

**MOUNTAIN BROOK CITY COUNCIL  
PRE-MEETING DISCUSSION  
APRIL 14, 2014**

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The City Council of the City of Mountain Brook, Alabama met in public session in the Pre-council Room (A106) of City Hall at 6:30 p.m. on Monday, the 14th day of April, 2014. The Council President called the meeting to order and the roll was called with the following results:

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

Absent: William S. Pritchard III

Also present were City Attorney Whit Colvin, City Manager Sam Gaston, and City Clerk Steven Boone.

**1. AGENDA**

1. Farmer's Market on Vine Street – Laura Powell of Urban Cookhouse.

Motion No. 2014-048 was added to the formal agenda. There will be no live plant or jewelry sales. Council member Vogtle asked that Mr. Selman (barber) be contacted so that he is informed about the event and its potential impact on his business.

2. Hours for evening construction and yard work – Mayor Oden.

Mayor Oden requested that the City Council consider amending Ordinance 1234 (or the business license code) to include the restriction of the use of power equipment (gas-powered leaf blowers and trimmers) by professional yard maintenance workers after 6 p.m. (at least on weekends). This matter will be considered again by the City Council on April 28, 2014.

Upon conclusion of the City Council's review of the other formal [7 p.m.] agenda issues, Council President Smith stated that this meeting is adjourned.



Steven Boone, City Clerk

**MINUTES OF THE REGULAR MEETING OF THE  
CITY COUNCIL OF THE CITY OF MOUNTAIN BROOK, ALABAMA  
APRIL 14, 2014**

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The City Council of the City of Mountain Brook, Alabama met in public session in the City Hall Council Chamber (Room A108) at 7:00 p.m. on Monday, the 14th day of April, 2014. The Council President called the meeting to order and the roll was called with the following results:

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

Absent: William S. Pritchard, III

Also present were City Attorney Whit Colvin, City Manager Sam Gaston, and City Clerk Steven Boone.

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

**1. BIRMINGHAM CHILDRENS' THEATRE**

Jack Lemmon, Executive Director of Birmingham Children's Theatre, addressed the Mayor and members of the City Council. The purpose of the discussion is to remind everyone about the Childrens' Theatre. The Theatre reaches approximately 90,000 people annually (more than 3,000 from Mountain Brook). The Theatre also provides programs to The Emmet O'Neal Library. Ticket sales account for 71% of the Theatre's budget—the rest from contributions, grants, and service contracts collectively totaling about \$360,000 annually. The Theatre will be soliciting support from various communities including Mountain Brook in the near future.

**2. PERRY CARROLL, CANDIDATE FOR ELECTION TO JEFFERSON COUNTY CIRCUIT JUDGE, PLACE 10**

Perry Carroll solicited the support of the Mayor and Council members in her bid for election as Jefferson County Circuit Judge, Place 10.

**3. CONSENT AGENDA**

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

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

<b>2014-041</b>	Reappoint Elizabeth Dunn to the Mountain Brook Board of Education.	Exhibit 1
<b>2014-042</b>	Authorize the execution of an amended agreement for the purchase and installation of a pedestrian crossing signal at the intersection of Montevallo Road and Overhill Road.	Exhibit 2, Appendix 1
<b>2014-043</b>	Set a public hearing for Monday, May 12, 2014 to consider an ordinance rezoning the parcels of land (referred to by the applicant as "The Manning") located at 2400, 2404, 2408, 2418, 2420, 2422, and 2424 Cahaba Road and 2333 Lane Circle from Residence C to Residence D district.	Exhibit 3

<b>2014-044</b>	Set a public hearing for Tuesday, May 27, 2014 to consider vacating the alleyway at "The Manning" located at 2400, 2404, 2408, 2418, 2420, 2422, and 2424 Cahaba Road and 2333 Lane Circle.	Exhibit 4, Appendix 2
<b>2014-045</b>	Set a public hearing for Monday, May 12, 2014 to consider an ordinance rezoning a parcel of land owned by Mangina & Levio, LLC located at 2117 Cahaba Road from Residence C to Local Business district.	Exhibit 5
<b>2014-046</b>	Recommend to the ABC Board their issuance of a special event license to La Paz for its Cinco de Mayo celebration in their parking lot on May 5, 2015.	Exhibit 6, Appendix 3
<b>2014-048 Motion</b>	Authorize the approval of a Special Event permit for the operation of a Farmers' Market on Vine Street on Wednesdays from June 4 through August 6, 2014 from 4 p.m. until 8 p.m.	
<b>2014-049 Motion</b>	Declaration of a public safety emergency due to the damage to the storm drain, street, and sidewalk on Bethune Drive near the high school caused by the April 7, 2014 heavy rain storm and authorize the execution of a contract between the City and Rast Construction for the emergency repairs of said storm drain, roadway, and sidewalk.	Exhibit 7, Appendix 4

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

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

Nays: None

Council President Smith thereupon declared that said minutes and resolutions (nos. 2014-041 through 046) and motions (nos. 2014-048 and 049) are adopted by a vote of 4—0.

**4. CONSIDERATION OF AN ORDINANCE (NO. 1902) AUTHORIZING A THREE-WAY STOP AT THE INTERSECTION OF DEXTER AVENUE AND WEST MONTCREST DRIVE (EXHIBIT 8, APPENDIX 4)**

Council President Smith introduced the ordinance in writing and invited comments and questions from the audience. There being no discussion or comments, Council member Vogtle made a motion that all rules and regulations which, unless suspended, would prevent the immediate consideration and adoption of said ordinance be suspended, and that unanimous consent for the immediate consideration of said ordinance be given and that the reading of the ordinance at length be waived. The motion was seconded by Council member Carl and was carried, as follows:

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

Nays: None

The President of the Council declared the motion carried by a vote of 5—0.

After said ordinance had been considered in full by the Council, Council member Vogtle moved for the adoption of said ordinance. The motion was seconded by Council member Carl. Thereupon, Council President Smith called for vote with the following results:

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

Nays: None

The President of the Council declared that the ordinance (No. 1902) is hereby adopted by a vote of 4—0 and, as evidence thereof, she signed the same.

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

Council President Smith announced that the next meeting of the Mountain Brook City Council will be held on Monday, April 28, 2014 at 7 p.m. in the Council Chamber of City Hall located at 56 Church Street, Mountain Brook, AL 35213. Please visit the City's web site ([www.mtnbrook.org](http://www.mtnbrook.org)) for more information.

**6. ADJOURNMENT**

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



Steven Boone, City Clerk

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**EXHIBIT 1**

**RESOLUTION NO. 2014-041**

**BE IT RESOLVED** by the City Council of the City of Mountain Brook, Alabama, that Elizabeth Dunn is hereby re-appointed to the Mountain Brook Board of Education, to serve without compensation, with the term of office to end May 31, 2019.

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**EXHIBIT 2**

**RESOLUTION NO. 2014-042**

**BE IT RESOLVED** by the City Council of the City of Mountain Brook, Alabama that the City Council hereby authorizes the execution of a [revised] 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 Montevallo Road (previously authorized for execution on January 14, 2013, Resolution No. 2013-005).

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**APPENDIX 1**

**EXHIBIT 3****RESOLUTION NO. 2014-043**

**BE IT RESOLVED** by the City Council of the City of Mountain Brook that, at the meeting of the City Council to be held on Monday, May 12, 2014, at 7:00 p.m., in the Council Chamber of the Mountain Brook City Hall located at 56 Church Street, Mountain Brook, Alabama 35213, the City Council will hold a public hearing regarding a proposal that the zoning classification of the property as more fully described herein below be established as Residence-D District under the Mountain Brook City Code.

**BE IT FURTHER RESOLVED** by the City Council of the City of Mountain Brook that the City Clerk be, and he hereby is, authorized and directed to cause to be published not fewer than twenty-two days prior to May 12, 2014, by posting in four (4) conspicuous places within the City of Mountain Brook, as follows: City Hall, 56 Church Street, Gilchrist Drug Company, 2805 Cahaba Road, Overton Park, 3020 Overton Road, and The Invitation Place, 3150 Overton Road, a notice in words and figures substantially as follows:

**“ZONING NOTICE**

Notice is hereby given that at a regular meeting of the City Council of the City of Mountain Brook to be held on Monday, May 12, 2014, at 7:00 p.m., in the Council Chamber of the Mountain Brook City Hall located at 56 Church Street, Mountain Brook, Alabama 35213, the City Council will hold a public hearing regarding a proposal that the City Council adopt an ordinance in words and figures substantially as follows:

**‘ORDINANCE NO.**

**AN ORDINANCE TO REZONE CERTAIN PARCELS  
OF LAND IN THE CITY OF MOUNTAIN BROOK, ALABAMA  
FROM RESIDENCE C DISTRICT TO RESIDENCE D DISTRICT**

**WHEREAS**, after due consideration, the City Council has determined that the zoning classification of the real estate owned by Margi Ingram and Charles Ray Ingram which is located along Cahaba Road, as more particularly described below, should be zoned Residence D District such property being presently zoned Residence C District.

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

Section 1. The zoning map of the City of Mountain Brook, as referred to in Chapter 129, Article VII of the Mountain Brook City Code, as amended from time to time, is hereby further amended by zoning to Residence D District the following described real property said property currently zoned Residence C District:

**LOTS 1-8 IN THE SOUTH HIGHLANDS SUBDIVISION ALONG WITH THE ADJACENT ALLEYS LOCATED TO THE SOUTH AND EAST OF SAID LOTS, AS PER MAP BOOK 7, PAGES 105 AND 106, AS RECORDED IN THE PROBATE OFFICE OF JEFFERSON COUNTY, ALABAMA.**

Section 2. The provisions of this ordinance are severable. If any provision of this ordinance is held by a court of competent jurisdiction to be invalid, such invalidity shall in no way affect the remaining provisions of this ordinance.

Section 3. This ordinance shall become effective when published by posting the same as required by law.’

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

**BE IT FURTHER RESOLVED** that the City Clerk be, and he hereby is, further authorized and directed to give written notice of the hearing to the owners of the property located in whole or in part within

500 feet from the boundaries of the property described in this resolution in the form and manner and within the time required by Act No. 1123 of the 1973 Regular Session of the Legislature of Alabama.

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

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**EXHIBIT 4**

**RESOLUTION NO. 2014-044**

**BE IT RESOLVED** by the City Council of the City of Mountain Brook that, at its regular meeting to be held on Tuesday, May 27, 2014 at 7:00 p.m., in the Council Meeting Room at Mountain Brook City Hall, 56 Church Street, Mountain Brook, Alabama, the City Council will hold a public hearing to consider vacation of certain alleys identified in a Petition for Vacation filed with the City by Margi Ingram and Charles Ray Ingram, the owners of property to the north and west of the alleys for which vacation is being requested.

**BE IT FURTHER RESOLVED** by the City Council of the City of Mountain Brook, Alabama, that the City Clerk shall be authorized and directed to publish notice of said proposed hearing on the requested vacation in accordance with the ordinary and customary practice of the City of Mountain Brook.

**BE IT FURTHER RESOLVED** by the City Council of the City of Mountain Brook, Alabama, that the City Clerk is authorized and directed to publish such further notice of the proposed hearing as may be required by law, more particularly as specified in Section 23-4-2 of the *Code of Alabama* (1975).

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**APPENDIX 2**

**EXHIBIT 5**

**RESOLUTION NO. 2014-045**

**BE IT RESOLVED** by the City Council of the City of Mountain Brook that, at the meeting of the City Council to be held on Monday, May 12, 2014, at 7:00 p.m., in the Council Chamber of the Mountain Brook City Hall located at 56 Church Street, Mountain Brook, Alabama 35213, the City Council will hold a public hearing regarding a proposal that the zoning classification of the property as more fully described herein below be established as Local Business District under the Mountain Brook City Code.

**BE IT FURTHER RESOLVED** by the City Council of the City of Mountain Brook that the City Clerk be, and he hereby is, authorized and directed to cause to be published not fewer than twenty-two days prior to May 12, 2014, by posting in four (4) conspicuous places within the City of Mountain Brook, as follows: City Hall, 56 Church Street, Gilchrist Drug Company, 2805 Cahaba Road, Overton Park, 3020 Overton Park, and The Invitation Place, 3150 Overton Road, a notice in words and figures substantially as follows:

**“ZONING NOTICE**

Notice is hereby given that at a regular meeting of the City Council of the City of Mountain Brook to be held on Monday, May 12, 2014, at 7:00 p.m., in the Council Chamber of the Mountain Brook City Hall located at 56 Church Street, Mountain Brook, Alabama 35213, the City Council will hold a public hearing regarding a proposal that the City Council adopt an ordinance in words and figures substantially as follows:

**'ORDINANCE NO.**

**AN ORDINANCE TO REZONE A CERTAIN PARCEL  
OF LAND IN THE CITY OF MOUNTAIN BROOK, ALABAMA  
FROM RESIDENCE C DISTRICT TO LOCAL BUSINESS DISTRICT**

**WHEREAS**, after due consideration, the City Council has determined that the zoning classification of the real estate owned by Mangina & Levio, LLC which is located at 2117 Cahaba Road, as more particularly described below, should be zoned Local Business District such property being presently zoned Residence C District.

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

Section 1. The zoning map of the City of Mountain Brook, as referred to in Chapter 129, Article XII of the Mountain Brook City Code, as amended from time to time, is hereby further amended by zoning to Local Business District the following described real property said property currently zoned Residence C District:

LOT 11 IN BLOCK 9, FIRST ADDITION TO SOUTH HIGHLANDS, AS RECORDED IN MAP BOOK 7 PAGE 105 IN THE OFFICE OF THE JUDGE OF PROBATE OF JEFFERSON COUNTY, ALABAMA.

Section 2. The provisions of this ordinance are severable. If any provision of this ordinance is held by a court of competent jurisdiction to be invalid, such invalidity shall in no way affect the remaining provisions of this ordinance.

Section 3. This ordinance shall become effective when published by posting the same as required by law.'

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

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

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

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**EXHIBIT 6**

**RESOLUTION NO. 2014-046**

**BE IT RESOLVED** by the City Council of the City of Mountain Brook, Alabama, that the City Council hereby recommends to the State of Alabama, Alcoholic Beverage Control Board, the issuance of a 140 – Special Events Retail License to Red Mountain Restaurant Group, LLC, doing business as Cinco de Mayo 2014, for their May 5, 2014 outdoor patio event to be held in the parking lot located at 99 Euclid Avenue.

**BE IT FURTHER RESOLVED** that the City Clerk is hereby instructed to forward a copy of this resolution to the State of Alabama, Alcoholic Beverage Control Board.

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**APPENDIX 3**

**EXHIBIT 7****2014-049 DECLARATION OF A PUBLIC SAFETY EMERGENCY**

On this the 14<sup>th</sup> day of April, 2014, the City Council hereby declares a public safety emergency due to the damage to the storm drain, street, and sidewalk on Bethune Drive near the high school caused by the heavy rain storm event that occurred on April 7, 2014. The damage to said storm drain resulted in significant erosion that has undermined the road and adjacent sidewalk. Due to the severity of the damage and because Bethune Drive is a major thoroughfare to and from the high school, the City Council deems it necessary to authorize the execution of a contract between the City and Rast Construction for the emergency repairs of said storm drain, roadway, and sidewalk in consideration of approximately \$125,440. The City Council hereby authorizes the closure of said roadway for the duration of said emergency repairs as deemed appropriate by the City's Public Works Superintendent and Acting Chief of Police.

**APPENDIX 4**



STONE ELECTRIC CO., INC.

www.StoneElectric.com

4624 5TH AVENUE SO. BIRMINGHAM, AL 35222 PHONE (205) 592-6313 FAX (205) 592-6315

DATE: April 1, 2014

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 Montevalle Road in Mountain Brook, Alabama which property is owned by City of Mountain Brook.

DESCRIPTION OF WORK AND PRICE:

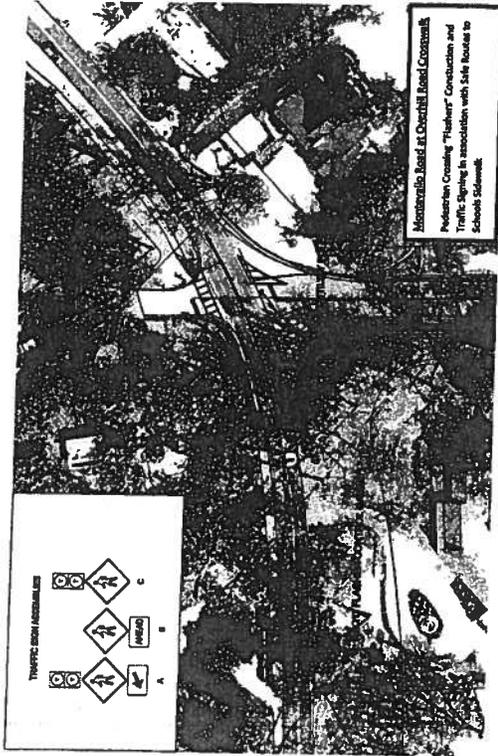
Electronic Pedestrian Flasher at Overhill Road and Montevalle Road in the City of Mountain Brook, AL.

Total Amount of Contract 613,777.00

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.



Montevalle Road at Overhill Road Construction Pedestrian Crossing Flasher Construction and Traffic Signs in Association with Safe Routes to Schools Statement

APPENDIX I

\*INDUSTRIAL \*COMMERCIAL EST. 1945 \*TRAFFIC \*FIBER OPTIC 2014042

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 fire, flood or other casualty; labor disputes or other disagreements; and accidents or other mishaps, whether affecting this work or other operations in which we are involved, directly or indirectly.

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 By: Sam S. Gaston City Manager

STONE ELECTRIC CO., INC. CONTRACTOR By: Paula G. Woodall Paula G. Woodall, President Federal Identification No 63-0362585

ACORD CERTIFICATE OF LIABILITY INSURANCE form with sections for PRODUCE, INSURANCE LIST, COVERAGES, and CANCELLATION.

ADDENDUM TO AGREEMENT BETWEEN THE CITY OF MOUNTAIN BROOK AND STONE ELECTRIC CO., INC. DATED APRIL 14, 2014

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 APRIL 14, 2014.

This Addendum is a part of the principal agreement, but amends 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.

- 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,

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

DATED this 14th day of April, 2014.

Stone Electric Co., Inc.

City of Mountain Brook, Alabama

By: [Signature]
Its: President

By: [Signature]
Its: Mayor

APPENDIX I

2014-042

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 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

Sam Gaston

From: Tom Campbell
Sent: Monday, April 07, 2014 1:21 PM
To: 'Sam Gaston'
Subject: RE: Amended contract

Sam, we will send an amended contract ASAP. The reason for the increase is as follows, which is a copy of my email to Scott Coltrah of Saln:

Scott, after careful review we find that we originally quoted this project to you on behalf of the City of Mountain Brook on December 27, 2012. Since that time there have been several price increases on both the basic equipment and the other building material required to make a complete assembly. The current price on the HDPE bored under the roadway has increased by \$5.00 per foot x 50 feet = \$250.00. But the biggest increase has been in the signal equipment itself. As quoted in 2012 the signal package cost us \$5,583. The new price on same equipment has risen to \$7,676, a difference of \$2,293 plus additional taxes and OH&P. The total difference would be \$3,277 with both the boring and the equipment increase including taxes and OH&P. Delivery time for this equipment is 12 weeks +/-.

I no longer have the original quote on the signal equipment, as we thought the COMB had decided to go elsewhere with their work, and had filed this in the "missed quotes" file box. I do have the current quote from Tomple on the signal equipment showing the current price of \$7,676.00, which I will scan and send under a separate email. We appreciate the work and look forward to working with you again in the near future.

Tom Campbell
SEC Stone Electric Co., Inc.
4624 5th Avenue South
Birmingham, AL 35222
(205) 992-6313 Ext. 204
(205) 251-6522 Fax
(205) 567-3526 Cell

From: Sam Gaston [mailto:gastons@mnbrook.org]
Sent: Monday, April 07, 2014 10:24 AM
To: Tom Campbell
Cc: Steve Boone
Subject: Amended contract

Tom,
Can you send us an amended contract for the pedestrian signals at Montevallo and Overhill by Thursday of this week? Also, send me some comments/justification for the price increase over our previous contract.
This item will be on the April 14th Council meeting agenda.

Sam S. Gaston
City Manager
City of Mountain Brook, AL
56 Church Street
P.O. Box 130009
Mountain Brook AL, 35213
(205) 802-3803 Phone
(205) 870-3577 Fax

Temple, Inc.  
 P.O. Box 2066  
 Decatur, Alabama 35602-2066  
 Phone 1-800-633-3221  
 Fax (256) 353-4578



Serving the South Since 1954!

City of Mountain Brook, AL

DATE	March 27, 2014
TERMS	NET 30
DELIVERY	8-10 Weeks, A.R.O.
SALESMAN	Tim Clinger

**CONDITIONS:** The prices and terms on this quotation are not subject to verbal changes or other agreements unless approved in writing by Temple, Inc. All quantities and agreements are contingent upon written orders, accidents, fire, availability of materials and all other causes beyond our control. Prices are based on items and conditions as listed on date of quotation and are subject to change by Temple, Inc. before final acceptance. Freight will be prepaid and allowed unless otherwise noted on this quotation.

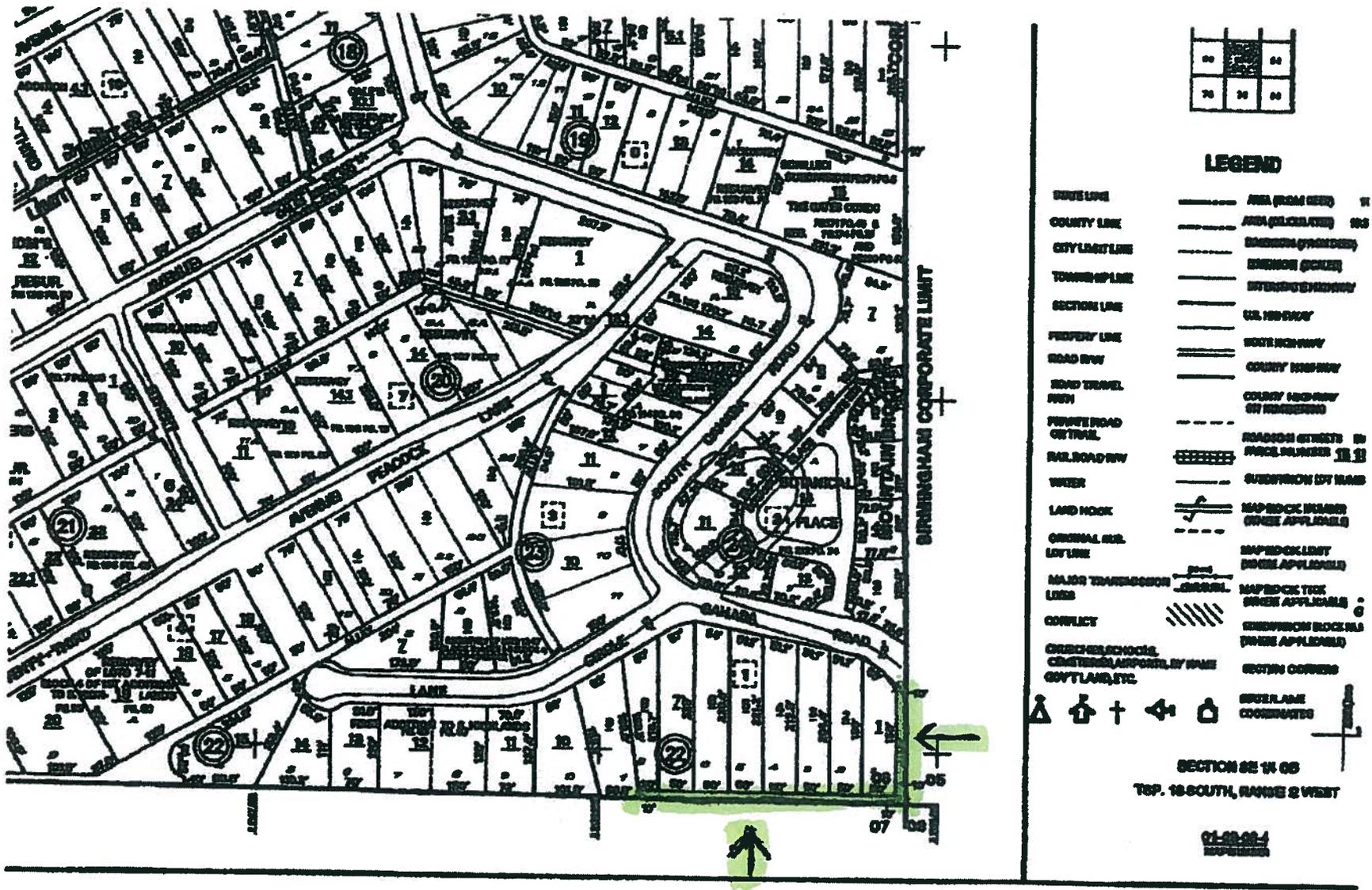
Quantity	Description	Price	Amount
	Montevalle Rd @ Overhill Rd Ped Crossing		
1	NEMA Flasher Cabinet (Green) W/Indicator Light	\$1,038.00	\$1,038.00
3	2 section signals to include: 1 SG102A1C1100G20 Alarm Green housing 2 DR8-VTFB-20A-40 Yellow LED 1 SE-3037 top of pole h/w green	\$619.00	\$1,857.00
2	Push Buttons to include: 1 BDL3-G Green Building button 1 BDP4-G Green Hardware for button (Note: sign not included)	\$126.00	\$252.00
2	Ped Pole w/Sign to include: 1 PB-5100-18 Green Ped Pole 1 PB-6336 Green Base 1 UA342 Anchor Bolt 1 W11-2 3/8x38 Sign 1 W16-7 30x18 Sign 2 SH-0204 Sign h/w (Note: Back of signs not painted)	\$817.00	\$1,634.00
1	Ped Pole w/Sign to include: 1 PB-5100-15 Green Ped Pole 1 PB-6336 Green Base 1 UA342 Anchor Bolt 1 W11-2 3/8x38 Sign 2 SH-0204 Sign h/w (Note: Back of signs not painted)	\$872.00	\$872.00
2	Ped Pole w/Sign to include: 1 PB-5100-18 Green Ped Pole 1 PB-6336 Green Base 1 UA342 Anchor Bolt 1 W11-2 3/8x38 Sign 1 W16-30 30x18 Sign 2 SH-0204 Sign h/w (Note: Back of signs not painted)	\$917.00	\$1,834.00
			7676.00

Quote Valid For 30 Days.

SALESMAN

*T. Clinger*

APPENDIX I



01-22-2014  
DIS- 2008

**EXHIBIT A**  
 (Alleys to be vacated, located to the South and East of Lots 1-8 in the  
 South Highlands Subdivision, shown here as highlighted)  
 APPENDIX 2

2014-044

04/14/2014 09:36 p 04-14-'14 07:32 FROM- RetailSpecialistsIn Page: 1 205-313-3877 T-178 P0004/0006 F-587



STATE OF ALABAMA ALCOHOLIC BEVERAGE CONTROL BOARD ALCOHOL LICENSE APPLICATION Confirmation Number: 20140411105319839



Type License: 140 - SPECIAL EVENTS RETAIL State: ALABAMA County: JEFFERSON Trade Name: CINCO DE MAYO 2414 State: ALABAMA County: JEFFERSON Applicant: RED MOUNTAIN RESTAURANT GROUP LLC Transfer Fee: \$50.00 Location Address: PARKING LOT OF 99 EUCLID AVE MOUNTAIN BROOK, AL 35213 Mailing Address: 99 EUCLID AVE MOUNTAIN BROOK, AL 35213 County: JEFFERSON Tobacco sales: NO Tobacco Vending Machines: No Sales of Products Containing Ephedrine: NO Type Ownership: LLC Book, Page, or Document Ref: LR200806 24010 Do you sell Draft Beer: No Date Incorporated: 05/30/2006 State Incorporated: AL County Incorporated: JEFFERSON Date of Authority: 05/30/2006 Alabama State Sales Tax ID: R000723755

Table with 4 columns: Name, Title, Date and Place of Birth, Residence Address. Includes names like TODD BECKER, CAROLYN HANSHAW, and CHARLES MICHAEL MAYBOS.

Has applicant complied with financial responsibility ABC RR 30-X-5-147 YES Does ABC have any actions pending against the current licensee? NO Has anyone, including manager or applicant, had a Federal/State permit or license suspended or revoked? NO Has a liquor, wine, malt or brewed license for these premises ever been denied, suspended, or revoked? NO Are the applicant(s) named above, the only person(s), in any manner interested in the business sought to be licensed? YES Are any of the applicants, whether individual, member of a partnership or association, or officers and directors of corporation listed in any manner monetarily interested, either directly or indirectly, in the profits of any other class of business regulated under authority of this act? NO Does applicant own or control, directly or indirectly, hold title against any real or personal property which is rented, leased or used in the conduct of business by the holder of any liquor, wine, malt or brewed beverage, or distilled liquor permit or license issued under authority of this act? NO Is applicant receiving, either directly or indirectly, any loan, credit, money, or the equivalent thereof from or through a subsidiary or affiliate or other licensee, or from any firm, association or corporation operating under or regulated by the authority of this act? NO

Contact Person: TODD BECKER Home Phone: 205-293-2626 Business Phone: 205-979-2225 Cell Phone: 205-293-2626 E-mail: TBECKER@RETAILSOLUTIONS-ALC.COM

PREVIOUS LICENSE INFORMATION: Trade Name: Previous License Number(s): License 1: License 2:

04/14/2014 09:36 p 04-14-'14 07:32 FROM- RetailSpecialistsIn Page: 1 205-313-3877 T-178 P0004/0006 F-587



STATE OF ALABAMA ALCOHOLIC BEVERAGE CONTROL BOARD ALCOHOL LICENSE APPLICATION Confirmation Number: 20140411105319839



Initials each Signature page In reference to the questions, I attest to the truthfulness of the responses given within the application, in reference to the license opportunity authority, I attest to the truthfulness of the responses given within the application. In reference to ACT Sec. 80-625, I understand that if my application is denied or discontinued, I will not be refunded the filing fee required by this application. In reference to Special Retail or Special Events retail license, I agree to comply with all applicable laws and regulations concerning this class of license, and to observe the special terms and conditions as indicated within the application. In reference to the Club Application information, I attest to the truthfulness of the responses given within the application. In reference to the transfer of license information, I attest to the truthfulness of the information listed on the applicant transfer agreement. In accordance with Alabama Statute 8 Regulators 30-X-5-8 (1)(c), any social security number disclosed under this application shall be used for the purpose of investigation or verification by the ABC Board and shall not be a matter of public record. The undersigned agrees, if a license is issued as herein applied for, to comply at all times with and to fully observe all the provisions of the Alabama Alcoholic Beverage Control Act, as appears in Code of Alabama, Title 20, and all laws of the State of Alabama relative to the handling of alcoholic beverages. The undersigned, I consent to furnish requested, before approval in any of rules and regulations promulgated by the board relative to all alcoholic beverages received in this State. The undersigned, if issued a license as herein requested, also agrees to allow and hereby irrevocably authorizes agents of the Alabama Alcoholic Beverage Control Board and any duly commissioned law enforcement officer of the State, County or municipality in which the license premises are located to enter and search without a warrant the licensed premises or any building owned or occupied by him or her in connection with the enforcement of laws and regulations of the State of Alabama relative to the handling of alcoholic beverages. The undersigned hereby understands and agrees that no discharge in the manner of operation and no dilution or discontinuance of any services or facilities as described in this application will be allowed without the approval of the proper governing body and the Alabama Alcoholic Beverage Control Board. I hereby swear and affirm that I have read the application and all statements therein and both are true and correct, and that the applicant is the only person interested in the business for which the license is required.

Applicant Name (print): TODD P. BECKER Signature of Applicant: [Signature] Notary Name (print): [Signature] Notary Signature: [Signature] Commission expires: Application Taken: 4/14/14 App. Inv. Completed: Forwarded to District Office: 4/14/14 Submitted to Local Government: Received from Local Government: Received from District Office: 4/14/14 Received by Supervisor: Forwarded to Central Office:

APPENDIX 3

04/14/2014 09:36 p 04-14-'14 07:32 FROM- RetailSpecialistsIn Page: 1 205-313-3877 T-178 P0003/0006 F-587



STATE OF ALABAMA ALCOHOLIC BEVERAGE CONTROL BOARD ALCOHOL LICENSE APPLICATION Confirmation Number: 20140411105319839



If applicant is leasing the property, is a copy of the lease agreement attached? YES Name of Property owner/lessor and phone number: SOUTHSPACE MANAGEMENT INC 205-326-2222 What is lessor primary business? REAL ESTATE Is lessor involved in any way with the alcoholic beverage business? NO Is there any further interest, or connection with, the licensee's business by the lessor? NO Does the premise have a fully equipped kitchen? YES Is the business used to habitually and principally provide food to the public? YES Does the establishment have restroom facilities? YES Is the premise equipped with services and facilities for on premise consumption of alcoholic beverages? YES Will the business be operated primarily as a package store? NO Building Dimensions Square Footage: 99999 Display Square Footage: Building seating capacity: 99999 Does Licensed premises include a public area? YES License Structure: SHOPPING CENTER License covers: OTHER Number of licenses in the vicinity: 10 Nearest: 1 Nearest school: 3 blocks Nearest church: 1 miles Nearest residence: 1 blocks Location is within: CITY LIMITS Police protection: CITY

Has any person(s) with any interest, including manager, whether as sole applicant, officer, member, or partner been charged (whether convicted or not) of any law violation(s)?

Table with 4 columns: Name, Violation & Date, Arresting Agency, Disposition.

04/14/2014 09:36 p 04-14-'14 07:32 FROM- RetailSpecialistsIn Page: 1 205-313-3877 T-178 P0003/0006 F-587



STATE OF ALABAMA ALCOHOLIC BEVERAGE CONTROL BOARD ALCOHOL LICENSE APPLICATION Confirmation Number: 20140411105319839



Private Club Does the club charge and collect dues from elected members? Number of paid up members: Are meetings regularly held? How often? Is business conducted through officers regularly elected? Are members admitted by written application, investigation, and ballot? Has Agent verified membership applications for each member listed? Has at least 10% of members listed been confirmed and highlighted? For what purpose is the club organized? Agent's initials: Does the property used, as well as the advantages, belong to all the members? Do the operations of the club benefit any individual member(s), officer(s), director(s), agent(s), or employee(s) of the club rather than to benefit of the entire membership? Special Retail Is it for 30 days or less? More than 30 days? Franchisee or Concessionaire of above? Other valid responsible organization: Explanation: Special Events / Special Retail (7 days or less) Starting Date: 04/04/14 Ending Date: 04/04/14 Special terms and conditions for special events/special retail: NO TO GO SALES PERMITTED

Other Explanations License Covers: OUTDOOR EVENT HELD ON PATIO AND IN THE PARKING LOT Are there any special restrictions, instructions, and/or conditions for this license? NO TO GO SALES, PREMISES WILL BE BARRICADED W/ ONLY 2 ENTRANCES SECURED BY MTN BROOK PD

Receipt Confirmation Page  
 Receipt Confirmation Number: 20140411105310830  
 Application Payment Confirmation Number: 9223252

Application Fee for License 140	Year Amount to be paid	150.00
140 - SPECIAL EVENTS RETAIL		150.00

License Payment Confirmation Number:

License Fee	Amount	150.00
140 - SPECIAL EVENTS RETAIL		150.00

Application Type

Application Type: APPLICATION

Applicant Information

License Type 1: 140 - SPECIAL EVENTS RETAIL  
 License Type 2: JEFFERSON  
 Business Type LLC  
 Trade Name: CINCO DE MAYO 2014  
 Applicant Name: RED MOUNTAIN RESTAURANT GROUP LLC  
 Location Address: PARKING LOT OF 98 EUCLID AVE  
 MOUNTAIN BROOK, AL 35213  
 Mailing Address: 98 EUCLID AVE  
 MOUNTAIN BROOK, AL 35213  
 Contact Person: TODD BECKER  
 Contact Home Phone: 205-283-3126  
 Contact Business Phone: 205-879-2225  
 Contact Cell Phone: 205-283-3126  
 Contact Email Address:  
 Contact Web Address:

fax

TO: Doris Kermy, City of Mtn Brook FROM: Todd Becker, La Paz  
 FAX: 205-870-3577 PAGES: 6  
 PHONE: DATE: 4/14/2014  
 RE: Cinco de Mayo special events permit CC:

Urgent  For Review  Please Comment  Please Reply  Please Recycle

Comments:

Doris, Ellen asked me to fax this to you to get on the docket for approval for tonight's meeting.  
 Please email me at tbecker@restaurantsolutions-llc.com to confirm receipt and let me know if you have any questions.

Thankst

*TBecker*

APPENDIX 3



CITY OF MOUNTAIN BROOK  
 P. O. Box 130009  
 Mountain Brook, Alabama 35213-0009  
 Telephone: 205.802.2400  
 Facsimile: 205.874.0811  
 www.mtnbrook.org

April 15, 2014

HP LaserJet 3100 Printer/Fax/Copier/Scanner SEND CONFIRMATION REPORT for CITYOFMTNBROOKAL 2058798913 Apr-15-14 11:40

Job	Start Time	Usage	Phone Number or ID	Type	Pages	Mode	Status
281	4/15 11:38	1'54"	89423784	Send	7/7	EC144	Completed
Total		1'54"	Pages Sent: 7	Pages Printed: 0			

Alabama ABC Board  
 211 Summit Parkway, Suite 106  
 Crescent Center  
 Homewood, AL 35209

Facsimile: (205) 942-3784

Ladies and gentlemen:

Attached is a copy of a resolution passed at the April 14, 2014, regular meeting of the Mountain Brook City Council recommending the issuance of a 140 - Special Events Retail license to:

Red Mountain Restaurant Group, LLC (dbaCinco de Mayo 2014)

If you have any questions, please call me at 802-3825.

Sincerely,

*Steven Boone*  
 Steven Boone,  
 City Clerk

Enclosure

C: Todd Becker, tbecker@restaurantsolutions-llc.com  
 (205) 879-2225



CITY OF MOUNTAIN BROOK  
 110 West 10th  
 Mountain Brook, Alabama 35213-0009  
 Telephone: 205.802.2400  
 Facsimile: 205.874.0811  
 www.mtnbrook.org

April 15, 2014

Alabama ABC Board  
 211 Summit Parkway, Suite 106  
 Crescent Center  
 Homewood, AL 35209

Facsimile: (205) 942-3784

Ladies and gentlemen:

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Red Mountain Restaurant Group, LLC (dbaCinco de Mayo 2014)

If you have any questions, please call me at 802-3825.

Sincerely,

*Steven Boone*  
 Steven Boone,  
 City Clerk

Enclosure

C: Todd Becker, tbecker@restaurantsolutions-llc.com  
 (205) 879-2225



CITY OF MOUNTAIN BROOK

44 Canton Street  
P.O. Box 18009  
Mountain Brook, Alabama 35213  
Telephone: 205-422-2800  
Fax: 205-422-2571  
Website: [www.mtnbrook.org](http://www.mtnbrook.org)

SAM S. GASTON  
CITY MANAGER  
March 31, 2014

Sam Gaston

From: Cory Jackson Jr  
Sent: Thursday, April 03, 2014 12:04 PM  
To: [gastons@mtnbrook.org](mailto:gastons@mtnbrook.org)  
Subject: FW: Proposed three way stop Dexter and W. Montcrest

Dear Resident:

As you may know, the City of Mountain Brook, through a Safe-Routes-to-Schools grant, will be constructing a sidewalk along West Montcrest Drive from Euclid Avenue to Jackson Blvd. Due to this sidewalk construction and the addition of a crosswalk at West Montcrest and Dexter Avenue, a request has been received for the City to make this intersection a 3-way stop. Attached are two (2) maps showing the location of the sidewalks and the proposed stop signs.

The Mountain Brook City Council will consider this request at its April 14, 2014 meeting which will begin at 7:00 p.m. You are invited to attend this Council meeting to express your opinion about this proposed 3-way stop. If you cannot attend the City Council meeting on April 14<sup>th</sup> but would like to provide feedback on this proposal, please contact me at 802-3803 or [gastons@mtnbrook.org](mailto:gastons@mtnbrook.org).

Sincerely,

Sam S. Gaston  
City Manager

From: Cory Jackson Jr  
Sent: Thursday, April 3, 2014 12:01 PM  
To: [Gastons@mtnbrook.org](mailto:Gastons@mtnbrook.org)  
Cc: Lee Anne Jackson ([annejackson@hotmail.com](mailto:annejackson@hotmail.com))  
Subject: Proposed three way stop Dexter and W. Montcrest

Dear Mr. Gaston,

I am a 14 year resident of 711 Euclid Avenue which is located at the intersection of Euclid Avenue and West Montcrest Drive. In case business prevents me from attending the April 14<sup>th</sup> meeting, I would like to say that I am opposed to the proposed 3-way stop at Dexter and W. Montcrest. I have driven this intersection at least 2x a day for the past 14 years. Traffic speed is slow, mainly due to all the on-street parking. I do not recall ever seeing any sort of congestion requiring additional traffic control. So please put me down as opposed to the additional stop signs.

In case the issue of the sidewalk is in doubt, I am also opposed to the sidewalk at this location adjacent to my residence. 1) It decreases the utility of my paved parking on the side of the street (which has existed since the 1960's). 2) It re-directs pedestrian traffic to within approximately 15' of my bedroom window. I can already hear joggers/walkers when they walk in the street now. 3) West Montcrest is very wide here and there already is adequate space for both pedestrians and vehicular traffic. 4) The lack of injuries and skid marks from emergency stops indicate a demonstrable lack of need.

I thank the City and City Council for their consideration.

Cory G. Jackson, Jr. CHA  
President  
Jackson Hospitality Services  
One Office Park Circle, Suite 101  
Birmingham, AL 35223  
205-879-1241 - O  
205-879-1281 - F  
205-902-4377 - C  
[www.jacksonhospitality.com](http://www.jacksonhospitality.com)

4/3/2014

APPENDIX 4

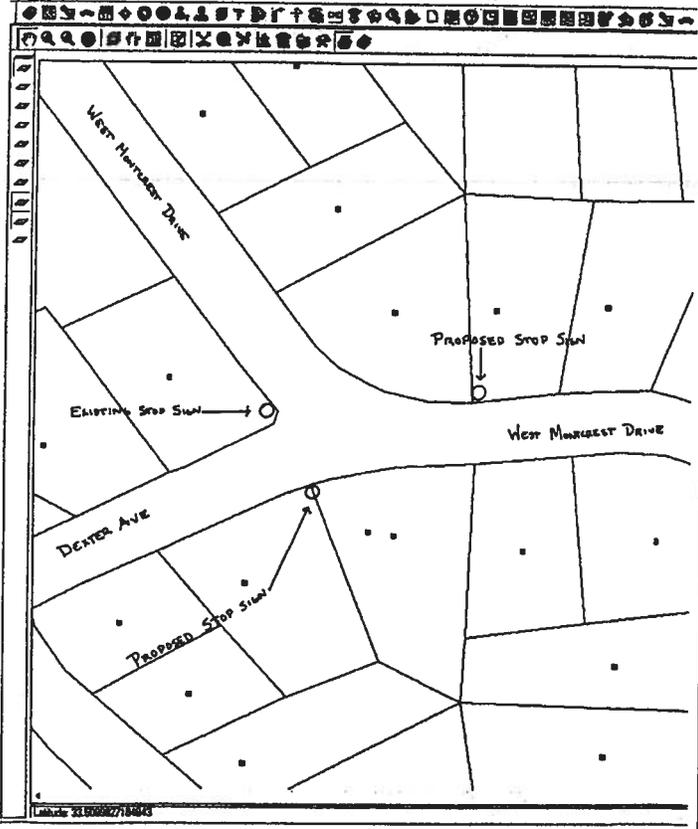
Sam Gaston

From: Fletcher@abmwood.com  
Sent: Wednesday, April 02, 2014 4:28 PM  
To: [gastons@mtnbrook.org](mailto:gastons@mtnbrook.org)  
Subject: 4 West Montcrest Drive

Sam,  
Kimberly and I am pleased with ANY change, that may cause people to slow down, while driving in our neighborhood. Frankly, I'd love a speed hump in front of our house to slow folks down, particularly those driving from Jackson Strant. Only by the grace of God, have none of the children on our street been hit. There have been many close calls, though. Perhaps you have heard me yell "SLOW DOWN" from your office. Moms and teenagers are the worst.

Thanks for what must surely be thankless tasks you address each day. Kind of like a sausage factory, it ain't pretty, but it's all good at the end.  
Shalom, Fletcher

Fletcher Horn  
Antique Building Materials  
240 Ruffner Road  
Birmingham, Alabama 35210  
205.337.2137  
[www.ABMWOOD.com](http://www.ABMWOOD.com)



CONTRACT

This contract is entered into, as of the 16th day of April, 2014, by City of Mountain Brook, an Alabama municipal corporation, ("City") whose address is 56 Church Street, Mountain Brook, Alabama 35213 (P.O. Box 130009, Mountain Brook, Alabama 35213-0009), and Rast Construction, Inc., a corporation, ("Contractor") whose address is 2901 Shannon-Oxmoor Road, Birmingham, Alabama 35211.

City and Contractor agree as follows:

Project: 48" Emergency Pipe and Headwall Replacement

- 1. Description of Work. Work to be performed at Bethune Drive. Install 48" RCP culvert pipe that has been displaced from the main 48" RCP pipe. Install headwall on end of 48" RCP. See attached quote dated April 14, 2014, Attachment A, with complete scope of work to be performed. The asphalt, concrete and other materials used by Contractor in the performance of the Work must comply with the specifications of City and ALDOT.
2. Term. This contract shall remain in effect for a period of six (6) months from the date of this contract, as provided above, and shall be subject to cancellation as provided hereinafter.
3. Commencement Date. The date of commencement is April 14, 2014 based on Contractor's receipt from City of a written or verbal notice to commence the Work. The time for completion shall be measured from the date upon which the work is commenced, but not later than forty-eight (48) hours after Contractor's receipt of such matters.
4. Completion Date. The Work shall be completed within a reasonable time, based upon the circumstances of the project, but in no event later than 8 weeks from the commencement date ("Completion Date"). If contractor is unable to complete the Work by the completion date because of matters beyond its control, including strikes, shortages of material and governmental preemption in connection with a national emergency, the time for completion of the Work shall be extended by the length of time equal to the duration of any such matter.
5. Contract Sum. The City shall pay Contractor the sum of One Hundred Twenty-Five Thousand Four Hundred Forty Dollars (\$125,440.00), ("Contract Sum")
6. Payments to Contractor. Payments shall be made to Contractor within thirty (30) days after the satisfactory completion of the Work in accordance with this Contract and upon receipt by the City of invoices requesting such payment.
7. Change Orders and Amendment of the Contract. This contract may not be amended, nor may the Work or the scope of the Work be changed, except in accordance with

MOTION 2014-049

the terms of a written change order signed by City and Contractor. No change order shall cause a modification in the Contract Sum or the time for the completion of the Work unless the change order specifically provides for such modifications.

- 8. Insurance. During the term of this contract, Contractor shall maintain in effect the following insurance, in at least the following amounts. Contractor shall furnish City certificates of insurance showing that such insurance is in full force and effect and that such insurance may not be cancelled without at least thirty (30) days' prior written notice to City.

Table with 2 columns: Insurance, Amount. Rows include Workers' compensation (statutory), General liability (\$1,000,000), and Auto liability (\$1,000,000).

9. Miscellaneous:

- a. Contractor shall obtain and pay for all necessary licenses, permits and fees required to perform the services and Work which Contractor is obligated to perform under this contract.
b. If Contractor does not perform the Work in a satisfactory manner, or in the event of any other default by Contractor under this contract, City may terminate this contract and/or may have the Work completed by another contractor or contractors during the entire, unexpired term of this Contract, in which event Contractor shall be responsible for the difference, if any, between the contract sum provided for in this contract and the total amount paid for the cost of the Work, including all sums paid to Contractor. No failure on the part of either party to exercise, and not delay in exercising, any right or remedy hereunder shall operate as a waiver thereof.
c. This Contract shall be governed by, and construed in accordance with, the laws of the State of Alabama.
d. Contractor represents to City that Contractor is generally familiar with the types or sites where the Work is to be performed.
e. Contractor shall be responsible for taking all precautions required for the safe performance and the protection of the Work.

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

ATTEST:

CITY OF MOUNTAIN BROOK

[Signature]

By:

[Signature]

Its City Clerk

Sam Gaston, City Manager

Date: 4-25-14

ATTEST:

RAST CONSTRUCTION, INC.

[Signature]

Its Corporate Secretary

Michael vonEschenbach

Its CFO (Title)

Date: 4-21-14