CITY COUNCIL AGENDA ITEM COVER MEMO

Agenda Item Number_____

Meeting Type: Regular

Meeting Date: 12/5/2013

Action Requested By:
Legal

Agenda Item Type
Resolution

Subject Matter:

Mod. 10 to SDA TIF5 Series 2010-A

Exact Wording for the Agenda:

Resolution authorizing the Mayor to execute Modification No. 10 to the Supplemental Development Agreement TIF5 Series 2010-A between the City of Huntsville and LW Redstone Company, LLC.

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: Not applicable

MAYOR RECOMMENDS OR CONCURS: Yes

Department Head:_____ Date:

revised 3/12/2012

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. 10 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. 10 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 December 5, 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 5th day of December, 2013.

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

APPROVED this the 5th day of December, 2013.

_____
Mayor of the City of
Huntsville, Alabama

STATE OF ALABAMA)

COUNTY OF MADISON)

MODIFICATION NO. 10 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, 5, 6, 7, 8, &9

MODIFICATION No. 10

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. 10 to the Supplemental Development Agreement TIF5-Series 2010-A which was previously adopted and approved by Resolution No. 12-581 on July 22, 2010, 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, Resolution No. 13-23 on January 10, 2013, Resolution No.13-125 on February 14, 2013, Resolution No. 13-177 on February 28, 2013, Resolution No. 13-198 on March 14, 2013, Resolution No. 13-366 on May 9, 2013, Resolution No. 13-497 on June 27, 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. OWNER IMPROVEMENTS**, add the following: The contract with Reed Contracting Services, Inc. for Redstone Gateway Package I-1, Mass Grading, Fine Grading, Erosion Control, Storm, and Pond Liner, Project No. 65-12-SP23 as previously adopted by Resolution No. 13-151 on February 28, 2013 was previously budgeted and funded in the total amount of $ $1,825,598.50 by Modification No. 6 to SDA 2010-A, and SDA 2013-A both adopted on February 28, 2013. Change Order No. 1 will increase the contract by the amount of $ 105,418.50 for a revised total contract amount of $ $1,931,017.00. This Change Order No. 1 is needed to incorporate into their scope of work grading revisions and drainage structure changes due to the developer revising a lake location on the project master plan. Funding is from account no. 05-6500-0811-1013. This amount of $ 105,418.50 will be deducted from the Section B. category of this SDA subsection entitled ENGINEERING AND CONSTRUCTION COSTS TO BE DETERMINED to fund this contract change order.

2. **Within Section B. OWNER IMPROVEMENTS, add the following:** The contract with Brasfield & Gorrie, L.L.C. for Project Management Services for Redstone Gateway Package I and Package J, Project No. 65-13-SP20, was previously adopted by Resolution No. No. 13-152 on February 29, 2013 and was previously budgeted and funded in the total amount of $112,310.00 by Modification No. 6 to SDA 2010-A adopted on February 28, 2013.

President of the City Council of the City of Huntsville, Alabama
Date:_____

Modification No. 1 to this contract will increase the total contract amount by $30,000.00 resulting in a revised total contract amount of $142,310.00. This Change Order No. 1 is needed to extend the contract time of performance to March 1, 2014 and increase the contract amount to provide assistance in bringing closure to all existing construction contracts, final platting, and other ongoing project management needs. Funding is from Account No. 05-6500-0811-1012. This amount of $30,000 will be deducted from the Section B. category of this SDA subsection entitled ENGINEERING AND CONSTRUCTION COSTS TO BE DETERMINED to fund this contract modification.

3. **Within Section B. ADD the following: 4. Within Section B. OWNER IMPROVEMENT**, the subsection entitled "ENGINEERING AND CONSTRUCTION COSTS TO BE DETERMINED", the amount of $ 407,840.36 allocated and budgeted for undefined engineering and construction costs is hereby decreased by the amount of $135,418.50 for a revised total of $ 272,421.86.

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

_____
Notary Public
My Commission Expires: _____

(SEAL)

("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 5th day of December, 2013.

_____
Notary Public

(SEAL)

My Commission Expires: _____

ROUTING SLIP
CONTRACTS AND AGREEMENTS

Originating Department: **Legal** Council Meeting Date: **12/5/2013**

Department Contact: **Peter Joffrion** Phone # **427-5026**

Contract or Agreement: **Mod. 10 to SDA TIF5 Series 2010-A**

Document Name: **Modification No. 10 to the SDA LW Redstone, TIF5 Series 2010A**

City Obligation Amount:

Total Project Budget:

Uncommitted Account Balance:

Account Number:

Procurement Agreements

Not Applicable	**Not Applicable**

Grant-Funded Agreements

Not Applicable	**Grant Name:**

Department	Signature	Date
1) Originating		12.4.13
2) Legal		12.4.13
3) Finance		12/4
4) Originating		12.4.13
5) Copy Distribution		
a. Mayor's office (1 copies)		
b. Clerk-Treasurer (Original & 2 copies)		

Revised 04/15/2011