

**MOUNTAIN BROOK CITY COUNCIL
PRE-MEETING DISCUSSION
APRIL 11, 2022**

[As a convenience, members of the public were invited to listen, observe and participate in the public meeting by Internet video conference.]

The City Council of the City of Mountain Brook, Alabama met informally in-person at 6:00 p.m. on the 11TH day of April, 2022 (others were allowed to listen to the meeting by way of Internet video conference). The Council President called the pre-meeting to order and the roll was called with the following results:

Present: William S. Pritchard III, Council President Pro Tempore
Gerald A. Garner
Alice B. Womack
Stewart Welch III, Mayor

Absent: Virginia C. Smith
Lloyd C. Shelton

Also present were City Attorney Steve Stine, City Manager Sam Gaston, and City Clerk Heather Richards.

1. AGENDA

1. Mountain Brook Village Circle Project

Tyler Slaten-Senior Planner

- Project: put in permanent curb, remove asphalt and sod area
- To determine landscaping, need to see long-term viability of Oak tree
- Ultimate Long Term Plan: Walking path and various landscaping
- This phase of project is not a budgeted item

Billy Pritchard-Council President Pro Tempore

- Item added to the formal agenda (Resolution No. 2022-057)

2. Conditional Use request for the Travel Studio to be located at 2012 Cahaba Road in English Village

Dana Hazen-Director of Building, Planning and Sustainability

- This is for Travel Studio
- Will have some retail space
- At peak hours: 7 employees and 4 to 5 customers
- There is plenty of parking available
- Recommends the conditional use

Billy Pritchard

- Item added to the formal agenda (Resolution No. 2022-054)

3. Painted crosswalks for Church Street

Sam Gaston-City Manager

- TrafficScapes conducted a presentation about painted crosswalks
- Couple of cities in Alabama have painted crosswalks
- TrafficScapes will paint one crosswalk for free
- Future painted crosswalks will cost around \$3,500-\$4,000 a piece
- Painted crosswalks makes them more visible and adds color to the village

Billy Pritchard

- If happy with results from the complimentary painted crosswalk, then can look at adding to budget for next year

4. Municipal Judge appointments

Heather Richards-City Clerk

- Currently the City Code states there are two Judges: Judge A and Judge B
- Judge Turner Williams, who has been the presiding judge for 20 years, expressed interest in transitioning to a supernumerary role, instead of presiding
- Judge K.C. Hairston offered to take on the role of presiding judge
- Having 1 judge aligns Mountain Brook with surrounding municipalities
- Requesting to change the City Code (by way of Ordinance) to reflect these changes and requesting a resolution to appoint Judge Williams as supernumerary and Judge Hairston as presiding judge

Billy Pritchard

- Items added to the formal agenda (Ordinance No. 2121, Resolution Nos. 2022-055 & 2022-056)

5. Downstream impact study for the Canterbury/Surrey/Overhill Road drainage project

Walter Schoel-Schoel Engineering Inc.

- 3 phases in study: Lower Canterbury, Upper Canterbury and Surrey/Overhill
- Install 4x6 inch brick culvert under Canterbury
- Plan to put in a few inlets to improve drainage in Canterbury and Surrey
- Leave open channel in place
- Lower Canterbury does not have any adverse impacts from project
- Some flooding in Heathermoore area is being caused by Watkins elevation
- Discussions of doing small modifications to creek in Heathermoore (hoe ramming the bottom of the creek) This would be an added expense.
- Confident in mitigating potential impacts of flooding
- Currently there are no easements

Billy Pritchard

- Need to have assurance of acquiring easements before moving forward

6. Review of the other matters to be considered at the formal (7:00p.m.) meeting

2. EXECUTIVE SESSION AND ADJOURNMENT

There being no further topics for discussion, Council President Pro Tempore Pritchard made a motion that the City Council convene in executive session to discuss a real estate and litigation matter and that the City Council shall reconvene at approximately 7 p.m. upon conclusion of the executive session. The City Attorney certified that the subject matters were allowed to be discussed in executive pursuant to Alabama Law.

The motion was seconded by Council Member Garner. Then, upon the question being put and the roll called, the vote was recorded as follows:

Ayes: William S. Pritchard III, Council President Pro Tempore
Gerald A. Garner
Alice B. Womack

Nays: None

President Pro Tempore Pritchard then adjourned the pre-meeting at approximately 6:49 p.m.

3. CERTIFICATION

I, Heather Richards, City Clerk of the City of Mountain Brook, Alabama, certify the above is a true and correct synopsis of the discussion from the work session of the City Council of the City of Mountain Brook, Alabama held at City Hall, Pre-Council Room (A 106) on April 11, 2022, 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 work session.


City Clerk, Approved by
City Council April 26, 2022

**MINUTES OF THE REGULAR MEETING OF THE
CITY COUNCIL OF THE CITY OF MOUNTAIN BROOK
APRIL 11, 2022**

[As a convenience, members of the public were invited to listen, observe and participate in the public meeting by Internet video conference.]

The City Council of the City of Mountain Brook, Alabama met in person at 7:03 p.m. on the 11th day of April, 2022 (others were allowed to listen to the meeting by way of Internet video conference). The Council President called the meeting to order and the roll was called with the following results:

Present: William S. Pritchard III Chairman, Council President Pro Tempore
Gerald A. Garner
Alice B. Womack
Stewart Welch III, Mayor

Absent: Virginia C. Smith
Lloyd C. Shelton

Also present were City Attorney Steve Stine, City Manager Sam Gaston, and City Clerk Heather Richards.

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

1. INCUMBENT SENATOR DAN ROBERTS, SENATE DISTRICT 15 CANDIDATE

Dan Roberts-Senate District 15 Candidate

- Currently represents Mountain Brook
- Accomplishments (in last 4 years) while in office:
 - Passed Alabama business competitive tax
 - Military bills (allowed to be competitive)
 - Passed 2.7 billion budget
 - Passed 8.26 billion education budget
 - Repaid debt of 893 million down
 - Repaid 293 million trust fund this year
 - Passed no tax on federal stimulus money
 - Passed childcare tax credit
- Asking for vote on May 24th, 2022

2. RUTH ROBINSON, DIVORCE COURT JUDGE PLACE 20 CANDIDATE

Ruth Robinson-Divorce Court Judge Place 20 Candidate

- Running as a Democrat
- The Divorce Court Judge is responsible for divvying up assets when a couple divorces
- The focus should be on the children
- Attended Birmingham Southern
- Attended Cumberland and worked in Civil Litigation
- Wants to make a difference at ground level
- Asking for vote on May 24th, 2022

3. CONSENT AGENDA

Council President Pro Tempore Pritchard 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 March 28, 2022, regular meeting of the City Council

2022-049	Declare certain property surplus and authorizing it sale at public Internet auction.	Exhibit 1, Appendix 1
2022-050	Authorize the City's participation in the 2021 "State of Alabama Sales Tax Holiday" beginning at 12:01 a.m. on Friday, July 15, 2022, and ending at twelve midnight on Sunday, July 17, 2022, the City of Mountain Brook whereby the City shall exempt certain school supplies, computers, and clothing from municipal sales or use tax	Exhibit 2, Appendix 2
2022-051	Execute an agreement between the City and ALDOT with respect to the installation and maintenance of special directional and/or political boundary signs (World Games Welcome Sign)	Exhibit 3, Appendix 3
2022-053	Accept the proposal submitted by BlackJack Horticulture and execute a landscape and access easement with respect to the landscape renovation at Crestline Shell station project.	Exhibit 4, Appendix 4
2022-054	Approve the conditional service use application submitted by Anne Liles (Travel Studio) for property at 2012 Cahaba Road	Exhibit 5, Appendix 5
2022-055	Appoint Turner Williams as supernumerary of the Mountain Brook Municipal Court of the City of Mountain Brook with the term of office to end April 13, 2024	Exhibit 6
2022-056	Appoint K.C. Hairston as Presiding Judge of the Mountain Brook Municipal Court of the City of Mountain Brook with the term of office to end January 25, 2024	Exhibit 7, Appendix 6
2022-057	Accept the proposal submitted by Wright Construction Company with respect to the Mountain Brook Village Circle project.	Exhibit 8, Appendix 7
2022-058	National Public Safety Telecommunications Week	Exhibit 9
Proclamation		

Thereupon, the foregoing minutes, proclamation and resolutions (Nos. 2022-049 through 2022-051 and Nos. 2022-053 through 2022-057), were introduced by Council President Pro Tempore Pritchard and a motion for their immediate adoption made by Council President Member Womack. - The minutes, proclamation and resolutions were then considered by the City Council. Council Member Garner 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: William S. Pritchard III, Council President Pro Tempore
Alice B. Womack

Gerald A. Garner

Nays: None

Abstained: None

Council President Pro Tempore Pritchard thereupon declared that said minutes, proclamation and resolutions (Nos. 2022-049 through 2022-051 and Nos. 2022-053 through 2022-057) were adopted by a vote of 3—0 and as evidence thereof she signed the same.

4. CONSIDERATION OF AN ORDINANCE (NO. 2121) AMENDING SECTION 30-1, SECTION 30-3 (A), (B) & (C) AND SECTION 30-4 (A) & (B) OF THE CITY CODE (EXHIBIT 10, APPENDIX 8)

Council President Pro Tempore Pritchard introduced the ordinance in writing. It was then moved by council Member Womack 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 be given and that the reading of the ordinance at length be waived. The motion was seconded by Council Member Garner and was unanimously carried, as follows:

Ayes: William S. (“Billy”) Pritchard III
 Alice B. Womack
 Gerald A. Garner

Nays: None

Council President Pro Tempore Pritchard declared the motion carried by a vote of 3-0.

After said ordinance had been considered in full by the Council President Pro Tempore, Council Member Womack then moved for the adoption of said ordinance. The motion was seconded by Council Member Garner. Thereupon, Council President Pro Tempore Pritchard called for vote with the following results:

Ayes: William S. (“Billy”) Pritchard III
 Alice B. Womack
 Gerald A. Garner

Nays: None

Council President Pro Tempore Pritchard declared that the ordinance (No. 2121) is hereby adopted by a vote of 3-0 and, as evidence thereof, she signed the same.

5. OATH OF OFFICE FOR PRESIDING JUDGE K.C. HAIRSTON (EXHIBIT 6)

Stewart Welch-Mayor

- Issued the oath of office to Judge K.C. Hairston

6. NATIONAL PUBLIC SAFETY TELECOMMUNICATORS WEEK PROCLAMATION (EXHIBIT 9)

Stewart Welch-Mayor

- Presented Police Chief Loggins with the Proclamation

Jaye Loggins-Police Chief

- The 2nd week of April is considered National Public Safety Telecommunicators Week
- This is to show appreciation to those employees who are not always recognized
- The past year the City transferred dispatch services to Shelby County 911 and the transfer has increased the services greatly and has been a smooth transition

7. CONSIDERATION OF A RESOLUTION TO ACCEPT THE PROFESSIONAL SERVICES PROPOSAL SUBMITTED BY SAIN ASSOCIATES INC. TO PREPARE A TAP APPLICATION FOR THE MONTCLAIR SIDEWALK PROJECT (EXHIBIT 11, APPENDIX 9)

Ann Holloway-3834 Montclair Road

- Montclair Road needs a sidewalk
- Inquired what would happen if the TAP grant is not approved

Billy Pritchard-Council President Pro Tempore

- There has been nothing decided if the TAP grant is not approved
- If it does not pass, then the council will come back to figure out another option

Bret Pippen-108 Mountain Brook Park

- Thanked the Council for understanding the need for a sidewalk on Montclair
- Inquired about the process of the TAP

Sam Gaston-City Manager

- The application will need to be submitted
- Will work to get petitions, letters from mayor and council and letters from Birmingham Park and Recreation Board then it will be submitted
- Will put together some preliminary estimates
- Will know in June or July if the grant is approved

Burgin Fowlkes-128 Mountain Brook Park

- Inquired if easements will need to be obtained or Right-of-Ways

Sam Gaston

- Surveys will be done of the route and it will determine if the ROW are the City's

Council Member Garner made a motion to approve the resolution accepting the professional services proposal submitted by Sain Associates with respect to the preparation of a TAP application for the Montclair sidewalk project.

Thereupon, the resolution was then considered by the City Council. Council member Womack seconded the motion to adopt the foregoing resolution. Then, upon the question being put and the roll called, the vote was recorded as follows:

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

Gerald A. Garner
Alice B. Womack

Nays: None

Council President Pro Tempore Pritchard thereupon declared that said resolution is adopted by a vote of 3—0.

8. ANNOUNCEMENT

Council President Pro Tempore announced the next regular meeting of the City Council has been moved from April 25th to April 26, 2022, at 7:00 p.m., due to the Mountain Brook School Showcase.

9. EXECUTIVE SESSION AND ADJOURNMENT

There being no further topics for discussion, Council President Pro Tempore Pritchard made a motion that the City Council convene in executive session to discuss a real estate matter and potential litigation. The City Attorney certified that the subject matters were allowed to be discussed in executive pursuant to Alabama Law. The motion was seconded by Council Member Womack. Then, upon the question being put and the roll called, the vote was recorded as follows:

Ayes: William S. Pritchard III, Council President Pro Tempore
Alice B. Womack
Gerald A. Garner

Nays: None

President Pro Tempore Pritchard then adjourned the meeting at approximately 7:29 p.m.

10. CERTIFICATION

I, Heather Richards, 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 A 108) on April 11, 2022, 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.

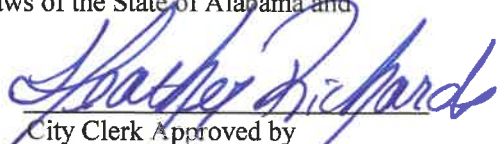

City Clerk Approved by
City Council April 26, 2022

EXHIBIT 1 RESOLUTION NO. 2022-049

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:

Section 1. It is hereby established and declared that the following equipment owned by the City of Mountain Brook, Alabama is no longer needed for public or municipal purposes and is hereby declared surplus property:

Item	Manufacturer	Model	Number
Printer	HP	OfficeJet Pro 8000	1
Monitor	HP	L1940T	1
Monitor	HP	LA1956x	1
Scanner	Epson	J232C	1
Printer	HP	OfficeJet Pro 8500A	1
Card Printer	MagiCard	Tango 2e std	1
Forensic Light	ISA/SPEX	MCS-400W	1
Digital Camera	Nikon	D70	1
Forensic Tool	Sirchie	ESP1000	1
DVD Recorder	Toshiba	DR430	2
UPS	APC Smart	UPS750	1
Shelving Lot	N.A.	N.A.	N.A.
White Boards	N.A.	N.A.	3

Section 2. That the City Manager, or his designated representative, is hereby authorized and directed to sell said property by way of public Internet auction or to dispose of said items not sold.

APPENDIX 1

EXHIBIT 2

RESOLUTION NO. 2022-050

BE IT RESOLVED by the City Council of the City of Mountain Brook, Alabama, that beginning at 12:01 a.m. on Friday, July 15, 2022, and ending at twelve midnight on Sunday, July 17, 2022, the City of Mountain Brook will exempt certain school supplies, computers, and clothing from municipal sales or use tax. Said sales and use tax exemption shall conform with respect to the time period, terms and conditions, and definitions as provided for the “State of Alabama Sales Tax Holiday”.

BE IT FURTHER RESOLVED by the City Council of the City of Mountain Brook, Alabama, that the City Clerk is hereby instructed to send a certified copy of this resolution to the Alabama Department of Revenue, Attention: Pamela Spears, Sales, Use & Business Tax Division, Post Office Box 327710, Montgomery, Alabama 36132-7710, (pspears@revenue.alabama.gov), or fax (334) 242-8919 as required by Sales Tax Holiday Rule 810-6-3-.65 and Code of Alabama 1975, §11-51-210(e).

APPENDIX 2**EXHIBIT 3****RESOLUTION NO. 2022-051**

WHEREAS, by the City Council of the City of Mountain Brook, Alabama, that either the Mayor or the City Manager of the City is hereby authorized and directed, for and on its behalf of the City, to execute an agreement, in the form as attached hereto as Exhibit A, between the City and the Alabama Department of Transportation (ALDOT) with respect to the installation and maintenance of special directional and/or political boundary signs (World Games Welcome Sign).

APPENDIX 3**EXHIBIT 4****RESOLUTION NO. 2022-053**

BE IT RESOLVED by the City Council of the City of Mountain Brook, Alabama, that the City Council hereby accepts the proposal submitted by BlackJack Horticulture, in the form as attached hereto as Exhibit A, and authorizes either the Mayor or City Manager to execute a landscape and access easement, in the form as attached hereto as Exhibit B, with respect to the landscape renovation at Crestline Shell station project.

APPENDIX 4**EXHIBIT 5****RESOLUTION NO. 2022-054**

BE IT RESOLVED by the City Council of the City of Mountain Brook, Alabama that the

City Council hereby approves the conditional service use application submitted by Anne Liles (Travel Studio) for property at 2012 Cahaba Road.

APPENDIX 5

EXHIBIT 6

RESOLUTION NO. 2022-055

BE IT RESOLVED by the City Council of the City of Mountain Brook, Alabama, that Turner Williams is hereby appointed as supernumerary, from Presiding Judge, of the Mountain Brook Municipal Court of the City of Mountain Brook with the term of office to end April 13, 2024.

EXHIBIT 7

RESOLUTION NO. 2022-056

BE IT RESOLVED by the City Council of the City of Mountain Brook, Alabama, that K.C. Hairston is hereby appointed as Presiding Judge, from municipal Judge, of the Mountain Brook Municipal Court of the City of Mountain Brook with the term of office to end January 25, 2024.

APPENDIX 6

EXHIBIT 8

RESOLUTION NO. 2022-057

BE IT RESOLVED by the City Council of the City of Mountain Brook, Alabama, that the City Council hereby accepts the proposal submitted by Wright Construction Company, in the form as attached hereto as Exhibit A, with respect to the Mountain Brook Village Circle project.

APPENDIX 7

EXHIBIT 9

PROCLAMATION NO. 2022-058

WHEREAS, emergencies can occur at any time that require police, fire or emergency medical services; and,

WHEREAS, when an emergency occurs, the prompt response of police officers, firefighters and paramedics is critical to the protection of life and preservation of property; and,

WHEREAS, the safety of our police officers and firefighters is dependent upon the quality and accuracy of information obtained from callers who telephone the City of Mountain Brook, Alabama emergency communications center; and,

WHEREAS, Public Safety Telecommunicators are the first and most critical contact our residents and other callers have with emergency services; and,

WHEREAS, Public Safety Telecommunicators are the single vital link for our police officers and firefighters by monitoring their activities remotely, providing them information and ensuring their safety; and,

WHEREAS, Public Safety Telecommunicators of the City of Mountain Brook, Alabama play an integral role in the apprehension of criminals, suppression of fires and treatment of patients; and,

WHEREAS, each dispatcher continually exhibits compassion, understanding and professionalism in the performance of their job.

NOW, THEREFORE, I Stewart H. Welch III, Mayor of the City of Mountain Brook, Alabama, do hereby proclaim the week of April 10 through 16, 2022, to be **NATIONAL PUBLIC SAFETY TELECOMMUNICATORS WEEK** in the City, in honor of the men and women whose diligence and professionalism keep our City and residents safe.

EXHIBIT 10

ORDINANCE NO. 2121

BE IT ORDAINED by the City Council of the City of Mountain Brook, Alabama, that Section 30-3(a) of the City Code is hereby amended as follows:

1. "Sec. 30-1. Established.

There is hereby established a municipal court for the city pursuant to the provisions of Code of Ala. 1975, title 12, ch. 14 Code of Ala. 1975, § 12-14-1 et seq..

2. "Sec. 30-3. - Time and place of holding court.

(a) The municipal court of the city shall hold court commencing at 3:00 p.m. on Wednesday of each week, except the fifth Wednesday in each month or a week containing a holiday, in the council chamber of city hall and at such other times as the presiding judge may continue or set a case. If approved by the presiding judge, court may be rescheduled to address an irresolvable conflict, an unforeseen circumstance, or inclement weather.

(b) It shall be the duty and responsibility of the presiding judge to hold court on those dates required by subsection (a) of this section, or to make satisfactory arrangements with the supernumerary to hold court for him in his absence.

3. "Sec. 30-4. – Municipal judges.

(a) *Appointment; terms; qualifications; vacancies; oath of office.* The municipal court shall consist of one presiding judge and one supernumerary.

(b) *Compensation.* The salary of the presiding judge and supernumerary of the city shall be as determined by the city council from time to time.

4. 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.

5. 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.

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

APPENDIX 8

EXHIBIT 11

RESOLUTION NO. 2022-052

BE IT RESOLVED by the City Council of the City of Mountain Brook, Alabama, that the City Council hereby accepts the professional services proposal submitted by Sain Associates Inc., in the form as attached hereto as Exhibit A, with respect to preparation of a Transportation Alternative Program (TAP) application for the Montclair sidewalk project.

APPENDIX 9

1	DVD Recorder	Toshiba DR430 with remote	C34E31484U6300
1	UPS	APC Smart UPS 750	A50620110728

Thanks
Scott

Corporal Scott Stephens
Evidence Unit Supervisor
USSS Electronic Crimes Task Force
Mountain Brook Police Department
101 Tibbett Street
Mountain Brook, AL 35213
Office - (205)802-3861
Fax - (205)874-0645
stephensc@minbrook.org

On Thu, Mar 12, 2020 at 4:16 PM Steve Boone <boones@minbrook.org> wrote:
It did not for the 9th. I will get it on the next agenda.

On Thu, Mar 12, 2020 at 2:04 PM Scott Stephens <stephensc@minbrook.org> wrote:
Steve, did this list of property ever go before the city council?

Thanks
Scott

Corporal Scott Stephens
Evidence Unit Supervisor
USSS Electronic Crimes Task Force
Mountain Brook Police Department
101 Tibbett Street
Mountain Brook, AL 35213
Office - (205)802-3861
Fax - (205)874-0645
stephensc@minbrook.org

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City of Mountain Brook
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Twitter: @mountain_brook

On Wed, Nov 27, 2019 at 3:24 PM Scott Stephens <stephensc@minbrook.org> wrote:
Steve,

The following list is City property that is no longer in use or needed. I request that the property be deemed surplus at the City Council's earliest convenience. Any property determined to have any value will be sold at auction while property determined to be damaged or have no value will be disposed of.

Qty	Item Type	Description	Serial Number
1	Printer	HP OfficeJet Pro 8000	CN08N3Q0XF
1	Computer Monitor	HP L1940T	CNC6201BVZ
1	Computer Monitor	HP LA1956x	CN43080GPE
1	Scanner	Epson J232C	RYTW0284DE
1	Printer	HP OfficeJet Pro 8500A	CN180CQ1RQ
1	Card Printer	MagiCard Tango 2e Std	45E9634
1	Forensic Light Source	ISA/SPEX Mini-Crimescope, MCS-400W	MCS-0342
1	Digital Camera	Nikon D70 w/ 28-80mm lens, Nikon SB600 flash, In Pelican case	3135645
1	Forensic Tool	Sirchie Electrostatic Print Lifting Kit, ESP1000	20853
1	DVD Recorder	Toshiba DR430 with remote	C34E39034U6300

https://mail.google.com/mail/u/0/?ik=60a4775052&view=pt&search=all&permthid=thread-f%3A1728911027509847730&siml=msg-f%3A17289110275... 2/3

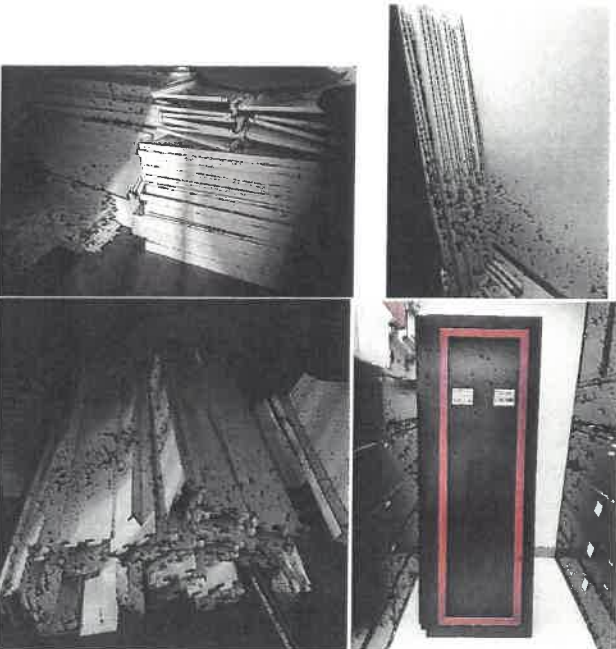
https://mail.google.com/mail/u/0/?ik=60a4775052&view=pt&search=all&permthid=thread-f%3A1728911027509847730&siml=msg-f%3A17289110275... 3/3

APPENDIX 1

Surplus

Lot of Shelving

Sizes vary (most are 35.5"x12"), quantity unknown. Lot includes dividers, 2 end panels (26 3/4"x78 1/4"), frames, and end brackets. The library does not have a loading deck, and staff are not available to assist with moving/loading shelving.



White Boards – 4.5'x4.5'

3 – White boards. The white boards have smudges that may not come off. The library does not have a loading deck, and staff are not available to assist with moving/loading the white boards.





(www.revenue.alabama.gov)
50 North Ripley Street
Montgomery, Alabama 36132

March 21, 2022

2022 "Back-to-School" Sales Tax Holiday

July 15-17, 2022

Deadline to notify ADOR: June 15, 2022

The 2022 "Back-to-School" Sales Tax Holiday begins at 12:01 a.m. on Friday, July 15, 2022, and ends at twelve midnight on Sunday, July 17, 2022. As required by Rule 810-6-3-.65, a participating county or municipality shall submit a certified copy of their adopted resolution or ordinance providing for the Sales Tax Holiday, and any subsequent amendments thereof, to the Alabama Department of Revenue before June 15, 2022. The Department will compile this information into a list of all counties and municipalities participating in the "Back-to-School" Sales Tax Holiday and issue a current publication of the list on its website at: <https://revenue.alabama.gov/sales-use/sales-tax-holidays/>. Notification of participation in the sales tax holiday may not be included in the published list if received after June 15, 2022.

Retail businesses and the public need to know whether or not your locality will participate in the 2022 "Back-to-School" Sales Tax Holiday. Please put it on your calendar to discuss and vote on this matter soon and notify the ADOR of the decision.

IMPORTANT

RESPONSE REQUIRED

IMPORTANT

Participating? Send a certified copy of any resolution, ordinance, or amendment adopted by your locality.

Not Participating? Send an email, fax or letter (with signature line) stating: "The (City/Town/County) of _____ will not be participating in the 2022 Back-to-School Sales tax holiday." It is important that you inform us of that fact, otherwise, retailers and the public wonder if you are participating and forgot to notify the Department of Revenue.

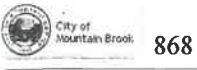
Retailers and the public rely on the list provided by the Department of Revenue and the Department cannot post a locality's participation status based on assumption; notification of nonparticipation or a copy of the resolution/ordinance from the locality is required.

Notification can be faxed, mailed or emailed:

FAX:	334-242-8916	MAIL:	ALABAMA DEPARTMENT OF REVENUE
EMAIL:	pspears@revenue.alabama.gov		ATTN: Pamela Spears
			Sales & Use Tax Division
			Post Office Box 327710
QUESTIONS:	334-242-1443		Montgomery, Alabama 36132-7710

An Affirmative Action / Equal Opportunity Employer

APPENDIX 2



Heather Richards <richardsh@mtnbrook.org>



Jay Kasten
City of Mountain Brook Mail - RE: World Games Welcome Sign - Hwy 280 Update 4.1.22
Chief Operating Officer
p: 833-894-2021
m: 205-382-7081
w: www.twg2022.com

RE: World Games Welcome Sign - Hwy 280 Update 4.1.22
2 messages

Sam Gaston <gastons@mtnbrook.org> Fri, Apr 1, 2022 at 12:50 PM
To: Jay Kasten <jay.kasten@twg2022.com>, Stewart Welch, III <Stewart@welchgroup.com>, Patrick McClusky <patrick.mcclusky@homewoodal.org>
Cc: JENNIFER ADDRESS <candressk@bellsouth.net>, forbes@mtnbrook.org, Heather Richards <richardsh@mtnbrook.org>

Looks like it has to be approved by the City Council first. I will put on our April 11th agenda.

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



From: Jay Kasten [mailto:jay.kasten@twg2022.com]
Sent: Friday, April 01, 2022 9:28 AM
To: Stewart Welch, III; Patrick McClusky
Cc: JENNIFER ADDRESS; Sam Gaston
Subject: FW: World Games Welcome Sign - Hwy 280 Update 4.1.22

Gentlemen,
See below and attached. Can you please shoot these back at your convenience?

From: Matte, Frank <mattef@dot.state.al.us>
Date: Friday, April 1, 2022 at 9:24 AM
To: jay.kasten@twg2022.com <jay.kasten@twg2022.com>, bgates@knightsign.com <bgates@knightsign.com>
Cc: Mitchell, Roddy <MitchellR@dot.state.al.us>, Steele, Ashley S. <steelea@dot.state.al.us>, Miles, Wendell <milesw@dot.state.al.us>, Golson, W. Hunter <golsonwi@dot.state.al.us>, Johnson, Zeth H. <johnsonz@dot.state.al.us>, Hall, Alacyia <hallal@dot.state.al.us>
Subject: World Games Welcome Sign - Hwy 280 Update 4.1.22

Mr. Kasten,

ALDOT will require two MB-08 permits to be signed by The City of Mountain Brook and The City of Homewood. I have attached a blank MB-08 form to forward to each city. Page 5 of the permit requires that the Mayor of each town sign. Please email me the signed permits and I will move them up for ALDOT approval.

ALDOT addressed comments:

1. Does the Cities have permission to have "The World Games" on the sign?

Yes, Mr. Jay Kasten with the World Games is aware and working with each city.

2. The website on the sign needs to be removed.

The updated attached plan view has the website removed.

3. The MB-08 note 1 sets the maximum sign dimension as 8' x 4'. Is the proposed sign at 9' x 4' acceptable?

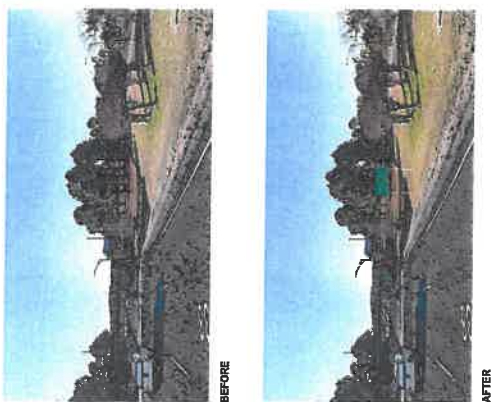
Yes, The slightly large sign will be acceptable according to the Maintenance Bureau for ALDOT. The sign will be required to be removed after the World Games.

https://mail.google.com/mail/u/0/?ik=80a4775052&view=pt&search=all&permthid=thread-F%3A1728929244114877377&siml=msg-F%3A17289292441... 1/4

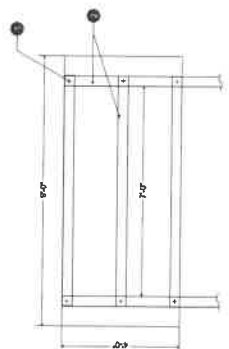
https://mail.google.com/mail/u/0/?ik=80a4775052&view=pt&search=all&permthid=thread-F%3A1728929244114877377&siml=msg-F%3A17289292441... 2/4

Technical specifications for sign materials and construction, including details on sign panel, border, and mounting hardware.

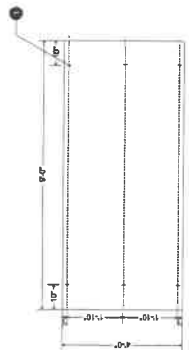
Technical specifications for sign materials and construction, including details on sign panel, border, and mounting hardware.



Single Sided Road Sign Scale: 1/8" = 1'-0"



Back of Sign Scale: 1/8" = 1'-0"



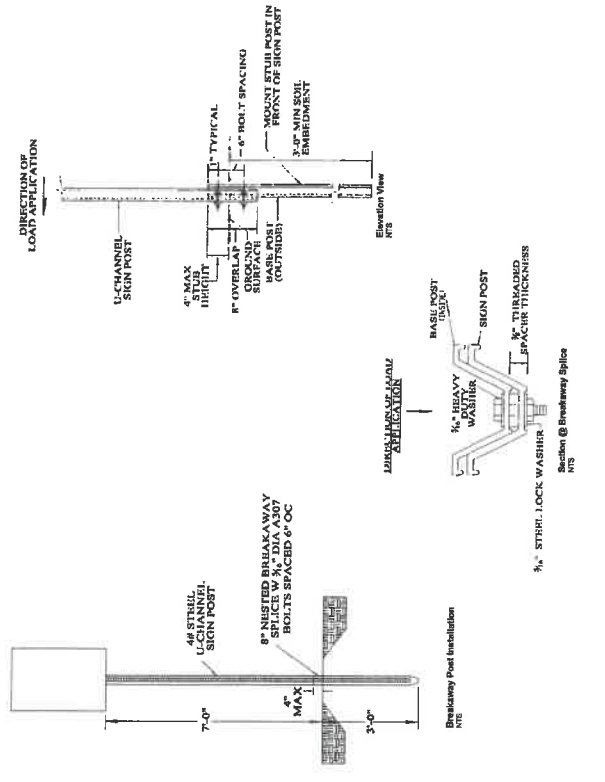
Bolt Hole Pattern Scale: 1/8" = 1'-0"



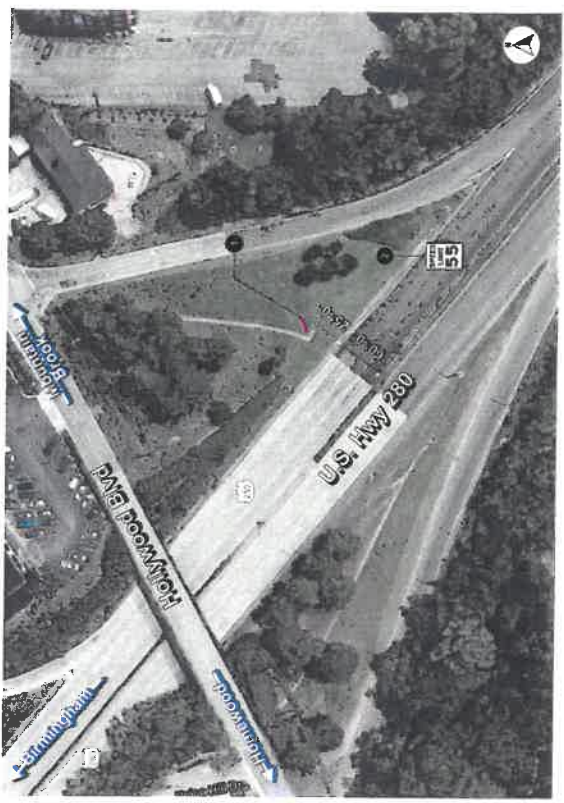
Slide Connection View Scale: N/A

APPENDIX 3

PAGE 3



PAGE 4



APPENDIX 3

**ALABAMA DEPARTMENT OF TRANSPORTATION
 AGREEMENT FOR THE INSTALLATION AND MAINTENANCE
 OF SPECIAL DIRECTIONAL AND/OR POLITICAL BOUNDARY SIGNS
 MUNICIPAL GOVERNMENTS**

County _____
 Route Number _____
 Milepost _____
 Bonding Agency _____ Bond Number _____
 Associated Permits and/or Documents _____

FOR OFFICIAL USE ONLY DATE RECEIVED FROM APPLICANT: / / PERMIT NUMBER:

THIS AGREEMENT is entered into this _____ day of _____, 20____, by and between the Alabama Department of Transportation acting by and through its Transportation Director hereinafter referred to as ALDOT, and the City of _____, Alabama, hereinafter referred to as the APPLICANT.

WITNESSETH

WHEREAS, the APPLICANT proposes to install, maintain and/or landscape special directional and/or governmental boundary sign(s) limits on ALDOT right of way located and described as follows:

WHEREAS, the right-of-way should be preserved in a safe and functional condition:

NOW, THEREFORE, it is agreed between the parties hereto as follows:

1. The special directional and/or governmental boundary signs will be a maximum size of eight (8) feet wide x four (4) feet high. They will be mounted on generally accepted yielding or break-away support post.
2. The sign designs, fabrication materials and support post will be subject to approval by ALDOT prior to construction and will be as shown on the plans previously submitted to and approved by ALDOT, which are hereby made a part of this Agreement by reference, and the signs will be located and installed as shown on the plans.
3. The signs will be installed at or near the right-of-way line or other designated area approved by ALDOT to provide adequate sight distance. No signs will be allowed in the median area of a divided highway.

4. All grading on the right-of-way by the APPLICANT will be confined to the limits of the work site.
 5. All work shall be subject to the inspection and approval of ALDOT and located as shown on the approved plans previously submitted to ALDOT which are hereby made a part of this Agreement by reference.
 6. A copy of the Agreement and the plans will be kept at the site of work at all times by the APPLICANT.
 7. ALDOT does not grant the APPLICANT any right, title, or claim to any highway right-of-way.
 8. The APPLICANT will not store material, excess dirt, or equipment on the shoulders or pavement and in event of multi-lane highways, in the median strips. The pavement will be kept free by the APPLICANT from mud and from excavating waste from trucks or other equipment. On completion of work all excess material will be removed from the right-of-way by the APPLICANT.
 9. All disturbed areas will be topsoiled, grassed and fertilized by the APPLICANT in accordance with standard specifications of ALDOT, and to the satisfaction of ALDOT.
 10. No drainage structures or channels will be changed or altered by the APPLICANT other than shown on the approved plans.
 11. The Federal Water Pollution Control Act, The Federal Insecticide, Fungicide, and Rodenticide Act, The Alabama Water Pollution Control Act, The Alabama Environmental Management Act, The Clean Water Act (1987), and the Alabama Nonpoint Source Management Program (1989) are hereby made a part of this permit by reference.
 12. The APPLICANT will conform to the regulations of the Environmental Protection Agency (EPA) and of the Alabama Department of Environmental Management (ADEM), latest edition, for both installation and maintenance of such facilities.
- The APPLICANT will provide proof of applicable permit coverage and conform to the above referenced regulations for both the facility installation and maintenance of permitted facilities and areas of rights-of-way. The APPLICANT must provide a copy of the Notice of Intent (NOI) issued by ADEM. This will assure compliance with Phase II of stormwater construction requirements. In the event that a NOI is not required, APPLICANT must submit to ALDOT a Best Management Practices (BMP) plan to control sediment run-off.
13. In the event that ALDOT is issued a citation or any other enforcement document by ADEM/EPA for failure to comply with applicable requirements, it shall be the responsibility of the APPLICANT to bring all BMPs into compliance and to pay for any fines, assessments, etc. that may be issued to ALDOT by ADEM/EPA.
 14. Underground Damage Prevention Legislation, Alabama Act 94-487, is hereby made a part of this permit by reference. The APPLICANT will conform to the above referenced regulations for both the facility installation and maintenance of permitted facilities and areas of rights-of-way. Should the permitted work require a locate request ticket, no work shall begin until a copy of such ticket is obtained and the APPLICANT shall keep a copy of such ticket at the site of work.
 15. The APPLICANT will provide all necessary and adequate safety precautions such as signs, flags, lights, barricades, and flagmen in accordance with the requirements of the ALDOT UNIFORM TRAFFIC CONTROL DEVICES, of record in ALDOT.

16. Subject to the limitations on damages applicable to municipal corporations under Ala. Code § 11-47-190 (1975), the APPLICANT shall defend, indemnify, and hold harmless the State of Alabama, ALDOT, its officers, officials, agents, servants, and employees, in both their official and individual capacities, from and against (1) claims, damages, losses, and expenses, including but not limited to attorneys' fees arising out of, connected with, resulting from or related to the work performed by the APPLICANT, or its officers, employees, contracts, agents or assigns (2) the provision of any services or expenditure of funds required, authorized, or undertaken by the APPLICANT pursuant to the terms of this Agreement, or (3) any damage, loss, expense, bodily injury, or death, or injury or destruction of tangible property (other than the work itself), including loss of use therefrom, and including but not limited to attorneys' fees, caused by the negligent, careless or unskillful acts of the APPLICANT its agents, servants, representatives or employees, or the misuse, misappropriation, misapplication, or misexpenditure of any source of funding, compensation or reimbursement by the APPLICANT, its agents, servants, representatives or employees, or anyone for whose acts the APPLICANT may be liable.

By entering into this agreement, the APPLICANT is not an agent of the State, its officers, employees, agents or assigns. The APPLICANT is an independent entity from the State and nothing in this agreement creates an agency relationship between the parties.

17. Any utility adjustment will be by agreement between the APPLICANT and the Utility, and any such agreement shall be subject to the approval of ALDOT.

18. The APPLICANT will comply with any and all existing ordinances, laws, and zoning regulations, applicable under this Agreement or to the work provided for herein.

19. Any planting and/or landscaping required shall be mutually agreed upon by ALDOT and the APPLICANT and a Cooperative Planting Memorandum of Understanding will be attached to this Agreement as a part of the Agreement.

20. This permit is valid for the contract period which is defined as follows: All proposed work as described and submitted in the permit documents must be completed within one year from the approved date of the permit and for a period covering one year from ALDOT acceptance of proposed work.

21. The APPLICANT will perform or cause to be performed the work applied for in this permit contract and will restore the highway in the work area in as good condition as the same was prior to the work and will maintain the accomplished work and highway work area in a condition satisfactory to ALDOT. Should the APPLICANT not maintain the work or create an unsafe condition during the contract period, ALDOT reserves the right to remove any work and restore the ROW to a safe condition at the expense of the APPLICANT and the APPLICANT agrees to pay ALDOT all such costs as a result.

22. Once work is begun, the APPLICANT shall pursue the work continuously and diligently until completion. Should the APPLICANT feel that the work cannot be completed in a one year period, they shall submit in writing (30 days prior to the termination date) to ALDOT the reasons for an extension of time. ALDOT will determine whether an extension may be approved.

23. The APPLICANT will file with ALDOT an acceptable certified check or bond in the penal amount of \$ _____ (Bond Number: _____) to guarantee the faithful performance of this permit contract in its entirety during the contract period as defined in item 20. Upon satisfactory completion and acceptance of all work provided for in this permit contract, the check or bond, as applicable, will be returned to the APPLICANT; otherwise, the proceeds from the check, or any amount received by ALDOT as a result of the bond, will be applied to complete and fulfill the permit contract terms.

This Agreement is deemed to be executed on the date hereinabove set forth by the parties hereto in their respective names by those persons and officials thereto duly authorized. Witness our hands and seals, this the 11th day of April, 2022.

Attest: Shirley Richards
City/Town Clerk

City/Town of Mountain Brook, Alabama

By: Stewart Welch
Signature of Mayor

Stewart Welch
Typed or Printed Name of Mayor

56 Church Street
Address Line 1

Mountain Brook AL 35213
Address Line 2

205-802-3800
Telephone Number

FOR OFFICIAL USE ONLY

RECOMMENDED FOR APPROVAL:

DISTRICT:	Printed Name _____	Signature _____	Date _____
AREA:	Printed Name _____	Signature _____	Date _____
REGION:	Printed Name _____	Signature _____	Date _____

APPROVED:
ALABAMA DEPARTMENT OF TRANSPORTATION
ACTING BY AND THROUGH ITS TRANSPORTATION DIRECTOR

(PLEASE CHECK APPROPRIATE BOX)

CENTRAL OFFICE
 REGION
 AREA
 DISTRICT

By: _____
Printed Name _____ Signature _____ Date _____

APPENDIX 3

RESOLUTION NUMBER _____

BE IT RESOLVED, by the Council of the City/Town of _____, Alabama, that the City/Town enter into an Agreement with the state of Alabama; acting by and through the Alabama Department of Transportation for:

The installation, maintenance and/or landscaping for special directional or political boundary sign(s).

Which agreement is before this Council, and that the agreement be executed in the name of the City/Town, by its Mayor, for and on its behalf and that it be attested by the City/Town Clerk and the seal of the City/Town 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/Town Clerk.

Passed, Adopted, and approved this _____ day of _____, 20____.

ATTESTED:

City/Town Clerk Mayor

I, the undersigned qualified and acting clerk of the City/Town of _____, Alabama, do hereby certify that the above and foregoing is a true copy of a resolution lawfully passed and adopted by the Council of the City/Town named therein, at a regular meeting of such Council meeting held on the _____ day of _____, 20____, and that such resolution is on file in the office of the City/Town Clerk.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the City/Town this _____ day of _____, 20____.

City/Town Clerk



Heather Richards <richardsh@mtnbrook.org>

Tyler Slaten
Planner

MINUTE BOOK 92

RE: Shell Landscaping Easement

2 messages
Sam Gaston <sgastons@mtnbrook.org> Mon, Apr 4, 2022 at 2:55 PM
To: Tyler Slaten <slaten@mtnbrook.org>
Cc: Heather Richards <richardsh@mtnbrook.org>, boone@mtnbrook.org

City of Mountain Brook
56 Church St
Mountain Brook, AL 35213
Office 205-802-3811

Tyler Slaten <slaten@mtnbrook.org> Mon, Apr 4, 2022 at 3:18 PM
To: Sam Gaston <sgastons@mtnbrook.org>
Cc: Heather Richards <richardsh@mtnbrook.org>, Steve Boone <boonas@mtnbrook.org>

What is it exactly and the costs?

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

I do not have the easement agreement from Whit yet, but it is a tree removal and replacement and landscaping project. The area to be improved and maintained is some right of way and is partially on the Crestline Shell's private property which is why the agreement is needed. Hopefully I will have it back from Whit tomorrow. Attached are the conceptual drawing and estimate for the project to come from BLD's budget.

Thanks,

Tyler Slaten
Planner
City of Mountain Brook
56 Church St
Mountain Brook, AL 35213
Office 205-802-3811

[Quoted text hidden]

2 attachments

- Shell Station Project.pdf 1146K
- Shell Tree and Landscaping Project Estimate.pdf 504K



From: Tyler Slaten [mailto:slaten@mtnbrook.org]
Sent: Monday, April 04, 2022 2:30 PM
To: Sam Gaston
Subject: Shell Landscaping Easement

Sam,

Can we add an item to the formal agenda for the Council meeting next week? This will be the landscaping easement agreement for the BLD tree project at the Crestline Shell. Whit almost has the agreement finished and asked me if we could still squeeze it on the agenda.

Thanks,

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https://mail.google.com/mail/u/0/?ik=604775052&view=pt&search=all&permthid=thread-F%3A1729208947892359734&siml=msg-F%3A1729208947... 2/2



5536 DERBYDRIVE
BIRMINGHAM, AL 35210
Tel 205 536 7523
Fax 205 536 7527
blackjackhorticulture.com

A LANDSCAPE PROPOSAL FOR City of Mountain Brook Villages 56 Church Street Mountain Brook, AL 35213

2/14/2022

ITEM	QUANTITY	UNIT	PRICE
Landscape Renovation			
Landscape Installation			\$7,854.12
Landscape Demolition and Prep	1.00	Labor	
<ul style="list-style-type: none"> Remove (1) existing maple tree Remove all shrubs and groundcover in designated planting bed near Shell Station parking lot Prep area for new plant material installation 			
Elm, American	1.00	3-3.5" cal	
<ul style="list-style-type: none"> Installation labor only Tree will be provided by City of Mountain Brook 			
Holly, Dwarf Yaupon	15.00	7 gal	
<ul style="list-style-type: none"> Planted in a single hedge row at 36" on-center spacing 			
Jasmine, Asiatic	576.00	4" cup	
<ul style="list-style-type: none"> Planted at 12" on-center spacing Based on a total square footage of (500 SF) 			
Topsoil Mix	9.00	cu yd	
<ul style="list-style-type: none"> Depth of 4" in new planting bed Includes adequate backfill for tree pit 			
Gravel #57	1.00	cu yd	
<ul style="list-style-type: none"> Depth of 6" in tree planting pit Gravel layer and topsoil layer separated by filter fabric 			
Pine Bark Mini Nuggets	6.00	cu yd	
<ul style="list-style-type: none"> Depth of 3" installed in new planting bed where Elm and Asiatic jasmine is installed 			
Pinestraw	5.00	rolls	
<ul style="list-style-type: none"> Installed between new holly hedge and Shell Station parking lot 			
Mobilization and Freight	1.00	ea	
TOTAL			\$7,854.12

Holly, Dwarf Needlepoint 15.00 7 gal
• sub option for Dwarf Yaupon Holly #7

Terms and Conditions:

- A) Blackjack Horticulture agrees to furnish all labor, materials, and equipment for the above described work unless otherwise specified and is licensed and insured to perform such work.
- B) Blackjack Horticulture warrants its workmanship for a period of one year against any defective or detrimental workmanship or improper installation of material so long as Blackjack Horticulture is contracted by the owner to perform landscape maintenance services at the property. Plants will only be replaced one time under the terms of this warranty. Replacement plants are not warranted and liability does not exceed plant value. Sod is warranted for a period of 30 days after installation. Stated warranty specifically excludes but is not limited to, watering, damage due to watering practices, insects, disease, or other circumstances beyond our control arising after the installation. Blackjack Horticulture is not responsible for any damage resulting from watering or other restrictions imposed by public works entities or other civil authorities and does not warrant any planting not irrigated by an automatic irrigation system. Blackjack Horticulture is not responsible for and does not warranty plants that have been transplanted, uprooted, or otherwise disturbed/moved from their original location.
- C) Blackjack Horticulture is not responsible for any subsurface obstacles or debris (i.e. rock) that may prevent plants, irrigation, masonry work, or any other part of the contract from being implemented as originally intended. Any excavation or removal of such items or any required re-design may result in additional charges to the owner. Blackjack Horticulture is not responsible for damage caused to any underground or hidden items not clearly guarded or marked.
- D) The above proposal is a description of the work to be performed. Any item not specifically detailed above should be assumed to not be included unless otherwise stated. From time to time, certain types or variations of materials can become unavailable between the initial pricing of a proposed project and the time of construction/implementation. If a specific type, color, or size of material (i.e. plant types/sizes, masonry material color, stone, paver, etc.) is not available at the time of installation, a viable substitute that is as similar as possible to the original will be recommended to the owner along with any cost impact. Owner or owner's representative will be required to approve the change and any associated cost impact.
- E) Blackjack Horticulture is not responsible for design flaws, errors, or omissions in a design provided by another party, nor is Blackjack Horticulture responsible for plant material, or any other material type, that does not survive or is not conducive to its location or use as required in a design or specifications by another party.
- F) Final invoice will reflect actual quantities installed where applicable. If unit prices are provided, they are intended to give an approximate value to a specific item and do not always provide an exact price for additions and deletions. If material has been purchased for a project prior to a change being made, customer is obligated to pay for any cost associated with the material, any applicable freight/delivery, plus a 25% handling fee. If material has been installed prior to changes, customer is obligated to pay for the material in full at its original price, plus any costs associated with removing and replacing the material.
- G) Customer agrees to pay Blackjack Horticulture a deposit in the amount of 35% of the total dollar amount listed above prior to commencement of work and further agrees to pay the remaining balance upon final completion of the work. Any project with a duration longer than one month may be subject to progress billing at the end of each month based upon completed work to date. All payments are due within the terms set forth on the invoice. Any past due payments are subject to late fees as detailed on the invoice.
- H) Blackjack Horticulture reserves the right to engage the services of an attorney or collection agency in order to enforce the terms of this agreement and/or collect any late payments it may be due. Should this become necessary, any and all attorney or collection fees will be added to any previous amount owed Blackjack Horticulture and will be due and payable by the customer.
- I) Prices good only if accepted within 30 days. In addition, Blackjack Horticulture cannot begin to schedule a project or include a project in planning and preparation stages until receiving a final, signed proposal and construction deposit.
- J) By signing below, the customer represents that they are the responsible party for the agreement and its obligations and are legally able and authorized to enter into this agreement as the owner/customer, or on behalf of the owner. Customer further agrees with the terms and conditions set forth in this document and the description of work to be performed as described above and acknowledges that any other items outside the scope of work described above will be performed at an additional charge that becomes due and payable

OPTIONAL SERVICES

Landscape Installation \$820.65
J:\Minutes & Agendas\Council\2022\20220411 Minutes.docx

Initials

APPENDIX 4

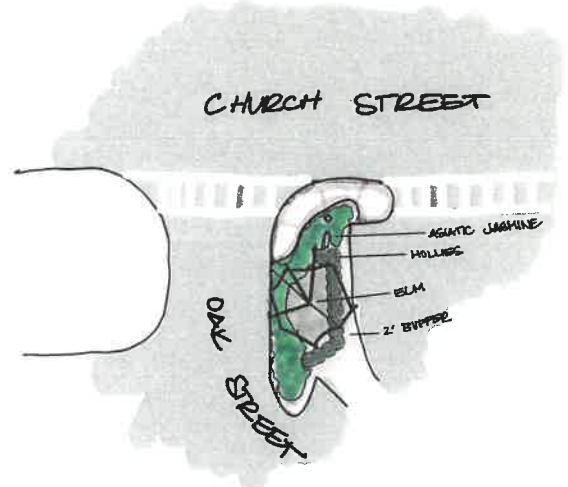
April 11, 2022

upon completion.

K) The contract price for the project has been calculated based on the current prices and availability for the materials... However, the market for some of the materials that are specified herein is considered to be volatile, and sudden price increases could occur. The Contractor agrees to use his best efforts to obtain the lowest possible prices from available suppliers, but in the event of significant delay or an increase in the prices of specified materials beyond the Contractor's control that are purchased after execution of contract for use in this project, the Owner agrees to equitably adjust any specified time of completion and/or contract requirements as may be needed for completion and pay any difference between the originally priced material and any increase in costs to the Contractor. Any claim by the Contractor for payment of a cost increase, as provided above, shall be via written notice delivered by the Contractor to the Owner stating the increased cost, the building material, or materials in question for notice and approval by the Owner before Contractor proceeds further.

Eli Nichols
Blackjack Horticulture

[Handwritten Signature]
Customer Signature
4-11-2022
Date



APPENDIX 4

Opportunity Number: 7956

ADDENDUM TO PROFESSIONAL SERVICES AGREEMENT BETWEEN THE CITY OF MOUNTAIN BROOK AND BLACKJACK HORTICULTURE.

THIS ADDENDUM TO PROFESSIONAL SERVICES AGREEMENT ("the/this Addendum") between the City of Mountain Brook, Alabama ("the City") and Blackjack Horticulture ("the Contractor") is entered between the parties.

This Addendum is a part of the Professional Services Agreement between the parties (the "Agreement") concerning the work, services or project described in the Agreement. In the event of any conflict between the terms and provisions of this Addendum and the Agreement, the terms herein supersede and control any conflicting or inconsistent terms or provisions, particularly to the extent the conflicting or inconsistent terms or provisions in the Agreement purport either to (a) confer greater rights or remedies on the Contractor than are provided herein or under otherwise applicable law, or to (b) reduce, restrict, or eliminate rights or remedies that would be available to the City under otherwise applicable law. The Addendum shall remain in full force and effect with respect to any amendment, extension, or supplement of or to the principal Agreement, whether or not expressly acknowledged or incorporated therein. No agent, employee, or representative of the City is authorized to waive, modify, or suspend the operation of the Addendum or any of its terms or provisions without the express approval of the Mountain Brook City Council.

1. **Definitions.** For purposes of this Addendum, the terms below have the following meanings:

- A. "The City" refers to and includes the City of Mountain Brook, Alabama, and its constituent departments, boards, and agencies. The City may also be referenced in the Agreement as the "Client."
- B. "The (this) Agreement" refers to the principal contract, agreement, proposal, quotation, or other document that sets forth the basic terms and conditions under which the Contractor is engaged to provide goods, materials, or services to the City, including the payment or other consideration to be provided by the City in exchange therefor.
- C. "The Contractor" refers to the person, firm, or other legal entity that enters the Agreement with the City to provide goods, materials, or services to the City, and includes vendors and suppliers providing goods, materials, and services to the City with or without a formal contract as well as the Contractor's vendors, suppliers, and subcontractors. The Contractor may also be referenced in the Agreement as the "Consultant."

2. **Dispute Resolution.** If a disagreement, claim, issue or disagreement arises between the parties with respect to the performance of this Agreement or the failure of a Party to perform their respective rights or obligations hereunder (a "Dispute"), the parties will use reasonable efforts to resolve any Dispute at the designated representative level. If the parties are unable to amicably resolve any Dispute at that level, each agree to escalate that matter to senior managers or senior officials for consideration by and potential resolution by them. If the Dispute is not resolved at the senior level, the dispute resolution mechanism shall be litigation in a court with competent jurisdiction that is located in Jefferson County, Alabama.

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, and 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 considered delinquent pending resolution of the dispute.

5. **Indemnification; Hold-Harmless; Release; Waiver; Limitations of Liability or Remedies.** The City shall not and does not indemnify, hold harmless, or release the Contractor or any other person, firm, or legal entity for, from, or with respect to any claim, cause of action, cost, charge, fee, expense, or liability whatsoever arising out of or relating to the subject matter of the Agreement or the performance or nonperformance thereof; nor shall or does the City waive its right to assert or pursue any remedy or claim for relief of any kind that it may have against the Contractor or any other person, firm, or entity for any actual or alleged default or other breach of legal duty on the part of the Contractor or any person, firm, or entity in privity therewith or acting on Contractor's behalf. Any limitation or restriction regarding the type, nature, form, amount, or extent of any right, remedy, relief, or recovery that would otherwise be available to the City is expressly disavowed, excluded from the terms of the agreement, and void.

6. **Choice of Law; Choice of Venue or Forum.** The meaning, legal effect, and enforcement of terms and provisions of the Agreement and the resolution of any disputes arising thereunder or relating thereto shall be governed by the laws of the State of Alabama except to the extent otherwise required by applicable conflict-of-law principles. The venue of any suit, action, or legal proceeding brought to enforce or secure relief by reason of any asserted breach of duty arising out of or relating to the performance or nonperformance of the Agreement shall be Jefferson County, Alabama except to the extent otherwise required by applicable principles of law.

7. **Construction of Addendum.** Nothing in this Addendum shall be construed to create or impose any duty or liability on the City, to create a right or remedy in favor of the Contractor against the City, or to restrict or abrogate any right or remedy that is available to the City against the Contractor or any other person, firm, or entity under either the principal Agreement or as a matter of law.

8. **Independent Contractor.** Consultant's relationship to Client at all times is that of an independent contractor. Consultant exclusively controls the means and methods in which it performs its operations or provides the goods, services or undertaking described in the Agreement. The Client does not reserve any right of control over Consultant's operations or the activities it utilizes to perform its obligations in the Agreement.

9. **Contractor's Insurance Requirements:** For the duration of this Agreement and for limits not less than stated below, the Contractor shall maintain the following insurance with a company(ies) lawfully authorized to do business in the location of the Project and reasonably acceptable to the City:

- .1 Comprehensive General Liability: This insurance shall cover all operations performed by or on behalf of Contractor, and provide coverage for bodily injury and

property damage with a combined single limit of not less than \$500,000 per occurrence.

2. Automobile Liability: If the work or services performed by the Contractor involves use of motor vehicles on public streets, Automobile Liability covering owned and rented vehicles operated by Contractor with policy limits of not less than Five Hundred Thousand Dollars (\$500,000) combined single limit and aggregate for bodily injury and property damage, per occurrence.

3. Workers Compensation: Workers' Compensation and Employers Liability as required by statute.

4. Professional Liability: If Contractor is providing professional services, Professional Liability covering Contractor's negligent acts, errors and omissions in its performance of professional services with policy limits of not less One Million Dollars (\$1,000,000) per claim and in the aggregate.

Contractor may use umbrella or excess liability insurance to achieve the required coverage for Comprehensive General Liability and Automobile Liability, provided that such umbrella or excess insurance results in the same type of coverage as required for the individual policies. These insurance requirements are in addition to and do not affect any indemnification obligation of Contractor herein.

All policies, except for the Workers Compensation and Professional Liability policies shall contain endorsements naming the City, and its officers, employees and agents as additional named insured with respect to liabilities that arise out of and result from the operations of the Contractor or its performance of Services or work. The additional named insured endorsement shall not limit the scope of coverage to the City to vicarious liability, but shall allow coverage for the City to the fullest extent provided by the policy.

All insurance policies required herein are to be primary and non-contributory with any insurance or self-insurance program administered by the City.

Before commencement of Services hereunder, Contractor shall provide the City a certificate(s) of insurance and endorsements (including the additional insured endorsements) evidencing compliance with the requirements in this section. This certificate(s) shall provide that such insurance shall not be terminated or expire without thirty (30) days advance notice to the City.

10. Indemnification for Claims by Third Parties. The Contractor agrees to defend, indemnify, and hold harmless the City, and its agents, employees and officials (collectively hereinafter the "Indemnitees") from and against all demands, actions, damages, judgments, expenses (including but not limited to attorneys' fees, expert fees, court costs and other litigation costs), losses, damages, and claims (including those for bodily injury, sickness, disease or death, or to injury to, destruction or loss of use of tangible property, or those for financial loss or damages, collectively hereinafter "Claim(s)") that are made against the City by any third parties (including any employee, agent or representative of the Contractor, collectively "Third Parties") to the extent that such Claims are caused or allegedly caused by the negligence of the Consultant in the performance of its Services, its work on the Project described in the Agreement or its failure to perform its obligations in the Agreement.

11. EXCLUSION OF CONSEQUENTIAL DAMAGES. THE CONTRACTOR AGREES AND ACKNOWLEDGES THAT, IN THE EVENT THAT IT ASSERTS ANY CLAIM, DEMAND OR ACTION OF ANY TYPE AGAINST THE CITY ARISING FROM ITS ALLEGED BREACH OF THE AGREEMENT OR ITS FAILURE TO PERFORM ANY OF ITS OBLIGATIONS THEREUNDER, THE MAXIMUM AMOUNT THAT THE CONTRACTOR MAY RECOVER FROM THE CITY AS DAMAGES IN ANY SUCH ACTION IS LIMITED TO THE ACTUAL DAMAGES THAT DIRECTLY ARISE FROM THAT BREACH. THE CONTRACTOR FURTHER ACKNOWLEDGES THAT THE COMMERCIAL TERMS HEREIN WERE PROPOSED AND BASED ON THE ASSUMPTION THAT THIS SPECIFIC LIMITATION IS APPLICABLE, AND THAT THE CITY WOULD NOT ENTERED INTO THIS AGREEMENT WITHOUT INCLUDING THIS LIMITATION. IN NO EVENT WILL THE CITY BE LIABLE TO THE CONTRACTOR FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, PUNITIVE, RELIANCE OR OTHER SPECIAL DAMAGES, INCLUDING, WITHOUT LIMITATION, DAMAGES FOR LOST PROFITS, ADVANTAGE, SAVINGS OR REVENUES OR FOR INCREASED COST OF OPERATIONS. NOTHING IN THIS PROVISION IS INTENDED TO IMPACT, MODIFY, AMEND OR LIMIT THE TERMS OR APPLICATION OF THE INDEMNIFICATION PROVISION IN THE PROVISION ABOVE THAT PERTAINS TO CONTRACTOR'S OBLIGATIONS TO INDEMNIFY THE CITY FOR CLAIMS MADE AGAINST THE CITY BY THIRD PARTIES.

CITY: CITY OF MOUNTAIN BROOK CONTRACTOR: _____
By: _____ By: _____
Printed Name: _____ Printed Name: _____
Title: _____ Title: _____
Date: _____ Date: _____

APPENDIX 4

STATE OF ALABAMA)
JEFFERSON COUNTY)

LANDSCAPE AND ACCESS EASEMENT

This Easement is made and entered into on this ___ day of ___, 2022, by and between Crestline Real Estate Partners, LLC, an Alabama limited liability company, (hereinafter referred to as "Grantor") and the City of Mountain Brook, Alabama, a municipal corporation (hereinafter referred to as "City").

WHEREAS, Grantor is the owner and record titleholder of the property located at 80 Church Street, Mountain Brook, Jefferson County, Alabama, more particularly described as:

Lot One, in Block Eleven (11), according to the Map of Crestline Heights, as recorded in Map Book 7, Page 16, in the Office of the Judge of Probate of Jefferson County, Alabama.

(referred to as the "Property"), which is bounded on one side by Church Street and on the other side by Oak Street, both public rights of way in the City; and

WHEREAS, the right of way of Oak Street is separated from the Property by way of a raised landscaped median and the City desires to make improvements to such median as part of an initiative to improve rights of way and adjacent areas in the City's commercial areas; and

WHEREAS, an easement for landscaping, improvement and access purposes will be required to make such improvements, which will benefit both the Property and the public interest.

NOW THEREFORE, for and in consideration of the above promises and the mutual covenants and agreements set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged:

- 1. Grantor does hereby grant unto the City and its representatives an access and maintenance easement in, on, over, and under the Property, to be improved and maintained by the City as part of its streetscape. This easement consists of a strip of property approximately five (5) feet wide and thirty five (35) feet long, adjacent to existing City property (hereinafter referred to as the "Landscaping Easement"), and is more particularly depicted in Exhibit A.
2. The Landscaping Easement granted hereby shall be for a term of twenty (20) years. Prior to the end of such term, if the Property is redeveloped such that the easement area must be materially modified, this Landscaping Easement will terminate.

3. The City shall have no obligation to make improvements to the easement area and any work performed thereupon shall be at the sole discretion of the City. In the event that the City elects to discontinue maintenance on the easement area, upon request of Grantor, the City agrees to restore the Easement area as nearly as practical to its condition as it was on the date of execution hereof.

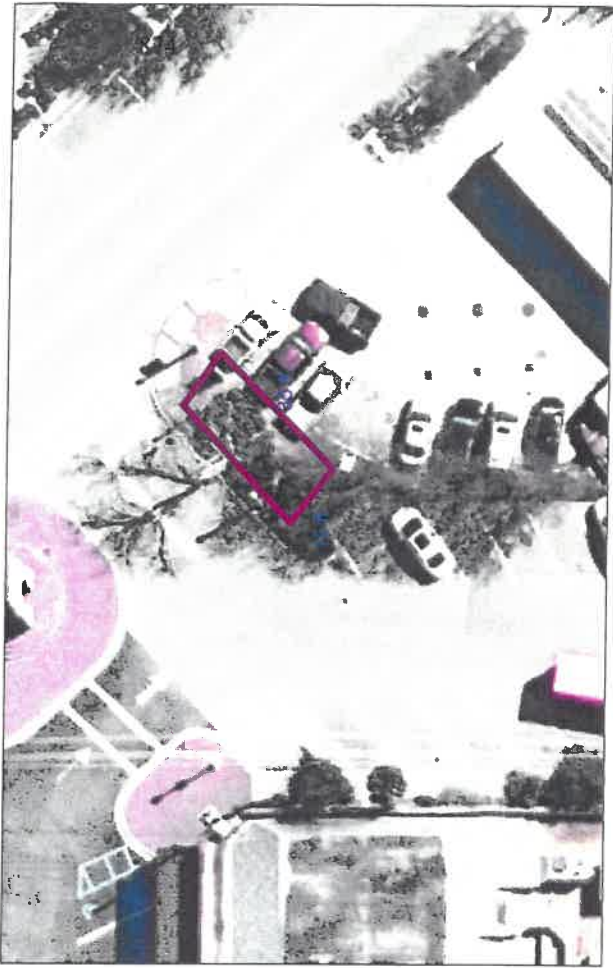
IN WITNESS WHEREOF, the said Grantor has caused this instrument to be executed on this the ___ day of ___, 2022.

STATE OF ALABAMA)
JEFFERSON COUNTY)

I, the undersigned authority, a Notary Public in and for said county and state, hereby certify that ___, who is known to me, acknowledged before me that, being informed of the contents of the foregoing instrument, the undersigned is a member of Crestline Real Estate Partners, LLC with the authority to execute same on behalf of such entity and that he executed the same voluntarily, on the day the same bears date.

Given under my hand and official seal on this the ___ day of ___, 2022.

Notary Public
My Commission Expires: _____



4/11/2022, 2:17:02 PM

2018 Aerial

Red: Band_1

Green: Band_2

Blue: Band_3

1:282

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Monday, April 4, 2022

Dear City Council,

I am writing on behalf of The Travel Studio to address some of the questions that you may have concerning the use of our space as tenants of 2012 Cahaba Road.

The Travel Studio is owned by Anne Liles and Ragan Stone. In addition to the two of us there is one additional administrative employee. Also, there are 4 other independent contractors (Travel Advisors) in the space as well.

During peak hours, I would say no more than 10-12 people are in the space itself, including workers and patrons.

We plan to be open 9-5 Monday- Friday and 10-3 on Saturday.

We have asked that everyone associated with The Travel Studio park in the upper or lower lot on Fairway Drive to allow for more village parking. There is one dedicated space in the rear of the building dedicated for our use.

The nature of the Travel Studio is primarily travel advisors, but ¼ of the space will be devoted to retail sales of luggage and other travel items.

Best,
Anne

DATE: April 11, 2022

TO: Mayor, City Council & City Manager

FROM: Dana Hazen, City Planner

RE: Travel Studio – 2012 Cahaba Road – English Village

The Travel Studio is seeking approval for a space in English Village (bottom 1/2 of the previous Billy's site). The proposed site is zoned Local Business, and is non-conforming with regard to on-site parking. While a portion of the space will be used for retail sales of travel items (such as luggage) the remaining provision of travel services requires council approval of a conditional use.

Please see attached letter of proposed operational characteristics. Note that the proposed number of employees at a peak hour is seven, with peak client activity estimated at four-five. There is limited on-site parking (one space); and the applicant anticipates that employees and clients will primarily utilize the public parking lots on Fairway Drive.

The zoning ordinance requires council approval of service uses as a conditional use, and states that any proposed conditional use will be reviewed as to the following:

- Whether the use would disparately impact public parking in the area;
- Whether vehicular or pedestrian circulation would be impacted by the use;
- Whether the use is compatible with surrounding existing uses;
- Whether the hours of operation or peak traffic times would impact existing uses.

STATE OF ALABAMA


JEFFERSON COUNTY

CITY OF MOUNTAIN BROOK

I, K.C. Hairston, do solemnly swear that I will administer justice without respect to persons, and do equal right to the poor and to the rich, and that I will faithfully and impartially discharge and perform all the duties incumbent upon me as Presiding Judge under the Constitution and laws of the United States. So help me God.


K. C. Hairston

Sworn to and subscribed before me this 11th day of April, 2022.


Stewart Welch, Mayor
City of Mountain Brook

APPENDIX 6

March 7, 2022

City of Mountain Brook
Attn: Ronnie Vaughn



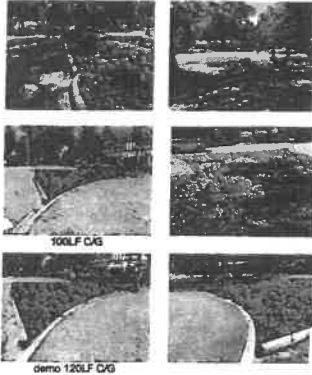
Re: Demo/Concrete Curb&Gutter Project

Wright Construction Company proposes to furnish all labor, materials, and equipment necessary to complete the scope of work described below at the above referenced project:

Scope of Work to include:

- *demo approx. 120SF existing curb/gutter and remove spoils from site.
- *form/place/finish approx. 100LF new concrete curb&gutter (with integral color) to replace temporary barricades.
- *remove existing mulch and asphalt below mulch to prepare for new grass.
- *install new topsoil to prepare for new sod.
- *leave work area in pristine condition upon completion.

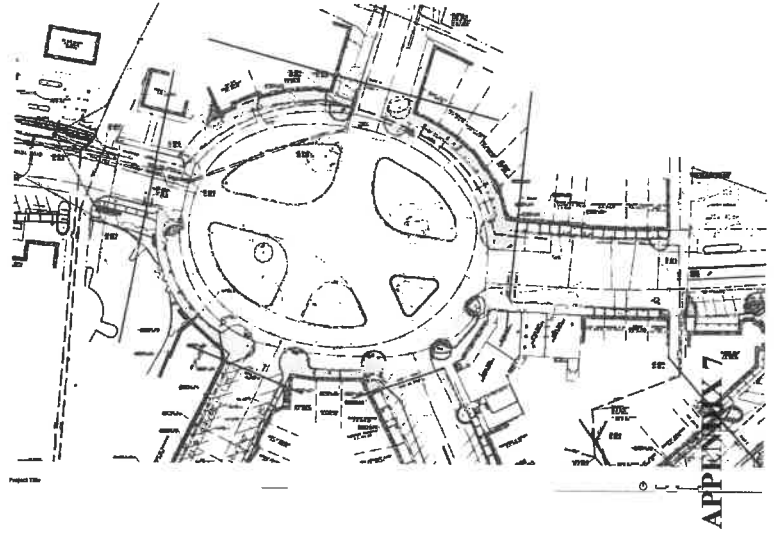
TOTAL PROJECT COST: \$8,500



Exclusions: Permits, Engineering, Testing, Private Locate, Utility Relocation and/or repair.

Thank you for the opportunity to bid on this project. We look forward to working with you guys again.

L ANDON DITTO
Lead Estimator/Manager



ADDENDUM TO PROFESSIONAL SERVICES AGREEMENT BETWEEN THE CITY OF MOUNTAIN BROOK AND WRIGHT CONSTRUCTION COMPANY

THIS ADDENDUM TO PROFESSIONAL SERVICES AGREEMENT ("the/this Addendum") between the City of Mountain Brook, Alabama ("the City") and Wright Construction Company ("the Contractor") is entered between the parties.

This Addendum is a part of the Professional Services Agreement between the parties (the "Agreement") concerning the work, services or project described in the Agreement. In the event of any conflict between the terms and provisions of this Addendum and the Agreement, the terms herein supersede and control any conflicting or inconsistent terms or provisions, particularly to the extent the conflicting or inconsistent terms or provisions in the Agreement purport either to (a) confer greater rights or remedies on the Contractor than are provided herein or under otherwise applicable law, or to (b) reduce, restrict, or eliminate rights or remedies that would be available to the City under otherwise applicable law. The Addendum shall remain in full force and effect with respect to any amendment, extension, or supplement of or to the principal Agreement, whether or not expressly acknowledged or incorporated therein. No agent, employee, or representative of the City is authorized to waive, modify, or suspend the operation of the Addendum or any of its terms or provisions without the express approval of the Mountain Brook City Council.

1. Definitions. For purposes of this Addendum, the terms below have the following meanings:

- A. "The City" refers to and includes the City of Mountain Brook, Alabama, and its constituent departments, boards, and agencies. The City may also be referenced in the Agreement as the "Client."
- B. "The (this) Agreement" refers to the principal contract, agreement, proposal, quotation, or other document that sets forth the basic terms and conditions under which the Contractor is engaged to provide goods, materials, or services to the City, including the payment or other consideration to be provided by the City in exchange therefor.
- C. "The Contractor" refers to the person, firm, or other legal entity that enters the Agreement with the City to provide goods, materials, or services to the City, and includes vendors and suppliers providing goods, materials, and services to the City with or without a formal contract as well as the Contractor's vendors, suppliers, and subcontractors. The Contractor may also be referenced in the Agreement as the "Consultant."

2. Dispute Resolution. If a disagreement, claim, issue or disagreement arises between the parties with respect to the performance of this Agreement or the failure of a Party to perform their respective rights or obligations hereunder (a "Dispute"), the parties will use reasonable efforts to resolve any Dispute at the designated representative level. If the parties are unable to amicably resolve any Dispute at that level, each agree to escalate that matter to senior managers or senior officials for consideration by and potential resolution by them. If the Dispute is not resolved at the senior level, the dispute resolution mechanism shall be litigation in a court with competent jurisdiction that is located in Jefferson County, Alabama.

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, and 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 considered delinquent pending resolution of the dispute.

5. Indemnification; Hold-Harmless; Release; Waiver; Limitations of Liability or Remedies. The City shall not and does not indemnify, hold harmless, or release the Contractor or any other person, firm, or legal entity for, from, or with respect to any claim, cause of action, cost, charge, fee, expense, or liability whatsoever arising out of or relating to the subject matter of the Agreement or the performance or nonperformance thereof; nor shall or does the City waive its right to assert or pursue any remedy or claim for relief of any kind that it may have against the Contractor or any other person, firm, or entity for any actual or alleged default or other breach of legal duty on the part of the Contractor or any person, firm, or entity in privity therewith or acting on Contractor's behalf. Any limitation or restriction regarding the type, nature, form, amount, or extent of any right, remedy, relief, or recovery that would otherwise be available to the City is expressly disavowed, excluded from the terms of the agreement, and void.

6. Choice of Law; Choice of Venue or Forum. The meaning, legal effect, and enforcement of terms and provisions of the Agreement and the resolution of any disputes arising thereunder or relating thereto shall be governed by the laws of the State of Alabama except to the extent otherwise required by applicable conflict-of-law principles. The venue of any suit, action, or legal proceeding brought to enforce or secure relief by reason of any asserted breach of duty arising out of or relating to the performance or nonperformance of the Agreement shall be Jefferson County, Alabama except to the extent otherwise required by applicable principles of law.

7. Construction of Addendum. Nothing in this Addendum shall be construed to create or impose any duty or liability on the City, to create a right or remedy in favor of the Contractor against the City, or to restrict or abrogate any right or remedy that is available to the City against the Contractor or any other person, firm, or entity under either the principal Agreement or as a matter of law.

8. Independent Contractor. Consultant's relationship to Client at all times is that of an independent contractor. Consultant exclusively controls the means and methods in which it performs its operations or provides the goods, services or undertaking described in the Agreement. The Client does not reserve any right of control over Consultant's operations or the activities it utilizes to perform its obligations in the Agreement.

9. Contractor's Insurance Requirements: For the duration of this Agreement and for limits not less than stated below, the Contractor shall maintain the following insurance with a company(ies) lawfully authorized to do business in the location of the Project and reasonably acceptable to the City:

- .1 Comprehensive General Liability: This insurance shall cover all operations performed by or on behalf of Contractor, and provide coverage for bodily injury and

878
property damage with a combined single limit of not less than \$500,000 per occurrence.

.2 Automobile Liability: If the work or services performed by the Contractor involves use of motor vehicles on public streets, Automobile Liability covering owned and rented vehicles operated by Contractor with policy limits of not less than Five Hundred Thousand Dollars (\$500,000) combined single limit and aggregate for bodily injury and property damage, per occurrence.

.3 Workers Compensation: Workers' Compensation and Employers Liability as required by statute.

.4 Professional Liability: If Contractor is providing professional services, Professional Liability covering Contractor's negligent acts, errors and omissions in its performance of professional services with policy limits of not less One Million Dollars (\$1,000,000) per claim and in the aggregate.

Contractor may use umbrella or excess liability insurance to achieve the required coverage for Comprehensive General Liability and Automobile Liability, provided that such umbrella or excess insurance results in the same type of coverage as required for the individual policies. These insurance requirements are in addition to and do not affect any indemnification obligation of Contractor herein.

All policies, except for the Workers Compensation and Professional Liability policies shall contain endorsements naming the City, and its officers, employees and agents as additional named insured with respect to liabilities that arise out of and result from the operations of the Contractor or its performance of Services or work. The additional named insured endorsement shall not limit the scope of coverage to the City to vicarious liability, but shall allow coverage for the City to the fullest extent provided by the policy.

All insurance policies required herein are to be primary and non-contributory with any insurance or self-insurance program administered by the City.

Before commencement of Services hereunder, Contractor shall provide the City a certificate(s) of insurance and endorsements (including the additional insured endorsements) evidencing compliance with the requirements in this section. This certificate(s) shall provide that such insurance shall not be terminated or expire without thirty (30) days advance notice to the City.

10. *Indemnification for Claims by Third Parties.* The Contractor agrees to defend, indemnify, and hold harmless the City, and its agents, employees and officials (collectively hereinafter the "Indemnitees") from and against all demands, actions, damages, judgments, expenses (including but not limited to attorneys' fees, expert fees, court costs and other litigation costs), losses, damages, and claims (including those for bodily injury, sickness, disease or death, or to injury to, destruction or loss of use of tangible property, or those for financial loss or damages, collectively hereinafter "Claim(s)") that are made against the City by any third parties (including any employee, agent or representative of the Contractor, collectively "Third Parties") to the extent that such Claims are caused or allegedly caused by the negligence of the Consultant in the performance of its Services, its work on the Project described in the Agreement or its failure to perform its obligations in the Agreement.

MINUTE BOOK 92

11. *EXCLUSION OF CONSEQUENTIAL DAMAGES.* THE CONTRACTOR AGREES AND ACKNOWLEDGES THAT, IN THE EVENT THAT IT ASSERTS ANY CLAIM, DEMAND OR ACTION OF ANY TYPE AGAINST THE CITY ARISING FROM ITS ALLEGED BREACH OF THE AGREEMENT OR ITS FAILURE TO PERFORM ANY OF ITS OBLIGATIONS THEREUNDER, THE MAXIMUM AMOUNT THAT THE CONTRACTOR MAY RECOVER FROM THE CITY AS DAMAGES IN ANY SUCH ACTION IS LIMITED TO THE ACTUAL DAMAGES THAT DIRECTLY ARISE FROM THAT BREACH. THE CONTRACTOR FURTHER ACKNOWLEDGES THAT THE COMMERCIAL TERMS HEREIN WERE PROPOSED AND BASED ON THE ASSUMPTION THAT THIS SPECIFIC LIMITATION IS APPLICABLE, AND THAT THE CITY WOULD NOT ENTERED INTO THIS AGREEMENT WITHOUT INCLUDING THIS LIMITATION. IN NO EVENT WILL THE CITY BE LIABLE TO THE CONTRACTOR FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL PUNITIVE, RELIANCE OR OTHER SPECIAL DAMAGES, INCLUDING, WITHOUT LIMITATION, DAMAGES FOR LOST PROFITS, ADVANTAGE, SAVINGS OR REVENUES OR FOR INCREASED COST OF OPERATIONS. NOTHING IN THIS PROVISION IS INTENDED TO IMPACT, MODIFY, AMEND OR LIMIT THE TERMS OR APPLICATION OF THE INDEMNIFICATION PROVISION IN THE PROVISION ABOVE THAT PERTAINS TO CONTRACTOR'S OBLIGATIONS TO INDEMNIFY THE CITY FOR CLAIMS MADE AGAINST THE CITY BY THIRD PARTIES.

CITY: CITY OF MOUNTAIN BROOK CONTRACTOR: _____

By:  By: _____

Printed Name: _____ Printed Name: _____

Title: _____ Title: _____

Date: _____ Date: _____

APPENDIX 7

MEMO REGARDING PROPOSED

ORDINANCE 2121

- After serving as a municipal judge for the City of Mountain Brook for almost 20 years, Presiding Judge Turner Williams would like to transition to supernumerary judge.
- In this new role, Judge Williams will continue to serve Mountain Brook as a judge on an as needed basis and will be available to the extent his vast experience with the Mountain Brook court is needed for a particular case or issue in the future.
- K.C. Hairston will assume the responsibilities of the Presiding Judge.
- With the creation of the supernumerary position for Judge Williams, the second judge position is no longer necessary.
- The one judge, one supernumerary staffing is consistent with how the other over-the-mountain courts operate: Homewood, Vestavia, Hoover, Trussville and many others.
- Having one primary judge instead of two judges promotes consistency and fairness to defendants and is easier for the city to implement.
- Accordingly, the Mountain Brook Municipal Court respectfully requests that the City Council adopt Ordinance No. 2121.





Presiding Judge Turner Williams Judge K.C. Hairston City Clerk Heather Richards

APPENDIX 8



Heather Richards <richardsh@mtnbrook.org>

MINUTE BOOK 92 WORK AUTHORIZATION



Sain Contract

Currie, Nathan <NCurrie@sain.com> Thu, Apr 7, 2022 at 3:16 PM
To: Sam Gaston <gastons@mtnbrook.org>, Heather Richards <richardsh@mtnbrook.org>
Cc: Janel Forbes <forbesj@mtnbrook.org>, Steve Boone <boones@mtnbrook.org>, "Bailey, Alicia" <abailey@sain.com>

Sam,

I've attached a proposal for Sain to prepare the TAP application for sidewalk along Montclair Road. This would include field review, preparation of maps, cost estimates, and the application.

I apologize for the delay in getting this to you, but please let us know if you have any questions. We appreciate the opportunity to submit this proposal!

Also, I spoke with Ann Holloway this morning, the HOA president of the Courtyards of Mountain Brook neighborhood. She expressed to me at the last Council meeting and on the phone that her neighborhood would like to be connected by sidewalk to the bus stop on the NW corner of the intersection of Montclair Rd and Memory Lane. This was included in the petition you received recently also. We can review the cost of that option as part of the application. She expressed that she would be present at the Council meeting Monday night.

Nathan Currie, P.E.

Sain Associates

Direct: 205.263.2129

Mobile: 404.983.7379

[Quoted text hidden]

Montclair Rd TAP proposal.pdf
199K

TO: Sam Gaston
FROM: Nathan Currie, P.E.
Alicia Bailey, P.E.
DATE: 4/7/22
SUBJECT: Montclair Road Sidewalk for TAP
PROJECT #: 21-0117

Two Perimeter Park South
Suite 500 East
Birmingham, Alabama 35243
Telephone: (205) 940-6420
www.sain.com

- I. **SCOPE**
Sain Associates will review the project area for installation of a sidewalk along the south side of Montclair Road from Mountain Brook Park Drive to Country Club Road. Sain will prepare a cost estimate, map, and application for submittal to ALDOT and the Regional Planning Commission of Greater Birmingham for their review and consideration for Transportation Alternative Program (TAP) funding.
- II. **BUDGET**
\$8,000 lump sum
- III. **STATUS**
We can work immediately for preparation of the application for submittal to the City for review. The applications are expected to be due the end of May 2022.
- IV. **TERMS AND CONDITIONS**
This contract is subject to the enclosed Terms and Conditions. All subsequent services required by you outside the scope of service specified will be performed on a time and materials basis according to the schedule of rates enclosed. Any modification to this contract document must be approved in writing by both parties with approval indicated by each signatory's initials and the date of approval.
- V. **PROPOSAL LIMITATIONS**
We reserve the right to withdraw or modify this proposal if not contracted within 60 days.

Sain Associates has provided this proposal with the understanding that you have selected our firm to perform professional services based upon our staff's qualifications, experience and reputation and not solely upon the cost of the services proposed. We trust the fees outlined herein are acceptable and within your project budgetary plans. We look forward to commencement of the work and will be glad to address any questions or concerns you have regarding the technical scope and/or schedule of fees for this proposal. If you should request additional prices for the scope of work included herein from other consulting engineers and/or land surveyors, please consider our proposal withdrawn in order to comply with Alabama Administrative Code Chapter 330-X-14-.05(f).

Engineering Better Partnerships

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Montclair Road sidewalk
Work Authorization
4/7/22
Page 2




Sincerely,

SAIN ASSOCIATES, INC.

Nathan Currie, P.E.
Project Manager/Associate
AL #32400

Alicia Bailey, P.E.
Practice Leader/Sr. Principal
AL #26339

Enclosures: Terms & Conditions, [Sch. 2022]

APPROVED
CITY OF MOUNTAIN BROOK
By: 
Stewart Webb, Mayor
Printed Name, Title
4-11-2022
Date

SAIN ASSOCIATES, INC. TERMS AND CONDITIONS

Category	Rate
Principal	\$190.00 - \$275.00 per Hour
Engineer/Principal	\$76.00 - \$148.00 per Hour
Senior Engineer	\$130.00 - \$210.00 per Hour
GIS Professional	\$125.00 - \$155.00 per Hour
Designer	\$87.00 - \$125.00 per Hour
Surveyor	\$100.00 - \$140.00 per Hour
Survey Crew (1-Person)	\$100.00 per Hour
Survey Crew (1-Person + Robot)	\$150.00 per Hour
Survey Crew (2-Person)	\$175.00 per Hour
Survey Crew (3-Person)	\$215.00 per Hour
Survey Per Diem	\$150.00 per person per Night
Administrative Support	\$60.00 - \$75.00 per Hour

Reimbursable Expenses
Printing, contract courier service, and travel expenses are not included within Consultant's basic fee and will be passed along to Client at cost plus 10%.

Payment
Payment for services by Consultant is to be made monthly based upon the percentage of work completed and invoiced to Client. Client's obligation to pay for services rendered hereunder is in no way dependent upon its ability to obtain financing, to obtain payment from a third party, or to obtain approval of any governmental or regulatory agencies, or upon Consultant's successful completion of the project. Payment for services and expenses hereunder is due in full within thirty (30) days after receipt of invoice. For past due accounts in excess of 120 days Consultant will issue a past due statement with interest of 15% per month from said thirtieth (30th) day. Consultant may elect to seek assistance in collection of accounts in excess of 120 days in which case Client will be billed for attorney's fees for collection in the amount of 1/3 of the outstanding balance or such greater amount as the court finds reasonable. Consultant reserves the right to suspend services under this agreement until receipt of payment in full for all amounts due for services rendered and expenses incurred.

AI Immigration Law Compliance
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.

Standard of Care
The standard of care for all professional services performed or furnished by Consultant under this Agreement will be the skill and care ordinarily provided by members of Consultant's profession practicing under the same or similar circumstances and professional licenses at the same time and in the same locality, as specifically as is prudent considering the ordinary professional skill and care of a competent member of Consultant's profession. Consultant makes no warranties, express or implied, under this Agreement or otherwise, in connection with Consultant's services.

Responsibility of the Client
Client shall provide all criteria and full information as to Client's requirements for the Project, including budgetary limitations.
Reliance on Information Provided by Others
Consultant shall be entitled to rely, without liability, on the accuracy and completeness of any and all information provided by Client, Client's Consultants and Contractors, and information from public records, without the need for independent verification.

Schedules, Budgets and Estimates or Opinions of Cost
Any schedules or completion dates, budgets, or estimates of cost prepared by Consultant represent Consultant's professional judgment based on its experience and available information. Since neither Consultant nor Client has control over the cost of labor, materials, or equipment, or contractor's methods of determining prices, competitive bidding or market conditions; utility conflicts or right-of-way acquisition; agency approval times or actions of a Consultant Program Manager not employed by Sain, the Consultant cannot and does not warrant or represent that actual schedules, budgets or completion dates or actual costs will not vary from schedules or completion dates, budgets or estimates of cost prepared by Consultant or proposed, established, or approved by Client.

Approvals
Client agrees and acknowledges that the approval process necessary to maintain a project timeline is both unpredictable and outside of the Consultant's control. Consequently, the Consultant makes no representations as to its ability to timely achieve or to obtain said permits or approvals from any governing authority or outside agency.

Site Visit/Jobite Safety/Construction Phase Services
Consultant and Client acknowledge and agree that the Consultant shall not have responsibility and will not be liable for jobsite safety or construction means and methods, regardless of whether Consultant's scope of services documented herein include site visits during the construction phase. The Consultant is not responsible for, and shall by no means be liable for, the acts or omissions of any owner, contractor, subcontractor or material supplier.

Right of Entry
Client, of its sole cost and expense, shall furnish the Consultant, its agents, employees, and subcontractors a right-of-entry and any other authorizations or licenses needed for Consultant to enter the Project location to perform the services contemplated by this Agreement. Client agrees and acknowledges that the services provided by the Consultant may require certain activities that may disrupt the use of the Project's property location and may disturb, alter, or damage the terrain and vegetation thereabout and that Consultant will not restore the property to its original state.

Certifications
Consultant shall not be required to sign any documents, no matter by whom requested, that would result in Consultant's having to certify, guarantee, or warrant the existence of conditions that Consultant cannot ascertain or verify. Further, Consultant and Client acknowledge and agree that Consultant shall not be expected to provide any certifications unless expressly agreed upon by Consultant, as evidenced by the date of the scope of Consultant's work invoiced to Client.



THIS ADDENDUM TO PROFESSIONAL SERVICES AGREEMENT ("the/this Addendum") between the City of Mountain Brook, Alabama ("the City") and Sain Associates, Inc. ("the Contractor") is entered between the parties.

This Addendum is a part of the Professional Services Agreement between the parties (the "Agreement") concerning the work, services or project described in the Agreement. In the event of any conflict between the terms and provisions of this Addendum and the Agreement, the terms herein supersede and control any conflicting or inconsistent terms or provisions, particularly to the extent the conflicting or inconsistent terms or provisions in the Agreement purport either to (a) confer greater rights or remedies on the Contractor than are provided herein or under otherwise applicable law, or to (b) reduce, restrict, or eliminate rights or remedies that would be available to the City under otherwise applicable law. The Addendum shall remain in full force and effect with respect to any amendment, extension, or supplement of or to the principal Agreement, whether or not expressly acknowledged or incorporated therein. No agent, employee, or representative of the City is authorized to waive, modify, or suspend the operation of the Addendum or any of its terms or provisions without the express approval of the Mountain Brook City Council.

1. **Definitions.** For purposes of this Addendum, the terms below have the following meanings:

- A. "The City" refers to and includes the City of Mountain Brook, Alabama, and its constituent departments, boards, and agencies. The City may also be referenced in the Agreement as the "Client."
- B. "The (this) Agreement" refers to the principal contract, agreement, proposal, quotation, or other document that sets forth the basic terms and conditions under which the Contractor is engaged to provide goods, materials, or services to the City, including the payment or other consideration to be provided by the City in exchange therefor.
- C. "The Contractor" refers to the person, firm, or other legal entity that enters the Agreement with the City to provide goods, materials, or services to the City, and includes vendors and suppliers providing goods, materials, and services to the City with or without a formal contract as well as the Contractor's vendors, suppliers, and subcontractors. The Contractor may also be referenced in the Agreement as the "Consultant."

2. **Dispute Resolution.** If a disagreement, claim, issue or disagreement arises between the parties with respect to the performance of this Agreement or the failure of a Party to perform their respective rights or obligations hereunder (a "Dispute"), the parties will use reasonable efforts to resolve any Dispute at the designated representative level. If the parties are unable to amicably resolve any Dispute at that level, each agree to escalate that matter to senior managers or senior officials for consideration by and potential resolution by them. If the Dispute is not resolved at the senior level, the dispute resolution mechanism shall be litigation in a court with competent jurisdiction that is located in Jefferson County, Alabama.

APPENDIX 9

Unforeseen Conditions and Occurrences
If, during the course of performance of services pursuant to this Agreement, any unforeseen hazardous substance, material, object, element, or other unforeseen conditions or occurrences are encountered which, in the Consultant's judgment, materially affects or may affect the services to be provided hereunder, the risk involved in providing the services, or the scope of the services, Consultant will notify Client. Subsequent to that notification, Consultant may: (a) if practicable, in Consultant's judgment and with Client's approval, complete the original scope of services in accordance with this Agreement; (b) agree with Client to modify the scope of services and the estimate of costs to include the previously unforeseen conditions or occurrences, such revision to be in writing and signed by the Parties and incorporated herein; or (c) terminate the services effective on the date of notification for convenience.

Use of Electronic Media
Copies of documents that may be relied upon by the Client are limited to the printed copies, (also known as hard copies), that are signed or sealed by Consultant. Files in electronic media format or text, data, graphic or other types that are furnished by Consultant to Client are only for convenience of the Client. Any conclusion of information obtained or derived from such electronic files will be at the user's sole risk. When transferring documents in electronic media format, Consultant makes no representations as to long-term compatibility, usability, or readability of documents resulting from the use of software application, operating systems or computer hardware differing from those in use by Consultant at the beginning of its assignment.

Limitation of Remedies
Liability of remedies of Sain Associates, Inc. resulting from errors, omissions, or the negligence of Sain Associates, Inc., its agents or employees, pursuant to work under this agreement shall not exceed the value of engineering or surveying services required to correct the deficiency or the basic consulting fee for work covered hereunder or the actual cost of the remedies. This provision is being agreed to as a result of the fees being charged.

Consultant's Choice of Arbitration or Court
Client and Consultant agree that if a dispute arises out of or relates to this Agreement, the parties will attempt to settle the dispute through good faith negotiations. If direct negotiations do not resolve the dispute, the parties agree to endeavor to settle the dispute by mediation prior to the initiation of any legal action unless delay in initiating legal action would irrevocably prejudice one of the parties. Mediation shall take place in Jefferson County, Alabama, and if a mediator cannot be agreed upon by parties, then it is agreed that AAA (American Arbitration Association) will appoint a mediator. If mediation is unsuccessful, any such dispute shall be subject to and resolved at the election of Consultant, by either arbitration in accordance with the Rules of the AAA or by a trial by judge in either the Circuit Court for Jefferson County, Alabama, or the United States District Court for the Northern District of Alabama.

Indemnification
Client and Consultant each agree to indemnify and hold the other harmless, and their respective officers, employees, agents and representatives, from and against liability for all claims, losses, damages and expenses, including reasonable attorneys' fees, to the extent such claims, losses, damages, or expenses are caused by the indemnifying party's negligent acts, errors or omissions. In the event claims, losses, damages or expenses are caused by the joint or concurrent negligence of Client and Consultant, they shall be borne by each party in proportion to its negligence.

Force Majeure
Neither party shall be deemed in default of this Agreement to the extent that any delay or failure in the performance of its obligations results from any cause beyond its reasonable control and without its negligence.

Termination of Contract
Client may terminate this Agreement with seven days prior written notice to Consultant for convenience or cause. Consultant may terminate this Agreement for cause with seven days prior written notice to Client. Failure of Client to make payments when due shall be cause for suspension of services or, ultimately, termination, unless Consultant has been paid in full all amounts due for services, expenses and other related charges.

Ownership of Documents
All documents prepared or furnished by Consultant pursuant to this Agreement are instruments of Consultant's professional service, and Consultant shall retain ownership and property interest therein. Consultant grants Client a license to use instruments of Consultant's professional service for the purpose of conducting, occupying and maintaining the Project. Reuse or modification of any such documents by Client, without Consultant's written permission, shall be at Client's sole risk, and Client agrees to indemnify and hold Consultant harmless from all claims, damages and expenses, including attorneys' fees, arising out of such reuse by Client or Client's disclosure of any such documents to any third party.

Third Parties
Nothing contained in this Agreement shall create a contractual relationship with, or a cause of action in favor of, a third party against either the Client or Consultant. Consultant's services hereunder are being performed solely for the benefit of the Client, and no other entity shall have any claim against Consultant because of this Agreement or Consultant's performance of services hereunder.

Consequential Damages Waiver
Neither the Client nor the Consultant shall be liable to the other or shall make any claim for any incidental, indirect or consequential damages arising out of, or connected in any way to the Project or this Agreement. This mutual waiver includes, but is not limited to, damages related to loss of use, loss of profits, loss of income, loss of reputation, unrealized savings or diminution of property value and shall apply to any cause of action including negligence, strict liability, breach of contract and breach of warranty.

Conflicting or Inconsistent Terms/Severability
In the event that any term, condition, provision, requirement or specification set forth in this body of the agreement conflicts with or is inconsistent with any term, condition, provision, requirement or specification in any prior and/or attached to this agreement, the provisions of this body of the agreement shall prevail. Any provision of this Agreement which is held to be void or unenforceable shall be ineffective to the extent of such unenforceability without invalidating the remaining provisions.

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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, and 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 considered delinquent pending resolution of the dispute.

5. **Indemnification; Hold-Harmless; Release; Waiver; Limitations of Liability or Remedies.** The City shall not and does not indemnify, hold harmless, or release the Contractor or any other person, firm, or legal entity for, from, or with respect to any claim, cause of action, cost, charge, fee, expense, or liability whatsoever arising out of or relating to the subject matter of the Agreement or the performance or nonperformance thereof; nor shall or does the City waive its right to assert or pursue any remedy or claim for relief of any kind that it may have against the Contractor or any other person, firm, or entity for any actual or alleged default or other breach of legal duty on the part of the Contractor or any person, firm, or entity in privity therewith or acting on Contractor's behalf. Any limitation or restriction regarding the type, nature, form, amount, or extent of any right, remedy, relief, or recovery that would otherwise be available to the City is expressly disavowed, excluded from the terms of the agreement, and void.

6. **Choice of Law; Choice of Venue or Forum.** The meaning, legal effect, and enforcement of terms and provisions of the Agreement and the resolution of any disputes arising thereunder or relating thereto shall be governed by the laws of the State of Alabama except to the extent otherwise required by applicable conflict-of-law principles. The venue of any suit, action, or legal proceeding brought to enforce or secure relief by reason of any asserted breach of duty arising out of or relating to the performance or nonperformance of the Agreement shall be Jefferson County, Alabama except to the extent otherwise required by applicable principles of law.

7. **Construction of Addendum.** Nothing in this Addendum shall be construed to create or impose any duty or liability on the City, to create a right or remedy in favor of the Contractor against the City, or to restrict or abrogate any right or remedy that is available to the City against the Contractor or any other person, firm, or entity under either the principal Agreement or as a matter of law.

8. **Independent Contractor.** Consultant's relationship to Client at all times is that of an independent contractor. Consultant exclusively controls the means and methods in which it performs its operations or provides the goods, services or undertaking described in the Agreement. The Client does not reserve any right of control over Consultant's operations or the activities it utilizes to perform its obligations in the Agreement.

9. **Contractor's Insurance Requirements:** For the duration of this Agreement and for limits not less than stated below, the Contractor shall maintain the following insurance with a company(ies) lawfully authorized to do business in the location of the Project and reasonably acceptable to the City:

- 1. **Comprehensive General Liability:** This insurance shall cover all operations performed by or on behalf of Contractor, and provide coverage for bodily injury and

property damage with a combined single limit of not less than \$500,000 per occurrence.

2. **Automobile Liability:** If the work or services performed by the Contractor involves use of motor vehicles on public streets, Automobile Liability covering owned and rented vehicles operated by Contractor with policy limits of not less than Five Hundred Thousand Dollars (\$500,000) combined single limit and aggregate for bodily injury and property damage, per occurrence.

3. **Workers Compensation:** Workers' Compensation and Employers Liability as required by statute.

4. **Professional Liability:** If Contractor is providing professional services, Professional Liability covering Contractor's negligent acts, errors and omissions in its performance of professional services with policy limits of not less than One Million Dollars (\$1,000,000) per claim and in the aggregate.

Contractor may use umbrella or excess liability insurance to achieve the required coverage for Comprehensive General Liability and Automobile Liability, provided that such umbrella or excess insurance results in the same type of coverage as required for the individual policies. These insurance requirements are in addition to and do not affect any indemnification obligation of Contractor herein.

All policies, except for the Workers Compensation and Professional Liability policies shall contain endorsements naming the City, and its officers, employees and agents as additional named insured with respect to liabilities that arise out of and result from the operations of the Contractor or its performance of Services or work. The additional named insured endorsement shall not limit the scope of coverage to the City to vicarious liability, but shall allow coverage for the City to the fullest extent provided by the policy.

All insurance policies required herein are to be primary and non-contributory with any insurance or self-insurance program administered by the City.

Before commencement of Services hereunder, Contractor shall provide the City a certificate(s) of insurance and endorsements (including the additional insured endorsements) evidencing compliance with the requirements in this section. This certificate(s) shall provide that such insurance shall not be terminated or expire without thirty (30) days advance notice to the City.

10. **Indemnification for Claims by Third Parties.** The Contractor agrees to defend, indemnify, and hold harmless the City, and its agents, employees and officials (collectively hereinafter the "Indemnitees") from and against all demands, actions, damages, judgments, expenses (including but not limited to attorneys' fees, expert fees, court costs and other litigation costs), losses, damages, and claims (including those for bodily injury, sickness, disease or death, or to injury to, destruction or loss of use of tangible property, or those for financial loss or damages, collectively hereinafter "Claim(s)") that are made against the City by any third parties (including any employee, agent or representative of the Contractor, collectively "Third Parties") to the extent that such Claims are caused or allegedly caused by the negligence of the Consultant in the performance of its Services, its work on the Project described in the Agreement or its failure to perform its obligations in the Agreement.

11. EXCLUSION OF CONSEQUENTIAL DAMAGES. THE CONTRACTOR AGREES AND ACKNOWLEDGES THAT, IN THE EVENT THAT IT ASSERTS ANY CLAIM, DEMAND OR ACTION OF ANY TYPE AGAINST THE CITY ARISING FROM ITS ALLEGED BREACH OF THE AGREEMENT OR ITS FAILURE TO PERFORM ANY OF ITS OBLIGATIONS THEREUNDER, THE MAXIMUM AMOUNT THAT THE CONTRACTOR MAY RECOVER FROM THE CITY AS DAMAGES IN ANY SUCH ACTION IS LIMITED TO THE ACTUAL DAMAGES THAT DIRECTLY ARISE FROM THAT BREACH. THE CONTRACTOR FURTHER ACKNOWLEDGES THAT THE COMMERCIAL TERMS HEREIN WERE PROPOSED AND BASED ON THE ASSUMPTION THAT THIS SPECIFIC LIMITATION IS APPLICABLE, AND THAT THE CITY WOULD NOT ENTERED INTO THIS AGREEMENT WITHOUT INCLUDING THIS LIMITATION. IN NO EVENT WILL THE CITY BE LIABLE TO THE CONTRACTOR FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, PUNITIVE, RELIANCE OR OTHER SPECIAL DAMAGES, INCLUDING, WITHOUT LIMITATION, DAMAGES FOR LOST PROFITS, ADVANTAGE, SAVINGS OR REVENUES OR FOR INCREASED COST OF OPERATIONS. NOTHING IN THIS PROVISION IS INTENDED TO IMPACT, MODIFY, AMEND OR LIMIT THE TERMS OR APPLICATION OF THE INDEMNIFICATION PROVISION IN THE PROVISION ABOVE THAT PERTAINS TO CONTRACTOR'S OBLIGATIONS TO INDEMNIFY THE CITY FOR CLAIMS MADE AGAINST THE CITY BY THIRD PARTIES.

CITY: CITY OF MOUNTAIN BROOK CONTRACTOR: Sam Associates Inc.
By: [Signature] By: [Signature] P.E.
Printed Name: Stewart Welch Printed Name: James H. Meads P.E.
Title: Mayor Title: President / CEO
Date: 4-11-2022 Date: 4/15/22