



Huntsville, Alabama

308 Fountain Circle
Huntsville, AL 35801

Cover Memo

Meeting Type: City Council Regular Meeting **Meeting Date:** 12/7/2023

File ID: TMP-3673

Department: Planning

Subject:

Type of Action: Approval/Action

Resolution to set a public hearing on the vacation of a right-of-way located along Pelham Avenue, and the introduction of a Resolution consenting to, and the introduction of an Ordinance vacating the right-of-way pertaining to the same. (Vista Huntsville, LLC) (Set January 11, 2024, Regular Council Meeting)

Resolution No.

Resolution No.

Ordinance No.

Does this item need to be published? Choose an item.

If yes, please list preferred date(s) of publication: Dec. 13, Dec. 20, Dec. 27 and Jan. 3

Finance Information:

Account Number: NA

City Cost Amount: NA

Total Cost: NA

Special Circumstances:

Grant Funded: NA

Grant Title - CFDA or granting Agency: Click or tap here to enter text.

Resolution #: Click or tap here to enter text.

Location:

Address:

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

RESOLUTION NO. 23-_____

BE IT RESOLVED by the City Council of the City of Huntsville, within the State of Alabama, as follows:

1. That **Vista Huntsville, LLC**, is the sole landowner abutting the property hereinafter described, submitted an application for the vacation of Right-of-way being and lying in Madison County, and being more particularly described as follows (the “Right-of-way” or the “Property”):

SEE EXHIBIT “A” - “DECLARATION FOR VACATION OF RIGHT-OF-WAY”

SEE EXHIBIT “B” – “PETITION FOR APPROVAL OF AN ASSENT TO VACATION OF RIGHT OF WAY”

SEE EXHIBIT “C”– “PUBLIC HEARING NOTICE”

2. That a public hearing shall be held for purpose of allowing public comments on the proposed vacation of said Right-of-way at Huntsville City Hall in the Council Chamber, located at 308 Fountain Circle, Huntsville, Alabama 35801, at 5:30 p.m. on Thursday, January 11, 2024; and

3. That notice of the vacation of the Right-of-way has been or shall be provided to all adjacent landowners and any known entities with facilities or equipment lying in said Right-of-way in accordance with Section 23-4-1 *et seq.* of the Code of Alabama, 1975, as amended; and

4. That the City Clerk is hereby ordered to have public hearing notice contained in Exhibit “C” attached hereto (“Public Notice”), immediately published in *The Speakin’ Out News* for four consecutive weeks, with said notice to run beginning on December 13, December 20, December 27, and January 3, 2024.

5. It is hereby ordered that copies of the Public Notice shall be posted on bulletin boards located in the Madison County Courthouse and Huntsville City Hall.

ADOPTED this the 7th day of December, 2023.

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

APPROVED this the 7th day of December, 2023.

Mayor of the City of
Huntsville, Alabama

STATE OF ALABAMA)

COUNTY OF MADISON)

DECLARATION OF VACATION OF RIGHT-OF-WAY

KNOW ALL MEN BY THESE PRESENTS: That the undersigned VISTA HUNTSVILLE, LLC, a Delaware limited liability company ("Owner") desiring to vacate that certain right-of-way hereinafter described, says as follows:

1. That Owner is the owner of all the land abutting the hereinafter described right-of-way.
2. That convenient and reasonable means of ingress and egress are available to the owners of the surrounding property.
3. That said right-of-way, hereinafter described, is situated within the corporate limits of the City of Huntsville, Alabama, and was heretofore dedicated to said City.
4. That Owner, by this instrument, declares its intent to vacate the said right-of-way, hereinafter described.
5. That it may be necessary for City to retain an easement for utilities and drainage over the real estate described below.

NOW, THEREFORE, the undersigned, as the owner of all property abutting the said right-of-way hereinafter described, does hereby petition and urge that the City Council of the City of Huntsville, Alabama, adopt a resolution hereby declaring said right-of-way vacated and assenting to the vacation of the following described right-of-way, being described, as follows:

SEE EXHIBIT "A" ATTACHED HERETO

FURTHER, the undersigned Owner does request that all procedural requirements of Sections 23-4-2 and 23-4-5, Code of Alabama 1975, as amended, be observed.

[Signature Page Follows]

IN WITNESS WHEREOF, the undersigned owner of all property abutting said right-of-way hereinabove described, has caused this instrument to be executed on this 12th day of October, 2023.

VISTA HUNTSVILLE, LLC, a Delaware limited liability company

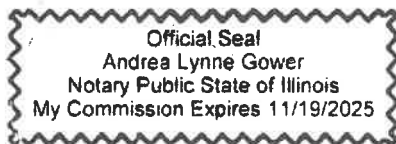
By: [Signature]
Name: Jeff Brown
Its: Authorized Signer

STATE OF Illinois

COUNTY OF DuPage

I, the undersigned Notary Public in and for said County and State, hereby certify that Jeff Brown, whose name as Authorized signer of Vista Huntsville, LLC, a Delaware limited liability company, is signed to the foregoing conveyance and who is known to me, acknowledged before me on this day that, being informed of the contents of the conveyance, he, as such Authorized signer and with full authority, executed the same voluntarily for and as the act of said limited liability company on the day the same bears date.

GIVEN under my hand and official seal this the 12th day of October, 2023.



Andrea Lynne Gower
Notary Public
My commission expires: 11/19/2025

Exhibit "A"
(Legal Description of Right-of-Way to be Vacated – Pelham Avenue)

ALL THAT PART OF THE NORTHWEST QUARTER OF SECTION 1, TOWNSHIP 4 SOUTH, RANGE 1 WEST OF THE HUNTSVILLE MERIDIAN, MADISON COUNTY, ALABAMA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF LOT 2 OF THE FINAL PLAT OF VISTA AT COUNCILL SQUARE AS RECORDED IN PLAT BOOK 2022, PAGE 289 IN THE OFFICE OF THE JUDGE OF PROBATE, MADISON COUNTY, ALABAMA AND BEING FURTHER DESCRIBED AS LYING AT THE INTERSECTION OF THE SOUTHERLY RIGHT-OF-WAY MARGIN OF DAVIS CIRCLE (RIGHT-OF-WAY WIDTH VARIES) AND THE WESTERLY RIGHT-OF-WAY MARGIN OF PELHAM AVENUE (RIGHT-OF-WAY WIDTH VARIES) AND HAVING ALABAMA STATE PLANE COORDINATES (EAST ZONE, NAD '83) OF NORTH: 1537236.00, EAST: 429877.09; THENCE, FROM THE POINT OF BEGINNING, SOUTH 42 DEGREES 37 MINUTES 41 SECONDS WEST, 37.62 FEET TO A POINT; THENCE SOUTH 50 DEGREES 18 MINUTES 52 SECONDS WEST, 48.41 FEET TO A POINT; THENCE RUN 53.71 FEET ALONG A CURVE TO THE LEFT HAVING A RADIUS OF 364.25 FEET, A DELTA ANGLE OF 8 DEGREES 26 MINUTES 54 SECONDS, AND A CHORD BEARING AND DISTANCE OF SOUTH 47 DEGREES 45 MINUTES 53 SECONDS WEST, 53.66 FEET TO A POINT LYING ON THE PRESENT WESTERLY RIGHT-OF-WAY MARGIN OF PELHAM AVENUE; THENCE RUN ALONG SAID WESTERLY MARGIN NORTH 31 DEGREES 10 MINUTES 39 SECONDS EAST, 19.70 FEET TO A POINT; THENCE, CONTINUE ALONG SAID WESTERLY MARGIN, NORTH 48 DEGREES 08 MINUTES 49 SECONDS EAST, 5.90 FEET TO A POINT; THENCE, CONTINUE ALONG SAID WESTERLY MARGIN, RUN 22.76 FEET ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF 275.00 FEET, A DELTA ANGLE OF 4 DEGREES 44 MINUTES 29 SECONDS AND A CHORD BEARING AND DISTANCE OF NORTH 46 DEGREES 31 MINUTES 03 SECONDS EAST, 22.75 FEET TO A POINT; THENCE, CONTINUE ALONG SAID WESTERLY MARGIN, NORTH 50 DEGREES 53 MINUTES 17 SECONDS EAST, 85.69 FEET TO A POINT; THENCE, CONTINUE ALONG SAID WESTERLY MARGIN, RUN 6.41 FEET ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF 125.00 FEET, A DELTA ANGLE OF 2 DEGREES 56 MINUTES 18 SECONDS, AND A CHORD BEARING AND DISTANCE OF NORTH 49 DEGREES 31 MINUTES 09 SECONDS EAST, 6.41 FEET BACK TO THE POINT OF BEGINNING AND CONTAINING 0.013 ACRES (586 SQUARE FEET) MORE OR LESS.

BUT RESERVING IN FAVOR OF THE CITY OF HUNTSVILLE, A PUBLIC UTILITY AND DRAINAGE EASEMENT OVER, ACROSS AND UNDER THE ENTIRETY OF THE ABOVE DESCRIBED 0.013 ACRE PARCEL OF LAND.

STATE OF ALABAMA

COUNTY OF MADISON

PETITION FOR VACATION OF A PORTION OF RIGHT-OF-WAY

KNOW ALL MEN BY THESE PRESENTS: That the undersigned, VISTA HUNTSVILLE, LLC, a Delaware limited liability company (the "Owner"), desiring to vacate that portion of a certain right-of-way hereinafter described, says as follows:

1. WHEREAS, the said Owner is the owner of all the land abutting the hereinafter described section of right-of-way; and
2. WHEREAS, convenient and reasonable means of ingress and egress are available to the Owner and to other landowners of the surrounding property; and
3. WHEREAS, the said right-of-way, hereinafter described, is situated within the City of Huntsville, Alabama; and
4. WHEREAS, the undersigned, by this instrument, declare their intent and desire to vacate a portion of said right-of-way as hereinafter described, reserving unto the City of Huntsville a temporary utility easement for certain utilities located within such vacated right-of-way until such time as those utilities are relocated; and
5. WHEREAS, the undersigned wish for the entirety of the vacated property to be deeded from the City of Huntsville to Vista Huntsville, LLC.

NOW, THEREFORE, the undersigned, as the Owner of the property abutting the said right-of-way hereinafter described, does hereby petition and urge that the City Council of the City of Huntsville adopt a resolution hereby declaring the designated portion of said right-of-way vacated and assenting to the vacation of said right-of-way, being described as follows:

**SEE EXHIBIT "A" attached hereto and incorporated herein, as
Depicted in Exhibit "B" attached hereto.**

IN WITNESS WHEREOF, the undersigned Owner of the property abutting said section of right-of-way hereinabove described has caused this petition to be executed, on this 12th day of October, 2023.

VISTA HUNTSVILLE, LLC, a Delaware limited liability company

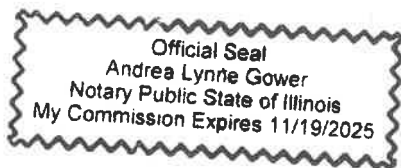
By: [Signature]
Name: Jeff Brown
Its: Authorized Signer

STATE OF Illinois

COUNTY OF DuPage

I, the undersigned Notary Public in and for said County and State, hereby certify that Jeff Brown, whose name as Authorized signer of Vista Huntsville, LLC, a Delaware limited liability company, is signed to the foregoing conveyance and who is known to me, acknowledged before me on this day that, being informed of the contents of the conveyance, he, as such Authorized signer and with full authority, executed the same voluntarily for and as the act of said limited liability company on the day the same bears date.

GIVEN under my hand and official seal this the 12th day of October, 2023.



Andrea Lynne Gower
Notary Public
My commission expires: 11/19/2025

This instrument prepared by:

Katherine Amos Beasley

Wilmer & Lee, P.A.

100 Washington Street

Huntsville, Alabama 35801

256-533-0202

U:\Sam\REAL-ESTATE\Vacation\COH\Vista\ROW Vacation\ROW COH Petition.doc

EXHIBIT "A"

(Legal Description of Portion of Right of Way to be Vacated – portion of Pelham Avenue)

ALL THAT PART OF THE NORTHWEST QUARTER OF SECTION 1, TOWNSHIP 4 SOUTH, RANGE 1 WEST OF THE HUNTSVILLE MERIDIAN, MADISON COUNTY, ALABAMA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

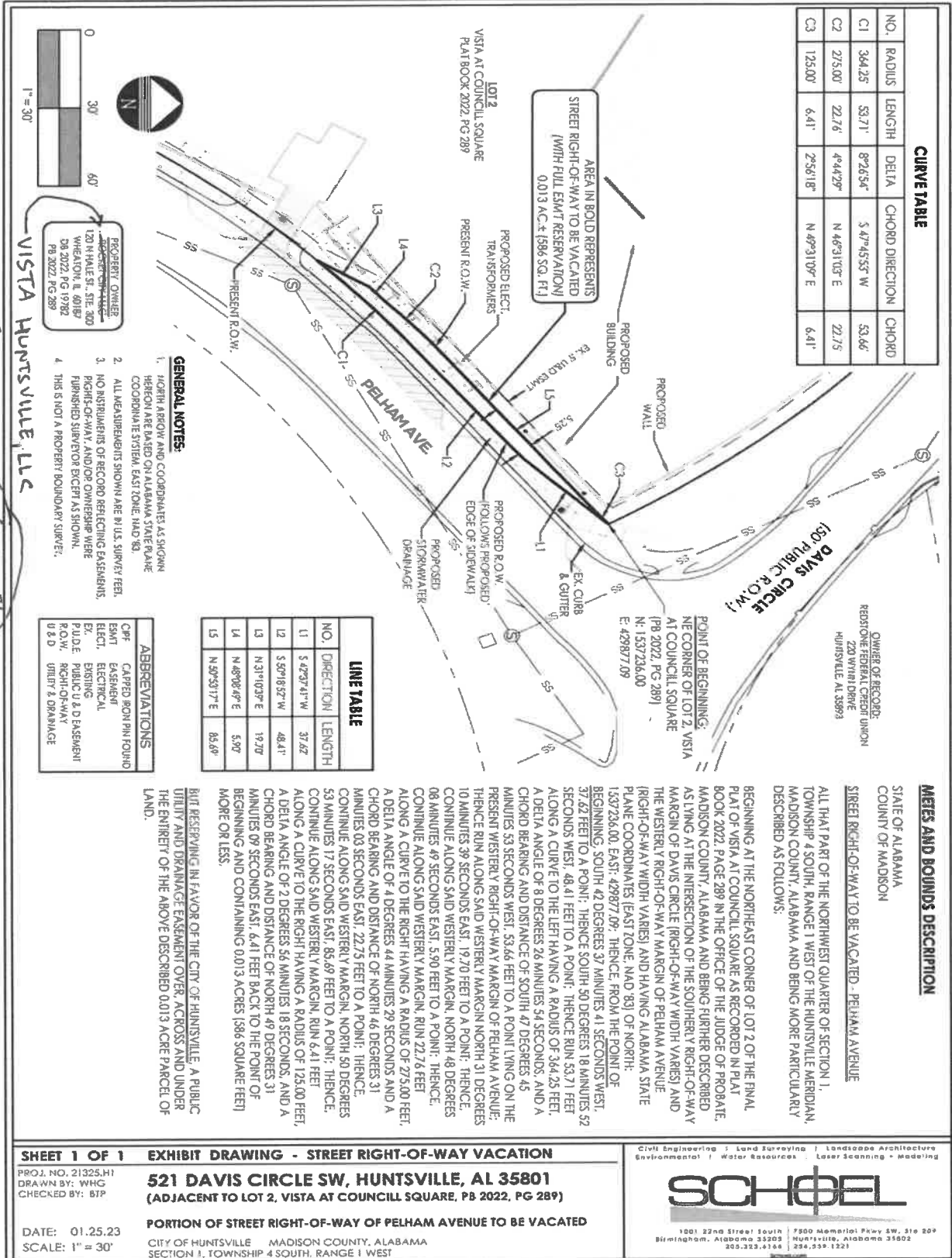
BEGINNING AT THE NORTHEAST CORNER OF LOT 2 OF THE FINAL PLAT OF VISTA AT COUNCILL SQUARE AS RECORDED IN PLAT BOOK 2022, PAGE 289 IN THE OFFICE OF THE JUDGE OF PROBATE, MADISON COUNTY, ALABAMA AND BEING FURTHER DESCRIBED AS LYING AT THE INTERSECTION OF THE SOUTHERLY RIGHT-OF-WAY MARGIN OF DAVIS CIRCLE (RIGHT-OF-WAY WIDTH VARIES) AND THE WESTERLY RIGHT-OF-WAY MARGIN OF PELHAM AVENUE (RIGHT-OF-WAY WIDTH VARIES) AND HAVING ALABAMA STATE PLANE COORDINATES (EAST ZONE, NAD '83) OF NORTH: 1537236.00, EAST: 429877.09; THENCE, FROM THE POINT OF BEGINNING, SOUTH 42 DEGREES 37 MINUTES 41 SECONDS WEST, 37.62 FEET TO A POINT; THENCE SOUTH 50 DEGREES 18 MINUTES 52 SECONDS WEST, 48.41 FEET TO A POINT; THENCE RUN 53.71 FEET ALONG A CURVE TO THE LEFT HAVING A RADIUS OF 364.25 FEET, A DELTA ANGLE OF 8 DEGREES 26 MINUTES 54 SECONDS, AND A CHORD BEARING AND DISTANCE OF SOUTH 47 DEGREES 45 MINUTES 53 SECONDS WEST, 53.66 FEET TO A POINT LYING ON THE PRESENT WESTERLY RIGHT-OF-WAY MARGIN OF PELHAM AVENUE; THENCE RUN ALONG SAID WESTERLY MARGIN NORTH 31 DEGREES 10 MINUTES 39 SECONDS EAST, 19.70 FEET TO A POINT; THENCE, CONTINUE ALONG SAID WESTERLY MARGIN, NORTH 48 DEGREES 08 MINUTES 49 SECONDS EAST, 5.90 FEET TO A POINT; THENCE, CONTINUE ALONG SAID WESTERLY MARGIN, RUN 22.76 FEET ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF 275.00 FEET, A DELTA ANGLE OF 4 DEGREES 44 MINUTES 29 SECONDS AND A CHORD BEARING AND DISTANCE OF NORTH 46 DEGREES 31 MINUTES 03 SECONDS EAST, 22.75 FEET TO A POINT; THENCE, CONTINUE ALONG SAID WESTERLY MARGIN, NORTH 50 DEGREES 53 MINUTES 17 SECONDS EAST, 85.69 FEET TO A POINT; THENCE, CONTINUE ALONG SAID WESTERLY MARGIN, RUN 6.41 FEET ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF 125.00 FEET, A DELTA ANGLE OF 2 DEGREES 56 MINUTES 18 SECONDS, AND A CHORD BEARING AND DISTANCE OF NORTH 49 DEGREES 31 MINUTES 09 SECONDS EAST, 6.41 FEET BACK TO THE POINT OF BEGINNING AND CONTAINING 0.013 ACRES (586 SQUARE FEET) MORE OR LESS.

BUT RESERVING IN FAVOR OF THE CITY OF HUNTSVILLE, A PUBLIC UTILITY AND DRAINAGE EASEMENT OVER, ACROSS AND UNDER THE ENTIRETY OF THE ABOVE DESCRIBED 0.013 ACRE PARCEL OF LAND.

Exhibit "B"

(Depiction of Right of Way to be Vacated – portion of Pelham Avenue)

H:\Projects\21121325-HO-600 St. Clair Ave. Mixed Use\Survey\21121325-HO SKD Pelham ROW vac.dwg



SHEET 1 OF 1

EXHIBIT DRAWING - STREET RIGHT-OF-WAY VACATION

PROJ. NO. 211325.H1
DRAWN BY: WHG
CHECKED BY: BTP

521 DAVIS CIRCLE SW, HUNTSVILLE, AL 35801
(ADJACENT TO LOT 2, VISTA AT COUNCIL SQUARE, PB 2022, PG 289)

DATE: 01.25.23
SCALE: 1" = 30'

PORTION OF STREET RIGHT-OF-WAY OF PELHAM AVENUE TO BE VACATED
CITY OF HUNTSVILLE MADISON COUNTY, ALABAMA
SECTION 1, TOWNSHIP 4 SOUTH, RANGE 1 WEST

Civil Engineering | Land Surveying | Landscape Architecture
Environmental | Water Resources | Laser Scanning | Modeling

SCHOFEL

1001 22nd Street South | 7800 Memorial Pkwy SW, Ste 200
Birmingham, Alabama 35203 | Huntsville, Alabama 35892
205.323.4166 | 256.539.1221

(Public Hearing Notice to be Published)

In accordance with Section 23-4-1 et seq. of the Code of Alabama, 1975, as amended, you are hereby notified of a public hearing to be held at Huntsville City Hall in the Council Chamber, located at 308 Fountain Circle, Huntsville, Alabama 35801, at 5:30 p.m. on Thursday, January 11, 2024.

The purpose of the hearing is to receive public comments on an application submitted by the City of Huntsville for the vacation of Right-of-way which runs along Pelham Avenue which is more particularly described as follows:

Legal Description of Right-of-Way

(Portion of Pelham Avenue)

STATE OF ALABAMA
MADISON COUNTY

ALL THAT PART OF THE NORTHWEST QUARTER OF SECTION 1, TOWNSHIP 4 SOUTH, RANGE 1 WEST OF THE HUNTSVILLE MERIDIAN, MADISON COUNTY, ALABAMA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF LOT 2 OF THE FINAL PLAT OF VISTA AT COUNCILL SQUARE AS RECORDED IN PLAT BOOK 2022, PAGE 289 IN THE OFFICE OF THE JUDGE OF PROBATE, MADISON COUNTY, ALABAMA AND BEING FURTHER DESCRIBED AS LYING AT THE INTERSECTION OF THE SOUTHERLY RIGHT-OF-WAY MARGIN OF DAVIS CIRCLE (RIGHT-OF-WAY WIDTH VARIES) AND THE WESTERLY RIGHT-OF-WAY MARGIN OF PELHAM AVENUE (RIGHT-OF-WAY WIDTH VARIES) AND HAVING ALABAMA STATE PLANE COORDINATES (EAST ZONE, NAD '83) OF NORTH: 1537236.00, EAST: 429877.09; THENCE, FROM THE POINT OF BEGINNING, SOUTH 42 DEGREES 37 MINUTES 41 SECONDS WEST, 37.62 FEET TO A POINT; THENCE SOUTH 50 DEGREES 18 MINUTES 52 SECONDS WEST, 48.41 FEET TO A POINT; THENCE RUN 53.71 FEET ALONG A CURVE TO THE LEFT HAVING A RADIUS OF 364.25 FEET, A DELTA ANGLE OF 8 DEGREES 26 MINUTES 54 SECONDS, AND A CHORD BEARING AND DISTANCE OF SOUTH 47 DEGREES 45 MINUTES 53 SECONDS WEST, 53.66 FEET TO A POINT LYING ON THE PRESENT WESTERLY RIGHT-OF-WAY MARGIN OF PELHAM AVENUE; THENCE RUN ALONG SAID WESTERLY MARGIN NORTH 31 DEGREES 10 MINUTES 39 SECONDS EAST, 19.70 FEET TO A POINT; THENCE, CONTINUE ALONG SAID WESTERLY MARGIN, NORTH 48 DEGREES 08 MINUTES 49 SECONDS EAST, 5.90 FEET TO A POINT; THENCE, CONTINUE ALONG SAID WESTERLY MARGIN, RUN 22.76 FEET ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF 275.00 FEET, A DELTA ANGLE OF 4 DEGREES 44 MINUTES 29 SECONDS AND A CHORD BEARING AND DISTANCE OF NORTH 46 DEGREES 31 MINUTES 03 SECONDS EAST, 22.75 FEET TO A POINT; THENCE, CONTINUE ALONG SAID WESTERLY MARGIN, NORTH 50 DEGREES 53 MINUTES 17 SECONDS EAST, 85.69 FEET TO A POINT; THENCE, CONTINUE ALONG SAID WESTERLY MARGIN, RUN 6.41 FEET ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF 125.00 FEET, A DELTA ANGLE OF 2 DEGREES 56 MINUTES 18 SECONDS, AND A CHORD BEARING AND DISTANCE OF NORTH 49 DEGREES 31 MINUTES 09 SECONDS EAST, 6.41 FEET BACK TO THE POINT OF BEGINNING AND CONTAINING 0.013 ACRES (586 SQUARE FEET) MORE OR LESS.

BUT RESERVING IN FAVOR OF THE CITY OF HUNTSVILLE, A PUBLIC UTILITY AND DRAINAGE EASEMENT OVER, ACROSS AND UNDER THE ENTIRETY OF THE ABOVE DESCRIBED 0.013 ACRE PARCEL OF LAND.

This notice is being sent by United States mail at least 30 days prior to the scheduled hearing to all abutting owners, if any, and to all entities know to have facilities or equipment within the public Right-of-way or Utility and Drainage Easement of the street to be vacated, as their names and addresses appear on roll in the Madison County Revenue Commissioner's office or Madison County Tax Assessor's office, and shall be posted at the Madison County Courthouse and at Huntsville City Hall. Any citizen alleging to be affected by the proposed vacation may submit a written objection to the City Council or may request an opportunity to be heard at the public hearing held as required by law, any such objection or request may be directed to: Attn: Thomas Nunez, City Planning Department, 308 Fountain Circle, 2nd Floor, Huntsville, Alabama 35801 or thomas.nunez@huntsvilleal.gov.

RESOLUTION NO. 24-_____

BE IT RESOLVED by the City Council of the City of Huntsville, within the State of Alabama, as follows:

1. That the Vista Huntsville, LLC, is the sole landowner abutting the property hereinafter described, made application for the vacation of that certain Right-of-way more particularly described as follows (the "Right-of-way" or the "Property"):

See Exhibit "A" attached hereto and incorporated herein.

2. That notice of the vacation of the Right-of-way has been given as required by Section 23-4-1 *et seq.* of the Code of Alabama, 1975, as amended, and a public hearing held for purposes of allowing public comments on the proposed vacation before the City Council.

3. That after vacation of the designated portion of Right-of-way and all public rights therein, convenient and reasonable means of ingress and egress to and from the respective property will be afforded to all property owners owning property in or near the Right-of-way by the remaining streets, avenues, and highways.

4. That in the judgment and opinion of the City Council of the City of Huntsville that it is in the public interest and necessary and expedient that the City vacate the designated portion of Right-of-way and that the vacation of the designated portion of Right-of-way is in the best interests of the citizens of the City in that same will contribute to the health and general welfare of the citizens of the City of Huntsville, Alabama.

5. That the filing of the resolution with the Judge of Probate of Madison County, Alabama, shall operate as a declaration of the City's vacation of that portion of the Right-of-way as described herein and shall divest all public rights and liabilities, including any rights which may have been acquired by prescription, in that part of the Right-of-way. Title and all public rights shall vest in the abutting landowner, Vista Huntsville, LLC.

6. That the City of Huntsville reserves the right to a public utility and drainage easement over, across and under the entirety of the parcel of land being vacated.

7. That notice of this resolution shall be published in *The Speakin' Out News* no later than fourteen (14) days from the date hereof.

NOW THEREFORE, be it resolved by the City Council of the City of Huntsville that they do hereby assent to the said vacation of the herein described portion of Right-of-way and

that the above described Property be and the same is hereby vacated and annulled and all public rights therein divested of the Property.

ADOPTED this the day of ,

President of the City Council
City of Huntsville, Alabama

APPROVED this the day of ,

TOMMY BATTLE
Mayor of the City of Huntsville, Alabama

EXHIBIT A

Legal Description of Right-of-Way

STATE OF ALABAMA
MADISON COUNTY

ALL THAT PART OF THE NORTHWEST QUARTER OF SECTION 1, TOWNSHIP 4 SOUTH, RANGE 1 WEST OF THE HUNTSVILLE MERIDIAN, MADISON COUNTY, ALABAMA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF LOT 2 OF THE FINAL PLAT OF VISTA AT COUNCILL SQUARE AS RECORDED IN PLAT BOOK 2022, PAGE 289 IN THE OFFICE OF THE JUDGE OF PROBATE, MADISON COUNTY, ALABAMA AND BEING FURTHER DESCRIBED AS LYING AT THE INTERSECTION OF THE SOUTHERLY RIGHT-OF-WAY MARGIN OF DAVIS CIRCLE (RIGHT-OF-WAY WIDTH VARIES) AND THE WESTERLY RIGHT-OF-WAY MARGIN OF PELHAM AVENUE (RIGHT-OF-WAY WIDTH VARIES) AND HAVING ALABAMA STATE PLANE COORDINATES (EAST ZONE, NAD '83) OF NORTH: 1537236.00, EAST: 429877.09; THENCE, FROM THE POINT OF BEGINNING, SOUTH 42 DEGREES 37 MINUTES 41 SECONDS WEST, 37.62 FEET TO A POINT; THENCE SOUTH 50 DEGREES 18 MINUTES 52 SECONDS WEST, 48.41 FEET TO A POINT; THENCE RUN 53.71 FEET ALONG A CURVE TO THE LEFT HAVING A RADIUS OF 364.25 FEET, A DELTA ANGLE OF 8 DEGREES 26 MINUTES 54 SECONDS, AND A CHORD BEARING AND DISTANCE OF SOUTH 47 DEGREES 45 MINUTES 53 SECONDS WEST, 53.66 FEET TO A POINT LYING ON THE PRESENT WESTERLY RIGHT-OF-WAY MARGIN OF PELHAM AVENUE; THENCE RUN ALONG SAID WESTERLY MARGIN NORTH 31 DEGREES 10 MINUTES 39 SECONDS EAST, 19.70 FEET TO A POINT; THENCE, CONTINUE ALONG SAID WESTERLY MARGIN, NORTH 48 DEGREES 08 MINUTES 49 SECONDS EAST, 5.90 FEET TO A POINT; THENCE, CONTINUE ALONG SAID WESTERLY MARGIN, RUN 22.76 FEET ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF 275.00 FEET, A DELTA ANGLE OF 4 DEGREES 44 MINUTES 29 SECONDS AND A CHORD BEARING AND DISTANCE OF NORTH 46 DEGREES 31 MINUTES 03 SECONDS EAST, 22.75 FEET TO A POINT; THENCE, CONTINUE ALONG SAID WESTERLY MARGIN, NORTH 50 DEGREES 53 MINUTES 17 SECONDS EAST, 85.69 FEET TO A POINT; THENCE, CONTINUE ALONG SAID WESTERLY MARGIN, RUN 6.41 FEET ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF 125.00 FEET, A DELTA ANGLE OF 2 DEGREES 56 MINUTES 18 SECONDS, AND A CHORD BEARING AND DISTANCE OF NORTH 49 DEGREES 31 MINUTES 09 SECONDS EAST, 6.41 FEET BACK TO THE POINT OF BEGINNING AND CONTAINING 0.013 ACRES (586 SQUARE FEET) MORE OR LESS.

BUT RESERVING IN FAVOR OF THE CITY OF HUNTSVILLE, A PUBLIC UTILITY AND DRAINAGE EASEMENT OVER, ACROSS AND UNDER THE ENTIRETY OF THE ABOVE DESCRIBED 0.013 ACRE PARCEL OF LAND.

INTRODUCED

ADOPTED

ORDINANCE NO. 24-_____

BE IT ORDAINED by the City Council of the City of Huntsville, Alabama, as follows:

Section 1. The City Council of the City of Huntsville, Alabama, finds that an application has been presented to the City of Huntsville requesting the vacation of a certain right-of-way; that the applicant has represented to the City of Huntsville that **Home Space Builders, LLC**, is the owner of the property across which said rights-of-way lies; that said right-of-way, or the portion being vacated, is not presently used and is no longer needed for a public or municipal purpose.

Section 2. Pursuant to the findings in Section 1 hereinabove, the Mayor of the City of Huntsville, Alabama, is hereby authorized, requested and directed to execute quitclaim deed vacating the rights-of-way hereinafter described, said deed being substantially in words and figures as follows, to-wit:

STATE OF ALABAMA

COUNTY OF MADISON

QUITCLAIM DEED

KNOW ALL MEN BY THESE PRESENTS, that the undersigned **CITY OF HUNTSVILLE**, an Alabama municipal corporation, hereinafter referred to as Grantor, in consideration of the sum of Ten Dollars (\$10.00) in hand paid by **VISTA HUNTSVILLE, LLC**, a Delaware limited liability company, hereinafter referred to as Grantee, and other good and valuable considerations, the receipt and sufficiency whereof is hereby acknowledged, does hereby remise, release, quitclaim, and convey unto the Grantee, all of the Grantor's right, title, interest and claim in and to the following described real estate situated in the City of Huntsville, County of Madison, State of Alabama, to-wit:

SEE **EXHIBIT "A"** attached hereto and incorporated herein and,
as depicted in **EXHIBIT "B"** attached hereto.

SUBJECT TO AND FURTHER RESERVING UNTO GRANTOR a public utility and drainage easement over, across, upon, and under the entirety of the above-described parcel of land.

TO HAVE AND TO HOLD unto the said Grantee, its successors and assigns forever.

IN WITNESS WHEREOF, Grantor has caused this quitclaim to be signed in its behalf by its Mayor and attested by its City Clerk, this the _ day of _ ,

CITY OF HUNTSVILLE, ALABAMA,
a municipal corporation

By: _____
Tommy Battle, Mayor

ATTEST:

By: _____
Shaundrika Edwards, City Clerk

STATE OF ALABAMA

COUNTY OF MADISON

I, the undersigned, a notary public in and for said County, in said State, hereby certify that Tommy Battle and Shaundrika Edwards, whose names as Mayor and City Clerk, respectively, of the City of Huntsville, an Alabama 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 corporation on the day the same bears date.

GIVEN under my hand and official seal this the ____ day of _____,

Notary Public

My commission expires: _____

THIS INSTRUMENT PREPARED BY:

Katherine Amos Beasley

Wilmer & Lee, P.A.

100 Washington Street

Huntsville, Alabama 35801

256-533-0202

U:\Sam\REAL-ESTATE\Vacation\COH\Vista\ROW Vacation\Quitclaim Deed Vista Huntsville ROW.doc

EXHIBIT "A"

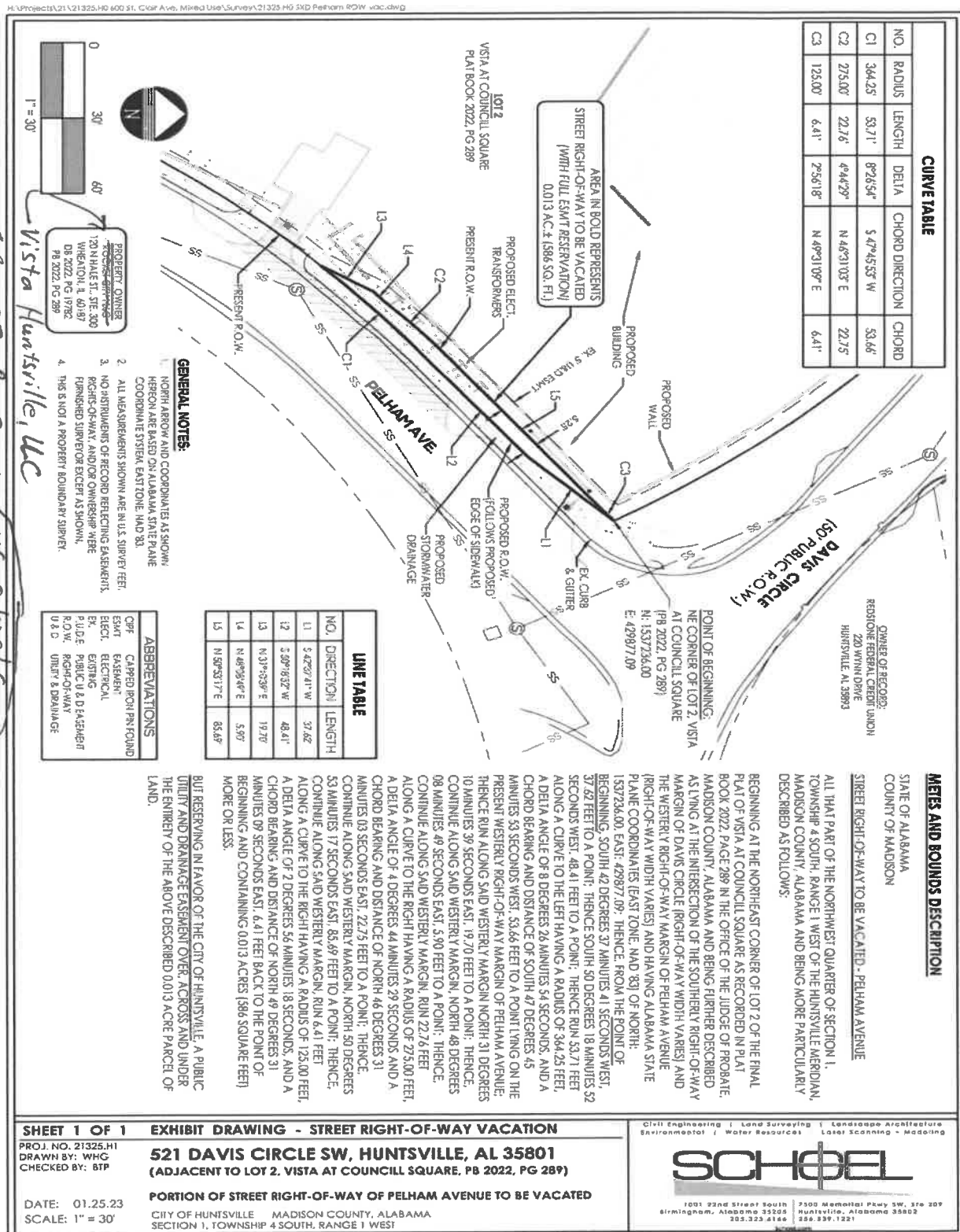
(Legal Description of Portion of Right of Way to be Vacated – portion of Pelham Avenue)

ALL THAT PART OF THE NORTHWEST QUARTER OF SECTION 1, TOWNSHIP 4 SOUTH, RANGE 1 WEST OF THE HUNTSVILLE MERIDIAN, MADISON COUNTY, ALABAMA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF LOT 2 OF THE FINAL PLAT OF VISTA AT COUNCILL SQUARE AS RECORDED IN PLAT BOOK 2022, PAGE 289 IN THE OFFICE OF THE JUDGE OF PROBATE, MADISON COUNTY, ALABAMA AND BEING FURTHER DESCRIBED AS LYING AT THE INTERSECTION OF THE SOUTHERLY RIGHT-OF-WAY MARGIN OF DAVIS CIRCLE (RIGHT-OF-WAY WIDTH VARIES) AND THE WESTERLY RIGHT-OF-WAY MARGIN OF PELHAM AVENUE (RIGHT-OF-WAY WIDTH VARIES) AND HAVING ALABAMA STATE PLANE COORDINATES (EAST ZONE, NAD '83) OF NORTH: 1537236.00, EAST: 429877.09; THENCE, FROM THE POINT OF BEGINNING, SOUTH 42 DEGREES 37 MINUTES 41 SECONDS WEST, 37.62 FEET TO A POINT; THENCE SOUTH 50 DEGREES 18 MINUTES 52 SECONDS WEST, 48.41 FEET TO A POINT; THENCE RUN 53.71 FEET ALONG A CURVE TO THE LEFT HAVING A RADIUS OF 364.25 FEET, A DELTA ANGLE OF 8 DEGREES 26 MINUTES 54 SECONDS, AND A CHORD BEARING AND DISTANCE OF SOUTH 47 DEGREES 45 MINUTES 53 SECONDS WEST, 53.66 FEET TO A POINT LYING ON THE PRESENT WESTERLY RIGHT-OF-WAY MARGIN OF PELHAM AVENUE; THENCE RUN ALONG SAID WESTERLY MARGIN NORTH 31 DEGREES 10 MINUTES 39 SECONDS EAST, 19.70 FEET TO A POINT; THENCE, CONTINUE ALONG SAID WESTERLY MARGIN, NORTH 48 DEGREES 08 MINUTES 49 SECONDS EAST, 5.90 FEET TO A POINT; THENCE, CONTINUE ALONG SAID WESTERLY MARGIN, RUN 22.76 FEET ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF 275.00 FEET, A DELTA ANGLE OF 4 DEGREES 44 MINUTES 29 SECONDS AND A CHORD BEARING AND DISTANCE OF NORTH 46 DEGREES 31 MINUTES 03 SECONDS EAST, 22.75 FEET TO A POINT; THENCE, CONTINUE ALONG SAID WESTERLY MARGIN, NORTH 50 DEGREES 53 MINUTES 17 SECONDS EAST, 85.69 FEET TO A POINT; THENCE, CONTINUE ALONG SAID WESTERLY MARGIN, RUN 6.41 FEET ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF 125.00 FEET, A DELTA ANGLE OF 2 DEGREES 56 MINUTES 18 SECONDS, AND A CHORD BEARING AND DISTANCE OF NORTH 49 DEGREES 31 MINUTES 09 SECONDS EAST, 6.41 FEET BACK TO THE POINT OF BEGINNING AND CONTAINING 0.013 ACRES (586 SQUARE FEET) MORE OR LESS.

BUT RESERVING IN FAVOR OF THE CITY OF HUNTSVILLE, A PUBLIC UTILITY AND DRAINAGE EASEMENT OVER, ACROSS AND UNDER THE ENTIRETY OF THE ABOVE DESCRIBED 0.013 ACRE PARCEL OF LAND.

(Depiction of Right of Way to be Vacated – portion of Pelham Avenue)



ORDINANCE NO. _____ (Cont.)

ADOPTED this the _____

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

APPROVED this the _____

Mayor of the City of Huntsville, Alabama