

**MOUNTAIN BROOK CITY COUNCIL
MEETING AGENDA**

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

MONDAY, SEPTEMBER 23, 2013, 7:00 P.M.

1. Consideration: Resolution expressing gratitude to James “Dudley” Pewitt for his service on the Finance Committee.
2. Approval of the minutes of the September 9, 2013 regular meeting of the City Council.
3. Consideration: Resolution appointing Bryan Helm to the Finance Committee, to serve without compensation through September 23, 2017 (to fill the seat vacated by James “Dudley” Pewitt).
4. Consideration: Resolution reappointing Gerald Garner to the Park and Recreation Board, to serve without compensation through October 1, 2018.
5. Consideration: Resolution reappointing James Hard to The Emmet O’Neal Library Board, to serve without compensation through September 30, 2017.
6. Consideration: Resolution authorizing compensation rates payable to the municipal court judges and prosecutor.
7. Proclamation: October 7-13, 2013 proclaimed Financial Planning Week.
8. Consideration: Resolution declaring certain property surplus and authorizing its sale at public Internet auction.
9. Consideration: Motion amending the professional services agreement between the City and Nimrod Long & Associates (Resolution No. 2012-189) with respect to the Cahaba River Park project design fee increase of \$20,315.
10. Consideration: Resolution authorizing the execution of an agreement between the City and Spectrum Environmental with assistance with the preparation of the ADEM permit application with respect to the Cahaba River Park construction project.
11. Consideration: Resolution authorizing the execution of an agreement between the City and Dunn Construction for their milling and resurfacing of Spring Street from Euclid Avenue north to the end of the utility work (such cost shall be reimbursed by the Birmingham Waters Works Board).
12. Consideration: Resolution authorizing the execution of an order agreement for the purchase and installation of a digital document management system (included in the 2014 budget).
13. Consideration: Resolution setting a public hearing for October 14, 2013 to consider the adoption of an ordinance amending Chapter 129 of the City Code by adding a new “Vine Street Transitional” zoning district and amending the Article XXXI (Village Overlay Standards) and Section 129-416 (Advisory Design Review Required in the Villages of Mountain Brook).

**MOUNTAIN BROOK CITY COUNCIL
MEETING AGENDA**

MONDAY, SEPTEMBER 23, 2013, 7:00 P.M.

PAGE TWO

14. Consideration: Resolution setting a public hearing for October 28, 2013 to consider the adoption of an ordinance rezoning a parcel of land in the City of Mountain Brook, Alabama from Residence-D to Residential Infill District (RID), and the approval of a master development plan.
15. Public hearing: Consideration of an ordinance adopting the City's fiscal 2014 budget.
16. Consideration: Resolution granting an across-the-board pay increase of 1% for all classified and unclassified employees effective October 8, 2013.
17. Consideration: Ordinance increasing the salary of the City Manger by 1% effective October 8, 2013.
18. Public Hearing: Resolution limiting the longevity compensation payable November 2013 [to be reported as an expense in fiscal 2013] and after to \$440,000 in the aggregate (formerly \$420,000 per Resolution No. 08-140 adopted September 22, 2008).
19. Announcement: Mayoral appointment to the Planning Commission.
20. Announcement: The next regular meeting of the City Council is October 14, 2013, at 7 p.m. in the Council Chamber of City Hall located at 56 Church Street, Mountain Brook, AL 35213.
21. Other business.
 - Elisabeth Lyman to address the Mayor/Council regarding economic incentives for existing businesses.
22. Comments from residents.
23. Executive session.
24. Adjourn.

RESOLUTION

WHEREAS, James “Dudley” Pewitt served on the City of Mountain Brook, Alabama Finance Committee from July 12, 2010 until September 9, 2013; and

WHEREAS, James “Dudley” Pewitt devoted considerable time and effort meeting with City staff members and studying the City’s operations in preparation of the annual Finance Committee budget work sessions; and

WHEREAS, James “Dudley” Pewitt’s work experience and knowledge of the financial management proved to be very useful in the Finance Committee’s deliberations;

NOW, THEREFORE, BE IT RESOLVED that the City Council and Mayor, on behalf of the residents of Mountain Brook, do publicly thank James “Dudley” Pewitt for his many years of insightful service to the City and wish him well in future endeavors.

ADOPTED: This 9th day of September, 2013.

Virginia C. Smith, Council President

APPROVED: This 9th day of September, 2013.

Lawrence T. Oden, Mayor

2013-131

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, Alabama, at its meeting held on September 9, 2013 as same appears in the minutes of record of said meeting.

Steven Boone, City Clerk

**MOUNTAIN BROOK CITY COUNCIL
PRE-MEETING DISCUSSION
SEPTEMBER 9, 2013**

The City Council of the City of Mountain Brook, Alabama met in public session in the Pre-council Room (A106) of City Hall at 6:30 p.m. on Monday, the 9th day of September, 2013. The Council President called the meeting to order and the roll was called with the following results:

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

Absent: None

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

1. AGENDA

1. Spartan Square Phase II – Hannon Davidson of the Mountain Brook Chamber of Commerce (Appendix 1).

It is the Chamber's goal to sell 1,000 engraved bricks at \$100/brick. The monies will be used to fund Leadership Mountain Brook projects designated for "Chamber" projects (as opposed to City projects to be paid for by the City Council, if implemented). 398 bricks were sold in the initial phase which raised approximately \$30,000 net of expenses.

The members of the City Council expressed general agreement with the Chamber pursuing this fundraising project.

2. Sewer project at the bridge on Old Leeds Road regarding the Phase 6 Sidewalk project – Michael Lynch of Sain Associates and Jim Massingill of Walker-Patton Company.

The proposed agreement contemplates a "time and materials" project due to the potential of unknown requirements that may be imposed by Jefferson County Environmental Services. The contractor's best estimate of the project as defined is \$49,028.99. Because the contract will be based on actual expenses, the final contract payment will likely be different.

After some discussion, the Council expressed concern over the potentially limitless cap and stated that it wishes for Section 3.3 be modified by the City Attorney to include a "not to exceed \$60,000" clause and that all changes in scope above the expressed limit be presented in advance to the City Council.

Motion No. 2013-130 was added to the formal agenda authorizing the execution of an agreement, subject to such modifications as described above, between the City and Walker-Patton Company, Inc. with respect to the sewer adjustment project.

3. Request to construct an additional row of parking at Cahaba Village in the U. S. Highway 280 right-of-way – David Silverstein of Bayer Properties (Appendix 2).

The proposed improvements will require review and a recommendation by the City's Planning Commission followed by Council approval of the amended development plan. Once approved by the City, the developer will obtain final review from the Alabama Department of Transportation. The members of the City Council expressed general agreement with the applicant's proceeding with their application to modify the Cahaba Village development plan.

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

Steven Boone, City Clerk

**MINUTES OF THE REGULAR MEETING OF THE
CITY COUNCIL OF THE CITY OF MOUNTAIN BROOK, ALABAMA
SEPTEMBER 9, 2013**

The City Council of the City of Mountain Brook, Alabama met in public session in the City Hall Council Chamber at 7:00 p.m. on Monday, the 9th day of September, 2013. The Council President called the meeting to order and the roll was called with the following results:

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

Absent: None

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

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

1. RECOGNITION OF GUESTS

Council President Smith recognized the Boy Scouts from Troop 63 based at Canterbury United Methodist Church in attendance to satisfy the requirements of the Communications merit badge.

2. CONSENT AGENDA

Council President Smith 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 August 12, 2013 meeting of the City Council.

2013-123	Set the employees' and retirees' monthly premiums for medical insurance effective October 2013 (last changed by Resolution No. 11-125).	Exhibit 1, Appendix 1
2013-124	Adopt the Personnel Board of Jefferson County 2012-2013 Annual Classification Survey effective October 8, 2013 (no changes).	Exhibit 2, Appendix 2
2013-125 Proclamation	Constitution Week: September 17-23, 2013.	Exhibit 3
2013-126	Authorize the execution of a contract between the City and ETC Institute to assist in the preparation and analysis of a community survey regarding city services.	Exhibit 4, Appendix 3
2013-127	Authorize the execution of an amended contract between the City and the Elm Research Institute with respect to the "Liberty Tree Agreement" (re: Resolution No. 11-117).	Exhibit 5, Appendix 4

2013-128	Honor Joseph Lyman Tidwell, Parks and Recreation Superintendent, upon his retirement after 25 years of service with the City.	Exhibit 6
2013-129 Proclamation	National Recovery Month: September 2013.	Exhibit 7
2013-130 Motion	Authorize the execution of an agreement between the City and Walker Patton Company, Inc. with respect to the sanitary sewer adjustments on Old Leeds Road to facilitate the completion of the Phase 6 sidewalks and related retaining walls.	Appendix 5

Thereupon, the foregoing minutes, resolutions, proclamations, and motion were introduced by Council President Smith and their immediate adoption was moved by Council member Pritchard. The minutes and resolutions were then considered by the City Council. Council member Vogtle seconded the motion to adopt the foregoing minutes, resolutions, proclamations, and motion. Then, upon the question being put and the roll called, the vote was recorded as follows:

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

Nays: None

Council President Smith thereupon declared that said minutes, resolutions, proclamations, and motion (nos. 2013-123 through 130) are adopted by a vote of 5—0 and, as evidence thereof, she signed the same.

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

Council President Smith announced that the next regular meeting of the City Council will be Monday, September 23, 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.

4. ADJOURNMENT

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

Steven Boone, City Clerk

RESOLUTION NO. 2013-132

BE IT RESOLVED by the City Council of the City of Mountain Brook, Alabama, that Bryan F. Helm is hereby appointed to the Finance Committee, to serve without compensation, with the term of office to end September 23, 2017 (to fill the seat vacated by James “Dudley” Pewitt).

ADOPTED: This 23rd day of September, 2013.

Council President

APPROVED: This 23rd day of September, 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 September 23, 2013, as same appears in the minutes of record of said meeting.

City Clerk

Bryan F. Helm
 18 Beechwood Road
 Birmingham, Alabama 35213
 (205) 226-3501
bryan@cathedraladvent.com

PROFESSIONAL EXPERIENCE

- Cathedral Church of the Advent** 1998 – present
 Birmingham, Alabama
 Administrator
 Responsible for finance, administration and property management for 3800-member church with annual budget of \$4+ million.
- Allied Investment Company** 1995 – 1998
Harbert Power Corporation
 Birmingham, Alabama
 Director – Business Development
 Directed all aspects of natural gas pipeline project development.
 Assisted with acquisition of electric generating plants.
- Southern Natural Gas Company (Sonat Inc.)** 1977 – 1994
 Birmingham, Alabama
 Manager – Business Development & Market Research 1987 – 1994
 Director – Pipeline Planning 1984 – 1987
 Manager – Strategic Planning 1977 – 1984
 Directed the identification, evaluation and marketing of major expansion projects; identified and evaluated acquisition candidates; and developed strategic plans for Sonat business units.
- Llewelyn-Davies, Weeks, Forestier-Walker & Bor** 1973 – 1975
 London, England
 Prepared recommendations for improved management of urban renewal projects.
- Doha, Qatar, Persian Gulf
 Prepared comprehensive city and regional plans for private development and public infrastructure. Managed redevelopment activities in the country's second largest city.

EDUCATION

- MBA – University of Virginia** 1975 – 1977
 Concentration in finance and marketing; Shermet Award
- BA Architecture – Rice University** 1969 – 1973
 Magna cum Laude; American Institute of Architects Award

COMMUNITY ACTIVITIES

Alumni Interviewer for Admissions, Rice University

State Captain for Alabama

Rotary Club of Birmingham

Newcomen Society

Antique Automobile Club of America

City of Mountain Brook, Board of Zoning Adjustment

Chairman

2001 – 2006

2004 – 2006

RESOLUTION NO. 2013-133

BE IT RESOLVED by the City Council of the City of Mountain Brook, Alabama, that Gerald A. Garner is hereby reappointed to Park and Recreation Board, to serve without compensation, (term of office to end October 1, 2018).

ADOPTED: This 23rd day of September, 2013.

Council President

APPROVED: This 23rd day of September, 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 September 23, 2013, as same appears in the minutes of record of said meeting.

City Clerk

RESOLUTION NO. 2013-134

BE IT RESOLVED by the City Council of the City of Mountain Brook, Alabama, that James Hard is hereby reappointed to The Emmet O'Neal Library Board, to serve without compensation, (term of office to end September 30, 2017).

ADOPTED: This 23rd day of September, 2013.

Council President

APPROVED: This 23rd day of September, 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 September 23, 2013, as same appears in the minutes of record of said meeting.

City Clerk

RESOLUTION NO. 2013-135

BE IT RESOLVED by the City Council of the City of Mountain Brook, Alabama, that the compensation for service for municipal court justices shall be \$450/[court] day effective October 1, 2013; and

BE IT FURTHER RESOLVED by the City Council of the City of Mountain Brook, Alabama, that the compensation for service as a municipal prosecutor shall be \$110 per hour (plus out-of-pocket expenses) effective October 1, 2013.

ADOPTED: This 23rd day of September, 2013.

Council President

APPROVED: This 23rd day of September, 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 September 23, 2013, as same appears in the minutes of record of said meeting.

City Clerk

2013-135

M e m o

TO: Mayor Terry Oden

FROM: Carl Johnson, Burgin Kent, Massey Relfe and Steve Shaw

**RE: Municipal Court Compensation for Judges and Prosecutor
2013-2014**

DATE: August 22, 2013

Dear Mayor Oden:

Thank you for allowing us the opportunity to review the current compensation for the Municipal Court for the City of Mountain Brook for the Judges and the Prosecutor. We have had the opportunity to discuss this matter and have talked with several present and former Prosecutors and Judges for various cities in the area regarding their compensation. We have either talked directly with individuals or they have advised of their understanding of the various pay levels for cities such as Irondale, Leeds, Warrior, Trussville, Hoover, Vestavia and Homewood. We have also had the opportunity to review payments from the City of Mountain Brook for the year 2012. It is our understanding that at present the Judges are paid \$288.00 per day and the Prosecutor is paid \$90.00 per hour. We have outlined below our recommendation for consideration by the City for compensation for 2013-2014 fiscal year.

1. Judges - We would recommend consideration of an increase to \$450.00 per day. Based on our understanding for the payments for Judges Johnson and Williams (this excludes any pay for any other Judges who may have served) if the daily compensation was increased to \$450.00 this would result in a budget increase of the payment to the Judges in the amount of a \$8,454.00, for 2013-14.

2. Prosecutor - We would recommend consideration of an increase in the hourly rate to \$110.00 per hour. Upon reviewing the pay for the Prosecutor we reviewed a difference in pay at the current rate of \$90.00 per hour and a proposed recommendation of \$110.00 per hour. If the same number of hours were billed for 2013 as in 2012, this would result in a budget increase in the amount of a \$7,301.00, for 2013-14.

3. Combined Budget Increase - Assuming the number of days and hours are the same for 2013-14 as they were calendar year 2012, the combined increase in the budget would be approximately \$15,755.00.

If you wish for us to review further matters, we will be glad to do so but we wanted to go ahead and get this information to you for your consideration.

PROCLAMATION

WHEREAS, the financial planning process allows individuals to achieve their dreams by empowering them to identify and manage realistic financial goals and negotiate the financial barriers that arise at every stage in life;

WHEREAS, everyone can benefit from knowing the value of financial planning and where to turn for objective financial advice;

WHEREAS, the Financial Planning Association® is the largest membership organization for personal financial planning experts in the U.S., representing tens of thousands of members dedicated to supporting the financial planning process as a way to help individuals achieve their goals and dreams;

WHEREAS, the Financial Planning Association believes that everyone is entitled to objective advice from a competent, ethical financial planner to make smart financial decisions;

WHEREAS, the Financial Planning Association is dedicated to helping individuals discover the value of financial planning;

NOW THEREFORE, I, Lawrence Terry Oden, by virtue of the authority vested in me as Mayor of the city of Mountain Brook, do hereby proclaim October 7-13, 2013 as Financial Planning Week in the City of Mountain Brook, Alabama.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the City of Mountain Brook to be affixed the 23rd day of September of the year of our Lord 2013 and of the Independence of the United States of America, the 237th.

Lawrence T. Oden, Mayor

Seeking Mayoral Proclamation

September 3, 2013

The Honorable Lawrence Terry Oden
Office of the Mayor
3928 Montclair Road
Mountain Brook, AL 35213

Dear Mayor Oden,

With the recent recession and credit crisis, financial planning, more than ever, has become recognized as a critical need. Like all Americans, the citizens of Alabama have hopes, dreams, and goals – from funding a child’s college education to ensuring their retirement with adequate savings. Financial Planning is the key to achieving these goals and dreams.

The Financial Planning Association® (FPA®) believes that financial planning is a long-term process of wisely managing your finances to achieve your goals and dreams, while at the same time helping to negotiate the financial barriers that inevitably arise in every stage of life.

FPA will celebrate Financial Planning Week® October 7-13, 2013. FPA of North Alabama, along with other FPA chapters across the country, will strive to promote the value of financial planning through a series of financial education events throughout the month of October. FPA Chapters in other states are currently petitioning their mayors for proclamations as well.

FPA is the largest membership organization for personal financial planning experts in the U.S. and includes professionals from all backgrounds and business models. We help connect thousands of consumers to competent and ethical planners who uphold the FPA Standard of Care.

As Pro Bono Director of FPA of North Alabama, I respectfully ask that you consider issuing a proclamation to recognize October 7-13, 2013 as FPA Financial Planning Week in the city of Mountain Brook.

Please don’t hesitate to contact me if you have any questions or need additional information.

Sincerely,



Tyler McGuire
Pro Bono Director
FPA of North Alabama

City of Mountain Brook

Mayoral Proclamation

FPA FINANCIAL PLANNING WEEK®

WHEREAS, the financial planning process allows individuals to achieve their dreams by empowering them to identify and manage realistic financial goals and negotiate the financial barriers that arise at every stage in life;

WHEREAS, everyone can benefit from knowing the value of financial planning and where to turn for objective financial advice;

WHEREAS, the Financial Planning Association® is the largest membership organization for personal financial planning experts in the U.S., representing tens of thousands of members dedicated to supporting the financial planning process as a way to help individuals achieve their goals and dreams;

WHEREAS, the Financial Planning Association believes that everyone is entitled to objective advice from a competent, ethical financial planner to make smart financial decisions;

WHEREAS, the Financial Planning Association is dedicated to helping individuals discover the value of financial planning;

NOW THEREFORE, I, Lawrence Terry Oden, by virtue of the authority vested in me as Mayor of the city of Mountain Brook, do hereby proclaim October 7-13, 2013 as Financial Planning Week in Mountain Brook.

ISSUED: This ____ day of September, 2013.

Lawrence Terry Oden
Mayor of Mountain Brook, AL

The Financial Planning Association is the owner of trademark, service mark and collective membership mark rights in: FPA, FPA/Logo and FINANCIAL PLANNING ASSOCIATION. The marks may not be used without written permission from the Financial Planning Association.

RESOLUTION NO. 2013-137

**A RESOLUTION AUTHORIZING THE SALE OR DISPOSAL
OF CERTAIN SURPLUS PROPERTY**

WHEREAS, the City of Mountain Brook, Alabama, has certain items of personal property which are no longer needed for public or municipal purposes; and

WHEREAS, Section 11-43-56 of the Alabama Code of 1975 authorizes the municipal governing body to dispose of unneeded personal property.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Mountain Brook, as follows:

Section 1. It is hereby established and declared that the following property owned by the City of Mountain Brook, Alabama is not needed for public or municipal purposes and is hereby declared surplus property:

Item	Description	Notes
1	Samsung 42" Plasma TV with remote and wall mount	Model number SP R4232 SN 39FY
2	3-1/2 pallets slate roof tiles (pre-drilled)	

Section 2. That the City Manager, or his designated representative, is hereby authorized and directed to sell the above property by way of public Internet.

ADOPTED: This 23rd day of September, 2013.

Council President

APPROVED: This 23rd day of September, 2013.

Mayor

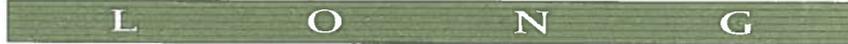
CERTIFICATION

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 meeting held on September 23, 2013, as same appears in the minutes of record of said meeting.

City Clerk

2013-137

Nimrod Long
And Associates



Land Planners
Landscape Architects
Urban Designers

September 6, 2013

Mr. Sam Gaston, City Manager
City of Mountain Brook
P.O. Box 130009
Mountain Brook, AL 35213

Re: Cahaba River Park, Construction Phase I
Budget and Fee Update

Dear Sam:

I want to confirm the revised budget and fee numbers for Cahaba River Park.

Budget/Fees

It's my understanding the Council has allotted \$450,000 for the park in the FY-2014 budget. I also understand they want an additional \$45,000 raised through the private sector to be added to the park budget for a total park budget of \$495,000.00. This represents an increase of \$239,000.00 above the current budget of \$256,000.

Motion No. 2013-145 Our original fee was based on 8.5% of the \$256,000.00 budgeted for the park's design and construction. Based on the revised park budget, we would like to request a fee increase of \$20,315.00 based on 8.5% of the park budget increase.

Reimbursable expenses include the cost of large format copying and blueprinting, postage and delivery services, facsimile transmissions, long distance telephone, and out of town travel expenses incidental to the project, and will be billed at 1.1 times the cost to the firm.

USACE/ADEM Permitting

When we bid the work earlier this year we included an allowance of \$6,000.00 for the contractor to handle the costs associated with any environmental permitting required by ADEM. Since that time we've contacted several engineers to get an idea of what the permitting process would likely cost. We have concluded that it is more economical for the City to contract directly with an environmental engineer to handle these services.

ADEM permitting in particular has become more expensive and time consuming in recent years. I believe it's in your best interest to contract these services directly with a qualified environmental engineer and begin that work immediately. If an environmental engineer can

Park at River Run and Overton Road

July 29, 2011

Page 2

begin this work in October, there should be ample time to secure any permits prior to the anticipated construction start next year.

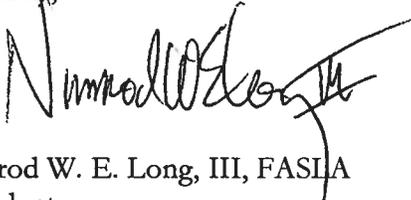
Res. No.

2013-138

I am including a proposal from Spectrum Environmental to provide these services for a fee of \$2500.00. Not only would you save money doing it this way, but I think it's also a much cleaner arrangement for the City to engage these services directly.

Sam, thank you for the opportunity to work on such a great project. If you have any questions or comments about the information presented, please feel free to call. We look forward to seeing a great recreational facility for the Mountain Brook community.

Sincerely,

A handwritten signature in black ink, appearing to read "Nimrod W. E. Long, III". The signature is written in a cursive style with a long, sweeping underline that extends to the right.

Nimrod W. E. Long, III, FASIA
President

Enclosure.

RESOLUTION NO. 2013-138

BE IT RESOLVED by the City Council of the City of Mountain Brook, Alabama that the City Council hereby authorizes the execution of a professional services agreement between the City and Spectrum Environmental, Inc., in the form as attached hereto as Exhibit A subject to such changes as may be recommended by the City Attorney, with respect to the ADEM Notice of Intent (NOI) and Construction Best Management Practices Plan (BMP) preparation services with respect to the Cahaba River Park project.

ADOPTED: This 23rd day of September, 2013.

Council President

APPROVED: This 23rd day of September, 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 September 23, 2013, as same appears in the minutes of record of said meeting.

City Clerk



August 28, 2013

Nimrod Long and Associates
2213 Morris Avenue
First Floor
Birmingham, AL 35203

Attention: Joel Eliason - Principal

Subject: **General Consulting, NOI and BMP Plan Preparation**
Cahaba Park Project
Mountain Brook, Alabama
Spectrum Proposal No. 13-8727

Via email to jeliason@nimrodlong.com

Dear Joel:

Spectrum Environmental, Inc. (Spectrum) is pleased to submit this letter that briefly describes the general consulting and project planning services we discussed yesterday in our meeting. The following is a summary of those items we discussed.

Proposed Services

Nimrod Long and Associates (Long) reviewed the preliminary plans for the development of the Cahaba Park project near the intersection of Overton Road and River Run Drive in Mountain Brook. Discussion centered around two general regulatory areas, those concerned with the United States Army Corps of Engineers (USACE) and the Alabama Department of Environmental Management (ADEM). To evaluate the applicability of these regulatory requirements to the project, Spectrum is proposing the following:

Task 1 – Review the general site conditions and gain familiarity with the site during a project walkover accompanied by Long personnel. During this walkover, the site would be reviewed for potential USACE jurisdictional areas and the ordinary high water mark (OHWM) of the Cahaba River near the “educational center” would be established.

Task 2 – If the project is calculated to disturb more than one (1) acre, Spectrum would assist by preparing the appropriate ADEM Notice of Intent (NOI) as well as the Construction Best Management Practices Plan (CBMPP). Spectrum would utilize to the maximum extent the Erosion Control Drawings already prepared by Long in compiling the CBMPP.

Task 3 – Spectrum would provide monthly CBMPP site inspections on behalf of the Permittee for the duration of the project and would also prepare the Notice of Termination (NOT) package at the end of the project.

Estimated Project Cost

The following project costs have been prepared based on our experience on similar projects and our recent discussion;

Task 1 – No Charge for this task

Task 2 - \$2,500 – Inclusive of the NOI, CBMPP, and NOT documents. We would ask that Long provide us with electronic copies of the Erosion Control Map to be incorporated into the CBMPP.

Task 3¹ - \$225/inspection. Inspections must be conducted at a minimum monthly. Qualifying rain events ($\geq 3/4$ ") require additional inspections. Spectrum will attempt to schedule such that only one inspection is conducted monthly, however, budgeting should include a provision for these required additional inspections.

Project Authorization

To provide Spectrum with written authorization, please execute the attached Proposal Acceptance Page, maintain one for your files and return a signed copy to our office.

We appreciate very much the opportunity to submit this proposal and look forward to working with you. Should you have any questions or comments, please call me at (205) 664-2000.

Sincerely,


Stephen P. Castleman, PG – CPESC
Executive Vice President

¹ Please note, should the client require that responses to ADEM be necessary during the project, other than the preparation and completion of monthly and/or $3/4$ " rainfall inspection reports, Spectrum will provide these services on a unit rate basis. Rates that will apply include – QCP (\$110/hour); QCI (\$75/hour); Admin (\$40/hour).

Proposal Acceptance Acknowledgement



Project Information	
Project Name Cahaba Park Project	
Project Location Mountain Brook, Alabama	
General Scope of Services General Consulting relative to USACE and ADEM project issues	
Spectrum Proposal Number 13-8727	Proposal Date August 28, 2013

Client Information		
Client/Company Name Nimrod Long and Associates		
Street Address 2213 Morris Avenue		
City Birmingham	State AL	Zip 35203
Client Contact Person/Project Manager Joel Eliason		Telephone Number 205-323-6072
Cell Number	Email Address/Web Address jeliason@nimrodlong.com	

Special Instructions
Proposal Acceptance by Client's Authorized Representative
The Terms and Conditions of this Proposal, including those on this page and those attached hereto are Accepted this _____ day of _____, 20_____.

Print or Type Client's Name (Individual, Firm or Corporate Body Name)

Signature of Client's Authorized Representative

Print or Type Name and Title of Client's Authorized Representative

21530 Professional Drive, Suite B Robertsdale, AL 36567 - (251) 923-4352 Office - (205) 664-2142 Fax

TERMS AND CONDITIONS

SERVICES TO BE PROVIDED. Spectrum Environmental, Inc. ("Spectrum") and/or its subsidiaries, affiliates, branches or divisions, agrees to provide Client for its sole benefit and exclusive use the services set forth in our Proposal.

DEFINITIONS. When used herein, the terms "we", "us", or "our" refer to Spectrum and the terms "you", "your", "he", "his", "it" and "its" refer to Client.

RIGHT OF ENTRY AND RIGHT TO PROCEED. Client grants a right of entry from time to time to Spectrum, its agents, staff, consultants, and subcontractors, for the purpose of performing and with the right to perform all acts, studies, and research including without limitation the making of tests and evaluations, pursuant to the agreed services. Client represents that it possesses all necessary permits and licenses required for the continuation of its activities at the site.

BILLING AND PAYMENT. Unless otherwise indicated in our Proposal, our billings will be based on actual accrued time, test costs, and expenses based on work performed as of the fifteenth and the last day of each month. Client agrees to pay invoice upon receipt. Should payment not be received within 30 days from date of invoice, the amount due shall bear a service charge of 1 1/2 percent per month or 18 percent per year and the cost of collection, including reasonable attorney's fees, if collected by law or through an attorney. If 1 1/2 percent per month exceeds the maximum allowed by law, the charge automatically will be reduced to the maximum legally allowed. If Client has any objections to any invoice or part thereof submitted by Spectrum, he shall so advise us in writing giving his reasons within 14 days of receipt of such invoice. Client agrees it will not exercise any right of set-off it has under this Agreement, any continuing agreement with Spectrum, or any right of set-off provided by law. No deduction shall be made from Spectrum's invoice on account of penalty, liquidated damages, or other sums withheld from payments to contractors or others. Payment of the invoice shall constitute final approval as to all aspects of the work performed to date as well as the necessity thereof. If the project is terminated in whole or in part then we shall be paid for services performed prior to our receiving or issuing written notice of such termination, in addition to our reimbursable expenses and any shut down costs incurred. Shut down costs may, at our sole discretion, include completion of analysis and records necessary to document our files and protect our professional reputation.

DAMAGE SITE. Spectrum will not be liable for any property damage or bodily injury arising from damage to or interference with any portion of the building, surface, or subterranean structures, which are not called to our attention in writing and correctly shown on the plans, furnished by Client in connection with work performed under this Agreement. Client recognizes that the use of exploration, industrial service, and test equipment may unavoidably affect, alter, or damage the terrain and affect subsurface, vegetation, buildings, structures and equipment in, at, or upon the site. Client accepts the fact that this is inherent to our work and will not hold us liable or responsible for any such effect, alternations or damage.

STANDARD OF CARE AND WARRANTY. To the extent the proposal calls for consultation, training, assessment or industrial services such services provided by us will be performed in accordance with generally accepted industry practices. THIS WARRANTY IS IN LIEU OF ALL OTHER WARRANTIES, EITHER EXPRESS OR IMPLIED.

PUBLIC LIABILITY. Spectrum maintains workers' compensation and employer's liability insurance for our employees as required by state laws. In addition, we maintain comprehensive general liability and auto liability insurance with limits of \$1,000,000. A Certificate of Insurance can be supplied evidencing such coverage. We will not be liable or responsible for any loss, damage, or liability beyond the amounts, limits, coverage, or conditions of such insurance specified above. In the event any third party brings a suit or claim for damages against us alleging exposure to or damage from material, elements or constituents at or from Client's facility before, during, or after the services of the Agreement, which is alleged to have resulted in or caused disease or any adverse health condition to any third party or resulting in cost for remedial action, uninhabitability of the property, or other property damage, then: Client agrees to defend us in any such suit or claim and pay on our behalf any judgment resulting against us, including any interest thereon. Further, Client with our concurrence, will select, hire and pay an attorney to defend any such suit or claim, will pay Court costs for which we may be liable in any such suit and will bear and pay litigation expense Client incurs in providing a reasonable and professional defense which will be provided by Client according to prevailing local standards. Client will have the right to investigate, negotiate and settle, with our concurrence, any such suit or claim, and we will cooperate in the defense of any such suit or claim.

PROFESSIONAL LIABILITY. Client agrees to limit our liability to Client or any third party arising from negligent professional acts, errors or omissions, such that our total aggregate liability shall not exceed \$1,000,000.

SAMPLING HANDLING AND RETENTION. Generally, test samples or specimens are consumed or substantially altered during the conducting of tests and Spectrum, at our sole discretion, will dispose (subject to the following) of any remaining residue immediately upon completion of tests.

A. **Non-Hazardous Samples.** At Client's written request, we will maintain preservable test samples and specimens of the residue therefrom for 30 days after submission of our report free of storage charges. After the initial 30 days and upon written request, we will retain test specimens of samples for a mutually acceptable storage charge and period of time. Client agrees that it will not hold us responsible or liable for any loss of test specimens or samples retained in storage.

B. **Hazardous or Potentially Hazardous Samples.** In the event that samples contain substances or constituents hazardous or detrimental to health, safety, or the environment as defined by federal, state or local statutes, regulations or ordinances, we will, after completion of testing and at Client's expense (i) return such samples to Client, or (ii) using a manifest signed by Client as generator, we will have such samples transported to a location selected by Client for final disposal. Client agrees to pay all costs associated with the storage, transport, and disposal of samples. Client recognizes and agrees that we are acting as a broker and at no time assume title to said waste.

HAZARDOUS SUBSTANCES AND CONSTITUENTS. Client agrees to advise us upon execution of this Agreement of any hazardous substances or any condition existing in, on, or near the site presenting a potential danger to human health, the environment, or equipment. Client agrees to provide continuing information as it comes available to the attention of Client in the future. By virtue of entering into this Agreement or of providing services hereunder, we do not assume control of or responsibility for the site or the person in charge of the site or undertake responsibility for reporting to any federal, state or local public agencies any conditions at the site that may present a potential danger to public health, safety or the environment. Client agrees to notify the appropriate federal, state or local public agencies required by law, or otherwise to disclose, in a timely manner, any information that may be necessary to prevent any danger to health, safety or the environment. In connection with hazardous waste, Client agrees to the maximum extent permitted by law to defend, hold harmless and indemnify Spectrum from and against any and all claims and liabilities resulting from:

(a) Client's violation of any federal, state or local statute, regulation or ordinance relating to the disposal of hazardous substances or constituents;

(b) Client's undertaking or arrangement for the handling, removal, treatment, storage, transportation or disposal of hazardous substances or constituents found or identified at the site;

(c) Allegations that Spectrum is a handler, generator, operator, treater or storer, transporter, or disposer under the Resource Conservation and Recovery Act of 1976 as amended or any other similar federal, state or local regulation or law.

CONTAMINATED EQUIPMENT. All laboratory and field equipment contaminated in performing our services will be decontaminated prior to the completion of the project. All decontamination shall be done at the client's facility. Waste derived from decontamination will become the property of the client. Any laboratory or field equipment, which cannot be reasonably decontaminated, shall become the property and responsibility of Client. All such equipment shall be disposed of in a manner similar to that indicated for hazardous samples. Client agrees to pay the fair market value of any such equipment, which cannot reasonably be decontaminated.

UNFORESEEN OCCURRENCES. If during the performance of services, any unforeseen hazardous substances or constituents or other unforeseen conditions or occurrences are encountered which, in our sole judgment significantly affect or may affect the services, the risk involved in providing the services, or the recommended scope of services, we will promptly notify Client thereof. Subsequent to that notification, Spectrum may:

(a) If practicable, in our sole judgment, complete the original Scope of Services in accordance with the procedures originally intended in the Proposal;

(b) Agree with Client to modify the Scope of Services and the estimate of charges to include study of the previously unforeseen conditions or occurrences, such revision to be in writing and signed by the parties and incorporated herein; or

(c) Terminate the services effective on the date specified by us in writing.

CLAIMS. In the event that either party hereto makes claim against the other party at law or otherwise, which is not to be resolved by Arbitration as provided herein the non-prevailing party shall pay all costs incurred by the other party in regard to the claim, including, without limitation, personnel-related costs, and other claim-related expense, including without limitation, costs, fees and expenses of experts.

DOCUMENTS. Client will furnish or cause to be furnished such reports, data, studies, plans, specifications, documents and other information deemed necessary by us for proper performance of our services. We may rely upon Client-provided documents in performing the services required under this Agreement; however, we assume no responsibility or liability for their accuracy. Client-provided documents will remain property of Client. All documents, including but not limited to drawings, specifications, reports, boring logs, field notes, laboratory test data, calculations and estimates, prepared by us as instruments of service pursuant to this Agreement shall be our sole property. Client agrees that all documents of any nature furnished to Client or Client's agents or designees, if not paid for, will be returned upon demand and will not be used by Client for any purpose whatsoever. Client further agrees that under no circumstances shall any documents produced by us pursuant to this Agreement be used at any location or for any project not expressly provided for in this Agreement without our prior written permission. If Client uses all or any portion of our work on another project without our permission, Client shall to the maximum extent permitted by law save us harmless from any and all claims arising from such unauthorized reuse. Further, no part of any document we deliver to Client shall be reproduced or distributed, whether for advertising or any other purpose, without our prior written consent. Any such reproduction or distribution shall be at Client's sole risk and without liability or legal exposure to Spectrum

FIELD REPRESENTATIVE. The presence of our field personnel either full or part-time will be for the purpose of providing observation and field-testing of specific aspects of the project. Should a contractor not otherwise engaged by

Spectrum be involved in the project, our work does not include supervision or direction of the actual work of the contractor, his employees or agents. The contractor should be so advised. The contractor should also be informed that neither the presence of our field representative nor the observation and testing by us shall excuse contractor in any way for defects discovered in contractor's work. It is agreed that we will not be responsible for job or site safety on the project and that we do not have the right to stop the work of the contractor.

DISPUTE RESOLUTION. Any dispute (excluding the collection of any outstanding invoice which was not objected to by client within the fourteen day period described above) arising out of, or relating to, this Agreement which cannot be resolved by the parties will be settled by arbitration, which will be conducted in accordance with the Judicial Arbitration and Mediation Services ("JAMS") Comprehensive Arbitration Rules. The Federal Arbitration Act, 9 U.S.C. Sections 1-16, not state law, shall govern the arbitration of the dispute. Either party may initiate arbitration by providing to JAMS written demand for arbitration (with a copy to the other party), a copy of this Agreement and the administrative fee required by JAMS. The written demand for arbitration shall be sufficiently detailed to permit the other party to understand the claim(s) and identify witnesses and relevant documents. Except for the administrative fees required to commence the arbitration or file any counterclaims, the costs of the arbitration, including arbitrator's fees, shall be shared equally by the parties; provided, however, that each party shall bear the cost of preparing and presenting its own claims and/or defenses (including its own attorney's fees). The arbitration will be held in Birmingham, Alabama. The arbitrator has no authority to award any indirect, incidental, special, punitive, or consequential damages, including damages for lost profits. The arbitrator's decision shall follow the plain meaning of the Agreement and shall be final, binding, and enforceable in a court of competent jurisdiction. If either party fails to comply with the dispute resolution process set forth herein (including without limitation, non-payment of an arbitration award) and a party is required to resort to court proceedings to enforce such compliance, then the non-complying party shall reimburse all of the costs and expenses incurred by the party requesting such enforcement (including, but not limited to attorney's fees).

SEVERABILITY. In the event that any provision herein shall be deemed invalid or unenforceable, the other provisions hereof shall remain in full force and effect and binding upon the parties thereto.

SURVIVAL. In the event that any provision herein shall be deemed invalid or unenforceable, the other provisions hereon shall remain in full force and effect binding upon the parties hereto.

INTEGRATION. This Agreement and the documents attached hereto and which are incorporated herein constitutes the entire Agreement between the parties and cannot be changed except by a written instrument signed by both the parties.

GOVERNING LAW. This Agreement shall be governed in all respects by the laws of the State of Alabama.

**ADDENDUM TO AGREEMENT BETWEEN
THE CITY OF MOUNTAIN BROOK AND
SPECTRUM ENVIRONMENTAL, INC.
DATED SEPTEMBER 23, 2012**

THIS ADDENDUM (“the/this Addendum”) to the principal agreement between the **City of Mountain Brook, Alabama** (“the City”) and **Spectrum Environmental, Inc.** (“the Contractor”) dated September 23, 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 23rd day of September, 2013.

Spectrum Environmental, Inc.

City of Mountain Brook, Alabama

By : _____

By : _____

Its : _____

Its : _____

ADDENDUM 2

Statement of Compliance with Alabama Code Section 31-13-9.

By signing this contract, the contracting parties affirm, for the duration of the agreement, that they will not violate federal immigration law or knowingly employ, hire for employment, or continue to employ an unauthorized alien within the State of Alabama. Furthermore, a contracting party found to be in violation of this provision shall be deemed in breach of the agreement and shall be responsible for all damages resulting therefrom.

Printed Name of Contractor

Title

Signature of Contractor

Date

Name of Business Entity

2013-139

From: Ronald Vaughn [mailto:vaughnr@mtnbrook.org]
Sent: Tuesday, September 10, 2013 6:51 AM
To: iballard@bwwsb.com
Cc: Sam Gaston; Jackie McClendon
Subject: Spring Street Paving

Mr. Ballard,

Please find attached a quote from Dunn Construction to mill and pave Spring Street from Euclid Avenue north to the end of utility work. The quote is a lump sum quote but has unit prices if any leveling is required due to inadequate utility cut repair. Simply put, if your contractor did not place the asphalt thick enough and during the milling process we reach the gravel base it may be necessary to do some leveling at the unit price quoted.

As you requested the city of Mountain Brook public works department will serve as the project manager for this resurfacing project. We will notify residents concerning the work schedule and inspect the work. When the job is complete we will receive and pay the invoice from Dunn Construction. We will then bill the Birmingham Water Works and include details if any leveling is required. Also, from looking at the work area I would think that only a small amount if any leveling may be required.

After receiving this email and attached quote please share with your staff and reply to me with your intentions.

Thanks

Ronnie Vaughn
Public Works Director
City of Mountain Brook AL
3579 East Street
Birmingham , Alabama 35243
[205.802.3865](tel:205.802.3865) Office
[205.967.2631](tel:205.967.2631) Fax
vaughnr@mtnbrook.org

RESOLUTION NO. 2013-139

BE IT RESOLVED by the City Council of the City of Mountain Brook, Alabama that the City Council hereby authorizes the execution of an agreement between the City and Dunn Construction Company, Inc., in the form as attached hereto as Exhibit A subject to such changes as may be recommended by the City Attorney, with respect to the resurfacing of a portion Spring Street where the cost of said contract shall be reimbursed to the City by the Birmingham Water Works Board.

ADOPTED: This 23rd day of September, 2013.

Council President

APPROVED: This 23rd day of September, 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 September 23, 2013, as same appears in the minutes of record of said meeting.

City Clerk

CONTRACT

This contract is entered into, as of the 23rd day of September, 2013, by City of Mountain Brook, an Alabama municipal corporation, ("City") whose address is 56 Church Street, Mountain Brook, Alabama 35213 (P. O. Box 130009, Mountain Brook, Alabama 35213-0009), and Dunn Construction Company, Inc., a corporation, ("Contractor") whose address is 3905 Messer Airport Highway, Birmingham, AL 35222 (P.O. Box Drawer 11967 Birmingham AL 35202).

City and Contractor agree as follows:

1. Description of Work. The work to be done under this contract shall consist of milling approximately 1.5 inches full width and paving 1.5 inches on Spring Street on the north side of Euclid Avenue. The asphalt, concrete and other materials used by Contractor in the performance of the Work must comply with the specifications of City.
2. Term. This contract shall remain in effect for a period of six (6) months from the date of this contract, as provided above, and shall be subject to cancellation as provided hereinafter.
3. Commencement Date. The date of commencement of the Work shall be within three weeks of Contractor's receipt from City of a written or verbal notice to commence the Work. The time for completion shall be measured from the date upon which the Work is commenced, but not later than forty-eight (48) hours after Contractor's receipt of such notice
4. Completion Date. The Work shall be completed within a reasonable time, based upon the circumstances of the Project, but in no event later than 2 weeks from the Commencement Date ("Completion Date"). If Contractor is unable to complete the Work by the Completion Date because of matters beyond its control, including strikes, shortages of material and governmental preemption in connection with a national emergency, the time for completion of the Work shall be extended by the length of time equal to the duration of any such matters.
5. Contract Sum. The City shall pay Contractor the sum of forty thousand seventy-one dollars and seventy-five cents (\$40,071.75) for milling and paving approximately 18,360 square feet ("Contract Sum"). Leveling as required (unit price per ton placed \$110.00) as approved by City inspector.
6. Payments to Contractor. Payments shall be made to Contractor within ten (10) days after the satisfactory completion of the Work in accordance with this Contract and upon receipt by the City of invoices requesting such payment. Payments due and unpaid under this contract shall bear interest, at the rate of eight per cent (8%) per annum, from the date payment is due until the date payment is made.
7. Change Orders and Amendment of the Contract. This contract may not be amended, nor may the Work or the scope of the Work be changed, except in accordance with the terms of a written change order signed by City and Contractor. No change order shall cause a modification in the Contract Sum or the time for the completion of the Work unless the change order specifically provides for such modification.
8. Insurance. During the term of this contract, Contractor shall maintain in effect the following Insurance, in at least the following amounts. Contractor shall furnish City certificates of insurance showing that such insurance is in full force and effect and that such insurance may not be cancelled without at least thirty (30) days prior written notice to City.

<u>Insurance</u>	<u>Amount</u>
workers <input type="checkbox"/> compensation	statutory
general liability	\$1,000,000
auto liability	\$1,000,000

9. Miscellaneous:

- a. Contractor shall obtain and pay for all necessary licenses, permits and fees required to perform the services and Work which Contractor is obligated to perform under this contract.
- b. Upon default under this contract by City, City shall become liable for Contractor's costs of collecting any amount due and owing by City to Contractor as of the date of default, including reasonable attorneys' fees incurred by Contractor. Interest shall accrue from the date of default at the rate of eight per cent (8%) per annum. Should City default while the Work is in progress and before final completion of the Work, Contractor, at its sole option, may elect to cease performance of the Work. If City fails to cure the default within ten (10) days after Contractor gives notice of the same, Contractor may declare this contract terminated. If Contractor does not perform the Work in a satisfactory manner, or in the event of any other default by Contractor under this contract, City may terminate this contract and/or may have the Work completed by another contractor or contractors during the entire, unexpired term of this Contract, in which event Contractor shall be responsible for the difference, if any, between the Contract Sum provided for in this contract and the total amount paid for the cost of the Work, including all sums paid to Contractor. No failure on the part of either party to exercise, and no delay in exercising, any right or remedy hereunder shall operate as a waiver thereof.
- c. This Contract shall be governed by, and construed in accordance with, the laws of the State of Alabama.
- d. Contractor represents to City that Contractor is generally familiar with the types or sites where the Work is to be performed.
- e. Contractor shall be responsible for taking all precautions required for the safe performance and the protection of the Work.

In witness whereof, City of Mountain Brook has caused this contract to be executed by its duly authorized Mayor and Contractor has caused this contract to be executed by its duly authorized corporate officer, on the dates set forth beneath their respective signatures, but to be effective as of the date stated on the first page of this contract.

ATTEST:

Its City Clerk

CITY OF MOUNTAIN BROOK

By: _____
Lawrence T. Oden, Mayor

Date: September 23, 2013

ATTEST:

DUNN CONSTRUCTION COMPANY INC.

Its _____
(Title)

By: _____

(Type or print name)

Its

(Title)

Date: _____

**ADDENDUM TO AGREEMENT BETWEEN
THE CITY OF MOUNTAIN BROOK AND
DUNN CONSTRUCTION COMPANY, INC
DATED September 23, 2013**

THIS ADDENDUM (“the/this Addendum”) to the principal agreement between the **City of Mountain Brook, Alabama** (“the City”) and Dunn Construction Company, Inc. (“the Contractor”) dated September 23, 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 therefore.
 - 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 therefore.

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 I-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 23rd day of September, 2013.

Dunn Construction Company, Inc.

City of Mountain Brook, Alabama

By : _____

By : _____

Its : _____

Its : _____

ADDENDUM 2

Statement of Compliance with Alabama Code Section 31-13-9.

By signing this contract, the contracting parties affirm, for the duration of the agreement, that they will not violate federal immigration law or knowingly employ, hire for employment, or continue to employ an unauthorized alien within the State of Alabama. Furthermore, a contracting party found to be in violation of this provision shall be deemed in breach of the agreement and shall be responsible for all damages resulting therefrom.

Printed Name of Contractor

Title

Signature of Contractor

Date

Name of Business Entity

RESOLUTION NO. 2013-140

BE IT RESOLVED by the City Council of the City of Mountain Brook, Alabama that the City Council hereby authorizes the execution of an order agreement between the City and Ricoh USA, Inc., in the form as attached hereto as Exhibit A subject to such changes as may be recommended by the City Attorney, with respect to the purchase and installation in fiscal 2014 of a digital document management system.

ADOPTED: This 23rd day of September, 2013.

Council President

APPROVED: This 23rd day of September, 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 September 23, 2013, as same appears in the minutes of record of said meeting.

City Clerk

ORDER AGREEMENT

Sale Type : CASH

Sale Type :	CASH
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ORDER AGREEMENT CONSISTS OF THIS PAGE AND THE TERMS AND CONDITIONS

BILL TO INFORMATION			
Customer Legal Name: MOUNTAIN BROOK CITY OF			
Address Line 1: 100 HOYT LN 56 CHURCH ST.		Contact: STEVEN BOONE	
Address Line 2:		Phone: 205/802-3825	
City: BIRMINGHAM		E-mail: boones@mtnbrook.org	
ST / Zip: AL/35213-3710	County: JEFFERSON	Fax: 205/874-0611	

ADDITIONAL ORDER INFORMATION	
Check All That Apply:	
<input type="checkbox"/> Sales Tax Exempt (Attach Valid Exemption Certificate) <input type="checkbox"/> PO Included PO# _____ <input type="checkbox"/> Syndication	<input type="checkbox"/> Fixed Service Charge <input type="checkbox"/> Add to Existing Service Contract # _____ <input type="checkbox"/> PS Service (Subject to and governed by separate Statement of Work) <input type="checkbox"/> IT Service (Subject to and governed by separate Statement of Work)

SHIP TO INFORMATION			
Customer Name: CITY OF MOUNTAIN BROOK			
Address Line 1: 100 HOYT LN 56 CHURCH ST.		Contact: STEVE O'DELL	
Address Line 2:		Phone: 205002-0000 205/802-3820	
City: BIRMINGHAM		E-mail: ODELLS@MTNBROOK.ORG	
ST / Zip: AL/35213-3710	County: JEFFERSON	Fax:	

BASIC CONNECTIVITY / PS / IT SERVICES INFORMATION			
BASIC CONNECTIVITY / PS / IT Services Description	Qty	Sell Price	Extended Sell Price
PS/DOC SVC/SUPPORT BLOCK OF TIME 12 MONTHS	20		

SHIP TO INFORMATION			
Customer Name: CITY OF MOUNTAIN BROOK			
Address Line 1: 56 CHURCH ST		Contact: STEVE O'DELL	
Address Line 2:		Phone: 205002-0000 205/802-3820	
City: BIRMINGHAM		E-mail:	
ST / Zip: AL/35213-3700	County: JEFFERSON	Fax:	

BASIC CONNECTIVITY / PS / IT SERVICES INFORMATION			
BASIC CONNECTIVITY / PS / IT Services Description	Qty	Sell Price	Extended Sell Price
[OOD] WBROOK FORTISBLUE 5 USER	1		



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BASIC CONNECTIVITY / PS / IT SERVICES INFORMATION			
BASIC CONNECTIVITY / PS / IT Services Description	Qty	Sell Price	Extended Sell Price
[OOD] WBROOK FORTISBLUE 5 USER SUPP	1		
[OOD]WESTBROOK IMAGEIT CLIENT FORTISBLUE ONLY	6		
[OOD]WESTBROOK IMAGEIT CLIENT FORTISBLUE SUPPORT	6		
PS/DOC SVC/INSTALLATION WESTBROOK INSTALL	64		
[OOD]WESTBROOK WORKFLOW PER SEAT	5		
[OOD]WESTBROOK WORKFLOW PER SEAT SUPPORT	5		
FUJITSU FI-6670 SCANNER	2		

ORDER TOTALS		
Service Type Offerings:	Product Total:	\$0.00
Gold: Includes all supplies and staples. Excludes paper.	BASIC CONNECTIVITY / PS / IT Services:	\$35,868.57
Silver: Includes all supplies. Excludes paper and staples.	Buyout After Promotions:	\$0.00
Bronze: Parts and labor only. Excludes paper, staples and supplies.	Grand Total: (Excludes Tax)	\$35,868.57
Additional Provisions:		





TERMS AND CONDITIONS PRODUCT PURCHASE AND MAINTENANCE SERVICE

Customer may acquire equipment, software, and/or hardware products ("Products") and maintenance services ("Services") from Ricoh USA, Inc. ("Ricoh") by executing and delivering to Ricoh this Order for acceptance.

Delivery and Acceptance. Unless otherwise agreed upon by both parties in writing, (a) delivery of products identified on this Order ("Products") to common carrier or, in the case of an arranged delivery by a local Ricoh installation vehicle, actual delivery by such vehicle to Customer shipping point, shall constitute delivery to Customer, and (b) Customer shall be responsible for all installation, transportation and rigging expenses. Customer agrees to confirm delivery of all Products when the same is delivered by signing a delivery and acceptance certificate or written delivery acknowledgement.

Services. (a) This Order identifies the specific Products to be serviced ("Serviced Products"). Ricoh will repair or replace in accordance with the terms and conditions of this Order and the manufacturer's specifications any part of the Serviced Products that becomes unserviceable due to normal usage (other than consumable supplies). Replacement parts will be furnished on an exchange basis and will be new, reconditioned or used. Except for hard drives on Customer-owned equipment, all parts removed due to replacement will become the property of Ricoh.

(b) The Services provided by Ricoh under an Order will not include the following: (i) repairs resulting from misuse (including without limitation improper voltage or the use of supplies that do not conform to the manufacturer's specifications), or the failure to provide, or the failure of, adequate electrical power, air conditioning or humidity control; (ii) repairs made necessary by service performed by persons other than Ricoh representatives; (iii) service calls or work which Customer requests to be performed outside of Normal Business Hours (defined below) (unless covered under an extended hour service contract) and Service calls or work which Customer requests to be performed on Ricoh Holidays (defined below); (iv) removable cassette, copy cabinet, exit trays, or any item not related to the mechanical or electrical operation of the Serviced Products; (v) consumable supplies such as paper or staples, unless expressly provided for in the Order; (vi) repairs and/or service calls resulting from attachments not purchased from Ricoh; (vii) any software, system support or related connectivity unless specified in writing by Ricoh; (viii) parts no longer available from the applicable manufacturer; (ix) electrical work external to the Serviced Products, including problems resulting from overloaded or improper circuits; (x) installation or de-installation and/or movement of the Serviced Products from one location to another unless specified in writing by Ricoh; and (xi) repairs of damage or increase in service time caused by force majeure events. Damage to Service Products or parts arising from causes beyond the control of Ricoh are not covered by this Order. Ricoh may terminate its Service obligations under this Order for Serviced Products that have been modified, damaged, altered or serviced by personnel other than those employed by Ricoh.

Service Calls. Service calls will be made during 9:00am – 5:00pm local service time, Monday through Friday ("Normal Business Hours") at the installation address shown this Order. Service does not include coverage on Ricoh holidays, which include New Year's Day, Memorial Day, 4th of July, Labor Day, Thanksgiving, the day after Thanksgiving and Christmas Day (collectively, "RicoH Holidays"). Travel and labor-time for the service calls after Normal Business Hours, on weekends and on RicoH Holidays, if and when available and only in the event and to the extent that Ricoh agrees to provide such non-standard coverage, will be charged at overtime rates in effect at the time the service call is made. Customer is responsible for disconnecting, repairing and re-connecting unauthorized attachments or components.

Service Charges.

(a) Service charges ("Service Charges") will be set forth on this Order and will be payable by the Customer in advance. Service Charges will not include any charges for repairs or Service that are otherwise covered by the applicable manufacturer's limited warranty during the period covered by any such warranty, to the extent Ricoh has agreed with such manufacturer not to charge a customer for any such charges. Additionally, Service necessitated as a result of inadequate key operator involvement, operator caused damage, lack of recommended service, or use of inadequate or incompatible supplies may result in Service being rendered on a time-and-material basis in addition to the Service Charges. Customer acknowledges and agrees that: (i) alterations, attachments, specification changes, or use by Customer of sub-standard supplies that cause excessive service calls may require an increase in Service Charges; (ii) the transfer of the Serviced Products from the location indicated on this Order may result in an increase of Service Charges or the termination of the Order; and (iii) the Toner Inclusive Program (if applicable) is based on manufacturer supply consumption rates. Delivery of supplies will not exceed agreed upon usage. Consumption of covered supply products varying significantly from expected usage may result in additional charges for supplies. Customer agrees to pay when due, all taxes, where applicable, related to this Order, excluding taxes on the income of Ricoh. Customer shall be responsible for any costs related to freight (including fuel surcharges, which may be imposed from time to time), postage/ mailing expense (meter rentals) and/or administrative and processing fees and, to the extent Ricoh pays such costs, Customer shall immediately reimburse Ricoh.

(b) Service Charges are based on standard 8.5x11 images. Ricoh reserves the right to assess additional images charges for non-standard images, including 11x17 images. Customer acknowledges that pricing is based on the prevailing rates at the time of the contract. Unless otherwise expressly agreed to in writing, if the term of this Order exceeds twelve (12) months, the Service Charges and any rate expressly stated in this Order may be increased by Ricoh up to ten percent (10%) annually for each year beyond the initial twelve (12) month period, and Customer expressly consents to such adjustment without additional notice.

Term. This Order shall become effective on the effective date of the Order and shall continue for the term identified in this Order. At the expiration of the initial term or any extended term of this Order, it will automatically, subject to applicable law and without further action required by either party, renew for an additional twelve (12) month period, provided that Customer is not then in default. The contracted rate will be adjusted to Ricoh's then-prevailing rates, to be reflected in an automatic increase as of the renewal date, and Customer expressly consents to such adjustment without additional notice.

Early Termination. Customer may terminate the Services provided under this Order prior to its maturity so long as Customer is not then in default and provides Ricoh at least thirty (30) days prior written notice. For an Order having an initial term of at least thirty-six (36) months, Customer shall pay to Ricoh, as liquidated damages and not as a penalty, the following early termination fee ("Termination Fee"): (i) if the termination occurs in months one (1) through twelve (12) of the term of such Order, an amount equal to twelve (12) times the "Monthly Service Charge" (as defined below) payable under such Order; (ii) if the termination occurs in months thirteen (13) through twenty-four (24), an amount equal to nine (9) times the Monthly Service Charge; and (iii) if the termination occurs any time after the twenty-fourth (24th) month, an amount equal to the lesser of six (6) times the Monthly Service Charge or the number of months remaining under the then current term of such Order. For an Order having an initial term of less than thirty-six (36) months, the



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Termination Fee shall be equal to the lesser of six (6) times the base Monthly Service Charge or the number of months remaining under the initial term of such Service Order. For the purposes herein, the "Monthly Service Charge" shall equal (i) the base monthly Service Charge set forth in this Order; or (ii) in the event this Order does not contain a base monthly Service Charge, the average monthly Order charges for the six (6) month period prior to the date of Customer's termination. If such termination date occurs less than six (6) months after the effective date of the Order, the Monthly Service Charge will be equal to the average monthly Order charges for the number of months the Order was in effect.

Payment; Risk of Loss; Taxes. Payment terms are net ten (10) days. Customer agrees to pay Ricoh a late charge of one and one-half percent (1.5%) per month on any unpaid amounts or the maximum allowed by law, whichever is less, and in addition shall pay Ricoh all costs and expenses of collection, or in the enforcement of Ricoh's rights hereunder, including, but not limited to, reasonable internal and external legal costs, whether or not suit is brought. All remedies hereunder or at law are cumulative; provided, however, that the sole remedy of Customer for any Services not performed in accordance with the Service standards set forth in this Order shall be the prompt and proper re-performance of such Services at no additional charge. Unless otherwise agreed upon by both parties in writing, Customer assumes all risk of theft, loss or damage, no matter how occasioned, to all Products covered by this Order following delivery by Ricoh to common carrier or, in the case of an arranged delivery by a local Ricoh installation vehicle, delivery by such vehicle to Customer shipping point. Except to the extent of any applicable and validated exemption, Customer agrees to pay any applicable taxes that are levied on or payable as a result of the use, sale, possession or ownership of the Products and/or Services covered hereunder, other than income taxes of Ricoh. In addition, Customer shall be responsible for paying all shipping and handling charges for toner, even if this Order is a toner inclusive contract as set forth on this Order, in accordance with the terms stated on the invoice.

Default. In addition to any other rights or remedies which either party may have under this Order or at law or equity, either party shall have the right to cancel the Services provided under this Order immediately: (i) if the other party fails to pay any fees or charges or any other payments required under this Order when due and payable, and such failure continues for a period of ten (10) days after being notified in writing of such failure; or (ii) if the other party fails to perform or observe any other material covenant or condition of this Order, and such failure or breach shall continue un-remedied for a period of thirty (30) days after such party is notified in writing of such failure or breach; or (iii) if the other party becomes insolvent, dissolves, or assigns its assets for the benefit of its creditors, or files or has filed against it any bankruptcy or reorganization proceeding. Except as expressly permitted by this Order, no refund or credit will be given for any early termination of the Services or any renewal thereof. If Customer defaults in its obligations hereunder, Ricoh may, in addition to any other remedies available at law or equity, require Customer to immediately pay to Ricoh all past due payments under all Orders, and the early termination fee described in the Early Termination Section above.

Reconditioning. Reconditioning and similar major overhauls of Serviced Products may be covered by applicable manufacturer warranties, but are not covered by this Order. If Ricoh determines that such actions may be necessary as a result of normal wear and tear of materials and age factors caused by normal usage in order to keep the Serviced Products in working condition, Ricoh will submit to Customer an estimate of the needed repairs and the cost for such repairs (which costs will be in addition to the Service Charges payable under this Order).

Engineering Changes. Engineering changes, determined applicable by Ricoh, will be controlled and installed by Ricoh. Engineering changes which provide additional capabilities to the Ricoh Equipment (defined below) covered herein will be made at Customer's request at Ricoh's applicable time and material rates then in effect.

Use Of Recommended Supplies; Meter Readings; @Remote. (a) It is not a condition of this Order that Customer use only Ricoh-provided supplies. If Customer uses other than manufacturer-recommended supplies, including paper, developer, toner, and fuser oil, and if such supplies are defective or not acceptable for use on the Serviced Product or cause abnormally frequent service calls or service problems, then Ricoh may, at its option, assess a surcharge or terminate the applicable Order with respect to such Serviced Product. If so terminated, Customer will be offered Service on a "Per Call" basis at Ricoh's then-prevailing time and material rates. (b) If Ricoh determines that Customer has used more supplies than the manufacturer's recommended specifications as provided by Ricoh, Customer will pay reasonable charges for those excess supplies and/or Ricoh may refuse Customer additional supply shipments. Customer agrees to provide Ricoh true and accurate meter readings monthly and in any reasonable manner requested by Ricoh, whether via telephone, email or otherwise. If accurate meter readings are not provided on a timely basis, Ricoh reserves the right to estimate the meter readings from previous meter readings and Customer agrees to pay Service Charges based on such estimated meter reads. Appropriate adjustments will be made to subsequent billing cycles following receipt of actual and accurate meter readings. (c) As part of its Services, Ricoh may, at its discretion and dependent upon device capabilities, provide remote meter reading and equipment monitoring services using its @Remote solution. This may allow for automated meter reading and submission, automatic placement of low toner alerts, automatic placement of service calls in the event of a critical Product failure and may enable firmware upgrades. The meter count and other information collected by @Remote ("Data") is sent via the internet to remote servers some of which may be located outside the U.S. @Remote cannot and does not collect Customer document content or user information. Ricoh uses reasonably available technology to maintain the security of the Data; however, Customer acknowledges that no one can guaranty security of information maintained on computers and on the internet. Ricoh retains full rights to the Data (but not Customer documents or information), which it or its authorized third parties may use to service the Serviced Products. Ricoh may also use the Data for its normal business purposes including product development and marketing research, however, the Data will not be provided to market research consultants in a form that personally identifies the Customer. Ricoh may dispose of the Data at any time and without notice. The @Remote technology is the confidential and proprietary information of Ricoh and/or its licensors protected by copyright, trade secret and other laws and treaties. Ricoh retains full title, ownership and all intellectual property rights in and to @Remote. In the event Customer does not rely on automatic meter reading devices or equipment monitoring services; Ricoh reserves the right to assess a surcharge for manual meter reads in addition to the Service Charges.

Customer Obligations. Customer agrees to provide a proper place for the use of the Serviced Products, including but not limited to, electric service, as specified by the manufacturer. Customer will provide adequate facilities (at no charge) for use by Ricoh representatives in connection with the Service of the Serviced Products hereunder within a reasonable distance of the Serviced Products. Customer agrees to provide such access to its facilities, networks and systems as may be reasonably necessary for Ricoh to perform its Services, including but not limited to "360 degree" service access to the Serviced Products. Customer will provide a key operator for the Serviced Products and will make operators available for instruction in use and care of the Serviced Products. Unless otherwise agreed upon by Ricoh in writing or designated in this Order, all supplies for use with the Serviced Products will be provided by Customer and will be available "on site" for servicing. Customer agrees that any systems utilizing similar supplies must be covered under similar inclusive service programs.



TERMS AND CONDITIONS FOR ITS/PS

Customer may acquire connectivity, IT and professional services from Ricoh by executing and delivering to Ricoh this Order for acceptance and by executing a Statement of Work ("SOW") setting forth the specific services to be provided. This Order applies to basic connectivity services as well as Ricoh IT Services or other professional services (the "Professional Services"). Ricoh shall provide any such Professional Services at the Customer's location(s) or on a remote basis as set forth in the SOW. Customer shall provide Ricoh with such access to its facilities, networks and systems as may be reasonably necessary for Ricoh to perform such Professional Services. Customer acknowledges that Ricoh's performance of any such Professional Services is dependent upon Customer's timely and effective performance of its responsibilities as set forth in the SOW. Estimated delivery and/or service schedules contained in any Order or SOW are non-binding estimates. Intellectual property rights, if any, arising from the Professional Services provided under any SOW shall remain the property of Ricoh.

Data Management. The parties acknowledge and agree that Ricoh shall have no obligation to remove, delete, preserve, maintain or otherwise safeguard any information, images or content retained by or resident in any Serviced Products, whether through a digital storage device, hard drive or other electronic medium ("Data Management Services"). If desired, Customer may engage Ricoh to perform Data Management Services at then-prevailing rates. Customer acknowledges that Customer is responsible for ensuring its own compliance with legal requirements in connection with data retention and protection and that Ricoh does not provide legal advice or represent that the Serviced Products will guarantee compliance with such requirements. The selection, use and design of any Data Management Services, and any decisions arising with respect to the deletion or storage of data, as well as the loss of any data resulting therefrom, shall be the sole and exclusive responsibility of Customer.

Returns: Damaged Products. No Products may be returned without Ricoh's prior written consent. Only consumable goods invoiced within sixty (60) days will be considered for return. All claims for damaged Products or delay in delivery shall be deemed waived unless made in writing, delivered to Ricoh within five (5) days after receipt of Products.

Warranty. Ricoh agrees to perform its Services in a professional manner, consistent with applicable industry standards. For any Products manufactured by Ricoh ("Ricoch Equipment"), Ricoh further warrants that, at the time of delivery and for a period of ninety (90) days thereafter the Ricoch Equipment will be in good working order and will be free from any defects in material and workmanship. Ricoh's obligations under this warranty are limited solely to the repair or replacement (at Ricoh's option) of parts proven to be defective upon inspection. The foregoing warranty shall not apply (a) if the Ricoch Equipment is installed, wired, modified, altered, moved or serviced by anyone other than Ricoh, or, (b) if the Ricoch Equipment is installed, stored and utilized and/or maintained in a manner not consistent with Ricoh specifications or (c) if a defective or improper non-Ricoh accessory or supply or part is attached to or used in the Ricoch Equipment, or (d) if the Ricoch Equipment is relocated to any place where Ricoh services are not available. CUSTOMER ACKNOWLEDGES THAT THE LIMITED WARRANTY CONTAINED HEREIN DOES NOT ASSURE UNINTERRUPTED OPERATION AND USE OF THE RICOCH EQUIPMENT. In connection with any other Product sale, Ricoh shall transfer to Customer any Product warranties made by the applicable Product manufacturer, to the extent transferable and without recourse. Physical or electronic copies of any applicable Product warranty will be delivered by Ricoh to Customer only upon Customer's specific written request. EXCEPT AS EXPRESSLY SET FORTH IN THIS ORDER, RICOH DISCLAIMS ALL WARRANTIES AND REPRESENTATIONS, EXPRESS OR IMPLIED, OF ANY NATURE WHATSOEVER, INCLUDING BUT NOT LIMITED TO, ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR USE, OR FITNESS FOR A PARTICULAR PURPOSE. RICOH SHALL NOT BE RESPONSIBLE AND SHALL HAVE NO LIABILITY FOR LOST PROFITS, LOSS OF REVENUE, OR ANY SPECIAL, EXEMPLARY, INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES, INCLUDING BUT NOT LIMITED TO DAMAGES ARISING OUT OF OR IN ANY MANNER CONNECTED WITH THIS ORDER, OR THE SUBJECT MATTER HEREOF, OR THE USE OR PERFORMANCE OF THE RICOCH EQUIPMENT OR THE LOSS OF USE OF THE RICOCH EQUIPMENT, REGARDLESS OF THE FORM OF ACTION AND WHETHER OR NOT SUCH PARTY HAS BEEN INFORMED OF, OR OTHERWISE MIGHT HAVE ANTICIPATED THE POSSIBILITY OF SUCH DAMAGES. RICOH'S TOTAL AGGREGATE LIABILITY TO CUSTOMER, IF ANY, UNDER THIS ORDER, SHALL IN NO EVENT EXCEED THE TOTAL FEES PAID TO RICOH THEREUNDER DURING THE ONE-YEAR PERIOD PRECEDING THE DATE ON WHICH THE CLAIM AROSE. IN NO EVENT SHALL RICOH BE LIABLE TO CUSTOMER FOR ANY DAMAGES RESULTING FROM OR RELATED TO ANY FAILURE OF ANY SOFTWARE PROVIDED HEREUNDER, INCLUDING, BUT NOT LIMITED TO, LOSS OF DATA, OR DELAY OF DELIVERY OF SERVICES UNDER THIS ORDER. RICOH ASSUMES NO OBLIGATION TO PROVIDE OR INSTALL ANY ANTI-VIRUS OR SIMILAR SOFTWARE AND THE SCOPE OF SERVICES CONTEMPLATED HEREBY DOES NOT INCLUDE ANY SUCH SERVICES. Customer must comply with any applicable license agreement or license terms relating to intangible property or associated services included in any Products, such as periodic software licenses and/or prepaid data base subscription rights ("Software License"), whether pursuant to written, click-through, shrink-wrap or other agreements for such purpose, with the third party supplier of the software ("Software Supplier"). Ricoh has no right, title or interest in any third party software. Customer is solely responsible for entering into Software Licenses with the applicable Software Supplier.

Assignment: Force Majeure. Customer shall neither assign any right or interest arising under this Order nor delegate any obligations hereunder without the prior written consent of Ricoh. Any such attempted assignment or delegation shall be void. Ricoh shall be excused from any delay or failure in performance of the Services under this Order for any period if such delay or failure is caused by any event of force majeure or other similar factors beyond its reasonable control.

Advice of Counsel. Customer represents and warrants that it has obtained or has had the opportunity to obtain the advice of legal counsel of its choice prior to executing this Order and thereby executes this Order knowingly and willingly after receiving such legal advice.

Governing Law: Entire Agreement. This Order shall be governed by and construed and interpreted in accordance with the laws of the Commonwealth of Pennsylvania without regard to its conflict of laws principles. The parties hereto also agree to submit to the non-exclusive jurisdiction of the courts of the Commonwealth of Pennsylvania to resolve any action under this Order. The Uniform Computer Information Transactions Act shall not apply to this Order. This Order constitutes the entire agreement between the parties with respect to the subject matter contained in this Order; supersedes all proposals, oral and written, and all other communications between the parties relating to the Products; and may not be amended except in writing signed by an officer or authorized representative of Ricoh. Customer agrees and acknowledges that it has not relied on any representation, warranty or provision not explicitly contained in this Order, whether in writing, electronically communicated or in oral form. Any and all representations, promises, warranties, or



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statements, including but not limited to, statements or representations made in sales presentations or sales proposals, by any Ricoh agent, employee or representative that differ in any way from the terms of this Order shall be given no force or effect. This Order shall be governed solely by these terms and conditions, notwithstanding the inclusion of any additional or different terms and conditions in any order document of any kind issued by Customer at any time. Purchase Orders issued by Customer for Products and/or Services from Ricoh, even if they do not expressly reference or incorporate this Order, shall be subject to this Order and service only to identify the Products and/or Services ordered and shall not be deemed to alter or otherwise modify the terms and conditions of this Order. The delay or failure of either party to enforce at any time any of the provisions of this Order shall in no way be construed to be a waiver of such provision or affect the right of such party thereafter to enforce each and every provision of this Order. If any provision of this Order is held to be invalid or unenforceable, this Order shall be construed as though it did not contain the particular provision held to be invalid or unenforceable. Ricoh may accept or reject any order in the exercise of its discretion and may rely upon each order submitted by Customer as a binding commitment. No local, general or trade custom or usage or course of prior dealings between the parties shall be relevant to supplement or explain any term used herein. This Order may be executed in one or more counterparts which, taken together, shall constitute one and the same original document. Any notices required under this Order should be sent to: 3920 Arkwright Road Macon, GA 31210 Attn: Quality Assurance.

Accepted by Customer	Accepted: Ricoh USA, Inc.
Authorized Signature: _____	Authorized Signature: _____
Printed Name: _____	Printed Name: _____
Title: _____	Title: _____
Date: _____	Date: _____



AUTHORIZING STATE STATUTES

U.S. COMMUNITIES

Select to View Other State/Territory Statutes:

[Back to State Statutes Map](#)

State of Alabama Statutes

Title 41. State Government.

Chapter 16. Public Contracts.

Article 3. Competitive Bidding on Contracts of Certain State and Local Agencies, etc.

§ 41-16-51. Contracts for which competitive bidding not required generally.

(a) Competitive bids shall not be required for utility services, the rates for which are fixed by law, regulation, or ordinance, and the competitive bidding requirements of this article shall not apply to:

(16) Subject to the limitations in this subdivision, purchases of goods made as a part of the purchasing cooperative sponsored by the National Association of Counties, or its successor organization. This subdivision shall not apply to goods for which a service or service contract, whether subject to competitive bidding under this article or not, is necessary to utilize the goods. Such purchases may only be made if all of the following occur:

- a. The goods being purchased are available as a result of a competitive bid process approved by the Alabama Department of Examiners of Public Accounts for each bid.
- b. The goods are either not at the time available to counties on the state purchasing program or are available at a price equal to or less than that on the state purchasing program.
- c. The purchase is made through a participating Alabama vendor holding an Alabama business license if such a vendor exists.

77	CITY OF MOUNTAIN BROOK
78	CITY OF MUSCLE SHOALS
79	CITY OF NORTH COURTLAND
80	CITY OF OPELIKA
81	CITY OF ORANGE BEACH
82	CITY OF OXFORD
83	City of Ozark
84	CITY OF PELHAM
85	CITY OF PELL CITY
86	CITY OF PHENIX CITY
87	CITY OF PIEDMONT, ALABAMA
88	CITY OF PRATTVILLE
89	City of Rainbow City
90	CITY OF ROBERTSDALE
91	CITY OF RUSSELLVILLE
92	CITY OF SAMSON

If your agency is not yet a participant of the U.S. Communities Program, please Register to Participate and begin purchasing under any of the U.S. Communities competitively solicited contracts.

If you need assistance, please email info@uscommunities.org or Contact Us.

RESOLUTION NO. 2013-141

BE IT RESOLVED by the City Council of the City of Mountain Brook that, at the meeting of the City Council to be held on Monday, October 14, 2013, at 7:00 p.m., in the Council Chamber of the Mountain Brook City Hall, the City Council will hold a public hearing regarding the adoption of an ordinance amending Chapter 129 of the City Code by adding a new “Vine Street Transitional” zoning district and amending Article XXXI (Village Overlay Standards) and Section 129-416 (Advisory Design Review Required in the Villages of Mountain Brook).

BE IT FURTHER RESOLVED by the City Council of the City of Mountain Brook that the City Clerk be, and he hereby is, authorized and directed to cause to be published not fewer than fifteen (15) days prior to October 14, 2013, by posting in four (4) conspicuous places within the City of Mountain Brook, as follows: City Hall—56 Church Street, Gilchrist Drug Company—2805 Cahaba Road, The Invitation Place—3150 Overton Road, and Piggly Wiggly Foodstore No. 4—93 Euclid Avenue, the following notice concerning both proposed actions in words and figures substantially as follows:

“PUBLIC HEARING

Notice is hereby given that at a regular meeting of the City Council of the City of Mountain Brook to be held on Monday, October 14, 2013, at 7:00 p.m., in the Council Chamber of the Mountain Brook City Hall, the City Council will hold a public hearing regarding a proposal that the City Council adopt an ordinance in words and figures substantially as follows:

‘ORDINANCE NO.

AN ORDINANCE AMENDING SECTIONS 129-551, 129-552, 129-553 AND 129-416 OF THE CITY CODE ALL INVOLVING THE ADDITION OF THE VINE STREET TRANSITIONAL DISTRICT ZONING CLASSIFICATION TO THE ZONING CODE OF THE CITY OF MOUNTAIN BROOK

WHEREAS, it is the desire of the City Council of the City of Mountain Brook, Alabama, to amend certain sections of the City’s zoning code;

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Mountain Brook the following:

SECTION 1. Chapter 129 of the City Code is amended to include the following new sections:

“ARTICLE _____ - VINE STREET TRANSITIONAL (VST) DISTRICT

Sec. 129-___ - Intent and Purpose.

The Vine Street Transitional (VST) District is intended to provide compact, appropriate-scaled buildings along the west side of Vine Street in Crestline Village for detached single family, attached single family (townhouse dwelling), professional and business offices and mixed use (residential above office). The district may be applied to sites which can establish an effective transition from the Local Business District in Crestline Village to adjacent residential neighborhoods and the Crestline Elementary School site. The district is intended to provide a

high degree of pedestrian connectivity within Crestline Village to increase accessibility and patronage of businesses, and to enhance the pedestrian character of Crestline Village.

The Vine Street Transitional (VST) District is also intended to emphasize lot frontages, and the orientation, location, and façade design of the buildings, as a key determinant of development that is transitionally compatible with the neighboring Local Business, Residence-A, Residence-C and Recreation Districts, and a key element in shaping the transitional character and streetscape of Vine Street in Crestline Village.

The VST District may be applied to those properties abutting the west side of Vine Street in Crestline Village, as that Village is defined by reference to the Village Boundary Line for Crestline Village in Section 129-557 of the City Code.

Sec. 129-___ - Permitted uses.

The uses permitted in the Vine Street Transitional District shall be as follows:

- (a) Detached single family dwellings;
- (b) Attached single family dwellings (townhouse dwelling units);
- (c) Professional offices;
- (d) Business offices;
- (e) Mixed use, with residential uses above office uses;
- (f) The uses in any of the above permitted uses may be condominium units;
- (g) Accessory structures and accessory buildings customarily incidental to the above permitted uses.

Sec. 129-___ . -- Area and Dimensional Requirements.

- (a) *Minimum dimensions of parcel.*
 - (1) Minimum area of parcel ... 7,500 square feet
 - (2) Minimum width of parcel at all points between the street line and the front setback line ... 50 feet
 - (3) Minimum number of feet of the parcel which must abut a street ... 50 feet
- (b) *Minimum yards and building setbacks.*
 - (1) Minimum front (primary) yard setback... 5 feet
 - (2) Minimum front (secondary) yard setback... 8 feet
 - (3) Minimum rear yard setback5 feet
 - (4) Minimum side yard setback
 - 0 feet if party wall;
 - 5 feet for end units, or a detached single family dwelling.

- (5) An enhanced primary entrance feature may extend up to 5 feet beyond the permitted and constructed front building line of the building provided that:
 - a. It occupies no more than 30% of the front façade (primary or secondary) of the lot;
 - b. It remains unenclosed, with no fixed windows or screens;
 - c. Any roof structure on or associated with the feature is up to one and one-half stories;
 - d. It is designed as an extension of the primary building using the same foundation, building materials, architectural styles and ornamentation as the primary building.

The front lot line shall be deemed to be the edge of the adjacent public right-of-way, or the edge of the adjacent sidewalk which is nearest the building, whichever is farther from the centerline of the such right-of-way.

(c) *Building limitations.*

(1) Maximum building area ...

For detached single family dwellings: 60% of the total area of the parcel, reduced by additional Open Space required by Section 129-554 for residential uses.

For attached single family dwellings (townhouse dwellings): 80% of the total area of the parcel, reduced by additional Open Space required by Section 129-554 for residential uses.

For office and mixed use: 80% of the total area of the parcel, reduced by additional Open Space required by Section 129-554 for residential uses.

(2) Maximum building height ... 36 feet

At any and all points, the maximum external building height shall be measured from the existing grade of the sidewalk at the lot frontage, or the proposed grade at the front building line, whichever is lower.

(3) Maximum number of stories ... none

(4) Maximum allowable density ... One dwelling unit per 2,500 square feet of land contained in the parcel

(5) All rooftop equipment shall fall within the permissible roof heights, be located away from slopes or areas exposed to the public street, and otherwise be screened from view from adjacent public streets or be incorporated into the skin of the building or internal to the block.

Sec. 129-___ - Off-Street Parking.

(1) Location of parking must be in accordance with Section 129-555 of the Village Overlay Standards.

(2) Minimum off-street parking per dwelling unit: Two spaces.

(3) Visitor and accessory parking for 2 or more attached single family dwellings; shall be one-half parking space per unit;

- (4) Surface parking, interior parking or parking structures for the dwelling units and for visitor or accessory parking shall meet the parking design and vehicle access limitations of Section 129-555 of the Village Overlay Standards.

Sec. 129-___. - Additional requirements.

(a) *Compliance with Village Overlay Standards.* All uses allowed in the VST District are excluded from the building type specifications in Section 129-553 of the Village Overlay Standards, but must otherwise conform to the remainder of the Village Overlay Standards in its entirety.

(b) *Exterior lighting.* If artificial illumination is provided for a parking area, it shall be arranged so as to shine and reflect away from any adjacent residential areas and away from any streets adjacent to or near the parcel. No lighting fixtures used for any parking area shall be elevated more than 14 feet above the ground, except for a light which is installed on the ceiling of a porch of a dwelling unit and is designed to illuminate only such porch. Each lighting fixture shall be designed and installed so as to direct its beam of light below the horizontal plane of such lighting fixture.”

Sec. 129-___. - Master Development Plan.

Each application for Vine Street Transitional Zoning shall be accompanied by a Master Development Plan. The Master Development Plan shall contain the following information, in addition to the general requirements for a zoning amendment found in Article XXV of the City’s Zoning Ordinance:

- A. Written documentation, including:
 - (a) A legal description and confirmation of current zoning of the subject property.
 - (b) The names and addresses of the applicant and owner of the property.
 - i. If a corporation, the principal officers and members of the Board of Directors must be provided.
 - ii. If a partnership or limited liability company, general and managing partners must be provided.
- (a) A statement of development objectives to be achieved through the particular approach proposed by the applicant, including a detailed description of the character of the proposed development and its relationship to surrounding areas.
- (b) The substance of covenants, easements, and other restrictions that will be imposed on the use of the subject property, structures, and other improvements.
- (c) A statement describing how the proposed development will meet the objectives of the district and how it will minimize the impact of increased densities, both within the zone and for surrounding properties, and otherwise offset increased density.
- (d) A written description of all efforts made to contact and discuss with neighboring residential property owners the proposed development, along with a general statement of neighborhood concerns and proposed actions to address said concerns.

- B. A site plan, which shall include the following items, either on the site plan or on an accompanying document.
- (a) North arrow, scale, size, boundary lines, and dimensions of the subject property;
 - (b) Means of access to and from the development, including a delineation as to how said access is to be provided (e.g., identification of easements, etc.);
 - (c) The areas to be devoted to each use if multiple uses are proposed;
 - (d) The location, size, and character of any common spaces and improvements identifying the nature and type of material for such improvements, if applicable;
 - (e) Streets, driveways, and sidewalks;
 - (f) A grading plan identifying existing and proposed contours;
 - (g) A general landscape and buffer plan identifying the nature and type of materials proposed to be utilized;
 - (h) An exterior lighting plan;
 - (i) A preliminary drainage plan that indicates the location of proposed detention areas;
 - (j) Location and identification of all utilities, easements, and fire hydrants;
 - (k) General location of structures and the minimum floor area, height, and number of floors to be proposed in each dwelling;
 - (l) A rendering generally describing the conceptual character of the development and of individual structures, including examples of architectural styles and types of building materials to be utilized;
 - (m) Building setbacks from the boundaries of all property lines, proposed lot lines, public and private streets, and other buildings;
 - (n) The number, location, and size of all parking spaces and the locations thereof relative to the streets and driveways that provide access to and from the development; and
 - (o) Description of all paving materials for private improvements.

Sec. 129-____. - Review and approval process.

- a. Application process and preliminary conference.
 - i. Except as provided to the contrary in this ordinance, applications for zoning or rezoning property to the Vine Street Transitional (VST) classification shall follow the application procedures established for all zoning or rezoning applications.
 - ii. At least thirty (30) days prior to the first public meeting at which the proposed rezoning is to be considered, the applicant shall meet with the City's zoning

officer to review the application and Master Development Plan and to discuss any revisions thereto that would, in the view of the zoning officer, bring the plan into conformity with applicable city codes and ordinances, including the zoning ordinance, and which would better meet the objectives of this ordinance.

- iii. Following the aforementioned meeting and any revision to the plan agreed to as a result thereof, the application shall be set for consideration by the Planning Commission at the earliest practicable date, taking into account any notice and hearing requirements that must be met in connection therewith.
- b. *Review by Planning Commission.* The approval process shall comply both with procedures set forth in Article XXV of this chapter for a zoning amendment and any additional procedure required by this Article. After submission of a Master Development Plan by the applicant, the proposed Vine Street Transitional (VST) Zoning proposal shall be placed on an agenda of the Planning Commission for consideration. The Planning Commission shall hold a public hearing on the Vine Street Transitional Application and make a recommendation to the City Council thereupon in accordance with Article XXV, Section 19-25-1, of the Mountain Brook City Code. The Commission may consider all factors allowed by law in making its recommendation and should specifically consider the compatibility of the project with surrounding property, the impact of the project on surrounding uses, the conformity of the project with the objectives of the City's Master Plan, and the purposes of the Vine Street Transitional District.
- c. *Review by and Final Action by the City Council.* Following action on the rezoning application by the Planning Commission, the Commission shall forward its recommendation and any accompanying report on the application to the City Council, along with the proposed Master Development Plan and any related documents. After providing notice of the proposed rezoning and a public hearing thereupon in the manner provided by the City Code and by applicable law, the City Council may approve the rezoning request (with accompanying master plan) as submitted, approve the rezoning request conditionally, amend and approve the rezoning request, or deny the rezoning request. In reviewing and acting on the rezoning request, the City Council may consider any factor permitted by law, and specifically the compatibility of the project with surrounding property, the impact of the project on surrounding uses, the conformity of the project with the City's master plan, and the purposes of the Vine Street Transitional District. In approving any application for Vine Street Transitional Zoning, the City Council may impose such terms, conditions, restrictions, or limitations as it deems reasonable, appropriate, and necessary to meet the objectives of this ordinance or to protect and promote the health, safety, and welfare of the City of Mountain Brook.
- d. *Binding Effect of Approved Master Development Plan.* The Master Development Plan that is required to be submitted with an application for zoning or rezoning shall be deemed an integral and essential element of any zoning or rezoning approved hereunder; and the plan, if and as modified and approved by the City Council, shall be binding on the property and any subsequent development thereof unless and until the property is subsequently rezoned or modified in the manner prescribed by law; provided, however, that in order to accommodate such minor adjustments to the approved Master Development Plan as may be required by engineering or other circumstances unforeseen at the time of its approval by the City Council, the City's zoning officer is authorized to approve alterations to the Master Development Plan which, in his opinion, are incidental or minor in scope, and which maintain the intent and character of the approved Master Development Plan; further provided that, as an overlay district, approval of a Vine Street

Transitional Zoning classification shall not preclude use or development of property that is permitted under its underlying zoning classification.

SECTION 2. Section 129-551(b) of the City Code is hereby amended as follows:

“(b) *General Applicability.* The Village Overlay Standards supplement the standards of the current Base Zoning District of each parcel to the extent that the standards herein do not conflict with the standards in the base zoning district. To the extent that the standards set forth in the Base Zoning District conflict or are inconsistent with the standards herein, the standards set forth in this Article shall apply; all uses allowed on lots in the Base Zoning District “Vine Street Transitional (VST) District” shall be exempt from the Building Type Specifications of the Village Overlay Standards. The standards in this section are applicable to the following Base Zoning Districts which exist in the Villages:

- (1) Local Business;
- (2) Professional;
- (3) Mixed Use;
- (4) Vine Street Transitional; and
- (5) Any residential zoning districts that exist in the Village boundaries.”

SECTION 3. Section 129-551(c) of the City Code is hereby amended as follows:

“(c) *Specific Applicability.* The Village Overlay Standards address building types, building heights, building form and orientation (relationship to streets and open spaces), and are specifically applicable to the following areas:

- (1) Crestline Village (except for lots zoned Vine Street Transitional (VST) District), as indicated on the attached Building and Development Regulating Plan for Crestline Village;
- (2) English Village, as indicated on the attached Building and Development Regulating Plan for English Village;
- (3) Mountain Brook Village, as indicated on the attached Building and Development Regulating Plan for Mountain Brook Village;
- (4) Overton Village, as indicated on the attached Building and Development Regulating Plan for Overton Village.

The boundaries officially approved for the Village Overlay Standards, as specified above, are adopted herein by reference, and shall become a part of Official Zoning Map of Mountain Brook as defined in Section 129-17 of the Zoning Ordinance.”

SECTION 4. Section 129-551(d) of the City Code is hereby amended as follows:

“(d) *Building and Development Regulating Plans.* The Building and Development Regulating Plans for Crestline Village (except for lots zoned Vine Street Transitional (VST) District), English Village, Mountain Brook Village and Overton Village are

attached hereto, included within, and made a part of these Village Overlay Standards, and apply in all areas identified thereupon.”

SECTION 5. Section 129-552 of the City Code is hereby amended as follows:

“(d) *Vine Street Transitional District Uses.* There is no specified building type for uses on lots zoned Vine Street Transitional District in the Village Overlay area; proposed building plans are subject to review by the Planning Commission and Village Design Review Committee for compliance with the VST District regulations, the Village Master Plan, the Design Guidelines and intent and purposes of the base zoning district and this Article.”

SECTION 6. Section 129-553(b) of the City Code is hereby amended as follows:

“(b) *Standards.* Permitted building types shall meet the following building standards, which standards shall control over any conflicting standard of the Base Zoning District (with the exception of any permitted use on lots zoned Vine Street Transitional (VST) District):”

SECTION 7. Section 129-553 of the City Code is hereby amended/corrected as follows:

1. The reference to “Section 19-31-4” (See “Maximum % of Lot Coverage (building footprint)-CD129:89) is hereby changed to “Section 129-554”.
2. The reference to “Section 19-31-5(d) (See Site Access – Vehicles-CD129:89) is hereby changed to “Section 129-555(d)”.
3. The reference to “Section 19-31-5” (See Legend [1]-CD129:91) is hereby changed to “Section 129-555”.
4. The reference to “Section 19-31-4” (See “Maximum % of Lot Coverage (building footprint)-CD129:92) is hereby changed to “Section 129-554”.
5. The reference to “Section 19-31-5(d) (See Site Access – Vehicles-CD129:92) is hereby changed to “Section 129-555(d)”.
6. The reference to “Section 19-31-5” (See Legend [1]-CD129:94) is hereby changed to “Section 129-555”.
7. The reference to “Section 19-31-4” (See “Maximum % of Lot Coverage (building footprint)-CD129:95) is hereby changed to “Section 129-554”.
8. The reference to “Section 19-31-5(d) (See Site Access – Vehicles-CD129:95) is hereby changed to “Section 129-555(d)”.
9. The reference to “Section 19-31-5” (See Legend [1]-CD129:97) is hereby changed to “Section 129-555”.
10. The reference to “Section 19-31-4” (See “Maximum % of Lot Coverage (building footprint)-CD129:98) is hereby changed to “Section 129-554”.
11. The reference to “Section 19-31-5(d) (See Site Access – Vehicles-CD129:98) is hereby changed to “Section 129-555(d)”.
12. The reference to “Section 19-31-5” (See Legend [1]-CD129:100) is hereby changed to “Section 129-555”.

SECTION 8. Section 129-416(a) of the City Code is repealed and replaced with the following:

“Sec. 129-416. Advisory design review required in the Villages of Mountain Brook.

- (a) The Villages of Mountain Brook, for purposes of this section, are composed of those properties located within the “Village Boundary Line” shown on the Village

~~Maps found in Section 129-557 of the City Code, and defined as, the Local Business Districts of the City of Mountain Brook, plus those Mixed Use, Office Park, Professional, and Residential Infill Districts which are contiguous to and/or within one mile of the boundary of such Local Business Districts (“villages”).~~

Section 9. This ordinance is cumulative in nature and is in addition to any power and authority which the City of Mountain Brook may have under any other ordinance or law.

Section 10. 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.

Section 11. The effective date of this ordinance shall be October 21, 2013.’

At the aforesaid time and place, all interested parties will be heard in relation to the changes proposed by said ordinance.”

ADOPTED: This 23rd day of September, 2013.

Council President

APPROVED: This 23rd day of September, 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, Alabama, at its meeting held on September 23, 2013, as same appears in the minutes of record of said meeting and published by posting copies thereof on September ____, 2013, at the following public places, which copies remained posted for five (5) days as required by law.

City Hall, 56 Church Street
Gilchrist Pharmacy, 2850 Cahaba Road
The Invitation Place, 3150 Overton Road
Piggly Wiggly Food Store 4, 93 Euclid Avenue

City Clerk

RESOLUTION NO. 2013-142

**“NOTICE OF PROPOSED REZONING
AND PUBLIC HEARING**

BE IT RESOLVED by the City Council of the City of Mountain Brook that, at the meeting of the City Council to be held on Monday, October 28, 2013, at 7:00 p.m., in the Council Chamber of the Mountain Brook City Hall, the City Council will consider the adoption of an ordinance rezoning a parcel of land in the City of Mountain Brook, Alabama from Residence-D to Residential Infill District (RID), and the approval of a Master Development Plan.

BE IT FURTHER RESOLVED by the City Council of the City of Mountain Brook that the City Clerk be, and he hereby is, authorized and directed to cause to be published not fewer than twenty-two (22) days prior to October 28, 2013, by posting in four (4) conspicuous places within the City of Mountain Brook, as follows: City Hall –56 Church Street, Gilchrist Drug Company - 2805 Cahaba Road, Piggly Wiggly Food Store 4 - 93 Euclid Avenue, and The Invitation Place - 3150 Overton Road notices of said public hearing in words and figures substantially as follows:

**‘CITY OF MOUNTAIN BROOK, ALABAMA
ORDINANCE NO. _____**

**AN ORDINANCE REZONING A PARCEL OF LAND IN THE CITY OF MOUNTAIN
BROOK, ALABAMA FROM RESIDENCE-D TO RESIDENTIAL INFILL DISTRICT
(RID), AND THE APPROVAL OF A MASTER DEVELOPMENT PLAN**

BE IT ORDAINED by the City Council of the City of the City of Mountain Brook, Alabama, as follows:

1. Amendment of Zoning Ordinance and Map. The zoning ordinance of the City of Mountain Brook and zoning map established under authority of Section 129-17 of the Mountain Brook City Code are hereby amended by rezoning the property described hereinbelow from its present “Residence-D” zoning classification under Chapter 129, Article V, of said Code to a “Residential Infill District (RID)” zoning classification as described in Chapter 129, Article XXVIII, and that the development of the subject property shall be governed by the zoning standards set forth in the RID Rezoning Application and Master Development Plan.

2. Master Development Plan. The Master Development Plan and the materials submitted by the applicant, as required by Section 129-497 of the Mountain Brook City Code, are made a part hereof and are specifically incorporated herein by reference, said Plan and materials constituting regulatory standards for use of the affected Property, subject to modification only as provided for in Article XXVIII, Chapter 129 of the Mountain Brook City Code.

3. Description of Affected Property. The property that is the subject of the rezoning approved by this ordinance is described as follows:

A parcel of land situated in the Southwest quarter of the Southwest Quarter of Section 33, Township 17 South, Range 2 West, Jefferson County, Alabama, said parcel being a part of Lot 1 of Brown Development L.L.C. Addition to Mountain Brook as recorded in Map Book 207, Page 88 in the Office of the Judge of Probate, Jefferson County, Alabama, and being more particularly described as follows:

Commence at a found 1 inch solid pipe marking the Northwest corner of the Southwest Quarter of the Southwest Quarter of said Section 33; thence run South along the West line of said Section for a distance of 376.72 feet to a set 5/8 inch capped rebar stamped CA-560LS, said point being the POINT OF BEGINNING of the parcel herein described; thence continue along the last described course for a distance of 31.64 feet to a set 5/8 inch capped rebar stamped CA-560LS; thence leaving said Section line turn an interior angle to the right of 52 degrees 12 minutes 25 seconds and run in a Northeasterly direction for a distance of 426.46 feet to a set 5/8 inch capped rebar stamped CA-560LS; thence turn an interior angle to the right of 307 degrees 31 minutes 38 seconds and run in a Southerly direction for a distance of 332.05 feet to a found 2 inch capped pipe, said point lying on the Northerly Right of Way of Montclair Road (80' R.O.W.), said point also lying on a non-tangent curve to the left, said curve having a radius of 3759.82 feet, a central angle of 02 degrees 36 minutes 40 seconds, an interior angle to the right to chord of 57 degrees 33 minutes 20 seconds, and a chord distance of 171.32 feet; thence run along the arc of said curve and said Right of Way for a distance of 171.34 feet to set 5/8 inch capped rebar stamped CA-560LS; thence leaving said Right of Way turn an interior angle right from chord of 122 degrees 32 minutes 38 seconds and run in a Northerly direction for a distance of 332.79 feet to a set 5/8 inch capped rebar stamped CA-560LS; thence turn an interior angle right of 96 degrees 30 minutes 42 seconds and run in a Westerly direction for a distance of 17.16 feet to a set 5/8 inch capped rebar stamped CA-560LS; thence turn an interior angle right of 318 degrees 09 minutes 08 seconds and run in a Northeasterly direction for a distance of 63.31 feet to a set 5/8 inch capped rebar stamped CA-560LS; thence turn an interior angle to the right of 37 degrees 10 minutes 14 seconds and run in a Westerly direction for a distance of 48.03 feet to a set 5/8 inch capped rebar stamped CA-560LS; thence turn an interior angle to the right of 140 degrees 32 minutes 19 seconds and run in a Southwesterly direction for a distance of 592.49 feet to the POINT OF BEGINNING.

Said parcel contains 65,099 Square Feet or 1.49 Acres more or less.

4. 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.

5. 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.

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

At the aforesaid time and place, all persons who desire shall have an opportunity to be heard in opposition to or in favor of the changes proposed by said ordinance. A map of the property, a development plan proposed for the property, and other documents, information, and materials filed in conjunction with the application for rezoning, as well as a copy of the foregoing proposed ordinance, are available for public inspection at Mountain Brook City Hall (Office of the City Planner), 56 Church Street, Mountain Brook, Alabama, during regular business hours.”

BE IT FURTHER RESOLVED that the City Clerk be, and he hereby is, further authorized and directed to give written notice of the hearing to the owners of the property located in whole or in part within 500 feet from the boundaries of the property described in this resolution in the form and manner and within the time required by Act No. 1123 of the 1973 Regular Session of the Legislature of Alabama.

BE IT FURTHER RESOLVED that the City Clerk be, and he hereby is, further authorized and directed to publish one insertion of the Notice herein above set out, which includes the proposed ordinance, one time, not less than twenty-two (22) days prior to the public hearing provided for therein, in *The Birmingham News*, a newspaper of general circulation in the City of Mountain Brook, and one (1) week after such first insertion to cause to be published again in said newspaper a synopsis of said proposed ordinance in lieu of a full copy of the same, which synopsis shall refer to the date and name of the newspaper in which the proposed ordinance was published in full.

ADOPTED: This 23rd day of September, 2013.

Council President

APPROVED: This 23rd day of September, 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, Alabama, as its meeting held on September 23, 2013, as same appears in the minutes of record of said meeting, and published by posting copies thereof on September 23, 2013, at the following public places, which copies remained posted for five (5) days as required by law.

City Hall, 56 Church Street
Gilchrist Pharmacy, 2850 Cahaba Road
The Invitation Place, 3150 Overton Road
Piggly Wiggly Foodstore No. 4, 93 Euclid Avenue

Steven Boone, City Clerk

ORDINANCE NO. 1894

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MOUNTAIN BROOK,
ALABAMA, ADOPTING THE BUDGET FOR THE FISCAL YEAR BEGINNING
OCTOBER 1, 2013 AND ENDING SEPTEMBER 30, 2014**

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, 2013 and ending September 30, 2014:

	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	\$ 27,054,155	\$ 0	\$ 0	\$ 0	\$ 378,000	\$ 0
Licenses and permits	3,869,500	0	0	0	0	0
Intergovernmental	0	44,700	0	0	0	43,955
Charges for services	566,875	66,600	7,500	0	350,000	129,274
Fines and forfeitures	469,040	0	58,000	0	161,000	0
Grants	0	0	11,250	632,845	0	0
Investment Earnings	0	0	325	101,087	182,435	7,200
Miscellaneous	510,430	3,000	200	100,000	0	0
Proceeds from the issuance of debt	0	0	0	0	0	0
Proceeds from the sale of property	0	0	0	0	0	0
Intrafund transfers in:						
General Operations/Capital	0	0	0	2,965,623	977,198	0
Park Board	0	0	0	132,910	0	0
Library Board	0	0	0	98,415	0	0
Other (14X/153)	41,367	0	0	0	0	0
E-911	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	0
(Surplus) deficit	<u>(486,000)</u>	<u>0</u>	<u>54,125</u>	<u>608,405</u>	<u>(17,785)</u>	<u>(30,700)</u>
Total Fund Available	\$ 32,025,367	\$ 114,300	\$ 198,650	\$ 4,639,285	\$ 2,030,848	\$ 149,729
Expenditures:						
Legislation and management	\$ 1,798,959	\$ 0	\$ 0	\$ 60,000	\$ 0	\$ 0
Intergovernmental	\$ 789,462	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0
Unassigned benefits	\$ 705,100	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0
Finance	\$ 1,297,549	\$ 0	\$ 0	\$ 71,420	\$ 260,121	\$ 0
Fire	\$ 6,677,218	\$ 0	\$ 0	\$ 430,750	\$ 0	\$ 0
Inspection Services	\$ 448,927	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0
Police	\$ 6,663,343	\$ 0	\$ 0	\$ 1,167,594	\$ 426,336	\$ 1,500
Street and Sanitation	\$ 6,234,699	\$ 0	\$ 0	\$ 1,650,512	\$ 984,000	\$ 0
Parks and Recreation	\$ 0	\$ 977,580	\$ 0	\$ 614,500	\$ 0	\$ 131,862
Library	\$ 0	\$ 0	\$ 2,907,525	\$ 283,318	\$ 0	\$ 0
Debt service payments	\$ 0	\$ 0	\$ 0	\$ 0	\$ 360,391	\$ 0
Operating transfers-out:						
General Fund	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0	\$ 41,367
Capital Projects	\$ 3,196,948	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0
Special Revenue	\$ 316,007	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0
Debt Service (Other)	\$ 300,000	\$ 0	\$ 0	\$ 361,191	\$ 0	\$ 0
Other funds (Other)	\$ 25,000	\$ 0	\$ 0	\$ 0	\$ 0	\$ (25,000)
Park Board	\$ 863,280	\$ (863,280)	\$ 0	\$ 0	\$ 0	\$ 0
Library Board	\$ 2,708,875	\$ 0	\$ (2,708,875)	\$ 0	\$ 0	\$ 0
Total Expenditures	\$ 32,025,367	\$ 114,300	\$ 198,650	\$ 4,639,285	\$ 2,030,848	\$ 149,729

BE IT FURTHER ORDAINED by the City Council of the City of Mountain Brook, Alabama that the City Manager of the City is hereby authorized and directed, for and on behalf of the City, to disburse funds for the payment of budgeted expenditures including and not limited to salaries and benefits, payroll taxes, service and other contracts, debt service, utilities, supplies and such other obligations incurred by the City in the normal course of municipal, public safety, and recreational operations.

ADOPTED: The 23rd of September, 2013

Council President

APPROVED: The 23rd of September, 2013

Mayor

CERTIFICATION

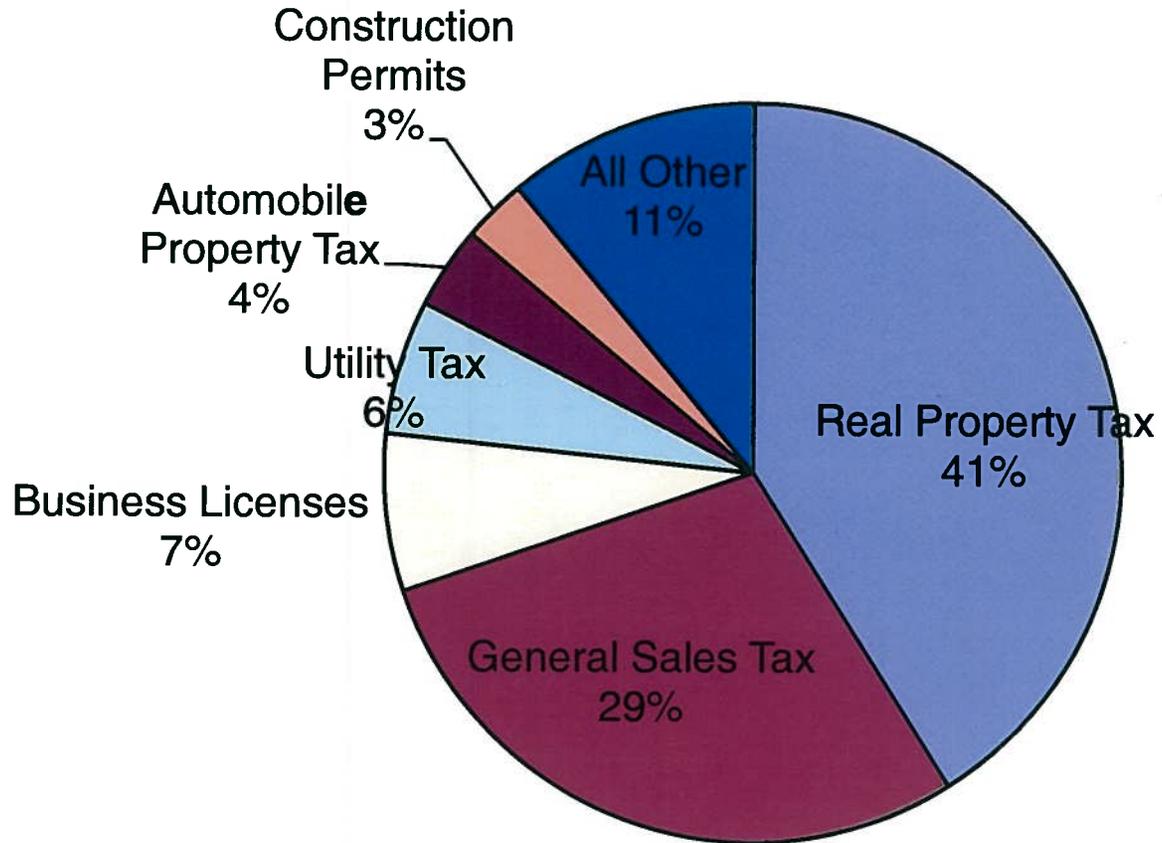
I, Steven Boone, City Clerk of the City of Mountain Brook, Alabama, hereby certify the above to be a true and correct copy of an ordinance adopted by the City Council of the City of Mountain Brook at its meeting held on September 23, 2013, as same appears in the minutes of record of said meeting, and published by posting copies thereon on September 24, 2013, at the following public places as required by law.

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

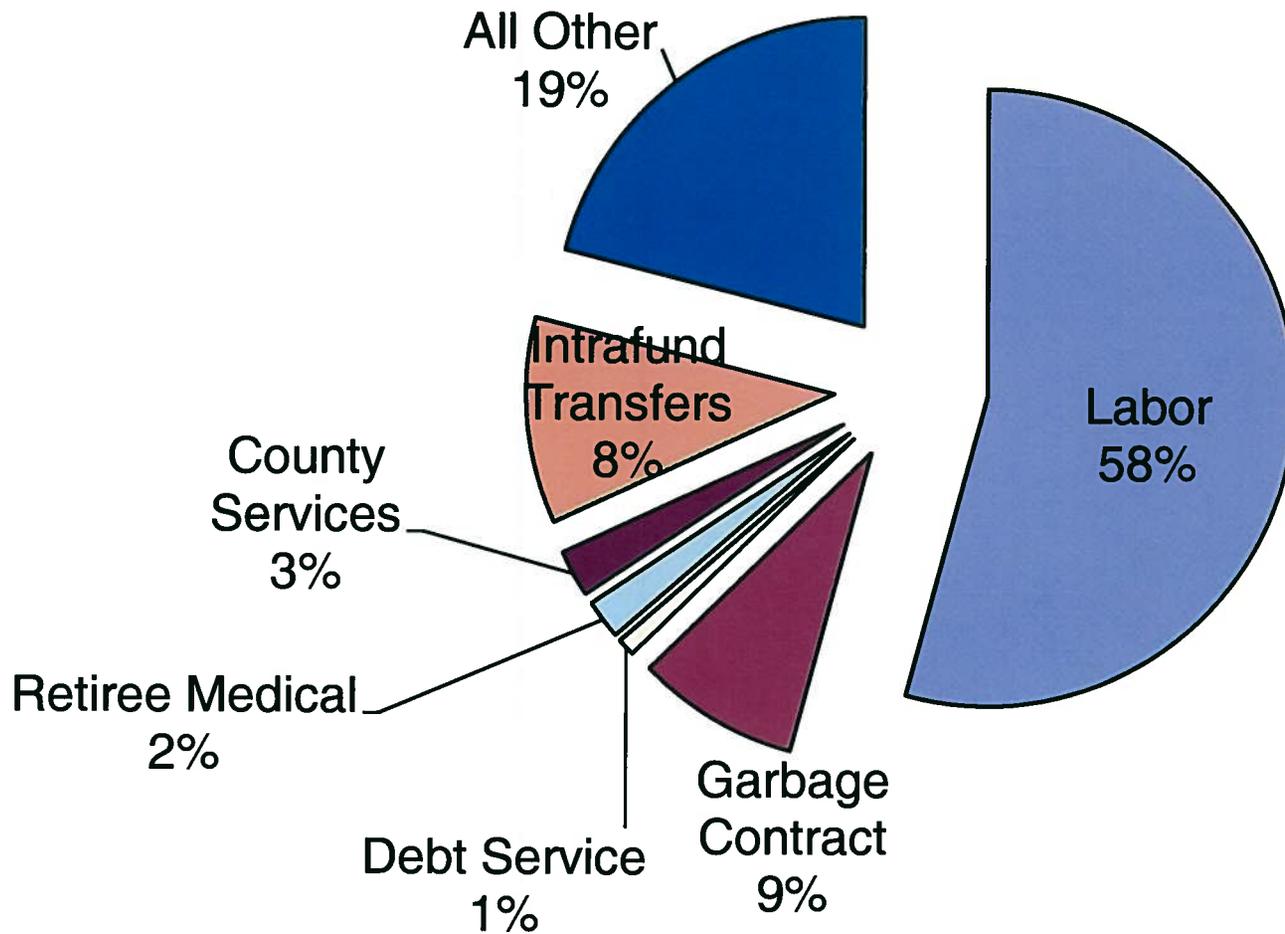
Piggly Wiggly Foodstore 4, 93 Euclid Avenue
The Invitation Place, 3150 Overton Road

City Clerk

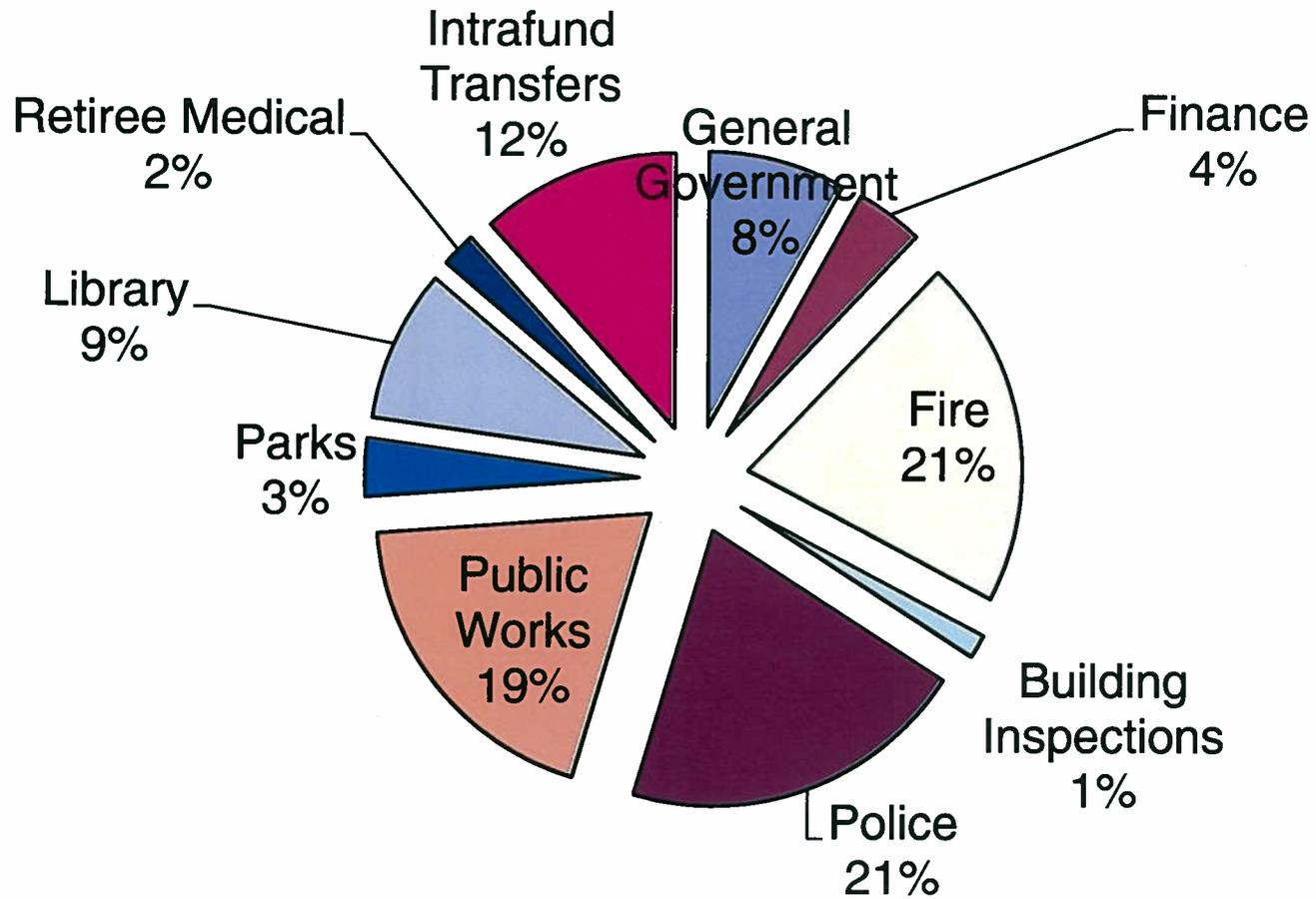
2014 General Fund Revenue Budget-\$32.9MM



2014 General Fund Expense Budget



2014 Budgeted Expenses by Department



**Statement of Budgeted Revenues, Expenditures, and Changes in Fund Balance
City of Mountain Brook, Alabama
Year Ended September 30**

	2014 Budget			Total Governmental Funds	
	General Fund 1XX	Capital Projects 4XX	Other Governmental Funds 5XX / 6XX	2014 Budget	2013 Budget
Revenues:					
Taxes	\$27,054,155	\$0	\$378,000	\$27,432,155	\$27,039,013
Licenses and permits	\$3,869,500	\$0	\$0	\$3,869,500	\$3,845,809
Intergovernmental	\$88,655	\$0	\$0	\$88,655	\$89,707
Charges for services	\$770,249	\$0	\$350,000	\$1,120,249	\$1,083,241
Fines and forfeitures	\$527,040	\$0	\$161,000	\$688,040	\$678,940
Grants	\$11,250	\$632,845	\$0	\$644,095	\$1,036,062
Investment Earnings	\$7,525	\$101,087	\$182,435	\$291,047	\$282,739
Miscellaneous	\$513,630	\$100,000	\$0	\$613,630	\$513,490
Total Revenues	\$32,842,004	\$833,932	\$1,071,435	\$34,747,371	\$34,569,001
Expenditures:					
General government	\$4,591,070	\$131,420	\$260,121	\$4,982,611	\$12,540,227
Public safety	\$13,790,988	\$1,598,344	\$426,336	\$15,815,668	\$15,268,563
Street & sanitation	\$6,234,699	\$1,650,512	\$984,000	\$8,869,211	\$9,338,479
Recreational	\$1,109,442	\$614,500	\$0	\$1,723,942	\$1,520,784
Library	\$2,907,525	\$283,318	\$0	\$3,190,843	\$2,811,200
Debt service	\$0	\$0	\$360,391	\$360,391	\$358,141
Total Expenditures	\$28,633,724	\$4,278,094	\$2,030,848	\$34,942,666	\$41,837,394
Excess (deficiency) of revenues over expenditures	\$4,208,280	(\$3,444,162)	(\$959,413)	(\$195,295)	(\$7,268,393)
Other Financing Sources (Uses):					
Proceeds from the issuance of debt	\$0	\$0	\$0	\$0	\$0
Proceeds from the sale of property	\$0	\$0	\$0	\$0	\$0
Operating transfers in	\$41,367	\$3,196,948	\$977,198	\$4,215,513	\$3,434,125
Operating transfers (out)	(\$3,854,322)	(\$361,191)	\$0	(\$4,215,513)	(\$3,434,125)
Operating transfers in-component unit	\$43,000	\$0	\$0	\$43,000	\$43,000
Donations	\$24,250	\$0	\$0	\$24,250	\$24,250
Total Other Financing Sources	(\$3,745,705)	\$2,835,757	\$977,198	\$67,250	\$67,250
Excess (Deficiency) of Revenues and Other Financing Sources Over Expenditures and other Financing Uses	\$462,575	(\$608,405)	\$17,785	(\$128,045)	(\$7,201,143)
Fund balance, beginning of year	\$10,569,594	\$22,187,652	\$4,629,421	\$37,386,667	\$32,816,095
FUND BALANCES, END OF YEAR	\$11,032,169	\$21,579,247	\$4,647,206	\$37,258,622	\$25,614,952
	0.3	10.0	11.0		

Combining Statements of Revenues and Expenses - General Fund
 City of Mountain Brook, Alabama
 Year Ended September 30

	2014 Budget								Totals 2014	Totals 2013	Projected 2013
	General Operations 100	Park & Recreation 115	Drug Asset Forfeitures 132	Community Fund 142 & 149 Combined	Storm Damage Reserve 146	Court Cash Bonds 153	Library Board 70X	Budget			
Revenues:											
Taxes	\$27,054,155	\$0	\$0	\$0	\$0	\$0	\$0	\$27,054,155	\$26,621,313	\$27,182,722	
Licenses and permits	\$3,869,500	\$0	\$0	\$0	\$0	\$0	\$0	\$3,869,500	\$3,845,809	\$4,044,688	
Intergovernmental	\$0	\$44,700	\$0	\$43,955	\$0	\$0	\$0	\$88,655	\$89,707	\$87,452	
Charges for services	\$566,875	\$66,600	\$0	\$129,274	\$0	\$0	\$7,500	\$770,249	\$743,241	\$731,625	
Fines and forfeitures	\$469,040	\$0	\$0	\$0	\$0	\$0	\$58,000	\$527,040	\$498,940	\$611,519	
Grants	\$0	\$0	\$0	\$0	\$0	\$0	\$11,250	\$11,250	\$12,062	\$31,283	
Investment Earnings	\$0	\$0	\$0	\$0	\$7,200	\$0	\$325	\$7,525	\$5,947	\$8,397	
Miscellaneous	\$510,430	\$3,000	\$0	\$0	\$0	\$0	\$200	\$513,630	\$413,490	\$551,740	
Total Revenues	\$32,470,000	\$114,300	\$0	\$173,229	\$7,200	\$0	\$77,275	\$32,842,004	\$32,230,509	\$33,249,426	
Expenditures:											
General government	\$4,591,070	\$0	\$0	\$0	\$0	\$0	\$0	\$4,591,070	\$5,251,220	\$5,022,786	
Public safety	\$13,789,488	\$0	\$1,500	\$0	\$0	\$0	\$0	\$13,790,988	\$13,147,833	\$12,967,060	
Street & sanitation	\$6,234,699	\$0	\$0	\$0	\$0	\$0	\$0	\$6,234,699	\$6,319,859	\$6,064,872	
Recreational	\$0	\$977,580	\$0	\$131,862	\$0	\$0	\$0	\$1,109,442	\$1,186,884	\$1,122,516	
Library	\$0	\$0	\$0	\$0	\$0	\$0	\$2,907,525	\$2,907,525	\$2,746,882	\$2,417,965	
Debt service	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	
Total Expenditures	\$24,615,257	\$977,580	\$1,500	\$131,862	\$0	\$0	\$2,907,525	\$28,633,724	\$28,652,678	\$27,595,199	
Excess (deficiency) of revenues over expenditures	\$7,854,743	(\$863,280)	(\$1,500)	\$41,367	\$7,200	\$0	(\$2,830,250)	\$4,208,280	\$3,577,831	\$5,654,227	
Other Financing Sources (Uses):											
Proceeds from the issuance of debt	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	
Proceeds from the sale of property	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	
Operating transfers in	\$41,367	\$0	\$0	\$0	\$0	\$0	\$0	\$41,367	\$40,315	\$41,981	
Operating transfers (out)	(\$7,410,110)	\$863,280	\$0	(\$41,367)	\$25,000	\$0	\$2,708,875	(\$3,854,322)	(\$3,075,184)	(\$3,240,475)	
Operating transfers in-component unit	\$0	\$0	\$0	\$0	\$0	\$0	\$43,000	\$43,000	\$43,000	\$44,000	
Donations	\$0	\$0	\$0	\$0	\$0	\$0	\$24,250	\$24,250	\$24,250	\$32,040	
Total Other Financing Sources	(\$7,368,743)	\$863,280	\$0	(\$41,367)	\$25,000	\$0	\$2,776,125	(\$3,745,705)	(\$2,967,619)	(\$3,122,454)	
Excess (Deficiency) of Revenues and Other Financing Sources Over Expenditures and other Financing Uses	\$486,000 ^(A)	\$0	(\$1,500)	\$0	\$32,200	\$0	(\$54,125)	\$462,575 ^(B)	\$610,212	\$2,531,773	
Fund balance, beginning of year	\$8,172,341	\$117,524	\$31,599	\$10,719	\$2,102,158	\$0	\$135,253	\$10,569,594	\$9,959,382	\$9,959,382	
FUND BALANCES, END OF YEAR	\$8,658,341	\$117,524	\$30,099	\$10,719	\$2,134,358	\$0	\$81,128	\$11,032,169	\$10,569,594	\$12,491,155	
								<i>2013 Budget</i>	<i>2012 Budget</i>	<i>2012 Projected</i>	

General Operations (Fund 100) Budget Summary
City of Mountain Brook, Alabama
Year Ended September 30

Department: General Operations (100)
Category:

Ledger Number	Ledger Description	2012 Actual	2013 Budget	2013 Projected	2014 Budget	Page Reference
Sources of Funds						
100-3XXX-XXXX	General Operations (100) Revenue	\$32,398,844	\$32,057,467	\$33,064,051	\$32,670,000	1.1
Expenses and Intrafund Transfers						
General Government						
100-1100-XXXX	Legislation & Management	\$2,702,402	\$2,664,467	\$2,518,697	\$2,186,909	2.5
100-1119-XXXX	Intergovernmental Services	\$809,144	\$835,712	\$772,810	\$789,462	2.1
100-1115-XXXX	Benefits (Unassigned)	\$692,191	\$638,200	\$665,580	\$705,100	2.2.1
100-1116-6915	Intrafund Transfers-Park Board	\$937,186	\$1,076,951	\$1,015,079	\$996,190	2.4
100-1116-697X	Intrafund Transfers-Library Board	\$2,510,370	\$2,645,870	\$2,639,753	\$2,807,290	2.4
100-1116-XXXX	Intrafund Transfers-All Other	\$2,767,499	\$1,216,081	\$1,079,655	\$1,736,377	2.4
Finance						
100-1211-XXXX	Administration	\$335,323	\$367,338	\$348,599	\$430,699	3.1
100-1212-XXXX	Revenue	\$258,891	\$262,857	\$266,789	\$246,695	3.2
100-1213-XXXX	Accounting	\$252,873	\$279,326	\$264,475	\$317,677	3.3
100-1214-XXXX	Network Services	\$342,302	\$403,015	\$385,531	\$370,191	3.4
Fire						
100-3410-XXXX	Administration	\$817,505	\$868,092	\$868,144	\$879,379	4.1
100-3417-XXXX	Training & Safety	\$126,618	\$140,295	\$126,628	\$136,111	4.2
100-3440-XXXX	Prevention	\$137,985	\$147,999	\$145,122	\$157,411	4.3
100-3441-XXXX	EMS Transportation	\$374,121	\$390,352	\$351,907	\$392,564	4.3
100-3442-XXXX	Suppression	\$4,984,171	\$5,294,950	\$5,240,495	\$5,494,214	4.5
100-1300-XXXX	Inspection Services	\$400,629	\$425,243	\$425,958	\$452,260	5.1
Police						
100-3510-XXXX	Administration	\$1,935,694	\$2,180,653	\$2,082,851	\$2,176,916	6.1
100-3517-XXXX	Training	\$98,075	\$134,750	\$107,400	\$146,250	6.2
100-3550-XXXX	Patrol	\$3,559,876	\$3,774,347	\$3,697,523	\$3,945,442	6.3
100-3551-XXXX	Detectives	\$772,336	\$777,808	\$897,028	\$894,440	6.4
100-3552-XXXX	School Resource Officer	\$82,206	\$87,587	\$96,591	\$176,813	6.5
Public Works						
100-6610-XXXX	Administration	\$933,580	\$922,932	\$933,440	\$936,827	7.1
100-6660-6420	Garbage & Trash Service	\$2,683,440	\$2,773,980	\$2,722,982	\$2,765,001	7.2
100-6661-XXXX	Heavy Construction	\$1,102,674	\$1,167,155	\$1,090,688	\$1,089,768	7.3
100-6662-XXXX	Traffic and Right-of-Way	\$1,433,725	\$1,507,811	\$1,523,766	\$1,638,980	7.4
100-6663-XXXX	Garage/Shop	\$393,559	\$466,981	\$312,996	\$315,034	7.5
Total General Operations Expenses		\$31,444,375	\$31,450,752	\$30,580,487	\$32,184,000	
General Operations Surplus (Deficit)		\$954,469	\$606,715	\$2,483,564	\$486,000	

Combining Statements of Revenues and Expenses - Capital Projects Fund
City of Mountain Brook, Alabama
Year Ended September 30

	2014 Budget					
	City Infrastructure			2014	2013	2013
	Capital	Improvement	Village Trail			
	Projects	Projects	System	Totals	Budget	Projected
441	417	428				
Revenues:						
Taxes	\$0	\$0	\$0	\$0	\$0	\$0
Licenses and permits	\$0	\$0	\$0	\$0	\$0	\$0
Intergovernmental	\$0	\$0	\$0	\$0	\$0	\$0
Charges for services	\$0	\$0	\$0	\$0	\$0	\$0
Fines and forfeitures	\$0	\$0	\$0	\$0	\$0	\$0
Grants	\$0	\$0	\$632,845	\$632,845	\$1,024,000	\$1,038,970
Investment Earnings	\$89,087	\$12,000	\$0	\$101,087	\$101,087	\$487,000
Miscellaneous - Proceeds from the sale of property	\$100,000	\$0	\$0	\$100,000	\$100,000	\$105,424
Total Revenues	\$189,087	\$12,000	\$632,845	\$833,932	\$1,225,087	\$1,631,394
Expenditures:						
General government	\$131,420	\$0	\$0	\$131,420	\$7,048,400	\$9,666,345
Public safety	\$1,598,344	\$0	\$0	\$1,598,344	\$1,694,232	\$1,425,000
Street & sanitation	\$327,705	\$466,887	\$855,920	\$1,650,512	\$2,278,620	\$2,265,510
Recreational	\$61,000	\$553,500	\$0	\$614,500	\$333,900	\$106,400
Library	\$283,318	\$0	\$0	\$283,318	\$64,318	\$48,000
Debt service	\$0	\$0	\$0	\$0	\$0	\$0
Total Expenditures	\$2,401,787	\$1,020,387	\$855,920	\$4,278,094	\$11,419,470	\$13,511,255
Excess (deficiency) of revenues						
over expenditures	(\$2,212,700)	(\$1,008,387)	(\$223,075)	(\$3,444,162)	(\$10,194,383)	(\$11,879,861)
Other Financing Sources (Uses):						
Proceeds from the issuance of debt	\$0	\$0	\$0	\$0	\$0	\$0
Operating transfers-in	\$2,585,590	\$611,358	\$0	\$3,196,948	\$2,467,264	\$2,373,014
Operating transfers-out	\$0	(\$361,191)	\$0	(\$361,191)	(\$358,941)	(\$360,600)
Donations	\$0	\$0	\$0	\$0	\$0	\$0
Total Other Financing Sources	\$2,585,590	\$250,167	\$0	\$2,835,757	\$2,108,323	\$2,012,414
Excess (Deficiency) of Revenues						
and Other Financing Sources Over						
Expenditures and other Financing Uses	\$372,890	(\$758,220)	(\$223,075)	(\$608,405)	(\$8,086,060)	(\$9,867,447)
Fund balance, beginning of year	\$3,092,219	\$5,286,567	\$245,312	\$8,624,098	\$18,491,545	\$18,491,545
FUND BALANCES, END OF YEAR	\$3,465,109	\$4,528,347	\$22,237	\$8,015,693	\$10,405,485	\$8,624,098

Combining Statements of Revenues and Expenses - Other Governmental Funds
 City of Mountain Brook, Alabama
 Year Ended September 30

	2014 Budget										
	State Shared Gasoline Tax Funds				Emergency			Debt		Budget	
	Five	Seven	Four	Two	Total	Communication	Corrections	Service	Totals	Totals	
	Cent	Cent	Cent	Cent		District	Fund	Fund			
521	522	523	524	52X	531	554	600	2014	2013		
Revenues:											
Taxes	\$58,000	\$197,000	\$119,000	\$4,000	\$378,000	\$0	\$0	\$0	\$378,000	\$417,700	
Licenses and permits	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	
Intergovernmental	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	
Charges for services	\$0	\$0	\$0	\$0	\$0	\$350,000	\$0	\$0	\$350,000	\$340,000	
Fines and forfeitures	\$0	\$0	\$0	\$0	\$0	\$0	\$161,000	\$0	\$161,000	\$180,000	
Grants	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	
Investment Earnings	\$314	\$131,000	\$2,472	\$49	\$133,835	\$1,600	\$0	\$47,000	\$182,435	\$175,705	
Miscellaneous	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	
Total Revenues	\$58,314	\$328,000	\$121,472	\$4,049	\$511,835	\$351,600	\$161,000	\$47,000	\$1,071,435	\$1,113,405	
Expenditures:											
General government	\$0	\$0	\$0	\$0	\$0	\$0	\$259,321	\$800	\$260,121	\$240,607	
Public safety	\$0	\$0	\$0	\$0	\$0	\$308,650	\$117,686	\$0	\$426,336	\$426,498	
Street & sanitation	\$160,000	\$368,000	\$436,000	\$20,000	\$984,000	\$0	\$0	\$0	\$984,000	\$740,000	
Recreational	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	
Library	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	
Debt service	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$360,391	\$360,391	\$358,141	
Total Expenditures	\$160,000	\$368,000	\$436,000	\$20,000	\$984,000	\$308,650	\$377,007	\$361,191	\$2,030,848	\$1,765,246	
Excess (deficiency) of revenues over expenditures	(\$101,686)	(\$40,000)	(\$314,528)	(\$15,951)	(\$472,165)	\$42,950	(\$216,007)	(\$314,191)	(\$959,413)	(\$651,841)	
Other Financing Sources (Uses):											
Proceeds from the issuance of debt	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	
Operating transfers-in	\$0	\$100,000	\$0	\$0	\$100,000	\$0	\$216,007	\$661,191	\$977,198	\$926,546	
Operating transfers-out	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	
Donations	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	
Total Other Financing Sources	\$0	\$100,000	\$0	\$0	\$100,000	\$0	\$216,007	\$661,191	\$977,198	\$926,546	
Excess (Deficiency) of Revenues and Other Financing Sources Over Expenditures and other Financing Uses	(\$101,686)	\$60,000	(\$314,528)	(\$15,951)	(\$372,165)	\$42,950	\$0	\$347,000	\$17,785	\$274,705	
Fund balance, beginning of year	\$146,108	\$157,260	\$392,338	\$19,532	\$715,238	\$516,600	\$0	\$3,393,678	\$4,629,421	\$4,365,168	
FUND BALANCES, END OF YEAR	\$44,422	\$217,260	\$77,810	\$3,581	\$343,073	\$559,550	\$0	\$3,740,678	\$4,647,206	\$4,639,873	
<i>Page Reference</i>	11.1.3	11.1.4	11.1.5	11.1.6	11.1.2	11.2	11.3	11.4.1	2014	2013	

Budget Change Tracking Worksheet
City of Mountain Brook
September 30, 2014

Reference		Ledger	City-Wide	100	146	132	701	702	703	417	428	441	521	522	523	524	531	600
Page No.	Dept. No.	Number																
		Finance Committee Recommendations	(\$150,161)	\$401,884	\$32,200	(\$1,500)	\$0	(\$54,375)	\$250	(\$696,220)	(\$223,075)	\$372,890	(\$101,686)	\$60,000	(\$314,528)	(\$15,951)	\$42,950	\$347,000
			\$0															
45	Gen Gov't	BOE antenna booster	(\$42,000)	(\$42,000)														
45	Gen Gov't	Organizational study (library)	(\$20,000)	(\$20,000)														
242	Public Wks	English Village parking lot paving	\$18,000	\$18,000														
			\$0															
			\$0															
2013 carry-overs and other adjustments:																		
403	Court	Prosecutor & Judge(s) compensation	(\$15,755)	(\$15,755)														
299	Park	Admin Asst salary estimate (Step 2)	\$7,007	\$7,007														
242	Public Wks	English/Crestline Village Improvement	(\$3,000)							(\$3,000)								
306	Park	Repave complex road (other 1/2)	(\$14,000)	(\$14,000)														
Various		Fleet expense allocations	\$56,250	\$56,250														
	Public Wks	Pedstrian bridge	(\$50,000)	\$0						(\$50,000)								
88	Finance	Back-up server (Received)	\$0	(\$-35,000)														
	Park	Rubber base at Overton Park	(\$9,000)							(\$9,000)								
189	Police	Ammunition	(\$14,000)	(\$14,000)														
Various	Revenue	Updated revenue projections	\$108,614	\$108,614														
			\$0															
Adjusted Surplus (Deficit)			(\$128,045)	\$486,000	\$32,200	(\$1,500)	\$0	(\$54,375)	\$250	(\$758,220)	(\$223,075)	\$372,890	(\$101,686)	\$60,000	(\$314,528)	(\$15,951)	\$42,950	\$347,000
			<u>\$128,045</u>	<u>\$486,000</u>	<u>\$30,700</u>	<u>(\$54,125)</u>				<u>(\$608,405)</u>			<u>\$17,785</u>					

RESOLUTION NO. 2013-143

BE IT RESOLVED by the City Council of the City of Mountain Brook, Alabama, that effective October 9, 2012, the salaries of all employees (classified and unclassified) of the City of Mountain Brook, Alabama, including employees of The Emmet O'Neal Library Board and Parks and Recreation Board, shall be increased by one and one half of one percent (1-1/2%) over the current salary schedule.

ADOPTED: The 23rd day of September, 2013.

Council President

APPROVED: The 23rd day of September, 2013.

Mayor

CERTIFICATION

I, Steven Boone, City Clerk of the City 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 meeting held on September 23, 2013, as same appears in the minutes of record of said meeting.

City Clerk

ORDINANCE NO. 1895

**AN ORDINANCE TO INCREASE THE SALARY OF THE
CITY MANAGER OF THE CITY OF MOUNTAIN BROOK, ALABAMA**

BE IT ORDAINED by the City Council of the City of Mountain Brook, Alabama, as follows:

Section 1. Effective October 8, 2013, the salary of the City Manager of the City of Mountain Brook shall be increased by one percent (1%) to five thousand eight hundred twenty-three and 33/100 dollars (\$5,823.33) bi-weekly.

Section 2. The Mayor is hereby authorized to execute an [amended] employment agreement to reflect the revised base salary described in Section 1 above, in the form as attached hereto as Exhibit A, between the City and City Manager.

Section 3. All ordinances and resolutions concerning the salary and employment agreement of the City Manager which have been adopted previously are hereby repealed.

Section 4. This ordinance shall become effective when published by posting the same as required by law.

ADOPTED: The 23rd day of September, 2013.

Council President

APPROVED: The 23rd day of September, 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 September 23, 2013, as same appears in the minutes of record of said meeting, and published by posting copies thereof on September ____, 2013, at the following public places, which copies remained posted for five (5) days as required by law.

City Hall, 3928 Montclair Road, Ste. 148
Gilchrist Pharmacy, 2850 Cahaba Road

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

City Clerk

EMPLOYMENT AGREEMENT

THIS EMPLOYMENT AGREEMENT made by and between SAM GASTON ("Gaston") and the CITY OF MOUNTAIN BROOK, ALABAMA ("City").

WHEREAS, Gaston has satisfactorily served as City Manager for the City since June 1993; and

WHEREAS, Gaston and the City have agreed that the terms and conditions of Gaston's continued employment should be memorialized and set forth in a formal contract of employment in order to promote clarity and avoid misunderstanding;

PREMISES CONSIDERED, Gaston and the City agree to the following terms and conditions:

1. Appointment as City Manager; Duties. Gaston shall serve as City Manager of the City of Mountain Brook, Alabama, and, in such capacity, shall perform such tasks and duties as may be prescribed and/or directed by the governing body or by applicable ordinance or statute. Gaston shall devote all of his productive time, ability and attention to the business of the City during the term of his appointment and shall not engage in any other employment or pursuit that would conflict or interfere with his duties and responsibilities as City Manager.
2. Term of Appointment. The term of Gaston's appointment shall be as provided by law.
3. Cancellation; Notice. Gaston's appointment and the City's obligations hereunder may be terminated by (i) operation of law; (ii) termination thereof by the governing body without cause during his term of appointment; (iii) termination thereof by the governing body for cause during his term of appointment; and (iv) Gaston's voluntary resignation.

The City may at its option terminate Gaston's appointment at any time for cause. For purposes of this Agreement, termination "for cause" shall include, but not be limited to, viz: (i) any act of theft, embezzlement, immoral conduct, sexual harassment, use of illicit drugs, or intoxication while acting as an employee of the City; (ii) the conviction for any crime involving moral turpitude; (iii) the willful neglect by Gaston of his duties hereunder; or (iv) the continued breach of any material term or condition of this Agreement by Gaston after written notice. Upon any such termination by the City for cause, Gaston shall only be entitled to the compensation and benefits provided in this Agreement (including accrued but unused vacation and sick leave) computed on a prorated basis up to and including the date of such termination, and shall be entitled to no further compensation subsequent to said date except as may be required by law. Any termination for cause by the City shall not prejudice its rights to seek any other redress or remedy to which it may be entitled under the law.

The City may also, at its option, terminate this Agreement at any time without cause. In the event of any termination by the City of this Agreement without cause prior to the expiration of Gaston's term as provided by law, the City shall be fully obligated to pay to Gaston his full salary and fringe benefits, including but not limited to any accrued but unused vacation and sick leave, only for the four (4) month period immediately following said date of termination. In exchange for said payments by the City, Gaston agrees to make himself available to provide consulting services to the City as may be reasonably requested during said four (4) month period.

Gaston shall provide the City at least sixty (60) days' advance written notice of his resignation. Upon termination of his employment, Gaston shall be paid for any accrued but unused sick leave and/or unused vacation days in accordance with generally applicable city policy.

4. Compensation and Benefits; Evaluation. Gaston shall receive as base compensation the sum of one hundred fifty-one thousand four hundred six and 58/100 dollars (\$151,406.58) per annum, which shall be paid in regular increments according to the payroll system and schedule then in effect for the City. Gaston shall also receive and be eligible for the same across-the-board raises and fringe benefits (including but not limited to health, dental, disability, and life insurance, longevity pay, vacation, and sick leave) as are accorded or made available to city employees generally; provided, however, that nothing herein shall be construed to confer merit or civil service status on Gaston. Gaston's job performance shall be evaluated periodically at the discretion of the City Council. Upon receipt of a satisfactory performance evaluation, Gaston shall be entitled to such increase in basic compensation for the duration of the term of his appointment as the governing body may deem appropriate.

In addition to the foregoing, and in keeping with past practice, the City shall furnish to Gaston an automobile that may be used by Gaston for city-related functions, activities, and purposes, and for transportation between work location(s) and his personal residence. The City shall pay or provide for all gasoline, oil, maintenance, and insurance expenses associated with operation of the automobile. The City shall also pay for or reimburse Gaston for all actual and reasonable out-of-pocket expenses, dues, or fees incurred by Gaston in performing or attending city-related functions and activities, including but not limited to membership in and attendance at annual or semi-annual conferences sponsored by the ACCMA, the APA, and the ICMA.

5. Notice. All notices, consents, requests, approvals, and other communications provided for herein shall be validly given, made, or served if in writing and delivered personally or sent by registered or certified mail, postage prepaid, as follows, viz:

TO GASTON: Sam S. Gaston
2028 Clearview Drive
Birmingham, AL 35244

TO CITY: City of Mountain Brook
c/o _____
P. O. Box 130009
Mountain Brook, AL 35213-0009

6. Modification. This Agreement cannot be changed, modified, or amended in any respect except by a written instrument signed by both parties.

7. Entire Agreement. This Agreement supersedes all other agreements previously made between the parties relating to its subject matter. There are no other understandings or agreements, as all prior agreements are hereby merged into this Agreement.

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

9. Controlling Law. In the event of a conflict between the terms of this Agreement and applicable state or federal law, said law(s) shall control, and this Agreement shall be construed with reference to and in accordance with applicable law.

10. Effective Date. This Agreement shall be effective upon approval of an ordinance adopting or ratifying same.

DATED this ____ day of September, 2013.

CITY MANAGER

CITY OF MOUNTAIN BROOK

Sam Gaston

By: _____
Lawrence T. Oden, Mayor

RESOLUTION NO. 2013-144

WHEREAS, on December 13, 1971 the City Council of the City of Mountain Brook adopted a resolution concerning longevity compensation which was subsequently amended on December 12, 1994 (Resolution No. 94-113), September 13, 1999 (Resolution 99-126), September 22, 2003 (Resolution No. 03-126), and September 22, 2008 (Resolution No. 08-140); and

WHEREAS, the City Council wishes to again revise its longevity compensation policy;

NOW, THEREFORE BE IT RESOLVED by the City Council of the City of Mountain Brook, Alabama that the City's longevity compensation policy will be amended as follows:

1. All permanent, full-time employees (classified and unclassified) are eligible for longevity compensation after completing five (5) years of service with the City where service is measured in full years as of September 30 of each year. The first longevity payment to any eligible employee shall be made after such employee works through their sixth September 30th with the City.
2. Longevity compensation will be calculated as a percentage of an employee's base salary as of the preceding September 30 in the following amounts:

Years of Service	Longevity Pay as a Percentage Base Pay
0 - 5 years	0%
6 years	1.5%
7 - 20 years	1.5% plus 0.5% per year limited to 8.5%

3. The total longevity compensation without regard to City-paid benefits (City-wide including Park Board and Library Board) for any year beginning after September 30, 2013 (longevity compensation payable November 2013 and thereafter) shall be limited to \$440,000. Such limitation is subject to change at the discretion of the City Council. Where the calculated longevity compensation exceeds the above limitation, the difference will be deducted from each individual longevity check on a pro rata basis. For example, if the total calculated longevity payment exceeds the limitation by 20%, all longevity checks will be reduced by 20%.
4. Upon the normal retirement of an employee who is entitled to longevity compensation, the employee's longevity pay shall be prorated through the last day of the month preceding the month of the employee's retirement provided, however, that there will be no proration of the service year prior to the month of December (i.e., retirement dates between October 1 and November 30).
5. All longevity payments, including prorated longevity payments due to individuals that retired during the year, shall be prepared and distributed on or before sixty (60) days after the City's September 30 fiscal year end.

ADOPTED: The 23rd day of September, 2013.

Council President

APPROVED: The 23rd day of September, 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 meeting held on September 23, 2013, as same appears in the minutes of record of said meeting.

City Clerk

Sam Gaston

From: elisabeth lyman
Sent: Monday, September 16, 2013 11:04 AM
To: Sam Gaston
Subject: Email about addressing the city council

Dear Sam:

Initially, thanks to you, Mayor Oden, and the Councilors for your consideration to allow me to appear before the Council on September 23, 2013. I'd like to tell you why and how many believe the City can be involved with saving existing businesses with economic incentives. We can start with the Pig.

The presentation should take 15 minutes. Everything to be said starts with three points.

1. Alabama law allows cities to offer incentives to both new and existing businesses. Amendment 772 to the Alabama Constitution is the source of this authority.
2. Incentives should be offered to existing businesses having a significant positive effect on the Mountain Brook economy. The City should not discriminate against existing businesses in favor of new businesses. The City will lose \$300,000 in tax revenue in the first year. People come to the Crestline to shop at the Pig and stay to buy other items at other local businesses, meaning more than \$300,000 in tax dollars will be lost if the Pig leaves. The incentives could be a rebate on sales tax to be paid by the Verciglios to the landlord. Alternatively, the incentive could be a loan from the City or a loan guarantee by the City. The loan would be used by the Verciglios to renovate the Pig. One impediment to the Verciglios signing the lease is they cannot afford the cost of renovation. Another alternative is for the City to pay for the renovation which would have a 20-year life. The City would recoup its investment in two or three years. There are other options.
3. Keeping our existing businesses boosts morale, provides a safe haven for children to shop and to work, and maintains the character and personality of the place we chose to call home. Crestline is a model used by other cities for urban village living. A grocery is necessary to an urban village. All the money spent on sidewalks and the tower are lost without a grocery. Many people, especially children, walk to Crestline to shop for groceries. Finally, the Pig is our icon, and we cannot lose it.

Thanks again. I hope to hear from you soon.

Best,

Elisabeth