



Huntsville, Alabama

305 Fountain Circle
Huntsville, AL 35801

Cover Memo

Meeting Type: City Council Regular Meeting **Meeting Date:** 7/24/2025

File ID: TMP-5787

Department: Public Works

Subject:

Type of Action: Approval/Action

Resolution authorizing the Mayor to enter into a Solid Waste Disposal Agreement between the City of Huntsville and Titanite Zierdt Owner, LLC, for solid waste disposal services in an community known as Nestledown Farms.

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. 25-____

BE IT RESOLVED by the City Council of the City of Huntsville, Alabama, that the Mayor be, and is hereby authorized to execute a Solid Waste Disposal Agreement by and between the City of Huntsville and Titanite Zierdt Owner, LLC, on behalf of the City of Huntsville, a municipal corporation in the State of Alabama, which said agreement is substantially in words and figures similar to that certain document attached hereto and identified as a "Solid Wast Disposal Agreement between the City of Huntsville and Titanite Zierdt Owner, LLC," consisting of five (5) pages including the exhibit, and the date of July 24, 2025, appearing on the margin of the first page, together with the signature of the President or President Pro Tem of the City Council, an executed copy of said document being permanently kept on file in the Office of the City Clerk of the City of Huntsville, Alabama.

ADOPTED this the 24th day of July, 2025.

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

APPROVED this the 24th day of July, 2025.

Mayor of the City of
Huntsville, Alabama

SOLID WASTE DISPOSAL AGREEMENT

This Solid Waste Disposal Agreement (this “Agreement”) is made and entered into on July 24, 2025, between the City of Huntsville (hereinafter referred to as “the City”), on one hand, and the Titanite Zierdt Owner, LLC, a Delaware limited liability company, the owner of a rental community known as Nestledown Farms, for solid waste disposal services as set forth below. The effective date of this agreement is July 25, 2025.

WHEREAS, the City, pursuant to Section 22-82 of the Municipal Code, is authorized to provide garbage, yard waste, and recycling removal on portions of the City with public streets; and

WHEREAS, the streets within Nestledown Farms are private streets and are owned by Titanite Zierdt Owner, LLC (hereinafter referred to as “the Owner”); and

WHEREAS, The Solid Waste Disposal Authority of the City of Huntsville (“SWDA”), through independent contractors, collects certain recyclable materials throughout the City, and, along with said contractors, is an intended third-party beneficiary of this Agreement; and

WHEREAS, neither the City nor SWDA is under any obligation to provide such services in private, gated communities, the Owner specifically requests the City and/or SWDA, together with their contract vendors, to haul, transport, and dispose of solid waste and recycling from Nestledown Farms pursuant to established guidelines as the same may be modified from time to time; and

WHEREAS, the Owner and the City desire to enter into this Agreement to set forth in the terms and conditions by which the City shall provide municipal solid waste (MSW) and yard waste pickup, hauling, disposal, and allow for SWDA and its contract vendors, to provide recycling services as more particularly set forth below; and,

WHEREAS, the City, SWDA, and their respective contract vendors (collectively, the “Service Providers”), shall each be entitled to the hold harmless and indemnification provisions of Section 4 below,

NOW THEREFORE, in consideration of the premises, which are incorporated herein by reference, and the respective covenants herein contained, the parties agree as follows:

1.0 SERVICES. During the term of the Agreement, the City will, directly or through contractors, including, but not limited to SWDA, provide residential garbage, recycling, and yard waste collection, subject to the same conditions, limitations, fees, schedules, and procedures that it does so with respect to other residential neighborhoods and residential garbage collection, recycling, and yard waste collection, which conditions, limitations, fees, schedules, and procedures may be amended from time to time by the City without notice or limitation. In addition to, and without limitation of, each and all of the rights granted by the Owner to the City herein, during the term of the Agreement, the Owner grants to both the City and SWDA, together with their respective contract vendors, a license to enter into the

roads and common areas of Nestledown Farms in Huntsville, Alabama, as more particularly described in attached Exhibit "A" (collectively, the "Roads"), in order to carry out the services described herein in the manner in which in their sole discretion the City and/or SWDA, respectively, deems appropriate.

2.0 TERM OF CONTRACT. This agreement will become effective on July 25, 2025, and will continue in effect until July 24, 2027. However the City may terminate this Agreement for its convenience, with or without cause, on 30 days written notice to the Owner by sending such written notice by U.S. Mail postage prepaid and properly addressed to 1 Nestledown Dr, Huntsville, AL 35824. The Owner may terminate the Agreement by giving ninety (90) days' written notice to the City by sending such written notice by U.S. Mail postage prepaid and properly addressed to City of Huntsville Sanitation Department, Sanitation Office, 4205 East Schrimsher Lane, Huntsville, AL 35805, with a copy to the Solid Waste Disposal Authority of the City of Huntsville, c/o Doc Holladay, Executive Director, Post Office Box 2619, Huntsville, AL 35804-2619. Upon termination of this Agreement by the City, the Owner will be required to obtain a separate contract with SWDA to ensure continued recycling services.

3.0 RIGHT TO REFUSE UNACCEPTABLE WASTE. Without waiver of, and in addition to, the provisions of Section 1.0 above, the Owner acknowledges and agrees that the City and SWDA will only accept acceptable waste and the City and SWDA have the right to reject any waste or load of waste defined as unacceptable under common usage of that term under municipal ordinances, state law or regulations, federal law or regulations, or City policies, procedures, rules or regulations.

4.0 INDEMNIFICATION.

4.1 GENERAL INDEMNITY. To the furthest extent allowed by law, the Owner shall indemnify, hold harmless, and defend the City and/or the other Service Providers and each of their respective officers, officials, employees, agents, contractors, and volunteers from any and all loss, liability, fines, penalties, forfeitures, costs, and damages (whether in contract, tort, or strict liability, including but not limited to, personal injury, death at any time, and property damage), and from any and all claims, demands, and actions in law or equity (including reasonable attorney's fees and litigation expense) that arise out of, pertain to, or related to the Service Providers' performance under this Agreement. Without limitation of the foregoing, the parties agree that it is the specific and express intent and the agreement of the parties that in the event that the Roads, or any related improvements, are damaged, either directly or indirectly, or any claims of damage, loss destruction, or liability are lodged against a Service Provider, as a result of the garbage trucks' and/or recycling trucks' use of the Roads to perform the respective services under this Agreement, the Owner shall hold harmless and indemnify the City and/or the other Service Providers from any and all

obligations, liabilities, causes of action, lawsuits, damages, and assessments, including legal fees, etc., that result from such use of the Roads to deliver the Services. This indemnification clause shall survive this Agreement and be enforceable as a separate agreement in the event its survival and enforcement become necessary.

4.2 DEFENSE. Immediately upon commencement of any lawsuits, claims, complaints, causes of actions, or other demands brought against the City for liabilities arising out of or in any way connected to this Agreement, the Owner shall (1) defend the City with attorney or counsel approved by the City, and, (2) reimburse the City and/or the other service providers, for any out-of-pocket costs of defense. The City an/or the other service providers, may retain co-counsel at its own cost and expense and the Owner shall direct its counsel to assist and cooperate with the City's co-counsel. The obligations to indemnify, hold harmless, and defend set forth in this Agreement are obligations of each of the Owners jointly and severally.

5.0 ASSIGNMENT. This Agreement may be freely assigned by the City and/or SWDA to such contractors or other parties that they may retain to perform the services set forth in Section 1.0 above, and such assignee(s) shall have all the rights of the City and/or SWDA. The Owner shall not assign to any third party any rights or responsibilities of this Agreement without the express written consent of the City of Huntsville.

6.0 ENTIRE AGREEMENT. AMENDMENTS. This Agreement constitutes the entire agreement between the parties and may not be amended without written notice and the written consent of the City Council of the City of Huntsville.

7.0 WAIVER. Waiver or default of any one provision herein shall not be deemed to be a waiver of any other provision herein, and shall not constitute a continuing waiver of default. No provision of this Agreement may be waived unless approved in writing by all parties and submitted to the City Council of the City of Huntsville for approval.

8.0 GOVERNING LAW AND VENUE. This Agreement shall be governed by, and construed and enforced in accordance with, the laws of the State of Alabama, without regard to its conflict of law provisions. Venue for purposes of the filing of any action regarding enforcement or interpretation of this Agreement and any rights and duties hereunder shall be Madison County, Alabama.

9.0 ATTORNEY'S FEES. If the City and/or SWDA are required to initiate or defend or are made a party to any action or proceeding in any way connected with this Agreement, if the City and/or SWDA is wholly or partially a prevailing party in such action or proceeding, then in addition to any other relief which may be granted, whether legal or equitable, the City

and/or SWDA shall be entitled to recover its reasonable attorney's fees and costs, whether or not the matter proceeds to judgment.

10.0 **INTERPRETATION.** The terms of this Agreement shall be construed in accordance with the meaning of the language used and shall not be construed for or against either party by reason of the authorship of this Agreement or any other rule of construction which might otherwise apply.

11.0 **COUNTERPARTS.** This agreement may be executed in counterparts, each of which shall be deemed to be an original, and such counterparts shall constitute one and the same agreement.

CITY OF HUNTSVILLE, an Alabama municipal corporation

By _____
Tommy Battle, Mayor

Attested To:

By _____
Shaundrika Edwards, City Clerk
City of Huntsville, Alabama

Date: _____

TITANITE ZIERDT OWNERS, LLC

By  _____

Printed Name Scott Kelly

Title SVP

EXHIBIT A

Tract A of Cambridge Subdivision, Phase 3, being a re-subdivision of Common Area C, according to the plat of Cambridge Subdivision, Phase 2, a re-subdivision of Lot 2 of Williams-Cheatham Subdivision and other lands recorded in File #2021-00052364, in the Office of the Judge of Probate of Madison County, Alabama.