

**MOUNTAIN BROOK CITY COUNCIL  
PRE-MEETING DISCUSSION  
AUGUST 28, 2023**

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[As a convenience, members of the public were invited to listen and observe in the public meeting by Internet video conference. There were no virtual attendees at the meeting.]

The City Council of the City of Mountain Brook, Alabama met informally in-person at 6:30 p.m. on the 28<sup>th</sup> day of August, 2023 (others were allowed to listen to the meeting by way of Internet video conference- no one did). Council President Smith called the pre-meeting to order and the roll was called with the following results:

Present: Virginia C. Smith, Council President  
William S. Pritchard III, Council President Pro Tempore  
Gerald A. Garner  
Graham L. Smith  
Stewart Welch III, Mayor

Absent: Lloyd C. Shelton

Also present were City Attorney Whit Colvin, City Manager Sam Gaston, and City Clerk Heather Richards.

**1. AGENDA**

1. Appointment of a City Prosecutor

Billy Pritchard- Council President Pro Tempore

- The committee interviewed 7 candidates
- The committee is recommending Ross Self
- The committee is also recommending increasing the hourly rate to \$175 an hour

Virginia Smith

- Item added to the formal agenda (Resolution No. 2023-132)

2. Review of making Winthrop Avenue “One Way” during school

Gerald Garner-Council Member

- Based on the desire to focus on public safety, a group was formed to discuss potential safety concerns with regards to traffic issues and first responders
- The group included a representative from Public Works, City Manager, City Attorney, City Traffic Engineer, Police Chief, Fire Chief, Deputy Fire Chief, and Battalion Fire Chief
- The group will identify areas of critical safety concerns
- As concerns are identified, it will be brought to the council to identify a remedy
- Public safety is paramount
- The first concern is Winthrop Avenue

Richard Caudle-Skipper Consultants (Traffic Engineer)

- There was a request of the possibility of making Winthrop Avenue one way during school hours
- A study was conducted on Winthrop Avenue

- For about 15 minutes, there are about 15 cars in the que on Winthrop Avenue
- Biggest concern is access for public safety vehicles
- On Norman Drive, cars were parked on both sides of the road which would prevent any public safety vehicles to access that road
- Recommendation: Have a public hearing to discuss making Winthrop Avenue one way during school hours, post no parking signs on one side of Winthrop Avenue and Norman Drive to only allow parking on one side of the road

Graham Smith-Council Member

- Concern is taking away parking spaces for carpool pickup

Sam Gaston-City Manager

- Will send out letters to the surrounding residents and the school informing them of the Public Hearing regarding the recommendations

### 3. Change Order for Jemison Trail project

Joel Eliason-Nimrod Long and Associates

- This is the second change order
- The Friends of Jemison raised more money that allowed few areas to be added back into the contract (that was originally deducted).

Virginia Smith

- Item added to the formal agenda (Resolution No. 2023-136)

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

## 2. EXECUTIVE SESSION

Council President Virginia Smith made a motion that the City Council convenes in executive session to discuss a matter of potential litigation and that the City Council shall reconvene to the formal meeting 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 President Pro Tempore Pritchard. Then, upon the question being put and the roll called, the vote was recorded as follows:

Ayes:	Virginia C. Smith William S. Pritchard III Gerald A. Garner Graham L. Smith
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Nays:	None
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## 3. ADJOURNMENT

There being no further matters for discussion Council President Virginia Smith adjourned the pre-meeting at approximately 6:51 pm.

## 4. 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 regular session of the City Council of the City of Mountain

Brook, Alabama held at City Hall, Pre-Council Room (A-106) on August 28, 2023, 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.

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City Clerk, Approved by  
City Council September 11, 2023

**MINUTES OF THE REGULAR MEETING OF THE  
CITY COUNCIL OF THE CITY OF MOUNTAIN BROOK  
AUGUST 28, 2023**

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[As a convenience, members of the public were invited to listen and observe in the public meeting by Internet video conference. There was no virtual attendee at the meeting.]

The City Council of the City of Mountain Brook, Alabama met in person at 7:03 p.m. on the 28<sup>th</sup> day of August, 2023 (others were allowed to listen to the meeting by way of Internet video conference-no one did). Council President Virginia Smith called the meeting to order, and the roll was called with the following results:

Present: Virginia C. Smith, Council President  
William S. Pritchard III, Council President Pro Tempore  
Gerald A. Garner  
Graham L. Smith  
Stewart Welch III, Mayor

Absent: Lloyd C. Shelton

Also present were City Attorney Whit Colvin, City Manager Sam Gaston, and City Clerk Heather Richards.

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

**1. CONSENT AGENDA**

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

Approval of the minutes of the August 14, 2023, regular meeting of the City Council

<b>2023-131</b>	Authorize the sale or disposal of certain surplus property	Exhibit 1, Appendix 1
<b>2023-132</b>	Appoint J. Ross Self to the position of Prosecutor of the City of Mountain Brook	Exhibit 2, Appendix 2
<b>2023-133</b>	Ratify change order No. 1 with respect to the Canterbury United Methodist Church drainage improvement project	Exhibit 3, Appendix 3
<b>2023-134</b>	Authorize payment from the General Fund of \$300,000 into the City of Mountain Brook Section 115 (retiree medical insurance) Trust	Exhibit 4
<b>2023-135</b>	Execute an assignment and first amendment to agreement with EMS Management and Consultants Inc. with respect to the debt recovery and collection services on behalf of the Mountain Brook Fire Department	Exhibit 5, Appendix 4

**2023-136** Approve change order No. 2 with respect to the Jemison Nature Trail Improvement Project Exhibit 6, Appendix 5

Thereupon, the foregoing minutes and resolutions (Nos. 2023-131 through 2023-135), were introduced by Council President Virginia Smith and a motion for their immediate adoption made by Council Member Garner. The minutes and resolutions were then considered by the City Council. Council Member Graham Smith seconded the motion to adopt the foregoing minutes and resolutions. Then, upon the question being put and the roll called, the vote was recorded as follows:

Ayes: Virginia C. Smith  
 William S. Pritchard III  
 Gerald A. Garner  
 Graham L. Smith

Nays: None

Abstained: None

Council President Virginia Smith thereupon declared that said minutes and resolutions (Nos. 2023-131 through 2023-135) were adopted by a vote of 4—0 and as evidence thereof he signed the same.

**2. INAUGURATION OF MOUNTAIN BROOK PROSECUTOR**

K.C. Hairston-Mountain Brook Judge  
 • Issued the oath of office to Ross Self

**3. COMMENTS FROM RESIDENCES AND ATTENDEES**

(There were no public comments)

**4. ANNOUNCEMENT**

Council President Virginia Smith announced the next regular meeting of the City Council is September 11, 2023, 7:00p.m.

**5. EXECUTIVE SESSION AND ANNOUNCEMENT**

Council President Pro Tempore Pritchard made a motion that the City Council convenes in executive session to discuss a matter of real estate and that the City Council shall adjourn 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: Virginia C. Smith  
 William S. Pritchard III  
 Gerald A. Garner  
 Graham L. Smith

Nays:           None

There being no further business to come before the City Council, Council President Virginia Smith adjourned the meeting at approximately 7:08 p.m.

## 6. 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 August 28, 2023, 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.

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City Clerk Approved by  
City Council September 11, 2023

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## EXHIBIT 1

### RESOLUTION NO. 2023-131

**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 property, as described in the form as attached hereto as Exhibit A, owned by the City of Mountain Brook, Alabama are no longer needed for public or municipal purposes and is hereby declared surplus property; and

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

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## EXHIBIT 2

### RESOLUTION NO. 2023-132

**BE IT RESOLVED** by the City Council of the City of Mountain Brook, Alabama, that the City Council hereby appoints J. Ross Self to the position of Prosecutor of the City of Mountain Brook, to serve at the pleasure of the Council or until his successor be duly appointed.

**BE IT FURTHER RESOLVED** the compensation rate of the City Prosecutor shall be \$175.00 per hour (plus out-of-pocket expenses) and is subject to annual cost of living increases.

**APPENDIX 2**

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**EXHIBIT 3**

**RESOLUTION NO. 2023-133**

**BE IT RESOLVED** by the City Council of the City of Mountain Brook, Alabama, that the City Council hereby ratifying change order No. 1 (heavy cleaning of existing 36" pipe) with respect to the Canterbury United Methodist Church (CUMC) drainage improvement project (Resolution No. 2023-090) (Project # B-20230515-866) in the amount of \$3,300.00 (Three Thousand Three Hundred Dollars).

**APPENDIX 3**

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**EXHIBIT 4**

**RESOLUTION NO. 2023-134**

**BE IT RESOLVED** by the City Council of the City of Mountain Brook, Alabama, that the City Council hereby authorizes the payment from the General Fund of \$300,000 into the City of Mountain Brook Section 115 (retiree medical insurance) Trust for investment in accordance with the City's investment policy (Resolution No. 2020-053).

**EXHIBIT 5**

**RESOLUTION NO. 2023-135**

**BE IT RESOLVED** by the City Council of the City of Mountain Brook, Alabama, that the City Council hereby authorizes the execution of an assignment and first amendment to agreement between the City and EMS Management and Consultants Inc., in the form attached hereto as Exhibit A, with respect to the debt recovery and collection services on behalf of the Mountain Brook Fire Department with respect to past due accounts owed for providing medical transport services. (Original Resolution 2022-006)

**APPENDIX 4**

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**EXHIBIT 6**

**RESOLUTION NO. 2023-136**

**BE IT RESOLVED** by the City Council of the City of Mountain Brook, Alabama, that the City Council hereby approving change order No. 2 with respect to the Jemison Trail Nature Trail Improvement Project (Resolution No. 2023-037) in the amount of \$3,150,762.00

**APPENDIX 5**

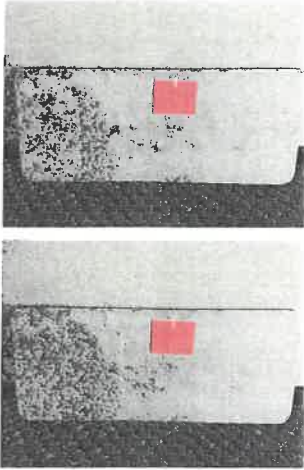
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Surplus

Tables – 2 (Discarded)

6' W X 30"D

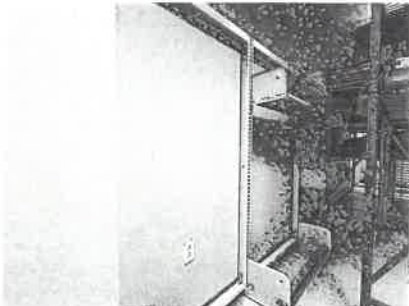


Shelves – 7 (Discarded, badly rusted)



APPENDIX 1

Shelves – 3 frames, 4 shelves (to be listed online)



Dolls and accessories – online auction

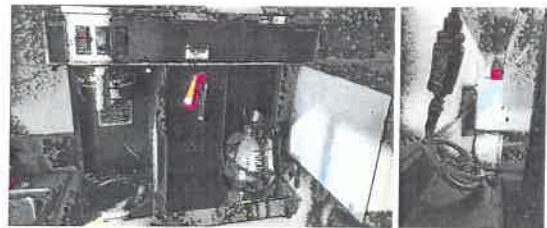








1 - The machine is 23" long, 17 1/2" tall and 8" deep.  
(to be listed online)



Doors for bookcases - 4 (to be listed online)

76 1/2" tall, 30 1/3" across and 3/4" deep

Shelves - 2

7ft tall

3ft wide

Shelves are 9 in. deep (to be listed online)



Coffee Maker - Coffee Maker is a Bunn VLPF Series with 2 burners (only one makes coffee) and one hot water spigot.



File Cabinet - 1 (to be listed online)

Cabinet with a shelf and 3 drawers.

H: 65"  
W: 30"  
D: 18"

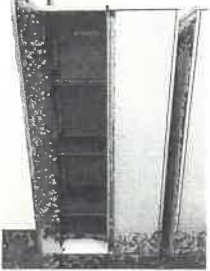
892



**File Cabinet – 2 (to be listed online)**

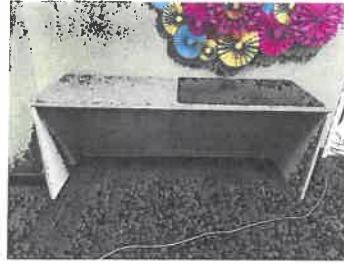
Cabinet with 3 shelves (we have 2 of these)

H: 65"  
W: 30"  
D: 18"

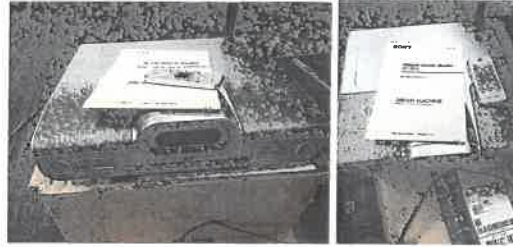


**MINUTE BOOK 93**  
H: 29"  
D: 24"

(Desk pad isn't attached but can be sold with the desk.)

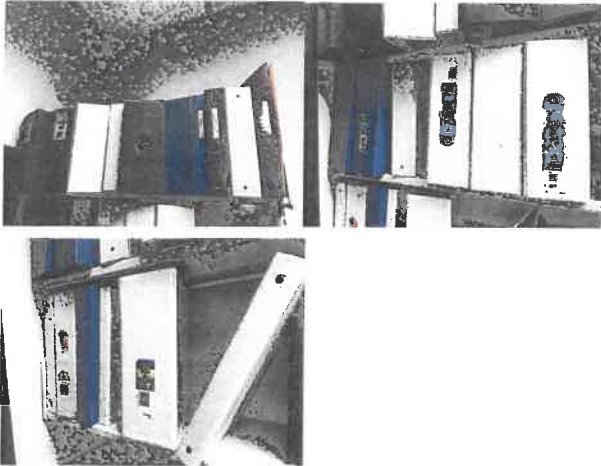


**Clock Radio – Sony, 1 (to be listed online)**



**Desk – 1 (to be listed online)**  
L: 71.5"

**Binders – Various sizes, 22 (to be listed online)**



**Easy Bake Ovens – 11 (to be listed online)**

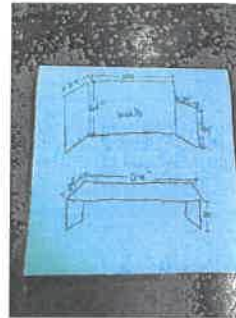
- Easy Bake Ultimate Oven #1
- Oven
- Baking Pan
- Spatula
- Instruction booklet
- no cookie mix
- Easy Bake Ultimate Oven #2
- Oven
- Baking Pan
- Spatula
- Instruction booklet
- no cookie mix
- Easy Bake Ultimate Oven #3
- Oven
- Spatula
- instruction booklet
- no baking pan

- no cookie mix
- Easy Bake Ultimate Oven #4
- Oven
- Spatula
- Baking Pan
- no instructions
- no cookie mix
- Easy Bake Ultimate Oven #5
- Oven
- Spatula
- Baking Pan
- no instructions
- no cookie mix
- Easy Bake Ultimate Oven Baking Star Edition #1
- Oven
- Spatula
- Baking Pan
- Instruction Booklet
- no cookie mix
- Easy Bake Ultimate Oven Baking Star Edition #2
- Oven
- Spatula
- Baking Pan
- Instruction Booklet
- no cookie mix
- Easy Bake Ultimate Oven Baking Star Edition #3
- Oven
- Spatula
- Baking Pan
- Instruction Booklet
- no cookie mix
- Easy Bake Ultimate Oven Baking Star Edition #4
- Oven
- Spatula
- Baking Pan
- Instruction Booklet
- no cookie mix
- Easy Bake Ultimate Oven Baking Star Edition #5
- Oven
- Spatula
- Baking Pan

- no instructions
- no cookie mix
- Easy Bake Ultimate Oven Baking Star Edition #6
- Oven
- Spatula
- Baking Pan
- no instructions
- no cookie mix



Cubicle partitions and desk – filing cabinet is not included (to be listed online)



APPENDIX 1

A Frame Signs – 3 (to be listed online)



Chess Sets – 4 (to be listed online)



STATE OF ALABAMA

JEFFERSON COUNTY

CITY OF MOUNTAIN BROOK

I, J. Ross Self, solemnly swear that I will support the Constitution of the United States and the Constitution of the State of Alabama, so long as I continue a citizen thereof; and that I will faithfully and honestly discharge the duties of the office upon which I am about to enter, to the best of my ability, so help me God.

  
\_\_\_\_\_  
J. Ross Self

Sworn to and subscribed before me this 28th day of August, 2023.

  
\_\_\_\_\_  
K. C. Hairston, Judge  
Municipal Court of Mountain Brook

APPENDIX 2





placed Accounts. This will be the only Contingency Fee on the Accounts that will be paid to Agency or Agency's affiliates.

- 3. In all other aspects, the Agreement dated August 23, 2021, will remain in force and effect.

**THIS ASSIGNMENT AND FIRST AMENDMENT TO AGREEMENT** entered into the \_\_\_\_ day of \_\_\_\_\_ 2023, by and between the CITY OF MOUNTAIN BROOK, ALABAMA (hereinafter "Client") and EMS MANAGEMENT & CONSULTANTS, INC., a North Carolina Corporation, the address of which is PO Box 863, Lewisville, North Carolina, 27023 (hereinafter "Contractor")

IN WITNESS WHEREOF, the Parties hereto have executed this Amendment the day and year first written above.

**WITNESSETH:**

**WHEREAS**, the Client entered into a Billing Services Agreement (the "Agreement") dated August 23, 2021 with Applied Business Services, Inc, ("Applied") whereby Applied agreed to provide billing and collection services for the Client; and

Each person whose signature appears hereon represents, warrants and guarantees that he/she has been duly authorized and has full authority to execute this Agreement on behalf of the party on whose behalf this Agreement is executed.

**WHEREAS**, Applied was acquired by Contractor and as part of the acquisition, Applied assigned the Agreement with Client to Contractor; and

EMS/IC:

CLIENT:

**WHEREAS**, the Agreement prohibits assignment thereof without prior written approval of Client and such approval has been requested; and

EMS Management & Consultants, Inc.

City of Mountain Brook, Alabama

**WHEREAS**, Client has agreed to such assignment and the parties wish to memorialize same and to amend the Agreement to modify the terms pertaining to compensation due for collections by Contractor.

By: \_\_\_\_\_

By: 

**NOW, THEREFORE**, in consideration of the mutual covenants herein, the parties hereby agree as follows:

Print Name: \_\_\_\_\_

Print Name: Stewart Webb III

Title: \_\_\_\_\_

Title: Mayor

Date: \_\_\_\_\_

Date: 8-28-2023

1. The Agreement is hereby amended to substitute Lifeline Billing Systems, LLC, an EMS Management and Consultants, Inc. company (the "Agency") for Applied Business Services, Inc. for all purposes under the Agreement.
2. The Agreement shall further be amended to change the rate of compensation in Section 6 of the Agreement from 24% to an all-inclusive rate of 20% on amounts recovered on all

"This instrument has been preaudited in the manner required by the Local Government Budget and Fiscal Control Act"

\_\_\_\_\_  
(Signature of Finance Officer)

\_\_\_\_\_  
(Print Name)

APPENDIX 4



**Change Order**

<b>PROJECT: (Name and address)</b> Jouison Trail Mountain Brook, AL	<b>CONTRACT INFORMATION:</b> Contract No.: General Construction Date: May 22, 2023	<b>CHANGE ORDER INFORMATION:</b> Change Order Number: 002 Date: August 25, 2023
<b>OWNER: (Name and address)</b> The City of Mountain Brook 56 Church Street Mountain Brook, AL 35213	<b>ARCHITECT: (Name and address)</b> Niland Long and Associates, Inc. 880 Montclair Road, Ste 235 Birmingham, AL 35213	<b>CONTRACTOR: (Name and address)</b> C.S. Beatty Construction, Inc. 1 Chivon Place Birmingham, AL 35213

**THE CONTRACT IS CHANGED AS FOLLOWS:**  
(Insert a detailed description of the change and, if applicable, attach or reference specific exhibits. Also include agreed upon adjustments attributable to executed Construction Change Directives.)  
See Exhibit A, attached for a description of Contract Changes.

The original Contract Sum was	\$ 3,330,735.00
The net change by previously authorized Change Orders	\$ -336,909.00
The Contract Sum prior to this Change Order was	\$ 2,993,826.00
The Contract Sum will be increased by this Change Order in the amount of	\$ 156,927.00
The new Contract Sum including this Change Order will be	\$ 3,150,767.00

The Contract Time will be unchanged by Zero (0) days.  
The new date of Substantial Completion will be unchanged.

**NOTE:** This Change Order does not include adjustments to the Contract Sum or Guaranteed Maximum Price, or the Contract Time, that have been authorized by Construction Change Directive until the cost and time have been agreed upon by both the Owner and Contractor, in which case a Change Order is executed to supersede the Construction Change Directive.

**NOT VALID UNTIL SIGNED BY THE ARCHITECT, CONTRACTOR AND OWNER.**

<b>Niland Long and Associates, Inc.</b> ARCHITECT <i>[Signature]</i> SIGNATURE Joel Elissen, President PRINTED NAME AND TITLE 8-25-23 DATE	<b>C.S. Beatty Construction, Inc.</b> CONTRACTOR <i>[Signature]</i> SIGNATURE Craig S. Beatty, President PRINTED NAME AND TITLE August 25, 2023 DATE	<b>The City of Mountain Brook</b> OWNER <i>[Signature]</i> SIGNATURE Stewart Welch Mayor PRINTED NAME AND TITLE 8-28-2023 DATE
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Description	Item	Quantity	Unit	Adj/Deducts	Total
1	Labor & Equipment for installing Stacked Moss Rock Headwalls	1	LS	\$ 125,000.00	\$ 125,000.00
	a. Price includes sand, mortar, 80/10 base, and 57 stone basefill				
	b. To be billed according to percent complete.				
	Credit for Precast Headwalls with Stone Veneer	1	LS	\$ (140,908.00)	\$ (140,908.00)
1	Stacked Moss Rock Delivered (based on 120 tons)	120	Ton	\$ 215.00	\$ 25,800.00
	a. Billed amount based on tons delivered.				
	b. Additional change order required if amount exceeds 120 tons.				
1	Rip Rap Outlet Protection - Delivered and Installed (based on 300 tons)	300	Ton	\$ 175.00	\$ 52,500.00
	a. Billed amount based on tons delivered.				
	b. Additional change order required if amount exceeds 300 tons.				
1	Install sandstone rip rap instead of moss rock	1	LS	\$ (96,250.00)	\$ (96,250.00)
	Credit for #34 Moss Rock Rip				\$ (39,858.00)
2	Concrete Credit (per contract)	1,036	SF	\$ (2,218)	\$ (12,709.80)
	8" Concrete Turndown Credit (per contract)	230	LF	\$ (1,031)	\$ (995.00)
	Asphalt (6" Base, 3" Baby Binder)	115	SY	\$ 85.00	\$ 9,775.00
	Credit =				\$ (5,624.80)
3	Delete 12" wide flagstone border at planting bed adjacent to parking as indicated on sheet 51-3 and Detail 23-10-4.	150	LF	\$ (8.58)	\$ (1,287.00)
	Flagstone Border at Planting Credit (per contract)				\$ (8,781.00)
4	Salvage and reinstall existing drinking fountain to location shown on Sheet 51-3.	1	LS	\$ (13,682.00)	\$ (13,682.00)
	Reuse Existing Water Fountain Credit				\$ (13,682.00)
5	Orange Barrier Fence (Amount in Contract)	16,558	LF		
	Orange Barrier Fence (Actual)	11,630	LF		
	Orange Barrier Fence (Credit)	4,919	LF	\$ (1,428)	\$ (31,661.89)
Credit =				\$ (11,446.69)	
6	5" Sidewalk at Ramp Credit	722	SF	\$ (9.44)	\$ (6,816.10)
	6" Concrete Standing Curb at Ramp Credit	135	LF	\$ (28.88)	\$ (3,898.80)
	4" Concrete Sidewalk w/ 14" Turndown Credit	900	SF	\$ (90.00)	\$ (81,000.00)
	Handrail at Sidewalk Credit (per contract)	124	LF	\$ (154.59)	\$ (19,169.00)
	ADA Handrail @ Ramp Credit (per contract)	113	LF	\$ (289.35)	\$ (32,696.55)
	Ramp Wall & Footing Credit (per contract)	132	LF	\$ (282.10)	\$ (37,258.20)
	Asphalt (6" Base, 3" Baby Binder)	110	SY	\$ 85.00	\$ 9,350.00
	New Wall, Stone Veneer & Capstone Install	1	LS	\$ 95,000.00	\$ 95,000.00
	New Handrail	250	LF	\$ 125.00	\$ 31,250.00
	Sidewalk (Det. 3) (per contract)	900	SF	\$ 12.28	\$ 11,052.00
	Rip Rap	110	Tons	\$ 175.00	\$ 19,250.00
*Additional Tree Removal Not Included				Add = \$ 62,443.80	
7	Alternate No. 4 of Prime Contract	1	LS	\$ (180,240.00)	\$ (180,240.00)
	18" Pipe Credit (per contract)	144	LF	\$ (61.74)	\$ (8,890.56)
	Curb Box Inlet Cante	1	LS	\$ (5,455.50)	\$ (5,455.50)
	Add =				\$ 185,891.06
Change Order Add if Changes are Accepted =					\$ 156,927.07

APPENDIX 5

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