

**MOUNTAIN BROOK CITY COUNCIL  
PRE-MEETING DISCUSSION  
SEPTEMBER 25, 2023**

---

[As a convenience, members of the public were invited to listen and observe in the public meeting by Internet video conference. There were 0 virtual attendees at the meeting.]

The City Council of the City of Mountain Brook, Alabama met informally in-person at 6:00 p.m. on the 25<sup>th</sup> day of September, 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  
Graham L. Smith  
Lloyd C. Shelton  
Stewart Welch III, Mayor

Absent: Gerald A. Garner

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

**1. AGENDA**

1. Conditional Use request for Pinnacle Branch Bank at 2020 Cahaba Road

Dana Hazen-Director of Planning, Building, and Sustainability

- This is for a conditional use in the Chester's Building in English Village
- Applicant indicated the existing parking would be more than adequate for their employees and patrons

Virginia Smith-Council President

- Item added to the formal agenda (Resolution No. 2023-159)

2. Alabama Association of Fire Chiefs Mutual Aid Consortium agreement

Chris Mullins-Fire Chief

- The agreement is for review, there were some changes that were made that will need to be submitted to the Alabama Fire Chiefs for their approval
- This agreement is a mutual aid where other departments could call upon our department and we could call upon them for assistance in a disaster situation without an emergency declaration
- This provides resources to get on the ground quicker
- Currently there are 44 departments signed up for this agreement
- Will bring this back for council approval once approved by the Alabama Association of Fire Chiefs

3. Residents on Halbrook Lane to address the City Council regarding cut-through traffic on their street

Craig Ogard-3825 Halbrook Lane

- Lived on Halbrook Lane for 37 years
- Over the last 2 years there has been a significant increase in traffic
- There are 17 houses on the street (one is a rental)
- Hopeful the council could make a decision to benefit the safety and wellbeing of the residents
- Feel the only way to stop the flow of traffic is to block the street off

#### Lloyd Shelton-Council Member

- Richard Caudle with Skipper Consultants did a study
- The study showed that there are more cars that go down Halbrook Lane than Knollwood
- Halbrook became a cut-through, it was never designed as a cut-through
- The problem is if something is done on Halbrook, then the traffic is moved over a block

#### Graham Smith-Council Member

- Reviewed the traffic study and noticed the study was done during the time period when Crosshaven was under renovations
- Inquired if some of the numbers were skewed due to this construction

#### Richard Caudle-Skipper Consultants

- The study was delayed intentionally during the fall of 2022 to February 2023 in order for all lanes to be open on Crosshaven
- They chose to do the study in February of 2023, because in their opinion, traffic was back to normal

#### Virginia Smith-Council President

- Agreed with Council Member G. Smith regarding the study being skewed due to construction on Crosshaven
- Even though the lanes were open, the barrels on Crosshaven were such a deterrent for motorists
- Feels another count may be warranted
- The study provided did not address closing off Halbrook at a part where it met Asbury as opposed to just blocking off the end of Halbrook

#### Richard Caudle

- The study did not address closing the road due to the various factors that need to be considered in closing a road
- If the council were to consider closing anything on Halbrook, they would recommend closing the "V" where Halbrook and Asbury come together
- The issue is city limits, some portions may be in Vestavia
- In response to Council Member Shelton's question regarding speed humps: Speed humps do not deter traffic, they only deter speeding
- Would be willing to do another study; however, the residents would argue that things have not improved with the full opening of Crosshaven
- Regarding the study: about 1/3 of the people using Halbrook are bound for local destinations, 2/3 are cutting through to distant destinations

#### Lloyd Shelton

- If behaviors cannot be changed and the volume cannot be changed, inquired how to make it safe
- A sidewalk may be an option

#### Graham Smith

- Inquired if Richard Caudle looked at making Halbrook one way

Richard Caudle

- Did consider doing one-way; however, it would cause a problem on Arundel

Stephen Rhodes-3833 Halbrook Lane

- Have lived on Halbrook since 1988 and the traffic has increased significantly
- Halbrook is not as wide to allow for sidewalks
- Sees no scenario that makes it safe except to close it off to make it a loop to stop the cut-through traffic

Billy Pritchard-Council President Pro Tempore

- Will take the request under advisement and figure out legalities regarding closing Halbrook and schedule another meeting

Richard Caudle

- Would suggest getting a professional survey of the properties to determine where the city limit lines are located

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

## 2. EXECUTIVE SESSION AND ADJOURNMENT

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

Ayes:	Virginia C. Smith
	William S. Pritchard III
	Graham L. Smith
	Lloyd C. Shelton

Nays:	None
-------	------

There being no further matters for discussion Council President Virginia Smith adjourned the pre-meeting at approximately 6:40 pm.

## 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 regular session of the City Council of the City of Mountain Brook, Alabama held at City Hall, Pre-Council Room (A-106) on September 25, 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.

---

City Clerk, Approved by  
City Council October 9, 2023

**MINUTES OF THE JOING MEETING OF THE  
CITY COUNCIL OF THE CITY OF MOUNTAIN BROOK AND  
THE MOUNTAIN BROOK EMERGENCY COMMUNICATIONS (E911 DISTRICT)  
SEPTEMBER 25, 2023**

---

[As a convenience, members of the public were invited to listen and observe in the public meeting by Internet video conference. There was 3 virtual attendees at the meeting.]

The City Council of the City of Mountain Brook, Alabama met in person at 7:00 p.m. on the 25<sup>th</sup> day of September, 2023 (others were allowed to listen to the meeting by way of Internet video conference-3 people 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  
Graham L. Smith  
Lloyd C. Shelton  
Stewart Welch III, Mayor

Absent: Gerald A. Garner

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. DOWN SYNDROME MONTH PROCLAMATION NO. 2023-146 (EXHIBIT 1)**

Stewart Welch-Mayor

- Presented the Down Syndrome Awareness Month Proclamation (No. 2023-146)

**2. CONSIDERATION OF RESOLUTION (NO. 148) OF THE BOARD OF THE E911 DISTRICT ADOPTING THE BUDGET FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2021 AND ENDING SEPTEMBER 30, 2024 (EXHIBIT 1)**

Council District Board member Shelton made a motion to approve the resolution of the board of the E911 District adopting the budget for the fiscal year beginning October 1, 2021 and ending September 30, 2022.

Thereupon, the motion was then considered by the Board. District Board member Graham Smith 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: Virginia C. Smith, Chairman  
William S. Pritchard III  
Graham L. Smith  
Lloyd C. Shelton

Nays: None

Chairman Virginia Smith thereupon declared that said resolution is adopted by a vote of 4-0.

**3. CONSIDERATION OF RESOLUTION (NO. 149) OF THE BOARD OF THE E911 DISTRICT AUTHORIZING THE SALE OR DISPOSAL OF CERTAIN SURPLUS PROPERTY PURCHASED BY THE MOUNTAIN BROOK EMERGENCY COMMUNICATION (E911) DISTRICT)(EXHIBIT 2)**

Council District Board member Shelton made a motion to approve the resolution of the board of the E911 District authorizing the sale or disposal of certain surplus property.

Thereupon, the motion was then considered by the Board. District Board member Graham Smith 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: Virginia C. Smith, Chairman  
William S. Pritchard III  
Graham L. Smith  
Lloyd C. Shelton

Nays: None

Chairman Smith thereupon declared that said resolution is adopted by a vote of 4-0.

**4. 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 September 11, 2023, regular meeting of the City Council

<b>2023-146</b>	Down Syndrome Proclamation	Exhibit 3
<b>2023-147</b>	Increase the salary schedule for all classified, unclassified and part-time employees by three percent (3%) and Municipal Judges by three percent (3%)	Exhibit 4
<b>2023-150</b>	Authorize the sale or disposal of certain surplus property (Library and City Hall)	Exhibit 5, Appendix 1
<b>2023-151</b>	Execute a contribution agreement (cost share) with the Board of Education for construction management services related to the Mountain Brook Junior High (MBJH)	Exhibit 6, Appendix 2
<b>2023-152</b>	Execute an engagement letter with Allen Consulting for the Actuarial Loss Reserve Analysis-Alabama Workers' Compensation	Exhibit 7, Appendix 3
<b>2023-153</b>	Enter into an agreement with the Jefferson-Blount-St. Clair Mental Health Authority	Exhibit 8, Appendix 4

<b>2023-154</b>	Execute a group subscription purchase order with The New York Times and O’Neal Library for group subscriptions	Exhibit 9, Appendix 5
<b>2023-155</b>	Approve the second amendment to the garbage service contract with CSWDA regarding fuel cost savings rebate	Exhibit 10, Appendix 6
<b>2023-156</b>	Enter into a Contract for General Services with Birmingham Regional Paratransit Consortium d/b/a ClasTran	Exhibit 11, Appendix 7
<b>2023-157</b>	Execute the Renewal of Franchise Agreement with MCIMetro Access Transmission Services LLC (“MCI”) d/b/a Verizon Access Transmission Services for MCI’s fiber-based communications services business activities within the City	Exhibit 12, Appendix 8
<b>2023-158</b>	Execute a Multi-Site Regulated Medical Waste (RMW) Service Agreement with Environmental Biological Services and the Mountain Brook Fire Department	Exhibit 13, Appendix 9
<b>2023-159</b>	Approve the conditional use application (Pinnacle Bank) at 2020 Cahaba Road	Exhibit 14, Appendix 10

Thereupon, the foregoing minutes, proclamation and resolutions (Nos. 2023-146, 2023-147, and 2023-150 through 2023-159), were introduced by Council President Virginia Smith and a motion for their immediate adoption made by Council Member Shelton. The minutes, proclamation and resolutions were then considered by the City Council. Council Member Graham Smith seconded the motion to adopt the foregoing minutes, proclamation 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  
Graham L. Smith  
Lloyd C. Shelton

Nays: None

Abstained: None

Council President Virginia Smith thereupon declared that said minutes, proclamation and resolutions (Nos. 2023-146, 2023-147, and 2023-150 through 2023-159) were adopted by a vote of 4—0 and as evidence thereof he signed the same.

**5. CONSIDERATION OF ORDINANCE (NO. 2148) ADOPTING THE CITY’S BUDGET FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2023 AND ENDING SEPTEMBER 30, 2024 (EXHIBIT 15, APPENDIX 11)**

Council President Virginia Smith introduced the ordinance in writing. It was then moved by Council President Pro Tempore Pritchard 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 Graham Smith and was unanimously carried, as follows:

Ayes: Virginia C. Smith  
William S. ("Billy") Pritchard III  
Lloyd C. Shelton  
Graham L. Smith

Nays: None

Council President Virginia Smith declared the motion carried by a vote of 4—0.

After said ordinance had been considered in full by the Council, Council Member Shelton then moved for the adoption of said ordinance. The motion was seconded by Council Member Graham Smith. Thereupon, Council President Virginia Smith called for vote with the following results:

Ayes: Virginia C. Smith  
William S. ("Billy") Pritchard III  
Lloyd C. Shelton  
Graham L. Smith

Nays: None

Council President Virginia Smith declared that the ordinance (No. 2148) is hereby adopted by a vote of 4—0 and, as evidence thereof, she signed the same.

**6. CONSIDERATION OF ORDINANCE (NO. 2149) INCREASING THE SALARY OF THE CITY MANAGER (EXHIBIT 16, APPENDIX 12)**

Council President Virginia Smith introduced the ordinance in writing. It was then moved by Council Member Shelton 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 Graham Smith and was unanimously carried, as follows:

Ayes: Virginia C. Smith  
William S. ("Billy") Pritchard III  
Lloyd C. Shelton  
Graham L. Smith

Nays: None

Council President Virginia Smith declared the motion carried by a vote of 4—0.

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

Ayes: Virginia C. Smith  
William S. ("Billy") Pritchard III

Lloyd C. Shelton  
Graham L. Smith

Nays: None

Council President Virginia Smith declared that the ordinance (No. 2149) is hereby adopted by a vote of 4—0 and, as evidence thereof, she signed the same.

**7. CONSIDERATION OF ORDINANCE (NO. 2150) AMENDING THE PREMIUM-INCENTIVE PAY FOR EMPLOYEES (EXHIBIT 17)**

Council President Virginia Smith introduced the ordinance in writing. It was then moved by Council Member Graham Smith 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 President Virginia Smith and was unanimously carried, as follows:

Ayes: Virginia C. Smith  
William S. ("Billy") Pritchard III  
Lloyd C. Shelton  
Graham L. Smith

Nays: None

Council President Virginia Smith declared the motion carried by a vote of 4—0.

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

Ayes: Virginia C. Smith  
William S. ("Billy") Pritchard III  
Lloyd C. Shelton  
Graham L. Smith

Nays: None

Council President Virginia Smith declared that the ordinance (No. 2150) is hereby adopted by a vote of 4—0 and, as evidence thereof, she signed the same.

**8. CONSIDERATION OF ORDINANCE (NO. 2151) AMENDING CHAPTER 109, ARTICLE I OF THE CITY CODE REGARDING THE DAY/TIMES FOR CONSTRUCTION WITHIN THE CITY (EXHIBIT 18)**

Council President Virginia Smith introduced the ordinance in writing. It was then moved by Council President Pro Tempore Pritchard 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 Graham Smith and was unanimously carried, as follows:



Ayes: Virginia C. Smith  
William S. ("Billy") Pritchard III  
Lloyd C. Shelton  
Graham L. Smith

Nays: None

Council President Virginia Smith declared the motion carried by a vote of 4—0.

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

Ayes: Virginia C. Smith  
William S. ("Billy") Pritchard III  
Lloyd C. Shelton  
Graham L. Smith

Nays: None

Council President Virginia Smith declared that the ordinance (No. 2151) is hereby adopted by a vote of 4—0 and, as evidence thereof, she signed the same.

#### **9. RECOGNIZED SPECIAL GUEST (BOY SCOUT)**

Eddy Thurston with Troup 86 out of St. Luke's Episcopal Church

- Working on communication merit badge

#### **10. PUBLIC HEARING: THE CONSIDERATION OF AN ORDINANCE MAKING WINTHROP AVENUE "ONE-WAY", RESTRICTING PARKING TO ONE SIDE ON WINTHROP AVENUE, AND RESTRICTING PARKING TO ONE SIDE ON NORMAN DRIVE DURING THE TIMES OF 2:30 P.M. TO 3:15 P.M. MONDAY-FRIDAY**

##### **Edward Burg-19<sup>th</sup> Winthrop Avenue**

- He is against any parking on Winthrop and would like to have no parking (during carpool)
- There are around 20-25 cars that park on Winthrop
- Concerned the council is not taking the surrounding residents into consideration
- Feels "one-way" would be better than what they currently have (if parking is necessary) but asked why there needs to be any parking at all
- Individuals parking on Winthrop Avenue is a problem for the residents

##### **Anderson White-15 Norman Drive**

- Asked if there is a carpool system at the Junior High and if there is an agreement with the churches regarding overflow parking

Billy Pritchard-Council President Pro Tempore

- The churches are used for parking; however, do not know if there is a formal agreement with the churches and the Board of Education
- Will find out if there is a formal agreement

Graham Smith-Council Member

- There is no car pool system

- There are 900 students at the Junior High
- When the bell rings all of the children exit at the same time

Edward Burg

- Another concern is when the field opens, there will be more parking concerns

Billy Pritchard

- There will be no games at the field, only practices
- There will be events at the field; however, there are 42 parking spaces in the parking lot

**Martha Stivender-300 Overbrook Road**

- Lives at triangle in front of Junior High
- Have seen the police trying to keep people from parking on Overton Road at the Junior High and inquired if that was going to be a problem

Jaye Loggins-Police Chief

- It is against the law to park on a sidewalk, the officers are trying to deter people parking on sidewalks on Overbrook

**Andrea Jansen-28 Norman Drive**

- One issue-there is no fixed speed limit (some roads are 20mph and some are 25mph)
- There is no speed sign going from Overbrook to Norman indicating to slow down on Norman
- Want the speed limit for the whole area to be 20mph (Norman, Winthrop, Overbrook, etc)

**Forest Whatley-14 Alden Way**

- Concerned if the council moves forward with making Winthrop one-way and restrict parking to one side on Winthrop and Norman, it will push that traffic to Alden and impact Clarendon
- Concerned a one-way on Winthrop will increase speeders
- Wants the council to reconsider and look at other options

Virginia Smith-Council President

- The council will not act on this item at this meeting

**Richard Hodges-31 Norman Drive**

- Inquired if the school has looked into staggered release times

Billy Pritchard

- Staggered release times has not come up at Board of Education board meetings

**Jerry Perkins-44 Norman Drive**

- Wants to know alternatives the council has looked at alleviating this burden
- Making Winthrop one-way will only make things worse

Virginia Smith

- At this time, no alternatives have been discussed

Rebecca Moore-68 Norman Drive

- Feels that the parking on both sides of the road is a problem
- Looking forward to hearing other alternatives
- One good thing about carpool is it is quick and parents are in their cars
- A concern outside of carpool time is parking for big events (parent night, welcome back, etc)

**Virginia Smith-Council President**

- Closed the public hearing

**Richard Caudle-Skipper Consultants**

- Did extensive studies on Winthrop and Norman and determined a period of time (2:54pm-3:25pm) that it would be impossible for an emergency vehicle to pass
- Plan presented is driven by public safety
- The restrictions presented were for 45 minutes (2:30pm-3:15pm)
- Observed Alden Lane during the study-there were no cars they saw during observation that were there to pick up student; however, this plan if enacted could affect Alden
- There is a distinct possibility that a one-way on Winthrop would cause more traffic on Alden
- There was a mention (in an email) of making it resident only parking; however, it is very difficult to implement (This would eliminate landscaping vehicles, contractors, visitors, delivery vehicles from parking)
- Unless the council passes an ordinance to the contrary; any driver is allowed to park in the public right-of-way within the city limits of Mountain Brook
- There was mention of closing Alden-this would be very difficult. They would need to have a cul-de-sac or hammerhead for public safety reasons

**Billy Pritchard**

- Will reach out to the school system regarding some issues/questions that was raised
- Suggested 2 council members meet with Richard Caudle to come up with more specific proposal

**Virginia Smith**

- Billy Pritchard and Graham Smith will meet with Richard Caudle

**11. COMMENTS FROM RESIDENCES AND ATTENDEES**

(There were no public comments)

**12. ANNOUNCEMENT**

Council President Virginia Smith announced the next regular meeting of the City Council is October 9, 2023, 7:00p.m.

**13. ADJOURNMENT**

There being no further business to come before the City Council, Council President Virginia Smith adjourned the meeting at approximately 7:42 p.m.

**14. 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 September 25, 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.

---

City Clerk Approved by  
City Council October 9, 2023

## EXHIBIT 1

## RESOLUTION NO. 2023-148

**BE IT RESOLVED** by the Board of Commissioners of the Mountain Brook Emergency Communication District ("District"), that the following is the adopted budget for the District for the fiscal year beginning October 1, 2021, and ending September 30, 2022 (as adopted by the City Council of the City of Mountain Brook upon its adoption of Ordinance No. 2109 on September 27, 2021):

Ledger No.	Account Description	(For Reference Only)	
		9/30/2024 Budget	9/30/2023 Budget
531-3305-4500	Fines & Forfeitures (Act 03-289)	\$ (1,600)	\$ (1,600)
531-3404-4050-3401	E-911 Surcharge (Mobile)	(410,000)	(381,500)
531-3407-4400	Other Investment Earnings	(25)	(25)
531-3408-4810	Transfers General Fund	<u>(227,075)</u>	<u>(232,775)</u>
	<b>E911 Revenue</b>	<b>(638,700)</b>	<b>(615,900)</b>
531-1100-6407	Insurance and Bonding	1,250	1,250
531-1213-6307	Bank Fees	450	400
531-3510-6210	Development-Training	9,000	9,000
531-3510-6300	Supplies/Exp-General	2,000	2,000
531-3510-6464	Service Contr-Comm Equip	3,900	3,900
531-3510-6610	Utilities-Telephone	48,100	48,100
531-3516-6910	Transfers-City General Fund	574,000	551,250
531-3516-6941	Transfers-Capital Projects Fnd	0.00	0.00
531-3590-6941	Transfers-Capital Projects Fnd	<u>0.00</u>	<u>0.00</u>
	<b>E911 Expenses</b>	<b><u>638,700</u></b>	<b><u>615,900</u></b>
	<b>Excess of (Revenue) Over Expenditures</b>	<b>0.00</b>	<b>0.00</b>
	(Fund Balance), Beginning of Year	<u>383,433</u>	<u>383,433</u> (1)
	<b>(Fund Balance), End of Year</b>	<b><u>\$ 383,433</u></b>	<b><u>\$ 383,433</u></b>

**BE IT FURTHER RESOLVED** by the Board of Commissioners of the Mountain Brook Emergency Communications District that the District Administrator is hereby authorized and directed, for and on behalf of the District, to disburse funds for the payment of budgeted expenditures including

and not limited to salaries and benefits, payroll taxes, service and other contracts, debt service, utilities, supplies and such other obligations incurred by the District in the normal course of public safety operations.

<sup>(1)</sup> As reported in the audited financial statements of the City of Mountain Brook as of and for the year ended September 30, 2022.

## EXHIBIT 2

### RESOLUTION NO. 2023-149

**WHEREAS**, the City of Mountain Brook, Alabama, and the City of Mountain Brook Emergency Communications District 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 is no longer needed for public or municipal purposes upon the City's decision to outsource the emergency communications dispatch operations to Shelby County Emergency Communications District (Resolution No. 2021-107) and is hereby declared surplus property:

Fixed Asset No.	Description	Notes	Carrying Value/Cost
5906	Backup E-911 System	To be auctioned (2022-081), scrapped if not sold	\$6,487.75
5907	Back-up Comm. Center	Same	80,316.70
5908	Furniture for Backup Center	Same	329.36
6081	3 HD Dispatch Chairs	Same	3,145.00
6092	E-911 Equipment Rack	Same	1,489.87
6122	E-911 Components	Same	14,774.36
6123	E-911 System	Same	200,695.00
14030	iP-based Communications Console	Same	77,769.17
14389	Dispatch Equipment EOC	Same	1,730.00
14549	Eventide E-911 Digital Recorder (1 of 2)	1 unit traded, 1 retained and in service	8,491.00
14588	VESTA Migration Project	Erased	156,522.00
14589	E-911 System Upgrade	Erased	4,725.00
14999	Motorola Radio System	Base station taken out of service expected to be traded, radios connected to an outside radio system	300,000.00

Section 2. That the City Manager, or his designated representative, is hereby authorized and directed to trade, sell or dispose of said property.

---

**EXHIBIT 3**

**PROCLAMATION NO. 2023-146**

**WHEREAS**, Down syndrome is the most frequently occurring chromosomal disorder and is the leading cause of intellectual and developmental delay in the United States; and

**WHEREAS**, approximately one in every 700 children are born with Down syndrome, representing an estimated 6,000 births per year in the United States with approximately 85 of those annual births occurring here in Alabama; and

**WHEREAS**, possessing a wide range of abilities, people with Down Syndrome are active participants in educational, occupational, social, and recreational circles of our communities; and

**WHEREAS**, yet despite significant increases in lifespan and intellectual opportunities over the past decade, there is still much work to be done regarding the rights to equality, inclusion, education, medical care, research, employment and support for people with Down syndrome; and

**WHEREAS**, the City of Mountain Brook encourages all citizens to work together to celebrate the lives of individuals with Down syndrome, and remember to appreciate and regard every individual with dignity as a valued member of the community; and

**WHEREAS**, through public awareness, the City of Mountain Brook supports the initiatives of organizations working to ensure people with Down syndrome have adequate services, are valued by society, and can lead fulfilling and productive lives in our community.

**NOW, THEREFORE**, I Stewart H. Welch III, Mayor of the City of Mountain Brook, Alabama, do hereby proclaim the month of October 2023 as

**DOWN SYNDROME AWARENESS MONTH**

---

**EXHIBIT 4**

**RESOLUTION NO. 2023-147**

**BE IT RESOLVED** by the City Council of the City of Mountain Brook, Alabama, that effective October 10, 2023, the salaries of all employees (classified and unclassified/full-time and part-time) of the City of Mountain Brook, Alabama, including employees of The O'Neal Library Board, Parks and Recreation Board shall be increased by three percent (3%) over the current salary schedule.

**BE IT FURTHER RESOLVED** by the City Council of the City of Mountain Brook, Alabama, that effective October 1, 2023, the following shall also be increased by three percent (3%):

- 1) The compensation rate of the Municipal Judge shall be \$2,575.00/month (Prorated to the Judge and Supernumerary based on Court session presided).

---

**EXHIBIT 5****RESOLUTION NO. 2023-150**

**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**

---

**EXHIBIT 6****RESOLUTION NO. 2023-151**

**BE IT RESOLVED** by the City Council of the City of Mountain Brook, Alabama, that the City Council hereby executes a contribution agreement (cost share), attached hereto as Exhibit A, between the City and Mountain Brook Board of Education for construction management services related to the Mountain Brook Junior High (MBJH) drainage and athletic facilities improvements projects whereby the City will reimburse the Mountain Brook Board of Education 50% of the \$750,000 construction management services provided by Brasfield and Gorrie.

---

**APPENDIX 2**

---

**EXHIBIT 7****RESOLUTION NO. 2023-152**

**BE IT RESOLVED** by the City Council of the City of Mountain Brook, Alabama, that the City Council hereby authorizes the execution of an engagement letter, in the form attached hereto as Exhibit A, between the City of Mountain Brook and Allen Consulting with respect to the Actuarial Loss Reserve Analysis-Alabama Workers' Compensation.

---

**APPENDIX 3**

**EXHIBIT 8****RESOLUTION NO. 2023-153**

**BE IT RESOLVED** 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 behalf of the City, to enter into an agreement with the Jefferson–Blount–St. Clair Mental Health Authority, in the form as attached hereto as Exhibit A, subject to such minor changes as may be determined appropriate by the City Attorney.

**APPENDIX 4**

---

**EXHIBIT 9****RESOLUTION NO. 2023-154**

**BE IT RESOLVED** by the City Council of the City of Mountain Brook, Alabama, that the City Council hereby authorizes Lindsay Gardner, O’Neal Library Director, to execute a group subscription purchase order, in the form attached hereto as Exhibit A, between The New York Times and O’Neal Library with respect to group subscriptions.

**APPENDIX 5**

---

**EXHIBIT 10****RESOLUTION NO. 2023-155**

**BE IT THEREFORE RESOLVED** on this 25th day of September, 2023, by the City Council of the City of Mountain Brook, Alabama, in a regularly scheduled meeting with a quorum present as follows:

**Section 1.** That the Cahaba Solid Waste Authority has notified the City of Mountain Brook, Alabama that a fuel cost savings rebate will soon be available to customers in order to maintain desired service levels and address rising fuel costs.

**Section 2.** That Council of the City of Mountain Brook finds that it is wise, expedient, and necessary to amend its contract for solid waste collection, disposal and treatment with the Cahaba Solid Waste Authority (“the Authority”) to offset increased costs of service necessary for maintaining the desired service levels and hereby authorizes the City to “opt in” to the Authority’s fuel cost savings rebate as provided in Exhibit 1.

**Section 2.** That the Mayor is authorized to execute such documentation necessary to facilitate this amendment and authorize payment thereof.

**Section 3.** This Resolution shall take effect immediately upon publication hereof as provided by law.

**APPENDIX 6**

---



**EXHIBIT 11****RESOLUTION NO. 2023-156**

**BE IT RESOLVED** 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 behalf of the City, to enter into a Contract for General Services with Birmingham Regional Paratransit Consortium d/b/a ClasTran, an Alabama nonprofit corporation, subject to such minor changes as may be determined appropriate by the City Attorney, a copy of which contract is attached hereto as Exhibit A.

**APPENDIX 7**

---

**EXHIBIT 12****RESOLUTION NO. 2023-157**

**BE IT RESOLVED** by the City Council of the City of Mountain Brook, Alabama, that the Mayor of the City or the City Manager is hereby authorized and directed, on behalf and in the name of, the City of Mountain Brook ("City"), to execute the Renewal of Franchise Agreement, in the form as attached hereto as Exhibit A, between the City and MCIMetro Access Transmission Services LLC. ("MCI") d/b/a Verizon Access Transmission Services with respect to MCI's fiber-based communications services business activities within the City.

**APPENDIX 8**

---

**EXHIBIT 13****RESOLUTION NO. 2023-158**

**BE IT RESOLVED** by the City Council of the City of Mountain Brook, Alabama, that the City Council hereby authorizes Stacey Cole, Mountain Brook Fire Department's Deputy Chief, to execute a Multi-Site Regulated Medical Waste (RMW) Service Agreement, in the form attached hereto as Exhibit A, between Environmental Biological Services and the Mountain Brook Fire Department with respect to RMW disposal.

**APPENDIX 9**

---

**EXHIBIT 14****RESOLUTION NO. 159**

**BE IT RESOLVED** by the City Council of the City of Mountain Brook, Alabama that the City Council hereby approves the conditional use application (Pinnacle Bank) at 2020 Cahaba Road.

**APPENDIX 10**

---

**EXHIBIT 15****ORDINANCE NO. 2148**

**BE IT ORDAINED** by the City Council of the City of Mountain Brook, Alabama, that the following is the adopted budget for all major funds of the City for the fiscal year beginning October 1, 2023, and ending September 30, 2024:

	General Operations (100)	Park Board (115)	Library Board (70X)	Capital Projects (417/428/441)	Other Governmental (SXX/600)	All Other {132/14X/153}
<b>Funds Available:</b>						
<b>Revenues:</b>						
Taxes	\$43,173,900	\$ 0	\$ 0	\$ 0	\$ 588,900	\$ 0
Licenses and permits	4,828,560	0	0	0	0	0
Intergovernmental	460,000	141,547	0	150,000	0	54,924
Charges for services	533,200	147,357	7,000	0	450,000	54,924
Fines and forfeitures	311,000	0	9,000	0	120,200	0
Grants	0	0	18,333	3,711,200	0	0
Investment Earnings	300,000	500	2,500	269,250	261,855	4,300
Miscellaneous	290,000	3,000	4,000	0	202,000	0
Proceeds from the issuance of debt	0	0	0	0	0	0
Proceeds from the sale of property	0	0	0	25,000	0	0
Intrafund transfers in:						
General Operations/Capital	0	0	0	4,398,901	1,709,941	0
Park Board	0	0	0	411,000	0	0
Library Board	0	0	0	159,000	0	0
Other (14X/153)	(54,923)	0	0	0	0	0
E-911	0	0	0	0	0	0
Operating transfers in-component unit	0	0	91,500	0	0	0
Donations	0	0	72,400	730,735	0	0
(Surplus) deficit	500 000)	0	21,100	6,549,219	(548,600)	54 300
<b>Total Fund Available</b>	<b>\$ 49,341,737</b>	<b>\$ 292,404</b>	<b>\$ 225,833</b>	<b>\$ 16,404,305</b>	<b>\$ 2,784,296</b>	<b>\$ 59,848</b>
<b>Expenditures:</b>						
Legislation and management	\$ 3,720,003	\$ 0	\$ 0	\$ 3,000	\$ 0	\$ 0
Planning, Building & Sustainability	642,767	0	0	3,300	0	0
Intergovernmental	1,272,600	0	0	0	0	0
Unassigned benefits	1,930,600	0	0	0	0	0
Finance	2,241,703	0	0	188,500	385,282	0
Fire	9,659,115	0	0	5,093,700	0	0
Inspection Services	688,829	0	0	0	0	0
Police	10,157,657	0	0	927,963	781,154	0
Street and Sanitation	7,957,099	0	0	6,849,160	902,700	0
Parks and Recreation	0	1,503,505	0	2,468,935	0	164,771
Library	0	0	4,072,414	154,587	0	0
Debt service payments	0	0	0	0	715,160	0
Operating transfers-out:						
General Fund	0	0	0	0	0	(54,923)
Capital Projects	4,968,901	0	0	0	0	0
E911	227,075					
Special Revenue	467,706	0	0	0	0	0
Debt Service (Other)	300,000	0	0	715,160	0	0
Other funds (Other)	50,000	0	0	0	0	(50,000)
Park Board	1,211,101	(1,211,101)	0	0	0	0
				Library Board 3,846,581 0	(3,846,581) 0 0 0	
<b>Total Expenditures</b>	<b>\$ 49,341,737</b>	<b>\$ 292,404</b>	<b>\$ 225,833</b>	<b>\$ 16,404,305</b>	<b>\$ 2,784,296</b>	<b>\$ 59,848</b>

**BE IT FURTHER ORDAINED** by the City Council of the City of Mountain Brook, Alabama that the City Manager of the City is hereby authorized and directed, for and on behalf of the City, to disburse funds for the payment of budgeted expenditures including and not limited to salaries and benefits, payroll taxes, service and other contracts, debt service, utilities, supplies and such other obligations incurred by the City in the normal course of municipal, public safety, and recreational operations.

## **APPENDIX 11**

---

### **EXHIBIT 16**

#### **ORDINANCE NO. 2149**

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

Section 1. Effective September 26, 2023, the salary of the City Manager of the City of Mountain Brook shall be increased to eight thousand six and 28/100 dollars (\$8,006.28) bi-weekly.

Section 2. Effective January 30, 2024, the salary of the City Manager of the City of Mountain Brook shall be increased to eight thousand four hundred six and 59/100 dollars (\$8,406.59) bi-weekly.

Section 2. The Mayor is hereby authorized to execute an [amended] employment agreement to reflect the revised base salary described in Section 1 above, in the form as attached hereto as Exhibit A, between the City and City Manager.

Section 3. All ordinances and resolutions concerning the salary and employment agreement of the City Manager which have been adopted previously are hereby repealed.

Section 4. This ordinance shall become effective when published by posting the same as required by law.

## **APPENDIX 12**

---

### **EXHIBIT 17**

#### **ORDINANCE NO. 2150**

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

**SECTION 1. EDUCATIONAL DEGREE PREMIUM PAY PLAN.** The City Council hereby approves, subject to the [re]approval of the Personnel Board of Jefferson County [amends Ordinance No. 2118 adopted on March 14, 2022], the payment of Educational Degree Premium Pay as follows:

- a. Pursuant to Section 1.VIII.G. and Section 1.VIII.E. of the Personnel Board of Jefferson County "Salary Administration Guide & Pay Plan" for qualifying degrees earned from accredited institutions of higher education or professional certifications that satisfy the PBJC "Salary Administration Guide & Pay Plan" issued by a professional organization determined to be directly related to the responsibilities and duties of the incumbent's classified position as follows:

		Premium Code		
Class No.	Job Title	Associate 06	Bachelor 21	Graduate/ Professional 31
1082	Assistant City Manager/Finance Director			One Step
5098	Fire Chief III			One Step
5260	Director of Planning, Building and Sustainability			One Step
5266	Senior Plans Examiner			One Step
2107	Municipal Clerk III			One Step
0271	Magistrate Supervisor		One Step	One Step <sup>(1)(2)</sup>
1135	Senior Revenue Examiner		One Step	One Step <sup>(1)</sup>
8267	Senior Arborist		One Step	One Step <sup>(1)</sup>
5257	Building Inspections Superintendent II		One Step	One Step <sup>(1)</sup>
6093	Police Chief III			One Step
8715	Public Works Director III			One Step
8290	Park/Recreation Superintendent			One Step
Sworn Fire and Police personnel excluding Chiefs (5098 and 6093) as specified in Fire Departmental Policy No. 106.06 and Police Departmental Policy No. 100-4-1 attached hereto as Exhibit A and B, respectively		One Step		Two Steps

Note: Eligible employees (excluding sworn fire and police personnel) may only receive one of the educational degree premiums. Additionally, the educational premiums (06, 21, and 31) may not be combined with other professional certification premiums (27) unless expressly approved hereinabove.

- (1) The graduate educational incentive hereby approved for the Magistrate Supervisor, Senior Revenue Examiner, Senior Arborist, and Building Inspections Superintendent II positions will only be allowed provided the undergraduate degree has been determined ineligible for Premium 21 pay (i.e., the employee is only eligible for one 5% premium).
  - (2) An undergraduate degree in education from an accredited institution shall qualify for the educational incentive with respect to this position.
- b. With respect to the determination of the relevance of the field of study in relation to the responsibilities and duties of the position, the Appointing Authority is authorized to make such determination pursuant to Sec. IX. G. of the "Salary Administration Guide & Pay Plan".

**SECTION 2. REPEALER.** All ordinances or parts of ordinances heretofore adopted by the City Council of the City of Mountain Brook, Alabama that are inconsistent with the provisions of this ordinance are hereby expressly repealed.

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

**SECTION 4. EFFECTIVE DATE.** This ordinance shall be effective immediately after adoption and publication as provided by law.

**EXHIBIT 18****ORDINANCE NO. 2151**

**BE IT ORDAINED** by the City Council of the City of Mountain Brook, Alabama, that Chapter 109, Buildings and Building Regulations, Article I of the City Code is hereby amended as follows:

**SECTION 1.****“ARTICLE I. – IN GENERAL****Sec. 109-3. Times within which construction may be conducted.**

(a) No construction work, including grading, site work, the installation of foundations and the paving of surfaces, may be conducted in connection with houses or other buildings, roads, driveways, walls, fences or any other structures (collectively, "improvements") located within the city before 7:00 a.m. or after 7:00 p.m. Mondays through Saturdays. No construction shall be permitted on Sundays or on New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Eve, or Christmas Day; provided, that:

(1) Upon written application for an exception to the foregoing limitations with respect to a particular construction project, which application must set forth the reason for the requested exception, the city manager may, for good cause shown, grant a temporary exception to such limitations, which exception must be evidenced by a written document to be signed by the city manager; submitted to the building official at least 48 hours in advance of the time exception requested.”

**SECTION 2. REPEALER.** All ordinances or parts of ordinances heretofore adopted by the City Council of the City of Mountain Brook, Alabama that are inconsistent with the provisions of this ordinance are hereby expressly repealed.

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

**SECTION 4. EFFECTIVE DATE.** This ordinance shall become effective immediately upon adoption and publication as provided by law.

Locke Shelves - 1, used



Matchbox - 1



Wireless headphones - 2, never opened



Shampoo Cream - 4, Unused



Coupling - 1"



Surplus

Mini Hoops - 5, various sizes



Fruit cups, lemon underwear - 13



Boxing Shorts and Goggles, 3T child, slightly used



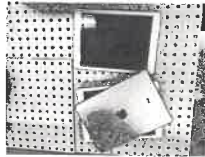
Shelves - 2, 39" X 13" X 30"



Red Air, 10" crans - 13



Red Air, 10", 2012 - 5



3 Tier Storage Cart - 26 1/2" X 18" with handle



Children's Chair - 12



Wobble Chair - 1

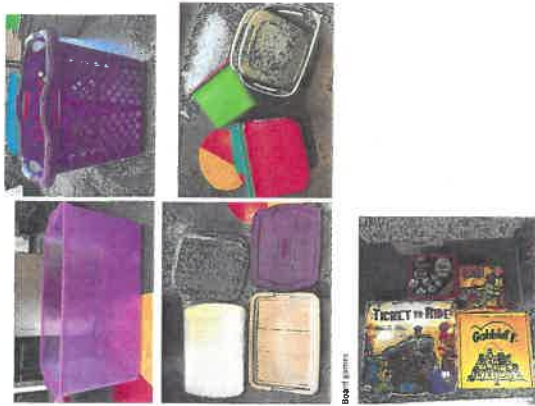


Basketballs - 5, 1 1/2, various sizes

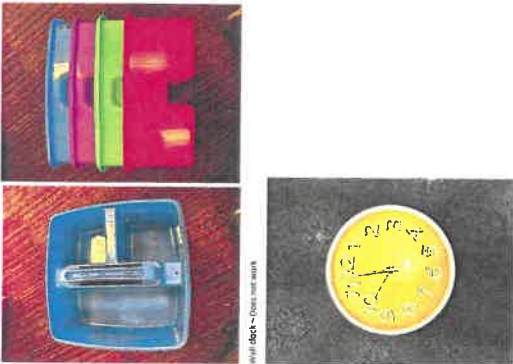




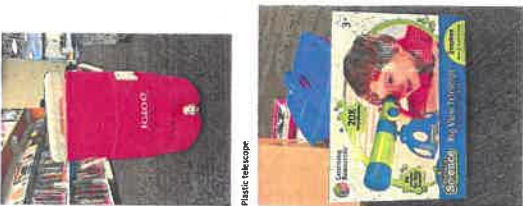
Plastic containers - Various sizes



Caddies - 4



Box - 5 gal



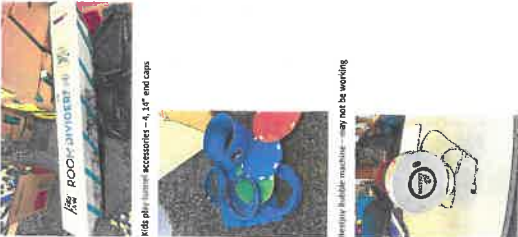
Rolling basket - 3'5" x 12" x 12"



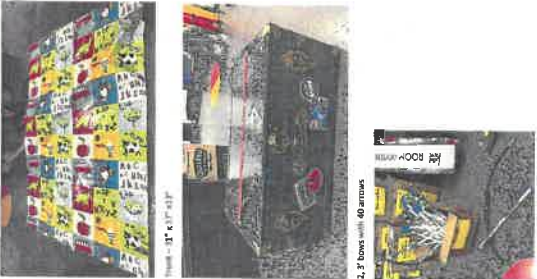
Wooden crates



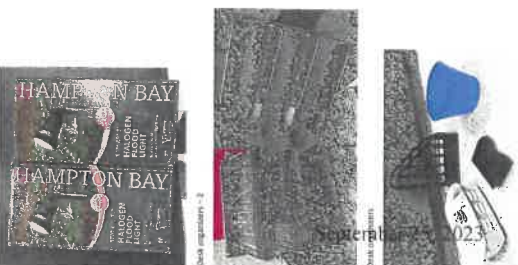
Room dividers - 1

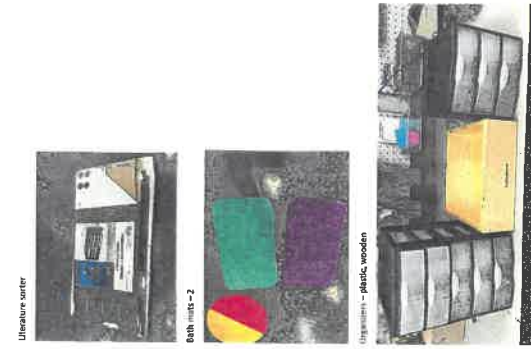
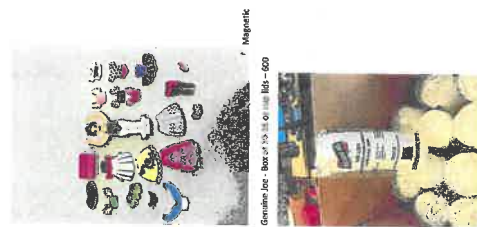
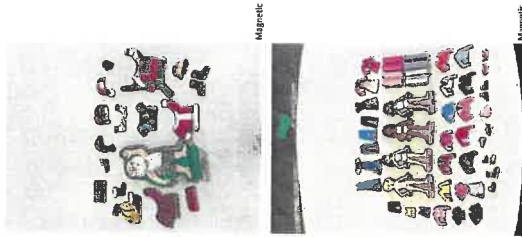


Vinyl table - 4' x 6'



Floor lights - 2, new



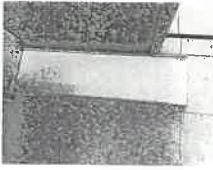




Pneumatic air compressor



Shelves - 2, 35" W x 13"D



Shelf frame - 56" x 35" W x 13"D



Filing Cabinet - 67" H x 42" W x 19"D



Typing table - 35" W x 28" H x 19"D



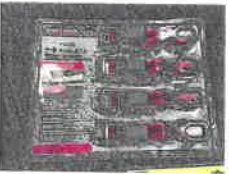
Shelf - 1



Artic. Air - Air - open, 1, various sizes



Ratchet tie-downs



Game accessories



Garden power stake



Automatic refrigerator - pedestal, 2



Decorative Tray (City Hall)



Book Cart - 3 shelves and handles



Kids chairs - 4, mixing legs



Plush toys - 2





City of  
Mountain Brook

Heather Richards &lt;richardsh@mtnbrook.org&gt;

## MINUTE BOOK 93

## CONTRIBUTION AGREEMENT

947

## For the agenda

1 message

Steve Boone &lt;boones@mtnbrook.org&gt;

Thu, Sep 14, 2023 at 3:41 PM

To: Heather Richards &lt;richardsh@mtnbrook.org&gt;

Add a resolution authorizing the execution of a contribution agreement between the City and BOE for construction management services related to the MBJH drainage and athletic facilities improvements projects whereby the City will reimburse the BOE 50% of the \$750,000 construction management services provided by Brasfield & Gorrie.

## Steven Boone

City of Mountain Brook  
P. O. Box 130009  
Mountain Brook, AL 35213-0009  
Direct: (205) 802-3825  
Facsimile: (205) 874-0611

[www.mtnbrook.org](http://www.mtnbrook.org)  
<http://mtnbrookcity.blogspot.com/>

B&G CONSTR MGMT CONTRIBUTION AGREEMENT.docx  
20K

THIS CONTRIBUTION AGREEMENT (the "Agreement") is made and entered into as of the \_\_\_\_\_ day of \_\_\_\_\_, 2023 (the "Effective Date") by and among the City of Mountain Brook, an Alabama municipal corporation (the "City"), and the Mountain Brook City Board of Education, a quasi-corporation and agency and instrumentality of the State of Alabama (the "Board").

## RECITALS:

- A. The Board owns certain property located in the City where Mountain Brook Junior High School is located (the "Property").
- B. The City and the Board wish to improve the Junior High School facilities, as well as provide additional space for recreation for the children and citizens of the City, including, Mountain Brook Athletics.
- C. The City and the Board have determined that it is in the best interest of the Board and the City to engage the services of a construction manager for the Board improvements, the City's drainage improvements and the joint athletic facility improvements.
- D. The Board approved a change order in the amount of \$750,000 for additional construction management services related to the aforementioned facility improvements.
- E. The City and the Board wish to confirm their agreement for the Project by this Agreement.

NOW, THEREFORE, for and in consideration of the premises, and the agreements, covenants, representations and warranties hereinafter set forth, and other good and valuable consideration, the receipt and sufficiency of which are acknowledged and confirmed, the parties hereto agree as follows:

## 1. PROPERTY DILIGENCE.

1.1 **Plans.** The Board and City shall be responsible for obtaining the plans for their respective portions of the Projects. The Board shall consult with the City on those plans for final approval by and among the City and the Board.

1.2 **Entitlements and Approvals.** The City shall be responsible for all entitlements and approvals permits, licenses, variances, special exceptions, conditional use authorizations, zoning changes and other governmental approvals that are required for the Project.

## 2. PROPERTY OPERATION.

2.1 **Cooperation and Management.** After the Effective Date, the Board agrees to allow the City and its agents to enter the Property for the development, construction and items related thereto for the Project and to maintain its existing property insurance policy covering the Property in full force and effect.

2.2 **Updates.** The City agrees that until the Project is completed it will promptly notify the Board, in writing, if the City obtains knowledge or receives written notice of (a) any event which has or is likely to have an adverse effect on the operation, physical condition or financial condition of the Property,

APPENDIX 2

(b) any violation, potential violation or alleged violation of any legal requirements or the encumbrances related to the Property, (c) any legal action or governmental proceeding related to the Property or which may affect the City's ability to perform its obligations under this Agreement, (d) any default under any agreement related to the Property, (e) any damage to or destruction of the Property by fire or other casualty, or (f) any actual, pending or threatened taking of the Property by condemnation or eminent domain.

## 3. DEVELOPMENT.

3.1 **Construction of the Project.** The City shall take the lead in obtaining bids for the costs of the Project and shall be responsible for hiring and contracting with the appropriate architect, contractor and project manager to be responsible for and oversee the development and construction of the Project.

3.2 **Financing.** The City and the Board agree that the costs of the additional Construction Management Services occurring after March 1, 2023, have been determined to be Seven Hundred Fifty Thousand Dollars (\$750,000) ("Joint Construction Management Services"). The City and The Board agree that the Joint Construction Management Services shall be paid through the following contribution percentages until such time as all such costs, including, but not limited any increases, add-ons, change orders, or cost overruns: (1) The City shall contribute Fifty Percent (50%) of all Joint Construction Management Services and the Board shall contribute Fifty Percent (50%) of all Joint Construction Management Services. The City shall pay the Board its portion of the costs as such work progresses and invoiced to the City.

## 4. MISCELLANEOUS.

4.1 **Consents, Approvals and Discretion.** Except as herein expressly provided to the contrary, whenever this Agreement requires any consent or approval to be given by a party, or whenever a party must or may exercise discretion, the parties agree that such consent or approval shall not be unreasonably withheld or delayed and such discretion shall be reasonably exercised.

4.2 **Choice of Law.** The parties agree that this Agreement shall be governed by and construed in accordance with the laws of the State of Alabama without regard to conflict of laws principles.

4.3 **Benefit/Assignment.** Subject to provisions herein to the contrary, this Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective legal representatives, successors, and assigns. No party may assign this Agreement without the prior written consent of the other parties; provided, however, that any party may, without the prior written consent of the other parties, assign its rights and delegate its duties hereunder to one or more affiliates, but in such event, the assignor shall be required to remain obligated hereunder in the same manner as if such assignment had not been affected.

4.4 **Waiver of Breach.** The waiver by any party of a breach or violation of any provision of this Agreement shall not operate as, or be construed to constitute, a waiver of any subsequent breach of the same or any other provision hereof.

4.5 **Severability.** In the event any provision of this Agreement is held to be invalid, illegal or unenforceable for any reason and in any respect, such invalidity, illegality, or unenforceability shall in no event affect, prejudice, or disturb the validity of the remainder of this Agreement, which shall be and remain in full force and effect, enforceable in accordance with its terms.

4.6 **Gender and Number.** Whenever the context of this Agreement requires, the gender of all words herein shall include the masculine, feminine, and neuter, and the number of all words herein shall include the singular and plural.

4.7 **Divisions and Headings.** The divisions of this Agreement into sections and subsections and the use of captions and headings in connection therewith are solely for convenience and shall have no legal effect in construing the provisions of this Agreement.

4.8 **No Partnership or Joint Venture.** The terms and provisions of this agreement are intended solely to create a Contribution Agreement and are not intended and do not create any partnership or joint venture between the Parties hereto.

4.9 **Third-Party Beneficiaries.** The terms and provisions of this Agreement are intended solely for the benefit of the City and the Board and their respective permitted successors or assigns, and it is not the intention of the parties to confer, and this Agreement shall not confer, third-party beneficiary rights upon any other person.

4.10 **Enforcement of Agreement.** The parties hereto agree that irreparable damage would occur in the event that any of the provisions of this Agreement was not performed in accordance with its specific terms or was otherwise breached. It is accordingly agreed that the parties shall be entitled to an injunction or injunctions to prevent breaches of this Agreement and to enforce specifically the terms and provisions hereof in any court of competent jurisdiction, this being in addition to any other remedy to which they are entitled at law or in equity.

4.11 **Entire Agreement/Amendment.** This Agreement supersedes all previous contracts or understandings, including any offers, letters of intent, proposals or letters of understanding, and constitutes the entire agreement of whatsoever kind or nature existing between or among the parties respecting the within subject matter, and no party shall be entitled to benefits other than those specified herein. As between or among the parties, no oral statements or prior written material not specifically incorporated herein shall be of any force and effect. The parties specifically acknowledge that in entering into and executing this Agreement, the parties rely solely upon the representations and agreements contained in this Agreement and no others. All prior representations or agreements, whether written or verbal, not expressly incorporated herein are superseded, and no changes in or additions to this Agreement shall be recognized unless and until made in writing and signed by all parties hereto.

4.12 **Counterparts.** This Agreement may be executed in separate counterparts. Each such counterpart shall be deemed an original and all of which shall constitute one and the same instrument. The signature pages and notary acknowledgments, if any, from one or more separate executed counterparts may be combined together with one or more other separate executed counterparts to form a single document. This Agreement shall be fully executed when each party whose signature is required has signed and delivered at least one (1) counterpart even though no one (1) counterpart contains the

September 25, 2023

signatures of all of the parties to this Agreement. This Agreement and any instrument, document or agreement to be executed or delivered in connection herewith may be executed and delivered by facsimile transmission, electronic mail or other electronic means and the electronic signature of a party, or a signature transmitted or delivered by electronic means, shall be binding upon such party as fully as though such signature was executed and delivered in person. An electronic or photocopy of this Agreement, certified as being in full force and effect, shall be admissible into evidence in any judicial proceeding and no party shall be required to produce the copy of this Agreement containing the original signatures of the parties.

**SIGNATURE PAGE FOLLOWS**

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the Effective Date.

**MOUNTAIN BROOK CITY BOARD OF EDUCATION**  
a quasi-corporation and agency and instrumentality of  
the State of Alabama

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

Name: Richard Barlow

Title: Superintendent

**CITY OF MOUNTAIN BROOK, ALABAMA**  
An Alabama municipal corporation

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

Name: Stewart Welch III

Title: Mayor

September 17, 2023

Mr. Steven Boone  
City of Mountain Brook  
56 Church Street, P.O. Box 130009  
Mountain Brook, AL 35213

Re: Actuarial Loss Reserve Analysis - Alabama Workers' Compensation

Dear Steve:

Allen Consulting can perform the requested loss reserve analysis for a fee of \$2,500 (an increase of \$250 over 3 years ago).

Upon completion, we will issue the formal actuarial report (pdf) which will meet all requirements of your auditors.

In order to perform the analysis, we will need the following:

- 1) Loss data from MWCF valued at 9/30/23, 1/31/23, 1/31/22, and 1/31/21. The loss data should be in Excel files (all claims, open or closed).
- 2) Something to document your deductible for: 2/1/21-1/31/22, 2/1/22-1/31/23, and 2/1/23-1/31/23.
- 3) Audited payroll by class code for 2/1/20-1/31/21, 2/1/21-1/31/22, and 2/1/22-1/31/23.
- 4) Estimated payroll by class code for 2/1/23-2/1/24.

Please call me if you have any questions.

Sincerely,



Danny M. Allen, ACAS, MAAA, CPCU



STATE OF ALABAMA)  
COUNTY OF JEFFERSON)

### CONTRACT AGREEMENT

THIS AGREEMENT is entered into on this the \_\_\_\_\_ day of \_\_\_\_\_, 2023, by and between the City of Mountain Brook (hereinafter referred to as "City") and the Jefferson – Blount – St. Clair Mental Health Authority (hereinafter referred to as "Contractor"):

WHEREAS, municipalities in the State of Alabama are authorized to promote the public health, safety, morals, security, prosperity, contentment and the general welfare of the community;

WHEREAS, Jefferson – Blount – St. Clair Mental Health Authority, is an organization which has as one of its goals the promotion of public health, safety, morals, security, prosperity, contentment and the general welfare in the City of Mountain Brook;

WHEREAS, the City Council of the City of Mountain Brook, Alabama desires to enter into a contract with the Contractor for the purpose of providing mental health services to residents of the City of Mountain Brook;

### WITNESSETH,

1. That the City, for and in consideration of the covenants and agreements hereinafter set

1

and privileges granted herein without the prior written consent of the City.

5. The Contractor agrees that upon violation of any covenants and agreements herein contained, on account of any act or omission of the Contractor, the City may, at its option, terminate and cancel this contract and to exercise any remedy, at its option, available to it whether in law or equity.

6. The Contractor agrees that it will comply with Title 6 of the Civil Rights Act of 1964 assuring that no person under its employ will be excluded from participation in, be denied benefits of, or otherwise be subjected to discrimination on the grounds of race, sex, color, national origin or handicap.

7. Notwithstanding any of the other provisions contained in this contract, the City shall maintain the right to terminate this contract upon proper notice, which shall be in writing and shall be provided to the Contractor at least thirty (30) days prior to the intended date of cancellation.

8. Except as otherwise expressly provided in this Agreement, any notice, consent or other communication required or permitted under this Agreement must be in writing and will be deemed received at the time it is personally delivered, on the day it is sent by facsimile transmission, on the second day after its deposit with any commercial air courier or express service, or, if mailed, 3 days after the notice is deposited in the United States mail addressed as follows:

out to be kept and performed by the Contractor, does hereby agree to pay the Contractor the sum of TWO THOUSAND FIVE HUNDRED and NO/100 (\$2,500.<sup>00</sup>) Dollars, for performing the services herein provided for the period beginning October 1, 2023 through September 30, 2024.

### 2. SCOPE OF SERVICES:

In consideration of the covenants and agreements made herein by the City, the Contractor agrees that it shall be totally responsible for, and shall have exclusive control over the management and disbursement for all such monies received from the City, and that all monies received under this contract shall be used only for the purposes herein described:

- a. Provide relief for residents who are in need of crisis stabilization for uninsured mentally ill persons;
- b. Provide medication and outpatient therapy for mentally ill persons;
- c. Provide housing and treatment for mentally ill persons;
- d. Provide in-home therapy for at-risk youths who are in danger of being removed from their homes;
- e. Provide case management to access housing and other supports to avoid unnecessary admissions to state hospitals;
- f. Provide social work assistance to families; and
- g. Contractor agrees to provide any all personnel, supplies, equipment necessary for the services herein to be provided.

3. The Contractor agrees to provide to the City at all reasonable times and places accounting for the expenditure of funds granted herein.

4. The Contractor shall not transfer or assign this contract or the license or any of the rights

2

To City of Mountain Brook: City Manager  
City of Mountain Brook  
P.O. Box 130009  
Mountain Brook, AL 35213

To Contractor: Jefferson – Blount – St. Clair Health Authority  
Yvonne Gallman, Associate Director  
940 Montclair Road, Suite 200  
Birmingham, AL 35213

Any time period stated in a notice will be computed from the time the notice is deemed received. Either party may change its mailing address or the person to receive notice by notifying the other party as party has provided in this paragraph.

No verbal agreement or conversation with any officer, agent, employee, or consultant of the City either before or after execution of this Agreement, will affect or modify any of the terms or obligations contained in this Agreement. Any such verbal agreement or conversation will be considered as unofficial information and in no way binding upon City or Contractor. Any amendment to this Agreement must be in writing and signed by both parties.

APPENDIX 4

day of September, 2023.

COUNTY OF JEFFERSON )

CITY OF MOUNTAIN BROOK,  
A Municipal Corporation

BY: [Signature]  
Stewart Welch  
Mayor, City of Mountain Brook

WITNESSED:

BY: [Signature]

JEFFERSON - BLOUNT - ST. CLAIR  
MENTAL HEALTH AUTHORITY

BY: [Signature]  
Its Authorized Agent  
Print name: Yvonne Gallman  
Title: Associate Director

5

I, [Signature] a notary public in and for said County in said State,  
hereby certify that Yvonne Gallman whose name as Authorized  
Agent of the JEFFERSON - BLOUNT - ST. CLAIR MENTAL HEALTH AUTHORITY, a  
nonprofit corporation, is signed to the foregoing instrument and who is known to me,  
acknowledged before me on this day that, being informed of the contents of the instrument,  
he/she, as such officer and with full authority executed the same voluntarily for and as the act of  
said corporation.

Given under my hand this 18th day of September, 2023

[Signature]  
NOTARY PUBLIC

My Commission Expires

My Commission Expires: February 8, 2025

APPENDIX 4

6

New York Times contract for Council approval

2 messages

Lindsay Gardner <lgardner@oneallibrary.org>  
To: Heather Richards <richardsh@mtnbrook.org>  
Cc: "Lloyd Shelton, CPA" <lcs@borlandcpa.com>

Wed, Sep 20, 2023 at 10:51 AM

Hi Heather,  
Could you include this on the September 25 agenda? I won't be able to attend the meeting, but Whit has reviewed. I'm also copying Lloyd in case he has any questions.

Thanks,  
Lindsay

Lindsay Gardner, Director  
O'Neal Library  
50 Oak Street  
Mountain Brook, AL 35213  
205.445.1192  
334.216.9464 cell  
lgardner@oneallibrary.org

 O'Neal All\_Access.pdf  
287K

Heather Richards <richardsh@mtnbrook.org>  
To: Lindsay Gardner <lgardner@oneallibrary.org>  
Cc: "Lloyd Shelton, CPA" <lcs@borlandcpa.com>

Wed, Sep 20, 2023 at 11:15 AM

Yes, of course.

Heather Richards  
City Clerk  
City of Mountain Brook  
P.O. Box 130009  
Mountain Brook, AL 35213  
Direct - 205-802-3823  
Facsimile - 205-874-0611

[Quoted text hidden]

Subscription Start Date: Access will begin 7-10 business days after contract execution date unless a later date is agreed upon.

Account Information  
Institution Name ("Client"): O'Neal Library  
Address:  
50 Oak St  
Birmingham, AL 35213  
United States  
Account Contact:  
Name: Amanda Westfall  
Title:  
Phone: 205-445-1119  
Email: awestfall@oneallibrary.org  
EIN (required for tax exemption): 63-6001325

Send Bill to:  
Name: Amanda Westfall  
Address:  
50 Oak St  
Birmingham, AL 35213  
United States  
Phone: 205-445-1119  
Email: awestfall@oneallibrary.org

Subscription Information  
Population Served: 20,306  
Subscription fee (USD): \$3,016.00  
Bill frequency:  
Duration of the Subscription: 52 weeks  
Code Duration: 24 Hour  
Code Type: Single Code, Multiple Redeems  
Number of Codes: 5,000

This subscription will expire at the end of the subscription duration unless the Client notifies NYT.

IP-based onsite access plus account based offsite access: Authorized users will only have web access to nytimes.com while within the indicated IP range(s) and for the subscription duration stated above. In addition, authorized users will have offsite access (outside the time-limited) via an authenticated process whereby users create an nytimes.com account.

On-site IP range(s): Public computer IPs

10.51.3.41 Elliot  
10.51.3.48 Greg  
10.51.3.61 Hemingway  
10.51.3.47 Kests  
10.51.3.43 Rilke  
10.51.3.62 Steinbeck  
10.51.3.45 Twain  
10.51.3.55 Yeats  
10.51.3.46 Laptop1  
10.51.3.54 Laptop2  
10.51.3.59 Laptop3  
10.51.3.53 Laptop4  
10.51.3.52 Laptop5  
10.51.3.58 Laptop6

<23024

1

APPENDIX 5

https://mail.google.com/mail/u/0/?ik=80a4775052&view=pt&search=all&permthid=thread-f17757237639360405&siml=msg-f17757237639360404... 1/1

10.51.3.57 Laptop7  
10.51.3.56 Laptop8  
10.51.3.54 Laptop9  
10.51.3.60 Laptop10  
10.51.3.50 Laptop11  
10.51.3.50 Laptop12  
External IP  
18.188.126.142  
Internal IP  
198.49.31.151  
ILS IP  
18.218.195.217

Public Wifi range:  
10.10.10.2 - 10.10.10.254

Technical contact at my institution regarding IP ranges(s):  
Name: Justin Morrison  
Phone: 205-445-1103  
Email: jmorrison@oneallibrary.org

Code-based Authentication: Authorized Users will be granted access to nytimes.com by redeeming an access code provided to them by the institution and then creating an account via name and email address tied to their code. Authorized Users will have access from any location during the Subscription Duration stated below. No access is available via proxy servers

All Access: Users will have unlimited access to nytimes.com website and application as well as Cooking, Games, The Athletic, and Wirecutter. Does not include e-reader editions.

Basic: Users will have unlimited access to nytimes.com website and application. Application access is not available for IP Based subscription. Does not include: Cooking, Games, The Athletic, Wirecutter and e-reader editions.

TERMS AND CONDITIONS OF THIS PURCHASE ORDER

This order is binding on Client upon its signature. This order is subject to review by The New York Times Company ("NYT") and will be binding on NYT once approved by NYT. Each person who is receiving access to the Subscription through information provided by the Client or redemption of a code provided to Client is an "Authorized User." Authorized Users of all Options may be required to create an account with NYT on nytimes.com. NYT hereby grants to Client a nonexclusive, nontransferable, nonsub licensable license to allow its Authorized Users to consume NYT content for personal use and for Client's internal research, educational and general awareness purposes.

Payment of the Subscription Cost is due and payable to NYT in full within 30 days from the date of the invoice. All payments due hereunder shall be in US Dollars (except as otherwise stated) and are nonrefundable. The Subscription Cost is exclusive of any applicable taxes payable for the Subscription. Client acknowledges that NYT has the right to deactivate the Subscription at any time if Client fails to timely pay the amounts invoiced by NYT or fails to comply with the terms herein. If no End Date is indicated above, the Duration of the Subscription and, if applicable, the same number of Authorized Users at the end of that period will automatically renew for successive periods equal to the Duration of the Subscription unless either the Client or NYT provides at least a 60-day notice before the renewal date. Subscription fee is subject to change upon renewal. In the case of a fee increase, NYT will provide notice to Client of such fee increase prior to renewal. Client acknowledges that Client will not receive a notice of renewal and expressly waives the application of New York General Obligation Law section 5-903, and any similar laws. Client shall not use the name, logo, trademark, service mark or other designation of NYT in any manner without the prior written consent of NYT. Neither Client nor NYT shall disclose any of the terms contained herein.

Client may increase the number of Authorized Users during the Subscription Duration by contacting NYT. Client IP range(s) must be an external public-facing static IP range(s) or Proxy IP, and Client is fully responsible for all costs associated with setting up and maintaining such IP range(s). Client agrees to provide NYT with true, accurate and complete information as required by the Subscription sign-up process, including the Client IP range(s), and to allow NYT to share Client's information with third parties for the purpose of verifying the information provided by Client. Client agrees to maintain and promptly update Client information and any J:\Minutes & Agendas\Council\2023\20230925 Minutes.docx

<23024

2

<23024

September 25, 2023

3



Second Amendment to Solid Waste and Disposal Services Contract between AmWaste LLC,  
Municipality, and the Authority

## SOLID WASTE COLLECTION AND DISPOSAL CONTRACT

The CITY OF MOUNTAIN BROOK, ALABAMA, (hereinafter referred to as "City"), a municipal corporation does hereby enter into an amended solid waste collection and disposal contract by, between and with the CAHABA SOLID WASTE DISPOSAL AUTHORITY (hereinafter referred to as the "Authority" or "CSWDA") a public corporation under and pursuant to the provisions of Chapter 89A of Title 11 of the Code of Alabama (1975) (hereinafter referred to as the "Enabling Act"). The Parties agree as follows:

1. **Tiered Pricing Amended and Fuel Costs Revisited.** The pricing for services shall remain tiered and based upon the number of units serviced and services selected within the City and within the Authority's jurisdiction subject to increases pursuant to the CPI-U Annual Rate Adjustment, which shall increase by 5% percent, beginning October 1, 2023. The residential garbage and recycling pricing (including elective backdoor service, where applicable) shall continue to include the addition of an itemized fuel surcharge from August 1, 2022, until such time as the commercial adjusted fuel index for ultra-low sulfur diesel returns below the contract baseline fuel cost of \$3.05 (fuel index rate of ultra-low sulfur diesel as of July 15, 2021), known as the fuel surcharge.
2. **Fuel Cost Savings Rebate Overview.** The fuel cost savings rebate is an opt-in program that shall consist of a credit to a City of the pro-rata reduction of the percentage decrease of fuel for the dedicated service route within the municipality on a monthly basis, where the reduction will occur based on the number of gallons provided from City to the Authority.
3. **Fuel Cost Savings Rebate Explained.** The City desires to "opt in" to a fuel cost savings rebate with the Authority as described in Resolution No. 2023-01 attached hereto totaling a rebate of approximately \$4,200 per month with an estimated annual rebate of \$50,800.
4. **Provision of Fuel, Delivery, and Access to Fuel.** City shall provide fuel (ultra-low sulfur diesel only) to the Authority's Delivery Point located at 1400 Porter Rd Sylvan Springs, AL 35118 or make provision for the allotted gallons to be made available through a Fuelman card. The Authority or its designee will place orders/make payments on the City's behalf for its related gallons to be delivered/available on or before the last business day of each month. The City shall continue to receive one monthly billing for services through the Authority. Access to the Authority's Delivery Point will be restricted and have a limited access keypad entry specific to each driver and dedicated service route.
5. **Cancellation or Termination of this Agreement.** Either party may cancel or opt-out of the Fuel Cost Savings Rebate upon thirty (30) days' notice.
6. **Controlling Agreement.** All other provisions of the original authorization to administer solid waste collection on 10th day of October, 2022, by Resolution No. 2022-156 (as amended) shall remain in effect. To the extent any provisions contained herein are in conflict with this Agreement or any other Agreements between Authority and City, oral or otherwise, the provisions contained herein shall supersede such conflicting provisions contained in the Agreement or other Agreements.
7. **No Further Modifications.** Except as set forth herein, all previous provisions remain unmodified and in full force and effect.

[Signatures on the following page.]

Done this 25<sup>th</sup> day of September, 2023.

IN WITNESS WHEREOF, the parties hereto, having obtained the full consent of their governing bodies, have caused this Agreement with the Cahaba Solid Waste Disposal Authority to administer solid waste disposal and collection on behalf of the City of Mountain Brook as provided herein, cause to be executed by their duly authorized officers on the day and year written above, as follows:

CITY OF MOUNTAIN BROOK, ALABAMA,  
a Municipal Corporation

Mayor

Attest:

City Clerk

CAHABA SOLID WASTE DISPOSAL AUTHORITY, a  
Public Corporation

S. Blake Miller, its Chairman

Attest:

Elenie Counts, Secretary

## ACKNOWLEDGEMENT OF SERVICES BY PROVIDER

Acknowledged by Service Provider: AMWASTE LLC, by \_\_\_\_\_  
(print)

Its \_\_\_\_\_ (title). This \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

(Signature)

## Resolution 2023 - 01

Resolution Authorizing Fuel Cost Savings Rebate and  
Annual Rate Increase of Five Percent

BE IT RESOLVED, by the Board of Directors for the Cahaba Solid Waste Disposal Authority with a quorum present in a duly called special meeting on this 7<sup>th</sup> day of September, 2023, hereby resolves as follows:

1. **CPI-U ANNUAL ADJUSTMENT CAPPED AT FIVE (5%) PERCENT.** As of October 1, 2023, an annual rate of adjustment of five percent (5%) shall occur for all services offered by the Authority for all eligible entities. The Board recognizes that the CPI-U Index for Annual Rate Adjustment range is approximately 5.7 percent for water and sewer and trash collection services as of June 2023; however, understands that the maximum increase per contract with the Authority's preferred provider is capped at five (5%) percent and determines that five percent is the maximum rate increase authorized.
2. **FUEL COST SAVINGS REBATE AUTHORIZED.** That beginning October 1, 2023, the Authority shall offer an "opt in" only fuel cost savings rebate to all customers, where a monthly rebate shall be available to customers who "opt in" and provide the amount of fuel (ultra-low sulfur diesel) necessary to operate the dedicated service route within that municipality to the Authority. As a result, the Authority will provide for a pro-rata reduction of solid waste disposal and collection costs within the municipality's corporate limits based on the savings of fuel at a lower rate. The rebate mechanism shall be based on monthly gallons authorized by each municipality which will equal a six-week average of actual mileage for the dedicated route within the municipality and assumes 4.6 miles per gallon. The rebate shall be credited on a monthly basis equal to monthly authorized gallons of fuel multiplied by a fuel factor of approximately 0.72 (number may fluctuate depending on difference between market pricing and any cost savings afforded to the Authority), and is estimated as follows: See Exhibit A.
3. **FUEL TANK STORAGE AUTHORIZED.** That the Chairman or Vice Chairman is authorized to enter into such agreements necessary to facilitate the fuel cost saving rebate, including (i) such agreements as necessary with a fuel provider, McPherson Oil or such other provider, that is authorized under the State of Alabama contract to provide fuel at a tax-free rate and (ii) such agreements necessary for setting up a Fuelman card in the Authority's name. Further, the Chairman or Vice Chairman is authorized to enter into a lease agreement with AmWaste, in an amount not to exceed \$1.00 for a term of up to 5 years for the ownership and control of a fuel tank location to receive donated gallons and located where service equipment for the Authority is currently stored by AmWaste, subject to lease terms and provisions as approved by legal counsel, including, but not limited to, (i) a requirement that donated fuel is stored in a restricted access tank with keypad access limited to specific drivers and equipment for dedicated service routes, (ii) a monthly

APPENDIX 6

tracking system is installed, and (iii) monthly reporting is provided to the Authority regarding distribution of fuel to the dedicated service routes.

4. For the City of Clanton only, Due to logistics and operation of the fleet used for the City of Clanton from site near Montgomery, the Chairman or Vice Chairman is authorized to negotiate a separate fuel cost savings rebate mechanism with the Authority's preferred provider, which may include a combination of leasing space for fuel tank storage or use of Fuelman cards.
5. That the Chairman or Vice Chairman, along with the Treasurer shall provide a policies and procedures statement to be transmitted to any municipality desiring to "opt in" to the fuel savings rebate.
6. That the Chairman or Vice Chairman is authorized to enter into periodic billing arrangements with any entity receiving service from the Authority that direct bills its residents and desires additional flexibility in its timing for phasing in the fuel cost savings rebate and annual rate adjustment to ensure their billing reflects these additional costs in a manner consistent with the terms herein.
7. That the Chairman or Vice Chairman shall be authorized to enter into a Second Amendment to the Solid Waste Collection & Disposal Provider Agreement with AmWaste LLC upon such terms and conditions set forth in Exhibit 1 and sign such documentation necessary to facilitate the aforementioned wishes of the Authority.
8. That the Chairman or Vice Chairman is authorized to execute any and all such documents as necessary to institute the Authority's fuel cost savings rebate.
9. This resolution shall take effect immediately and the Secretary is authorized to spread the same upon the minutes and certify a copy of this resolution to all entities utilizing the Authority's services for their concurrence.

ADOPTED this 10<sup>th</sup> day of September, 2023.

APPROVED BY:

S. Blake Miller  
S. Blake Miller, its Chairman

ATTESTED BY:

Elenie Counts  
Recording Secretary

#### Exhibit A

Estimated Fuel Cost Savings  
Based on 4.6 miles per gallon

Municipality	Weekly Miles	Est. June Totals Miles	June Gallons	Monthly Rebate	Annual Rebate
Fultondale	621	2,732.40	594.00	\$ 427.68	\$ 5,132.16
Hoover	13171	57,952.40	12,598.35	\$ 9,070.81	\$ 108,849.73
Mountain Brook	6149	27,055.60	5,881.65	\$ 4,234.79	\$ 50,817.47
Pelham	6991	30,760.40	6,687.04	\$ 4,814.67	\$ 57,776.06
Trussville	2296	10,102.40	2,196.17	\$ 1,581.25	\$ 18,974.94
Vestavia Hills	7883	34,685.20	7,540.26	\$ 5,428.99	\$ 65,147.85
Clanton	1726	7,594.40	1,650.96	\$ 1,188.69	\$ 14,264.26
Estimated Annual Rebate			37,148.43	\$ 26,746.87	\$ 320,962.48

APPENDIX 6

9/21/23, 2:32 PM

City of Mountain Brook Mail - McPherson Oil



City of  
Mountain Brook

Steve Boone <boones@mtnbrook.org>

#### McPherson Oil

1 message

Steve Boone <boones@mtnbrook.org>

Thu, Sep 21, 2023 at 10:21 AM

To: Blake Miller <Stephen.Miller@hooveralabama.gov>, Jeff Downs <jdownes@vha.org>, Rod Evans <REvans@wallacejordan.com>

Cc: Rick Sweeney <rsweeney@amwasteusa.com>

I just got off the phone with Clint Champion (205-635-6702, cchampion@mcphersonoil.com). McPherson will establish a credit account for the CSWDA and has agreed to provide a 10,000 tank to be installed at Amwaste's Sylvan Springs site.

While McPherson has lost the State contract for Jeff Co starting Oct 1, they will agree to a cost plus \$0.05 same as their expiring State contract. He estimates it will take about 2 weeks (maybe less) to get the tank installed depending on electrical work. I have asked that he coordinate the account set-up and tank installation with Rick.

I will defer to Rod but I suspect we will need the following assuming you all are agreeable with the arrangement I have set-up:

1. An agency agreement allowing Amwaste to purchase fuel in the name of the CSWDA
2. Ratify the Treasurer's actions to establish a credit account with McPherson Oil
3. Something to document the pricing arrangement (cost plus \$0.05/gallon). Not sure what mark-up McPherson may seek to recoup/amortize the cost of the tank?
4. Tank lease or agreement between CSWDA and Amwaste. Likely need to talk with Clint to see if they are transferred ownership, leasing or simply loaning the tank.

—  
Steven Boone

City of Mountain Brook

P.O. Box 130009

Mountain Brook, AL 35213-0009

Direct: (205) 802-3825

Facsimile: (205) 874-0611

[www.mtnbrook.org](http://www.mtnbrook.org)

<http://mtnbrookcity.blogspot.com/>



Central Alabama's Specialized Transit  
A Project of the Birmingham Regional Paratransit Consortium

August 21, 2023

Mayor Stewart Welch  
City of Mountain Brook  
P.O. Box 130009  
Mountain Brook, AL 35213

Re: ClasTran 2024 Local Match

Dear Mayor Welch,

We would like to express our gratitude to you, on behalf of our Board of Directors, customers and employees at ClasTran, for your past support. The quality transportation provided by ClasTran is essential for the people we serve as well as their families and care takers. Transportation is provided to dialysis and medical appointments, adult day care facilities and other essential destinations such as access to many kinds of health care, food shopping and other basic needs necessary to maintain quality of life.

It is important to note that the MPO has been reducing 5310 funds to ClasTran. ClasTran had been receiving three million dollars per year since 1997, but with recent reductions from the MPO, that amount has been reduced to one million in Federal Funds. The cost of most travel will not be subsidized at the federal level.

We must now look for other funding in order to continue the service we have traditionally offered. With no other choice we will need to raise the per ride fee to the rider. We would also be grateful for your municipality to contribute a fair amount for the service your residents need.

Since the average cost per trip is \$41, if the consumer is charged a fee, and a small amount can come from the reduced 5310 grant, your city would need to contribute \$1,000.00 to help keep this vital service for your citizens. Please consider this request as your community's need on ClasTran for transportation. Our elderly and disabled citizens require this service every day.

Payments may be spread over 12 months or made quarterly as necessary. If you have any questions, please feel free to call me at 205-325-8787 or email me at [sspencer@classtran.com](mailto:sspencer@classtran.com).

Thank you.  
Shari Spencer  
Executive Director

OTT-SSG  
MAX Funding  
Line item

"Developing Partnerships to Meet the Challenge"

conducting business for, or on behalf of, ClasTran be deemed to be agents or employees of City.

4. ClasTran shall indemnify City and its employees and elected officials, and hold them harmless from and against, all actions, causes of action, claims, demands, damages, losses and expenses of any kind, including, but not limited to, attorneys' fees and court costs, which may be asserted against, or suffered by, City or its employees or elected officials arising out of, or in connection with:
  - a. the performance, or attempted performance, by ClasTran or its agents or employees of ClasTran's obligations under this contract; and
  - b. any claim that the Contract Funds were improperly paid by City to ClasTran.
5. ClasTran agrees to employ accounting procedures which are appropriate to the types of operations conducted by ClasTran and which are customary to similar operations. All financial records and other documents pertaining to this Contract shall be maintained by ClasTran for a period of three (3) years after the expiration or termination of this Contract. City shall have full access to, and the right to examine, such financial records and other documents at all reasonable times during the term of this Contract and during said three (3) year period. ClasTran agrees that, upon request from City, ClasTran will submit to, and cooperate with, periodic audits by the Alabama Department of Public Examiners or other audit procedures requested by City.
6. ClasTran and the representative of ClasTran, who executes this Contract, by the execution of this Contract, certify that:
  - a. no part of the Contract Funds paid by City pursuant to this Contract shall be paid to, or used in any way for the personal benefit of, any elected official, employee or representative of any government or any family member of any such official, employee or representative, including federal, state, county and municipal governments and any agency of any such government;
  - b. neither ClasTran nor any of its officers, agents, representatives or employees has in any way colluded, conspired or connived with any elected official, employee, or representative of City, or any other elected official or public employee, in any manner whatsoever, to secure or obtain this Contract; and;
  - c. except as expressly set out in this scope of services of this Contract, no promise or commitment of any nature whatsoever of anything of value whatsoever has been made to any such elected official, employee or representative of City as an inducement or consideration for this Contract.

Any violation of this certification shall constitute a breach and default of this Contract which shall be cause for termination. Upon such termination, ClasTran shall immediately refund  
J:\Minutes & Agendas\Council\2023\20230925 Minutes.docx

CONTRACT FOR GENERAL SERVICES

This contract for services ("Contract") is entered into by and between the City of Mountain Brook, an Alabama municipal corporation ("City"), and the Birmingham Regional Paratransit Consortium d/b/a ClasTran, an Alabama nonprofit corporation ("ClasTran").

WHEREAS, ClasTran provides much needed, cost effective services to communities and families, including those in Mountain Brook, Alabama; and

WHEREAS, ClasTran provides low cost, subsidized transportation services to the following riders, including those who live in, work in or visit Mountain Brook:

1. People who are sixty years of age or older;
2. People who are eligible for paratransit under the Americans with Disabilities Act; and
3. People who reside in and travel to or from rural Jefferson or Shelby Counties.

WHEREAS, ClasTran receives its primary funding through federal transportation agency grant funds which require a local match from local governments; and

WHEREAS, as a result, ClasTran depends on financial support from local governments to provide such services and has requested assistance from the City so that it may continue to provide needed services to residents of Mountain Brook; and

WHEREAS, in consideration of the payment referred to hereinafter, ClasTran has agreed to offer such transportation services for the residents of the City, as set forth below.

NOW THEREFORE, in consideration of the premises and in consideration of the covenants and agreements contained herein, City and ClasTran hereby agree as follows:

1. City shall pay to ClasTran the sum of one thousand and no/100 dollars (\$1,000.00) for services for the one-year period from October 1, 2023 through September 30, 2024 ("Contract Funds"). ClasTran understands and agrees that the City is entering into this agreement for one year only and that there is no expectation to future funding of any sort from the City.
2. In consideration of the payment of the Contract Funds by City, ClasTran shall offer transportation services to eligible riders in the City of Mountain Brook and serve such riders on an as needed and where needed basis, pursuant to the duly established policies, procedures, terms and conditions of ClasTran.
3. ClasTran shall provide all personnel, supplies, equipment and expertise necessary to fulfill its obligations under this Contract. ClasTran is an independent contractor and none of its agents or employees shall be deemed to be under the control of City, nor shall any of the agents or employees or other persons, firms or corporations

APPENDIX 7

to City all amounts paid by City pursuant to this Contract.

IN WITNESS WHEREOF, ClasTran has caused this Contract to be executed by its duly authorized representative on \_\_\_\_\_, and City of Mountain Brook has caused this Contract to be executed by its duly authorized representative, on (date) September 13, 2021, but this contract shall be effective as of (date) October 1, 2021.

ATTEST: ClasTran  
By: \_\_\_\_\_  
ATTEST: City of Mountain Brook  
By:   
Stewart Welch III  
Its Mayor

September 25, 2023



956

Heather Richards &lt;richardsh@mtnbrook.org&gt;

MINUTE BOOK

The Council of the City of Mountain Brook will consider the attached Renewal of Franchise Agreement at its Regular Meeting this upcoming Monday night, September 25, 2023 at 7 p.m.. If approved by the City Council then, the renewal term of the MCI/Metro agreement would extend through March 31, 2025, and thereafter, like in the City's agreement with Southern Light, MCI/Metro's Franchise would be renewed for 10 years if the conditions in Section 4 are satisfied.

## Extension of Franchise Agreement bet City & MCI/Metro

1 message

Steve Stine &lt;sstine@bishopcolvin.com&gt;

To: karen.williams2@verizon.com

Cc: Sam Gaston &lt;gastons@mtnbrook.org&gt;, Heather Richards &lt;richardsh@mtnbrook.org&gt;

Tue, Sep 19, 2023 at 4:36 PM

Karen, included are the Renewal of Franchise Agreement between the City of Mt. Brook and MCI/Metro and other related materials.

As you know, the 2019 Franchise Agreement between the City of Mountain Brook and MCI/Metro permitted MCI/Metro to construct a fiber optic network in the City that it could use to provide transmission services for carriers (like Verizon) who were authorized to serve end users. Before the 2019 Agreement, the City entered a Franchise Agreement in 2015 with an entity known as Southern Light that also permitted that entity to construct a Fiber Optic network in the City; like MCI/Metro's business model, Southern Light also furnishes telecommunications facilities to other carriers who serve end users.

FYI, attached is copy of the City's Franchise Agreement with Southern Light. You will see that Section 4 this Agreement provided for an initial term that expires in 2025 with a subsequent extension of 10 years. The City's agreements and working arrangements with MC/Metro and Southern Light are similar in scope and purpose. Accordingly, in evaluating what should be the renewal period in the MCI/Metro agreement, the City has considered the provisions in its agreement with Southern Light.

As you know, the City's Franchise Agreement with MCI/Metro had an initial three-year term that expired on March 11, 2022. After that initial term expired, the City and MCI/Metro have extended this franchise arrangement on a month-to-month basis and been operating on that basis. Attached is a Renewal of Franchise Agreement between the City and MCI/Metro that aligns the term in Section 4 to that in the City's agreement with Southern Light. Except as set forth in Section 4 of the attached Renewal of Franchise Agreement that you last proposed, the attached Renewal Agreement accepts all the changes in your draft.

Please let me (or Sam Gaston, the City Manager), know if you have any questions about the Renewal of Franchise Agreement or do not want this matter considered by the City Council on Sept. 25, 2023.

Steve Stine

1910 First Avenue North

Birmingham, Alabama 35203

Phone : (205) 251-2881

Fax : (205) 254-3987

Email: sstine@bishopcolvin.com

Bishop Colvin

2 attachments

2015-024 Final Executed Southern Light Franchise Agreement Resolution\_Feb 2015.pdf  
966K

Renewal of Franchise Agreement MCI\_Metro & City Sept 2023.docx  
74K

APPENDIX 8

<https://mail.google.com/mail/u/0/?ik=60a4775052&view=pt&search=all&permthid=thread-f:1777503462772079805&siml=msg-f:1777503462772079805> 1/2

<https://mail.google.com/mail/u/0/?ik=60a4775052&view=pt&search=all&permthid=thread-f:1777503462772079805&siml=msg-f:1777503462772079805> 2/2

9/22/23, 10:48 AM

City of Mountain Brook Mail - Extension of Franchise Agreement bet City &amp; MCI/Metro



Heather Richards &lt;richardsh@mtnbrook.org&gt;

## Extension of Franchise Agreement bet City & MCI/Metro

Williams, Karen A &lt;karen.williams2@verizon.com&gt;

To: Steve Stine &lt;sstine@bishopcolvin.com&gt;

Cc: Sam Gaston &lt;gastons@mtnbrook.org&gt;, Heather Richards &lt;richardsh@mtnbrook.org&gt;

Fri, Sep 22, 2023 at 9:49 AM

Steve -  
MCI/metro accepts the draft agreement you provided. Does MCI/metro sign the agreement after the city council approves the agreement? Thanks.

Karen

[Quoted text hidden]



Karen A. Williams

Sr. Eng. Consultant  
Network Regulatory/Real Estate  
Verizon Business Group

O 469 262 7705  
600 Hidden Ridge  
Irving, TX 75038

The network  
America relies on

f t in

Bishop Colvin

image002.png  
6K

## RENEWAL OF FRANCHISE AGREEMENT

THIS RENEWAL OF FRANCHISE AGREEMENT (the "Agreement") is made between MCIMETRO ACCESS TRANSMISSION SERVICES LLC d/b/a VERIZON ACCESS TRANSMISSION SERVICES, a Delaware corporation whose address is One Verizon Way, Basking Ridge, NJ 07920 (hereinafter referred to as the "Company"), and the CITY OF MOUNTAIN BROOK, ALABAMA, a municipal corporation (the "City"), as of the Effective Date (as defined below). The Company and the City separately may be referenced herein as a "Party," and collectively as "Parties."

## RECITALS

WHEREAS, on or about April 12, 2002 the Alabama Public Service Commission (the "ALAPSC") awarded the Company's predecessor in interest a Certificate of Public Convenience and Necessity to provide local exchange telecommunications services and intra-LATA Toll Services in the State of Alabama;

WHEREAS, on or about March 11, 2019, the Company was granted a non-exclusive franchise from the City to use the streets and public ways of the City to conduct business as a communications services provider;

WHEREAS, the Company has requested a renewal of the 2019 agreement to continue to

construct, maintain and operate a fiber-based communication system within the City in, over, under, across and through the City's public rights-of-way (the "Fiber Optic System" or "System");

WHEREAS, the areas in the City at which the Company initially intends to construct its Fiber Optic System are shown on the map that is attached as Exhibit A;

WHEREAS, the Company intends to use its Fiber Optic System to provide various communications services within the City, including as a "competitive access provider" which directly connects its business customers within the City with other businesses, local area networks, local exchange and interexchange carriers. Company may also provide such other services, including but not limited to, provision of dark fiber to affiliated and unaffiliated parties, local exchange, enhanced services, and other services as may be authorized by the ALAPSC or federal law;

WHEREAS, the Company's selection of locations for its Fiber Optic System, and its construction and operation of that System along the public rights of way is subject to the advance approval of the City and the exercise of its police powers, and the Company must comply with all laws, codes and regulations that apply to those operations;

WHEREAS, the services to be provided by the Company over its System concern the transport of data, voice or video communications between locations in the City in which such communications may both originate and terminate in the City, or may only originate or terminate in it;



WHEREAS, the Company will not use the Fiber Optic System or the Franchise contemplated herein to offer or provide the following services: (i) cable television services, channels, or programming to end users in the City without first obtaining a separate cable franchise with the City; (ii) any Telecommunications or other services to residential end users; or (iii) services directly regulated by ALAPSC, unless authorized by the ALAPSC;

WHEREAS, in accordance with the terms and conditions herein, the City grants the Company a renewal of its non-exclusive franchise to construct, maintain and operate its Fiber Optic System in the City at the locations and in the manner approved in advance by the City.

NOW, THEREFORE, in consideration of the Recitals above, the respective representations, promises, concessions, terms and conditions contained herein, the receipt and sufficiency of which is acknowledged, the Parties agree as follows.

1. **Definitions.** For purposes of this Agreement, the following terms, words and phrases shall have the meanings set forth below. When not inconsistent with the context, words used in the singular number shall include the plural number, and words in the plural number shall include the singular.

(a) "City" means the City of Mountain Brook, Alabama,

(b) "Company" means MCImetro Access Transmission Services LLC d/b/a Verizon Access Transmission Services or any entity that succeeds it in accordance with the provisions of this Agreement.

(c) "Customer" means any person to whom the Company provides any Telecommunications services to or from, or between locations in the City.

(d) "Effective Date" shall mean the first day of the month after the date last executed by a Party below on the Signature Page.

(e) "Facilities" means all or any part of a network of fiber optic cables and all related equipment, including but not limited to, conduit, carrier pipe, fiber optic cables, poles, handholes, manholes, repeaters, power sources, and other attachments and appurtenances necessary for the fiber-based System and located within the City's rights of way.

(f) "Franchise" means the authorization granted hereunder of a franchise, privilege, permit, license or other right to construct, operate and maintain the Fiber Optic System in and along the ROW at locations requested by the Company in which its intended operations are approved in advance by the City and performed in compliance with applicable laws, codes or regulations, including but not limited to, land use and zoning regulations. The Franchise does not include the right to install or place a Telecommunication Tower (as defined in Chapter 125 of the current Mountain Brook City Code, or as hereafter may be amended) on any City property (including, but not limited to, City ROW).

(g) "Franchise Fee" means the fee paid by the Company to the City for the privilege of locating, maintaining and operating its Fiber Optic System at various locations in the ROW.

vii. revenues that Company receives from its wireless affiliate for provision of fiber/transport to the wireless affiliate's wireless facilities in public right-of-way for which the wireless affiliate is paying fees to the City in accordance with a City ordinance.

(i) "Person" means any natural or corporate person, business association or other business entity including, but not limited to, a partnership, sole proprietorship, political subdivision, public or private agency of any kind, utility, successor or assign of any of the foregoing, or any other legal entity.

(h) "ROW", or "Rights-of-Way" means the surface and space above and below any of the public rights of way, streets, avenues, highways, roads and dedicated municipal easements within the City's corporate boundaries.

(j) "Services" shall mean all services provided by the Company for which it receives compensation from its customers.

(k) "Fiber Optic System" or "System" means the system of conduit, transmission lines, meters, equipment and other facilities associated with the construction, maintenance and operation of a fiber-optic based transmission line by the Company in the City in accordance with the terms and conditions in this Agreement, which system will be utilized for the purpose of providing communications services, including receiving, transmitting or distributing Telecommunications or other electronic messages in whatever form to or from, or between locations in the City.

(l) "Telecommunications" means the transmission, between or among points specified by the user, of information of the user's choosing (e.g., data, video or voice), without change in the form or content of the information as sent and received.

2. **Grant of Authority.** Pursuant to the terms, conditions and understandings herein, the City hereby grants to the Company a non-exclusive Franchise to construct, maintain and operate its Fiber Optic System in, under, over, on and along the ROW in the City.

The Company agrees and acknowledges the following limitations, conditions and understandings apply with respect to this grant:

(a) The request of the Company to utilize particular locations along the ROW in the City must be approved in advance by the City;

(b) The nature, manner and mode of installing or maintaining any line, cable, equipment or apparatus comprising the System must be approved in advance by the City;

(c) The nature and type of the Company's intended operations along the ROW must comply with applicable laws, codes or regulations.

(h) "Gross Revenues" shall mean all revenues, in whatever form, that are received, booked or accrued by the Company from any persons, carriers or entities that may or may not be affiliated with it with respect to the receipt, transmission, or distribution of any data, voice, video or other electronic messages in whatever form to or from locations in the City, or between locations in it. This term shall include, but not be limited to, the following:

- i. All recurring or non-recurring revenues received with respect to the provision of any Telecommunications or other service that utilizes the System;
- ii. All recurring or non-recurring contract fees, usage based fees, charges, or consideration of any kind or nature (including without limitation, cash, credits, property, and in-kind contributions) received by the Company in connection with its utilization of the System;
- iii. All revenue arising from or attributable to the provision of customer premises equipment that is leased or sold by the Company to its customers in connection with the provision of services.

Gross Revenues do ~~not~~ include the following:

- i. uncollectible fees; provided that all or part of uncollectible fees that are written off as bad debt but subsequently collected, less expenses of collection, shall be included in Gross Revenues in the period collected;
- ii. insufficient funds (returned checks);
- iii. late payment fees;
- iv. discounts, refunds, and other price adjustments that reduce the amount of compensation received by Company from its customers;
- v. the amounts billed by the Company to its Customers to recover taxes, fees, or surcharges imposed on them in connection with the provision of services, including the Franchise Fee and any other tax, fee or charge of general applicability collected by Company from its customers for pass through to the City or any other governmental entity or agency;
- vi. revenues from provision of Internet access services; or

(d) The Company shall not install, expand or extend the System without first obtaining appropriate permits from the City, and complying with any conditions related to the use of such permits, including burying any underground facilities at depths below the grades of any streets as may be required by the City;

(e) The grant is not exclusive. The City reserves the right to grant the use of the ROW to any other person at any time and for any lawful purpose;

(f) This Agreement shall not be construed to create any rights beyond its express terms, conditions and periods;

(g) In approving any intended Company operations along particular points of the ROW, the City does not represent or warrant to the Company that the City holds title, right or interest in or to the ROW at those points, or that it has the right or authority to grant the Company the right to conduct its intended operations thereon. The Company acknowledges and agrees that it has the burden and responsibility to assess and determine its right to operate in the requested locations in advance of the installation of its System. Further, the City does not make any warranty (express or implied) to the Company concerning the sufficiency, condition or appropriateness of the ROW for the uses intended by the Company;

(h) The Company acknowledges that utilities or other persons or entities may hold or claim rights to utilize the same sections of the ROW in which the Company intends to operate, and that the Company exclusively is responsible for designing, planning, coordinating, installing its System and conducting its operations in a manner that does not unduly interfere with the operations of those other entities;

(i) This Agreement shall not be construed to deprive the City of any rights, regulatory or police powers or other privileges under State law which it now has, or may hereafter have, to regulate the use and control of its ROW or provide for the safety and welfare of the public. By granting this Franchise and approving this Agreement, the City does not surrender or to any extent waive, impair or relinquish any of those regulatory powers and rights, or the right to charge reasonable compensation for such use. By entering this Agreement, the Company agrees and acknowledges that all such rights, police or other regulatory powers shall be in full force and effect during its term, that the Franchise granted it hereunder is subject to the exercise by the City of those police powers, and that it will comply with all such existing, applicable laws and ordinances that exist today or hereinafter may be enacted. In the event of any conflict between the provisions of this Agreement and any present or future laws, regulations or ordinances by which the City exercises its police powers, the provisions of those laws,

regulations and ordinances, applied in a reasonable and nondiscriminatory manner, shall control and take precedence in resolving the conflict;

- (j) The grant of the Franchise herein shall not be construed to convey, bestow, or transfer to Company any title, easement or other permanent property interest in the ROW or other public property in or on which it conducts operations;
- (k) This Agreement does not establish any priority for the use of the ROW by the Company, or any present or future franchisees, permit holders or other users of the ROW. In the event of any dispute as to the priority of use of the ROW, the first priority shall be to the public generally, the second priority shall lie with the City, the third priority with the State of Alabama and its political subdivisions in the performance of their various functions, and thereafter, as between franchisees and other permit holders, as determined by the City in the exercise of its police and other powers conferred on it by the State of Alabama;
- (l) Nothing in this Section or elsewhere in the Agreement shall be construed to limit the Company's rights to access and use its own or general utility easements in accordance with the terms of such easements so long as such use is consistent with applicable law.
- (m) This Agreement does not confer upon the Company any right to use conduit that is now owned by the City or may hereafter be acquired.

### 3. Operating Requirements and Standards.

The following understandings apply with respect to the Company's use of the Franchise and its operations within the City:

- (a) At all times the Company shall keep and maintain the System in a safe, suitable, and substantial condition, and in good order and repair.
- (b) The Company shall provide safe passageway for vehicles and pedestrians through, in and around its work sites. It further shall comply with all rules of the road or other laws related to operation of vehicles along the ROW. Except in the case of an emergency or with the approval of the City Engineer (or other designated City official), the Company agrees not to conduct its operations in a manner that interferes with usual vehicular or pedestrian travel on or the maintenance of the ROW, nor shall the placement of its facilities or its operations unreasonably limit the visibility of vehicular and/or pedestrian traffic on or along them.

System in a manner resulting in the least amount of damage and disruption to the ROW. To that end, the Company will use directional boring in all areas where no conduit exists. Further, the Company will be required to use trenchless technology for any portion of construction or maintenance projects which lie beneath the paved or improved portion of any roadway to which this Agreement applies, unless otherwise approved by the City. The City Engineer (or other appropriate official) may require trenchless technology in other locations where circumstances prevent or make open-cut methods impractical. Any requests by the Company to utilize the open-cut or trench method for construction or maintenance must be approved by the City Engineer (or other City official).

- (j) The Company shall have the right to remove, trim, cut and keep trees and shrubbery clear of the System at points in and along the public ways; provided that Company shall perform those operations only having first consulting with the City's arborist (or other official who is designated to act in that capacity), and shall comply with any local rules, codes and regulations that pertain to that work. The Company shall reasonably compensate the City for any damages, in such amounts as determined by the City, caused by trimming, cutting or removing trees or shrubbery, or shall, at its own expense, replace all trees or shrubs damaged as a result of any construction, installation, repair or maintenance of the System undertaken by the Company to the satisfaction of the City.
- (k) The Company shall bear all costs associated with the installation, repair and maintenance of its System and its equipment including, but not limited to (1) all expense to repair and restore the ROW that is disturbed due to those operations, and (2) all expense incurred in removing or relocating any portion of the System or facilities constructed when required by this Agreement for a public purpose.
- (l) The Company, at its expense, agrees to promptly repair or replace any facility, equipment or public improvement in or about the ROW that Company damages or disturbs in the course of exercising its rights hereunder, including but not limited to, any road, street or other section of the ROW, and any electric facility, sewer, water main, fire alarm, police communication or traffic control facility.
- (m) The Company, at its expense, agrees to promptly repair or replace any facility, equipment or public improvement in or about the ROW that Company damages or disturbs in the course of exercising its rights hereunder, including but not limited to, any road, street or other section of the ROW, and any electric facility, sewer, water main, fire alarm, police communication or traffic control facility.
- (n) In conducting its operations, the Company further agrees to:

- (c) The Company shall conduct its operations in a manner that does not unreasonably interfere with the rights and reasonable convenience of persons who own property adjoining the ROW. The Company acknowledges that it may enter private property only as permitted by applicable law, or as allowed by the owner of such private property, for the purpose of performing its operations thereon.
- (d) The Company shall construct the System and perform its operations in accordance with all applicable federal, state and local laws, ordinances, codes, and regulations pertaining thereto, including, but not limited to, the following: any building code, electric code or ordinances that are now in effect or may hereafter be adopted by the City; laws and regulations that protect workers and are intended to promote safety in the workplace; laws and regulations and that protect the environment, air or water quality or the public health, safety and welfare (including, without limitation, those issued by the Alabama Department of Environmental Management and Environmental Protection Agency); and regulations of the Federal Communications Commission.
- (e) Prior to installing, expanding or constructing its System or conducting other operations on the ROW, the Company shall obtain a permit(s) from the City pertinent to that work. The Company shall submit maps or plats showing the locations and types of equipment intended to be installed at all locations. The City agrees to consider any requests for permits and process them in a timely manner consistent with reasonable municipal practices. The work to be done under this Agreement, and the restoration of the ROW as required herein, must be completed within the dates specified in any permits authorizing the work, provided that Company may request an extension of time if the work cannot reasonably be accomplished by the dates specified, which the City shall not unreasonably withhold, delay or deny. The Company shall perform the work according to the standards and with the materials specified or approved by the City Engineer, or other City official.
- (f) The Company shall repair and replace sections of the ROW that are disturbed due to the installation, removal, relocation, maintenance and repair of its System, and restore those sections to a condition comparable to the condition existing immediately prior to such disturbance to the satisfaction of the City.
- (g) Whenever reasonably practical, the Company agrees to place its facilities on, within or adjacent to the facilities and easements of utilities and other franchisees or other areas used by them.
- (h) When the Company constructs or configures its System, it agrees to install its facilities underground in those parts of the City where all existing telephone and electric services are underground. In areas where either telephone or electric utility facilities are installed aerially at the time of construction of the System, the Company may install its facilities aerially with the understanding that, at such time as all of the existing aerial facilities are required to be placed underground by the City, the Company shall likewise place its facilities underground. If a site requested by the Company for the location of facilities or equipment raises concerns about public health, safety, and welfare, the City and Company agree to work together to identify alternative locations, if available, that satisfy any technical specifications or limitations of those facilities or equipment and those concerns.
- (i) Least Disruptive Technology. The Company agrees to construct and maintain its

(1) comply with all applicable sections of the National Electric Safety Code;

(2) utilize reasonable, commonly accepted methods and devices for preventing failures and accidents which are likely to cause damage, injuries or nuisances to the public or damages to property owned by third persons;

(3) install and maintain the System in such manner that its operations will not interfere with any improvements of the City or of a public utility serving the City.

(4) perform its operations in accordance with good engineering practices and standards for firms providing like operations in the Company's industry, and in an orderly and workmanlike manner;

(5) perform all its operations through qualified maintenance and construction personnel. Further, the Company shall maintain a force of employees at all times sufficient to provide safe, adequate and prompt service and maintenance of the System; and

(6) not perform its operations in a manner that obstructs the rights-of-way so as to interfere with the natural, free and clear passage of water through the gutters, drains, ditches or other waterways.

- (o) Relocation or Removal of System at Request of the City. The City reserves the right to determine that, in the exercise of its sole discretion, it is in the public interest to improve or modify its ROW in a manner that requires the displacement, modification, relocation or removal of the System from any area along the ROW. Upon its receipt of reasonable notice from the City of that determination (which notice shall not be less than forty-five (45) days except where emergency conditions require shorter notice), the Company, at its own expense, shall protect, support, temporarily disconnect, relocate to another section of the ROW designated by the City, or totally remove from the ROW any property, equipment or facilities of the Company when required or requested by the City, Jefferson County or the State of Alabama for reason of traffic conditions, public safety, street abandonment, freeway and street construction, change or establishment of street grade, installation of sewers, drains, gas or water pipes, electrical or telecommunications lines when such relocation work is being done directly by or for the City, Jefferson County or the State. Should the Company refuse or fail to begin relocation or removal of its equipment and facilities as provided for herein within forty-five (45) days after written notification to Company, the City,

Jefferson County or State shall have the right to do such work (or cause it to be done) and the reasonable cost thereof shall be chargeable to the Company.

#### 4. Effective Date/Term/Renewal.

This Agreement is effective as of March 11, 2022, and shall continue in effect through March 31, 2025 (the "Renewal Term"). Following the expiration of the Renewal Term, this Agreement and the Franchise granted herein shall renew for an additional term of ten (10) years upon request of the Company and mutual agreement of the parties if (i) the Agreement previously has not been terminated or the Franchise revoked as provided hereunder; (ii) the Company has faithfully performed its obligations hereunder; and (iii) the application and extension complies with applicable federal, state or local law. Notwithstanding, either Party may require or request that new terms and conditions apply during the renewal period if changes in the regulatory or legal environment after the Effective Date substantially affect telecommunications and broadband technology, principles for use of right of way, service types, availability, character of service, or system technology. The Parties agree to negotiate any such new terms or conditions in good faith.

#### 5 Franchise Fee/Records Retention/Audit

(a) Franchise Fee. During the term of this Agreement, the Company shall pay the City a fee of five percent (5%) of the Gross Revenues (the "Franchise Fee"). Company shall make these payments within fifteen (15) days after the end of the preceding quarter of each year of the term of this Agreement. At the time of each such payment, the Company also will furnish City with a report or statement that, in a summary form, discloses the total Gross Revenues derived from the System for the previous quarter, the methodology used by Company to calculate the Franchise Fee and other bases upon which Company determined the amount of each payment.

(b) Records Retention. For a rolling period not less than five (5) years following the creation of the following records, the Company agrees to retain and make the same available for inspection by the City (or its designated representative):

- i. its databases and books, reports; statements or accounting records indicating the types of services provided to Customers during the term of the Agreement;
- ii. its databases and books, reports, statements and accounting records indicating the revenues charged and collected for the services provided to Customers during the Agreement; and
- iii. all records, reports or other data generated, used or reviewed by the Company to compute its Gross Revenues or in the process of calculating the amounts of Franchise Fees paid to the City.

(c) Audit of Records. The Company acknowledges and agrees that, to the extent necessary to ensure proper payment of Franchise Fees or any other amounts owed City hereunder, the City (or its designated representative), upon the provision of reasonable advance

#### 8. Insurance/Indemnification/Performance Bond.

(a) Insurance Requirements. For the duration of this Agreement and for limits stated below, the Company shall maintain the following insurance with a company(ies) lawfully authorized to do business in Alabama and reasonably acceptable to City:

Workers' Compensation	As Required by Statute
Employer's Liability	\$500,000 for each accident/decease/policy limit
Commercial General Liability	(a) \$2,000,000 per occurrence for bodily injury (including death) and property damage; and (b) \$2,000,000 general aggregate
Auto Liability, including coverage on all owned, non-owned & rented vehicles	\$2,000,000 combined single limit each accident for bodily injury (including death) and property damage

The Commercial General Liability insurance shall include coverage for premises-operations, products/complete operations and contractual liability.

Upon the Effective Date of this Agreement, the Company shall provide City a certificate(s) of insurance evidencing compliance with the requirements in this Section. The certificate(s) shall include the City, and its employees and officials as an additional insured as their interest may appear under this Agreement on the Commercial General Liability, Automobile Liability policies, with respect to all matters arising out of the Company operations contemplated by this Agreement. Thereafter, upon request of the City, Company shall furnish a current certificate(s) of insurance evidencing such coverage. Upon receipt of notice from its insurer(s) the Company shall provide the City with thirty (30) days prior written notice of cancellation, but failure to mail such notice shall impose no obligation or liability of any kind upon the insurer affording coverage, its agents, or representatives, or the issuer of this certificate.

The provision of the amount or type of insurance required in this section and the recovery of insurance proceeds hereunder by the City will in no way be considered to limit the liability of the Company (if any) under the indemnification or other provisions of this Agreement.

(b) Indemnification. The Company agrees to defend, indemnify and hold the City, and its agents, employees and officials, harmless from all suits, claims for damages (including personal injury or death and property damage), judgments, losses, expenses (including but not limited to reasonable attorneys' fees, court costs and other litigation costs) and liabilities (hereinafter

notice to the Company, shall have the right during the Term of the Agreement or within one (1) year following its expiration or termination to audit, examine, review and receive copies of the records listed above in subpart (b). The Company agrees to furnish access to these records and reasonably cooperate with City in any such audit or review.

(d) The City's acceptance of quarterly Franchise Fee payments shall not be construed as a waiver, release, accord or satisfaction of any claim that the City might have related to the Company's obligation for those payments, or be construed as an agreement that the amount of any such payment is correct.

(e) The City acknowledges that, on the Company's bills to its Customers, the Company separately may identify and subsequently pass through the Franchise Fee and other government-imposed taxes, taxes, fees, or surcharges payable and collected from them in connection with its provision of services.

(f) Other Reports. In addition to other records contemplated in this Section, if requested by the City, the Company agrees to furnish the City an annual financial statement at any time upon request of the City after thirty (30) days written notice. Such statement shall show Gross Receipts received, booked or accrued by the Company from its operations within the City for the previous twelve (12) month period.

#### 6. Service to Customers.

During the term of this Agreement, the Company will comply with all regulations of the ALAPSC or any other applicable regulatory agency that relate to service standards for its Customers.

#### 7. Complimentary Public Service Pathway.

When requested by the City, the Company agrees to furnish and maintain, at no cost to the City, two (2) fiber strands along the entire backbone of the System (whether installed aerially or underground) that the City may use for non-commercial purposes (the "Public Service Pathway"). The Public Service Pathway shall be installed by the Company in a manner that will permit non-commercial uses by the City which include, but are not limited to, the transmission of point-to-point communications between municipal, schools and other publicly-owned buildings in the City; provided that: (i) such Public Service Pathway shall be located within the Company's planned backbone deployment routes; (ii) the City obtains its own switches at its own cost; (iii) the City shall not assign, sell, or otherwise transfer the Public Service Pathway without the Company's prior written consent and (iv) the City shall be responsible for any damages resulting from its use of the Public Service Pathway that are caused by the negligent, willful or wanton acts of the City, its employees or any other person acting under its direction or control. The City agrees that the Company shall manage the interconnection of all Public Service Pathway laterals (including all access and egress points) to the Company's backbone fiber, and all costs associated with such interconnection shall be borne exclusively by the City.

collectively "Claims") which may arise, whether in whole or in part, out of or in connection with the installation, operation or maintenance of the Fiber Optic System or the Company's failure to perform any of its obligations under this Agreement. The City agrees to furnish Company written notice of any Claims asserted against it and any request that the Company indemnify City (or its representatives) pursuant to this Section. Notwithstanding the foregoing, the Company shall not be obligated to indemnify the City for Claims to the extent resulting solely from the negligent or willful acts of the City (or its representatives), or from the actions by a person or entity other than the Company in connection with the City's use of the Public Service Pathway provided herein.

(c) Performance Bond. Prior to the Effective Date, the Company will provide a Performance Bond in the amount of not less than Ninety Thousand Dollars (\$90,000.00) in favor of the City to secure the performance by the Company of its obligations under this Agreement. This Bond shall be issued by a surety qualified to do business in Alabama and reasonably satisfactory to the City.

#### 9. Disputes/Enforcement/Default/Termination.

(a) Dispute Resolution. The Designated Representatives of the Parties will use their good faith efforts to resolve any dispute or claim between them arising from the performance or failure to perform their respective obligations under this Agreement (a "Dispute"). If the Designated Representatives are unable to amicably resolve a Dispute, it will be escalated to the senior manager/official level of each Party for consideration. If the Dispute cannot be resolved at the senior official level, either Party may request that the Dispute be mediated; if the Parties agree to mediate, each will bear its own costs of mediation, including attorneys' fees. However, if the parties are unable to amicably resolve any Dispute, the dispute resolution mechanism shall be litigation in a court that is located in Jefferson County, Alabama.

(b) Breach/Notice of Breach. If the Company fails to comply with any of its material obligations under this Agreement (a "Breach"), the City shall notify the Company in writing of the nature of the alleged noncompliance. The occurrences that constitute a material Breach by the Company, and may result in early termination of this Agreement and cancellation of the Franchise granted herein include the following:

- (1) Failure to pay the Franchise Fee or make any other payment to the City required in this Agreement;
- (2) Failure to maintain the insurance policies and coverage that are required hereunder;
- (3) Failure to provide or furnish the City material information required under this Agreement;
- (4) Any breach or violation of any ordinance, rule or regulation or any applicable safety or construction requirements or regulations that present a threat to health or safety;

(5) The occurrence of any event relating to the financial status of the Company which may reasonably lead to the foreclosure or other judicial or non-judicial sale of all or any material part of the System or the assets of the Company;

(6) The condemnation by a public authority, other than the City, or sale or dedication under threat or in lieu of condemnation, of all or substantially all of the facilities; or

(7) If (a) the Company shall make an assignment for the benefit of creditors, shall become and be adjudicated insolvent, shall petition or apply to any tribunal for, or consent to, the appointment of, or taking possession by, a receiver, custodian, liquidator or trustee or similar official pursuant to state or local laws, ordinances or regulations of any substantial part of its property or assets, including all or any part of the System; (b) a writ of attachment, execution, distraint, levy, possession or any similar process shall be issued by any tribunal against all or any material part of the Company's property or assets; (c) any creditor of the Company petitions or applies to any tribunal for the appointment of, or taking possession by, a trustee, receiver, custodian, liquidator or similar official for the Company or for any material parts of the property or assets of the Company under the law of any jurisdiction, whether now or hereafter in effect, and a final order, judgment or decree is entered appointing any such trustee, receiver, custodian, liquidator or similar official, or approving the petition in any such proceeding; or (d) any final order, judgment or decree is entered in any proceedings against the Company decreeing the voluntary or involuntary dissolution of the Company.

The Company shall not be deemed to have defaulted this Agreement or be in noncompliance with its provisions, nor suffer any enforcement or penalty relating thereto, where such noncompliance or alleged defaults are caused by strikes, acts of God, power outages or other events reasonably beyond the ability of the Company to control; provided that the Company's excuse for nonperformance only shall remain in effect as long as the condition causing that circumstance remains in existence, and the Company is obligated to recommence its performance hereunder when upon the expiration of that condition.

(c) Company's Right to Cure Breach or Respond. The Company shall have thirty (30) days from receipt of the notice of a Breach as provided in subpart (a) above (1) to respond to the City by contesting the assertion of noncompliance, (2) to cure such breach, or (c) in the event that, by the nature of the Breach, it cannot be cured within the 30-day period for reasons beyond the reasonable control of the Company, to initiate reasonable steps to remedy such Breach and notify the City of the steps being taken and the projected date that they will be completed.

prior to termination, to permit the City to perform audits and to furnish information to the City required for City to ensure proper payment of Franchise Fees and other amounts owed by Company, and to indemnify the City and provide insurance with respect to events occurring before the termination shall survive and remain in effect for a period of two (2) years following the expiration or effective date of early termination.

#### 10. Designated Representatives/Notices.

The Parties appoint their respective representatives below to coordinate with the other on all matters pertinent to the administration of this Agreement (the "Designated Representative").

Designated Representative for City:

City of Mountain Brook, Alabama  
ATTENTION: City Manager  
56 Church Street  
Mountain Brook, AL 35213

Designated Representative of Company:

MCImetro Access Transmission Services LLC d/b/a Verizon Access  
Transmission Services  
ATTENTION: Franchise Manager  
600 Hidden Ridge  
Mailcode E02E102  
Irving, TX 75038

With copy to (except for invoices):

Verizon Legal Department  
Attn: Network Legal Team  
1300 I Street, NW  
5th Floor  
Washington, DC 20005

Each Designated Representative also shall have the authority to act on behalf of its respective organization to transmit instructions and receive information. Either Party may substitute a Designated Representative other than the person named above upon provision of written notice.

Any notice required hereunder to be sent in writing shall be sufficiently given (a) in writing and (b) when sent to the Designated Representative for the other Party via United States certified mail, return receipt requested, or via overnight courier with receipt verification to the address set forth herein, or by personally delivering such notice to the Party to be in receipt thereof.

#### 11. Miscellaneous.

(a) Amendment. This Agreement may be amended or modified only by a written instrument that is executed by duly authorized representatives of both Parties.

(d) Remedies. If the Company fails to respond to the notice of Breach described in subpart (a), it contests the assertion of noncompliance pursuant to the procedures set forth in subpart (b), or it does not remedy the subject Breach within 30 days or by the date projected in subpart (b) above, the City may pursue any or all of the following remedies:

1. Seek specific performance of any provision which reasonably lends itself to such a remedy;
2. Make a claim against any surety with respect to the Performance Bond which may be required to be posted;
3. Restrain by injunction the default or reasonably anticipated default by the Company of any provision of this Agreement;
4. Seek any other available remedy permitted by law or in equity;
5. Take any other action which it deems appropriate to enforce the City's rights under this Agreement in lieu of revocation of the Agreement.

(e) Revocation of Franchise/Public Hearing. In addition to the remedies stated above, the City may schedule a public hearing to investigate the Breach and consider whether to terminate this Agreement and revoke the Franchise. The City shall notify the Company in writing of the time and place of such hearing. Such public hearing may be held at the next regularly scheduled meeting of the City's governing body, or at such other time and place which is scheduled not less than five business days from the City's notice of hearing. At that hearing the City shall give the Company an opportunity to state its position concerning the Breach and otherwise be heard, after which its governing body shall determine whether or not this Agreement shall be terminated and the Franchise be revoked. In that event, the City may terminate the Agreement and the revoke the Franchise effective ten (10) days following the determination by its governing body to terminate this Agreement.

(f) Nothing herein shall preclude the Company from petitioning the Circuit Court of Jefferson County, Alabama to challenge a determination by the governing body of the City to terminate this Agreement and revoke the Franchise. Such challenge must be taken within thirty (30) days of the issuance of that determination.

(g) Obligations of Company on Expiration or Early Termination of Agreement. Upon the expiration or early termination of this Agreement for any reason, the City may request that the Company, at its own expense and within a reasonable amount of time following that request, remove from the ROW any equipment or facilities that the Company placed thereon to provide its services and restore the surrounding property to the condition that existed prior to its installation. Any equipment not removed by the Company following that request may be left in place by the Company and shall be deemed abandoned. Further, although the respective obligations of the Parties concerning further use of the ROW will cease upon the expiration or early termination of this Agreement, the Company's obligations to pay Franchise Fees owed

(b) Construction. Words of any gender used in this Agreement shall be held and construed to include any other gender, and words in singular number shall be held to include the plural and vice versa, unless context requires otherwise. The captions used in connection with the sections of this Agreement are for convenience only and shall not be deemed to construe or limit the meaning of the language contained in this Agreement, or be used in interpreting the meanings and provisions of this Agreement.

(c) No Presumption against Drafter. The Parties acknowledge that each Party and its counsel have had the opportunity to review and revise this Agreement, and the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Agreement or any amendments or exhibits thereto.

(d) Entire Agreement. This Agreement (including the attached Exhibit A) constitutes the entire agreement between the City and Company with respect to the subject matter contained herein and supersedes all prior or contemporaneous discussions, agreements, and/or representations of or between them, whether oral or written, regarding the subject matter hereof.

(e) No Waiver. Both Parties reserve their respective rights and privileges under applicable federal and state law. The failure of either Party to enforce any of the terms, conditions or provisions of this Agreement shall not be construed as a subsequent waiver of the right to compel enforcement of that or any other term, condition or provision. The respective rights, benefits and obligations under this Agreement may be waived only in a writing signed by the Parties.

(f) Binding Effect. This Agreement shall be binding upon and for the benefit of each of the Parties and their respective principals, managers, officials, offices, directors, shareholders, agents, employees, attorneys, successors and assigns, and any parent, subsidiary or affiliated corporation or entity, as applicable.

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

(h) Choice of Law. This Agreement shall be construed and interpreted according to the laws of the State of Alabama.

(i) Assignment. The Company's interest in this Agreement and the Franchise shall not be assigned, sold, transferred, or otherwise encumbered or disposed of, either by forced or voluntary sale or otherwise, without the prior written consent of the City, which consent shall not be unreasonably withheld. The City reserves the right to be reimbursed by the Company for costs incurred by it in reviewing the request for transfer of ownership. Notwithstanding the foregoing, Company may assign its interest in this agreement to any parent, affiliate, or successor of Company, now or hereinafter existing, by only providing notice to City of such assignment.

(j) Independent Contractors. The City and Company are independent contractors. The Company exclusively controls the methods and means by which it conducts its operations.



Further, neither this Agreement nor any provision herein is intended make either Party the agent, fiduciary or partner of the other, or grant either Party any authority to bind the other to any obligation with a third party.

(k) Other Representations. The Company and the City each represent to the other that it has the requisite power and authority to enter into this Agreement, that each has secured all necessary board, corporate or other required approval to enter this Agreement, and that its undersigned representatives are authorized to execute below on behalf of their respective organization.

(m) Cooperation. The Company and the City shall cooperate fully with one another to execute any and all other documents and take whatever any additional actions (including, without limitation, the processing of permits) that may be necessary or appropriate to give full force and effect to the terms and intent of this Agreement.

(n) No Third Party Beneficiaries. Nothing contained in this Agreement is intended or shall be construed as creating or conferring any rights, benefits or remedies upon, or creating any obligations of the Parties hereto toward any person or entity not a Party to this Agreement.

(o) Attorneys' Fees. If (i) either Party breaches its obligations to the other hereunder, (ii) the non-defaulting Party should employ attorneys or incur other expenses in any legal action regarding such breach of this Agreement, and (iii) the non-defaulting Party secures a final judgment before a court of competent jurisdiction or obtains other relief from an administrative body related thereto against the defaulting Party, the losing Party in that proceeding will pay the prevailing Party its reasonable attorneys' fees and other reasonable expenses that are incurred in that breach-of-contract action.

(p) Severability. If any provision, part, section or subdivision of this Agreement shall be held invalid, illegal, unconstitutional or unenforceable for any reason, such holding shall not be construed to invalidate or impair its remaining provisions, which shall continue in full force and effect notwithstanding such holding.

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

OR REVENUES OR FOR INCREASED COST OF OPERATIONS) ARISING FROM ANY BREACH OR ALLEGED BREACH OF THIS AGREEMENT BY THE CITY.

(r) Licensing. Before commencing any operations contemplated hereunder, the Company, at its own expense, will obtain all licenses, permits or other governmental authorizations needed to construct the System, provide its services and perform its Operations, including without limitation, any business license issued by applicable governing authorities ("Licensing"). The Company agrees to maintain that Licensing throughout the performance of this Agreement.

(s) Immigration Act. The Company represents and warrants that (a) it does not knowingly employ, hire for employment, or continue to employ an "unauthorized alien," as defined by the *Beason-Hammon Alabama Taxpayer and Citizen Protection Act*, Act No. 2011-53S (H. B. 56), as amended from time to time (the "Act"); and (b) that, during the performance of this Agreement, (i) it shall participate in the E-Verify program as required under the terms of the Act; (ii) it will comply with all applicable provisions of the Act with respect to its contractors by entering into an agreement with or by obtaining an affidavit from such contractors providing that such contractors are in compliance with the Act with respect to their participation in the E-verify program; (iii) it shall not hire, retain or contract with any contractor that it knows is not in compliance with the Act; and (iv) if it is found to be in violation of this provision, the Company shall be deemed in breach of this Agreement and shall be responsible for all damages resulting therefrom.

(Signature Page Follows)

#### EXHIBIT A - EXISTING ROUTE OF SYSTEM

IN WITNESS WHEREOF, the Parties hereto, by their duly authorized representatives, have executed this Agreement as of the Effective Date.

See Map Provided to City 2023.

MCI/METRO ACCESS TRANSMISSION  
SERVICES LLC d/b/a VERIZON ACCESS  
TRANSMISSION SERVICES

CITY OF MOUNTAIN BROOK, ALABAMA



962

Heather Richards &lt;richardsh@mtnbrook.org&gt;

MINUTE BOOK



Environmental Biological Services

Client Customer Service: (205) 445-1037  
Account Executive: John P. Fulkerson  
Direct Office Phone: (205) 506-0130  
Direct Email: jphof@ebssolutions.com  
Fax: (205) 224-5928  
www.ebsolutions.com

## Additional Items for Council Regular Agenda Monday Night (Sept 25)

1 message

Steve Stine &lt;sstine@blshopcolvin.com&gt;

To: Heather Richards &lt;richardsh@mtnbrook.org&gt;

Cc: Sam Gaston &lt;gastons@mtnbrook.org&gt;, coles@mtnbrook.org

Wed, Sep 20, 2023 at 10:43 AM

Thanks for speaking with me about the 2 Agenda Items that need to be added to Monday night's Regular Council Agenda.

You already have the 1<sup>st</sup> – a Renewal of Franchise Agreement between City and MCI/Metro; this was attached to the email to Karen Williams that I copied you and Sam on late yesterday.

Stacey Cole needs to have the following added to the Reg Agenda on behalf of the Fire Dept: "Medical Waste Services Agreement w Environmental Biological Services (EBS) for Fire Department" - I have attached the most recent version of this Agreement to include in the Council package; we have been negotiating the terms of this Agreement with EBS' lawyer, but this substantially should be the final version of it. It is conceivable that we may need to tweak a provision in the attached version here or there, but Stacey would like for it to be added. I will communicate with you if this attached version is tweaked and we end up with a different signature version.

Let me know if you have any questions about these matters.

Steve Stine

1910 First Avenue North

Birmingham, Alabama 35203

Phone : (205) 251-2881

Fax : (205) 254-3987

Email: sstine@blshopcolvin.com



<https://mail.google.com/mail/u/0/?ik=80a4775052&view=pt&search=all&permthid=thread-f1777671861208545492&siml=msg-f1777671861208545492> 1/2

## Environmental Biological Services, LLC TERMS AND CONDITIONS

- Agreement:** Pursuant to the terms and conditions set forth herein, Customer and EBS, LLC ("EBS") agree as follows:
- Term:** The Initial term of this Agreement shall be for twenty-four (24) months beginning on the Effective Date as set forth in the Medical Waste Services Agreement ("Initial Term"). Thereafter, this Agreement may be renewed for up to two (2) additional periods of two years each (each a "Renewal Term") if, within sixty (60) days before the end of the Initial Term or first Renewal Term, the Parties agree in writing to extend it for an additional period.
- Scope of EBS Services:** (a) EBS shall pick up, transport, process, and dispose of ("Process") all conforming Regulated Medical Waste in accordance with applicable local, state and federal laws and regulations; (b) Responsibility for transportation of conforming Regulated Medical Waste shall transfer from Customer to EBS only after conforming waste is loaded onto EBS' vehicle; (c) Customer shall retain title to (i) all waste streams from the point of Generation until Disposal and (ii) any waste that does not comply with DOT Transport Regulations or the EBS Regulated Medical Waste Handling Policy ("MWHP") (referred to herein as "Non-Compliant Waste") even if such waste is collected by EBS; (d) EBS may refuse collection of Non-Compliant Waste; and (e) EBS shall obtain all applicable licenses and permits necessary to Process Customer's Regulated Medical Waste.
- Customer's Obligations:** Customer shall ensure the following: (a) EBS shall Process all of Customer's Regulated Medical Waste (excluding waste which does not conform to the MWHP) and Customer shall not use any third parties for the provision of such services; (b) all Regulated Medical Waste for collection by EBS shall be accompanied by completed Shipping Papers in conformance with 49 CFR 172.202; (c) Containers for collection by EBS contain only "Regulated Medical Waste" as defined by 49 CFR 173.134 or applicable law or regulation; (d) Containers for collection by EBS do not contain any Non-Conforming Waste; (e) Employees of Customer handling Regulated Medical Waste are provided with a copy of and have read the MWHP; (f) Customer shall at all times accept the return of Non-Conforming Waste collected from Customer by EBS; (g) no waste from bacterial, fungal, viral or other agents listed under 42 CFR 72.3 shall be placed in containers for pickup by EBS; (h) Customer shall at all times comply with all applicable federal, state and local laws pertaining to Regulated Medical Waste or otherwise; and (i) Customer understands that pricing contained herein for all waste was developed from information gathered and presented to EBS by Client. All waste material is subject to waste profile and labeling protocol procedures, which may require but is not limited to MSDS or analytical data. Should the nature of the waste material change from what has been presented to EBS, it is the responsibility of the Client to inform EBS of this change and it is understood that this change could affect pricing and/or separate profiling, transportation, and alternate disposal could be required.
- Indemnification:** Intentionally deleted.
- Insurance:** EBS shall carry Commercial General Liability and Automobile Liability insurance to cover its operations and activities, as well as Worker's Compensation Insurance as required by applicable state law.
- Termination; Remedies for Default:** This Agreement may be terminated by the Parties only as follows:
  - By EBS, after reasonable notice to Customer, in the event at any time EBS determines that it is unable to continue its obligations due to revocation, termination or suspension of any license or permit applicable to its operations or in the event that a change in any federal, state or local law or regulation makes it impossible, impractical or uneconomical, in EBS' sole discretion, to continue performing its obligations.
  - By either Party
    - In the event the other Party breaches a material term or condition or fails to perform any of its obligations pursuant to this Agreement ("Default"); and;
    - The failure of the other Party to cure the Default within thirty (30) days of receipt of written notice specifying the nature of the Default.
  - In the event of an uncured Default by Customer or EBS, including any Default that is not capable of cure, in addition to other remedies available, the following understanding applies:

**Exclusion of Consequential Damages.** NOTWITHSTANDING ANY OTHER PROVISION IN THE AGREEMENT, THE PARTIES AGREE THAT, IF EITHER MAKES OR ASSERTS ANY CLAIM, DEMAND OR ACTION OF ANY TYPE AGAINST THE OTHER ARISING FROM ITS ALLEGED BREACH OF THE AGREEMENT OR ITS FAILURE TO PERFORM ITS OBLIGATIONS HEREUNDER, INCLUDING BUT NOT LIMITED TO ANY BREACH OF THE EBS REGULATED MEDICAL WASTE HANDLING POLICY, THE MAXIMUM AMOUNT THAT A PARTY MAY RECOVER FROM THE OTHER FOR SUCH DAMAGES IN ANY ACTION IS LIMITED TO A PARTY'S ACTUAL DIRECT DAMAGES ARISING FROM THE DEFAULTING PARTY'S BREACH. EACH PARTY AGREES AND ACKNOWLEDGES THAT THE TERMS IN THIS PROVISION WERE PROPOSED AND BASED ON THE ASSUMPTION THAT THIS SPECIFIC LIMITATION IS

## Multi-Site Regulated Medical Waste (RMW) Service Agreement

Service Information		Billing Information	
Customer Name: City of Mountain Brook, Alabama, on behalf of its Fire Department		Billing Address: 102 Tibbett Street	
Service Address: See attached "Exhibit A"		City, State, Zip: Mountain Brook, AL 35213	
City, State, Zip: See attached "Exhibit A"		Billing Contact: Amy Stephens	
Office Contact: Stacey L. Cole, Deputy Chief		Billing Phone: (205) 802-3838	
Office Phone: (205) 802-3831		Billing Email: stephens@mtnbrook.org	
Emergency POC: Stacey Cole		Tax ID: 63-6001325	
Emergency Phone (Cell Phone): 205-438-2569		Manifest & Service Email:	
Effective Date of Agreement: 10/01/2023			
Services Offered			
Regulated Medical Waste (RMW) Disposal		Monthly Service Charge: See attached "Exhibit A"	
Service Frequency: See attached "Exhibit A"		Size/Type of RMW Containers: 4.3 CF P.G. II Rated DOT Certified RMW	
Rate per Additional Container: See attached "Exhibit A"		Boxes (includes red bags)	
Allotted Containers: See attached "Exhibit A"		28 gallon P.G. II Rated DOT Certified RMW Containers (includes red bags)	
Pathological/Chemotherapy Waste Disposal		Monthly Service Charge: N/A	
Service Frequency:		Rate per Container:	
Allotted Containers:		Size/Type of Containers:	
Pharmaceutical Waste Disposal		Monthly Service Charge: N/A	
Non-Hazardous (Non-Confined) Pharmaceutical Disposal		Rate per Container (disposal):	
Service Frequency:		Size/Type of RX Containers:	
Single Use Containers:		Monthly Service Charge: N/A	
EBS Compliance Solutions Program		Allotted Training Credits per Year:	
Type of Compliance Program			
Special Comments/Notes			
Additional Charges			
Set Up Fee: N/A			
Transportation/Fuel Surcharge: 4% Transportation Surcharge Applied to all Customer Invoices			
Stop Charge/Per Pick-Up (if applicable): May be applied to call-in, geographically remote, non-scheduled, no waste or improperly packaged waste, difficulty, delay, or inability to access facility on requested or scheduled pick-up day: \$75.00 per stop.			
Estimated Flat Monthly Fee: See Attached "Exhibit A"			
Special Comments/Notes: RMW Containers in excess of published and regulatory weight limits will be charged at \$3.95 / Per Pound for each pound in excess of container limit. This rate shall be subject to change with transportation and disposal price increases that EBS experiences. Cleanup of existing RMW prior to contract effective date can be managed at published additional container rates at time of account set-up.			
By signing below, I acknowledge that I am the authorized representative or officer of Customer and that I have the authority to bind Customer to the terms and conditions of this Regulated Medical Waste Service Agreement, wherein EBS shall be the service provider to Customer. Customer agrees to be bound by both the Generator Acknowledgment & Certification of Non-Hazardous Pharmaceuticals Waste Segregation Requirements (if Applicable to Service Program), the Environmental Biological Services, LLC Terms and Conditions attached hereto, and to comply with the EBS Regulated Medical Waste Handling Policy attached hereto, all of which are made part of the agreement between Customer and EBS and are collectively referred to as the "Agreement".			
Authorized Customer Representative:		Environmental Biological Services, LLC Representative:	
Please Print: Stacey Cole		Please Print: John P. Fulkerson	
Title: Deputy Chief		Title: Managing Partner	
Signature:		Signature:	
Date:		Date:	

APPLICABLE, AND THAT NEITHER OF THEM WOULD HAVE ENTERED INTO THIS AGREEMENT WITHOUT THE INCLUSION OF THIS LIMITATION. IN NO EVENT WILL EITHER PARTY BE LIABLE TO THE OTHER FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, PUNITIVE, RELIANCE OR SPECIAL DAMAGES (INCLUDING WITHOUT LIMITATION DAMAGES FOR LOST PROFITS, LOST ADVANTAGE, LOST OPPORTUNITY, LOSS OF SAVINGS OR REVENUES OR FOR INCREASED COST OF OPERATIONS) ARISING FROM ANY BREACH OR ALLEGED BREACH OF THIS AGREEMENT BY THE OTHER PARTY.

- Force Majeure:** Neither party shall have any liability to the other in the event its performance is prevented or delayed by events beyond its reasonable control, including, without limitation, acts of God, acts of civil or military authorities, fires, explosions, inability or difficulty in obtaining materials or equipment necessary to provide the services specified in this Agreement, floods, epidemics, terrorism, war, or other similar events. In such event, the affected party shall be relieved of its performance hereunder. If such events exist for more than six months, either party may terminate this Agreement.
- Pricing and Payment:** Pricing shall be assessed by EBS in accordance with the Regulated Medical Waste Service Agreement. Invoices are due upon receipt. Payment of all invoices shall be due on the date of the invoice and delinquent if not paid within 30 days from the date of invoice. If Payment is not made in full within 60 days from date of invoice, the following understandings apply: (a) EBS reserves the right to suspend services until all outstanding payments are received; and (b) if EBS initiates a legal action to collect an undisputed indebtedness, Customer is responsible to pay interest of 8% per annum in the amount on such indebtedness. Customer is also responsible to pay all taxes related to the EBS products or services, unless Customer provides a valid tax exemption certificate.
- Adjusted or Additional fees:** EBS reserves the right to annually adjust the service fees in the Medical Waste Services Agreement based on the following factors: (a) any actual cost increase caused by a change in law or legal requirement or new application of any existing law or legal requirement; (b) annual price increases in the amount of 3%; or (c) fuel and insurance increases; provided that in no event shall an increase in service fees exceed 3% in any annual period of the Agreement. Also, Customer agrees to pay EBS the following fees if EBS incurs actual costs due to same: (a) costs incurred due to Customer's failure to notify EBS that there is no waste for a scheduled pick up or in the event waste cannot be collected at a scheduled pick up due to improper packaging or labeling; (b) overweight containers shall be subject to a surcharge dependent upon the amount of excess weight, and containers with Non-Compliant or Improperly Segregated Waste shall be subject to a surcharge of \$175 per container; and (c) In the event that EBS suspends services under this Agreement for any reason, including the expiration or termination of this Agreement or for Customer's breach, EBS may remove all containers belonging to it from Customer's premises and assess a \$175 fee for container removal. For greater certainty, the fees described herein are in addition to any other remedies available to EBS pursuant to this Agreement or otherwise.
- EBS Containers or other Equipment:** Customer shall be responsible for any damage to or loss of EBS containers and equipment, normal wear and tear excepted.
- EBS Compliance Solutions Programs (if applicable to Service Program):** Environmental Biological Services, EBS, is providing an OSHA Compliance Program for Customer's use in complying with the federal and state safety regulations. Customer is solely responsible for appropriately using the Compliance Program to maintain its compliance in these areas and for confirming and obtaining any and all compliance requirements from the federal, state and local level. Customer acknowledges and agrees that Customer is solely responsible for its own compliance with safety regulations and releases and indemnifies EBS from any and all such liability and responsibility, including but not limited to claims alleging negligence or other misconduct by EBS.
- Addition or Deletion of New or Existing Facilities:** Customer may add or delete Facilities with 30 days' notice to EBS. However, deletion of a Facility shall only be for permanent closure and not for relocation. All past due payments will be paid in full to complete successful deletion of an existing Facility. If Customer acquires, leases, takes control or otherwise adds a location that generates RMW, Customer shall notify EBS of the new location and shall contract with EBS for management of RMW waste streams at the new location, should location fall in EBS' geographic service footprint. Customer shall be eligible to receive the then current rates via an addendum to the existing Service Agreement.
- Confidentiality:** In connection with the performance of their respective obligations under this Agreement, each party may disclose certain information to the other that it labels and designates as Confidential Information ("Confidential Information"). EBS designates that its pricing, customer, and cost information herein is Confidential Information. Both parties will take reasonable measures to prevent disclosure to third parties of any Confidential Information that each so designates. Notwithstanding any other provision herein, EBS acknowledges that Customer is a governmental entity that is obligated to comply with public record laws of the State of Alabama and may be required thereunder to disclose to third parties certain information that EBS may deem Confidential Information. If Customer receives a request from a third party to disclose information received from EBS that it has designated as Confidential Information, Customer, before disclosing that

- information to the third party, will notify the party requesting disclosure of EBS's desire to protect the confidentiality of such information and promptly notify EBS so that it, at its own expense, will be afforded an opportunity to oppose the disclosure in court.
15. **Entire Agreement; Assignment; Amendment:** These terms and conditions, the Medical Waste Services Agreement and the MWHP constitute the entire Agreement of the Parties and supersede any prior discussions or negotiations. In the event of new ownership of Customer, this Agreement shall remain in full force and effect. In the event of the sale of all or substantially all of Customer's assets, this Agreement shall be assigned by Customer to the new owner as part of such sale. This Agreement may be modified or amended otherwise, only by written agreement signed by the Parties.
16. **Governing Law:** This Agreement shall be construed and enforced in accordance with the laws of the State of Alabama subject to any applicable federal law.
17. **Reformation:** In the event any provision of this Agreement is held invalid or unenforceable for any reason, the remaining provisions of this Agreement shall remain in full force and effect, unless such invalidity or unenforceability has a material effect on either Party's rights or obligations, in which case either shall have the right to terminate this Agreement.
18. **Notices:** Any notice required pursuant to this Agreement shall be in writing, shall be sent to the addresses set forth in the Medical Waste Services Agreement via certified mail, return receipt requested, by nationally recognized courier service or by electronic mail with a read receipt confirmation.
19. **Preferred Vendor.** Provided EBS faithfully performs its obligations under this Agreement, Customer will not seek to retain an alternate services supplier during its Term.
20. **Counterparts.** This Agreement may be executed (a) in counterparts, a complete set of which together shall constitute an original and (b) in duplicates, each of which shall constitute an original. Copies of this Agreement showing the signatures of the respective parties, whether produced by photographic, digital, computer, or other reproduction, may be used for all purposes as originals.

Initials:

## EBS Regulated Medical Waste Handling Policy

Accepted Regulated Medical Waste	Accepted Regulated Medical Waste which must be identified and properly segregated for incineration (these items must be contracted separately with EBS)	RCRA / Hazardous Medical Waste NOT accepted by EBS under this agreement. Contact EBS for consultation (must be contracted separately and scheduled as a separate pick-up)
Sharps*	Pharmaceuticals NOT classified as hazardous by the Resource Conservation and Recovery Act ("RCRA"). Excludes controlled substances – see U.S. DOJ – DEA Office of Diversion Control Lists.	Pharmaceuticals classified as hazardous by the RCRA and controlled substances as classified by U.S. DOJ – DEA Office of Diversion Control Lists.
Regulated Medical Waste **	Pathological Waste – Waste containing human or animal body parts, organs, tissues, including items removed by surgery, autopsy or other medical procedure decanted of formaldehyde, formalin or other preservatives as regulated per hazardous waste rules (must be categorized as unrecognizable and must be scheduled ahead of time with EBS)	Certain Chemicals such as formalin, acids, formaldehyde, alcohol, solvents, waste oil, reagents, fixer developer
	Trace Chemotherapy Waste – including spent syringes, spill kits, contaminated gloves and gowns, vials, IV's and similar waste materials.	Bulk Chemotherapy Waste
		Complete Human Remains (including heads, full torsos, and fetuses)
		Any Material or products containing Mercury, including dental waste, non-contact and contact amalgam and products, chairside traps, amalgam sludge or vacuum pump filters, extracted teeth with mercury fillings and empty amalgam capsules
		Any Mercury containing material or device-Any mercury thermometers, Sphygmomanometers, lab or medical devices
		Untreated Infectious Substances designated as Class A by 49 CFR 173.134, Category 6.
		Hazardous Waste- Drums or other containers with a hazard warning symbol, batteries and other heavy metals
		Radioactive Waste- Any container with a radioactivity level that exceeds regulatory or permitted limits; lead-containing material
		Compressed gas cylinders, canisters, aerosols, aerosol cans

\* Sharps means any object contaminated with a pathogen or that may become contaminated with a pathogen through handling or during transportation and also capable of cutting or penetrating skin or a packaging material. Sharps includes needles, syringes, scalpels, broken glass, culture slides, culture dishes, broken capillary tubes, broken rigid plastic, and exposed ends of dental wires – 49 CFR 173.134.

\*\* Regulated Medical Waste ("RMW") means a waste or reusable material, other than a culture or stock of an infectious substance, that contains an infectious substance and is generated in the diagnosis, treatment or immunization of human beings or animals; research pertaining to the diagnosis, treatment or immunization of human beings or animals; or the production or testing of biological products, including biohazardous, biomedical, infectious and other regulated medical waste items. – 49 CFR 173.134.

\*\*\* All forms of RCRA Hazardous medical waste as defined are subject to the policies and requirements of Federal and State regulations and the EBS acceptance policy.

Initials:

## General Requirements

Federal Department of Transportation ("DOT") Regulations require you, as the generator of RMW to certify that the packaging and documentation for the RMW intended for transportation and disposal complies with applicable DOT requirements regarding waste classification, packaging, labeling and shipping documentation. The EBS Medical Waste Handling Policy requires your compliance with the DOT requirements and all other applicable federal, state and local regulations pertaining to RMW. It is essential that all parties understand the rules regarding proper identification, classification, segregation and packaging of regulated medical waste to guarantee that neither EBS nor the generator of the regulated medical waste violates applicable regulations. This Medical Waste Handling Policy serves as a guideline only to assist you in preparing your RMW for collection by EBS. Permit specifications may dictate additional facility or state specific waste acceptance policies. For additional information, you may contact your EBS customer service representative at 205-445-1037.

## Regulated Medical Waste Not Accepted by EBS

EBS collects RMW as more fully described above. In addition to the items listed above that are not accepted by EBS, the following items are also excluded from collection: radioactive materials, waste containing heavy metals, certain dental waste, solvents, reagents, corrosives or ignitable materials classified as hazardous by federal state or local regulations, the bacterial, fungal or viral and Rickettsial agents listed under 42 CFR 72.3, or any items which have the potential to contain such agents (unless pre-treated according to applicable regulation), batteries, cauterizers, bulk liquids, materials. Certain labeling, packaging and preparation is required for the disposal of non-hazardous pharmaceuticals. All such waste classified as not accepted by EBS shall be referred to herein as "Non-Compliant Waste." Hazardous Waste collection, treatment and transportation services are offered under separate contract. All forms of RCRA Hazardous medical waste as defined are subject to the policies and requirements of Federal and State regulations and the EBS acceptance policy. Please call EBS at 205-445-1037 for consultation and more information about those services.

## RMW Labeling, Segregation and Packaging

As the generator of the RMW, you are responsible for labeling, packaging, and segregation of RMW according to applicable regulation in order to ensure the safety of your employees and the public. DOT regulations require (49 CFR 173.197) that all packaging of regulated medical waste be prepared for transport: in containers meeting the following requirements: (a) rigid (b) leak resistant (c) impervious to moisture (d) of sufficient strength to prevent tearing or bursting under normal conditions of use and handling (e) sealed to prevent leakage during transport and (f) puncture resistant for sharps and sharps with residual fluids and (g) break resistant and tightly lidded or stoppered for fluids in quantities greater than 20 cubic cm. 49 CFR 173.197, as amended. All RMW for collection by EBS must be accompanied by completed Shipping Papers prepared by you in conformance with 49 CFR 172.202.

## Management of Non-Conforming Waste

EBS may refuse to collect any and all waste that is Non-Compliant, improperly packaged, damaged, or in the sole opinion of EBS or its employees or representatives, may pose a risk to the health, safety or welfare of its employees or the general public. Any waste identified by EBS as Non-Compliant may be returned to you at any time, including after collection by EBS.

In the event Customer deposits waste into containers for pickup by EBS that (1) is not Regulated Medical Waste as defined by the EBS Terms and Conditions and/or (2) does not comply with the EBS Medical Waste Handling Policy, Customer shall pay EBS' actual cost of disposal of such materials in addition to any other remedies available pursuant to this Agreement. If EBS is unable to dispose of such non-conforming materials, Customer shall accept the return of such materials.

Exhibit A  
City of Mountain Brook Fire Department  
Multi-Site Regulated Medical Waste (RMW) Service Agreement

Site #	Name	Address	City	ST	Zip	# of Pick-Ups	# RMW Containers Allotted	Flat Monthly Fee*	Rate Per Container Over Allotment (Per Pick-Up)
1	Mountain Brook Fire Station #1	102 Tibbett Street	Mountain Brook	AL	35218	Every Other Month (6X Annually)	Up to 3 Containers Per Visit	\$107.02	\$ 51.45
2	Mountain Brook Fire Station #2	3785 Locksley Drive	Mountain Brook	AL	35223	Every Other Month (6X Annually)	Up to 2 Containers Per Visit	\$71.35	\$ 51.45
3	Mountain Brook Fire Station #3	4277 Old Leeds Road	Mountain Brook	AL	35213	Every Other Month (6X Annually)	Up to 2 Containers Per Visit	\$71.35	\$ 51.45

Site #	Name	Address	City	ST	Zip	Point of Contact	Cell Phone #	Email
1	Mountain Brook Fire Station #1	102 Tibbett Street	Mountain Brook	AL	35213	Ryan Martin	205-802-3835	<a href="mailto:rmartin@mtbrook.org">rmartin@mtbrook.org</a>
2	Mountain Brook Fire Station #2	3785 Locksley Drive	Mountain Brook	AL	35223	Noah Johnson	205-802-3839	<a href="mailto:johnsonn@mtbrook.org">johnsonn@mtbrook.org</a>
3	Mountain Brook Fire Station #3	4277 Old Leeds Road	Mountain Brook	AL	35213	Eric Meyer	205-802-3840	<a href="mailto:mevewr@mtbrook.org">mevewr@mtbrook.org</a>

Initials



September 21, 2023

## MEMO

DATE: September 25, 2023

TO: Mayor, City Council  
City Manager  
City Attorney

FROM: Dana Hazen, City Planner

RE: 2020 Cahaba Road, English Village (previous Chester's Headquarters)  
Conditional Use – Pinnacle Branch Bank

The proposed use is a branch bank in English Village. The attached letter from the applicant indicates that there will be 10-15 employees on the site during peak hours. There are 22 on-site parking spaces, which appear to be sufficient for employees and any patrons of the branch bank.

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.

Mountain Brook City Council  
56 Church Street  
Mountain Brook, AL 35213

Dear Mountain Brook City Council Members,

I'm writing, as an Officer of Pinnacle Financial Partners ("Pinnacle") a Tennessee bank, to request your approval to operate a branch office located at 2020 Cahaba Rd., Birmingham, AL. 35223. This location was previously occupied by Chester's Chicken as its corporate headquarters. With your approval, Pinnacle will operate as a bank branch serving the business and consumer needs of its customers, including mortgage, trust and wealth.

In terms of parking, there are 22 spaces for employees and patrons on site. During our peak hours, we will operate the location with approximately 10-15 employees. It's anticipated that the remaining 7-12 spaces will be sufficient to handle customer traffic during peak hours. The site is sufficient to handle all employee and customer parking.

Our maximum stated hours of operation will be from 9am – 5pm M-F and from 9-1 on Saturdays. These are the hours we'll be open to the public as a retail branch operation. Employees will arrive prior to these hours and stay later, as needed.

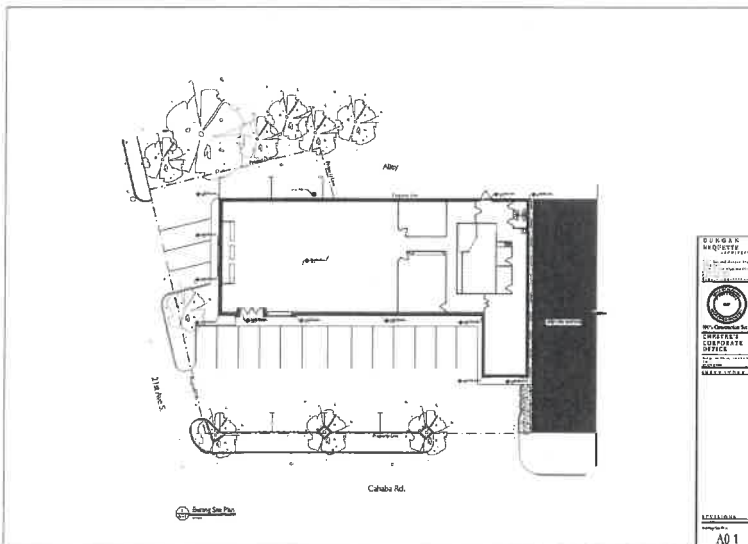
Thank you for your consideration of this request. Please let me know if you have any questions.

Best regards,

*Mark Imig*  
Mark Imig  
EVP, Market President  
Pinnacle Financial Partners

569 Brookwood Village  
Suite 705  
Birmingham, AL 35209  
205 946 2920  
www.pfnlp.com

APPENDIX 10





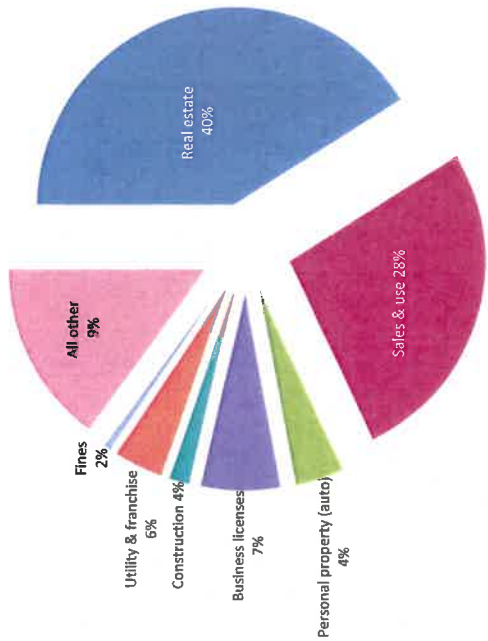
	2024				Total Governmental Funds			
	General Fund	Capital Projects	Debt Service	Other Governmental Funds	Budget	2023	Actual	2022
<b>Revenues:</b>								
\$ 43,173,900	\$ 0	\$ 0	\$ 568,000	\$ 43,741,900	\$ 48,592,380	\$ 40,514,112		
Licenses and permits	4,123,500	0	0	4,123,500	4,123,500	3,875,000		
Intergovernmental	556,471	150,000	0	706,471	706,471	2,030,397		
Charges for services	742,481	0	0	742,481	742,481	1,199,607		
Fees and royalties	18,333	3,711,200	0	3,729,533	3,729,533	3,449,386		
Grants	307,300	289,250	250,000	1,165,550	1,992,100	(917,541)		
Investment Earnings	287,000	0	0	287,000	287,000	499,000		
Miscellaneous	30,344,050	4,133,450	246,000	1,377,950	36,097,450	50,878,025		
<b>Total Revenues</b>	<b>50,344,050</b>	<b>4,133,450</b>	<b>246,000</b>	<b>1,377,950</b>	<b>56,097,450</b>	<b>54,399,036</b>		
<b>Expenditures:</b>								
General government	9,807,673	154,000	1,400	383,882	10,397,755	9,384,535		
Public safety	20,555,691	0	0	781,154	21,336,845	22,886,077		
Police	1,715,000	0	0	902,170	2,617,170	2,617,170		
Fire	1,988,278	0	0	0	1,988,278	1,988,278		
Recreational	4,072,414	0	0	4,072,414	4,072,414	4,002,395		
Library	0	0	0	0	0	0		
Capital Outlay	0	0	0	0	0	0		
Debt service	0	0	715,160	0	715,160	0		
<b>Total Expenditures</b>	<b>44,911,082</b>	<b>154,000</b>	<b>715,160</b>	<b>2,067,128</b>	<b>47,848,370</b>	<b>53,779,714</b>		
<b>Excess (deficiency) of revenues over expenditures</b>	<b>6,332,968</b>	<b>(11,556,550)</b>	<b>(469,160)</b>	<b>(684,178)</b>	<b>(6,387,020)</b>	<b>(7,987,349)</b>		
<b>Other Financing Sources (Uses):</b>								
Proceeds from the issuance of debt	0	4,986,501	0	0	4,986,501	0		
Operating transfers in	(5,863,650)	(715,000)	1,015,190	694,781	6,678,942	7,707,898		
Proceeds from the sale of assets	23,000	0	0	0	23,000	(7,707,898)		
Donations-Mountain Brook Library Foundation	91,500	0	0	0	91,500	1,544,065		
Total Other Financing Sources	<b>72,450</b>	<b>4,271,501</b>	<b>1,015,190</b>	<b>694,781</b>	<b>5,554,922</b>	<b>324,063</b>		
<b>Total Other Financing Sources</b>	<b>(5,791,200)</b>	<b>4,271,501</b>	<b>1,015,190</b>	<b>694,781</b>	<b>5,554,922</b>	<b>324,063</b>		
<b>Excess (Deficiency) of Revenues and Other Financing Sources Over Expenditures and Other Financing Uses</b>	<b>61,767</b>	<b>(6,545,049)</b>	<b>546,000</b>	<b>(9,482,419)</b>	<b>(6,420,701)</b>	<b>(7,663,286)</b>		
<b>Fund balance, beginning of year</b>	<b>20,115,073</b>	<b>23,154,676</b>	<b>3,721,452</b>	<b>1,094,011</b>	<b>48,085,212</b>	<b>54,497,074</b>		
<b>FUND BALANCES, END OF YEAR</b>	<b>20,186,840</b>	<b>16,609,627</b>	<b>4,277,452</b>	<b>1,094,011</b>	<b>42,167,930</b>	<b>46,833,788</b>		

(1) 2023 beginning fund balance calculated using 2022 reported surplus.  
(2) For external (GAAP) reporting purposes, expenses that are capitalized are reclassified from each department and aggregated under "Capital Outlay". Such reporting reclassification is omitted from the budget presentation for management reporting purposes.

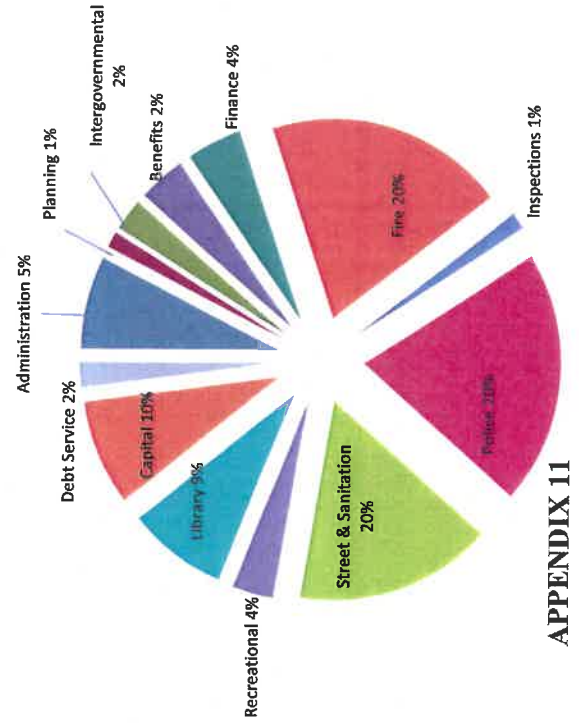
#### General Operations Fund 1000 Budget Summary City of Mountain Brook, Alabama Year Ended

	Actual	Budget	2021	2022	Budget	2023
<b>Revenues</b>	<b>\$ 40,399,563</b>	<b>\$ 40,399,563</b>	<b>\$ 40,399,563</b>	<b>\$ 40,399,563</b>	<b>\$ 40,399,563</b>	<b>\$ 40,399,563</b>
General Government	18,044,734	17,794,686	29,462,847	18,044,734	18,044,734	18,044,734
Police	3,545,781	3,545,781	3,545,781	3,545,781	3,545,781	3,545,781
Fire	1,430,000	1,430,000	1,430,000	1,430,000	1,430,000	1,430,000
Intergovernmental	1,201,852	1,199,785	1,199,785	1,201,852	1,201,852	1,201,852
Capital Projects	1,324,989	1,324,989	1,324,989	1,324,989	1,324,989	1,324,989
Intergovernmental	3,475,833	3,475,833	3,475,833	3,475,833	3,475,833	3,475,833
Intergovernmental	4,410,500	4,410,500	4,410,500	4,410,500	4,410,500	4,410,500
Finance	2,448,937	2,448,937	2,448,937	2,448,937	2,448,937	2,448,937
Police	494,744	494,744	494,744	494,744	494,744	494,744
Police	255,181	255,181	255,181	255,181	255,181	255,181
Police	1,141,111	1,141,111	1,141,111	1,141,111	1,141,111	1,141,111
<b>Public Safety</b>	<b>16,100,730</b>	<b>16,100,730</b>	<b>16,100,730</b>	<b>16,100,730</b>	<b>16,100,730</b>	<b>16,100,730</b>
Police	1,452,749	1,452,749	1,452,749	1,452,749	1,452,749	1,452,749
Fire	222,000	222,000	222,000	222,000	222,000	222,000
Police	483,648	483,648	483,648	483,648	483,648	483,648
Police	6,060,050	6,060,050	6,060,050	6,060,050	6,060,050	6,060,050
Police	622,724	622,724	622,724	622,724	622,724	622,724
Police	5,346,076	5,346,076	5,346,076	5,346,076	5,346,076	5,346,076
Police	2,462,217	2,462,217	2,462,217	2,462,217	2,462,217	2,462,217
Police	4,986,028	4,986,028	4,986,028	4,986,028	4,986,028	4,986,028
Police	1,086,443	1,086,443	1,086,443	1,086,443	1,086,443	1,086,443
Police	919,556	919,556	919,556	919,556	919,556	919,556
Police	8,294,969	8,294,969	8,294,969	8,294,969	8,294,969	8,294,969
Police	3,044,217	3,044,217	3,044,217	3,044,217	3,044,217	3,044,217
Police	1,217,800	1,217,800	1,217,800	1,217,800	1,217,800	1,217,800
Police	2,462,217	2,462,217	2,462,217	2,462,217	2,462,217	2,462,217
Police	189,702	189,702	189,702	189,702	189,702	189,702
<b>Total Expenses and Transfers</b>	<b>58,828,246</b>	<b>58,828,246</b>	<b>58,828,246</b>	<b>58,828,246</b>	<b>58,828,246</b>	<b>58,828,246</b>
<b>Surplus (Deficit)</b>	<b>\$ 1,229,259</b>	<b>\$ 1,229,259</b>	<b>\$ 1,229,259</b>	<b>\$ 1,229,259</b>	<b>\$ 1,229,259</b>	<b>\$ 1,229,259</b>

### 2024 General Fund Revenue Budget



### 2024 General Fund Expenses by Department



2024 Budget												
	General Fund	General Operations	Board	Drug Asset	Settlement	Emergency Fund	Reserves	Phase 3	Cash Bonds	Operating	Library	Endowment
	100	115	132	146	149	153	153	153	153	153	702	703
Revenues:												
Total	\$ 43,173,000	\$ 43,173,000	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0
License and permits	4,828,560	4,828,560	141,547	0	0	0	0	0	0	0	0	0
Intergovernmental	888,971	460,000	141,547	0	0	54,924	0	0	0	0	0	0
Charges for services	742,481	533,200	147,357	0	0	54,924	0	0	7,000	0	0	0
Fines and forfeitures	320,000	311,000	0	0	0	0	0	0	9,000	0	0	0
Grants	18,333	0	0	0	0	0	0	0	18,333	0	0	0
Gifts	397,500	300,000	500	0	0	4,300	0	0	0	2,500	0	0
Investment Earnings	297,000	3,000	0	0	0	0	0	0	0	0	0	0
Miscellaneous	297,000	3,000	0	0	0	0	0	0	0	0	0	0
Total Revenues	89,344,845	88,849,658	292,404	0	4,300	103,848	0	38,333	2,500	0	0	0
Expenditures:												
General government	9,937,873	9,937,873	0	0	0	0	0	0	0	0	0	0
Police	2,500,000	2,500,000	0	0	0	0	0	0	0	0	0	0
Street & sanitation	2,857,068	2,857,068	0	0	0	0	0	0	0	0	0	0
Recreational	1,688,276	1,593,505	0	0	184,771	0	0	0	3,518,314	0	0	0
Library	4,072,414	0	0	0	0	0	0	0	0	0	0	0
Debt service	0	0	0	0	0	0	0	0	0	0	0	0
Total Expenditure	44,971,683	39,270,373	1,893,855	0	184,771	0	184,771	0	3,518,314	0	0	0
Excess (deficiency) of revenues over expenditures	6,332,382	11,629,287	(1,241,161)	0	4,300	(54,923)	0	(3,479,981)	(951,600)	0	0	0
Other Financing Sources (Uses):												
Proceeds from the issuance of debt	0	0	0	0	0	0	0	0	0	0	0	0
Operating transfers in	(5,693,483)	(1,119,297)	1,211,101	0	0	54,923	0	3,479,981	0	0	0	0
Operating transfers in component unit	84,400	0	0	0	50,000	0	0	0	0	0	0	0
Donations	72,400	0	0	0	0	0	0	0	0	0	0	0
Total Other Financing Sources	(5,738,123)	(119,297)	1,211,101	0	50,000	54,923	0	3,479,981	0	0	0	0
Excess (Deficiency) of Revenues Expenditures and Other Financing Sources Over Expenditures and other Financing Uses and balance, beginning of year	533,200	500,000	0	0	4,300	0	0	0	(21,160)	0	(21,160)	0
	20,115,979	16,225,318	128,463	19,871	203,589	3,297,850	1	70	183,020	0	183,020	0
FUND BALANCES, END OF YEAR	\$ 20,648,979	\$ 16,782,318	\$ 128,463	\$ 19,871	\$ 203,589	\$ 3,381,850	\$ 1	\$ 70	\$ 0	\$ 184,429	\$ 184,429	\$ 0

2024 Budget				
	Capital Projects		Grant	
	Proposed	Funded	Proposed	Capital
	417	425	417	411
Revenues:				
Taxes	\$ 0	\$ 0	\$ 0	\$ 0
Licenses and permits	0	0	0	0
Fees and charges	150,000	150,000	0	0
Charges for services	0	0	0	0
Fines and forfeitures	0	0	0	0
Grants	3,711,200	383,300	3,346,000	0
Investment Earnings	260,250	25,000	500	243,750
Miscellaneous	0	0	0	0
Total Revenues	4,110,450	538,300	3,846,500	243,750
Expenditures:				
General government	164,800	0	0	164,800
Police	6,000,000	0	0	6,000,000
Street & sanitation	2,649,180	1,441,000	3,610,000	1,955,000
Recreational	2,468,535	2,238,453	0	230,650
Library	154,357	0	0	154,357
Debt service	0	0	0	0
Total Expenditures	15,686,142	3,679,453	3,610,000	8,199,710
Excess (deficiency) of revenues over expenditures	(11,575,692)	(5,141,253)	(481,500)	(7,855,960)
Other Financing Sources (Uses):				
Proceeds from the issuance of debt	0	0	0	0
Operating transfers in	4,098,001	3,487,344	0	1,501,557
Operating transfers (out)	(715,160)	(715,150)	0	0
Operating transfers in-component unit	0	0	0	0
Proceeds from the sale of assets	25,000	0	0	25,000
Debt proceeds	3,700,352	730,352	0	0
Total Other Financing Sources	5,998,253	3,482,476	0	1,526,557
Excess (Deficiency) of Revenues and Other Financing Sources Over Expenditures and Other Financing Uses	(5,577,439)	(1,658,777)	(481,500)	(6,429,403)
Fund balance, beginning of year	17,754,217	3,712,880	17,754,217	17,754,217
Fund balance, end of year	\$ 12,176,778	\$ 2,054,103	\$ 17,272,717	\$ 11,324,814





Gaston shall provide the City at least sixty (60) days' advance written notice of his resignation. Upon termination of his employment, Gaston shall be paid for any accrued but unused sick leave and/or unused vacation days in accordance with generally applicable city policy.

THIS EMPLOYMENT AGREEMENT made by and between SAM GASTON ("Gaston") and the CITY OF MOUNTAIN BROOK, ALABAMA ("City").

WHEREAS, Gaston has satisfactorily served as City Manager for the City since June 1993; and

WHEREAS, Gaston and the City have agreed that the terms and conditions of Gaston's continued employment should be memorialized and set forth in a formal contract of employment in order to promote clarity and avoid misunderstanding;

PREMISES CONSIDERED, Gaston and the City agree to the following terms and conditions:

1. Appointment as City Manager; Duties. Gaston shall serve as City Manager of the City of Mountain Brook, Alabama, and, in such capacity, shall perform such tasks and duties as may be prescribed and/or directed by the governing body or by applicable ordinance or statute. Gaston shall devote all of his productive time, ability and attention to the business of the City during the term of his appointment and shall not engage in any other employment or pursuit that would conflict or interfere with his duties and responsibilities as City Manager, without Council approval.

2. Term of Appointment. The term of Gaston's appointment shall be as provided by law.

3. Cancellation; Notice. Gaston's appointment and the City's obligations hereunder may be terminated by (i) operation of law; (ii) termination thereof by the governing body without cause during his term of appointment; (iii) termination thereof by the governing body for cause during his term of appointment; and (iv) Gaston's voluntary resignation.

The City may at its option terminate Gaston's appointment at any time for cause. For purposes of this Agreement, termination "for cause" shall include, but not be limited to, viz: (i) any act of theft, embezzlement, immoral conduct, sexual harassment, use of illicit drugs, or intoxication while acting as an employee of the City; (ii) the conviction for any crime involving moral turpitude; (iii) the willful neglect by Gaston of his duties hereunder; or (iv) the continued breach of any material term or condition of this Agreement by Gaston after written notice. Upon any such termination by the City for cause, Gaston shall only be entitled to the compensation and benefits provided in this Agreement (including accrued but unused vacation and sick leave) computed on a prorated basis up to and including the date of such termination, and shall be entitled to no further compensation subsequent to said date except as may be required by law. Any termination for cause by the City shall not prejudice its rights to seek any other redress or remedy to which it may be entitled under the law.

The City may also, at its option, terminate this Agreement at any time without cause. In the event of any termination by the City of this Agreement without cause prior to the expiration of Gaston's term as provided by law, the City shall be fully obligated to pay to Gaston his full salary and fringe benefits, including but not limited to any accrued but unused vacation and sick leave, only for the four (4) month period immediately following said date of termination. In exchange for said payments by the City, Gaston agrees to make himself available to provide consulting services to the City as may be reasonably requested during said four (4) month period.

4. Compensation and Benefits; Evaluation. Gaston shall receive as base compensation the sum of two hundred eight thousand one hundred sixty-three and 28/100 dollars (\$208,163.28) per annum effective September 26, 2023 and then shall receive as base compensation the sum of two hundred eighteen thousand five hundred seventy one and 34/100 dollars (\$218,571.34) per annum effective January 30, 2024, which shall be paid in regular increments according to the payroll system and schedule then in effect for the City. Gaston shall also receive and be eligible for the same across-the-board raises and fringe benefits (including but not limited to health, dental, disability, and life insurance, longevity pay, vacation, and sick leave) as are accorded or made available to city employees generally; provided, however, that nothing herein shall be construed to confer merit or civil service status on Gaston. Gaston's job performance shall be evaluated periodically at the discretion of the City Council. Upon receipt of a satisfactory performance evaluation, Gaston shall be entitled to such increase in basic compensation for the duration of the term of his appointment as the governing body may deem appropriate.

In addition to the foregoing, and in keeping with past practice, the City shall furnish to Gaston an automobile that may be used by Gaston for city-related functions, activities, and purposes, and for transportation between work location(s) and his personal residence. The City shall pay or provide for all gasoline, oil, maintenance, and insurance expenses associated with operation of the automobile. The City shall also pay for or reimburse Gaston for all actual and reasonable out-of-pocket expenses, dues, or fees incurred by Gaston in performing or attending city-related functions and activities, including but not limited to membership in and attendance at annual or semi-annual conferences sponsored by the ACCMA, the APA, and the ICMA.

5. Notice. All notices, consents, requests, approvals, and other communications provided for herein shall be validly given, made, or served if in writing and delivered personally or sent by registered or certified mail, postage prepaid, as follows, viz:

TO GASTON:	Sam S. Gaston 5312 Mountain Park Circle Indian Springs, AL 35124
TO CITY:	City of Mountain Brook c/o The Mayor P. O. Box 130009 Mountain Brook, AL 35213-0009

6. Modification. This Agreement cannot be changed, modified, or amended in any respect except by a written instrument signed by both parties.

7. Entire Agreement. This Agreement supersedes all other agreements previously made between the parties relating to its subject matter. There are no other understandings or agreements, as all prior agreements are hereby merged into this Agreement.

Page 2 of 3

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

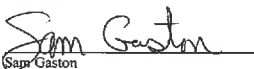
9. Controlling Law. In the event of a conflict between the terms of this Agreement and applicable state or federal law, said law(s) shall control, and this Agreement shall be construed with reference to and in accordance with applicable law.

10. Effective Date. This Agreement shall be effective upon approval of an ordinance adopting or ratifying same.

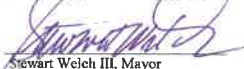
DATED this 25th day of September, 2023.

CITY MANAGER

CITY OF MOUNTAIN BROOK

  
Sam Gaston

By:

  
Stewart Welch III, Mayor

APPENDIX 12