

CITY COUNCIL AGENDA ITEM COVER MEMO

Agenda Item Number \_\_\_\_\_

Meeting Type: Regular

Meeting Date: 2/14/2013

Action Requested By:  
Legal

Agenda Item Type  
Resolution

Subject Matter:

Modification No. 5 to SDA 2010-A

Exact Wording for the Agenda:

Resolution authorizing the Mayor to execute Modification No. 5 to the Supplemental Development Agreement TIF-Series 2010-A to Annexation and Development Agreement between the City of Huntsville and LW Redstone.

**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.

Associated Cost:

Budgeted Item: Yes

MAYOR RECOMMENDS OR CONCURS: Yes

Department Head: Mary C. Cates

Date: 2/6/2013

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. 5 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. 5 to Supplemental Development Agreement TIF5 Series 2010-A between the City of Huntsville and LW Redstone Company, LLC," consisting of three (3) pages and the date of February 14, 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 14th day of February, 2013.

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

APPROVED this the 14th day of February, 2013.

\_\_\_\_\_  
Mayor of the City of  
Huntsville, Alabama

STATE OF ALABAMA )  
COUNTY OF MADISON )

MODIFICATION NO. 5 TO THE  
SUPPLEMENTAL DEVELOPMENT AGREEMENT  
TIF5 – Series 2010-A TO ANNEXATION AND  
DEVELOPMENT AGREEMENT BETWEEN THE  
CITY OF HUNTSVILLE AND  
LW REDSTONE COMPANY, LLC  
AS ADOPTED AND APPROVED BY  
RESOLUTION No. 10-581  
ON JULY 22, 2010 AND AS PREVIOUSLY  
AMENDED BY MODIFICATIONS NO. 1, 2, 3, & 4

**MODIFICATION No.5**

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. 5 to the Supplemental Development Agreement TIF5-Series 2010-A which was previously adopted and approved on by Resolution No. 12-581 on July 22, 2010 January 26, 2012, amended by Resolution No. 10-891 on October 28, 2010, Resolution No. 12-647 on July 26, 2012, Resolution No. 12-1012 on November 15, 2012, and Resolution No. 13-23 on January 10, 2013, hereby provide more specifically for the obligations of City and Owner.

Modifications to Scope of Work and allocations within the \$10,000,000 Maximum Amount of the prior Supplemental Development Agreement referenced above are as follows:

1. Within Section B. ADD the following: “The NTE amount of \$ 6,276,000.00 was previously budgeted and allocated for the Memorandum of Understanding with City of Huntsville D/B/A Huntsville Utilities for the relocation of the substation. Huntsville Utilities has advised that project costs are less than previously expected and has agreed to reduce the estimated costs in the MOU by \$500,000.00 to the NTE of \$5,776,000.00 through Amendment No. 2 to the MOU. Therefore, the amount of \$500,000.00 for Amendment No. 2 will be transferred to 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 \$5,980.00 is budgeted for the award of a contract with Building & Earth Sciences, Inc.(BESI) for the Subsurface Exploration and Geotechnical Consultation Services of Redstone Technology Park Lake F at Redstone Arsenal, Alabama as set forth in BESI proposal # 15024. Therefore, the amount of \$5,980.00 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. OWNER IMPROVEMENT, the subsection entitled “ENGINEERING AND CONSTRUCTION COSTS TO BE DETERMINED”, the amount of \$7,464.17 allocated and budgeted for undefined engineering and construction costs is hereby increased by the amount of \$494,020.00 for a revised total of \$ 501,484.17.

All other terms and conditions of the SDA TIF5-SERIES 2010-A remain unchanged.

\_\_\_\_\_  
President of the City Council of the  
City of Huntsville, Alabama  
Date: \_\_\_\_\_

**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: 2/14/2013

Department Contact: Peter Joffrion

Phone # 427-5026

Contract or Agreement: Mod. 5 to SDA TIF5 Series 2010-A

Document Name: Modification No. 5 to the SDA LW Redstone, TIF5 Series 2010A

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	<i>Mary C. Cates</i>	2/11/2013
2) Legal	<i>Mary Cates</i>	2/11/2013
3) Finance <i>RC</i>	<i>[Signature]</i>	2/11
4) Originating		
5) Copy Distribution		
a. Mayor's office (1 copies)		
b. Clerk-Treasurer (Original & 2 copies)		