

CITY COUNCIL AGENDA ITEM COVER MEMO

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

Meeting Type: Regular

Meeting Date: 9/12/2013

Action Requested By:  
Legal

Agenda Item Type  
Resolution

Subject Matter:

Agreement among the City, the Board of Education and Hylis, Inc.

Exact Wording for the Agenda:

Resolution authorizing the Mayor to execute an Agreement among the City of Huntsville, the Huntsville City Board of Education, and Hylis, Inc.

**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: \_\_\_\_\_

Date: \_\_\_\_\_

RESOLUTION NO. 13-\_\_\_\_\_

BE IT RESOLVED by the City Council of the City of Huntsville, Alabama, that the Mayor be, and is hereby authorized to enter into a Agreement by and among the City of Huntsville, the Huntsville City Board of Education and Hylis, Inc., 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 "Agreement among the City of Huntsville, The Huntsville City Board of Education and Hylis, Inc.," consisting of \_\_\_\_\_ (\_\_\_\_) pages and the date of September 12, 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 12th day of September, 2013.

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

APPROVED this the 12th day of September, 2013.

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

## AGREEMENT

THIS AGREEMENT ("Agreement") made and entered into by and among The Huntsville City Board of Education, a political subdivision of the State of Alabama, (the "Board"); The City of Huntsville, Alabama, a municipal corporation in the State of Alabama (the "City"); and Hylis, Inc., an Alabama corporation ("Hylis").

### RECITALS

A. The Board, the City, and Hylis have heretofore entered into that certain nonbinding Memorandum of Understanding (including all schedules, exhibits, and attachments thereto) which is attached hereto as Exhibit A and incorporated herein by reference (the "MOU");

B. The Board, the City, and Hylis desire to adopt the terms and conditions set forth in the MOU as the terms of a contract to be binding upon the Board, the City, and Hylis pursuant to and in accordance with this Agreement;

NOW THEREFORE, for and in consideration of good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged and the mutual benefits and burdens of the parties as set forth herein, the parties agree as follows:

1. Except as provided in Section 2 hereof, the MOU, including without limitation all of the terms, conditions, provisions and other matters set forth therein and all of the schedules, exhibits, and attachments thereto, is hereby incorporated herein by reference and adopted and made binding in its entirety as if set out in full herein, except as expressly modified hereby. All terms used herein, unless otherwise defined herein, shall have the meaning ascribed to them in the MOU.

2. Any provision or statement of the MOU regarding the nonbinding nature thereof, including without limitation, the phrase "this MOU creates no contractual obligation" set forth in the second paragraph of the MOU, is hereby deleted and of no further force or effect.

3. The parties acknowledge and agree that (i) this Agreement constitutes the binding "Agreement" referred to in the MOU; (ii) any and all actions or conditions required to be completed or satisfied prior to the execution of this Agreement have been fully and finally completed and satisfied in all respects; and (iii) the Due Diligence Period referenced in Section 2 of the MOU is hereby amended to seven (7) days next following the date of the full and complete execution of this Agreement. This Agreement may be terminated by the Board during the Due Diligence Period or if the Closing does not occur so that the deeds to the City for the School Site and other property to be conveyed to the City by Hylis are recorded in the real estate records of the office of the Judge of Probate of Madison County, Alabama on or before September 30, 2013. Provided this Agreement is not terminated, Closing shall occur at the offices of Lanier Ford Shaver & Payne at a time agreeable to the parties not later than 2 o'clock P.M. on Monday, September 30, 2013. Hylis agrees that to its actual knowledge: (i) the documents in the control of Hylis as set forth in Section 1 of the MOU have been delivered to the Board; (ii) all necessary shareholder and board actions have been taken to provide the officers of Hylis with the authority to execute this Agreement binding Hylis to the agreements, representations, covenants,

obligations and other provisions of this Agreement; (iii) no portion of the School Site is subject to any lease, rights of occupancy or possession, or tenancy of any kind or nature, which will survive the Closing Date (as defined in Section 7 hereof); (iv) there are no agreements having an effect on the operations of the School Site which will survive the Closing Date; (v) except as shown on the plat of the School Site (Lot 1 of National Subdivision, Third Addition, which plat is recorded in the office of the Judge of Probate of Madison County, Alabama, as Document #20130404000216180), there are no encroachments or land line disputes or claims by other parties of a right to possession or occupancy with respect to the School Site; (vi) no labor has been performed or material furnished for the School Site (a) for which Hylis has not heretofore paid, (b) for which Hylis will not, prior to the Closing Date, fully pay, or (c) for which a mechanic's or materialmen's lien or liens, or any other lien, can be properly claimed by any person or entity; (vii) there are no condemnation or eminent domain proceedings pending or threatened against the School Site or any part thereof; (viii) except this Agreement, the MOU and the Memorandum of Understanding between the City and the Board, no agreements have been entered into with any person or entity relating to or connection with the sale or use of the School Site; and (ix) the School Site has been used for agricultural crops for at least the last 60 years and except for the use and application of farm chemicals, materials and substances in the normal course of farming operations and the use of farm equipment to cultivate the School Site, (a) the School Site is not contaminated with, nor has Hylis received notice that the School Site has been contaminated by any chemical, material or substance to which exposure is prohibited, limited or regulated by any federal, state, county, local or regional authority with jurisdiction or which is known to pose a hazard to health and safety, and (b) the School Site has never been used for a landfill, dump site, underground tanks, storage of hazardous or regulated substances, provided that the foregoing shall not include any contamination to (or use of) the School Site caused by the Board or the City, its agents, contactors, subcontractors or related entities.

4. The Board agrees that all necessary Board actions have been taken to provide the Superintendent of the Board with the authority to execute this Agreement thereby binding the Board to the agreements, representations, covenants, obligations and other provisions of this Agreement.

5. The City agrees that all necessary City actions, including without limitation all necessary actions by the City Council, have been taken to provide the Mayor of the City with the authority to execute this Agreement thereby binding the City to the agreements, representations, covenants, obligations and other provisions of this Agreement.

6. The parties agree that the closing (the Closing Date") on the School Site and the other property to be conveyed to the City by Hylis shall occur on or before 2 o'clock P.M. on Monday, September 30, 2013, at the offices of Lanier Ford Shaver & Payne.

7. The Board, at its cost and expense, shall order and procure any and all commitments and/or policies of title insurance pertaining to the School Site and the City, at its cost and expense, shall order and procure any and all commitments and/or policies of title insurance pertaining to the other property to be conveyed to the City by Hylis. Hylis shall not be responsible for the cost, expense and/or procurement of any commitments and/or policies of title insurance pertaining to the School Site and the other property to be conveyed to the City by Hylis.

8. Hylis agrees that it will pay the ad valorem taxes (but not any roll back or recapture taxes) on the School Site and the other property to be conveyed to the City by Hylis which ad valorem taxes are for the tax year beginning October 1, 2012 and ending on September 30, 2013. The City and the Board agree to pay all ad valorem taxes on the School Site and the other property to be conveyed to the City for all subsequent years including any roll back or recapture taxes for prior, current or subsequent years.

9. The closing costs for the School Site shall be paid by the Board and the closing costs for the other property to be conveyed to the City by Hylis shall be paid by the City. Except as provided below, the term "closing costs" shall include, but is not limited to, percolation tests fees, property evaluation costs and expenses, appraisal fees, document recording fees and deed and mortgage recordation taxes payable to the Probate Judge of Madison County, Alabama, and other governmental authorities for recording of documents, the cost of preparation of all documents to be used in the transaction evidenced hereby, all charges associated with the financing of the acquisition of the School Site and the other property to be conveyed to the City by Hylis, and generally all costs and expenses associated with or resulting from the conveyance of the School Site and the other property from Hylis to the City. Provided, however, the term "closing costs" shall not include (a) Hylis' attorney's fees or (b) the cost of preparation of the warranty deeds by Hylis, both of which shall be paid by Hylis at Hylis' sole cost and expense.

10. On the Closing Date, the City shall pay the Purchase Price to Hylis.

11. On the Closing Date, Hylis, the City and the Board shall execute and deliver to each other the following documents (the "Closing Documents"):

(a) Hylis shall execute and deliver to City the following documents:

- (i) The statutory warranty deeds attached hereto as **Exhibits B, C and D.**
- (ii) The title insurance company owner's affidavit attached hereto as **Exhibit E;**
- (iii) An affidavit establishing that Hylis is not a "foreign person," as that term is defined in Section 1445 of the Internal Revenue Code of 1986, as amended, and the regulations promulgated thereunder, and otherwise in form and content sufficient to eliminate City's withholding obligations under said Section 1445 with respect to the part sale and part gift of the School Site and the gift of the other property to be conveyed to the City.

(b) Hylis, the City and the Board, shall also execute and deliver to each other closing statements, Internal Revenue Service Reporting forms, and documents required for compliance with 2008 Alabama Acts 504.

12. Each of the Closing Documents shall be prepared at the cost and expense of the Board with respect to the School Site and the City with respect to the other property to be conveyed to the City By Hylis, except for the warranty deeds from Hylis which shall be prepared by Hylis' counsel at Hylis' expense.

13. Upon the Closing Date, Hylis shall deliver to the City full and exclusive possession of the School Site and the other property to be conveyed to the City by Hylis.

14. Should Hylis, the Board, or the City, cause, create, permit and/or suffer any duty, liability, obligation, or responsibility to any other person, firm, or entity for payment of any broker's fee, commission, finder's fee, sales commission or other compensation, regarding either the School Site or the other property to be conveyed to the City by Hylis, such party shall forever protect, defend, indemnify and hold harmless the other parties from and against any and all such duty, liability, obligation, and responsibility.

15. The parties agree that this Agreement is binding on the parties and inures to the benefit and burden of the parties hereto.

16. All notices, requests, demands, and other communications hereunder shall be in writing and shall be deemed to have been duly given and delivered upon personal delivery or, if mailed, upon depositing such notice in the United States mail, return receipt requested, with first class postage prepaid thereon, and

(i) if mailed to the City, addressed to:  
The Mayor of the City of Huntsville  
308 Fountain Circle  
Huntsville, Alabama 35801

(ii) if mailed to the Board, addressed to:

The Superintendent of The Huntsville City Board of Education  
200 White Street  
Huntsville, Alabama 35801

With a copy to:

J. R. Brooks  
Y. Albert Moore  
Lanier Ford Shaver & Payne P.C.  
2101 Clinton Ave W  
Suite 102 (P.O. Box 2087)  
Huntsville, Alabama 35801 (35804)

(iii) if mailed to Hylis, addressed to:

Hylis, Inc.  
Attn: President  
10002 South Memorial Parkway  
Huntsville, Alabama 35803

Any party may change the address to which notices are to be delivered to such party, by notice given in accordance with this section to the other party.

17. The recitals set forth above are an integral part of this Agreement.

18. Time is of the essence in this Agreement.

19. Each of the agreements, representations, covenants, obligations and other provisions of this Agreement shall survive (i) the execution and delivery of this Agreement, (ii) the execution and delivery of the schedules, exhibits, and attachments hereto, and (iii) the execution and delivery of all documents and deeds necessary for the consummation of the transactions herein contemplated.

20. This Agreement, and the exhibits, attachments, and schedules hereof or referred to herein or therein, constitute the complete agreement of the parties with respect to the subject matter hereof and supersede any and all prior discussions, negotiations and understandings related thereto.

21. This Agreement may be amended, modified or supplemented only in writing executed by each of the parties hereto.

22. This Agreement may be executed in one or more counterparts, which, when taken together, shall constitute one and the same Agreement, and facsimile signatures may be accepted as original signatures.

IN WITNESS WHEREOF, the parties hereto have each caused this Agreement to be executed by their duly authorized representatives on separate counterpart signature pages attached hereto, and this Agreement shall be effective as of the date of the last signature hereto.

*(Signatures begin on the following page)*

**AGREEMENT**

[COUNTERPART SIGNATURE PAGE OF THE BOARD]

The Huntsville City Board of Education

\_\_\_\_\_  
E. Casey Wardynski  
Superintendent

Date of Execution: \_\_\_\_\_

STATE OF ALABAMA )

:

MADISON COUNTY )

I, the undersigned, a notary public in and for said county in said state, hereby certify that E. Casey Wardynski, whose name as Superintendent of The Huntsville City Board of Education, is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day that, being informed of the contents of said instrument, he, in his capacity as such Superintendent, and with full authority, executed the same voluntarily on the day the same bears date.

Given under my hand and official seal this \_\_\_\_\_ day of \_\_\_\_\_, 2013.

\_\_\_\_\_  
Notary Public

[NOTARIAL SEAL]

My commission expires: \_\_\_\_\_

**AGREEMENT**

[COUNTERPART SIGNATURE PAGE OF THE CITY]

THE CITY OF HUNTSVILLE,  
ALABAMA, a municipal corporation in the  
State of Alabama

By: \_\_\_\_\_  
Tommy Battle, Mayor (SEAL)

Date of execution: \_\_\_\_\_

ATTEST:

By: \_\_\_\_\_  
Charles Hagood, City Clerk-  
Treasurer

STATE OF ALABAMA )

:

MADISON COUNTY )

I, the undersigned, a notary public in and for said county in said state, hereby certify that Tommy Battle, whose name as Mayor of The City of Huntsville, Alabama, is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day that, being informed of the contents of said instrument, he, in his capacity as such Mayor, and with full authority, executed the same voluntarily on the day the same bears date.

Given under my hand and official seal this \_\_\_\_\_ day of \_\_\_\_\_, 2013.

\_\_\_\_\_  
Notary Public

[NOTARIAL SEAL]

My commission expires: \_\_\_\_\_

**AGREEMENT**

[COUNTERPART SIGNATURE PAGE OF HYLIS]

Hylis, Inc., an Alabama corporation

\_\_\_\_\_  
John W. Hays  
Its President

Date of Execution: \_\_\_\_\_

STATE OF ALABAMA                    )  
  :  
MADISON COUNTY                    )

I, the undersigned, a notary public in and for said county in said state, hereby certify that John W. Hays, whose name as President of Hylis, Inc., an Alabama corporation, is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day that, being informed of the contents of said instrument, he, as such officer, and with full authority, executed the same voluntarily for and as the act of said corporation.

Given under my hand and official seal this \_\_\_\_\_ day of \_\_\_\_\_, 2013.

\_\_\_\_\_  
Notary Public

[NOTARIAL SEAL]

My commission expires: \_\_\_\_\_

**EXHIBIT A**

**MOU**  
*(See attached)*

**MEMORANDUM OF UNDERSTANDING  
HUNTSVILLE SCHOOL SITES  
AND RELATED INFRASTRUCTURE**

THIS MEMORANDUM OF UNDERSTANDING ("MOU") made and entered into by and among The Huntsville City Board of Education, a political subdivision of the State of Alabama, (the "Board"); The City of Huntsville, Alabama, a municipal corporation in the State of Alabama (the "City"); and Hylis, Inc., an Alabama corporation ("Hylis").

The Board, the City, and Hylis understand, acknowledge, and agree, that this MOU creates no contractual obligation but merely presents the framework as set forth in Attachment A (attached hereto and incorporated herein by this reference), pursuant to which the Board's Superintendent and the City's Mayor will recommend those items set forth in Attachment A including that:

(a) the Board, the City and Hylis enter into a binding agreement (the "Agreement") setting forth the terms and conditions as outlined in Attachment A and herein;

(b) the City acquire from Hylis (i) 61.45 acres (the "School Site") as described in Attachment A, by part sale and part gift;

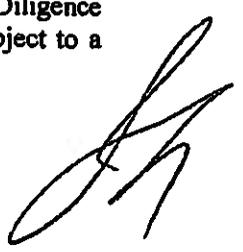
(c) subsequent to the acquisition of the School Site, the City convey the School Site to the Board in exchange for other property;

(d) the City accept by gift from Hylis, (i) the 9.62 acres for the right of way and utility and drainage easements for the extension of Haysland Road as described in Attachment A, (ii) the 0.09 acres for the emergency vehicular access turn-around at the end of the extension of Haysland Road as described in Attachment A; (iii) the 2.175 acres for the right of way and utility and drainage easements for the Connector Road as described in Attachment A, and (iv) the 5.36 acres, as described in Attachment A, for public park land;

In furtherance of the foregoing, the City, the Board and Hylis agree as follows:

1. Hylis will, prior to the execution of the Agreement, deliver to the Board all documentation within the control of Hylis concerning in any way the School Site including, but not limited to, surveys, title policies, leases, flood mapping, site analyses, environmental studies and reports, structural reports, archeological or historic site reports, wetlands analyses, endangered species analyses, appraisals, soil borings, geotechnical studies, liens or encumbrances outstanding against the School Site, activities upon the School Site giving rise to threats of litigation, or threatened condemnation or taking of the School Site or a part thereof.
2. Hylis will grant to the Board a due diligence period of 120 days from the date of execution of the Agreement (the Due Diligence Period) to (a) conduct all investigations necessary, including appraisals and property evaluations, and (b) secure all permits and approvals required, to determine the propriety and ability of the Board to erect a high school on the School Site, and the acceptability of the School Site.
3. If the School Site is determined, within the Due Diligence Period, to be acceptable by the Board in its sole discretion, Closing will occur within 30 days next following the conclusion of the Due Diligence Period. Hylis will, at Closing, convey to the City the School Site by warranty deed, subject to a

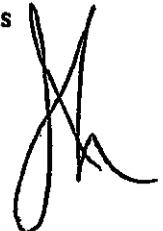
MAY 02 2013



restriction that Grissom High School shall be built on the School Site, and subject to the lien of ad valorem taxes for the year of the conveyance and subsequent years, permitted exceptions as agreed to in the Agreement, and such matters as are shown on the plat as described in Attachment A.

4. Subsequent to the Closing, the City shall convey the School Site and other property to the Board in exchange for the current Grissom High School site and the current Johnson High School site in accordance with the separate memorandum of understanding between the City and the Board.
5. The Purchase Price for the School Site shall be \$2,531,267.00 (the "Purchase Price"). The difference between the appraised value (as set forth in Attachment A) of the School Site and the Purchase Price shall be a gift to the City by Hylis. The City shall provide Hylis with such acknowledgements of the gift in such form as may be required by the Internal Revenue Code. The City and the Board acknowledge that the building of Grissom High School on the School site, the revitalization of the current Grissom High School site and the current Johnson High School site and the surrounding communities were made possible in part by the gifts from Hylis to the City and ultimately to the Board. The City and the Board agree that Hylis has not received, and will not receive, anything of value from the City or the Board other than the Purchase Price.
6. The school to be constructed by Board on the School Site shall be named Virgil I. Grissom High School. The Board will provide to Hylis a naming opportunity on the new school campus, to be selected from the naming of a campus roadway, an athletic field, classroom or auditorium space, or a building on the campus, in the Board's discretion.
7. The school to be constructed by the Board on the School Site shall be constructed within four years from the date of the Agreement.
8. The topsoil pile located on the east side of the School Site will be moved off of the School Site by Hylis.
9. The Board will not object to the zoning changes proposed by Hylis as set forth in Attachment A.
10. Hylis will, by way of gift, provide the engineering plans from Smith Engineering for the Haysland Road extension and the Connector Road, and the related infrastructure, in accordance with the design and engineering specifications of the City, all as set forth in Attachment A.
11. The City will (a) accept from Hylis a gift of the property for use as road rights of way and utility and drainage easements described in Attachment A, and the property as described in Attachment A to be used as park land, all of said property to be conveyed to the City by Hylis by warranty deed, (b) cause to be constructed at no cost to the Board, not later than June, 2016, the Haysland Road extension as shown on the Major Street Plan to the northern boundary of the park currently owned by the City plus 125.32 feet and as shown on the Re-Layout of National Subdivision Third Addition as approved by the City and attached hereto, with sufficient turn-around for emergency vehicular access, substantially in accordance with the Layout Plan Profile (Schedule 3 of Attachment A) including the items shown on the 4-page Schedule (7) of Attachment A, and the related infrastructure, all as provided in Attachment A, (c) cause to be constructed at no cost to the Board, not later than June, 2016 the Connector Road along the north side of the School Site to Haysland Road from National Boulevard as shown on the Major Street Plan substantially in accordance with the Layout Plan Profile (Schedule 3 of Attachment A) including the items shown on the 4-page Schedule (7) of Attachment A, and the related infrastructure, all as provided in Attachment A, (d) name the new roads and city parks

MAY 02 2013



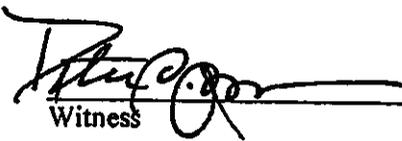
described in Attachment A as requested by Hylis, (e) provide the necessary funds for the development and completion of, and develop and complete, the 23.22 acre park currently owned by the City on the lands as described in the deed attached hereto and as depicted in Attachment A, along with the 5.36 acre parcel to be given to the City for the purpose of expanding the current 23.22 acre park land, as generally depicted in Attachment A as much as is physically practicable for public use by the estimated completion date of June, 2020, but in any event not later than June, 2022, and (f) provide Hylis with such acknowledgements of the gifts made to the City as set forth in Attachment A in such form as may be required by the Internal Revenue Code. The appraised value of the property to be gifted to the City is set forth in Attachment A.

- 12. The City Planning Department will recommend to the Planning Commission and the City Council that the Haysland Road corridor zoning (R2A strip) will be adjusted as shown on the zoning map in Attachment A to comply with the Planning Commission policy to discourage strip zoning.
- 13. The Board and the City approached Hylis regarding the potential for this transaction.
- 14. The building of the school on the School Site is part of the Board's Five-Year Capital Plan and the construction of the roads, related infrastructure and park are part of the City's master plan; both efforts inure to the benefit of the Board and the City. The building of the new Grissom High School on the School Site and the revitalization of the current Grissom High School site, the current Johnson High School site and the surrounding communities inures to the benefit of the City, the Board and the residents of Huntsville, Alabama.
- 15. The Board and the City will cooperate with Hylis should Hylis desire to enter into a transaction that qualifies under Section 1031 of the Internal Revenue Code.

IN WITNESS WHEREOF, the parties hereto have caused this MOU to be executed by their duly authorized representatives, and this MOU to be dated as of the date of the last signature.

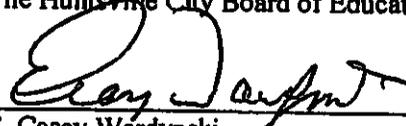
  
\_\_\_\_\_  
Witness

\_\_\_\_\_  
Witness

  
\_\_\_\_\_  
Witness

\_\_\_\_\_  
Witness

The Huntsville City Board of Education

  
\_\_\_\_\_  
E. Casey Wardynski  
Superintendent  
Date of Execution: 5-13-2013

The City of Huntsville, Alabama

  
\_\_\_\_\_  
Tommy Battle  
Mayor  
Date of Execution: 5-3-13

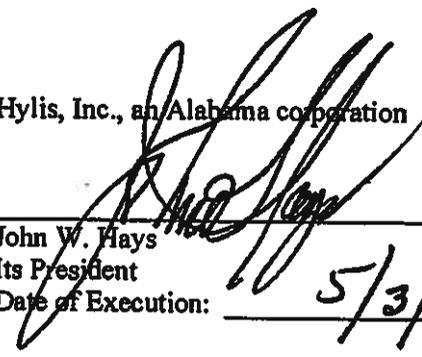
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Witness

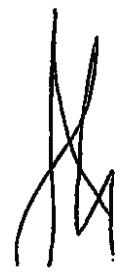
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Witness

Hylis, Inc., an Alabama corporation

  
\_\_\_\_\_  
John W. Hays  
Its President

Date of Execution: 5/3/2013

MAY 02 2013



**EXHIBIT B**

**Deed for School Site**  
*(See attached)*

**DEED**

*(Lot 1 of National Subdivision, Third Addition—Virgil I. Grissom High School)*

This DEED made and entered by and between Hylis, Inc., an Alabama corporation (the "Grantor") and the City of Huntsville, a municipal corporation within the State of Alabama, (the "Grantee").

**WITNESETH:**

WHEREAS, the Grantor currently owns that certain lot or parcel of real property (the "Property") located in Madison County, Alabama being more particularly described below;

WHEREAS, the Grantor, the Grantee and The Huntsville City Board of Education, a political subdivision of the State of Alabama (the "Board"), are parties to that certain agreement (the "Agreement") dated \_\_\_\_\_ whereby the Grantor has agreed to gift the below-described property to the Grantee for the purpose of allowing the Board to construct, operate, and maintain a public high school by the name of Virgil I. Grissom High School, all in accordance with the Agreement;

WHEREAS, the Grantor desires to convey the Property to the Grantee and Grantee desires to accept the Property as a part sale and part gift transaction;

NOW, THEREFORE, FOR AND IN CONSIDERATION of the sum of Ten and No/100 (\$10.00) Dollars cash, the premises herein, and other good and valuable consideration, this day in hand paid by Grantee to Grantor, the receipt and sufficiency of which is hereby expressly acknowledged by Grantor, Grantor has this day given, granted, bargained, conveyed and confirmed, and does by these presents, give, grant, bargain, convey and confirm unto Grantee, its successors and assigns the Property, situated and lying and being in the County of Madison, State of Alabama, and being more fully described as follows, to-wit:

**Lot 1 of National Subdivision, Third Addition, recorded in the office of the Judge of Probate of Madison County, Alabama, as Plat Document #20130404000216180.**

Provided however, that this conveyance is expressly subject to the following terms, conditions, restrictions, reservations, easements and covenants as to the use, enjoyment and ownership of the Property, which terms, conditions, restrictions, reservations, easements and covenants are to run with the land and shall forever be binding on the Grantee, and its successors and assigns, namely,

1. The Property may only be used to construct, operate, and maintain a public high school to be named Virgil I. Grissom High School and for no other purpose.

2. The Grantee accepts this conveyance of the Property subject to the restriction set forth in paragraph 1.

3. The restriction set forth in paragraph 1 shall constitute a covenant running with the land and shall be binding upon, inure to the benefit of, and be vested in the Grantee, and its successors and assigns forever and shall be binding upon, inure to the benefit of, and be vested in the Grantor, and its successors and assigns forever; provided, however, that on the first day that regular high school classes are held in the newly constructed Virgil I. Grissom High School the restrictions set forth in paragraph 1 shall lapse and shall no longer have any force or effect.

4. Grantee does hereby accept the Property and does hereby take and hold the same according to and subject to the restriction as set forth in paragraph 1.

5. The recitals are an integral part of this Deed.

TO HAVE AND TO HOLD unto the Grantee, its successors and assigns, forever, subject however to (a) the restrictions set forth above, (b) ad valorem taxes for the 2014 tax year and all subsequent years, (c) all matters established by, and shown on, the Final Plat of National Subdivision Third Addition, as recorded on April 4, 2013, as Document No. 20130404000216180 in the office of the Judge of Probate of Madison County, Alabama, and (d) all matters of record in Madison County, Alabama. Grantor makes no agreement, covenant, representation, or warranty respecting the nature or the quality of the title to the above described and herein conveyed Property other than that the Grantor has neither permitted nor suffered any lien, encumbrance or adverse claim to the said Property since the date of acquisition thereof by the Grantor, except as herein set forth.

IN WITNESS WHEREOF, the said Hylis, Inc., an Alabama corporation, has caused these presents to be executed on this the day and year first above written.

HYLIS, INC.  
an Alabama corporation

By: \_\_\_\_\_  
John W. Hays  
As its President

STATE OF ALABAMA     )

COUNTY OF MADISON    )

I, the undersigned authority, a Notary Public in and for said County in said State, hereby certify that John W. Hays as President of Hylis, Inc. an Alabama corporation, whose name 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 officer and with full authority, executed the same voluntarily for and as the act of said corporation.

Given under my hand and seal this the \_\_\_\_ day of September, 2013.

\_\_\_\_\_  
Notary Public

[NOTARIAL SEAL]

My commission expires: \_\_\_\_\_

**THIS INSTRUMENT HAS BEEN PREPARED IN ACCORDANCE WITH  
INFORMATION SUPPLIED BY THE PARTIES HERETO.  
NO TITLE EXAMINATION AND/OR OPINION WAS REQUESTED  
BY EITHER GRANTOR OR GRANTEE,  
AND NONE WAS CONDUCTED AND/OR RENDERED.**

This instrument prepared by:

Scott E. Ludwig, Esq.  
Bradley Arant Boult Cummings LLP  
200 Clinton Avenue, Suite 900  
Huntsville, Alabama 35801  
Telephone Number: (256) 517-5149

**EXHIBIT C**

**Deed for Park Land**  
*(See attached)*

**DEED**  
*(Gift of Park Land)*

This DEED made and entered by and between Hylis, Inc., an Alabama corporation (the "Grantor") and the City of Huntsville, a municipal corporation within the State of Alabama, (the "Grantee").

WITNESETH:

WHEREAS, the Grantor currently owns that certain tract or parcel of real property (the "Property") located in Madison County, Alabama being more particularly described below;

WHEREAS, the Grantor, the Grantee and The Huntsville City Board of Education, a political subdivision of the State of Alabama are parties to that certain agreement (the "Agreement") dated \_\_\_\_\_ whereby the Grantor has agreed to gift the below-described property to the Grantee for the purpose of allowing the Grantee to construct, operate, and maintain a City Park for the benefit of the general public in accordance with the Agreement;

NOW, THEREFORE, FOR AND IN CONSIDERATION of the sum of Ten and No/100 (\$10.00) Dollars cash, the premises herein, and other good and valuable consideration, this day in hand paid by Grantee to Grantor, the receipt and sufficiency of which is hereby expressly acknowledged by Grantor, Grantor has this day given, granted, bargained, conveyed and confirmed, and does by these presents, give, grant, bargain, convey and confirm unto Grantee, its successors and assigns, the Property situated and lying and being in the County of Madison, State of Alabama, and being more fully described as follows, to-wit:

See Exhibit A attached hereto and incorporated herein by reference as if set out in full.

Provided however, that this conveyance is expressly subject to the following terms, conditions, restrictions, reservations, easements and covenants as to the use, enjoyment and ownership of the Property, which terms, conditions, restrictions, reservations, easements and covenants are to run with the land and shall forever be binding on the Grantee, and its successors and assigns, namely,

1. The Property is to be used as park land for the use and enjoyment of the general public.
2. Grantor reserves and excepts from this conveyance blanket easements over, under and upon the Property (the "Easements") for the purpose of constructing, installing, operating, using, maintaining, or relocating underground utilities, including water, gas, electricity, sanitary sewer, storm sewer, telephone and cable television lines and similar facilities, (collectively "Utilities"), subject, however, to the following:

(a) Grantor shall have the right to locate the Easements at its reasonable discretion, and from time to time relocate or redesign the same.

(b) All Easements shall be selected and located by the Grantor.

(c) In addition the Easements, Grantor hereby reserves to itself, its employees, agents and assigns, all rights of entry, ingress and egress to, from and upon the Property.

(d) All of the Utilities, constructed or installed by Grantor after the date of this Deed, shall be installed underground and the construction and installation of the same shall be performed in such a manner as to minimize any disruption to the operation of the City Park. Immediately following the installation of any Utilities across any portion of the City Park, Grantor shall restore and re-sod the surface to conform as closely as is reasonably possible to adjoining areas. If any Utilities are installed across paved or otherwise improved portion of the City Park, Grantor shall replace the paving, curbs, gutters, or other affected surface areas to substantially the condition of the same as it existed prior to the installation of the Utilities.

3. The Property shall be used and operated by Grantee solely as a City Park for the use and enjoyment of the general public and for no other purpose without the prior written consent of the Grantor, which consent may be withheld in Grantor's sole and absolute discretion.

4. The terms, restrictions, covenants, reservations, easements and conditions in this Deed shall constitute covenants running with the land and shall be binding upon, inure to the benefit of, and be vested in the Grantee, and its successors and assigns forever and shall be binding upon, inure to the benefit of, and be vested in the Grantor, and its successors and assigns forever; provided, however, that Grantee and Grantor and their respective successors and assigns, may at any time by written agreement executed by each and recorded in the Probate Office of Madison County, Alabama, modify, further define, limit, terminate or otherwise amend said terms, restrictions, covenants, reservations, easements and conditions or the scope, nature and/or duration of the same, and upon such modification, further definition, limitation, termination or amendment, the modified, further defined, limited, terminated or amended terms, restrictions, covenants, reservations, easements and conditions shall constitute the terms, restrictions, covenants, reservations, easements and conditions of this Deed.

5. Grantee does hereby accept the Property and does hereby take and hold the same according to and subject to the terms, conditions, restrictions, reservations, easements and covenants as set out above.

6. The recitals are an integral part of this Deed.

TO HAVE AND TO HOLD unto the Grantee, its successors and assigns, forever, subject however to the terms, restrictions, covenants, reservations, easements and conditions set forth above, ad valorem taxes for the 2014 tax year and all subsequent years, drainage, set back lines and zoning, use, building, utility restrictions and easements and rights-of-way and any other matters of record in Madison County, Alabama, and zoning ordinances, subdivision regulations and other laws and recorded restrictions. Grantor makes no warranty or covenant respecting the nature of the quality of the title to the Property hereby conveyed other than that the Grantor has neither permitted nor suffered any lien, encumbrance or adverse claim to the Property, except as herein set forth, since the date of acquisition thereof by the Grantor.

IN WITNESS WHEREOF, the said Hylis, Inc., an Alabama corporation, has caused these presents to be executed on this the day and year first above written.

HYLIS, INC.  
an Alabama corporation

By: \_\_\_\_\_  
John W. Hays  
As its President

STATE OF ALABAMA )

COUNTY OF MADISON )

I, the undersigned authority, a Notary Public in and for said County in said State, hereby certify that John W. Hays as President of Hylis, Inc. an Alabama corporation, whose name 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 officer and with full authority, executed the same voluntarily for and as the act of said corporation.

Given under my hand and seal this the \_\_\_\_ day of August, 2013.

\_\_\_\_\_  
Notary Public

[NOTARIAL SEAL]

My commission expires: \_\_\_\_\_

**THIS INSTRUMENT HAS BEEN PREPARED IN ACCORDANCE WITH  
INFORMATION SUPPLIED BY THE PARTIES HERETO.  
NO TITLE EXAMINATION AND/OR OPINION WAS REQUESTED  
BY EITHER GRANTOR OR GRANTEE,  
AND NONE WAS CONDUCTED AND/OR RENDERED.**

This instrument prepared by:

Scott E. Ludwig, Esq.  
Bradley Arant Boult Cummings LLP  
200 Clinton Avenue, Suite 900  
Huntsville, Alabama 35801  
Telephone Number: (256) 517-5149

**EXHIBIT D**

**Deed for Haysland road and Connector Road**  
*(See attached)*

**DEED**

*(Gift of Haysland-Connector Roads)*

This DEED made and entered by and between Hylis, Inc., an Alabama corporation (the "Grantor") and the City of Huntsville, a municipal corporation within the State of Alabama, (the "Grantee").

**WITNESETH:**

WHEREAS, the Grantor currently owns that certain tract or parcel of real property (the "Property") located in Madison County, Alabama being more particularly described below;

WHEREAS, the Grantor, the Grantee and The Huntsville City Board of Education, a political subdivision of the State of Alabama, are parties to that certain agreement (the "Agreement") dated \_\_\_\_\_ whereby the Grantor has agreed to gift the below-described property to the Grantee for the purpose of allowing the Grantee to effectuate a portion of the Grantee's Major Street Plan by the Grantee extending, constructing, operating and maintaining Haysland Road and the "Connector Road" identified in the Agreement, all in accordance with the Agreement;

WHEREAS, the Grantor desires to convey the Property to the Grantee and Grantee desires to accept the Property as a gift;

NOW, THEREFORE, FOR AND IN CONSIDERATION of the sum of Ten and No/100 (\$10.00) Dollars cash, the premises herein, and other good and valuable consideration, this day in hand paid by Grantee to Grantor, the receipt and sufficiency of which is hereby expressly acknowledged by Grantor, Grantor has this day given, granted, bargained, conveyed and confirmed, and does by these presents, give, grant, bargain, convey and confirm unto Grantee, its successors and assigns, the Property situated and lying and being in the County of Madison, State of Alabama, and being more fully described as follows, to-wit:

**See Exhibit A attached hereto and incorporated herein by reference as if set out in full.**

Provided however, that this conveyance is expressly subject to the following terms, conditions, restrictions, reservations, easements and covenants as to the use, enjoyment and ownership of the Property, which terms, conditions, restrictions, reservations, easements and covenants are to run with the land and shall forever be binding on the Grantee, and its successors and assigns, namely,

1. The Property may only be used to construct, operate, and maintain (by the City) roads for the use, benefit and enjoyment of the general public and for no other purpose.
2. The Grantee agrees that the roads to be constructed, operated and maintained by the City shall be named in accordance with the Agreement and that there will be an appropriate signage erected along the roads that will identify the Property's names.

3. The Grantee accepts this conveyance of the Property subject to the covenants and restrictions set forth above.

4. The covenants and restriction set forth above shall constitute a covenant running with the land and shall be binding upon, inure to the benefit of, and be vested in the Grantee, and its successors and assigns forever and shall be binding upon, inure to the benefit of, and be vested in the Grantor, and its successors and assigns forever.

5. Grantee does hereby accept the Property and does hereby take and hold the same according to and subject to the covenants and restrictions as set forth above.

6. The recitals are an integral part of this Deed.

TO HAVE AND TO HOLD unto the Grantee, its successors and assigns, forever, subject however to the covenants and restrictions set forth above, ad valorem taxes for the 2014 tax year and all subsequent years, drainage, set back lines and zoning, use, building, utility restrictions and easements and rights-of-way and any other matters of record in Madison County, Alabama, and zoning ordinances, subdivision regulations and other laws and recorded restrictions. Grantor makes no warranty or covenant respecting the nature of the quality of the title to the Property hereby conveyed other than that the Grantor has neither permitted nor suffered any lien, encumbrance or adverse claim to the Property, except as herein set forth, since the date of acquisition thereof by the Grantor.

IN WITNESS WHEREOF, the said Hylis, Inc., an Alabama corporation, has caused these presents to be executed on this the day and year first above written.

HYLIS, INC.  
an Alabama corporation

By: \_\_\_\_\_  
John W. Hays  
As its President

STATE OF ALABAMA     )

COUNTY OF MADISON    )

I, the undersigned authority, a Notary Public in and for said County in said State, hereby certify that John W. Hays as President of Hylis, Inc. an Alabama corporation, whose name 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 officer and with full authority, executed the same voluntarily for and as the act of said corporation.

Given under my hand and seal this the \_\_\_\_\_ day of August, 2013.

\_\_\_\_\_  
Notary Public

[NOTARIAL SEAL]

My commission expires: \_\_\_\_\_

**THIS INSTRUMENT HAS BEEN PREPARED IN ACCORDANCE WITH  
INFORMATION SUPPLIED BY THE PARTIES HERETO.  
NO TITLE EXAMINATION AND/OR OPINION WAS REQUESTED  
BY EITHER GRANTOR OR GRANTEE,  
AND NONE WAS CONDUCTED AND/OR RENDERED.**

This instrument prepared by:

Scott E. Ludwig, Esq.  
Bradley Arant Boult Cummings LLP  
200 Clinton Avenue, Suite 900  
Huntsville, Alabama 35801  
Telephone Number: (256) 517-5149

**EXHIBIT E**

**Title Insurance Affidavit**  
*(See attached)*

**First American Title Insurance Company**  
**OWNER'S AFFIDAVIT AND INDEMNITY**

State of Alabama County of Madison

Issuing Office File No. \_\_\_\_\_

I, as President of Hylis, Inc, being first duly sworn, on oath depose and state that Hylis, Inc., an Alabama corporation (the "Owner") owns the following described property:

**[See Exhibit A attached hereto and incorporated herein]**

The Owner has owned the property, now being gifted and sold, continuously for \_\_\_\_\_ years and its enjoyment thereof has been peaceable and undisturbed and the title to said property has never been disputed to Owner's actual knowledge, nor does Owner have any actual knowledge of any facts by reason of which the title to, or possession of, said property might be disputed or by reason of which any claim to any of said property might be asserted adversely to Owner, and more particularly:

1. No party other than the Owner is in possession of all or any portion of the premises above described under any unrecorded leases, tenancy at will or otherwise;

2. The Owner at present, and for a period of **SIX MONTHS** past, has caused no construction, erection, alteration or repairs of any structures or improvements on the premises above cited to be done, nor has contracted for any material to be delivered to the premises for which charges therefore remain unpaid; and

3. That there are no pending suits, proceedings, judgments, bankruptcies, liens or executions against said Owner, either in the aforesaid county or any other county in the aforesaid state.

Dated this the \_\_\_\_ day of August, 2013.

**HYLIS, INC.,**  
**an Alabama corporation**

BY: \_\_\_\_\_  
John W. Hays  
As its President

\_\_\_\_\_  
Notary Public

My Commission Expires: \_\_\_\_\_

## ROUTING SLIP CONTRACTS AND AGREEMENTS

Originating Department: Legal

Council Meeting Date: 9/12/2013

Department Contact: Peter Joffrion

Phone # 427-5026

Contract or Agreement: Agreement with the Board of Education and Hyllis, Inc.

Document Name: Agreement with the Board of Education and Hyllis, Inc.

City Obligation Amount:

Total Project Budget:

Uncommitted Account Balance:

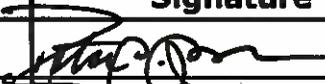
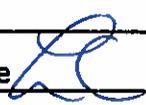
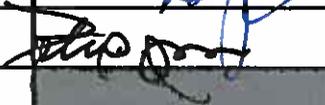
Account Number:

### Procurement Agreements

<b>Not Applicable</b>	<b>Not Applicable</b>
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### Grant-Funded Agreements

<b>Not Applicable</b>	<b>Grant Name:</b>
-----------------------	--------------------

Department	Signature	Date
1) Originating		9-6-13
2) Legal		9-6-13
3) Finance 		9/4
4) Originating		9-6-13
5) Copy Distribution		
a. Mayor's office (1 copies)		
b. Clerk-Treasurer (Original & 2 copies)		