

**MOUNTAIN BROOK CITY COUNCIL
MEETING AGENDA**

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

AUGUST 11, 2014 – 7:00 P.M.

1. Approval of the minutes of the July 28, 2014 regular meeting of the City Council.
2. Consideration: Resolution reappointing Rob Walker to the Villages Design Review Committee.
3. Consideration: Resolution reappointing Richard Simonton to the Board of Zoning Adjustment (BZA).
4. Consideration: Resolution setting a public hearing on September 8, 2014 to consider an ordinance amending the master development plan for the Park at Overton.
5. Consideration: Resolution setting a public hearing on September 8, 2014 to consider an ordinance amending the master development plan for Pilgrim Place.
6. Consideration: Resolution authorizing the execution of an APPLE grant administration agreement between the City and Regional Planning Commission of Greater Birmingham with respect to a city-wide traffic study.
7. Announcement: The next regular meeting of the City Council will be August 25, 2014, at 7 p.m. in the Council Chamber of City Hall located at 56 Church Street, Mountain Brook, AL 35213.
8. Other business.
9. Comments from residents.
10. Adjourn.

**MOUNTAIN BROOK CITY COUNCIL
PRE-MEETING DISCUSSION
JULY 28, 2014**

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 28th day of July, 2014. The Council President called the meeting to order and the roll was called with the following results:

Present: Virginia C. Smith, Council President
Jack D. Carl
William S. Pritchard, III
Jesse S. Vogtle, Jr.

Absent: Lawrence T. Oden, Mayor
Amy G. Carter, Council President Pro Tempore

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

1. AGENDA

1. MAX update – Richard Goldstein.
2. Adoption of a standard form encroachment agreement. (Resolution No. 2014-92 was added to the formal agenda.)
3. APPLE grant consultant selection for city-wide traffic study-Michael Kaczorowski of the Regional Planning Commission of Greater Birmingham (Motion No. 2014-093 was added to the formal agenda. A resolution authorizing the execution of a professional service agreement for the traffic study will be presented for Council consideration at a later date.)
4. Request for a right-of-way encroachment agreement with respect to the parcel adjoining 2235 Peacock Lane-Janice Throp. (The City Attorney was requested to prepare an encroachment agreement for Council consideration on August 11, 2014.)
5. Bayer Right of Way agreement for Highway 280. (The City Attorney will continue working with The Alabama Department of Transportation and present an agreement for Council consideration at a future meeting.)
6. Motion No. 2014-094 was added to the formal agenda adding additional streets to the paving list for fiscal year 2014.
7. Executive Session. There being no further business to come before the City Council, it was moved by Council member Pritchard that the City Council convene in executive session to discuss a matter involving a pending real estate transaction. The motion was seconded by Council President Smith. The City Attorney certified that the subject matter 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
Jack D. Carl
William S. Pritchard III
Jesse S. Vogtle, Jr.

Nays: None

President Smith declared that the motion carried by a vote of 4–0 and then asked that the members of the audience be excused. President Smith also announced that the City Council pre-meeting will adjourn upon conclusion of the executive session and the regular council meeting would commence upon adjournment of the executive session.

Steven Boone, City Clerk

**MINUTES OF THE REGULAR MEETING OF THE
CITY COUNCIL OF THE CITY OF MOUNTAIN BROOK, ALABAMA
JULY 28, 2014**

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 28th day of July, 2014. The Council President called the meeting to order and the roll was called with the following results:

Present: Virginia C. Smith, Council President
Jack D. Carl
William S. Pritchard, III
Jesse S. Vogtle, Jr.

Absent: Lawrence T. Oden, Mayor
Amy G. Carter, Council President Pro Tempore

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

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

1. RECOGNITION OF GUEST

Council President Smith recognized Ashley Robinette, the City's designated Alabama Power Company customer service representative.

2. CONSENT AGENDA

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

Approval of the minutes of the July 14, 2014 meeting of the City Council.

2014-085	Declare Alice B. Womack (being the only person who qualified for office) elected to the office of City Council–Place 1 of the City of Mountain Brook for the term of office commencing on the first Monday in November 2014.	Exhibit 1
2014-086	Declare William S. (Billy) Pritchard, III (being the only person who qualified for office) elected to the office of City Council–Place 3 of the City of Mountain Brook for the term of office commencing on the first Monday in November 2014.	Exhibit 2
2014-087	Declare William S. (Billy) Pritchard, III (being the only person who qualified for office) elected to the office of City Council–Place 3 of the City of Mountain Brook for the term of office commencing on the first Monday in November 2014.	Exhibit 3
2014-088	Accept the professional services proposal submitted by Fontenot Benefits & Actuarial Consulting for their actuarial valuation of the City's retiree medical benefit plan as required by GASB Statements 43 and 45.	Exhibit 4, Appendix 1

2014-089	Authorize a transfer of funds in the [budgeted] amount of \$300,000 from the General Fund to the City of Mountain Brook Retiree Medical (Sec. 115) Trust.	Exhibit 5, Appendix 2
2014-090	Authorize an appropriation in the amount of \$528,386 to the Mountain Brook Board of Education to be used for the roof replacement at Brookwood Forest Elementary School.	Exhibit 6, Appendix 3
2014-091	Declare certain property (59 sets of turnout gear) surplus and authorizing its sale by way of public Internet auction.	Exhibit 7
2014-092	Adopt a standard form right-of-way encroachment agreement and authorize its inclusion in the Council's "Significant Accounting and Management Policies".	Exhibit 8, Appendix 4
2014-093 Motion	Select Skipper Consulting to serve as the City's traffic engineer to conduct a City-wide traffic study in conjunction with an APPLE grant awarded to the City through the Birmingham Regional Planning Commission. (The professional service contract will be presented for consideration at the August 11, 2014 meeting.)	Appendix 5
2014-094 Motion	Approve the paving of some additional streets during fiscal 2014 under the City's street resurfacing contract.	Appendix 6

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

Ayes: Virginia C. Smith, Council President
Jack D. Carl
William S. Pritchard III
Jesse S. Vogtle, Jr.

Nays: None

Council President Smith thereupon declared that said minutes and Resolution Nos. 2014-084 through 2014-092 and Motion Nos. 2014-093 and 2014-094 are adopted by a vote of 4—0.

3. ANNOUNCEMENT 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, August 11, 2014 at 7 p.m. in the Council Chamber of City Hall located at 56 Church Street, Mountain Brook, AL 35213. Please visit the City's web site (www.mtnbrook.org) for more information.

4. ADJOURNMENT

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

Steven Boone, City Clerk

RESOLUTION NO. 2014-095

BE IT RESOLVED by the City Council of the City of Mountain Brook, Alabama, that Robert ("Rob") E. Walker, IV, is hereby reappointed as a Supernumerary Member to the Village Design Review Committee, to serve without compensation, with the term of office to end August 11, 2017.

ADOPTED: This 11th day of August, 2014.

Council President

APPROVED: This 11th day of August, 2014.

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 August 11, 2014, as same appears in the minutes of record of said meeting.

City Clerk

RESOLUTION NO. 2014-096

BE IT RESOLVED by the City Council of the City of Mountain Brook, Alabama, that Richard F. Simonton is hereby re-appointed as a full member to the Board of Zoning Adjustment, retroactive to July 25, 2014, to serve without compensation, with the term of office to end July 25, 2017.

ADOPTED: This 11th day of August, 2014.

Council President

APPROVED: This 11th day of August, 2014.

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 August 11, 2014, as same appears in the minutes of record of said meeting.

City Clerk

RESOLUTION NO. 2014-097

BE IT RESOLVED by the City Council of the City of Mountain Brook that, at the meeting of the City Council to be held on Monday, September 8, 2014, at 7:00 p.m., in the Council Chamber of the Mountain Brook City Hall located at 56 Church Street, Mountain Brook, Alabama 35213, the City Council will hold a public hearing regarding a proposal to amend the master development plan for The Park at Overton, as more fully described herein below, to allow a patio cover on Lot 5 (3762 Village Lane) to be 12 feet from the rear property line in lieu of the required 15 feet.

BE IT FURTHER RESOLVED by the City Council of the City of Mountain Brook that the City Clerk be, and he hereby is, authorized and directed to cause to be published not fewer than twenty-two days prior to September 8, 2014, by posting in four (4) conspicuous places within the City of Mountain Brook, as follows: City Hall, 56 Church Street, Gilchrist Drug Company, 2805 Cahaba Road, Overton Park, 3020 Overton Road, and The Invitation Place, 3150 Overton Road, a notice in words and figures substantially as follows:

“ZONING NOTICE

Notice is hereby given that at a regular meeting of the City Council of the City of Mountain Brook to be held on Monday, September 8, 2014, at 7:00 p.m., in the Council Chamber of the Mountain Brook City Hall located at 56 Church Street, Mountain Brook, Alabama 35213, the City Council will hold a public hearing regarding a proposal that the City Council adopt an ordinance in words and figures substantially as follows:

‘ORDINANCE NO.

AN ORDINANCE TO AMEND THE MASTER DEVELOPMENT PLAN FOR THE PARK AT OVERTON, IN THE CITY OF MOUNTAIN BROOK, ALABAMA, TO ALLOW A PATIO COVER ON LOT 5 (3762 VILLAGE LANE) TO BE 12 FEET FROM THE REAR PROPERTY LINE IN LIEU OF THE REQUIRED 15 FEET.

WHEREAS, after due consideration, the City Council has determined that the subject lot is irregular in shape, making compliance with the required 15-foot setback particularly difficult.

WHEREAS, after due consideration, the City Council has determined that the portion of the subject lot where the setback encroachment is to occur abuts a common lot set aside for storm water detention, and, therefore, the subject encroachment will not be detrimental to adjoining properties within or along the perimeter of The Park at Overton subdivision.

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

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

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

LOT 5 OF THE PARK AT OVERTON, AS RECORDED IN MAP BOOK 215, PAGE 60 IN THE OFFICE OF THE JUDGE OF PROBATE, JEFFERSON COUNTY, ALABAMA, BEING SITUATED IN SECTION 15, TOWNSHIP 18 SOUTH, RANGE 2 WEST, JEFFERSON COUNTY, ALABAMA.

3. **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.

4. **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.

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

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

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

BE IT FURTHER RESOLVED that the City Clerk be, and hereby is, further authorized and directed to post the Notice herein above set out, which includes the proposed ordinance, in four conspicuous places within the City at least twenty-two (22) days prior to the public hearing set hereby.

ADOPTED: This 11th day of August, 2014.

Council President

APPROVED: This 11th day of August, 2014.

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 August 11, 2014, as same appears in the minutes or record of said meeting.

I further certify that copies of the resolution above were posted on August 12, 2014 in four (4) conspicuous places within the City of Mountain Brook, as follows:

City Hall, 56 Church Street
Overton Park, 3020 Overton Road

Gilchrist Pharmacy, 2805 Cahaba Road
The Invitation Place, 3150 Overton Road

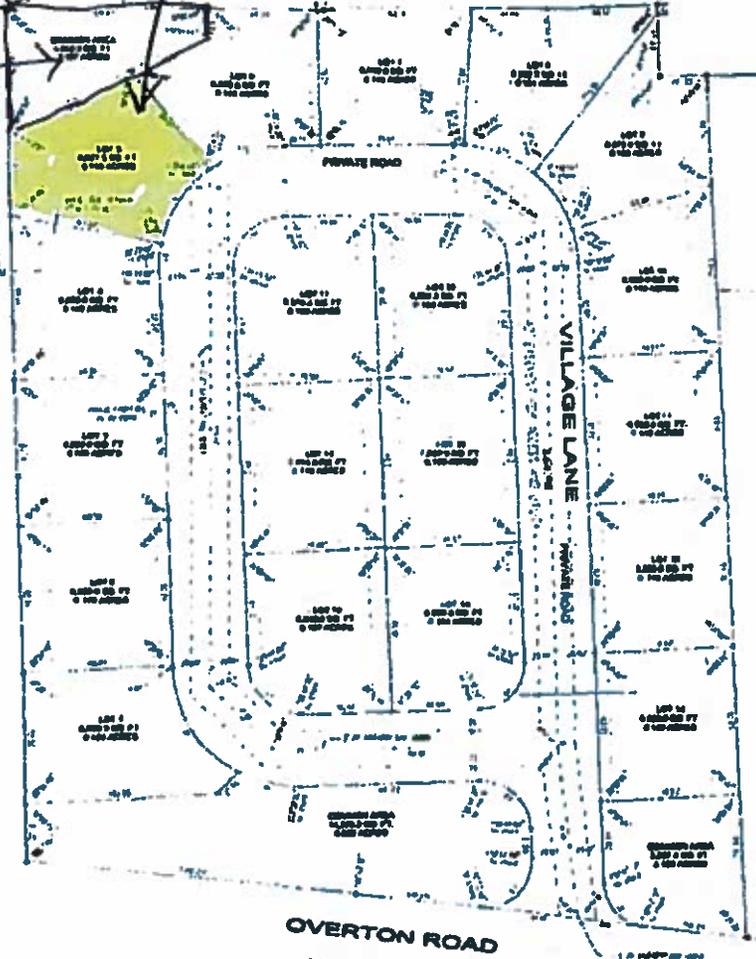
City Clerk



detention pond
 Subject lot

THE PARK AT OVERTON

A PROPOSED RESIDENTIAL INFILL DISTRICT DEVELOPMENT
 BEING A PORTION OF SECTION 15, TOWNSHIP 18 SOUTH, RANGE 2 WEST
 CITY OF MOUNTAIN BROOK, ALABAMA



J.P. Park
 J.P. Park
 1111 1/2 Avenue North, Suite 100
 Birmingham, Alabama 35203

Sam Anton
 Sam Anton
 1111 1/2 Avenue North, Suite 100
 Birmingham, Alabama 35203

U. M. H. 3
 U. M. H. 3
 1111 1/2 Avenue North, Suite 100
 Birmingham, Alabama 35203

N. L. N. L.
 N. L. N. L.
 1111 1/2 Avenue North, Suite 100
 Birmingham, Alabama 35203

STATEWIDE HOME IMPROVEMENT
 I am authorized to represent to those persons who purchase a home in the State of Alabama...
 (Detailed text regarding home improvement regulations follows)

NOTICE TO CONTRACTORS
 I am authorized to represent to those persons who purchase a home in the State of Alabama...
 (Detailed text regarding contractor regulations follows)

NOTICE TO CONTRACTORS
 I am authorized to represent to those persons who purchase a home in the State of Alabama...
 (Detailed text regarding contractor regulations follows)

NOTICE TO CONTRACTORS
 I am authorized to represent to those persons who purchase a home in the State of Alabama...
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NOTICE TO CONTRACTORS
 I am authorized to represent to those persons who purchase a home in the State of Alabama...
 (Detailed text regarding contractor regulations follows)

J. M. H. 3
 J. M. H. 3
 1111 1/2 Avenue North, Suite 100
 Birmingham, Alabama 35203

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	32	33	34	35	36	37	38	39	40	41	42	43	44	45	46	47	48	49	50	51	52	53	54	55	56	57	58	59	60	61	62	63	64	65	66	67	68	69	70	71	72	73	74	75	76	77	78	79	80	81	82	83	84	85	86	87	88	89	90	91	92	93	94	95	96	97	98	99	100
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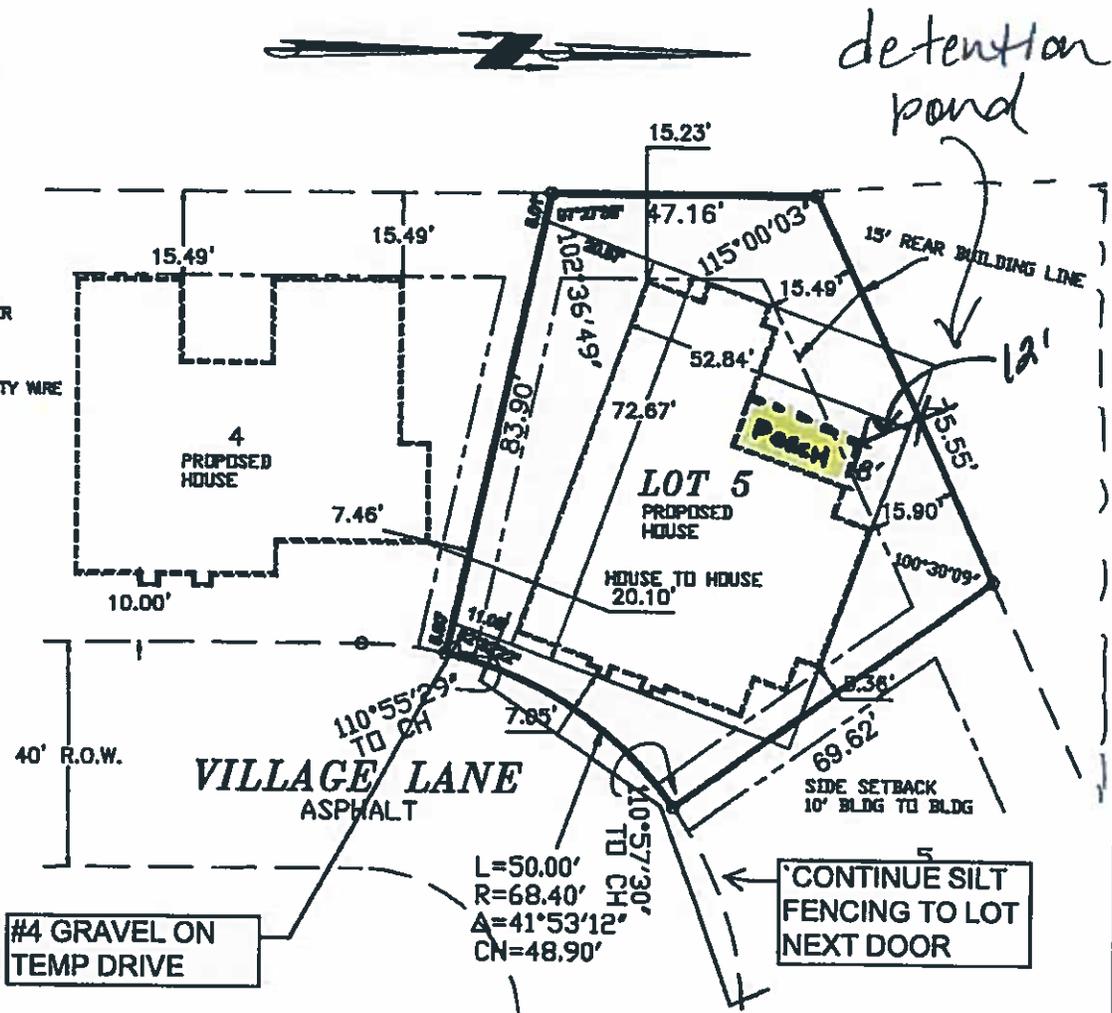
1111 1/2 Avenue North, Suite 100
 Birmingham, Alabama 35203
 (Additional contact information)



HAGER COMPANY, INC.
 LAND SURVEYORS & ENGINEERS
 1457 1/2 SOUTH AVENUE
 BIRMINGHAM, AL 35205
 PH 335-427-0210

LEGEND

- ASP ASPHALT
- BLDG BUILDING
- CALC CALCULATED
- MEAS MEASURED
- CH CHORD
- LNG LONG CHORD
- d DEFLECTION
- Δ DELTA
- ESMT EASEMENT
- HW HEADWALL
- MIN MINIMUM
- MH MANHOLE
- OH OVERHANG
- POR PORCH
- R RADIUS
- R.O.W. RIGHT OF WAY
- SAN SANITARY
- STM STORM
- UTIL UTILITY
- AC ACRES
- S.F. SQUARE FEET
- CL CENTERLINE
- A/C AIR CONDITIONER
- POLE
- X— ANCHOR
- X— FENCE
- X— OVERHEAD UTILITY WIRE
- PVMT PAVEMENT
- W/ WITH
- TAN TANGENT
- RES RESIDENCE
- GLT LIGHT
- COV COVERED
- DECK
- CONCRETE
- WALL
- COLUMN



PLOT PLAN

SCALE: 1"=40'

**Lot - 5
THE PARK AT
OVERTON**

WEYGAND SURVEYORS, INC.
 169 OXMOOR ROAD
 HOMEWOOD, AL 36208
 T:(205)942-0066
 F:(205)942-0067

JOB #72735
 Date, MAY 6, 2014
 This is NOT a survey.

RESOLUTION NO. 2014-098

BE IT RESOLVED by the City Council of the City of Mountain Brook that, at the meeting of the City Council to be held on Monday, September 8, 2014 at 7:00 p.m., in the Council Chamber of the Mountain Brook City Hall, the City Council will hold a public hearing regarding the adoption of an ordinance amending the Pilgrim Place Planned Unit Development (PUD) master development plan previously approved by the Mountain Brook City Council (Ordinance No.1747 adopted October 9, 2007).

BE IT FURTHER RESOLVED by the City Council of the City of Mountain Brook that the City Clerk be, and he hereby is, authorized and directed to cause to be published not fewer than twenty-two (22) days prior to September 8, 2014, by posting in (4) four conspicuous places within the City of Mountain Brook, as follows: City Hall, 56 Church Street, Gilchrist Drug Company, 2805 Cahaba Road, Overton Park, 3020 Overton Road, and The Invitation Place, 3150 Overton Road notices of said public hearing as appropriate

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

ADOPTED: This 11th day of August, 2014.

Council President

APPROVED: This 11th day of August, 2014.

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 August 11, 2014, as same appears in the minutes or record of said meeting.

I further certify that copies of the resolution above were posted on August 12, 2014 in four (4) conspicuous places within the City of Mountain Brook, as follows:

City Hall, 56 Church Street, Gilchrist Drug Company, 2805 Cahaba Road, Overton Park, 3020 Overton Road, and The Invitation Place, 3150 Overton Road

Steven Boone, City Clerk

RESOLUTION NO. 2014-099

BE IT RESOLVED by the City Council of the City of Mountain Brook, Alabama that the City Council hereby authorizes the execution of agreement for services, in the form as attached hereto as Exhibit A subject to such minor changes as may be determined appropriate by the City Attorney, between the City and Regional Planning Commission of Greater Birmingham with respect to an APPLE grant administration agreement.

ADOPTED: This 11th day of August, 2014.

Virginia C. Smith, Council President

APPROVED: This 11th day of August, 2014.

Lawrence T. Oden, 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 August 11, 2014, as same appears in the minutes of record of said meeting.

Steven Boone, City Clerk

AGREEMENT FOR SERVICES

This Agreement for Services (the "Agreement") is entered into as of the _____ day of _____, 2014, 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").

WITNESSETH:

WHEREAS, the Governmental Entity has applied to receive funding under the Advanced Planning Program and Logical Engineering (APPLE) program for a "Traffic Operations 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 \$40,000) of the total Project cost of \$50,000, and the Governmental Entity will provide a local match in the amount of \$10,000.00 (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 \$50,000 (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 \$10,000 (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.

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 RPCGB of any compensation paid by the City that is not earned by RPCGB 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: Darrell Howard

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

EXHIBIT A - SCOPE OF WORK

City of Mountain Brook Traffic Operations Study Project

Project Summary

The Regional Planning Commission of Greater Birmingham (RPCGB), in response to this request for assistance, will enlist the services of a prequalified consultant to provide professional services in support of the RPCGB's Advanced Planning Programming and Logical Engineering (APPLE) program. The Mountain Brook Traffic Operations study will conduct traffic and safety operational evaluations of selected intersections throughout the City of Mountain Book. The study will perform a screening assessment of the existing roadway network to determine eight (8) project locations. For each project location, the study process will collect all relevant data and undertake the analysis necessary to determine low-cost improvements to correct current deficiencies in intersection capacity and safety. The study will develop conceptual drawings that illustrate recommended improvements, develop an estimate of probable construction costs, provide a recommended phasing of projects, and identify potential funding sources for improvements.

Scope of Work

Task 1. City-wide Screening

Subtask 1.1 Stakeholder Involvement

Stakeholders for the project are defined as the elected officials and senior administrative staff of the City of Mountain Brook and representatives of the RPCGB. Senior administrative staff of the City will include, but not be limited to:

- The City Manager
- The Police Chief
- The Fire Chief
- The City Planner
- The City Public Works Director
- The City Building Official

Stakeholder involvement shall include soliciting input on intersections within the City of Mountain Brook which currently experience traffic congestion and/or traffic safety problems. The RPCGB shall prepare base mapping and forms required to gather Stakeholder involvement. It is intended that Stakeholder involvement will occur during a special-called work session of the Mountain Brook City Council, with all members of the Stakeholder committee providing input to the RPCGB on potential study intersections. Required notices for the meeting and meeting facilities shall be provided by the City of Mountain Brook without charge to the project. The RPCGB shall summarize input received from the Stakeholders. This shall include a map showing proposed project locations and an accompanying document providing descriptions of the traffic issues and potential solutions.

Subtask 1.2 Public Involvement

The RPCGB shall conduct a public involvement meeting to solicit general public input on intersections within the City of Mountain Brook which currently experience traffic congestion and/or traffic safety problems. The RPCGB shall prepare base mapping and forms required to gather public input. It is intended that public involvement will occur during a special-called work session of the Mountain Brook City Council. Required notices for the meeting and meeting facilities shall be provided by the City of Mountain Brook without charge to the project. The RPCGB shall summarize input received from the public. This shall include a map showing proposed project locations and an accompanying document providing descriptions of the traffic issues and potential solutions.

Subtask 1.3 Windshield Survey

Using the recommended project locations and traffic concerns acquired during the Stakeholder involvement and public involvement, the RPCGB shall perform a windshield survey of all potential project locations during peak hours of traffic flow. The RPCGB shall note with a photograph log and field notes the actual traffic and safety concerns of each potential study location.

Subtask 1.4 Project Location Selection

In conjunction with the Stakeholders, the RPCGB shall select eight (8) locations for detailed analysis. The RPCGB shall prepare a memorandum documenting the RPCGB's recommendations for eight (8) study locations and a list of up to eight (8) additional alternate locations. This memorandum shall be distributed to the Stakeholders for review and comments. Based on comments received, the RPCGB shall finalize a list of eight (8) project locations. The RPCGB shall prepare a document which includes mapping of the eight (8) project locations and a summary of the current traffic and safety deficiencies of the each location and a proposed initial project scope to address these deficiencies.

Task 1 Deliverables

Product	Description
Stakeholder Involvement Summary	Document which has a map and text describing potential project locations recommended by the Stakeholders
Public Involvement Summary	Document which has a map and text describing potential project locations recommended by the
Windshield Survey Summary	Document which has a map, photograph log, and field notes of observations conducted by the RPCGB
Project Location Selection Memorandum	Memorandum documenting eight (8) project locations, description of the deficiency, and identification of a preliminary scope of work
Meetings	<ul style="list-style-type: none">• Stakeholder Involvement Meeting• Public Involvement Meeting

Task 2. Data Collection and Analysis

Subtask 2.1 Roadway Geometrics and Traffic Control

The RPCGB shall collect all pertinent transportation features for each project location. This will include, but not be limited to:

- lane geometrics
- driveways and access points
- speed limits, warning and advisory speeds
- traffic control devices
- signal timing and phasing
- intersection sight distance
- parking
- pedestrian provisions
- bicycle provisions
- transit provisions

Subtask 2.2 Traffic Counts

The nature of traffic counts conducted at each project location will vary based on the proposed scope of work at the intersection. In general, a.m. and p.m. peak hour intersection turning movement traffic counts will be performed at each intersection. Additionally, if traffic signalization or multi-way stop operation is a potential improvement, then 24 hour machine approach traffic counts will be performed.

Subtask 2.3 Observations

The RPCGB shall perform observations at each project location. Observations will include, but not be limited to:

- vehicle flows
- pedestrian activity
- bicycle activity
- transit activity
- parking activity
- queues
- delays
- speeds
- gaps
- vehicle conflicts
- vehicle-pedestrian conflicts.

Subtask 2.4 Crash Data

The RPCGB shall provide a data needs list to the City of Mountain Brook for crash records at each project location. In general, this will include three (3) years of crash history. The City shall provide crash records to the RPCGB without cost to the project.

Subtask 2.5 Capacity Analysis

Using techniques as established in the 2010 *Highway Capacity Manual*, published by the Transportation Research Board, the RPCGB shall perform capacity analyses for each project location to ascertain the current quality of traffic operations. Required improvements to result in acceptable traffic operations will be determined based on capacity analyses.

Subtask 2.6 Sight Distance Analysis

The RPCGB shall compare existing sight distance measurements to requirements as established in the publication *A Policy on Geometric Design of Highways and Streets* (2011) published by the American Association of State Highway and Transportation Officials. Where sight distance deficiencies are noted, the cause and possible mitigation of these deficiencies will be determined.

Subtask 2.7 Crash Analysis

The RPCGB shall perform a crash analysis for each project location. The analysis shall include preparation of a standard collision diagram according to the methods outlined in the *Manual of Traffic Engineering Studies* (2nd Edition), published by the Institute of Transportation Engineers. Crash rates per million entering vehicles will be compared to statewide averages, and high-accident rate intersections will be identified. The crash diagrams will be used to determine any prevalent crash patterns. The RPCGB will examine crash patterns and ascertain any contributing circumstances and possible mitigation measures will be determined.

Subtask 2.8 Turn Lane Warrant Analysis

The RPCGB will compare peak hour traffic counts to minimum traffic volumes required to warrant left and right turn lanes according to the methodology outlined in *Evaluating Intersection Improvements: An Engineering Study Guide*, National Cooperative Highway Research Program Report 457.

Subtask 2.9 Traffic Control Device Warrants

For locations where traffic signalization or multi-way stop traffic control may be a possible solution, the RPCGB shall perform the appropriate warrant study for the project location according to the methodologies included in the *Manual on Uniform Traffic Control Devices* (2009), published by the Federal Highway Administration.

Subtask 2.10 Microsimulation Analysis

At project locations where the analysis techniques performed in the previous subtasks do not clearly define a definitive scope of work for improvements, the RPCGB may perform additional analyses using a microsimulation model such as VISSIM, CORSIM, or SimTraffic in order to develop and test potential improvements.

Subtask 2.11 Constraint Analysis

For each project location and proposed improvement, the RPCGB shall perform a constraint analysis. The purpose of this analysis is to determine if there are any pre-existing factors which will limit the constructability or efficiency of the proposed improvements. The constraints to be analyzed will include, but not be limited to:

- topographical constraints (such as slopes, drainage, etc.)
- right-of-way constraints
- environmental constraints

Subtask 2.12 Recommended Improvements

Using the results of the data collection and analyses, the RPCGB shall prepare a conceptual design for improvements at each project location. The conceptual design shall be prepared in a graphical format, as an overlay on aerial photography. The conceptual designs will address all aspects of the proposed improvements, and may include the following:

- vehicle flow improvements
 - travel lanes
 - turn lanes
 - traffic control devices
 - striping and traffic control markings
 - signing
- pedestrian flow improvements
- bicycle flow improvements
- transit activity improvements

The improvements should generally be spot improvements, low cost, minimal impact, simple to construct, and quick to construct.

Subtask 2.13 Cost Estimates

The RPCGB shall prepare a probable estimate to construct the improvements at each project location. For project locations with multiple discreet recommendations (such as a turn lane and a traffic signal), the cost estimate shall be line-item based. In general, the cost estimate shall include the following aspects of the project cost:

- construction
- right-of-way acquisition
- utility relocation
- preliminary engineering
- construction engineering and inspection

Subtask 2.14 Funding Sources

The RPCGB shall consult with the project stakeholders to determine probable funding sources for each project location. In general, the selection of funding category will be based on the scope of work, estimated cost of the work, and location of the work. Funding categories may include, but not be limited to:

- municipal funds
- municipal funds shared with adjoining jurisdictions
- public/private partnership
- state and or federal aid, including funding categories such as:
 - STP
 - CMAQ
 - TAP

Subtask 2.15 Construction Phasing/Prioritization

The RPCGB shall examine the potential benefit of each project, the cost of each project, and the funding source of each project and develop a priority list for implementation of the projects in the overall plan.

Subtask 2.16 Stakeholder Meeting

Following completion of the schematic design of recommended improvements, the RPCGB will assemble a working paper which includes the schematic designs, data collection, analysis, and supporting information including cost estimates, funding sources, and phasing. This information will be presented to the Stakeholders in a work session. . It is intended that Stakeholder involvement will occur during a special-called work session of the Mountain Brook City Council, with all members of the Stakeholder committee providing input to the RPCGB on the recommended improvements. Required notices for the meeting and meeting facilities shall be provided by the City of Mountain Brook without charge to the project. The purpose of this meeting will be to familiarize the Stakeholders with the proposed improvement projects and solicit input.

Task 2 Deliverables

Product	Description
Recommended Improvements Plan Working Paper	<ul style="list-style-type: none"> • Schematic designs • Data collected • Analysis results • Cost estimates • Funding sources • Phasing priority
Meetings	Stakeholder Involvement Meeting

Task 3. Documentation and Presentation

Subtask 3.1 Draft Final Report

The RPCGB shall assemble the work products from Task 1 and Task 2, modified according to comments as received from the Stakeholders, into a draft final report. This report shall be distributed to the Stakeholders in an electronic format (.pdf) for review and comments.

Subtask 3.2 Public Involvement

The RPCGB shall conduct a public involvement meeting to present the results of the study to the public. The RPCGB shall prepare display materials and handouts as required for the meeting. It is intended that public involvement will occur during a special-called work session of the Mountain Brook City Council. Required notices for the meeting and meeting facilities shall be provided by the City of Mountain Brook without charge to the project.

Subtask 3.3 Final Report

The RPCGB shall respond to and incorporate comments received from the Stakeholders and the Public in a final report. This report shall be distributed to the Stakeholders in an electronic (.pdf) format. In addition, the RPCGB shall prepare up to twenty (20) bound copies of the final report, to be distributed as determined by the Regional Planning Commission of Greater Birmingham and the City of Mountain Brook.

Task 3 Deliverables

Product	Description
Draft Final Report	Full text documenting Task 1 and Task 2
Final Report	Full text documenting Task 1 and Task 2
Meetings	Public Involvement Meeting

Project Schedule

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

Task	Months									
	1	2	3	4	5	6	7	8	9	10
1. City-wide Screening	■	■								
2. Data Collection and Analysis			■	■	■	■	■	■		
3. Documentation and Presentation									■	■

**ADDENDUM TO AGREEMENT BETWEEN
THE CITY OF MOUNTAIN BROOK AND
REGIONAL PLANNING COMMISSION OF GREATER BIRMINGHAM
DATED AUGUST 11, 2014**

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 August 11, 2014.

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 I-9 requirements or fails to use E-Verify to verify the eligibility to legally work in the United States for all of its new hires who are employed to work in the State of Alabama. Without limiting the foregoing, Contractor shall not knowingly employ, hire for employment, or continue to employ an unauthorized alien, and shall have an officer or other managerial employee who is personally familiar with the Contractor's hiring practices to execute an affidavit to this effect on the form supplied by the Board and return the same to the City. Contractor shall also enroll in the E-Verify

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

DATED this 11th day of August, 2014.

Regional Planning Commission of Greater Birmingham

City of Mountain Brook, Alabama

By : _____

By : _____

Its : _____

Its : _____