

**MOUNTAIN BROOK CITY COUNCIL
PRE-MEETING DISCUSSION
JULY 14, 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 5:45 p.m. on Monday, the 14th day of July, 2014. The Council President called the meeting to order and the roll was called with the following results:

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

Absent: Lawrence T. Oden, Mayor

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

1. AGENDA

1. Little Hardware right-of-way Public Improvements. (Ordinance No. 1911 was added to the formal agenda.)
2. Residents on Beech Circle and Beech Street to address the City Council about flooding and water runoff concerns. (Resolution No. 2014-082 was added to the formal agenda.)
3. Proposed amended business travel policy. (Resolution No. 2014-083 was added to the formal agenda.)
4. Proposed Health Screening Policy. (Resolution No. 2014-084 was added to the formal agenda.)
5. Blue Print Birmingham presentation – Rick Davis of the Birmingham Business Alliance (Appendix 1).
6. Proposed food/fashion truck regulations – Appendix 2. (The members of the City Council stated that they agreed with the general concepts outlined in the proposed regulations. The City Planner will prepare a draft ordinance for consideration at the July 28, 2014 meeting of the City Council.)
7. Lane Parke project update – John Evans.

The developer is one tenant short of having enough tenant commitments to move forward with their financing of the retail phase of the development and negotiations are currently underway with that tenant. Once financing is secured, the developer will announce its tenant commitments and then move forward with filling the remaining [intentionally] uncommitted space. The developer hopes to break ground on the first phase of retail space this fall and turn the building over to the tenants approximately 9 months after ground breaking to install fixtures and stock products and merchandise which could take an additional 3 months. The current phases (apartments and hotel) are a little behind schedule due to rainy weather a few months ago but the recent dry weather is allowing the builder to catch-up somewhat.

8. One-time retiree payment authorized by the Retirement Systems of Alabama. (The members of the City Council stated that matter will be considered during the upcoming budget work sessions.)
9. Parking pads and Right-of-Way Use Agreement for 100 and 110 Dexter Avenue. (Resolution No. 2014-081 was added to the formal agenda.)

10. Cahaba River Park Eagle Scout project (Appendix 3). (The members of the City Council expressed their consent that the proposed project would be beneficial to the public and Overton Park if approved by the Boy Scouts.)
11. Proposed speed limit ordinance amendment for Highway 280. (Ordinance 1910 was added to the formal agenda.)
12. Executive Session. There being no further business to come before the City Council, it was moved by Council President Smith that the City Council convene in executive session to discuss a matter involving potential litigation. The motion was seconded by Council member Pritchard. The City Attorney certified that the subject matter of the executive session is allowed pursuant to the Open Meetings Act. Then, upon the question being put and the roll called, the vote was recorded as follows:

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

Nays: None

President Smith declared that the motion carried by a vote of 5-0 and then asked that the members of the audience be excused. President Smith also announced that the City Council pre-meeting will adjourn upon conclusion of the executive session and the regular council meeting would commence upon adjournment of the executive session.



Steven Boone, City Clerk



birminghambusinessalliance
THE CHAMBER FOR REGIONAL PROSPERITY

BIRMINGHAM REGIONAL ECONOMIC OVERVIEW

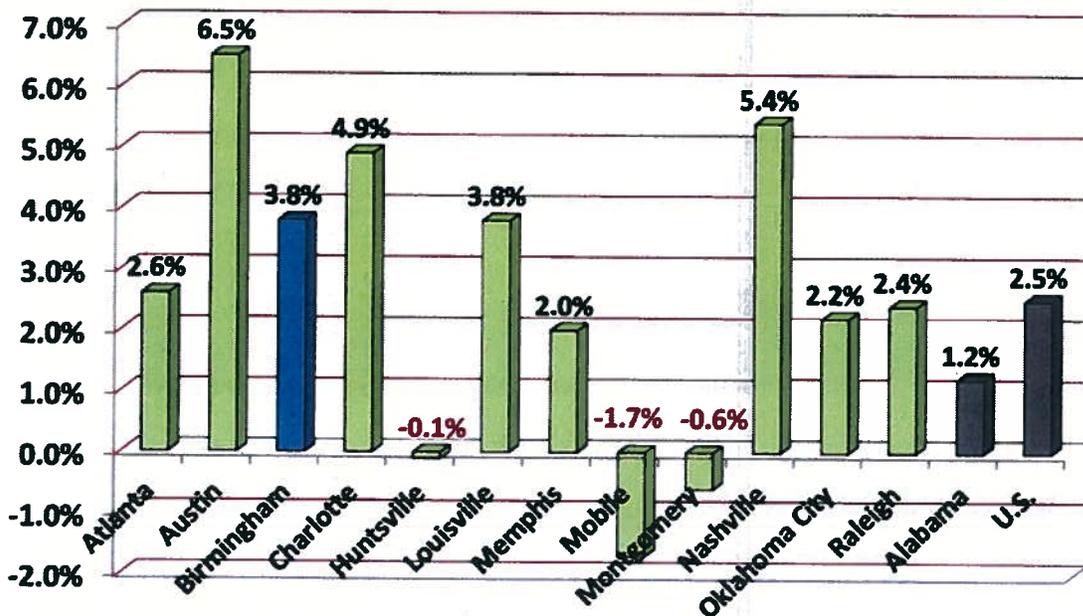


APPENDIX 1



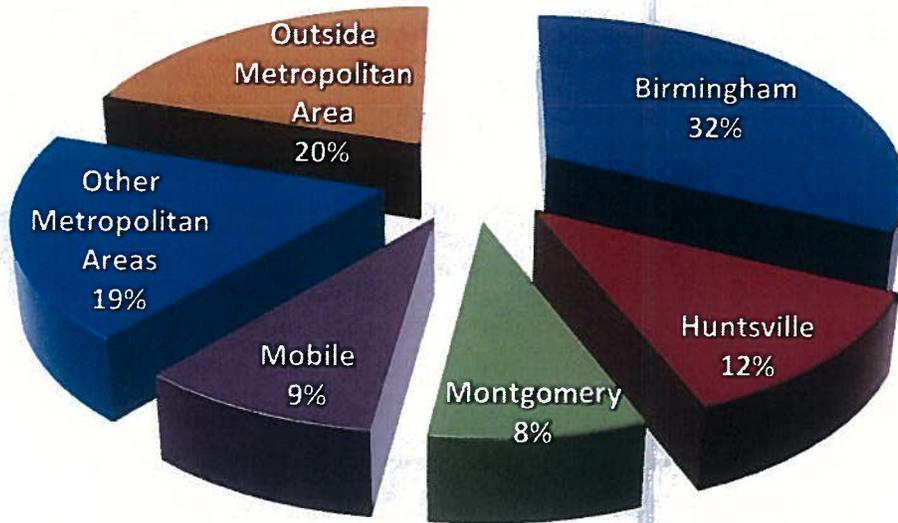
**birmingham
businessalliance**

2011 to 2012 Real Gross Domestic Product Percentage Change



Source: U.S. Bureau of Economic Analysis

birthingam businessalliance
Metro GDP As A Percentage of Alabama GDP

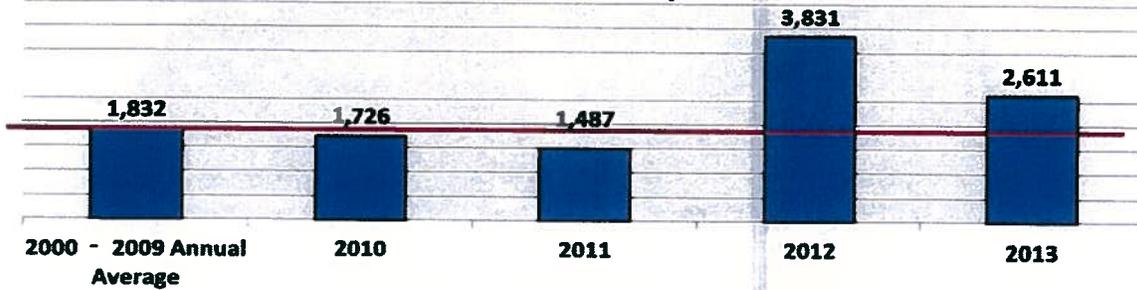


Source: U.S. Bureau of Economic Analysis

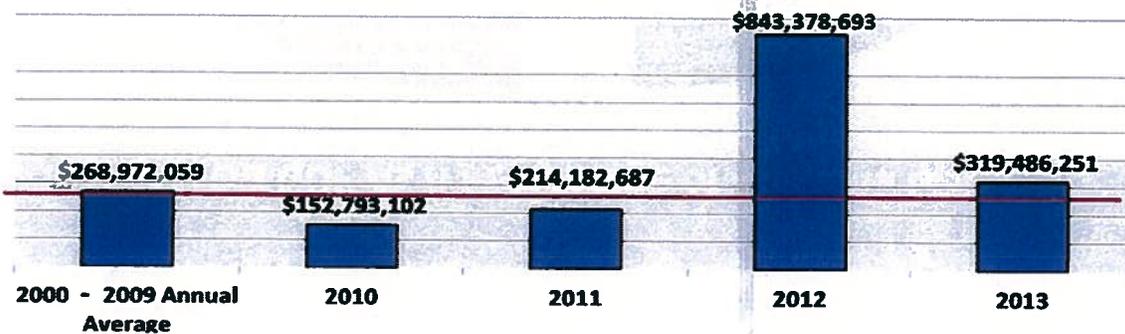
APPENDIX I

birthingam businessalliance
Birmingham Metropolitan Area

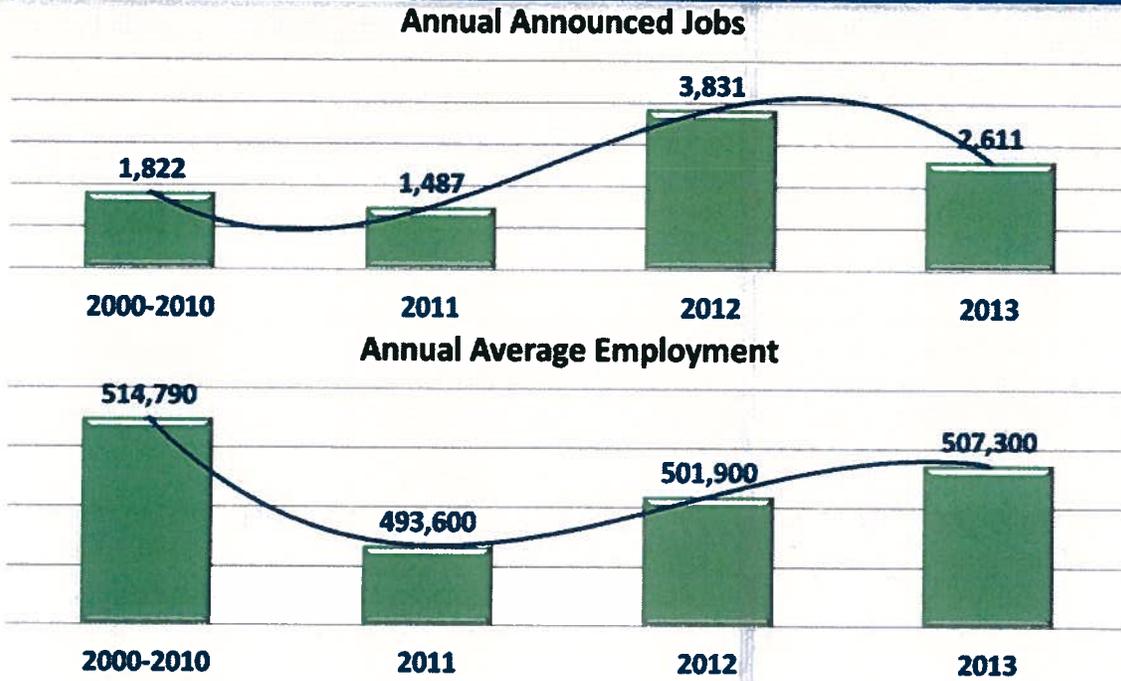
Announced Jobs By Year



Announced Capital Investment By Year



Announced Jobs vs. Employment



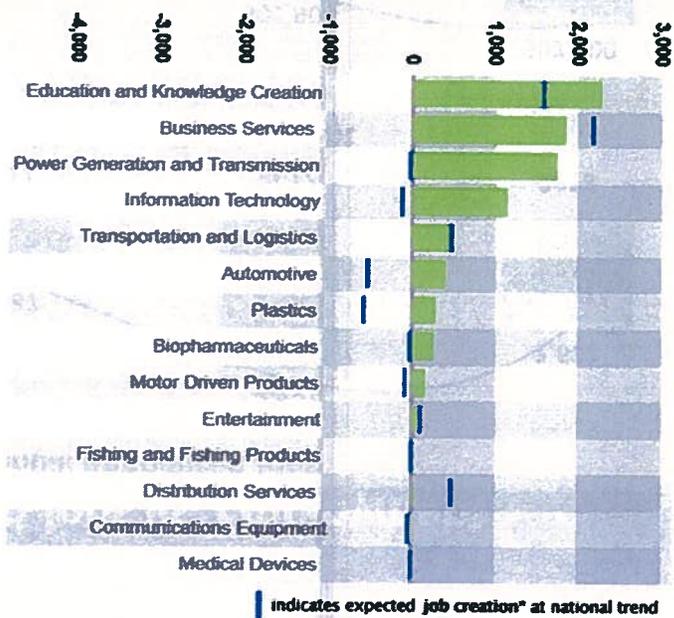
APPENDIX 1

Job Creation

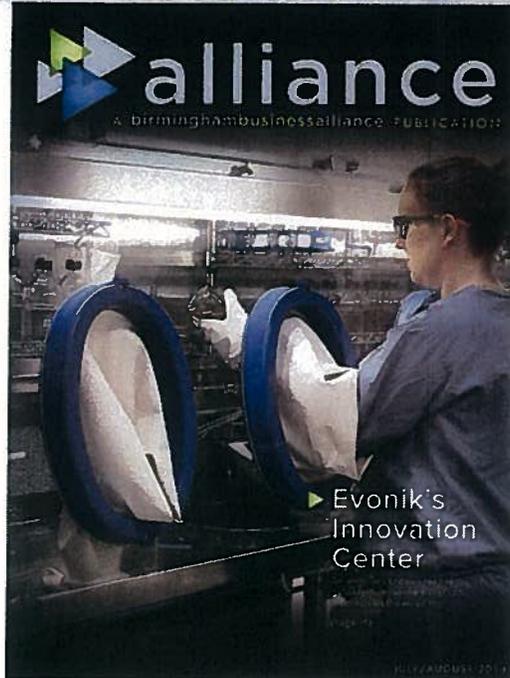
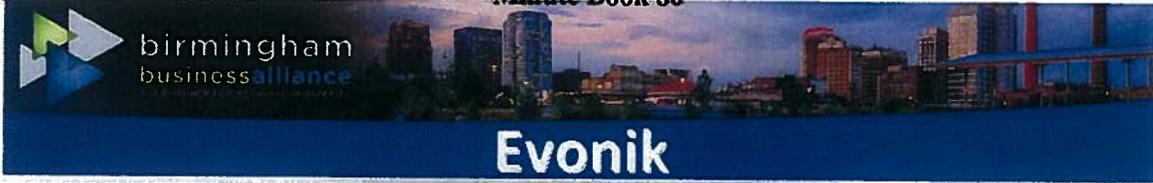
Technology Innovation drives Birmingham growth

~ 10,000 new jobs created

~ 50% are technology-driven



Source: 2000-2010 data, U.S. Cluster Mapping - Institute for Strategy and Competitiveness, Harvard Business School.



APPENDIX 1



CITY OF MOUNTAIN BROOK

Dana O. Hazen, AICP
City Planner
56 Church Street
Mountain Brook, Alabama 35213
Telephone: 205/802-3821
Fax: 205/879-6913
hazend@mtnbrook.org
www.mtnbrook.org

DATE: July 11, 2014
TO: Mayor, City Council, City Manager and City Attorney
FROM: Dana Hazen, City Planner
RE: Draft Food Truck Ordinance

The attached village aerials depict the locations of parallel parking spaces which adjoin public sidewalks that are suitable for mobile vending (from a public safety standpoint). However, all of these spaces are on streets designated in the City's village overlay as "primary frontage streets," which the council has expressed a desire to exclude from allowable mobile vending locations.

If an ordinance is drafted to allow mobile vending only from parallel parking spaces that adjoin a suitable sidewalk, but prohibit mobile vending on "primary frontage streets" then it will effectively be prohibiting mobile vending in the public right-of-way altogether.

To this end I have drafted the attached ordinance which defines mobile vending as a vehicle, pushcart or other mobile device that stays in one place for more than 10 continuous minutes, or on any particular street or 600 feet from the starting point for more than 30 minutes. In other words, if a mobile vendor keeps moving (like the ice cream truck) then it is not considered a "mobile vendor" by definition of this ordinance; but if it "camps" in one spot then it is.

I have proposed that mobile vendors (as defined in the draft ordinance) be prohibited in the public right-of-way (since there is no logical place for them in the villages) and that they be allowed only on private property.

Changes to the attached draft ordinance are in red.

Draft

Mobile Vending Ordinance
City of Mountain Brook
July 14, 2014

Definition of Mobile Vendor: A vehicle, pushcart or other device in which wares or goods are kept or exposed for sale, or from which wares or goods are sold or offered for sale; and which remains upon any given point (or 50 feet from said point) on a public street, public sidewalk or public right-of-way for longer than a continuous period of 10 minutes, or remains on any such public street, public sidewalk or public right-of-way within 600 feet of said point for longer than a continuous period of 30 minutes.

Public Right-of-Way Sales

Mobile vending in the public right-of-way is prohibited.

Private Property Sales

Types of Wares permitted for sale: Any retail item permitted in the Local Business zoning district.

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

The mobile 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, pushcart or other device, along with the City business license and Health Department certificate.

Refuse containers shall be provided by the mobile vendor on or within 15 feet of the mobile vehicle, pushcart or other device; 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.

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

Mobile vending hours of operation shall be limited between 6:00 a.m. and 10:00 p.m.; and the mobile vehicle, pushcart or other device may be at any one location for no more than 3 continuous hours (including set-up and take-down of mobile vending operation).

Noise limited to 70 decibels.

A mobile vehicle, pushcart or other device 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, pushcart or other device shall be self-contained. The mobile vehicle, pushcart or other device 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.

The mobile vehicle, pushcart or other device will be subject to inspection upon application for a business license and for any subsequent permits through the Fire Marshal, and may be subject to random inspection.

A Type-1 Commercial Hood, UL 300 compliant fire extinguishing system, K-Class fire extinguisher and ABC fire extinguisher shall be required when the cooking process produces grease-laden vapors. Hood, fire extinguishing system and fire extinguishers shall bear the appropriate current inspection tag.



English Village

Parallel spaces more than 50 feet from a lunchtime restaurant; however, all are within a Primary Frontage zone



Mountain Brook Village (north)

Parallel spaces more than 50 feet from a lunchtime restaurant; however, all are within a Primary Frontage zone



Mountain Brook Village (south)

Parallel spaces more than 50 feet from a lunchtime restaurant; however, all are within a Primary Frontage zone

APPENDIX 2



Crestline Village (southeast)

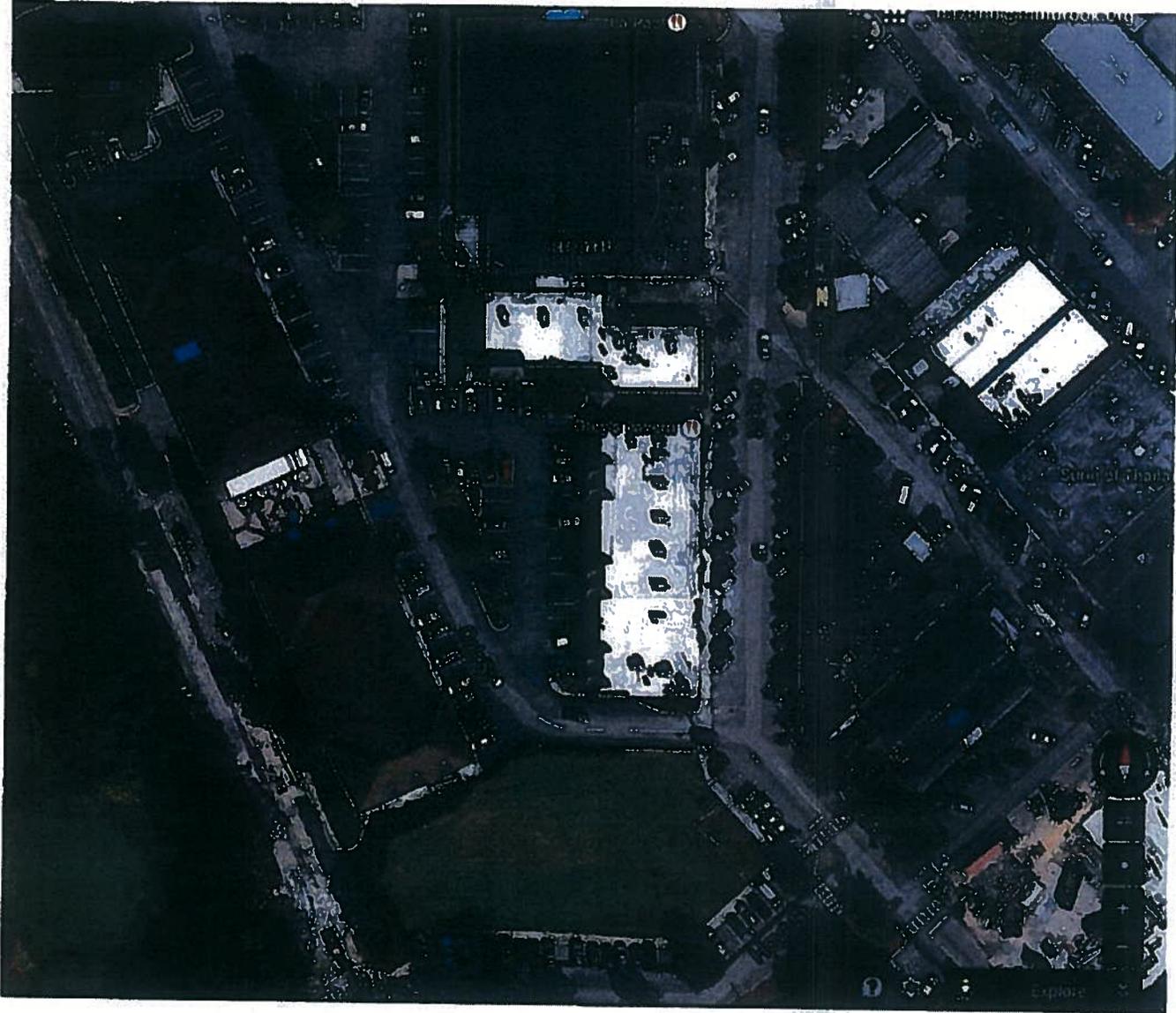
No parallel spaces

APPENDIX 2



Crestline village (north)

No parallel spaces



Crestline Village (southwest)

No parallel spaces

APPENDIX 2

July 9, 2014

Dear City Council,

Nim Long and I have been working with Hunt Cochrane on a possible Eagle Service project. We have all agreed that he propose to install "Trail B" at Cahaba River Park. He will also add a few other items as described below. The Park Board gave their approval at their last meeting on July 8. He is looking for your approval so he may begin the process of getting approval from the Eagle Board. The following is his project summary.

My name is Hunt Cochrane and I am a Life Scout in Troop 28 at Independent Presbyterian Church. I am working on selecting an Eagle Service Project and am interested in doing my project at the new Cahaba River Park. Last week I met with Ms. Shanda Williams and Mr. Nim Long at the park site to discuss the possibility that I tackle the 2 spur trails labeled "Trail B" on the project design map. They informed me that the paved trail had been revised since the original design to run closer to the riverbank, so there was no longer a need for the outer section of "Trail B". However, the current bid with Landscape Services did not include the interior section of "Trail B". We decided that it would be a good project for me to install the interior spur trail and include informational signs about the bioswale area, as well as adding native plants to aid in the bioswale water-filtration process, along with plant and tree identification marker signs along the pathway. Ms. Williams and Mr. Long are in favor of this project, but they advised me to present the idea to the Park Board and the City Council for final approval.

If granted permission by the Park Board and City of Mountain Brook to proceed, I have a good deal of written work to complete before I am able to submit the project to the Eagle Board for their approval. At that point, I would begin the fundraising process, followed by specifics planning. Because of this, I would not be able to begin any physical work on site until winter break, ideally, or possibly even late spring, depending on the schedule of Eagle Board meetings and approval processes.

Thank you for your time and your consideration of my proposal.

Sincerely,

Shanda Williams
Superintendent of Parks and Recreation



A CONCEPTUAL MASTER PLAN FOR
CAHABA RIVER PARK

SCOTTISH DRUGS & CHEMICALS
 PREPARED BY BERGMANN & ASSOCIATES

APPENDIX 3



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

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

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

Absent: Lawrence T. Oden, Mayor

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

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

1. 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 June 23, 2014 meeting of the City Council.

2014-076	Declare certain property surplus and authorizing its sale/disposal.	Exhibit 1
2014-077	Awarding the bid to NAFECO for the purchase of thermal imaging equipment for the Fire Department.	Exhibit 2, Appendix 1
2014-078	Award the bid to Golf Ventures for the purchase of two top dressers for the Parks and Recreation Department.	Exhibit 3, Appendix 2
2014-079	Authorize the execution of an Agreement and Assignment of Excess Cost Recovery Funds to allow the Alabama 9-1-1 Board to use excess cost recovery money toward an Internet protocol based next generation and integrated emergency communication network (aka "the ANGEN project") for wireless devices and connection with plans to extend the network for wireline connections.	Exhibit 4, Appendix 3
2014-080	Authorize the execution of a utility and construction agreement between the City and the Alabama Department of Transportation (ALDOT) with respect to the Phase 9 sidewalk project (CMAQ-NR13(908) Project Reference No. 100056494).	Appendix 4
2014-081	Authorize the execution of two right-of-way encroachment agreements between the City and Kurt and Amanda Zinn with respect to the properties located at 100 and 110 Dexter Avenue	Exhibit 5, Appendix 5

2014-082	Accept the professional service proposal submitted by Walter Schoel Engineering Company, Inc. with respect to a drainage study in the vicinity of Beech Street.	Exhibit 6, Appendix 6
2014-083	Amend the City's Business Travel Expense policy and authorize the related update of the Employee Handbook.	Exhibit 7, Appendix 7
2014-084	Adopt an employee "Wellness Screening" policy with respect to the City's participation in the Local Government Health Insurance Plan administered by the State Employees' Insurance Board.	Exhibit 8, Appendix 8

Thereupon, the foregoing minutes and resolutions were introduced by Council President Smith and their immediate adoption was moved by Council member Pritchard. The minutes and resolutions were then considered by the City Council. Council member Vogtle seconded the motion to adopt the foregoing minutes and resolutions. 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 and Resolution Nos. 2014-076 through 2014-084 are adopted by a vote of 5—0.

2. PUBLIC HEARING: CONSIDERATION OF AN ORDINANCE (NO. 1907-A) AMENDING THE [MIXED USE] MASTER DEVELOPMENT PLAN FOR THE PROPERTY LOCATED AT 1930 CAHABA ROAD IN ENGLISH VILLAGE (RE: VINO RESTAURANT) WITH RESPECT TO THE CONDITIONS PREVIOUSLY ESTABLISHED PURSUANT TO RESOLUTION NO. 01-242 ADOPTED ON FEBRUARY 26, 2001 (EXHIBIT 9, APPENDIX 9)

Council President Smith introduced the ordinance in writing and invited comments and questions from the audience. There being none, Council member Carl 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 Pritchard 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 Carl then moved for the adoption of said ordinance. The motion was seconded by Council member Pritchard. 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. 1907-A) is hereby adopted by a vote of 5—0 and, as evidence thereof, she signed the same.

3. PUBLIC HEARING: CONSIDERATION OF AN ORDINANCE (NO. 1908) AMENDING THE PUD DEVELOPMENT PLAN FOR THE LANE PARKE DEVELOPMENT (ORDINANCE NO. 1871 ADOPTED MAY 21, 2012) (EXHIBIT 10, APPENDIX 10)

Council President Smith introduced the ordinance in writing and invited comments and questions 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. 1908) 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. 1909) AMENDING SECTION 109-32 OF THE CITY CODE (RESIDENTIAL CODE) REGARDING THE WAIVER OF CERTAIN REPLACEMENT FENESTRATION PROVISIONS (EXHIBIT 11)

Council President Smith introduced the ordinance in writing and invited comments and questions 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. 1909) 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. 1910) TO AMEND SECTION 50-46(b) OF THE CITY CODE RELATING TO THE SPEED LIMIT ON U.S. HIGHWAY 280 (EXHIBIT 12)

Council President Smith introduced the ordinance in writing and invited comments and questions 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. 1910) is hereby adopted by a vote of 5—0 and, as evidence thereof, she signed the same.

6. PUBLIC HEARING: CONSIDERATION OF AN ORDINANCE (NO. 1911) ALLOWING IMPROVEMENTS IN THE PUBLIC RIGHT-OF-WAY OF 20TH AVENUE IN ENGLISH VILLAGE, INCLUDING THE ADDITION OF FIVE (5) ON-STREET PARKING SPACES, ALONG THE SOUTH BOUNDARY OF PROPERTY LOCATED AT 1930 CAHABA ROAD (EXHIBIT 13, APPENDIX 11)

Council President Smith introduced the ordinance in writing and invited comments and questions 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. 1911) is hereby adopted by a vote of 5—0 and, as evidence thereof, she signed the same.

7. PUBLIC HEARING: CONSIDERATION OF AN ORDINANCE (NO. 1912) ALLOWING IMPROVEMENTS IN THE PUBLIC RIGHT-OF-WAY OF 20TH AVENUE IN ENGLISH VILLAGE, INCLUDING THE ELIMINATION OF ONE(1) ON-STREET PARKING SPACE, ALONG THE SOUTH BOUNDARY OF PROPERTY LOCATED AT 2117 CAHABA ROAD (EXHIBIT 14, APPENDIX 12)

Council President Smith introduced the ordinance in writing and invited comments and questions 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. 1912) is hereby adopted by a vote of 5—0 and, as evidence thereof, she signed the same.

8. PUBLIC HEARING: CONSIDERATION OF AN ORDINANCE (NO. 1913) ESTABLISHING TIME RESTRICTUIONS FOR THE ON-STREET PUBLIC PARKING LOCATED AT 2117 CAHABA ROAD (EXHIBIT 15)

Council President Smith introduced the ordinance in writing and invited comments and questions 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. 1913) is hereby adopted by a vote of 5—0 and, as evidence thereof, she signed the same.

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

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

10. 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. 2014-076

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:

48 (forty eight) Taser X-26 Devices (functional): For destruction

Serial Nos.

x00-212650	x00-227520	x00-125615	x00-238379
x00-238301	x00-436880	x00-238194	x00-436988
x00-238247	x00-090554	x00-238628	x00-091985
x00-125809	x00-238597	x00-238648	x00-238281
x00-238341	x00-436985	x00-436816	x00-238375
x00-227181	x00-339746	x00-122358	x00-226619
x00-059982	x00-238548	x00-090756	x00-238268
x00-125470	x00-091843	x00-168542	x00-238425
x00-125440	x00-238312	x00-238653	x00-238616
x00-238613	x00-227714	x00-224257	x00-122299
x00-227718	x00-091171	x00-224425	x00-105268
x00-339580	x00-125801	x00-227193	

9 (nine) Damaged Taser X-26 Devices: For destruction

Serial Nos.

x00-005747	x00-238200	x00-238391	x00-091487
x00-122085	x00-238208	x00-100551	

1 (one) Taser X-26 USB Dataport Download Kit: For destruction

65 (sixty five) Taser X-26 holsters: For destruction

4 (four) Storage Cabinets, metal with dual doors, sizes (approx. inches):

- (1) 36 x 42 x 18
- (1) 36 x 71.5 x 18
- (2) 36 x 72 x 24

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 1) destroy the Tasers and related accessories, and 2) sell the four storage cabinets by way of public Internet auction to the highest bidder and to otherwise dispose of such property that does not sell at said public auction.

EXHIBIT 2

RESOLUTION NO. 2014-077

BE IT RESOLVED by the City Council of the City of Mountain Brook, Alabama, that the City Council hereby awards the bid for the purchase of four (4) thermal imaging cameras to NAFECO, having submitted the sole bid, in the [negotiated] amount of \$39,000.

BE IT FURTHER RESOLVED by the City Council of the City of Mountain Brook, Alabama, that the Mayor or City Manger are hereby authorized to issue a purchase order and to execute such other documents that may be determined necessary with respect to said purchase.

APPENDIX 1

EXHIBIT 3

RESOLUTION NO. 2014-078

BE IT RESOLVED by the City Council of the City of Mountain Brook, Alabama, that the City Council hereby awards the bid for the purchase of two (2) top dressers to Golf Ventures, having submitted the best bid, in the amount of \$18,136.

BE IT FURTHER RESOLVED by the City Council of the City of Mountain Brook, Alabama, that the Mayor or City Manger are hereby authorized to issue a purchase order and to execute such other documents that may be determined necessary with respect to said purchase.

APPENDIX 2

EXHIBIT 4

RESOLUTION NO. 2014-079

BE IT RESOLVED by the City Council of the City of Mountain Brook, Alabama, that the City Council hereby authorizes the execution of the Agreement and Assignment of Excess Cost Recovery Funds, in the form as attached hereto as Exhibit A, with respect to the 911 ANGEN system project.

APPENDIX 3

EXHIBIT 5**RESOLUTION NO. 2014-081**

BE IT RESOLVED by the City Council of the City of Mountain Brook, Alabama, that the City Council hereby authorizes the execution of two (2) right-of-way encroachment agreements, in the form as attached hereto as Exhibits A and B, between the City and Kurt and Amanda Zinn with respect to the properties located at 100 and 110 Dexter Avenue, Mountain Brook, Alabama 35213.

APPENDIX 5

EXHIBIT 6**RESOLUTION NO. 2014-082**

BE IT RESOLVED by the City Council of the City of Mountain Brook, Alabama, that the City Council hereby authorizes the acceptance of a proposal for professional services, in the form as attached hereto as Exhibit A, to be performed by Walter Schoel Engineering Company, Inc. with respect to a drainage study in the vicinity of Beech Street; and

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 engage Walter Schoel Engineering Company, Inc. for and on behalf of the City of Mountain Brook, Alabama for said work and to execute such other documents that may be determined necessary with respect to said engagement all subject to review by the City Attorney.

APPENDIX 6

EXHIBIT 7**RESOLUTION NO. 2014-083**

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:

1. **Section VII. D. Business Travel Expenses** is hereby modified to reflect the changes 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.

APPENDIX 7

EXHIBIT 8**RESOLUTION NO. 2014-084**

WHEREAS, the City Council of the City of Mountain Brook views its workforce as one of its greatest assets; and

WHEREAS, the City Council is genuinely concerned about the health and welfare of its employees; and

WHEREAS, the City Council seeks to promote early detection of potential health risks to enable its employees to live a longer, healthier life;

WHEREAS, health care benefit costs represent a significant expense for both the City and employees; and

WHEREAS, the State Employees' Insurance Board (SEIB) conducts annual Health Watch Wellness Screening events for all member agencies for the benefit of their employees to encourage healthy lifestyles, promote health awareness, and to detect early potential health issues. Participation in the wellness screening is completely voluntary; and

WHEREAS, SEIB requires that each employer group achieve an 80% participation rate in such annual Health Watch Wellness Screenings as one criteria for employer groups qualifying for reduced "Preferred" premium rates; now, therefore,

BE IT RESOLVED by the City Council of the City of Mountain Brook, Alabama, that effective October 1, 2015, employees⁽¹⁾ who are documented by SEIB to have participated in the most recent Health Watch Wellness Screening⁽²⁾ as evidenced on SEIB's monthly medical premium invoice, shall be charged \$20 per month (\$10 biweekly) less than those employees who fail for whatever reason to participate in such Health Watch Wellness Screening. Eligibility for this program shall be based on participation only. No information from an employee's wellness screening is shared with the City of Mountain Brook.

Footnotes:

⁽¹⁾ Full-time employees hired after the SEIB Health Watch Wellness Screening cut-off date (generally May 31 of each year) shall not be required to undergo a health screening and shall automatically qualify for the lower medical premium withholding rate for the next fiscal year. Such waiver is available to each new hire only once and applies only for the year of hire.

⁽²⁾ Participation in the Health Watch Wellness Screening may be achieved by: 1) an employee's participation in the annual [SEIB] Health Watch Wellness Screening event conducted at the City, 2) undergoing a health screening performed by the Industrial Health Council conducted at the City, 3) undergoing a routine physical examination at a physician's office, or 4) undergoing a health screening at a participating pharmacy or other location designated by SEIB. Should an employee elect to be screened under options 2), 3) or 4) above, the screening provider must document the results of the health screening or physical examination on a form designated by SEIB and such form must be submitted to SEIB on or before the prescribed deadline designated by SEIB. If an employee's health screening is not documented or otherwise recorded by SEIB for any reason, the employee shall not be considered by the City to have met the criteria for the reduced medical premium withholding for the fiscal year.

APPENDIX 8

EXHIBIT 9

ORDINANCE NO. 1907-A

**AN ORDINANCE TO AMEND THE MASTER DEVELOPMENT PLAN
FOR MIXED-USE PROPERTY IN THE CITY OF MOUNTAIN BROOK, ALABAMA LOCATED AT
1930 CAHABA ROAD**

Legal Description: LOT 1-A BLOCK 3, RESURVEY OF PARTS OF LOTS 1 & 2 ENGLISH VILLAGE WEST SECTOR AS RECORDED IN THE PROBATE OFFICE OF JEFFERSON COUNTY, ALABAMA.

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

Section 1. Development Standards. The Master Development Plan and the materials submitted by the applicant, as required by Section 129-234 of the Mountain Brook City Code, as originally approved by the Mountain Brook City Council in 1996 and most recently amended on November 8, 2010, are hereby amended to include the changes set forth in the Amended Master Development Plan Application to allow a 1,000 square foot addition and to add five new on-street parking spaces to 20th Avenue South, as depicted in the attached Exhibit "A," which is approved herewith, made a part hereof, and specifically incorporated herein by reference, said Plan and materials constituting regulatory standards for use of the subject property, subject to further modification only as provided for in Article XIV, Chapter 129 of the Mountain Brook City Code.

Section 2. 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.

Section 3. 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.

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

APPENDIX 9

EXHIBIT 10

ORDINANCE NO. 1908

AN ORDINANCE TO AMEND LANE PARKE DEVELOPMENT PLAN PREVIOUSLY APPROVED BY ORDINANCE 1871

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

- 1. Development Standards.** The Master Development Plan and the materials submitted by the applicant, as required by Section 129-265 of the Mountain Brook City Code, as approved upon the adoption of Ordinance 1871 dated May 21, 2012 are hereby amended to include the changes specified in Exhibit A attached hereto.
- 2. Description of Affected Property.** The property that is the subject of the rezoning approved by this ordinance is described as follows:

A parcel of land being situated in the Northeast quarter of the Northwest quarter and the Southeast quarter of the Northwest quarter of Section 8, Township 18 South, Range 2 West, more particularly described as follows:

Begin at the Southwest Corner of the Northeast Quarter of the Northwest Quarter of Section 8, Township 18 South, Range 2 West; being the Point of Beginning; thence run Northerly along the West line of said Quarter - Quarter a distance of 665.12 feet; thence right 91°-08'-04" a distance of 1325.11 feet; thence right 88°-58'-55" a distance of 74.22 feet; thence right 37°-49'-05" a distance of 736.41 feet; thence right 52°-46'-30" a distance of 62.37 feet; thence right 00°-14'-22" a distance of 179.92 feet; thence left 90°-58'-32" a distance of 355.39 feet; thence right 88°-43'-29" a distance of 24.53 feet; thence left 87°-29'-35" a distance of 139.13 feet; thence right 89°-27'-49" a distance of 14.61 feet; thence left 117°-30'-00" a distance of 175.92 feet; thence right 84°-32'-17" a distance of 46.85 feet; thence tangent to a curve to the left having a radius of 1243.26 feet and a central angle of 9°-20'-05" along the curve an arc distance of 202.55 feet; thence right 62°-49'-52" from the tangent of said curve a distance of 329.33 feet; thence tangent to a curve to the left having a central angle of 18°-00'-50" and a radius of 66.12 feet an arc distance of 20.79 feet; thence left 2°-03'-01" to the tangent of a curve to the left having a central angle of 34°-34'-36" and a radius of 60.77 feet, an arc distance of 36.67 feet; thence continue from the tangent of said curve a distance of 45.64 feet; thence right 90°-00'-00" a distance of

119.49 feet; thence right 33°-25'-36" a distance of 245.11 feet; thence right 0°-00'-42" a distance of 377.82 feet to the Point of Beginning.

Said Parcel contains 27.59 acres more or less.

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

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

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

APPENDIX 10

EXHIBIT 11

ORDINANCE NO. 1909

AN ORDINANCE AMENDING CHAPTER 109 OF THE CITY CODE

BE IT ORDAINED by the City Council of the City of Mountain Brook that Chapter 109, Article II - Building Code, Division I of the Code of the City of Mountain Brook, Alabama ("City Code") shall be amended as follows:

Section 1. Section 109-32 of the City Code shall be amended by adding subsection (f) so that the entire Section 109-32, as amended, shall be as follows:

Sec. 109-32. Same---Amendments

The building code adopted by section 109-31 is amended as follows:

(a) Section R108.2 of the International Residential Code is hereby repealed and replaced with the following:

"R108.2 Schedule of permit fees. On buildings, structures, electrical, gas, mechanical, and plumbing systems or alterations requiring a permit, a fee or fees as set forth in City Code Section 14-1 shall be paid at the time of filing application, in accordance with such fee schedule as shall be set from time to time by the city council. A list of such fees shall be kept on file in the city clerk's office."

(b) Section R110.1 of the International Residential Code is hereby repealed and replaced with the following:

"R110.1 Use and occupancy. No residential building or structure shall be used or occupied, and no change in the existing occupancy classification of a residential building or structure or portion thereof shall be made until the building official has issued a certificate of occupancy which has been signed by the building official and the city manager. No commercial building or structure shall be used or occupied, and no change in the existing occupancy classification of a commercial building or structure or portion thereof shall be made until the building official has issued a certificate of occupancy which has been signed by the building official, the fire official, and the city manager. A certificate of occupancy shall not be issued until after the city manager shall have determined that the building conforms to all provisions and regulations of the city with respect thereto, including its use under the zoning ordinances of the city. A certificate of occupancy (whether a temporary certificate of the regular certificate) issued without the signature of the building official, fire official (in the case of commercial buildings), and the city manager shall not be deemed to be a certificate of occupancy issued under this code or under the city's zoning ordinance."

- (c) Section R112 (Board of Appeals) of the International Residential Code is hereby repealed and replaced with the following:

"Section R112 Board of Appeals. Appeals regarding the application of the adopted building and fire codes may be presented to the city manager for consideration. The city manager may elect to render a decision on such appeal or remand the appeal to the board of zoning adjustment. In cases where the appeal is heard by the city manager and a decision is rendered, the appellant, if not satisfied with the decision, may then appeal to the board of zoning adjustment.

The board of zoning adjustment of the City of Mountain Brook, Alabama, as said board is prescribed by Section 11-52-80 Code of Alabama (1975), as amended, shall constitute a board of adjustments and appeals under this code."

- (d) Section R113.4 of the International Residential Code is hereby repealed and replaced with the following:

"R113.4 Violation penalties. Any person who violates a provision of this code or fails to comply with any of the requirements thereof or who erects, constructs, alters or repairs a building or structure in violation of the approved construction documents or directive of the building official, or of a permit or certificate issued under the provisions of this code, shall be subject to penalties as prescribed by law.

In instances where a person commences work prior to making application for a required permit, all applicable permit fees shall be doubled. Once notified in writing by the building official of the city that a report or building permit application must be submitted, such person must submit such report within ten (10) days. Persons who fail to make such report within the time period required shall be subject to additional penalties as provided under Sec. 1-6.1 of the city code and by § 13A-10-4 of the Code of Alabama."

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

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

- a. The applicant must either confer with the Fire Marshal or his or her designee about the benefits of installing a residential fire sprinkler system or review presentation materials developed by the Fire Marshal concerning sprinkler systems; and
- b. The applicant must certify that he or she has met the requirements in subsection (a) above, and fully understands and acknowledges the risks of opting not to install a residential fire sprinkler system.

Exception:

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

“(f) The following provisions of the International Residential Code (IRC) are inapplicable with respect to the repair, renovation, alteration, reconstruction of or room additions to existing buildings and structures that are within the scope of the IRC:

- a. **Subsection N1102.3.6 (R402.3.6) Replacement fenestration in Chapter 11 - Energy Efficiency; and**
- b. **Subsection AJ102.4 Replacement windows of Appendix J -Existing Buildings and Structures.”**

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.

EXHIBIT 12

ORDINANCE NO. 1910

**AN ORDINANCE TO AMEND SECTION 50-46(b) OF THE CITY CODE
RELATING TO THE SPEED LIMIT ON U.S. HIGHWAY 280**

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

Section 1. Speed limit of U.S. Highway 280. Section 50-46(b) of the "Code of Ordinances" of the City of Mountain Brook, Alabama which lists those streets or portions thereof that have been ordained a speed limit is hereby amended to add Section 50-46(b)(8).

(8) The City Council finds that the posted speed limit on U.S. Highway 280, as determined by the State of Alabama Department of Transportation (ALDOT), is reasonable and prudent.

Section 2. Severability. If any part, section, 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 3. Publication. The City Clerk shall cause a copy of this ordinance to be published by posting or by such other means as may be authorized by law.

Section 4. Effective Date. This ordinance shall be effective upon its publication or as otherwise may be provided by law.

EXHIBIT 13

ORDINANCE NO. 1911

**AN ORDINANCE ALLOWING IMPROVEMENTS IN THE PUBLIC RIGHT-OF-WAY OF 20TH
AVENUE IN ENGLISH VILLAGE, INCLUDING THE ADDITION OF FIVE (5) ON-STREET
PARKING SPACES, ALONG THE SOUTH BOUNDARY OF PROPERTY LOCATED AT 1930
CAHABA ROAD**

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

Section 1. The proposed right-of-way improvements, in the form as attached hereto as Exhibit A, including the addition of five (5) parking spaces on 20th Avenue along the south boundary of property located at 1930 Cahaba Road, is hereby approved.

Section 2. 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.

Section 3. 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.

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

APPENDIX 11

EXHIBIT 14

ORDINANCE NO. 1912

AN ORDINANCE ALLOWING IMPROVEMENTS IN THE PUBLIC RIGHT-OF-WAY OF PARK LANE IN ENGLISH VILLAGE, INCLUDING THE ELIMINATION OF ONE (1) ON-STREET PARKING SPACE, ALONG THE SOUTH BOUNDARY OF PROPERTY LOCATED AT 2117 CAHABA ROAD

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

Section 1. The proposed right-of-way improvements shown in attached Exhibit A, including the widening of the drive apron for property located at 2117 Cahaba Road and the elimination of one (1) on-street parking space abutting said property on Park Lane, is hereby approved with the following condition:

That one (1) additional on-site parking space shall be provided on the property at 2117 Cahaba Road.

Section 2. 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.

Section 3. 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.

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

APPENDIX 12

EXHIBIT 15

ORDINANCE NO. 1913

AN ORDINANCE ESTABLISHING TIME RESTRICTIONS FOR THE ON-STREET PUBLIC PARKING LOCATED AT 2117 CAHABA ROAD

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

Section 1. The eleven (11) parking spaces located on Park Lane along the south side of property located at 2117 Cahaba Road (former Park Lane property) are hereby restricted to two (2) hour parking, Monday through Friday between the hours of 8 a.m. and 5 p.m.

Section 2. Any person violating the provisions of Section 1 of this ordinance shall, upon conviction thereof, be punished within the limits and as provided by Section 50-107 of the Code of the City of Mountain Brook.

Section 3. Repealer. All ordinances or parts of ordinances heretofore adopted by the City Council of the City of Mountain Brook, Alabama, that are inconsistent with the provisions of this ordinance are hereby expressly repealed.

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.

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



CITY OF MOUNTAIN BROOK FIRE DEPARTMENT

102 Tibbett 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 *RWE*
 DATE: July 1, 2014
 SUBJECT: Thermal Imaging Camera Bid Information

In accordance with State bid laws and City purchasing policies, specifications were developed for four (4) Thermal Imaging Cameras and placed out for bids on Wednesday, May 21, 2014. A bid opening was held at 2:00 PM on Wednesday, June 25th with the following resulting bids:

- NAFECO: \$40,000
- Sunbelt Fire Apparatus: No Bid
- Bullard: No Bid
- Heritage Fire Equipment: No Bid

The department had budgeted \$39,000 for the four thermal imagers. The low bid from NAFECO exceeded our budget by \$1,000. Per State bid laws, municipalities may negotiate with the lowest bidder to get a better price; therefore, I spoke with NAFECO regarding a reduction to get us within budget. They have agreed to provide the units at our budgeted figure of \$39,000.

I will add that the last thermal imaging cameras were purchased with a FIRE Act Grant and these units are replacing the former units under our ERS system.

It is my recommendation that we purchase the thermal imagers from NAFECO for the \$39,000 and that we put this item on the next City Council agenda for consideration and hopefully affirmation.

As always, if you need any additional information, please feel free to inquire.

CC: Steve Boone

CITY OF MOUNTAIN BROOK
 56 CHURCH STREET
 MOUNTAIN BROOK, ALABAMA 35213
 OFFICE OF PURCHASING AGENT (CITY MANAGER)

BID COVER SHEET

Bid Request Posted this Date: Wednesday, May 21, 2014 Bids to be opened this Date and Time: Wednesday, June 25, 2014 at 2:00 PM

To Whom It May Concern:

Bids shall be sealed and delivered to the Office of the Purchasing Agent in the City Hall, City of Mountain Brook, Alabama, prior to the above specified date and time. Bids shall be publicly opened at the date and time specified above or as soon as practicable thereafter.

To be considered by the City, a bid must comply with Alabama law, including, but not limited to, Ala. Code (1975) §§41-16-50 *et seq.* and 31-13-1 *et seq.*, and provide documentation of enrollment in the E-Verify program pursuant to Ala. Code §31-13-9.

All bidders must use the bid form provided by the City for the project. This Bid Cover Sheet should be completed and submitted with the bid. Bids completed in pencil will not be accepted. Bids should be clearly marked "SEALED BID - THERMAL IMAGING CAMERAS" and indicate on the outside of the envelope the project for which the bid is submitted and the date of bid opening.

The City reserves the right to require a bid bond, in which case specific information shall be provided with the request for bids.

The City reserves the right to utilize life cycle cost analysis in determining the lowest responsible bidder, in which case specific information shall be provided with the request for bids.

The City reserves the right to accept or reject any or all bids and to waive formalities.

Sam Gaston

 Sam S. Gaston, City Manager and Purchasing Agent

BIDDER NAFECO TELEPHONE 800-628-6233
 ADDRESS 1515 West Moulton Street EMAIL ronald.woodall@nafeco.com
 CITY Decatur, STATE AL ZIP 35601
 BID AMOUNT (AS PER SPECIFICATIONS) 4 - Thermal Imaging Cameras: \$ 40,000.00 Total
\$10,000 each - 1SG X380 Thermal Imager

Note: MUNICIPALITIES ARE EXEMPT FROM STATE SALES TAX
This bid must be signed below by bidder's principal/officer/agent and notarized:

Sworn to and subscribed before me on this
 10th day of June, 2014.
 Auth. Signature: *Ronald Woodall*
 Name: Ronald Woodall
 Title: Vice President
 Notary Public
 My Commission Expires: 7/15/14

Ronald Woodall

 Notary Public

NOTARY PUBLIC
 ALABAMA STATE

Date: July 10, 2014
To: Sam Gaston, City Manager
Cc: Steve Boone, City Clerk
From: Shanda Williams, Director of Parks & Recreation
RE: Top Dressers (2) Bid Acceptance

Bids were solicited for the City of Mountain Brook's purchase of two (2) Top Dressers, by the Parks and Recreation Department. All bids were opened and publicly reviewed on Wednesday, July 2, 2014. The following vendors submitted bids as listed:

Golf Ventures	\$ 18,136.00
Jerry Pate Turf & Irrigation	\$ 21,428.42

I would like to accept and recommend the lowest bidder, Golf Ventures, (\$ 18, 136.00) for this purchase.

The Equipment – Top Dresser Account, number is 441-7890-6730-0605 and \$28,400.00 has been budgeted for this fiscal year.



STATE OF ALABAMA
OFFICE OF THE ALABAMA 911 BOARD

Jason Jackson
Executive Director

1 Commerce Street
Suite 610
Montgomery, Alabama 36104
(334) 440-7911
www.al911board.com

June 30, 2014

City of Mountainbrook 89-1-1
56 Church Street
Mountainbrook, AL 35213

Mr. Basketball Clark

Please find attached an Agreement and Assignment of Excess Cost Recovery Funds sent via certified letter to the eighty-eight ECDs in Alabama during the month of February 2014. The document is an agreement between you and the Alabama 9-1-1 Board to use excess cost recovery money toward the ANGEN project. The Board's records indicate that we have not received a signed document from your ECD, so we are providing you a copy of the agreement and requesting your consideration in signing and returning it to the Board office by August 15, 2014. Thank you for your attention to this matter. If you have any questions regarding this agreement, please do not hesitate to contact the office.

Sincerely,

Jason Jackson
Executive Director

Enclosures: 1

NOW, THEREFORE IN CONSIDERATION OF THE PREMISES,

1. The Board will make a distribution of approximately \$3 million (\$3,000,000.00) from excess Cost Recovery funds to the ECDs which will designated as "ANGEN distribution".
2. The ECD agrees to assign its share of the "ANGEN distribution" to the Board which shall be dedicated to payment of expenses related to the implementation of the ANGEN project.
3. Only costs associated with the implementation of the ANGEN project are to be paid from these assigned funds.
4. The term of this agreement shall be for a period through May 21, 2015, (which is the term of the Agreements between the CMRS Board and Bandwidth.com and the Alabama Supercomputer Authority), however, the initial term may be extended thereafter upon the same terms and conditions as set forth herein for a period of time mutually agreeable between the parties.
5. This Agreement reflects the entire agreement between the parties with respect to the matter described herein. There are no prior representations or agreements between these parties relative to such subject matter that are not reflected in or superseded by this Agreement.
6. This Agreement shall be interpreted and governed by the laws of the State of Alabama.
7. Having agreed to the terms herein, the undersigned signatories hereby represent and warrant that each has authority to enter into this Agreement.
8. This Agreement shall become effective upon full and complete execution by both parties.

IN WITNESS WHEREOF, THE PARTIES HAVE SIGNED AND EXECUTED THIS AGREEMENT.

Alabama Statewide 911 Board

Roger Wilson, Chairman

Date

(ECD)

Signature

Lawrence T. Oden, Mayor

Printed Name and Title

Date 7/15/2014

APPENDIX 3

AGREEMENT AND ASSIGNMENT OF EXCESS COST RECOVERY FUNDS

THIS AGREEMENT is made and entered into this 14 day of July, 2014, by and between the City of Mountainbrook, an Emergency Communication District organized and operating under the laws of the State of Alabama (hereinafter referred to as the "ECD") and the Alabama Statewide 911 Board (hereinafter referred to as the "Board").

WHEREAS, the parties acknowledge that the State of Alabama has begun transition to an IP based next generation and integrated emergency communication network (know as ANGEN or the ANGEN project) for wireless devices and connections with plans to extend the network for wireline connections, AND

WHEREAS, the full transition to ANGEN will allow emergency response systems to take full advantage of voice, data, video, and other information available over broadband networks and IP platforms, AND

WHEREAS, Bandwidth.com, Inc. has been contracted with to serve as System Service Provider (SSP) to provide system services and necessary support for the ANGEN project which will enable 9-1-1 calling to all participating Public Safety Answering Points (PSAPs) throughout the State of Alabama over an IP network, AND

WHEREAS, the parties acknowledge and understand that the Alabama Supercomputer Authority (ASA) has been contracted with to provide the IP network for the implementation of ANGEN, AND

WHEREAS, the ECD has agreed to fully participate in the ANGEN project, AND

WHEREAS, the ECD entered into a similar agreement with Alabama CMRS Board whereby it assigned a distribution from that Board's operating account back to the CMRS Board which was used to provide matching funds for a grant to the Alabama Department of Homeland Security from the U. S. Department of Transportation (which the CMRS Board administered) to provide initial funding for the ANGEN project, AND

WHEREAS, under Section 11-98-5 Ala. Code, 1975, as amended provides that if the Board determines that revenues dedicated for cost recovery to CMRS providers exceeds necessary funding requirements, it may distribute any excess revenues to the ECDs pursuant to 11-98-5.2, AND

WHEREAS, the Board has determined that there are excess revenues in the Cost Recovery fund and the parties acknowledge that it is practical and beneficial to the ECDs for a distribution to ECDs be made and assigned back to the Board to be dedicated toward funding ANGEN



ALABAMA DEPARTMENT OF TRANSPORTATION

THIRD DIVISION
OFFICE OF DIVISION ENGINEER
1020 BANKHEAD HWY. WEST
P.O. Box 2745
BIRMINGHAM, ALABAMA 35202-2745
Telephone: (205) 328-5820 FAX: (205) 254-3199

Robert Bentley
Governor



John R. Cooper
Transportation Director

June 23, 2014

The Honorable Lawrence Oden
Mayor, City of Mountain Brook
City Hall
P.O. Box 130009
Mountain Brook, Alabama 35213

RE: Jefferson County
Project Number: CMAQ-NR13(908)
[Proj. Ref. No. 100056494]
Mountain Brook Sidewalks - Phase 9
Along Brookwood Road, Crosshill Road
and Oakdale Drive

Dear Mayor Oden,

I have enclosed the original Utility and Construction Agreement (and one copy) between the State of Alabama and the City of Mountain Brook, Alabama for the above referenced project.

This Agreement is submitted to the City for approval. After execution by the City Council, please return the original document and the copy, with original signature and the City Seal affixed to both to this office for further handling. A certified resolution, which authorizes the Mayor to sign the Agreement, affixed with the City seal should be included with the original Agreement, as well as with the copy.

If I can supply you with any additional information or clarify any point contained herein, please feel free to contact me at your convenience.

Sincerely,
[Signature]
Brian C. Davis
Division Engineer

BCD/LAT/SF'B
Enclosure
C: Mrs. Sandra F. P. Bonner
File w/Enc.

AGREEMENT
FOR
UTILITY AND CONSTRUCTION

BETWEEN THE STATE OF ALABAMA
AND
THE CITY OF MOUNTAIN BROOK, ALABAMA

PROJECT CMAQ-NR13(908)
Mountain Brook Sidewalks Phase 9
along Brookwood Road, Crosshill Road and Oakdale Drive
Mountain Brook, Alabama
Reference Number:100056494

THIS AGREEMENT is made and entered into by and between the State of Alabama, acting by and through the Alabama Department of Transportation, hereinafter referred to as STATE; and the City of Mountain Brook, Alabama, hereinafter referred to as CITY, in cooperation with the United States Department of Transportation, Federal Highway Administration, hereinafter referred to as the FHWA; and

WHEREAS, a Transportation Improvement Program has been developed for the Birmingham Urbanized Area and certain transportation improvements and priorities are listed therein; and

WHEREAS, it is in the public interest for the STATE and the CITY to cooperate toward the implementation of the Transportation Improvement Program; and

WHEREAS, the STATE and the CITY desire to cooperate in a construction program for sidewalks along Brookwood Road, Crosshill Road and Oakdale Drive, Phase 9 of a citywide project, in the City of Mountain Brook, Alabama.

NOW, THEREFORE, the parties hereto, for, and in consideration of the premises stated herein do hereby mutually promise, stipulate, and agree as follows:

- 1) This Agreement will cover all aspects of construction for the proposed improvements, including construction engineering and inspection during the course of the work, all in accordance with plans approved by the STATE.
2) Funding for this agreement is subject to availability of Federal Aid funds at the time of authorization by FHWA.
3) The project will be administered by the STATE and all cost will be financed, when eligible for Federal participation, on the basis of 80 percent Federal funds and 20 percent CITY funds. The estimated cost and participation by the various parties is as follows:

2014-080

APPENDIX 4



ALABAMA DEPARTMENT OF TRANSPORTATION

1409 Coliseum Boulevard, Montgomery, Alabama 36110

Robert Bentley
Governor



John R. Cooper
Transportation Director

June 18, 2014

Mr. Brian C. Davis
Division Engineer
Alabama Department of Transportation
Post Office Box 2745
Birmingham, Alabama 35202

SUBJECT: CMAQ-NR13(908)
Mountain Brook Sidewalks Phase 9
Along Brookwood Road, Crosshill Road and Oakdale Drive
Mountain Brook, Alabama
Jefferson County
Reference Numbers: 100056494

Dear Mr. Davis:

The enclosed funding agreement between the State and the City of Mountain Brook, Alabama, is to obligate federal funds for construction on the subject project.

Please review this agreement and, if it is acceptable, present it to the city for approval. The agreement should be executed by the city, signed by the mayor with the city seal affixed and a resolution attached authorizing the mayor to be the signatory on behalf of the city. After the agreement is executed by the city, please sign and return this document to this office.

Please contact Mary Lou Crenshaw at 334-353-6438 if you have any questions.

Sincerely,
Robert J. Jilla
Multimodal Transportation Engineer

By: [Signature]
C. W. Colson, Jr.
Special Programs Engineer

RJJ:CWC:mhc
Attachment
c: file

Table with 4 columns: Description, Total Estimated Cost, Total Estimated Federal Funds, Total Estimated Local Funds. Row 1: Construction Including Engineering and Inspection. Row 2: Total.

It is understood that the above is an estimate only, and in the event the final cost exceeds the estimate, the CITY will be responsible for its proportional share as above noted and the CITY agrees to pay same to the STATE; or in the event the cost is less than the estimate, the CITY will receive a refund accordingly from the STATE. It is expressly understood by both parties of this Agreement that all Federal funds will be CMAQ program funds, attributable to the Birmingham Area. The STATE does not commit any STATE or Federal funds beyond those mentioned herein.

- 4) The CITY will coordinate required adjustments to utilities with the utility company involved in accordance with usual STATE procedures. Any utility expenses involved which are eligible for STATE reimbursement or payment under state law will be considered as part of the Project cost and will be paid as provided herein, with the CITY paying its proportional share. The STATE will not be liable for utility expenses which are not eligible for STATE reimbursement or payment under state law.
5) The construction of the improvements will be by contract and the STATE will be responsible for advertisement and receipt of bids and for the award of the contract. Following receipt of bids and prior to award of the contract, the STATE will invoice the CITY for its pro rata share of the estimate construction cost as reflected by the bid of the successful bidder plus the engineering and inspection cost, and the CITY will promptly pay this estimated cost before the award of the contract. The STATE will not award the contract until it is in receipt of the estimated cost payable by the CITY as reflected by the bid of the successful bidder, plus the engineering and inspection cost. All required off-site testing shall be the responsibility of the Alabama Department of Transportation. All on-site engineering, inspection, and testing (including obtaining and delivery of test specimens to the Alabama Department of Transportation testing facility) shall be the responsibility of the CITY or its designated representative.
6) Upon completion and acceptance of the work by the STATE, the CITY will assume full responsibility for maintenance of that part of the improvements which are not part of the Alabama Highway Maintenance System.
7) A final audit will be made of all project records after the completion of the project and a copy will be furnished to the Department of Examiners of Public Accounts, in accordance with ACT 1994, No.94-414. A final financial settlement will be made between the parties as reflected by the audit and this Agreement.
8) The performance of the work covered by this Agreement will be in accordance with the current requirements of the STATE and FHWA.

- 9) Each party will provide without cost to the other, information available from its records that will facilitate the performance of the work.
- 10) Agency to Indemnify: The CITY will be responsible at all times for all of the work performed under this Agreement and the CITY will protect, defend, indemnify and hold harmless the State of Alabama, the Alabama Department of Transportation, the officials, officers, and employees in both their official and individual capacities, and their agents and/or assigns, from and against any and all actions, damages, claims, loss, liabilities, including attorney's fees or expenses whatsoever or any amount paid in compromise thereof arising out of or connected with the work performed under this Agreement.
By entering into this agreement, the CITY is not an agent of the STATE, its officers, employees, agents or assigns. The CITY is an independent entity from the STATE and nothing in this Agreement creates an agency relationship between the parties.
- 11) Any dispute concerning a question of fact in connection with the work not disputed by this Agreement between the CITY and the STATE will be referred to the director of the State of Alabama Department of Transportation, whose decision will be final.
- 12) Exhibits M and N are attached and hereby made a part of this Agreement.
- 13) The terms of this Agreement may be modified by supplemental agreement duly executed by the parties hereto.
- 14) Either party has the right to terminate this Agreement at any time by giving thirty (30) days written notice of termination. Said notice will be mailed by certified or registered mail.
- 15) By signing this contract, the contracting parties affirm, for the duration of the agreement, that they will not violate federal immigration law or knowingly employ, hire for employment or continue to employ an unauthorized alien within the State of Alabama. Furthermore, a contracting party found to be in violation of this provision shall be deemed in breach of the agreement and shall be responsible for all damages resulting therefrom.
- 16) 724^b Law: Nothing shall be construed under the terms of this Agreement by the CITY or the STATE that shall cause any conflict with Section 23-1-63, Code of Alabama, 1975.

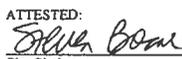
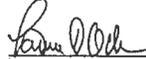
RESOLUTION NUMBER 2014-080

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

- 1. That the City enter into an agreement with the State of Alabama, acting by and through the Alabama Department of Transportation for:
Project CMAQ-NR13(908), the Mountain Brook Sidewalks Phase 9 for a construction program for sidewalks along Brookwood Road, Crosshill Road and Oakdale Drive in the City of Mountain Brook which Agreement is before this council.
- 2. That the Agreement be executed in the name of the City, by its Mayor, for and on its behalf.
- 3. That the Agreement be attested by the City Clerk and the seal of the City affixed thereto.

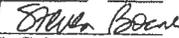
BE IT FURTHER RESOLVED that upon the completion of the execution of the Agreement by all parties, that a copy of such agreement be kept on file by the City Clerk.

Passed, adopted and approved this 14th day of July, 2014.

ATTESTED:

 City Clerk

 Mayor

I, the undersigned qualified and acting City Clerk of the City of Mountain Brook, Alabama, do hereby certify that the above and foregoing is a true copy of a resolution passed and adopted by the City Council of the City named therein, at a regular meeting of such Council held on the 14th day of July, 2014 and that such resolution is on file in the City Clerk's Office.

IN WITNESS WHEREOF, I have hereto set my hand and affixed the official seal of the City on this 14th day of July, 2014.

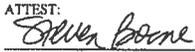
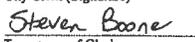

 City Clerk

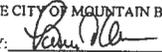
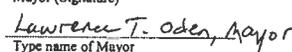
APPENDIX 4

2014-080

IN WITNESS WHEREOF, the parties hereto cause this Agreement to be executed by those officers, officials and persons therunto duly authorized, and the Agreement is deemed to be dated and to be effective on the date stated hereinafter as the date of the approval of the Governor of Alabama.

SEAL

ATTEST:

 City Clerk (Signature)

 Type name of Clerk

THE CITY OF MOUNTAIN BROOK, ALABAMA
 BY: 
 Mayor (Signature)

 Type name of Mayor

APPROVED AS TO FORM:

BY: _____
 Jim R. Ippolito, Jr.
 Chief Counsel
 Alabama Department of Transportation

RECOMMENDED FOR APPROVAL:

 Brian Davis
 Division Engineer

 Robert J. Jilla,
 Multimodal Transportation Engineer

 Ronald L. Baldwin, P.E.
 Chief Engineer

STATE OF ALABAMA
 ACTING BY AND THROUGH THE
 ALABAMA DEPARTMENT OF
 TRANSPORTATION

John R. Cooper, Transportation Director

The foregoing Agreement is hereby executed in the name of the State of Alabama and signed by the Governor on this _____ day of _____, 20_____.

 Robert Bentley
 Governor, State of Alabama

CONTRACT EXHIBITS FOR LOCAL GOV., PRIV. UNIV. & COLLEGE

CONSULTANT 3/19/90
 REVISED 7/18/90
 REVISED 6/16/11

EXHIBIT M

CERTIFICATION FOR FEDERAL-AID CONTRACTS: LOBBYING

This certification is applicable to the instrument to which it is attached whether attached directly or indirectly with other attachments to such instrument.

The prospective participant/recipient, by causing the signing of and the submission of this Federal contract, grant, loan, cooperative AGREEMENT, or other instrument as might be applicable under Section 1352, Title 31, U. S. Code, and the person signing same for and on behalf of the prospective participant/recipient each respectively certify that to the best of the knowledge and belief of the prospective participant or recipient and of the person signing for and on behalf of the prospective participant/recipient, that:

- (1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the prospective participant/recipient or the person signing on behalf of the prospective participant/recipient as mentioned above, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- (2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, or other instrument as might be applicable under Section 1352, Title 31, U. S. Code, the prospective participant/recipient shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U. S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The prospective participant/recipient also agrees by submitting this Federal contract, grant, loan, cooperative agreement or other instrument as might be applicable under Section 1352, Title 31, U. S. Code, that the prospective participant/recipient shall require that the language of this certification be included in all lower tier subcontracts, which exceed \$100,000 and that all such subrecipients shall certify and disclose accordingly.

CONTRACT EXHIBITS FOR LOCAL GOV.,
PRIV. UNIV. & COLLEGE

CONSULTANT 2/15/95
REVISED 5/30/02
REVISED 6/16/11

EXHIBIT N

FUNDS SHALL NOT BE CONSTITUTED AS A DEBT

It is agreed that the terms and commitments contained herein shall not be constituted as a debt of the State of Alabama in violation of Article 11, Section 213 of the Constitution of Alabama, 1901, as amended by Amendment Number 26. It is further agreed that if any provision of this AGREEMENT shall contravene any statute or Constitutional provision of amendment, either now in effect or which may, during the course of this AGREEMENT, be enacted, then the conflicting provision in the AGREEMENT shall be deemed null and void.

In any controversy concerning contract terms, or on a question of fact in connection with the work covered by this project, including compensation for such work, the decision of the Transportation Director regarding the matter in issue or dispute shall be final and conclusive on all parties.

For any and all disputes arising under the terms of this contract, the parties hereto agree, in compliance with the recommendations of the Governor and Attorney General, when considering settlement of such disputes, to consider using appropriate forms of non-binding alternative dispute resolution.

TERMINATION DUE TO INSUFFICIENT FUNDS

- a. If the agreement term is to exceed more than one fiscal year, then said agreement is subject to termination in the event that funds should not be appropriated for the continued payment of the agreement in subsequent fiscal years.
- b. In the event of proration of the fund from which payment under this AGREEMENT is to be made, agreement will be subject to termination.

NO GOVERNMENT OBLIGATION TO THIRD PARTY CONTRACTORS

The STATE and CONSULTANT acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the underlying contract, absent the express written consent by the Federal Government, the Federal Government is not a party to this contract and shall not be subject to any obligations of or liabilities to the STATE, CONSULTANT, or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying contract.

The CONSULTANT agrees to include the above clause in each subcontract financed in whole or in part with Federal assistance provided to FHWA. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.



APPENDIX 4

JEFFERSON COUNTY }
STATE OF ALABAMA }

RIGHT-OF-WAY ENCROACHMENT AGREEMENT

This Right of Way Encroachment License Agreement (the "Agreement") is entered this 14th day of July 2014, by and between the City of Mountain Brook, Alabama, a municipal corporation (hereinafter the "City" or "Licensor"), and Kurt Zinn and Amanda Zinn (hereinafter collectively, the "Licensees").

WITNESSETH:

WHEREAS, the Licensees represent that they own the real property located at 100 Dexter Avenue in the City of Mountain Brook, Jefferson County, Alabama (the "Property");

WHEREAS, the Property abuts right(s) of way that is owned by the City and reserved for the use of the general public (the "City ROW");

WHEREAS, the Licensees desire to install and maintain two parking pads at the locations depicted on the attached Exhibit "A" (collectively hereinafter the "Improvement"), and intend that the Improvement will be used by the occupants of the Property or their guests;

WHEREAS, part or all of the area in which the Improvement will be installed lies within and encroaches upon the City ROW (hereinafter, the "Encroachment area"); and

WHEREAS, subject to terms, conditions and understandings herein, the City agrees to grant the Licensees a non-exclusive, revocable license to install and use the encroaching Improvement within the City ROW.

NOW, THEREFORE, in consideration of the mutual covenants herein, and other good and valuable consideration, the receipt and sufficiency of which is acknowledged, the parties agree as follows:

1. The City grants the Licensees a non-exclusive, revocable license to utilize the City ROW for purposes reasonably related to the construction, installation, maintenance and use of above-described encroaching Improvement within the Encroachment area (the "License"). No other uses of the City ROW are authorized.
2. The Licensees agree and acknowledge that this Agreement grants them only a license, not any interest, title, permanent right or estate. The grant made hereunder is personal to the Licensees and does not run with the land. Further, the Licensees agree to not claim any permanent interest in the Encroachment area by entering into this Agreement or by their use of any contemplated encroaching Improvement.
3. The Licensees agree to (a) keep the Encroachment area clean and free of debris, weeds or overgrown grass, (b) maintain the contemplated encroaching Improvement in good and sound

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condition, and (c) not use the Encroachment area or any encroaching Improvement in a manner that creates hazards or causes damage to any third persons or adjacent properties.

4. The Licensees acknowledge that, in the event that the City, in the exercise of its sole discretion, determines that the Licensees' utilization of the Encroachment area or the Improvement conflicts with City's use or plans to use that area, it may revoke the License effective upon providing Licensees written notice from the Mayor, the City Manager or the City's other executive official. If the License is revoked, the City, in the exercise of its sole discretion, either (a) may request that the Licensees, at their expense, remove any encroaching Improvement and restore the City ROW to a condition that is reasonably satisfactory to the City within thirty (30) days after the receipt of notice of revocation, or (b) at the City's expense, may remove any encroaching Improvement placed by the Licensees in the Encroachment area. If the City revokes the License, the Licensees waive and release the City from any and all claims for expenses incurred by the Licensees to construct or maintain any Improvement in the Encroachment area.

4. The Licensees may not assign or transfer this Agreement (or any benefit, right or obligation hereunder) to any third party without advance written consent by the City, which consent shall not be unreasonably withheld.

5. All plans, designs and work to construct any contemplated encroaching Improvement shall be subject to review and approval of the City's Building Inspection Department, or such other department as the City may designate. Further, the Licensees agree that all operations related to their installation of any such Improvement will comply with applicable federal, state and local laws, ordinances and regulations (including but not limited to, license and permit requirements) that relate to those operations.

6. The Licensees shall not permit any mechanic or materialman's lien to be filed against the City or concerning the Encroachment area by reason of any labor, services, materials or equipment supplied or claimed to have been supplied to construct or maintain any encroaching Improvement (collectively, a "Lien"). If such a Lien is filed, then Licensees, after notice of its filing, promptly shall either (a) cause the same to be discharged by depositing adequate funds in court or issuing a bond; or (b) indemnify the City against any loss from a Lien by posting security or taking other actions that are reasonably satisfactory to the City.

7. The Licensees agree to indemnify, defend and hold harmless the City, and its officers, employees, and representatives (collectively for purposes of this provision, the "City"), from and against any claim, liability, loss, expense (including, reasonable attorney fees and costs of court), demand or action asserted against the City by any third party claiming personal injury, property damage or any other loss of any kind (collectively, a "Claim") that arises from or is in any manner related to (a) the Licensees' use of the License granted herein or the Encroachment area, or (b) any encroaching Improvement placed in the City ROW. The scope of this indemnification obligation includes Claims that are caused or allegedly caused in whole or part by the negligence of the City; provided that the Licensees shall not be obligated hereunder to indemnify the City for Claims that are caused by the gross negligence or willful misconduct of the City.

8. If the Licensees remove or substantially modify an encroaching Improvement after this Agreement is executed, they shall not replace or construct another or different Improvement or

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structure in the City ROW without advance approval from the City; provided that nothing herein shall prohibit Licensees from maintaining, repairing or refurbishing any encroaching Improvement contemplated by this Agreement.

9. All notices that may be required to be given hereunder shall be deemed to have been properly given if in writing and (a) if personally delivered, or (b) sent either by registered or certified mail, postage prepaid, and addressed as follows, or by nationally recognized overnight courier to the following address:

To the City:
City of Mountain Brook, Alabama
Attention: City Manager
56 Church Street
Mountain Brook, AL 35213

To the Licensees:
Kurt and Amada Zinn
100 Dexter Avenue
Mountain Brook, AL 35213

Notices shall be deemed given upon receipt or refusal of delivery. The parties may designate an address for service of notice other than that shown above by providing written notice thereof.

10. Miscellaneous Provisions.

(a) This Agreement may not be amended or modified unless all parties execute a writing that is signed by their duly authorized representatives.

(b) The failure of the City to enforce any of the terms, conditions or provisions of this Agreement shall not be construed as a waiver of its right to subsequently compel enforcement of that or any other term, condition or provision herein. The rights, benefits and obligations under this Agreement may be waived only in a writing signed by the parties.

(c) This Agreement, and the conditions, terms and provisions herein, do not create, and are not intended to create or confer any benefit to any third party.

(c) This Agreement contains the complete agreement of the parties concerning the subject matter herein. Any prior negotiation, agreement or understanding, whether oral or written, concerning the matters addressed herein is superseded and of no effect unless expressed herein.

(d) This Agreement may be signed in one or more counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same agreement. Signature pages may be transmitted by facsimile or other form of electronic transmission, and any signature so transmitted will be given the same force and effect as an original signature

(e) If requested by the City, the Licensees shall record a fully-executed form of this Agreement in the real property records of the Probate Court for Jefferson County.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed on the date hereinabove set forth.

ATTEST:

Steven Boone
City Clerk

CITY OF MOUNTAIN BROOK, ALABAMA

By: *Sam S. Mastro*
Mayor
City Manager

KURT ZINN

Kurt Zinn

AMANDA ZINN

Amanda Zinn

EXHIBIT A

EXHIBIT A

APPENDIX 5

EXHIBIT A

EXHIBIT A

EXHIBIT A - DEPICTION OF ENCROACHMENT

See attached.

JEFFERSON COUNTY)
STATE OF ALABAMA)

RIGHT-OF-WAY ENCROACHMENT AGREEMENT

This Right of Way Encroachment License Agreement (the "Agreement") is entered this 14th day of July, 2014, by and between the City of Mountain Brook, Alabama, a municipal corporation (hereinafter the "City" or "Licensor"), and Kurt Zinn and Amanda Zinn (hereinafter collectively, the "Licensees").

WITNESSETH:

WHEREAS, the Licensees represent that they own the real property located at 110 Dexter Avenue in the City of Mountain Brook, Jefferson County, Alabama (the "Property");

WHEREAS, the Property abuts right(s) of way that is owned by the City and reserved for the use of the general public (the "City ROW");

WHEREAS, the Licensees desire to install and maintain one parking pad at the location depicted on the attached Exhibit "A" (collectively hereinafter the "Improvement"), and intend that the Improvement will be used by the occupants of the Property or their guests;

WHEREAS, part or all of the area in which the Improvement will be installed lies within and encroaches upon the City ROW (hereinafter, the "Encroachment area"); and

WHEREAS, subject to terms, conditions and understandings herein, the City agrees to grant the Licensees a non-exclusive, revocable license to install and use the encroaching Improvement within the City ROW.

NOW, THEREFORE, in consideration of the mutual covenants herein, and other good and valuable consideration, the receipt and sufficiency of which is acknowledged, the parties agree as follows:

1. The City grants the Licensees a non-exclusive, revocable license to utilize the City ROW for purposes reasonably related to the construction, installation, maintenance and use of above-described encroaching Improvement within the Encroachment area (the "License"). No other uses of the City ROW are authorized.
2. The Licensees agree and acknowledge that this Agreement grants them only a license, not any interest, title, permanent right or estate. The grant made hereunder is personal to the Licensees and does not run with the land. Further, the Licensees agree to not claim any permanent interest in the Encroachment area by entering into this Agreement or by their use of any contemplated encroaching Improvement.
3. The Licensees agree to (a) keep the Encroachment area clean and free of debris, weeds or overgrown grass, (b) maintain the contemplated encroaching Improvement in good and sound

condition; and (c) not use the Encroachment area or any encroaching Improvement in a manner that creates hazards or causes damage to any third persons or adjacent properties.

4. The Licensees acknowledge that, in the event that the City, in the exercise of its sole discretion, determines that the Licensees' utilization of the Encroachment area or the Improvement conflicts with City's use or plans to use that area, it may revoke the License effective upon providing Licensees written notice from the Mayor, the City Manager or the City's other executive official. If the License is revoked, the City, in the exercise of its sole discretion, either (a) may request that the Licensees, at their expense, remove any encroaching Improvement and restore the City ROW to a condition that is reasonably satisfactory to the City within thirty (30) days after the receipt of notice of revocation, or (b) at the City's expense, may remove any encroaching Improvement placed by the Licensees in the Encroachment area. If the City revokes the License, the Licensees waive and release the City from any and all claims for expenses incurred by the Licensees to construct or maintain any Improvement in the Encroachment area.

4. The Licensees may not assign or transfer this Agreement (or any benefit, right or obligation hereunder) to any third party without advance written consent by the City, which consent shall not be unreasonably withheld.

5. All plans, designs and work to construct any contemplated encroaching Improvement shall be subject to review and approval of the City's Building Inspection Department, or such other department as the City may designate. Further, the Licensees agree that all operations related to their installation of any such Improvement will comply with applicable federal, state and local laws, ordinances and regulations (including but not limited to, license and permit requirements) that relate to those operations.

6. The Licensees shall not permit any mechanic or materialman's lien to be filed against the City or concerning the Encroachment area by reason of any labor, services, materials or equipment supplied or claimed to have been supplied to construct or maintain any encroaching Improvement (collectively, a "Lien"). If such a Lien is filed, then Licensees, after notice of its filing, promptly shall either (a) cause the same to be discharged by depositing adequate funds in court or issuing a bond; or (b) indemnify the City against any loss from a Lien by posting security or taking other actions that are reasonably satisfactory to the City.

7. The Licensees agree to indemnify, defend and hold harmless the City, and its officers, employees, and representatives (collectively for purposes of this provision, the "City"), from and against any claim, liability, loss, expense (including, reasonable attorney fees and costs of court), demand or action asserted against the City by any third party claiming personal injury, property damage or any other loss of any kind (collectively, a "Claim") that arises from or is in any manner related to (a) the Licensees' use of the License granted herein or the Encroachment area, or (b) any encroaching Improvement placed in the City ROW. The scope of this indemnification obligation includes Claims that are caused or allegedly caused in whole or part by the negligence of the City; provided that the Licensees shall not be obligated hereunder to indemnify the City for Claims that are caused by the gross negligence or willful misconduct of the City.

8. If the Licensees remove or substantially modify an encroaching Improvement after this Agreement is executed, they shall not replace or construct another or different Improvement or

EXHIBIT A

EXHIBIT B

APPENDIX 5

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2014-081

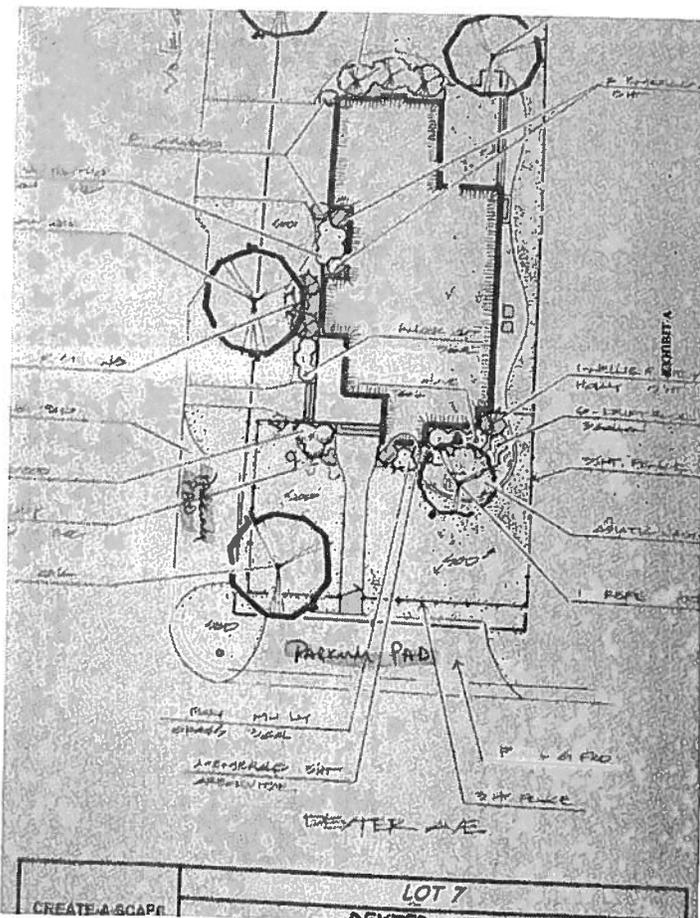


EXHIBIT B

structure in the City ROW without advance approval from the City; provided that nothing herein shall prohibit Licensees from maintaining, repairing or refurbishing any encroaching improvement contemplated by this Agreement.

9. All notices that may be required to be given hereunder shall be deemed to have been properly given if in writing and (a) if personally delivered, or (b) sent either by registered or certified mail, postage prepaid, and addressed as follows, or by nationally recognized overnight courier to the following address:

To the City:
City of Mountain Brook, Alabama
Attention: City Manager
36 Church Street
Mountain Brook, AL 35213

To the Licensees:
Kurt and Amada Zinn
100 Dexter Avenue
Mountain Brook, AL 35213

Notices shall be deemed given upon receipt or refusal of delivery. The parties may designate an address for service of notice other than that shown above by providing written notice thereof.

10. Miscellaneous Provisions.

(a) This Agreement may not be amended or modified unless all parties execute a writing that is signed by their duly authorized representatives.

(b) The failure of the City to enforce any of the terms, conditions or provisions of this Agreement shall not be construed as a waiver of its right to subsequently compel enforcement of that or any other term, condition or provision herein. The rights, benefits and obligations under this Agreement may be waived only in a writing signed by the parties.

(c) This Agreement, and the conditions, terms and provisions herein, do not create, and are not intended to create or confer any benefit to any third party.

(c) This Agreement contains the complete agreement of the parties concerning the subject matter herein. Any prior negotiation, agreement or understanding, whether oral or written, concerning the matters addressed herein is superseded and of no effect unless expressed herein.

(d) This Agreement may be signed in one or more counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same agreement. Signature pages may be transmitted by facsimile or other form of electronic transmission, and any signature so transmitted will be given the same force and effect as an original signature.

(e) If requested by the City, the Licensees shall record a fully-executed form of this Agreement in the real property records of the Probate Court for Jefferson County.

EXHIBIT A - DEPICTION OF ENCROACHMENT

See attached.

EXHIBIT B

EXHIBIT B

APPENDIX 5

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed on the date hereinabove set forth.

ATTEST:

CITY OF MOUNTAIN BROOK, ALABAMA

Stella Bowen
City Clerk

By: *Sam S. Martin*
Mayor / City Manager

KURT ZINN

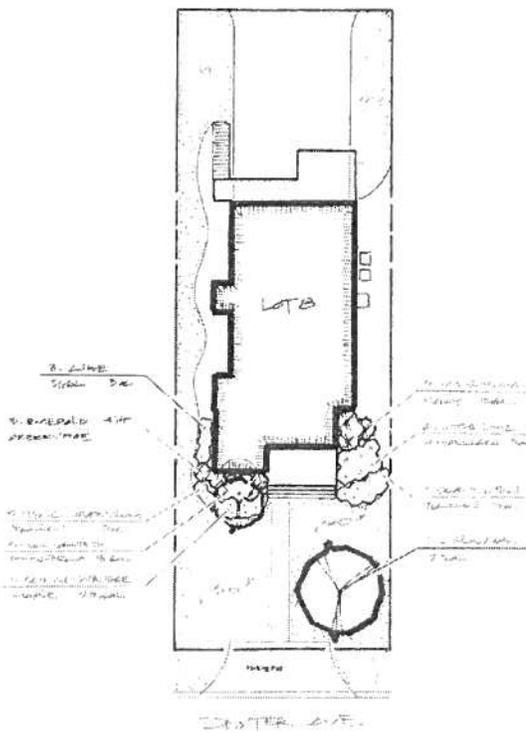
Kurt Zinn

AMANDA ZINN

Amada Zinn

EXHIBIT B

EXHIBIT B



CREATE-A-SCAPE Creating Natural Beauty (205) 729-0900	LOT B	
	DEXTER AVENUE	
SCALE: 1"=10'-0"	DATE: 04/10/14	
DESIGN & DESIGNER BY: GABRIEL TRISTRACER		
<small>For use of this drawing or design in third party agreement with Create-A-Scape, L.L.C. is strictly prohibited. Impropriate use of these drawings may result in legal action.</small>		
<small>CREATE-A-SCAPE, L.L.C. P.O. Box 24719 Birmingham, AL 35213 TELEPHONE: (205) 729-0900 FAX: (205) 294-6000</small>		



June 19, 2014

City of Mountain Brook
56 Church Street
PO Box 130009
Mountain Brook, Alabama 35213

Attention: Mr. Sam Gaston
Reference: Beech Street Drainage

Dear Mr. Gaston:

Please accept this letter as a proposal to provide Consulting Services on the above referenced project. The Detailed Scope is as follows:

1) HYDROLOGIC CONSULTING

The consultant will investigate drainage conditions in the Beech Circle drainage way. The Consultant will inspect the drainage way, evaluate the drainage impacts of the apartment development in the basin, evaluate the drainage way through Mountain Brook, and recommend improvements to address problem areas. The detailed scope is as follows:

- Meet with the Client and inspect the drainage way and problem areas
- Develop a project bas map from GIS information
- Obtain plans and drainage report of adjacent apartment development
- Study and evaluate drainage scheme of the apartment development and its impact on downstream conditions
- Evaluate drainage way - identify problem areas and develop improvement suggestions
- Prepare brief report and exhibits that depict recommended improvements/repairs
- Meet and present conclusions to the City

Lump Sum Fee \$13,500

Future Work

Should the City of Mountain Brook decide to move forward with certain improvements, the Consultant would prepare design plans or exhibits as appropriate to facilitate the construction of the improvements. These improvements may be constructed by City forces or by a City-hired Contractor.

Payment Terms

The Consultant will bill the Client monthly based on work completed during the billing period. Work completed will be based upon a percentage of completion for Lump Sum Fees. The Consultant has the right to review and adjust fees monthly subject to Client's final approval. Payments are due upon receipt. Additional services beyond the herein-described scope of work will be performed according to the attached schedule of unit rates, or alternately for an additional fee as agreed upon.

WALTER SCHOEL ENGINEERING COMPANY, INC
1001 22nd Street, South • Birmingham, Alabama 35205
P 205.323.6188 • F 205.328.2952 • school.com

Schedule of Unit Rates - Effective Through 12/31/2014

Senior Principal	\$ 225.00 per hour
Principal	\$ 170.00 per hour
Chief Land Surveyor	\$ 150.00 per hour
Senior Project Manager	\$ 140.00 per hour
Project Manager 2	\$ 125.00 per hour
Project Manager 1	\$ 110.00 per hour
Senior Professional	\$ 120.00 per hour
Project Professional	\$ 105.00 per hour
Staff Professional	\$ 90.00 per hour
Senior Designer / Survey Draftsman / Specialist	\$ 90.00 per hour
Designer / Survey Draftsman / Specialist 2	\$ 80.00 per hour
Designer / Survey Draftsman / Specialist 1	\$ 70.00 per hour
Field Survey Party	\$ 150.00 per hour
Laser Scanning Field Crew	\$ 400.00 per hour
Laser Scanning Specialist	\$ 125.00 per hour
Intern/Support	\$ 55.00 per hour
Courier	\$ 25.00 per delivery
Transportation	\$ 0.50 per mile
Materials (Stakes and Hubs)	\$ 0.35 each
(Flagging)	\$ 2.50 per roll
(Iron Pins and Caps)	\$ 5.00 each
(Spray Paint)	\$ 5.00 per can

Printing and other reimbursable expenses will be charged at cost, and are not included in the fee basis described above. Sub-consultant invoices will be billed to the client at a rate of 110% of the sub-consultant invoice. Overtime rates may apply for work required during non-standard work hours.

GENERAL TERMS AND CONDITIONS

- 1) The Client hereby agrees that to the fullest extent permitted by law the Consultant's total liability to Client for any and all injuries, claims, losses, expenses of damages whatsoever arising out of or in any way relating to the project, the site, or this Agreement, from any cause or causes including but not limited to the Consultant's negligence, errors, omissions, strict liability, breach of contract, breach of warranty shall not exceed the greater of the total amount paid by the Client for the services of the Consultant under this contract or \$50,000.00, whichever is greater. The Consultant's liability shall expire one (1) year from the completion date of the provision of services for each phase of the work.
- 2) The figures given above and in the body of this Agreement are based on the Scope of Work as described herein. If the above outlined Scope of Services is changed, or if there are other services that may be requested by the Client, these additional services will also be performed at the above unit rates, or a revised fee will be negotiated to the satisfaction of both the Client and Consultant at that time. The Consultant reserves the right to adjust these unit rates for inflation costs on a one-year interval from the date of this proposal.
- 3) All reports, plans, documents, or other materials resulting from the Consultant's efforts shall remain the property of the Consultant and are intended solely for the purpose of this Agreement. Any reuse by Client of other for purposes outside of this Agreement or any failure to follow Consultant's recommendations without Consultant's written permission shall be at the users sole risk.
- 4) The Consultant shall not be responsible for construction site safety or construction procedures, nor will the Consultant be responsible for the quality of the work performed by the contractor or other consultant.

PROPOSAL ACCEPTANCE

SUBMITTED:

Consultant: Walter Schoel Engineering Company, Inc.
Signature: Walter Schoel
Name: Walter Schoel III
Title: President
Date: June 19, 2014

ACCEPTED:

Client: City of Mountain Brook
Signature: Lawrence T. Oden
Name: Lawrence T. Oden
Title: Mayor
Date: 7/15/2014

APPENDIX 6

Beech Circle and Beech Street Water Hazard

The hydrologist estimated 300 acres of water runoff from the surrounding Birmingham areas of 52nd St, Montclair Rd, and St. Francis Xavier Church, all connect and enter our system at Beech Circle.



ADDENDUM TO AGREEMENT BETWEEN THE CITY OF MOUNTAIN BROOK AND WALTER SCHOEL ENGINEERING COMPANY, INC. DATED JULY 14, 2014

THIS ADDENDUM ("the/this Addendum") to the principal agreement between the City of Mountain Brook, Alabama ("the City") and Walter Schoel Engineering Company, Inc. ("the Contractor") dated July 14, 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.

- 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... 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... 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... 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... 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... 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.

APPENDIX 6

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. If Contractor receives actual knowledge of the unauthorized status of one of its employees in the State of Alabama, it will remove that employee from the project, jobsite or premises of the City and shall comply with the Immigration Reform and Control Act of 1986, as amended by the Immigration Act of 1990, and the Beason-Hammon Alabama Taxpayer and Citizen Protection Act. Contractor shall require each of its subcontractors, or other parties with whom it has a contract, to act in a similar fashion. If Contractor violates any term of this provision, this Agreement will be subject to immediate termination by the City. To the fullest extent permitted by law, Contractor shall defend, indemnify and hold harmless the City from any and all losses, consequential damages, expenses (including, but not limited to, attorneys' fees), claims, suits, liabilities, fines, penalties, and any other costs arising out of or in any way related to Contractor's failure to fulfill its obligations contained in this paragraph.

DATED this 14th day of July, 2014.

Walter Schoel Engineering Company, Inc.

City of Mountain Brook, Alabama

By: [Signature] Its: CFO

By: [Signature] Its: Mayor





APPENDIX 6

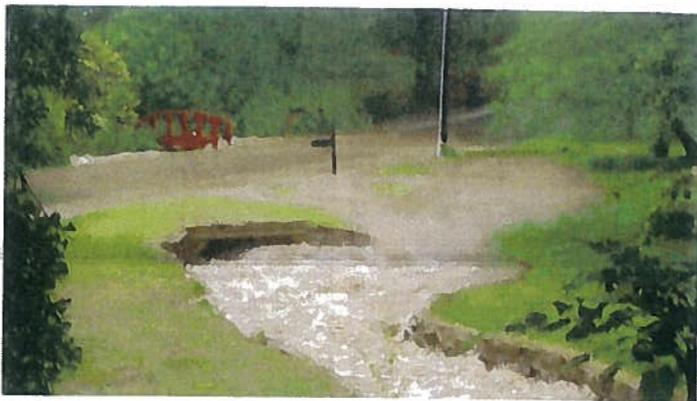
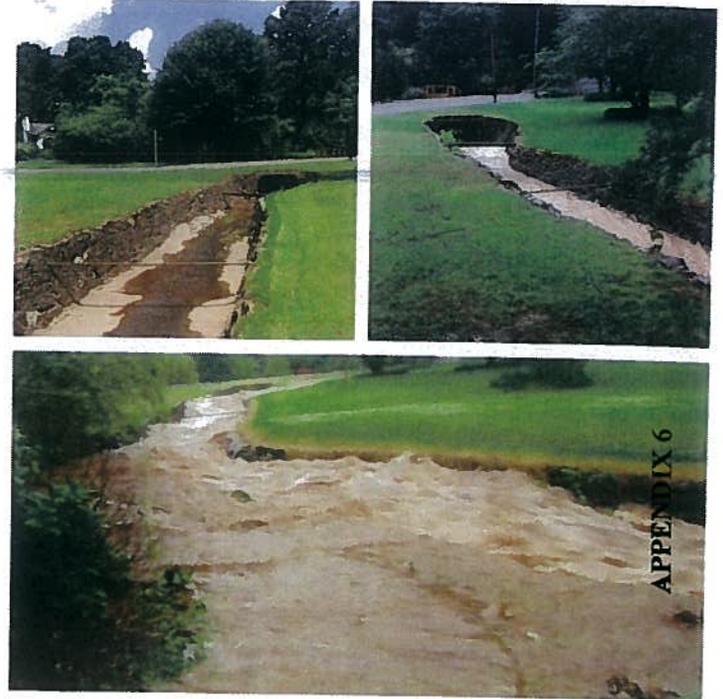


Not more than 2-3 ft of wall at some points along the curved way...with open and exposed access points.





This drainage system, the majority of the time, or in periods without rainfall seems adequate. However; within a matter of minutes it can turn deadly and destructive.



So we have tried to protect ourselves, our children and our property. We have built retaining walls, installed costly drainage systems, sump pumps, raised our walls and bridges.

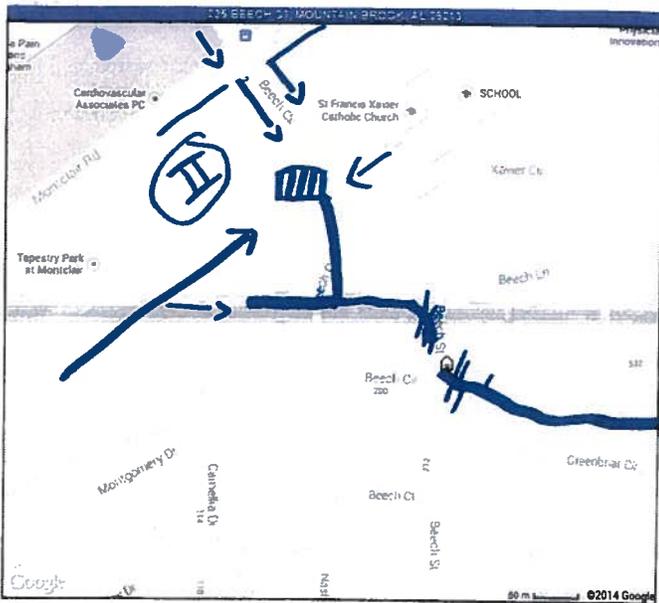




Due to the increased volume of water entering the system as well as the speed and velocity at which it travels, we need intervention from our city government. We can not continue to battle this alone. The risk is too great.

Sincerely,
Beech Hill Neighborhood Residents

APPENDIX 6



Business Travel Expenses

The City will reimburse employees for the reasonable business travel expenses incurred while on assignments away from the normal work location. All business travel must be approved in advance by the Department Head. Travel advances are generally considered unnecessary, however, if requested by an employee, must be approved by the City Council.

When approved, the actual cost of travel, meals, lodging and other expenses directly related to accomplishing business travel objectives will be reimbursed by the City. Employees are expected to limit expenses to reasonable amounts as approved by your Department Head.

Expenses properly documented with itemized receipts that generally will be reimbursed include the following:

- Airfare or train fare for travel in coach or economy class or the lowest available fare.
- Car rental fees, only for compact or mid-size cars.
- Fares for shuttle or airport bus service where available and costs of public transportation for other ground travel.
- Taxi fares, only when there is no less expensive alternative.
- Mileage costs for the use of personal vehicles at the standard mileage rate as defined by the Internal Revenue Service, only when less expensive means of transportation is not available.
- Cost of standard accommodations in mid-priced hotels, motels or similar lodgings. Additional lodging costs resulting from family members travelling with employees are not reimbursable by the City.
- Cost of meals, no more lavish than would be eaten at the employee's own expense and not to exceed \$60.00 per day including tips unless approved by the Department Head and City Manager. Itemized receipts are required for all meals, otherwise reimbursement shall be denied.
- Tips not exceeding 15% of the total cost of a meal or 10% of a taxi fare.
- Charges for telephone calls, facsimile and similar services required for business purposes.
- Charges for one personal telephone call each day.
- Charges for laundry and valet services (only on trips of four (4) or more days).
- Personal entertainment, and personal care items, alcoholic drinks, snacks and soft drinks are not reimbursable.
- Lodging accommodations shall not be guaranteed by way of advance payment by the City. Lodging accommodations shall be guaranteed with a [personal or city-issued] credit card.

When travel is completed, employees should submit a completed travel expense reimbursement report within ten (10) days of returning to work. Such report must be accompanied with receipts for all itemized business travel-related expenses.

Employees should contact their supervisor for guidance related to travel arrangements, expense reports, reimbursement for specific expenses, or any other business travel issues.

Abuse of this business travel expenses policy, including falsifying expense reports to

The Code of Alabama 1975

Section 36-7-1

Reimbursement of county or municipal officers or employees for traveling expenses - Itemized statement of expenses to be presented and approved.

It shall be unlawful for an officer or employee of a county, town, or city in Alabama to be reimbursed from the treasury of a county or municipality for expenses incurred by him or her while traveling or remaining beyond the limits of counties and municipalities in the performance of his or her duties incidental to the management or control of the affairs of the county or municipality unless the officer or employee presents and has approved as provided for in this article an itemized statement of all expenses incurred. Nothing in this article shall be interpreted as applying to the use of credit cards issued in the name of the municipality by municipal officers and employees beyond the limits of the municipality for which they work. Nothing in this article shall be interpreted as applying to the use of credit cards issued in the name of the county by county officers and employees beyond the limits of the county for which they work.

(Acts 1935, No. 457, p. 988, § 1; Code 1940, T. 41, §155; Acts 1993, No. 93-763, p. 1529, §1.)

Section 36-7-2

Reimbursement of county or municipal officers or employees for traveling expenses — To whom statement presented; approval or disallowance of statement.

When a municipality is governed by a commission form of government, such itemized statement shall be presented to the municipal comptroller or corresponding officer immediately upon the return of said officer or employee of such municipality and must be approved or disallowed at a regular meeting of the commission of such municipality held within a period of 30 days after presentment to municipal comptroller or corresponding officer. When a municipality is governed by a mayor and council, such itemized statement shall be presented to the treasurer of the municipality in similar manner as hereinabove provided for and shall be approved or disallowed at a regular meeting of the governing body held within a period of 30 days after presentment to the treasurer of the municipality. In the case of counties, such itemized statement shall be presented to the county clerk or corresponding officer in similar manner as hereinabove provided for and shall be approved or disallowed at a

MEMORANDUM

DATE: May 30, 2014
TO: ARNOLD W. UMBACH III
FROM: CHRIS VINSON
RE: 24041 - CITY OF MOUNTAIN BROOK
ATTORNEY WORK PRODUCT

Question Presented

1. May the City Council pass a resolution providing that employees enrolled in the City's health insurance plan who do not participate in voluntary health screenings will be charged a higher rate?

Brief Answer

1. Yes. An employer may charge a higher premium for health insurance for its employees who do not participate in the employer's wellness program.

Analysis

Many employers are now turning to financial incentives in order to boost participation in their voluntary wellness programs. Indeed, one 2013 study found that 83 percent of employers offer some type of incentive to employees for taking a health-risk questionnaire or submitting to a biometric screening. While many employers offer positive financial incentives to employees for participation (i.e., a carrot), employers are increasingly turning to penalties like higher costs or surcharges to employees who do not participate (i.e., a stick), or some combination thereof. For example, CVS now requires its employees who participate in the company's health insurance plan to get a health screening (paid for by CVS) that assesses their weight, height, body fat, and cholesterol levels—or else pay \$600 more for their health coverage a year.

Support for such a program can be found in the plain language of the Affordable Care Act ("ACA" or the "Act"). The Act provides that "[i]f none of the conditions for

1Jena McGregor, The CVS health-screening debate, THE WASHINGTON POST, March 21, 2013, http://www.washingtonpost.com/national/on-leadership/the-cvs-health-screening-debate/2013/03/21/ae8422e2-9251-11e2-bdea-e32ad90da239_story.html.

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individual with a disability or as to the nature or severity of the disability, unless such examination or inquiry is shown to be job-related and consistent with business necessity." Id. at 1223 (citing 42 U.S.C. § 12112(d)(4)(A); Williams v. Motorola, Inc., 303 F.3d 1284, 1290-91 (11th Cir. 2002)). The ADA contains a safe harbor provision, however, that exempts certain insurance plans from this and other general prohibitions contained in the act. Specifically, the safe harbor provision provides that the ADA "shall not be construed" as prohibiting a covered entity "from establishing, sponsoring, observing or administering the terms of a bona fide benefit plan that are based on underwriting risks, classifying risks, or administering such risks that are based on or not inconsistent with State law." Id. (quoting 42 U.S.C. § 12201(c)(2)).

The district court granted Broward's motion for summary judgment, concluding that the employee wellness program fell within the ADA's safe harbor provision. Id. In reaching its conclusion, the district court found that the employee wellness program qualified as a "term [] of a bona fide benefit plan" within the meaning of the safe harbor provision because the employee wellness program constituted a "term" of Broward's group health plan. Id. The Eleventh Circuit affirmed, holding that

[t]he record establishes that Coventry Healthcare sponsored the employee wellness program as part of the contract to provide Broward with a group health plan, the program was only available to group plan enrollees, and Broward presented the program as part of its group plan in at least two employee handouts. In light of these facts, the district court did not err in finding as a matter of law that the employee wellness program was a "term" of Broward's group health insurance plan, such that the employee wellness program fell within the ADA's safe harbor provision.

Id. at 1224.

The proposed resolution at issue would charge employees higher health premiums for refusing to participate in an employee health screening. The screening is offered to all employees once a year, and is not a condition of enrollment in the City's group insurance plan. Accordingly, the contemplated incentive program is analogous with the program approved by the Eleventh Circuit in Broward, and would thus likely fall into the ADA's safe harbor provision.

As currently proposed, the resolution would condition the imposition of increased premiums solely on participation. Because the increased premium would be solely participation-based, the program would not have to meet the additional requirements of

* Because the court found the wellness program fell within safe harbor provision, it did not reach the issue of whether the program imposed involuntary examinations or inquires otherwise prohibited under the ADA. Id. at 1222.

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APPENDIX 8

obtaining a premium discount or rebate or other reward for participation in a wellness program is based on an individual satisfying a standard that is related to a health status factor, such wellness program shall not violate this section if participation in the program is made available to all similarly situated individuals. . . . 42 U.S.C. § 300gg-4(j)(1)(B). If the conditions for obtaining a premium discount or rebate are based on a "health status factor," however, then the program must meet five additional requirements in order to comply with the Act. § 300gg-4(j)(3). Moreover, for "health-based" programs, the Act also limits the amount of the financial incentive an employer may offer, whereas participation-based programs have no limit on the amount of the incentive. Id.

As an example of a wellness program that is participation-based, and thus not subject to the requirements of the Act, the statute lists "[a] diagnostic testing program that provides a reward for participation and does not base any part of the reward on outcomes." § 300gg-4 (j)(2)(B). Further the ACA explicitly states that a "reward may be in the form of a discount or rebate of a premium or contribution, waiver of a cost-sharing mechanism, . . . the absence of a surcharge, or the value of a benefit that would not otherwise be provided under the plan." § 300gg-4(j)(3) (emphasis added). This provision of the Act is based on and modifies the analogous non-discrimination provision of HIPAA, which also contains a participation-based versus health-based structure.² Thus, a wellness program that charges a premium increase to employees based solely on their refusal to participate in an employer-sponsored medical screening falls squarely within the ACA and HIPAA non-discrimination provisions.

Additionally, the Eleventh Circuit has also approved a similar plan under the Americans with Disabilities Act ("ADA"). *Seff v. Broward Cnty, Fla.*, 691 F.3d 1221 (11th Cir. 2012). In *Seff*, employees who were enrolled in Broward County's group insurance plan became eligible to participate in a wellness program sponsored by Broward's group health insurer. The program consisted of biometric screenings and a health risk assessment questionnaire. Participation in the program was not a condition of enrollment. However, in order to increase participation in the wellness program, Broward imposed a \$20 charge on each biweekly paycheck for employees who enrolled in the insurance plan but refused to participate in the wellness program.³ *Seff*, a former employee, brought a class action alleging that Broward's program violated the ADA's prohibition on non-voluntary medical examinations and disability-related inquiries.

Under the ADA, a "covered entity" is prohibited from "requir[ing] a medical examination" and "mak[ing] inquiries of an employee as to whether such employee is an

2FAQ: The HIPAA Nondiscrimination Requirements, dol.gov, last visited May 12, 2014, http://www.dol.gov/ebsa/faq/faq_hipaa_ND.html.

3 Broward eventually suspended this program, although the opinion does not state its reasons for doing so.

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the ACA and HIPAA non-discrimination provisions (such as providing a reasonable alternative to employees for whom it is unreasonably difficult to satisfy the standard for achieving the award due to a medical condition). Thus, the proposed resolution would be compliant with applicable federal law. Should the City desire to base the incentives on health-based outcomes, further analysis would be required.

Finally, an additional factor to consider is the way in which the incentive will be implemented. The idea of offering financial incentives is to increase participation in a wellness program, which should result in overall long-term savings in health care costs to the City. Whether the City seeks to accomplish increased participation via "carrot" or "stick," the net effect is that the employee who does not participate in the program winds up paying more. The negative incentive is attractive because it does not involve a cash outlay by the City. Moreover, some studies suggest that negative incentives are more effective in getting employees' attention and thus in increasing participation, although the literature on this issue is decidedly mixed.

On the other hand, employer sponsored health screenings and assessments have been seen as an invasion of privacy. Employees who are already opposed to participating based on privacy concerns will likely see any financial penalty as overly harsh. Thus, some push-back from employees is to be expected when implementing this type of program. As an extreme example, Penn State University recently initiated a program that imposed a financial penalty on employees who refused to participate in a personal health risk assessment questionnaire that was facially far more invasive than the current form used by the City. (For instance, it asked questions about drunk driving). This program received such backlash that Penn State was ultimately forced to abandon it. To alleviate some of employees' privacy concerns, the City should structure its program so that only a third-party administrator will review the results of the test and will not share any results with the City. This fact should be clearly communicated with employees. This confidentiality feature also insures that the program remains participation-based only, and thus not subject to the increased requirements for health-based programs.

Conclusion

Financial penalties are being increasingly used by employers in order to boost participation in their voluntary wellness programs. Increased health care rates for non-participants may be imposed, and are not subject to further restrictions when they are based purely on participation. Before enacting the proposed resolution, the City might also wish to consider whether it will offer any financial incentives to those employees who do participate in its wellness program, either in lieu of or in combination with a penalty for non-participants.

CEV/eov

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VINO/GALLERY 1930

1907

Petition Summary

Request to amend an existing development plan for property in the Mixed-Use zoning district.

Analysis

The proposal involves a 1000 square foot addition to the building and the provision of five (5) additional on-street parking spaces on 20th Avenue South. This addition is to be used primarily by the gallery, with joint events catered by Vino. The parking requirement for the gallery and the restaurant is the same (5 spaces/1000 sq. ft.), so the proposed addition and provision of additional on-street parking complies with the zoning ordinance whether used by the gallery or by the restaurant.

Section 129-555 of the Village Overlay allows for parking credit for new on-street parking created as part of a development plan, so while the on-street parking will be available for public use by all patrons of English Village, the subject property will receive parking credit for the provision of the new parking spaces.

Background

This parcel has been approved for a variety of uses. It was first rezoned from Local Business to Mixed Use in 1996; then amended to allow a specific mixed-use development with an Anthony's Restaurant and Jazz Club in a basement, retail and parking on the ground level, and 3 residential condominiums above (this plan was never implemented).

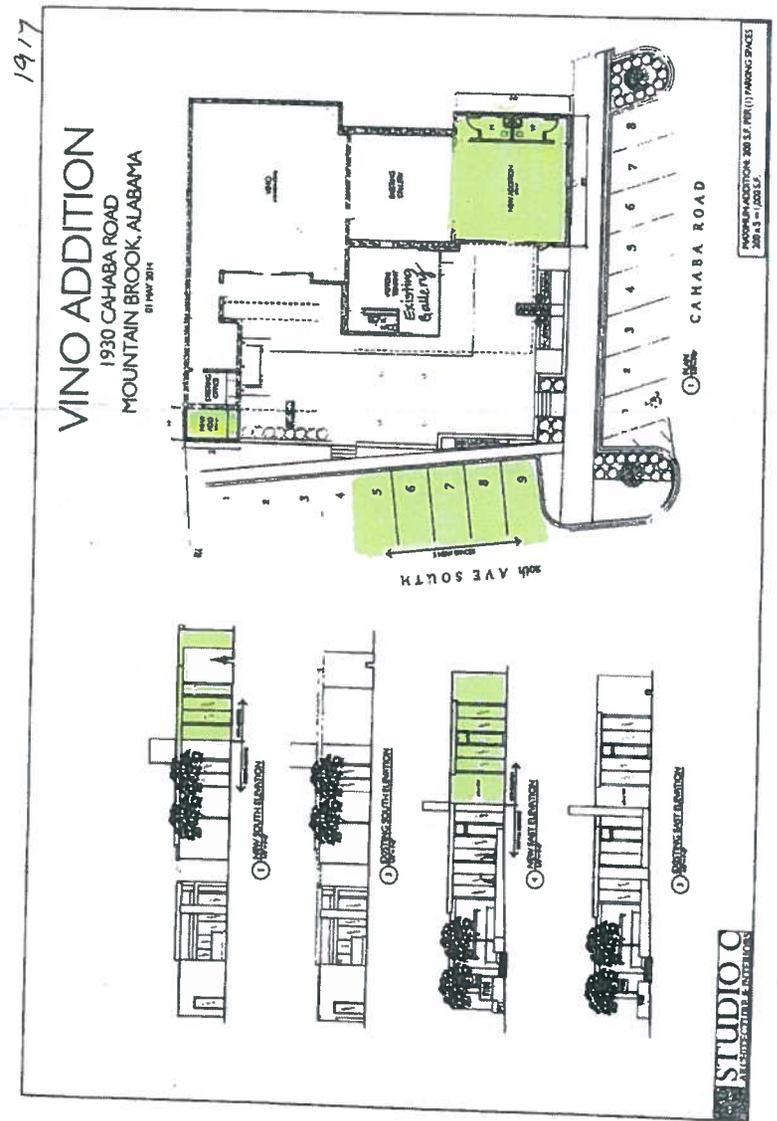
In 2001 the development plan was amended to allow three (3) galleries in the existing building: an art gallery, a chair gallery and a garden design shop. These galleries were established but subsequently closed. In 2009, a request to establish a Mexican restaurant was recommended for denial by the Planning Commission and the application was withdrawn without being forwarded to the City Council.

In 2010 the Planning Commission recommended approval of Case 1823, and the Council approved the amended development plan on November 8, 2010 to allow any use permitted in the Local Business District to be established on the subject property. Vino restaurant and the gallery were subsequently established.

On July 7, 2014, the Planning Commission recommended approval of this proposed amendment to the Mixed-Use development plan.

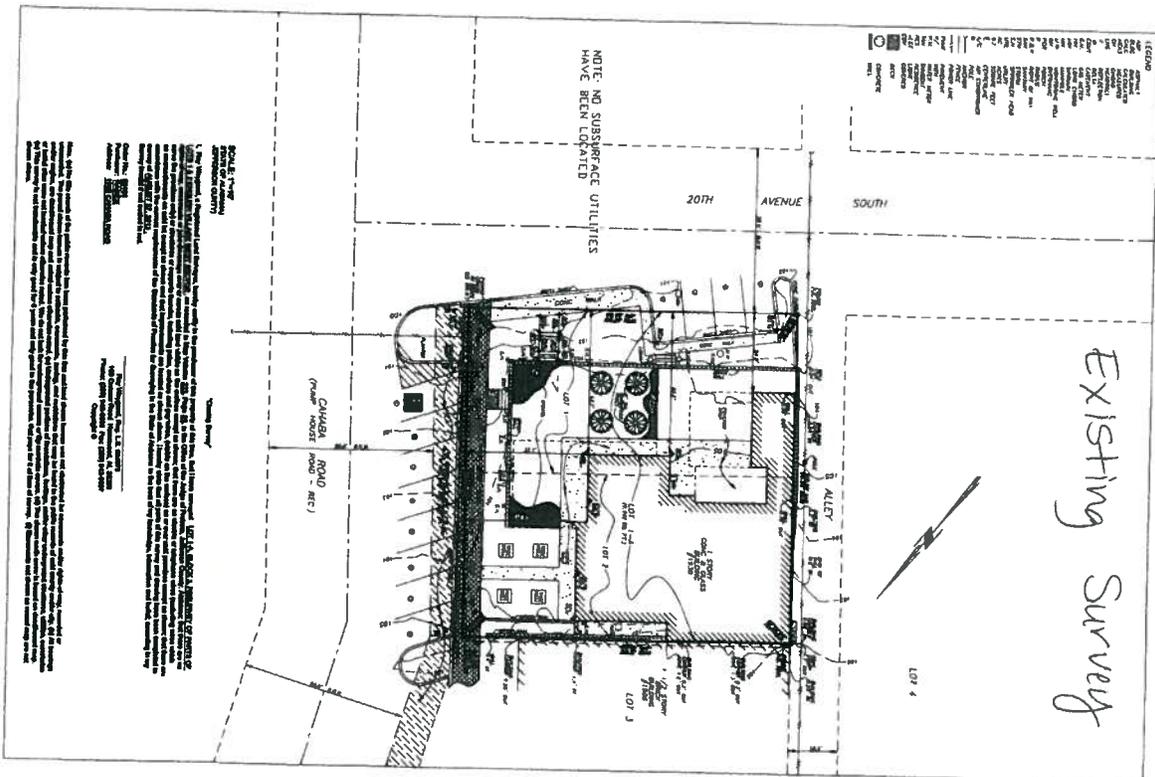
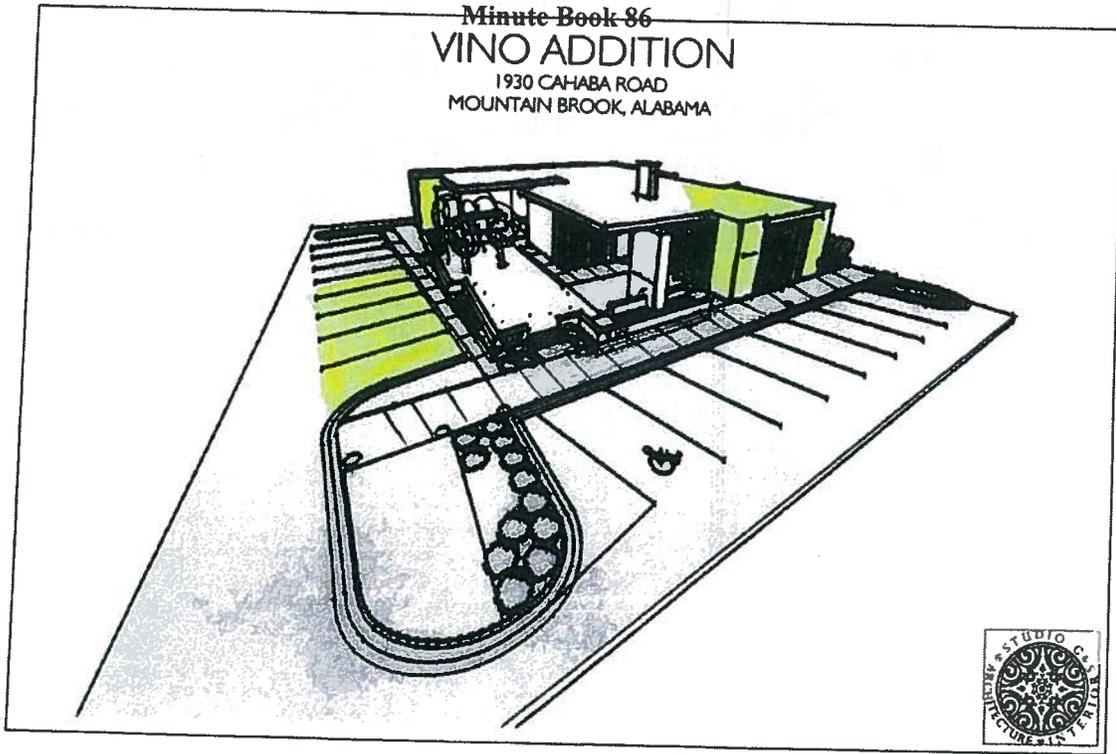
Appends

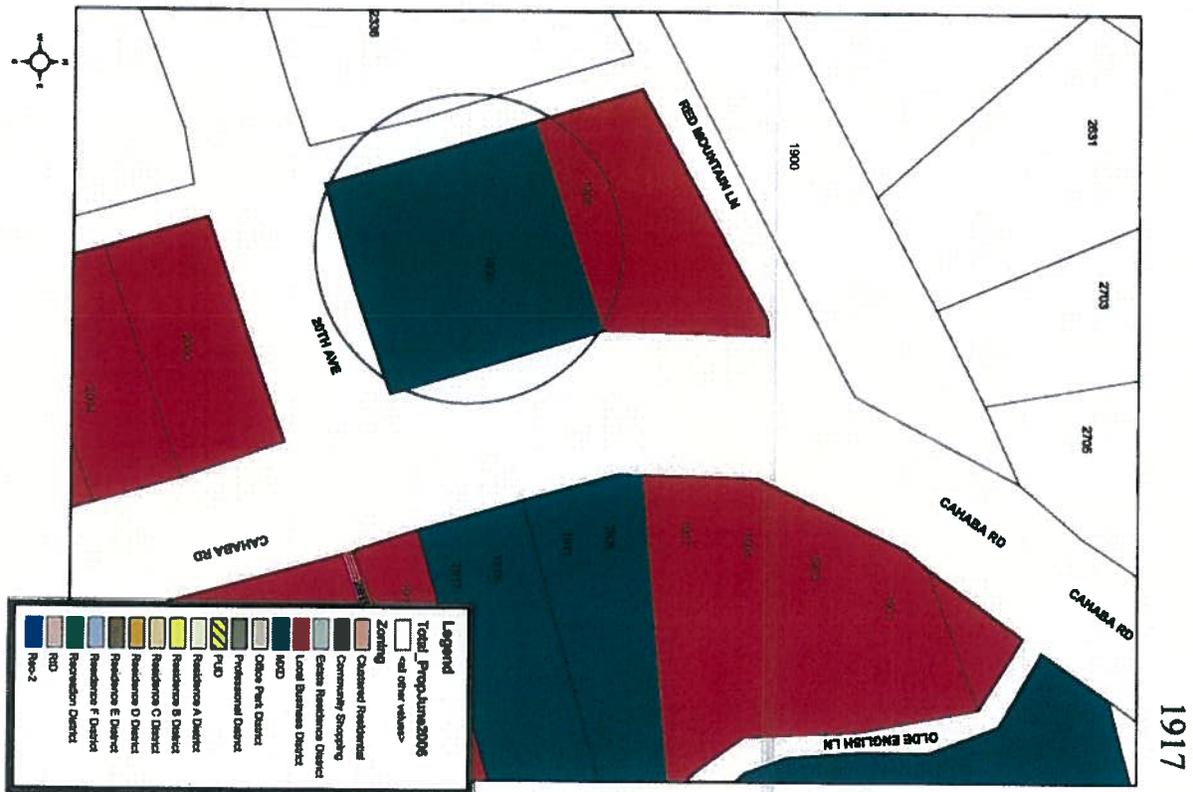
LOCATION: 1930 Cahaba Road	ZONING DISTRICT: Mixed Use
OWNER: Paragon Management, LLC	AGENT: Ali Rabiee



Proposed Plot Plan and Elevations

Minute Book 86
VINO ADDITION
1930 CAHABA ROAD
MOUNTAIN BROOK, ALABAMA





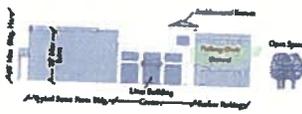


NOTES

ONE STORY BUILDINGS

MISSING NOTES

- Transparency**
 - On any facade that faces a Secondary Frontage, the facade shall have a transparency of 40% to 70% of the facade on the first floor and each upper story shall have a transparency of 15% to 60% of the facade. Any other facade that is visible from a public right of way, both the first story and upper stories shall have a minimum transparency of 40%.
 - Frontage visible from public right of ways may be treated with commercial space that conforms to one of the applicable Building Typologies as set forth in the Regulating Plan.
 - Vehicle access to parking should occur on Secondary Frontage or Service Frontage. An entry may occur on an area of Primary Frontage, provided that the building is behind the building of a least 10' in depth.
 - The site typology transparency requirements on facades that face a Secondary Frontage may be met utilizing double-pane insulated spandrel glass units.



- Pitched Roof Mountings**
 - One-story buildings with a pitched roof shall have a maximum eave/overhang height of 20'.
 - Pitched roofs must not extend more than 10' above the eaves if the roof pitch is 5:12 to 12:12.
 - Pitched roofs must not extend more than 16' above the roof pitch if the roof pitch is 14:12 to 20:12. Pitched roofs sloped greater than 20:12 will not be allowed.
 - The building shall extend 50' in height.
 - Pitched roof structures may contain additional floor area which may be occupied without extending towards the story maximum for purposes of the Regulating Plan, provided any additional floor area is contained within the footprint of the first story of the building. In this condition, the maximum eave/overhang height may be extended by 5', provided that a transparency of 15% to 45% is provided for the full story through the use of glass.



- Flat Roof Mounting**
 - Parapets must extend a minimum of 3' above the top of the roof structure. This minimum height is intended to ensure that all rooftop equipment is hidden from public view.
 - Parapets must occur within the maximum building height.
 - Buildings or mass spaces with a flat roof and parapets are not required to have a minimum height clear from the top of the parapet.
 - All rooftop equipment shall fall within the permissible roof heights, be located away from slopes or areas exposed to the public street, and otherwise be screened from view from adjacent public areas or be incorporated into the site of the building or located to the block.



- Architectural Features**
 - Buildings are limited to one story.
 - Internal staircase towers are permitted within allowable ceiling height.
 - Decorated bays should be expressed on each facade of a building or mass space that is over 60' wide and is directly facing a public space or area.
 - Bays shall be a minimum of 20' and a maximum of 30'; they must have architectural articulation, such as pilasters or columns.



LANE PARKE AMENDMENT

1908

Petition Summary

Request to amend the Lane Parke Planned Unit Development (PUD) to allow a reduction in the required amount of window transparency for the grocery building.

Analysis

The approved PUD requires that the grocery building facade along the new Jemison Lane have a minimum window transparency of 40%. As outlined in the attached letter from the Western Supermarket, the difficulty in complying with the transparency requirement stems from the fact the wine shop is to be located in the area of the store that fronts on Jemison Lane (see attached proposed floor plan). The light and heat associated with the provision of the minimum transparency would be detrimental to the wine. Also, having 40% transparency would limit the shelving needed for wine display in this area of the store.

City staff and the VDR committee have worked closely with representatives of the Western Supermarket to arrive at a solution that would provide pedestrian relief and interest along this facade, but the applicant has come to the conclusion that the floor plan of the store cannot be revised to accommodate the minimum transparency requirement, and thus, is requesting this amendment to the PUD.

What is proposed, herein, is that the minimum transparency requirement for the grocery typology be reduced from 40% to 30%, and that the transparency requirement may be met by utilizing double-paned insulated spandrel glass in the windows, which is not transparent, but may result in the overall appearance of a window (see attached elevation). The applicant is to bring samples of the proposed glass and materials to the Council meeting for inspection by the Council.

The Planning Commission recommended approval of this amendment at its meeting of July 7, 2014.

Background

Since its final approval (Ordinance 1871, May 2012) the Lane Parke PUD has been amended as follows:

The Planning Commission recommended approval of Case 1879 on March 4, 2013, and the City Council adopted Ordinance 1885 on March 11, 2013 to allow the ground floor elevation of portions of the residential component to be 1-1/2 - 4 feet lower than originally approved.

The Planning Commission recommended approval of Case 1885 on July 1, 2013, and the City Council adopted the corresponding ordinance on July 26, 2013 to allow an overall reduction in the scale, density and parking for the PUD.

Appends

LOCATION: 2525 Park Lane Court North
ZONING DISTRICT: PUD

OWNER: Evson, Inc.

APPENDIX 10

WESTERN
Market
2614 19th Street South
Birmingham AL, 35209
205-879-3471 / 205-879-3476 Fax

- Current trends in the grocery industry point to all fresh departments; Floral - Produce - Bakery - Prepared Foods - Deli Meats / Salads - Seafood and Meat department grouped in an area separate from dry grocery. This area need to be close to the entrance and convenient to checkout lanes.
Receiving dock and store room coolers and freezers location dictate the location of these fresh departments. In this store design, the receiving area is on the north or right side of the building.
- The building design originally calls for a 25,000 sq ft grocery building and a 3400 sq ft specialty shop area next door. That design results in a lower structure height in the shop section. This lower structure is preferred for the location of the Wine shop. Light, temperature change and vibration are detrimental to wine, leading to the determination that we cannot have transparent windows in this area.
- The community needs and wants a full service upscale Supermarket. Our customers do not want a specialty grocery store. They want a Supermarket that will fill their basic needs, as well as their fresh and prepared food needs.
A specialty grocery store generates significantly less volume than a Supermarket resulting in less sales tax revenues.
In order to totally satisfy our customer's needs, wall space display is critical to maximize use of the available store space.

1918

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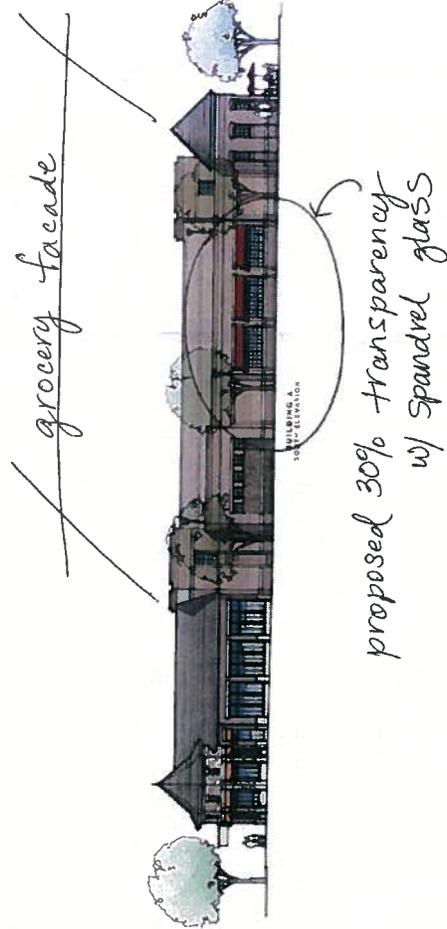


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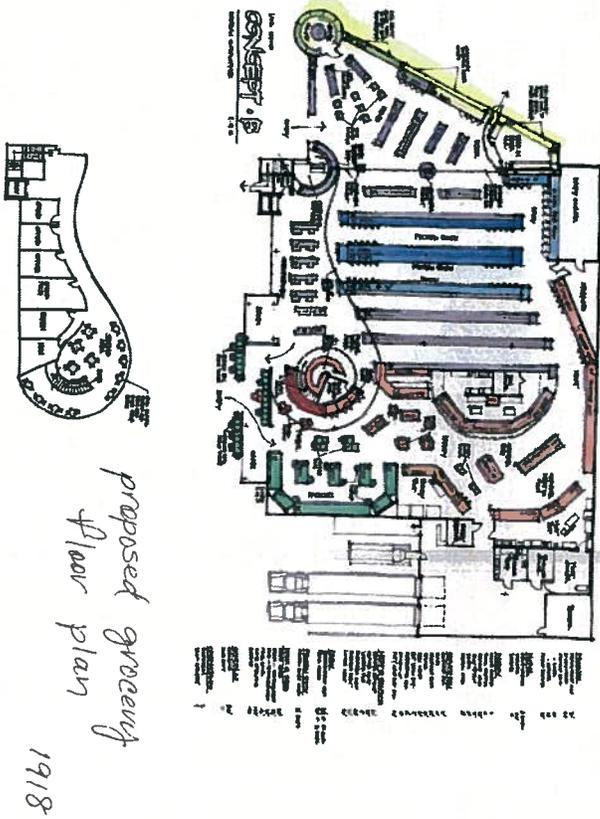
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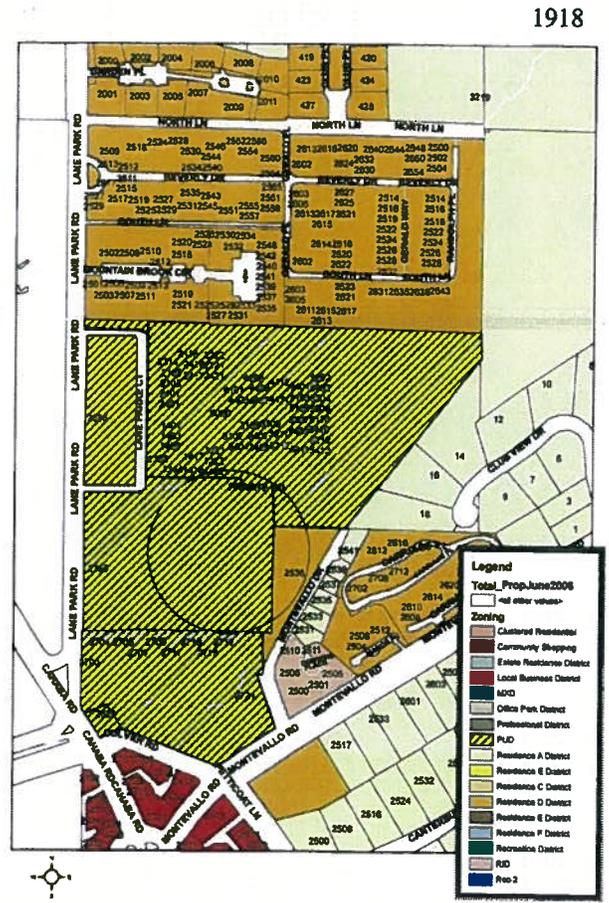


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APPENDIX 10

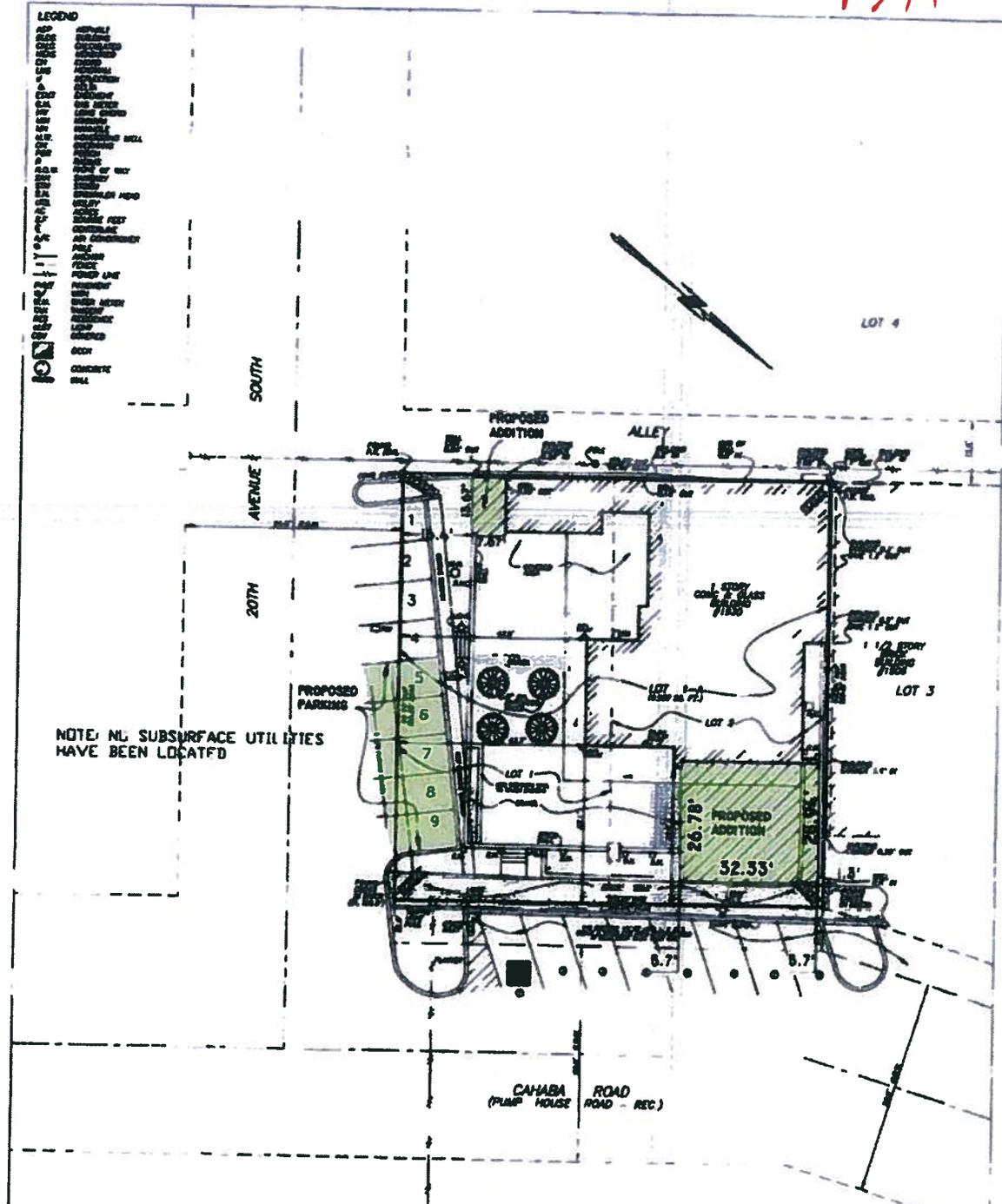


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1911



APPENDIX II

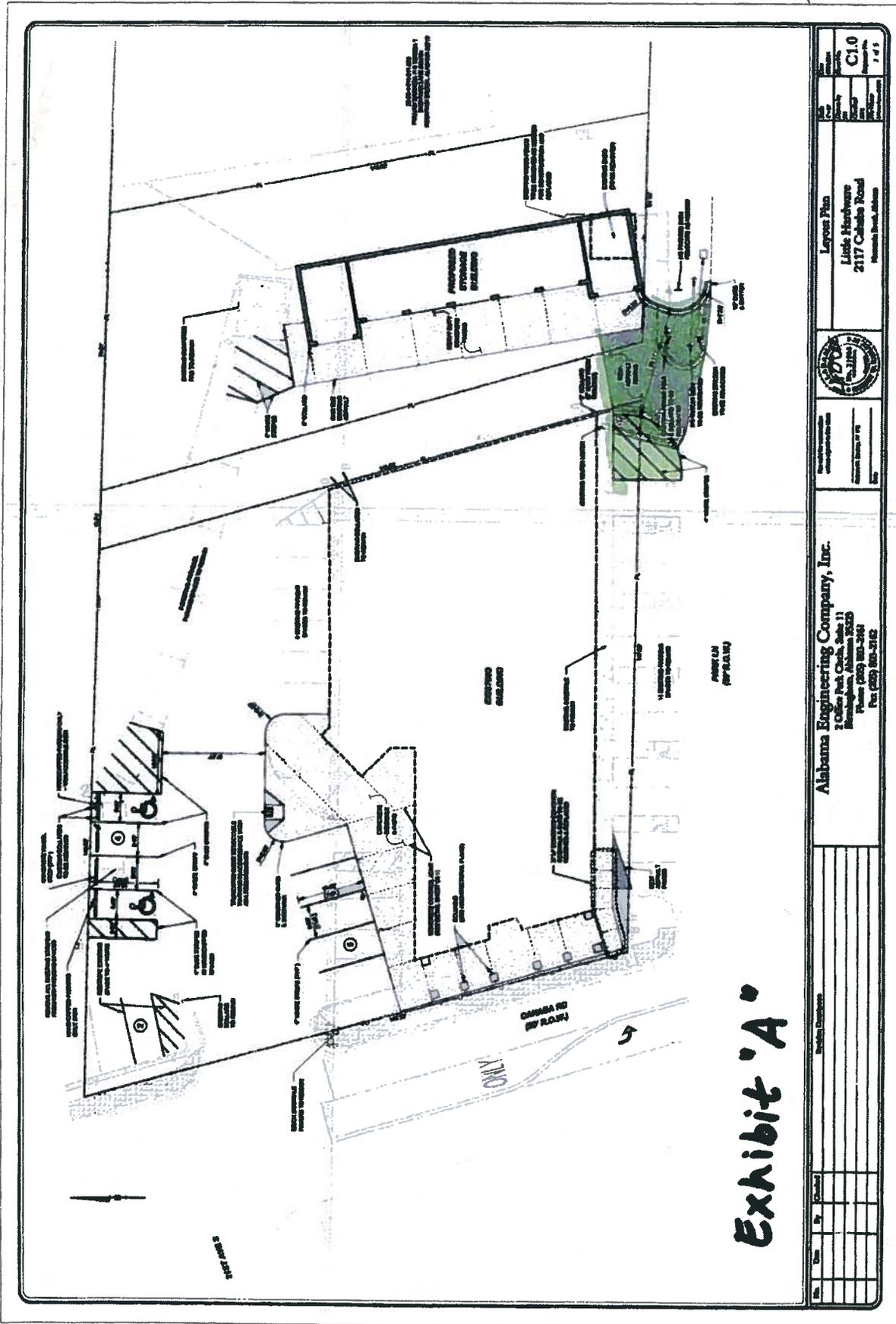
PLOT PLAN
 SCALE: 1"=10'
 Lot - 1-A
 BLOCK 3, RESURVEY OF PARTS OF
 LOTS 1 & 2 ENGLISH VILLAGE WEST SECTOR

WEYGAND SURVEYORS, INC.
 169 OXMOOR ROAD
 HOMEWOOD, AL 35209
 T:(205)942-0086
 F:(205)942-0087

Date, JULY 3, 2014
 This is NOT a survey.

Exhibit "A"

912



APPENDIX 12