

**MOUNTAIN BROOK CITY COUNCIL  
PRE-MEETING AGENDA**

**PRE-COUNCIL ROOM (A106) CITY HALL  
56 CHURCH STREET  
MOUNTAIN BROOK, AL 35213  
FEBRUARY 24, 2014  
6:00 P.M.**

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1. Release and Indemnification approval from Charles and Kelly Herron for City's waiver of Building Code requirements for property at 2709 Southwood Road – James Griffin (See attached information. This item may be added to the formal agenda.)
2. Proposed new development for Crestline Village – Robert Jolly of Retail Specialists.
3. Sidewalk design contract with Gresham, Smith & Partners to link Mountain Brook with Homewood along Hollywood Blvd. – Blair Perry of Gresham, Smith & Partners. (This item could be added to the formal agenda. See attached information)
4. Final Cahaba River Park Plans – Nimrod Long of Nimrod Long & Associates. (See attached information).
5. Residential Building Code Amendments proposals – James Griffin and Jerry Weems. (See attached information. This item could be added to the formal agenda).

To Be Recorded If Accepted

This instrument was prepared by:  
James B. Griffin  
Bishop Colvin Johnson & Kent, LLC  
1910 First Ave. North  
Birmingham, AL 35203

STATE OF ALABAMA     )  
JEFFERSON COUNTY    )

GRANT OF ACKNOWLEDGMENT, RELEASE, AND INDEMNIFICATION

RE: Certificate of Occupancy for

2709 Southwood Road, Mountain Brook, Alabama 35223

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This Grant of Acknowledgment, Release, and Indemnification (ARelease@) is made by **Charles Keith Herron and Kelly Sims Herron (AOwner@)**, the owners of residential property located at 2709 Southwood Road, Mountain Brook, Jefferson County, Alabama 35223 and more completely described as Lot 45A, Block 16, according to the Gorrie-Wittichen Survey as recorded in Map Book 224, page 80, in the Probate Office of Jefferson County, Alabama, Birmingham Division (the AProperty@), in favor of the **City of Mountain Brook, Alabama**, a municipal corporation (the ACity@).

WHEREAS, Section N1102.3.6 of the 2012 International Residential Code adopted by the City (the ACode@) requires that double-paned windows be installed when renovating this home; and

WHEREAS, Owner has asserted that remodeling this older home to comply with Section N1102.3.6 of the Code would alter and diminish the beauty of the home and its historic design; and

WHEREAS, Owner has requested the City to issue a Certificate of Occupancy, despite the code-compliance issues, so that she may live in the home with the original windows or similarly designed windows; and

WHEREAS, upon completion of the renovations under Building Permit No. B041972, the City agrees to issue the Certificate of Occupancy based on the following enumerated conditions to which Owner agrees and assents through the execution of this Release and its recording in the public records of Jefferson County, Alabama;

NOW, THEREFORE, for and in consideration of the above promises and the mutual covenants and agreements set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged:

1. Owner hereby RELEASES, EXONERATES, and DISCHARGES the City, its officials, employees, agents, and representatives (in their official and individual capacities) from any and every claim, action, suit, demand, judgment, cost, fee, expense, or liability of any kind or character whatsoever arising out of or relating to violations of the Code and the issuance of the Certificate of Occupancy for the Property;

2. Owner further agrees to indemnify and hold harmless the entities and persons hereby released from, against, and with respect to any and every claim, action, suit, demand, judgment, cost fee, expense, or liability of any kind or character that may be asserted against, imposed against, or incurred by the above-named Owner or her successors-in-title as a result of or by reason of any claimed breach of legal duty arising out of or relating to violations of the Code;

3. Owner SPECIFICALLY ACKNOWLEDGES and AGREES that the City has no legal obligation to issue the Certificate of Occupancy because the windows do not comply with Section N1102.3.6 of the Code;

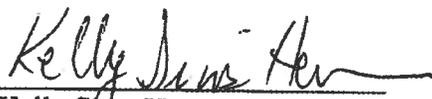
4. Owner SPECIFICALLY ACKNOWLEDGES and AGREES that the City shall enforce compliance with the Code and other legal requirements of the Certificate of Occupancy with the sole exception of the windows and that the City has the legal right to do so; and

5. This Grant of Acknowledgment, Release, and Indemnification shall be recorded in the public records of Jefferson County, Alabama and shall be deemed to be an obligation that runs with the land.

IN WITNESS WHEREOF, the said Owner has caused this instrument to be executed on this the 12<sup>th</sup> day of February, 2014.

OWNER

  
\_\_\_\_\_  
Charles Keith Herron

  
\_\_\_\_\_  
Kelly Sims Herron

STATE OF ALABAMA     )  
JEFFERSON COUNTY    )

I, the undersigned authority, a Notary Public in and for said county and state, hereby certify that **Charles Keith Herron**, whose name is signed to the foregoing instrument and who is known to me, acknowledged before me that, being informed of the contents of the foregoing instrument, she executed the same voluntarily, on the day the same bears date.

Given under my hand and official seal on this the 12<sup>th</sup> day of February, 2014.

Mary K Hall  
Notary Public

My Commission Expires: ~~Notary Public State At Large~~ ~~June 13, 2017~~ ~~Bonded Thru Western Surety Company~~ My Commission Expires:

STATE OF ALABAMA     )  
JEFFERSON COUNTY    )

I, the undersigned authority, a Notary Public in and for said county and state, hereby certify that **Kelly Sims Herron**, whose name is signed to the foregoing instrument and who is known to me, acknowledged before me that, being informed of the contents of the foregoing instrument, she executed the same voluntarily, on the day the same bears date.

Given under my hand and official seal on this the 12<sup>th</sup> day of February, 2014.

Mary K Hall  
Notary Public

My Commission Expires: ~~Notary Public State At Large~~ ~~June 13, 2017~~ ~~Bonded Thru Western Surety Company~~ My Commission Expires:



G R E S H A M  
S M I T H   A N D  
P A R T N E R S

February 19, 2014

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

**Subject:            Proposal for Professional Engineering Design Services  
Sidewalk Addition and Improvements along Hollywood Blvd. from the  
Eastern Right-of-Way of US 280 to Shades Valley Presbyterian Church  
Mountain Brook, AL**

Dear Mr. Gaston:

Gresham, Smith and Partners (GS&P) is pleased to submit this proposal to design and prepare the construction plans for approximately 600 linear feet of new sidewalk along Hollywood Boulevard from US 280's eastern Right-of-Way (ROW) to Shades Valley Presbyterian Church for the City of Mountain Brook. The intent of the sidewalk project is to provide pedestrian connectivity on the Mountain Brook side to the proposed US 280 pedestrian bridge. The proposed US 280 pedestrian bridge will be located just northwest of the existing Hollywood Boulevard Bridge over US 280.

The project begins near the US 280's eastern ROW and will be coordinated with the US 280 pedestrian bridge project. The sidewalk will begin at a location where the pedestrian bridge project can make a short tie-in to this proposed sidewalk project. The proposed sidewalk will proceed along the northern side of Hollywood Boulevard. Since there is not enough space between the existing curb and the existing guardrail to construct the sidewalk, GS&P will develop a solution consisting of modifying the parking bay of "The Hollywood" commercial development nearest to Hollywood Boulevard. This parking bay and half of the drive aisle is believed to be in existing ROW per City of Birmingham GIS information, but this will need to be verified by our field survey. GS&P will develop two (2) alternative concepts and meet with the owner of "The Hollywood" commercial development for discussion and selection of the desired concept. GS&P will move the design forward with the approved concept. It should be noted that the minimum sidewalk width per the Americans with Disabilities Act (ADA) guidelines is 36". The sidewalk in this location may be the minimum 36" width to minimize the impact to "The Hollywood" parking lot.

The project will continue along the north side of Hollywood Boulevard to "The Hollywood" commercial development driveway. The driveway will have to be re-constructed to allow an ADA (Americans with Disabilities Act) acceptable pedestrian crossing with an acceptable cross-slope. Once the project crosses "The Hollywood" driveway, a curb ramp will be used to enter the existing grassed island in front of the existing Beal Bank sign. The sidewalk is proposed to be 5' wide through this grass island. There are existing water meters in the existing curbed island that will have to be relocated and coordinated with Birmingham Water Works Board (BWVB).

At the end of the existing grassed island on the east side of the Beal Bank sign, the asphalt drive in this area will likely have to be re-constructed to provide an ADA acceptable pedestrian crossing. The proposed sidewalk route will then enter a small curb island and then quickly transition to another driveway for the Relfe-Welden Real Estate building. If necessary, this driveway will be reconstructed to provide an ADA pedestrian crossing. The reconstruction of this

**Design Services For The Built Environment**



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driveway will require the vertical adjustment of an existing sanitary sewer manhole to the proposed driveway grade. This manhole adjustment will have to be coordinated with Jefferson County Environmental Services Department.

Proceeding east, the existing curb island in front of the Relfe-Welden Real Estate building is proposed to be extended towards Hollywood Boulevard roughly in line with the curb line in front of the Beal Bank and "The Hollywood" properties. The sidewalk will enter this proposed curb island with a curb ramp and continue along the north side of Hollywood Boulevard with a recommended 5' width.

As previously mentioned, the sidewalk will exit the proposed curb island in front of the Relfe-Welden Real Estate building via a curb ramp. If necessary, the parking lot entrance on the east side of this parcel will be reconstructed to have an ADA acceptable pedestrian crossing. The eastern curb line and radius for this parking lot will be extended out to the northern edge of pavement for Hollywood Boulevard to form a curbed island. The sidewalk will enter this proposed curbed island line and continue at a 3'-5' width along the north side of Hollywood Boulevard until it is perpendicular with the landscaped curb island at the boundary between Express Oil Change and Shades Valley Presbyterian Church on the south side of Hollywood Boulevard. There is a fire hydrant along this portion of the proposed sidewalk that the sidewalk will have to be routed around or perhaps narrowed to avoid relocating the fire hydrant. Existing "Birmingham City Limits" and "Mountain Brook City Limits" signage will have to be relocated in order to accommodate the proposed sidewalk.

A mid-block crossing of Hollywood Boulevard will be required to allow pedestrians to cross to the south side of Hollywood Boulevard. This mid-block crossing will consist of a striped cross-walk at the boundary between Shades Valley Presbyterian Church and Express Oil Change. In order to provide pedestrians protected movement at this location, a pedestrian signal is proposed. The proposed signal is a High-Intensity Activated crossWalk beacon or HAWK signal. The purpose of the HAWK signal is to allow protected pedestrian crossings, only stopping road traffic as needed. Pedestrians will be able to activate the HAWK signal, which will alert the roadway traffic to stop and allow pedestrians to cross. Advance warning signage will also be used to alert oncoming motorists of the mid-block crossing.

On the south side of Hollywood Boulevard, a curb island will be constructed in the existing parking space at this location. This will provide enough room for the sidewalk to turn 90 degrees and continue south along Hollywood Boulevard. There is an existing Jefferson County Sanitary Sewer manhole at the location of this proposed curb island. This manhole will have to be adjusted to finish grade and, as previously, coordinated with Jefferson County Environmental Services Department. The sidewalk will cross two of Shades Valley Presbyterian Church's parking lot driveways before it can tie-in at the existing sidewalk in front of the church. These driveways will likely have to be adjusted in order to provide an ADA acceptable pedestrian crossing. This driveway rework and proposed curb island will require ROW or an Easement from the Church. GS&P has included the effort to produce a ROW or Easement acquisition deed & tract sketch for this property in our scope and fee.

GS&P has included scope and fee for the effort to prepare construction and bidding documents and assist the City with the advertisement and bidding of this project in accordance with Alabama bid laws.



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GS&P's scope of services for this project includes: Field Survey, Design and Preparation of Sidewalk Plans, Develop ROW or Easement Acquisition Deed & Tract Sketch for Shades Valley Presbyterian Church and 1 additional Tract, One Coordination Meeting with Owner of "The Hollywood" parking lot for discussion of parking lot options, Two (2) Coordination Meetings with the City of Mountain Brook, Two (2) Site Visits, Preparation of Bidding & Construction Contract Documents, and Advertising & Bidding Services.

### **SCOPE OF SERVICES**

Preliminary Concept & Cost Estimate - GS&P has previously completed a preliminary concept and construction cost estimate for this project.

Field Survey – Sain & Associates, Inc., as a subconsultant, will perform field surveys to develop the existing conditions database. The surveyor will survey all existing features/topography (pavement, curb and gutter, driveway, fences, trees, retaining walls, storm inlet, etc.), the location of visual and marked (by Alabama One Call) utilities within the project limits, topography sufficient for development of a digital terrain model, and obtain existing right of way and property information.

Design and Preparation of Sidewalk Plans – GS&P will design and prepare the construction plans for the proposed sidewalk in accordance with City of Mountain Brook plan requirements. It is our understanding that the project will be fully funded by the City of Mountain Brook and no federal funds will be utilized for design or construction of the project. Therefore, the construction plans will not be subject to ALDOT standards or review nor require city/county land disturbance permit.

The plans will consist of the following sheets:

- Title Sheet
- Index to Sheets
- Typical Sections
- Typical Details
- Project Notes
- Plan Sheet (anticipate 1)
- Driveway Profiles (6)
- Utility Relocation Plan Sheet
- Erosion Control Plan Sheet
- Special Project Detail: Over-Easy Parking Lot Detail.
- Special Project Detail: Mid-Block Crossing & HAWK Signal Detail (crosswalks, signing, handicap ramps, and Curb Island)
- Traffic Control Details
- Cross-Sections (25' interval)

GS&P will develop typical sections of the proposed sidewalk improvements. The typical sections will detail the sidewalk width, with and without a grass strip, curb and gutter location and slope ties to existing ground. Details will be provided for required curb and gutter, sidewalk and driveways.

The proposed plan sheets will detail the construction activities required to build the proposed sidewalk. This will include establishing the horizontal alignment, vertical alignment, sidewalk location, and centerline information. Signing and pavement markings will be shown on the plan sheets and will include details for the crossing of Hollywood Boulevard near Shades Valley



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Presbyterian Church. The plans will also label manholes, water meters, and water valves to be adjusted to grade if impacted by the proposed sidewalk construction and needed modification to other utilities.

The design will include designing the driveways along Hollywood Boulevard to meet ALDOT standards for the American Disabilities Act (ADA) cross slope. There are five (6) driveways along Hollywood Boulevard that will have to be designed to meet ADA requirements.

No drainage modifications are anticipated for this project.

GS&P will coordinate any utility conflicts, adjustments or relocations with the affected utility companies. Details of any minor utility adjustments will be included in the plans. The preparation of separate utility relocation plans is outside this scope of services and should be handled by formal amendment of this scope.

GS&P will prepare an Engineer's construction cost estimate for the project.

Prepare Right-of-Way/Easement Acquisition Deed & Tract Sketch– Special Consideration will have to be given within the Hollywood Boulevard ROW along the south side at Shades Valley Presbyterian Church. GS&P's initial review of the available property information indicates that the ROW is narrow for this tract. In order to accommodate the driveway crossings, GS&P anticipates the need for additional ROW or Easement. GS&P will develop a ROW or Easement Acquisition Deed & Tract Sketch (if required) to acquire the necessary ROW or easement for this property. GS&P has also included scope and fee for one additional ROW or Easement Acquisition Deed & Tract Sketch if required.

One Coordination Meeting with "The Hollywood" commercial development owner – GS&P will develop two alternate concepts for changes to the parking lot to accommodate the proposed sidewalk. GS&P will meet with the owner for discussion of the two alternatives and move forward with the selected alternative.

Two (2) Coordination Meetings – GS&P anticipates that two (2) coordination meetings with the City will be needed for the project. GS&P will attend these meetings and provide meeting minutes within one week after the meeting.

Prepare Bid and Construction Contract Documents – GS&P will coordinate with the City to develop bidding and construct contract documents for the project to publicly bid this project in accordance with Alabama bid laws. GS&P will use the industry standard EJCDC (Engineers Joint Contract Documents Committee) guidelines and templates or City-supplied documents to develop these documents and will make revisions per comments from the City.

Advertising & Bidding Services – GS&P will coordinate getting the project advertised, prepare any bid addenda as necessary, conduct the bid opening and provide bid recommendations to the City. The City will be responsible for the costs of publicly advertising the project for bids in accordance with Alabama bid laws.

#### **DELIVERABLES**

1. One set of full size (22" x 34") set of Construction plans



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2. Right of way/easement acquisition deed and tract sketch for Shades Valley Presbyterian Church and One additional Tract (if required)
3. Engineer's Construction Cost Estimate
4. Construction bidding and contract documents

### **EXCLUSIONS**

- Irrigation Design or Layout. Contractor will restore existing irrigation if required.
- NEPA Environmental Studies, Coordination & Documentation (not required since no federal funds are being used), nor any environmental permits.
- NPDES Stormwater Permit, Notice of Intent (NOI) and CBMPP (not required due to disturbance less than one acre)
- Geotechnical Investigation & Recommendations
- Hydraulic Studies
- Additional Meetings with "The Hollywood" commercial development owners or the City of Birmingham
- Additional ROW or Easement Acquisition Documents
- Construction Engineering & Inspection (CE&I)

GS&P can provide any of the above additional services upon written authorization from the City of Homewood on an hourly basis (see attached hourly rate schedule). Reimbursable expenses (mileage, printing/plotting, shipping, subconsultant fees, etc.) will be billed at cost.

### **COMPENSATION**

GS&P proposes to perform the scope of services described above for the lump sum fee of \$42,460.00. This lump sum fee includes all salaries, overhead, profit, expenses and subconsultants. The breakdown of this fee is shown below:

<b>Task</b>	<b>Fee</b>
Preliminary Concept & Cost Estimate	\$280
Field Survey	\$13,125
Design and Prepare Construction Plans	\$26,132
Prepare Right of Way/Easement Acquisition Documents	\$830
Coordination Meetings/Plan Reviews with City	\$3,341
Prepare Bid and Construction Contract Documents	\$4,110
Bidding Services	\$1,079
Expenses (Printing, mileage, etc.)	\$400
<b>TOTAL</b>	<b>\$49,297</b>

If requested by the City of Mountain Brook, GS&P proposes to provide the following services on an hourly basis plus reimbursable expenses.

- Right of Way/Easement Negotiation and Acquisition Services – meetings with property owners; obtain signed ROW/easement documents; recording of ROW/easement documents
- Utility Relocation Design



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- Construction Phase Services – site visits to review completed work; site visits to look at problems or changed conditions; review Contractor pay requests; review, negotiation, processing of Change Orders; substantial completion or final inspections; design revisions during construction

GS&P proposes to provide any of the above additional services upon written authorization from the City of Homewood on an hourly basis (see attached hourly rate schedule). Reimbursable expenses (mileage, printing/plotting, shipping, subconsultant fees, etc.) will be billed at cost.

#### **SCHEDULE**

GS&P can begin performing the work outlined in this proposal immediately upon written authorization from City of Mountain Brook and can complete the scope of services above within 14 weeks from the date of authorization.

#### **AGREEMENT**

If this proposal is acceptable to the City of Mountain Brook, we will prepare an *Agreement Between Owner and Engineer For Professional Services* for this project and send it to you for your review and execution. We can begin work on this project as soon as we receive the signed agreement back from the City.

If you have any questions about this proposal, please don't hesitate to contact me at 205.298.9232 or by email at [blair\\_perry@gspnet.com](mailto:blair_perry@gspnet.com).

We look forward to completing this project for City of Mountain Brook.

Sincerely,

A blue ink signature of Blair C. Perry, written in a cursive style.

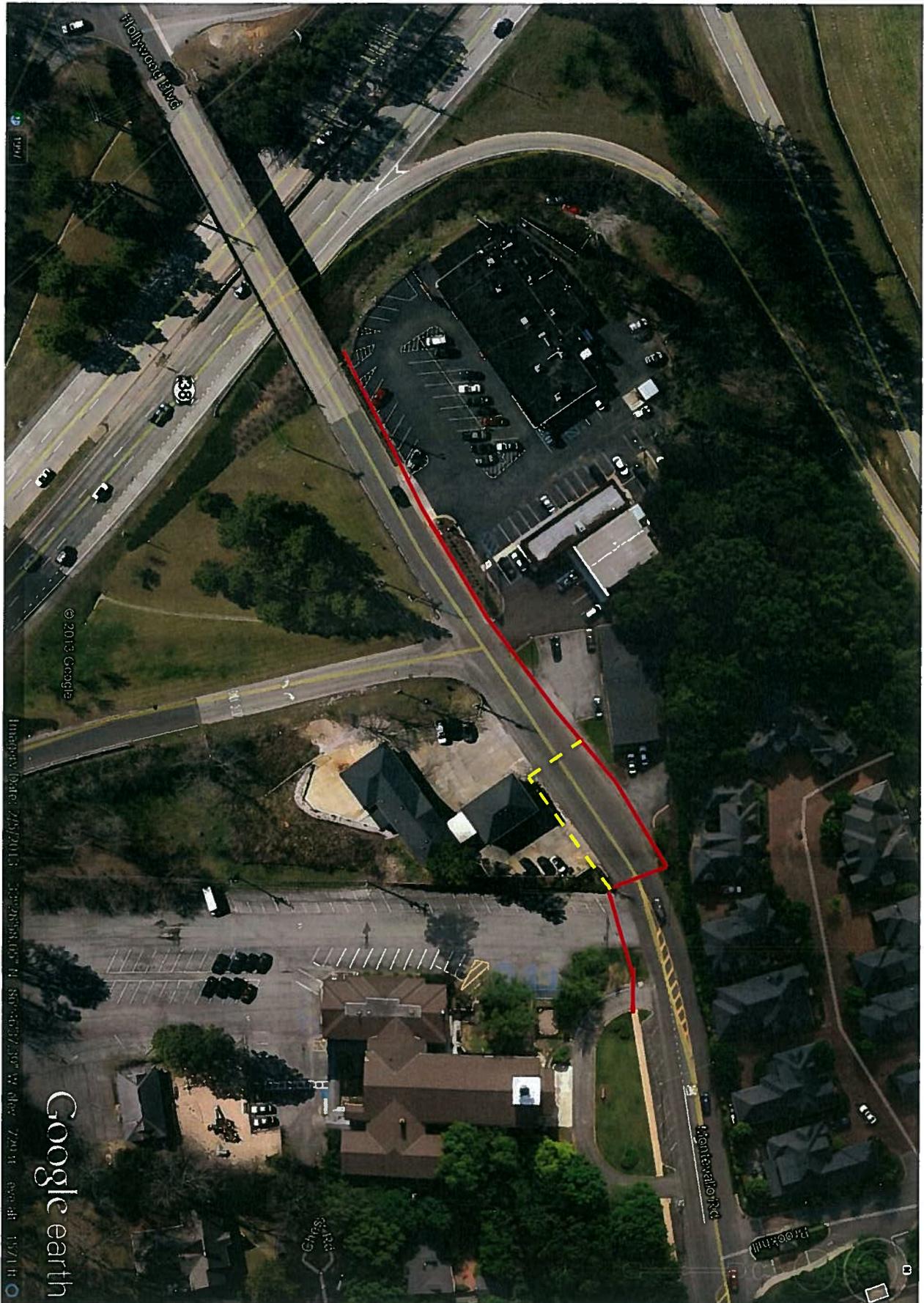
Blair C. Perry, P.E.  
Senior Transportation Engineer  
Senior Associate

A blue ink signature of Hal Humphrey, written in a cursive style.

Hal Humphrey, P.E.  
Senior Engineer  
Senior Associate

BCP/BMG

Attachments    Project Area Exhibit



Google earth

Imagery Date: 2/29/2013 33°26'58.00" N 80°40'37.30" W elev: 720 ft. Acc. Alt: 157 ft

© 2013 Google

# CAHABA RIVER PARK

## Revised Scope Budget Recap

PREPARED BY NIMROD LONG AND ASSOCIATES

February 14, 2014

ITEM	QTY UNIT	UNIT COST	ITEM COST
<b>Base Bid (Landscape Services, Inc.)</b>			<b>\$ 423,666.17</b>
Deduct:			
Drainage -- Stone Headwalls	1 LS	\$	(13,000.00)
Water Service to Park	1 LS	\$	(22,770.00)
Water Fountain	1 LS	\$	(12,050.00)
Post Hydrants	1 LS	\$	(2,745.00)
Electrical Service to Park	1 LS	\$	(13,050.00)
Allowance for ADEM/COE Permitting	1 LS	\$	(3,000.00)
<b>SUBTOTAL</b>		<b>\$</b>	<b>357,051.17</b>
<b>Suggested Alternates</b>			
No. 2 Planting	1 LS	\$	45,577.38
No. 4 Greenway/Oakdale Connection	1 LS	\$	42,261.37
<b>TOTAL ESTIMATE FOR REVISED SCOPE</b>		<b>\$</b>	<b>444,889.92</b>
<b>New Alternates</b>			
Electrical Service and Parking Lot lighting	1 LS	\$	30,000.00
Water Service, Fountain and Hydrants	1 LS	\$	38,000.00
<b>TOTAL ESTIMATE FOR REVISED SCOPE AND ALL ALTERNATES</b>		<b>\$</b>	<b>512,889.92</b>



**(Proposed new clauses in *black italics*)**

**Sec. 109-32. Same—Amendments.**

- (e) Section P2904.1 of the International Residential Code shall be hereby amended by adding the following provision:

*"P2904.1.2 Sprinkler Exemption. Any homeowner may, upon application to the City, request an exemption to the sprinkler requirement of P2904.1.1 and such exemption shall be granted upon the following:*

- a. The applicant must either confer with the Fire Marshal or his or her designee about the benefits of installing a residential fire sprinkler system or review presentation materials developed by the Fire Marshal concerning sprinkler systems; and
- b. The applicant must certify that he or she has met the requirements in subsection (a) above, and fully understands and acknowledges the risks of opting not to install a residential fire sprinkler system.
- c. *The applicant must execute a release in a form approved by the City Manager which indemnifies the City against any claim arising from loss or injury allegedly due to this exemption or improper inspection or enforcement of City codes; said release shall be recorded in the Probate Office of Jefferson County, Alabama and shall run with the land.*
- d. *The applicant must pay the application fee of \$75.*

Exception:

1. No exemption shall be granted for any dwelling constructed less than 5 feet from the property line in accordance with Table R302.1(1).
2. No exemption shall be granted for 2-family dwelling units".

*(Code 1996, § 4-2; Ord. No. 656, § 1; Ord. No. 1184, 1-9-1995; Ord. No. 1615, § 1, 1-12-2004; Ord. No. 1663, § 3, 4-11-2005; Ord. No. 1720, § 2, 11-13-2006; Ord. No. 1737, § 1, 6-25-2007; Ord. No. 1807, § 2, 1-11-2010; Ord. No. 1856, § 1, 8-22-2011; Ord. No. 1876, § 2, 9-10-2012)*

**(Proposed)**

**Sec. 109-34. Application for waiver of a code requirement.**

The owner of any lot or other parcel of land who seeks a waiver of the City's right to enforce any requirement or part of this article shall not be granted such waiver unless and until:

1. He or she has completed an application for such waiver and submitted it to the City Inspection Department and thereby explained in writing why such waiver is sought for this particular property.
2. The City Council, at its discretion, after notice and hearing, has formally approved the waiver and defined its scope.
3. The owner has executed a release in a form approved by the City Manager which indemnifies the City against any claim arising from loss or injury allegedly due to this exemption or improper inspection or enforcement of City codes; said release shall be recorded in the Probate Office of Jefferson County, Alabama and shall run with the land.
4. The application fee of \$75 is paid to the City.