

MOUNTAIN BROOK CITY COUNCIL**PRE-MEETING DISCUSSION
MAY 12, 2014**

The City Council of the City of Mountain Brook, Alabama met in public session in the Pre-council Room (A106) of City Hall at 5:30 p.m. on Monday, the 12th day of May, 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
William S. Pritchard, III
Jesse S. Vogtle, Jr.
Lawrence T. Oden, Mayor

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

1. AGENDA

1. Draft driver motor vehicle policy. (Resolution No. 2014-057 was added to the formal agenda.)
2. Chief Ezekiel presented a software purchase request to the Mayor and Council to enhance connectivity for mobile computers used in public safety vehicles. (Motion No. 2014-058 was added to the formal agenda.)
3. Mike Morrison and Billy Angell spoke to the Mayor and City Council concerning mobile vendors/food trucks (Appendix 1).

The members of the City Council expressed general consensus with the notion of imposing strict regulations to effectively eliminate mobile merchants/retailers from operating in the City. The members of the City Council and Mayor expressed mixed opinions with respect to mobile food service providers. The City Attorney was instructed to revise the draft ordinance and the matter will be discussed again on May 27.

4. Proposed amendment to the noise/construction ordinance (Appendix 2).

The members of the City Council expressed general consensus with the notion that residential use of power equipment by residents should not be regulated. There was some concern expressed over the days and hours that commercial/professional landscape service providers would be allowed to work. The draft ordinance will be revised and considered again on May 27. Before any action is taken, the Council expressed its desire to notify a [sample of] affected businesses of the proposed regulations.

5. Mr. and Mrs. Charles Stephens' annexation petition to the Mayor and Council for 5000 Spring Rock Road. (Ordinance No. 1905 was added to the formal agenda subject to the petitioners' execution of a protective covenant prohibiting the future subdivision of the subject property.)
6. A Council budget work session was set for Tuesday, May 20, 2014 at 8:00 a.m. Another Council work session was set for Tuesday, June 17, 2014 at 8:00 a.m. to discuss 2015 service agreements.

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

DATE: May 12, 2014
 TO: Mayor, City Council
 City Manager
 City Attorney
 FROM: Dana Hazen, City Planner
 RE: Synopsis of Mobile Vending in Municipalities

Mobile Vendors/Food Trucks

Food trucks have gained in popularity so much so that the industry generated 650 million dollars in the U.S. in 2012, and is expected to climb to 2.7 billion by 2017.

What is amplifying the food truck industry?

1. "Buy local" promotion
2. Food as "entertainment," festive atmosphere and vibrant pedestrian experience
3. Diversity of new and different foods not offered in a community

Potential advantages related to street vending:

1. Can be a valuable economic activity that attracts business to commercial areas (many food truck operators have a "following" of patrons that track their daily locations and follow them at meal-time).
2. Offers opportunities to provide food choices where zoning may exclude restaurants (such as Office Park); bringing a market during limited hours. Cuts down on lunch-break automobile trips from these areas.
3. Energizes areas where they locate; creates a festive atmosphere and promotes a vibrant walking experience, thereby playing a unique role in economic vitality and the urban streetscape environment;
4. Offers time-saving dining for workers and shoppers, freeing up more time for retail shopping.
5. Often serves as a successful incubator for start-up businesses that may evolve into B&M businesses.

Potential concerns related to street vending:

1. Maintenance
2. Appearance
3. Noise
4. Signage
5. Parking
6. Trash
7. Hours of operation
8. ADA compliance
9. Competition for established B&M businesses

While there is a universally perceived conflict between mobile vendors and bricks & mortar businesses, studies show that well-managed street vending enlivens the streetscape and compliments and supports existing retailers.

The trick is to devise a mobile vending program that protects shops and restaurants, avoids sidewalk congestion, noise and trash; reduces the potential liability of adjacent businesses, and improves the overall vitality of the commercial streetscape.

To this end City staff assembled an ad hoc committee to study the mobile vending issue; and a stakeholder meeting was held with local mobile vendors and MB Chamber representatives from each village. Mobile vending ordinances of neighboring Birmingham-area municipalities have also been studied.

Nationally, American Planning Association Planning Advisory Service articles indicate that some cities provide specific zones where vending can occur. Others regulate location through separation distances from other vendors and B&M merchants. Still others determine specific locations that are given to specific vendors on a permit basis. And some retain the right to decide which specific types of products will be sold.

Logical locations for street vending generally include public sidewalks, public spaces near government buildings that offer public services, and near active city parks. Location/distance restrictions can help alleviate fears and concerns of business and restaurant owners who oppose street vending.

Privilege vs. "Right"

There is an important distinction between the concepts of the "right" to use public space versus the "privilege" of being able to use public space for vending. Any City ordinance that governs street vending should communicate clearly that the issuance of a permit to vend on public property is a privilege granted to mobile vendors. And with that privilege come certain stipulations and rules that must be followed in order to maintain that privilege.

Fees

Some cities charge annual permit fees in conjunction with the issuance and renewal of business licenses. Others charge a flat fee for all vendors. Some cities apply the mobile vending fees exclusively to downtown improvements, such as beautification or wifi. In this way, rent-paying businesses receive some benefit from mobile enterprises otherwise "profiting at their expense."

Enforcement

Making sure that mobile vendors are licensed, working in approved areas and contributing to the tax base are challenges. A participating city must strive to keep mobile vendors well informed of the requirements and also the consequences of failure to conform. This goes hand-in-hand with the idea that it is a privilege to use public space to make living.

Many cities rely on the Police Department to enforce mobile vending regulations, since other departments have limited authority to issue citations, and are not "on the clock" on weekends or during evening hours. Since most Police Departments have more pressing issues to attend to than mobile vending violations, some cities enforce the mobile vending violations on a complaint basis.

As far as the consequences for infraction, punishment can range from imposed fees to revocation of the vending license.

What are Neighboring Municipalities Doing?

The City of Birmingham has adopted an 18-page mobile vending ordinance (attached) that has been met with negative local acclaim due to its complexity and heavy-handed oversight. It is very detailed and laborious; however, Birmingham, physically and geographically, has many more opportunities and potential locations for mobile vending (and related conflicts) than its Over-the-Mountain neighbors, so it follows that its ordinance would be lengthy and complex.

The City of Homewood has not adopted a mobile vending ordinance. It allows mobile vendors on a public street without location restrictions and with the issuance of a simple peddler's license. Mobile vending on private property is allowed with property owner's permission and only in zoning districts that allow commercial activities.

The City of Vestavia is in the process of drafting a mobile vending ordinance to allow mobile vending only on private property, in a commercial district, with property owner permission.

City Parks

The City of Mountain Brook's Ad Hoc Committee (studying mobile vendors) suggested the possibility of utilizing Overton Park and Cahaba River Park for designated food truck zones on specifically designated days/times of the week. There are approximately 20 parking spaces at Overton Park, and 26 parking spaces proposed in the new Cahaba River Park, so perhaps 1-2 mobile vendors could utilize the space while leaving parking spaces for automobiles as well.

Objectives:

Ultimately, the permitting process and regulatory framework for street vending should balance the needs and opportunities of the community to create a successful program by providing:

- An active and attractive street life that complements other forms of private business activity;
- Positive experiences for those who use the street, both residents and visitors;
- A way for vendors to generate a stable income.

Street vending regulations should:

- Ensure the health and safety of consumers and the general public;
- Not unduly infringe on fixed-business locations vendors' ability to compete;

- Not impose unnecessary public costs – congestion, visual blight or debris;
- Not impose unnecessary cost and burdens on street vendors.

The attached draft Mobile Vending ordinance sets out to achieve these objectives, and is suggested as a way to begin the "conversation" about the potential for food trucks in the City of Mountain Brook.

City of Birmingham

Draft

Mobile Vending Ordinance
City of Mountain Brook
May 12, 2014

del7law28alf.o1

Recommended By: Councilor Johnathan Austin
Chairman, Public Safety Committee

Submitted by: Thomas Bentley, III
Acting City Attorney

Types of Vares permitted for sale:

Food and beverage

Right-of-Way Sales

A valid City business license must be secured; a copy of which is to be retained in the mobile vehicle, along with a copy of the County Health Department certificate.

A mobile vehicle is permitted one moveable freestanding sign not to exceed 2 feet x 3 feet.

Umbrellas and awnings attached to the mobile vehicle are allowed. Tents are prohibited.

Movable chairs, tables and umbrella are permitted, but must comply with ADA requirements allowing passage on sidewalks.

Refuse containers shall be provided by the vendor on or within 15 feet of the mobile vehicle; and it shall be the responsibility of the mobile vendor to clear the area of debris after vending.

City trash/recycling receptacles may not be used for mobile vending operations or for related customer-generated refuse.

Hours of operation shall be limited between 6:00 a.m. and 10:00 p.m. (including set-up and take-down of mobile vending operation).

Noise is limited to 70 decibels.

Mobile food vending in the right-of-way shall only occur from the side of a mobile vehicle that is parked abutting and parallel to the curb, and shall comply with all City parking and traffic regulations.

Any power required for the mobile vehicle shall be self-contained. The mobile vehicle shall not draw its power from the public right-of-way. No power cable or equipment shall be extended grade or overhead across any public street, alley or sidewalk.

Distance Requirements for Mobile Vending in Right-of-Way

Minimum 50' separation required from the front door/entrance to existing restaurants and any related outdoor dining areas (measured to the closest dining table). This rule only applies when the restaurant is open for business.

10' separation required from intersections, crosswalks, fire stations, police stations, and fire hydrants and other mobile vendors.

Private Property Sales

The property on which mobile vending is proposed must be zoned Local Business, Mixed-Use, Commercial Shopping, Office Park or Professional.

Vendor must provide to the City written expressed consent from the owner to use the business property on which mobile vending is proposed; and must retain a copy in the mobile vehicle, along with the City business license and Health Department certificate.

Refuse containers shall be provided by the vendor on or within 15 feet of the mobile vehicle; and it shall be the responsibility of the mobile vendor to clear the area of debris after vending; refuse shall not be placed in any private container without expressed written consent of the property owner.

City trash/recycling receptacles may not be used for mobile vending operations or for related customer-generated refuse.

Vending shall not obstruct the use of any street intersection or pedestrian crosswalk, shall not impede the ingress or egress of any driveway, and shall not obstruct pedestrian space.

Mobile vehicles shall not be left unattended or stored at any time when vending is not taking place or during restricted hours of operation.

Hours of operation shall be limited between 6:00 a.m. and 10:00 p.m. (including set-up and take-down of mobile vending operation).

Noise limited to 70 decibels.

A mobile vehicle is permitted one moveable freestanding sign not to exceed 2 feet x 3 feet which must be contained on the private property. At no time shall any signage be placed within the public right-of-way.

Any power required for the mobile vehicle shall be self-contained. The mobile vehicle shall not draw its power from the public right-of-way. No power cable or equipment shall be extended at grade or overhead across any public street, alley or sidewalk.

ORDINANCE NO. 13-174

AN ORDINANCE AMENDING TITLE 12, CHAPTER 14 OF THE GENERAL CITY CODE, 1980 TO ADD A NEW CHAPTER TO ESTABLISH REGULATIONS FOR MOBILE FOOD VEHICLES AND PUSHCARTS IN THE CITY OF BIRMINGHAM, ALABAMA.

Whereas, Alabama municipalities are authorized to regulate the use of public streets, sidewalks and rights-of-way for public health, safety, welfare and convenience; and

Whereas, no person, firm, association, or corporation is authorized or permitted to use the streets, avenues, alleys, or public rights-of-way of any municipality for the operation of any private enterprise, without first obtaining the consent of the proper authorities of such municipality (Ala. Const. Art. XII, § 220; Ala. Code, 1975, § 11-49-1 (a)); and

Whereas, mobile food vehicles and pushcart vendors are using public parking spaces, loading zones and other parts of public rights-of-way without the approval of the City Council; and

Whereas, mobile food vehicles, pushcarts or "food vehicles or food trucks", are a national trend and provide the useful service of convenient and varied dining options in business areas and in areas that lack businesses providing nutritional dietary options; and

Whereas, the Council of the City of Birmingham finds it in the interest of the public health, safety, welfare and convenience to authorize the operation of mobile food vehicles and pushcart vendors within the City of Birmingham, subject to regulations to protect the safe and convenient use of public rights-of-way.

SECTION 1 NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Birmingham, Alabama, that Title 12, "Licensing and Regulation" Chapter 14 "Peddlers and Solicitors, is hereby amended to add a new article as follows:

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APPENDIX 1

1 Purpose

The general purpose of this ordinance is to promote the health, safety, comfort, convenience, prosperity, and general welfare of the citizens of Birmingham by establishing reasonable guidelines and regulations for mobile food vehicles and pushcarts to encourage the safe and convenient use of the city's public rights-of-way.

2 Definitions

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

"Applicant" means any person or business that applies for a permit or renews a permit under the provisions of this Article.

"Birmingham City Council", "Council", "City Council". The words "Council" or "City Council" shall mean the Council of the City of Birmingham.

"BPD" means the Birmingham Police Department.

"Business licenses" are the licenses required of any business to operate within the City pursuant to the City license code.

"City Center" includes the territory and boundaries as generally described in the amended Urban Renewal and Urban Redevelopment Plan for Downtown Birmingham as established by the Birmingham City Council in Resolution No. 2166-9 also known as the "Master Plan".

"Commissary" means a permitted food establishment to which a mobile food establishment, pushcart or transportation vehicle returns daily for such things as discharging liquid or solid wastes, refilling water tanks and ice bins, and boarding food.

"Food zone" is an area approved by the Birmingham City Council for the specific operation of mobile food vehicles and/or pushcarts within the public rights-of-way.

"General Area" means any location within the public rights-of-way of the City of Birmingham not within the Premier Area.

"Health Department" shall mean a county health department. Such terms shall be construed to include the Jefferson County Health Department and any officer or agent of the department authorized to act for and on behalf of the department with respect to the enforcement and administration of this code and other city ordinances.

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"Hours of Operation" are the designated time frame mobile food vehicles are authorized to operate within the city rights-of-way.

"Mobile food vehicle" means, except for pushcarts but including ice cream trucks and lunch wagons, a unit mounted on or pulled by a self-propelled vehicle where food including prepackaged foods, for individual portion service is prepared, or dispensed; is self-contained with its own drinking water tank and waste water tank; is designed to be readily movable; and is moved daily to return to its commissary.

"Operator" is the entity that is legally responsible for the operation of the mobile food vehicle such as the permittee, the permittee's agent, or other person; and possesses a valid permit to operate a mobile food vehicle.

"Pedestrian" is a person who is walking or otherwise traveling in the public rights-of-way.

"PEP" means the Department of Planning, Engineering and Permits.

"Permit" means a written authorization to operate a mobile food vehicle or pushcart within the public rights-of-way of the City of Birmingham.

"Permittee" a person who has been granted a permit by the Birmingham City Council to operate one or more mobile food vehicles upon the streets of the city.

"Person" means any natural person, firm, partnership, association, or corporation. Whenever the word "person" is used in any section in this Article prescribing a penalty or fine as applied to a partnership or association, the word shall include the partners or members thereof; such word as applied to corporations shall include the officers, agents, or employees thereof who are responsible for any violation of such section.

"Premier Area" includes that section of the City Center beginning at the corner of 8th Avenue North and 18th Street North; proceeding southerly on 18th Street North, converting to 18th Street South to the corner of 10th Avenue South; then easterly on 10th Avenue South to the corner of 22nd Street South; then northerly on 22nd Street South, converting to 22nd Street North to the corner of 8th Avenue North; then westerly on 8th Avenue North to the point of beginning.

"Pushcart" means a non-self propelled mobile food unit that is lightweight enough, designed, and intended to be moved by one person. A pushcart shall be used to prepare and serve only:

- i. potentially non hazardous foods such as popcorn, lemonade, hot dogs or flavored ice;
- or
- ii. foods pre-wrapped at the commissary and maintained at the required temperatures per the County Health Department regulations.

"Restaurant" a brick and mortar establishment where meals are generally served and eaten on premises or prepares and serves food and/or drink to customers for consumption on the premises in return for money, either paid before the meal, after the meal, or with a running tab. A restaurant does not include a food service that is delivery only.

"Rotation Cycle" A rotation cycle requires a mobile food vehicle to rotate in sequential order to different food zones within the Premier Area of the City Center. Participants shall begin with the last position created and is measured based on the time it takes to revolve to first food zone created. Applicants operating within the Premier Area shall rotate one food zone in numeric order each day.

*Example:

MONDAY

Zone	Location	Vendor
1	Corner of 8 th Avenue North and 18 th Street North	Chicken Mobile Food Vehicle
2	Corner of 7 th Avenue South and 20 th Street South	Taco Mobile Food Vehicle
3	Corner of 4 th Avenue South and 16 th Street South	Burger Mobile Food Vehicle
4	Corner of 9 th Avenue South and 21 st Street South	Fish Mobile Food Vehicle

TUESDAY

Zone	Location	Vendor
1	Corner of 8 th Avenue North and 18 th Street North	Taco Mobile Food Vehicle
2	Corner of 7 th Avenue South and 20 th Street South	Burger Mobile Food Vehicle
3	Corner of 4 th Avenue South and 16 th Street South	Fish Mobile Food Vehicle
4	Corner of 9 th Avenue South and 21 st Street South	Chicken Mobile Food Vehicle

*Locations above are shown for demonstrative purposes only.

"Vending" is the business of selling or causing to be sold any of the following items: food products, produce, prepared foods and beverages, prepackaged foods and non-alcoholic beverages from a mobile food vehicle and/or pushcart.

3 Mobile Food Vendors Committee

- 1) There shall be established by this ordinance a Mobile Food Vendors Committee consisting of representatives from each of the following: Traffic Engineering Department, Planning Engineering and Permits Department, Police Department, Mayor's Office of Economic Development, REV, Inc. and a member of the Greater Birmingham Street Food Coalition. The Mobile Food Vendors Committee shall review and recommend all applications based on the guidelines established by this ordinance. The Mobile Food Vendors Committee shall meet as required. A special meeting may be called by any of the committee members.

4 Permit Required for Food Zone Operation

- 1) All mobile food vehicles and pushcarts must obtain a permit to operate within the City's rights-of-way. Mobile food vehicles that are granted a permit to operate within the Premier Area of the City Center shall be subject to a rotation cycle, as defined by this ordinance. Pushcarts are not subject to a rotation cycle.
- 2) Any mobile food vehicle and/or pushcart that shall operate solely on private property shall not be required to apply for a permit. They shall, however, be required to obtain a business license and decal from the Revenue Department.

5 Approval Process

- 1) Any person or company desiring a permit to operate a mobile food vehicle or pushcart within the public rights-of-way of the Birmingham city limits must first submit an online application to the Traffic Engineering Department along with a \$150.00 (One Hundred Fifty Dollar) application fee for Mobile Food Vehicles or \$40.00 (Forty Dollar) application fee for Pushcarts. Application fees are non-refundable. Each application shall be date and time stamped to be processed in the order it is received. All applications shall then be submitted to and reviewed by the Mobile Food Vendors Committee. The application fee shall be applied to the cost of an approved permit.
- 2) The Mobile Food Vendors Committee shall review each application for the suitability of the proposed location(s) for which the permit is sought. The Mobile Food Vendors Committee shall then submit a recommendation to the Public Safety Committee within

twenty eight (28) days from the date of the application for review and recommendation to the City Council.

- 3) The Public Safety Committee shall set a date and time for its review of the application and shall afford the applicant and interested parties reasonable and timely notice thereof. The applicant and such interested parties, in the course of the committee's review, shall be given the opportunity to offer testimony and evidence in support of their respective positions and may have counsel present to so represent them. At the conclusion of the Public Safety Committee review, the Public Safety Committee shall vote to recommend its approval or disapproval of the application to the City Council. The Public Safety Committee shall thereupon advise the applicant and other interested parties appearing before it of the committee's decision and shall further inform the applicant and such interested parties of the date of the council meeting at which the application will be on the Council agenda.

6 Creation of Food Zone

- 1) Food zones are created at the request of the applicant. A food zone must be approved and established by the City Council in order for the applicant to operate within the City of Birmingham's rights-of-way.
- 3) Applicants may request up to three (3) food zones per application, listed in order of preference. Only one food zone shall be approved per application. The application will proceed with the first location approved by the Mobile Food Vendors Committee. If none of the requested locations are approved, a new application shall be required.
- 4) Food zones within the Premier Area of the City Center shall be numbered in the order it was approved by the City Council.
- 5) Once a new food zone is approved and established, the applicant shall be allowed to 1) operate at a fixed location within the general rights-of-way; or 2) enter the rotation cycle within the Premier Area of the City Center, beginning with the location for which they were newly approved. Applicants shall be granted one food zone per truck within the Premier Area.
- 6) Each permit issued under this ordinance shall be displayed at all times on the rear of the mobile food vehicle and conspicuously on the pushcart.
- 7) If an existing mobile food zone is no longer in compliance with the requirements set forth in this ordinance due to changing conditions, the Mobile Food Vendors Committee shall make a recommendation to the Public Safety Committee on the feasibility to issue a new permit when the existing permit expires.

8) The Birmingham City Council reserves the right to limit the number of designated food zones within the City Center, to address the health, safety, comfort, convenience, prosperity and general welfare of the citizens of Birmingham.

7 Application for Permit

- 1) Permit applications shall be processed in the order received. Each online application submitted shall be date and time stamped. Each application shall require the following:
 - a) Payment of application fee. Such fee shall apply to cost of the permit for approved applications. The balance of the permit fee shall be due after Council approval.
 - b) A valid copy of all required licenses/permits of a Health Department, as applicable, for each mobile food vehicle and/or pushcart.
 - c) The applicant's full name, signature, address and whether the applicant is an individual, firm, or corporation, and, if a partnership, the names of the partners, together with their addresses.
 - d) The address of its commissary.
 - e) A photograph of the applicant, e.g. driver's license, passport or similar.
 - f) Each applicant must attest that they are in compliance with the Hammon-Besson Alabama Taxpayer and Citizen Protection Act
- 2) Applicants applying to vend on private property must supply the following:
 - a) A valid copy of executed Lease(s) or Letter(s) of consent from property owner(s) for each private site.
 - b) Written approval from the City's Zoning Division of P.E.P. for each private site.
 - c) A Site Plan including: photos of site and a detailed layout noting truck orientation and service plan is required for each private site.
- 3) Applicants may request three up to (3) food zones per application, listed in order of preference. The application will proceed with the first location approved by the Mobile Food Vendors Committee. If none of the requested locations are approved, a new application shall be required. Only one food zone shall be approved per application.
- 4) An accurate description of the mobile food vehicle and/or pushcart, including the following data for mobile food vehicles: The make, model and type of body; the number

of cylinders; the vehicle identification number or any other identifying number as may be required by the Mobile Food Vendors Committee.

- 5) The operator shall provide the manufacturer's specs on decibels range generated by his particular generator. The decibel levels for any generator(s) used shall not exceed "80dBA".
- 6) A statement that the applicant has not been convicted of any crime that involves any local, state or federal law or regulation during the operation of a similar business.
- 7) A statement that the applicant has not been convicted of a crime as a result of having perpetrated deceptive practices upon the public within the last ten years.
- 8) Applicant shall notify the Traffic Engineering Department within fifteen (15) days after any changes to application information.
- 9) A signed statement that the applicant shall hold harmless the City and its officers and employees, and shall indemnify the City, its officers and employees for any claims for damage to property or injury to persons which may be occasioned by any activity carried on under the terms of the permit.
- 10) Permittee shall furnish and maintain such public liability, food products liability, and property damage insurance as will protect vendor, property owners, and the City from all claims for damage to property or bodily injury, including death, which may arise from the operations under the permit or in connection therewith. Such insurance shall provide coverage of not less than One Hundred Thousand Dollars (\$100,000.00) per person and Three Hundred Thousand Dollars (\$300,000.00) per accident or occurrence. The policy shall further provide that it shall not be cancelled except upon thirty (30) days written notice served upon the City of Birmingham, Office of the City Clerk - 3rd Floor, 710 North 20th Street, Birmingham, AL 35203. A permit issued pursuant to the provisions of this section shall be invalid at any time the insurance required herein is not maintained and evidence of continuing coverage is not filed with the City Clerk. Proof of insurance must be shown on each mobile food vehicle and pushcart in operation.

8 Fees.

- 1) Upon approval of an application for a General Area permit of the City's rights-of-way, the annual fee shall be \$300.00 for a mobile food vehicle and \$80.00 for pushcart.
- 2) Upon approval of an application to operate within both the Premier Area of the City Center and the General Area of the rights-of-way the annual permit fee shall be \$500.00 for a mobile food vehicle and \$100.00 for pushcart.

- 3) There shall be a onetime initial cost of \$250.00 to establish new food zones for mobile food vehicles and \$60.00 for pushcarts. Said cost is to cover any administrative services and alterations needed in preparing the food zones. Some examples include, but are not limited to the removal of parking meters, the pouring of concrete, and the cost of the signage. This onetime fee is separate of any permit fee.
- 4) The annual permit fees set forth in this section shall bill on a calendar year from January 1 to December 31. The fees shall be prorated bi-annually as follows:

From	To	Food Truck General Area	Food Truck Premier Area	Pushcart General Area	Pushcart Premier Area
January 1 st	June 30 th	\$300.00	\$500.00	\$80.00	\$100.00
July 1 st	December 31 st	\$150.00	\$250.00	\$40.00	\$50.00

The \$150.00 application fee for mobile food vehicles and the \$40.00 application fee for pushcarts shall be applied to approved applications. The remaining balance, if any, must be paid after Council approval before the permit will be issued by the Traffic Engineering Department.

A duplicate permit may be issued with the payment of a fee of \$25.00. Contact the Traffic Engineering Department should a permit become lost or destroyed.

A permit can be renewed up to (30) thirty calendar days prior to the expiration date. Any permit applied for after sixteen (16) calendar days of such expiration date shall incur a late fee of \$25.00 in addition to the annual fees stated above. A new application shall be required thirty two (32) calendar days following the expiration date of the existing permit or the permittee shall lose its claim to any particular food zone and/or its place in the rotation cycle of the Premier Area.

9 General Rules and Regulations

- 1) No person or business entity, including religious or charitable organization, shall operate a mobile food vehicle and/or pushcart upon the public rights-of-way within the city without a permit.
- 2) The grant of a permit hereunder shall not be deemed to authorize the operation of a mobile food vehicle and/or pushcart without obtaining a business license, as may be required under the current business license code. A permittee must subsequently obtain a

business license from the Revenue Division of the Finance Department, or be subject to a fine as defined in Section 12.3 for each day permittee is in violation of this section.

- 3) Persons conducting business from a mobile food vehicle or pushcart on private property may conduct such business only in compliance with the following:
 - a) They must provide to the City a lease or the written expressed consent from the owner to use the business property on which they propose to operate.
 - b) They must have a valid city business license unless otherwise exempted by city ordinance.
 - c) They must maintain all refuse, trash and litter from the operation of the business onto the private property and shall be responsible for properly disposing of such refuse, trash, and litter as would any business, and shall not place it in any public trash container, or in any private container without proper permission.
 - d) The business use must be a use that is otherwise allowed within the zoning district in which the vendor proposes to operate.
- 4) Persons conducting business from a mobile food vehicle on private property shall not be permitted to operate in the following manner:
 - a) Vending may not obstruct the use of any street intersection or pedestrian crosswalk.
 - b) Vending shall not impede the ingress or egress of any driveway.
 - c) Vending shall not obstruct pedestrian space.
 - d) Any power sources must be depicted on the site plan and must meet all applicable electrical code standards.
 - e) Vending structures shall not be left unattended or stored at any time on the open vending site when vending is not taking place or during restricted hours of operation.
 - f) Amplified sound or sound equipment must comply with the City of Birmingham Noise Ordinance.
 - g) Any and all signage must be contained on the private property. At no time shall any signage be placed within the public rights-of-way.

- 5) Hours of operation within the public rights-of-way shall be as follows:

City Center Permits	Monday – Friday
	6:00 a.m. - 6:00 p.m.
General Permits	Monday - Sunday
	6:00 a.m. – 2:00 a.m.

- 6) All locations are subject to the regulations and other requirements established by the Health Department.
- 7) It shall be unlawful to leave any mobile food vehicle and/or pushcart unattended on public rights-of-way, or to remain on public rights-of-way outside of the allowed hours of operation.
- 8) Vendors shall be allotted thirty (30) minutes set-up and thirty (30) minutes breakdown before and after the stated operating hours.
- 9) No mobile food vehicle and/or pushcart shall operate within one hundred fifty (150) feet of the front door of any restaurant in current operation. Distance shall be measured to the nearest public entrance for any indoor food court.
- 10) No mobile food vehicle and/or pushcart vending within the City's rights-of-way shall operate within five hundred (500) feet of any fair, stadium, carnival, circus, festival, special event, civic event, entertainment district or other like sponsored event that is licensed or authorized by the City, unless they are authorized by the sponsor to be participants in such event.
- 11) It shall be unlawful to operate a mobile food vehicle and/or pushcart in or within one hundred fifty (150) feet of any Primary or Secondary School within Birmingham's city limits. Distance shall be measured to the nearest lot line of the school's campus.
- 12) Any applicant that desires to operate concurrent food zones shall pay the general permit fee for each food zone it creates within the rights-of-way.
- 13) Permittee shall be granted a single food zone permit for each vehicle added to the rotation cycle within the Premier Area of the City Center.
- 14) The permit shall be subject to additional limitations on hours and days of operation that the City determines are appropriate to prevent conflict with special events. Examples of special events include, but are not limited to, construction, parades, sponsored marathons

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and blocked streets to allow licensed events. The City shall not be required to provide alternate food zones for operation during the actuation of any of the special events.

- 15) No mobile food vehicle and/or pushcart shall use or maintain any outside sound amplifying equipment, lights, or noisemakers, such as bells, horns or whistles or similar devices to attract customers. A mobile food vehicle and/or pushcart may use battery-operated lights with appropriate protective shields for the purpose of illuminating merchandise, so long as it is not a distraction to passing motorists. The decision of such distractions shall be determined by the BPD.
- 16) No mobile food vehicle and/or pushcart operating within the city shall cause congestion that impedes pedestrian or vehicle traffic or interfere with the city or public's use of any public rights-of-ways. This shall include but is not limited to activity of customer queues, accessory units, or signage that in any way invades or impairs access to adjacent parking, pedestrian or vehicle traffic.
- 17) No mobile food vehicle and/or pushcart shall make or solicit any sales to occupants of vehicles or engage in any activities which impede vehicular traffic.
- 18) Any power required for the mobile food vehicle and/or pushcart located on a public way shall be self-contained. The mobile food vehicle and pushcart shall not draw its power from the public rights-of-way. No power cable or equipment shall be extended at grade or overhead across any public street, alley or sidewalk.
- 19) Mobile food vehicles and/or pushcarts shall be responsible to provide and maintain their own trash receptacles. Permittee shall contain all refuse, trash, and litter within the mobile food vehicle or a small moveable trash can maintained by the permittee, and located adjacent to the mobile food vehicle and/or pushcart in such a manner as not to block or otherwise obstruct pedestrian or vehicular traffic. The permittee of the mobile food vehicle and/or pushcarts shall be responsible for properly disposing of such refuse, trash, and litter as would any business, and shall not place it in any public trash container, or in any private container without proper permission.
- 20) The proposed mobile food vehicle and/or pushcart vending activity shall comply with all applicable laws including but not limited to the Americans with Disabilities Act.
- 21) Mobile food vending in the rights-of-way shall only occur from the side of a food vehicle that is parked abutting and parallel to the curb.
- 22) Pushcarts shall have overhead protection, such as an umbrella, to cover the food area.
- 23) No mobile food vehicle shall have a drive-through service.

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24) The decibels levels for any generator(s) used shall not exceed "80dBA". The operator shall provide the manufacturer's specs on decibels range generated by his particular generator.

25) Any mobile food vehicle and/or pushcart being operated without a valid permit issued by the City Council shall be deemed a public safety hazard and may be ticketed and impounded.

26) No mobile food vehicle and/or pushcart shall be parked on the street overnight, or left unattended and unsecured at any time. Any mobile food vehicle and/or pushcart which is found to be unattended shall be considered a public safety hazard and may be ticketed and impounded.

27) A mobile food vehicle and/or pushcart operating at any unauthorized location or beyond the hours for which the operation has been permitted shall be deemed operating without a permit in violation of this section and may be subject to enforcement.

28) Any new business that opens or moves near an existing mobile food vehicle and/or pushcart food zone shall be deemed to have accepted the proximity of the existing mobile food vehicle and/or pushcart in operation.

29) The City Council shall, in the best interest of the City, maintain the authority to regulate uses of the public rights-of-way and reduce the size and/or location of a food zone at a later date.

10 Temporary Food Zone Permit

A temporary food zone permit allows mobile food vehicles and pushcarts the opportunity to serve specific events for one calendar day. This permit is allowed only when the timing and place of said activity does not conflict with the City's desire to protect the safe and convenient use of public rights-of-way. It is the City's intent to control the pedestrian and street congestion as it relates to the operation of mobile food businesses and the proximity to established brick and mortar businesses. This permit is primarily used to either extend the hours of operation of an existing food zone or to grant permission to operate in locations within the rights-of-way that have not been designated as food zones.

The City shall offer a temporary permit twice a year to mobile food vehicles and pushcarts providing them the opportunity to test two different locations for a period of one month. The operator must apply at a minimum of 30 days in advance for this temporary permit.

The temporary food zone vending permit shall be issued under the following conditions:

- 1) The applicant must first possess a current mobile food vendor or pushcart permit.

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- 2) An application must be submitted to the city Traffic Engineering Department a minimum of three (3) working days prior to the event.
- 3) A fee of Twenty-Five Dollars (\$25.00) shall be paid by the person applying for the one day permit at the time of the filing of the application. The permit shall be effective for no more than one day during a calendar year. Each day shall require a separate permit.
- 4) A fee of Fifty Dollars (\$50.00) shall be paid by the person applying for a one month temporary permit at the time of the filing of the application.
- 5) The temporary food zone permit shall only be issued for an event abutting a curb space in the rights-of-way. It shall not apply to operation on private property.
- 6) The permittee shall obtain and display the temporary food zone permit at the vending site in a manner established by the Traffic Engineering Department.
- 7) The temporary food zone permit shall be subject to the Rules and Regulations of the primary permit issued.
- 8) The Traffic Engineer Department shall approve or deny the issuance of a temporary food zone permit based on the same criteria used to establish all food zones.
- 9) If the proposed temporary food zone will occur within two hundred (200) feet of a park, the Traffic Engineer shall approve or deny the temporary food zone based on the following considerations:
 - a) Public safety concerns; or
 - b) Access to the entrances and exits of the park; or
 - c) Conflicts with existing businesses and concessionaires, permitted events, or other special activities occurring in the park.

Any applicant that wishes to operate in non-designated locations for 2 or more consecutive days shall either apply for a Special Events business license or must submit an application to the Mobile Food Vendors Committee through the Traffic Engineering Department requesting a new food zone to be created.

The City shall provide to the permittee evidence of its authorization for a temporary food zone. It shall be the responsibility of the permittee to secure any temporary zone that has been authorized by the Traffic Engineering Department. The City shall not be held liable for the failure of the permittee to secure the temporary zone once approval is provided.

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11 Written Application for Transfer of Permit Required

- 1) Ownership of a permit issued under this ordinance shall not be reassigned by the permittee. The City Council is hereby authorized to transfer any valid permit from one entity to another. No transfer shall be made to an entity that would not have been eligible to receive the permit originally.
- 2) Any permittee desiring a transfer of a permit shall file an application with the Mobile Food Vendors Committee prior to the date ownership of the business is transferred or conferred to another legal entity.
- 3) No permit shall be transferred except with the consent of the City Council.
- 4) Nothing in this section shall prohibit the City from requiring a new application and permit approval.

12 Enforcement

Ala. Code, 1975, Sec. 22-2-14 states that violations of health department rules and regulations are misdemeanor offenses. The General City Code, 1980, contains the following, which incorporates the state agency rules and regulations regarding food permits:

"Sec. 6-2-5. Sanitary permit for handlers, producers, etc., of food; required. It shall be unlawful for any person to prepare, sell, offer or expose for sale, exchange, give away, deliver, dispose of or have in possession, custody or control, in the city, with intent to sell, offer or expose for sale, exchange, gift or delivery, any meat, prepared food, vegetable, beverage, liquid or other article used or intended for use as food for human beings, without a valid, unsuspended and unrevoked sanitary permit issued by the health officer, pursuant to regulations of the state committee of public health."

In Ordinance No. 08-106, adopted May 20, 2008, the City adopted Appendix B of ARJA Rule 20, the Supreme Court's Extended Schedule of Fines. Paragraph C of Rule 20 provides that:

"Any municipality having a municipal court may, by ordinance, adopt, in whole or in part, the Supreme Court's extended schedule of fines appearing as Appendix B to this rule, and the schedule adopted shall apply in municipal-ordinance violation cases or cases charging the violation of a rule or regulation promulgated by a state agency or department and incorporated in municipal ordinances, not included in the schedule set out in section (A), wherein a defendant elects to plead guilty before a magistrate to a misdemeanor or violation listed in the schedule."

- 4) The permittee or any of its principals has been subject, in any jurisdiction, to disciplinary action of any kind with respect to a license, permit or work card to the extent that such disciplinary action reflects upon the qualification, acceptability or fitness of the applicant or principal to conduct such a business; or
- 5) The permittee or any of its principals has been convicted of any crime that involves any local, state or federal law or regulation arising out of the operation of a similar business; or
- 6) The permittee or any of its principals has been convicted of a crime as a result of having perpetrated deceptive practices upon the public within the last ten years; or
- 7) The motor food vehicle and/or pushcart on which the business is conducted does not satisfy all local, state or federal laws or regulations which relate to the activity that is to be licensed after a notice and opportunity to cure; or
- 8) The permittee or any of its agents is in default on any payments owed to the city; or
- 9) The application contains material omissions or false, fraudulent, or deceptive statements; or
- 10) The motor food vehicle and/or pushcart is operated in such a manner as constituting a public nuisance per the Birmingham City Code or state statutes; or
- 11) The proposed operation is in violation of any federal, state, or local laws including, but not limited to, the provisions of this Ordinance pertaining to public health or safety.
- 12) The permittee or his agents or employees interfere with an inspection of the mobile food vehicle and/or pushcart by a Health Department inspector; or
- 13) The permittee or his agents have repeatedly violated applicable portions of this Article; or
- 14) There are repeated violations of federal or state food laws or laws regulating mobile food vehicles and/or pushcarts; or
- 15) The County Health Department denies, revokes or suspends the license of the mobile food vehicle and/or pushcart; or
- 16) There is a violation of any section of this Ordinance.

The provisions of this section are not exclusive. This section shall not preclude the enforcement of any other provisions of this Ordinance or local, state and federal laws and regulations. A County Health Department may impose additional requirements to protect against health hazards related to the operation of a mobile food vehicle and/or pushcart.

Appendix B includes the following offense and fine under "Alabama Department of Public Health":

22-20- 6/22 -2-14	Operation of food establishment without permit	\$500
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- 1) Any person vending without a duly issued permit and personal identification or found in violation of any of the regulatory provisions of this chapter shall be guilty of an infraction. Any person found guilty of an infraction, of which person has been given notice, shall not be punished by imprisonment but shall be fined.
- 2) **Enforcement.** The provisions of this section or any rules and regulations shall be enforced jointly by the Birmingham Police Department and the Traffic Engineering Department.
- 3) **Fine for Violation.** Any mobile food vehicle and/or pushcart in violation of any provision of this ordinance shall be subject to a fine of up to five hundred (\$500.00) dollars per violation. Each violation shall constitute a separate and distinct offense. Each day shall be considered a separate offense.
- 4) Any permit holder found in violation of any section of this ordinance may be issued a ticket for violation and the mobile food vehicle and/or pushcart may be impounded.

13 Denial, Revocation, Suspension of Permit

An application or approved permit may be denied, revoked, suspended, or not renewed for any of the following reasons:

- 1) **Revocation, Suspension, Modification.** A permit may be revoked, suspended, modified, or not renewed by the City Council for failure to comply with the provisions of this ordinance, or of any provision of this Code or other ordinance of the city enacted in the exercise of its police power. A permit may also be revoked whenever in the judgment of the City Council when it deems it necessary for the protection of the public good or for the prevention of disorders: provided, however, that the City Council shall first give reasonable notice to the permittee of a public hearing on the matter of such revocation. The permittee shall have the right to counsel as well as the right to present and cross examine witnesses at such hearing.
- 2) The permittee or any of its principals fails to satisfy any qualification or requirement imposed by this ordinance, or other local, state or federal laws or regulations that pertain to the particular license; or
- 3) The permittee or any of its principals is or has engaged in a business, trade or profession without having obtained a valid license, permit or work card when such applicant or principal knew or reasonably should have known that one was required; or

14 Ice Cream Trucks

- 1) All ice cream trucks are required to purchase a business license.
- 2) An ice cream truck shall not be required to apply for a permit; unless and except it wishes to operate within a food zone. Ice cream trucks are subject to the regulations of this ordinance only when operating in a food zone. Ice cream trucks that do not operate in a food zone are exempt from the regulation of this ordinance with the exception of Section 14.3.
- 3) Except as herein provided, it shall be unlawful for any ice cream truck, while engaged in the business of selling, to stop or stand or permit or suffer any vehicle to do so upon any street of the city except during the actual sale of its ice cream product. In no event shall an ice cream truck be or remain upon any street or sidewalk longer than is reasonable to conduct a sale; such time not to exceed 30 minutes.

SECTION 2. EFFECTIVE DATE. This Ordinance shall become effective upon passage, approval and publication or as otherwise provided by law.

SECTION 3. SEVERABILITY. If any section, sentence, clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional by declaration of any court of competent jurisdiction, such declaration shall not affect the validity of the remaining portions of this ordinance.

SECTION 4. PRESERVATION. Nothing in this Code or the ordinance adopting this Code shall be construed to repeal or otherwise affect the validity of any of the following: Any offense or act committed or done or any penalty or forfeiture incurred or any contract or right established or accruing before the effective date of this Code.

DRAFT

DRAFT

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 34 OF THE CITY CODE

BE IT ORDAINED by the City Council of the City of Mountain Brook that Chapter 34 of the Code of the City of Mountain Brook, Alabama ("City Code") shall be amended as follows:

Section 1. Section 34-7 of the City Code shall be amended by inserting two additional provisions as subsections (b) and (c) and by moving the former subsection (b) to subsection (d) so that the entire Section 34-7, as amended, shall be as follows:

Sec. 34-7. Noise.

- a) It shall be unlawful for any person to make, cause to be made or permit to be made, in or about a dwelling, church, hospital, public school, public building, public park, store, street or other public thoroughfare in the city, any noise, either by crying out, calling or shouting or by means of a whistle, siren, megaphone, bell, gong, drum, victrola, radio or other instrument or mechanical device, for the purpose of advertising any business or any article for sale or exchange or for the purpose of attracting attention or inviting the patronage of any person to any business whatsoever; or to make, cause or permit to be made in or about any of the aforesaid places any unnecessary or excessive noise, either by crying out, calling or shouting or by means of any instrument or mechanical device whatsoever.
- b) It shall be unlawful and a nuisance for any person to make, continue or cause to be made or continued any loud, unreasonably loud, disturbing, unnecessary or excessive noise which unreasonably annoys, disturbs, injures, endangers or interferes with the comfort, repose, health, peace or safety of others in the corporate limits of the City of Mountain Brook, Alabama. It shall also be unlawful and a nuisance for any person to permit any such noise to be made in or upon any house or premises owned, possessed, managed or controlled by such person.
- c) In addition to the general prohibition set forth above, the following acts or noises are declared to be in violation of this Code, provided however, that such enumeration shall not be deemed to be exhaustive or exclusive:

The operation or permitting the operation of any mechanically powered lawn equipment designed or sold for commercial use or operated for commercial purposes within a Residential district, between the hours of 6:00 p.m. and 8:00 a.m. For the purposes of this subsection, lawn equipment includes, but is not limited to, leaf blowers, lawnmowers, tractors, stump grinders, chippers, string trimmers, clippers, edgers and any other mechanically powered garden tool, blower or device.

d) Any person who shall violate any provision of this section shall, upon conviction thereof, be punished within the limits and as provided by section 1-9 of this Code.

Section 2. 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 3. If any part, section or subdivision of this ordinance shall be held unconstitutional or invalid for any reason, such holding shall not be construed to invalidate or impair the remainder of this ordinance, which shall continue in full force and effect notwithstanding such holding.

Section 4. This section shall become effective immediately upon adoption and publication as provided by law.

ADOPTED: This _____ day of May, 2014.

Virginia C. Smith, Council President

APPROVED: This _____ day of May, 2014.

Lawrence T. Oden, Mayor

CERTIFICATION

I, Steven Boone, City Clerk of the City of Mountain Brook, Alabama, hereby certify the above to be a true and correct copy of an ordinance adopted by the City Council of the City of Mountain Brook, Alabama at its meeting held on May _____, 2014, as same appears in the minutes of record of said meeting, and published by posting copies thereof on May _____, 2014, at the following public places, which copies remained posted for five (5) days as required by law.

City Hall, 56 Church Street
Gilchrist Pharmacy, 2850 Cahaba Road

Overton Park, 3020 Overton Road
The Invitation Place, 3150 Overton Road

Steven Boone, City Clerk

**MINUTES OF THE REGULAR MEETING OF THE
CITY COUNCIL OF THE CITY OF MOUNTAIN BROOK, ALABAMA
MAY 12, 2014**

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 12th day of May, 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
William S. Pritchard, III
Jesse S. Vogtle, Jr.
Lawrence T. Oden, Mayor

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. LEADERSHIP MOUNTAIN BROOK PRESENTATIONS

Participants of 2013–2014 Leadership Mountain Brook class presented four project concepts intended to enhance or benefit the community (Appendix 1). The project concepts included: 1) blue light emergency call [telephone] system for Cahaba River Park (safety), 2) replace street lighting along Jemison Trail (aesthetics), 3) design and display of a new City flag (community branding), and 4) upgrade the exercise room workout equipment (employee health, welfare and morale).

2. CONSENT AGENDA

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

Approval of the minutes of the April 28, 2014 meeting of the City Council.

2014-053	Ratify the execution of a preventive maintenance service agreement between the City and Schindler Elevator Corporation for the municipal complex.	Exhibit 1, Appendix 2
2014-054	Declare a 1997 Spartan fire truck (VIN 4S7AT4297VC021821) surplus and authorizing its sale to the highest offer.	Exhibit 2
2014-055	Authorize the execution of listing and marketing commission agreement between the City and Brindlee Mountain Fire Apparatus, LLC for the marketing and sale of a 1997 Spartan fire truck.	Exhibit 3, Appendix 3
2014-056	Award the street paving bid and authorize the execution of a 3-year contract for same.	Exhibit 4, Appendix 4
2014-057	Approve and adopt the Motor Vehicle Record (MVR) policy and its incorporation into the City's Employee Handbook.	Appendix 5

2014-058 Authorize the purchase of Net Motion software license (25 Appendix 6
Motion seats) for the City's public safety mobile data terminals in the amount of \$9,843.75 to be paid from the City's E911 Fund.

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

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

Nays: None

Council President Smith thereupon declared that said minutes, resolutions (nos. 2014-053 through 057), and motion (no. 2014-058) are adopted by a vote of 5—0.

3. PUBLIC HEARING: CONSIDERATION OF AN ORDINANCE (NO. 1903) 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 5, APPENDIX 7)

Council President Smith introduced the ordinance in writing and invited comments and questions from the audience. Charlie Beavers (attorney), Lorren Barrett (architect), Walter Schoel (engineer) described the project (Appendix 7). Upon conclusion of the applicants' presentation, Council President Smith invited questions and comments from the audience. There being none, Council member Pritchard made a motion that all rules and regulations which, unless suspended, would prevent the immediate consideration and adoption of said ordinance be suspended, and that unanimous consent to the immediate consideration of said ordinance is given and that the reading of the ordinance at length be waived. The motion was seconded by Council member Carl and was carried, as follows:

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

Nays: None

The President of the Council declared that the ordinance (No. 1903) is hereby adopted by a vote of 5-0 and, as evidence thereof, she signed the same.

4. PUBLIC HEARING: CONSIDERATION OF AN ORDINANCE (NO. 1904) REZONING A PARCEL OF LAND OWNED BY MANGINA & LEVIO, LLC LOCATED AT 2117 CAHABA ROAD FROM RESIDENCE C TO LOCAL BUSINESS DISTRICT (EXHIBIT 6, APPENDIX 8)

Council President Smith introduced the ordinance in writing and invited comments and questions from the audience. Michael Mouron (applicant) and Frank Davies (of Little Hardware) described the project (Appendix 8). Maxwell Pulliam of 2408 Park Lane affirmed that his family has no objections to the proposed development and operation of Little Hardware at this site. Upon conclusion of the applicants' presentation, Council President Smith invited questions and comments from the audience. There being none, Council member Pritchard made a motion that all rules and regulations which, unless suspended, would prevent the immediate consideration and adoption of said ordinance be suspended, and that unanimous consent to the immediate consideration of said ordinance is given and that the reading of the ordinance at length be waived. The motion was seconded by Council member Vogtle and was carried, as follows:

Ayes: Virginia Smith, Council President
Amy G. Carter, Council President Pro Tempore
Jack D. Carl
William S. Pritchard, III
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 Pritchard then moved for the adoption of said ordinance. The motion was seconded by Council member Vogtle. Thereupon, Council President Smith called for vote with the following results:

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

Nays: None

The President of the Council declared that the ordinance (No. 1904) is hereby adopted by a vote of 5-0 and, as evidence thereof, she signed the same.

5. PUBLIC HEARING: CONSIDERATION OF AN ORDINANCE (NO. 1905) TO ALTER AND REARRANGE THE BOUNDARY LINES OF THE CITY OF MOUNTAIN BROOK, ALABAMA, SO AS TO INCLUDE WITHIN THE CORPORATE LIMITS CERTAIN OTHER TERRITORY CONTIGUOUS TO SAID CITY (EXHIBIT 7, APPENDIX 9)

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

Ayes: Virginia Smith, Council President
 Amy G. Carter, Council President Pro Tempore
 Jack D. Carl
 William S. Pritchard, III
 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 Pritchard then moved for the adoption of said ordinance subject to the applicants' execution of protective covenants that prohibit the future subdivision of the parcel. The motion was seconded by Council member Vogtle. Thereupon, Council President Smith called for vote with the following results:

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

Nays: None

The President of the Council declared that the ordinance (No. 1905) is hereby adopted by a vote of 5-0 and, as evidence thereof, she signed the same.

6. 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 Tuesday, May 27, 2014 at 7 p.m. in the Council Chamber of City Hall located at 56 Church Street, Mountain Brook, AL 35213. Please visit the City's web site (www.mtnbrook.org) for more information.

7. 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

EXHIBIT 1

RESOLUTION NO. 2014-053

BE IT RESOLVED by the City Council of the City of Mountain Brook, Alabama that the City Council hereby ratifies the execution of a preventive maintenance service agreement between the City and Schindler Elevator Corporation, in the form as attached hereto as Exhibit A, with respect to the municipal complex.

APPENDIX 2

EXHIBIT 2**RESOLUTION NO. 2014-054**

WHEREAS, the City of Mountain Brook, Alabama, has certain items of personal property which are no longer needed for public or municipal purposes; and

WHEREAS, Section 11-43-56 of the Alabama Code of 1975 authorizes the municipal governing body to dispose of unneeded personal property.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Mountain Brook, as follows: It is hereby established and declared that the following property owned by the City of Mountain Brook, Alabama is not needed for public or municipal purposes and is hereby declared surplus property:
1997 Spartan GA4OM fire truck, VIN: 4S7AT4297VC021821

BE IT FURTHER RESOLVED by the City Council of the City of Mountain Brook, Alabama, that the City Manager is hereby authorized and directed to sell said property by way of an exclusive listing agreement between the City and Brindlee Mountain Fire Apparatus.

APPENDIX 2**EXHIBIT 3****RESOLUTION NO. 2014-055**

BE IT RESOLVED by the City Council of the City of Mountain Brook, Alabama that the City Council hereby authorizes the execution of a listing and marketing commission agreement, in the form as attached hereto as Exhibit A subject to such minor changes as may be determined appropriate by the City Attorney, between the City and Brindlee Mountain Fire Apparatus with respect to their sale of a [surplus] 1997 Spartan fire truck.

APPENDIX 3**EXHIBIT 4****RESOLUTION NO. 2014-056**

BE IT RESOLVED by the City Council of the City of Mountain Brook, Alabama, that the street resurfacing bid submitted by Dunn Construction Company, Inc. being the lowest qualified bid is hereby accepted and that the Mayor or City Manager of the City is hereby authorized and directed, for and on behalf of the City, to enter into a contract with Dunn Construction Company, Inc., for said street resurfacing (Project MI 04-2014) as described below:

<u>Description</u>	<u>Estimated Quantity</u>	<u>Unit</u>	<u>Unit Bid Price</u>	<u>Amount</u>
Asphalt Milling	7,400	Ton	\$ 7.80	\$ 57,720.00
Adjusting Manholes	10	Each	\$165.00	\$ 1,650.00
Bituminous Trackless Tact Coat	6,000	Gallon	\$ 3.30	\$ 19,800.00
Leveling Course Baby Binder	250	Ton	\$ 88.50	\$ 22,125.00
Slag Seal Wearing Course	7,000	Ton	\$ 81.00	\$567,000.00

Poly modified open graded friction course mix	N/A	Ton	N/A	\$ 0.00
BID AMOUNT				<u>\$668,295.00</u>

BE IT FURTHER RESOLVED by the City Council of the City of Mountain Brook, Alabama, that the City Council hereby authorizes the execution of a contract, in the form as attached hereto as Exhibit A subject to such minor modifications that may be determined appropriate by the City Attorney, with respect to said street resurfacing project.

APPENDIX 4

EXHIBIT 5

ORDINANCE NO. 1903

**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.

APPENDIX 7

EXHIBIT 6**ORDINANCE NO. 1904**

**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.

APPENDIX 8**EXHIBIT 7****ORDINANCE NO. 1905**

**AN ORDINANCE TO ALTER AND REARRANGE
THE BOUNDARY LINES OF THE CITY OF MOUNTAIN BROOK, ALABAMA,
SO AS TO INCLUDE WITHIN THE CORPORATE LIMITS CERTAIN OTHER
TERRITORY CONTIGUOUS TO SAID CITY**

WHEREAS, the City Council of the City of Mountain Brook, Alabama, does hereby determine that the matters set forth in that certain petition of **Charles H. and Floy C. Stephens** (husband and wife), wherein the owner(s) of the property described therein and hereinafter described in this ordinance requested that said property be annexed to the City of Mountain Brook are true, and that it is in the public interest that said property be annexed to the City of Mountain Brook; and

WHEREAS, petitioner has agreed to reimburse the City of Mountain Brook for any payments made by the City pursuant to Act No. 604 as amended, of the 1976 Alabama Legislature;

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

Section 1. Alteration of Corporate Limits. That under the provisions of the Code of Alabama (1975) § 11-42-21, the corporate limits of the City of Mountain Brook, Alabama, be, and the same are altered and rearranged so as to include, in addition to the territory already within the corporate limits of said City, the

territory described in Exhibit "A" attached hereto and made a part hereof, which territory is contiguous to said City of Mountain Brook, Alabama, and not within the corporate limits of any other municipality.

Section 2. Zoning. The zoning of the property described in Exhibit "A" attached hereto will be temporarily assigned to the zoning district set forth in City of Mountain Brook Ordinance No. 1347.

Section 3. Fire Dues. Pursuant to Act No. 604, as amended, of the 1976 Alabama Legislature, the City does hereby agree that if the territory described in this ordinance, or part thereof, is in any fire district organized under the laws of the State of Alabama, an amount shall be paid to the fire district equal to six times the amount of dues that the owner of the territory being annexed paid to the fire district the preceding year.

Section 4. Severability. If any part, section, or subdivision of this ordinance shall be held unconstitutional or invalid for any reason, such holding shall not be construed to invalidate or impair the remainder of this ordinance, which shall continue in full force and effect notwithstanding such holding. If any part, section, or subdivision of this ordinance or documents, map, or petition to which it may refer shall be held unconstitutional or invalid as to any portion of the territory annexed herein, such holding shall not be construed to impair or invalidate the ordinance as to the territory not included in or affected by such holding.

Section 5. Publication. The City Clerk shall file a description of the property hereby annexed and described in Exhibit "A" attached hereto, in the office of the Judge of Probate of the county in which the property is located, and also cause a copy of this ordinance to be published by posting or by such other means as may be authorized by law.

Section 6. Effective Date. This ordinance shall be effective upon its publication or as otherwise may be provided by law.

Section 7. Repealer. All ordinances or parts of ordinances heretofore adopted by the City Council of the City of Mountain Brook, Alabama that are inconsistent with the provisions of this ordinance are hereby expressly repealed.

APPENDIX 9

Proposal for Blue Light Emergency Phone System

John Buchanan
Anne Merrick Hamilton
Jake Fleisher
Mary Parker Wetzler
Leadership Mountain Brook

Submitted to—
Mountain Brook City Council

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Deliverables	X
Budget	X
Communication and Coordination with Sponsor	X
Conclusion	X

Executive Summary

Our group would like to implement an Emergency Blue Light System in the Cahaba River Park in Mountain Brook. Due to communication difficulties in certain areas of Mountain Brook, emergency response times have suffered. These call boxes would directly link the areas to the dispatchers and would eliminate miscommunication between cities. These services are used throughout the country with great success. Ultimately this would help the citizens of Mountain Brook and aid the police and fire departments.

Statement of the Problem

The Cahaba River Park borders different cities and the calls often go to the dispatchers of surrounding cities. Often the calls do not reach Mountain Brook dispatchers and the calls are not always transferred to Mountain Brook. In addition, people swimming in the river will not have their cell phone on them and if something goes wrong there needs to be a way to get the police and fire department on scene quickly.

Objectives

1. Lessen the likelihood of a drowning in the future of new Cahaba River Park.
2. Add blue light systems into next year's city budget.
3. Provide reliable emergency communication.

Technical Approach

First, the blue light systems will need to be purchased from an authorized retailer recommended to us from UAB. Once the systems have been purchased the city will need to cover the installation costs since the company does not

install the boxes. This means that the city will need to hire an electrician or outside company to install the boxes. Once the boxes are installed they will be ready for public use.

Resident Needs

The residents of Mountain Brook and other neighboring cities need this blue light system for a variety of reasons. These systems create a sense of security for customers because it makes them feel that someone is close by to help them. Also, these systems could be the difference between life and death for a person who is in need of help while they are in the river.

Target Specifications

The residents that visit Cahaba River Park will be most at risk while near the river especially on the fishing ledge and outdoor classroom. It is for this reason we feel that two blue light systems, one at the outdoor classroom and one at the fishing ledge, should be implemented. These two sights are where the residents need the emergency call boxes the most.

Generating Concepts

Our group spoke to Chief Cook and other police officers about doing a blue light system on Jemison trail as our original proposal. Chief Cook recommended doing the call boxes at Rathmell, the Mountain Brook Baseball Fields, and The Cahaba River Park due to the fact that these areas border several counties and phone calls are often sent to other counties which causes response time to suffer.

Selected Concept

Our leadership group felt that the blue light systems would be most needed and most effective at the new Cahaba River Park since they would have the possibility to save lives. Ultimately, we decided to focus solely on this park and the locations inside of the park where the blue light system would most be needed.

Project Management

1. Present proposal to city council for approval.
2. Select final locations for Blue Light Systems.
3. Implement Blue Light System into city budget.
4. Include repairs and upkeep in budget.
5. Pay electrician or company to install boxes.
6. Make sure that the Blue Light Systems are connected to a phone line.
7. Have Blue Light Systems directed to Mountain Brook Dispatchers.

Deliverables

The users of the new Cahaba River Park will be receiving a sense of security, quicker response time from the police department and the fire department, and a way to contact emergency response teams in the event of an emergency near the river.

Budget

Communication with Police and Fire Departments

Our team has already been in contact with the police department through email and meetings. We would hope to continue this type of communication with both departments until the boxes are implemented and working correctly.

Conclusion

The residents of Mountain Brook that use the new Cahaba River Park will gain an innumerable amount of benefits from the Blue Light Systems. People will feel better about being close to the Cahaba and even getting into the Cahaba since they know that help is just a button away. Our team would love to implement these systems to prevent a drowning death that could have been avoided. This park does not need to have someone die near it before the city decides to put in one of these call boxes. We as a city need to be proactive and prevent such an event in order to protect the citizens of Mountain Brook. The money that goes to pay for these call boxes is nothing compared to the chance that they could save someone's life because a life is priceless.

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Monday, April 14, 2014 Last update: 3 p.m.

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69° 50°
CURRENTLY: 66° 7-DAY FORECAST

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1. Longtime coach, athletic director sues Aroostook County school district, superintendents
2. Body found in Penobscot River
3. Toddler paralyzed by gunshot feeling herself, talking, family friend says
4. Police shoot, kill Windham man after he brandishes gun

Mother of teen who drowned in Sebec River raises funds for emergency response phone tower

By Alex Barber, BDN Staff
Posted July 13, 2013, at 8:14 p.m.
Play Prev/Next of 8



Patricia Anderson photo



SEBEC, Maine — The day after Dacono Arno drowned last month, Jody Arno saw people jumping off the Sebec River Bridge into the water just as her son had done the evening he died. She knew she had to do something to help prevent other parents from experiencing the pain she was feeling.

Dacono, 17, drowned in the rapid current near the dam downstream from the bridge on June 3. The Dover-Foxcroft teen is credited with pushing another teen to safety before being dragged under the water.

Others there that evening tried in vain to contact police on their cell phones to get help. But there is a little to no cell service in that area.

Bangor Daily News | Emergency | Sebec River | One Meter with 10-Button Response System | Contact | Search | 5. Three state projects are giving Maine's biggest... host of why

"With having no cell service in this area, it becomes very difficult to get emergency services here," Arno said on Friday, more than five weeks after her son's death. "It's optimal to have a hard-line service."

The Dover-Foxcroft Kiwanis Club, friends and family have helped raise more than \$9,000, she said. That money will be used to purchase a tower that will enable people to call the Piscataquis County Sheriff's Department with the push of a button. The tower also will have a flashing light, siren and video camera. The person calling in the emergency will be able to talk with a dispatcher.

It will be painted blue, which was Decano's favorite color, she said. A face plate will carry Decano's name.

Piscataquis County Sheriff's Office Chief Deputy Bob Young said the tower is a good idea.

"If you can do something to get a faster response, it will be helpful," he said.

The area below the dam where Decano and his friends were swimming is posted as off limits. High water flowing over the dam and through the turbine overflow can create powerful currents.

Decano was described as a strong swimmer, but Dover-Foxcroft Fire Chief Gerald Guyotte said last month he didn't believe anyone could have survived in that current.

Jody Arno said the 9-foot-tall pole is necessary because it is apparent kids will continue to jump off the bridge and swim in the river.

"If they put up a 10-foot fence, they're going to bring an 11-foot ladder," she said. "They're going to jump it. That's typical of kids."

"I think it's a wonderful idea," said Jess Mallar of Dover-Foxcroft, who stopped by the bridge to greet Arno on Friday. "Having a hard line to emergency services could potentially save a lot of lives. I'm devastated that it took a tragedy like this to make it happen."

Mallar agreed that little can be done to prevent kids from jumping from the bridge and swimming near the dam.

"It's a rite of passage. I've watched a lot of people do it over the years," she said.

Arno said Decano would have wanted the tower as well.

"I think this is something he would feel very strongly about," she said. "His brother, Darango, is in the same thought process — to actually take this money and do something that could help another family so they don't have to go through this."

Arno said the past few weeks have been difficult for her and her family, but especially for Decano's twin brother, Darango.

Darango also was swimming in the river the day his brother drowned. He reached for Decano and grabbed his hand before Decano slipped away.

"They were mirror twins. They were the exact opposite," said their mother, mentioning that Decano was left-handed while Darango is right-handed. "It wasn't until they were 12 years old I could get them to sleep apart."

She said Darango has been unable to revisit the spot where his brother drowned.

The loss of Decano was felt by the whole region. Hundreds attended his remembrance ceremony last month. Jody Arno said she received enough sympathy cards to fill two grocery bags.

"It's a small community that's very close," she said.

Arno said she would like to see the tower installed as soon as possible to prevent another tragedy.

Decano's drowning remains under investigation. Cpl. John MacDonald of the Maine Warden Service said in an email on Thursday.

More slideshows



Way of the Cross re-enactment helps Bangor-area



Family, community and athletic experiences aid



Frugal and practical: Cloth diaper use in Maine increases



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Man drowns in Little Cahaba River Sunday afternoon

By WIAT Staff

Updated: Monday, April 7, 2014, 2:10 pm

Published: Sunday, February 9, 2014, 1:53 pm



BIRMINGHAM, Ala. (WIAT) — Authorities in Birmingham are on the scene of a drowning off of Sicard Hollow Road and Blue Lake Drive.

The body is submerged and first responders are awaiting a coroner to arrive on the scene before pulling the body out.

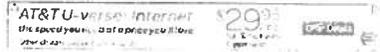
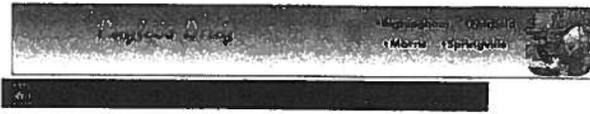
A witness says a man flagged him down and told him to call 911 a few minutes after 12 p.m.

He says two men were wading in the river fly fishing and one man stepped in a hole and became stuck.

The witness says he went into the water to try to save the man but the water was so cold it "took the breath out of him."

CBS42 has a crew on the scene and will update with more information as it becomes available.

2014 WIAT-TV CBS42



Coroner confirms identity of teen who drowned in Cahaba River

Posted: Aug 28, 2013 7:34 PM CDT
Updated: Aug 15, 2013 1:17 PM CDT
By Sharne Brinkus - email
By Vanessa Ariza - email

TRUSSVILLE, AL (WBRC) - The Jefferson County Deputy Coroner identifies a young drowning victim as Brock Bowman.

Authorities say they were called to the Cahaba River around 5:45 p.m. by neighbors who heard screaming near the water. Soon after they recovered Bowman's body.

Police say that they believe the victim and some friends were tubing at the time. Their preliminary investigation suggests that the victim was caught between two very large boulders and couldn't resurface.

Bowman was reportedly a junior defensive lineman on the Trussville Hewitt High School football team.

The teen's church family, First Baptist Church of Trussville, opened its doors Thursday night for anyone who wanted to pray for the Bowman family.

The church website says there will be a student worship service at 7 p.m. Friday night at the high school room in memory of Bowman. Students and adults are invited, according to the website.

The website also says Bryant Bank and FBC Trussville are setting up accounts for donations to the Bowman family.

Funeral arrangements have not yet been finalized, but are expected to be announced later Friday.

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Birmingham arrest records: Who do you know?



14 Benefits Most Sailors Didn't Know They Had



Top 10 Child Stars Who Became Broken Adults



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13-year-old boy drowns in Cahaba River on outing

By: Associated Press

Updated: Tue 3:34 AM, Apr 28, 2009

CENTREVILLE, Ala. (AP) - The body of a 13-year-old boy who apparently drowned in the Cahaba River while on a weekend trip has been recovered.

Bibb County Coroner Downey McGee said a diver found the body of Camertron Knowles, a student at Triwill Portacras School in Green Pond, at about 11 a.m. Monday.

Authorities said Knowles, from Etowah County, was visiting the Cahaba Wildlife Refuge on Saturday.

McGee said Knowles was at the river swimming with three friends around 4:30 p.m. Saturday when they became tired and decided to return to shore, but he did not make it.

WTVY-TV 285 N Foster Street Dothan, AL 36303 334-792-3195



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ETP-MT/R-OP-PCS – Emergency Phone Tower for Wireless and/or Switched Power

STANDARD TOWER CONFIGURATION (ETP-MT/R-OP-PCS) \$4865 LIST PRICE

Tower Color (to match a color contact Talkaphone)
 Safety Blue Safety Red White Black Other (Color Chart Paint #) _____

Reflective Lettering Text
 Emergency Assistance Help None Other _____

Reflective Lettering Color
 White Black Red Other (Color Chart Lettering #) _____

Lighting Voltage
 120VAC 24VDC/12VDC/24VAC (select if ordering power charging system)

Tower Height
 Standard (9'0") Custom Height _____ (Call for quote)




PHONE CONFIGURATION (add) LIST PRICE

Analog Phones		VOIP-500 Series Phones	
<input type="checkbox"/> One button: "EMERGENCY" (ETP-400) \$655	<input type="checkbox"/> One button: "EMERGENCY" (VOIP-500) \$1595	<input type="checkbox"/> One button: "TO CALL" (ETP-400C) \$655	<input type="checkbox"/> One button: "TO CALL" (VOIP-500C) \$1595
<input type="checkbox"/> Two buttons (ETP-400D) \$710	<input type="checkbox"/> Two buttons (VOIP-500D) \$1740	<input type="checkbox"/> One button plus keypad (ETP-400K) \$790	<input type="checkbox"/> One button plus keypad (VOIP-500K) \$1815










Phone Options (choose one or both)
 Voice Identification Option (add V to Analog Phone models; included standard with VOIP-500 Series Phones) \$75
 Color pinhole camera behind phone faceplate (add -OP3 to Analog Phone models; add -3 to VOIP-500 Series Phones) \$600

OPTIONS (add) LIST PRICE

Camera Options

Fixed Camera Ready* (Includes camera opening and bracket, no camera) (add -OP2 to tower model) \$370
 Fixed Camera Option* (Includes Day/Night Camera with Vari-focal lens) (add -OP3 to tower model) \$1480
 PTZ Camera Ready (includes arm for mounting your own dome camera) (add -OP4 to tower model) \$1200
 Pole Option (includes Ø2.5", 18" L pole above the tower) (add -WP to tower model) \$730

Wireless Communications

GSM Cellular Interface for ETP-400 series (ETP-GSM) \$2150
 Wireless Interface for VOIP-500 series (VOIP-RF-FM-1100) (requires ETP-MT/R-OP-PCS-WP) \$1295
 12VDC PoE Injector for VOIP-RF-FM-1100 Wireless Interface (VOIP-RF-FM-POE) \$285

FOR SWITCHED POWER OPTIONS SEE PAGE 32

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Page 10 of 33



ETP-MT/R – Radius Emergency Phone Tower

STANDARD TOWER CONFIGURATION (ETP-MT/R) \$4195 LIST PRICE

Tower Color (to match a color contact Talkaphone)
 Safety Blue Safety Red White Black Other (Color Chart Paint #) _____

Reflective Lettering Text
 Emergency Assistance Help None Other _____

Reflective Lettering Color
 White Black Red Other (Color Chart Lettering #) _____

Lighting Voltage (for solar power see Solar Powered Emergency Tower Price Sheet)
 120VAC 24VDC/12VDC/24VAC

Tower Height
 Standard (9'0") Custom Height _____ (Call for quote)




PHONE CONFIGURATION (add) LIST PRICE

Analog Phones		VOIP-500 Series Phones	
<input type="checkbox"/> One button: "EMERGENCY" (ETP-400) \$655	<input type="checkbox"/> One button: "EMERGENCY" (VOIP-500) \$1595	<input type="checkbox"/> One button: "TO CALL" (ETP-400C) \$655	<input type="checkbox"/> One button: "TO CALL" (VOIP-500C) \$1595
<input type="checkbox"/> Two buttons (ETP-400D) \$710	<input type="checkbox"/> Two buttons (VOIP-500D) \$1740	<input type="checkbox"/> One button plus keypad (ETP-400K) \$790	<input type="checkbox"/> One button plus keypad (VOIP-500K) \$1815










Phone Options (choose one or both)
 Voice Identification Option (add V to Analog Phone models; included standard with VOIP-500 Series Phones) \$75
 Color pinhole camera behind phone faceplate (add -OP3 to Analog Phone models; add -3 to VOIP-500 Series Phones) \$600

OPTIONS (add) LIST PRICE

Tower Camera

Fixed Camera Ready (Includes camera opening and bracket, no camera) (add -OP2 to tower model) \$370
 Fixed Camera Option (includes Day/Night Camera with Vari-focal lens) (add -OP3 to tower model) \$1480

Automated External Defibrillator (AED)

Secure, recessed AED compartment with lockable door (add -AED to tower model) \$3000
 Thermostatically controlled heater for AED compartment (add -HTR to tower model) \$600
 Note: Customer supplies AED unit(s). Storage compartment will fit most brands.

Parking Deck Mounting Kit

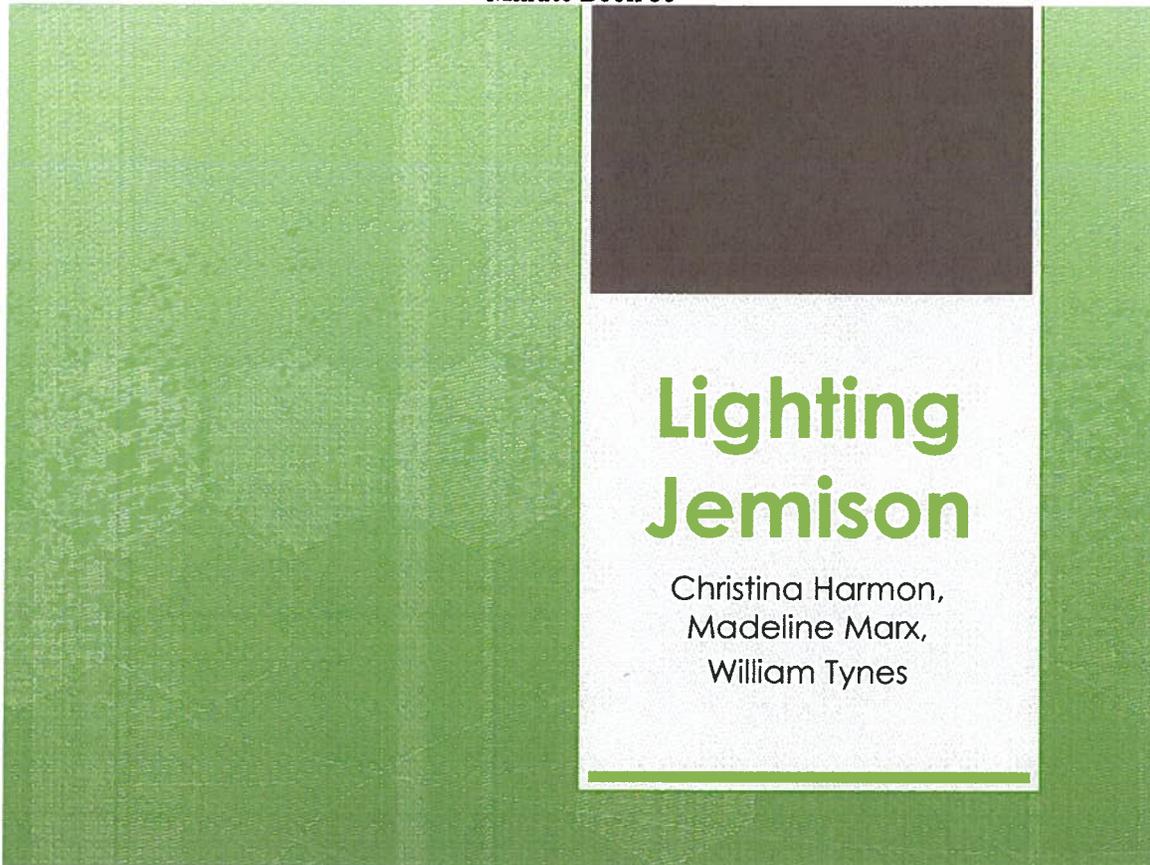
Galvanized Sandwich plates and bolt kit (ETP-PDMK-4) \$375

For Wireless or Switched Power Options, use ETP-MT/R OP PCS (PAGE 9)

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**Lighting
Jemison**

Christina Harmon,
Madeline Marx,
William Tynes

APPENDIX 1



★ Our Goal: ★

Improve Street Lights On
Mtn. Brook Parkway
Bordering Jemison Trail

Why?

Reduce light pollution

Uniformity

Aesthetically pleasing

Enhance the city's image

How?

Met with friends of Jemison Park

Nimrod Long
Sally Worthing

Collaborated with Alabama Power Co.
to install better street light fixtures on
Mtn. Brook Parkway

TJ Fincher (205) 226-1742
Robin White (205) 257-4548

What It Will Look Like



APPENDIX 1

Cost For All Fixtures

Consultation Fee: \$0.00
Cost of Installation: \$0.00

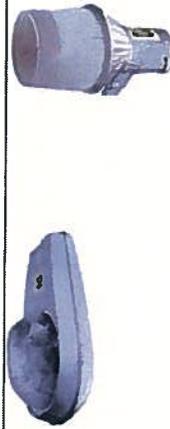
Current: Monthly - \$80.68
Proposed: Monthly - \$134.18

Current: Annually - \$968.16
Proposed Annually - \$1610.16

What We're Asking

★ Revise and renew our lease with Alabama Power Co. ★

Lighting Jemison
 We want to improve the lighting on Mt. Brook Parkway along Jemison Trail from the old and different colored lights to uniform lights that reduce light pollution.



Current Fixtures				Total Cost of all Fixtures	
Light Type	Qty.	Cost per Fixture	Monthly	Annual	Annual
100w MV Open Bottom	3	\$4.04	\$48.48	\$12.12	\$145.44
400w HPS Standard Gray Cobra	2	\$18.41	\$220.92	\$36.82	\$441.84
150w HPS Standard Gray Cobra	3	\$10.58	\$126.96	\$31.74	\$380.88
Total		\$33.03	\$396.36	\$80.68	\$968.16



Proposed Fixtures					Total Cost All Fixtures	
Light Type	Qty.	Cost per Fixture	Monthly	Annual	Monthly	Annual
150w MH Cut-Off Bronze Cobra	6	\$15.07	\$180.84	\$90.42	\$1085.04	
350w MH Cut-Off Bronze Cobra	2	\$21.88	\$262.56	\$43.76	\$525.12	
Total		\$36.95	\$443.4	\$134.18	\$1610.16	

M-400 LUMINAIRE WITH CUTOFF OPTICS



Commodity 2845018
 350W MH Cutoff Cobra (Sog Glass)
 Bronze, Type III, Multi-volt
 MSCL35E0A22GM3407
 Photometric Curve: TBD

APPLICATIONS

- For roadway, highway or parking lot applications where light trespass could be a problem

SPECIFICATION FEATURES

- Universal two-bolt slipfitter
- Die-cast aluminum housing with polyester powder gray paint finish
- Adjustable mogul base socket (house side) - E39 standard
- Standardized reflector
- "Dead back" tunnel type, FRP terminal board
- Ⓢ/Ⓣ listed for wet location available as an option
- Metal pest guard standard (not required for 2 in. pipe mounting)
- No-tool PE receptacle
- Plug-in ignitor available
- Cutoff photometrics
- External paddle type stainless steel ball latch
- True 90° cutoff—no light above 90° (meets RP8-2000 for full cutoff) with flat glass

Leadership Mountain Brook City Flag Proposal

Haley Fenn, Lindsey Kirk, Brooke Littleton & Jordan Tynes

Executive Summary:

Creating a unique flag for the city of Mountain Brook is a project that will reinforce the values and characteristics of the community. Considering the fact that the majority of the surrounding cities have their own flags, it is only logical that Mountain Brook establishes one of its own. Our group has been very thoughtful with regards to the design of the flag and purposefully incorporated features such as the nature and the deep roots of the community. By implementing a flag distinct to Mountain Brook, it enhances the unity of the community as well as the impression that visitors make of our wonderful town.

Introduction:

Most cities and towns are represented by their distinct flags that are flown with pride throughout the municipality. Unfortunately, the city of Mountain Brook is currently lacking this unifying symbol. A flag will benefit the Mountain Brook community by increasing exposure and acting as recognizable aspect of the town.

Project Statement:

By creating a recognizable design for the city of Mountain Brook and implementing it into a flag, the city can showcase its natural features and community values which make life Mountain Brook exceptional.

Background:

Inspiration for a Mountain Brook city flag originated from Mayor Terry Oden when he expressed his desire to provide Mountain Brook with this vital emblem it is currently lacking.

ORDERING NUMBER LOGIC

MSCL	SS	E	Q	A	2	2	G	MC3	
PRODUCT IDENT	WATTAGE	LAMP	VOLTAGE	BALLAST TYPE	FUNCTION	PIPE MOUNTING	TERMINAL	REFLECTOR OPTICS	
MSCL = M-400 with 4-Bolt Slipfitter	07 = 70 10 = 100 15 = 150 20 = 200 24 = 250 32 = 350 40 = 400 84 = 85 100 = 100	E = Energy Art Compliant HPS HID lamp not included. Q = QI Induction T = Induction Induction: Supplied with ballast.	5000 260/277 1 = 120 2 = 208 3 = 240 4 = 277 5 = 480 7 = 120/240 8 = 240V 120V PE Receptacle not connect-able	See Ballast Selection Table A = Autotap E = Induction Ballast G = Mag-Reg with Grounded Socket H = HPP Reactor or Log M = HPP Reactor or Log P = CWI with Grounded Socket Shell	1 = None 2 = PE Receptacle NOTE: Receptacle connected same voltage as unit except as noted. Order PE Control separately.	1 Non Plug-In None 2 Plug-In base and ignitor	F = Flat Glass G = Shallow Glass Globe L = Polycarbonate Clear Globe (250 watt HPS only) * = Previously IESNA Full Cutoff Optics	See Photometric Selection Table M = Medium C = Cutoff 2 = Type II 3 = Type III 4 = Type IV * = Previously IESNA Full Cutoff Optics	C = Charcoal filter Fusing (Not available with multi-volt or dual voltage) J = Line Surge Protection, Explosion Type U = Ⓢ/Ⓣ listed with glass only (60Hz only)

PHOTOMETRIC SELECTION TABLE

CLEAR REFRACTORS. All light sources are clear.

Wattage	Light Source	IES Distribution Type Photometric Curve Number 35-45xxxx											
		Flat Glass "F"			Polycarbonate			Sog Glass "G"					
		MC2	MC3	MCA*	SC2	SC3	MC2	MC3	MC1	MC2	MC3	SC2	SC3
150 (55V)	HPS	0391	0392	N/A	N/A	N/A	C/F	C/F	N/A	0547	0546	N/A	N/A
200-400	HPS	1005	1006	0830*	N/A	N/A	1046**	1045**	N/A	0864	0863	N/A	N/A
175, 250, 320, 350, 400	EPHM	0348	0347	N/A	N/A	N/A	N/A	N/A	N/A	0544	0545	N/A	N/A
	EPHM	*452880	*452882	N/A	N/A	N/A	N/A	N/A	0276	0275	450376	N/A	N/A
85	Q	N/A	N/A	N/A	N/A	453614	N/A	N/A	N/A	N/A	N/A	N/A	N/A
100	T	N/A	N/A	N/A	2870	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A

NOTE: N/A = Not Available C/F = Contact Factory
 *Requires the use of ED-28 Lamp
 **250 watts maximum
 *MCA N/A with MagReg Ballast

GE Lighting Systems, Inc.
 www.gelighting.com

Resource Requirements:

We are planning to use already existing flag poles in the following locations:

- Mountain Brook Sports Complex, City Municipal Building, Rathmell, Fire Station 3 (Old Leeds), Memory Triangle, Crestline Elementary, Brookwood Forest Elementary, Mountain Brook Elementary, Cherokee Bend Elementary, Mountain Brook Junior High and Mountain Brook High School

Schedule:

- Present to City Council on Monday, April 28th
- Estimated Production Time: 2 weeks

Budget:

\$100-125 per flag (includes materials and screen printing)
\$50 artist design fee

Contacts:

Dana Hazen: Provided input and advice on the original design of the flag

Sam Gaston: Informed us of the locations of the potential flag poles the flag could be flown

Graham Nash: Helped us in the design process for the flag's production and used his artist to finalize the design

We have worked with Mountain Brook Sporting Goods and their artist for the screen printing portion of our project.

Dana Hazen ~ City Planner
City of Mountain Brook
gastons@mtnbrook.org
(205) 802-3800

Sam Gaston ~ City Manager
City of Mountain Brook
gastons@mtnbrook.org
(205) 802-3800

Graham Nash ~ Store Manager
Mountain Brook Sporting Goods
mbsport@bellsouth.net
(205) 936-3363

April 28, 2014

Mountain Brook City Council
56 Church Street
Birmingham, Al 35213

Louis Wade, Griffen Cope, Jack Ferguson
Leadership Mountain Brook
3650 Bethune Drive
Mountain Brook, Al 35223

To whom it may concern:

We are contacting you concerning a sponsorship opportunity for the Mountain Brook Police Department. The Mountain Brook Police Department is in desperate need of new workout equipment. Although the police station has recently been updated, the workout room is still severely out of date. Some of the equipment is no longer operable. Wright Exercise Equipment, located in Birmingham, has offered us a discounted price of \$11,000 for the new equipment. We need your help raising this money.

You are an important contributor to our community and any donation is appreciated. This is a great opportunity for you to put a lasting impression on the community as well as helping out the Mountain Brook Police Department. Thank you for your consideration.

Sincerely,

Griffen Cope
Jack Ferguson
Louis Wade



**6510 1ST AVENUE NORTH
BIRMINGHAM, AL 35206
(205) 591-6564
(205) 592-6756 (FAX)**

QUOTE

DATE	QUOTE NO
3/14/2014	33455

NAME / ADDRESS
Mountain Brook Police 100 Tibbett Street Mountain Brook, AL 35213-3714 Sgt. Evans, Matt & James

P.O. NO.	REP
	JH

QTY	ITEM	DESCRIPTION	COST	TOTAL
1	AP-7400	Tuff Stuff 4-Stack Gym Retail \$9599.00	8,100.00	8,100.00
1	Pro310	Pro 310 Octane Commercial Elliptical Retail \$3199.00	2,555.00	2,555.00
1	Deliver/Setup	Freight, Delivery, & Set-Up	345.00	345.00
TOTAL				\$11,000.00

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RESOLUTION NO. 2014-053

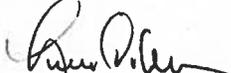
BE IT RESOLVED by the City Council of the City of Mountain Brook, Alabama that the City Council hereby ratifies the execution of a preventive maintenance service agreement between the City and Schindler Elevator Corporation, in the form as attached hereto as Exhibit A, with respect to the municipal complex.

ADOPTED: This 12th day of May, 2014.



Council President

APPROVED: This 12th day of May, 2014.



Mayor

CERTIFICATION

I, Steven Boone, City Clerk of the City of Mountain Brook, Alabama hereby certify the above to be a true and correct copy of a resolution adopted by the City Council of the City of Mountain Brook at its regular meeting held on May 12, 2014 as same appears in the minutes of record of said meeting.



City Clerk

Schindler Plus

SCHINDLER ELEVATOR CORPORATION
2721 6th Avenue South
Birmingham, AL 35233-3406
Phone 205-645-2084
Fax 205-252-5198

Date: April 29, 2014

Estimate Number: CFUA-97BSMV (2014.2.1)

To:
Mountain Brook Municipal Compl
56 Church Street
Birmingham, AL 35213

Building Name:
Mountain Brook Municipal Compl

Attn: Steve Boone

EQUIPMENT DESCRIPTION

Qty	Manufacturer	Equipment Application Description	Rise/Length Openings	Capacity Speed	Install
1	Schindler	Hydraulic Passenger Passenger Elevators	47/0R		

SCHINDLER ELEVATOR CORPORATION ("Schindler", "we", "us") 2721 6th Avenue South, Birmingham, AL 35233-3406, and MOUNTAIN BROOK MUNICIPAL COMPL, 56 Church Street, Birmingham, AL 35213 ("you") agree as follows:

PREVENTIVE MAINTENANCE SERVICE

- Our preventive maintenance program performed in accordance with a maintenance schedule specific to your equipment and its usage
- Examine, lubricate, adjust, and repair/replace covered components
- Criteria for replacement of all wire ropes will be the appropriate factor of safety
- Prompt callback coverage
- Safety testing
- Customer friendly and responsive communications

PREVENTIVE MAINTENANCE PROGRAM

Our Preventive Maintenance Program, as described in this agreement will be performed in accordance with a maintenance schedule specific to your equipment. A Schindler technician will be assigned to you, and back up technicians are available as required to give you prompt service as required at all times. A Schindler account representative will be assigned to you, and will be your primary contact for communications regarding your agreement. Also available to you is our extensive technical support and parts inventory, at the site as needed, and local warehouses and our national Service Distribution Center available for express delivery in emergencies.

EXAMINE, LUBRICATE, ADJUST, AND REPAIR/REPLACE COVERED COMPONENTS

We will periodically examine, lubricate, adjust, and as needed or if usage mandates, repair, or replace the Covered Components listed below.

HYDRAULIC ELEVATORS

Basic components: Controller components: resistors, fuses, overloads, minor contacts, wiring, coils; packing, drive belts, strainers, functional components of car and corridor operating stations, hangers and tracks, door operating devices, door gibs, guide shoes, rollers, traveling cables, signal lamps (replacement during regular visits only), interlocks, door closers, buffers, switches, door protection devices, and alarm bells.

Major components: Exposed piping in the Machine Room & hoistway, motor, PC boards, pump unit, solid state devices, contactors, and valve rebuilds.

We assume no responsibility for the following items: hoistway door hinges, panels, frames, gates and sills; cabs and cab flooring; cab doors, gates and removable cab panels; cab mirrors and handrails; power switches, fuses and feeders to controllers; emergency cab lighting; light fixtures and lamps; cover plates for signal fixtures and operating stations; card readers or other access control devices; smoke/fire alarms and detectors; pit pumps and alarms; cleaning of cab interiors and exposed sills; plungers, pistons, casings and cylinders; automatic ejection systems; all piping and connections except that portion which is exposed in the machine room and hoistway; guide rails; tank emergency power generators; telephone service, communication devices; disposal of used oil; intercom or music systems; ventilators, air conditioners or heaters; adverse elevator operation as a result of machine room temperatures (including temperature variations below 60 degrees Fahrenheit and above 90 degrees Fahrenheit); media displays; computer consoles or keyboards; attachment to skirts, decking or balustrades; moving walk belts; pallets; steps; skirt brushes; sideplate devices; any batteries associated with the equipment, obsolete items, (defined as parts, components or equipment either 20 or more years from original installation, or no longer available from the original equipment manufacturer or an industry parts supplier, replaceable only by refurbishment.) In the event that safety testing is performed by us at the start of the Agreement, and we find that critical safety components, such as the governor and/or safeties for traction equipment, and/or valves on hydraulic equipment, are not operating correctly, therefore resulting in unsafe conditions, you will be responsible to authorize the necessary repairs/replacements of this equipment, at your expense.

CLEANING

We will periodically clean the machine room, car top, and pit of debris related to our work in these areas.

TESTING OF SAFETY DEVICES

Equipment	Test	Frequency
Hydraulic	Pressure/Relief Valve	Annually

Our testing responsibilities do not include fees or charges imposed by local authorities in conjunction with witnessing, witnessing costs, inspecting, assisting inspection authorities, licensing or testing the Equipment including observation of testing by 3rd parties; changes in the testing requirements after the initial start date of this Agreement, or any other testing obligations other than as specifically set forth above, including, but not limited to seismic tests. Since these tests may expose the equipment to strains well in excess of those experienced during normal operation, Schindler will not be responsible for any damage to the equipment or property, or injury to or death of any persons, resulting from or arising out of the performance of these tests. Further, our testing responsibilities do not include performance, or the keeping of records related to, monthly freighters service.

CUSTOMER FRIENDLY AND RESPONSIVE COMMUNICATIONS

Service dispatching will take place through our Schindler Customer Service Network (SCSN), which is staffed by qualified Schindler personnel, 24/7. You will be provided with a customer identification number, which must be referenced when a call is placed for your facility. Our dispatchers will have access to your building's service call records, and will promptly relay the details of your call to the assigned technician. Your cab telephone will be directly programmed to dial SCSN.

You will also have access to Schindler SCORE CARD™, through Schindler's website, which gives you instant access to the performance history of your equipment covered by this Agreement.

ADDITIONAL COVERAGES

We will remotely monitor (if applicable) those functions of the Equipment described above which are remote monitoring capable. Our remote monitoring system ("SRM") will automatically notify us if any monitored component or function is operating outside established parameters. We will then communicate with you to schedule appropriate service calls. Monitoring will be performed on a 24 hour, 7 day basis and will communicate toll free with our Customer Service Network using dedicated elevator telephone service. The operation and monitoring of SRM is contingent upon availability and maintenance of dedicated elevator telephone service. You have the responsibility to install, maintain and pay for such telephone service, and to notify us at any time of any interruption of such telephone service. If requested, you will provide the proper wiring diagrams for the equipment covered. These diagrams will remain your property, and will be maintained by Schindler for use in troubleshooting and servicing the equipment.

CALLBACK RESPONSE TIME

We will respond to callbacks during regular working hours within an average of 4 hours of notification, and during overtime hours within an average of 12 hours of notification, unless we are prevented from doing so by causes beyond our control.

HOURS OF SERVICE

We will perform the services during our regular working hours of regular working days, excluding elevator trade holidays. The services include callbacks for emergency minor adjustment callbacks during regular working hours. If you authorize callbacks outside regular working hours, you will pay us at our standard billing rates, plus materials not covered by contract, expenses and travel. All other work outside the service will be billed at our standard billing rates. A request for service will be considered an "emergency minor adjustment callback" if it is to correct a malfunction or adjust the equipment and requires immediate attention and is not caused by misuse, abuse or other factors beyond our control. The term does not include any correction or adjustment that requires more than one technician or more than two hours to complete.

TERM

This Agreement commences on May 01, 2014, and continues until April 30, 2018. After initial term, either party may terminate this agreement by providing the other party at least (60) days prior written notice.

PRICE

In consideration of the services provided hereunder, you agree to pay us the sum of \$405.00 per month, payable in annual installments of \$4,860.00, exclusive of applicable taxes, unless another payment frequency option is selected below.

PRICE ADJUSTMENT

The contract Price and labor rates for extra work will be adjusted annually in January. This adjustment will be based upon the local labor rate adjustment for the year in which it is adjusted, and will be increased or decreased on the basis of changes to the local straight time hourly rate for mechanics. If there is a delay in determining a new labor rate, or an interim determination of a new labor rate, we will notify you and adjust the price at the time of such determination, and we will retroactively bill or issue credit, as appropriate, for the period of such delay. We also reserve the right to adjust the contract price quarterly / annually on the basis of changes in other expenses such as fuel, waste disposal, government regulations or administrative costs. Should you elect to take the annual pre-payment option, the price adjustment date will default to coincide with the invoice date.

PAYMENT OPTIONS

(1) Please select a Method of Payment:

- Direct Debit 1% Discount (Attach Copy of voided check)
- Credit Card 3% Addition
 - Visa MC AMEX
- Number: _____
- Expiration Date: _____
- Signature: _____
- Check
- Other: _____

(2) Please select a Payment Frequency (Other than Annual):

- Semi-Annual 1% Addition
- Quarterly 3% Addition
- Monthly 5% Addition

SPECIAL TERMS AND PRICING

Invoicing for this agreement will be quarterly commencing @ \$1,215.00

Preventative maintenance services will be conducted quarterly

Maximum annual price escalations will be capped @ 3.5%

The attached terms and conditions are incorporated herein by reference.

Acceptance by you as owner's agent or authorized representative and subsequent approval by our authorized representative will be required to validate this agreement.

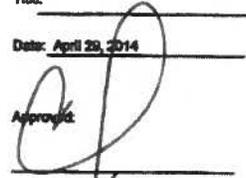
Proposed: _____

By: Christian Fuld

For: Schindler Elevator Corporation

Title: _____

Date: April 29, 2014

Approved: 

By: Christian Fuld

Title: Business Manager

Date: 5/1/14

Accepted: _____



By: Sam Gaston

For: Mountain Brook Municipal Compt

Title: City Manager

Date: 4/30/2014

TERMS AND CONDITIONS

1. This is the entire Agreement between us, and no other terms or conditions shall apply. This service proposal does not void or negate the terms and conditions of any existing service agreement unless fully executed by both parties. No services or work other than specifically set forth herein are included or intended by this Agreement.
2. You retain your responsibilities as Owner and/or Manager of the premises and of the Equipment. You will provide us with clear and safe access to the Equipment and a safe workplace for our employees as well as a safe storage location for parts and other materials to be stored on site which remain our property, in compliance with all applicable regulations related thereto, you will inspect and observe the condition of the Equipment and workplace and you will promptly report potentially hazardous conditions and malfunctions, and you will call for service as required; you will promptly authorize needed repairs or replacements outside the scope of this Agreement, and observe all testing and reporting responsibilities based upon local codes. You will not permit others to work on the Equipment during the term of this Agreement. You agree that you will authorize and pay for any proposed pre-maintenance repairs or upgrades (including any such repairs or upgrades proposed during the first 30 days of this agreement), or we will have the option to terminate this Agreement immediately, without penalty to us. You agreed to post and maintain necessary instructions and / or warnings relating to the equipment.
3. We will not be liable for damages of any kind, whether in contract or in tort, or otherwise, in excess of the annual price of this Agreement. We will not be liable in any event for special, indirect or consequential damages, which include but are not limited to loss of rents, revenue, profit, good will, or use of Equipment or property, or business interruption.
4. Neither party shall be responsible for any loss, damage, detention or delay caused by labor trouble or disputes, strikes, lockouts, fire, explosion, theft, lightning, wind storm, earthquake, floods, storms, riot, civil commotion, malicious mischief, embargoes, shortages of materials or workmen, unavailability of material from usual sources, government priorities or requests or demands of the National Defense Program, civil or military authority, war, insurrection, failure to act on the part of either party's suppliers or subcontractors, orders or instructions of any federal, state, or municipal government or any department or agency thereof, acts of God, or by any other cause beyond the reasonable control of either party. Dates for the performance or completion of the work shall be extended by such delay of time as may be reasonably necessary to compensate for the delay.
5. You will assign this Agreement to your successor in interest, should your interest in the premises cease prior to the initial or any renewal termination date. If this Agreement is terminated prematurely for any reason, other than our default, including failure to assign to a successor in interest as required above, you will pay as liquidated damages (but not penalty) the full remaining amount due under this Agreement.
6. The Equipment consists of mechanical and electrical devices subject to wear and tear, deterioration, obsolescence and possible malfunction as a result of causes beyond our control. The services do not guarantee against failure or malfunction, but are intended to reduce wear and prolong useful life of the Equipment. We are not required to perform tests other than those specified previously, to install new devices on the equipment which may be recommended or directed by insurance companies, federal, state, municipal or other authorities, to make changes or modifications in design, or to make any replacements with parts of a different design. We are responsible to perform such work as is required due to ordinary wear and tear. We are not responsible for any work required, or any claims, liabilities or damages, due to: obsolescence; accident; abuse; misuse; vandalism; adverse machine room conditions (including temperature variations below 60 degrees and above 90 degrees Fahrenheit) or excessive humidity; overloading or overcrowding of the Equipment beyond the limits of the applicable codes; adverse premises or environmental conditions, power fluctuations, rust, or any other cause beyond our control. We will not be responsible for correction of outstanding violations or test requirements cited by appropriate authorities prior to the effective date of this agreement.
7. Invoices (including invoices for extra work outside the fixed price) will be paid upon presentation, on or before the last day of the month prior to the billing period. Late or non-payments will result in:
 - (a) Interest on past due amounts at 15% per month or the highest legal rate available;
 - (b) Termination of the Agreement on ten (10) days prior written notice; and
 - (c) Attorneys' fees, cost of collection and all other appropriate remedies for breach of contract.

8. If either party to this Agreement claims default by the other, written notice of at least 30 days shall be provided, specifically describing the default. If cure of the default is not commenced within the thirty-day notification period, this Agreement may be terminated. In the event of litigation, the prevailing party will be entitled to its reasonable attorneys' fees and costs. If you elect to modernize any or all of the Equipment during the term of this agreement, you will give us the option, within a reasonable time, to prepare an offer for the work and/or evaluate competitor proposals and compare scope of work and price. If we are unable to match price and scope of work, or present an alternative proposal, this Agreement may be canceled with ninety (90) days written notice.
9. Any proprietary material, information, data or device contained in the equipment or work provided hereunder, or any component or feature thereof, remains our property. This includes, but is not limited to, any tools, devices, manuals, software (which is subject to a limited license for use in this building/premises/ equipment only), modems, source/ access/ object codes, passwords and the Schindler Remote Monitoring feature ("SRM") (if applicable) which we will deactivate and remove if the Agreement is terminated.
10. You will prevent access to the Equipment, including the SRM feature and/or dedicated telephone line if applicable, by anyone other than us. We will not be responsible for any claims, losses, demands, lawsuits, judgment, verdicts, awards or settlements ("claims") arising from the use or misuse of SRM, if it or any portion of it has been modified, tampered with, misused or abused. We will not be responsible for use, misuse, or misinterpretation of the reports, calls, signals, alarms or other such SRM output, nor for claims arising from acts or omissions of others in connection with SRM or from interruptions of telephone service to SRM regardless of cause. You agree that you will defend, indemnify and hold us harmless from and against any such claims, and from any and all claims arising out of or in connection with this Agreement, and/or the Equipment, unless caused directly and solely by our established fault.
11. Should this Agreement be accepted by you in the form of a purchase order, the terms and conditions of this Agreement will take precedence over those of the purchase order.
12. Schindler Elevator Corporation is insured at all locations where it undertakes business for the type of insurance. You agree to accept, named as certificate holder, in full satisfaction of the insurance requirements for this Agreement, our standard Certificate of Insurance. Limits of liability as follow:
 - (a) Workers' Compensation - Equal to or in excess of limits of Workers' Compensation laws in all states and the District of Columbia.
 - (b) Comprehensive Liability - Up to Two Million Dollars (\$2,000,000.00) single limit per occurrence, Product/Completed Ops Aggregate \$5,000,000.
 - (c) Auto Liability - \$5,000,000 CSL
 - (d) Employer's Liability - \$5,000,000 Each Accident/Employee/Policy Limit.

ADDENDUM TO AGREEMENT BETWEEN THE CITY OF MOUNTAIN BROOK AND SCHINDLER ELEVATOR CORPORATION DATED APRIL 28, 2014

THIS ADDENDUM ("the this Addendum") to the principal agreement between the City of Mountain Brook, Alabama ("the City") and Schindler Elevator Corporation ("the Contractor") dated April 28, 2014.

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

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

and charges would be assessed against the City under applicable law in the absence of any contractual provision imposing or assigning liability therefor.

- 4. Late Payment Charges; Fees; Interest. The City shall not be liable for any late payment charges, interest, or fees on any delinquent bill for goods, materials, or services at a rate higher than two-thirds of one percent per month (eight percent per annum), but bills rendered to the City shall not be considered delinquent any earlier than thirty (30) days after rendition of a complete and accurate bill by the Contractor. Contested bills shall not be subject to late payment charges pending resolution of the dispute.
5. Indemnification; Hold-Harmless; Release; Waiver; Limitations of Liability or Remedies. The City shall not and does not indemnify, hold harmless, or release the Contractor or any other person, firm, or legal entity for, from, or with respect to any claim, cause of action, cost, charge, fee, expense, or liability whatsoever arising out of or relating to the subject matter of the agreement or the performance or nonperformance thereof, nor shall or does the City waive its right to assert or pursue any remedy or claim for relief of any kind that it may have against the Contractor or any other person, firm, or entity for any actual or alleged default or other breach of legal duty on the part of the Contractor or any person, firm, or entity in privity therewith or acting on Contractor's behalf. Any limitation or restriction regarding the type, nature, form, amount, or extent of any right, remedy, relief, or recovery that would otherwise be available to the City is expressly disavowed, excluded from the terms of the agreement, and void.
6. Choice of Law; Choice of Venue or Forum. The meaning, legal effect, and enforcement of terms and provisions of the agreement and the resolution of any disputes arising thereunder or relating thereto shall be governed by the laws of the State of Alabama except to the extent otherwise required by applicable conflict-of-law principles. The venue of any suit, action, or legal proceeding brought to enforce or secure relief by reason of any asserted breach of duty arising out of or relating to the performance or nonperformance of the agreement shall be Jefferson County, Alabama except to the extent otherwise required by applicable principles of law.
7. Construction of Addendum. Nothing in this Addendum shall be construed to create or impose any duty or liability on the City, to create a right or remedy in favor of the Contractor against the City, or to restrict or abrogate any right or remedy that is available to the City against the Contractor or any other person, firm, or entity under either the principal agreement or as a matter of law.
8. Alabama Immigration Law Compliance Contract. Contractor agrees that it will fully comply with the Immigration Reform and Control Act of 1986, as amended by the Immigration Act of 1990, and the Beson-Hammon Alabama Taxpayer and Citizen Protection Act, which makes it unlawful for an employer in Alabama to knowingly hire or continue to employ an alien who is or has become unauthorized with respect to such employment or to fail to comply with the 1-9 requirements or fails to use E-Verify to verify the eligibility to legally work in the United States for all of its new hires who are employed to work in the State of Alabama. Without limiting the foregoing, Contractor shall not knowingly employ, hire for employment, or continue to employ an unauthorized alien, and shall have an officer or other managerial employee who is personally familiar with the Contractor's hiring practices to execute an affidavit to this effect on the form supplied by the Board and return the same to the City. Contractor shall also enroll in the E-Verify

Program prior to performing any work, or continuing to perform any ongoing work, and shall remain enrolled throughout the entire course of its performance hereunder, and shall attach to its affidavit the E-Verify Program for Employment Verification and Memorandum of Understanding and such other documentation as the Board may require to confirm Contractor's enrollment in the E-Verify Program. Contractor agrees not to knowingly allow any of its subcontractors, or any other party with whom it has a contract, to employ in the State of Alabama any illegal or undocumented alien 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 Benson-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 28th day of April, 2014.

Schindler Elevator Corporation

By: *[Signature]*
Its: BUSINESS MANAGER

City of Mountain Brook, Alabama

By: *[Signature]*
Its: 4-30-14

BRINDLEE MOUNTAIN FIRE APPARATUS

15410 Hwy 231 Union Grove, AL 35175 · 1-866-285-9305 · Fax: 266-498-0924

Listing and Marketing Commission Agreement

The undersigned being duly authorized hereby enter into the following contractual agreement: Brindle Mountain Fire Apparatus agrees to broker the following apparatus:

1997 Ferrara Pumper

Owned or exclusively offered for sale by:

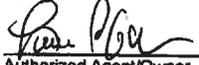
Mountain Brook Fire Department Agent/Owner

Brindlee will refer to Agent/Owner all qualified inquires Brindlee receive regarding the specified apparatus. If Agent/Owner sells the marketed apparatus or any other apparatus to the customer referred by Brindlee, or anyone acting on behalf of the referred customer, the Agent/Owner will pay a commission of 7% of the sale price (or a minimum of \$500) to Brindlee within 10 days of the sale.

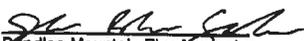
Agent/Owner agrees to notify Brindlee, at the time of sale, as to the sale price and the name and address of the buyer.

This agreement shall be in effect for a period of one (1) year unless extended. Either party may terminate at any time by notifying the other party in writing. If any sale takes place subsequent to termination, to a party previously referred by Brindlee, the same commission will be paid as if the agreement were still in effect.

Agreed to by:


Authorized Agent/Owner

5/12/14
Date


Brindlee Mountain Fire Apparatus

5 May 2014
Date

**ADDENDUM TO AGREEMENT BETWEEN
THE CITY OF MOUNTAIN BROOK AND
BRINDLEE MOUNTAIN FIRE APPARATUS
DATED ~~APRIL 30~~ 2014**

~~APRIL 30~~
MAY 12

THIS ADDENDUM ("the/this Addendum") to the principal agreement between the City of Mountain Brook, Alabama ("the City") and Brindlee Mountain Fire Apparatus ("the Contractor") dated ~~April 30~~, 2014.

This Addendum is 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 the Addendum, the terms below have the following meanings:
 - A. "The City" refers to and includes the City of Mountain Brook, Alabama, and its constituent departments, boards, and agencies.
 - B. "The (this) Agreement" refers to the principal contract, agreement, proposal, quotation, or other document that sets forth the basic terms and conditions under which the Contractor is engaged to provide goods, materials, or services to the City, including the payment or other consideration to be provided by the City in exchange therefor.
 - C. "The Contractor" refers to the person, firm, or other legal entity that enters into an agreement with the City to provide goods, materials, or services to the City, and includes vendors and suppliers providing goods, materials, and services to the City with or without a formal contract as well as the Contractor's vendors, suppliers, and subcontractors.
2. **Arbitration; Mediation; Alternate Dispute Resolution.** The City agrees to arbitrate disputes or to engage in alternate dispute resolution (ADR) if arbitration or ADR is required by the agreement as a means of resolving disagreements arising thereunder or is a precondition to the pursuit of other legal remedies, but only to the extent (1) the rights and remedies available under such arbitration rules or processes do not afford the Contractor greater relief (e.g., attorney's fees, damages, etc.) than would be available under otherwise applicable law, (2) the venue for the arbitration or mediation proceeding is in Jefferson County, Alabama, and (3) the costs of such proceedings (including the fees of the arbitrator or mediator) are divided evenly between the parties.
3. **Attorney's Fees; Court Costs; Litigation Expenses.** The City shall not be liable for attorney's fees, court costs, litigation expenses, and like charges except and to the extent such fees, costs, and charges would be assessed against the City under applicable law in the absence of any contractual provision imposing or assigning liability therefor.
4. **Late Payment Charges; Fees; Interest.** The City shall not be liable for any late payment charges, interest, or fees on any delinquent bill for goods, materials, or services at a rate higher than two-thirds of one percent per month (eight percent per annum), but bills rendered to the City shall not be considered delinquent any earlier than thirty (30) days after rendition of a complete and accurate bill

EXHIBIT A

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by the Contractor. Contested bills shall not be subject to late payment charges pending resolution of the dispute.

- 5. **Indemnification; Hold-Harmless; Release; Waiver; Limitations of Liability or Remedies.** The City shall not and does not indemnify, hold harmless, or release the contractor or any other person, firm or legal entity for, from, or with respect to any claim, cause of action, cost, charge, fee, expense, or liability whatsoever arising out of or relating to the subject matter of the agreement or the performance or nonperformance thereof; nor shall or does the City waive its right to assert or pursue any remedy or claim for relief of any kind that it may have against the Contractor or any other person, firm, or entity for any actual or alleged default or other breach of legal duty on the part of the Contractor or any person, firm, or entity in privity therewith or acting on Contractor's behalf. Any limitation or restriction regarding the type, nature, form, amount, or extent of any right, remedy, relief, or recovery that would otherwise be available to the City is expressly disavowed, excluded from the terms of the agreement, and void.
- 6. **Choice of Law; Choice of Venue or Forum.** The meaning, legal effect, and enforcement of terms and provisions of the agreement and the resolution of any disputes arising thereunder or relating thereto shall be governed by the laws of the State of Alabama except to the extent otherwise required by applicable conflict-of-law principles. The venue of any suit, action, or legal proceeding brought to enforce or secure relief by reason of any asserted breach of duty arising out of or relating to the performance or nonperformance of the agreement shall be Jefferson County, Alabama except to the extent otherwise required by applicable principles of law.
- 7. **Construction of Addendum.** Nothing in this Addendum shall be construed to create or impose any duty or liability on the City, to create a right or remedy in favor of the Contractor against the City, or to restrict or abrogate any right or remedy that is available to the City against the Contractor or any other person, firm, or entity under either the principal agreement or as a matter of law.
- 8. **Alabama Immigration Law Compliance Contract.** Contractor agrees that it will fully comply with the Immigration Reform and Control Act of 1986, as amended by the Immigration Act of 1990, and the Beason-Hammon Alabama Taxpayer and Citizen Protection Act, which makes it unlawful for an employer in Alabama to knowingly hire or continue to employ an alien who is or has become unauthorized with respect to such employment or to fail to comply with the I-9 requirements or fails to use E-Verify to verify the eligibility to legally work in the United States for all of its new hires who are employed to work in the State of Alabama. Without limiting the foregoing, Contractor shall not knowingly employ, hire for employment, or continue to employ an unauthorized alien, and shall have an officer or other managerial employee who is personally familiar with the Contractor's hiring practices to execute an affidavit to this effect on the form supplied by the Board and return the same to the City. Contractor shall also enroll in the E-Verify Program prior to performing any work, or continuing to perform any ongoing work, and shall remain enrolled throughout the entire course of its performance hereunder, and shall attach to its affidavit the E-Verify Program for Employment Verification and Memorandum of Understanding and such other documentation as the Board may require to confirm Contractor's enrollment in the E-Verify program. Contractor agrees not to knowingly allow any of its subcontractors, or any other party with whom it has a contract, to employ in the State of Alabama any illegal or undocumented aliens to perform any work in connection with the Project, and shall include in all of its contracts a provision substantially similar to this paragraph. If Contractor receives actual knowledge of the unauthorized status of one of its employees in the State of Alabama, it will remove that employee from the project, jobsite or premises of the City and shall comply with the Immigration Reform and Control Act of 1986, as amended by the Immigration Act of 1990, and the Beason-Hammon Alabama Taxpayer and Citizen Protection Act. Contractor shall require each of its subcontractors, or other parties with whom it has a contract, to act in a similar

EXHIBIT A

fashion. If Contractor violates any term of this provision, this Agreement will be the subject to immediate termination by the City. To the fullest extent permitted by law, Contractor shall defend, indemnify and hold harmless the City from and all losses, and consequential damages, expenses (including, but not limited to, attorney's fees), claims, suits, liabilities, fines, penalties, and any other costs arising out of or in any way related to Contractor's failure to fulfill its obligations contained in this paragraph.

DATED this 12th day of May, 2014.

Brindlee Mountain Fire Apparatus

By: Robert Scher

Its: Apparatus Purchasing

City of Mountain Brook, Alabama

By: [Signature]

Its: Mayor

EXHIBIT A



15410 US Highway 231
Union Grove, AL 35175
Phone: (256) 498-1395
Fax: (256) 498-0924
www.FireTruckMail.com

Brokerage Offer

This is an agreement between the seller and Brindlee Mountain Fire Apparatus. If Brindlee Mountain is unable to provide the seller with a buyer for the apparatus, no payment will be owed to Brindlee Mountain. We are only paid if we provide a buyer for your apparatus. Brindlee will refer to Agent/Owner all qualified inquires we receive regarding the specified apparatus. If Agent/Owner sells the marketed apparatus or any other apparatus to the customer referred by Brindlee, or anyone acting on behalf of the referred customer, the Agent/Owner will pay the agreed commission to Brindlee within 10 days of the sale.

Agent/Owner agrees to notify Brindlee, at the time of sale, as to the sale price and the name and address of the buyer. Either party may terminate at any time by notifying the other party in writing. If any sale takes place subsequent to termination, to a party previously referred by Brindlee, the same commission will be paid as if the agreement were still in effect.

Please complete this form to the best of your knowledge.
The more information you can provide us, the better equipped we will be in marketing your truck!

Customer Information:

Fire Department/Owner: Mountain Brook Fire Dept. Name of Contact: David Kennedy
Phone Number: (205) 802-3833 Fax: _____ Email: kennedyd@mtnbrook.org
Fire Department Web Address: _____
Department address, city, state, zip: 102 Tibbett Street, Mountain Brook, AL 35213

Apparatus:

Year: 1996 VIN: 4S7AT4297VCO 21821 Shop Order #/Build #: _____
Chassis: Manufacturer: Spartan Model: Gladiator 4x4 (y/n): _____
Fire Body: Manufacturer: FERRARA Model: CUSTOM
Aerial: Manufacturer: _____ Model: _____ Length: _____
Aerial Hours: _____ Date of Last Aerial Certification: _____

Mileage: Broken Engine Hours: 6,364 # Cab Seating: 6 # SCBA Seats: 5

Engine: Make: Detroit Diesel Model: Series 60 - 6 cyl. HP: 470 Diesel or Gas: Diesel

Transmission: Make: Allison Model: W400 Automatic or Manual: Automatic

Pump: Make: Waterous Model: CM1250 GPM: 1250 Pump and Roll (y/n): _____

Date of Last Pump Certification: 12-6-13 Foam System (make and model): Elkhart/Waterous

Water Tank: Gallons: 500 Material: Poly Foam Tank(s): 30 gallon

Discharges (number and size):

Driver's Side: Two - 2 1/2 inch Officer's Side: Two - 2 1/2 inch
Front: None Rear: None

Suctions (number and size):

Driver's Side: One - 2 1/2 inch Officer's Side: Two - 2 1/2 inch
Front: None Rear: Two - 2 1/2 inch

Crosslays (# and size): Two - 1 1/2 inch Piped for Deck Gun (y/n): Yes Deck Gun Included (y/n): Yes - no nozzle
Booster Reels: One with nozzle

Generator: Brand: WINCO EC4500E Wattage: 4000 cont. Fuel Type: Gas Hours: N/A

Check All that Apply:

- Electric Reels: _____
- Hydraulic Reels: _____
- Telescoping Lights: _____
- LED Lighting: _____
- Light Tower: _____
- Cascade System: _____
- Ground Ladders: _____
- Breathing Air (aerials only): _____
- Air Conditioning
- Automatic Tire Chains
- Interior EMS Cabinet
- Aluminum Hose Bed Cover
- Federal Q Siren
- Jake Brake
- Arrowstick
- Hydraulic Ladder Rack
- Pump Heat Pan

Dimensions: Length: 356" Height: 116" GVWR: 42,000 lbs. Wheelbase: 173"

Additional Features or Loose Equipment: Electronic siren with PA. No hose or other equipment included. Tractioneers.

Describe truck's history, how it has served your department, what positives it will have for the next owner:

The Department has an Equipment Replace Plan where Pumpers are used for ten years front-line servc and five years in reserve service. This unit is in good condition and service ready.

Maintenance/Repairs Needed?

Overall Condition of Vehicle: Very Good Date this truck is available: Now

Asking Price: \$48,000.00 Reason for Selling: Surplus Apparatus

Brindlee Mountain Fire Apparatus charges 10% (or \$500 minimum) commission upon the sale of any truck sold under \$75,000, 7% commission on the sale of trucks from \$75,000 - under \$150,000, and 5% commission for any truck et or above \$150,000. *7% commission applies as agreed upon by Brindlee Mountain.

Signed [Signature] Date 5/12/14

ODOMETER DISCLOSURE STATEMENT

Federal law (and State law, if applicable) requires that you state the mileage upon transfer of ownership. Failure to complete or providing a false statement may result in fines and/or imprisonment.

I, Ferrara Fire Apparatus, Inc. (transferor's name, Print)

state that the odometer now reads 1596 (no tenths) miles and to the best of my knowledge that it reflects the actual mileage of the vehicle described below.

(1) I hereby certify that to the best of my knowledge the odometer reading reflects the amount of mileage in excess of its mechanical limits.

(2) I hereby certify that the odometer reading is NOT the actual mileage. WARNING: ODOMETER DISCREPANCY.

NAME: Spartan MODEL: CA4DM-2142 BODY TYPE: Fire Truck

VEHICLE IDENTIFICATION NUMBER: 4S7AT4297VC021821 YEAR: 1997

TRANSFEROR'S SIGNATURE: *[Signature]*

PRINTED NAME: Chris Ferrara

TRANSFEROR'S ADDRESS (OTHER): P. O. Box 249

CITY: Holden, LA 70744 STATE: LA ZIP CODE: 70744

DATE OF SETTLEMENT: December 21, 1996 STATE: LA ZIP CODE: 70744

TRANSFEREE'S SIGNATURE

PRINTED NAME: City of Mountain Brook

TRANSFEREE'S NAME: City of Mountain Brook

P.O. Box 130009

TRANSFEREE'S ADDRESS (OTHER): Mountain Brook, AL 35213

CITY: Mountain Brook, AL STATE: AL ZIP CODE: 35213



Official Bill of Sale

27855 James Chapel Road • P. O. Box 249 • Holden, LA 70744
 (504) 567-7100 • Fax (504) 567-5260 • 1-800-331-FIRE

S
C
R
I
P
T
O
City of Mountain Brook
 P.O. Box 130009
 Mountain Brook, AL 35213

DATE	P. O. NO.	SHIPPED VIA	TERMS	INV/OICE NO.	
12/21/96					
ITEM DESCRIPTION	SERIAL NO.	QUANTITIES	UNIT	UNIT PRICE	AMOUNT
One (1) new 1997 Ferrara Fire Apparatus, Inc. Custom Pumper Chassis 1997 Spartan Serial #4S7AT4297VC021821		1		227,263.00	227,263.00
BR 780 LA Dealer #NM031797 LA Salesman #SM317597					
By: FERRARA FIRE APPARATUS, INC. <i>[Signature]</i>					
Notary <i>[Signature]</i> Sheila D. Ballard					
Sworn to and subscribed before me this <u>09th</u> day of <u>January</u> 19 <u>97</u>					
Excludes any applicable taxes or licenses.					
NONTAXABLE	TAXABLE	SALES TAX	FREIGHT	MISCELLANEOUS	TOTAL
\$227,263.00					\$227,263.00

APPENDIX 3

ALABAMA DEPARTMENT OF REVENUE									
TYPE TRANSACTION 01 - FIRST TITLE 03 - TITLE TRANSFER 04 - FILING OF LIEN 05 - RELEASE OF LIEN 06 - CORRECTION		THIS COPY SHALL BE MAILED OR DELIVERED TO THE LIENHOLDER (IF ANY) AS EVIDENCE OF A RECORDED LIEN UNTIL A CERTIFICATE OF TITLE IS ISSUED.							
VEHICLE INFORMATION					TITLE NUMBER				
VEHICLE IDENTIFICATION NUMBER		TRANS CODE	YEAR MODEL	MAKE	MODEL	BODY TYPE	PREVIOUS ALABAMA TITLE NUMBER		
487AT4297VC021821		1	1997	SPAR	BA40M-2142	FT			
CYLS	NEW	USED	DEMO	DATE OF PURCHASE (MM/YY)	MILEAGE	COLOR	ODOMETER READING	FOR OFFICE USE ONLY	
6	X			01/09/1997	0	RED	1594		
OWNER INFORMATION					FELONY OFFENSE FOR FALSE ADDRESS MO				
NAME (LAST, FIRST, MIDDLE)					SEE EXPLANATION ON BACK OF LIENHOLDER'S COPY OF FORM				
CITY OF MOUNTAIN BROOK									
MAILING ADDRESS					COUNTY (ALABAMA ONLY)				
P O BOX 130009					JEFFERSON				
CITY			STATE	ZIP	APPLICANT SHALL DISCLOSE VEHICLE UNDER 10 YR. OLD ODOMETER READING ON THIS APPLICATION IS (CHECK ONE)				
MOUNTAIN BROOK			AL	35213	<input checked="" type="checkbox"/> ACTUAL MILEAGE <input type="checkbox"/> EXCEEDS MECHANICAL LIMITS <input type="checkbox"/> NOT ACTUAL MILEAGE - WARNING ODOMETER DISCREPANCY				
NAME (ALABAMA OPERATOR (LESSEE) NAME AND) OR RENDENT ADDRESS IF DIFFERENT FROM ABOVE									
CITY OF MOUNTAIN BROOK									
RESIDENT ADDRESS					FELONY OFFENSE FOR FALSE ADDRESS				
54 CHURCH ST									
CITY			STATE	ZIP					
MOUNTAIN BROOK			AL	35213					
LIEN INFORMATION									
NAME FIRST LIENHOLDER					FELONY OFFENSE FOR FAILURE TO NAME LIENHOLDER WITH INTENT TO DEFRAND				
MAILING ADDRESS					LIEN DATE (MM/YY)				
CITY					STATE				
NAME SECOND LIENHOLDER					FELONY OFFENSE FOR FAILURE TO NAME LIENHOLDER WITH INTENT TO DEFRAND				
MAILING ADDRESS					LIEN DATE (MM/YY)				
CITY					STATE				
OTHER INFORMATION					OWNER'S AUTHORIZATION FOR SPECIAL MAILING				
NAME (LAST, FIRST, MIDDLE)					I, THE UNDERSIGNED, AUTHORIZE MY CERTIFICATE OF TITLE TO BE MAILED TO (IF NO LIENS LISTED HEREON)				
MAILING ADDRESS					LOCAL OR HQ				
CITY					STATE				
NAME					SELLER INFORMATION				
FERRARA FIRE APPARATUS INC					REASON:				
MAILING ADDRESS					EXAMINER NO.:				
27855 JAMES CHAPEL ROAD NORTH					ENCL.:				
CITY			STATE	ZIP					
HOLDEN			LA	70744					
NAME OF SURRENDERING					APPLICATION NUMBER				
STATE: LA					C4704740				
TITLE #: MSO									
SIGN COMPLETED FORM ONLY. FELONY OFFENSE FOR FALSE STATEMENTS									
I, THE UNDERSIGNED, CERTIFY THAT THE VEHICLE DESCRIBED ABOVE IS OWNED BY ME AND I HEREBY MAKE APPLICATION FOR A CERTIFICATE OF TITLE & REGISTRATION VEHICLE AND THIS VEHICLE WILL NOT BE THE SUBJECT OF LIEN PRIOR TO RECEIPT OF TITLE UNLESS INDICATED ABOVE. I FURTHER CERTIFY THAT ALL INFORMATION CONTAINED HEREIN IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF.					I HEREBY CERTIFY THAT THE ABOVE DESCRIBED VEHICLE HAS BEEN PHYSICALLY INSPECTED BY ME AND THAT THE VEHICLE DESCRIPTIVE DATA SHOWN ON THIS APPLICATION ARE CORRECT AND FURTHER, I IDENTIFIED THE PERSON WHOSE THE APPLICATION AND WITNESSED HIS SIGNATURE.				
DESIGNATED AGENT: JEFFERSON COUNTY REVENUE DEPT					DESIGNATED AGENT: BY:				
OWNERS SIGNATURES:					DATE: JUL 7, 2000				
(PERSONALLY SIGNED BY EACH OWNER OR INQ OR AUTHORIZED REPRESENTATIVE OF FIRM)					DESIGNATED AGENT NO. 1-3-04				
HANDWRITTEN APPLICATIONS WILL NOT BE ACCEPTED									
					LIENHOLDER'S COPY				

CONTRACT

This contract is entered into, as of the 12th day of May, 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 Dunn Construction Company, Inc. ("Contractor") 3905 Airport Highway, Birmingham, Alabama 35222.

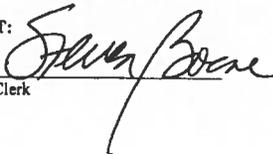
City and Contractor agree as follows:

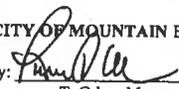
1. **Description of Work.** The work to be done under this contract shall consist of paving of streets in various locations within the City of Mountain Brook.
2. **Term.** This contract shall remain in effect for a period of three (3) years from the date of this contract, as provided above, and shall be subject to cancellation as provided hereinafter.
3. **Commencement Date.** The date of commencement of the Work shall be within three weeks of 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 notice.
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 45 days 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 matters.
5. **Contract Sum.** The City shall pay Contractor the for actual quantities at the unit prices enumerated in the Contractor's Project MI04-2014 bid form dated May 7, 2014 (\$668,295.00 based on estimated quantities).
6. **Payments to Contractor.** Payments shall be made to Contractor within ten (10) days after the satisfactory completion of the Work in accordance with this Contract and upon receipt by the City of invoices requesting such payment. Payments due and unpaid under this contract shall bear interest, at the rate of eight per cent (8%) per annum, from the date payment is due until the date payment is made.
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 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 modification.
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.

<u>Insurance</u>	<u>Amount</u>
Workers' compensation	statutory
general liability	\$1,000,000
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. Upon default under this contract by City, City shall become liable for Contractor's costs of collecting any amount due and owing by City to Contractor as of the date of default, including reasonable attorneys' fees incurred by Contractor. Interest shall accrue from the date of default at the rate of eight per cent (8%) per annum. Should City default while the Work is in progress and before final completion of the Work, Contractor, at its sole option, may elect to cease performance of the Work. If City fails to cure the default within ten (10) days after Contractor gives notice of the same, Contractor may declare this contract terminated. 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 no 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 on the first page of this contract.

ATTEST: 
Its City Clerk

CITY OF MOUNTAIN BROOK
By: 
Lawrence T. Oden, Mayor

Date: May 12, 2014

2014-0512

Minute Book 86

ADDENDUM TO AGREEMENT BETWEEN THE CITY OF MOUNTAIN BROOK AND DUNN CONSTRUCTION COMPANY, INC. DATED MAY 12, 2014

THIS ADDENDUM ("the/this Addendum") to the principal agreement between the City of Mountain Brook, Alabama ("the City") and Dunn Construction Company, Inc. ("the Contractor") dated May 12, 2014.

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

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

DUNN CONSTRUCTION COMPANY, INC.

By: _____

(Type or print name)

Its _____

(Title)

Date: _____

ATTEST:

Its _____ (Title)

accurate bill by the Contractor. Contested bills shall not be subject to late payment charges pending resolution of the dispute.

- 5. **Indemnification; Hold-Harmless; Release; Waiver; Limitations of Liability or Remedies.** The City shall not and does not indemnify, hold harmless, or release the Contractor or any other person, firm, or legal entity for, from, or with respect to any claim, cause of action, cost, charge, fee, expense, or liability whatsoever arising out of or relating to the subject matter of the agreement or the performance or nonperformance thereof; nor shall or does the City waive its right to assert or pursue any remedy or claim for relief of any kind that it may have against the Contractor or any other person, firm, or entity for any actual or alleged default or other breach of legal duty on the part of the Contractor or any person, firm, or entity in privity therewith or acting on Contractor's behalf. Any limitation or restriction regarding the type, nature, form, amount, or extent of any right, remedy, relief, or recovery that would otherwise be available to the City is expressly disavowed, excluded from the terms of the agreement, and void.
- 6. **Choice of Law; Choice of Venue or Forum.** The meaning, legal effect, and enforcement of terms and provisions of the agreement and the resolution of any disputes arising thereunder or relating thereto shall be governed by the laws of the State of Alabama except to the extent otherwise required by applicable conflict-of-law principles. The venue of any suit, action, or legal proceeding brought to enforce or secure relief by reason of any asserted breach of duty arising out of or relating to the performance or nonperformance of the agreement shall be Jefferson County, Alabama except to the extent otherwise required by applicable principles of law.
- 7. **Construction of Addendum.** Nothing in this Addendum shall be construed to create or impose any duty or liability on the City, to create a right or remedy in favor of the Contractor against the City, or to restrict or abrogate any right or remedy that is available to the City against the Contractor or any other person, firm, or entity under either the principal agreement or as a matter of law.
- 8. **Alabama Immigration Law Compliance Contract.** Contractor agrees that it will fully comply with the Immigration Reform and Control Act of 1986, as amended by the Immigration Act of 1990, and the Beason-Hammon Alabama Taxpayer and Citizen Protection Act, which makes it unlawful for an employer in Alabama to knowingly hire or continue to employ an alien who is or has become unauthorized with respect to such employment or to fail to comply with the I-9 requirements or fails to use E-Verify to verify the eligibility to legally work in the United States for all of its new hires who are employed to work in the State of Alabama. Without limiting the foregoing, Contractor shall not knowingly employ, hire for employment, or continue to employ an unauthorized alien, and shall have an officer or other managerial employee who is personally familiar with the Contractor's hiring practices to execute an affidavit to this effect on the form supplied by the Board and return the same to the City. Contractor shall also enroll in the E-Verify Program prior to performing any work, or continuing to perform any ongoing work, and shall remain enrolled throughout the entire course of its performance hereunder, and shall attach to its affidavit the E-Verify Program for Employment Verification and Memorandum of Understanding and such other documentation as the Board may require to confirm Contractor's enrollment in the E-Verify Program. Contractor agrees not to knowingly allow any of its subcontractors, or any other party with whom it has a contract, to employ in the State of Alabama any illegal or undocumented aliens to perform any work in connection with the Project, and shall include in all of its contracts a provision substantially similar to this paragraph. If Contractor receives actual knowledge of the unauthorized status of one of its employees in the State of Alabama, it will remove that employee from the project, jobsite or premises of the City and shall comply with the Immigration Reform and Control Act of 1986, as amended by the Immigration Act of 1990, and the Beason-Hammon Alabama Taxpayer and Citizen Protection Act. Contractor shall require each of its subcontractors,

or other parties with whom it has a contract, to act in a similar fashion. If Contractor violates any term of this provision, this Agreement will be subject to immediate termination by the City. To the fullest extent permitted by law, Contractor shall defend, indemnify and hold harmless the City from any and all losses, consequential damages, expenses (including, but not limited to, attorneys' fees), claims, suits, liabilities, fines, penalties, and any other costs arising out of or in any way related to Contractor's failure to fulfill its obligations contained in this paragraph.

DATED this 12th day of May, 2014.

Dunn Construction Company, Inc.

By: _____

Its: _____

City of Mountain Brook, Alabama

By: Russ Olden

Its: Mayor



W-9
Form W-9 (Rev. 1-2000)
Request for Taxpayer Identification Number and Certification

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

Name: **Mountain Brook**
Business name, if different from above

Check appropriate box: Individual Sole proprietor Corporation Partnership Other Exempt from backup withholding

Requester's name and address (optional): **City of Mountain Brook, P.O. Box 138000, Mountain Brook, AL 35213-0000**

City, state, and ZIP code

Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. For individuals, this is your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the Part I instructions on page 2. For other entities, it is your employer identification number (EIN). If you do not have a number, see How to get a TIN on page 2.

Social security number: _____
Employer identification number: _____

Part II Certification

Under penalties of perjury, I certify that:

- The number shown on this form is my correct taxpayer identification number (I am waiting for a number to be issued to me), and
- I am not subject to backup withholding because: (a) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends; or (b) the IRS has notified me that I am no longer subject to backup withholding; and
- I am a U.S. person (including a U.S. resident alien).

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

Sign Here: _____ Signature of U.S. person in _____ Date: _____

Purpose of Form

A person who is required to file an information return with the IRS must get your correct taxpayer identification number (TIN) to report, for example, income paid to you, net estate transactions, mortgage interest you paid, cancellation or abandonment of secured property, cancellation of debt, or contributions you made to an IRA.

Use Form W-9 only if you are a U.S. person (including a resident alien) to give your correct TIN to the person requesting it (the requester), and, when applicable, to:

- Clarify the TIN you are giving is correct (or you are waiting for a number to be issued).
- Clarify you are not subject to backup withholding.
- Obtain exemption from backup withholding if you are a U.S. exempt payee.

If you are a foreign person, use the appropriate Form W-8. See Pub. 513, Withholding of Tax on Nonresident Aliens and Foreign Entities.

How to get a requester's correct TIN. If you are not the requester, you may need to request your TIN. You must use the requester's form if it authorizes you to do so (see page 10).

When is backup withholding? Persons making certain payments to you must under certain conditions withhold and pay to the IRS 30% of such payments after December 31, 2001 (30% after December 31, 2003). This is called "backup withholding." Payments that may be subject to backup withholding include interest, dividends, broker and other exchange transactions, rents, royalties, nonemployee pay, and certain payments from fishing boat operators. Real estate transactions are not subject to backup withholding.

You will not be subject to backup withholding on payments you receive if you give the requester your correct TIN, make the proper certifications, and report all your taxable interest and dividends on your tax return.

Penalties

Failure to furnish TIN. If you fail to furnish your correct TIN to a requester, you are subject to a penalty of \$50 for each such failure unless your failure is due to reasonable cause and not to willful neglect.

Civil penalty for false information with respect to withholding. If you make a false statement with no reasonable basis that results in no backup withholding, you are subject to a \$500 penalty.

Criminal penalty for falsifying information. Willfully falsifying certifications or information may subject you to criminal penalties including fines and/or imprisonment.

Misuse of TIN. If the requester discloses or uses your TIN in violation of Federal law, the requester may be subject to civil and criminal penalties.

Form W-9 (Rev. 1-2000) Page 2

Specific Instructions

Name. If you are an individual, you must generally enter the name shown on your social security card. However, if you have changed your last name, for instance, due to marriage without informing the Social Security Administration of the name change, enter your first name, the last name shown on your social security card, and your new last name. If the account is in joint names, list first and then circle the name of the person or entity whose number you enter in Part I of the form.

Sole proprietor. Enter your business name as shown on your social security card on the "Name" line. You may enter your business, trade, or "doing business as (DBA)" name on the "Business name" line.

Limited liability company (LLC). If you are a single-member LLC (including a foreign LLC with a domestic owner) that is disregarded as an entity separate from its owner under Treasury regulations section 301.7701-2, enter the owner's name on the "Name" line. Enter the LLC's name on the "Business name" line.

Other entities. Enter your business name as shown on required Federal tax documents on the "Name" line. This name should match the name shown on the general or other legal document creating the entity. You may enter any business, trade, or DBA name on the "Business name" line.

Exempt from backup withholding. If you are exempt, enter your name as described above, then check the "Exempt from backup withholding" box in the line following the business name, sign and date the form. Individuals (including sole proprietors) are not exempt from backup withholding. Corporations are exempt from backup withholding for certain payments, such as interest and dividends. For more information on exempt payees, see the instructions for the requester of Form W-9.

Individuals (including sole proprietors) are not exempt from backup withholding. Corporations are exempt from backup withholding for certain payments, such as interest and dividends. For more information on exempt payees, see the instructions for the requester of Form W-9.

If you are a nonresident alien or a foreign entity not subject to backup withholding, give the requester the appropriate completed Form W-9.

How to get a TIN. If you are a sole proprietor, you should still complete this form to avoid possible erroneous backup withholding.

Part I—Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. If you are a resident alien and you do not have and are not eligible to get an SSN, your TIN is your IRS individual taxpayer identification number (ITIN). Enter it in the social security number box. If you do not have an ITIN, see How to get a TIN below.

If you are a sole proprietor, you should still complete this form to avoid possible erroneous backup withholding.

If you are an LLC that is disregarded as an entity separate from its owner (see Limited liability company (LLC) above), and are owned by an individual, enter your SSN (or "ITIN") on the "Name" line. If the owner of a disregarded LLC is a corporation, partnership, LLC, enter the owner's EIN. Note: See the chart on this page for further clarification of name and TIN combinations. How to get a TIN. If you do not have a TIN, apply for one immediately. To apply for an SSN, get Form SS-4, Application for a Social Security Card, from your local Social Security Administration office. Get Form W-7,

Application for IRS Individual Taxpayer Identification Number, to apply for an ITIN or Form SS-4, Application for Employer Identification Number, to apply for an EIN. You can get Forms W-7 and SS-4 from the IRS by calling 1-800-TAX-FORMS (1-800-828-3174) or from the IRS Web Site at www.irs.gov.

If you are asked to complete Form W-9 but do not have a TIN, write "Applied For" in the space for the TIN, sign and date the form, and give it to the requester. For interest and dividend payments, and certain payments made with respect to readily redeemable instruments, generally you will have 90 days to get a TIN and give it to the requester before you are subject to backup withholding on payments. The 90-day rule does not apply to other types of payments. You will be subject to backup withholding on all such payments until you provide your TIN to the requester.

Note: Writing "Applied For" means that you have already applied for a TIN or that you intend to apply for one soon.

Caution: A disregarded domestic entity that has a foreign owner must use the appropriate Form W-9.

Part II—Certification

To assist in the withholding agent that you are a U.S. person, or resident alien, sign Form W-9. You may be requested to sign by the withholding agent even if items 1, 3, and 5 below indicate otherwise.

For a joint account, only the person whose TIN is shown in Part I should sign when required. Exempt recipients, and Exempt from backup withholding above. Signatures requirements. Complete the certification as indicated in 1 through 6 below.

- Interest, dividend, and broker exchange accounts opened before 1984 and broker accounts considered active during 1983. You must sign the certification, but you do not have to sign the certification.
- Interest, dividend, broker, and broker exchange accounts opened after 1983 and broker accounts considered inactive during 1983. You must sign the certification or backup withholding will apply, if you are subject to backup withholding and you are merely providing your correct TIN to the requester, you must cross out item 2 in the certification before signing the form.
- Real estate transactions. You must sign the certification. You may cross out item 2 of the certification.
- Other payments. You must give your correct TIN but you do not have to sign the certification unless you have been notified that you have previously given an incorrect TIN. Other payments include payments made in the course of the requester's trade or business for rents, royalties, goods (other than bills for merchandise), medical and health care services (including payments to corporations), payments to a nonemployee for services, payments to certain fishing boat crew members and fishermen, and gross proceeds paid to owners (including payments to corporations).
- Mortgage interest paid by you, acquisition or abandonment of secured property, cancellation of debt, qualified tuition program payments (under section 529), IRA or Archer MSA contributions or distributions, and pension distributions. You must give your correct TIN but you do not have to sign the certification.

Privacy Act Notice

Section 5106 of the Internal Revenue Code requires you to give your correct TIN to persons who must use the information (along with the IRS to report interest, dividends, and certain other income paid to you, mortgage interest you paid, the acquisition or abandonment of secured property, cancellation of debt, or contributions you made to an IRA or Archer MSA. The IRS uses the numbers for identification purposes and to help verify the accuracy of your tax return. The IRS may also provide this information to the Department of Justice for civil and criminal litigation, and to other, state, and the District of Columbia to carry out their laws.

You must provide your TIN whether or not you are required to file a tax return. Payors must generally withhold 30% of taxable interest, dividends, and certain other payments to a payee who does not give a TIN to a payor. Certain penalties may also apply.

What Name and Number To Give the Requester

For this type of account	Give name and SSN or EIN
1. Individual	The individual
2. You or more nonresident alien accounts	The exact name of the owner or, if separate funds, the first individual on the account
3. Canadian account of a resident alien (in US to inherit and)	The owner
4. The asset receives savings (a) a-solely trust account that is a trust or will trust under state law	The grantor-owner
5. Sole proprietor	The owner
6. Partnership	The partnership
7. U.S. person or resident alien	The owner
8. Corporation, association, club, partnership, estate, trust, or other non-exempt organization	The organization
9. Partnership	The partnership
10. Account with the Department of Agriculture in the name of a public entity (such as a state or local government, school district, or public agency)	The public entity
11. Account with the Department of Justice in the name of a public entity (such as a state or local government, school district, or public agency)	The public entity

1. Let first and last name of the person whose number you furnish. If only one person is listed, account has an SSN, but partner's number must be furnished.
2. You must show your business name, but you may use your business or "DBA" name. You may also enter your SSN or EIN if you have one.
3. Let first and last name of the legal trust, estate, or pension or annuity. Do not include the full or partial representation or initials unless the legal entity itself is not represented in the account title.
Note: If no name is checked when more than one name is listed, the number will be considered to be that of the first name listed.

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May 12, 2014

SPECIAL CONDITIONS

1. DESCRIPTION OF WORK:

- (a) The work to be done consists of milling and resurfacing of streets selected by the City.
- (b) The milling of asphalt shall be performed in a manner that will produce a smooth riding surface. The depth of milling will be determined by the City's Project Coordinator. The material produced by the milling of streets will be recycled as a Binder Course that meets the Binder Course specifications as provided in Section IV, if the Contractor chooses to do so. Under no circumstances can any milled material be left overnight in the streets or gutter.
- (c) Milling will be full width, approximately 1 ½ inches

1B. Traffic Control:

All traffic control shall be the responsibility of the contractor, including signs and flag persons.

2. CONTRACT PLANS:

- (a) The work shall be performed in accordance with these specifications where directed by the City and utilizing the approximate quantities of materials shown on Page 8 of the contract portion of these specifications. The City, however, reserves the right to increase or decrease the quantities estimated without penalty or change of unit prices bid.

3. DATE OF COMPLETION:

- (a) The Contractor shall start to work on the date set by the Owner in a written notice to proceed (work order) as outlined in Paragraph 7.2 (a) of the General conditions, and shall completely finish all work within the specified number of calendar days and subject to allowable delays as stated in Paragraph 7.7 (a) of the General Conditions:

STREET IMPROVEMENTS - 45 CALENDAR DAYS

4. LIQUIDATED DAMAGES:

(a) Liquidated damages, as specified in Paragraph 7.8(a) of the General Conditions, are hereby mutually fixed and agreed upon at the rate of \$500.00 per calendar day of delay in completing the work.

5. All new surfaces shall be tapered to meet the existing gutter line to the maximum extent possible without structurally weakening the new surface.

6. ONE YEAR WARRANTY:

(a) General Warranty for One Year After Completion of Contract: For a period of at least one year after the completion of the contract, the Contractor warrants the fitness and soundness of all work done and materials and equipment put in place under the contract and neither the final certificate of payment nor any provision in the contract documents nor partial or entire occupancy of the premises by the Owner shall constitute an acceptance of work not done in accordance with the contract documents or relieve the Contractor of liability in respect to any express warranties or responsibility for faulty materials or workmanship. The contractor shall remedy any defects in the work and pay for any damage to other work resulting there from, which shall appear within a period of one year from the date of final acceptance of the work unless a longer period is specified. The Owner will give notice of observed defects with reasonable promptness. The accepted date of the beginning of the one-year warranty shall be the date of final estimate payment to the Contractor by the Owner or Project Coordinator.

**SECTION VII
GENERAL CONDITIONS
DEFINITIONS OF TERMS**

1.1 DEFINITIONS:

Wherever the words, forms or phrases defined or pronouns used in their stead, occur in these specifications, in the contract or in the advertisement or any document, or instrument herein contemplated or to which these specifications apply, the intent and meaning shall be construed and interpreted as follows:

Addenda: Any change in specifications after advertisements for bids will be made by addenda to specifications, with appropriate supplemental plans. After issuance, any addenda shall become a part of the specifications, as much as though fully contained therein.

Bidder: Any individual, firm or corporation submitting a bid or proposal for the work contemplated.

Construction Bonds or Performance Bonds: The approved form of security furnished by the contractor and his surety as a guarantee of good faith on the part of the contractor to execute the work in accordance with the Plans, Specifications and Terms of the Contract.

Contract: The written agreement between the Owner and the Contractor covering the performance of the work. The contract includes the Advertisement (Notice to Contractors), Proposal, General Conditions, Special conditions, Detailed Specifications, Contract Agreement, Construction Bonds, Plans, and all approved Addenda and Change Orders thereto.

Owner: The corporate or other legally constituted body designate in the contract as the owner of the completed work and as a party to the contract, and his duly authorized representatives.

Contractor: The individual, firm or corporation selected by the owner as the successful bidder who has become a party to the Contract, and his duly authorized representatives.

Plans: All plans, drawings and maps identified in the special conditions as contract plans, together with all approved revisions or additions thereto.

Proposal: The written and signed statement which includes the completed proposal form duly filed with the owner by the person or persons, partnership, company, firm, or corporation proposing to do the work contemplated.

Proposal Form: The form furnished by the Project Coordinator on whom the formal bids for the work are to be prepared and submitted.

Specifications: The directions, provisions and requirements contained herein pertaining to the method and manner of performing the work or to the quantities or qualities of materials to be furnished under the contract.

Surety or Sureties: The corporate body which is bound by such bonds as are required with and for the Contractor, and engages to be responsible for the entire and satisfactory fulfillment of the Contract and for any and all requirements as set out in the Specifications, Contract or plans.

"THE WORK" or "THE PROJECT": The work or project, including the furnishing of all labor, materials, tools, equipment and incidentals, necessary or required to complete the improvement in

conformity with the directions, provisions and requirements of the Specifications, limitations and conditions of the Contract and in accordance with the intent of the Plans.

AWWA: American Water Works Association

ASTM: American Society for Testing Materials

ASA: American Standards Association

NEMA: National Electric Manufacture's Association

2.1 PROPOSAL FORM:

The Project Coordinator will furnish bidders with Proposal Forms which will contain a list of the items of work to be done or materials to be furnished and upon which bid prices are asked.

2.2 INTERPRETATION OF ESTIMATE:

The quantities of the work and materials shown on the Proposal form or on the Plans are believed to approximately represent the work to be performed and materials to be furnished and are to be used for comparison of bids. Payment to the Contractor will be made only for the actual quantities of work performed or materials furnished in accordance with the Plans and Specifications and it is understood that the quantities may be increased or decreased as hereinafter provided without in any way invalidating the bid prices.

2.3 EXAMINATION OF DOCUMENTS AND SITE OF THE WORK:

Bidders are advised that the plans, specifications, estimates and addenda of the Project Coordinator shall constitute all the information which the owner will furnish. No other information given by the owner or representative thereof, prior to the execution of the contract shall become a part of or change the contract, plans, specifications or estimates or be binding upon the owner. Bidders are required, prior to submitting a proposal, to read carefully the specifications, the proposal, contract and bond forms; to examine the plans; to visit the site of the work; to examine carefully local conditions; to inform themselves by their independent research of the difficulties to be encountered and judge for themselves of the accessibility of the work and all attending circumstances affecting the cost of doing the work or the time required for its completion and obtain all information required to make an intelligent proposal.

Bidders shall rely exclusively upon their own estimates, investigation and other data which are necessary for full and complete information upon which the proposal may be based. It is mutually agreed that submission of the proposal will be evidence that the bidder has made the examination and investigations required herein.

2.4 PREPARATION OF PROPOSAL:

The bidder shall submit his proposal on the forms furnished by the Project Coordinator. Each item for which a quantity of work is shown shall show a unit price, and each item shall be correctly extended and summarized. Should there develop a discrepancy between the unit price and the extended amount shall be corrected. The proposal must be properly signed, with the name and address of the firm, corporation or individual bidder clearly shown in the space provided. For a corporation the title of the official signing the proposal and the state in which the corporation was chartered must be shown, and the corporation seal affixed and attested by the secretary.

2.5 PROPOSAL GUARANTY:

Each bidder must submit with his proposal a certified check made payable to the owner or a bid bond made by a company qualified and authorized to transact business in the state in which the proposed work is located, in an amount not less than five percent (5%) of the total amount of his proposal as a guaranty that, if awarded a contract, the bidder will execute the required contract and furnish the required construction bonds (surety bonds) within ten (10) days after date of notice of such award.

2.6 FILING OF PROPOSAL:

Each proposal must be filed in a sealed envelope with the owner within the time limit for receiving proposals as stated in the advertisement and shall be made on the proposal form attached to the other contract documents. The envelope containing the proposal and other contract documents shall contain the name of the project, name and address of the bidder, and the bidder's license number and date of latest license renewal; otherwise the bid will not be opened. Proposals filed after the scheduled date and hour of opening proposals will be returned to the sender unopened.

2.7 WITHDRAWAL OF PROPOSALS:

A proposal may be withdrawn, modified or amended at any time prior to the scheduled date and hour of opening proposals by submitting to the owner a written statement setting forth the nature of the desired modification or the reason for withdrawal.

2.8 OPENING OF PROPOSALS:

The proposals filed with the owner will be opened and publicly read at the time and place stated in the advertisement. Bidders are invited to be present. Proposals filed in proper order and accepted by the owner for consideration and canvass and which have been opened and read may not be withdrawn for a period of 60 days after date of opening.

2.9 IRREGULAR PROPOSALS:

Proposals will be considered irregular if they show any omissions, alterations of forms, additions or conditions not called for, or irregularities of any kind. However, the Owner reserves the right to waive technicalities and make the award in the best interest of the owner.

2.10 REJECTION OF PROPOSALS:

The owner reserves the right to reject any or all proposals.

2.11 DISQUALIFICATION OF BIDDERS:

Any bidder using the same or different names for submitting more than one proposal for the work will be disqualified for further consideration on the work.

AWARD AND EXECUTION OF CONTRACT

3.1 CONSIDERATION OF PROPOSALS:

After the proposals are opened and read, the owner will check and tabulate all proposals and such tabulations shall be made public. Until the final award of the contract, the owner reserves the right to reject any or all proposals; to waive technicalities and to advertise for new proposals.

3.2 AWARD OF CONTRACT:

- (a) The owner will award the contract or reject all proposals received within 60 days after date of opening proposals.
- (b) The award of the contract, if made, shall be to the lowest responsible bidder whose proposal complies with the requirements of the owner.
- (c) before an award is made, the owner reserves the right to investigate the previous experience, financial status, and general reputation of the three (3) lowest bidders.

3.3 RETURN OF PROPOSAL GUARANTY:

As soon as the proposals have been compared, the owner may, at its discretion, return the proposal guaranties accompanying those proposals which in its judgment would not be considered in making the award. After the award is made, only the successful bidder's proposal guaranty will be retained until the required contract and bonds have been executed, after which it will be returned to the bidder.

3.4 CONSTRUCTION (SURETY) BONDS:

With the execution and delivery of the contract, the contractor shall furnish to the owner a performance bond and a labor and materials bond for the total amount of the contract as security for faithful performance of the contract and for the payment of all persons performing labor and furnishing material under the contract. Maintenance provisions of the bonds shall remain in effect for twelve (12) months after completion of the work. The bonds shall be in a form satisfactory to the owner. The surety shall be a reputable bonding company authorized to transact business in the state in which the work is located and shall be acceptable to the owner.

3.5 EXECUTION OF CONTRACT:

The contract shall be executed by the successful bidder and returned to the owner with acceptable construction bonds within ten days after the date of notice of award by the owner. The contract, bonds and other documents shall be approved by the owner's attorney, if required, before execution and acceptance by the owner.

3.6 FAILURE TO EXECUTE CONTRACT:

Should the successful bidder to whom the contract has been awarded fail to execute the contract and furnish satisfactory construction (surety) bonds within ten days after date of notice award, it shall be considered that he has abandoned his proposal; the tender of contract shall be withdrawn; and the amount of the proposal guaranty shall be forfeited to the owner as fixed and agreed liquidated damages. The filing of a proposal by any bidder shall be considered as an acceptance by him of this provision.

SCOPE OF WORK

4.1 INTENT OF PLANS AND SPECIFICATIONS:

The intent of the plans and specifications is to prescribe a complete work which the contractor undertakes to do in full compliance with the contract. The contractor shall do all work as provided in the plans, specifications and other parts of the contract and shall do such additional, extra and incidental work as may be considered necessary to complete the work in a satisfactory and acceptable manner. Any work or material not shown on the plans or described in the specifications but which may be fairly implied as included in any item of the contract shall be performed and/or furnished by the contractor without additional charge thereof. The contractor shall furnish all labor, materials, tools, equipment and incidentals necessary to the prosecution of the work.

4.2 INCREASE OR DECREASE OF QUANTITIES:

The owner reserves the right to alter the quantities of work to be performed or to extend or shorten the improvement at any time, when and as found necessary and the contractor shall perform the work as altered, increased or decreased at the contract unit prices. No allowance will be made for any change in anticipated profits nor shall such changes be considered as waiving or invalidating any conditions or provisions of the contract.

4.3. ALTERATIONS OF PLANS AND SPECIFICATIONS:

The owner reserves the right, at any time, to make such changes in the plans and the character of the work as may be necessary or desirable to insure completion in the most satisfactory manner, provided such changes do not materially alter the original plans and specifications or change the general nature of the work as a whole. Such changes shall not be considered as waiving or invalidating any condition or provision of the contract.

4.4 Extra Work:

When any work is necessary to the proper completion of the project for which no prices are provided in the proposal or contract, the contractor shall do such work, but only when and as ordered by the Project Coordinator. Payment for the extra work will be made as hereinafter provided.

4.5 CLEANING UP:

(a) Throughout the progress of the work the contractor shall keep the construction area, including storage areas used by him, free from accumulation of waste material or rubbish and shall keep his materials and equipment in a neat and orderly manner. Immediately upon completion of any section of the work and before payment therefore has been made, he shall remove from the site all construction equipment, temporary structures, and debris and shall restore the site to a neat, workmanlike condition. Waste material shall be disposed of at locations satisfactory to the Project Coordinator.

(b) Where the contractor has performed work on, or has made use of, private property for storage of materials or for other purposes, he shall obtain a satisfactory release from the owner of said property after completion of the work and the removal of all materials and equipment therefrom.

(c) After completion of all work contemplated under the contract and before final cleanup of the site of each separate part of the work; shall restore all surfaces to a neat and orderly condition; and shall remove all construction equipment, tools and supplies therefrom.

CONTROL OF WORK AND MATERIALS

5.1 AUTHORITY OF THE PROJECT COORDINATOR:

All work shall be done under the supervision of the Project Coordinator and to his satisfaction. He shall decide all questions which arise as to quality and acceptability of materials furnished, work performed, manner of performance, rate of progress of the work, sequence of construction, interpretation of plans and specifications, acceptable fulfillment of the contract, compensation and suspension of work. His decisions and estimates shall be final.

5.2 CONFORMITY WITH PLANS:

All work shall conform to the lines, grades, cross-sections, details and dimensions shown on the plans. Any deviation from the plans which may be required by the exigencies of construction will be determined by the Project Coordinator and authorized by him in writing.

5.3 EXISTING STRUCTURES NOT SHOWN ON PLANS:

It is intended that the plans show the location of all existing surface and sub-surface structures. However, the location of many gas mains, water mains, conduits, sewers, etc., is unknown and the owner assumes no responsibility for failure to show any or all of these structures on the plans or to show them in their exact location. It is mutually agreed that such failure will not be considered sufficient basis for claims for extra work or for increasing the pay quantities, unless an obstruction encountered is such as to necessitate substantial changes in the lines or grades or requires the building of special structures, provisions for which are not made in the plans, in which case the provisions in these specifications for extra work shall apply.

5.4 SUB-SURFACE INFORMATION AND DATA:

The sub-surface information and data furnished in the drawings are not intended as representations or warranties but are furnished for information only. It is expressly understood that the owner will not be responsible for the accuracy thereof any deduction, interpretation, or conclusion drawn therefrom by the contractor. The information is made available in order that the contractor may have ready access to the same information available to the owner and is not a part of this contract.

5.5 COORDINATION OF PLANS AND SPECIFICATIONS:

The plans and specifications are complementary and a requirement occurring in either of them is binding as if shown in both. In any conflict between plans and specifications the Project Coordinator shall make such corrections or interpretations as may be deemed necessary for the fulfillment of the intent of the plans and specifications. If any discrepancy between figured dimensions and scaled dimensions arise, the figured dimensions shall govern.

5.6 SHOP AND ERECTION DRAWINGS:

The contractor shall furnish to the Project Coordinator detailed shop drawings for work that is to be fabricated and erection drawings equipment that is to be installed. These drawings shall show the principal dimensions of the materials or equipment to be furnished, foundation plans, number and position of all anchor bolts, together with the manufacturer's specifications, parts lists, descriptive literature and operating instructions. Materials shall not be fabricated nor equipment shipped until these drawings have been approved by the Project Coordinator. Approval of these drawings shall not relieve the contractor for the correctness of all dimensions and for the correct fitting of all parts for the satisfactory installation and operation in service of all materials and equipment as specified.

5.7 COOPERATION OF THE CONTRACTOR:

- (a) The contractor shall maintain a copy of the plans and specifications available on the work at all times.
- (b) The contractor shall give to the work the consistent attention necessary to facilitate the progress thereof and shall provide a competent superintendent on the work at all times who is fully authorized as his agent on the work. The superintendent shall be capable of thoroughly understanding the plans and specifications and shall receive and fulfill instructions from the Project Coordinator or his authorized representative.

5.8 QUALITY OF MATERIALS AND EQUIPMENT

Only materials and equipment conforming to the requirements of these specifications shall be used in the work and such materials and equipment shall be used only after approval has been given by the Project Coordinator. All materials and equipment furnished for the work shall be new and unused and of recent manufacture.

5.9 SAMPLES AND TESTS OF MATERIALS

- (a) Where required by the specifications or by the Project Coordinator, tests and/or inspection of materials incorporated in the work shall be performed by commercial laboratories approved by the Project Coordinator. Tests, unless otherwise specified, shall be made in accordance with the latest standard methods of the American Society for Testing Materials.
- (b) The costs of such tests, sampling and inspection shall be borne by the contractor, who shall furnish evidence satisfactory to the Project Coordinator that the materials have passed the required tests and inspections prior to the incorporation of such materials into the work.

5.10 STORAGE OF MATERIALS AND EQUIPMENT

- (a) All materials and equipment intended for incorporation into the work shall be stored in a manner that will insure preservation of their quality and fitness of the work. Storage facilities shall be provided at the expense of the contractor.
- (b) The contractor shall be responsible for loss, damage or deterioration of materials and equipment caused by improper protection from weather or from other sources of damage.

5.11 INSPECTION

The Project Coordinator will inspect all phases of the work in progress. The contractor shall furnish the Project Coordinator with every reasonable facility for ascertaining whether or not the work as performed is in accordance with the requirements and intents of the plans and specifications. Should any work be covered or hidden prior to the approval thereof by the Project Coordinator, it shall be uncovered for examination at the contractor's expense.

5.12 REMOVAL OF DEFECTIVE AND UNAUTHORIZED WORK

- (a) Work performed without proper controls for lines and grades having been given; work performed beyond the lines or not in conformity with the grades shown on the plans or as given; or done without proper inspection; or any extra or unclassified work performed without written authority and prior agreement in writing as to prices, will be performed at the contractor's risk and will be considered unauthorized, and, at the option of the Project Coordinator, may not be measured and paid for and may be ordered removed at the contractor's expense.

- (b) All work which has been rejected or condemned shall be removed and replaced at the contractor's expense. Defective materials shall be removed immediately from the site of the work.

5.13 TEST PERIOD AND FINAL INSPECTION

- (a) As each separate principal part of the work is completed, it shall be immediately inspected by the Project Coordinator. If found to be in substantial compliance with the plans and specifications it shall be tentatively accepted by the Project Coordinator. Thereafter, all such completed and accepted part of the work shall be maintained in good condition by and at the expense of the contractor until final acceptance by the owner of all work covered by the contract.
- (b) After the principal operating parts of the work have been completed and tentatively accepted, they shall be operated simultaneously as a single unit by and at the expense of the contractor, in the presence of the Project Coordinator, for a period of not less than ten (10) days. During the test period, the contractor shall make all such repairs, adjustments and replacements as may be found necessary to develop the capacities and complete operating functions called for or implied in the specifications.
- (c) Operation and maintenance work prior to and during the test period shall be by and at the expense of the contractor and shall be continued until all work performed under the contract has been formally accepted by the owner.
- (d) After the test period has been concluded and the construction of all work under contract has been completed, the Project Coordinator, contractor and a representative of the owner shall make a joint final inspection of all phases of the work. If the work is not acceptable at the time of such inspection, the Project Coordinator will notify the contractor of the defects which must be remedied before final acceptance can be made.

LEGAL RELATIONS AND RESPONSIBILITY TO PUBLIC

6.1 LAWS TO BE OBSERVED:

The contractor shall, at all times, observe and comply with all Federal and State laws and local ordinances and regulations which in any manner affect the conduct of the work and shall observe and comply with all orders and decrees which exist at the present or which may be enacted later, or bodies or tribunals having jurisdiction or authority over the work.

6.2 PERMITS AND LICENSES

The contractor shall procure all permits and licenses, pay all charges or fees, and give all notices necessary and incident to lawful prosecution of the work.

6.3 PATENTED DEVICES, MATERIALS AND PROCESSES

The contractor and the Surety shall indemnify and save harmless to the owner and his or its duly authorized representatives from all and every demand for damages, royalties or fees on any patented devices, materials and processes used by him or used in connection with the work done or material furnished under this contract.

6.4 SANITATION

The contractor shall provide and maintain the necessary sanitary conveniences for the use of laborers on the worksite, properly secluded from public observations. Sanitary conveniences and practices shall comply with state and local regulations.

6.5 PUBLIC CONVENIENCE AND SAFETY

(a) Where the work is located in or near city streets, alleys or rights-of-way, or highways the contractor shall store construction materials and perform the work in such a manner as will provide reasonably adequate and satisfactory convenience for the general public and residents along the work.

(b) No street shall be closed without the permission of the Project Coordinator and the fire department having jurisdiction. Where traffic is diverted from the work the contractor shall provide all materials and perform all work for the construction and maintenance of all required temporary roadways and structures.

(c) Storage of materials and the work shall be arranged so that there will be free access to all fire hydrant, valves, manholes and other utility appurtenances.

(d) The contractor shall take such precautionary measures in the performance of the work as will give maximum protection at all times to persons and property near the work.

6.6 BARRICADES AND WARNING SIGNALS

Where the work is located in or adjacent to any street, alley or public place, the contractor shall at his own expense furnish and erect such barricades, fences, lights, and danger signals and shall provide such watchmen as are required to protect persons, property and the work. Barricades shall be painted so as to be visible at night. From sunset to sunrise, the contractor shall furnish and maintain at least one (1) light at each barricade. The contractor shall be solely responsible for all damages to the work due to failure of barricades, signs, lights and watchmen to protect it. The contractor's responsibility for the maintenance of barricades, signs, lights and watchmen shall not cease until the project has been finally accepted by the owner.

6.7 USE OF EXPLOSIVES

Should the contractor elect to use explosives in the prosecution of the work, the utmost care shall be exercised so as not to endanger life or property, and the contractor shall carry on such work in compliance with the applicable state and local laws and ordinances regulating the use of explosives. Where explosives are stored or kept, they shall be marked plainly, "Dangerous - Explosives."

6.8 PRIVILEGES OF THE CONTRACTOR IN STREETS, ALLEYS, AND RIGHTS-OF-WAYS

For the performance of the contract, the contractor will be permitted to occupy such portions of the public property as will not unduly restrict traffic or endanger the public.

6.9 RAILWAY AND HIGHWAY CROSSINGS

(a) Where the work encroaches upon the right-of-way of any railway, public highway or other public utility, the owner will obtain all easements or authority necessary to enter upon such right-of-way for the prosecution and completion of the work; but the contractor shall make all arrangements with the owner of the right-of-way for the actual construction work and shall perform the work on or across the

right-of-way in the manner and at the times agreed upon with the owner, and shall pay the costs thereof, including the costs, if any, of temporary construction performed by the owner as a means of providing safe and continuous operation of its facilities during the construction period. The contractor shall take extra precautions for the safety of the work, the owner's facilities and the general public as may be necessary, by sheeting, bracing, and thoroughly supporting the sides of any excavation and supporting and protecting any adjacent structures.

(b) Where required by any railway or highway owner, the contractor shall post with the owner thereof any performance bond which may be required to guarantee the satisfactory replacement or repair of materials, paving or grading within the right-of-way thereof.

6.10 PROTECTION AND RESTORATION OF PROPERTY

(a) The contractor shall not enter upon private property for any purpose without first obtaining permission from its owner and he shall be responsible for the preservation of, and shall use every precaution necessary to prevent damage to, all trees, shrubbery, fences, culverts, bridges, pavement, driveways, sidewalks, etc. and to all water, sewer, gas, telephone, and electric lines thereof, and to all other public or private property along or adjacent to the work. The contractor shall notify the proper representatives of any public service corporation, any company or any individual not less than twenty-four (24) hours in advance of any work which might damage or interfere with the operation of their property, along or adjacent to the work. The contractor shall be responsible for all damage or injury to property of any character resulting from any act, omission, neglect or misconduct in the manner or method of executing the work or due to is non execution of the work or at any time due to defective work or materials.

(b) When and where any direct or indirect damage or injury is done to public or private property on account of any act, omission, neglect or misconduct in the execution of the work or in consequence of the non-execution thereof on the part of the contractor, he shall restore, at his expense, such property to a condition similar or equal to that existing before such damage or injury was done, by repairing, rebuilding or otherwise restoring as may be directed, or he shall make good such damage or injury in an acceptable manner.

6.11 PUBLIC UTILITIES AND PUBLIC PROPERTY TO BE CHANGED

(a) Where the proper accomplishment of the work requires that any property of privately-owned public utilities be cut, moved, relocated, rebuilt, or otherwise disturbed in any way, the owner shall, upon proper application by the contractor, notify the utility owner to make the required changes. The contractor, prior to making application to the owner shall make all preliminary arrangements with the utility owner, including the scheduling of work. The owner shall not be responsible for any delays in the accomplishment of the required changes on utility property by reason of the contractor's failure to schedule the work properly or otherwise; and in no case shall the contractor be allowed any claim for extension of time or additional compensation based on failure of the utility owner to make the required changes within the stipulated period of time.

6.12 SERVICE CONNECTIONS

Where service connections or lines from water or gas mains or sewers to the user's premises are disconnected, broken, damaged, or otherwise rendered inoperative by the contractor for any reason he shall, at his own expense, repair or replace same and restore service to the premises at the earliest possible time.

6.13 TEMPORARY SEWER AND DRAIN CONNECTIONS

When existing storm or sanitary sewers are required to be taken up, moved, or rebuilt, the contractor, at his own expense, shall provide and maintain temporary outlets and connections for all private or public drains, sewers, and sewer outlets connected to or served by the sewers to be rebuilt, and where necessary, shall provide adequate pumping facilities; and shall maintain these services until such time as the permanent sewers and connections are built and in service.

6.14 WATER AND ELECTRICITY

(a) It shall be the responsibility of the contractor to provide and maintain at his own expense an adequate supply of water and electricity required for the work.

(b) Electric power used through permanent electrical connections of the work for preliminary operation shall be paid for by the contractor until final acceptance of the work by the owner.

6.15 USE OF A SECTION OR PORTION OF THE WORK

Whenever, in the opinion of the Project Coordinator, any portion of the work or any structure is in suitable condition, it may be put into use upon the written order of the Project Coordinator and such usage shall not be held to be in any way an acceptance of the work or structure or any part thereof as a waiver of any of the provisions of these specifications or contract. Pending final completion and acceptance of the work, all necessary repairs and renewals of any section of the work so put into use, due to defective material or workmanship, to natural causes other than ordinary wear and tear or to the operation of the contractor shall be performed by and at the expense of the contractor.

6.16 RESPONSIBILITY AND LIABILITY FOR CLAIMS

(a) The contractor and his surety shall indemnify and save harmless the owner and all its officers, agents, and servants against any claims of liability arising from or based on the violation of any law, ordinance, regulation, order or decree, whether by himself or by his employees.

(b) The contractor and his surety shall indemnify and save harmless the owner and all its officers, agents and employees from all suits, actions or claims of any character, name and description brought for, or on account of any injuries or damages received or sustained by any person, persons or property by or from the contractor or by or in consequence of any neglect in safeguarding the construction, or through the use of unacceptable materials in constructing the work, or by on account of any claim or amounts arising or recovered under the "Workmen's Compensation Law" or any other law, ordinance, order or decree.

(c) The contractor guarantees the payment of all just claims for materials, supplies, tools, labor, etc., against him or any subcontractor in connection with his contract.

6.17 INSURANCE

The contractor shall take out and maintain throughout the life of the contract, Workmen's Compensation, Contractor's Public Liability and Property Damage Insurance. The public liability shall be in an amount not less than \$1,000,000 for injuries, including accidental death, to any one person and not less than \$1,000,000 on account of one accident. Property damage insurance shall be in an amount not less than \$1,000,000. Workmen's Compensation insurance shall be in conformity with the requirements of the state

laws. The contractor shall furnish the owner with satisfactory evidence of his compliance with these provisions.

6.18 CONTRACTOR'S RESPONSIBILITY FOR THE WORK

Until acceptance by the Project Coordinator as provided for in these specifications, the work shall be under the charge and care of the contractor and he shall take every necessary precaution to prevent injury or damage to the worker or any part thereof by the action of the elements or from any other cause whatsoever, whether arising from the execution or from the non-execution of the work. The contractor shall rebuild, repair, restore and make good, at his own expense, all injuries or damage to any portion of the work occasioned by any of the aforementioned causes before acceptance.

6.19 NO WAIVER OF LEGAL RIGHTS

Inspection by the Project Coordinator or by any of his duly authorized representatives, any order, measurement or certificate by the Project Coordinator, any order by the owner for payment of money, any payment for or acceptance of any work or any extension of time or possession taken by the owner, shall not operate as a waiver of any provision of the contract or any power therein reserved to the owner or any right of damages therein provided. Any waiver of any breach of contract shall not be held to be a waiver of any other or subsequent breach.

PROSECUTION AND PROGRESS

7.1 SUBCONTRACTS AND ASSIGNMENTS

The contractor shall not let any part of the work to a subcontractor nor shall he assign the whole or any part of the contract or any monies due there under without prior written consent of the owner. Any subcontracts so let shall be subject to all of the applicable provisions of the principal contract and the contractor shall be fully responsible for the acts and omissions of his subcontractors.

7.2 BEGINNING AND COMPLETION OF WORK

After award and execution of the contract the owner shall notify the contractor in writing to proceed with the work, such notice to state the date on which the contractor will commence work. The rate of progress shall be such that the whole work will be performed and premises cleaned up in accordance with the contract, plans and specifications within the time limit as set out in the Special Conditions.

7.3 CONSTRUCTION SCHEDULE

Within ten (10) days after date of contract, the contractor shall prepare and submit to the owner for approval a construction schedule showing the dates on which he proposes to start and complete each separate part of the work. When approved by the owner, the construction schedule shall become a part of the contract and shall be adhered to as closely as practicable thereafter by the contractor until each separate part of the work has been completed. The schedule may be revised from time to time as the work progresses by approval of both parties to the contract; but approval by the owner shall not be construed in any way as an approval of an extension of time of completion.

7.4 PROSECUTION OF WORK

The contractor shall continuously and diligently prosecute the work in such order and manner, and with an ample force of men and equipment that will accomplish the work in a safe and workmanlike manner.

7.5 CHARACTER OF WORKMEN AND EQUIPMENT

- (a) The contractor shall comply with all federal, state and local laws, regulations and ordinances governing the employment of labor and the payment of wages thereto for work performed under this contract. In general, the contractor shall give preference to qualified local residents but in no case shall he employ any person whose age or physical condition is such as to make his employment dangerous to the health or safety of himself or of others employed on the work.
- (b) The contractor shall adopt uniform schedules for wage rates and working hours, and shall follow such schedules consistently throughout the life of the contract. The owner reserves the right to examine the contractor's payroll and employment records to insure compliance with these provisions.
- (c) All workmen shall have sufficient skill and experience to properly perform the work assigned to them. On any special or skilled work or in any trade, only qualified, careful and efficient mechanics shall be used.
- (d) Any employee of the contractor who may be adjudged by the owner to be incompetent, untrustworthy or otherwise undesirable shall be removed from the work immediately upon request of the owner and shall not be re-employed on the work thereafter.
- (e) The contractor shall furnish such equipment as is considered necessary for the prosecution of the work in an acceptable manner and at a satisfactory rate of progress. All equipment, tools and machinery shall be subject to the approval of the Project Coordinator.

7.6 ANNULMENT OF CONTRACT

- (a) The contract may be annulled by the owner for any of the following reasons: (1) Substantial evidence that the progress being made by the contractor is insufficient to complete the work within the specified time; (2) Deliberate failure on the part of the contractor to precede with the construction of the work when so instructed by the Project Coordinator or to observe any requirements of these specifications; (3) Failure on the part of the contractor to promptly make good any defects in materials or construction that may be called to his attention by the Project Coordinator; (4) in case the contractor becomes insolvent or is declared bankrupt, or allows any final judgment to stand against him unsatisfied, or shall make an assignment for the benefit of his creditors.
- (b) Before the contracts annulled, the contractor and his Surety will first be notified in writing by the owner of the conditions which make annulment of the contract imminent. Fifteen (15) days after notice is given, if no effective effort has been made by the contractor or his surety to correct the conditions of which complaint is made, the owner may declare the contract annulled, and will notify the contractor and his surety accordingly.
- (c) Upon receipt of notice from the owner that the contract has been annulled; the contractor shall immediately discontinue all operations. The owner may then proceed with the construction in any lawful manner that it may elect, until it is finally completed. When thus finally completed, the total cost of the work will be computed and if this total cost is greater than the contractor price, the difference shall be paid to the owner by the contractor or his surety.

7.7 EXTENSION OF TIME OF COMPLETION

The contractor may be allowed an extension of time for delays due to unforeseeable causes beyond the contractors control and without the fault or negligence of the contractor, including but not restricted to acts of God, the public enemy, and the Federal Government. Delays due to adverse weather conditions shall not be considered as grounds for an extension of time of completion. Extension of time shall be considered only when submitted to the Project Coordinator in writing within ten (10) days from and after the time when any alleged cause of delay shall occur.

7.8 FAILURE TO COMPLETE WORK ON TIME

In case of delay in completion of the work and in case the owner does not terminate the contractor's right to proceed, then the actual damages caused by the delay will be impossible to determine, in which event the contractor shall pay to the owner, in lieu thereof, as fixed, agreed and liquidated damages an amount as stipulated in the Special Conditions for each calendar day of delay until the work has been completed and accepted; and the contractor and his sureties shall be liable to the owner for the total amount thereof.

7.9 TEMPORARY SUSPENSION

- (a) The Project Coordinator shall have the authority to suspend the work wholly or in part for such period or periods of time as he may deem necessary due to unsuitable weather or such other conditions as rare considered unfavorable or the suitable prosecution of work. The contractor shall proceed with the work promptly when notified by the Project Coordinator to resume operations.
- (b) The contractor shall not suspend work without written authority from the Project Coordinator.

7.10 TERMINATION OF CONTRACT

- (a) The contract will be considered fulfilled, except as provided in any bond or bonds or by law, when all the work has been completed, the final inspection made and final acceptance and final payment have been made by the owner.
- (b) The contractor shall guarantee each specific portion of the work against defective materials and workmanship, and to meet all performance requirements for a period of one year from date of acceptance by the owner; and shall furnish satisfactory evidence to the owner that all sums of money due for labor and materials used in the work have been paid. During the guarantee period, upon written request by the owner, the contractor shall immediately replace or repair all defective materials and make good all defective workmanship at his own expense and to the satisfaction of the owner.
- (c) After final inspection and upon receipt of satisfactory evidence of payment for all labor and materials used in the work, the Project Coordinator will notify the owner in writing of his acceptance of the work performed under the contract and of his recommendations in respect to final payment to the contractor.

MEASUREMENTS AND PAYMENTS

8.1 MEASUREMENTS OF QUANTITIES

The determination of quantities of work acceptably completed under the terms of the contract will be made by the Project Coordinator, based on measurements taken by him or his assistants. These measurements will be taken according to the United States standard measurements.

8.2 SCOPE OF PAYMENT

(a) The contractor shall receive and accept as compensation, as herein provided, in full payment of furnishing all labor, materials, tools, equipment and incidentals; for performing all work contemplated and embraced under the contract; for all loss or damage arising out of the nature of the work or from the action of the elements; for any unforeseen defects or obstructions which may arise during the prosecution of the work and before its final acceptance by the owner; for all risks connected with the prosecution of the work; for all expense incurred by or in consequence of suspension or discontinuance of such prosecution of the work herein specified; for any infringement of patents, trademarks or copyrights; and for completing the work in an acceptable manner according to the plans and specifications.

(b) Any materials or work covered by partial estimates shall, upon payment, become the sole property of the owner; however, the payment of any partial or periodical estimates prior to final acceptance of the work by the owner shall in no way constitute an acknowledgment of the acceptance of the work nor in any way prejudice or effect the obligation of the contractor to repair, correct, renew or replace, at his expense, any defects or imperfections in the construction or in strength or quality of the materials used in the construction of the work under the contract 8.3 Payment for Extra Work.

(a) The extra work performed by the contractor, authorized by the Project Coordinator and approved by the owner will be paid at the lump sum and/or unit prices agreed on in written change orders signed by the contractor, Project Coordinator and owner before such work is begun. All extra work shall be subject to all other conditions of the contract.

8.3 PARTIAL PAYMENTS

(a) At the end of each calendar month during the life of the contract the Project Coordinator will prepare an estimate of the quantities of work and of the total amount due therefore. On or before the fifteenth (15th) day of the following month the owner will make a partial payment to the contractor equivalent in amount to the value of all work done to the end of the preceding month, less ten (10) per cent of such amount to be retained, less previous payments. The retained amounts shall be held by the owner until final completion and acceptance of all work contemplated under the contract, at which time the retained amounts and other amounts then due shall be paid in full.

(b) In the preparation of monthly partial pay estimates account may be taken, if specifically approved by the owner, of materials delivered to the site of work but not yet incorporated into the work.

(c) If, upon completion of approximately fifty (50) percent of all work authorized, the owner sees that satisfactory progress is being made, he may make any of the remaining partial payments in full without retainage.

8.4 FINAL PAYMENT

(a) When the work provided for by the contract has been completely performed on the part of the contractor and all parts of the work have been approved by the Project Coordinator and accepted by the owner, a final estimate will be prepared which shows the total cost of the work performed under the contract, including extra work as authorized by change orders, the total amount retained and the total amount paid on previous partial estimates. All prior estimates upon which payments have been made are subject to necessary corrections or revisions in the final payment. All pay estimates will be certified as correct by the Project Coordinator and approved by the owner before payment.

(b) The final payment will be made to the contractor as soon as practicable after final acceptance by the owner.

**STREET IMPROVEMENTS
DETAILED SPECIFICATIONS**

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DETAILED SPECIFICATIONS

ITEM I.

1.01 MILLING OF ASPHALT

The milling of asphalt shall be performed in a manner that will produce a smooth riding surface. The equipment used for milling shall and will be approved by the City Project Coordinator.

1.02 BASIS OF PAYMENT

Payment shall be made at the contract unit Price Per Ton, and shall be the actual number of tons milled and verified by the plant inspector at the plant weigh station. The contractor shall furnish the city of Mountain Brook with two (2) copies of weight tickets on each truck returning milled mix to the plant. This amount, so paid, shall constitute full compensation for milling and transporting the mix to the plant and furnishing all equipment and tools, fuel, labor and incidentals necessary to complete the work.

ITEM II.

ADJUSTING MANHOLES, INLETS AND CATCH BASINS

2.01 SCOPE

The work covered by this item shall consist of furnishing all materials and labor necessary for the resetting and adjusting of existing manhole, inlet, or catch basin frames and covers to bring them to the location and grade required by the new construction.

2.02 RESETTING

Existing manhole, inlet, and catch basin frames and covers shall be reset in accordance with these specifications when the existing manholes, inlets, or catch basins are more than one (1) inch above or below the new grade or elevation of the proposed construction. They shall be thoroughly cleaned and accurately set to line and grade of the new construction by removing the frame and cover and raising or lowering the masonry top of the structure and resetting on a cushion of cement mortar.

2.03 PAVING RINGS

Paving rings of proper diameter, width, length, weight, and height, may be used on manhole, inlet, or catch basin frames in lieu of resetting under this specification.

2.04 METHOD OF PAYMENT

Payment for adjusting, resetting, or raising manhole, inlet, and catch basin frames and covers shall be made for the actual number so relocated as specified above and at the unit price as listed under Item II. of the contract pay items. This amount, so paid, shall be full compensation for adjusting, resetting, and furnishing and placing paving rings, materials, tools, equipment, forms, drawings and specifications, and performing all labor required to complete the work herein specified.

ITEM III

BITUMINOUS TRACKLESS TACK COAT

3.01 SCOPE

The work covered by this item shall consist of furnishing all labor, materials and equipment, and performing all operations in connection with the application of a bituminous tack coat on a previously prepared bituminous binder course or existing pavement, as shown on drawings, as hereinafter specified and as directed by the Project Coordinator.

3.02 DESCRIPTION

The bituminous trackless tack coat shall consist of a hot or cold application of bituminous material on a prepared bituminous binder course, base course or existing pavement as specified by the Project Coordinator.

3.03 QUANTITY OF MATERIAL

The amount of bituminous material to be applied to each square yard for the trackless tack coat shall be within the maximum and minimum quantities specified herein below. The exact amount to be applied shall be determined by the Project Coordinator and may be varied to meet existing conditions.

MATERIAL	AMOUNT
	Gallons Per Square Yard
Bituminous Material	0.05 to 0.15

3.04 WEATHER LIMITATION

The tack coat shall be applied only when the existing surface is dry, when the atmospheric temperature is above fifty (50) degrees F., and when the weather is not rainy.

3.05 REMOVAL OF LOOSE AND FOREIGN MATERIAL

Immediately before applying the tack coat all surfaces, both horizontal and vertical, which will be in contact with the new asphalt plant mix shall be thoroughly cleaned of all dirt, debris, extruded joint material, grease, oil, grass, roots, clay coating, and all other foreign materials which may impair the construction. All depressions not reached by rotary power brooms and blower shall be cleaned by hand brooming, or other equipment, as directed by the Project Coordinator, including, but not limited to, washing and flushing. The contractor shall not grease, oil or perform any maintenance of any equipment while located within the construction limits of the work.

3.06 DETERMINATION OF PAY QUANTITIES

The quantities of bituminous tack coat for which payment will be allowed shall be expressed in gallons and shall be the actual quantities of material used in the accepted work as measured by the Project Coordinator, corrected to gallons at sixty (60) degrees F. in accordance with the appropriate table contained in the

American Society for Testing Materials, Standard Abridged Volume Correction Table, Serial Designation D206-36, for Petroleum Oils.

3.07 PAYMENT

Payment for bituminous tack coat placed under these specifications shall be made for the quantities determined as specified above at the contract unit price per gallon as listed under Item III of the contract pay items. This amount, so paid, shall be full compensation for furnishing, delivering and applying the material, furnishing and spreading blotter material, and for all labor, equipment, tools and other expenses incidental to the work. Pouring cracks in existing pavements shall be considered as an incidental item of the work and no specific payment will be allowed therefor.

ITEM IV

HOT LAID PLANT MIX SEAL COURSE AND BINDER COURSE

4.01 SCOPE

The work covered by this item shall consist of furnishing all labor, materials, equipment and performing all operations in connection with the construction of a hot laid plant mix seal course and hot laid plant mix binder course, as hereinafter specified and as directed by the Project Coordinator. The binder course may be used as a leveling course for filling holes and replacing removed base course, which has not been removed to a depth of more than two and one-half inches. In general, the binder course is to be used to bring an uneven surface to the intended contour of the finished pavement as well as to provide additional thickness to the existing pavement as required by the contract plans and specifications.

4.02 Determination of Pay Quantities.

The quantities of binder course and seal course, for which payment will be allowed, shall be expressed in tons, and shall be the actual number of tons of hot laid bituminous plant mix used in the completed and accepted work, as verified by the plant inspector. When and as directed by the Project Coordinator, trucks shall be weighed at periodic intervals.

4.03 Payment.

Payment for hot laid binder course and seal course placed under these specifications will be made for the quantities determined in the manner specified above at the applicable contract unit price per ton as listed under Item V of the contract pay items. This amount, so paid, shall constitute full compensation for preparing or reconditioning base course or sub-grade and for furnishing all material, including asphalt, all equipment and tools and for handling, mixing, manipulating, placing, shaping, compacting, rolling and finishing, improving unsatisfactory areas and furnishing all labor and incidentals necessary to complete the work in place.

ALDOT'S Specifications Section 109.03

"Exhibit A"

109.03

(b) GALLONAGE (LITERS).

When specified on the plans or in the proposal, bituminous material will be measured by the gallon (liter) in the railroad car, tank truck, distributor tank, or drums. Each railroad tank, tank truck, drum or distributor tank of bituminous material delivered for the project will be measured. The measurement shall be taken when the bituminous material is at a uniform temperature and free from air bubbles.

(c) TEMPERATURE CORRECTION.

The volumetric measurement of the bituminous material will be based upon a temperature of 60 °F (16 °C), using the following correction factors:
0.00035 per degree F (0.00063 per degree C) for petroleum oils having a specific gravity above 0.966 at 60 °F/16 °C (16 °C/16 °C);
0.00040 per degree F (0.00072 per degree C) for petroleum oils having a specific gravity between 0.850 and 0.966 at 60 °F/16 °C (16 °C/16 °C);
0.00025 per degree F (0.00045 per degree C) for emulsified asphalts.

★ 109.03 Scope of Payment. ★

(a) QUANTITIES.

The quantities listed in the bid schedule do not govern final payment. Payments to the Contractor for contract items will be made for the actual quantities of these items performed in accordance with the plans and specifications. If upon completion of the construction these actual quantities show an increase or decrease from those in the proposal, the contract unit prices will still govern except where modified by supplemental agreement or allowance made as provided in Articles 104.02 and 104.03. Quantities included in supplemental agreements will be paid for as stipulated therein. Force account work will be paid for as provided in Article 109.04.

(b) BASIS OF PAYMENT.

The Contractor shall accept the compensation as herein provided, in full payment for furnishing all materials, labor, tools, equipment and incidentals necessary to the completed work and for performing all work contemplated and embraced under the contract; also for all loss or damage arising from the nature of the work, or from the action of the elements except as noted in Article 107.17, or from any unforeseen difficulties which may be encountered during the prosecution of the work and until its final acceptance; also for all risks of every description connected with the prosecution of the work.

(c) UNIT PRICE COVERAGE.

In cases where the basis of payment clause in the specifications relating to any unit price in the bid schedule requires that the said unit price cover and be considered compensation for certain work or materials material to the item, the same work or materials will not be measured or paid for under any other pay item which may appear elsewhere in the specifications. Reference is made to item 101.01(c).

(d) REPAIR OR RENEWAL OF DEFECTIVE WORK.

The payment of any current estimate shall in no way affect the obligation of the Contractor to repair or renew any defective parts of the construction or to be responsible for all damages due to such defects.

(e) BITUMINOUS MATERIAL PRICE ADJUSTMENTS.

1. ASPHALT INDEX.

The contract unit prices for bituminous materials shall be based on the asphalt prices at the time of opening bids. The Department will establish a monthly "Asphalt Index" to address fluctuations in the cost of the bituminous materials during the life of the project.

The index will be composed of the following four entries:

- PG Asphalt (for all grades without polymer);
- PG Asphalt with Polymer (for all grades with polymer);
- Emulsified Asphalt (for all grades without polymer and cutback asphalts);
- Emulsified Asphalt with Polymer (for all grades with polymer).

2. USAGE AND PAYMENT.

Adjustments in compensation will be computed each month that bituminous materials are used in the work. Bituminous plant mix bases and pavements, surface treatments and tack coat are

1-71

109.03

the only type of bituminous materials for which a price adjustment will be computed. Adjustments in compensation will be based on an index that is a monthly price-per gallon for the bituminous material.

Before the expiration of contract time (plus approved time extensions) the dollar amount of adjustment will be determined by multiplying the increase or decrease of the current (current estimate month) index from a "base index" by the number of gallons of bituminous material used in the work during the period covered by the monthly estimate. The base index will be the value of the index for the month in which the project is let.

After the expiration of contract time (plus approved time extensions) two calculations of a potential price adjustment will be made. The first calculation will be made using the current index and the base index. The second calculation will be made using the index during the month that contract time (plus approved time extensions) expired and the base index. The amount of the price adjustment for the current estimate period will be the smallest amount of an increase in compensation if both calculations are an increase in compensation. The amount of the price adjustment will be the largest amount of a decrease in compensation if both calculations are a decrease in compensation. The amount of the price adjustment will be the decrease in compensation if one of the calculations is an increase in compensation and the other calculation is a decrease in compensation.

The amount of asphalt will be calculated as follows:

Bituminous Plant Mix Bases and Pavements - the number of gallons (liters) of new bituminous material required by the approved job mix formula. A conversion factor of 8.33 pounds per gallon (1.02 kg/L) will be used for figuring quantities. No measurement for adjustment will be made for the amount of asphalt rejuvenator used or for the amount of bituminous material recovered and used in surface recycling operations.

Surface Treatments - actual gallons (liters) of asphalt used within specification requirements with volumetric correction to 60 °F (16 °C) as per Subarticle 109.02(c).
Tack Coat - actual gallons (liters) of asphalt used within specification requirements with volumetric correction to 60 °F (16 °C) as per Subarticle 109.02(c).

(f) ADJUSTMENTS DUE TO COST OF CONSTRUCTION FUEL FOR HMA PRODUCTION.

Changes in the compensation due the Contractor will be made by the Engineer to address changes in the cost of fuel required for the production of Hot Mix Asphalt (HMA) in a plant. The changes in compensation will be made based on a monthly index of the cost of fuel determined by the Department.

A monthly HMA production fuel index will be established based on the average area terminal price reports for No. 2 Fuel and No. 6 (D.O. & S) Fuel of the "Petroleum Price Report" published during the week in which the first day of the month occurs.

Before the expiration of contract time (plus approved time extensions) the dollar amount of adjustment will be determined by multiplying the increase or decrease of the current (current estimate month) index from the base index by the number of gallons of fuel that are used in the production of the HMA during the period covered by the monthly estimate. The number of gallons of fuel required for the production of the HMA shall be 2.0 gallons per ton (7.6 L per metric ton) of HMA produced during the estimate period. The base index will be the value of the index for the month in which the project is let.

After the expiration of contract time (plus approved time extensions) two calculations of a potential price adjustment will be made. The first calculation will be made using the current index and the base index. The second calculation will be made using the index during the month that contract time (plus approved time extensions) expired and the base index. The amount of the price adjustment for the current estimate period will be the smallest amount of an increase in compensation if both calculations are an increase in compensation. The amount of the price adjustment will be the largest amount of a decrease in compensation if both calculations are a decrease in compensation. The amount of the price adjustment will be the decrease in compensation if one of the calculations is an increase in compensation and the other calculation is a decrease in compensation.

Changes in compensation will be made for the number of tons (metric tons) of HMA placed and paid for in accordance with the requirements given in the following Section:

- Section 227, Plant Mix Bituminous Base;
Section 404, Paved-Lift Surface Treatments;
Section 420, Polymer Modified Open Graded Friction Course;
Section 413, Stone Matrix Asphalt;
Section 414, Superpave Bituminous Concrete Base, Binder, and Wearing Surface Layers;

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PERFORMANCE BOND

KNOW ALL MEN BY THESE PRESENTS, that we, hereinafter called the Principal, and, hereinafter called the Surety, are held and firmly bound unto the City of Mountain Brook, Alabama, in the penal sum of six hundred, sixty-eight thousand, two hundred ninety-five and no/100 dollars (\$668,295.00), for payment of which we bind ourselves, our heirs, executors, administrators, successors, and assigns for the faithful performance of a certain written contract, dated the 12th day of May, 2014 entered into between the Principal and the Owner for the construction of the following:

PROJECT NO. MI04-2014

A copy of which contract is incorporated herein by reference and is made a part hereof as if fully copied herein.

NOW, THEREFORE, the condition of this obligation is such that if the Principal shall faithfully perform the terms and conditions of the contract in all respects on his or their part, and shall fully pay all obligations incurred in connection with the performance of such contract on account of labor and materials used in connection therewith, and all such other obligations of every form, nature and character, and shall save harmless the Owner from all and any liability of every nature, kind and character which may be incurred in connection with the performance or fulfillment of such contract or other such liability resulting from negligence or otherwise on the part of such Principal, and further shall save harmless the Owner from all costs and damage which may be suffered by reason of the failure to fully and completely perform said contract and shall fully reimburse and repay the Owner for all expenditures of every kind, character and description which may be incurred by the Owner in making good any and every default which may exist on the part of the Principal in connection with the performance of said contract; and further that the Principal shall pay all lawful claims of all persons, firms, partnerships or corporations for all labor performed and materials furnished in connection with the performance of the contract, and that failure so to do with such persons, firms, partnerships or corporations shall give them a direct right of action against the Principal and Surety under this obligation and provided however, that no suit, action or proceeding by reason of any default whatever shall be brought on this bond after one (1) year from the date on which the final payment on the contract falls due; and provided further that any alterations or additions which may be made under the contract, or in the work to be done under it, or the giving by the Owner of any extension of time for the performance of the contract or any other forbearance on the part of either the Owner or the Principal shall not in any way release the Principal and Surety, or either of them, their heirs, executors, administrators, successors, or assigns from their liability hereunder; notice to the Surety of any such alterations, extensions or forbearance being expressly waived.

This obligation shall remain in full force and effect until the performance of all covenants, terms and conditions herein stipulated, and after such performance it shall be null and void. Executed in 3 original counterparts.

IN TESTIMONY WHEREOF witness the hands and seals of the parties hereto on the ____ day of May, 2014.

(Signature of Principal)

Witness

TITLE: _____

TITLE: _____

LABOR AND MATERIALS BOND

COUNTERSIGNED:

BY: _____

TITLE: _____

(Signature of Surety)

BY: _____

TITLE: _____

WITNESS: _____

BY: _____

TITLE: _____

COUNTERSIGNED:

BY: _____

TITLE: _____

KNOW ALL MEN BY THESE PRESENTS, that we, hereinafter called the Principal, and hereinafter called the Surety, are held and firmly bound unto the **CITY OF MOUNTAIN BROOK, ALABAMA**, hereinafter called the Obligee, in the penal sum of six hundred, sixty-eight thousand, two hundred ninety-five and no/100 dollars (\$668,295.00) lawful money of the United States, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, personal representatives, successors and assigns jointly and severally, firmly by these presents.

WHEREAS, said Principal has entered into a certain contract with said Obligee dated the 12th day of May, 2014, for Street Improvements designated as MI04-2014 which contract and the plans and specifications for said work shall be deemed a part thereof as fully as if set out herein.

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION IS SUCH that if said Principal and all subcontractors to whom any portion of the work provided for in said contract is sublet and all assignees of said Principal and of such subcontractors shall promptly make payments to all persons supplying him or them with labor, materials, equipment or supplies for or in the prosecution provided for in such Contract, or in any amendment or extension of or addition to said Contract, and for the payment of reasonable attorney's fees, incurred by the claimant or claimants in suits of said bonds, then the above obligations shall be void; otherwise to remain in full force and effect. Provided, however, that this bond is subject to the following conditions and limitations.

(a) Any person, firm or corporation that has furnished labor, materials, equipment or supplies for or in the prosecution of the work provided for in said contract shall have a direct right of action against the Principal and Surety on this bond, which right of action shall be asserted in a proceeding, instituted in the county in which said Principal or Surety does business. Such right of action shall be asserted in a proceeding instituted in the name of the claimant or claimants for his or their use and benefit if against said Principal and Surety or either of them (but not later than one year after the final settlement of said Contract) in which action such claims or claim shall be adjudicated and judgment rendered thereon.

(b) The Principal and Surety hereby designate and appoint Mayor Lawrence Oden, as the Agent of each of them to receive and accept services or process or other pleading issued or filed in any proceeding instituted on this bond and hereby consent that such services shall be the same as personal service on the Principal and/or Surety.

(c) The Surety shall not be liable hereunder for any damages or compensation recoverable under Workmen's Compensation or Employers Liability Statute.

(d) In no event shall Surety be liable for a greater sum than the penalty of this bond or subject to any suit, action or proceeding thereof that is instituted later than one year after the final settlement of said contract.

(e) This bond shall be construed so as to comply with the requirements of Section 16, Title 50, and Code of Alabama of 1940.

SIGNED, SEALED AND DELIVERED this ___ day of May, 2014, in 3 original counterparts.

[Signature page follow]

**LABOR AND MATERIALS BOND
PROJECT NO. MI04-2014
(Signature Page)**

(Signature of Principal)

WITNESS: _____

BY: _____

TITLE: _____

(Signature of Surety)

WITNESS: _____

BY: _____

TITLE: _____

COUNTERSIGNED:

BY: _____
RESIDENT AGENT

RESOLUTION NO. 2014-057

BE IT RESOLVED by the City Council of the City of Mountain Brook, Alabama, that the City Council hereby approves the following revisions to the Employee Handbook:

- EXHIBIT D "CITY OF MOUNTAIN BROOK DRIVER HISTORY FORM"** is hereby deleted and replaced with the following:

"EXHIBIT D Driver Motor Vehicle Record (MVR) Policy" in the form as attached hereto as Exhibit A.

BE IT FURTHER RESOLVED by the City Council of the City of Mountain Brook, Alabama, that the City Council hereby authorizes the City Manager to incorporate such amended policy in the City's *Employee Handbook* a digital copy of which shall be available to employees on the City's [internal] intranet site.

ADOPTED: This 12th day of May, 2014.



 Council President

APPROVED: This 12th day of May, 2013.



 Mayor

CERTIFICATION

I, Steven Boone, City Clerk of the City of Mountain Brook, Alabama, hereby certify the above to be a true and correct copy of a resolution adopted by the City Council of the City of Mountain Brook at its meeting held on May 12, 2014, as same appears in the minutes of record of said meeting.



 City Clerk

Driver Motor Vehicle Record (MVR) Policy

Employees operating a vehicle create risk to any organization. The intent of this policy statement is to reduce the City's risk and to ensure only safe drivers are allowed to operate vehicles (city-owned or personal) on City business. Evaluating an employee's or prospective employee's MVR is an essential component of the driver screening process. The following constitutes the City's MVR policy.

- All drivers must have a valid Alabama driver's license of the proper class and appropriate endorsements where necessary.
- Drivers must a) not drive and b) immediately notify their supervisor if their license is suspended or revoked.
- Drivers must report all accidents and moving violations to their supervisor.

Prospective employees shall report all accidents and moving violations over the most recent 2-year period during the course of the interview process. Existing employees transferred into positions that require the operation of a City vehicle shall be required to complete a similar report prior to their transition. All drivers will be required to complete an accident and moving violation report annually.

MVRs will be obtained on applicants for driving positions prior to their employment with the City and for existing employees prior to transitioning into a driving position. MVRs will generally be obtained annually thereafter. The City will determine the acceptability of a driver's MVR based on the criteria below. Prospective employees must have a MVR that is "clear" or "acceptable" in order to be hired for positions requiring the operation of a motor vehicle. Current [driver] employees must have a MVR that is "clear", "acceptable", or "borderline". The City may restrict the driving privileges of individuals with "borderline" driving records or require drivers to receive additional training or monitoring. Drivers with "poor" records will have their driving privileges suspended with respect to City business which could, in turn, effect their employment depending on the nature of their job responsibilities.

Number of Minor Violations (past 2 years)	Preventable Accidents (past 2 years)			
	0	1	2	3+
0	Clear	Acceptable	Borderline	Poor
1	Acceptable	Acceptable	Borderline	Poor
2	Acceptable	Borderline	Poor	Poor
3+	Poor	Poor	Poor	Poor

ANY MAJOR VIOLATION WITHIN THE PAST 2 YEARS RESULTS IN A POOR DRIVING RECORD.

All violations and accidents shall be reported and evaluated, not just those occurring on the job.

For purposes of categorizing the violations reported in an employee's MVR, the following examples are non-exhaustive lists of minor and major violations:

Minor Violations

- Speeding < 20 MPH over the speed limit
- Failure to obey sign
- Failure to yield
- Illegal turn
- Following too closely or tailgating
- Improper lane-changing
- Any moving violation that is not a major violation

Major Violations

- Leaving the scene of an accident
- Driving under the influence of alcohol or drugs
- Racing or excessive speeding
- Reckless driving
- Felony, homicide or manslaughter involving the use of a motor vehicle
- License suspension or revocation resulting from accidents or moving violations
- Attempting to elude a police officer

Employees are subject to this policy (including discipline, reassignment and/or termination) upon receiving a citation for or being arrested for a violation. Any action taken by the City pursuant to a citation and/or arrest shall be temporary, pending final adjudication of the violation. The City shall make a final decision once the alleged violation is finally adjudicated.

The City shall be the sole and final decision maker as to whether a violation is major or minor.

Accidents are generally considered preventable. Accidents that are considered non-preventable include, but are not limited to:

- being rear-ended
- being struck while parked
- an accident in which the driver did everything possible to avoid being hit
- an accident where the traffic accident report reflects that the driver was "not at fault".

The City shall be the sole and final decision maker as to whether an accident was preventable.

Evaluation of a MVR and Possible Corrective Measures

Prospective employees who have "borderline" or "poor" MVRs shall not be hired for positions that require the operation of a City vehicle and shall not otherwise be allowed to drive a vehicle on City business. Current employees may have their driving responsibilities suspended until their driving record becomes "acceptable." Suspension of driving duties for employees whose

Job responsibilities require regular or frequent driving may result in reassignment to another position or termination.

Employees with "borderline" MVRs who may be in danger of losing their driving privileges should their driving behavior not improve may be subject to any of the following corrective measures:

- Driver counseling, highlighting the impact of another violation or accident
- Obtain MVR on a quarterly basis
- Periodic ride-alongs by supervisory personnel to observe driving behavior
- Defensive driver training
- Loss of privileges between work and home for those with an assigned City vehicle

The City reserves the right to revise this policy as deemed appropriate.

Motor Vehicle Driver's Annual Certification of Violations and Accidents

I certify that the following is a true and complete list of accidents and traffic violations (other than parking violations) for which I have pled guilty to or have been convicted, forfeited bond or collateral during the past 12 months (24 months for a prospective new hire being considered for a position with driving responsibilities).

Date	Offense/Accident	Location	Type of Vehicle

Authorization for the City of Mountain Brook to obtain a Motor Vehicle Report Pursuant to the City's Driver Motor Vehicle Record (MVR) Policy, I authorize the City of Mountain Brook (or its designated representative) to obtain information regarding my driving record in any state at any time while I am employed by the City.

Employee/Driver Signature _____ Reviewing Supervisor or Official _____

Employee/Driver Printed Name _____ Date _____

Date of Birth _____

Social Security Number _____

Driver License Number, State, and Expiration Date _____

Date _____



CITY OF MOUNTAIN BROOK FIRE DEPARTMENT

102 Tibben Street, Mountain Brook, Alabama - 35213 Phone: (205) 802-3838, Fax: (205) 879-5919



INTEROFFICE MEMORANDUM

TO: Sam Gaston, City Manager
FROM: Robert Ezekiel, Fire Chief
DATE: May 7, 2014
SUBJECT: Needed Software Purchase for Mobile Data Terminals (MDT'S)

Our emergency responding units have mobile data terminals (MDT's) installed which give us the capability to access mapping information, pre-incident plan information, gives routing information to navigate our city, and gives us the opportunity to stay connected to our Computer-Aided-Dispatch (CAD) system.

The connectivity rate for our MDT's has been very poor. As you might imagine, trying to reboot a computer and log-on while making an emergency response is not an ideal situation. We have been working with our IT department for several months to track down the problem and configure a solution.

It is our request that we purchase the software at a cost of \$9,843.75 (see attached quote). I have contacted the Alabama Board of Examiners of Public Accounts to confirm that the City's 911 funds can be used for the purchase of the software and they have confirmed that it is a viable use of the funds.

We respectfully ask that this request be put before the City Council for consideration and hopefully affirmation.

If you should have further questions, please feel free to inquire.

motion
2014-058



Robert Ezekiel <ezekiel@mtbrook.org>

NetMotion

Steve O'Dell <odella@mtbrook.org>
To: Robert Ezekiel <ezekiel@mtbrook.org>, Steve Boone <boones@mtbrook.org>, Sam Gaston <sgastons@mtbrook.org>

I am writing this email to let you know of the progress we are making using the NetMotion 30 day trial software. We are about halfway through the 30 trial and it has made a great deal of difference in our MDT (mobile data terminal) up time.

It is imperative for the Fire dept. to have the MDT's up 100% of the time (or as close to that as possible). In the past we have not had that, with most of the issues being dropped connections either by the VPN connection to our firewall or because the Verizon Access Manager software we used to run the on board air cards quit working.

We still need to get more info in the next 15 days or so, but from an IT perspective, I recommend that we purchase the NetMotion software.

Steve O'Dell
City of Mountain Brook IT Dept
Office: 205-802-3820
Cell: 205-813-3175
Fax: 205-874-0810
Email: odella@mtbrook.org

APPENDIX 6



5/7/2014 10:48 AM
Quote # Q-48330-1
Territory Southeast
Account ID 00100000004emoU

Ship To:
Steve Odell
Mountain Brook, AL PD
58 Church St
Mountain Brook, AL
(205) 802-3820
odella@mtbrook.org

Dear Steve,

Thank you for your interest in NetMotion Wireless products. Below, please find the detailed quote you requested. This quote is valid until 5/30/2014.

25 with all modules

Table with 5 columns: Product Description, SKU, Quantity, Unit List Price, Mountain Brook, AL PD Price. Includes rows for NetMotion Mobility for Windows, License Subtotal, 1 Year Mobility Premium Software Maintenance, and Maintenance Subtotal.

I will follow up with you to answer any questions. Until then, please do not hesitate to contact me.

Scott Haley
Account Executive - Southeast
scott.haley@netmotionwireless.com
Phone: (206) 691-5841
Fax: (206) 691-5501

Above prices in US dollars. State and local sales tax will apply in certain states. Example customers must provide an official sales tax exemption certificate in compliance with state and local laws to avoid sales tax charges.

Council Memo - May 12, 2014

The Manning - Rezoning from Res-C to Res-D

Petition Summary

Request to rezone eight (8) lots, containing 80,634 square feet from Residence-C to Residence-D for a fourteen (14) unit condominium development (The Manning).

The request also involves a petition to vacate the alleys to the south and east of the subject property (*petition to vacate alleys will be heard by the council on May 27, 2014*).

Subject Property and Surrounding Land Uses

The subject property contains eight (8) single family dwellings. To the north, across Cahaba Road, is the Residential Infill District containing the Botanical Place development. To the northwest and west are single family dwellings. To the south is the Birmingham Zoo and to the east, across Cahaba Road, is the Birmingham Botanical Gardens.

Residence-D Development Standards

The proposed development meets the Res-D development standards for Section 129-93 (Duplexes and Apartments); in this case, condominium stacked flats. The required front, side and rear setbacks are 35, 25 and 20 feet, respectively. The height limit is 45 feet; proposed is 33 feet at the front elevation and 44 feet at the rear elevation. It should be noted that the height of the front building elevation is only 24 feet above the grade of Cahaba Road to the north of the subject site. The maximum story limit is three (3) stories. The minimum required on-site parking is two (2) spaces per unit (or twenty-eight). The proposed development will have thirty-two (32) enclosed spaces, allocated at three (3) for each of the four (4) three/four-bedroom units, and two (2) for each of the remaining ten (10) units. Eleven (11) surface parking spaces for guests are proposed.

Density and Petition to Vacate Alley

The maximum density for the Res-D District is one unit per 6,000 square feet, which in the case of the subject eight (8) lot acreage would be 13.43 units (80,634 sf/ 6,000). In order to build the proposed fourteen (14) units the site would need to contain 84,000 sf; hence the proposed petition to vacate the alleys to the south and east of the subject property. If the alleys are ultimately vacated then the 5,400 square feet of alleyway will be zoned Res-D and will be added to the development acreage, resulting in a parcel size that would support the fourteen (14) units proposed (86,034 sf).

These alleys are depicted on the attached Exhibit "A" in the petition to vacate. No person or entity will be affected by the vacation of the alleys, as they serve only the subject eight (8) lots. A 10-foot wide dedicated utility easement is proposed in place of the vacated alley.

Resurvey Required

If the proposed rezoning and petition to vacate the alleys is approved by the council, then the eight (8) lots would have to be resurveyed into one (1) lot, and said case would be reviewed by the Planning Commission at that time.

Planning Commission Recommendation on Rezoning

On April 7, 2014, the Planning Commission recommended approval of the rezoning, as proposed, and of the petition to vacate the alleys. Many residents of the neighborhood were in attendance and were in support of the rezoning and the project. No one spoke in opposition.

Affected Regulation

Article VII, Residence D District; Section 129-93, Area and Dimensional Requirements

Article XXV, Amendments

Appends

LOCATION: 2400, 2404, 2408, 2418, 2420, 2422 & 2424 Cahaba Road and 2333 Lane Circle

ZONING DISTRICT: Residence-C

OWNER: Margi and Charles Ray Ingram

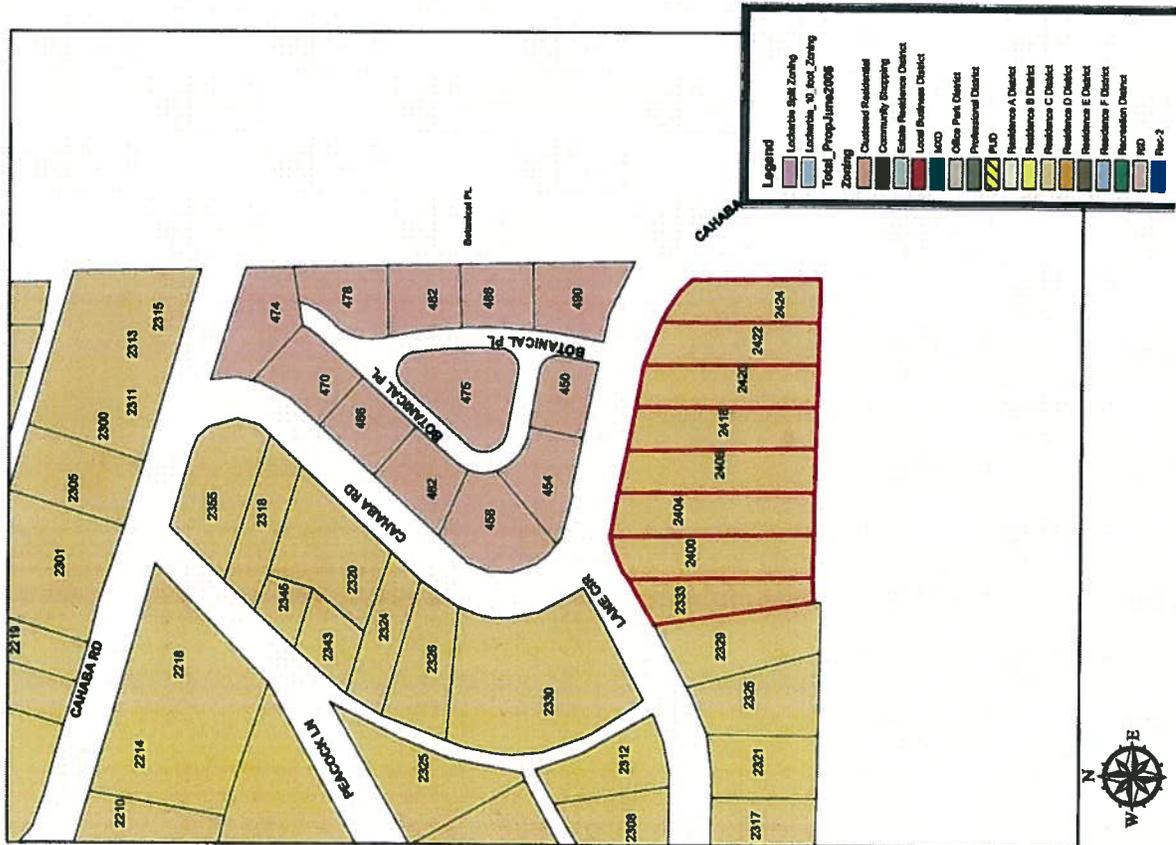
ORD 1903

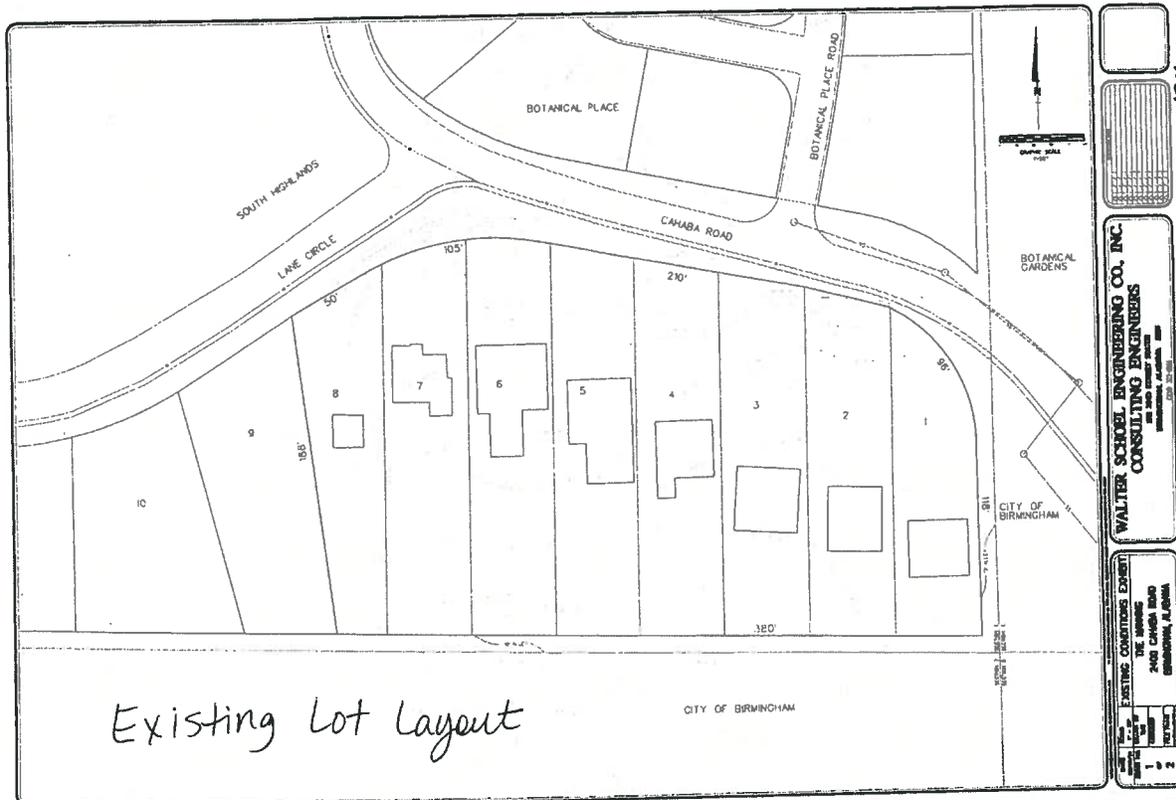
Minute Book 86



APPENDIX 7

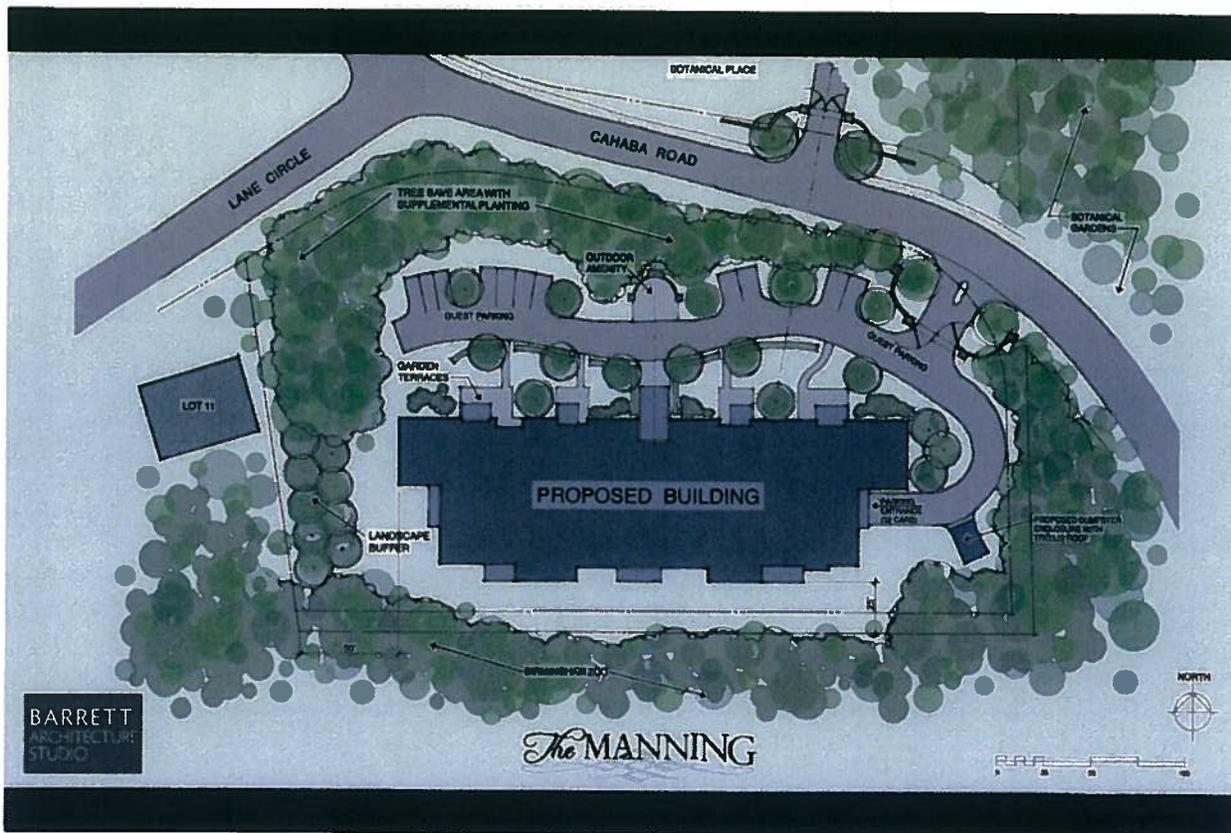
1906

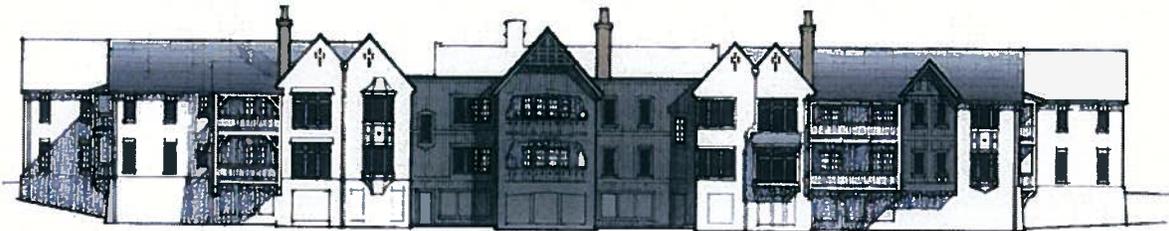
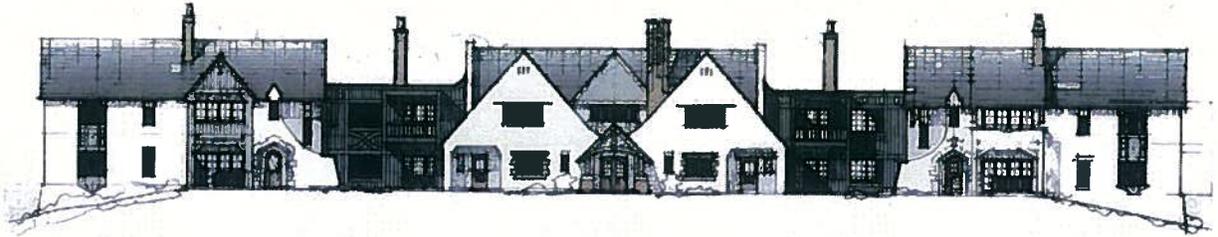




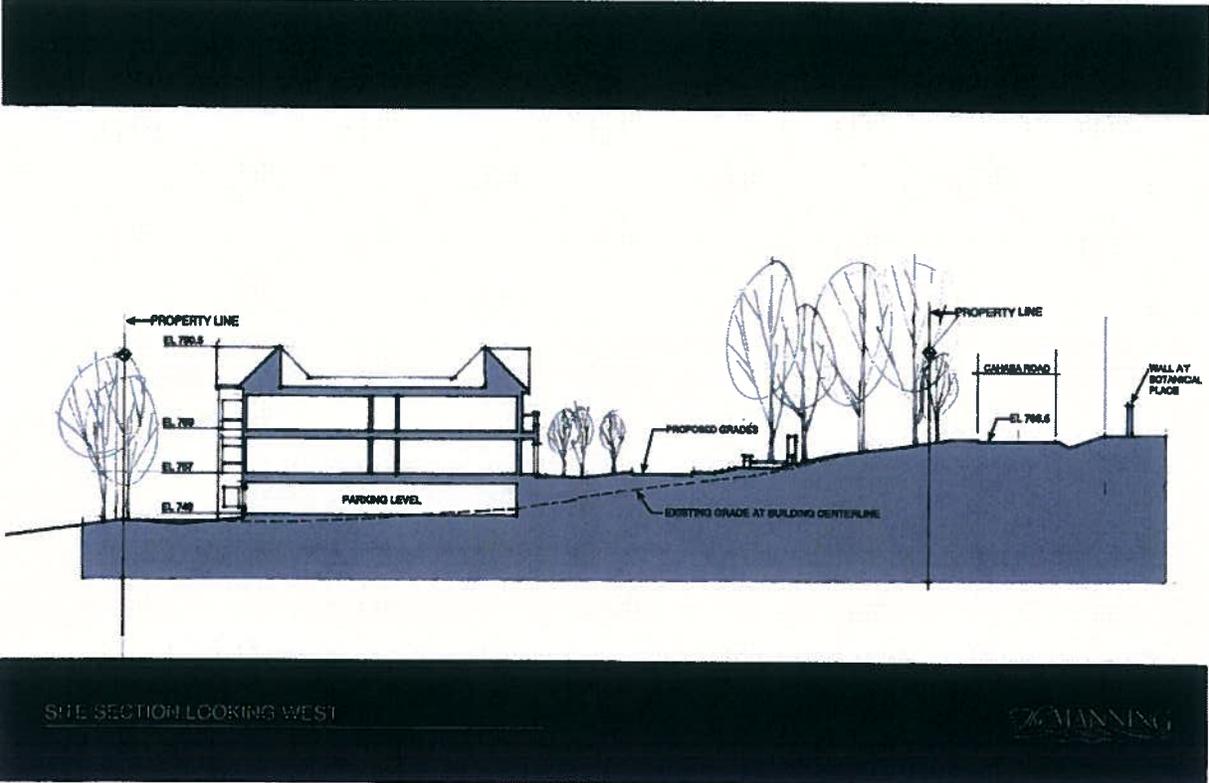
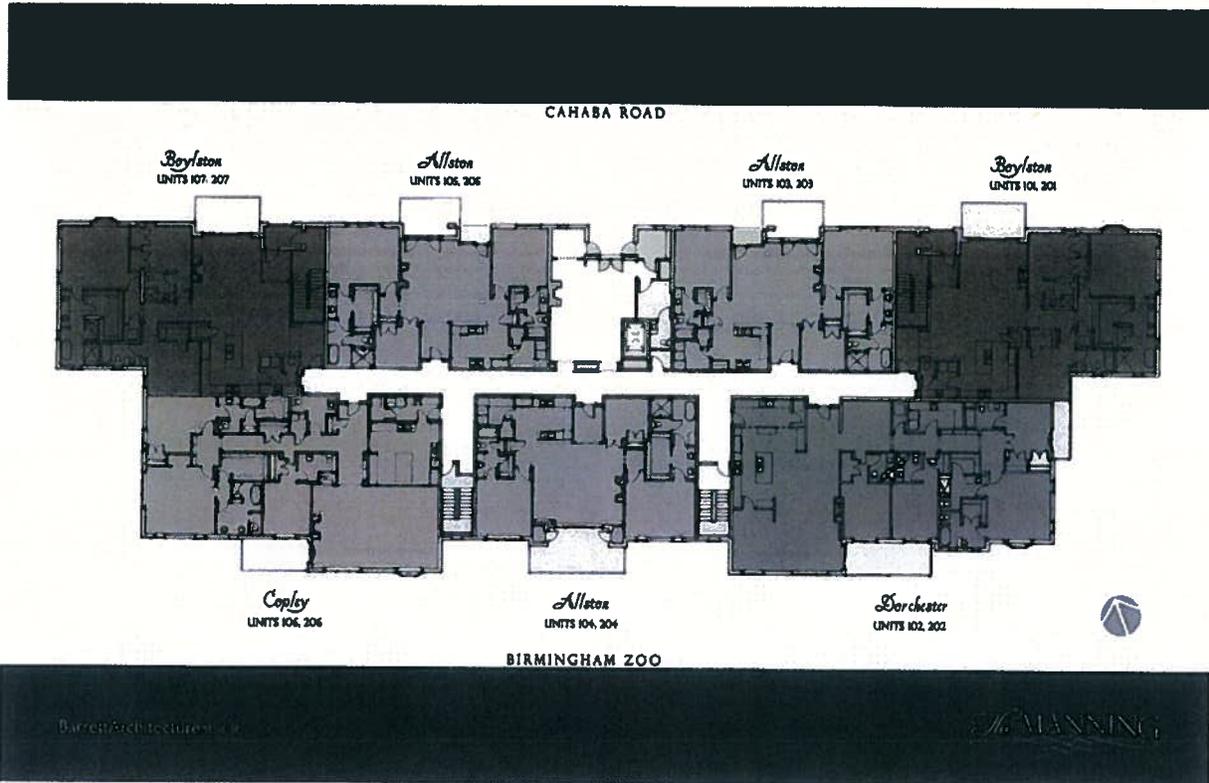
Existing Lot Layout

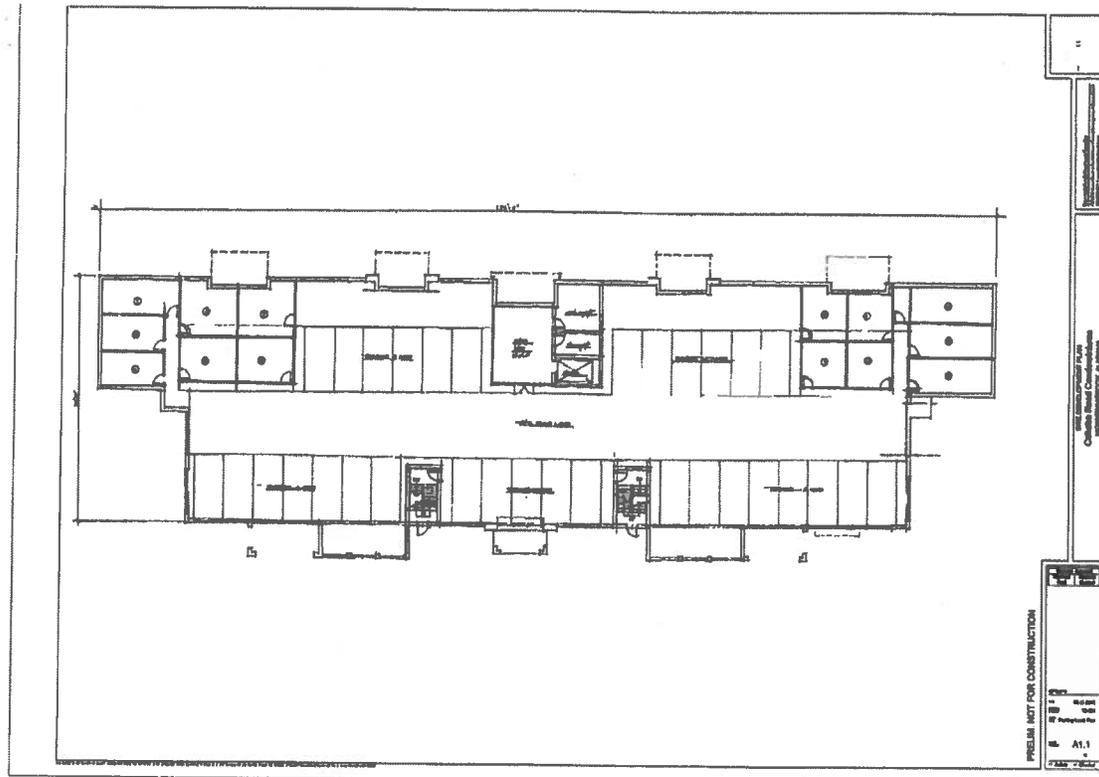
APPENDIX 7





APPENDIX 7





APPENDIX 7

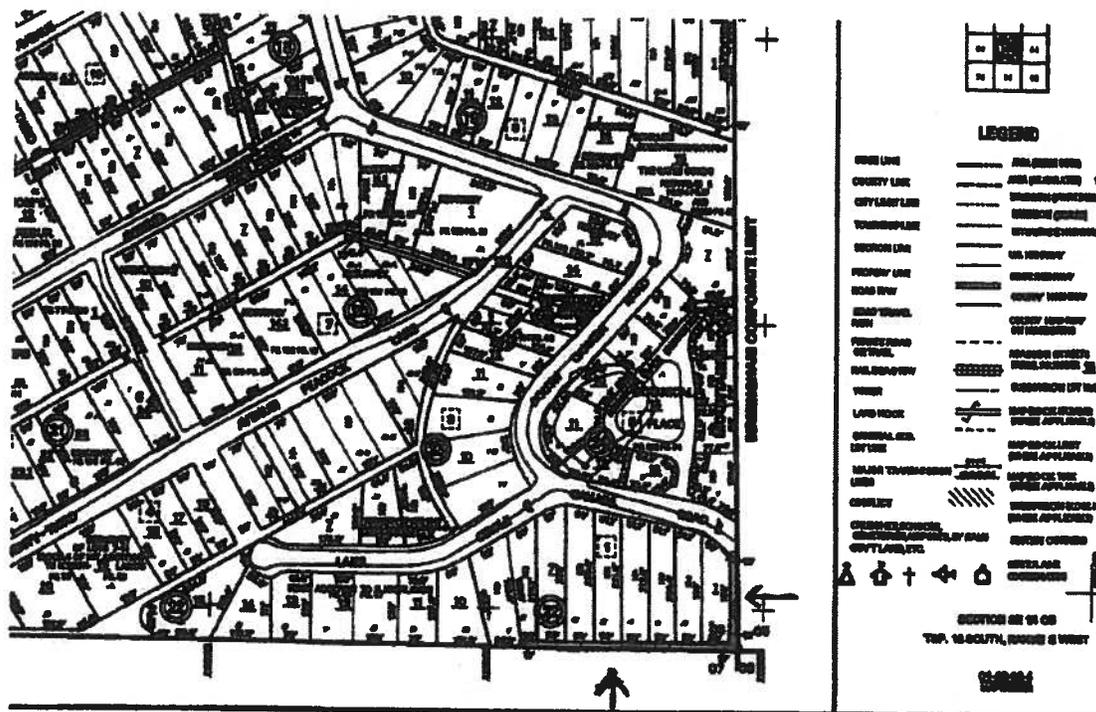


EXHIBIT A

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

Council Memo - May 12, 2014

Park Lane/Little Hardware - Rezoning from Res-C to Local Business

Petition Summary

Request to rezone a portion of the Park Lane property in English Village from Residence-C to Local Business.

Background

The subject lot (highlighted in yellow on attached survey) is owned by the same entity that owns the Park Lane banquet facility property and has historically been used for parking for Arman's and Park Lane. As may be seen on the attached zoning map and survey, there is a "paper" alley that separates the lot which contains the Park Lane building and the subject lot. This paper alley was most likely paved by the property owner and has historically been used as a part of the Arman's/Park Lane parking lot and ingress/egress from the Park Lane right-of-way to the south.

The survey also indicates a fence on the subject lot that essentially bisects the lot, running north-south just to the right of the proposed "red building outline" shown on the survey. The topography on the westerly side of the fence is relatively flat, and is utilized for Park Lane parking. The topography on the easterly side of the fence is sloping and is utilized as a vegetative buffer (per an agreement originating with the Arman's development, for the benefit of the residential property to the immediate east of the subject lot).

Analysis

The request for rezoning stems from a current lease proposal to relocate Little Hardware from Mountain Brook Village to the Park Lane building in English Village. The proposed hardware tenant will have a need for a detached dry-storage building, and that building is proposed on the subject Res-C lot. The proposed building is shown in red on the attached survey, site plan and elevation, but is indicated for illustrative purposes only (the actual size, location, setbacks and other development factors have yet to be formally proposed), and any approval of this rezoning request would not give implicit permission to construct the building indicated on the survey.

The purpose for the rezoning is to allow commercial use of "Parcel #2" on attached Exhibit Map, which is not permitted under the current Res-C zoning. As proposed, the portion of the subject lot which is to the east of the existing fence ("Parcel #1" on attached Exhibit Map) would be deed-restricted to remain as a vegetative buffer. See attached "Commitment to Restrict Usage of Lot 11;" these deed restrictions have been drafted in cooperation with the property owner to the immediate east of the subject lot and are subject to revision and approval by the City Attorney.

Planning Commission Recommendation on Rezoning

On May 5, 2014, the Planning Commission recommended approval of the rezoning. Many residents of the neighborhood were in attendance and were in support of the rezoning and the project. No one spoke in opposition to the project, but concerns were expressed about limiting the commercial vehicular use of Park Lane and not allowing a

third entrance to the proposed Little Hardware building from Park Lane. The Planning Commission's favorable recommendation to approve the rezoning included the following suggestions:

Applicant:

1. Modify deed restriction language as "covenants" that run with the land, rather than "deed restrictions." (*revisions in progress*)
2. Delete covenant reference to the unrestricted portion of Lot 11 remaining undeveloped unless developed in its entirety as a single family dwelling site. (*revisions in progress*)
3. Depict, in an exhibit attached to proposed deed restrictions, the areas referred to in the covenants as "restricted" and "unrestricted." (*attached*)

City Staff/Council:

1. Have Police Department forward any recommendations to the Council regarding circulation/delivery truck ingress egress to subject site. (*Police Department will make recommendations at hearing*)
2. City Attorney to review and approve covenant language. (*in progress*)

Subject Property and Surrounding Land Uses

The subject parcel is utilized partially for commercial parking and partially for a vegetative buffer. Properties to the north contain public parking lots and one single family dwelling. To the east and south are single family dwellings, and to the west is the Park Lane banquet facility.

Affected Regulation

Article V, Residence C District; Section 129-61, Permitted Uses

Article VII, Local Business District

Appends

LOCATION: 2117 Cahaba Road

ZONING DISTRICT: Residence-C

OWNER: Mangina & Levio, LLC

AGENT: Mike Mouron

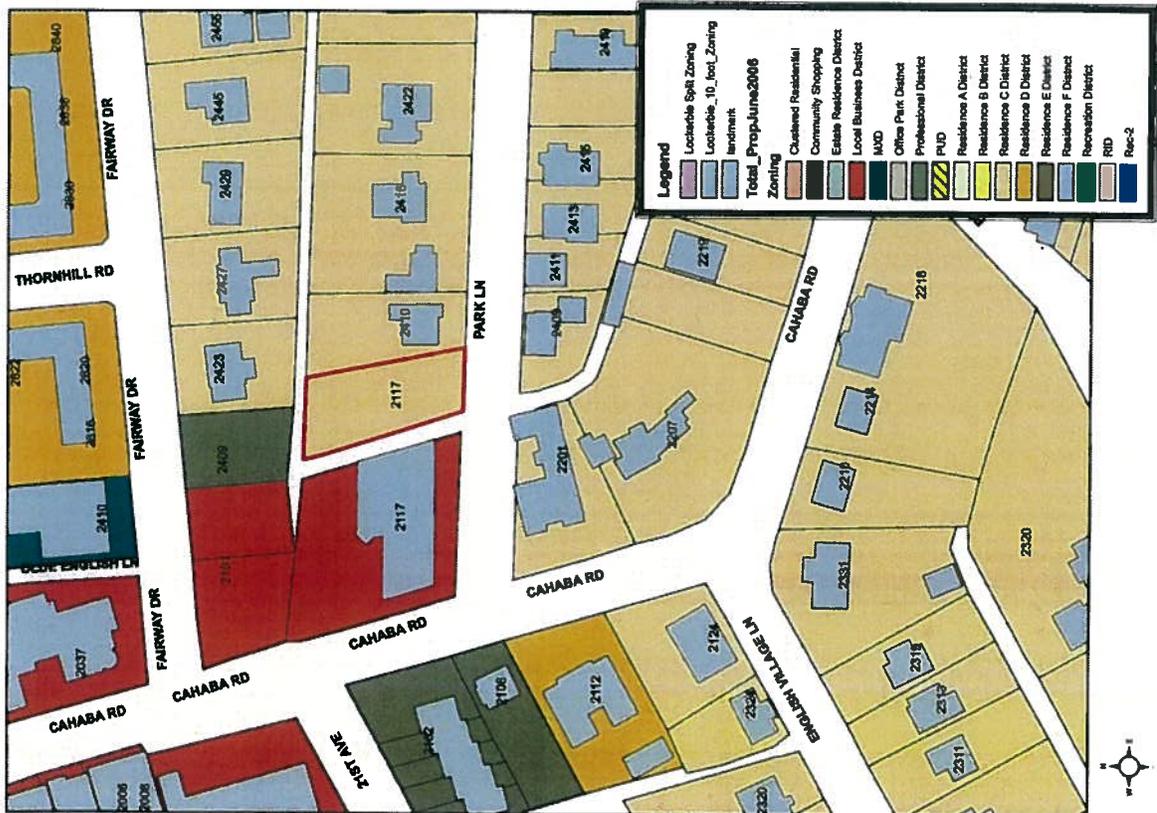
Minute Book 86
1904



1908

APPENDIX 8

1908



Format: Left: 1", Right: 1"

COMMITMENT TO RESTRICT USAGE OF:

LOT 11, BLOCK 9, 1ST ADDITION TO SOUTH HIGHLANDS, JEFFERSON COUNTY, ALABAMA

THIS COMMITMENT is made this ____ day of _____, 2014, by MICHAEL A. MOURON, 402 Office Park Drive, Suite 150, Birmingham, Jefferson County, Alabama 35223, (hereinafter referred to as the "Grantor", which includes the plural of the word where the context requires, and shall, unless the context clearly indicates otherwise, include the Grantor's heirs, administrators, legal representatives, devisees, successors, and assigns) and hereby imposes the following restrictions on that portion of the lot specified herein and as follows (hereinafter referred to as the "Restricted Portion"):

A parcel of land being part of Lot 11, Block 9, 1st Addition to South Highlands as recorded in Map Book 7, Pages 105 and 106 in the Office of the Judge of Probate of Jefferson County, Alabama and being situated in the Southeast one-quarter of the Southeast one-quarter of Section 6, Township 18 South, Range 2 West, Jefferson County, Alabama being more particularly described as follows: Beginning at a set 5/8 inch capped rebar stamped GSA CA-560LS marking the Southeast corner of said Lot 11 said point also lying on the Northerly right of way of Park Lane (50' R.O.W.); thence run North 88 degrees 51 minutes 55 seconds West along said Northerly right of way and along the South lot line of said Lot 11 for a distance of 26.95 feet; thence leaving said Northerly right of way and South lot line run North 01 degrees 11 minutes 47 seconds West for a distance of 21.03 feet; thence run North 63 degrees 19 minutes 03 seconds West for a distance of 3.36 feet; thence run North 08 degrees 57 minutes 51 seconds West for a distance of 74.17 feet; thence run North 31 degrees 22 minutes 47 seconds East for a distance of 34.61 feet to a point on the East lot line of said Lot 11 ; thence run South 10 degrees 45 minutes 36 seconds East along said East lot line for a distance of 128.13 feet to the POINT OF BEGINNING. Said parcel contains 2, 739 square feet, or 0.06 acres more or less.

Lot 11 less Restricted Portion is hereinafter referred to as the "Unrestricted Portion".

The following restrictions shall apply:

The Restricted Portion shall remain a natural buffer and open space area for the benefit of neighboring landowners, including, but not limited to, Maxwell H. and Teresa T. Pulliam, (the "Neighbors") their heirs, administrators, legal representatives, devisees, successors, and assigns, which Neighbors are the current owners of Lot 10, Block 9, 1st Addition to South Highlands as recorded in Map Book 7, Pages 105 and 106 in the Office of the Judge of Probate of Jefferson County, Alabama.

Removal of vegetation from the Restricted Portion is prohibited, except for the removal of dead, diseased, or invasive species. The Grantor shall not remove any tree, shrub, lawn or ornamental planting without first consulting with and reaching an agreement with the Neighbors. The Neighbors are granted express permission to enter and remain upon the Restricted Portion for the purpose of maintaining beds and plantings and for removing dead, diseased, or invasive species.

The Grantor shall not remove any existing wall or fence from the Restricted Portion without first consulting with and reaching an agreement with the Neighbors.

The Grantor agrees to maintain and keep in good repair at its expense the existing wooden privacy fences which currently exist on the Restricted Portion and which mark or form the Western and Northern boundaries of the Restricted Portion.

This commitment shall run with the land and shall be binding upon the Grantor, tenants and any subsequent owners and tenants, their successors, heirs or assigns. Any lease of the said specific parcel shall be subject to this restriction.

This commitment is made with the intent and understanding between Grantor and the Neighbors that the immediate future use of the building currently existing on Lot 12 and Lot 13, Block 9, 1st Addition to South Highlands as recorded in Map Book 7, Pages 105 and 106 in the Office of the Judge of Probate of Jefferson County, Alabama, is anticipated to be a hardware store and the Unrestricted Portion of Lot 11 shall serve the parking and dry-storage needs of the operation of

a hardware store, as permitted by Alabama law and the City of Mountain Brook Code, its zoning and land use regulations.

Should the building currently existing on said Lot 12 and Lot 13 cease to be used as a hardware store for whatever reason or on account of any cause, Grantor expressly agrees that the use of the Unrestricted Portion of said Lot 11 shall remain as parking and/or storage for the future owners or tenants of Lot 12 and Lot 13.

The Restricted Portion of Lot 11 will remain undeveloped unless and until the entirety of Lot 11 is developed as a single family home.

The above restrictions are intended to represent enforceable conditions under Alabama law and the City of Mountain Brook Code. These conditions are intended to be complied with in perpetuity.

If any portion of this Deed Restriction document is deemed unenforceable, the unenforceable portion shall not affect the validity or enforceability the remaining portions of this document.

IN ORDER FOR THIS COMMITMENT TO BE BINDING ON GRANTOR, GRANTOR MUST FIRST PURCHASE THE SUBJECT PARCEL.

IN WITNESS WHEREOF, I hereby set my hand this ____ day of date _____, _____.

GRANTOR: _____

By: _____

STATE OF ALABAMA)

JEFFERSON COUNTY)

I, the undersigned, a Notary Public in and for said County, in said State, hereby certify that _____ whose name is signed to the foregoing document, and who is known to me, acknowledged before me on this day that, being informed of the contents of the document, he executed the same voluntarily on the day the same bears date. Given under my hand and official seal this ____ day of _____, 2014.

Notary Public

**Parcel 1
Legal Description**

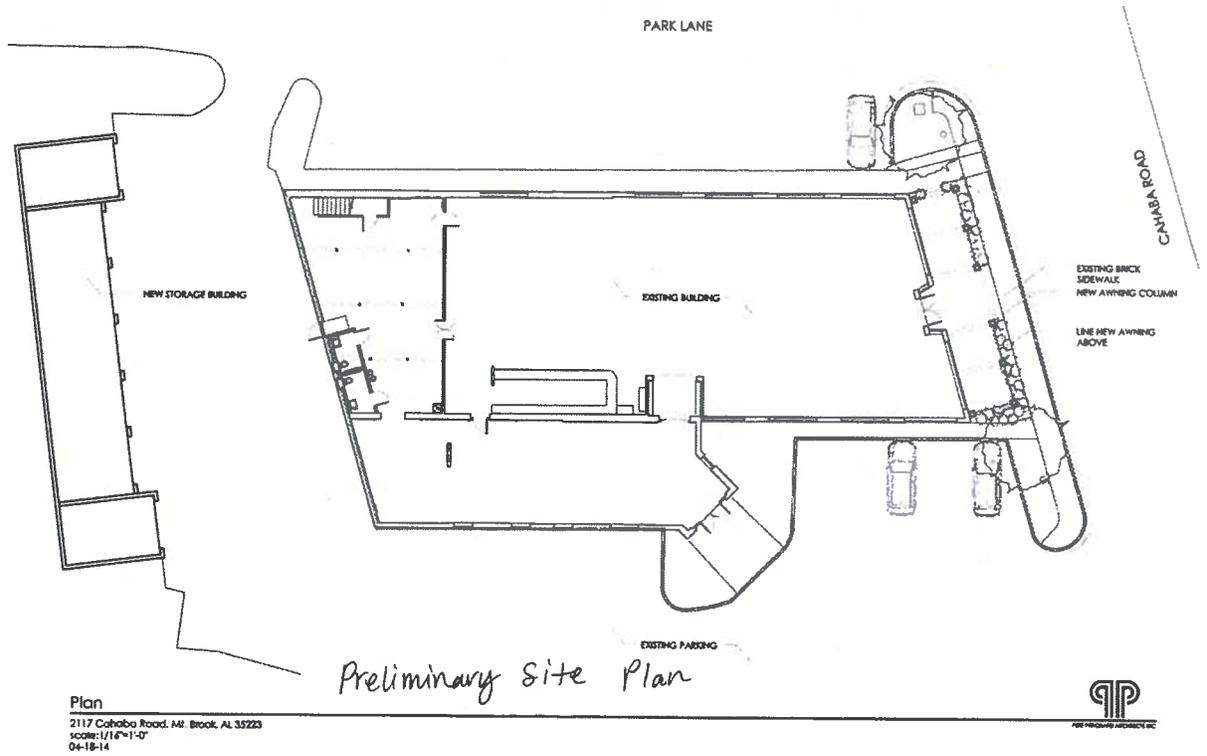
A parcel of land being part of Lot 11, Block 9, 1st Addition to South Highlands as recorded in Map Book 7, Pages 105 and 106 in the Office of the Judge of Probate of Jefferson County, Alabama and being situated in the Southeast one-quarter of the Southeast one-quarter of Section 6, Township 18 South, Range 2 West, Jefferson County, Alabama being more particularly described as follows:

Beginning at a set 5/8 inch capped rebar stamped GSA CA-560LS marking the Southeast corner of said Lot 11 said point also lying on the Northerly right of way of Park Lane (50' R.O.W.); thence run North 88 degrees 51 minutes 55 seconds West along said Northerly right of way and along the South lot line of said Lot 11 for a distance of 26.95 feet; thence leaving said Northerly right of way and South lot line run North 01 degrees 11 minutes 47 seconds West for a distance of 21.03 feet; thence run North 63 degrees 19 minutes 03 seconds West for a distance of 3.36 feet; thence run North 08 degrees 57 minutes 51 seconds West for a distance of 74.17 feet; thence run North 31 degrees 22 minutes 47 seconds East for a distance of 34.61 feet to a point on the East lot line of said Lot 11; thence run South 10 degrees 45 minutes 36 seconds East along said East lot line for a distance of 128.13 feet to the POINT OF BEGINNING. Said parcel contains 2,739 square feet, or 0.06 acres more or less.

**Parcel#2
Legal Description**

A parcel of land being part of Lot 11, Block 9 1st Addition to South Highlands as recorded in Map Book 7, Pages 105 and 106 in the Office of the Judge of Probate of Jefferson County, Alabama and being situated in the Southeast one-quarter of the Southeast one-quarter of Section 6, Township 18 South, Range 2 West, Jefferson County, Alabama being more particularly described as follows:

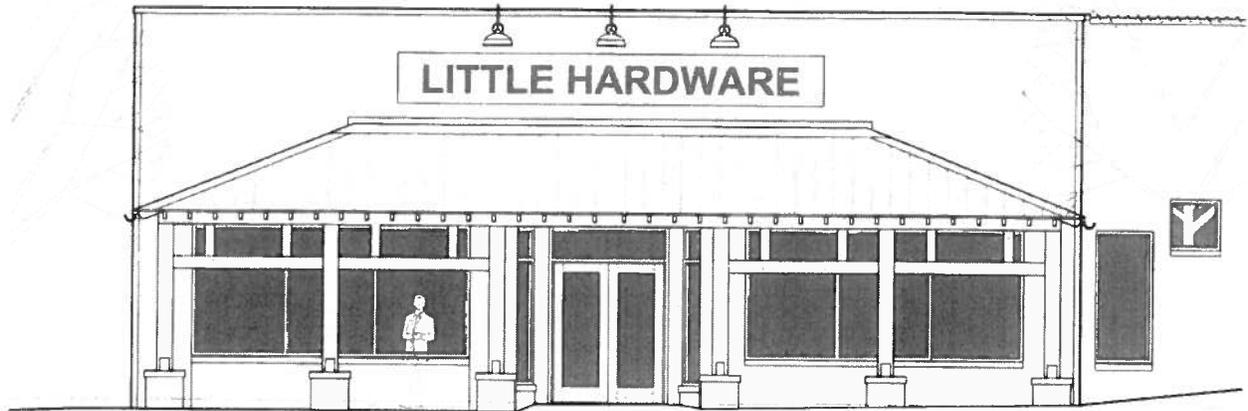
Commencing at a set 5/8 inch capped rebar stamped GSA CA-560LS marking the Southeast corner of said Lot 11 said point also lying on the Northerly right of way of Park Lane (50' R.O.W.); thence run North 88 degrees 51 minutes 55 seconds West along said Northerly right of way and along the South lot line of said Lot 11 for a distance of 26.95 feet to the POINT OF BEGINNING of the parcel herein described; thence run North 88 degrees 51 minutes 55 seconds West along said Northerly right of way for a distance of 34.21 feet to a set nail marking the intersection of said Northerly right of way and the Easterly right of way of a 15 foot Alley said point also being the Southwest corner of said Lot 11; thence leaving said Northerly right of way run North 15 degrees 45 minutes 11 seconds West along said Easterly right of way and along the West lot line of said Lot 11 for a distance of 149.55 feet to a found 5/8 inch rebar marking the Northwest corner of said Lot 11; thence leaving said Easterly right of way run South 88 degrees 40 minutes 58 seconds East along the North lot line of said Lot 11 for a distance of 74.51 feet to a found 5/8 inch rebar marking the Northeast corner of said Lot 11; thence leaving said North line run South 10 degrees 45 minutes 36 seconds East along the East lot line of said Lot 11 for a distance of 17.87 feet; thence leaving said East line run South 31 degrees 22 minutes 47 seconds West for a distance of 34.61 feet; thence run South 08 degrees 57 minutes 51 seconds East for a distance of 74.17 feet; thence run South 63 degrees 19 minutes 03 seconds East for a distance of 3.36 feet; thence run South 01 degrees 11 minutes 47 seconds East for a distance of 21.03 feet to the POINT OF BEGINNING. Said parcel contains 6,956 square feet, or 0.16 acres more or less.



APPENDIX 8



*Cahaba Elevation
- preliminary*

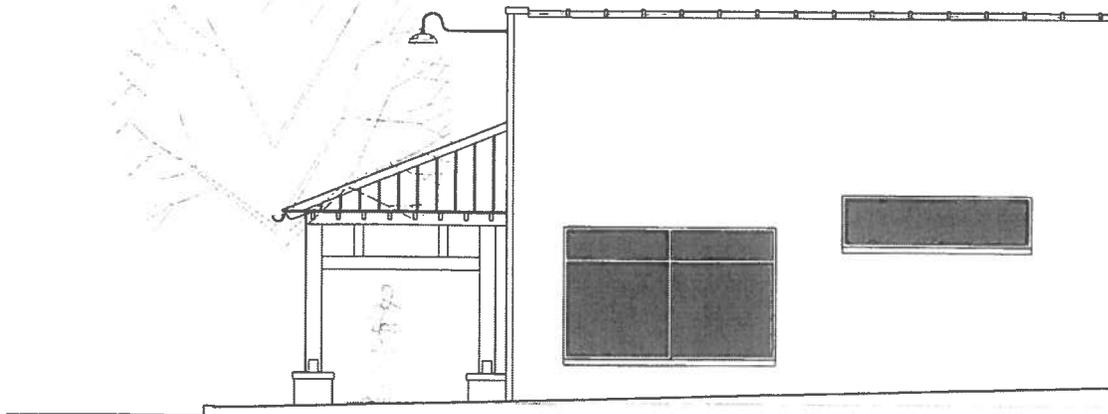


Cahaba Elevation - preliminary - main bldg.

Elevation
2117 Cahaba Road, Mt. Brook, AL 35223



APPENDIX 8



Park Lane Partial Elevation - Preliminary - main bldg

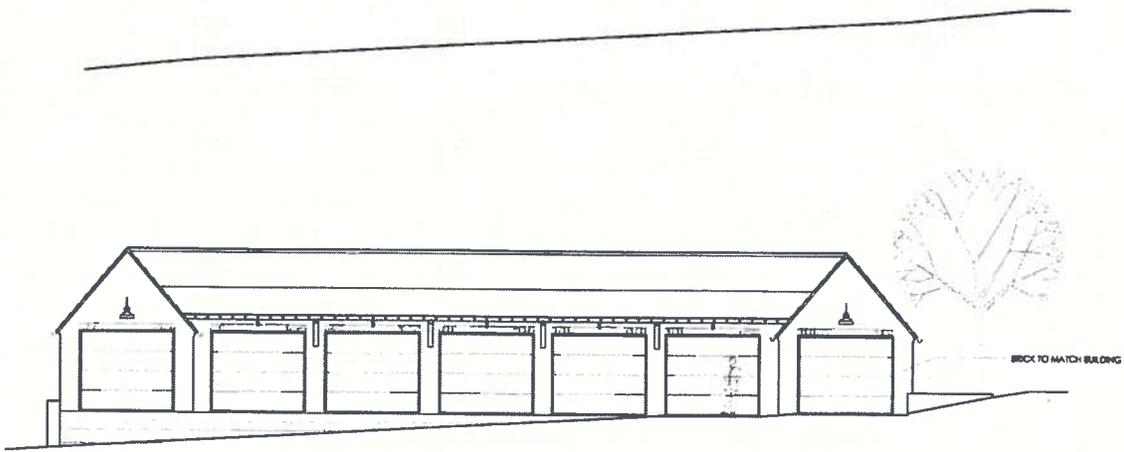
Elevation
2117 Cahaba Road, Mt. Brook, AL 35223





proposed dry storage accessory bldg - preliminary

APPENDIX 8



proposed dry storage accessory bldg - preliminary

20140515000420450 1/10
Bk: LR201413 Pg: 10684
Jefferson County, Alabama
I certify this instrument filed on
06/16/2014 08:05:59 AM ORD
Judge of Probate- Ryan L. King

ORDINANCE NO. 1905

AN ORDINANCE TO ALTER AND REARRANGE THE BOUNDARY LINES OF THE CITY OF MOUNTAIN BROOK, ALABAMA, SO AS TO INCLUDE WITHIN THE CORPORATE LIMITS CERTAIN OTHER TERRITORY CONTIGUOUS TO SAID CITY

WHEREAS, the City Council of the City of Mountain Brook, Alabama, does hereby determine that the matters set forth in that certain petition of Charles H. and Floy C. Stephens (husband and wife), wherein the owner(s) of the property described therein and hereinafter described in this ordinance requested that said property be annexed to the City of Mountain Brook are true, and that it is in the public interest that said property be annexed to the City of Mountain Brook; and

WHEREAS, petitioner has agreed to reimburse the City of Mountain Brook for any payments made by the City pursuant to Act No. 604 as amended, of the 1976 Alabama Legislature;

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

Section 1. Alteration of Corporate Limits. That under the provisions of the Code of Alabama (1975) § 11-42-21, the corporate limits of the City of Mountain Brook, Alabama, be, and the same are altered and rearranged so as to include, in addition to the territory already within the corporate limits of said City, the territory described in Exhibit "A" attached hereto and made a part hereof, which territory is contiguous to said City of Mountain Brook, Alabama, and not within the corporate limits of any other municipality.

Section 2. Zoning. The zoning of the property described in Exhibit "A" attached hereto will be temporarily assigned to the zoning district set forth in City of Mountain Brook Ordinance No. 1347.

Section 3. Fire Dues. Pursuant to Act No. 604, as amended, of the 1976 Alabama Legislature, the City does hereby agree that if the territory described in this ordinance, or part thereof, is in any fire district organized under the laws of the State of Alabama, an amount shall be paid to the fire district equal to six times the amount of dues that the owner of the territory being annexed paid to the fire district the preceding year.

Section 4. Severability. If any part, section, or subdivision of this ordinance shall be held unconstitutional or invalid for any reason, such holding shall not be construed to invalidate or impair the remainder of this ordinance, which shall continue in full force and effect notwithstanding such holding. If any part, section, or subdivision of this ordinance or documents, map, or petition to which it may refer shall be held unconstitutional or invalid as to any portion of the territory annexed herein, such holding shall not be construed to impair or invalidate the ordinance as to the territory not included in or affected by such holding.

5000 SPRING ROAD ANNEXATION 1905

Section 5. Publication. The City Clerk shall file a description of the property hereby annexed and described in Exhibit "A" attached hereto, in the office of the Judge of Probate of the county in which the property is located, and also cause a copy of this ordinance to be published by posting or by such other means as may be authorized by law.

Section 6. Effective Date. This ordinance shall be effective upon its publication or as otherwise may be provided by law.

Section 7. Repealer. All ordinances or parts of ordinances heretofore adopted by the City Council of the City of Mountain Brook, Alabama that are inconsistent with the provisions of this ordinance are hereby expressly repealed.

ADOPTED: This 12th day of May, 2014.

Vin C Smith
Council President

APPROVED: This 12th day of May, 2014.

Steve Boone
Mayor

CERTIFICATION

I, Steven Boone, City Clerk of the City of Mountain Brook, Alabama, hereby certify the above to be a true and correct copy of an ordinance adopted by the City Council of the City of Mountain Brook, Alabama, as its meeting held on May 12, 2014, as same appears in the minutes of record of said meeting, and published by posting copies thereof on May 13, 2014, at the following public places, which copies remained posted for five (5) days as required by law.

City Hall, 56 Church Street
Gilchrist Pharmacy, 2850 Cahaba Road

Overton Park, 3020 Overton Road
The Invitation Place, 3150 Overton Road

Steven Boone
City Clerk

See also 20140514000426440
BK: LR201413 Pg: 9848

2 0 0 4 0 8 / 4 1 3 9

Document Prepared By:
Todd H. Barisdala, P. C.
1707 29th Court South
Birmingham, Alabama 35209

Send Tax Notice To:
Floy Stephens
5000 Spring Rock
Birmingham, AL 35223

GENERAL WARRANTY DEED

STATE OF ALABAMA)
COUNTY OF Jefferson) KNOW ALL MEN BY THESE PRESENTS

\$ 500.00 Value

THAT IN CONSIDERATION OF Five Hundred and NO/00 Dollars (\$500.00) to the undersigned grantor (whether one or more), in hand paid by the grantee herein, the receipt of where is acknowledged, I or we, Charles H. Stephens and Floy Stephens, husband and wife

(herein referred to as Grantor(s)), grant, sell, bargain and convey unto Floy Stephens

(herein referred to as Grantee(s)), situated in Jefferson County, Alabama to wit: See attached Exhibit "A"

Subject to easements, set back lines, restrictions, covenants, mineral and mining rights and current taxes due.

\$NONE of the above consideration above paid from the proceeds of purchase money mortgage closed herewith.

TO HAVE AND HOLD the afore granted premises in fee simple to the said GRANTEE(S) and his/hers/their heirs, successors and assigns forever.

And I or we do for myself or ourselves and for my or our heirs, executors and administrators covenant with said Grantees, their heirs and assigns, that I am, or we are, lawfully seized in fee simple of said premises; that they are free from all encumbrances, unless otherwise noted above; that I, or we, have good right to sell and convey the same as aforesaid; that I, or we, and my, or our heirs, executors and administrators shall warrant and defend that same to the said GRANTEE(S), their heirs and assigns forever, against the lawful claims of all persons.

IN WITNESS WHEREOF, the said GRANTOR(S) have hereunto set their hand and seal, this 27th day of May, 2004.

GRANTOR(S)

Charles H. Stephens (SEAL)
Charles H. Stephens
Floy Stephens (SEAL)
Floy Stephens

STATE OF ALABAMA
COUNTY OF JEFFERSON

I, the undersigned notary public in for and said State, hereby verify Charles H. Stephens and Floy Stephens that whose name(s) is/are signed to the foregoing conveyance, and who is/are known to me, he/she/they acknowledge before me on this day that, being informed of the contents of the document, he/she/they executed the same voluntarily on the same bears date.

Given under my hand and seal this 27th day of May, 2004.

[Signature]
Notary Public
My commission expires: 02/20/05

EXHIBIT A

State of Alabama - Jefferson County
I certify this instrument filed on:
2004 JUN 14 P.M. 12:57
Recorded and \$
and \$.50 Deed Tax and Fee Amt.
\$ 7.00 Total \$ 7.50
MICHAEL F. BOLDN, Judge of Probate

Stewart Title Guaranty Company

COMMITMENT
SCHEDULE A

File Number 228748

- Effective Date: December 19, 2003 at 7:30 AM
- Policy or Policies to be issued:
 - (a) ALTA Owner's Policy - 10/17/92
Proposed Insured: NONE Amount - 0 -
 - (b) ALTA Loan Policy - 10/17/92
Proposed Insured: Atlas Mortgage its successors and assigns, as their interest may appear. Amount \$960,000.00
- Title to the Fee Simple estate or interest in the land described or referred to in this Commitment is at the effective date hereof vested in Floy C. Stephens.
- The land referred to in the Commitment is described as follows:

Commence at the SW corner of the SW 1/4 of NW 1/4 of Section 31, Township 17 South, Range 1 West, Jefferson County, Alabama; thence North along the West line of said 1/4 - 1/4 section a distance of 663.89 feet more or less (measures 662.15 feet) to the Northwest corner of the SW 1/4 of SW 1/4 of NW 1/4 of said section; thence an angle to the right of 89° 59' 37" and run East along the North line of said 1/4 - 1/4 - 1/4 section a distance of 675.92 feet to the Northeast corner of said 1/4 - 1/4 - 1/4 section, said point being the point of beginning; thence an angle to the left of 89° 44' 18" and run North along the West line of NE 1/4 of SW 1/4 of NW 1/4 for 269.45 feet to a point on the most northerly right of way line of Alabama Power Company right of way; thence an angle to the right of 121° 14' 41" and run Southeasterly along said right of way line for 113.05 feet; thence an angle to the right of 58° 45' 19" and run South fort 450.00 feet; thence an angle to the right of 90° 00' and run West for 177.58 feet; thence an angle to the right of 90° 00' and run North for 238.82 feet to a point on said North line of said SW 1/4 of SW 1/4 of NW 1/4; thence an angle to the right of 89° 44' 18" and run East along said North line of said SW 1/4 of SW 1/4 of NW 1/4 for 80.93 feet to the point of beginning.

TitleSouth
Commitment No. 228748

This commitment is invalid unless the Insuring Provisions and Schedules A and B are attached.
Schedule A consists of 1 page(s)

TO THE CITY CLERK OF THE CITY OF MOUNTAIN BROOK, A MUNICIPAL CORPORATION IN THE STATE OF ALABAMA:

The undersigned (is the owner) (are the owners) of the property described in Exhibit A attached hereto ("Property"), which is contiguous to the corporate limits of the City of Mountain Brook, a municipal corporation in the State of Alabama ("City"). No part of the Property is within the corporate limits of any other municipality. (I) (We) hereby file this petition with the City Clerk of the City and request that the Property be annexed to the City, pursuant to Act No. 32, S. 26, 1964 First Special Session (Acts 1964 First Special Session, p. 54) of the State of Alabama. A map of the Property, which shows its relationship to the corporate limits of the City, is attached hereto as Exhibit B.

In witness whereof, the undersigned (has) (have) signed this petition on the 1 day of May, 2014.

Jay Dyer Selden
Witness

Charles H. Stephens
(signature)

Charles H. Stephens
(print or type name on this line)

Jay Dyer Selden
Witness

Floy C. Stephens
(signature)

Floy C. Stephens
(print or type name on this line)

STATE OF ALABAMA

JEFFERSON COUNTY

I, the undersigned Charles H. Stephens hereby certify that I am the owner of (one of the parcels of) (the) land described in the foregoing petition, and I further certify that said petition contains the signatures of all the owners of the property described in said petition.

Charles H. Stephens

Charles H. Stephens
(print or type name on this line)



Sworn to and subscribed before me on this 1st day of May, ~~200~~ 2014

Tiffany Linder Selby
Notary Public

AFFIX SEAL

My commission expires _____



200408/4139

Document Prepared By:
Todd H. Barkdale, P. C.
1707 29th Court South
Birmingham, Alabama 35209

Send Tax Notice To:
Floy Stephens
5000 Spring Rock
Birmingham, AL 35223

GENERAL WARRANTY DEED

STATE OF ALABAMA }
COUNTY OF Jefferson } KNOW ALL MEN BY THESE PRESENTS

\$ 500.00 Value

THAT IN CONSIDERATION OF Five Hundred and NO/00 Dollars (\$500.00) to the undersigned grantor (whether one or more), in hand paid by the grantee herein, the receipt of where is acknowledged, I or we, Charles H. Stephens and Floy Stephens, husband and wife

(herein referred to as Grantor(s)), grant, sell, bargain and convey unto Floy Stephens

(herein referred to as Grantee(s)), situated in Jefferson County, Alabama to wit: See attached Exhibit "A"

Subject to easements, set back lines, restrictions, covenants, mineral and mining rights and current taxes due.

NONE of the above consideration above paid from the proceeds of purchase money mortgage closed herewith.

TO HAVE AND HOLD the afore granted premises in fee simple to the said GRANTEE(S) and his/her/their heirs, successors and assigns forever.

And I or we do for myself or ourselves and for my or our heirs, executors and administrators covenant with said Grantees, their heirs and assigns, that I am, or we are, lawfully seized in fee simple of said premises; that they are free from all encumbrances, unless otherwise noted above; that I, or we, have good right to sell and convey the same as aforesaid; that I, or we, and my, or our heirs, executors and administrators shall warrant and defend that same to the said GRANTEE(S), their heirs and assigns forever, against the lawful claims of all persons.

IN WITNESS WHEREOF, the said GRANTOR(S) have hereunto set their hand and seal, this 27th day of May, 2004.

GRANTOR(S)

Charles H. Stephens (SEAL)
Charles H. Stephens
Floy Stephens (SEAL)
Floy Stephens

STATE OF ALABAMA
COUNTY OF JEFFERSON

I, the undersigned notary public in for and said State, hereby verify Charles H. Stephens and Floy Stephens that whose name(s) is/are signed to the foregoing conveyance, and who is/are known to me, he/she/they acknowledge before me on this day that, being informed of the contents of the document, he/she/they executed the same voluntarily on the same bears date.

Given under my hand and seal this 27th day of May, 2004.

[Signature]
Notary Public
My commission expires: 02/20/05

EXHIBIT A

STATE OF ALABAMA)
 :
JEFFERSON COUNTY)

This Instrument Prepared by:
Frank C. Galloway III, Esq.
GALLOWAY, SCOTT, MOSS & HANCOCK, LLC
2200 Woodcrest Place, Suite 310
Birmingham, AL 35209

DECLARATION OF RESTRICTIVE COVENANTS

KNOW ALL MEN BY THESE PRESENTS, that:

WHEREAS, Charles H. Stephens and his wife, Floy C. Stephens (the "Stephenses"), are the owners of certain real property situated in unincorporated Jefferson County, Alabama, located at 5000 Spring Rock Road and as more particularly described in the attached Exhibit A (hereinafter the "Property"); and

WHEREAS, the Stephenses have applied to annex the Property into the City limits of the City of Mountain Brook, Alabama (the "City"); and

WHEREAS, the Stephenses agree to execute these covenants, which run with the land, in consideration of the City agreeing to annex the Property.

NOW, THEREFORE, in consideration of the premises, and other good and valuable consideration, the receipt and sufficiency of which is acknowledged by the Stephenses, the undersigned hereby proclaim, publish and declare that the Property is hereby encumbered and burdened with the covenants and restrictions subject to this Declaration, which shall run with the land and shall be binding upon them and upon all parties having or acquiring any right, title, or interest in any part of the Property.


20140514000426440 1/4
BK: LR201413 Pg: 9848
Jefferson County, Alabama
I certify this instrument filed
05/14/2014 10:34:38 AM EST
Judge of Probate- Alan L. King

**ARTICLE I
APPLICABILITY**

1.1 Applicability. The Property shall be held, transferred, sold, conveyed, used, rented, occupied, mortgaged or otherwise encumbered, subject to all terms and provisions of this Declaration.

**ARTICLE II
RESTRICTIONS**

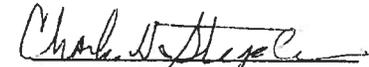
2.1 Restrictions. The Property, to the extent it is used for residential purposes, may henceforth only be used for one (1) single family residence.

**ARTICLE III
GENERAL**

3.1 Duration and Amendment. The restrictions contained herein shall run with and bind the Property, and shall inure solely to the benefit of and shall be enforceable by (i) owners of lands adjoining the Property, and (ii) the City. Additionally, the restrictions contained herein shall benefit and be enforceable by the respective legal representatives, heirs, successors, and assigns of the foregoing parties.

3.2 Enforcement. In the event of a violation or breach of any of these restrictions, those entitled to enforce same shall have the right to institute any action to compel compliance with the terms and conditions hereof, or to prevent the violation or breach of said restrictions, or to recover damages or exercise any and other rights and remedies available at law or equity.

IN WITNESS WHEREOF, the parties have here unto executed this Declaration effective as of the 14th day of May, 2014.


Charles H. Stephens

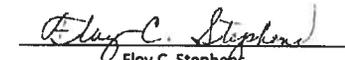

Floy C. Stephens

EXHIBIT A

STATE OF ALABAMA)
JEFFERSON COUNTY)

I, the undersigned Notary Public in and for said County in said State, hereby certify that Charles H. Stephens and Floy C. Stephens, whose names are signed to the foregoing Declaration, and who are known to me, acknowledged before me on this day that, being informed of the contents of the above and foregoing Declaration, they executed the same voluntarily on the day the same bears date.

Give under my hand and official seal of office this 14th day of May, 2014.



Anthony P. McRally, Jr.
Notary Public
My commission expires: 9/27/2016

That property located in Jefferson County, Alabama more particularly described as:

Commence at the SW corner of the SW ¼ of NW ¼ of Section 31, Township 17 South, Range 1 West, Jefferson County, Alabama; thence North along the West line of said ¼ - ¼ section a distance of 663.89 feet more or less (measures 662.15 feet) to the Northwest corner of the SW ¼ of SW ¼ of NW ¼ of said section; thence an angle to the right of 89°59' 37" and run East along the North line of said ¼ - ¼ - ¼ section a distance of 675.92 feet to the Northeast corner of said ¼ - ¼ - ¼ section, said point being the point of beginning; thence an angle to the left of 89°44' 18" and run North along the West line of NE ¼ of SW ¼ of NW ¼ for 269.45 feet to a point on the most northerly right of way line of Alabama Power Company right of way; thence an angle to the right of 121°14' 41" and run Southeasterly along said right of way line for 113.05 feet; thence an angle to the right of 58° 45' 19" and run South for 450.00 feet; thence an angle to the right of 90°00' and run West for 177.58 feet; thence an angle to the right of 90° 00' and run North for 238.82 feet to a point on said North line of said SW ¼ of SW ¼ of NW ¼; thence an angle to the right of 89°44' 18" and run East along said North line of said SW ¼ of SW ¼ of NW ¼ for 80.93 feet to the point of beginning.

20140614000426440 4/4
Bk: LR201413 Pg:8848
Jefferson County, Alabama
05/14/2014 10:04:30 AM REST
Fee - \$25.00

Total of Fees and Taxes-\$25.00
CRONAN