

**MOUNTAIN BROOK CITY COUNCIL
MEETING AGENDA**

**CITY HALL COUNCIL CHAMBER
56 CHURCH STREET
MOUNTAIN BROOK, AL 35213**

TUESDAY, MAY 28, 2013, 7:00 P.M.

1. Approval of the minutes of the May 13, 2013 regular meeting of the City Council.
2. Consideration: Resolution reappointing David P. B. Price to the Park and Recreation Board, to serve without compensation, with a term of office to expire on May 27, 2018.
3. Consideration: Resolution ratifying the execution of a release agreement with respect to the City's cancellation of the Safe-Routes-to-Schools sidewalk construction project contract.
4. Consideration: Resolution authorizing the execution of a 3-year Auxiliary Audit Agreement between the City and PRA Government Services, LLC.
5. Consideration: Adoption of an ordinance amending the fiscal 2013 budget.
6. Public hearing: Consideration of an ordinance amending Section 129-192(b) of the City Code to allow veterinary/animal grooming uses as a conditional use in the Local Business district.
7. Announcement: The next regular meeting of the City Council is Monday, June 10, 2013, at 7 p.m. in the Council Chamber of City Hall located at 56 Church Street, Mountain Brook, AL 35213.
8. Other business.
9. Comments from residents.
10. Adjourn.

**MOUNTAIN BROOK CITY COUNCIL
PRE-MEETING DISCUSSION
MAY 13, 2013**

The City Council of the City of Mountain Brook, Alabama met in public session in the temporary City Hall at 6:00 p.m. on Monday, the 13th day of May, 2013. The Council President Pro Tempore called the meeting to order and the roll was called with the following results:

Present: Amy G. Carter, Council President Pro Tempore
Jack D. Carl
William S. Pritchard III
Jesse S. Vogtle, Jr.
Lawrence T. Oden, Mayor

Absent: Virginia C. Smith, Council President

Also present were City Attorney Carl Johnson, City Manager Sam Gaston, and City Clerk Steven Boone.

1. AGENDA

1. Ann Sanders expressed her gratitude to the Mayor and members of the City Council for their efforts to alter the Alabama Department of Transportation's scheduled modifications to U. S. Highway 280.
2. Nimrod Long of Nimrod Long and Associates presented plans for the Cahaba River Park – Appendix 1.
3. Nimrod Long of Nimrod Long and Associates gave a project update on the Safe-Routes-To-Schools sidewalk project – Appendix 2.
4. Ben Burmester of Sain Associates gave an update on the Phase 6 Sidewalk Project update – Appendix 2A.
5. The fiscal 2014 City Council budget planning work session was scheduled for Tuesday, June 4, 2013 at 8:00 a.m.
6. The regular council meeting of Monday, May 27 will be moved to Tuesday, May 28 due to the Memorial Day holiday.
7. Discussion of the Finance Committee recommendation concerning its consideration of the merits of refinancing the City's outstanding general obligation warrants (Minute Book 85, pages 627-639).
8. Bob Easley requested that consideration be given to allow approved subdivision plat (combining two lots into one) to serve as an amended development plan for The Cove at Overton, 3180 and 3184 Overton Cove. (Resolution No. 2013-081 was added to the formal agenda.)
9. Dana Hazen gave an update on the City's newspaper racks – Appendix 3.
10. The 2012-2013 Leadership Mountain Brook Class gave a three group presentations on their respective proposed projects for the City – Information Boards (Appendix 4), Advanced Traffic Warning Signal on Old Leeds Road (Appendix 5), and Project Recycle (Appendix 6).

After the City Council's review of the formal [7 p.m.] agenda issues, Council President Pro Tempore Carter adjourned the meeting.

Steven Boone, City Clerk

**MINUTES OF THE REGULAR MEETING OF THE
CITY COUNCIL OF THE CITY OF MOUNTAIN BROOK, ALABAMA
MAY 13, 2013**

The City Council of the City of Mountain Brook, Alabama met in public session in the temporary City Hall at 7:00 p.m. on Monday, the 13th day of May, 2013. The Council President Pro Tempore called the meeting to order and the roll was called with the following results:

Present: Amy G. Carter, Council President Pro Tempore
Jack D. Carl
William S. Pritchard III
Jesse S. Vogtle, Jr.
Lawrence T. Oden, Mayor

Absent: Virginia C. Smith, Council President

Also present were City Attorney Carl Johnson, City Manager Sam Gaston, and City Clerk Steven Boone.

The City Council President Pro Tem stated that a quorum was present and that the meeting was open for the transaction of business.

1. CONSENT AGENDA

Council President Pro Tempore Carter announced that the following matters will be considered at one time on the consent agenda provided no one in attendance objects:

Approval of the minutes of the April 22, 2013 meeting of the City Council.

2013-071 Proclamation	National Public Works Week May 19–25, 2013.	Exhibit 1
2013-072	Recommend the issuance of an 020 – Restaurant Retail Liquor license to Deborah Stone Ventures LLC (dba\The Pantry) located at 17 Dexter Avenue.	Exhibit 2, Appendix 1
2013-073	Authorize the City’s participation in the 2013 Sales Tax Holiday, beginning at 12:01 a.m. on Friday, August 2, 2013, and ending at twelve midnight on Sunday, August 4, 2013, whereby the City of Mountain Brook will exempt certain school supplies, computers, and clothing from municipal sales or use tax in conformance with the time period, terms and conditions, and definitions as provided for the “State of Alabama Sales Tax Holiday”.	Exhibit 3
2013-074	Authorize the execution of an amended professional services agreement with Sain Associates for engineering and surveying services with respect to the Phase 9 sidewalk project.	Exhibit 4, Appendix 2
2013-075	Award the bid to Jeffcoat Mechanical Services, Inc. for scheduled maintenance of the City’s mechanical systems and authorize the execution of an agreement for same.	Exhibit 5, Appendix 3
2013-076	Recommend the issuance of an 020 – Restaurant Retail Liquor license to Tracy’s Fine Foods, LLC (dba\Tracy’s Restaurant) located at 75 Church Street.	Exhibit 6, Appendix 4

2013-077	Declare a 2005 Dodge Durango (VIN 1D8HD48N85F538837) surplus and authorize its sale to the Kimberly Police Department in consideration of \$1,000.	Exhibit 7, Appendix 5
2013-078	Declare a Perkin [metal] Detection Sentries LC (S/N 010806W) surplus and authorize its sale to the Town of Kimberly in consideration of \$1.	Exhibit 8, Appendix 6
2013-079	Recommend to the State of Alabama, Alcoholic Beverage Control Board, the issuance of a 040 – Retail Beer (On or Off Premises) license and a 060 – Retail Table Wine (On or Off Premises) license to UC Crestline, LLC, doing business as Urban Cook House, located at 212 Country Club Park, Mountain Brook, AL 35213.	Exhibit 9, Appendix 7
2013-080 Proclamation	National Police Week May 12–18, 2013.	Exhibit 10
2013-081	Authorize and approve that the resurvey recommended by the Planning Commission on May 6, 2013 now serves as the revision to the planned Unit Development (PUD) Master Development Plan for The Cove at Overton and that the following consolidation of lots is hereby approved: Lots 12 and 13 (house numbers 3180 and 3184) shall be consolidated into one lot (Lot 12A).	Exhibit 11, Appendix 8
2013-082 Announcement	Mayoral [re]appointment of Alice M. Williams to the Planning Commission, to serve without compensation, through May 15, 2019.	

Thereupon, the foregoing proclamations, minutes, resolutions, and appointment were introduced by Council President Pro Tem Carter and their immediate adoption was moved by Council member Pritchard. The proclamations, minutes, resolutions and appointment were then considered by the City Council. Council member Vogtle seconded the motion to adopt the foregoing proclamations, minutes, resolutions, and appointment. Council member Pritchard then announced that he will abstain from voting with respect to Resolution No. 2013-074. Then, upon the question being put and the roll called, the vote was recorded as follows:

Ayes: Amy G. Carter, Council President Pro Tempore
Jack D. Carl
William S. Pritchard III (abstained from voting on Motion No. 2013-074)
Jesse S. Vogtle, Jr.

Nays: None

Council President Pro Tempore Carter thereupon declared that said proclamations (nos. 2013-071 and 2013-080), minutes, resolutions (nos. 2013-072, 073, and 2013-075 through 2013-079, and 2013-081) are adopted by a vote of 4—0 and Resolution No. 2013-074 is adopted by a vote of 3-0. As evidence thereof, she signed the same.

2. PUBLIC HEARING: CONSIDERATION OF AN ORDINANCE (NO. 1888) PERMANENTLY REZONING TO ESTATE DISTRICT A 10-ACRE UNDEVELOPED RESIDENTIAL LOT OWNED BY MORRIS-SHEA BRIDE CO., INC. WHICH IS LOCATED IN THE VICINITY OF SPRING ROCK ROAD AT BRANDYWOOD DRIVE FROM ITS CURRENT TEMPORARY ESTATE DISTRICT ZONING CLASSIFICATION – 5001 SPRING ROCK ROAD. (EXHIBIT 12, APPENDIX 9)

Council President Pro Tem Carter introduced the ordinance in writing and invited comments and questions from the audience. There being no discussion or comment, Council member Pritchard made a

motion that all rules and regulations which, unless suspended, would prevent the immediate consideration and adoption of said ordinance be suspended, and that unanimous consent to the immediate consideration of said ordinance be given and that the reading of the ordinance at length be waived. The motion was seconded by Council member Vogtle and was carried, as follows:

Ayes: Amy G. Carter, Council President Pro Tempore
Jack D. Carl
William S. Pritchard, III
Jesse S. Vogtle, Jr.

Nays: None

The President Pro Tem of the Council declared the motion carried by a vote of 4—0.

After said ordinance had been considered in full by the Council, Council member Pritchard then moved for the adoption of said ordinance. The motion was seconded by Council member Vogtle. Thereupon, Council President Pro Tem Carter called for vote with the following results:

Ayes: Amy G. Carter, Council President Pro Tempore
Jack D. Carl
William S. Pritchard, III
Jesse S. Vogtle, Jr.

Nays: None

The President Pro Tempore of the Council declared that the ordinance (No. 1888) is hereby adopted by a vote of 4—0 and, as evidence thereof, she signed the same.

3. ANNOUNCEMENT (REF. NO. 2013-082)

Mayor Oden announced that he has reappointed Alice M. Williams to the Planning Commission, to serve without compensation, through May 15, 2019.

4. ANNOUNCEMENT REGARDING THE NEXT REGULAR MEETING OF THE CITY COUNCIL

Council President Pro Tempore Carter announced that the next regular meeting of the City Council will be Tuesday, May 28, 2013, at 7 p.m. in the Council Chamber of City Hall located at 56 Church Street, Mountain Brook, AL 35213. Please visit the City's web site (www.mtnbrook.org) for more information.

5. OTHER BUSINESS

Mr. Michale Crump of 3904 Memory Court expressed his appreciation for the sidewalks installed in his neighborhood and those connecting the villages and urged the Council to continue developing the sidewalk network.

6. ADJOURNMENT

There being no further business to come before the City Council at this time, Council President Pro Tem Carter adjourned the meeting.

Steven Boone, City Clerk

RESOLUTION NO. 2013-083

BE IT RESOLVED by the City Council of the City of Mountain Brook that the City Council hereby reappoints David P. B. Price to the Park & Recreation Board, to serve without compensation, until May 27, 2018.

ADOPTED: This 28th day of May, 2013.

Council President

APPROVED: This 28th day of May, 2013.

Mayor

CERTIFICATION

I, Steven Boone, City Clerk of the City of Mountain Brook, Alabama, hereby certify the above to be a true and correct copy of a resolution adopted by the City Council of the City of Mountain Brook at its regular meeting held on May 28, 2013, as same appears in the minutes of record of said meeting.

City Clerk

RESOLUTION NO. 2013-084

BE IT RESOLVED by the City Council of the City of Mountain Brook, Alabama that the City Council hereby ratifies the execution of a release agreement, in the form as attached hereto as Exhibit A, between the City and Walker-Patton Company, Inc. with respect to the City's cancellation of the [Crestline Elementary and Mountain Brook Elementary] Safe Routes to Schools sidewalk construction projects (Alabama Department of Transportation project nos. SRTS-SR09(903 and SRTS-SR09(904)).

BE IT FURTHER RESOLVED by the City Council of the City of Mountain Brook, Alabama that the City Council hereby ratifies the expenditure of funds as consideration for said release agreement.

ADOPTED: This 28th day of May, 2013.

Council President

APPROVED: This 28th day of May, 2013.

Mayor

CERTIFICATION

I, Steven Boone, City Clerk of the City of Mountain Brook, Alabama hereby certify the above to be a true and correct copy of a resolution adopted by the City Council of the City of Mountain Brook at its regular meeting held on May 28, 2013, as same appears in the minutes of record of said meeting.

City Clerk

WALKER PATTON COMPANY, INC.

May 10, 2013

Mr. Sam Gaston
City of Mountain Brook
56 Church Street
Mountain Brook, Alabama 35213

Off to
Pay
SJG

EXHIBIT A

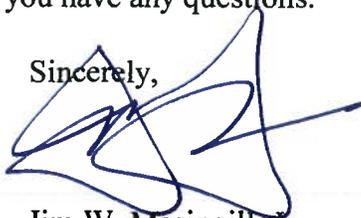
**Re: Project No. SRTS-SR09(903) & SRTS-SR09(904)
Jefferson County
Release Agreement**

Dear Mr. Gaston:

Enclosed please find the executed Release Agreement for the above referenced project. We have enclosed our invoice for the amount of the settlement, \$22,000.00. Upon final execution of this agreement, please forward a copy to us along with payment.

In the meantime, please let us know if you have any questions.

Sincerely,



Jim W. Masingill, Jr.

JWMJr:kk

Attachments

100 11 00 6402

S/Boden

RELEASE AGREEMENT

The parties to this Agreement, made this 10th day of May, 2013, are the City of Mountain Brook, Alabama (“the City”), and Walker Patton Company, Inc., an Alabama corporation (“Walker Patton”).

WHEREAS, the City has a sponsorship agreement with the Alabama Department of Transportation (“ALDOT”) for Project Nos. SRTS-SR09(903) and SRTS-SR09(904), which are “Safe Routes to Schools” construction projects for Crestline Elementary School and Mountain Brook Elementary School, as administered by ALDOT;

WHEREAS, ALDOT entered into a contract dated December 11, 2012 with Walker Patton (the “Contract”) for the construction of sidewalks in the neighborhoods of said schools within the City for Project Nos. SRTS-SR09(903) and SRTS-SR09(904);

WHEREAS, because of sudden and intense public opposition to certain portions of the planned construction, the City requested on January 17, 2013 that ALDOT delay the commencement of construction and on February 12, 2013 that ALDOT cancel the Contract with Walker Patton so that the projects can be reconsidered and reconfigured;

WHEREAS, Walker Patton has received a letter dated April 17, 2013 from John Cooper, Transportation Director of ALDOT (the “Letter”), confirming the cancellation of the Contract and asking Walker Patton to provide a listing of “qualifying costs” incurred as well as necessary documentation, a copy of said Letter being attached to this Agreement hereto as **Exhibit A** and incorporated by reference herein;

WHEREAS, the City, as sponsor of Project Nos. SRTS-SR09(903) and SRTS-SR09(904), has agreed to pay to Walker Patton its estimated costs and expenses under the Contract so that Walker Patton shall have no qualifying costs or expenses to report to ALDOT pursuant to the Letter;

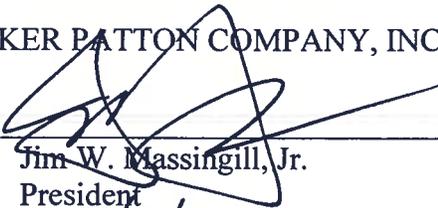
NOW, THEREFORE, the City and Walker Patton agree to the following:

1. The City shall pay Walker Patton the sum of \$22,000 as authorized by the City Council for any costs and expenses incurred by Walker Patton under the Contract with ALDOT that was cancelled at the City’s request.

EXHIBIT A

- 2. Walker Patton acknowledges and accepts the sum of \$22,000 from the City as payment in full for any costs and expenses Walker Patton might have incurred due to ALDOT's cancellation of the Contract and agrees not to list any "qualifying costs" or to submit documentation of such qualifying costs in response to the Letter from ALDOT regarding the cancellation of the Contract.
- 3. Walker Patton shall neither make a claim against the City related to the Contract nor file a claim for which the City might have third-party responsibility related to the Contract.
- 4. The City and Walker Patton agree that the specific terms of this Agreement shall not be voluntarily disclosed except as required to comply with public law or process or as may be necessary in the normal course of business, including to comply with any legal, accounting, or audit requirements.
- 5. This Agreement may not be amended or changed except by a written document that is signed by all the parties.

CITY OF MOUNTAIN BROOK
By: 
Lawrence T. Oden
Mayor
Date: 5-17-13

WALKER PATTON COMPANY, INC.
By: 
Jim W. Massingill, Jr.
President
Date: 05/10/13

WALKER PATTON COMPANY, INC.

INVOICE

P.O. BOX 130665
BIRMINGHAM, ALABAMA 35213

Date	Invoice #
05-10-13	1207-001

Bill To
CITY OF MOUNTAIN BROOK 56 CHURCH STREET MOUNTAIN BROOK, ALABAMA 35213

Item	Description	P.O. No.	Terms	Project
			DUE UPON RECEIPT	ALDOT
		Quantity	Rate	Amount
1	SETTLEMENT Project No. SRTS-SR09(903) & SRTS-SR09(904) Jefferson County	1.00	\$22,000.00	\$22,000.00
FED ID# 63-1146662		Total		\$22,000.00

EXHIBIT A

Phone #	Fax #
(205) 836-9899	(205) 836-7899

RESOLUTION NO. 2013-085

BE IT RESOLVED by the City Council of the City of Mountain Brook, Alabama, that the City Council hereby authorizes the execution of a 3-year Auxiliary Audit Agreement between the City and PRA Government Services, LLC d/b/a RDS, in the form as attached hereto as Exhibit A, subject to such minor revisions as may be determined appropriate by the City Attorney.

ADOPTED: This 28th day of May, 2013.

Council President

APPROVED: This 28th day of May, 2013.

Mayor

CERTIFICATION

I, Steven Boone, City Clerk of the City of Mountain Brook, Alabama hereby certify the above to be a true and correct copy of a resolution adopted by the City Council of the City of Mountain Brook at its regular meeting held on May 28, 2013, as same appears in the minutes of record of said meeting.

City Clerk

Auxiliary Audit Agreement

This agreement made as of the ____ day of _____ 2013, by and between PRA Government Services, LLC d/b/a RDS ("RDS") and City of Mountain Brook, an Alabama CITY ("CITY").

A. General Provisions

1. **Audit Services Performed:** RDS will perform auxiliary audit services for business license fees, sales and use taxes, rental/lease tax, lodging tax and such other taxes as may from time to time be designated by the CITY.
2. **Deposit Process:** Deposits are made to the extent that funds have been received, via Automated Clearing House of the amounts and to the designated recipients as instructed by the CITY for each type of tax collected, as shown in more detail on **Exhibit A**.
3. **Information Provided:** CITY represents that the information provided to RDS in the performance of services hereunder shall be provided free and clear of the claims of third parties. CITY represents that it has the right to provide this information to RDS and that said information shall not be defamatory or otherwise expose RDS to liability to third parties.
4. **Compliance with laws:** Each Party accepts responsibility for its compliance with federal, state, or local laws and regulations.
5. **Review and Appeal Process:** RDS has adopted and will use a review and appeals process which is based on the *Alabama Taxpayers' Bill of Rights Act* and *Uniform Revenue Procedures Act* codified as Title 40, Chapter 2A, Code of Alabama, 1975, as amended.
6. **Audit Services:**
 - i. **RDS Audit Services:** Audit Services include all preparation for the performance of an audit, any research or statistical analysis performed in relation to an audit, in-house audit/collection efforts, examination of the books and records of the taxpayer, an assessment of the amount due (if any), and all services related to closing an audit.
 - ii. **RDS Reciprocal Agreement:** To the fullest extent allowed by law, CITY hereby authorizes RDS to act as a facilitator with the Alabama Department of Revenue and other applicable jurisdictions to share audit findings on its behalf.
 1. **RDS Fee:** RDS will receive an amount based on an hourly rate of seventy dollars (\$70.00) for audit services. There shall be no contingent fees. Each year on the anniversary date of this Agreement the hourly rate will increase by 3%.
 2. If overnight travel or travel more than 25 miles beyond origination point is required, RDS will pay the auditor and bill the CITY for its portion of travel expenses. CITY agrees to pay the amount of these fees when due, regardless of any recovery.
 3. **Billing Increment:** Time will be recorded in 15-minute intervals (.25 hours);
 4. **Shared Audit Fees:** When audits for CITY overlap with audits for other RDS clients or clients of RDS Affiliates, the fees will be shared as follows:
 - a. **Travel Time:** travel time, expenses, and a daily per diem amount for each audit is distributed evenly among the clients reviewed for each audit.
 - b. **Interview Time:** time billed during the initial interview of each audit is distributed evenly amongst the clients reviewed for each audit – during this process the auditor determines which clients will actually be audited for and billed Audit Time as follows;
 - i. **Audit Time:** Time billed during the actual audit stage of each audit is billed according to actual time spent working for each client;
 - i. **No Double Billing:** In no event will the overlapping audits combined require payment for more than 100% for any one RDS representative.
7. **Notification, Reporting to CITY:**

- i. RDS will provide CITY with monthly reports including, but not limited to, payment listings showing all taxes received related to net receipts reported, a general ledger distribution that corresponds to CITY'S account numbers and all fees paid to RDS. These reports will be provided by the 10th of the month following the tax month;
 - ii. CITY AGREES TO EXAMINE THIS REPORT IMMEDIATELY. IF NO ERROR IS REPORTED BY THE CITY TO RDS WITHIN 60 DAYS, THE STATEMENT WILL BE DEEMED ACCURATE;
 - iii. All items credited will be subject to receipt of payment; and
 - iv. RDS will attend Council meetings at such times as may be reasonably requested by CITY.
8. **Payment:** RDS shall submit invoices for all services rendered hereunder. Payment will be made by CITY to RDS within thirty (30) days of receipt of an invoice. Any amounts which remain unpaid after thirty days shall accrue interest at the rate of one and one-half percent per month, or the maximum amount permitted by law.
9. **Company Audit:** Once a year RDS will have an auditor prepare an Independent Service Auditor's Report on Controls Placed in Operation and Tests of Operating Effectiveness. This report is commonly called a SOC 1 report and will be made available upon request.
10. **Term of the Agreement:** This Agreement shall be for a term of three (3) years following the date of execution or the maximum period allowed by law, whichever is shorter. Either party shall have the right to terminate this Agreement in the event of a material breach by the other party. Any such termination may be made only by providing ninety (90) days written notice to the other party, specifically identifying the breach or breaches on which termination is based. Following receipt of such notice, the party in breach shall have thirty (30) days to cure such breach or breaches. In the event that such cure is not made, this Agreement shall terminate in accordance with the initial ninety (90) days notice.
11. **Effect of Termination:** Notwithstanding non-renewal or termination of this Agreement, CITY shall be obligated to pay RDS for services performed through the effective date of termination for which RDS has not been previously paid. In addition, because the services performed by RDS prior to termination or non-renewal of this Agreement may result in the CITY's receipt of revenue after termination which are subject to RDS' fee, the CITY shall remain obligated after termination or non-renewal to provide to RDS such information as is necessary for RDS to calculate compensation due as a result of the receipt of revenue by the CITY. The CITY shall remain obligated to pay RDS' invoices therefore in accordance with the terms of this Agreement.
12. **Indemnity:** To the fullest extent allowed by law, RDS hereby agrees to indemnify and hold CITY harmless from any claims and against all costs, expenses, damages, claims and liabilities based upon or arising solely out of a breach of this Agreement by RDS. Except as set forth in the preceding sentence, to the full extent allowed by law, CITY hereby agrees to indemnify and hold RDS harmless from any claims and against all costs, expenses, damages, claims and liabilities relating in any way to sales, use and other taxes of CITY, including, but not limited to, determination of taxes due from taxpayers, the collection thereof and any refunding related thereto.
13. **Limitation of Liability:** To the maximum extent permitted by law, in no event shall RDS, its employees, contractors, directors, affiliates and/ or agents be liable for any special, incidental or consequential damages, such as, but not limited to, delay, lost data, disruption, and loss of anticipated profits or revenue arising from or related to the services, whether liability is asserted in contract or tort, and whether or not RDS has been advised of the possibility of any such loss or damage. In addition, RDS' total liability hereunder, including reasonable attorneys fees and costs, shall in no event exceed an amount equal to the fee paid by the CITY for the affected service to which the claim pertains. The foregoing sets forth the CITY'S exclusive remedy for claims arising from or out of this Agreement. The provisions of this section allocate the risks between RDS and the CITY and RDS' pricing reflects the allocation of risk and limitation of liability specified herein.
14. **Equal Opportunity to Draft:** The Parties have participated and had an equal opportunity to participate in the drafting of this Agreement. No ambiguity shall be construed against any Party upon a claim that that party drafted the ambiguous language.

15. **Assignment:** This Agreement shall be binding upon and inure to the benefit of the Parties, their successors; representatives and assigns. RDS shall not assign this Agreement, or delegate its duties or obligations under this Agreement, without the prior written consent of CITY, which consent shall not be unreasonably withheld, delayed or conditioned. Notwithstanding the foregoing, RDS may assign this Agreement, in whole or in part, without the consent of CITY to any corporation or entity into which or with which RDS has merged or consolidated; any parent, subsidiary, successor or affiliated corporation of RDS; or any corporation or entity which acquires all or substantially all of the assets of RDS. Subject to the foregoing, this Agreement shall be binding upon and inure to the benefit of the parties and their successors or assigns.
16. **Force Majeure:** RDS shall not be in default of its obligations hereunder to the extent that its performance is delayed or prevented by causes beyond its control, including but not limited to acts of God, government, weather, fire, power or telecommunications failures, inability to obtain supplies, breakdown of equipment or interruption in vendor services or communications.
17. **Subcontractors:** RDS shall have the right to hire assistants as subcontractors or to use employees to provide the Services required by this Agreement. RDS, in rendering performance under this Agreement shall be deemed an independent contractor and nothing contained herein shall constitute this arrangement to be employment, a joint venture, or a partnership. RDS shall be solely responsible for and shall hold CITY harmless from any and all claims for any employee related fees and costs including without limitation employee insurance, employment taxes, workman's compensation, withholding taxes or income taxes.
18. **Intellectual Property Rights:** The entire right, title and interest in and to RDS' database and all copyrights, patents, trade secrets, trademarks, trade names, and all other intellectual property rights associated with any and all ideas, concepts, techniques, inventions, processes, or works of authorship including, but not limited to, all materials in written or other tangible form developed or created in the course of this Agreement (collectively, the "Work Product") shall vest exclusively in RDS. The foregoing notwithstanding, in no event shall any CITY-owned data provided to RDS be deemed included within the Work Product.
19. **Entire Agreement:** This Agreement constitutes the entire agreement between the Parties hereto and supersedes any prior understandings or written or oral agreements between the Parties respecting the subject matter contained herein. Said Agreement shall not be amended, altered, or changed, except by a written Agreement signed by both Parties hereto.
20. **Invalidity:** If any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision thereof, and this Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained thereof, and this Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.
21. **Effective Date:** The effective date for the performance of services under the terms of this agreement shall commence _____ 1, 2013 with collection of _____ taxes to be remitted on or before _____ 20, 2013.

IN WITNESS WHEREOF, the parties hereto as of the date first above written have duly executed this Agreement.

PRA GOVERNMENT SERVICES, LLC
D/B/A RDS

City of Mountain Brook

By: _____
 Its: COO and SVP, Operations

By: _____
 Its: _____

Proposed pricing contained herein valid for 60 days from date of issuance. Issued 4/10/13 (SC)

EXHIBIT A
DISTRIBUTION CONFIRMATION

May 23, 2013

Steven Boone
City of Mountain Brook
P.O. Box 130009
Mountain Brook, AL 35213

Dear Mr. Boone:

Funds will be distributed in the following accounts pursuant to this Agreement:

Agency	Routing #	Account #	Distribution %	Tax Type/Rate Code
Mountain Brook	Check	Check	100%	Audit Taxes; all rates

If at any time there are any discrepancies between the schedule set out above and your Municipality's records, please notify us in writing immediately.

IT IS YOUR RESPONSIBILITY TO PROVIDE NOTICE TO US OF ANY CHANGES IN TAX RATES OR IN THE DISTRIBUTION OF FUNDS. NOTICE MUST BE IN WRITING AND SENT, VIA CERTIFIED MAIL, TO:

PRA Government Services, LLC (d/b/a RDS)
2317 Third Avenue North, Suite 200
Birmingham, Alabama 35203
ATT: Kennon Walthall, COO and SVO, Operations

Thank you for your assistance. If you have any questions, or if I may be of assistance, please let me know.

Sincerely Yours,
Connie Taylor
Client Relations Manager
RDS
205-423-4144 direct dial
205-423-4097 direct fax

I have reviewed the above distribution and verify that it is correct.

By:

Name:
Title:

RDS COO and SVP, Operations

**ADDENDUM TO AGREEMENT BETWEEN
THE CITY OF MOUNTAIN BROOK AND
PRA GOVERNMENT SERVICES, LLC (D/B/A RDS)
DATED MAY 28, 2013**

THIS ADDENDUM (“the/this Addendum”) to the principal agreement between the City of Mountain Brook, Alabama (“the City”) and PRA Government Services, LLC (d/b/a RDS) (“the Contractor”) dated May 28, 2013.

This Addendum is a part of the principal agreement, but supersedes and controls any conflicting or inconsistent terms or provisions in the principal agreement, particularly to the extent the conflicting or inconsistent terms or provisions purport either to (a) confer greater rights or remedies on the Contractor than are provided herein or under otherwise applicable law, or to (b) reduce, restrict, or eliminate rights or remedies that would be available to the City under otherwise applicable law. The addendum shall remain in full force and effect with respect to any amendment, extension, or supplement of or to the principal agreement, whether or not expressly acknowledged or incorporated therein. No agent, employee, or representative of the City is authorized to waive, modify, or suspend the operation of the Addendum or any of its terms or provisions without express approval of the Mountain Brook City Council.

1. ***Definitions.*** For purposes of this Addendum, the terms below have the following meanings:
 - A. “*The City*” refers to and includes the City of Mountain Brook, Alabama, and its constituent departments, boards, and agencies.
 - B. “*The (this) Agreement*” refers to the principal contract, agreement, proposal, quotation, or other document that sets forth the basic terms and conditions under which the Contractor is engaged to provide goods, materials, or services to the City, including the payment or other consideration to be provided by the City in exchange therefor.
 - C. “*The Contractor*” refers to the person, firm, or other legal entity that enters into an agreement with the City to provide goods, materials, or services to the City, and includes vendors and suppliers providing goods, materials, and services to the City with or without a formal contract as well as the Contractor’s vendors, suppliers, and subcontractors.
2. ***Arbitration; Mediation; Alternate Dispute Resolution.*** The City agrees to arbitrate disputes or to engage in alternate dispute resolution (ADR) if arbitration or ADR is required by the agreement as a means of resolving disagreements arising thereunder or is a precondition to the pursuit of other legal remedies, but only to the extent (1) the rights and remedies available under such arbitration rules or processes do not afford the Contractor greater relief (e.g., attorney’s fees, damages, etc.) than would be available under otherwise applicable law, (2) the venue for the arbitration or mediation proceeding is in Jefferson County, Alabama, and (3) the costs of such proceedings (including the fees of the arbitrator or mediator) are divided evenly between the parties.
3. ***Attorney’s Fees; Court Costs; Litigation Expenses.*** The City shall not be liable for attorney’s fees, court costs, litigation expenses, and like charges except and to the extent such fees, costs,

and charges would be assessed against the City under applicable law in the absence of any contractual provision imposing or assigning liability therefor.

4. ***Late Payment Charges; Fees; Interest.*** The City shall not be liable for any late payment charges, interest, or fees on any delinquent bill for goods, materials, or services at a rate higher than two-thirds of one percent per month (eight percent per annum), but bills rendered to the City shall not be considered delinquent any earlier than thirty (30) days after rendition of a complete and accurate bill by the Contractor. Contested bills shall not be subject to late payment charges pending resolution of the dispute.
5. ***Indemnification; Hold-Harmless; Release; Waiver; Limitations of Liability or Remedies.*** The City shall not and does not indemnify, hold harmless, or release the Contractor or any other person, firm, or legal entity for, from, or with respect to any claim, cause of action, cost, charge, fee, expense, or liability whatsoever arising out of or relating to the subject matter of the agreement or the performance or nonperformance thereof; nor shall or does the City waive its right to assert or pursue any remedy or claim for relief of any kind that it may have against the Contractor or any other person, firm, or entity for any actual or alleged default or other breach of legal duty on the part of the Contractor or any person, firm, or entity in privity therewith or acting on Contractor's behalf. Any limitation or restriction regarding the type, nature, form, amount, or extent of any right, remedy, relief, or recovery that would otherwise be available to the City is expressly disavowed, excluded from the terms of the agreement, and void.
6. ***Choice of Law; Choice of Venue or Forum.*** The meaning, legal effect, and enforcement of terms and provisions of the agreement and the resolution of any disputes arising thereunder or relating thereto shall be governed by the laws of the State of Alabama except to the extent otherwise required by applicable conflict-of-law principles. The venue of any suit, action, or legal proceeding brought to enforce or secure relief by reason of any asserted breach of duty arising out of or relating to the performance or nonperformance of the agreement shall be Jefferson County, Alabama except to the extent otherwise required by applicable principles of law.
7. ***Construction of Addendum.*** Nothing in this Addendum shall be construed to create or impose any duty or liability on the City, to create a right or remedy in favor of the Contractor against the City, or to restrict or abrogate any right or remedy that is available to the City against the Contractor or any other person, firm, or entity under either the principal agreement or as a matter of law.
8. ***Alabama Immigration Law Compliance Contract.*** Contractor agrees that it will fully comply with the Immigration Reform and Control Act of 1986, as amended by the Immigration Act of 1990, and the Beason-Hammon Alabama Taxpayer and Citizen Protection Act, which makes it unlawful for an employer in Alabama to knowingly hire or continue to employ an alien who is or has become unauthorized with respect to such employment or to fail to comply with the 1-9 requirements or fails to use E-Verify to verify the eligibility to legally work in the United States for all of its new hires who are employed to work in the State of Alabama. Without limiting the foregoing, Contractor shall not knowingly employ, hire for employment, or continue to employ an unauthorized alien, and shall have an officer or other managerial employee who is personally familiar with the Contractor's hiring practices to execute an affidavit to this effect on the form supplied by the Board and return the same to the City. Contractor shall also enroll in the E-Verify

Program prior to performing any work, or continuing to perform any ongoing work, and shall remain enrolled throughout the entire course of its performance hereunder, and shall attach to its affidavit the E-Verify Program for Employment Verification and Memorandum of Understanding and such other documentation as the Board may require to confirm Contractor's enrollment in the E-Verify Program. Contractor agrees not to knowingly allow any of its subcontractors, or any other party with whom it has a contract, to employ in the State of Alabama any illegal or undocumented aliens to perform any work in connection with the Project, and shall include in all of its contracts a provision substantially similar to this paragraph. If Contractor receives actual knowledge of the unauthorized status of one of its employees in the State of Alabama, it will remove that employee from the project, jobsite or premises of the City and shall comply with the Immigration Reform and Control Act of 1986, as amended by the Immigration Act of 1990, and the Beason-Hammon Alabama Taxpayer and Citizen Protection Act. Contractor shall require each of its subcontractors, or other parties with whom it has a contract, to act in a similar fashion. If Contractor violates any term of this provision, this Agreement will be subject to immediate termination by the City. To the fullest extent permitted by law, Contractor shall defend, indemnify and hold harmless the City from any and all losses, consequential damages, expenses (including, but not limited to, attorneys' fees), claims, suits, liabilities, fines, penalties, and any other costs arising out of or in any way related to Contractor's failure to fulfill its obligations contained in this paragraph.

DATED this 28th day of May, 2013.

PRA Government Services, LLC (d/b/a RDS)

City of Mountain Brook, Alabama

By : _____

By : _____

Its : _____

Its : _____

1890



Budget Adjustment Memorandum

To: Sam Gaston, City Manager
 From: Steven Boone *S. Boone*
 Date: May 21, 2013

I recommend the revisions to the fiscal 2013 budget as more fully described below:

Account No.	Description	Current Budget	Amended Budget	Ord. No. 1890 Surplus (Deficit)	General Fund 100
10011166971	Transfer Library	\$ 2,377,561	\$ 2,394,870	\$ (17,309)	\$ (17,309)
70134084810	Transfer General Fund	(2,377,561)	(2,394,870)	17,309	17,309
701110063141102	Other Library Programs	<u>58,000</u>	<u>75,309</u>	<u>(17,309)</u>	<u>(17,309)</u>
Subtotal		58,000	75,309	(17,309)	(17,309)
The above adjustment is proposed to the 2013 budget to include the unexpended balance of the \$25,311.75 state grant awarded in fiscal 2011. The grant proceeds were intended for senior programs which the Library implemented in fiscal year 2012 and plans to finalize in 2013.					
10034024100	Licenses and Fees Adjust budgeted license fees to actual results.	<u>(2,214,180)</u>	<u>(2,331,489)</u>	<u>117,309</u>	<u>117,309</u>
Beginning Budgeted Surplus/(Deficit) (Resolution No. 2012-152)					<u>506,715</u>
Adjusted Surplus/(Deficit)					<u>\$ 606,715</u>

ORDINANCE NO. 1890

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MOUNTAIN BROOK,
ALABAMA, AMENDING THE BUDGET FOR THE FISCAL YEAR BEGINNING
OCTOBER 1, 2012 AND ENDING SEPTEMBER 30, 2013**

BE IT ORDAINED by the City Council of the City of Mountain Brook, Alabama, that the following is the adopted budget for all major funds of the City for the fiscal year beginning October 1, 2012 and ending September 30, 2013:

	General Operations	Park Board	Library Board	Capital Projects	Other Governmental	All Other
	<u>(100)</u>	<u>(115)</u>	<u>(70X)</u>	<u>(417/428/441)</u>	<u>(5XX/600)</u>	<u>(132/14X/153)</u>
Funds Available:						
Revenues:						
Taxes	\$ 26,621,313	\$ 0	\$ 0	\$ 0	\$ 417,700	\$ 0
Licenses and permits	3,845,809	0	0	0	0	0
Intergovernmental	0	44,700	0	0	0	45,007
Charges for services	539,115	66,600	7,200	0	340,000	45,006
Fines and forfeitures	440,940	0	58,000	0	180,000	0
Grants	0	0	12,062	1,024,000	0	0
Investment Earnings	0	0	325	101,087	175,705	5,622
Miscellaneous	410,290	3,000	200	0	0	0
Proceeds from the issuance of debt	0	0	0	0	0	0
Proceeds from the sale of property	0	0	0	100,000	0	0
Intrafund transfers in:						
General Operations/Capital	0	0	0	2,256,729	926,546	0
Park Board	0	0	0	139,385	0	0
Library Board	0	0	0	71,150	0	0
Other (14X/153)	40,315	0	0	0	0	0
Capital Projects	0	0	0	0	0	0
Operating transfers in-component uni	0	0	43,000	0	0	0
Donations	0	0	24,250	0	0	85,320
(Surplus) deficit	\$7,201,143	(606,715)	27,125	8,086,060	(274,705)	(30,622)
Total Fund Available	\$ 31,291,067	\$ 114,300	\$ 172,162	\$ 11,778,411	\$ 1,765,246	\$ 150,333
Expenditures:						
Legislation and management	\$ 2,527,287	\$ 0	\$ 0	\$ 7,010,000	\$ 0	\$ 0
Intergovernmental	\$ 835,712	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0
Unassigned benefits	\$ 638,200	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0
Finance	\$ 1,250,021	\$ 0	\$ 0	\$ 38,400	\$ 240,607	\$ 0
Fire	\$ 6,430,049	\$ 0	\$ 0	\$ 934,450	\$ 0	\$ 0
Inspection Services	\$ 421,910	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0
Police	\$ 6,295,874	\$ 0	\$ 0	\$ 759,782	\$ 426,498	\$ 0
Street and Sanitation	\$ 6,319,859	\$ 0	\$ 0	\$ 2,278,620	\$ 740,000	\$ 0
Parks and Recreation	\$ 0	\$ 1,051,866	\$ 0	\$ 333,900	\$ 0	\$ 135,018
Library	\$ 0	\$ 0	\$ 2,746,882	\$ 64,318	\$ 0	\$ 0
Debt service payments	\$ 0	\$ 0	\$ 0	\$ 0	\$ 358,141	\$ 0
Operating transfers-out:						
General Fund	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0	\$ 40,315
Capital Projects	\$ 2,467,264	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0
Special Revenue	\$ 267,605	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0
Debt Service (Other)	\$ 300,000	\$ 0	\$ 0	\$ 358,941	\$ 0	\$ 0
Other funds (Other)	\$ 25,000	\$ 0	\$ 0	\$ 0	\$ 0	\$ (25,000)
Park Board	\$ 937,566	\$ (937,566)	\$ 0	\$ 0	\$ 0	\$ 0
Library Board	\$ 2,574,720	\$ 0	\$ (2,574,720)	\$ 0	\$ 0	\$ 0
Total Expenditures	\$ 31,291,067	\$ 114,300	\$ 172,162	\$ 11,778,411	\$ 1,765,246	\$ 150,333

ADOPTED: The 28th of May, 2013.

Council President

APPROVED: The 28th of May, 2013.

Mayor

CERTIFICATION

I, Steven Boone, City Clerk of the City of Mountain Brook, Alabama, hereby certify the above to be a true and correct copy of an ordinance adopted by the City Council of the City of Mountain Brook at its meeting held on May 28, 2013, as same appears in the minutes of record of said meeting, and published by posting copies thereon on May 29, 2013, at the following public places as required by law.

City Hall, 56 Church Street
Gilchrist Pharmacy, 2850 Cahaba Road

Piggly Wiggly Foodstore 4, 93 Euclid Avenue
The Invitation Place, 3150 Overton Road

City Clerk

ORDINANCE NO. 1889

**AN ORDINANCE AMENDING SECTION 129-192(b) OF THE CITY CODE
TO ALLOW VETERINARY/ANIMAL GROOMING USES AS A
CONDITIONAL USE IN THE LOCAL BUSINESS DISTRICT**

BE IT ORDAINED by the City Council of the City of Mountain Brook, Alabama, that Section 129-192(b) of the City Code is hereby amended to include subsection (9) as follows:

1. Section 129-192(b). Conditional uses.

“(9) Veterinary Clinics/Pet Grooming, provided that there be no outdoor runs, and that business be conducted wholly within a building; no overnight boarding. Conditional review and approval shall ensure that sufficient areas for loading and unloading animals be provided, that appropriate measures be employed to minimize noise, odors, waste or other negative impacts incidental to operation of the business, and that the proposed use is compatible with the surrounding commercial and residential uses.”

2. Repealer. All ordinances or parts of ordinances heretofore adopted by the City Council of the City of Mountain Brook, Alabama that are inconsistent with the provisions of this ordinance are hereby expressly repealed.

3. Severability. If any part, section or subdivision of this ordinance shall be held unconstitutional or invalid for any reason, such holding shall not be construed to invalidate or impair the remainder of this ordinance, which shall continue in full force and effect notwithstanding such holding.

4. Effective Date. This ordinance shall become effective immediately upon adoption and publication as provided by law.

ADOPTED: This 28th day of May, 2013.

Council President

APPROVED: This 28th day of May, 2013.

Mayor

CERTIFICATION

I, Steven Boone, City Clerk of the City of Mountain Brook, Alabama, hereby certify the above to be a true and correct copy of an ordinance adopted by the City Council of the City of Mountain Brook, Alabama, as its meeting held on May 28, 2013, as same appears in the minutes of record of said meeting, and published by posting copies thereof on May ____, 2013, at the following public places, which copies remained posted for five (5) days as required by law.

Piggly Wiggly Foodstore 4, 93 Euclid Avenue
The Invitation Place, 3150 Overton Road

City Hall, 56 Church Street
Gilchrist Pharmacy, 2850 Cahaba Road

Steven Boone, City Clerk