



**Vestavia Hills
City Council Agenda
August 26, 2024
6:00 PM**

1. Call to Order
2. Roll Call
3. Invocation - Chaplain Sam Williamson
4. Pledge Of Allegiance
5. Approval Of The Agenda
6. Announcements, Candidates and Guest Recognition
7. City Manager's Report
8. Councilors' Reports
9. Financial Reports - Zachary Clifton, Deputy Finance Director
10. Approval Of Minutes - August 12, 2024 Regular Meeting Minutes

Old Business (Public Hearing)

11. Public Hearing – Ordinance Number 3233 – An Ordinance approving and adopting the final 10% of the fiscal year 2024 budgets for the City of Vestavia Hills
12. Public Hearing - Ordinance Number 3234 - 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, 2024 Until September 30, 2025
13. Public Hearing - Resolution Number 5525 - A Resolution Authorizing An Increase In Salary And Wages And Adoption Of New Pay Plans For Employees
14. Public Hearing - Resolution Number 5526- A Resolution Accepting Terms For Financing Vehicles And/Or Equipment for FY 2025

New Business

15. Resolution Number 5524 - A Resolution Assigning the Amendment 772 Incentive Agreement Associated with the Development of Baumhower's Sports Grill and Dunkin Located on Montgomery Highway to Other Entities

New Business Requesting Unanimous Consent (Public Hearing)

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

16. Public Hearing - Ordinance Number 3241 - An Ordinance to declare real property as surplus and authorize the Mayor and City Manager to execute documents needed to convey said property to Jefferson County, Alabama, a Political Subdivision of the State of Alabama, for public improvements to a bridge over a tributary of the Cahaba River
17. Public Hearing - Ordinance Number 3242 - An Ordinance authorizing the Mayor and City Manager to execute and deliver an intergovernmental agreement with Jefferson County for certain public improvements over and around the Cahaba River Tributary located on Caldwell Mill Road and Old Looney Mill Road pursuant to Section 11-102-1, et. seq., Code of Alabama, 1975
18. Citizens Comments
19. 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.

Summary
Financial Report
July 2023-2024

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1.) Reconciled Cash Balance

The overall reconciled cash balance for the month of July was \$51,220,829,

General Funds	\$43,681,034
Restricted Funds	\$7,536,715
Petty Cash	<u>\$3,080</u>
Total	<u>\$51,220,829</u>

2.) The "Financial Overview" for the month and YTD through July is as follows:

Monthly Revenues	\$3,747,777	YTD Revenues	\$64,335,872
Monthly Expenses	<u>\$5,681,290</u>	YTD Expenses	<u>\$57,736,039</u>
Monthly Fund Balance	<u>(\$1,933,513)</u>	YTD Fund Balance	<u>\$6,599,834</u>

3.) Comparative Fund Balances:

	<u>YTD</u>	<u>Variance</u>
Actual - 2023-2024	\$6,599,834	
Budget - 2023-2024	\$2,003,690	\$4,596,144
Last Year - 2022-2023	\$7,833,450	(\$1,233,616)

Note:

The "Actual Fund Balance" is \$4,596,144 greater than the "Budgeted Fund Balance" and \$1,233,616 less than "Last Year's Fund Balance".

Summary
Financial Report
July 2023-2024

MTD						YTD			Variance	
		Actual		Budget	Last Year	Actual	Budget	Last Year	Act vs. Bdgt	Act vs LY
REVENUES		3,747,777		3,300,687	3,279,115	64,335,872	58,678,433	60,518,846	5,657,439	3,817,026
EXPENSES		5,681,290		5,535,550	5,039,217	57,736,039	56,674,743	52,685,396	(1,061,296)	(5,050,643)
FUND BALANCE		(1,933,513)		(2,234,863)	(1,760,102)	6,599,834	2,003,690	7,833,450	4,596,144	(1,233,617)
Advalorem - Real		0		2,463	2,419	20,950,523	18,851,548	18,954,703	2,098,975	1,995,819
Sales Tax		2,365,901		2,233,924	1,924,246	23,315,721	24,065,863	25,456,556	(750,142)	(2,140,835)
Utility Franchise Fees		97		136	131	2,613,737	2,466,893	2,467,092	146,844	146,645
Business License		68,572		71,241	63,265	4,435,531	3,814,625	3,780,136	620,906	655,396
Advalorem - Personal		202,442		158,893	150,002	1,971,492	1,637,816	1,892,999	333,676	78,493
October thru July 2024 (10 months)						2023-2024				
		Actual		Budget Total	Outstanding Bal	% Received	% Outstanding	Verification		
Advalorem - Real		20,950,523		18,855,007	2,095,516	111.11%	-11.11%	100.00%		
Sales Taxes		23,315,721		28,351,365	(5,035,644)	82.24%	17.76%	100.00%		
Utility Franchise Fees		2,613,737		2,466,893	146,844	105.95%	-5.95%	100.00%		
Business License		4,435,531		3,975,640	459,891	111.57%	-11.57%	100.00%		
Advalorem - Personal		1,971,492		2,016,972	(45,480)	97.75%	2.25%	100.00%		
JULY		MTD				MTD				
					Variance	Last Year	Act vs LY			
Advalorem - Real		0		2,463	(2,463)	2,419	(2,419)			
Sales Taxes		2,365,901		2,233,924	131,977	1,924,246	441,656			
Utility Franchise Fees		97		136	(39)	131	(34)			
Business License		68,572		71,241	(2,669)	63,265	5,307			
Advalorem - Personal		202,442		158,893	43,549	150,002	52,440			

FINANCIAL SUMMARY REPORT
"JULY 2023-2024"

1	MONTH OF JULY 2024							YEAR-TO- DATE THROUGH JULY 2024						
	2	3	4	5	6	7	8	9	10	11	12	13	14	15
	2023-2024	2023-2024	2022-2023	Actual to	Budget	Actual to	Last Year	2023-2024	2023-2024	2022-2023	Actual to	Budget	Actual to	Last Year
	Actual	Budget	Actual	Amount	Percentage	Amount	Percentage	Actual	Budget	Actual	Amount	Percentage	Amount	Percentage
REVENUE SUMMARY														
STATE REVENUE	11,521	11,905	185,591	(384)	-3.22%	(174,070)	-93.79%	153,579	156,282	339,110	(2,703)	-1.73%	(185,531)	-54.71%
COUNTY REVENUE	227,144	264,059	296,764	(36,915)	-13.98%	(69,620)	-23.46%	23,151,721	20,795,156	21,203,184	2,356,565	11.33%	1,948,537	9.19%
CITY REVENUE	3,393,551	2,885,253	2,661,944	508,298	17.62%	731,608	27.48%	39,623,584	36,545,671	37,845,405	3,077,913	8.42%	1,778,179	4.70%
PARK & RECREATION	115,561	139,470	134,816	(23,909)	-17.14%	(19,255)	-14.28%	1,406,989	1,181,324	1,131,146	225,665	19.10%	275,842	24.39%
TOTAL REVENUES	3,747,777	3,300,687	3,279,115	447,090		468,662		64,335,873	58,678,433	60,518,846	5,657,440		3,817,027	
EXPENDITURE SUMMARY														
NON DEPARTMENTAL	1,623,694	1,575,079	1,528,247	(48,615)	-3.09%	(95,446)	-6.25%	20,142,399	18,798,771	18,717,206	(1,343,628)	-7.15%	(1,425,193)	-7.61%
CITY COUNCIL	5,385	5,477	3,973	92	1.68%	(1,413)	-35.56%	70,193	78,011	71,193	7,818	10.02%	1,000	1.40%
MAYOR & ADMINISTRATION	176,966	166,652	139,498	(10,314)	-6.19%	(37,468)	-26.86%	1,731,174	1,780,208	1,578,472	49,034	2.75%	(152,702)	-9.67%
CITY CLERK	45,122	47,848	41,615	2,726	5.70%	(3,508)	-8.43%	458,085	472,151	414,925	14,066	2.98%	(43,160)	-10.40%
MUNICIPAL COMPLEX	22,435	31,490	25,429	9,055	28.75%	2,993	11.77%	331,059	329,631	289,519	(1,428)	-0.43%	(41,540)	-14.35%
INFORMATION SERVICES	140,643	109,213	100,739	(31,430)	-28.78%	(39,904)	-39.61%	710,848	732,607	587,872	21,759	2.97%	(122,976)	-20.92%
POLICE	1,201,529	1,186,991	1,009,588	(14,538)	-1.22%	(191,941)	-19.01%	11,455,817	11,914,738	10,197,538	458,921	3.85%	(1,258,280)	-12.34%
FIRE	1,091,169	1,095,173	989,179	4,004	0.37%	(101,990)	-10.31%	11,029,957	10,991,875	9,874,140	(38,082)	-0.35%	(1,155,817)	-11.71%
INSPECTION	70,770	69,161	56,264	(1,609)	-2.33%	(14,505)	-25.78%	695,835	722,484	589,474	26,649	3.69%	(106,361)	-18.04%
PUBLIC SERVICES	463,249	466,554	419,877	3,305	0.71%	(43,373)	-10.33%	4,540,677	4,646,743	4,424,922	106,066	2.28%	(115,755)	-2.62%
PUBLIC LIBRARY	267,779	268,208	261,826	429	0.16%	(5,954)	-2.27%	2,436,427	2,532,273	2,363,780	95,846	3.78%	(72,647)	-3.07%
PARKS & LEISURE SERVICES	572,548	513,704	462,982	(58,844)	-11.45%	(109,566)	-23.67%	4,133,567	3,675,251	3,576,356	(458,316)	-12.47%	(557,211)	-15.58%
TOTAL EXPENDITURES	5,681,290	5,535,550	5,039,217	(145,740)		(642,073)		57,736,039	56,674,743	52,685,396	(1,061,296)		(5,050,643)	
SURPLUS / (DEFICIT)	(1,933,513)	(2,234,863)	(1,760,102)	301,350		(173,411)		6,599,834	2,003,690	7,833,450	4,596,144		(1,233,616)	



**Vestavia Hills
City Council Minutes
August 12, 2024
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 Councilor Kimberly Cook*, City Councilor Paul Head, City Councilor 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, Marvin Green, Fire Chief, Keith Blanton, Building Official; Lori Beth Kearley, Public Services Director*; Umang Patel, Court Director*; Taneisha Tucker, Library Director*; Daniel Tackett, Asst. Library Director*

**attended virtually via Zoom.*

3. Invocation - Jim Cartledge, Vestavia Hills Chaplain

4. Pledge Of Allegiance

5. Approval Of The Agenda

The Mayor stated that Item number 13, Resolution Number 5524 needs to be removed from the agenda, to be addressed at a later date. He then opened the floor for a motion to approve the agenda as amended.

MOTION: Approve the agenda as amended. Motion By: George Pierce. Seconded By: Paul

Head.

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

No: None. Abstain: None. Motion passed.

6. Announcements, Candidates and Guest Recognition

- Mr. Pierce welcomed Chamber of Commerce board members Sandra Cleveland and Donnie Dobbins. He stated that both of them have previously served as Board Chairman and have done a lot of work with the Chamber.
- Mr. Head announced that the Parks and Recreation Board will meet on August 20, 2024 at 7:30 AM.

7. Proclamation - August 21, 2024 National Senior Citizen Day

The Mayor presented a Proclamation designating August 21, 2024, as "National Senior Citizen Day." Mayor Curry gave a brief background of this special day and the City's Senior program. On August 19, 1988, President Ronald Reagan signed Proclamation 5847 declaring National Senior Citizen's Day to support, Honor, and show appreciation to our seniors and recognize their achievements. Vestavia Hills has many active senior groups that offer recreational opportunities, volunteer service programs, and educational classes for senior residents. He named some of the programs offered by the City in which seniors can participate:

- Seniors Bridge Group
- Seniors Exercise Group
- Vestavia Hills Beautification Board
- Vestavia Hills Friends of the Library
- Vestavia Hills Library in the Forest Adult Services
- Vestavia Hills Men's Garden Club
- Vestavia Hills Monday Night Dancers
- New Merkel House Senior programs
- Osher Lifelong Learning Institute

These programs benefit all of our citizens, including seniors. He thanked the senior citizens of the City for all they do to enhance the quality of life that we enjoy in Vestavia Hills. He added that the U.S. population, age sixty-five and over, grew, from 2010 to 2020, at a fast rate, reaching 55.8 million population, a 38.6% increase in just ten years. Our programs for active adults will continue to be in demand.

Mr. Downes read the Proclamation aloud and the Mayor presented it to Elise Bodenheimer and Andi Preston, Friends of the Library co-chairpersons, along with Sandi Wilson and Melanie Perry, Parks and Recreation Department leaders.

Ms. Wilson described programs planned for Senior Citizens day. Mrs. Bodenheimer thanked the Mayor and Council for this recognition.

8. City Manager's Report

Presentation of the FY 25 Budget Message

Mr. Downes presented his written message for the presentation of the FY25 budgets for the City of Vestavia Hills. (See attached statement).

He demonstrated how to access the draft budget on the website, available under the Home Page's "Government" tab. Information includes plans and goals for each department.

The regular work session originally scheduled for 6:00 PM, Monday, August 19, 2024, has been moved up to begin at 4:00 PM. Departments will present their goals and performance measures for the year and allow the Council to ask questions.

The Mayor and City Council commended the new digital budget book format. Mr. Pierce stated that, in the past, the budget binders were large and hard to deal with. He asked about whether increased revenues would be used to pay down City debt, and Mr. Downes explained.

Mrs. Cook asked how the City would receive public questions and input on the budget. Mr. Downes stated the City will publicize on social media the ways residents can send in questions and comments. Mrs. Cook suggested use of the Vestavia Hills Listens portal and Mr. Downes agreed.

9. Councilors' Reports

- Mrs. Cook stated that School Board will have their first FY2025 budget hearing on August 26 at 4:00 PM.
- Mr. Weaver stated that the Planning and Zoning Commission had their regular August meeting, approving three final plats and recommending the compatible rezoning of three annexed properties.
- Mr. Pierce announced that he attended the kick-off teacher pep rally for the school system. He stated that, because of a lot of recent retirements, the schools welcomed over seventy new employees.
- Mr. Pierce announced that he will attend the Chamber of Commerce luncheon tomorrow as well as the Executive Board meeting on Thursday.

10. Financial Reports - Zachary Clifton, Deputy Finance Director

Zach Clifton, Deputy Finance Director, presented the financial reports for month ending July, 2023, and explained the balances for the first three quarters of the year.

11. Approval Of Minutes - July 22, 2024, Regular Meeting Minutes

The Mayor announced that the minutes of the July 22, 2024, are being presented for approval. He opened the floor for a motion.

MOTION: Approve the minutes as presented. Motion By: Kimberly Cook. Seconded By: Paul Head.

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)

New Business

- 12. Resolution Number 5523 - A Resolution declaring certain Police and Public Services Department personal property as surplus and authorizing the City Manager to sell/dispose of said property**

MOTION: Approve Resolution Number 5523 as presented. Motion by: George Pierce. Seconded by: Paul Head.

Mr. Downes explained that this Resolution declares some old police vehicles and public services equipment as surplus, as they are no longer needed.

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

No: None. Abstain: None. Motion passed.

- 13. Resolution Number 5524 - A Resolution Assigning the Amendment 772 Incentive Agreement Associated with the Development of Baumhower's Sports Grill and Dunkin Located on Montgomery Highway to Other Entities**

This item was postponed to a later date.

New Business Requesting Unanimous Consent (Public Hearing)

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

- 14. Public Hearing – Ordinance Number 3233 – An Ordinance approving and adopting the final 10% of the fiscal year 2024 budgets for the City of Vestavia Hills** (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.)
- 15. Public Hearing - Ordinance Number 3234 - 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, 2024 Until September 30, 2025** (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)
- 16. Public Hearing - Resolution Number 5525 - A Resolution Authorizing An Increase In Salary And Wages And Adoption Of New Pay Plans 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)

- 17. Public Hearing - Resolution Number 5526- A Resolution Accepting Terms For Financing Vehicles And/Or Equipment for FY 2025** (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)

18. Citizens Comments

- None.

19. Time Of Adjournment

There being no further business, Mr. Pierce made a motion to adjourn. The Mayor adjourned the meeting at 6:40 PM.

Ashley C. Curry, Mayor

ATTESTED BY:

Rebecca Leavings, City Clerk



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

August 26, 2024

To: Jeff Downes, City Manager

From: Zach Clifton, Asst. Finance Director

Cc: Melvin Turner, III, Finance Director

RE: Public Hearing – Ordinance Number 3233 – An Ordinance approving and adopting the final 10% of the fiscal year 2024 budgets for the City of Vestavia Hills

Background:

The City Council of the City of Vestavia Hills, Alabama, at its regular meeting of August 28, 2023, adopted and approved Ordinance Number 3188 to adopt 90% of the General Fund budget, 90% of the Special Revenue Fund budget, 90% of the Capital Projects Fund budget, 90% of the Infrastructure and Community Spaces Fund budget, and 90% of the Debt Service Fund budget for the fiscal year 2023-2024. The City Council of the City of Vestavia Hills, Alabama, wishes to adopt the final portion (10%) of the aforesaid budget for the fiscal year 2023-2024.

Recommendation:

Recommend Approval

Fiscal Impact:

Budget Approval

Attachments:

1. Final 10% Ordinance
2. FY2024 Budget Ordinance

ORDINANCE NUMBER 3233

AN ORDINANCE FOR APPROVAL OF THE FINAL 10% OF THE BUDGET FOR THE CITY OF VESTAVIA HILLS, ALABAMA FOR THE FISCAL YEAR 2023-2024

WHEREAS, the City Council of the City of Vestavia Hills, Alabama, at its regular meeting of August 28, 2023, adopted and approved Ordinance Number 3188 to adopt 90% of a General Fund budget, 90% of a Special Revenue Fund budget, 90% of a Capital Projects Fund budget, 90% of a Infrastructure and Community Spaces Fund budget, and 90% of a Debt Service Fund budget for the fiscal year 2023-2024; and

WHEREAS, the City Council of the City of Vestavia Hills, Alabama, wishes to adopt the final portion (10%) of aforesaid budgets for the fiscal year 2023-2024.

Total Budget Recap

	General	Special Revenue	Capital Projects	Infrastructure & Community Spaces	Debt Service
Total Budget Approved	\$66,418,485	\$5,037,394	\$19,478,051	\$5,595,880	\$7,427,018
Less 90% approved in Ord. 3188	\$59,776,637	\$4,533,655	\$17,530,246	\$5,036,292	\$6,684,316
Final 10% to be approved	\$ 6,641,848	\$ 503,739	\$ 1,947,805	\$ 559,588	\$ 742,702

BE IT ORDAINED, by the City Council of the City of Vestavia Hills, Alabama, that the final portion of the annual budget amounting to \$6,641,848 (general funds), \$503,739 (special funds), \$1,947,805 (capital projects funds), \$559,588 (Infrastructure and Community Spaces Fund) and \$742,702 (debt service funds) for the fiscal year 2023-2024 is hereby adopted.

This Ordinance Number shall become effective upon adoption and approval and publishing/posting pursuant to Alabama law.

APPROVED and ADOPTED this the 26th day of August, 2024.

Ashley C. Curry
Mayor

ATTESTED BY:

Rebecca Leavings
City Clerk

CERTIFICATION:

I, Rebecca Leavings, as City Clerk of the City of Vestavia Hills, Alabama, hereby certify that the above and foregoing copy of 1 (one) Ordinance # 3233 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 Merkle House and Vestavia Hills Recreational Center this the _____ day of August, 2024.

Rebecca Leavings
City Clerk

ORDINANCE NUMBER 3188

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, 2023 UNTIL SEPTEMBER 30, 2024.

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 \$66,418,485 including transfers out, to be effective for the period beginning October 1, 2023, through September 30, 2024; and

WHEREAS, the City Manager has prepared a “special fund budget” for said period reflecting anticipated expenditures in the amount of \$5,037,394 including transfers from the General Fund, to be effective for the period beginning October 1, 2023, through September 30, 2024; and

WHEREAS, the City Manager has prepared a “capital projects fund budget” for said period reflecting expenditures in the amount of \$19,478,051 to be effective for the period beginning October 1, 2023, through September 30, 2024.

WHEREAS, the City Manager has prepared an “infrastructure and community spaces fund budget” for said period reflecting expenditures in the amount of \$5,595,880 to be effective for the period beginning October 1, 2023, through September 30, 2024.

WHEREAS, the City Manager has prepared a “debt service fund budget” for said period reflecting expenditures in the amount of \$7,427,018 to be effective for the period beginning October 1, 2023, through September 30, 2024.

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 \$59,776,637, of the municipal “general fund budget” for the City of Vestavia Hills for fiscal year 2023-2024 upon the terms, conditions, and provisions set forth below; and

WHEREAS, the City Council agrees to approve and adopt ninety (90) percent, or \$4,533,655, of the municipal “special revenue fund budget” for the City of Vestavia Hills for fiscal year 2023-2024 upon the terms, conditions and provisions set forth below; and

WHEREAS, the City Council agrees to approve and adopt ninety (90) percent, or \$17,530,246, of the “capital project fund budget” for the City of Vestavia Hills for fiscal year 2023-2024 upon the terms, conditions and provisions set forth below; and

WHEREAS, the City Council agrees to approve and adopt ninety (90) percent, or \$5,036,292, of the “infrastructure and community spaces project fund budget” for the City of Vestavia Hills for fiscal year 2023-2024 upon the terms, conditions and provisions set forth below; and

WHEREAS, the City Council agrees to approve and adopt ninety (90) percent, or \$6,684,316, of the “debt service fund budget” for the City of Vestavia Hills for fiscal year 2023-2024 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 \$59,776,637, which said amount is not exceeding the aggregate within ten (10) percent of the estimated expenses:

\$66,418,485 multiplied by 90% equals
\$59,776,637; 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 \$4,533,655 which said amount is not exceeding the aggregate within ten (10) percent of the estimated expenses:

\$5,037,394 multiplied by 90% equals
\$4,533,655; 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 \$17,530,246 which said amount is not exceeding the aggregate within ten (10) percent of the estimated expenses:

\$19,478,051 multiplied by 90% equals
\$17,530,246; 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 \$5,036,292 which said amount is not exceeding the aggregate within ten (10) percent of the estimated expenses:

\$5,595,880 multiplied by 90% equals
\$5,036,292; 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 \$6,684,316 which said amount is not exceeding the aggregate within ten (10) percent of the estimated expenses:

\$7,427,018 multiplied by 90% equals
\$6,684,316; and

6. The City Manager is hereby authorized to expend the sum of \$59,776,637 from the General Fund, \$4,533,655 from the Special Revenue Fund, \$17,530,655 from the Capital Projects Fund, \$5,036,292 from the Infrastructure and Community Spaces Fund, and \$6,684,316 from the Debt Service Fund for municipal expenses for the period beginning October 1, 2023, and ending September 30, 2024.

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 and posting/publication as required by Alabama law.

APPROVED and ADOPTED this the 14th day of August, 2023.

Ashley C. Curry
Mayor

ATTESTED BY:

Rebecca Leavings
City Clerk

CERTIFICATION:

I, Rebecca Leavings, as City Clerk of the City of Vestavia Hills, Alabama, hereby certify that the above and foregoing copy of 1 (one) Ordinance # 3188 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 Merkle House and Vestavia Hills Recreational Center this the _____ day of _____, 2023.

Rebecca Leavings
City Clerk



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

August 26, 2024

To: Jeff Downes, City Manager

From: Zach Clifton, Asst. Finance Director

Cc: Melvin Turner, III, Finance Director

RE: Public Hearing - Ordinance Number 3234 - 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, 2024 Until September 30, 2025

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 \$73,280,541 including transfers out, to be effective for the period beginning October 1, 2024, through September 30, 2025; and

WHEREAS, the City Manager has prepared a "special fund budget" for said period reflecting anticipated expenditures in the amount of \$4,834,868 including transfers from the General Fund, to be effective for the period beginning October 1, 2024, through September 30, 2025; and

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

budget” for said period reflecting expenditures in the amount of \$23,653,474 to be effective for the period beginning October 1, 2024, through September 30, 2025.

WHEREAS, the City Manager has prepared an “infrastructure and community spaces fund budget” for said period reflecting expenditures in the amount of \$7,086,000 to be effective for the period beginning October 1, 2024, through September 30, 2025.

WHEREAS, the City Manager has prepared a “debt service fund budget” for said period reflecting expenditures in the amount of \$7,433,510 to be effective for the period beginning October 1, 2024, through September 30, 2025.

Recommendation:

Recommend Approval

Fiscal Impact:

Budget Approval

Attachments:

1. 90% Budget Ordinance
2. FY2025 Budget Ordinance Exhibit 1

ORDINANCE NUMBER 3234

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, 2024 UNTIL SEPTEMBER 30, 2025.

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 \$73,280,541 including transfers out, to be effective for the period beginning October 1, 2024, through September 30, 2025; and

WHEREAS, the City Manager has prepared a “special fund budget” for said period reflecting anticipated expenditures in the amount of \$4,834,868 including transfers from the General Fund, to be effective for the period beginning October 1, 2024, through September 30, 2025; and

WHEREAS, the City Manager has prepared a “capital projects fund budget” for said period reflecting expenditures in the amount of \$23,653,474 to be effective for the period beginning October 1, 2024, through September 30, 2025.

WHEREAS, the City Manager has prepared an “infrastructure and community spaces fund budget” for said period reflecting expenditures in the amount of \$7,086,000 to be effective for the period beginning October 1, 2024, through September 30, 2025.

WHEREAS, the City Manager has prepared a “debt service fund budget” for said period reflecting expenditures in the amount of \$7,433,510 to be effective for the period beginning October 1, 2024, through September 30, 2025.

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 \$65,952,487, of the municipal “general fund budget” for the City of Vestavia Hills for fiscal year 2024-2025 upon the terms, conditions, and provisions set forth below; and

WHEREAS, the City Council agrees to approve and adopt ninety (90) percent, or \$4,351,381, of the municipal “special revenue fund budget” for the City of Vestavia Hills for fiscal year 2024-2025 upon the terms, conditions and provisions set forth below; and

WHEREAS, the City Council agrees to approve and adopt ninety (90) percent, or \$21,288,127, of the “capital project fund budget” for the City of Vestavia Hills for fiscal year 2024-2025 upon the terms, conditions and provisions set forth below; and

WHEREAS, the City Council agrees to approve and adopt ninety (90) percent, or \$6,377,400, of the “infrastructure and community spaces project fund budget” for the City of Vestavia Hills for fiscal year 2024-2025 upon the terms, conditions and provisions set forth below; and

WHEREAS, the City Council agrees to approve and adopt ninety (90) percent, or \$6,690,159, of the “debt service fund budget” for the City of Vestavia Hills for fiscal year 2024-2025 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 \$65,952,487, which said amount is not exceeding the aggregate within ten (10) percent of the estimated expenses:

\$73,280,541 multiplied by 90% equals
\$65,952,487; 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 \$4,351,381 which said amount is not exceeding the aggregate within ten (10) percent of the estimated expenses:

\$4,834,868 multiplied by 90% equals
\$4,351,381; 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 \$21,288,127 which said amount is not exceeding the aggregate within ten (10) percent of the estimated expenses:

\$23,653,474 multiplied by 90% equals
\$21,288,127; 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 \$6,377,400 which said amount is not exceeding the aggregate within ten (10) percent of the estimated expenses:

\$7,086,000 multiplied by 90% equals
\$6,377,400; 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 \$6,690,159 which said amount is not exceeding the aggregate within ten (10) percent of the estimated expenses:

\$7,433,510 multiplied by 90% equals
\$6,690,159; and

6. The City Manager is hereby authorized to expend the sum of \$65,952,487 from the General Fund, \$4,351,381 from the Special Revenue Fund, \$21,288,127 from the Capital Projects Fund, \$6,377,400 from the Infrastructure and Community Spaces Fund, and \$6,690,159 from the Debt Service Fund for municipal expenses for the period beginning October 1, 2024, and ending September 30, 2025.

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 26th day of August, 2024.

Ashley C. Curry
Mayor

ATTESTED BY:

Rebecca Leavings
City Clerk

CERTIFICATION:

I, Rebecca Leavings, as City Clerk of the City of Vestavia Hills, Alabama, hereby certify that the above and foregoing copy of 1 (one) Ordinance # 3234 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 Merkle House and Vestavia Hills Recreational Center this the _____ day of August, 2024.

Rebecca Leavings
City Clerk

**CITY OF VESTAVIA HILLS
ANNUAL BUDGET
SUMMARY OF "ALL FUNDS" REVENUE & EXPENDITURES
FISCAL YEAR ENDING SEPTEMBER 30, 2025**

REVENUES	GENERAL	Special Revenue	Capital Projects	Community Spaces	Debt Service	Total
Sales & Use Tax	\$ 29,340,511	\$ -	\$ -	\$ -	\$ -	\$ 29,340,511
Ad Valorem	23,609,675	-	-	-	-	23,609,675
Other Taxes	50,000	983,500	370,000	-	-	1,403,500
State Shared Revenue	-	949,000	-	-	-	949,000
Utility Franchise Fees	3,028,546	-	-	-	-	3,028,546
Licenses & Permits	7,011,728	50,000	-	-	-	7,061,728
Charges for Services	1,746,000	55,000	-	-	-	1,801,000
Fines & Forfeitures	400,000	675,000	-	-	-	1,075,000
Fees	50,065	970,032	-	-	-	1,020,097
Grants	1,478,418	56,385	9,750,363	-	-	11,285,166
Sale of Assets	15,000	-	324,200	-	-	339,200
Investment Earnings	1,425,829	35,500	204,000	62,000	50,839	1,778,168
Other Revenues	1,014,769	78,000	80,000	-	120,000	1,292,769
TOTAL REVENUES	\$ 69,170,541	\$ 3,852,417	\$ 10,728,563	\$ 62,000	\$ 170,839	\$ 83,984,360

**CITY OF VESTAVIA HILLS
ANNUAL BUDGET
SUMMARY OF "ALL FUNDS" REVENUE & EXPENDITURES
FISCAL YEAR ENDING SEPTEMBER 30, 2025**

EXPENDITURES	GENERAL	Special Revenue	Capital Projects	Community Spaces	Debt Service	Total
Administration	\$ 2,770,622	\$ -	\$ 44,033	\$ -	\$ -	\$ 2,814,655
Building Safety	969,887	-	82,228	-	-	1,052,115
City Clerk	653,989	-	16,831	-	-	670,820
City Council	90,293	-	-	-	-	90,293
City Wide	6,628,028	-	-	1,480,000	7,433,510	15,541,538
Fire	14,599,272	1,006,382	4,452,572	-	-	20,058,226
Information Technology	975,926	-	491,856	-	-	1,467,782
Library	3,319,639	215,685	344,432	-	-	3,879,756
Municipal Complex	457,870	-	1,202,501	-	-	1,660,371
Municipal Court	-	985,748	68,844	-	-	1,054,592
Parks & Leisure Services	5,061,980	-	595,429	-	-	5,657,409
Police	16,003,581	-	3,239,428	-	-	19,243,009
Public Services	5,654,131	2,627,053	13,115,320	2,394,822	-	23,791,326
SUB-TOTAL EXPENDITURES	57,185,218	4,834,868	23,653,474	3,874,822	7,433,510	96,981,892
TRANSFERS OUT						
To Special Revenue	282,248	-	-	46,753	-	329,001
To Capital Projects	4,200,000	-	-	-	-	4,200,000
To Community Spaces	7,024,000	-	-	-	-	7,024,000
To Debt Service	4,369,075	-	-	3,164,425	-	7,533,500
To Non-budgeted Funds	220,000	-	-	-	-	220,000
To General Fund	-	-	-	-	-	-
TOTAL TRANSFERS OUT	16,095,323	-	-	3,211,178	-	19,306,501
TOTAL EXPENDITURES	\$ 73,280,541	\$ 4,834,868	\$ 23,653,474	\$ 7,086,000	\$ 7,433,510	\$ 116,288,393

**CITY OF VESTAVIA HILLS
ANNUAL BUDGET
SUMMARY OF "ALL FUNDS" REVENUE & EXPENDITURES
FISCAL YEAR ENDING SEPTEMBER 30, 2025**

	GENERAL	Special Revenue	Capital Projects	Community Spaces	Debt Service	Total
OTHER REVENUE SOURCES						
TRANSFERS IN						
From Capital Projects	\$ -	\$ -	\$ -	\$ -	\$ -	-
From General Fund	-	282,248	4,200,000	7,024,000	4,369,075	15,875,323
From Community Spaces	-	46,753	-	-	3,164,425	3,211,178
Debt Proceeds	110,000	-	4,137,911	-	-	4,247,911
TOTAL OTHER REVENUE SOURCES	110,000	329,001	8,337,911	7,024,000	7,533,500	23,334,412
 REVENUE OVER / (UNDER) EXPENDITURES	 (4,000,000)	 (653,450)	 (4,587,000)	 -	 270,829	 (8,969,621)
USE OF RESERVES / FUND BALANCE	4,000,000	653,450	4,587,000	-	-	9,240,450
 REPORT BALANCE	 \$ -	 \$ -	 \$ -	 \$ -	 270,829	 \$ 270,829



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

August 26, 2024

To: Jeff Downes, City Manager

From: Zach Clifton, Asst. Finance Director

Cc: Melvin Turner, III, Finance Director

RE: Public Hearing - Resolution Number 5525 - A Resolution
Authorizing An Increase In Salary And Wages And Adoption Of New
Pay Plans For Employees

Background:

1. The City Council hereby approves a three-percent (3%) across-the-board increase in wages and salaries for all current employees; and
2. The City Council approves phase three of implementation of a separate pay plan for department heads and their assistants that will adjust their compensation rates to allow for the equivalent of a one-step merit increase as illustrated in exhibit one.

Said increases are effective October 1, 2024

Recommendation:

Recommend Approval

Fiscal Impact:
Budget Approval

Attachments:

1. Wage Increase Resolution
2. FY2025 Wage Increase Resolution Exhibit 1

RESOLUTION NUMBER 5525

**AUTHORIZING AND APPROVING AN INCREASE
IN SALARY AND WAGES AND ADOPTION OF NEW
PAY PLANS FOR EMPLOYEES**

**THIS RESOLUTION WAS ADOPTED AND APPROVED BY THE CITY
COUNCIL OF THE CITY OF VESTAVIA HILLS, ALABAMA ON AUGUST 26,
2024.**

WITNESSETH THESE RECITALS

WHEREAS, the City Manager has proposed the budgets for fiscal year 2024-2025 year, along with expected surplus values, and has recommended a three-percent (3%) across-the-board increase of wages and salaries for all current employees effective October 1, 2024; and

WHEREAS, the City Manager has further recommended adoption of phase three of an executive pay plan for department heads and their assistants effective October 1, 2024 which provides an increase equivalent to a one-step increase within their existing pay grade in recognition of their leadership of a growing City as most have reached a ceiling in their particular pay grade and said pay plan adjustments are included as exhibit one; and

WHEREAS, the Council, at its regularly scheduled meeting of August 26, 2024, feel it is in the best public interest to approve a three-percent (3%) across-the-board increase in wages and salaries for all applicable employees and further to adopt phase three for those compensated based upon the executive pay plan

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

1. The City Council hereby approves a three-percent (3%) across-the-board increase in wages and salaries for all current employees; and
2. The City Council approves phase three of implementation of a separate pay plan for department heads and their assistants that will adjust their compensation rates to allow for the equivalent of a one-step merit increase as illustrated in exhibit one.
3. Said increases are effective October 1, 2024.

APPROVED and ADOPTED this the 26th day of August, 2024.

Ashley C. Curry
Mayor

ATTESTED BY:

Rebecca Leavings
City Clerk

**CITY OF VESTAVIA HILLS
EXECUTIVE SALARY SCHEDULE
(ANNUAL HOURS 2080)
EFFECTIVE 10/01/2024**

Grade	Type	STEP 1	STEP 2	STEP 3	STEP 4	STEP 5	STEP 6	STEP 7	STEP 8	STEP 9	STEP 10	PREMIUM 05	PREMIUM 10	PREMIUM 15
45	hourly	96.60	101.43	106.50	111.82	117.42	123.28	129.45	135.93	142.72	149.86	157.35	165.22	173.48
	bi-weekly	7,727.62	8,114.69	8,519.90	8,945.86	9,393.41	9,862.56	10,355.90	10,874.30	11,417.76	11,988.86	12,587.62	13,217.47	13,878.43
	semi-monthly	8,371.59	8,790.91	9,229.90	9,691.35	10,176.19	10,684.44	11,218.90	11,780.50	12,369.24	12,987.94	13,636.59	14,318.93	15,034.97
	monthly	16,743.16	17,581.83	18,459.79	19,382.68	20,352.38	21,368.88	22,437.79	23,560.99	24,738.48	25,975.87	27,273.16	28,637.85	30,069.93
	annually	200,918.02	210,981.89	221,517.50	232,592.26	244,228.61	256,426.56	269,253.50	282,731.90	296,861.76	311,710.46	327,278.02	343,654.27	360,839.23
46	hourly	101.43	106.50	111.82	117.42	123.28	129.45	135.93	142.72	149.86	157.35	165.22	173.48	182.15
	bi-weekly	8,114.69	8,519.90	8,945.86	9,393.41	9,862.56	10,355.90	10,874.30	11,417.76	11,988.86	12,587.62	13,217.47	13,878.43	14,572.22
	semi-monthly	8,790.91	9,229.90	9,691.35	10,176.19	10,684.44	11,218.90	11,780.50	12,369.24	12,987.94	13,636.59	14,318.93	15,034.97	15,786.58
	monthly	17,581.83	18,459.79	19,382.68	20,352.38	21,368.88	22,437.79	23,560.99	24,738.48	25,975.87	27,273.16	28,637.85	30,069.93	31,573.15
	annually	210,981.89	221,517.50	232,592.26	244,228.61	256,426.56	269,253.50	282,731.90	296,861.76	311,710.46	327,278.02	343,654.27	360,839.23	378,877.82
47	hourly	106.50	111.82	117.42	123.28	129.45	135.93	142.72	149.86	157.35	165.22	173.48	182.15	191.26
	bi-weekly	8,519.90	8,945.86	9,393.41	9,862.56	10,355.90	10,874.30	11,417.76	11,988.86	12,587.62	13,217.47	13,878.43	14,572.22	15,300.58
	semi-monthly	9,229.90	9,691.35	10,176.19	10,684.44	11,218.90	11,780.50	12,369.24	12,987.94	13,636.59	14,318.93	15,034.97	15,786.58	16,575.62
	monthly	18,459.79	19,382.68	20,352.38	21,368.88	22,437.79	23,560.99	24,738.48	25,975.87	27,273.16	28,637.85	30,069.93	31,573.15	33,151.25
	annually	221,517.50	232,592.26	244,228.61	256,426.56	269,253.50	282,731.90	296,861.76	311,710.46	327,278.02	343,654.27	360,839.23	378,877.82	397,814.98
48	hourly	111.82	117.42	123.28	129.45	135.93	142.72	149.86	157.35	165.22	173.48	182.15	191.26	200.83
	bi-weekly	8,945.86	9,393.41	9,862.56	10,355.90	10,874.30	11,417.76	11,988.86	12,587.62	13,217.47	13,878.43	14,572.22	15,300.58	16,066.08
	semi-monthly	9,691.35	10,176.19	10,684.44	11,218.90	11,780.50	12,369.24	12,987.94	13,636.59	14,318.93	15,034.97	15,786.58	16,575.62	17,404.92
	monthly	19,382.68	20,352.38	21,368.88	22,437.79	23,560.99	24,738.48	25,975.87	27,273.16	28,637.85	30,069.93	31,573.15	33,151.25	34,809.84
	annually	232,592.26	244,228.61	256,426.56	269,253.50	282,731.90	296,861.76	311,710.46	327,278.02	343,654.27	360,839.23	378,877.82	397,814.98	417,718.08



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

August 26, 2024

To: Jeff Downes, City Manager

From: Zach Clifton, Asst. Finance Director

Cc: Melvin Turner, III, Finance Director

RE: Public Hearing - Resolution Number 5526- A Resolution Accepting
Terms For Financing Vehicles And/Or Equipment for FY 2025

Background:

The City of Vestavia Hills ("Governmental Entity") has previously determined to undertake a project for the purchase of various vehicles & equipment (the "Project") and the Officer of the Governmental Entity responsible for financial affairs of the Governmental Entity (the "Finance Officer") has now presented a proposal for the financing of such Project.

Recommendation:

The Finance Officer recommends the financing terms from Robertson Banking Company as attached.

Fiscal Impact:

Budgeted in FY 2025

Attachments:

1. Resolution 5526
2. Summary of Proposals-FY2025

RESOLUTION NUMBER 5526

A RESOLUTION APPROVING FINANCING TERMS FOR CITY VEHICLES AND/OR EQUIPMENT THROUGH RORBERTSON BANKING COMPANY

WHEREAS, The City of Vestavia Hills (“Governmental Entity”) has previously determined to undertake a project for the purchase of various vehicles & equipment (the “Project”) and the Officer of the Governmental Entity responsible for financial affairs of the Governmental Entity (the “Finance Officer”) has now presented a proposal for the financing of such Project.

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

1. The Governmental Entity hereby determines to finance the Project through Robertson Banking Company, in accordance with the proposals obtained by the Finance Officer as detailed in Exhibits attached to and incorporated into this Resolution Number 5526 as though written fully therein; and
2. All financing contracts and all related documents for the closing of the financing (the “Financing Documents”) shall be consistent with the foregoing terms. All officers and employees of the Governmental Entity are hereby authorized and directed to execute and deliver any Financing Documents, and to take all such further action as they may consider necessary or desirable to carry out the financing of the Project as contemplated by the proposal and this resolution. The Financing Documents shall include a Financing Agreement and a Project Fund Agreement as said bank may request.
3. The Finance Officer is hereby authorized and directed to hold executed copies of the Financing Documents until the conditions for the delivery of the Financing Documents have been completed to such officer’s satisfaction. The Finance Officer is authorized to approve changes to any Financing Documents previously signed by Governmental Entity officers or employees, provided that such changes shall not substantially alter the intent of such documents or certificates from the intent expressed in the forms executed by such officers. The Financing Documents shall be in such final forms as the Finance Officer shall approve, with the Finance Officer’s release of any Financing Document for delivery constituting conclusive evidence of such officer’s final approval of the document’s final form.

4. The Governmental Entity shall not take or omit to take any action the taking or omission of which shall cause its interest payments on this financing to be includable in the gross income for federal income tax purposes of the registered owners of the interest payment obligations under the Financing Documents. The Governmental Entity hereby designates its obligations to make principal and interest payments under the Financing Documents as “qualified tax-exempt obligations” for the purpose of Internal Revenue Code Section 265(b)(3).
5. The Governmental Entity intends that the adoption of this resolution will be a declaration of the Governmental Entity’s official intent to reimburse expenditures for the Project that is to be financed from the proceeds of the said bank financing described above. The Governmental Entity intends that funds that have been advanced, or that may be advanced, from the Governmental Entity’s general fund, or any other Governmental Entity fund related to the Project, for Project costs may be reimbursed from the financing proceeds.
6. The officers of the Governmental Entity and any person or persons designated and authorized by any officer of the Governmental Entity to act in the name and on behalf of the Governmental Entity, or any one or more of them, are authorized to do and perform or cause to be done and performed in the name and on behalf of the Governmental Entity such other acts, to pay or cause to be paid on behalf of the Governmental Entity such related costs and expenses, and to execute and deliver or cause to be executed and delivered in the name and on behalf of the Governmental Entity such other notices, requests, demands, directions, consents, approvals, orders, applications, certificates, agreements, further assurances, or other instruments or communications, under the corporate seal of the Governmental Entity, or otherwise, as they or any of them may deem necessary, advisable, or appropriate in order to (a) complete the plan of financing contemplated by the Financing Documents, (b) carry into effect the intent of the provisions of this resolution and the Financing Documents, and (c) demonstrate the validity of the Financing Documents, the absence of any pending or threatened litigation with respect to the Financing Documents and the plan of financing contemplated by the Financing Documents, and the exemption of interest on the interest payment obligations under the Financing Documents from federal and State of Alabama income taxation.

7. All prior actions of Governmental Entity officers in furtherance of the purposes of this resolution are hereby ratified, approved and confirmed. All other resolutions (or parts thereof) in conflict with this resolution are hereby repealed, to the extent of the conflict.

This resolution shall take effect immediately.

ADOPTED and APPROVED this the 26th day of August, 2024.

Ashley C. Curry
Mayor

ATTESTED BY:

Rebecca Leavings
City Clerk

SEAL

CITY OF VESTAVIA HILLS
VEHICLES and EQUIPMENT
"LEASE/PURCHASE PROPOSALS"
FISCAL 2024-2025

Description	Loan Amount	Terms	Robertson Banking Co.	Truist Bank	PNC Bank, NA	Flagstar Funding
Vehicles	n/a	Rates - 3 yrs	n/a	n/a	n/a	n/a
Patrol Vehicles & Equipment	\$1,184,000	Rates - 5 yrs	3.93%	4.40%	4.08%	4.325%
Heavy Equipment	\$2,125,000	Rates - 7 yrs	4.23%	4.18%	4.23%	4.295%
TOTAL LEASE/LOAN AMOUNT	\$3,309,000					
Fees			\$700.00	\$1,000.00	\$8,500.00	\$0.00
Combined Percentage Total			8.16%	8.58%	8.31%	8.62%
Rankings			1	2	3	4
Description	Loan Amount	Terms	Peoples Bank	Regions Bank	Pinnacle Financial Partners	Community Bank, Mississippi
Vehicles	n/a	Rates - 3 yrs	n/a	n/a	n/a	n/a
Heavy Vehicles & Equipment	\$1,184,000	Rates - 5 yrs	4.00%	4.46%	4.91%	5.65%
Heavy Equipment	\$2,125,000	Rates - 7 yrs	4.50%	4.48%	4.91%	5.65%
TOTAL LEASE/LOAN AMOUNT	\$3,309,000					
Fees			\$1,000.00	\$1,000.00	\$6,000.00	\$0.00
Combined Percentage Total			8.50%	8.94%	9.82%	11.30%
Rankings			5	6	7	8
Description	Loan Amount	Terms	ServisFirst Bank	Cadence Bank	The Bancorp Bank, N.A.	Oakworth Capital Bank
Vehicles	n/a	Rates - 3 yrs	n/a	n/a	n/a	n/a
Heavy Vehicles & Equipment	\$1,184,000	Rates - 5 yrs	5.86%	5.78%	6.75%	6.85%
Heavy Equipment	\$2,125,000	Rates - 7 yrs	5.86%	5.97%	6.75%	6.85%
TOTAL LEASE/LOAN AMOUNT	\$3,309,000					
Fees			\$0.00	closing expense (amt not disclosed)	\$0.00	closing expense (amt not disclosed)
Combined Percentage Total			11.72%	11.75%	13.50%	13.70%
Rankings			9	10	11	12
						variable/floating rate
						Term: SOFR (Secure Overnight
						Rate) 5.35% + 150 basis points
Description	Loan Amount	Terms	CB&S Bank			
Vehicles	n/a	Rates - 3 yrs	n/a			
Heavy Vehicles & Equipment	\$1,184,000	Rates - 5 yrs	5.75%			
Heavy Equipment	\$2,125,000	Rates - 7 yrs	5.95%			
TOTAL LEASE/LOAN AMOUNT	\$3,309,000					
Fees			\$0.00			
Combined Percentage Total			11.70%			
Rankings			13			
			Received Friday, Aug 9, 2024			
			solicitation deadline			
			Tuesday, Aug 6, 2024			
Financial Institutions/Banks - Submitted Proposals			PROPOSALS' RANKING VEHICLE & EQUIPMENT LEASE/PURCHASE			
BANKS	Ranking	Rate	Fees	Total Cost		
1 Bancorp South	Robertson Banking Co.	1	8.16%	\$700.00	\$467,868.18	
2 CB&S Bank	Truist Bank	2	8.58%	\$1,000.00	\$479,518.12	
3 Cadence Bank	PNC Bank, NA	3	8.31%	\$85,000.00	\$480,623.21	
4 Community Bank	Flagstar Funding	4	8.62%	\$0.00	\$485,721.82	
5 First Horizon Bank	Peoples Bank	5	8.50%	\$1,000.00	\$493,297.47	
6 Flagstar Public Funding	Regions Bank	6	8.94%	\$1,000.00	\$506,848.38	
7 Morgan Stanley	Pinnacle Financial Partners	7	9.82%	\$6,000.00	\$563,440.69	
8 Oakworth Capital Bank	Community Bank, Mississippi	8	11.30%	\$0.00	\$646,017.98	
9 PNC Bank (BBVA)	SerisFirst Bank	9	11.72%	\$0.00	\$671,369.48	
10 Peoples Bank	Cadence Bank	10	11.75%	closing expense (amt not disclosed)	\$678,239.62	
11 Pinnacle Bank-Vestavia Hills	The Bancorp Bank, N.A.	11	13.50%	\$0.00	\$779,859.69	
12 Pinnacle Financial Partners	Oakworth Capital Bank	12	13.70%	closing expense (amt not disclosed)	\$792,155.18	
13 Regions Bank	CB&S Bank	received Aug 9, 2024	11.70%	\$0.00	\$675,479.48	
14 Renasant Bank						
15 Robertson Bank Company						
16 ServisFirst Bank	Note: CB&S proposal was received, Friday, August 9, 2024. Solicitation deadline, Tuesday, August 6, 2024					
17 SouthPoint Bank						
18 SouthState Bank						
19 The Bancorp Bank N. A.						
20 Truist Bank (BB&T)						
			FISCAL YEAR 2024-2025			



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

August 26, 2024

To: Mayor and City Council

From: Jeff Downes, City Manager

Cc:

RE: Resolution Number 5524 - A Resolution Assigning the Amendment 772 Incentive Agreement Associated with the Development of Baumhower's Sports Grill and Dunkin Located on Montgomery Highway to Other Entities

Background:

In July 2018, the City of Vestavia Hills entered into an economic incentive agreement with Jordy Henson of HES Investments, LLC. The agreement led to the construction and development of Baumhower's Sports Grill and Dunkin. Jordy Henson requested that the agreement be assigned to other entities as allowed by the original agreement. The purpose of this assignment is associated with Mr. Henson's deteriorating health and resulting estate planning.

Recommendation:

Upon review and documentation by the City's legal counsel, Heyward Hosch, I recommend approval of the assignment of the agreement. All financial incentive terms of the incentive agreement remain constant and have no financial impact to the City.

Fiscal Impact:**Attachments:**

1. Resolution 5524

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

**Adoption of Resolution for
Special Economic Development
Agreements
for**

**Baumhower's Vestavia, LLC
and
Henson Capital Investments, LLC**

The City Council of the City of Vestavia Hills met in regular public session at the City Hall in the City of Vestavia Hills, Alabama, at 6:00 p.m. on August 26, 2024.

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

Present: Ashley C. Curry, Mayor
Kimberly Cook
Paul J. Head
George Pierce
Rusty Weaver

Absent:

* * *

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

* * *

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

RESOLUTION NO. 5524

A RESOLUTION AUTHORIZING
SPECIAL ECONOMIC DEVELOPMENT AGREEMENTS
BY THE CITY OF VESTAVIA HILLS, ALABAMA
AND
BAUMHOWER'S VESTAVIA, LLC
AND
HENSON CAPITAL INVESTMENTS, LLC

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF VESTAVIA HILLS, ALABAMA
AS GOVERNING BODY OF THE CITY OF VESTAVIA HILLS, ALABAMA, as follows:

Section 1. Definitions

For purposes hereof:

Amendment No. 772 means Section 94.01 of the Constitution of Alabama of 2022.

City means the City of Vestavia Hills, Alabama.

Council means the governing body of the City.

Development A Agreement means the Economic Development Agreement by the City and the Successor Development A Beneficiary as attached hereto as Appendix B.

Development B Agreement means the Economic Development Agreement by the City and the Successor Development B Beneficiary as attached hereto as Appendix C.

Legal Notice means the notice set forth on Appendix A.

Original Agreement means the Special Economic Development Agreement dated July 12, 2018 by the City and the Original Beneficiary.

Original Beneficiary means HES Investments, LLC, an Alabama limited liability company.

Revised Agreements means collectively the Development A Agreement and the Development B Agreement.

Successor Development A Beneficiary means Baumhower's Vestavia, LLC , an Oklahoma limited liability company.

Successor Development B Beneficiary means Henson Capital Investments, LLC, an Alabama limited liability company.

Section 2. Finding and Determinations

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

(a) The City and Original Beneficiary have delivered the Original Agreement pursuant to Amendment No. 772 and the Findings of Fact, Conclusions of Law and Final Judgment dated and entered on June 22, 2018 by the Circuit Court of Jefferson County, Alabama in Civil Action No. 2018-902006.

(b) The Original Beneficiary has assigned the interests thereof under the Original Agreement:

(1) in and to the Annual Economic Development Payment with respect to Development A under the Original Agreement to the Successor Development A Beneficiary; and

(2) in and to the Annual Economic Development Payment with respect to Development B under the Original Agreement to the Successor Development B Beneficiary.

(c) The Original Beneficiary, the Successor Development A Beneficiary, and the Successor Development B Beneficiary have requested the City to amend and restate the Original Agreement as the Development A Agreement and the Development B Agreement, pursuant to the following request:

(d) The amendment and restatement of the Original Agreement as set forth in Section 1(c) is in the public interest and in furtherance of the economic development of the City.

(e) The expenditure of public funds for the purposes specified in the Original Agreement, as amended and restated as provided in Section 1(c), will serve a valid and sufficient public purpose, notwithstanding any incidental benefit accruing to any private entity or entities.

(f) On July 31, 2024, the City caused the Legal Notice to be published in *The Alabama Messenger*, a newspaper published in the City, which publication is ratified and confirmed.

(g) The assessed valuation of the taxable property in the City for the preceding fiscal year (ending September 30, 2023 and on the basis of which taxes became due and payable on October 1, 2023) was not less than \$1,186,169,200.

(h) The total indebtedness of the City chargeable against the debt limitation for the City prescribed by Amendment No. 772(a)(4) (which indebtedness does include Revised Agreements), is not more than fifty percent of said assessed valuation.

Section 3. Authorization of Revised Agreements

The Council does hereby approve, adopt, authorize, direct, ratify and confirm the agreements, covenants, and undertakings of the City set forth in the Revised Agreements, and the terms and provisions of the Revised Agreements, in substantially the form and of substantially the content as attached hereto, with such changes thereto (by addition or deletion) as the Mayor shall approve, which approval shall not extend or increase the obligations of the City thereunder and shall be conclusively evidenced by execution and delivery of the Revised Agreements as hereinafter provided.

Section 4. General Authorization and Ratification

(a) The Council authorizes and directs the Mayor and the City Manager to execute and deliver the Revised Agreements for and on behalf of and in the name of the City, and the City Clerk to affix the official seal of the City to the Revised Agreements and to attest the same.

(b) The Council authorizes and directs the Mayor, the City Manager, and the officers of the City to take all such actions, and execute, deliver and perform all such agreements, documents, instruments, notices, and proceedings, with respect to the Revised Agreements as the Mayor and such officers shall determine to be necessary or desirable to carry out the provisions of this resolution and duly and punctually observe and perform all agreements and obligations of the City under the Revised Agreements.

(c) The Council ratifies and confirms as the act of the City all prior actions taken, and agreements, documents or notices executed and delivered, by the Mayor, the City Manager, and any officer or other representative of the City, in connection with the agreements, covenants, and undertakings of the City hereby approved, or in connection with the preparation of the Revised Agreements and the terms and provisions thereof.

Section 5. Effect of Resolution

This resolution shall take effect immediately and all ordinances, resolutions, orders, or parts of any thereof, of the Council in conflict, or inconsistent with any provision of this resolution hereby are, to the extent of such conflict or inconsistency, repealed.

This Resolution is duly passed and adopted this 26th day of August, 2024.

Mayor

SEAL

City Clerk

APPENDIX A
LEGAL NOTICE

**LEGAL NOTICE OF PROPOSED ECONOMIC DEVELOPMENT ACTION
AND
RELATED PUBLIC EXPENDITURES BY THE CITY OF VESTAVIA HILLS,
ALABAMA**

Notice is hereby given that the City Council (the "Council") of the City of Vestavia Hills, Alabama (the "City") will meet in public session at 6:00 p.m. on August 26, 2024 at City Hall in the City of Vestavia Hills, Alabama for the purpose of considering the transaction of business that may properly come before the Council, such business to include, but not be limited to, the authorization by the Council, pursuant to Section 94.1 of the Constitution of Alabama of 2022, of a resolution (the "Resolution") approving the amendment and restatement of the Special Economic Development Agreement dated July 12, 2018 by the City and HES Investments, LLC , an Alabama limited liability company (the "Original Beneficiary") as two separate and identical agreements, one by the City and Baumhower's Vestavia, LLC , to provide the remaining economic incentive payments to be made by the City with respect to Development A under the 2018 Economic Development Agreement shall be made to Baumhower's Vestavia, LLC , and one by the City and Henson Capital Investments, LLC, to provide the remaining economic incentive payments to be made by the City with respect to Development B under the 2018 Economic Development Agreement shall be made to Henson Capital Investments, LLC. The 2018 Economic Development Agreement provides, and the amendments and restatements thereof will provide, the obligation of the City to make all economic incentive payments thereunder is limited to a percentage of net sales tax proceeds received by the City from the commercial development facilities established within the City by the Original Beneficiary annually for a period ending in 2028. The City seeks to achieve, by undertaking its obligations pursuant to the amended and restated 2018 Economic Development Agreement and the Resolution to promote the local economic and industrial development of the City, to increase employment in the City, and to increase the tax and revenue base of the City. The business entities to whom or for whose benefit the City proposes to lend its credit or grant public funds or thing of value are Baumhower's Vestavia, LLC , an Oklahoma limited liability company, and Henson Capital Investments, LLC, an Alabama limited liability company. All interested persons may examine and review the Resolution, which shall have attached thereto the complete and correct forms of the 2018 Economic Development Agreement as amended and restated into two agreements and make copies thereof at personal expense, at the offices of the City Manager during normal business hours, before and after the meeting referenced herein. Further information concerning the information in this notice can be obtained from the City Manager at the offices thereof during normal business hours.

APPENDIX B
DEVELOPMENT A AGREEMENT

SPECIAL ECONOMIC DEVELOPMENT A AGREEMENT

Dated _____, 2024

by

CITY OF VESTAVIA HILLS, ALABAMA

and

BAUMHOWER'S VESTAVIA, LLC

This Special Economic Development A Agreement was prepared by Heyward C. Hosch and Ann Watford Todd of Maynard Nexsen P.C., 1901 Sixth Avenue North, Ste 1700 Birmingham, Alabama 35203.

SPECIAL ECONOMIC DEVELOPMENT A AGREEMENT

_____, 2024

This Special Economic Development A Agreement is made on the above date by:

City: City of Vestavia Hills, Alabama

Beneficiary : Baumhower's Vestavia, LLC, its successors and assigns

Recitals

The Beneficiary expects and intends to expand and increase the tax and revenue base of the City by development of commercial enterprises within the corporate limits of the City.

The City has agreed to provide the Beneficiary the within referenced Annual Economic Development Payments.

Pursuant to the applicable laws of the State of Alabama, and for the purposes referenced herein, the City and the Beneficiary have delivered this Agreement.

Agreement

NOW, THEREFORE, for and in consideration of the premises, and the mutual covenants and agreements herein contained, the City and the Beneficiary hereby covenant and agree as follows:

ARTICLE 1

DEFINITIONS

Annual Economic Development Payment shall mean, for each Annual Payment Date, an amount equal to the sum of fifty percent (50%) of the City Net Sales Tax Proceeds actually received by the City from Development A during each Development A Year for which such Annual Economic Development Payment is determined during the period beginning on the Development A Occupancy Date and ending on and including the tenth anniversary thereof.

Annual Payment Date shall mean such date which is 45 days after receipt by the City of the certificate therefor from the Beneficiary pursuant to Section 4.02(1).

City Net Sales Tax Proceeds for any year shall (a) mean and include all proceeds and receipts of the City Sales Tax less and except the Reserve Allocation thereof (as defined in Section 4.03(b)(l) of Ordinance No. 2747 of the City), and (b) not include any proceeds or receipts received by the City (i) from the levy by the City of privilege license or excise taxes not described in the definition of City Sales Tax or (ii) from the levy of privilege license or excise taxes of any kind, type or nature by taxing authorities other than the City.

City Sales Tax shall mean collectively the privilege license and excise taxes levied by the City pursuant to Article 4 of Ordinance No. 2747 of the City.

Development A shall mean and include those commercial and related facilities established within the City from which the City receives City Net Sales Tax Proceeds, as described on Exhibit B

Development A Occupancy Date shall mean _____, 20____.

Development A Year shall mean the applicable period of twelve (12) successive months following the Development A Occupancy Date (or anniversary thereof, as applicable) during the term of this Agreement.

Effective Date means _____, 2024.

Person shall mean and include any individual, corporation, partnership, joint venture, limited liability company or partnership, association, trust, unincorporated organization, and any government or any agency or political subdivision thereof.

Termination Date shall mean that date on which the City shall have no obligation to make any Annual Economic Development Payment under this Agreement **in** accordance with Section 4.01(4)(b)

Total City Commitment shall mean an amount equal to \$_____.

ARTICLE 2

REPRESENTATIONS AND WARRANTIES

SECTION 2.01 The City

The City hereby represents the City has corporate power and authority to enter into this Agreement, pursuant to Section 94.01 of the Constitution of Alabama of 2022 and to carry out its obligations hereunder and by proper corporate action the City has duly authorized the execution, delivery and performance of this Agreement.

SECTION 2.02 The Beneficiary

The Beneficiary hereby represents and warrants the Beneficiary is duly organized and validly existing as a limited liability company under the laws of the State of Oklahoma and has duly authorized the execution, delivery and performance of this Agreement.

ARTICLE 3

DURATION OF AGREEMENT

The obligations of the City and the Beneficiary hereunder shall arise on the Effective Date and shall continue until the Termination Date, except with respect to any specific agreement or covenant which by its terms expressly survives termination of this Agreement.

ARTICLE 4

AGREEMENTS AND OBLIGATIONS OF THE CITY

SECTION 4.01 Nature, Amount and Duration of Obligation of City

The City and the Beneficiary agree:

(a) The City has agreed to pay to the Beneficiary in annual installments in arrears the Annual Economic Development Payments determined by the City to be due and payable in accordance with the terms hereof in an aggregate amount which shall not exceed the Total City Commitment.

(b) The obligation of the City for the payment of the Annual Economic Development Payments shall never constitute a general obligation, or a charge against the general credit or taxing powers, of the City within the meaning of any constitutional provision or statutory limitation whatsoever and is subject to (i) all pledges of the City Net Sales Tax Proceeds for the benefit of long term indebtedness of the City and (ii) in accordance with Johnson v. Sheffield, 183 So. 265 (Ala. 1938), the law-imposed requirement that, if necessary, there must first be paid from all City Net Sales Tax Proceeds (including without limitation the Annual Economic Development Payments) the legitimate and necessary governmental expenses of operating the City.

(c) Anything in this Agreement to the contrary notwithstanding, the City shall have no obligation to pay any amount of Annual Economic Development Payments under this Agreement after the first to occur of:

(i) the expiration of ten (10) Annual Payment Dates or

(ii) that date on which the City shall have paid as Annual Economic Development Payments an aggregate amount not less than the Total City Commitment or

ii) termination of this Agreement by the City under Section 6.02(2).

SECTION 4.02 Determination and Payment of Annual Economic Development Payments.

The City and the Beneficiary agree:

- (a) In order to receive an Annual Economic Development Payment during the period prior to the Termination Date, the Beneficiary shall execute and deliver to the City, a certificate in form and of content as attached as Exhibit A hereto no later than 45 days, but in no event later than 6 months, after each anniversary of the Development A Occupancy Date during the term of this Agreement.
- (b) The City shall, on each Annual Payment Date, determine as provided herein, and pay to the Beneficiary, the amount (if any) of the Annual Economic Development Payment due hereunder for the period referenced in such certificate.
- (c) The City will permit any attorneys, accountants or other agents or representatives designated by the Beneficiary to visit and inspect any of the accounting systems, books of account, and financial records and properties of the City which pertain to the City Net Sales Tax Proceeds and the determination of Annual Economic Development Payments, all at reasonable business times and upon reasonable notice.

SECTION 4.03 Agreements of the City

The City agrees:

- (a) All proceedings of the governing body of the City heretofore had and taken, and all ordinances and resolutions adopted pursuant thereto with respect to the levy and collection of the City Sales Tax, are hereby ratified and confirmed in all respects from and after the effective date thereof.
- (b) The City shall determine and measure the amount of the City Net Sales Tax Proceeds actually received from Development A in each Development A Year on the basis of the levy of the City Sales tax at rates in effect on the Effective Date.

ARTICLE 5

OBLIGATIONS OF THE BENEFICIARY

The Beneficiary agrees

(a) The Beneficiary will duly and punctually observe and perform all agreements thereof under this Agreement.

(b) The Beneficiary will defend, protect, indemnify, and hold harmless the City, its agents, employees, and members of its governing body, from and against all claims or demands, including actions or proceedings brought thereon, and all costs, expenses, and liabilities of any kind relating thereto, including reasonable attorneys' fees and cost of suit, arising out of or resulting from any of the following, provided, however, that the foregoing indemnity will not extend to the negligent misconduct of the City, its agents, employees, and members of its governing body: (i) any construction activity performed by Beneficiary, or anyone claiming by through, or under Beneficiary; and (ii) any loss of life, personal injury, or damage to property arising from or in relation to the entry upon, construction, use, operation or occupancy of Development A, including, without limitation, tenants, customers and invitees of Development A and/or Beneficiary.

(c) The agreements and covenants in this Article 5 shall survive the termination of this Agreement with respect to events or occurrences happening prior to or upon the termination of this Agreement and shall remain in full force and effect until commencement of an action with respect to any thereof shall be prohibited by law.

ARTICLE 6

EVENTS OF DEFAULT AND REMEDIES

SECTION 6.01 Events of Default

The City and the Beneficiary agree that any one or more of the following shall constitute an event of default by the City or the Beneficiary hereunder (an "Event of Default") under this Agreement:

(1) default in the performance, or breach, of any covenant or warranty of the City in this Agreement, including without limitation default in the payment of any Annual Economic Development Payments under Section 4.02 hereof, and the continuance of such default or breach for a period of 30 days after there has been given, by registered or certified mail, to the City by the Beneficiary a written notice specifying such default or breach and requiring it to be remedied and stating that such notice is a "notice of default" hereunder, provided that if such default is of a kind which cannot reasonably be cured within such thirty-day period, the City shall have a reasonable period of time within which to cure such default, provided that it begins to cure the default promptly after its receipt of such written notice and proceeds in good faith, and with due diligence, to cure such default; or

(2) default in the performance, or breach, of any covenant or warranty of the Beneficiary in this Agreement, and the continuance of such default or breach for a period of 30 days after there has been given, by registered or certified mail, to the Beneficiary by the City a written notice specifying such default or breach and requiring it to be remedied and stating that such notice is a "notice of default" hereunder, provided that if such default is of a kind which cannot reasonably be cured within such thirty-day period, the Beneficiary shall have a reasonable period of time within which to cure such default, provided that it begins to cure the default promptly after its receipt of such written notice and proceeds in good faith, and with due diligence, to cure such default.

SECTION 6.02 Remedies

(a) Each party hereto may proceed to protect its rights and interests by suit in equity, action at law or other appropriate proceedings, whether for the specific performance of any covenant or agreement of any other party herein contained or in aid of the exercise of any power or remedy available at law or in equity; provided, however, anything in this Agreement to the contrary notwithstanding, the City may terminate this Agreement upon the occurrence of an Event of Default under Section 6.01(2), whereupon the City shall have no further obligation hereunder.

(c) All rights, remedies and powers provided by this Agreement may be exercised only to the extent the exercise thereof does not violate any applicable provision of law in the premises, and all the provisions of this Article are intended to be subject to all applicable mandatory provisions of law which may be controlling in the premises and to be limited to the extent necessary so that the same will not render this Agreement invalid or unenforceable.

ARTICLE 7

PROVISIONS OF GENERAL APPLICATION

- (a) **Governing Law:** This Agreement shall be governed by and construed in accordance with the laws of the State of Alabama without regard to principles of conflict of laws.
- (b) **Binding Effect:** This Agreement shall be enforceable by and binding upon the respective successors and assigns of the undersigned.
- (c) **Counterparts:** This Agreement may be executed in several counterparts each of which shall constitute one and the same agreement.
- (d) **Amendment:** This Agreement may be amended only in writing duly authorized, executed and delivered by each party to this Agreement.
- (e) **Assignment:** . Beneficiary 's rights under this Agreement may be assigned without the City's consent to any lender providing financing for the Development A (a "Development A Lender"). In the event of any such collateral assignment, and reasonable notice thereof to the City, a copy of any and all notices thereafter given to Beneficiary under this Agreement will be simultaneously provided to the Development A Lender at the address provided in such notice to the City. Furthermore, Beneficiary may assign or transfer its interest in this Agreement, without the written consent of the City, but with written notice of such assignment or transfer to the City, to either (1) an affiliated entity of Beneficiary or an entity owned, managed or controlled by Beneficiary or (2) a third-party purchaser of the Development A from Beneficiary. No such assignment or transfer shall be valid or binding on City unless the person or entity to whom such assignment or transfer is made agrees in writing to assume any and all obligations of Beneficiary and to be bound fully by this Agreement as Beneficiary was prior to such assignment. Furthermore, Beneficiary may sell the Development A to a third party at any time during the term of this Agreement, and no such sale shall relieve the City of its obligations to make the payments required hereunder to Beneficiary or its assigns, regardless of the fact that the Development A may be owned by another entity, unless Beneficiary, at its sole option, assigns its rights under this Agreement to such third party purchaser and advises the City of such assignment as set forth in the preceding sentence.
- (f) **Enforceability** If any provision herein shall be unenforceable, the parties agree the remaining provisions hereof shall not be affected thereby and shall remain in full force and effect.
- (g) **Notices** Any notice given hereunder by any party shall be delivered simultaneously to all parties hereto at the respective addresses thereof set forth on the signature page hereof.
- (h) **No Jury Trial:** Each party hereto hereby (1) waives, to the extent

permitted by law, any right to trial by jury in any action or proceeding under, or related to, this Agreement and (2) agrees that no person has represented (by expression or implication) that a party hereto would not seek to enforce such waiver in the event of litigation.

- (i) **No Joint Venture:**

This Agreement shall not operate or be construed to create a joint venture or partnership among the parties hereto.
- (j) **No Other Beneficiaries:**

This Agreement is solely for the benefit of the parties hereto and the successors and assigns thereof and no other person shall have any benefit, interest or rights under or by virtue of this Agreement.
- (k) **Final and Full Contract:**

This Agreement shall constitute the final and full contractual agreement of the parties and shall supersede all prior or other agreements (written or oral) by the parties relating to the subject matter hereof.

IN WITNESS WHEREOF, the City has caused this Agreement to be executed in its name, under seal, and the same attested, all by officers thereof duly authorized thereunto, and the Beneficiary has executed this Agreement under seal, and the parties have caused this Agreement to be dated the date and year first above written.

CITY OF VESTAVIA HILLS, ALABAMA

By

Mayor

SEAL

By

City Manager

ATTEST: _____
City Clerk

Address of City: City

Hall
1032 Montgomery Highway
Vestavia Hills, Alabama 35216

Baumhower's Vestavia, LLC

By: _____

Its: _____

Address of Beneficiary :

EXHIBIT A

**Request for Payment of Annual Economic Development
Payments**

From: Baumhower's Vestavia, LLC

To: City of Vestavia Hills, Alabama

Date: _____, 20____

Re: **Special Economic Development A Agreement dated _____, 2024 by City of Vestavia Hills, Alabama (the "City") and Baumhower's Vestavia, LLC (the "Beneficiary").**

The undersigned, as Beneficiary under the above Agreement, hereby requests payment to the Beneficiary by the City of the Annual Economic Development Payment, to be determined by the City as provided in the Agreement, for the following period:

_____, 20__ to _____, 20__

and in connection therewith does hereby represent, warrant and certify to the City as follows:

- (1) The Beneficiary is in full compliance with the agreements and covenants thereof under the Agreement and no Event of Default, or any event which upon notice, or lapse of time, or both shall become an Event of Default, has occurred and is continuing.
- (2) The Agreement is in full force and effect.
- (3) The Beneficiary is in full compliance with all applicable ordinances and regulations of the City.

Capitalized terms used herein shall have the respective meanings assigned in the above Agreement.

In Witness Whereof, the undersigned Beneficiary has caused this instrument to be executed in its name, under seal, by an officer thereof duly authorized thereunto.

Baumhower's Vestavia, LLC
as Beneficiary

By: _____

Its: _____

EXHIBIT B

Development A

APPENDIX C
DEVELOPMENT B AGREEMENT

SPECIAL ECONOMIC DEVELOPMENT B AGREEMENT

Dated _____, 2024

by

CITY OF VESTAVIA HILLS, ALABAMA

and

HENSON CAPITAL INVESTMENTS, LLC

This Special Economic Development B Agreement was prepared by Heyward C. Hosch and Ann Watford Todd of Maynard Nexsen P.C., 1901 Sixth Avenue North, Ste 1700 Birmingham, Alabama 35203.

SPECIAL ECONOMIC DEVELOPMENT B AGREEMENT

_____, 2024

This Special Economic Development A Agreement is made on the above date by:

City: City of Vestavia Hills, Alabama

Beneficiary : Henson Capital Investments, LLC, its successors and assigns

Recitals

The Beneficiary expects and intends to expand and increase the tax and revenue base of the City by development of commercial enterprises within the corporate limits of the City.

The City has agreed to provide the Beneficiary the within referenced Annual Economic Development Payments.

Pursuant to the applicable laws of the State of Alabama, and for the purposes referenced herein, the City and the Beneficiary have delivered this Agreement.

Agreement

NOW, THEREFORE, for and in consideration of the premises, and the mutual covenants and agreements herein contained, the City and the Beneficiary hereby covenant and agree as follows:

ARTICLE 1

DEFINITIONS

Annual Economic Development Payment shall mean, for each Annual Payment Date, an amount equal to the sum of fifty percent (50%) of the City Net Sales Tax Proceeds actually received by the City from Development B during each Development B Year for which such Annual Economic Development Payment is determined during the period beginning on the Development B Occupancy Date and ending on and including the tenth anniversary thereof.

Annual Payment Date shall mean such date which is 45 days after receipt by the City of the certificate therefor from the Beneficiary pursuant to Section 4.02(1).

City Net Sales Tax Proceeds for any year shall (a) mean and include all proceeds and receipts of the City Sales Tax less and except the Reserve Allocation thereof (as defined in Section 4.03(b)(l) of Ordinance No. 2747 of the City), and (b) not include any proceeds or receipts received by the City (i) from the levy by the City of privilege license or excise taxes not described in the definition of City Sales Tax or (ii) from the levy of privilege license or excise taxes of any kind, type or nature by taxing authorities other than the City.

City Sales Tax shall mean collectively the privilege license and excise taxes levied by the City pursuant to Article 4 of Ordinance No. 2747 of the City.

Development B shall mean and include those commercial and related facilities established within the City from which the City receives City Net Sales Tax Proceeds, as described on Exhibit B

Development B Occupancy Date shall mean _____, 20____.

Development B Year shall mean the applicable period of twelve (12) successive months following the Development B Occupancy Date (or anniversary thereof, as applicable) during the term of this Agreement.

Effective Date means _____, 2024.

Person shall mean and include any individual, corporation, partnership, joint venture, limited liability company or partnership, association, trust, unincorporated organization, and any government or any agency or political subdivision thereof.

Termination Date shall mean that date on which the City shall have no obligation to make any Annual Economic Development Payment under this Agreement in accordance with Section 4.01(4)(b)

Total City Commitment shall mean an amount equal to \$_____.

ARTICLE 2
REPRESENTATIONS AND WARRANTIES

SECTION 2.01 The City

The City hereby represents the City has corporate power and authority to enter into this Agreement, pursuant to Section 94.01 of the Constitution of Alabama of 2022 and to carry out its obligations hereunder and by proper corporate action the City has duly authorized the execution, delivery and performance of this Agreement.

SECTION 2.02 The Beneficiary

The Beneficiary hereby represents and warrants the Beneficiary is duly organized and validly existing as a limited liability company under the laws of the State of Alabama and has duly authorized the execution, delivery and performance of this Agreement.

ARTICLE 3
DURATION OF AGREEMENT

The obligations of the City and the Beneficiary hereunder shall arise on the Effective Date and shall continue until the Termination Date, except with respect to any specific agreement or covenant which by its terms expressly survives termination of this Agreement.

ARTICLE 4

AGREEMENTS AND OBLIGATIONS OF THE CITY

SECTION 4.01 Nature, Amount and Duration of Obligation of City

The City and the Beneficiary agree:

(a) The City has agreed to pay to the Beneficiary in annual installments in arrears the Annual Economic Development Payments determined by the City to be due and payable in accordance with the terms hereof in an aggregate amount which shall not exceed the Total City Commitment.

(b) The obligation of the City for the payment of the Annual Economic Development Payments shall never constitute a general obligation, or a charge against the general credit or taxing powers, of the City within the meaning of any constitutional provision or statutory limitation whatsoever and is subject to (i) all pledges of the City Net Sales Tax Proceeds for the benefit of long term indebtedness of the City and (ii) in accordance with Johnson v. Sheffield, 183 So. 265 (Ala. 1938), the law-imposed requirement that, if necessary, there must first be paid from all City Net Sales Tax Proceeds (including without limitation the Annual Economic Development Payments) the legitimate and necessary governmental expenses of operating the City.

(c) Anything in this Agreement to the contrary notwithstanding, the City shall have no obligation to pay any amount of Annual Economic Development Payments under this Agreement after the first to occur of:

(i) the expiration of ten (10) Annual Payment Dates or

(ii) that date on which the City shall have paid as Annual Economic Development Payments an aggregate amount not less than the Total City Commitment or

ii) termination of this Agreement by the City under Section 6.02(2).

SECTION 4.02 Determination and Payment of Annual Economic Development Payments.

The City and the Beneficiary agree:

- (a) In order to receive an Annual Economic Development Payment during the period prior to the Termination Date, the Beneficiary shall execute and deliver to the City, a certificate in form and of content as attached as Exhibit A hereto no later than 45 days, but in no event later than 6 months, after each anniversary of the Development A Occupancy Date during the term of this Agreement.
- (b) The City shall, on each Annual Payment Date, determine as provided herein, and pay to the Beneficiary, the amount (if any) of the Annual Economic Development Payment due hereunder for the period referenced in such certificate.
- (c) The City will permit any attorneys, accountants or other agents or representatives designated by the Beneficiary to visit and inspect any of the accounting systems, books of account, and financial records and properties of the City which pertain to the City Net Sales Tax Proceeds and the determination of Annual Economic Development Payments, all at reasonable business times and upon reasonable notice.

SECTION 4.03 Agreements of the City

The City agrees:

- (a) All proceedings of the governing body of the City heretofore had and taken, and all ordinances and resolutions adopted pursuant thereto with respect to the levy and collection of the City Sales Tax, are hereby ratified and confirmed in all respects from and after the effective date thereof.
- (b) The City shall determine and measure the amount of the City Net Sales Tax Proceeds actually received from Development B in each Development B Year on the basis of the levy of the City Sales tax at rates in effect on the Effective Date.

ARTICLE 5

OBLIGATIONS OF THE BENEFICIARY

The Beneficiary agrees

(a) The Beneficiary will duly and punctually observe and perform all agreements thereof under this Agreement.

(b) The Beneficiary will defend, protect, indemnify, and hold harmless the City, its agents, employees, and members of its governing body, from and against all claims or demands, including actions or proceedings brought thereon, and all costs, expenses, and liabilities of any kind relating thereto, including reasonable attorneys' fees and cost of suit, arising out of or resulting from any of the following, provided, however, that the foregoing indemnity will not extend to the negligent misconduct of the City, its agents, employees, and members of its governing body: (i) any construction activity performed by Beneficiary, or anyone claiming by through, or under Beneficiary; and (ii) any loss of life, personal injury, or damage to property arising from or in relation to the entry upon, construction, use, operation or occupancy of Development A, including, without limitation, tenants, customers and invitees of Development A and/or Beneficiary.

(c) The agreements and covenants in this Article 5 shall survive the termination of this Agreement with respect to events or occurrences happening prior to or upon the termination of this Agreement and shall remain in full force and effect until commencement of an action with respect to any thereof shall be prohibited by law.

ARTICLE 6

EVENTS OF DEFAULT AND REMEDIES

SECTION 6.01 Events of Default

The City and the Beneficiary agree that any one or more of the following shall constitute an event of default by the City or the Beneficiary hereunder (an "Event of Default") under this Agreement:

(1) default in the performance, or breach, of any covenant or warranty of the City in this Agreement, including without limitation default in the payment of any Annual Economic Development Payments under Section 4.02 hereof, and the continuance of such default or breach for a period of 30 days after there has been given, by registered or certified mail, to the City by the Beneficiary a written notice specifying such default or breach and requiring it to be remedied and stating that such notice is a "notice of default" hereunder, provided that if such default is of a kind which cannot reasonably be cured within such thirty-day period, the City shall have a reasonable period of time within which to cure such default, provided that it begins to cure the default promptly after its receipt of such written notice and proceeds in good faith, and with due diligence, to cure such default; or

(2) default in the performance, or breach, of any covenant or warranty of the Beneficiary in this Agreement, and the continuance of such default or breach for a period of 30 days after there has been given, by registered or certified mail, to the Beneficiary by the City a written notice specifying such default or breach and requiring it to be remedied and stating that such notice is a "notice of default" hereunder, provided that if such default is of a kind which cannot reasonably be cured within such thirty-day period, the Beneficiary shall have a reasonable period of time within which to cure such default, provided that it begins to cure the default promptly after its receipt of such written notice and proceeds in good faith, and with due diligence, to cure such default.

SECTION 6.02 Remedies

(a) Each party hereto may proceed to protect its rights and interests by suit in equity, action at law or other appropriate proceedings, whether for the specific performance of any covenant or agreement of any other party herein contained or in aid of the exercise of any power or remedy available at law or in equity; provided, however, anything in this Agreement to the contrary notwithstanding, the City may terminate this Agreement upon the occurrence of an Event of Default under Section 6.01(2), whereupon the City shall have no further obligation hereunder.

(c) All rights, remedies and powers provided by this Agreement may be exercised only to the extent the exercise thereof does not violate any applicable provision of law in the premises, and all the provisions of this Article are intended to be subject to all applicable mandatory provisions of law which may be controlling in the premises and to be limited to the extent necessary so that the same will not render this Agreement invalid or unenforceable.

ARTICLE 7

PROVISIONS OF GENERAL APPLICATION

- (l) **Governing Law:** This Agreement shall be governed by and construed in accordance with the laws of the State of Alabama without regard to principles of conflict of laws.
- (m) **Binding Effect:** This Agreement shall be enforceable by and binding upon the respective successors and assigns of the undersigned.
- (n) **Counterparts:** This Agreement may be executed in several counterparts each of which shall constitute one and the same agreement.
- (o) **Amendment:** This Agreement may be amended only in writing duly authorized, executed and delivered by each party to this Agreement.
- (p) **Assignment:** Beneficiary 's rights under this Agreement may be assigned without the City's consent to any lender providing financing for the Development B (a "Development B Lender"). In the event of any such collateral assignment, and reasonable notice thereof to the City, a copy of any and all notices thereafter given to Beneficiary under this Agreement will be simultaneously provided to the Development B Lender at the address provided in such notice to the City. Furthermore, Beneficiary may assign or transfer its interest in this Agreement, without the written consent of the City, but with written notice of such assignment or transfer to the City, to either (1) an affiliated entity of Beneficiary or an entity owned, managed or controlled by Beneficiary or (2) a third-party purchaser of the Development B from Beneficiary. No such assignment or transfer shall be valid or binding on City unless the person or entity to whom such assignment or transfer is made agrees in writing to assume any and all obligations of Beneficiary and to be bound fully by this Agreement as Beneficiary was prior to such assignment. Furthermore, Beneficiary may sell the Development B to a third party at any time during the term of this Agreement, and no such sale shall relieve the City of its obligations to make the payments required hereunder to Beneficiary or its assigns, regardless of the fact that the Development A may be owned by another entity, unless Beneficiary, at its sole option, assigns its rights under this Agreement to such third party purchaser and advises the City of such assignment as set forth in the preceding sentence.
- (q) **Enforceability** If any provision herein shall be unenforceable, the parties agree the remaining provisions hereof shall not be affected thereby and shall remain in full force and effect.
- (r) **Notices** Any notice given hereunder by any party shall be delivered simultaneously to all parties hereto at the respective addresses thereof set forth on the signature page hereof.
- (s) **No Jury Trial:** Each party hereto hereby (1) waives, to the extent

permitted by law, any right to trial by jury in any action or proceeding under, or related to, this Agreement and (2) agrees that no person has represented (by expression or implication) that a party hereto would not seek to enforce such waiver in the event of litigation.

- (t) **No Joint Venture:**
This Agreement shall not operate or be construed to create a joint venture or partnership among the parties hereto.
- (u) **No Other Beneficiaries:**
This Agreement is solely for the benefit of the parties hereto and the successors and assigns thereof and no other person shall have any benefit, interest or rights under or by virtue of this Agreement.
- (v) **Final and Full Contract:**
This Agreement shall constitute the final and full contractual agreement of the parties and shall supersede all prior or other agreements (written or oral) by the parties relating to the subject matter hereof.

IN WITNESS WHEREOF, the City has caused this Agreement to be executed in its name, under seal, and the same attested, all by officers thereof duly authorized thereunto, and the Beneficiary has executed this Agreement under seal, and the parties have caused this Agreement to be dated the date and year first above written.

CITY OF VESTAVIA HILLS, ALABAMA

By

Mayor

SEAL

By

City Manager

ATTEST: _____
City Clerk

Address of City: City

Hall
1032 Montgomery Highway
Vestavia Hills, Alabama 35216

Henson Capital Investments, LLC

By: _____

Its: _____

Address of Beneficiary :

EXHIBIT A

**Request for Payment of Annual Economic Development
Payments**

From: Henson Capital Investments, LLC

To: City of Vestavia Hills, Alabama

Date: _____, 20____

Re: **Special Economic Development B Agreement dated _____, 2024 by City of Vestavia Hills, Alabama (the "City") and Henson Capital Investments LLC (the "Beneficiary").**

The undersigned, as Beneficiary under the above Agreement, hereby requests payment to the Beneficiary by the City of the Annual Economic Development Payment, to be determined by the City as provided in the Agreement, for the following period:

_____, 20__ to _____, 20__

and in connection therewith does hereby represent, warrant and certify to the City as follows:

- (1) The Beneficiary is in full compliance with the agreements and covenants thereof under the Agreement and no Event of Default, or any event which upon notice, or lapse of time, or both shall become an Event of Default, has occurred and is continuing.
- (2) The Agreement is in full force and effect.
- (3) The Beneficiary is in full compliance with all applicable ordinances and regulations of the City.

Capitalized terms used herein shall have the respective meanings assigned in the above Agreement.

In Witness Whereof, the undersigned Beneficiary has caused this instrument to be executed in its name, under seal, by an officer thereof duly authorized thereunto.

Henson Capital Investments LLC
as Beneficiary

By: _____

Its: _____

EXHIBIT B
Development B

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

Ayes: Ashley C. Curry, Mayor
Kimberly Cook
Paul J. Head
George Pierce
Rusty Weaver

Nays:

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

*

*

*

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

Approval of Minutes:

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

Mayor

Member of Council

Member of Council

Member of Council

Member of Council

SEAL

Attest: _____
City Clerk

STATE OF ALABAMA
JEFFERSON COUNTY

CERTIFICATE OF CITY CLERK

I, the undersigned, do hereby certify that (1) I am the duly elected, qualified and acting Clerk of the City of Vestavia Hills, Alabama (the "City"); (2) as Clerk of the City I have access to all original records of the City and I am duly authorized to make certified copies of its records on its behalf; (3) the above and foregoing pages constitute a complete, verbatim and compared copy of excerpts from the minutes of a special meeting of the City Council of the City duly held on August 26, 2024, the original of which is on file and of record in the minute book of the City Council in my custody; (4) the resolution set forth in such excerpts is a complete, verbatim and compared copy of such Resolution as introduced and adopted by the City Council on such date; (5) said Resolution is in full force and effect and has not been repealed, amended or changed.

IN WITNESS WHEREOF, I have hereunto set my hand as Clerk of the City and have affixed the official seal of the City, this _____ day of _____, 2024.

Clerk of the City of Vestavia Hills, Alabama

SEAL



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

August 26, 2024

To: Jeff Downes, City Manager

From: Christopher Brady, City Engineer

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

RE: Public Hearing - Ordinance Number 3241 - An Ordinance to declare real property as surplus and authorize the Mayor and City Manager to execute documents needed to convey said property to Jefferson County, Alabama, a Political Subdivision of the State of Alabama, for public improvements to a bridge over a tributary of the Cahaba River

Background:

Jefferson County is desirous to replace a very narrow bridge on Old Looney Mill Road that lies in unincorporated Jefferson County but needs additional right-of-way in order to proceed with said improvements. The County has requested that the city convey a portion of the Patchwork Farms nature park that lies adjacent to Old Looney Mill Road to be utilized for public use as said needed right-of-way. This does meet the definition of a public purpose so the request is for the City to donate this property to the County for public use. A picture of a similar bridge design is given to show how the new bridge will look once completed.

Recommendation:

The City Engineer has reported no need for the property requested by the County and has recommended approval.

Fiscal Impact:

na

Attachments:

1. Ordinance 3241
2. deed 37-18-428 Caldwell Mill Old Looney Mill Bridge Replacements - Tract 5 City of Vestavia resized
3. detail of bridge
4. PH Boone Legal Opinion to City Clerk August 23, 2024

ORDINANCE NUMBER 3241

AN ORDINANCE TO DECLARE REAL PROPERTY AS NO LONGER NEEDED BY THE CITY OF VESTAVIA HILLS, ALABAMA FOR MUNICIPAL PURPOSES; AND AUTHORIZE THE MAYOR AND CITY MANAGER TO EXECUTE ALL DOCUMENTS NEEDED TO CONVEY SAID PROPERTY TO JEFFERSON COUNTY, ALABAMA, A POLITICAL SUBDIVISION OF THE STATE OF ALABAMA, FOR PUBLIC IMPROVEMENTS TO A BRIDGE OVER A TRIBUTARY OF THE CAHABA RIVER THAT WILL PROMOTE THE PUBLIC HEALTH, SAFETY AND GENERAL WELFARE OF THE COMMUNITY

THIS ORDINANCE NUMBER 3241 is approved and adopted by the City Council of the City of Vestavia Hills, Alabama on this the 9th day of September, 2024.

WITNESSETH THESE RECITALS:

WHEREAS, Jefferson County, Alabama (“the County”) is a political subdivision of the State of Alabama; and

WHEREAS, the County has identified a public need for replacement of a narrow bridge located on Old Looney Mill Road, which lies in unincorporated Jefferson County but is adjacent to a portion of the property owned by the City of Vestavia Hills, Alabama (“City”) located in the Patchwork Farms Planned Unit Development more particularly described as a portion of Lot 3C, Resurvey Patchwork Farms, Lot 3 Resurvey as recorded in the Probate Office of Jefferson County, Alabama at Map Book 239, Page 90; and

WHEREAS, the County has determined that a portion of said Lot 3C is property needed to be acquired in order to have sufficient right-of-way for the expansion/widening of the bridge; and

WHEREAS, the County has submitted documentation of said need to the City’s Engineering Department and, after review, the City Engineer has recommended that the City allow the County to acquire said property as it is no longer needed by the City for municipal purposes; and

WHEREAS, the legal description and a map of the portion of property needed by the County for said bridge improvements is detailed in Exhibit A, attached to and incorporated into this Ordinance Number 3241 as if written fully herein; and

WHEREAS, the market value of the property has been determined to be Thirteen Thousand Seven Hundred Twenty-four Dollars (\$13,724.00), however, the Mayor and City

Council has determined that this is a need of the general public and finds that it does serve a public purpose; and

WHEREAS, with consideration of a nearby Jefferson County project and an Intergovernmental Agreement for bridge and roadway improvements on Caldwell Mill Road, the Mayor and City Council find and determine it is in the best public interest to convey the property to the County at a cost of One Dollar (\$1.00); and

WHEREAS, the Mayor and City Council find and determine it is in the best public interest to declare the property detailed in the attached Exhibit A as surplus property because said property is no longer needed by the City for municipal purposes, and authorize the Mayor and City Manager to convey said property to the County.

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

1. The recitals set forth in the premises above are hereby incorporated into this ordinance by reference as though set out fully herein; and

2. Exhibit A, being the legal description and a map of the portion of property needed by the County for bridge improvements, is incorporated into this Ordinance Number 3241 by reference as though set out fully herein; and

3. The real property detailed in the attached Exhibit A is hereby declared no longer needed by the City of Vestavia Hills for municipal purposes as required by Title 11-47-20, *Code of Alabama, 1975*; and

4. The value of the property is deemed to be valued by the City Council at a cost of One Dollar (\$1.00) as it does meet the definition of a public purpose as it does fulfill a public need; and

5. The conveyance of the property by the City to the County will serve a public purpose by promoting the health, safety and general welfare of the community; and

6. The Mayor and City Manager are hereby authorized to execute and deliver any and all documents required to resurvey and convey the property to Jefferson County; and

7. 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; and

8. This Ordinance Number 3241 shall become effective immediately upon the approval and adoption following the posting/publication pursuant to Alabama law.

ADOPTED and APPROVED on this the 9th day of September, 2024.

Ashley C. Curry
Mayor

ATTESTED BY

Rebecca Leavings
City Clerk

THIS INSTRUMENT PREPARED BY:
Brenda I. Dees
Sr. Land Acquisition Agent
716 Richard Arrington Jr. Blvd. N. A200
Birmingham, Alabama 35203

STATE OF ALABAMA)

JEFFERSON COUNTY)

KNOW ALL MEN BY THESE PRESENTS: That for and in consideration of the sum of One and no 00/100s Dollars (\$1.00) cash in hand paid by Jefferson County, the receipt whereof is hereby acknowledged, we, the undersigned, do hereby grant, bargain, sell and convey unto the said Jefferson County, its successors and assigns, a right-of-way and easement for public purposes, including a public road and appurtenances, including drainage facilities, underground water and sewer lines and other public utilities and devices both below and above ground. Said right-of-way being located in Jefferson County, Alabama and described as follows, to-wit:

Commence at the SW corner of the NW ¼ of the NE ¼, Section 34, Township 18 South, Range 2 West and run west along the south line of said ¼ - ¼ for a distance 302.187 feet; thence turn an angle left 157°31'15.83" and run southeasterly for a distance of 746.693 feet for the point of beginning of a curve to the left having a central angle of 7°37'58.04" and a radius of 1050 feet and a length of 139.88 feet; thence run southeasterly along the arc of said curve for a distance of 40.20 feet to the **Point of Beginning** of a variable width Right-of-Way being bound on the southwesterly side by the northeasterly prescriptive Right-of-Way of Old Looney Mill Road and being bound on the northeasterly side by a line being 52.06 feet northeasterly of and perpendicular to, at this point, and decreasing to 49.49 feet northeasterly of and perpendicular to a point 148.81 feet ahead along the following described line; thence run southeasterly along the arc of said curve for a distance of 99.68 feet to the end of said curve; thence continue southeasterly along the extended tangent of said curve for a distance of 49.13 feet to the end of said Right-of-Way.

Less and except any part of said Right-of-Way that lies outside of grantor's property line.

All of said Right-of-Way is located in the SW ¼ of the NE ¼, Section 34, Township 18 South, Range 2 West and contains 0.09 acres, more or less.

For the consideration aforesaid, the undersigned do grant, bargain, sell and convey unto said County the right and privilege of a perpetual use of said lands for such public purpose, together with all rights and privileges necessary or convenient for the full use and enjoyment thereof, including the right of ingress to and egress from said strip and the right to cut and keep clear all trees, undergrowth and other obstructions on the lands of the undersigned adjacent to said strip when deemed reasonably necessary for the avoidance of danger in and about said public use of said strip, and the right to prohibit the construction or maintenance of any improvement or obstruction on, over, across or upon said area herein conveyed without the written permission from Jefferson County.

In consideration of the benefit to the property of the undersigned by reason of the construction of said improvement, the undersigned hereby release Jefferson County, the State of Alabama, and/or the United States of America, and/or any of their agents, from all damages present or prospective to the property of the undersigned arising or resulting from the construction, maintenance and repair of said improvement, and the undersigned do hereby admit and acknowledge that said improvement, if and when constructed, will be a benefit to the property of the undersigned.

The undersigned covenant with said Jefferson County that the undersigned are seized in fee-simple of said premises and have a good right to sell and convey the same and that the same are free from all encumbrances, and the undersigned will warrant and defend the title to the aforegranted strip of ground from and against the lawful claims of all persons whomsoever.

IN WITNESS WHEREOF, the undersigned have hereunto set their hands and seals, all on this _____ day of _____, 2024.

CITY OF VESTAVIA HILLS

BY: _____

ITS: _____

BY: _____

ITS: _____

STATE OF ALABAMA)

JEFFERSON COUNTY)

I, THE UNDERSIGNED AUTHORITY, in and for said County, in said State, hereby certify that _____ whose name as _____ of the City of Vestavia Hills, a corporation, is signed to the foregoing conveyance, and who is known to me, acknowledged before me on this day that, being informed of the contents of the conveyance, (he/she), as such officer, and with full authority, has executed the same voluntarily for and as the act of said Corporation.

Given under my hand and official seal, this _____ day of _____, 20 ____.

My commission expires _____. _____
Notary Public

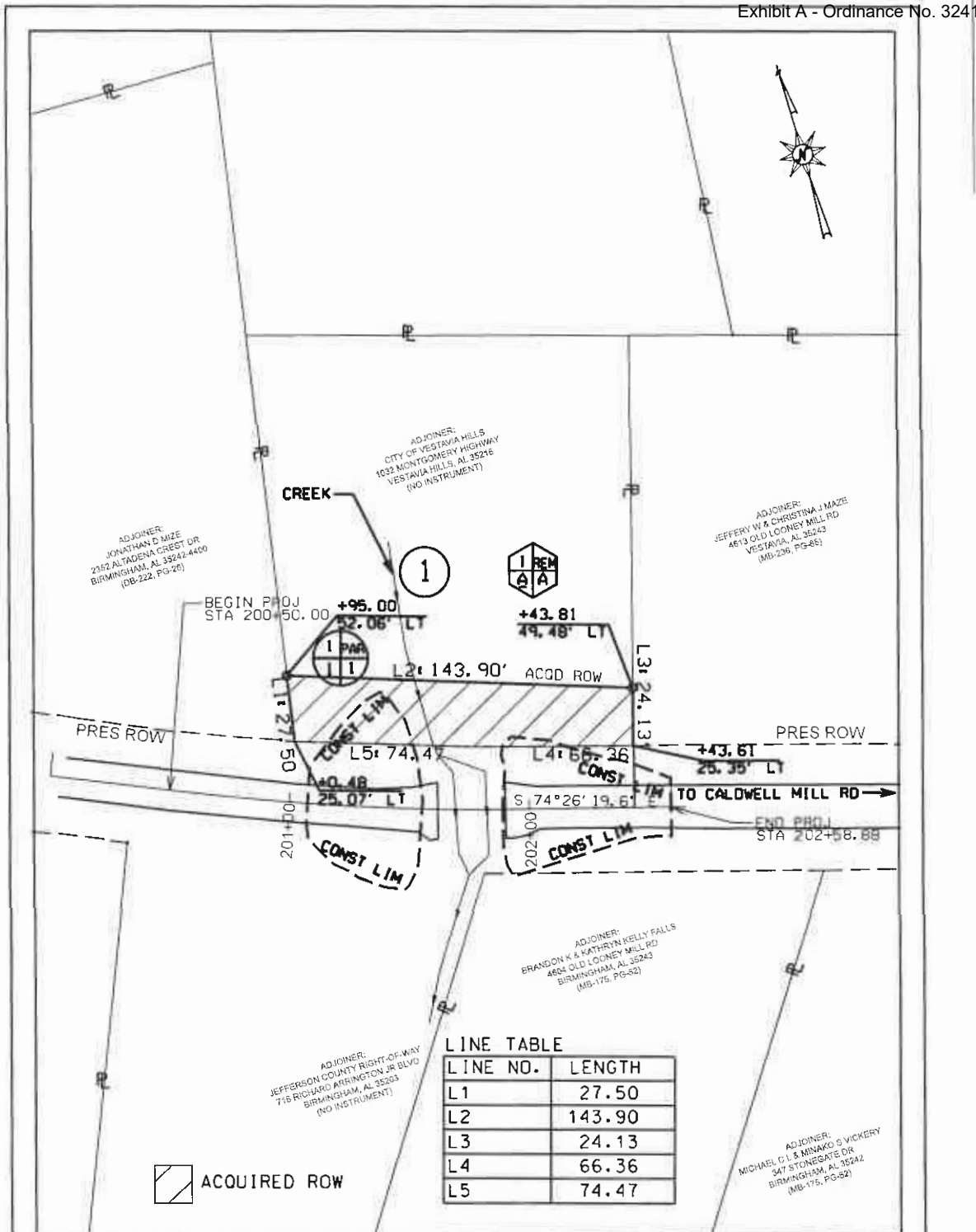
STATE OF ALABAMA)

JEFFERSON COUNTY)

I, THE UNDERSIGNED AUTHORITY, in and for said County, in said State, hereby certify that _____ whose name as _____ of the City of Vestavia Hills, a corporation, is signed to the foregoing conveyance, and who is known to me, acknowledged before me on this day that, being informed of the contents of the conveyance, (he/she), as such officer, and with full authority, has executed the same voluntarily for and as the act of said Corporation.

Given under my hand and official seal, this _____ day of _____, 20 ____.

My commission expires _____. _____
Notary Public



JEFFERSON COUNTY BRIDGE BUNDLE - OLD LOONEY MILL RD

Tract #	1	Scale:	1"=50'
Grantor(s):		State:	Alabama
OWNER: CITY OF VESTAVIA HILLS		County:	JEFFERSON
PID:		PREPARED BY:	
28-00-34-1-002-007.007		BARGE DESIGN SOLUTIONS	
ADDRESS:	4609 OLD LOONEY MILL RD, VESTAVIA HILLS, AL - 35243		
Total Before:	0.58 AC	Project:	37-18-428
Total Acquired	0.09 AC	CPMS #:	0
Total Remainder:	0.49 AC	Date:	9/14/2023
THIS IS NOT A BOUNDARY SURVEY		Sketch:	1 OF 1



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 23, 2024

By Electronic Mail

City Clerk Rebecca Leavings
Vestavia Hills Municipal Center
1032 Montgomery Highway
Vestavia Hills, Alabama 35216

In Re: Ordinance Number 3241

Dear Becky:

On August 22, 2024, you sent to me via electronic mail Ordinance Number 3241, together with a Memo from City Engineer Christopher Brady, regarding a proposed conveyance of real property by the City of Vestavia Hills, Alabama ("City") to Jefferson County, Alabama ("County") 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.

I. FACTS

An Inter-Department Memo, dated August 26, 2024, from City Engineer Christopher Brady to City Manager Jeff Downes reads as follows:

"Jefferson County is desirous to replace a very narrow bridge on Old Looney Mill Road that lies in unincorporated Jefferson County but needs additional right-of-way in order to proceed with said improvements. The County has requested that the city convey a portion of the Patchwork Farms nature park that lies adjacent to Old Looney Mill Road to be utilized for public use as said needed right-of-way. This does meet the definition of a public purpose so the request is for the City to donate this property to the County for public use. A picture of a similar bridge design is given to show how the new bridge will look once completed."

II. LEGAL ISSUE ONE

A. LEGAL ISSUE: Will the conveyance of land by the City to Jefferson County violate Article IV, Section 94 of the *Constitution of Alabama*?

B. CONSTITUTION OF ALABAMA, ARTICLE IV, SECTION 94: Article IV, Section 94 of the *Constitution of Alabama*, as amended by Amendments 112 and 558, reads as follows:

“The Legislature shall not have power to authorize any county, city, town or other subdivision of this state to lend its credit or to grant public money or thing of value in aid of or to any individual, association or corporation whatsoever.”

C. LEGAL OPINION: It is my legal opinion that the answer to Legal Question One is in the negative.

D. BASIS FOR LEGAL OPINION: I base my legal opinion upon the decision by the Supreme Court of Alabama in the case of *Rogers v. City of Mobile*, 277 Ala. 261, in 1964. In that case, the Court wrote,

“The contention is made that the proposed actions of the City will constitute a lending of its credit to the Department in violation of §94 of the Constitution. We have held that §94 does not apply to a transaction between a municipality and an agency of the State. See: *City of Andalusia v. Southeast Alabama Gas District*, 261 Ala. 297, 74 So.2d 479; *State ex rel. Austin v. City of Mobile*, 248 Ala. 467, 28 So.2d 177, *supra*.”

III. LEGAL ISSUE TWO

A. LEGAL ISSUE: What legal steps must the City Council take in order to approve the conveyance, and authorize and direct the City Manager and Mayor to execute and deliver a deed to the County?

B. LEGAL OPINION: It is my legal opinion that the City Council is required to enact an ordinance that:

1. declares that the real property to be conveyed to the County is not needed for municipal purposes as required by Title 11-47-20, *Code of Alabama, 1975*; and
2. finds and determines that the conveyance of the real property by the City to the County will serve a “public purpose”; and
3. authorize and direct the City Manager and Mayor to take any and all actions necessary to convey the land, including specifically, but not limited to, the execution and delivery of a deed.

C. **BASIS FOR LEGAL OPINION:** I base my legal opinion upon the following legal authorities:

1. **Approval and Adoption of Ordinances:** Title 11-45-1, *Code of Alabama*, 1975, reads as follows:

“§11-45-1. **Authorized.** Municipal corporations may from time to time adopt ordinances and resolutions not inconsistent with the laws of the state to carry into effect or discharge the powers and duties conferred by the applicable provisions of this title and any other applicable provisions of law and to provide for the safety, preserve the health, promote the prosperity and improve the morals, order, comfort and convenience of the inhabitants of the municipality, and may enforce obedience to such ordinances.”

2. **Expenditure of Public Funds Must Be For Public Purposes:** Municipalities in Alabama may spend public funds only for public purposes. The Supreme Court of Alabama has interpreted the language of Sections 93 and 94 of the *Constitution of Alabama* to allow appropriations of public funds when the appropriation is used for public purposes. *Alabama Constitution* amend. 93; *Alabama Constitution* amend. 94; *Slawson v. Alabama Forestry Comm’n*, 631 So.2d 953 (Ala.1994). *Opinion of the Justices No. 269*, 384 So.2d 1051 (1980); *Stone v. State*, 251 Ala. 240 (1948).

3. **What Is a Public Purpose?** The expenditure of public funds must be for “public purposes” authorized by statute or by necessary the implications: In 1929, the Alabama Supreme Court defined the standard of expenditures of public funds. In *Goode v. Tyler*, 237 Ala. 106, the Court established the following rule:

“The authority to expend public funds for any specific purpose is required to be authorized by statute, either directly or by necessary implication.”

In 1948, the Supreme Court of Alabama decided the case of *Stone v. State*, 251 Ala. 240, and held that the expenditure of public or state funds should only be for public purposes.

In 1980, the Supreme Court of Alabama held that the paramount test of whether a proposed appropriation is for proper “public purposes” is whether the expenditure confers direct public benefits of reasonable general character, i.e. to significant part of public, as distinguished from remote and theoretical benefits. *Opinion of Justices No. 269*, 384 So.2d 1051.

IV. CONCLUSION

The terms, provisions and conditions of Ordinance Number 3241 and the proposed conveyance of real property by the City to the County meet all requirements of Alabama law.

Sincerely,

A handwritten signature in blue ink, appearing to read "Patrick H. Boone", with a long horizontal flourish extending to the right.

Patrick H. Boone
Vestavia Hills City Attorney

PHB:gp

cc:

City Manager Jeffrey D. Downes (by e-mail)

City Engineer Christopher Brady (by e-mail)

Public Services Director Lori Beth Kearley (by e-mail)



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

August 26, 2024

To: Jeff Downes, City Manager

From: Christopher Brady, City Engineer

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

RE: Public Hearing - Ordinance Number 3242 - An Ordinance authorizing the Mayor and City Manager to execute and deliver an intergovernmental agreement with Jefferson County for certain public improvements over and around the Cahaba River Tributary located on Caldwell Mill Road and Old Looney Mill Road pursuant to Section 11-102-1, et. seq., Code of Alabama, 1975

Background:

Jefferson County has agreed to construct public improvements to roadways and bridges around and across a tributary of the Cahaba River that lies within and just beyond the corporate limits of the City of Vestavia Hills. This is detailed in an Intergovernmental Agreement drafted by the County and reviewed by the Engineering Department of the City.

Recommendation:

Recommendation is for the Council to approval the execution of said agreement so the County may move forward with the project.

Fiscal Impact:

na

Attachments:

1. Ordinance 3242
2. Intergovernmental Agreement Jeffco Exhibit A
3. PH Boone Legal Opinion to City Manager August 23, 2024

ORDINANCE NUMBER 3242

AN ORDINANCE AUTHORIZING THE MAYOR AND CITY MANAGER TO EXECUTE AND DELIVER AN INTERGOVERNMENTAL AGREEMENT WITH JEFFERSON COUNTY, ALABAMA, A POLITICAL SUBDIVISION OF THE STATE OF ALABAMA FOR CERTAIN PUBLIC IMPROVEMENTS OVER AND AROUND THE CAHABA RIVER TRIBUTARY LOCATED ON CALDWELL MILL ROAD AND OLD LOONEY MILL ROAD PURSUANT TO SECTION 11-102-1 ET SEQ., CODE OF ALABAMA, 1975.

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

1. The Mayor and City Manager are hereby authorized to execute and deliver an Intergovernmental Agreement (“the Agreement”) with Jefferson County, Alabama, a political subdivision of the State of Alabama (“the County”) for improvements to the County maintained bridges over the Cahaba River tributary located on Caldwell Mill Road and Old Looney Mill Road, as well as construct improvements to the roadway on both ends of each bridge (“the Project) pursuant to Section 11-1-2-1, et seq., Code of Alabama, 1975; and
2. A copy of said agreement is marked as Exhibit A, a copy of which is attached to and incorporated into this Ordinance Number 3242 as if written fully therein; and
3. This Ordinance Number 3242 shall become effective immediately following posting/publication as required by Alabama law.

DONE, ADOPTED and APPROVED this the 9th day of September, 2024.

Ashley C. Curry
Mayor

ATTESTED BY:

Rebecca Leavings
City Clerk

CERTIFICATION:

I, Rebecca Leavings, as City Clerk of the City of Vestavia Hills, Alabama, hereby certify that the above and foregoing copy of 1 (one) Ordinance Number 3242 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 9th day of September, 2024 as same appears in the official records of said City.

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

Rebecca Leavings
City Clerk

INTERGOVERNMENTAL AGREEMENT

This Intergovernmental Agreement (hereinafter called “Agreement”) is entered into by and between Jefferson County, Alabama, a political subdivision of the State of Alabama, (hereinafter called "the County") and the City of Vestavia Hills, Alabama, a municipal corporation, (hereinafter called "the City") (collectively, "Parties" or individually as a "Party").

WHEREAS, Section 11-102-1 et seq., Code of Alabama (1975) authorizes counties or incorporated municipalities of the State of Alabama to enter into written contracts with any one or more counties or incorporated municipalities for the joint exercise of any power or service that state or local law authorizes each of the contracting entities to exercise individually, provided that at least one of the contracting parties has the authority to exercise the power or service in the manner agreed upon by the parties, and further provides that the joint contract may provide for the power or service to be exercised by one or more entities on behalf of the others or jointly by the entities; and

WHEREAS, the County desires to construct improvements to the County-maintained bridges over the Cahaba River tributary located on Caldwell Mill Road and Old Looney Mill Road, as well construct improvements to the roadway on both ends of each bridge (“the Project”); and

WHEREAS, portions of the Project are located within the corporate limits of the City of Vestavia Hills and outside Jefferson County’s road maintenance jurisdiction; and

WHEREAS, the County wishes to construct the Project, including portions of the roadways within the corporate limits of the City of Vestavia Hills, as part of needed infrastructure improvements, which mutually benefits both Parties; and

WHEREAS, the parties find that it is in the public interest that the parties enter into an infrastructure improvement agreement in accordance with Alabama Code §11-102-1, et seq.;

NOW WHEREFORE, in consideration of the premises and mutual covenants stated herein, and other good and valuable consideration, the receipt and sufficiency of which is acknowledged, the Parties do mutually agree as follows:

- I. PURPOSE:** The intent of this Agreement is to provide for cooperation between the Parties in the construction of the Project, of which portions of the Project are located within the corporate limits of the City of Vestavia Hills and outside Jefferson County’s road maintenance jurisdiction.
- II. TERM:** The duration of this Agreement shall not exceed three years from the effective date as stated herein.

III. IMPLEMENTATION: The parties agree to implementation as follows:

- a. **Performance of the Work:** The County will cause the Project, as shown in Exhibit A, to be designed and constructed in compliance with any and all rules, laws and regulations applicable to its undertaking, performance and completion of the Work ("the Work"). The Work will include the construction of improvements to the County-maintained bridges over the Cahaba River tributary located on Caldwell Mill Road and Old Looney Mill Road, as well the construction of improvements to the roadway on both ends of each bridge.
- b. **Cost:** Jefferson County will be responsible for all costs to complete the work.
- c. **Management:** County will assume responsibility for the management of the Project.
- d. **Inspections:** County will provide Construction, Engineering & Inspection during the construction phase of the Project. The City may provide additional inspection staff for concurrent inspection.
- e. **Future Liability:** The parties expressly agree that the County does not assume any risk or future liability or any future responsibility for any portion of the Project located within the corporate limits of the City of Vestavia Hills. For clarity, the County will continue to maintain the bridges and sections of roadway within the Project area marked as "Jefferson County maintenance IGA" in the attached Exhibit A. The City will continue to maintain the sections of roadway marked "Vestavia Hills maintenance IGA" in red in Exhibit A.
- f. **Incurring Debt:** Except as specifically provided in this agreement, no party to the contract shall have any other power to incur any debt which shall become the responsibility of any other contracting people.
- g. **Relationship of Parties:** Except as specifically provided in this agreement, the execution of this agreement or the performance of any act pursuant to the provisions thereof shall not be deemed or construed to have the effect of creating between the parties the relationship of principal or agent or of partnership or of joint venture.
- h. **Jurisdictional Authority:** Except as otherwise provided by law and as limited by this agreement between the parties, any entity which contracts to perform or exercise any service or power pursuant to this chapter shall have the full power and authority to act within the jurisdiction of all contracting entities to the extent necessary to carry out the purpose of the contract.
- i. **Right-of-Way Acquisition:** The County will obtain the necessary right-of-way for construction of the project. The City will cooperate in any necessary condemnation of right-of-way. The County will convey the right-of-way located within the corporate limits of the

City of Vestavia Hills to the City upon completion of construction of the Project.

- j. **Authorizations:** This Agreement shall not take effect until it has been approved by the governing body of each of the contracting Parties. Approval by a county governing body shall be by adoption of a resolution and approval by a municipal governing body shall be by adoption of an ordinance of general and permanent operation. Each Party to this agreement shall also adopt all ordinances, resolutions, or policies necessary to authorize the other contracting entities to carry out their contractual duties and responsibilities. Each of the contracting Parties shall deliver a copy of their resolution or ordinance to the other party prior to the effective date of this Agreement.

Each of the parties hereto does hereby represent and warrant that it has taken all necessary action for the approval of this Agreement and the signature of its representative below has been duly authorized and is binding upon such party. Each of the parties hereto does further represent and warrant that this Agreement shall be enforceable against each party upon the execution hereof by each party's duly authorized representative. An executed copy of this Agreement shall be filed at the administrative offices of each party.

- j. **Notice:** Each party to this agreement shall designate an individual (hereinafter "Administrator") who may be designated by title or position, to oversee and administer such party's participation in this Agreement.

The County's designated Administrator shall be the following individual:

Director of Roads and Transportation/County Engineer
Room A200 Courthouse
716 Richard Arrington Jr. Blvd N Birmingham AL 35203

The City designated Administrator shall be the following:

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

- IV. IMMIGRATION LAW COMPLIANCE:** By signing this Contract, the contracting parties affirm, for the duration of the Agreement, that they will not violate federal immigration law or knowingly employ, hire for employment, or continue to employ an unauthorized alien within the State of Alabama. Furthermore, a contracting party found to be in violation of this provision shall be deemed in breach of the agreement and shall be responsible for all damages resulting therefrom.

V. NON-DISCRIMINATION: During the performance of this contract the Parties agree as follows:

- a. The Parties will not discriminate against any employee or applicant for employment because of race, color, religion, sex, gender identity, sexual orientation, disability, familial status, or national origin. The Parties will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, gender identity, sexual orientation, disability, familial status, or national origin. Such action shall include but not be limited to the following: Employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Parties agree to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.
- b. In the event of a Parties' noncompliance with the nondiscrimination clauses of this contract, this contract may be canceled, terminated or suspended in whole or in part and the contractor may be declared ineligible for further municipal contracts with the other Party.

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

VII. TERMINATION: Any party hereto may terminate this Agreement prior to work beginning by giving thirty (30) days' notice of the intention to do so to the other party. Such notice shall be sent to the governing body of the other party.

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

(Signatures on following page)

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed by their respective officers, officials or persons thereunto duly authorized, and the Agreement is deemed to be dated and to be effective on the date hereinafter stated as the date of its approval by the County.

JEFFERSON COUNTY, ALABAMA

Date

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

ATTEST:

BY: _____
Aleshia Y. Coleman, Minute Clerk

CITY OF VESTAVIA HILLS, ALABAMA

Date

BY: _____
Ashley Curry, Mayor

ATTEST:

BY: _____
Rebecca Leavings, City Clerk

Date

BY: _____
Jeff Downes, City Manager

ATTEST:

BY: _____
Rebecca Leavings, City Clerk

INTERGOVERNMENTAL AGREEMENT

This Intergovernmental Agreement (hereinafter called “Agreement”) is entered into by and between Jefferson County, Alabama, a political subdivision of the State of Alabama, (hereinafter called "the County") and the City of Vestavia Hills, Alabama, a municipal corporation, (hereinafter called "the City") (collectively, "Parties" or individually as a "Party").

WHEREAS, Section 11-102-1 et seq., Code of Alabama (1975) authorizes counties or incorporated municipalities of the State of Alabama to enter into written contracts with any one or more counties or incorporated municipalities for the joint exercise of any power or service that state or local law authorizes each of the contracting entities to exercise individually, provided that at least one of the contracting parties has the authority to exercise the power or service in the manner agreed upon by the parties, and further provides that the joint contract may provide for the power or service to be exercised by one or more entities on behalf of the others or jointly by the entities; and

WHEREAS, the County desires to construct improvements to the County-maintained bridges over the Cahaba River tributary located on Caldwell Mill Road and Old Looney Mill Road, as well construct improvements to the roadway on both ends of each bridge (“the Project”); and

WHEREAS, portions of the Project are located within the corporate limits of the City of Vestavia Hills and outside Jefferson County’s road maintenance jurisdiction; and

WHEREAS, the County wishes to construct the Project, including portions of the roadways within the corporate limits of the City of Vestavia Hills, as part of needed infrastructure improvements, which mutually benefits both Parties; and

WHEREAS, the parties find that it is in the public interest that the parties enter into an infrastructure improvement agreement in accordance with Alabama Code §11-102-1, et seq.;

NOW WHEREFORE, in consideration of the premises and mutual covenants stated herein, and other good and valuable consideration, the receipt and sufficiency of which is acknowledged, the Parties do mutually agree as follows:

- I. PURPOSE:** The intent of this Agreement is to provide for cooperation between the Parties in the construction of the Project, of which portions of the Project are located within the corporate limits of the City of Vestavia Hills and outside Jefferson County’s road maintenance jurisdiction.
- II. TERM:** The duration of this Agreement shall not exceed three years from the effective date as stated herein.

III. IMPLEMENTATION: The parties agree to implementation as follows:

- a. **Performance of the Work:** The County will cause the Project, as shown in Exhibit A, to be designed and constructed in compliance with any and all rules, laws and regulations applicable to its undertaking, performance and completion of the Work ("the Work"). The Work will include the construction of improvements to the County-maintained bridges over the Cahaba River tributary located on Caldwell Mill Road and Old Looney Mill Road, as well the construction of improvements to the roadway on both ends of each bridge.
- b. **Cost:** Jefferson County will be responsible for all costs to complete the work.
- c. **Management:** County will assume responsibility for the management of the Project.
- d. **Inspections:** County will provide Construction, Engineering & Inspection during the construction phase of the Project. The City may provide additional inspection staff for concurrent inspection.
- e. **Future Liability:** The parties expressly agree that the County does not assume any risk or future liability or any future responsibility for any portion of the Project located within the corporate limits of the City of Vestavia Hills. For clarity, the County will continue to maintain the bridges and sections of roadway within the Project area marked as "Jefferson County maintenance IGA" in the attached Exhibit A. The City will continue to maintain the sections of roadway marked "Vestavia Hills maintenance IGA" in red in Exhibit A.
- f. **Incurring Debt:** Except as specifically provided in this agreement, no party to the contract shall have any other power to incur any debt which shall become the responsibility of any other contracting people.
- g. **Relationship of Parties:** Except as specifically provided in this agreement, the execution of this agreement or the performance of any act pursuant to the provisions thereof shall not be deemed or construed to have the effect of creating between the parties the relationship of principal or agent or of partnership or of joint venture.
- h. **Jurisdictional Authority:** Except as otherwise provided by law and as limited by this agreement between the parties, any entity which contracts to perform or exercise any service or power pursuant to this chapter shall have the full power and authority to act within the jurisdiction of all contracting entities to the extent necessary to carry out the purpose of the contract.
- i. **Right-of-Way Acquisition:** The County will obtain the necessary right-of-way for construction of the project. The City will cooperate in any necessary condemnation of right-of-way. The County will convey the right-of-way located within the corporate limits of the

City of Vestavia Hills to the City upon completion of construction of the Project.

- j. **Authorizations:** This Agreement shall not take effect until it has been approved by the governing body of each of the contracting Parties. Approval by a county governing body shall be by adoption of a resolution and approval by a municipal governing body shall be by adoption of an ordinance of general and permanent operation. Each Party to this agreement shall also adopt all ordinances, resolutions, or policies necessary to authorize the other contracting entities to carry out their contractual duties and responsibilities. Each of the contracting Parties shall deliver a copy of their resolution or ordinance to the other party prior to the effective date of this Agreement.

Each of the parties hereto does hereby represent and warrant that it has taken all necessary action for the approval of this Agreement and the signature of its representative below has been duly authorized and is binding upon such party. Each of the parties hereto does further represent and warrant that this Agreement shall be enforceable against each party upon the execution hereof by each party's duly authorized representative. An executed copy of this Agreement shall be filed at the administrative offices of each party.

- j. **Notice:** Each party to this agreement shall designate an individual (hereinafter "Administrator") who may be designated by title or position, to oversee and administer such party's participation in this Agreement.

The County's designated Administrator shall be the following individual:

Director of Roads and Transportation/County Engineer
Room A200 Courthouse
716 Richard Arrington Jr. Blvd N Birmingham AL 35203

The City designated Administrator shall be the following:

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

IV. IMMIGRATION LAW COMPLIANCE: By signing this Contract, the contracting parties affirm, for the duration of the Agreement, that they will not violate federal immigration law or knowingly employ, hire for employment, or continue to employ an unauthorized alien within the State of Alabama. Furthermore, a contracting party found to be in violation of this provision shall be deemed in breach of the agreement and shall be responsible for all damages resulting therefrom.

V. NON-DISCRIMINATION: During the performance of this contract the Parties agree as follows:

- a. The Parties will not discriminate against any employee or applicant for employment because of race, color, religion, sex, gender identity, sexual orientation, disability, familial status, or national origin. The Parties will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, gender identity, sexual orientation, disability, familial status, or national origin. Such action shall include but not be limited to the following: Employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Parties agree to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.
- b. In the event of a Parties' noncompliance with the nondiscrimination clauses of this contract, this contract may be canceled, terminated or suspended in whole or in part and the contractor may be declared ineligible for further municipal contracts with the other Party.

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

VII. TERMINATION: Any party hereto may terminate this Agreement prior to work beginning by giving thirty (30) days' notice of the intention to do so to the other party. Such notice shall be sent to the governing body of the other party.

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

(Signatures on following page)

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed by their respective officers, officials or persons thereunto duly authorized, and the Agreement is deemed to be dated and to be effective on the date hereinafter stated as the date of its approval by the County.

JEFFERSON COUNTY, ALABAMA

Date

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

ATTEST:

BY: _____
Aleshia Y. Coleman, Minute Clerk

CITY OF VESTAVIA HILLS, ALABAMA

Date

BY: _____
Ashley Curry, Mayor

ATTEST:

BY: _____
Rebecca Leavings, City Clerk

Date

BY: _____
Jeff Downes, City Manager

ATTEST:

BY: _____
Rebecca Leavings, City Clerk

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 23, 2024

By Electronic Mail

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

In Re: Ordinance Number 3242
Intergovernmental Agreement Between Jefferson County and
City of Vestavia Hills

Dear Mr. Downes:

On August 22, 2024, City Engineer Christopher Brady sent to me via electronic mail an Intergovernmental Agreement by and between Jefferson County, Alabama ("County") and City of Vestavia Hills, Alabama ("City") with a request that I review the Agreement and provide you with my written legal opinion. The purpose of this letter is to comply with his request.

In substance, the Agreement provides that the County will cause to be performed construction of improvements to the County-maintained bridges over the Cahaba River tributary located on Caldwell Mill Road and Old Looney Mill Road, as well as the construction of improvements to the roadway on both ends of each bridge. The cost of the work will be paid solely by the County.

It is my legal opinion that the Agreement meets the requirements of Alabama law, including specifically, but not limited to Title 11-102-1, *Code of Alabama*, 1975. I do recommend that a typo on the next to last line of section 1 of Ordinance Number 3242 be amended to read Section 11-102-1, *Code of Alabama*, 1975.

Please call me if you have any questions regarding this matter.

Sincerely,



Patrick H. Boone
Vestavia Hills City Attorney

PHB:gp

cc: City Clerk Rebecca Leavings (by e-mail)
City Engineer Christopher Brady (by e-mail)
Public Services Director Lori Beth Kearley (by e-mail)



CITY OF VESTAVIA HILLS

INTER-DEPARTMENT MEMO

August 26, 2024

To: Jeff Downes, City Manager

From:

Cc:

RE: Citizens Comments

Background:

Recommendation:

Fiscal Impact:

Attachments:

None