



Huntsville, Alabama

308 Fountain Circle
Huntsville, AL 35801

Cover Memo

Meeting Type: City Council Regular Meeting **Meeting Date:** 7/27/2023

File ID: TMP-3165

Department: Legal

Subject:

Type of Action: Approval/Action

Resolution authorizing the Mayor to enter into a Funding Agreement Redstone Gateway-Excess Infrastructure Cost between the City of Huntsville, Alabama, and LW Redstone Company, LLC.

Resolution No.

Finance Information:

Account Number: TBD

City Cost Amount: NA

Total Cost: NA

Special Circumstances:

Grant Funded: NA

Grant Title - CFDA or granting Agency: NA

Resolution #: NA

Location: (list below)

Address:

District: District 1 ☐ District 2 ☐ District 3 ☐ District 4 ☐ District 5 ☐

Additional Comments:

RESOLUTION NO. 23-_____

BE IT RESOLVED by the City Council of the City of Huntsville, Alabama, that the Mayor be, and he is hereby, authorized to enter into a Funding Agreement Redstone Gateway Excess - Infrastructure Cost, by and between the City of Huntsville, an Alabama municipal corporation, and LW Redstone Company, LLC, which said agreement is substantially in words and figures as that certain document attached hereto and identified as “Funding Agreement Redstone Gateway Excess - Infrastructure Cost, between the City of Huntsville and LW Redstone Company, LLC,” consisting of twenty-two (22) pages including exhibits and the date of July 27, 2023, appearing on the first page thereof, together with the signature of the City Clerk, and an executed copy of said document, after being signed by the Mayor and the City Clerk, shall be permanently kept on file in the Office of the City Clerk of the City of Huntsville, Alabama.

ADOPTED this the 27th day of July, 2023.

President of the City Council of the City
of Huntsville, Alabama

APPROVED this the 27th day of July, 2023.

Mayor of the City of Huntsville, Alabama

FUNDING AGREEMENT
REDSTONE GATEWAY - EXCESS INFRASTRUCTURE COST

This Funding Agreement – Redstone Gateway Excess Infrastructure Costs (this “**Agreement**”) is hereby made as of the 27th day of July, 2023, between THE CITY OF HUNTSVILLE, ALABAMA, a municipal corporation organized and existing pursuant to the laws of the State of Alabama (“**City**”) and LW REDSTONE COMPANY, LLC, a Delaware limited liability company (“**Owner**”).

RECITALS

WHEREAS, City and Owner entered into that certain Annexation and Development Agreement dated March 25, 2010, as modified by Modification No. 1 to Annexation and Development Agreement dated May 24, 2012 and Modification No. 2 to Annexation and Development Agreement dated October 10, 2013 (as modified, the “**Development Agreement**”);

WHEREAS, pursuant to the terms of the Development Agreement, the City agreed to construct and maintain various Public Infrastructure Improvements within the Project Site at an aggregate cost not to exceed Seventy-Six Million Dollars (\$76,000,000) (the “**TIF Warrant Cap**”) and the Owner agreed to loan to the City the funds to construct the Public Infrastructure Improvements in accordance with the terms of the Development Agreement;

WHEREAS, pursuant to the terms of the Development Agreement and in accordance with the TIF Enabling Law, the City and Owner agreed that no expenditures would be as described in the Project Plan for the Project Site more than fifteen (15) years after the creation of the TIF (May 18, 2010) which results in no such expenditures being made beyond May 17, 2025;

WHEREAS, pursuant to the Master Lease Agreement, as amended from time to time, Owner and the Army plan to construct certain Public Infrastructure Improvements including a road extension, earthwork, and stormwater management facilities (the “**Secured Parcel Phase II Infrastructure Project**” or “**Project**”), as described in the SDAs, defined below, on the portion of the Project Site known as the Secured Parcel;

WHEREAS, as through TIF 5 Revenue Warrant 2021-B the City and Owner have entered into thirteen (13) Supplemental Development Agreements and the City has issued Owner Warrants of approximately Seventy-Three Million Seven Hundred Thousand Dollars (\$73,700,000) for Public Infrastructure Improvements at the Project Site;

WHEREAS, the costs of the Secured Parcel Phase II Infrastructure Project are anticipated to exceed the TIF Warrant Cap (the “**Excess Project Cost**”); and

WHEREAS, Owner warrants and the parties agree the Owner will enter contracts for and fund directly the Aid-to-Construction water and electric fees with the City of Huntsville utilities and the construction project management fees with BL Harbert for the Project (the “**Owner Contracts**”) for a budgeted total of \$948,935.00 (the “**Owner Funded Costs**”) to address the Excess Project Cost so the City may proceed with the Secured Parcel Phase II Infrastructure Project.

NOW THEREFORE, in consideration of the Recitals and the mutual covenants and promises of the City and Owner herein contained, the City and Owner agree as follows:

1. Recitals. The above recitals are hereby incorporated into this Agreement as if fully set forth herein.
2. Capitalized Terms. All capitalized terms used in this Agreement which are not defined herein shall have the meanings given to them in the Development Agreement, unless the context otherwise requires.
3. Secured Parcel Phase II Infrastructure Project. The parties agree that, except for the Owner Contracts and Owner Funded Costs, the City, subject to the limitations of the TIF Warrant Cap, will construct the Secured Parcel Phase II Infrastructure Project in its entirety in accordance with the terms of the Development Agreement, and pursuant to the estimated costs for the City shown on the budget attached hereto as Exhibit A (the “**Project Budget**”). The parties further agree that the Owner will contract and fund the Owner Contracts and the Owner Funded Costs as shown on Exhibit A. The Project is planned to commence on or about August 4, 2023, and be completed on or before November 1, 2024 (“**Project Completion Date**”).
4. Secured Parcel Phase II Infrastructure Project Costs. The parties agree that the Secured Parcel Phase II Infrastructure Project will be funded pursuant to the terms of the Development Agreement, Supplemental Development Agreement No. 14 to the Development Agreement for TIF5- Series 2023 and the Omnibus Amendment to Supplemental Development Agreements and Final Supplemental Development Agreement- Roll-Up (combined, the “**SDAs**”, attached hereto as Exhibit B). The parties agree that Owner will timely fund and pay any costs, in order to cause no delay in the Project, for the Owner Contracts that exceed the Owner Funded Costs listed on the Project Budget. Further, while the Project Budget indicates that the SDAs will cover an additional Seventy Thousand Eight Hundred Ninety-Eight and 31/100 Dollars (\$70,898.31) over the Project Budget for the City, if the Project costs do exceed the funds covered by the SDAs, which is the TIF Warrant Cap, Owner will timely fund the Excess Cost per the conditions herein in order to cause no delay in the Project. The parties agree that the Project Budget is an estimate and that actual Project costs, and therefore the actual Excess Project Costs payable by Owner, may differ from the Project Budget. Notwithstanding the above and consistent with the Development Agreement, the City hereby covenants and agrees that it will not modify nor increase the Project Budget and will notify the Owner of any Excess Project Costs, any proposed change orders, or any proposed contract modifications that impact the Project Budget for Owner’s written approval, not to be unreasonably withheld, conditioned or delayed, of the increase to the Project Budget prior to executing a contract, any such change order, or any such contract modification. If the City agrees to any increase in the Project Budget without the Owner's prior written consent, the Owner will not be responsible or liable for payment of any portion of the Excess Project Costs reflected in any such un-approved increases to the Project Budget. Likewise, City will not be responsible nor liable for any change orders, increases in Project Budget, or contract modifications made by Owner that exceed the TIF Warrant Cap or that have not been previously approved by the City.
5. Excess Cost Draw Requests and Payments. Within five (5) Business days after the City’s receipt of invoices for any actual costs of the Project which exceed the TIF Warrant Cap as provided in the SDAs, the City will provide Owner with a draw request for funds and documentation related to such Excess Costs consistent with the Development Agreement and the terms of the SDAs (each an “**Excess Costs Invoice**”). At such time City provides an Excess Costs

Invoice to Owner, it will also provide documentation of the payments to date of the Project Budget using funds per the SDAs, Owner Warrants, and Owner Funded Costs and a schedule and updated budget of the anticipated Excess Project Costs. Subject to the provisions of this Agreement and the Development Agreement, Owner will submit payment within five (5) Business days after receipt of the Excess Costs Invoice pursuant to the payment instructions as provided by the City. The City agrees to use commercially reasonable efforts to submit the last Excess Cost Invoice to Owner within thirty (30) days of the Project Completion Date.

6. Partial Invalidity. If any provision of this Agreement is invalid or unenforceable as against any party, the remainder of this Agreement shall not be affected thereby and shall remain in full force and effect, and in lieu of any such invalid or unenforceable provision, there shall be substituted a provision of similar import reflecting the original intent of the parties to the fullest extent permitted by law.

7. Miscellaneous. This Agreement may only be assigned by a party hereto upon the prior written approval of the other party, such approval not to be unreasonably withheld, conditioned, or delayed. This Agreement shall not be modified or amended except by a written agreement signed by Owner and the City. No waiver or delay in enforcing of any breach of any term contained herein shall be construed to be a waiver of a subsequent breach of that term or any other subsequent breach of this Agreement. This Agreement contains the entire understanding between the parties with respect to the matters contained herein and supersedes any prior understandings and agreements between them respecting the subject matter. There are no representations, agreements, arrangements, or understandings, oral or written, between the parties hereto relating to the subject matter of this Agreement, which are not fully expressed herein. Time is of the essence of this Agreement. In the event of any conflict between the provisions of this Agreement and the Development Agreement or the SDAs, the terms and conditions of this Agreement shall be controlling with respect to the matters set forth herein.

8. Notices. Any notice or consent required to be given by or on behalf of either party upon the other shall be in writing and shall be given (i) by hand delivery; or (ii) by a recognized overnight carrier. Such notices and consents shall be addressed as follows:

If to Owner: LW Redstone Company, LLC
 c/o Corporate Office Properties Trust
 6711 Columbia Gateway Drive, Suite 300
 Columbia, Maryland 21046
 Attn: Greg Hall, Vice President - Commercial
 Development

With a copy to: Corporate Office Properties Trust
 6711 Columbia Gateway Drive, Suite 300
 Columbia, Maryland 21046
 Attn: General Counsel

If to the City: City of Huntsville, Alabama
ATTN: Director of Engineering, Kathy Martin
308 Fountain Circle
Huntsville, Alabama 35801

With a copies to: City of Huntsville, Alabama
ATTN: Director of Finance, Penny Smith
308 Fountain Circle
Huntsville, Alabama 35801

and

City of Huntsville, Alabama
ATTN: City Attorney, Trey Riley
308 Fountain Circle
Huntsville, Alabama 35801

or at such other address as may be specified from time to time, in writing, delivered to the other party.

9. Counterparts. For purposes of this Agreement, signatures delivered by facsimile or other electronic means shall be as binding as originals upon the parties so signing and delivering. This Agreement may be executed in multiple counterparts, each of which shall be deemed an original and all of which, when taken together, shall constitute one agreement.

10. Applicable Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Alabama, exclusive of conflicts of laws principles.


[Signatures are on the next page.]

IN WITNESS WHEREOF, the Parties hereto have duly executed this Agreement as of the date first above written.

(“OWNER”)

LW REDSTONE COMPANY, LLC
a Delaware Limited Liability Company

By:


Name: George J. Rufo, Jr.
Its: Managing SVP- Government Services +
Operations

STATE OF MARYLAND)
COUNTY OF HOWARD)

I, the undersigned, a Notary Public in and for said County and in said State, hereby certify that George J. Rufo, Jr., as Managing SVP- Govt Svcs, of LW Redstone Company, LLC, a Delaware Limited Liability Company, signed to the foregoing document, and who is known to me, acknowledged before me on this day that, being informed of the contents of the instrument, (s)he, as such officer and with full authority, executed the same for and as the act of said Limited Liability Company on the date the same bears date.

GIVEN under my hand and official seal this the 20th day of July, 2023.

 (SEAL)
Notary Public
My Commission Expires: _____
ZARAE C WALKER
Notary Public
Baltimore County
Maryland
My Commission Expires
January 8, 2024

[Signatures continue on the next page.]

(“CITY”)

THE CITY OF HUNTSVILLE, ALABAMA
a municipal corporation

By: _____
Tommy Battle, Mayor

ATTEST:

Shaundrika Edwards
Its: City Clerk

STATE OF ALABAMA)
COUNTY OF MADISON)

I, the undersigned, a Notary Public in and for said County and in said State, hereby certify that Tommy Battle and Shaundrika Edwards, whose names as Mayor and City Clerk, respectively, of the City of Huntsville, Alabama, a municipal corporation, are signed to the foregoing document, and who are known to me, acknowledged before me on this day that, being informed of the contents of the instrument, they, as such officers and with full authority, executed the same for and as the act of said municipal corporation on the date the same bears date.

GIVEN under my hand and official seal this the 27th day of July, 2023.

Notary Public
My Commission Expires: _____

(SEAL)

Exhibit A
(Project Budget Attached)

Redstone Gateway EUL

TIF 5 District

Goss Road Extension and EUL Mass Grading Project

Funding		
Total TIF 5 District Funding (Max)		\$76,000,000.00
Available TIF 5 District Funding		\$5,398,721.00
Project Total Costs - CITY FUNDED		
A&E Project Costs (Sain)		\$260,476.00
Construction Base Bid REVISED (SJ&L)		\$5,067,346.69
Total CITY Project Costs (TIF funds):		\$5,327,822.69
Remaining TIF Balance		\$70,898.31
Project Total Costs - COPT FUNDED		
Aid-to-Construction Fees		\$456,475.00
Construction Management & Geotechnical (BL Harbert)		\$492,460.00
Total COPT Project Costs: (COPT funds)		\$948,935.00
Overall Project Costs Details:		
A&E Project Costs		
A&E Services (SAIN & Associates Proposal dated 1/31/2023)		
Engineering Fees	\$156,685.00	
Geotechnical Investigation	\$44,250.00	
Street Lights & Comms Duct Bank	\$28,000.00	
Landscape & Irrigation Design	\$27,000.00	
Estimated Reimbursable Expenses	\$2,227.00	
Maintenance Easement Goss Road	\$2,314.00	
Subtotal	\$260,476.00	
Project Construction Costs		
Base Bid Revised (SJ&L bid dated 7/14/23)	\$5,067,346.69	TIF 5
Option 1 (Goss Road Work outside TIF 5 District)	\$191,628.04	COPT
Option 2 Sanitary Sewer (East of Rideout Rd)	\$611,279.30	City
Option 3 Sanitary Sewer (West of Rideout Rd)	\$208,493.32	City
Option 4 Structural Fill hauled to Phase III Area of EUL	\$136,950.00	COPT
Subtotal	\$6,215,697.35	
Aid-To-Construction Fees		
ATC Fee Water	\$329,613.00	
ATC Fee Electric	\$126,862.00	
Subtotal	\$456,475.00	
Construction Management & Geotechnical Project Costs		
Project Manager Fee (BL Harbert Proposal dated 7/12/23)	\$276,590.00	
As-built Survey	\$78,490.00	
Testing & Inspections	\$119,600.00	
Other Costs	\$17,780.00	
Subtotal	\$492,460.00	

Exhibit B

(SDAs No 14 and Final SDA Attached)

**SUPPLEMENTAL DEVELOPMENT AGREEMENT
TIF5 – SERIES 2023 TO ANNEXATION AND
DEVELOPMENT AGREEMENT BETWEEN
THE CITY OF HUNTSVILLE AND
LW REDSTONE COMPANY, LLC, IN
THE AMOUNT OF \$2,300,000.00**

Pursuant to Section 7.3 of the Annexation and Development Agreement dated March 25, 2010, as modified by Modification No. 1 to Annexation and Development Agreement dated May 24, 2012 and Modification No. 2 to Annexation and Development Agreement dated October 10, 2013 (as modified, the “Agreement”), between **THE CITY OF HUNTSVILLE, ALABAMA**, a municipal corporation organized and existing pursuant to the laws of the State of Alabama (“City”) and **LW REDSTONE COMPANY, LLC**, a Delaware limited liability company (“Owner”), City and Owner enter into this Supplemental Development Agreement, and hereby provide more specifically of the obligations of City and Owner.

A. IMPORTANT DATES (ESTIMATES ONLY)

Commencement of City work related to Agreement Section 6.2	August 1, 2023
	TIF Revenue Warrant
	Issue
	TIF Revenue
	Warrant, TIF5
	Series 2023
Commencement of Owner development work	n/a
First ad valorem assessment of Owner’s development work	
Pursuant to this Supplemental Development Agreement	n/a
First TIF Revenues received by City	n/a

B. OWNER IMPROVEMENTS

Scope of Work for Supplemental Developmental Agreement TIF5 – Series 2023

This fourteenth (14th) Supplemental Development Agreement (SDA) continues funding for Secured Parcel Phase II Infrastructure Improvements to include various engineering services, construction, and permit fees for the Goss Road extension of approximately 2,100 LF, mass earthwork over approximately 80 acres, and stormwater management improvements including detention facilities. The total estimated overall cost of the work necessary for the Secured Parcel Phase II Infrastructure Improvements to be funded by this SDA TIF5 2023 Warrant Issue is the amount of \$2,300,000.00 for the work described herein.

Scopes of work and estimated completion dates are summarized below:

SECURED PARCEL PHASE II INFRASTRUCTURE ENGINEERING SERVICES

Engineering design and other services (soft costs) are necessary to prepare the construction documents for the improvements to include the extension of Goss Road to the secured Gateway roundabout including utilities, stormwater improvements, earthwork, streetlights, communication duct bank, and the landscape and irrigation work. Additionally, the construction documents will include mass earthwork over approximately 80 acres and stormwater management improvements including detention facilities. These soft costs also include the geotechnical investigation for the 80 acres parcel and the preparation of the maintenance easement for the Goss Road extension. These engineering services will be performed by SAIN Associates. The total estimated costs to be budgeted and funded for this work from this TIF Revenue Warrant TIF 5 SDA 2023 are estimated to be approximately \$260,476.00. Projected completion date is November 1, 2024.

SECURED PARCEL PHASE II INFRASTRUCTURE PROJECT/CONSTRUCTION MANAGEMENT SERVICES

The Annexation and Development Agreement between the City of Huntsville, Alabama and L W Redstone provides for the employment of a Project Manager to oversee certain aspects of the Public Infrastructure Improvements as defined in that Development Agreement. Project/Construction Management services will be performed by BL Harbert International for the improvements described herein to the Secured Parcel. Included are consultant fees to prepare the as-built surveys and to perform the testing and inspections during construction. The amount of approximately \$492,460.00 is not funded from this TIF 5 SDA 2023 but instead funded directly by Owner through a separate agreement in which the City will be a third party for administrative purposes. Completion date of this work is estimated to be approximately November 1, 2024.

CONSTRUCTION SERVICES FOR THE SECURED PARCEL PHASE II

Construction services will be contracted for mass earthwork for approximately 80 acres, to include stormwater management improvements. Also, construction services will be contracted for the Goss Road extension, including all utilities (except sanitary sewer and aid-to-construction fees), streetlighting, communication duct bank, streetscape, and irrigation. The total estimated costs for this work to be budgeted and funded from this TIF 5 SDA 2023 is estimated to be 2,033,024.00, or the remainder of the balance of TIF 5 SDA 2023 left after engineering services and incidental legal and financial expenses. Construction Contractors have yet to be selected. Completion date of these projects is estimated to be November 1, 2024.

CONTRACTS, CHANGE ORDERS, MODIFICATIONS IN EXCESS OF TIF 5 SDA FUNDING

Any contracts, change orders or modifications to the contracts awarded for the work described above in excess of the amount of funding established and authorized by this TIF 5 SDA 2023 or any other TIF 5 SDA, shall not be authorized and executed unless funding for the contract, change order or modification has been provided pursuant to a

properly approved and executed agreement between the City of Huntsville and LW Redstone Company LLC.

INCIDENTAL LEGAL AND FINANCIAL EXPENSES – Legal expenses for issuance of the Owner’s warrant for this phase of work. Estimated cost \$6,500.00.

C. ESTIMATED TIF REVENUES

First year Ad Valorem taxes	\$ <u>N/A</u>
First year PILOT per Agreement Section 7.7	\$ <u>N/A</u>
TOTAL	\$ <u>N/A</u>

D. CITY COST & OWNER WARRANT AMOUNT

Maximum amount of City costs and Owner Warrant issue amount:

Regarding such costs pursuant to this Supplemental Development Agreement	\$ 2,300,000.00
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ADVANCE UNDER THE ANNEXATION AND DEVELOPMENT AGREEMENT-

The agreement between LW Redstone and the City of Huntsville provides for an initial advance for the Owner Warrants issued subsequent to the first Owner Warrant 5% of the costs on the Public Infrastructure Improvements referable to such warrant. The Initial Advance referable to this Owner Warrant is \$ 6,500.00.

IN WITNESS WHEREOF, the Parties hereto have duly executed this Agreement.

(“OWNER”)

L W REDSTONE COMPANY, LLC

Dated: August 4, 2023

By: _____

Name: _____

Its: _____

(“CITY”)

THE CITY OF HUNTSVILLE,
ALABAMA,
A municipal corporation

Dated: August 4, 2023

By: _____

Tommy Battle
Its: Mayor

ATTEST:

Shaundrika Edwards, City Clerk

**OMNIBUS AMENDMENT TO APPLICABLE
SUPPLEMENTAL DEVELOPMENT AGREEMENTS
AND
FINAL SUPPLEMENTAL DEVELOPMENT AGREEMENT - ROLL-UP**

This Omnibus Amendment to Applicable Supplemental Development Agreements and Final Supplemental Development Agreement - Roll-Up (this "Omnibus Amendment and Final SDA") is dated the 5th day of August, 2023, and is entered by and between the City of Huntsville, Alabama, a municipal corporation under the laws of the State of Alabama (the "City") and L.W. Redstone Company, L.L.C, a Delaware limited liability company (the "Owner"). The City and the Owner are herein referred to together from time to time as the "Parties".

R E C I T A L S

WHEREAS, the City and the Owner are parties to that certain Annexation and Development Agreement dated March 25, 2010 (the "Base Agreement"), as modified by Modification No. 1 to Annexation and Development Agreement dated May 24, 2012 and Modification No. 2 to Annexation and Development Agreement dated October 10, 2013 (the Base Agreement, as so modified, the "Agreement"); Capitalized terms used and not otherwise defined herein having the meaning given to them in the Agreement; and

WHEREAS, under the Agreement, upon request from time to time by the Owner, the City will construct and install various public capital improvements ("Public Improvements") on certain real property more particularly described in the Agreement for which the Owner is the beneficiary of a leasehold interest, all at a cost of not to exceed \$76,000,000 and paid with money advanced (an "Advance" or "Advances") by the Owner to the City; and

WHEREAS, each time the Owner identifies Public Improvements to be constructed, the same are described and memorialized in a supplement to the Agreement (a "Supplemental Development Agreement" or "SDA"), which Supplemental Development Agreement also identifies the maximum estimated cost of such Public Improvements (the "Maximum Cost"); and

WHEREAS, for each Supplemental Development Agreement, the City issues a limited obligation warrant payable from TIF revenues to the Owner in an initial principal amount of not to exceed the Maximum Cost set forth in such Supplemental Development Agreement (an "Owner Warrant") under which the City may receive Advances from the Owner to pay the costs of the Public Improvements specified in such Supplemental Development Agreement; and

WHEREAS, the City has issued fourteen (14) separate series of Owner Warrants to the Owner aggregating not to exceed \$76,000,000 in initial principal amount, all of which are set forth under the column entitled "Owner Warrants" on Appendix I hereto and which represent all Owner Warrants contemplated under the Agreement for the City to issue; and

WHEREAS, the most recent Supplemental Development Agreement and Owner Warrant (which also represents the last Owner Warrant available to be issued per the Agreement) were entered and issued, respectively, on August 4, 2023, consisting of the Supplemental Development Agreement TIF5 – Series 2023 to Annexation and Development Agreement (the "2023 SDA")

respecting the City's \$2,300,000 Taxable Limited Obligation TIF Revenue Warrant, TIF5 - Series 2023, dated August 5, 2023 (the "2023 Owner Warrant"), and the Owner and City anticipate the full \$2,300,000 available for Advances thereunder will be honored and spent over the next 12 to 16 months on the Public Improvements described in the 2023 SDA; and

WHEREAS, of the remaining thirteen (13) separate series of Owner Warrants and the Supplemental Development Agreements related thereto, the City has received the full amount of Advances permitted under the following three (3) Owner Warrants:

- (i) Supplemental Development Agreement TIF5 – Series 2010-B to Annexation and Development Agreement (the "2010-B SDA") respecting the City's \$20,000,000 Taxable Limited Obligation TIF Revenue Warrant, TIF5 - Series 2010-B, dated November 5, 2010 (the "2010-B Owner Warrant");
- (ii) Supplemental Development Agreement TIF5 – Series 2013-A to Annexation and Development Agreement (the "2013-A SDA") respecting the City's \$1,500,000 Taxable Limited Obligation TIF Revenue Warrant, TIF5 - Series 2013-A, dated March 11, 2013 (the "2013-A Owner Warrant"); and
- (iii) Supplemental Development Agreement TIF5 – Series 2021-A to Annexation and Development Agreement (the "2021-A SDA") respecting the City's \$6,000,000 Taxable Limited Obligation TIF Revenue Warrant, TIF5 - Series 2021-A, dated June 3, 2021 (the "2021-A Owner Warrant");

WHEREAS, the amount available for Advance under each of the following ten (10) Owner Warrants and related Supplemental Development Agreements has not been exhausted, which remaining amounts aggregate to the sum of \$3,098,721:

- (i) Supplemental Development Agreement TIF5 – Series 2010-A to Annexation and Development Agreement (the "2010-A SDA") respecting the City's \$10,000,000 Taxable Limited Obligation TIF Revenue Warrant, TIF5 - Series 2010-A, dated July 26, 2010 (the "2010-A Owner Warrant");
- (ii) Supplemental Development Agreement TIF5 – Series 2012-A to Annexation and Development Agreement (the "2012-A SDA") respecting the City's 3,000,000 Taxable Limited Obligation TIF Revenue Warrant, TIF5 - Series 2012-A, dated February 6, 2012 (the "2012-A Owner Warrant");
- (iii) Supplemental Development Agreement TIF5 – Series 2012-B to Annexation and Development Agreement (the "2012-B SDA") respecting the City's \$3,000,000 Taxable Limited Obligation TIF Revenue Warrant, TIF5 - Series 2012-B, dated June 4, 2012 (the "2012-B Owner Warrant");

- (iv) Supplemental Development Agreement TIF5 – Series 2017-A to Annexation and Development Agreement (the "2017-A SDA") respecting the City's \$1,000,000 Taxable Limited Obligation TIF Revenue Warrant, TIF5 – Series 2017-A, dated March 30, 2017 (the "2017-A Owner Warrant");
- (v) Supplemental Development Agreement TIF5 – Series 2017-B to Annexation and Development Agreement (the "2017-B SDA") respecting the City's \$4,000,000 Taxable Limited Obligation TIF Revenue Warrant, TIF5 – Series 2017-B, dated October 10, 2017 (the "2017-B Owner Warrant");
- (vi) Supplemental Development Agreement TIF5 – Series 2018-A to Annexation and Development Agreement (the "2018-A SDA") respecting the City's \$4,500,000 Taxable Limited Obligation TIF Revenue Warrant, TIF5 – Series 2018-A, dated August 29, 2018 (the "2018-A Owner Warrant");
- (vii) Supplemental Development Agreement TIF5 – Series 2019-A to Annexation and Development Agreement (the "2019-A SDA") respecting the City's \$1,700,000 Taxable Limited Obligation TIF Revenue Warrant, TIF5 – Series 2019-A, dated February 5, 2019 (the "2019-A Owner Warrant");
- (viii) Supplemental Development Agreement TIF5 – Series 2019-B to Annexation and Development Agreement (the "2019-B SDA") respecting the City's \$14,500,000 Taxable Limited Obligation TIF Revenue Warrant, TIF5 – Series 2019-B, dated May 30, 2019 (the "2019-B Owner Warrant");
- (ix) Supplemental Development Agreement TIF5 – Series 2020-A to Annexation and Development Agreement (the "2020-A SDA") respecting \$2,000,000 Taxable Limited Obligation TIF Revenue Warrant, TIF5 – Series 2020-A, dated April 9, 2020 (the "2020-A Owner Warrant"); and
- (x) Supplemental Development Agreement TIF5 – Series 2021-B to Annexation and Development Agreement (the "2021-B SDA") respecting the City's \$2,500,000 Taxable Limited Obligation TIF Revenue Warrant, TIF5 – Series 2021-B, dated August 2, 2021 (the "2021-B Owner Warrant");

WHEREAS, the Owner has represented to the City that it will not be requesting in the future that any of the Public Improvements described in the 2010-A SDA, the 2012-A SDA, the 2012-B SDA, the 2017-A SDA, the 2017-B SDA, the 2018-A SDA, the 2019-A SDA, the 2019-

B SDA, the 2020-A SDA, and the 2021-B SDA (from time to time herein collectively called the "Applicable SDAs" and, individually, an "Applicable SDA") be made, but the Owner has identified other public capital improvements at a Maximum Cost of \$3,098,721 hereinafter described and defined as the "Final Public Improvements" that it desires to be constructed and financed pursuant to the Agreement; and

WHEREAS, because no additional Owner Warrants may be issued under the Agreement, to enable the Final Public Improvements to be constructed and financed in accordance with the Agreement the Parties have determined to enter this Omnibus Amendment and Final SDA in order to (i) amend each Applicable SDA to reduce the Maximum Cost of the Public Improvements referable thereto by the amount shown under the column entitled "Remaining Amount Available for Advance" respecting such Applicable SDA as shown on Appendix I; (ii) provide for the construction and financing of the Final Public Improvements at an estimated maximum cost of not to exceed \$3,098,721; and (iii) provide that the costs of the Final Public Improvements be financed with Advances honored under the ten (10) Owner Warrants described above and issued in connection with the Applicable SDAs (from time to time herein collectively called the "Applicable Owner Warrants" and, individually, an "Applicable Owner Warrant"); and

WHEREAS, the aggregate remaining amount available for Advance under all Applicable Owner Warrants is \$3,098,721, and as to each Applicable Owner Warrant the sum available thereunder for Advances to pay Final Public Improvements shall in no event exceed the amount with respect to such Owner Warrant set forth in the column entitled "Remaining Amount Available for Advance" on Appendix I hereto. By way of example, the remaining amount available for Advance in connection with the 2010-A TIF5 Revenue Warrant is \$59,650, and the remaining amount available for Advance in connection with the 2021-B TIF5 Warrant is \$1,587,057;

NOW, THEREFORE, for valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the City and the Owner do hereby covenant and agree as follows:

A. AMENDMENT OF APPLICABLE SDAs; LIMIT ON PUBLIC IMPROVEMENTS

Each Applicable SDA is hereby amended so that the Maximum Cost available thereunder is reduced by the amount set forth for such Applicable SDA in the column entitled "Remaining Amount Available for Advance" on Appendix I hereto. By way of example, pursuant to the immediately preceding sentence the Maximum Cost set forth in the 2010-A SDA has been reduced by \$59,650 from \$10,000,000 to \$9,940,350.

The Owner hereby covenants and agrees not to request the construction or financing by the City of any Public Improvements under or in connection with any of the Applicable SDAs, and that other than the Public Improvements described and set forth in the 2023 SDA to be financed with Advances honored under the 2023 Owner Warrant, the Final Public Improvement shall be the only remaining public capital improvements to be constructed or financed under the terms of the Agreement.

B. IMPORTANT DATES (ESTIMATES ONLY)

Commencement of City work related to Agreement Section 6.2 August 5, 2023

Commencement of Owner development work	n/a
First ad valorem assessment of Owner's development work Pursuant to this Supplemental Development Agreement	n/a
First TIF Revenues received by City	n/a

C. OWNER IMPROVEMENTS - Scope of Work for Omnibus Amendment and Final SDA.

This Omnibus Amendment and Final SDA constitutes, among other things, the fifteenth (15th) supplement to the Agreement and continues funding for Secured Parcel Phase II Infrastructure Improvements by amending each Applicable SDAs to reduce from the Maximum Cost stated therein by the amount shown under "Remaining Amount Available for Advance" in Appendix I hereto respecting such Applicable SDA and that, in the aggregate, total \$3,098,721, to provide funding for construction services for the Goss Road extension of approximately 2,100 LF, mass earthwork over approximately 80 acres, and stormwater management improvements including detention facilities. The total estimated overall cost of the work necessary for the Secured Parcel Phase II Infrastructure Improvements to be funded by this Omnibus Amendment and Final SDA is the amount of \$3,098,721.00 for the work described herein.

Scopes of work and estimated costs and completion dates are summarized below:

SECURED PARCEL PHASE II INFRASTRUCTURE ENGINEERING SERVICES

These engineering design services for the Final Public Improvements may be funded by the amounts shown in the column entitled "Remaining Amount Available for Advance" on Appendix I respecting the Applicable Owner Warrants.

CONSTRUCTION SERVICES FOR THE SECURED PARCEL PHASE II

Construction services will be contracted for mass earthwork for approximately 80 acres, to include stormwater management improvements and for the Goss Road extension of approximately 2,100 LF, including all utilities (except sanitary sewer and aid-to-construction), streetlighting, communication duct bank, streetscape, and irrigation (collectively, the "Final Public Improvements"). The total estimated costs for this work to be budgeted and funded from this Omnibus Amendment and Final SDA is estimated to be \$3,090,221.00, or the remainder of the balance of the "Remaining Amount Available for Advance" on Appendix I left after the \$8,500 incidental legal and financial expenses and any engineering services not funded by the 2023 SDA.

The construction contract will be competitively bid in early summer 2023. The completion date of this project is estimated to be November 1, 2024.

CONTRACTS, CHANGE ORDERS, AND MODIFICATIONS IN EXCESS OF OMNIBUS AMENDMENT AND FINAL SDA

Any contracts, change orders, or modifications to the contracts awarded for the work described above in excess of the amount of funding established and authorized by this Omnibus Amendment and Final SDA or any other TIF 5 SDA shall not be authorized and executed unless funding for the change order or modification has been provided pursuant to a properly approved and executed agreement between the City and the Owner.

INCIDENTAL LEGAL AND FINANCIAL EXPENSES – Legal expenses for this Omnibus Amendment and Final SDA and, overall, this phase of work. Estimated cost \$8,500.00. Such cost shall be paid from an Advance under the 2010-A Owner Warrant.

D. ESTIMATED TIF REVENUES

First year Ad Valorem taxes	\$ <u>N/A</u>
First year PILOT per Agreement Section 7.7	\$ <u>N/A</u>
TOTAL	\$ <u>N/A</u>

E. CITY COST & APPLICABLE OWNER WARRANTS AMOUNT

Maximum amount of City costs and maximum aggregate amount of remaining Advances available under Applicable Owner Warrants:

Regarding such costs pursuant to this Omnibus Amendment and Final SDA	\$3,098,721.00
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Maximum aggregate amount of remaining Advances under Applicable Owner Warrants	\$3,098,721.00
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As to each Applicable Owner Warrant, the Parties agree that Advances for Final Public Improvements shall not exceed the amounts shown under the heading "Remaining Amount Available for Advance" on Exhibit I hereto for each such Applicable Owner Warrant. For example, not more than \$2,614 is available for Advance under the 2012-A Owner Warrant, and not more than \$1,587,057 is available for Advance under the 2021-B Owner Warrant, and all such Advances shall be used for or in connection with the Final Public Improvements as set forth herein.

ADVANCE TO COVER LEGAL FEES - The Owner and the City agree that an Advance shall be made and honored under an Applicable Owner Warrant in the amount of \$8,500 to cover the legal fees incurred in preparing this Omnibus Amendment and Final SDA. Such Advance shall be made under the 2010-A Owner Warrant.

IN WITNESS WHEREOF, the Parties hereto have duly executed this Omnibus Amendment and Final SDA.

(“OWNER”)

L W REDSTONE COMPANY, LLC

By: _____

Name: _____

Its: _____

("CITY")

THE CITY OF HUNTSVILLE,
ALABAMA,
A municipal corporation

By: _____

Tommy Battle

Its: Mayor

ATTEST:

City Clerk

APPENDIX I

<u>Owner Warrants</u>	<u>SDAs</u>	<u>Applicable SDAs</u>	<u>Applicable Owner Warrants</u>	<u>Owner Warrants Face Amount</u>	<u>Amount Already Advanced</u>	<u>Remaining Amount Available for Advance</u>
2010-A Owner Warrant	2010A – SDA	2010A – SDA	2010-A Owner Warrant	\$ 10,000,000	\$9,940,350	\$59,650 ¹
2010-B Owner Warrant	2010B – SDA	--	--	20,000,000	20,000,000	0.00
2012-A Owner Warrant	2012A – SDA	2012A – SDA	2012-A Owner Warrant	3,000,000	2,997,386	2,614
2012-B Owner Warrant	2012B – SDA	2012B – SDA	2012-B Owner Warrant	3,000,000	2,920,599	79,401
2013-A Owner Warrant	2013A - SDA	--	--	1,500,000	1,500,000	0.00
2017-A Owner Warrant	2017A – SDA	2017A – SDA	2017-A Owner Warrant	1,000,000	748,912	251,088
2017-B Owner Warrant	2017B – SDA	2017B – SDA	2017-B Owner Warrant	4,000,000	3,587,278	412,722
2018-A Owner Warrant	2018A – SDA	2018A – SDA	2018-A Owner Warrant	4,500,000	4,440,025	59,975
2019-A Owner Warrant	2019A – SDA	2019A – SDA	2019-A Owner Warrant	1,700,000	1,657,539	42,461
2019-B Owner Warrant	2019B – SDA	2019B – SDA	2019-B Owner Warrant	14,500,000	14,288,103	211,897
2020-A Owner Warrant	2020A – SDA	2020A – SDA	2020-A Owner Warrant	2,000,000	1,608,143	391,857
2021-A Owner Warrant	2021A – SDA	--	--	6,000,000	6,000,000	0.00
2021-B Owner Warrant	2021B – SDA	2021B – SDA	2021-B Owner Warrant	2,500,000	912,943	1,587,057
2023 Owner Warrant	2023 - SDA	2023 – SDA	--	<u>2,300,000</u>	<u>0.00</u>	<u>N/A²</u>
Totals				\$76,000,000	70,601,279	\$3,098,721

¹ An Advance shall be made on the date of the execution and delivery of this Omnibus Amendment and Final SDA under the 2010-A Owner Warrant in the amount of \$8,500 to cover legal fees incident to the preparation of this document, thereby reducing the amount of Advances available under the 2010-A Owner Warrant to \$51,150, and the total aggregate amount of Advances available under the Applicable Owner Warrants to \$3,090,221.

² The 2023 SDA and 2023 Owner Warrant closed August 4, 2023. As noted earlier, the Owner and City anticipate the Maximum Cost of the Public Improvements described in the 2023 SDA will be covered, in full, by Advances under the 2023 Owner Warrant. For this reason this an "N/A" is shown here so as to reflect the available amount under all Applicable SDAs and all Applicable Owner Warrants.