MEETING AGENDA
MOUNTAIN BROOK CITY COUNCIL

CITY HALL COUNCIL CHAMBER (ROOM A108)
56 CHURCH STREET
MOUNTAIN BROOK, AL 35213

SEPTEMBER 12, 2016, 7:00 P.M.

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1. Approval of the minutes of the August 22, 2016 regular meeting of the City Council.

2. Approval of the minutes of the August 25, 2016 special meeting of the City Council.

3. Proclamation: September 17th through 23rd 2016 proclaimed "Constitution Week".

4. Proclamation: September 2017 "Gynecologic Cancer Awareness Month".

5. Consideration: Resolution appointing Kelly Hulsey to the Tree Commission, to serve without compensation through September 12, 2019.

6. Consideration: Resolution appointing Elizabeth Poynor to the Tree Commission, to serve without compensation through September 12, 2019.

7. Consideration: Resolution reappointing Penny Page to the Emmet O'Neal Library Board, to serve without compensation through October 30, 2020.

8. Consideration: Resolution reappointing Max Pulliam to the Emmet O'Neal Library Board, to serve without compensation through October 30, 2020.

9. Consideration: Resolution rejecting all bids (B-20160804-132) with respect to the construction of a new public safety training building at the Public Works complex.

10. Consideration: Resolution ratifying the engagement of Richard Riley Simpson under the supervision of Brasfield & Gorrie (Resolution No. 2016-095) to perform moisture abatement exploration services at the Emmet O'Neal Library building in relation to the ongoing service agreement previously authorized (Resolution Nos. 2016-058).

11. Consideration: Resolution authorizing the execution of three agreements between the City and Alabama Department of Transportation with respect to the bridge reconstruction and rehabilitation for the Old Brook Trail bridge (#012869) over Little Shades Creek and Canterbury Road bridge (#002873) over Watkins Creek:
    a. Right-of-Way Agreement
    b. Preliminary Engineering Agreement
    c. Utility and Construction Agreement

12. Consideration: Resolution authorizing the execution authorizes the execution of an Agreement for Services between the City and Regional Planning Commission of Greater Birmingham with respect to an 80% APPLE-funded Mountain Brook Sidewalks Feasibility Study.

13. Consideration: Resolution declaring certain property surplus and authorizing its sale or disposition.

14. Consideration: Resolution approving the lunch time conditional use application for Ice House at 2708 Culver Road submitted by Tom Sheffer.

15. Consideration: Resolution authorizing the execution of a settlement agreement with respect to the Alabama Furniture Market, LLC v. City of Alabaster, et. al. Circuit Court of Shelby County, AL – CV 12-900331.

MEETING AGENDA
MOUNTAIN BROOK CITY COUNCIL

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SEPTEMBER 12, 2016, 7:00 P.M.

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16. Consideration: Resolution authorizing the execution of a professional services agreement between the City and Sain Associates for construction, engineering and inspection services with respect to the Phase 9 sidewalk project.

17. Consideration: Resolution authorizing the execution of an auditing services addendum to the master agreement (Resolution No. 2016-110 adopted August 22, 2016) between the City and Public Resource Management Alliance Corporation with respect to the City's tax and license administration.

18. Consideration: Resolution authorizing the execution/renewal of two ground leases with respect to the English Village public parking lots.

19. Consideration: Resolution authorizing the execution of a professional services agreement between the City and Gresham, Smith & Partners with respect to the design and administration of the bridge reconstruction and rehabilitation for the Old Brook Trail bridge (#012869) over Little Shades Creek and Canterbury Road bridge (#002873) over Watkins Creek.

20. Consideration: Ordinance repealing Ordinance No. 1693 and prohibiting smoking in certain enclosed and outdoor public places in the City.

21. Public hearing: Consideration of an ordinance adopting the City's fiscal 2017 budget.

22. Consideration: Ordinance increasing the salary (1-1/2%) of the City Manager effective October 4, 2016 and amending the related employment agreement.

23. Consideration: Resolution increasing the salary schedule for all classified and unclassified employees by 1-1/2% effective October 4, 2016 and increasing the compensation for contract security services for the City's Public Works facilities (Resolution No. 2013-146) by 1-1/2% effective October 4, 2016.

24. Public hearing: Consideration of an ordinance amending Sec. 129-295 of the City Code regarding open houses, home tours, and special events in residential zoning districts.

25. Consideration: Ordinance amending Chapter 14 of the City Code with respect to the building permit fee for non-residential construction permits (increased by $1 per $1,000 of construction value to be paid to the State of Alabama to fund the Construction Industry Craft Training program to be administered by the Alabama Craft Training Board pursuant to Act 2015-308 of the Alabama Legislature).

26. Announcement: The next regular meeting of the City Council is September 26, 2016, at 7:00 p.m. in the Council Chamber of City Hall located at 56 Church Street, Mountain Brook, AL 35213.

27. Comments from residents.

28. Adjourn.

MOUNTAIN BROOK CITY COUNCIL
PRE-MEETING DISCUSSION
AUGUST 22, 2016

The City Council of the City of Mountain Brook, Alabama met in public session in the Pre-council Room (A106) of City Hall at 6:00 p.m. on Monday, the 22nd day of August, 2016. The Council President called the meeting to order and the roll was called with the following results:

Present: Virginia C. Smith, Council President
William S. Pritchard, III, Council President Pro Tempore
Jack D. Carl
Lloyd C. Shelton
Alice B. Womack
Lawrence T. Oden, Mayor

Absent: None

Also present were City Attorneys Whit Colvin and Steve Stine, City Manager Sam Gaston and City Clerk Steven Boone.

1. AGENDA

1. Lease renewal for two parking lots in English Village-Keith Arendall and Sam Gaston (Appendix 1).

2. Conditional Use for MPower (Pilates) at 2419 Canterbury Road-Dana Hazen (Appendix 2).

   Summary of concerns expressed by the Mayor and members of the City Council:
   - Limited parking during the lunch time frame
   - Similar businesses in the immediate vicinity that likely will want a similar conditional use approval, if granted

   Emma Suttles (applicant) suggested a class starting at 1:30 p.m. (still early enough to accommodate parents with school-age children). The Council President suggested that the applicant and Ms. Hazen meet regarding the later class and revisit the City Council on September 12.

3. Restroom for Mountain Brook Elementary playing field-Shanda Williams (Appendix 3).

   It has been determined that the

   Norman Johnson, architect, suggested that the City engage a landscape architect to advise the City regarding the most suitable location and also aesthetics

   Because the specifications must be changed (move the building out of the flood way), the project will have to be re-bid.

   Shanda Williams will proceed with engaging an electrician to wire the scoreboard and will work with a landscape architect before finalizing the site and rebidding the project.

   Faye Clark, representing the garden club that donated the funds for the park bench, stated that the proposed new location is acceptable. If another location is determined necessary, the garden club can live with the City relocating the park bench.

   There were no bids for the initial invitation to bid so nothing to reject.

4. Smoking Ordinance-Steve Stine (Appendix 4).

Issues addressed in the proposed draft include:

- The ordinance does not apply to private property
- Exceptions for enclosed locations include residential properties and cigar bars
- A cigar bar is a location where the primary activity includes the sale of cigars and tobacco products
- The draft ordinance includes less stringent definitions that have been suggested in the model ordinance. If issues arise later, the definitions can be revised as determined appropriate.
- Persons may smoke outside on public property so long as they maintain a twenty foot spacing between others at the public property
- No smoking signs are not required under the ordinance
- Designated smoking areas are not required under the ordinance
- The exemption for private clubs remains in the draft ordinance
- There was some debate about definition (5) Enclosed, specifically in reference to "at least two sides by walls . . ."
- Because this ordinance has not been considered in regular session previously, it will require unanimous consent for immediate consideration

5. Review of the matters to be considered at the formal [7 p.m.] meeting.

6. Executive session

There being no further business to come before the City Council, it was moved by Council President Pro Tempore Pritchard that the City Council convene in executive session to discuss a matter involving a real estate negotiation. The motion was seconded by Council President Smith. The City Attorney certified that the subject of the executive session is allowed pursuant to the Open Meetings Act. Then, upon the question being put and the roll called, the vote was recorded as follows:

Ayes: Virginia C. Smith, Council President
William S. Pritchard, III, Council President Pro Tempore
Jack D. Carl
Lloyd C. Shelton
Alice B. Womack

Nays: None

Council President Smith declared that the motion carried by a vote of 5—0 and then asked that the members of the audience be excused. She also announced that the City Council shall reconvene upon conclusion of the executive session at approximately 7 p.m. in the Council Chamber.

2. CERTIFICATION

I, Steven Boone, City Clerk of the City of Mountain Brook, Alabama, certify the above is a true and correct synopsis of the discussion from the meeting of the City Council of the City of Mountain Brook, Alabama held at City Hall, Pre-Council Room (A106) on August 22, 2016, and that the meeting was duly called and held in all respects in accordance with the laws of the State of Alabama and bylaws of the City and that no formal action or votes were conducted at said meeting.

_____
City Clerk

MINUTES OF THE REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF MOUNTAIN BROOK, ALABAMA AUGUST 22, 2016

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 22nd day of August, 2016. The Council President called the meeting to order and the roll was called with the following results:

Present: Virginia C. Smith, Council President
William S. Pritchard, III, Council President Pro Tempore
Jack D. Carl
Lloyd C. Shelton
Alice B. Womack
Lawrence T. Oden, Mayor

Absent: None

Also present were City Attorneys Whit Colvin and Steve Stine, 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 Boy Scout Alex Stokes of Troop 63 (St. Peter's) in attendance for his Communications merit badge.

2. CONSENT AGENDA

Council President Smith then 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 8, 2016 regular meeting of the City Council

2016-106 Proclamation	September 2016 proclaimed "Myositis Awareness Month"	Exhibit 1
2016-107	Accept the professional services proposal of FBAC Fontenot Benefits & Actuarial Consulting for the actuarial valuation and disclosure services required by GASB 45 or [early implementation of] GASB 75 with respect to the City's other post-employment benefit plan (retiree medical insurance)	Exhibit 2, Appendix 1
2016-108	Authorize the execution of a professional services agreement between the City and Skipper Consulting for a traffic and pedestrian study of Vine Street, Dexter Avenue and Church Street	Exhibit 3, Appendix 2
2016-109	Set a public hearing on September 12, 2016 at 7 p.m. to consider an ordinance amending Sec. 129-295 of the City Code regarding open houses, home tours, and special events in residential zoning districts	Exhibit 4

2016-110	Authorize the execution of a revenue enhancement and auditing services agreements between the City and Public Resource Management Alliance Corporation with respect to the revenue enhancement services	Exhibit 5, Appendix 3
2016-111	Declare two (2) Police Chevrolet Tahoe's surplus and authorize their sale to Livingston Parish, Louisiana Sheriff's Office in consideration of one dollar ($1.00)	Exhibit 6

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

Ayes: Virginia C. Smith, Council President
William S. Pritchard, III, Council President Pro Tempore
Jack D. Carl
Lloyd Shelton
Alice Womack

Nays: None

Council President Smith thereupon declared that said Council minutes, proclamation (No. 2016-106) and resolutions (Nos. 2016-107 through 2016-111) are adopted by a vote of 5—0 and as evidence thereof she signed the same.

3. CONSIDERATION OF AN ORDINANCE REPEALING ORDINANCE NO. 1693 AND PROHIBITING SMOKING IN CERTAIN ENCLOSED PLACES AND CERTAIN OUTDOOR PUBLIC PLACES IN THE CITY (EXHIBIT 7)

The ordinance was introduced in writing by Council President Smith who then invited questions and comments from the audience.

Leslie Brown of 133 Cherry Street asked how a situation should be handled when someone is [legally] smoking at an outdoor public location and other/non-smokers enter the same area. Mr. Stine responded that once someone else enters the public area, it is the smoker's responsibility to stop otherwise they will be in violation of the ordinance. The non-smoker(s) may request that the put out their smoke or call the police to enforce the ordinance.

There being no comments or discussion, Council President Smith called for a motion. Council President Pro Tempore Pritchard made a motion that all rules and regulations which, unless suspended, would prevent the immediate consideration and adoption of said ordinance be suspended, and that unanimous consent to the immediate consideration of said ordinance is given and that the reading of the ordinance at length be waived. The motion was seconded by Council President Smith and was carried, as follows:

Ayes: Virginia C. Smith, Council President
William S. Pritchard, III, Council President Pro Tempore
Lloyd C. Shelton
Alice B. Womack

Nays: Jack D. Carl

The Council President Smith declared the motion failed by a vote of 4—1. This matter may be reconsidered on September 12, 2016.

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

Council President Smith announced that the next meeting of the Mountain Brook City Council will be held on Monday, September 12, 2016 at 7:00 p.m. in the Council Chamber of City Hall located at 56 Church Street, Mountain Brook, AL 35213. Please visit the City's web site (www.mtnbrook.org) for more information.

5. ADJOURNMENT

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

6. CERTIFICATION

I, Steven Boone, City Clerk of the City of Mountain Brook, Alabama, certify the above is a true and correct transcript of the regular meeting of the City Council of the City of Mountain Brook, Alabama held at City Hall, Council Chamber (Room A108) on August 22, 2016, and that the meeting was duly called and held in all respects in accordance with the laws of the State of Alabama and bylaws of the City and that a quorum was present.

City Clerk

EXHIBIT 1

MYOSITIS AWARENESS MONTH

WHEREAS, "Myositis" is a general term describing a number of Idiopathic Inflammatory Myopathies, which are life-threatening, rare diseases and thought to be autoimmune in nature causing muscle weakness, inflammation, pain, skin rashes, lung disease, impairment in swallowing, and fatigue; and

WHEREAS, There is no cure for any form of Myositis and only limited treatment options, which can have life-altering side effects, and due to the rarity of Myositis, there is often a delay in diagnosis or misdiagnosis causing a delay in potentially effective treatments that may lead to permanent muscle loss; and

WHEREAS, Education for patients, caregivers, and healthcare providers is important to the overall health of patients; and

WHEREAS, Myositis can affect both children and adults of all ages with symptoms often developing slowly while often mimicking other less-rare diseases; and

WHEREAS, Myositis affects every aspect of patients' lives including emotional, physical, relationships, and financial, patients deserve emotional support, financial assistance, and understanding; and

WHEREAS, Raising awareness and funding are important factors in advancing research and developing new, less-damaging treatments with the goal of a cure for Myositis; and

WHEREAS, Congress passed a house resolution in 2006 proclaiming September 21st as National Myositis Awareness Day; and

WHEREAS, CITY OF MOUNTAIN BROOK would like to join Congress and Myositis Support and Understanding Association in raising awareness of Myositis.

NOW, THEREFORE, I, Lawrence T. Oden, Mayor of the City of Mountain Brook, do hereby **proclaim** that September 2016, be observed as

MYOSITIS AWARENESS MONTH

MINUTES OF THE SPECIAL MEETING OF THE CITY COUNCIL OF THE CITY OF MOUNTAIN BROOK, ALABAMA AUGUST 25, 2016

The City Council of the City of Mountain Brook, Alabama met in special public session at City Hall of the City of Mountain Brook on Tuesday, the 25th day of August 2016, at 5:00 p.m. The meeting was then called to order by the Council President and the roll was called with the following results:

Present: Virginia C. Smith, Council President
William S. Pritchard, III, Council President Pro Tempore
Jack D. Carl
Lloyd C. Shelton
Alice B. Womack

Absent: Lawrence T. Oden, Mayor

Also present were City Manager Sam Gaston and City Clerk Steven Boone.

1. CONSIDERATION OF A RESOLUTION (NO. 2016-112) CANVASSING THE RESULTS OF THE AUGUST 23, 2016 GENERAL MUNICIPAL ELECTION (APPENDIX 1)

The following resolution was introduced in writing by Council President Smith and considered by the City Council:

RESOLUTION NO. 2016-112

RESOLUTION CANVASSING THE RESULTS OF THE AUGUST 23, 2016, CITY OF MOUNTAIN BROOK GENERAL MUNICIPAL ELECTION

WHEREAS, the general election for the City of Mountain Brook was duly and legally held on Tuesday, August 23, 2016, as provided by law, and

WHEREAS, the municipal governing body of the City of Mountain Brook met on this 25th day of August 2016, a quorum thereof of being present, at 5 o'clock p.m., and has canvassed the returns, and has ascertained and determined the number of votes received by each candidate, and

WHEREAS, said municipal governing body has ascertained and determined the results of said election summarized as follows [Appendix 1]:

	St. Luke's Episcopal 01	City Hall 02	Brookwood Baptist Church 03	Mountain Brook Comm. Church 04	Mountain Brook Elem. 05	Cherokee Bend Elem. 06	Absentee	Total
City Council Place 2								
Philip Black	200	329	157	157	107	136	18	1,104
Provisional	0	0	0	0	0	0	0	
								63.6%
Vincent J. Schilleci, III	59	74	107	71	28	62	8	409
Provisional	0	0	0	0	0	0	0	
								23.5%
Tripp Watson	26	84	30	26	21	32	6	225
Provisional	0	0	0	0	0	0	0	
								12.9%
	285	**487**	**294**	**254**	**156**	**230**	**32**	**1,738**
								100%
Registered voters	2,240	3,929	3,241	3,436	1,611	2,104	N/A	16,561
Voter turn-out	*12.7%*	*12.4%*	*9.1%*	*7.4%*	*9.7%*	*10.9%*	*N/A*	*10.5%*

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Mountain Brook, Alabama that:

1. Philip Black received a majority of the votes cast for the office of City Council Place No. 2 and is hereby declared duly elected to that office for the four (4) year term beginning on the first Monday in November 2016.

It was moved by Council member Shelton that the resolution canvassing the election results be passed. The motion for adoption of the resolution was seconded by Council member Womack and upon the question, the vote thereon was as follows:

Ayes: Virginia C. Smith, Council President
William S. Pritchard, III, Council President Pro Tempore
Jack D. Carl
Lloyd C. Shelton
Alice B. Womack

Nays: None

Council President Smith thereupon declared that said resolution (no. 2016-112) is adopted by a vote of 5—0 and as evidence thereof she signed the same and the elected officials issued a certificate of election (Exhibit 1).

2. ADJOURNMENT

There being no further business to come before the City Council, Council President Smith adjourned the meeting. The next regular meeting of the City Council is scheduled for Monday, September 12, 2016, at 7 p.m. in the Council Chambers of City Hall.

3. CERTIFICATION

I, Steven Boone, City Clerk of the City of Mountain Brook, Alabama, certify the above is a true and correct synopsis of the discussion from the meeting of the City Council of the City of Mountain Brook, Alabama held at City Hall, Pre-Council Room (A106) on August 25, 2016, and that the meeting was duly

called and held in all respects in accordance with the laws of the State of Alabama and bylaws of the City and that no formal action or votes were conducted at said meeting.

There being no further business to come before the City Council, Council President Smith adjourned the meeting. The next regular meeting of the City Council is scheduled for Monday, September 12, 2016, at 7 p.m. in the Council Chambers of City Hall.

City Clerk

EXHIBIT 1

CERTIFICATE OF ELECTION

STATE OF ALABAMA

JEFFERSON COUNTY

CITY OF MOUNTAIN BROOK, ALABAMA

The undersigned hereby certify that the official canvass of the votes cast in the general municipal election held in the City of Mountain Brook, Alabaman, on August 23, 2016, shows that Philip Black was duly elected to the office of City Council Place No. 2 of the City of Mountain Brook, Alabama for the four (4) year term commencing on the first Monday of November, 2016.

Adopted pursuant to the requirements of Sections 11-46-20 et seq. of the Alabama Code of 1975, as amended, this 25th day of August 2016.

Virginia C. Smith, Council President

William S. Pritchard, III,
Council President Pro Tempore

Jack D. Carl, Council Member

Lloyd C. Shelton, Council Member

Alice B. Womack, Council Member

PROCLAMATION

WHEREAS, The Constitution of the United States of America, the guardian of our liberties, embodies the principles of limited government in a Republic dedicated to rule by law; and

WHEREAS, September 17, 2016, marks the two hundred twenty-ninth anniversary of the framing of the Constitution of the United States of America by the Constitutional Convention, providing a historic opportunity for all Americans to remember the achievements of our Founding Fathers and to reflect on the actions of Americans who for the past 229 years have defined the words of the Constitution by exercising their rights and responsibilities as citizens; and

WHEREAS, It is fitting and proper to accord official recognition to this magnificent document and its memorable anniversary, and to the patriotic celebration that which will commemorate it; and

WHEREAS, Public Law 915 guarantees the issuing of a proclamation each year by the President of the United States of America designating September 17th through 23rd as Constitution Week;

NOW, THEREFORE, I, Lawrence T. Oden, by virtue of the authority vested in me as Mayor of the City of Mountain Brook, do hereby proclaim the week of September 17th through 23rd 2016, as

CONSTITUTION WEEK

and encourage all residents to recognize and appreciate the importance of this enduring document to our nation and reaffirm our commitment to the rights and responsibilities of citizenship in this great nation, study the Constitution, and reflect on the privilege of being an American with all the rights and responsibilities which that privilege involves.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the City of Mountain Brook to be affixed the 12th day of September of the year of our Lord 2016 and of the Independence of the United States of America, the 240th.

_____

Lawrence T. Oden, Mayor

2016-113

Proclamation

By the Governor of Alabama

WHEREAS, September 17, 2016, marks the 229th anniversary of the signing of the Constitution of the United States of America at the Constitutional Convention, providing a historic opportunity for all Americans to remember the achievements of our Founding Fathers and to reflect on the actions of Americans who for the past 229 years have defined the words of the Constitution by exercising their rights and responsibilities as citizens; and

WHEREAS, the Constitution is fundamentally predicated on governance by "We the People," making citizens' understanding of the Constitution and its framework an essential element of the future of our country and the civic health of its populace; and

WHEREAS, it is fitting and proper to officially recognize this remarkable document and the milestone anniversary of its creation, and the additions to it in the form of 27 amendments; and

WHEREAS, the National Constitution Center, America's first and only non-partisan, non-profit institution devoted to the Constitution, located in Philadelphia across from Independence Hall where the Constitution was drafted and signed, is the home of the 229th anniversary celebration of the Constitution, and

WHEREAS, December 14, 1819, marks the anniversary of Alabama's statehood, and

WHEREAS, in recognition of the signing of the Constitution and of Americans who strive to fulfill the duties and responsibilities of citizenship, the Congress, by joint resolution of February 29, 1952 (36 U.S.C. 106 as amended), designated September 17 as Constitution Day and Citizenship Day, and by joint resolution of August 2, 1956 (36 U.S.C. 108, as amended), requested that the President proclaim the week beginning September 17 and ending September 23 of each year as "Constitution Week;"

NOW, THEREFORE, I, Robert Bentley, Governor of Alabama, do hereby proclaim the week of September 17th through September 23rd 2016, as

Constitution Week

in the State of Alabama, and encourage all citizens to recognize and appreciate the importance of this enduring document to our nation and reaffirm our commitment to the rights and responsibilities of citizenship in this great nation. I ask that all state and local officials as well as leaders of civic, social and educational organizations bring citizens together to celebrate and reflect upon the Constitution and conduct ceremonies and programs in honor of our founding document's 229th anniversary.

Given Under My Hand and the Great Seal of the Office of the Governor at the State Capitol in the City of Montgomery on the 27th day of July 2016.

Robert Bentley

Robert Bentley, Governor

GYNECOLOGIC CANCER AWARENESS MONTH PROCLAMATION

WHEREAS, during National Gynecologic Cancer Awareness Month, we honor those we have lost, show our support for women who bravely carry on the fight against gynecologic (gyn) cancers, and take action to lessen the tragic toll these cancers take on families across our Nation; and

WHEREAS, gyn cancers are among the leading cancer killers of women in the United States, and more than 98,000 women will be diagnosed, and more than 30,000 women will die from these diseases this year and the absence they leave in our hearts will be deeply felt forever; and

WHEREAS, the "A State of Teal" initiative brings awareness of all gyn cancers to the people throughout the State of Alabama; and

WHEREAS, the good health and well-being of women in our city and state are enhanced by increased awareness of gyn cancers and their symptoms and treatments; and

WHEREAS, it is critical for women, physicians and all healthcare providers to recognize the risk factors and symptoms of gyn cancers and to remember the importance of early detection in preventing and treating these diseases; and

WHEREAS, continued progress in the battle against gyn cancers requires increased awareness and education, and all educators, service providers, researchers and advocacy groups are urged to work together to inform more women about these cancers and to educate women in the City of Mountain Brook, Alabama and the State of Alabama about screening and prevention services; and

WHEREAS, it is also crucial that all women in the City of Mountain Brook, Alabama and the State of Alabama take an active role in learning the symptoms and risk factors associated with gyn cancers, developing healthy habits, and undergoing regular medical examinations so that any occurrence of these diseases may be detected in their early and treatable stages;

NOW, THEREFORE, I, Lawrence T. Oden, Mayor of the City of the City of Mountain Brook, Alabama, Alabama, do hereby proclaim September 2016, as

GYNECOLOGIC CANCER AWARENESS MONTH

throughout the City and encourage all residents of the City of Mountain Brook, Alabama to work together to raise awareness of gynecologic cancers and do commend this observance to all our residents.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the City of Mountain Brook to be affixed the 12th day of September of the year of our Lord 2016 and of the Independence of the United States of America, the 240th.

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Lawrence T. Oden, Mayor

2016-114

City of Mountain Brook

Steve Boone <boones@mtnbrook.org>

Inviting you to Participate - A State of Teal - 2016 GYN Cancer Awareness Campaign

1 message

Doris Moody <d.moody@thinkoflaura.org> Mon, Aug 29, 2016 at 8:44 AM
To: boones@mtnbrook.org
Cc: ma.king@thinkoflaura.org

Steve,

I am sending this information along this morning pursuant to our brief conversation this morning. Mary Anne King has been working to get Mountain Brook on board with a visual presence in Memory Triangle and has been working with Sam Gaston and others in this effort.

The month of September is GYN/Ovarian Cancer Awareness Month. Since the awareness ribbon color for gynecologic cancer is teal, lighting prominent buildings and landmarks across the State of Alabama in teal is a very effective and noticeable way to raise awareness. This effort began in 2012 with the lighting of the State Capitol in Montgomery and the issuance of a proclamation by the governor declaring September as GYN Cancer Awareness month. Since that time, the effort has grown to include lighting of buildings across the state and in the panhandle of Florida.

A couple of years ago, a formal initiative was formed and is now known as "A State of Teal." Ovarian and GYN cancer support groups have joined in this effort to ensure that local communities are made aware of the need to know more about the symptoms of GYN cancers. Because of this work, municipalities across the State of Alabama have issued proclamations declaring September as GYN Cancer Awareness Month. In 2015, over 110 buildings were lit and nearly 40 municipalities issued proclamations in an effort to raise awareness to the symptoms of these diseases.

How can you be a part of this campaign?

The primary purpose of my e-mail to you is to request that you issue a proclamation in the city of Mountain Brook declaring September as GYN Cancer Awareness Month. Mountain Brook has participated in this initiative over the past few years. A sample proclamation is attached to this message. I am also attaching our flyer and other materials relative to this campaign along with our logo. If you have a newsletter or publication, or a Facebook/Twitter page, we would appreciate a mention if possible.

2015 Lighting participants included Regions Field, State Capitol Building, BJCC, Alabama Theatre, Alabama Power, Auburn University, Alabama Fire College, Energen, Birmingham Zoo, Huntsville Botanical Gardens, Mobile Infirmary Medical Centers, Harbert Realty Services, Sloss Furnaces, UAB, Alys Beach, ACIPCO, Calhoun Community College, Brookwood Medical Center, Huntsville Hospital, Retirement Systems of Alabama, USA's Mitchell Cancer Institute. Also participating were the Cities of Alabaster, Birmingham, Auburn, Gardendale, Columbiana, Vestavia, Hoover, Helena, Pelham, Mountain Brook, Homewood, Montgomery, Chelsea, Huntsville, Athens, Lafayette, Opelika, Sylacauga, Madison, Florence, Jasper, Montevallo, Scottsboro, Russellville, Cordova, and Irondale

This year's effort will officially be kicked off on Thursday, September 1, with a Spirit Night sponsored by Newk's Eatery and hosted at Newk's locations around the state. Local survivors, patients, family and friends will host at each location.

For more information visit our website at www.AStateOfTeal.org.

Feel free to contact me if you need additional information. Do respond and let me know if you will indeed be a part of this so that we can give you the proper recognition on our website and in our social media campaign. We will also attempt to have a representative present to accept the proclamation if issued.

Kind regards,

Doris S. Moody

Board Member

Laura Crandall Brown Ovarian Cancer Foundation

www.ThinkOfLaura.org

Committee Member

A State of Teal

www.AStateofTeal.org

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3 attachments

2016 ASOT info flyer revised 71416.pdf
671K

2016 Proclamation Example.docx
16K

ASOT GetInvolved.pdf
98K

A State Of Teal

An Alabama GYN Cancer Awareness Campaign

Raising Awareness One Building at a Time

Why Teal?

The month of September is Gynecologic (GYN) Cancer Awareness Month. Since the awareness ribbon color for gynecologic cancer is teal, lighting prominent buildings and landmarks across the state of Alabama in teal is a very effective and noticeable way to raise awareness.

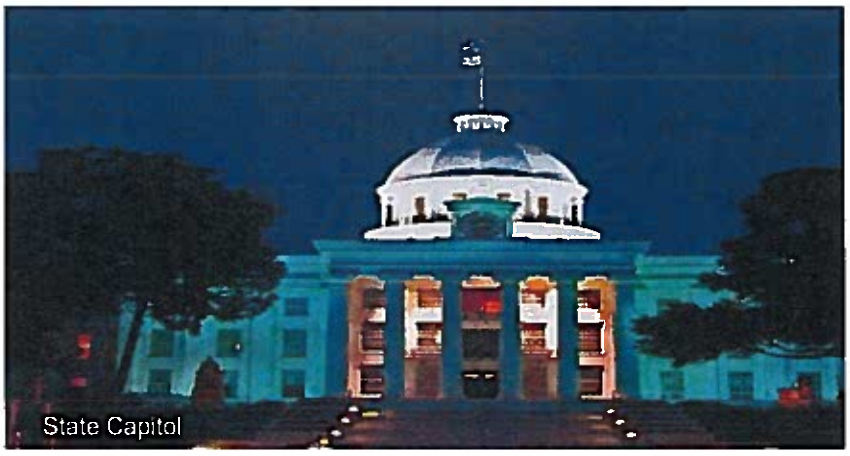
ASTATEOFTEAL.ORG

Why is awareness needed?

- Alabama is one of the top five states with the highest rate of death from cervical cancer. (source: CDC/NCI)
- Alabama is tied as second in the US with the highest rate of death from ovarian cancer. (source: CDC/NCI)
- There are no early detection/screening tests for four of the five gynecologic cancers.
- Cervical cancer is 100% preventable and curable when detected early.
- Women need to know the signs and symptoms of all GYN cancers.
- Groundbreaking research is being conducted throughout Alabama.

Sponsored by:

LAURA CRANDALL BROWN FOUNDATION



Contact us at:

www.astateofteal.org

lindsayg@thinkoflaura.org

Alabama Statistics

In 2016 approximately

- 213 diagnosed with cervical cancer
- 353 diagnosed with ovarian cancer
- 561 diagnosed with uterine cancer

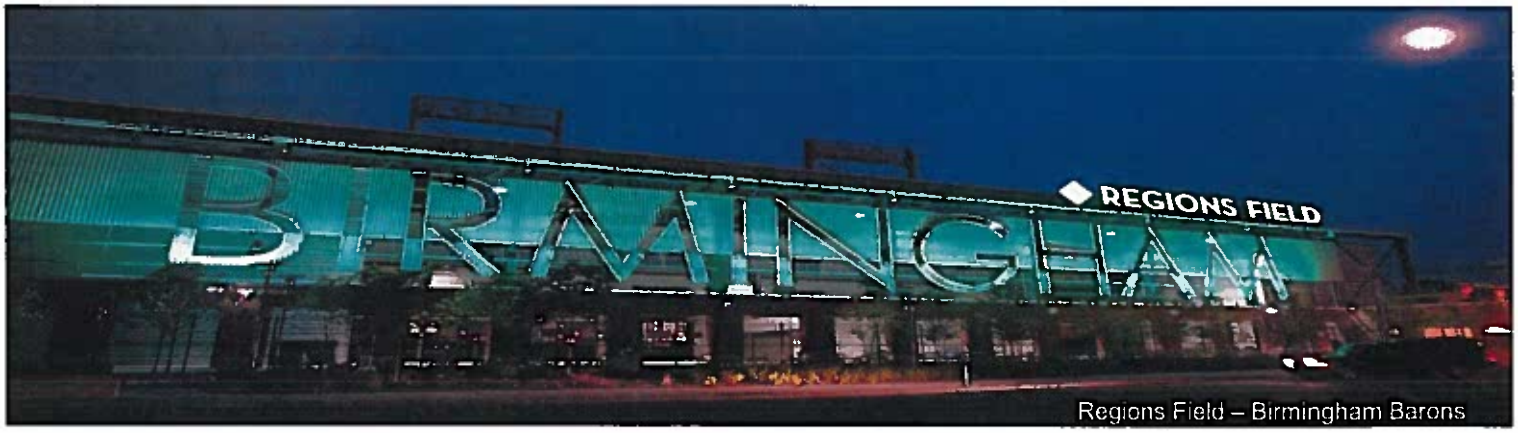
- 80 will die from cervical cancer
- 263 will die from ovarian cancer
- 107 will die from uterine cancer

(source: CDC/NCI)

Alabama Theatre

ASOT is pleased to have Newk's Eatery as a partner for our 2016 campaign. This September we will work together to further our common mission to raise awareness for ovarian and gynecologic cancers. We will kick off the month with a Spirit Night held on September 1st at all Birmingham area Newk's locations. Show your support by visiting any location to meet local survivors, patients, family and friends. ***"Everyone at Newk's Eatery is committed to supporting ovarian cancer research and awareness, and with your support, we can give every woman a fighting chance."*** (newkscares.com)

In 2015, over 110 buildings were lit and almost 40 municipalities issued proclamations. Lighting participants include: Regions Field, State Capitol Building, BJCC, Alabama Theatre, Alabama Power, Auburn University, Alabama Fire College, Energen, Birmingham Zoo, Huntsville Botanical Gardens, Mobile Infirmary Medical Centers, Harbert Realty Services, Sloss Furnaces, UAB, Alys Beach, ACIPCO, Calhoun Community College, Brookwood Medical Center, Huntsville Hospital, Retirement Systems of Alabama, USA's Mitchell Cancer Institute and the Cities of: Alabaster, Birmingham, Auburn, Gardendale, Columbiana, Vestavia, Hoover, Helena, Pelham, Mountain Brook, Homewood, Montgomery, Chelsea, Huntsville, Athens, Lafayette, Opelika, Sylacauga, Madison, Florence, Jasper, Montevallo, Scottsboro, Russellville, Cordova, and Irondale.



Regions Field – Birmingham Barons

What is A State of Teal?

- A statewide campaign to promote awareness of gynecologic (GYN) cancers during September. GYN cancers include ovarian, cervical, uterine, vaginal, and vulvar cancers.

Why should I get involved?

- In the U.S., a woman is diagnosed with a GYN cancer every 6 minutes, and Alabama is top 5 in the U.S. for cervical and ovarian cancer deaths. There is no early detection/screening test for four out of five GYN cancers.
- Someone you know will likely be affected. In honor of the loved ladies in your life, help us promote critical awareness messages!

How do I participate?

Participants are asked to:

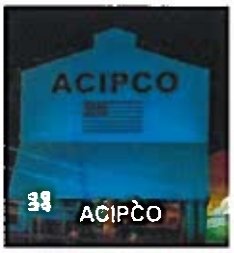
- Light your building/premises teal during September. Gel filters and/or strand lights are available depending on your needs. We ask that you cover the cost of lighting materials. If you cannot do so, ask us about our limited lighting assistance fund.
- Post/distribute awareness information on site (ex: yard sign, flyers, poster)
- Help promote the campaign through web and social media.

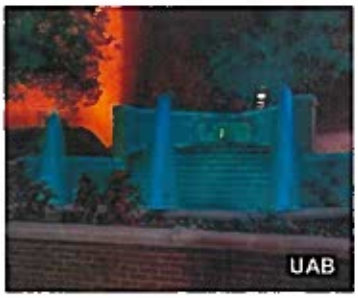
LCBF provides:

- A staff or volunteer liaison to coordinate all details with you, including seamless ordering and delivery of your lighting and awareness materials.
- Promotion of your business/organization as a participant through LCBF printed materials, media relations efforts, web site, social media platforms, etc.
- Awareness information for your employees, customers, and other stakeholders.

2015 Results:

- **110+** buildings lit teal
- **30+** municipalities issued proclamations
- **Thousands** of Alabamians reached





RESOLUTION NO. 2016-115

BE IT RESOLVED by the City Council of the City of Mountain Brook, Alabama, that Kelly Hulsey is hereby appointed as a member of the Tree Commission of the City of Mountain Brook, to serve without compensation, with the term of office to end September 12, 2019.

ADOPTED: This 12th day of September, 2016.

_____
Council President

APPROVED: This 12th day of September, 2016.

_____
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 12, 2016, as same appears in the minutes or record of said meeting.

_____
City Clerk

Kelly Hulsey was born and raised in Birmingham, Alabama. She attended Wake Forest University, Auburn University and did her graduate work at The University of Virginia obtaining a Masters in Education in Counseling. In her young career life, Kelly worked as a Primary Counselor at UAB's Addiction Recovery Program.

Kelly is married to Duncan Hulsey, who is a Psychologist and Business Consultant in the Birmingham area. They have 2 children, Lily(14) and Duncan(12) who attend MBJH.

In 2000, Kelly returned to school at Jefferson State Community College to study Landscape Design and in 2004 she officially opened her doors in the Landscape Design Business. Most of her business is in residential design and she enjoys most the collaboration between the craftsmen when building a home.

Kelly is an active member of the Garden Club of America and has spent time in the UK studying National Trust Gardens and homes.

Kelly has made it important in her work to plant for the next generation of trees in this city.

2016-115

RESOLUTION NO. 2016-116

BE IT RESOLVED by the City Council of the City of Mountain Brook, Alabama, that Elizabeth Poynor is hereby appointed as a member of the Tree Commission of the City of Mountain Brook, to serve without compensation, with the term of office to end September 12, 2019.

ADOPTED: This 12th day of September, 2016.

_____
Council President

APPROVED: This 12th day of September, 2016.

_____
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 12, 2016, as same appears in the minutes or record of said meeting.

_____
City Clerk

Elizabeth Poynor was born and raised in Mountain Brook, Alabama. Married to Wilmer Poynor with Ray and Poynor Properties. They have three children, Will and Florence have graduated college and live out of state and Virginia is a freshman at the University of Georgia.

Elizabeth received a Bachelor of Landscape Architecture degree from Auburn University and studied Historical Preservation in Siena, Italy. After receiving her degree she worked for the Birmingham Historical Society researching the work of Olmsted, Warren Manning and the Jemmison family's impact in the Birmingham area.

She spent three years working for Laubmann - Reed and Associates in Atlanta. Her work consisted of land planning studies and developing design guidelines for planned communities. Providing plans and guidelines for landscaping, hardscape, pedestrian and vehicular traffic, site furnishings, color schemes and zoning for future development within these communities.

Elizabeth currently works for Lagniappe Designs in Mountain Brook and is a volunteer in the community.

Elizabeth chaired the Birmingham Museum Sculpture Gardens landscape and lighting renovation. Chaired the Glorious Gardens fund raiser for the Birmingham Botanical Gardens and currently chairs the Facilities and Landscaping committee for Camp Merrie Woode in Sapphire, NC.

2016-116

RESOLUTION NO. 2016-117

BE IT RESOLVED by the City Council of the City of Mountain Brook, Alabama, that Penny Page is hereby reappointed to The Emmet O'Neal Library Board, to serve without compensation through October 30, 2020.

ADOPTED: This 12th day of September, 2016.

_____
Council President

APPROVED: This 12th day of September, 2016.

_____
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 12, 2016, as same appears in the minutes of record of said meeting.

_____
City Clerk

RESOLUTION NO. 2016-118

BE IT RESOLVED by the City Council of the City of Mountain Brook, Alabama, that Max Pulliam is hereby reappointed to The Emmet O'Neal Library Board, to serve without compensation through October 30, 2020.

ADOPTED: This 12th day of September, 2016.

Council President

APPROVED: This 12th day of September, 2016.

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 12, 2016, as same appears in the minutes of record of said meeting.

City Clerk

RESOLUTION NO. 2016-120

BE IT RESOLVED by the City Council of the City of Mountain Brook, Alabama, that the City Council hereby rejects all bids received with respect to the construction of a public safety training building (#B-20160804-132) opened July 28, 2016.

ADOPTED: This 12th day of September, 2016.

_____
Council President

APPROVED: This 12th day of September, 2016.

_____
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 12, 2016, as same appears in the minutes of record of said meeting.

_____
City Clerk

Joint Training Facility for Fire & Police

Inbox x

Christopher Mullins 2:03 PM (4 minutes ago)

to me

Steve -

Attached you will find the bid tabulations for the Police and Fire training building. We would like to reject all of the bids that were submitted and rebid the project. All of the bids were well in excess of what we had budgeted for the project.

Thanks,

--------- Forwarded message ---------
From: **Bill Whittaker** <bill@billwarch.com>
Date: Mon, Aug 22, 2016 at 5:29 PM
Subject: RE: Joint Training Facility for Fire & Police
To: Christopher Mullins <mullinsc@mtnbrook.org>

Chris,

Attached are the following:

Mandatory Prebid sign in sheet (handwritten)
Typed list contractor at mandatory prebid
Certified bid tabulation
Proof of Advertisement for bids.

Please let me know if you need anything else.

Thank you,

-Bill
tel: 256.689.0238
fax: 205.278.8731

2016-120

CERTIFIED TABULATION OF BIDS

PROJECT: JOINT TRAINING FACILITY FOR
FIRE AND POLICE DEPARTMENTS
MOUNTAIN BROOK, ALABAMA

PROJECT No. 15109
AS TABULATED BELOW, BIDS WERE RECEIVED
DATE: 08/04/2016 TIME: 2:00 PM CST
PLACE: OFFICE OF THE CITY MANAGER
56 CHURCH STREET,
MOUNTAIN BROOK, ALABAMA 35213

CONTRACTOR	SURETY	BASE BID	ALT #1 FLOOR FINISHES	ALT #2 OSB	UNIT #1 SOIL REMOVAL	UNIT #2 L.S. CONCRETE	UNIT #2 STRUCT. FILL	REMARKS
Forsyth Building Co Inc 456 Jones Rd, Anniston, AL 36207	Hartford Fire Insurance Co.	$564,800	ADD $1,000	ADD $1,500	$38 PER CUBIC YD	$115 PER CUBIC YD	$30 PER CUBIC YD	
J.F. Morgan Contractors, Inc. 1110 Jones Rd, Anniston, AL 36207	Merchants National	$537,445	ADD $8,910	DEDUCT $150	$40 PER CUBIC YD	$185 PER CUBIC YD	$40 PER CUBIC YD	
Steven Vaughn Construction 4296 Fowlers Ferry Rd N, Gadsden, AL 35907	NGM Insurance	$492,000	ADD $2,260	ADD $210	$25 PER CUBIC YD	$120 PER CUBIC YD	$18 PER CUBIC YD	

I certify that the above bids were received sealed and were publicly opened and read aloud at the time and place indicated and that this is a true and correct tabulation of all bids received for this project.

Sworn and subscribed before me this 12 day of August 2016 By: William Whittaker
Typed or printed Name and Title of Architect or Engineer

Candace Lynn Burt
Notary Public

My Commission Expires
August 6, 2017

Signature

Gary C Wyatt Inc
245 Riverchase Pkwy E, Hoover, AL 35244
Phone: (205) 985-0121
Nick Miele
nmiele@gcwyatt.com

Steven Vaughn Construction
4296 Fowlers Ferry Rd N, Gadsden, AL 35907
Phone: (256) 413-0586
Jim Robinson
jimrobinson15@gmail.com

J.F. Morgan Contractors, Inc.
1110 Jones Rd, Anniston, AL 36207
Phone: (256) 831-5284
John Morgan
jfmorgangc@aol.com

Construction Services Group, LLC
402 Office Park Drive, Suite 208
Mountain Brook, Alabama 35223
205.966.3807
Tricia Taylor
ttaylor.csg@gmail.com

Maxus Construction Co
700 Southgate Dr, Pelham, AL 35124
Phone: (205) 733-1214
Bentley Windle
bentleywindle@maxusinc.com

Hurst Construction
1636 Hillyer Robinson Pkwy S, Oxford, AL 36203
Phone: (256) 835-7745
Brian Cairo
brian@hurstconstruction.com

Forsyth Building Co Inc
456 Jones Rd, Anniston, AL 36207
(256) 835-0033
Harold Forsyth
harold@forsythbuilding.com

31 Construction
34 Cedar Ln, Trussville, AL 35173
Phone: (205) 661-3102
Cheryl Sides
cheryl@thirtyoneinc.com

Birmingham News

LEGAL AFFIDAVIT

INV#: 0007724754

Remit Payment to:
Alabama Media Group
Dept 77571
P.O. Box 77000
Detroit, MI 48277-0571

BILL WHITTAKER ARCHITECTURE
2956 OLD GADSDEN HIGHWAY
ANNISTON, AL 36206

Name:BILL WHITTAKER ARCHITECTURE

Account Number:1000736202
INV#: 0007724754

Sales Rep: Nancy Bridgman

Customer Service: 1-877-317-5175
invoicesupport@acsml.com

Date	Position	Description	P.O. Number	Ad Size	Total Cost
07/17/2016	Legals AL	ADVERTISEMENT FOR BIDS Sealed proposals will be received by the City of Mountain Brook,	Adv for Bids	1 x 80 L	660.00

Stephanie Hardin being sworn, says that she is bookkeeper of Birmingham News which publishes a newspaper in the City of Birmingham and County of Jefferson, State of Alabama: and attached notice appeared in the issue of

Birmingham News 07/03, 07/10, 07/17/2016

Sworn to and subscribed before me this 19th day of July 2016

NOTARY PUBLIC

FOR QUESTIONS CONCERNING THIS AFFIDAVIT, PLEASE CALL STEPHANIE HARDIN AT (205) 325-3306. YOU CAN PLACE A LEGAL NOTICE BY EMAIL: LEGALS@AL.COM

LYNNE M EUBANKS
MY COMMISSION EXPIRES
August 26, 2018
NOTARY PUBLIC
STATE OF ALABAMA

ADVERTISEMENT FOR BIDS

Sealed proposals will be received by the City of Mountain Brook, Office of the City Manager, 56 Church Street, Mountain Brook AL 35213 until 2:00 pm CST July 28th, 2016 for a new 3,000 sq ft Joint Training Facility for Fire and Police Departments at which time and place they will be publicly opened and read. A cashier's check or bid bond payable to City of Mountain Brook in an amount not less than five (5) percent of the amount of the bid, but in no event more than $10,000, must accompany the bidder's proposal. Performance and Payment Bonds and evidence of insurance required in the bid documents will be required at the signing of the Contract.

A Mandatory Pre-Bid Conference is scheduled for July 19th, 2016 at 2:00pm located adjacent to the project site 3579 East St, Mountain Brook, AL 35243. All potential general contractor bidders are required to attend this conference.

Alabama law (section 41-4-116, code of Alabama 1975) provides that every bid submitted and contract executed shall contain a certification that the vendor, contractor, and all of its affiliates that make sales for delivery into Alabama or leases for use in Alabama are registered, collecting, and remitting Alabama state and local sales, use, and/or lease tax on all taxable sales and leases in Alabama. By submitting a response to this solicitation, the bidder is hereby certifying that they are in full compliance with Act No 2006-557, they are not barred from bidding or entering into a contract pursuant to 41-4-116, and acknowledges that the Owner may declare the contract void if the certification is false.

In order to assure that Bidders receive all addenda and or clarifications to the bid documents in a timely manner, it is highly recommended that all bidders obtain at least one complete set of Bid Documents directly from the Architect. Entities that do not obtain Bid Documents from this source will not receive addenda and or clarifications to the bid documents directly from the Architect. Bidders relying on plan rooms or other services to obtain the Bid Documents, rather than obtaining them directly from the source are doing so at their own risk.

Drawings and specifications may be examined at the office of Bill Whittaker Architecture, 2956 Old Gadsden Highway, Anniston, AL 36206 tele: 256-689-0238 and appropriate plan rooms. Bid Documents may be obtained from the Architect upon deposit of $150 per set, which will be refunded in full on the first 2 sets issued to each general contract bidder submitting a bonafide bid, upon return of documents in good condition within ten days of bid date.

Bids must be submitted on proposal forms furnished by the Architect or copies thereof. All bidders bidding in amounts exceeding that established by the State Licensing Board for General Contractors must be licensed under the provisions of Title 34, Chapter 8, Code of Alabama, 1975, and must show evidence of license before bidding or bid will not be received or considered by the Architect; the bidder shall show such evidence by clearly displaying his or her current license number on the outside of the sealed envelope in which the proposal is delivered

RESOLUTION NO. 2016-121

BE IT RESOLVED by the City Council of the City of Mountain Brook, Alabama, that the City Council hereby ratifies the engagement of Richard Riley Simpson under the supervision of Brasfield & Gorrie (Resolution No. 2016-095) to perform moisture abatement exploration services at the Emmet O'Neal Library building in relation to the ongoing service agreement previously authorized (Resolution Nos. 2016-058).

ADOPTED: This 12th day of September, 2016.

_____
Council President

APPROVED: This 12th day of September, 2016.

_____
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 12, 2016, as same appears in the minutes of record of said meeting.

_____
City Clerk

simpson.

Date: August 8, 2016

Robert McElroy
Brasfield & Gorrie
7th Ave S
Birmingham, AL 35205

Robert:

Simpson Plastering, llc will provide the following rates per man hour:

Field Labor: $40/ hr
Superintendent (oversight): $50/ hr
Senior level PM or Estimator: $70/ hr

All scaffold and materials will be marked up 10%.

The entire bill will be marked up 10% for overhead and 5% for profit.

Thank you for the opportunity,

Richard Riley
Simpson.
205-229-3364(c)
205-994-2802(o)

P.O. Box 321275-**BIRMINGHAM, AL.** 35232-1275 **PHONE** 800-994-2801 **FAX** 205 591-2505
Interior & Exterior Walls & Ceilings * Plaster & Stucco Systems * EIFS Systems * Spray Applied Fireproofing

2016-121

ALABAMA
DEPARTMENT OF TRANSPORTATION

Robert Bentley
GOVERNOR

EAST CENTRAL REGION
100 CORPORATE PARKWAY
SUITE 450
HOOVER, AL 35242
P.O. BOX 382348
BIRMINGHAM, AL 35238-2348
TELEPHONE: (205) 327-4962

John R. Cooper
TRANSPORTATION DIRECTOR

August 24, 2016

The Honorable Lawrence T. Oden
Mayor, City of Mountain Brook
City Hall
P.O. Box 130009
Mountain Brook, Alabama 35213

RE: Jefferson County
Project No. STPBH-3716( )
Proj. Ref. No. 100066111
Bridge Reconstruction and Rehabilitation for
Old Brook Trail Bridge (BIN #012869) over
Little Shades Creek and Canterbury Road
Bridge (BIN #002873) over Watkins Creek

Dear Mayor Oden:

I have enclosed the original Right-of-Way Agreement (and one copy) between the State of Alabama and the City of Mountain Brook, Alabama for the above referenced project.

This Agreement is submitted to the City for approval. After execution by the City Council, please return the original document and the copy, with original signature and the City Seal affixed to both to this office for further handing. A certified resolution, which authorizes the Mayor to sign the Agreement, affixed with the City Seal should be included with the original Agreement, as well as with the copy.

If I can supply you with any additional information or clarify any point contained herein, please feel free to contact me at your convenience.

Sincerely,

DeJarvis Leonard, P.E.
East Central Region Engineer

By:_____
Lance Taylor, P.E.
Asst. Region Engineer, Pre-Construction

LAT/trs
Enclosure
C: Mrs. Sandra F. P. Bonner
File w/encl.

2016-122

K-16-1646

AGREEMENT
FOR
RIGHT-OF-WAY ACQUISITION

BETWEEN THE STATE OF ALABAMA
AND
THE CITY OF MOUNTAIN BROOK, ALABAMA

Project STPBH-3716 ( )
Project Reference Number 100066111
Bridge Reconstruction and Rehabilitation for Old Brook Trail Bridge (BIN #012869) over Little Shades Creek, and Canterbury Road Bridge (BIN #002873) over Watkins Creek in the City of Mountain Brook

THIS AGREEMENT is made and entered into by and between the State of Alabama, acting by and through the Alabama Department of Transportation, hereinafter referred to as STATE; and the City of Mountain Brook, Alabama, hereinafter referred to as CITY; in cooperation with the United States Department of Transportation, Federal Highway Administration, hereinafter referred to as the FHWA; and

WHEREAS, a Transportation Improvement Program has been developed for the Birmingham Urbanized Area and certain transportation improvements and priorities are listed therein; and

WHEREAS, it is in the public interest for the STATE and the CITY to cooperate toward the implementation of the Transportation Improvement Program; and

WHEREAS, the STATE and CITY desire to cooperate in a right-of-way acquisition program for bridge reconstruction and rehabilitation for Old Brook Trail Bridge (BIN #012869) over Little Shades Creek, and Canterbury Road Bridge (BIN #002873) over Watkins Creek in the City of Mountain Brook.

NOW, THEREFORE, the parties hereto, for, and in consideration of the premises stated herein do hereby mutually promise, stipulate, and agree as follows:

2016-122

(1) This Agreement will cover only the right-of-way acquisition phase of the work. The right-of-way purchased under terms of this Agreement will be acquired by the CITY, in the name of the CITY for the CITY, and in accordance with current regulations of the STATE and FHWA. The CITY will adhere to all STATE and FHWA regulations pertaining to the acquisition of ROW and will coordinate their activities with the Region Acquisition Manager for guidance. The property will be acquired in the name of the CITY with any condemnation or other legal proceedings being performed by the CITY.

(2) The CITY shall follow all Federal regulations related to the Management, Leasing, and Disposal of right-of-way, uneconomic remnants and excess right-of-way as found in CFR 23 § 710 Subpart D. Any change in access control, disposal of excess right-of-way, and uneconomic remnants shall be approved by ALDOT. Proceeds from Leases and disposals shall be credited to the Project or to the Title 23 Collector Account.

(3) Funding for this Agreement is subject to availability of Federal Aid funds at the time of authorization by FHWA.

(4) This Project will be administered by the CITY and all cost will be financed, when eligible for Federal participation, on the basis of 80 percent Federal funds and 20 percent CITY funds. The estimated cost and participation by the various parties are as follows:

	Total Estimated Cost	Estimated Federal Funds	Estimated CITY Funds
Right-of-way acquisition	$100,000	$80,000	$20,000
TOTAL	$100,000	$80,000	$20,000

It is understood that the above is an estimate only, and in the event the final cost exceeds the estimated cost, the CITY will be responsible for its proportional share of the final cost.

(5) Any cost for work not eligible for Federal reimbursement will be financed 100 percent by the CITY, which payment will be reflected in the final audit.

(6) The CITY agrees that in the event the FHWA determines, due to rules and/or regulations of FHWA (including but not limited to delay of the projects, or delay of projects contemplated to be developed and accomplished in sequence to the current projects) that Federal funds expended on this Project must be refunded to the FHWA, the CITY will reimburse and pay to the STATE a sum of money equal to the total amount of STATE and Federal funds expended under this Agreement.

(7) The CITY will invoice the STATE for the Federal share of right-of-way cost not more frequently than monthly. Requests for reimbursement will be made on forms provided by the STATE and submitted through the East Central Region Engineer for payment.

(8) Invoices for any phase of work performed by the CITY under the terms of this Agreement will be submitted within twelve (12) months after the completion and acceptance by the STATE of the work. Any invoices submitted after this twelve month period will not be eligible for payment.

(9) The performance of the work covered by this Agreement will be in accordance with the current regulations and requirements of the STATE and FHWA.

(10) The STATE will assist the CITY, if necessary, in any public involvement actions that may be required.

(11) The STATE will provide without cost to the CITY, information available from its records that will facilitate the performance of the work.

(12) It is clearly understood by both parties that the STATE does not commit any STATE or Federal funds beyond those mentioned herein and that a separate Agreement will be required for the construction of the proposed improvement.

(13) The terms of this Agreement may be modified by supplemental agreement duly executed by the parties hereto.

(14) A final audit will be made of all Project records after completion of the Project and a copy will be furnished to the Department of Examiners of Public Accounts, in accordance with Act 1994, No. 94-414. A final financial settlement will be made between the parties as reflected by the audit and this Agreement.

(15) Subject to the limitations on damages applicable to municipal corporations under Ala. Code § 11-47-190 (1975), the CITY shall indemnify, and hold harmless the State of Alabama, the Alabama Department of Transportation, its officers, officials, agents, servants, and employees from and against (1) claims, damages, losses, and expenses, including but not limited to attorney's fees arising out of, connected with, resulting from or related to the work performed by the CITY, or its officers, employees, contracts, agents or assigns; (2) the provision of any services or expenditure of funds required, authorized, or undertaken by the CITY pursuant to the terms of this Agreement; or (3) any damage, loss, expense, bodily injury, or death, or injury or destruction of tangible property (other than the work itself), including loss of use therefrom, and including but not limited to attorney's fees, caused by the negligent, careless or unskillful acts of the CITY, its agents, servants, representatives or employees, or the misuse, misappropriation, misapplication, or misexpenditure of any source of funding, compensation or

reimbursement by the CITY, its agents, servants, representatives or employees, or anyone for whose acts the CITY may be liable.

(16) By entering into this Agreement, the CITY is not an agent of the STATE, its officers, employees, agents or assigns. The CITY is an independent entity from the STATE and nothing in this Agreement creates an agency relationship between the parties.

(17) 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.

(18) This Agreement will remain in effect, unless otherwise terminated by either party upon the delivery of a thirty (30) day notice of termination.

(19) Nothing will be construed under the terms of this Agreement by the STATE or the CITY that will cause any conflict with Section 23-1-63, Code of Alabama (7/24th Law).

(20) Exhibits M and N are attached and hereby made a part of this Agreement.

IN WITNESS WHEREOF, the parties hereto cause this Agreement to be executed by those officers, officials, and persons thereunto duly authorized, and the Agreement is deemed to be dated and to be effective on the date stated hereinafter as the date of approval of the Governor of Alabama.

SEAL

ATTEST:

_____
City Clerk (Signature)

_____
Type name of Clerk

CITY OF MOUNTAIN BROOK, ALABAMA

BY: _____
Mayor (Signature)

_____
Type name of Mayor

THIS AGREEMENT HAS BEEN LEGALLY REVIEWED AND APPROVED AS TO FORM AND CONTENT:

BY: _____
Chief Counsel, Jim R. Ippolito, Jr.

RECOMMENDED FOR APPROVAL:

_____
East Central Region Engineer, DeJarvis Leonard, P. E.

_____
Multimodal Transportation Engineer,
Robert J. Jilla

_____
Chief Engineer, Don T. Arkle, P. E.

STATE OF ALABAMA
ACTING BY AND THROUGH THE
ALABAMA DEPARTMENT OF TRANSPORTATION

_____
Transportation Director, John R. Cooper

The foregoing Agreement is hereby approved by the Governor of the State of Alabama this ____ day of _____, 20 ____.

_____
GOVERNOR OF ALABAMA, ROBERT BENTLEY

7/18/90 **Exhibit M**

CERTIFICATION

This certification is applicable to the instrument to which it is attached whether attached directly or indirectly with other attachments to such instrument.

The prospective participant/recipient, by causing the signing of and the submission of this Federal contract, grant, loan, cooperative agreement, or other instrument as might be applicable under Section 1352, Title 31, U. S. Code, and the person signing same for and on behalf of the prospective participant/recipient each respectively certify that to the best of the knowledge and belief of the prospective participant or recipient and of the person signing for and on behalf of the prospective participant/recipient, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the prospective participant/recipient or the person signing on behalf of the participant/recipient as mentioned above, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, or other instrument as might be applicable under Section 1352, Title 31, U. S. Code, the prospective participant/recipient shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U. S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

The prospective participant/recipient also agrees by submitting this Federal contract, grant, loan, cooperative agreement, or other instrument as might be applicable under Section 1352, Title 31, U. S. Code, that the prospective participant/recipient shall require that the language of this certification be included in all lower tier subcontracts, which exceed $100,000 and that all such subrecipients shall certify and disclose accordingly.

EXHIBIT N

CONSULTANT 2/15/95
REVISED 5/30/02
REVISED 6/16/11
REVISED 10/28/15

FUNDS SHALL NOT BE CONSTITUTED AS A DEBT

It is agreed that the terms and commitments contained herein shall not be constituted as a debt of the State of Alabama in violation of Article 11, Section 213 of the Constitution of Alabama, 1901, as amended by Amendment Number 26. It is further agreed that if any provision of this AGREEMENT shall contravene any statute or Constitutional provision of amendment, either now in effect or which may, during the course of this AGREEMENT, be enacted, then the conflicting provision in the AGREEMENT shall be deemed null and void.

When considering settlement of controversies arising from or related to the work covered by this AGREEMENT, the parties may agree to use appropriate forms of non-binding alternative dispute resolution.

TERMINATION DUE TO INSUFFICIENT FUNDS

a. If the agreement term is to exceed more than one fiscal year, then said agreement is subject to termination in the event that funds should not be appropriated for the continued payment of the agreement in subsequent fiscal years.

b. In the event of proration of the fund from which payment under this AGREEMENT is to be made, agreement will be subject to termination.

NO GOVERNMENT OBLIGATION TO THIRD PARTY CONTRACTORS

The STATE and CONSULTANT acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the underlying contract, absent the express written consent by the Federal Government, the Federal Government is not a party to this contract and shall not be subject to any obligations of or liabilities to the STATE, CONSULTANT, or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying contract.

The CONSULTANT agrees to include the above clause in each subcontract financed in whole or in part with Federal assistance provided to FHWA. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

RESOLUTION NUMBER 2016-122

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

1. That the City enters into an Agreement with the State of Alabama, acting by and through the Alabama Department of Transportation for:

   Right-of-way acquisition program for Project STPBH-3716 ( ), Project Reference Number 100066111 for bridge reconstruction and rehabilitation for Old Brook Trail Bridge (BIN #012869) over Little Shades Creek, and Canterbury Road Bridge (BIN #002873) over Watkins Creek in the City of Mountain Brook; which Agreement is before this Council.

2. That the Agreement be executed in the name of the City, by its Mayor, for and on its behalf.

3. That the Agreement be attested by the City Clerk and the seal of the City affixed thereto.

BE IT FURTHER RESOLVED, that upon the completion of the execution of the Agreement by all parties, that a copy of such Agreement be kept on file by the City Clerk.

Passed, adopted and approved this ____ day of _____, 20 ____.

ATTESTED:

_____ _____

City Clerk Mayor

I, the undersigned qualified and acting clerk of the City of Mountain Brook, Alabama, do hereby certify that the above and foregoing is a true copy of a resolution passed and adopted by the City Council of the City named therein, at a regular meeting of such Council held on the ____ day of _____, 20 ____, and that such resolution is on file in the City Clerk's office.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the City on the ____ day of _____, 20 ____.

_____

City Clerk

2016-122

ALABAMA
DEPARTMENT OF TRANSPORTATION

Robert Bentley
GOVERNOR

EAST CENTRAL REGION
100 CORPORATE PARKWAY
SUITE 450
HOOVER, AL 35242
P.O. BOX 382348
BIRMINGHAM, AL 35238-2348
TELEPHONE: (205) 327-4962

John R. Cooper
TRANSPORTATION DIRECTOR

August 24, 2016

The Honorable Lawrence T. Oden
Mayor, City of Mountain Brook
City Hall
P.O. Box 130009
Mountain Brook, Alabama 35213

RE: Jefferson County
Project No. STPBH-3716( )
Proj. Ref. No. 100066110
Bridge Reconstruction and Rehabilitation for
Old Brook Trail Bridge (BIN #012869) over
Little Shades Creek and Canterbury Road
Bridge (BIN #002873) over Watkins Creek

Dear Mayor Oden:

I have enclosed the original Preliminary Engineering Agreement (and one copy) between the State of Alabama and the City of Mountain Brook, Alabama for the above referenced project.

This Agreement is submitted to the City for approval. After execution by the City Council, please return the original document and the copy, with original signature and the City Seal affixed to both to this office for further handing. A certified resolution, which authorizes the Mayor to sign the Agreement, affixed with the City Seal should be included with the original Agreement, as well as with the copy.

If I can supply you with any additional information or clarify any point contained herein, please feel free to contact me at your convenience.

Sincerely,

DeJarvis Leonard, P.E.
East Central Region Engineer

By:_____
Lance Taylor, P.E.
Asst. Region Engineer, Pre-Construction

LAT/trs
Enclosure
C: Mrs. Sandra F. P. Bonner
File w/encl.

2016-123

K-16-1645

AGREEMENT
FOR
PRELIMINARY ENGINEERING

BETWEEN THE STATE OF ALABAMA
AND
THE CITY OF MOUNTAIN BROOK, ALABAMA

Project STPBH-3716 ( )
Project Reference Number 100066110
Bridge Reconstruction and Rehabilitation for Old Brook Trail Bridge (BIN #012869) over Little Shades Creek, and Canterbury Road Bridge (BIN #002873) over Watkins Creek in the City of Mountain Brook

THIS AGREEMENT is made and entered into by and between the State of Alabama, acting by and through the Alabama Department of Transportation, hereinafter referred to as STATE; and the City of Mountain Brook, Alabama, hereinafter referred to as CITY; in cooperation with the United States Department of Transportation, Federal Highway Administration, hereinafter referred to as the FHWA; and

WHEREAS, a Transportation Improvement Program has been developed for the Birmingham Urbanized Area and certain transportation improvements and priorities are listed therein; and

WHEREAS, it is in the public interest for the STATE and the CITY to cooperate toward the implementation of the Transportation Improvement Program; and

WHEREAS, the STATE and the CITY desire to cooperate in a preliminary design engineering program for bridge reconstruction and rehabilitation for Old Brook Trail Bridge (BIN #012869) over Little Shades Creek, and Canterbury Road Bridge (BIN #002873) over Watkins Creek in the City of Mountain Brook.

NOW, THEREFORE, the parties hereto, for, and in consideration of the premises stated herein do hereby mutually promise, stipulate, and agree as follows:

(1) The CITY will perform or have performed all services required to fulfill the purposes of this Agreement. The East Central Region of the Department of Transportation will be the

2016-123

lead agency for the STATE relative to the work under this Agreement and will be point of contact for the CITY.

(2) This Agreement will cover only the preliminary engineering phase of the work.

(3) The preliminary engineering phase is hereby defined as that work necessary to advance the development of the Project through construction authorization by the FHWA. The preliminary engineering will be performed by or for the CITY and will include all environmental studies and documentation required by FHWA.

(4) Funding for this Agreement is subject to availability of Federal Aid funds at the time of authorization by FHWA.

(5) The project will be financed, when eligible for Federal participation, on the basis of 80 percent Federal funds and 20 percent CITY funds. The estimated cost and participation by the various parties is as follows:

	Total Estimated Cost	Estimated Federal Funds	Estimated CITY Funds
Preliminary Engineering	$250,000	$200,000	$50,000
TOTAL	$250,000	$200,000	$50,000

It is understood that the above is an estimate only, and in the event the final cost exceeds the estimate, the CITY will be responsible for its proportional share of the final cost.

(6) The STATE will assist the CITY in any public involvement action that may be required.

(7) The CITY will invoice the STATE for the Federal share of the preliminary engineering costs not more frequently than monthly. Requests for reimbursements will be made on forms provided by the STATE and submitted through the East Central Region Engineer for payment.

(8) Invoices for any phase of work performed by the CITY under the terms of this Agreement will be submitted within twelve (12) months after the completion and acceptance by the STATE of the work. Any invoices submitted after this twelve-month period will not be eligible for payment.

(9) Any cost for work not eligible for Federal participation will be financed 100 percent by the CITY, which payment will be reflected in the final audit.

(10) The CITY agrees that in the event the FHWA determines, due to rules and/or regulations of FHWA (including but not limited to delay of the projects, or delay of projects contemplated to be developed and accomplished in sequence to the current projects) that the Federal funds expended on this Project must be refunded to the FHWA, the CITY will reimburse and pay to the STATE a sum of money equal to the total amount of STATE and Federal funds expended under this Agreement.

(11) Any services of the STATE necessary to carry out the intent of this Agreement will be paid as provided for herein.

(12) The performance of the work covered by this Agreement will be in accordance with the current regulations and requirements of the STATE and FHWA.

(13) The STATE will provide without cost to the CITY information available from its records that will facilitate the performance of the work.

(14) It is clearly understood by both parties that the STATE does not commit any STATE or Federal funds beyond those mentioned herein and that a separate agreement will be required for the construction of the proposed improvement.

(15) A final audit will be made of all project records after the completion of the project and a copy will be furnished to the Department of Examiners of Public Accounts, in accordance with Act 1994, No. 94-414. A final financial settlement will be made between the parties as reflected by the final audit and this Agreement.

(16) Subject to the limitations on damages applicable to municipal corporations under Ala. Code § 11-47-190 (1975), the CITY shall indemnify, and hold harmless the State of Alabama, the Alabama Department of Transportation, its officers, officials, agents, servants, and employees from and against (1) claims, damages, losses, and expenses, including but not limited to attorney's fees arising out of, connected with, resulting from or related to the work performed by the CITY, or its officers, employees, contracts, agents or assigns; (2) the provision of any services or expenditure of funds required, authorized, or undertaken by the CITY pursuant to the terms of this Agreement; or (3) any damage, loss, expense, bodily injury, or death, or injury or destruction of tangible property (other than the work itself), including loss of use therefrom, and including but not limited to attorney's fees, caused by the negligent, careless or unskillful acts of the CITY, its agents, servants, representatives or employees, or the misuse, misappropriation, misapplication, or misexpenditure of any source of funding, compensation or reimbursement by the CITY, its agents, servants, representatives or employees, or anyone for whose acts the CITY may be liable.

(17) By entering into this Agreement, the CITY is not an agent of the STATE, its officers, employees, agents or assigns. The CITY is an independent entity from the STATE and nothing in this Agreement creates an agency relationship between the parties.

(18) 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.

(19) The terms of this Agreement may be modified by supplemental agreement duly executed by the parties hereto.

(20) This Agreement will remain in effect, unless otherwise terminated by either party upon the delivery of a thirty (30) day notice of termination.

(21) Nothing will be construed under the terms of this Agreement by the STATE or the CITY that will cause any conflict with Section 23-1-63, Code of Alabama (7/24th Law).

(22) Exhibits M and N are attached and hereby made a part of this Agreement.

IN WITNESS WHEREOF, the parties hereto cause this Agreement to be executed by those officers, officials, and persons thereunto duly authorized, and the Agreement is deemed to be dated and to be effective on the date stated hereinafter as the date of the approval of the Governor of Alabama.

SEAL

ATTEST:

CITY OF MOUNTAIN BROOK, ALABAMA

_____
City Clerk (Signature)

BY:_____
Mayor (Signature)

_____
Type name of Clerk

_____
Type name of Mayor

THIS AGREEMENT HAS BEEN LEGALLY REVIEWED
AND APPROVED AS TO FORM AND CONTENT:

BY:_____
Chief Counsel, Jim R. Ippolito, Jr.

RECOMMENDED FOR APPROVAL:

_____
East Central Regional Engineer, DeJarvis Leonard, P. E.

_____
Multimodal Transportation Engineer,
Robert J. Jilla

_____
Chief Engineer, Don T. Arkle, P. E.

STATE OF ALABAMA
ACTING BY AND THROUGH THE
ALABAMA DEPARTMENT OF TRANSPORTATION

_____
Transportation Director, John R. Cooper

The foregoing Agreement is hereby approved by the Governor of the State of Alabama this _____ day of _____, 20 _____.

_____
GOVERNOR OF ALABAMA, ROBERT BENTLEY

CERTIFICATION

This certification is applicable to the instrument to which it is attached whether attached directly or indirectly with other attachments to such instrument.

The prospective participant/recipient, by causing the signing of and the submission of this Federal contract, grant, loan, cooperative agreement, or other instrument as might be applicable under Section 1352, Title 31, U. S. Code, and the person signing same for and on behalf of the prospective participant/recipient each respectively certify that to the best of the knowledge and belief of the prospective participant or recipient and of the person signing for and on behalf of the prospective participant/recipient, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the prospective participant/recipient or the person signing on behalf of the participant/recipient as mentioned above, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, or other instrument as might be applicable under Section 1352, Title 31, U. S. Code, the prospective participant/recipient shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U. S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

The prospective participant/recipient also agrees by submitting this Federal contract, grant, loan, cooperative agreement, or other instrument as might be applicable under Section 1352, Title 31, U. S. Code, that the prospective participant/recipient shall require that the language of this certification be included in all lower tier subcontracts, which exceed $100,000 and that all such subrecipients shall certify and disclose accordingly.

EXHIBIT N

CONSULTANT 2/15/95
REVISED 5/30/02
REVISED 6/16/11
REVISED 10/28/15

FUNDS SHALL NOT BE CONSTITUTED AS A DEBT

It is agreed that the terms and commitments contained herein shall not be constituted as a debt of the State of Alabama in violation of Article 11, Section 213 of the Constitution of Alabama, 1901, as amended by Amendment Number 26. It is further agreed that if any provision of this AGREEMENT shall contravene any statute or Constitutional provision of amendment, either now in effect or which may, during the course of this AGREEMENT, be enacted, then the conflicting provision in the AGREEMENT shall be deemed null and void.

When considering settlement of controversies arising from or related to the work covered by this AGREEMENT, the parties may agree to use appropriate forms of non-binding alternative dispute resolution.

TERMINATION DUE TO INSUFFICIENT FUNDS

a. If the agreement term is to exceed more than one fiscal year, then said agreement is subject to termination in the event that funds should not be appropriated for the continued payment of the agreement in subsequent fiscal years.

b. In the event of proration of the fund from which payment under this AGREEMENT is to be made, agreement will be subject to termination.

NO GOVERNMENT OBLIGATION TO THIRD PARTY CONTRACTORS

The STATE and CONSULTANT acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the underlying contract, absent the express written consent by the Federal Government, the Federal Government is not a party to this contract and shall not be subject to any obligations of or liabilities to the STATE, CONSULTANT, or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying contract.

The CONSULTANT agrees to include the above clause in each subcontract financed in whole or in part with Federal assistance provided to FHWA. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

RESOLUTION NUMBER 2016-123

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

1. That the City enters into an Agreement with the State of Alabama, acting by and through the Alabama Department of Transportation for:

   Preliminary engineering program for Project STPBH-3716 ( ), Project Reference Number 100066110 for bridge reconstruction and rehabilitation for Old Brook Trail Bridge (BIN #012869) over Little Shades Creek, and Canterbury Road Bridge (BIN #002873) over Watkins Creek in the City of Mountain Brook; which Agreement is before this Council.

2. That the Agreement be executed in the name of the City, by its Mayor, for and on its behalf.

3. That the Agreement be attested by the City Clerk and the seal of the City affixed thereto.

BE IT FURTHER RESOLVED, that upon the completion of the execution of the Agreement by all parties, that a copy of such Agreement be kept on file by the City Clerk.

Passed, adopted and approved this ____ day of _____, 20 ____.

ATTESTED:

_____ _____

City Clerk Mayor

I, the undersigned qualified and acting clerk of the City of Mountain Brook, Alabama, do hereby certify that the above and foregoing is a true copy of a resolution passed and adopted by the City Council of the City named therein, at a regular meeting of such Council held on the _____ day of _____, 20 ____, and that such resolution is on file in the City Clerk's office.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the City on this ____ day of _____, 20 ____.

_____

City Clerk

2016-123 ✓

ALABAMA
DEPARTMENT OF TRANSPORTATION

EAST CENTRAL REGION
100 CORPORATE PARKWAY
SUITE 450
HOOVER, AL 35242
P.O. BOX 382348
BIRMINGHAM, AL 35238-2348
TELEPHONE: (205) 327-4962

Robert Bentley
GOVERNOR

John R. Cooper
TRANSPORTATION DIRECTOR

August 24, 2016

The Honorable Lawrence T. Oden
Mayor, City of Mountain Brook
City Hall
P.O. Box 130009
Mountain Brook, Alabama 35213

RE: Jefferson County
Project No. STPBH-3716( )
Proj. Ref. No. 100066112
Proj. Ref. No. 100066113
Bridge Reconstruction and Rehabilitation for
Old Brook Trail Bridge (BIN #012869) over
Little Shades Creek and Canterbury Road
Bridge (BIN #002873) over Watkins Creek

Dear Mayor Oden:

I have enclosed the original Utility and Construction Agreement (and one copy) between the State of Alabama and the City of Mountain Brook, Alabama for the above referenced project.

This Agreement is submitted to the City for approval. After execution by the City Council, please return the original document and the copy, with original signature and the City Seal affixed to both to this office for further handing. A certified resolution, which authorizes the Mayor to sign the Agreement, affixed with the City Seal should be included with the original Agreement, as well as with the copy.

If I can supply you with any additional information or clarify any point contained herein, please feel free to contact me at your convenience.

Sincerely,

DeJarvis Leonard, P.E.
East Central Region Engineer

By: _____
Lance Taylor, P.E.
Asst. Region Engineer, Pre-Construction

LAT/trs
Enclosure
C: Mrs. Sandra F. P. Bonner
File w/encl.

2016-124

K-16-1647

AGREEMENT
FOR
UTILITY AND CONSTRUCTION

BETWEEN THE STATE OF ALABAMA
AND
THE CITY OF MOUNTAIN BROOK, ALABAMA

Project STPBH-3716 ( )
Project Reference Number 100066112
Project Reference Number 100066113
Bridge Reconstruction and Rehabilitation for Old Brook Trail Bridge (BIN #012869) over Little Shades Creek, and Canterbury Road Bridge (BIN #002873) over Watkins Creek in the City of Mountain Brook

THIS AGREEMENT is made and entered into by and between the State of Alabama, acting by and through the Alabama Department of Transportation, hereinafter referred to as STATE; and the City of Mountain Brook, Alabama, hereinafter referred to as CITY; in cooperation with the United States Department of Transportation, Federal Highway Administration, hereinafter referred to as the FHWA; and

WHEREAS, a Transportation Improvement Program has been developed for the Birmingham Urbanized Area and certain transportation improvements and priorities are listed therein; and

WHEREAS, it is in the public interest for the STATE and the CITY to cooperate toward the implementation of the Transportation Improvement Program; and

WHEREAS, the STATE and CITY desire to cooperate in a utility and construction program for bridge reconstruction and rehabilitation for Old Brook Trail Bridge (BIN #012869) over Little Shades Creek, and Canterbury Road Bridge (BIN #002873) over Watkins Creek in the City of Mountain Brook.

NOW, THEREFORE, the parties hereto, for, and in consideration of the premises stated herein do hereby mutually promise, stipulate, and agree as follows:

2016-124

(1) This Agreement will cover utilities and all aspects of construction for the proposed improvements, including construction engineering and inspection during the course of the work, all in accordance with plans approved by the STATE.

(2) Funding for this Agreement is subject to availability of Federal Aid funds at the time of authorization by FHWA. Any deficiency in Federal Aid, or overrun in construction costs will be borne by the CITY. In the event of an under run in construction costs, the amount of Federal Aid funds will be 80 percent of eligible costs.

(3) The Project will be administered by the STATE and all cost will be financed, when eligible for Federal participation, on the basis of 80 percent Federal funds and 20 percent CITY funds. The estimated cost and participation by the various parties are as follows:

	Total Estimated	Estimated Federal Funds	Estimated CITY Funds
Utilities	$100,000.00	$80,000.00	$20,000.00
construction, including engineering and inspection	$1,100,000.00	$880,000.00	$220,000.00
TOTAL	$1,200,000.00	$960,000.00	$220,000.00

It is understood that the above is an estimate only, and in the event the final cost exceeds the estimate, the CITY will be responsible for its proportional share as above noted and the CITY agrees to pay same to STATE; or in the event the cost is less than the estimate, the CITY will receive a refund accordingly from the STATE.

(4) Any cost for work not eligible for Federal reimbursement will be financed 100 percent by the CITY, which payment will be reflected in the final audit.

(5) The CITY will coordinate any required adjustments to utilities with the utility company involved in accordance with usual STATE procedures. Any utility expenses involved which are eligible for STATE reimbursement or payment under state law will be considered as a part

of the Project cost and will be paid as provided herein, with the CITY paying its proportional share. The STATE will not be liable for utility expenses which are not eligible for STATE reimbursement or payment under state law.

(6) The performance of the work covered by this Agreement will be in accordance with the current regulations and requirements of the STATE and FHWA.

(7) The construction of the improvements will be by contract and the STATE will be responsible for advertisement and receipt of bids and for the award of the contract. Following receipt of bids and prior to the award of the contract, the STATE will invoice the CITY for its prorata share of the estimated construction cost as reflected by the bid of the successful bidder plus engineering and inspection cost, and the CITY will promptly pay this estimated cost before award of the contract. The STATE will not award the contract until it is in receipt of the estimated cost payable by the CITY as reflected by the bid of the successful bidder, plus the engineering and inspection cost. All required off-site testing shall be the responsibility of the Alabama Department of Transportation. All on-site engineering, inspection, and testing (including obtaining and delivery of test specimens to the Alabama Department of Transportation testing facility) shall be the responsibility of the CITY or its designated representative.

(8) Upon completion and acceptance of the work by the STATE, the CITY will assume full responsibility for maintenance of that part of the facility which is not part of the State Highway Maintenance System.

(9) It is clearly understood by the parties that the STATE does not commit any STATE or Federal funds beyond those mentioned herein.

(10) The CITY agrees that in the event the FHWA determines, under its rules and/or regulations that Federal funds expended on this Project (including but not limited to delay of the projects, or delay of projects contemplated to be developed and accomplished in sequence to the current projects) must be refunded to the FHWA, the CITY shall reimburse and pay to the STATE for and on behalf of FHWA, a sum of money equal to the total amount of STATE and Federal.

(11) A final audit will be made of all Project records after completion of the Project and a copy will be furnished to the Department of Examiners of Public Accounts, in accordance with Act 1994, No. 94-414. A final financial settlement will be made between the parties as reflected by the audit and this Agreement.

(12) Subject to the limitations on damages applicable to municipal corporations under Ala. Code § 11-47-190 (1975), the CITY shall indemnify, and hold harmless the State of Alabama, the Alabama Department of Transportation, its officers, officials, agents, servants, and employees from and against (1) claims, damages, losses, and expenses, including but not limited to attorney's fees arising out of, connected with, resulting from or related to the work performed by the CITY, or its officers, employees, contracts, agents or assigns; (2) the provision of any services or expenditure of funds required, authorized, or undertaken by the CITY pursuant to the terms of this Agreement; or (3) any damage, loss, expense, bodily injury, or death, or injury or destruction of tangible property (other than the work itself), including loss of use therefrom, and including but not limited to attorney's fees, caused by the negligent, careless or unskillful acts of the CITY, its agents, servants, representatives or employees, or the misuse, misappropriation, misapplication, or misexpenditure of any source of funding,

compensation or reimbursement by the CITY, its agents, servants, representatives or employees, or anyone for whose acts the CITY may be liable.

(13) By entering into this Agreement, the CITY is not an agent of the STATE, its officers, employees, agents or assigns. The CITY is an independent entity from the STATE and nothing in this Agreement creates an agency relationship between the parties.

(14) 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.

(15) The terms of this Agreement may be modified by supplemental agreement duly executed by the parties hereto.

(16) This Agreement will remain in effect, unless otherwise terminated by either party upon the delivery of a thirty (30) day notice of termination.

(17) Nothing will be construed under the terms of this Agreement by the STATE or the CITY that will cause any conflict with Section 23-1-63, Code of Alabama (7/24th Law).

(18) Exhibits M and N are attached and hereby made a part of this Agreement.

IN WITNESS WHEREOF, the parties hereto cause this Agreement to be executed by those officers, officials, and persons thereunto duly authorized, and the Agreement is deemed to be dated and to be effective on the date stated hereinafter as the date of approval of the Governor of Alabama.

SEAL

ATTEST:

_____
City Clerk (Signature)

_____
Type name of Clerk

CITY OF MOUNTAIN BROOK, ALABAMA

BY: _____
Mayor (Signature)

_____
Type name of Mayor

THIS AGREEMENT HAS BEEN LEGALLY REVIEWED
AND APPROVED AS TO FORM AND CONTENT:

BY:_____
Chief Counsel, Jim R. Ippolito, Jr.

RECOMMENDED FOR APPROVAL:

_____
East Central Region Engineer, DeJarvis Leonard, P. E.

_____
Multimodal Transportation Engineer,
Robert J. Jilla

_____
Chief Engineer, Don T. Arkle, P. E.

STATE OF ALABAMA
ACTING BY AND THROUGH THE
ALABAMA DEPARTMENT OF TRANSPORTATION

_____
Transportation Director, John R. Cooper

The foregoing Agreement is hereby approved by the Governor of the State of Alabama this _____ day of _____, 20 ____.

_____
GOVERNOR OF ALABAMA, ROBERT BENTLEY

7/18/90 **Exhibit M**

CERTIFICATION

This certification is applicable to the instrument to which it is attached whether attached directly or indirectly with other attachments to such instrument.

The prospective participant/recipient, by causing the signing of and the submission of this Federal contract, grant, loan, cooperative agreement, or other instrument as might be applicable under Section 1352, Title 31, U. S. Code, and the person signing same for and on behalf of the prospective participant/recipient each respectively certify that to the best of the knowledge and belief of the prospective participant or recipient and of the person signing for and on behalf of the prospective participant/recipient, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the prospective participant/recipient or the person signing on behalf of the participant/recipient as mentioned above, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, or other instrument as might be applicable under Section 1352, Title 31, U. S. Code, the prospective participant/recipient shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U. S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

The prospective participant/recipient also agrees by submitting this Federal contract, grant, loan, cooperative agreement, or other instrument as might be applicable under Section 1352, Title 31, U. S. Code, that the prospective participant/recipient shall require that the language of this certification be included in all lower tier subcontracts, which exceed $100,000 and that all such subrecipients shall certify and disclose accordingly.

EXHIBIT N

CONSULTANT 2/15/95
REVISED 5/30/02
REVISED 6/16/11
REVISED 10/28/15

FUNDS SHALL NOT BE CONSTITUTED AS A DEBT

It is agreed that the terms and commitments contained herein shall not be constituted as a debt of the State of Alabama in violation of Article 11, Section 213 of the Constitution of Alabama, 1901, as amended by Amendment Number 26. It is further agreed that if any provision of this AGREEMENT shall contravene any statute or Constitutional provision of amendment, either now in effect or which may, during the course of this AGREEMENT, be enacted, then the conflicting provision in the AGREEMENT shall be deemed null and void.

When considering settlement of controversies arising from or related to the work covered by this AGREEMENT, the parties may agree to use appropriate forms of non-binding alternative dispute resolution.

TERMINATION DUE TO INSUFFICIENT FUNDS

a. If the agreement term is to exceed more than one fiscal year, then said agreement is subject to termination in the event that funds should not be appropriated for the continued payment of the agreement in subsequent fiscal years.

b. In the event of proration of the fund from which payment under this AGREEMENT is to be made, agreement will be subject to termination.

NO GOVERNMENT OBLIGATION TO THIRD PARTY CONTRACTORS

The STATE and CONSULTANT acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the underlying contract, absent the express written consent by the Federal Government, the Federal Government is not a party to this contract and shall not be subject to any obligations of or liabilities to the STATE, CONSULTANT, or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying contract.

The CONSULTANT agrees to include the above clause in each subcontract financed in whole or in part with Federal assistance provided to FHWA. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

RESOLUTION NUMBER 2016-124

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

1. That the City enters into an Agreement with the State of Alabama, acting by and through the Alabama Department of Transportation for:

   Utility and construction program for Project STPBH-3716 ( ), Project Reference Numbers 100066112 and 100066113 for bridge reconstruction and rehabilitation for Old Brook Trail Bridge (BIN #012869) over Little Shades Creek, and Canterbury Road Bridge (BIN #002873) over Watkins Creek in the City of Mountain Brook; which Agreement is before this Council.

2. That the Agreement be executed in the name of the City, by its Mayor, for and on its behalf.

3. That the Agreement be attested by the City Clerk and the seal of the City affixed thereto.

BE IT FURTHER RESOLVED, that upon the completion of the execution of the Agreement by all parties, that a copy of such Agreement be kept on file by the City Clerk.

Passed, adopted, and approved this ____ day of _____, 20 ____.

ATTESTED:

_____ _____

City Clerk Mayor

I, the undersigned qualified and acting clerk of the City of Mountain Brook, Alabama, do hereby certify that the above and foregoing is a true copy of a resolution passed and adopted by the City Council of the City named therein, at a regular meeting of such Council held on the ____ day of _____, 20 ____, and that such resolution is on file in the City Clerk's office.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the City on the ____ day of _____, 20 ____.

_____

City Clerk

2016-124

RESOLUTION NO. 2016-125

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 for Services between the City and Regional Planning Commission of Greater Birmingham, in the form as attached hereto as Exhibit A subject to such minor changes as may be determined appropriate and review by legal counsel, with respect to an 80% APPLE-funded Mountain Brook Sidewalks Feasibility Study.

ADOPTED: This 12th day of September, 2016.

_____
Council President

APPROVED: This 12th day of September, 2016.

_____
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 12, 2016, as same appears in the minutes of record of said meeting.

_____
City Clerk

\

AGREEMENT FOR SERVICES

This Agreement for Services (the "Agreement") is entered into as of the _____ day of _____, 2016, by and between the **Regional Planning Commission of Greater Birmingham**, a regional planning and development commission organized and existing under the laws of the State of Alabama ("RPCGB"), and the **City of Mountain Brook, Alabama**, a municipal corporation (the "Governmental Entity" or "City").

W I T N E S S E T H:

WHEREAS, the Governmental Entity has applied to receive funding under the Advanced Planning Program and Logical Engineering (APPLE) program for a "Sidewalks Study" (the "Project");

WHEREAS, the Project has been selected for funding under the APPLE program;

WHEREAS, the APPLE grant for the Project will fund 80% (or $_____) of the total Project cost of $_____, and the Governmental Entity will provide a local match in the amount of $_____ (or 20%) of the total Project cost;

WHEREAS, pursuant to the terms of this Agreement, RPCGB is being engaged by the City to perform the services contemplated for the Project; and

WHEREAS, the parties agree to work in good faith to complete the Project in a timely and professional manner.

NOW THEREFORE, in consideration of the premises and the mutual covenants, agreements, representations and warranties hereinafter set forth, the RPCGB and the Governmental Entity agree as follows:

1. **Engagement of RPCGB**. The Governmental Entity hereby agrees to engage RPCGB to perform the Project and services which are identified and described in the "Scope of Work" set forth on **Exhibit A**, which is attached hereto and incorporated herein by reference. RPCGB, from time to time, may request changes in the Scope of services to be performed. Such changes shall be memorialized by written amendments to this Agreement that is signed by both parties; these changes may include an increase or decrease in the amount of Governmental Entity's local match.

The Governmental Entity authorizes RPCGB to engage a third party consultant(s) that has been approved by the City to assist in performing the Scope of Work. The RPCGB is responsible for supervising, managing and paying any third party consultant for any services it performs so that the Project may be completed in the orderly flow of the work.

2. **Compensation**. The parties agree that the total Project cost is $_____ (including the local match), and that the RPCGB will receive that total amount in consideration for its performance of the services contemplated herein. The payment of this amount shall constitute full and complete compensation for the services to be provided by RPCGB directly, by its consultants or otherwise secured by RPCGB for the Project, and includes all expenses arising from the performance of this Agreement.

3. **Payment by City**. The City shall make payment to RPCGB for services in one (1) lump sum installment of $_____ (the local match) within thirty (30) days after the receipt of invoice from the RPCGB. If this compensation is not paid when due, RPCGB shall not engage in the provision of the contemplated services nor shall RPCGB employ third party consultant(s) for the Project until such time as payment is made. If after a period of sixty (60) days from the date of invoice the compensation is not paid, the Governmental Entity acknowledges that it may forfeit all claims to the awarded amount for the Apple grant for the Project.

Upon the successful completion of the Project and the generation of the contemplated grant funds, the City agrees to execute appropriate documents and otherwise cooperate with the RPCGB so it can receive those funds in consideration for the balance of the total Project costs payable to it for its services.

4. **Time of Performance.** The RPCGB shall commence its performance of services immediately after the receipt of payment by the Governmental Entity, and the RPCGB shall complete Project in accordance with the schedule set forth in Exhibit A.

5. **Financial Records**. RPCGB shall keep and maintain complete and accurate books, records, and procedures to account for all funds paid by the Governmental Entity in accordance with this Agreement. RPCGB shall allow the Governmental Entity to examine, copy, and audit all such books, records and procedures upon advance notice and during RPCGB's normal business hours. Any such examination or audit shall be conducted at the sole cost and expense of the requesting party.

RPCGB shall retain all records with respect to the matters made the subject of this Agreement for three (3) years following the termination or completion of this Agreement. The obligations in this provision shall survive the termination of this Agreement.

6. **Political Activity**. No portion of any funds to be paid by the Governmental Entity to RPCGB for the services contemplated herein shall be used for any partisan political activity, or to further the election or defeat of any candidate for public office.

7. **Qualified Personnel**. RPCGB represents that it employs or will engage all personnel required to perform the services made the subject to this Agreement. Any such personnel shall not be employees of or have any contractual relationships with the Governmental Entity relative to the Project, and all such personnel shall be reasonably qualified to perform the services assigned to them.

8. **Cooperation**. All information, data, reports, records and maps as are available, existing and necessary for performing the contemplated work shall be assembled for the Governmental Entity by RPCGB or the third party consultant(s) employed by it. The Governmental Entity agrees to cooperate with RPCGB and the third party consultants(s) employed by RPCGB in all reasonable ways to allow them to conduct their planning and development work without undue delay.

The RPCGB and Governmental Entity will ensure that all accident and traffic data provided by ALDOT or any agency or political subdivision of the State of Alabama and used for safety enhancement are kept confidential under 23 U.S.C. § 409 and not disclosed to third parties without the express written permission of ALDOT. The data shall not be referenced, disclosed, discussed, or otherwise made public. The provision of this data shall not be considered as a waiver of the provision of 23 U.S.C. § 409. Upon execution of this Agreement,

the RPCGB and Governmental Entity agree that their agents, servants, officers, officials, and employees, in both their official and individual capacities, shall not discuss, disclose, use, publish, or release the data provided pursuant to the above referenced request without prior written consent of ALDOT. Furthermore, if the data should be released or published without the consent of ALDOT, or should an attempt be made to use the data in an action for damages against the State of Alabama, ALDOT, its officials or employees' access to data shall terminate immediately. The State of Alabama and ALDOT expressly reserve the right under 23 U.S.C. § 409 to object to the use of the data, any opinions drawn from the data, and to recover damages caused by the improper and unauthorized release of the data.

9. **Ownership of Data**. The Governmental Entity shall retain title to and all ownership rights of all data and content provided by it to RPCGB for the Project, including but not limited to geographic information systems, databases, maps, multimedia or images (graphics, audio and video), text and the like provided by the Governmental Entity. The City grants RPCGB the right to access and use this content for the purpose of complying with its obligations under this Agreement.

10. **Ownership of Work Product**. Upon completion of the work or elements thereof that are described in the attached Scope of Work, all reports, data, artwork, maps, stencils, negatives, plates and other supporting materials prepared by RPCGB as a part of such work shall become the exclusive property of Governmental Entity, and any reproduction or other uses of such materials shall be approved by appropriate officials of the Governmental Entity.

11. **Substantial Changes by City in Final Work Product**. If the City makes any substantial changes to the final work product after the Governmental Entity has taken delivery and accepted that product, those changes shall not be attributed by the City to the RPCGB. Substantial changes are defined as changes to plan content, policy and physical development recommendations, regulations, codes, and ordinances that diminish the intent and ability of the plan document to achieve its stated goals as agreed to and accepted by the Governmental Entity.

12. **Assignment/No Third Party Beneficiaries**. Neither party may assign this Agreement, or any of its rights, benefits or obligations herein, without the prior written consent of the other party. Further, this Agreement does not confer, and is not intended to create, any rights or benefits for any third party that is not a signatory to this Agreement.

13. **Equal Employment Opportunity**. In performing the work, RPCGB and its third party consultant(s) shall not discriminate against any employee or applicant for employment because of race, religion, national origin, sex, age or disability.

14. **Termination**. If RPCGB fails to perform any of its material obligations under this Agreement in a timely and proper manner, or if RPCGB shall violate any of the covenants, agreements, or stipulations of this Agreement, the Governmental Entity may give written notice of that breach to RPCGB. In the event RPCGB fails to cure such breach to the reasonable satisfaction of Governmental Entity within thirty (30) days following RPCGB's receipt of such written notice, Governmental Entity may terminate this Agreement upon written notice to RPCGB. In the event of such termination, the Governmental Entity shall be entitled to a refund from RCPGB of any compensation paid by the City that is not earned by RCPGB for services that it did not perform by the effective date of termination.

15. **Relationship of the Parties**. The RPCGB is an independent contractor of the City, and nothing contained in this Agreement shall be deemed to create any agency, joint venture, partnership or employer/employee relationship between them. Neither party shall

have the right or power to commit, contract for or otherwise obligate the other party to any third person or entity. RPCGB shall be responsible for the collection, filing, and payment of social security and other federal, state or local taxes or withholdings for RPCGB's employees. Governmental Entity shall have no right to control or direct the details, manner or means by which RPCGB accomplishes the results of the services to be performed pursuant to this Agreement.

16. Notices. Any notice to a party hereunder that is contemplated in this Agreement shall be in writing and deemed given when it is either (a) personally delivered, or (b) sent by certified or registered mail, return receipt requested, to

If to RPCGB:

Regional Planning Commission of Greater Birmingham
Center for Regional Planning and Design
Two 20th Street North, Suite 1200
Birmingham, Alabama 35203
Attention: Michael Kaczorowski

If to Governmental Entity:

City of Mountain Brook
56 Church Street
Mountain Brook, AL 35213
Attention: Sam Gaston - City Manager

or at such other address as either party may advise the other in writing. Any such notice shall be deemed delivered when placed in the mail, properly addressed, with postage prepaid.

17. Entire Agreement. This Agreement constitutes the entire agreement between the parties with respect to the matters herein, and there are no agreements, understandings, restrictions, warranties or representations between the parties other than those set forth herein. The foregoing supersedes all prior agreements, negotiations and understandings relating to the subject matter hereof.

IN WITNESS WHEREOF the undersigned, duly authorized representatives of the parties have executed this Agreement effective as of the date and year first above written.

City of Mountain Brook, Alabama

By: _____

_____

Its: _____

Regional Planning Commission of Greater Birmingham

By: _____
Charles E. Ball

Its: **Executive Director**

ADDENDUM TO AGREEMENT BETWEEN
THE CITY OF MOUNTAIN BROOK AND
REGIONAL PLANNING COMMISSION OF GREATER BIRMINGHAM
DATED SEPTEMBER 12, 2016

THIS ADDENDUM ("the/this Addendum") to the principal agreement between the **City of Mountain Brook, Alabama** ("the City") and **Regional Planning Commission of Greater Birmingham**. ("the Contractor") dated September 12, 2016.

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 12th day of September, 2016.

Regional Planning Commission of Greater Birmingham

By : _____

Its : _____

City of Mountain Brook, Alabama

By : _____

Its : _____

Exhibit A – Scope of Work

Mountain Brook Sidewalks
Feasibility Study: APPLE

Project Summary

The Mountain Brook Sidewalks Study will evaluate the feasibility of constructing proposed sidewalks. The study will develop conceptual drawings that illustrate recommended sidewalk locations, develop an estimate of probable construction costs, provide recommended phasing of projects, and identify potential funding sources for improvements.

The potential sidewalks to be studied are identified in the City's Walkway Master Plan (see attached map). However, the City may choose to study other potential sidewalks that are not identified in the current plan.

PROJECT TASKS

The project tasks and subtasks required to address the scope of work shall include the following:

Task 1: Existing Conditions

A. Develop base maps using GIS data and aerial photography.
B. Analyze and assess current conceptual plans and any proposed alignments if they exist.
C. Conduct field reviews to assess the constraints and constructability.
D. Perform property research to identify ownership and potential right-of-way acquisitions.
E. Collect and analyze information of record from various agencies.
F. Identify existing utilities in the area as necessary.
G. Conduct additional field reviews as necessary.

Task 2: Concept Plan Development and Evaluation

A. Assess potential ROW, environmental, and ADA issues.
B. Prepare recommendations on the phasing and priorities of sidewalks.
C. Prepare a preliminary opinion of probable cost for the high priority sidewalks.
D. Prepare for and attend a meeting with Client and Stakeholders to present findings and recommendations.
E. Revise the plans to incorporate comments that may be received.
F. Identify potential funding sources.
G. Prepare a draft Advanced Planning Report document.
H. Submit the draft document for review.
I. Revise the Advanced Planning Report document based on comments that may be received.
J. Submit the final Advanced Planning Report document.

Exhibit A – Scope of Work

Project Schedule

It is intended that the study will progress according to the schedule as shown in the figure below.

Project Schedule

Task	Months					
	1	2	3	4	5	6
1. Existing Conditions						
2. Concept Plan Development and Evaluation						

Exclusions from Scope of Work

The following services are not included in the scope of services: construction drawings, road or utility engineering designs, and any other services not specifically listed in the project scope. Any Government Entity directed changes to the final plan after the Government Entity's approval of the draft revisions shall be reimbursed in accordance with allocated billing rates in effect at the time the services are performed.

Crash Data Restrictions

The Alabama Department of Transportation has directed that accident, incident, crash, injury, or fatality locations not be shown or presented in association with descriptions of transportation projects, facilities, or locations within the State of Alabama. This prohibition extends to all formal planning documents (UPWP, Long Range Plan, TIP, Bicycle and Pedestrian Plans, Congestion Management Process or Plan), and other documents that include narrative or tabular project listings or descriptions. [See Article 8 of the Agreement.]

RESOLUTION NO. 2016-126

WHEREAS, the City of Mountain Brook, Alabama, has certain personal property that is 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: It is hereby declares 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	Asset	Description	Notes
1		2 HP 4300 pc's: 2UA60307KB, 2UA6281PKX	
2		1 HP 7700 pc: 2UA73303IV	
3		3 HP 7900 pc's: MXL9191F83, MXL928074Y, MXL9234JT	
4		4 HP 4700 pc's: 2UA9010DGG, 2UA9010DG8, 2UA9010DJH, 2UA9010DJG	
5		4 HP Procurve 24 port switches: CN820ZT0W0, CN820ZT0W5, CN820ZT0Z1, CN820ZT0UZ	
6		1 HP 3005 B/W printer: CNB1C01713	
7		2 HP flat screen Monitors: No S/N	
8		3 Dell Poweredge 2950 servers: 526Z6G1, 726Z6G1, 8PS3CF1	
9		2 Dell Poweredge 1950 servers: BXCY6G1, 6WCY6G1	
10		4 Proliant DL380G5 servers: 2UX85008JU, 2UX85008JR, 2UX85008JP, 2UX85008JD	
11		1 Panasonic CF30 Laptop: 9BKYA32417	

BE IT FURTHER RESOLVED by the City Council of the City of Mountain Brook, Alabama, that the property above shall be sold by way of public Internet auction or, if not sold at said auction, discarded.

ADOPTED: This 12th day of September, 2016.

_____
Council President

APPROVED: This 12th day of September, 2016.

_____
Mayor

2016-126

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 12, 2016, as same appears in the minutes of record of said meeting.

_____

City Clerk

Surplus Property **2016-126**

RESOLUTION NO. 2016-127

BE IT RESOLVED by the City Council of the City of Mountain Brook, Alabama that the City Council hereby approves the lunchtime restaurant conditional use application for Ice House at 2708 Culver Road.

ADOPTED: This 12th day of September, 2016.

_____
Council President

APPROVED: This 12th day of September, 2016.

_____
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 12, 2016, as same appears in the minutes of record of said meeting.

_____
City Clerk

From: **Tom Sheffer** <tasheffer@gmail.com>
Date: Wed, Aug 24, 2016 at 3:11 PM
Subject: FYI: Tweaking of Concept for Mountain Brook Village
To: Dana Hazen <hazend@mtnbrook.org>

Dana:

As a courtesy of sorts given that the city approved our operating during lunch hours at the little place on Culver Road known affectionately by some of the landlords as the Spitfire Building, and in light of all the existing and soon-to-come breakfast options in a small radius of that location, we are tweaking the Biscuit Boy concept to expand our operating hours into the evening but maintaining breakfast and lunch service as originally proposed. We wanted to inform you and the council of the change even though I am well aware all of you have much bigger fish to fry.

While we have a fine product as the result of making biscuits at Dram for years and having served brunch since 2006 in Homewood and since 2000 in Nashville, we know that with a new national biscuit chain in downtown Homewood, another breakfast option coming there, and with two breakfast concepts down the street on Culver and on the Hollywood flyover, respectively, there will be only so many breakfast dollars to go around. We would certainly garner our share of such but in a much smaller footprint than our fellow egg-and-bacon peddlers which would limit revenues to a degree.

The landlords, rooting obviously for our long-term success, have urged us for some time to take advantage of the chance to stay open longer, into the afternoon and early evening, as they have no problem with that, and we have agreed it is in the best interests of our business. We will open for breakfast and lunch as planned and as agreed -- again, the opportunity is greatly appreciated -- but hope to serve food and some light drinks into the mid-evening hours, not wanting to compete too late in the evening with ourselves over at Avo and Dram.

While we'll be doing breakfast tacos at the rechristened "Icehouse" instead of biscuits in the morning, and Texas barbecue instead of breakfast and sandwiches at lunch, we expect with such limited seating to remain an eatery with few people in the building at one time (little option given the space!) and a goodly number of those in line merely to order sandwiches and plates and take their order to go. So pretty much the daytime as envisioned but with more business at night than in the morning or even lunch hours, so all the less pressure on village parking, which anyway is being augmented by the expansion of the village blocks into Lane Parke.

While I realize enterprises need not come before the council for night business or business outside the hours of 11-1 PM, since we worked through that with your office and the council, we felt it appropriate to let you all know of the change in name and the tweaking of business direction and overall operating hours. We look forward to contributing as we can to the life, flavor and economic health of Mountain Brook Village.

Respectfully,

Tom Sheffer
Green Apple Restaurant Group

RESOLUTION NO. 2016-073

BE IT RESOLVED by the City Council of the City of Mountain Brook, Alabama that the City Council hereby approves the lunchtime restaurant conditional use application for Biscuit Boy at 2708 Culver Road.

ADOPTED: This 13th day of June, 2016.

Council President

APPROVED: This 13th day of June, 2016.

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 June 13, 2016, as same appears in the minutes of record of said meeting.

City Clerk

CITY OF MOUNTAIN BROOK

Dana O. Hazen, AICP
Dircetor of Planning, Building
& Sustainability
56 Church Street
Mountain Brook, Alabama 35213
Telephone: 205/802-3821
Fax: 205.879.6913
hazend@mtnbrook.org
www.mtnbrook.org

DATE: May 5, 2016

TO: Mayor, City Council, City Manager, City Attorney

FROM: Dana Hazen, City Planner

RE: Conditional Use for Biscuit Boy (11am-1pm lunch service)
2708 Culver Road (previous iRevive and Melanie Pounds Interiors) Mountain Brook Village

Request for approval of a fast-casual restaurant in Mountain Brook Village. As may be seen in the attached letter of operational characteristics, although the restaurant is primarily a breakfast service, it is proposed to be open during the lunch peak hours of 11:00 a.m. to 1:00 p.m., thereby requiring approval of a conditional use.

The number of employees present between 11:00 a.m. and 1:00 p.m. will be four (4). There are two (2) on-site parking spaces along the alley which will be utilized by employees. Also, there is an agreement with Tom Sheffer of Avo-Dram to utilize the on-site parking at Avo-Dram for employee parking of this establsihment, so it is not expected that employees of this proposed establishment will have an impact on street parking.

The applicant's letter indicates seating for up to 25 patrons; however, it not anticipated that this will create a demand for 25 parking spaces, in that a portion of the patrons will already be parked in the Village as employees or patrons of other retail, office and service establishments in the Village.

As has been noted in past memos to council regarding parking on Montevallo, Petticoat and Culver, there is often ample parking along Petticoat and a fairly regular turnover of parking along Montevallo during the lunchtime hours. However, parking on the north end of Mountain Brook Village is on the cusp of change in the near future. Some of the Western parking lot will be lost in conjunction with the demolition of Western, Smith's and Ollie Irene and construction of Jemison Lane and associated improvements on the south end of Lane Parke. This is anticipated to take place beginning as early as fall of 2016. So, some on the Another Broken Egg patrons that currently utilize the Western parking lot will be forced to find street parking in the vicinity of this section of the Village. Ultimately, when Lane Parke is completed there will be new street parking added to the north side of Culver (see attached excerpt from the Skipper Traffic Study for Lane Parke).

The zoning ordinance requires council approval of a lunchtime conditional use, and states that any proposed conditional use will be reviewed as to the following:

- Whether the use would disparately impact public parking in the area;
- Whether vehicular or pedestrian circulation would be impacted by the use;
- Whether the use is compatible with surrounding existing uses;
- Whether the hours of operation or peak traffic times would impact existing uses.

4 May 2016

Dear Ladies and Sirs:

Thank you for the opportunity to present our proposal for operating hours from 11 AM to 1 PM, described as lunch hours by the City of Mountain Brook. We are working with Spitfire Realty, the group that owns the little building at 2710 Culver, and architect Pete Pritchard, whose plans and renderings you should also have received, to develop a small biscuit concept offering mostly breakfast but also a light carryout lunch and (we hope) office catering business.

We plan to operate from 7 AM to 2 PM, closing after lunch service, with the lion's share of the business to come from 7-10 AM. Biscuits mean breakfast, and while they are eaten at other times of day, they are tied tightly to breakfast in the minds of the public and the culture of the area. So well over half of our sales would come then. Still, since it's never cheap to open and operate a restaurant, additional revenue from what are thought of as lunch hours would be crucial to the success of the enterprise, not to mention to fully employ workers at enough daily hours to maintain an admittedly small staff.

On that note, just 3-4 employees at a time would run the operation, as the space is quite small at around 800-900 square feet, and some of the staff would come from Dram, where they would park in our spaces behind the Village Corners building at Montevallo and Cahaba roads or in the three spaces behind the Spitfire building. With such brief operating hours, some employees would have to get more hours at Dram to make their time worthwhile. Indeed, some of the preparation of items to be sold at Biscuit Boy would be done in the Avo+Dram kitchen itself. So we don't see employee parking having an impact on village spaces.

In rudimentary midday parking counts over the past few weeks (and with an eye to the additional parking that is changing the realities of Mountain Brook Village), it's evident to us that there are always a good number spaces on Petticoat Lane and, despite past controversies over such, on Montevallo itself during the lunch hours in question, as no lunch-focused restaurant operates there. Avo and Dram are not open then, and Another Broken Egg, like the proposed Biscuit Boy, is a breakfast- and thus morning-centered place. Obviously (and for decades), Gilchrist is open for lunch nearby, but it's also a small space without a ton of seating, and the service is fast as the lunches themselves tend to be (I know from experience as

I'm sure you all do better than I). So with our limited seating -- in the 20-25 range, say -- and what we expect to be the preponderance of to-go business, we don't see people lingering or parking long at all to enjoy our product. A biscuit sandwich, which represents the vast majority of our menu, is a rapidly prepared item and one rapidly consumed or easily taken away as well. We will have no table service and no bar and thus no reason for guests to linger long.

We expect the majority of our draw to be in the morning hours, when guests are grabbing breakfast and coffee to go or eating it quickly in the space. A community table proposed in front and a counter of sorts along the side would invite a quick sit-down at breakfast or lunch rather than a long meal as at Avo or Dram, for instance, or even as at Another Broken Egg, with a multitude of tables and table service to take food orders. And while we hope to be something of a destination, even a "drive-by" one, for breakfast, we don't see anyone coming from across Birmingham or nearby communities to grab a quick breakfast-oriented biscuit at lunch. True, we will offer a salad and a few more "lunchy" biscuit sandwiches, but grits and gravy aren't the stuff of business lunches. I see our lunch business coming mostly from the merchants and staff of the village itself, or people from the hotel and offices nearby. Indeed, we hope to sell pick-up biscuit platters for such groups on a regular basis during the week.

I hope this gives you all some basis for our request and I look forward to discussing the matter with you further as a group or individually as you see fit. Thank you for your review.

Respectfully,

Tom Sheffer

A rough but fairly detailed menu outline for what we would offer at Biscuit Boy in the Spitfire Realty-owned building on Culver:

BISCUIT BOY
Egg & Cheese
Bacon
Sausage
Conecuh
Country Ham
Chicken
Hot Chicken
Hot Brown
Cuban
PBLT (on English Muffin)
Burger Boy
Sloppy Joe
Pulled Pork (+slaw)
Benedict Boy (on English muffin or biscuit)
Early Riser (egg/meat/cheese/tots)
Po'Boy (w/ comeback sauce)
Border Boy (flour taco)

GRAVY
Sausage
Red-Eye
Smoked Tomato
Chocolate
Gravy Flight (choice of three)

SIDES
Cheese Grits
Tater Tots (loaded: w/ cheese sauce)

SALAD
Kale Salad (cranberries/red-wine vinaigrette/biscuit croutons)

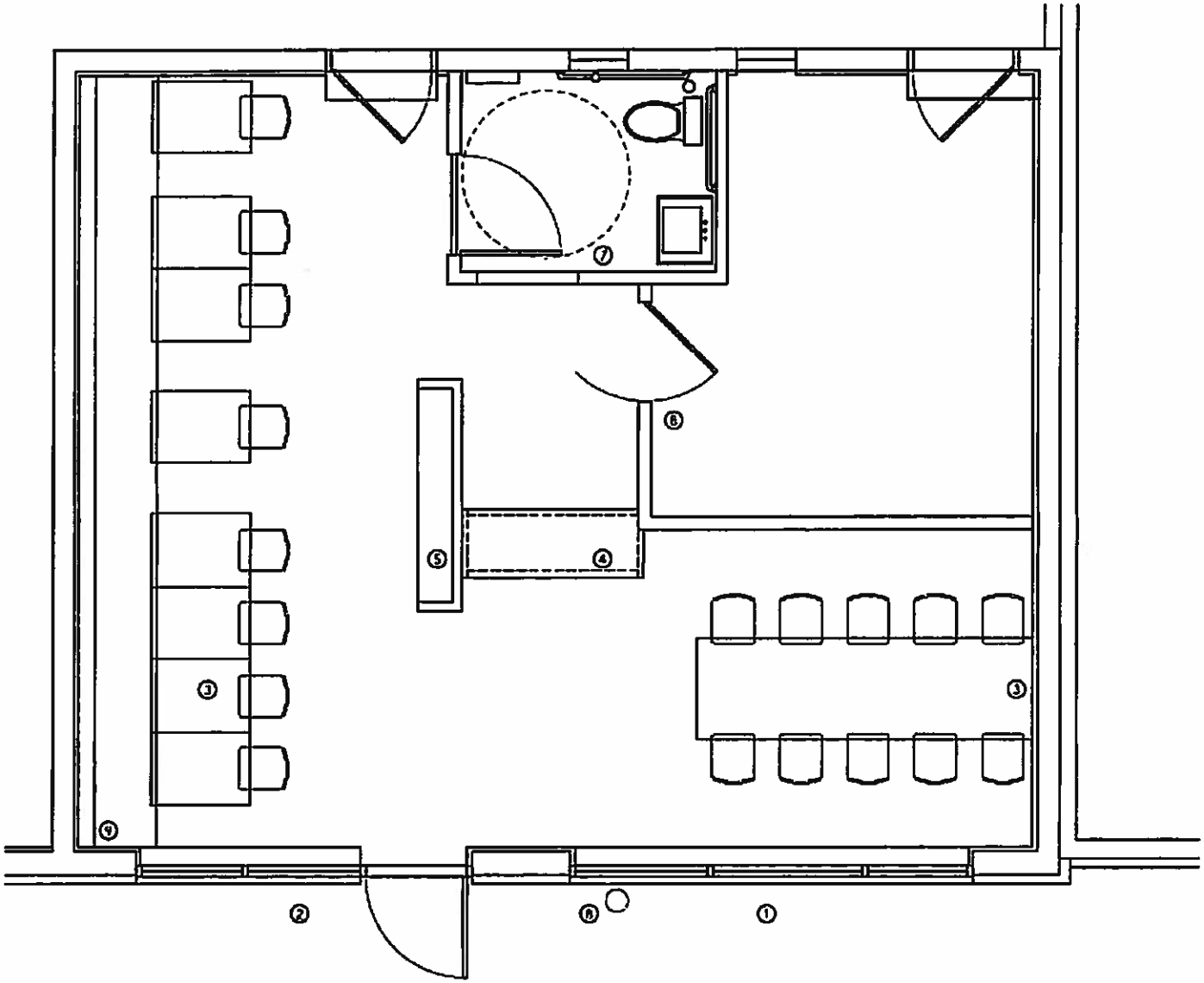
BREAKFAST PLATE

POOCH
Good Boy! (dog biscuit)

ERS
2710

Culver Rd
M & S - Handmade Furniture
Culver Rd
Culver Rd
Culver Rd
Culver Rd
Culver Rd
haba Rd
A'Mano
Barton Clay Fine Jewelers
IRevive
Sneaky Pete's Hotdogs
Cahaba Rd
Culver Alley
Culver Alley
Culver Alley
ONLY
Canterbury Alley
Cahaba Rd

BISCUIT BOY



INDEX

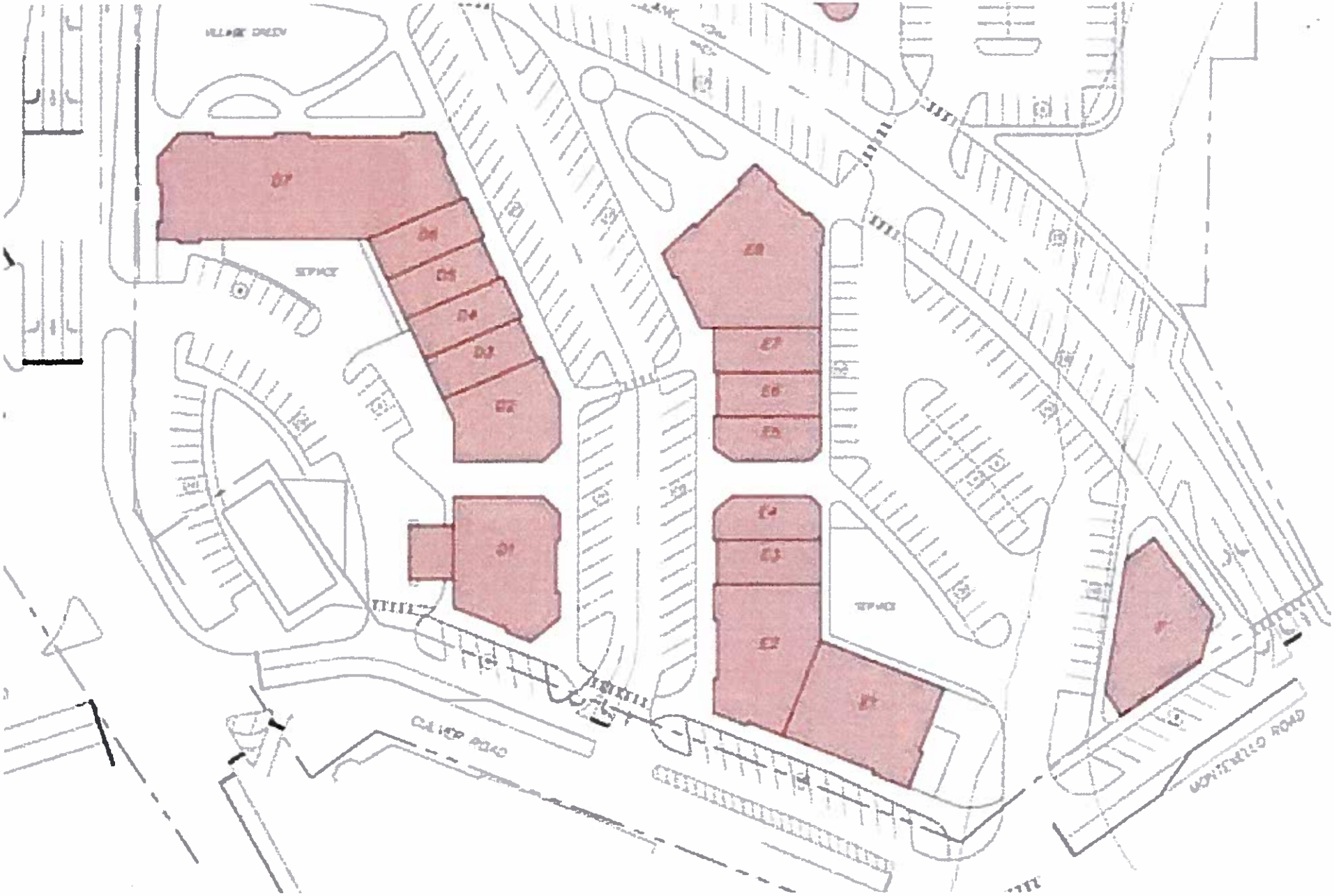
1 NEW OVERHEAD DOOR
2 NEW FIXED STOREFRONT AND DOOR
3 SEATING
4 CASHIER
5 DRINK STATION
6 KITCHEN
7 BATHROOM
8 GAS METER
9 MIRRORED WALL

BISCUIT BOY - SPITFIRE REALTY

2708 Culver Road
Mountain Brook, Al 35255

FLOOR PLAN

Architect-PETE PRITCHARD inc
SCALE: 1/4" = 1'-0"
4/5/16


VILLAGE DRIVE
SPACE
SPACE
CAMP ROAD
MONTICELLO ROAD

Parking Observation 11:30 - 1:00, May 17

	Petticoat		Montevallo		Culver			Cars Parked at Western 11:30-1:00			
Tuesday	# vacant		# vacant		# vacant	Total Vacant					
11:30	13		8		3	24		to Sneaky Petes		3	
11:45	12		10		1	23					
12:00	12		14		2	28		to AB Egg		3	
12:10	16		15		2	33					
12:20	19		15		3	37					
12:30	20		13		3	36					
12:40	19		14		2	35					
12:50	17		13		1	31					
Average	16		13		2	30					

This observation was conducted on a Tuesday between 11:30 and 1:00. Street parking was observed along three roads (Petticoat, Montevallo and Culver). The average, combined vacancy of parking spaces on these three roads during the study time period was 30 spaces. Observations were also made regarding the number of cars parking in the Western parking lot whose occupants crossed Culver to patronize Another Broken Egg and Sneaky Pete's. The total number of cars that utilized the parking lot to patronize the restaurants across Culver were 6. Therefore, it appears that when the Western parking lot is no longer available for utilization by restaurant patrons there will be ample street parking (30 vacancies vs. 6 in parking lot) for those currently parking in the Western parking lot. Also, given the number of vacant street parking spaces in the vicinity of the proposed Biscuit Boy, there appears to be ample street parking to accommodate the proposed use.

Parking observations from Tom Sheffer

These are an average over a day from mid-May to two days this week, the latter admittedly when school is out and people's schedules are changing:

Petticoat -- 19 spaces average

Montevallo -- 13-14 spaces

Culver -- 6 spaces average

Canterbury (the strip between Petticoat and the circle) -- 10 average

Western -- just 6-8 people using and going to Another Broken Egg or Sneaky Pete's (fewer than perhaps expected)

That sums up three days' worth of constant checking between the ordinance lunch hours of 11-1. Thanks for including this amateur study. - Tom

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JOB NAME: Spiffin's Bldg.

LOCATION: Mt Brook Village
2710 Culver Rd Mt Brook

ARCHITECT:

CONTRACTOR:

ORDER #:

DATE:

Didn't Include Spaces in front of Barton Clay

Tuesday May, 25th Sunny

Time	Pettitoe	Montevallo	Culver	Cahaba
1:30	11	8	3	5
1:45	9	8	3	6
2:00	10	6	5	5
2:10	13	12	3	11
2:20	12	3	4	8
2:30	11	2	4	7
2:40	13	3	2	4
2:50	12	4	3	4
total	91	46	27	50
average	11.37	5.75	3.37	6.25

Average Vacant Park Spaces = 26.74

Cars Parked at Western Lot 3 - Smoky Peters'
3 - A Booker Egg

Thursday May, 27 Sunny - Hazy

1:30	5	3	5	2
1:45	7	9	3	3
2:00	8	7	4	3
2:10	14	7	5	4
2:20	14	5	7	5
2:30	13	4	5	5
2:40	12	4	5	6
2:50	13	5	4	6
total	86	44	38	34
average	10.75	5.5	4.75	4.25

Average Vacant Parking Spaces = 25.25

Cars at Western lot 4 - Smoky Peters
3 - A Booker Egg

ALABAMA
1-800-825-3329
Birmingham, AL
1-800-288-1735
Huntsville, AL
1-800-858-3753
Auburn, AL
1-800-365-3329
Montgomery, AL

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1-800-633-6876
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1-800-277-4400
Pensacola, FL
1-800-277-4400
Destin, FL

MIDSOUTH
1-877-735-5248
Memphis, TN
1-877-735-5248
Jonesboro, AR

MISSISSIPPI
1-800-937-3552
Jackson, MS
1-800-937-3552
Hattiesburg, MS

LOUISIANA
1-800-280-1954
Metairie, LA
1-800-838-7915
Monroe, LA
1-800-737-4286
Baton Rouge, LA
1-800-497-3552
Shreveport, LA
1-800-363-4897
Lafayette, LA
1-800-280-1954
Lake Charles, LA

Dana Hazen 2:41 PM

to Virginia, Billy, Jack, Alice, Lloyd, Terry, Sam, me, Whit

FYI regarding the proposed Biscuit Boy and Barton Clay.

--------- Forwarded message ---------
From: **Robert C. Field** <rfield@highlandmortgage.com>
Date: Mon, Jun 13, 2016 at 2:05 PM
Subject: FW: Spitfire Building 2708 - 2710 Culver Road
To: "hazend@mtnbrook.org" <hazend@mtnbrook.org>
Cc: "Pete Pritchard (pete@petepritchard.com)" <pete@petepritchard.com>, Thomas Sheffer <tasheffer@hotmail.com>

Dana,
Bob Hester in our office went to visit the owner of Barton Clay Jewelry. His summary is below.
See you at 6:15 tonight.

Robert Field
From: Robert Hester [mailto:Roberth@weldenfield.com]
Sent: Monday, June 13, 2016 12:20 PM
To: Robert C. Field <rfield@highlandmortgage.com>
Subject: Spitfire Building 2708 - 2710 Culver Road

Robert, I met with Eric McClain (Owner Of Barton Clay Jewelry) to discuss the business that is going in next door to him called Biscuit Boy . Eric had no objections to the proposed business . We showed him the color renderings and Eric was positive about the proposal. We discussed the following topics:

1. **Parking** – We discussed parking. Eric did not appear concerned about an impact as it related to parking from Biscuit Boyz. He expressed an interest in the tree adjacent to his property being trimmed back to open up visibility to his business.
2. **Advertising** - Eric wanted to know if he could place sales ads in the our business and he would do the same for us, I did not see a problem with this.
3. **Gas Service on sidewalk** - Eric asked what something could done to cover up the meter , I would call the alagasco sales rep. to see what we could do .
4. **Schematics** - I left Eric a set of schematics with floor plans and store front façade (Architect-PETE PRITCHARD Inc.). He was positive about the lay out.
5. **Future Plans** - Still continued talking with city about closing alley for pedestrian walk way. Eric still likes that long range plan.

All in all, I think we should have a positive relationship with Eric McClain and Barton Clay Jewelry. If you need anything else, please contact me.

Thanks,

Robert Hester
roberth@weldenfield.com
205-558-4019 ext. 260

RESOLUTION NO. 2016-128

BE IT RESOLVED by the City Council of the City of Mountain Brook, Alabama that the City Council hereby authorizes the execution of a settlement agreement, in the form as attached hereto as Exhibit A, with respect to the Alabama Furniture Market, LLC v. City of Alabaster, et.al Circuit Court of Shelby County, AL – CV 12-900331.

ADOPTED: This 12th day of September, 2016.

_____
Council President

APPROVED: This 12th day of September, 2016.

_____
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 12, 2016, as same appears in the minutes of record of said meeting.

_____
City Clerk

STARNES | DAVIS FLORIE LLP

Alfred H. Perkins, Jr.
P.O. Box 598512
Birmingham, AL 35259-8512
Direct Dial: (205) 868-6024
Facsimile: (205) 868-6099
E-mail: aperkins@starneslaw.com

May 19, 2016

ATTORNEY-CLIENT PRIVILEGED & CONFIDENTIAL COMMUNICATION

VIA E-MAIL
Carl E. Johnson, Jr., Esq.
Bishop, Colvin, Johnson & Kent, LLC
1910 1st Avenue North
Birmingham, AL 35203
carljohnson@bishopcolvin.com

Re: *Alabama Furniture Market LLC v. City of Alabaster, et al.*
Circuit Court of Shelby County, AL – CV 12-900331
Our File No.: 26398

Dear Carl:

We have negotiated a settlement of this matter with the Plaintiff. The City is to refund 75% of the use tax amount at issue. In exchange, Plaintiff will dismiss its pending appeal. This amount for the City of Mountain Brook is $621.20.

Plaintiff understands and has acknowledged that the negotiated settlement is not effective unless and until it is approved by the City Council. A copy of a draft Settlement Agreement is attached. Please let me know if you desire any changes to the agreement. If not, please take the necessary steps to have the agreement approved by the Council.

Please let me know if you have any questions.

Sincerely,

STARNES DAVIS FLORIE LLP

Alfred H. Perkins, Jr.

AHP/jm
Enclosure

{B2226514}

SETTLEMENT AGREEMENT & RELEASE

The Parties to this Settlement Agreement and Release, made this the ____ day of May, 2016, are:

Alabama Furniture Market ("Plaintiff")

and

The Cities of Alabaster, Gardendale, Helena, Homewood, Hueytown, Irondale, Leeds, Millbrook, Montevallo, Moody, Mountain Brook, Northport, Pelham, Pell City, Prattville, Trussville and Vestavia Hills, Alabama ("Cities" or "Defendants").

WHEREAS:

1. Plaintiff was assessed and paid Use Taxes to each of the Cities for the time period of January 2006 through March 2008; and

2. Plaintiff subsequently petitioned each City for a refund of said Use Taxes. Following the Cities' failure to refund said tax payments, Plaintiff filed a Notice of Appeal of Denial of Tax Refund in the Circuit Court of Shelby County, Alabama, Civil Action No. CV 2012-900331 (the "Action") naming each of the Cities as Defendants/Appellees; and

3. The parties have now come to an agreement to end the pending litigation and to compromise and settle their disputes.

THEREFORE, in consideration of and reliance upon the truth of the foregoing recitals and the agreement contained herein, and other good and valuable considerations, and as a complete and final compromise, settlement, accord and satisfaction and release of all claims, the parties hereby agree to the following:

1. **Payment and other consideration:** In exchange for the execution of this Settlement Agreement and Release, each City shall each pay to the Plaintiff a sum equal to Seventy-five Percent (75%) of the amount of use taxes, penalties and interest Plaintiff paid that City for the time period of January 2006 through March 2008. Said amounts were the subject of Plaintiff's Petitions for Refund submitted to each City in December 2009.

Specifically, the amount of the subject use taxes, penalties and interest paid by Plaintiff to each City is as follows:

$9,528.79 – City of Alabaster
$1,034.70 – City of Gardendale
$4,988.83 – City of Helena
$1,318.61 – City of Homewood
$571.25 – City of Hueytown
$1,325.28 – City of Irondale
$1,541.85 – City of Leeds
$281.48 – City of Millbrook
$3,906.25 – City of Montevallo
$508.89 – City of Moody
$828.27 – City of Mountain Brook
$213.89 – City of Northport
$5,214.07 – City of Pelham
$676.69 – City of Pell City
$436.79 – City of Prattville
$2,353.22 – City of Trussville
$2,728.88 – City of Vestavia Hills

The settlement payments to be paid by the Cities to the Plaintiff are as follows:

$7,146.59 – City of Alabaster
$776.03 – City of Gardendale
$3,741.62 – City of Helena
$988.96 – City of Homewood
$428.44 – City of Hueytown
$993.96 – City of Irondale
$1,156.39 – City of Leeds

$211.11 – City of Millbrook
$2,929.69 – City of Montevallo
$381.67 – City of Moody
$621.20 – City of Mountain Brook
$160.42 – City of Northport
$3,910.55 – City of Pelham
$507.52 – City of Pell City
$327.59 – City of Prattville
$1,764.92 – City of Trussville
$2,046.66 – City of Vestavia Hills

Said payments by the Cities are intended to fully compensate Plaintiff for all claims of every kind and nature, including any interest, attorney's fees, costs and expenses, against the Defendants in the Action.

2. **Release by Plaintiff:** Alabama Furniture Market hereby releases, acquits and forever discharges the following Cities: Alabaster, Gardendale, Helena, Homewood, Hueytown, Irondale, Leeds, Millbrook, Montevallo, Moody, Mountain Brook, Northport, Pelham, Pell City, Prattville, Trussville, and Vestavia Hills, Alabama, and their past, present and future officials, employees, agents, representatives, attorneys and insurers (all collectively hereinafter "Releasees"), of and from any and all claims, demands, suits, causes of action, actions, rights, damages, costs, attorneys' fees, expenses, compensation and liability whatsoever, in law or in equity, known or unknown, asserted or unasserted, which Plaintiff had, has or may have hereafter in any way, directly or indirectly arising out of or relating to any tax payments, including penalties and interests, made to the Cities for time period of January 2006 through March 2008. Plaintiff covenants and promises never to sue or otherwise claim or demand against the Releasees in or before

any court, administrative or executive agency or other forum with respect to any matter released under this settlement agreement.

3. **Distribution of Proceeds:** Plaintiff and its attorneys acknowledge that they are solely responsible for the distribution of the proceeds under this settlement agreement. Releasees shall have no responsibility to direct in any manner the distribution of the settlement proceeds. No taxes are being withheld from the settlement proceeds. Plaintiff shall be solely responsible for the payment of taxes resulting from the receipt of the settlement proceeds and agrees to indemnify, defend and hold harmless Releasees concerning any tax liability.

4. **Non-Admission of Liability:** Plaintiff acknowledges that the settlement represents the compromise of doubtful and disputed claims and shall not in any way be construed as an admission by the Releasees that they have acted wrongfully with respect to Plaintiff or that Plaintiff has any claims or rights whatsoever against the Releasees. Plaintiff also acknowledges that the Releasees expressly disclaim any and all liability and deny that they caused any injury or damage to Plaintiff as a result of any alleged act or omission by the Releasees. Plaintiff further acknowledges that the compromise and settlement of this case by the Defendants is intended solely to eliminate the burden and expense of continued and future litigation before the Court and neither the settlement agreement nor the disclosures leading up to its execution shall constitute an admission of liability by the Releasees.

5. **Approval by each City Council.** Plaintiff acknowledges and understands that this Agreement must be approved by the respective City Councils of the Cities, and

this Agreement cannot and will not become effective as to a particular City until that City's City Council approves this Agreement.

6. **Governing Law:** This Settlement Agreement and Release shall be governed in all respects, including the validity, interpretation and affect thereof, by the laws of the State of Alabama. The parties hereto submit to the jurisdiction of the Circuit Court of Shelby County, Alabama for the purposes of enforcement and interpretation of this Settlement Agreement and Release. This Agreement contains the entire agreement among all parties with regard to the matters set forth herein. The parties to this Agreement further represent that they have completely read all terms hereof and that such terms are fully understood and voluntarily accepted by them. All prior discussions and negotiations have been and are merged and integrated into and are superseded by this Settlement Agreement and Release. In the event that any provision of this Agreement shall be held to be void, voidable or unenforceable, the remaining portions hereof shall remain in full force and effect.

8. **Dismissal:** Upon the execution of this Settlement Agreement and Release, Plaintiff consents to the Cities filing a Joint Stipulation of Dismissal with Prejudice of the Cities from the Action, the parties to bear their own costs.

9. **No Effect Clause:** Nothing in this Agreement affects Plaintiff's tax burden for any time period other than January 2006 through March 2008.

[REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK]

Alabama Furniture Market

By:_____

Its: _____

STATE OF ALABAMA)
_____ COUNTY)

Before me, the undersigned Notary Public, personally appeared _____, who states under oath that he/she is _____ of Alabama Furniture Market and acknowledged before me on this date that, being informed of the contents of this Settlement Agreement and Release, he/she voluntarily and with full authority executes this Settlement Agreement and Release on behalf of and for Alabama Furniture Market.

SWORN TO AND SUBSCRIBED BEFORE ME this the __ day of _____, 2016.

_____
NOTARY PUBLIC
Print Name:_____
My Commission Expires:_____

Reviewed by:

_____
Joshua B. Sullivan
KNOWLES & SULLIVAN, LLC
400 Broad Street, Suite 105
Gadsden, AL 35901
josh@kkslawgroup.com
Attorney for Alabama Furniture Mart

Alfred H. Perkins, Jr.
Attorney for the Cities of Alabaster, Gardendale, Helena, Homewood, Irondale, Leeds, Millbrook, Montevallo, Moody, Mountain Brook, Northport, Pell City, Prattville, Trussville, and Vestavia Hills, Alabama

J. Bentley Owens, III.
Attorney for the City of Pelham, Alabama

Jon B. Terry
Attorney for the City of Hueytown, Alabama

Form **W-9**
(Rev. December 2014)
Department of the Treasury
Internal Revenue Service

Request for Taxpayer Identification Number and Certification

Give Form to the requester. Do not send to the IRS.

Print or type
See Specific Instructions on page 2.

1 Name (as shown on your income tax return). Name is required on this line; do not leave this line blank.
Alabama Furniture Market, LLC.

2 Business name/disregarded entity name, if different from above

3 Check appropriate box for federal tax classification; check only one of the following seven boxes:
☐ Individual/sole proprietor or single-member LLC ☐ C Corporation ☐ S Corporation ☐ Partnership ☐ Trust/estate
☑ Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=partnership) ▶ P
Note. For a single-member LLC that is disregarded, do not check LLC; check the appropriate box in the line above for the tax classification of the single-member owner.
☐ Other (see instructions) ▶

4 Exemptions (codes apply only to certain entities, not individuals; see instructions on page 3):
Exempt payee code (if any) _____
Exemption from FATCA reporting code (if any) _____
(Applies to accounts maintained outside the U.S.)

5 Address (number, street, and apt. or suite no.)
10 Commercial Park Drive

Requester's name and address (optional)

6 City, state, and ZIP code
Calera, Alabama 35040

7 List account number(s) here (optional)

Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on line 1 to avoid backup withholding. For individuals, this is generally your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the Part I instructions on page 3. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN* on page 3.

Note. If the account is in more than one name, see the instructions for line 1 and the chart on page 4 for guidelines on whose number to enter.

Social security number
☐☐☐ - ☐☐ - ☐☐☐☐

or

Employer identification number
2 0 - 4 8 8 5 2 9 5

Part II Certification

Under penalties of perjury, I certify that:

1. The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me); and
2. I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding; and
3. I am a U.S. citizen or other U.S. person (defined below); and
4. The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct.

Certification instructions. You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions on page 3.

Sign Here Signature of U.S. person ▶ [signature] Date ▶ 7/7/16

General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

Future developments. Information about developments affecting Form W-9 (such as legislation enacted after we release it) is at *www.irs.gov/fw9*.

Purpose of Form

An individual or entity (Form W-9 requester) who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) which may be your social security number (SSN), individual taxpayer identification number (ITIN), adoption taxpayer identification number (ATIN), or employer identification number (EIN), to report on an information return the amount paid to you, or other amount reportable on an information return. Examples of information returns include, but are not limited to, the following:

- Form 1099-INT (interest earned or paid)
- Form 1099-DIV (dividends, including those from stocks or mutual funds)
- Form 1099-MISC (various types of income, prizes, awards, or gross proceeds)
- Form 1099-B (stock or mutual fund sales and certain other transactions by brokers)
- Form 1099-S (proceeds from real estate transactions)
- Form 1099-K (merchant card and third party network transactions)
- Form 1098 (home mortgage interest), 1098-E (student loan interest), 1098-T (tuition)
- Form 1099-C (canceled debt)
- Form 1099-A (acquisition or abandonment of secured property)

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN.

If you do not return Form W-9 to the requester with a TIN, you might be subject to backup withholding. See What is backup withholding? on page 2.

By signing the filled-out form, you:

1. Certify that the TIN you are giving is correct (or you are waiting for a number to be issued),
2. Certify that you are not subject to backup withholding, or
3. Claim exemption from backup withholding if you are a U.S. exempt payee. If applicable, you are also certifying that as a U.S. person, your allocable share of any partnership income from a U.S. trade or business is not subject to the withholding tax on foreign partners' share of effectively connected income, and
4. Certify that FATCA code(s) entered on this form (if any) indicating that you are exempt from the FATCA reporting, is correct. See *What is FATCA reporting?* on page 2 for further information.

RESOLUTION NO. 2016-129

BE IT RESOLVED by the City Council of the City of Mountain Brook, Alabama that the City Council hereby authorizes the execution an agreement between the City and Sain Associates, in the form as attached hereto as Exhibit A, with respect to the Phase 9 sidewalk construction, engineering, and inspection services.

ADOPTED: This 12th day of September, 2016.

_____
Council President

APPROVED: This 12th day of September, 2016.

_____
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 12, 2016, as same appears in the minutes of record of said meeting.

_____
City Clerk

Robert Bentley
Governor

ALABAMA
DEPARTMENT OF TRANSPORTATION

EAST CENTRAL REGION
OFFICE OF REGIONAL ENGINEER
100 CORPORATE PARKWAY
SUITE 450
HOOVER, AL 35242
P.O. BOX 382348
BIRMINGHAM, AL 35238-2348
TELEPHONE: (205) 327-4962

John R. Cooper
Transportation Director

August 29, 2016

REVISED

Mayor Lawrence T. Oden
City of Mountain Brook
P.O. Box 130009
Mountain Brook, AL 35213-0009

Attn: Mr. Sam Gaston

RE: Project No. CMAQ-NR13(908)
Mountain Brook Sidewalks – Phase 9
Jefferson County

Dear Mayor Oden:

Reference is made to your letter dated January 28, 2016, in which you transmitted a request for the City of Mountain Brook to utilize a consultant for inspection services on the above-referenced project.

After reviewing the information submitted, ALDOT concurs with your selection of Sain Associates.

The limiting amount for this work is to be $211,200.60 based on the construction bid cost. The overhead rate and operating margin will be as previously approved by the Bureau of Finance and Audits, External Audit Section.

The City of Mountain Brook may proceed to enter into a cost-plus agreement with Sain Associates using the aforementioned instructions. Please let me know if you have any questions.

Sincerely,

John R. Cooper
Transportation Director

By: Kenneth W Couch
Kenneth W. Couch, P.E.
Birmingham Area County Transportation Engineer

JRC/DL/GMB/KWC/bm
attachment
cc: Mr. Ed Phillips
file

SAIN associates

ENGINEERING BETTER PARTNERSHIPS

August 11, 2016

Sam Gaston
City of Mountain Brook
56 Church Street
Mountain Brook, AL 35213
gastons@mtnbrook.org

Re: Ph 9 CE & I Costs
CMAQ-NR13(908)

Dear Mr. Gaston:

After ALDOT review, I have revised our man-day estimate for CE & I services. The mileage rate has been changed and an additional $1701 was cut to so that the estimate is at 15% of the contractors bid.

I am copying the County Transportation section of ALDOT for their concurrence prior to Sain and the City entering into a contract.

If you have any questions, please feel free to contact me at 205-263-2180 or at mstoops@sain.com. We look forward to getting starting on this project for Mountain Brook.

Sincerely,

Matt Stoops, PE
Project Engineer

Cc: Ken Couch – ALDOT County Trans
Richard Topping – ALDOT County Trans
Brian McCollum – ALDOT County Trans
Alicia Bailey – Sain

CE & I Cost Estimate
Mountain Brook
Phase 9 Sidewalk Improvements
Sain #160014

CMAQ-NR13(908)
Engineer's construction cost estimate (Nov 2015) = $ 1,373,717
Low Bid by Bulls Construction = $ 1,408,004

Task	Task Description	# of Man Days								Total
		Project Manager	Inspector - Level II	Administrative Assistant	Professional Civil Engineer	Instrument Person	Field Supervisor	Professional Land Surveyor	Survey Drafter (Field Supervisor)	
1	Project Set up / Preconstruction	5	4	1	1					11
2	Utility Meetings	3	3							6
3	Project Inspection - 110 working days	28	138	3	3					172
4	Deal w Property Owners (4 hrs per week)	18								
5	Monthly Documentation (estimates, payrolls, etc)(1 day per month)	8								8
6	Weekly Documentation & Report Review (4 hrs per week)	18								18
7	Survey - Earthwork Quantities					6	6	2	4	18
8	Punch List / Final Inspections	5	5	1	1					12
9	Final Quantities Closeout	6	6	1						13
10	Materials Closeout	4	2							6
	MANDAY TOTALS:	95	158	6	5	6	6	2	4	282
	ALDOT HOURLY CAP:	$ 37.00	$ 24.00	$ 19.00	$ 43.00	$ 23.00	$ 29.00	$ 37.00	$ 29.00	
	HOURLY RATE:	$ 37.00	$ 22.36	$ 19.00	$ 43.00	$ 23.00	$ 29.00	$ 37.00	$ 27.75	
	DAILY RATE:	$ 296.00	$ 178.88	$ 152.00	$ 344.00	$ 184.00	$ 232.00	$ 296.00	$ 222.00	
	TOTAL DIRECT LABOR:	$28,120.00	$28,263.04	$ 912.00	$1,720.00	$1,104.00	$1,392.00	$ 592.00	$ 888.00	$ 62,991.04

OVERHEAD 183.32%	$115,475.17
DIRECT JOB EXPENSES	$ 13,299.40
SUB-TOTAL	$191,765.61
PROFIT @ 10%	$ 19,176.56
TESTING SUB-CONSULTANT FEE	
SUB-CONSULTANT MARK-UP 5%	$ -
FACILITIES CAPITAL COST 0.41%	$ 258.26
TOTAL FEE AMOUNT	$211,200.43
% of Construction Bid =	15.00%

Working Days =	110
Inspectors Days (1.25 x working days) =	138
Proj Manager Days (20% of inspector days) =	28
# months =	8
# weeks =	35

Project No. CMAQ-NR13(908)
County Mountain Brook
Description Phase 9 Sidewalk Improvements
Scope of Work CE&I
Project Length 0.50 Miles

Consultant Sain Associates

Out-of-pocket Expenses (Construction Engineering and Inspection)

TRAVEL COST

Mileage Cost	Trips	Miles/Trip	$/Mile	Total
Inspector - daily trips + 3 pre construction + 5 final	146	20	$0.540	$ 1,576.80
Inspector - misc trips (lab, supplier, etc)	10	40	$0.540	$ 216.00
Project Manager - 2 weekly + 2 pre construction + 4 final	76	15	$0.540	$ 615.60
Survey Team - project site and/or borrow pit	6	50	$0.540	$ 162.00
			Total Mileage Cost	$ 2,570.40

Subsistence Cost	Days	# People	$/Day	Total
Travel allowance (6 hour trips)	0	0	$11.25	$ -
Travel allowance (12 hour trips - meal provided by others)	0	0	$20.00	$ -
Travel allowance (12 hour trips)	0	0	$30.00	$ -
Travel allowance (overnight)***	0	0	$75.00	$ -
				$ -
			Total Subsistence Cost	$ -
			Total Travel Cost	$ 2,570.40

PRINTING / REPRODUCTION COST

Type of printing/reproduction	# of Sets	Sheets/Set	Total Sheets	Cost/Sheet	Total
					$ -
					$ -
					$ -
				Total Printing/Reproduction Cost	$ -

Communication Cost (telephone, fax, etc.)	Total
	$ -

Postage Cost (overnight, stamps, etc.)	Total
Postage	$ 300.00

Other (provide description on next line)	Total
Material Testing (borrow, backfill, density, hot mix, cylinders, etc)	$ 8,429.00
Field Supplies (marker paint, stakes, tape, cylinder molds, etc)	$ 2,000.00

Total Out-of-pocket Expenses $ 13,299.40

Comments:

***You must have ALDOT approval for ANY overnight trips of less than 100 miles.**

A G R E E M E N T

BETWEEN

SAIN ASSOCIATES

AND

THE CITY OF MOUNTAIN BROOK

CONSTRUCTION ENGINEERING AND INSPECTION SERVICES

AGREEMENT

CONSTRUCTION ENGINEERING AND INSPECTION SERVICES

This AGREEMENT is made and entered into by and between the City of Mountain Brook, hereinafter referred to as the CITY, and Sain Associates, which is qualified to do business in the State of Alabama, and has its principal Alabama office at 2 Perimeter Park South, #500E, Birmingham, AL, 34243, Party of the Second Part, hereinafter referred to as the CONSULTANT.

WHEREAS, the CONSULTANT has agreed and by these present does agree with the CITY for the consideration hereinafter mentioned to provide on-call construction engineering and inspection, materials sampling and testing and contract administration on a statewide basis for the CITY.

NOW, THEREFORE, for and in consideration of the mutual covenants hereinafter stipulated, it is hereby agreed between the parties as follows:

The CONSULTANT shall meet the requirements for conformance with the Standards adopted by AASHTO and approved by the Secretary of Transportation in cooperation with the CITY and shall ascertain the written practices of the CITY prior to beginning any work on this project. All work required under this AGREEMENT will be performed in accordance with these standard practices and any special requirements hereinafter set forth. All work performed by the CONSULTANT under this AGREEMENT shall be subject to the Review, Approval and Acceptance of the CITY and Federal Highway Administration, where applicable, before CONSULTANT will be paid for said work.

"As a part of obligations of the CONSULTANT to the CITY under this AGREEMENT, the CONSULTANT does hereby certify that CONSULTANT has no financial or other interest in the outcome of project proposed under this AGREEMENT".

ARTICLE I - SCOPE OF WORK

The CONSULTANT will perform construction engineering and inspection, materials sampling and testing and contract administration services on-call ~~on a statewide basis~~ for the CITY.

This will be a specific rate of pay AGREEMENT for a two year period. The CONSULTANT will provide services, personnel and equipment as required by the CITY. The work to be performed by the CONSULTANT will be as follows:

SECTION 1 - CONSTRUCTION ENGINEERING AND INSPECTION SERVICES

1.0 PURPOSE:

This statement of work describes and defines services which are required for construction engineering, inspection, materials sampling and testing and contract administration for construction projects selected by the CITY.

2.0 SCOPE:

The CONSULTANT shall be responsible for all construction engineering and administrative functions as defined in this Scope of Work and referenced manuals and procedures. The CONSULTANT shall utilize effective control procedures to assure the construction of said project is performed in reasonable conformity with plans, specifications and contract provisions for assigned project.

The CONSULTANT shall provide professional, technical and administrative personnel, meeting requirements of the CITY in appropriate numbers at proper times to ensure that responsibilities assigned under this AGREEMENT are effectively fulfilled. All services shall be performed in accordance with established standard procedures and practices of the CITY. Prior to furnishing any services, the CONSULTANT shall be familiar with ALDOT procedures, standard and informal, and practices, standard and informal, for construction, engineering and contract administration used by the CITY. The CITY shall endeavor to provide the CONSULTANT at least ten (10) calendar days advance notice of the execution date for each construction contract to allow sufficient time for the CONSULTANT to schedule its activities. In the event of emergency needs, for a short term basis (sickness, vacation, etc.), the CITY shall provide the CONSULTANT two days advance notice in order for the CONSULTANT to furnish required personnel. The

CONSULTANT shall maintain close coordination with the CITY and the Contractor to minimize rescheduling of the CONSULTANT'S activities due to construction delays or changes in scheduling of the Contractor's activities.

3.0 DEFINITIONS:

A. Transportation Director: The chief executive officer of ALDOT.

B. Chief Engineer: The individual appointed by the Transportation Director to administer technical phases of ALDOT.

C. Construction Bureau: The Bureau of ALDOT charged with administering ALDOT'S construction program.

D. State Construction Engineer: Administrative head of the Bureau of Construction of ALDOT.

E. Project Manager, CONSULTANT: Qualified individual who has been assigned as the on-site person in charge of a construction contract.

Project Manager, CITY: Qualified individual assigned by the CITY to manage Construction Engineering and Inspection contract formulated by this AGREEMENT and will be in responsible charge and direct control of project.

F. FHWA: The Federal Highway Administration of the United States Department of Transportation.

G. Construction Contract: Construction work let under separate contract(s) by ALDOT to contracting firm(s).

H. Contractor: Contracting firm or its designated representatives awarded contract(s) to do construction work.

I. Construction Contract Suspension: Cessation of construction activity on a construction contract.

J. Region/Area Engineer: Administrative head of ALDOT'S Region.

K. District Manager: Administrative head of one of ALDOT'S Districts.

L. State Bridge Engineer: Administrative head of ALDOT'S Bridge Bureau.

M. State Design Engineer: Administrative head of ALDOT'S Design Bureau.

N. Consultant: Consultant firm(s) retained by ALDOT to perform all construction engineering and administrative functions as defined in this AGREEMENT.

O. State Materials and Tests Engineer: Administrative head of ALDOT'S Materials and Tests Bureau.

P. Region/Area Materials and Tests Engineer: Employee designated by ALDOT to administer policies on materials sampling and testing in ALDOT'S Region.

Q. Consultant Design Engineer (when applicable): Consultant design engineer retained by ALDOT to design aforementioned project(s).

R. Region/Area Construction Engineer: Employee designated by ALDOT to administer policies and procedures of construction projects covered by this AGREEMENT in ALDOT'S Region.

S. Region/Area Consultant CE & I Engineer/Manager (when applicable): Employee of ALDOT designated by Region/Area Construction Engineer to be in charge of project(s) covered by this AGREEMENT.

T. Area County Transportation Engineer (when applicable): Employee of ALDOT that administers policies and procedures of city and county construction projects let by ALDOT.

U. County Engineer: Administrative head of the County Engineering Department.

V. City Engineer: Administrative head of the Mayor's Office/City Engineering Department.

4.0 ITEMS TO BE FURNISHED BY THE CITY TO CONSULTANT:

A. The minimum Contract documents for each project shall be distributed to the CONSULTANT, via the Region/Area Engineer, by ALDOT'S Office Engineer subsequent to award of construction contract for each project as follows:

5 sets Construction Plans - Half scale

3 sets Construction Plans - Full size (1 set to be used in preparation of as built plans)

2 sets Standard Drawings

1 copy of Executed Contract

B. An adequate supply of all standard forms to be used in fulfilling technical services under this AGREEMENT, disposable type molds for casting concrete test cylinders, sample cartons, sample bags and other expendable-type testing supplies. The CONSULTANT may use computerized forms approved by ALDOT. Construction and Materials Management Software including CAMMS, SiteManager, Stormwater Tracking System and Concrete Management System will be used for contract administration on designated projects.

~~C. When determined by the Region/Area Engineer, the CITY will furnish and maintain a Project Office at a location. The office will include shall meet all local, state and federal building codes and requirements and shall contain the following:~~

~~1. A minimum 600 square feet heated and cooled office space.~~

~~2. Floor space shall be divided into one restroom, one central work room and three private offices.~~

~~3. Heating, air conditioning and lighting.~~

~~4. Water cooler service (not bottled water).~~

~~5. Hot and cold water service.~~

~~6. If the office is a trailer, tie downs capable of withstanding winds up to hurricane force and trailer underpinning.~~

~~7. Garbage and trash disposal service.~~

~~8. Grass and weed control.~~

~~9. Parking spaces for a minimum of five (5) vehicles; graded for drainage and suitably surfaced with an all weather access road.~~

~~10. The CITY shall provide janitorial service.~~

~~11. Restroom connections to an existing sanitary sewer, a chemical holding tank, or approved septic tank.~~

~~12. The minimum furniture shall be supplied as follows:~~

~~Per office – 1 desk, 3 chairs~~

~~Per work room – 1 plan table, 1 work table (drafting), 2 stools, 3 chairs, 1 water cooler dispenser, 1 4 drawer file cabinet, 10 feet of book shelving, 1 plan storage rack and appropriate fire extinguishers.~~

~~13. The CITY shall provide computers, typewriters, calculators, etc. for CITY personnel and one telephone for each office and work room. The CONSULTANT shall be required to provide computers, tablet computers, smart phones, calculators, etc. for their personnel if needed to perform duties. All computers, tablet computers and smart phones provided by the CONSULTANT shall comply with the requirements listed in Article 1, Section 1, Paragraph 5.B.13 of this AGREEMENT.~~

~~14. The CITY shall provide a facsimile machine and a copier for use by the CITY and consultant personnel. The CONSULTANT shall be allowed to furnish personal equipment for his own use at no cost to the CITY.~~

~~15. The CITY shall provide testing equipment, photographic equipment, tapes, rulers, field books and other miscellaneous items necessary for satisfactory performance of work.~~

~~16. The CONSULTANT shall provide all surveying equipment and it must be the latest technical equipment such as electronic total stations, data collection, hand-held computers, automatic levels, hand-held two-way radios, electronic pipe and cable locators and complete safety equipment.~~

~~17. Routine items for operation of the office such as stamps, postal costs, utility service, etc., shall be supplied by the CITY.~~

5.0 ITEMS FURNISHED BY THE CONSULTANT:

A. Document Compliance

The requirements outlined within printed documents listed below are a condition of this contract. The CONSULTANT shall obtain, without cost to CITY, at least one copy of each document. One copy of each document shall be available at project office at all times. Compliance with these guides, manuals, procedures, and advisories shall be a requirement of this AGREEMENT.

1. All active Construction Information Memorandums issued, prior to or after execution of this AGREEMENT, by ALDOT'S State Construction Engineer. These procedures convey certain practices and procedures of ALDOT relating to construction supervision and administration of contracts. A copy of each Memorandum issued on or subsequent to execution of this AGREEMENT shall be furnished to the CONSULTANT in a timely manner by ALDOT'S Region/Area Construction Engineer. (Said manual is available on ALDOT'S website)
2. Guidelines for Operations issued by ALDOT. (Said manual is available on ALDOT'S website)
3. All Technical Advisories and Memorandums issued, prior to or after execution of this AGREEMENT, by ALDOT'S State Materials and Tests Engineer. The advisories convey certain practices and procedures of ALDOT relating to sampling and testing of materials used in construction projects. A copy of each advisory issued on or subsequent to execution of this AGREEMENT shall be furnished to the CONSULTANT in a timely manner by ALDOT'S Region/Area Materials and Tests Engineer. (Said manual is available on ALDOT'S website)
4. ALDOT'S Testing Manual as issued by ALDOT'S State Materials and Tests Engineer. This manual sets out test frequency of acceptance samples and tests, sampling point, sample size, sampling and test methods and appropriate report forms for materials to be incorporated into construction projects. This Manual also

contains Bureau of Materials and Tests (ALDOT) procedures referenced in the Manual and/or specifications and BMT worksheets and test report forms. (Said manual is available on ALDOT'S website)

5. ALDOT'S Construction Manual. This manual describes in detail many of the procedures and practices of ALDOT relating to construction engineering and inspection.

   (Said manual is available on ALDOT'S website)

6. A tabulation of required ALDOT'S technician certifications relating to construction engineering and inspection.
7. Applicable ALDOT Standard Specifications for Highway Construction with one copy for each of the CONSULTANT'S personnel.
8. The applicable Roadway and Traffic Design Standards.
9. The applicable Alabama Regulations for Control of Radiation Chapter 420-3-26 Radiation Control as issued by the State of Alabama Health Department.
10. ALDOT'S manual of Materials, Sources and Devices with Special Acceptance Requirements as issued by the State Materials and Tests Engineer. (Said manual is available on ALDOT'S website)
11. FHWA Manual on Uniform Traffic Control Devices.
12. One copy of the Radiological Safety Manual for use of Nuclear Moisture/Density and Asphalt Content Gauges as issued by ALDOT'S State Materials and Tests Engineer for each project on which there is a nuclear testing device.
13. The AASHTO Standard Specifications for Transportation Materials and Methods of Sampling and Testing.
14. Copies of all applicable ASTM Standards.

B. ~~When requested by the CITY, the CONSULTANT shall furnish and maintain a Project Office within project work limits, or other location approved by the Region/Area Engineer.~~

~~The site of said office, size of office and accommodations shall have prior written approval by the Region/Area Engineer. The office shall meet all local, state and federal building codes and requirements and shall contain the following:~~

1. ~~A minimum of 600 square feet heated and cooled office space.~~
2. ~~Floor space shall be divided into two restrooms, one central office, and three private offices. One of the private offices, within same confines as the CONSULTANT, shall be suitably furnished and maintained as an office for use of the CITY, if requested. This office space shall contain no less than 180 square feet. The minimum office equipment to be provided by the CONSULTANT for the CITY office shall consist of one desk and complimentary office chair; two conference room chairs; drawing table (4' x 6' minimum size); drafting stool; filing cabinets as needed and telephone service or as approved by the Region/Area Engineer.~~
3. ~~Heating, air conditioning and lighting.~~
4. ~~Water cooler service (not bottled water).~~
5. ~~Hot and cold water service.~~
6. ~~One (1) fire extinguisher (Minimum size 10# CO2) per 200 square feet of floor space.~~
7. ~~If the office is a trailer, tie-downs capable of withstanding winds up to hurricane force. (See NOTE in 603.1(a) about tie down strap requirements).~~
8. ~~Office trailer underpinning with materials approved by the Region/Area Engineer.~~
9. ~~Garbage and trash disposal service.~~
10. ~~Grass and weed control at office site to a maximum of three (3) inches in height by mowing for a distance of five (5) feet outside security fencing (if provided), or within boundaries as approved by the Region/Area Engineer.~~

~~11. The CONSULTANT shall provide janitorial service.~~

~~11. Parking spaces for a minimum of eight (8) vehicles, plus additional spaces for use by the CONSULTANT'S vehicles, graded for drainage and suitably surfaced, with an all weather access road.~~

~~12. Restroom connections to an existing sanitary sewer, a chemical holding tank, or approved septic tank.~~

~~13. The CONSULTANT shall have available, for use in the field office, a personal computer. The personal computer shall comply with at least current minimum ALDOT desktop hardware standards and shall contain a current ALDOT remote network interface device. Additionally, the computer shall be equipped with a printer conforming to current minimum ALDOT standards with 11x17 print capabilities. The said computer shall include current ALDOT standard Microsoft Office configuration, as well as, current ALDOT production versions of Bentley software. All CADD files are required to be completely compatible with the Department's current production versions of Bentley software. In addition, the CONSULTANT shall have available tablet computers and/or smart phone for use in the field inspections and documentation, if required. The tablet computer and/or smart phone shall comply with at least current minimum ALDOT standards and have the access to the internet via an air card or Wi-Fi connection. Ownership and possession of such computers and smart phones shall remain at all times with the CONSULTANT. The CONSULTANT shall be responsible for requesting a password to access ALDOT'S computer network.~~

~~The CONSULTANT shall also furnish such other shelter, storage and parking space as required by the Region/Area Engineer to effectively carry out the CONSULTANT'S responsibilities under this AGREEMENT. The CONSULTANT shall provide appropriate type of~~

~~vehicles in numbers as approved by the Region/Area Engineer, to accommodate the CONSULTANT'S project personnel.~~

~~Furniture and office equipment, supplied by the CONSULTANT, shall consist of desks, chairs, drafting tables, bookcases, file cabinets, calculators, facsimile machine, photo-copier, typewriters, telephones and other items determined by the Region/Area Engineer to be necessary in order to fulfill work under this AGREEMENT. The CONSULTANT shall provide all survey equipment, photographic equipment, tapes, rulers, field books and any other items necessary for satisfactory performance of work. Quantity and quality of the items require the Region/Area Engineer's approval. Equipment shall be either U.S. Customary or metric as directed by the Region/Area Engineer.~~

~~Routine items for operation of the office, such as stamps, postal costs, custodial fees, utility service, etc., shall be supplied by the CONSULTANT.~~

6.0 LIAISON:

The CONSULTANT shall be fully responsible for fulfilling all functions assigned to it by this AGREEMENT. The CONSULTANT'S activities and decisions relating to project(s) shall be subject to review by the Region/Area Engineer. The CONSULTANT shall provide coordination of all activities, correspondence, reports, and other communications related to its responsibilities under this AGREEMENT. No personnel shall be assigned until written notification by the Region/Area Engineer has been issued. Construction engineering and inspection forces shall be required of the CONSULTANT at all times when required by the CITY. If construction contract is suspended, the CONSULTANT'S forces shall be adjusted at the direction of the Region/Area Engineer to correspond with type of suspension, either complete suspension or partial suspension.

7.0 COOPERATION AND PERFORMANCE OF THE CONSULTANT:

During the period of this AGREEMENT, the CITY shall conduct reviews of various phases of the CONSULTANT'S operations, such as construction inspection, materials sampling and testing and administrative activities. Reviews shall be conducted to determine compliance with this

AGREEMENT and sufficiency with which procedures are being effectively applied. These reviews are to assure that construction work and administrative activities are performed in reasonable conformity with the CITY policies, plans, specifications and contract provisions. The CITY shall have complete access, at all times, to project site, project office, all project records and any other CONSULTANT items associated with said project or this AGREEMENT. The CONSULTANT shall cooperate and assist the CITY representatives in conducting said reviews. When deficiencies are indicated in a review, immediate remedial action shall be implemented by the CONSULTANT in conformance with the CITY'S recommendations. The CITY'S remedial recommendations and the CONSULTANT'S actions are to be properly documented by the Region/Area Engineer. The CONSULTANT shall be responsible for accuracy of its work and shall promptly implement policies and procedures reasonably necessary to prevent errors, omissions, or noncompliance with said contract terms. If the CONSULTANT'S services hereunder contain errors, omissions, or are not compliant with terms of said contract, the CONSULTANT, upon receipt of written notice of such defects from the CITY, shall correct such errors, omissions or noncompliance at its own expense. However, when the CONSULTANT is responsible for managing a project and where CONSULTANT errors, omissions or contractual lapses caused increased costs, delays, or other damages to the CITY, the Region/Area Engineer shall prepare a written evaluation of the costs, delays or damages and circumstances that caused the increased costs, delays or damages. A copy shall be sent to the CONSULTANT. Said costs shall be deducted from the monthly payment or retainage due to the CONSULTANT. Remedial action shall be required commensurate with the degree and nature of deficiencies cited. Additional compensation to the CONSULTANT shall not be allowed for remedial action taken to correct deficiencies by the CONSULTANT.

Federal Aid projects are subject to review by representatives of FHWA. Additional State personnel may make special reviews. The CONSULTANT shall fully cooperate with and assist in making such reviews.

8.0 REQUIREMENTS:

A. General:

It shall be the responsibility of the CONSULTANT to provide services as necessary for contract administration to produce construction in reasonable conformity with plans, specifications and contract provisions. The CONSULTANT shall advise the Region/Area Engineer and shall document any omissions, substitutions, defects, and deficiencies noted in the work of the Contractor and the corrective action taken.

B. Survey Control:

The CONSULTANT may be requested to reestablish project survey controls. The CONSULTANT may be requested to provide project surveying to fulfill project requirements.

C. Project Inspection: The CONSULTANT shall provide services to monitor and document the Contractor's construction operations. The CONSULTANT shall test, inspect and document all construction material as required to assure quality of workmanship and materials are in reasonable conformity with plans, specifications and other contract provisions. The CONSULTANT may be responsible for monitoring and approving asphalt production. The CITY shall monitor all other off-site activities and fabrication (including pre-stress production). The CONSULTANT shall keep detailed, accurate records of the Contractor's daily operations and significant events that may affect the work. The standard procedures and practices of the CITY for inspections of construction projects are set out in the CITY'S Construction Manual. The CONSULTANT shall have appropriate certifications for inspection of work being performed. The CONSULTANT shall in general, perform inspection services in accordance with these standard procedures and practices and other accepted practices as may be appropriate.

D. Testing:

The CONSULTANT shall perform sampling and testing of component materials and completed work items to the extent that will assure materials and workmanship incorporated in each project is in reasonable conformity with plans, specifications and contract provisions. The CONSULTANT shall meet minimum sampling frequencies set out in the CITY'S Testing Manual. The CITY reserves the right to require additional sampling and testing. The CONSULTANT shall be specifically responsible for securing job control samples and utilizing test results to determine acceptability of all materials and completed work items. The CONSULTANT shall be responsible for verification of a certified test report as determined by the Bureau of Materials and Tests, DOT label, DOT stamp, etc., as appropriate. The CONSULTANT shall be responsible for progress record sampling of reinforcing steel. The CITY shall monitor the effectiveness of the CONSULTANT'S testing procedures through surveillance and obtaining testing progress record samples and final record samples. Progress record sampling and testing is necessary to verify job control sampling frequencies and test procedures are adequate. The CONSULTANT shall inform the CITY of schedules for sampling and testing as work progresses on each construction contract so sampling can be accomplished by the CITY at the proper time. Sampling and testing shall be as required by the aforementioned ALDOT Testing Manual or as modified by contract provisions. The CONSULTANT shall be responsible for transporting samples to be tested to the appropriate State laboratory. Any testing performed at a laboratory other than the State laboratory shall be handled in a separate AGREEMENT. The CONSULTANT shall perform all required and necessary surveillance, inspection and documentation of project hot-mix asphalt operations.

E. Management Engineering Services:

The CONSULTANT shall perform all management engineering services necessary to: assure proper coordination of activities of all parties involved in accomplishing completion of projects; maintain complete, accurate records of all activities and events relating to

projects; properly document all significant changes to projects; provide interpretations of plans, specifications and contract provisions; make recommendations to the CITY to resolve disputes that may arise in relation to construction contracts; and to maintain an adequate level of surveillance of the Contractor's activities. The CONSULTANT shall perform any other management engineering services normally assigned to a project that are required to fulfill the CONSULTANT'S responsibilities under this AGREEMENT. All recordation and documentation shall be in accordance with standard ALDOT procedures, formats and content. CONSULTANT services include, but are not limited to the following:

1. Attending and participating in a pre-construction conference for each project. Record significant information revealed and decisions made at conference and if requested by the CITY, distribute copies of said minutes to appropriate parties. The CONSULTANT may be required to conduct the pre-construction conference.
2. Complete and maintain a full and accurate daily record of all activities and events relating to project. Record all work completed by the Contractor, including quantities of pay items in conformity with Final Estimates preparation procedures and specifications. The CONSULTANT shall immediately report to the Region/Area Engineer changes in pay items, project time or cost as soon as they become known to the CONSULTANT.
3. Complete and maintain Project Diaries and Inspector's Daily Reports as requested by the CITY. Said diaries and reports shall be kept up-to-date on a daily basis.
4. Maintain a project log of all materials entering into work with proper indication of basis of acceptance for each shipment of material.
5. Maintain project records of all sampling and testing accomplished. Analyze such records to ascertain acceptability of materials and completed work items. The field reports shall be recorded in project records within three days. The CONSULTANT

shall verify, certify and document work items requiring performance periods (curing period, operational period, etc.).

6. Prepare and submit monthly to the Region/Area Engineer a comprehensive tabulation of the quantity of each pay item satisfactorily completed that includes appropriate test reports and/or materials certifications or materials stored to date. Quantities shall be based on daily records and calculations. Calculations shall be properly recorded. The tabulations shall be used for preparation of the Monthly Progress Estimate.

7. Provide interpretations of plans, specifications and contract provisions. The CONSULTANT shall consult with the Region/Area Engineer when an interpretation involves complex issues or may have an impact on cost or quality of performing said work.

8. Field problems are difficulties encountered during construction through circumstance, which may or may not be under the control of the Contractor, requiring a degree of engineering evaluation and decision. Field problems might involve situations such as: out of place piling, out of tolerance work, out of specification materials, structural defects, accidental damage, underground obstructions, etc. These problems may have a significant impact upon the execution, progress, cost or quality of said project. Therefore, it is of paramount importance that problems be resolved expeditiously. The CONSULTANT shall ensure solutions are pursued and implemented as expeditiously as possible. Where a difficulty, problem, or defect of any nature is encountered during construction, the CONSULTANT shall assemble all relevant information to include any proposals from the Contractor. The CONSULTANT shall document and evaluate the same in a concise and orderly manner, by reviewing all information and circumstances. The CONSULTANT shall make recommendations to the Region/Area Engineer for the

most expeditious course of action to minimize delays and costs while achieving a structurally acceptable result.

The Engineer of Record (Design Engineer) or State Construction Engineer, depending on the nature of proposal is responsible for structural engineering analysis of the Contractor's proposals, determining acceptability of proposals and meeting the requirements of said design. However, the CONSULTANT shall be responsible for ensuring that the Region/Area Engineer is provided with all relevant information and, in addition, shall appraise and make recommendations to the Region/Area Engineer of all project(s) related circumstances that may have an influence upon the solution.

In particular, the CONSULTANT shall first utilize his own personnel and resources in order to assess the problem and its likely impacts on said project(s). By utilizing CONSULTANT personnel and resources, the CONSULTANT shall assess both technical and contractual implications upon said project(s) of any proposals presented by the Contractor. The CONSULTANT shall consider all likely impacts upon project(s) as regards to costs, delays, potential claims, contract administration, management, any justifiable financial adjustments (increases or decreases, including penalties) to be applied to Construction Contract, and feasibility of the Contractor successfully and expeditiously fulfilling his technical proposals. The CONSULTANT shall make these assessments in order to formulate his recommendations. The CONSULTANT shall then forward the said assessments and recommendations to the Region/Area Engineer, together with any proposals from the Contractor. The CONSULTANT shall be a liaison and cooperate with the CITY in resolution of any problems. Upon resolution and approval of technical solution, the CONSULTANT shall ensure all approved remedial measures are completed in a technically competent and satisfactory manner. The CONSULTANT shall be

responsible for any contract administration and management normally associated with implementing remedial measures. In situations where the CONSULTANT does not have direct responsibility for engineering inspection of the item that caused said problem, but where that item is now under his area of control, (example: defective precast components or fabricated steelwork made at a facility under engineering inspection of a different party and later delivered to site), the CONSULTANT shall formulate his assessment and recommendations and cooperate in resolving the problem.

In all situations, the CONSULTANT shall ensure all proposals, reviews, assessments, studies, recommendations and decisions are executed expeditiously in order to minimize any delays and costs.

9. The CONSULTANT shall analyze changes to plans, specifications or contract provisions and extra work that appear to be necessary to fulfill the intent of said contract. The CONSULTANT shall provide recommended changes to the Region/Area Engineer for approval. Approval of the Region/Area Engineer must be obtained prior to initiating any change or extra work.

10. When a modification to the original contract for a project is required, due to a necessary change in character of work, the CONSULTANT, in conjunction with the CITY Project manager, shall negotiate prices with the Contractor and prepare and submit a recommendation to the Region/Area Engineer for approval. The Region/Area Engineer shall prepare the required SUPPLEMENTAL AGREEMENT and obtain all required approvals.

11. In the case where the Contractor gives notice, either written or verbal, that certain work to be performed is beyond the scope of construction contract and intends to claim additional compensation, the CONSULTANT shall maintain accurate

documentation in accordance with project contract requirements, of the costs involved in such work.

12. In the case where the Contractor for a project submits a claim for additional compensation, the CONSULTANT shall analyze submittal in conjunction with the Region/Area Construction Engineer. The CONSULTANT may be required to provide recommendation on validity and reasonableness of the requested additional compensation and/or contract time extension. The CONSULTANT shall maintain complete and accurate documentation of work involved in claims.

13. In the case where the Contractor for a project submits a request for an extension of allowable contract time, the CONSULTANT shall the analyze request and prepare a recommendation to the Region/Area Engineer covering accuracy of statements and actual effect of delaying factors on completion of controlling work items. The CONSULTANT shall make recommendations weekly, or at other times as necessary, to the Region/Area Engineer on all delays. This recommendation is needed to justify a time extension.

14. The CONSULTANT shall prepare and submit to the Region/Area Engineer a final estimate with documentation and one (1) set of record as-built plans for each contract. All changes made to plans, which involve the CONSULTANT, shall be signed and sealed by the CONSULTANT and the Region/Area Engineer. This task must be completed within a timely manner or in accordance with current ALDOT Standard Specifications from the earliest project acceptance date.

15. At request of the CITY, the CONSULTANT shall assist appropriate CITY offices in preparing for hearings or litigation that may occur during the term of this AGREEMENT in connection with a project covered by this AGREEMENT.

16. The CONSULTANT shall monitor and document the Contractor's compliance with contract provisions in regard to payment of predetermined wage rates in accordance with State procedures. This includes sub-contractor compliance.

17. The CONSULTANT shall review and document the Contractor's compliance with contract requirements concerning Equal Employment Opportunity and Affirmative Action; assist the CITY'S Equal Employment Opportunity Specialist as requested; and, review and document D.B.E. (Disadvantaged Business Enterprises) activities to insure compliance of contract goals.

18. The CONSULTANT shall review and document each construction project to the extent necessary to determine whether construction activities violate requirements of any permits. The Project Manager shall notify the Contractor, in writing, of any violations or potential violations and require his immediate resolution of said problem. Violations shall be reported to the Region/Area Engineer immediately.

19. Shop drawing/sample submittal and approvals shall be logged by the CITY. Tracking shall include maintaining a log book of the status of each submittal as it progresses through review and approval. The CONSULTANT shall actively encourage all reviewers to accomplish reviews promptly.

20. The CONSULTANT shall assist the Contractor and utility companies in resolving conflicts so that any conflicting utilities are timely removed, adjusted or protected to minimize delays to construction operations. Documentation shall be maintained in accordance with the CITY'S procedures.

21. The Project Manager and the CONSULTANT for each particular project shall conduct meetings as required with respective Contractor, sub-contractor and/or utility companies to review plans, schedules, problems or other areas of concern. The results of these meetings shall be recorded in project diary.

22. The CONSULTANT may be required to conduct and document field reviews of maintenance of traffic operations after normal working hours, weekends and holidays.

23. The CONSULTANT may be required to respond to inquiries from various persons, i.e., public, media, property owners, local agencies, State agencies, Federal agencies, etc., and inform the Region/Area Engineer of these inquiries.

24. The CONSULTANT may be required to provide field construction activities in areas of design engineering, vertical and horizontal control, typical sections, cross-sections for monthly estimates and other engineering required to complete construction project.

9.0 PERSONNEL:

A. General Requirements:

The CONSULTANT shall provide a sufficient number of qualified personnel as directed by the CITY to effectively carry out its responsibilities under this AGREEMENT.

B. Personnel Qualifications:

The CONSULTANT shall utilize only competent personnel who are qualified by experience and education. The CONSULTANT shall submit, in writing, to the Region/Area Engineer the name of all personnel to be considered for assignment to said construction projects, together with a detailed resume of each person's qualifications and copies of current certifications with respect to salary, education and experience. The CONSULTANT'S personnel approval request shall be submitted at least two weeks prior to and approved by the Region/Area Engineer prior to the date an individual is to report to work. Listed below are minimum qualifications and job descriptions for the CONSULTANT'S personnel that may be working on various projects under this AGREEMENT.

PROJECT MANAGER:

Minimum Qualifications:

- Ten years of experience in construction inspection, surveying or highway materials testing and inspection or a Bachelor of Science degree in Civil Engineering or Registered Professional Engineer with five years of experience in construction inspection, surveying or highway materials testing and inspection. One or more of the following certifications may be required as approved by the Region/Area Engineer.
- Certified Asphalt Technician Level I – Field Tester
- Certified Level II – Quality Management Technician
- Certified Asphalt Roadway Technician
- Work Zone Safety Certification
- Certified Concrete Technician (ACI and ALDOT certification)
- Radiological Safety Course Certification
- Qualified Credentialed Inspector (QCI)

Job Description:

This is administrative and technical work in Civil Engineering. The employees in said class shall act as the first contact between contractor and the CITY. The Project Manager shall be responsible for supervision of all employees assigned to the said project. The Project Manager shall ensure that a project is built in accordance with project plans and specifications under which contract was awarded. The Project Manager shall report directly to the District Manager's or the Region/Area Engineer's designated representative.

SENIOR INSPECTOR:

Minimum Qualifications:

- Eight years of experience in construction inspection, surveying or highway materials testing and inspection or a Bachelor of Science degree in Civil Engineering or Registered Professional Engineer with two years of experience in construction

inspection, surveying or highway materials testing and inspection. One or more of the following certifications as necessary and approved by the Region/Area Engineer. Inspectors who are to perform a specific task shall be certified in said field.

- Certified Asphalt Technician Level I – Field Tester
- Certified Level II – Quality Management Technician
- Certified Concrete Technician (ACI and ALDOT Certification)
- Certified Asphalt Roadway Technician
- Work Zone Safety Certification
- Radiological Safety Course Certification
- Qualified Credentialed Inspector (QCI)

Job Description:

This is skilled sub-professional engineering work in the field or office. Employees in said class shall act as the Assistant Project Manager and be responsible for reviewing and directing inspection duties of all project inspectors. The Senior Inspector shall be capable of surveying and drafting, as they apply to documenting and inspection, of a construction project. The Senior Inspector shall report directly to Project Manager.

LEVEL II INSPECTOR:

Minimum Qualifications:

- Five years of experience in construction inspection, surveying or highway materials testing and inspection or a Bachelor of Science degree in Civil Engineering with one year of experience in construction inspection, surveying or materials testing and inspection. One or more of the following certifications as necessary and approved by the Region/Area Engineer. Inspectors who are to perform a specific task shall be certified in said field.
- Certified Asphalt Technician Level I – Field Tester

- Certified Concrete Technician (ACI and ALDOT Certification)
- Certified Asphalt Roadway Technician
- Work Zone Safety Certification
- Radiological Safety Course Certification
- Qualified Credentialed Inspector (QCI)

Job Description:

This is skilled sub-professional engineering work in the field or office. Employees in said class shall follow standard procedures in documenting construction projects and inspecting job activities to verify they are in compliance with project plans and specifications. The inspector shall be responsible for completing a daily report documenting labor and equipment used by contractor to include a description of work performed and any pertinent conversations with contractor. The inspector will assist with office work such as plotting cross-sections and computing earthwork quantities. The inspector shall report directly to Senior Inspector and/or Project Manager.

LEVEL I INSPECTOR:

Minimum Qualifications:

- Some experience in construction inspection, surveying or highway materials testing and inspection is preferred. One or more of the following certifications as necessary and approved by the Region/Area Engineer. Inspectors who are to perform a specific task shall be certified in that particular field.
- Certified Asphalt Technician Level I – Field Tester
- Certified Concrete Technician (ACI and ALDOT Certification)
- Certified Asphalt Roadway Technician
- Work Zone Safety Certification
- Radiological Safety Course Certification

Job Description:

This is sub-professional engineering work in the field or office. Employees in said class shall follow standard procedures in documenting construction projects and inspecting job activities to verify they are in compliance with project plans and specifications. The inspector shall be responsible for completing a daily report documenting labor and equipment used by contractor to include a description of work performed and any pertinent conversations with contractor. The inspector shall assist with office work such as plotting cross-sections and computing earthwork quantities. The inspector shall report directly to Senior Inspector and/or Project Manager.

ADMINISTRATIVE ASSISTANT

Minimum Qualifications:

- A high school diploma or a GED certificate.

Job Description:

Employees in this class may perform a variety of clerical duties. These duties may include data entry, filing documents, sorting mail, typing documents, taking dictation, proofreading documents, making copies, greeting and directing the public, taking telephone messages, posting records, or making simple calculations.

PROFESSIONAL CIVIL ENGINEER

Minimum Qualifications:

- Must possess a Professional Engineer's License as issued by the Alabama State Board of Licensure for Professional Engineers and Land Surveyors and must have at least one year of professional civil engineering experience.
- Qualified Credentialed Inspector (QCI)

Job Description:

This is advanced professional work in the field of civil engineering. Employees in said class perform a variety of complex engineering duties associated with planning, geodetic surveys, location, design, construction or maintenance of roads, bridges, buildings, or other civil engineering projects.

TARGET PERSON

Minimum Qualifications:

- Six months experience in surveying.

Job Description:

This is sub-professional work in the field or office. Employees in said class follow standard procedures in carrying out field or office assignments related to surveying for construction projects. Limited instrument use for construction and right-of-way stakeout, obtaining quantity cross-sections, spot checking location and elevation of different construction activities such as form work, setting of girders, pipe grades and blue top elevations as well as cutting line constitute the main activities.

INSTRUMENT PERSON

Minimum Qualifications:

- Two years experience in surveying.

Job Description:

This is skilled sub-professional surveying work in the field or office. Employees in said class follow standard procedures in carrying out field or office assignments related to surveying for construction projects. Employees in said class may be in charge of checking of contractor's work, obtaining quantity cross-sections, and staking right-of-way. Said employee must be able to operate several types of surveying equipment. The ability to read/comprehend contract plans, take and reduce field notes and complete daily reports is essential. The position shall report directly to Field Supervisor or Project Manager.

FIELD SUPERVISOR

Minimum Qualifications:

- Four years experience in surveying with at least one year of experience as a construction survey party chief.

Job Description:

This is supervisory and technical surveying work in the field or office. Employees in said class are in charge of making daily work assignments, interpreting and reading construction plans, and directing surveying activities involved with checking contractor's work, obtaining quantity cross-sections, and staking right-of-way. Work is performed with considerable independence, but is reviewed for conformance with established policies, procedures, and applicable State laws. The ability to calculate horizontal and vertical positions as well as quantities for payment, communicate in writing and orally, and instruct personnel in the use of equipment is essential. Said position shall report directly to Project Manager or Professional Land Surveyor

PROFESSIONAL LAND SURVEYOR

Minimum Qualifications:

- Must possess a Professional Land Surveyor's License as issued by the Alabama State Board of Licensure for Professional Engineers and Land Surveyors and have at least one year of experience as a Professional Land Surveyor.

Job Description:

This is supervisory professional surveying work in the field or office as required by Alabama State Law. Employees in said class shall insure compliance to standards of practice for surveying in the State of Alabama and conformance with established policies and procedures for surveys which involve the staking of right-of-way.

C. STAFFING:

The CITY shall determine number and type of personnel needed to adequately staff and carry out responsibilities of said scope of service. The qualifications of each person proposed for assignment must be reviewed and approved in writing by the Region/Area Engineer. An individual previously approved whose performance is later determined by the CITY to be unsatisfactory shall be immediately removed and replaced by the CONSULTANT within one week after notification. The CONSULTANT shall maintain an appropriate staff, as approved by the Region/Area Engineer, after completion of construction to complete the final estimate. Qualified personnel, thoroughly familiar with all aspects of construction and final measurements of various pay items, shall be available to resolve disputed final pay quantities until appropriate contract is finalized.

As the Contractor's operations on a contract diminish, the CONSULTANT shall reduce number of personnel assigned to said project as appropriate. Any adjustment of the CONSULTANT forces as directed by the Region/Area Engineer shall be accomplished within one week after notification. The CONSULTANT shall, at all times, provide project personnel to ensure proper staffing is maintained. Personnel on a specific project shall be rotated to keep overtime to a minimum. The Project Manager shall be responsible to schedule the CONSULTANT employee work hours to avoid overtime. This shall include varying employee work hours, or the use of shift work, or rescheduling employee normal work hours in advance of expected overtime. The method of schedule modification shall be approved by the Region/Area Engineer. If overtime is not held to a minimum, then SECTION 1, 7.0 (Cooperation and Performance of the CONSULTANT) of this AGREEMENT shall be enforced to replace personnel. If construction contract is suspended, the CONSULTANT'S forces shall be adjusted at the direction of the Region/Area Engineer to correspond with type of suspension. In the event of a construction contract suspension which requires the removal of CONSULTANT forces from project, the

CONSULTANT shall be allowed up to a maximum of five (5) days to demobilize, relocate or terminate such forces.

Should the CITY determine a need for additional classifications not set forth in this AGREEMENT, the classifications and hourly pay ranges shall be established based on mutual AGREEMENT with the CONSULTANT.

D. CERTIFICATION - Licensing for Equipment and Personnel:

The CONSULTANT shall be responsible for obtaining proper certification and licenses for equipment and personnel used on any project. Licensing of nuclear testing devices shall be obtained through the appropriate agencies. Only technicians approved by the CITY shall be authorized to operate nuclear testing devices. The CONSULTANT shall be responsible for monitoring activity (i.e. film badges/radiation levels) of their technicians who operate nuclear testing devices. Other certifications for technicians such as concrete, Asphalt Roadway, Asphalt Plant, American Traffic Safety Services Association (ATSSA) Worksite Supervisors and others if applicable shall be required. Construction Inspectors work qualifications shall be as shown in SECTION 1, Paragraph 9.0 B of this AGREEMENT.

10.0 SUBCONSULTANT SERVICES:

Upon written approval of the CITY and prior to performance of work, the CONSULTANT may subcontract for engineering surveys, materials testing, or specialized professional services. The Region/Area Engineer shall verify qualifications of personnel used by sub-consultant.

11.0 OTHER SERVICES:

The CONSULTANT shall, upon written authorization by the Region/Area Engineer, perform any additional services not otherwise identified in this AGREEMENT as may be required by the CITY in connection with said Project(s).

12.0 CLAIMS REVIEW:

In the event the Contractor for said project submits a claim for additional compensation and/or time after the CONSULTANT shall, by written request from the CITY, analyze the claim, prepare

recommendation to the Region/Area Engineer covering validity and reasonableness of charges and/or assist in negotiations leading to the settlement of said claim. Compensation for these services shall be mutually agreed between the CITY and the CONSULTANT prior to performance of said Services.

A. The CONSULTANT shall, upon written request by Region/Area Engineer, assist appropriate CITY Offices in preparing for arbitration hearings or litigation that occur after the CONSULTANT'S contract time in connection with the project covered by this AGREEMENT.

The CONSULTANT shall, upon written request by Region/Area Engineer, provide qualified Engineers and/or Engineering Technicians to serve as engineering witnesses, provide exhibits, and otherwise assist the CITY in any litigation or hearings in connection with said construction contract(s).

ARTICLE II - TIME OF BEGINNING AND COMPLETION

1. The CONSULTANT services for each on-call construction assignment shall begin after the CONSULTANT receives approved Purchase of Consultant Services for Construction Engineering and Inspection order (Form CPO – CE&I) from Region/Area Engineer. The CPO shall constitute Notice to Proceed from the CITY. The maximum amount payable to the CONSULTANT for services on each on-call construction assignment shall not exceed the amount stated on said CPO. The length of services as herein established for each construction contract is based on the CONSULTANT beginning work when notified and continuing work until acceptance by the CITY of described services.
2. This AGREEMENT shall be effective upon the date of approval by the Legislative Contract Review Oversight Committee, and signature of the Governor of Alabama, for a term of two years. Any requests for work by the CITY, made prior to the end of the two-year term shall be covered by this AGREEMENT.

ARTICLE III – PAYMENT

SECTION 1

Overhead shall be limited to the actual audited overhead rates. Increases in billable overhead and labor additives shall be limited to a maximum of five (5) percentage points. Profit shall be maintained at ten (10) percent of these costs. When Region/Area requires the CONSULTANT to stay overnight at a project, the CONSULTANT shall be reimbursed for actual expenses up to the maximum allowable by State Law. Employees whose vehicles are used for work-related mileage (excluding mileage for commuting) shall be compensated at the prevailing Federal mileage rate as approved by the General Services Administration. Out-of-pocket expenses, not to exceed $100.00, shall be paid as direct cost plus ten (10) percent. Purchases over $100.00 shall require written authorization from appropriate Region.

For performance by the CONSULTANT of services provided for in this AGREEMENT, and as full and complete compensation therefore, including all approved expenditures and expenses incurred by the CONSULTANT in connection with this AGREEMENT, and subject to conformity with all provisions of this AGREEMENT, the CITY shall pay the CONSULTANT as follows:

A. The total compensation to the CONSULTANT for work provided for when performed under this AGREEMENT will be as follows:

   1. Direct salary and wages – Actual salary and wages paid personnel while actually engaged in performance of work, all as determined by Finance Director of the Alabama Department of Transportation. Listed below are labor rate ranges for the CONSULTANT'S personnel that may be working on various projects under this AGREEMENT.

CLASSIFICATION	HOURLY PAY RANGES
Professional Civil Engineer	$28.00 to $43.00
Project Manager	$21.00 to $37.00
Senior Inspector	$17.00 to $29.00
Level II Inspector	$13.00 to $24.00
Level I Inspector	$12.00 to $19.00

Professional Land Surveyor	$20.00	to	$37.00
Field Supervisor	$17.00	to	$29.00
Instrument Person	$13.00	to	$23.00
Target Person	$12.00	to	$19.00
Administrative Assistant	$10.00	to	$19.00

2. All other related direct actual costs paid by the CONSULTANT, applicable to this AGREEMENT, such as printing and reproduction, and subsistence of personnel engaged on project at rates payable under state law, and for those supplies, communication equipment, etc. not included in the overhead rate. Vehicles reimbursed for work-related mileage (excluding mileage for commuting) at the prevailing Federal mileage rate as approved by the General Services Administration, see Attachment #1 for ALDOT Consultant Field Office Procedures, which Attachment #1 is made a part hereof.
3. For work performed out of the CONSULTANT'S home or branch office, the CONSULTANT'S home office overhead and labor additive rate of 183.62 percent (for Fiscal Year Ending 2014) shall be applied to direct salary and wages. Any sub-consultant's overhead and labor additive rate shall not exceed prime consultant's rate. The CONSULTANT'S billable overhead and labor additive can only increase to a maximum of five (5) percentage points per year during the life of this AGREEMENT.
4. For work performed out of CITY provided facility, the CONSULTANT'S field office and labor additive rate of 000.00 percent (for Fiscal Year Ending_____) shall be applied to the direct salary and wages. Any sub-consultant's overhead and labor additive rate shall not exceed prime consultant's rate. The CONSULTANT'S billable overhead and labor additive can only increase to a maximum of five (5) percentage point per year during the life of this AGREEMENT.

(NOTE: For CONSULTANTS that have not provided an audited field office overhead rate, the billable field office rate shall be 105.00 percent until such time as one is provided to the STATE'S Bureau of Finance and Audits, External Audit Section.)

5. Profit at the rate of ten (10) percent applied to direct salary, overhead, and approved expenses.
6. The STATE'S Bureau of Finance and Audits, External Audit Section shall be furnished a Statement of Direct Labor, Fringe Benefits and General Overhead that is in compliance with Generally Accepted Accounting Principles and an audited Statement of Indirect Cost developed in compliance with the Contract Cost Principles and Procedures stated in Volume 1, Federal Acquisition Regulations, Part 31, and the audit standards contained in the Government Auditing Standards issued by the Comptroller General of the United States by the end of the fifth month after the closing of the CONSULTANT'S fiscal year.
7. Any paid overtime shall require prior authorization from the Region/Area Engineer. Billable overtime is all time worked over Forty Hours each week or holidays observed by the CONSULTANT.

   For firms that include the premium portion of direct labor overtime in the Direct Labor Base of the Indirect Cost Rate Calculation:

   a. The hourly overtime rate will be 1.5 times the billable rate.
   b. Hours worked on holidays observed in the Region/Area on the work that is being performed by the CONSULTANT will be billable at an hourly rate of 2 times the regular billing rate.

   For firms that do not include the premium portion of direct labor overtime in the Direct Labor Base of the Indirect Cost Rate Calculation:

   a. The hourly rate will be one 1 times the billable rate.

b. The premium portion of overtime will be billed in accordance with the CONSULTANT'S Indirect Cost Rate Calculation.

8. The maximum amount payable, to the CONSULTANT for work provided for under this AGREEMENT, shall not exceed two hundred eleven thousand, two hundred dollars and no/100 ($211,200.00).

SECTION 2

A. Certified copies of daily payrolls for personnel actively engaged on work included in this specific Rate of Pay AGREEMENT shall be furnished monthly.

B. Payments to the CONSULTANT shall be made not more often than monthly. Payment shall be subject to submission by the CONSULTANT of such vouchers or invoices, daily progress reports and such evidence of performance the CITY may deem necessary. The original invoice and (3) three copies shall be submitted by the CONSULTANT to the Region/Area Office for review, approval and forwarding to the STATE'S Bureau of Finance and Audits, External Audit Section located in Montgomery, Alabama, for payment.

C. The CONSULTANT shall correlate and coordinate accounting of CONSULTANT to comply with current audit system of the STATE and applicable Federal Acquisition Regulations. Since this is a cost reimbursable type of AGREEMENT, all direct job costs, and labor costs charged to the said project shall be the actual rate of pay at the time work is performed and shall be subjected to audit by the STATE.

SECTION 3

The acceptance by the CONSULTANT of the final payment shall constitute and operate as a release to the CITY of all claims and of any and all liability of the CITY to the CONSULTANT, its representatives and/or assigns for all things done, furnished or relating to services rendered by the CONSULTANT under, or in connection with this AGREEMENT, or any part thereof, provided that no unpaid invoices exist because of extra work required at the request of the CITY.

SECTION 4

During the period of this AGREEMENT, the CONSULTANT shall not be employed and CONSULTANT'S employees shall not be employed by construction contractors performing work on state or federal-aid projects on which the CONSULTANT is assigned without approval in writing by the CITY.

SECTION 5

The work to be performed under this AGREEMENT shall not include any work payable to the CONSULTANT under any other AGREEMENT(S) with the CITY in effect at the time work is performed.

ARTICLE IV – MISCELLANEOUS PROVISIONS

Exhibits A, C, D, E, F, G, H, H-1, I, K, L, M, N, X, Y and Z attached hereto, are made a part of this AGREEMENT and the terms and provisions of such exhibits are binding on the parties respectively as fully and completely as they would bind the parties if such terms and provisions were set forth in writing in the AGREEMENT.

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 there from.

In WITNESS WHEREOF, the Parties hereto have caused this AGREEMENT to be executed by those officers, officials and persons thereunto duly authorized, and the AGREEMENT is deemed to be effective on the date of approval by the Legislative Contract Review Oversight Committee and the approval of the Governor of Alabama.

Phase 9 CMAQ-NR13(908)
CE & I Contract Amount $211,200.00

APPROVED BY CITY:

Signature: _____

Name: _____

Title: _____

Date: _____

APPROVED BY CONSULTANT:

Signature: _____

Name: James A. Meads

Title: President / CEO

Date: 9/6/16

ADDENDUM TO AGREEMENT BETWEEN
THE CITY OF MOUNTAIN BROOK AND
SAIN ASSOCIATES, INC.
DATED SEPTEMBER 12, 2016

THIS ADDENDUM ("the/this Addendum") to the principal agreement between the **City of Mountain Brook, Alabama** ("the City") and **Sain Associates, Inc.** ("the Contractor") dated September 12, 2016.

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 12th day of September, 2016.

Sain Associates, Inc.	**City of Mountain Brook, Alabama**
By : _____	By : _____
Its : _____	Its : _____

RESOLUTION NO. 2016-130

BE IT RESOLVED by the City Council of the City of Mountain Brook, Alabama that the City Council hereby authorizes the execution of Schedule No. 002 to the City/PReMA Corp Master Agreement (Resolution No. 2016-110), in the form as attached hereto as Exhibit A subject to such minor changes as may be recommended by the City Attorney, with respect to tax and license auditing services to be performed by PReMA.

BE IT FURTHER RESOLVED by the City Council of the City of Mountain Brook, Alabama that the City Manager is further authorized to execute such other documents that may be determined necessary with respect to said engagement.

ADOPTED: This 12th day of September, 2016.

_____
Council President

APPROVED: This 12th day of September, 2016.

_____
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 12, 2016, as same appears in the minutes of record of said meeting.

_____
City Clerk

SCHEDULE NO. 002 TO CITY/PReMA CORP MASTER AGREEMENT

This **SCHEDULE NO. 002** (this "Schedule") to that certain Master Services Agreement effective as of September 12, 2016 (the "Master Agreement") is entered by and between **PUBLIC RESOURCE MANAGEMENT ALLIANCE CORPORATION**, a Colorado corporation ("PReMA Corp" or "PReMA"), and the **CITY OF MOUNTAIN BROOK, ALABAMA** ("City" or "Client") on this 12th day of September, 2016 (the "Schedule Date").

W I T N E S S E T H:

WHEREAS, PReMA Corp has the knowledge and experience to provide audit services to determine if businesses or franchisees operating in the City pursuant to a franchise agreement with the City (which collectively may be referenced herein as "Businesses," "Taxpayers" or "Franchisees") have paid the following amounts to the City: (i) amounts due for business licenses fees as provided in Chapter 26, Article VII of the City of Mountain Brook Code of Ordinances (the "City Code"); (ii) municipal sale and use taxes owed pursuant to Chapter 26, Articles IV & V of the City Code; (iii) rental, lodging, lease, and alcoholic beverage tax revenue payable to the City pursuant to applicable codes and law; and (iv) franchise fees as set forth in franchise agreements with the City (such services being collectively referenced herein as "Audit Services");

WHEREAS, PReMA Corp and the City desire to enter into this Schedule whereby PReMA Corp will provide the Audit Services described herein; and

WHEREAS, PReMA Corp and the Client desire that, effective as of the Schedule Date, this Schedule be annexed and made a part of the Master Agreement, and that this Schedule continue in effect as provided for in the Master Agreement or in this Schedule.

NOW THEREFORE, in consideration of the covenants and promises contained herein, the City and PReMA Corp agree as follows:

1. **Terms of Master Agreement; Capitalized Terms.** Unless otherwise provided in this Schedule, capitalized terms that are not defined herein shall have the same meanings as in the Master Agreement. In the event of a conflict between the terms of the Master Agreement and those in this Schedule, the terms of this Schedule shall control.

2. **Applicable Fees & Taxes Subject to Audit**. The license fees, taxes and other payments owed to the City by Businesses for which PReMA Corp will provide the Audit Services are as follows (mark all that apply):

✓	Sales taxes	✓	Business licenses fees
✓	Consumers use taxes		Vehicle use taxes
✓	Sellers use taxes		Construction use taxes
✓	Lodging taxes	✓	Franchise fees
✓	Rental taxes		Automobile *ad valorem* taxes
✓	Lease taxes	✓	Alcoholic beverage taxes

Other fees or taxes to be audited include any listed below:

_____

_____

_____

_____

(collectively herein the "Applicable Taxes" or "Taxes").

3. **Initiation of Audit.** The initiation of Audit Services shall commence in either of two ways:

(i) Request by City. The City may request that PReMA Corp perform Audit Services concerning a type(s) of Applicable Taxes for a Business(es) that the City designates; or

(ii). Approval by City. On a quarterly basis once taxpayer history is established within its system, PReMA will provide the City with a list of potential Businesses, Taxpayers, and/or Franchisees and types of Applicable Taxes payable by them that PReMA recommends be audited. The criteria used by PReMA for selection of those candidates and Taxes will be objective and include, but not be limited to, analysis of taxpayer reporting history and trends, significant variances and anomalies in taxpayer reporting of gross receipts, deductions, exceptions, taxable amounts, etc.

After receiving PReMA's list, the City will (i) timely review PReMA's recommendations, (2) in the exercise of its sole discretion, determine whether it approves the audit of the Business(es) and type of Tax(es) recommended by PReMA, and (3) timely advise PReMA Corp in writing whether it approves an audit recommended by PReMA.

In no event may PReMA Corp perform Audit Services concerning a Business, Taxpayer, and/or Franchisee and type(s) of Tax(es) unless those Services are either requested or approved by the City.

4. **Scheduling of Audits/Budgeting of Expenses**. After the Business(es), Taxpayer, and/or Franchisee and type(s) of Tax(es) are selected and approved by the City, the parties will agree on a schedule for PReMA to perform the Audit Services for each audit, with consideration for taxpayer responsiveness. PReMA's project manager for the audits will consult or meet bi-weekly with designated City staff ensuring an open-line of communication to provide updates and address any concerns the City may have. PReMA Corp will provide monthly audit status reports in a manner acceptable to the City staff outlining all activities that occur during that month. The report will include audits assigned to PReMA Corp for that

month, audits completed that month, status of all audits assigned including issues that require intervention or assistance by the City, audit hours spent on each audit assigned during the period, and engagement status to date. If the City wishes to terminate an audit prior to completion, the City shall notify PReMA Corp in writing of that intention using a designed form that directs the auditor to terminate the audit. The auditor will notify the Taxpayer and provide a written report of findings and actions to the City. Additional reporting is provided upon request and as is determined to be necessary in the day-to-day operations of the City's revenue stream for Taxes.

5. **Scope of Audit Services.** The Audit Services concerning a Business(es), Taxpayer or Franchisee will be conducted in the following manner:

a. Tax Account Auditing of Returns or Reports to City. PReMA will conduct the audits of tax returns and reports filed with the City by audited Businesses, Taxpayers and/or Franchisees in a timely manner and in accordance with applicable State and local laws governing taxpayer audits (including, but not limited to, Title 40, Code of Alabama and the Taxpayer Bill of Rights), and consistent with the skill and diligence normally employed by professionals performing the same or similar services. The scope of PReMA's auditing services also include it recommending timely and appropriate assessments against Businesses based on its audit findings.

b. Reports. Upon request, PReMA will provide the City Finance Department a complete report of its audit findings.

c. *Disputes with Businesses in Audit Process.* The parties acknowledge, in the course of PReMA's Audit Services, those Businesses being audited may contest the amounts of Applicable Taxes (including interest and penalties) that are claimed to be owed (an "Audit Dispute"). PReMA Corp agrees that, in the event that an Audit Dispute arises, it will advise the City Finance Department of any such Dispute, and the City thereafter will attempt to resolve that Dispute with a Business in a manner that is acceptable to it. PReMA will have no authority to compromise the amount of Applicable Taxes that a Business may propose to pay to settle an Audit Dispute. Upon reasonable advance notice, PReMA agrees to provide documentation of its findings, meet with the Businesses if requested by the City and furnish other support reasonably requested by the City to assist it resolve any Audit Dispute. Any decisions to litigate or take formal administrative actions to collect Applicable Tax(es) owed by Businesses, Taxpayers and/or Franchisees shall be made by the City.

d. Collection of Applicable Taxes Generated by Audit Process. Any payments of Applicable Taxes by Businesses, Taxpayers and/or Franchisees that are generated by or arise from the performance of Audit Services will be made directly by the subject Business to the City.

6. **Client Assistance; Services**. Client shall promptly provide PReMA Corp with payment histories and other taxpayer information that may be pertinent to perform a thorough review of any Business, Taxpayer and/or Franchisee after those are approved for audit.

7. **Fees**. Client shall pay PReMA Corp the following fee (the "Fees") in connection with the performance of its Audit Services:

Administrative/Clerical Staff	$ 45.00 per hour
Conditionally Certified Revenue Examiner	$ 55.00 per hour
Certified Revenue Examiner	$ 70.00 per hour

Invoicing for such Fees shall be submitted by PReMA and processed by the City as provided in Section 4 of the Master Agreement.

8. **Expenses** The City will reimburse PReMA Corp for the following expenses incurred by it in performing its Audit Services.

Mileage	Prevailing IRS rate per mile
Air Fare, Lodging and Meals	Exact Cost with no mark- up. NOTE: No Air Fare, Lodging or Meal Expenses will be paid by the City unless pre-authorized by the City's Finance Director.
Printing and Photocopying Per taxpayer audit and in excess of 100 pages	$.10 per copy
Charges Incidental to Securing Needed Information (e.g., charges by third parties to obtain information on Business being audited)	Exact cost with no mark-up
Postage and Delivery Costs	Exact cost with no mark-up

Unless otherwise agreed in writing, no other type of Reimbursable Expense will be paid by the City in connection with Audit Services.

Invoicing for Reimbursable Expenses shall be submitted by PReMA and processed by the City as provided in Section 4 of the Master Agreement.

9. **No Minimum Level of Revenue/Non-Exclusive Contractor.** The City does not represent or covenant that PReMA Corp will receive any minimum level or amount of revenue in connection with its provision of Audit Services pursuant to this Schedule. Further, PReMA Corp is not designated by the City as the exclusive provider of such Audit Services.

10. Termination of Schedule. The term of this Schedule shall commence on the Schedule Date and continue in effect during the term of the Master Agreement. Notwithstanding, except as provided immediately below, this Schedule may be terminated before its expiration as provided in Section 7.6 of the Master Agreement. Further, if Audit Services have been commenced with respect to a Licensed Business but not completed at the effective time of any termination other than one for cause, the parties agree that the Audit Services for that Licensed Business will be completed and that the terms herein shall continue to apply until those Services are completed.

IN WITNESS WHEREOF, the parties hereto have executed, sealed, and delivered this Agreement through their duly authorized representatives, as of the day and year first written above.

PReMA CORP:	**CLIENT:**
PUBLIC RESOURCE MANAGEMENT ALLIANCE CORPORATION	**CITY OF MOUNTAIN BROOK, ALABAMA**
By:_____ Its Executive Vice-President	By:_____ Its _____
Date:_____	Date:_____

RESOLUTION NO. 2016-131

BE IT RESOLVED by the City Council of the City of Mountain Brook, Alabama, that the City Council hereby authorizes either the Mayor or City Manager to execute, for and on behalf of the City, lease agreements with Armans, LLC and Redstone Holdings, LLC, in the form as attached hereto as Exhibits A and B, respectively, with respect to the two lease public parking lots located in English Village.

ADOPTED: This 12th day of September, 2016.

_____
Council President

APPROVED: This 12th day of September, 2016.

_____
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 12, 2016, as same appears in the minutes of record of said meeting.

_____
City Clerk

THE TWO LEASE AGREEMENTS WILL BE SENT SEPARATELY ONCE FINALIZED

Re: English Village parking leases

Inbox x

Whit Colvin 10:33 AM (37 minutes ago)

to me, Whit

Have sent to Keith and he is clearing with the Drehers. I expect to hear something shortly. They start Oct. 1 so if there is a hang up, we still have the second meeting where we could approve. But I think they may be ready for approval Monday...

Whit Colvin
Bishop, Colvin, Johnson & Kent, LLC
Phone: (205) 251-2881
Direct Line: (205) 224-4195
Mobile: (205) 222-6225
wcolvin@bishopcolvin.com
www.bishopcolvin.com

2016-131

RESOLUTION NO. 2016-132

BE IT RESOLVED by the City Council of the City of Mountain Brook, Alabama, that the City Council hereby authorizes either the Mayor or City Manager to execute, for and on behalf of the City, to execute a professional services agreement between the City and Gresham, Smith & Partners with respect to the design and administration of the bridge reconstruction and rehabilitation for the Old Brook Trail bridge (#012869) over Little Shades Creek and Canterbury Road bridge (#002873) over Watkins Creek.

ADOPTED: This 12th day of September, 2016.

_____
Council President

APPROVED: This 12th day of September, 2016.

_____
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 12, 2016, as same appears in the minutes of record of said meeting.

_____
City Clerk

AGREEMENT WILL BE E-MAILED UPON RECEIPT

From: "Perry, Blair" <blair_perry@gspnet.com>
To: Sam Gaston <gastons@mtnbrook.org>, Ronald Vaughn <vaughnr@mtnbrook.org>
Cc: "Gurney, Bryan" <bryan_gurney@gspnet.com>, "Humphrey, Hal" <hal_humphrey@gspnet.com>
Subject: Caldwell Mill Road Bridge Replacement Proposal

Sam and Ronnie,

Attached is our proposal for the design of the Caldwell Mill Road Bridge Replacement. We will send the draft agreement tomorrow.

A few things that added to the cost:

1. The surveyor has to do some additional survey work (stream cross sections) for the required FEMA flood study.

2. There is not any good horizontal and vertical survey control near the project. Accurate survey control to a national datum is necessary for the required FEMA flood study. The closest good survey control points are at the Birmingham Water Works complex on Hwy 280. They can use GPS to "transfer" those control points for a ways, but once they get off of Hwy 280, the heavy tree cover will require conventional surveying to run the control down to the project location. This is a very time consuming process and added considerably to the cost of the survey.

3. ALDOT advised that they will review the bridge plans at the 30% and final plan stage. I think that because they administer the federal bridge inspection program, they get to review all bridge plans, even for 100% locally funded projects. They said that this would not be an extensive or time-consuming review. However, this did add some to the cost of the geotech work and bridge plans for coordinating with ALDOT and addressing any comments they have.

4. FEMA Flood Study - Little Shades Creek is designated as a floodway in the National Flood Insurance Program (NFIP) flood maps. Therefore, we have to do the FEMA required flood studies for the new bridge. Our goal is to design the new bridge so that there is no rise in the flood elevation at the bridge. This will keep the City from having to incur the additional cost of getting a letter of map revision (LOMR) from FEMA.

5. Additional detailing required for the stacked stone facing

6. Bidding/construction contract documents and advertising and bidding services were added as requested in our recent scoping meeting.

Let me know if you have any questions.

Blair

Blair C. Perry, P.E.
Senior Transportation Engineer

Gresham, Smith and Partners
Architecture, Engineering, Interiors, Planning

3595 Grandview Parkway, Suite 300
Birmingham, AL 35243
[P] 205.298.9232
[M] 205.937.5413

ADDENDUM TO AGREEMENT BETWEEN
THE CITY OF MOUNTAIN BROOK AND
GRESHAM , SMITH AND PARTNERS
DATED SEPTEMBER 12, 2016

THIS ADDENDUM ("the/this Addendum") to the principal agreement between the **City of Mountain Brook, Alabama** ("the City") and **Gresham, Smith and Partners** ("the Contractor") dated September 12, 2016.

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 12th day of September, 2016.

Gresham, Smith and Partners

By : _____

Its : _____

City of Mountain Brook, Alabama

By : _____

Its : _____

1957

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ORDINANCE NO. 1957 - AN ORDINANCE TO REPEAL ORDINANCE NO. 1693 AND TO PROHIBIT SMOKING IN CERTAIN ENCLOSED PLACES AND CERTAIN OUTDOOR PUBLIC PLACES IN THE CITY

WHEREAS, the City Council of the City of Mountain Brook, Alabama is aware that studies show that (1) second-hand smoke exposure can cause disease and premature death in children and adults who do not smoke; (2) children exposed to second-hand smoke are at an increased risk for sudden infant death syndrome (SIDS), acute respiratory problems, ear infections, and asthma attacks; (3) even occasional exposure of adults to second-hand smoke can have immediate adverse effects on the cardiovascular system and can cause coronary heart disease and lung cancer; (4) there is no risk-free level of exposure to second-hand smoke; (5) establishing smoke-free public places and places of employment are the only effective ways to ensure that second-hand smoke exposure does not occur in such places because ventilation and other air cleaning technologies cannot completely control exposure of non-smokers to second-hand smoke; and (6) evidence from peer-reviewed studies shows that smoke-free policies and laws do not have an adverse economic impact on the hospitality industry;

WHEREAS, the Council is aware that studies have shown that (1) residual tobacco contamination, or "third-hand smoke," from cigarettes, cigars, and other tobacco products is left behind after smoking occurs and builds up on surfaces and furnishings; (2) tobacco residue can linger in spaces long after smoking has ceased and continue to expose people to tobacco toxins; (3) sticky, highly toxic particulate matter, including nicotine, can cling to walls and ceilings; (4) gases can be absorbed into carpets, draperies, and other upholsteries, and then be reemitted (off-gassed) back into the air and recombine to form harmful compounds; and (5) even the rapid absorption and persistence of high levels of residual nicotine from tobacco smoke on indoor surfaces, including clothing and human skin, exposure to "third-hand smoke" can represent an unappreciated health hazard through dermal exposure, dust inhalation, and ingestion;

WHEREAS, the Council finds that unregulated electronic smoking devices, commonly referred to as electronic cigarettes, or "e-cigarettes," closely resemble and purposefully mimic the act of smoking by having users inhale vaporized liquid nicotine created by heat through an electronic ignition system, and that their use in workplaces and public places where smoking of traditional tobacco products is prohibited creates concern and confusion and leads to difficulties in enforcing the smoking prohibitions;

WHEREAS, the City Council of the City of Mountain Brook, Alabama is concerned about the health hazards induced by breathing second-hand smoke which include lung cancer, heart disease, respiratory infection, and decreased respiratory function, including bronchospasm;

WHEREAS, the City Council of the City of Mountain Brook, Alabama finds and declares that the purposes of this ordinance are (1) to protect the public health and welfare by prohibiting smoking in certain enclosed public places, enclosed places of employment, and certain outdoor public places; (2) to regulate the use of electronic smoking devices like other traditional forms of smoking; (3) to promote the right of non-smokers to breathe smoke-free air, and to recognize that the need to breathe smoke-free air shall have priority in certain places over the desire to smoke; and (4) reasonably balance the interests and rights of all its citizens regarding smoking in certain public places.

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

1. Definitions. As used in this ordinance, the following words and phrases shall have the following meanings:

(1) BAR. An establishment that is licensed by the City for the serving of alcoholic beverages that are intended for consumption by guests on the premises. In addition to the consumption of those beverages, operations at a bar may include serving of food to the public. The term "bar" may include a tavern, nightclub or cocktail lounge.

(2) CIGAR BAR. A licensed establishment in which the primary activity is the sale, manufacture or promotion of cigars or cigar accessories, and in which the sale of the other products is merely incidental.

(3) CITY. The term "City" means the City of Mountain Brook, Alabama, a municipal corporation.

(4) CITY PROPERTY. Any real property within the City that is owned, leased or controlled by the City or any agencies or boards thereof. The term "City Property" does not include any property that is leased to the City by the Mountain Brook Board of Education.

(5) ELECTRONIC SMOKING DEVICE. Any product containing or delivering nicotine or any other substance intended for human consumption that can be used by a person to simulate smoking through inhalation of vapor or aerosol from the product. The term includes any such device, whether manufactured, distributed, marketed, or sold as an e-cigarette, e-cigar, e-pipe, e-hookah, or vape pen, or under any other product name or descriptor.

(6) ENCLOSED AREA. All area or space between a floor and a ceiling that is bounded on at least two sides by walls, doorways, or windows, whether open or closed. A wall includes any retractable divider, garage door, or other physical barrier, whether temporary or permanent and whether or not containing openings of any kind.

(7) GOVERNMENT BUILDING. Any building operated or occupied by state, county or city government, or any agencies thereof, or any other separate corporate instrumentality or unit of state, county or city government.

(8) GOVERNMENT PROPERTY. Any real property that is owned, leased or otherwise controlled or utilized by state, county or city government, or any agencies thereof, or any other separate corporate instrumentality or unit of state, county or city government.

(9) HEALTH CARE FACILITY. "Health Care Facility" means an office or institution providing care or treatment of diseases, whether physical, mental, or emotional, or other medical, physiological, or psychological conditions, including but not limited to, hospitals, rehabilitation hospitals or other clinics, including weight control clinics, nursing homes, long-term care facilities, homes for the aging or chronically ill, laboratories, and offices of surgeons, chiropractors, physical therapists, physicians, psychiatrists, dentists, and all specialists within these professions. This definition shall include all waiting rooms, hallways, private rooms, semiprivate rooms, and wards within health care facilities.

(10) LICENSED BUSINESS. A person, organization or entity required to obtain a license from the City in order to engage in business or conduct business in the City.

(11) OUTDOOR PRIVATE PROPERTY. Outdoor private property is any outside area, land, space or place that is owned, leased or otherwise controlled by a private person, including any privately-controlled place outside an enclosed place of employment, outside an enclosed public place where the public may congregate or in the outside common area of a residential, business or commercial development.

(12) OUTDOOR PUBLIC PLACE. An outdoor public place is any outside area, land, or space on government property where the public is invited or may use, including, but not limited to, any recreational area, athletic field, stadium, amphitheater, arena, bleachers,

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stage, grandstand, temporary seating area, playground equipment, pavilion, shelter, concession stand, picnic table, bench, sidewalk, path or other structure, improvement or facility on that place.

(13) PLACE OF EMPLOYMENT. An area under the control of a public or private employer, including, but not limited to, work areas, private offices, employee lounges, restrooms, conference rooms, meeting rooms, classrooms, employee cafeterias, hallways, interior construction sites, temporary offices and vehicles. A "place of employment" does not include either (a) the space or area outside an enclosed place of employment if that area is on outdoor private property, or (b) a private residence (single family or multifamily) that is not used in conjunction with a home occupation involving the employment of persons other than those residing in the private residence.

(14) PRIVATE CLUB. A premise operated by an organization which is not available to and not customarily used by the general public and entry and privileges thereto are established by regulations of that organization.

(15) PUBLIC PLACE. An area on public or private property to which the public is invited, including but not limited to licensed businesses, bars, restaurants, hotels, motels, health care facilities, government buildings, government property, recreational areas, athletic facilities, and public transportation shelters.

(16) RECREATIONAL AREA. Any area in the City that is open to the public and primarily intended for recreational purposes, whether or not any fee for admission is charged, including but not limited to parks, athletic fields, playgrounds, gardens, golf courses, and trails.

(17) RESTAURANT. An eating establishment (including but not limited to, coffee shops, cafeterias, sandwich stands, and private and public school cafeterias) which gives or offers for sale food to the public, guests, or employees, as well as kitchens and catering facilities in which food is prepared on the premises for serving elsewhere. The term "Restaurant" shall include a bar area within the restaurant.

(18) RETAIL TOBACCO STORE: A retail store whose primary business is the sale of tobacco products and accessories and in which the sale of other products is merely incidental.

(19) SMOKING: The inhaling, exhaling, burning, or carrying any lighted or heated cigar, cigarette, pipe, hookah or any other lighted or heated tobacco or plant product intended for inhalation, whether natural or synthetic, in any manner or in any form; the use of an electronic smoking device which creates an aerosol or vapor, in any manner or in any form; or the use of any oral smoking device for the purpose of circumventing the prohibition of smoking in this Ordinance.

2. Prohibition. Except as otherwise provided in this subsection, no person shall smoke in any enclosed area in a public place, in any enclosed area at a place of employment or in an outdoor public place within the City. This prohibition does not apply to any of the following:

(1) Smoking in private residences (single family or multifamily), unless used in conjunction with a home occupation involving the employment of persons other than those residing there;

(2) Cigar Bars or retail tobacco stores;

(3) Private clubs;

(4) Smoking on outdoor private property; and

(5) Smoking at an outdoor public place on City property if a smoker is not within twenty (20) feet of a nonsmoker. If a person commences smoking outside on such a place and that

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smoker and a nonsmoker subsequently come within the same twenty (20) foot area, the smoker shall not violate this ordinance if they walk through or away from that area or otherwise remove themself from it following the request of the nonsmoker.

3. Signs. (1) The owner, operator, manager, or other person in charge of an enclosed area at a public place or an enclosed area at a place of employment within the City shall clearly and conspicuously post "No Smoking" signs or the international "No Smoking" symbol (which consists of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it) at those places near all entrances to them.

(2) The manager or official who is in charge of an outdoor recreational area on City property shall clearly and conspicuously post signs near all regular entrances to any such area stating "No Smoking within Twenty (20) Feet of a Nonsmoker"; provided that no obligation exists to post such signs at or along sidewalks, streets, alleys, ways, trails, or public parking lots or outside buildings on City property.

4. Obligation of Person in Charge. The person in charge of an enclosed area in a public place or an enclosed area at place of employment within the City shall not knowingly permit, cause, suffer or allow any person to violate the provisions of this ordinance in those places. It shall be an affirmative defense to an alleged violation of this subsection that the person having control of such a place has asked that the lighted cigarette, cigar, pipe, other tobacco product or electronic smoking device be extinguished or use of same cease, and has asked the smoker to leave the establishment if that person has failed or refused to extinguish the lighted cigarette, cigar, pipe or other tobacco products or cease use of an electronic smoking device.

5. Fine for Smoking Violation. A person who violates the provisions of this ordinance by smoking in an area or place prohibited by this ordinance shall be guilty of a violation of this ordinance that is punishable by a fine of at least twenty-five dollars ($25.00), but not to exceed one hundred dollars ($100.00).

6. Fine for Person in Charge. The owner, operator, manager, or other person in charge of an enclosed area in a public place or an enclosed area at a place of employment within the City who fails to comply with the provisions of this ordinance shall be guilty of an ordinance violation that is punishable by:

(1) A fine not exceeding one hundred dollars ($100) for a first violation;
(2) A fine not exceeding two hundred dollars ($200) for a second violation within a one (1) year period;
(3) A fine not exceeding five hundred dollars ($500) for third or subsequent violations within a one (1) year period.

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7. Separate Violations. Each day on which a violation of this ordinance occurs shall be a separate and distinct violation.

8. Enforcement. Jurisdiction for violations of this ordinance shall be with the municipal court of the City. A charge of a violation shall be treated in the same manner as a traffic citation. Any law enforcement officer may issue a citation pursuant to this section.

9. Repealer. City Ordinance Number 1693 is hereby amended by this ordinance by repealing such ordinance and adopting this ordinance in its place. 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.

10. 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.

11. Effective Date. This ordinance shall become effective November 1, 2016.

ADOPTED: This ___ day of _____, 2016.

_____
Council President

ADOPTED: This ___ day of _____, 2016.

_____
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 _____ ___, 2016, as same appears in the minutes of record of said meeting, and published by posting copies thereof on _____ ___, 2016, 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
Overton Park, 3020 Overton Road
Cahaba River Walk, 3503 Overton Road

_____
City Clerk

ORDINANCE NO. 1957 - AN ORDINANCE TO REPEAL ORDINANCE NO. 1693 AND TO PROHIBIT SMOKING IN CERTAIN ENCLOSED PLACES AND CERTAIN OUTDOOR PUBLIC PLACES IN THE CITY

WHEREAS, the City Council of the City of Mountain Brook, Alabama is aware that studies show that (1) second-hand smoke exposure can cause disease and premature death in children and adults who do not smoke; (2) children exposed to second-hand smoke are at an increased risk for sudden infant death syndrome (SIDS), acute respiratory problems, ear infections, and asthma attacks; (3) even occasional exposure of adults to second-hand smoke can have immediate adverse effects on the cardiovascular system and can cause coronary heart disease and lung cancer; (4) there is no risk-free level of exposure to second-hand smoke; (5) establishing smoke-free public places and places of employment are the only effective ways to ensure that second-hand smoke exposure does not occur in such places because ventilation and other air cleaning technologies cannot completely control exposure of non-smokers to second-hand smoke; and (6) evidence from peer-reviewed studies shows that smoke-free policies and laws do not have an adverse economic impact on the hospitality industry;

WHEREAS, the Council is aware that studies have shown that (1) residual tobacco contamination, or "third-hand smoke," from cigarettes, cigars, and other tobacco products is left behind after smoking occurs and builds up on surfaces and furnishings; (2) tobacco residue can linger in spaces long after smoking has ceased and continue to expose people to tobacco toxins; (3) sticky, highly toxic particulate matter, including nicotine, can cling to walls and ceilings; (4) gases can be absorbed into carpets, draperies, and other upholsteries, and then be reemitted (off-gassed) back into the air and recombine to form harmful compounds; and (5) even the rapid absorption and persistence of high levels of residual nicotine from tobacco smoke on indoor surfaces, including clothing and human skin, exposure to "third-hand smoke" can represent an unappreciated health hazard through dermal exposure, dust inhalation, and ingestion;

WHEREAS, the Council finds that unregulated electronic smoking devices, commonly referred to as electronic cigarettes, or "e-cigarettes," closely resemble and purposefully mimic the act of smoking by having users inhale vaporized liquid nicotine created by heat through an electronic ignition system, and that their use in workplaces and public places where smoking of traditional tobacco products is prohibited creates concern and confusion and leads to difficulties in enforcing the smoking prohibitions;

WHEREAS, the City Council of the City of Mountain Brook, Alabama is concerned about the health hazards induced by breathing second-hand smoke which include lung cancer, heart disease, respiratory infection, and decreased respiratory function, including bronchospasm;

WHEREAS, the City Council of the City of Mountain Brook, Alabama finds and declares that the purposes of this ordinance are (1) to protect the public health and welfare by prohibiting smoking in certain enclosed public places, enclosed places of employment, and certain outdoor public places; (2) to regulate the use of electronic smoking devices like other traditional forms of smoking; (3) to promote the right of non-smokers to breathe smoke-free air, and to recognize that the need to breathe smoke-free air shall have priority in certain places over the desire to smoke; and (4) reasonably balance the interests and rights of all its citizens regarding smoking in certain public places.

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

1. Definitions. As used in this ordinance, the following words and phrases shall have the following meanings:

(1) BAR. An establishment that is licensed by the City for the serving of alcoholic beverages that are intended for consumption by guests on the premises. In addition to the consumption of those beverages, operations at a bar may include serving of food to the public. The term "bar" may include a tavern, nightclub or cocktail lounge.

(2) CIGAR BAR. A licensed establishment in which the primary activity is the sale, manufacture or promotion of cigars or cigar accessories, and in which the sale of the other products is merely incidental.

(3) CITY. The term "City" means the City of Mountain Brook, Alabama, a municipal corporation.

(4) CITY PROPERTY. Any real property within the City that is owned, leased or controlled by the City or any agencies or boards thereof. The term "City Property" does not include any property that is leased to the City by the Mountain Brook Board of Education.

(5) ELECTRONIC SMOKING DEVICE. Any product containing or delivering nicotine or any other substance intended for human consumption that can be used by a person to simulate smoking through inhalation of vapor or aerosol from the product. The term includes any such device, whether manufactured, distributed, marketed, or sold as an e-cigarette, e-cigar, e-pipe, e-hookah, or vape pen, or under any other product name or descriptor.

(6) ENCLOSED AREA. All area or space between a floor and a ceiling that is bounded on at least two sides by walls, doorways, or windows, whether open or closed. A wall includes any retractable divider, garage door, or other physical barrier, whether temporary or permanent and whether or not containing openings of any kind.

(7) GOVERNMENT BUILDING. Any building operated or occupied by state, county or city government, or any agencies thereof, or any other separate corporate instrumentality or unit of state, county or city government.

(8) GOVERNMENT PROPERTY. Any real property that is owned, leased or otherwise controlled or utilized by state, county or city government, or any agencies thereof, or any other separate corporate instrumentality or unit of state, county or city government.

(9) HEALTH CARE FACILITY. "Health Care Facility" means an office or institution providing care or treatment of diseases, whether physical, mental, or emotional, or other medical, physiological, or psychological conditions, including but not limited to, hospitals, rehabilitation hospitals or other clinics, including weight control clinics, nursing homes, long-term care facilities, homes for the aging or chronically ill, laboratories, and offices of surgeons, chiropractors, physical therapists, physicians, psychiatrists, dentists, and all specialists within these professions. This definition shall include all waiting rooms, hallways, private rooms, semiprivate rooms, and wards within health care facilities.

(10) LICENSED BUSINESS. A person, organization or entity required to obtain a license from the City in order to engage in business or conduct business in the City.

(11) OUTDOOR PRIVATE PROPERTY. Outdoor private property is any outside area, land, space or place that is owned, leased or otherwise controlled by a private person, including any privately-controlled place outside an enclosed place of employment, outside an enclosed public place where the public may congregate or in the outside common area of a residential, business or commercial development.

(12) OUTDOOR PUBLIC PLACE. An outdoor public place is any outside area, land, or space on government property where the public is invited or may use, including, but not limited to, any recreational area, athletic field, stadium, amphitheater, arena, bleachers,

stage, grandstand, temporary seating area, playground equipment, pavilion, shelter, concession stand, picnic table, bench, sidewalk, path or other structure, improvement or facility on that place.

(13) PLACE OF EMPLOYMENT. An area under the control of a public or private employer, including, but not limited to, work areas, private offices, employee lounges, restrooms, conference rooms, meeting rooms, classrooms, employee cafeterias, hallways, interior construction sites, temporary offices and vehicles. A "place of employment" does not include either (a) the space or area outside an enclosed place of employment if that area is on outdoor private property, or (b) a private residence (single family or multifamily) that is not used in conjunction with a home occupation involving the employment of persons other than those residing in the private residence.

(14) PRIVATE CLUB. A premise operated by an organization which is not available to and not customarily used by the general public and entry and privileges thereto are established by regulations of that organization.

(15) PUBLIC PLACE. An area on public or private property to which the public is invited, including but not limited to licensed businesses, bars, restaurants, hotels, motels, health care facilities, government buildings, government property, recreational areas, athletic facilities, and public transportation shelters.

(16) RECREATIONAL AREA. Any area in the City that is open to the public and primarily intended for recreational purposes, whether or not any fee for admission is charged, including but not limited to parks, athletic fields, playgrounds, gardens, golf courses, and trails.

(17) RESTAURANT. An eating establishment (including but not limited to, coffee shops, cafeterias, sandwich stands, and private and public school cafeterias) which gives or offers for sale food to the public, guests, or employees, as well as kitchens and catering facilities in which food is prepared on the premises for serving elsewhere. The term "Restaurant" shall include a bar area within the restaurant.

(18) RETAIL TOBACCO STORE: A retail store whose primary business is the sale of tobacco products and accessories and in which the sale of other products is merely incidental.

(19) SMOKING: The inhaling, exhaling, burning, or carrying any lighted or heated cigar, cigarette, pipe, hookah or any other lighted or heated tobacco or plant product intended for inhalation, whether natural or synthetic, in any manner or in any form; the use of an electronic smoking device which creates an aerosol or vapor, in any manner or in any form; or the use of any oral smoking device for the purpose of circumventing the prohibition of smoking in this Ordinance.

2. Prohibition. Except as otherwise provided in this subsection, no person shall smoke in any enclosed area in a public place, in any enclosed area at a place of employment or in an outdoor public place within the City. This prohibition does not apply to any of the following:

(1) Smoking in private residences (single family or multifamily), unless used in conjunction with a home occupation involving the employment of persons other than those residing there;

(2) Cigar Bars or retail tobacco stores;

(3) Private clubs;

(4) Smoking on outdoor private property; and

(5) Smoking at an outdoor public place on City property if a smoker is not within twenty (20) feet of a nonsmoker. If a person commences smoking outside on such a place and that

smoker and a nonsmoker subsequently come within the same twenty (20) foot area, the smoker shall not violate this ordinance if they walk through or away from that area or otherwise remove themself from it following the request of the nonsmoker.

3. Signs. (1) The owner, operator, manager, or other person in charge of an enclosed area at a public place or an enclosed area at a place of employment within the City shall clearly and conspicuously post "No Smoking" signs or the international "No Smoking" symbol (which consists of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it) at those places near all entrances to them.

   (2) The manager or official who is in charge of an outdoor recreational area on City property shall clearly and conspicuously post signs near all regular entrances to any such area stating "No Smoking within Twenty (20) Feet of a Nonsmoker"; provided that no obligation exists to post such signs at or along sidewalks, streets, alleys, ways, trails, or public parking lots or outside buildings on City property.

4. Obligation of Person in Charge. The person in charge of an enclosed area in a public place or an enclosed area at place of employment within the City shall not knowingly permit, cause, suffer or allow any person to violate the provisions of this ordinance in those places. It shall be an affirmative defense to an alleged violation of this subsection that the person having control of such a place has asked that the lighted cigarette, cigar, pipe, other tobacco product or electronic smoking device be extinguished or use of same cease, and has asked the smoker to leave the establishment if that person has failed or refused to extinguish the lighted cigarette, cigar, pipe or other tobacco products or cease use of an electronic smoking device.

5. Fine for Smoking Violation. A person who violates the provisions of this ordinance by smoking in an area or place prohibited by this ordinance shall be guilty of a violation of this ordinance that is punishable by a fine of at least twenty-five dollars ($25.00), but not to exceed one hundred dollars ($100.00).

6. Fine for Person in Charge. The owner, operator, manager, or other person in charge of an enclosed area in a public place or an enclosed area at a place of employment within the City who fails to comply with the provisions of this ordinance shall be guilty of an ordinance violation that is punishable by:

   (1) A fine not exceeding one hundred dollars ($100) for a first violation;
   (2) A fine not exceeding two hundred dollars ($200) for a second violation within a one (1) year period;
   (3) A fine not exceeding five hundred dollars ($500) for third or subsequent violations within a one (1) year period.

7. Separate Violations. Each day on which a violation of this ordinance occurs shall be a separate and distinct violation.

8. Enforcement. Jurisdiction for violations of this ordinance shall be with the municipal court of the City. A charge of a violation shall be treated in the same manner as a traffic citation. Any law enforcement officer may issue a citation pursuant to this section.

9. Repealer. City Ordinance Number 1693 is hereby amended by this ordinance by repealing such ordinance and adopting this ordinance in its place. 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.

10. 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.

11. Effective Date. This ordinance shall become effective November 1, 2016.

ADOPTED: This ___ day of _____, 2016.

_____
Council President

ADOPTED: This ___ day of _____, 2016.

_____
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 _____ ___, 2016, as same appears in the minutes of record of said meeting, and published by posting copies thereof on _____ ___, 2016, 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
Overton Park, 3020 Overton Road
Cahaba River Walk, 3503 Overton Road

_____
City Clerk

ORDINANCE NO. 1958

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MOUNTAIN BROOK, ALABAMA, AMENDING THE BUDGET FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2016 AND ENDING SEPTEMBER 30, 2017

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, 2016 and ending September 30, 2017:

	General Operations	Park Board	Library Board	Capital Projects	Other Governmental	All Other
Funds Available:	(100)	(115)	(70X)	(417/428/441)	(5XX/600)	(132/14X/153)
Revenues:						
Taxes	$ 30,660,989	$ 0	$ 0	$ 0	$ 391,300	$ 0
Licenses and permits	4,511,900	0	0	0	0	0
Intergovernmental	0	50,900	0	0	0	45,598
Charges for services	541,300	92,800	8,000	0	388,000	45,600
Fines and forfeitures	494,000	0	55,000	0	192,100	0
Grants	0	0	11,138	1,621,200	0	0
Investment Earnings	118,000	500	270	29,200	4,440	8,200
Miscellaneous	313,400	3,000	1,500	25,000	175,000	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	3,408,416	725,205	0
Park Board	0	0	0	165,000	0	0
Library Board	0	0	0	105,000	0	0
Other (14X/153)	(45,599)	0	0	0	0	0
E-911	0	0	0	0	0	0
Operating transfers in-component unit	0	0	25,000	0	0	0
Donations	0	0	71,400	38,000	0	0
(Surplus) deficit	(760,000)	0	26,990	3,643,794	(254,497)	(33,199)
Total Fund Available	$ 35,833,990	$ 147,200	$ 199,298	$ 9,035,610	$ 1,621,548	$ 66,199
Expenditures:						
Legislation and management	$ 1,892,272	$ 0	$ 0	$ 15,000	$ 0	$ 0
Planning, Building & Sustainability	398,077	0	0	$ 0	0	0
Intergovernmental	954,500	0	0	0	0	0
Unassigned benefits	740,000	0	0	0	0	0
Finance	1,349,866	0	0	24,220	270,625	0
Fire	7,219,216	0	0	926,700	0	0
Inspection Services	459,956	0	0	0	0	0
Police	7,675,921	0	0	722,620	475,882	0
Street and Sanitation	6,675,645	0	0	6,859,570	875,041	0
Parks and Recreation	0	1,154,680	0	418,500	0	136,798
Library	0	0	3,231,734	69,000	0	0
Debt service payments	0	0	0	0	0	0
Operating transfers-out:						
General Fund	0	0	0	0	0	(45,599)
Capital Projects	3,678,416	0	0	0	0	0
Special Revenue	425,205	0	0	0	0	0
Debt Service (Other)	300,000	0	0	0	0	0
Other funds (Other)	25,000	0	0	0	0	(25,000)
Park Board	1,007,480	(1,007,480)	0	0	0	0
Library Board	3,032,436	0	(3,032,436)	0	0	0
Total Expenditures	$ 35,833,990	$ 147,200	$ 199,298	$ 9,035,610	$ 1,621,548	$ 66,199

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 12th of September, 2016.

_____
Council President

APPROVED: The 12th of September, 2016.

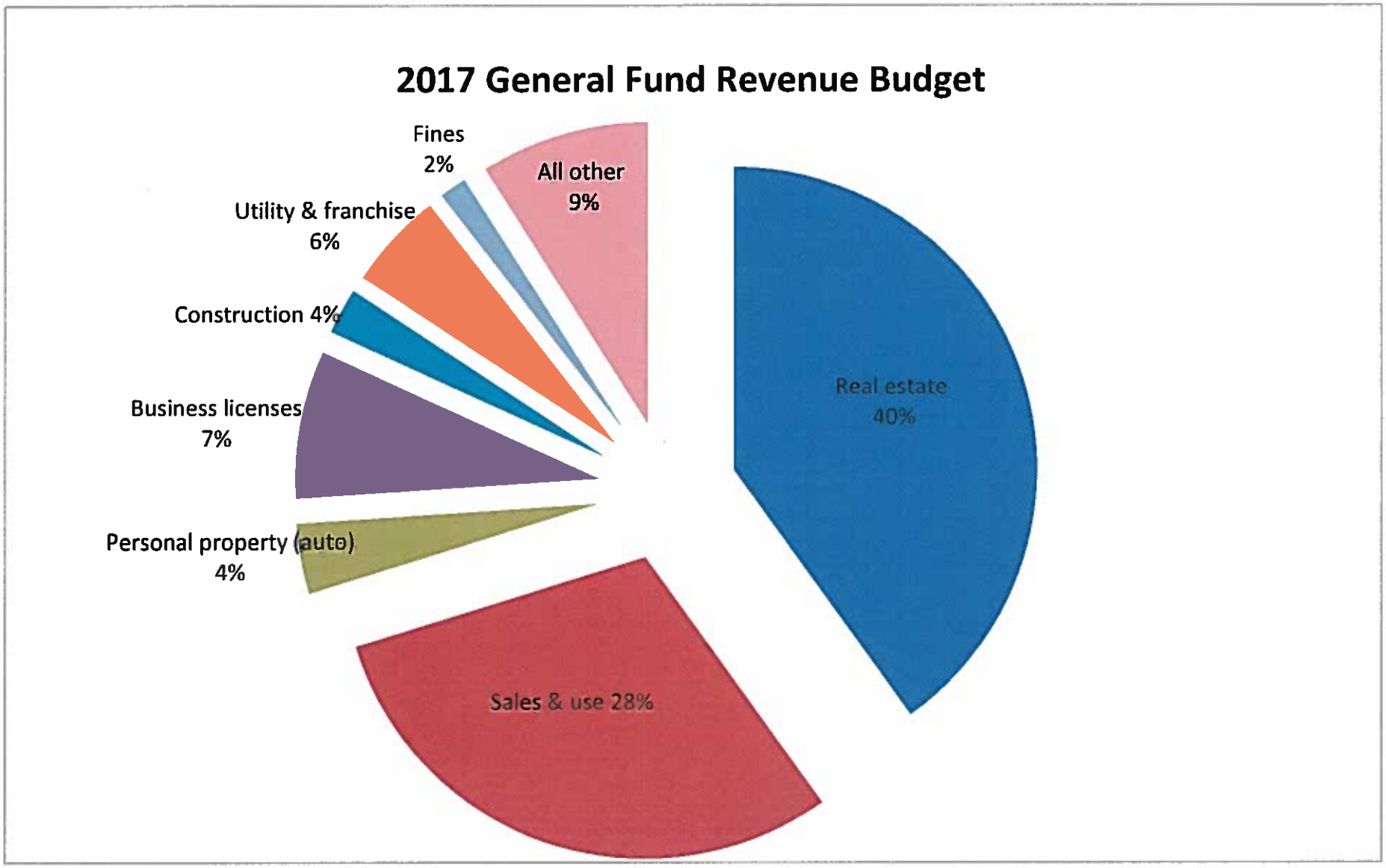
_____
Mayor

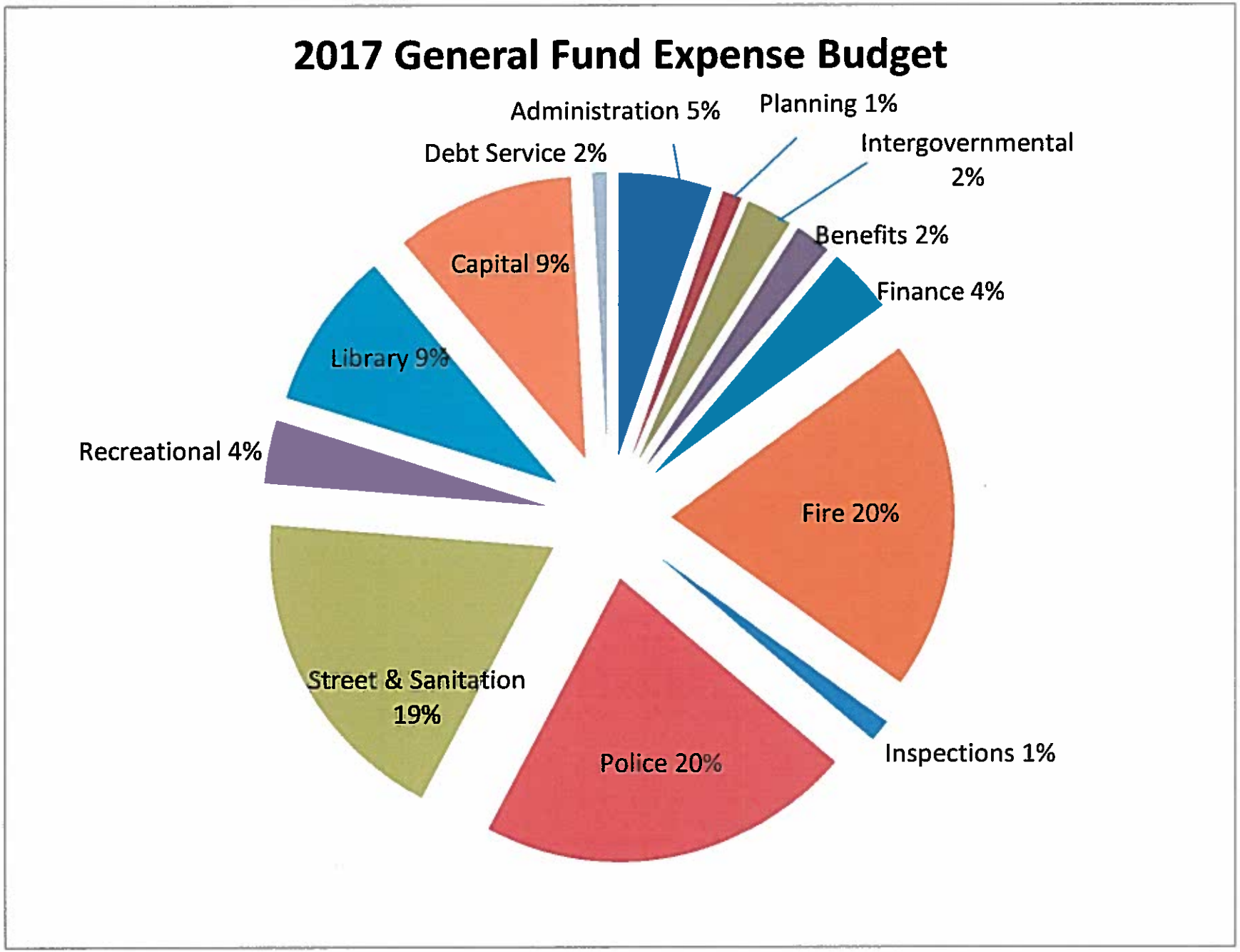
CERTIFICATION

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 12, 2016, as same appears in the minutes of record of said meeting, and published by posting copies thereon on September 13, 2016, at the following public places as required by law.

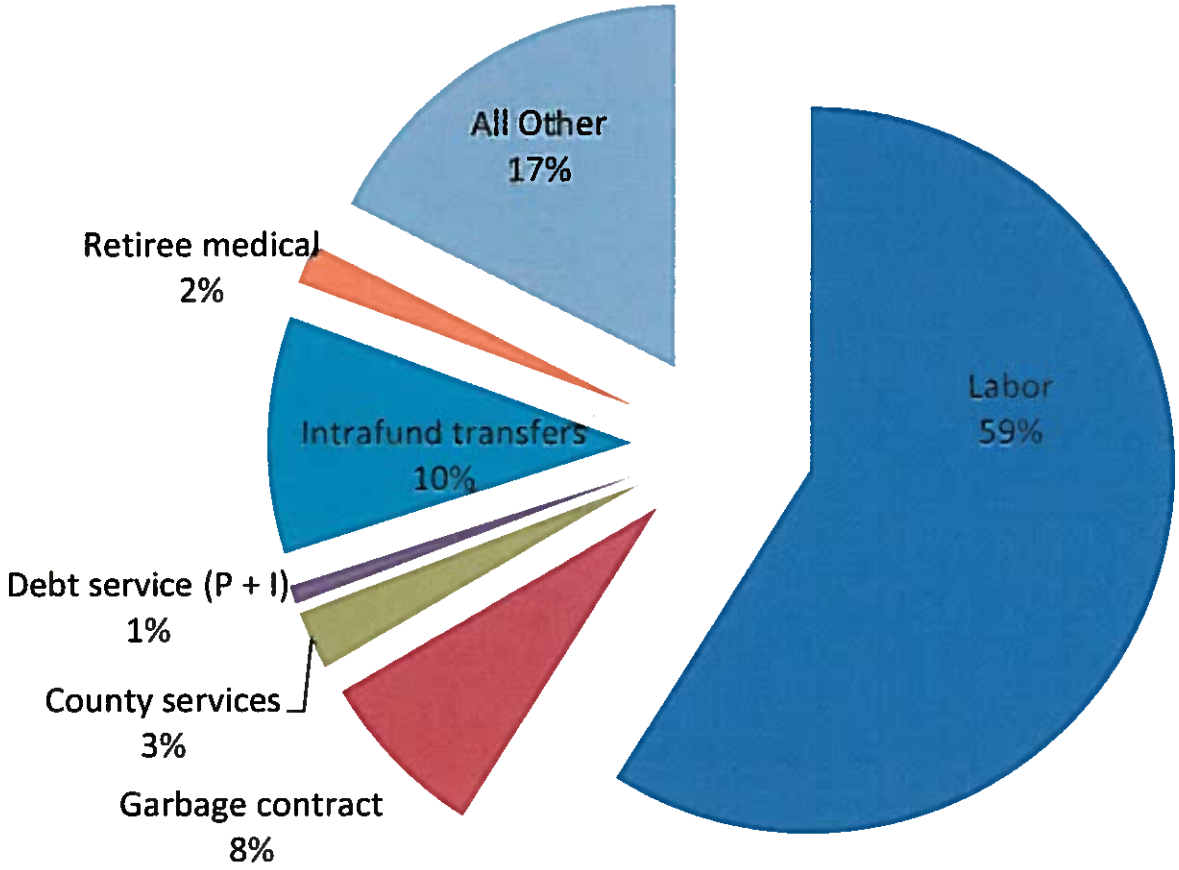
City Hall, 56 Church Street
Gilchrist Pharmacy, 2850 Cahaba Road
Overton Park, 3020 Overton Road
Cahaba River Walk, 3503 Overton Road

_____
City Clerk


2017 General Fund Revenue Budget
Fines
2%
All other
9%
Utility & franchise
6%
Construction 4%
Business licenses
7%
Personal property (auto)
4%
Real estate
40%
Sales & use 28%


2017 General Fund Expense Budget
Administration 5%
Planning 1%
Intergovernmental 2%
Debt Service 2%
Benefits 2%
Capital 9%
Finance 4%
Library 9%
Recreational 4%
Fire 20%
Street & Sanitation 19%
Police 20%
Inspections 1%

2017 General Fund Expense Budget



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

	Actual 2015	Budget 2016	Projected 2016	Budget 2017
Revenues	$ 34,697,560	$ 35,484,800	$ 35,693,997	$ 36,639,589
Expenses and Intrafund Transfers:				
General Government	11,891,455	11,974,694	11,507,864	12,203,451
Legislation & Management	1,687,334	2,107,945	1,986,450	2,348,272
Planning	214,201	365,714	386,038	398,077
Intergovernmental	828,082	860,874	917,571	954,500
Benefits (Unassigned)	711,150	754,000	672,676	740,000
Intrafund Transfers-Park Board	1,019,287	1,144,402	1,018,858	1,172,480
Intrafund Transfers-Library Board	2,843,023	3,060,047	2,907,259	3,137,436
Intrafund Transfers-All Other	3,240,514	2,331,083	2,267,132	2,048,820
Finance	1,347,864	1,350,629	1,351,880	1,403,866
Administration	473,962	533,410	524,724	515,900
Revenue	247,036	245,258	247,766	267,034
Accounting	319,975	244,935	250,288	274,013
Network Administration	306,891	327,026	329,102	346,919
Public Safety	15,012,162	15,771,000	15,669,588	16,448,493
Fire	7,237,928	7,592,121	7,646,486	7,758,016
Administration	863,686	1,011,260	1,047,754	1,052,174
Training & Safety	143,778	155,195	155,433	164,950
Prevention	159,215	160,892	188,700	136,173
EMS Transportation	413,696	432,525	427,399	459,935
Suppression	5,657,553	5,832,249	5,827,200	5,944,784
Inspections	485,841	447,745	449,628	474,956
Police	7,288,393	7,731,134	7,573,474	8,215,521
Administration	2,388,224	2,455,488	2,363,277	2,528,532
Training	119,637	138,500	128,500	155,000
Patrol	3,724,088	3,954,635	3,962,654	4,339,296
Detectives	875,556	977,754	925,911	989,529
School Resource Officers	180,888	204,757	193,132	203,164
Public Works	6,897,345	7,105,152	6,948,128	7,227,645
Administration	1,359,015	1,417,332	1,386,223	1,448,826
Gargage & Trash Contract	2,788,698	2,827,000	2,788,551	2,788,000
Heavy Construction	1,056,519	1,072,399	1,076,011	1,064,390
Traffic & Right-of-Way	1,587,656	1,581,034	1,573,947	1,701,892
Fleet Maintenance	105,457	207,387	123,396	224,537
Total Expenses and Transfers	33,800,962	34,850,846	34,125,580	35,879,589
Surplus (Deficit)	$ 896,598	$ 633,954	$ 1,568,417	$ 760,000

Statement of Budgeted Revenues, Expenditures, and Changes in Fund Balance (Fund Financial Statements)
City of Mountain Brook, Alabama
Year Ended

	2017						
	General Fund 1XX, 7XX	Capital Projects 4XX	Debt Service 6XX	Other Governmental Funds 5XX	Total Governmental Funds Budget 2017	Budget 2016	Actual 2015
Revenues:							
Taxes	$ 30,660,989	$ 0	$ 0	$ 391,300	$ 31,052,289	$ 29,863,300	$ 29,006,089
Licenses and permits	4,511,900	0	0	0	4,511,900	4,588,700	4,525,166
Intergovernmental	96,498	0	0	0	96,498	95,714	92,199
Charges for services	687,700	0	0	388,000	1,075,700	1,158,248	1,133,897
Fines and forfeitures	549,000	0	0	192,100	741,100	765,100	856,401
Grants	11,138	1,621,200	0	0	1,632,338	1,054,138	123,157
Investment Earnings	126,970	29,200	1,000	3,440	160,610	138,610	213,762
Miscellaneous	317,900	25,000	0	175,000	517,900	468,500	507,144
Total Revenues	**36,962,095**	**1,675,400**	**1,000**	**1,149,840**	**39,788,335**	**38,132,310**	**36,457,815**
Expenditures:							
General government	5,334,715	39,220	0	270,625	5,644,560	6,590,875	4,664,126
Public safety	15,355,093	1,649,320	0	475,882	17,480,295	17,232,544	15,423,035
Street & sanitation	6,675,645	6,859,570	0	875,041	14,410,256	13,715,971	7,666,361
Recreational	1,291,478	418,500	0	0	1,709,978	1,643,398	1,540,750
Library	3,231,734	69,000	0	0	3,300,734	3,235,345	3,162,203
Debt service	0	0	0	0	0	3,746,641	357,350
Total Expenditures	**31,888,665**	**9,035,610**	**0**	**1,621,548**	**42,545,823**	**46,164,774**	**32,813,825**
Excess (deficiency) of revenues over expenditures	**5,073,430**	**(7,360,210)**	**1,000**	**(471,708)**	**(2,757,488)**	**(8,032,464)**	**3,643,990**
Other Financing Sources (Uses):							
Proceeds from the issuance of debt	0	0	0	0	0	0	0
Operating transfers in	0	3,678,416	300,000	425,205	4,403,621	4,975,265	6,014,055
Operating transfers (out)	(4,403,621)	0	0	0	(4,403,621)	(4,975,265)	(6,014,055)
Operating transfers in-component unit	25,000	0	0	0	25,000	25,000	144,450
Donations	71,400	38,000	0	0	109,400	81,400	86,495
Total Other Financing Sources	**(4,307,221)**	**3,716,416**	**300,000**	**425,205**	**134,400**	**106,400**	**230,945**
Excess (Deficiency) of Revenues and Other Financing Sources Over Expenditures and other Financing Uses	**766,209**	**(3,643,794)**	**301,000**	**(46,503)**	**(2,623,088)**	**(7,926,064)**	**3,874,935**
Fund balance, beginning of year	15,577,275	14,442,964	929,702	826,037	31,775,978	34,410,095	30,535,178
FUND BALANCES, END OF YEAR	**$ 16,343,484**	**$ 10,799,170**	**$ 1,230,702**	**$ 779,534**	**$ 29,152,890**	**$ 26,484,031**	**$ 34,410,113**

Schedule of Historical General Fund Revenues by Source
City of Mountain Brook, Alabama
Year Ended September 30,

	2008	2009	2010	2011	2012	2013	2014	2015	2016	Budget 2016	2017
Taxes										Projected	
Real property	$ 13,919,181	$ 14,592,638	$ 14,322,580	$ 13,890,843	$ 13,873,635	$ 13,512,485	$ 13,867,794	$ 13,994,315	$ 14,311,000	$ 14,443,548	$ 14,808,889
Sales and use	8,412,007	7,666,594	7,854,903	8,476,522	9,112,494	9,578,337	9,808,223	10,158,557	10,640,000	10,362,653	11,141,000
Occupational	0	0	0	0	0	0	0	0	0	0	0
Utility	1,336,420	1,413,759	1,450,440	1,460,206	1,365,487	1,284,421	1,288,163	1,325,088	1,325,100	1,283,444	1,283,400
Personal property	1,130,239	1,022,666	1,047,869	1,079,079	1,152,424	1,208,485	1,217,199	1,306,732	1,291,300	1,378,933	1,392,700
Road and bridge	572,272	596,000	590,899	572,584	575,000	565,066	550,686	596,475	571,000	595,991	596,000
Other	985,588	1,075,676	1,016,068	903,688	1,030,681	1,038,515	1,127,178	1,238,322	1,333,600	1,488,060	1,439,000
Total taxes	26,355,707	26,367,333	26,282,759	26,382,922	27,109,721	27,187,309	27,859,243	28,619,489	29,472,000	29,552,629	30,660,989
Licenses and permits											
Business	1,994,039	1,998,980	2,130,822	2,165,612	2,223,912	2,492,623	2,531,307	2,679,512	2,771,000	2,851,921	2,909,000
Construction permits	1,036,354	634,059	624,309	753,444	800,820	1,100,204	1,347,583	1,143,394	1,137,000	1,133,065	905,000
Cable TV franchise fees	323,082	328,641	347,757	352,964	391,701	424,912	389,500	423,068	402,000	427,000	427,000
Waterworks Board	167,341	157,794	159,242	207,939	216,090	216,839	192,875	215,518	216,000	208,099	208,000
Other	63,382	57,966	64,720	60,310	61,928	62,115	65,154	63,674	62,700	62,839	62,900
Total licenses and permits	3,584,198	3,177,440	3,326,850	3,540,269	3,694,451	4,296,693	4,526,419	4,525,166	4,588,700	4,682,924	4,511,900
Intergovernmental	149,710	84,723	82,826	84,874	85,613	84,547	85,443	92,199	95,714	94,148	96,498
Charges for services											
Garbage fees	71,252	39,094	34,062	32,436	39,235	35,589	34,086	33,890	36,700	28,030	28,000
Other	498,576	486,785	591,636	619,716	714,561	693,408	730,347	695,790	733,548	704,629	659,700
Total charges for services	569,828	525,879	625,698	652,152	753,796	728,997	764,433	729,680	770,248	732,659	687,700
Fines and forfeitures - court	470,020	443,400	514,542	529,522	446,682	559,465	577,844	643,492	573,000	544,247	549,000
Grants	37,355	50,799	19,708	282,423	12,062	15,755	100,187	53,653	11,138	11,306	11,138
Other operating revenue											
Investment earnings	428,304	271,788	207,214	131,706	19,888	138,162	69,522	150,669	104,970	118,379	126,970
Other	230,717	371,526	254,173	300,657	458,142	439,492	311,374	296,043	268,500	318,032	317,900
Total other operating revenue	659,021	643,314	461,387	432,363	478,030	577,654	380,896	446,712	373,470	436,411	444,870
Total Revenues	$ 31,825,839	$ 31,292,888	$ 31,313,770	$ 31,904,525	$ 32,580,355	$ 33,450,420	$ 34,294,465	$ 35,110,391	$ 35,884,270	$ 36,054,324	$ 36,962,095

Combining Statement of Budgeted General Fund Revenues, Expenditures, and Changes in Fund Balance
City of Mountain Brook, Alabama
Year Ended

2017 Budget

	General Fund Total	General Operations 100	Park Board 115	Drug Asset Forfeitures 132	Community Fund 142	Emergency Reserves 146	Phase 3 Fields 149	Court Cash Bonds 153	Operating 701	Library Books 702	Endowment 703
Revenues:											
Taxes	$ 30,660,989	$ 30,660,989	$ 0	$ 0	$ 0	$ 0	$ 0	$ 0	$ 0	$ 0	$ 0
Licenses and permits	4,511,900	4,511,900	0	0	0	0	0	0	0	0	0
Intergovernmental	96,498	0	50,900	0	0	0	45,598	0	0	0	0
Charges for services	687,700	541,300	92,800	0	0	0	45,600	0	8,000	0	0
Fines and forfeitures	549,000	494,000	0	0	0	0	0	0	45,000	10,000	0
Grants	11,138	0	0	0	0	0	0	0	11,138	0	0
Investment Earnings	126,970	118,000	500	0	0	8,200	0	0	0	70	200
Miscellaneous	317,900	313,400	3,000	0	0	0	0	0	1,500	0	0
Total Revenues	**36,962,095**	**36,639,589**	**147,200**	**0**	**0**	**8,200**	**91,198**	**0**	**65,638**	**10,070**	**200**
Expenditures:											
General government	5,334,715	5,334,715	0	0	0	0	0	0	0	0	0
Public safety	15,355,093	15,355,093	0	0	0	0	0	0	0	0	0
Street & sanitation	6,675,645	6,675,645	0	0	0	0	0	0	0	0	0
Recreational	1,291,478	0	1,154,680	0	0	0	136,798	0	0	0	0
Library	3,231,734	0	0	0	0	0	0	0	2,843,074	388,660	0
Debt service	0	0	0	0	0	0	0	0	0	0	0
Total Expenditures	**31,888,665**	**27,365,453**	**1,154,680**	**0**	**0**	**0**	**136,798**	**0**	**2,843,074**	**388,660**	**0**
Excess (deficiency) of revenues over expenditures	**5,073,430**	**9,274,136**	**(1,007,480)**	**0**	**0**	**8,200**	**(45,600)**	**0**	**(2,777,436)**	**(378,590)**	**200**
Other Financing Sources (Uses):											
Proceeds from the issuance of debt	0	0	0	0	0	0	0	0	0	0	0
Operating transfers in	0	0	0	0	0	0	0	0	0	0	0
Operating transfers (out)	(4,403,621)	(8,514,136)	1,007,480	0	0	25,000	45,599	0	2,777,436	255,000	0
Operating transfers in-component unit	25,000	0	0	0	0	0	0	0	0	25,000	0
Donations	71,400	0	0	0	0	0	0	0	0	71,400	0
Total Other Financing Sources	**(4,307,221)**	**(8,514,136)**	**1,007,480**	**0**	**0**	**25,000**	**45,599**	**0**	**2,777,436**	**351,400**	**0**
Excess (Deficiency) of Revenues and Other Financing Sources Over Expenditures and other Financing Uses	**766,209**	**760,000**	**0**	**0**	**0**	**33,200**	**(1)**	**0**	**0**	**(27,190)**	**200**
Fund balance, beginning of year	15,577,275	12,784,372	81,097	10,236	10,970	2,508,200	(1,403)	0	0	129,604	54,199
FUND BALANCES, END OF YEAR	**$ 16,343,484**	**$ 13,544,372**	**$ 81,097**	**$ 10,236**	**$ 10,970**	**$ 2,541,400**	**$ (1,404)**	**$ 0**	**$ 0**	**$ 102,414**	**$ 54,399**

Combining Statement of Budgeted Capital Project Funds Revenues, Expenditures, and Changes in Fund Balance
City of Mountain Brook, Alabama
Year Ended

	2017 Budget			
	Capital Projects Total	Infrastructure Projects 417	Grant Funded 428	Capital 441
Revenues:				
Taxes	$ 0	$ 0	$ 0	$ 0
Licenses and permits	0	0	0	0
Intergovernmental	0	0	0	0
Charges for services	0	0	0	0
Fines and forfeitures	0	0	0	0
Grants	1,621,200	115,200	1,506,000	0
Investment Earnings	29,200	10,000	1,200	18,000
Miscellaneous	25,000	0	0	25,000
Total Revenues	**1,675,400**	**125,200**	**1,507,200**	**43,000**
Expenditures:				
General government	39,220	0	0	39,220
Public safety	1,649,320	0	0	1,649,320
Street & sanitation	6,859,570	4,266,000	1,891,809	701,761
Recreational	418,500	276,000	0	142,500
Library	69,000	0	0	69,000
Debt service	0	0	0	0
Total Expenditures	**9,035,610**	**4,542,000**	**1,891,809**	**2,601,801**
Excess (deficiency) of revenues over expenditures	**(7,360,210)**	**(4,416,800)**	**(384,609)**	**(2,558,801)**
Other Financing Sources (Uses):				
Proceeds from the issuance of debt	0	0	0	0
Operating transfers in	3,678,416	861,326	384,609	2,432,481
Operating transfers (out)	0	0	0	0
Operating transfers in-component unit	0	0	0	0
Donations	38,000	38,000	0	0
Total Other Financing Sources	**3,716,416**	**899,326**	**384,609**	**2,432,481**
Excess (Deficiency) of Revenues and Other Financing Sources Over Expenditures and other Financing Uses	**(3,643,794)**	**(3,517,474)**	**0**	**(126,320)**
Fund balance, beginning of year	14,442,964	4,715,548	528,661	9,198,755
FUND BALANCES, END OF YEAR	**$ 10,799,170**	**$ 1,198,074**	**$ 528,661**	**$ 9,072,435**

Combining Statement of Budgeted Other Governmental Funds Revenues, Expenditures, and Changes in Fund Balance
City of Mountain Brook, Alabama
Year Ended

	2017 Budget							
	Other Governmental Funds Total	Gasoline Tax Funds 5¢ 521	7¢ 522	4¢ 523	2¢ 524	E-911 District 531	Corrections Fund 554	Debt Service 600
Revenues:								
Taxes	$ 391,300	$ 59,000	$ 206,000	$ 121,000	$ 5,300	$ 0	$ 0	$ 0
Licenses and permits	0	0	0	0	0	0	0	0
Intergovernmental	0	0	0	0	0	0	0	0
Charges for services	388,000	0	0	0	0	388,000	0	0
Fines and forfeitures	192,100	0	0	0	0	2,100	190,000	0
Grants	0	0	0	0	0	0	0	0
Investment Earnings	3,440	100	1,700	300	40	1,300	0	1,000
Miscellaneous	175,000	0	175,000	0	0	0	0	0
Total Revenues	**1,149,840**	**59,100**	**382,700**	**121,300**	**5,340**	**391,400**	**190,000**	**1,000**
Expenditures:								
General government	270,625	0	0	0	0	0	270,625	0
Public safety	475,882	0	0	0	0	331,302	144,580	0
Street & sanitation	875,041	42,784	705,899	123,017	3,341	0	0	0
Recreational	0	0	0	0	0	0	0	0
Library	0	0	0	0	0	0	0	0
Debt service	0	0	0	0	0	0	0	0
Total Expenditures	**1,621,548**	**42,784**	**705,899**	**123,017**	**3,341**	**331,302**	**415,205**	**0**
Excess (deficiency) of revenues over expenditures	**(471,708)**	**16,316**	**(323,199)**	**(1,717)**	**1,999**	**60,098**	**(225,205)**	**1,000**
Other Financing Sources (Uses):								
Proceeds from the issuance of debt	0	0	0	0	0	0	0	0
Operating transfers in	425,205	0	200,000	0	0	0	225,205	300,000
Operating transfers (out)	0	0	0	0	0	0	0	0
Operating transfers in-component unit	0	0	0	0	0	0	0	0
Donations	0	0	0	0	0	0	0	0
Total Other Financing Sources	**425,205**	**0**	**200,000**	**0**	**0**	**0**	**225,205**	**300,000**
Excess (Deficiency) of Revenues and Other Financing Sources Over Expenditures and other Financing Uses	**(46,503)**	**16,316**	**(123,199)**	**(1,717)**	**1,999**	**60,098**	**0**	**301,000**
Fund balance, beginning of year	826,037	14,306	306,352	63,121	5,501	436,757	0	929,702
FUND BALANCES, END OF YEAR	**$ 779,534**	**$ 30,622**	**$ 183,153**	**$ 61,404**	**$ 7,500**	**$ 496,855**	**$ 0**	**$ 1,230,702**
		11%	65%	22%	3%			

Statement of Changes in Fiduciary Net Position
Other Post-Employment Benefits Trust Fund
Year Ended September 30

		Actual 2015	Budget 2016	Projected 2016	Budget 2017
	ADDITIONS				
	Contributions				
215-3408-4810	Employer	$ 658,063	$ 701,000	$ 635,000	$ 654,000
215-3407-4231	Plan members	128,682	152,000	125,830	132,000
215-3407-4400	Investment earnings	31,151	18,000	22,439	20,000
	TOTAL ADDITIONS	817,896	871,000	783,269	806,000
	DEDUCTIONS				
215-1115-6130	Benefits	475,010	553,000	454,000	481,000
215-1100-6***	Administrative expense	13,990	0	0	5,000
	TOTAL DEDUCTIONS	489,000	553,000	454,000	486,000
	NET INCREASE	328,896	318,000	329,269	320,000
	Net position held in trust for other post-employment benefits, beginning of year	1,571,336	1,900,232	1,900,232	2,229,501
	NET POSITION HELD IN TRUST FOR OTHER POST-EMPLOYMENT BENEFITS, END OF YEAR	$ 1,900,232	$ 2,218,232	$ 2,229,501	$ 2,549,501

Note:
Effective October 1, 2006, GASB 45 required local governments to account for their other post-employment benefit plans (OPEB) similar to its method of accounting for its defined benefit pension plans. The City's OPEB plan includes retiree medical insurance. On July 27, 2009, the City Council authorized the creation of an Internal Revenue Code Section 115 trust (Resolution No. 09-101) and began depositing funds into the trust to offset its obligation for retiree medical benefits. Following is a summary of the City's deposits into the Sec. 115 trust since its creation, and trust balances, actuarial accrued liability (AAL) and unfunded actuarial accrued liability (UAAL) as of September 30 :

					September 30	
	Trust Deposit	Net Premiums	Total Expense	Trust Balance	AAL	UAAL
2017 Budgeted	$ 300,000	$ 354,000	$ 654,000	$ 2,549,501	$ (3,463,260)	$ (913,759)
2016 Projected	300,000	335,000	635,000	2,229,501	(3,686,855)	(1,457,354)
2015	300,000	358,063	658,063	1,900,232	(3,865,805)	(1,965,573)
2014	300,000	359,756	659,756	1,571,336	(3,992,253)	(2,420,917)
2013	320,000	350,923	670,923	1,260,448	(3,560,421)	(2,299,973)
2012	300,000	354,828	654,828	925,335	(3,155,271)	(2,229,936)
2011	200,000	364,016	564,016	613,573	(3,249,729)	(2,636,156)
2010	200,000	322,671	522,671	403,024	(3,473,472)	(3,070,448)
2009	180,000	35,118	215,118	196,320	(2,859,543)	(2,663,223)
	$ 2,400,000	$ 2,834,375	$ 5,234,375			

Budget Change Tracking Worksheet
City of Mountain Brook
September 30, 2017

Ref	Ledger No	Description	Overall Total	General Fund	General Operations 100		Capital Projects Total	Infrastructure 417	Capital 441	Other Gov't s Funds Total	Debt Service 600
	Draft 1 Surplus (Deficit)	To Be Entered Manually	$ (1,751,059)	$ 854,957	$ 848,749		$ (2,859,713)	$ (3,384,879)	$ 525,166	$ 253,697	$ 300,200
		General									
	600-1100-6307	Bank fees (correction)	$ 800	$ 0			$ 0			$ 800	$ 800
	Various	Revenue updated thru June actual	$ 54,401	$ 54,401	$ 54,401		$ 0			$ 0	
		Park Board	$ 0	$ 0			$ 0			$ 0	
169	115-7800-6001	Overtime (w/ benefits)	$ 5,354	$ 5,354	$ 5,353		$ 0			$ 0	
167	417-7890-6760-1401	Lighting Fields Study	$ 55,000	$ 55,000	$ 55,000		$ 0			$ 0	
167	417-7890-6760-1601	Leadership MB Projects	$ 3,000	$ 3,000	$ 3,000		$ 0			$ 0	
167	417-7890-6760-7807	Cahaba River Walk	$ 30,000	$ 30,000	$ 30,000		$ 0			$ 0	
72	417-7816-6942	ERS (correction for ommissions)	$ 0	$ (12,000)	$ (12,000)		$ 12,000		$ 12,000	$ 0	
	417-7890-6760-1701	Parks-Athletic Complex Topo	$ (15,000)	$ (15,000)	$ (15,000)		$ 0			$ 0	
		Public Works	$ 0	$ 0			$ 0			$ 0	
151	417-6690-6741-1101	Sidewalk-Homewood Connector	$ 50,000	$ 50,000	$ 50,000		$ 0			$ 0	
151	417-6690-6742-1402	Lights-Village Lighting-Continuation	$ 55,000	$ 42,595	$ 42,595		$ 12,405	$ 12,405		$ 0	
158	441-6690-6730-0820	Equipment-1/2 Ton Truck	$ (26,500)	$ 0	$ 0		$ (26,500)		$ (26,500)	$ 0	
150	100-6680-6450	English Village Parking Leases	$ (3,402)	$ (3,402)	$ (3,402)		$ 0			$ 0	
		Planning, Building & Sustainability	$ 0	$ 0			$ 0			$ 0	
84	100-1105-6004	Overtime (w/ benefits)	$ 2,156	$ 2,156	$ 2,156		$ 0			$ 0	
84	100-1105-6213	Tuition Reimbursement	$ 500	$ 500	$ 500		$ 0			$ 0	
84	100-1105-6303	Offset Map Frames	$ (400)	$ (400)	$ (400)		$ 0			$ 0	
76	100-1300-6870-0502	Consultants-Drainage Plans Review	$ (2,000)	$ (2,000)	$ (2,000)		$ 0			$ 0	
		Administration	$ 0	$ 0			$ 0			$ 0	
74	100-1100-6004	Overtime (w/ benefits)	$ (609)	$ (609)	$ (609)		$ 0			$ 0	
75	100-1100-6870-0502	0502-Drainage Plans Review	$ 2,000	$ 2,000	$ 2,000		$ 0			$ 0	
75	100-1119-6396	B'ham Transit Authority	$ (15,626)	$ (15,626)	$ (15,626)		$ 0			$ 0	
		Fire	$ 0	$ 0			$ 0			$ 0	
104	100-3410-6312	Supplies-Tactical Med Equip	$ (12,000)	$ (12,000)	$ (12,000)	$1	$ 0			$ 0	
105	100-3410-6610	Utilities-Telephone	$ 5,000	$ 5,000	$ 5,000		$ 0			$ 0	
107	100-3442-6004	Overtime (w/ benefits)	$ 8,321	$ 8,321	$ 8,322		$ 0			$ 0	
107	100-3442-6161	Uniforms	$ 1,000	$ 1,000	$ 1,000		$ 0			$ 0	
114	441-3490-6720-0004	Tumout Gear Lockers	$ 0	$ 16,200	$ 16,200		$ (16,200)		$ (16,200)	$ 0	
114	441-3490-6720-0001	Site Plan for Station 2	$ (7,500)	$ 0		Le	$ (7,500)		$ (7,500)	$ 0	
114	441-3490-6720-0002	Station 3 Driveway	$ (17,000)	$ 0		Le	$ (17,000)		$ (17,000)	$ 0	
114	441-3490-6720-0003	Stations 2 HVAC	$ (6,000)	$ 0		Le	$ (6,000)		$ (6,000)	$ 0	
114	441-3490-6730-1701	Extractor/Dryer for Tumout Gear	$ (30,000)	$ 0		Le	$ (30,000)		$ (30,000)	$ 0	
114	441-3490-6730-1702	Station 1 Washing Machine/Dryer	$ (1,700)	$ 0		Le	$ (1,700)		$ (1,700)	$ 0	
114	441-3490-6730-1703	Specialized Fire Equipment	$ (23,500)	$ 0		Le	$ (23,500)		$ (23,500)	$ 0	
114	441-3490-6730-1704	Desktop Computers (9)	$ (9,500)	$ 0		Le	$ (9,500)		$ (9,500)	$ 0	
		Police	$ 0	$ 0			$ 0			$ 0	
128	100-3510-6004	Overtime (w/ benefits)	$ 3,244	$ 3,244	$ 3,244		$ 0			$ 0	
130	100-3551-6004	Overtime (w/ benefits)	$ 7,850	$ 7,850	$ 7,850		$ 0			$ 0	
129	100-3510-6603	Utilities-Water	$ 500	$ 500	$ 500		$ 0			$ 0	
129	100-3517-6211	Meetings/Conferences	$ 5,000	$ 5,000	$ 5,000		$ 0			$ 0	
129	100-3517-6212	Travel/Meals	$ 5,000	$ 5,000	$ 5,000		$ 0			$ 0	
130	100-3551-6550	Fleet Fuel	$ 10,000	$ 10,000	$ 10,000		$ 0			$ 0	
131	100-3551-6344	Prescott House	$ 5,000	$ 5,000	$ 5,000		$ 0			$ 0	
135	554-3510-6602	Utilities-Gas	$ 300	$ 300	$ 300		$ 0			$ 0	
135	554-3510-6602	Utilities-Water	$ 200	$ 200	$ 200		$ 0			$ 0	
135	554-3510-6416	Laundry Service	$ 3,500	$ 3,500	$ 3,500		$ 0			$ 0	
136	554-3510-600X	Removed Vacant 2 position	$ (59,397)	$ (59,397)	$ (59,397)		$ 0			$ 0	

Budget Change Tracking Worksheet
City of Mountain Brook
September 30, 2017

Ref	Ledger No	Description	Overall Total	General Fund	General Operations 100	Capital Projects Total	Infrastructure 417	Capital 441	Other Gov't s Funds Total	Debt Service 600
136	554-3510-600X	New Police Officer including benefits	$ 59,397	$ 59,397	$ 59,397	$ 0			$ 0	
140	441-3590-6730-0620	New Police Officer car	$ 0	$ (30,000)	$ (30,000)	$ 30,000		$ 30,000	$ 0	
72	100-3516-6942	Police ERS Adjustment	$ 0	$ 67	$ 66	$ (67)		$ (67)	$ 0	
130	100-3550-6550	New Police Officer fuel	$ (4,000)	$ (4,000)	$ (4,000)	$ 0			$ 0	
130	100-3550-6520-9999	New Police Officer vehicle repairs	$ (3,500)	$ (3,500)	$ (3,500)	$ 0			$ 0	
130	100-3550-6161	New Police Officer uniform	$ (6,000)	$ (6,000)	$ (6,000)	$ 0			$ 0	
140	441-3590-6730-0559	Pistols with Night Sights	$ (5,000)	$ 8,000	$ 8,000	$ (13,000)		$ (13,000)	$ 0	
140	441-3590-6730-0627	Disinfect Jail Cells (Service)	$ 0	$ 60,000	$ 60,000	$ (60,000)		$ (60,000)	$ 0	
135	554-3510-6416	Jail Disinfection Service	$ (15,000)	$ (15,000)	$ (15,000)	$ 0			$ 0	
141	441-3590-6730-0762	Cellbright Phone Analysis	$ 18,160	$ 22,700	$ 22,700	$ (4,540)		$ (4,540)	$ 0	
72	100-3516-6942	Police ERS Adjustment	$ 0	$ 1,460	$ 1,460	$ (1,460)		$ (1,460)	$ 0	
140	441-3590-6730-0741	Body Cameras for Patrol	$ (23,000)	$ 0		$ (23,000)		$ (23,000)	$ 0	
141	441-3590-6730-3524	Additional Body Cameras	$ 25,000	$ 33,333	$ 33,333	$ (8,333)		$ (8,333)	$ 0	
		Finance	$ 0	$ 0		$ 0			$ 0	
93	100-1211-6501	Rep & Maint-Bldgs (for Painting at City Ha	$ (1,000)	$ (1,000)	$ (1,000)	$ 0			$ 0	
100	441-1290-6730-0610	Furniture (see Administration capital)	$ 15,000	$ 0	$ 0	$ 15,000		$ 15,000	$ 0	
95	100-1214-6463	Annual Maintenance-Software	$ 6,000	$ 6,000	$ 6,000	$ 0			$ 0	
95	100-1214-6614	Utilities-Internet	$ 2,000	$ 2,000	$ 2,000	$ 0			$ 0	
	Draft 2 Surplus (Deficit) (After City Manager Review)		$ (1,600,010)	$ 1,184,101	$ 1,177,892	$ (3,038,608)	$ (3,372,474)	$ 333,866	$ 254,497	$ 301,000
107	100-3440-6340	Programs-Safety for Seniors	$ (500)	$ (500)	$ (500)	$ 0			$ 0	
107	100-3440-6341	Programs-Child Pass Safety	$ (750)	$ (750)	$ (750)	$ 0			$ 0	
134	441-3590-6730-0624	Equip-Cold Fire Extinguishers	$ (7,000)	$ 0		$ (7,000)		$ (7,000)	$ 0	
135	441-3590-6730-0651	Equip-Ballistic Plates (10)	$ (8,500)	$ 0		$ (8,500)		$ (8,500)	$ 0	
152	417-6690-6750-0901	Drainage-MONCREST (28)	$ (130,000)	$ 0		$ (130,000)	$ (130,000)		$ 0	
151	417-6690-6741-1102	Sidewalk-Village Upgrades	$ (15,000)	$ 0		$ (15,000)	$ (15,000)		$ 0	
153	441-6690-6730-0660	Equip-Service Truck	$ (32,000)	$ 0		$ (32,000)		$ (32,000)	$ 0	
153	441-6690-6730-0661	Equip-2017 SUV	$ (38,000)	$ 0		$ (38,000)		$ (38,000)	$ 0	
154	441-6690-6730-0701	Equip-Bucket Truck	$ (132,500)	$ 0		$ (132,500)		$ (132,500)	$ 0	
154	441-6690-6730-0702	Equip-Small Dump Truck	$ (65,000)	$ 0		$ (65,000)		$ (65,000)	$ 0	
154	441-6690-6730-0705	Equip-Truck Cab & Chassis	$ (60,000)	$ 0		$ (60,000)		$ (60,000)	$ 0	
154	441-6690-6730-0741	Equip-Column Fixtures	$ (15,000)	$ 0		$ (15,000)		$ (15,000)	$ 0	
154	441-6690-6730-0760	Equip-Mosquito Sprayers (2)	$ (32,000)	$ 0		$ (32,000)		$ (32,000)	$ 0	
154	441-6690-6730-0764	Equip-Parade Fencing	$ (9,686)	$ 0		$ (9,686)		$ (9,686)	$ 0	
169	441-7890-6730-7810	Equip-Infield Groomer	$ (25,000)	$ 0		$ (25,000)		$ (25,000)	$ 0	
169	441-7890-6730-7811	Equip-Skid Mount Water Tank	$ (3,500)	$ 0		$ (3,500)		$ (3,500)	$ 0	
169	441-7890-6720-0507	Equip-Security Cameras	$ (14,000)	$ 0		$ (14,000)		$ (14,000)	$ 0	
184	441-7790-6720-1602	Bldg Imp-Roof	$ (10,000)	$ 0		$ (10,000)		$ (10,000)	$ 0	
184	441-7790-6720-1603	Bldg Imp-Windows/Water Proofing	$ (49,000)	$ 0		$ (49,000)		$ (49,000)	$ 0	
106	100-3417-6212	Development-Travel/Meals	$ (800)	$ (800)	$ (800)	$ 0			$ 0	
Various	Various	Update revenue projections thru July 2016	$ 28,599	$ 28,599	$ 28,599	$ 0			$ 0	
Various	Various	1-1/2% Across-the-Board Pay Increase	$ (274,482)	$ (274,482)	$ (274,482)	$ 0			$ 0	
182	701-1100-6404	Consultant Fees (Executive Search)	$ (15,000)	$ (15,000)	$ (15,000)	$ 0			$ 0	
74	100-1100-6370	Chamber of Commerce	$ (5,000)	$ (5,000)	$ (5,000)	$ 0			$ 0	
75	100-1100-6380-1701	Prescott House (moved to Police)	$ 0	$ 0	$ 0	$ 0			$ 0	
85	100-1300-6160	Sr. Plans Examiner Auto Allowance	$ (1,200)	$ (1,200)	$ (1,200)	$ 0			$ 0	
172	441-7890-6730-7805	Equip Truck Bed	$ 7,000	$ 8,400	$ 8,400	$ (1,400)		$ (1,400)	$ 0	
172	441-7890-6730-7805	Equip Trailer	$ (2,000)	$ (2,400)	$ (2,400)	$ 400		$ 400	$ 0	
172	441-7890-6730-7806	Equip-SUV	$ 24,000	$ 4,000	$ 4,000	$ 20,000		$ 20,000	$ 0	
172	441-7890-6730-7807	Equip-F150	$ 26,000	$ 4,000	$ 4,000	$ 22,000		$ 22,000	$ 0	
168	417-7890-6760-0802	Restroom (carryover)	$ (50,000)	$ (50,000)	$ (50,000)	$ 0			$ 0	
74	100-1100-6371	Approp-EMA	$ 27,200	$ 27,200	$ 27,200	$ 0	$ 0		$ 0	
74	100-1100-6372	Approp-Ala Symphony	$ 10,000	$ 10,000	$ 10,000	$ 0	$ 0		$ 0	
74	100-1100-6373	Approp-McWane Center	$ 10,000	$ 10,000	$ 10,000	$ 0	$ 0		$ 0	

Budget Change Tracking Worksheet
City of Mountain Brook
September 30, 2017

Ref	Ledger No	Description	Overall Total	General Fund	General Operations 100	Capital Projects Total	Infrastructure 417	Capital 441	Other Gov't s Funds Total	Debt Service 600
74	100-1100-6374	Approp-Jeff/Blount/St Clair MH	$ 2,100	$ 2,100	$ 2,100	$ 0	$ 0		$ 0	
74	100-1100-6375	Approp-Exceptional Foundation	$ 7,500	$ 7,500	$ 7,500	$ 0	$ 0		$ 0	
74	100-1100-6376	Approp-B'ham Museum of Art	$ 11,500	$ 11,500	$ 11,500	$ 0	$ 0		$ 0	
75	100-1100-6377	Approp-B'ham Botanical Gardens	$ 20,000	$ 20,000	$ 20,000	$ 0	$ 0		$ 0	
75	100-1100-6378	Approp-Blueprint Birmingham	$ 0	$ 0	$ 0	$ 0	$ 0		$ 0	
75	100-1100-6379	Approp-Alabama Ballet	$ 2,500	$ 2,500	$ 2,500	$ 0	$ 0		$ 0	
75	100-1100-6380-0601	Approp-Bham Childrens Theatre	$ 5,000	$ 5,000	$ 5,000	$ 0	$ 0		$ 0	
75	100-1100-6380	Approp-Birmingham Zoo	$ 20,000	$ 20,000	$ 20,000	$ 0	$ 0		$ 0	
75	100-1100-6381	Approp-Ala Veterans Mem Fnd	$ 1,000	$ 1,000	$ 1,000	$ 0	$ 0		$ 0	
75	100-1100-6382	Approp-Jeff Co Historical Comm	$ 1,000	$ 1,000	$ 1,000	$ 0	$ 0		$ 0	
75	100-1100-6383	Approp-All In Mountain Brook	$ 10,000	$ 10,000	$ 10,000	$ 0	$ 0		$ 0	
	701-1100-6004	Library Overtime (w/ Benefits)	$ (11,416)	$ (11,416)	$ (11,416)	$ 0	$ 0		$ 0	
	Draft 2 Surplus (Deficit) (Finance Comm Recommendations)		**$ (2,393,945)**	**$ 995,352**	**$ 989,143**	**$ (3,643,794)**	**$ (3,517,474)**	**$ (126,320)**	**$ 254,497**	**$ 301,000**
38	100-3800-4831	Transfers E911	$ (1,000)	$ (1,000)	$ (1,000)	$ 0	$ 0		$ 0	
74	100-1100-6371	Approp-EMA	$ (27,200)	$ (27,200)	$ (27,200)	$ 0			$ 0	
74	100-1100-6372	Approp-Ala Symphony	$ (10,000)	$ (10,000)	$ (10,000)	$ 0			$ 0	
74	100-1100-6373	Approp-McWane Center	$ (10,000)	$ (10,000)	$ (10,000)	$ 0			$ 0	
74	100-1100-6374	Approp-Jeff/Blount/St Clair MH	$ (2,100)	$ (2,100)	$ (2,100)	$ 0			$ 0	
74	100-1100-6375	Approp-Exceptional Foundation	$ (7,500)	$ (7,500)	$ (7,500)	$ 0			$ 0	
74	100-1100-6376	Approp-B'ham Museum of Art	$ (11,500)	$ (11,500)	$ (11,500)	$ 0	To reduce to $10,000 in 201		$ 0	
75	100-1100-6377	Approp-B'ham Botanical Gardens	$ (20,000)	$ (20,000)	$ (20,000)	$ 0			$ 0	
75	100-1100-6378	Approp-Blueprint Birmingham	$ 0	$ 0	$ 0	$ 0			$ 0	
75	100-1100-6379	Approp-Alabama Ballet	$ (2,500)	$ (2,500)	$ (2,500)	$ 0	May eliminate in depending c		$ 0	
75	100-1100-6380-0601	Approp-Bham Childrens Theatre	$ (5,000)	$ (5,000)	$ (5,000)	$ 0	May eliminate in depending c		$ 0	
75	100-1100-6380	Approp-Birmingham Zoo	$ (20,000)	$ (20,000)	$ (20,000)	$ 0			$ 0	
75	100-1100-6381	Approp-Ala Veterans Mem Fnd	$ (1,000)	$ (1,000)	$ (1,000)	$ 0			$ 0	
75	100-1100-6382	Approp-Jeff Co Historical Comm	$ (1,000)	$ (1,000)	$ (1,000)	$ 0			$ 0	
75	100-1100-6383	Approp-All In Mountain Brook	$ (10,000)	$ (10,000)	$ (10,000)	$ 0			$ 0	
115	441-3490-6720-0604	Station 3 Driveway & Parking Lot	$ (14,500)	$ (14,500)	$ (14,500)	$ 0		$ 0	$ 0	
40	417-3409-4510	Donation-Watkins Pedestrian Bridge	$ 38,000	$ 38,000	$ 38,000	$ 0	$ 0		$ 0	
152	417-6690-6741-1201	Watkins Creek Pedestrian Bride	$ (108,000)	$ (108,000)	$ (108,000)	$ 0	$ 0		$ 0	
41	428-3106-4300	APPLE Grant-Sidewalk Master Plan	$ 48,000	$ 48,000	$ 48,000	$ 0			$ 0	
153	428-6690-6741-6605	Sidewalks-Master Plan (APPLE)	$ (60,000)	$ (60,000)	$ (60,000)	$ 0			$ 0	
	149-3404-4232	BJ 10-26b Approp MBSPF	$ (84,732)	$ (84,732)	$ (84,732)	$ 0			$ 0	
	149-3408-4810	BJ 10-26b Transfers General Fund	$ 84,732	$ 84,732	$ 84,732	$ 0			$ 0	
	100-1116-6948	BJ 10-26b Transfers Phase 3 Fields	$ (84,732)	$ (84,732)	$ (84,732)	$ 0			$ 0	
	100-3301-4000	BJ 10-26c Ad Valorem Taxes	$ 75,889	$ 75,889	$ 75,889	$ 0			$ 0	
	100-3407-4400	BJ 10-26b Interest Income	$ 8,000	$ 8,000	$ 8,000	$ 0			$ 0	
	100-1300-6300	BJ 10-26c Outsource Bldg Plans Scanning	$ (3,000)	$ (3,000)	$ (3,000)	$ 0			$ 0	
			$ 0	$ 0		$ 0			$ 0	
			$ 0	$ 0		$ 0			$ 0	
	"Final" Surplus (Deficit) (As Adopted September 12, 2016)		$ (2,623,088)	$ 766,209	$ 760,000	$ (3,643,794)	$ (3,517,474)	$ (126,320)	$ 254,497	$ 301,000

38 100-3800-4831

ORDINANCE NO. 1959

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 4, 2016, the salary of the City Manager of the City of Mountain Brook shall be increased to six thousand two hundred thirty-nine and 31/100 dollars ($6,239.31) 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 12th day of September, 2016.

_____
Council President

APPROVED: The 12th day of September, 2016.

_____
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 12, 2016, as same appears in the minutes of record of said meeting, and published by posting copies thereof on September ____, 2016, 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
Overton Park, 3020 Overton Road
Cahaba River Walk, 3503 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 sixty-two thousand two hundred twenty-two and 06/100 dollars ($162,222.06) 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 The Mayor 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 12th day of September, 2016.

CITY MANAGER

_____
Sam Gaston

CITY OF MOUNTAIN BROOK

By: _____
Lawrence T. Oden, Mayor

RESOLUTION NO. 2016-133

BE IT RESOLVED by the City Council of the City of Mountain Brook, Alabama, that effective October 4, 2016, 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.

BE IT FURTHER RESOLVED by the City Council of the City of Mountain Brook, Alabama, that effective October 4, 2016, the compensation for contract security services for the City's Public Works facilities, as previously authorized upon the adoption of Resolution No. 2013-146 on October 14, 2013, shall also be increased by one and one-half of one percent (1-1/2%)

ADOPTED: The 12th day of September, 2016.

_____
Council President

APPROVED: The 12th day of September, 2016.

_____
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 12, 2016, as same appears in the minutes of record of said meeting.

_____
City Clerk

ORDINANCE NO. 1960

AN ORDINANCE AMENDING SECTION 129-295 OF THE CITY CODE REGARDING OPEN HOUSES, HOME TOURS AND SPECIAL EVENTS IN RESIDENTIAL ZONING DISTRICTS

BE IT ORDAINED by the City Council of the City of the City of Mountain Brook, Alabama, that Section 129-295 of the City Code is hereby amended to include subsection (c) as follows:

1. "**(c) Open Houses, Home Tours and Special Events**. Open houses, home tours and other special events ("Special Events') wherein a residential premise or part thereof is made open to the general public for a fee, donation or other remuneration for commercial or charitable purposes may be conducted in the residential districts of the city under the conditions specified herein below. Such uses shall also be subject to the same monitoring and enforcement procedures set forth in article XXIII of this chapter (applicable to home occupation).

   (1) No more than one (1) such Special Event shall be conducted at any one residential premises during any one calendar year.

   (2) Such Special Event shall be limited in duration to a maximum of six (6) weekend days and eight (8) weekdays, which days must be within an eighteen (18) day period beginning with the first day of the event. For the purposes of this provision, weekend days shall mean Saturday and Sunday and weekday shall mean Monday through Friday.

   (3) Goods sold at the Special Event shall be limited to inside the premises or the rear yard, and may not be visible from any public street.

   (4) A permit shall be required for each Special Event for which a fee to help defray the cost of issuing the permit will be charged in accordance with article XXVII of this chapter. Application for such permit, in the form and with all information requested by the city, must be submitted to the City Manager at least thirty (30) days prior to the date upon which the Special Event is scheduled to begin.

   (5) If, after review of the application, the City Manager determines that the parking or the public rights of way are insufficient to handle anticipated traffic volume for the Special Event, the City Manager may require the use of remote parking areas and shuttle buses or valet services, the engagement of law enforcement officers by the applicant to assist with vehicular traffic or other measures designed to reduce the impact on surrounding properties and the public rights of way in the area.

   (6) For the purposes of this section, an open house or home tour conducted for the sole purpose of marketing or sale of the residential premises themselves and for which a fee, donation or other remuneration is not collected shall be permitted and shall not be subject to the conditions in this subsection.

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

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

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

ADOPTED: This the 12th day of September, 2016.

_____
Council President

APPROVED: This the 12th day of September, 2016.

_____
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 12, 2016, as same appears in the minutes of record of said meeting, and published by posting copies thereof on September ____, 2016, 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
Overton Park, 3020 Overton Road
Cahaba River Walk, 3503 Overton Road

_____
City Clerk

ORDINANCE NO. 1961

AN ORDINANCE TO AMEND CHAPTER 14 OF THE MOUNTAIN BROOK MUNICIPAL CODE PERTAINING TO BUILDING PERMIT FEES

WHEREAS, on June 3, 2015, Act 2015-308 was enacted by the Alabama Legislature creating a Construction Industry Craft Training (CICT) program to be administered by the Alabama Craft Training Board for the purpose of funding training programs for the development of a quality workforce to support the construction industry in the State; and

WHEREAS, pursuant to Act 2015-308, the CICT program shall be funded from fees collected from all political subdivisions of the state that issue construction building permits equal to one dollar ($1.00) for every one thousand dollars ($1,000.00) of construction authorized on non-residential work.

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

Section 1. Chapter 14 of the Mountain Brook Municipal Code is amended to state as following:

CHAPTER 109

BUILDINGS AND BUILDING REGULATIONS

Section of Code	Description	Fee
109-2(c)	Where the value of construction is $1,000.00 or more (per $1,000.00 or fraction thereof)	$8.00
	Plus an issuance fee	$50.00
	Plus additional $1.00 fee per one thousand ($1,000.00) of value of non-residential construction as required by Ala. Act 2015-308	

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

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

Section 4. Effective Date. This ordinance shall become effective October 1, 2016 and publication as provided by law.

ADOPTED: The 12th day of September, 2016.

_____
Council President

APPROVED: The 12th day of September, 2016.

_____
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 12, 2016, as same appears in the minutes of record of said meeting, and published by posting copies thereof on September 13, 2016, at the following public places, which copies remained posted for five (5) days as required by law.

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Overton Park, 3020 Overton Road
Gilchrist Pharmacy, 2805 Cahaba Road
Cahaba River Walk, 3503 Overton Road

_____
City Clerk

Robert Bentley
Governor

Bill Newton
Acting Finance Director

STATE OF ALABAMA
DEPARTMENT OF FINANCE
Division of Construction Management

770 Washington Avenue, Suite 444
P.O. Box 301150
Montgomery, Alabama 36130-1150
Telephone: (334) 242-4082 Fax: (334) 242-4182

Frank Barnes
Director

September 2, 2016

TO: **ALABAMA COUNTIES AND MUNICIPALITIES**

FROM: **KATHERINE LYNN, ASSISTANT FINANCE DIRECTOR** Katherine Lynn
FRANK BARNES, DIRECTOR, CONSTRUCTION MANAGEMENT Frank Barnes

SUBJECT: **ACT 2015-308 – CONSTRUCTION INDUSTRY CRAFT TRAINING FEES**

On June 3, 2015, Governor Robert Bentley signed Act 2015-308 creating a Construction Industry Craft Training (CICT) program to be administered by the Alabama Craft Training Board for the purpose of funding training programs for the development of a quality workforce to support the construction industry in the State of Alabama. The full text of Act 2015-308 is available on the Secretary of State's website at http://arc-sos.state.al.us/PAC/SOSACPDF.001/A0010945.PDF . A summary of the act is provided below:

Summary

- The CICT program shall be funded from fees collected from any county, city, town or other political subdivision of the state that issues non-residential construction building permits.

- The fee shall be equal to one dollar ($1.00) for every one thousand dollars ($1000.00) of construction authorized.

- The fee shall apply to any non-residential building permit issued after October 1, 2016.

- Specifically excluded from the collection of fees are any licensed home builder, as defined in Chapter 14A of Title 34, Code of Alabama 1975; any subcontractor working on a residential construction site including renovations to any residential structure; or any person or entity specifically exempt under Chapter 14A of Title 34, Code of Alabama 1975, except for subdivision (3) of Section 34-14A-6, Code of Alabama 1975.

- The fees shall be collected by the entity issuing the non-residential construction building permit and shall be remitted monthly to the Department of Finance, Division of Construction Management. The fee shall be based on the total sum of the construction cost of all non-residential building permits issued by the entity on or after the first day of the month and up to the last day of the month. The fee shall be remitted to the Division of Construction Management by the 20th day of the month following the issuance of the permits.

- The fees shall be remitted electronically. Checks and money orders will not be accepted. A link for submitting the electronic payment will be available on the Division of Construction Management's website (www.bc.alabama.gov) after October 31, 2016.

- Entities that do not issue nonresidential building permits should complete the attached declaration and submit one original by mail to the Division of Construction Management, P.O. Box 301150, Montgomery, AL 36130-1150, before November 1, 2016. The original will be maintained on file for verification of compliance with the act.

If you have any questions, please contact the Division of Construction Management at 334-242-4082.

CERTIFICATION OF NON-APPLICABILITY

OF CONSTRUCTION INDUSTRY CRAFT TRAINING FEE

I certify that _____ shall not be collecting any fees
Name of Municipality/County

for non-residential permit fees from October 1, 20_____ to September 30, 20____ and shall not be remitting any Construction Industry Craft Training fees to the Division of Construction Management for the time period specified.

The entity also certifies that should any non-residential permits be issued during the time period specified that the entity understands that it is fully responsible for complying with Act 2015-305.

Certified by: _____
Signature

_____
Official's Printed Name & Title

Sworn and subscribed before me this _____ day of _____, 20____.

_____
Notary Public

Seal