

**MOUNTAIN BROOK CITY COUNCIL
PRE-MEETING DISCUSSION
JANUARY 14, 2013**

The City Council of the City of Mountain Brook, Alabama met in public session in the temporary City Hall at 5:30 p.m. on Monday, the 14th day of January 14, 2013. The President of the City Council called the meeting to order and the roll was called with the following results:

Present: Amy G. Carter, Council President
Jack D. Carl
William S. Pritchard, III
Jesse S. Vogtle, Jr.
Virginia C. Smith, Acting Mayor

Absent: Lawrence T. Oden, Mayor

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

1. EXECUTIVE SESSION

It was moved by Council member Pritchard that the City Council convenes in executive session at this time to discuss a matter involving the physical condition of an individual. The motion was seconded by Council member Vogtle. The City Attorney certified that the subject of said executive session was allowed pursuant to the Open Meetings Act. President Carter then asked that the members of the audience be excused.

The pre-meeting resumed at approximately 6:00 p.m. City Attorney, Carl Johnson, announced that due to a medical condition Mayor Oden was presently unable to fulfill his duties as Mayor. Therefore, as a matter of law the Council President will assume the office of Mayor, the President Pro Tempore will assume the office of President, and that the City Council will appoint another member of the City Council to assume the role of President Pro Tempore. Mayor Oden will reoccupy the office of Mayor once he is able to return.

2. AGENDA

1. ETC Institute proposal to conduct a resident's survey of City services – Karen Falk (Appendix 1).

The members of the City Council expressed that they liked the idea of a resident survey. The matter will be reconsidered upon completion of the municipal complex.

2. Request by the City of Vestavia Hills for the City of Mountain Brook to conduct road and shoulder improvements along East Street in the interest of safety.

It is estimated that the cost to install the improvements will be approximately \$10,000 for materials plus approximately 2-weeks for the City's Public Works crews to install.

Council member Pritchard expressed his opposition to providing materials or other monetary contribution for improvements outside of the City because that is generally the City's policy within the City (excluding grant-funded projects). Council member Pritchard expressed that he is generally agreeable with providing City labor for such work.

Council member Carl expressed his opposition to this request. However, he further stated he may support this request but that the City of Vestavia should not come back requesting additional improvements be made along East Street by the City as he will not support such future requests.

Motion No. 2013-009 was added to formal agenda. Council member Pritchard requested that this matter not be placed on the consent agenda.

3. Matt Stiles and residents of Dexter Avenue to discuss the Safe-Routes-to-School sidewalk project (Appendix 5).

Matt Stiles:

- The residents oppose these sidewalks as they do not think they are necessary.
- Dexter is already safe and walkable with sidewalks one block away on either adjacent street.
- The Dexter alleyway is the preferred (shortest) route to the school.
- Installation of the sidewalk will result in a 25% or greater reduction in the front yard green space.
- Storm sewers are beyond capacity now and the sidewalks will only exacerbate the issue of storm water runoff.
- The sidewalks will result in the loss of 51% of all 6 inch diameter and greater trees (including a 100 year old Japanese Maple) and 22% of the small trees.
- Eight homeowners will lose all trees in their front yards.
- Irrigation, draining, and landscape lighting will be cut and not replaced (as it is located in the right-of-way) yet the homeowners will be expected to maintain the green space between the road and sidewalk.
- These sidewalks represent an unwelcome nuisance to the residents along Dexter.
- 22 residents of the 33 affected have signed a petition opposing these sidewalks. He is confident the others who were unavailable are most likely opposed as well.

In response to an inquiry by Council member Carl regarding whether power, irrigation, etc. services are replaced when disrupted from sidewalk construction it was determined that in most instances such service replacement(s) are evaluated on a case-by-case basis.

Construction is scheduled to commence on Tuesday, January 22, 2013. The contract has been awarded by the Alabama Department of Transportation (ALDOT) and the contractor has been issued a notice to proceed.

President Carter informed the audience that these sidewalks were discussed at length with school officials and residents several years ago prior to the grant application. At that time, there appeared to be general support for such sidewalks. The residents in attendance (some of whom have resided on Dexter for 15 years or more) stated that they were never notified or participated in such discussions.

Joey Sanders inquired about the replacement of utilities (and underground dog fences) located within the right-of-way. Mr. Sanders claimed that he was told last August by a member of Nimrod Long & Associates' office that such services would be replaced. Nimrod Long responded that such services are generally capped but not replaced.

Lucy Spann of 301 Dexter Avenue inquired whether she would be able continue parking in her circular driveway without being considered to be parking on the sidewalk. Mr. Gaston responded that if the sidewalk is blocked she will be considered to be parking on the sidewalk which is not permissible.

Stephen Spann stated that many homes will lose significant off-street parking if these sidewalks are installed.

President Carter expressed that it is frustrating to be hearing about these concerns and opposition at this late date considered the newsletter and other public notifications about the City's sidewalk plans and the Safe-Routes-to-Schools (SRTS) sidewalks specifically over the past several years.

Charlie Bugg of 303 Dexter Avenue:

- Stated that he does not notice children walking along Dexter.
- Views these sidewalks as a waste of money and a detriment to this neighborhood.

Barbara Bugg of 303 Dexter Avenue:

- Urged the members of the City Council to drive along Dexter and try to imagine an extra 5 feet of concrete running along the street.
- Cannot help but feel that these sidewalks will devalue their properties.
- Crestline is a special place where cars creep and people and children are routinely in the street.

One person stated that they expressed their concerns to City officials 18 months ago and another last August.

Mrs. C. Horton Emory stated that children do not walk in front of her house choosing other routes to and from school.

After some discussion, it was determined that the City Attorney and engineers will explore the possibility of removing this section of sidewalk from the SRTS project and what contractual issues/penalties may be involved in doing so. In addition, a request will be made to ALDOT to delay this section while the issues are being studied.

4. Proposed fountain design for the municipal complex – Nimrod Long (Appendix 2).

Further design, analysis and pricing will be performed and the matter will be reconsidered by the Council at a later date.

5. Additional professional fees for Nimrod Long & Associates for the Phase 6 sidewalk project – Nimrod Long. (Resolution No. 2013-007 was added to formal agenda.)
6. Update on Phase 6 sidewalk project and Safe-Routes-to-Schools sidewalk project – Jim Meads of Sain Associates (Appendix 3).
7. Additional professional fees for Sain Associates for construction, engineering and inspection services for the Phase 6 sidewalk project – Jim Meads of Sain Associates. (Resolution No. 2013-008 was added to formal agenda.)
8. Thompson's Addition to Pine Ridge subdivision – Dana Hazen.

Ms. Hazen explained that the applicant proposes to grant the City 70 feet of right-of-way (instead of the required 50 feet) in order to achieve the requisite road frontage requirement to develop five single-family residential lots on Pine Ridge.

The members of the City Council expressed their informal support of the applicant's proposal to grant additional right-of-way to the City which presumably will entice the applicant in proceeding with their application to the Planning Commission (Appendix 4).

After the City Council's review of the formal [7 p.m.] agenda issues, President Carter adjourned the meeting at approximately 7:30 p.m.



Steven Boone, City Clerk



November 29, 2012

Sam S. Gaston
 City Manager
 City of Mountain Brook AL
 3928 Montclair Road
 Mailing address-POB 130009
 Mountain Brook AL. 35213

Subject: Proposal to Conduct a Community Survey for Mountain Brook

Based on our conversations, the following scope and fees are provided to conduct a community survey that includes all city services and specific questions about changes in garbage collection or a small survey addressing only garbage collection.

Scope of Services:

Task 1: Conduct a Community Survey.

1.1 Survey Design. ETC Institute will work with the City staff to maximize the design of the survey instrument. The survey instrument will be tailored to the needs of the larger sample area. It is anticipated that 2-3 drafts of the survey will be prepared before the survey is approved by the City. ETC Institute has provided pricing options for a 3-page 10 minute mail/phone survey or an all inclusive 7-page 20 minute mail/phone survey. The following plan will be the same for either survey. The difference in cost is based on the pricing menu at the end of the proposal.

1.2 Sampling Plan. ETC Institute will design the sampling plan in a manner that ensures the completion of at least 400 surveys from a random sample of approximately 21,000 residents in the City. A random sample of 400 completed surveys will provide results that have a precision of at least +/- 5% at the 95% level of confidence. The sample will be selected at random from all known residential addresses in the City. This selection methodology will ensure that the sample is representative of the community.

Fees

The fees for the community survey are listed below.

Complete Community Survey. The basic fee for the design and administration of the 7-page survey to 400 households in the City will be \$17,250. We have included GIS mapping in the quote – we recommend it but they are not necessary.

One-topic (Garbage Collection) Community Survey. The basic fee for the design and administration of the 3-page survey to 400 households in the City will be \$9,850. GIS mapping is not included for this survey.

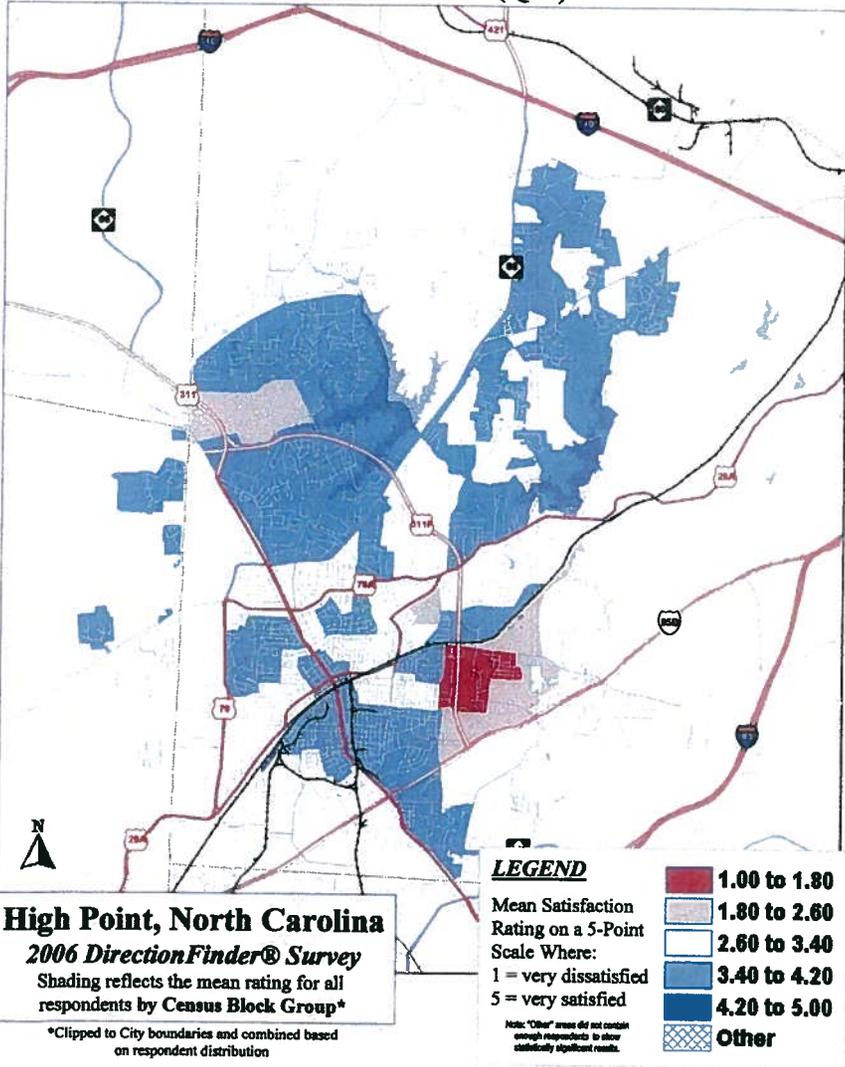
ETC Institute 2012 Survey Fee Schedule - Residential		
Questions: Call Karen Falk at 913-829-1215		
	# of Completed Surveys	
	400	600
precision +/-5% level of confidence at City level	+/-5.0%	+/-4.0%
Survey Design	\$1,750	\$1,750
Sample Selection	\$1,700	\$2,100
Administer Survey		
5-minute survey (about 2 pages in length)	\$6,400	\$9,800
10-minute survey (about 4 pages in length)	\$7,720	\$11,580
15-minute survey (about 5-8 pages in length)	\$8,520	\$14,280
20-minute survey (about 7-8 pages in length)	\$11,400	\$17,100
Tabular Data - Results Only	Included	Included
Crosstabulations for Key Demographic Groups	\$1,700	\$2,200
Formal Report with summary and charts	\$1,750	\$2,150
On-Site Visits plus direct travel costs (per day)	\$1,750	\$1,750
Importance-Performance Quadrant Priorities Ana	\$2,400	\$2,750
Interviews with elected officials/senior staff (per da	\$1,750	\$1,750
Internet Survey Option	\$2,400	\$2,400
GIS Mapping	\$2,400	\$2,750

CLOSING: We appreciate your review of our proposal and look forward to working with you. If you have any questions, don't hesitate to call me at (913) 254-4509.

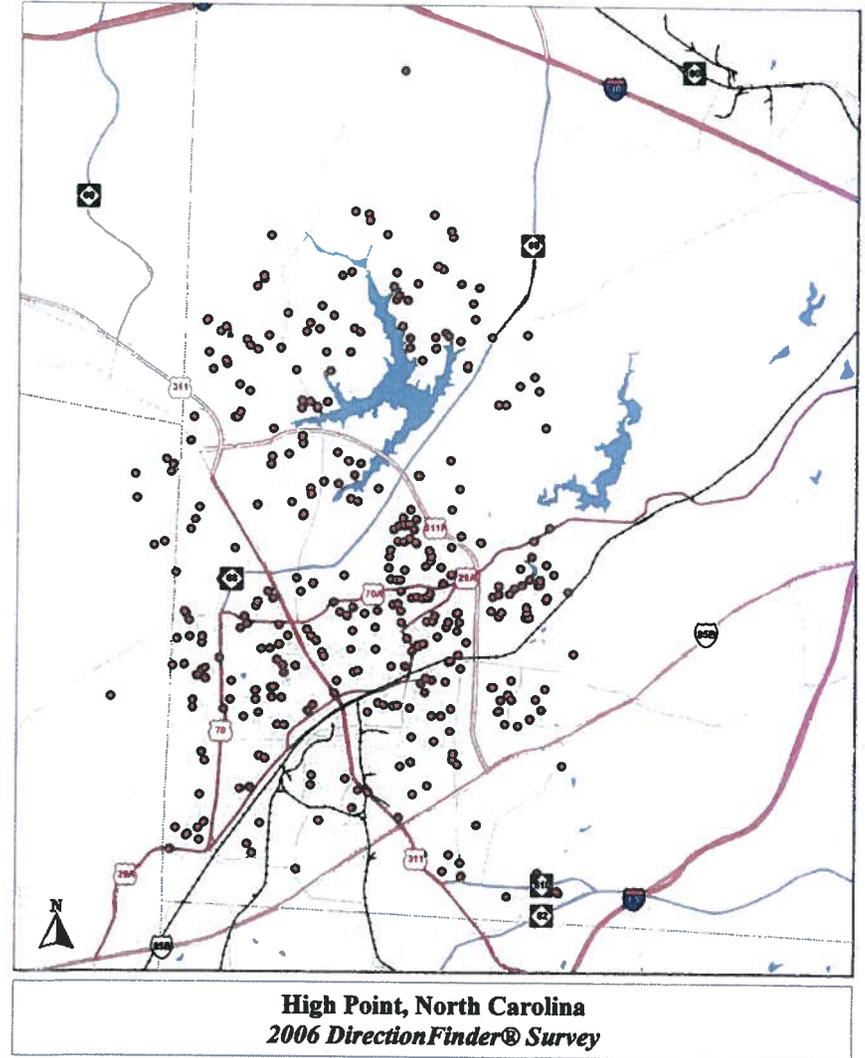
Sincerely,

Karen Falk
 Vice President, ETC Institute

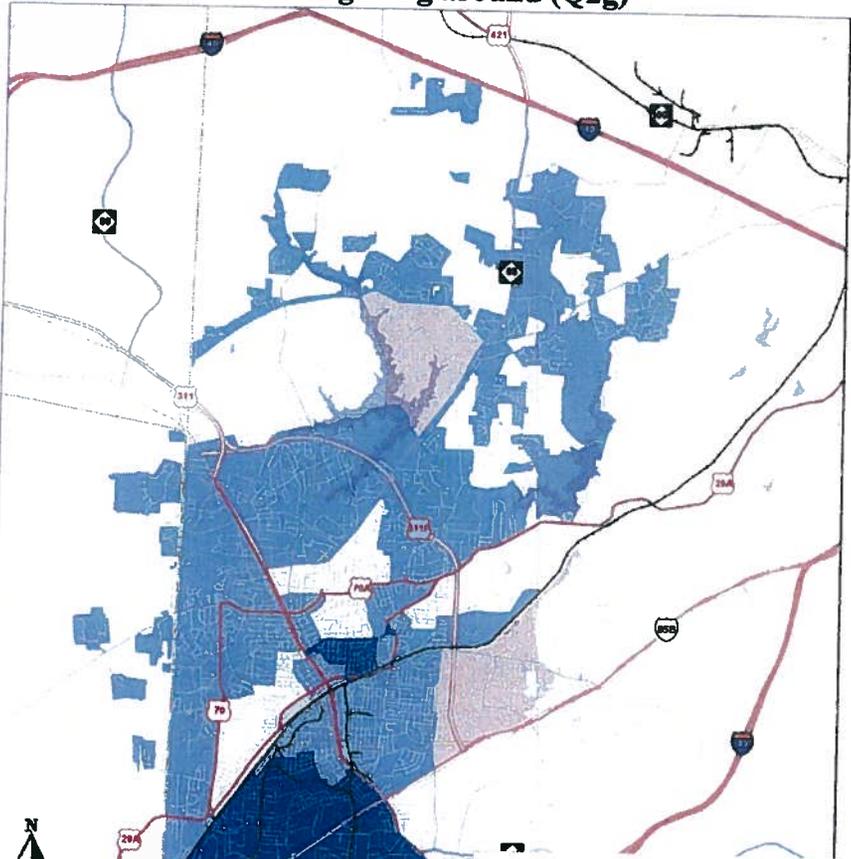
Satisfaction with appearance of streets sidewalks and infrastructure (Q2f)



Location of Survey Respondents



Satisfaction with flow of traffic and ease of getting around (Q2g)



High Point, North Carolina

2006 DirectionFinder® Survey

Shading reflects the mean rating for all respondents by Census Block Group*

*Clipped to City boundaries and combined based on respondent distribution

LEGEND

Mean Satisfaction Rating on a 5-Point Scale Where:
1 = very dissatisfied
5 = very satisfied

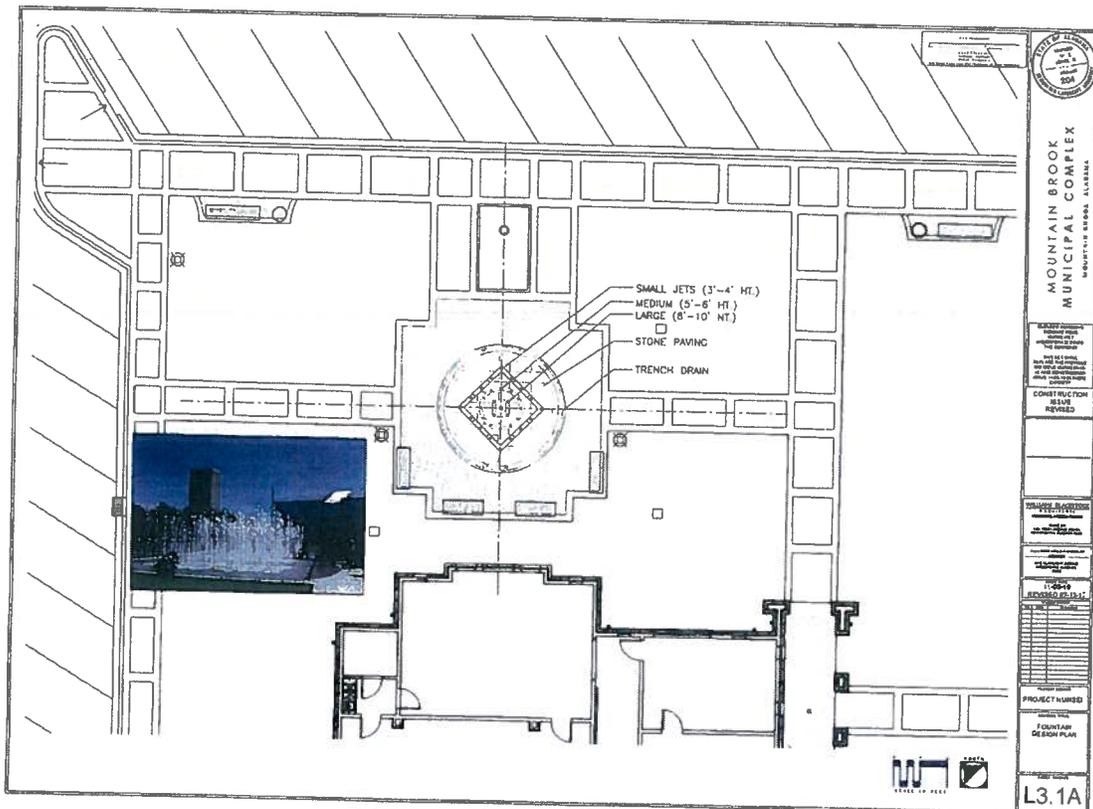
Dark Blue	1.00 to 1.80
Light Blue	1.80 to 2.60
White	2.60 to 3.40
Medium Blue	3.40 to 4.20
Dark Blue	4.20 to 5.00
Checkered	Other

Note: "Other" areas did not contain enough respondents to allow statistically significant results.



APPENDIX 2

<https://mail-attachment.cdn.cloudflare.com/attachment/0?ui=2&file=0h14360h86&view=at&h=13c213073e130b6&hid=0>



Sam Gaston

From: Nimrod Long
Sent: Wednesday, January 09, 2013 3:18 PM
To: Sam Gaston
Cc: Dave Giddens
Subject: FW: MBMC - Fountain Estimates
Attachments: Fountain Install & Operations Estimate.pdf

Dear Sam:

Please review the fountain construction estimate from our office. We have provided mechanical drawings to WBA for them to forward to B&G for pricing. I will check with both of them to see when pricing will be available.

Delta estimated that the cost of the power to run the fountain (12 hours daily) and a contract to maintain and clean the fountain will be approximately \$1500 per month. Each will cost about \$750 per month.

I will ask Dave to forward you the plan view, rendered elevation and photo of the fountain for you to include in the Councils information.

Please email me if you need additional data.

Nim

Nimrod W.E. Long III
FASLA, LEED AP
President

Nimrod Long and Associates
Land Planners | Landscape Architects | Urban Designers
2213 Morris Avenue, First Floor
Birmingham, AL 35203
205-323-8072 Voice
205-910-8730 Cell
205-324-6128 Fax
www.nimrodlong.com

From: Nimrod Long
Sent: Wednesday, January 09, 2013 10:58 AM
To: Dave Giddens
Subject: Fwd: Operations cost

Nimrod W.E. Long III
FASLA, LEED AP
President

Nimrod Long and Associates
Land Planners | Landscape Architects | Urban Designers
2213 Morris Avenue, First Floor
Birmingham, AL 35203
205-323-6072 Voice
205-910-8730 Cell
205-324-6128 Fax

Begin forwarded message:

From: "James Turner" <james@deltafountains.com>
Date: January 9, 2013, 9:56:33 AM CST
To: "Nimrod Long" <Nimrod@nimrodlong.com>
Subject: RE: Operations cost
Reply-To: <james@deltafountains.com>

Nim,
I estimate operating costs to be approximately \$1,500.00/month which would include utilities (power and water consumption) and manual labor for water testing, chemical upkeep, and general upkeep/maintenance of the pumping system.

I hope this proves helpful, if you have any questions or require further information, please do not hesitate to contact me.

Thank you,
James Turner

1/9/2013

APPENDIX 2

MBMC - Fountain
Preliminary Cost Estimate

1

Interactive Fountain (Flush Deck)				
12/12/2012				
<u>DESCRIPTION</u>	<u>QUANTITY</u>	<u>UNIT MEASURE</u>	<u>UNIT COST</u>	<u>BASE BID</u>
Equipment-(32 2" nozzles,(1) 3" nozzle, (8) Lights	1	LS	\$144,151.00	\$144,151.00
Excavation and Conc. For Vault and Tank	1	LS	\$20,000.00	\$20,000.00
Plumbing	1	LS	\$50,000.00	\$50,000.00
Electrical	1	LS	\$18,000.00	\$18,000.00
Concrete and Waterproofing	1	LS	\$12,560.00	\$12,560.00
Granite Paving	315	SF	\$50.00	\$15,750.00
Trench Grate	62	LF	\$250.00	\$15,500.00
Sanitary Sewer Connection	1	LS	\$8,000.00	\$8,000.00
			Subtotal	\$283,961.00
		General Conditions	15%	\$42,594.15
			Grand Total	\$326,555

APPENDIX 2

Mountain Brook Walkway System Phase 6
CMAQ-9802(921)
1/7/2013

PROJECT FUNDING SUMMARY PROVIDED BY ALDOT DATED 12/13/11

	TOTAL ESTIMATE	FEDERAL FUNDS	CITY FUNDS
Roadway (Construction Cost plus CE&I)	\$ 1,829,763.10	\$ 1,463,810.48	\$ 365,952.62
Federal Non-Participation	\$ 8,526.54		\$ 8,526.54
Indirect Cost	\$ 250,286.28	\$ 200,229.02	\$ 50,057.25
TOTAL:	\$ 2,088,575.92	\$ 1,664,039.50	\$ 422,538.41

PROJECT COST CHANGES KNOWN AS OF 1/7/13

	CONSTRUCTION TOTAL	CE&I (15% OF CONSTR \$)	GRAND TOTAL	80% FEDERAL	20% CITY	REASON FOR COST CHANGE
Change Order 1	\$ 11,189.50	\$ 1,679.93	\$ 12,879.43	\$ 10,303.54	\$ 2,575.89	Required Erosion Control Items added for ADEM and ALDOT comments, Approved
Change Order 2	\$ 6,910.00	\$ 1,336.50	\$ 10,246.50	\$ 8,197.20	\$ 2,049.30	Added Magnolia Trees as coordinated by City, NLA, and property owner, Not approved yet
Deletions	\$ (4,500.00)	\$ (675.00)	\$ (5,175.00)	\$ (4,140.00)	\$ (1,035.00)	Deletion of transplanting Leyland Cypress trees, trees are too large to transplant
Anticipated Over/Under-runs	\$ 101,176.70	\$ 15,176.51	\$ 116,353.21	\$ 93,082.56	\$ 23,270.64	Approximate, anticipated over-runs for adjustments to meet field conditions
Knollwood Driveways	\$ 22,635.26	\$ 3,440.29	\$ 26,375.55	\$ 21,100.44	\$ 5,275.11	Approximate, revisions to driveways as required by ALDOT
Retaining Wall Revisions	\$ 101,746.24	\$ 15,261.94	\$ 117,008.18	\$ 93,606.54	\$ 23,401.64	Revised wall design for battered (sloped) face to meet clear zone requirements and for height, length, footer revisions
Deletions of proposed retaining walls	\$ (136,619.92)	\$ (20,792.99)	\$ (156,412.91)	\$ (127,530.33)	\$ (31,882.58)	Deletion of several proposed walls along Cherokee Road
Deletion of Minor Structure Concrete Walls	\$ (8,775.88)	\$ (1,316.38)	\$ (10,092.26)	\$ (8,073.61)	\$ (2,018.45)	Short walls have been determined to not be needed
Driveway revisions						Driveways (8) currently being redesigned by NLA
Wall J Battered Design						Will be repriced once reviewed by structural engineer
Wall L and O						Will be repriced once redesign for revised heights complete
TOTAL:	\$ 94,071.90	\$ 14,110.79	\$ 108,182.69	\$ 86,546.15	\$ 21,636.54	Approximate

NOTES:
The project funding summary includes the Roadway construction cost, federal non-participation costs, CE&I costs, and indirect costs.
Anticipated Over-runs and Under-runs are evaluated monthly.
Change Order 1 is approved
Change Order 2 is pending, waiting on final price estimate from the contractor so can submit to ALDOT for final approval



CITY OF MOUNTAIN BROOK

Dana O. Hazen, AICP
 City Planner
 3928 Montclair Road
 Suite 230
 Mountain Brook, Alabama 35213
 Telephone: 205/802-3821
 Fax: 205.879.6913
 hazend@mtnbrook.org
 www.mtnbrook.org

MEMO

DATE: January 9, 2013

TO: Mayor, City Council
 City Manager
 City Attorney

FROM: Dana Hazen, City Planner

RE: Thompson Subdivision, Pine Ridge Road

In November 2011 the Planning Commission approved a 7-lot subdivision on Pine Ridge Road (see attached plan as approved in 2011). The subdivision was never recorded, and the owner is prepared to bring an alternate 5-lot subdivision before the Planning Commission in February 2013 (See attached proposed plats and preliminary plan).

The property is zoned Res-A, which requires a minimum road frontage of 100 feet per lot. The Thompson property has approximately 486 feet of road frontage on Pine Ridge Road. The owner seeks to divide the property into 5 lots, but is 14 feet shy of the minimum road frontage (500 feet).

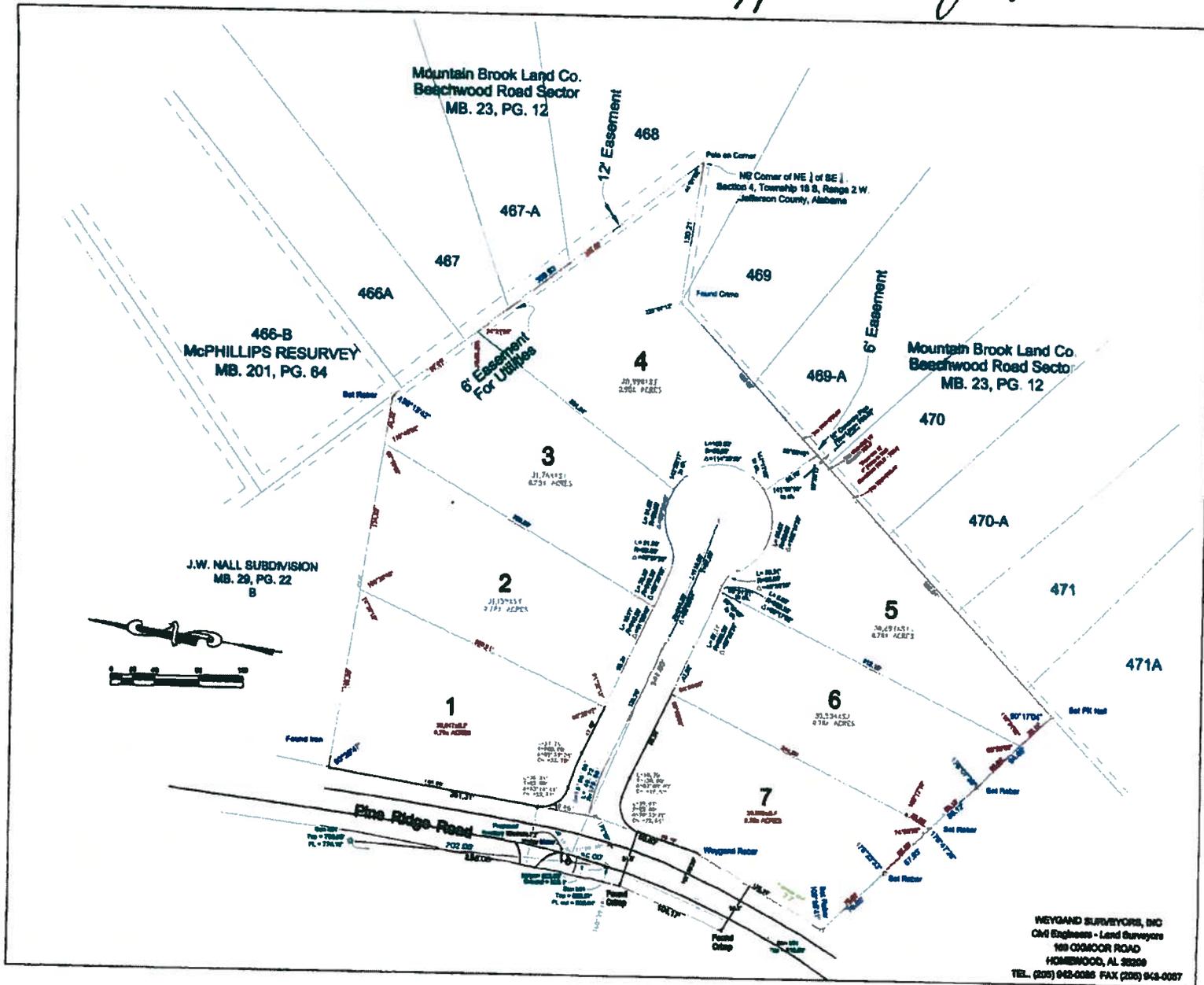
In an effort to gain the additional 14 feet of frontage the owner proposes to dedicate 20 feet of right-of-way to the City. The property widens out as it gets farther from the road, so by moving the front property line back 20 feet, the owner would gain the necessary road frontage to meet the zoning regulations.

The existing right-of-way along Pine Ridge Road is 50 feet, and the proposed right-of-way (in front of the Thompson property) is 70 feet.

In order for the Planning Commission to be able to hear/approve the proposed 5-lot subdivision the Council would have to formally "accept" the additional right-of-way.

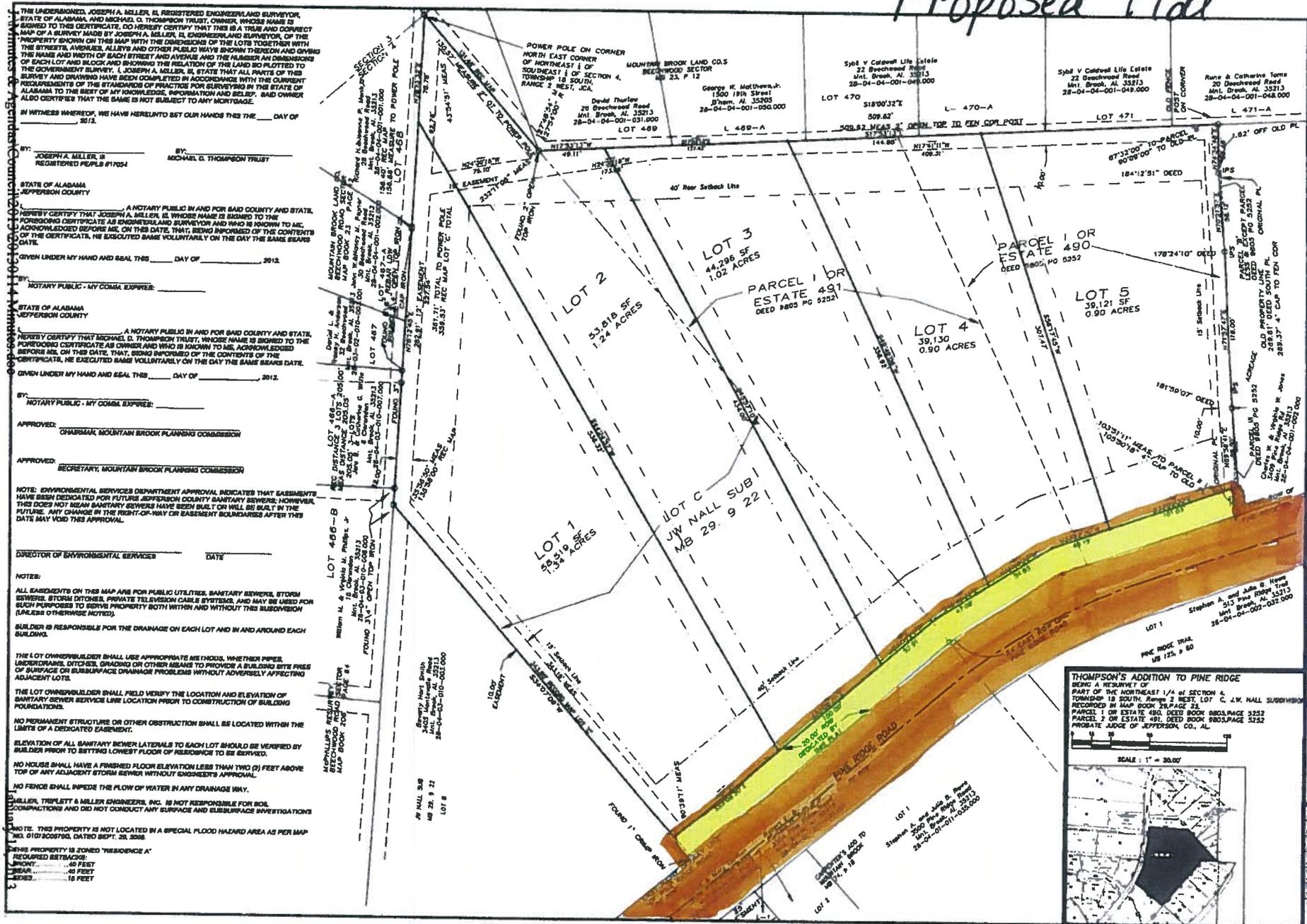
This item will be discussed at the pre-meeting; no formal action is necessarily being requested at this time.

7-lot subdivision as approved by P/C Nov 2011



APPENDIX 4

Proposed Plat

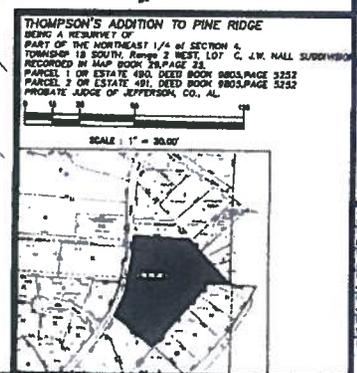


MILLER, TRIPLETT & MILLER
 ENGINEERS, INC.
 CONSULTING ENGINEERS-LAND SURVEYORS
 2217 10th COURT SOUTH, BIRMINGHAM, ALABAMA 35205
 TELEPHONE (205) 320-0114

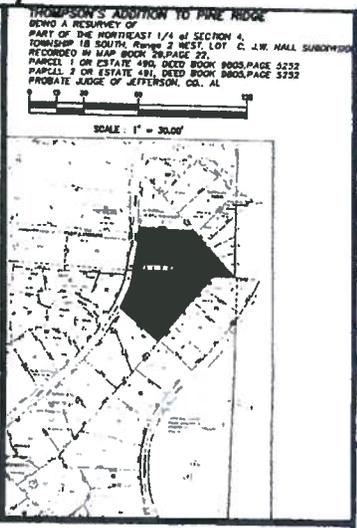
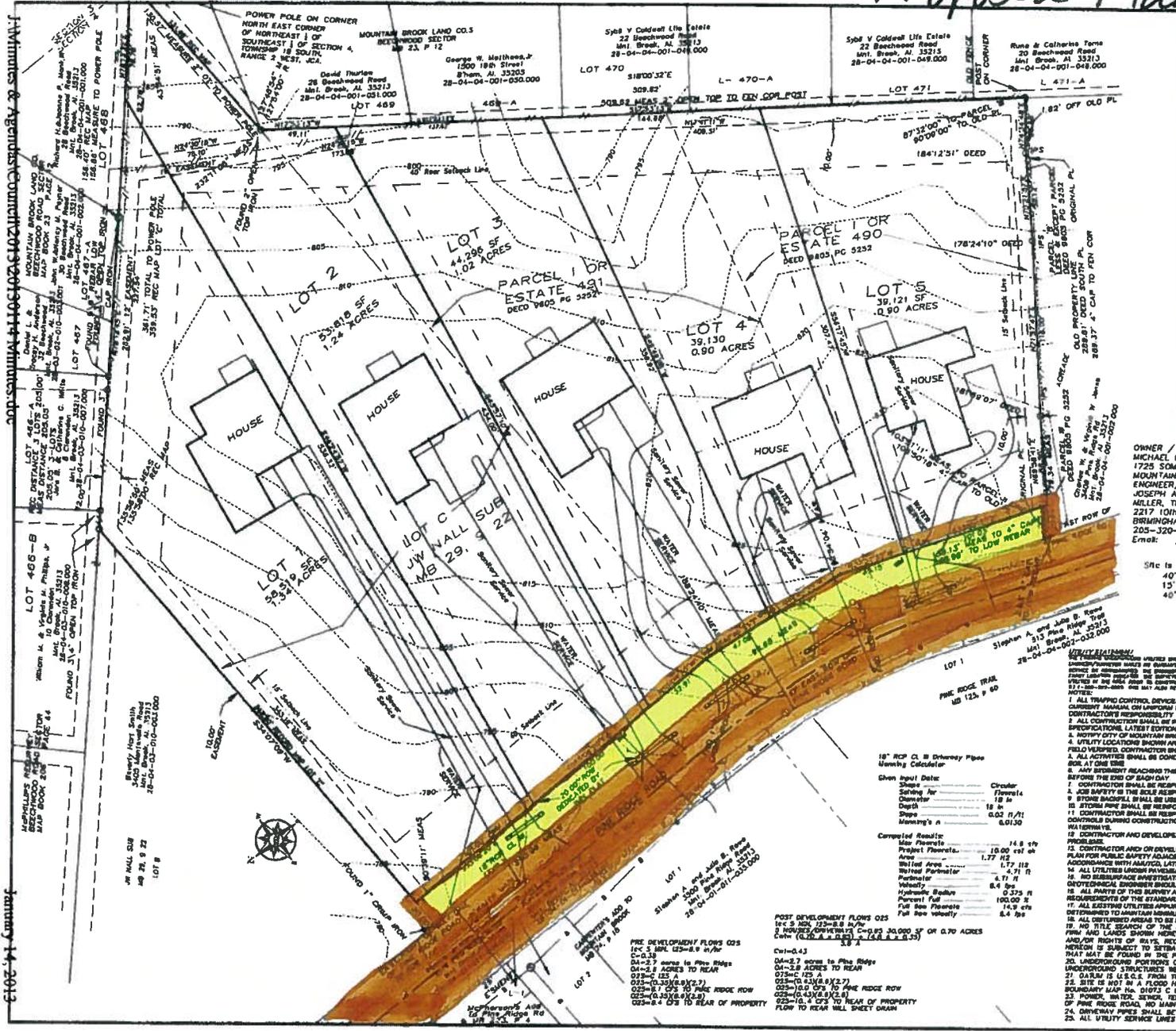


RECORD PLAT
 Thompson's Addition to
 PINE RIDGE
 NE 1/4 of Section 4, Township 18 South, Range 2 West
 Mountain Brook, Jefferson County, AL

for review



Proposed Plan



OWNER / DEVELOPER
 MICHAEL D. THOMPSON TRUST
 1725 SOMERSET CIRCLE
 MOUNTAIN BROOK, AL 35213

ENGINEER / SURVEYOR
 JOSEPH A. MILLER, R PE/LS 17054
 MILLER, TRIPLETT AND MILLER ENGINEERS
 2217 10th COURTH SOUTH
 BIRMINGHAM, AL 35203
 205-320-0114 PHONE
 Email: jtmiller@mtmengineers.com

Site is zoned Residence A
 40' Front Yard
 15' Side Yard
 40' Rear Yard

- UTILITY WARNING:**
- CONTRACTOR SHALL BE RESPONSIBLE FOR VERIFYING THE LOCATION AND DEPTH OF ALL UTILITIES IN THE AREA, PRIOR TO ANY EXCAVATION. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND FOR THE PROTECTION OF ALL UTILITIES. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE PROTECTION OF ALL UTILITIES. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE PROTECTION OF ALL UTILITIES. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE PROTECTION OF ALL UTILITIES.
1. ALL TRAFFIC CONTROL DEVICES AND THEIR INSTALLATION SHALL BE IN ACCORDANCE WITH THE MOST CURRENT MANUAL ON UNIFORM TRAFFIC CONTROL DEVICES, PART 6, LATEST EDITION, AND SHALL BE THE CONTRACTOR'S RESPONSIBILITY.
 2. ALL CONTRACTOR SHALL BE IN ACCORDANCE WITH THE CITY OF MOUNTAIN BROOK, AL., STANDARDS AND SPECIFICATIONS, LATEST EDITION.
 3. ALL UTILITIES UNDER PAVEMENT SHALL BE MARKED WITH STONES.
 4. ALL UTILITIES UNDER PAVEMENT SHALL BE MARKED WITH STONES.
 5. ALL UTILITIES UNDER PAVEMENT SHALL BE MARKED WITH STONES.
 6. ALL UTILITIES UNDER PAVEMENT SHALL BE MARKED WITH STONES.
 7. ALL UTILITIES UNDER PAVEMENT SHALL BE MARKED WITH STONES.
 8. ALL UTILITIES UNDER PAVEMENT SHALL BE MARKED WITH STONES.
 9. ALL UTILITIES UNDER PAVEMENT SHALL BE MARKED WITH STONES.
 10. ALL UTILITIES UNDER PAVEMENT SHALL BE MARKED WITH STONES.
 11. ALL UTILITIES UNDER PAVEMENT SHALL BE MARKED WITH STONES.
 12. ALL UTILITIES UNDER PAVEMENT SHALL BE MARKED WITH STONES.
 13. ALL UTILITIES UNDER PAVEMENT SHALL BE MARKED WITH STONES.
 14. ALL UTILITIES UNDER PAVEMENT SHALL BE MARKED WITH STONES.
 15. ALL UTILITIES UNDER PAVEMENT SHALL BE MARKED WITH STONES.
 16. ALL UTILITIES UNDER PAVEMENT SHALL BE MARKED WITH STONES.
 17. ALL UTILITIES UNDER PAVEMENT SHALL BE MARKED WITH STONES.
 18. ALL UTILITIES UNDER PAVEMENT SHALL BE MARKED WITH STONES.
 19. ALL UTILITIES UNDER PAVEMENT SHALL BE MARKED WITH STONES.
 20. ALL UTILITIES UNDER PAVEMENT SHALL BE MARKED WITH STONES.
 21. ALL UTILITIES UNDER PAVEMENT SHALL BE MARKED WITH STONES.
 22. ALL UTILITIES UNDER PAVEMENT SHALL BE MARKED WITH STONES.
 23. ALL UTILITIES UNDER PAVEMENT SHALL BE MARKED WITH STONES.
 24. ALL UTILITIES UNDER PAVEMENT SHALL BE MARKED WITH STONES.
 25. ALL UTILITIES UNDER PAVEMENT SHALL BE MARKED WITH STONES.

Minutes & Agendas Council 2013-2014 Minutes.doc

January 14, 2013

MILLER, TRIPLETT AND MILLER ENGINEERS, INC.
 CONSULTING ENGINEERS-LAND SURVEYORS
 2217 10th COURTH SOUTH, BIRMINGHAM, ALABAMA 35203
 TELEPHONE (205) 320-0114



Reference A Zoning
Thompson's Addition to PINE RIDGE
 NE 1/4 of Section 4, Township 18 South, Range 2 West
 Mountain Brook, Jefferson County, AL



JOB NO.
PLAN NAME
DATE
SCALE
SHEET

Sam Gaston

From: Matthew W. Stiles
Sent: Friday, January 11, 2013 10:42 AM
To: Sam Gaston
Subject: RE: Sidewalk Plans - Dexter Ave
Sam:

My neighbors and I would like to come before the City Council and request reconsideration of this sidewalk plan, at least as it affects Dexter Avenue. I cannot find any 2013 City Council meeting dates on the City's website yet, nor do I know exactly how to go about it. We certainly want to pursue this respectfully, within the parameters of our City Council's procedures.

We would also like to be on the agenda for the next Tree Commission meeting, because I think the Commission needs to be given an opportunity to weigh in on the negative effects of this project on an area of our City that already suffers from an inadequate canopy.

Many thanks for your help.

Best,
Matt

Matthew W. Stiles
Lehr Middlebrooks & Vreeland, P.C.

From: Sam Gaston [mailto:gastons@mtbrook.org]
Sent: Friday, January 11, 2013 10:15 AM
To: Matthew W. Stiles
Cc: Ben Burmester
Subject: RE: Sidewalk Plans - Dexter Ave

Ben will get back with us on your questions.

Sam S. Gaston
City Manager
City of Mountain Brook AL
3928 Montclair Road (Until April, 2013)
Mailing address-POB 130009
Mountain Brook AL 35213
(205) 802-3803 Phone
(205) 870-3577 Fax

From: Matthew W. Stiles [mailto:mstiles@lehmiddlebrooks.com]
Sent: Friday, January 11, 2013 9:32 AM
To: gastons@mtbrook.org
Cc: Ben Burmester
Subject: Re: Sidewalk Plans - Dexter Ave

Sam:

Ben met with one of my neighbors this morning and graciously allowed time to answer my questions as well. I know he's doing what he can to address homeowner issues and I appreciate his efforts.

1/11/2013

But Sam, that 11 tree number is totally incorrect. At least two trees, my 50 year old dogwood and my neighbor's very mature flowering cherry are directly in the sidewalk's projected path without being included in the affected tree count. I suspect a 100+ year-old Japanese Maple further down the street has not been accounted for in that number either. Additionally, we saw at least 2 other trees on the survey on our block, where the sidewalk runs adjacent to the very base of the tree, but the tree is not counted as an affected tree. At 4 to 6 inch deep, that sidewalk will destroy the root system. I don't think the City has even reasonably assessed the loss of trees this sidewalk will cause. It certainly has not done so with any accuracy.

I note also that the survey is so old that it doesn't even reflect a walkway to my front door installed in May 2012.

Lastly, as of now, there is no answer about what will happen to homeowner irrigation located within the right-of-way.

Since the City is resting on its legal rights to the first eight feet, with about 2 feet of sod between the sidewalk and the road, will the City be undertaking the burden of adequately irrigating and maintaining the sod it installs there?

It increasingly appears to me the City sold its soul to ALDOT without sufficient and due consideration for its citizens affected.

-Matt

On Jan 10, 2013, at 9:09 AM, "Burmester, Ben" <bburmester@sain.com> wrote:

Matt,

The mailbox regulations comes from the American Association of State Highway and Transportation Officials (AASHTO) Roadside Design Guide Manual. It states the mailbox supports should be able to yield or break-way if struck by a vehicle. So to answer your question, the mailbox issue is about the support material not the location. The plans for your particular property calls for a sodded grass strip between the existing gutter and the proposed sidewalk. Therefore, they should be able to install a new mailbox in that grass strip so the location would not be changed much. The issue is that when they reset your mailbox it will have to be on a break-away wood pole to meet the federal requirement.

As far as the utility pole question, you are correct that they are a safety hazard. The AASHTO Roadside Design Guide Manual also addresses them stating they do cause a safety risk but acknowledges that in an urban environment many times their location is already established. It would be outside the scope of the sidewalk project to relocate them.

If you have any more questions or concerns please let me know.

Thanks,

Ben Burmester, PE, LEED AP
Sain Associates, Inc.
205.263.2123

1/11/2013

From: Sam Gaston [<mailto:gastons@mtnbrook.org>]
Sent: Thursday, January 10, 2013 7:31 AM
To: Burmester, Ben
Subject: FW: Sidewalk Plans - Dexter Ave

Sam S.Gaston
 City Manager
 City of Mountain Brook AL
 3928 Montclair Road (Until April, 2013)
 Mailing address-POB 130009
 Mountain Brook AL. 35213
 (205) 802-3803 Phone
 (205) 870-3577 Fax

From: Matthew W. Stiles [<mailto:mstiles@ehrmiddlebrooks.com>]
Sent: Wednesday, January 09, 2013 7:51 PM
To: Sam Gaston
Subject: Re: Sidewalk Plans - Dexter Ave

Sam:

I just received the latest communication from the City concerning the movement of mailboxes. A couple questions:

1. If none of the superfluous power poles located within the first 3 feet of the road are being moved to install sidewalks, why is it necessary to move a mailbox located in the same place?
2. How are mailboxes "potentially unsafe for motorists, bicyclists, or pedestrians using the right-of-way" but the superfluous gigantic power poles located in the same area are not? Anecdotally, I've heard of many incidents where people were seriously injured in a collision with a power pole, but I can't recall any such injuries involving mailboxes.

-Matt

From: Sam Gaston [<mailto:gastons@mtnbrook.org>]
Sent: Monday, January 07, 2013 11:43 AM
To: Matthew W. Stiles
Subject: RE: Sidewalk Plans - Dexter Ave

Matt,

Thank you for your email. This project will only entail the loss of 11 trees per our design team. It will provide a walk able path to school and Crestline Village for many. This was the first safe-routes to school project in the state funded due to our past success in sidewalk construction and linking our villages, neighborhoods and schools. Our design team and CE and I consultant, Sain Associates, will be available to work with each property owner on questions about their individual yards/property.

1/11/2013

Dexter is a heavily traveled and density street with many cars parked on the street. The sidewalks will provide a much safer avenue for pedestrians.

Sam S.Gaston
 City Manager
 City of Mountain Brook AL
 3928 Montclair Road (Until April, 2013)
 Mailing address-POB 130009
 Mountain Brook AL. 35213
 (205) 802-3803 Phone
 (205) 870-3577 Fax

From: Matthew W. Stiles [<mailto:mstiles@ehrmiddlebrooks.com>]
Sent: Monday, January 07, 2013 11:32 AM
To: gastons@mtnbrook.org
Subject: Sidewalk Plans - Dexter Ave

Sam:

I hope this e-mail finds you well in the new year. Sam, I'm writing because there is a growing frustration among my neighbors about the City's plans to install a sidewalk on Dexter Avenue. I wrote when the plans were first announced and Nim Long tried to address the issue with all of the power lines running along both sides of the street (despite the fact that we have alleyways behind both sides of the street). The power lines are the least of my concern. My neighbors and I are concerned as follows:

1. Our nearest example of the City's sidewalk plan is the sidewalk on Jackson Blvd. That sidewalk is virtually unusable, has been in a state of disrepair for years, and is an eye sore to what would otherwise be an attractive neighborhood of very expensive homes. You can't push a stroller down the Jackson Blvd sidewalk without risking a concussion to the child in the stroller! If this is how the City will maintain a sidewalk, I'd prefer we just return to the gravel of the 1950s (which we've practically lived with for three years now, with all the gas line, water line, etc. repairs that have kept our neighborhood looking like a permanent construction zone). If you have to use the grant money or else lose it, could you instead use it to maintain/improve the decrepit sidewalks we already have? What an eye sore a concrete slab is to begin with! The City seems to recognize this in its construction of village sidewalks. Why ignore it in one of its densest, most walked, most high-priced neighborhoods. Look around Crestline. How much concrete do you see right now? Instead, residents choose step-resistant plants, mulch, rock, stone and brick, natural materials that soften the landscape and compliment the values of our homes and community. Please, Sam, not another concrete eye sore!
2. Our alleyways are our primary safe route to school. Everyone uses them. In fact, one could say that play time and social time on Dexter Ave occur more in the alleyway than in the front yards. Additionally, for whatever reason, our alleys are better maintained and more walkable

1/11/2013

[This page is blank intentionally.]

**MINUTES OF THE REGULAR MEETING OF THE
CITY COUNCIL OF THE CITY OF MOUNTAIN BROOK, ALABAMA
JANUARY 14, 2013**

The City Council of the City of Mountain Brook, Alabama met in public session in the temporary City Hall at 7:30 p.m. on Monday, the 14th day of January, 2013. The President of the City Council called the meeting to order and the roll was called with the following results:

Present: Amy G. Carter, Council President
Jack D. Carl
William S. Pritchard, III
Jesse S. Vogtle, Jr.
Virginia Smith, Acting Mayor

Absent: Lawrence T. Oden, Mayor

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

President Carter announced that a quorum was present and that the meeting was open for the transaction of business.

1. PRESENTATION OF THE ANNUAL FINANCIAL AUDIT OF THE CITY

Jason Harpe, Partner with Carr, Riggs & Ingram presented the annual financial audit of the City (Appendix 1).

2. CONSENT AGENDA

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

Approval of the minutes of the December 10, 2012 meeting of the City Council.

2013-001	Reappoint David Murdock to the Editorial Board, to serve without compensation through January 14, 2017.	Exhibit 1
2013-002	Reappoint Lloyd Shelton to the Finance Committee, to serve without compensation through January 14, 2017.	Exhibit 2
2013-003	Approve a change-order for converting the police report room to a kitchenette for the jail area in the municipal complex.	Exhibit 3, Appendix 2
2013-004	Authorize the installation of a street light at the northwest corner of the Caldwell Mill Road and Old Trace intersection.	Exhibit 4, Appendix 3
2013-005	Authorize the execution of a contract with Stone Electric Co., Inc. for the purchase and installation of a pedestrian flashing light at the intersection of Overhill Road and Montevallo Road.	Exhibit 5, Appendix 4
2013-006	Amend and restate the City of Mountain Brook Employee Dental Benefit Plan Summary Plan Description (intended exclusively for employees and dependents not covered under the LGHIP medical/dental plan).	Exhibit 6, Appendix 5

- | | | |
|--------------------|---|--------------------------|
| 2013-007 | Authorize the payment of additional consideration in an amount not to exceed \$25,702.15 to Nimrod Long and Associates for additional time incurred with respect to the Village Walkway (Phase 6) sidewalk project (See also Motion No. 2012-174 dated October 8, 2012). | Exhibit 7,
Appendix 6 |
| 2013-008 | Authorize additional consideration in an amount not to exceed \$145,987.20 payable to Sain Associates with respect to their provision of additional construction engineering and inspection services for the Village Walkway (Phase 6) sidewalk project being administered by the Alabama Department of Transportation; and authorize the execution of Supplemental Agreement #1 between the City and Sain Associates with respect same (See also Motion No. 2012-095 dated June 25, 2012). | Exhibit 8,
Appendix 7 |
| 2013-010
Motion | Appoint Jesse S. Vogtle, Jr. to serve as Council President Pro Tempore to fill the seat vacated by Council member Amy G. Carter who assumed the Council President's position vacated by Council member Virginia Carruthers Smith who assumed the Mayor's position temporarily vacated by Lawrence T. Oden due to an ongoing medical condition. | |
| 2013-011
Motion | Accept the annual financial audit as presented by the City's independent auditing firm, Carr, Riggs & Ingram, LLC. | Appendix 1 |

Thereupon, the foregoing minutes, resolutions, and motions were introduced by Council President Carter and their immediate adoption was moved by Council member Vogtle. The minutes, resolutions, and motions were then considered by the Council. Council member Pritchard seconded the motion to adopt the foregoing minutes, resolutions, and motions. Council member Pritchard then announced that he will abstain from voting with respect to Resolution No. 2013-007. Then, upon the question being put and the roll called, the vote was recorded as follows:

- Ayes: Amy Carter, Council President
 Jesse S. Vogtle, Jr., Council President Pro Tempore
 Jack D. Carl
 William S. Pritchard, III (abstained from voting on Resolution No. 2013-007)
- Nays: None

Council President Carter thereupon declared that said minutes and resolutions (nos. 2013-001 through 2013-006, and 2013-008) and motions (nos. 2013-010 and 2013-011), are adopted by a vote of 4—0, and that Resolution No. 2013-007 is adopted by a vote of 3—0, and as evidence thereof she signed the same.

3. MOTION (NO. 2013-009) AUTHORIZATING CERTAIN ROAD AND SHOULDER IMPROVEMENTS ALONG EAST STREET ALONG WITH CENTERLINE STRIPING OF EAST STREET WITHIN THE CITY OF VESTAVIA HILLS, ALABAMA TO IMPROVE SAFETY FOR PEDESTRIANS AND MOTORISTS (DUE TO HEAVY TRAFFIC FROM MOUNTAIN BROOK RESIDENTS AND OTHERS COMMUTING TO THE CITY'S ATHLETIC FIELDS) (APPENDIX 8)

Council President Pro Tempore Vogtle made a motion to authorize certain road and shoulder improvements (estimated to cost \$10,000 for materials plus City labor) along East Street along with centerline striping of East Street within the City of Vestavia Hills, Alabama to improve safety for pedestrians and motorists (due to heavy traffic from Mountain Brook residents and others commuting to the City's athletic fields). The motion was then considered by the council. Afterward, Council member Carl seconded the motion. Then, upon the question being put and the roll called, the vote was recorded as follows:

- Ayes: Amy Carter, Council President
 Jesse S. Vogtle, Jr., Council President Pro Tempore

Jack D. Carl

Nays: William S. Pritchard, III

Council President Carter thereupon declared that said motion is adopted by a vote of 3—1.

4. PUBLIC HEARING TO CONSIDER AN ORDINANCE AMENDING CHAPTER 129 OF THE CITY CODE BY ADDING A NEW “VINE STREET TRANSITIONAL” ZONING DISTRICT AND AMENDING ARTICLE XXXI (VILLAGE OVERLAY STANDARDS) AND SECTION 129-416 (ADVISORY DESIGN REVIEW REQUIRED IN THE VILLAGES OF MOUNTAIN BROOK (EXHIBIT 9))

President Carter introduced the ordinance in writing and invited City Planner Dana Hazen to explain the provisions of the proposed ordinance (Appendix 9). President Carter then invited comments from the audience.

Trip Galloway representing Bill and Lenea Isreal of 111 Dexter Avenue:

- There are already significant parking problems along Vine Street.
- Believes this proposal is a bit overreaching.
- Prefers to see the property rezoned to Residence C and allow development pursuant to the provisions thereto (to which Ms. Hazen responded that the subject property does not meet the criteria of Residence C).
- The proposal requires that a property be developed five feet off of both Vine and Dexter which is undesirable from the perspective of the surrounding property owners.
- Believes the intensity of use of the possible development is too much for the Israel's (who are across the street from the subject property).
- This proposal is not desirable from a safety or land use perspective.
- The subject property could be developed into two, 3-townhome units (6 homes in all) which are not what the Israel's ever contemplated.
- Single family dwellings are much more desirable for the community.
- Urged the Council to consider other development and zoning possibilities.
- Views a local business development (similar to the Taylor-Miree building) to be more desirable than the current proposal.

Ms. Hazen clarified that the current proposal will allow for the development of either a townhome development or an office. The setback requirements for these options are not the same.

Randall Pitts asked why the 8,000 square foot office proposal considered a couple of years ago was not implemented to which Council member Pritchard responded that there were too many properties around the City where the new standard could be applied and the unintended consequences were too many to evaluate with certainty. Ms. Hazen elaborated that in other villages, the properties that could take advantage of the smaller lot size did not have a defined geographic border like Vine Street between adjacent properties.

It was the consensus of the City Council that this matter be continued for further study and that no action be taken at this time.

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

Council President Carter announced that the next meeting of the Mountain Brook City Council will be held on Monday, January 28, 2013 at the [temporary] Mountain Brook City Hall located at 3928 Montclair Road, Suite 230, Mountain Brook, Alabama 35213. Please visit the City's web site (www.mtnbrook.org) for more information.

6. ADJOURNMENT

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



Steven Boone, City Clerk

EXHIBIT 1

RESOLUTION NO. 2013-001

BE IT RESOLVED by the City Council of the City of Mountain Brook, Alabama, that Mr. David Murdock is hereby re-appointed as a member of the Editorial Board of the City of Mountain Brook, to serve without compensation, with the term of office to end January 14, 2017.

EXHIBIT 2

RESOLUTION NO. 2013-002

BE IT RESOLVED by the City Council of the City of Mountain Brook, Alabama, that Lloyd Shelton is hereby re-appointed to the Finance Committee, to serve without compensation, with the term of office to end January 14, 2017.

EXHIBIT 3

RESOLUTION NO. 2013-003

BE IT RESOLVED by the City Council of the City of Mountain Brook, Alabama that the City Council hereby authorizes the execution of a [Brasfield & Gorrie] change order, in the amount of \$7,520 (Exhibit A-1), with respect to the conversion of the Police Report Room into a jail kitchenette to facilitate inmate meal preparation.

[APPENDIX 2]

EXHIBIT 4

RESOLUTION NO. 2013-004

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

- (a) That the Alabama Power Company be requested to install a street light on an existing pole located at the northwest corner of the Caldwell Mill Road and Old Trace intersection in Mountain Brook, Alabama (see attached map/ illustration - Exhibit A).
- (b) That the City Clerk be directed to furnish the Alabama Power Company a certified copy of this resolution.

[APPENDIX 3]

EXHIBIT 5**RESOLUTION NO. 2013-005**

BE IT RESOLVED by the City Council of the City of Mountain Brook, Alabama that the City Council hereby authorizes the execution of a contract with Stone Electric Co., Inc., in the form as attached hereto as Exhibit A subject to such minor changes as may be determined appropriate by the City Attorney, with respect to their installation of a pedestrian flashing signal at the intersection of Overhill Road and Monvtevallo Road.

[APPENDIX 4]

EXHIBIT 6**RESOLUTION NO. 2013-006**

BE IT RESOLVED by the City Council of the City of Mountain Brook, Alabama that the City Council hereby approves the amended and restated City of Mountain Brook [standalone] Dental Plan, in the form as attached hereto as Exhibit A subject to such minor changes as may be determined appropriate by the City Attorney, with respect to their third-party administration services of the City's [self-insured] dental plan.

[APPENDIX 5]

EXHIBIT 7**RESOLUTION NO. 2013-007**

BE IT RESOLVED by the City Council of the City of Mountain Brook, Alabama that the City Council hereby authorizes the execution of a professional services agreement between the City and Nimrod Long and Associates, in the form as attached hereto as Exhibit A subject to such changes as may be recommended by the City Attorney, with respect to the Village Walkway System (Phase 6) project.

[APPENDIX 6]

EXHIBIT 8**RESOLUTION NO. 2013-008**

BE IT RESOLVED by the City Council of the City of Mountain Brook, Alabama that the City Council hereby authorizes additional consideration in the amount not to exceed \$145,987.20 payable to Sain Associates with respect to their provision of additional construction engineering and inspection services for the Village Walkway (Phase 6) sidewalk project being administered by the Alabama Department of Transportation.

BE IT FURTHER RESOLVED by the City Council of the City of Mountain Brook, Alabama that the City Council hereby authorizes the execution of Supplemental Agreement #1 between the City and Sain Associates with respect to their provision of additional construction engineering and inspection services for the Village Walkway (Phase 6) sidewalk project being administered by the Alabama Department of Transportation.

[APPENDIX 7]

EXHIBIT 9

ORDINANCE NO.

DRAFT

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

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

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

Section 1. Section 129-551(b) of the City Code is hereby amended as follows:

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

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

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

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

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

The boundaries officially approved for the Village Overlay Standards, as specified above, are adopted herein by reference, and shall become a part of Official Zoning Map of Mountain Brook as defined in Section 19-2-7 of the Zoning Ordinance.”

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

“(d) Building and Development Regulating Plans. The Building and Development Regulating Plans for Crestline Village (except for residential lots zoned Vine Street Transitional (VST) District), English Village, Mountain Brook Village and Overton Village are attached hereto, included within, and made a part of these Village Overlay Standards, and apply in all areas identified thereupon.”

Section 4. Section 129-552 (legend) of the City Code is hereby amended as follows:

“*Townhouse building types are only permitted in association with a base zoning of Residence D or F; stacked flats are only permitted in association with a base zoning of Residence D or G.

*Detached single family dwellings and attached single family dwellings (townhouse dwellings) for lots zoned Vine Street Transitional (VST) District are not subject to the Building Type Specifications contained in the Village Overlay Standards.

+ Refer to the Village Master Plans for Frontage definitions and requirements.”

Section 5. Section 129-553(b) of the City Code is hereby amended as follows:

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

Section 6. Section 129-553 of the City Code is hereby amended/corrected as follows:

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

Section 7. Section 129-416(a) of the City Code is repealed and replaced with the following:

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

- (a) The Villages of Mountain Brook, for purposes of this section, are composed of those properties located within the “Village Boundary Line” shown on the Village Maps found in Section 129-557 of the City Code. ~~and defined as, the Local Business Districts of the City of Mountain Brook, plus those Mixed Use, Office Park, Professional, and Residential Infill Districts which are contiguous to and/or within one mile of the boundary of such Local Business Districts (“villages”).”~~

Section 8. Chapter 129 of the City Code is amended to include the following new sections:

“ARTICLE _____ - VINE STREET TRANSITIONAL (VST) DISTRICT

Sec. 129-___ - Purpose and applicability.

The Vine Street Transitional (VST) District is intended to provide compact, appropriate-scaled buildings along the west side of Vine Street in Crestline Village for detached single family, attached single family (townhouse dwelling) or professional and business office uses. The district may be applied to sites which can establish an effective transition from the Local Business District in Crestline Village to adjacent residential neighborhoods and the Crestline Elementary School site. The district is intended to provide a high degree of pedestrian connectivity within Crestline Village to increase accessibility and patronage of businesses, and to enhance the pedestrian character of Crestline Village. For office uses, the VST District is only applicable as a base zoning district in association with the Village Overlay Standards, where building scale and orientation to streetscapes and surrounding parcels have been considered in association with a specific area master plan; however, townhouse and single family uses in the VST District are excluded from the residential building type specifications in the Village Overlay Standards.

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

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

Sec. 129-___ - Permitted uses.

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

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

Sec. 129-___ - Area and dimensional requirements for professional and business offices.

All lot and building standards shall be as specified in the Village Overlay Standards.

Sec. 129-___ - Area and dimensional requirements for single family dwellings (detached and attached).

(a) Minimum dimensions of parcel.

- (1) Minimum area of parcel7,500 square feet
- (2) Minimum width of parcel at all points between the street line and the front setback line 50 feet
- (3) Minimum number of feet of the parcel which must abut a street50 feet

(b) Building setbacks.

(1) Required front building line (primary and secondary).....within 5 feet of the front lot line (the front lot line shall be deemed to be the edge of the adjacent public right-of-way, or the edge of the adjacent sidewalk which is nearest the building, whichever is farther from the centerline of the such right-of-way.)

- (2) Required front (secondary) building line ...0-5 feet
- (3) Minimum rear yard setback10 feet
- (4) Minimum side yard setback
0 feet if party wall;
5 feet for end units, or a detached single family dwelling.

(c) Building limitations.

- (1) Maximum building area

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

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

- (2) Maximum building height36 feet

At any and all points, the maximum external building height shall be measured from the existing grade of the sidewalk at the lot frontage, or the proposed grade at the front building line, whichever is lower.
- (3) Maximum number of storiesnone
- (4) Maximum allowable densityOne dwelling unit per 2,000 square feet of land contained in the parcel
- (5) Minimum Street Wall... 80% (Street Wall is the percentage of the lot frontage that is occupied by a building facade established within the required front building line range.)
- (6) All rooftop equipment shall fall within the permissible roof heights, be located away from slopes or areas exposed to the public street, and otherwise be screened from view from adjacent public streets or be incorporated into the skin of the building or internal to the block.

Sec. 129-___ - Parking.

- (1) Minimum offstreet parking per dwelling unit: Two spaces.

- (2) Visitor and accessory parking shall be provided based on the following:

One to ten dwelling units: one-half parking space per unit;

Eleven or more units: Five spaces plus one-fourth additional parking space for each unit over ten;

- (3) Any offstreet surface parking, interior parking or parking structures for the dwelling units and for visitor or accessory parking shall meet the parking design and vehicle access limitations of the village overlay standards.

Sec. 129-____. - Additional requirements.

(a) *Sidewalks.* Sidewalks of not less than five feet in width shall be provided between any parking area and the building or buildings which they serve, and there shall be a curb between all parking areas and any adjacent sidewalk.

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

(c) *Development plan.* Any rezoning proposal for the Vine Street Transitional (VST) District shall submit a development plan in conformity with section 129-234 of this Code demonstrating compliance with all site and building standards of this district, the applicable overlay standards, and conformance with the village master plan and design guidelines.

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

Section 10. If any part, section or subdivision of this ordinance shall be held unconstitutional or invalid for any reason, such holding shall not be construed to invalidate or impair the remainder of this ordinance, which shall continue in full force and effect, notwithstanding such holding.

Section 11. The effective date of this ordinance shall be February 1, 2013.



Carr, Riggs & Ingram, LLC
1100 16th Avenue South
Suite 500
Birmingham, AL 35205
Mailing Address:
P.O. Box 55285
Birmingham, AL 35255
(205) 933-3022
(205) 933-7944 (fax)
www.cri-cpa.com

City Council
Mountain Brook, Alabama
January 11, 2013
Page 2

January 11, 2013

To the City Council
Mountain Brook, Alabama

We have audited the financial statements of the governmental activities, the aggregate discretely presented component unit, each major fund, and the aggregate remaining fund information of the City of Mountain Brook (the "City") for the year ended September 30, 2012. Professional standards require that we provide you with information about our responsibilities under generally accepted auditing standards (and, if applicable, Government Auditing Standards and OMB Circular A-133), as well as certain information related to the planned scope and timing of our audit. We have communicated such information in our letter to you dated October 9, 2012. Professional standards also require that we communicate to you the following information related to our audit.

Significant Audit Findings

Qualitative Aspects of Accounting Practices

Management is responsible for the selection and use of appropriate accounting policies. The significant accounting policies used by the City are described in Note 1 to the financial statements. No new accounting policies were adopted and the application of existing policies was not changed during 2012. We noted no transactions entered into by the governmental unit during the year for which there is a lack of authoritative guidance or consensus. All significant transactions have been recognized in the financial statements in the proper period.

Accounting estimates are an integral part of the financial statements prepared by management and are based on management's knowledge and experience about past and current events and assumptions about future events. Certain accounting estimates are particularly sensitive because of their significance to the financial statements and because of the possibility that future events affecting them may differ significantly from those expected. The most sensitive estimates affecting the City's financial statements were:

Management's estimate of the liability to the Jefferson County Personnel Board is based on Jefferson County's estimate of actual amount due. We evaluated the key factors and assumptions used to develop the liability to the Jefferson County Personnel Board in determining that it is reasonable in relation to the financial statements taken as a whole.

Management's estimate of the Self-Insured Workers' Compensation Loss Reserves which is based on certain actuarial assumptions and the Accrued Compensated Absences Liability which is based on assumptions related to certain personnel and payroll matters. We evaluated the key factors and assumptions used to develop the Self-Insured Workers' Compensation Loss Reserves and the Accrued Compensated Absences Liability in determining that they are reasonable in relation to the financial statements taken as a whole.

Certain financial statement disclosures are particularly sensitive because of their significance to financial statement users. The most sensitive disclosure affecting the financial statements was:

The disclosure of the City's pension plan and post-employment benefits other than pensions in Note 6 and Note 7, respectively, to the financial statements. These disclosures contain actuarial assumptions and valuations that may differ from actual results.

Difficulties Encountered in Performing the Audit

We encountered no significant difficulties in dealing with management in performing and completing our audit.

Corrected and Uncorrected Misstatements

Professional standards require us to accumulate all known and likely misstatements identified during the audit, other than those that are clearly trivial, and communicate them to the appropriate level of management. Management has corrected all such misstatements. In addition, none of the misstatements detected as a result of audit procedures and corrected by management were material, either individually or in the aggregate, to each opinion unit's financial statements taken as a whole.

Disagreements with Managements

For purposes of this letter, professional standards define a disagreement with management as a financial accounting, reporting, or auditing matter, whether or not resolved to our satisfaction, that could be significant to the financial statements or the auditor's report. We are pleased to report that no such disagreements arose during the course of our audit.

Management Representations

We have requested certain representations from management that are included in the management representation letter dated January 11, 2012.

Management Consultations with Other Independent Accountants

In some cases, management may decide to consult with other accountants about auditing and accounting matters, similar to obtaining a "second opinion" on certain situations. If a consultation involves application of an accounting principle to the City's financial statements or a determination of the type of auditor's opinion that may be expressed on those statements, our professional standards require the consulting accountant to check with us to determine that the consultant has all the relevant facts. To our knowledge, there were no such consultations with other accountants.

Other Audit Findings or Issues

We generally discuss a variety of matters, including the application of accounting principles and auditing standards, with management each year prior to retention as the City's auditors. However, these discussions occurred in the normal course of our professional relationship and our responses were not a condition to our retention.

APPENDIX 1

City Council
Mountain Brook, Alabama
January 11, 2013
Page 3

This information is intended solely for the use of the City Council and management of the City and is not intended to be and should not be used by anyone other than these specified parties.

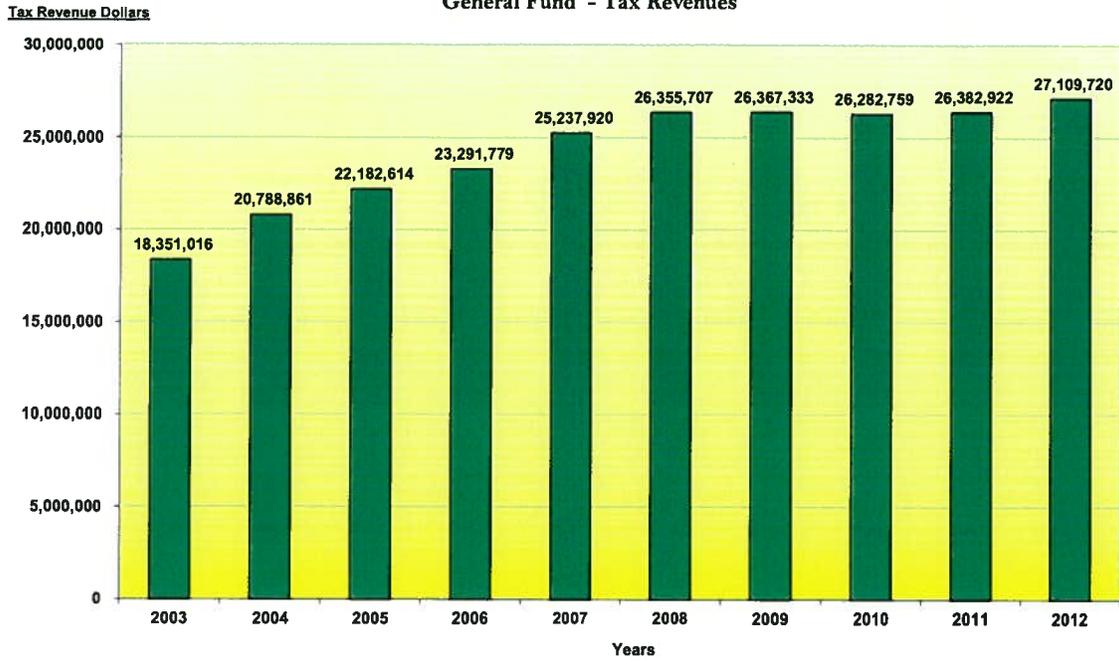
Very truly yours,

Carr, Riggs & Ingram, LLC

Carr, Riggs & Ingram, L.L.C.
Birmingham, Alabama

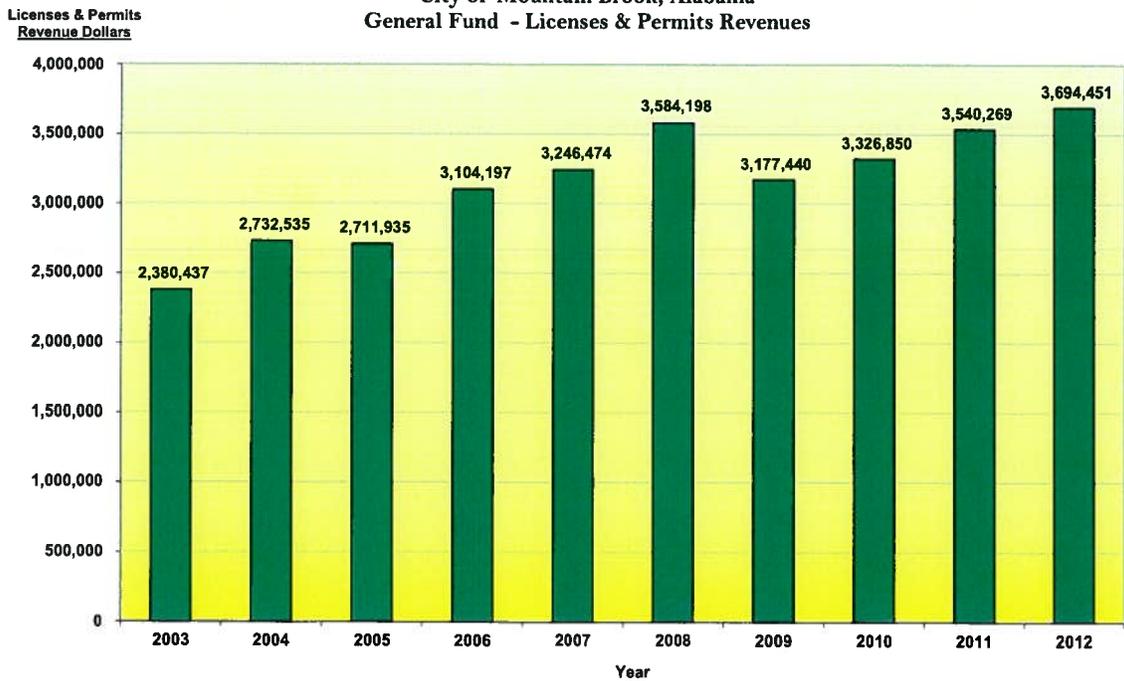
2013-011

City of Mountain Brook, Alabama
General Fund - Tax Revenues



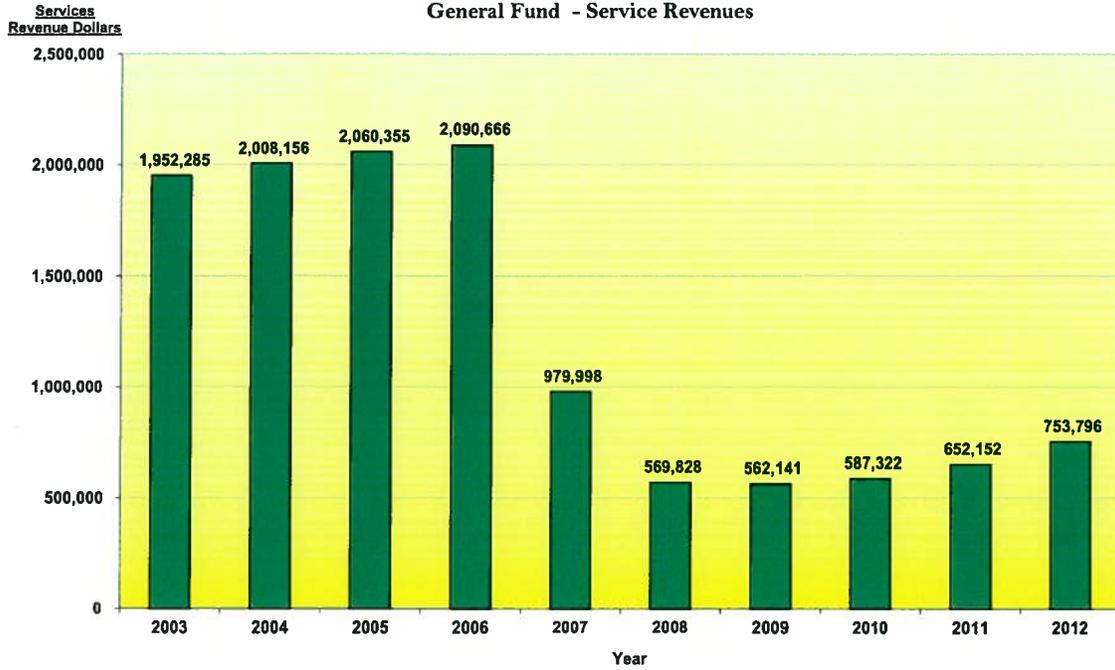
APPENDIX 1

City of Mountain Brook, Alabama
General Fund - Licenses & Permits Revenues



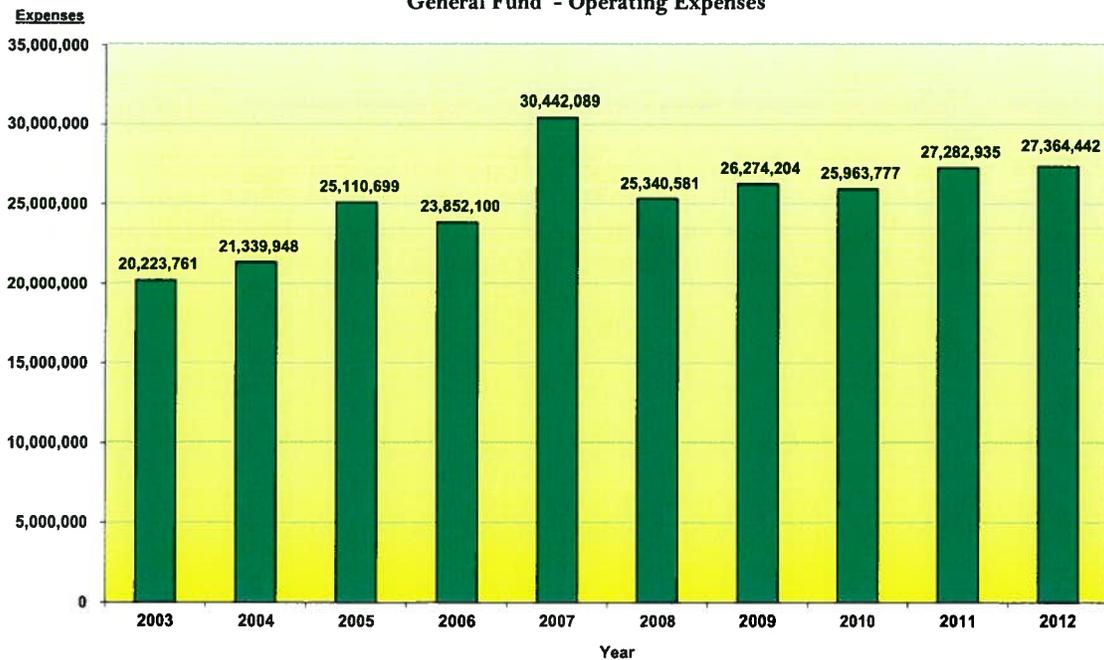
2013-011

City of Mountain Brook, Alabama
General Fund - Service Revenues

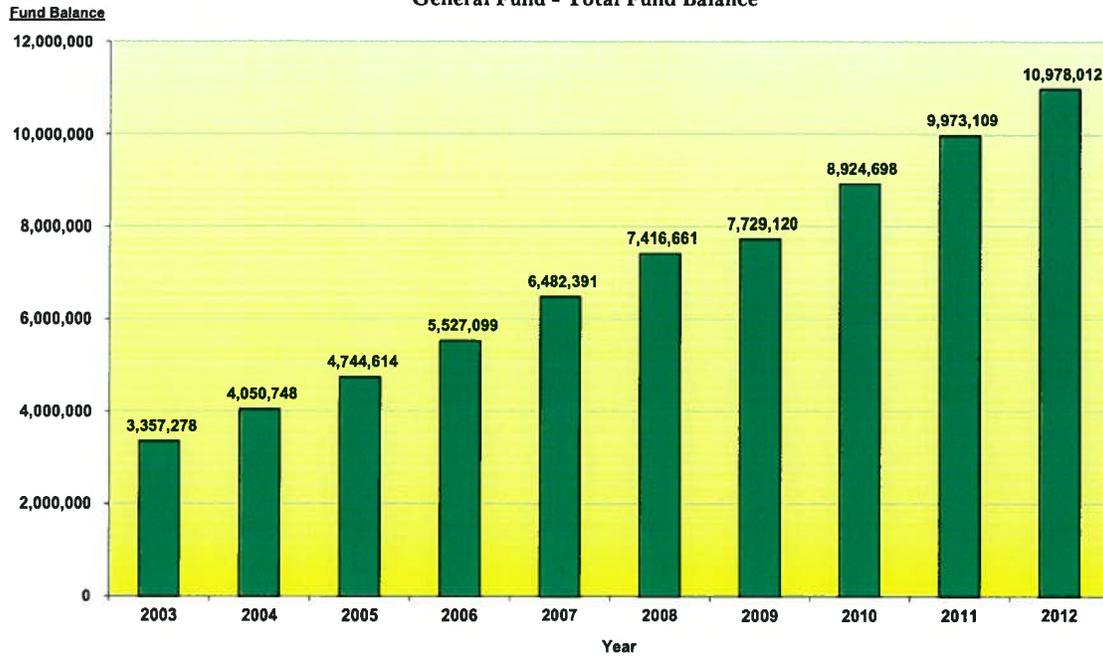


APPENDIX 1

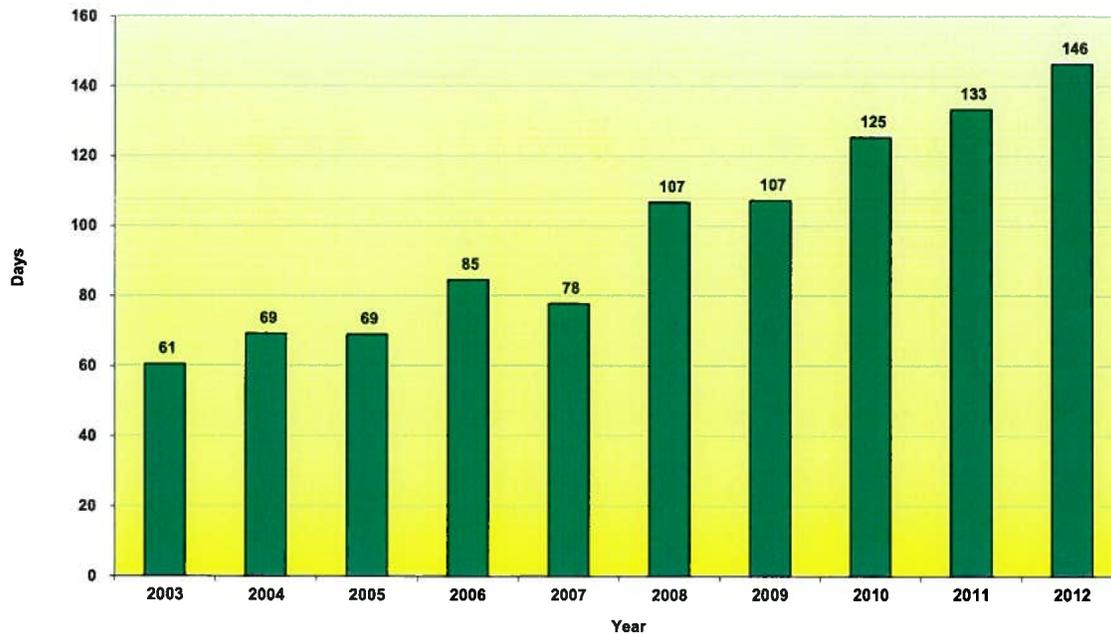
City of Mountain Brook, Alabama
General Fund - Operating Expenses



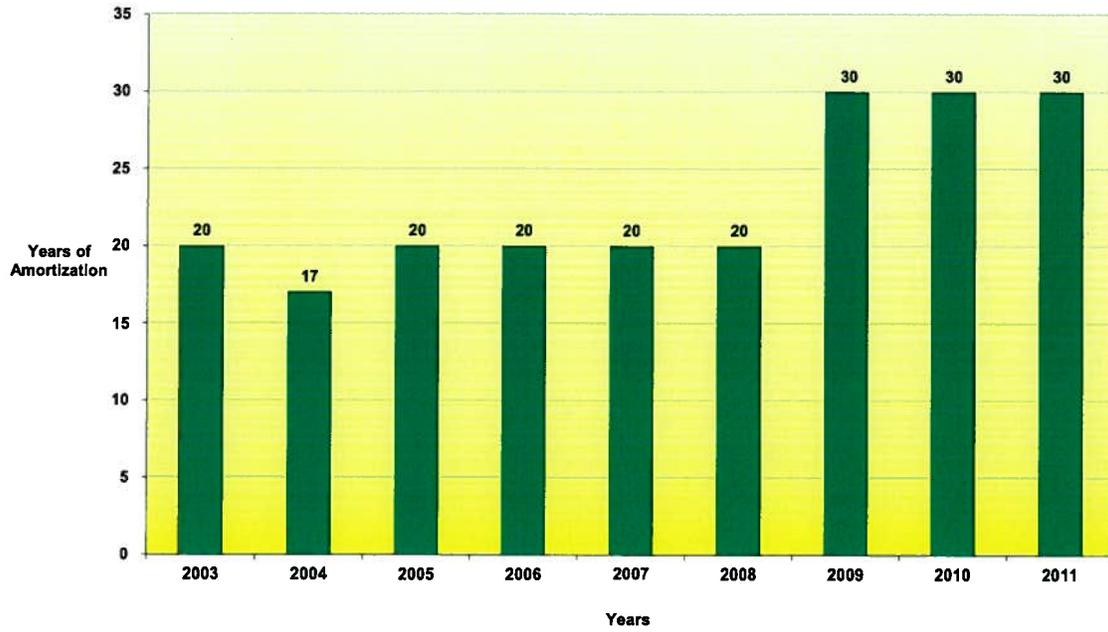
City of Mountain Brook, Alabama
General Fund - Total Fund Balance



City of Mountain Brook, Alabama
Total General Fund Balance - Operating Expense in Days



City of Mountain Brook, Alabama
Remaining Amortization Period of the Unfunded Actuarial Accrued Pension Liability



APPENDIX 1

**City of Mountain Brook, Alabama
City Officials**

September 30, 2012

MAYOR

The Honorable Lawrence T. Oden

CITY COUNCIL

Ms. Virginia C. Smith, President

Mr. Jack D. Carl

Mr. William S. (Billy) Pritchard, III

Ms. Amy G. Carter

Mr. Jesse S. Vogtle, Jr.

CITY MANAGER

Mr. Sam S. Gaston

DEPARTMENT SUPERVISORS

Building Inspections	Mr. Jerry Weems
Finance	Mr. Steven Boone
Fire Department	Mr. Robert W. (Zeke) Ezekiel
Police Department	Mr. Theodore J. (Ted) Cook
Streets and Sanitation	Mr. Ronald D. Vaughn
Parks and Recreation	Mr. J. Lyman Tidwell

CITY OF MOUNTAIN BROOK, ALABAMA

**BASIC FINANCIAL STATEMENTS
AND SUPPLEMENTARY INFORMATION
SEPTEMBER 30, 2012**

APPENDIX 1

2013-011

City of Mountain Brook, Alabama
Table of Contents

	<u>Page</u>
Independent Auditors' Report	5
Management's Discussion and Analysis	7
Basic Financial Statements:	
Government-wide Statement of Net Assets	17
Government-wide Statement of Activities	18
Fund Financial Statements:	
Balance Sheet – Governmental Funds	19
Reconciliation of the Governmental Funds Balance Sheet to Statement of Net Assets	20
Statement of Revenues, Expenditures, and Changes in Fund Balances – Governmental Funds	21
Reconciliation of the Statement of Revenues, Expenditures, and Changes in Fund Balance of Governmental Funds to the Government-wide Statement of Activities	22
Statement of Fiduciary Net Assets – OPEB Benefits Trust Fund	23
Statement of Changes in Fiduciary Net Assets – OPEB Benefits Trust Fund	24
Notes to financial statements	25
Required Supplementary Information	
Schedule of Revenues, Expenditures, and Changes in Fund Balances – Budget and Actual – General Fund	48
Notes to Required Supplementary Information	49
Supplementary Information:	
Combining Balance Sheet – Other Governmental Funds	52
Combining Statement of Revenues, Expenditures and Changes in Fund Balances – Other Governmental Funds	53
Combining Balance Sheet – Capital Projects Funds	54
Combining Statement of Revenues, Expenditures and Changes in Fund Balances – Capital Projects Funds	55
Schedule of General Fund Revenues by Source	56
Comparative Balance Sheet – General Fund	57
Comparative Statement of Revenues, Expenditures and Changes in Fund Balances – General Fund	58
Comparative Balance Sheet – Capital Projects Funds	59

City of Mountain Brook, Alabama
Table of Contents

	<u>Page</u>
Comparative Statement of Revenues, Expenditures and Changes in Fund Balances – Capital Projects Funds	60
Comparative Balance Sheet – Debt Service Fund	61
Comparative Statement of Revenues, Expenditures and Changes in Fund Balance – Debt Service Fund	62
Single Audit Reports	
Independent Auditors' Report on Internal Control Over Financial Reporting and on Compliance and Other Matters Based on an Audit of Financial Statements Performed in Accordance with <i>Government Auditing Standards</i>	63
Independent Auditors' Report on Compliance with Requirements That Could Have a Direct and Material Effect on Each Major Program and on Internal Control Over Compliance in Accordance with OMB Circular A-133	65
Schedule of Expenditures of Federal Awards	67
Notes to Schedule of Expenditures of Federal Awards	68
Schedule of Findings and Questioned Costs	69



Carr, Riggs & Ingram, LLC
2100 16th Avenue South
Suite 300
Birmingham, Alabama 35205

Mailing Address:
P.O. Box 55785
Birmingham, Alabama 35255

(205) 933-7822
(205) 933-7844 (fax)
www.cricpa.com

Independent Auditors' Report

Mayor and City Council
City of Mountain Brook
Mountain Brook, Alabama

We have audited the accompanying financial statements of the governmental activities, the discretely presented component unit, each major fund, the fiduciary fund, and the aggregate remaining fund information of the City of Mountain Brook, Alabama (the City) as of and for the year ended September 30, 2012, which collectively comprise the City's basic financial statements as listed in the table of contents. These financial statements are the responsibility of the City's management. Our responsibility is to express opinions on these financial statements based on our audit. The prior year comparative information has been derived from the City's 2011 financial statements and, in our report dated June 19, 2012, we expressed unqualified opinions on the respective financial statements of the governmental activities, the discretely presented component unit, each major fund, and the aggregate remaining fund information.

We conducted our audit in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audit provides a reasonable basis for our opinions.

In our opinion, the financial statements referred to above present fairly, in all material respects, the respective financial position of the governmental activities, the discretely presented component unit, each major fund, the fiduciary fund, and the aggregate remaining fund information of the City, as of September 30, 2012, and the respective changes in financial position thereof for the year then ended in conformity with accounting principles generally accepted in the United States of

As described in Note 6, the City's actuarial accrued liability of its pension plan exceeds the actuarial value of assets in the plan.

In accordance with *Government Auditing Standards*, we have also issued our report dated January 11, 2013, on our consideration of the City's internal control over financial reporting and our tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements and other matters. The purpose of that report is to describe the scope of our testing of internal control over financial reporting and compliance and the results of that testing, and not to provide an opinion on the internal control over financial reporting or on compliance. That report is an integral part of an audit performed in accordance with *Government Auditing Standards* and should be read in conjunction with this report in considering the results of our audit.

The Management's Discussion and Analysis beginning on page 7 and budgetary comparison information on page 48, are not required parts of the basic financial statements but are supplementary information required by accounting principles generally accepted in the United States of America. We have applied certain limited procedures, which consisted principally of inquiries of management regarding the methods of measurement and presentation of the supplementary information. However, we did not audit the information and express no opinion on it.

Our audit was conducted for the purpose of forming an opinion on the financial statements that collectively comprise the City's basic financial statements. The accompanying schedule of expenditures of federal awards is presented for purposes of additional analysis and is not a required part of the basic financial statements. The accompanying schedule of expenditures of federal awards has been subjected to the auditing procedures applied in the audit of the basic financial statements and, in our opinion, is fairly stated in all material respects in relation to the basic financial statements taken as a whole. The accompanying supplementary information as listed in the table of contents is presented for purposes of additional analysis and is not a required part of the basic financial statements. The accompanying supplementary information as listed in the table of contents has been subjected to the auditing procedures applied in the audit of the basic financial statements and, in our opinion, is fairly stated in all material respects in relation to the basic financial statements taken as a whole.

Carr, Riggs & Ingram, LLC

Birmingham, Alabama
January 11, 2013



CITY OF MOUNTAIN BROOK
P. O. Box 130009
Mountain Brook, Alabama 35213-0009
Telephone: 205.802.2400
www.mtnbrook.org

CITY OF MOUNTAIN BROOK, ALABAMA
MANAGEMENT'S DISCUSSION AND ANALYSIS

This narrative overview and analysis of the City's financial activities as of and for the year ended September 30, 2012, prepared by the management of the City, is presented to facilitate the users' understanding of the annual report and draw attention to items of interest.

FINANCIAL HIGHLIGHTS

- Assets of the City exceeded its liabilities at September 30, 2012, by \$111 million (Total Net Assets). Of this amount, \$70 million represents the net book value of the City's capital assets including Infrastructure net of outstanding long-term debt and \$1.3 million is restricted (\$508,000 for the Emergency Communication District and \$780,000 for road improvements from the State Shared Gasoline Tax special revenue funds). The remaining \$40 million is available for use by the City to fund future municipal services and to meet its obligations to employees and creditors.
- The Total Net Assets increased by \$4.3 million in 2012 which includes the net cost of providing core City Services of \$23.0 million plus \$27.3 million in General Revenues.
- As of September 30, 2012, the City reported \$33.8 million in fund balances, a decrease of \$3.9 million from 2011. Of the \$33.8 million fund balances, \$11.0 million (32%) is reported in the General Fund, \$18.5 million (55%) in the Capital Projects Fund, and \$4.3 million (13%) in the Other Governmental Funds.

OVERVIEW OF THE FINANCIAL STATEMENTS

This discussion and analysis is intended to serve as an introduction to the City's basic financial statements. The basic financial statements consist of the 1) government-wide financial statements, 2) fund financial statements, 3) notes to financial statements, and 4) certain required supplementary financial information. In addition, the City has included other supplementary information intended to further enhance the users' understanding of the City's financial position and results of operations.

Government-wide Financial Statements

The government-wide financial statements are intended to provide an indication of the City's finances in a manner similar to the private sector. Accordingly, the government-wide statements, comprised of the Statement of Net Assets and Statement of Activities, have been prepared using the accrual basis of accounting.

CITY OF MOUNTAIN BROOK, ALABAMA
MANAGEMENT'S DISCUSSION AND ANALYSIS

The Statement of Net Assets depicts all of the primary government's assets and liabilities with the difference between the two reported as Net Assets. Over time, changes in net assets may serve as a useful indicator of whether the City's financial position is improving or deteriorating.

The Statement of Activities illustrates how the City's net assets changed during the year. Revenues and expenses reported in the Statement of Activities are recorded when the underlying event that gave rise to the change occurred as opposed to the timing of the related cash flow. The focus of the Statement of Activities is on the gross and net cost of the various governmental activities which are funded by the City's general tax and other revenues. The purpose of this statement is to simplify the analysis of the costs of various governmental services.

Fund Financial Statements

The fund financial statements have been prepared under the modified accrual basis of accounting and their presentation is largely consistent with historical presentations.

A fund is a grouping of related accounts designed to facilitate control over resources that have been segregated for a specific activity or objective. Fund accounting is used to ensure and demonstrate compliance with finance-related legal requirements. All of the City's funds are governmental type funds (as opposed to business-type funds) whose primary resources are provided by taxes.

Governmental Funds

Governmental funds essentially measure and report the same activities and transactions as the governmental activities in the government-wide financial statements. However, unlike the accrual basis government-wide statements, the governmental funds focus on current, spendable resources and balances of such spendable resources available at the end of the year.

The City maintains eleven (11) governmental funds. The City considers the General Fund and Capital Projects Fund (which is comprised of three "sub-funds") to be major funds and their respective balance sheets and statements of revenues, expenditures, and changes in fund balance are separately reported. Information from the remaining funds (Debt Service and Special Revenue) have been aggregated and reported in a single column titled "Other Governmental Funds". Additional information about these aggregated non-major funds and the major funds is provided in the other supplementary information.

**CITY OF MOUNTAIN BROOK, ALABAMA
MANAGEMENT'S DISCUSSION AND ANALYSIS**

Infrastructure Capital Assets

A major accounting and reporting change required by the GASB reporting model that was implemented in 2003 is the capitalization of infrastructure assets. The cost of infrastructure was estimated based on historical financial cost data maintained by the City and other estimation techniques (primarily involving non-depreciable land, easements, and rights-of-way). Depreciation of infrastructure was determined using the straight-line method from the year of acquisition using estimated useful lives ranging between 10 and 75 years depending on the class of asset. Infrastructure capitalized and the related depreciation reported in the accompanying government-wide financial statements is as follows:

	Useful Life	Cost	Depreciation	Accumulated Depreciation
Land	N/A	\$ 16,525,671	N/A	N/A
Streets and alleys	20	17,260,755	\$ 533,473	\$ 11,859,154
Storm sewers	20	13,946,471	679,427	2,660,543
Sidewalks	15	9,303,328	353,469	7,100,226
Park facilities	20	8,122,416	369,718	4,523,615
Street lights and signs	15	1,203,398	63,052	808,012
Library reference materials	5	4,566,760	262,883	3,649,536
Totals		\$ 70,928,799	\$ 2,262,022	\$ 30,601,066

Government-wide Financial Analysis

Following is a comparative, condensed financial analysis of the government-wide net assets of the City as of September 30:

	2012	2011
Current assets	\$ 37,572,501	\$ 40,436,215
Other assets	11,560,203	10,998,992
Capital assets	73,921,834	67,486,804
Total assets	123,054,538	118,922,011
Current and other liabilities	4,983,349	3,820,772
Long-term liabilities	6,707,718	7,996,962
Total liabilities	11,691,067	11,817,734
Net assets:		
Invested in capital assets, net of related debt	69,636,834	63,011,804
Restricted	1,287,828	1,249,072
Unrestricted	40,438,809	42,843,401
Total net assets	\$ 111,363,471	\$ 107,104,277

**CITY OF MOUNTAIN BROOK, ALABAMA
MANAGEMENT'S DISCUSSION AND ANALYSIS**

Following is a comparative analysis of the government-wide revenues and expenses:

	2012	2011
Revenues		
Program revenues		
Fees, fines and charges for services	\$ 5,164,486	\$ 5,065,096
Operating grants and contributions	981,427	1,230,623
Capital grants and contributions	1,686,817	3,603,943
General revenues		
Ad valorem taxes	15,026,059	14,969,922
Sales and use taxes	9,406,314	8,732,996
Other taxes	175,910	149,792
Utility taxes	1,365,487	1,460,206
Franchise fees	607,791	560,903
Investment earnings	598,322	655,861
Gain (loss) on disposals of capital assets	66,317	(753,165)
Miscellaneous revenue	18,916	11,355
Transfers from component unit	53,817	119,419
Total revenues	35,151,663	35,806,951
Expenses		
General government	3,747,727	3,924,528
Public safety	13,611,275	14,148,930
Street and sanitation	8,530,360	8,505,687
Recreational	1,825,946	1,764,768
Library	3,177,161	2,889,717
Total expenses	30,892,469	31,233,630
Increase in net assets	4,259,194	4,573,321
Net assets, beginning of year	107,104,277	102,530,956
Net assets, end of year	\$ 111,363,471	\$ 107,104,277
Analysis of the City's Operations		
Revenues		
The City's primary source of revenue is real estate ad valorem taxes which comprised 43% of total General Fund revenues in 2012. Real estate ad valorem taxes decreased \$17,000 (0.1%) during 2012.		
The second largest source of revenue for the City is sales and use tax which totaled 28% of total General Fund revenues in 2012. Sales and use tax revenue increased by \$636,000 (8%) during 2012.		

**CITY OF MOUNTAIN BROOK, ALABAMA
MANAGEMENT'S DISCUSSION AND ANALYSIS**

Following is a comparative summary of the major General Fund revenues as reported in the Governmental Funds financial statements:

	2012	2011	Increase (Decrease)
Real estate ad valorem tax	\$ 13,873,635	\$ 13,890,843	\$ (17,208)
Sales and use tax	9,112,494	8,476,522	635,972
Business licenses	2,223,912	2,165,612	58,300
Personal property ad valorem tax	1,152,424	1,079,079	73,345
Garbage service fees	39,235	32,436	6,799
Utility taxes	1,365,487	1,460,206	(94,719)
Investment earnings	199,151	131,706	67,445
All other General Fund revenues	4,614,017	4,668,121	(54,104)
Totals	\$ 32,580,355	\$ 31,904,525	\$ 675,830

Expenditures

Salaries and benefits decreased \$231,000 (1%) in 2012 to \$18.1 million. Labor-related costs made up (57%) of the City's total General Fund expenditures in 2012. Following is a comparative summary of the major expenditure categories (all funds combined) of the City as reported in the Governmental Funds financial statements.

	2012	2011	Increase (Decrease)
Salaries and benefits	\$ 18,064,882	\$ 18,295,826	\$ (230,944)
Garbage contract fees	2,683,440	2,602,521	80,919
Capital outlay	10,505,221	9,646,113	859,108
Intergovernmental services	809,144	723,001	86,143
Utilities and communication	796,630	733,575	63,055
Development agreement payments	1,118,466	982,358	136,108
Property and casualty insurance	268,207	295,815	(27,608)
Legal and accounting	445,639	372,593	73,046
Fuel and lubricants	373,113	378,213	(5,100)
Debt service	361,388	358,556	2,832
Birmingham Zoo, Inc. subsidy	75,000	75,000	0
All other	3,632,417	3,625,024	7,393
Totals	\$ 39,133,547	\$ 38,088,595	\$ 1,044,952

General Budgetary Highlights (budgets are administered based on, and variances are stated in terms of, the Governmental Fund accounting model)

Following is a summary of the pertinent General Fund budget variances:

- Actual General Fund revenue exceeded the final budgeted revenue by \$862,000 (2.7%). The favorable (unfavorable) budget variance was comprised of the following:

**CITY OF MOUNTAIN BROOK, ALABAMA
MANAGEMENT'S DISCUSSION AND ANALYSIS**

	Budget	Actual	Favorable (Unfavorable)
Real estate ad valorem tax	\$ 13,618,750	\$ 13,873,635	\$ 254,885
Sales and use tax	8,805,000	9,112,494	307,494
Other taxes	938,910	1,030,680	91,770
Utility taxes	1,365,000	1,365,487	487
Road and bridge tax	584,450	575,000	(9,450)
Construction permits	791,000	800,820	9,820
Fines and forfeitures	460,000	446,682	(13,318)
Charges for services	693,342	753,796	60,454
Fees for road repairs	54,000	73,632	19,632
Grants	12,380	12,062	(318)
Investment earnings	130,325	199,151	68,826
All other	4,265,131	4,336,916	71,785
Totals	\$ 31,718,288	\$ 32,580,355	\$ 862,067

- Total General Fund expenditures were \$367,000 (1.3%) less than the final budget. The favorable (unfavorable) budget General Fund variance was comprised largely of the following categories:

	Budget	Actual	Favorable (Unfavorable)
Salaries and benefits	\$ 18,617,966	\$ 18,064,882	\$ 553,084
Garbage contract fees	2,658,732	2,683,440	(24,708)
Intergovernmental services	823,000	809,144	13,856
Utilities and communication	756,842	796,630	(39,788)
Development agreement payments	918,000	1,116,466	(200,466)
Fuel and lubricants	341,120	373,113	(31,993)
Legal and accounting	388,700	445,639	(56,939)
Street striping	145,000	140,886	4,114
Street cut repairs	80,000	105,576	(25,576)
Park and recreation special projects	20,000	20,000	0
All other	2,982,196	2,806,666	175,530
Totals	\$ 27,731,556	\$ 27,364,442	\$ 367,114

- Total operating transfers out exceeded the amount budgeted by \$778,850. This variance resulted primarily from the Council's decision (after year-end) to transfer an additional \$750,000 from the General Fund to the Capital Projects Fund.
- The total excess of General Fund revenues and other financing sources over expenditures in the amount of \$1,004,903 was \$509,159 more than budgeted.

**CITY OF MOUNTAIN BROOK, ALABAMA
MANAGEMENT'S DISCUSSION AND ANALYSIS**

- The final General Fund budgeted surplus of \$495,744 was increased by \$102,236 from the amount originally budgeted in the amount of \$393,508. The City Council passed four budget resolutions during the year amending the 2012 budget. The budget amendments involved various revisions to revenue and expenditure line items resulting from revenues exceeding original estimates and other transactions that were not considered when the budget was originally adopted.

Other Matters of Interest

As more fully described in Note 6, the City participates in a multi-employer, defined benefit pension plan which is administered by the Employees' Retirement System of Alabama (RSA). The most recent actuarial valuation data available and included in the accompanying report is as of and for the year ended September 30, 2011.

As of September 30, 2011, the RSA reported an unfunded actuarial accrued liability of \$21 million. However, the actuarial valuation of the plan assets (\$42.2 million) used to determine the unfunded actuarial accrued liability does not include actual investment gains and losses but rather employs the 5-year smoothed market approach. Accordingly, the actuarial valuation of the assets is more than the actual value by \$7.4 million due to the exclusion of unamortized net market losses (realized and unrealized) over the preceding five years.

Due to concern about the unfunded actuarial accrued pension liability, the City Council has on occasion contributed more than the actuarially determined annual required contribution (ARC). During 2001, the City paid \$2 million more into the pension trust fund than the ARC. In 2007, the City paid an extra \$7 million from the Debt Service Fund to the pension trust fund in order to further reduce the unfunded actuarial accrued liability. In 2008, the City paid \$300,000 more than the actuarially determined ARC from its General Fund. Due in part to the investment performance of the pension trust fund, the City Council has remitted only the ARC to the pension trust fund in 2012 and 2011.

Also out of concern about the unfunded actuarial accrued pension liability, the City Council has authorized the accumulation of cash reserves in the Debt Service Fund which is available to pay toward this obligation. As of September 30, 2012, the City had accumulated \$3 million in the Debt Service Fund for such purpose.

Cash and Temporary Investments

As of September 30, 2012, the City reported cash and temporary investments of \$35.3 million (excluding the cash and investments held by the Section 115 trust and discretely presented component unit) which consisted of unrestricted and donor-restricted cash and temporary investments of \$35.1 million and \$180,000, respectively. Following is a summary of the carrying value of the cash and investments by fund as of September 30, 2012.

**CITY OF MOUNTAIN BROOK, ALABAMA
MANAGEMENT'S DISCUSSION AND ANALYSIS**

	<u>Unrestricted</u>	<u>Restricted</u>
General Fund	\$ 11,406,361	\$ 179,551
Capital Projects Fund	19,389,427	0
Other Governmental Funds (Debt Service)	3,051,678	0
Other Governmental Funds (Special Revenue)	1,230,351	0
Section 115 irrevocable, retiree medical trust	0	925,335
Discretely presented component unit	0	2,786,209
Totals	\$ 35,077,817	\$ 3,893,095

The \$11.4 million General Fund cash and investment balance as of September 30, 2012, represents 5 months of General Fund expenditures.

Capital Assets and Related Replacement Reserves

Regarding capital assets, the City Council has adopted a policy of funding its depreciation expense in order to accumulate monies for the eventual replacement of property, plant and equipment. As of September 30, 2012, the City had accumulated approximately \$18.5 million in the Capital Projects Fund for such purpose. Accumulated depreciation (considered by management to be the benchmark with respect to measuring the funding status of the property, plant and equipment replacement reserve) totaled \$48.2 million as of year-end. Following is a summary of the capital expenditures, depreciation expense and transfers to the Capital Projects Fund for the years ended September 30:

	<u>2012</u>	<u>2011</u>
Capital expenditures	\$ 10,505,221	\$ 9,646,113
Depreciation expense	\$ 4,011,827	\$ 4,248,840
Transfers to the Capital Projects Fund:		
Funded depreciation policy	\$ 1,668,332	\$ 1,911,624
Other transfers to fund current and future capital acquisitions	2,194,391	1,315,269
Totals	\$ 3,862,723	\$ 3,226,693

The City maintains approximately 200 miles of paved roadways and alleys. The state shared gasoline tax revenues, the City's allocation of the Alabama Trust Fund Earnings, and other monies transferred from the General Fund are used to fund the City's street maintenance program. Following is a summary of the revenues and expenditures as they pertain to the maintenance of the City's roadways:

**CITY OF MOUNTAIN BROOK, ALABAMA
 MANAGEMENT'S DISCUSSION AND ANALYSIS**

	<u>2012</u>	<u>2011</u>
Revenues		
State shared gasoline tax revenues	\$ 377,543	\$ 411,995
Alabama Trust Fund Earnings	173,440	130,296
Transfers from the City's General Fund	100,000	100,000
Investment earnings	<u>2,966</u>	<u>2,264</u>
Total Revenues	653,949	644,555
Street paving expenditures	<u>588,958</u>	<u>603,569</u>
Excess of Revenues Over Expenditures	64,991	40,986
Fund balance, beginning of the year	<u>715,238</u>	<u>674,252</u>
Fund Balance, end of year	\$ 780,229	\$ 715,238

This page is blank intentionally.

Residential Garbage Service Fee Elimination

In 2007, the City adopted an ordinance (No. 1732) lowering the residential garbage service fees by more than 70% effective January 1, 2007. In 2008, the City adopted another ordinance (No. 1769) eliminating the residential garbage service fees. In 2012 and 2011, the City realized \$39,235 and \$32,436, respectively, in garbage service fees collected from its commercial garbage accounts.

Requests for Additional Information

The financial report is designed to provide the residents of the City, investors, creditors and other users with a general overview of the City's finances. Inquiries about this report or requests for additional information may be directed to the Director of Finance at the City of Mountain Brook, P. O. Box 130009, Mountain Brook, Alabama 35213-0009. Inquiries about The Emmet O'Neal Library Board and/or The Mountain Brook Library Foundation (the discretely presented component unit) may be directed to the Library Director at 50 Oak Street, Mountain Brook, Alabama 35213.

City of Mountain Brook, Alabama
 Government-wide Statement of Net Assets
 September 30, 2012 with Comparative Data

	Governmental Activities		Component Unit
	2012	2011	Library Foundation 2012
ASSETS			
CURRENT ASSETS			
Cash and temporary investments	\$ 35,077,817	\$ 37,285,133	\$ 0
Receivables	2,035,659	2,693,453	0
Notes receivable	74,548	121,629	0
Due from related organization	85,613	84,874	0
Inventory and prepaid expenses	119,313	110,366	0
Cash and temporary investments - restricted	179,551	140,760	2,788,209
TOTAL CURRENT ASSETS	37,572,501	40,438,215	2,788,209
NONCURRENT ASSETS			
Notes receivable	213,980	288,528	0
Net pension asset	10,310,876	10,043,061	0
Net OPEB asset	1,035,347	667,403	0
Capital assets, net of accumulated depreciation	39,247,108	41,726,089	0
Land	18,698,005	18,698,005	552,611
Construction in progress	15,976,721	7,062,710	0
TOTAL NONCURRENT ASSETS	85,482,037	78,485,796	552,611
TOTAL ASSETS	123,054,538	118,922,011	3,340,820
LIABILITIES			
CURRENT LIABILITIES			
Accounts payable	1,893,707	1,105,463	0
Accrued salaries and wages	626,619	575,323	0
Accrued interest payable	83,459	87,141	0
Due to related organization	54,710	51,855	0
Other current liabilities	2,129,854	1,610,990	0
Long-term debt	195,000	190,000	0
TOTAL CURRENT LIABILITIES	4,983,349	3,820,772	0
NONCURRENT LIABILITIES			
Compensated absences	2,616,008	2,517,945	0
Long-term debt	4,090,000	4,285,000	0
Other liabilities	1,710	1,194,017	0
TOTAL NONCURRENT LIABILITIES	6,707,718	7,996,962	0
TOTAL LIABILITIES	11,691,067	11,817,734	0
PENSION OBLIGATION (SEE NOTE 6)			
NET ASSETS			
Invested in capital assets (net of related debt)	69,636,834	63,011,804	552,611
Restricted	1,287,828	1,249,072	2,788,209
Unrestricted	40,438,809	42,843,401	0
TOTAL NET ASSETS	\$ 111,363,471	\$ 107,104,277	\$ 3,340,820

See accompanying notes to basic financial statements.

**City of Mountain Brook, Alabama
Government-wide Statement of Activities
For the Year Ended September 30, 2012 with Comparative Data**

Program Activities	Program Revenues				2012	2011	2012	2011
	Expenses	Fees, Fines and Charges for Services	Operating Grants and Contributions	Capital Grants and Contributions	Total Net Revenue and Changes in Net Assets (Expense)	Total Net Revenue and Changes in Net Assets (Expense)	Component Unit (Library Foundation)	Component Unit (Library Foundation)
Governmental activities:								
General government	\$ 3,747,727	\$ 2,671,080	\$ 927,198	\$ 0	\$ (149,449)	\$ (429,601)	\$ 0	\$ 0
Public safety	13,611,275	2,168,899	0	0	(11,442,376)	(11,977,878)	0	0
Street and sanitation	8,530,360	143,762	0	1,572,639	(6,813,959)	(4,649,752)	0	0
Recreational	1,825,946	110,944	42,167	42,692	(1,630,143)	(1,565,538)	0	0
Library	3,177,161	69,801	12,062	71,486	(3,023,812)	(2,711,199)	0	0
Total	\$ 30,892,469	\$ 5,164,486	\$ 981,427	\$ 1,686,817	\$ (23,059,739)	\$ (21,333,968)		
Component unit:								
Library Foundation	\$ 185,218	\$ 0	\$ 169,701	\$ 0			\$ (15,517)	\$ 119,271
General revenues:								
Taxes:								
Ad Valorem (real and personal property)					15,026,059	14,969,922	0	0
Sales and use					9,406,314	8,732,996	0	0
Other taxes					175,910	149,792	0	0
Utility taxes					1,365,487	1,460,206	0	0
Franchise fees					607,791	560,903	0	0
Investment earnings (loss)					598,322	655,861	355,682	(43,147)
Gain (loss) on sale/disposal of capital assets					66,317	(753,165)	0	0
Miscellaneous revenues					18,916	11,355	3,772	3,600
Transfers					53,817	119,419	(53,817)	(119,419)
Total general revenues and transfers					27,318,933	25,907,289	305,637	(158,966)
Change in net assets					4,259,194	4,573,321	290,120	(39,695)
Net assets at beginning of year					107,104,277	102,530,956	3,050,700	3,090,395
Net assets at end of year					\$ 111,363,471	\$ 107,104,277	\$ 3,340,820	\$ 3,050,700

See accompanying notes to basic financial statements.

City of Mountain Brook, Alabama
Balance Sheet
Governmental Funds
September 30, 2012

	General	Capital Projects	Other Governmental Funds	Total Governmental Funds
ASSETS				
Cash and temporary investments	\$ 11,406,361	\$ 19,389,427	\$ 4,282,029	\$ 35,077,817
Cash and temporary investments - restricted	179,551	0	0	179,551
Receivables	1,844,064	121,707	69,888	2,035,659
Due from related organizations	85,613	0	0	85,613
Inventory and prepaid expenses	119,313	0	0	119,313
TOTAL ASSETS	\$ 13,634,902	\$ 19,511,134	\$ 4,351,917	\$ 37,497,953
LIABILITIES				
Accounts payable	\$ 861,707	\$ 1,019,589	\$ 12,411	\$ 1,893,707
Accrued salaries and wages	635,899	0	0	635,899
Due to related organizations	54,710	0	0	54,710
Other liabilities	1,104,574	0	0	1,104,574
TOTAL LIABILITIES	2,656,890	1,019,589	12,411	3,688,890
Pension obligation (see Note 6)				
FUND BALANCES				
Nonspendable	119,313	0	0	119,313
Restricted	0	0	1,287,828	1,287,828
Committed	53,696	18,491,545	0	18,545,241
Assigned	2,275,673	0	3,051,678	5,327,351
Unassigned	8,529,330	0	0	8,529,330
TOTAL FUND BALANCES	10,978,012	18,491,545	4,339,506	33,809,063
TOTAL LIABILITIES AND FUND BALANCES	\$ 13,634,902	\$ 19,511,134	\$ 4,351,917	\$ 37,497,953

See accompanying notes to basic financial statements

City of Mountain Brook, Alabama
Reconciliation of the Governmental Funds Balance Sheet to the
Statement of Net Assets
September 30, 2012

Fund balance - total governmental funds	\$ 33,809,063
Amounts reported for governmental activities in the statement of net assets are different because:	
Note receivable charged to capital outlay in the fund financial statements less principal recoveries.	288,528
Capital assets used in governmental activities are not current financial resources and therefore are not reported in the governmental funds balance sheet.	
Governmental capital assets	122,135,801
Less accumulated depreciation	(48,213,967)
Net pension assets are not current financial resources and therefore are not reported in the governmental funds balance sheet.	10,310,876
Net OPEB assets are not current financial resources and therefore are not reported in the governmental funds balance sheet.	1,035,347
Long-term liabilities are not due and payable in the current period and therefore, they are not reported in the governmental funds balance sheet.	
Governmental bonds payable	(4,285,000)
Compensated absences	(2,816,008)
Accrued interest payable	(83,459)
Accrued development agreement obligations	(1,017,710)
Net assets of governmental activities	\$ 111,363,471

See accompanying notes to basic financial statements.

**City of Mountain Brook, Alabama
Statement of Revenues, Expenditures, and Changes in Fund Balances
Governmental Funds
Year Ended September 30, 2012**

	<u>General</u>	<u>Capital Projects</u>	<u>Other Governmental Funds</u>	<u>Total Governmental Funds</u>
Revenues:				
Taxes	\$ 27,109,720	\$ 0	\$ 377,541	\$ 27,487,261
Licenses and permits	3,694,451	0	0	3,694,451
Intergovernmental	85,613	0	0	85,613
Charges for services	753,796	0	353,148	1,106,944
Fines and forfeitures	446,682	0	138,687	585,369
Grants	12,062	1,021,656	0	1,033,718
Other operating revenues	478,031	472,834	211,356	1,162,221
Total revenues	<u>32,580,355</u>	<u>1,494,490</u>	<u>1,080,732</u>	<u>35,155,577</u>
Expenditures:				
Current (operating):				
General government	5,305,752	7,414,753	202,896	12,923,401
Public safety	12,271,377	747,469	392,006	13,410,852
Street and sanitation	5,996,599	1,872,401	588,804	8,457,804
Recreational	1,173,043	146,343	0	1,319,386
Library	2,617,671	43,833	0	2,661,504
Debt service:				
Principal	0	0	190,000	190,000
Interest	0	0	170,600	170,600
Total expenditures	<u>27,364,442</u>	<u>10,224,799</u>	<u>1,544,306</u>	<u>39,133,547</u>
Excess (deficiency) of revenues over expenditures	<u>5,215,913</u>	<u>(8,730,309)</u>	<u>(463,574)</u>	<u>(3,977,970)</u>
Other financing sources (uses):				
Operating transfers in	0	3,862,723	912,734	4,775,457
Operating transfers (out)	(4,337,088)	(360,600)	(77,769)	(4,775,457)
Operating transfers in - component unit	53,817	0	0	53,817
Donations	72,261	0	0	72,261
Total other financing sources (uses)	<u>(4,211,010)</u>	<u>3,502,123</u>	<u>834,965</u>	<u>126,078</u>
Excess of revenues and other financing sources over expenditures and other financing uses	1,004,903	(5,228,186)	371,391	(3,851,892)
Fund balances, beginning of year	<u>9,973,109</u>	<u>23,719,731</u>	<u>3,968,115</u>	<u>37,660,955</u>
FUND BALANCES, END OF YEAR	<u>\$ 10,978,012</u>	<u>\$ 18,491,545</u>	<u>\$ 4,339,506</u>	<u>\$ 33,809,063</u>

See accompanying notes to basic financial statements.

City of Mountain Brook, Alabama
Reconciliation of the Statement of Revenues, Expenditures, and Changes in Fund
Balance of Governmental Funds to the Government-wide Statement of Activities
September 30, 2012

Net change in fund balances - total governmental funds	\$ (3,851,892)	
Amounts reported for governmental activities in the statement of activities are different because:		
Construction loan principal receipts charged to other operating revenues in the governmental funds and as a reduction in the note receivable in the statement of net assets.	(121,629)	
Governmental funds report capital outlays as expenditures. However, in the government-wide statement of activities, the cost of those assets is allocated over their estimated useful lives as depreciation expense.		
Expenditures for capital assets	10,505,221	
Less current year depreciation	<u>(4,011,827)</u>	6,493,394
Net book value of assets disposed during the year.		(8,364)
The net effect of transactions involving net pension assets is to increase net assets.		267,815
The net effect of transactions involving net OPEB assets is to increase net assets.		367,944
Repayment of bond principal is an expenditure in the governmental funds, but the repayment reduces long-term liabilities in the statement of net assets.		190,000
Repayment of development fee obligation in the governmental funds, but the repayment reduces long-term liabilities in the statement of net assets.		1,016,307
Some expenses reported in the government-wide statement of activities do not require the use of current financial resources and therefore are not reported as expenditures in governmental funds.		
Change in long-term compensated absences	(98,063)	
Change in accrued interest payable	<u>3,682</u>	<u>(94,381)</u>
Change in net assets of governmental activities		\$ <u>4,259,194</u>

See accompanying notes to basic financial statements.

**City of Mountain Brook, Alabama
Statement of Fiduciary Net Assets
Other Post-Employment Benefits Trust Fund
September 30**

	<u>2012</u>	<u>2011</u>
ASSETS		
Certificates of deposit, at fair value	\$ 925,335	\$ 613,573
TOTAL ASSETS	<u>925,335</u>	<u>613,573</u>
LIABILITIES		
Accounts payable and accrued liabilities	<u>0</u>	<u>0</u>
TOTAL LIABILITIES	<u>0</u>	<u>0</u>
NET ASSETS HELD IN TRUST FOR OTHER POST-EMPLOYMENT BENEFITS	<u>\$ 925,335</u>	<u>\$ 613,573</u>

See accompanying notes to basic financial statements.

**City of Mountain Brook, Alabama
Statement of Changes in Fiduciary Net Assets
Other Post-Employment Benefits Trust Fund
Year Ended September 30**

	<u>2012</u>	<u>2011</u>
ADDITIONS		
Contributions		
Employer	\$ 654,828	\$ 564,016
Plan members	126,308	124,616
Investment earnings	<u>11,762</u>	<u>10,549</u>
TOTAL ADDITIONS	792,898	699,181
DEDUCTIONS		
Benefits	476,136	483,632
Administrative expense	<u>5,000</u>	<u>5,000</u>
TOTAL DEDUCTIONS	<u>481,136</u>	<u>488,632</u>
NET INCREASE	311,762	210,549
Net assets held in trust for other post-employment benefits, beginning of year	<u>613,573</u>	<u>403,024</u>
NET ASSETS HELD IN TRUST FOR OTHER POST-EMPLOYMENT BENEFITS, END OF YEAR	<u>\$ 925,335</u>	<u>\$ 613,573</u>

See accompanying notes to basic financial statements.

City of Mountain Brook, Alabama
Notes to Financial Statements

1. Summary of significant accounting policies

The City of Mountain Brook, Alabama (the City) was incorporated on March 24, 1942. The City operates under the Council-Manager form of government organized to comply with the provisions of Title 11, Chapter 43, Sections 20-22 of the Code of Alabama 1975, as amended. The City Council is composed of five officials all of whom are elected at-large. The members of the City Council and Mayor hold office for four year terms. The terms of office for the elected officials are staggered (beginning in October 2004) with Council places 1, 3, and 5 up for election in even years and Council places 2 and 4 and the Mayor's office up for election in odd years. The next election is scheduled for August 26, 2014. The City Manager is appointed by the City Council as the executive officer to serve at the will and pleasure of that body. The Mayor and members of the City Council receive no salary or other compensation for their service to the City.

A. Accounting and reporting

The City of Mountain Brook, Alabama complies with generally accepted accounting principles (GAAP). GAAP includes all relevant Governmental Accounting Standards Board (GASB) pronouncements. In the government-wide financial statements, Financial Accounting Standards Board (FASB) pronouncements and Accounting Principles Board (APB) opinions issued on or before November 30, 1989, have been applied unless those pronouncements conflict with or contradict GASB pronouncements, in which case, GASB prevails. The accounting and reporting framework and the more significant accounting policies are discussed in subsequent subsections of this note.

B. Related organizations

The City is also responsible for appointing the Board of Trustees of the Mountain Brook Board of Education (the Board). However, the City has no control or influence in the presentation or adoption of the Board's annual operating budget; the City is not responsible for any budget deficits incurred by the Board; and the Board has the authority to issue debt securities which are neither secured by the City's revenues or obligations of the City. Accordingly, the financial statements of the Board are not presented in the accompanying financial statements because the City is not considered to be financially accountable for the Board.

During years ended September 30, 2012 and 2011, the City reported the following revenues from the Board:

	2012	2011
General Fund		
Community athletic fields shared maintenance	\$ 85,613	\$ 84,874
High school sewer treatment facility maintenance	7,200	7,200
Total	\$ 92,813	\$ 92,074

At September 30, 2012 and 2011, the City reported receivables from the Board in the amounts as follows (See Note 3):

	2012	2011
General Fund		
Note receivable	\$ 0	\$ 50,000
Community athletic fields shared maintenance	85,613	84,874
Total	\$ 85,613	\$ 134,874

The City receives 36.7 mills of the 99.0 mill property tax (Note 1.R.) from Jefferson County. From the 36.7 mills, the City transfers 10.6 mills to the Board. For financial reporting purposes, the City includes the net property tax of 26.1 mills in its General Fund revenues. At September 30, 2012 and 2011, the City owed the Board \$54,710 and \$51,855, respectively, for its share of property taxes which is included in other liabilities of the General Fund.

City of Mountain Brook, Alabama
Notes to Financial Statements

In 1998, the City agreed to serve as the fiscal agent for the third phase of the Board's improvements to the community athletic fields. The improvements totaling approximately \$1 million were financed through the issuance of Series 1998-A general obligation warrants. The athletic fields are maintained by the City's Parks and Recreation Department. The routine maintenance of the fields are shared by the City (1/3), the Board (1/3), two unaffiliated local athletic groups - Mountain Brook Athletics, Inc. (1/6), and Mountain Brook Soccer Club, Inc. (1/6).

In 2005, the City entered into a long-term lease agreement with the Mountain Brook Sports Park Foundation (MBSPF), a non-profit organization. Under the terms of the agreement, MBSPF was granted the right to use City land to be used primarily for community soccer fields. MBSPF paid for the construction of such fields from private donations and a \$500,000 loan from the City. The construction costs totaled \$1,952,936. In 2009, MBSPF constructed a restroom/concession stand at the complex which was financed from private donations, a contribution from the City in the amount of \$62,500, and a loan from the City in the amount of \$62,500. The outstanding loan balance of \$288,528 and \$360,157 has been presented as a note receivable in the statement of net assets as of September 30, 2012 and 2011, respectively.

During the years ended September 30, 2012 and 2011, the City reported the following transactions in conjunction with the above joint ventures which are included in the General Fund in the accompanying financial statements:

	2012	2011
Revenues		
The Board of Education	\$ 42,042	\$ 41,425
Mountain Brook Athletics, Inc.	21,021	20,713
Mountain Brook Soccer Club, Inc.	21,021	20,712
Charges for services (MBSPF)	84,732	60,244
Investment income	0	0
Total revenues	168,816	143,094
Expenditures		
Recreational (operating and maintenance)	126,126	124,016
Capital outlay (\$1,952,936 cumulative)	0	0
Total expenditures	126,126	124,016
Other financing sources (uses), net		
Transfers to City General Fund	(42,690)	(18,819)
Net other financing sources	(42,690)	(18,819)
Excess (deficiency) of revenues and other financing sources over expenditures and other assets	0	259
Fund balance (deficit) at the beginning of the year	0	(259)
Fund balance (deficit) at the end of the year	\$ 0	\$ 0

The City and School Board fulfilled their respective financial commitments in 2005. The general obligation warrants were repaid in 2008 with funds donated to the City for that purpose.

City of Mountain Brook, Alabama
Notes to Financial Statements

Another related organization is the Mountain Brook Library Foundation. The Foundation is a non-profit organization formed for the benefit of the Emmet O'Neal Library, a department of the City. Several of the Foundation's Board members are also members of The Emmet O'Neal Library Board. The Library Foundation has received contributions from residents which were utilized to construct, furnish, and equip the City's library facilities. These facilities were contributed to the City of Mountain Brook during 2001, and are included in the accompanying financial statements.

The financial position and results of operations of the Foundation are reported as a component unit of the City in the accompanying government-wide financial statements. A copy of the Foundation's audited financial statements may be obtained from the Library.

C. Government-wide Financial Statements

The Statement of Net Assets and Statement of Activities display information about the reporting government as a whole. They include all funds of the reporting entity except for fiduciary funds and component units that are fiduciary in nature.

Governmental activities generally are financed through taxes, intergovernmental revenues, and other non-exchange revenues.

The statement of activities demonstrates the degree to which the direct expense of a given function or segment are offset by program revenues. Direct expenses are those that are clearly identifiable with a specific function or segment. Program revenues include: 1) charges to customers or applicants who purchase, use, or directly benefit from goods, services, or privileges provided by a given function or segment, and 2) grants and contributions that are restricted to meeting the operational or capital requirements of a particular function or segment. Taxes and other items not properly included among program revenues are reported instead as general revenues.

D. Fund Financial Statements

Fund financial statements of the reporting entity are organized into funds, each of which is considered to be a separate accounting entity. Each fund is accounted for in a separate set of self-balancing accounts that constitute its assets, liabilities, fund equity, revenues, and expenditure/expenses. Funds are organized into three major categories: governmental, proprietary, and fiduciary (the City had no proprietary funds at year end). An emphasis is placed on major funds within the governmental categories. A fund is considered major if it is the primary operating fund of the City or meets the following criteria:

1. Total assets, liabilities, revenues, or expenditures/expenses of that individual governmental fund are at least ten percent (10%) of the corresponding total for all funds of that category or type; and
2. Total assets, liabilities, revenues, or expenditures/expenses of the individual governmental fund are at least five percent (5%) of the corresponding total for all governmental funds combined.

The City may also elect to present a fund as major if it does not meet the above criteria to emphasize the importance of a certain fund's activity.

The funds of the financial reporting entity are described below:

Governmental funds

A. General Fund

The General Fund is the principal fund of the City and is always classified as a major fund. It is used to account for all revenues and expenditures applicable to the general operations of city government which are not properly accounted for in another fund. All general operating revenues which are not restricted or designated as to their use by outside sources are recorded in the General Fund.

B. Special Revenue Funds

Special Revenue Funds are used to account for the proceeds of specific revenue sources that are restricted or committed to expenditures for specified purposes.

City of Mountain Brook, Alabama
Notes to Financial Statements

C. Debt Service Funds

The Debt Service Fund is used to account for financial resources related the City's debt service. In addition, the City is accumulating resources in the Debt Service Fund for the possible future repayment of its unfunded pension obligation (see Note 6).

D. Capital Projects Funds

Capital Projects Funds are used to account for, and demonstrate compliance with, legal and contractual provisions and to compile data related to financial resources to be used for the acquisition or construction of major fixed assets other than those financed by special assessments.

Major and non-major funds

The General Fund and Capital Projects Funds are classified as major funds and are described above. The City has elected to present all Capital Projects Funds as major funds to reflect the importance of their activity separately from other non-major funds regardless of whether these funds meet the reporting criteria described above.

The Special Revenue Funds and Debt Service Fund are classified as non-major and are described above.

E. Fund Balance

Fund balance is divided into five classifications based primarily on the extent to which the City is bound to observe constraints imposed upon the use of the resources in the governmental funds. The classifications are as follows:

Nonspendable - The nonspendable fund balance category includes amounts that cannot be spent because they are not in spendable form, or legally or contractually required to be maintained intact. The "not in spendable form" criterion includes items that are not expected to be converted to cash. It also includes the long-term amount of intrafund loans, if any.

Restricted - Fund balance is reported as restricted when constraints placed on the use of resources are either externally imposed by creditors (such as through debt covenants), grantors, contributors, or laws or regulations of other governments or is imposed by law through constitutional provisions or enabling legislation (City ordinances).

Enabling legislation authorizes the City to assess, levy, charge, or otherwise mandate payment of resources (from external resource providers) and includes a legally enforceable requirement that those resources be used only for the specific purposes stipulated in the legislation. Legal enforceability means that the City can be compelled by an external party such as residents, public interest groups, or the judiciary to use resources created by enabling legislation only for the purposes specified by the legislation.

Committed - The committed fund balance classification includes amounts that can be used only for the specific purposes imposed by formal action (ordinance) of the City Council. Those committed amounts cannot be used for any other purpose unless the City Council removes or changes the specified use by taking the same type of action (ordinance) it employed to previously commit those amounts. In contrast to fund balance that is restricted by enabling legislation, the committed fund balance classification may be redeployed for other purposes with appropriate due process. Constraints imposed on the use of committed amounts are imposed by the City Council, separate from the authorization to raise the underlying revenue; therefore, compliance with these constraints are not considered to be legally enforceable. Committed fund balance also incorporates contractual obligations to the extent that existing resources in the fund have been specifically committed for use in satisfying those contractual requirements.

Assigned - Amounts in the assigned fund balance classification are intended to be used by the City for specific purposes but do not meet the criteria to be classified as restricted or committed. In governmental funds other than the General Fund, assigned fund balance represents the remaining amount that is not restricted or committed. In the General Fund, assigned amounts represent intended uses established by City Council or a City official delegated that authority by City ordinance.

City of Mountain Brook, Alabama
Notes to Financial Statements

Unassigned - Unassigned fund balance is the residual classification for the General Fund and includes all spendable amounts not contained in the other classifications. In other governmental funds, the unassigned classification is used only to report a deficit balance resulting from overspending for specific purposes for which amounts had been restricted, committed, or assigned.

The City applies restricted resources first when expenditures are incurred for purposes for which either restricted or unrestricted (committed, assigned, and unassigned) amounts are available. Similarly, within unrestricted fund balance, committed amounts are reduced first followed by assigned, and then unassigned amounts when expenditures are incurred for purposes for which amounts in any of the unrestricted fund balance classifications could be used.

The constraints placed on fund balance for the major governmental funds and all other governmental funds are presented below:

Fund Balances	General	Capital Projects	Other Governmental Funds	Total
Nonspendable:				
Prepaid expenses	\$ 54,965	\$ 0	\$ 0	\$ 54,965
Inventory	64,348	0	0	64,348
Total Nonspendable	119,313	0	0	119,313
Restricted:				
Emergency Communication District (E-911)	0	0	507,601	507,601
State Shared Gasoline Taxes:				
5 Cent	0	0	145,379	145,379
7 Cent	0	0	223,372	223,372
4 Cent	0	0	389,002	389,002
2 Cent	0	0	22,474	22,474
Corrections Fund	0	0	0	0
Total Restricted	0	0	1,287,828	1,287,828
Committed:				
Capital Projects	0	18,491,545	0	18,491,545
Library Endowment	53,696	0	0	53,696
Total Committed	53,696	18,491,545	0	18,545,241
Assigned:				
Emergency Reserve Fund	2,134,265	0	0	2,134,265
Debt Service Fund	0	0	3,051,678	3,051,678
Asset Forfeitures	21,756	0	0	21,756
Library Book Fund	108,682	0	0	108,682
Community Fund	10,970	0	0	10,970
Total Assigned	2,275,673	0	3,051,678	5,327,351
Unassigned				
	8,529,330	0	0	8,529,330
Total Fund Balances	\$10,978,012	\$18,491,545	\$ 4,339,506	\$33,809,063

F. Measurement focus and basis of accounting

Measurement focus is a term used to describe "which" transactions are recorded within the various financial statements. Basis of accounting refers to "when" transactions are recorded regardless of the measurement focus applied.

City of Mountain Brook, Alabama
Notes to Financial Statements

Measurement focus

On the Government-wide Statement of Net Assets and the Statement of Activities, governmental activities are presented using the "economic resources" measurement focus. The accounting objectives of this measurement focus are the determination of operating income, changes in net assets (or cost recovery), financial position, and cash flows. All assets and liabilities (whether current or noncurrent) associated with their activities are reported.

In the fund financial statements, the "current financial resources" measurement focus or the "economic resources" measurement focus is used as appropriate. All governmental funds utilize a "current financial resources" measurement focus. Only current financial assets and liabilities are generally included on their balance sheets. Their operating statements present sources and uses of available spendable financial resources during a given period. These funds use fund balance as their measure of available spendable financial resources at the end of the period.

Basis of accounting

In the Government-wide Statement of Net Assets and Statement of Activities, governmental activities are presented using the accrual basis of accounting. Under the accrual basis of accounting, revenues are recognized when earned and expenses are recorded when the liability is incurred or economic asset used. Revenues, expenses, gains, losses, assets and liabilities resulting from exchange and exchange-like transactions are recognized when the exchange takes place.

In the fund financial statements, governmental funds are presented on the modified accrual basis of accounting. Under this modified accrual basis of accounting, revenues are recognized when "measurable and available". Measurable means knowing or being able to reasonably estimate the amount. Available means collectible within the current period or generally within sixty days after year end. Expenditures (including capital outlay) are recorded when the related fund liability is incurred, except for general obligation bond principal and interest which are reported when due.

G. Encumbrances

In the Fund Financial Statements, the City does not utilize encumbrance accounting techniques which means that fund balances are not committed or assigned upon the issuance of purchase orders. Expenditures are recorded upon the impairment of an asset.

H. Workers' compensation

The City provides workers' compensation coverage to its employees as required by law. The City has elected to self-insure with respect to its workers' compensation claims risk and has contracted with a third-party administrator to provide claims management services. In order to limit its exposure to claims risk, the City has purchased excess loss insurance coverage. The excess loss insurance pays the remainder of statutory obligations over the first \$500,000 for specific claims and up to \$2,000,000 after the first \$1,500,983 in the aggregate during the two year policy term. Workers' compensation cost charged by the City during 2012 and 2011 was approximately \$187,000 and \$597,000, respectively. The accompanying financial statements include an estimated accrual of unpaid workers' compensation claims as of September 30, 2012 and September 30, 2011 in the amount of \$688,100 and 678,400, respectively.

I. Cash and temporary investments

Cash resources of various funds are combined to form a cash and investment pool. Interest from this pool is allocated monthly to each fund based on their respective month-end cash and investment balances. Restricted cash and temporary investments of \$179,551 and \$140,760 as of September 30, 2012 and 2011, respectively, represent temporary and permanently restricted funds donated to the Emmet O'Neal Library, a department of the City.

J. Receivables

In the government-wide statements, receivables consist of all revenues earned at year-end and not yet received. Allowances for uncollectible accounts receivable are based upon historical trends and the periodic aging of accounts receivable. Major receivable balances for the governmental activities include sales and use taxes and road and bridge taxes.

City of Mountain Brook, Alabama
Notes to Financial Statements

In the fund financial statements, material receivables in governmental funds include the receivables mentioned in the preceding paragraph and other similar intergovernmental revenues since they are usually both measurable and available. Non-exchange transactions collectible but not available are deferred in the fund financial statements in accordance with modified accrual, but not deferred in the government-wide financial statements in accordance with the accrual basis. Interest and investment earnings are recorded when earned generally if paid within 60 days since they would be considered both measurable and available.

K. Equity classifications

Government-wide Statements

Equity is classified as net assets and displayed in three components:

1. Invested in capital assets, net of related debt - Consists of capital assets including restricted capital assets, net of accumulated depreciation and reduced by the outstanding balances of any bonds, mortgages, notes, or other borrowings that are attributable to the acquisition, construction, or improvement of those assets.
2. Restricted net assets - Consists of net assets with constraints placed on the use either by (1) external groups such as creditors, grantors, contributors, or laws or regulations of other governments; or (2) law through constitutional provisions or enabling legislation.
3. Unrestricted net assets - All other net assets that do not meet the definition of "restricted" or "invested in capital assets, net of related debt".

Fund Statements

Governmental fund equity is classified as fund balance. Fund balance is further classified in accordance with section E. of this note.

L. Long-term debt

The accounting treatment of long-term debt depends on whether the assets are reported in the government-wide or fund financial statements.

All long-term debts to be repaid from governmental resources are reported as liabilities in the government-wide statements. The long-term debt consists primarily of bonds payable and accrued compensated absences.

Long-term debt for governmental funds is not reported as a liability in the fund financial statements. The debt proceeds are reported as other financing sources and payment of principal and interest reported as expenditures.

M. Compensated absences

Full-time City employees earn sick leave at the rate of one day per month of service and can accumulate up to sixty days of sick leave. Vacation leave is earned at graduated rates based on length of service (one day per month of service initially, one and one-half days per month of service after twelve years, and two days per month of service after twenty-five years). Employees are allowed to accumulate up to forty days of vacation leave (sixty for sworn police officers and firefighters).

A full-time employee may retire after twenty-five years of creditable service or after attaining sixty years of age with at least ten years of creditable service. A retiring employee or separating employee in good standing receives termination pay equivalent to their unused vacation pay not to exceed forty days. In addition, a retiring employee or separating employee in good standing with five years of service receives termination pay based on 50% of their accrued sick leave limited to thirty days pay.

The Government-wide Statement of Net Assets includes a noncurrent liability for compensated absences in the amount of \$2,616,008 as of September 30, 2012 and \$2,517,945 as of September 30, 2011. The City paid \$9,279 and \$13,758 after September 30, 2012 and 2011, respectively, representing all vested compensated absences to employees who retired or otherwise ended their employment with the City prior to year end. Such amounts have been reported as current liabilities in the Government-Wide Statement of Activities.

City of Mountain Brook, Alabama
Notes to Financial Statements

N. Longevity pay plan

The City has a longevity pay plan which covers all full-time employees that have completed a minimum of six years of service as of September 30. Longevity pay for a qualifying employee is the product of the percentage factor (which is based on the number of years of completed services) and their annual rate of pay. The percentage factor is 1.5% after six years and increases 0.5% per year to a maximum rate of 8.5% which is attained after twenty years of service. The plan also limits the City's maximum annual longevity pay to a total of \$420,000. The City has adopted the informal policy of liquidating the liability for longevity pay in November of each year. The liability for longevity pay as of September 30, 2012 and September 30, 2011 reported in the Government-Wide and Fund financial statements totaled \$411,770 and \$409,888, respectively.

O. Holiday pay

Holiday pay can be accumulated (principally police and fire personnel) up to 80 hours. Accumulations in excess of 80 hours are not permitted and such time is paid to employees as earned.

P. Pension expense

All full-time employees participate in the City's defined benefit pension plan. The City funds pension expense as actuarially determined and required by the plan (Note 6).

Q. Intrafund transactions

During the course of normal operations, the City incurs numerous transactions between funds to provide services, construct or acquire assets, service debt, etc. These transactions are generally reported as operating transfers except in instances where the transfer represents the reimbursement to a fund for expenditures incurred for the benefit of another fund. Following is a summary of the operating transfers between funds during the year ended September 30, 2012:

	General	Capital Projects	Other Governmental Funds
Operating transfers in (out):			
Capital transfers for the payment of current year asset acquisitions and the future replacement of capital assets	\$ (3,784,954)	\$ 3,862,723	\$ (77,769)
Corrections fund transfer to fund operations	(152,134)	0	152,134
Debt service transfer for the accumulation of funds for the future repayment of City obligations	(300,000)	0	300,000
Debt service fund transfer for the repayment of General Obligation principal and interest	0	(360,600)	360,600
Gasoline tax fund transfer to supplement the annual street resurfacing program	(100,000)	0	100,000
Operating transfers, net	\$ (4,337,088)	\$ 3,502,123	\$ 834,965

Following is a summary of the operating transfers between funds during the year ended September 30, 2011:

City of Mountain Brook, Alabama
Notes to Financial Statements

	General	Capital Projects	Other Governmental Funds
Operating transfers in (out):			
Capital transfers for the payment of current year asset acquisitions and the future replacement of capital assets	\$ (3,226,893)	\$ 3,226,893	\$ 0
Corrections fund transfer to fund operations	(133,775)	0	133,775
Debt service transfer for the accumulation of funds for the future repayment of City obligations	(300,000)	0	300,000
Debt service fund transfer for the repayment of General Obligation principal and interest	0	(358,556)	358,556
Gasoline tax fund transfer to supplement the annual street resurfacing program	(100,000)	0	100,000
Operating transfers, net	\$ (3,760,668)	\$ 2,868,337	\$ 892,331

Intrafund receivables and payables between funds within governmental activities are eliminated in the Statement of Net Assets. The purpose of the intrafund receivable balance, if any, to non-major governmental funds from the General fund is for the reimbursement of operating expenditures paid from non-major governmental funds on behalf of the General fund.

Permanent reallocations of resources between funds of the reporting entity are classified as intrafund transfers. For the purposes of the Statement of Activities, all intrafund transfers between individual governmental funds have been eliminated.

R. Property taxes

All ad valorem (real property) taxes levied by municipalities in Jefferson County, Alabama are assessed by the Jefferson County Tax Assessor and collected by the Jefferson County Tax Collector. The Jefferson County Tax Assessor attaches taxes as enforceable liens on property as of September 30 and taxes become due October 1 through December 31. Property taxes not paid by January 1 are considered delinquent. Personal property taxes are also collected by the Jefferson County Tax Collector and are due throughout the year. After collecting property taxes, the Jefferson County Tax Collector remits the City's portion by check monthly. Taxes collected by the Jefferson County Tax Collector before the fiscal year end but remitted to the City after September 30 are accrued in the General Fund.

For years beginning October 1, 1996, assessed values are calculated by multiplying the market value by the following percentages:

Residential owner occupant	10%
All other	20%

Millage distributions for real and personal property located within the City's corporate limits are as follows:

Entity	Amount Per \$100 of Assessed	
	Mills	Value
State of Alabama	6.5	\$ 0.65
Jefferson County Commission	13.5	1.35
County-wide school tax	8.2	0.82
Mountain Brook Board of Education	44.7	4.47
City of Mountain Brook General Fund	26.1	2.61
	99.0	\$ 9.90

City of Mountain Brook, Alabama
Notes to Financial Statements

S. Major revenue sources and taxpayers

The City's primary sources of revenue include ad valorem taxes, sales and use taxes, and business licenses. Collectively, these taxes and licenses totaled approximately \$26.6 million (82%) and \$25.8 million (82%) of the total General Fund revenues during the years ended September 30, 2012 and 2011, respectively. Of the City's taxpayers, Macy's Department Store, Alabama Power Company, Western Supermarket, Publix (grocery store), Whole Foods, Energen Corporation (gas company), Diamonds Direct, Piggly Wiggly grocery stores, and Marcus Cable (doing business as Charter Communications) collectively, provided approximately \$6.25 million (19%) and \$6 million (19%) of the City's total General Fund revenues during the years ended September 30, 2012 and 2011, respectively.

T. Expenditures/Expenses

In the government-wide financial statements, expenses are classified by function for the governmental activities.

In the fund financial statements, expenditures are classified as follows:

Governmental Funds - By Character:	Current (further classified by function and includes Capital Outlay) Debt Service
------------------------------------	--

In the fund financial statements, governmental funds report expenditures of financial resources.

U. Inventory

Inventory items are valued at cost which approximates market. The cost of inventory is recorded as expenditures when consumed rather than when purchased.

V. Comparative Data

Comparative total data for the prior year has been presented in selected sections of the accompanying financial statements in order to provide an understanding of the changes in the City's financial position and operations. Certain reclassifications have been made to previous year's presentation to conform with the current year presentation. Such reclassifications have had no net effect on the statements previously reported.

W. Fixed Assets

The accounting treatment over property, plant, and equipment (fixed assets) depends on whether the assets are reported in the government-wide or fund financial statements. In the government-wide financial statements, fixed assets with initial individual costs of more than \$1,000 (amounts not rounded) and an estimated useful life in excess of one year are accounted for as capital assets. All fixed assets are valued at historical cost, or estimated historical cost if actual is unavailable, except for donated fixed assets which are recorded at their estimated fair value at the date of donation. Historical cost was used to value the majority of the assets.

Prior to October 1, 2003, governmental funds' infrastructure assets were not capitalized. These assets have been valued at historical cost or estimated historical costs.

Depreciation of all exhaustible fixed assets is recorded as an allocated expense in the Statement of Activities, with accumulated depreciation reflected in the Statement of Net Assets. Depreciation is provided over the assets' estimated useful lives using the straight-line method of depreciation. The range of estimated useful lives by type of asset is as follows:

- Buildings	20-50 years
- Improvements	10-50 years
- Machinery and Equipment	3-20 years
- Infrastructure	5-75 years

Fund financial statements

In the fund financial statements, fixed assets used in governmental fund operations are accounted for as expenditures of the governmental function upon acquisition.

City of Mountain Brook, Alabama
Notes to Financial Statements

X. Management estimates

The preparation of financial statements in conformity with generally accepted accounting principles requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities, contingent liabilities and the reported amount of revenues and expenditures/expenses during the reporting period. Actual results could differ from those estimates.

Y. Subsequent events

The City has evaluated subsequent events through the date of issuance of these financial statements.

2. Deposits and Investments, interest rate risk, credit risk, and custodial risk
At September 30, 2012, the City had the following cash and investments and maturities:

	Investment Maturity in Years			
	Fair Value	Less Than 1	1 - 2	3 - 6
Cash on-hand	\$ 2,960	\$ 2,960	\$ 0	\$ 0
Bank deposits	9,844,584	9,844,584	0	0
Investments:				
Cash and money market accounts	109,968	109,968	0	0
Certificates of deposit	25,272,212	9,019,558	13,598,524	2,654,132
U. S. Treasury bonds/notes	399	0	399	0
576 shares VMC common stock (donated)	27,245	0	0	27,245
Total portfolio	\$35,257,368	\$18,977,068	\$13,598,923	\$ 2,681,377

At September 30, 2012, the discretely presented component unit had the following cash and investments and maturities:

	Investment Maturity in Years			
	Fair Value	Less Than 1	1 - 2	3 - 6
Bank deposits	\$ 201,296	\$ 201,296	\$ 0	\$ 0
Money market	251,999	251,999	0	0
Mutual funds	2,334,914	2,334,914	0	0
Total portfolio	\$ 2,788,209	\$ 2,788,209	\$ 0	\$ 0

Interest Rate Risk. As a means of limiting its exposure to fair value losses arising from rising interest rates, the City's investment policy restricts General Fund Investments to those with maturities of two years or less and Capital Project and Debt Service Fund investments to those with maturities of five years or less. Cash and Investment maturities (excluding the discretely presented component unit) as of September 30, 2012, were as follows:

Maturity	Portion of Portfolio
Less than one year	63.82%
1 - 2 years	38.57%
3 - 5 years	7.61%
	100.00%

Credit Risk. Act No. 2000-748 of the Code of Alabama requires that all public deposits held in banks be secured by collateral pledged to the Security for Alabama Funds Enhancement (SAFE) collateral pool established in the Office of the State Treasurer. The City's policy is to deposit funds only in financial institutions that are qualified public depositories of the State of Alabama SAFE program. All of the City's bank deposits are either insured by Federal Depository Insurance (FDIC) or collateralized in accordance with Act 2000-748. Neither the City or Foundation had uninsured bank deposits at September 30, 2012.

City of Mountain Brook, Alabama
Notes to Financial Statements

The City's investment policy allows for up to 100% of the portfolio to be invested in direct obligations of the U.S. government or federal agencies thereof in accordance with Sec. 11-81-19 and 11-81-21 of the Code of Alabama. At September 30, 2012, the City had invested \$25.3 million in certificates of deposit and \$400 in direct obligations of the U. S. Treasury. Of the City's \$25.3 million investment in certificates of deposit, the City had not invested more than \$250,000 with any financial institution located outside of the State of Alabama. Accordingly, the City had no uninsured certificates of deposit at September 30, 2012. Following is a summary of the City's top holdings in its cash and investment portfolio:

Description/Creditor	Fair Value	Portion of Portfolio
Iberia Bank (cash deposit accounts)	\$ 8,110,800	23.00%
Regions Bank (cash deposit accounts)	1,728,528	4.90%
Morgan Stanley (cash, deposits, money market funds)	109,968	0.31%
Various financial institutions - certificates of deposit	25,272,212	71.69%
	\$35,221,508	99.90%

The discretely presented component unit does not follow the investment policies of the City. Their policy allows for investments that may potentially produce the highest returns on capital. The following are the holdings in the discretely presented component unit's cash and investment portfolio:

Description	CUSIP	Fair Value	Portion of Portfolio
Bank demand deposit accounts		\$ 201,296	7.22%
Prime Money Market Fund		251,999	9.04%
Chase Growth Fund (18,907.115 shares)	CHASX	377,008	13.52%
Dodge & Cox International Stock (8,609.912 shares)	DODFX	279,392	10.02%
Longleaf Partner Family Value Tr #133 (11,561.313 shares)	LLPFX	348,227	12.49%
PIMCO All Asset Fund Institutional Class (38,085.973 shares)	PAAX	512,914	18.40%
PIMCO Low Duration Fund Institutional Class (30,593.482 shares)	PTLOX	328,126	11.70%
Vanguard Convert Securities (38,022.237 shares)	VCVSX	491,247	17.61%
		\$ 2,788,209	100.00%

Custodial Risk. For an investment, custodial risk is the risk that, in the event of the failure of the counterparty, the City will not be able to recover the value of its investments or collateral securities that are in the possession of an outside party. The City's investments in certificates of deposit and U. S. Treasury Notes are held in trust by the City's custodians in the name of the custodian. The discretely presented component unit's investments are held in book entry form and in trust by its custodian in the name of the custodian.

3. Receivables

Receivables at September 30, consisted of the following:

	2012				2011 Total
	General Fund	Capital Projects	Other Governmental Funds	Total	
Taxes	\$ 1,721,682	\$ 0	\$ 34,065	\$ 1,755,747	\$ 1,688,011
E-911 surcharge	0	0	35,823	35,823	33,410
Board of Education	85,613	0	0	85,613	84,874
Grants	28,642	121,707	0	150,349	876,273
Other	93,740	0	0	93,740	95,759
Totals	\$ 1,929,677	\$ 121,707	\$ 69,888	\$ 2,121,272	\$ 2,778,327

City of Mountain Brook, Alabama
Notes to Financial Statements

The City loaned the Mountain Brook Sports Park Foundation (MBSPPF), a nonprofit organization established to raise funds for the exclusive benefit of Mountain Brook Soccer Club, \$500,000 for their initial (2005) construction of athletic playing fields and \$62,500 for their (2009) construction of a concession/restroom facility at the fields (Note 1.B.). The terms of the loan were renegotiated in May 2011. The loan is to be repaid in sixty (60) monthly installments of \$7,061 including interest at 4% beginning in June 2011. The outstanding balance reported in the statement of net assets at September 30, 2012 and 2011 totaled \$288,528 and \$360,157, respectively. The current portion reported at September 30, 2012 and 2011 was \$74,548 and \$71,629, respectively. The City collected interest totaling \$13,103 in 2012 and \$12,901 in 2011.

4. Capital assets

Following is a summary of the changes in the City's capital assets for the year ended September 30, 2012:

	Balance at September 30, 2011	Additions	Disposals/ Retirements/ Completed	Balance at September 30, 2012
Capital assets, not being depreciated:				
Land	\$18,698,005	\$ 0	\$ 0	\$18,698,005
Construction in progress	7,062,710	8,914,011	0	15,976,721
Total capital assets, not being depreciated	25,760,715	8,914,011	0	34,674,726
Capital assets, being depreciated:				
Land improvements	3,039,881	0	0	3,039,881
Buildings and improvements	10,484,669	0	(2,995)	10,481,674
Machinery and equipment	18,808,028	1,153,927	(405,564)	19,556,391
Infrastructure	54,015,846	387,283	0	54,403,129
Total capital assets, being depreciated	86,328,424	1,541,210	(408,559)	87,461,075
Less accumulated depreciated for:				
Land improvements	328,019	25,789	0	353,808
Buildings and improvements	2,684,985	399,218	(2,871)	3,061,532
Machinery and equipment	13,270,267	1,324,798	(397,524)	14,197,541
Infrastructure	28,339,064	2,262,022	0	30,601,086
Total accumulated depreciation	44,602,335	4,011,827	(400,195)	48,213,967
Total capital assets, being depreciated, net	41,726,089	(2,470,617)	(8,364)	39,247,108
Governmental activities capital assets, net	\$67,486,804	\$ 6,443,394	\$ (8,364)	\$73,921,834

Depreciation expense was charged to functions of the primary government as follows:

	2012	2011
Governmental activities:		
General government	\$ 39,457	\$ 55,158
Public safety	884,739	1,056,007
Street and sanitation	1,897,927	1,833,978
Recreational	640,412	563,431
Library	549,292	740,266
Total depreciation expense	\$ 4,011,827	\$ 4,248,840

City of Mountain Brook, Alabama
Notes to Financial Statements

5. Long-term debt

Long-term debt outstanding as of September 30, 2012, consisted of the following:

	Balance
\$5,000,000 General Obligation Warrants, Series 2007 dated October 1, 2007 maturing annually on October 1 through the year 2027 plus interest payable on April 1 and October 1 at rate rates ranging from 3.875% to 4.0% (Note 9)	\$ 4,285,000
Total	\$ 4,285,000

The total interest paid by the City during the years ended September 30, 2012 and 2011 relative to general obligation warrants was \$170,600 and \$177,769, respectively. The current debt of the City supports the general government function and, as such, all interest expense has been charged to this function in the Government-wide Statement of Activities. The total amount of interest charged to expense of the general government function for the years ended September 30, 2012 and 2011 was \$166,919 and \$174,281, respectively.

Following is a summary of long-term debt principal transactions for the year ended September 30, 2012:

General obligation warrant balances at October 1, 2011	\$ 4,475,000
Principal payments:	
\$5,000,000 General Obligation Warrants, Series 2007	(190,000)
General obligation warrant balances at September 30, 2012	\$ 4,285,000

The future principal and interest maturities on the general obligation warrants by fiscal year are as follows:

Fiscal Year	Principal	Interest	Total
2013	\$ 195,000	\$ 163,141	\$ 358,141
2014	205,000	155,391	360,391
2015	210,000	147,350	357,350
2016	220,000	139,019	359,019
2017	230,000	130,300	360,300
Thereafter	3,225,000	746,847	3,971,847
Totals	\$ 4,285,000	\$ 1,482,048	\$ 5,767,048

6. Pension plan

A. Plan description

The City contributes to the Employees' Retirement System of Alabama, an agent multiple-employer public employee retirement system that acts as a common investment and administrative agent for various state agencies, departments, and municipalities.

Substantially all employees are members of the Employees' Retirement System of Alabama (RSA). Membership is mandatory for covered or eligible employees of the City. Benefits vest after 10 years of creditable service. Vested employees may retire with full benefits at age 60 or after 25 years of service. Retirement benefits are calculated by two methods with the retiree receiving payment under the method that yields the highest monthly benefit. The methods are (1) Minimum Guaranteed, and (2) Formula, of which the Formula method usually produces the highest monthly benefit. Under this method, retirees are allowed 2.0125% of their average final salary (highest three of the last ten years) for each year of service. Disability retirement benefits are calculated in the same manner. Pre-retirement death benefits in the amount of the annual salary for the fiscal year preceding death is provided to plan members with more than one year of creditable service or \$5,000 for those with less than one year of service.

City of Mountain Brook, Alabama

Notes to Financial Statements

The Employees' Retirement System was established as of October 1, 1945, under the provisions of Act 515, Acts of Alabama 1945, for the purpose of providing retirement allowances and other specified benefits for State employees, State police, and on an elective basis to all cities, counties, towns, and quasi-public organizations. The responsibility for general administration and operation of the Employees' Retirement System is vested in the Board of Control. Benefit provisions are established by the Code of Alabama 1975, Sections 36-27-1 through 36-27-103, as amended, Sections 36-27-120 through 36-27-139, as amended, and Sections 36-27B-1 through Sections 36-27B-6. Authority to amend the plan rests with the Legislature of Alabama. However, the Legislature has granted the member agencies the authority to accept or reject various Cost-Of-Living-Adjustments (COLAs) granted to retirees.

The Retirement Systems of Alabama issues a publicly available financial report that includes financial statements and required supplementary information for the Employees' Retirement System of Alabama. That report may be obtained by writing to The Retirement Systems of Alabama, 135 South Union Street, Montgomery, Alabama 36130-2150.

B. Funding

Effective October 1, 2011, the City elected to come under the provisions of Act 2011-676 which requires that covered employees contribute to the pension plan at the rate of 7.25% of compensation (8.25% for sworn police officers and firefighters). In addition, the RSA requires that the City remit monthly matching contributions to the pension plan. The City's matching contributions are actuarially determined annually and stated as a percentage of covered compensation. The City's actuarially determined matching contribution for the year ended September 30, 2012 was 8.42% of covered compensation.

For the year ended September 30, 2012, the City's total compensation was approximately \$13.7 million and the City's total covered compensation used to determine the City's pension contribution was approximately \$13 million. The City's policy is to fund the required contribution as actuarially determined by the RSA and stated as a percentage of eligible compensation; however, during 2008, 2007 and 2001, the City elected to contribute \$300,000, \$7 million and \$2 million, respectively, more than the actuarially determined required amount.

Following are the pension contributions for each fiscal year since January 1, 1995:

Year Ended September 30	Employer Contribution	Employer		Combined
		Employer	Employee	
1995*	5.48%	\$ 254,000	\$ 232,000	\$ 486,000
1996	5.48%	368,000	336,000	704,000
1997	6.70%	515,000	390,000	905,000
1998	8.25%	624,000	390,000	1,014,000
1999	9.45%	729,000	394,000	1,123,000
2000	9.45%	828,000	447,000	1,275,000
2001	9.45%	2,853,000	509,000	3,362,000
2002	9.45%	898,000	537,000	1,435,000
2003	8.31%	818,000	558,000	1,374,000
2004	9.83%	996,000	583,000	1,579,000
2005	10.90%	1,168,000	613,000	1,781,000
2006	10.90%	1,209,000	640,000	1,849,000
2007	11.51%	8,303,000	665,000	8,968,000
2008	7.98%	1,308,000	697,000	2,005,000
2009	9.06%	1,140,000	719,000	1,859,000
2010	6.84%	1,091,000	723,000	1,814,000
2011	9.96%	1,357,000	808,000	2,165,000
2012	8.42%	1,016,000	999,000	2,015,000

* Nine month period from January 1, 1995 through September 30, 1995.

City of Mountain Brook, Alabama

Notes to Financial Statements

C. Trend information

Following is the trend information from the most recent actuarial valuation dated September 30, 2011:

Fiscal Year Ended	Annual Pension Cost (APC)	Percentage of APC Contributed	Net Pension (Asset) Obligation
1999	\$ 730,197	100.0%	\$ 0
2000	827,411	100.0%	0
2001	858,468	290.2%	(2,000,000)
2002	881,673	116.7%	(2,150,178)
2003	812,825	102.8%	(2,172,874)
2004	972,887	102.4%	(2,195,810)
2005	1,156,963	100.0%	(2,196,231)
2006	1,210,300	678.4%	(9,196,651)
2007	1,221,176	108.0%	(9,294,170)
2008	911,587	142.5%	(9,681,799)
2009	1,023,066	108.9%	(9,784,828)
2010	830,796	131.9%	(10,043,061)
2011	1,000,454	126.7%	(10,310,876)

The net pension (asset) above is the result of the City's contributions above the actuarially determined annual required contributions as more fully described in Note 6.B. above.

D. Funding progress

Following is the schedule of funding progress obtained from most recent actuarial valuation prepared as of September 30, 2011:

Actuarial Valuation Date September 30	Actuarial Value of Assets (a)	Actuarial Accrued Liability (AAL) -Entry age (b)	Unfunded AAL (UAAL) (b-a)	Funded Ratio (a/b)	Covered Payroll (c)	Ratio of UAAL to Covered Payroll (b-a)/c
1996	\$11,432,073	\$15,123,539	\$ 3,691,466	75.6%	\$ 7,187,023	51.3%
1997	14,482,615	18,815,172	4,332,557	77.0%	7,745,713	55.9%
1998	16,250,881	20,474,800	4,223,919	79.4%	7,901,352	53.5%
1999	18,366,682	21,750,075	3,383,393	84.4%	7,965,312	42.5%
2000	20,708,080	25,584,241	4,876,161	80.9%	8,980,574	54.3%
2001	24,842,909	29,636,890	4,793,981	83.8%	9,282,996	51.6%
2002	26,589,001	33,716,032	7,127,031	78.9%	9,835,345	71.7%
2003	28,153,151	36,592,800	8,439,649	76.9%	9,994,458	84.4%
2004	29,873,086	37,849,401	7,976,315	78.9%	10,343,086	77.1%
2005	31,850,510	43,304,015	11,453,505	73.6%	11,079,436	103.4%
2006	40,804,372	47,811,288	7,006,916	86.2%	12,117,551	60.5%
2007	43,522,854	50,487,356	6,964,402	86.2%	12,527,394	69.7%
2008	44,857,398	53,591,533	8,734,135	63.7%	12,980,770	100.2%
2009	44,476,775	57,488,111	13,011,336	77.4%	12,830,545	134.3%
2010	43,435,390	60,671,273	17,235,883	71.6%	13,597,933	154.4%
2011	42,185,893	63,185,649	20,989,756	66.8%		

City of Mountain Brook, Alabama
Notes to Financial Statements

E. Additional Information

Following is additional information obtained from the most recent actuarial valuation:

Valuation date	September 30, 2011
Actuarial cost method	Entry age
Amortization method	Level percent open
Remaining amortization period	30 years
Asset valuation method	5-year smoothed market
Actuarial assumptions:	
Investment rate of return	8.00%
Projected salary increases	4.61 - 7.75%
Includes inflation at	4.50%
Cost-of-living adjustments	None
Number of active members	220
Number of retired members and beneficiaries	86
Annual retirement allowances	\$ 3,113,991

7. Post-employment benefits

Plan Description. The City of Mountain Brook's medical benefits are provided to employees upon actual retirement through participation in the Local Government Health Insurance Plan (LGHIP) administered by the State Employees' Insurance Board (SEIB).

The employer pays a portion of the medical coverage for the retirees and dependents for a maximum of thirteen years after retirement or, if earlier, until the attainment of Medicare eligibility. Eligibility for post-retirement coverage is as follows: completion of 30 years of service at any age or 15 years of service at age 60. Periodically, eligibility is extended to employees with 20 years of service and any age or at age 60 and completion of 10 years of service. Complete plan provisions are contained in the official plan documents.

Contribution Rates. Employees do not contribute to their post employment benefits costs until they become retirees and begin receiving those benefits. The plan provisions and contribution rates are contained in the official plan documents.

Fund Policy. Until 2006, the City of Mountain Brook recognized the cost of providing post-employment medical benefits (the City of Mountain Brook's portion of the retiree medical benefit premiums) as an expense when the benefit premiums were due and thus financed the cost of the post-employment benefits on a pay-as-you-go basis. In 2012 and 2011, the City of Mountain Brook's portion of health care funding cost for retired employees totaled \$354,828 and \$364,016, respectively.

Effective October 1, 2006, the City of Mountain Brook implemented Government Accounting Standards Board Statement Number 45, *Accounting and Financial Reporting by Employers for Post employment Benefits Other than Pensions* (GASB 45).

Annual Required Contribution. The City of Mountain Brook's Annual Required Contribution (ARC) is an amount actuarially determined in accordance with GASB 45. The ARC is the sum of the Normal Cost plus the contribution to amortize the Unfunded Actuarial Accrued Liability (UAAL). A level dollar, open amortization period of 30 years (the maximum amortization period allowed by GASB 43M45) has been used for the post-employment benefits. The actuarially computed ARC is as follows:

City of Mountain Brook, Alabama
Notes to Financial Statements

	2012	2011
Normal Cost	\$ 99,532	\$ 98,471
30-year UAL amortization amount	175,452	157,397
Annual required contribution (ARC)	<u>\$ 274,984</u>	<u>\$ 255,868</u>

Net Post-employment Benefit Obligation (Asset). The table below shows the City of Mountain Brook's Net Other Post-employment Benefit (OPEB) Obligation for fiscal years ending September 30:

	2012	2011
Beginning Net OPEB Obligation (Asset)	<u>\$ (667,403)</u>	<u>\$ (365,777)</u>
Annual required contribution	274,984	255,868
Interest on Net OPEB Obligation (Asset)	(26,696)	(14,631)
ARC Adjustment	36,596	21,153
OPEB Cost	286,884	262,390
Contribution	(300,000)	(200,000)
Current year retiree premium	(354,828)	(364,016)
Change in Net OPEB Obligation	<u>(367,944)</u>	<u>(301,626)</u>
Ending Net OPEB Obligation (Asset)	<u>\$ (1,035,347)</u>	<u>\$ (667,403)</u>

The following table shows the City of Mountain Brook's annual post employment benefits (PEB) cost, percentage of the cost contributed, and the net unfunded post employment benefits (PEB) liability for last year and this year:

Post Employment Benefit	Fiscal Year Ended September	Annual OPEB Cost	Percentage of Annual Cost Contributed	Net OPEB Obligation (Asset)
Medical/Dental	2012	\$ 286,884	228.26%	\$ (1,035,347)
Medical/Dental	2011	262,390	214.95%	(667,403)
Medical/Dental	2010	287,773	182.03%	(365,777)
Medical/Dental	2009	241,244	117.00%	(129,706)

Funded Status and Funding Progress. During fiscal years ending September 30, 2012 and 2011, the City of Mountain Brook contributed \$300,000 and \$200,000, respectively, to its post-employment benefits plan over and above the retiree premium costs. The plan, with accrued interest and unrealized gains/losses, thus had assets of \$925,335 and \$613,573 as of September 30, 2012 and 2011, respectively. Based on the October 1, 2011 actuarial valuation, the most recent valuation, the Actuarial Accrued Liability (AAL) at the end of the year September 30, 2012 was \$3,155,271 which is defined as that portion, as determined by a particular actuarial cost method (the City of Mountain Brook uses the Projected Unit Credit Cost Method), of the actuarial present value of post employment plan benefits and expenses which is not provided by normal cost.

City of Mountain Brook, Alabama

Notes to Financial Statements

	2012	2011
Actuarial Accrued Liability (AAL)	\$ 3,155,271	\$ 3,249,729
Actuarial Value of Plan Assets	925,335	613,573
Unfunded Actuarial Accrued Liability (UAAL)	\$ 2,229,936	\$ 2,636,156
Funded Ratio (Actuarial Value of Assets/AAL)	29.33%	18.88%
Covered Payroll (active plan members)	\$12,995,796	\$13,591,314
UAAL as a percentage of covered payroll	17.16%	19.40%

Actuarial Methods and Assumptions. Actuarial valuations involve estimates of the value of reported amounts and assumptions about the probability of events far into the future. The actuarial valuation for post employment benefits includes estimates and assumptions regarding (1) turnover rate; (2) retirement rate; (3) health care cost trend rate; (4) mortality rate; (5) discount rate (investment return assumption); and (6) the period to which the costs apply (past, current, or future years of service by employees). Actuarially determined amounts are subject to continual revision as actual results are compared to past expectations and new estimates are made about the future.

The actuarial calculations are based on the types of benefits provided under the terms of the substantive plan (the plan as understood by the City of Mountain Brook and its employee plan members) at the time of the valuation and on the pattern of sharing costs between the City of Mountain Brook and its plan members to that point. The projection of benefits for financial reporting purposes does not explicitly incorporate the potential effects of legal or contractual funding limitations on the pattern of cost sharing between the City of Mountain Brook and plan members in the future. Consistent with the long-term perspective of actuarial calculations, the actuarial methods and assumptions used include techniques that are designed to reduce short-term volatility in actuarial liabilities and the actuarial value of assets.

Actuarial Cost Method. The ARC is determined using the Projected Unit Credit Cost Method. The employer portion of the cost for retiree medical care in each future year is determined by projecting the current cost levels using the healthcare cost trend rate and discounting this projected amount to the valuation date using the other described pertinent actuarial assumptions, including the investment return assumption (discount rate), mortality and turnover.

Actuarial Value of Plan Assets. Because of the nature of the investments in the trust, the City has used actual market value as the actuarial value of assets. It is anticipated that in future valuations, should more volatile investments be used, a smoothed market value consistent with Actuarial Standards Board Actuarial Standards of Practice Number 6 (ASOP 6), as provided in paragraph number 125 of GASB Statement 45 would be used.

Turnover Rate. An age-related turnover scale based on actual experience has been used. The rates, when applied to the active employee census, produce a composite average annual turnover of approximately 10%.

Post-employment Benefit Plan Eligibility Requirements. It has been assumed that entitlement to benefits will commence three years after the earliest eligibility for retirement. Because of the variations in eligibility described under "Plan Description" above, eligibility for retirement has been assumed to be the earlier of: (1), attainment of age 60 with at least fifteen (15) years of service, and (2), completion of thirty (30) years of service at any age. Entitlement to benefits ceases upon the earlier of thirteen years after retirement and the date the retiree becomes eligible for Medicare benefits (whether by age or disability). Medical benefits are provided to employees upon actual retirement.

Investment Return Assumption (Discount Rate). GASB Statement 45 states that the investment return assumption should be the estimated long-term investment yield on the investments that are expected to be used to finance the payment of benefits. Since the ARC is currently being funded and invested with relatively conservative investments, we have performed this valuation using a 4% annual investment return assumption.

City of Mountain Brook, Alabama

Notes to Financial Statements

Health Care Cost Trend Rate. The expected rate of increase in medical cost is based on projections performed by the Office of the Actuary at the Centers for Medicare & Medicaid Services as published in National Health Care Expenditures Projections: 2003 to 2013, Table 3: National Health Expenditures, Aggregate and per Capita Amounts, Percent Distribution and Average Annual Percent Change by Source of Funds: Selected Calendar Years 1990-2013, released in January, 2004 by the Health Care Financing Administration (www.cms.hhs.gov). "State and Local" rates for 2008 through 2013 from this report were used, with rates beyond 2013 graduated down to an ultimate annual rate of 5.0% for 2016 and later.

Mortality Rate. The 1994 Group Annuity Reserving (94GAR) table, projected to 2002, based on a fixed blend of 50% of the unloaded male mortality rate and 50% of the unloaded female mortality rates, was used. This is a published mortality table which was designed to be used in determining the value of accrued benefits in defined benefit pension plans.

Method of Determining Value of Benefits. The "value of benefits" has been assumed to be the portion of the premium after retirement date expected to be paid by the employer for each retiree and has been used as the basis for calculating the actuarial present value of OPEB benefits to be paid. We have used the "unblended" rates provided as required by GASB 45 for valuation purposes.

Inflation Rate. Included in both the Investment Return Assumption and the Healthcare Cost Trend rates above is an implicit inflation assumption of 2.50% annually.

Projected Salary Increases. This assumption is not applicable since neither the benefit structure nor the valuation methodology involves salary.

Post-retirement Benefit Increases. The plan benefit provisions in effect for retirees as of the valuation date have been used and it has been assumed for valuation purposes that there will not be any changes in the future.

Below is a summary of OPEB cost and contributions for the last three fiscal calendar years.

	2010	2011	2012
OPEB Costs	\$ 287,773	\$ 262,390	\$ 286,884
Contributions	200,000	200,000	300,000
Retiree premium	336,694	364,016	354,828
Total contribution and premium	536,694	564,016	654,828
Change in net OPEB obligation	\$ (248,921)	\$ (301,626)	\$ (367,944)
Ratio of contributions to cost	69.50%	76.22%	104.57%
Ratio of contributions plus premium to cost	186.50%	214.95%	228.26%

8. Commitments and contingencies

The City is charged by the Jefferson County Commission for shared services. The assessments for shared services charged to the City during 2012 and 2011 were as follows:

	2012	2011
Property tax commissions	\$ 197,347	\$ 193,913
Maintenance of maps and appraisals	219,780	159,999
Jefferson County Health Department	112,401	130,482
Birmingham-Jefferson County Transit Authority	76,732	75,490
Personnel Board of Jefferson County	190,534	150,652
Birmingham Regional Planning Commission	12,350	12,465

City of Mountain Brook, Alabama
Notes to Financial Statements

With the exception of the Personnel Board and Planning Commission costs, the above expenses are deducted from the ad valorem property taxes remitted by the Jefferson County Tax collector (Note 1.R.) to the City of Mountain Brook. For financial reporting purposes, the City grosses-up the General Fund ad valorem tax revenues and general government expenditures by these amounts.

The City has arranged for an independent contractor, Waste Management Company, Inc., to provide for the collection and disposal of refuse and recyclable materials. The base rates for this service for the year ended September 30, 2012, were \$29.79 per month for single and multiple family residential units and \$35.47 per month for commercial units. The annual cost incurred under this agreement for the years ended September 30, 2012 and 2011, was approximately \$2,683,400 and \$2,602,500, respectively. Total garbage service fee revenues collected by the City from its commercial customers during the years ended September 30, 2012 and 2011 were \$39,235 and \$32,436, respectively.

During 1999, the City entered into an agreement whereby the City, along with the City of Homewood, and Jefferson County (collectively referred to as "the Consortium") purchased approximately 16.6 acres of land and the buildings thereon from the Jefferson County Board of Education at a total cost of \$4,884,000. The City's share of the total purchase price totaled approximately \$1,050,000. In conjunction with the purchase, the consortium adopted covenants that expire at the end of seventy-five (75) years restricting the use of the property for programs and activities to benefit the community including, but not limited to: 1) public parks, playgrounds, or zoo; 2) schools, daycare, churches, or philanthropic organizations; 3) government buildings, libraries, community centers, museums, or art galleries; or 4) headquarters for scouting organizations or youth facilities.

In connection with the Consortium's purchase of the property and adoption of restrictive covenants, the City of Birmingham (Birmingham) agreed to lease the adjoining zoo property to Birmingham Zoo, Inc. (BZI), a newly formed non-profit private corporation, for a period twenty-five (25) years with two, twenty-five year renewal options. In consideration of Birmingham's agreement to subsidize the operations of BZI and its commitment to leave the zoo at its present location, the Consortium agreed to pay Birmingham annual installments of \$300,000 commencing in fiscal year 1999 for a period of 9-1/2 years. The City fulfilled its financial commitment under the purchase agreement in 2008. In 2010, the City entered into a service agreement with Birmingham Zoo, Inc. that provides for annual consideration in the amount of \$75,000 through June 2012. In October 2012, the service agreement was extended under the same terms through June 2013.

In 2005, the City entered into a development agreement with a real estate developer constructing a mixed use development in the City. The development agreement provides that the City will reimburse the developer for certain costs incurred for the construction of public infrastructure including a roadway relocation and improvements, construction of an acceleration lane, sidewalks, curbing, and drainage systems. The reimbursement is limited to \$4.9 million regardless of the actual costs incurred by the developer and payable solely from a portion (50%) of the sales tax receipts realized by the City from the commercial development. Any portion of the \$4.9 million development agreement obligation not repaid after fifteen (15) years shall be cancelled.

The cumulative infrastructure costs incurred by the developer was \$5,332,981 which has been capitalized. The City's obligation under the terms of the development agreement totaled \$1,017,710 and \$2,034,017 as of September 30, 2012 and 2011, respectively. Of these amounts, \$1,016,000 and \$840,000 is reported as a current liability in the Government-wide Statement of Net Assets as of September 30, 2012 and 2011, respectively. The City paid \$1,016,307 and \$844,938 under the terms of the development agreement during the years ended September 30, 2012 and 2011, respectively.

The City has entered into another development agreement with a real estate developer constructing a small shopping center whose principal tenant is a grocery store. Under the terms of the development agreement, the City agreed to pay the developer the sum of \$687,500 for the purpose of promoting economic development within the City as provided by Amendment No. 772 adopted by the Alabama Legislature. In addition, the City agreed to abate the City's portion of property taxes for a period of fifteen (15) years provided the annual retail sales equal or exceed \$5 million. The City's \$687,500 commitment will be paid from 50% of the sales tax generated by the stores in the development. The City paid \$102,159 and \$137,419 under the terms of the agreement during the years ended September 30, 2012 and 2011, respectively. The remaining balance due for the development agreement as of September 30, 2012 and 2011 was approximately \$0 and \$102,200, respectively.

City of Mountain Brook, Alabama
Notes to Financial Statements

Construction in progress (Note 4) at September 30 includes the following projects:

	2012	2011
Public buildings	\$13,857,382	\$ 6,549,062
Sidewalks	2,004,944	505,348
Drainage projects	21,802	8,300
Park improvements	92,593	0
Total	\$15,976,721	\$ 7,062,710

The public buildings include the razing and reconstruction of a new municipal complex. The municipal complex is estimated to cost \$23.5 million. The City has entered into numerous contracts with its architect, construction manager, landlords, building contractor, and others for design, construction and oversight, temporary space, and other aspects of the project. The estimated costs to complete the project as of September 30, 2012 are \$9.6 million. The new municipal complex is expected to be completed in April 2013.

The City has executed contracts with the Alabama Department of Transportation (ALDOT) and engineering firms with respect to the Mountain Brook Village Walkway System. The projects are being administered by ALDOT. The contracts total \$2,667,500 of which \$2,134,000 will be paid by a federal award. The estimated costs to complete the projects as of September 30, 2012 are \$900,000. The sidewalk projects are expected to be completed in April 2013.

The costs incurred for the drainage and park improvement projects are for preliminary design and planning of the projects. Contracts are expected to be executed in 2013 once the projects are defined.

9. Constitutional debt limit

Section 225, as amended, of the Constitution of the State of Alabama limits for municipalities with populations of 6,000 or more to 20 percent of the assessed value of taxable property. Excluded from this limitation are bonds issued for the construction of schools, waterworks, sewers, and assessed improvements.

Following are the constitution debt limit and legal debt margin:

	2012	2011
Assessed value of taxable real and personal property as provided by the Jefferson County Tax Assessor	\$523,923,088	\$536,266,781
Constitutional debt limit, 20 percent of assessed value	\$104,784,618	\$107,253,356
Outstanding long-term debt as of September 30, 2012	4,285,000	4,475,000
Legal Debt Margin	\$100,499,618	\$102,778,356

10. Litigation

Several claims, suits, and complaints, common to municipalities, have been filed or are pending against the City. In the opinion of management and the City's attorney, all such matters are without merit or involve such amounts as would not have a material adverse effect on the City's financial statements.

APPENDIX 1

REQUIRED SUPPLEMENTARY INFORMATION

**City of Mountain Brook, Alabama
Schedule of Revenues, Expenditures, and Changes in Fund Balances
Budget and Actual - General Fund
Year Ended September 30, 2012**

	Original Budget	Final Budget	Actual	Variance
Revenues:				
Taxes	\$ 25,403,984	\$ 28,410,110	\$ 27,109,720	\$ 699,610
Licenses and permits	3,154,383	3,655,580	3,694,451	38,871
Intergovernmental	44,700	85,071	85,613	542
Charges for services	563,300	693,342	753,796	60,454
Fines and forfeitures	472,700	460,000	446,682	(13,318)
Grants	12,380	12,380	12,062	(318)
Other operating revenues	509,325	401,805	478,031	76,228
Total revenues	30,160,752	31,718,288	32,580,355	862,067
Expenditures:				
Current (operating):				
General government	4,915,475	5,143,424	5,305,752	(162,328)
Public safety	12,473,300	12,655,204	12,271,377	383,827
Street and sanitation	5,828,980	6,119,579	5,998,599	122,980
Recreational	1,084,496	1,167,553	1,173,043	(5,490)
Library	2,506,628	2,645,796	2,617,871	28,125
Total expenditures	26,806,857	27,731,556	27,364,442	367,114
Excess of revenues over expenditures	3,353,895	3,986,732	5,215,913	1,229,181
Other financing sources (uses):				
Operating transfers in	0	0	0	0
Operating transfers (out)	(3,027,637)	(3,558,238)	(4,337,088)	(778,850)
Operating transfers in - component unit	43,000	43,000	53,817	10,817
Donations	24,250	24,250	72,261	48,011
Total other financing sources (uses)	(2,960,387)	(3,490,988)	(4,211,010)	(720,022)
Excess of revenues and other financing sources over expenditures and other financing uses	393,508	495,744	1,004,903	509,159
Fund balances, beginning of year	9,973,109	9,973,109	9,973,109	0
FUND BALANCES, END OF YEAR	\$ 10,366,617	\$ 10,468,853	\$ 10,978,012	\$ 509,159

**City of Mountain Brook, Alabama
Notes to Required Supplementary Information**

1. Summary of significant accounting policies

A. Budgets and budgetary accounting

The City has adopted and adheres to the following procedures in establishing the budgetary data reflected in the financial statements:

1. The City Manager submits to the City Council a proposed budget for the fiscal year commencing October 1. The budget includes proposed expenditures and the means of financing those expenditures.
2. A public hearing is conducted to obtain taxpayers' comments.
3. The budget is legally enacted through the passage of a resolution.
4. The City Manager is authorized to transfer budgeted amounts within departments within any fund; however, any revisions that alter the total expenditures of any fund or transfer of funds between departments must be approved by the City Council.
5. Formal budgetary integration is employed as a management control device during the year for the General, Special Revenue, and Capital Projects Funds.
6. At the end of the year, unencumbered appropriations automatically lapse.

Budget information presented in the financial statements is based on the budget as adopted by the City Council on September 26, 2011 (Resolution No. 2011-148) and subsequently revised on March 26, 2012 (Resolution No. 2012-043), May 14, 2012 (Resolution No. 2012-074), June 11, 2012 (Resolution No. 2012-087), and July 23, 2012 (Resolution No. 2012-109).

City of Mountain Brook, Alabama
 Combining Balance Sheet
 Other Governmental Funds
 September 30, 2012

	State Shared Gasoline Tax Funds			
	Seven Cent	Four Cent	Five Cent	Two Cent
ASSETS				
Cash and temporary investments	\$ 205,114	\$ 378,412	\$ 140,162	\$ 22,474
Receivables	18,258	10,590	5,217	0
TOTAL ASSETS	\$ 223,372	\$ 389,002	\$ 145,379	\$ 22,474
LIABILITIES				
Accounts payable	\$ 0	\$ 0	\$ 0	\$ 0
Total liabilities	0	0	0	0
FUND EQUITY				
Fund balance	223,372	389,002	145,379	22,474
Total fund equity	223,372	389,002	145,379	22,474
TOTAL LIABILITIES AND FUND EQUITY	\$ 223,372	\$ 389,002	\$ 145,379	\$ 22,474

Emergency Communication District	Corrections Fund	Debt Service Fund	Totals
\$ 475,171	\$ 9,018	\$ 3,051,678	\$ 4,282,029
35,823	0	0	69,888
\$ 510,994	\$ 9,018	\$ 3,051,678	\$ 4,351,917
\$ 3,393	\$ 9,018	\$ 0	\$ 12,411
3,393	9,018	0	12,411
507,601	0	3,051,678	4,339,506
507,601	0	3,051,678	4,339,506
\$ 510,994	\$ 9,018	\$ 3,051,678	\$ 4,351,917

City of Mountain Brook, Alabama
Combining Statement of Revenues, Expenditures, and Changes
in Fund Balances - Other Governmental Funds
Year Ended September 30, 2012

	State Shared Gasoline Tax Funds			
	Seven Cent	Four Cent	Five Cent	Two Cent
Revenues:				
Taxes	\$ 195,110	\$ 120,485	\$ 58,913	\$ 3,033
Intergovernmental	0	0	0	0
Charges for services	0	0	0	0
Fines and forfeitures	0	0	0	0
Other operating revenues:				
Investment earnings	174,497	1,334	512	63
Total revenues	369,607	121,819	59,425	3,096
Expenditures:				
General government	0	0	0	0
Public safety	0	0	0	154
Street and sanitation	403,495	125,155	60,154	0
Recreational	0	0	0	0
Debt service:				
Principal	0	0	0	0
Interest	0	0	0	0
Total expenditures	403,495	125,155	60,154	154
Excess (deficiency) of revenues over expenditures	(33,888)	(3,336)	(729)	2,942
Other financing sources (uses):				
Operating transfers in	100,000	0	0	0
Operating transfers (out)	0	0	0	0
Donations	0	0	0	0
Total other financing sources (uses)	100,000	0	0	0
Excess (deficiency) of revenues and other financing sources over expenditures and other financing uses	66,112	(3,336)	(729)	2,942
Fund balances, beginning of year	157,260	392,338	146,108	19,532
FUND BALANCES, END OF YEAR	\$ 223,372	\$ 389,002	\$ 145,379	\$ 22,474

Emergency Communication District	Corrections Fund	Debt Service Fund	Totals Fund
\$ 0	\$ 0	\$ 0	\$ 377,541
0	0	0	0
353,148	0	0	353,148
0	138,687	0	138,687
<u>1,527</u>	<u>0</u>	<u>33,423</u>	<u>211,356</u>
354,675	138,687	33,423	1,080,732
0	202,108	788	202,896
303,139	88,713	0	392,006
0	0	0	588,804
0	0	0	0
0	0	190,000	190,000
0	0	170,600	170,600
<u>303,139</u>	<u>290,821</u>	<u>381,388</u>	<u>1,544,306</u>
51,536	(152,134)	(327,965)	(463,574)
0	152,134	660,600	912,734
(77,769)	0	0	(77,769)
0	0	0	0
<u>(77,769)</u>	<u>152,134</u>	<u>660,600</u>	<u>834,965</u>
(26,233)	0	332,635	371,391
<u>533,834</u>	<u>0</u>	<u>2,719,043</u>	<u>3,968,115</u>
\$ 507,601	\$ 0	\$ 3,051,678	\$ 4,339,506

City of Mountain Brook, Alabama
 Combining Balance Sheet – Capital Projects Funds
 September 30, 2012

	City Capital Projects	Village Improvement Projects	Village Trail System	Totals
ASSETS				
Cash and temporary investments	\$ 13,241,178	\$ 5,440,339	\$ 707,910	\$ 19,389,427
Receivables	0	0	121,707	121,707
TOTAL ASSETS	\$ 13,241,178	\$ 5,440,339	\$ 829,617	\$ 19,511,134
LIABILITIES				
Accounts payable	\$ 915,711	\$ 43,574	\$ 60,304	\$ 1,019,589
Other liabilities	0	0	0	0
TOTAL LIABILITIES	915,711	43,574	60,304	1,019,589
FUND BALANCE				
Fund balance	12,325,467	5,396,765	769,313	18,491,545
TOTAL FUND BALANCE	12,325,467	5,396,765	769,313	18,491,545
TOTAL LIABILITIES AND FUND BALANCE	\$ 13,241,178	\$ 5,440,339	\$ 829,617	\$ 19,511,134

City of Mountain Brook, Alabama
 Combining Statement of Revenues, Expenditures, and Changes
 in Fund Balances – Capital Projects Funds
 Year Ended September 30, 2012

	City Capital Projects	Village Improvement Projects	Village Trail System Projects	Totals
Revenues:				
Grants	\$ 0	\$ 33,675	\$ 987,981	\$ 1,021,656
Other operating revenues:				
Investment earnings	328,138	18,673	1,341	348,152
Miscellaneous	124,682	0	0	124,682
Total revenues	452,820	52,348	989,322	1,494,490
Expenditures:				
General government	7,414,753	0	0	7,414,753
Public safety	747,469	0	0	747,469
Street and sanitation	267,802	103,974	1,500,625	1,872,401
Recreational	83,383	62,960	0	146,343
Library	43,833	0	0	43,833
Total expenditures	8,557,240	166,934	1,500,625	10,224,799
Excess (deficiency) of revenues over expenditures	(8,104,420)	(114,586)	(511,303)	(8,730,309)
Other financing sources (uses):				
Operating transfers in	2,708,301	379,422	775,000	3,862,723
Operating transfers (out)	0	(360,600)	0	(360,600)
Donations	0	0	0	0
Total other financing sources (uses)	2,708,301	18,822	775,000	3,502,123
Excess (deficiency) of revenues and other financing sources over expenditures and other financing uses	(5,396,119)	(95,764)	263,697	(5,228,186)
Fund balances, beginning of year	17,721,586	5,492,529	505,616	23,719,731
FUND BALANCES, END OF YEAR	\$ 12,325,467	\$ 5,396,765	\$ 769,313	\$ 18,491,545

City of Mountain Brook, Alabama
Schedule of General Fund Revenues by Source
For the Years Ended September 30, 2003 through 2012

	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012
Taxes										
Real property	\$ 8,422,094	\$ 10,244,362	\$ 11,094,902	\$ 11,976,292	\$ 13,181,868	\$ 13,919,181	\$ 14,592,638	\$ 14,322,580	\$ 13,890,843	\$ 13,873,635
Sales and use	5,701,970	6,086,944	6,534,289	7,033,452	7,829,375	8,412,007	7,666,594	7,854,903	8,476,522	9,112,494
Occupational	905,432	929,454	939,127	248,283	1,475	0	0	0	0	0
Utility	941,086	953,228	992,143	1,088,234	1,266,253	1,336,420	1,413,759	1,450,440	1,460,206	1,365,487
Personal property (automobiles)	1,054,267	1,076,449	1,108,807	1,131,386	1,139,952	1,130,239	1,022,666	1,047,869	1,079,079	1,152,424
Road and bridge	351,477	425,985	460,216	497,326	543,682	572,272	596,000	590,899	572,584	575,000
Other	974,690	1,072,439	1,053,130	1,316,806	1,275,315	985,588	1,075,676	1,016,068	903,688	1,030,680
Total taxes	18,351,016	20,788,861	22,182,614	23,291,779	25,237,920	26,355,707	26,367,333	26,282,759	26,382,922	27,109,720
Licenses and permits										
Business	1,567,743	1,647,641	1,756,226	1,729,727	1,872,058	1,994,039	1,998,980	2,130,822	2,165,612	2,223,912
Construction permits	413,416	667,971	519,277	893,161	851,266	1,036,354	634,059	624,309	753,444	800,820
Cable TV franchise fees	223,181	245,986	257,695	282,379	300,204	323,082	328,641	347,757	352,964	391,701
Waterworks Board	124,717	115,220	123,202	137,964	161,961	167,341	157,794	159,242	207,939	216,090
Other	51,380	55,717	55,535	60,966	60,985	63,382	57,966	64,720	60,310	61,928
Total licenses and permits	2,380,437	2,732,535	2,711,935	3,104,197	3,246,474	3,584,198	3,177,440	3,326,850	3,540,269	3,694,451
Intergovernmental	37,248	40,430	41,736	50,517	40,544	149,710	84,723	82,826	84,874	85,613
Charges for services										
Garbage fees	1,443,383	1,526,500	1,573,788	1,604,281	462,747	71,252	39,094	34,062	32,436	39,235
Other	508,902	481,656	486,567	486,385	517,251	498,576	486,785	591,636	619,716	714,561
Total charges for services	1,952,285	2,008,156	2,060,355	2,090,666	979,998	569,828	525,879	625,698	652,152	753,796
Fines and forfeitures - court	364,031	496,457	587,397	623,579	597,961	470,020	443,400	514,542	529,522	446,682
Grants	32,748	172,338	1,907,290	73,278	51,434	37,355	50,799	19,708	282,423	12,062
Other operating revenue										
Investment earnings	235,998	126,245	141,783	235,866	653,609	428,304	271,788	207,214	131,706	199,151
Other	245,403	241,746	247,971	325,757	161,303	230,717	371,526	254,173	300,857	278,880
Total other operating revenue	481,401	367,991	389,754	561,623	814,912	659,021	643,314	461,387	432,363	478,031
TOTAL REVENUES	\$ 23,599,166	\$ 26,606,768	\$ 29,881,081	\$ 29,795,839	\$ 30,969,243	\$ 31,825,839	\$ 31,292,888	\$ 31,313,770	\$ 31,904,525	\$ 32,580,355



This page is blank intentionally.

City of Mountain Brook, Alabama
 Comparative Balance Sheet – General Fund
 September 30

	<u>2012</u>	<u>2011</u>
ASSETS		
Cash and temporary investments	\$ 11,406,361	\$ 9,790,734
Cash and temporary investments - restricted	179,551	140,760
Receivables	1,844,064	1,971,945
Due from related organizations	85,613	84,874
Inventory and prepaid expenses	<u>119,313</u>	<u>110,366</u>
TOTAL ASSETS	\$ 13,634,902	\$ 12,098,679
LIABILITIES		
Accounts payable	\$ 861,707	\$ 527,402
Accrued salaries and wages	635,899	589,081
Due to related organizations	54,710	51,855
Other liabilities	<u>1,104,574</u>	<u>957,232</u>
TOTAL LIABILITIES	2,656,890	2,125,570
Pension obligation (see Note 6)		
FUND BALANCES		
Nonspendable	119,313	110,366
Restricted	0	0
Committed	53,696	53,455
Assigned	2,275,673	2,117,555
Unassigned	<u>8,529,330</u>	<u>7,691,733</u>
FUND BALANCES	10,978,012	9,973,109
TOTAL LIABILITIES AND FUND BALANCES	\$ 13,634,902	\$ 12,098,679

City of Mountain Brook, Alabama
 Comparative Statement of Revenues, Expenditures, and
 Changes in Fund Balances – General Fund
 Years Ended September 30

	<u>2012</u>	<u>2011</u>
Revenues:		
Taxes	\$ 27,109,720	\$ 26,382,922
Licenses and permits	3,694,451	3,540,269
Intergovernmental	85,613	84,874
Charges for services	753,796	652,152
Fines and forfeitures	446,682	529,522
Grants	12,062	282,423
Other operating revenues	<u>478,031</u>	<u>432,363</u>
Total revenues	32,580,355	31,904,525
Expenditures:		
Current (operating):		
General government	5,305,752	4,868,781
Public safety	12,271,377	12,615,874
Street and sanitation	5,998,599	6,036,984
Recreational	1,173,043	1,195,140
Library	<u>2,617,671</u>	<u>2,566,156</u>
Total expenditures	27,364,442	27,282,935
Excess (deficiency) of revenues over expenditures	5,215,913	4,621,590
Other financing sources (uses):		
Operating transfers in	0	0
Operating transfers (out)	(4,337,088)	(3,760,668)
Operating transfers in - component unit	53,817	118,419
Donations	<u>72,261</u>	<u>68,070</u>
Total other financing sources (uses)	(4,211,010)	(3,573,179)
Excess of revenues and other financing sources over expenditures and other financing uses	1,004,903	1,048,411
Fund balances, beginning of year	9,973,109	8,924,698
FUND BALANCES, END OF YEAR	\$ 10,978,012	\$ 9,973,109

City of Mountain Brook, Alabama
Comparative Balance Sheet – Capital Projects Funds
September 30

	2012	2011
ASSETS		
Cash and temporary investments	\$ 19,389,427	\$ 23,589,897
Receivables	121,707	650,942
TOTAL ASSETS	\$ 19,511,134	\$ 24,240,839
LIABILITIES		
Accounts payable	\$ 1,019,589	\$ 521,108
TOTAL LIABILITIES	1,019,589	521,108
Pension obligation (see Note 6)		
FUND BALANCES		
Committed	18,491,545	23,719,731
FUND BALANCES	18,491,545	23,719,731
TOTAL LIABILITIES AND FUND BALANCES	\$ 19,511,134	\$ 24,240,839

City of Mountain Brook, Alabama
Comparative Statement of Revenues, Expenditures, and
Changes in Fund Balances – Capital Projects Funds
Years Ended September 30

	2012	2011
Revenues:		
Grants	\$ 1,021,656	\$ 2,746,851
Other operating revenues	472,834	498,100
Total revenues	1,494,490	3,244,951
Expenditures:		
Current (operating):		
General government	7,414,753	4,488,545
Public safety	747,469	543,658
Street and sanitation	1,872,401	3,443,420
Recreational	146,343	755,282
Library	43,833	0
Total expenditures	10,224,799	9,230,905
Excess (deficiency) of revenues		
over expenditures	(8,730,309)	(5,985,954)
Other financing sources (uses):		
Operating transfers in	3,862,723	3,226,893
Operating transfers (out)	(360,600)	(358,556)
Operating transfers in - component unit	0	0
Donations	0	207,804
Total other financing sources (uses)	3,502,123	3,076,141
Excess of revenues and other financing sources		
over expenditures and other financing uses	(5,228,186)	(2,909,813)
Fund balances, beginning of year	23,719,731	26,629,544
FUND BALANCES, END OF YEAR	\$ 18,491,545	\$ 23,719,731

City of Mountain Brook, Alabama
Comparative Balance Sheet – Debt Service Fund
September 30

	<u>2012</u>	<u>2011</u>
ASSETS		
Cash and temporary investments	\$ 3,051,678	\$ 2,719,043
TOTAL ASSETS	<u>\$ 3,051,678</u>	<u>\$ 2,719,043</u>
LIABILITIES	\$ 0	\$ 0
FUND BALANCES		
Assigned	<u>3,051,678</u>	<u>2,719,043</u>
FUND BALANCES	<u>3,051,678</u>	<u>2,719,043</u>
TOTAL LIABILITIES AND FUND BALANCES	<u>\$ 3,051,678</u>	<u>\$ 2,719,043</u>

City of Mountain Brook, Alabama
Comparative Statement of Revenues, Expenditures, and
Changes in Fund Balance – Debt Service Fund
Years Ended September 30

	<u>2012</u>	<u>2011</u>
Revenues:		
Other operating revenues	\$ 33,423	\$ 45,515
Total revenues	<u>33,423</u>	<u>45,515</u>
Expenditures:		
Current (operating):		
General government	788	787
Debt service:		
Principal	190,000	180,000
Interest	<u>170,600</u>	<u>177,769</u>
Total expenditures	<u>361,388</u>	<u>358,556</u>
Excess (deficiency) of revenues over expenditures	<u>(327,965)</u>	<u>(313,041)</u>
Other financing sources (uses):		
Operating transfers in	660,600	658,556
Operating transfers (out)	<u>0</u>	<u>0</u>
Total other financing sources (uses)	<u>660,600</u>	<u>658,556</u>
Excess of revenues and other financing sources over expenditures and other financing uses	332,635	345,515
Fund balances, beginning of year	<u>2,719,043</u>	<u>2,373,528</u>
FUND BALANCES, END OF YEAR	<u>\$ 3,051,678</u>	<u>\$ 2,719,043</u>



Car, Riggs & Ingram, LLC
2100 16th Avenue South
Suite 300
Birmingham, Alabama 35205

Mailing Address:
P.O. Box 55765
Birmingham, Alabama 35255

(205) 933-7822
(205) 933-7944 (fax)
www.cri-cpa.com

**Independent Auditors' Report on Internal Control Over
Financial Reporting and on Compliance and Other Matters
Based on an Audit of Financial Statements Performed in
Accordance with Government Auditing Standards**

To the Mayor and City Council
City of Mountain Brook, Alabama

We have audited the financial statements of the governmental activities, each major fund, and the aggregate remaining fund information of the City of Mountain Brook, Alabama (the "City"), as of and for the year ended September 30, 2012, which collectively comprise the City's basic financial statements and have issued our report thereon dated January 11, 2013. We conducted our audit in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in Government Auditing Standards, issued by the Comptroller General of the United States.

Internal Control Over Financial Reporting

Management of the City is responsible for establishing and maintaining effective internal control over financial reporting. In planning and performing our audit, we considered the City's internal control over financial reporting as a basis for designing our auditing procedures for the purpose of expressing our opinions on the financial statements, but not for the purpose of expressing an opinion on the effectiveness of the City's internal control over financial reporting. Accordingly, we do not express an opinion on the effectiveness of the City's internal control over financial reporting.

A deficiency in internal control exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct misstatements on a timely basis. A material weakness is a deficiency, or a combination of deficiencies, in internal control such that there is a reasonable possibility that a material misstatement of the entity's financial statements will not be prevented, or detected and corrected on a timely basis.

Our consideration of internal control over financial reporting was for the limited purpose described in the first paragraph of this section and was not designed to identify all deficiencies in internal control over financial reporting that might be deficiencies, significant deficiencies, or material weaknesses. We did not identify any deficiencies in internal control over financial reporting that we consider to be material weaknesses, as defined above. However, we identified certain deficiencies in internal control over financial reporting, described in the accompanying schedule of findings and questioned costs that we consider to be significant deficiencies in internal control over financial reporting (2012-1). A significant deficiency is a deficiency, or a combination of deficiencies, in internal control that is less severe than a material weakness, yet important enough to merit attention by those charged with governance.

Compliance and Other Matters

As part of obtaining reasonable assurance about whether the City's financial statements are free of material misstatement, we performed tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements, noncompliance with which could have a direct and material effect on the determination of financial statement amounts. However, providing an opinion on compliance with those provisions was not an objective of our audit, and accordingly, we do not express such an opinion. The results of our tests disclosed no instances of noncompliance or other matters that are required to be reported under Government Auditing Standards.

The City's response to the finding identified in our audit is described in the accompanying schedule of findings and questioned costs. We did not audit the City's response and, accordingly, we express no opinion on it.

This report is intended solely for the information and use of management, City Council, others within the entity, and federal awarding agencies and pass-through entities and is not intended to be and should not be used by anyone other than these specified parties.

Car, Riggs & Ingram, L.L.C.

Birmingham, Alabama
January 11, 2013



Carr, Riggs & Ingram, LLC
2100 18th Avenue South
Suite 300
Birmingham, Alabama 35205

Mailing Address:
P.O. Box 55765
Birmingham, Alabama 35255

(205) 933-7822
(205) 933-7944 (fax)
www.cricpa.com

Independent Auditors' Report on Compliance with Requirements That Could Have a Direct and Material Effect on Each Major Program and on Internal Control Over Compliance in Accordance with OMB Circular A-133

To the City Council
Mountain Brook, Alabama

Compliance

We have audited the City of Mountain Brook, Alabama's (the "City") compliance with the types of compliance requirements described in the OMB Circular A-133 Compliance Supplement that could have a direct and material effect on each of the City's major federal programs for the year ended September 30, 2012. The City's major federal programs are identified in the summary of auditors' results section of the accompanying schedule of findings and questioned costs. Compliance with the requirements of laws, regulations, contracts and grants applicable to each of its major federal programs is the responsibility of the City's management. Our responsibility is to express an opinion on the City's compliance based on our audit.

We conducted our audit of compliance in accordance with auditing standards generally accepted in the United States of America; the standards applicable to financial audits contained in Government Auditing Standards, issued by the Comptroller General of the United States; and OMB Circular A-133. Those standards and OMB Circular A-133 require that we plan and perform the audit to obtain reasonable assurance about whether noncompliance with the types of compliance requirements referred to above that could have a direct and material effect on a major federal program occurred. An audit includes examining, on a test basis, evidence about the City's compliance with those requirements and performing such other procedures as we considered necessary in the circumstances. We believe that our audit provides a reasonable basis for our opinion. Our audit does not provide a legal determination of the City's compliance with those requirements.

In our opinion, the City complied, in all material respects, with the compliance requirements referred to above that could have a direct and material effect on each of its major federal programs for the year ended September 30, 2012.

Internal Control Over Compliance

The Management of the City is responsible for establishing and maintaining effective internal control over compliance with requirements of laws, regulations, contracts and grants applicable to federal programs. In planning and performing our audit, we considered the City's internal control over compliance with the requirements that could have a direct and material effect on a major federal program to determine the auditing procedures for the purpose of expressing our opinion on compliance and to test and report on internal control over compliance in accordance with OMB Circular A-133, but not for the purpose of expressing an opinion on the effectiveness of internal control over compliance. Accordingly, we do not express an opinion on the effectiveness of the City's internal control over compliance.

A deficiency in internal control over compliance exists when the design or operation of a control over compliance does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, noncompliance with a type of compliance requirement of a federal program on a timely basis. A material weakness in internal control over compliance is a deficiency, or combination of deficiencies, in internal control over compliance, such that there is a reasonable possibility that material noncompliance with a type of compliance requirement of a federal program will not be prevented, or detected and corrected, on a timely basis.

Our consideration of internal control over compliance was for the limited purpose described in the first paragraph of this section and was not designed to identify all deficiencies in internal control over compliance that might be deficiencies, significant deficiencies, or material weaknesses. We did not identify any deficiencies in internal control over compliance that we consider to be material weaknesses, as defined above.

This report is intended solely for the information and use of the City's management, others within the entity, federal awarding agencies, and pass-through entities and is not intended to be and should not be used by anyone other than these specified parties.

Carr, Riggs & Ingram, LLC

Birmingham, Alabama
January 11, 2013

CITY OF MOUNTAIN BROOK, ALABAMA
SCHEDULE OF EXPENDITURES OF FEDERAL AWARDS
FOR THE YEAR ENDED SEPTEMBER 30, 2012

Description	Federal CFDA Number	Total Grant Award	Revenue Recognized	Expenditures
U.S. Department of Transportation				
Passed through Alabama Department of Transportation				
Mountain Brook Village Walkway System Phase 6				
CMAQ-9802(921)	20.205	\$ 1,664,040	\$ 987,981	\$ 987,981
Watkins Creek Bridge Widening for Pedestrian Use	20.205	282,000	2,991	2,991
STMT-TE09(922)				
Village Trail System, Phase 7A - Memory Lane	20.205	240,000	30,684	30,684
STPTE-TE09(918)				
Total U.S. Department of Transportation		2,186,040	1,021,656	1,021,656
TOTAL FEDERAL AWARDS		\$ 2,186,040	\$ 1,021,656	\$ 1,021,656

City of Mountain Brook, Alabama

Notes to Schedule of Expenditures and Federal Awards

- 1. General**
 The accompanying Schedule of Expenditures of Federal Awards presents the activity of all federal financial assistance programs of the City of Mountain Brook, Alabama. All federal financial assistance received directly from federal agencies, as well as federal financial assistance passed through other state and local government agencies, is included in the schedule.
- 2. Basis of accounting**
 The accompanying Schedule of Expenditures of Federal Awards is presented using the modified accrual basis of accounting, which is described in Note 1 to the City's financial statements.

CITY OF MOUNTAIN BROOK, ALABAMA
SCHEDULE OF FINDINGS AND QUESTIONED COSTS
FOR THE YEAR ENDED SEPTEMBER 30, 2012

Section I - Summary of Auditors' Results

Financial Statements

Type of auditors' report issued: Unqualified

Internal control over financial reporting:

Material weakness(es) identified?	<u> </u> yes	<u> X </u> no
Significant deficiency(ies) identified?	<u> X </u> yes	<u> </u> none reported

Noncompliance material to financial statements noted?

<u> </u> yes	<u> X </u> no
-----------------------	-----------------

Federal Awards

Internal control over major programs:

Material weakness(es) identified?	<u> </u> yes	<u> X </u> no
Significant deficiency(ies) identified?	<u> </u> yes	<u> X </u> none reported

Type of auditors' report issued on Compliance for major programs: Unqualified

Any audit findings disclosed that are required to be reported in accordance with Section 510(a) of OMB Circular A-133?

<u> </u> yes	<u> X </u> no
-----------------------	-----------------

Identification of major programs:

<u>CFDA Numbers</u>	<u>Name of Federal Program or Cluster</u>
20.205	U. S. Department of Transportation Village Walkway Systems

Dollar threshold used to distinguish between Type A and Type B programs: \$ 300,000

Auditee qualified as low-risk auditee X yes no

Section II - Financial Statement Findings
 The following significant deficiencies were disclosed in the audit of the financial statements of the City of Mountain Brook:

CITY OF MOUNTAIN BROOK, ALABAMA
SCHEDULE OF FINDINGS AND QUESTIONED COSTS
FOR THE YEAR ENDED SEPTEMBER 30, 2012

2012-1 Segregation of Duties

Due to the limited number of people working in the accounting department, certain critical duties are combined and assigned to the available employees. To the extent possible, duties should be segregated to serve as a check and balance on employees' integrity and to maintain the best control system possible. We suggest that the segregation of duties be reviewed and adjusted where possible to strengthen the system of internal control.

Management's response:
 The City agrees with this finding. The duties will be separated as much as possible and alternative controls will be used to compensate for lack of separation. The City also uses part-time employees to mitigate this condition.

Section III - Federal Awards Findings and Questioned Costs
 There were no matters to be reported.

BRASFIELD & GORRIE L.L.C.

ESTIMATE WORKSHEET

PROJECT: Mountain Brook Municipal Complex
 LOCATION: Mountain Brook, AL
 ARCH/ENG.: Williams Blackstock Architects
 DESCRIPTION: RFP 28 - Room B146 Report Room to become Jail Kitchenette

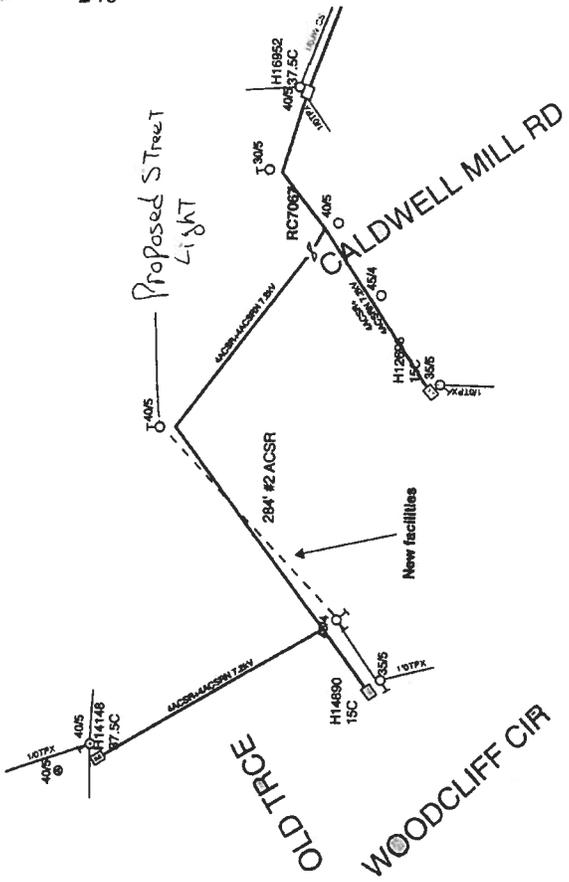
PAGE NUMBER: 1
 DATE: 12/18/12
 SUMMARY BY: BT
 PRICED BY: BT
 CHECKED BY: RM

ITEM	DESCRIPTION	QTY	UNIT	MATERIAL		LABOR		SUB / EQUIP		TOTAL
				Unit Cost	Material	Unit Cost	Labor	Unit Cost	Sub Price	
1	Demo existing Drywall and Clean up (2 men 6 hours @ \$20/hr)- B&G	12	hr	0.00		20.00	240.00	0.00	0.00	240.00
2	Install Blocking for casework - B&G	21	lf	2.00	42.00	2.00	42.00	0.00	0.00	84.00
3	Casework - Laco Woodworks	1	ls	0.00		0.00		295.00	295.00	295.00
4	Door Lockset - Mullins Building Products	1	ea	625.00	625.00	0.00	0.00	0.00	0.00	625.00
5	Drywall - Chilton Drywall	1	ls					968.00	968.00	968.00
6	Paint - Southern Painting and Decorating	1	ls					80.00	80.00	80.00
7	Plumbing for Sink and Ice Machine - CLS	1	ls					2,950.00	2,950.00	2,950.00
8	Electrical - Griffing Electric	1	ls						1,300.00	1,300.00
9										
10										
11										
12										
13										
14										
15										
16										
17										
18										
19										
20										
SUB TOTAL					667		282		5,593	6,542

Clarifications:

- 1 Casework number includes deleting previous casework in room
- 2 Room currently has drywall and one coat of paint primer on walls
- 3 Ice Machine will tie into sink drain and not require a floor drain.
- 4 Existing Electrical outlets will be re-used and raised up to serve as the GFCT's

Material Tax	9.00%	60
PRT/Insurance (Labor)	48.15%	136
Insurance/Bonds/Permits	1.50%	98
Overhead and Profit	10.00%	684
TOTAL		\$7,520



Sam Gaston

From: Fincher, Timothy Jay, (T.J.) [TJFINCHE@southernco.com]
 Sent: Wednesday, November 28, 2012 10:03 AM
 To: Sam Gaston
 Subject: RE: Caldwell Mill/Old Trace

Sam,

We have explored all the options for a street light at both Caldwell Mill and Old Trace, as well as Caldwell Mill Rd. and Wynward Rd.

- The options we have for CM # Old Trace are as follows:
- 1) String 284' of wire at \$.08/ft for \$22.72 per month in addition to the monthly cost of the light. (this is \$2 cheaper than the original estimate)
 - 2) Hang a transformer at the pole at a cost of \$40.23 per month in addition to the monthly cost of the light
 - 3) or, The city can buy-down the monthly cost of the additional facilities for an up-front payment of \$2,501.58, and then only pay the monthly cost of the light

As far as CM # Wynward goes, we don't even have a pole at this intersection, so the cost would be more than the above, because we would also have to charge for a pole in addition to the wire.

I know none of these are ideal scenarios, but please let me know if/how you wish to proceed.

Thanks,

TJ

-----Original Message-----

From: Sam Gaston [mailto:gastons@MTNBROOK.org]
 Sent: Saturday, November 24, 2012 11:09 AM
 To: Fincher, Timothy Jay, (T.J.)
 Subject: Re: Caldwell Mill/Old Trace

Thank you.

Sent from my iPhone
Sam Gaston

On Nov 24, 2012, at 9:24 AM, "Fincher, Timothy Jay, (T.J.)" <TJFINCHE@southernco.com> wrote:

> I'll check and let you know.

> Thanks,

>

> TJ

> Sent from iPad

>

> On Nov 24, 2012, at 9:12 AM, "Sam Gaston" <gastons@MTNBROOK.org> wrote:

>> Can you see if there is a cheaper alternative to get a light to this intersection at Wynward Road and Caldwell Mill?

>> Sent from my iPhone

>> Sam Gaston

APPENDIX 3



STONE ELECTRIC CO., INC.

www.StoneElectric.com

4824 5TH AVENUE SO. BIRMINGHAM, AL 35222 PHONE (205) 592-6313 FAX (205) 592-6316

DATE: September 14, 2012

TO: City of Mountain Brook 3928 Montclair Road, 2nd Floor Mountain Brook, AL 35213

ATTN: Sam S. Gaston, Purchasing Agent

CONTRACT

Stone Electric Co., Inc., hereinafter called the Contractor, offers to furnish all labor, materials and equipment required for the performance of the following described work in connection with electronic pedestrian flasher at Overhill Road and Montevallo Road in Mountain Brook, Alabama which property is owned by City of Mountain Brook.

DESCRIPTION OF WORK AND PRICE:

Electronic Pedestrian Flasher at Overhill Road and Montevallo Road in the City of Mountain Brook, AL.

Total Amount of Contract \$10,860.00

TERMS AND CONDITIONS

Any deviations from the specifications or modification of the terms of this contract and any extra or incidental work, or reductions in work, shall be set forth in writing and signed by both parties prior to the making of such change. Contractor will be compensated for any increase in costs caused, on the basis of the cost of the increase plus ten percent (10%) profit. If a time is set for the performance of the work, and if, in our sole judgment, such change will increase the time necessary for the performance of our work, we will be granted a reasonable extension of time.

We shall provide and pay for Worker's Compensation Insurance covering our employees and Public Liability and Property Damage Insurance protecting ourselves. We will also assume responsibility for the collection and payment of Social Security and State Unemployment Taxes applicable to our employees.

*INDUSTRIAL *COMMERCIAL EST. 1945 *TRAFFIC *FIBER OPTIC

2013-005

ADDENDUM TO AGREEMENT BETWEEN THE CITY OF MOUNTAIN BROOK AND STONE ELECTRIC CO., INC. DATED JANUARY 14, 2013

THIS ADDENDUM ("the this Addendum") to the principal agreement between the City of Mountain Brook, Alabama ("the City") and Stone Electric Co., Inc. ("the Contractor") dated JANUARY 14, 2013.

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

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

We shall be provided with suitable access to the work area. If our work is dependent upon or must be undertaken in conjunction with the work of others, such work shall be so performed and completed as to permit us to perform our work hereunder in a normal uninterrupted single shift operation.

Unless a time for the performance of our work is specified, we shall undertake it in the course of our normal operating schedule. We shall not be liable for any failure to undertake or complete the work for causes beyond our control, including but not limited to failure of subgrade or failure of inadequacy of any labor or materials not furnished and installed by us, whether or not such failure or inadequacy was or could have been known at the time of our work was undertaken. You agree that the proper jurisdiction and venue for any lawsuit concerning this contract is Jefferson County, Alabama, and you waive any right to jurisdiction and venue in any other place.

It is further understood that we shall not be responsible for any damage to or deterioration of any of our work, whether completed or in process, resulting from any cause beyond our control, including but not limited to failure of subgrade or failure of inadequacy of any labor or materials not furnished and installed by us, whether or not such failure or inadequacy was or could have been known at the time of our work was undertaken. You agree that the proper jurisdiction and venue for any lawsuit concerning this contract is Jefferson County, Alabama, and you waive any right to jurisdiction and venue in any other place.

You further agree to indemnify us and protect us and save us harmless from any and all loss, damages, costs, expenses and attorney's fees suffered or incurred on account of your breach of any obligations and covenants of this contract.

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.

IN WITNESS WHEREOF, the parties hereto executed this Agreement under seal, the date and year first above written.

CITY OF MOUNTAIN BROOK OWNER

STONE ELECTRIC CO. INC. CONTRACTOR

By: [Signature] (Title)

By: [Signature] Paula G. Woodall, President

Federal Identification No 63-0362585

APPENDIX 4

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

2013-005

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.

ADDENDUM 1

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

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

DATED this 14th day of January, 2013.

Stone Electric Co., Inc.

City of Mountain Brook, Alabama

By: Paula G. Woodall
 Its: President 1/17/13

By: Vin C. Surr, Mayor
 Its: 1/14/13

Paula G. Woodall
 Printed Name of Contractor

President
 Title

Paula G. Woodall
 Signature of Contractor

1/17/13
 Date

Stone Electric Co., Inc.
 Name of Business Entity

APPENDIX 4



STONE ELECTRIC CO., INC.

www.StoneElectric.com

4824 5TH AVENUE SO.
 BIRMINGHAM, AL 35222
 PHONE (205) 592-8313
 FAX (205) 592-8315

January 17, 2013

Steven Boone
 City of Mountain Brook
 P.O. Box 130009
 Mountain Brook, AL 35213-0009

Dear Mr. Boone:

Enclosed please find the executed contract and addendums for the installation of pedestrian flashing lights at the intersection of Overhill Road and Montevallo Road in Mountain Brook.

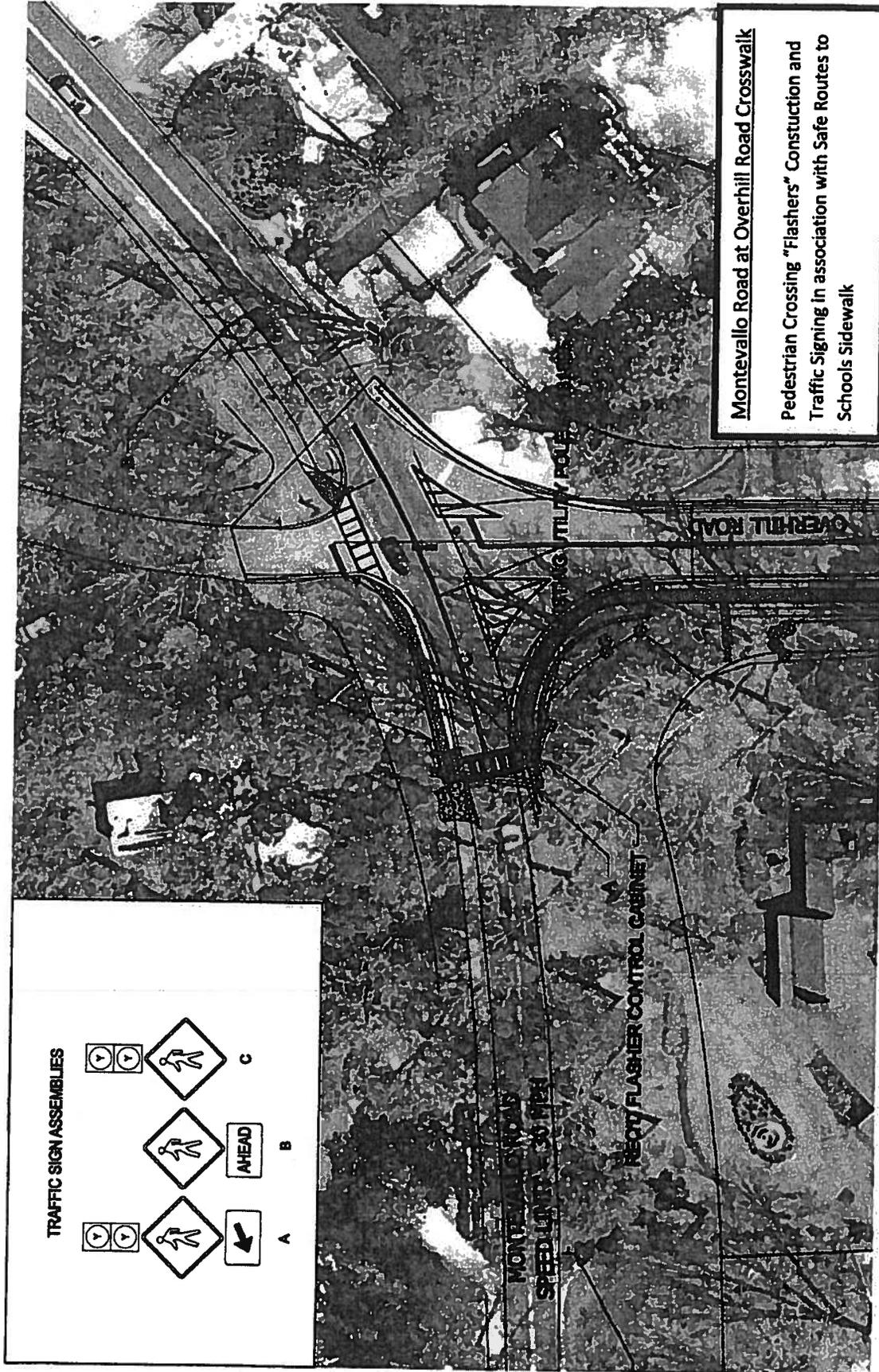
If you need anything else just let me know.

Sincerely,

Paula G. Woodall

Paula G. Woodall
 President

Enclosure



City of Mountain Brook

Memo

To: Sam Gaston, City Manager
From: Steven Boone
CC: Mayor and members of the City Council
Date: January 8, 2013
Re: Amended and restated City of Mountain Brook [standalone] Dental Plan

Proposed Resolution No. 2013-006

Prior to joining the Local Government Health Insurance Plan (LGHIP) sponsored by the State Employees' Insurance Board, the City offered separate medical and dental plans for its employees and retirees. The dental plan has always been self-insured. Upon joining the LGHIP, dental coverage was included in the medical benefit plan.

In 1999, the City was also self-insured with respect to its medical coverage and introduced an incentive program whereby employees are compensated approximately \$50/month if they elect to decline medical coverage (or step down from family to single coverage).^[1] For those employees who decline or reduce their City medical coverage, they are allowed to continue their City-sponsored dental coverage. The net cost for such dental coverage is approximately \$6,000/year which includes an 8% claims administration fee charged by Alternative Insurance Resources (AIR).

The AIR claims administration services agreement was amended on September 24, 2012 (Resolution No. 2012-148). The dental summary plan description was last updated/restated in 2001. Our claims administrator has drafted an updated summary plan description (attached). The dental benefits outlined in the proposed plan document are consistent with the previous plan document.

Net savings illustration:

Medical premium savings	
[\$505/mo average(12 mos)(17 employees)]	\$103,020
Dental expense	<6,307>
Opt out incentive payments	<11,267>
Net savings to the City	<u>\$85,446</u>

^[1] Such employees are required to demonstrate that they (or their dependents) are covered by another [outside] medical plan.

APPENDIX 5

TABLE OF CONTENTS

Article	Page
ARTICLE I – INTRODUCTION.....	1
ARTICLE II – GENERAL PLAN INFORMATION.....	2
ARTICLE III – DEFINITIONS	3
ARTICLE IV – ELIGIBILITY AND EFFECTIVE DATES.....	7
ARTICLE V - TERMINATION OF COVERAGE.....	12
ARTICLE VI - EXTENSION OF COVERAGE.....	13
ARTICLE VII - COBRA CONTINUATION COVERAGE	16
ARTICLE VIII – SPECIAL NOTICES.....	23
ARTICLE IX - DENTAL COVERAGE.....	25
ARTICLE X - SCHEDULE OF DENTAL BENEFITS	27
ARTICLE XI - DENTAL LIMITATIONS AND EXCLUSIONS.....	28
ARTICLE XII - DEFINITIONS OF DENTAL TERMS.....	29
ARTICLE XIII - COORDINATION OF BENEFITS	32
ARTICLE XIV - CLAIMS PROCEDURES.....	37
ARTICLE XV - ADMINISTRATIVE MATTERS.....	38
ADOPTION OF THE PLAN DOCUMENT	44

CITY OF MOUNTAIN BROOK
EMPLOYEE DENTAL BENEFIT PLAN
SUMMARY PLAN DESCRIPTION

CLAIMS PROCESSOR

ALTERNATIVE INSURANCE RESOURCES, INC.
P.O. BOX 660787
BIRMINGHAM, AL 35266

JANUARY 1, 2013

APPENDIX 5

2013-006

ARTICLE I – INTRODUCTION

A. Introduction

The City of Mountain Brook ("Plan Sponsor") has hereby established the City of Mountain Brook Employee Dental Benefit Plan ("Plan") to provide dental benefits to its eligible Employees and their eligible Dependents. The Plan is a self-funded group dental plan.

The Covered Person shall be responsible for sharing in the cost of such expenses through contributions toward Plan coverage, Coinsurance, and Deductibles.

The Employer is responsible for at least a portion of the cost of an Employee's dental care coverage. If an Employee elects to enroll Dependent(s) in the Plan, he or she may be responsible for a portion of that cost. The Employer shall pay costs in excess of the Employee's obligations.

The Employer fully intends to maintain the Plan indefinitely. However, it reserves the right to terminate, suspend, discontinue, or amend, in whole or in part, any or all of the provisions of the Plan (including any related documents and underlying policies) at any time, and for any reason, upon prior written notice to all Employees.

Coverage under the Plan will take effect for an eligible Employee and designated Dependents when the Employee and such Dependents satisfy all the eligibility requirements of the Plan.

B. The Purpose of the Plan

The purpose of the Plan is to provide certain dental care benefits for eligible Employees of the participating Employer and the eligible Dependents of such Employees.

C. The Purpose of the Plan Document

This Plan Document has been adopted and is being provided as the written description of the Plan and as a Summary Plan Description. This Plan Document supersedes any and all statements and/or amendments regarding dental care coverage contained in any Plan Document or Summary Plan Description previously provided to Employees. The Plan Document is not a contract of employment between the Employer and the Employee, and does not give the Employee the right to be retained in the service of the Employer.

The Plan Document includes provisions that may result in an Employee being deemed ineligible for or being disqualified from coverage, or that may result in the denial, forfeiture, loss, offset, recovery, reduction, or suspension of benefits that a Covered Person might otherwise reasonably expect the Plan to provide. Covered Persons should review this Plan Document carefully so that they understand how its provisions affect payment of benefits under the Plan.

Provisions of the Plan Document may be modified from time to time, including those with respect to Deductibles, Eligible Expenses, eligibility requirements, exclusions, limitations, Maximum Benefits, and other matters. The Plan Document will automatically be modified to comply with any federally-mandated provisions. The Plan shall notify Employees in writing of any material modification to the Plan in accordance with the requirements of all applicable laws. Employees are required to keep the Plan Administrator informed of any changes in address with respect to themselves and any covered Dependents. Employees are encouraged to maintain a copy of any notices sent to the Employee by the Plan Administrator or to the Plan Administrator by the Employee.

For more information about your rights including COBRA and other laws affecting group health plans, contact the US Department of Labor's Employee Benefits Security Administration (EBSA) in your area or visit the EBSA website at www.dol.gov/ebsa.

A. Defined Terms

When capitalized herein, the following terms shall have the meanings set forth below:

- 1. Active Employee: See ARTICLE IV – ELIGIBILITY AND EFFECTIVE DATES.
2. Amendment: A formal document that changes the provisions of the Plan Document and that is duly signed by an authorized representative of the Plan.
3. Benefit Period: The 12-month period in which dental benefits are calculated, the Calendar Year.
4. Calendar Year: The period of time commencing at 12:00 a.m. on January 1st of each year and ending at 11:59 p.m. on the next succeeding December 31st.
5. Claimant: Any Covered Person on whose behalf a claim is submitted for benefits under the Plan, or any person or entity that submits a claim on behalf of a Covered Person.
6. Claims Processor: A company that performs all functions reasonably related to the general administration, management, and supervision of the Plan in accordance with the terms and conditions of an administration agreement between the Claims Processor and the Plan Administrator.
7. Close Relative: A person who is the spouse, parent, sibling, child, or in-law of a Covered Person.
8. COBRA: The Consolidated Omnibus Budget Reconciliation Act of 1985, as amended.
9. COBRA Beneficiary or Qualified Beneficiary: See ARTICLE VII – COBRA CONTINUATION COVERAGE.
10. Company: A corporation duly organized and existing under the laws of the State and all affiliates, divisions, and/or subsidiaries thereof that have adopted the Plan.
11. Covered Person: An Employee, a Dependent, or a Qualified Beneficiary under COBRA who is covered under the Plan. See ARTICLE IV – ELIGIBILITY AND EFFECTIVE DATES and ARTICLE VII – COBRA CONTINUATION COVERAGE.

NOTE: In enrolling an individual as a Covered Person or in determining or making benefit payments to or on behalf of a Covered Person, the eligibility of the individual for state Medicaid benefits shall not be taken into account.

12. Covered Provider: A person who is licensed to perform certain health care services covered under the Plan and who is acting within the scope of his or her license or, in the absence of licensing requirements, who is certified by the appropriate regulatory agency or professional association. A "Covered Provider" may also be any Nurse, Physician, or other provider who is employed by a Hospital or other covered facility and who is paid by such Hospital or covered facility for his or her services.

NOTE: A Covered Provider does not include a Covered Person treating himself or herself, any Close Relative, or any person who resides in the Covered Person's household.

ARTICLE II – GENERAL PLAN INFORMATION

A. General Information

Table with 2 columns: Field Name and Value. Fields include Name of Plan, Plan Sponsor/Plan Administrator, Participating Employer, Plan Sponsor ID Number (EIN), Plan Number, Plan Year, Plan Effective Date, Plan Revision Date, Plan Benefits, Named Fiduciary, Agent for Service of Legal Process, and Claims Processor.

B. Administration Expenses

In addition to being used to pay for benefits, contributions to the Plan may be used to pay reasonable administrative and operating expenses of the Plan, including but not limited to expenses incurred in accordance with the terms and conditions of any administration agreement between the Plan Sponsor and the Claims Processor; auditing fees incurred with respect to claims submitted by or on behalf of a Covered Person; legal fees and costs associated with Plan-related issues, including those which may arise when a Claimant appeals an adverse benefit determination; and costs incident to securing or posting of any bond.

C. Taxes

Any premium or other taxes that may be imposed by any state or other taxing authority and that are applicable to the coverage under the Plan shall be paid by the Plan Sponsor.

NOTE: In providing benefits, purchasing insurance protection, and paying administrative expenses and any taxes required by law, the contributions made by Employees shall be used first. Any remaining Plan obligations shall be paid by Employer contributions. Should total Plan liabilities in a Plan Year be less than total Employee contributions, any excess shall be applied to reduce total Employee contribution requirements in the subsequent Plan Year or, at the Plan Sponsor's discretion, may be used in any other manner consistent with applicable law.

- 13. Deductible: A specified dollar amount with respect to an Eligible Expense that may have to be incurred during a Benefit Period before any other Eligible Expenses are considered for payment.
14. Dentist: A Doctor of Dental Surgery or Doctor of Dental Medicine licensed by his or her state of practice to practice dentistry and render dental care services within the scope of his or her license for treatments covered under the Plan.
15. Dependent: See ARTICLE IV – ELIGIBILITY AND EFFECTIVE DATES.
16. DOL: The United States Department of Labor.
17. Effective Date: See ARTICLE IV – ELIGIBILITY AND EFFECTIVE DATES.
18. Eligible Expense: An expense incurred by a Covered Person for services and/or supplies furnished to him or her that is covered by a specific benefit provision of the Plan Document.
19. Employee: See ARTICLE IV – ELIGIBILITY AND EFFECTIVE DATES.
20. Employer or Participating Employer: The Employer(s) participating in the Plan as stated in ARTICLE II – GENERAL PLAN INFORMATION.
21. Family Unit: A covered Employee and his or her family members who are covered as Dependents under the Plan.
22. Fiduciary: Any entity having binding power to make decisions regarding Plan interpretation, policies, practices, or procedures.
23. IRS: The United States Internal Revenue Service.
24. Late Enrollee: See ARTICLE IV – ELIGIBILITY AND EFFECTIVE DATES.
25. Legal Guardian: A person recognized by a court of law as being responsible for taking care of a person and/or managing the property and rights of a minor child.
26. Lifetime: All periods during which a person is covered under the Plan, including any prior statements of the Plan. It does not mean a Covered Person's entire Lifetime.
27. Lifetime Maximum Benefit: The maximum amount payable by the Plan on behalf of a Covered Person during his or her Lifetime for eligible expenses as shown in ARTICLE X – SCHEDULE OF DENTAL BENEFITS.
28. Maximum Benefit: The maximum dollar value payable by the Plan on behalf of a Covered Person for a specified service during a Calendar Year or Plan Year (at the Plan's discretion), or the maximum non-monetary limit on a specified service during a Calendar Year or Plan Year (again, at the Plan's discretion).
29. Medically Necessary: Any health care treatment, service, or supply that the Plan Administrator determines is:
a. Ordered by a Physician for the diagnosis or treatment of an injury or an illness;
b. Safe and effective for its intended use, pursuant to the prevailing opinion within the appropriate specialty of the United States medical profession;
c. Likely to adversely affect the patient's medical condition if not provided to the patient, pursuant to the prevailing opinion within the appropriate specialty of the United States medical profession;

- d. Furnished by a Covered Provider with appropriate training and experience, acting within the scope of his or her license;
- e. Provided at the most appropriate level of care needed to treat the particular condition; and
- f. Not provided solely for the convenience of the Covered Person or the Covered Provider.
- g. With respect to inpatient services and supplies, "Medically Necessary" further means that the health condition requires a degree and frequency of services and treatment which can only be provided on an inpatient basis.

The Plan Administrator shall determine whether the above requirements have been met based upon published reports in authoritative medical and scientific literature; regulations, reports, publications, or evaluations issued by government agencies such as the National Institutes of Health, the FDA, and CMS; and listings in the following compendia: The American Hospital Formulary Service Drug Information and The United States Pharmacopoeia Dispensing Information. The Plan Administrator may also consider other authoritative medical resources to the extent that the Plan Administrator determines them to be necessary and appropriate. The fact that any particular provider individual may prescribe, order, recommend, or approve a service or supply, does not, of itself, make it Medically Necessary or make the charge a Covered Expense, even though it is not specifically listed in this Plan as an exclusion. The Plan Administrator has the discretionary authority to decide whether care or treatment is Medically Necessary.

- 30. **Newborn:** An infant from the date of his or her birth until he or she is initially discharged from the hospital or until he or she is 14 days old, whichever occurs first.
- 31. **No-Fault Automobile Insurance:** The basic reparations provision of a law providing for payments without determining fault in connection with automobile accidents.
- 32. **Physician:** A Doctor of Medicine or a Doctor of Osteopathy who is licensed by his or her state of practice to practice medicine and to render medical care services within the scope of his or her license for treatments covered under the Plan.
- 35. **Plan:** The benefits described by the Plan Document or incorporated by reference therein and including any prior statement of the Plan. The name of the Plan is set forth in ARTICLE II – GENERAL PLAN INFORMATION.
- 33. **Plan Administrator:** See Plan Sponsor.
- 34. **Plan Document:** The formal written document, including any Amendments, which describes the plan of benefits and the provisions under which such benefits shall be paid to Covered Persons.
- 36. **Plan Sponsor:** The entity sponsoring this Plan. The Plan Sponsor may also be referred to as the Plan Administrator. See ARTICLE II – GENERAL PLAN INFORMATION.
- 38. **QMCSO:** A Qualified Medical Child Support Order.
- 37. **Reasonable and Appropriate:** A charge made by a Covered Provider that is Medically Necessary for an illness or an injury and that does not exceed the general level of payments accepted by other providers in the same geographical area or community who have similar experience and training for the treatment of health conditions comparable in nature and severity to the health condition being treated. "Same geographical area or community" means the Physician Fee Reference ("PFR") five-digit zip code prefix adjustment factors (multipliers). The Plan Administrator has the discretionary authority to determine whether a charge is Reasonable and Appropriate. The Plan Administrator may consider the PPO fee schedule to be the Reasonable and Appropriate charge for PPO providers. However, it is within the sole discretion of the Plan Administrator to consider one or more of the following parameters in determining whether or not a charge is Reasonable and Appropriate, even if a PPO provider is used. The Plan Administrator is under no obligation to adhere to any of these parameters, and may consider other factors as well on a case-by-case basis to determine whether or not a charge is Reasonable and Appropriate:

- a. **Procedures:** Charges for procedures may be compared with the charges billed by other providers rendering the same type of service in the same geographical area or community. If the billed procedure charge exceeds the 90th percentile for the same procedure performed by other providers in the same geographical area or community, then such procedure charge may be reduced to the 90th percentile, the highest percentile reflected in the PFR.
- b. **Pharmaceuticals:** Charges for pharmaceuticals may be reimbursed by applying the Average Wholesale Price ("AWP"), as defined by REDBOOK, at 200% of AWP if AWP is \$100 or less, or at 110% of AWP if AWP is over \$100, provided that such pharmaceuticals are dispensed to a Covered Person:
 - i. Who is an inpatient in a Hospital, Rehabilitation Facility, Skilled Nursing Facility, or other covered facility;
 - ii. Directly by the Covered Person's treating Physician, or by a representative of such Physician licensed to dispense pharmaceuticals and acting at the direction of the Physician, during an office visit; or
 - iii. By a Home Health Care Agency rendering services to the Covered Person.
- c. **Bundling/Unbundling/Upcoding and Other Errors:** Charges may be reviewed to determine whether they contain errors as a result of bundling, unbundling, and/or upcoding. If it is determined that the charges contain any such error(s), the charges may be reduced based on the discovered errors. Charges that are determined to have been billed erroneously for services that were not rendered to the patient or for items that were not provided to the patient are not payable under the Plan.
- d. **Medical and Surgical Supplies:** Charges for medical and surgical supplies may be reviewed for reasonableness based on 110% of list price (as reflected on cost lists, invoices, receipts, and other similar documents). Charges in excess of 110% of list price may be reduced to a reasonable amount.
- e. **Lab work, Imaging, Therapy, and Physicians:** Charges for lab work, imaging, therapy, and Physicians may be compared with charges for the same type of service in the same geographical area or community. If the charges for such services exceed 200% of the Medicare reimbursement rate for the same service by the provider, such charges may be reduced to 200% of the Medicare reimbursement rate for such provider.
- f. **Implants:** Charges for implants may be reviewed for reasonableness based on 110% of list price (as reflected on cost lists, invoices, receipts, and other similar documents). Charges in excess of 110% of list price may be reduced to a Reasonable amount.

NOTE: Reimbursement may be at the actual charge billed if such charge is equal to or less than the Reasonable and Appropriate charge, or may be at such other rate as the Plan may later specify.

ARTICLE IV – ELIGIBILITY AND EFFECTIVE DATES

A. Choice of Coverage

An Employee may choose to enroll in the coverage for dental benefits under the Plan and/or enroll his or her eligible Dependents as well. An Active Employee's Spouse and Dependent children are eligible to enroll in this Plan without Employee Plan participation.

B. Eligibility Requirements – Employees

All Active Employees who have voluntarily declined coverage through the City's group medical/dental plan are eligible for coverage under the Plan. An Active Employee is a person who:

- 1. Is in full-time active employment for the Employer; that is, he or she must be scheduled to work at least 30 hours per week, be performing all customary duties of his or her occupation at his or her usual place of employment or at a location to which the business of the Employer requires him or her to travel, and be on the regular payroll of the Employer;

A person who is employed on a part-time basis or who is a seasonal, substitute, or temporary employee, as determined by the Employer using IRS standards, is not eligible for coverage under the Plan.

An Employee shall be deemed in "active employment" on each day that he or she is actually performing services for the Employer, on each day of a regular paid vacation, and/or on a regular non-workday, provided that he or she was actively at work on the last preceding regular workday. An Employee shall also be deemed in active employment on any day on which he or she is absent from work during an approved leave pursuant to FMLA or solely due to his or her own health status. An exception applies only to an Employee's first scheduled day of work. If an Employee does not report for employment on his or her first scheduled workday, he or she shall not be considered as having commenced active employment.

A person shall remain an Active Employee, for the purposes of coverage under the Plan, for so long as he or she may be entitled to FMLA leave, to COBRA continuation coverage, or to weekly disability benefits. See ARTICLE VI – EXTENSION OF COVERAGE for instances when these eligibility requirements may be waived or modified.

Eligibility for Medicaid or the receipt of Medicaid benefits shall not be taken into account in determining eligibility.

NOTE: An eligible Employee does not include one who is eligible for Medicare by reason of age, for TRICARE, or for another federal program and who has elected coverage under such program in lieu of Plan coverage.

B-1. Effective Date – Employees

Coverage under the Plan is effective for an Employee, subject to timely enrollment. To enroll in the Plan, an Employee must submit a written application to the Employer not more than 31 days after the date of permanent full-time employment. If an Employee fails to enroll within 31 days of hire, he or she shall be considered a "New Hire" and his or her coverage can become effective only in accordance with the Open Enrollment process in accordance with the Special Enrollment provisions below.

C. Eligibility Requirements – Dependents

- 1. A legally married spouse of the opposite sex (that is, not the same sex as the Employee) who is a husband or a wife. "Legally married" means that the marriage meets all requirements of a valid marriage in the Employee's state of residence. The Employer may require documentation establishing a legal marriage relationship; and

- 2. An unmarried child from birth through age 25.
 - a. A natural child;
 - b. A stepchild; that is, a natural child of a covered Employee's spouse.
 - c. A child who is adopted by the Employee or placed with him or her for adoption prior to the age of 18 years. "Placed for adoption" means the assumption and retention by the Employee of a legal obligation for total or partial support of the child in anticipation of adoption of the child. The child must be available for adoption and the legal process must have begun. Placement ends when the adoption support obligation ends;
 - d. Notwithstanding any residency or main support and care requirements, a child for whom Plan coverage is required pursuant to a Medical Child Support Order that the Plan Sponsor determines to be a QMCSO in accordance with its written procedures. Such procedures are incorporated herein by reference and may be obtained by the Employee, without charge. A QMCSO also includes a judgment, decree, or order issued by a court of competent jurisdiction or through an administrative process established under state law that has the force and effect of law under state law.
 - e. A foster child; that is, a child who has been raised as the child of the covered Employee. A "foster child" does not include a child who is or was temporarily living in such Employee's home, a child who is or was placed in such Employee's home by a social service agency which retains or retained control of the child, or a child whose natural parent(s) have exercised or shared parental control of and responsibility for the child; and
 - f. Any other child of whom the Employee is the Legal Guardian.

Dependents of Employees who have elected single coverage through the City of Mountain Brook's medical/dental plan may enroll in the City of Mountain Brook Employee Dental Plan without the requirement of the Employee being covered under this Plan.

C-1. Proof of Dependency

The Plan may require proof (such as a copy of the Employee's marriage certificate, divorce decree, or legal adoption or legal guardianship papers) that a spouse or a child qualifies as a Dependent.

C-2. Ineligible Persons

The following persons are not eligible for coverage under the Plan:

- 1. Any person residing with the Employee who is not eligible for coverage as defined above;
- 2. A spouse following legal separation or a final decree of dissolution or divorce;
- 3. A person who is a domestic partner of the same sex as the Employee;
- 4. A person who is on active duty in military service, to the extent permitted by law; and
- 5. A person who is covered under the Plan as a Dependent of another Employee.

Also, a person who is already covered as an Employee may not be covered as a Dependent under the Plan.

See Article VI – EXTENSION OF COVERAGE for instances when these eligibility requirements may be waived or modified.

Eligibility for Medicaid or the receipt of Medicaid benefits shall not be taken into account in determining a Dependent's eligibility.

C-3. **Effective Date - Dependents**

An Employee must submit a written application with the Employer to enroll his or her eligible Dependents in the Plan. A Dependent who is eligible and enrolled when the Employee enrolls shall have coverage effective on the same date as the Employee. If the Employee elects single coverage through the City of Mountain Brook's medical/dental plan, coverage for the Dependents will be effective through the date of hire of the Employee. Dependents acquired later may be enrolled within 31 days of their eligibility. The first day of coverage under the Plan is the Dependent's Effective Date (see Special Enrollment for details, as well as for instances when the loss of other coverage and other circumstances may allow a Dependent to be enrolled).

D. **Newborn Children**

A Newborn child of a covered Employee who has Dependent coverage is not automatically enrolled in this Plan. The Employee must enroll the Newborn as a Dependent within 31 days of such child's birth.

If a Newborn child is required to be enrolled and is not enrolled within 31 days of such child's birth, he or she shall be considered a "Late Enrollee" and his or her coverage can become effective only in accordance with the Open Enrollment.

E. **Special Enrollment**

E-1. **Entitlement Due to Loss of Other Coverage**

A person who did not enroll in the Plan when previously eligible shall be allowed to apply for coverage under the Plan at a later date if he or she:

1. Was covered under another group dental plan or other dental insurance coverage at the time coverage was initially offered or previously available to him or her.
2. Stated in writing at the time a prior enrollment was offered or available that other coverage was the reason for declining enrollment in the Plan. However, this provision only applies if the Plan Sponsor required such a written statement and provided the Employee with notice of the requirement and of the consequences of failure to comply with the requirement;
3. Lost the other coverage as a result of one or more of the following events:
 - a. Loss of eligibility for coverage as the result of legal separation, divorce, cessation of Dependent status, death of an Employee, termination of employment, or reduction in the number of hours of employment, and loss of eligibility for coverage after a period that is measured by reference to any of the foregoing;
 - b. Loss of eligibility when coverage is offered through an HMO or other arrangement in the individual market that does not provide benefits to persons who no longer reside or work in a service area, whether or not by choice of such person;
 - c. Loss of eligibility when coverage is offered through an HMO or other arrangement in the group market that does not provide benefits to persons who no longer reside or work in a service area, whether or not by choice of such person, and when no other benefit package is available to the person;
 - d. Loss of eligibility when benefits are not offered to a class of similarly-situated individuals (for example, if dental coverage for all part-time workers is terminated, such workers lose their eligibility, even if the Plan continues to provide coverage to other employees);

- e. Loss of eligibility when the Employer's contributions toward the Employee's or Dependent's coverage terminate, even if a person continues the coverage by paying the amount previously paid by the Employer;
 - f. Loss of eligibility due to the exhaustion of COBRA Continuation Coverage; or
 - g. Loss of eligibility for coverage under Medicaid or CHIP, and
4. The Employee requested Plan enrollment not more than 31 days after termination of the other coverage, or in the case of Medicaid or CHIP coverage, not more than 60 days after the loss of coverage.

If the above conditions are met, Plan coverage shall be effective on the first day of the first calendar month that begins after the date on which the Plan received the completed application.

NOTE: Loss of other coverage due to failure on the part of the Employee to make contributions on a timely basis toward his or her coverage or toward coverage for his or her Dependents, or loss of coverage for cause (for example, making a fraudulent claim or making an intentional misrepresentation of a material fact with respect to other coverage) shall not be a valid loss of coverage for purposes of this provision.

E-2. **Enrollment Under CHIP**

If an Employee has declined enrollment in the Plan for himself or herself or for his or her Dependents, including a spouse, because of coverage under Medicaid or CHIP, such Employee may be entitled to enroll in the Plan if there is a loss of eligibility for Medicaid or CHIP. However, a request for enrollment must be made no later than 60 days after coverage under Medicaid or CHIP ends. Any change in enrollment status shall be on a prospective basis only.

In addition, if an Employee has declined enrollment in the Plan for himself or herself or for his or her Dependents, including a spouse, and later becomes eligible for state assistance through Medicaid or CHIP to pay for Plan coverage, such Employee may be entitled to enroll in the Plan. However, a request for enrollment must be made no later than 60 days after the determination of eligibility for assistance through Medicaid or CHIP is made. Any change in enrollment status shall be on a prospective basis only.

E-3. **Entitlement Due to Acquiring New Dependents**

If an Employee acquires one or more new eligible Dependents through marriage, birth, adoption, or placement for adoption (as defined by federal law and herein referred to as a "triggering event"), application for their coverage may be made within 31 days of the date that the new Dependents are acquired, and Plan coverage shall be effective as follows:

1. When the Employee's marriage is the triggering event, the spouse's coverage (and the coverage of any eligible Dependent children the Employee acquires in the marriage) shall be effective on the date of the marriage if application for coverage is made not later than 31 days after the marriage; and/or
2. When acquisition of a child is the triggering event, the child's coverage shall be effective on the date of the event (that is, on the child's date of birth, date of adoption, or date of placement) if application for coverage is made not later than 31 days after the event. The triggering event date for a newborn adoptive child is the child's date of birth if the child is placed with the Employee within 31 days of birth.

E-4. **Court-Ordered Coverage**

In accordance with state and federal law, if the Plan receives a Medical Child Support Order from a state court or agency and such order is determined by the Plan to be a QMCSO, the child shall be enrolled at the earliest possible date following such determination.

F. **Open Enrollment**

If a person does not enroll when he or she is first eligible to do so or if he or she allows coverage to lapse, he or she may later enroll during an "Open Enrollment" period, which shall be held annually each November. Plan coverage shall be effective on the first day of January following the end of the Open Enrollment period, but any such person shall be considered a "Late Enrollee".

For Late Enrollees, charges incurred for Major and/or Orthodontic Dental Expenses are not covered during the first twelve (12) consecutive months of coverage under the Dental Plan, unless such expenses are due to non-occupational accidental injury sustained while covered under the Dental Plan.

G. **Reinstatement/Rehire**

If an Employee returns to active employment and eligible status following an approved leave of absence in accordance with the Employer's guideline and FMLA, and during the leave the Employee stopped paying his or her share of the cost of coverage causing coverage to terminate, such Employee may have coverage reinstated for himself or herself and for any Dependents who were covered at the point contributions ceased as if there had been no lapse. The Employer shall have the right to require that unpaid coverage contribution costs be repaid.

In accordance with USERRA, certain Employees who return to active employment following active duty service as a member of the United States armed forces shall be reinstated to coverage under the Plan immediately upon returning from military service. Additional information concerning USERRA may be obtained from the Plan Sponsor.

All terminated Employees who are rehired shall be treated as newly-hired and shall be required to satisfy all eligibility and enrollment requirements.

Benefits for any Employee or Dependent who is covered under the Plan, whose employment or coverage is terminated, and who is subsequently rehired or reinstated at any time shall be limited to the Maximum Benefits that would have been payable had there been no interruption of employment or coverage.

H. **Transfer of Coverage**

If a husband and wife are both covered as Employees under the Plan, their children, if any, shall be covered as Dependents of the husband or the wife, but not of both. If a husband and wife are both covered as Employees under the Plan and one of them terminates coverage, the terminated spouse and any of his or her eligible and enrolled Dependents shall be permitted to immediately enroll under the remaining spouse's coverage. Application to enroll must be made not more than 31 days after the status change. Such new coverage shall be deemed an uninterrupted continuation of prior coverage and shall not operate to reduce or increase any coverage to which the person was entitled while enrolled as the Employee or as the Dependent of the terminated spouse.

If a Covered Person changes status from Employee to Dependent or vice versa and such person remains eligible and covered without interruption, Plan benefits shall not be affected by the change in status.

I. **Adjustments for Prior Plan Sponsor Coverage**

The coverage set forth in this Plan Document replaces prior coverage offered by the Plan Sponsor, but this Plan is not a new plan. Except to the extent that benefits are expressly added, deleted, or modified, any benefits paid with respect to such Covered Persons under the prior coverage shall be deemed to be benefits paid under this Plan Document for a person who is eligible as an Active Employee or a COBRA enrollee under this Plan Document on its effective date. Any continuous periods that a Covered Person was covered under prior coverage of the Plan Sponsor shall be deemed to be time covered under this Plan Document.

ARTICLE V - TERMINATION OF COVERAGE

A. **Employee Coverage Termination**

An Employee's coverage under the Plan shall terminate upon the earliest of the following:

1. The date on which the Employer terminates the Plan and offers no other group dental and vision plan;
2. The date on which the Employee's participation in the Plan terminates;
3. The date on which the Employee begins active duty service in the armed services of any country or organization, except for reserve duty of less than 30 days. See Extension of Coverage During United States Military Service in ARTICLE VI - EXTENSION OF COVERAGE;
4. The end of the period for which the Employee last made the required contribution, if coverage is provided on a contributory basis (that is, if the Employee shares in the cost);
5. At 11:59 p.m. on the last day of the month in which the covered Employee retires, leaves, or is dismissed from the employment of the Employer; elects to terminate coverage; ceases to be eligible; ceases to be in an eligible class; or ceases to be engaged in active employment for the required number of hours as specified in ARTICLE IV - ELIGIBILITY AND EFFECTIVE DATES, except when coverage is extended pursuant to any provision of ARTICLE VI - EXTENSION OF COVERAGE; or
6. The date on which the Employee dies.

Unused vacation days or severance pay following cessation of active work shall not count as extending the period of time coverage shall remain in effect.

NOTE: An Employee otherwise eligible and validly enrolled under the Plan shall not be terminated from the Plan solely due to his or her health status or need for health services.

B. **Dependent Coverage Termination**

A Dependent's coverage under the Plan shall terminate upon the earliest of the following:

1. The date on which the Employer terminates the Plan and offers no other group health plan;
2. The date on which the Employee's coverage terminates;
3. The date on which Dependent coverage under the Plan is discontinued for any and all Dependents;
4. At 11:59 p.m. on the last day on which the Dependent meets the eligibility requirements of the Plan, except when coverage is extended under the terms of any provision in ARTICLE VI - EXTENSION OF COVERAGE. An Employee's adoptive child ceases to be eligible on the date on which the petition for adoption is dismissed or denied or the date on which the placement is disrupted prior to legal adoption and the child is removed from placement with the Employee;
5. The end of the period for which the Employee last made the required contribution for such coverage, if the Dependent's coverage is provided on a contributory basis (that is, if the Employee shares in the cost). However, in the case of a child covered pursuant to a QMCSO, the Employee must provide proof that the child support order is no longer in effect or that the Dependent has replacement coverage that shall take effect immediately upon termination; or
6. The date on which the Dependent becomes eligible for coverage as an Employee.

NOTE: A Dependent otherwise eligible and validly enrolled under the Plan shall not be terminated from the Plan solely due to his or her health status or need for health services.

ARTICLE VI - EXTENSION OF COVERAGE

A. General Information

Coverage may be continued beyond the dates set forth in ARTICLE V - TERMINATION OF COVERAGE under the circumstances identified below. However, unless expressly stated otherwise, coverage for a Dependent shall not extend beyond the date that the Employee's coverage ceases.

B. Extension of Coverage During Absence from Work

An Employee who fails to continue in eligible active status due to employer certified disability, a layoff, or an approved leave of absence may remain eligible for coverage under the Plan. For an approved leave of absence or a layoff, coverage may continue for up to three (3) months from the date of the leave of absence or layoff. For a disability leave of absence, coverage may continue for up to six (6) months from the date the Employee ceases to be an active Employee. The Plan Administrator may require the Eligible Employee to contribute to the entire cost of the coverage during this continuance. Should the disability, layoff or approved leave of absence exceed the Employee's continuance, the Employee shall no longer be considered an Active Employee for purposes of coverage under the Plan, but shall instead be eligible for COBRA Continuation Coverage due to a Qualifying Event. During the period of COBRA Continuation Coverage, the Employee shall be responsible for making his or her contribution for the cost of Plan coverage. This provision shall not affect any of the COBRA provisions mandated under this Plan and does not apply to terminated Employees electing COBRA Continuation Coverage.

Any extended coverage allowances under this provision shall be provided on a non-discriminatory basis

C. Extension of Coverage for Physically or Mentally Handicapped Dependent Children

The status of a Dependent child who attains the age of 19 years shall not terminate solely by reason of his or her having attained that age if:

- 1. On the day immediately before his or her 19th birthday, such child was covered under the Plan;
2. At the time such child attains the age of 19 years, he or she is Physically or Mentally Handicapped;
3. Such child's condition has been diagnosed by a Physician or other appropriate Covered Provider as a permanent or long-term dysfunction or condition;
4. Such child is primarily dependent upon the Employee for maintenance and support; and
5. Such child is unmarried.

A child who meets the above stated criteria shall continue to be covered under the Plan for as long as he or she remains in such condition and otherwise meets the requirements for a Dependent set forth in ARTICLE IV - ELIGIBILITY AND EFFECTIVE DATES.

The Employee must submit proof of the child's Physical or Mental Handicap to the Plan Administrator not more than 31 days after the child has attained the age of 19 years and thereafter at reasonable intervals as may be required, but not more frequently than once per year after the two-year period immediately following the child's 19th birthday. The Plan may require that a Physician chosen by the Plan examine the child before a determination is made regarding the child's eligibility for coverage pursuant to this provision and thereafter at reasonable intervals as may be required, but not more frequently than once per year after the two-year period immediately following the child's 19th birthday.

The Plan Administrator shall have the right to require satisfactory proof of continued incapacity and dependence upon the Employee, the right to inquire into changes in the child's marital status, and the right to request that the child be examined by a Physician chosen by the Plan.

C-1. Termination of Extension of Coverage for Physically or Mentally Handicapped Dependent Children

Coverage for a Dependent child of an Employee pursuant to the above provision shall terminate if:

- 1. The Employee fails to submit required proof of the child's handicap, as requested by the Plan Administrator;
2. A Physician of the Plan's choosing is not permitted to examine the child, as requested by the Plan Administrator;
3. The child ceases to be handicapped;
4. The child ceases to be dependent upon the Employee for maintenance or support; or
5. The child marries.

C-2. Extension of Coverage under FMLA

To the extent that the Employer is subject to FMLA, it intends to comply with FMLA. The Employer is subject to FMLA if it is engaged in commerce or in any industry or activity affecting commerce and employs 50 or more Employees for each working day during each of 20 or more calendar workweeks in the current or preceding Calendar Year.

In accordance with FMLA, an Employee is entitled to continued coverage if he or she has worked for the Employer for at least 12 months, has worked at least 1,250 hours in the year preceding the start of the leave, and is employed at a worksite where the Employer employs at least 50 employees within a 75-mile radius.

Except as noted, continued coverage under FMLA provides for up to 12 workweeks of unpaid leave in any 12-month period. Such leave must be for one or more of the following reasons:

- 1. The birth of an Employee's child and in order to care for the child;
2. The placement of a child with the Employee for adoption or foster care;
3. To care for a spouse, child, or parent of the Employee where such relative has a serious health condition;
4. The Employee's own serious health condition leaves him or her unable to perform the functions of his or her job; and/or
5. The Employee has a "qualifying exigency" (as defined by DOL regulations) arising because the Employee's spouse, child, or parent is on active duty (or has been notified of an impending call or order to active duty) in the Armed Forces in support of a contingency operation (that is, a specified military operation) or occurring during the deployment of the spouse, child, or parent to a foreign country.

Plan benefits may be maintained during an FMLA leave at the levels and under the conditions that would have been present if employment was continuous. The above is a summary of FMLA requirements. An Employee may obtain a more complete description of his or her FMLA rights from the Plan Sponsor's Human Resources or Personnel department(s). Any Plan provisions found to conflict with FMLA are modified to comply with at least the minimum requirements of FMLA.

NOTE: An eligible Employee shall be entitled to take up to a combined total of 26 workweeks of FMLA leave during a single 12-month period where the Employee is a spouse, child, parent, or next of kin (that is, nearest blood relative) of a covered service member. A "covered service member" is a member of the Armed Forces (including the National Guard or Reserves) who is undergoing medical treatment, recuperation, or therapy; is an Outpatient; or is on the temporary disability retired list, for a "serious injury or illness" (that is, an injury or illness incurred in line of duty while on active duty in the Armed Forces that may render the service member medically unfit to perform his or her duties). A covered service member also includes a veteran of the Armed Forces who is undergoing medical treatment, recuperation, or therapy for a serious injury or illness that was sustained or aggravated while he or she was on active duty in the Armed Forces (whether or not the injury or illness

manifested itself before or after he or she became a veteran) and who was a member of the Armed Forces at any time during the five-year period before he or she began the treatment, recuperation, or therapy.

In addition to the mandated FMLA coverage specified above, an Employee who qualifies for a maximum of 12 weeks of FMLA, and exhausts that maximum, shall be offered COBRA coverage. Such COBRA coverage shall count toward the maximum coverage period allowed for COBRA Continuation Coverage.

D. Extension of Coverage During United States Military Service

Regardless of an Employer's established termination or leave of absence policies, the Plan shall at all times comply with USERRA and its regulations for an Employee entering military service.

USERRA provides for the continuation of health benefits for Employees who are on military leave. If an Employee was covered under the Plan immediately prior to being ordered to active military duty, coverage may continue up to 24 months for elections made on or after December 10, 2004 or the duration of active military service, whichever is shorter. The Employee must pay the cost of coverage. The premium may not exceed 102% of the actual cost of coverage, and may not exceed the active Employee cost if the military leave is less than 31 days.

Regardless of whether an Employee elects continuation coverage under USERRA, coverage shall be reinstated on the first day that the Employee returns to active employment if the Employee was discharged or released under honorable conditions.

The Employee must return to employment on the first full business day following completion of military service for military leave of 30 days or less, within 14 days of completion of military service for military leave of 31 to 180 days, or within 90 days of completion of military service for military leave of more than 180 days.

When coverage under the Plan is reinstated, all provisions and limitations of the Plan shall apply to the extent that they would have applied if the Employee had not taken military leave and coverage had been continuous. No waiting period or preexisting condition exclusion may be imposed on a returning Employee or on his or her Dependents if these exclusions would have been satisfied had the coverage not been terminated due to the order to active military service.

An Employee who is ordered to active military service and his or her eligible Dependents are considered to have experienced a COBRA-qualifying event. The affected persons have the right to elect continuation of coverage under either USERRA or COBRA. Under either option, the Employee retains the right to re-enroll in the Plan in accordance with the above provisions.

APPENDIX 5

ARTICLE VII - COBRA CONTINUATION COVERAGE

A. General Information

In order to comply with COBRA, the Plan includes a continuation of coverage option, which is available to certain Covered Persons whose health care coverage under the Plan would otherwise terminate. This Article is intended to comply with COBRA, but it is only a summary of the major features of the law. In any individual situation, the law, its applicable regulations, and its clarifications and intent shall prevail over this Article.

B. Defined Terms

When capitalized herein, the following items shall have the meanings set forth below:

- 1. COBRA Beneficiary or Qualified Beneficiary: A person who, on the day before a Qualifying Event, is covered under the Plan by virtue of being either a covered Employee or the covered Dependent spouse or child of a covered Employee. Any child who is born to or placed for adoption with a covered Employee during a period of COBRA Continuation Coverage is also a Qualified Beneficiary. Such child has the right to immediately elect, under the COBRA Continuation Coverage the covered Employee has at the time of the child's birth or placement for adoption, the same coverage that a Dependent child of an active Employee would receive. The Employee's Qualifying Event date and resultant continuation coverage period also apply to the child.

NOTE: A person who is not covered under the Plan on the day before a Qualifying Event because he or she was denied Plan coverage or was not offered Plan coverage and such denial or failure to offer constitutes a violation of applicable law may be considered to have had the Plan coverage and shall be a Qualified Beneficiary if that individual experiences a Qualifying Event; provided, however, that individual is not a Qualified Beneficiary if the individual's status as a covered Employee is attributable to a period in which he or she was a nonresident alien who received no earned income from the Employer that constituted income from sources within the United States. If such an Employee is not a Qualified Beneficiary, then a spouse or dependent child of the Employee is not a Qualified Beneficiary by virtue of the relationship to the Employee.

- 2. Qualifying Event: Any of the following events that would result in the loss of coverage under the Plan in the absence of COBRA Continuation Coverage:

- a. Voluntary or involuntary termination of an Employee's employment for any reason other than the Employee's gross misconduct;
b. Reduction in an Employee's hours of employment to non-eligible status. In this regard, a Qualifying Event occurs whether or not the Employee actually works and may include absence from work due to a disability, a temporary layoff, or a leave of absence where Plan coverage terminates but termination of employment does not occur. If a covered Employee is on FMLA unpaid leave, a Qualifying Event occurs at the time the Employee fails to return to work at the expiration of the leave, even if the Employee fails to pay his or her portion of the cost of Plan coverage during the FMLA leave;
c. For an Employee's spouse or child, the Employee's entitlement to Medicare. "Entitlement" means that the Medicare enrollment process has been completed with the Social Security Administration and the Employee has been notified that his or her Medicare coverage is in effect. In accordance with IRS Revenue Ruling 2004-22, it is not the Plan's intent to recognize a terminated Employee's Medicare entitlement as a second Qualifying Event for a spouse or child who is covered under the Plan as a COBRA-qualified Beneficiary;
d. For an Employee's spouse or child, the divorce or legal separation of the Employee and spouse;
e. For an Employee's spouse or child, the death of the covered Employee; and/or

- 1. For an Employee's child, the child's loss of Dependent status (for example, a Dependent child's reaching the maximum age limit).
- 3. Non-COBRA Beneficiary: A person who is covered under the Plan on an "active" basis (that is, an individual to whom a Qualifying Event has not occurred).

C. COBRA Notification Procedures for Employees

If is the responsibility of an Employee to provide the following written notices as they relate to COBRA Continuation Coverage:

- 1. Notice of Divorce or Separation: Notice of the occurrence of a Qualifying Event that is a divorce or legal separation of a covered Employee from his or her spouse;
- 2. Notice of Child's Loss of Dependent Status: Notice of a Qualifying Event that is a child's loss of Dependent status under the Plan (for example, a Dependent child reaching the maximum age limit);
- 3. Notice of a Second Qualifying Event: Notice of the occurrence of a second Qualifying Event after a Qualified Beneficiary has become entitled to COBRA Continuation Coverage with a maximum duration of 18 (or 29) months;
- 4. Notice Regarding Disability: Notice that a Qualified Beneficiary entitled to receive COBRA Continuation Coverage with a maximum duration of 18 months has been determined by the Social Security Administration to be disabled at any time during the first 60 days of continuation coverage, or that a Qualified Beneficiary entitled to receive COBRA Continuation Coverage with a maximum duration of 18 months and determined by the Social Security Administration to be disabled at any time during the first 60 days of continuation coverage has subsequently been determined by the Social Security Administration to no longer be disabled; and
- 5. Notice Regarding Address Changes: Notice of the current addresses of all Employees or Dependents who are or may become Qualified Beneficiaries.

Notification of a Qualifying Event must be made in writing. Notice may be made by submitting the "Notice of Qualifying Event" form and mailing it to the Plan Administrator. This form is available, without charge, from the Plan Sponsor.

Notification must include an adequate description of the Qualifying Event or disability determination. In the case of a disability determination by the Social Security Administration, a copy such determination must be included. The Qualified Beneficiary must also provide any additional information deemed necessary by the Plan for making the appropriate determination with regard to the Notice, such as a divorce decree or a child's birth certificate.

Notification must be received by the Plan Administrator at the following address:

City of Mountain Brook
P.O. Box 13009
Mountain Brook, AL 35213-0009

The telephone number for assistance with COBRA questions is (205) 871-3229.

C-1. Time Requirements for Notification

Should an event occur as described above, the Employee or family member must provide notice to the designated recipient within the following time frames. The notice must be received in the Plan Administrator's office no more than 60 days after the occurring event.

In the case of a divorce or legal separation or of a child losing Dependent status, notice must be delivered no more than 60 days after the latest of the date of the Qualifying Event, the date health plan coverage is lost due to the event, or the date the Qualified Beneficiary is notified of the obligation to provide notice through the Plan

City of Mountain Brook Employee Dental Benefit Plan

Document or a General COBRA Notice. If notice is not received within the 60-day period, COBRA Continuation Coverage shall not be available, except in the case of a loss of coverage due to foreign competition, where a second COBRA election period may be available.

If an Employee or Qualified Beneficiary is determined to be disabled under the Social Security Act, notice must be delivered no more than 60 days after the latest of:

- 1. The date of the determination;
- 2. The date of the Qualifying Event;
- 3. The date that coverage is lost as a result of the Qualifying Event; or
- 4. The date that the covered Employee or Qualified Beneficiary is advised of the notice obligation through the Plan Document or a General COBRA Notice. Notice must be provided within the 18-month COBRA coverage period. Any such Qualified Beneficiary must also provide notice no more than 30 days after the date that he or she is subsequently determined by the Social Security Administration to no longer be disabled.

Any person who is the covered Employee, a Qualified Beneficiary with respect to a Qualifying Event, or any representative acting on behalf of the covered Employee or Qualified Beneficiary, may provide the notice. Notice by one person shall satisfy any responsibility to provide notice on behalf of all related Qualified Beneficiaries with respect to the Qualifying Event.

The Plan shall not reject an incomplete notice as long as the notice identifies the Plan, the covered Employee and Qualified Beneficiaries, the Qualifying Event/disability determination, and the date on which such event occurred or such determination was made. However, the Plan is not prevented from rejecting an incomplete notice if the Qualified Beneficiary does not comply with a request by the Plan for more complete information within a reasonable period of time following such request.

D. Notification

If the Employer is the Plan Administrator and if the Qualifying Event is the Employee's termination, reduction in hours, death, or Medicare entitlement, then the Plan Administrator must provide Qualified Beneficiaries with notification of their COBRA Continuation Coverage rights, or the unavailability of COBRA rights, within 44 days of the event. If the Employer is not the Plan Administrator, then the Employer's notification to the Plan Administrator must occur within 30 days of the Qualifying Event and the Plan Administrator must provide Qualified Beneficiaries with their COBRA rights Notice within 14 days thereafter. Notice to Qualified Beneficiaries must be in writing and must be sent by first-class mail.

If COBRA Continuation Coverage terminates early (for example, if the Employer ceases to provide any group health coverage, a Qualified Beneficiary fails to pay a required premium in a timely manner, or a Qualified Beneficiary becomes entitled to Medicare after the date of the COBRA election), the Plan Administrator must provide the Qualified Beneficiaries with notification of such early termination. Notice must include the reason for early termination, the date of termination, and any right to alternative or conversion coverage. The early termination notice(s) must be sent as soon as practicable after the decision that coverage should be terminated.

Each Qualified Beneficiary, including a child who is born to or placed for adoption with an Employee during a period of COBRA Continuation Coverage, has a separate right to receive a written election Notice when a Qualifying Event has occurred that permits him or her to exercise coverage continuation rights under COBRA. However, where more than one Qualified Beneficiary resides at the same address, the notification requirement shall be met with regard to all such Qualified Beneficiaries if one election notice is sent to that address, by first-class mail, with clear identification of those Qualified Beneficiaries who have separate and independent rights to COBRA Continuation Coverage.

An Employee or Qualified Beneficiary is responsible for notifying the Plan of a Qualifying Event that results in a Dependent child's ceasing to be eligible under the requirements of the Plan, or of the divorce or legal separation of the Employee from his or her spouse. A Qualified Beneficiary is also responsible for other notifications. See COBRA Notification Procedures in ARTICLE VIII - SPECIAL NOTICES and the Employer's "COBRA General Notice" or "Initial Notice" for further details and time limits imposed on such notifications. Upon receipt of a Notice, the Plan Administrator must notify the Qualified Beneficiaries of their continuation rights within 14 days.

City of Mountain Brook Employee Dental Benefit Plan

E. Election and Election Period

COBRA Continuation Coverage may be elected during the period beginning on the date that Plan coverage would otherwise terminate due to a Qualifying Event and ending on the later of the following:

- 1. 60 days after coverage ends due to a Qualifying Event; or
- 2. 60 days after the Notice of COBRA Continuation Coverage rights is provided to the Qualified Beneficiary. Failure to make a COBRA election within the 60-day period shall result in the inability to elect COBRA Continuation Coverage.

If the COBRA election of a covered Employee or spouse does not specify "self-only" coverage, the election is deemed to include an election on behalf of all other Qualified Beneficiaries with respect to the Qualifying Event. However, each Qualified Beneficiary who would otherwise lose coverage is entitled to choose COBRA Continuation Coverage, even if others in the same family have declined. A parent or legal guardian may elect or decline for minor Dependent children.

An election of an incapacitated or deceased Qualified Beneficiary may be made by the legal representative of the Qualified Beneficiary or the Qualified Beneficiary's estate, as determined under applicable state law, or by the spouse of the Qualified Beneficiary.

If, during the election period, a Qualified Beneficiary waives COBRA Continuation Coverage rights, the waiver may be revoked at any time before the end of the election period. Revocation of the waiver shall be an election of COBRA Continuation Coverage. However, if a waiver is revoked, coverage need not be provided retroactively (that is, from the date of the loss of coverage until the waiver is revoked). Waivers and revocations of waivers are considered to be made on the date that they are sent to the Employer or Plan Administrator.

Open enrollment rights which allow Non-COBRA Beneficiaries to choose among any available coverage options are also applicable to each Qualified Beneficiary.

The Plan is required to make a complete response to any inquiry from a health care provider regarding a Qualified Beneficiary's right to coverage during the election period.

F. Effective Date of Coverage

COBRA Continuation Coverage, if elected within the period allowed for such election, is effective retroactively to the date coverage would otherwise have terminated due to the Qualifying Event, and the Qualified Beneficiary shall be charged for coverage in this retroactive period.

See Election and Election Period for an exception to the above when a Qualified Beneficiary initially waives COBRA Continuation Coverage and then revokes his waiver. In that instance, COBRA Continuation Coverage is effective on the date the waiver is revoked.

G. Level of Benefits

COBRA Continuation Coverage shall be equivalent to coverage provided to similarly situated Non-COBRA Beneficiaries. If coverage is modified for similarly situated Non-COBRA Beneficiaries, the same modification shall apply to Qualified Beneficiaries.

If the Plan includes a Deductible requirement, a Qualified Beneficiary's Deductible amount at the beginning of the COBRA continuation period must be equal to his or her Deductible amount immediately before that date. The Deductible is computed on a family basis, only the expenses of those family members electing COBRA Continuation Coverage are carried forward to the COBRA Continuation Coverage. If more than one family unit results from a Qualifying Event, the family Deductibles are computed separately, based on the members in each unit. Other Plan limits are treated in the same manner as Deductibles.

If a Qualified Beneficiary is participating in a region-specific health plan that shall not be available if the Qualified Beneficiary relocates, any other coverage that the Plan Sponsor makes available to active Employees and that provides service in the relocation area must be offered to the Qualified Beneficiary.

City of Mountain Brook Employee Dental Benefit Plan

H. Cost of Continuation Coverage

The cost of COBRA Continuation Coverage is fixed in advance for a 12-month determination period and shall not exceed 102% of the Plan's full cost of coverage during the period for similarly situated Non-COBRA Beneficiaries. The "full cost" includes any part of the cost which is paid by the Employer for Non-COBRA Beneficiaries. Qualified Beneficiaries shall be charged 150% of the full cost for the 11-month disability extension period if the disabled person is among those extending coverage.

The initial premium payment (that is, for the cost of coverage) must be made within 45 days after the date of the COBRA election by the Qualified Beneficiary. If payment is not made within such time period, the COBRA election is null and void. The initial premium payment must cover the period of coverage from the date of the COBRA election retroactive to the date of loss of coverage due to the Qualifying Event (or the date a COBRA waiver was revoked, if applicable). Contributions for successive periods of coverage are due on the first of each month thereafter, with a 30-day grace period allowed for payment. Payment is considered to be made on the date that it is sent to the Plan or the Plan Sponsor.

The Plan must allow the payment for COBRA Continuation Coverage to be made in monthly installments but the Plan is also permitted to allow for payment at other intervals. The Plan is not obligated to send monthly premium notices.

The cost of COBRA Continuation Coverage can only increase during the Plan's 12-month determination period if:

- 1. The cost previously charged was less than the maximum permitted by law;
- 2. The increase occurs due to a disability extension (that is, the 11-month disability extension) and does not exceed the maximum permitted by law, which is 150% of the Plan's full cost of coverage if the disabled person is among those extending coverage; or
- 3. The Qualified Beneficiary changes his coverage option(s) which results in a different coverage cost.

Timely payments which are less than the required amount but are not significantly less (an "insignificant shortfall") shall be deemed to satisfy the Plan's payment requirement. The Plan may notify the Qualified Beneficiary of the deficiency but must grant a reasonable period of time (at least 30 days) to make full payment. A payment shall be considered an insignificant shortfall if it is not greater than \$50 or 10% of the required amount, whichever is less.

If premiums are not paid by the first day of the period of coverage, the Plan has the option to cancel coverage until payment is received and to then reinstate the coverage retroactively to the beginning of the period of coverage.

NOTE: For Qualified Beneficiaries who reside in a state with a health insurance premium payment program, the state may pay the cost of COBRA coverage for a Qualified Beneficiary who is eligible for health care benefits from the state through a program for the medically-indigent or due to a certain disability. The Employer's personnel offices may be contacted for additional information.

I. Maximum Coverage Periods

The maximum coverage periods for COBRA Continuation Coverage are based on the type of Qualifying Event and the status of the Qualified Beneficiary and are as follows:

- 1. If the Qualifying Event is a termination of employment or reduction of hours of employment, the maximum coverage period is 18 months after the Qualifying Event. With a disability extension (see Disability Extension below), the 18 months is extended to 28 months;
- 2. If the Qualifying Event occurs to a Dependent due to an Employee's enrollment in the Medicare program before the Employee himself or herself experiences a Qualifying Event, the maximum

City of Mountain Brook Employee Dental Benefit Plan

coverage period for the Dependent is 36 months from the date the Employee is enrolled in Medicare; and

- 3. For any other Qualifying Event, the maximum coverage period ends 36 months after the Qualifying Event.

If a Qualifying Event occurs which provides for an 18- or 29- month maximum coverage period and is followed by a second Qualifying Event that provides for a 36-month maximum coverage period, the original period shall be expanded to 36 months, but only for individuals who are Qualified Beneficiaries at the time of both Qualifying Events. Thus, a termination of employment following a Qualifying Event that is a reduction of hours of employment shall not expand the maximum COBRA continuation period. In no event may the COBRA maximum coverage period be more than 36 months after the date of the first Qualifying Event.

Also, COBRA coverage shall run concurrently with medical continuation of coverage under USERRA. If an Employee on military leave continues coverage under USERRA, equivalent months of COBRA entitlement shall be exhausted, unless there was another Qualifying Event.

J. Disability Extension

An 11-month disability extension (an extension from a maximum 18 months of COBRA Continuation Coverage to a maximum 29 months) shall be granted if a Qualified Beneficiary is determined under Title II or XVI of the Social Security Act to have been disabled at the time of the Qualifying Event or at any time during the first 60 days of COBRA Continuation Coverage. To qualify for the disability extension, the Plan Administrator must be provided with notice of the Social Security Administration's disability determination and the date of onset of such disability must fall within the allowable periods described. The Notice must be provided within 60 days of the disability determination and prior to the expiration of the initial 18-month COBRA Continuation Coverage period. The disabled Qualified Beneficiary or any Qualified Beneficiaries in his or her family may notify the Plan Administrator of the determination. The Plan must also be notified if the Qualified Beneficiary is later determined by the Social Security Administration to no longer be disabled.

If a person who is eligible for the 11-month disability extension has family members who are entitled to COBRA Continuation Coverage, those family members are also entitled to the 29-month COBRA Continuation Coverage period. This provision applies even if the disabled person does not elect the extension himself or herself.

K. Termination of Continuation Coverage

Except for an initial interruption of Plan coverage in connection with a waiver (see Election and Election Period above), COBRA Continuation Coverage that has been elected by or for a Qualified Beneficiary shall extend for the period beginning on the date of the Qualifying Event and ending on the earliest of the following dates:

- 1. The last day of the applicable maximum coverage period (see Maximum Coverage Periods above);
- 2. The date on which the Employer ceases to provide any group health plan to any Employee;
- 3. The date, after the date of the COBRA election, that the Qualified Beneficiary first becomes covered under any other plan that does not contain any exclusion or limitation with respect to any preexisting condition which would reduce or exclude benefits for such condition in the Qualified Beneficiary;
- 4. The date, after the date of the COBRA election, that the Qualified Beneficiary becomes entitled to Medicare benefits. "Entitled" means that the Medicare enrollment process has been completed with the Social Security Administration and the individual has been notified that his or her Medicare coverage is in effect;
- 5. In the case of a Qualified Beneficiary entitled to a disability extension, the later of:
 - a. 29 months after the date of the Qualifying Event, or the first day of the month that is more than 30 days after the date of a final determination under Title II or XVI of the Social Security Act that the disabled Qualified Beneficiary whose disability resulted in the Qualified Beneficiary's entitlement to the disability extension is no longer disabled, whichever is earlier; or

- b. The end of the maximum coverage period that applies to the Qualified Beneficiary, without regard to the disability extension; or
- 6. The end of the last period for which the cost of continuation coverage is paid, if payment is not received in a timely manner (that is, coverage may be terminated if the Qualified Beneficiary is more than 30 days delinquent in paying the applicable premium). The Plan is required to make a complete response to any inquiry from a health care provider regarding a Qualified Beneficiary's right to coverage during any period the Plan has not received payment.

The Plan Sponsor may terminate, for cause, the coverage of any Qualified Beneficiary on the same basis that the Plan may terminate the coverage of similarly-situated Non-COBRA Beneficiaries for cause (for example, for the submission of a fraudulent claim).

If a person is receiving COBRA Continuation Coverage solely because of the person's relationship to a Qualified Beneficiary (for example, a Newborn or adopted child acquired during an Employee's COBRA coverage period), the Plan's obligation to make COBRA Continuation Coverage available shall cease when the Plan is no longer obligated to make COBRA Continuation Coverage available to the Qualified Beneficiary.

A. COBRA Notification Procedures

It is the responsibility of an Employee to provide the following notices as they relate to COBRA Continuation Coverage:

- 1. Notice of Divorce or Separation: Notice of the occurrence of a Qualifying Event that is a divorce or legal separation of a covered Employee from his or her spouse;
- 2. Notice of Child's Loss of Dependent Status: Notice of a Qualifying Event that is a child's loss of Dependent status under the Plan (for example, a Dependent child reaching the maximum age limit);
- 3. Notice of a Second Qualifying Event: Notice of the occurrence of a second Qualifying Event after a Qualified Beneficiary has become entitled to COBRA Continuation Coverage with a maximum duration of 18 (or 29) months;
- 4. Notice Regarding Disability: Notice that a Qualified Beneficiary entitled to receive COBRA Continuation Coverage with a maximum duration of 18 months has been determined by the Social Security Administration to be disabled at any time during the first 60 days of continuation coverage, or that a Qualified Beneficiary entitled to receive COBRA Continuation Coverage with a maximum duration of 18 months and determined by the Social Security Administration to be disabled at any time during the first 60 days of continuation coverage has subsequently been determined by the Social Security Administration to no longer be disabled; and
- 5. Notice Regarding Address Changes: Notice of the current addresses of all Employees or Dependents who are or may become Qualified Beneficiaries.

Notification of a Qualifying Event must be made in writing. Notice may be made by submitting the "Notice of Qualifying Event" form and mailing it to the Plan Administrator. This form is available, without charge, from the Plan Sponsor.

Notification must include an adequate description of the Qualifying Event or disability determination. In the case of a disability determination by the Social Security Administration, a copy such determination must be included. The Qualified Beneficiary must also provide any additional information deemed necessary by the Plan for making the appropriate determination with regard to the Notice, such as a divorce decree or a child's birth certificate.

Notification must be received by the Plan Administrator at the following address:

City of Mountain Brook
P.O. Box 130009
Mountain Brook, Alabama 35213

The telephone number for assistance with COBRA questions is (205) 871-3229.

B. Time Requirements for Notification

Should an event occur as described above, the Employee or family member must provide notice to the designated recipient within the following time frames. The notice must be received in the Plan Administrator's office no more than 60 days after the occurring event.

In the case of a divorce or legal separation or of a child losing Dependent status, notice must be delivered no more than 60 days after the latest of the date of the Qualifying Event, the date health plan coverage is lost due to the event, or the date the Qualified Beneficiary is notified of the obligation to provide notice through the Plan Document or a General COBRA Notice. If notice is not received within the 60-day period, COBRA Continuation Coverage shall not be available, except in the case of a loss of coverage due to foreign competition, where a second COBRA election period may be available. If an Employee or Qualified Beneficiary is determined to be disabled under the Social Security Act, notice must be delivered no more than 60 days after the latest of:

- 1. The date of the determination;
- 2. The date of the Qualifying Event;
- 3. The date that coverage is lost as a result of the Qualifying Event; or
- 4. The date that the covered Employee or Qualified Beneficiary is advised of the notice obligation through the Plan Document or a General COBRA Notice. Notice must be provided within the 18-month COBRA coverage period. Any such Qualified Beneficiary must also provide notice no more than 30 days after the date that he or she is subsequently determined by the Social Security Administration to no longer be disabled.

Any person who is the covered Employee, a Qualified Beneficiary with respect to a Qualifying Event, or any representative acting on behalf of the covered Employee or Qualified Beneficiary, may provide the notice. Notice by one person shall satisfy any responsibility to provide notice on behalf of all related Qualified Beneficiaries with respect to the Qualifying Event.

The Plan shall not reject an incomplete notice as long as the notice identifies the Plan, the covered Employee and Qualified Beneficiaries, the Qualifying Event/disability determination, and the date on which such event occurred or such determination was made. However, the Plan is not prevented from rejecting an incomplete notice if the Qualified Beneficiary does not comply with a request by the Plan for more complete information within a reasonable period of time following such request.

APPENDIX 5

ARTICLE IX - DENTAL COVERAGE

A. Eligible Dental Expenses

Eligible Expenses are payable if they are Reasonable and Appropriate and they:

1. Are incurred with respect to services ordered by a Dentist or other Covered Provider;
2. Are Dentally Necessary
3. Are not excluded under ARTICLE XI – DENTAL LIMITATIONS AND EXCLUSIONS
4. A dental charge is incurred on the date the service or supply for which it is made is performed or furnished. However, there are times when one overall charge is made for all or part of a course of treatment. In this case, the Claims Processor will apportion that overall charge to each of the separate visits or treatments. The pro rata share will be considered to be incurred as each visit or treatment is completed.

FOR VERIFICATION OF DENTAL BENEFITS, GO TO www.yourdca.com or CALL ALTERNATIVE INSURANCE RESOURCES AT 1-800-451-4318.

B. Deductibles

Deductibles are out-of-pocket amounts that a Covered Person must pay before the Plan pays benefits for Basic, Major and Orthodontia services. Covered dental expenses incurred by a Covered Person during the last three (3) months of any calendar year that are applied toward the satisfaction of the Calendar Year Deductible, will be applied toward the Calendar Year Deductible of the next Calendar Year.

C. Benefit Payment

Each Calendar Year benefits will be paid to a Covered Person for the dental charges Payment will be made at the benefit percentage shown in ARTICLE X – SCHEDULE OF DENTAL BENEFITS. No benefits will be paid in excess of the Maximum Dental Benefit.

D. Maximum Dental Benefit

The Maximum Dental Benefit is shown in ARTICLE X – SCHEDULE OF DENTAL BENEFITS.

E. Waiting Periods

For a Late Enrollee, charges incurred for Major and/or Orthodontic Dental Expenses are not payable during the first twelve (12) consecutive months such person is covered under the Dental Plan, unless such Dental Expenses are due to non-occupational accidental injury sustained while covered under the Dental Plan.

F. Pre-determination of Dental Benefits

This Plan does not require submission of a pre-determination request before charges are incurred. If you are incurring an expense over \$300 and wish to submit a pre-determination of benefits, you may do so by requesting your Dentist submit the pre-determination including all recommended services and costs along with supporting x-rays to Alternative Insurance Resources. Alternative Insurance Resources will notify the Dentist of the benefits payable under the plan and then the Covered Person and Dentist can decide on the course of treatment, knowing in advance how much the Plan will pay.

G. Covered Dental Services

Preventative Services

City of Mountain Brook Employee Dental Benefit Plan

DENTAL BENEFITS	
Preventative	100%
Basic	80% after deductible
Major	50% after deductible
Calendar Year Deductible	
• Per Person	\$ 50
• Per Family	\$150
Orthodontia	50% after \$50 orthodontia deductible
Calendar Year Maximum Dental Benefit - Preventative, Basic and Major Services	\$1,500
Lifetime Maximum Orthodontia Benefit	\$1,000
COVERED DENTAL SERVICE	
BENEFIT	
Oral Exams – twice per calendar year	100%
Dental x-rays	100%
• Full mouth – once in any 36 consecutive month period	100%
• Bitewing x-rays – twice per calendar year	100%
• Diagnostic x-rays	100%
Routine Cleaning – twice per calendar year	100%
Fluoride Treatment – twice per calendar year	100%
Space Maintainers for children under the age 19	100%
Emergency palliative treatment	100%
Laboratory tests	80% after deductible
Sealants	80% after deductible
Fillings	80% after deductible
Anesthesia – general, local and nitrous oxide subject to dental necessity	80% after deductible
Endodontic treatment (including direct pulp capping, removal of pulp & root canal treatment)	80% after deductible
Dentures – initial installation and/or replacement of full or partial	80% after deductible
Denture repairs	80% after deductible
Crowns – acrylic and stainless steel	80% after deductible
Treatment of dislocations and fractures, diagnosis and treatment of cysts and abscesses and surgical extractions and impactions	80% after deductible
Periapical services – apicoectomies, retrograde fillings and hemisections	80% after deductible
Crowns – porcelain	50% after deductible
Inlays and onlays, gold fillings	50% after deductible
Bridges – initial installation and/or replacement of fixed and removable bridgework	50% after deductible
Dental Prescription Drugs	
• Generic copy	\$5.00
• Brand copy	\$10.00
Orthodontia	50% after \$50 orthodontia deductible

APPENDIX 5

City of Mountain Brook Employee Dental Benefit Plan

ARTICLE XI - DENTAL LIMITATIONS AND EXCLUSIONS

Benefits will not be paid for charges incurred for:

1. Treatment by anyone other than a Dentist or Physician – routine cleaning of teeth and fluoride application when performed by a licensed dental hygienist under the direct supervision of, and billed by, the Dentist or Physician will be covered.
2. Facings, veneers or similar material placed on molar crowns or pontics – applies to teeth or spaces to the rear of the second bicuspid.
3. Services or which are partially or wholly cosmetic in nature, including personalization, characterization, or precision attachments, or directed toward a cosmetic end, or for congenital malformations.
4. Replacing a lost, missing or stolen prosthetic appliance or the replacement or repair of any orthodontic appointment.
5. A broken appointment.
6. Any service received from a medical department, clinic or any facility provided or furnished by you or your dependent's employer.
7. Any service that is not medically necessary or is not normally performed for proper dental care of the condition or any service that is not approved by the attending Dentist.
8. Services or supplies that do not meet accepted standards of dental practice including experimental or investigative services or supplies.
9. Any duplicate prosthetic appliance except as specifically provided under Covered Expenses.
10. Claim form completion.
11. Oral hygiene, dietary instruction or plaque control programs.
12. Wiring or bonding teeth or crowns to act as a splint for any reason.
13. Appliances, restorations, or any procedure to alter the vertical dimension or restore occlusion, including but not limited to treatment of temporomandibular joint dysfunctions.
14. Any service or supply that is covered in whole or in part by a plan provided, or sponsored, by the Employer.
15. Charges in excess of Reasonable and Customary allowances – or in excess of the annual or lifetime maximums outlined in the Schedule of Benefits.
16. Services or supplies not specifically listed under Covered Dental Expenses.
17. Any implant or any prosthetic device to which they are attached.
18. Services or supplies for which you are not required to pay.
19. Expenses incurred outside the United States or Canada unless you or your Dependent are a resident of one or the other and the charges are incurred while traveling on business or for pleasure.
20. Any elective procedure not for the treatment, care or correction of an illness or injury.
21. Charges for the use of a hospital facility in connection with a dental procedure, whether or not such use of a facility was medically necessary.
22. Services of a Dentist who is related to the patient by blood or marriage or who regularly resides in the same household.
23. Dental services furnished or available, in whole or part, under any Worker's Compensation Law or similar legislation whether or not claims are filed or benefits received.
24. Periodontal splinting.
25. Any services or supplies furnished or paid for under a plan specifically established by a government for civilian employees or dependents.
26. Charges for orthodontic treatment incurred prior to the effective date of coverage, but coverage will be provided for ongoing active treatment incurred after coverage begins.

1. Routine oral examinations – limited to twice per calendar year.
2. Bitewing x-rays – limited to twice per calendar year.
3. Full mouth x-rays – limited to one in any 36 consecutive month period.
4. Periapical x-rays and other x-rays as needed to diagnose and treat specific conditions.
5. Prophylaxis (routine cleaning of teeth) – limited twice per calendar year.
6. Topical fluoride applications – limited to twice per calendar year.
7. Space maintainers to replace teeth prematurely removed or missing in children under the age of 18.
8. Emergency palliative treatment.

Basic Services

1. Sealants
2. Fillings – amalgam, silicate, acrylic and tooth color synthetic restorations
3. Endodontic treatment (pulpotomy, direct pulp capping, and root canal treatments)
4. Dentures – initial installation and/or replacement of full or partial dentures
5. Denture repair
6. Treatment of dislocations and fractures, diagnosis and treatment of cysts and abscesses, and surgical extractions and impactions.
7. Periapical services (apicoectomies, retrograde fillings and hemisections).
8. Acrylic and stainless steel crowns
9. Laboratory tests
10. Anesthesia – general, local, and nitrous oxide subject to dental necessity.

Major Services

1. Bridgework – initial installation and/or replacement of fixed and removable bridgework
2. Porcelain crowns
3. Inlays, onlays, gold fillings

Dental Prescription Drugs

4. Generic copy - \$5.00
5. Brand copy - \$10.00

Orthodontia

This is treatment to move teeth by means of appliances to correct a handicapping malocclusion of the mouth.

1. Diagnosis, including examination, study models, radiographs and other diagnostic aids.
2. Initial placement of orthodontic appliance.
3. Active and retention treatments.
4. Limited to Dependents under the age of 19.

Payments for comprehensive full-banded orthodontic treatments are made in installments.

City of Mountain Brook Employee Dental Benefit Plan

City of Mountain Brook Employee Dental Benefit Plan

ARTICLE XII - DEFINITIONS OF DENTAL TERMS

- 1. **Alternative Benefit Provision:**
There is often more than one service or supply that can be used to treat a dental problem or disease. In considering the benefits allowed on a claim or advance treatment review, these different methods of treatment and materials will be considered. The covered dental expense will be limited to the Reasonable and Appropriate Charge for the most economical service or material that meets broadly accepted standards of dental care.
- 2. **Amalgam:**
A metal alloy usually consisting of silver, tin, zinc and copper combined with liquid pure mercury and used as restorative material in operative dentistry.
- 3. **Anesthesia:**
 - a. **Local** - The condition produced by the administration of specific agents to achieve the loss of pain sensation in a specific location or area of the body.
 - b. **General** - The condition produced by the administration of specific agents to render the patient completely unconscious and without pain sensation. General anesthesia does not include analgesics, drugs by local infiltration, or nitrous oxide.
- 4. **Appliance:**
A device used to provide function, therapeutic (healing) effect, space maintenance, or as an application of force to teeth to provide movement or growth changes as in Orthodontics.
 - a. **Fixed** - one that is attached to the teeth by cement or by adhesive materials and cannot be removed by the patient.
 - b. **Removable** - one that can be taken in and out of the mouth by the patient.
 - c. **Prosthetic** - used to provide replacement for a missing tooth.
- 5. **Bitewing:**
A type of dental x-ray film that has a central tab or wing upon which the teeth close to hold the film in position. They are commonly called decay detecting x-rays because they show decay better than other x-rays.
- 6. **Bridge work (or Prosthetic Appliance):**
 - a. **Fixed** - pontic or replacement teeth retained with crowns or inlays cemented to the natural teeth, which are used as abutments.
 - b. **Fixed-removable** - one that the dentist can remove but the patient cannot.
 - c. **Removable** - a partial denture retained by attachments that permit removal of the denture, normally held by clasps.
- 7. **Cosmetic Procedure:**
Any procedure that primarily improves or changes appearance and does not primarily improve bodily function or correct deformities resulting from disease, trauma, or congenital anomalies. Treatment of disease or improvement of body function does not include improvement of psychological effects of physical defects.
- 8. **Course of Treatment:**
A planned program to correct a diagnosed dental problem or disease. A course of treatment starts when the Dentist or Physician first treats the dental problem.
- 9. **Crown:**
A natural crown is the portion of a tooth covered by enamel. An artificial crown (cap) restores the anatomy, function and esthetics of the natural crown.

- 25. **Periodontics:**
The science of examination, diagnosis, and treatment of disease affecting the supporting structures of the teeth.
- 26. **Pontic:**
The part of a fixed bridge which is suspended between the abutments and which replaces a missing tooth or teeth.
- 27. **Prophylaxis:**
The removal of tartar and stains from the teeth. The cleaning of teeth by a dentist or dental hygienist.
- 28. **Rebase:**
A process of refitting a denture by the replacement of the entire denture-base material without changing the occlusal relations of the teeth.
- 29. **Reline:**
To resurface the tissue-borne areas of a denture with new material.
- 30. **Restoration:**
A broad term applied to any inlay, crown, bridge, partial denture, or complete denture that restores or replaces loss of tooth structure, teeth, or oral tissue. The term applies to the end result of repairing and restoring or reforming the shape, form and function of part or all of a tooth or teeth.
- 31. **Root Canal Therapy:**
The complete removal of the pulp tissues of a tooth, sterilization of the pulp chamber and root canals, and filling these spaces with a sealing material.
- 32. **Sealant:**
A resinous agent applied to the grooves and pits of teeth to reduce decay.
- 33. **Splinting:**
Stabilizing or immobilizing teeth to gain strength and/or facilitate healing.
- 34. **Temporomandibular Joint Dysfunction ("TMJ"):** The abnormal, impaired, or inadequate function of the joint between the temporal and mandibular bones of the jaw.

- 10. **Date Incurred:**
For fixed partial dentures, crowns, inlays, or onlays, the first date of preparation of the tooth or teeth involved; for an appliance or modification of an appliance, the date the first impression is made; for root canal therapy, the date the pulp chamber is opened; for orthodontic procedures other than cephalometric films, the date the initial active appliance is installed.
- 11. **Dental Hygienist:**
A person who has been trained to clean teeth and provide additional services and information on the prevention of oral disease.
- 12. **Dentally Necessary:**
Services of supplies which are necessary to treat your illness, injury or symptom. To be dentally necessary services or supplies must be determined by the Plan Administrator to be:
 - a. Appropriate and necessary for the symptoms, diagnosis, or treatment of the dental condition;
 - b. Provided for the diagnosis or direct care and treatment of the dental condition;
 - c. In accordance with standards of good dental practice accepted by the dental community;
 - d. Not primarily for convenience and/or comfort.
- 13. **Dentist:**
A Doctor of Dental Surgery (DDS) or Doctor of Medical Dentistry (DMD) duly licensed and acting within the scope of that license.
- 14. **Denture:**
A device replacing missing teeth. The term usually refers to full or partial dentures, but it actually means any substitute for missing teeth.
- 16. **Endodontic Treatment:**
Treatment of diseases of the dental pulp and their sequelae.
- 16. **Fluoride:**
A solution of fluoride that is applied topically to the teeth for the purpose of preventing dental decay.
- 17. **Implant:**
A device surgically inserted into or onto the jawbone. It may support a crown or crowns, partial denture, complete denture or may be used an abutment for a fixed bridge.
- 18. **Impression:**
A negative reproduction of a given area. It is made in order to produce a positive form or cast of the recorded teeth and/or soft tissues of the mouth.
- 19. **Inlay:**
A restoration usually of cast metal made to fit a prepared tooth cavity and then cemented into place.
- 20. **Malocclusion:**
An abnormal contact and/or position of the opposing teeth when brought together.
- 21. **Onlay:**
A cast restoration that covers the entire chewing surface of the tooth.
- 22. **Orthodontics:**
The branch of dentistry primarily concerned with the detection, prevention and correction of abnormalities in the positioning of the teeth in their relationship to the jaws.
- 23. **Palliative:**
An alleviating measure. To relieve, but not cure.
- 24. **Partial Denture:**
A prosthesis replacing one or more, but less than all, of the natural teeth and associated structures, may be removable or fixed, one side or two sides.

ARTICLE XIII - COORDINATION OF BENEFITS

A. Coordination of the Benefits Plans

Coordination of Benefits ("COB") sets out rules for order of payment of Eligible Expenses when two or more plans (or Medicare) is/are responsible for paying. When a Covered Person is covered by this Plan and another plan or plans, the plans will coordinate benefits when a claim is received.

The plan that pays first according to the rules will pay as if there were no other plan involved. The secondary and subsequent plans will pay the remaining balance of the Eligible Expenses up to 100%, subject to the limitations set outlined below.

B. Defined Terms

All health care benefits provided under the Plan are subject to COB as described below, unless specifically stated otherwise.

As used in this Article, the following terms shall have the meanings indicated:

- 1. **Benefit Plan:** Any of the following that provides health care benefits or services:
 - c) Group, blanket, or franchise coverage provided through HMOs and other prepayment group or individual practice plans;
 - d) Blue Cross and Blue Shield group plans;
 - e) Plans or programs sponsored by the federal government, including Medicare;
 - f) Other plans or programs provided or required by law, not including Medicaid or any plan like it that, by its terms, does not permit COB;
 - g) Any coverage under labor-management trustee plans, union welfare plans, employer organization plans, or employee benefit organization plans;
 - h) No-Fault Automobile insurance when not prohibited by law; and/or
 - i) Any other arrangement of coverage for individuals in a group, whether on an insured or uninsured basis.

NOTE: A Benefit Plan includes benefits that are actually paid or payable or benefits that would have been paid or payable if a claim had been properly made for them. If a Benefit Plan has two parts and COB rules apply only to one of the two, each of the parts is treated as a separate plan.

- 2. **This Plan:** The coverage of the City of Mountain Brook Employee Dental Benefit Plan.
- 3. **Allowable Expense:** A health care service or expense, including Deductibles and Copayments, that is covered at least in part by any of the plans (that is, by This Plan or by a Benefit Plan) covering the Claimant. When a plan provides benefits in the form of services, the reasonable cash value of each service shall be considered an Allowable Expense and a benefit shall be paid. An expense or service that is not covered by any of the plans is not an Allowable Expense. The following are examples of expenses or services that are not Allowable Expenses:
 - a. If a Covered Person is confined in a private Hospital room, the difference in cost between a semi-private room in the Hospital and a private room shall not be an Allowable Expense unless

the private room accommodation is Medically Necessary in terms of generally accepted medical practice or unless one of the plans routinely provides coverage for private rooms.

- b. If, in addition to This Plan, a person is covered by one or more Benefit Plan(s) that compute benefits on the basis of "usual and customary" allowances, any amount in excess of a Reasonable and Appropriate charge as defined in ARTICLE III - DEFINITIONS, shall not be an Allowable Expense, even if it is a usual and customary expense under the other plan(s).
c. If, in addition to This Plan, a person is covered by one or more Benefit Plan(s) that provide benefits or services on the basis of negotiated or discounted fees, any charge in excess of a Reasonable and Appropriate charge as defined in ARTICLE III - DEFINITIONS, shall not be an Allowable Expense, even if it is based on a negotiated or discounted fee under the other plan(s).
d. If a person is covered by one plan that calculates its benefits or services on the basis of usual and customary allowances and another plan that provides its benefits or services on the basis of negotiated or discounted fees, the lesser of those amounts shall be the Allowable Expense for This Plan, unless the lesser of those amounts exceeds a Reasonable or Appropriate charge as defined in ARTICLE III - DEFINITIONS, in which case the Reasonable or Appropriate charge shall be the Allowable Expense.

NOTE: Any expense not payable by a primary plan due to the Covered Person's failure to comply with any utilization review requirements (for example, precertification of admission) shall not be considered an Allowable Expense.

- 4. Claim Determination Period: A period that commences each January 1st at 12:00 a.m. and ends on the next succeeding December 31st at 11:59 p.m., or that portion of such period during which a Covered Person is covered under This Plan. The Claim Determination Period is the period during which This Plan's normal liability is determined (see Effect on Benefits under This Plan).
5. Custodial Parent: A parent awarded custody by a court decree. In the absence of a court decree, it is the parent with whom the child resides more than 50% of the Calendar Year without regard to any temporary visitation.

C. Effect on Benefits Under This Plan

The following provisions must be considered in determining the COB.

C-1. When the Other Benefit Plan Does Not Contain a COB Provision
If another Benefit Plan does not contain a COB provision that is consistent with the National Association of Insurance Commissioners Model COB Contract Provisions, then such other Benefit Plan shall be "primary" and This Plan shall pay its benefits after such other Benefit Plan. This Plan's liability shall be the lesser of its normal liability or the total Allowable Expenses minus benefits paid or payable by the other Benefit Plan(s).

C-2. When the Other Plan Contains a COB Provision

When another Benefit Plan contains a COB provision similar to this one, This Plan shall determine its benefits using the Order of Benefit Determination Rules below. If, in accordance with such rules, This Plan is to pay benefits before another Benefit Plan, This Plan shall pay its normal liability without regard to the benefits of the other Benefit Plan. However, if This Plan is to pay its benefits after another Benefit Plan, it shall pay the lesser of its normal liability or the total Allowable Expenses minus benefits paid or payable by the other Benefit Plan.

NOTE: The determination of This Plan's "normal liability" shall be made for an entire Claim Determination Period (that is, Calendar Year). If this Plan is "secondary," the difference between the benefit payments that This Plan would have paid had it been the primary plan and the benefit payments that it actually pays as a secondary plan is recorded as a "benefit reserve" for the Covered Person and shall be used to pay Allowable Expenses not otherwise paid during the balance of the Claim Determination Period. At the end of the Claim Determination Period, the benefit reserve returns to zero.

D. Order of Benefit Determination Rules

Whether This Plan is the primary plan or a secondary plan is determined in accordance with the following rules.

D-1. Medicare as Another "Benefit Plan"

If a Covered Person is an active Employee age 65 or over, he or she must either:

- 1. Elect This Plan as his or her primary medical coverage and Medicare as his or her secondary medical coverage; or
2. Elect Medicare as his or her medical coverage.

If the Covered person elects This Plan as his or her primary medical coverage, his or her covered Dependent spouse may elect Medicare as his or her medical coverage or may continue coverage under the Plan. If the Covered Person elects Medicare as his or her medical coverage, his or her covered Dependent spouse shall also have Medicare as his or her medical coverage, and coverage under This Plan shall terminate. If no election is made, coverage shall continue under This Plan by default, and This Plan's benefits shall be primary.

Medicare shall be considered a Benefit Plan for purposes of COB. This Plan shall coordinate benefits with Medicare whether or not the Covered Person is actually receiving Medicare benefits.

Medicare shall be the primary, secondary, or last payer in accordance with federal law. When Medicare is the primary payer, This Plan shall determine its benefits based on Medicare Part A and Part B benefits that would have been paid or payable, regardless of whether or not the person was enrolled for such benefits.

NOTE: Medicare may be primary and this Plan may be secondary for a Covered Person who is under age 65 and is eligible for Medicare by reason of a disability other than kidney failure. This Plan is primary and Medicare shall be secondary for a Covered Person during the first 30 months in which the he or she is eligible for Medicare solely because of permanent kidney failure. After the first 30 months, Medicare is primary and the Plan shall be secondary for such Covered Person.

D-2. Non-Dependent vs. Dependent

The benefits of a plan which covers the Covered Person other than as a Dependent (that is, as an Employee, a member, a retiree, or a subscriber) shall be determined before the benefits of a plan which covers such person as a Dependent. However, if the Covered Person is a Medicare beneficiary and, as a result of federal law, Medicare is secondary to the plan covering such person as a Dependent and primary to the plan covering the person as other than a Dependent (for example, a retired Employee), then the order of benefits between the two plans is reversed so that the plan covering the person as an Employee, a member, a retiree, or a subscriber is secondary and the other Benefit Plan is primary.

D-3. Child Covered Under More Than One Plan

When the Covered Person is a Dependent child, the primary plan is the plan of the parent whose birthday is earlier in the year if the child's parents are married or are not separated (whether or not they have ever been married), or a court decree awards joint custody without specifying that one party has the responsibility to provide health care coverage.

If both parents have the same birthday, the plan that covered either of the parents longer is primary.

When the Covered Person is a Dependent child and the specific terms of a court decree state that one of the parents is responsible for the child's health care expenses or health care coverage and the plan of that parent has actual knowledge of those terms, that plan is primary. This rule applies to Claim Determination Periods or plan years commencing after the plan is given notice of the court decree.

When the Covered Person is a Dependent child whose father and mother are not married, are separated (whether or not they have ever been married), or are divorced, the order of benefits is:

- 1. The plan of the Custodial Parent;

- 2. The plan of the spouse of the Custodial Parent;
3. The plan of the noncustodial parent; and then
4. The plan of the spouse of the noncustodial parent.

D-4. Active vs. Inactive Employee

The plan that covers the Covered Person as an Employee who is neither laid off nor retired is primary. The plan that covers a person as a Dependent of an Employee who is neither laid off nor retired is primary. If the other Benefit Plan does not have this rule and if, as a result, the plans do not agree on the order of benefits, this rule shall not apply.

D-5. COBRA Continuation Coverage Enrollee

If a Covered Person is a COBRA enrollee under This Plan, another Benefit Plan covering the person as an Employee, a member, a retiree, or a subscriber (or as that person's Dependent) is primary and This Plan is secondary. If the other Benefit Plan does not have this rule and if, as a result, the plans do not agree on the order of benefits, this rule shall not apply.

D-6. Coordination with Automobile Insurance Coverage

This Plan's liability for expenses arising out of an automobile Accident is based on the type of automobile insurance law enacted by the state in which the Covered Person resides (or, if a pedestrian, by the state in which the accident occurred). There are currently three types of state automobile laws: No-Fault Automobile Insurance laws, financial responsibility laws, and other automobile liability insurance laws.

NOTE: It is This Plan's general intent not to pay medical expenses resulting from automobile Accidents, and the Plan should be so interpreted.

D-6.01. Coordination Under No-Fault Automobile Insurance Law

Except as required by law, This Plan is secondary to any No-Fault Automobile Insurance coverage. This Plan is not intended to reduce the level of coverage that would otherwise be available through a No-Fault Automobile Insurance policy, nor is it intended to be the primary payer in order to reduce the premiums or costs of No-Fault Automobile Insurance coverage.

If a Covered Person incurs Eligible Expenses as a result of an automobile Accident (either as a driver, a passenger, or a pedestrian), the amount of covered expenses that This Plan shall pay is limited to:

- 1. Any Deductible under the automobile coverage;
2. Any Copayment under the automobile coverage;
3. Any expense properly excluded by the automobile coverage that is an Eligible Expense under the Plan; and
4. Any expense that This Plan is required to pay by law.

A person is considered to be covered under an automobile insurance policy if he or she is the owner or principal named insured under the policy, a family member of a person insured under the policy, or a person who would be eligible for medical expense benefits under an automobile insurance policy if This Plan did not exist.

D-6.02. Coordination Under Financial Responsibility Law

This Plan is secondary to automobile insurance coverage or to any other party who may be liable for the Covered Person's medical expenses resulting from an automobile Accident.

If the state in which the Covered Person resides has a financial responsibility law which will not allow This Plan to pay benefits as secondary or will not allow This Plan to advance payments with the intent of subrogating or

recovering the payment, This Plan will not pay any benefits related to an automobile Accident for the Covered Person.

D-6.03. Coordination Under Other Automobile Liability Insurance

If the state in which the Covered Person resides does not have a No-Fault Automobile Insurance law or a financial responsibility law, This Plan is secondary to his or her automobile insurance coverage or to any other party who may be liable for the Covered Person's medical expenses resulting from an automobile Accident.

D-7. Longer vs. Shorter Length of Coverage

If none of the above rules establish which plan is primary, the benefits of the plan which has covered the Covered Person for the longer period of time shall be determined before those of the plan which has covered such person for the shorter period of time.

NOTE: If the preceding rules do not determine the primary plan, the Allowable Expenses shall be shared equally between This Plan and the other Benefit Plan(s). However, This Plan shall not pay more than it would have paid had it been primary.

E. Expense Coverage

This provision applies when a Covered Person incurs medical or dental expenses that are eligible for coverage under a policy of liability insurance, property insurance, casualty insurance, or property-casualty insurance, including but not limited to a motor vehicle policy, a boat owner's policy, a homeowner's policy, or a renter's policy. When such expenses are incurred, This Plan will pay the lesser of:

- 1. The benefits under This Plan; or
2. 100% of Eligible Expenses under This Plan less the amount that the Covered person is eligible to receive for the same expenses from the liability insurance, property insurance, casualty insurance, or property-casualty insurance.

F. Other Information About COB

The following information pertains to COB determinations.

F-1. Right to Receive and Release Necessary Information

For the purpose of enforcing or determining the applicability of the terms of this COB provision or any similar provision of any other Benefit Plan, the Claims Processor may, without the consent of any person, release to or obtain from any insurance company, organization, or person any information with respect to any person it deems to be necessary for such purposes. Any person claiming benefits under This Plan shall furnish to the Plan Administrator such information as may be necessary to enforce this provision.

F-2. Facility of Payment

A payment made under another Benefit Plan may include an amount that should have been paid under This Plan. If it does, the Claims Processor may pay that amount to the organization that made such payment. That amount shall then be treated as though it were a benefit paid under This Plan. This Plan shall not have to pay such amount again.

F-3. Right of Recovery

If the amount of the payments made by the Plan is more than it should have paid under this COB section, This Plan may recover the excess from one or more of the persons it has paid or for whom it has paid, or from any other person or organization that may be responsible for the benefits or services provided for the Claimant. The "amount of the payments made" includes the reasonable cash value of any benefits provided in the form of services.

ARTICLE XIV - CLAIMS PROCEDURES

A. Submitting a Claim

A claim is a request for a benefit determination that is made in accordance with the Plan's procedures by a Claimant or his or her authorized representative. A claim must set forth:

1. The name of the Plan;
2. The name of the Claimant;
3. The patient's health condition(s), symptom(s), or diagnostic code(s);
4. The specific treatment, service, or supply (or procedure/revenue code) for which a benefit or benefit determination is requested;
5. The date(s) of service;
6. The amount of charges;
7. The address or location at which services are or were provided; and
8. The provider's name, address, telephone number, and tax identification number.

A claim must be in English. Any request for a benefit determination that is in a language other than English shall not be considered a claim for the purposes of the Plan. The Claimant is responsible for any and all costs associated with translation. Such translation must be obtained by the Claimant prior to submission of a request for benefit determination.

The Plan Administrator has contracted with other entities to handle claims communications and benefit determinations for the Plan. Contact information for such entities ("claims offices") is provided below.

MAIL ALL DENTAL TO:

ALTERNATIVE INSURANCE RESOURCES, INC.
P.O. BOX 660787
BIRMINGHAM, ALABAMA 35266-0787

4. Make any modifications or amendments to the Plan as are necessary or appropriate to qualify or maintain the Plan as a plan meeting the requirements of the applicable sections of the applicable law; and
5. Terminate, suspend, withdraw, amend, or modify the Plan, in whole or in part, at any time and on a retroactive basis; provided, however, that no modification or Amendment shall divest an Employee of a right to those benefits to which he or she has become entitled under the Plan.

NOTE: Any modification, Amendment, or termination action shall be done in writing, and by resolution of a majority of the Plan Sponsor's board of directors, or by written amendment which is signed by at least one Fiduciary of the Plan. Employees shall be provided with notice of the change within the time allowed by federal law.

E. Anticipation, Alienation, Sale, or Transfer

Except for assignments to providers of service no benefit payable under the provisions of the Plan shall be subject in any manner to anticipation, alienation, sale, transfer, assignment, pledge, encumbrance, or charge, and any attempt so to anticipate, alienate, sell, transfer, assign, pledge, encumber, or charge shall be void. Furthermore, no such benefit shall be in any manner subject to the debts, contracts, liabilities, engagements, or torts of or claims against any Employee or Covered Person, including the claim of a creditor, a claim for alimony or support, or any like or unlike claim.

F. Clerical Error

A clerical error by the Employer or Plan Sponsor shall not invalidate coverage otherwise validly in force nor continue coverage otherwise validly terminated.

G. Discrepancies

In the event that there is a discrepancy between any separate booklet, including a Summary Plan Description, if any, provided to Employees and this Plan Document and Summary Plan Description, the Plan Document shall prevail.

H. Entire Contract

The Plan Document, any Amendments, and the individual applications, if any, of Covered Persons shall constitute the entire contract between the parties. The Plan does not constitute a contract of employment nor affect the rights of an Employer to discharge any Employee.

I. Facility of Payment

Every person receiving or claiming benefits under the Plan shall be presumed to be mentally and physically competent and of age. However, in the event that the Plan determines that a person is incompetent or incapable of executing a valid receipt and no guardian has been appointed, or in the event that such person has not provided the Plan with an address at which he or she may be located for payment, the Plan may, during the lifetime of such person, pay any amount otherwise payable to him or her to his or her husband, wife, or relative by blood, or to any other person or institution determined by the Plan to be equitably entitled thereto.

In the case of the death of any person receiving or claiming benefits under the Plan before all amounts payable have been paid, the Plan may pay any such amount to one or more of the following surviving relatives of such person: the lawful spouse, the child or children, the parent, or the sibling, or to the Covered Person's estate, or the Plan Sponsor in its sole discretion may designate. Any payment in accordance with this provision shall discharge the obligation of the Plan.

If a guardian, conservator, or other person legally vested with the care of the estate of any person receiving or claiming benefits under the Plan is appointed by a court of competent jurisdiction, payments shall be made to such guardian, conservator, or other person, provided that proper proof of appointment is furnished in a form and manner suitable to the Fiduciaries. To the extent permitted by law, any such payment so made shall be a complete discharge of any liability therefore under the Plan.

ARTICLE XV - ADMINISTRATIVE MATTERS

A. Duties of the Plan Administrator

The duties of the Plan Administrator include the following:

1. To administer the Plan in accordance with its terms;
2. To determine all questions of eligibility, status, and coverage under the Plan;
3. To interpret the Plan, including the authority to construe possible ambiguities, inconsistencies, omissions, and disputed terms;
4. To make factual findings;
5. To decide disputes that may arise relative to a Covered Person's rights;
6. To prescribe procedures for filing a claim for benefits;
7. To keep and maintain the Plan Documents and all other records pertaining to the Plan;
8. To appoint and supervise a Claims Processor to pay claims;
9. To delegate to any person or entity such powers, duties, and responsibilities as it deems appropriate, and to allocate responsibility for the operation and administration of the Plan; and
10. To perform each and every function necessary for or related to the Plan's administration.

B. Type of Administration

Certain benefits of the Plan are administered by a Claims Processor under the terms and conditions of administration agreement(s) between the Plan Sponsor and the Claims Processor. The Claims Processor is not an insurance company or a Fiduciary of the Plan.

C. Alternative Care

In addition to the benefits specified herein, the Plan may elect to offer benefits for services furnished by any provider pursuant to an approved alternative treatment plan for a Covered Person.

The Plan shall provide such alternative benefits at the Plan Sponsor's sole discretion and only when and for so long as it determines that alternative services are Medically Necessary and cost-effective. The total benefits paid for such services may not exceed the total benefits to which the Claimant would otherwise be entitled under this Plan in the absence of alternative benefits.

If the Plan elects to provide alternative benefits for a Covered Person in one instance, it shall not be obligated to provide the same or similar benefits for that person or other Covered Persons in any other instance, nor shall such election be construed as a waiver of the Plan Sponsor's right to administer the Plan thereafter in strict accordance with the provisions of the Plan Document.

D. Amendment or Termination of the Plan

Since future conditions affecting the Plan Sponsor or Employer(s) cannot be anticipated or foreseen, the Plan Sponsor must necessarily and does hereby reserve the exclusive right to, without the consent of any Employee or Dependent:

1. Determine eligibility for benefits or to construe the terms of the Plan;
2. Alter or postpone the method of payment of any benefit;
3. Amend any provision regarding administrative matters;

J. Fiduciary Responsibility, Authority, and Discretion

The Fiduciaries shall serve at the discretion of the Plan Sponsor and without compensation for such services, but they shall be entitled to reimbursement of their expenses properly and actually incurred in an official capacity. The Fiduciaries shall discharge their duties under the Plan solely in the interest of the Employees and their Dependents and for the exclusive purpose of providing benefits to Employees and their Dependents and defraying the reasonable expenses of administering the Plan.

The Fiduciaries shall administer the Plan, shall have the authority to exercise the powers and discretion conferred on them by the Plan, and shall have such other powers and authorities necessary or proper for the administration of the Plan as may be determined from time to time by the Plan Sponsor.

In carrying out their responsibilities under the Plan, the Fiduciaries shall have the sole discretionary authority to interpret the terms of the Plan and this Plan Document, and to determine eligibility for and entitlement to Plan benefits in accordance with the terms of the Plan. Any interpretation or determination made pursuant to such discretionary authority shall be given full force and effect, even if the terms of the Plan and/or the Plan Document are found to be ambiguous, unless it can be shown that the interpretation or determination was arbitrary and capricious.

The Fiduciaries may employ such agents, attorneys, accountants, investment advisors, or other persons, who also may be employed by the Employer. The Fiduciaries may also engage third-parties, including but not limited to provider networks or utilization management organizations, that in their opinion may be desirable for the administration of the Plan. The Fiduciaries may pay any such person or third-party reasonable compensation, and may delegate to any agent, attorney, accountant, investment advisor, or other person or third-party selected by them any power or duty vested in, imposed upon, or granted to them by the Plan. However, the Fiduciaries shall not be liable for the acts or omissions of any agent, attorney, accountant, investment advisor, or other person or third-party except to the extent that the appointing Fiduciaries violated their own general fiduciary duties in establishing or implementing the Plan procedures for allocation or delegation, allocating or delegating the responsibility, or continuing the allocation or delegation.

K. Force Majeure

Should the performance of any act required by the Plan be prevented or delayed by reason of any act of nature, strike, lock-out, labor troubles, restrictive governmental laws or regulations, acts of terrorism, or any other cause beyond a party's control, the time for the performance of the act shall be extended for a period equivalent to the period of delay, and non-performance of the act during the period of delay shall be excused. In such an event, however, all parties shall use reasonable efforts to perform their respective obligations under the Plan.

L. Gender and Number

Except when otherwise indicated by the context, any masculine terminology shall include the feminine (and vice-versa) and any term in the singular shall include the plural (and vice-versa).

M. Illegality of Particular Provision

The illegality of any particular provision of this Plan Document shall not affect the other provisions and the Plan Document shall be construed in all respects as if such invalid provision were omitted.

N. Indemnification

To the extent permitted by law, Employees, Fiduciaries, and all agents and representatives of such Fiduciaries shall be indemnified by the Plan Sponsor and saved harmless against any claims and conduct relating to the administration of the Plan, except claims arising from gross negligence, willful neglect, or willful misconduct. The Plan Sponsor reserves the right to select and approve counsel and the right to take the lead in any action in which it may be liable as an indemnitor.

O. Legal Actions

No Employee or Covered Person shall have any right or claim to benefits from the Plan, except as specified herein. Any dispute as to benefits under this Plan shall be resolved by the Plan Sponsor under and pursuant to the Plan Document.

No legal action may be brought to recover on the Plan more than three years from the time written proof of loss is required to be given, or until the Plan's mandatory claim appeal(s) are exhausted.

P. Loss of Benefits

To the extent permitted by law, the following circumstances may result in disqualification or ineligibility for, or in the denial, loss, forfeiture, suspension, offset, reduction, or recovery of, any benefit that a Covered Person might otherwise reasonably expect the Plan to provide based on the description of benefits:

1. The cessation of an Employee's active service for the Employer;
2. An Employee's failure to pay his or her share of the cost of coverage, if any, in a timely manner;
3. A Covered Person's failure to meet the Plan's eligibility requirements (for example, when a child reaches an age at which coverage is no longer available to him or her or when an Employee and his or her spouse divorce);
4. Injury to a Covered Person which results in payment of expenses for treatment by a third-party; or
5. The failure to file a claim for benefits within the time limits set forth in this Plan Document.

Q. Material Modification

The Plan shall furnish Employees with written notice of any material modifications to the Plan no later than 60 days after the date of adoption of the modification or change. "Material modifications" are those that would be construed by the average Employee as being "important" reductions in coverage. Such reductions are outlined by the DOL in § 220.104b-3(d)(3) of the regulations.

The Plan shall also furnish Employees with a Summary of the Material Modifications ("SMM") not later than 60 days after the adoption of the modifications. This provision does not apply if the Plan Sponsor provides an SMM at regular intervals of not more than 90 days.

R. Misstatements/Misrepresentations and Rescission

Employees are responsible for reviewing the Plan's eligibility terms before enrolling themselves and/or their Dependents in the Plan. When an Employee enrolls one or more Dependents in the Plan, the Employee is prohibited from making fraudulent statements or from intentionally misrepresenting material facts (including but not limited to facts regarding the marital status, dependent status, or age of a Covered Person) in the enrollment process. If an Employee and/or eligible Dependent makes a fraudulent statement or intentionally misrepresents material facts in the enrollment process, the Plan may rescind the Covered Person's coverage retroactively. Plan coverage may not be rescinded retroactively except in the case of fraud or intentional misrepresentation.

S. Administrator's Discretion and Authority

The Plan Administrator has the exclusive authority and absolute discretion to take any and all actions necessary or appropriate to interpret the terms of the Plan in order to make determinations there under. Moreover, the Plan Administrator has the sole discretionary authority to construe and interpret the terms and provisions of the Plan Document, to make determinations that relate to a Covered Person's eligibility for benefits, and to decide disputes which may arise relative to a Covered Person's rights. The decisions of the Plan Administrator as to the facts related to any claim for benefits and the meaning and intent of any provision of the Plan, or its application to any claim, shall receive the maximum deference provided by law.

material fact was made. A material misstatement shall be deemed valid after two years of continuous coverage after the making of the fraudulent statement or intentional misrepresentation;

2. If a Covered Person permits any other person to use of any evidence of coverage in their name (or in the Employee's name in the case of a Dependent). This provisions does not apply to an Employee with respect to his or her covered Dependents; and
3. If a Covered Person, singularly or in collusion with others, commits, attempt to commit, aids, or abets claim fraud.

U. Titles or Headings

Where titles or headings precede explanatory text throughout the Plan Document, such titles or headings are intended for reference only. They are not intended and shall not be construed to be a substantive part of the Plan Document and shall not affect the validity, construction, or effect of the provisions of the Plan Document.

V. Workers' Compensation

The benefits provided by the Plan are not in lieu of and do not affect any requirement for coverage by Workers' Compensation insurance laws or similar legislation.

W. Funding Sources and Employer and Employee Obligations

Plan benefits are paid from the general assets of the Plan Sponsor. The Plan Administrator shall, from time to time, evaluate and determine the amount to be contributed, if any, by each Employee.

COBRA costs are fully the responsibility of the Employee or Qualified Beneficiary and are generally 102% of the full cost of coverage for active (Non-COBRA) enrollees, except in special circumstances where a greater cost is allowed by law.

For active Employees, the Employee's share of the cost(s) shall be deducted on a regular basis from his wages or salary. In other instances, the Employee shall be responsible for remitting payment to the Employer in a timely manner as prescribed by the Employer. If Plan benefits are part of an Employer-sponsored cafeteria plan under § 125 of the Internal Revenue Code, such coverage costs may be deducted on a pre-tax basis.

X. Governing Law

THIS PLAN DOCUMENT SHALL BE ADMINISTERED IN ACCORDANCE WITH THE PROVISIONS OF APPLICABLE FEDERAL STATUTES. TO THE EXTENT THAT STATE LAW APPLIES, AND IS NOT OTHERWISE PREEMPTED BY FEDERAL LAW, THIS PLAN DOCUMENT SHALL BE GOVERNED BY, AND CONSTRUED UNDER, THE LAWS OF THE STATE OF ALABAMA.

Y. Whom to Contact for Additional Information

An Employee or Covered Person may obtain additional information about Plan coverage of a specific drug, device, preventive service, procedure, or treatment from the office that handles claims on behalf of the Plan Administrator (that is, the Claims Processor). See ARTICLE II - GENERAL PLAN INFORMATION for the name, address, and telephone number of the Claims Processor.

APPENDIX 5

The Plan Administrator has the sole discretionary authority to select vendors to provide services under the Plan. A list of those vendors is available from the Plan Administrator.

T. Reimbursements

The following provisions apply to reimbursement issues.

T-1. Plan's Right to Reimburse Another Party

Whenever any benefit payments which should have been made under the Plan have been made by another party, the Plan Sponsor and the Contract Administrator shall be authorized to pay such benefits to the other party; provided, however, that the amounts so paid shall be deemed to be benefit payments under the Plan, and the Plan shall be fully discharged from liability for such payments to the full extent thereof.

T-2. Plan's Right to be Reimbursed for Payment in Error

When, as a result of error, clerical or otherwise, benefit payments have been made by the Plan in excess of the benefits to which a Claimant is entitled, the Plan shall have the right to recover all such excess amounts from the Employee, or any other persons, insurance companies, or other payees, and the Employee or Claimant shall make a good faith attempt to assist in such repayment. If the Plan is not reimbursed in a lump sum in a timely manner after notice and proof of such overpayment has been provided to the Employee, then the Claims Processor, upon authorization from the Plan Administrator, may deduct the amount of the overpayment from any future claims payable to the Employee, to any of his or her Dependents, or to the Claimant.

T-3. Plan's Right to Recover for Claims Paid Prior to Final Determination of Liability

The Plan Administrator may, in its sole discretion, pay benefits for care or services pending a determination of whether such care or services are covered hereunder. Such payment shall not affect or waive any exclusion, and to the extent benefits for such care or services have been provided, the Plan shall be entitled to recoup and recover the amount paid therefore from the Covered Person or the provider of service in the event it is determined that such care or services are not covered. The Covered Person (or such person's parent, if the Covered Person is a minor) shall execute and deliver to the Plan Administrator or to the Contract Administrator this provision. If the Plan is not reimbursed in a timely manner after notice and proof of such overpayment has been provided to the Employee, then the Contract Administrator, upon authorization from the Plan Administrator, may deduct the amount of the overpayment from any future claims payable to the Employee, to any of his or her Dependents, or to the Claimant.

U. Rights Against the Plan Sponsor or Employer

Neither the establishment of the Plan, nor any modification thereof or distributions hereunder, shall be construed as giving to any Employee or to any person any legal or equitable rights against the Plan Sponsor or its shareholders, directors, or officers, or as giving any person the right to be retained in the employ of the Employer.

V. Termination for Cause

Coverage shall terminate for an entire family unit or for a COBRA Qualified Beneficiary in certain situations. Except as specified below, any termination shall be effective immediately upon receipt by the Employee or the COBRA Qualified Beneficiary of a written notice from the Plan Sponsor. Any such written notice shall specify the reason for termination/rescission, the facts supporting such action, the effective date of the termination/rescission, and a notice that no expenses incurred after such date shall be covered by the Plan. Coverage shall end:

1. If a Covered Person makes a fraudulent statement or intentionally misrepresents material facts (including but not limited to facts regarding the marital status, dependent status, or age of a Covered Person) in an application for initial coverage or for a change in coverage, the Plan may rescind the covered person's coverage retroactively and no coverage shall be deemed to have been in effect beginning on the date that the fraudulent statement or intentional misrepresentation of

ADOPTION OF THE PLAN DOCUMENT

Adoption

The Plan Sponsor hereby adopts this Plan Document on the date shown below. This Plan Document replaces any and all prior statements of the Plan benefits described herein.

Purpose of the Plan

The purpose of the Plan is to provide certain benefits for eligible Employees of the Participating Employer(s) and the eligible Dependents of such Employees. The benefits provided by the Plan are as listed herein.

Conformity with Law

If any provision of this Plan is contrary to any law to which it is subject, such provision is hereby amended to conform to such law.

Participating Employers

Employers participating in this Plan are as stated in ARTICLE II - GENERAL PLAN INFORMATION. The Plan Sponsor may act for and on behalf of any and all of the Participating Employers in all matters pertaining to the Plan, and every act, agreement, or notice by the Plan Sponsor shall be binding on all such Employers.

Acceptance of the Plan Document

IN WITNESS WHEREOF, the Plan Sponsor has caused this instrument to be executed, effective as of January 1, 2013

City of Mountain Brook

By: [Signature]
Title: Mayor
Date: 1/17/2013

Nimrod Long
And Associates

L O N G

Land Planners
Landscape Architects
Urban Designers

January 10, 2013

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

RE: Project No. CMAQ-9802 (921)
Village Trail System, Phase 6
City of Mountain Brook, Jefferson County

Dear Sam:

I am hopeful we are getting close to the end of NLA having to request additional fees for Phase 6. Our problem is that we do not have a contract with the City to pay for our additional time beyond preparing the Construction Documents for ALDOT to bid.

After bidding Phase 6, we have billed the City \$27,055.00 of Additional Services. All of this with the exception of \$8,594.65 in invoices sent in December have been approved and paid. Since our last billing period ending on 12/20/12, we have spent additional time that has not been billed and project still more time as shown below.

Time Spent Since 12/20/12 -

• Dave Giddens	21 hrs @ \$100.00	\$2,100.00
• Nim Long	6.5 hrs @ \$135.00	\$877.50
		<u>\$2,977.50</u>

Projected Time to Complete Adjusted Drawings -

• Dave Giddens	73 hrs @ \$100.00	\$7,300.00
• Nim Long	20 hrs @ \$135.00	\$2,700.00
• LBVD	(Drainage Study)	<u>\$3,500.00</u>
		\$13,500.00

Total Requested Additional Services -

1. Invoice 19282	\$8,594.65
2. Time Since Last Invoice	\$2,977.50
3. Projected Time	<u>\$13,500.00</u>
Total Estimated	\$25,072.15

I'm sure it will be helpful to know what we will have to do to justify this additional funding request. Most of our time has been spent producing drawings to meet new requirements for driveways and retaining walls. We have also spent time on the following:

2212 Morris Ave., First Floor, Birmingham, AL 35203 Tel: 205 323-6072 Fax 205 324-6120

January 10, 2013
Project No. CMAQ-9802 (921)
Page 2 of 2

1. Meetings with ALDOT Director on two occasions to discuss how to complete this project on a timely basis.
2. We met with ALDOT on portions of two days to determine what drawings ALDOT needed to give approval so work could continue.
3. Updated the entire set of drawings to show changes to the Structural Walls on plans drawings and quantity sheets.
4. We have just begun to adjust the eight (8) driveways in an ALDOT approved format.
5. Miscellaneous meetings and drawings regarding changes to
 - A. Walkway layout and drainage at the triangle on Cherokee Road.
 - B. Meeting to coordinate traffic signal at Beechwood.
 - C. Providing drawings for bridge easement and walls on Old Leeds Road.
6. LBVD Engineering is doing a required drainage study for the walkway changes at the Cherokee Road triangle. Projected fee: \$3,500.00
7. Meetings with Sain and City as requested to address construction questions.

The main part of our work has been addressing the issues of revised driveway slopes, revised wall details and calculations of quantities for these changes. We have worked hard to do all this as efficiently as possible to keep additional fees to an absolute minimum.

Sincerely,

Nimrod Long, III
Nimrod W.E. Long, III
FASLA, LEED AP

cc: File
05-863\Corr\ADB\13-010 Letter to Sam - Additional Service.doc

2013-007



January 10, 2013

Mr. Sam Gaston
City Manager
City of Mountain Brook
3828 Montclair Road, Suite 200
Mountain Brook, AL 35213

SUBJECT: Mountain Brook Village Walkway System, Phase 6
CMAQ-9802(921)
Jefferson County

Dear Sam:

As previously discussed with you and ALDOT, Sain's fee for CE&I services on the subject project has been depleted. We request a supplement to our contract for \$145,987.20.

The original contract was based on 140 working days and was originally estimated to complete in November 2012. Due to pending decisions on driveways and retaining walls, the contract time has been periodically stopped because these pending decisions have caused for gaps in the contractor's work. Even though time is not counting toward the contract, Sain has maintained full time inspection while the contractor is working. Sain has also attended several meetings and has extensive coordination with the City, Nitrod Long and Associates, and ALDOT regarding the plan revisions, quantity revisions, and contractor pricing in regards to the driveways and retaining walls.

Sain estimates the following for time remaining on the project (please note, this is just an estimate of time as the contractor has not been provided all the information yet to request the time extensions nor has ALDOT approved of the time extensions):

- Time remaining on the original contract as of January 1 - 48 days
- Time extension for Green Valley drainage - 2 days
- Time extension for Knollwood Drive driveways - 3 days
- Time extension for Retaining Walls B, D, E, and I - 15 days
- Time extension for Retaining Wall J - 5 days
- Time extension for Retaining Walls L and O - 10 days
- Time extension for Eight (8) Driveways to be reconstructed - 16 days
- Time extension for estimated over-runs - 16 days
- TOTAL: 116 days

The supplemental menday estimate is based upon 115 additional days and an approximate completion date of June 2013.

Please forward this letter and attachments with a letter of your approval to ALDOT. If you have any questions, please do not hesitate to call.

Sincerely,

Alicia N. Bailey, P.E.
AL Registration #26339

James A. Meads, P.E.
President/CEO
Alabama Reg. #17294

Celebrating 40 Years of Excellence in Engineering and Surveying

244 West Valley Avenue, Suite 200 - Birmingham, Alabama 35209 - p (205) 940-6420 - f (205) 940-6433
www.sain.com

AGREEMENT

CONSTRUCTION ENGINEERING AND INSPECTION SERVICES

This AGREEMENT is made and entered into by and between the City of Mountain Brook, hereafter referred to as the CITY, acting by and through the Alabama Department of Transportation, (ALDOT), hereinafter referred to as the STATE, and Sain Associates, Inc., which is qualified to do business in the State of Alabama, and has its principal Alabama office at 244 West Valley Avenue, Suite 200, Birmingham, Alabama 35209, Party of the Second Part, hereinafter referred to as the CONSULTANT.

ARTICLE I - SCOPE OF WORK

The CONSULTANT will perform construction engineering and inspection, materials sampling and testing and contract administration services for the Mountain Brook Village Walkway System, Phase 6 for the City of Mountain Brook, Project Number CMAQ-9802(921). The project consists of the following seven sites: Overcrest Road (2500 LF), Cherokee Road (2500 LF), Overbrook Road (3000 LF), Old Leeds Road (2250 LF), Shiloh Drive (1150 LF), Green Valley Road (550 LF), and Knollwood Drive (1100 LF).

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.

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.

Project #CMAQ-9802(921)

Page | 2

APPENDIX 7

AGREEMENT

BETWEEN

SAIN ASSOCIATES, INC.

AND

CITY OF MOUNTAIN BROOK

CONSTRUCTION ENGINEERING AND INSPECTION SERVICES

SUPPLEMENTAL AGREEMENT #1

The CONSULTANT shall provide professional, technical and administrative personnel, meeting requirements of the STATE 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 STATE. 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 STATE.

2.0 ITEMS TO BE FURNISHED BY THE CITY/STATE TO CONSULTANT:

- A. The minimum Contract documents for each project shall be distributed to the CONSULTANT, via Division Engineer/City 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

3.0 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 Division Engineer/City 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 Division Engineer/City Engineer has been issued. Construction engineering and inspection forces shall be required of the CONSULTANT at all times when required by the STATE/CITY. If construction contract is suspended, the CONSULTANT'S forces shall be adjusted at the direction of Division Engineer/City Engineer to correspond with type of suspension, either complete suspension or partial suspension.

4.0 COOPERATION AND PERFORMANCE OF THE CONSULTANT:

2013-008

During the period of this AGREEMENT, the STATE/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 STATE policies, plans, specifications and contract provisions. The CONSULTANT shall cooperate and assist the STATE/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 STATE'S/CITY'S recommendations. The STATE'S/CITY'S remedial recommendations and the CONSULTANT'S actions are to be properly documented by Division Engineer/City 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. 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.

5.0 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 Division Engineer/City Engineer and shall document any omissions, substitutions, defects, and deficiencies noted in the work of Contractor and the corrective action taken.

B. Project Inspection: The CONSULTANT shall provide services to monitor and document 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

CONSULTANT shall keep detailed, accurate records of Contractor's daily operations and significant events that may affect the work. The standard procedures and practices of the STATE for inspections of construction projects are set out in the STATE'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.

C. 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 STATE'S Testing Manual. The STATE/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 STATE/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 STATE/CITY of schedules for sampling and testing as work progresses on each construction contract so sampling can be accomplished by the STATE 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.

D. 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 STATE/CITY to resolve disputes that may arise in relation to construction contracts; and to maintain an adequate level of surveillance of 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 STATE/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 Contractor, including quantities of pay items in conformity with Final Estimates preparation procedures and specifications. The CONSULTANT shall immediately report to Division Engineer/City 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 STATE. 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 Division Engineer/City 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 Division Engineer/City 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 Contractor, requiring a degree of engineering evaluation and decision. Field problems might involve situations such as: 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 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

APPENDIX 7

recommendations to Division Engineer/City Engineer for the most expeditious course of action to minimize delays and costs while achieving a structurally acceptable result.

The State Construction Engineer, depending on the nature of proposal are responsible for structural engineering analysis of Contractor's proposals, determining acceptability of proposals and meeting the requirements of said design. However, the CONSULTANT shall be responsible for ensuring that Division Engineer/City Engineer is provided with all relevant information and, in addition, shall appraise and make recommendations to Division Engineer/City 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 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 Division Engineer/City Engineer, together with any proposals from Contractor. The CONSULTANT shall be a liaison and cooperate with the STATE/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

and/or contract time extension. The CONSULTANT shall maintain complete and accurate documentation of work involved in claims.

- 13. In the case where Contractor for a project submits a request for extension of allowable contract time, the CONSULTANT shall analyze request and prepare a recommendation to Division Engineer/City Engineer covering accuracy of statements and actual effect of delaying factors on completion of controlling work items. The CONSULTANT shall make recommendations weekly, or other times as necessary, to Division Engineer/City Engineer on all delays. This recommendation is needed to justify a time extension.
- 14. The CONSULTANT shall prepare and submit to Division Engineer/City 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 CONSULTANT, shall be signed and sealed by the CONSULTANT and Division Engineer/City 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 STATE/CITY, the CONSULTANT shall assist appropriate STATE/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 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. Shop drawing/sample submittal and approval shall be logged by the STATE. 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.
- 18. The CONSULTANT shall assist Contractor and utility companies in resolving conflicts so that any conflicting utilities are timely removed, adjusted or protected to minimize

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 Division Engineer/City Engineer for approval. Approval of Division Engineer/City 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 STATE/CITY Project manager, shall negotiate prices with Contractor and prepare and submit a recommendation to Division Engineer/City Engineer for approval. The Division Engineer/City Engineer shall prepare the required SUPPLEMENTAL AGREEMENT and obtain all required approvals.
- 11. In the case where 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 Contractor for a project submits a claim for additional compensation, the CONSULTANT shall analyze submittal in conjunction with Division Construction Engineer/City Construction Engineer. The CONSULTANT may be required to provide recommendation on validity and reasonableness of the requested additional compensation

delays to construction operations. Documentation shall be maintained in accordance with the STATE'S procedures.

- 19. 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.
- 20. The CONSULTANT may be required to conduct and document field reviews of maintenance of traffic operations after normal working hours, weekends and holidays.
- 21. 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 Division Engineer/City Engineer of these inquiries.
- 22. 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.
- 6.0 PERSONNEL: (See attached personnel and their qualifications)
- 7.0 SUBCONSULTANT SERVICES: (See attached proposal from Bhat Geosciences)
- 8.0 OTHER SERVICES:
The CONSULTANT shall, upon written authorization by Division Engineer/City Engineer, perform any additional services not otherwise identified in this AGREEMENT as may be required by the STATE/CITY in connection with said Project(s).
- 9.0 CLAIMS REVIEW:
In the event Contractor for said project submits a claim for additional compensation and/or time after the CONSULTANT has completed this AGREEMENT, the CONSULTANT shall, by written request from the STATE/CITY, analyze the claim, prepare a recommendation to Division Engineer/City Engineer covering validity and reasonableness of charges and/or assist in negotiations leading to settlement of said claim. Compensation for these services shall be mutually agreed between the STATE/CITY and the CONSULTANT prior to performance of said Services.

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

ARTICLE II - TIME OF BEGINNING AND COMPLETION

1. This AGREEMENT shall be effective upon the date of approval by the City Council.

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 Division 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 Division.

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 STATE 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:

increase to a maximum of five (5) percentage points per year during the life of this AGREEMENT.

5. Any paid overtime shall require prior authorization from Division Engineer. Billable overtime is all time worked over Forty Hours each week or holidays observed by the CONSULTANT.

a. The hourly overtime rate shall be 1.5 times the hourly billable rate.

b. Hours worked on holidays observed by the CONSULTANT shall be billable at an hourly rate of 2 times the hourly billable rate. Billable holiday work shall require prior approval by the STATE.

6. The maximum amount payable, to the CONSULTANT for work provided for under this AGREEMENT, shall not exceed one hundred forty-five thousand, nine hundred eighty-seven and 20/100 (\$145,987.20) for a total contract amount of three hundred eighty-three thousand, one hundred forty-six dollars and 20/100 Dollars (\$383,146.20). See attached manday fee estimate.

ATTEST:

By: *Sharon Bowen*
(Affix Corporate Seal)

(CONSULTANT)

By: *[Signature]*

APPROVED BY CITY:

Vince C. Sutt
Mayor

APPENDIX 7

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

- 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.
- Profit at the rate of ten (10) percent applied to direct salary, overhead, and approved expenses.
- The CONSULTANT'S home office overhead and labor additive rate, as determined by the STATE'S Bureau of Finance and Audits, External Audit Section, 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 rate can only

Resolution Number 4369
Page 1

RESOLUTION NUMBER 4369

A RESOLUTION ENJOINING THE COOPERATION OF THE CITY OF MOUNTAIN BROOK WITH STREET AND DRAINAGE IMPROVEMENTS TO EAST STREET.

WHEREAS, the City of Vestavia Hills and the City of Mountain Brook, Alabama, work closely to promote the health, safety and welfare of both communities; and

WHEREAS, the City of Mountain Brook has a large municipal and recreational complex located at the end of East Street, a Vestavia Hills street; and

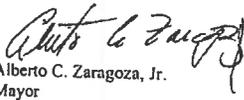
WHEREAS, there have been longstanding concerns voiced by citizens of Vestavia Hills regarding the safety in the increased traffic count deriving from the Mountain Brook complexes as well as the calming and the speed of the flow of traffic on East Street; and

WHEREAS, through newly-formed mutual partnerships, the leadership of both municipalities has expressed a desire to address these issues and concerns.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF VESTAVIA HILLS, ALABAMA, AS FOLLOWS:

1. The Mayor and City Council wish to enjoin the Mayor and City Council of the City of Mountain Brook to allow the staff members of both Mountain Brook and Vestavia Hills to perform curb and drainage improvements on East Street with a later opportunity and resident approval, to also partner together for eventual sidewalk construction along said street; and
2. This Resolution Number 4369 shall become effective immediately upon adoption and approval.

DONE, ORDERED, ADOPTED and APPROVED this the 26th day of November, 2012.


 Alberto C. Zaragoza, Jr.
 Mayor

Sam Gaston

From: Ronald Vaughn
Sent: Monday, December 03, 2012 3:27 PM
To: Sam Gaston
Subject: Cooperation Resolution

Johnny Harris and I met with Christopher Brady (Vestavia City Engineer) concerning the proposed East Street drainage improvements as detailed in the 2004 Traffic Impact Study done by Gonzalez. The work would include approximately 675' of pipe at four different locations along East Street and five to seven inlets as well as centerline striping. Mr. Brady has contracted with Weygard to do some easement work along East Street and if approved we would need to wait until the easement work is complete which may be some time after the first of the year. The drainage work will take our crews approximately two weeks to complete once we schedule a start date with Mr. Brady. The centerline striping would have to be scheduled early spring or when we have some warm weather as we have had the past few days. As you are aware we have \$10,000 for materials in this year's budget if this work is approved.

Thanks

Ronnie Vaughn
 Public Works Director
 City of Mountain Brook AL
 3579 East Street
 Mountain Brook, Alabama 35243
 205.802.3865 Phone
 205.967.2631 Fax

12/3/2012

APPENDIX 8

2013-009

**Mountain Brook
Sports Park**
Jefferson County, Alabama

Traffic Impact Study

Prepared for
The City of Mountain Brook
Mountain Brook, Alabama

Prepared by:

Gonzalez-Strength & Associates
Birmingham, Alabama
03MEFN01-T

January 2004



SAFETY: FINDINGS AND RECOMMENDATIONS

The available SSD was observed and measured at two vertical curves along East Street. The first vertical curve is located at the Goodwin Street intersection. The SSD for this vertical curve was taken at the driveway to 3428 East Street. The provided SSD for this vertical curve is 176', which exceeds the minimum requirement set forth by AASHTO, which is 140'. The other vertical curve of concern was to the east of the power line crossing, at the driveway to 3536 East Street. The SSD here is 93', which does not meet the minimum requirement set forth by AASHTO of 160' for this vertical curve.

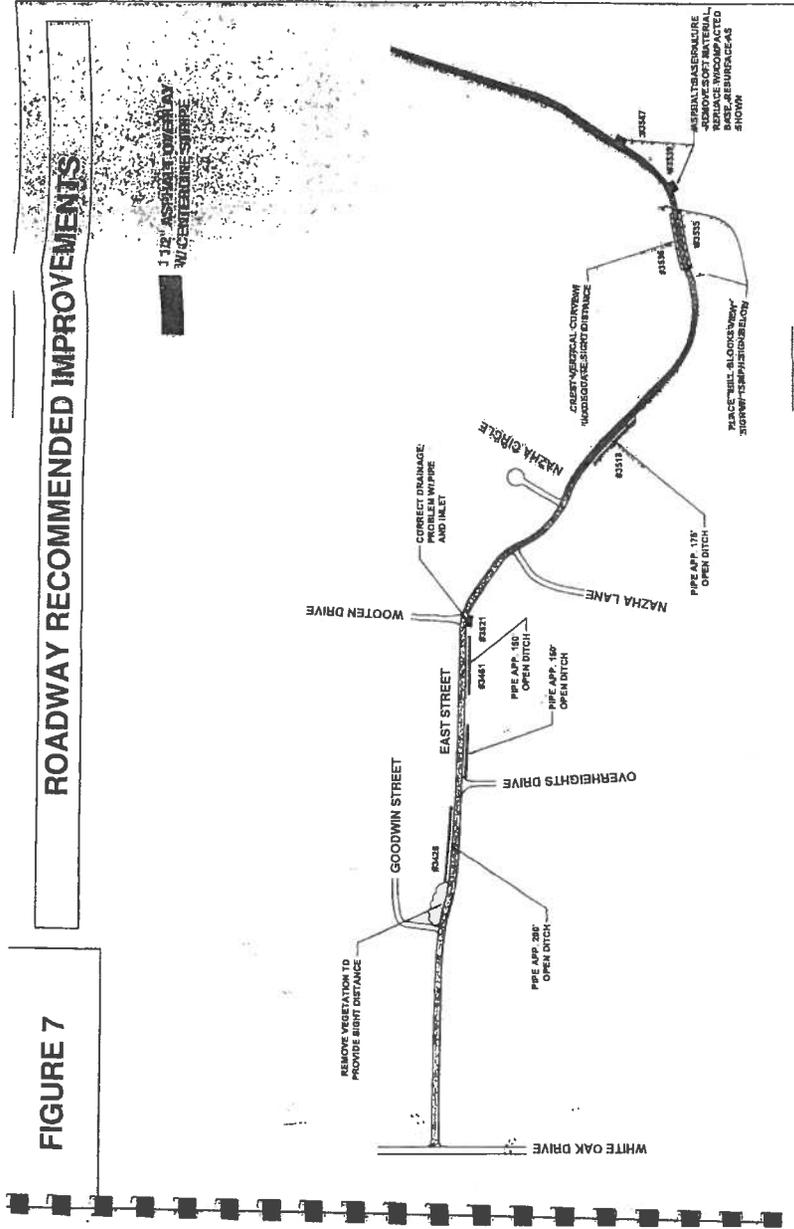
The available ISD was measured for the same vertical curves discussed above. The ISD for the vertical curve at Goodwin Street is 56'. However, with the recommended removal of the shrubs in front of 3428 East Street, the ISD provided improves to over 300', or to the next intersection. The ISD for the vertical curve at the driveway to 3536 East Street is 136', which is deficient of the required minimum ISD set forth by AASHTO, which is 160'.

There are some roadway safety improvements recommended on East Street at several locations. Most of East Street is 20' wide with a two to six foot grass shoulder. However, there are several locations where no roadway shoulder is provided, causing a drop-off to an open ditch, just off the edge of pavement. The locations of these and other deficiencies are noted in Figure 7.

Based on the results of this study, the following recommendations are made:

- Resurface East Street and provide double-yellow centerline striping;
- Correct roadway base failures as noted in Figure 7;
- Install roadway pipe in the following roadside ditches to provide for a roadway shoulder (see Figure 7 for approximate locations):
 - The open ditch in front of 3513 East Street;
 - The open ditch in front of 3461 East Street;

- The open ditch in front of lot just east of Overheights Drive, on south side of East Street;
 - The open ditch in front of 3428 East Street, and just east of Goodwin Street, on north side of East Street.
- Correct the drainage problem in front of 3521 East Street, across from Wooten Drive. If there is a pipe and inlet buried under all the dirt and leaves, it should be cleaned out so that proper drainage can occur. If there is no pipe and inlet under this driveway, installation is needed;
 - Place a "Hill Blocks View" sign (W7-6), with an supplemental advisory speed sign (W13-1) of "15 MPH" on each side of the vertical curve that is just east of the power line crossing (see Figure 7 for location);
 - Remove shrubs beside East Street that are obstructing motorists' view when looking east from the Goodwin Street approach.



ROADWAY RECOMMENDED IMPROVEMENTS

FIGURE 7

Sam Gaston

From: Whit Colvin [wcolvin@bishopcolvin.com]
Sent: Thursday, January 03, 2013 6:12 PM
To: Sam Gaston
Cc: carljohnson@bishopcolvin.com
Subject: Re: East Street
Attachments: DOC051.pdf

Sam,
I have attached an AG Opinion for your review. The opinion confirmed the City of Homewood's right and authority to purchase, renovate and use as a City Hall the old Palisades Shopping Center. The catch was that the Palisades was not only outside of Homewood, it was within the city limits of Birmingham. The key is that the undertaking, whether within or without the City limits, has to serve a public municipal purpose.

In the case of East Street, if the expenditure on sidewalks and ROW improvements serves a public purpose for the City of Mountain Brook, the expenditure is permitted. The Council will need to find that such a public purpose exists in its resolution authorizing the expenditure, if it decides to fund the project.

I hope that helps.

Whit Colvin
205 251 2661
205 254 3987 fax
wcolvin@bishopcolvin.com



On 1/3/2013 4:39 PM, Sam Gaston wrote:

Thank you.

Sam S.Gaston
City Manager
City of Mountain Brook AL
3928 Montclair Road (Until April, 2013)
Mailing address-POB 130009
Mountain Brook AL 35213
(205) 802-3803 Phone
(205) 870-3577 Fax

From: Whit Colvin [mailto:wcolvin@bishopcolvin.com]
Sent: Thursday, January 03, 2013 4:39 PM
To: Sam Gaston
Cc: carljohnson@bishopcolvin.com
Subject: Re: East Street

I do not Sam but we will get you some authority (if any is out there) just to cover all the bases.

1/4/2013

Whit Colvin
205 251 2661
205 254 3987 fax
wcolvin@bishopcolvin.com



On 1/3/2013 4:18 PM, Sam Gaston wrote:
As you know, Vestavia is asking us to do some road and shoulder/drainage improvements on East Street in their city leading down to our Public Works facility. The improvements were detailed in the 2004 traffic study for the athletic fields construction and its impact on this street. We have \$10,000 budget for materials and our Public Works crews will do the work.

This will be on our pre-meeting agenda for January 14th. Vestavia has been very kind to us allowing us to use their court room for the past 2 years. You see any problems with us doing this work in Vestavia?

Sam S.Gaston
City Manager
City of Mountain Brook AL
3928 Montclair Road (Until April, 2013)
Mailing address-POB 130009
Mountain Brook AL 35213
(205) 802-3803 Phone
(205) 870-3577 Fax

1/4/2013



2002-214

STATE OF ALABAMA
OFFICE OF THE ATTORNEY GENERAL

BILL PRYOR
ATTORNEY GENERAL

April 24, 2002

ALABAMA STATE HOUSE
11 SOUTH UNION STREET
MONTGOMERY, AL 36130
(205) 543-7200
WWW.AGO.STATE.AL.US

Honorable Michael G. Kendrick
Attorney, City of Homewood
Gorham & Waldrep
Suite 700
2101 6th Avenue North
Birmingham, AL 35203

Municipalities - Public Buildings -
Municipal Funds - Municipal Property -
Rental Property - Jefferson County

The City of Homewood is authorized to purchase property, which is located in an adjoining municipality, to be used for municipal purposes. The city is authorized to lease any of said property that is declared surplus and hire a property manager to manage said facility.

Dear Mr. Kendrick:

This opinion of the Attorney General is issued in response to your request on behalf of the City of Homewood.

QUESTION ONE

May the City expend public funds to purchase the Palisades Shopping Center, considering that a portion of the property will be used by the City for municipal purposes to provide municipal services to its residents, even though the shopping center is currently located in the City of Birmingham?

Honorable Michael G. Kendrick
Page 2

FACTS AND ANALYSIS

You related to this Office the following facts:

1. Palisades Shopping Center is located in the City of Birmingham, but adjacent to the City of Homewood (the "City"), and is currently owned by Palisades Investors, L.L.C. ("Seller"). The City has executed an agreement to purchase the Palisades Shopping Center (the "Center"), a portion of which is anticipated to be used for municipal purposes to provide facilities for municipal functions of the City. The Agreement contains a number of contingencies, one of which is an opinion from the Attorney General's Office that the City can spend public funds to purchase the Center.

2. The Center is composed of approximately 26 acres of property and comprises approximately 275,000 square feet of commercial rental space with 1650 parking spaces. The Center is currently operated by the Seller as a commercial shopping center with approximately 25 percent of the rental space vacant. It is the City's desire to purchase the property and to essentially relocate all city functions, including police, fire, building inspection, engineering, city hall, and administration, to this location. It is also anticipated that the City will expand its uses of the Center to include a possible civic center/recreational facility and other public uses that would be permitted by the existing structure.

3. The City initially anticipates using a portion of the Center for municipal purposes and to contract with a property manager to manage the portion of the Center that will not be used for municipal purposes, and to continue to rent such surplus space until such time as the City determines a need for municipal use. The revenue generated from the surplus rental space will help retire the cost of the purchase and maintenance of the Center, including that portion to be dedicated for municipal use by the City.

Honorable Michael G. Kendrick
Page 3

4. The City has had initial discussions with the City of Birmingham concerning the deannexation of the property so that the property can be annexed into the City in the future.

Section 11-81-141 of the Code of Alabama sets out the general authority for municipalities to purchase property and construct buildings either inside or outside of their corporate limits and states, in pertinent part, as follows:

(a) In addition to the powers which it may now have, any municipality or county shall have power under this division:

(1) To acquire by gift or purchase, to construct, to reconstruct, to improve, to better or to extend any undertaking within or without the municipality or county or partially within or partially without the municipality or county;

(2) To operate and maintain any undertaking for its own use and for the use of public and private consumers and users within and without the territorial boundaries of the municipality or county. . . .

ALA. CODE § 11-81-141(a) (1994).

In addition, section 11-47-3 of the Code of Alabama provides that municipalities may contract for the construction of public buildings. That section states, in pertinent part, as follows: "The governing body of any city or town may contract for the construction, reconstruction, extension or repair of any municipal building. . . ." ALA. CODE § 11-47-3(a) (1992).

CONCLUSION

Considering the provisions of sections 11-81-141 and 11-47-3 of the Code of Alabama, as quoted above, it is the opinion of this Office that the City of Homewood may expend public funds to purchase the Palisades Shopping Center, or any other property to be used by the City for municipal purposes, if the City Council determines that such purchase would be in the public interest, even though the property and buildings are presently located in the City of Birmingham.

Honorable Michael G. Kendrick
Page 4

QUESTION TWO

May the City expend public funds to purchase the Palisades Shopping Center and initially use the vacant space of the shopping center to relocate municipal facilities and to continue to rent out, for commercial use, surplus portions of the Center that are not to be occupied by the City and used for municipal purposes by contracting with a property manager to manage the surplus commercial portions of the Center that are not being used for municipal purposes by the City?

FACTS AND ANALYSIS

Based on the opinion set out in response to Question One above, it is the opinion of this Office that the City may spend public funds to purchase the Palisades Shopping Center. Once property has been purchased by a municipality, Alabama law specifically authorizes municipalities to lease real estate not needed for municipal purposes as surplus property. Section 11-47-21 of the Code of Alabama, in part, states as follows:

The governing body of any city or town in this state may, by ordinance to be entered on its minutes, lease any of its real property not needed for public or municipal purposes, and a lease made by the mayor in accordance with such ordinance shall be binding for the term specified in the lease, not to exceed a period of 99 years

ALA. CODE § 11-47-21 (1992). Thus, pursuant to section 11-47-21 of the Code of Alabama, the City of Homewood is authorized to lease the property owned by the City that the City Council has deemed to be surplus and not presently needed for municipal purposes for a period not to exceed 99 years.

Additionally, the City has inquired as to whether they may be permitted to hire a property manager to manage the surplus property. It is the opinion of this Office that the City has authority to contract for services. Cities may enter into and contract for services pursuant to the provisions of section 11-47-5 of the Code of Alabama, which provides as follows:

Honorable Michael G. Kendrick
Page 5

Contracts entered into by a municipality shall be in writing, signed and executed in the name of the city or town by the officers authorized to make the same and by the party contracting. In cases not otherwise directed by law or ordinance, such contracts shall be entered into and executed by the mayor in the name of the city or town and all obligations for the payment of money by the municipality, except for bonds and interest coupons, shall be attested by the clerk. This section shall not be construed to cover purchases for the ordinary needs of the municipality.

ALA. CODE § 11-47-5 (1992). Therefore, it is the opinion of this Office that the City is authorized to enter into contracts with property managers, to manage the leased surplus property authorized by the City Council, for so long as such property management contracts are in compliance with the terms and conditions of the competitive bid law as set out in sections 41-16-50 and 41-16-51 of the Code of Alabama. See, also, section 11-40-1 of the Code of Alabama granting municipalities the general power of contract.

CONCLUSION

Based on the above, it is the opinion of this Office that the City may expend public funds to purchase the Palisades Shopping Center, may lease the space in the Palisades Shopping Center not needed for municipal purposes that has been determined to be surplus by the city council pursuant to section 11-47-21 of the Code of Alabama, and may contract for the services of a property manager to manage the surplus property in order to preserve the City's assets so long as such contract is entered into in compliance with the provisions of sections 41-16-50 and 41-16-51 of the Code of Alabama.

QUESTION THREE

May the City expend public funds to purchase the Palisades Shopping Center, which is currently leased to a number of tenants under leases that have remaining expiration of one to ten years, continue to honor such leases, and use the revenue generated from such commercial rental proceeds to assist in retirement of the debt and maintenance of the Center?

Honorable Michael G. Kendrick
Page 6

FACTS AND ANALYSIS

Section 11-43-56 of the Code of Alabama states that "the Council shall have the management and control of the finances and all of the property, real and personal, belonging to the City." ALA. CODE § 11-43-56 (1989). Accordingly, the city council may authorize the leasing of surplus property, not presently needed for municipal purposes, pursuant to section 11-47-21 of the Code of Alabama. Likewise, the city council is authorized by law to charge and collect rentals on property leased by the City. See ALA. CODE § 11-81-141(a)(4) (1994). Therefore, logically, the proceeds from the leasing of surplus property, properly authorized by the city council, under the management and control of the city council, shall be deposited in such accounts and used for such lawful purposes as directed by the city council. See ALA. CODE § 11-43-56 (1994). These uses are to include, but not be limited to, the general fund or any other fund where such proceeds may be used for lawful purposes as directed by the city council.

CONCLUSION

Based on the provisions of sections 11-81-141, 11-47-3, and 11-47-21 of the Code of Alabama, and the opinions and analysis set out in response to Questions One and Two above, it is the opinion of this Office that the City may expend public funds to purchase the Palisades Shopping Center and may lease those portions of the Palisades Shopping Center not presently needed for municipal purposes, if such property has been determined to be surplus property, by ordinance adopted by the city council, for so long as the property is not needed by the City for municipal use, not to exceed a period of 99 years.

QUESTION FOUR

May the City relocate municipal facilities of the City to the Palisades Shopping Center if the Center and the municipal facilities that will be located at the Center are in the City of Birmingham, although adjacent to the City of Homewood?

Honorable Michael G. Kendrick
Page 7

FACTS AND ANALYSIS

Section 11-81-141(a)(1) of the Code of Alabama provides that municipalities have the authority "to construct, to reconstruct, to improve, to better or to extend any undertaking within or without the municipality." ALA. CODE § 11-81-141 (1994). Section 11-81-141(a)(2) of the Code of Alabama provides that a municipality has the authority "[t]o operate and maintain any undertaking . . . within and without the territorial boundaries of the municipality. . . ." An "undertaking," as defined in section 11-81-140(1) of the Code of Alabama, includes:

Causeways, tunnels, viaducts, bridges and other crossings, highways, parks, parkways, airports, docks, piers, wharves, seaport or river terminals, hospitals, public markets, tennis courts, swimming pools, golf courses, stadiums, armories, auditoriums and *other public buildings of all kinds*, incinerator plants and systems in connection with the generation, production, transmission and distribution of electric energy for lighting, heating and power for public and private uses, together with all parts of any such undertaking and all appurtenances thereto, including lands, easements, rights-of-way, contract rights, franchises, approaches, connections, dams and reservoirs.

ALA. CODE § 11-81-140(1)(a) (1994) (emphasis added).

Additionally, this Office wrote in an opinion to the Honorable Timothy B. Coe that, under these Code sections, the Town of Wedowee was permitted to expend funds to establish and maintain a city facility outside of its corporate limits. Opinion to Timothy B. Coe, Mayor, Town of Wedowee, dated July 25, 1997, A. G. No. 97-00234. In that opinion, this Office wrote that sections 11-81-140 and 11-81-141 of the Code of Alabama provide that "a municipality may improve, operate, and maintain any undertaking outside of its corporate limits. Included in the definition of an undertaking at § 11-81-140(1) is 'public buildings of all kinds.'" *Id.* Thus, Alabama law clearly permits a municipality to locate, improve, operate, and maintain public buildings outside of its corporate limits.

This Office has previously determined that municipalities have certain powers that are implied, although not explicitly provided by statute. In a 1998 opinion to the Honorable Curtis H. Springer Jr., this Office opined that:

Honorable Michael G. Kendrick
Page 8

Municipalities are subdivisions of the State, and as such, can only exercise the power as is conferred on them by law. *Wilkins v. Dan Haggerty & Associates, Inc.*, 672 So.2d 507 (Ala. 1995). A municipality, however, "need not predicate its every action on some specific express grant of power. Alabama's cities possess certain implied powers that derive from the nature of the powers expressly granted to them by the legislature." *Id.* at 509. "A municipality may exercise those powers that are explicitly granted to it by the legislature, as well as those powers that are necessarily implied from an express grant of power." *City of Birmingham v. Graffeo*, 551 So.2d 357, 360 (Ala. 1989).

Opinion to Curtis H. Springer Jr., Presiding Judge, Montgomery Municipal Court, dated November 24, 1997, A. G. No. 98-00043.

It is clear that, based on the provisions of sections 11-81-140 and 11-81-141 of the Code of Alabama and the City of Homewood's implied powers, the municipality has the authority to build and utilize "public buildings of all kinds" outside of its corporate city limits. In addition, section 11-43-49 of the Code provides that the city council is permitted to determine where it shall hold its meetings, as long as those meetings are open to the public. Accordingly, it is the opinion of this Office that the City of Homewood may build, operate, and maintain its municipal facilities in buildings outside the corporate limits of the City of Homewood. The uses of these facilities can include meetings of any entity of the Homewood city government for any lawful purpose.

CONCLUSION

Therefore, pursuant to sections 11-81-140 and 11-81-141 of the Code of Alabama, previous opinions of this Office as set out herein, and the analysis and responses to Questions One, Two, and Three above, it is the opinion of this Office that the City may purchase the Palisades Shopping Center and locate municipal facilities at such location, if the city council determines that it would be in the public interest.

QUESTION FIVE

- May the City continue to rent out the surplus portions of the Center that are not presently necessary

Honorable Michael G. Kendrick
Page 9

for municipal use, for a profit, through the use of a property manager who will manage the property, and contribute the rental proceeds to the general fund to be used for municipal purposes, which would include but not be limited to the maintenance of the Center and the retirement of the debt associated with the purchase of the Center?

FACTS, ANALYSIS, AND CONCLUSION

Based on the authorities and opinions set out in responses to Questions One, Two, Three, and Four as set out above, it is the opinion of this Office that this question should be answered in the affirmative.

I hope this opinion answers your questions. If this Office can be of further assistance, please contact Jeffery H. Long of my staff.

Sincerely,

BILL PRYOR
Attorney General
By:



CAROL JEAN SMITH
Chief, Opinions Division

BP/JHL/kh
65408v2/37575



Dana O. Hazen, AICP
 City Planner
 3928 Montclair Road
 Suite 230
 Mountain Brook, Alabama 35213
 Telephone: 205/802-3821
 Fax: 205.879.6913
 hazend@mtnbrook.org
 www.mtnbrook.org

MEMO

DATE: January 9, 2013

TO: Mayor, City Council
 City Manager
 City Attorney

FROM: Dana Hazen, City Planner

RE: Proposed Vine Street Transitional (VST) District

APPENDIX 9

Vine Street Transitional (VST) District

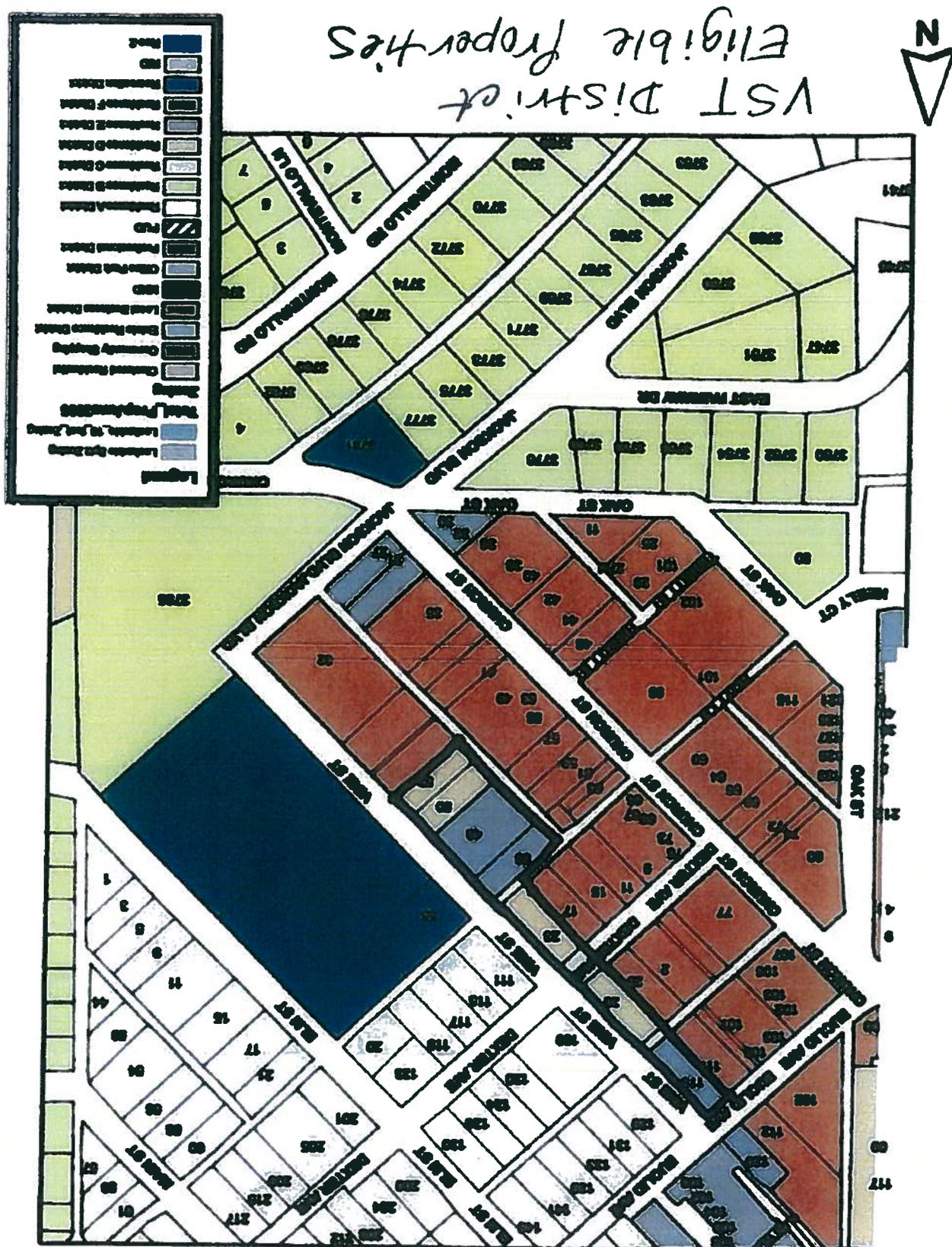
On December 3, 2012, the Planning Commission voted to recommend to the Council the adoption of the Vine Street Transitional (VST) District, as well as the other related zoning ordinance amendments which are attached hereto.

Summary

There are several lots along the west side of Vine Street (Crestline Village) that are currently zoned Res-D and are too small (50'x150') to be redeveloped under any of the City's current zoning districts. Therefore, as the structures on these small lots become dilapidated (as is already the case at the northwest corner of Dexter and Vine) redevelopment of individual lots is not feasible under existing zoning regulations and the Village Overlay Standards.

The purpose of this proposed zoning amendment is to promote redevelopment of properties along the west side of Vine Street with a mixture of uses that are "transitional" in nature, such as office and multi-family. This area of Crestline Village is uniquely situated along the commercial fringe of the village, but given its proximity to single family zoning districts on the east side of Vine Street it is not ideal for development of intense commercial uses (such as retail and restaurant); however this area may be appropriate for the development of transitional uses.

The attached Vine Street Transitional (VST) District contains draft language that would allow for appropriate uses and building design for the properties indicated on the attached map of Vine Street. If adopted, no properties along Vine would be automatically "re-zoned," but the owners of such properties would have to petition the Planning Commission and Council for rezoning on an individual basis in the future.



APPENDIX 9