereunto set my hand and caused the
Seal of the City of Vestavia Hills to
be affixed this the 8th day of
September 2025.

Ashley C. Curry
Mayor

WHEREAS, in 2023, suicide was the 11th leading cause of death overall in the United States and the 2nd leading cause of death among individuals aged 10 to 34 years and over 49,000 individuals died by suicide; and

WHEREAS, in 2023, an estimated 12.8 million adults aged 18 years or older reported having serious thoughts of suicide and 1.5 million adults attempted suicide in the past year; and

WHEREAS, in 2023, two in ten high school students seriously considered attempting suicide and almost one in ten high school students reported that they had made at least one suicide attempt in the past year; and

WHEREAS, over 90% of the people who die by suicide have a diagnosable and potentially treatable mental health condition, although often that condition is not recognized or treated; and

WHEREAS, the negative attitudes associated with mental health conditions and suicidal thoughts and behaviors work against suicide prevention by discouraging persons at risk for suicide from seeking life-saving help and further traumatizes survivors of suicide loss and people with lived experience of suicide; and

WHEREAS, organizations such as The American Foundation for Suicide Prevention envision a world without suicide, and are dedicated to saving lives and bringing hope to those affected by suicide, through research, education, advocacy and resources for those who have lost someone to suicide or struggled themselves.

NOW, THEREFORE, I, Ashley C. Curry, by virtue of the authority vested in me as Mayor of the City of Vestavia Hills in the State of Alabama, do hereby proclaim September 2025 as

NATIONAL SUICIDE PREVENTION MONTH

in the City of Vestavia Hills, Alabama, and urge our citizens to learn suicide risks and warning signs and encourage those who struggle to seek help.

IN WITNESS WHEREOF, I have
hereunto set my hand and caused the Seal
of the City of Vestavia Hills to be affixed
this the 8th day of September 2025.

Ashley C. Curry, Mayor



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

September 8, 2025

To: Jeff Downes, City Manager

From: Zach Clifton, Asst. Finance Director

Cc: Melvin Turner, III, Finance Director

RE: Public Hearing - Ordinance Number 3285 - An Ordinance Approving And Adopting The General Fund Budget, Special Revenue Fund Budget, Capital Project Fund Budget Infrastructure And Community Spaces Project Fund Budget, And Debt Service Fund Budget For The City Of Vestavia Hills For The Period Beginning October 1, 2025 Until September 30, 2026

Background:

WHEREAS, the City Manager has prepared and presented a "general fund budget" which has been reviewed and amended by the City Council for said period reflecting anticipated expenditures in the amount of \$80,946,797 including transfers out, to be effective for the period beginning October 1, 2025, through September 30, 2026; and

WHEREAS, the City Manager has prepared a "special fund budget" for said period reflecting anticipated expenditures in the amount of \$5,306,251 including transfers from the General Fund, to be effective for the period beginning October 1, 2025, through September 30, 2026; and

WHEREAS, the City Manager has prepared a "capital projects fund

budget” for said period reflecting expenditures in the amount of \$21,965,991 to be effective for the period beginning October 1, 2025, through September 30, 2026.

WHEREAS, the City Manager has prepared an “infrastructure and community spaces fund budget” for said period reflecting expenditures in the amount of \$7,672,460 to be effective for the period beginning October 1, 2025, through September 30, 2026.

WHEREAS, the City Manager has prepared a “debt service fund budget” for said period reflecting expenditures in the amount of \$7,440,502 to be effective for the period beginning October 1, 2025, through September 30, 2026.

Recommendation:

Recommend Approval

Fiscal Impact:

Budget Approval

Attachments:

1. FY2026 90% Budget Ordinance
2. FY2026 Budget Ordinance Exhibit 1

ORDINANCE NUMBER 3285

AN ORDINANCE APPROVING AND ADOPTING THE GENERAL FUND BUDGET, A SPECIAL REVENUE FUND BUDGET, A CAPITAL PROJECT FUND BUDGET, AN INFRASTRUCTURE AND COMMUNITY SPACES PROJECT FUND, AND A DEBT SERVICE FUND BUDGET FOR THE CITY OF VESTAVIA HILLS FOR THE PERIOD BEGINNING OCTOBER 1, 2025 UNTIL SEPTEMBER 30, 2026.

WHEREAS, the City Manager has prepared and presented a “general fund budget” which has been reviewed and amended by the City Council for said period reflecting anticipated expenditures in the amount of \$80,946,797 including transfers out, to be effective for the period beginning October 1, 2025, through September 30, 2026; and

WHEREAS, the City Manager has prepared a “special fund budget” for said period reflecting anticipated expenditures in the amount of \$5,306,251 including transfers from the General Fund, to be effective for the period beginning October 1, 2025, through September 30, 2026; and

WHEREAS, the City Manager has prepared a “capital projects fund budget” for said period reflecting expenditures in the amount of \$21,965,991 to be effective for the period beginning October 1, 2025, through September 30, 2026.

WHEREAS, the City Manager has prepared an “infrastructure and community spaces fund budget” for said period reflecting expenditures in the amount of \$7,672,460 to be effective for the period beginning October 1, 2025, through September 30, 2026.

WHEREAS, the City Manager has prepared a “debt service fund budget” for said period reflecting expenditures in the amount of \$7,440,502 to be effective for the period beginning October 1, 2025, through September 30, 2026.

WHEREAS, Title 11-43-57, Code of Alabama, 1975, provides as follows:

Annual appropriation of funds for expenditures of all departments and interest on indebtedness: In all cities, the Council shall appropriate the sums necessary for the expenditures of the several City departments and for the interest on its bonded and other indebtedness, not exceeding in the aggregate within ten (10) percent of its estimated expenses, and such City Council shall not appropriate in the aggregate an amount in excess of its annual legally authorized revenue. But, nothing in this section shall prevent such cities from anticipating their revenues for the year for which such appropriation was made, or from contracting for temporary loans as provided in the applicable provision of this title, or from bonding or

refunding their outstanding indebtedness or from appropriating anticipated revenue at any time for the current expenses of the City and interest on the bonded and other indebtedness of the City; and

WHEREAS, the City Council agrees to approve and adopt ninety (90) percent, or \$72,852,117, of the municipal “general fund budget” for the City of Vestavia Hills for fiscal year 2025-2026 upon the terms, conditions, and provisions set forth below; and

WHEREAS, the City Council agrees to approve and adopt ninety (90) percent, or \$4,775,626, of the municipal “special revenue fund budget” for the City of Vestavia Hills for fiscal year 2025-2026 upon the terms, conditions and provisions set forth below; and

WHEREAS, the City Council agrees to approve and adopt ninety (90) percent, or \$19,769,392, of the “capital project fund budget” for the City of Vestavia Hills for fiscal year 2025-2026 upon the terms, conditions and provisions set forth below; and

WHEREAS, the City Council agrees to approve and adopt ninety (90) percent, or \$6,905,214, of the “infrastructure and community spaces project fund budget” for the City of Vestavia Hills for fiscal year 2025-2026 upon the terms, conditions and provisions set forth below; and

WHEREAS, the City Council agrees to approve and adopt ninety (90) percent, or \$6,696,452, of the “debt service fund budget” for the City of Vestavia Hills for fiscal year 2025-2026 upon the terms, conditions and provisions set forth below; and

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Vestavia Hills, Alabama, as follows:

1. The municipal “general fund budget” for the City of Vestavia Hills, Alabama, prepared by the City Manager and submitted to the City Council is hereby approved and adopted to the extent of expenditures of \$72,852,117, which said amount is not exceeding the aggregate within ten (10) percent of the estimated expenses:

\$80,946,797 multiplied by 90% equals
\$72,852,117; and

2. The municipal “special revenue fund budget” for the City of Vestavia Hills, Alabama, prepared by the City Manager and submitted to the City Council is hereby approved and adopted to the extent of expenditures of \$4,775,626 which said amount is not exceeding the aggregate within ten (10) percent of the estimated expenses:

\$5,306,251 multiplied by 90% equals
\$4,775,626; and

3. The “capital projects fund budget” for the City of Vestavia Hills, Alabama, prepared by the City Manager and submitted to the City Council is hereby approved and adopted to the extent of expenditures of \$19,769,392 which said amount is not exceeding the aggregate within ten (10) percent of the estimated expenses:

\$21,965,991 multiplied by 90% equals
\$19,769,392; and

4. The “infrastructure and community spaces fund budget” for the City of Vestavia Hills, Alabama, prepared by the City Manager and submitted to the City Council is hereby approved and adopted to the extent of expenditures of \$6,905,214 which said amount is not exceeding the aggregate within ten (10) percent of the estimated expenses:

\$7,672,460 multiplied by 90% equals
\$6,905,214; and

5. The “debt service fund budget” for the City of Vestavia Hills, Alabama, prepared by the City Manager and submitted to the City Council is hereby approved and adopted to the extent of expenditures of \$6,696,452 which said amount is not exceeding the aggregate within ten (10) percent of the estimated expenses:

\$7,440,502 multiplied by 90% equals
\$6,696,452; and

6. The City Manager is hereby authorized to expend the sum of \$72,852,117 from the General Fund, \$4,775,626 from the Special Revenue Fund, \$19,769,392 from the Capital Projects Fund, \$6,905,214 from the Infrastructure and Community Spaces Fund, and \$6,696,452 from the Debt Service Fund for municipal expenses for the period beginning October 1, 2025, and ending September 30, 2026.

7. Copies of the budget outlines are attached hereto, marked as Exhibit “A” and incorporated into this Resolution by reference as though set out fully herein.

BE IT FURTHER ORDAINED, that each departmental total appropriation hereby approved by the City Council shall be utilized in all budget management activities. Departmental expenditures shall not be in excess of said departmental total appropriations

without further approval of the City Council. However, line-item transfers within each department appropriation is expressly allowable upon budget adoption by the City Council with authorized approval by the City Manager upon presentation by the Department Head; and

This Ordinance shall become effective immediately upon its approval and adoption.

APPROVED and ADOPTED this the 8th day of September, 2025.

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 3285 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, as same appears in the official records of said City.

Posted at Vestavia Hills Municipal Center, Vestavia Hills Library in the Forest, Vestavia Hills New Merkel House and Vestavia Hills Recreational Center this the _____ day of September, 2025.

Rebecca Leavings
City Clerk

**CITY OF VESTAVIA HILLS
ANNUAL BUDGET
SUMMARY OF "ALL FUNDS" REVENUE & EXPENDITURES
FISCAL YEAR ENDING SEPTEMBER 30, 2026**

REVENUES	GENERAL	Special Revenue	Capital Projects	Community Spaces	Debt Service	Total
Sales & Use Tax	\$ 32,066,976	\$ -	\$ -	\$ -	\$ -	\$ 32,066,976
Ad Valorem	24,855,511	-	-	-	-	24,855,511
Other Taxes	50,000	1,082,500	360,000	-	-	1,492,500
State Shared Revenue	-	1,010,000	-	-	-	1,010,000
Utility Franchise Fees	2,986,382	-	-	-	-	2,986,382
Licenses & Permits	6,946,996	50,000	-	-	-	6,996,996
Charges for Services	1,959,800	75,000	-	-	-	2,034,800
Fines & Forfeitures	400,000	730,000	-	-	-	1,130,000
Fees	56,262	982,860	-	-	-	1,039,122
Grants	1,527,074	34,174	3,000,000	-	-	4,561,248
Sale of Assets	-	-	1,694,574	-	-	1,694,574
Investment Earnings	1,466,071	32,200	113,700	68,300	55,805	1,736,076
Other Revenues	1,134,525	185,000	-	-	120,000	1,439,525
TOTAL REVENUES	\$ 73,449,597	\$ 4,181,734	\$ 5,168,274	\$ 68,300	\$ 175,805	\$ 83,043,710

**CITY OF VESTAVIA HILLS
ANNUAL BUDGET
SUMMARY OF "ALL FUNDS" REVENUE & EXPENDITURES
FISCAL YEAR ENDING SEPTEMBER 30, 2026**

EXPENDITURES	GENERAL	Special Revenue	Capital Projects	Community Spaces	Debt Service	Total
Administration	\$ 2,498,277	\$ -	\$ 69,207	\$ -	\$ -	\$ 2,567,484
Building Safety	993,934	-	157,281	-	-	1,151,215
City Clerk	660,857	-	36,712	-	-	697,569
City Council	91,793	-	14,575	-	-	106,368
City Wide	7,012,216	-	330,000	1,480,000	7,440,502	16,262,718
Fire	14,713,818	925,457	9,025,427	-	-	24,664,702
Human Resources	403,335	-	62,777	-	-	466,112
Information Technology	1,040,944	-	291,380	-	-	1,332,324
Library	3,371,344	273,030	171,417	-	-	3,815,791
Municipal Complex	449,344	-	1,166,168	-	-	1,615,512
Municipal Court	-	1,077,141	31,552	-	-	1,108,693
Parks & Leisure Services	5,627,264	-	1,082,606	-	-	6,709,870
Police	16,490,859	85,000	2,958,903	-	-	19,534,762
Public Services	7,092,793	2,945,623	6,567,986	2,267,662	-	18,874,064
SUB-TOTAL EXPENDITURES	60,446,778	5,306,251	21,965,991	3,747,662	7,440,502	98,907,184
TRANSFERS OUT						
To Special Revenue	317,141	-	-	758,123	-	1,075,264
To Capital Projects	8,096,000	-	-	-	-	8,096,000
To Community Spaces	7,692,000	-	-	-	-	7,692,000
To Debt Service	4,324,878	-	-	3,166,675	-	7,491,553
To Non-budgeted Funds	70,000	-	-	-	-	70,000
To General Fund	-	-	-	-	-	-
TOTAL TRANSFERS OUT	20,500,019	-	-	3,924,798	-	24,424,817
TOTAL EXPENDITURES	\$ 80,946,797	\$ 5,306,251	\$ 21,965,991	\$ 7,672,460	\$ 7,440,502	\$ 123,332,001

**CITY OF VESTAVIA HILLS
ANNUAL BUDGET
SUMMARY OF "ALL FUNDS" REVENUE & EXPENDITURES
FISCAL YEAR ENDING SEPTEMBER 30, 2026**

	GENERAL	Special Revenue	Capital Projects	Community Spaces	Debt Service	Total
OTHER REVENUE SOURCES						
TRANSFERS IN						
From Capital Projects	\$ -	\$ -	\$ -	\$ -	\$ -	-
From General Fund	-	317,141	8,096,000	7,692,000	4,324,878	20,430,019
From Community Spaces	-	758,123	-	-	3,166,675	3,924,798
Debt Proceeds	-	-	2,523,700	-	-	2,523,700
TOTAL OTHER REVENUE SOURCES	-	1,075,264	10,619,700	7,692,000	7,491,553	26,878,517
REVENUE OVER / (UNDER) EXPENDITURES	(7,497,200)	(49,253)	(6,178,017)	87,840	226,856	(13,409,774)
USE OF RESERVES / FUND BALANCE	7,497,200	49,253	6,178,017	-	-	13,724,470
REPORT BALANCE	\$ -	\$ -	\$ -	\$ 87,840	\$ 226,856	\$ 314,696



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

September 8, 2025

To: Jeff Downes, City Manager

From: Zach Clifton, Asst. Finance Director

Cc: Melvin Turner, III, Finance Director

RE: Public Hearing - Resolution Number 5579 - A Resolution
Authorizing An Increase In Salary And Wages For Employees

Background:

1. The City Council hereby approves a two-percent (2%) increase in wages and salaries for all current employees not paid under the Public Safety or Firefighter Pay Plans; and
2. The City Council approves a three-point-five-percent (3.5%) increase in wages and salaries for all current employees paid under the Public Safety or Firefighter Pay Plans.
3. Said increases are effective October 1, 2025.

Recommendation:

Recommend Approval

Fiscal Impact:
Budget Approval

Attachments:
1. FY2026 Wage Increase Resolution

RESOLUTION NUMBER 5579

**AUTHORIZING AND APPROVING AN INCREASE
IN SALARY AND WAGES FOR EMPLOYEES**

**THIS RESOLUTION WAS ADOPTED AND APPROVED BY THE CITY
COUNCIL OF THE CITY OF VESTAVIA HILLS, ALABAMA ON AUGUST 25,
2025.**

WITNESSETH THESE RECITALS

WHEREAS, the City Manager has proposed the budgets for fiscal year 2025-2026 year, along with expected surplus values, and has recommended a two-percent (2%) increase of wages and salaries for all current employees effective October 1, 2025 with the exception of employees that are compensated based upon the City of Vestavia Hills Public Safety and Firefighter Pay Plans; and

WHEREAS, the City Manager, recognizing the critical need for public safety employee recruitment and retention, has recommended a three-point-five-percent (3.5%) increase of wages and salaries for all current employees compensated based upon the City of Vestavia Hills Public Safety and Firefighter Pay Plans effective October 1, 2025; and

WHEREAS, the Council, at its regularly scheduled meeting of August 25, 2025, feel it is in the best public interest to approve a two-percent (2%) increase in wages and salaries for all applicable employees and further to adopt a three-point-five-percent (3.5%) increase in wages and salaries for all employees compensated based upon the City of Vestavia Hills Public Safety and Firefighter Pay Plans

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

1. The City Council hereby approves a two-percent (2%) increase in wages and salaries for all current employees not paid under the Public Safety or Firefighter Pay Plans; and
2. The City Council approves a three-point-five-percent (3.5%) increase in wages and salaries for all current employees paid under the Public Safety or Firefighter Pay Plans.
3. Said increases are effective October 1, 2025.

APPROVED and ADOPTED this the 8th day of September, 2025.

Ashley C. Curry
Mayor

ATTESTED BY:

Rebecca Leavings
City Clerk



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

September 8, 2025

To: Jeff Downes, City Manager

From: Ethan Fisher, City Engineer

Cc: Lori Beth Kearley, Public Services Director
Rebecca Leavings, City Clerk
Christopher Brady, City Engineer

RE: Public Hearing - Resolution Number 5880 - A Resolution accepting dedication of right-of-way on the portion of Wooten Drive located adjacent to 3917 Wooten Drive

Background:

The property line is currently recorded to the centerline of Wooten Drive and the right-of-way is prescriptive. The owner of the property is subdividing the property into two lots and has agreed to dedicate 25' of property to the city for permanent public right-of-way. No additional improvements to the roadway or infrastructure is required or anticipated as part of this action.

Recommendation:

Engineering recommends approval.

Fiscal Impact:

No fiscal impact to the city.

Attachments:

1. Resolution 5580
2. Updated_2_lots_Wed_Jul_30_2025_14-12-06 plat resized
3. Wooten_Right_of_Way_Wed_Jul_30_2025_14-13-01

RESOLUTION NUMBER 5580

**A RESOLUTION ACCEPTING THE DEDICATION OF A PART OF
WOOTEN DRIVE ADJACENT TO 3917 WOOTEN DRIVE**

WHEREAS, a recent survey shows a portion of property located at 3917 Wooten Drive has an encroachment of pavement from said roadway; and

WHEREAS, the property is being subdivided into two separate lots and the property owner wishes to end the encroachment and dedicate a portion of the property to the City for the maintenance of Wooten Drive, a copy of said survey and right-of-way dedication is marked as Exhibit A, attached to and incorporated into this Resolution 5580 as if written fully therein; and

WHEREAS, the City Engineer has inspected said portion of the street and recommends the dedication of this new right-of-way to enable the maintenance of said roadway; and

WHEREAS, the Mayor and the City Council feel it is in the best public interest to accept said dedication as recommended by the City's Engineering Department.

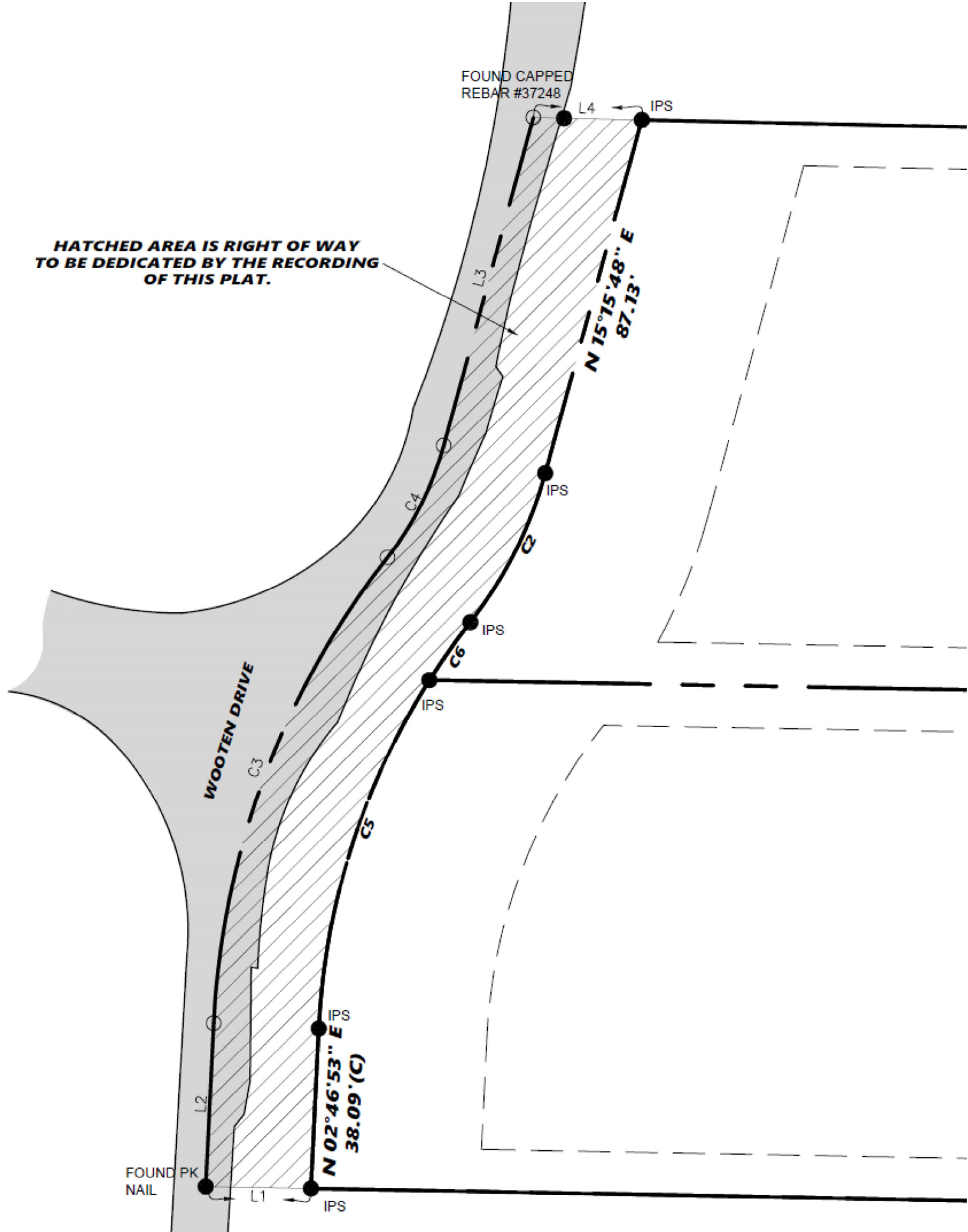
NOW THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF VESTAVIA HILLS, ALABAMA, that the City hereby accepts the offer of dedication of additional right-of-way for Wooten Drive adjacent to 3917 Wooten Drive as shown in the attached Exhibit A.

ADOPTED and APPROVED this the 8th day of September, 2025.

Ashley C. Curry
Mayor

ATTESTED BY:

Rebecca Leavings
City Clerk



July 30, 2025

City of Vestavia Hills
Planning and Development

RE: 3917 Wooten Drive Right of Way

I, as undersigned owner, would like to dedicate the property along the frontage of my property located at 3917 Wooten Drive to the City of Vestavia Hills. The property is to be dedicated in its current condition with no additional improvements to be provided.

Sincerely,

A handwritten signature in black ink that reads "Roger Wayne Smith". The signature is written in a cursive, flowing style.

Roger Wayne Smith, as Personal Representative

Estate of Clarence Leon Smith



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

September 8, 2025

To: Jeff Downes, City Manager

From: Christopher Brady, City Engineer

Cc: Lori Beth Kearley, Public Services Director
Rebecca Leavings, City Clerk
Ethan Fisher, City Engineer

RE: Public Hearing - Resolution Number 5582 - A Resolution dedicating the streets in the Forest Creek Subdivision to the City of Vestavia Hills

Background:

The public infrastructure completed as part of the new development at Forest Creek subdivision has been inspected and found to be satisfactory of acceptance for City maintenance.

Recommendation:

I am recommending dedication of the roadway as public infrastructure.

Fiscal Impact:

The developer has submitted the required one year maintenance bond for the final seal coat of asphalt. This will be monitored for any deterioration. At the end of this one year period, the City will inherit any maintenance of the public

infrastructure within the right of way as part of our right of way maintenance budgets.

Attachments:

1. Resolution 5582
2. BK259 PG48 Forest Creek - Resurvey 9-23-22
3. Forest Creek_final plat

RESOLUTION NUMBER 5582

**A RESOLUTION ACCEPTING THE DEDICATION OF THE STREETS IN
FOREST CREEK KNOWN AS VESTAVIA FOREST DRIVE**

WHEREAS, John Mark Rives, RS Development LLC, is the developer for Forest Creek Subdivision in Vestavia Hills, Alabama. This dedication consists of the street named “Vestavia Forest Drive” with right-of-way of 45’ (excluding private turnaround as shown on plat); such dedication not to include any improvements other than the streets named in this Resolution.

WHEREAS, the streets were built according to the Vestavia Hills specifications and the development company is presenting them to the City of Vestavia Hills for acceptance complete with a guarantee against any defects for a period of one (1) year from date of dedication.

**NOW THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY
OF VESTAVIA HILLS, ALABAMA**, that the City hereby accepts the offer of dedication made by John Mark Rives, RW Development LLC for Forest Creek Subdivision and said streets are hereby named public streets.

ADOPTED and APPROVED this the 8th day of September, 2025.

Ashley C. Curry
Mayor

ATTESTED BY:

Rebecca Leavings
City Clerk



RW DEVELOPMENT

To: Rebecca Leavings – City Clerk

From: RW Development LLC
John Mark Rives – Partner

Subject: Forest Creek Subdivision Street Dedication

Date: 8/11/2025

Mrs. Leavings, please let this letter serve as our dedication of the street and public ROW at the extension of Vestavia Forest Dr. in the Forest Creek Subdivision to the City of Vestavia Hills.

Attached is the recorded plat BK259 PG48 of the Forest Creek subdivision.

Please let me know if you need anything else regarding this dedication,

John Mark Rives
Developer, Forest Creek Subdivision
RW Development LLC
205-908-8865
rivesjm@gmail.com

A RESURVEY OF FOREST CREEK

A SINGLE FAMILY RESIDENTIAL SUBDIVISION SITUATED IN THE SW 1/4 OF THE NE 1/4 OF SECTION 36, TOWNSHIP 18 SOUTH, RANGE 3 WEST, CITY OF VESTALIA HILLS, JEFFERSON COUNTY, ALABAMA.

OWNER:
NW DEVELOPMENT, LLC
021 SHADES CREST ROAD
PESTAVIA HILLS, AL 35216
205-908-8365

PREPARED BY:
SOUTH CENTRAL SURVEYING, LLC
156 SUNSET TRAIL
ALABASTER, AL 35007
(205)-229-1993

STATE OF ALABAMA

[illegible]

Sy: William D. Callahan, Jr. Date 09/19/2022
William D. Callahan, Jr., P.L.S.

AL REG NO 28251

Given under my hand and seal this _____ day of _____, 19____

 Notary Public
 MY COMMISSION EXPIRES: 8-30-2023

DATE 9-20-22

the undersigned, a Notary Public in and for said county and state, do hereby certify that John Mark Rivers, whose name is assigned to the foregoing certificate as member, and who is known to me, acknowledged before me, on this date that after being duly informed of the contents of said certificate, do execute same voluntarily as such individual with full authority thereof.

Witness my hand and seal this 10th day of September 2023.

Quana 2 lab-7

My Commission Expires
June 10, 2023

DATE 7/20/22
Buckley Bank Mortgage

I, James H. Taylor, of said county and state, do hereby certify, that James H. Taylor whose name is signed to the foregoing certificate as officer, and who is known to me, advised me on this date that after being fully informed of the contents of said certificate, does assent to same voluntarily as such individual with full authority thereof.

Given under my hand and seal this the 20 day of September 2022.

Notary Public
MY COMMISSION EXPIRES
DEANNA SCHRECONY

[illegible]

BY _____ City Clerk.

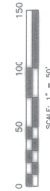
Date 9/29/22 Date 9/22/22 Date 9/23/22 Date 9-20-2022
 Name Christina Boyd Name MOCA Name Condry Name Justin Korte
 Address 11111 N. 1st Avenue Address 11111 N. 1st Avenue Address 11111 N. 1st Avenue Address 11111 N. 1st Avenue
 City Phoenix City Phoenix City Phoenix City Phoenix
 State Arizona State Arizona State Arizona State Arizona
 Zip 85001 Zip 85001 Zip 85001 Zip 85001

County Division Code: AL040
Inst. # 2022100715
Bk: 259 Pg. 48 Pages: 1 of 1
certify this instrument filed on
2/23/2022 11:14 AM Doc: MAPBIR
Judge of Probate Jeff Co. Al
Reg. \$28.00 Clerk: NICOLE

NOTE: THE PURPOSE OF THIS RESURVEY IS TO CORRECT NOTE NUMBER 3 AND TO ADJUST THE FRONT SETBACK LINE FOR LOTS 6 AND 7.

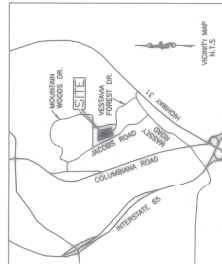


ZONING: R-2
SETBACKS: FRONT - 40' (VARIANCE) REAR - 30' SIDE - 15'
MINIMUM LOT WIDTH: 100'
MINIMUM LOT AREA: 15,000 SQ. F.
MAXIMUM BUILDING HEIGHT: 35' OR 2.5 STORIES



NOTES:

- [illegible]



Page 37 of 314



**CITY OF VESTAVIA HILLS
OFFICE OF THE CITY MANAGER
INTER-DEPARTMENT MEMO**

September 8, 2025

To: Mayor and City Council

From: Jeff Downes, City Manager

Cc:

RE: Public Hearing - Ordinance 3292 - An Ordinance Granting a Franchise Agreement to Uniti Fiber GulfCo, LLC and Authorizing the Mayor and City Manager to Execute the Agreement

Background:

Uniti Group and its subsidiaries Southern Light, LLC and Uniti Fiber GulfCo LLC (collectively, "Uniti") operate a fiber optic network throughout the Southeast, including Alabama. Southern Light, LLC has an existing Franchise Agreement with the City of Vestavia Hills to operate fiber-optic transmission lines within the City.

For corporate reasons, Uniti desires to enter into a separate Franchise Agreement between the City and Uniti's newly formed subsidiary, Uniti Fiber GulfCo LLC ("GulfCo"). Uniti would like for the Southern Light Franchise Agreement to remain in effect, which will allow Uniti to service its current customers through Southern Light, while also growing through GulfCo. For the City's purposes, Uniti's services and operations would remain the same and franchise payments would stay the same or increase as Uniti grows through GulfCo.

Uniti requests that the City of Vestavia Hills enter into a franchise agreement with GulfCo substantially similar to the existing franchise agreement between the City and Southern Light.

Recommendation:

Given the fact that the Southern Light, LLC agreement has been updated utilizing the City's current standards and Uniti has agreed to those same terms, I recommend approval of this request to replicate the same franchise agreement with the new subsidiary of Uniti.

Fiscal Impact:

na

Attachments:

1. Proposed ROW Use Agreement - Vestavia-GulfCo 4935-4441-1486 v-1
2. PH Boone Legal Opinion to City Manager Jeff Downes August 13 2025

ORDINANCE NUMBER 3292

AN ORDINANCE GRANTING A NON-EXCLUSIVE RIGHT-OF-WAY USE AGREEMENT TO UNITI FIBER GULFCO LLC, FOR THE PURPOSE OF CONSTRUCTING AND MAINTAINING A FIBER-OPTIC TRANSMISSION LINE WITHIN CERTAIN PUBLIC RIGHTS-OF-WAY WITHIN THE CITY OF VESTAVIA HILLS, ALABAMA

WHEREAS, Uniti Fiber GulfCo LLC (hereinafter referred to as the "the Company") desires to construct and operate a fiber-optic transmission line within certain public rights-of-way within the City of Vestavia Hills, Alabama; and

WHEREAS, the Company agrees and recognizes that it is required to obtain consent in the form of a right-of-way use agreement from the City of Vestavia Hills in order to construct the proposed fiber-optic transmission line within the corporate limits of the City of Vestavia Hills; and

WHEREAS, the City Council wishes to accommodate the Company's request and grant a right-of-way use agreement for the construction of the proposed fiber-optic transmission line in accordance with the terms and conditions contained herein.

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

The City Council of the City of Vestavia Hills does hereby grant to Uniti Fiber GulfCo LLC a non-exclusive right-of-way use agreement granting the limited authority to construct a fiber-optic transmission line in the City of Vestavia Hills in and along certain rights-of-way outlined in Exhibit A below, subject to the terms and conditions set forth in the following agreement:

AGREEMENT

This Agreement is entered into on this the ____ day of _____, 2025, by and between the City of Vestavia Hills, Alabama (hereinafter referred to as the "City"), and Uniti Fiber GulfCo LLC, (hereinafter referred to as the "the Company").

WITNESSETH:

The City and the Company do hereby mutually covenant and agree as follows:

SECTION 1. Defined Terms. For purposes of this Agreement, the following terms, words and phrases shall have the meanings set forth below. When not inconsistent with the context, words used in the singular number shall include the plural number, and words in the plural number shall include the singular.

1.1 "City" means the City of Vestavia Hills, Alabama.

1.2 "Governing Body" or "City Council" means the City Council of the City of Vestavia Hills, Alabama.

1.3 "Gross Receipts" means Gross Receipts on recurring Telecommunications Services that originate or terminate within the corporate limits of the City. Gross Receipts shall not include revenues or receipts arising from or relating to Telecommunication Services that both originate and terminate outside the corporate limits of the City.

1.4 "Local Telecommunications Service Revenues" are defined as all revenues received by the Provider from its customer for providing the transport of voice, data and/or video signals within the municipal limits of the City.

1.5 "Person" means any natural or corporate person, business association or other business entity including, but not limited to, a partnership, sole proprietorship, political subdivision, public or private agency of any kind, utility, successor or assign of any of the foregoing, or any other legal entity.

1.6 "Rights-of-way" means the surface and space above and below any public street, boulevard, road, highway, freeway, lane, alley, sidewalk, parkway, driveway, public ways, or other public rights-of-way, including, public utility easements, dedicated utility strips or rights-of-way dedicated for compatible uses held by the City or location within the City which shall entitle the City and the Company to use the same for the purpose of installing, operating, repairing and maintaining the System.

1.7 "System" shall mean a system of pipes, transmission lines, meters, equipment and all other facilities associated with the operation of a fiber-optic transmission line by the Company in accordance with the terms and conditions contained in this Agreement.

1.8 "Telecommunications" means the transmission, between or among points specified by the user, or information of the user's choosing (e.g., data, video, and voice), without change in the form or content of the information as sent and received.

1.9 "Telecommunication Service(s)" means the offering of Telecommunications for a fee directly to the public, or to such classes of users as to be effectively available directly to the public.

2.0 "Telecommunication System" means the cables, wire, lines, towers, wave guides, optic fiber, antennae, and any associated converters, equipment or facilities designated and constructed for the purpose of producing, receiving, amplifying or distributing Telecommunications to or from locations within the City.

2.1 "Use Fee" means the fee paid by a Provider to the City for locating and maintaining facilities in the rights-of-way.

SECTION 2. Grant of Authority. The City hereby grants to the Company the nonexclusive and limited authority to construct, install, operate and maintain a fiber-optic transmission line and Telecommunications System in and along the rights-of-way in the City of Vestavia Hills as described

and depicted in Exhibit A which is attached hereto and incorporated by reference (hereinafter referred to as the "System"). The Company shall not expand or extend the System installed or constructed within the City pursuant to this Agreement without approval from the City Council, in its sole discretion.

SECTION 3. Compensation. Five percent (5%) of its quarterly Gross Receipts on recurring facilities-based Local Telecommunications Services revenues for services originating or terminating within the City's corporate limits.

SECTION 4. Duration and Term. The right-of-way use agreement granted hereunder shall be for an initial term of twenty (20) years (the "Initial Term") commencing on the effective date of this Ordinance and Agreement, unless otherwise lawfully renewed, revoked or terminated as herein provided. Upon the expiration of the Initial Term, the Company or the City shall have the option to renew this Agreement for one additional term of twenty (20) years, subject to the terms and conditions contained herein, by giving written notice, sixty (60) days before the expiration of the Initial Term, to the other party of that party's intent to renew this Agreement for the additional term.

SECTION 5. Grant of Non-Exclusive Authority. The right to use and occupy the rights-of-way for the purposes herein set forth shall not be exclusive, and the City reserves the right to grant the use of said rights-of-way to any person at any time and for any lawful purpose. This Agreement shall not be construed to create any rights beyond the terms, conditions and periods set forth in this Agreement, except as provided herein. The City does not warrant any of the rights granted by this Agreement.

SECTION 6. Reservation of Regulatory and Police Powers. The City, by the granting of this right-of-way use agreement and approving this Agreement, does not surrender or to any extent lose, waive, impair or lessen the lawful powers and rights now, or which may be hereafter, vested in the City under the Constitution and the statutes of the State of Alabama to regulate the use of its rights-of-way by the Company or any person or to charge reasonable compensation for such use, and the Company, by its acceptance of this right-of-way use agreement and Agreement, agrees that all lawful powers and rights, regulatory power, police power or otherwise, that may be from time to time vested in or reserved to the City, shall be in full force and effect and subject to the exercise thereof by the City at any time. The Company is deemed to acknowledge that its rights are subject to the regulatory and police powers of the City to adopt and enforce ordinances necessary for the safety and welfare of the public and agrees to comply with all applicable laws and ordinances enacted by the City pursuant to such powers.

Any conflict between the provisions of this Agreement and any other present or future lawful exercise of the City's police powers shall be resolved in favor of the latter.

SECTION 7. Standards of Service.

7.1. Conditions of Street Occupancy. All portions of the System and all associated equipment installed or erected by the Company pursuant to this Agreement shall be located so as to cause minimum interference with the proper use of the rights-of-way and with the rights and reasonable convenience of property owners who own property that adjoins any of such rights-of-way.

7.2 Restoration of Rights-of-way. If during the course of the Company's construction, operation or maintenance of the System there occurs a disturbance of any rights-of-way by the Company, it shall, at its expense, replace and restore such rights-of-way to a condition comparable to the condition of the rights-of-way existing immediately prior to such disturbance to the satisfaction of the City. The work to be done under this Agreement, and the restoration of rights-of-way as required herein, must be completed within the dates specified in any permits authorizing the work. The Company shall perform the work according to the standards and with the materials specified or approved by the City Engineer.

7.3 Relocation at Request of the City. Upon its receipt of reasonable notice, not to be less than forty-five (45) days, except where emergency conditions require shorter notice, the Company shall, at its own expense, protect, support, temporarily disconnect, relocate in the rights-of-way, or remove from the rights-of-way, any property of the Company when lawfully required by the City by reason of traffic conditions, public safety, street abandonment, freeway and street construction, change or establishment of street grade, installation of sewers, drains, gas or water pipes, electrical or telecommunications lines, when such installation or construction is being done directly by or for the City. Should the Company refuse or fail to remove its equipment or plant as provided for herein within forty-five (45) days after written notification, the City shall have the right to do such work or cause it to be done, and the reasonable cost thereof shall be chargeable to the Company.

7.4 Trimming of Trees and Shrubbery. The Company shall reasonably compensate the City for any damages, in such amounts as determined by the City, caused by trimming, cutting or removing trees or shrubbery, or shall, at its own expense, replace all trees or shrubs damaged as a result of any construction, installation, repair or maintenance of the System undertaken by the Company to the satisfaction of the City.

7.5. Safety and Permit Requirements. Construction, installation, repair and maintenance of the System shall be performed in an orderly and workmanlike manner. All such work shall be performed in substantial compliance with applicable federal, state, and local laws, rules and regulations, including all permit requirements and ordinances adopted by the City which are now in effect or are hereafter adopted. The System or parts thereof shall not unreasonably endanger or interfere with the safety of persons or property in the area.

7.6. Minimum Standards. All of the construction by the Company shall conform, at a minimum, to the minimum standards of the Company. In the event there is a conflict between the standards adopted by the Company and any applicable federal, state or local standards, including ordinances adopted by the City, the stricter standard shall apply.

7.7. Obstructions of Rights-of-Way. Except in the case of an emergency, or with the approval of the City Engineer, no rights-of-way obstruction or excavation may be performed when seasonally prohibited or when conditions are unreasonable for such work. The Company shall not so obstruct the rights-of-way so as to interfere with the natural, free and clear passage of water through the gutters, drains, ditches or other waterways.

7.8. Safety Requirements.

A. The Company shall at all times employ the highest degree of care as is commensurate with the practical operation of its business and shall install and maintain in use commonly accepted methods and devices for preventing failures and accidents which are likely to cause damage, injuries or nuisances to the public.

B. The Company shall install and maintain the System in accordance with the requirements of all applicable regulations of the City, which may be amended from time to time, and in such manner that its operations will not interfere with any installations of the City or of a public utility serving the City.

C. All structures and all lines, equipment and connections in, over, under and upon the rights-of-way, wherever situated or located, shall at all times be kept and maintained in a safe and suitable condition and in good order and repair.

D. The Company shall maintain a force of employees at all times sufficient to provide safe, adequate and prompt service for the System.

7.9. Least Disruptive Technology. The Company is encouraged to perform construction and maintenance of the System in a manner resulting in the least amount of damage and disruption to the rights-of-ways. However, underground installation shall be a last resort and only upon consent of the City. The Company will be required to use trenchless technology for any portion of construction or maintenance projects which lie beneath the paved or improved portion of any roadway to which this Agreement applies, unless otherwise approved by the City Council. The City Engineer may require trenchless technology in other locations, where circumstances prevent or make open-cut methods impractical. The Company may use either the open-cut method or trenchless technology for construction outside the paved or improved portion of any roadway to which this Agreement applies.

SECTION 8. Enforcement and Termination of Agreement.

8.1. Notice of Violation. In the event the Company has not complied with the terms of this Agreement, the City shall notify the Company in writing of the nature of the alleged noncompliance.

8.2. Right to Cure or Respond. The Company shall have 30 days from receipt of the notice described in Section 8.1: (a) to respond to the City by contesting the assertion of noncompliance, (b) to cure such default, or (c) in the event that, by the nature of default, such default cannot, for reasons beyond the control of the Company, be cured within the 30-day period, initiate reasonable steps to remedy such default and notify the City of the steps being taken and the projected date that they will be completed.

8.3. Public Hearing. In the event the Company fails to respond to the notice described in Section 8.1 or contests the assertion of noncompliance pursuant to the procedures set forth in Section 8.2, or in the event the alleged default is not remedied within 30 days or by the date projected pursuant to 8.2(c) above, the City shall schedule a public hearing to investigate the

default. Such public hearing shall be held at the next regularly scheduled meeting of the City which is scheduled at a time not less than five business days therefrom. The City shall notify the Company in writing of the time and place of such meeting and provide the Company with an opportunity to be heard.

8.4. Enforcement. In the event the City, after such meeting, determines that the Company is in default of any provision of this Agreement, the City may pursue any or all of the following remedies:

- A. Seek specific performance of any provision which reasonably lends itself to such a remedy;
- B. Make a claim against any surety or performance bond which may be required to be posted;
- C. Restrain by injunction the default or reasonably anticipated default by the Company of any provision of this Agreement;
- D. Seek any other available remedy permitted by law or in equity;
- E. In the case of a material default of this Agreement, declare the Agreement to be revoked in accordance with the following:

(1) The City shall give written notice to the Company of its intent to revoke the Right-of-Way Use Agreement on the basis of noncompliance by the Company. The notice shall set forth the exact nature of the noncompliance. The Company shall have 30 days from such notice to object in writing and to state its reasons for such objection. In the event the City has not received a satisfactory response from the Company, it may then seek termination of this Agreement at a public meeting. The City shall cause to be served upon the Company, at least 10 days prior to such public meeting, a written notice specifying the time and place of such meeting and stating its intent to seek such termination.

(2) At the designated meeting, the City shall give the Company an opportunity to state its position on the matter, after which it shall determine whether or not this Agreement shall be terminated. The Company may appeal such determination to the Circuit Court of Jefferson County, which shall have the power to review the decision of the City and to modify or reverse such decision as justice may require. Such appeal must be taken within 30 days of the issuance of the determination by the City.

(3) The City may, in its sole discretion, take any lawful action which it deems appropriate to enforce the City's rights under this Agreement in lieu of revocation of the Agreement.

8.5. Impossibility of Performance. The Company shall not be held in default or noncompliance with the provisions of this Agreement, nor suffer any enforcement or penalty relating thereto, where such noncompliance or alleged defaults are caused by strikes, acts of God, power outages or other events reasonably beyond its ability to control.

SECTION 9. Public Use Pathways. The Company, either directly or through an affiliate, hereby agrees to unrestricted use by the City for non-commercial public purposes only, at no cost to the City, of two (2) fiber strands along the backbone of its fiber optic system within the City, both underground and aerial (hereinafter called the "Public Use Pathway"). The Public Use Pathway, when determined to be installed in a manner which will permit unrestricted use by the City, shall be accepted by the City. The City shall be allowed use of the Public Use Pathway, at no cost to the City, for noncommercial, public purposes only, except that the City shall be responsible for the cost and expense of any damages or liabilities caused by the willful or wanton acts of the City, its employees, or any other person under the direction and/or control of the City resulting from the City's use of or access to the Public Use Pathway.

The Company shall connect up the following municipal facilities to the extent not already connected by an affiliate of Company:

- a. The new City Hall, [1032 Montgomery Highway]
- b. Library in the Forest, [1221 Montgomery Highway]
- c. Vestavia Hills Civic Center, [1090 Montgomery Highway]
- d. Aquatic Complex [720 Walldridge Road] and
- e. Vestavia Hills New Merkel House [2150 Hollis Crossing].

Unless already connected by an affiliate of Company, the Company shall use its best efforts to connect the aforementioned municipal facilities on or before September 30, 2026. As the Company's network builds out over time, the Company or its affiliate will provide the backbone fibers to connect up the City's remaining facilities that are in existence as of the date of this Agreement. At the time of installation, the Company or its affiliate will provide the necessary engineering, filters and lasers to help the City efficiently consolidate all of its traffic onto the contractually-provided fibers. This assumes that all traffic will come directly back to the Municipal Center. The City will provide an empty conduit or other pathway (clean pole line, etc.) to the point in each building where it wants the fiber to terminate. The Company or its affiliate will provide the patch panels for each facility, and provide the cable from end to end.

SECTION 10. Default. Each of the following shall constitute a material default by the Company:

- (1) Failure to make any payments to the City required to be made as set forth in this Agreement;
- (2) Failure to maintain a liability insurance policy that is not cured within thirty (30) days following written notice to the Company;
- (3) Failure to provide or furnish any information required under this Agreement to the City that is not cured within thirty (30) days following written notice to the Company;
- (4) Any breach or violation of any ordinance, rule or regulation or any applicable safety or construction requirements or regulations that present a threat to health or safety that has not been cured within thirty (30) days written notice;
- (5) The occurrence of any event relating to the financial status of the Company which may reasonably lead to the foreclosure or other judicial or non-judicial sale of all or any material part of the System or the assets of the Company;
- (6) The condemnation by a public authority, other than the City, or sale or dedication under threat or in lieu of condemnation, of all or substantially all of the facilities; or
- (7) If (a) the Company shall make an assignment for the benefit of creditors, shall become and be adjudicated insolvent, shall petition or apply to any tribunal for, or consent to, the appointment of, or taking possession by, a receiver, custodian, liquidator or trustee or similar official pursuant to state or local laws, ordinances or regulations of any substantial part of its property or assets, including all or any part of the System; (b) a writ of attachment, execution, distraint, levy, possession or any similar process shall be issued by any tribunal against all or any material part of the Company's property or assets; (c) any creditor of the Company petitions or applies to any tribunal for the appointment of, or taking possession by, a trustee, receiver, custodian, liquidator or similar official for the Company or for any material parts of the property or assets of the Company under the law of any jurisdiction, whether now or hereafter in effect, and a final order, judgment or decree is entered appointing any such trustee, receiver, custodian,

liquidator or similar official, or approving the petition in any such proceeding; or (d) any final order, judgment or decree is entered in any proceedings against the Company decreeing the voluntary or involuntary dissolution of the Company.

SECTION 11. Prior to any excavation within the rights-of-way, the Company shall obtain a permit from the City pursuant to this Agreement, and the work shall be performed in accordance with all applicable ordinances and codes and any subsequent ordinances or regulations that may be adopted by the City. Repair and replacement of the rights-of-ways due to the Company's installation, removal, relocation, maintenance and repair of its System or facilities shall be accomplished to the satisfaction of the City.

SECTION 12. Insurance. The Company shall maintain in full force and effect, at its own cost and expense, a comprehensive general liability insurance policy in the amount of \$1,000,000.00 for bodily injury and property damage per person and \$3,000,000.00 as to each occurrence, satisfactory to the City. In addition, the Company shall obtain worker's compensation coverage as required by the laws of the State of Alabama. The City shall be named as an additional insured on the policy, and the Company shall provide the City with a certificate of insurance designating the City as an additional insured on each policy and extension or renewal thereof. An endorsement shall be included with the policy that states that the policy shall not be cancelled without giving thirty (30) days written notice of such cancellation to the City.

SECTION 13. Indemnity and Hold Harmless. The Company agrees to indemnify, defend, and hold harmless the City, its elected officers, employees, agents, and representatives, against all claims, costs, losses, expenses, demands, actions, or causes of action, including reasonable attorney's fees and other costs and expenses of litigation, which may be asserted against or incurred by the City or for which the City may be liable, which arise from the negligence or willful misconduct, of the Company, its employees, agents, or subcontractors arising out of the construction, operation, maintenance, upgrade, repair or removal of Facilities except for those claims, costs, losses, expenses, demands, actions, or causes of action which arise solely from the negligence, willful misconduct, or other fault of the City. The City does not and shall not waive any rights against the Company which it may have by reason of this indemnification, or because of the acceptance by, or the Company's deposit with the City of any of the insurance policies described in this Agreement. The indemnification by the Company shall apply to all damages, penalties and claims of any kind, regardless of whether any insurance policy shall have been determined to be applicable to any such damages or claims for damages.

SECTION 14. Disclaimer of Warranties. The City makes no representation or warranty regarding its rights to authorize the installation or operation of the System on any particular right-of-way, and the burden and responsibility for making such determination in advance of the installation shall be upon the Company. This Agreement shall not be construed to deprive the City of any rights or privileges which it now has, or may hereafter have, to regulate the use and control of its streets.

SECTION 15. Warranties and Representations. The Company hereby agrees, represents and warrants that it is legally authorized to enter into this Agreement in accordance with all applicable laws, rules and regulations. Furthermore, the Company further agrees, represents and warrants that this Agreement is legal, valid and binding, and that it is required to obtain authorization and consent from the City prior to the construction, installation, operation or maintenance of the System.

SECTION 16. Other Obligations. Obtaining a right-of-way use agreement pursuant to this Agreement does not relieve the Company of its duty to obtain all other necessary permits, licenses, authority and the payment of fees required by any other City, county, state or federal rules, laws or regulations, and the Company is responsible for all work done in the rights-of-way pursuant to this Agreement, regardless of who performs the work.

SECTION 17. Payment of Costs. The Company shall be responsible for all costs associated with the installation, repair and maintenance of the System and all associated equipment including, but not limited to (1) the costs to repair the rights-of-way due to the installation, repair and maintenance of the System, and (2) the costs incurred in removing or relocating any portion of the System or facilities constructed when required by the City.

SECTION 18. Priority of Use. This Agreement does not establish any priority for the use of the rights-of-way by the Company or any present or future franchisees or permit holders. In the event of any dispute as to the priority of use of the rights-of-way, the first priority shall be to the public generally, the second priority to the City, the third priority to the State of Alabama and its political subdivisions in the performance of their various functions, and thereafter, as between franchisees and other permit holders, as determined by the City in the exercise of its powers, including the police powers and other powers reserved to and conferred on it by the State of Alabama.

SECTION 19. Notice. Every notice or response required by this Agreement to be served upon the City or the Company shall be in writing and shall be deemed to have been duly given to the required party three (3) business days after having been posted in a properly sealed and correctly addressed envelope when hand delivered or sent by certified or registered mail, postage prepaid as follows:

The notices or responses to the City shall be addressed as follows:

City of Vestavia Hills,
ATTENTION: Jeff Downes
City Manager, City of Vestavia Hills
1032 Montgomery Highway
Vestavia Hills, AL 35216

With a copy to:

Patrick H. Boone, Esq.
City Attorney, Vestavia Hills
215 Richard Arrington Jr. Blvd.
Suite 705
Birmingham, AL 35203

The notices or responses to the Company shall be addressed as follows:

Uniti Fiber GulfCo LLC
ATTENTION: Kelly A. McGriff, Esq.
General Counsel
107 St. Francis Street
Suite 1800
Mobile, AL 36602

SECTION 20. The City and The Company may designate such other address or addresses from time to time by giving written notice to the other party as set forth in this section.

SECTION 21. Application. The terms and conditions contained in this Agreement shall apply to all areas within the corporate limits of the City and those areas annexed by the City after the passage and approval of this Ordinance and Agreement.

SECTION 22. Acceptance. The Company's acceptance of this Agreement shall be in writing in a form approved by the City Attorney and shall be accompanied by delivery of all payments, insurance certificates, applications, acceptance fees and performance of other requirements relating to commencement of construction as set forth in this Agreement.

SECTION 23. Assignment. The Company's interest in this 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. The City reserves the right to be reimbursed by the Company for costs incurred by it in reviewing the request for transfer of ownership.

SECTION 24. Miscellaneous. Words of any gender used in this Agreement shall be held and construed to include any other gender, and words in singular number shall be held to include the plural and vice versa, unless context requires otherwise. The captions used in connection with the sections of this Agreement are for convenience only and shall not be deemed to construe or limit the meaning of the language contained in this Agreement, or be used in interpreting the meanings and provisions of this Agreement.

SECTION 25. Rules of Construction. The parties hereto acknowledge that each party and its counsel have had the opportunity to review and revise this Agreement, and the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting

party shall not be employed in the interpretation of this Agreement or any amendments or exhibits thereto.

SECTION 26. Governing Law. This Agreement shall be deemed to have been made in the State of Alabama and the validity of the same, its construction, interpretation, enforcement and the rights of the parties hereunder, shall be determined under, governed by and construed in accordance with the substantive laws of the State of Alabama, without giving effect to any choice of law provisions arising thereunder.

SECTION 27. Severability Clause. If any part, section or subdivision of this Ordinance shall be held unconstitutional or invalid for any reason, such holding shall not be construed to invalidate or impair the remainder of this Ordinance, which shall continue in full force and effect notwithstanding such holding.

SECTION 28. Repealer Clause. Any Ordinance heretofore adopted by the City Council of the City of Vestavia Hills, Alabama, which is in conflict with this Ordinance is hereby repealed to the extent of such conflict.

SECTION 29. Effective Date. This Ordinance shall become effective only upon receipt of a written unconditional acceptance by the Company of the terms and conditions contained herein within thirty (30) days of the passage of this Ordinance and publication to the extent required by law.

[Remainder of Page Intentionally Left Blank]

ADOPTED and APPROVED this the 8th day of September, 2025.

CITY OF VESTAVIA HILLS, ALABAMA

By: _____
As Its: Mayor

By: _____
As Its: City Manager

ATTEST:

City Clerk

CERTIFICATION

I, _____, as City Clerk of the City of Vestavia Hills, Alabama, hereby certify that the above and foregoing copy of 1 (one) Ordinance Number _____ 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 8th day of September, 2025 as same appears in the official records of said City.

Posted at Vestavia Hills Municipal Center, Vestavia Hills Library in the Forest, New Merkle House and Vestavia Hills Recreational Center this the ____ day of _____, 2025.

City Clerk

UNITI FIBER GULFCO LLC

By: _____
Print: Kelly A. McGriff
As Its: Vice President and General Counsel

State of Alabama)
)
County of _____)

I _____, a Notary public, in and or said County in said State, hereby certify that _____ whose name as Vice President and General Counsel of Uniti Fiber GulfCo LLC, a Delaware limited liability, is signed to the foregoing instrument and who is known to me, acknowledged before me on this day that, being informed of the contents of the instrument, he, as such officer and with full authority, executed the same voluntarily for and as the act of said company.

Given under my hand and seal this the ____ day of _____, 2025

Notary Public

My Commission Expires: _____

PATRICK H. BOONE
ATTORNEY AND COUNSELOR AT LAW
NEW SOUTH FEDERAL SAVINGS BUILDING, SUITE 705
215 RICHARD ARRINGTON, JR. BOULEVARD NORTH
BIRMINGHAM, ALABAMA 35203-3720
TELEPHONE (205) 324-2018
FACSIMILE (205) 324-2295

E-Mail: patrickboone@bellsouth.net

August 13, 2025

By Electronic Mail

City Manager Jeffrey D. Downes
Vestavia Hills Municipal Center
P. O. Box 660854
Vestavia Hills, Alabama 35266-0854

In Re: Franchise Agreement for Uniti Fiber GulfCo, LLC

Dear Mr. Downes:

On August 12, 2025, you sent to me via electronic mail a redline draft of a proposed Franchise Agreement between the City of Vestavia Hills, Alabama ("City") and Uniti Fiber GulfCo, LLC ("GulfCo") with a request that I review the same and provide you with my written legal opinion. The purpose of this letter is to comply with your request.

From a legal standpoint, I approve the Franchise Agreement.

I recommend that GulfCo consider changing the word "on" in the first sentence of Section 9 on page 7 to "an." I further recommend that the required notice described in Section 19 on pages 10 and 11 be sent to the City Attorney.

If you have any questions regarding this legal opinion, please let me know.

Sincerely,

A handwritten signature in blue ink that reads "Patrick H. Boone". The signature is fluid and cursive, with the first name "Patrick" and last name "Boone" clearly legible.

Patrick H. Boone
Attorney for Vestavia Hills

PHB:gp



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

September 8, 2025

To: Jeff Downes, City Manager

From: Christopher Brady, City Engineer

Cc: Lori Beth Kearley, Public Services Director
Rebecca Leavings, City Clerk
Jeff Hughes, Supervisor

RE: Public Hearing - Ordinance Number 3294 - An Ordinance Accepting a Bid for City of Vestavia Hills Right-of-Way Mowing and Maintenance and authorizing the Mayor and City Manager to execute any and all agreements for said service

Background:

The City's current contract for Right of Way Mowing will expire at the end of September 2025. The City accepted bids for a new 3 year contract on August 13th and received 6 bids from interested contractors. Please see attached bid summary.

The new contract agreement to be used was prepared by City Attorney, Pat Boone, and was included in the bid package.

Recommendation:

After review of bids, we are recommending award of new contract to Turf Management Systems.

Fiscal Impact:

This expense is budgetted in our proposed FY26 budget.

Attachments:

1. Ordinance 3294
2. BibTabulation_2025 ROW Mowing_final
3. Turf Management Systems llc revised for resolution
4. 2025 Bid Package_ROW Mowing and Maintenance

ORDINANCE NUMBER 3294

**AN ORDINANCE ACCEPTING A BID FOR RIGHTS-OF-WAY MOWING
WITHIN THE CITY OF VESTAVIA HILLS**

WHEREAS, on August 13, 2025, the City of Vestavia Hills publicly read aloud bids submitted for Rights-Of-Way mowing (“ROW mowing”); and

WHEREAS, the City Engineer has reviewed the bids, established a bid tabulation in an Interoffice Memorandum to the City Manager dated August 19, 2025, and recommended acceptance of the bid submitted by Turf Management Systems. A copy of said Interoffice Memorandum is marked as Exhibit A attached to and incorporated into this Ordinance Number 3294 as if written fully therein; and

WHEREAS, the Mayor and City Council feel it is in the best public interest to accept the recommendation of the Public Services Director and accept said bid as detailed in Exhibit B.

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

1. The bid submitted by Turf Management Systems as detailed in attached Exhibit B and recommended by the City Engineer, is hereby accepted; and
2. The Mayor and City Manager are hereby authorized to execute and deliver an agreement with Turf Management pursuant to said bid, a copy of which is marked as Exhibit B, attached to and incorporated into this Ordinance Number 3294; and
3. This Ordinance Number 3294 shall become effective immediately upon adoption and approval.

DONE, ORDERED, ADOPTED and APPROVED this the 8th day of September, 2025.

Ashley C. Curry
Mayor

ATTESTED BY:

Rebecca Leavings
City Clerk



CITY OF VESTAVIA HILLS
Right of Way Mowing and Maintenance
BID OPENING: August 13th, 2025, 11:00 am
BID TABULATION

description	unit	Turf Management Systems, LLC	The Green Team, INC	Richter Landscape Company, Inc.	Steven's Wack-N-Sack Inc.	Rotolo Consultants, Inc.	APHIX	Farther Nature
		total	total	total	total	total	total	submitted**
Required Work Annual Cost	lump sum	\$ 91,950.00	\$ 225,800.00	\$ 281,449.00	\$ 173,998.00	\$ 158,291.00	\$ 135,233.49	\$ -
Total Base Bid Price		\$ 91,950.00	\$ 225,800.00	\$ 281,449.00	\$ 173,998.00	\$ 158,291.00	\$ 135,233.49	\$ -
Alternate A	per occurrence	\$ 4,500.00	\$ 35,000.00	\$ 4,326.00	\$ 16,575.00	\$ 2,888.10	\$ 16,150.00	\$ -
Alternate B	per treatment	\$ 3,900.00	\$ 4,000.00	\$ 2,500.00	\$ 1,100.00	\$ 2,157.27	\$ 650.00	\$ -
Alternate C	per year	\$ 980.00	\$ 16,800.00	\$ 34,000.00	\$ 10,800.00	\$ 6,056.72	\$ 27,181.40	\$ -

Bid Submitted, Signed and Sealed?

yes	yes	yes	yes	yes	yes	yes
-----	-----	-----	-----	-----	-----	-----

Certification: 
City of Vestavia Hills, City Engineer

INVITATION TO BID
CITY OF VESTAVIA HILLS
1032 MONTGOMERY HIGHWAY
VESTAVIA HILLS, AL 35216

BIDS TO BE OPENED AT THE CITY OF
VESTAVIA HILLS ON AUGUST 13, 2025,
AT 11:00 AM. BIDS TO BE TURNED IN NO
LATER THAN 11:00 AM ON THIS DATE.

DATE: July 21, 2025
BID: ROW Mowing and
Maintenance

Ladies and Gentlemen:

Sealed bids will be received by the City of Vestavia Hills, Alabama, in the Office of the City Clerk at the Municipal Center until the above time and date, and opened as soon thereafter as practical. Please return in a sealed envelope marked with the bid name as listed above. Bids must be returned by 11:00 AM by the date listed above. Bids received in the Office of the City Clerk either by hand delivery or mail after the specified date and hour will not be considered.

NAME OF COMPANY: Turf Management Systems, Llc
ANNUAL PRICE*: \$91,950 WARRANTY: n/a
DELIVERY DATE: 8/13/2025
BIDS GOOD THROUGH**: 11/12/2025

**See Specifications and Bid Sheet Enclosed.*

***All bids must be good for a minimum of 90 days.*

I hereby affirm that I have not been in any agreement or collusion among bidders or prospective bidders in restraint of freedom of competition, by agreement to bid at a fixed price or to refrain from bidding or otherwise.

This form must be notarized.

Sworn and Subscribed before me
this the 13th day of August,
2025.

Sazia Naz

Notary Public

FIRM Turf Management Systems

BY Chris Shedy

ADDRESS 227 Distribution Dr

Homewood AL 35209

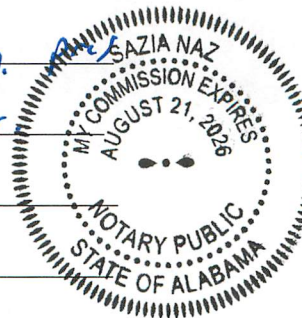
PHONE 205-369-6626

My Commission Expires August 21, 2026

DATE 8/13/25

ALL BIDDERS MUST USE OUR BID FORMS. COMPLETE IN INK OR TYPE. THE CITY RESERVES THE RIGHT TO REJECT OR WAIVE ANY AND ALL BIDS OR PORTIONS THEREOF. QUESTIONS SHOULD BE ADDRESSED TO THE OFFICE OF THE CITY CLERK, PHONE (205) 978-0131.

Rebecca Leavings, Purchasing Agent



Bid Sheet for ROW Mowing/MaintenanceCompany Turf Management Systems, LlcRepresentative Chris Sheedy**Required Work Annual Cost****\$91,950****Specialized Areas and Alternatives**

Alternate A, periodic prune and trim of crepe myrtles on US31, once every two years

per occurrence

\$ 4,500

Alternate B, chemically treat medians on US31, minimum 3 times per year

per treatment cost

\$ 3,900

Alternate C, Columbiana Road, Map M-28

per year

\$ 980

revised: 7/21/2025

INVITATION TO BID
CITY OF VESTAVIA HILLS
1032 MONTGOMERY HIGHWAY
VESTAVIA HILLS, AL 35216

BIDS TO BE OPENED AT THE CITY OF
VESTAVIA HILLS ON AUGUST 13, 2025,
AT 11:00 AM. BIDS TO BE TURNED IN NO
LATER THAN 11:00 AM ON THIS DATE.

DATE: July 21, 2025
BID: ROW Mowing and
Maintenance

Ladies and Gentlemen:

Sealed bids will be received by the City of Vestavia Hills, Alabama, in the Office of the City Clerk at the Municipal Center until the above time and date, and opened as soon thereafter as practical. Please return in a sealed envelope marked with the bid name as listed above. Bids must be returned by 11:00 AM by the date listed above. Bids received in the Office of the City Clerk either by hand delivery or mail after the specified date and hour will not be considered.

NAME OF COMPANY: _____

ANNUAL PRICE*: _____ WARRANTY: _____

DELIVERY DATE: _____

BIDS GOOD THROUGH**: _____

**See Specifications and Bid Sheet Enclosed.*

***All bids must be good for a minimum of 90 days.*

I hereby affirm that I have not been in any agreement or collusion among bidders or prospective bidders in restraint of freedom of competition, by agreement to bid at a fixed price or to refrain from bidding or otherwise.

This form must be notarized.

FIRM _____

Sworn and Subscribed before me
this the _____ day of _____,
2025.

BY _____

ADDRESS _____

Notary Public

PHONE _____

My Commission Expires _____. DATE _____

ALL BIDDERS MUST USE OUR BID FORMS. COMPLETE IN INK OR TYPE. THE CITY RESERVES THE RIGHT TO REJECT OR WAIVE ANY AND ALL BIDS OR PORTIONS THEREOF. QUESTIONS SHOULD BE ADDRESSED TO THE OFFICE OF THE CITY CLERK, PHONE (205) 978-0131.

Rebecca Leavings, Purchasing Agent

ROW Mowing and Maintenance REQUIREMENTS

1. Bid Requirements

Bids not conforming to the following requirements may be rejected.

- (a) **There will be a Non-Mandatory PRE-BID meeting at 1:00pm on AUGUST 6, 2025, in the Vestavia City Hall Executive Conference Room, 1032 Montgomery Highway Vestavia Hills, AL 35216.**
- (b) Bids must be complete and specific.
- (c) Bids will be free of alterations and erasures.
- (d) Bids will be properly signed by the bidder or by a legally authorized officer or agent of the bidder and notarized.
- (e) The bids will be enclosed in a sealed envelope marked "SEALED BID --- ROW Mowing and Maintenance."
- (f) The sealed envelope must be addressed to:

City of Vestavia Hills
Office of the City Clerk
1032 Montgomery Highway
Vestavia Hills AL 35216
- (g) If you have any questions regarding the bid specifications, please contact Christopher Brady, City Engineer, 205-978-0198 or Jeff Hughes, Public Works Superintendent, at 205-516-1981.

STATE OF ALABAMA

JEFFERSON COUNTY

CONTRACT

WITNESSETH THIS CONTRACT, made and entered into on this the _____ day of _____, 2025, by and between the City of Vestavia Hills, Alabama, a municipal corporation, located at 1032 Montgomery Highway, Vestavia Hills, Alabama 35216 (hereinafter referred to as “City”), and _____, an Alabama _____, whose mailing address is _____ (hereinafter referred to as “Contractor”).

WITNESSETH THESE RECITALS:

WHEREAS, the Alabama Competitive Bid Law at Title 41-16-50(a), *Code of Alabama, 1975*, provides that with the exception of contracts for public works whose competitive bidding requirements are governed by Title 39, all expenditure of funds for labor, services, work, or for the purchase of materials, equipment, supplies, or other personal property involving thirty thousand dollars (\$30,000) or more, made by or on behalf of the governing bodies of the municipalities of the state, shall be made under contractual agreement entered into by free and open competitive bidding, on sealed bids, to the lowest responsible and responsive bidder; and

WHEREAS, the City of Vestavia Hills advertised for competitive bids under the Alabama Competitive Bid law at Title 41-16-50(a), *Code of Alabama, 1975*, for the completion of work described in the Invitation to Bid; and

WHEREAS, the scope of the work is described in the Invitation to Bid, a copy of which is attached hereto, marked as Exhibit 1 and is incorporated into this Contract by reference as though set out fully herein; and

WHEREAS, the Contractor submitted a bid proposing to perform the work, which the City has determined to be the lowest responsible bidder meeting specifications, a copy of which is attached hereto, marked as Exhibit 2 and is incorporated into this Contract by reference as though set out fully herein; and

WHEREAS, the City and the Contractor have agreed to the terms, provisions and conditions of this Contract and have further agreed that it is in the best interests of the parties that this Contract be reduced to writing; and

WHEREAS, on _____, the City Council of the City of Vestavia Hills, Alabama (“City”) approved and adopted Ordinance Number _____ accepting the bid submitted by _____ (“Contractor”) and authorized the Mayor and City Manager to execute and deliver this Contract.

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 and sufficiency is whereof is hereby acknowledged by each of the parties hereto, the City and Contractor mutually and expressly agree as follows:

I. RECITALS

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

II. EXHIBITS

Exhibits 1 and 2 are attached hereto and are incorporated verbatim by reference as though set out fully herein.

III. CONTRACTOR

Contractor, _____, represents, covenants and warrants that it is duly licensed and qualified to furnish the equipment, labor, materials and supplies and perform the work described herein.

IV. GENERAL STATEMENT OF WORK

The Contractor shall furnish all labor, materials, equipment, machinery, supplies, tools, power, utilities, transportation, fuel and services, and perform all labor necessary for the work described on Exhibit 1, which is attached hereto and incorporated into this contract by reference as though set out fully herein.

V. TERM OF CONTRACT

The term of this contract shall be for a period of three (3) years beginning October 1, 2025 and ending on September 30, 2028. The effective date of this contract shall be October 1, 2025.

VI. CONTRACT PRICE

As consideration of this contract, the City agrees to pay to Contractor for the faithful performance of the work described in this Contract the sum of _____ Dollars (\$_____).

VII. PAYMENT OF CONTRACT PRICE

The City shall pay to the contract price to the Contractor in accordance with the following schedule:

Payments will be made on a monthly basis in accordance with the City's billing and payment policy.

VIII. COMPLIANCE WITH APPLICABLE LAWS

Contractor shall comply with the provisions of any and all state, federal and local laws, statutes, codes, rules, regulations and ordinances that are applicable to the performance of this contract between the City and Contractor.

IX. LICENSE

The Contractor shall be properly licensed prior to commencement of the work.

X. QUALITY OF WORK

All labor, materials and supplies applied/installed by the Contractor in the performance of this agreement shall be done in a professional, proficient and workmanlike manner.

XI. PROTECTION OF UNDERGROUND UTILITIES

Contractor shall be responsible for contacting the appropriate utility company for location of any underground services which are in the work area and could be damaged in the course of operations and performance of the work. If the Contractor damages any utility equipment or apparatus during the performance of the work, then in such event the Contractor shall be solely liable for the repair or payment of repair for said damages.

XII. INDEPENDENT CONTRACTOR

The Contractor, _____, is an independent contractor for purposes of this agreement. Nothing contained herein shall be construed to mean that said Contractor is the servant, agent or employee of the City of Vestavia Hills, Alabama.

XIII. INDEMNITY

To the fullest extent permitted by law, the Contractor shall defend, indemnify and hold harmless the City of Vestavia Hills, Alabama, a municipal corporation, as Owner, and its agents, employees and consultants, including the Mayor, elected members of the City Council (hereinafter collectively referred to as the "Indemnitees") from and against all claims, damages, losses and expenses, including but not limited to attorneys' fees, arising out of, related to, or resulting from performance of the work provided such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property, including loss of use resulting therefrom, and is caused in whole or in part by negligent acts or omissions of the Contractor, subcontractor, anyone directly or indirectly employed by them, or anyone for whose acts they may be liable, regardless of whether such claim, damage, loss or expense is caused in part, or is alleged but not legally established to have been caused in whole or in part by the negligence or other fault of a party indemnified hereunder. 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 performance of the work.

XIV. INSURANCE

Contractor agrees to obtain and maintain and keep in full force and effect during the terms of this agreement insurance of the type, with the coverage and in the amounts specified below:

A. For personal injuries, including death, in an amount of not less than:

- (i) \$500,000 for any one-person occurrence
- (ii) \$1,000,000 for any one occurrence

B. For damage to property not belonging to Contractor (or his subcontractors) in an amount not less than:

- (i) \$500,000 for any one accident
- (ii) \$1,000,000 aggregate amount

C. For personal injuries including death and/or for damages to property not belonging to Contractor (or his subcontractors) caused by automotive equipment used by Contractor (or his subcontractors) in an amount not less than:

- (i) \$500,000 personal injury per person per occurrence
- (ii) \$500,000 property damage per accident
- (iii) \$1,000,000 personal injury per occurrence

D. Workers' Compensation, State, and Federal Statutory requirements plus:

- (i) \$500,000 employer's liability per person

The above-described insurance shall be placed with an insurer acceptable to the City of Vestavia Hills and the policies shall provide notice by the insurer to the City of Vestavia Hills of cancellation, non-renewal or material change in any such policy and shall contain an endorsement naming the City of Vestavia Hills and its agents, employees and consultants, including the Mayor and elected members of the City Council as additional insureds there under.

XV. ADDITIONAL INSURED

The Contractor shall cause the commercial general liability insurance coverage and the commercial umbrella liability insurance coverage required by the contract documents to include:

A. The City of Vestavia Hills, Alabama, a municipal corporation, its City Manager, Mayor and its elected public officials and employees, as additional insureds for claims caused in

whole or in part by the Contractor's negligent acts or omissions during the Contractor's operations and/or performance of the work; and

B. The City of Vestavia Hills, Alabama, a municipal corporation, its City Manager, Mayor and its elected public officials and employees, as additional insureds for claims caused in whole or in part by the Contractor's negligent acts or omissions during the Contractor's completed operations and/or performance of the work; and

C. The insurance policy coverages shall state that these coverages shall be primary insurance for the additional insureds; and

D. Contain no exclusions of the additional insureds relative to job accidents; and

E. The policies must be on an "occurrence" basis; and

F. **CERTIFICATES OF INSURANCE POLICY COVERAGES:** The Contractor shall deliver to the City insurance certificates to evidence that all insurance policies and coverages described in section XIV and section XV of this Contract are in full force and effect. Delivery of said certificates by the Contractor to the City shall be made prior to the commencement of the work by the Contractor. In other words, Contractor shall not begin work unless and until the Contractor has delivered the insurance certificates to the City.

XVI. ASSIGNMENT

This contract shall not be assignable by the Contractor in any respect without having first obtained the prior written consent of the City evidenced by a properly enacted resolution of the City Council.

XVII. SUBCONTRACTORS

No proposed subcontractor shall be disapproved by the City except for cause. Contractor shall inform City of proposed subcontractor prior to work.

The Contractor shall be fully responsible to the City for the acts and omissions of its subcontractors and of persons directly or indirectly employed by said subcontractors, as it is for the acts and omissions of persons directly employed by it.

The Contractor shall cause appropriate provision to be inserted in all subcontracts relative to the work to require compliance by each subcontractor with the applicable provisions for the work embraced by the project.

Nothing contained in this contract shall create any contractual relations between any subcontractor and the City.

The Contractor shall pay all subcontractors for materials and supplies installed in this project by said subcontractors and all work and labor performed by said subcontractors on said project.

XVIII. CHANGES IN WORK

The City may make changes in the scope of the work required to be performed by the Contractor under the contract by eliminating any portion of the work and the corresponding unit price charged therefor. Any change order for additional work shall be done by mutual agreement and in writing. Any change order for deletion of work shall be in writing given by City to the Contractor. The deletion of work pursuant to this contract is subject to and conditioned upon the total amount of public funds available.

XIX. REMOVAL OF DEBRIS AND CLEANING

The Contractor shall, periodically or as directed during the progress of the work, remove and legally dispose of all surplus excavated material and debris, and keep the project area and public rights of way reasonably clear and clean. Upon completion of the work, it shall remove all temporary construction facilities, debris and unused materials provided for the work, and put the whole site of the work and public rights of way in a neat and clean condition.

XX. TERMINATION OF CONTRACT

The City shall have the right at any time to cancel and terminate this contract for any reason or no reason upon seven (7) days advance written notice to the Contractor. In such cases, Contractor will be paid for all work actually performed prior to the date of termination, but will not be paid for any work not performed or for any anticipated profits on work not actually performed by the termination date.

XXI. IMMIGRATION

By signing this contract, the contracting parties affirm, for the duration of the contract, 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 contract and shall be responsible for all damages resulting therefrom.

XXII. COMPLIANCE WITH TITLE 41-16-5, CODE OF ALABAMA, 1975, BOYCOTT LIMITATIONS

Act 2016-312 of the Alabama Legislature prohibits a governmental entity from entering into certain public contracts with a business entity unless the contract includes a representation that the business is not currently engaged in, and an agreement that the business will not engage in, the boycott of a person or an entity based upon the person or business doing business with a jurisdiction with which the state can enjoy open trade. The prohibition does not apply if a business

offers to provide goods or services for at least 20 percent less than the lowest certifying business entity or to a contract with a value less than \$15,000.00. The Contractor represents and warrants that it is not currently engaged in, and will not engage in, the boycott of a person or an entity based in or doing business with a jurisdiction with which this state can enjoy open trade.”

XXIII. MISCELLANEOUS

A. NON WAIVER: The failure of the City to insist, in any one or more instances, upon a strict performance of any of the covenants of this contract, or to exercise any option herein contained, shall not be construed as a waiver, or a relinquishment for the future of such covenant or option, but the same shall continue and remain in full force and effect.

B. WAIVER OF MODIFICATION: Any waiver, alteration or modification of any of the provisions of this Contract or cancellation or replacement of this contract shall not be valid unless in writing and signed by the City and Contractor. This contract may be amended at any time by written agreement of the parties signatory hereto. No claims for any extra work or materials shall be allowed unless covered by written agreement of the parties.

C. NOTICES: Any and all notices required or permitted to be given under this agreement will be sufficient if furnished in writing and sent by Registered Mail to the parties’ last known address.

D. CONSTRUCTION OF TERMS: The City and Contractor negotiated the terms, provisions and conditions of this contract and both parties had the equal opportunity for input for the drafting of this contract. Therefore, any ambiguities of this contract shall be construed fairly and equitably regardless of the participation of either party in drafting this contract. The reference in terms to gender and number shall be modified as may be appropriate.

E. GOVERNING LAW: This contract shall be interpreted, construed and governed to the laws of the State of Alabama. The jurisdiction and venue for the resolution of any dispute shall be in Jefferson County, Alabama.

F. ARTICLE AND SECTION HEADINGS: The article and section headings and captions contained herein are included for convenience only, and shall not be considered a part hereof or affect in any manner the construction or interpretation hereof.

G. EXECUTION IN COUNTERPARTS: The contract may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

H. BINDING EFFECT: The contract shall inure to the benefit of, and shall be binding upon City and Contractor, and their heirs, successors and assigns.

I. SEVERABILITY: In the event any provision of this contract shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

J. SURVIVAL: All representations and warranties of this Contract shall survive the execution and delivery of this Contract, as shall any covenants for performance thereafter.

K. ENTIRE AGREEMENT: This written Contract contains the entire agreement between the City and the Contractor.

IN WITNESS WHEREOF, the City of Vestavia Hills, Alabama, a municipal corporation, and _____, an Alabama _____, have hereunto caused this contract to be executed by their duly authorized officers and their respective seals to be affixed hereto on this the _____ day of _____, 2025.

CITY:
CITY OF VESTAVIA HILLS, ALABAMA
A Municipal Corporation

By _____
Ashley C. Curry
Its Mayor

By _____
Jeffrey D. Downes
Its City Manager

ATTESTED

By _____

CONTRACTOR:

An Alabama _____

By _____
Its _____

ATTESTED

By _____

**STATE OF ALABAMA
JEFFERSON COUNTY**

ACKNOWLEDGMENT

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

Given under my hand and official seal, this the _____ day of _____, 2025.

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 Contract, and who is known to me, acknowledged before me on this day that, being informed of the contents of the instrument, he, as such officer and with full authority, executed the same voluntarily for and as the act of said City of Vestavia Hills, Alabama.

Given under my hand and official seal, this the _____ day of _____, 2025.

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 _____, whose name _____ as _____ of _____, an Alabama _____, is signed to the foregoing Contract, and who is known to me, acknowledged before me on this day that, being informed of the contents of the instrument, (s)he, as such officer and with full authority, executed the same voluntarily for and as the act of said _____.

Given under my hand and official seal, this the _____ day of _____, 2025.

Notary Public

My Commission Expires:

SEAL

Specifications for ROW Mowing and Maintenance

1. Scope of Services

To provide all supervision, labor, equipment and services required to perform all lawn services for Vestavia Hills Public Services as specified herein.

2. Qualification of Bidders

Bidding on this contract shall be limited to individuals, partnerships and corporations actively engaged in the field of mowing and maintenance services. Bidders shall demonstrate competence, experience and financial capability to carry out the terms of this contract. The City of Vestavia Hills, the contracting agency, may require proof of these qualifications.

All bidders must have in their possession or available to them by formal agreement at the time of bidding, vehicles, devices, hand tools, and other equipment and supplies which are necessary to perform the work as outlined in these specifications.

3. Safety Standards

All equipment to be used and all work to be performed must be in full compliance with the most current safety requirements for performing this type of work.

The contractor shall be solely responsible for pedestrian and vehicular safety and control on the worksite and shall provide the necessary warning devices, barricades and ground personnel needed to give safety, protection and warning to persons and vehicular traffic within the area.

4. Discontinuance of Work

Any practice obviously hazardous as determined by the contracting agency shall be immediately discontinued by the contractor upon receipt of either written or oral notice to discontinue such practice.

5. Observance of Laws, Ordinances and Regulators

The contractor at all times during the term of this contract shall observe and abide by all Federal, State and Local laws which in any way effect the conduct of the work and shall comply with all decrees and orders of courts of competent jurisdiction. The contractor shall comply fully and completely with any and all applicable state and federal statutes, rules and regulations as they relate to hiring, wages and any other applicable conditions of employment.

6. Protection of Underground Utilities (Reference Contract)

The contractor shall be responsible for contacting the appropriate utility for location of any underground services which are in the work area and could be damaged by the contractor's operations.

7. Addition or Deletion of Areas

The contracting agency reserves the right to change, add or delete areas for service. This is conditional upon the total amount of funds available. The City of Vestavia Hills shall give notice to the contractor of the areas to be serviced and the total amount of the annual service contract. Unless otherwise authorized by the contracting agency, failure of the contractor to comply with the approved service schedule shall be sufficient cause to give notice that the contractor is in default of the contract.

8. Work Schedule

The contractor will schedule the work during typical work hours for related services, unless authorized by the contracting agency. Serviced areas shall be completed on Monday-Friday, weekly, unless changed by contracting agency.

9. Licenses and Permits

The contractor shall, at his expense, procure all necessary licenses and permits needed to contract.

10. Subcontracts (Reference Contract)

The contractor will not be allowed to subcontract work under this contract unless written approval is granted by the contracting agency. The subcontractor, as approved, shall be bound by the contractor. All directions given to the subcontractor in the field shall bind the contractor as if the notice has been given directly to the contractor.

11. Execution of the Contract

The successful bidder shall, upon notification of selection as the successful bidder, enter into contract with the contracting agency and shall simultaneously provide the appropriate indemnities and insurance required hereunder.

The contract, when executed, shall be deemed to include the entire agreement between the parties. The contractor shall not base any claim for modification of the contract upon any prior presentation or promise made by representatives of the contracting agency.

12. Supervision

This contract will be under the direct supervision of the contracting agency. Any alterations or modifications of the work performed under this contract shall be made only by written agreement between the contractor and contracting agency and shall be made prior to commencement of the altered or modified work. No claims for any extra work or materials shall be allowed unless covered by written agreement.

13. Work Crew Supervision

The contractor shall provide qualified supervision of each crew at all times while working under this contract. Each supervisor shall be authorized by the contractor to accept and act upon all directives issued by the contracting agency. (Within the Contract's scope of work) Failure of the supervisor to act on said directives shall be sufficient cause to give notice that the contractor is in default of the contract unless such directives would create potential injury or safety hazard.

14. Payments

Payments will be made on a monthly basis in accordance with the City's billing and payment policy.

15. Contract Termination

The contracting agency shall have the right at any time to cancel this contract for reasons other than breach by the contractor and require the contractor to cease work thereon. In such cases the contractor will be paid for all work actually performed the date of termination, but will not be paid for any work not performed or for any anticipated profits on work not actually performed by the termination date.

16. Insurance (Reference Contract)

The contractor agrees to obtain and maintain in force during the terms of this agreement insurance of the type, with the coverage and in the amounts specified in the contract document. The City, its employees and elected officials shall be named as additional insureds. A certificate of insurance shall be submitted with the executed contract and shall be renewed as needed during the term of said contract.

17. Crew Information

- a) Crews shall be dressed neat. Shirts shall be worn at all times

- b) Courtesy to persons utilizing City facilities is required at all times
- c) Breaks shall be taken individually
- d) No “horseplay” will be tolerated on the job.
- e) All refuse from lunches and breaks will be disposed of immediately.
- f) **No items of trash shall be run over with mowers or weed-eaters.**

18. Equipment

- a) Equipment will be mechanically sound. Inoperable equipment in the field will not be charged to the contracting agency. The contracting agency reserves the option to demand replacement of any equipment which in its opinion has a poor operational record.
- b) Equipment will not be stored on City property.
- c) All equipment which is proposed to be used on the work shall be of sufficient size and in such mechanical condition as to meet requirements of the work and to produce a satisfactory quality of work.
- d) Equipment used on any portion of the project shall be such that no injury to plant materials, curbs, drives, walks, roadways, buildings or adjacent property will result from its use.
- e) Sharpen blades on cutting tools periodically to insure clean, smooth cuts and to prevent damage to plant materials.

19. Required Work (see following Exhibit 1 and maps)

Exhibit 1 -- Required Work

1. Unless otherwise noted below, all work to be done once a week during the months of April through September, on Monday-Friday unless changed by inclement weather or by the direction of the Public Service Director or his designee. Work to be done once per month from October through March unless otherwise noted.
2. Reference attached list, legend sheet, and detail project maps for specific site locations.
3. Contractor responsible to walk or review areas prior to mowing operations to ensure area is clear of trash or debris. If trash or debris is collected, please contact and coordinate with the City's Public Works staff or City designee for removal.
4. Contractor is responsible to include quantifications of any pesticides, herbicides, and fertilizers or other chemical application to treated areas in a monthly report to the City to be included with invoice requests for payments. This should summarize types of materials applied, brand name if available, and amount applied at each application.
5. See **Alternate List A, B, and C** at the end of document to include in bid submittal. This work will be contingent of City approval.
6. Keep leaves swept up during fall in the areas.
7. All work must be of high quality and must meet general grooming standards of a public facility as set by the Public Service Director or his designee.
8. When work is complete, all sidewalks, roads, etc. must be free of clippings.
9. If work is unsatisfactory CONTRACTOR will be notified by the Public Service Director or his designee and will be given a specific deadline to make corrections. If this is not done to the satisfaction of the Public Service Director or his designee, there will be a 25% penalty for that month's payment.
10. Any damages caused to City facilities shall be repaired or replaced immediately by the CONTRACTOR.

MAINTENANCE OPERATIONS – Specific to Lawns at I-65/Highway31 intersection but potentially may apply to other project areas as directed by Public Service Director

Mowing:

1. Mow lawns a minimum of one (1) time per week during the growing season and as otherwise needed to maintain a neat appearance.
2. Lawn height shall not exceed one-half inch above the specified mowing height before mowing. Mow Bermuda lawn at a cutting height of one and one-half inches (1 1/2").
3. Bag clippings during mowing or remove immediately after mowing is performed. Dispose of clippings off site.
4. Immediately remove debris resulting from mowing operations from curbs, walks, drives and other surfaces.

Edging:

1. Edge curbs, drives, walks and areas bordering lawn a minimum of one (1) time per month during the growing season and as otherwise needed to maintain a neat appearance. At minimum, edge all areas eight (8) times per year.
2. Remove and dispose of off-site, all debris the same day as the areas are edged.
3. Edge around trees, posts, utilities, etc. at frequency stated above.
4. Maintain all shapes and configurations of plant beds as originally installed. Provide a clean trenched line between all lawn and mulched areas.

Weed Control (Improved Beds on Highway 31 and lawn at I-65/Highway31 intersection):

1. Employ mechanical or chemical measures to ensure that weeds or undesirable grasses do not encroach upon or establish in lawn areas.
2. Apply contact herbicides on winter weeds in January. Spray on dormant Bermuda grass for wild onions and other winter weeds.
3. Apply pre-emergent herbicides to lawn areas to prevent crabgrass.
4. Apply post-emergent herbicides to lawn areas as required after the emergence and identification of the weed problem.

Debris Removal:

Remove and dispose of off-site, any debris such as paper, broken limbs, bottles, cans, extraneous leaves, weeds, etc. as necessary to maintain a manicured, neat and clean appearance.

TREES, SHRUB PLANTINGS AND BED AREAS:

Pruning:

1. Prune all ornamental plantings in accordance with standard horticultural practice to adequately maintain an attractive shape and fullness with respect to the intended character of the plant. Pruning shall be done with clean, sharp tools.
2. Prune to remove dead and/or diseased wood as it occurs throughout the year.
3. Prune or thin shrubs a minimum of two (2) times per year, once in late spring/summer and once during the winter. Problem growth will be pruned as required. Time pruning to maintain proper flowering of flowering shrubs.
4. Remove and dispose of off-site, all debris the same day it is accumulated.

Mulching:

1. Rake bed surface areas one (1) time per month minimum to maintain a fresh appearance and to remove foreign material.
2. Replenish mulch/straw one time per year minimum, typically in the spring. Replenish to the original specified depth of 2" after settlement.

Debris Removal:

Remove and dispose of off-site, any debris such as paper, broken limbs, bottles, cans, extraneous leaves, weeds, etc., from shrub plantings and bed areas as necessary to maintain a manicured and clean appearance.

GRASS CUTTING MOWERS – 2025 update (see maps for additional detail)

M-1 HAYES CIRCLE AND VESTRIDGE DR

Mow; weed eat/trim 1621 Hayes Circle to Pizitz Drive (sidewalk side)

Mow; weed eat/trim Vestridge Drive (both sides) from Hwy31 to first houses near Badham

Mow; weed eat/trim traffic triangle at Vestridge Drive and Badham Drive

M-2 MERRYVALE RD (SW ONLY) & East Side of VESTAVIA PL

Mow; weed eat/trim Merryvale Road (sidewalk side) between Waldrige Rd and Vestavia Pl

Mow; weed eat/trim east side of Vestavia Place from Merryvale Rd to cul de sac

M-3 INTERSECTION INDIAN HILL RD AND OLD ORCHARD RD

Mow; weed eat/trim Indian Hill Road at Old Orchard Road Intersection (grass island)

M-4 OLD CREEK TRL AND CANYON CREEK LN

Mow; weed eat/trim sidewalk area to include shrubs on Old Creek Trail from Highway 31 to Canyon Creek Lane and along Canyon Creek Lane to Canyon Rd (grass and weeds along sidewalk)

M-5 ALLEY BETWEEN MAYLAND LN AND OLD ORCHARD RD

Mow; weed eat/trim undeveloped alley way at Old Orchard Road/ Mayland Lane

M-6 VESTAVIEW CIR

Mow; weed eat/trim the center island on Vestaview Circle

M-7 VESTAVIEW LN

Mow; weed eat/trim sidewalk area on Vestaview Lane from edge of Shades Mountain Baptist Church parking lot to 1745 Vestaview Lane

M-8 Unimproved ROW between TROUSDALE ST & HICKORY RD & ALLEY BEHIND 2200 SHADES CREST RD

Mow; weed eat/trim 2125 Hickory Road (alley way) including ditch line

Mow; weed eat/trim Shades Crest Road at Trousdale Street (alley way behind 2200 Shades Crest Road)

M-9 Grass Triangle SMYER RD & SHADES CREST RD and Grass Triange BIG SPRINGS AND SHADES CREST RD

Mow; weed eat/trim grass triangle at Smyer Road and Shades Crest Road

Mow; weed eat/trim grass triangle at Big Springs Road and Shades Crest Road

M-10 VESTHAVEN WAY

Mow; weed eat/trim Vesthaven Way from Highway 31 to first house on both sides of road

M-11 CH MONUMENT SIGN HWY 280 AND DOLLY RIDGE RD& BROOKWOOD GREEN TRACE

Mow; weed eat/trim area at the intersection of Dolly Ridge Road and Highway 280 on the eastbound lane surrounding the monument sign and grass area on Woodhaven Cir side

Mow; weed eat/trim along sides of Brookwood Green Trace from Hwy 280 to City Limits

M-12 US HWY 31 ENTRANCE RAMP ENTRANCE AREA & MOUNUMENT AREA TO MONTREAT DR

Mow; weed eat/trim the right of way at the intersection of Highway 31 and Columbiana Road, the ditch line to Montreat Drive, and area around the entrance monument to include the side closest to I-65 on the North bound lane of Highway 31. This will include keeping the beds weed free and trimmed. This should also include refreshing the straw in the beds two (2) times per year.

M-13 MORGAN RD & LIMEROCK RD

Mow; trim hedges and weed eat/trim the right of way on both sides of the sidewalk on Morgan Drive from the intersection of Lime Rock Road and Morgan Drive (across from Fire Station #3) to the first business on the left.

Mow; weed eat/trim along sides of Limerock Road from Morgan to first house.

M-14 TRAFFIC TRIANGLE @ DOLLY RIDGE RD & CAHABA HEIGHTS RD

Mow; weed eat/trim traffic triangle at Dolly Ridge Road and Cahaba Heights Road, and grass on both sides of Dolly Ridge to the north of this intersection

M-15 CAHABA HEIGHTS RD- ROUND ABOUT- BLUE LAKE DR AND SICARD HOLLOW RD

Mow; weed eat/trim Cahaba Heights Road from Brent Drive to new roundabout at Sicard Hollow

Mow; weed eat/trim new roundabout at Sicard Hollow and Blue Lake

15 A BLUE LAKE DR BOTH SIDES TO CITY LIMITS ELMORE DR (TOP OF HILL)

Mow; weed eat/trim Blue Lake from roundabout to City Limits

Mow; weed eat/trim Elmore Drive

M-16 OVERTON RD – OAKDALE DR TO INT LIBRTY PKWY- & OLD OVERTON RD FROM OVERTON RD TO BOAT LAUNCH AREA

Mow; weed eat/trim Overton Road from Oakdale Drive to Liberty Parkway

Mow; weed eat/trim Old Overton Road from Overton Road to canoe launch area

M-17 LEONA WAY FROM OLD CREEK TRL TO UHAUL AT HWY 31

Mow; weed eat/trim sidewalk area to include the hand rail on Old Montgomery Highway from Old Creek Trail to the edge of Uhaul.

M-18 BLIND BROOK LN

Mow; weed eat/trim Blind Brook Lane across from 1512 Blind Brook (cut 8' behind gutter)

M-19 CAHABA RIVER RD - HEALTHY WAY & BLUE LAKE DR

Mow; trim hedges and weed eat/trim the intersection of Cahaba River Road and Healthy Way/Blue Lake Drive on both sides of Cahaba River Road.

M-20 HWY 31 FROM I-65 TO SHADES CREST RD

Mow; trim hedges and weed eat/trim the medians for entire length of Highway 31 from Shades Crest Road on the North to I-65 on the South. Periodic pruning of crepe myrtles to be included once every two years(see Alternate A). Periodic chemical treatments to prevent infestations and weeds, to be included a minimum of three applications per year (see Alternate B). The sides of the road shall be maintained in areas not in front of businesses or residents. Two times per month October through March.

M-21 CROSSHAVEN AND OVERTON RD

Mow; weed eat/trim Crosshaven Drive at Overton Road in front of cemetery wall

Mow; weed eat/trim Overton Road from Crosshaven to apartment entrance

M-22 BEARDEN DR & PARKING LOT AREA GREENDALE RD

Mow; weed eat/trim sections of Bearden Drive not in front of homes or church

Mow; weed eat/trim island area at Greendale Road

M-23 SMYER ROAD

Mow; weed eat/trim area of Smyer Road under power line easement

M-24 MASSEY ROAD

Mow; weed eat/trim land scape area at Massey Road and Vestavia Forest; this will include keeping the beds weed free and trimmed

Mow; weed eat/trim corner of Massey Road and Jacobs

M-25 ROUND HILL RD HWY 31 TO FIRST HOUSE ON NORTH SIDE

Mow; weed eat/trim edge of Roundhill from slope at office building across from library to first house (1416)

M-26 VESTAVIA LAKE DR FROM CHESNUT ST TO 2059 VESTAVIA LAKE DR

Mow; weed eat/trim Vestavia Lake Dr from Chestnut to 2059 Vestavia Lake Dr

M- 27 RIVER RUN SUBD AREA, RIVER RUN TRL FROM CITY LIMITS TO RIVER VIEW DR AS NEEDED, INTERSECTION RIVER RUN TRL AND RIVERVIEW DR, RIVER VIEW DR TO INTERSECTION OF RIVER VIEW COVE AS NEEDED, RIVER VIEW COVER FROM INTERSECTION RIVER VIEW DR EAST TO CUL DE SAC

Mow; weed eat/trim various areas along River Run not in front of homes; this includes frontage along I459 fencing, undeveloped lots, and shoulder areas at steep slopes

Alternate C

M-28 COLUMBIANA RD FROM VESTAVIA SCHOOL AREA NORTH TO CITY LIMITS

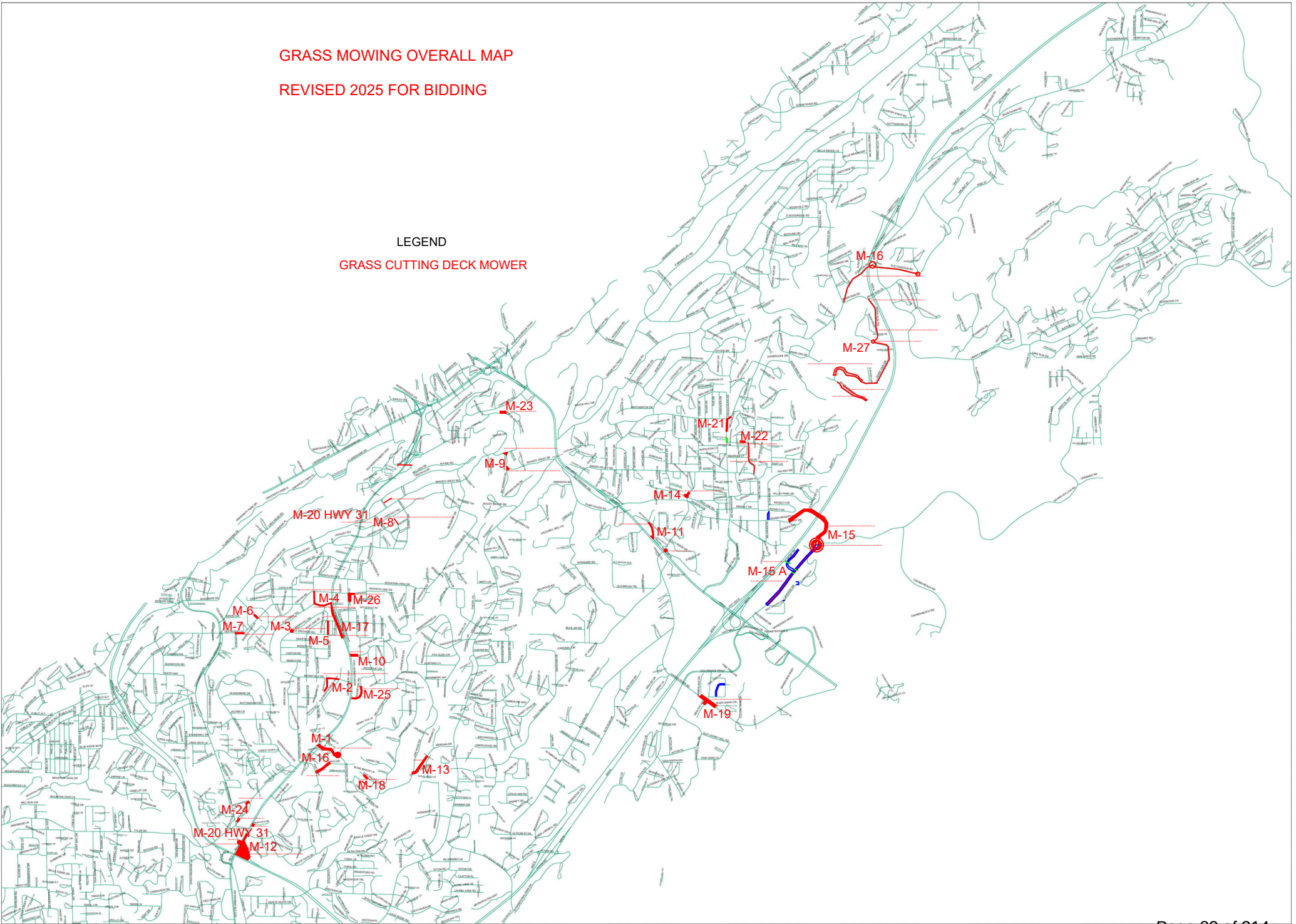
Mow; trim hedges and weed eat/trim the medians for entire length of Columbiana Road from the city limits marker on the North (just past Shades Crest Road) to Highway 31 on the South. The sides of the road shall be maintained in areas not in front of businesses or residents. Two times per month October through March.

GRASS MOWING OVERALL MAP

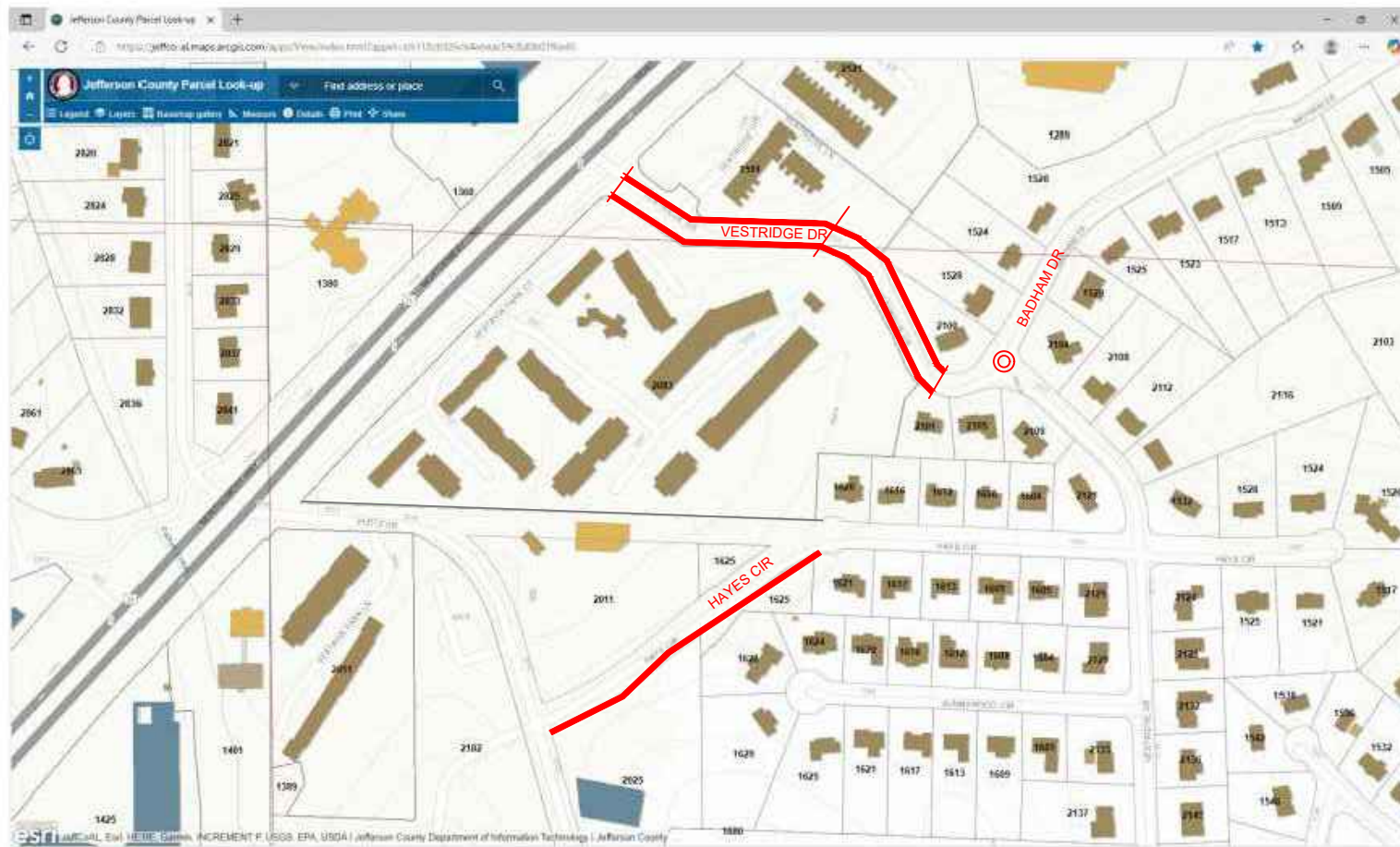
REVISED 2025 FOR BIDDING

LEGEND

GRASS CUTTING DECK MOWER



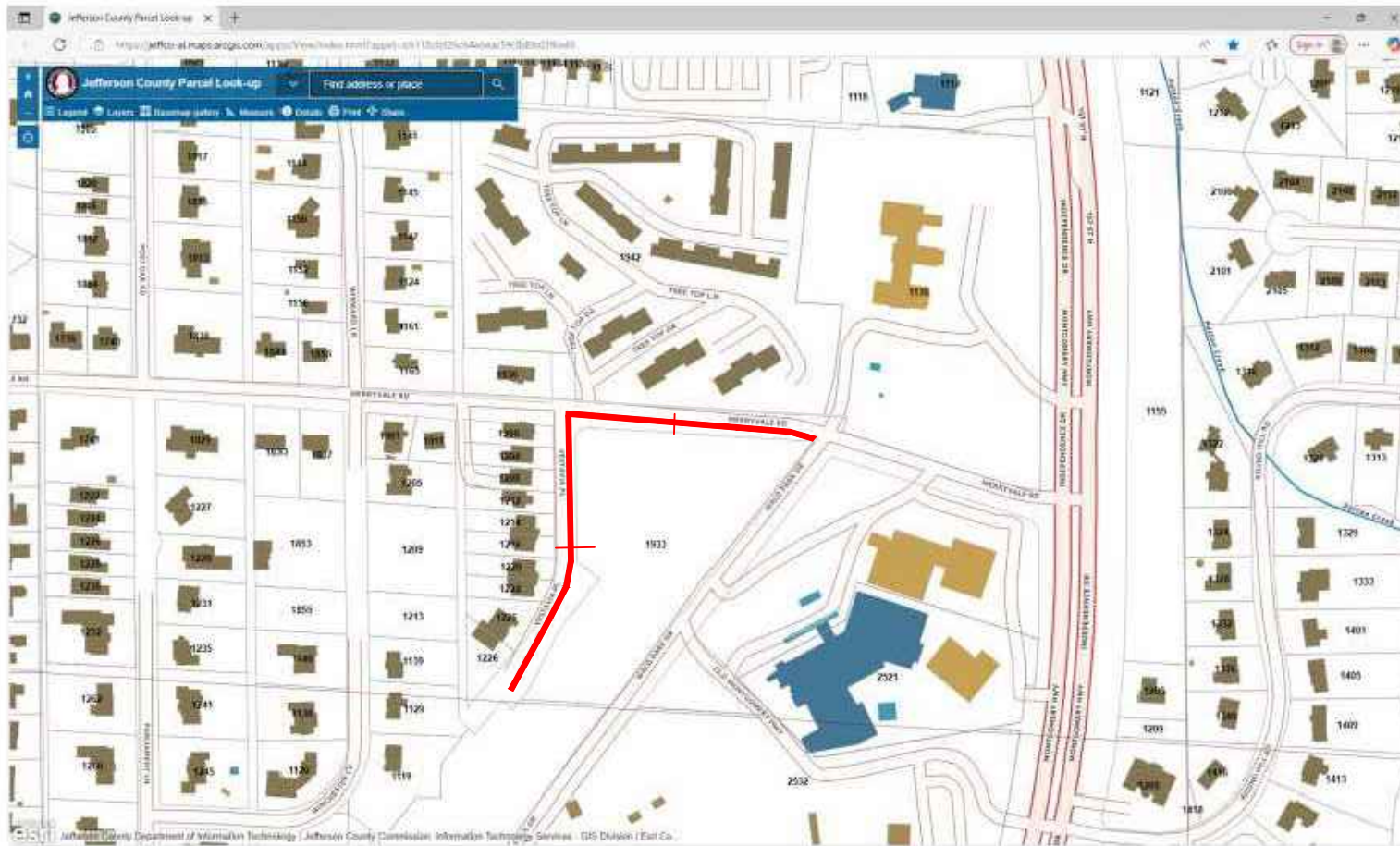
HAYES CIRCLE AND VESTRIDGE DR



FROM 1621 HAYES CIRCLE TO PIZITZ DR
FROM 2101 VESTRIDGE DR TO U.S. HWY 31 BOTH SIDES
TRAFFIC TRIANGLE @ INT. VESTRIDGE DR & BADHAM DR

M-1

MERRYVALE RD AND VESTAVIA PLACE



MERRYVALE RD FROM VESTAVIA PL TO WALDRIDGE RD
VESTAVIA PL FROM MERRYVALE RD TO END OF CUL DE SAC

M-2

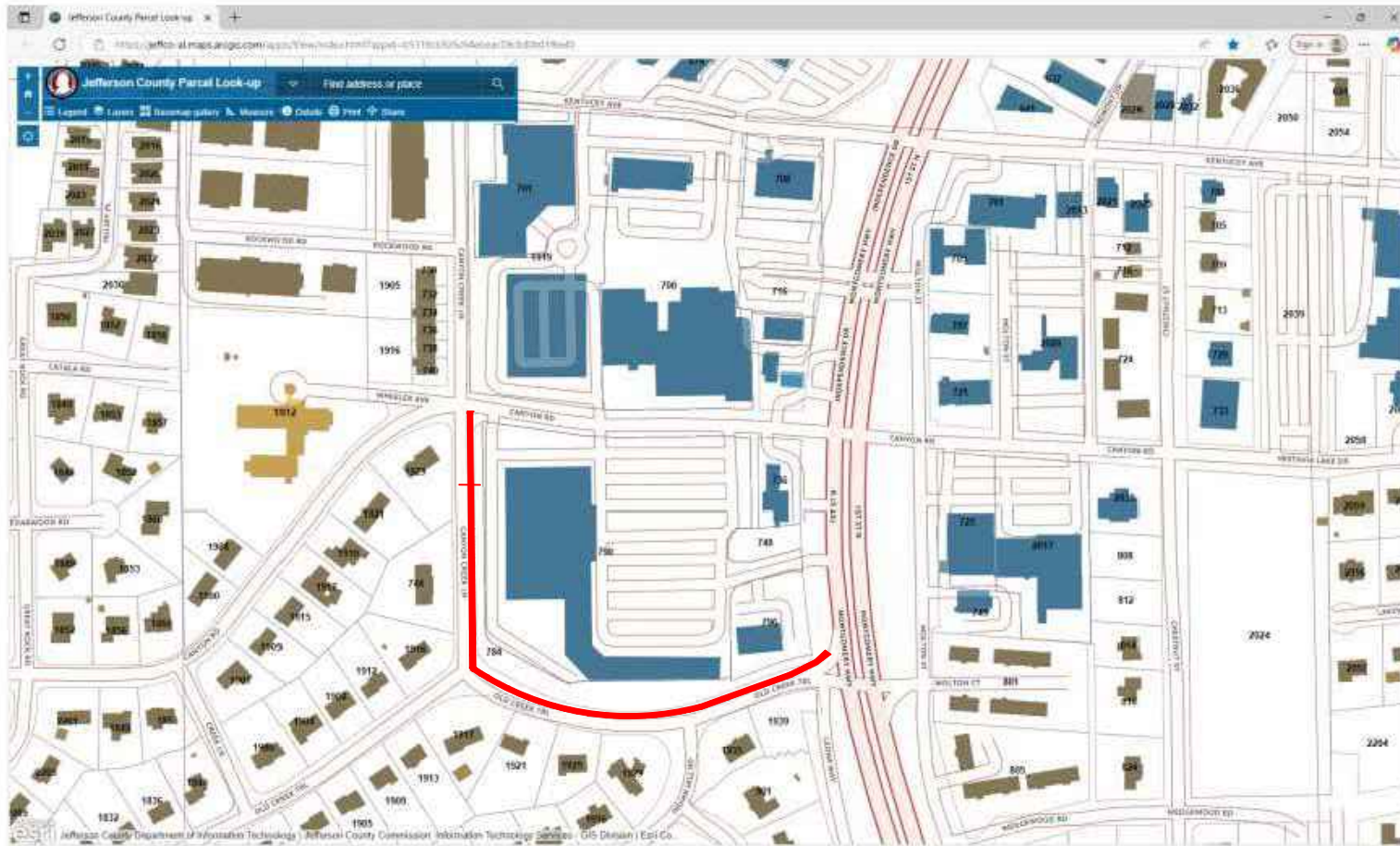
INT. INDIAN HILL RD & OLD ORCHARD RD



TRAFFIC ISLAND @ INT. INDIAN HILL RD & OLD ORCHARD RD

M-3

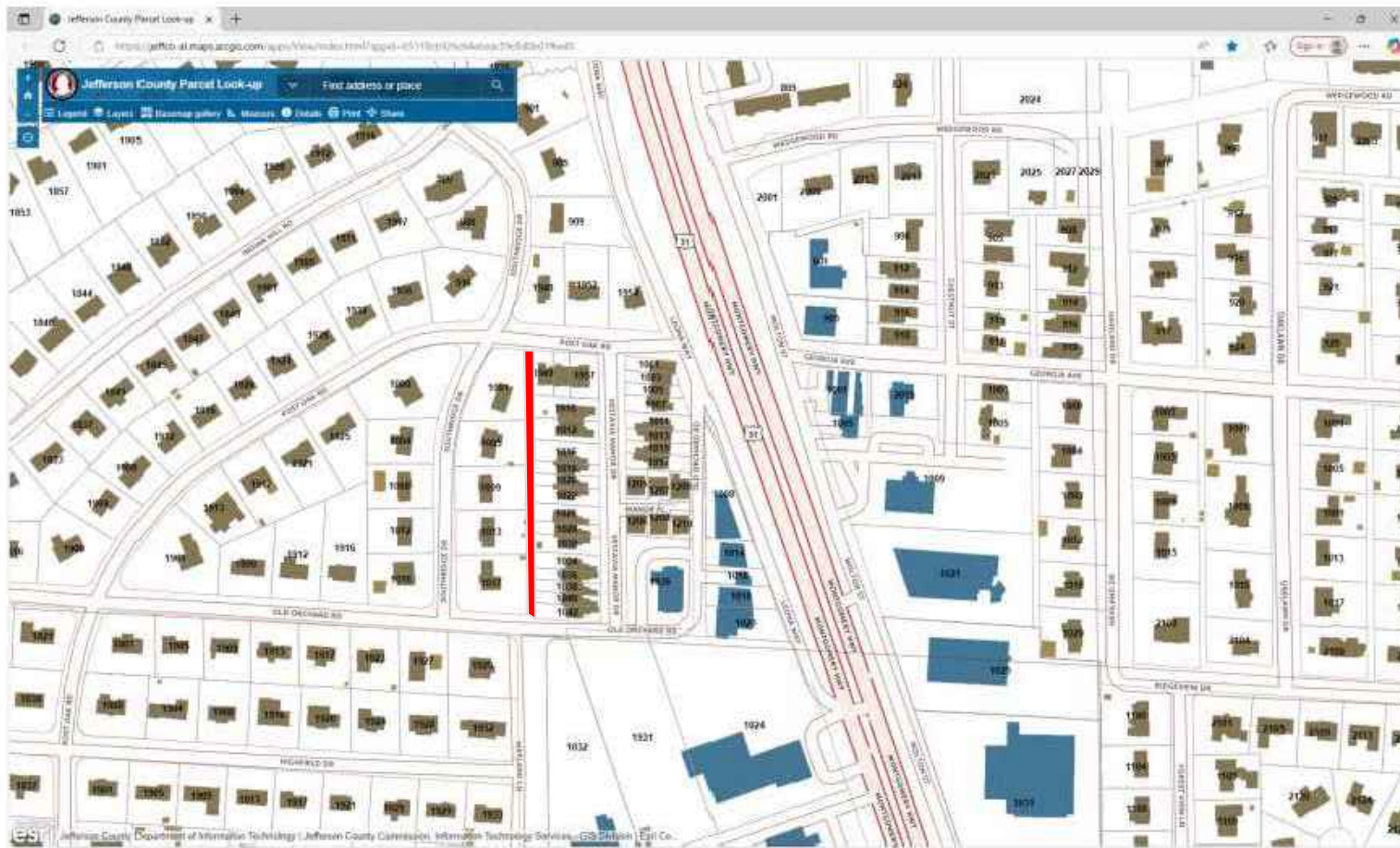
OLD CREEK TRL & CANYON CREEK LN



OLD CREEK TRL FROM U.S. HWY 31 TO CANYON CREEK LANE
CANYON CREEK LANE FROM OLD CREEK TRL TO CANYON RD

M-4

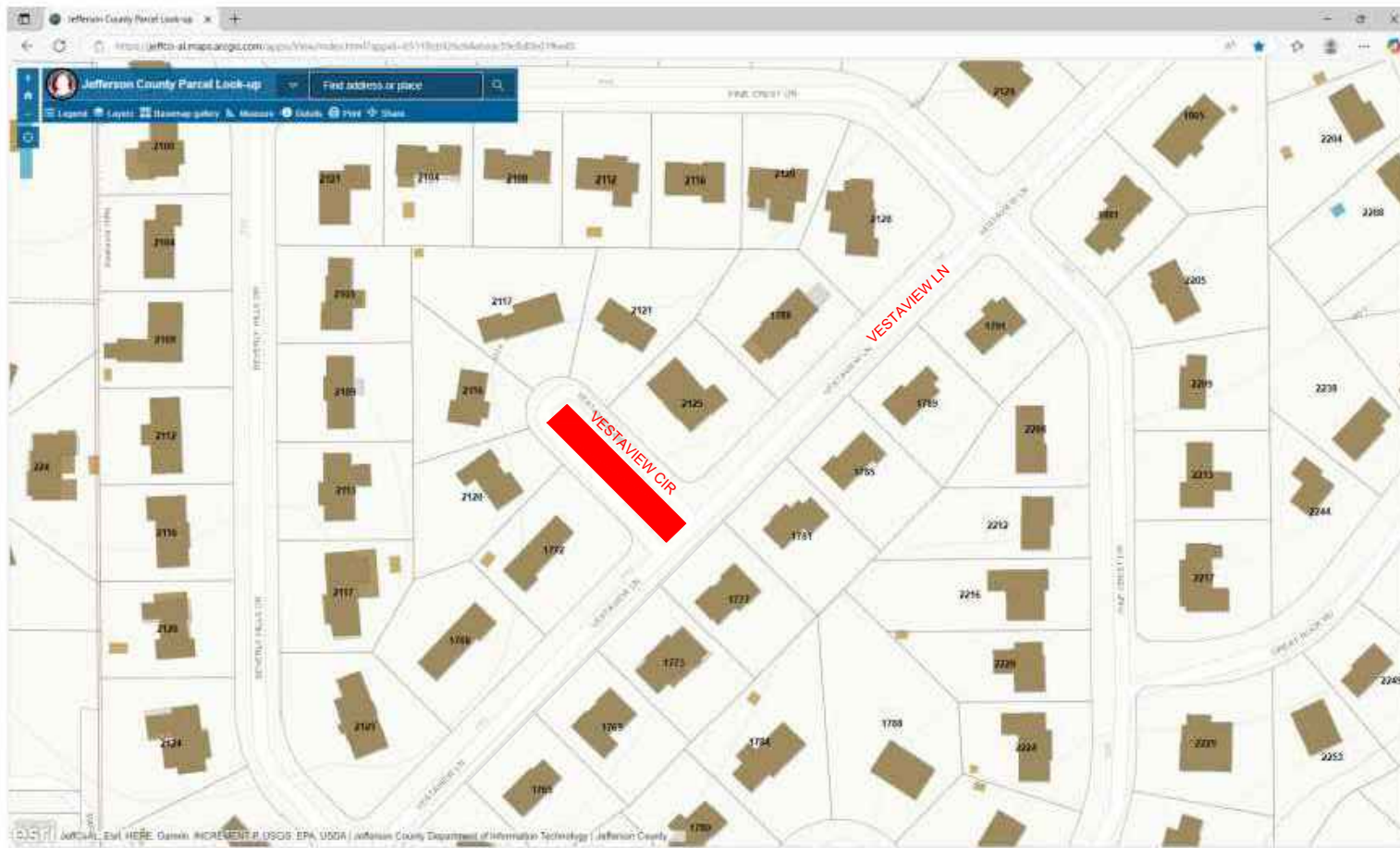
OLD ORCHARD RD AND POST OAK RD



ALLEY BETWEEN OLD ORCHARD RD AND POST OAK RD

M-5

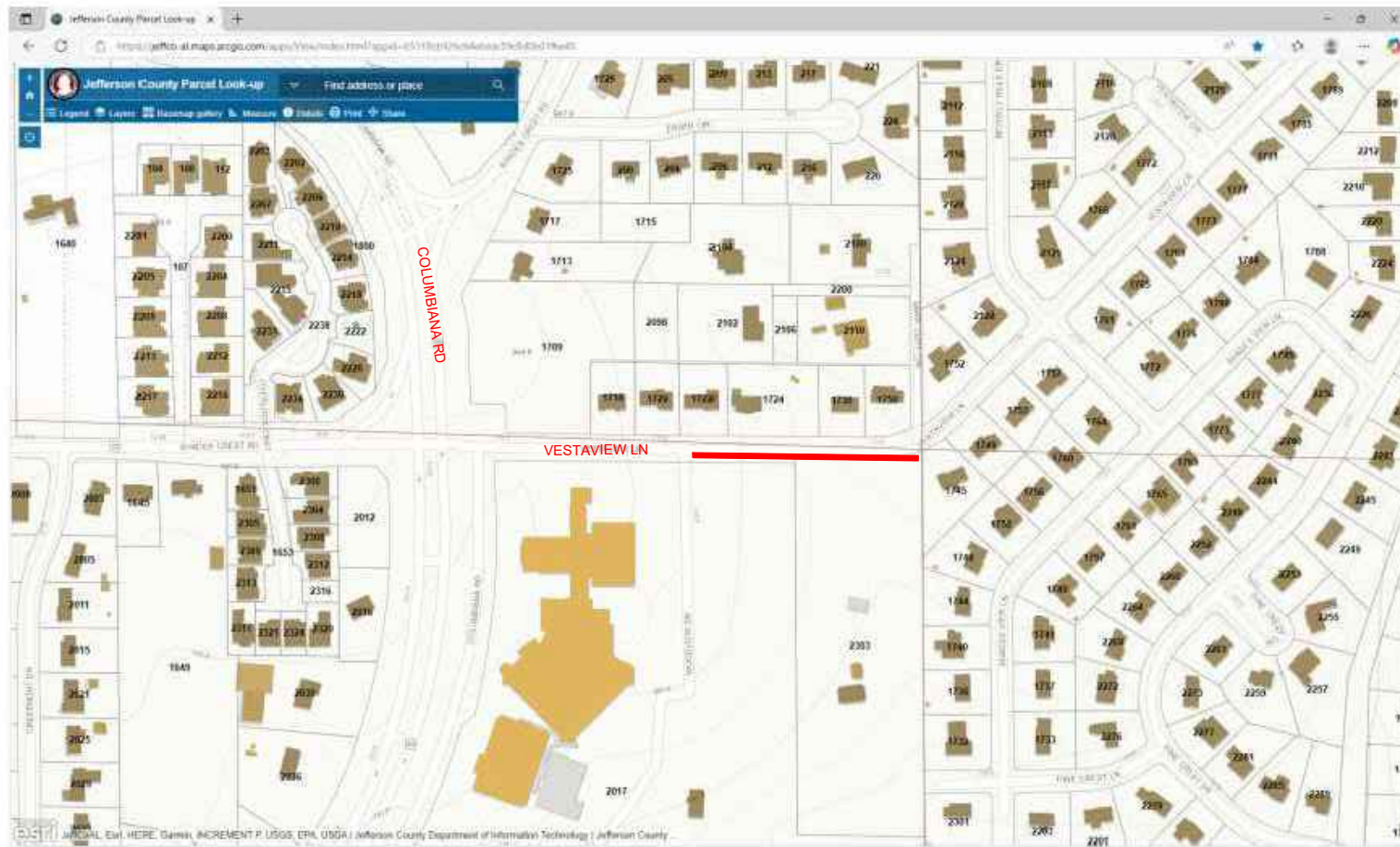
VESTAVIEW CIRCLE



ISLAND WITHIN VESTAVIEW CIRCLE

M-6

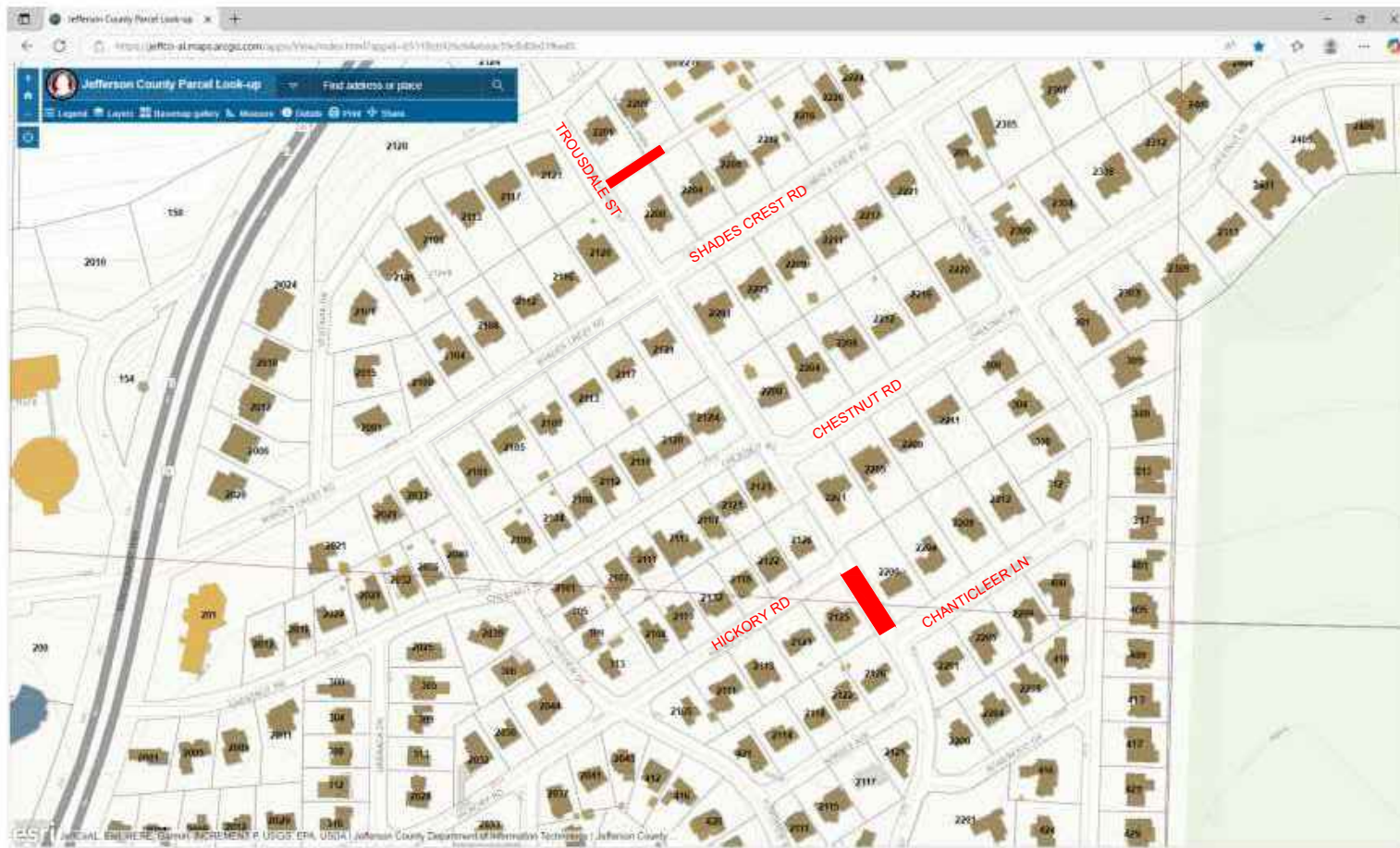
VESTAVIEW LN



VESTAVIEW LN SIDEWALK AREA

M-7

HICKORY RD & TROUSDALE STREET

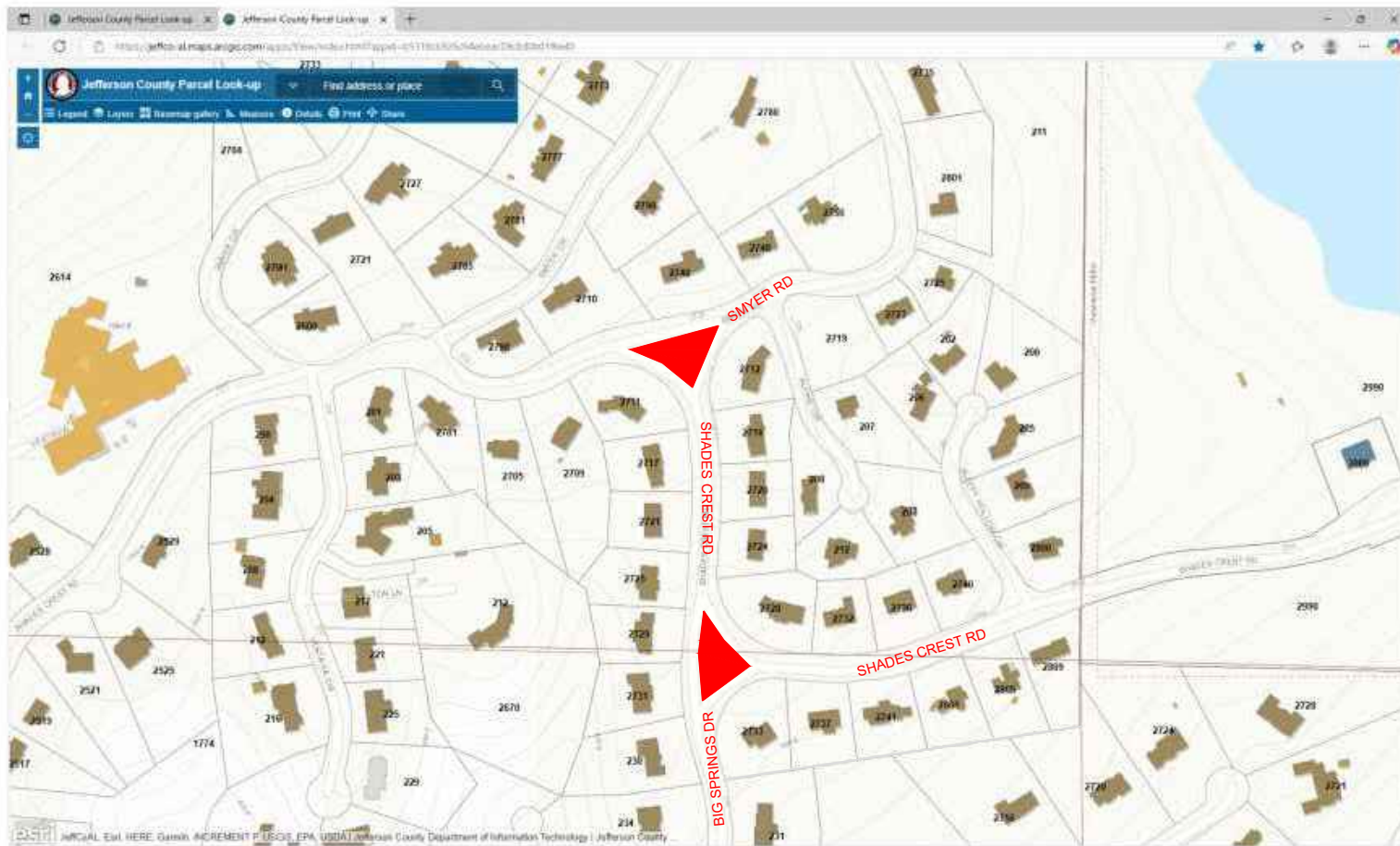


2125 & 2216 HICKORY RD UNOPENED ROADWAY & DITCH LINE

UNOPEN ALLEY EASTSIDE TROUSDASLE ST. BEHIND 2200 SHADES CREST RD

M-8

SHADES CREST RD @ SMYER RD & SHADES CREST RD @ BIG SPRINGS DR

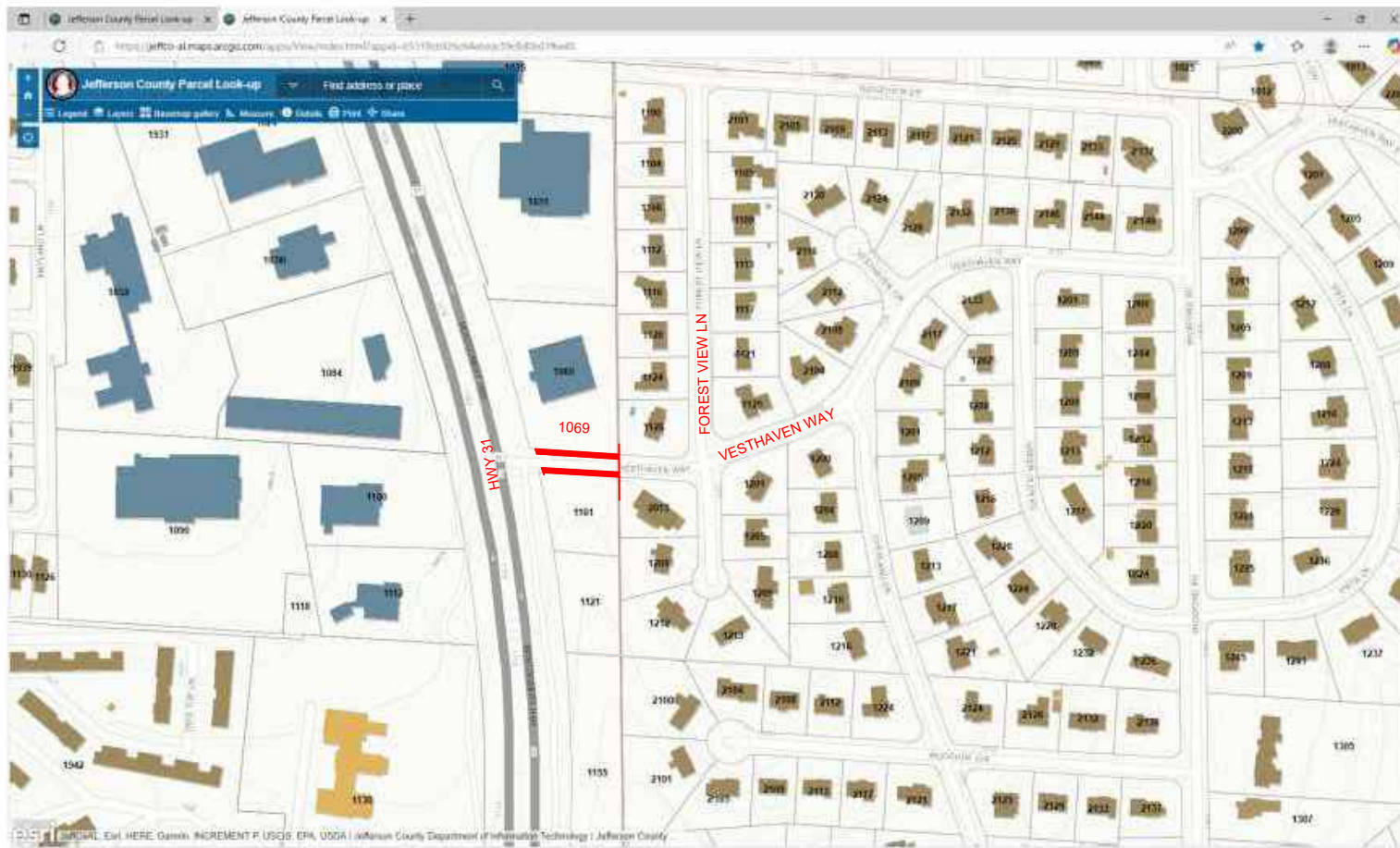


TRAFFIC TRIANGLE @ SHADES CREST RD & SMYER RD

TRAFFIC TRIANGLE @ SHADES CREST RD & BIG SPRINGS DR

M-9

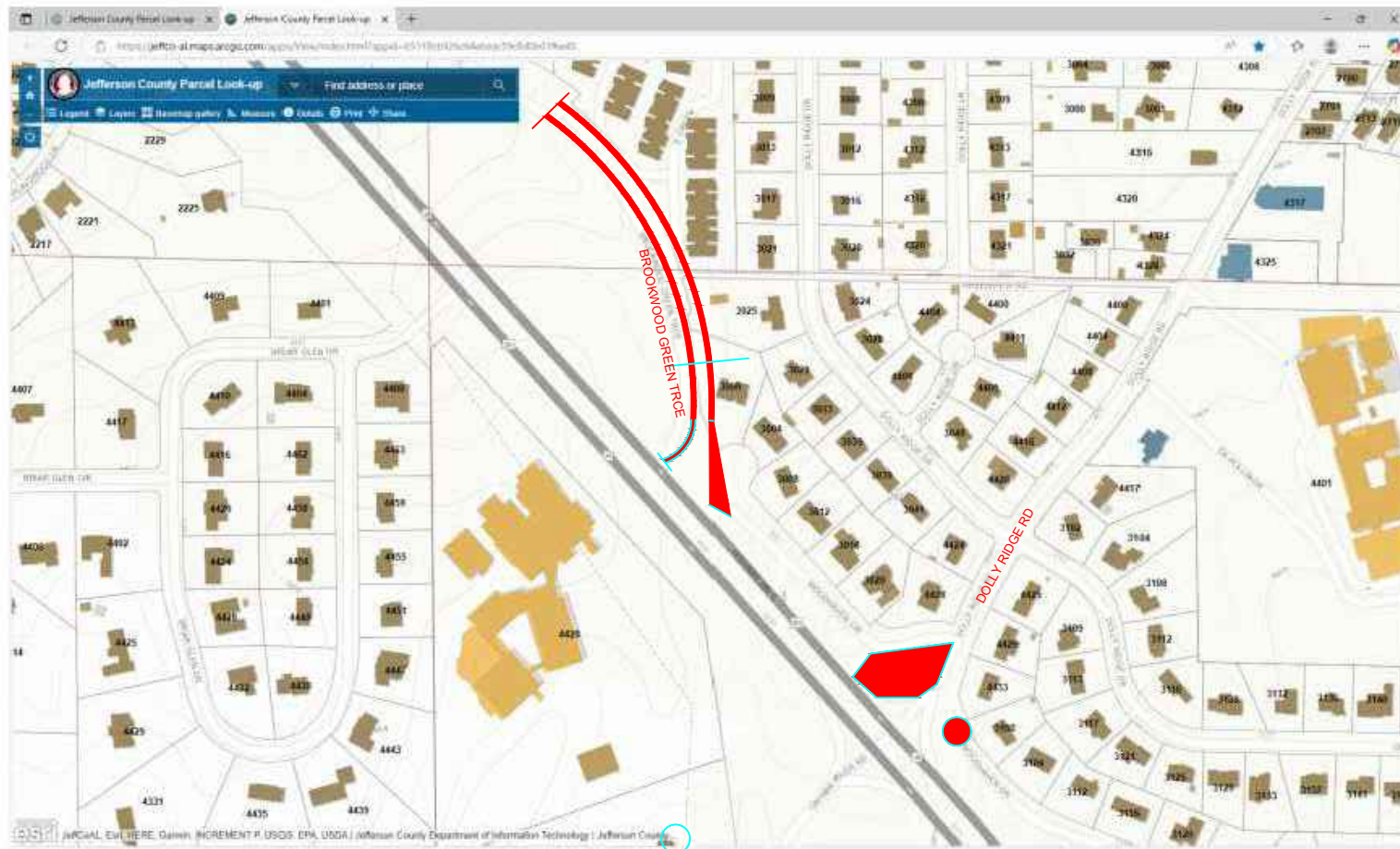
VESTHAVEN WAY



VESTHAVEN WAY FROM HWY 31 TO FIRST HOUSES AT CORNERS

M-10

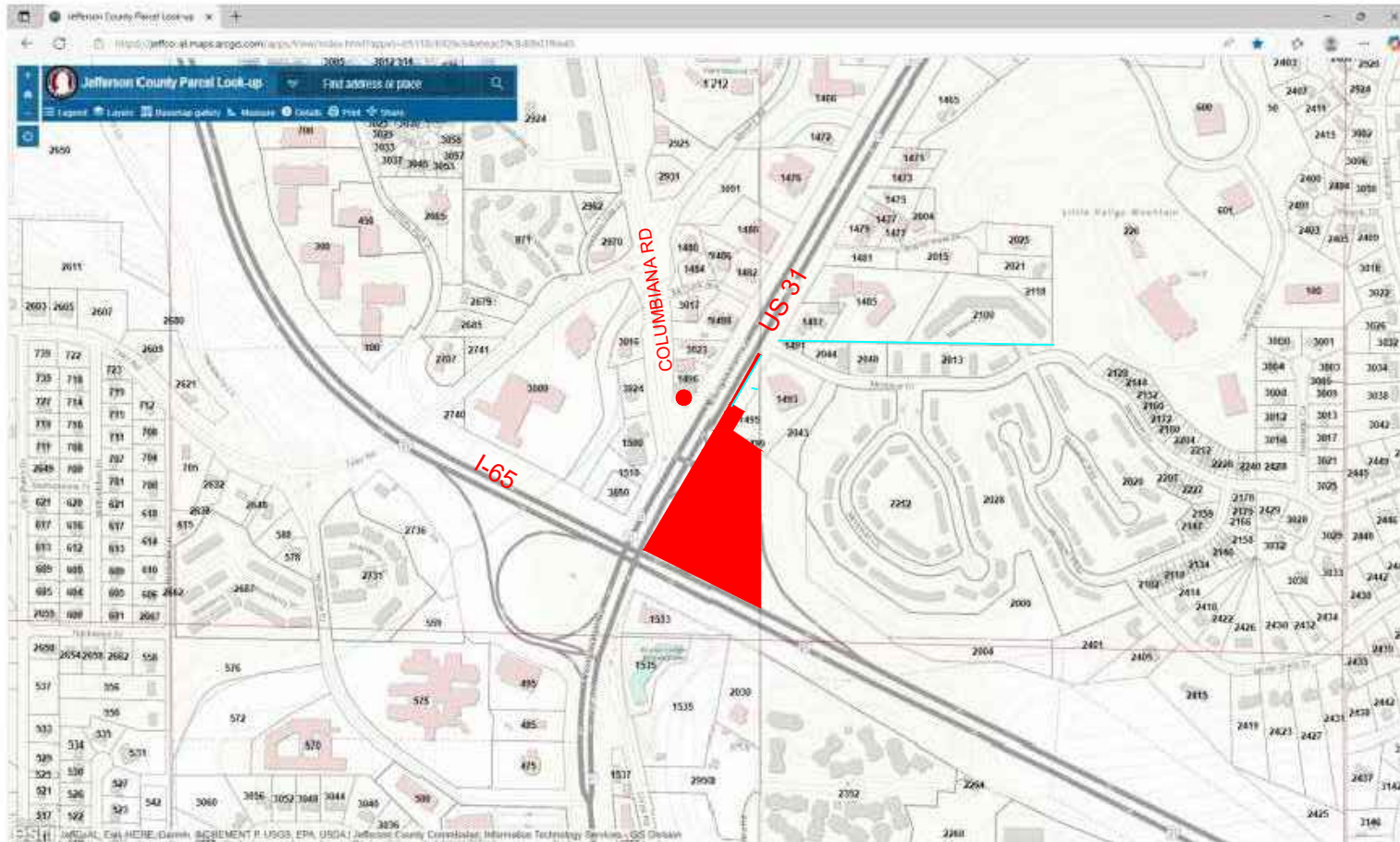
CH SIGN AREA HWY 280 & DOLLY RIDGE RD & BROOKWOOD GREEN TRCE



DOLLY RIDGE RD CH MONUMENT AREA AND WEST SIDE RADIUS TO HWY 280
BROOKWOOD GREEN TRCE INT. WITH 280 & BOTH SIDES TO BRIDGE

M-11

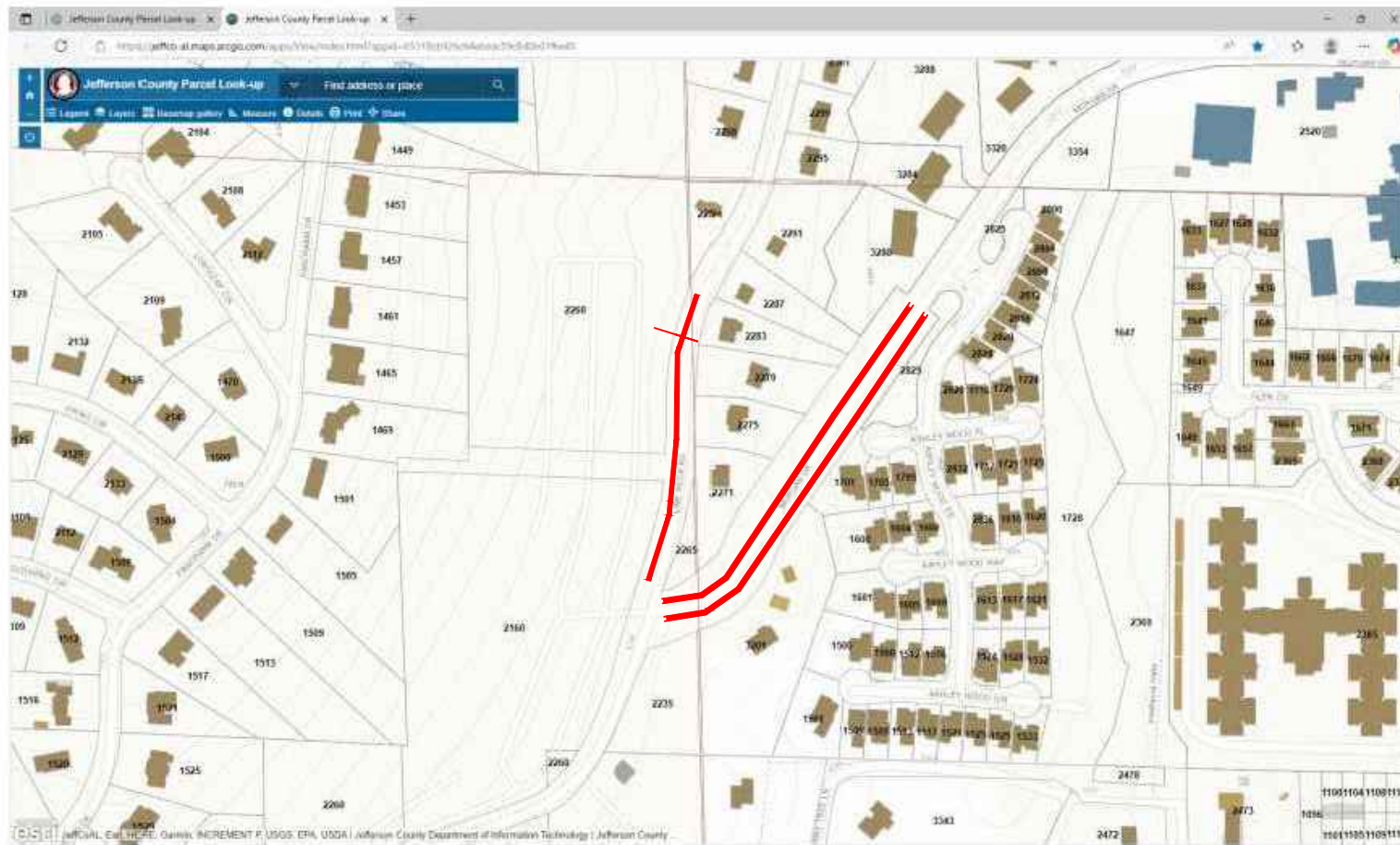
US HWY 31 AND I-65 OFF RAMP AREA



US HWY 31 AND I-65 OFF RAMP & MONUMENT AREA
NEW CITY VESTAVIA MONUMENT 1496 MONTGOMERY HWY

M-12

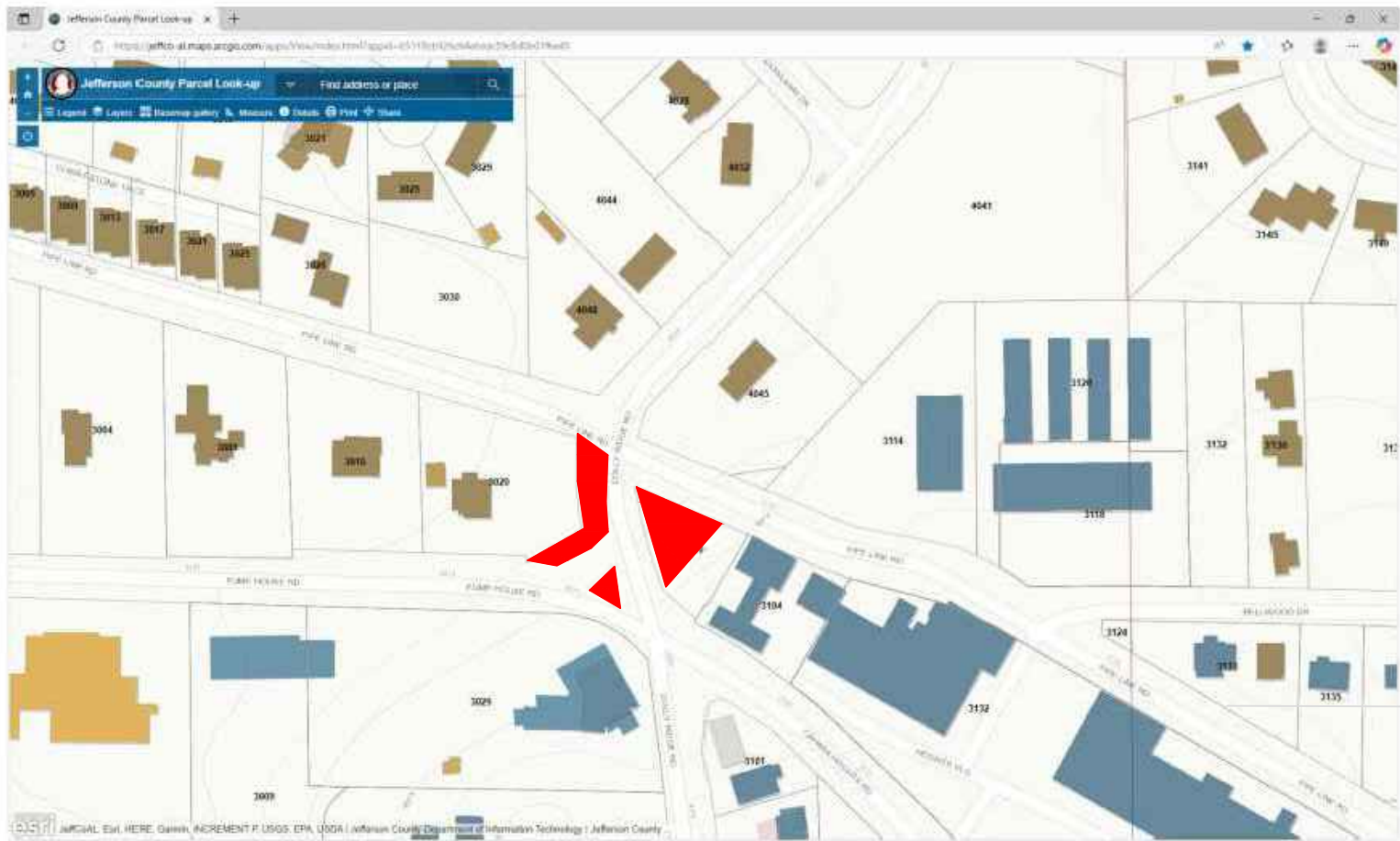
MORGAN DR & LIME ROCK RD



MORGAN DR FROM LIME ROCK RD TO SCHOOL PARKING AREA
LIMEROCK RD WESTSIDE FROM MORGAN DR TO 2294 LIMEROCK RD

M-13

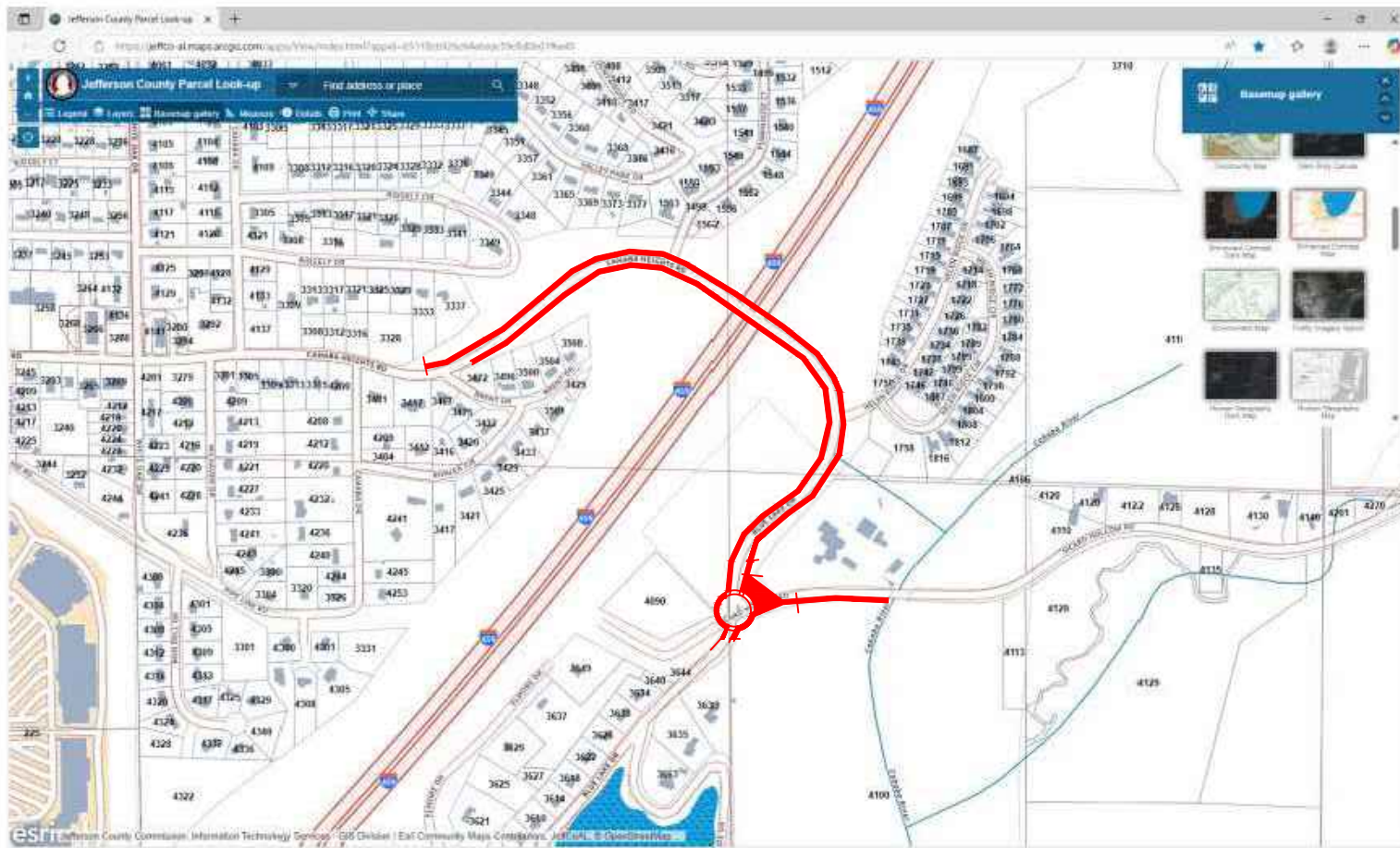
TRAFFIC TRIANGLE @ DOLLY RIDGE RD & CAHABA HEIGHTS RD



TRAFFIC TRIANGLE @ DOLLY RIDGE RD

M-14

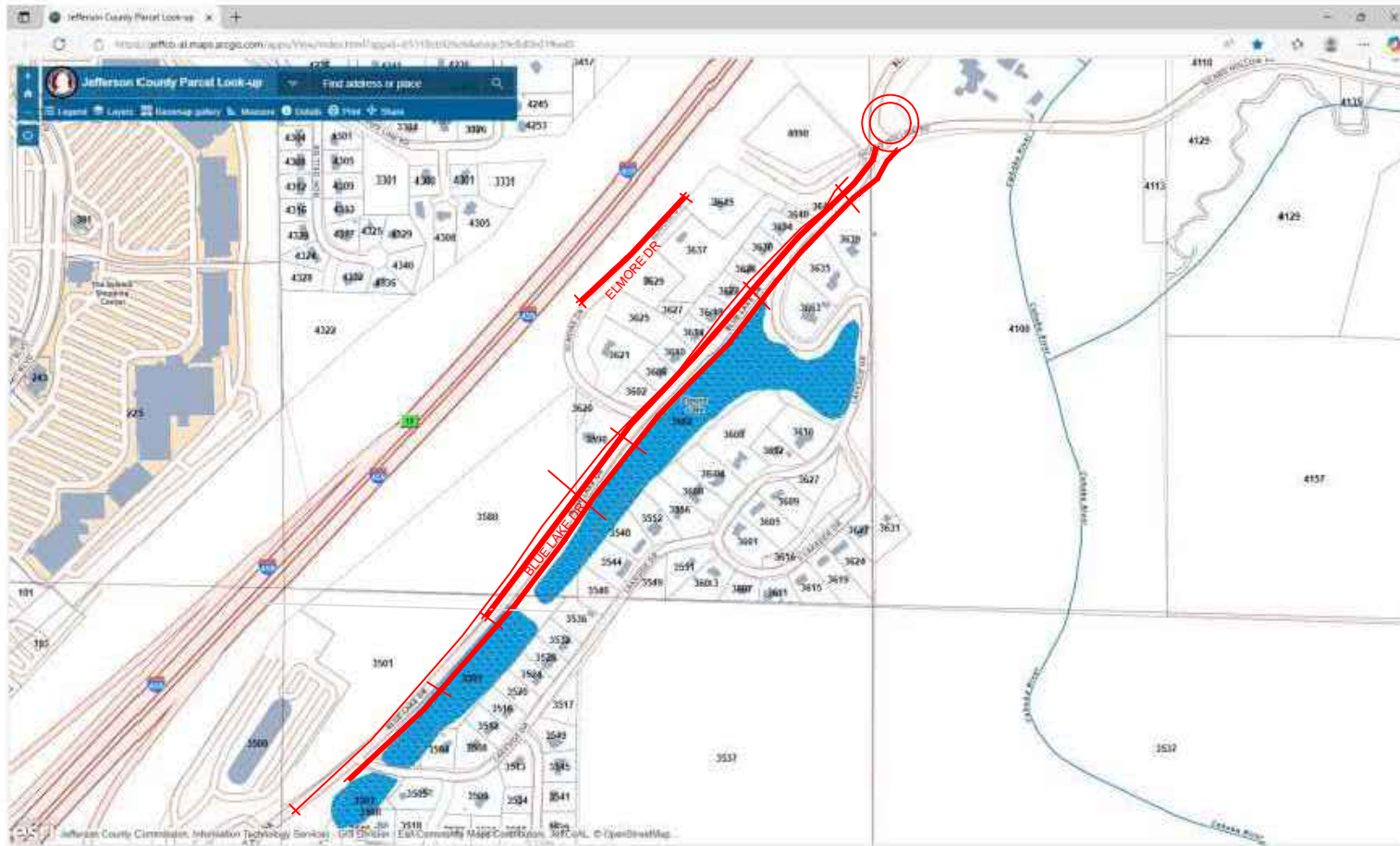
CAHABA HEIGHTS RD - ROUND ABOUT AREA -BLUE LAKE & SICARD HOLLOW RD



CAHABA HEIGHTS RD FROM BRENT DR TO NEW ROUND ABOUT
ROUND ABOUT AREA & SICARD HOLLOW RD SOUTHSIDE TO BRIDGE
BLUE LAKE DR INTERSECTION WITH NEW ROUND ABOUT

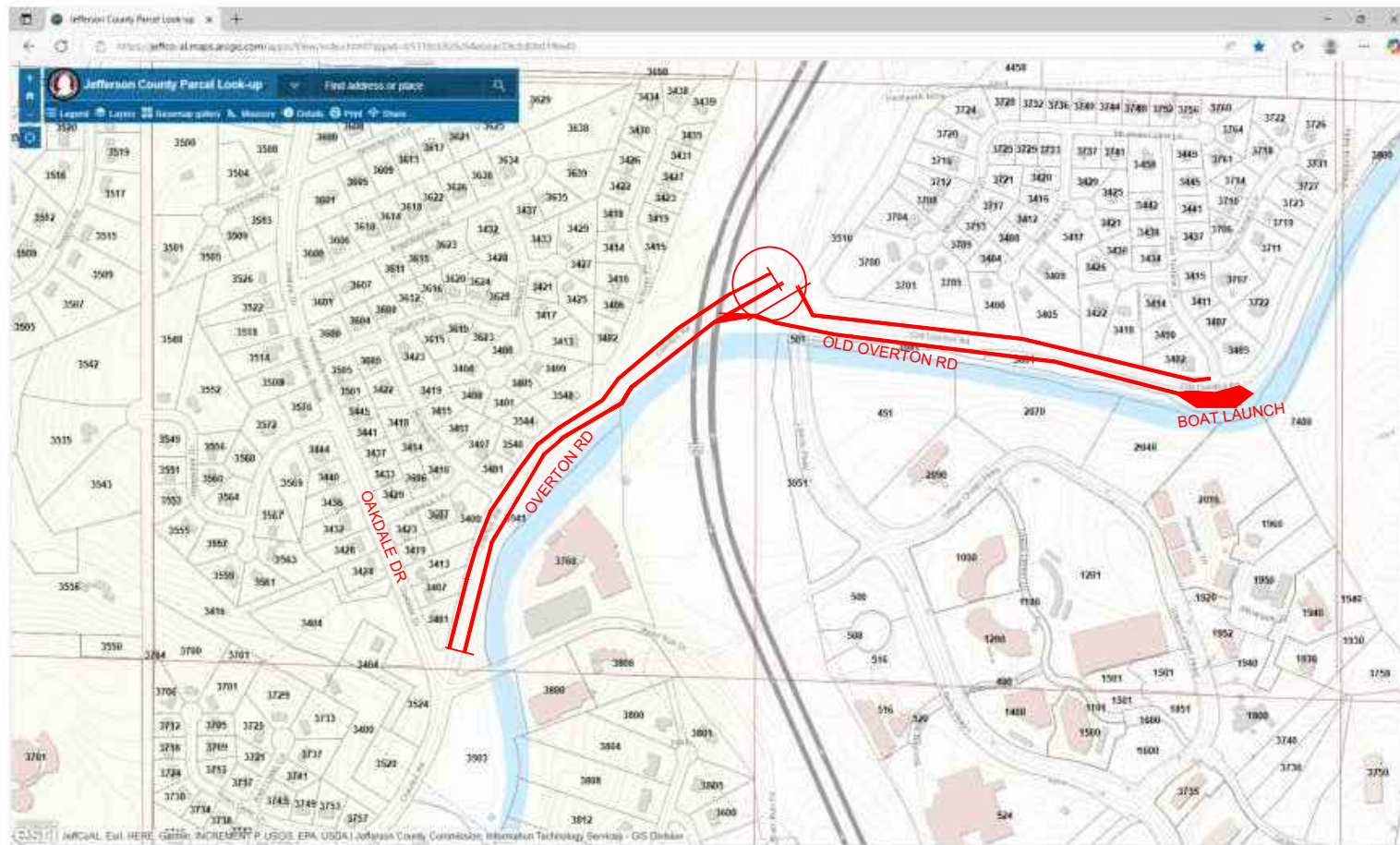
M-15

BLUE LAKE DR & INTERSECTION WITH NEW ROUND ABOUT



BLUE LAKE DR WESTSIDE FROM CITY LIMITS TO INTERSECTION WITH NEW ROUND ABOUT
BLUE LAKE DR EASTSIDE FROM LAKESIDE DRIVE TO INTERSECTION WITH NEW ROUND ABOUT
ELMORE DR WESTSIDE FROM END GUARD RAIL TO END OF ROAD

OVERTON ROAD & OLD OVERTON ROAD



OVERTON RD FROM OAKDALE DR TO INTERSECTION OF LIBERTY PKWY
OLD OVERTON RD FROM OVERTON RD TO BOAT LAUNCH AREA

M-16

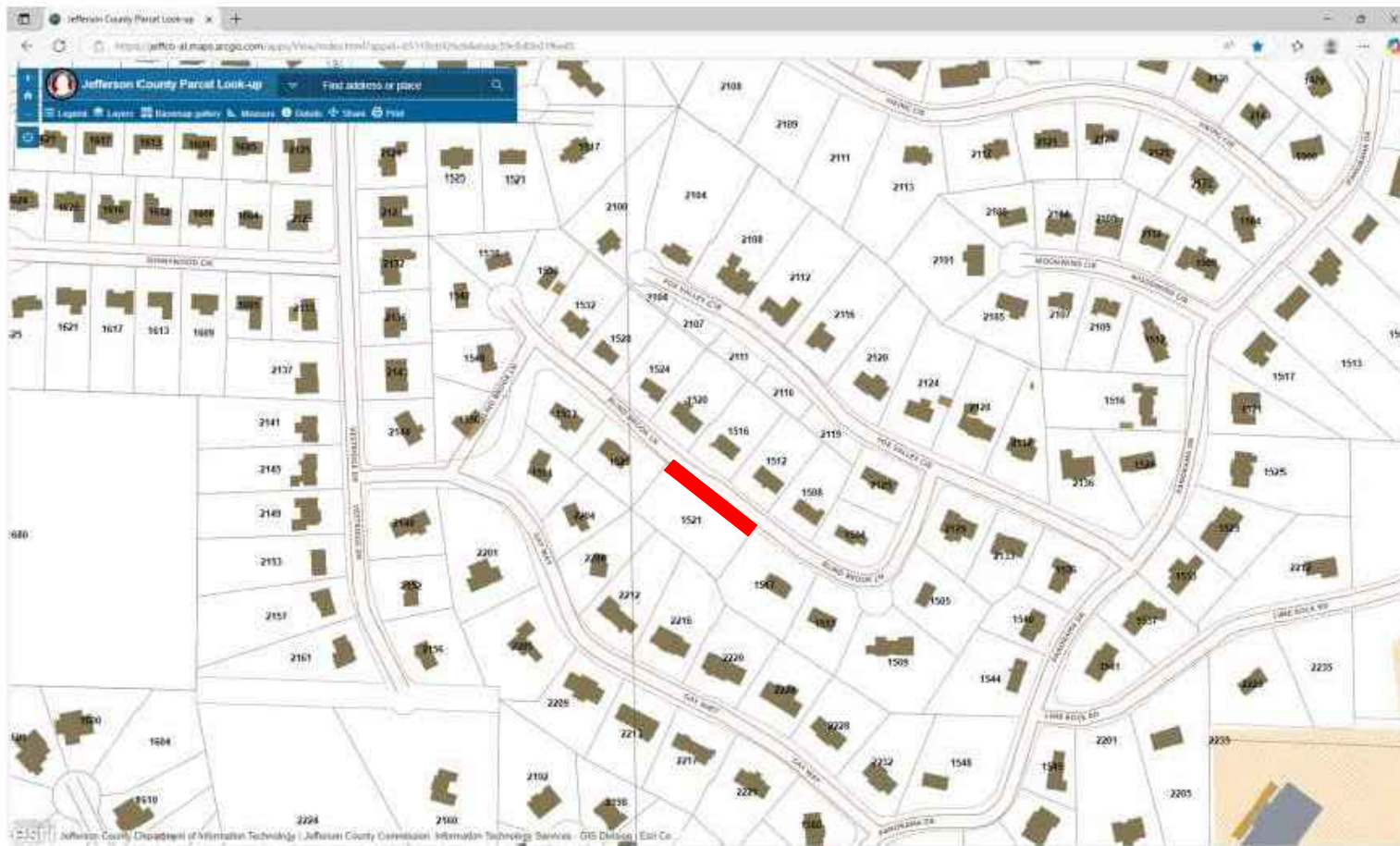
LEONA WAY FROM OLD CREEK TRL TO UHAUL AT HWY 31



LEONA WAY FROM OLD CREEK TRL TO UHAUL AT HWY 31

M-17

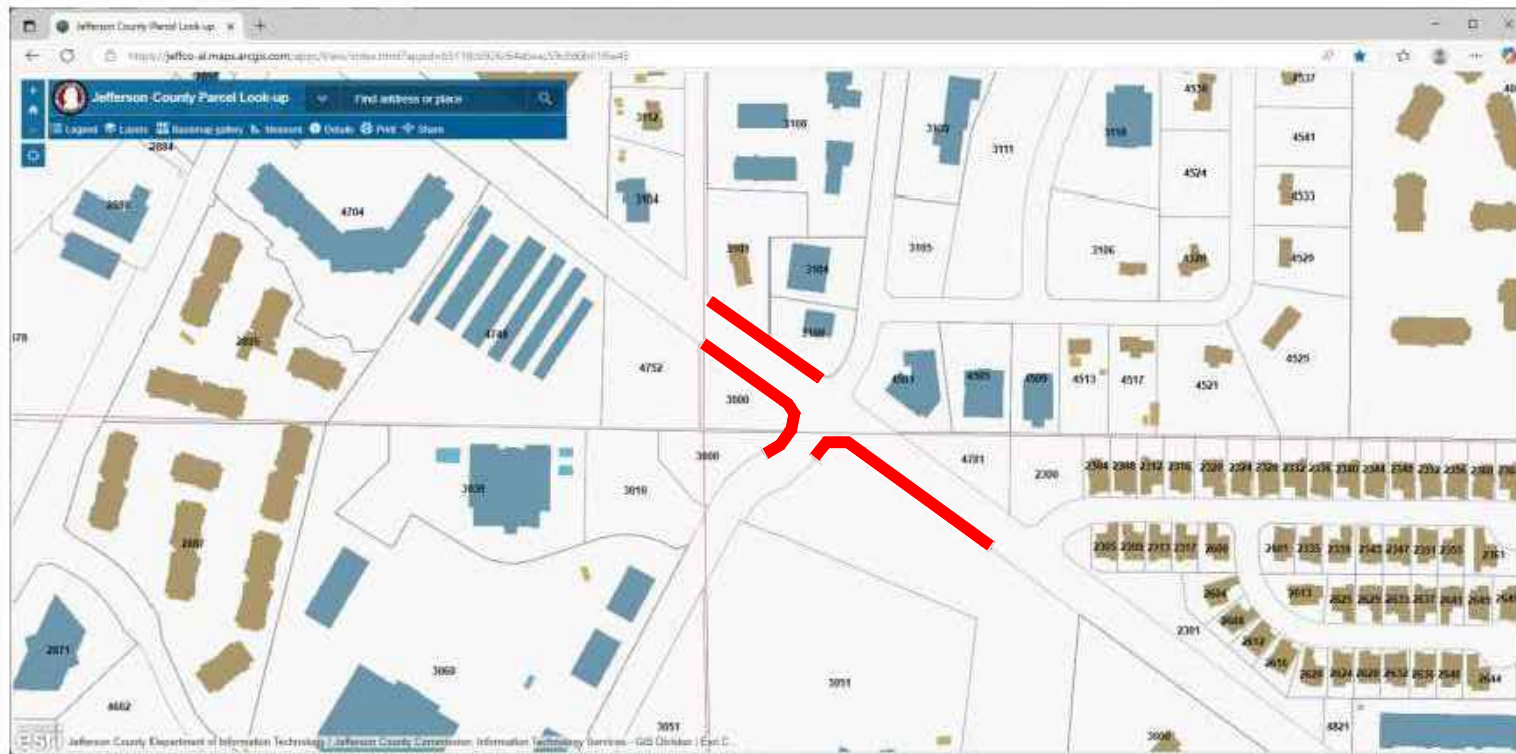
1521 BLIND BROOK LANE



BLIND BROOK LANE RIGHT OF WAY AND EASEMENT AREA

M-18

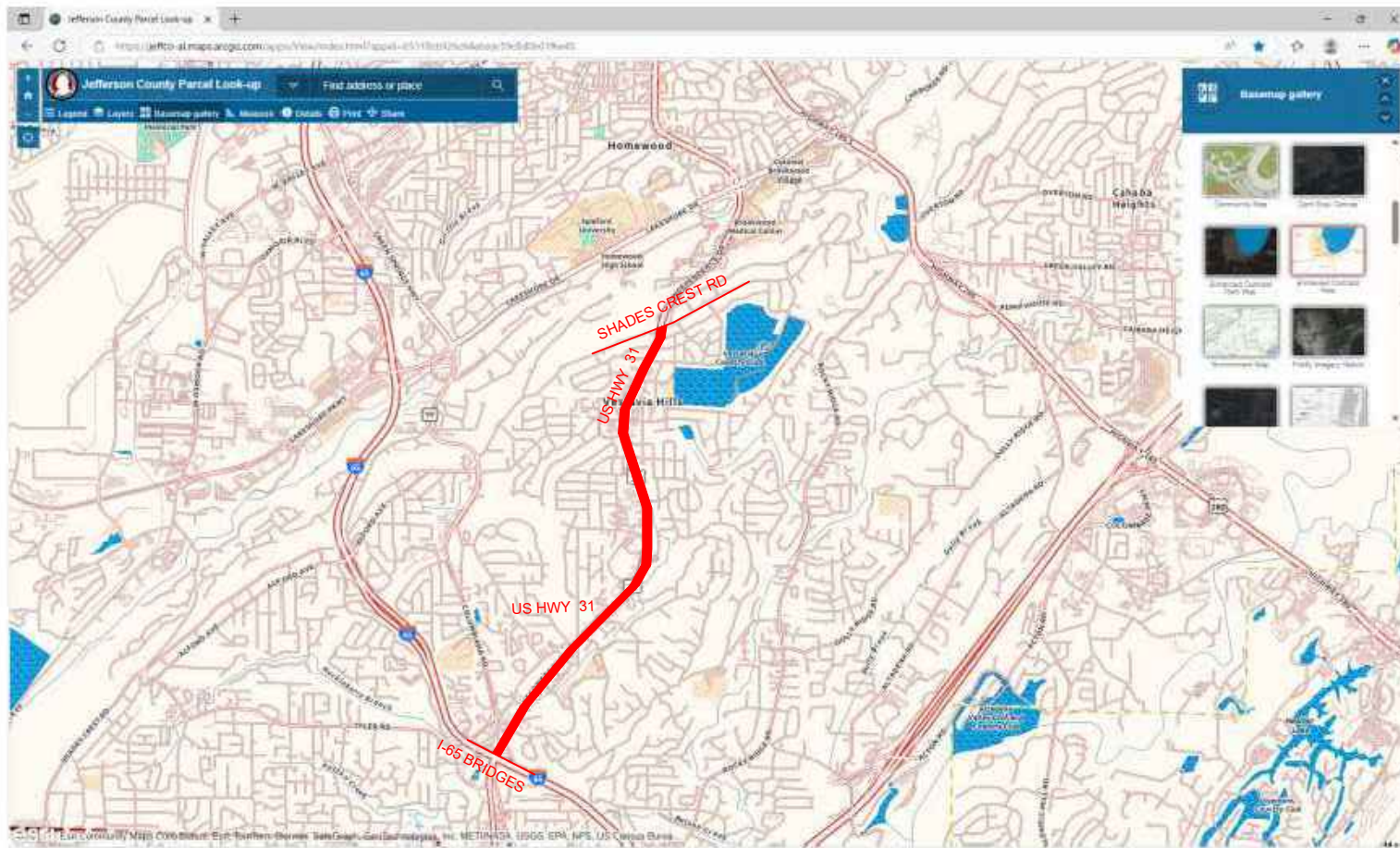
CAHABA RIVER RD & HEALTHY WAY



CAHABA RIVER RD & HEALTHY WAY @ INTERSECTION OF BLUE LAKE DR

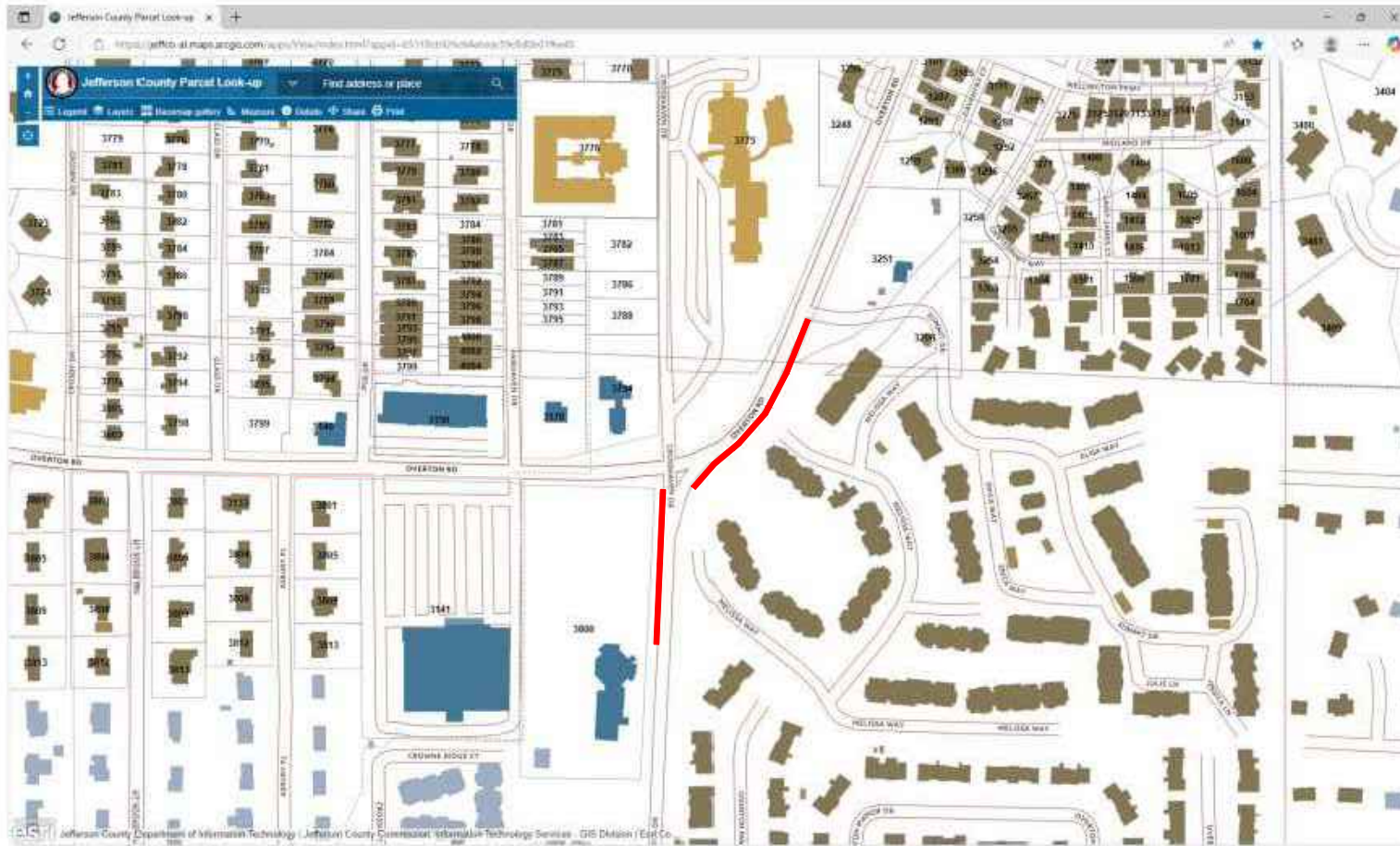
M-19

US HWY 31 FROM I-65 TO SHADES CREST ROAD



M-20

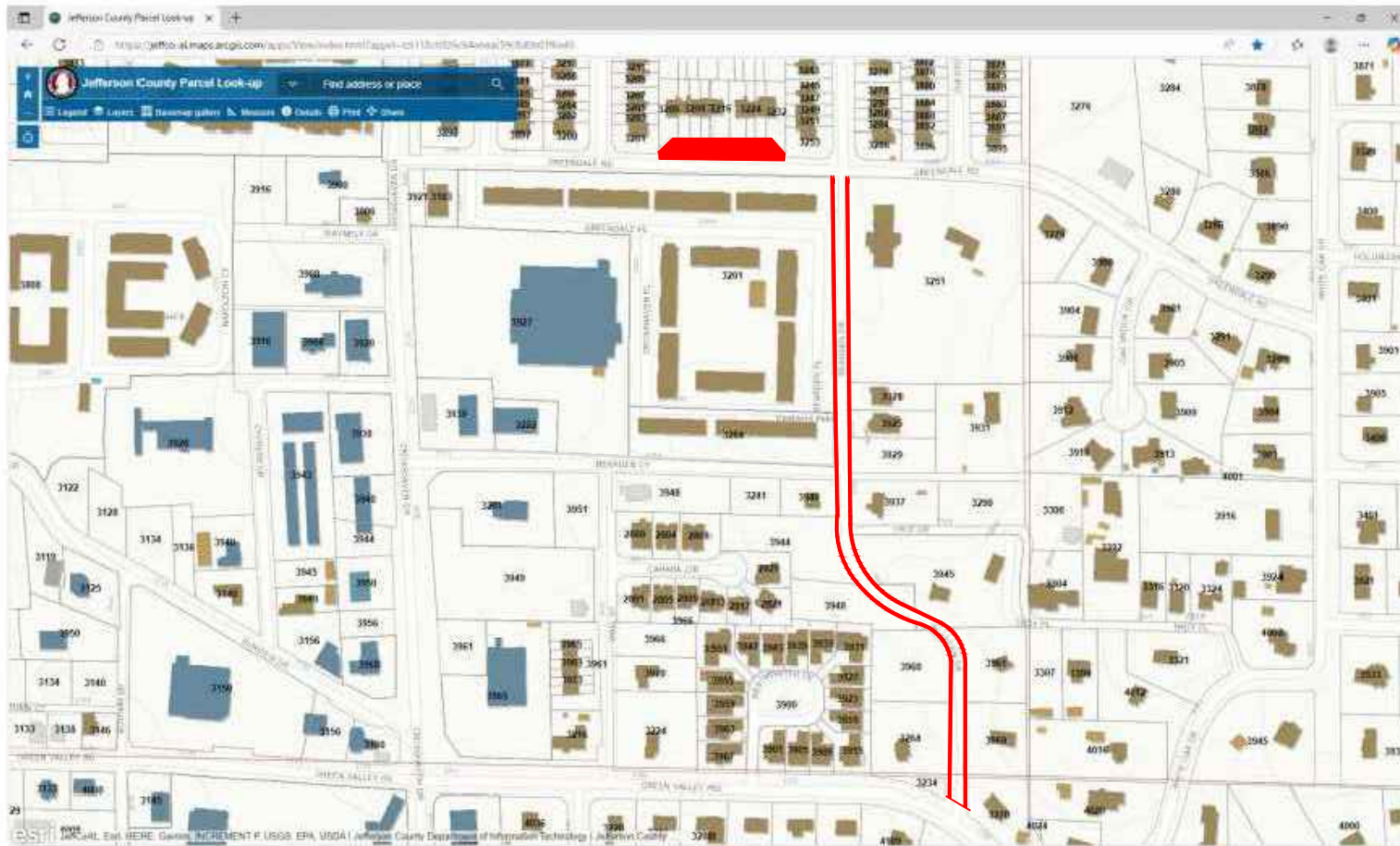
OVERTON RD & CROSSHAVEN DR



OVERTON RD SOUTH SIDE FROM INTERSECTION OF CROSSHAVEN DR TO APT. DRIVEWAY ENTRANCE
CROSSHAVEN DR WEST SIDE FROM OVERTON RD INTERSECTION TO CHURCH DRIVEWAY ENTRANCE

M-21

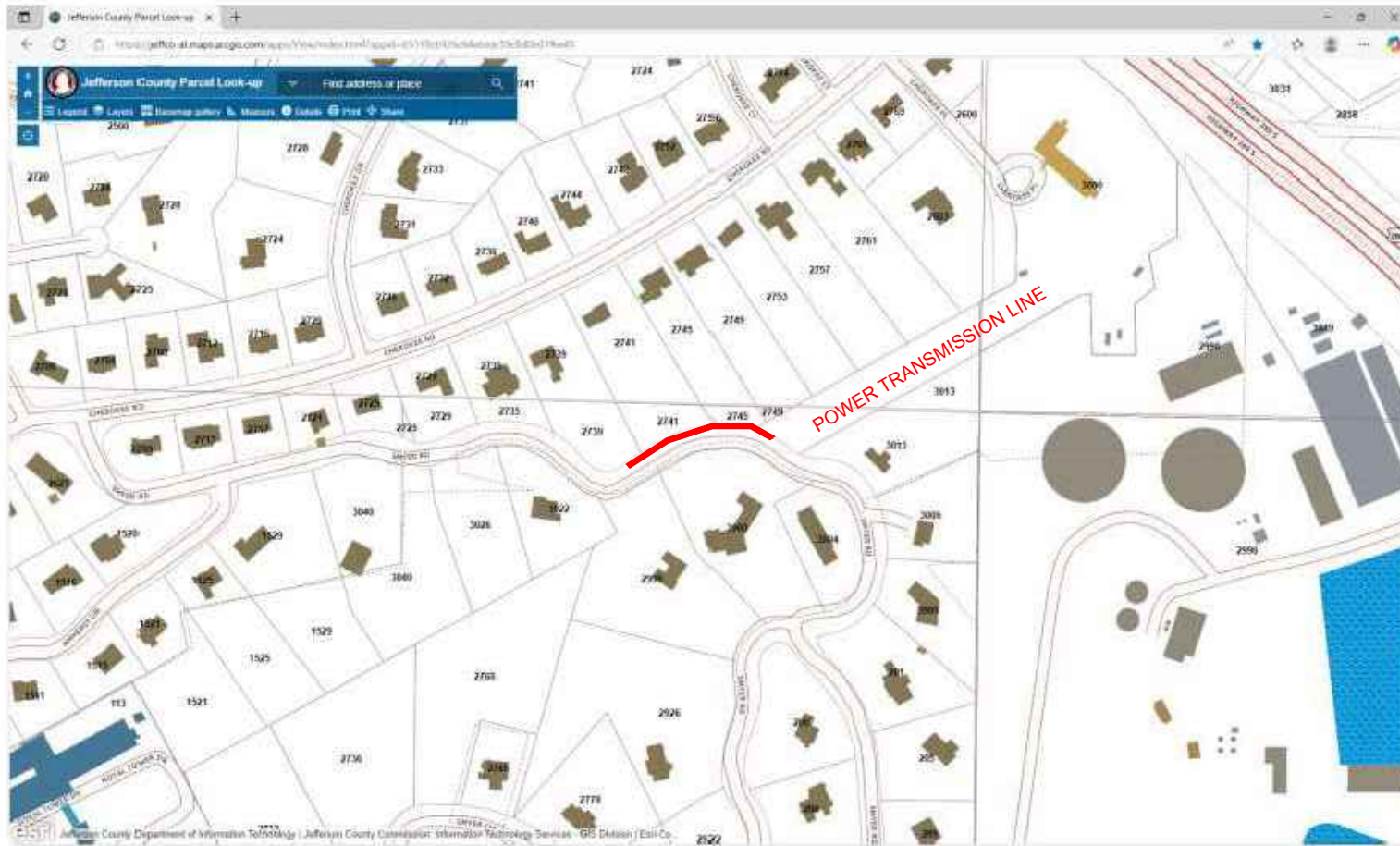
BEARDEN DR & PARKING LOT AREA GREENDALE RD



BEARDEN DR & PARKING LOT AREA GREENDALE RD

M-22

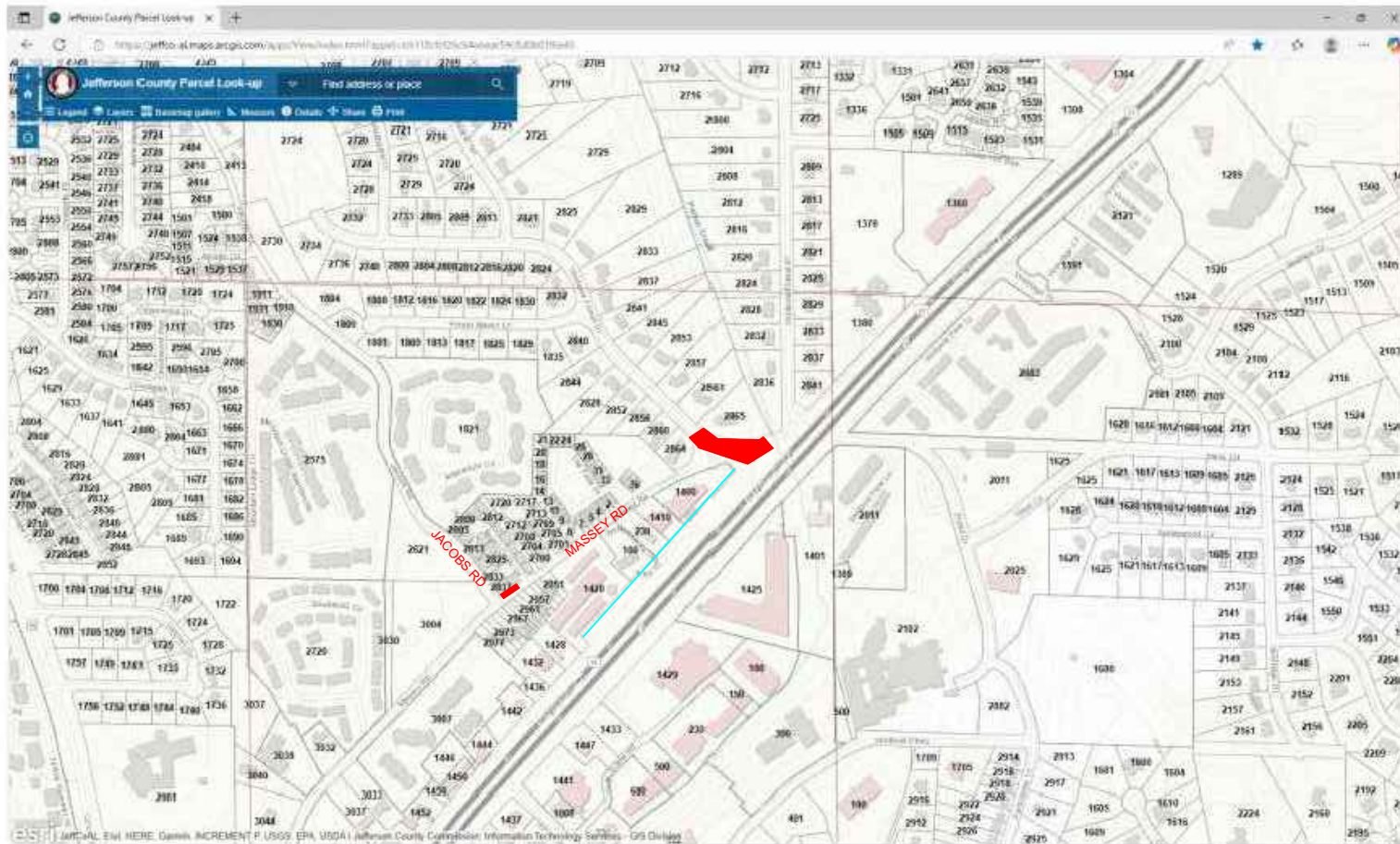
SMYER ROAD



SMYER ROAD NORTH SIDE FROM POWER TRANSMISSION LINE TO CURVE

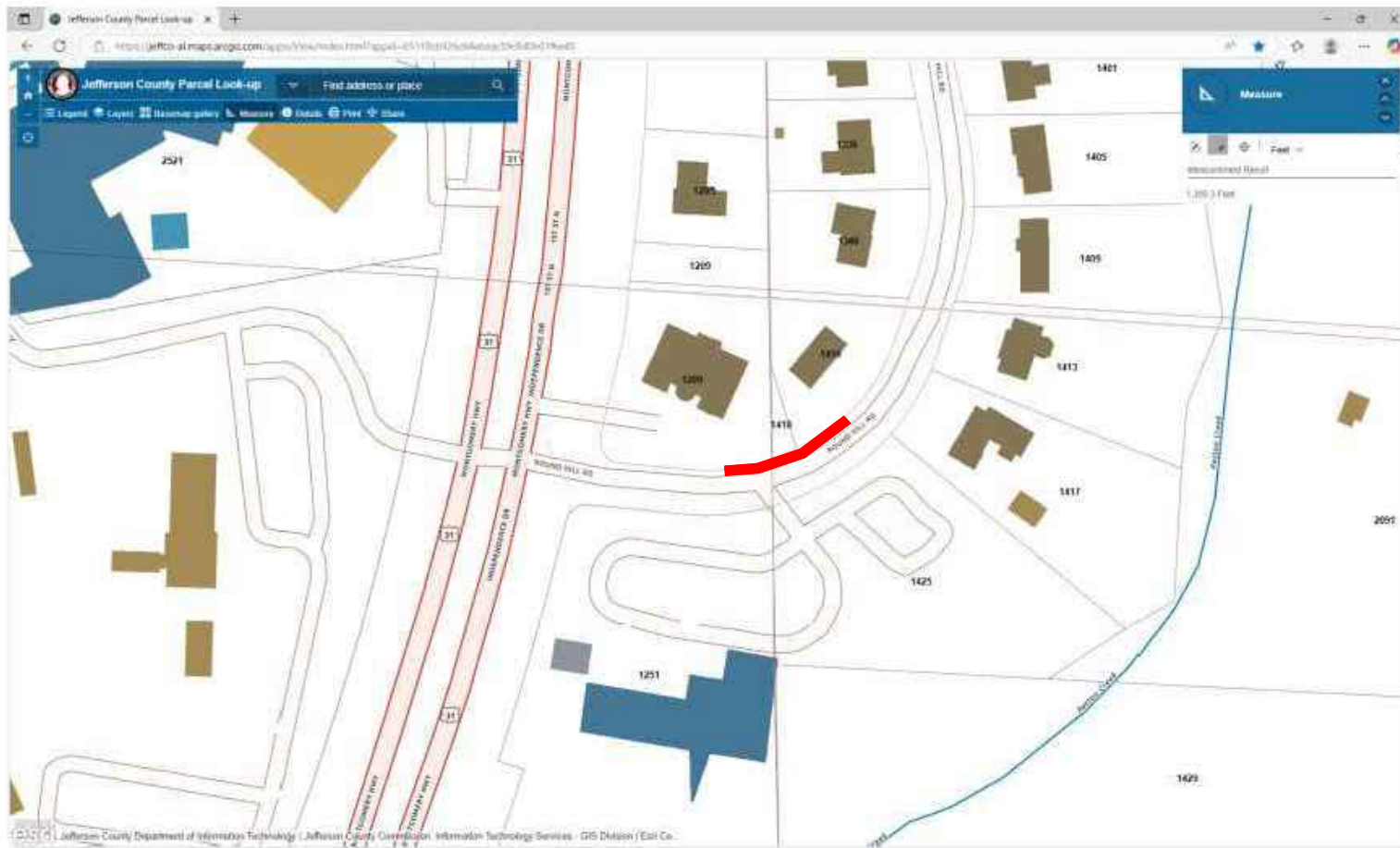
M-23

MASSEY RD & JACOBS RD INTERSECTION



MASSEY RD PARKING LOT AREA & NORTHSIDE MASSEY RD AT INTERSECTION JACOBS RD

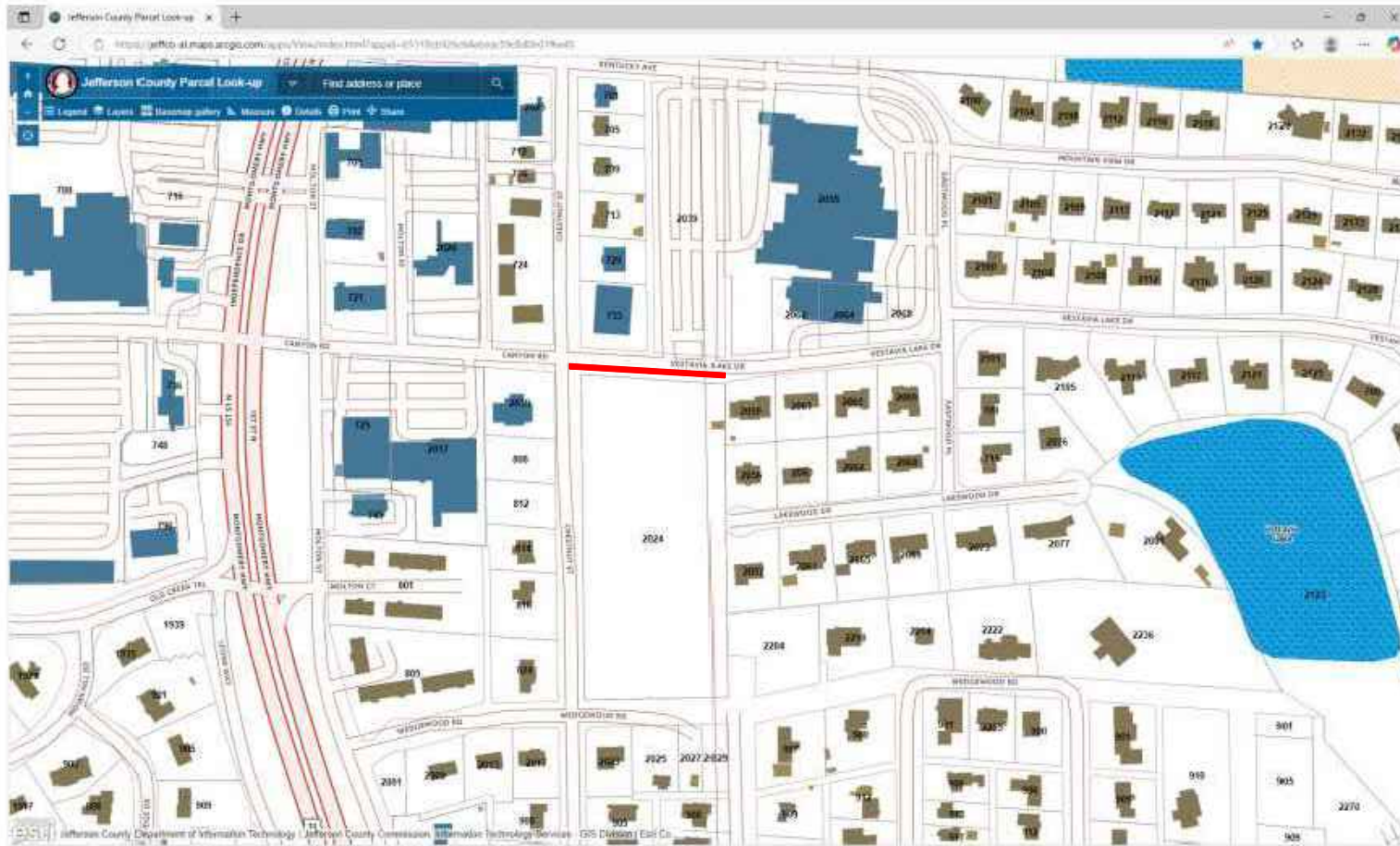
ROUND HILL ROAD



ROUND HILL ROAD FROM 1209 OFFICE BLDG SIDE YARD TO FRONT YARD AT 1416 ROUND HILL ROAD

M-25

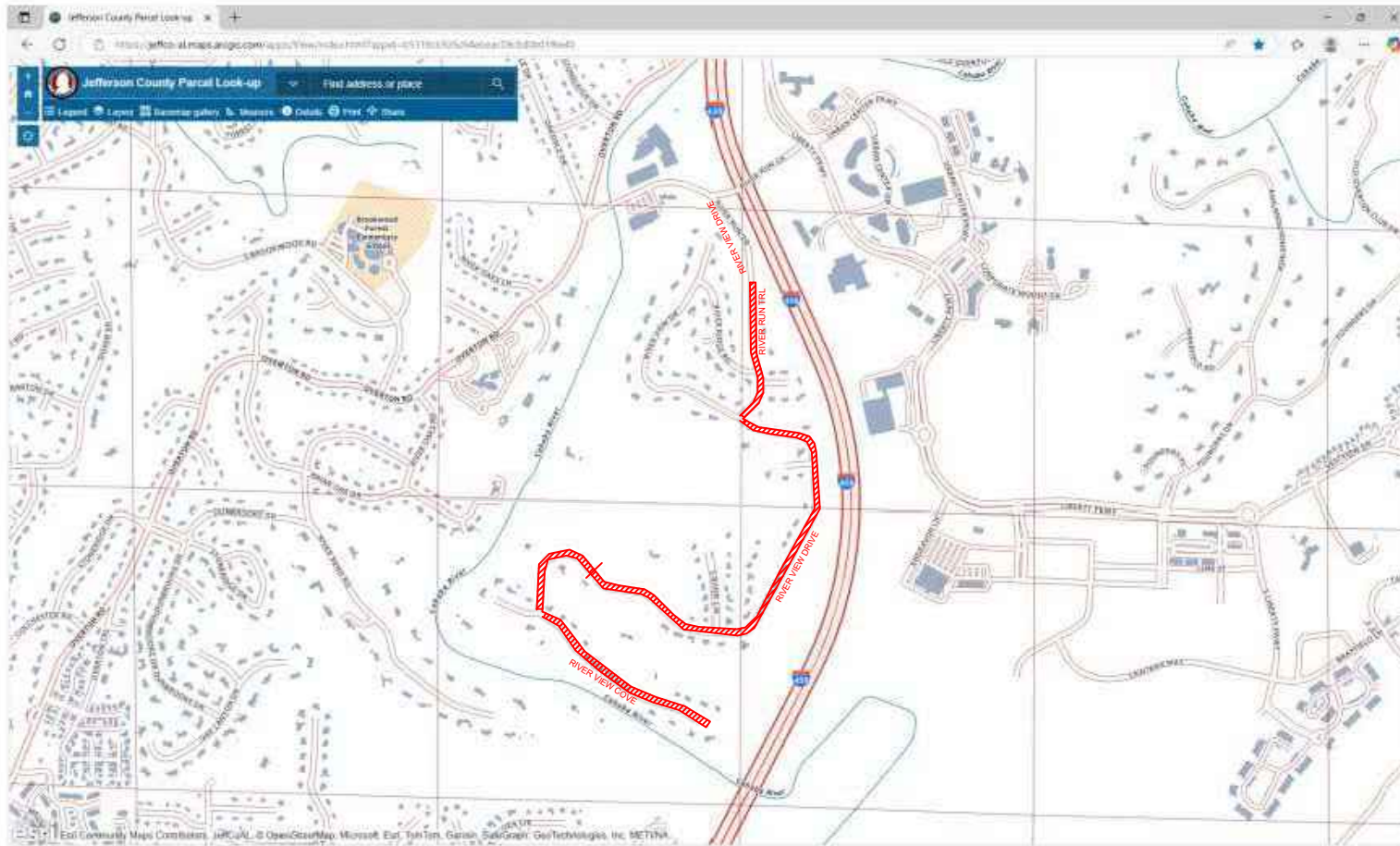
VESTAVIA LAKE DR



VESTAVIA LAKE DR FROM CHESTNUT STREET TO 2059 VESTAVIA LAKE DR

M-26

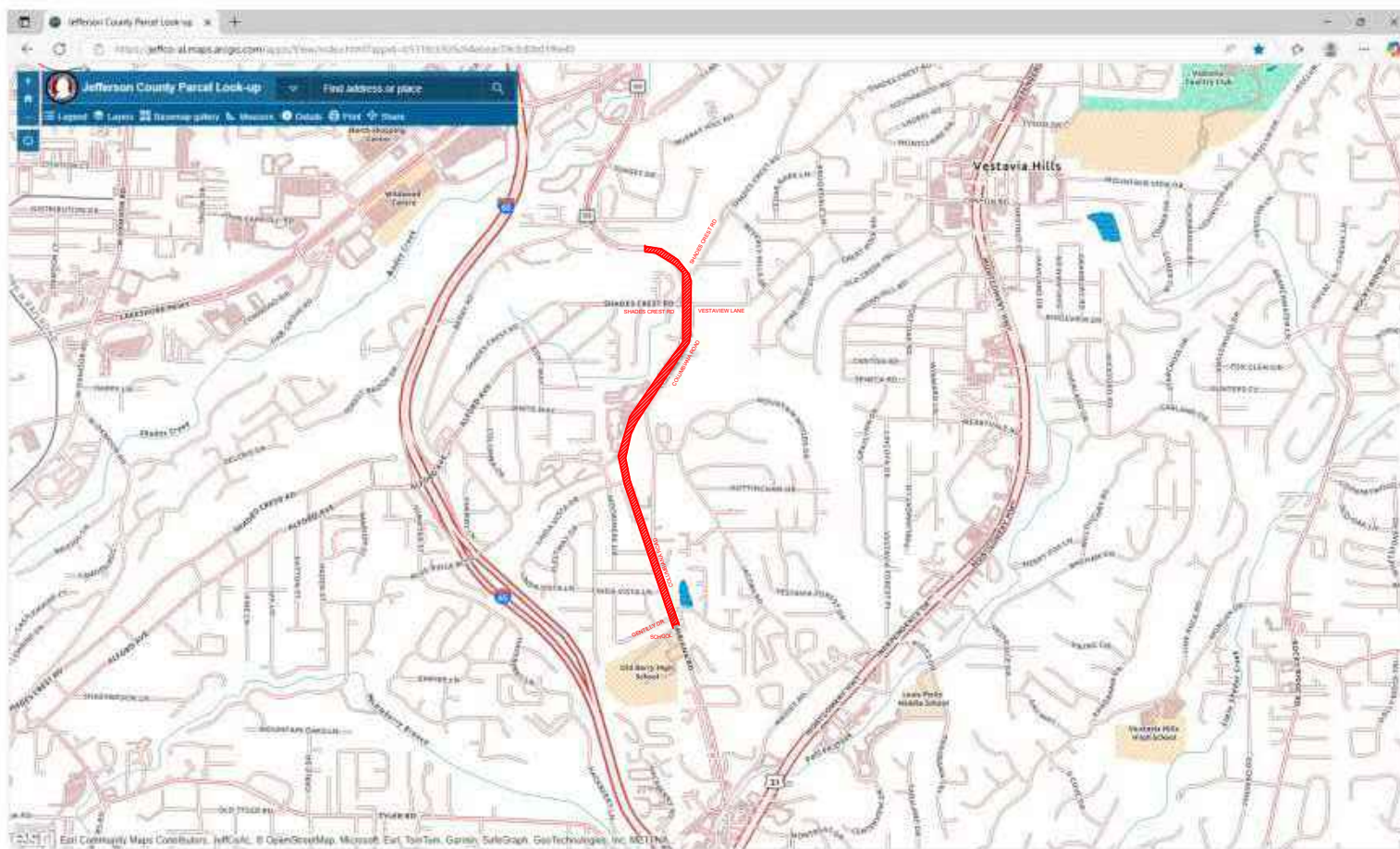
RIVER RUN SUBDIVISION AREA



RIVER RUN TRAIL & RIVER VIEW DRIVE & RIVER VIEW COVE & CUL DE SAC AREA

M-27

COLUMBIANA RD FROM VESTAVIA SCHOOL TO CITY LIMITS



COLUMBIANA RD FROM VESTAVIA SCHOOL TO CITY LIMITS

Alternate C -- M-28

Bid Sheet for ROW Mowing/Maintenance

Company _____

Representative _____

Required Work Annual Cost

\$

Specialized Areas and Alternatives

Alternate A, periodic prune and trim of crepe myrtles on US31, once every two years

per occurrence

\$

Alternate B, chemically treat medians on US31, minimum 3 times per year

per treatment cost

\$

Alternate C, Columbiana Road, Map M-28

per year

\$

revised: 7/21/2025



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

September 8, 2025

To: Jeff Downes, City Manager

From: Lori Beth Kearley, Public Services Director

Cc: Jamie Lee, Parks and Leisure Services Director
Taneisha Tucker, Library Director
Mark Gibbs, Chief of Building Maintenance
Rebecca Leavings, City Clerk

RE: Public Hearing - Ordinance Number 3295 - An Ordinance Accepting a Bid for Grounds Mowing and Landscape Maintenance within the City of Vestavia Hills and authorizing the Mayor and City Manager to execute and deliver all agreements needed for said service

Background:

The City's current three-year contract for grounds mowing and landscape maintenance will expire at the end of September 2025. On August 13, 2025, bids were opened for Mowing and Landscape Maintenance for the Municipal Complex (City Hall and Police Department), Library in the Forest, Vestavia Hills Civic Center, and all Park properties throughout the City of Vestavia Hills. Six (6) total bids and one (1) "no bid" were submitted. The low bid was \$198,031/year submitted by Turf Management Systems (TMS).

The full bid package (including contract agreement), bid tab, and low bid are included as attachments.

Recommendation:

After review of the bids, it is my recommendation that the bid for the new three-year Mowing and Landscape Maintenance contract be awarded to Turf Management Systems (TMS).

Fiscal Impact:

Funding for the first contract year is allocated in the proposed FY26 budget.

Attachments:

1. Ordinance 3295
2. BibTabulation_2025 Grounds Mowing_final
3. Turf Management Bid Sheet
4. 2025 Bid Package_City Grounds Mowing and Maintenance

ORDINANCE NUMBER 3295

**AN ORDINANCE ACCEPTING A BID FOR LANDSCAPE
MAINTENANCE WITHIN THE CITY OF VESTAVIA HILLS**

WHEREAS, on August 13, 2025, the City of Vestavia Hills publicly read aloud bids submitted for Landscape and Grounds Maintenance; and

WHEREAS, the Public Services Director has reviewed the bids, established a bid tabulation in an Interoffice Memorandum to the City Manager dated August 20, 2025, and recommended acceptance of the bid submitted by Turf Management Systems. A copy of said Interoffice Memorandum is marked as Exhibit A attached to and incorporated into this Ordinance Number 3295 as if written fully therein; and

WHEREAS, the Mayor and City Council feel it is in the best public interest to accept the recommendation of the Public Services Director and accept said bid as detailed in Exhibit B.

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

1. The bid submitted by Turf Management Systems as detailed in attached Exhibit B and recommended by the Public Services Director, is hereby accepted; and
2. The Mayor and City Manager are hereby authorized to execute and deliver an agreement with Turf Management Systems pursuant to said bid, a copy of which is marked as Exhibit B, attached to and incorporated into this Ordinance Number 3295; and
3. This Ordinance Number 3295 shall become effective immediately upon adoption and approval.

DONE, ORDERED, ADOPTED and APPROVED this the 8th day of September, 2025.

Ashley C. Curry
Mayor

ATTESTED BY:

Rebecca Leavings
City Clerk



CITY OF VESTAVIA HILLS
City Grounds Mowing and Maintenance
BID OPENING: August 13th, 2025, 11:00 am
BID TABULATION

description	Richter Landscape Co.		Rotolo Consultants		APHIX		Steven's Wack-N-Sack		The Green Team INC		Turf Management Systems		Father Nature **no bid submitted**	
	total		total		total		total		total		total		total	
Item A: City Hall Complex	\$ 29,032.00		\$ 43,026.37		\$ 68,645.26		\$ 62,400.00		\$ 55,875.00		\$ 27,685.00		\$ -	
Item B: Byrd/Meadowlawn	\$ 18,470.00		\$ 13,723.64		\$ 14,107.12		\$ 29,095.00		\$ 43,050.00		\$ 9,333.00		\$ -	
Item C: McCallum/Shallowford	\$ 11,900.00		\$ 11,901.22		\$ 10,395.31		\$ 29,000.00		\$ 43,050.00		\$ 10,876.00		\$ -	
Item D: Common Areas (Andy's, TV, Glenn)	\$ 17,000.00		\$ 6,913.68		\$ 22,282.00		\$ 17,868.00		\$ 53,500.00		\$ 8,154.00		\$ -	
Item E: SHAC	\$ 27,566.00		\$ 21,850.08		\$ 15,989.84		\$ 37,715.00		\$ 46,200.00		\$ 18,506.00		\$ -	
Item F: Aladena	\$ 12,824.00		\$ 50,436.51		\$ 48,554.23		\$ 60,128.00		\$ 171,360.00		\$ 37,079.00		\$ -	
Item G: Waid Park	\$ 46,589.00		\$ 72,364.26		\$ 80,294.17		\$ 117,744.00		\$ 82,500.00		\$ 40,703.00		\$ -	
Item H: Liberty Park Sports Complex	\$ 42,907.00		\$ 32,758.89		\$ 23,419.80		\$ 57,380.00		\$ 52,700.00		\$ 11,789.00		\$ -	
Item I: Cahaba Heights Park	\$ 12,500.00		\$ 35,725.08		\$ 23,039.44		\$ 43,111.00		\$ 45,425.00		\$ 13,236.00		\$ -	
Item J: V.H Civic Center	\$ 22,731.00		\$ 13,623.45		\$ 25,287.93		\$ 28,728.00		\$ 42,000.00		\$ 8,245.00		\$ -	
Item K: Dog Parks	\$ 22,000.00		\$ 8,107.87		\$ 10,004.28		\$ 14,256.00		\$ 52,000.00		\$ 4,800.00		\$ -	
Item L: Library in the Forest	\$ 22,256.00		\$ 26,919.39		\$ 20,971.30		\$ 29,080.00		\$ 58,000.00		\$ 7,625.00		\$ -	
Total Base Bid Price	\$ 285,775.00		\$ 337,350.44		\$ 362,990.68		\$ 526,505.00		\$ 745,660.00		\$ 198,031.00		\$ -	
Alternate A	\$ 22,153.00		\$ 20,484.63		\$ 35,280.00		\$ 18,000.00		\$ 90,240.00		\$ 22,500.00		\$ -	
Alternate B	\$ 3,629.00		\$ 2,705.71		\$ 2,949.06		\$ 12,000.00		\$ 8,250.00		\$ 3,200.00		\$ -	
Alternate C	\$ 1,450.00		\$ 342.51		\$ 800.00		\$ 3,000.00		\$ 4,250.00		\$ 500.00		\$ -	

Bid Submittal Signed and Sealed?

yes	yes	yes	yes	yes	yes
-----	-----	-----	-----	-----	-----

Certification:

[Signature]
City of Vestavia Hills, City Engineer

Bid Sheet for Maintenance

Company Turf Management Systems, Llc

Representative Chris Sheedy

A. City Hall Complex to include Police Department Annual Cost:	<u>27,685</u>
B. Byrd and Meadowlawn Parks Annual Cost:	<u>9,333</u>
C. McCallum and Shallowford Parks Annual Cost:	<u>10,876</u>
D. Common area at Andy's, Town Village, and The Glenn Annual Cost:	<u>8,154</u>
E. SHAC Annual Cost:	<u>18,506</u>
F. Altadena Annual Cost:	<u>37,079</u>
G. Wald Park Annual Cost:	<u>40,703</u>
H. Liberty Park Sports Complex Annual Cost:	<u>11,789</u>
I. Cahaba Heights Park Annual Cost:	<u>13,236</u>
J. Vestavia Hills Civic Center Annual Cost:	<u>8,245</u>
K. Dog Parks Annual Cost:	<u>4,800</u>
L. Library in the Forest Annual Cost:	<u>7,625</u>

Alternate Areas:

Alternate A: **Sicard Hollow Athletic Complex (SHAC)** - Until such time the course is no longer available, all tee boxes, cages and fairways throughout the disc golf course must be bush hogged 2 times per month beginning April 1st – October 1st. These areas should then be cut back in November, January and March of each year.

Annual Cost: \$22,500

Alternate B: **Wald Park** - Both large green space lawns should be over-seeded during the winter months to ensure green lawns year-around.

Annual Cost: \$3,200

Alternate C: **Vestavia Hills City Center** - The front lawn should be over-seeded during the winter months to ensure a green lawn year-around.

Annual Cost: \$500

INVITATION TO BID
CITY OF VESTAVIA HILLS
1032 MONTGOMERY HIGHWAY
VESTAVIA HILLS, AL 35216

BIDS TO BE OPENED AT THE CITY OF
VESTAVIA HILLS ON AUGUST 13, 2025,
AT 11:00 AM. BIDS TO BE TURNED IN NO
LATER THAN 11:00 AM ON THIS DATE.

DATE: July 21, 2025
BID: City Grounds Mowing and
Maintenance

Ladies and Gentlemen:

Sealed bids will be received by the City of Vestavia Hills, Alabama, in the Office of the City Clerk at the Municipal Center until the above time and date, and opened as soon thereafter as practical. Please return in a sealed envelope marked with the bid name as listed above. Bids must be returned by 11:00 AM by the date listed above. Bids received in the Office of the City Clerk either by hand delivery or mail after the specified date and hour will not be considered.

NAME OF COMPANY: _____

ANNUAL PRICE*: _____ WARRANTY: _____

DELIVERY DATE: _____

BIDS GOOD THROUGH**: _____

**See Specifications and Bid Sheet Enclosed.*

***All bids must be good for a minimum of 90 days.*

I hereby affirm that I have not been in any agreement or collusion among bidders or prospective bidders in restraint of freedom of competition, by agreement to bid at a fixed price or to refrain from bidding or otherwise.

This form must be notarized.

FIRM _____

Sworn and Subscribed before me
this the _____ day of _____,
2025.

BY _____

ADDRESS _____

Notary Public

PHONE _____

My Commission Expires _____. DATE _____

ALL BIDDERS MUST USE OUR BID FORMS. COMPLETE IN INK OR TYPE. THE CITY RESERVES THE RIGHT TO REJECT OR WAIVE ANY AND ALL BIDS OR PORTIONS THEREOF. QUESTIONS SHOULD BE ADDRESSED TO THE OFFICE OF THE CITY CLERK, PHONE (205) 978-0131.

Rebecca Leavings, Purchasing Agent

City Grounds Mowing and Maintenance REQUIREMENTS

1. Bid Requirements

Bids not conforming to the following requirements may be rejected.

- (a) **There will be a Non-Mandatory PRE-BID meeting at 1:00 pm on AUGUST 6, 2025, in the Vestavia City Hall Executive Conference Room, 1032 Montgomery Highway Vestavia Hills, AL 35216.**
- (b) Bids must be complete and specific.
- (c) Bids will be free of alterations and erasures.
- (d) Bids will be properly signed by the bidder or by a legally authorized officer or agent of the bidder and notarized.
- (e) The bids will be enclosed in a sealed envelope marked "SEALED BID --- City Grounds Mowing and Maintenance."
- (f) The sealed envelope must be addressed to:

City of Vestavia Hills
Office of the City Clerk
1032 Montgomery Highway
Vestavia Hills AL 35216
- (g) If you have any questions regarding the bid specifications, please contact Mark Gibbs, Chief of Building Maintenance, at (205) 283-9975 or Michael Swann, Building Maintenance, at (205) 704-9594.

STATE OF ALABAMA

JEFFERSON COUNTY

CONTRACT

WITNESSETH THIS CONTRACT, made and entered into on this the _____ day of _____, 2025, by and between the City of Vestavia Hills, Alabama, a municipal corporation, located at 1032 Montgomery Highway, Vestavia Hills, Alabama 35216 (hereinafter referred to as “City”), and _____, an Alabama _____, whose mailing address is _____ (hereinafter referred to as “Contractor”).

WITNESSETH THESE RECITALS:

WHEREAS, the Alabama Competitive Bid Law at Title 41-16-50(a), *Code of Alabama, 1975*, provides that with the exception of contracts for public works whose competitive bidding requirements are governed by Title 39, all expenditure of funds for labor, services, work, or for the purchase of materials, equipment, supplies, or other personal property involving thirty thousand dollars (\$30,000) or more, made by or on behalf of the governing bodies of the municipalities of the state, shall be made under contractual agreement entered into by free and open competitive bidding, on sealed bids, to the lowest responsible and responsive bidder; and

WHEREAS, the City of Vestavia Hills advertised for competitive bids under the Alabama Competitive Bid law at Title 41-16-50(a), *Code of Alabama, 1975*, for the completion of work described in the Invitation to Bid; and

WHEREAS, the scope of the work is described in the Invitation to Bid, a copy of which is attached hereto, marked as Exhibit 1 and is incorporated into this Contract by reference as though set out fully herein; and

WHEREAS, the Contractor submitted a bid proposing to perform the work, which the City has determined to be the lowest responsible bidder meeting specifications, a copy of which is attached hereto, marked as Exhibit 2 and is incorporated into this Contract by reference as though set out fully herein; and

WHEREAS, the City and the Contractor have agreed to the terms, provisions and conditions of this Contract and have further agreed that it is in the best interests of the parties that this Contract be reduced to writing; and

WHEREAS, on _____, the City Council of the City of Vestavia Hills, Alabama (“City”) approved and adopted Ordinance Number _____ accepting the bid submitted by _____ (“Contractor”) and authorized the Mayor and City Manager to execute and deliver this Contract.

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 and sufficiency is whereof is hereby acknowledged by each of the parties hereto, the City and Contractor mutually and expressly agree as follows:

I. RECITALS

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

II. EXHIBITS

Exhibits 1 and 2 are attached hereto and are incorporated verbatim by reference as though set out fully herein.

III. CONTRACTOR

Contractor, _____, represents, covenants and warrants that it is duly licensed and qualified to furnish the equipment, labor, materials and supplies and perform the work described herein.

IV. GENERAL STATEMENT OF WORK

The Contractor shall furnish all labor, materials, equipment, machinery, supplies, tools, power, utilities, transportation, fuel and services, and perform all labor necessary for the work described on Exhibit 1, which is attached hereto and incorporated into this contract by reference as though set out fully herein.

V. TERM OF CONTRACT

The term of this contract shall be for a period of three (3) years beginning October 1, 2025 and ending on September 30, 2028. The effective date of this contract shall be October 1, 2025.

VI. CONTRACT PRICE

As consideration of this contract, the City agrees to pay to Contractor for the faithful performance of the work described in this Contract the sum of _____ Dollars (\$_____).

VII. PAYMENT OF CONTRACT PRICE

The City shall pay to the contract price to the Contractor in accordance with the following schedule:

Payments will be made on a monthly basis in accordance with the City's billing and payment policy.

VIII. COMPLIANCE WITH APPLICABLE LAWS

Contractor shall comply with the provisions of any and all state, federal and local laws, statutes, codes, rules, regulations and ordinances that are applicable to the performance of this contract between the City and Contractor.

IX. LICENSE

The Contractor shall be properly licensed prior to commencement of the work.

X. QUALITY OF WORK

All labor, materials and supplies applied/installed by the Contractor in the performance of this agreement shall be done in a professional, proficient and workmanlike manner.

XI. PROTECTION OF UNDERGROUND UTILITIES

Contractor shall be responsible for contacting the appropriate utility company for location of any underground services which are in the work area and could be damaged in the course of operations and performance of the work. If the Contractor damages any utility equipment or apparatus during the performance of the work, then in such event the Contractor shall be solely liable for the repair or payment of repair for said damages.

XII. INDEPENDENT CONTRACTOR

The Contractor, _____, is an independent contractor for purposes of this agreement. Nothing contained herein shall be construed to mean that said Contractor is the servant, agent or employee of the City of Vestavia Hills, Alabama.

XIII. INDEMNITY

To the fullest extent permitted by law, the Contractor shall defend, indemnify and hold harmless the City of Vestavia Hills, Alabama, a municipal corporation, as Owner, and its agents, employees and consultants, including the Mayor, elected members of the City Council (hereinafter collectively referred to as the "Indemnitees") from and against all claims, damages, losses and expenses, including but not limited to attorneys' fees, arising out of, related to, or resulting from performance of the work provided such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property, including loss of use resulting therefrom, and is caused in whole or in part by negligent acts or omissions of the Contractor, subcontractor, anyone directly or indirectly employed by them, or anyone for whose acts they may be liable, regardless of whether such claim, damage, loss or expense is caused in part, or is alleged but not legally established to have been caused in whole or in part by the negligence or other fault of a party indemnified hereunder. 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 performance of the work.

XIV. INSURANCE

Contractor agrees to obtain and maintain and keep in full force and effect during the terms of this agreement insurance of the type, with the coverage and in the amounts specified below:

A. For personal injuries, including death, in an amount of not less than:

- (i) \$500,000 for any one-person occurrence
- (ii) \$1,000,000 for any one occurrence

B. For damage to property not belonging to Contractor (or his subcontractors) in an amount not less than:

- (i) \$500,000 for any one accident
- (ii) \$1,000,000 aggregate amount

C. For personal injuries including death and/or for damages to property not belonging to Contractor (or his subcontractors) caused by automotive equipment used by Contractor (or his subcontractors) in an amount not less than:

- (i) \$500,000 personal injury per person per occurrence
- (ii) \$500,000 property damage per accident
- (iii) \$1,000,000 personal injury per occurrence

D. Workers' Compensation, State, and Federal Statutory requirements plus:

- (i) \$500,000 employer's liability per person

The above-described insurance shall be placed with an insurer acceptable to the City of Vestavia Hills and the policies shall provide notice by the insurer to the City of Vestavia Hills of cancellation, non-renewal or material change in any such policy and shall contain an endorsement naming the City of Vestavia Hills and its agents, employees and consultants, including the Mayor and elected members of the City Council as additional insureds there under.

XV. ADDITIONAL INSURED

The Contractor shall cause the commercial general liability insurance coverage and the commercial umbrella liability insurance coverage required by the contract documents to include:

A. The City of Vestavia Hills, Alabama, a municipal corporation, its City Manager, Mayor and its elected public officials and employees, as additional insureds for claims caused in

whole or in part by the Contractor's negligent acts or omissions during the Contractor's operations and/or performance of the work; and

B. The City of Vestavia Hills, Alabama, a municipal corporation, its City Manager, Mayor and its elected public officials and employees, as additional insureds for claims caused in whole or in part by the Contractor's negligent acts or omissions during the Contractor's completed operations and/or performance of the work; and

C. The insurance policy coverages shall state that these coverages shall be primary insurance for the additional insureds; and

D. Contain no exclusions of the additional insureds relative to job accidents; and

E. The policies must be on an "occurrence" basis; and

F. **CERTIFICATES OF INSURANCE POLICY COVERAGES:** The Contractor shall deliver to the City insurance certificates to evidence that all insurance policies and coverages described in section XIV and section XV of this Contract are in full force and effect. Delivery of said certificates by the Contractor to the City shall be made prior to the commencement of the work by the Contractor. In other words, Contractor shall not begin work unless and until the Contractor has delivered the insurance certificates to the City.

XVI. ASSIGNMENT

This contract shall not be assignable by the Contractor in any respect without having first obtained the prior written consent of the City evidenced by a properly enacted resolution of the City Council.

XVII. SUBCONTRACTORS

No proposed subcontractor shall be disapproved by the City except for cause. Contractor shall inform City of proposed subcontractor prior to work.

The Contractor shall be fully responsible to the City for the acts and omissions of its subcontractors and of persons directly or indirectly employed by said subcontractors, as it is for the acts and omissions of persons directly employed by it.

The Contractor shall cause appropriate provision to be inserted in all subcontracts relative to the work to require compliance by each subcontractor with the applicable provisions for the work embraced by the project.

Nothing contained in this contract shall create any contractual relations between any subcontractor and the City.

The Contractor shall pay all subcontractors for materials and supplies installed in this project by said subcontractors and all work and labor performed by said subcontractors on said project.

XVIII. CHANGES IN WORK

The City may make changes in the scope of the work required to be performed by the Contractor under the contract by eliminating any portion of the work and the corresponding unit price charged therefor. Any change order for additional work shall be done by mutual agreement and in writing. Any change order for deletion of work shall be in writing given by City to the Contractor. The deletion of work pursuant to this contract is subject to and conditioned upon the total amount of public funds available.

XIX. REMOVAL OF DEBRIS AND CLEANING

The Contractor shall, periodically or as directed during the progress of the work, remove and legally dispose of all surplus excavated material and debris, and keep the project area and public rights of way reasonably clear and clean. Upon completion of the work, it shall remove all temporary construction facilities, debris and unused materials provided for the work, and put the whole site of the work and public rights of way in a neat and clean condition.

XX. TERMINATION OF CONTRACT

The City shall have the right at any time to cancel and terminate this contract for any reason or no reason upon seven (7) days advance written notice to the Contractor. In such cases, Contractor will be paid for all work actually performed prior to the date of termination, but will not be paid for any work not performed or for any anticipated profits on work not actually performed by the termination date.

XXI. IMMIGRATION

By signing this contract, the contracting parties affirm, for the duration of the contract, 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 contract and shall be responsible for all damages resulting therefrom.

XXII. COMPLIANCE WITH TITLE 41-16-5, CODE OF ALABAMA, 1975, BOYCOTT LIMITATIONS

Act 2016-312 of the Alabama Legislature prohibits a governmental entity from entering into certain public contracts with a business entity unless the contract includes a representation that the business is not currently engaged in, and an agreement that the business will not engage in, the boycott of a person or an entity based upon the person or business doing business with a jurisdiction with which the state can enjoy open trade. The prohibition does not apply if a business

offers to provide goods or services for at least 20 percent less than the lowest certifying business entity or to a contract with a value less than \$15,000.00. The Contractor represents and warrants that it is not currently engaged in, and will not engage in, the boycott of a person or an entity based in or doing business with a jurisdiction with which this state can enjoy open trade.”

XXIII. MISCELLANEOUS

A. NON WAIVER: The failure of the City to insist, in any one or more instances, upon a strict performance of any of the covenants of this contract, or to exercise any option herein contained, shall not be construed as a waiver, or a relinquishment for the future of such covenant or option, but the same shall continue and remain in full force and effect.

B. WAIVER OF MODIFICATION: Any waiver, alteration or modification of any of the provisions of this Contract or cancellation or replacement of this contract shall not be valid unless in writing and signed by the City and Contractor. This contract may be amended at any time by written agreement of the parties signatory hereto. No claims for any extra work or materials shall be allowed unless covered by written agreement of the parties.

C. NOTICES: Any and all notices required or permitted to be given under this agreement will be sufficient if furnished in writing and sent by Registered Mail to the parties’ last known address.

D. CONSTRUCTION OF TERMS: The City and Contractor negotiated the terms, provisions and conditions of this contract and both parties had the equal opportunity for input for the drafting of this contract. Therefore, any ambiguities of this contract shall be construed fairly and equitably regardless of the participation of either party in drafting this contract. The reference in terms to gender and number shall be modified as may be appropriate.

E. GOVERNING LAW: This contract shall be interpreted, construed and governed to the laws of the State of Alabama. The jurisdiction and venue for the resolution of any dispute shall be in Jefferson County, Alabama.

F. ARTICLE AND SECTION HEADINGS: The article and section headings and captions contained herein are included for convenience only, and shall not be considered a part hereof or affect in any manner the construction or interpretation hereof.

G. EXECUTION IN COUNTERPARTS: The contract may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

H. BINDING EFFECT: The contract shall inure to the benefit of, and shall be binding upon City and Contractor, and their heirs, successors and assigns.

I. SEVERABILITY: In the event any provision of this contract shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

J. SURVIVAL: All representations and warranties of this Contract shall survive the execution and delivery of this Contract, as shall any covenants for performance thereafter.

K. ENTIRE AGREEMENT: This written Contract contains the entire agreement between the City and the Contractor.

IN WITNESS WHEREOF, the City of Vestavia Hills, Alabama, a municipal corporation, and _____, an Alabama _____, have hereunto caused this contract to be executed by their duly authorized officers and their respective seals to be affixed hereto on this the _____ day of _____, 2025.

CITY:
CITY OF VESTAVIA HILLS, ALABAMA
A Municipal Corporation

By _____
Ashley C. Curry
Its Mayor

By _____
Jeffrey D. Downes
Its City Manager

ATTESTED

By _____

CONTRACTOR:

An Alabama _____

By _____
Its _____

ATTESTED

By _____

**STATE OF ALABAMA
JEFFERSON COUNTY**

ACKNOWLEDGMENT

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

Given under my hand and official seal, this the _____ day of _____, 2025.

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 Contract, and who is known to me, acknowledged before me on this day that, being informed of the contents of the instrument, he, as such officer and with full authority, executed the same voluntarily for and as the act of said City of Vestavia Hills, Alabama.

Given under my hand and official seal, this the _____ day of _____, 2025.

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 _____, whose name _____ as _____ of _____, an Alabama _____, is signed to the foregoing Contract, and who is known to me, acknowledged before me on this day that, being informed of the contents of the instrument, (s)he, as such officer and with full authority, executed the same voluntarily for and as the act of said _____.

Given under my hand and official seal, this the _____ day of _____, 2025.

Notary Public

My Commission Expires:

SEAL

City of Vestavia Hills Grounds Mowing and Maintenance Scope of Work

1. Scope of Services

To provide all supervision, labor, equipment and services required to perform all lawn services for the City of Vestavia Hills as specified herein.

2. Qualification of Bidders

Bidding on this contract shall be limited to individuals, partnerships and corporations actively engaged in the field of lawn maintenance services. Bidders shall demonstrate competence, experience and financial capability to carry out the terms of this contract. The City of Vestavia Hills, the contracting agency, may require proof of these qualifications.

All bidders must have in their possession or available to them by formal agreement at the time of bidding, vehicles, devices, hand tools, and other equipment and supplies which are necessary to perform the work as outlined in these specifications.

3. Safety Standards

All equipment to be used and all work to be performed must be in full compliance with the most current safety requirements for performing this type of work.

The contractor shall be solely responsible for pedestrian and vehicular safety and control on the worksite and shall provide the necessary warning devices, barricades and ground personnel needed to give safety, protection and warning to persons and vehicular traffic within the area.

4. Discontinuance of Work

Any practice obviously hazardous as determined by the contracting agency shall be immediately discontinued by the contractor upon receipt of either written or oral notice to discontinue such practice.

5. Observance of Laws, Ordinances and Regulators

The contractor at all times during the term of this contract shall observe and abide by all Federal, State and Local laws which in any way effect the conduct of the work and shall comply with all decrees and orders of courts of competent jurisdiction. The contractor shall comply fully and completely with any and all applicable state and federal statutes, rules and regulations as they relate to hiring, wages and any other applicable conditions of employment.

6. Protection of Underground Utilities (Reference Contract)

The contractor shall be responsible for contacting the appropriate utility for location of any underground services which are in the work area and could be damaged by the contractor's operations.

7. Addition or Deletion of Areas

The contracting agency reserves the right to change, add or delete areas for lawn service. This is conditional upon the total amount of funds available. The City of Vestavia Hills shall give notice to the contractor of the areas to be serviced and the total amount of the annual lawn service contract. Unless otherwise authorized by the contracting agency, failure of the contractor to comply with the approved lawn service schedule shall be sufficient cause to give notice that the contractor is in default of the contract.

8. Work Schedule

The contractor will schedule the work during typical work hours for related services, unless authorized by the contracting agency.

9. Licenses and Permits

The contractor shall, at his expense, procure all necessary licenses and permits needed to contract.

10. Subcontracts (Reference Contract)

The contractor will not be allowed to subcontract work under this contract unless written approval is granted by the contracting agency. The subcontractor, as approved, shall be bound by the contractor. All directions given to the subcontractor in the field shall bind the contractor as if the notice has been given directly to the contractor.

11. Execution of the Contract

The successful bidder shall, upon notification of selection as the successful bidder, enter into contract (sample contract included in bid) with the City of Vestavia Hills and shall simultaneously provide the appropriate indemnities and insurance required.

The contract, when executed, shall be deemed to include the entire agreement between the parties. The contractor shall not base any claim for modification of the contract upon any prior presentation or promise made by representatives of the City of Vestavia Hills.

12. Supervision

This contract will be under the direct supervision of the contracting agency. Any alterations or modifications of the work performed under this contract shall be made only by written agreement between the contractor and contracting agency and shall be made prior to commencement of the altered or modified work. No claims for any extra work or materials shall be allowed unless covered by written agreement.

13. Work Crew Supervision

The contractor shall provide qualified supervision of each crew at all times while working under this contract. Each supervisor shall be authorized by the contractor to accept and act upon all directives issued by the contracting agency. (Within the Contract's scope of work) Failure of the supervisor to act on said directives shall be sufficient cause to give notice that the contractor is in default of the contract unless such directives would create potential injury or safety hazard.

14. Payments

Payments will be made on a monthly basis in accordance with the City's billing and payment policy.

15. Contract Termination

The contracting agency shall have the right at any time to cancel this contract for reasons other than breach by the contractor and require the contractor to cease work thereon. In such cases the contractor will be paid for all work actually performed the date of termination, but will not be paid for any work not performed or for any anticipated profits on work not actually performed by the termination date.

16. Insurance (Reference Contract)

The contractor agrees to obtain and maintain in force during the terms of this agreement insurance of the type, with the coverage and in the amounts specified in the contract document. The City, its employees and elected officials shall be named as additional insureds. A certificate of insurance shall be submitted with the executed contract and shall be renewed as needed during the term of said contract.

17. Crew Information

- a) Crews shall be dressed neat. Shirts shall be worn at all times
- b) Courtesy to persons utilizing City facilities is required at all times
- c) Breaks shall be taken individually

- d) No “horseplay” will be tolerated on the job.
- e) All refuse from lunches and breaks shall be disposed of immediately.
- f) **No items of trash shall be run over with mowers or weed-eaters.**

18. Equipment

- a) Equipment will be mechanically sound. Inoperable equipment in the field will not be charged to the City of Vestavia Hills. The City of Vestavia Hills reserves the option to demand replacement of any equipment which in its opinion has a poor operational record.
- b) Equipment will not be stored on City property.
- c) All equipment which is proposed to be used on the work shall be of sufficient size and in such mechanical condition as to meet requirements of the work and to produce a satisfactory quality of work.
- d) Equipment used on any portion of the project shall be such that no injury to plant materials, curbs, drives, walks, roadways, buildings or adjacent property will result from its use.
- e) Sharpen blades on cutting tools periodically to insure clean, smooth cuts and to prevent damage to plant materials.

19. Required Work

Municipal Complex (City Hall and Police Department)

- All work to be done once a week from March to September and twice a month from October to February. All work to be done between Monday and Friday unless changed by inclement weather or by the direction of the Director of Public Services or his/her designee.
- Mow; trim hedges and weed eat/trim all common areas.
- **All lawns should be over-seeded during the winter months to ensure green lawns year-round.**
- The two large lawns should be aerated and top-dressed at least 2 times per year.
- Fertilize lawns as necessary to maintain the health of the lawns.
- All areas should be **weed free** to include lawns, beds and sidewalks.
- Edge curbing in all areas where curbing exists.
- Maintain beds to include bed cover, perennials, annuals, and edging/trimming. (mulch should be renewed at least 2 times per year).
- Keep leaves swept up during fall in all areas.
- Evaluate irrigation infrastructure in the lawns and beds to ensure functionality on each visit. Any defect should be reported to the Director of Public Services or his/her designee.

- All work must be of high quality and must meet general grooming standards of a public facility as set by the Director of Public Services or his/her designee.
- When work is complete, all sidewalks, roads, etc. must be free of clippings.
- If work is unsatisfactory the contractor will be notified by the Director of Public Services or his/her designee and will be given a specific deadline to make corrections. If this is not done to the satisfaction of the Director of Public Services or his/her designee, there will be a 25% penalty for that month's payment.
- Any damages caused to City facilities shall be repaired or replaced immediately by the contractor.

Byrd and Meadowlawn Parks

- All work to be done once a week beginning March 15th of each year through the end of September. All work must be done between Monday and Friday unless changed by inclement weather or by the direction of the Director of Parks and Leisure Services or his/her designee. Work should be done two times per month from October through the end of February.
- Mow; trim hedges and weed eat/trim entire park common areas.
- Edge curbing in all areas where curbing exists. The walking tracks in both parks should be clear of weeds/grass.
- At **Byrd Park**, all rocky areas throughout the park should be free of any growth in, and around, the rocks.
- Keep leaves swept up during fall in the areas.
- All work must be of high quality and must meet general grooming standards of a public facility as set by the Director of Parks and Leisure Services or his/her designee.
- When work is complete, all sidewalks, parking lots, common sitting areas, picnic areas, roads, etc. must be free of clippings.
- If work is unsatisfactory the contractor will be notified by the Director of Parks and Leisure Services or his/her designee and will be given a specific deadline to make corrections. If this is not done to the satisfaction of the Director of Parks and Leisure Services or his/her designee, there will be a 25% penalty for that month's payment.
- Any damages caused to City facilities shall be repaired or replaced immediately by the contractor.

McCallum and Shallowford Parks

- All work to be done once a week beginning March 15th of each year through the end of September. The work must be done between Monday and Friday unless changed by inclement weather or by the direction of the Director of Parks and Leisure Services or his/her designee. Work should be done two times per month from October through the end of February.
- Mow; trim hedges and weed eat/trim entire park common areas. At **McCallum Park** all the area around the playground, pavilions and picnic tables should be

clear of any growth. The area around the bridge should be clear of growth at all times.

- Edge curbing in all areas where curbing exists
- All leaves should be blown up and cleared, during the fall, around the entire “picnic-side” of **McCallum Park**.
- All work must be of high quality and must meet general grooming standards of a public facility as set by the Director of Parks and Leisure Services or his/her designee.
- When work is complete all sidewalks, parking lots, common sitting areas, picnic areas, roads, etc. must be free of clippings.
- If work is unsatisfactory the contractor will be notified by the Director of Parks and Leisure Services or his/her designee and will be given a specific deadline to make corrections. If this is not done to the satisfaction of the Director of Parks and Leisure Services or his/her designee, there will be a 25% penalty for that month’s payment.
- Any damages caused to City facilities shall be repaired or replaced immediately by the contractor.

Common Area behind The Glenn, Town Village, and Andy’s Nursery

- All work to be done once a week beginning May 15th of each year through September. All work should be done between Monday and Friday unless changed by inclement weather or by the direction of the Director of Parks and Leisure Services or his/her designee. Work to be done up to two times per month, when growth is evident and the grass is no longer dormant, from October through April.
- Mow; trim hedges and weed eat/trim the bank from Andy’s Nursery along the sidewalk to the end of the sidewalk behind Town Village (to the corner of Jannebo Road/Cherry Tree Lane). The area from the sidewalk to the homeowner’s property line should be maintained. On the “creek side” of the sidewalk the property should be maintained at least 10 feet from the sidewalk and, when possible, all the way to the natural cutoff line.
- Three times a year, once between March 15th and September 15th, the area from the sidewalk all the way to the creek bank behind the Glenn should be cut back to no higher than 6 inches. This area should be cleaned out and clear of all growth that would be considered an invasive weed.
- Twice per year the retention pond behind Town Village should be cut back and all debris removed from the pond. This work should be discussed and communicated with Vestavia Hills City engineers.
- All work must be of high quality and must meet general grooming standards of a public facility as set by the Director of Parks and Leisure Services or his/her designee.
- When work is complete all sidewalks, parking lots, common sitting areas, picnic areas, roads, etc. must be free of clippings.
- If work is unsatisfactory the contractor will be notified by the Director of Parks and Leisure Services or his/her designee and will be given a specific deadline to make corrections. If this is not done to the satisfaction of the Director of Parks

and Leisure Services or his/her designee, there will be a 25% penalty for that month's payment.

- Any damages caused to City facilities shall be repaired or replaced immediately by the contractor.

Sicard Hollow Athletic Complex (SHAC)

- All work to be done once a week beginning March 15th of each year through September. The work should be done Monday - Friday unless changed by inclement weather or by the direction of the Director of Parks and Leisure Services or his/her designee. Work to be done once per month from October through February.
- Mow; trim hedges and weed eat/trim the parking islands and common areas inside the fence. This includes the grass hill between the upper and lower fields, and the entryways into the complex. This should include maintaining the grass and keeping the beds refreshed monthly.
- Keep grass areas around the pickleball courts, pavilion, splashpad and dog park mowed, edged, trimmed and weed free once per week beginning March 15th of each year through September and once per month from October through February.
- All work must be of high quality and must meet general grooming standards of a public facility as set by the Director of Parks and Leisure Services or his/her designee.
- When work is complete all sidewalks, parking lots, common sitting areas, picnic areas, roads, etc. must be free of clippings.
- If work is unsatisfactory the contractor will be notified by the Director of Parks and Leisure Services or his/her designee and will be given a specific deadline to make corrections. If this is not done to the satisfaction of the Director of Parks and Leisure Services or his/her designee, there will be a 25% penalty for that month's payment.
- Any damages caused to City facilities shall be repaired or replaced immediately by the contractor.

Altadena

- All work at the entrance of the park (defined as the area around the parking lot, pavilion, playground and any future structures built at the entrance of the park) must be done once a week beginning March 15th of each year through September. This area should be cut, trimmed and edged like one of our "premiere" parks. Work to be done up to two times per month, when growth is evident and the grass is no longer dormant, from October through February.
- When work is complete all sidewalks, parking lots, common sitting areas, picnic areas, roads, etc. must be free of clippings.
- The "natural" area of the passive park should be maintained every 3 weeks beginning the week of March 15th, of each year, through September. This cut should not exceed 12 times annually.

Mow entire acreage to a height not to exceed 4 inches. Ensure paved paths are clear of debris and grass clippings.

- All work must be of high quality and must meet general grooming standards of a public facility as set by the Director of Parks and Leisure Services or his/her designee.
- If work is unsatisfactory the contractor will be notified by the Director of Parks and Leisure Services or his/her designee and will be given a specific deadline to make corrections. If this is not done to the satisfaction of the Director of Parks and Leisure Services or his/her designee, there will be a 25% penalty for that month's payment.
- Any damages caused to City facilities shall be repaired or replaced immediately by the contractor.

Wald Park

- All work to be done once a week beginning March 15th of each year through September. The work should be done Monday - Friday unless changed by inclement weather or by the direction of the Director of Parks and Leisure Services or his/her designee. Work to be done once per month from October to February.
- Mow; trim hedges and weed eat/trim all common areas. This includes the upper playground and restroom area, as well as, all the common areas around the tennis/pickleball pavilion.
- The two large lawns should be aerated and top-dressed at least 2 times per year.
- The two large lawns should be fertilized at least two times per year to maintain the health of the lawns
- All areas should be **weed free** to include lawns, beds and sidewalks.
- Edge curbing in all areas where curbing exists.
- Maintain beds to include bed cover, perennials, annuals, and edging/trimming. This should be done on a **monthly** basis with mulch renewed at least 2 times per year.
- A four-foot path should be cut away from the walking path from the end of Field #4 all the way to the end of the parking lot guard rail by the front parking lot.
- A four-foot path should be cut away from all walking paths in and around the wild flower development.
- Evaluate irrigation infrastructure in the lawns and beds to ensure functionality on each visit. Any defect should be reported to the Director of Parks and Leisure Services or his designee.
- All work must be of high quality and must meet general grooming standards of a public facility as set by the Director of Parks and Leisure Services or his designee.
- When work is complete all sidewalks, parking lots, common sitting areas, picnic areas, roads, etc. must be free of clippings.
- If work is unsatisfactory the contractor will be notified by the Director of Parks and Leisure Services or his designee and will be given a specific deadline to make corrections. If this is not done to the satisfaction of the Director of Parks and

Leisure Services or his designee, there will be a 25% penalty for that month's payment.

- Any damages caused to City facilities shall be repaired or replaced immediately by the contractor.

Liberty Park Sports Complex

- All work to be done once a week, beginning March 15th through September of each year. The work should be done Monday-Friday unless changed by inclement weather or by the direction of the Director of Parks and Leisure Services or his/her designee. Work to be done once per month from October through February.
- Mow; trim hedges and weed eat/trim all areas outside of the athletic fields to include the area between the baseball/softball fields and parking lot areas. The area from the parking lot to the fence for the soccer fields should be maintained. The grass along the roadway inside the park should be maintained on both sides of the road for at least 15 feet where possible.
- The entry way into the park near the school, as well as entering the lower parking lot by the soccer complex, should be maintained to include bed cover, perennials, annuals and edging/trimming. This work should be done on a **monthly** basis.
- The grassy areas around the tunnel on both sides of the road should be maintained and have a clean appearance. It does not include the area in the fenced maintenance building area.
- All areas should be **weed free** to include lawns, beds and sidewalks.
- Maintain parking islands with mulch (mulch should be renewed at least 2 times per year). All parking islands should be free from weeds.
- Evaluate irrigation infrastructure in the lawns and beds to ensure functionality on each visit. Any defect should be reported to the Director of Parks and Leisure Services or his/her designee.
- All work must be of high quality and must meet general grooming standards of a public facility as set by the Director of Parks and Leisure or his/her designee.
- When work is complete all sidewalks, parking lots, common sitting areas, picnic areas, roads, etc. must be free of clippings.
- If work is unsatisfactory the contractor will be notified by the Director of Parks and Leisure Services or his/her designee and will be given a specific deadline to make corrections. If this is not done to the satisfaction of the Director of Parks and Leisure Services or his/her designee, there will be a 25% penalty for that month's payment.
- Any damages caused to City facilities shall be repaired or replaced immediately by the contractor.

Cahaba Heights Park

- All work to be done once a week, beginning March 15th through September of each year. The work should be done Monday-Friday unless changed by inclement weather or by the direction of the Director of Parks and Leisure

Services or his/her designee. Work to be done once per month from October through February.

- Mow; trim hedges and weed eat/trim all common areas.
- All lawns should be over-seeded during the winter months to ensure green lawns year-round.
- The play lawn should be fertilized at least two times per year to maintain the health of the lawn. Additionally, the lawn should be aerated and top-dressed at least 2 times per year.
- All areas should be **weed free** to include lawns, beds and sidewalks.
- The entry way into the park near the New Merkel House should be maintained to include bed cover, perennials, annuals and edging/trimming. This work should be done on a **monthly** basis.
- Evaluate irrigation infrastructure in the lawns and beds to ensure functionality on each visit. Any defect should be reported to the Director of Parks and Leisure Services or his/her designee.
- When work is complete all sidewalks, parking lots, common sitting areas, picnic areas, roads, etc. must be free of clippings.
- All work must be of high quality and must meet general grooming standards of a public facility as set by the Director of Parks and Leisure Services or his/her designee.
- If work is unsatisfactory the contractor will be notified by the Director of Parks and Leisure Services or his/her designee and will be given a specific deadline to make corrections. If this is not done to the satisfaction of the Director of Parks and Leisure Services or his/her designee, there will be a 25% penalty for that month's payment.
- Any damages caused to City facilities shall be repaired or replaced immediately by the contractor.

Vestavia Hills Civic Center

- All work to be done once a week, beginning March 15th through September of each year. The work should be done Monday-Friday unless changed by inclement weather or by the direction of the Director of Parks and Leisure Services or his/her designee. Work to be done once per month from October through February.
- Mow; trim hedges and weed eat/trim all common areas.
- Edge curbing in all areas where curbing exists.
- The front lawn should be fertilized at least two times per year to maintain the health of the lawn. Additionally, the lawn should be aerated and top-dressed at least 2 times per year.
- All areas should be **weed free** to include lawns, beds and sidewalks.
- Maintain parking islands with pine straw (pine straw should be renewed at least 2 times per year). All parking islands should be free from weeds.
- The hillside near the VHCC main entry should be maintained and free of all weeds and growth. All hedges and shrubs should be trimmed as needed.

Additionally, all trees should be pruned. Pine straw should be replaced at least two times per year. the grass hill between the upper and lower fields, and the entryways into the complex.

- Evaluate irrigation infrastructure in the lawns and beds to ensure functionality on each visit. Any defect should be reported to the Director of Parks and Leisure Services or his/her designee.
- When work is complete all sidewalks, parking lots, common sitting areas, picnic areas, roads, etc. must be free of clippings.
- All work must be of high quality and must meet general grooming standards of a public facility as set by the Director of Parks and Leisure Services or his/her designee.
- If work is unsatisfactory the contractor will be notified by the Director of Parks and Leisure Services or his/her designee and will be given a specific deadline to make corrections. If this is not done to the satisfaction of the Director of Parks and Leisure Services or his/her designee, there will be a 25% penalty for that month's payment.
- Any damages caused to City facilities shall be repaired or replaced immediately by the contractor.

Dog Parks (Wald Park, Cahaba Heights, and SHAC)

- All work to be done once a week, beginning March 15th through September of each year. The work should be done Monday-Friday unless changed by inclement weather or by the direction of the Director of Parks and Leisure Services or his/her designee. Work to be done once per month from October through February.
- Mow and weed eat/trim all areas inside the fence and trim the fence line inside and outside.
- Evaluate irrigation infrastructure in the park to ensure functionality on each visit. Any defect should be reported to the Director of Parks and Leisure Services or his/her designee.
- All work must be of high quality and must meet general grooming standards of a public facility as set by the Director of Parks and Leisure Services or his/her designee.
- When work is complete all sidewalks, parking lots, common sitting areas, picnic areas, roads, etc. must be free of clippings.
- If work is unsatisfactory the contractor will be notified by the Director of Parks and Leisure Services or his/her designee and will be given a specific deadline to make corrections. If this is not done to the satisfaction of the Director of Parks and Leisure or his/her designee, there will be a 25% penalty for that month's payment.
- Any damages caused to City facilities shall be repaired or replaced immediately by the contractor.

Library in the Forest

- All work to be done weekly from March 1 through September 30, on Monday – Friday unless affected by inclement weather or by a special request from the Director of The Library in the Forest or his/her designee. From October 1 through February 28, all work is to be done bi-weekly.
- Scope of work includes:
 - a. Mowing lawns, edge, weed-eat along Roundhill Road, both parking lots, both sides of the building, and the back of the building
 - b. Edge curbing in all areas where curbing exists
 - c. Fertilizing lawn and beds as necessary to maintain plant health
 - d. Maintaining all beds to include bed cover, perennials, annuals, and edging/trimming. Beds include those along Roundhill Road, both parking lots, the front of the building, the sides of the building, the back of the building, and the Rooftop Garden.
 - e. Replenishing mulch in all beds twice per year in March and September
 - f. Pruning and trimming plants in all beds annually in March and / or April
 - g. Replacing dead plants, shrubs, trees, etc. with a similar plant variety after discussion with the Director of The Library in the Forest or his/her designee.
 - h. Controlling/pulling weeds in all landscaping within the beds, grass areas, and lawns
 - i. Picking up, removing, and disposing of all trash and debris, such as paper, bottles, cans, leaves, weeds, broken limbs, etc.
 - j. Sweeping, blowing and bagging leaves throughout the year in all areas, including the entrances in the front and back of the Library.
 - k. Trimming and maintaining the path to and places around the Remembrance Garden located behind the Library and near the pathway to the trails
 - l. Evaluate irrigation infrastructure in the lawns, beds and rooftop garden to ensure functionality on each visit. Any defect should be reported to the Director of The Library in the Forest or his/her designee.
- All work must meet general grooming standards of a public facility as set by the Director of Parks and Leisure Services or his/her designee.
- When work is complete, all sidewalks, roads, etc. must be free of clippings.
- If work is unsatisfactory, the contractor will be notified by the Director of The Library in the Forest or his/her designee and will be given a deadline to make corrections. If corrections are not made to the satisfaction of the Director of The Library in the Forest or his/her designee, there will be a 25% penalty for that month's payment.
- Any damages caused to City facilities shall be repaired or replaced immediately by the contractor. If repairs are not made in a timely manner, a 25% penalty for the month's payment will be imposed.

20. Required Documentation

- Detailed reports for each venue should be prepared and emailed to the Director of Public Services or designee on a quarterly basis (January 15,

March 15, June 15, and September 15). In the report the following information at a minimum should be included:

- i. Number of visits with dates of visits
- ii. Fertilization and chemical application schedule
- iii. Any irrigation system concerns
- iv. Any dead loss
- v. Any new plantings (perennials, annuals, etc.)
- vi. Over seeding schedule if applicable
- vii. Any upcoming potential concerns (i.e. end of life cycle)

MAINTENANCE OPERATIONS

LAWNS:

Mowing:

1. Mow lawns needed to maintain a neat appearance.
2. Lawn height shall not exceed two times the specified mowing height before mowing. Mow Bermuda lawn at a cutting height of one and one-half inches (2 -2.5 inches).
3. Bag clippings during mowing or remove immediately after mowing is performed. Dispose of clippings off site.
4. Immediately remove debris resulting from mowing operations from curbs, walks, drives and other surfaces.

Edging:

1. Edge curbs, drives, walks and areas bordering lawn needed to maintain a neat appearance.
2. Remove and dispose of off-site, all debris the same day as the areas are edged.
3. Edge around trees, posts, utilities, etc. Do not use a weed eater around trees and shrubs.
4. Maintain all shapes and configurations of plant beds as originally installed. Provide a clean trenched line between all lawn and mulched areas.

Debris Removal:

Remove and dispose of off-site, any debris such as paper, broken limbs, bottles, cans, extraneous leaves, weeds, etc. as necessary to maintain a manicured, neat and clean appearance.

SHRUB PLANTINGS AND BED AREAS:

Pruning:

1. Prune all ornamental plantings in accordance with standard horticultural practice to adequately maintain an attractive shape and fullness with respect to the intended character of the plant. Pruning shall be done with clean, sharp tools.
2. Prune to remove dead and/or diseased wood as it occurs throughout the year.
3. Remove and dispose of off-site, all debris the same day it is accumulated.

Mulching/Straw:

1. Rake bed surface areas one (1) time per month minimum to maintain a fresh appearance and to remove foreign material.
2. Replenish mulch/straw two (2) times a year minimum, once in the spring and once in the fall. Replenish to the original specified depth of 2" after settlement.

Fertilization:

1. Fertilize ornamental plantings and bed areas in accordance with the specific needs of the plants to maintain a healthy and vigorous condition.
2. Apply fertilizer two (2) times a year minimum with a fertilizer analysis confirming to Soil Test Reports. Spread fertilizer around the base of the plant and work into soil by hand. Thoroughly water all plantings immediately following fertilizer application.

Insect and Disease Control:

1. Inspect all ornamental plant material once every two (2) weeks to ensure against insect infestations or diseases.
2. Apply insecticides, pesticides or fungicides as required for effective control of identified conditions. Use manufacturer's recommended rates of application and precautions.

Weed Control:

1. Contractor shall employ mechanical or chemical measures to ensure that weeds or undesirable plants or grasses do not encroach upon or establish in shrub areas.
2. Apply pre-emergent herbicides to shrub and bed areas to prevent summer annual broadleaf and grass-type weeds.

3. Apply contact herbicides for control of perennial broadleaf and grass-type weeds.

Debris Removal:

Remove and dispose of off-site, any debris such as paper, broken limbs, bottles, cans, extraneous leaves, weeds, etc., from shrub plantings and bed areas as necessary to maintain a manicured and clean appearance.

TREES:

Pruning:

1. Remove all sucker growth (shoots that sprout out around base of tree trunk) as required.
2. Prune to remove all dead, broken or diseased branches or wood as it occurs throughout the year.
3. Remove and dispose of off-site, all debris the same day it is accumulated.

Mulch/Straw:

Replenish mulch/straw as required to maintain the original specified depth of two inches (2") after settlement two (2) times a year minimum.

Insecticides and Disease Control:

1. Inspect all trees once per month to ensure against insect infestations or diseases.
2. Apply insecticides, pesticides or fungicides as required for effective control of identified conditions. Use manufacturer's recommended rates of application and precautions.

Bid Sheet for Maintenance

Company _____

Representative _____

- A. City Hall Complex to include Police Department
Annual Cost: _____
- B. Byrd and Meadowlawn Parks
Annual Cost: _____
- C. McCallum and Shallowford Parks
Annual Cost: _____
- D. Common area at Andy's, Town Village,
and The Glenn
Annual Cost: _____
- E. SHAC
Annual Cost: _____
- F. Altadena
Annual Cost: _____
- G. Wald Park
Annual Cost: _____
- H. Liberty Park Sports Complex
Annual Cost: _____
- I. Cahaba Heights Park
Annual Cost: _____
- J. Vestavia Hills Civic Center
Annual Cost: _____
- K. Dog Parks
Annual Cost: _____
- L. Library in the Forest
Annual Cost: _____

Alternate Areas:

Alternate A: **Sicard Hollow Athletic Complex (SHAC)** - Until such time the course is no longer available, all tee boxes, cages and fairways throughout the disc golf course must be bush hogged 2 times per month beginning April 1st – October 1st. These areas should then be cut back in November, January and March of each year.

Annual Cost: _____

Alternate B: **Wald Park** - Both large green space lawns should be over-seeded during the winter months to ensure green lawns year-around.

Annual Cost: _____

Alternate C: **Vestavia Hills City Center** - The front lawn should be over-seeded during the winter months to ensure a green lawn year-around.

Annual Cost: _____



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

September 8, 2025

To: Jeff Downes, City Manager

From: Umang Patel, Court Director

Cc: Rebecca Leavings, City Clerk

RE: Resolution Number 5588 - A Resolution appointing election officers for the municipal runoff election to be held on September 23, 2025

Background:

The City's municipal runoff election is scheduled for September 23, 2024. This Resolution approves the polling officials.

Recommendation:

na

Fiscal Impact:

na

Attachments:

1. Resolution 5588

RESOLUTION NUMBER 5588

**A RESOLUTION APPOINTING ELECTION OFFICERS
FOR THE MUNICIPAL RUNOFF ELECTION TO BE HELD
IN THE CITY OF VESTAVIA HILLS, ALABAMA ON
SEPTEMBER 23, 2025.**

WHEREAS, a regular municipal runoff election for the City of Vestavia Hills, Alabama, will be held on the 23rd day of September, 2025; and

WHEREAS, according to Title 37, Section 34 (26), Code of Alabama, 1975, the municipal governing body, or a majority of them, must appoint from the qualified electors of respective wards or voting districts, officers to hold the election as follows: a Chief Inspector and an Assistant Chief Inspector.

WHEREAS, the pay rates for each Chief Inspector will be at a rate of \$325.00 per day; each Assistant Chief Inspector will be at a rate of \$275.00 per day; and for each Clerk will be at a rate of \$250.00 per day. Poll worker hours begin at 6:30 a.m. and last until the Chief Inspector dismisses each clerk.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Vestavia Hills, Alabama, that the election officers for said election shall be as follows:

See attached Exhibit A; and

BE IT FURTHER RESOLVED that the appointed election manager may amend the above list as needed due to unforeseen circumstances.

APPROVED and ADOPTED this the 8th day of September, 2025.

Ashley C. Curry
Mayor

ATTESTED BY:

Rebecca Leavings
City Clerk

Exhibit A

VH Place 1 -SHADES MOUNTAIN BAPTIST CHURCH		
NAME	STREET ADDRESS	Position
LISA MCCARDLE	1814 MONTCLAIRE DR	Chief
ELIZABETH ISBELL	2415 TARALINE TRAIL	Pollworker
NANCY KING	1722 VESTA WOOD COURT #E	Pollworker
MARY BETH NEIGHBORS	856 MOUNTAIN BRANCH DR	Pollworker
SARAH CULVER	1828 MISSION ROAD	Pollworker
PATSY SMITHEY	2512 BROOKWATER CIR	Pollworker
LINDA B. GODFREY	408 VESCLUB LN	Pollworker
VH Place 2 - VESTAVIA HILLS METHODIST		
NAME	STREET ADDRESS	Position
TERESA R. ROBERTS	2225 PINE CREST DRIVE	Chief
CECELIA S. GREER	1414 BRANCHWATER CIRCLE	Asst. Chief
MATTHEW A ROBERTS	2225 PINE CREST DRIVE	Pollworker
CLAUDETTE GOLD	2256 JACOBS ROAD	Pollworker
PENNY LEWALLYN	1470 PANORAMA DR	Pollworker
LAURA O WALKER	2217 HUNTERS CV	Pollworker
KAREN ODLE	1212 GRAYLYNN CIR	Pollworker
RANCE HARDY	1205 FOREST VIEW LN	Pollworker
PHYLLIS KELLER COLLIER	1415 BRANCHWATER CIR	Pollworker
VH Place 3 - MOUNTAINTOP COMMUNITY CHURCH		
NAME	STREET ADDRESS	Position
CYNTHIA L. BARTLETT	2328 COUNTRY RIDGE DRIVE	Chief
CAROL C. SIMS	3752 SHADY COVE DRIVE	Asst. Chief
KAREN ANN BERQUIST	2213 JACOBS RD	Pollworker
CATHERINE RUSSELL	1205 VISTA LANE	Pollworker
MARY CARMAN	3604 MILLER HILL WAY	Pollworker
MARY BERRYMAN	3317 CIRCLE HILL RD	Pollworker

VH Place 4 - CIVIC CENTER		Position
NAME	STREET ADDRESS	Chief
NANCY FOX KIRK	1529 BLIND BROOK LANE	Asst. Chief
NANCY MOSLEY	1533 BLIND BROOK LN	Pollworker
REBEKAH O. JONES	1348 TURNHAM LANE	Pollworker
JUDITH MASON	2971 ALTADENA RIDGE DR	Pollworker
MICHAEL MASON	2971 ALTADENA RIDGE DR	Pollworker
SARAH GOFF	1653 GLEN COVE	Pollworker
JENNY HORTON	1412 COSMOS CIRCLE	Pollworker
STEWART REED	1372 WILLOUGHBY RD	Pollworker
JO ANN TURNER	2917 TARALANE DR	Pollworker
GLORIA WITT	2457 DOLLY RIDGE TRAIL	Pollworker
VH Place 5 - CAHABA HEIGHTS BAPTIST CHURCH		Position
NAME	STREET ADDRESS	Chief
VIVIAN SMITH	3420 COUNTRY BROOK LN	Asst. Chief
BROOK HALLMAN	3500 BIRCHWOOD LN	Pollworker
GAINES C SMITH JR	3420 COUNTRY BROOK LN	Pollworker
LETA HEAD	2031 MAGNOLIA RIDGE	Pollworker
LEON ARMSTRONG	2426 MOUNTAIN VISTA DR	Pollworker
ALICE EDWARDS	3428 COUNTRY BROOK LANE	Pollworker
MARTHA HERNDON	2049 MAGNOLIA RIDGE	Pollworker
JUDY M WADE	1150 CAHABA WOODS CIRCLE	Pollworker
VH Place 6 - THE CHURCH AT LIBERTY PARK		Position
NAME	STREET ADDRESS	Chief
VIRGINIA PATTERSON	500 SPORRAN PL	Asst. Chief
LAURA MAXWELL	4200 VESTAVIEW CIRCLE	Pollworker
LAURA WASHBURN	4330 BOULDER LAKE CIR	Pollworker
JEANETT BENNETT	4342 VESTVIEW LN	Pollworker
WILMA FIEFE	805 BOULDER LAKE COURT	Pollworker
VH Place7 - Absentee		
NAME	STREET ADDRESS	Position
GAYLE B ENGLAND	808 VESTAVIA LAKE DR	Chief
ANNE BOSTON	2216 IVY TRCE	Asst. Chief
SHEILA KIMBROUGH	1805 OLD ORCHARD RD	Pollworker



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

September 8, 2025

To: Jeff Downes, City Manager

From: Christopher Brady, City Engineer

Cc: Lori Beth Kearley, Public Services Director
Ethan Fisher, City Engineer
Rebecca Leavings, City Clerk

RE: Public Hearing - Resolution Number 5587 - A Resolution dedicating the streets in the Magnolia Cove Subdivision known as Magnolia Cove Road and authorizing the City Manager to execute documents needed for calling the bond on said street

Background:

The Magnolia Cove Estates subdivision was developed in unincorporated Jefferson County in 2005. The subdivision was annexed into the City of Vestavia Hills by Ordinance Number 2857 on July 22, 2019. The subdivision was partially finished and the owner of CRB Construction LLC, Chase Beard, secured the final wearing surface with a bond dated July 18, 2019 (copy attached) in the amount of \$100,100. Mr. Beard constructed the remaining homes in the subdivision. The company is no longer in business and the final wearing surface is left unfinished. The City is attempting to call in the bond on the street in the amount of \$100,100 which requires a signed release from the City Manager. The estimated cost of finishing the street is

\$128,214. This resolution will dedicate the street, authorize the City to install the wearing surface of the street and authorize the City Manager to sign any documents needed to secure the bond funds and finish the street.

Recommendation:

The Public Services Director and City Manager recommend the City call the bond and finish the street.

Fiscal Impact:

The funding for said street shall be covered by the fund from said bond and from the City's budgeted Community Spaces drainage and paving funds.

Attachments:

1. Resolution 5587
2. Magnolia Cove Road Plat
3. Wearing Surface Performance Bond
4. Magnolia Cove_updated estimates
5. let25.01.10_claim request_Magnolia Cove
6. Limited Release and Assignment of Claims
7. PH Boone Legal Opinion to City Manager Jeff Downes August 25, 2025

RESOLUTION NUMBER 5587

**A RESOLUTION ACCEPTING THE DEDICATION OF THE STREET(S)
IN MAGNOLIA COVE ESTATES KNOWN AS MAGNOLIA COVE ROAD
AND AUTHORIZING THE CITY MANAGER TO EXECUTE AND
DELIVER ANY DOCUMENTS NEEDED TO SECURE COMPLETION OF
THE FINAL WEARING SURFACE**

WHEREAS, the Magnolia Cove Estates subdivision was developed in unincorporated Jefferson County, a copy of the recorded plat is marked as Exhibit A, attached to and incorporated into this Resolution Number 5587 as if written fully therein; and

WHEREAS, a few homes were constructed in said subdivision with some remaining unimproved lots purchased by Chase Beard, CRB Construction LLC; and

WHEREAS, Mr. Beard and the subdivision residents joined together and requested annexation to the City of Vestavia Hills. The subdivision was annexed into the City by Ordinance Number 2857 on July 22, 2019; and

WHEREAS, on July 18, 2019, CRB Construction secured a final wearing surface bond in the amount of \$100,100 with the City's Public Services Department pursuant to the City's Subdivision Regulations in order to secure the final wearing surface of the single street in the subdivision, Magnolia Cove Road, a copy of which is marked as Exhibit B, attached to and incorporated into this Resolution Number 5587 as if written fully therein and

WHEREAS, CRB Construction subsequently built homes on the remaining lots of the subdivision. Following the completion of these homes, it was determined by the City's Public Services Department that CRB Construction LLC, was no longer in business; and

WHEREAS, the City Engineer has reviewed needed repairs on the street along with the installation of the final wearing surface and estimated the cost to do the repairs and finish the street is approximately \$128,214, detail is marked as Exhibit C, attached to and incorporated into this Resolution Number 5587 as if written fully therein; and

WHEREAS, the City Engineer has indicated that the bond should be called on the subdivision in the amount of \$100,100, and finish the street, which requires a release to be executed by the City Manager on behalf of the City, a copy of which is marked as Exhibit D, attached to and incorporated into this Resolution Number 5587 as if written fully therein; and

WHEREAS, this street dedication consists of the street named “Magnolia Cove Road” with right-of-way of 40’; such dedication not to include any improvements other than the street named in this Resolution.

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

1. That the City hereby accepts the dedication for Magnolia Cove Estates and said street know as Magnolia Cove Road is hereby named a public street; and
2. The City Manager is hereby authorized to execute and deliver any documents needed in order to secure the bond and finish the street; and
3. Said funding for the finishing of the street shall be expensed to the funds derived from the calling of the bond in the amount of \$100,100 and the City’s budgeted Community Spaces drainage and paving funds.

ADOPTED and APPROVED this the 8th day of September, 2025.

Ashley C. Curry
Mayor

ATTESTED BY:

Rebecca Leavings
City Clerk

RESURVEY OF BUCKHEAD
SECOND SECTOR
MAP BOOK 33, PAGE 22

RES. ESTATES A & B
ALTADENA BROOK
MAP BOOK 157, PAGE 58

MAGNOLIA COVE ESTATES

BEING SITUATED IN THE SOUTHEAST 1/4 OF THE NORTHWEST 1/4
& THE SOUTHWEST 1/4 OF THE NORTHEAST 1/4 OF
SECTION 5, TOWNSHIP 19 SOUTH, RANGE 2 WEST,
JEFFERSON COUNTY, ALABAMA

PREPARED BY:
REYNOLDS SURVEYING, INC.
1572 Montgomery Highway, Suite 108
Birmingham, Alabama 35216
(205) 823-7900 Fax: (205) 979-7635

PREPARED FOR:
Harold Stephens
Managing Partner
Rocky Ridge LLC
2070 Montevalle Road SW
Birmingham, Alabama 35211
(205) 290-4667

DESIGN ENGINEERING BY:
LBYD ENGINEERING
716 SOUTH 30TH STREET
BIRMINGHAM, AL 35233
(205) 251-4500

GRAPHIC SCALE



JEFFERSON COUNTY ENVIRONMENTAL SERVICES HEREBY APPROVES THIS RECORD MAP FOR SANITARY SEWER
PURPOSES ONLY. ANY CHANGE IN ANY RIGHT OF WAY OR EASEMENT BOUNDARIES AFTER THIS DATE MAY VOID
THIS APPROVAL.

JEFFERSON COUNTY COMMISSION DOES NOT ACCEPT RESPONSIBILITY FOR MAINTENANCE OF ANY ROAD(S) WITHIN
THIS SUBDIVISION. ROAD(S) MUST BE IMPROVED TO COUNTY STANDARDS TO BE ELIGIBLE FOR COUNTY
MAINTENANCE.

I HEREBY STATE THAT ALL PARTS OF THIS SURVEY AND DRAWING HAVE BEEN COMPLETED IN ACCORDANCE WITH
THE CURRENT REQUIREMENTS OF THE STANDARDS OF PRACTICE FOR SURVEYING IN THE STATE OF ALABAMA TO
THE BEST OF MY KNOWLEDGE, INFORMATION AND BELIEF.

NOTES:
1. ALL EASEMENTS SHOWN ARE FOR PUBLIC UTILITIES,
SANITARY SEWERS, STORM SEWERS AND/OR OPEN STORM
DRAINS TO SERVE PROPERTY BOTH WITHIN AND WITHOUT
THE SUBDIVISION.

2. SURFACE DRAINAGE EASEMENTS NOT WITHIN THE EXISTING
RIGHT OF WAY ARE NOT MAINTAINED BY JEFFERSON
COUNTY.

STATE OF ALABAMA
JEFFERSON COUNTY

THE UNDERSIGNED, ROBERT REYNOLDS, A REGISTERED LAND SURVEYOR IN THE STATE OF ALABAMA, AND HAROLD
STEPHENS, MANAGING PARTNER OF ROCKY RIDGE LLC, AS OWNER, HEREBY CERTIFY THAT THIS PLAT OR MAP WAS
MADE PURSUANT TO A SURVEY MADE BY SAID SURVEYOR AND THAT SAID SURVEY AND THIS PLAT OR MAP WERE
MADE AT THE INSTANCE OF SAID OWNERS THAT THIS PLAT OR MAP IS A TRUE AND CORRECT MAP OF THE LAND
SHOWN THEREIN AND KNOWN OR TO BE KNOWN AS "MAGNOLIA COVE ESTATES," SHOWING THE SUBDIVISIONS INTO
WHICH IT IS PROPOSED TO DIVIDE SAID LANDS, GIVING THE LENGTHS AND BEARINGS OF THE BOUNDARIES OF
EACH LOT AND ITS NUMBER, SHOWING THE STREETS, ALLEYS AND PUBLIC BOUNDRIES GIVING THE BEARINGS,
WIDTH AND NAME OF EACH STREET, AS WELL AS THE NUMBER OF EACH LOT AND BLOCK AND SHOWING THE
RELATION OF THE LANDS SO PLATTED TO THE RESURVEY OF BUCKHEAD SECOND SECTOR, AS RECORDED IN MAP
BOOK 33, PAGE 22, IN THE OFFICE OF THE JUDGE OF PROBATE IN JEFFERSON COUNTY, ALABAMA, AND THAT
IRON PINS HAVE BEEN INSTALLED AT ALL LOT CORNERS AND CURVE POINTS AS SHOWN AND DESIGNATED
BY SMALL OPEN CIRCLES ON SAID PLAT OR MAP. SAID OWNER ALSO CERTIFIES THAT THEY ARE THE OWNERS OF
SAID LANDS AND THAT THE SAME ARE NOT SUBJECT TO ANY MORTGAGE.

IN WITNESS WHEREOF WE HAVE SET OUR HANDS THIS 13th DAY OF April, 2005.

BY: Robert Reynolds
ROBERT REYNOLDS
REG. NO. 22657
BY: Harold Stephens
HAROLD STEPHENS, OWNER
MANAGING PARTNER
ROCKY RIDGE LLC



STATE OF ALABAMA
JEFFERSON COUNTY

I, James D. Wood, A NOTARY PUBLIC, IN AND FOR SAID
COUNTY AND STATE, DO HEREBY CERTIFY THAT ROBERT REYNOLDS,
WHOSE NAME IS SIGNED TO THE FOREGOING CERTIFICATE AS SURVEYOR,
BEING KNOWN TO ME, ACKNOWLEDGED BEFORE ME ON THIS DATE, THAT
AFTER HAVING BEEN DULY INFORMED OF THE CONTENTS OF SAID
CERTIFICATE, HE EXECUTED SAME VOLUNTARILY WITH FULL AUTHORITY.

GIVEN UNDER MY HAND AND SEAL THIS 13th DATE OF
April, 2005.

NOTARY PUBLIC: James D. Wood
Com. Exp. Date: 8/6/08

STATE OF ALABAMA
JEFFERSON COUNTY

I, James D. Wood, A NOTARY PUBLIC, IN AND FOR SAID
COUNTY AND STATE, DO HEREBY CERTIFY THAT HAROLD STEPHENS, WHOSE
NAME IS SIGNED TO THE FOREGOING CERTIFICATE AS OWNER, BEING KNOWN
TO ME, ACKNOWLEDGED BEFORE ME ON THIS DATE, THAT AFTER HAVING
BEEN DULY INFORMED OF THE CONTENTS OF SAID CERTIFICATE, HE
EXECUTED SAME VOLUNTARILY WITH FULL AUTHORITY.

GIVEN UNDER MY HAND AND SEAL THIS 13th DATE OF
April, 2005.

NOTARY PUBLIC: James D. Wood
Com. Exp. Date: 8/6/08

APPROVED: Jefferson County Planning & Zoning Commission DATE: 5-6-5

APPROVED: Robert T. Thompson DATE: 5-6-5
CHAIRMAN, JEFFERSON CO. PLANNING & ZONING COMMISSION

APPROVED: [Signature] DATE: 5/6/05
DIRECTOR OF ENVIRONMENTAL SERVICES

APPROVED: [Signature] DATE: 7/1/05
DIRECTOR OF ROADS & TRANSPORTATION/COUNTY ENGINEER

APPROVED: Frank E. Hester DATE: 6-2-05
DIRECTOR OF LAND DEVELOPMENT

5-05-019 C/L (7452K)
A-05-28
2-02-82 BA

40-5-1-0-23
40-5-2-1-22



BUCKHEAD FIRST SECTOR
MAP BOOK 31, PAGE 93

ACREAGE

ACREAGE

OLD ROCKY RIDGE ROAD
200305/0549

Jefferson County Case No.: 2003-01-008
Landscaping Requirements
No structure of any kind shall encroach into the required 25-ft. landscape easement.
The required planting of magnolia (Magnolia grandiflora), spaced ten (10) feet apart
and with limbs full to the ground shall remain in place perpetually and said magnolias
shall not have their tops removed by pruning nor have their lower limbs removed, but
rather shall be allowed to obtain their full size at maturity so as to act as a vegetative
buffer. The vertical care and maintenance of the required planting of magnolias shall be
the sole responsibility of the owner of the property on which the magnolia(s) are located.
If at any time a required magnolia dies or becomes diseased it shall be replaced with a
healthy, new magnolia of the same species and cultivar, not less than five (5) feet in
height at time of planting with limbs full to the ground. Such replacement shall be the
sole responsibility of the property owner.

Auto-Owners INSURANCE

LIFE • HOME • CAR • BUSINESS

P.O. BOX 30660 • LANSING, MICHIGAN 48909-8160

LICENSE & PERMIT AND MISCELLANEOUS BOND APPLICATION

Fax Number: 1-517-327-4827
Phone Number: 1-800-445-4185 X51060 (MI ONLY)
1-800-346-0346 X51060 (ALL OTHERS)
bonds.und@aoins.com

AGENCY INFORMATION

Agency Name: Collins Insurance Agency Agency Code: 17007000
Producer Name: William T Collins Producer Code: _____

☐ Please execute the following bond.

I have executed bond number: _____
(Check your power of attorney Letter of Instructions)

Bond Form Used (Copy must be attached):

☐ Auto-Owners Form

☒ Obligor Form

APPLICANT INFORMATION (PLEASE PRINT OR TYPE AND ATTACH ALL PAPERS FOR THIS BOND)

Entity: ☐ Individual ☐ Partnership ☐ Corporation ☒ LLC ☐ Other: _____

Principal (Business or corporate name as listed on business license): CRB Construction LLC

DBA: _____

Location Address: 2400 Magnolia Cove Rd Vestavia Hills, AL 35216

Mailing Address (If different from location address): 1945 Hoover Ct Hoover, AL 35226

Phone Number: 2058628371 Fax Number: _____

E-mail: chase@buildcrb.com Website: _____

Date business was established: 12/2016 Federal Tax ID Number (FEIN): 81-4268977

Name to appear on bond, if different from Principal: _____

Obligor Name and Address (party requiring the bond): City of Vestavia Hills 1032 Montgomery Hwy Vestavia Hills, AL 35216

Bond Amount: 100,100 Effective Date: 07/17/2019 Bond Term (if known): _____

LICENSE & PERMIT BONDS

☐ Electrician ☐ Heating ☐ Right of Way ☐ Plumber ☐ Liquor ☒ Other: Home Builder

What is the Applicant's years of experience in this line of business? 3

Who is the Applicant's commercial general liability insurance carrier? Auto-Owners

What are the Applicant's liability limits? \$1M per occurrence/ \$2M aggregate

Project Location Address (Right of Way bonds only): 2400 Magnolia Cove Rd Vestavia Hills, AL 35216

LOST TITLE BONDS

Make: _____ Model: _____ Year: _____

VIN, Hull or Serial Number: _____ Size: _____

Is there a lien or lien holder on the title from the previous owner? ☐ Yes ☐ No

If yes, please explain: _____

MISCELLANEOUS BONDS

LOST INSTRUMENT BONDS (OTHER THAN LOST TITLE)

Description of Lost Instrument (municipal bond, preferred stock certificate, etc.): _____

Serial Number: _____

Please describe the manner of loss: _____

Are the securities payable to the bearer? _____ ☐ Yes ☐ No

If they are registered, in whose name are they registered? _____

OTHER MISCELLANEOUS BONDS

What type of bond is the Applicant requesting? _____

What is the Applicant's net worth? _____

Who is the Applicant's commercial general liability insurance carrier? _____

If the policy is an Auto-Owners policy, what is the policy number? _____

What are the Applicant's liability limits? _____

INDEMNITOR INFORMATION - ALL OWNERS MUST BE INCLUDED

Applicant(s) (Owners) - Individual, partners, members or corporate owner(s). List the majority owner first. Attach additional form 29408 to this application if there are more than three owners and spouses.

1. Full Legal Name of Applicant (Owner): Charles Beard

Residence Address: 3528 Lynngate Cir Hoover, AL 35216

Social Security Number: 424-35-9968 Marital Status: M

Title: owner Business Ownership Percentage: 100

Name of Spouse: Kathryn Beard Spouse's Social Security Number: 589045760

(Spouse must sign the indemnity agreement.)

2. Full Legal Name of Applicant (Owner): _____

Residence Address: _____

Social Security Number: _____ Marital Status: _____

Title: _____ Business Ownership Percentage: _____

Name of Spouse: _____ Spouse's Social Security Number: _____

(Spouse must sign the indemnity agreement.)

3. Full Legal Name of Applicant (Owner): _____

Residence Address: _____

Social Security Number: _____ Marital Status: _____

Title: _____ Business Ownership Percentage: _____

Name of Spouse: _____ Spouse's Social Security Number: _____

(Spouse must sign the indemnity agreement.)

GENERAL COMMENTS

FRAUD STATEMENTS

FLORIDA ONLY "Any person who knowingly and with intent to injure, defraud or deceive any insurer files a statement of claim or an application containing any false, incomplete or misleading information is guilty of a felony of the third degree."

ALL STATES EXCEPT FLORIDA "Any person who knowingly and with intent to defraud any insurance company or other person files an application for insurance containing any materially false information or conceals, for the purpose of misleading, information concerning any fact material thereto commits a fraudulent insurance act which is a crime and may be subject to penalties including imprisonment, fines and denial of insurance benefits."

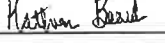
INDEMNITY AGREEMENT

The undersigned applicant and indemnitors hereby request Auto-Owners Insurance Company (the "Company") to become surety for the above bond. The undersigned hereby certify the truth of all statements in the application, authorize the Company to verify this information and to obtain additional information from any source, including obtaining a credit report at the time of application, in any review or renewal, at the time of any potential or actual claim, or for any other legitimate purposes as determined by the Company in its reasonable discretion, and jointly and severally agree:

- (1) To pay the usual premiums, including renewal premiums, to the Company or its agents, when due,
- (2) **To completely INDEMNIFY the Company from and against any liability, loss, cost, attorney's fees and expenses whatsoever which the Company shall at any time sustain as surety or by reason of having been surety on the bond or any other bond issued for applicant, or for the enforcement of this agreement, or in obtaining a release or evidence of termination under such bonds; regardless of whether such liability, loss, costs, damages, attorney's fees and expenses are caused, or alleged to be caused, by the negligence of the Company,**
- (3) To furnish the Company with satisfactory and conclusive termination evidence that there is no further liability on this bond or any other bond issued for applicant,
- (4) Upon demand by the Company for any reason whatsoever, to deposit current funds with the Company in an amount sufficient to satisfy any claim against the Company by reason of such suretyship,
- (5) That the Company shall have the right to handle or settle any claim or suit in good faith. An itemized statement of loss and expense incurred by the Company, sworn to by an officer of the Company, shall be prima facie evidence of the fact and extent of the liability of the undersigned to the Company.
- (6) That the Company may decline to become surety on any bond and may cancel or amend any bond without cause and without any liability which might arise therefrom.
- (7) That the Company shall, without notice, have the right to alter the penalty, terms and conditions of any bond issued for undersigned, and this agreement shall apply to any such altered bond,
- (8) That if a contract or performance bond is issued hereunder, the undersigned hereby assign to the Company any monies now due or hereafter becoming due under the contract, including all deferred payments and retained percentage, supplies, tools, plants, equipment and materials due or used on the contract.
- (9) At the Company's discretion, this indemnity agreement shall be governed in all respects by the laws of the State of Michigan and the undersigned applicant and indemnitors consent to the jurisdiction of the courts of the State of Michigan and the United States District Court for the District of Michigan in all actions or proceedings arising from or relating to this indemnity agreement,
- (10) That this indemnity may be cancelled as to subsequent liability by an indemnitor upon written notice to the Company at P.O. Box 30660, Lansing, Michigan 48909, effective ten (10) days after the earliest date hereafter upon which the Company could have cancelled all bonds in force for applicant,
- (11) In the event of any payment by the Company, to pay the Company interest on each amounts at the highest legal rate from the date such payments are made.

All owners, officers, members, partners and their spouses MUST sign this indemnity agreement for surety bonds if the bond exceeds \$25,000. The Company reserves the right to require signed indemnity at its discretion.

Signed this 18th day of Jul, 2019.

1. 
2. 
3. _____

PROXY DESIGNATION

I designate J.S. Tagsold, and D.J. Thelen, and C.B. Muller, and each of them, attorneys and proxies, with power of substitution and revocation to each, to vote as proxy at all meetings of the Company, and at any and all adjournments thereof. The powers hereunder shall be exercised by a majority of said attorneys and proxies so present, but if only one is present, then that one shall have full power to act.

Applicant's Signature and Date:  - CRB CONSTRUCTION 7/18/19

APPENDIX B-6.3:

CITY OF VESTAVIA HILLS, ALABAMA
FINAL WEARING SURFACE PERFORMANCE BOND

BOND NUMBER 66331380

KNOW ALL MEN BY THESE PRESENTS, THAT WE CRB Construction LLC
 (hereinafter called the Principal) and Auto-Owners Insurance Company at Lansing, Michigan (hereinafter called the Surety) are
 held firmly unto the City of Vestavia Hills, Alabama (hereinafter called the Obligee), in full and just sum of
one hundred thousand one hundred Dollars (\$ 100,100), lawful money of the United States of
 America, for the payment of which, well and truly to be made, we bind ourselves, our heirs, administrators,
 executors and assigns, jointly and severally, firmly by these presents.

WHEREAS, said Principal has received approval to construct the improvements of
the final wearing surface at 2400 Magnolia Cove Rd Vestavia, AL in accordance with the approved construction plans submitted by
Charles Beard of CRB Construction LLC.

WHEREAS, said Principal has obligated himself to install the final wearing surface with approval from the City
 Engineer. Said installation should not occur earlier than one (1) year after completion of said improvements, or the
 completion of at least 80% of said subdivision.

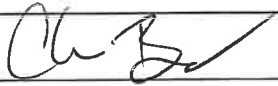
NOW THEREFORE, THE CONDITION OF THIS OBLIGATION IS SUCH THAT, if Principal shall promptly and
 faithfully perform the installation of the final wearing surface, then this obligation shall be null and void;
 The bond SHALL automatically extend without amendment for additional one-year period(s) from the expiration
 date, or any future expiration date, until all wearing surface improvements have been constructed in accordance with
 approved construction plans.

Whenever, the Principal shall be, and is declared by Obligee to be in default under this agreement, the Surety may
 promptly remedy the default; or shall promptly:

1. Complete the installation of final wearing surface, or
1. Obtain a bid for submission to Obligee for completing the installation of final wearing surface and
 upon determination by Obligee and Surety of the lowest responsible bidder, arrange for a contract
 between such bidder and Obligee and make available as work progresses sufficient funds to pay the
 cost not to exceed the cost for which the Surety may be liable hereunder, the amount of this bond.

No right of action shall accrue on this bond to or for the use of any persons or corporation other than the Obligee
 named herein.

SIGNED, SEALED AND DELIVERED THIS 18th day of July, 2019.

Principal (Company Name)	CRB Construction LLC
Address	1945 Hoover Ct Hoover, AL 35226
Telephone Number	205-862-8371
Fax Number	
Official Signature	

Surety (Company Name)	Auto-Owners Insurance Company at Lansing, Michigan
--------------------------	--

Address	6101 Anacapri Blvd Lansing, MI 48917
Telephone Number	517-323-1200
Fax Number	517-323-8796
Official Signature	



DATE AND ATTACH TO ORIGINAL BOND
AUTO-OWNERS INSURANCE COMPANY

LANSING, MICHIGAN
POWER OF ATTORNEY

NO. 66331380

KNOW ALL MEN BY THESE PRESENTS: That the AUTO-OWNERS INSURANCE COMPANY AT LANSING, MICHIGAN, a Michigan Corporation, having its principal office at Lansing, County of Eaton, State of Michigan, adopted the following Resolution by the directors of the Company on January 27, 1971, to wit:

"RESOLVED, That the President or any Vice President or Secretary or Assistant Secretary of the Company shall have the power and authority to appoint Attorneys-in-fact, and to authorize them to execute on behalf of the Company, and attach the seal of the Company thereto, bonds and undertakings, recognizances, contracts of indemnity, and other writings obligatory in the nature thereof. Signatures of officers and seal of Company imprinted on such powers of attorney by facsimile shall have same force and effect as if manually affixed. Said officers may at any time remove and revoke the authority of any such appointee."

Does hereby constitute and appoint MICHAEL H COLLINS

its true and lawful attorney(s)-in-fact, to execute, seal and deliver for and on its behalf as surety, any and all bonds and undertakings, recognizances, contracts of indemnity and other writings obligatory in the nature thereof, and the execution of such instrument(s) shall be as binding upon the AUTO-OWNERS INSURANCE COMPANY AT LANSING, MICHIGAN as fully and amply, to all intents and purposes, as if the same had been duly executed and acknowledged by its regularly elected officers at its principal office.

IN WITNESS WHEREOF, the AUTO-OWNERS INSURANCE COMPANY AT LANSING, MICHIGAN, has caused this to be signed by its authorized officer this 1st day of August, 2016.

Denise Williams

Denise Williams

Senior Vice President

STATE OF MICHIGAN }
COUNTY OF EATON } ss.

On this 1st day of August, 2016, before me personally came Denise Williams, to me known, who being duly sworn, did depose and say that they are Denise Williams, Senior Vice President of AUTO-OWNERS INSURANCE COMPANY, the corporation described in and which executed the above instrument, that they know the seal of said corporation, that the seal affixed to said instrument is such Corporate Seal, and that they received said instrument on behalf of the corporation by authority of their office pursuant to a Resolution of the Board of Directors of said corporation.



My commission expires March 10, 2022.

Susan E. Theisen
Susan E. Theisen

Notary Public

STATE OF MICHIGAN }
COUNTY OF EATON } ss.

I, the undersigned First Vice President, Secretary and General Counsel of AUTO-OWNERS INSURANCE COMPANY, do hereby certify that the authority to issue a power of attorney as outlined in the above board of directors resolution remains in full force and effect as written and has not been revoked and the resolution as set forth is now in force.

Signed and sealed at Lansing, Michigan. Dated this 18th day of July, 2019.



William F. Woodbury

William F. Woodbury, First Vice President, Secretary and General Counsel

Agency Name COLLINS INSURANCE AGENCY INC

Agency Code 17-0070-00

Name of Principal CRB CONSTRUCTION LLC

Effective Date 07/18/2019

Mailing Address 1945 HOOVER CT, HOOVER, AL 35226-606

Premium Charge \$ 1,001.00

Name of Oblige CITY OF VESTAVIA HILLS, ALABAMA

Amount of Bond \$100,100.00

Address of Oblige 1032 MONTGOMERY HWY, VESTAVIA HILLS, AL 35216-2806

Type of Bond License/Permit

COMPLETE AND ATTACH ALL PAPERS UNDER THIS REPORT THE SAME DAY THE BOND IS SIGNED

Auto-Owners INSURANCE

Inter-Office and Agency Communication

DATE: 07/17/19

TO: 17-0070-00 COLLINS INSURANCE AGENCY INC

FROM: Alexandra LaForge · Surety Bond Underwriting - Non-Contract

RE: Submission approval for CRB CONSTRUCTION LLC

Thank you for placing your profitable bond business with Auto-Owners. This application has been approved and the premium for this bond is \$ 1,001.00

Your agency has Power of Attorney, which allows you to execute the bond in your office. Please use the automated Power of Attorney system on the web to obtain the bond number. At www.aoins.com, click on the "**Start Proposal**" tab, select "**Power of Attorney**" as your Activity Type and click "**Continue.**" Click on "**Complete and Print a Power of Attorney Form.**"

Please provide us with copies of the following once you have executed the bond:

1. **Signed application** (*if the bond is over \$25,000 or a Motor Vehicle Dealer*)
2. **Completed Bond**
3. **Power of Attorney**
4. **This letter**

You may email these documents to: bonds.und@aoins.com or fax to: 517-327-4827.

If you have any questions, please contact me at: 1-800-346-0346 ext. 51119

Thank you,
Alexandra LaForge
Surety Bond Underwriting

Magnolia Cove, completion items

updated: 8/15/2025

Central Alabama	asphalt	\$	87,350.00
Tomahawk Construction, LLC	concrete	\$	34,419.00
City material costs		\$	6,445.00
		\$	128,214.00
	bond value	\$	100,100.00
	difference	\$	28,114.00 *

**anticipated City Maintenance budget will absorb the costs beyond the bond amount*



VESTAVIA HILLS

A LIFE ABOVE

ASHLEY C. CURRY

Mayor

LORI BETH KEARLEY, PE

Public Services Director

January 10, 2025

Auto-Owners Insurance
PO Box 30060
Lansing, MI 48909-8160

Attn: Eli Hoppes (copied via email)

Re Performance Bond Claim
Bond No. 66331380
Principal CRB Construction, LLC
Final Wearing at 2400 Magnolia Cove
City of Vestavia Hills, Alabama

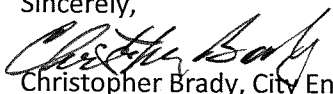
Please find attached and following documentation for the City of Vestavia Hills claim to cover costs associated with finishing and repair items to complete at the City's costs for public infrastructure. This work includes final wearing surface of the asphalt roadway, and concrete work to repair curb, a damaged and collapsed inlet box top, and sidewalk within the proposed public right-of-way. The City's cost estimate as of November, 2024 is approximately \$71,675.

In addition to the City's cost estimate to finish public infrastructure items, I am including the City/developer agreement and bond certificate, inspection reports, ongoing correspondence with developer, and annexation records for the development. Please let me know any additional documentation I can provide regarding this matter to assist with your review.

The City has found that in the best interest of public safety and residents of this development, we would like to move forward with this finishing work and repairs as soon as possible. If you can provide me an approximate timeline of processing this claim, this would greatly assist me with scheduling work.

Please email me at cbrady@vhal.org, or call 205-978-0150.

Sincerely,


Christopher Brady, City Engineer
City of Vestavia Hills

VESTAVIA HILLS CITY HALL

1032 Montgomery Highway | Vestavia Hills, AL 35216

P. O. Box 660854 | Vestavia Hills, AL 35266-0854

205.978.0150 | **VHAL.ORG**

LIMITED RELEASE AND ASSIGNMENT OF CLAIMS

For and in consideration of the sum of **One Hundred Thousand One Hundred and 00/100 Dollars (\$100,100.00)** (“penal sum payment”) paid by Auto-Owners Insurance Company, the receipt of which is hereby acknowledged, and in exchange for other good and valuable consideration, the City of Vestavia Hills, Alabama for itself and its successors, assigns, representatives, mayor, city council, managers, boards, commissions, attorneys, clerks, employees, guarantors, sureties and insurers, and its respective agents, and any person acting on its or their behalf (collectively “the City”), does hereby fully and forever release Auto-Owners Insurance Company, as well as its successors, assigns, representatives, officers, directors, shareholders, members, managers, employees, attorneys, guarantors, sureties and insurers, from any and all injuries, losses, damages, liabilities, defenses, claims, actions, causes of action, suits, debts, promises, demands, or agreements, of whatever nature or kind, known and unknown, whether based in law or in equity, tort or contract that the City has, or may acquire in the future, arising from the performance of work performed or material supplied by CRB Contracting, LLC in connection with the final wearing surface at and around 2400 Magnolia Cove Road located in Vestavia Hills, Alabama (“the Project”).

In further consideration of the aforesaid payment, the undersigned hereby assigns, transfers and sets over to Auto-Owners Insurance Company, to the extent of the penal sum payment made pursuant to this Limited Release and Assignment of Claims, all claim(s) or cause(s) of action against CRB Construction, LLC together with all of its rights, title and interest in and to said claim(s) or cause(s) of action; and the undersigned constitutes said assignee its true, lawful and irrevocable attorney to demand receipt for and enforce payment of the said claim(s), and at its own expense to sue for the said sum so assigned either in the name of the undersigned, or in its own

name. The City specifically reserves and does not assign any claims or causes of action it has or may have against CRB Construction, LLC that exceed the penal sum payment.

The parties to this Limited Release agree to take all further action and to execute any additional documents necessary to effectuate this Limited Release.

This Limited Release has been read and is fully understood, and it is expressly warranted by the undersigned that no promise or inducement has been offered except as set forth in this Limited Release; that payment of the above consideration and the acceptance of such penal sum payment is done in settlement and in full accord and satisfaction only to the extent of the value of the penal sum payment set forth herein; and the terms of the Limited Release are contractual and not mere recitals.

This Limited Release shall be effective only as to those claims by the City related to the Project described herein, and not any other claim related to any other project.

This Limited Release is to be governed and construed in accordance with the laws of the State of Alabama. All remedies at law or in equity shall be available for the enforcement of this Limited Release, and it may be pleaded as a full bar to the enforcement of any claim covered by it.

IN WITNESS WHEREOF, the City, through a duly appointed and authorized officer, has executed this Limited Release on the date set forth below:

THE CITY OF VESTAVIA HILLS

By: _____

Its: _____

Dated: _____

Sworn to and subscribed by me this the
____ day of _____, 2025.

Notary Public

PATRICK H. BOONE
ATTORNEY AND COUNSELOR AT LAW
NEW SOUTH FEDERAL SAVINGS BUILDING, SUITE 705
215 RICHARD ARRINGTON, JR. BOULEVARD NORTH
BIRMINGHAM, ALABAMA 35203-3720
TELEPHONE (205) 324-2018
FACSIMILE (205) 324-2295

E-Mail: patrickboone@bellsouth.net

August 25, 2025

By Electronic Mail

City Manager Jeffrey D. Downes
Vestavia Hills Municipal Center
P. O. Box 660854
Vestavia Hills, Alabama 35266-0854

In Re: Magnolia Cove Estates

Dear Mr. Downes:

On August 19, 2025, a meeting was held in your office. Present in person at the meeting were Public Services Director Lori Beth Kearley, City Engineer Christopher Brady, you and me. The purpose of the meeting was to discuss matters relative to the subdivision known as "Magnolia Cove Estates" and to develop a plan for the City to complete and repair some of the public improvements and infrastructure.

During the meeting, you requested that I provide you with my written legal opinion and recommendations for a step-by-step procedure for the City to follow in completing the public improvements and infrastructure. The purpose of this letter is to comply with your request.

I. FACTS

A. CRB CONSTRUCTION, LLC: Records of the Alabama Secretary of State reflect that CRB Construction, LLC was formed on October 6, 2016. The registered agent is Charles R. Beard.

B. MAGNOLIA COVE ESTATES: The property made subject of this legal opinion is Magnolia Cove Estates ("property"). The property was located in unincorporated Jefferson County until July 22, 2019 when it was annexed to the City of Vestavia Hills, Alabama ("City").

C. MAGNOLIA COVE ESTATES SUBDIVISION MAP: The final recorded Plat of Magnolia Cove Estates was filed in the office of the Judge of Probate of Jefferson County, Alabama on June 2, 2005 and recorded at 0216/0078. It originally consisted of thirteen (13) single-family residential lots. However, Lots 6 and 7 were combined into one (1) lot resulting in a 12-lot subdivision. The street on the plat was named Magnolia Cove by the developer.

D. DEVELOPMENT OF LOTS: Seven (7) of the lots were developed while the property was located in Jefferson County and the remaining lots were developed after the property was annexed to the City.

E. OWNER AND DEVELOPER: The owner and developer of the property was CRB Construction, LLC (“CRB”).

F. ANNEXATION: The property was annexed to the City of Vestavia Hills, Alabama by the following ordinances:

1. **Ordinance Number 2842:** Ordinance Number 2842 was enacted on April 22, 2019 utilizing Title 11-42-21, *Code of Alabama, 1975*.

2. **Ordinance Number 2857:** Ordinance Number 2857 was enacted on July 22, 2019 utilizing Act 32 of the 1964 Legislature.

G. ZONING: On July 22, 2019, the City Council enacted Ordinance Number 2858 that rezoned the property from R-2 single-family to R-9 single-family.

H. BOND: On July 28, 2019, Auto-Owners Insurance Company issued a Performance Bond in the principal amount of One Hundred Thousand One Hundred Dollars (\$100,100.00) to ensure that CRB would complete the public improvements and infrastructure in accordance with City rules, regulations and ordinances.

I. STATUS OF CRB: Although records with the Alabama Secretary of State do not show that CRB has been dissolved, it is my understanding that CRB is no longer doing business.

J. BOND CALLED: On January 10, 2025, the City called upon Auto-Owners Insurance Company to pay the full amount of the bond. It is my understanding that the bonding company is willing to pay to the City the sum of One Hundred Thousand One Hundred Dollars (\$100,100.00).

K. WORK TO BE COMPLETED/REPAIRED: According to City Engineer Christopher Brady, the necessary work to complete and repair the public improvements and infrastructure is as follows:

1. 40' row, plus cul de sac.
2. Approximate 570 LF, 22' width.
3. Curb repair needed at 2423 (Goode) will require some rebuild of driveway tie-in.
4. Collapsed inlet top near 2409.
5. Damaged inlet top at entrance.
6. Damaged curb throughout.
7. Damaged sidewalk various locations.

L. COST OF WORK TO COMPLETE/REPAIR: According to the City Engineer, the approximate cost to repair and complete the work is estimated to be at a cost of One Hundred Twenty-eight Thousand Two Hundred Fourteen Dollars (\$128,214.00).

Magnolia Cove, Completion Items
Updated: August 15, 2025

Central Alabama	Asphalt	\$	87,350.00
Tomahawk Construction, LLC	Concrete		34,419.00
City Material Costs			<u>6,445.00</u>
		\$	128,214.00
Bond Value			<u>100,100.00</u>
Difference		\$	28,114.00*

*Anticipated City Maintenance budget will absorb the costs beyond the bond amount.

The City will spend public funds in the approximate amount of Twenty-eight Thousand One Hundred Fourteen Dollars (\$28,114.00) after the expenditure of the bond proceeds in the amount of One Hundred Thousand One Hundred Dollars (\$100,100.00).

II. ALABAMA LAW

Some Alabama law applicable to this situation is set forth below.

A. DEDICATION:

1. **Definition:** A “dedication” is a donation or appropriation of property to the public use by the owner. *City of Fairfield v. Jemison*, 218 So.2d 273 (1969).

2. **Offer of Dedication:** In order for the city to become liable for the future maintenance of property, there must be a completed dedication. A completed dedication occurs when a property owner makes an offer of dedication to the city and the city accepts that offer of dedication. Acceptance of an offer of dedication is necessary to make the improvement become public. *Tuxedo Homes v. Green*, 258 Ala. 494, 63 So.2d 812 (1953).

3. **Statutory Dedication:** A statutory dedication is made by strictly following the steps set out in Title 35-2-51(b), *Code of Alabama, 1975*, which reads as follows:

“(b) The acknowledgment and recording of such plat or map shall be held to be a conveyance in fee simple of such portion of the premises platted as are marked or noted on such plat or map as donated or granted to the public, and the premises intended for any street, alleyway, common or other public use, as shown in such plat or map, shall be held in trust for the uses and purposes intended or set forth in such plat or map.”

4. **Approval of a Plat By the City of Vestavia Hills Shall Not Be Deemed to Constitute or Effect An Acceptance By the Public Of Any Street or Other Open Space Shown Upon the Plat:** In Alabama, the municipal Planning and Zoning Commission has exclusive jurisdiction over the approval or disapproval of a subdivision map by virtue of Title 11-52-32, et seq., *Code of Alabama, 1975*.

Title 11-52-32(b), *Code of Alabama, 1975*, provides as follows:

(b) Every plat approved by the commission shall, by virtue of such approval, be deemed to be an amendment of or an addition to or a detail of the municipal plan and a part thereof. **Approval of a plat shall not be deemed to constitute or effect an acceptance by the public of any street or other open space shown upon the plat.** (*emphasis added*)

5. **A Municipality Must Accept a Dedication for the Improvement:** In *Oliver v. Water Works and Sanitary Sewer Board*, 261 Ala. 234, 73 So.2d 552 (1954), the Supreme Court of Alabama stated that an acceptance of the dedication of an improvement is needed for them to become public, and the mere approval by the city of a plat for a subdivision as required by statute is not acceptance of the dedication of such improvement. A distinct act by the city, such as a formal resolution or other acts and conduct of the authorities recognizing the improvement as a dedicated public improvement is a requisite for constituting acceptance.

B. ANNEXATION:

1. **Effect of Annexation:** The annexation of unincorporated territory into a municipality, after July 7, 1995, shall result in the municipality assuming responsibility to control, manage, supervise, regulate, repair, maintain and improve all public streets or parts thereof lying within the territory annexed, if such public streets or parts thereof were controlled, managed, supervised, regulated, repaired, maintained and improved by the county for a period of one year prior to the effective date of the annexation.

2. **Municipal Control Over Streets and Roads:** Title 11-49-80(b), *Code of Alabama*, 1975, provides that the annexation of unincorporated territory into a municipality shall result in the municipality assuming responsibility to control, manage, supervise, regulate, repair maintain and improve all public streets or parts thereof lying within the territory annexed.

In 1997, the Court of Civil Appeals of Alabama held that a city has the responsibility for the maintenance and control of a road situated in an area that had been annexed to the municipality (*McCool v. Morgan County Commission*, 716 So.2d 1201).

3. **A Municipality Owns the Entire Dedicated Street:** The Supreme Court of Alabama decided the case of *City of Orange Beach v. Benjamin*, 821 So.2d 193, in 2001 and interpreted Title 35-2-51, *Code of Alabama*, 1975. The Court held that a municipality owns the entire public right-of-way of a public street or road and that the abutting property owner owns no interest therein. In layman's language, this simply means that the municipality owns not only the improved portion (paved) of the street or road, but also the unimproved portions on each side thereof.

C. MUNICIPALITIES IN ALABAMA MAY SPEND PUBLIC FUNDS FOR PUBLIC IMPROVEMENTS: Title 11-48-4, *Code of Alabama*, 1975, provides, in substance, that all cities or towns in the State of Alabama may spend public funds for the construction of public improvements such as streets, highways, sewer systems, water and gas mains, sidewalking and other public improvements.

D. PUBLIC WORKS: The Alabama Public Works Law regarding public works construction projects provides, among other things, that a public works project is the expenditure of public funds on real estate owned by a municipality or on a structure attached to that real estate. Title 39-2-1(6), *Code of Alabama*, 1975, defines "Public Works" as follows:

"(6) PUBLIC WORKS.--The construction, installation, repair, renovation, or maintenance of public buildings, structures, sewers, waterworks, roads, curbs, gutters, side walls, bridges, docks, underpasses, and viaducts as well as any other improvement to be constructed, installed, repaired, renovated, or maintained on public property and to be paid, in whole or in part, with public funds or with financing to be retired with public funds in the form of lease payments or otherwise."

E. REQUIREMENTS TO BID UNDER PUBLIC WORKS LAW:

1. Title 39-2-2(a), *Code of Alabama, 1975*, provides in pertinent part as follows:

"(a) Before entering into any contract for a public works involving an amount in excess of one hundred thousand dollars (\$100,000), the awarding authority shall advertise for sealed bids. If the awarding authority is the state (which includes a city board of education) or a county, or an instrumentality thereof, it shall advertise for sealed bids at least once each week for three consecutive weeks in a newspaper of general circulation in the county or counties in which the improvement or some part thereof, is to be made. With the exception of the Department of Transportation, for all public works contracts involving an estimated amount in excess of five hundred thousand dollars (\$500,000), awarding authorities shall also advertise for sealed bids at least once in three newspapers of general circulation throughout the state."

2. Title 39-2-2(b)(1), *Code of Alabama, 1975*, provides as follows:

"An awarding authority may let contracts for public works involving one hundred thousand dollars (\$100,000.00) or less with or without advertising or sealed bids."

III. CITY ORDINANCES

Some City ordinances applicable to this situation are set forth below.

A. COMPETITIVE BIDDING: On December 19, 2022, the City Council enacted Ordinance Number 3138 that accepted a competitive bid from Central Alabama Asphalt & Construction Company ("CAA&CC") for street resurfacing and improvements and authorized and directed that the City Manager and Mayor execute and deliver a contract with CAA&CC for a period of three (3) years on a unit basis beginning January 23, 2023.

B. OFFER OF DEDICATION BY DEVELOPER:

1. **City Subdivision Regulations:** The *City of Vestavia Hills Subdivision Regulations* in Appendix A-Submittal Requirements provides as follows:

(a) **Preliminary Plat Requirements:** The Preliminary Plat shall be drawn at a horizontal scale of 100 feet or less to the inch and at a vertical scale of twenty (20) feet or less to the inch and shall include the following:

“7. The location, widths, and names of all existing or platted streets or other public ways.”

“9. All parcels of land intended to be dedicated for public use, together with the purpose of the conditions or limitations of such dedications, if any.”

“10. The layout, names and widths of proposed streets, alleys and easements.”

(b) **Final Plat Requirements:** The Final Plat shall be drawn to the scale of one (1) inch equal to 100 feet or less, and shall show:

“4. The exact layout including:
• Streets and alleys, with their names and numbers.”

“6. The accurate outline of all property which is offered for dedication for public use with the purpose indicated thereon.”

2. **State Statute:** A statutory dedication is made by strictly following the steps set out in Title 35-2-51(b), *Code of Alabama, 1975*, which reads as follows:

“(b) The acknowledgment and recording of such plat or map shall be held to be a conveyance in fee simple of such portion of the premises platted as are marked or noted on such plat or map as donated or granted to the public, and the premises intended for any street, alleyway, common or other public use, as shown in such plat or map, shall be held in trust for the uses and purposes intended or set forth in such plat or map.”

C. THE CITY COUNCIL IS REQUIRED TO APPROVE AND ADOPT AN ORDINANCE OR RESOLUTION IN ORDER FOR THE CITY TO ACCEPT AN OFFER OF DEDICATION OF LAND TO BE USED AS A PUBLIC STREET OR ROAD:

1. **Ordinance Number 751:** On April 15, 1985, the City Council approved and adopted Ordinance Number 751 that provides in Section 6:

“In order to dedicate a street or other public places shown on a plat of a subdivision, it is necessary that the dedication be accepted by the City Council at the next Council meeting. Acceptance of a dedication can only be accomplished by the approval of a formal written resolution adopted at a regular scheduled meeting or a special meeting called for that specific purpose.”

2. **Subdivision Regulations as Amended on July 9, 2015:** The *City of Vestavia Hills Subdivision Regulations*, as amended on July 9, 2015, provides in the Appendix B-7 Improvement and Maintenance Agreement in Section 5 as follows:

“5. Subdivider shall offer dedication of all streets and roadways and all other applicable improvements shown on the preliminary plat and final plat as approved by the Vestavia Hills Planning and Zoning Commission. Approval of the plat, however, shall not be deemed to constitute an acceptance by the public of any improvements shown upon the plat. In order to dedicate improvements shown on a plat of a subdivision, it is necessary that the dedication be accepted by the City Council. Acceptance of a dedication can only be accomplished by the approval of a formal written resolution adopted at a regular scheduled meeting or a special meeting called for that specific purpose following an offer of dedication by the Subdivider and an inspection and recommendation of the City Engineer.”

IV. LEGAL ISSUE

May the City of Vestavia Hills complete the repair and construction of the street shown on the Subdivision Plat as Magnolia Cove?

V. LEGAL OPINION

It is my legal opinion that the question is in the affirmative.

VI. BASIS FOR LEGAL OPINION

I base my legal opinion upon the following reasons supported by the legal authorities cited herein:

- A. Municipalities may accept the dedication of a street (section II-A-5)
- B. Municipalities may construct streets (section II-C).
- C. Central Alabama Asphalt & Construction Company may complete the paving and construction work pursuant to the competitive bid accepted by the City Council on December 19, 2022 by the enactment of Ordinance Number 3138 and the contract signed on January 23, 2023.
- D. The cost of the remaining work necessary to complete the project is less than One Hundred Thousand Dollars (\$100,000.00). Therefore, it does not have to be advertised for competitive bids.

VII. MY RECOMMENDATIONS

I recommend that the City complete the repair and construction of Magnolia Cove pursuant to the following procedural steps.

- A. I recommend that the City Council approve and adopt a resolution accepting the dedication of Magnolia Cove.
- B. I recommend that the City authorize Central Alabama Asphalt & Construction Company to perform the construction and paving work pursuant to the contract in accordance with the unit price.
- C. I recommend that the City contract with Tomahawk Construction, LLC at a price of less than \$100,000.00.

Please call me if you have any questions regarding any of the matter set forth in this legal opinion.

Sincerely,



Patrick H. Boone

Vestavia Hills City Attorney

PHB:gp

cc: Public Services Director Lori Beth Kearley (by e-mail)
City Engineer Christopher Brady (by e-mail)
City Clerk Rebecca Leavings (by e-mail)
Administrative Assistant Melissa Hipp (by e-mail)



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

September 8, 2025

To: Jeff Downes, City Manager

From: Rebecca Leavings, City Clerk

Cc: Ryan Farrell, Asst. Fire Chief
Christopher Brady, City Engineer
Lori Beth Kearley, Public Services Director

RE: Public Hearing - Ordinance Number 3286 - Annexation - 90-Day
Final - 2610 Stony Branch Road; William Green, owner

Background:

The properties located at 2610 and 2620 Stony Branch Road were annexed via the Overnight method with the condition that a turnaround be created on the properties to allow for a fire apparatus to turn around. The owners reported that the improvements were made and the Fire Marshal and City Engineer reported approving the improvements. The rezoning and 90-day annexation periods are expiring, and the properties are being presented for 90-day finals and compatible rezonings.

Recommendation:

Improvements were inspected and approved by the City Engineer and the Fire Marshal

Fiscal Impact:

na

Attachments:

1. Ordinance 3286

ORDINANCE NUMBER 3286

**ANNEXING CERTAIN TERRITORY TO THE
CORPORATE LIMITS OF THE CITY OF VESTAVIA
HILLS, ALABAMA.**

WHEREAS, on the 23rd day of June, 2025, a petition was presented to the City Council of the City of Vestavia Hills, Alabama, proposing the annexation of certain property to the City of Vestavia Hills, Alabama, under the provisions of Act 32 of the Special Session on the Alabama Legislature of 1964; and

WHEREAS, the City Council of the City of Vestavia Hills, at the time and place of its regular meeting on said date, made a determination that the matters contained in the Petition were true and that it was in the public interest that said property be annexed to the City of Vestavia Hills, Alabama.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Vestavia Hills, Alabama, as follows:

1. That the following property which was described in said petition be annexed to the City of Vestavia Hills, Alabama:

2610 Stony Branch Road
Lot 1, Stony Branch Subdivision
William Gregory Green, owner(s)

2. That this Annexation shall become effective upon the adoption and approval of this Ordinance in accordance with the provisions of law, after which the heretofore described property shall become a part of the City of Vestavia Hills, Alabama.

3. That the City Clerk be and is hereby directed to publish this Ordinance in accordance with the requirements of the law and to file a copy hereof with the Probate Judge of Jefferson County, Alabama.

ADOPTING and APPROVED this the 22nd day of September, 2025.

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 3286 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 22nd day of September, 2025, as same appears in the official records of said City.

Posted at Vestavia Hills Municipal Center, Vestavia Hills Library in the Forest, Vestavia Hills New Merkel House and Vestavia Hills Recreational Center this the _____ day of _____, 2025.

Rebecca Leavings
City Clerk





ENGINEERING DESIGN GROUP
PELHAM, AL
210 BISHOP CIRCLE SUITE 300
PELHAM, AL 35124
(205) 403-9158

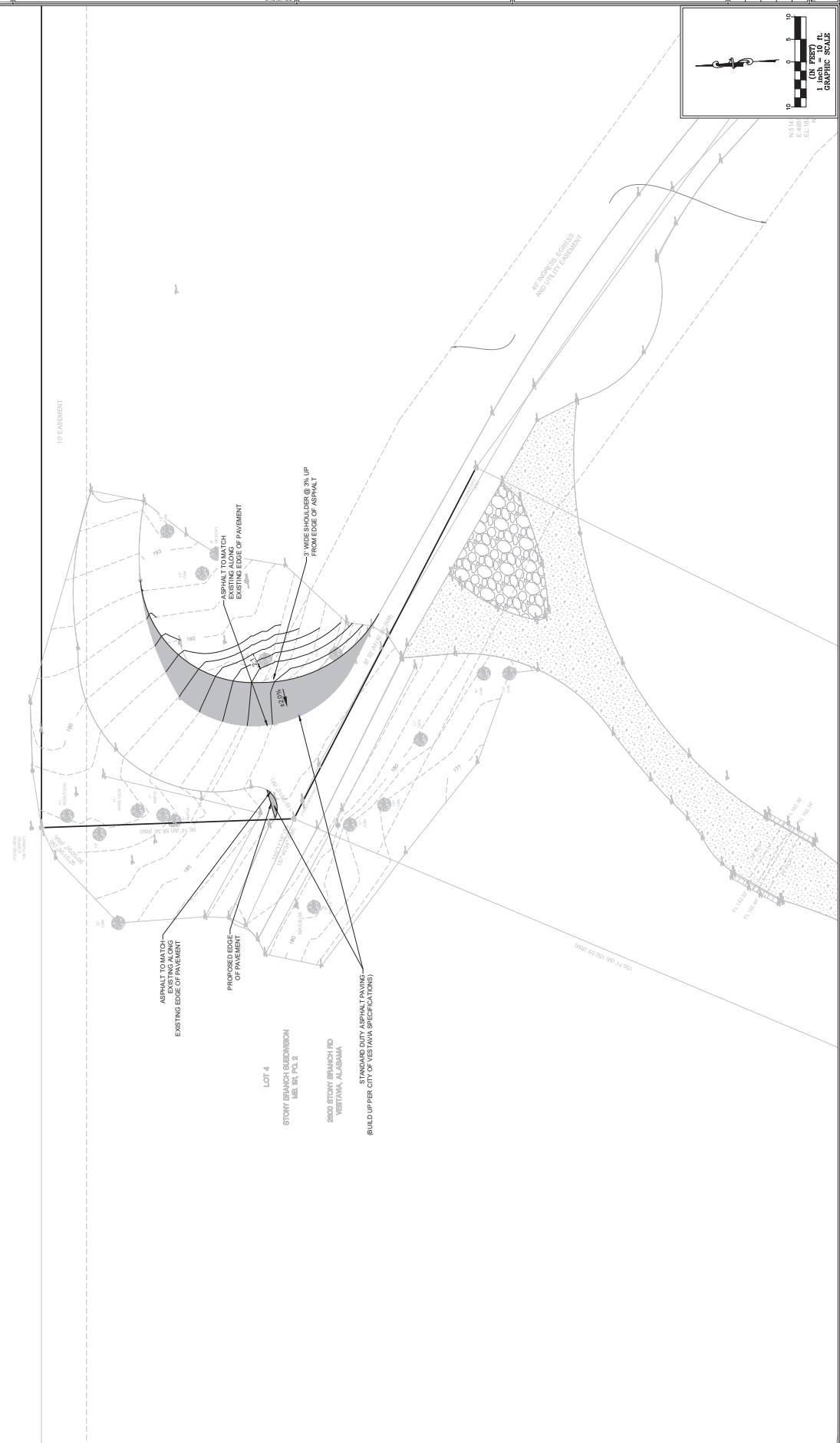
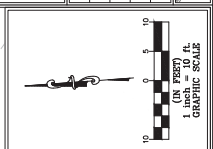
FOLEY, AL
1000 E LAUREL AVENUE
FOLEY, AL 36535
(251) 947-8860

STONY BRANCH RD
VESTAVIA HILLS, ALABAMA
GRADING EXHIBIT

STONY BRANCH
SUBDIVISION

DRAWN BY:	JCS
CHECKED BY:	WHL
PROJECT NO:	PAUL-0001
SCALE	AUTOTURN: dwg
DATE	NOVEMBER 28 2004

EXB1.2



Annexation Committee Petition Review

Property: 2610 Stony Branch Rd

Owners: William Green

Date: 5/29/2025

1. The property in question is contiguous to the city limits.
Yes ☒ No ☐ Comments: _____
2. The land use of the petitioned property is compatible with land use in the area.
Yes ☒ No ☐ Comments: _____
3. The property being petitioned is noted in the September 2006 Annexation Policy Task Force Report as an area of interest to the city for annexation.
Yes ☒ No ☐ Comments: _____
4. Streets and drainage structures are in substantial compliance with city regulations and building codes, and in good condition at the time of the annexation.
Yes ☐ No ☒ Comments: Private Drive
Rec. Imp. as approved by City Engineer
5. Individual household has a Jefferson or Shelby County Tax Assessor minimum market value of \$991,400. Meets city criteria: Yes ☒ No ☐
Comment: _____
6. This street has fewer than 100% of the individual properties within the limits of the city
Yes ☒ No ☐
Number of total homes 4 Number in city 2
7. Fire dues pursuant to Act #604 of the State of Alabama, and any other assessments on the property shall be the responsibility of the property owner, and their payment proven to the city.
Agreed to by petitioner: Yes ☒ No ☐ Comment: _____

Property: 2610 Stony Branch Rd

8. A non-refundable administrative fee of \$100 has been paid to the city.
Furthermore, voluntary contributions, including an application fee, of
\$ N/A will be paid to offset costs associated with the annexation.
Yes ✓ No _____ Comment _____

9. Property is free and clear of hazardous waste, debris and materials.
Yes ✓ No _____ Comment _____

10. Are there any concerns from city departments?
Yes _____ No ✓ Comments: _____

Imp to be completed prior to 90
day annex

11. Information on children: Number in family N/A; Plan to enroll in VH
schools Yes _____ No _____ Comments: _____

12. Board of Education comments/concerns: N/A

Other Comments: _____

George Pierce
George Pierce
Chairman

**City of Vestavia Hills
Tax Calculator
Homestead Properties**

AD VALOREM TAX MILLAGE

Millage Multiplier	
0.02055	Ad valorem to City General Fund: 20.55 mills
0.02875	City BOE portion: 28.75 mills
0.0151	District 20 School: 15.1 mills
0.0082	Countywide School: 8.2 mills
0.05205	Ad valorem to Schools (TOTAL): 52.05 mills

ASSESSED VALUE

			Citizen Access Portal Descriptor	Notes
====>	2610 Stony Branch Dr	Property Address		
====>	\$ 991,400	Appraised Value of Property	TOTAL MARKET VALUE	
	10%	Assessment Homestead Rate		
	\$99,140.00	Assessed Value	ASSD. VALUE	

AD VALOREM REVENUE

			Citizen Access Portal Descriptor	Notes
\$2,037.33	City portion of ad valorem		(Subset of CITY)	(20.55 mills rate)
\$2,850.28	BOE portion of ad valorem		(Subset of CITY)	(28.75 mills rate)
\$4,887.60	Total County remits to City for split with BOE		CITY	
\$1,497.01	SPC DIST1 BOE local rev (County gives directly to BOE)		SPC SCHOOL1	(15.1 mills rate)
\$812.95	Countywide School Tax to VH		SCHOOL	(8.2 mills rate)

TOTAL AD VALOREM REVENUE

\$2,037.33	Annexation Revenue to CITY	CITY (General Fund portion)	(20.55 mills)
\$5,160.24	Annexation Revenue to BOE	SCHOOL + SPC SCHOOL1 + CITY (BOE portion)	(8.2 mills + 15.1 mills + 28.75 mills)
\$7,197.56	TOTAL ANNEXATION REVENUE BENEFIT		

<u>Legend</u>
City Revenue
BOE Revenue

PARCEL #: 28 00 28 2 001 041.001
OWNER: WINGETT REBECCA D (50% INT) & GREEN WILLIAM GREGOR..
ADDRESS: 2610 STONY BRANCH RD BIRMINGHAM AL 35243
LOCATION: 2610 STONY BRANCH RD AL 35243

[111-A0] Baths: 4.5 H/C Sqft: 3,723
18-012.0 Bed Rooms: 4 Land Sch: A114
Land: 294,400 Imp: 697,000 Total: 991,400
Acres: 0.000 Sales Info: 05/15/2023 \$61,200

<< Prev Next >> [1 / 0 Records] Processing...

Tax Year : 2024 ▼

SUMMARY LAND BUILDINGS SALES PHOTOGRAPHS MAPS

SUMMARY

ASSESSMENT

PROPERTY CLASS: 3 OVER 65 CODE: X
EXEMPT CODE: 6-6 DISABILITY CODE: X
MUN CODE: 01 COUNTY HS YEAR: 0
SCHOOL DIST: EXM OVERRIDE AMT: \$0.00
OVR ASD VALUE: \$0.00 TOTAL MILLAGE: 50.1

CLASS USE:
FOREST ACRES: 0 TAX SALE:
PREV YEAR VALUE: \$1,007,800.00 BOE VALUE: 0

VALUE

LAND VALUE 10% \$294,400
LAND VALUE 20% \$0
CURRENT USE VALUE [DEACTIVATED] \$0

CLASS 2

CLASS 3

BLDG 001 111 \$697,000

TOTAL MARKET VALUE [APPR. VALUE: \$991,400]: \$991,400

Assesment Override:

MARKET VALUE:

CU VALUE:

PENALTY:

ASSESSED VALUE:

TAX INFO

	CLASS	MUNCODE	ASSD. VALUE	TAX	EXEMPTION	TAX EXEMPTION	TOTAL TAX
STATE	3	1	\$99,140	\$644.41	\$99,140	\$644.41	\$0.00
COUNTY	3	1	\$99,140	\$1,338.39	\$99,140	\$1,338.39	\$0.00
SCHOOL	3	1	\$99,140	\$812.95	\$99,140	\$812.95	\$0.00
DIST SCHOOL	3	1	\$99,140	\$0.00	\$99,140	\$0.00	\$0.00
CITY	3	1	\$99,140	\$0.00	\$99,140	\$0.00	\$0.00
FOREST	3	1	\$0	\$0.00	\$0	\$0.00	\$0.00
SPC SCHOOL1	3	1	\$99,140	\$505.61	\$99,140	\$505.61	\$0.00
SPC SCHOOL2	3	1	\$99,140	\$1,665.55	\$99,140	\$1,665.55	\$0.00

ASSD. VALUE: \$99,140.00

\$4,966.91

GRAND TOTAL: \$0.00

FULLY PAID

DEEDS

INSTRUMENT NUMBER	DATE
2023052775	5/15/2023
2016109726	10/12/2016
200717-20522	12/06/2007
9802-4407	02/09/1998

PAYMENT INFO

PAY DATE	TAX YEAR	PAID BY	AMOUNT
	2024		\$0.00
	2023		\$0.00
	2022		\$0.00
	2021		\$0.00
11/4/2020	2020	GREEN WILLIAM GREGORY	\$3,738.56
2/3/2020	2019	WINGETT REBECCA	\$3,781.69
10/25/2018	2018	WINGETT REBECCA D	\$3,545.17
10/27/2017	2017	GREEN WILLIAM	\$3,545.17
10/21/2016	2016	WILLIAM GREEN	\$3,545.17
11/24/2015	2015	GREEN WILLIAM G	\$3,545.17
10/14/2014	2014	-	\$3,505.09
11/27/2013	2013	-	\$3,505.09
11/5/2012	2012	MED-SURVEY LLC	\$3,505.09
20111014	2011	***	\$3,544.68
20101018	2010	***	\$3,544.68
20091113	2009	***	\$3,544.68
20081210	2008	***	\$3,604.29
20071121	2007	***	\$4,002.96
20070212	2006	***	\$3,012.34
20051130	2005	***	\$1,489.94
20041207	2004	***	\$1,489.94

Fire Department Comments

- Fire Hydrant at the gate is adequate
- Road narrows to 10 feet or less past the gate (14 feet required)
- Adequate turn around lacking
- 2610
 - Driveway is greater than 150 feet from the roadway. The drive surface would need to be assessed by an engineer to ensure they would support the weight of suppression apparatus. Access off of the private road is tight and should be evaluated through a turn study. A Turn study is also necessary to ensure adequate turn around.
- 2620
 - Driveway is greater than 150 feet from the roadway. The culvert and drive surface would need to be assessed by an engineer to ensure they would support the weight of suppression apparatus. Turn study would also necessary to ensure adequate turn around.
- 2630
 - No specific access comments



Aug 6, 2024

ANX-24-7

Board of Education Review

Annexation Application

Status: Complete

Became Active: Jul 19, 2024

Assignee: Scott Brown

Completed: Jul 23, 2024

Applicant

William Green
greggreen1@me.com
2610 STONY BRANCH RD
BIRMINGHAM, AL 35243-2034
205-907-1689

Primary Location

2610 STONY BRANCH RD
VESTAVIA HILLS, AL 35243

Owner:

William Gregory Green
2610 STONY BRANCH RD Stony Branch Rd Vestavia Hills, AL
35243-2034

Comments

Scott Brown, Jul 23, 2024

No objection

ANX-24-7

Engineering/Public Works Review

Annexation Application

Status: Complete

Became Active: Jul 19, 2024

Assignee: Christopher Brady

Completed: Aug 2, 2024

Applicant

William Green
greggreen1@me.com
2610 STONY BRANCH RD
BIRMINGHAM, AL 35243-2034
205-907-1689

Primary Location

2610 STONY BRANCH RD
VESTAVIA HILLS, AL 35243

Owner:

William Gregory Green
2610 STONY BRANCH RD Stony Branch Rd Vestavia Hills, AL
35243-2034

Comments

Christopher Brady, Aug 2, 2024

See Engineering Review and Recommendations attached. This includes the following:

- Publicly accessible vehicular turnaround at end of Stony Branch outside of private gate.
- Confirm availability of private garbage pickup.
- Review of drainage culverts for structural stability.



ANX-24-7

Annexation Application

Status: Active

Submitted On: 6/4/2024

Primary Location

2610 STONY BRANCH RD
VESTAVIA HILLS, AL 35243

Owner

William Gregory Green
Stony Branch Rd 2610 STONY
BRANCH RD Vestavia Hills, AL
35243-2034

Applicant

 William Green
 205-907-1689
 greggreen1@me.com
 2610 STONY BRANCH RD
BIRMINGHAM, AL 35243-2034

Owner Information

Owner's Name* 

William Gregory Green and Rebecca Dyar Wingett

Owner Mailing Address Inc. City, State, Zip*

2610 Stony Branch Rd, Birmingham, AL 35243

Property Information

Address of Property to be annexed?*

2610 Stony Branch Rd, Birmingham, AL
35243 35243

Legal Description of Property to be Annexed* ?

Parcel ID: 28 00 28 2 001 041.001

STONY BRANCH SUB 28-28-2

Book: 191, Page 2

Township: 18S

Section: 28

Block: 001 (not found, but extracted from Parcel #)

Lot: 1

Lot 1, according to the Map and Survey of Stony Branch Subdivision, as recorded in Map Book 191, Page 2, in the Office of the Judge of Probate of Jefferson County, Alabama. Subject to and together with a non-exclusive 40 foot easement for ingress and egress and public utilities as shown by record plat.

County Location of Property:

Jefferson County

Tax Parcel ID Number (if known)

28 00 28 2 001 041.001

County Zoning Classification

Zoning: E-1 - ESTATE

Is this annexation for redevelopment?*

No

Compatible City Zoning Classification

VH E-2 Estate

Desired Zoning Classification

VH E-2 Estate

Is this a single-family residence with no additional development?*

Yes

Annexation Request Information

Please Explain your reason for requesting annexation?*

Property value, conform to neighbors on Stony Branch Rd., adjacent Blue Jay Rd. and Magnolia Ridge, desire school zoning in Vestavia Hills Elementary Dolly Ridge where daughter teaches (Amy Stuckey). Property co-owner Rebecca Wingett retired from 25 years at Vestavia Hills High School (name was Rebecca Patterson). City services. Both property owners are elderly and property is ideal for families with school age children (5 BR, 4.5 Baths).

Are you located in the Rocky Ridge Fire District?*

Yes

Information on Children

Name of Child

Age of Child

Adult children, both attended Vestavia schools.

School Grade of Child

Plan to Enroll in Vestavia Hills School within 2 years?

—

Name of Child

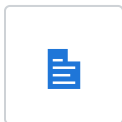
Age of Child

School Grade of Child

Plan to Enroll in Vestavia Hills Schools within 2 years?

Addition children information ?

Attachments



Owner's Notarized Affidavit

REQUIRED

Resolution page 8 3 signatures 20240528.pdf

Uploaded by William Green on Jun 4, 2024 at 10:35 AM



"As Built" survey of property (if available)

2610 Green.Wingett_2630 Kuckens_2620 Paul.png

Uploaded by William Green on Jun 4, 2024 at 12:24 PM

IN WITNESS WHEREOF, the undersigned have hereunto set their hands and seals, or caused these presents to be executed by their duly authorized representatives, with full authority.

SIGNATURE(S)DESCRIPTION OF PROPERTY

<u>William A. Paul / Karen Paul</u>	Lot <u>3</u>	Block _____	Survey <u>Stony Branch Subdivision</u>
			<u>MAP BOOK 191, page 2</u>
<u>William A. Green / Rebecca Wingett</u>	Lot <u>1</u>	Block _____	Survey <u>Stony Branch Subdivision</u>
			<u>Map Book 191, page 2</u>
<u>Edward Kuchan / Brian Kuchan</u>	Lot <u>2</u>	Block _____	Survey <u>Stony Branch Subdivision</u>
			<u>Map Book 191, page 2</u>

(Use reverse side hereof for additional signatures and property descriptions, if needed).

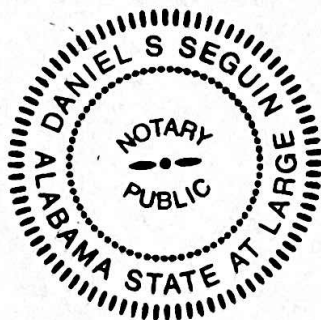
STATE OF ALABAMA

Jefferson COUNTY

William G. Green being duly sworn says: I am one of the persons who signed the above petition, and I certify that said petition contains the signatures of all the owners of the described property.

William A. Green
Signature of Certifier

Subscribed and sworn before me this the 28 day of May, 2024.



[Signature]
Notary Public

My commission expires: 4/20/2026

PARCEL #: 28 00 28 2 001 041.001	[111-A0]	Baths: 4.5	H/C Sqft: 3,723
OWNER: WINGETT REBECCA D (50% INT) & GREEN WILLIAM GREGOR..	18-012.0	Bed Rooms: 4	Land Sch: A114
ADDRESS: 2610 STONY BRANCH RD BIRMINGHAM AL 35243	Land: 294,400	Imp: 713,400	Total: 1,007,800
LOCATION: 2610 STONY BRANCH RD AL 35243	Acres: 0.000	Sales Info: 05/15/2023	\$61,200

<< Prev

 Next >>

 [1 / 0 Records]

 Processing...

Tax Year : 2024

 ▼

SUMMARY

 LAND

 BUILDINGS

 SALES

 PHOTOGRAPHS

 MAPS

LAND COMPUTATION						
		Code	Acerage	Square Foot	Market Value	CU. Value
A114	3	111 HOUSEHOLD UNITS	1.84	80150.4	\$294,400.00	

ROLLBACK/HOMESITE/MISCELLANEOUS

LEGAL DESCRIPTION	
SUB DIVISON1: STONY BRANCH SUB 28-28-2	MAP BOOK: 191 PAGE: 2
SUB DIVISON2:	MAP BOOK: 0 PAGE: 0
PRIMARY BLOCK:	SECONDARY BLOCK: 0
PRIMARY LOT: 1	SECONDARY LOT: 0
METES AND BOUNDS: LOT 1 STONY BRANCH SUBDIVISION PB 191 PG 2	

SALES INFORMATION			
5/15/2023	\$61,200.00	2 BOOK:2023 PAGE:052775	Land & Building WINGETT REBECCA D (50% INT) & GREEN WILLIAM GREGORY (50%)
10/12/2016	\$0.00	2 BOOK:2016 PAGE:109726	Land & Building WINGETT REBECCA D (57.42% INT) & GREEN WILLIAM GREGORY (42.58%)
2/1/1998	\$149,000.00	1 BOOK:9802 PAGE:004407	Land

ORDINANCE NUMBER 3287

**ANNEXING CERTAIN TERRITORY TO THE
CORPORATE LIMITS OF THE CITY OF VESTAVIA
HILLS, ALABAMA.**

WHEREAS, on the 23rd day of June, 2025, a petition was presented to the City Council of the City of Vestavia Hills, Alabama, proposing the annexation of certain property to the City of Vestavia Hills, Alabama, under the provisions of Act 32 of the Special Session on the Alabama Legislature of 1964; and

WHEREAS, the City Council of the City of Vestavia Hills, at the time and place of its regular meeting on said date, made a determination that the matters contained in the Petition were true and that it was in the public interest that said property be annexed to the City of Vestavia Hills, Alabama.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Vestavia Hills, Alabama, as follows:

1. That the following property which was described in said petition be annexed to the City of Vestavia Hills, Alabama:

2620 Stony Branch Road
Lot 3, Stony Branch Subdivision
William and Karen Paul, owner(s)

2. That this Annexation shall become effective upon the adoption and approval of this Ordinance in accordance with the provisions of law, after which the heretofore described property shall become a part of the City of Vestavia Hills, Alabama.

3. That the City Clerk be and is hereby directed to publish this Ordinance in accordance with the requirements of the law and to file a copy hereof with the Probate Judge of Jefferson County, Alabama.

ADOPTING and APPROVED this the 22nd day of September, 2025.

Ashley C. Curry
Mayor

ATTESTED BY:

Rebecca Leavings
City Clerk

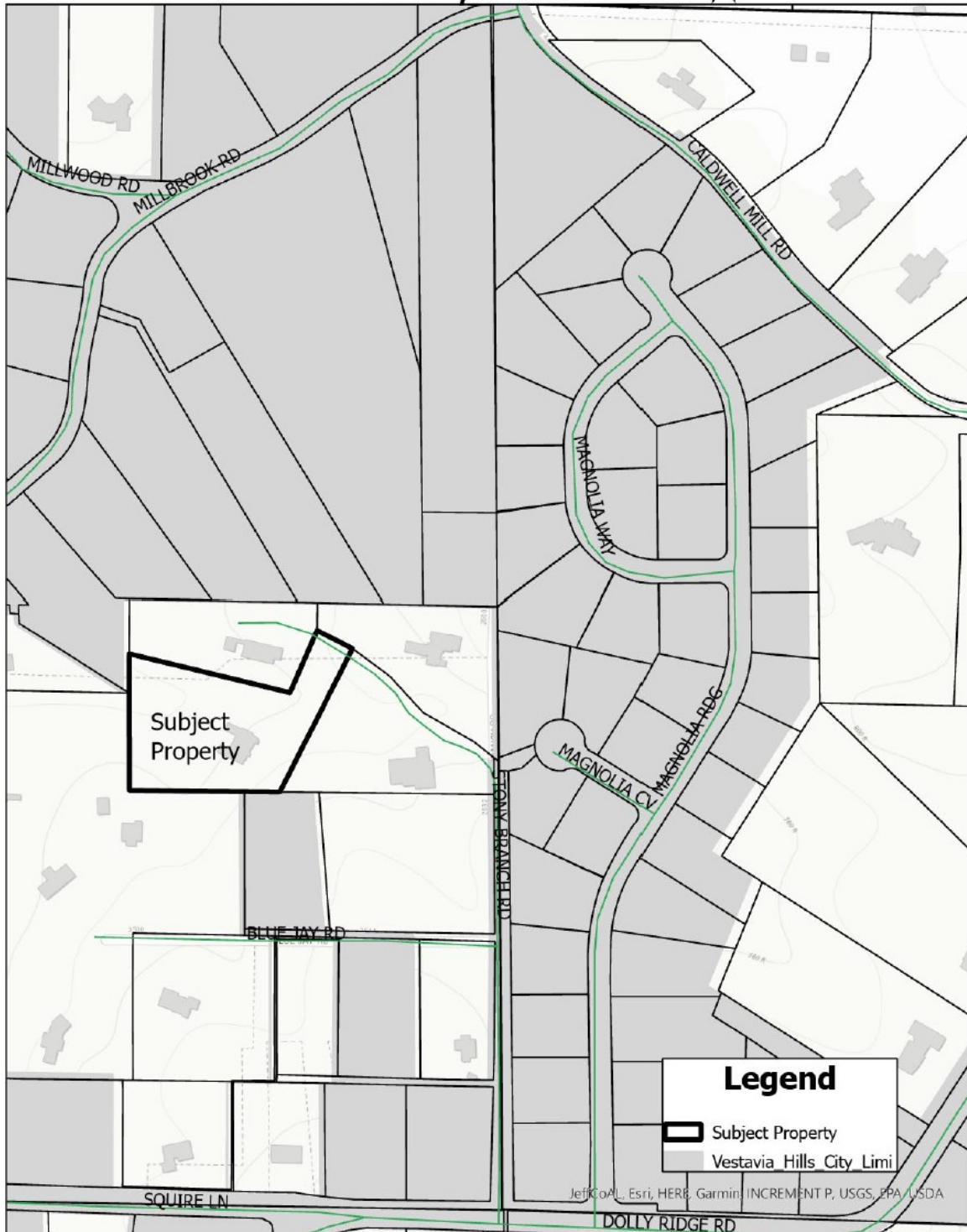
CERTIFICATION:

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 3287 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 22nd day of September, 2025, as same appears in the official records of said City.

Posted at Vestavia Hills Municipal Center, Vestavia Hills Library in the Forest, Vestavia Hills New Merkel House and Vestavia Hills Recreational Center this the _____ day of _____, 2025.

Rebecca Leavings
City Clerk

2620 Stony Branch Rd



Annexation Committee Petition Review

Property: 2620 Stony Branch Rd

Owners: Wlm & Karen Paul

Date: 5/29/2025

1. The property in question is contiguous to the city limits.
Yes ☒ No ☐ Comments: _____
2. The land use of the petitioned property is compatible with land use in the area.
Yes ☒ No ☐ Comments: _____
3. The property being petitioned is noted in the September 2006 Annexation Policy Task Force Report as an area of interest to the city for annexation.
Yes ☒ No ☐ Comments: _____
4. Streets and drainage structures are in substantial compliance with city regulations and building codes, and in good condition at the time of the annexation.
Yes ☐ No ☒ Comments: Private Drive
Imp rec. & approved by City Eng.
5. Individual household has a Jefferson or Shelby County Tax Assessor minimum market value of \$801,000. Meets city criteria: Yes ☒ No ☐
Comment: _____
6. This street has fewer than 100% of the individual properties within the limits of the city
Yes ☒ No ☐
Number of total homes 4 Number in city 2
7. Fire dues pursuant to Act #604 of the State of Alabama, and any other assessments on the property shall be the responsibility of the property owner, and their payment proven to the city.
Agreed to by petitioner: Yes ☒ No ☐ Comment: _____

Property: 2620 Story Branch Rd

8. A non-refundable administrative fee of \$100 has been paid to the city.
Furthermore, voluntary contributions, including an application fee, of
\$ 210 will be paid to offset costs associated with the annexation.
Yes ☒ No ☐ Comment _____

9. Property is free and clear of hazardous waste, debris and materials.
Yes ☒ No ☐ Comment _____

10. Are there any concerns from city departments?
Yes ☒ No ☐ Comments: Imp of drive to
be completed by 90-day annex

11. Information on children: Number in family NA; Plan to enroll in VH
schools Yes ☐ No ☐ Comments: _____

12. Board of Education comments/concerns: _____
NA

Other Comments: _____

George Pierce
George Pierce
Chairman

**City of Vestavia Hills
Tax Calculator
Homestead Properties**

AD VALOREM TAX MILLAGE

Millage Multiplier			
	0.02055	Ad valorem to City General Fund:	20.55 mills
	0.02875	City BOE portion:	28.75 mills
	0.0151	District 20 School:	15.1 mills
	0.0082	Countywide School:	8.2 mills
	0.05205	Ad valorem to Schools (TOTAL):	52.05 mills

ASSESSED VALUE

			Citizen Access Portal Descriptor	Notes
====>	2620 Stony Branch Dr	Property Address		
====>	\$ 801,000	Appraised Value of Property	TOTAL MARKET VALUE	
	10%	Assessment Homestead Rate		
	\$80,100.00	Assessed Value	ASSD. VALUE	

AD VALOREM REVENUE

			Citizen Access Portal Descriptor	Notes
	\$1,646.06	City portion of ad valorem	(Subset of CITY)	(20.55 mills rate)
	\$2,302.88	BOE portion of ad valorem	(Subset of CITY)	(28.75 mills rate)
	\$3,948.93	Total County remits to City for split with BOE	CITY	
	\$1,209.51	SPC DIST1 BOE local rev (County gives directly to BOE)	SPC SCHOOL1	(15.1 mills rate)
	\$656.82	Countywide School Tax to VH	SCHOOL	(8.2 mills rate)

TOTAL AD VALOREM REVENUE

	\$1,646.06	Annexation Revenue to CITY	CITY (General Fund portion)	(20.55 mills)
	\$4,169.21	Annexation Revenue to BOE	SCHOOL + SPC SCHOOL1 + CITY (BOE portion)	(8.2 mills + 15.1 mills + 28.75 mills)
	\$5,815.26	TOTAL ANNEXATION REVENUE BENEFIT		

<u>Legend</u>
City Revenue
BOE Revenue

PARCEL #: 28 00 28 2 001 041.003
OWNER: PAUL WILLIAM A & KAREN B
ADDRESS: 2620 STONY BRANCH RD BIRMINGHAM AL 35243-2034
LOCATION: 2620 STONY BRANCH RD AL 35243

[111-B+] Baths: 2.5 H/C Sqft: 4,036
18-012.0 Bed Rooms: 3 Land Sch: A114
Land: 213,600 Imp: 587,400 Total: 801,000
Acres: 0.000 Sales Info: 01/11/2022 \$622,750

<< Prev Next >> [1 / 0 Records] Processing...

Tax Year : 2024 ▼

SUMMARY LAND BUILDINGS SALES PHOTOGRAPHS MAPS

SUMMARY

ASSESSMENT

PROPERTY CLASS: 3 OVER 65 CODE: X
EXEMPT CODE: 3-2 DISABILITY CODE:
MUN CODE: 01 COUNTY HS YEAR: 0
SCHOOL DIST: EXM OVERRIDE AMT: \$0.00
OVR ASD VALUE: \$0.00 TOTAL MILLAGE: 50.1

CLASS USE:
FOREST ACRES: 0 TAX SALE:
PREV YEAR VALUE: \$816,000.00 BOE VALUE: 0

VALUE

LAND VALUE 10% \$213,550
LAND VALUE 20% \$0
CURRENT USE VALUE [DEACTIVATED] \$0

CLASS 2

CLASS 3
POOL GUNITE 60 29G0600 \$48,800
BLDG 001 111 \$538,600

TOTAL MARKET VALUE [APPR. VALUE: \$801,000]: \$800,950

Assesment Override:

MARKET VALUE:
CU VALUE:
PENALTY:
ASSESSED VALUE:

TAX INFO

	CLASS	MUNCODE	ASSD. VALUE	TAX	EXEMPTION	TAX EXEMPTION	TOTAL TAX
STATE	3	1	\$67,900	\$441.35	\$67,900	\$441.35	\$0.00
COUNTY	3	1	\$67,900	\$916.65	\$2,000	\$27.00	\$889.65
SCHOOL	3	1	\$67,900	\$556.78	\$0	\$0.00	\$556.78
DIST SCHOOL	3	1	\$67,900	\$0.00	\$0	\$0.00	\$0.00
CITY	3	1	\$67,900	\$0.00	\$0	\$0.00	\$0.00
FOREST	3	1	\$0	\$0.00	\$0	\$0.00	\$0.00
SPC SCHOOL1	3	1	\$67,900	\$346.29	\$0	\$0.00	\$346.29
SPC SCHOOL2	3	1	\$67,900	\$1,140.72	\$0	\$0.00	\$1,140.72

ASSD. VALUE: \$67,900.00

\$3,401.79

GRAND TOTAL: \$2,933.44
FULLY PAID

DEEDS

INSTRUMENT NUMBER	DATE
2022005147	1/11/2022
201512300105507	10/23/2015
201218-4296	9/28/2012
200407-1709	05/11/2004
9806-8276	05/21/1998

PAYMENT INFO

PAY DATE	TAX YEAR	PAID BY	AMOUNT
11/26/2024	2024		\$2,933.44
12/19/2023	2023	KAREN PAUL	\$2,933.44
11/11/2022	2022	KAREN PAUL	\$2,933.44
10/17/2021	2021	KAREN PAUL	\$2,688.41
12/14/2020	2020	KAREN PAUL	\$2,688.41
11/8/2019	2019	PAUL WILLIAM A & KAREN B	\$2,497.41
10/25/2018	2018	WILUAM A PAUL KAREN PAUL	\$2,938.96
10/12/2017	2017	WILLIAM A PAUL KAREN PAUL	\$2,938.96
11/4/2016	2016	PAUL KAREN B	\$2,938.96
10/27/2015	2015	WILLIAM A PAUL KAREN PAUL	\$2,938.96
10/20/2014	2014	-	\$2,903.89
10/22/2013	2013	-	\$2,489.06
1/16/2013	2012	PAUL WILLIAM A & NANCY J	\$2,488.57
20111216	2011	***	\$2,579.76
20101201	2010	***	\$2,579.76
20091212	2009	***	\$2,579.76
20081212	2008	***	\$2,623.33
20071205	2007	***	\$2,607.30
20061209	2006	***	\$2,564.21
20051116	2005	***	\$2,461.52
20041206	2004	***	\$2,208.70

- Fire Hydrant at the gate is adequate
- Road narrows to 10 feet or less past the gate (14 feet required)
- Adequate turn around lacking
- 2610
 - Driveway is greater than 150 feet from the roadway. The drive surface would need to be assessed by an engineer to ensure they would support the weight of suppression apparatus. Access off of the private road is tight and should be evaluated through a turn study. A Turn study is also necessary to ensure adequate turn around.
- 2620
 - Driveway is greater than 150 feet from the roadway. The culvert and drive surface would need to be assessed by an engineer to ensure they would support the weight of suppression apparatus. Turn study would also necessary to ensure adequate turn around.
- 2630
 - No specific access comments



Aug 6, 2024

ANX-24-6

Fire Department Review

Annexation Application

Status: Complete

Became Active: Jul 19, 2024

Assignee: Ryan Farrell

Completed: Aug 2, 2024

Applicant

William Paul
ap253@aol.com
2620 Stony Branch Road
Birmingham, AL 35243
205-266-5728

Primary Location

2620 STONY BRANCH RD
VESTAVIA HILLS, AL 35243

Comments

Ryan Farrell, Aug 2, 2024

Comments added as an attachment

William Paul, Aug 2, 2024

We have had Fire trucks at 2620 before. Additionally, when we built a swimming pool we had multiple dump truck loads of dirt come over the culvert/bridge @ 2620 to build up the back yard and large dump trucks of gunite to build the pool come over the culvert/bridge @ 2620 without incident.



Aug 6, 2024

ANX-24-6

Board of Education Review

Annexation Application

Status: Complete

Became Active: Jul 19, 2024

Assignee: Scott Brown

Completed: Jul 23, 2024

Applicant

William Paul
ap253@aol.com
2620 Stony Branch Road
Birmingham, AL 35243
205-266-5728

Primary Location

2620 STONY BRANCH RD
VESTAVIA HILLS, AL 35243

Comments

Scott Brown, Jul 23, 2024

No objection



ANX-24-6

Engineering/Public Works Review

Annexation Application

Status: Complete

Became Active: Jul 19, 2024

Assignee: Christopher Brady

Completed: Aug 2, 2024

Applicant

William Paul
ap253@aol.com
2620 Stony Branch Road
Birmingham, AL 35243
205-266-5728

Primary Location

2620 STONY BRANCH RD
VESTAVIA HILLS, AL 35243

Comments

Christopher Brady, Aug 2, 2024

See Engineering Review and Recommendations attached. This includes the following:

- Publicly accessible vehicular turnaround at end of Stony Branch outside of private gate.
- Confirm availability of private garbage pickup.
- Review of drainage culverts for structural stability.

William Paul, Aug 2, 2024

*Our trash/garbage pick up is through Amwaste. 2620 and 2630 have curbside pick up. 2610 already receives back door pick up. *We have had Fire trucks at 2620 before. Additionally, when we built a swimming pool we had multiple dump truck loads of dirt come over the culvert/bridge @ 2620 to build up the back yard and large dump trucks of gunite to build the pool come over the culvert/bridge @ 2620 without incident.



ANX-24-6

Annexation Application

Status: Active

Submitted On: 5/31/2024

Primary Location

2620 STONY BRANCH RD
VESTAVIA HILLS, AL 35243

Owner

Applicant

 William Paul
 205-266-5728
 ap253@aol.com
 2620 Stony Branch Road
Birmingham, AL 35243

Owner Information

Owner's Name*

William A. Paul, Karen B. Paul

Owner Mailing Address Inc. City, State, Zip*

2620 Stony Branch Road, Jefferson County, 35243

Property Information

Address of Property to be annexed?*

2620 Stony Branch Road, Jefferson
county, 35243

Legal Description of Property to be Annexed*

Lot 3, Stony Branch Subdivision, Map Book 191, page 2

County Location of Property:

Jefferson County

Tax Parcel ID Number (if known)

28 00 28 2 001 041.003

County Zoning Classification

JC E-1

Is this annexation for redevelopment?*

No

Compatible City Zoning Classification

VH E-2

Desired Zoning Classification

VH E-2

Is this a single-family residence with no additional development?*

Yes

Annexation Request Information

Please Explain your reason for requesting annexation?*

1. Desire Vestavia city services. 2. Will improve property value

Are you located in the Rocky Ridge Fire District?*

Yes

Information on Children

Name of Child

No children living on property

Age of Child

School Grade of Child

Plan to Enroll in Vestavia Hills School within 2 years?

No

Name of Child

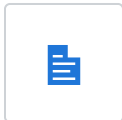
Age of Child

School Grade of Child

Plan to Enroll in Vestavia Hills Schools within 2
years?

Addition children information ?

Attachments



Owner's Notarized Affidavit

Vestavia Affidavit.pdf

Uploaded by William Paul on May 31, 2024 at 3:12 PM

REQUIRED



City of Vestavia Hills
Office of the City Clerk

OWNER AFFIDAVIT (This form must be notarized):

IN WITNESS WHEREOF, the undersigned have hereunto set their hands and seals, or caused these presents to be executed by their duly authorized representatives, with full authority that we are the owners of said property requesting annexation:

SIGNATURES:

William A. Paul

Lot 3 Blk _____ Survey Stony Branch Subdivision

MAP BOOK 191, page 2

Lot _____ Blk _____ Survey ~~2620~~ 2620 Stony Branch Road

Lot _____ Blk _____ Survey _____

Lot _____ Blk _____ Survey _____

Lot _____ Blk _____ Survey _____

Lot _____ Blk _____ Survey _____

STATE OF ALABAMA

Jefferson COUNTY

William A. Paul being duly sworn says: I am one of the persons who signed the above petition, and I certify that said petition contains the signatures of the owners of the property to be annexed by this petition.

William A. Paul
Signature of Certifier

Subscribed and sworn before me on this 31 day of May, 2024.

Kiersten Michelle Fish
Notary Public

My Commission Expires: 8/27/2027



PARCEL #: 28 00 28 2 001 041.003	[111-B+]	Baths: 2.5	H/C Sqft: 4,036
OWNER: PAUL WILLIAM A & KAREN B	18-012.0	Bed Rooms: 3	Land Sch: A114
ADDRESS: 2620 STONY BRANCH RD BIRMINGHAM AL 35243-2034	Land: 213,600	Imp: 602,400	Total: 816,000
LOCATION: 2620 STONY BRANCH RD AL 35243	Acres: 0.000	Sales Info: 01/11/2022	\$622,750

LAND COMPUTATION						
		Code	Acerage	Square Foot	Market Value	CU. Value
A414	3	111 HOUSEHOLD UNITS	1.53	66646.8	\$53,550.00	
A114	3	111 HOUSEHOLD UNITS	1	43560	\$160,000.00	

ROLLBACK/HOMESITE/MISCELLANEOUS					

LEGAL DESCRIPTION	
SUB DIVISON1: STONY BRANCH SUB 28-28-2	MAP BOOK: 191 PAGE: 2
SUB DIVISON2:	MAP BOOK: 0 PAGE: 0
PRIMARY BLOCK:	SECONDARY BLOCK: 0
PRIMARY LOT: 3	SECONDARY LOT: 0
METES AND BOUNDS: LOT 3 STONY BRANCH SUBDIVISION PB 191 PG 2	

SALES INFORMATION					
1/11/2022	\$622,750.00	2	BOOK:2022 PAGE:005147	Land & Building	PAUL WILLIAM A & KAREN B
10/23/2015	\$100.00	2	BOOK:2015 PAGE:12300105507	Land & Building	PAUL WILLIAM A & KAREN B
5/1/2004	\$539,000.00	1	BOOK:200407 PAGE:001709	Land & Building	
5/1/1998	\$169,000.00	1	BOOK:9806 PAGE:008276	Land	

ORDINANCE NUMBER 3288

AN ORDINANCE TO FURTHER AMEND THE ZONING ORDINANCE AND THE ZONING MAP OF THE CITY OF VESTAVIA HILLS, ALABAMA, ADOPTED SEPTEMBER 16, 1985, AND AS LAST AMENDED SO AS TO CHANGE THE CLASS OF DISTRICT ZONING OF PROPERTY FROM JEFFERSON COUNTY E-1 TO VESTAVIA HILLS E-2

BE IT ORDAINED by the City Council of the City of Vestavia Hills, Alabama, as follows: That the Zoning Ordinance and Zoning Map of the City of Vestavia Hills, Alabama, adopted September 16, 1985, and as last amended so as to change the class of district zoning of the following described property from Jefferson County E-1 (estate low-density residential) to Vestavia Hills E-2 (estate low-density residential):

2610 and 2520 Stony Branch Road
Lots 1 and 3, Stony Branch Subdivision
William Green and William Paul, owner(s)

APPROVED and ADOPTED this the 22nd day of September, 2025.

Ashley C. Curry
Mayor

ATTESTED BY:

Rebecca Leavings
City Clerk

CERTIFICATION:

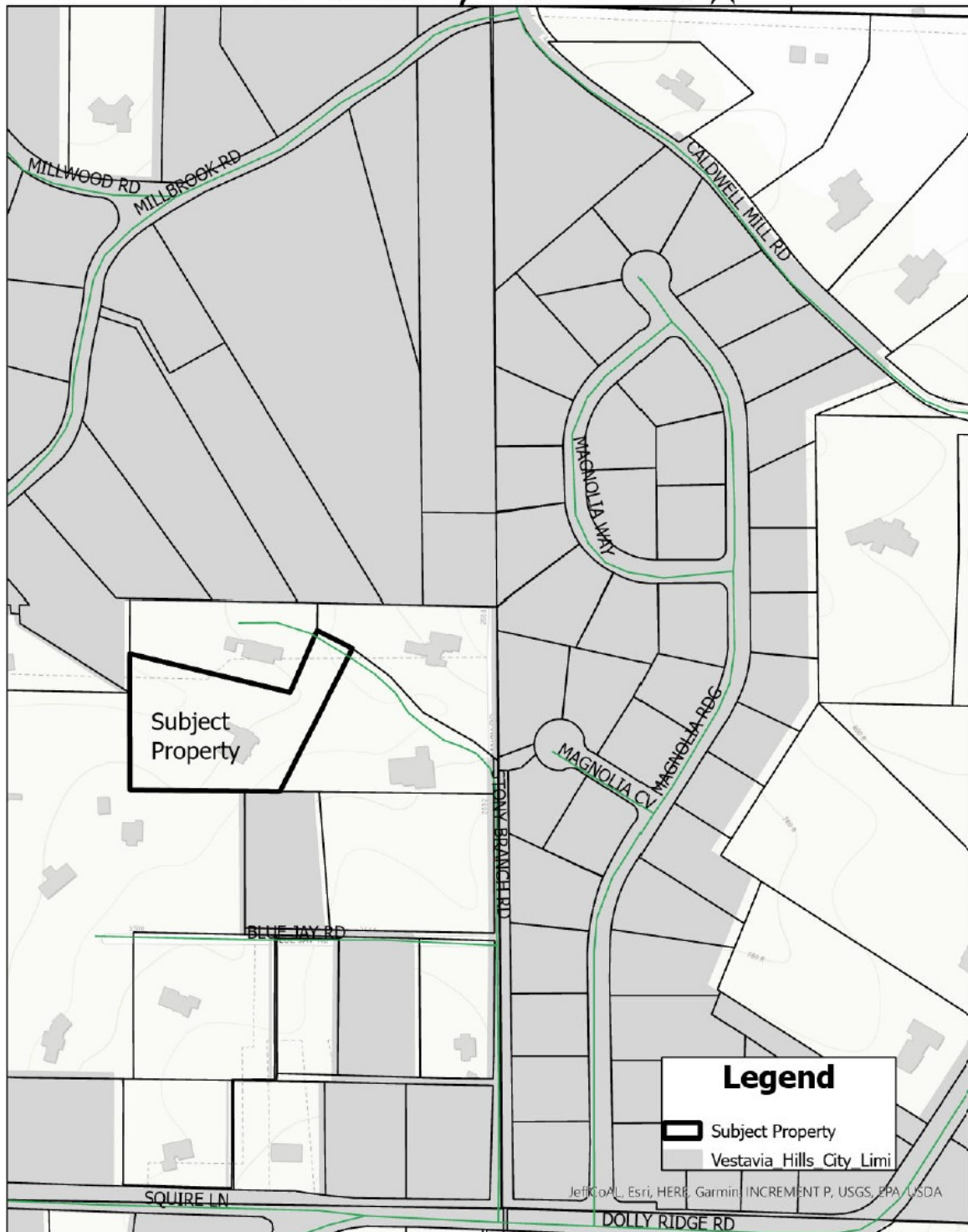
I, Rebecca Leavings, as City Clerk of the City of Vestavia Hills, Alabama, hereby certify that the above and foregoing copy of 1 (one) Ordinance Number 3288 is a true and correct copy of such Ordinance that was duly adopted by the City Council of the City of Vestavia Hills on the 22nd day of September, 2025 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 _____ day of _____, 2025.

Rebecca Leavings
City Clerk



2620 Stony Branch Rd





City of Vestavia Hills

Planning and Zoning Commission Review and Recommendation



Case Number: RZ-25-5
Owner Name: William & Karen and William & Rebecca Green
Owner Address: 2620 Stony Branch Road Birmingham, AL, 35243 and 2610 Stony Branch Rd.
Representative: same as above
Rep. Address:

Project Address: 2610 and 2620 Stony Branch Road
Legal Description: Lots 1 and 3 Stony Branch
Parcel ID Number:
Current Zoning: Jefferson County E-1
Requested Zoning: Vestavia Hills E-2
Intended Purpose: Annexation into Vestavia Hills

P&Z

Recommendation:

MOTION Mr. Weaver made a motion to recommend Rezoning for 2610 & 2620 Stony Branch Rd. from Jefferson County E-1 to Vestavia Hills E-2.
Second was by Mr. Honeycutt. Motion was carried on a roll call; vote as follows:
Mr. Farrell – yes Mr. Vercher – yes
Mr. Romeo – yes Mr. Weaver – yes
Mr. Blackenburg – yes Mr. Sykes – yes
Mr. Honeycutt – yes Ms. Cochran – yes
Motion carried.

Date of P&Z Meeting: August 14, 2025

Authorized by:

Issued by:

Vestavia Hills Planning and Zoning Commission,
Michael Vercher, Chair
Conrad Garrison, City Planner

Rezoning Application

RZ-25-5

Submitted On: Jun 30, 2025

Applicant

 William Paul
 205-266-5728
 ap253@aol.com

Primary Location

2620 STONY BRANCH RD
VESTAVIA HILLS, AL 35243

Additional Locations

2610 STONY BRANCH RD, VESTAVIA HILLS AL 35243

User Advisory

Property Information

Subject Property Address

2620 Stony Branch Road

Tax Parcel ID Number

--

Legal Description

--

Existing Parking Spaces

--

Proposed Parking Spaces

--

Submission Date

06/24/2025

Type of Project

Annexation of a Single-Family Home

Action Requested:

From Existing Zoning Classification

Jefferson County E-1

To Requested Zoning Classification

Vestavia Hills R-2

For the Intended Purpose of:

Annexation into Vestavia Hills

Acreage of Subject Property

2.5 acres

Acreage of Property to be Disturbed

0

Setbacks

Front

--

Back

--

Side

--

Open Space

--

Lot Coverage Percentage

--

Tree Save Plan - I acknowledge that a if this is a new non-residential development or is a residential development in excess of 3 units, that I am required to submit a tree save plan concurrent with this application (excludes PUDs).

Owner Information

Applications must be either submitted by the owner of the property or a representative duly appointed by the owner by way of a notarized letter and/or power of attorney.

Owner Address City State Zip

2620 Stony Branch Road Birmingham, AL, 35243

Owner's Phone Number

2052665728

By checking this box, I hereby affirm that I am the representative of the owner duly authorized to represent this petition for rezoning. Simultaneously with this application, I am submitting notarized documentation from the owner which authorizes me to represent this case. If no authorization is provided, this application cannot be processed.

true

Mailing Address of Responsible Party

--

Phone No. of Responsible Party

--

Property Owner Name

William Paul

Company Name

--

Email Address of Owner

ap253@aol.com

Owner Representative/Responsible Party

same as above

Company Name

--

Contact Email of Responsible Party

--

Email Address of Responsible Party

--

Project Engineer Information (if applicable)

Name

--

Mailing Address

--

Phone Number

--

Company

--

Email

--



Zoning1

PARCELID	2800282001041001
DISTRICT	001
ESN_NUM	504
PROPADD	2610 STONY BRANCH RD
TAX_TOWNSH	28
SECTION	28
QSECTION	2
BLOCK	001
PARCEL	041001
VH_ZONING	
ZNG_ORD	
ZNG_ORD_DT	
ZNG_ORD2	

[Zoom to](#)



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

September 8, 2025

To: Jeff Downes, City Manager

From: Conrad Garrison, City Planner

Cc: Rebecca Leavings, City Clerk

RE: Public Hearing - Ordinance Number 3289 - Rezoning - 3112
Sunview Drive; Rezoning from Vestavia Hills R-5 to Vestavia Hills
R-4 for an existing home with an approved front setback of 34
feet; Mary Lu Roberts, owner

Background:

This property currently has a home existing on it. It's owned by the owner of the adjacent apartments and is built at a 34' front setback as the property is shallow in depth. The property owner was concerned that the current zoning would not allow her to replace her home should it need to be demolished and rebuilt. This request is to rezone to a single-family zoning classification with an approval of a front setback of 34' in lieu of the required 40' front.

Recommendation:

P&Z Commission unanimously recommended rezoning approval with the adjustment of a 34' approved front setback

Fiscal Impact:

na

Attachments:

1. Ordinance Number 3289

ORDINANCE NUMBER 3289

AN ORDINANCE TO FURTHER AMEND THE ZONING ORDINANCE AND THE ZONING MAP OF THE CITY OF VESTAVIA HILLS, ALABAMA, ADOPTED SEPTEMBER 16, 1985, AND AS LAST AMENDED SO AS TO CHANGE THE CLASS OF DISTRICT ZONING OF PROPERTY FROM VESTAVIA HILLS R-5 TO VESTAVIA HILLS R-4

BE IT ORDAINED by the City Council of the City of Vestavia Hills, Alabama, as follows: That the Zoning Ordinance and Zoning Map of the City of Vestavia Hills, Alabama, adopted September 16, 1985, and as last amended so as to change the class of district zoning of the following described property from Vestavia Hills R-5 (multi-family residential) to Vestavia Hills R-4 (medium density residential):

3112 Sunview Drive
Mary Lu Roberts, owner(s)

More particularly described as follows:

Part Of The SW 1/4 Of The SE 1/4 Of Section 15, Township 18, Range 2 West, Jefferson County, Alabama, More Particularly Described As Follows: Begin At The Northwest Corner Of Said SW 1/4 Of SE 1/4; Thence Run Southwardly Along The West Line Of Said 1/4-1/4 Section For A Distance Of 524.14 Feet; Thence Turn An Angle To The Left Of 85 Degrees 30 Minutes And Run Southwardly For A Distance Of 256 Feet; Thence Turn An Angle 85 Degrees 30 Minutes And Run Southwardly And Parallel With The West Line Of Said 1/4-1/4 Section For A Distance Of 144.8 Feet To A Point On The North Right Of Way Line Of A Public Road, Said Point Being The Point Of Beginning Of The Tract Here Described; Thence Turn An Angle Of 180 Degrees And Run Northwardly And Parallel With The West Line Of Said 1/4-1/4 Section For A Distance Of 144.8 Feet; Thence Turn An Angle To The Right Of 94 Degrees 30 Minutes And Run Eastwardly For A Distance Of 108 Feet; Thence Turn An Angle To The Right Of 85 Degrees 30 Minutes And Run Southwardly And Parallel With The West Line Of Said 1/4-1/4 Section For A Distance Of 120 Feet, More Or Less, To A Point On Said North Right Of Way Line Of Public Road; Thence Run Westwardly Along Said North Right Of Way Line For A Distance Of 108.4 Feet, More Or Less, To The Point Of Beginning.

BE IT FURTHER ORDAINED that said property has a home currently existing on the property and this rezoning would be to allow it to rebuild should it ever need rebuilding. Therefore, the City Council also approves that, in case of any extensive

renovations or rebuilding, that the front setback remain reduced from the required 40 feet to the existing 25feet (see attached as-built survey); and

APPROVED and ADOPTED this the 22nd day of September, 2025.

Ashley C. Curry
Mayor

ATTESTED BY:

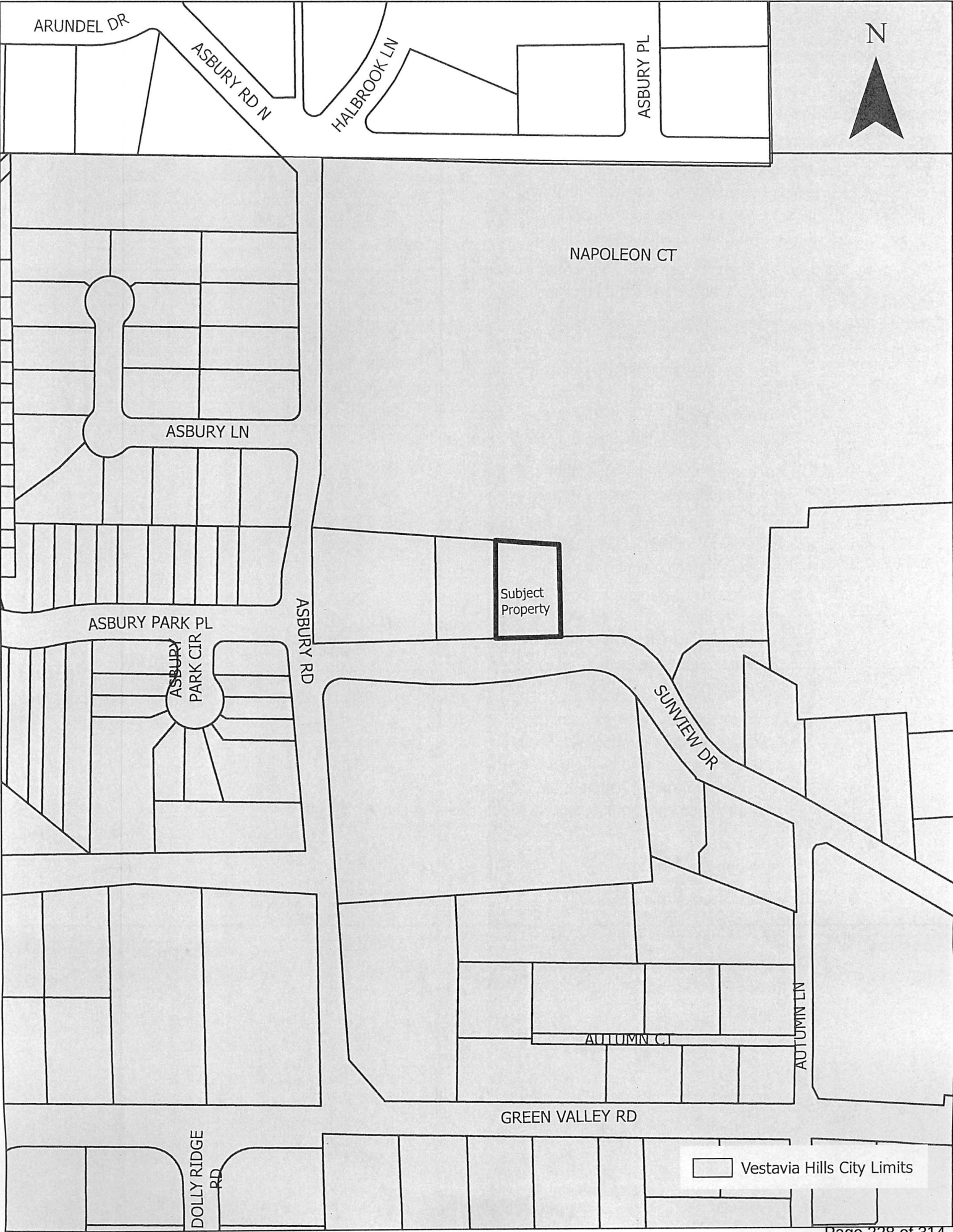
Rebecca Leavings
City Clerk

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 3289 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 22nd day of September, 2025 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 _____ day of _____, 2025.

Rebecca Leavings
City Clerk





City of Vestavia Hills

Planning and Zoning Commission Review and Recommendation



Case Number: RZ-25-4

Owner Name: Mary Lu Roberts

Owner Address: 3112 Sunview Drive Vestavia AL 35243

Representative:
Rep.
Address:

Project Address: 3112 Sunview Drive

Legal Description: COM NE INTER OF SUNVIEW DR & ASHBURY RD TH E 250 FT TO POB TH N 144.8 FT TH SE 108 FT TH S 120 FT TH W 108.4 FT TO POB SECT 15 TWSP 18S RANGE 2W

Parcel ID Number: 28 00 15 4 009 016.001

Current Zoning: R5 MULTIFAMILY

Requested Zoning: R4 RESIDENTIAL with Approval of a Front Setback of 25 ft. for the Existing House

Intended Purpose: homeowner wishes to change zoning for insurance purposes; Homeowner also requests approval of alternate front setback at 25' for the existing home.

MOTION Mr. Weaver made a motion to recommend Rezoning for 3112 Sunview Dr. from Vestavia Hills R-5 to Vestavia Hills R-4 with a 25' front setback.

Second was by Mr. Blackenburg. Motion was carried on a roll call; vote as follows:

Mr. Farrell – yes Mr. Vercher – yes

Mr. Romeo – yes Mr. Weaver – yes

Mr. Blackenburg – yes Mr. Sykes – yes

Mr. Honeycutt – yes Ms. Cochran – yes

Motion carried.

P&Z

Recommendation:

Date of P&Z Meeting:

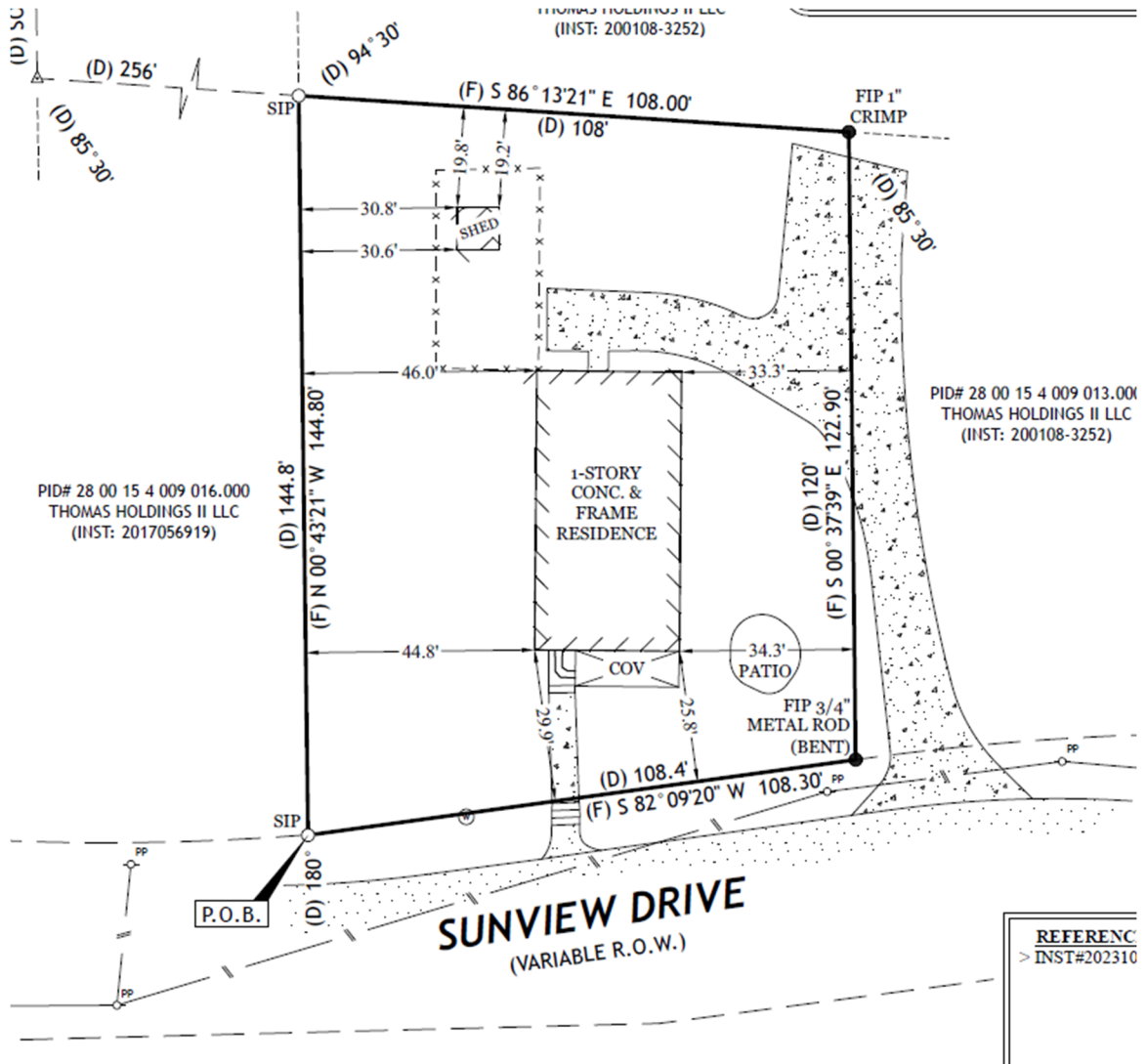
August 14, 2025

Authorized by:

Issued by:

Vestavia Hills Planning and Zoning Commission,
Michael Vercher, Chair

Conrad Garrison, City Planner



From: [Mary Roberts](#)
To: [Conrad Garrison](#)
Subject: [External] amendment to application for rezoning 3112 Sunview Drive
Date: Tuesday, July 8, 2025 11:56:24 AM

Hi Conrad

Please update the application for rezoning on my house to R-4 instead of R-1. I want to rezone the house so that I can be able to rebuild the house should any reason the house is destroyed. All setbacks can remain the same and no variances will be necessary.

Let me know if you need any further information.

Sincerley

Mary Lu Roberts
Chateau Orleans Realty Company
O 205-967-1140
3125 Napoleon Ct,
Vestavia, AL 35243

Rezoning Application

RZ-25-4

Submitted On: Jun 25, 2025

Applicant

 MARY LU ROBERTS
 205-902-2325
 corealty@att.net

Primary Location

3112 SUNVIEW DR
VESTAVIA HILLS, AL 35243

User Advisory

Property Information

Subject Property Address

3112 Sunview Drive

Tax Parcel ID Number

28 00 15 4 009 016.001

Legal Description

COM NE INTER OF SUNVIEW DR & ASHBURY RD TH E 250 FT TO POB TH N 144.8 FT TH SE 108 FT TH S 120 FT TH W 108.4 FT TO POB SECT 15 TWSP 18S RANGE 2W

Existing Parking Spaces

--

Proposed Parking Spaces

--

Submission Date

06/25/2025

Type of Project

Annexation of a Single-Family Home

Action Requested:

From Existing Zoning Classification

R5 MULTIFAMILY

To Requested Zoning Classification

R1 RESIDENTIAL

For the Intended Purpose of:

homeowner wishes to change zoning for insurance purposes

Acreage of Subject Property

1

Acreage of Property to be Disturbed

0

Setbacks

Front

--

Back

--

Side

--

Open Space

--

Lot Coverage Percentage

--

Tree Save Plan - I acknowledge that a if this is a new non-residential development or is a residential development in excess of 3 units, that I am required to submit a tree save plan concurrent with this application (excludes PUDs).

true

Owner Information

Applications must be either submitted by the owner of the property or a representative duly appointed by the owner by way of a notarized letter and/or power of attorney.

Owner Address City State Zip

3112 Sunview Drive Vestavia AL 35243

Owner's Phone Number

205-902-2325

By checking this box, I hereby affirm that I am the representative of the owner duly authorized to represent this petition for rezoning. Simultaneously with this application, I am submitting notarized documentation from the owner which authorizes me to represent this case. If no authorization is provided, this application cannot be processed.

true

Mailing Address of Responsible Party

--

Phone No. of Responsible Party

--

Project Engineer Information (if applicable)

Name

--

Mailing Address

--

Phone Number

--

Property Owner Name

Mary Lu Roberts

Company Name

--

Email Address of Owner

corealty@att.net

Owner Representative/Responsible Party

--

Company Name

--

Contact Email of Responsible Party

--

Email Address of Responsible Party

--

Company

--

Email

--





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

September 8, 2025

To: Jeff Downes, City Manager

From: Ethan Fisher, City Engineer

Cc: Lori Beth Kearley, Public Services Director
Christopher Brady, City Engineer

RE: Public Hearing - Ordinance Number 3296 - An Ordinance Accepting a Bid for the City of Vestavia Hills Highway 31 Gateway Sign and Authorizing the Mayor and City Manager to execute any and all agreements for said project

Background:

The Highway 31 Gateway project is part of Strategic Plan Priority Area 1. This project is a step in the phased beautification of Highway 31. Improvements are planned for both sides of Highway 31 at the Columbiana Road Intersection and I-65 off-ramp. The improvements include a large Vestavia Hills Gateway Sign, landscaping upgrades, and smaller monument sign.

Recommendation:

After review of the submitted bids, engineering recommends awarding the construction contract to Gillespie Construction LLC.

Fiscal Impact:

The construction and construction administration costs are budgeted in the proposed FY26 budget.

Attachments:

1. Ordinance 3296
2. BidWorksheet - Highway 31 Gateway - Signed
3. Vestavia Bid Proposal Form
4. contract documents

ORDINANCE NUMBER 3296

AN ORDINANCE ACCEPTING A BID FOR SOUTHERN GATEWAY SIGNAGE FOR THE CITY, AUTHORIZING THE EXECUTION AND DELIVERY OF THE CONSTRUCTION CONTRACT DOCUMENTS BY AND BETWEEN THE CITY OF VESTAVIA HILLS, ALABAMA, AS “OWNER,” AND GILLESPIE CONSTRUCTION, LLC, AS “CONTRACTOR.”

THIS ORDINANCE NUMBER 3296 is considered, approved, enacted and adopted by the City Council of the City of Vestavia Hills, Alabama on this the 27th day of October, 2025.

WITNESSETH THESE RECITALS:

WHEREAS, on August 13, 2025 at 10:00 a.m., the City of Vestavia Hills, Alabama publicly read aloud bids submitted for southern gateway signage for the City of Vestavia Hills (“the Project”); and

WHEREAS, two bids were received and read, a tabulation which is marked as Exhibit A, attached to and incorporated into this Ordinance Number 3296 as if written fully therein; and

WHEREAS, the Engineering Department submitted a memorandum dated September 3, 2025 recommending acceptance of the bid package submitted by Gillespie Construction, LLC pursuant to the attached proposal, a copy of which is marked as Exhibit B and is attached to and incorporated into this Ordinance Number 3296 for a budget estimated at \$1,175,886.00; and

WHEREAS, the Bid Specifications included, but are not limited to, the following contract documents prepared by the City and to be signed by the City of Vestavia Hills, Alabama, as “Owner,” and the lowest responsible bidder as “Contractor”:

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

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

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

1. The bid submitted by Gillespie Construction, as detailed in Exhibit B is attached and recommended by the City Manager and the Engineering Department is hereby accepted; and

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

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

3. Funding for said project shall be expensed to the City's FY25 Capital Budget; and

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

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

DONE, ORDERED, APPROVED and ADOPTED this the 22nd day of September, 2025.

CITY OF VESTAVIA HILLS, ALABAMA

By _____
Ashley C. Curry
Mayor

ATTESTED BY:

Rebecca Leavings
City Clerk

CERTIFICATION:

I, Rebecca Leavings, as City Clerk of the City of Vestavia Hills, Alabama, hereby certify that the above and foregoing copy of 1 (one) Ordinance #3296 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 22nd day of September, 2025 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 ____ day of July, 2025.

Rebecca Leavings
City Clerk

Highway 31 Gateway Sign (#9754106)
Owner: Vestavia Hills AL, City of
Solicitor: Vestavia Hills AL, City of
08/13/2025 10:00 AM CDT

Section Title	Line Item	Item Code	Item Description	UofM	Quantity	Engineer Estimate		Gillespie Construction LLC		Taylor & Miree Construction, Inc.	
						Unit Price	Extension	Unit Price	Extension	Unit Price	Extension
Base Bid							\$50,000.00				\$1,347,405.00
	Base Bid	1	Base Bid (Without allowances)	LS	1			\$1,123,261.00	\$1,175,886.00		
	Contingency Allowance	A	Fixed Allowance (Do not change)	LS	1	\$50,000.00	\$50,000.00	\$50,000.00	\$50,000.00	\$1,291,780.00	\$1,291,780.00
	Quantity Allowance	B	Quantity allowance for use as directed by engineer.	Cu Yd	75			\$35.00	\$2,625.00	\$75.00	\$5,625.00
Base Bid Total:							\$50,000.00		\$1,175,886.00		\$1,347,405.00

Reviewed By:



City Engineer

PROPOSAL FORM

To: Vestavia Hills AL, City of Date: 8/13/25

In compliance with your Advertisement for Bids and subject to all the conditions thereof, the undersigned,

Gillespie Construction, LLC

(Legal name of Bidder)

hereby proposes to furnish all labor and materials and perform all work required for the construction of

WORK: City of Vestavia Hills - Highway 31 Gateway Sign, inaccordance with Drawings and Specifications, dated, July 14, 2025, prepared by TTL, Inc.10 Inverness Center Parkway, Suite 350, Hoover, AL 35242, Architect.The Bidder, which is organized and existing under the laws of the State of Alabama,having its principal offices in the City of Jasper, Walker Countyis: ☒ a Corporation ☐ a Partnership ☐ an individual ☐ (other) _____

LISTING OF PARTNERS OR OFFICERS: If Bidder is a Partnership, list all partners and their addresses; if

Bidder is a Corporation, list the names, titles and business addresses of its Officers:

Ron Gillespie - Member #4565 Hwy 5
Jasper, AL 35503**BIDDER'S REPRESENTATION:** The Bidder declares that it has examined the site of the Work, having become fully informed regarding all pertinent conditions, and that it has examined the Drawings and Specifications (including all Addenda received) for the Work and the other Bid and Contract Documents relative thereto; and that it has satisfied itself relative to the Work to be performed.**ADDENDA:** The Bidder acknowledges receipt of Addenda Nos. 1 through 1 inclusively.**ALABAMA IMMIGRATION LAW COMPLIANCE:** The Bidder acknowledges by initials RG that he/she will comply with H.B. 56 - Alabama Immigration Law Compliance.**BASE BID:** For construction complete as shown and specified, the sum of One million, One hundred
Seventy five thousand, Eight hundred eighty six ⁰⁰/₁₀₀ Dollars (\$ 1,175,886.00)**ALLOWANCES:** See Attachment A**BID SECURITY:** Required, attach completed Bid Bond**BIDDER'S ALABAMA LICENSE:**

State License for General Contracting:

47928
License NumberUnlimited
Bid LimitConcrete, drainage
Type(s) of Work
Culverts, sign.

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

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

Legal Name of Bidder Gillespie Construction, LLC

Mailing Address 4565 Hwy 5 Jasper, AL 35503

* By (Legal Signature)  (Seal)

* Name & Title (print) Ron Gillespie

Telephone Number 205-295-5263

Email Address ehenson@gillespieconstruction.net

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

ATTACHMENT A - ALLOWANCES

ALLOWANCES

Item A: Contingency allowance for use as directed by the Engineer

- A. Contingency allowance of \$50,000 shall be included in the base bid.

Item B: Quantity allowance for use as directed by the Engineer.

- A. Quantity allowance of 75 CY shall be included in the base bid.



AIA Document A101® – 2017

Standard Form of Agreement Between Owner and Contractor where the basis of payment is a Stipulated Sum

AGREEMENT made as of the _____ day of _____ in the year _____
(In words, indicate day, month and year.)

BETWEEN the Owner:
(Name, legal status, address and other information)

and the Contractor:
(Name, legal status, address and other information)

for the following Project:
(Name, location and detailed description)

The Architect:
(Name, legal status, address and other information)

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

The parties should complete A101®–2017, Exhibit A, Insurance and Bonds, contemporaneously with this Agreement.

AIA Document A201®–2017, General Conditions of the Contract for Construction, is adopted in this document by reference. Do not use with other general conditions unless this document is modified.

The Owner and Contractor agree as follows.

TABLE OF ARTICLES

- 1 THE CONTRACT DOCUMENTS
- 2 THE WORK OF THIS CONTRACT
- 3 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION
- 4 CONTRACT SUM
- 5 PAYMENTS
- 6 DISPUTE RESOLUTION
- 7 TERMINATION OR SUSPENSION
- 8 MISCELLANEOUS PROVISIONS
- 9 ENUMERATION OF CONTRACT DOCUMENTS

EXHIBIT A INSURANCE AND BONDS

ARTICLE 1 THE CONTRACT DOCUMENTS

The Contract Documents consist of this Agreement, Conditions of the Contract (General, Supplementary, and other Conditions), Drawings, Specifications, Addenda issued prior to execution of this Agreement, other documents listed in this Agreement, and Modifications issued after execution of this Agreement, all of which form the Contract, and are as fully a part of the Contract as if attached to this Agreement or repeated herein. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations, or agreements, either written or oral. An enumeration of the Contract Documents, other than a Modification, appears in Article 9.

ARTICLE 2 THE WORK OF THIS CONTRACT

The Contractor shall fully execute the Work described in the Contract Documents, except as specifically indicated in the Contract Documents to be the responsibility of others.

ARTICLE 3 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION

§ 3.1 The date of commencement of the Work shall be:

(Check one of the following boxes.)

- ☐ The date of this Agreement.
- ☐ A date set forth in a notice to proceed issued by the Owner.
- ☐ Established as follows:
(Insert a date or a means to determine the date of commencement of the Work.)

If a date of commencement of the Work is not selected, then the date of commencement shall be the date of this Agreement.

§ 3.2 The Contract Time shall be measured from the date of commencement of the Work.

§ 3.3 Substantial Completion

§ 3.3.1 Subject to adjustments of the Contract Time as provided in the Contract Documents, the Contractor shall achieve Substantial Completion of the entire Work:

(Check one of the following boxes and complete the necessary information.)

- ☐ Not later than () calendar days from the date of commencement of the Work.

☐ By the following date:

§ 3.3.2 Subject to adjustments of the Contract Time as provided in the Contract Documents, if portions of the Work are to be completed prior to Substantial Completion of the entire Work, the Contractor shall achieve Substantial Completion of such portions by the following dates:

Portion of Work

Substantial Completion Date

§ 3.3.3 If the Contractor fails to achieve Substantial Completion as provided in this Section 3.3, liquidated damages, if any, shall be assessed as set forth in Section 4.5.

ARTICLE 4 CONTRACT SUM

§ 4.1 The Owner shall pay the Contractor the Contract Sum in current funds for the Contractor's performance of the Contract. The Contract Sum shall be (\$), subject to additions and deductions as provided in the Contract Documents.

§ 4.2 Alternates

§ 4.2.1 Alternates, if any, included in the Contract Sum:

Item

Price

§ 4.2.2 Subject to the conditions noted below, the following alternates may be accepted by the Owner following execution of this Agreement. Upon acceptance, the Owner shall issue a Modification to this Agreement.
(Insert below each alternate and the conditions that must be met for the Owner to accept the alternate.)

Item

Price

Conditions for Acceptance

§ 4.3 Allowances, if any, included in the Contract Sum:
(Identify each allowance.)

Item

Price

§ 4.4 Unit prices, if any:

(Identify the item and state the unit price and quantity limitations, if any, to which the unit price will be applicable.)

Item

Units and Limitations

Price per Unit (\$0.00)

§ 4.5 Liquidated damages, if any:

(Insert terms and conditions for liquidated damages, if any.)

§ 4.6 Other:

(Insert provisions for bonus or other incentives, if any, that might result in a change to the Contract Sum.)

ARTICLE 5 PAYMENTS

§ 5.1 Progress Payments

§ 5.1.1 Based upon Applications for Payment submitted to the Architect by the Contractor and Certificates for Payment issued by the Architect, the Owner shall make progress payments on account of the Contract Sum to the Contractor as provided below and elsewhere in the Contract Documents.

§ 5.1.2 The period covered by each Application for Payment shall be one calendar month ending on the last day of the month, or as follows:

§ 5.1.3 Provided that an Application for Payment is received by the Architect not later than the day of a month, the Owner shall make payment of the amount certified to the Contractor not later than the day of the month. If an Application for Payment is received by the Architect after the application date fixed above, payment of the amount certified shall be made by the Owner not later than () days after the Architect receives the Application for Payment.

(Federal, state or local laws may require payment within a certain period of time.)

§ 5.1.4 Each Application for Payment shall be based on the most recent schedule of values submitted by the Contractor in accordance with the Contract Documents. The schedule of values shall allocate the entire Contract Sum among the various portions of the Work. The schedule of values shall be prepared in such form, and supported by such data to substantiate its accuracy, as the Architect may require. This schedule of values shall be used as a basis for reviewing the Contractor's Applications for Payment.

§ 5.1.5 Applications for Payment shall show the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment.

§ 5.1.6 In accordance with AIA Document A201™–2017, General Conditions of the Contract for Construction, and subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

§ 5.1.6.1 The amount of each progress payment shall first include:

- .1 That portion of the Contract Sum properly allocable to completed Work;
- .2 That portion of the Contract Sum properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction, or, if approved in advance by the Owner, suitably stored off the site at a location agreed upon in writing; and
- .3 That portion of Construction Change Directives that the Architect determines, in the Architect's professional judgment, to be reasonably justified.

§ 5.1.6.2 The amount of each progress payment shall then be reduced by:

- .1 The aggregate of any amounts previously paid by the Owner;
- .2 The amount, if any, for Work that remains uncorrected and for which the Architect has previously withheld a Certificate for Payment as provided in Article 9 of AIA Document A201–2017;
- .3 Any amount for which the Contractor does not intend to pay a Subcontractor or material supplier, unless the Work has been performed by others the Contractor intends to pay;
- .4 For Work performed or defects discovered since the last payment application, any amount for which the Architect may withhold payment, or nullify a Certificate of Payment in whole or in part, as provided in Article 9 of AIA Document A201–2017; and
- .5 Retainage withheld pursuant to Section 5.1.7.

§ 5.1.7 Retainage

§ 5.1.7.1 For each progress payment made prior to Substantial Completion of the Work, the Owner may withhold the following amount, as retainage, from the payment otherwise due:

(Insert a percentage or amount to be withheld as retainage from each Application for Payment. The amount of retainage may be limited by governing law.)

§ 5.1.7.1.1 The following items are not subject to retainage:
(Insert any items not subject to the withholding of retainage, such as general conditions, insurance, etc.)

§ 5.1.7.2 Reduction or limitation of retainage, if any, shall be as follows:
(If the retainage established in Section 5.1.7.1 is to be modified prior to Substantial Completion of the entire Work, including modifications for Substantial Completion of portions of the Work as provided in Section 3.3.2, insert provisions for such modifications.)

§ 5.1.7.3 Except as set forth in this Section 5.1.7.3, upon Substantial Completion of the Work, the Contractor may submit an Application for Payment that includes the retainage withheld from prior Applications for Payment pursuant to this Section 5.1.7. The Application for Payment submitted at Substantial Completion shall not include retainage as follows:
(Insert any other conditions for release of retainage upon Substantial Completion.)

§ 5.1.8 If final completion of the Work is materially delayed through no fault of the Contractor, the Owner shall pay the Contractor any additional amounts in accordance with Article 9 of AIA Document A201–2017.

§ 5.1.9 Except with the Owner's prior approval, the Contractor shall not make advance payments to suppliers for materials or equipment which have not been delivered and stored at the site.

§ 5.2 Final Payment

§ 5.2.1 Final payment, constituting the entire unpaid balance of the Contract Sum, shall be made by the Owner to the Contractor when

- .1 the Contractor has fully performed the Contract except for the Contractor's responsibility to correct Work as provided in Article 12 of AIA Document A201–2017, and to satisfy other requirements, if any, which extend beyond final payment; and
- .2 a final Certificate for Payment has been issued by the Architect.

§ 5.2.2 The Owner's final payment to the Contractor shall be made no later than 30 days after the issuance of the Architect's final Certificate for Payment, or as follows:

§ 5.3 Interest

Payments due and unpaid under the Contract shall bear interest from the date payment is due at the rate stated below, or in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is located.

(Insert rate of interest agreed upon, if any.)

_____ % _____

ARTICLE 6 DISPUTE RESOLUTION

§ 6.1 Initial Decision Maker

The Architect will serve as the Initial Decision Maker pursuant to Article 15 of AIA Document A201–2017, unless the parties appoint below another individual, not a party to this Agreement, to serve as the Initial Decision Maker.

(If the parties mutually agree, insert the name, address and other contact information of the Initial Decision Maker, if other than the Architect.)

§ 6.2 Binding Dispute Resolution

For any Claim subject to, but not resolved by, mediation pursuant to Article 15 of AIA Document A201–2017, the method of binding dispute resolution shall be as follows:

(Check the appropriate box.)

- ☐ Arbitration pursuant to Section 15.4 of AIA Document A201–2017
- ☐ Litigation in a court of competent jurisdiction
- ☐ Other *(Specify)*

If the Owner and Contractor do not select a method of binding dispute resolution, or do not subsequently agree in writing to a binding dispute resolution method other than litigation, Claims will be resolved by litigation in a court of competent jurisdiction.

ARTICLE 7 TERMINATION OR SUSPENSION

§ 7.1 The Contract may be terminated by the Owner or the Contractor as provided in Article 14 of AIA Document A201–2017.

§ 7.1.1 If the Contract is terminated for the Owner's convenience in accordance with Article 14 of AIA Document A201–2017, then the Owner shall pay the Contractor a termination fee as follows:

(Insert the amount of, or method for determining, the fee, if any, payable to the Contractor following a termination for the Owner's convenience.)

§ 7.2 The Work may be suspended by the Owner as provided in Article 14 of AIA Document A201–2017.

ARTICLE 8 MISCELLANEOUS PROVISIONS

§ 8.1 Where reference is made in this Agreement to a provision of AIA Document A201–2017 or another Contract Document, the reference refers to that provision as amended or supplemented by other provisions of the Contract Documents.

§ 8.2 The Owner's representative:

(Name, address, email address, and other information)

§ 8.3 The Contractor's representative:

(Name, address, email address, and other information)

§ 8.4 Neither the Owner's nor the Contractor's representative shall be changed without ten days' prior notice to the other party.

§ 8.5 Insurance and Bonds

§ 8.5.1 The Owner and the Contractor shall purchase and maintain insurance as set forth in AIA Document A101™–2017, Standard Form of Agreement Between Owner and Contractor where the basis of payment is a Stipulated Sum, Exhibit A, Insurance and Bonds, and elsewhere in the Contract Documents.

§ 8.5.2 The Contractor shall provide bonds as set forth in AIA Document A101™–2017 Exhibit A, and elsewhere in the Contract Documents.

§ 8.6 Notice in electronic format, pursuant to Article 1 of AIA Document A201–2017, may be given in accordance with AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, if completed, or as otherwise set forth below:

(If other than in accordance with AIA Document E203–2013, insert requirements for delivering notice in electronic format such as name, title, and email address of the recipient and whether and how the system will be required to generate a read receipt for the transmission.)

§ 8.7 Other provisions:

ARTICLE 9 ENUMERATION OF CONTRACT DOCUMENTS

§ 9.1 This Agreement is comprised of the following documents:

- .1 AIA Document A101™–2017, Standard Form of Agreement Between Owner and Contractor
- .2 AIA Document A101™–2017, Exhibit A, Insurance and Bonds
- .3 AIA Document A201™–2017, General Conditions of the Contract for Construction
- .4 AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, dated as indicated below:

(Insert the date of the E203-2013 incorporated into this Agreement.)

- .5 Drawings

Number	Title	Date
--------	-------	------

- .6 Specifications

Section	Title	Date	Pages
---------	-------	------	-------

- .7 Addenda, if any:

Number	Date	Pages
--------	------	-------

Portions of Addenda relating to bidding or proposal requirements are not part of the Contract Documents unless the bidding or proposal requirements are also enumerated in this Article 9.

- .8 Other Exhibits:

(Check all boxes that apply and include appropriate information identifying the exhibit where required.)

- ☐ AIA Document E204™–2017, Sustainable Projects Exhibit, dated as indicated below:
(Insert the date of the E204-2017 incorporated into this Agreement.)

☐ The Sustainability Plan:

Title	Date	Pages
-------	------	-------

☐ Supplementary and other Conditions of the Contract:

Document	Title	Date	Pages
----------	-------	------	-------

.9 Other documents, if any, listed below:

(List here any additional documents that are intended to form part of the Contract Documents. AIA Document A201™–2017 provides that the advertisement or invitation to bid, Instructions to Bidders, sample forms, the Contractor's bid or proposal, portions of Addenda relating to bidding or proposal requirements, and other information furnished by the Owner in anticipation of receiving bids or proposals, are not part of the Contract Documents unless enumerated in this Agreement. Any such documents should be listed here only if intended to be part of the Contract Documents.)

This Agreement entered into as of the day and year first written above.

OWNER (Signature)

(Printed name and title)

CONTRACTOR (Signature)

(Printed name and title)



AIA[®] Document G705[™] – 2001

List of Subcontractors

PROJECT: *(Name and address)*

DATE:

TO ARCHITECT: *(Name and address)*

ARCHITECT'S PROJECT NUMBER:

FROM CONTRACTOR: *(Name and Address)*

CONTRACTOR'S PROJECT NUMBER :

(List Subcontractors and others proposed to be employed on the above Project as required by the bidding documents.)

Work/Firm Name

Address/Phone

Superintendent

AIA[®] Document A312[™] – 2010

Performance Bond

CONTRACTOR:

(Name, legal status and address)

SURETY:

(Name, legal status and principal place of business)

OWNER:

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

CONSTRUCTION CONTRACT

Date:

Amount: \$

Description:

(Name and location)

BOND

Date:

(Not earlier than Construction Contract Date)

Amount: \$

Modifications to this Bond: ☐ None ☐ See Section 16

CONTRACTOR AS PRINCIPAL

Company: (Corporate Seal)

SURETY

Company: (Corporate Seal)

Signature: _____

Name and

Title:

(Any additional signatures appear on the last page of this Performance Bond.)

Signature: _____

Name and

Title:

(FOR INFORMATION ONLY — Name, address and telephone)

AGENT or BROKER:

OWNER'S REPRESENTATIVE:

(Architect, Engineer or other party:)

ADDITIONS AND DELETIONS:

The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

Any singular reference to Contractor, Surety, Owner or other party shall be considered plural where applicable.

§ 1 The Contractor and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors and assigns to the Owner for the performance of the Construction Contract, which is incorporated herein by reference.

§ 2 If the Contractor performs the Construction Contract, the Surety and the Contractor shall have no obligation under this Bond, except when applicable to participate in a conference as provided in Section 3.

§ 3 If there is no Owner Default under the Construction Contract, the Surety's obligation under this Bond shall arise after

- .1 the Owner first provides notice to the Contractor and the Surety that the Owner is considering declaring a Contractor Default. Such notice shall indicate whether the Owner is requesting a conference among the Owner, Contractor and Surety to discuss the Contractor's performance. If the Owner does not request a conference, the Surety may, within five (5) business days after receipt of the Owner's notice, request such a conference. If the Surety timely requests a conference, the Owner shall attend. Unless the Owner agrees otherwise, any conference requested under this Section 3.1 shall be held within ten (10) business days of the Surety's receipt of the Owner's notice. If the Owner, the Contractor and the Surety agree, the Contractor shall be allowed a reasonable time to perform the Construction Contract, but such an agreement shall not waive the Owner's right, if any, subsequently to declare a Contractor Default;
- .2 the Owner declares a Contractor Default, terminates the Construction Contract and notifies the Surety; and
- .3 the Owner has agreed to pay the Balance of the Contract Price in accordance with the terms of the Construction Contract to the Surety or to a contractor selected to perform the Construction Contract.

§ 4 Failure on the part of the Owner to comply with the notice requirement in Section 3.1 shall not constitute a failure to comply with a condition precedent to the Surety's obligations, or release the Surety from its obligations, except to the extent the Surety demonstrates actual prejudice.

§ 5 When the Owner has satisfied the conditions of Section 3, the Surety shall promptly and at the Surety's expense take one of the following actions:

§ 5.1 Arrange for the Contractor, with the consent of the Owner, to perform and complete the Construction Contract;

§ 5.2 Undertake to perform and complete the Construction Contract itself, through its agents or independent contractors;

§ 5.3 Obtain bids or negotiated proposals from qualified contractors acceptable to the Owner for a contract for performance and completion of the Construction Contract, arrange for a contract to be prepared for execution by the Owner and a contractor selected with the Owner's concurrence, to be secured with performance and payment bonds executed by a qualified surety equivalent to the bonds issued on the Construction Contract, and pay to the Owner the amount of damages as described in Section 7 in excess of the Balance of the Contract Price incurred by the Owner as a result of the Contractor Default; or

§ 5.4 Waive its right to perform and complete, arrange for completion, or obtain a new contractor and with reasonable promptness under the circumstances:

- .1 After investigation, determine the amount for which it may be liable to the Owner and, as soon as practicable after the amount is determined, make payment to the Owner; or
- .2 Deny liability in whole or in part and notify the Owner, citing the reasons for denial.

§ 6 If the Surety does not proceed as provided in Section 5 with reasonable promptness, the Surety shall be deemed to be in default on this Bond seven days after receipt of an additional written notice from the Owner to the Surety demanding that the Surety perform its obligations under this Bond, and the Owner shall be entitled to enforce any remedy available to the Owner. If the Surety proceeds as provided in Section 5.4, and the Owner refuses the payment or the Surety has denied liability, in whole or in part, without further notice the Owner shall be entitled to enforce any remedy available to the Owner.

§ 7 If the Surety elects to act under Section 5.1, 5.2 or 5.3, then the responsibilities of the Surety to the Owner shall not be greater than those of the Contractor under the Construction Contract, and the responsibilities of the Owner to the Surety shall not be greater than those of the Owner under the Construction Contract. Subject to the commitment by the Owner to pay the Balance of the Contract Price, the Surety is obligated, without duplication, for

- .1 the responsibilities of the Contractor for correction of defective work and completion of the Construction Contract;
- .2 additional legal, design professional and delay costs resulting from the Contractor's Default, and resulting from the actions or failure to act of the Surety under Section 5; and
- .3 liquidated damages, or if no liquidated damages are specified in the Construction Contract, actual damages caused by delayed performance or non-performance of the Contractor.

§ 8 If the Surety elects to act under Section 5.1, 5.3 or 5.4, the Surety's liability is limited to the amount of this Bond.

§ 9 The Surety shall not be liable to the Owner or others for obligations of the Contractor that are unrelated to the Construction Contract, and the Balance of the Contract Price shall not be reduced or set off on account of any such unrelated obligations. No right of action shall accrue on this Bond to any person or entity other than the Owner or its heirs, executors, administrators, successors and assigns.

§ 10 The Surety hereby waives notice of any change, including changes of time, to the Construction Contract or to related subcontracts, purchase orders and other obligations.

§ 11 Any proceeding, legal or equitable, under this Bond may be instituted in any court of competent jurisdiction in the location in which the work or part of the work is located and shall be instituted within two years after a declaration of Contractor Default or within two years after the Contractor ceased working or within two years after the Surety refuses or fails to perform its obligations under this Bond, whichever occurs first. If the provisions of this Paragraph are void or prohibited by law, the minimum period of limitation available to sureties as a defense in the jurisdiction of the suit shall be applicable.

§ 12 Notice to the Surety, the Owner or the Contractor shall be mailed or delivered to the address shown on the page on which their signature appears.

§ 13 When this Bond has been furnished to comply with a statutory or other legal requirement in the location where the construction was to be performed, any provision in this Bond conflicting with said statutory or legal requirement shall be deemed deleted herefrom and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein. When so furnished, the intent is that this Bond shall be construed as a statutory bond and not as a common law bond.

§ 14 Definitions

§ 14.1 **Balance of the Contract Price.** The total amount payable by the Owner to the Contractor under the Construction Contract after all proper adjustments have been made, including allowance to the Contractor of any amounts received or to be received by the Owner in settlement of insurance or other claims for damages to which the Contractor is entitled, reduced by all valid and proper payments made to or on behalf of the Contractor under the Construction Contract.

§ 14.2 **Construction Contract.** The agreement between the Owner and Contractor identified on the cover page, including all Contract Documents and changes made to the agreement and the Contract Documents.

§ 14.3 **Contractor Default.** Failure of the Contractor, which has not been remedied or waived, to perform or otherwise to comply with a material term of the Construction Contract.

§ 14.4 **Owner Default.** Failure of the Owner, which has not been remedied or waived, to pay the Contractor as required under the Construction Contract or to perform and complete or comply with the other material terms of the Construction Contract.

§ 14.5 **Contract Documents.** All the documents that comprise the agreement between the Owner and Contractor.

§ 15 If this Bond is issued for an agreement between a Contractor and subcontractor, the term Contractor in this Bond shall be deemed to be Subcontractor and the term Owner shall be deemed to be Contractor.

§ 16 Modifications to this bond are as follows:

(Space is provided below for additional signatures of added parties, other than those appearing on the cover page.)

CONTRACTOR AS PRINCIPAL

Company: _____ *(Corporate Seal)*

Signature: _____
Name and Title: _____
Address: _____

SURETY

Company: _____ *(Corporate Seal)*

Signature: _____
Name and Title: _____
Address: _____

Init.

Additions and Deletions Report for **AIA[®] Document A312[™] – 2010**

This Additions and Deletions Report, as defined on page 1 of the associated document, reproduces below all text the author has added to the standard form AIA document in order to complete it, as well as any text the author may have added to or deleted from the original AIA text. Added text is shown underlined. Deleted text is indicated with a horizontal line through the original AIA text.

Note: This Additions and Deletions Report is provided for information purposes only and is not incorporated into or constitute any part of the associated AIA document. This Additions and Deletions Report and its associated document were generated simultaneously by AIA software at 10:17:28 on 02/19/2013.

There are no differences.

Certification of Document's Authenticity

AIA® Document D401™ – 2003

I, Nadine Sisson, hereby certify, to the best of my knowledge, information and belief, that I created the attached final document simultaneously with its associated Additions and Deletions Report and this certification at 10:17:28 on 02/19/2013 under Order No. 5044494851_1 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document A312™ – 2010, Performance Bond, as published by the AIA in its software, other than those additions and deletions shown in the associated Additions and Deletions Report.

(Signed)

(Title)

(Dated)

**AIA**[®]**Document A312™ – 2010****Payment Bond****CONTRACTOR:***(Name, legal status and address)***SURETY:***(Name, legal status and principal place of business)***OWNER:**City of Vestavia Hills
1032 Montgomery Highway
Vestavia Hills, AL 35216**CONSTRUCTION CONTRACT**

Date:

Amount: \$

Description:

*(Name and location)***BOND**

Date:

(Not earlier than Construction Contract Date)

Amount: \$

Modifications to this Bond: ☐ None ☐ See Section 18**CONTRACTOR AS PRINCIPAL**Company: *(Corporate Seal)***SURETY**Company: *(Corporate Seal)*

Signature: _____

Name and

Title:

Signature: _____

Name and

Title:

*(Any additional signatures appear on the last page of this Payment Bond.)**(FOR INFORMATION ONLY — Name, address and telephone)***AGENT or BROKER:****OWNER'S REPRESENTATIVE:***(Architect, Engineer or other party:)***ADDITIONS AND DELETIONS:**

The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

Any singular reference to Contractor, Surety, Owner or other party shall be considered plural where applicable.

Init.

§ 1 The Contractor and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors and assigns to the Owner to pay for labor, materials and equipment furnished for use in the performance of the Construction Contract, which is incorporated herein by reference, subject to the following terms.

§ 2 If the Contractor promptly makes payment of all sums due to Claimants, and defends, indemnifies and holds harmless the Owner from claims, demands, liens or suits by any person or entity seeking payment for labor, materials or equipment furnished for use in the performance of the Construction Contract, then the Surety and the Contractor shall have no obligation under this Bond.

§ 3 If there is no Owner Default under the Construction Contract, the Surety's obligation to the Owner under this Bond shall arise after the Owner has promptly notified the Contractor and the Surety (at the address described in Section 13) of claims, demands, liens or suits against the Owner or the Owner's property by any person or entity seeking payment for labor, materials or equipment furnished for use in the performance of the Construction Contract and tendered defense of such claims, demands, liens or suits to the Contractor and the Surety.

§ 4 When the Owner has satisfied the conditions in Section 3, the Surety shall promptly and at the Surety's expense defend, indemnify and hold harmless the Owner against a duly tendered claim, demand, lien or suit.

§ 5 The Surety's obligations to a Claimant under this Bond shall arise after the following:

§ 5.1 Claimants, who do not have a direct contract with the Contractor,

- .1 have furnished a written notice of non-payment to the Contractor, stating with substantial accuracy the amount claimed and the name of the party to whom the materials were, or equipment was, furnished or supplied or for whom the labor was done or performed, within ninety (90) days after having last performed labor or last furnished materials or equipment included in the Claim; and
- .2 have sent a Claim to the Surety (at the address described in Section 13).

§ 5.2 Claimants, who are employed by or have a direct contract with the Contractor, have sent a Claim to the Surety (at the address described in Section 13).

§ 6 If a notice of non-payment required by Section 5.1.1 is given by the Owner to the Contractor, that is sufficient to satisfy a Claimant's obligation to furnish a written notice of non-payment under Section 5.1.1.

§ 7 When a Claimant has satisfied the conditions of Sections 5.1 or 5.2, whichever is applicable, the Surety shall promptly and at the Surety's expense take the following actions:

§ 7.1 Send an answer to the Claimant, with a copy to the Owner, within sixty (60) days after receipt of the Claim, stating the amounts that are undisputed and the basis for challenging any amounts that are disputed; and

§ 7.2 Pay or arrange for payment of any undisputed amounts.

§ 7.3 The Surety's failure to discharge its obligations under Section 7.1 or Section 7.2 shall not be deemed to constitute a waiver of defenses the Surety or Contractor may have or acquire as to a Claim, except as to undisputed amounts for which the Surety and Claimant have reached agreement. If, however, the Surety fails to discharge its obligations under Section 7.1 or Section 7.2, the Surety shall indemnify the Claimant for the reasonable attorney's fees the Claimant incurs thereafter to recover any sums found to be due and owing to the Claimant.

§ 8 The Surety's total obligation shall not exceed the amount of this Bond, plus the amount of reasonable attorney's fees provided under Section 7.3, and the amount of this Bond shall be credited for any payments made in good faith by the Surety.

§ 9 Amounts owed by the Owner to the Contractor under the Construction Contract shall be used for the performance of the Construction Contract and to satisfy claims, if any, under any construction performance bond. By the Contractor furnishing and the Owner accepting this Bond, they agree that all funds earned by the Contractor in the performance of the Construction Contract are dedicated to satisfy obligations of the Contractor and Surety under this Bond, subject to the Owner's priority to use the funds for the completion of the work.

§ 10 The Surety shall not be liable to the Owner, Claimants or others for obligations of the Contractor that are unrelated to the Construction Contract. The Owner shall not be liable for the payment of any costs or expenses of any Claimant under this Bond, and shall have under this Bond no obligation to make payments to, or give notice on behalf of, Claimants or otherwise have any obligations to Claimants under this Bond.

§ 11 The Surety hereby waives notice of any change, including changes of time, to the Construction Contract or to related subcontracts, purchase orders and other obligations.

§ 12 No suit or action shall be commenced by a Claimant under this Bond other than in a court of competent jurisdiction in the state in which the project that is the subject of the Construction Contract is located or after the expiration of one year from the date (1) on which the Claimant sent a Claim to the Surety pursuant to Section 5.1.2 or 5.2, or (2) on which the last labor or service was performed by anyone or the last materials or equipment were furnished by anyone under the Construction Contract, whichever of (1) or (2) first occurs. If the provisions of this Paragraph are void or prohibited by law, the minimum period of limitation available to sureties as a defense in the jurisdiction of the suit shall be applicable.

§ 13 Notice and Claims to the Surety, the Owner or the Contractor shall be mailed or delivered to the address shown on the page on which their signature appears. Actual receipt of notice or Claims, however accomplished, shall be sufficient compliance as of the date received.

§ 14 When this Bond has been furnished to comply with a statutory or other legal requirement in the location where the construction was to be performed, any provision in this Bond conflicting with said statutory or legal requirement shall be deemed deleted herefrom and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein. When so furnished, the intent is that this Bond shall be construed as a statutory bond and not as a common law bond.

§ 15 Upon request by any person or entity appearing to be a potential beneficiary of this Bond, the Contractor and Owner shall promptly furnish a copy of this Bond or shall permit a copy to be made.

§ 16 Definitions

§ 16.1 **Claim.** A written statement by the Claimant including at a minimum:

- .1 the name of the Claimant;
- .2 the name of the person for whom the labor was done, or materials or equipment furnished;
- .3 a copy of the agreement or purchase order pursuant to which labor, materials or equipment was furnished for use in the performance of the Construction Contract;
- .4 a brief description of the labor, materials or equipment furnished;
- .5 the date on which the Claimant last performed labor or last furnished materials or equipment for use in the performance of the Construction Contract;
- .6 the total amount earned by the Claimant for labor, materials or equipment furnished as of the date of the Claim;
- .7 the total amount of previous payments received by the Claimant; and
- .8 the total amount due and unpaid to the Claimant for labor, materials or equipment furnished as of the date of the Claim.

§ 16.2 **Claimant.** An individual or entity having a direct contract with the Contractor or with a subcontractor of the Contractor to furnish labor, materials or equipment for use in the performance of the Construction Contract. The term Claimant also includes any individual or entity that has rightfully asserted a claim under an applicable mechanic's lien or similar statute against the real property upon which the Project is located. The intent of this Bond shall be to include without limitation in the terms "labor, materials or equipment" that part of water, gas, power, light, heat, oil, gasoline, telephone service or rental equipment used in the Construction Contract, architectural and engineering services required for performance of the work of the Contractor and the Contractor's subcontractors, and all other items for which a mechanic's lien may be asserted in the jurisdiction where the labor, materials or equipment were furnished.

§ 16.3 **Construction Contract.** The agreement between the Owner and Contractor identified on the cover page, including all Contract Documents and all changes made to the agreement and the Contract Documents.

§ 16.4 **Owner Default.** Failure of the Owner, which has not been remedied or waived, to pay the Contractor as required under the Construction Contract or to perform and complete or comply with the other material terms of the Construction Contract.

§ 16.5 **Contract Documents.** All the documents that comprise the agreement between the Owner and Contractor.

§ 17 If this Bond is issued for an agreement between a Contractor and subcontractor, the term Contractor in this Bond shall be deemed to be Subcontractor and the term Owner shall be deemed to be Contractor.

§ 18 Modifications to this bond are as follows:

(Space is provided below for additional signatures of added parties, other than those appearing on the cover page.)

CONTRACTOR AS PRINCIPAL

Company: _____ (Corporate Seal)

Signature: _____
Name and Title: _____
Address: _____

SURETY

Company: _____ (Corporate Seal)

Signature: _____
Name and Title: _____
Address: _____

Additions and Deletions Report for **AIA[®] Document A312[™] – 2010**

This Additions and Deletions Report, as defined on page 1 of the associated document, reproduces below all text the author has added to the standard form AIA document in order to complete it, as well as any text the author may have added to or deleted from the original AIA text. Added text is shown underlined. Deleted text is indicated with a horizontal line through the original AIA text.

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There are no differences.

Certification of Document's Authenticity

AIA® Document D401™ – 2003

I, Nadine Sisson, hereby certify, to the best of my knowledge, information and belief, that I created the attached final document simultaneously with its associated Additions and Deletions Report and this certification at 10:14:23 on 02/19/2013 under Order No. 5044494851_1 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document A312™ – 2010, Payment Bond, as published by the AIA in its software, other than those additions and deletions shown in the associated Additions and Deletions Report.

(Signed)

(Title)

(Dated)

DRAFT AIA® Document A201® – 2017

General Conditions of the Contract for Construction

for the following PROJECT:

(Name and location or address)

City of Vestavia Hills - Highway 31 Gateway Sign
1493 Montgomery Highway
Vestavia Hills, AL 35216

THE OWNER:

(Name, legal status and address)

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

THE ARCHITECT:

(Name, legal status and address)

TTL, Inc.
10 Inverness Center Parkway, Suite 350
Hoover, AL 35242

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14	TERMINATION OR SUSPENSION OF THE CONTRACT
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This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

For guidance in modifying this document to include supplementary conditions, see AIA Document A503™, Guide for Supplementary Conditions.

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ARTICLE 1 GENERAL PROVISIONS

§ 1.1 Basic Definitions

§ 1.1.1 The Contract Documents

The Contract Documents are enumerated in the Agreement between the Owner and Contractor (hereinafter the Agreement) and consist of the Agreement, Conditions of the Contract (General, Supplementary and other Conditions), Drawings, Specifications, Addenda issued prior to execution of the Contract, other documents listed in the Agreement, and Modifications issued after execution of the Contract. A Modification is (1) a written amendment to the Contract signed by both parties, (2) a Change Order, (3) a Construction Change Directive, or (4) a written order for a minor change in the Work issued by the Architect. Unless specifically enumerated in the Agreement, the Contract Documents do not include the advertisement or invitation to bid, Instructions to Bidders, sample forms, other information furnished by the Owner in anticipation of receiving bids or proposals, the Contractor's bid or proposal, or portions of Addenda relating to bidding or proposal requirements.

§ 1.1.2 The Contract

The Contract Documents form the Contract for Construction. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations, or agreements, either written or oral. The Contract may be amended or modified only by a Modification. The Contract Documents shall not be construed to create a contractual relationship of any kind (1) between the Contractor and the Architect or the Architect's consultants, (2) between the Owner and a Subcontractor or a Sub-subcontractor, (3) between the Owner and the Architect or the Architect's consultants, or (4) between any persons or entities other than the Owner and the Contractor. The Architect shall, however, be entitled to performance and enforcement of obligations under the Contract intended to facilitate performance of the Architect's duties.

§ 1.1.3 The Work

The term "Work" means the construction and services required by the Contract Documents, whether completed or partially completed, and includes all other labor, materials, equipment, and services provided or to be provided by the Contractor to fulfill the Contractor's obligations. The Work may constitute the whole or a part of the Project.

§ 1.1.4 The Project

The Project is the total construction of which the Work performed under the Contract Documents may be the whole or a part and which may include construction by the Owner and by Separate Contractors.

§ 1.1.5 The Drawings

The Drawings are the graphic and pictorial portions of the Contract Documents showing the design, location and dimensions of the Work, generally including plans, elevations, sections, details, schedules, and diagrams.

§ 1.1.6 The Specifications

The Specifications are that portion of the Contract Documents consisting of the written requirements for materials, equipment, systems, standards and workmanship for the Work, and performance of related services.

§ 1.1.7 Instruments of Service

Instruments of Service are representations, in any medium of expression now known or later developed, of the tangible and intangible creative work performed by the Architect and the Architect's consultants under their respective professional services agreements. Instruments of Service may include, without limitation, studies, surveys, models, sketches, drawings, specifications, and other similar materials.

§ 1.1.8 Initial Decision Maker

The Initial Decision Maker is the person identified in the Agreement to render initial decisions on Claims in accordance with Section 15.2. The Initial Decision Maker shall not show partiality to the Owner or Contractor and shall not be liable for results of interpretations or decisions rendered in good faith.

§ 1.2 Correlation and Intent of the Contract Documents

§ 1.2.1 The intent of the Contract Documents is to include all items necessary for the proper execution and completion of the Work by the Contractor. The Contract Documents are complementary, and what is required by one shall be as binding as if required by all; performance by the Contractor shall be required only to the extent consistent with the Contract Documents and reasonably inferable from them as being necessary to produce the indicated results.

§ 1.2.1.1 The invalidity of any provision of the Contract Documents shall not invalidate the Contract or its remaining provisions. If it is determined that any provision of the Contract Documents violates any law, or is otherwise invalid or unenforceable, then that provision shall be revised to the extent necessary to make that provision legal and enforceable. In such case the Contract Documents shall be construed, to the fullest extent permitted by law, to give effect to the parties' intentions and purposes in executing the Contract.

§ 1.2.2 Organization of the Specifications into divisions, sections and articles, and arrangement of Drawings shall not control the Contractor in dividing the Work among Subcontractors or in establishing the extent of Work to be performed by any trade.

§ 1.2.3 Unless otherwise stated in the Contract Documents, words that have well-known technical or construction industry meanings are used in the Contract Documents in accordance with such recognized meanings.

§ 1.3 Capitalization

Terms capitalized in these General Conditions include those that are (1) specifically defined, (2) the titles of numbered articles, or (3) the titles of other documents published by the American Institute of Architects.

§ 1.4 Interpretation

In the interest of brevity the Contract Documents frequently omit modifying words such as "all" and "any" and articles such as "the" and "an," but the fact that a modifier or an article is absent from one statement and appears in another is not intended to affect the interpretation of either statement.

§ 1.5 Ownership and Use of Drawings, Specifications, and Other Instruments of Service

§ 1.5.1 The Architect and the Architect's consultants shall be deemed the authors and owners of their respective Instruments of Service, including the Drawings and Specifications, and retain all common law, statutory, and other reserved rights in their Instruments of Service, including copyrights. The Contractor, Subcontractors, Sub-subcontractors, and suppliers shall not own or claim a copyright in the Instruments of Service. Submittal or distribution to meet official regulatory requirements or for other purposes in connection with the Project is not to be construed as publication in derogation of the Architect's or Architect's consultants' reserved rights.

§ 1.5.2 The Contractor, Subcontractors, Sub-subcontractors, and suppliers are authorized to use and reproduce the Instruments of Service provided to them, subject to any protocols established pursuant to Sections 1.7 and 1.8, solely and exclusively for execution of the Work. All copies made under this authorization shall bear the copyright notice, if any, shown on the Instruments of Service. The Contractor, Subcontractors, Sub-subcontractors, and suppliers may not use the Instruments of Service on other projects or for additions to the Project outside the scope of the Work without the specific written consent of the Owner, Architect, and the Architect's consultants.

§ 1.6 Notice

§ 1.6.1 Except as otherwise provided in Section 1.6.2, where the Contract Documents require one party to notify or give notice to the other party, such notice shall be provided in writing to the designated representative of the party to whom the notice is addressed and shall be deemed to have been duly served if delivered in person, by mail, by courier, or by electronic transmission if a method for electronic transmission is set forth in the Agreement.

§ 1.6.2 Notice of Claims as provided in Section 15.1.3 shall be provided in writing and shall be deemed to have been duly served only if delivered to the designated representative of the party to whom the notice is addressed by certified or registered mail, or by courier providing proof of delivery.

§ 1.7 Digital Data Use and Transmission

The parties shall agree upon protocols governing the transmission and use of Instruments of Service or any other information or documentation in digital form. The parties will use AIA Document E203™-2013, Building Information Modeling and Digital Data Exhibit, to establish the protocols for the development, use, transmission, and exchange of digital data.

§ 1.8 Building Information Models Use and Reliance

Any use of, or reliance on, all or a portion of a building information model without agreement to protocols governing the use of, and reliance on, the information contained in the model and without having those protocols set

forth in AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, and the requisite AIA Document G202™–2013, Project Building Information Modeling Protocol Form, shall be at the using or relying party's sole risk and without liability to the other party and its contractors or consultants, the authors of, or contributors to, the building information model, and each of their agents and employees.

ARTICLE 2 OWNER

§ 2.1 General

§ 2.1.1 The Owner is the person or entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The Owner shall designate in writing a representative who shall have express authority to bind the Owner with respect to all matters requiring the Owner's approval or authorization. Except as otherwise provided in Section 4.2.1, the Architect does not have such authority. The term "Owner" means the Owner or the Owner's authorized representative.

§ 2.1.2 The Owner shall furnish to the Contractor, within fifteen days after receipt of a written request, information necessary and relevant for the Contractor to evaluate, give notice of, or enforce mechanic's lien rights. Such information shall include a correct statement of the record legal title to the property on which the Project is located, usually referred to as the site, and the Owner's interest therein.

§ 2.2 Evidence of the Owner's Financial Arrangements

§ 2.2.1 Prior to commencement of the Work and upon written request by the Contractor, the Owner shall furnish to the Contractor reasonable evidence that the Owner has made financial arrangements to fulfill the Owner's obligations under the Contract. The Contractor shall have no obligation to commence the Work until the Owner provides such evidence. If commencement of the Work is delayed under this Section 2.2.1, the Contract Time shall be extended appropriately.

§ 2.2.2 Following commencement of the Work and upon written request by the Contractor, the Owner shall furnish to the Contractor reasonable evidence that the Owner has made financial arrangements to fulfill the Owner's obligations under the Contract only if (1) the Owner fails to make payments to the Contractor as the Contract Documents require; (2) the Contractor identifies in writing a reasonable concern regarding the Owner's ability to make payment when due; or (3) a change in the Work materially changes the Contract Sum. If the Owner fails to provide such evidence, as required, within fourteen days of the Contractor's request, the Contractor may immediately stop the Work and, in that event, shall notify the Owner that the Work has stopped. However, if the request is made because a change in the Work materially changes the Contract Sum under (3) above, the Contractor may immediately stop only that portion of the Work affected by the change until reasonable evidence is provided. If the Work is stopped under this Section 2.2.2, the Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable costs of shutdown, delay and start-up, plus interest as provided in the Contract Documents.

§ 2.2.3 After the Owner furnishes evidence of financial arrangements under this Section 2.2, the Owner shall not materially vary such financial arrangements without prior notice to the Contractor.

§ 2.2.4 Where the Owner has designated information furnished under this Section 2.2 as "confidential," the Contractor shall keep the information confidential and shall not disclose it to any other person. However, the Contractor may disclose "confidential" information, after seven (7) days' notice to the Owner, where disclosure is required by law, including a subpoena or other form of compulsory legal process issued by a court or governmental entity, or by court or arbitrator(s) order. The Contractor may also disclose "confidential" information to its employees, consultants, sureties, Subcontractors and their employees, Sub-subcontractors, and others who need to know the content of such information solely and exclusively for the Project and who agree to maintain the confidentiality of such information.

§ 2.3 Information and Services Required of the Owner

§ 2.3.1 Except for permits and fees that are the responsibility of the Contractor under the Contract Documents, including those required under Section 3.7.1, the Owner shall secure and pay for necessary approvals, easements, assessments and charges required for construction, use or occupancy of permanent structures or for permanent changes in existing facilities.

§ 2.3.2 The Owner shall retain an architect lawfully licensed to practice architecture, or an entity lawfully practicing architecture, in the jurisdiction where the Project is located. That person or entity is identified as the Architect in the Agreement and is referred to throughout the Contract Documents as if singular in number.

§ 2.3.3 If the employment of the Architect terminates, the Owner shall employ a successor to whom the Contractor has no reasonable objection and whose status under the Contract Documents shall be that of the Architect.

§ 2.3.4 The Owner shall furnish surveys describing physical characteristics, legal limitations and utility locations for the site of the Project, and a legal description of the site. The Contractor shall be entitled to rely on the accuracy of information furnished by the Owner but shall exercise proper precautions relating to the safe performance of the Work.

§ 2.3.5 The Owner shall furnish information or services required of the Owner by the Contract Documents with reasonable promptness. The Owner shall also furnish any other information or services under the Owner's control and relevant to the Contractor's performance of the Work with reasonable promptness after receiving the Contractor's written request for such information or services.

§ 2.3.6 Unless otherwise provided in the Contract Documents, the Owner shall furnish to the Contractor one copy of the Contract Documents for purposes of making reproductions pursuant to Section 1.5.2.

§ 2.4 Owner's Right to Stop the Work

If the Contractor fails to correct Work that is not in accordance with the requirements of the Contract Documents as required by Section 12.2 or repeatedly fails to carry out Work in accordance with the Contract Documents, the Owner may issue a written order to the Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, the right of the Owner to stop the Work shall not give rise to a duty on the part of the Owner to exercise this right for the benefit of the Contractor or any other person or entity, except to the extent required by Section 6.1.3.

§ 2.5 Owner's Right to Carry Out the Work

If the Contractor defaults or neglects to carry out the Work in accordance with the Contract Documents and fails within a ten-day period after receipt of notice from the Owner to commence and continue correction of such default or neglect with diligence and promptness, the Owner may, without prejudice to other remedies the Owner may have, correct such default or neglect. Such action by the Owner and amounts charged to the Contractor are both subject to prior approval of the Architect and the Architect may, pursuant to Section 9.5.1, withhold or nullify a Certificate for Payment in whole or in part, to the extent reasonably necessary to reimburse the Owner for the reasonable cost of correcting such deficiencies, including Owner's expenses and compensation for the Architect's additional services made necessary by such default, neglect, or failure. If current and future payments are not sufficient to cover such amounts, the Contractor shall pay the difference to the Owner. If the Contractor disagrees with the actions of the Owner or the Architect, or the amounts claimed as costs to the Owner, the Contractor may file a Claim pursuant to Article 15.

ARTICLE 3 CONTRACTOR

§ 3.1 General

§ 3.1.1 The Contractor is the person or entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The Contractor shall be lawfully licensed, if required in the jurisdiction where the Project is located. The Contractor shall designate in writing a representative who shall have express authority to bind the Contractor with respect to all matters under this Contract. The term "Contractor" means the Contractor or the Contractor's authorized representative.

§ 3.1.2 The Contractor shall perform the Work in accordance with the Contract Documents.

§ 3.1.3 The Contractor shall not be relieved of its obligations to perform the Work in accordance with the Contract Documents either by activities or duties of the Architect in the Architect's administration of the Contract, or by tests, inspections or approvals required or performed by persons or entities other than the Contractor.

§ 3.2 Review of Contract Documents and Field Conditions by Contractor

§ 3.2.1 Execution of the Contract by the Contractor is a representation that the Contractor has visited the site, become generally familiar with local conditions under which the Work is to be performed, and correlated personal observations with requirements of the Contract Documents.

§ 3.2.2 Because the Contract Documents are complementary, the Contractor shall, before starting each portion of the Work, carefully study and compare the various Contract Documents relative to that portion of the Work, as well as the information furnished by the Owner pursuant to Section 2.3.4, shall take field measurements of any existing conditions related to that portion of the Work, and shall observe any conditions at the site affecting it. These obligations are for the purpose of facilitating coordination and construction by the Contractor and are not for the purpose of discovering errors, omissions, or inconsistencies in the Contract Documents; however, the Contractor shall promptly report to the Architect any errors, inconsistencies or omissions discovered by or made known to the Contractor as a request for information in such form as the Architect may require. It is recognized that the Contractor's review is made in the Contractor's capacity as a contractor and not as a licensed design professional, unless otherwise specifically provided in the Contract Documents.

§ 3.2.3 The Contractor is not required to ascertain that the Contract Documents are in accordance with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, but the Contractor shall promptly report to the Architect any nonconformity discovered by or made known to the Contractor as a request for information in such form as the Architect may require.

§ 3.2.4 If the Contractor believes that additional cost or time is involved because of clarifications or instructions the Architect issues in response to the Contractor's notices or requests for information pursuant to Sections 3.2.2 or 3.2.3, the Contractor shall submit Claims as provided in Article 15. If the Contractor fails to perform the obligations of Sections 3.2.2 or 3.2.3, the Contractor shall pay such costs and damages to the Owner, subject to Section 15.1.7, as would have been avoided if the Contractor had performed such obligations. If the Contractor performs those obligations, the Contractor shall not be liable to the Owner or Architect for damages resulting from errors, inconsistencies or omissions in the Contract Documents, for differences between field measurements or conditions and the Contract Documents, or for nonconformities of the Contract Documents to applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities.

§ 3.3 Supervision and Construction Procedures

§ 3.3.1 The Contractor shall supervise and direct the Work, using the Contractor's best skill and attention. The Contractor shall be solely responsible for, and have control over, construction means, methods, techniques, sequences, and procedures, and for coordinating all portions of the Work under the Contract. If the Contract Documents give specific instructions concerning construction means, methods, techniques, sequences, or procedures, the Contractor shall evaluate the jobsite safety thereof and shall be solely responsible for the jobsite safety of such means, methods, techniques, sequences, or procedures. If the Contractor determines that such means, methods, techniques, sequences or procedures may not be safe, the Contractor shall give timely notice to the Owner and Architect, and shall propose alternative means, methods, techniques, sequences, or procedures. The Architect shall evaluate the proposed alternative solely for conformance with the design intent for the completed construction. Unless the Architect objects to the Contractor's proposed alternative, the Contractor shall perform the Work using its alternative means, methods, techniques, sequences, or procedures.

§ 3.3.2 The Contractor shall be responsible to the Owner for acts and omissions of the Contractor's employees, Subcontractors and their agents and employees, and other persons or entities performing portions of the Work for, or on behalf of, the Contractor or any of its Subcontractors.

§ 3.3.3 The Contractor shall be responsible for inspection of portions of Work already performed to determine that such portions are in proper condition to receive subsequent Work.

§ 3.4 Labor and Materials

§ 3.4.1 Unless otherwise provided in the Contract Documents, the Contractor shall provide and pay for labor, materials, equipment, tools, construction equipment and machinery, water, heat, utilities, transportation, and other facilities and services necessary for proper execution and completion of the Work, whether temporary or permanent and whether or not incorporated or to be incorporated in the Work.

§ 3.4.2 Except in the case of minor changes in the Work approved by the Architect in accordance with Section 3.12.8 or ordered by the Architect in accordance with Section 7.4, the Contractor may make substitutions only with the consent of the Owner, after evaluation by the Architect and in accordance with a Change Order or Construction Change Directive.

§ 3.4.3 The Contractor shall enforce strict discipline and good order among the Contractor's employees and other persons carrying out the Work. The Contractor shall not permit employment of unfit persons or persons not properly skilled in tasks assigned to them.

§ 3.5 Warranty

§ 3.5.1 The Contractor warrants to the Owner and Architect that materials and equipment furnished under the Contract will be of good quality and new unless the Contract Documents require or permit otherwise. The Contractor further warrants that the Work will conform to the requirements of the Contract Documents and will be free from defects, except for those inherent in the quality of the Work the Contract Documents require or permit. Work, materials, or equipment not conforming to these requirements may be considered defective. The Contractor's warranty excludes remedy for damage or defect caused by abuse, alterations to the Work not executed by the Contractor, improper or insufficient maintenance, improper operation, or normal wear and tear and normal usage. If required by the Architect, the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment.

§ 3.5.2 All material, equipment, or other special warranties required by the Contract Documents shall be issued in the name of the Owner, or shall be transferable to the Owner, and shall commence in accordance with Section 9.8.4.

§ 3.6 Taxes

The Contractor shall pay sales, consumer, use and similar taxes for the Work provided by the Contractor that are legally enacted when bids are received or negotiations concluded, whether or not yet effective or merely scheduled to go into effect.

§ 3.7 Permits, Fees, Notices and Compliance with Laws

§ 3.7.1 Unless otherwise provided in the Contract Documents, the Contractor shall secure and pay for the building permit as well as for other permits, fees, licenses, and inspections by government agencies necessary for proper execution and completion of the Work that are customarily secured after execution of the Contract and legally required at the time bids are received or negotiations concluded.

§ 3.7.2 The Contractor shall comply with and give notices required by applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities applicable to performance of the Work.

§ 3.7.3 If the Contractor performs Work knowing it to be contrary to applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, the Contractor shall assume appropriate responsibility for such Work and shall bear the costs attributable to correction.

§ 3.7.4 Concealed or Unknown Conditions

If the Contractor encounters conditions at the site that are (1) subsurface or otherwise concealed physical conditions that differ materially from those indicated in the Contract Documents or (2) unknown physical conditions of an unusual nature that differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Contract Documents, the Contractor shall promptly provide notice to the Owner and the Architect before conditions are disturbed and in no event later than 14 days after first observance of the conditions. The Architect will promptly investigate such conditions and, if the Architect determines that they differ materially and cause an increase or decrease in the Contractor's cost of, or time required for, performance of any part of the Work, will recommend that an equitable adjustment be made in the Contract Sum or Contract Time, or both. If the Architect determines that the conditions at the site are not materially different from those indicated in the Contract Documents and that no change in the terms of the Contract is justified, the Architect shall promptly notify the Owner and Contractor, stating the reasons. If either party disputes the Architect's determination or recommendation, that party may submit a Claim as provided in Article 15.

§ 3.7.5 If, in the course of the Work, the Contractor encounters human remains or recognizes the existence of burial markers, archaeological sites or wetlands not indicated in the Contract Documents, the Contractor shall immediately

suspend any operations that would affect them and shall notify the Owner and Architect. Upon receipt of such notice, the Owner shall promptly take any action necessary to obtain governmental authorization required to resume the operations. The Contractor shall continue to suspend such operations until otherwise instructed by the Owner but shall continue with all other operations that do not affect those remains or features. Requests for adjustments in the Contract Sum and Contract Time arising from the existence of such remains or features may be made as provided in Article 15.

§ 3.8 Allowances

§ 3.8.1 The Contractor shall include in the Contract Sum all allowances stated in the Contract Documents. Items covered by allowances shall be supplied for such amounts and by such persons or entities as the Owner may direct, but the Contractor shall not be required to employ persons or entities to whom the Contractor has reasonable objection.

§ 3.8.2 Unless otherwise provided in the Contract Documents,

- .1** allowances shall cover the cost to the Contractor of materials and equipment delivered at the site and all required taxes, less applicable trade discounts;
- .2** Contractor's costs for unloading and handling at the site, labor, installation costs, overhead, profit, and other expenses contemplated for stated allowance amounts shall be included in the Contract Sum but not in the allowances; and
- .3** whenever costs are more than or less than allowances, the Contract Sum shall be adjusted accordingly by Change Order. The amount of the Change Order shall reflect (1) the difference between actual costs and the allowances under Section 3.8.2.1 and (2) changes in Contractor's costs under Section 3.8.2.2.

§ 3.8.3 Materials and equipment under an allowance shall be selected by the Owner with reasonable promptness.

§ 3.9 Superintendent

§ 3.9.1 The Contractor shall employ a competent superintendent and necessary assistants who shall be in attendance at the Project site during performance of the Work. The superintendent shall represent the Contractor, and communications given to the superintendent shall be as binding as if given to the Contractor.

§ 3.9.2 The Contractor, as soon as practicable after award of the Contract, shall notify the Owner and Architect of the name and qualifications of a proposed superintendent. Within 14 days of receipt of the information, the Architect may notify the Contractor, stating whether the Owner or the Architect (1) has reasonable objection to the proposed superintendent or (2) requires additional time for review. Failure of the Architect to provide notice within the 14-day period shall constitute notice of no reasonable objection.

§ 3.9.3 The Contractor shall not employ a proposed superintendent to whom the Owner or Architect has made reasonable and timely objection. The Contractor shall not change the superintendent without the Owner's consent, which shall not unreasonably be withheld or delayed.

§ 3.10 Contractor's Construction and Submittal Schedules

§ 3.10.1 The Contractor, promptly after being awarded the Contract, shall submit for the Owner's and Architect's information a Contractor's construction schedule for the Work. The schedule shall contain detail appropriate for the Project, including (1) the date of commencement of the Work, interim schedule milestone dates, and the date of Substantial Completion; (2) an apportionment of the Work by construction activity; and (3) the time required for completion of each portion of the Work. The schedule shall provide for the orderly progression of the Work to completion and shall not exceed time limits current under the Contract Documents. The schedule shall be revised at appropriate intervals as required by the conditions of the Work and Project.

§ 3.10.2 The Contractor, promptly after being awarded the Contract and thereafter as necessary to maintain a current submittal schedule, shall submit a submittal schedule for the Architect's approval. The Architect's approval shall not be unreasonably delayed or withheld. The submittal schedule shall (1) be coordinated with the Contractor's construction schedule, and (2) allow the Architect reasonable time to review submittals. If the Contractor fails to submit a submittal schedule, or fails to provide submittals in accordance with the approved submittal schedule, the Contractor shall not be entitled to any increase in Contract Sum or extension of Contract Time based on the time required for review of submittals.

§ 3.10.3 The Contractor shall perform the Work in general accordance with the most recent schedules submitted to the Owner and Architect.

§ 3.11 Documents and Samples at the Site

The Contractor shall make available, at the Project site, the Contract Documents, including Change Orders, Construction Change Directives, and other Modifications, in good order and marked currently to indicate field changes and selections made during construction, and the approved Shop Drawings, Product Data, Samples, and similar required submittals. These shall be in electronic form or paper copy, available to the Architect and Owner, and delivered to the Architect for submittal to the Owner upon completion of the Work as a record of the Work as constructed.

§ 3.12 Shop Drawings, Product Data and Samples

§ 3.12.1 Shop Drawings are drawings, diagrams, schedules, and other data specially prepared for the Work by the Contractor or a Subcontractor, Sub-subcontractor, manufacturer, supplier, or distributor to illustrate some portion of the Work.

§ 3.12.2 Product Data are illustrations, standard schedules, performance charts, instructions, brochures, diagrams, and other information furnished by the Contractor to illustrate materials or equipment for some portion of the Work.

§ 3.12.3 Samples are physical examples that illustrate materials, equipment, or workmanship, and establish standards by which the Work will be judged.

§ 3.12.4 Shop Drawings, Product Data, Samples, and similar submittals are not Contract Documents. Their purpose is to demonstrate how the Contractor proposes to conform to the information given and the design concept expressed in the Contract Documents for those portions of the Work for which the Contract Documents require submittals. Review by the Architect is subject to the limitations of Section 4.2.7. Informational submittals upon which the Architect is not expected to take responsive action may be so identified in the Contract Documents. Submittals that are not required by the Contract Documents may be returned by the Architect without action.

§ 3.12.5 The Contractor shall review for compliance with the Contract Documents, approve, and submit to the Architect, Shop Drawings, Product Data, Samples, and similar submittals required by the Contract Documents, in accordance with the submittal schedule approved by the Architect or, in the absence of an approved submittal schedule, with reasonable promptness and in such sequence as to cause no delay in the Work or in the activities of the Owner or of Separate Contractors.

§ 3.12.6 By submitting Shop Drawings, Product Data, Samples, and similar submittals, the Contractor represents to the Owner and Architect that the Contractor has (1) reviewed and approved them, (2) determined and verified materials, field measurements and field construction criteria related thereto, or will do so, and (3) checked and coordinated the information contained within such submittals with the requirements of the Work and of the Contract Documents.

§ 3.12.7 The Contractor shall perform no portion of the Work for which the Contract Documents require submittal and review of Shop Drawings, Product Data, Samples, or similar submittals, until the respective submittal has been approved by the Architect.

§ 3.12.8 The Work shall be in accordance with approved submittals except that the Contractor shall not be relieved of responsibility for deviations from the requirements of the Contract Documents by the Architect's approval of Shop Drawings, Product Data, Samples, or similar submittals, unless the Contractor has specifically notified the Architect of such deviation at the time of submittal and (1) the Architect has given written approval to the specific deviation as a minor change in the Work, or (2) a Change Order or Construction Change Directive has been issued authorizing the deviation. The Contractor shall not be relieved of responsibility for errors or omissions in Shop Drawings, Product Data, Samples, or similar submittals, by the Architect's approval thereof.

§ 3.12.9 The Contractor shall direct specific attention, in writing or on resubmitted Shop Drawings, Product Data, Samples, or similar submittals, to revisions other than those requested by the Architect on previous submittals. In the absence of such notice, the Architect's approval of a resubmission shall not apply to such revisions.

§ 3.12.10 The Contractor shall not be required to provide professional services that constitute the practice of architecture or engineering unless such services are specifically required by the Contract Documents for a portion of the Work or unless the Contractor needs to provide such services in order to carry out the Contractor's responsibilities for construction means, methods, techniques, sequences, and procedures. The Contractor shall not be required to provide professional services in violation of applicable law.

§ 3.12.10.1 If professional design services or certifications by a design professional related to systems, materials, or equipment are specifically required of the Contractor by the Contract Documents, the Owner and the Architect will specify all performance and design criteria that such services must satisfy. The Contractor shall be entitled to rely upon the adequacy and accuracy of the performance and design criteria provided in the Contract Documents. The Contractor shall cause such services or certifications to be provided by an appropriately licensed design professional, whose signature and seal shall appear on all drawings, calculations, specifications, certifications, Shop Drawings, and other submittals prepared by such professional. Shop Drawings, and other submittals related to the Work, designed or certified by such professional, if prepared by others, shall bear such professional's written approval when submitted to the Architect. The Owner and the Architect shall be entitled to rely upon the adequacy and accuracy of the services, certifications, and approvals performed or provided by such design professionals, provided the Owner and Architect have specified to the Contractor the performance and design criteria that such services must satisfy. Pursuant to this Section 3.12.10, the Architect will review and approve or take other appropriate action on submittals only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents.

§ 3.12.10.2 If the Contract Documents require the Contractor's design professional to certify that the Work has been performed in accordance with the design criteria, the Contractor shall furnish such certifications to the Architect at the time and in the form specified by the Architect.

§ 3.13 Use of Site

The Contractor shall confine operations at the site to areas permitted by applicable laws, statutes, ordinances, codes, rules and regulations, lawful orders of public authorities, and the Contract Documents and shall not unreasonably encumber the site with materials or equipment.

§ 3.14 Cutting and Patching

§ 3.14.1 The Contractor shall be responsible for cutting, fitting, or patching required to complete the Work or to make its parts fit together properly. All areas requiring cutting, fitting, or patching shall be restored to the condition existing prior to the cutting, fitting, or patching, unless otherwise required by the Contract Documents.

§ 3.14.2 The Contractor shall not damage or endanger a portion of the Work or fully or partially completed construction of the Owner or Separate Contractors by cutting, patching, or otherwise altering such construction, or by excavation. The Contractor shall not cut or otherwise alter construction by the Owner or a Separate Contractor except with written consent of the Owner and of the Separate Contractor. Consent shall not be unreasonably withheld. The Contractor shall not unreasonably withhold, from the Owner or a Separate Contractor, its consent to cutting or otherwise altering the Work.

§ 3.15 Cleaning Up

§ 3.15.1 The Contractor shall keep the premises and surrounding area free from accumulation of waste materials and rubbish caused by operations under the Contract. At completion of the Work, the Contractor shall remove waste materials, rubbish, the Contractor's tools, construction equipment, machinery, and surplus materials from and about the Project.

§ 3.15.2 If the Contractor fails to clean up as provided in the Contract Documents, the Owner may do so and the Owner shall be entitled to reimbursement from the Contractor.

§ 3.16 Access to Work

The Contractor shall provide the Owner and Architect with access to the Work in preparation and progress wherever located.

§ 3.17 Royalties, Patents and Copyrights

The Contractor shall pay all royalties and license fees. The Contractor shall defend suits or claims for infringement of copyrights and patent rights and shall hold the Owner and Architect harmless from loss on account thereof, but shall not be responsible for defense or loss when a particular design, process, or product of a particular manufacturer or manufacturers is required by the Contract Documents, or where the copyright violations are contained in Drawings, Specifications, or other documents prepared by the Owner or Architect. However, if an infringement of a copyright or patent is discovered by, or made known to, the Contractor, the Contractor shall be responsible for the loss unless the information is promptly furnished to the Architect.

§ 3.18 Indemnification

§ 3.18.1 To the fullest extent permitted by law, the Contractor shall indemnify and hold harmless the Owner, Architect, Architect's consultants, and agents and employees of any of them from and against claims, damages, losses, and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work, provided that such claim, damage, loss, or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), but only to the extent caused by the negligent acts or omissions of the Contractor, a Subcontractor, anyone directly or indirectly employed by them, or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss, or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity that would otherwise exist as to a party or person described in this Section 3.18.

§ 3.18.2 In claims against any person or entity indemnified under this Section 3.18 by an employee of the Contractor, a Subcontractor, anyone directly or indirectly employed by them, or anyone for whose acts they may be liable, the indemnification obligation under Section 3.18.1 shall not be limited by a limitation on amount or type of damages, compensation, or benefits payable by or for the Contractor or a Subcontractor under workers' compensation acts, disability benefit acts, or other employee benefit acts.

ARTICLE 4 ARCHITECT

§ 4.1 General

§ 4.1.1 The Architect is the person or entity retained by the Owner pursuant to Section 2.3.2 and identified as such in the Agreement.

§ 4.1.2 Duties, responsibilities, and limitations of authority of the Architect as set forth in the Contract Documents shall not be restricted, modified, or extended without written consent of the Owner, Contractor, and Architect. Consent shall not be unreasonably withheld.

§ 4.2 Administration of the Contract

§ 4.2.1 The Architect will provide administration of the Contract as described in the Contract Documents and will be an Owner's representative during construction until the date the Architect issues the final Certificate for Payment. The Architect will have authority to act on behalf of the Owner only to the extent provided in the Contract Documents.

§ 4.2.2 The Architect will visit the site at intervals appropriate to the stage of construction, or as otherwise agreed with the Owner, to become generally familiar with the progress and quality of the portion of the Work completed, and to determine in general if the Work observed is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. However, the Architect will not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. The Architect will not have control over, charge of, or responsibility for the construction means, methods, techniques, sequences or procedures, or for the safety precautions and programs in connection with the Work, since these are solely the Contractor's rights and responsibilities under the Contract Documents.

§ 4.2.3 On the basis of the site visits, the Architect will keep the Owner reasonably informed about the progress and quality of the portion of the Work completed, and promptly report to the Owner (1) known deviations from the Contract Documents, (2) known deviations from the most recent construction schedule submitted by the Contractor, and (3) defects and deficiencies observed in the Work. The Architect will not be responsible for the Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. The Architect will not

have control over or charge of, and will not be responsible for acts or omissions of, the Contractor, Subcontractors, or their agents or employees, or any other persons or entities performing portions of the Work.

§ 4.2.4 Communications

The Owner and Contractor shall include the Architect in all communications that relate to or affect the Architect's services or professional responsibilities. The Owner shall promptly notify the Architect of the substance of any direct communications between the Owner and the Contractor otherwise relating to the Project. Communications by and with the Architect's consultants shall be through the Architect. Communications by and with Subcontractors and suppliers shall be through the Contractor. Communications by and with Separate Contractors shall be through the Owner. The Contract Documents may specify other communication protocols.

§ 4.2.5 Based on the Architect's evaluations of the Contractor's Applications for Payment, the Architect will review and certify the amounts due the Contractor and will issue Certificates for Payment in such amounts.

§ 4.2.6 The Architect has authority to reject Work that does not conform to the Contract Documents. Whenever the Architect considers it necessary or advisable, the Architect will have authority to require inspection or testing of the Work in accordance with Sections 13.4.2 and 13.4.3, whether or not the Work is fabricated, installed or completed. However, neither this authority of the Architect nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect to the Contractor, Subcontractors, suppliers, their agents or employees, or other persons or entities performing portions of the Work.

§ 4.2.7 The Architect will review and approve, or take other appropriate action upon, the Contractor's submittals such as Shop Drawings, Product Data, and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Architect's action will be taken in accordance with the submittal schedule approved by the Architect or, in the absence of an approved submittal schedule, with reasonable promptness while allowing sufficient time in the Architect's professional judgment to permit adequate review. Review of such submittals is not conducted for the purpose of determining the accuracy and completeness of other details such as dimensions and quantities, or for substantiating instructions for installation or performance of equipment or systems, all of which remain the responsibility of the Contractor as required by the Contract Documents. The Architect's review of the Contractor's submittals shall not relieve the Contractor of the obligations under Sections 3.3, 3.5, and 3.12. The Architect's review shall not constitute approval of safety precautions or of any construction means, methods, techniques, sequences, or procedures. The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

§ 4.2.8 The Architect will prepare Change Orders and Construction Change Directives, and may order minor changes in the Work as provided in Section 7.4. The Architect will investigate and make determinations and recommendations regarding concealed and unknown conditions as provided in Section 3.7.4.

§ 4.2.9 The Architect will conduct inspections to determine the date or dates of Substantial Completion and the date of final completion; issue Certificates of Substantial Completion pursuant to Section 9.8; receive and forward to the Owner, for the Owner's review and records, written warranties and related documents required by the Contract and assembled by the Contractor pursuant to Section 9.10; and issue a final Certificate for Payment pursuant to Section 9.10.

§ 4.2.10 If the Owner and Architect agree, the Architect will provide one or more Project representatives to assist in carrying out the Architect's responsibilities at the site. The Owner shall notify the Contractor of any change in the duties, responsibilities and limitations of authority of the Project representatives.

§ 4.2.11 The Architect will interpret and decide matters concerning performance under, and requirements of, the Contract Documents on written request of either the Owner or Contractor. The Architect's response to such requests will be made in writing within any time limits agreed upon or otherwise with reasonable promptness.

§ 4.2.12 Interpretations and decisions of the Architect will be consistent with the intent of, and reasonably inferable from, the Contract Documents and will be in writing or in the form of drawings. When making such interpretations and decisions, the Architect will endeavor to secure faithful performance by both Owner and Contractor, will not show partiality to either, and will not be liable for results of interpretations or decisions rendered in good faith.

§ 4.2.13 The Architect's decisions on matters relating to aesthetic effect will be final if consistent with the intent expressed in the Contract Documents.

§ 4.2.14 The Architect will review and respond to requests for information about the Contract Documents. The Architect's response to such requests will be made in writing within any time limits agreed upon or otherwise with reasonable promptness. If appropriate, the Architect will prepare and issue supplemental Drawings and Specifications in response to the requests for information.

ARTICLE 5 SUBCONTRACTORS

§ 5.1 Definitions

§ 5.1.1 A Subcontractor is a person or entity who has a direct contract with the Contractor to perform a portion of the Work at the site. The term "Subcontractor" is referred to throughout the Contract Documents as if singular in number and means a Subcontractor or an authorized representative of the Subcontractor. The term "Subcontractor" does not include a Separate Contractor or the subcontractors of a Separate Contractor.

§ 5.1.2 A Sub-subcontractor is a person or entity who has a direct or indirect contract with a Subcontractor to perform a portion of the Work at the site. The term "Sub-subcontractor" is referred to throughout the Contract Documents as if singular in number and means a Sub-subcontractor or an authorized representative of the Sub-subcontractor.

§ 5.2 Award of Subcontracts and Other Contracts for Portions of the Work

§ 5.2.1 Unless otherwise stated in the Contract Documents, the Contractor, as soon as practicable after award of the Contract, shall notify the Owner and Architect of the persons or entities proposed for each principal portion of the Work, including those who are to furnish materials or equipment fabricated to a special design. Within 14 days of receipt of the information, the Architect may notify the Contractor whether the Owner or the Architect (1) has reasonable objection to any such proposed person or entity or (2) requires additional time for review. Failure of the Architect to provide notice within the 14-day period shall constitute notice of no reasonable objection.

§ 5.2.2 The Contractor shall not contract with a proposed person or entity to whom the Owner or Architect has made reasonable and timely objection. The Contractor shall not be required to contract with anyone to whom the Contractor has made reasonable objection.

§ 5.2.3 If the Owner or Architect has reasonable objection to a person or entity proposed by the Contractor, the Contractor shall propose another to whom the Owner or Architect has no reasonable objection. If the proposed but rejected Subcontractor was reasonably capable of performing the Work, the Contract Sum and Contract Time shall be increased or decreased by the difference, if any, occasioned by such change, and an appropriate Change Order shall be issued before commencement of the substitute Subcontractor's Work. However, no increase in the Contract Sum or Contract Time shall be allowed for such change unless the Contractor has acted promptly and responsively in submitting names as required.

§ 5.2.4 The Contractor shall not substitute a Subcontractor, person, or entity for one previously selected if the Owner or Architect makes reasonable objection to such substitution.

§ 5.3 Subcontractual Relations

By appropriate written agreement, the Contractor shall require each Subcontractor, to the extent of the Work to be performed by the Subcontractor, to be bound to the Contractor by terms of the Contract Documents, and to assume toward the Contractor all the obligations and responsibilities, including the responsibility for safety of the Subcontractor's Work that the Contractor, by these Contract Documents, assumes toward the Owner and Architect. Each subcontract agreement shall preserve and protect the rights of the Owner and Architect under the Contract Documents with respect to the Work to be performed by the Subcontractor so that subcontracting thereof will not prejudice such rights, and shall allow to the Subcontractor, unless specifically provided otherwise in the subcontract agreement, the benefit of all rights, remedies, and redress against the Contractor that the Contractor, by the Contract Documents, has against the Owner. Where appropriate, the Contractor shall require each Subcontractor to enter into similar agreements with Sub-subcontractors. The Contractor shall make available to each proposed Subcontractor, prior to the execution of the subcontract agreement, copies of the Contract Documents to which the Subcontractor will be bound, and, upon written request of the Subcontractor, identify to the Subcontractor terms and conditions of the proposed subcontract agreement that may be at variance with the Contract Documents. Subcontractors will

similarly make copies of applicable portions of such documents available to their respective proposed Sub-subcontractors.

§ 5.4 Contingent Assignment of Subcontracts

§ 5.4.1 Each subcontract agreement for a portion of the Work is assigned by the Contractor to the Owner, provided that

- .1 assignment is effective only after termination of the Contract by the Owner for cause pursuant to Section 14.2 and only for those subcontract agreements that the Owner accepts by notifying the Subcontractor and Contractor; and
- .2 assignment is subject to the prior rights of the surety, if any, obligated under bond relating to the Contract.

When the Owner accepts the assignment of a subcontract agreement, the Owner assumes the Contractor's rights and obligations under the subcontract.

§ 5.4.2 Upon such assignment, if the Work has been suspended for more than 30 days, the Subcontractor's compensation shall be equitably adjusted for increases in cost resulting from the suspension.

§ 5.4.3 Upon assignment to the Owner under this Section 5.4, the Owner may further assign the subcontract to a successor contractor or other entity. If the Owner assigns the subcontract to a successor contractor or other entity, the Owner shall nevertheless remain legally responsible for all of the successor contractor's obligations under the subcontract.

ARTICLE 6 CONSTRUCTION BY OWNER OR BY SEPARATE CONTRACTORS

§ 6.1 Owner's Right to Perform Construction and to Award Separate Contracts

§ 6.1.1 The term "Separate Contractor(s)" shall mean other contractors retained by the Owner under separate agreements. The Owner reserves the right to perform construction or operations related to the Project with the Owner's own forces, and with Separate Contractors retained under Conditions of the Contract substantially similar to those of this Contract, including those provisions of the Conditions of the Contract related to insurance and waiver of subrogation.

§ 6.1.2 When separate contracts are awarded for different portions of the Project or other construction or operations on the site, the term "Contractor" in the Contract Documents in each case shall mean the Contractor who executes each separate Owner-Contractor Agreement.

§ 6.1.3 The Owner shall provide for coordination of the activities of the Owner's own forces and of each Separate Contractor with the Work of the Contractor, who shall cooperate with them. The Contractor shall participate with any Separate Contractors and the Owner in reviewing their construction schedules. The Contractor shall make any revisions to its construction schedule deemed necessary after a joint review and mutual agreement. The construction schedules shall then constitute the schedules to be used by the Contractor, Separate Contractors, and the Owner until subsequently revised.

§ 6.1.4 Unless otherwise provided in the Contract Documents, when the Owner performs construction or operations related to the Project with the Owner's own forces or with Separate Contractors, the Owner or its Separate Contractors shall have the same obligations and rights that the Contractor has under the Conditions of the Contract, including, without excluding others, those stated in Article 3, this Article 6, and Articles 10, 11, and 12.

§ 6.2 Mutual Responsibility

§ 6.2.1 The Contractor shall afford the Owner and Separate Contractors reasonable opportunity for introduction and storage of their materials and equipment and performance of their activities, and shall connect and coordinate the Contractor's construction and operations with theirs as required by the Contract Documents.

§ 6.2.2 If part of the Contractor's Work depends for proper execution or results upon construction or operations by the Owner or a Separate Contractor, the Contractor shall, prior to proceeding with that portion of the Work, promptly notify the Architect of apparent discrepancies or defects in the construction or operations by the Owner or Separate Contractor that would render it unsuitable for proper execution and results of the Contractor's Work. Failure of the Contractor to notify the Architect of apparent discrepancies or defects prior to proceeding with the

Work shall constitute an acknowledgment that the Owner's or Separate Contractor's completed or partially completed construction is fit and proper to receive the Contractor's Work. The Contractor shall not be responsible for discrepancies or defects in the construction or operations by the Owner or Separate Contractor that are not apparent.

§ 6.2.3 The Contractor shall reimburse the Owner for costs the Owner incurs that are payable to a Separate Contractor because of the Contractor's delays, improperly timed activities or defective construction. The Owner shall be responsible to the Contractor for costs the Contractor incurs because of a Separate Contractor's delays, improperly timed activities, damage to the Work or defective construction.

§ 6.2.4 The Contractor shall promptly remedy damage that the Contractor wrongfully causes to completed or partially completed construction or to property of the Owner or Separate Contractor as provided in Section 10.2.5.

§ 6.2.5 The Owner and each Separate Contractor shall have the same responsibilities for cutting and patching as are described for the Contractor in Section 3.14.

§ 6.3 Owner's Right to Clean Up

If a dispute arises among the Contractor, Separate Contractors, and the Owner as to the responsibility under their respective contracts for maintaining the premises and surrounding area free from waste materials and rubbish, the Owner may clean up and the Architect will allocate the cost among those responsible.

ARTICLE 7 CHANGES IN THE WORK

§ 7.1 General

§ 7.1.1 Changes in the Work may be accomplished after execution of the Contract, and without invalidating the Contract, by Change Order, Construction Change Directive or order for a minor change in the Work, subject to the limitations stated in this Article 7 and elsewhere in the Contract Documents.

§ 7.1.2 A Change Order shall be based upon agreement among the Owner, Contractor, and Architect. A Construction Change Directive requires agreement by the Owner and Architect and may or may not be agreed to by the Contractor. An order for a minor change in the Work may be issued by the Architect alone.

§ 7.1.3 Changes in the Work shall be performed under applicable provisions of the Contract Documents. The Contractor shall proceed promptly with changes in the Work, unless otherwise provided in the Change Order, Construction Change Directive, or order for a minor change in the Work.

§ 7.2 Change Orders

§ 7.2.1 A Change Order is a written instrument prepared by the Architect and signed by the Owner, Contractor, and Architect stating their agreement upon all of the following:

- .1 The change in the Work;
- .2 The amount of the adjustment, if any, in the Contract Sum; and
- .3 The extent of the adjustment, if any, in the Contract Time.

§ 7.3 Construction Change Directives

§ 7.3.1 A Construction Change Directive is a written order prepared by the Architect and signed by the Owner and Architect, directing a change in the Work prior to agreement on adjustment, if any, in the Contract Sum or Contract Time, or both. The Owner may by Construction Change Directive, without invalidating the Contract, order changes in the Work within the general scope of the Contract consisting of additions, deletions, or other revisions, the Contract Sum and Contract Time being adjusted accordingly.

§ 7.3.2 A Construction Change Directive shall be used in the absence of total agreement on the terms of a Change Order.

§ 7.3.3 If the Construction Change Directive provides for an adjustment to the Contract Sum, the adjustment shall be based on one of the following methods:

- .1 Mutual acceptance of a lump sum properly itemized and supported by sufficient substantiating data to permit evaluation;
- .2 Unit prices stated in the Contract Documents or subsequently agreed upon;

- .3 Cost to be determined in a manner agreed upon by the parties and a mutually acceptable fixed or percentage fee; or
- .4 As provided in Section 7.3.4.

§ 7.3.4 If the Contractor does not respond promptly or disagrees with the method for adjustment in the Contract Sum, the Architect shall determine the adjustment on the basis of reasonable expenditures and savings of those performing the Work attributable to the change, including, in case of an increase in the Contract Sum, an amount for overhead and profit as set forth in the Agreement, or if no such amount is set forth in the Agreement, a reasonable amount. In such case, and also under Section 7.3.3.3, the Contractor shall keep and present, in such form as the Architect may prescribe, an itemized accounting together with appropriate supporting data. Unless otherwise provided in the Contract Documents, costs for the purposes of this Section 7.3.4 shall be limited to the following:

- .1 Costs of labor, including applicable payroll taxes, fringe benefits required by agreement or custom, workers' compensation insurance, and other employee costs approved by the Architect;
- .2 Costs of materials, supplies, and equipment, including cost of transportation, whether incorporated or consumed;
- .3 Rental costs of machinery and equipment, exclusive of hand tools, whether rented from the Contractor or others;
- .4 Costs of premiums for all bonds and insurance, permit fees, and sales, use, or similar taxes, directly related to the change; and
- .5 Costs of supervision and field office personnel directly attributable to the change.

§ 7.3.5 If the Contractor disagrees with the adjustment in the Contract Time, the Contractor may make a Claim in accordance with applicable provisions of Article 15.

§ 7.3.6 Upon receipt of a Construction Change Directive, the Contractor shall promptly proceed with the change in the Work involved and advise the Architect of the Contractor's agreement or disagreement with the method, if any, provided in the Construction Change Directive for determining the proposed adjustment in the Contract Sum or Contract Time.

§ 7.3.7 A Construction Change Directive signed by the Contractor indicates the Contractor's agreement therewith, including adjustment in Contract Sum and Contract Time or the method for determining them. Such agreement shall be effective immediately and shall be recorded as a Change Order.

§ 7.3.8 The amount of credit to be allowed by the Contractor to the Owner for a deletion or change that results in a net decrease in the Contract Sum shall be actual net cost as confirmed by the Architect. When both additions and credits covering related Work or substitutions are involved in a change, the allowance for overhead and profit shall be figured on the basis of net increase, if any, with respect to that change.

§ 7.3.9 Pending final determination of the total cost of a Construction Change Directive to the Owner, the Contractor may request payment for Work completed under the Construction Change Directive in Applications for Payment. The Architect will make an interim determination for purposes of monthly certification for payment for those costs and certify for payment the amount that the Architect determines, in the Architect's professional judgment, to be reasonably justified. The Architect's interim determination of cost shall adjust the Contract Sum on the same basis as a Change Order, subject to the right of either party to disagree and assert a Claim in accordance with Article 15.

§ 7.3.10 When the Owner and Contractor agree with a determination made by the Architect concerning the adjustments in the Contract Sum and Contract Time, or otherwise reach agreement upon the adjustments, such agreement shall be effective immediately and the Architect will prepare a Change Order. Change Orders may be issued for all or any part of a Construction Change Directive.

§ 7.4 Minor Changes in the Work

The Architect may order minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time. The Architect's order for minor changes shall be in writing. If the Contractor believes that the proposed minor change in the Work will affect the Contract Sum or Contract Time, the Contractor shall notify the Architect and shall not proceed to implement the change in the Work. If the Contractor performs the Work set forth in the Architect's order for a minor

change without prior notice to the Architect that such change will affect the Contract Sum or Contract Time, the Contractor waives any adjustment to the Contract Sum or extension of the Contract Time.

ARTICLE 8 TIME

§ 8.1 Definitions

§ 8.1.1 Unless otherwise provided, Contract Time is the period of time, including authorized adjustments, allotted in the Contract Documents for Substantial Completion of the Work.

§ 8.1.2 The date of commencement of the Work is the date established in the Agreement.

§ 8.1.3 The date of Substantial Completion is the date certified by the Architect in accordance with Section 9.8.

§ 8.1.4 The term “day” as used in the Contract Documents shall mean calendar day unless otherwise specifically defined.

§ 8.2 Progress and Completion

§ 8.2.1 Time limits stated in the Contract Documents are of the essence of the Contract. By executing the Agreement, the Contractor confirms that the Contract Time is a reasonable period for performing the Work.

§ 8.2.2 The Contractor shall not knowingly, except by agreement or instruction of the Owner in writing, commence the Work prior to the effective date of insurance required to be furnished by the Contractor and Owner.

§ 8.2.3 The Contractor shall proceed expeditiously with adequate forces and shall achieve Substantial Completion within the Contract Time.

§ 8.3 Delays and Extensions of Time

§ 8.3.1 If the Contractor is delayed at any time in the commencement or progress of the Work by (1) an act or neglect of the Owner or Architect, of an employee of either, or of a Separate Contractor; (2) by changes ordered in the Work; (3) by labor disputes, fire, unusual delay in deliveries, unavoidable casualties, adverse weather conditions documented in accordance with Section 15.1.6.2, or other causes beyond the Contractor’s control; (4) by delay authorized by the Owner pending mediation and binding dispute resolution; or (5) by other causes that the Contractor asserts, and the Architect determines, justify delay, then the Contract Time shall be extended for such reasonable time as the Architect may determine.

§ 8.3.2 Claims relating to time shall be made in accordance with applicable provisions of Article 15.

§ 8.3.3 This Section 8.3 does not preclude recovery of damages for delay by either party under other provisions of the Contract Documents.

ARTICLE 9 PAYMENTS AND COMPLETION

§ 9.1 Contract Sum

§ 9.1.1 The Contract Sum is stated in the Agreement and, including authorized adjustments, is the total amount payable by the Owner to the Contractor for performance of the Work under the Contract Documents.

§ 9.1.2 If unit prices are stated in the Contract Documents or subsequently agreed upon, and if quantities originally contemplated are materially changed so that application of such unit prices to the actual quantities causes substantial inequity to the Owner or Contractor, the applicable unit prices shall be equitably adjusted.

§ 9.2 Schedule of Values

Where the Contract is based on a stipulated sum or Guaranteed Maximum Price, the Contractor shall submit a schedule of values to the Architect before the first Application for Payment, allocating the entire Contract Sum to the various portions of the Work. The schedule of values shall be prepared in the form, and supported by the data to substantiate its accuracy, required by the Architect. This schedule, unless objected to by the Architect, shall be used as a basis for reviewing the Contractor’s Applications for Payment. Any changes to the schedule of values shall be submitted to the Architect and supported by such data to substantiate its accuracy as the Architect may require, and unless objected to by the Architect, shall be used as a basis for reviewing the Contractor’s subsequent Applications for Payment.

§ 9.3 Applications for Payment

§ 9.3.1 At least ten days before the date established for each progress payment, the Contractor shall submit to the Architect an itemized Application for Payment prepared in accordance with the schedule of values, if required under Section 9.2, for completed portions of the Work. The application shall be notarized, if required, and supported by all data substantiating the Contractor's right to payment that the Owner or Architect require, such as copies of requisitions, and releases and waivers of liens from Subcontractors and suppliers, and shall reflect retainage if provided for in the Contract Documents.

§ 9.3.1.1 As provided in Section 7.3.9, such applications may include requests for payment on account of changes in the Work that have been properly authorized by Construction Change Directives, or by interim determinations of the Architect, but not yet included in Change Orders.

§ 9.3.1.2 Applications for Payment shall not include requests for payment for portions of the Work for which the Contractor does not intend to pay a Subcontractor or supplier, unless such Work has been performed by others whom the Contractor intends to pay.

§ 9.3.2 Unless otherwise provided in the Contract Documents, payments shall be made on account of materials and equipment delivered and suitably stored at the site for subsequent incorporation in the Work. If approved in advance by the Owner, payment may similarly be made for materials and equipment suitably stored off the site at a location agreed upon in writing. Payment for materials and equipment stored on or off the site shall be conditioned upon compliance by the Contractor with procedures satisfactory to the Owner to establish the Owner's title to such materials and equipment or otherwise protect the Owner's interest, and shall include the costs of applicable insurance, storage, and transportation to the site, for such materials and equipment stored off the site.

§ 9.3.3 The Contractor warrants that title to all Work covered by an Application for Payment will pass to the Owner no later than the time of payment. The Contractor further warrants that upon submittal of an Application for Payment all Work for which Certificates for Payment have been previously issued and payments received from the Owner shall, to the best of the Contractor's knowledge, information, and belief, be free and clear of liens, claims, security interests, or encumbrances, in favor of the Contractor, Subcontractors, suppliers, or other persons or entities that provided labor, materials, and equipment relating to the Work.

§ 9.4 Certificates for Payment

§ 9.4.1 The Architect will, within seven days after receipt of the Contractor's Application for Payment, either (1) issue to the Owner a Certificate for Payment in the full amount of the Application for Payment, with a copy to the Contractor; or (2) issue to the Owner a Certificate for Payment for such amount as the Architect determines is properly due, and notify the Contractor and Owner of the Architect's reasons for withholding certification in part as provided in Section 9.5.1; or (3) withhold certification of the entire Application for Payment, and notify the Contractor and Owner of the Architect's reason for withholding certification in whole as provided in Section 9.5.1.

§ 9.4.2 The issuance of a Certificate for Payment will constitute a representation by the Architect to the Owner, based on the Architect's evaluation of the Work and the data in the Application for Payment, that, to the best of the Architect's knowledge, information, and belief, the Work has progressed to the point indicated, the quality of the Work is in accordance with the Contract Documents, and that the Contractor is entitled to payment in the amount certified. The foregoing representations are subject to an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, to results of subsequent tests and inspections, to correction of minor deviations from the Contract Documents prior to completion, and to specific qualifications expressed by the Architect. However, the issuance of a Certificate for Payment will not be a representation that the Architect has (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work; (2) reviewed construction means, methods, techniques, sequences, or procedures; (3) reviewed copies of requisitions received from Subcontractors and suppliers and other data requested by the Owner to substantiate the Contractor's right to payment; or (4) made examination to ascertain how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.

§ 9.5 Decisions to Withhold Certification

§ 9.5.1 The Architect may withhold a Certificate for Payment in whole or in part, to the extent reasonably necessary to protect the Owner, if in the Architect's opinion the representations to the Owner required by Section 9.4.2 cannot

be made. If the Architect is unable to certify payment in the amount of the Application, the Architect will notify the Contractor and Owner as provided in Section 9.4.1. If the Contractor and Architect cannot agree on a revised amount, the Architect will promptly issue a Certificate for Payment for the amount for which the Architect is able to make such representations to the Owner. The Architect may also withhold a Certificate for Payment or, because of subsequently discovered evidence, may nullify the whole or a part of a Certificate for Payment previously issued, to such extent as may be necessary in the Architect's opinion to protect the Owner from loss for which the Contractor is responsible, including loss resulting from acts and omissions described in Section 3.3.2, because of

- .1 defective Work not remedied;
- .2 third party claims filed or reasonable evidence indicating probable filing of such claims, unless security acceptable to the Owner is provided by the Contractor;
- .3 failure of the Contractor to make payments properly to Subcontractors or suppliers for labor, materials or equipment;
- .4 reasonable evidence that the Work cannot be completed for the unpaid balance of the Contract Sum;
- .5 damage to the Owner or a Separate Contractor;
- .6 reasonable evidence that the Work will not be completed within the Contract Time, and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay; or
- .7 repeated failure to carry out the Work in accordance with the Contract Documents.

§ 9.5.2 When either party disputes the Architect's decision regarding a Certificate for Payment under Section 9.5.1, in whole or in part, that party may submit a Claim in accordance with Article 15.

§ 9.5.3 When the reasons for withholding certification are removed, certification will be made for amounts previously withheld.

§ 9.5.4 If the Architect withholds certification for payment under Section 9.5.1.3, the Owner may, at its sole option, issue joint checks to the Contractor and to any Subcontractor or supplier to whom the Contractor failed to make payment for Work properly performed or material or equipment suitably delivered. If the Owner makes payments by joint check, the Owner shall notify the Architect and the Contractor shall reflect such payment on its next Application for Payment.

§ 9.6 Progress Payments

§ 9.6.1 After the Architect has issued a Certificate for Payment, the Owner shall make payment in the manner and within the time provided in the Contract Documents, and shall so notify the Architect.

§ 9.6.2 The Contractor shall pay each Subcontractor, no later than seven days after receipt of payment from the Owner, the amount to which the Subcontractor is entitled, reflecting percentages actually retained from payments to the Contractor on account of the Subcontractor's portion of the Work. The Contractor shall, by appropriate agreement with each Subcontractor, require each Subcontractor to make payments to Sub-subcontractors in a similar manner.

§ 9.6.3 The Architect will, on request, furnish to a Subcontractor, if practicable, information regarding percentages of completion or amounts applied for by the Contractor and action taken thereon by the Architect and Owner on account of portions of the Work done by such Subcontractor.

§ 9.6.4 The Owner has the right to request written evidence from the Contractor that the Contractor has properly paid Subcontractors and suppliers amounts paid by the Owner to the Contractor for subcontracted Work. If the Contractor fails to furnish such evidence within seven days, the Owner shall have the right to contact Subcontractors and suppliers to ascertain whether they have been properly paid. Neither the Owner nor Architect shall have an obligation to pay, or to see to the payment of money to, a Subcontractor or supplier, except as may otherwise be required by law.

§ 9.6.5 The Contractor's payments to suppliers shall be treated in a manner similar to that provided in Sections 9.6.2, 9.6.3 and 9.6.4.

§ 9.6.6 A Certificate for Payment, a progress payment, or partial or entire use or occupancy of the Project by the Owner shall not constitute acceptance of Work not in accordance with the Contract Documents.

§ 9.6.7 Unless the Contractor provides the Owner with a payment bond in the full penal sum of the Contract Sum, payments received by the Contractor for Work properly performed by Subcontractors or provided by suppliers shall be held by the Contractor for those Subcontractors or suppliers who performed Work or furnished materials, or both, under contract with the Contractor for which payment was made by the Owner. Nothing contained herein shall require money to be placed in a separate account and not commingled with money of the Contractor, create any fiduciary liability or tort liability on the part of the Contractor for breach of trust, or entitle any person or entity to an award of punitive damages against the Contractor for breach of the requirements of this provision.

§ 9.6.8 Provided the Owner has fulfilled its payment obligations under the Contract Documents, the Contractor shall defend and indemnify the Owner from all loss, liability, damage or expense, including reasonable attorney's fees and litigation expenses, arising out of any lien claim or other claim for payment by any Subcontractor or supplier of any tier. Upon receipt of notice of a lien claim or other claim for payment, the Owner shall notify the Contractor. If approved by the applicable court, when required, the Contractor may substitute a surety bond for the property against which the lien or other claim for payment has been asserted.

§ 9.7 Failure of Payment

If the Architect does not issue a Certificate for Payment, through no fault of the Contractor, within seven days after receipt of the Contractor's Application for Payment, or if the Owner does not pay the Contractor within seven days after the date established in the Contract Documents, the amount certified by the Architect or awarded by binding dispute resolution, then the Contractor may, upon seven additional days' notice to the Owner and Architect, stop the Work until payment of the amount owing has been received. The Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable costs of shutdown, delay and start-up, plus interest as provided for in the Contract Documents.

§ 9.8 Substantial Completion

§ 9.8.1 Substantial Completion is the stage in the progress of the Work when the Work or designated portion thereof is sufficiently complete in accordance with the Contract Documents so that the Owner can occupy or utilize the Work for its intended use.

§ 9.8.2 When the Contractor considers that the Work, or a portion thereof which the Owner agrees to accept separately, is substantially complete, the Contractor shall prepare and submit to the Architect a comprehensive list of items to be completed or corrected prior to final payment. Failure to include an item on such list does not alter the responsibility of the Contractor to complete all Work in accordance with the Contract Documents.

§ 9.8.3 Upon receipt of the Contractor's list, the Architect will make an inspection to determine whether the Work or designated portion thereof is substantially complete. If the Architect's inspection discloses any item, whether or not included on the Contractor's list, which is not sufficiently complete in accordance with the Contract Documents so that the Owner can occupy or utilize the Work or designated portion thereof for its intended use, the Contractor shall, before issuance of the Certificate of Substantial Completion, complete or correct such item upon notification by the Architect. In such case, the Contractor shall then submit a request for another inspection by the Architect to determine Substantial Completion.

§ 9.8.4 When the Work or designated portion thereof is substantially complete, the Architect will prepare a Certificate of Substantial Completion that shall establish the date of Substantial Completion; establish responsibilities of the Owner and Contractor for security, maintenance, heat, utilities, damage to the Work and insurance; and fix the time within which the Contractor shall finish all items on the list accompanying the Certificate. Warranties required by the Contract Documents shall commence on the date of Substantial Completion of the Work or designated portion thereof unless otherwise provided in the Certificate of Substantial Completion.

§ 9.8.5 The Certificate of Substantial Completion shall be submitted to the Owner and Contractor for their written acceptance of responsibilities assigned to them in the Certificate. Upon such acceptance, and consent of surety if any, the Owner shall make payment of retainage applying to the Work or designated portion thereof. Such payment shall be adjusted for Work that is incomplete or not in accordance with the requirements of the Contract Documents.

§ 9.9 Partial Occupancy or Use

§ 9.9.1 The Owner may occupy or use any completed or partially completed portion of the Work at any stage when such portion is designated by separate agreement with the Contractor, provided such occupancy or use is consented to by the insurer and authorized by public authorities having jurisdiction over the Project. Such partial occupancy or use may commence whether or not the portion is substantially complete, provided the Owner and Contractor have accepted in writing the responsibilities assigned to each of them for payments, retainage, if any, security, maintenance, heat, utilities, damage to the Work and insurance, and have agreed in writing concerning the period for correction of the Work and commencement of warranties required by the Contract Documents. When the Contractor considers a portion substantially complete, the Contractor shall prepare and submit a list to the Architect as provided under Section 9.8.2. Consent of the Contractor to partial occupancy or use shall not be unreasonably withheld. The stage of the progress of the Work shall be determined by written agreement between the Owner and Contractor or, if no agreement is reached, by decision of the Architect.

§ 9.9.2 Immediately prior to such partial occupancy or use, the Owner, Contractor, and Architect shall jointly inspect the area to be occupied or portion of the Work to be used in order to determine and record the condition of the Work.

§ 9.9.3 Unless otherwise agreed upon, partial occupancy or use of a portion or portions of the Work shall not constitute acceptance of Work not complying with the requirements of the Contract Documents.

§ 9.10 Final Completion and Final Payment

§ 9.10.1 Upon receipt of the Contractor's notice that the Work is ready for final inspection and acceptance and upon receipt of a final Application for Payment, the Architect will promptly make such inspection. When the Architect finds the Work acceptable under the Contract Documents and the Contract fully performed, the Architect will promptly issue a final Certificate for Payment stating that to the best of the Architect's knowledge, information and belief, and on the basis of the Architect's on-site visits and inspections, the Work has been completed in accordance with the Contract Documents and that the entire balance found to be due the Contractor and noted in the final Certificate is due and payable. The Architect's final Certificate for Payment will constitute a further representation that conditions listed in Section 9.10.2 as precedent to the Contractor's being entitled to final payment have been fulfilled.

§ 9.10.2 Neither final payment nor any remaining retained percentage shall become due until the Contractor submits to the Architect (1) an affidavit that payrolls, bills for materials and equipment, and other indebtedness connected with the Work for which the Owner or the Owner's property might be responsible or encumbered (less amounts withheld by Owner) have been paid or otherwise satisfied, (2) a certificate evidencing that insurance required by the Contract Documents to remain in force after final payment is currently in effect, (3) a written statement that the Contractor knows of no reason that the insurance will not be renewable to cover the period required by the Contract Documents, (4) consent of surety, if any, to final payment, (5) documentation of any special warranties, such as manufacturers' warranties or specific Subcontractor warranties, and (6) if required by the Owner, other data establishing payment or satisfaction of obligations, such as receipts and releases and waivers of liens, claims, security interests, or encumbrances arising out of the Contract, to the extent and in such form as may be designated by the Owner. If a Subcontractor refuses to furnish a release or waiver required by the Owner, the Contractor may furnish a bond satisfactory to the Owner to indemnify the Owner against such lien, claim, security interest, or encumbrance. If a lien, claim, security interest, or encumbrance remains unsatisfied after payments are made, the Contractor shall refund to the Owner all money that the Owner may be compelled to pay in discharging the lien, claim, security interest, or encumbrance, including all costs and reasonable attorneys' fees.

§ 9.10.3 If, after Substantial Completion of the Work, final completion thereof is materially delayed through no fault of the Contractor or by issuance of Change Orders affecting final completion, and the Architect so confirms, the Owner shall, upon application by the Contractor and certification by the Architect, and without terminating the Contract, make payment of the balance due for that portion of the Work fully completed, corrected, and accepted. If the remaining balance for Work not fully completed or corrected is less than retainage stipulated in the Contract Documents, and if bonds have been furnished, the written consent of the surety to payment of the balance due for that portion of the Work fully completed and accepted shall be submitted by the Contractor to the Architect prior to certification of such payment. Such payment shall be made under terms and conditions governing final payment, except that it shall not constitute a waiver of Claims.

- § 9.10.4 The making of final payment shall constitute a waiver of Claims by the Owner except those arising from
- .1 liens, Claims, security interests, or encumbrances arising out of the Contract and unsettled;
 - .2 failure of the Work to comply with the requirements of the Contract Documents;
 - .3 terms of special warranties required by the Contract Documents; or
 - .4 audits performed by the Owner, if permitted by the Contract Documents, after final payment.

§ 9.10.5 Acceptance of final payment by the Contractor, a Subcontractor, or a supplier, shall constitute a waiver of claims by that payee except those previously made in writing and identified by that payee as unsettled at the time of final Application for Payment.

ARTICLE 10 PROTECTION OF PERSONS AND PROPERTY

§ 10.1 Safety Precautions and Programs

The Contractor shall be responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the performance of the Contract.

§ 10.2 Safety of Persons and Property

§ 10.2.1 The Contractor shall take reasonable precautions for safety of, and shall provide reasonable protection to prevent damage, injury, or loss to

- .1 employees on the Work and other persons who may be affected thereby;
- .2 the Work and materials and equipment to be incorporated therein, whether in storage on or off the site, under care, custody, or control of the Contractor, a Subcontractor, or a Sub-subcontractor; and
- .3 other property at the site or adjacent thereto, such as trees, shrubs, lawns, walks, pavements, roadways, structures, and utilities not designated for removal, relocation, or replacement in the course of construction.

§ 10.2.2 The Contractor shall comply with, and give notices required by applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities, bearing on safety of persons or property or their protection from damage, injury, or loss.

§ 10.2.3 The Contractor shall implement, erect, and maintain, as required by existing conditions and performance of the Contract, reasonable safeguards for safety and protection, including posting danger signs and other warnings against hazards; promulgating safety regulations; and notifying the owners and users of adjacent sites and utilities of the safeguards.

§ 10.2.4 When use or storage of explosives or other hazardous materials or equipment, or unusual methods are necessary for execution of the Work, the Contractor shall exercise utmost care and carry on such activities under supervision of properly qualified personnel.

§ 10.2.5 The Contractor shall promptly remedy damage and loss (other than damage or loss insured under property insurance required by the Contract Documents) to property referred to in Sections 10.2.1.2 and 10.2.1.3 caused in whole or in part by the Contractor, a Subcontractor, a Sub-subcontractor, or anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable and for which the Contractor is responsible under Sections 10.2.1.2 and 10.2.1.3. The Contractor may make a Claim for the cost to remedy the damage or loss to the extent such damage or loss is attributable to acts or omissions of the Owner or Architect or anyone directly or indirectly employed by either of them, or by anyone for whose acts either of them may be liable, and not attributable to the fault or negligence of the Contractor. The foregoing obligations of the Contractor are in addition to the Contractor's obligations under Section 3.18.

§ 10.2.6 The Contractor shall designate a responsible member of the Contractor's organization at the site whose duty shall be the prevention of accidents. This person shall be the Contractor's superintendent unless otherwise designated by the Contractor in writing to the Owner and Architect.

§ 10.2.7 The Contractor shall not permit any part of the construction or site to be loaded so as to cause damage or create an unsafe condition.

§ 10.2.8 Injury or Damage to Person or Property

If either party suffers injury or damage to person or property because of an act or omission of the other party, or of others for whose acts such party is legally responsible, notice of the injury or damage, whether or not insured, shall be given to the other party within a reasonable time not exceeding 21 days after discovery. The notice shall provide sufficient detail to enable the other party to investigate the matter.

§ 10.3 Hazardous Materials and Substances

§ 10.3.1 The Contractor is responsible for compliance with any requirements included in the Contract Documents regarding hazardous materials or substances. If the Contractor encounters a hazardous material or substance not addressed in the Contract Documents and if reasonable precautions will be inadequate to prevent foreseeable bodily injury or death to persons resulting from a material or substance, including but not limited to asbestos or polychlorinated biphenyl (PCB), encountered on the site by the Contractor, the Contractor shall, upon recognizing the condition, immediately stop Work in the affected area and notify the Owner and Architect of the condition.

§ 10.3.2 Upon receipt of the Contractor's notice, the Owner shall obtain the services of a licensed laboratory to verify the presence or absence of the material or substance reported by the Contractor and, in the event such material or substance is found to be present, to cause it to be rendered harmless. Unless otherwise required by the Contract Documents, the Owner shall furnish in writing to the Contractor and Architect the names and qualifications of persons or entities who are to perform tests verifying the presence or absence of the material or substance or who are to perform the task of removal or safe containment of the material or substance. The Contractor and the Architect will promptly reply to the Owner in writing stating whether or not either has reasonable objection to the persons or entities proposed by the Owner. If either the Contractor or Architect has an objection to a person or entity proposed by the Owner, the Owner shall propose another to whom the Contractor and the Architect have no reasonable objection. When the material or substance has been rendered harmless, Work in the affected area shall resume upon written agreement of the Owner and Contractor. By Change Order, the Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable additional costs of shutdown, delay, and start-up.

§ 10.3.3 To the fullest extent permitted by law, the Owner shall indemnify and hold harmless the Contractor, Subcontractors, Architect, Architect's consultants, and agents and employees of any of them from and against claims, damages, losses, and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work in the affected area if in fact the material or substance presents the risk of bodily injury or death as described in Section 10.3.1 and has not been rendered harmless, provided that such claim, damage, loss, or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), except to the extent that such damage, loss, or expense is due to the fault or negligence of the party seeking indemnity.

§ 10.3.4 The Owner shall not be responsible under this Section 10.3 for hazardous materials or substances the Contractor brings to the site unless such materials or substances are required by the Contract Documents. The Owner shall be responsible for hazardous materials or substances required by the Contract Documents, except to the extent of the Contractor's fault or negligence in the use and handling of such materials or substances.

§ 10.3.5 The Contractor shall reimburse the Owner for the cost and expense the Owner incurs (1) for remediation of hazardous materials or substances the Contractor brings to the site and negligently handles, or (2) where the Contractor fails to perform its obligations under Section 10.3.1, except to the extent that the cost and expense are due to the Owner's fault or negligence.

§ 10.3.6 If, without negligence on the part of the Contractor, the Contractor is held liable by a government agency for the cost of remediation of a hazardous material or substance solely by reason of performing Work as required by the Contract Documents, the Owner shall reimburse the Contractor for all cost and expense thereby incurred.

§ 10.4 Emergencies

In an emergency affecting safety of persons or property, the Contractor shall act, at the Contractor's discretion, to prevent threatened damage, injury, or loss. Additional compensation or extension of time claimed by the Contractor on account of an emergency shall be determined as provided in Article 15 and Article 7.

ARTICLE 11 INSURANCE AND BONDS

§ 11.1 Contractor's Insurance and Bonds

§ 11.1.1 The Contractor shall purchase and maintain insurance of the types and limits of liability, containing the endorsements, and subject to the terms and conditions, as described in the Agreement or elsewhere in the Contract Documents. The Contractor shall purchase and maintain the required insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located. The Owner, Architect, and Architect's consultants shall be named as additional insureds under the Contractor's commercial general liability policy or as otherwise described in the Contract Documents.

§ 11.1.2 The Contractor shall provide surety bonds of the types, for such penal sums, and subject to such terms and conditions as required by the Contract Documents. The Contractor shall purchase and maintain the required bonds from a company or companies lawfully authorized to issue surety bonds in the jurisdiction where the Project is located.

§ 11.1.3 Upon the request of any person or entity appearing to be a potential beneficiary of bonds covering payment of obligations arising under the Contract, the Contractor shall promptly furnish a copy of the bonds or shall authorize a copy to be furnished.

§ 11.1.4 Notice of Cancellation or Expiration of Contractor's Required Insurance. Within three (3) business days of the date the Contractor becomes aware of an impending or actual cancellation or expiration of any insurance required by the Contract Documents, the Contractor shall provide notice to the Owner of such impending or actual cancellation or expiration. Upon receipt of notice from the Contractor, the Owner shall, unless the lapse in coverage arises from an act or omission of the Owner, have the right to stop the Work until the lapse in coverage has been cured by the procurement of replacement coverage by the Contractor. The furnishing of notice by the Contractor shall not relieve the Contractor of any contractual obligation to provide any required coverage.

§ 11.2 Owner's Insurance

§ 11.2.1 The Owner shall purchase and maintain insurance of the types and limits of liability, containing the endorsements, and subject to the terms and conditions, as described in the Agreement or elsewhere in the Contract Documents. The Owner shall purchase and maintain the required insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located.

§ 11.2.2 Failure to Purchase Required Property Insurance. If the Owner fails to purchase and maintain the required property insurance, with all of the coverages and in the amounts described in the Agreement or elsewhere in the Contract Documents, the Owner shall inform the Contractor in writing prior to commencement of the Work. Upon receipt of notice from the Owner, the Contractor may delay commencement of the Work and may obtain insurance that will protect the interests of the Contractor, Subcontractors, and Sub-Subcontractors in the Work. When the failure to provide coverage has been cured or resolved, the Contract Sum and Contract Time shall be equitably adjusted. In the event the Owner fails to procure coverage, the Owner waives all rights against the Contractor, Subcontractors, and Sub-subcontractors to the extent the loss to the Owner would have been covered by the insurance to have been procured by the Owner. The cost of the insurance shall be charged to the Owner by a Change Order. If the Owner does not provide written notice, and the Contractor is damaged by the failure or neglect of the Owner to purchase or maintain the required insurance, the Owner shall reimburse the Contractor for all reasonable costs and damages attributable thereto.

§ 11.2.3 Notice of Cancellation or Expiration of Owner's Required Property Insurance. Within three (3) business days of the date the Owner becomes aware of an impending or actual cancellation or expiration of any property insurance required by the Contract Documents, the Owner shall provide notice to the Contractor of such impending or actual cancellation or expiration. Unless the lapse in coverage arises from an act or omission of the Contractor: (1) the Contractor, upon receipt of notice from the Owner, shall have the right to stop the Work until the lapse in coverage has been cured by the procurement of replacement coverage by either the Owner or the Contractor; (2) the Contract Time and Contract Sum shall be equitably adjusted; and (3) the Owner waives all rights against the Contractor, Subcontractors, and Sub-subcontractors to the extent any loss to the Owner would have been covered by the insurance had it not expired or been cancelled. If the Contractor purchases replacement coverage, the cost of the insurance shall be charged to the Owner by an appropriate Change Order. The furnishing of notice by the Owner shall not relieve the Owner of any contractual obligation to provide required insurance.

§ 11.3 Waivers of Subrogation

§ 11.3.1 The Owner and Contractor waive all rights against (1) each other and any of their subcontractors, sub-subcontractors, agents, and employees, each of the other; (2) the Architect and Architect's consultants; and (3) Separate Contractors, if any, and any of their subcontractors, sub-subcontractors, agents, and employees, for damages caused by fire, or other causes of loss, to the extent those losses are covered by property insurance required by the Agreement or other property insurance applicable to the Project, except such rights as they have to proceeds of such insurance. The Owner or Contractor, as appropriate, shall require similar written waivers in favor of the individuals and entities identified above from the Architect, Architect's consultants, Separate Contractors, subcontractors, and sub-subcontractors. The policies of insurance purchased and maintained by each person or entity agreeing to waive claims pursuant to this section 11.3.1 shall not prohibit this waiver of subrogation. This waiver of subrogation shall be effective as to a person or entity (1) even though that person or entity would otherwise have a duty of indemnification, contractual or otherwise, (2) even though that person or entity did not pay the insurance premium directly or indirectly, or (3) whether or not the person or entity had an insurable interest in the damaged property.

§ 11.3.2 If during the Project construction period the Owner insures properties, real or personal or both, at or adjacent to the site by property insurance under policies separate from those insuring the Project, or if after final payment property insurance is to be provided on the completed Project through a policy or policies other than those insuring the Project during the construction period, to the extent permissible by such policies, the Owner waives all rights in accordance with the terms of Section 11.3.1 for damages caused by fire or other causes of loss covered by this separate property insurance.

§ 11.4 Loss of Use, Business Interruption, and Delay in Completion Insurance

The Owner, at the Owner's option, may purchase and maintain insurance that will protect the Owner against loss of use of the Owner's property, or the inability to conduct normal operations, due to fire or other causes of loss. The Owner waives all rights of action against the Contractor and Architect for loss of use of the Owner's property, due to fire or other hazards however caused.

§ 11.5 Adjustment and Settlement of Insured Loss

§ 11.5.1 A loss insured under the property insurance required by the Agreement shall be adjusted by the Owner as fiduciary and made payable to the Owner as fiduciary for the insureds, as their interests may appear, subject to requirements of any applicable mortgagee clause and of Section 11.5.2. The Owner shall pay the Architect and Contractor their just shares of insurance proceeds received by the Owner, and by appropriate agreements the Architect and Contractor shall make payments to their consultants and Subcontractors in similar manner.

§ 11.5.2 Prior to settlement of an insured loss, the Owner shall notify the Contractor of the terms of the proposed settlement as well as the proposed allocation of the insurance proceeds. The Contractor shall have 14 days from receipt of notice to object to the proposed settlement or allocation of the proceeds. If the Contractor does not object, the Owner shall settle the loss and the Contractor shall be bound by the settlement and allocation. Upon receipt, the Owner shall deposit the insurance proceeds in a separate account and make the appropriate distributions. Thereafter, if no other agreement is made or the Owner does not terminate the Contract for convenience, the Owner and Contractor shall execute a Change Order for reconstruction of the damaged or destroyed Work in the amount allocated for that purpose. If the Contractor timely objects to either the terms of the proposed settlement or the allocation of the proceeds, the Owner may proceed to settle the insured loss, and any dispute between the Owner and Contractor arising out of the settlement or allocation of the proceeds shall be resolved pursuant to Article 15. Pending resolution of any dispute, the Owner may issue a Construction Change Directive for the reconstruction of the damaged or destroyed Work.

ARTICLE 12 UNCOVERING AND CORRECTION OF WORK

§ 12.1 Uncovering of Work

§ 12.1.1 If a portion of the Work is covered contrary to the Architect's request or to requirements specifically expressed in the Contract Documents, it must, if requested in writing by the Architect, be uncovered for the Architect's examination and be replaced at the Contractor's expense without change in the Contract Time.

§ 12.1.2 If a portion of the Work has been covered that the Architect has not specifically requested to examine prior to its being covered, the Architect may request to see such Work and it shall be uncovered by the Contractor. If such Work is in accordance with the Contract Documents, the Contractor shall be entitled to an equitable adjustment to

the Contract Sum and Contract Time as may be appropriate. If such Work is not in accordance with the Contract Documents, the costs of uncovering the Work, and the cost of correction, shall be at the Contractor's expense.

§ 12.2 Correction of Work

§ 12.2.1 Before Substantial Completion

The Contractor shall promptly correct Work rejected by the Architect or failing to conform to the requirements of the Contract Documents, discovered before Substantial Completion and whether or not fabricated, installed or completed. Costs of correcting such rejected Work, including additional testing and inspections, the cost of uncovering and replacement, and compensation for the Architect's services and expenses made necessary thereby, shall be at the Contractor's expense.

§ 12.2.2 After Substantial Completion

§ 12.2.2.1 In addition to the Contractor's obligations under Section 3.5, if, within one year after the date of Substantial Completion of the Work or designated portion thereof or after the date for commencement of warranties established under Section 9.9.1, or by terms of any applicable special warranty required by the Contract Documents, any of the Work is found to be not in accordance with the requirements of the Contract Documents, the Contractor shall correct it promptly after receipt of notice from the Owner to do so, unless the Owner has previously given the Contractor a written acceptance of such condition. The Owner shall give such notice promptly after discovery of the condition. During the one-year period for correction of Work, if the Owner fails to notify the Contractor and give the Contractor an opportunity to make the correction, the Owner waives the rights to require correction by the Contractor and to make a claim for breach of warranty. If the Contractor fails to correct nonconforming Work within a reasonable time during that period after receipt of notice from the Owner or Architect, the Owner may correct it in accordance with Section 2.5.

§ 12.2.2.2 The one-year period for correction of Work shall be extended with respect to portions of Work first performed after Substantial Completion by the period of time between Substantial Completion and the actual completion of that portion of the Work.

§ 12.2.2.3 The one-year period for correction of Work shall not be extended by corrective Work performed by the Contractor pursuant to this Section 12.2.

§ 12.2.3 The Contractor shall remove from the site portions of the Work that are not in accordance with the requirements of the Contract Documents and are neither corrected by the Contractor nor accepted by the Owner.

§ 12.2.4 The Contractor shall bear the cost of correcting destroyed or damaged construction of the Owner or Separate Contractors, whether completed or partially completed, caused by the Contractor's correction or removal of Work that is not in accordance with the requirements of the Contract Documents.

§ 12.2.5 Nothing contained in this Section 12.2 shall be construed to establish a period of limitation with respect to other obligations the Contractor has under the Contract Documents. Establishment of the one-year period for correction of Work as described in Section 12.2.2 relates only to the specific obligation of the Contractor to correct the Work, and has no relationship to the time within which the obligation to comply with the Contract Documents may be sought to be enforced, nor to the time within which proceedings may be commenced to establish the Contractor's liability with respect to the Contractor's obligations other than specifically to correct the Work.

§ 12.3 Acceptance of Nonconforming Work

If the Owner prefers to accept Work that is not in accordance with the requirements of the Contract Documents, the Owner may do so instead of requiring its removal and correction, in which case the Contract Sum will be reduced as appropriate and equitable. Such adjustment shall be effected whether or not final payment has been made.

ARTICLE 13 MISCELLANEOUS PROVISIONS

§ 13.1 Governing Law

The Contract shall be governed by the law of the place where the Project is located, excluding that jurisdiction's choice of law rules. If the parties have selected arbitration as the method of binding dispute resolution, the Federal Arbitration Act shall govern Section 15.4.

§ 13.2 Successors and Assigns

§ 13.2.1 The Owner and Contractor respectively bind themselves, their partners, successors, assigns, and legal representatives to covenants, agreements, and obligations contained in the Contract Documents. Except as provided in Section 13.2.2, neither party to the Contract shall assign the Contract as a whole without written consent of the other. If either party attempts to make an assignment without such consent, that party shall nevertheless remain legally responsible for all obligations under the Contract.

§ 13.2.2 The Owner may, without consent of the Contractor, assign the Contract to a lender providing construction financing for the Project, if the lender assumes the Owner's rights and obligations under the Contract Documents. The Contractor shall execute all consents reasonably required to facilitate the assignment.

§ 13.3 Rights and Remedies

§ 13.3.1 Duties and obligations imposed by the Contract Documents and rights and remedies available thereunder shall be in addition to and not a limitation of duties, obligations, rights, and remedies otherwise imposed or available by law.

§ 13.3.2 No action or failure to act by the Owner, Architect, or Contractor shall constitute a waiver of a right or duty afforded them under the Contract, nor shall such action or failure to act constitute approval of or acquiescence in a breach thereunder, except as may be specifically agreed upon in writing.

§ 13.4 Tests and Inspections

§ 13.4.1 Tests, inspections, and approvals of portions of the Work shall be made as required by the Contract Documents and by applicable laws, statutes, ordinances, codes, rules, and regulations or lawful orders of public authorities. Unless otherwise provided, the Contractor shall make arrangements for such tests, inspections, and approvals with an independent testing laboratory or entity acceptable to the Owner, or with the appropriate public authority, and shall bear all related costs of tests, inspections, and approvals. The Contractor shall give the Architect timely notice of when and where tests and inspections are to be made so that the Architect may be present for such procedures. The Owner shall bear costs of tests, inspections, or approvals that do not become requirements until after bids are received or negotiations concluded. The Owner shall directly arrange and pay for tests, inspections, or approvals where building codes or applicable laws or regulations so require.

§ 13.4.2 If the Architect, Owner, or public authorities having jurisdiction determine that portions of the Work require additional testing, inspection, or approval not included under Section 13.4.1, the Architect will, upon written authorization from the Owner, instruct the Contractor to make arrangements for such additional testing, inspection, or approval, by an entity acceptable to the Owner, and the Contractor shall give timely notice to the Architect of when and where tests and inspections are to be made so that the Architect may be present for such procedures. Such costs, except as provided in Section 13.4.3, shall be at the Owner's expense.

§ 13.4.3 If procedures for testing, inspection, or approval under Sections 13.4.1 and 13.4.2 reveal failure of the portions of the Work to comply with requirements established by the Contract Documents, all costs made necessary by such failure, including those of repeated procedures and compensation for the Architect's services and expenses, shall be at the Contractor's expense.

§ 13.4.4 Required certificates of testing, inspection, or approval shall, unless otherwise required by the Contract Documents, be secured by the Contractor and promptly delivered to the Architect.

§ 13.4.5 If the Architect is to observe tests, inspections, or approvals required by the Contract Documents, the Architect will do so promptly and, where practicable, at the normal place of testing.

§ 13.4.6 Tests or inspections conducted pursuant to the Contract Documents shall be made promptly to avoid unreasonable delay in the Work.

§ 13.5 Interest

Payments due and unpaid under the Contract Documents shall bear interest from the date payment is due at the rate the parties agree upon in writing or, in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is located.

ARTICLE 14 TERMINATION OR SUSPENSION OF THE CONTRACT

§ 14.1 Termination by the Contractor

§ 14.1.1 The Contractor may terminate the Contract if the Work is stopped for a period of 30 consecutive days through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, their agents or employees, or any other persons or entities performing portions of the Work, for any of the following reasons:

- .1 Issuance of an order of a court or other public authority having jurisdiction that requires all Work to be stopped;
- .2 An act of government, such as a declaration of national emergency, that requires all Work to be stopped;
- .3 Because the Architect has not issued a Certificate for Payment and has not notified the Contractor of the reason for withholding certification as provided in Section 9.4.1, or because the Owner has not made payment on a Certificate for Payment within the time stated in the Contract Documents; or
- .4 The Owner has failed to furnish to the Contractor reasonable evidence as required by Section 2.2.

§ 14.1.2 The Contractor may terminate the Contract if, through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, their agents or employees, or any other persons or entities performing portions of the Work, repeated suspensions, delays, or interruptions of the entire Work by the Owner as described in Section 14.3, constitute in the aggregate more than 100 percent of the total number of days scheduled for completion, or 120 days in any 365-day period, whichever is less.

§ 14.1.3 If one of the reasons described in Section 14.1.1 or 14.1.2 exists, the Contractor may, upon seven days' notice to the Owner and Architect, terminate the Contract and recover from the Owner payment for Work executed, as well as reasonable overhead and profit on Work not executed, and costs incurred by reason of such termination.

§ 14.1.4 If the Work is stopped for a period of 60 consecutive days through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, or their agents or employees or any other persons or entities performing portions of the Work because the Owner has repeatedly failed to fulfill the Owner's obligations under the Contract Documents with respect to matters important to the progress of the Work, the Contractor may, upon seven additional days' notice to the Owner and the Architect, terminate the Contract and recover from the Owner as provided in Section 14.1.3.

§ 14.2 Termination by the Owner for Cause

§ 14.2.1 The Owner may terminate the Contract if the Contractor

- .1 repeatedly refuses or fails to supply enough properly skilled workers or proper materials;
- .2 fails to make payment to Subcontractors or suppliers in accordance with the respective agreements between the Contractor and the Subcontractors or suppliers;
- .3 repeatedly disregards applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of a public authority; or
- .4 otherwise is guilty of substantial breach of a provision of the Contract Documents.

§ 14.2.2 When any of the reasons described in Section 14.2.1 exist, and upon certification by the Architect that sufficient cause exists to justify such action, the Owner may, without prejudice to any other rights or remedies of the Owner and after giving the Contractor and the Contractor's surety, if any, seven days' notice, terminate employment of the Contractor and may, subject to any prior rights of the surety:

- .1 Exclude the Contractor from the site and take possession of all materials, equipment, tools, and construction equipment and machinery thereon owned by the Contractor;
- .2 Accept assignment of subcontracts pursuant to Section 5.4; and
- .3 Finish the Work by whatever reasonable method the Owner may deem expedient. Upon written request of the Contractor, the Owner shall furnish to the Contractor a detailed accounting of the costs incurred by the Owner in finishing the Work.

§ 14.2.3 When the Owner terminates the Contract for one of the reasons stated in Section 14.2.1, the Contractor shall not be entitled to receive further payment until the Work is finished.

§ 14.2.4 If the unpaid balance of the Contract Sum exceeds costs of finishing the Work, including compensation for the Architect's services and expenses made necessary thereby, and other damages incurred by the Owner and not expressly waived, such excess shall be paid to the Contractor. If such costs and damages exceed the unpaid balance,

the Contractor shall pay the difference to the Owner. The amount to be paid to the Contractor or Owner, as the case may be, shall be certified by the Initial Decision Maker, upon application, and this obligation for payment shall survive termination of the Contract.

§ 14.3 Suspension by the Owner for Convenience

§ 14.3.1 The Owner may, without cause, order the Contractor in writing to suspend, delay or interrupt the Work, in whole or in part for such period of time as the Owner may determine.

§ 14.3.2 The Contract Sum and Contract Time shall be adjusted for increases in the cost and time caused by suspension, delay, or interruption under Section 14.3.1. Adjustment of the Contract Sum shall include profit. No adjustment shall be made to the extent

- .1 that performance is, was, or would have been, so suspended, delayed, or interrupted, by another cause for which the Contractor is responsible; or
- .2 that an equitable adjustment is made or denied under another provision of the Contract.

§ 14.4 Termination by the Owner for Convenience

§ 14.4.1 The Owner may, at any time, terminate the Contract for the Owner's convenience and without cause.

§ 14.4.2 Upon receipt of notice from the Owner of such termination for the Owner's convenience, the Contractor shall

- .1 cease operations as directed by the Owner in the notice;
- .2 take actions necessary, or that the Owner may direct, for the protection and preservation of the Work; and
- .3 except for Work directed to be performed prior to the effective date of termination stated in the notice, terminate all existing subcontracts and purchase orders and enter into no further subcontracts and purchase orders.

§ 14.4.3 In case of such termination for the Owner's convenience, the Owner shall pay the Contractor for Work properly executed; costs incurred by reason of the termination, including costs attributable to termination of Subcontracts; and the termination fee, if any, set forth in the Agreement.

ARTICLE 15 CLAIMS AND DISPUTES

§ 15.1 Claims

§ 15.1.1 Definition

A Claim is a demand or assertion by one of the parties seeking, as a matter of right, payment of money, a change in the Contract Time, or other relief with respect to the terms of the Contract. The term "Claim" also includes other disputes and matters in question between the Owner and Contractor arising out of or relating to the Contract. The responsibility to substantiate Claims shall rest with the party making the Claim. This Section 15.1.1 does not require the Owner to file a Claim in order to impose liquidated damages in accordance with the Contract Documents.

§ 15.1.2 Time Limits on Claims

The Owner and Contractor shall commence all Claims and causes of action against the other and arising out of or related to the Contract, whether in contract, tort, breach of warranty or otherwise, in accordance with the requirements of the binding dispute resolution method selected in the Agreement and within the period specified by applicable law, but in any case not more than 10 years after the date of Substantial Completion of the Work. The Owner and Contractor waive all Claims and causes of action not commenced in accordance with this Section 15.1.2.

§ 15.1.3 Notice of Claims

§ 15.1.3.1 Claims by either the Owner or Contractor, where the condition giving rise to the Claim is first discovered prior to expiration of the period for correction of the Work set forth in Section 12.2.2, shall be initiated by notice to the other party and to the Initial Decision Maker with a copy sent to the Architect, if the Architect is not serving as the Initial Decision Maker. Claims by either party under this Section 15.1.3.1 shall be initiated within 21 days after occurrence of the event giving rise to such Claim or within 21 days after the claimant first recognizes the condition giving rise to the Claim, whichever is later.

§ 15.1.3.2 Claims by either the Owner or Contractor, where the condition giving rise to the Claim is first discovered after expiration of the period for correction of the Work set forth in Section 12.2.2, shall be initiated by notice to the other party. In such event, no decision by the Initial Decision Maker is required.

§ 15.1.4 Continuing Contract Performance

§ 15.1.4.1 Pending final resolution of a Claim, except as otherwise agreed in writing or as provided in Section 9.7 and Article 14, the Contractor shall proceed diligently with performance of the Contract and the Owner shall continue to make payments in accordance with the Contract Documents.

§ 15.1.4.2 The Contract Sum and Contract Time shall be adjusted in accordance with the Initial Decision Maker's decision, subject to the right of either party to proceed in accordance with this Article 15. The Architect will issue Certificates for Payment in accordance with the decision of the Initial Decision Maker.

§ 15.1.5 Claims for Additional Cost

If the Contractor wishes to make a Claim for an increase in the Contract Sum, notice as provided in Section 15.1.3 shall be given before proceeding to execute the portion of the Work that is the subject of the Claim. Prior notice is not required for Claims relating to an emergency endangering life or property arising under Section 10.4.

§ 15.1.6 Claims for Additional Time

§ 15.1.6.1 If the Contractor wishes to make a Claim for an increase in the Contract Time, notice as provided in Section 15.1.3 shall be given. The Contractor's Claim shall include an estimate of cost and of probable effect of delay on progress of the Work. In the case of a continuing delay, only one Claim is necessary.

§ 15.1.6.2 If adverse weather conditions are the basis for a Claim for additional time, such Claim shall be documented by data substantiating that weather conditions were abnormal for the period of time, could not have been reasonably anticipated, and had an adverse effect on the scheduled construction.

§ 15.1.7 Waiver of Claims for Consequential Damages

The Contractor and Owner waive Claims against each other for consequential damages arising out of or relating to this Contract. This mutual waiver includes

- .1 damages incurred by the Owner for rental expenses, for losses of use, income, profit, financing, business and reputation, and for loss of management or employee productivity or of the services of such persons; and
- .2 damages incurred by the Contractor for principal office expenses including the compensation of personnel stationed there, for losses of financing, business and reputation, and for loss of profit, except anticipated profit arising directly from the Work.

This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination in accordance with Article 14. Nothing contained in this Section 15.1.7 shall be deemed to preclude assessment of liquidated damages, when applicable, in accordance with the requirements of the Contract Documents.

§ 15.2 Initial Decision

§ 15.2.1 Claims, excluding those where the condition giving rise to the Claim is first discovered after expiration of the period for correction of the Work set forth in Section 12.2.2 or arising under Sections 10.3, 10.4, and 11.5, shall be referred to the Initial Decision Maker for initial decision. The Architect will serve as the Initial Decision Maker, unless otherwise indicated in the Agreement. Except for those Claims excluded by this Section 15.2.1, an initial decision shall be required as a condition precedent to mediation of any Claim. If an initial decision has not been rendered within 30 days after the Claim has been referred to the Initial Decision Maker, the party asserting the Claim may demand mediation and binding dispute resolution without a decision having been rendered. Unless the Initial Decision Maker and all affected parties agree, the Initial Decision Maker will not decide disputes between the Contractor and persons or entities other than the Owner.

§ 15.2.2 The Initial Decision Maker will review Claims and within ten days of the receipt of a Claim take one or more of the following actions: (1) request additional supporting data from the claimant or a response with supporting data from the other party, (2) reject the Claim in whole or in part, (3) approve the Claim, (4) suggest a compromise, or (5) advise the parties that the Initial Decision Maker is unable to resolve the Claim if the Initial Decision Maker lacks sufficient information to evaluate the merits of the Claim or if the Initial Decision Maker concludes that, in the

Initial Decision Maker's sole discretion, it would be inappropriate for the Initial Decision Maker to resolve the Claim.

§ 15.2.3 In evaluating Claims, the Initial Decision Maker may, but shall not be obligated to, consult with or seek information from either party or from persons with special knowledge or expertise who may assist the Initial Decision Maker in rendering a decision. The Initial Decision Maker may request the Owner to authorize retention of such persons at the Owner's expense.

§ 15.2.4 If the Initial Decision Maker requests a party to provide a response to a Claim or to furnish additional supporting data, such party shall respond, within ten days after receipt of the request, and shall either (1) provide a response on the requested supporting data, (2) advise the Initial Decision Maker when the response or supporting data will be furnished, or (3) advise the Initial Decision Maker that no supporting data will be furnished. Upon receipt of the response or supporting data, if any, the Initial Decision Maker will either reject or approve the Claim in whole or in part.

§ 15.2.5 The Initial Decision Maker will render an initial decision approving or rejecting the Claim, or indicating that the Initial Decision Maker is unable to resolve the Claim. This initial decision shall (1) be in writing; (2) state the reasons therefor; and (3) notify the parties and the Architect, if the Architect is not serving as the Initial Decision Maker, of any change in the Contract Sum or Contract Time or both. The initial decision shall be final and binding on the parties but subject to mediation and, if the parties fail to resolve their dispute through mediation, to binding dispute resolution.

§ 15.2.6 Either party may file for mediation of an initial decision at any time, subject to the terms of Section 15.2.6.1.

§ 15.2.6.1 Either party may, within 30 days from the date of receipt of an initial decision, demand in writing that the other party file for mediation. If such a demand is made and the party receiving the demand fails to file for mediation within 30 days after receipt thereof, then both parties waive their rights to mediate or pursue binding dispute resolution proceedings with respect to the initial decision.

§ 15.2.7 In the event of a Claim against the Contractor, the Owner may, but is not obligated to, notify the surety, if any, of the nature and amount of the Claim. If the Claim relates to a possibility of a Contractor's default, the Owner may, but is not obligated to, notify the surety and request the surety's assistance in resolving the controversy.

§ 15.2.8 If a Claim relates to or is the subject of a mechanic's lien, the party asserting such Claim may proceed in accordance with applicable law to comply with the lien notice or filing deadlines.

§ 15.3 Mediation

§ 15.3.1 Claims, disputes, or other matters in controversy arising out of or related to the Contract, except those waived as provided for in Sections 9.10.4, 9.10.5, and 15.1.7, shall be subject to mediation as a condition precedent to binding dispute resolution.

§ 15.3.2 The parties shall endeavor to resolve their Claims by mediation which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Mediation Procedures in effect on the date of the Agreement. A request for mediation shall be made in writing, delivered to the other party to the Contract, and filed with the person or entity administering the mediation. The request may be made concurrently with the filing of binding dispute resolution proceedings but, in such event, mediation shall proceed in advance of binding dispute resolution proceedings, which shall be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a longer period by agreement of the parties or court order. If an arbitration is stayed pursuant to this Section 15.3.2, the parties may nonetheless proceed to the selection of the arbitrator(s) and agree upon a schedule for later proceedings.

§ 15.3.3 Either party may, within 30 days from the date that mediation has been concluded without resolution of the dispute or 60 days after mediation has been demanded without resolution of the dispute, demand in writing that the other party file for binding dispute resolution. If such a demand is made and the party receiving the demand fails to file for binding dispute resolution within 60 days after receipt thereof, then both parties waive their rights to binding dispute resolution proceedings with respect to the initial decision.

§ 15.3.4 The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in the place where the Project is located, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.

§ 15.4 Arbitration

§ 15.4.1 If the parties have selected arbitration as the method for binding dispute resolution in the Agreement, any Claim subject to, but not resolved by, mediation shall be subject to arbitration which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Arbitration Rules in effect on the date of the Agreement. The Arbitration shall be conducted in the place where the Project is located, unless another location is mutually agreed upon. A demand for arbitration shall be made in writing, delivered to the other party to the Contract, and filed with the person or entity administering the arbitration. The party filing a notice of demand for arbitration must assert in the demand all Claims then known to that party on which arbitration is permitted to be demanded.

§ 15.4.1.1 A demand for arbitration shall be made no earlier than concurrently with the filing of a request for mediation, but in no event shall it be made after the date when the institution of legal or equitable proceedings based on the Claim would be barred by the applicable statute of limitations. For statute of limitations purposes, receipt of a written demand for arbitration by the person or entity administering the arbitration shall constitute the institution of legal or equitable proceedings based on the Claim.

§ 15.4.2 The award rendered by the arbitrator or arbitrators shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.

§ 15.4.3 The foregoing agreement to arbitrate and other agreements to arbitrate with an additional person or entity duly consented to by parties to the Agreement, shall be specifically enforceable under applicable law in any court having jurisdiction thereof.

§ 15.4.4 Consolidation or Joinder

§ 15.4.4.1 Subject to the rules of the American Arbitration Association or other applicable arbitration rules, either party may consolidate an arbitration conducted under this Agreement with any other arbitration to which it is a party provided that (1) the arbitration agreement governing the other arbitration permits consolidation, (2) the arbitrations to be consolidated substantially involve common questions of law or fact, and (3) the arbitrations employ materially similar procedural rules and methods for selecting arbitrator(s).

§ 15.4.4.2 Subject to the rules of the American Arbitration Association or other applicable arbitration rules, either party may include by joinder persons or entities substantially involved in a common question of law or fact whose presence is required if complete relief is to be accorded in arbitration, provided that the party sought to be joined consents in writing to such joinder. Consent to arbitration involving an additional person or entity shall not constitute consent to arbitration of any claim, dispute or other matter in question not described in the written consent.

§ 15.4.4.3 The Owner and Contractor grant to any person or entity made a party to an arbitration conducted under this Section 15.4, whether by joinder or consolidation, the same rights of joinder and consolidation as those of the Owner and Contractor under this Agreement.

STATE OF ALABAMA

JEFFERSON COUNTY

**FIRST ADDENDUM TO CONSTRUCTION CONTRACT AND
GENERAL CONDITIONS BY AND BETWEEN OWNER AND CONTRACTOR**

WITNESSETH THIS FIRST ADDENDUM TO CONSTRUCTION CONTRACT AND GENERAL CONDITIONS, by and between the City of Vestavia Hills, Alabama, a municipal corporation, as "Owner" ("City"), and _____, as "Contractor", made and entered into on this the ____ day of _____, 2022.

WITNESSETH THESE RECITALS:

WHEREAS, the City of Vestavia Hills, Alabama, a municipal corporation, as "Owner," and _____, as "Contractor," have executed and delivered a Construction Contract (being "AIA Document A101-2017") and General Conditions (being "AIA Document A201-2017") on this date; and

WHEREAS, the Owner and Contractor wish to amend the Construction Contract and General Conditions by the execution and delivery of this First Addendum.

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS: That the Owner and Contractor hereby mutually and expressly amend the Construction Contract and General Conditions as set forth below.

Notwithstanding anything contained in the Construction Contract and General Conditions to the contrary, the Owner and Contractor agree to modify, add and/or delete the following terms, provisions, limitations and conditions to said Construction Contract and General Conditions:

A. PUBLIC WORKS PROJECT: The following language is hereby added to Article 2 on page 1 of the contract:

"The Owner and Contractor agree that the work described in Article 2 on page 1 of the contract is a public works project as defined by Title 39-2-1(6), *Code of Alabama, 1975*, and that the Public Works law of Alabama set forth in Title 39-1-1, et seq., *Code of Alabama, 1975*, applies to this contract."

B. PERFORMANCE BOND AND PAYMENT BOND: The following language is hereby added to Section 11.1.2 on page 30 of the General Conditions:

"1. Before commencing the work, Contractor shall execute and deliver a Performance Bond using AIA Document A312-2010, with penalty equal to one hundred percent (100%) of the amount of the contract price (\$_____).

(revised 01/12/2022)

2. Before commencing the work, Contractor shall execute and deliver a Payment Bond using AIA Document A312-2010 payable to the City of Vestavia Hills, Alabama executed in the amount of the contract price of (\$_____) with the obligation that the Contractor shall promptly make all payments to persons supplying labor, materials or supplies for or in the prosecution of the work provided in the contract and for the payment for reasonable attorneys' fees incurred by successful claimants or plaintiffs in civil actions on the bond.

3. The Performance Bond and the Payment Bond referred to in sections 1 and 2 above shall be executed and delivered all in accordance with the requirements of the Alabama Public Works Law set forth at Title 39-1-1(a), *Code of Alabama, 1975.*"

C. **REQUIREMENT FOR ARCHITECT:** The following language is hereby added to Section 2.3.2 on page 11 of the General Conditions,

"The Architect shall be selected by the Owner all in accordance with Title 34-2-30 and Title 34-2-32(c), *Code of Alabama, 1975.*"

D. **REQUIREMENT FOR ENGINEERS:** The following language is hereby added as Section 2.3.7 on page 12 of the General Conditions,

"Any and all engineers selected by the Contractor, any subcontractor or the Owner shall be selected all in accordance with the requirements of Title 34-11-10, *Code of Alabama, 1975.*"

E. **REQUIREMENT OF LICENSED GENERAL CONTRACTOR:** The following language is hereby added to Section 3.1.1 on page 12 of the General Conditions as follows,

"The Contractor represents and warrants that it is properly licensed by the State of Alabama as required by Title 34-8-1(a), *Code of Alabama, 1975.*

F. **LIMITS OF INSURANCE COVERAGES:** The following language is hereby added to Section 11.1.1 on page 30 of the General Conditions:

"LIMITS OF INSURANCE COVERAGES: The insurance policy limits for the insurance coverages referred to in Article 11 of the General Conditions shall be as follows:

11.1.1. WORKER'S COMPENSATION AND EMPLOYER'S LIABILITY COVERAGE:

1. Worker's Compensation coverage shall be provided in accordance with the statutory coverage required in Alabama. A group insurer must submit a certificate of authority from the Alabama Department of Industrial Relations approving the group insurance plan. A self-insurer must submit a certificate from the Alabama Department of Industrial Relations stating that the Contractor qualifies to pay its own workers' compensation claims.

2. Employer's Liability Insurance limits shall be at least:
 - (a) Bodily Injury by Accident--\$1,000,000 each accident
 - (b) Bodily Injury by Disease--\$1,000,000 each employee

11.1.1. COMMERCIAL GENERAL LIABILITY INSURANCE:

1. Commercial General Liability Insurance ("CGL"), written on an ISO Occurrence Form (current edition of ISO CG 00 01 as of the date of Advertisement of Bids) or equivalent, shall include but need not be limited to coverage for bodily injury and property damage arising from premises and operations liability, products and completed operations liability, blasting and explosion, collapse of structures, underground damage, personal injury liability and contractual liability. The Commercial General Liability Insurance shall provide at minimum the following limits:

<u>Coverage</u>	<u>Limit</u>
(a) General Aggregate	\$2,000,000 per Project
(b) Products, Completed Operations Aggregate	\$2,000,000 per Project
(c) Personal and Advertising Injury	\$1,000,000 per Occurrence
(d) Each Occurrence	\$1,000,000

2. Additional Requirements for Commercial General Liability Insurance:

(a) The policy shall name the City of Vestavia Hills, Alabama, as Owner, and its public officials and employees, and its agents, consultants and employees as additional insureds (the "Indemnitees"), and state that this coverage shall be primary insurance for the additional insureds. Evidence that Contractor's insurance is primary with respect to any coverages available to the Indemnitees shall be provided in the form of an endorsement to the Contractor's CGL policy. Evidence that the Indemnitees have been named as additional insureds shall be provided by endorsements equivalent to ISO CG 2010 or CG 2033 and CG 2037.

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

11.1.1. COMMERCIAL BUSINESS AUTOMOBILE LIABILITY INSURANCE:

1. Commercial Business Automobile Liability Insurance shall include coverage for bodily injury and property damage arising from the operation of any owned, non-owned or hired automobile. The Commercial Business Automobile Liability Insurance Policy shall provide not less than \$1,000,000 Combined Single Limits for each occurrence.

2. The policy shall name the Owner, City of Vestavia Hills, Alabama, its public officials and employees, and its agents, consultants and employees as additional insureds.

11.1.1. COMMERCIAL UMBRELLA LIABILITY INSURANCE:

1. Umbrella Liability Insurance shall provide coverage limits excess of the Commercial General Liability, Commercial Business Automobile Liability and the Employers' Liability coverage limits, on a follow-form basis, to satisfy the minimum limits set forth herein.

2. Minimum Combined Primary Commercial General Liability and Commercial/Excess Umbrella Limits of:

(a) \$5,000,000 per Occurrence

(b) \$5,000,000 Aggregate.

11.1.1. **BUILDER'S RISK INSURANCE:** The Builder's Risk Policy shall be provided by the Contractor.

11.1.1. **SUBCONTRACTOR'S INSURANCE:**

1. **Worker's Compensation and Employer's Liability Insurance:** The Contractor shall require each Subcontractor to obtain and maintain statutory Workers' Compensation Insurance and adequate Employer's Liability Insurance covering all employees working on the jobsite.

2. **Liability Insurance:** The Contractor shall require each Subcontractor to obtain and maintain adequate Commercial General Liability and Automobile Liability Insurance coverages equal to those of the Prime Contractor. Such coverages shall be in effect at all times that the Subcontractor is performing Work under the Contract.

3. **Enforcement Responsibility:** The Contractor shall have responsibility to enforce its Subcontractors' compliance with these or similar insurance requirements; however, the Contractor, shall, upon request, provide the Owner acceptable evidence of insurance for any Subcontractor.

11.1.1. **TERMINATION OF OBLIGATION TO INSURE:** Unless otherwise expressly provided in the Contract Documents, the obligation to insure as provided herein shall continue as follows:

1. **Products and Completed Operations.** The obligation to carry Products and Completed Operations coverage specified under subparagraph B(2) shall remain in effect for at least the time period established by applicable state law for bringing actions based on defective construction or design claims.

2. **All Other Insurance.** The obligation to carry their insurance coverages specified above shall remain in effect after the Date(s) of Substantial Completion until such time as all Work required by the Contract Documents is completed. Equal or similar insurance coverages shall remain in effect if, after completion of the Work, the Contractor, a Subcontractor, anyone directly or indirectly employed by them or anyone for whose acts they may be liable returns to the Project to perform warranty or maintenance work pursuant to the terms of the Contract Documents.

11.1 The Contractor shall, at the Contractor's own expense, provide insurance coverage for materials stored off the site after written approval of the Owner at the value established in the approval, and also for portions of the work in transit until such materials are permanently attached to the Work.

The insurance required herein is not intended to cover machinery, tools or equipment owned or rented by the Contractor that are utilized in the performance of the Work but not incorporated into the permanent improvements. The Contractor shall, at the Contractor's own expense, provide insurance coverage for owned or rented machinery, tools or equipment."

G. ADDITIONAL INSURED: Section 11.1.5 is hereby added on page 31 of the General Conditions, which shall read in words and figures as follows:

“SECTION 11.1.5 ADDITIONAL INSURED: The Contractor shall cause all of the insurance policy coverages described in Article 11 of the General Conditions of the Construction Contract and hereinabove (except for the Worker’s Compensation coverages) to include:

1. The City of Vestavia Hills, Alabama, a municipal corporation, and its elected public officials and employees, the Architect, and the Architect's consultants as additional insureds for claims caused in whole or in part by the Contractor’s negligent acts or omissions during the Contractor’s operations and/or performance of the work; and

2. The City of Vestavia Hills, Alabama, a municipal corporation, and its elected public officials and employees as additional insureds for claims caused in whole or in part by the Contractor’s negligent acts or omissions during the Contractor’s completed operations and/or performance of the work; and

3. The insurance policy coverages shall state that these coverages shall be primary insurance for the additional insureds.

4. Contain no exclusions of the additional insureds relative to job accidents; and

5. The policies must be on an ‘occurrence’ basis.”

H. SALES TAXES: Section 3.6 on page 14 of the General Conditions is hereby amended to read as follows:

“The Contractor and the Owner shall avoid the payment of sales, use and similar taxes by using the process outlined in Act Number 2013-205 now codified at Title 40-9-14.1, *Code of Alabama, 1975.*”

I. MATERIALMEN’S LIENS: Section 2.1.2 on page 11 of the General Conditions is hereby amended to read in words and figures as follows:

“Anything contained in the Contract and/or General Conditions to the contrary notwithstanding, including specifically but not limited to, Sections 2.12, 9.3.1, 9.3.3, 9.6.8, 9.10.2, 10.4 and 15.2.8, the Contractor and Owner specifically agree that claims for unpaid labor, materials or supplies for this public works project shall be resolved by the requirements and process set forth in Title 39-1-1(b), *Code of Alabama, 1975.*”

J. INDEPENDENT CONTRACTOR: Section 3.3.4 is hereby added to page 13 of the General Conditions and shall read as follows:

“The Contractor is an independent contractor for the purposes of this contract. Nothing contained in the contract shall be construed to mean that the Contractor is the servant, agent or employee of the City of Vestavia Hills, Alabama.”

K. CHANGE ORDERS: The following language is hereby added to the General Conditions on page 22 as Section 7.2.2:

“Anything contained herein to the contrary notwithstanding, the guidelines, which provide criteria for approving change orders to an existing public works contract are set forth in an opinion issued to the Alabama State Building Commission on June 15, 1979 by the State of Alabama Attorney General. Contractor and Owner agree that said opinion sets forth the guidelines for determining whether or not a proposed change order is legally justified. The Owner, its Architect and legal advisor shall sign any and all change order justifications.”

L. COMPLIANCE WITH ALL LAWS: The following section 3.7.4 is hereby added to the General Conditions on page 14 thereof:

“**GENERAL COMPLIANCE WITH ALL LAWS:** Contractor shall comply with the provisions of the labor law and all state, federal and local laws, statutes, codes, rules, regulations and ordinances that are applicable to the performance of this Contract Between City and Contractor, including specifically, but not limited to Ordinance Numbers 2769, 2770 and 2771 enacted by the City Council of the City of Vestavia Hills, Alabama on June 11, 2018.”

M. MUNICIPALITIES CANNOT INDEMNIFY AND HOLD HARMLESS THIRD PARTIES: Sections 10.3.3 and 10.3.6 on page 30 of the General Conditions are hereby deleted in their entireties.

N. **IMMIGRATION:** The following section 16.1 is hereby added to the General Conditions on page 39 thereof:

“IMMIGRATION: By signing this Contract, the contracting parties affirm, for the duration of the Contract, 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 Contract and shall be responsible for all damages resulting therefrom.”

O. **BOYCOTT LIMITATIONS:** The following section 16.2 is hereby added to the General Conditions on page 39 thereof:

“COMPLIANCE WITH TITLE 41-16-5, CODE OF ALABAMA, 1975, BOYCOTT LIMITATIONS: Act 2016-312 of the Alabama Legislature prohibits a governmental entity from entering into certain public contracts with a business entity unless the contract includes a representation that the business is not currently engaged in, and an agreement that the business will not engage in, the boycott of a person or an entity based upon the person or business doing business with a jurisdiction with which the state can enjoy open trade. The prohibition does not apply if a business offers to provide goods or services for at least 20 percent less than the lowest certifying business entity or to a contract with a value less than \$15,000.00. The Contractor represents and warrants that it is not currently engaged in, and will not engage in, the boycott of a person or an entity based in or doing business with a jurisdiction with which this state can enjoy open trade.”

P. **RETAINAGE:** The following language is added to Section 5.1.7.1 of the Construction Contract:

(1) “Retainage” is defined as the money earned and, therefore, belonging to the Contractor (subject to final settlement of the Contract) which has been retained by the Owner conditioned on final completion and acceptance of all Work required by the Contract Documents. Retainage shall not be relied upon by Contractor (or Surety) to cover or off-set unearned monies attributable to uncompleted or uncorrected Work.

(2) In making progress payments the Owner shall retain five percent of the estimated value of Work performed and the value of materials stored for the Work; but after retainage has been held upon fifty percent of the Contract Sum, no additional retainage will be withheld.

Q. MISCELLANEOUS: Article 18 entitled “Miscellaneous” is hereby added to the General Conditions:

“ARTICLE 18. MISCELLANEOUS:

(a) Non Waiver: The failure of the Owner to insist, in any one or more instances, upon a strict performance of any of the covenants of this contract, or to exercise any option herein contained, shall not be construed as a waiver, or a relinquishment for the future of such covenant or option, but the same shall continue and remain in full force and effect.

(b) Waiver of Modification: Any waiver, alteration or modification of any of the provisions of this agreement or cancellation or replacement of this agreement shall not be valid unless in writing and signed by the parties hereto. This agreement may be amended at any time by written agreement of the parties signatory hereto.

(c) Notices: Any and all notices required or permitted to be given under this agreement will be sufficient if furnished in writing and sent by Registered Mail to the parties’ last known address.

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

(e) Article and Section Headings: The article and section headings and captions contained herein are included for convenience only, and shall not be considered a part hereof or affect in any manner the construction or interpretation hereof.

(f) Construction of Terms: Any ambiguities of this contract shall be construed fairly and equitably regardless of the participation of either party in drafting this contract. The reference in terms to gender and number shall be modified as may be appropriate.

(f) Execution in Counterparts: The contract may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

(g) Binding Effect: The contract shall inure to the benefit of, and shall be binding upon Owner and Contractor and their heirs, successors and assigns.

(h) Severability: In the event any provision of this contract shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

(i) Entire Agreement: This written contract contains the entire agreement between the Owner and the Contractor.

R. CONTRACT DOCUMENTS: The following language is hereby added to Article 1 on page 2 of the Contract:

“The contract documents described above shall also include the following:

1. AIA Document A312-2010 Performance Bond.
2. AIA Document A312-2010 Payment Bond.
3. This First Addendum to the Contract and General Conditions.”

S. RATIFY CONTRACT AND GENERAL CONDITIONS: Article 17 is hereby added to the General Conditions to read in words and figures as follows:

“The Owner and Contractor hereby ratify and reconfirm the terms, provisions, limitations and conditions of the contract documents that were not modified or otherwise amended by this First Addendum to Construction Contract.”

IN WITNESS WHEREOF, the Owner and Contractor have hereunto set their hands and seals all being done in duplicate originals with one (1) original being delivered to each party on the day first above written.

OWNER:
CITY OF VESTAVIA HILLS, ALABAMA
A Municipal Corporation

By _____
Ashley C. Curry
Its Mayor

By _____
Jeffrey D. Downes
Its City Manager

ATTESTED

By _____

CONTRACTOR:

By

Its

ATTESTED

By

**STATE OF ALABAMA
JEFFERSON COUNTY**

ACKNOWLEDGMENT

I, the undersigned authority, a Notary Public in and for said County, in said State, hereby
certify that _____ whose name as
_____, is signed to the First Addendum to
Construction Contract and General Conditions who is known to me, acknowledged before me on
this day that, being informed of the contents of the instrument, he, as such officer and with full
authority, executed the same voluntarily for and as the act of said
_____.

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

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 C. Curry, whose name as Mayor of the City of Vestavia Hills, Alabama, a municipal corporation, is signed to the foregoing First Addendum to Construction Contract and General Conditions and who is known to me, acknowledged before me on this day that, being informed of the contents of the instrument, he, as such officer and with full authority, executed the same voluntarily for and as the act of said City of Vestavia Hills, Alabama.

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

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 First Addendum to Construction Contract and General Conditions and who is known to me, acknowledged before me on this day that, being informed of the contents of the instrument, he, as such officer and with full authority, executed the same voluntarily for and as the act of said City of Vestavia Hills, Alabama.

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

Notary Public

My Commission Expires:

SEAL