



**Vestavia Hills
City Council Agenda
May 8, 2023
6:00 PM**

1. Call to Order
2. Roll Call
3. Invocation - Jim Cartledge, Vestavia Hills Chaplain
4. Pledge Of Allegiance
5. Approval Of The Agenda
6. Announcements, Candidates and Guest Recognition
7. City Manager's Report
8. Councilors' Reports
9. Proclamation - National Police Week & Peace Officers Memorial Day
10. Approval Of Minutes
 - April 12, 2022 - Council Work Session
 - April 24, 2022 - Regular Meeting

Old Business

11. Public Hearing - Resolution Number 5458 - A Resolution authorizing the City Manager to expend additional (non-budgeted) funds to complete the targeted annual mileage for street resurfacing efforts within the municipal limits

New Business

12. Resolution declaring certain personal property as surplus and authorizing the City Manager to sell/dispose of said property

New Business Requesting Unanimous Consent

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

13. Public Hearing - Ordinance Number 3098-A - An Ordinance to Amend Ordinance Number 3098 - Rezoning from Vestavia Hills R-1 to Vestavia Hills B-3 with a

- conditional use for veterinary services, grooming and boarding of dogs; Amending Ordinance to remove requirement for re-platting of property; Jeff Hardwick, Culbreth Holding, LLC, Owner
14. Public Hearing - Ordinance Number 3178 - An Ordinance Amending Ordinance Number 2776 Extending the Existing Video Services Agreement with Direct TV (formerly Bellsouth d/b/a AT&T)
 15. Public Hearing - Ordinance Number 3179 - An Ordinance Establishing a Public Record Policy for the City of Vestavia Hills, Alabama
 16. Public Hearing - Ordinance Number 3180 - An Ordinance authorizing the City Manager to expend funds to design and construct an exhibit honoring an important public leader and authorize the Mayor and City Manager to execute any necessary documents to facilitate such exhibit
 17. Citizens Comments
 18. Time Of Adjournment

PUBLIC HEARING PROCEDURES

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

- All comments shall be limited to **3 minutes**. A countdown clock should 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 complete with name and address.

SPECIAL NOTICE CONCERNING CITY COUNCIL MEETINGS

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

COMPUTER PARTICIPATION (view/participate in real time)

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

Using the icons on the Zoom screen, you can:

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

TELEPHONE PARTICIPATION (view/participate in real time)

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

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

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

Zoom meetings may be recorded. By participating in the meeting, you are consenting to be recorded. 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 ended 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.

WHEREAS, the Congress and President of the United States have designated the week of May 15 - 21, 2023 as “National Police Week” to publicly salute the service of law enforcement officers in our community; and

WHEREAS, May 15, 2023 is designated as “Peace Officers Memorial Day in honor of all fallen officers and their families;” and

WHEREAS, the members of the Vestavia Hills Police Department play an essential role in safeguarding the rights and freedoms of the public and provide a critical public service to the community; and

WHEREAS, it is important that all citizens understand the challenges, duties, and responsibilities of their police department; and, that members of our Police Department recognize their duty to serve the people by safeguarding life and property, by protecting them against violence and disorder, and by protecting the innocent against deception and the weak against oppression and intimidation; and

WHEREAS, it is well known and accepted that law enforcement is an inherently dangerous and demanding profession in which dedicated professionals knowingly place their lives in harm’s way to protect others who are unable to protect themselves.

NOW, THEREFORE, I, Ashley C. Curry, by virtue of the authority vested in me as Mayor of the City of Vestavia Hills in the State of Alabama, do hereby proclaim May 15 – 21, 2023 and May 15, 2023 as

NATIONAL POLICE WEEK
and
PEACE OFFICERS MEMORIAL DAY

and hereby express our continued support of the Vestavia Hills Police Department and all peace officers throughout our nation in their efforts to build safer and more secure communities.

IN WITNESS WHEREOF, I have
hereunto set my hand and caused the Seal
of the City of Vestavia Hills to be affixed
this the 8th day of May 2023.

Ashley C. Curry
Mayor

CITY OF VESTAVIA HILLS

CITY COUNCIL

MINUTES

WORK SESSION

APRIL 12, 2023

The City Council of Vestavia Hills met in a special work session on this date at 9:00 AM, following publication and posting pursuant to Alabama law. Mayor Curry called the work session to order and the roll was checked with the following:

MEMBERS PRESENT:

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

Mrs. Cook led the following interviews for the Vestavia Hills Board of Education. The following individuals were interviewed by the City Council.

9:00 Rachel Jordan
9:45 Kelly Rainer
10:30 Jerry "Jack" Anderson IV
11:15 Brett Taylor
12:00 Owen Prescott
1:15 Mary Alison West
2:00 Kyle Whittington*

*Kyle Whittington was interviewed via Zoom in the Council Chambers.

Each applicant was interviewed and Mrs. Cook thanked each and indicated that the Council would appoint a new member at the April 24th meeting.

There being no further business, the work session adjourned at 2:10 PM.

Ashley C. Curry
Mayor

ATTESTED BY:

Rebecca Leavings
City Clerk

CITY OF VESTAVIA HILLS

CITY COUNCIL

MINUTES

APRIL 24, 2023

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. The City Clerk called the roll with the following:

MEMBERS PRESENT:

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

OTHER OFFICIALS PRESENT:

Jeff Downes, City Manager
Grace Graham, Acting City Attorney
Cinnamon McCulley, Asst. City Manager
Rebecca Leavings, City Clerk
Dan Rary, Police Chief
Jason Hardin, Asst. Police Chief
Melvin Turner, III, Finance Director
Zach Clifton, Asst. Finance Director
Lori Beth Kearley, Interim Public Works Director
Umang Patel, Court Director*
**present virtually via Zoom or telephone*

Ron Higey, Vestavia Hills Chaplain, the invocation followed by the Pledge of Allegiance.

APPROVAL OF THE AGENDA

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

MOTION Motion to approve the agenda as presented was made by Mr. Weaver and seconded by Mr. Pierce. Roll call vote as follows:

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

ANNOUNCEMENTS, CANDIDATES, GUEST RECOGNITION

- Mr. Pierce welcomed Board Members John Henley and Gary Jordan representing the Chamber of Commerce.

PROCLAMATION

The Mayor presented a Proclamation designating April 2023 as “Child Abuse Prevention Month.” Mr. Downes read the Proclamation and the Mayor presented it to Maribeth Thomas, Director, The Prescott House Child Advocacy Center.

Ms. Thomas thanked the Mayor and Council for the recognition and the City’s continued support of the work that they do. The Mayor explained that David Barber, a good friend, organized The Prescott House in 1987 and it performs an outstanding service for children caught up in the judicial system.

PROCLAMATION

The Mayor presented a Proclamation designating April 30 - May 6, 2023 as “Municipal Clerk’s Week.” Mr. Downes read the Proclamation and the Mayor presented it to Rebecca Leavings, City Clerk. The Mayor thanked her for her continued service.

Ms. Leavings thanked the City, the Council and the Mayor for the recognition and support.

Mr. Pierce commended Ms. Leavings and indicated that many Clerks around the state often contact her to obtain information and advice.

COUNCILOR REPORTS

- Mrs. Cook stated she attended the Board of Education meeting just prior to this meeting. The Board honored students of various programs, including dance, visual arts, band choir, and craft training with recognition of their accomplishments. She stated she is very proud of the school system’s fine arts programs. Mrs. Cook stated that they also heard some updates about 1Rebel 1Future pertaining to facility updates if the referendum passes. She understands these facility additions and updates will be unlikely if the referendum fails. The Mayor and Mrs. Cook both commended the students’ *Mama Mia* musical production. It was an amazing performance.
- Mr. Pierce stated that he and Mr. Weaver both attended a Chamber luncheon. He stated that the discussion concerned cyber-safety.
- Mr. Pierce stated that I Love America night is scheduled for June 22.
- Mr. Pierce recognized the Vestridge Gateway Committee that has dressed up the entrance to the Vestridge Community. He stated that they have done a great deal of work at that entrance and it’s looking really good.

- Mr. Pierce thanked Rev. Higey for including the victims of the Dadeville mass shooting in tonight's invocation. He stated that, in a recent visit, he realized how much this town of 3,000, has been impacted. He stated that he saw residents wearing black and gold in remembrance of these victims and he told them that people in Vestavia Hills were praying for them. Mr. Pierce challenged this Council to ensure that our first responders have the equipment needed to respond to such a horrific event. He asked for continued prayers for Dadeville as well as the victims and their families.
- Mr. Weaver stated that the Planning and Zoning Commission met last week with several consent agenda plat approvals and one rezoning re-run that will come to Council soon with a unanimous recommendation for approval.

CITY MANAGER'S REPORT

- Mr. Downes stated that the former Days Inn is on track for demolition. He stated that the asbestos abatement wraps up very soon. The planning charrette went well and the planning area grew from 3 acres to about 10 acres due to collaboration with neighboring owners. These owners continue to be excited about what can happen. At the last Council meeting, an incentive agreement was approved for a neighboring development. The next steps in moving forward would be for the Planning and Zoning Commission to approve the plan document, and this will be a planning tool for the corridor. He stated that the plan is in draft form and will come forward at a later date.
- Mr. Downes stated that one of the City's strategic goals is to develop and produce a storm water master plan to identify funding opportunities. Act 2023-1 allocated ARPA funds to ADEM to assist with storm water funding. Ridgedale improvements may qualify for this funding and a request for \$150,000 may be coming to the Council for approval.
- Some Congressional funding has also been allocated for storm water improvements and the City sent our proposal to Senator Tuberville for review. One of his staff members visited to look at this proposal and the City hopes this might result in more project funding.

Mr. Pierce remarked how much the Crosshaven Drive improvement project has helped in the Cahaba Heights area.

FINANCIAL REPORTS

Mr. Turner presented the financial reports for the month ending March 2023. He read and explained the balances.

APPROVAL OF MINUTES

The Mayor asked for a motion to approve the minutes of the April 10, 2023, Regular Meeting.

MOTION: Motion to approve the minutes for the April 10, 2023 meeting as presented was made by Mrs. Cook and seconded by Mr. Pierce. Roll call vote as follows:

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

OLD BUSINESS

The Mayor explained procedures for all public hearings. Speaker time will be limited to three minutes. A timer will appear on screen monitors in the room to keep everyone apprised of remaining time. Speakers should not duplicate issues. Speakers should only address the Mayor and/or presiding officer, and not address the audience or petitioner. All speakers shall clearly give their name and address for the record.

ORDINANCE NUMBER 3171

Public Hearing - Ordinance Number 3171 - An Ordinance Authorizing the City Manager to Utilize Opioid Financial Settlement Proceeds to Be Received Over the Course of Ten Years for Various Purposes Approved within the Opioid Settlement Agreements and Authorizing the Mayor and City Manager to Execute and Deliver Program Agreements Associated with Expenditure of Said Funds

MOTION Motion to approve Ordinance Number 3171 was made by Mr. Weaver and seconded by Mrs. Cook.

Mr. Downes stated that the Council was briefed on Opioid Settlement proceeds. He stated that there are limitations on how these proceeds can be used. The Council previously received a spending plan and this is shown on the monitor. The plan includes an opportunity to fund an additional SRO for student education on the dangers of opioids.

Chief Rary stated this SRO will work with individuals and groups of students to resist and overcome addiction. He explained the Shelby County Sheriff's Compact program. He stated that the agreement allows the school system to take advantage of the knowledge and training of other SROs in the program to assist in educating students. Chief Rary stated that several cities participate and he sees nothing but positive in this.

Mrs. Cook stated that she did question this proposal extensively and reviewed the answers that were provided. She likes the fact that the purpose of COMPACT is not to arrest these young people, but rather to provide intervention, helping students and their families. She is pleased and feels this is a good way to use these proceeds.

Chief Rary stated that this program is through Shelby County; but, a portion of the City is in Shelby County.

The Mayor opened the floor for a public hearing. There being no one further to address the Council, the Mayor closed the public hearing and called for the question. Roll call vote was as follows:

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

ORDINANCE NUMBER 3174

Public Hearing - Ordinance Number 3174 - An Ordinance Authorizing the City Manager to Terminate an Agreement with Uprise Health as the City's EAP Provider and Authorizing the Mayor and City Manager to Execute and Deliver Documents Necessary for the Engagement of Employee Assistance Services (EAS) as the New City Provider of EAP Services

MOTION Motion to approve Ordinance Number 3174 was made by Mr. Pierce and seconded by Mr. Weaver.

Mr. Downes stated that this changes the Employee Assistance Program for the City. He is a firm believer in this program to serve our employees. This helps them emotionally and professionally. The present company was purchased by a company from out-of-state and the service was not local and became more of a tele-doc service. When he went to look for another service, he found this company that has many of the same providers that were part of the previous network. He recommends this change in plans.

The Mayor opened the floor for a public hearing. There being no one further to address the Council, the Mayor closed the public hearing and called for the question. Roll call vote was as follows:

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

ORDINANCE NUMBER 3175

Public Hearing - Ordinance Number 3175 - An Ordinance Accepting a Bid for Improvements at Altadena Valley Park and authorizing the Mayor and City Manager to Execute and Deliver Agreements

MOTION Motion to approve Ordinance Number 3175 was made by Mr. Pierce and seconded by Mrs. Cook.

Mr. Downes stated that a strategic desire of this Council was to improve the City's passive park in Altadena Valley. He showed a two-dimensional view of the parking and a combination restroom-pavilion for the park. This new facility will be constructed by Shelby County if the City will provide parking and sanitary sewer to the facility. This accepts the bid at a total of \$718,000. Tony Renta, landscape architect for the project, was present to answer questions.

The Mayor opened the floor for a public hearing. There being no one further to address the Council, the Mayor closed the public hearing and called for the question. Roll call vote was as follows:

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

NEW BUSINESS

RESOLUTION NUMBER 5454

Resolution Number 5454 – A Resolution appointing a member to the Vestavia Hills Board of Education

MOTION Motion to approve Resolution Number 5454 was made by Mrs. Cook and seconded by Mr. Weaver. Roll call vote was as follows:

MOTION Motion to amend Resolution Number 5454 to insert the name Kyle Wittington as the new appointment of the Board of Education was made by Mrs. Cook and seconded by Mr. Pierce.

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

Mrs. Cook made the following statement (verbatim):

“I would like to start my comments by commending outgoing Board President Jennifer Weaver. Jennifer was our second appointment to the school board, and she was an important part of the team that helped lead our system during the difficult years of Covid-19. From 2020 to 2022, our board struggled along with the rest of the world to balance the importance of educating our children with the mitigation of public health risks. I am sure that when Jennifer accepted her responsibility to sit on the school board, she never imagined she would be part of a team setting policies for how to educate children in the midst of a global pandemic. Listening to parents, public health officials, teachers, and students became a steady full-time job. Responding to questions and criticism from anxious parents required tact and diplomacy, and an even greater measure of patience. Yet, during all of this, Jennifer gave out her personal cell number and took the calls of

parents who had questions and concerns. I am grateful to all the board members who served during this time.

Of course, we didn't pick Jennifer because we saw this coming, just as we do not pick any board member knowing what the future holds. When this Council interviews applicants, we consider the balance of expertise and experience of our current board and ask ourselves which applicant would best help round out the team. We seek a balance of individuals who live and work in various spheres of influence, who have various skill sets, and who will work to protect the values of our community, chief of which is to give our children the best education possible in a safe and supportive learning environment. We want leaders who know how to work collaboratively with a team and who are trusted by the community. We learned during the pandemic just how important that was.

One might think that this decision is an easy one, because, after all, how many people are even willing to serve in such a demanding unpaid position? We are blessed because, in our community, we always have a great pool of applicants. This year is no exception.

Our process requires many hours of getting to know applicants and listening to the community. I lead this process, but every single member of our council pulls together to make this happen because we know that this is one of the most important things we do each year.

I am sure people wonder how you make a choice among such a highly qualified pool of candidates? This year is unique, because we are all aware that our community will make an important decision on May 9: we will decide whether to invest in our children's future by making 1Rebel 1Future a reality. If this tax initiative passes, and I certainly hope it does, it will be important to have a board member who can evaluate financial statements and understand decisions about the timing of exciting projects. If this doesn't pass, there will be tough decisions ahead. Our system will have to figure out what cuts to make in current services just to get the basic tasks done of maintaining aging facilities, including two additional campuses. Decisions will have to be made about what needs are the most critical – where we will cut budgets so we can meet the most basic needs like replacing roofs and worn-out HVAC equipment. With all of this coming, we heard loud and clear from our current board that having someone on the board with financial planning expertise would really help in this oversight.

This is why I picked Kyle Whittington – and it wasn't just me, it was the whole council. Not only has he demonstrated commitment to our community and schools, but he has the financial background that will prove helpful over the next five years. Kyle is a trusted member of our community and I am confident he will make his service on the board a high priority.

I want to thank our seven applicants for taking the time to fill out an application, come in for a 45-minute interview, and subject yourself to public scrutiny. I know this is hard because I did it four times myself and was not selected any one of those four times. I see some of our candidates sitting out there, and I want to say thank you. I also want you to know that, every year, we pass along suggestions to the school board for which candidates would make great additions to stakeholder groups that can add to our strategic planning. We often talk about the Rebel Edge in terms of service to others, but the Rebel Edge is also the level of engagement we get from our parents.

In Vestavia Hills, we don't just love our city, but we love our schools too. I am grateful for the privilege of helping to appoint the board members who serve our families. With all that said, I will give the floor to any council members who wish to make further comments."

Mr. Pierce echoed Mrs. Cook's statements. He stated that this City is blessed with so many fine applicants. He encouraged the applicants to continue to serve the schools and apply again. He stated that this is a very tough decision.

The Mayor emphasized the invitation to applicants to please re-apply next year.

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

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

RESOLUTION NUMBER 5455

Resolution Number 5454 – A Resolution appointing Polling Officials for the Special Municipal Election of May 9, 2023

MOTION Motion to approve Resolution Number 5455 was made by Mr. Pierce and seconded by Mr. Weaver.

Mrs. Leavings explained that this resolution appoints the polling officials for the upcoming election.

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

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

RESOLUTION NUMBER 5456

**Resolution Number 5454 – A Resolution Declaring Certain Personal Property As Surplus
And Authorizing The City Manager To Sell/Dispose Of Said Property**

MOTION Motion to approve Resolution Number 5456 was made by Mr. Weaver and seconded by Mr. Head.

Mr. Downes stated that this is to surplus a confiscated vehicle. Proceeds will be used for capital law enforcement expenses.

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

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

RESOLUTION NUMBER 5457

**Resolution Number 5457 – A Resolution authorizing the City Manager to issue a refund on
privilege license and or sales taxes which were remitted in error**

MOTION Motion to approve Resolution Number 5457 was made by Mr. Weaver and seconded by Mrs. Cook.

Mr. Downes stated this was because of duplicate payments made by a local vendor.

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

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

NEW BUSINESS (UNANIMOUS CONSENT REQUESTED)

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

- Public Hearing – Resolution Number 5458 – A Resolution authorizing the City Manager to expend additional (non-budgeted) funds to complete the targeted annual mileage for street resurfacing efforts within the municipal limits

CITIZEN COMMENTS

None.

There being no further business, Mr. Pierce made a motion to adjourn. The Mayor adjourned the meeting at 7:00 PM.

Ashley C. Curry
Mayor

ATTESTED BY:

Rebecca Leavings
City Clerk



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

May 8, 2023

To: Mayor and City Council

Cc: Lori Beth Kearley, Asst. City Engineer
Melvin Turner, III, Finance Director
Zach Clifton, Asst. Finance Director

From: Jeff Downes, City Manager

RE: Public Hearing - Resolution Number 5458 - A Resolution authorizing the City Manager to expend additional (non-budgeted) funds to complete the targeted annual mileage for street resurfacing efforts within the municipal limits

Background:

The City of Vestavia Hills has a strategic goal to resurface approximately 7.5 miles of City maintained roads on an annual basis. This goal was reinforced by the City Council during its annual strategic planning work session. At the mid-point of the fiscal year, a total of 3.65 road miles have been resurfaced. In addition to a multi-jurisdictional resurfacing effort at Columbiana Rd and Highway 31, a second phase of resurfacing is planned utilizing the "First Step Pavement Management System" assessments that will allow the attainment of our 7.5 mile goal this fiscal year.

Recommendation:

It is recommended that the City Manager be given the authority to expend \$780,000 in non-budgeted available funds within Fund 20 (Capital Fund) as a

supplemental appropriation to complete the aforementioned second phase of paving.

Fiscal Impact:

The supplemental appropriation is required as the unit costs of road resurfacing has increased significantly since the adoption of the FY 2023 budget and the award of the most recent paving contract.

Attachments:

1. Resolution 5458
2. Phase 2 - 2023 - Schedule

RESOLUTION NUMBER 5458

A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXPEND ADDITIONAL FUNDS TO REACH THE STRATEGIC GOAL TO RESURFACE APPROXIMATELY 7.5 MILES OF STREETS EACH FISCAL YEAR

WHEREAS, the Mayor and City Council of the City of Vestavia Hills have a strategic goal to resurface approximately 7.5 miles of City maintained streets on an annual basis; and

WHEREAS, this goal was reinforced in the Council's annual strategic planning sessions for FY2013; and

WHEREAS, at the mid-point of FY2023, a total of 3.65 road miles have been resurfaced; and

WHEREAS, in addition to a multi-jurisdictional resurfacing effort at Columbiana Road and Highway 31, a second phase of resurfacing is planned utilizing the "First Step Pavement Management System" assessments that will allow the attainment of the City's 7.5-mile goal for FY2023; and

WHEREAS, the City Manager has reviewed the information and has recommended expending an additional \$780,000 in non-budgeted available funds within the Capital Fund as a supplemental appropriation to complete the aforementioned second phase of paving; and

WHEREAS, the Mayor and City Council feel it is in the best public interest to provide additional funding for resurfacing of City roadways in order to meet the strategic goal.

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

1. The City Manager is hereby authorized to expend an amount up to \$780,000 in order to attempt to reach the City Council's strategic goal of 7.5-miles of resurfaced streets; and
2. This funding shall be expensed to the City's Capital Fund; and
3. This Resolution Number 5458 shall become effective immediately upon adoption and approval.

ADOPTED and APPROVED this the 8th day of May, 2023.

Ashley C. Curry
Mayor

ATTESTED BY:

Rebecca Leavings
City Clerk

Round 2		
Alpine Circle, Big Springs & Watkins Glenn Dr.	0.75	\$ 201,616.10
Starcross Drive & Hunters Cove	0.72	\$ 186,362.85
Milbrook Lane	0.22	\$ 37,956.80
Anglewood Circle, Birchwood Circle, Timberline Circle	0.38	\$ 113,409.60
Birchwood Way, Brookwater Cir		
Rocky Brook Dr., Rocky Brook Cir, Twin Bridge Dr	0.43	\$ 111,282.10
Fargo Circle, Plantation Point Lane	0.15	\$ 44,612.85
Vestavia Circle	0.2	\$ 50,883.20
Striping		\$ 33,500.00
TOTAL	2.85	\$ 779,623.50



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

May 8, 2023

To: Jeff Downes, City Manager

Cc: Mark Gibbs, Chief of Building Maintenance
Rebecca Leavings

From: Lori Beth Kearley, Asst. City Engineer

RE: Resolution declaring certain personal property as surplus and
authorizing the City Manager to sell/dispose of said property

Background:

I am requesting that the City Council declare the following vehicles as surplus and to authorize the City Manager to sell/dispose of said vehicles.

VIN	Department	Vehicle	Mileage	
1FTEW1EB8JFB60064			2018	F-
150	103,706	Public Works		
1FM5K8B81HGA36778			2017	Ford
Explorer	34,943	Public Works		
1FM5K8B80GGB73600			2016	Ford
Explorer	84,230	Building Safety		
1FM5K8B89JGA72739			2018	Ford
Explorer	122,000	Building Safety		

Recommendation:

This request is consistent with the FY2023 City budget and Enterprise fleet management recommendations.

Fiscal Impact:

The revenue from the sale of these vehicles is represented in the FY2023 City budget in the Capital fund and is intended to offset capital expenditures to retain vehicles that are within warranty timeframes and guidelines.

Attachments:

1. Resolution 5459

RESOLUTION NUMBER 5459

**A RESOLUTION DETERMINING THAT CERTAIN
PERSONAL PROPERTY IS NOT NEEDED FOR
PUBLIC OR MUNICIPAL PURPOSES AND
DIRECTING THE SALE/DISPOSAL OF SAID
SURPLUS PROPERTY**

WITNESSETH THESE RECITALS

WHEREAS, the City of Vestavia Hills, Alabama, is the owner of personal property detailed in the attached “Exhibit A”; and

WHEREAS, the City has determined that it would be in the best public interest to sell or dispose of said property.

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

1. The City Manager is hereby authorized to sell or dispose of the above-referenced surplus personal property; and
2. This Resolution Number 5459 shall become effective immediately upon adoption and approval.

DONE, ORDERED, APPROVED and ADOPTED on this the 8th day of May, 2023.

Ashley C. Curry
Mayor

ATTESTED BY:

Rebecca Leavings
City Clerk

VIN	Vehicle	Mileage	Department
1FTEW1EB8JFB60064	2018 F-150	103,706	Public Works
1FM5K8B81HGA36778	2017 Ford Explorer	34,943	Public Works
1FM5K8B80GGB73600	2016 Ford Explorer	84,230	Building Safety
1FM5K8B89JGA72739	2018 Ford Explorer	122,000	Building Safety



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

May 8, 2023

To: Jeff Downes, City Manager

Cc:

From: Rebecca Leavings

RE: Public Hearing - Ordinance Number 3098-A - An Ordinance to Amend Ordinance Number 3098 - Rezoning from Vestavia Hills R-1 to Vestavia Hills B-3 with a conditional use for veterinary services, grooming and boarding of dogs; Amending Ordinance to remove requirement for re-platting of property; Jeff Hardwick, Culbreth Holding, LLC, Owner

Background:

Ordinance Number 3098 to rezone 4538 Pine Tree Circle to B-3 with a conditional use for veterinary services, grooming and boarding of dogs was adopted in May, 2022 with three requirements. One was to re-plat the lots into a single lot. Because of a difference in financiers of each parcel of property, re-platting it to a single lot was found to be impossible so the rezoning and conditional use were never completed.

Recommendation:

This request is for the same zoning and conditional use approval done last year with the exception of the requirement for the re-platting of the property. The Planning and Zoning Commission heard the request in April 2023 and voted unanimously to recommend approval of the request.

Fiscal Impact:

n/a

Attachments:

1. Ordinance 3098A

ORDINANCE NUMBER 3098-A

AN ORDINANCE AMENDING ORDINANCE 3098 - TO FURTHER AMEND THE ZONING ORDINANCE AND THE ZONING MAP OF THE CITY OF VESTAVIA HILLS, ALABAMA, ADOPTED SEPTEMBER 16, 1985, AND AS LAST AMENDED SO AS TO CHANGE THE CLASS OF DISTRICT ZONING OF PROPERTY FROM VESTAVIA HILLS R-1 TO VESTAVIA HILLS B-3 WITH A CONDITIONAL USE FOR VETERINARY SERVICES, GROOMING AND BOARDING OF DOGS

BE IT ORDAINED by the City Council of the City of Vestavia Hills, Alabama, as follows: That the Zoning Ordinance and Zoning Map of the City of Vestavia Hills, Alabama, adopted September 16, 1985, and as last amended so as to change the class of district zoning of the following described property from Vestavia Hills R-1 (low density residential) to Vestavia Hills B-3 (conditional business district):

4538 Pine Tree Circle
Lot 43, Topfield Subdivision
Jeff Hardwick, Culbreth Holding, LLC, Owner

BE IT FURTHER ORDAINED, that a conditional use for veterinary care, grooming and/or boarding of dogs is approved for 4538 Pine Tree Circle, Lot 43, Topfield Subdivision under the following conditions:

1. Building to be construed with STC sound rating for exterior walls; and
2. If the property use as a veterinary clinic, grooming and/or boarding of dogs ceases or is vacated at any time for a period of more than 12 months, said conditional use is hereby voided.

APPROVED and ADOPTED this the 22nd day of May, 2023.

Ashley C. Curry
Mayor

ATTESTED BY:

Rebecca Leavings
City Clerk

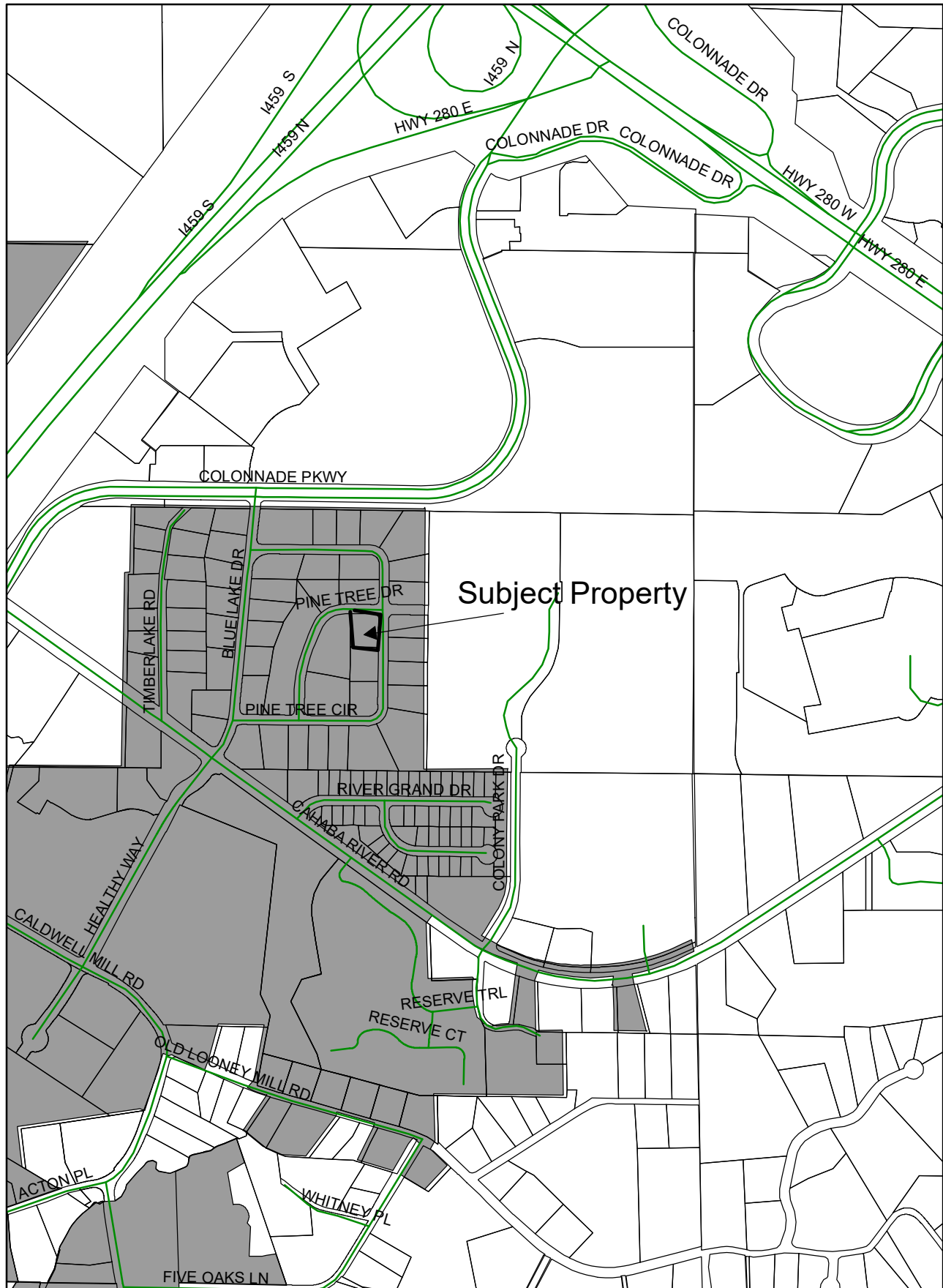
CERTIFICATION:

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 # 3098 is a true and correct copy of such 22nd day of May, 2023, as same appears in the official records of said City.

Posted at Vestavia Hills City Hall, Vestavia Hills Library in the Forest, New Merkle House and Vestavia Hills Recreational Center this the _____ day of May, 2023.

Rebecca Leavings
City Clerk

4538 Pine Tree Circle; Lot 43, Topfield Subd.





City of Vestavia Hills

Planning and Zoning Commission Review and Recommendation



Case Number: RZ-23-6

Owner Name: Jeff Hardwick

Owner Address: 3118 Pine Tree Drive, Birmingham, AL
35243

Representative: Wade Lowery

Rep. Address: 120 Bishop Circle, Pelham, AL 35124

Project Address: 4538 Pine Tree Circle

Legal Description: Lot 43 Topfield Subdivision

Parcel ID Number: 2800274003005.000

Current Zoning: R-1

Requested Zoning: B-3 W/CU For Dog Boarding/Grooming/veterinary care

Intended Purpose: Amendment to previous zoning approval-Not combining lots as previously approved, Amending Site Plan

MOTION Mr. Weaver made a motion to recommend removing Condition 1 from Ordinance 3098. Second was by Mr. Sykes. Motion was carried on a roll call; vote as follows:

Mr. Farrell – yes

Mr. Sykes – yes

P&Z

Recommendation: Mr. Romeo – yes

Mr. Weaver– yes

Mr. Honeycutt – yes

Mr. Vercher– yes

Motion carried.

Date of P&Z Meeting: April 13, 2023

Authorized by:

Vestavia Hills Planning and Zoning Commission,
Michael Vercher, Chair

Issued by:

Conrad Garrison, City Planner

Rezoning Application	Applicant	Primary Location
RZ-23-6	 Wade Lowery	4538 PINE TREE CIR
Submitted On: Feb 28, 2023	 2054039158	VESTAVIA HILLS, AL 35243
	 wade@edgalabama.com	

Property Information	
Subject Property Address	Tax Parcel ID Number
4538 Pine Tree Circle	2800274003005.000
Legal Description	
Lot 43 Topfield Subdivision	
Existing Parking Spaces	Proposed Parking Spaces
0	13
Submission Date	Type of Project
02/28/2023	New Non-Residential Development/use

Action Requested:	
From Existing Zoning Classification	To Requested Zoning Classification
B-3	B-3
For the Intended Purpose of:	
Amendment to previous zoning approval-Not combining lots as previously approved	
Acreage of Subject Property	Acreage of Property to be Disturbed
1.8	0.5

Setbacks	
Front	Back
30	30
Side	Open Space
15	53
Lot Coverage Percentage	Tree Save Plan - I acknowledge that a if this is a new non-residential development or is a residential development in excess of 3 units, that I am required to submit a tree save plan concurrent with this application (excludes PUDs).
47	true

Owner Information	
Applications must be either submitted by the owner of the property or a representative duly appointed by the owner by way of a notarized letter and/or power of attorney.	Property Owner Name
	Jeff Hardwick

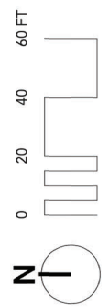
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Company Name Culbreth Holding, LLC Owner Address City State Zip 3118 Pine Tree Drive, Birmingham, AL 35243 Owner's Phone Number 2055858548 By checking this box, I hereby affirm that I am the representative of the owner duly authorized to represent this petition for rezoning. Simultaneously with this application, I am submitting notarized documentation from the owner which authorizes me to represent this case. If no authorization is provided, this application cannot be processed. true Mailing Address of Responsible Party 120 Bishop Circle, Pelham, AL 35124 Phone No. of Responsible Party 2056411131 Email Address of Owner jeffhardwick@pawms.com Owner Representative/Responsible Party Wade Lowery Company Name Engineering Design Group Contact Email of Responsible Party wade@edgalabama.com Email Address of Responsible Party wade@edgalabama.com
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Project Engineer Information (if applicable)

Name Wade Lowery Mailing Address 120 Bishop Circle, Pelham, AL 35124 Phone Number 205-403-9158	Company Engineering Design Group Email wade@edgalabama.com
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Zoning



Future Land Use

- | | | |
|----------------------------|-------------------|----------------------|
| Low-Density Residential | Retail/Mixed Use | Institutional |
| Medium-Density Residential | Limited Mixed Use | Parks and Open Space |
| High-Density Residential | Planned Mixed Use | |
| Birmingham | Jefferson County | Mountain Brook |

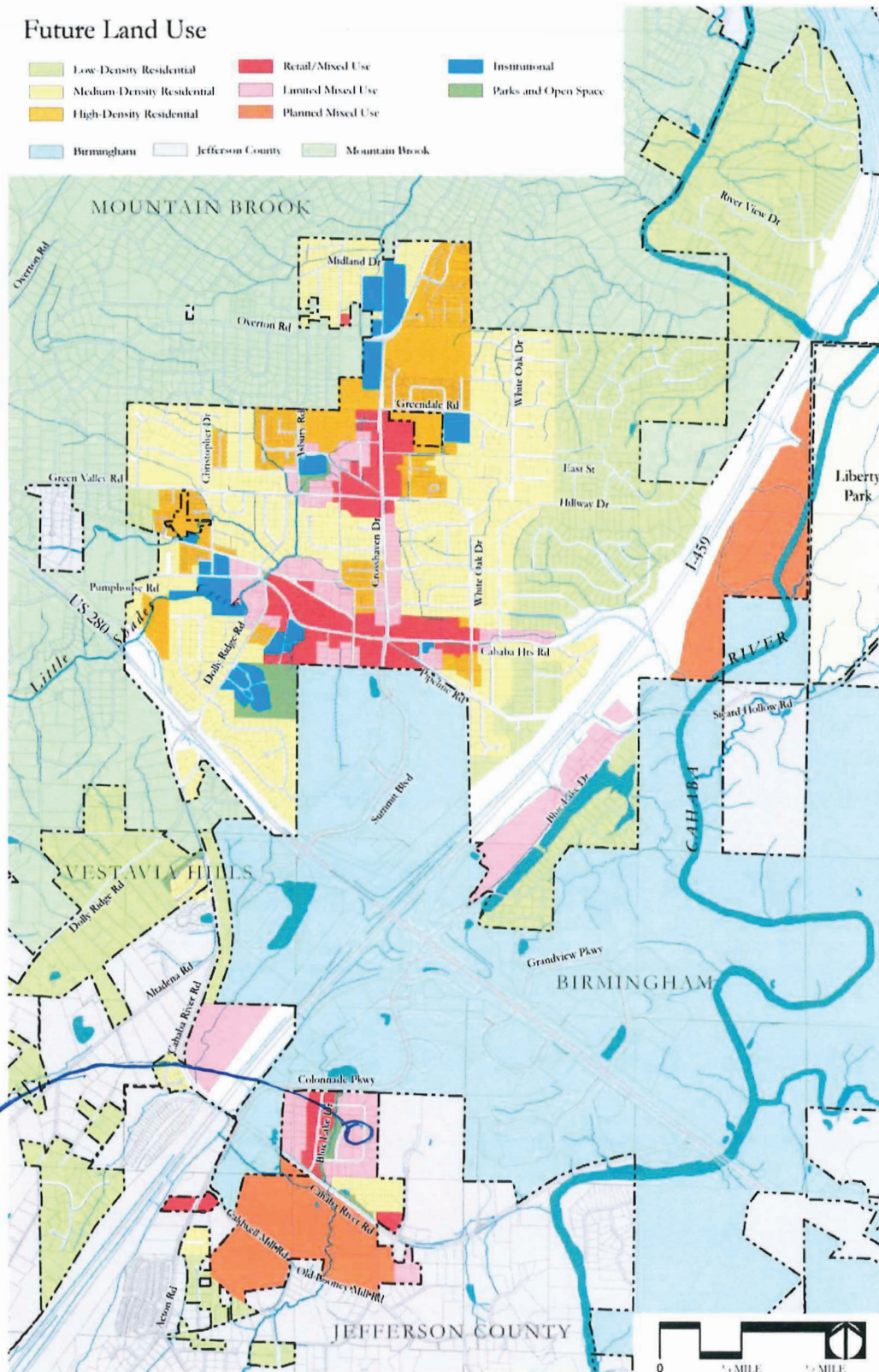


Figure 4: Future Land Use Map



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

May 8, 2023

To: Mayor and City Council

Cc:

From: Jeff Downes, City Manager

RE: Public Hearing - Ordinance Number 3178 - An Ordinance Amending Ordinance Number 2776 Extending the Existing Video Services Agreement with Direct TV (formerly Bellsouth d/b/a AT&T)

Background:

At the request of Direct TV representatives, the City has evaluated an extension to the existing video services agreement with Direct TV for four years (December 31, 2023 - December 31, 2027). There are no changes to the existing agreement outside of the extension of the aforementioned dates.

Recommendation:

Upon review of the City Attorney, it is recommended that the video services agreement be extended for the benefit of our residents.

Fiscal Impact:

There is no financial impact associated with this extension.

Attachments:

1. Ordinance 3178
2. Vestavia Hills AL Video Agreement Addendum to extend

3. PH Boone Legal Opinion to City Manager April 19 2023

ORDINANCE NUMBER 3178

AN ORDINANCE AMENDING ORDINANCE NUMBER 2776 TO AUTHORIZE THE MAYOR AND CITY MANAGER TO EXECUTE AND DELIVER A SECOND ADDENDUM TO VIDEO SERVICES AGREEMENT WITH DIRECTV, LLC (FORMERLY BELL SOUTH TELECOMMUNICATIONS, LLC D/B/A AT&T ALABAMA)

RECITALS

WHEREAS, City of Vestavia Hills and BellSouth Telecommunications, LLC d/b/a AT&T Alabama (“AT&T Alabama”) entered into an agreement styled Agreement (“Agreement”) on December 23, 2013 regarding the provision by AT&T Alabama of its integrated Internet Protocol (“IP”) enabled broadband platform of voice, data and video services (“IP Network”), the video component of which is a switched, two-way, point-to-point and interactive service (“IP Video Service”) to expire December 31, 2018; and

WHEREAS, The City of Vestavia Hills and BellSouth Telecommunications, LLC d/b/a AT&T Alabama, (“AT&T Alabama”) entered into an addendum to said video services on July 23, 2018 to extend the expiration date to December 31, 2023; and

WHEREAS, on or about July 31, 2021, AT&T Alabama completed the transfer of its interest in the amended Video Services Agreement (“Agreement”) with the City regarding the provision of the U-verse IPTV video service to its affiliate, DIRECTV, LLC (“DIRECTV”); and

WHEREAS, the City and DIRECTV now desire to extend the term of the Agreement through December 31, 2027, and agree that there is sufficient mutual consideration for renewing and extending the term of the Agreement; and

WHEREAS, DIRECTV has submitted a Second Addendum to Video Services Agreement (“Second Agreement”) to the City Manager to request the term of the Agreement to December 31, 2027 along with one other modification changing the assignment to DIRECTV. A copy of the Second Agreement is marked as Exhibit A, attached to and incorporated into this Ordinance Number 3178 as if written fully therein; and

WHEREAS, the City Manager has reviewed said Second Agreement and recommended approval; and

WHEREAS, the Mayor and City Council feel it is in the best public interest to accept the City Manager’s recommendation to accept the Second Agreement with the extension of expiration to December 31, 2027 and one other modification.

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

1. The Mayor and City Manager are authorized to execute and deliver the Second Addendum to Video Services Agreement with DIRECTV, LLC as detailed in the attached Exhibit A; and
2. This Ordinance shall become effective immediately upon approval and posting/publication as required by Alabama law.

ADOPTED and APPROVED this the 22nd day of May, 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 # 3178 is a true and correct copy of such Ordinance that was duly adopted by the City Council of the City of Vestavia Hills on the 22nd day of May, 2023, 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

SECOND ADDENDUM TO VIDEO SERVICES AGREEMENT

THIS SECOND ADDENDUM TO VIDEO SERVICES AGREEMENT ("Second Addendum") is made on this _____ day of _____, 2023, by and between DIRECTV, LLC ("DIRECTV") and the City of Vestavia Hills, Alabama ("City").

RECITALS

WHEREAS on or about July 31, 2021, BellSouth Telecommunications, LLC d/b/a AT&T Alabama ("AT&T Alabama") completed the transfer of its interest in the Video Services Agreement ("Agreement") with the City regarding the provision of the U-verse IPTV video service to its affiliate, DIRECTV; and

WHEREAS the initial Agreement with the City was entered on December 23, 2013 for a term expiring December 31, 2018, but allows for extending the Agreement upon written mutual request of the parties; and

WHEREAS the parties to the initial Agreement entered into an addendum on July 23, 2018 to extend the expiration date to December 31, 2023;

WHEREAS the City and DIRECTV now desire to extend the term of the Agreement through December 31, 2027, and agree that there is sufficient mutual consideration for renewing and extending the term of the Agreement; and

WHEREAS DIRECTV and the City of Vestavia Hills desire to make one other modification to the terms of the Agreement, which is fully set forth herein below and agree that there is sufficient mutual consideration for renewing and extending the term of the Agreement through December 31, 2027.

AGREEMENTS

NOW, THEREFORE, in consideration of the mutual covenants contained herein and in the original Agreement, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, DIRECTV and the City of Vestavia Hills agree as follows:

1. Paragraph 1 of the Agreement is hereby amended and acknowledged to read as follows

Term. The term of this Agreement shall be from the Effective Date of this Agreement through December 31, 2027. The term may be extended upon mutual agreement of the parties in writing.
2. The "Notices" paragraph of the Agreement is amended by changing the address for AT&T Alabama to the following:

DIRECTV
Legal/External Affairs
2260 E. Imperial Hwy.
El Segundo, CA 90245

e-mail: scott.alexander@directv.com
3. Unless amended by the terms of this Addendum, all other terms and conditions of the Agreement, shall remain unchanged and in full force and effect throughout the extended term. In the event the terms and conditions of the Agreement conflict with the terms of this Addendum, this Addendum shall be deemed to supersede and override the terms of the Agreement.
4. This Addendum incorporates and includes all prior and contemporaneous negotiations, correspondence, conversations, agreements and understandings between the parties concerning the subject matter hereof. No deviation from the terms hereof shall be predicated upon any prior or contemporaneous representations, agreements or understanding, whether oral or written.

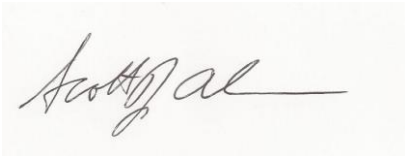
IN WITNESS WHEREOF, DIRECTV and the City of Vestavia Hills have caused this Addendum to be duly executed on their behalf by their duly authorized representative, as of the date first above written.

(Signature page immediately follows)

DIRECTV, LLC (DIRECTV)

Printed Name: Scott J. Alexander

Title: Senior Director, External Affairs



Signature: _____

Date: **April 27, 2023**

City of Vestavia Hills Alabama

Printed Name: _____

Title: CITY MANAGER

Signature: _____

Date: _____

Printed Name: _____

Title: MAYOR

Signature: _____

Date: _____

ATTEST

Name: _____

Title: _____

Date: _____

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

April 19, 2023

By Electronic Mail

City Manager Jeffrey D. Downes
Vestavia Hills Municipal Center
1032 Montgomery Highway
Vestavia Hills, Alabama 35216

In Re: BellSouth Telecommunications, LLC d/b/a AT&T Alabama
Now DIRECTV, LLC

Dear Mr. Downes:

On April 13, 2023, you provided to me via electronic mail a proposed Addendum to Video Services Agreement by and between BellSouth Telecommunications, LLC d/b/a AT&T Alabama ("AT&T Alabama") now DIRECTV, LLC and the City of Vestavia Hills ("City") with a request that I review the same and provide you with my legal opinion. The purpose of this letter is to comply with your request.

I. BACKGROUND

AT&T Alabama has operated a business within the City of Vestavia Hills by providing broadband platform of voice, data and video services for the period beginning May 21, 2008 until July 31, 2021. Since then, DIRECTV, LLC has operated the business.

The City and AT&T Alabama have had the following agreements:

<u>Ordinance or Resolution No.</u>	<u>From</u>	<u>To</u>
Resolution No. 3847	May 21, 2008	December 31, 2013

The original Agreement dated May 21 2008 provides,

"14. Assignment. AT&T Alabama may not assign or transfer this Agreement or any interest therein without the prior consent of City except to any affiliate of AT&T Alabama."

Ordinance No. 2476	December 23, 2013	December 31, 2018
Ordinance No. 2776	December 31, 2018	December 31, 2023

April 19, 2023

Page 2

The City was advised on April 10, 2023 that AT&T Alabama transferred its interest to its affiliate, DIRECTV, LLC. DIRECTV, LLC has operated the business since July 31, 2021 and now wishes to extend the contract for a term of five (5) years beginning December 31, 2023 and ending December 31, 2028.

DIRECTV, LLC has submitted to you a proposed Addendum to Video Services Agreement, which would allow DIRECTV, LLC to continue doing business in the City for an additional five (5) years beginning December 31, 2023 and ending December 31, 2028.

II. LEGAL OPINION

I have reviewed the proposed Addendum pursuant to your request. It is my legal opinion that the Addendum is consistent with the present Agreement and complies with state and federal laws.

Please call me if you have any questions regarding any of the matters set forth in this legal opinion.

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 Clerk Rebecca Leavings (by e-mail)



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

May 8, 2023

To: Jeff Downes, City Manager

Cc:

From: Rebecca Leavings

RE: Public Hearing - Ordinance Number 3179 - An Ordinance
Establishing a Public Record Policy for the City of Vestavia Hills,
Alabama

Background:

Alabama's Public Records laws do not clearly define a public record. It is an important task to maintain and make available public records in order to safeguard the rights to allow citizens to request and view. This proposed Ordinance establishes the type of documents which meet the threshold of public records. It was drafted following study of different city policies, the Secretary of State's office and review/revisions by the City Attorney. This Ordinance establishes a policy for requesting public records of the City, identifies and defines public records, clearly defines exemptions from public records policies and allows for expedient turnaround of records.

Recommendation:

This ordinance has been reviewed, revised and recommended for approval by City Department Heads, the City Manager and the City Attorney.

Fiscal Impact:

NA

Attachments:

1. Ordinance 3179
2. PH Boone Legal Opinion to City Clerk January 13, 2023

ORDINANCE NUMBER 3179

AN ORDINANCE ESTABLISHING A PUBLIC RECORD POLICY FOR THE CITY OF VESTAVIA HILLS, ALABAMA

WHEREAS, the Alabama Open Records Act (“ORA”) at §36-12-40, *Code of Alabama, 1975*, states that every citizen has a right to inspect and take a copy of any public writing, except for (1) registration and circulation records and information concerning the use of public libraries (except for a parent inspecting the records of his or her child); (2) records concerning security plans, procedures, assessments, measures or systems, and any other records relating to or having an impact upon the security or safety of persons, structures, facilities or other infrastructures including critical infrastructure and critical energy infrastructure, whose disclosure could reasonably be detrimental to public safety and welfare and the best interests of the public; and (3) as otherwise expressly provided by statute; and

WHEREAS, §36-12-41, *Code of Alabama, 1975*, states that every public officer having the custody of a public writing which a citizen has a right to inspect is bound to give said citizen, on demand, a certified copy of it, on payment of the legal fees therefor; and

WHEREAS, ORA does not define the terms “public writing” or “public records”; and

WHEREAS, the Alabama Legislature in §41-13-1, *Code of Alabama, 1975*, defines a public record to include all written, typed or printed books, papers, letters, documents and maps made or received in pursuance of law by the public officers of the state, counties, municipalities and other subdivisions of government in the transactions of public business and any record authorized to be made by any state law belonging or pertaining to any court of record or any other public record authorized by law or any paper, pleading, exhibit or other writing filed with, in or by any such court, office or officer; and

WHEREAS, The Supreme Court of Alabama decided the case of *Stone v. Consolidated Publishing Company*, 404 So.2d 678, in 1981 and defined the term “public writing” when it wrote,

“We have carefully considered the issue raised by appellants on this appeal, particularly with reference to our statutes. Construing these statutes *in pari materia*, we hold that the ‘public writing’ spoken of in Code 1975, §36-12-40, is such a record as is *reasonably necessary* to record the business and activities required to be done or carried on by a public officer so that the status and

condition of such business and activities can be known by our citizens.”; and

WHEREAS, the Alabama Supreme Court decided the case of *Allen v. Barksdale*, 32 So.3d 1264, in 2009 and wrote, “We doubt the Legislature intended to make a distinction between a ‘public writing’ and a ‘public record’”; and

WHEREAS, the Supreme Court of Alabama decided the case of *Stone v. Consolidated Publishing Company*, 404 So.2d 678, in 1981 and held that recorded information received by a public officer in confidence, sensitive personnel records, pending criminal investigations and records the disclosure of which would be detrimental to the best interests of the public are some of the areas which may not be subject to public disclosure; and

WHEREAS, not all documents received by a public official are “public writings” subject to inspection and copying by citizens under ORA. The Supreme Court of Alabama also wrote in the case of *Stone v. Consolidated Publishing Co., supra*, that,

“This is not to say, however, that any time a public official keeps a record, though not required by law, it falls within the purview of §36-12-40.”; and

WHEREAS, the Alabama Supreme Court in the case of *Blankenship, et al v. City of Hoover, et al*, 590 So.2d 245 (Ala.1991), held that a custodian of public records may require the person seeking access to show that he or she has a direct, legitimate interest in the document or information sought, for there is no right of inspection when it is sought to satisfy a whim or to create scandal or for any other improper or useless purpose, and no right to demand to see public records without showing why he or she is interested; and

WHEREAS, a municipality may set reasonable restrictions on the time and place of inspection and may charge a reasonable fee for providing requested public documents, including City staff research, preparation and time in fulfilling the request; and

WHEREAS, the Mayor and City Council feel it is in the best public interest to establish a policy and procedure for the City of Vestavia Hills, Alabama for a citizen to request to inspect and/or copy public records and for the City to respond to that request.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF VESTAVIA HILLS, ALABAMA, THAT THE FOLLOWING IS ADOPTED AS THE “CITY OF VESTAVIA HILLS' PUBLIC RECORD POLICY”:

Section 1. Statement of Policy.

The City of Vestavia Hills recognizes and supports the public's right to inspect and make copies of public records in accordance with Alabama law. Public records are available for public inspection and copying on a reasonable basis, subject to the policy and procedure set forth in this Ordinance. All responses to requests concerning public records will be made in such a way that will not interfere with the normal operation of the City or the job duties of the employee.

Section 2. Confidential Records.

Municipal records fall into different categories, most of which are available to the public. Some records or portions of records are determined to be confidential and not subject to public disclosure, including, but not limited to, the following:

1. Any specific exception found in the above cited sections of *Code of Alabama, 1975*, as amended; and
2. All confidential written materials submitted to or from any officer or employee and an attorney for the City; and
3. Plans, evaluations or studies relating to safety and security of municipal employees and facilities; and
4. Certain personnel records relating to city employees, including W-2 forms (employees have the right to be notified of requests to access information contained in their personnel file); and
5. Medical records and other personal health information pertaining to employees, unless authorized by the employee; and
6. Test materials given to applicants for employment or promotion with the city, including the results of any such test; and
7. Certain personal identifying information, such as home address, telephone number, closest living relative information, social security number, taxpayer identification number, etc.; and
8. Information regarding gross receipts or tax payments of licensed businesses; and
9. Internal audit work papers and internal audit reports, including system security information; and
10. All court documents pertaining to the execution of warrants; and
11. Electronic data including phone call data, cellular call data, text, email, and or any other messenger or messenger device sent or received by City employees, elected officials, etc., which technologically cannot be produced; and
12. Any information concerning pending court cases; and

13. Any information submitted to or received from the NCIC/ACJIC facilities; and
14. Emergency medical reports prepared by the fire department, unless authorized by the victims or pursuant to court process; and
15. Records pertaining to ongoing fire investigations; and
16. Fire inspection reports may be given to owner or occupant of the premises, if authorized by the property owner; and
17. Records pertaining to confidential investigations of the police department, including but not limited to criminal investigations and internal affairs investigations; and
18. Confidential informant files; and
19. Crime scene information including photographs, videos, physical evidence and such other similar materials; and
20. Any digital data produced by the Vestavia Hills Police department, including, but not limited to any video or audio recording produced from a police department vehicle, body-worn camera, audio recorder or building-based recording depicting the police department, jail or City Hall or grounds.*

If there is uncertainty as to the confidential status of a record, the matter shall be referred to the city legal counsel for guidance and advice.

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*Footnote Citation:

Alabama Supreme Court Case entitled *Something Extra Publishing v Huey Hoss Mack, Anthony Lowery and Michael Gaull, Special Term, 2021* and §36-12-40, 12-15-134, , 32-10-11, 32-10-8, 32-10-7, 41-13-6, 41-13-1, *Code of Alabama, 1975*.

Section 3. Submission of Requests.

All persons requesting to view or obtain copies of public records shall be referred to the Office of the City Clerk, subject to the exceptions listed below. The City Clerk's office will provide an application form and/or receive completed written requests.

Exceptions:

1. The plotter of the City's GIS department may provide copies of maps and other large format documents, with set fees according to the size and type of paper, number of copies, etc.; and
2. The municipal court office may provide information regarding court records to individuals and other courts; and
3. The police department records office may provide copies of certain reports, which are subject to the fees set by the respective department in the day-to-day operations such as routine dissemination of incident, offense or accident reports to victims, reporting persons or involved parties; and
4. The fire department may provide copies of certain reports, which are subject to fees set by the respective department, in the day-to-day operations such as routine dissemination of incident, inspection reports, etc., and
5. This ordinance does not restrict the police department records office from producing routine law enforcement documentation pursuant to lawful subpoena; and
6. Information or records may be provided for auditing purposes, other governmental entities, or the news media at no cost.

Section 4. Processing of Requests.

Completed Request for Access to Public Records form, once submitted to the City Clerk, shall be processed as soon as practical and within a reasonable time as follows:

1. The City Clerk shall review the request for informational purposes to determine if the records request is complete and specific; and
2. The City Clerk shall notify the appropriate department with specifics of the request and determine from the appropriate the estimated time needed to provide said records and the time needed in order to produce said records; and
3. The Department Head of the appropriate Department shall notify the City Clerk of the cost of production of said records, the production format and the estimated turn around for production; and
4. The City Clerk shall notify the requester the estimated cost and time for production of records or whether or not the request has been deemed to be records either exempt of beyond the records disposition schedule and cannot be produced; and
5. When the records are submitted and ready for review or purchase, the City Clerk shall notify the requester and request payment for pickup and/or review of said records; and
6. If the requested document is not a "public record" within the meaning of this ordinance, then the document shall not be produced for inspection and copying, and the City Clerk shall so advise the citizen who made the request; and

7. Should the requested document be an exception to the ORA under Alabama law, then in such event the requested document shall not be produced for inspection or copying, and the City Clerk shall so advise the citizen who made the request.

Section 5. Requests to view specific records or documents.

1. Anyone desiring to review specific files or records located in the City Clerk's office may do so by appointment during normal business hours.
2. When requests to review specific files or records not located in the City Clerk's office are received, the Clerk's office will contact the other office(s) to make the necessary arrangements. The applicant will then be notified of the time when and location where the records may be viewed.
3. Requests to obtain copies of specific records or documents (no research, preparation or compilation required):
 - a. For records located in the Clerk's office, the applicant may receive immediate information concerning the cost and estimated time to provide said copies.
 - b. For records not located in the Clerk's office, additional time may be necessary to obtain information concerning the cost and estimated time to provide said copies.
 - c. The cost shall be determined at the time of submission based upon the cost per page to the City.
 - d. Cost for requests that require minimal time and resources may be waived by the City Clerk

Section 6. Requests to view or obtain copies of records that are not specific in nature and/or require compilation of data.

Response to requests of this nature may require additional time, since research may be necessary to locate the records, review their status, or determine the complexity of the request. Charges for time may be necessary for records that are bound, require removal of staples, etc., or require editing to maintain the confidential status of portions of the material. The feasibility of providing access to records that are not of a standard size or format or are voluminous in nature must be determined.

Section 7. Calculation of Costs/Payments.

No charges will be assessed for research that is necessary to evaluate and determine feasibility of the request. Applicant will be given an estimate of the time and cost involved in providing the requested records or information. Applicant will be required to pay the estimated amount before the actual work or research is performed. The actual cost will be determined upon completion, and adjustments to the payment will be made if necessary. There the cost will be

calculated at the pay rate per hour of the employee who is performing said research in order to reimburse the City of said expense for needed research and/or copying of said records and the cost of production of the record itself (cost of copy, thumb drive, etc.) or portion thereof.

Section 8. Exemptions:

1. The Vestavia Hills Library in the Forest has a public records policy as adopted and amended by the Vestavia Hills Library Board. Any request to the Library in the Forest shall be exempt from this Ordinance and shall be handled solely under the Library's adopted policy, as amended; and
2. This Ordinance shall not prevent any City department from producing daily reports in the normal course of business at fees set by said department; and
3. Any production of records pursuant to a legal subpoena issued by a court of competent jurisdiction and served upon the City shall be exempt from the requirement of any payment as set forth in this Ordinance.

Section 9. Severability:

If any part, section, or provision of this Ordinance shall hereafter be declared unconstitutional or invalid for any reason, such declaration shall not affect the validity or any other section or provisions of this Ordinance, which shall continue in full force and effect notwithstanding such holding; and

Section 10. Repealer:

All Ordinances or part of Ordinances, in any manner, conflicting herewith are hereby repealed; and

Section 11. Effective Date:

This Ordinance Number 3179 shall become effective immediately following publishing and/or posting in accordance with Alabama law.

ADOPTED and APPROVED this the 22nd day of May, 2023.

Ashley C. Curry
Mayor

ATTESTED BY:

Rebecca Leavings
City Clerk

CERTIFICATION:

I, Rebecca H. Leavings, as City Clerk of the City of Vestavia Hills, hereby certify that the above and foregoing copy of one Ordinance Number 3179 is a true and correct copy of such Ordinance that was duly adopted by the City Council of the City of Vestavia Hills on the 22nd day of May, 2023, as same appears in the official records of the City.

Posted at the Vestavia Hills City Hall, Vestavia Hills Library in the Forest, Vestavia Hills New Merkel House and the Vestavia Hills Recreation Center on this the ____ day of _____, 20____.

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

January 13, 2023

By Electronic Mail

City Clerk Rebecca Leavings
Vestavia Hills Municipal Center
P. O. Box 660854
Vestavia Hills, Alabama 35266-0854

In Re: An Ordinance Establishing a Public Record Policy for the
City of Vestavia Hills, Alabama

Dear Mrs. Leavings:

On January 10, 2013, you sent to me via electronic mail a proposed Ordinance Establishing a Public Record Policy for the City of Vestavia Hills, Alabama ("the Ordinance"). You requested that I provide you with my written legal opinion and any recommendations for additions, deletions, changes and/or corrections. The purpose of this letter is to comply with your request. It is my legal opinion that the Ordinance as written is valid under Alabama law. I base my opinion upon the case of *Blankenship v. Hoover*, 590 So.2d 245 (Ala.1991).

I have prepared and forward to you a redline (deletions) blue ink (additions) version of the Ordinance setting forth my recommendations. Also attached is the modified version in "Word" format. I would like to meet with you at your office the next time I am at City Hall in order for us to pow-wow and put the Ordinance in final form. I compliment you on an excellent job in the preparation of this Ordinance.

Sincerely,



Patrick H. Boone
Vestavia Hills City Attorney

PHB:gp

Enclosure

cc: City Manager Jeffrey D. Downes (by e-mail w/encl.)

ORDINANCE NUMBER ///

AN ORDINANCE ESTABLISHING A PUBLIC RECORD POLICY FOR THE CITY OF VESTAVIA HILLS, ALABAMA

WHEREAS, the Alabama Open Records Act (“ORA”) at §36-12-40, *Code of Alabama, 1975*, states that every citizen has a right to inspect and take a copy of any public writing, except for (1) registration and circulation records and information concerning the use of public libraries (except for a parent inspecting the records of his or her child); (2) records concerning security plans, procedures, assessments, measures or systems, and any other records relating to or having an impact upon the security or safety of persons, structures, facilities or other infrastructures including critical infrastructure and critical energy infrastructure, whose disclosure could reasonably be detrimental to public safety and welfare and the best interests of the public; and (3) as otherwise expressly provided by statute; and

WHEREAS, §36-12-41, *Code of Alabama, 1975*, states that every public officer having the custody of a public writing which a citizen has a right to inspect is bound to give ~~him~~ said citizen, on demand, a certified copy of it, on payment of the legal fees therefor; and

WHEREAS, ORA does not define the terms “public writing” or “public records” ; and

WHEREAS, the Alabama Legislature in §41-13-1, *Code of Alabama, 1975*, defines a public record to include all written, typed or printed books, papers, letters, documents and maps made or received in pursuance of law by the public officers of the state, counties, municipalities and other subdivisions of government in the transactions of public business and any record authorized to be made by any state law belonging or pertaining to any court of record or any other public record authorized by law or any paper, pleading, exhibit or other writing filed with, in or by any such court, office or officer; and

WHEREAS, The Supreme Court of Alabama decided the case of *Stone v. Consolidated Publishing Company*, 404 So.2d 678, in 1981 and defined the term “public writing” when it wrote,

“We have carefully considered the issue raised by appellants on this appeal, particularly with reference to our statutes. Construing these statutes *in pari materia*, we hold that the ‘public writing’ spoken of in Code 1975, §36-12-40, is such a record as is *reasonably necessary* to record the business and activities required to be done or carried on by a public officer so that the status and

condition of such business and activities can be known by our citizens.”; and

WHEREAS, the Alabama Supreme Court decided the case of *Allen v. Barksdale*, 32 So.3d 1264, in 2009 and wrote, “We doubt the Legislature intended to make a distinction between a ‘public writing’ and a ‘public record’”; and

WHEREAS, the Supreme Court of Alabama decided the case of *Stone v. Consolidated Publishing Company*, 404 So.2d 678, in 1981 and held that recorded information received by a public officer in confidence, sensitive personnel records, pending criminal investigations and records the disclosure of which would be detrimental to the best interests of the public are some of the areas which may not be subject to public disclosure; and

WHEREAS, not all documents received by a public official are “public writings” subject to inspection and copying by citizens under ORA. The Supreme Court of Alabama also wrote in the case of *Stone v. Consolidated Publishing Co.*, *supra*, that,

“This is not to say, however, that any time a public official keeps a record, though not required by law, it falls within the purview of §36-12-40.”; and

WHEREAS, ~~courts have~~ the Alabama Supreme Court in the case of *Blankenship, et al v. City of Hoover, et al*, 590 So.2d 245 (Ala.1991), held that a custodian of public records may require the person seeking access to show that he or she has a direct, legitimate interest in the document or information sought, for there is no right of inspection when it is sought to satisfy a whim or to create scandal or for any other improper or useless purpose, and no right to demand to see public records without showing why he or she is interested; and

WHEREAS, a municipality may set reasonable restrictions on the time and place of inspection and may charge a reasonable fee for providing requested public documents, including City staff research, preparation and time in fulfilling the request; and

WHEREAS, the Mayor and City Council feel it is in the best public interest to establish a policy ~~for public records~~ and procedure for the City of Vestavia Hills, Alabama for a citizen to request to inspect and/or copy public records and for the City to respond to that request.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF VESTAVIA HILLS, ALABAMA, THAT THE FOLLOWING IS ADOPTED AS THE CITY OF VESTAVIA HILLS' “PUBLIC RECORD POLICY”:

Section 1. Statement of Policy. The City of Vestavia Hills recognizes and supports the public's right to inspect and make copies of public records in accordance with Alabama law. Public records are available for public inspection and copying on a reasonable basis, subject to ~~this~~ the policy and procedure set forth in this Ordinance. All responses to requests concerning public records will be made in such a way that will not interfere with the normal operation of the City or the job duties of the employee.

Section 2. Confidential Records. Municipal records fall into different categories, most of which are available to the public. Some records or portions of records are determined to be confidential and not subject to public disclosure, including, but not limited to, the following:

1. Any specific exception found in the above cited sections of *Code of Alabama, 1975*, as amended; and
2. All confidential written materials submitted to or from any officer or employee and an attorney for the City; and
3. Plans, evaluations or studies relating to safety and security of municipal employees and facilities; and
4. Certain personnel records relating to City employees, including W-2 forms (employees have the right to be notified of requests to access information contained in their personnel file); and
5. Medical records and other personal health information pertaining to employees, unless authorized by the employee; and
6. Test materials given to applicants for employment or promotion with the City, including the results of any such test; and
7. Certain personal identifying information, such as home address, telephone number, closest living relative information, social security number, taxpayer identification number, etc.; and
8. Information regarding gross receipts or tax payments of licensed businesses; and
9. Internal audit work papers and internal audit reports, including system security information; and
10. All court documents pertaining to the execution of warrants; and
11. Electronic data including cellular call data, text, email, and/or any other messenger or messenger device sent by City employees, elected officials, etc., which technologically cannot be produced; and
12. Any information concerning pending court cases; and
13. Any information submitted to or received from the NCIC/ACJIC facilities; and
14. Emergency medical reports prepared by the fire department, unless authorized by the victims or pursuant to court process; and
15. Records pertaining to ongoing fire investigations; and
16. Fire inspection reports may be given to owner or occupant of the premises, if authorized by the property owner; and
17. Records pertaining to confidential investigations of the police department, including but not limited to criminal investigations and internal affairs investigations; and
18. Confidential informant files; and

19. Crime scene information including photographs, videos, physical evidence and such other similar materials; and
20. Any digital data produced by the Vestavia Hills Police Department, including, but not limited to any video or audio recording produced from a police department vehicle, body-worn camera, audio recorder or building-based recording depicting the police department, jail or City Hall or grounds.*

If there is uncertainty as to the confidential status of a record, the matter shall be referred to the City legal counsel for guidance and advice.

[This area left intentionally blank]

*Footnote Citation:

Alabama Supreme Court Case entitled *Something Extra Publishing v Huey Hoss Mack, Anthony Lowery and Michael Gaull, Special Term, 2021* and §36-12-40, 12-15-134, , 32-10-11, 32-10-8, 32-10-7, 41-13-6, 41-13-1, *Code of Alabama, 1975*.

Section 3. Submission of Requests. All persons requesting to view or obtain copies of public records shall be referred to the Office of the City Clerk, subject to the exceptions listed below. The City Clerk's office will provide an application form and/or receive completed written requests.

Exceptions:

1. The plotter of the City's GIS department may provide copies of maps and other large format documents, with set fees according to the size and type of paper, number of copies, etc.; and
2. The municipal court office may provide information regarding court records to individuals and other courts; and
3. The police department records office may provide copies of certain reports, which are subject to the fees set by the respective department in the day-to-day operations such as routine dissemination of incident, offense or accident reports to victims, reporting persons or involved parties; and
4. The fire department may provide copies of certain reports, which are subject to fees set by the respective department, in the day-to-day operations such as routine dissemination of incident, inspection reports, etc., and
5. This ordinance does not restrict the police department records office from producing routine law enforcement documentation pursuant to lawful subpoena; and
6. Information or records may be provided for auditing purposes, other governmental entities, or the news media at no cost.

Section 4. Processing of Requests. Completed ~~record of requests~~ Request for Access to Public Records form, once submitted to the City Clerk, shall be processed as soon as practical and within a reasonable time as follows:

1. The City Clerk shall review the request for informational purposes to determine if the records request is complete and specific; and
2. The City Clerk shall notify the appropriate department with specifics of the request and determine from the appropriate the estimated time needed to provide said records and the time needed in order to produce said records; and
3. The Department Head of the appropriate Department shall notify the City Clerk of the cost of production of said records, the production format and the estimated turn around for production; and
4. The City Clerk shall notify the requester the estimated cost and time for production of records or whether or not the request has been deemed to be records either exempt of beyond the records disposition schedule and cannot be produced; and

5. When the records are submitted and ready for review or purchase, the City Clerk shall notify the requester and request payment for pickup and/or review of said records; and
6. If the requested document is not a “public record” within the meaning of this ordinance, then the document shall not be produced for inspection and copying, and the City Clerk shall so advise the citizen who made the request; and
7. Should the requested document be an exception to the ORA under Alabama law, then in such event the requested document shall not be produced for inspection or copying, and the City Clerk shall so advise the citizen who made the request.

Section 5. Requests to view specific records or documents.

1. Anyone desiring to review specific files or records located in the City Clerk's office may do so by appointment during normal business hours.
2. When requests to review specific files or records not located in the City Clerk's office are received, the Clerk's office will contact the other office(s) to make the necessary arrangements. The applicant will then be notified of the time when and location where the records may be viewed.
3. Requests to obtain copies of specific records or documents (no research, preparation or compilation required):
 - a. For records located in the Clerk's office, the applicant may receive immediate information concerning the cost and estimated time to provide said copies.
 - b. For records not located in the Clerk's office, additional time may be necessary to obtain information concerning the cost and estimated time to provide said copies.
 - c. The cost shall be determined at the time of submission based upon the cost per page to the City.
 - d. Cost for requests that require minimal time and resources may be waived by the City Clerk

Section 6. Requests to view or obtain copies of records that are not specific in nature and/or require compilation of data. Response to requests of this nature may require additional time, since research may be necessary to locate the records, review their status, or determine the complexity of the request. Charges for time may be necessary for records that are bound, require removal of staples, etc., or require editing to maintain the confidential status of portions of the material. The feasibility of providing access to records that are not of a standard size or format or are voluminous in nature must be determined.

Section 7. Calculation of Costs/Payments. No charges will be assessed for research that is necessary to evaluate and determine feasibility of the request. Applicant will be given an estimate of the time and cost involved in providing the requested records or information. Applicant will be required to pay the estimated amount before the actual work or research is performed. The actual cost will be determined upon completion, and adjustments to the payment will be made if necessary. There the cost will be calculated at \$25 per hour or portion thereof.

Section 8. Exemptions:

1. The Vestavia Hills Library in the Forest has a public records policy as adopted and amended by the Vestavia Hills Library Board. Any request to the Library shall be exempt from this Ordinance and shall be handled solely under the Library's adopted policy, as amended; and
2. This Ordinance shall not prevent any City department from producing daily reports in the normal course of business at fees set by said department; and
3. Any production of records pursuant to a legal subpoena issued by a court of competent jurisdiction and served upon the City shall be exempt from the requirement of any payment as set forth in this Ordinance.

Section 9. Severability: If any part, section or provision of this Ordinance shall hereafter be declared unconstitutional or invalid for any reason, such declaration shall not affect the validity or any other section or provisions of this Ordinance, which shall continue in full force and effect notwithstanding such holding; and

Section 10. Repealer: All Ordinances or part of Ordinances, in any manner, conflicting herewith are hereby repealed; and

Section 11. Effective Date: This Ordinance Number //// shall become effective immediately following publishing and/or posting in accordance with Alabama law.

ADOPTED and APPROVED this the _____ day of _____,
202__.

Ashley C. Curry
Mayor

ATTESTED BY:

Rebecca Leavings
City Clerk

CERTIFICATION:

I, Rebecca H. Leavings, as City Clerk of the City of Vestavia Hills, hereby certify that the above and foregoing copy of one Ordinance Number //// is a true and correct copy of such Ordinance that was duly adopted by the City Council of the City of Vestavia Hills on the _____ day of _____, 20_____, as same appears in the official records of the City.

Posted at the Vestavia Hills City Hall, Vestavia Hills Library in the Forest, Vestavia Hills New Merkle House and the Vestavia Hills Recreation Center on this the ____ day of _____, 20____.

Rebecca Leavings
City Clerk



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

May 8, 2023

To: Mayor and City Council

Cc: Cinnamon McCulley

From: Jeff Downes, City Manager

RE: Public Hearing - Ordinance Number 3180 - An Ordinance authorizing the City Manager to expend funds to design and construct an exhibit honoring an important public leader and authorize the Mayor and City Manager to execute any necessary documents to facilitate such exhibit

Background:

In honor of long-serving public servant State Senator Jabo Waggoner, a preliminary design for an exhibit recognizing his service to our community has been completed by contractor Method-1 and is included in this agenda packet. Its planned location is outside of the administrative offices on the second floor of Vestavia Hills City Hall. Given the cost of the project along with the unique nature of the design and construction services, this project is not subject to the competitive bid laws. Method-1 has provided a complete proposal for the turn-key delivery of the exhibit and has agreed to use the City's template public works contract form (less than \$50k). The proposed and estimated project cost is \$28,581.55.

Recommendation:

It is recommended that the City proceed to contracting with Method-1 for this project utilizing resources from the City's General Fund.

Fiscal Impact:

It is requested that the City Council grant authorization to spend funds for the stated proposal plus a 10% contingency for a total not to exceed \$31,500.

Attachments:

1. Ordinance 3180
2. Vestavia Hills - Proposal Summary
3. VestaviaHillsCityHall_JWDisplay
4. FORM CONTRACT PWP LESS THAN \$50,000 as of 5-1-23

ORDINANCE NUMBER 3180

A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXPEND FUNDS TO DESIGN AND CONSTRUCT AN EXHIBIT HONORING AN IMPORTANT PUBLIC LEADER AND AUTHORIZING THE MAYOR AND CITY MANAGER TO EXECUTE ANY NECESSARY DOCUMENTS TO FACILITATE SUCH EXHIBIT

WHEREAS, Alabama State Senator Jabo Waggoner, a long-standing resident of the City of Vestavia Hills, was recently honored by the Mayor and City Council for outstanding leadership and his dedicated service to his community and to the State of Alabama; and

WHEREAS, Senator Waggoner was recognized as having the longest service record of any legislator in Alabama's history serving from 1966 to present day; and

WHEREAS, the planned location for said exhibit is outside of the administrative offices on the second floor of Vestavia Hills City Hall and

WHEREAS, a preliminary design for an exhibit recognizing his service to the City of Vestavia Hills as well as the State of Alabama has been completed by contractor Method-1, a copy of which is marked as Exhibit A, attached to and incorporated into this Ordinance Number 3180 as if written fully therein; and

WHEREAS, it is noted with the cost of the project along with the unique nature of the design and construction services, that this project is not subject to the competitive or public works bid laws; and

WHEREAS, Method-1 has provided a complete proposal for the turn-key delivery of the exhibit at an estimated project cost is \$28,581.55 with a 10% contingency for a total not to exceed \$31,500; and

WHEREAS, the City of Vestavia has a template contract for public work projects less than \$50k drafted and approved by the City Attorney, a copy of which is marked as Exhibit B, attached to and incorporated into this Ordinance Number 3180 as if written fully therein which Method-1 has agreed to use; and

WHEREAS, the Mayor and City Council feel it is in the best public interest to accept said design and authorize the City Manager to expend said funding in an amount not to exceed \$31,500.

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

1. That the design submitted by Method-1 is hereby accepted as detailed in attached Exhibit A; and
2. The Mayor and City Manager are hereby authorized to execute and deliver all documents necessary to complete construction of said exhibit including, but not limited to, said contract template as detailed in the attached Exhibit B; and
3. Funding for said project shall be expensed to the City's General Fund; and
4. This Ordinance Number 3180 is effective immediately following approval and publishing/posted pursuant to Alabama law;

DONE, ORDERED, ADOPTED and APPROVED this the 22nd day of May, 2023.

Ashley C. Curry
Mayor

ATTESTED BY:

Rebecca Leavings
Mayor



Vestavia Hills
Jabo Waggoner Display
FABRICATION PROPOSAL

- **Wall Display** - Custom fabricated curved wall panel with embedded monitor with playback unit.
- **Display Case** - Custom fabricated display case with LED lighting.
- **Display Pedestal** - Custom fabricated display pedestal.
- **Delivery and Installation** - Final Field Measure and Installation of built components and graphics

Total Cost for above Method-1 Scope: \$28,581.55 (Delivered and Installed)

Method-1 Pricing Includes:

- Field Measurement, Coordination and Verification
- Production Design, Engineering, Production Management
- Graphic Prepress and proofing
- Fabrication and Graphics Production
- Preview at Method-1 Facility (Birmingham, AL)
- Teardown and Packing for Delivery
- Delivery and Installation, Walkthrough, Punch, and Completion

Client Provided Items:

- *Client to provide content for initial presentation on monitor*

Does Not Include:

- *Applicable sales taxes*
- *Graphic Design (client to supply print-ready artwork.) We can quote graphic design as needed.*
- *Furniture and other decor not specifically listed in the Method-1 SoW. We can quote furniture as needed.*
- *Electrical, plumbing, paint, flooring or other required site work not specifically listed in the Method-1 SoW.*



VESTAVIA HILLS **JABO WAGGONER DISPLAY**

CONCEPT DEVELOPMENT • 03.27.2023





CITY
ADMINISTRATION

J.T. "Jabo" Waggoner

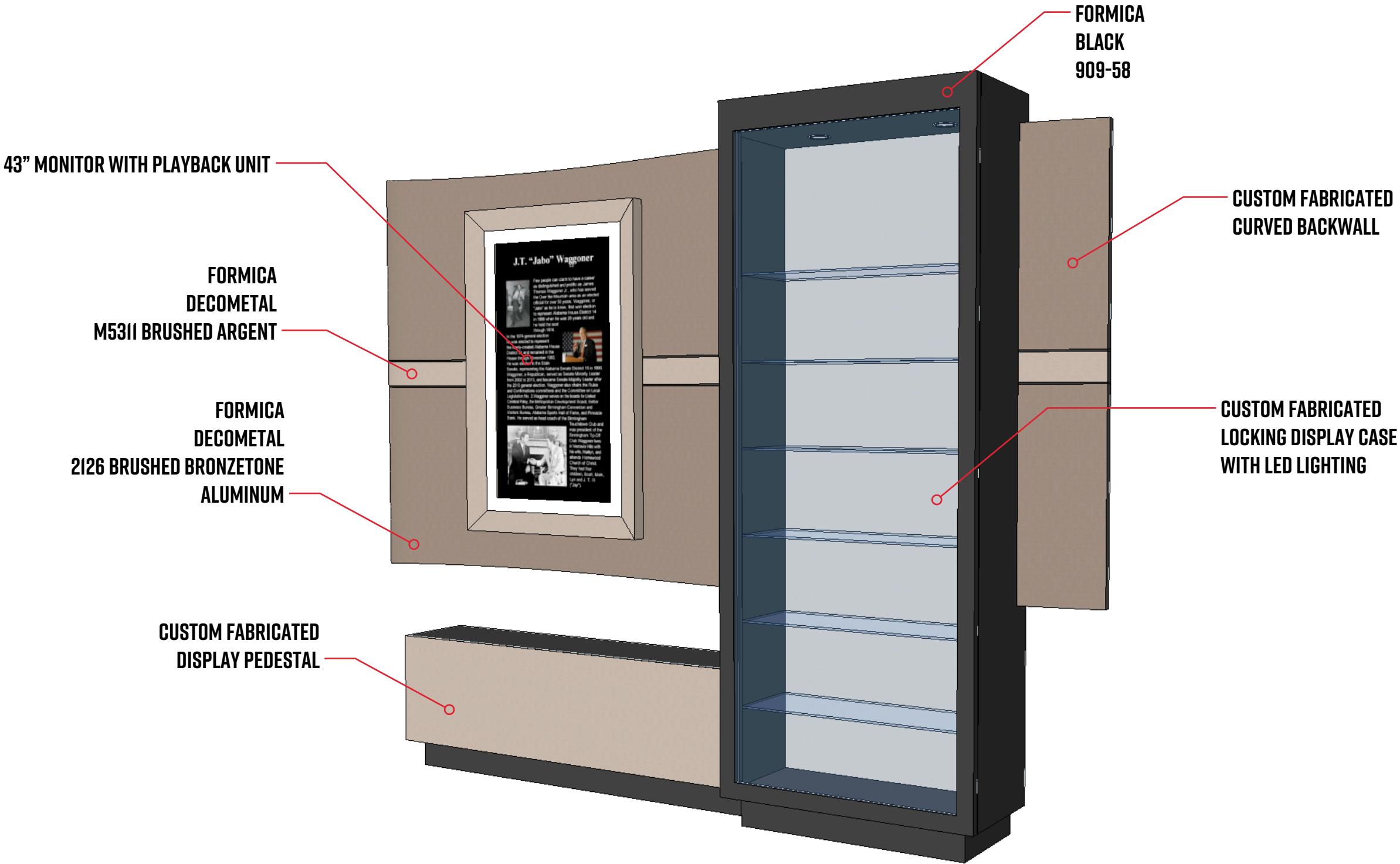
How people can learn to have a career in the public service sector, as well as the importance of community service, is the story of Jabo Waggoner, Jr., who has served the City of Birmingham and its citizens for over 30 years. Waggoner, Jr. is a man of many talents, a dedicated public servant, and a community leader. He has served in various capacities for the City of Birmingham, including as a member of the Board of Public Works, the Board of Mayor's Office, and the Board of the Birmingham Convention and Visitors Bureau. He has also served as a member of the Birmingham City Council and as a member of the Birmingham City Commission. Waggoner, Jr. is a man of many talents, a dedicated public servant, and a community leader. He has served in various capacities for the City of Birmingham, including as a member of the Board of Public Works, the Board of Mayor's Office, and the Board of the Birmingham Convention and Visitors Bureau. He has also served as a member of the Birmingham City Council and as a member of the Birmingham City Commission.



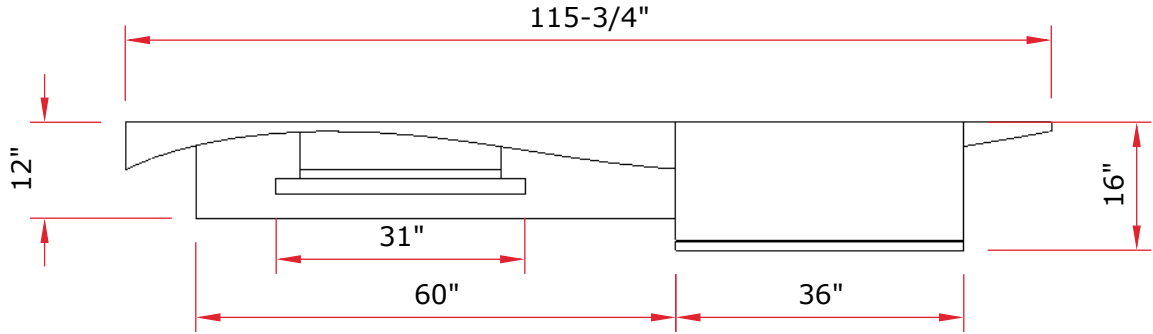


JABO WAGNER

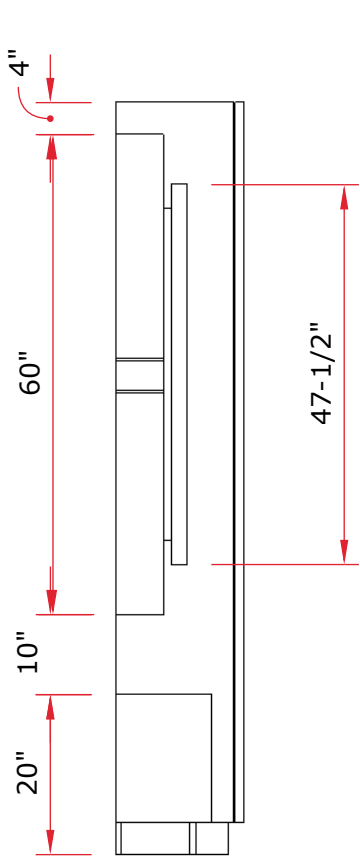




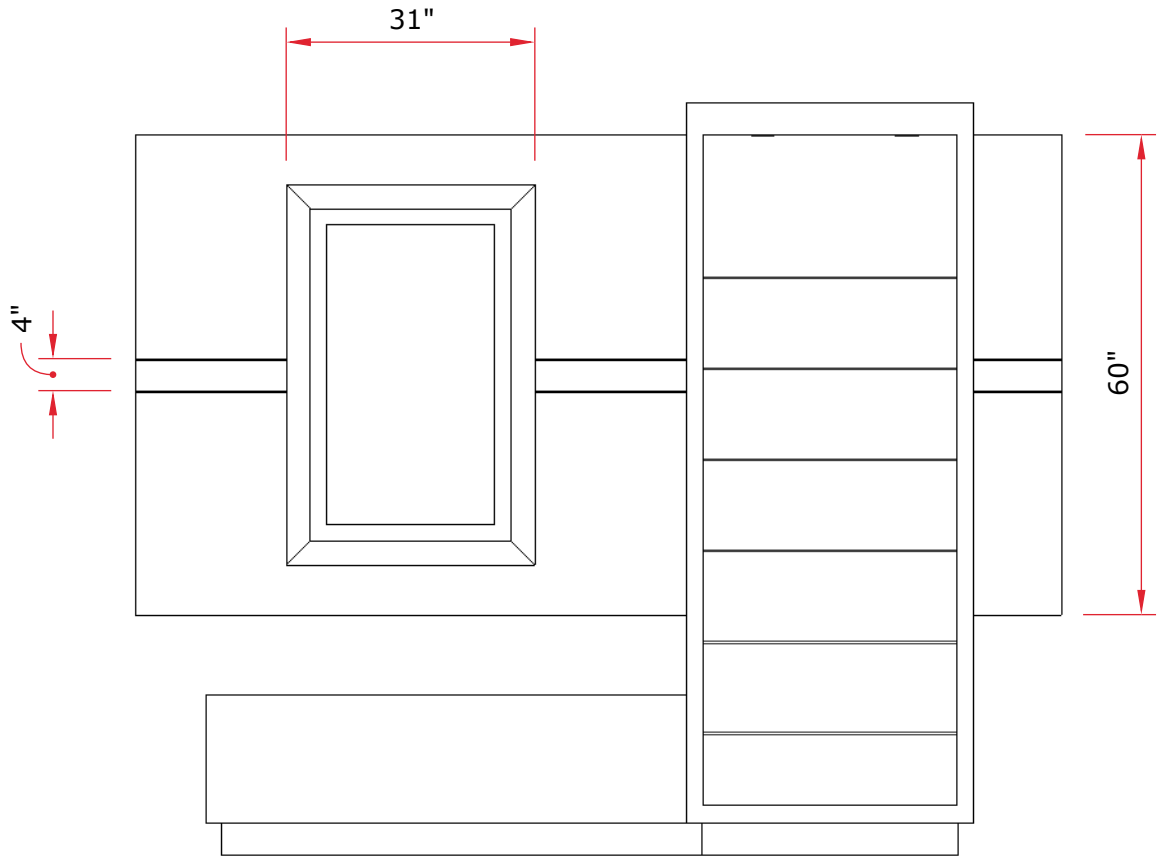
PERSPECTIVE
1 N/A



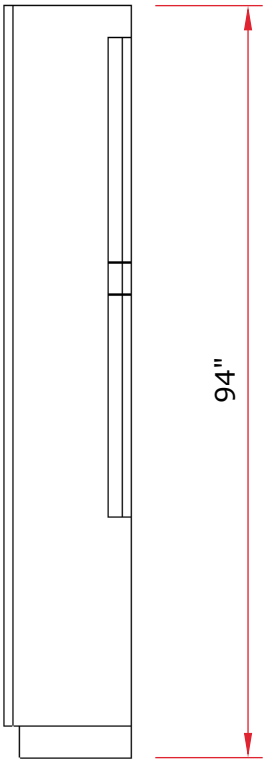
2 **TOP VIEW**
SCALE: 1/2" = 1'



3 **LEFT VIEW**
SCALE: 1/2" = 1'

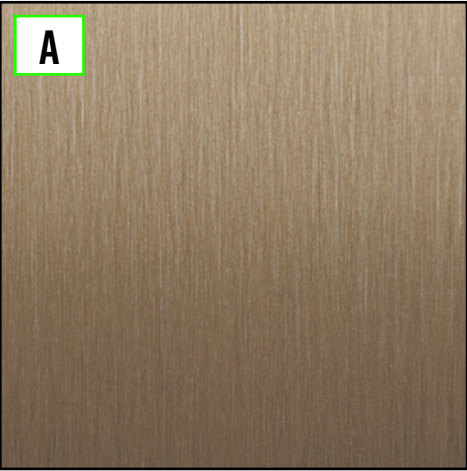


4 **FRONT VIEW**
SCALE: 1/2" = 1'

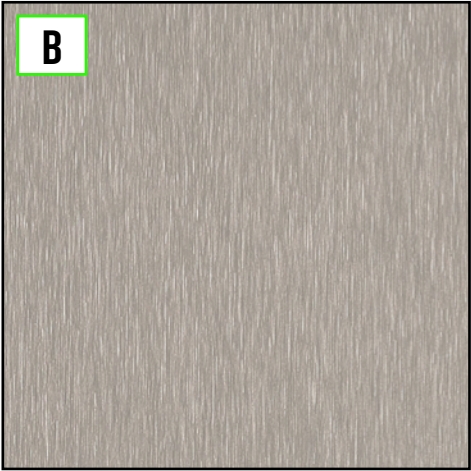


5 **RIGHT VIEW**
SCALE: 1/2" = 1'

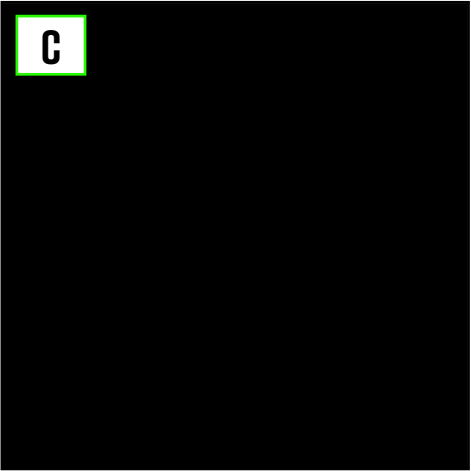
LAMINATES



FORMICA BRUSHED BRONZETONE
ALUMINUM (2126)



FORMICA BRUSHED ARGENT (M531I)



FORMICA BLACK (909-58)

VARIOUS FINISHES



CASE BACKWALL
LINEN FABRIC

PUBLIC WORKS CONSTRUCTION CONTRACT
WITH A CONTRACT PRICE OF \$50,000.00 OR LESS

STATE OF ALABAMA
JEFFERSON COUNTY

CONSTRUCTION CONTRACT

WITNESSETH THIS PUBLIC WORKS CONSTRUCTION CONTRACT ("Contract"), made and entered into on this the ____ day of _____, 202__, by and between the City of Vestavia Hills, Alabama, a municipal corporation, organized, existing and operating pursuant to the laws of the State of Alabama situated at 1032 Montgomery Highway, Vestavia Hills, Alabama 35216, hereinafter referred to as the "City", and insert name of Contractor, an Alabama insert identification of entity (i.e. corporation, LLC, etc.), hereinafter referred to as the "Contractor," whose principal place of business is situated at _____.

WITNESSETH THESE RECITALS:

WHEREAS, Alabama law regarding the letting, execution and administration of public improvement contracts by municipalities at Title 39-1-1, et seq. and Title 39-2-1, et seq., *Code of Alabama, 1975* ("Alabama Public Works Law") provides, among other things, that the term "public works" is defined as follows:

"(6) **PUBLIC WORKS.**-- The construction, installation, repair, renovation, or maintenance of public buildings, structures, sewers, waterworks, roads, curbs, gutters, side walls, bridges, docks, underpasses, and viaducts as well as any other improvement to be constructed, installed, repaired, renovated, or maintained on public property and to be paid, in whole or in part, with public funds or with financing to be retired with public funds in the form of lease payments or otherwise." (Title 39-2-1(6), *Code of Alabama, 1975*); and

WHEREAS, Alabama Public Works Law provides that a municipality may let contracts for public works involving Fifty Thousand Dollars (\$50,000.00) or less without advertising for sealed bids (Title 39-2-2(b)(1), *Code of Alabama, 1975*); and

WHEREAS, Alabama Public Works Law also provides that a performance bond for work, materials and payment bond are not required to secure public works projects in an amount less than Fifty Thousand Dollars (\$50,000.00) (Title 39-1-1(e), *Code of Alabama, 1975*); and

WHEREAS, the City is in need of work, labor and materials for a public works construction/repair project and requested proposals from various contractors; and

WHEREAS, the Contractor submitted a proposal for the completion of said public works project, which the City has determined to be the lowest, best and most responsible and responsive proposal received; and

WHEREAS, a copy of the Proposal is attached hereto, marked as Exhibit 1 and is incorporated into this Contract by reference as though set out fully herein; and

WHEREAS, the City has negotiated the proposal of the Contractor; and

WHEREAS, the City and the Contractor have agreed that it is in the best interests of the parties that this contract be reduced to writing.

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

I. RECITALS

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

II. EXHIBITS

Exhibits 1, 2 and 3 are attached hereto and are incorporated verbatim by reference as though set out fully herein.

III. REQUIREMENT FOR LICENSED GENERAL CONTRACTOR

Contractor represents, covenants and warrants that it is a licensed General Contractor within the meaning of Title 34-8-1, *Code of Alabama, 1975*. Said Contractor further represents that it is duly licensed and qualified to furnish the materials and supplies and perform the work of the public works project described in this Contract.

IV. SCOPE OF THE WORK

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

ADDITIONAL DESCRIPTION OF WORK, IF NECESSARY: _____

V. CONTRACT AMOUNT

The City shall pay to the Contractor for the faithful performance of this Contract and the completion of the work described in section IV above in the amount of _____ Dollars (\$_____) as the Contract amount.

VI. PAYMENT OF CONTRACT AMOUNT

The City shall pay to the Contractor the contract amount in full upon completion of the work described in section IV hereof.

VII. CONTRACT TIME

The contract time shall be _____ (_____) days.

A. The work shall commence on _____, 202__;
provided, however, that the work shall not be commenced by Contractor until after the Contractor has delivered to the City the certificates of insurance policy coverages described in section IX and section X of this contract.

B. The work shall be completed on or before _____, 202__.

VIII. INDEMNIFICATION

To the fullest extent permitted by law, Contractor shall defend, indemnify and hold harmless the City of Vestavia Hills, Alabama, a municipal corporation, its City Manager, Mayor and other elected public officials and employees, as Owner (hereinafter collectively referred to as the "Indemnitees") from and against all claims, damages, losses and expenses, including but not limited to attorneys' fees, arising out of, related to, or resulting from performance of the Work done by Contractor, including specifically, but not limited to claims alleged to have been caused by faulty, negligent or defective design and/or other related services, provided that such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property, including loss of use resulting therefrom, and is caused in whole or in part by negligent acts or omissions of the Contractor, a subcontractor, anyone directly or indirectly employed by them, or anyone for whose acts they may be liable, regardless of whether such claim, damage, loss or expense is caused in part, or is alleged but not legally established to have been caused in whole or in part by the negligence or other fault of a party indemnified hereunder. This indemnification shall extend to all claims, damages, losses and expenses for injury or damage to adjacent or neighboring property, or persons injured thereon, that arise out of, relate to, or result from performance of the Work.

IX. INSURANCE

The Contractor shall purchase and maintain insurance policy coverages with liability limits of not less than as set forth below.

A. WORKERS' COMPENSATION AND EMPLOYER'S LIABILITY INSURANCE:

1. Workers' Compensation coverage shall be provided in accordance with the statutory coverage required in Alabama. A group insurer must submit a certificate of authority from the Alabama Department of Industrial Relations approving the group insurance plan. A self-insurer must submit a certificate from the Alabama Department of Industrial Relations stating the Contractor qualifies to pay its own workers' compensation claims.

2. Employer's Liability Insurance limits shall be at least:

- | | | |
|-----|-----------------------------|---------------------------|
| (a) | Bodily Injury by Accident-- | \$1,000,000 each accident |
| (b) | Bodily Injury by Disease-- | \$1,000,000 each employee |

B. COMMERCIAL GENERAL LIABILITY INSURANCE:

1. Commercial General Liability Insurance, written on an ISO Occurrence Form (current edition as of the date of this Contract) or equivalent, shall include, but need not be limited to, coverage for bodily injury and property damage arising from premises and operations liability, products and completed operations liability, blasting and explosion, collapse of structures, underground damage, personal injury liability and contractual liability. The Commercial General Liability Insurance shall provide at minimum the following limits:

<u>Coverage</u>	<u>Limit</u>
(a) General Aggregate	\$2,000,000.00 per project
(b) Products, Completed Operations Aggregate	\$2,000,000 per project
(c) Personal and Advertising Injury	\$1,000,000 per occurrence
(d) Each Occurrence	\$1,000,000

2. Additional Requirements for Commercial General Liability Insurance:

(a) The policy shall name the City, its City Manager, Mayor and other public officials and employees, as Owner, as additional insureds, state that this coverage shall be primary insurance for the additional insureds; and contain no exclusions of the additional insureds relative to job accidents.

(b) The policy must include separate per project aggregate limits.

C. COMMERCIAL BUSINESS AUTOMOBILE LIABILITY INSURANCE:

1. Commercial Business Automobile Liability Insurance which shall include coverage for bodily injury and property damage arising from the operation of any owned, non-owned or hired automobile. The Commercial Business Automobile Liability Insurance Policy shall provide not less than \$1,000,000.00 Combined Single Limits for each occurrence.

2. The policy shall name the City, its City Manager, Mayor and other public officials and employees, as Owner, as additional insureds.

D. COMMERCIAL UMBRELLA LIABILITY INSURANCE:

1. Commercial Umbrella Liability Insurance to provide excess coverage above the Commercial General Liability, Commercial Business Automobile Liability and the Workers' Compensation and Employer's Liability to satisfy the minimum limits set forth herein.

2. Minimum Combined Primary Commercial General Liability and Commercial/Excess Umbrella Limits of:

(a) \$5,000,000 per occurrence

(b) \$5,000,000 aggregate

3. Additional Requirements for Commercial Umbrella Liability Insurance:

(a) The policy shall name the City, its City Manager, Mayor and other public officials and employees, as Owner, as additional insureds.

(b) The policy must be on an "occurrence" basis.

X. ADDITIONAL INSURED

The Contractor shall cause all of the insurance policy coverages described in Section IX of the Contract above (except for the Worker's Compensation coverages) to include:

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

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

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

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

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

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

XI. INDEPENDENT CONTRACTOR

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

XII. ASSIGNMENT

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

XIII. PERMITS, LAWS, CODES AND ORDINANCES

The Contractor shall give all notices required by and comply with all applicable laws, ordinances and codes of the local, state and federal governments.

XIV. COMPLIANCE WITH APPLICABLE LAWS

Contractor shall comply with the provisions of any and all state, federal and local laws, statutes, codes, rules, regulations and ordinances that are applicable to the performance of this contract between the City and Contractor, including specifically Ordinance Number 2769, 2770 and 2771 enacted by the City Council of the City of Vestavia Hills, Alabama on June 11, 2018.

XV. PROTECTION OF UNDERGROUND UTILITIES

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

XVI. REMOVAL OF DEBRIS AND CLEANING

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

XVII. INSPECTION

All materials and workmanship shall be subject to inspection, examination or test by the City at any and all times during installation or construction and at any and all places where such manufacture or construction is carried on. The City shall have the right to reject defective materials and workmanlike and/or require its correction. Unacceptable workmanship shall be satisfactorily corrected. Rejected material shall be promptly segregated and removed from the project area and be replaced with material of specified quality without charge therefor. If the

Contractor fails to proceed at once with the correction of rejected workmanship or defective material, the City may contract for or otherwise have the defects remedied or rejected materials removed from the project area and charge the cost of the same against any moneys which may be due the Contractor, without prejudice to any other rights or remedies of the City.

XVIII. GENERAL GUARANTY BY CONTRACTOR

Neither the final certificate of payment nor any provision in the Contract nor partial or entire use of the improvements embraced in this Contract by the City or the public shall constitute an acceptance of work not done in accordance with the Contract or relieve the Contractor of liability in respect to any express warranties of responsibility for faulty materials or workmanship. The Contractor shall promptly remedy any defects in the work and pay for any damage to other work resulting therefrom which shall appear within a period of twelve (12) months from the date of final acceptance of the work. The City will give notice of defective material and work with reasonable promptness.

XIX. SALES TAX

The Contractor and the Owner shall avoid the payment of sales, use and similar taxes by using the process outlined in Act Number 2013-205 now codified at Title 40-9-14.1, *Code of Alabama, 1975*. Notwithstanding the fact that this Contract (with a contract amount of \$50,000.00 or less) was not required to be bid (Title 39-2-2(b)(1), *Code of Alabama, 1975*), the City and Contractor agree that the attached DCM Form C-3 (Exhibit 2) and DCM Form C-3A (Exhibit 3) shall be used by the contracting parties so that no sales, use and similar taxes will be required to be paid. Copies of those forms are attached hereto, marked as Exhibit 2 and Exhibit 3 and are incorporated into this Contract by reference as though set out fully herein.

XX. IMMIGRATION LAW

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.

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

Act 2016-312 of the Alabama Legislature prohibits a governmental entity from entering into certain public contracts with a business entity unless the contract includes a representation that the business is not currently engaged in, and an agreement that the business will not engage in, the boycott of a person or an entity based upon the person or business doing business with a jurisdiction with which the state can enjoy open trade. The prohibition does not apply if a business offers to provide goods or services for at least 20 percent less than the lowest certifying business entity or to a contract with a value less than \$15,000.00. The Contractor represents and warrants that it is not currently engaged in, and will not engage in, the boycott of a person or an entity based in or doing business with a jurisdiction with which this state can enjoy open trade.

XXII. MISCELLANEOUS:

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

B. WAIVER OF MODIFICATION: Any waiver, alteration or modification of any of the provisions of this agreement or cancellation or replacement of this agreement shall not be valid unless in writing and signed by the parties hereto. This agreement may be amended at any time by written agreement of the parties signatory hereto.

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

D. GOVERNING LAW: This agreement shall be interpreted, construed and governed to the laws of the State of Alabama.

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

F. CONSTRUCTION OF TERMS: Any ambiguities of this contract shall be construed fairly and equitably regardless of the participation of either party in drafting this contract. The reference in terms to gender and number shall be modified as may be appropriate.

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

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

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

J. ENTIRE AGREEMENT: This written contract contains the entire agreement between the City and the General Contractor.

IN WITNESS WHEREOF, the City of Vestavia Hills, Alabama, a municipal corporation, and insert name of Contractor, an Alabama insert identification of entity (i.e. corporation, LLC, etc.), have caused this agreement to be executed by

their duly authorized officers and their respective seals to be affixed hereto on the date first above written.

OWNER:
CITY OF VESTAVIA HILLS, ALABAMA
A Municipal Corporation

By _____
Ashley C. Curry
Its Mayor

By _____
Jeffrey D. Downes
Its City Manager

ATTESTED

By _____

CONTRACTOR:
Insert name of company _____

By _____
Its _____

ATTESTED:

By _____

**STATE OF ALABAMA
JEFFERSON COUNTY**

ACKNOWLEDGMENT

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

Given under my hand and official seal, this the ____ day of _____, 202__.

Notary Public

My Commission Expires:

SEAL

**STATE OF ALABAMA
JEFFERSON COUNTY**

ACKNOWLEDGMENT

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

Given under my hand and official seal, this the ____ day of _____, 202__.

Notary Public

My Commission Expires:

SEAL

**STATE OF ALABAMA
JEFFERSON COUNTY**

CORPORATE ACKNOWLEDGMENT

I, the undersigned authority, a Notary Public in and for said County, in said State, hereby certify that _____ whose name as _____ of _____, an Alabama _____, is signed to the foregoing Construction Contract, and who is known to me, acknowledged before me on this day that, being informed of the contents of the contract, (s)he, as such officer and with full authority, executed the same voluntarily for and as the act of said

Given under my hand and official seal, this the _____ day of _____, 202__.

Notary Public

My Commission Expires:

SEAL



CITY OF VESTAVIA HILLS

INTER-DEPARTMENT MEMO

May 8, 2023

To: Jeff Downes, City Manager

Cc:

From:

RE: Citizens Comments

Background:

Recommendation:

Fiscal Impact:

Attachments:

None