

**MOUNTAIN BROOK CITY COUNCIL  
PRE-MEETING DISCUSSION  
JANUARY 25, 2015**

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The City Council of the City of Mountain Brook, Alabama met in public session in the Pre-council Room (A106) of City Hall at 6:15 p.m. on Monday, the 25th day of January, 2016. The Council President called the meeting to order and the roll was called with the following results:

Present: Virginia C. Smith, Council President  
Jack D. Carl  
Lloyd C. Shelton  
Alice B. Womack  
Lawrence T. Oden, Mayor

Absent: William S. Pritchard, III, Council President Pro Tempore

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

**1. AGENDA**

1. Request for sidewalks or walking trail along Montclair Road from Memory Lane to Mountain Brook Park Condos – Darrell Meyer and Henry Fowlkes (Appendix 1). The consensus of the members present was that the City proceed [administratively] with engaging Sain Associates to perform a survey to determine the center line and right-of-way line. The results of the survey are expected to be available by the next meeting of the City Council for further consideration.
2. Westchester Circle parking issues - Chief Cook (Appendix 2). The consensus of the members present was that a fence/gate to limit pedestrian access to/from the school property is likely the best solution. The Police Chief is to meet with school officials for further discussion and report back to the City Council. It is also contemplated that some of the residents of Westchester Circle will be in attendance at the February 9, 2016 [pre]meeting of the City Council regarding two street light requests. The City Manager will include in a letter to the residents information about the parking issues and possible solutions along with information about the street light requests in order to inform residents of the discussion topics.
3. Agreement with Vestavia Hills for preliminary design for Cahaba River Road improvements – Ronnie Vaughn. Resolution No. 2016-015 was added to the formal meeting agenda. The members present were agreeable to committing to the preliminary engineering phase of the project but also insistent about seeing the improvement plan before committing to the construction phase of the project.
4. Extension of public assembly permit (Motion No. 2015-196) to include an additional weekend (February 6 and 7) due to poor weather last week – Corey Flowers. The City Manager is to obtain e-mail addresses from Christopher Architecture & Interiors for area residents and alert them as to the request to obtain their feedback on or before Monday, February 1. A decision as to whether to allow the extension or not will be made administratively after 5 p.m. January 29.
5. Review of matters to be considered at the 7:00 p.m. (official) meeting. The consensus of the members present was that the resolutions appeared to be in order and routine in nature and will be considered at one time on the consent agenda.

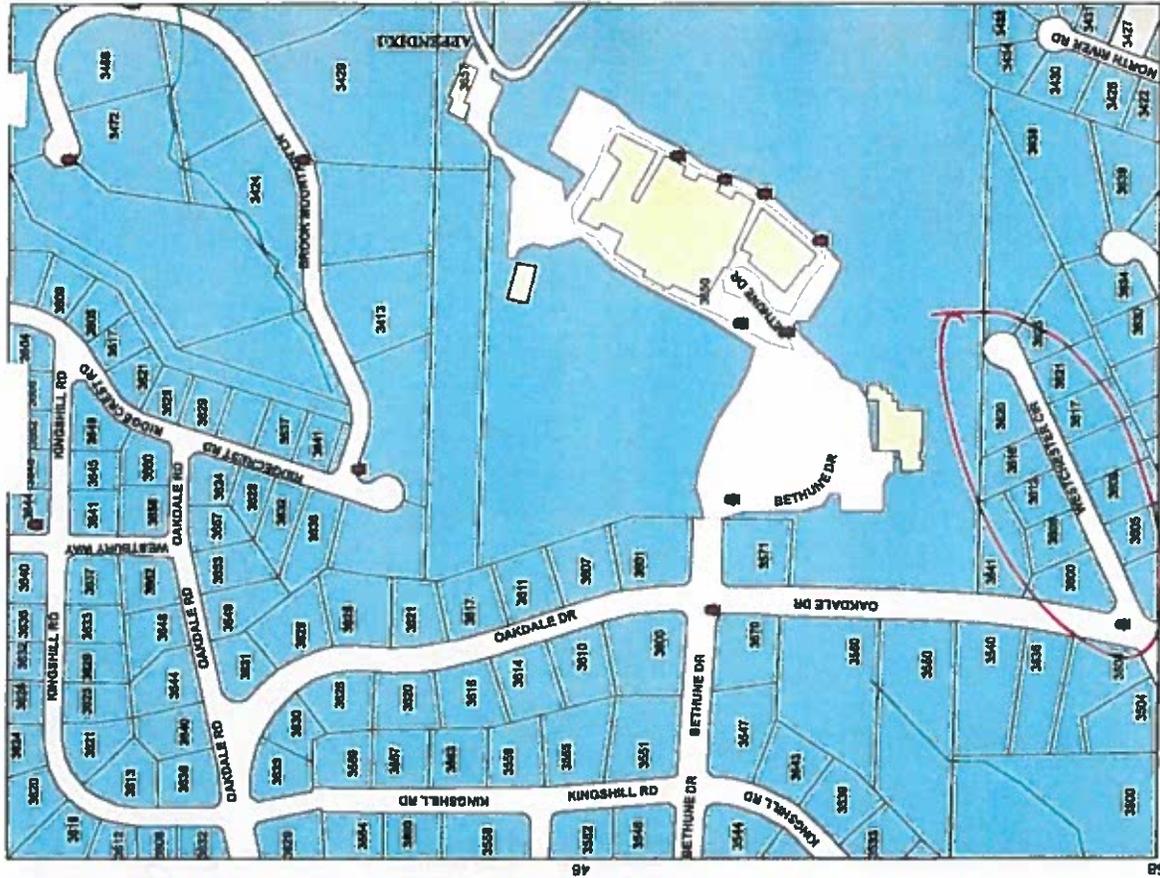
**2. CERTIFICATION**

I, Steven Boone, City Clerk of the City of Mountain Brook, Alabama, certify the above is a true and correct synopsis of the discussion from the meeting of the City Council of the City of Mountain Brook, Alabama held at City Hall, Pre-Council Room (A106) on January 25, 2016, and that the meeting was duly called and held in all respects in accordance with the laws of the State of Alabama and bylaws of the City and that no formal action or votes were conducted at said meeting.



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City Clerk



APPENDIX 1

**MONTCLAIR RD. SIDEWALK QUOTE FROM MEMORY LN. TO MOUNTAIN BROOK PARK CONDOS**

OPTION # 1 GRAVEL	
GRAVEL:	\$ 1,507.00
MISC MATERIALS:	\$ 2,000.00
4 POWER POLES RELOCATED:	\$ 16,000.00
1 WATER METER RELOCATED:	\$ 2,000.00
1 WATER SHUT OFF LOWERED:	\$ 2,000.00
EDGING MATERIAL:	\$ 1,865.00
SAFETY RAILING:	\$ 21,000.00
LANDSCAPING:	\$ 3,000.00
SURVEYING:	\$ 1,200.00
<b>TOTAL:</b>	<b>\$ 53,121.60</b>

THIS QUOTE HAS A 5% OVERAGE ADDED DUE TO THE CHANGING PRICES OF MATERIALS.

OPTION # 2 CONCRETE	
GRAVEL:	\$ 493.20
CONCRETE:	\$ 11,600.00
MISC. MATERIALS:	\$ 2,000.00
4 POWER POLES RELOCATED:	\$ 16,000.00
1 WATER METER RELOCATED:	\$ 2,000.00
1 WATER SHUT OFF LOWERED:	\$ 2,000.00
SAFETY RAILING:	\$ 21,000.00
LANDSCAPING:	\$ 3,000.00
SURVEYING:	\$ 1,200.00
<b>TOTAL:</b>	<b>\$ 62,257.86</b>

THIS QUOTE HAS A 5% OVERAGE ADDED DUE TO THE CHANGING PRICES OF MATERIALS.

APPENDIX 1



**MINUTES OF THE REGULAR MEETING OF THE  
CITY COUNCIL OF THE CITY OF MOUNTAIN BROOK, ALABAMA  
JANUARY 25, 2016**

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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 25th day of January, 2016. The Council President called the meeting to order and the roll was called with the following results:

**Present:** Virginia C. Smith, Council President  
Jack D. Carl  
Lloyd C. Shelton  
Alice B. Womack  
Lawrence T. Oden, Mayor

**Absent:** William S. Pritchard, III, Council President Pro Tempore

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

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

**1. 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 January 11, 2016 regular meeting of the City Council.

<b>2016-009</b>	Recognize Doris Kenny for her 15+ years of service to the City (Mayor Oden presented the resolution to Ms. Kenny and thanked her for her service to the City followed by a standing ovation from the elected officials and audience)	Exhibit 1
<b>2016-010</b>	Appoint K. C. Hairston as municipal court judge to replace Judge Pete Johnson (term of office to end February 1, 2018)	Exhibit 2, Appendix 1
<b>2016-011</b>	Authorize the installation of a street light between the houses located at 4402 and 4406 Briar Glen Circle	Exhibit 3, Appendix 2
<b>2016-012</b>	Approve the construction plans with respect to Alabama Department of Transportation Project CMAQ-NR13(908) Mountain Brook Sidewalks—Phase 9 along Brookwod Road, Crosshill Road, Oakdale Drive, Spring Valley Road and Woodvale Road and agreeing to perform ongoing maintenance related thereto	Appendix 3
<b>2016-013</b>	Authorize the renewal (one year extension) of the service agreement between the City and Birmingham History Center pursuant to the renewal terms specified in said contract as approved upon the adoption of Resolution No. 2015-028 on February 23, 2015, with respect to the management of the City's artifacts exhibit in a display case at City Hall	Exhibit 4, Appendix 4

- |                 |  |                                  |
|-----------------|--|----------------------------------|
| <b>2016-014</b> | <p>Authorize the execution of a contract for invasive plant removal services with Father Nature on the condition that contractor complies with the conditions specified in the contract including the provision of documentation regarding its herbicide application license on or before February 1, 2016; and, should Father Nature fail to satisfy the conditions specified hereinabove, the City Council hereby authorizes the execution of a contract for invasive plant removal services American Tree Maintenance</p> | <p>Exhibit 5,<br/>Appendix 5</p> |
| <b>2016-015</b> | <p>Authorize the execution of multi-jurisdictional agreement between the City of Mountain Brook, City of Birmingham, City of Vestavia Hills, and Jefferson County with respect to the preliminary engineering costs associated with certain grant-funded roadway improvements to be performed by the Alabama Department of Transportation along Cahaba River Road from Highway 280 to Key Drive conditioned upon the execution by all governments that are party to said agreement</p>                                       | <p>Exhibit 6,<br/>Appendix 6</p> |

Thereupon, the foregoing minutes and resolutions were introduced by Council President Smith and their immediate adoption was moved by Council member Shelton. The minutes and resolutions were then considered by the City Council. Council member Womack 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  
 Jack D. Carl  
 Lloyd C. Shelton  
 Alice B. Womack

Nays: None

Council President Smith thereupon declared that said Council minutes and resolutions (Nos. 2016-009 through 015) are adopted by a vote of 4—0 and as evidence thereof she signed the same.

## **2. ANNOUNCEMENTS 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, February 8, 2016 at 7:00 p.m. in the Council Chamber of City Hall located at 56 Church Street, Mountain Brook, AL 35213. Please visit the City's web site ([www.mtnbrook.org](http://www.mtnbrook.org)) for more information.

## **3. EXECUTIVE SESSION AND ADJOURNMENT**

There being no further business to come before the City Council, it was moved by Council member Womack that the City Council convene in executive session to discuss a matter involving a pending real estate negotiation, another matter involving potential litigation, and another matter involving good name and character of an individual. The motion was seconded by Council President Smith. The City Attorney certified that each of the subjects of the executive session is allowed pursuant to the Open Meetings Act. Then, upon the question being put and the roll called, the vote was recorded as follows:

Ayes: Virginia C. Smith, Council President  
 Jack D. Carl  
 Lloyd C. Shelton  
 Alice B. Womack

Nays: None

Council President Smith declared that the motion carried by a vote of 4—0 and then asked that the members of the audience be excused. She also announced that the City Council shall not reconvene upon conclusion of the executive session.

#### 4. CERTIFICATION

I, Steven Boone, City Clerk of the City of Mountain Brook, Alabama, certify the above is a true and correct transcript of the regular meeting of the City Council of the City of Mountain Brook, Alabama held at City Hall, Council Chamber (Room A108) on January 25, 2016, and that the meeting was duly called and held in all respects in accordance with the laws of the State of Alabama and bylaws of the City and that a quorum was present.

  
 \_\_\_\_\_  
 City Clerk

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#### EXHIBIT 1

#### RESOLUTION

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**WHEREAS**, Doris S. Kenny will retire from the City of Mountain Brook effective March 1, 2016, after a long and distinguished career that began on November 20, 2000; and

**WHEREAS**, Doris S. Kenny has served with dedication, professionalism, and always impeccable attire as Executive Assistant to the City Manager, Mayor and City Council; and

**WHEREAS**, Doris S. Kenny has continuously strived for excellence as demonstrated by her active involvement and participation in numerous professional associations, and her achievement of various professional certifications, recognitions, and honors including: International Association of Administrative Professionals (IAAP), Certified Professional Secretary certification, Office Executive Management certification (2002), accepted as a member of the Madison Area Technical College Chapter of the Phi Theta Kappa Honor Society (2003), Administrative Associate Degree from Madison Area Community College with a 4.0 GPA (2004), President of the 125-member Birmingham Chapter of IAAP (2003—2004), IAAP Birmingham Chapter and Alabama Administrative Professional of the Year (2004), IAAP Distinguished Chapter President (2005), and The Mountain Brook Chamber of Commerce “City of Mountain Brook Employee of the Year” (2006); and

**WHEREAS**, Doris S. Kenny has worked tirelessly, patiently and always “going the extra mile” assisting residents with business matters, problem resolutions, and providing information, and as such has proven to be an excellent ambassador for the City over her career; and

**WHEREAS**, it is the desire of the residents of the City of Mountain Brook to express their appreciation to Doris S. Kenny and recognize her for her unparalleled service to our City.

**NOW, THEREFORE**, be it resolved that the Mayor and City Council, on behalf of all the residents of Mountain Brook, do publicly thank Doris S. Kenny for her fifteen plus years of dedicated service and wish her well in her retirement and future endeavors.

Given under my hand and the City of Mountain Brook, Alabama, on this 25th day of January, in the year of our Lord, 2016, and of the Independence of the United States of America, the 240th.

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**EXHIBIT 2****RESOLUTION NO. 2016-010**

**BE IT RESOLVED** by the City Council of the City of Mountain Brook, Alabama, that K. C. Hairston is hereby appointed as a Municipal Court Judge of the City of Mountain Brook, with the term to end January 25, 2018.

**APPENDIX 1**  

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**EXHIBIT 3****RESOLUTION NO. 2016-011**

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

- (a) That the Alabama Power Company be requested to install a 150 W HPS Cobra street light on a new (secondary) 30 foot pole at 4406 Briar Glen Circle (see attached map/ illustration - Exhibit A).
- (b) That the City Clerk be directed to furnish the Alabama Power Company a certified copy of this resolution.

**APPENDIX 2**  

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**EXHIBIT 4****RESOLUTION NO. 2016-013**

**BE IT RESOLVED** by the City Council of the City of Mountain Brook, Alabama, that City Council hereby authorizes the renewal (one year extension) of the service agreement between the City and Birmingham History Center pursuant to the renewal terms specified in said contract as approved upon the adoption of Resolution No. 2015-028 on February 23, 2015, with respect to the management of the City's artifacts exhibit in a display case at City Hall.

**APPENDIX 4**  

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**EXHIBIT 5****RESOLUTION NO. 2016-014**

**BE IT RESOLVED** by the City Council of the City of Mountain Brook, Alabama that the City Council hereby authorizes the execution of a contract for invasive plant removal services with Father Nature on the condition that contractor complies with the conditions specified in the contract attached hereto as Exhibit A including the provision of documentation regarding its herbicide application license on or before February 1, 2016.

**BE IT FURTHER RESOLVED** by the City Council of the City of Mountain Brook, Alabama that should Father Nature fail to satisfy the conditions specified hereinabove, the City Council hereby authorizes the execution of a contract for invasive plant removal services American Tree Maintenance (also upon the condition that contractor complies with the conditions specified in the contract attached hereto as Exhibit A).

**APPENDIX 5**  

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**EXHIBIT 6****RESOLUTION NO. 2016-015**

**BE IT RESOLVED** by the City Council of the City of Mountain Brook, Alabama that the City Council hereby authorizes the execution of multi-jurisdictional agreement between the City of Mountain Brook, City of Birmingham, City of Vestavia Hills, and Jefferson County, in the form as attached hereto as Exhibit A, with respect to the preliminary engineering costs associated with certain grant-funded roadway improvements to be performed by the Alabama Department of Transportation along Cahaba River Road from Highway 280 to Key Drive conditioned upon the execution by all governments that are party to said agreement.

**APPENDIX 6**

**BALCH**  
& BINGHAM LLP

2016-010



**K.C. HAIRSTON**

**BIRMINGHAM**

Partner

kchairston@balch.com

T: (205) 226-3435

F: (205) 488-5862

K.C. HAIRSTON is a Partner at Balch & Bingham LLP. Prior to joining the firm, K.C. worked as an intern engineer for Southern Company Services, Inc. and Bechtel Engineering, Inc. Since being appointed by Birmingham Mayor Bernard Kincaid in 2003, K.C. has also served part-time as a Municipal Court Judge for the City of Birmingham.

Since 2001, K.C. has served as a general practitioner for the electric utility industry, representing companies across the United States in all stages of their power generation business. K.C.'s broad experience includes providing legal and regulatory support for purchasing or constructing new power plants; operating power plants; buying and selling power to the market; regulatory compliance; internal and external investigations; litigation; legislation; derivatives trading; hedging and general day-to-day legal/regulatory issues. K.C. routinely provides counsel to traditional utilities, independent power producers (merchant plants) and Energy Service Companies (ESCOs).

APPENDIX 1





Alabama Power Company  
Attn: Adam Swafford  
2 Industrial Park Drive  
Pelham, AL 35124

1/7/2016

**INVOICE**

**Customer Information**

Name: City of Mtn Brook  
 Address: 4406 Briar Glen Cir  
 City:  
 Phone:

**Invoice Information**

Invoice #:  
 Order No: A6173-60-A216  
 Rep:  
 FOB:

Quantity	Description	Unit Cost	Total
1	Upfront Payment for Additional Facilities for pole and secondary installed at 4406 Briar Glen Cir	\$1,609.06	\$1,609.06
<b>Total:</b>		<b>\$1,609.06</b>	

**Additional Comments**

This price is good for ninety (90) days.

**Payment Details**

Check (Make all checks payable to Alabama Power Company.)  
 Cash

Office Use Only

NOTE: For any questions regarding this invoice, please contact Adam Swafford at 205-226-1738.

2016011  
Version 1.2.2.3

January 7, 2016 9:28:17 AM



SAM S. GASTON  
CITY MANAGER

January 14, 2016

**CITY OF MOUNTAIN BROOK**

36 Church Street  
P.O. Box 130009  
Mountain Brook, Alabama 35213  
Telephone 205.807.3803  
Fax 205.870.3577  
gastons@mtnbrook.org

Dear Current Resident:

The City of Mountain Brook has received a request for a street light to be placed between 4402 and 4406 Briarglen Circle. (See attached map.)

The Mountain Brook City Council will consider this request at its January 25, 2016 meeting which will begin at 7:00 p.m. You are invited to attend this meeting to offer your comments.

If you cannot attend the City Council meeting on January 25<sup>th</sup> but would like to register your thoughts on this street light request, please contact me at 802-3800 or [gastons@mtnbrook.org](mailto:gastons@mtnbrook.org).

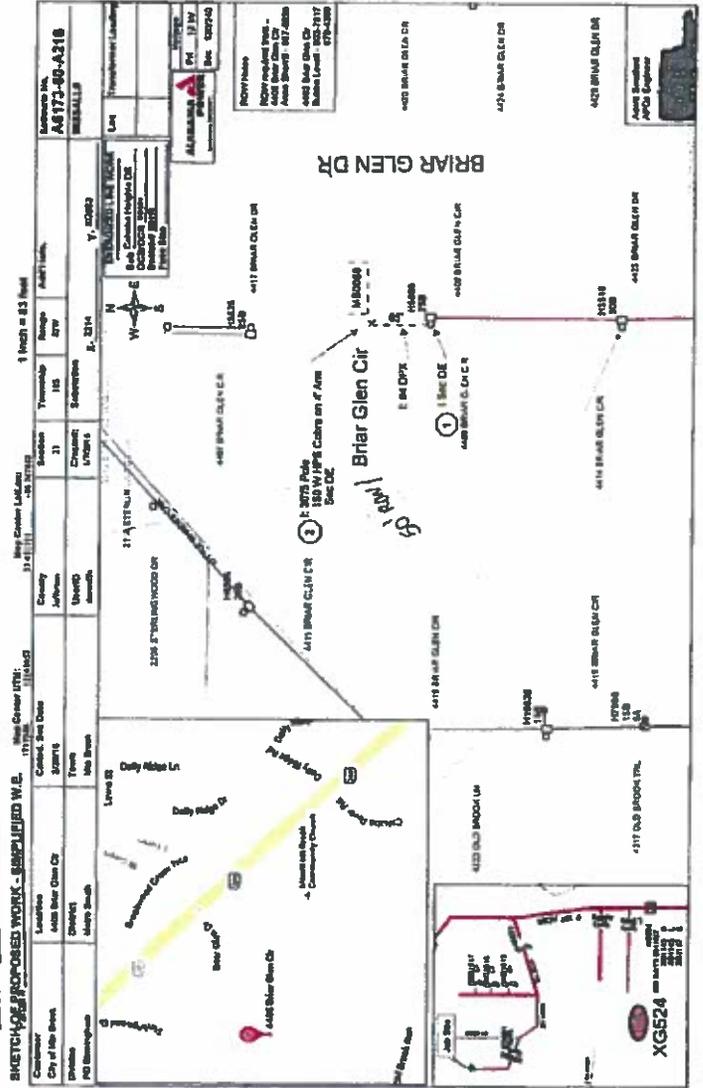
Sincerely,

Sam S. Gaston  
City Manager

APPENDIX 2



*Shannon Floyd*  
 Date: 1/27/2016  
 Date Checked: \_\_\_\_\_



County	Jefferson
Maped	March 2010
Section	31
Range	27W
Township	16S
Range	27W
Township	16S
Range	27W
Township	16S

4417 BRIAR GLEN DR  
 4418 BRIAR GLEN DR  
 4419 BRIAR GLEN DR  
 4420 BRIAR GLEN DR  
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 4428 BRIAR GLEN DR  
 4429 BRIAR GLEN DR  
 4430 BRIAR GLEN DR

Source of Title:  
 Deed Book 825, Page 81

EASEMENT - DISTRIBUTION FACILITIES  
 STATE OF ALABAMA  
 COUNTY OF JEFFERSON  
 W.E. No. A8173-60-A216  
 APCO Parcel No. \_\_\_\_\_  
 Transformer No. 145005  
 This instrument prepared by: Shannon D. Floyd  
 Alabama Power Company  
 2 Industrial Park Drive  
 Attn: Corp RE/Shannon Floyd  
 Phenix, AL 35124

KNOW ALL MEN BY THESE PRESENTS, That Anne Green Shearill, a widow,

as grantor(s), the "Grantor", whether one or more) for and in consideration of One and No/100 Dollar (\$1.00) and other good and valuable consideration paid to Grantor in hand by Alabama Power Company, a corporation, the receipt and sufficiency of which are hereby acknowledged, does hereby grant to Alabama Power Company, its successors and assigns (the "Company"), the easements, rights and privileges below:

**Overhead and/or Underground.** The right from time to time to construct, install, operate and maintain, erect, over, under and across the Property described below, all poles, towers, wires, cables, fiber optics, conduits, communication lines, transformers, enclosures, guy wires and other facilities useful or necessary to connection therewith (collectively, "Facilities"), for the overhead and/or underground transmission and distribution of electric power and communications, along a route selected by the Company, as generally shown on the Company's drawing attached hereto and made a part hereof, but which is to be determined by the actual location(s) in which the Company's facilities are installed. The width of the Company's easement will depend on whether the Facilities are underground or overhead: for underground, the easement will extend five (5) feet on each side of said Facilities as and where installed; for overhead Facilities, the easement will extend fifteen (15) feet on each side of the centerline of said Facilities as and where installed. The Company is granted the right to clear, and keep clear, all trees, undergrowth and other obstructions on a strip of land extending fifteen (15) feet from each side of the centerline of said overhead Facilities and the right in the future to install intermediate poles and facilities on said strip. Further, with respect to overhead Facilities, the Company is also granted the right to trim and cut, and keep trimmed and cut, all dead, weak, leaning or dangerous trees or limbs outside of the thirty (30) foot strip that, in the sole opinion of the Company, may now or hereafter endanger, interfere with, or fall upon any of said overhead Facilities.

Grantor hereby grants to the Company all easements, rights and privileges necessary or convenient for the full enjoyment and use hereof, including without limitation the right of ingress and egress to and from said Facilities, as applicable, and the right to excavate for installation, replacement, repair and removal thereof, and also the right to cut, remove and otherwise keep clear any and all structures, obstructions or obstacles of whatever character, on, under and above said Facilities, as applicable.

The easements, rights and privileges granted hereby shall apply to, and the word "Property" as used in this instrument shall mean, the following described real property situated in Jefferson County, Alabama (the "Property"): a parcel of land located in the NE 1/4 of the SE 1/4 of Section 21, Township 16 South, Range 2 West, more particularly described to find certain instrument recorded in deed book 825 page 81, in the office of the Judge of Probate of said County.

In the event it becomes necessary or desirable for the Company from time to time to move any of the Facilities in connection with the construction or improvement of any public road or highway in proximity to the Facilities, Grantor hereby grants to the Company the right to relocate said Facilities on the Property at a distance greater than ten feet (10') outside the boundary of the right of way of any such public road or highway to be established or re-established from time to time. This grant and agreement shall be binding upon and shall inure to the benefit of Grantor, the Company and each of their respective heirs, personal representatives, successors and assigns and the words "Company" and "Grantor" as used in this instrument shall be deemed to include the heirs, personal representatives, successors and assigns of such parties.

TO HAVE AND TO HOLD the same to the Company, its successors and assigns, forever

IN WITNESS WHEREOF, the undersigned Grantor has executed this instrument on this the 5<sup>th</sup> day of JANUARY, 2016.

*Edward Mason Lovell, Jr.*  
 Witness Signature  
 EDWARD MASON LOVELL, JR.  
 Print Name

*Anne Green Shearill* (REAL)  
 Anne Green Shearill (Grantor)  
 ANNE GREEN SHEARILL  
 Print Name

REV 10/12/11

Source of Title:  
Deed Book LR201580, Page 5331

**EASEMENT - DISTRIBUTION FACILITIES**

STATE OF ALABAMA  
COUNTY OF JEFFERSON  
W.E. No. A6173-80-A218  
APCO Parcel No. \_\_\_\_\_

Tract/Block No. H5805

This instrument prepared by: Sharon D. Floyd

Alabama Power Company  
2 Industrial Park Drive  
AHC Corp RE/Sharon Floyd  
Poham, AL 36124

KNOW ALL MEN BY THESE PRESENTS, That Jeannette A. Lovell and Edward Mason Lovell, Jr., a married couple

do grant(s), give "Grantor", whether one or more) for and in consideration of One and No/100 Dollars (\$1.00) and other good and valuable consideration paid to Grantor to land by Alabama Power Company, a corporation, the receipt and sufficiency of which are hereby acknowledged, does hereby grant to Alabama Power Company, its successors and assigns (the "Company"), the easements, rights and privileges below.

Overhead and/or Underground. The right from time to time to construct, install, operate and maintain, open, own, enter and across the Property described below, all poles, towers, wires, conduits, fiber optic, cables, communication lines, transformers, transmission, anchors, guy wires and other facilities useful or necessary in connection therewith (collectively, "Facilities"), for the overhead and/or underground transmission and distribution of electric power and communications, along a route selected by the Company, as generally shown on the Company's drawing attached hereto and made a part hereof, but which is to be determined by the actual location(s) in which the Company's facilities are installed. The width of the Company's easement will depend on whether the Facilities are underground or overhead: for underground, the easement will extend five (5) feet on each side of said Facilities as and where installed; for overhead Facilities, the easement will extend fifteen (15) feet on each side of the centerline of said Facilities as and where installed. The Company is granted the right to clear, and keep clear, all trees, undergrowth and other obstructions on a strip of land extending five (5) feet from each side of said underground Facilities, and to clear, and keep clear, all trees, undergrowth and other obstructions on a strip of land extending fifteen (15) feet from each side of the centerline of said overhead Facilities and the right in the future to install intermediate poles and facilities on said strips. Further, with respect to overhead Facilities, the Company is also granted the right to trim and cut, and keep trimmed and cut, all dead, weak, leaning or dangerous trees or limbs outside of the thirty (30) foot strip that, in the sole opinion of the Company, may now or hereafter endanger, interfere with, or fall upon any of said overhead Facilities.

Grantor hereby grants to the Company all easements, rights and privileges necessary or convenient for the full enjoyment and use thereof, including without limitation the right of ingress and egress to and from said Facilities, as applicable, and the right to excavate for installation, replacement, repair and removal thereof; and also the right to cut, remove and otherwise keep clear any and all structures, obstructions or obstacles of whatever character, on, under and above said Facilities, as applicable.

The easements, rights and privileges granted hereby shall apply to, and the word "Property" as used in this instrument shall mean, the following described real property situated in JEFFERSON County, Alabama (the "Property"): a parcel of land located in the NE 1/4 of the SE 1/4 of Section 21, Township 18 South, Range 2 West, more particularly described in that certain instrument recorded in deed book LR201580 page 5331, in the office of the Judge of Probate of said County.

In the event it becomes necessary or desirable for the Company from time to time to move any of the Facilities in connection with the construction or improvement of any public road or highway in proximity to the Facilities, Grantor hereby grants to the Company the right to relocate the Facilities and, as to such relocated Facilities, to exercise the rights granted above, provided, however, the Company shall not relocate said Facilities on the Property at a distance greater than ten feet (10') outside the boundary of the right of way of any such public road or highway as established or re-established from time to time. This grant and agreement shall be binding upon and shall inure to the benefit of Grantor, the Company and each of their respective heirs, personal representatives, successors and assigns and the words "Company" and "Grantor" as used in this instrument shall be deemed to include the heirs, personal representatives, successors and assigns of such parties.

TO HAVE AND TO HOLD the same to the Company, its successors and assigns, forever.

IN WITNESS WHEREOF, the undersigned Grantor has executed this instrument on this 8<sup>th</sup> day of JANUARY, 2016.

Anne G. Sherrill  
Witness Signature

ANNE G. SHERRILL  
Print Name

Anne G. Sherrill  
Witness Signature

ANNE G. SHERRILL  
Print Name

Jeannette A. Lovell (REAL)  
Jeannette A. Lovell (Grantor)

JEANNETTE A. LOVELL  
Print Name

Edward Mason Lovell, Jr. (REAL)  
Edward Mason Lovell, Jr. (Grantor)

EDWARD MASON LOVELL, JR.  
Print Name

REV 10/12/11

2016-012



ALABAMA DEPARTMENT OF TRANSPORTATION

ALBERT BOONBY, Governor



JOHN R. CASPER, Transportation Director

The Honorable Lawrence T. Olin, Mayor, City of Mountain Brook

B.E. Jefferson County, Project Number: CMAQ-NR11(001)

Dear Mayor Olin:

Attached you will find the Standard Project Resolution and Plans covering the above referenced project.

Please review these documents and, if all is in order, present them to the City Council of Mountain Brook for consideration and approval.

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, DuJern Lammont, P.E., E.I.T. Civil, Region Engineer

DJL:AT/STPB, Attachment C, Mr. Sanders P. P. Besser, F&E Unit

2016-012

RESOLUTION NO. 2016-012

WHEREAS, the City of Mountain Brook, Alabama (hereinafter at times referred to as City) is desirous of having certain improvements made within the City Limits of Mountain Brook, in accordance with plans prepared by the Alabama Department of Transportation and designated as Project Number: CMAQ-NR11(001) Mountain Brook Statewalks - Phase 9, along Brookwood Road, Croustill Road, Oakdale Drive, Spring Valley Road and Wandevale Road.

WHEREAS, The Alabama Department of Transportation is now or may later be desirous of receiving Federal Aid for improvement of said highway; and

WHEREAS, The Federal Highway Administration, an agency of the United States of America, will not participate in any funding for the construction of said project until and unless the City will agree to certain requirements of the Federal Highway Administration.

BE IT RESOLVED by the Council of Mountain Brook, that the plans of said project including alignment, profile, grades, typical sections and paving layouts as submitted to this City and which are now on file in the office of the City Clerk are hereby approved and that the location of said project to be marked out by the Alabama Department of Transportation and as shown by said plans referred to are hereby approved and the Alabama Department of Transportation, in cooperation with the Federal Highway Administration, is hereby authorized to proceed with the grading, drainage, paving, and otherwise improving and construction of said project in accordance with said plans.

The City by and through its Council hereby grants to the Alabama Department of Transportation the full use of and access to the dedicated width of any existing streets for the construction of said

project and hereby agrees to permit and allow the Alabama Department of Transportation to close and barricade the said project and intersecting streets for as long as necessary while the said project is being graded, drained, paved, and otherwise improved, and hereby agrees that the use of any street or highway for parking within an interchange area will not at any time be permitted.

The City hereby further agrees to adopt or pass such legally effective ordinances and/or laws as will permanently barricade and/or relocate certain intersecting streets as required by the State and to permanently deny or limit access at certain locations as required by the State along said improvements, all of which are more specifically stated as follows:

- N/A - This project does not require permanent barricade at relocation of any intersecting streets. Please refer to: Project Notes Sheet (Sheet 25) Please refer to: General Traffic Control Plan Notes (Sheet 27) Please refer to: Traffic Control Plan - Sequence of Construction (Sheets 11 - 20)

BE IT FURTHER RESOLVED by the City Council, that for and in consideration of the Alabama Department of Transportation in cooperation with the Federal Highway Administration, constructing said highway and routing traffic along the route through the City over said project, such City hereby agrees with the Alabama Department of Transportation and for the benefit of the Federal Highway Administration, that on the above mentioned project the City will not in the future permit encroachments upon the right of way; nor will it pass any ordinances or laws fixing a speed limit contrary to those limits provided for in Title 32, Chapter 5, Code of Alabama 1975, as amended, and other laws of Alabama; nor will it permit other than permitted parking in areas where parking is permitted, nor will it allow the placing

2016-012

2016-012

of any informational, regulatory, or warning signs, signals, median crossover, curb and pavement or other markings, and traffic signals without written approval of the Alabama Department of Transportation and the Federal Highway Administration, of the location, form and character of such installations. The traffic control devices and signs installed during construction, and those installed after completion of this project shall be in accordance with the latest edition of the national Manual on Uniform Traffic Control Devices and accepted standards adopted by the Alabama Department of Transportation of the State of Alabama and by the Federal Highway Administration. The City further agrees that subsequent traffic control devices deemed necessary by it in keeping with applicable statutes, rules and regulations to promote the safe and efficient utilization of the highway under the authority of Title 32, Chapter 5, Code of Alabama 1975, and all other applicable laws of Alabama, shall be subject to and must have the approval of the Alabama Department of Transportation of the State of Alabama and of the Federal Highway Administration, prior to installation and the City further agrees that it will enforce traffic and control the same under the provisions of Title 32, Chapter 5, Code of Alabama 1975, and other applicable laws of Alabama.

2016-012

BE IT FURTHER RESOLVED by the City Council:

- 1. That the City agrees to perform all maintenance on crossroads, service drives, or relocated roads that are not designated Federal or State highways that are in the jurisdiction of the City.
2. That the City agrees to perform all maintenance on any existing road which has been replaced by a new road; or, if the existing road is not used, the City has the system of viaduct signs.
3. That the City agrees to perform all maintenance on interchanges to the theoretical crossing of the ground across lanes.
4. That the City agrees to perform all maintenance on grade separations along the roadway to the end of the bridge, or the second screen fence, whichever the case.

It is understood and agreed that no changes in this Resolution or Agreement shall in the future be made without having obtained the prior approval of the Federal Highway Administration.

THIS RESOLUTION PASSED, ADOPTED, AND APPROVED this the 25th day of January, 2016

ATTEST

[Signature] City Clerk

[Signature] Mayor

I, the undersigned, Clerk of the City of Mountain Brook, do hereby certify that the above and foregoing is a true and correct copy of a resolution duly and lawfully adopted by the Council of the foregoing City, at its regular meeting held on the 25th day of January, 2016, which resolution is on file in the office of the City Clerk.

Witness under my hand and the official seal of such City this 25th day of January, 2016.

[Signature] CITY CLERK

APPENDIX 3 2016-0121

Contract for Services (Renewal 1)

This Contract for Services (the "Contract") is entered into between the Birmingham History Center (hereinafter referred to as "the Provider") and the City of Montevallo, Alabama (hereinafter referred to as "the Client").

WHEREAS, the Client hereby engages the Provider to provide the services described herein under "Scope and Manner of Services" (the "Services");

WHEREAS, the Provider hereby agrees to provide the Client with such Services in exchange for consideration described herein under "Payment for Services Rendered";

Now

This Contract shall commence on the date hereinafter set forth (March 4, 2015) (the "Effective Date") and shall continue in effect for one year. This contract may be renewed for up to two (2) more successive periods of one year each if, within thirty (30) days before the expiration of the then current term, the parties agree in writing to extend it for the following annual period.

Scope and Manner of Services

Agents of the Provider shall handle artifacts and donor-past labels from the collection of the Birmingham History Center in a display case provided by the Client at the Mountain Brook City Hall (address above) three times in a twelve month period (i.e., on every four months) beginning on the Effective Date (such artifacts shall be considered as loan items from the Provider. The Provider will furnish the Client on demand all artifacts that are made available on display, and the parties will execute the Loan-Out Agreement that is attached hereto when new artifacts are added for a four month period.

Display of Artifacts

The Provider shall display the artifacts in the case provided by the Client. The Client will reasonably cooperate with the Provider in these operations. As the time artifacts are displayed, the Provider will determine whether the conditions then existing adequately protect the objects from exposure to uncontrolled light, temperature and relative humidity extremes, pests, dirt, theft and handling by unauthorized persons.

Risk of Loss

The artifacts will be displayed in an area of City Hall that is accessible to the public during normal City operating hours. Provider will bear the risk of loss for the artifacts. Insurance for the artifacts on loan to the Client are covered by the Provider's collection insurance - Huntington T. Beck Insurance Agency, Inc., 1130

3000 Smart Way, 6th Floor, Washington, D.C. 20036. The Client agrees to provide security for the artifacts in a manner that is consistent with the terms of security provided in its public buildings.

Client shall bear the risk of loss for any damage or the destruction of the display case provided by the Client.

Payment for Services Rendered

The Client shall pay the Provider \$1,200.00 for each twelve month period in which Services are rendered.

Applicable Law

This Contract shall be governed by the laws of the State of Alabama and any applicable Federal law in violation of the agreement of the parties to the terms stated, their understanding, duty and contract representative hereby affix their signatures below.

Birmingham History Center

By \_\_\_\_\_

(Printed Name)

By \_\_\_\_\_

City of Montevallo, Alabama

By \_\_\_\_\_

Lawrence F. Olson

(Printed Name)

By \_\_\_\_\_

Date: January 25, 2016

Birmingham History Center  
1731 First Avenue North, Suite 123, Birmingham, AL 35203  
Telephone and fax: 205-382-4106 E-Mail: bghc@bham.net

Loan-Out # \_\_\_\_\_

Borrower (Person/Institution) \_\_\_\_\_

Borrower Signature \_\_\_\_\_

Address \_\_\_\_\_

Telephone # \_\_\_\_\_

The Borrower acknowledges that he/she has read the Conditions of the Loan-Out Agreement which are provided on the back of this page.

Approved by Museum Representative \_\_\_\_\_ Date of Loan Out \_\_\_\_\_

Duration of Loan Out \_\_\_\_\_

Date Returned \_\_\_\_\_

Received by \_\_\_\_\_

Description of Object(s) \_\_\_\_\_

Condition of Object(s) \_\_\_\_\_

Loan-Out Agreement - Page 2

(1) Loans Out are made by the Birmingham-Jefferson History Museum (the "Museum") to institutions and not to individuals, except under unusual circumstances. It is understood that the person signing the Loan-Out Agreement (the "Borrower") is an authorized representative of his/her institution or governing board and is responsible for ensuring that these Conditions are met.

(2) It is understood that the object(s) loaned on this agreement are in the condition in which they were loaned. It/they shall not be altered, cleaned, repaired or researched in any way, nor shall it/they be subjected to technical examination of any type without the written permission of the Museum. Photographs or reproductions are not allowed without prior written permission of the Museum. Pressure sensitive tape or labels, pins or holes or any ink shall not be used on the object(s).

Signature of Curator or Other Center Representative \_\_\_\_\_

City cannot control whether public takes photos or not.

Continuation of Description of Objects (if needed)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

RESOLUTION NO. 2015-011

BE IT RESOLVED by the City Council of the City of Montevallo, Alabama, that City Council hereby authorizes the execution of a loan-out agreement between the City and Birmingham Historical Center, in the form as attached hereto as Exhibit A, with respect to the management of the City's artifacts exhibit in a display case at City Hall.

ADOPTED: This 23rd day of February, 2015.

Tom C. Smith  
Council President

APPROVED: This 23rd day of February, 2015

Richard H. Olson  
Mayor

CERTIFICATION

I, Steven Boone, City Clerk of the City of the City of Montevallo, Alabama, hereby certify that the above is a true and correct copy of a resolution adopted by the City Council of the City of Montevallo at its meeting held on February 23, 2015, as same appears in the minutes of said meeting.

Steven Boone  
City Clerk

Minute Book 87  
2016-013

Contract for Services

This Contract for Services (the "Contract") is entered into between the Birmingham History Center...

WHEREAS, the Client hereby engages the Provider to provide the services described herein under...

IN WITNESS WHEREOF, the Provider hereby agrees to provide the Client with such services in exchange for...

Term

This Contract shall commence on the date last signed below by a party (the "Effective Date") and...

Scope and Number of Services

Items of the Provider shall include artifacts and descriptive labels from the collection of the...

Display of Artifacts

The Provider shall display the artifacts in the case provided by the Client. The Client will maintain...

Risk of Loss

The artifacts will be displayed in an area of City Hall that is accessible to the public during normal City...

2015-038

2015 Iron Case, 6th Floor, Birmingham, B.C. 35203. The Client agrees to provide security for the artifacts in a...

Client shall bear the risk of loss for any damage or the destruction of the display case provided by the...

Payment for Services Rendered

The Client shall pay the Provider \$1,000.00 for each weekly month period in which Services are...

Applicable Law

This Contract shall be governed by the laws of the State of Alabama and any applicable Federal law...

In witness of the agreement of the parties to the terms above, their undersigned, their authorized...

Birmingham History Center

By: [Signature]
Printed Name

By: Executive Director
Date: 2/4/15

By: [Signature]
Printed Name

By: Lawrence T. Odum
Printed Name

By: Mayor
Date: February 23, 2015

Irondale Case
Mountain Brook City Hall
Artifact List
(to be attached to loan agreement)

Table with 2 columns: Item, Item Number. Lists various artifacts like Pig Iron, Decorative Cast Iron, Door Hook or Keeper, etc.

Birmingham History Center
1211 First Avenue North, Suite 1203, Birmingham, AL 35203
Telephone and Fax: 205-252-4146, 2-6444; info@birminghamhistorycenter.org
Loan-out Agreement

Lend-Out # \_\_\_\_\_

Borrower Name/Institution \_\_\_\_\_

Borrower Institution \_\_\_\_\_

Address \_\_\_\_\_

Telephone # \_\_\_\_\_

The Borrower acknowledges that he/she has read the Conditions of this Loan-Out Agreement which are...

Approved by Museum Representative \_\_\_\_\_ Date of Loan-Out \_\_\_\_\_

Duration of Loan-Out \_\_\_\_\_

Date Returned \_\_\_\_\_

Received by \_\_\_\_\_

Signature of Borrower \_\_\_\_\_

Signature of Lender \_\_\_\_\_

Condition of Object \_\_\_\_\_

Loan-Out Agreement - Page 2

(1) Loan-Outs are made by the Birmingham Jefferson History Museum (the "BHM") to...

(2) It is understood that the objects loaned on this agreement are in the condition in which they...

Signature of Curator or Other Center Representative \_\_\_\_\_

Continuation of Description of Objects (if needed)

Blank lines for continuation of description of objects.

2016-014

January 25, 2016

The City has received two proposals in response to its RFP for a contract to remove invasive plants from Jerimison Park. Father Nature Landscapes (Father Nature) submitted the Response that is most favorable to the City on this project. I request that the City Council pass a Resolution at tonight's meeting for the City to award this contract to Father Nature for this project and authorize the Mayor to execute such contract on behalf of the City, subject to the following conditions:

- (a) One of the requirements in the RFP for this project is that the successful contractor possesses a current pesticide applicator's license. Father Nature has held such a license in the past, and it currently is in the process of renewing that license;
- (b) If Father Nature does not satisfy the pesticide applicator's licensing requirement by Thursday, January 28, 2016, the award of this contract shall be made to the respondent who submitted the second most favorable response to the City, American Tree Maintenance, Inc; and
- (c) The form and terms of this contract that the City enters with the successful contractor on this project is subject to the approval of the City Attorney and the Mayor.

Shanda Williams

INVASIVE PLANT REMOVAL CONTRACT - JERIMISON PARK

This Invasive Plant Removal Contract - Jerimison Park (the "Contract") is made by and between Father Nature Landscapes of Birmingham, Inc. (the "Contractor") and the City of Mountain Brook, Alabama, on behalf of its Parks and Recreation Department (the "City"), effective as of the date last signed below by a party (the "Effective Date").

WHEREAS, in its Request for Proposals dated January 5, 2016, the City previously invited interested contractors to submit proposals to perform services for the Removal & Management of Invasive Plants & Noxious Weeds at Jerimison Park (the "RFP"), which RFP is incorporated herein by reference;

WHEREAS, the Contractor completed and submitted a RESPONSE FORM - INVASIVE PLANT MANAGEMENT RFP dated January 7, 2016 (the "Contractor Proposal"), which Contractor Proposal is incorporated by reference herein;

WHEREAS, the City has determined that the Contractor Proposal was the most favorable response submitted to the City for the RFP; and

WHEREAS, the City and Contractor deem it desirable to formalize and memorialize the terms and conditions of this Contract for the Contractor to perform the services and work set forth in the RFP pursuant to its terms.

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

1. **Services.** Contractor shall provide the services for the Removal & Management of Invasive Plants & Noxious Weeds at Jerimison Park (the "Services") for the City in accordance with the terms, provisions, and specifications in the RFP.
2. **Compensation.** The City will compensate the Contractor for the Services based on the amounts set forth in the Contractor's Proposal and according to the provisions of Section 2.15 of the RFP.
3. **Term.** The period in which the Contractor may perform Services is set forth in Sections 2.2 and 2.3 of the RFP (the "Term"). Notwithstanding any other provision herein or in the RFP, the Contract may be terminated before the expiration of its Term on the occurrence of any of the following:
  - (a) **Termination for Cause by City.** If the Contractor fails to perform any material obligation in the Specifications or this Contract (a "Default"), the City may terminate the Contract for cause on seven (7) days' advance written notice to Contractor; provided that the Contractor shall have a reasonable opportunity to cure or correct any deficiency in performance that is the basis of the proposed termination for cause. This termination remedy is in addition to any other remedy or right provided to the City in the Contract or available by law that arises from a Default;

APPENDIX 5

- (b) **Termination for Cause by Contractor.** If the City does not perform a material obligation in the Specifications or in this Contract, the Contractor may terminate the Contract for cause on thirty (30) days' advance written notice to the City; provided that the City shall have a reasonable opportunity to cure or correct any deficiency in performance that is the basis of the proposed termination for cause; and
- (c) **Termination for Convenience.** At its convenience and without the occurrence or declaration of a Default, the City may terminate the Contract without cause on thirty (30) days' advance written notice to the Contractor; provided that, in the event of any such termination, the City shall remain obligated to compensate the Contractor all Services successfully performed prior to termination.

4. **Contract Representatives.** Each party shall appoint a representative(s) who shall coordinate with the other party on matters pertinent to the performance of the Services and the administration of this Contract (the "Contract Representative(s)").

The City's Contract Representative is:

Shanda Williams  
Parks & Recreation Superintendent, City of Mountain Brook  
3698 Bethune Drive  
Mountain Brook, AL 35223  
Email: williams@mountainbrook.org  
Tel No: 205-802-3879

The Contractor's Contract Representative is:

Daniel L. McCarty  
P.O. Box 430056  
Birmingham, AL 35243  
Email: Daniel@fathernaturelandscapes.com  
Tel No: 205-333-4809

The Contract Representatives designated above shall have the authority to act on behalf of its respective organization to transmit instructions, receive information and administer the Contract consistent with its terms and conditions. Either party may designate a Contract Representative other than the person named above upon provision of written notice to the other.

4. **Notices.** Any notice required hereunder shall be sufficiently given when given in writing and sent to the appropriate Contract Representative(s) via United States certified mail, return receipt requested, or via overnight courier with receipt verification to the address set forth herein, or by personally delivering such notice to that party.

5. **Dispute Resolution.** The Contract Representatives of the parties will use their good faith efforts to resolve any dispute or claim between them arising from the performance or failure to perform their respective obligations under this Agreement (a "Dispute"). In the event that those Representatives are unable to amicably resolve a Dispute, it will be escalated to the senior manager/official level of each party for consideration. If the Dispute cannot be resolved at the senior official level, either party may request that the Dispute be mediated.

However, if the parties are unable to amicably resolve any Dispute, the dispute resolution mechanism for any claim between the parties shall be litigation in a court that is located in Jefferson County, Alabama. If (i) the City should employ attorneys or incur other expenses in any legal action regarding a Dispute, and (ii) the City secures a final judgment before a court of competent jurisdiction or obtains other relief from an administrative body related thereto against the City, the Contractor will reimburse the City for its reasonable attorneys' fees and other reasonable expenses that are incurred in that action.

6. **Indemnification by Contractor/Insurance Requirements.**

(a) **Indemnification.** The Contractor's indemnification obligations to the City are set forth in Section 2.14 of the RFP.

(b) **Insurance Requirements.** The Contractor's insurance requirements are set forth in Section 2.11 of the RFP.

7. **Representations of Contractor.** As further inducement to enter this Contract, the Contractor represents and warrants each of the following to the City:

- (a) that it will perform the Services and work in a good and workmanlike manner; and
- (b) that all actions required to be taken by it or on its behalf to execute the Contract, and to perform its obligations and agreements hereunder, have been duly taken.

8. **Ineffective Provisions in Contractor Documents.** Notwithstanding any provision, term or condition stated in a work or purchase order, proposed agreement, invoice or other document generated by the Contractor in connection with the Services or work contemplated hereunder, the parties understand, agree and covenant as follows:

- (a) The City shall not be liable to the Contractor 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;
- (b) The City shall not be liable for any late payment charges, interest, or fees on any delinquent billing for goods, materials, or services;
- (c) The City will 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 Contract or the performance or nonperformance thereof; and
- (d) Unless expressly stated in the Contract, the City does not waive their right to assert or pursue any remedy or claim for relief of any kind that it may have against the Contractor or any other person, firm, or entity for any actual or alleged default or other breach of legal duty on the part of the Contractor or any person, firm, or entity in privity therewith or acting on Contractor's behalf in connection with the performance of the Services or work. Any limitation or restriction regarding the type, nature, form, amount, or extent of any right, remedy, relief, or recovery that would otherwise be available to the City is expressly disavowed, excluded from the terms of the Contract, and void.

9. No Subcontracting Without Consent. Without the written consent of the City, which may be withheld for any reason, the Contractor may not relet or subcontract with another entity to assist the Contractor to perform the Services and requirements in this Contract. If a subcontractor is approved and performs work contemplated by this Contract, the Contractor shall remain responsible to the City for the actions, conduct and performance of the subcontractor (and any of its agents, employees or representatives), and any work performed by a subcontractor shall be considered as having been rendered by the Contractor and directly provided by it.

10. Miscellaneous Provisions.

(a) During the Term of this Contract, Company agrees to comply with all regulations and laws concerning the performance of its Services or work, including, but not limited to, laws concerning the safety, inspection, maintenance, and operation of its equipment and employment laws concerning its workers.

(b) The Contractor is an independent contractor of the City. This Contract does not create any partnership, joint venture or principal-agent relationship between the Contractor and the City. Further, the City remains no control or authority with respect to its means and methods in which the Contractor (or any of its employees, representatives or subcontractors) performs its work.

(c) The Contractor may not assign this Contract, or any of its rights, obligations or the benefits hereunder, to any other party without prior written approval of the City, which approval may be withheld for any reason.

(d) The Contract is made only for the benefit of the City and the Contractor. It is not intended, nor shall it be construed, to grant or bestow any benefit, right or privilege to any third party.

(e) This Contract (which includes the RFP, the specifications and conditions in the RFP and the Contractor Response) comprises the entire agreement between the parties. These terms herein supersede all prior negotiations, representations or agreements, either written or oral, concerning the subjects herein, and any such prior understandings concerning these matters are of no effect and are merged into this Contract.

(f) This Contract may be amended or modified only by written instrument signed by both parties.

(g) This Contract may be executed in counterparts each of which when executed by the parties shall be deemed to be a complete original. Copies of this Contract showing the signatures of the respective parties, whether produced by photographic, digital, computer, or other reproduction, may be used for all purposes as originals, and shall have the same legal force and effect as an original document.

(h) Any forbearance or delay on the part of the City in enforcing any of its rights under this Contract shall not be construed as a waiver of those rights. No terms of this Contract shall be waived by the City unless expressly waived in writing.

(i) If any provision of this Contract is held to be invalid, illegal or unenforceable by a court of competent jurisdiction, the remaining provisions of it shall remain in full force and effect.

(j) In the event of a conflict between any terms or provision in the RFP or Contractor Response and those in this Contract, the provisions in this Contract shall control and govern.

(k) Exclusion of Consequential Damages. NOTWITHSTANDING ANY OTHER PROVISION IN THIS AGREEMENT, THE CONTRACTOR AGREES THAT, IN THE EVENT IT MAKES OR ASSERTS ANY CLAIM, DEMAND OR ACTION OF ANY TYPE AGAINST THE CITY ARISING FROM ITS ALLEGED BREACH OF THIS CONTRACT OR ITS FAILURE TO PERFORM ANY OF ITS OBLIGATIONS HEREUNDER, THE MAXIMUM AMOUNT THAT THE CONTRACTOR MAY RECOVER FROM THE CITY AS DAMAGES IN ANY SUCH ACTION IS LIMITED TO THE CONTRACTOR'S ACTUAL, DIRECT DAMAGES ARISING FROM THE CITY'S BREACH. THE CONTRACTOR AGREES AND ACKNOWLEDGES THAT THE TERMS IN THIS PROVISION WERE PROPOSED AND BASED ON THE ASSUMPTION THAT THIS SPECIFIC LIMITATION IS APPLICABLE, AND THAT THE CITY WOULD NOT HAVE ENTERED INTO THIS CONTRACT WITHOUT THE INCLUSION OF THIS LIMITATION. IN NO EVENT WILL THE CITY BE LIABLE TO THE CONTRACTOR FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, PUNITIVE, RELIANCE OR SPECIAL DAMAGES (INCLUDING WITHOUT LIMITATION DAMAGES FOR LOST PROFITS, LOST ADVANTAGE, LOST OPPORTUNITY, LOSS OF SAVINGS OR REVENUES OR FOR INCREASED COST OF OPERATIONS) ARISING FROM ANY BREACH OR ALLEGED BREACH OF THIS AGREEMENT BY THE CITY.

(l) Choice of Law. The meaning, legal effect, and enforcement of terms and provisions of the Contract and the resolution of any disputes arising thereunder or relating thereto shall be governed by the laws of the State of Alabama, except to the extent otherwise required by applicable conflict-of-law principles.

(m) Construction of Contract. Nothing in this Contract shall be construed to create or impose any duty or liability on the City, to create a right or remedy in favor of the Contractor against the City, or to restrict or abrogate any right or remedy that is available to the City against the Contractor or any other person, firm, or entity. Furthermore, in the event that any ambiguity in the terms of this Contract is determined to exist, no presumption shall be made that either of the parties drafted the Contract.

(n) Integration Law Compliance. The Contractor agrees to comply with the requirements of Section 2.8 of the RFP.

(o) Audit/Contractor's Retention of Records. Upon reasonable advance notice from the City, the Contractor, at its expense, agrees to produce records maintained by it with respect to the Services performed by it under this Contract and otherwise participate in an audit designed by the City to evaluate whether the Contractor is properly completing, accounting and performing the Services and transactions that are contemplated hereunder. To facilitate any such audit, the Contractor agrees that, for a period of no less than (2) years following the performance of Services or the expiration (or earlier termination) of this Contract, it will maintain its reports, logs and records concerning its performance of Services or work, and the accounting, billing or other financial records that the Contractor generates regarding same.

(Signature Page Follows)

APPENDIX 5

In Witness Whereof, the undersigned, duly authorized representatives of the parties have executed this Contract on behalf of their respective organization.

ATTEST  
By: [Signature]  
For: City Clerk  
Date: 12 Feb 2016

FATHER NATURE LANDSCAPES OF BIRMINGHAM, INC. (CONTRACTOR)  
By: [Signature]  
For: President  
Date: 12 Feb 2016

ATTEST  
By: [Signature]  
For: City Clerk  
Date: February 2, 2016

CITY OF MOUNTAIN BROOK, ALABAMA (CITY)  
By: [Signature]  
For: City Manager  
Date: February 2, 2016

**ACORD CERTIFICATE OF LIABILITY INSURANCE**

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AFFECT, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURANCE, AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

**IMPORTANT:** If the certificate holder is an ADDITIONAL INSURED, the policyholder must be endorsed if SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

**Insured:** Father Nature Landscapes of Birmingham, PO Box 43806, Birmingham, AL 35214

**Policy:** 98012814, 09/01/2014 - 09/30/2016

**Coverages:**

TYPE OF COVERAGE	FORM	CLASSIFICATION	START DATE	END DATE	AMOUNT	COVERAGE
Commercial General Liability	2003	0000	09/01/2014	09/30/2016	1,000,000	Each Occurrence
Product/Completed Operations	2003	0000	09/01/2014	09/30/2016	1,000,000	Each Occurrence
Auto Liability	2003	0000	09/01/2014	09/30/2016	1,000,000	Each Occurrence
Medical Payments	2003	0000	09/01/2014	09/30/2016	1,000,000	Each Occurrence
Advertising and Public Relations	2003	0000	09/01/2014	09/30/2016	1,000,000	Each Occurrence
Contractors Pollution Liability	2003	0000	09/01/2014	09/30/2016	1,000,000	Each Occurrence
Professional Liability	2003	0000	09/01/2014	09/30/2016	1,000,000	Each Occurrence
Directors and Officers	2003	0000	09/01/2014	09/30/2016	1,000,000	Each Occurrence
Employers Liability	2003	0000	09/01/2014	09/30/2016	1,000,000	Each Occurrence
Umbrella	2003	0000	09/01/2014	09/30/2016	1,000,000	Each Occurrence

**CERTIFICATE HOLDER:** Father Nature Landscapes of Birmingham, Inc.

**CANCELLATION:** SHOULD ANY OF THE ABOVE DESCRIBED POLICES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

[Signature]  
Natalie J. Glover

ACORD 56 (08/04/01) The ACORD name and logo are registered marks of ACORD.



**VESTAVIA HILLS**

A LIFE ABOVE

ALBERTO C. ZARAGOZA, JR.  
*Mayor*

JEFFREY DOWNES  
*City Manager*

January 6, 2016

Sam Gaston, City Manager  
City of Mountain Brook  
56 Church Street  
Mountain Brook, AL 35213

Dan Bilcs, Deputy County Manager  
Jefferson County Commission  
716 Richard Arrington Jr. Blvd. N.  
Birmingham, AL 35203

Andre V. Bittas, Director  
City of Birmingham  
Dept. of Planning, Eng. & Permits  
710 20<sup>th</sup> Street N., Rm. 220  
Birmingham, AL 35203

Fred T. Hawkins, City Engineer  
City of Birmingham  
Dept. of Planning, Eng. & Permits  
710 20<sup>th</sup> Street N., Rm. 220  
Birmingham, AL 35203

RE: Proposed Resurfacing and Improvement to Cahaba River Road

Dear Sam, Dan, Andre and Fred:

I am writing to follow up from our previous conversations regarding proposed road improvements to Cahaba River Road from Highway 280 to Key Drive. As you know, this is a quickly changing transportation route given the opening of Grandview Medical Center, Patchwork Farms, and residential development. Furthermore, segments of the roadway lie within all of our jurisdictions. It is the goal of the City of Vestavia Hills to work with your jurisdictions to begin engineering and construction of road improvements as soon as possible. The MPO currently has allocated federal funding to cover 80% of preliminary engineering, right-of-way, utility relocation, and construction costs associated with this effort.

VHIAL.ORG

VESTAVIA HILLS CITY HALL  
1032 MONTGOMERY HWY  
VESTAVIA HILLS, AL 35216

P.O. BOX 660814  
VESTAVIA HILLS, AL 35266-0814  
101 978 0100

Cahaba River Road Improvements

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January 6, 2016

I request confirmation of your entities' willingness to share a proportionate cost of preliminary engineering to kick off this effort, and after evaluation of the scope of work associated with each entity's road segments, agree to a cost share of the right-of-way, utility, and construction costs to be determined after engineering analysis. I have included an exhibit detailing the road segments, cost analysis, and a proposed multijurisdictional agreement (patterned after the Sicard Hollow Rd resurfacing agreement). The Vestavia Hills City Council passed Resolution Number 4782 in support of this effort contingent on all jurisdictions' agreement. Please let me know if your entity is willing to participate in the project.

As always, I appreciate your support of these regional efforts to improve our transportation infrastructure.

Sincerely,

  
Jeffrey Downes  
City Manager

JDD/mnh

Enclosure

CC: Christopher Brady, City Engineer, City of Vestavia Hills  
Keith Strickland, Municipal Dept. Mgr., Goodwyn Mills & Cawood

2016-015

Minute Book 87

827



**RESOLUTION NUMBER 4782**

A RESOLUTION AUTHORIZING THE MAYOR AND CITY MANAGER TO EXECUTE AND DELIVER A MULTI-JURISDICTIONAL AGREEMENT WITH JEFFERSON COUNTY AND THE CITIES OF MOUNTAIN BROOK AND BIRMINGHAM FOR PROJECT NUMBER STPBH-37150 CAHABA RIVER ROAD FROM SR-38 (US 280) TO KEY DRIVE

WHEREAS, Jefferson County and the Cities of Vestavia Hills, Mountain Brook and Birmingham desire to make certain improvements to Cahaba River Road from Highway 280 to Key Drive (Project); and

WHEREAS, the Project traverses through all four jurisdictions; and

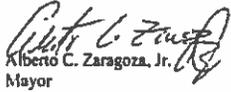
WHEREAS, all four parties desire to divide the costs pursuant to the terms and conditions of a multi-jurisdictional agreement (Agreement), a copy of which is marked as "Exhibit A," attached to and incorporated into this Resolution Number 4782 as though written fully therein; and

WHEREAS, the Mayor and City Council find it is in the best public interest to participate in said Agreement.

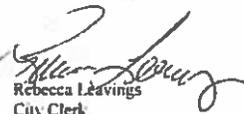
NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF VESTAVIA HILLS, ALABAMA, AS FOLLOWS:

1. The Mayor and City Manager are hereby authorized to execute and deliver said Agreement as detailed in Exhibit A; and
2. This Resolution Number 4782 is conditioned upon successful execution by all jurisdictions; and
3. This Resolution Number 4782 is effective immediately upon adoption and approval.

ADOPTED and APPROVED this the 28<sup>th</sup> day of December, 2015.

  
Alberto C. Zaragoza, Jr.  
Mayor

ATTESTED BY:

  
Rebecca Leavings  
City Clerk

APPENDIX 6

JEFFERSON COUNTY  
STATE OF ALABAMA

AGREEMENT  
TO  
SHARE RESPONSIBILITIES  
(Joint Services Agreement)

Various Roadway Improvements on Cahaba River Road  
From Highway 280 to Key Drive

The CITY OF VESTAVIA HILLS, ALABAMA (Vestavia), JEFFERSON COUNTY, ALABAMA (County), the CITY OF BIRMINGHAM, ALABAMA (Birmingham), and the CITY OF MOUNTAIN BROOK, ALABAMA (Mountain Brook), enter into this agreement on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_. The provisions of this agreement shall become effective \_\_\_\_\_, 20\_\_.

WHEREAS, Vestavia, the County, Birmingham, and Mountain Brook, desire to make certain improvements to Cahaba River Road from Highway 280 to Key Drive (Project); and

WHEREAS, the Project traverses through the four jurisdictions, Vestavia, County, Birmingham, and Mountain Brook; and

WHEREAS, all four parties desire to divide the Preliminary Engineering costs based on the percentage of the Project in each jurisdiction as follows: Vestavia, the County, Birmingham, and Mountain Brook will divide the responsibility as follows: Vestavia responsibility being 26% of the costs, County responsibility being 36% of the costs, Birmingham responsibility being 32% of the costs, and Mountain Brook responsibility being 5% for the costs. Vestavia, the County, Birmingham, and Mountain Brook desire to establish their agreement herewith; and

WHEREAS, a copy of the projected preliminary engineering costs as approved by ALDOT is included as an exhibit and represent a not to exceed cost for each entity

WHEREAS, the Alabama Legislature adopted Alabama Code §41-16-50(b) which provides in pertinent part, that:

(b) The governing bodies of two or more contracting agencies, as enumerated in subsection (a), or the governing bodies of two or more counties, or the governing bodies of two or more city or county boards of education, may provide, by joint agreement, for the purchase of labor, services, or work, or for the purchase or lease of materials, equipment, supplies, or other personal property for use by their respective agencies. The agreement shall be entered into by similar ordinances, in the case of municipalities, or resolutions, in the case of other contracting agencies, adopted by each of the participating governing bodies, which shall set forth the categories of labor, services, or work, or for the purchase or lease of materials, equipment, supplies, or other personal property to be purchased, the manner of advertising for bids and the awarding of contracts, the method of payment by each participating contracting agency, and other matters deemed necessary to carry out the purposes of the agreement. Each contracting agency's share of expenditures for purchases under any agreement shall be appropriated and paid in the manner set forth in the agreement and in the same manner as for other expenses of the contracting agency. The contracting agencies entering into a joint agreement, as herein permitted, may designate a joint purchasing or bidding agent, and the agent shall comply with

Joint Services Agreement: Various Roadway Improvements on Cahaba River Road from Highway 280 to Key Drive  
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this article. Purchases, contracts, or agreements made pursuant to a joint purchasing or bidding agreement shall be subject to all terms and conditions of this article.

; and

WHEREAS, the Alabama Legislature adopted Alabama Code §11-102-1 which provides that:

Except as otherwise provided in this chapter or as otherwise prohibited by law, any county or incorporated municipality of the State of Alabama may enter into a written contract with any one or more counties or incorporated municipalities for the joint exercise of any power or service that state or local law authorizes each or the contracting entities to exercise individually. For purpose of this chapter, it is sufficient if each of the contracting entities has the authority to exercise or perform the power or service which is the subject of the contract regardless of the manner in which the power or service shall be exercised or performed, provided that at least one of the contracting parties has the authority to exercise their power or service in the manner agreed upon by the parties. The joint contract may provide for the power or service to be exercised by one or more entities on behalf of the others or jointly by the entities.

; and

WHEREAS, all parties find that it is in the public interest that the parties enter into a joint purchasing/service agreement in accordance with the Alabama Code §41-16-50(b) and §11-102-1, et seq., in order to authorize the City of Vestavia Hills to engage in the purchase of certain services and materials through the competitive bid process for use by the parties, i.e. in order for Vestavia, the County, Birmingham, and Mountain Brook, to make certain improvements to Cahaba River Road from Highway 280 to Key Drive.

IN CONSIDERATION OF THE PREMISES stated herein Vestavia, the County, Birmingham, and Mountain Brook mutually agree as follows:

- I. PURPOSE: The Parties agree to jointly undertake to provide for the following improvements to Cahaba River Road from Highway 280 to Key Drive (Project): milling, resurfacing, and other necessary repairs (including storm drains, inlets and road capacity expansion) to the road bed for placement of the final pavement wearing surface.
- II. RESPONSIBILITIES: The Parties have authorized this agreement pursuant to similar ordinances passed by Vestavia, Birmingham, and Mountain Brook and a similar resolution passed by the County, adopted by the governing body of each party, which sets forth the categories of labor, services, or work, or for the purchase or lease of materials, equipment, supplies, or other personal property to be purchased, the manner of advertising for bids and the awarding of contracts, the method of payment by each participating contracting agency, and other matters deemed necessary to carry out the purposes of this agreement. The Parties agree to the following:
  - a. Vestavia, the County, Birmingham, and Mountain Brook jointly agree that Goodwyn, Mills, and Cawood (GMC) is an authorized professional services organization authorized to perform services as an ALDOT authorized engineering firm.
  - b. Vestavia, the County, Birmingham, and Mountain Brook agree to the terms of a man day fee proposal for engineering services submitted by GMC and approved by ALDOT.
  - c. The City of Vestavia Hills will enter into a separate agreement with GMC to provide the design and construction plans. Vestavia will invoice the County, Birmingham, and Mountain Brook for their respective share of the consultant fee. The County's share being 36%, Birmingham's share being 32%, and Mountain Brook's share being 5%.

Joint Services Agreement: Various Roadway Improvements on Cahaba River Road from Highway 280 to Key Drive  
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Exhibit A - Resolution No 4782

- d. During the corridor study and early stages of engineering performed by GMC, the extent and scope of the required work associated with improvement to Cahaba River Rd will be better determined. This information will then be utilized to better determine the construction, right of way and utility cost share by each entity.
  - e. Due to the use of federal funds, the Alabama Department of Transportation (ALDOT) is designated as the bidding agent and will advertise and accept bids for the construction of the Project.
  - f. ALDOT will determine the low bidder and enter into a separate Agreement with the contractor for the construction of the Project.
  - g. ALDOT will invoice Vestavia for the required 20% local match for the Project. Vestavia will invoice the County, Birmingham, and Mountain Brook for their respective share of the local match. The share of construction costs shall be mutually agreed by all parties through an amendment of this agreement based upon the extent of work to be constructed in each party's road segment.
  - h. Each party's share of the expenditures for purchases under this agreement shall be appropriated and paid in the manner set forth in this agreement and in the same manner as for other expenses of the entity.
  - i. This agreement shall be subject to all terms and conditions of the applicable Alabama Bid Laws.
- III. **TERM:** The duration of this contract shall not exceed three years from the date of its final execution of the end of the Project, whichever first occurs.
- IV. **IMPLEMENTATION:** The Parties agree as follows:
- a. Vestavia will assume responsibility for the management of the Project.
  - b. Vestavia will provide Construction, Engineering & Inspection (CE&I) during the construction phase of the Project with the County, Birmingham, and Mountain Brook providing additional staff for the inspection for the portion of the Project within their jurisdiction.
  - c. The parties expressly agree that Vestavia does not assume any risk or future liability, or any future responsibility for any portion of Cahaba River Road located within the jurisdictions of the County, Birmingham, or Mountain Brook.
  - d. Except as expressly provided in this agreement, no party for the contract shall have any power to incur any debt which shall become the responsibility of any other contracting party.
  - e. Except as specifically provided in this agreement, the execution of this agreement or the performance of any act pursuant to this provisions of thereof shall not be deemed or construed to have effect of creating between the parties the relationship of principal or agent or of partnership or of joint venture.
  - f. Except as otherwise provided by law and as limited by this agreement between the parties, any entity which contacts to perform or exercise any service or power pursuant to this chapter shall have the full power and authority to act within the jurisdiction of all contracting entities to the extent necessary to carry out the purposes of the contract.
  - g. Each party to this agreement shall adopt all ordinances, resolutions, or policies necessary to authorize the other contracting parties to carry out their contractual duties and responsibilities.

Joint Services Agreement: Various Roadway Improvements on Cahaba River Road from Highway 280 to Key Drive  
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Exhibit A - Resolution No 4782

V. **IMMIGRATION LAW AND COMPLIANCE:**

- a. Parties represent and warrant that they do not knowingly employ, hire for employment, or continue to employ, in Alabama, an "unauthorized alien," as defined by the Beason-Hammon Alabama Taxpayer and Citizen Protection Act, §31-13-1, et seq. Code of Alabama 1975, as amended (the "Act").
- b. Parties represent and warrant that they will enroll in the E-Verify program prior to performing any work on the Project in Alabama and shall provide documentation establishing that the Party is enrolled in the E-Verify program. During the performance of this Agreement, Parties shall participate in the E-Verify program as required under the terms of the Act and shall verify every employee in Alabama that is required to be verified according to the applicable federal rules and regulations.
- c. Parties agree to comply with all applicable provisions of the Act with respect to its subcontractors by entering into an agreement with or by obtaining an affidavit from such subcontractors providing work for the Party on the Project in Alabama, that such subcontractors are in compliance with the Act with respect to their participation in the E-Verify program. Parties represent and warrant that they shall not hire, retain, or contract with any subcontractor to work on the Project in Alabama which the Party knows is not in compliance with the Act.
- d. 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.

VI. **TERMINATION:**

- a. Any party hereto may terminate this Agreement at any time by giving thirty (30) days' notice of the intention to do so to the other parties. Such notice shall be sent to the governing bodies of the other parties.
- b. Upon termination, all unused materials purchased by Vestavia under this agreement shall be returned to Vestavia within thirty (30) days of termination.
- c. Upon termination, the terminating party shall be responsible for any ALDOT cost share that would be demanded as a reimbursement by ALDOT or the Federal Highway Administration.

VII. **SEVERABILITY:** If any provision of this agreement is declared by a court having jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected; the rights and obligations of the parties shall be construed and enforced as if the agreement did not contain the particular provision held to be invalid.

VIII. **GOVERNING LAW:** This agreement shall be governed and construed in accordance with the laws of the State of Alabama as interpreted by Alabama Courts.

Joint Services Agreement: Various Roadway Improvements on Cahaba River Road from Highway 280 to Key Drive  
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Exhibit A - Resolution No. 4782

Exhibit A - Resolution No. 4782

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized representative as reflected below.

Date \_\_\_\_\_

CITY OF VESTAVIA HILLS, ALABAMA

BY: \_\_\_\_\_  
Alberto C. Zaragaza, Jr., Mayor

ATTEST: \_\_\_\_\_  
City Clerk

Date \_\_\_\_\_

BY: \_\_\_\_\_  
Jeffrey Downes, City Manager

ATTEST: \_\_\_\_\_  
City Clerk

JEFFERSON COUNTY, ALABAMA

Date \_\_\_\_\_

BY: \_\_\_\_\_  
James A. Stephens, President  
Jefferson County Commission

ATTEST: \_\_\_\_\_

CITY OF BIRMINGHAM, ALABAMA

Date \_\_\_\_\_

BY: \_\_\_\_\_  
William A. Bell, Sr., Mayor

ATTEST: \_\_\_\_\_

CITY OF MOUNTAIN BROOK, ALABAMA

Joint Services Agreement: Various Roadway Improvements on Cahaba River Road from Highway 280 to Key Drive  
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1/26/2016  
Date

1/26/2016  
Date

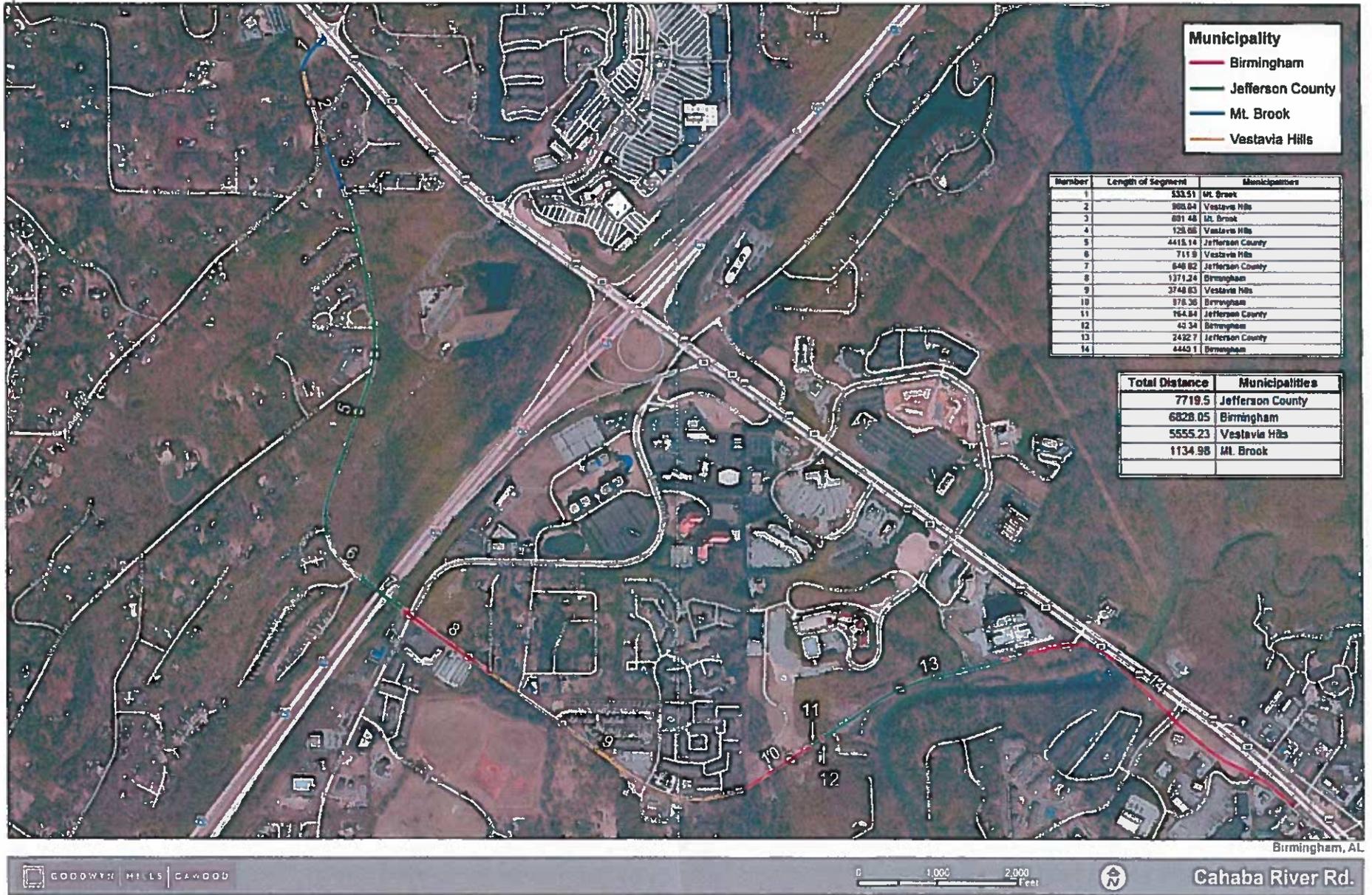
BY: Lawrence T. Oden  
Lawrence T. Oden, Mayor

ATTEST: Steven Boone  
City Clerk

BY: Sam Gaston  
Sam Gaston, City Manager

ATTEST: Steven Boone  
City Clerk

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