

RESOLUTION NO. 2021-R-127

BE IT RESOLVED by the City Council of the City of Irondale, Alabama, as follows:

Section 1. Findings. The City Council (herein called the "Council"), which it is governing body of the City of Irondale, Alabama (herein called the "City), has found and ascertained and does hereby declare as follows:

- (a) that it hereby approves the terms and conditions of that certain Third Amended and Restated Project Development, Funding and Cooperation Agreement, by and between the City and HEPLEEDS, LLC ("Developer") in substantially the form attached hereto as Exhibit A (the "Agreement"), granting to Developer certain economic incentives with respect to that certain real property and the improvements thereon more particularly described therein as the "Project Site"; and, desires to issue a zero (0%) percent warrant to the extent authorized by the laws and Constitution of the State of Alabama and in order to comply with the laws of the State of Alabama and the *Constitution of Alabama of 1901*, as amended, including particularly Amendment No. 772, for the purpose of providing an Economic Incentives Grant (as defined herein) to Developer;
- (b) that the City has determined that the Agreement constitutes a public purpose and further enhances the public benefit and welfare by, among other things: promotion of local economic and commercial development and the stimulation of the local economy; increasing employment opportunities in the City; increasing the City's tax base, which will result in additional tax revenues for the City; promoting the location, relocation, expansion and retention of commercial enterprises in the City; and, preserving and improving the aesthetic quality of commercial development, inuring to the economic health of the City (collectively, the "Public Benefit");
- (c) pursuant to the Agreement, the City is willing to provide economic incentives in the form of the Economic Incentives Grant as defined in the Agreement and to take certain other actions to issue a zero percent (0%) warrant and to validate the Agreement and such warrant;
- (d) it is in the best interests of the City and the taxpayers and citizens thereof for the City to provide the Economic Incentives Grant to Developer;
- (e) it is therefore necessary and desirable, and in the best interests of the City and the taxpayers and citizens thereof, for the City to issue its "Limited Obligation Warrant (HEPLEEDS Project), Series 2021" (the "Warrant") so as to evidence the obligations of the City to Developer as set forth in the Agreement and to enter into the Agreement and issue the Warrant in order to effectuate the purposes of this Resolution;

(f) the Council heretofore, at a public meeting of the Council on October 20, 2021, satisfied the requirements of paragraph (c) of Section 94.01 of the *Constitution of Alabama of 1901* ("Amendment No. 772") with respect to the Warrant and approved the proposed issuance of the Warrant by the City and the proposed Economic Incentives Grant to Developer, all in accordance with the applicable provisions of the Amendment No. 772, and the Council hereby determines that the expenditure of public funds, with respect to the Economic Incentives Grant, as described herein, is for the Public Benefit and will serve a valid and sufficient public purpose, notwithstanding any incidental benefit accruing to any private entity or entities;

(g) as required under Amendment No. 772, the City published notice of such proposed action of the City Council of the City of Irondale in *The Alabama Messenger* on October 13, 2021 in accordance with the requirements of Amendment No. 772, a true and correct copy of which notice is set forth as Exhibit B hereto;

(h) the information set forth in such published notice is true and correct and the publication thereof is ratified and confirmed; and,

(i) for purposes of Amendment No. 772, the entity to whom or for whose benefit the City proposes to provide things of value is HEPLEEDS, LLC.

Section 2. Authorization of Agreement and its Execution and Delivery. The Council does hereby authorize and direct the Mayor of the City to execute and deliver, for and in the name and behalf of the City, the Agreement between the City and Developer. The Council does also hereby authorize and direct the City Clerk to affix the official seal of the City to the Agreement and to attest the same. The Agreement shall be in substantially the same form attached hereto as Exhibit A.

Section 3. Authorization for Refund of Portion of Tax Revenue. In order to further provide for the Economic Incentives Grant and subject to Section 16 hereof, the Council does hereby authorize and direct the Mayor of the City to pay up to Fifty Percent (50%) of the Tax Revenue (as defined below) generated by the Project Site in the manner and as provided in the Agreement subject to the Annual Cap. The total amount of sales taxes paid to Developer over the course of this agreement shall not exceed Eight Million Six Hundred Thousand and 00/100 Dollars (\$8,600,000.00). The total amount of sales taxes paid to Developer per year shall not exceed the Annual Cap of Four Hundred Thirty Thousand and 00/100 Dollars (\$430,000). The amounts due to Developer pursuant to this section will not bear any interest and shall be payable at the office of the Treasurer of the City, City Hall, Irondale, Alabama.

For purposes of this Resolution, the following terms shall have the following meaning ascribed to them:

"*Annual Period*" means the twelve (12) month period following the Incentive Commencement Date.

"*Economic Incentives Grant*" means, subject to the Development Incentive Cap, the

Annual Cap, and the Term of the Agreement, an amount equal to fifty percent (50%) of Tax Revenue during each Annual Period for a period of twenty (20) years beginning with the Incentive Commencement Date.

“Incentive Commencement Date” means the earlier of the date that Developer elects by written notice to the City or by October 1, 2023.

“Tax Revenue” is the total general City sales tax revenue (being City sales taxes the proceeds of which may be used by the City for any lawful purpose) generated and collected by the City from the Publix Shopping Center on the Project Site during the applicable Annual Period following the Incentive Commencement Date.

Section 4. Recall of Prior Warrants, if any; Authorization of the Warrant. Any and all warrants issued to the Developer pursuant to any agreement, by and between the City and HEPLEEDS, LLC related to the Project Site will be hereby recalled and cancelled upon the validation of Third Amended and Restated Project Development, Funding and Cooperation Agreement by a court of law to a final non-appealable order. Pursuant to the provisions of the constitution and laws of the State of Alabama, including particularly Section 11-47-2 of the *Code of Alabama* (1975), as amended, and Amendment No. 772, the City is hereby authorized to issue its “Zero (0%) Percent Warrant, Series 2021” (herein, as previously indicated, called the “Warrant”) so as to evidence the obligations set forth in this Resolution and the aforementioned Agreement. The Warrant shall be dated the date of its issuance, shall be in the principal amount of up to Eight Million Six Hundred Thousand and 00/100 Dollars (\$8,600,000.00), and shall mature and be payable on the earlier to occur of: (a) twenty (20) successive calendar years beginning on the Incentive Commencement Date and ending twenty (20) successive calendar years therefrom; (b) the payment of Economic Incentives Grant payments to Developer in the total amount of Eight Million Six Hundred Thousand and 00/100 Dollars (\$8,600,000.00) (the “Economic Incentives Grant Cap”); (c) mutual agreement and consent of the parties; or (d) as otherwise provided by the terms of this Agreement - (the occurrence of any of these events (a), (b), (c) or (d) shall be known herein as the “Maturity Date”). The Warrant shall not bear any interest. To the extent that any principal is unpaid on the Maturity Date, the same shall be cancelled and the City’s obligations under the Warrant deemed satisfied and of no further force and effect.

Section 5. Limited Obligation and Source of Payment. The indebtedness evidenced and ordered paid by the Warrant is and shall be a limited obligation of the City payable solely from up to fifty percent (50%) of the Tax Revenue produced and received by the City from the Project Site subject to the Annual Cap and according to the terms of the Agreement.

Section 6. General Faith and Credit Not Pledged. The general faith and credit of the City are not pledged for payment of the Warrant. The Warrant shall not be a general obligation of the City but shall be payable solely from up to fifty percent (50%) of the Tax Revenue produced and received by the City from the Project Site subject to the Annual Cap as herein defined and according to the terms of the Agreement. Neither this Resolution nor the Warrant issued hereunder shall be deemed to impose upon the City any obligation to pay the principal of the Warrant or any other sum, except with the moneys herein directed to be paid from up to fifty percent (50%) of the

Tax Revenue produced and received by the City from the Project Site subject to the Annual Cap according to the terms of the Agreement. The Warrant and any payments required by this Resolution shall never constitute an indebtedness of the City within the meaning of any constitutional provision or statutory limitation whatsoever, except as may be provided in Amendment No. 772. None of the agreements, representations or warranties made or implied in this Resolution, or in the issuance of the Warrant, shall ever impose any pecuniary liability upon the City, except with respect to the moneys herein directed to be paid from up to fifty percent (50%) of the Tax Revenue produced and received by the City from the Project Site and except as required by the Agreement. Nothing herein contained, however, shall be construed to relieve the City from the performance of any of its agreements herein contained or in the Agreement or to relieve any of the officials of the City of any of their official duties.

Section 7. Mandatory Redemption and Prepayment. The Warrant will be subject to partial redemption and prepayment according to the terms of the Agreement until the Maturity Date, but only to the extent of any moneys realized by the City from up to fifty percent (50%) of the Tax Revenue produced and received by the City from the Project Site according to the terms of the Agreement and subject to payment by the City in the maximum amount of Four Hundred and Thirty Thousand and NO/100 (\$430,000.00) during an Annual Period (the maximum amount referred to herein as the "Annual Cap"). The Treasurer of the City will determine the amount to be paid and will take such action as may be necessary under the provisions of this Resolution and the Agreement to exhaust, as nearly as may be practicable, the moneys realized and received by the City from up to fifty percent (50%) of the Tax Revenue subject to the Annual Cap in order to redeem principal amounts. After such application of all funds realized and received by the City from up to fifty percent (50%) of the Tax Revenue from the Project Site on the Maturity Date according to the terms of the Agreement, the Warrant shall be deemed paid in full, and the City's obligations to Developer evidenced by the Warrant will be released and extinguished.

Section 8. Execution of the Warrant. The Warrant shall be executed on behalf of the City by its Mayor, who shall affix the official seal of the City to the Warrant, registered by the Treasurer, and the Warrant shall be attested by the City Clerk of the City. Said officers are hereby authorized and directed so to execute, seal and attest the Warrant, all in accordance with the provisions of Section 11 hereof.

Section 9. Form of the Warrant. The Warrant shall be in substantially the form attached hereto as Exhibit C, with appropriate insertions, omissions and other changes to comply with the provisions hereof and to reflect the appropriate date and principal amount.

Section 10. Authority of Mayor and City Clerk. The Mayor of the City and its City Clerk and/or City Treasurer are hereby authorized to effect matters and duties authorized in this Resolution at any time, for the purpose for which such obligation is herein authorized and, to deliver to Developer the Warrant in the stated principal amount of such obligation, when the Warrant is executed, sealed and attested as herein specified.

Section 11. Registration of Warrant. The Warrant shall be registered as to principal, and shall be transferable only on the registry books of the City. The City Clerk shall be the registrar and transfer agent of the City and shall keep at the City's office proper registry and transfer books

in which it will note the registration and transfer of such Warrant as are presented for those purposes.

Section 12. Sale of the Warrant. For and in consideration of the obligations of the Parties set forth herein and in the Agreement and other good and valuable consideration, the Warrant is hereby transferred, assigned and set over unto Developer. The Warrant shall be registered in the name of Developer prior to the delivery thereof. The Mayor of the City is hereby authorized and directed to deliver the Warrant to Developer.

Section 13. General Authorization. The Mayor of the City, the Council President, the City Clerk, the City Treasurer and all other officers of the City and of the Council are hereby authorized and directed to take all such actions, and execute, deliver, seal and attest, and perform all such other agreements, undertakings, documents, instruments, notices, certificates, petitions and proceedings, with respect to the Agreement and the Warrant, as the Mayor and such officers shall determine to be necessary or desirable to carry out the provisions of this resolution or the Agreement or duly and punctually observe and perform all agreements and obligations of the City under the Agreement.

Section 14. Severability. The provisions of this Resolution are hereby declared to be severable. In the event any court of competent jurisdiction should hold any provision hereof to be invalid or unenforceable, such holding shall not invalidate or render unenforceable any other provision of this Resolution.

Section 15. Validation. The City desires to validate the legality of all proceedings had or taken in connection with the issuance of the Warrant and the delivery of the Agreement, the validity of the means provided for the payment of the Warrant, and the validity of all covenants and provisions contained in the Agreement and the Warrant, by filing a petition against the taxpayers and citizens of the City in the Circuit Court of Jefferson County, Alabama. A complaint to validate such Warrant, Agreement, proceedings, and covenants shall be filed and validation proceedings shall be instituted in the name of the City and the members of the governing body of the City. Wallace, Jordan, Ratliff & Brandt, LLC, is hereby designated and appointed as the attorneys of the City to file such complaint, institute such proceedings, and to take all steps necessary to complete such validation proceedings in accordance with the provisions of Article 17 of Chapter 6 of Title 6 of the *Code of Alabama (1975)*. Notwithstanding anything herein to the contrary, no moneys shall be paid to Developer prior to the completion of the validation as described herein.

Section 16. Condition Precedent. The obligations of the City under this Resolution and the Agreement are conditioned upon and subject to the validation of the City's obligations as further described in Section 15 of this Resolution and Section 4.2 and Article VI of the Agreement and compliance with the terms of the Agreement.

Section 17. Resolution Rescinded. Resolution No. 2021-R-62 is hereby rescinded.

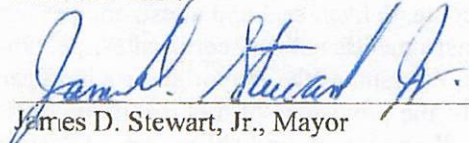
Section 18. Immediate Effect. This resolution shall take effect immediately.

ADOPTED this 20th day of October, 2021.

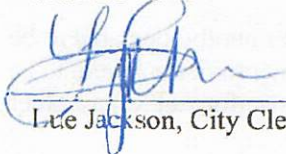

John W. Ronda, City Council President Pro-

tem

APPROVED:


James D. Stewart, Jr., Mayor

ATTESTED:


Lue Jackson, City Clerk

CERTIFICATION

I, Lue Jackson, City Clerk of the City of Irondale, Alabama, hereby certify the above to be a true and correct copy of a resolution adopted by the City Council of the City of Irondale at a regular meeting held on October 20, 2021, as same appears in the minutes of record of said meeting.

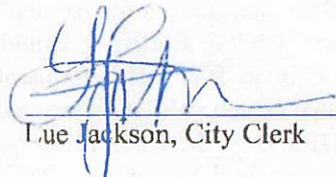

Lue Jackson, City Clerk

Exhibit A

**Form of Third Amended and Restated
Project Development, Funding and Cooperation Agreement**

STATE OF ALABAMA)
COUNTY OF JEFFERSON)

THIRD AMENDED AND RESTATED

**PROJECT DEVELOPMENT, FUNDING AND COOPERATION
AGREEMENT**

THIS THIRD AMENDED AND RESTATED PROJECT DEVELOPMENT, FUNDING AND COOPERATION AGREEMENT ("Agreement") is hereby made and entered into on this the ____ day of October, 2021, by and among **THE CITY OF IRONDALE, ALABAMA** (the "City") and **HEPLEEDS, LLC**, a Florida limited liability company licensed to do and doing business in the State of Alabama (the "Developer").

RECITALS:

WHEREAS, the City has determined that entry into this Agreement will promote the economic development of the City and will increase its tax revenues and improve the quality of life for its citizens and further, has determined that the expenditure of the public funds for the purposes specified herein will serve a valid and sufficient public purpose, notwithstanding any incidental benefits accruing to any private entity or entities, and further, has determined that the entry into this Agreement is in the best interest of the health, safety and welfare of its citizens; and,

WHEREAS, the Developer is the owner of that certain real property in Jefferson County, Alabama, which is more particularly described in and shown on the map included as a part of **Exhibit "A"** attached hereto ("Project Site"); and,

WHEREAS, the Developer has agreed to erect, construct and operate a Retail Center and all necessary roads, grading, utilities, infrastructure and other improvements associated therewith on the Project Site subject to the terms of this Agreement ("Retail Center"); and,

WHEREAS, the Retail Center will consist of a retail center for general retail sales with all necessary roads, grading, utilities, infrastructure and other improvements associated therewith, with a minimum of 65,000 square feet of gross leasable area with an initial capital investment of approximately \$28,000,000, which said initial capital investment shall include all of Developer's land acquisition and development expenses excluding impact and utility fees, and the creation of an estimated 250 full and part time equivalent jobs in the City; and,

WHEREAS, Amendment No. 772 to the Constitution of Alabama (1901) (Section 94.01(a)(3) of the Recompiled Constitution of Alabama and hereinafter referred to as "Amendment No. 772"), authorizes the City to enter into agreements for the purpose of promoting the economic development of the City; and,

WHEREAS, the City has agreed in consideration of certain public benefits described herein and to induce and aid the Developer in locating the Retail Center on the Project Site, and the Economic Incentives Grant described in Section 4.1 of this Agreement; and,

WHEREAS, the parties hereto are desirous of entering into a valid, binding, and enforceable Project Development, Funding, and Cooperation Agreement and to set forth the framework for establishing a working partnership between the City and Developer, as set forth herein; and

WHEREAS, the City and Developer had previously entered into a Second Amended and Restated Project Development, Funding and Cooperation Agreement on the 6th day of July, 2021 and desire to amend and restate the second amended agreement as set forth herein.

AGREEMENT

NOW, THEREFORE, upon and in consideration for the mutual promises and covenants contained herein and for other valuable consideration, the receipt, adequacy and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

ARTICLE I RECITALS

The foregoing Recitals are incorporated herein by reference and form an integral part of this Agreement.

ARTICLE II DEFINITIONS

- 2.1 "Quarterly Period" is the three (3) month period following the Incentive Commencement Date.
- 2.2 "City" shall mean the City of Irondale, Alabama.
- 2.3 "City Agcnt" shall have the meaning set forth in Section 5.1 hereof.
- 2.4 "Developer" shall mean HEPLEEDS, LLC, a Florida limited liability company.
- 2.5 "Development Incentive Cap" shall mean Eight Million Six Hundred Thousand and 00/100 Dollars (\$8,600,000.00).
- 2.6 "Effective Date" shall have the meaning set forth in Section 7.1 hereof.
- 2.7 "Economic Incentives Grant" shall have the meaning set forth in Section 4.1.
- 2.8 "Incentive Commencement Date" is the earlier of the date that Developer elects by written notice to the City or by October 1, 2023.
- 2.9 "Notice to Proceed" shall have the meaning set forth in Section 6.1 hereof.
- 2.10 "Project Site" shall mean the real property shown on the attached Exhibit "A" on

which the Retail Center is to be constructed.

2.11 "Retail Center" shall have the meaning set forth in Section 3.1 hereof.

2.12 "Retail Center Construction" shall mean the planning, designing, engineering and construction of the Retail Center and all necessary roads, grading, utilities, infrastructure and other improvements associated therewith.

2.13 "Retail Center Plan" shall have the meaning set forth in Section 5.1 hereof.

2.14 "Retail Financing" shall mean such information as may be required by the City, to demonstrate to the reasonable satisfaction of the City that Developer has sufficient debt and equity financing to develop and complete the Retail Center in accordance with the plans and specifications for the Retail Center.

2.15 "Tax Revenue" is the total general City sales tax revenue (being City sales taxes the proceeds of which may be used by the City for any lawful purpose) generated and collected by the City from the Retail Center on the Project Site during the applicable Quarterly Period following the Incentive Commencement Date.

2.16 "Warrant" means the Limited Obligation Warrant (HEPLEEDS Project), Series 2021, in substantially the form as set forth in Resolution No. 2021-R-127, issued by the City to evidence the agreement and obligation of the City to pay the Economic Incentives Grant as enumerated herein and under the terms of the Agreement.

ARTICLE III DEVELOPMENT OF RETAIL CENTER

3.1 Development of Retail Center. In consideration for the agreements of the City as set forth herein, Developer agrees at its sole cost to create construction plans and specifications allowing for the development of the Retail Center (including the Retail Center's Outparcels) and to develop and construct/renovate a Retail Center and all necessary roads, grading, utilities, infrastructure and other improvements associated therewith with a minimum of 65,000 square feet of gross leasable area with an initial capital investment of approximately Twenty Four Million Dollars and No/100 (\$24,000,000.00) Dollars (the "Retail Center"). The City and Developer estimate that the Retail Center will support employment of approximately 250 full and part time equivalent employees, of which Developer estimates 156 full time employees. It is understood between the parties that the City enters this Agreement for the sole purpose of inducing and aiding the Developer in locating the Retail Center on the Project Site. This Agreement will expire unless the Developer substantially completes the Retail Center (excluding outparcels) on the Project Site in accordance with the Development Plan by April 1, 2024; provided, however, that the Developer, at its option, may extend such date for up to an additional six (6) months if necessary. In the event that Developer exercises the extension option contemplated in this subsection, then the Incentive Commencement Date set forth in Section 2.2 shall also be extended for an equal amount of time. Developer agrees to initiate the construction of the Retail Center within eight (8) months of the date of the full execution of this Agreement, open the initial phase of the Retail Center for business

(which shall consist of 65,000 square feet of gross leasable area no later than sixteen (16) months thereafter and complete the construction in subsequent phases within an estimated thirty-six (36) months thereof subject to the terms of section 7.16 of this Agreement. Developer warrants that it has the financial resources necessary to construct and timely open the Retail Center as herein provided.

3.2 Expenses of Development of the Retail Center. Developer shall be responsible for all costs of developing the Retail Center including but not limited to the costs of planning, engineering, developing and maintaining the Retail Center and constructing the necessary roads, grading, utilities and other improvements and subdivisions in connection therewith. Developer shall be responsible for payment of its own fees with respect to the development of the Retail Center, including but not limited to legal, engineering, architectural, construction and environmental services. Developer shall not hold itself out as an agent of the City with respect to the development or construction of the Retail Center, nor shall either the City or City Agent hold itself out as an agent of Developer.

ARTICLE IV OBLIGATIONS OF THE CITY AND TERM OF AGREEMENT

4.1 Payment of Economic Incentives Grant to the Developer. In consideration of the public benefits to be provided by this Agreement and subject to Section 4.2 below, the City will pay to Developer, according to the terms of this Agreement, an Economic Incentives Grant payment for each Quarterly Period following the Incentive Commencement Date. The total amount of Economic Incentives Grant payments to be made by the City to Developer under this Agreement shall not exceed the Development Incentive Cap and shall not exceed Four Hundred and Thirty Thousand Dollars and NO/100 (\$430,000.00) per year ("Annual Cap"). The Developer shall, at the City's request, provide the City with a report of the actual initial capital investments expended on the Project Site and any additional information related thereto that is requested by the City. The agreement and obligation of the City concerning the payment of the Economic Incentives Grant payments described herein shall be evidenced by a Warrant issued by the City to the Developer. In the event that any warrant was issued by the City to the Developer pursuant to any agreement entered into between the parties related to the development of the Retail Center, the parties agree that any and all such warrants shall be null and void and the Developer agrees to return any such warrants to the City for cancellation. The Developer, subject to sales taxes at the Project Site, shall comply with all rules and regulations relating to the payment of sales taxes.

At the end of each Quarterly Period following the Incentive Commencement Date, the City shall determine the amount of Tax Revenue generated from businesses operating within the Retail Center (including the Retail Center's Outparcels) on the Project Site and shall provide an Economic Incentives Grant payment to Developer in an amount equal to fifty percent (50%) of the Tax Revenue for a period of twenty (20) years. Each Economic Incentives Grant payment shall be subject to the Annual Cap of Four Hundred and Thirty Thousand and 00/100 Dollars (\$430,000) per year. The Economic Incentives Grant payments shall be made by the City to Developer on quarterly basis, on or before the sixtieth (60th) day after the end each Quarterly Period following the Incentive Commencement Date; provided, the final Economic Incentives Grant payment shall be made only upon presentation and surrender of the Warrant by Developer. For any partial Quarterly Period occurring during the Term, the Economic Incentives Grant payment shall be paid

based upon the portion of the Quarterly Period occurring within the Term. Along with each economic incentive grant payment from the City to Developer, the City shall provide Developer with a report of the total sales tax revenue received by the City from all businesses operating within the Project Site. No interest of any kind shall accrue or be added to the principal amount due to the Developer by the City under the terms of this Agreement. The payment of the Economic Incentives Grant payment in each year is subject to the law-imposed requirement under *Johnson v. Sheffield*, 183 So. 265 (Ala. 1938) that, if necessary, there must first be paid from all Tax Revenue the legitimate and necessary governmental expenses of operating the City.

The City shall record each payment of an Economic Incentive Grant to the Developer on the internal records of the City, which records shall be rebuttably presumptive evidence of the amount of an Economic Incentive Grant payments that shall have been paid and of the amount of the Development Incentive Cap referenced herein, and the Warrant, at any time outstanding.

4.2 Approval and Validation Proceeding. Subject to the provisions of Article VI hereof, the parties understand that this Agreement is contingent upon (i) compliance with the requirements of Amendment No. 772 to the Constitution of Alabama of 1901, including, but not limited to, advertisement and a public hearing related to this Amendment and the approval of the Mayor and the City Council of the City has been obtained; and (ii) the validation of this Agreement by a court of law, which the City agrees to pursue in good faith to a final non-appealable order. Developer shall be responsible for the payment of all legal fees incurred on behalf of Developer and the legal fees and costs incurred by the City, in a verified amount not to exceed \$25,000, in connection with the negotiation and preparation of this Amended and Restated Agreement, prior agreements between the parties, any transactions contemplated in the Agreement, and the validation action described in this section. The City agrees to cause a validation action to be filed within two days of a vote approving this agreement by the City Council.

4.3 Zoning.

(a) Developer agrees to submit an application for such zoning as may be required to allow development of the Retail Center.

(b) With respect to the Retail Center, the City agrees that, in the event the current zoning is not sufficient to allow the Retail Center, the City agrees to process and consider such zoning changes, variances or conditional use exceptions as the City may require for the Retail Center.

4.4 Storm Water Management System. In connection with the construction of the Retail Center, the Developer agrees to provide a storm water management system on Developer's property to be used in connection with the Retail Center, the specifications and location of which shall be agreed upon by the City in accordance with prevailing rules, regulations, ordinances, and laws.

4.5 Cooperation. The City agrees to cooperate with Developer to facilitate the planning, design, engineering and construction of the Retail Center (the "Retail Center Construction") necessary to facilitate the proposed commercial retail development. The Developer

and City agree not to unreasonably withhold or delay consent or agreement to any matter related to the Retail Center Construction.

4.6 Term. This Agreement shall begin on the Effective Date and terminate at the earlier to occur of: (a) twenty (20) successive calendar years beginning on the Incentive Commencement Date and ending twenty (20) successive calendar years therefrom; (b) the payment of Economic Incentives Grant payments to Developer in the total amount of the Development Incentive Cap; (c) the mutual agreement and consent of the parties; or (d) as otherwise provided by the terms of this Agreement ("Term").

ARTICLE V DESIGN AND CONSTRUCTION OF THE RETAIL CENTER

5.1 Designation of City Agent. Developer agrees to develop and submit to the City Agent (as herein defined) for reasonable and timely review and approval all of the information, plans and specifications related to the planning, engineering, design, and permitting as may be necessary or required in order to build and construct the Retail Center as set forth herein ("Retail Center Plan") Approvals by the City Agent of Developer's plans and specifications shall be deemed approvals of the City. Developer has previously submitted the documents comprising the Retail Center Plan, and agrees to keep the City Agent apprised of the scope and progress of the Retail Center Plan and any amendments thereto. On the date this Agreement is fully executed, the City agrees to designate an engineering company to act as the representative of the City to approve the design, and plans for the construction of the Retail Center on behalf of the City ("City Agent"). In the event that the contract of the City Agent is terminated, the City agrees to appoint another qualified engineering company to act as City Agent.

5.2 Submittal of Retail Center Plan to City Agent. Developer has previously met with the City Agent to review its documentation prepared in development of the Retail Center Plan. Developer shall make any and all information necessary available to the City Agent with respect to the Retail Center Plan. Developer shall provide to City Agent evidence of the costs expended by Developer in conjunction with the development of the Retail Center that are equal to or greater than the Economic Incentives Grant.

5.3 Contracts for Retail Center Construction, Authority of City Agent. The Developer shall enter into all contracts and agreements required for the construction of the Retail Center. The Developer shall be the sole obligor on all contracts it enters into with respect to the Retail Center Construction. The parties agree that the City shall not in any way be obligated for payment or performance of contracts that the Developer enters into.

5.4 Permits and Approvals. The Developer or its designated agent agrees that it will serve as the applicant for any and all permits and approvals necessary or required to be obtained from any governmental agency. The City agrees to assist the Developer in obtaining any and all consents or approvals which may be required for the Retail Center Construction. The City agrees that it will provide routine and normal inspection services with respect to the Retail Center Construction.

5.5 Plans and Specifications. In connection with the development of the Retail Center Plan, the Developer will develop detailed plans and specifications for the Retail Center Construction and submit same to the City Agent for review and approval as provided in Section 5.1 hercof. Developer shall be responsible for developing the detailed plans and specifications for the Retail Center Construction in accordance with all applicable governmental or regulatory laws or regulations. The City Agent shall, in all respects, represent the City with respect to the design and construction of the Retail Center Plan. The City Agent, on behalf of the City and as agent thereof, shall be solely responsible for review of the plans and specifications therefor. Once approved, said approved plans and specifications shall govern and represent the City's formal approval of said plans and specifications and Developer shall only be obligated to construct pursuant to such approved plans and specifications, as may be amended from time to time with City approval.

5.6 Procedure for Payment for Retail Center Construction After Grand Opening of the Retail Center. All costs related to the Retail Center after the grand opening of the Retail Center shall be funded by the Developer. In no instance shall the City be responsible for any costs of construction, maintenance, or otherwise of the Retail Center.

5.7 Liability of the City.

(a) Nothing contained in this Agreement shall be construed to impose a charge against the general credit of the City, and all obligations of the City arising under this Agreement shall be limited to the proper application of the proceeds derived from the Economic Incentives Grant. The agreements and obligations of the City under this Agreement and the Warrant for the payment of the Economic Incentives Grant payments constitutes limited and contingent obligations payable solely from the Tax Revenue and shall never constitute a direct, indirect, or contingent indebtedness, pecuniary liability, or charge against the general credit, revenues, or taxing power of the City within the meaning of any constitutional provision or statutory limitation. The Developer agrees that no agreement or covenant contained in this Agreement or in the Warrant shall be deemed to be an agreement or covenant of any officer, agent, employee, or member of the governing body of the City in the individual capacity thereof and none of such persons nor any officer executing this Agreement or the Warrant shall be personally liable on this Agreement or the Warrant or be subject to any personal liability or accountability by reason of the delivery of this Agreement or the issuance of the Warrant.

(b) In order to assure that all obligations of the City incurred in connection with the Retail Center Construction shall be limited in accordance with the provisions of this Section 5.7, no purchase order shall be issued in the name of or on behalf of the City and no contract shall be entered into in the name and behalf of the City, whether in either case by the City itself or any entity acting as agent for the City.

(c) Developer shall and hereby does release the City, its Council Members, Mayor, employees, attorneys, engineer, City Agent and agents from, and shall indemnify, defend and hold the City harmless against, any and all claims and liabilities of any character or nature whatsoever asserted by or on behalf of any person, firm, corporation or governmental board arising out of, resulting from, or in any way connected with the Retail Center Construction, including, without limiting the generality of the foregoing, to (i) obligations for the payment of Retail Center Construction costs which are not paid, (ii) any destruction of or damage to property or any injury

to or death of any person or persons caused by or related to the Retail Center Construction, and, (iii) any actions taken by the City at the request of the Developer in connection with the Economic Incentives Grant. Developer, will also pay or reimburse all legal or other expenses reasonably incurred by the City in connection with the investigation or defense of any action or proceeding, whether or not resulting in liability, with respect to any claim, liability or loss in respect of which indemnity may be sought against the Developer under the provisions of this Section 5.7. The indemnity agreement of the Developer contained in this section shall survive the termination or cancellation of this Agreement. Other than liability for failure to make payment of the Economic Incentives Grant payments provided for and agreed to be paid by the City in Section 4.1 hereof, the City shall not be liable to Developer for any commercial loss, inconvenience, loss of use, time, data, good will, revenues, profits or savings; or other special, indirect, consequential or incidental damages which, in any manner directly or indirectly, is connected with or arises out of the agreements or obligations of Developer contemplated by this Agreement, or is connected with or arises out of any of the obligations of the City, or arises out of the failure of the City to perform any of the obligations made by and imposed under this Agreement, regardless of whether such special, indirect, consequential or incidental damage is contended, or ultimately shown or held to be caused, in whole or in part, by the acts or omissions of the City. This limitation of liability shall survive the expiration or termination of this Agreement.

Nothing contained in this Section 5.7 shall be construed to indemnify the City against, or to release the City from liability for, any claim or liability resulting from: (i) the City's breach of any of the covenants and agreements on its part contained in this Agreement; or, (ii) the City's willful misconduct or gross negligence.

5.8 Insurance. During the term of this Agreement, Developer will maintain policies of insurance and provide a certificate of insurance to the City prior to commencing work on the Retail Construction evidencing commercial general liability insurance with limits of not less than \$1,000,000.00 per occurrence and \$2,000,000.00 general aggregate. All such policies of insurance shall be primary and non-contributory, name the City as an additional insured and grant a waiver of subrogation in favor of the City. This policy(ies) shall be endorsed to provide that the insurance company agrees that the policy(ies) shall not be canceled, changed, allowed to lapse or allowed to expire for any reason until thirty (30) days after the City has received written notice by certified mail as evidenced by return receipt. The deductibles on each such policy shall be solely borne by the primary insured on each such policy.

ARTICLE VI CONDITIONS PRECEDENT

6.1 Acquisition of Project Site. The Developer represents to the City that it has acquired the Project Site prior to the execution of this Agreement.

6.2 Validation. This Agreement and the rights and duties of the parties hereto, shall automatically lapse and become null and void ab initio with neither party having any obligation to the other if a court of competent jurisdiction does not validate this Development Agreement and the Warrant by a final judgment.

6.3 Amendment 772 Hearing. Amendment No. 772 to the *Constitution of Alabama of 1901* ("Amendment 772") provides that, for a valid and, sufficient public purpose, a municipality may grant public funds and things of value in aid of or to any individual, firm, corporation, or other business entity, public or private, for the purpose of promoting the economic and industrial development of the municipality. The Parties desire to enter into this Development Agreement as a cooperative endeavor under the *Constitution of Alabama of 1901* for the purpose of promoting the economic and industrial development of the City for the mutual benefit of the Parties hereto. The location and operation of the Retail Center on the Project Site constitutes a public purpose for the expenditure of public funds in that said expenditures (i) will advance the economic development of the City; (ii) promote the convenience, order, prosperity and welfare of its citizens, (iii) is a direct benefit to the City and its residents as a result of increased tax revenues to the City, increased property values and additional economic activity in the area of the City surrounding the Project Site, and the creation of new jobs for employees engaged in the ongoing operation of the Developer's Retail Center.

ARTICLE VII MISCELLANEOUS

7.1 Effective Date. Subject to the provisions of Article 4.2, the effective date of this Agreement is the date of execution of the last party hereto ("Effective Date").

7.2 Public Purpose. The City does hereby ascertain, determine, declare and find that development and implementation of the construction of the Retail Center and the Economic Incentives Grant is in the best interest of the City and will serve a public purpose and further enhance the public benefit and welfare by, among other things: promotion of local economic and commercial development and the stimulation of the local economy; increasing employment opportunities in the City; increasing the City's tax base, which will result in additional tax revenues for the City; promoting the location, relocation, expansion and retention of commercial enterprises in the City; and, preserving and improving the aesthetic quality of commercial development, inuring to the economic health of the City. The City finds that the above-cited items constitute important public benefits to the City and its citizens.

7.3 Default and Termination.

(a) This Agreement may be terminated for cause (1) by the City upon thirty (30) days' prior written notice to Developer as provided in Section 7.6, if Developer fails to perform or to comply with any of the material terms, covenants, agreements or conditions hereof and such failure is not cured during such thirty (30) day period, or (2) by the City through written notice to Developer upon Developer being adjudged bankrupt or insolvent by a court of competent jurisdiction, or if any receiver or trustee of all or any part of the business property of Developer shall be appointed and shall not be discharged within one hundred and twenty (120) days after appointment, or if Developer shall (i) make an assignment of its property for the benefit of creditors, (ii) file a voluntary petition in bankruptcy or insolvency, (iii) apply for bankruptcy under the bankruptcy or insolvency laws now in force or hereinafter enacted (federal, state or otherwise), or (iv) have an involuntary petition filed against Developer that is not be dismissed within one hundred and twenty (120) days after such filing. Any of the above items shall constitute an "Event

of Default.” All rights to terminate this agreement as contemplated in this section 7.3 shall expire upon completion of construction of the Initial Phase of the Retail Center.

Upon expiration or termination of this Agreement, the parties hereby acknowledge that no further Economic Incentives Grant payments will be owed or paid by the City to Developer following the date of such cessation or failure.

(b) Upon the occurrence of an Event of Default by the City which is not cured within thirty (30) days after written notice pursuant to Section 7.6, Developer may, in its discretion, pursue any one or more of the following remedies without any notice or demand whatsoever, other than any notice expressly provided for in this Agreement:

(i) seek and obtain injunctive relief or declaratory relief; or

(ii) terminate this Agreement, provided that the event of default occurred, and prior advance notice of the event of default is given to the City in the manner specified in Section 7.6 below; or

(iii) exercise any and all other remedies available at law or in equity,

(b) Upon the occurrence of an event of default by Developer which is not cured within thirty (30) days after written notice pursuant to Section 7.6, the City may, in its discretion, pursue any one or more of the following remedies without any notice or demand whatsoever, other than any notice expressly provided for in this Agreement:

(i) seek and obtain injunctive relief or declaratory relief; or

(ii) terminate this Agreement, provided that prior advance notice of the event of default occurred, and is given to the City in the manner specified in Section 7.6 below, or

(iii) exercise any and all other remedies available at law or in equity.

(c) Anything herein to the contrary notwithstanding, the City and Developer shall not be responsible or liable for consequential, exemplary or punitive damages as a result of any act or omission in connection with this Agreement.

7.4 Governing Law. This Agreement, all rights of the parties hereunder, and all disputes which may arise hereunder shall be subject to and governed in accordance with the laws of the State of Alabama. By executing this Agreement, the parties hereto do hereby consent and agree that the jurisdiction and venue of the Circuit Court of Jefferson County, Alabama, Birmingham Division, shall be the sole jurisdiction and venue with respect to any matter arising hereunder.

7.5 Severability. In case any one or more of the provisions contained in this Agreement shall for any reason be held invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision hereof and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

7.6 Notices. All communications and notices expressly provided herein shall be sent, by first class mail, postage prepaid, by facsimile, or by a nationally recognized overnight courier for delivery on the following business day, as follows:

To the City: Mayor of the City of Irondale, Alabama
City of Irondale
101 20th Street South
Irondale, Alabama 35210

With a copy to:

April B. Danielson, Esq., City Attorney
Wallace, Jordan, Ratliff & Brandt, LLC
800 Shades Creek Parkway, Suite 400
Birmingham, Alabama 35209

To the Developer: HEPLEEDS, LLC
851 S. Federal Highway, Suite 201
Boca Raton, Florida 33432
Attn: Jeff Halvorsen

and

Hartman Simons & Wood LLP
6400 Powers Ferry Road NW, Suite 400
Atlanta, Georgia 30339
Attn: Gil Y. Burstiner, Esq.

and

Evans & Evans
2001 Park Place North, Suite 540
Birmingham, Alabama 35203
Attn: Jesse Evans and Bert Boykin

or to such other address as the parties shall be from time to time designate by written notice.

7.7 Cost and Expense. Developer shall be responsible for the payment of all legal fees incurred on behalf of Developer and the legal fees and costs incurred by the City, in a verified amount not to exceed \$25,000, in connection with the negotiation and preparation of this Amended and Restated Agreement, any transactions contemplated in the Agreement, and the validation action described in Section 4.2.

7.8 Media and Press Releases. The Parties hereby agree to cooperate fully in connection with the preparation and release of any and all press releases (to be reasonably approved by the City and Developer prior to release), media advisories, and publications concerning the Retail Center. The Parties further agree that there shall not be any press releases, media advisories,

publications or public announcements of any kind concerning the identity of Developer's tenants without prior approval from Developer.

7.9 Section Titles and Headings. The section titles and headings are for convenience only and do not define, modify or limit any of the terms and provisions hereof.

7.10 Representations and Warranties of Developer; Commitments of Developer. Developer makes the following representations and warranties as the basis for its undertakings pursuant to this Agreement:

(a) Developer is a duly organized and existing entity, in good standing under the laws of the State of Florida and is licensed to do and doing business in the State of Alabama, and has the power to enter into and to perform and observe the agreements and covenants on its part contained in this Agreement.

(b) The execution and delivery of this Agreement on the part of Developer's undersigned officers/member(s) have been duly authorized by a resolution duly adopted by Developer's governing body, members or managing member(s) or by other necessary actions.

(c) All actions and proceedings required to be taken by or on behalf of Developer to execute and deliver this Agreement, and to perform the covenants, obligations and agreements of Developer hereunder, have been duly taken.

(d) The Retail Center and Retail Center's Outparcels and all necessary roads, grading, utilities, infrastructure and other improvements associated therewith will have a minimum of 65,000 square feet of gross leasable area and an initial capital investment of approximately Twenty Four Million Dollars and No/100 (\$24,000,000.00) Dollars.

The representations, warranties and covenants made by Developer herein shall survive the performance of any obligations to which such representations, warranties and covenants relate.

The Company agrees, to the extent permitted by applicable law, to give commercially reasonable consideration to qualified, properly licensed, and insured City-based contractors and vendors to provide construction products and services in developing and constructing the Project.

7.11 Representation and Warranties of the City. The City makes the following representations and Warranties as the basis for its undertakings pursuant to this Agreement:

(a) The City has the power to enter into and perform and observe the Agreements and covenants on its part contained in this Agreement;

(b) The execution and delivery of this Agreement on the part of the City has been duly authorized by a resolution duly adopted by the City Council of the City of Irondale, Alabama; and

(c) All actions and proceedings required to be taken by or on behalf of the City to execute and deliver this Agreement and to perform the covenants, obligations and agreements of City hereunder have been duly taken.

7.12 Relationship of Parties. The City and Developer agree that nothing contained in this Agreement, or any act of Developer or the City, shall be deemed or construed by any of the parties hereto, or by third persons, to create any relationship of third party beneficiary hereof, or of principal and agent, or of a limited or a general partnership or of a joint venture or of any association or relationship between Developer and the City other than as independent contractors in a contract entered into at arm's length. It is agreed that the City has no investment or equity interest in the business of Developer, the Project Site or the Retail Center and shall not be liable for any debts of Developer; further, the City shall not be deemed or construed to be a partner, joint venturer or otherwise interested in the assets of Developer.

7.13 Compliance with Laws. Developer shall comply, and shall cause its members, managing member(s), officers, agents, employees and contractors to comply, with all applicable federal, state and local statutes, regulations, rules, ordinances and other laws applicable to the development of the Retail Center.

7.14 Audit. All pertinent books, accounts, or other records accumulated by the Developer in connection with the Retail Center Construction shall be available to representatives the City for inspection and audit and shall be retained for two (2) years from the completion of construction of the last phase of the Retail Center. If any audit, claim or litigation is begun concerning this Agreement before the expiration of the applicable two (2) year period, Developer shall retain the records until the resolution of all litigation, claims, or audits involving such records.

7.15 Binding Effect. This Agreement and all terms, provisions and obligations set forth herein shall be binding upon and shall inure to the benefit of Developer and its successors in title to the Retail Center and assigns provided, however, Developer shall not be released upon a transfer of title to the Retail Center and/or assignment of this Agreement pursuant to Section 7.17 absent an express assumption of this Agreement by a successor or assign of Developer that shall be binding upon and shall inure to the benefit of the City and its successors and assigns.

7.16 Unavoidable Delay. If either party shall be delayed or hindered in or prevented from the performance of any act required under this Agreement by reason of acts of God, strikes, lockouts, labor troubles, inability to procure materials, failure of power, restrictive laws (except as otherwise specifically provided herein), riots, insurrection, war, adverse weather conditions, governmental delays, or other reason beyond the reasonable control of and not the fault of the party delayed in performing the work or doing the acts required under the terms of this Agreement (collectively, an "Unavoidable Delay"), then performance of such act shall be excused for the period of the delay, and the period for the performance of any such act shall be extended for a period equivalent to the period of such delay; provided, however, that either party's failure to promptly pay and/or perform any monetary obligations hereunder shall not be subject to excuse by reason of Unavoidable Delay.

7.17 Entire Agreement; Amendment; Assignment. This Agreement constitutes one entire and complete agreement, and none of the parties hereto shall have any rights arising from any

separate component of this Agreement without complying in all respects with its duties and obligation under all parts and components hereof. This Agreement constitutes and includes all promises and representations, expressed or implied, made by the City and Developer. No stipulations, agreements or understandings of the parties hereto shall be valid or enforceable unless contained in this Agreement. No oral conditions, warranties or modifications hereto shall be valid between the parties. This Agreement may be amended only by a written instrument executed by both parties. Developer may not assign its rights under this Agreement to any other person or entity, without the prior written approval of the City, absent an express assumption of this Agreement by a successor or assign that shall be binding upon and endure to the benefit of the City. This Section shall not prohibit an assignment of collateral to a lender of Developer.

7.18 Multiple Counterparts; Electronic Signatures. This Agreement may be executed in a number of identical counterparts which, taken together, shall constitute collectively one (1) agreement; in making proof of this Agreement, it shall not be necessary to produce or account for more than one such counterpart with each party's signature. Further, this Agreement may be executed by both Seller and Purchaser by facsimile or by portable document format (.pdf) signature, such that execution of this Agreement by facsimile or by portable document format (.pdf) signature shall be deemed effective for all purposes as though this Agreement was executed as a "blue ink" original.

[END OF PAGE]

IN WITNESS WHEREOF, the parties have caused this instrument to be executed on the dates set forth below.

CITY OF IRONDALE, ALABAMA

BY: James D. Stewart, Jr.
James D. Stewart, Jr.

ITS: MAYOR

DATE: 10/20/2021

STATE OF ALABAMA)

JEFFERSON COUNTY)

I, the undersigned, a Notary Public in and for said County, in said State, hereby certify that **JAMES D. STEWART, JR.**, whose name as **MAYOR** of the **CITY OF IRONDALE, ALABAMA**, an Alabama municipal corporation, is signed to the foregoing Amendment to Development Agreement and who is known to me, acknowledged before me on this day that, being informed of the contents of said agreement, he, as such officer and with full authority, executed the same voluntarily for and as the act of said municipal corporation on the day the same bears date.

Subscribed and sworn to before me on this the 21 day of October, 2021.

(SEAL)

Conrad B. ...
Notary Public
My Commission Expires: 10/24/2021
11/18/2022

HEPLEEDS, LLC, a Florida limited liability company

By: Halvorsen Holdings, LLC, a Florida limited liability company, as its Managing Member

By: HH Manager, Inc., a Florida corporation, as its Managing Member

By: _____

Printed Name: Jeffrey Halvorsen

Its: President

Date: 10/28/21

STATE OF FLORIDA)

PAIM BEACH COUNTY)

I, the undersigned, a Notary Public in and for said County, in said State, hereby certify that JEFFREY HALVORSEN, President of HALVORSEN HOLDINGS, LLC. and HH Manager, Inc. Managing Members of HEPLEEDS, LLC, is signed to the foregoing agreement and who is known to me. acknowledged before me on this day that, being informed of the contents of said agreement, he, as such officer 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.

Subscribed and sworn to before me on this the 28th day of October, 2021.

Cheryl Burden

Notary Public

My Commission Expires: 5/3/22

(SEAL)



Exhibit "A"**Project Site**

Commence at the NE corner of the SE 1/4 of the SE 1/4 of Section 19, Township 17 South, Range 1 West, Jefferson County, Alabama, said point also being the NE corner of Lot 9, according to the Survey of OLSHAN REALTY CO.'S RESIDENTIAL BABY FARMS as recorded in Map Book 51, Page 55 in the Probate Office of Jefferson County, Alabama, Birmingham Division; thence run Southerly along the East line of said 1/4 line and along the East line of said Lot 9 a distance of 119.03 feet to a point lying on the southerly right of way of Grants Mill Road and the Point of Beginning; thence turn an interior angle right, clockwise of 139°27'40" and run southeasterly along said southerly right of way a distance of 91.08 feet to a concrete monument found at a mitered corner at the northwesterly intersection of Grants Mill Road and Old Leeds Road; thence turn an interior angle left, counterclockwise of 135°00'00" and run southerly along said mitered corner a distance of 60.67 feet to a point lying on the northerly right of way of Old Leeds Road being on a curve to the right concave northwesterly having a radius of 1844.86 feet, a central angle of 9°20'15" and with an interior angle to chord left, counterclockwise of 124°03'16"; thence run along the arc of said curve and along the northerly right of way of Old Leeds Road for a distance of 300.66 feet to a concrete monument found; thence turn a deflection angle left, from the chord of 23°41'16" and run southwesterly a distance of 79.44 feet to a point; thence turn an interior angle left, counterclockwise of 152°48'55" and run westerly along the northerly right of way of Old Leeds Road for a distance of 54.49 feet to a point lying on a curve to the left, concave southeasterly having a radius of 973.31 feet and a central angle of 10°54'01"; thence run along said arc of said curve and along said right of way a distance of 185.17 feet to a point; thence tangent to the aforesaid course continue Southwesterly along said right of way a distance of 131.11 feet to a point lying on a curve to the right concave northwesterly having a radius of 888.03 feet and a central angle of 12°25'59"; thence run along said arc of said curve and along said right of way a distance of 192.70 feet to a point; thence tangent to the aforesaid course continue Southwesterly along said right of way a distance of 103.36 feet to a point being the SW corner of Lot 13 of the Survey of OLSHAN REALTY CO.'S RESIDENTIAL BABY FARMS; thence turn an angle right of 93°27'45" and run northwesterly along the westerly line of said Lot 13 a distance of 672.53 feet to a point lying on the southerly right of way of Grants Mill Road; thence turn an interior angle left, counterclockwise of 88°55'17" and run northeasterly along said right of way a distance of 594.72 feet to a point lying on a curve to the right concave southerly having a radius of 445.87 feet and a central angle of 69°29'08"; thence run along said arc of said curve and along said right of way a distance of 540.73 feet to a point; thence tangent to the aforesaid course run southeasterly along said right of way for a distance of 25.40 feet to the Point of Beginning.

Exhibit B

Public Notice

LEGAL NOTICE OF PROPOSED ECONOMIC DEVELOPMENT ACTION AND RELATED PUBLIC EXPENDITURES BY

THE CITY OF IRONDALE, ALABAMA

The City of Irondale, Alabama (the "City") gives notice that the governing body of the City will meet in public session at 6:00 P.M. on the 20th day of October, 2021 at City Hall at 101 20th Street South in the City of Irondale, Alabama, for the purpose of considering such matters as may be properly presented thereto, including the authorization by the City pursuant to Amendment No. 772 to the *Constitution of Alabama of 1901*, as amended, of the terms, validation, delivery and performance by the City of that certain Amended and Restated Project Development, Funding and Cooperation Agreement (HEPLEEDS Project) (the "Amendment") by the City and HEPLEEDS, LLC, (the "Developer"), pursuant to which Amendment the City shall make economic development grants to the Developer as set forth in the Amendment of the net sales tax proceeds actually received by the City in the maximum aggregate amount of \$8,600,000 for a period of twenty years from the commercial and retail development and facilities established by the Developer on Grants Mill Road in the City, in consideration of the public benefits to accrue from the establishment and the operation of such commercial and retail development and facilities by the Developer in the City.

The City seeks, by undertaking its obligations pursuant to the Amendment, (i) to advance the economic development and base of the City, as well as the prosperity and welfare of its citizens, (ii) to promote trade and commerce, (iii) to advance the public health, safety, convenience, order, prosperity, quality of life and general welfare of the City of Irondale, (iv) to increase the tax and revenue base of the City from increased commercial activity within the City, (v) to increase the property values in the vicinity of the project site, and (vi) to encourage activity in the area of the project.

The business entity to whom or for whose benefit the City Proposes to lend its credit or grant public funds or thing of value is the developer.

All interested persons may examine and review the Agreement and make copies thereof at personal expense, and obtain further information about the information and matters addressed in this Notice, at the office of the City Clerk of the City during normal business hours before and after the meeting herein referenced.

Exhibit C

Form of Warrant

THIS WARRANT HAS NOT BEEN REGISTERED (i) UNDER THE SECURITIES ACT OF 1933, AS AMENDED, IN RELIANCE UPON THE EXEMPTION PROVIDED BY SECTION 4(2) OF SAID ACT, OR (ii) UNDER ANY STATE SECURITIES LAW, IN RELIANCE UPON APPLICABLE EXEMPTIONS, AND MAY NOT BE TRANSFERRED WITHOUT REGISTRATION EXCEPT PURSUANT TO AN EXEMPTION THEREFROM.

THIS WARRANT DOES NOT BEAR INTEREST

**UNITED STATES OF AMERICA
STATE OF ALABAMA
CITY OF IRONDALE
LIMITED OBLIGATION WARRANT
(HEPLEEDS DEVELOPMENT PROJECT)
SERIES 2021**

No. R-1

DATED DATE:

_____, 2021

MATURITY DATE:

**As Determined in
Within Agreement**

The CITY OF IRONDALE, a municipal corporation organized and existing under and by virtue of the laws of the State of Alabama (the "City"), for value received, hereby acknowledges itself indebted to

HEPLEEDS, LLC

(collectively, the "Holder") in a principal amount not exceeding

Eight Million Six Hundred Thousand and 00/100 Dollars

(\$8,600,000.00)

and hereby orders and directs the Treasurer of the City to pay to the Holder such principal amount, without interest, in annual installments at such times, in such amounts and manner, and from such Tax Revenues on deposit in the Warrant Fund, all as provided in the within-referenced Authorizing Resolution and Agreement.

Authority for Issuance

This Warrant is issued pursuant to Resolution No. 2021-R-127 duly adopted by the governing body of the City on October 20, 2021 (the "Authorizing Resolution"), the authority of the Constitution and laws of the State of Alabama, including particularly and without limitation Amendment No. 772 of the *Constitution of Alabama of 1901*, as amended (collectively the "Enabling Law") and Section 11-47-2 of the *Code of Alabama (1975)*, and that certain Development Agreement dated the above Dated Date by and between the City and HEPLEEDS, LLC (the "Agreement").

Capitalized terms used hereinbefore and hereinafter without definition shall have the respective meanings assigned thereto in the Agreement and the Authorizing Resolution.

This Warrant is issued pursuant to the Agreement in evidence of certain limited and contingent obligations of the City thereunder and is subject to the provisions of Article V thereof, which provisions of said Article V of the Agreement are incorporated in this Warrant and made a part hereof by this reference thereto as if set out in full herein.

Payment

The City shall pay all amounts becoming due and payable under the Agreement, the Authorizing Resolution, and this Warrant only to the Holder in whose name this Warrant is registered on the records of the City therefor as provided in, and subject to the terms, conditions and limitations of the Agreement. The principal of this Warrant shall be payable in lawful money of the United States of America. To the extent that any principal is unpaid on the Maturity Date as defined in the Authorizing Resolution, the same shall be cancelled and the City's obligations under the Warrant deemed satisfied and of no further force and effect.

Registration and Transfer

This Warrant is registered in the name of the Holder on the records of the City therefor. This Warrant may be transferred only as permitted in the Agreement and upon written direction of the registered owner or its legal representative, addressed to the City, presentation of this Warrant to the City accompanied by a written instrument of transfer, satisfactory to the City, duly executed by the registered owner or its attorney duly authorized in writing, and compliance with Section 7.6 of the Agreement. Upon presentation of this Warrant to the City for transfer, the City shall record such transfer on the said records of the City and execute and deliver, in exchange for this Warrant, a new warrant of like tenor hereof, registered in the name of the transferee in an aggregate principal amount equal to the unpaid portion of the principal of this Warrant. No charge shall be made for the privilege of transfer, but the registered owner of this Warrant requesting any such transfer shall pay any tax or other governmental charge required to be paid with respect thereto.

General

It is hereby recited, certified and declared that the indebtedness evidenced and ordered paid by this Warrant is lawfully due without condition, abatement or offset of any description (except as set forth in the Agreement), that this Warrant has been registered in the manner provided by law, that this Warrant represents a valid claim against the Warrant Fund, that all acts, conditions and things required by the Constitution and laws of the State of Alabama to happen, exist and be performed precedent to and in the execution, registration and issuance of this Warrant, the adoption of the Authorizing Resolution approving

DOCUMENT 3

the Agreement, and the execution and delivery of the Agreement, have happened, do exist and have been performed in due time, form and manner as so required by law and that the principal amount of this Warrant, together with all other indebtedness of the City, are within every debt and other limit prescribed by the Constitution and laws of the State of Alabama.

IN WITNESS WHEREOF, the City, acting by and through the City Council of the City, as the governing body thereof, has caused this Warrant to be executed in its name and on its behalf by the Mayor of the City, has caused its corporate seal to be affixed hereto and the same attested by the City Clerk of the City, and has caused this Warrant to be dated the date and year first above written.

CITY OF IRONDALE, ALABAMA

By: _____
Mayor

SEAL

Attest: _____
City Clerk

REGISTRATION CERTIFICATE

The undersigned hereby certifies that this Warrant has been duly registered as a conditional claim against the City of Irondale, in the State of Alabama, and the Warrant Fund referred to herein, and the Tax Revenue pledged to the payment hereof.

Treasurer of the City of Irondale, Alabama

VALIDATION CERTIFICATE

Validated and confirmed by judgment of the Circuit Court of Jefferson County, State of Alabama entered on the ____ day of _____, 20__.

 /s/
Clerk of Circuit Court of Jefferson County, Alabama