

CITY COUNCIL AGENDA ITEM COVER MEMO

Agenda Item Number _____

Meeting Type: Regular

Meeting Date: 1/10/2013

Action Requested By:
Legal

Agenda Item Type
Resolution

Subject Matter:

Mod. 14 to SDA TIF5 Series 2010-B

Exact Wording for the Agenda:

Resolution authorizing the Mayor to execute Modification No. 14 to Supplemental Development Agreement TIF5 - Series 2010-B to Annexation and Development Agreement between the City of Huntsville and LW Redstone Company, LLC, as previously amended.

Note: If amendment, please state title and number of the original

Item to be considered for: Action

Unanimous Consent Required: No

Briefly state why the action is required; why it is recommended; what Council action will provide, allow and accomplish and; any other information that might be helpful.

[Empty box for providing details on why the action is required, recommended, and what council action will provide, allow, and accomplish.]

Associated Cost: []

Budgeted Item: Yes

MAYOR RECOMMENDS OR CONCURS: Yes

Department Head: _____ Date: _____

RESOLUTION NO. 13-_____

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 Modification No. 14 to Supplemental Development Agreement by and between the City of Huntsville and LW Redstone Company, 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 "Modification No. 14 to Supplemental Development Agreement TIF5 Series 2010-B between the City of Huntsville and LW Redstone Company, LLC," consisting of three (3) pages and the date of January 10, 2013, 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-Treasurer of the City of Huntsville, Alabama.

ADOPTED this the 10th day of January, 2013.

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

APPROVED this the 10th day of January, 2013.

Mayor of the City of
Huntsville, Alabama

STATE OF ALABAMA)
COUNTY OF MADISON)

MODIFICATION NO. 14 TO SUPPLEMENTAL DEVELOPMENT AGREEMENT TIF5 – SERIES 2010-B TO ANNEXATION AND DEVELOPMENT AGREEMENT BETWEEN THE CITY OF HUNTSVILLE AND LW REDSTONE COMPANY, LLC, AS ADOPTED AND APPROVED BY RESOLUTION NO. 10-892 ON OCTOBER 28TH, 2010 AND AS AMENDED BY MODIFICATIONS NO. 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11,12 and 13.

MODIFICATION No. 14

Pursuant to Section 7.3 of the Annexation and Development Agreement dated March 25, 2010, (“Agreement”), between THE CITY OF HUNTSVILLE, ALABAMA, a municipal corporation organized and existing pursuant to the laws of the State of Alabama (“City”) and L W REDSTONE COMPANY, LLC, a Delaware limited liability company (“Owner”), City and Owner enter into this Modification No. 14 to the Supplemental Development Agreement (SDA) TIF5 Series 2010-B, which was previously adopted and approved on October 28, 2010 and previously amended on May 12, 2011, June 23, 2011, July 14, August 11, August 25, 2011, September 22, 2011, December 15, 2011, January 26, 2012, March 22, 2012, May 24, 2012, June 14, 2012, September 13, 2012, and December 6, 2012 and hereby provide more specifically for the obligations of City and Owner.

Modifications to Scope of Work and allocations within the \$20,000,000 Maximum Amount of the prior Supplemental Development Agreement referenced above are as follows:

1. Within Section B., ADD the following: “ The amount of \$ 535,815.00 previously budgeted and allocated for the contract with Christopher Professional Enterprises, Inc. by SDA 2012-A, Modification 1 on January 26, 2012, Resolution No. 12-348 for Redstone Gateway Extension, Market Street and Overlook Road Relocation-Package 1F-3 Primary Communication/Primary Electrical, Project No. 65-11-SP22, needs to be increased by \$13,688.32 from Account No. 05-6500-0811-2036 for Change Order No. 1. This Change Order No. 1, in the amount of \$13,688.32, is needed to incorporate field directives 1, 2 and Package 1F Revision 3 modifications for Primary Communications and Primary Electrical Package. Increasing the budgeted and allocated amount will result in a revised budget and contract amount of \$549,503.32. Therefore, the amount of \$13,688.32 for Change Order No. 1 will be transferred from the category in Section B. OWNER IMPROVEMENTS, the subsection entitled: “ENGINEERING AND CONSTRUCTION COSTS TO BE DETERMINED.”
2. Within Section B., ADD the following : “ The amount of \$ 254,288.00 was previously budgeted and allocated for the contract with Christopher Professional Enterprises, Inc. by SDA 2010-B, Modification No. 10 on April 26, 2012 by Resolution No. 12-347 for Redstone Gateway Extension, Market Street and Overlook Road relocation-Package 1F-2 Water Systems, Project No. 65-11-SP22. This Change Order No. 1, in the amount of \$17,435.84, is needed to incorporate Field Directives 1 and 2, and Package 1F Revision 6 modifications for the water systems package. Increasing the budgeted and allocated amount will result in a revised budget and contract amount of \$271,723.84. Therefore, the amount of \$17,435.84 for Change Order No. 1 will be transferred from the category in Section B. OWNER IMPROVEMENTS, the subsection entitled: “ENGINEERING AND CONSTRUCTION COSTS TO BE DETERMINED.”

3. Within Section B., ADD the following: "The amount of \$1,451,595.80 was previously budgeted and allocated for the contract with Christopher Professional Enterprises, Inc. by SDA 2010-B, on October 28, 2010 by Resolution No. 10-892 and SDA 2010-B Modification No. 7 on December 15, 2011 by Resolution 11-951 for Redstone Gateway Extension, Package 1B-3 Primary Communication and Primary Electrical Package, Project No. 65-11-SP05. This Change Order No. 2, in the amount of \$43,042.42, is needed to incorporate Field Directives 1, 2, and 3, and add ATC power cost for Revision 1. Also, Change Order No. 2 shall finalize trench rock allowance for Primary Communications and Primary Electrical Package. Increasing the budgeted and allocated amount will result in a revised budget and contract amount of \$271,723.84. Therefore, the amount of \$43,042.42 for Change Order No. 1 will be transferred from the category in Section B. OWNER IMPROVEMENTS, the subsection entitled: "ENGINEERING AND CONSTRUCTION COSTS TO BE DETERMINED."

4. Within Section B., ADD the following : The amount of \$20,965.00 is budgeted and allocated for a sole source contract in a Not Exceed Amount (NTE) of \$20,965.00, Account No. 05-6500-0811-2035, with Uretex USA for the filling and sealing of box culvert weep holes and other leakage points. Therefore, the amount of \$20,965.00 will be transferred from the category in Section B. OWNER IMPROVEMENTS, the subsection entitled: "ENGINEERING AND CONSTRUCTION COSTS TO BE DETERMINED."

5. Within Section B. OWNER IMPROVEMENTS, the subsection entitled "ENGINEERING AND CONSTRUCTION COSTS TO BE DETERMINED," the amount of \$661,829.44 allocated and budgeted for undefined engineering and construction costs is hereby decreased by a total of \$ 95,131.58 to \$ 566,697.86.

All other terms and conditions of the SDA TIF5-SERIES 2010-B, as previously modified, remain unchanged.

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

("OWNER")

L W REDSTONE COMPANY, LLC

Dated: _____, 2013

By: _____

Its: _____

STATE OF MARYLAND)
COUNTY OF HOWARD)

I, the undersigned, a Notary Public in and for said County and in said State, hereby certify that _____, as _____, of LW Redstone Company, LLC, a Delaware corporation, is 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 corporation on the date the same bears date.

GIVEN under my hand and official seal this the ____ day of _____, 2013.

(SEAL)

Notary Public
My Commission Expires: _____

(“CITY”)

THE CITY OF HUNTSVILLE, ALABAMA,
A municipal corporation

Dated: _____, 2013

By: _____
Tommy Battle
Its: Mayor

ATTEST:

Charles E. Hagood
Clerk-Treasurer

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 Charles E. Hagood, as Mayor and City Clerk-Treasurer, 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 corporation on the date the same bears date.

GIVEN under my hand and official seal this the ____ day of _____, 2013.

(SEAL)

Notary Public
My Commission Expires: _____

**ROUTING SLIP
CONTRACTS AND AGREEMENTS**

Originating Department: Legal

Council Meeting Date: 1/10/2013

Department Contact: Cissy Cates

Phone # 427-5026

Contract or Agreement: Mod. 14 to SDA TIF5 Series 2010-B

Document Name: Modification No. 14 to the SDA LW Redstone, TIF5 Series 2010-B

City Obligation Amount:

Total Project Budget:

Uncommitted Account Balance:

Account Number:

Procurement Agreements

<u>Not Applicable</u>	<u>Not Applicable</u>
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Grant-Funded Agreements

<u>Not Applicable</u>	Grant Name:
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Department	Signature	Date
1) Originating		
2) Legal		
3) Finance		
4) Originating		
5) Copy Distribution		
a. Mayor's office (1 copies)		
b. Clerk-Treasurer (Original & 2 copies)		