

**MEETING AGENDA
MOUNTAIN BROOK CITY COUNCIL**

**CITY HALL COUNCIL CHAMBER (ROOM A108)
56 CHURCH STREET, MOUNTAIN BROOK, AL 35213**

JUNE 24, 2019, 7:00 P.M.

1. Approval of the minutes of the June 10, 2019 regular meeting of the City Council.
2. Consideration: Resolution adopting the Personnel Board of Jefferson County 2018-2019 Classification Survey (no changes recommended).
3. Consideration: Resolution authorizing the City Manager to offer continuing medical coverage to eligible employees (namely a) 20 years of City service at any age or b) 10 years of City service who are eligible for normal retirement benefits and who elect to retire between July 31, 2019 through April 30, 2020. [The most recent retirement window ran from April 1, 2018 through January 1, 2019 (Resolution No. 2018-033).]
4. Consideration: Resolution authorizing the expenditure of up to \$20,000 for public improvements along Poe Drive to be installed by a private developer.
5. Announcement: Mayoral appointment to the Planning Commission.
6. Consideration: Ordinance calling for a special election in the City of Mountain Brook to be held on September 24, 2019, for the purpose of voting on a proposed 10 mil ad valorem tax exclusively for educational purposes.
7. Announcement: The next regular meeting of the City Council will be July 8, 2019, at 7:00 p.m. in the Council Chamber of City Hall located at 56 Church Street, Mountain Brook, AL 35213.
8. Comments from residents.
9. Adjourn.

**MOUNTAIN BROOK CITY COUNCIL
PRE-MEETING DISCUSSION
JUNE 10, 2019**

The City Council of the City of Mountain Brook, Alabama met in public session in the Pre-council Room (A106) of City Hall at 6:00 p.m. on the 10th day of June, 2019. The Council President 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
Philip E. Black
Lloyd C. Shelton
Alice B. Womack
Stewart Welch III, Mayor

Absent: None

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

1. AGENDA

1. Ms. Rachel Barton (re: Resolution No. 2019-080) was introduced to the elected officials.
2. Westchester Road parking situation—Chief Cook. (Nothing new to report since the last discussion on May 28, 2019. This matter will be brought back for further discussion at a later date).
3. Poe Drive sidewalk—Charles Kessler. (Nothing new to report since the last discussion on May 28, 2019. This matter will be brought back for further discussion at a later date).
4. Cherokee Bend plaque monument options and costs—Ronnie Vaughn and Sam Gaston (Appendix 1). (This matter will be brought back for further discussion at a later date.)
5. Creation of an American Green Zone Alliance (AGZA) — Stewart Welch (Appendix 2). (The Mayor shall request reference contact information so the City's Parks and Public Works superintendents can discuss with their respective counterparts their experiences and recommendations. This matter will be brought back for further discussion at a later date.)
6. Added for discussion: Recommendation to the State of Alabama, Alcoholic Beverage Control Board, the issuance of a 020 – Restaurant Retail Liquor license to Ganesh Laxmi, LLC (trade name: Abhi at Mountain Brook), 2721 Cahaba Road, Mountain Brook, AL 35223. (Resolution No. 2019-086 was added to the 7 p.m. meeting agenda.)
7. Review of the matters to be considered at the formal (7 p.m.) meeting

2. EXECUTIVE SESSION

There being no further matters for discussion, Council President Smith made a motion that the City Council convene in executive session to discuss a real estate negotiation. The City Attorney verbally certified that the subject matter of the executive session is permissible under the Open Meetings Act. The motion was seconded by Council President Pro Tempore Pritchard. There being no further discussion, the vote was called with the following results:

Ayes: Virginia C. Smith, Council President
William S. Pritchard III, Council President Pro Tempore
Philip E. Black
Lloyd C. Shelton
Alice B. Womack

Nays: None

Council President Smith thereupon declared that said motion carried by a vote of 5—0.

3. ADJOURNMENT

There being no further matters to be discussed, Council President Smith excused those in attendance at the meeting, announced that the City Council shall reconvene in the Council Chamber upon conclusion of the execution session at 7 p.m. and adjourned the pre-meeting at approximately 6:40 p.m.

4. CERTIFICATION

I, Steven Boone, City Clerk of the City of Mountain Brook, Alabama, certify the above is a true and correct synopsis of the discussion from the work session of the City Council of the City of Mountain Brook, Alabama held at City Hall, Pre-Council Room (A106) on June 10, 2019, 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

**MINUTES OF THE REGULAR OF THE
CITY COUNCIL OF THE CITY OF MOUNTAIN BROOK
JUNE 10, 2019**

The City Council of the City of Mountain Brook, Alabama met in public session in the City Hall Council Chamber at approximately 7:00 p.m. on the 10th day of June, 2019. The Council President 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
Philip E. Black
Lloyd C. Shelton
Alice B. Womack
Stewart Welch III, Mayor

Absent: None

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

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

1. RECOGNITION OF GUESTS

Council President Smith recognized Wilson Tynes and another Boy Scout from Troop 320 in attendance for satisfy the requirements of the Citizenship in the Community merit badge.

2. CONSENT AGENDA

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

Approval of the minutes of the May 24, 2019, special meeting of the City Council

Approval of the minutes of the May 28, 2019, regular meeting of the City Council

2019-080	Appoint Rachel Barton to the Jefferson County Intellectual and Developmental Disabilities Authority, Inc., to fill the unexpired term of Stacey Turner (Resolution No. 2014-164) and serve without compensation through December 8, 2020	Exhibit 1, Appendix 1
2019-081	Increase the compensation rates of the municipal justices and City prosecutor effective July 1, 2019	Exhibit 2, Appendix 2
2019-082	Consent to the Personnel Board of Jefferson County's creation of a new Firefighter Medic job classification (job code 05032, grade 19) and the migration plan of qualifying employees	Exhibit 3, Appendix 3
2019-083	Authorize the execution of an investment agency agreement with respect to an investment account with Iberia Wealth Advisors	Exhibit 4, Appendix 4
2019-084	Authorize a 5% premium/incentive pay effective June 24, 2019, for up to seven (7) police personnel holding a current Small Unmanned Aircraft Systems (SUAS) certification and assigned	Exhibit 5, Appendix 5

to said duty by the Chief of Police (said premium/incentive pay adjustment shall be subject to approval by the Personnel Board of Jefferson County

- | | | |
|-----------------|---|--------------------------|
| 2019-085 | Authorize the execution of a license agreement between the City and Red Mountain Search Dog Association to allow their use of the City's training facilities | Exhibit 6,
Appendix 6 |
| 2019-086 | Recommend to the State of Alabama, Alcoholic Beverage Control Board, the issuance of a 020 – Restaurant Retail Liquor license to Ganesh Laxmi, LLC (trade name: Abhi at Mountain Brook), 2721 Cahaba Road, Mountain Brook, AL 35223 | Exhibit 7,
Appendix 7 |

Thereupon, the foregoing minutes and resolutions were introduced by Council President Smith and a motion for their immediate adoption made by Council member Shelton. The minutes and resolutions were then considered by the City Council. Council member Black seconded the motion to adopt the foregoing minutes and resolutions. Then, upon the question being put and the roll called, the vote was recorded as follows:

Ayes: Virginia C. Smith, Council President
William S. Pritchard III, Council President Pro Tempore
Philip E. Black
Lloyd C. Shelton
Alice B. Womack

Nays: None

Council President Smith thereupon declared that said minutes and resolutions (Nos. 2019-080 through 2019-086) are adopted by a vote of 5—0 and as evidence thereof she signed the same.

3. CONSIDERATION: ORDINANCE (NO. 2048) PERMITTING AND REGULATING THE SALE OF ALCOHOLIC BEVERAGES ON SUNDAY IN THE CITY (EXHIBIT 8, APPENDIX 8)

President Smith introduced the ordinance in writing and invited questions or comments from the audience or elected officials. There being none, President Smith called for a motion. Council President Pro Tempore Pritchard made a motion that all rules and regulations which, unless suspended, would prevent the immediate consideration and approval of the ordinance be suspended, and that unanimous consent to the immediate consideration of said ordinance is given. The motion was seconded by Council member Womack. Thereupon, Council President Smith called for vote with the following results:

Ayes: Virginia C. Smith, Council President
William S. Pritchard III, Council President Pro Tempore
Philip E. Black
Lloyd C. Shelton
Alice B. Womack

Nays: None

The Council President Smith declared the motion passed by a vote of 5—0.

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

Ayes: Virginia C. Smith, Council President
 William S. Pritchard III, Council President Pro Tempore
 Philip E. Black
 Lloyd C. Shelton
 Alice B. Womack

Nays: None

4. The Council President Smith declared that the said ordinance (No. 2048) is hereby adopted by a vote of 5—0 and evidence thereof she signed the same

5. **ANNOUNCEMENT**

The next regular meeting of the City Council will be June 24, 2019, at 7:00 p.m. in the Council Chamber of City Hall located at 56 Church Street, Mountain Brook, AL 35213.

6. **ADJOURNMENT**

There being no further business to come before the City Council, Council President Smith adjourned the meeting at approximately 7:05 p.m.

7. **CERTIFICATION**

I, Steven Boone, City Clerk of the City of Mountain Brook, Alabama, certify the above is a true and correct transcript of the regular meeting of the City Council of the City of Mountain Brook, Alabama held at City Hall, Council Chamber (Room A108) on June 10, 2019, 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

EXHIBIT 1

RESOLUTION NO. 2019-080

BE IT RESOLVED by the City Council of the City of Mountain Brook, Alabama, that Rachel Barton is hereby appointed to the Jefferson County Intellectual and Developmental Disabilities Authority, Inc., to fill the unexpired term of Stacey Turner (Resolution No. 2014-164) and will serve without compensation through December 8, 2020.

APPENDIX 1

RESOLUTION NO. 2019-087
A RESOLUTION ADOPTING THE PERSONNEL BOARD OF JEFFERSON COUNTY
2018–2019 ANNUAL CLASSIFICATION SURVEY

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

Section 1. The City Council of the City of Mountain Brook, Alabama, hereby adopts, without change, the Personnel Board of Jefferson County 2018–2019 Classification Survey dated June 11, 2019 (Exhibit A attached hereto).

Section 2. A copy of this Resolution shall be sent to the Personnel Board of Jefferson County.

ADOPTED: This 24th day of June, 2019.

Council President

APPROVED: This 24th day of June, 2019.

Mayor

CERTIFICATION

I, Steven Boone, City Clerk of the City of the City of Mountain Brook, Alabama, hereby certify the above to be a true and correct copy of a resolution adopted by the City Council of the City of Mountain Brook at its meeting held on June 24, 2019, as same appears in the minutes of record of said meeting.

City Clerk

Employee Number	Last Name	First Name	Current Job Code	Current Job Class	Current Grade	Determination	Recommended Job Code	Recommended Job Title	Recommended Grade
1014813	Aban	Gilbert	2551	Network Systems Administrator I	28	No change	No change	No change	No change
1005244	Boyanton	David	5255	Building Inspections Officer	23	No change	No change	No change	No change
1020039	Earnest	Joseph	5255	Building Inspections Officer	23	No change	No change	No change	No change
1014046	Glaze	Michael	5255	Building Inspections Officer	23	No change	No change	No change	No change
1012395	Simmons	Nathan	5359	Zoning Administrator	28	No change	No change	No change	No change



Personnel Board of Jefferson County

The Foundation of Your Merit System Career

2018-2019 CLASSIFICATION SURVEY IMPLEMENTATION INSTRUCTIONS

RELEVANT DATES

Survey Adoption Date:	June 11, 2019
Adoption Resolutions from Jurisdictions Due:	No later than September 27, 2019
Implementation Effective Date:	No later than the 1 st payroll date that begins on or after October 1, 2019

IMPORTANT NOTE TO PAYROLL COORDINATORS

It is important that all personnel actions on any incumbent being affected by the Survey in your jurisdiction are in the Personnel Board Human Resources system prior to the survey implementation date.

PROCEDURES

Each appointing authority must submit a resolution adopting or modifying the Survey recommendations as outlined in the reallocation reports no later than September 27, 2019. Included in the Survey Adoption Resolution must be an implementation date no later than the first payroll date that begins on or after October 1, 2019. If a jurisdiction wishes to grant salary increases in instances where grade increases are recommended, this should also be stated in the resolution. Procedures and information needed for survey implementation are as follows.

Change in Class (See 7.7, Rules and Regulations)

If there is no register or if the incumbent's name is not on an existing register, request a Temporary Appointment and a Regular Appointment in Workday. If the incumbent is on an existing register, request a Regular Appointment in Workday.

1. Request a Temporary Appointment: The incumbent will initially be placed into the position by means of a temporary appointment. Submit a Requisition – under Reason (for hire), select “Request Cert List for Audit Results”, under Worker Subtype, select “Temporary” and in the Department Comments box enter “to reclassify (employee name, employee number, new job class), effective (implementation date)”. PBJC will process the temporary appointment into Workday. If the action results in a promotion, the incumbent's salary will be affected consistent with Sections 8.2(d) and 8.2(e) of the Rules and Regulations. To be permanently hired into the position the incumbent must submit an application for the job during the next announcement period, and meet the minimum qualifications.



2121 Rev. Abraham Woods, Jr. Blvd. Suite 100 Birmingham, Alabama 35203-2387
(205)279-3500 or toll-free (866)241-9001
www.pbjcal.org

Bessemer Birmingham Center Point Emergency Management Fairfield Fultondale Gardendale Graysville Homewood Hueytown Irondale
Jefferson County Jefferson County Health Department Leeds Midfield Mountain Brook Pleasant Grove Tarrant City Trussville
Vestavia Hills Warrior

2. Request a Regular Appointment: Submit a Requisition – under Reason (for hire), select “Request Cert List for Audit Results”, under Worker Subtype, select “Regular” and in the Department Comments box enter “to reclassify (employee name, employee number, new job class), effective (implementation date)”. A list of eligibles will be sent to you. Select the name of the individual to be appointed and return to the PBJC, to enter the information into Workday. If the action results in a promotion, the incumbent’s salary will be affected consistent with Sections 8.2(d) and 8.2(e) of the Rules and Regulations.

If you have questions or need further information, feel free to contact us at classandcomp@pbjcal.org or 279-3530.



RESOLUTION NO. 2019-088

BE IT RESOLVED by the City Council of the City of Mountain Brook (“City”), Alabama, that the City Manager is hereby authorized to offer to eligible City employees continuing health insurance benefits under the following conditions:

1. Eligibility - All currently engaged employees of the City including the Library, and Parks & Recreation departments who:
 - (a) have at least twenty (20) years of employment service with the City and are eligible to draw normal retirement benefits from the Employees’ Retirement Systems of Alabama (RSA), or
 - (b) have at least 10 years of employment service with the City, ~~are at least age 60,~~ and are eligible to draw normal retirement benefits from the RSA, and
 - (c) retire from service during the period of July 31, 2019 through April 30, 2020, provided that the eligible employee gives written notice at least 30 days prior to their retirement date.

2. Insurance Coverage - Each eligible employee electing to retire must ~~be enrolled in the City’s group health insurance plan at the time of their retirement effective date~~ have participated in (and received credit for) a State Employees’ Insurance Board (SEIB) wellness screening within six months preceding their retirement date and must meet all eligibility requirements established by SEIB for such coverage during retirement. Coverage under the City’s group medical insurance plan will continue for the lesser period of:
 - (a) thirteen (13) years from the retirement date (In the event the retiree has not attained the age of 65 or otherwise eligible for Medicare after 13 years measured from their retirement date, the retiree may continue coverage under the City’s group medical plan until attaining Medicare eligibility, however, the retiree will be responsible for 100% of the retiree premium.)
 - (b) until the Retiree becomes eligible for Medicare benefits (whether by age or disability),
 - (c) the date that the City no longer offers medical insurance to retirees, or
 - (d) until the retiree is determined to be no longer eligible for coverage under the City’s group medical insurance plan.

The terms of coverage (benefits, cost for coverage, etc.) will be subject to change as the insurance plan changes for active employees under the health plan. Retirees are subject to health appraisals, lifetime aggregate health payment caps/limitations, and all other provisions currently required of all active employees and health plan participants and any that may be imposed in the future for active employees.

3. Premium Cost - The amount of a Retiree’s premium to be paid by the City of Mountain Brook for individual or family coverage (Resolution No. 2018-126 dated September 24, 2018) is subject to change at the discretion of the City Council. The retiree’s share of the premium is to be paid to the City in advance on or before the first day of each month. By retiring under the provisions of this resolution, the retiree understands that coverage under the City’s group medical insurance plan is a privilege contingent upon timely payment to the City of the required premium. The City reserves the right to irrevocably cancel any retiree’s medical insurance contract should payment not be received by the City as prescribed above.

2019-088

4. Employees electing to retire under the provisions of this resolution (or Resolution No. 02-072) must execute the "City of Mountain Brook Medical Insurance Memorandum of Understanding and Participant Acknowledgement" attached hereto as Exhibit A.

ADOPTED: This 24th day of June, 2019.

Council President

APPROVED: This 24th day of June, 2019.

Mayor

CERTIFICATION

I, Steven Boone, City Clerk of the City of Mountain Brook, Alabama hereby certify the above to be a true and correct copy of a resolution adopted by the City Council of the City of Mountain Brook at its meeting held on June 24, 2019, as same appears in the minutes of record of said meeting.

City Clerk

EXHIBIT A

**CITY OF MOUNTAIN BROOK RETIREE MEDICAL INSURANCE
MEMORANDUM OF UNDERSTANDING AND PARTICIPANT ACKNOWLEDGMENT
(Resolution No. 10-090 Adopted June 14, 2010)**

Whereas, the City of Mountain Brook, Alabama (“the City”) offers qualifying employees that wish to retire access to the City’s group medical insurance plan; and

Whereas, the City of Mountain Brook has adopted Resolution No. 02-072 making such continuing medical insurance offer open-ended (unless repealed by formal City Council action) for those employees of any age with at least 30 years of employment service with the City or for those employees age 60 and over with at least 15 years of employment service with the City; and

Whereas, periodically the City of Mountain Brook considers opening windows of opportunity for employees to retire and participate in the City’s group medical insurance plan for employees of any age with at least 20 years of employment service with the City or for those ~~employees age 60 and over~~ eligible to draw normal pension benefits with at least 10 years of employment service with the City; and

Whereas, employees that elect to retire and to participate in the City’s group medical insurance plan do so with the following understandings and stipulations:

1. The duration of retiree medical insurance coverage shall last from the date of retirement until the following [earliest] date or event: a) thirteen (13) years from the date of retirement, b) until the retiree becomes eligible for Medicare coverage whether such entitlement is occasioned upon the retiree’s age or disability, c) the date that the City no longer offers medical insurance to retirees, or d) the date that retiree medical insurance coverage is no longer offered by the City’s medical insurer.
2. Retirees who, by whatever occasion, become eligible for Medicare coverage are required to notify the City of such eligibility so that participation in the City’s group medical insurance plan may be cancelled (subject to applicable COBRA or similar laws). Failure by a retiree to notify the City of such Medicare eligibility exposes said retiree to substantial financial loss as coverage under the City’s group medical insurance plan is cancelable retroactively to the date of Medicare eligibility regardless of when such eligibility is ultimately discovered or whether the retiree elects at the time of eligibility to opt out of the Medicare program.
3. Retirees are required to pay (in advance on or before the first day of each month) a portion of the retiree medical premium. Failure on the part of a retiree to pay such monthly medical insurance premiums, for whatever reason, or retirees who are habitually late in paying their medical premiums to the City is sufficient cause for the City to cancel such retirees’ medical insurance coverage. Once a retirees’ medical insurance coverage is cancelled, such coverage may not be reinstated.

RETIREE MEDICAL INSURANCE MEMORANDUM OF UNDERSTANDING AND PARTICIPANT ACKNOWLEDGMENT

Page 2

4. The retirees' portion of the medical insurance premium is determined by the City and is subject to change periodically. Generally, retiree premiums are set by the City in September for the upcoming fiscal year (October through September). However, more frequent retiree premium changes may be imposed at the sole discretion of the City Council.

5. Currently, the City offers medical insurance coverage through the Local Government Health Insurance Plan (LGHIP) sponsored by the State Employees' Insurance Board (SEIB). Generally, SEIB establishes LGHIP benefits (including, but not limited to, deductibles, co-payments, covered services, hospital and physician networks, etc.) in August with an effective date of implementation on the following January 1. However, the benefits inherent in the LGHIP plan are subject to change at the sole discretion of the SEIB.

As evidenced by my signature below, I hereby profess and proclaim the following:

1. I have read and understand the aforementioned summary provisions of the City's group medical insurance plan with respect to my participation as a retiree of the City.

2. I understand that it is my sole responsibility to read and understand the administrative rules and other official literature concerning the LGHIP distributed by SEIB and that, should any provision of said literature conflict with any provision contained hereinabove or with any other statements (written or verbal) made by the City or an official thereof, the SEIB policies and regulations shall prevail.

3. The City of Mountain Brook shall not be responsible for any financial or other loss that I may suffer as a result of a) my participation in the City's group medical insurance plan made available to me as a retiree or b) the subsequent cancellation of my coverage under said plan for cause as determined by SEIB or the City.

By: _____
(Employee signature)

(Printed name)

Date signed: _____

Effective date of retirement: _____



CITY OF MOUNTAIN BROOK

P. O. Box 130009
 Mountain Brook, Alabama 35213-0009
 Telephone: 205.802.2400
 Facsimile: 205.874.0611
 www.mtnbrook.org

To: Sam Gaston, City Manager
cc: Mayor and members of the City Council
From: Steven Boone
Date: 06/20/2019
Re: Retirement window analysis

Background

In 2002, the City adopted a resolution (No. 02-072) which allows retirees to continue their participation in the City's group medical insurance plan provided they have at least 30 years of service with the City (any age) or at least 15 years of services if age 60 or older. Such participation is limited to the earlier date of the retiree's becoming eligible for Medicare benefits (whether by age or disability) or 13 years. Effective January 1, 2019, the monthly cost of such retiree coverage was as follows:

		City		Retiree		Total
Family	\$	1,262	\$	532	\$	1,794
Single	\$	808	\$	166	\$	974

Generally annually, the City Council considers extending this benefit to other employees with 20 years of service (any age) or 10 years of service if age 60 or older and eligible to draw normal retirement benefits. The last such resolution was adopted February 26, 2018 (No. 2018-033) which opened the retirement window from April 1, 2018 through January, 2019. Recently, a couple of police officers expressed interest in retiring and have requested that the City consider opening a retirement window for medical benefits.

The net cost (savings) to the City results from the replacement of the retiring employee ultimately with an entry level employee after considering the various internal promotions. Those retiring are generally receiving the maximum annual longevity compensation whereas their replacements are not eligible for longevity compensation for six (6) years. Longevity compensation starts at 1-1/2% of annual compensation (before applying the annual cap) and increases at the rate of 1/2% annually over the ensuing 20 years before attaining the maximum amount of 8-1/2% of annual compensation (again, before applying the annual cap). Following is an illustration of the annual (savings)/cost for a firefighter (with qualifying bachelors degree) with family medical coverage carrying said coverage for the maximum duration of 13 years:

Year	Longevity & Net Salary &			
	Net Retiree Medical Premium	Benefit (Savings) Cost	Benefit (Savings) Cost	Annual (Savings) Cost
Family Net Monthly Cost	\$ 1,262			
Medical trend and Inflation	4.00%		2.00%	
1	\$ 15,140	\$ (5,020)	\$ (29,960)	\$ (19,840)
2	15,750	(5,020)	(27,240)	(16,510)
3	16,380	(5,020)	(24,390)	(13,030)
4	17,040	(5,020)	(21,390)	(9,370)
5	17,720	(5,020)	(18,250)	(5,550)
6	18,430	(5,020)	(14,950)	(1,540)

Year	Net Retiree Medical Premium	Longevity & Benefit (Savings) Cost	Net Salary & Benefit (Savings) Cost	Annual (Savings) Cost
7	19,170	(5,020)	(11,480)	2,670
8	19,940	(4,210)	(7,840)	7,890
9	20,740	(3,890)	(4,010)	12,840
10	21,570	(3,540)	0	18,030
11	22,430	(3,250)	0	19,180
12	23,330	(2,950)	0	20,380
13	24,260	(2,660)	0	21,600
	<u>\$ 251,900</u>	<u>\$ (55,640)</u>	<u>\$ (159,510)</u>	<u>\$ 36,750</u>

Net present value discounted at 2% \$ 20,138

Note: The above illustration represents the aggregate cost over a 13-year period assuming medical costs increase at 4% annually. The savings could be greater in the earlier years depending on the pay grade of the retiring employee and pay grades of employees subsequently promoted. Additionally, the aggregate cost decreases for employees over the age of 52 who elect to retire as their participation in the group medical insurance plan lasts for a maximum of 13 years.

The above analysis takes into consideration only the annual cost (savings) from the retiring employee and their replacement. Beginning in 2008, the City has been disclosing in its audit report financial information for the Other Post-Employment Benefit (OPEB) (i.e., retiree medical insurance) in a manner similar to its accounting for the pension plan (namely a footnote to the annual audited financial statements). The City now "accrues" a portion of the retirees' medical cost over the life of their employment (normal cost) and amortizes the unfunded liability over 30 years. As of September 30, 2018, the City reported a net unfunded OPEB liability of \$2.9 million. In spite of this unfunded liability for retiree medical cost, in my opinion, the City's policy of allowing its retirees to continue their participation in the City's group medical plan is justified for the following reasons:

1. Employee morale by a) increasing promotional opportunities and b) allowing employees emotionally ready for retirement the opportunity to do so
2. Reduces workers' compensation exposure especially in the more labor intensive positions

RESOLUTION NO. 2019-089

BE IT RESOLVED by the City Council of the City of Mountain Brook, Alabama, that the City Manager is hereby authorized and directed to remit \$20,000 to Kadco, LLC (Developer) for public improvements Developer shall construct along Poe Drive where said disbursement shall be made upon Developer's demonstration, to the satisfaction of the City Manager, that said public improvements along the entire length of Poe Drive are substantially complete.

BE IT FURTHER RESOLVED by the City Council of the City of Mountain Brook, Alabama, that the City Manager is hereby authorized and directed to execute, for and on behalf of the City Council, an agreement and such other documents that may be determined necessary and appropriate with respect to the public improvement project along Poe Drive.

ADOPTED: This 24th day of June, 2019.

Council President

APPROVED: This 24th day of June, 2019.

Mayor

CERTIFICATION

I, Steven Boone, City Clerk of the City of the City of Mountain Brook, Alabama, hereby certify the above to be a true and correct copy of a resolution adopted by the City Council of the City of Mountain Brook at its meeting held on June 24, 2019, as same appears in the minutes of record of said meeting.

City Clerk

Kadco, LLC
3505 Bent River Road
Birmingham, Alabama 35216
(205) 985-7171
(205) 985-7176 Fax

May 13, 2019

Re: Road improvements Poe Drive, Mountain Brook

To whom it may concern,

The following is an estimate of the improvements to be made to Poe Drive. Some of this work, such as the storm pipe is mostly located in Vestavia. Kadco and Vestavia will pay the bulk of this work. It is unknown if some of the retainer wall can be eliminated. This will depend on how much grading we can do without hitting rock, utilities or grading into private property.

1. Clear and grade ROW 10' to 20' x 115' and haul off all debris	\$18,000.00
2. Add an additional 80' to RCP pipe Two junction boxes; one headwall	\$16,000.00
3. Approximately 3" block wall 80' long with rock face	\$11,000.00
4. Install 4' buff colored concrete sidewalk 115'	\$8,500.00
	<hr/>
	\$53,500.00

Kadco, LLC will be responsible for all insurance, interest, permits, locating utilities, traffic, and asphalt overlay is needed. Kadco, LLC is also planning to install streetlights on Poe Drive and would prefer to purchase them rather than rent them for Alabama Power. The cost for this is unknown at this time. We are asking the City of Mountain Brook to contribute a capped amount of \$20,000.00.

Thank you,

Charles Kessler, President
Kadco, LLC

STATE OF ALABAMA

JEFFERSON COUNTY

CONTRACT

WITNESSETH THIS CONTRACT, made and entered into on this the _____ day of December, 2018, by and between the City of Vestavia Hills, Alabama, a municipal corporation, located at 1032 Montgomery Highway, Vestavia Hills, Alabama 35216 (hereinafter referred to as "City"), and Kadco, LLC, an Alabama limited liability company, with its principal address of 3505 Bent River Road, Birmingham, Alabama 35216 (hereinafter referred to as "Developer").

WITNESSETH THESE RECITALS:

WHEREAS, Poe Drive, by virtue of Title 11-49-80, *Code of Alabama, 1975*, became a dedicated public street owned by the City of Vestavia Hills, Alabama ("City") because of the annexation of substantially all of the Cahaba Heights Fire District to the corporate boundaries on May 14, 2002; and

WHEREAS, the City owns the entire right-of-way of Poe Drive by virtue of Title 35-2-51(b), *Code of Alabama, 1975*;

WHEREAS, municipalities in Alabama are authorized by Title 11-48-4, *Code of Alabama, 1975*, to spend public funds for the construction, repair, maintenance and improvements of public streets and sidewalks; and

WHEREAS, the Alabama Public Works Law regarding public works construction projects provides, among other things, that a public works project is the expenditure of public funds on real estate owned by a municipality or on a structure attached to that real estate. Title 39-2-1(6), *Code of Alabama, 1975*, defines "Public Works" as follows:

"(6) PUBLIC WORKS.--The construction, installation, repair, renovation, or maintenance of public buildings, structures, sewers, waterworks, roads, curbs, gutters, side walls, bridges, docks, underpasses, and viaducts as well as any other improvement to be constructed, installed, repaired, renovated, or maintained on public property and to be paid, in whole or in part, with public funds or with financing to be retired with public funds in the form of lease payments or otherwise."; and

WHEREAS, Title 34-11-10, *Code of Alabama, 1975*, provides as follows:

"It shall be unlawful for the state or any of its departments, boards or agencies or any county, municipality or political subdivision or any department, board or agency of any county, municipality or political subdivision to engage in the construction of any public work involving the practice of engineering unless the engineering drawings, plans, specifications and estimates have been

prepared by and the construction executed under the direct supervision of a professional engineer; provided, that nothing in this chapter shall be held to apply to any public work wherein the expenditure for the complete project of which the work is a part does not exceed \$20,000.00.”; and

WHEREAS, Alabama law at Title 34-8-1(a), *Code of Alabama, 1975*, requires that a public works project be performed by a licensed general contractor and defines a "general contractor" to be:

"One who, for a fixed price, commission, fee, or wage undertakes to construct or superintend or engage in the construction, alteration, maintenance, repair, rehabilitation, remediation, reclamation, or demolition of any building, highway, sewer, structure, site work, grading, paving or project or any improvement in the State of Alabama where the cost of the undertaking is fifty thousand dollars (\$50,000.00) or more, shall be deemed and held to have engaged in the business of general contracting in the State of Alabama.”; and

WHEREAS, Title 39-2-2(a), *Code of Alabama, 1975*, provides in pertinent part as follows:

"(a) Before entering into any contract for a public works involving an amount in excess of fifty thousand dollars (\$50,000), the awarding authority shall advertise for sealed bids. If the awarding authority is the state or a county, or an instrumentality thereof, it shall advertise for sealed bids at least once each week for three consecutive weeks in a newspaper of general circulation in the county or counties in which the improvement or some part thereof, is to be made. With the exception of the Department of Transportation, for all public works contracts involving an estimated amount in excess of five hundred thousand dollars (\$500,000), awarding authorities shall also advertise for sealed bids at least once in three newspapers of general circulation throughout the state.”; and

WHEREAS, Title 39-2-2(b)(1), *Code of Alabama, 1975*, provides as follows:

“An awarding authority may let contracts for public works involving fifty thousand dollars (\$50,000.00) or less with or without advertising or sealed bids.”; and

WHEREAS, Alabama law, at Title 39-1-1 (a). *Code of Alabama, 1975*, reads as follows:

"(a) Any person entering into a contract with an awarding authority in this state for the prosecution of any public works shall, before commencing the work, execute a performance bond, with penalty equal to 100 percent of the amount of the contract price. In addition, another bond, payable to the awarding authority letting the contract, shall be executed in an amount not less than 50 percent of the contract price, with the obligation that the contractor or contractors shall promptly make payments to all persons supplying labor, materials, or supplies for or in the prosecution of the work provided in the, contract and for the, payment of reasonable attorneys' fees incurred by successful claimants or plaintiffs in civil actions on the bond."; and

WHEREAS, Developer has heretofore built new homes on Poe Drive for sale to members of the general public; and

WHEREAS, Developer intends to construct additional new homes on Poe Drive; and

WHEREAS, Developer desires that Poe Drive be pedestrian friendly by installing a sidewalk; and

WHEREAS, Developer will cause a sidewalk extending approximately one thousand two hundred (~~1200~~) linear feet to be constructed on the easterly right-of-way of Poe Drive; and

 **NOT TO EXCEED 839'**
WHEREAS, the estimated cost of construction of the sidewalk is approximately One Hundred Thirty Thousand Four Hundred Thirty-eight and 50/100 Dollars (\$130,438.50); and

WHEREAS, Developer has requested the City to pay the sum of Forty-nine Thousand Nine Hundred Ninety-nine and 99/100 Dollars (\$49,999.99) of the cost for the construction of the sidewalk with the Developer paying any and all other costs exceeding that amount; and

WHEREAS, the City agrees to pay the sum of Forty-nine Thousand Nine Hundred Ninety-nine and 99/100 Dollars (\$49,999.99) of the cost for construction of the sidewalk based upon the terms, provisions, conditions and requirements set forth in sections I through XXVIII below; and

WHEREAS, the Developer expressly agrees to the terms, provisions and conditions of the sections I through XXVIII set forth below; and

WHEREAS, the City and the Contractor have agreed to the terms, provisions, conditions and requirements of this Contract and have further agreed that it is in the best interests of the parties that this Contract be reduced to writing.

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS, that in consideration of the mutual covenants, promises and premises contained herein and other good and valuable consideration, the receipt and sufficiency is whereof is hereby acknowledged by each of the parties hereto, the City and the Developer mutually and expressly agree as follows:

I. RECITALS

The recitals set forth in the premises above are hereby incorporated into this Contract by reference as though set out fully herein.

II. THE WORK

Developer shall cause a sidewalk to be constructed on the easterly side of Poe Drive in the City of Vestavia Hills, Alabama 35243 pursuant to the following terms, provisions, conditions and requirements:

A. The sidewalk shall be constructed all in accordance with Article 2 of the *Public Works Manual of the City of Vestavia Hills, Alabama*. A copy of Article 2 is attached hereto, marked as Exhibit 1 and is incorporated into this Contract by reference as though set out fully herein; and

B. The sidewalk shall extend for a distance of approximately one thousand two hundred (1,200) linear feet; and

C. The sidewalk shall be constructed on the site shown on the map, which is attached hereto, marked as Exhibit 2 and is incorporated into this Contract by reference as though set out fully herein; and

D. The sidewalk shall be constructed all in accordance with the design prepared by HagerCo-LLC, a copy of which is attached hereto, marked as Exhibit 3 and is incorporated into this Contract by reference as though set out fully herein; and

E. The work shall include any and all items set forth on the Engineer Estimate for total Project Cost, a copy of which is attached hereto, marked as Exhibit 4 and is incorporated into this Contract by reference as though set out fully herein; and

F. The sidewalk, curb, gutter, double wing inlets, trench train in sidewalk, landscaping, traffic control and other improvements shall be constructed all in accordance with the final and full engineering design, plans and specifications prepared by HagerCo-LLC.

G. The labor, material and services described above shall hereinafter be referred to as the "work."

III. LICENSED GENERAL CONTRACTOR

The Work shall be done and completed by a licensed general contractor ("Contractor") as required by Title 34-8-1, *Code of Alabama, 1975*.

IV. CONTRACT PRICE

It is contemplated by Developer and City, based upon the preliminary cost estimate of One Hundred Thirty Thousand Four Hundred Thirty-eight and 50/100 Dollars (\$130,438.50) prepared by HagerCo-LLC (Exhibit 4) will be approximately that amount. Both parties recognize and agree that the final cost of the work may be more than \$130,438.50.

V. PAYMENT OF CONTRACT PRICE

A. **CITY:** The City shall pay Forty-nine Thousand Nine Hundred Ninety-nine and 99/100 Dollars (\$49,999.99) of the contract price upon:

1. completion of the work by the licensed general contractor; and
2. final inspection, written approval and acceptance by the City of the work by Developer.

B. **DEVELOPER:** The Developer shall pay any and all of the contract price exceeding \$49,999.99.

VI. TERM OF CONTRACT

Time is of the essence of the performance of the Contract. The term of this Contract shall be for a period of NINE MONTHS (275) days after the Developer receives a written Notice to Proceed from City. The City will not issue a Notice to Proceed until after the City:

A. approves in writing the final drawings, plans and specifications prepared by HagerCo-LLC as required by Section X of this Contract; and

B. the City receives from Developer the duly executed Performance Bond as required by Section VII of this Contract; and

C. the City receives from Developer the duly executed Work and Labor Bond as required by Section VIII of this Contract; and

D. the City receives from Developer the Certificates of Insurance as required by Section XIV-F of this Contract.

VII. PERFORMANCE BOND

The Developer, prior to the commencement of the work, shall execute and deliver a Performance Bond equal to one hundred percent (100%) of the contract price as required by Title 39-1-1(a), *Code of Alabama, 1975*. The form of the Performance Bond shall be AIA Document A312-2010, a copy of which is attached hereto, marked as Exhibit 5 and is incorporated into this Contract by reference as though set out fully herein.

VIII. PAYMENT BOND

The Developer, prior to the commencement of the work, shall execute and deliver a Payment Bond equal to fifty percent (50%) of the contract price as required by Title 39-1-1(a), *Code of Alabama, 1975*. The form of the Payment Bond shall be AIA Document A312-2010, a copy of which is attached hereto, marked as Exhibit 6 and is incorporated into this Contract by reference as though set out fully herein.

IX. FINAL DRAWINGS, PLANS AND SPECIFICATIONS

The final drawings, plans and specifications for the work must be prepared by a professional engineer as required by Title 34-11-10, *Code of Alabama, 1975*.

X. APPROVAL OF FINAL DRAWINGS, PLANS AND SPECIFICATIONS BY CITY

The work shall not commence unless and until the City has approved in writing the final drawings, plans and specifications prepared by professional engineers, HagerCo-LLC.

XI. APPROVAL OF CONSTRUCTION CONTRACT

Any and all Construction Contracts by and between Developer and Contractor for the performance of the work must be approved in writing by the City prior to commencement of the work.

If Developer enters into a Construction Contract with a Licensed General Contractor ("Contractor") for the performance of the work, then in such event both Developer and Licensed General Contractor shall be legally obligated to the City for compliance with any and all terms, provisions, conditions and requirements of this Contract. The Contract by and between Developer and Licensed General Contractor shall contain the following language:

"The Licensed General Contractor hereby agrees to be legally obligated to the City of Vestavia Hills, Alabama for compliance with any and all terms, provisions, conditions and requirements of Developer set forth in Sections I through XXVIII of that certain Contract by and between Kadco, L.L.C, as "Developer," and the City of Vestavia Hills, Alabama, as "City." A copy of said Contract is attached hereto, marked as Exhibit A and is incorporated into this Contract by reference as though set out fully herein."

XII. QUALITY OF WORK

All labor, construction and installation of equipment, materials and supplies applied/installed by the Developer in the performance of this Contract shall be done in a professional, proficient and workmanlike manner.

XIII. LIABILITY INSURANCE

The Developer shall carry Manufacturer's and Contractor's General Comprehensive Liability and Public Liability Insurance with limits of One Million Dollars (\$1,000,000.00), per person, and Two Million Dollars (\$2,000,000.00), per occurrence, to cover and protect the City, its Mayor, City Manager, individual City Council members, servants, agents, employees or representatives, the Developer and its Licensed General Contractor, its subcontractors against claims or injury to or death of one or more than one person because of accidents which may occur or result from operations under the contract; such insurance shall cover the use of any and all equipment, including but not limited to machinery, tractors, rollers, mixers, motor vehicles and other related equipment necessary to perform the work and installations and embraced in this Contract.

The Developer shall carry, during the life of this Contract, property damage insurance in the amount of not less than Five Hundred Thousand Dollars (\$500,000.00) to protect the Developer, the Licensed General Contractor and its subcontractors from claims for property damage which might arise from the work performed under this contract.

Before commencing work, the Developer shall submit evidence of the coverages required above to the City for review and approval. Such insurance shall be carried with financially responsible insurance companies, licensed in the state and approved by the City and shall be kept in full force and effect until the Developer's work is accepted by the City. Contracts of insurance (covering all operations under this contract) which expire before the Developer's work is accepted by the City shall be renewed and evidence of such renewal shall be submitted to the City for its approval.

XIV. ADDITIONAL INSUREDS

The Developer shall cause all of the insurance policy coverages described in Section XIII of the Contract above (except for the Worker's Compensation coverages) to include:

A. The City of Vestavia Hills, Alabama, and its Mayor, City Manager, individual City Council members, servants, agents, employees or representatives as additional insureds for claims caused in whole or in part by the Developer's negligent acts or omissions during the Developer's operations; and

B. The City of Vestavia Hills, Alabama, and its Mayor, City Manager, individual City Council members, servants, agents, employees or representatives as additional insureds for claims caused in whole or in part by the Developer's negligent acts or omissions during the Developer's completed operations; and

C. The insurance policy coverages shall state that these coverages shall be primary insurance for the additional insureds; and

D. Contain no exclusions of the additional insureds relative to job accidents; and

E. The policies must be on an "occurrence" basis.

F. Certificates of Insurance shall be provided by Developer to City prior to commencement of the work. A Notice to Proceed for the commencement of work shall not be issued by the City unless and until the City has provided written notice of acceptance of said Certificate of Insurance to the Developer.

XV. WORKERS' COMPENSATION

The Developer shall carry Worker's Compensation insurance for all of its employees and those of the Licensed General Contractor and its subcontractors engaged in the work at the site in accordance with the State of Alabama Worker's Compensation Law. This insurance coverage provided by the Developer under the Worker's Compensation Act shall provide protection from any and all claims for bodily injury, death or property damage, which may arise from the performance of any servant, agent, employee or other representative of Developer or the Licensed General Contractor and its subcontractors under this contract. Certificates of insurance issued by competent insurance companies qualified and licensed to do business in the State of Alabama and approved by the City evidencing that the Licensed General Contractor and all of said subcontractors of the Developer are covered by said Worker's Compensation insurance coverage and furnished to the Developer and the City by the Licensed General Contractor and the individual subcontractors shall meet the requirements of this section.

XVI. INDEMNITY

The Developer shall indemnify and save harmless the City, its Mayor, City Manager, individual City Council members, servants, agents, employees and representatives from any and all claims, demands, controversies, actions, causes of action, liabilities of action, lawsuits, liabilities, damages and losses and expenses, including but not limited to attorney fees, arising out of or resulting from property damage, personal injury and/or death suffered or alleged to have been suffered by any person as a result for work performed under this Contract by Developer, the Licensed General Contractor, a subcontractor and anyone directly or indirectly employed by them. This indemnification shall extend to all claims, damages, losses and expenses for injury or damage to adjacent or neighboring property, or persons injured thereon, that arise out of, relate to or result from performance of the work.

XVII. INDEPENDENT CONTRACTOR

The Developer is an independent contractor for purposes of this agreement. Nothing contained herein shall be construed to mean that said Developer is the servant, agent or employee of the City of Vestaviu Hills, Alabama.

XVIII. ASSIGNMENT

This Contract shall not be assignable by the Developer in any respect without having first obtained the written consent of the City of Vestavia Hills, Alabama evidenced by a properly enacted resolution of the City Council.

XIX. GENERAL COMPLIANCE WITH APPLICABLE LAWS

Developer shall comply with the provisions of the labor law and any and all federal, state and local laws, statutes, codes, rules, regulations, ordinances and resolutions that are applicable to the performance of this Contract between the City and Developer, including specifically, but not limited to Ordinance Numbers 2769, 2770 and 2771 enacted by the City Council of the City of Vestavia Hills, Alabama on June 11, 2018.

XX. EXISTING UNDERGROUND UTILITIES

Before any work is done in the vicinity of an existing underground utility line, the Developer shall check with the owner of the utility lines to determine and verify its exact location. The Developer shall be held liable for any damage to utilities in the execution of this Contract.

XXI. ACCIDENT PREVENTION

The Developer shall exercise proper precaution at all times for the protection of persons and property and shall be responsible for all damages to person or property, either on or off the site, which occur as a result of its prosecution of the work. The safety provisions of applicable laws and building and construction codes shall be observed. Machinery, equipment and all hazards shall be guarded in accordance with the safety provisions of the "*Manual of Accident Prevention in Construction*" published by the Associated Contractors of America, Inc., to the extent that such provisions are not in conflict with applicable local laws.

XXII. INSPECTION

All materials and workmanship shall be subject to inspection, examination or test by the City at any and all times during manufacture or construction and at any and all places where such manufacture or construction is carried on. The City shall have the right to reject defective materials and defective, incorrect or incomplete work and/or require its correction. Unacceptable workmanship shall be satisfactorily corrected. Rejected material shall be promptly segregated and removed from the project area and be replaced with material of specified quality without charge therefore. If the Developer fails to proceed at once with the correction of rejected workmanship or defective material, the City may contract for or otherwise have the defects remedied or rejected materials removed from the project area and charge the cost of the same against any moneys which may be due the Developer, without prejudice to any other rights or remedies of the City.

XXIII. TERMINATION

The Contract, of which statement of work described in paragraph II hereof form a part, may be terminated by the City for any one of the following reasons:

- A. Substantial evidence that the progress made by the Developer is insufficient to complete the work within the specified time.
- B. Deliberate failure on the part of the Developer to observe the requirements of this Contract.
- C. Failure on the part of the Developer to promptly make good any defects in materials or workmanship that may be indicated to it by the City.
- D. Any other breach of contract by the Developer.

XXII. GENERAL GUARANTY BY DEVELOPER

Neither the final certificate of payment nor any provision in the Contract nor partial or entire use of the improvements embraced in this Contract by the City or the public shall constitute an acceptance of work not done in accordance with the Contract or relieve the Developer of liability in respect to any express warranties of responsibility for faulty materials or workmanship. The Developer shall promptly remedy any defects in the work and pay for any damage to other work resulting therefrom which shall appear within a period of twelve (12) months from the date of final acceptance of the work. The City will give notice of defective material and work with reasonable promptness. The Developer shall deliver to the City any and all written warranties guaranteed by the manufacturers of any of the materials installed in said road at the completion of the work.

XXV. REMOVAL OF DEBRIS AND CLEANING

The Developer shall, periodically or as directed during the progress of the work, remove and legally dispose of all surplus excavated material and debris, and keep the Project Area and public rights of way reasonable clear. Upon completion of the work, it shall remove all temporary construction facilities, debris and unused materials provided for the work, and put the whole site of the work and public rights of way in a neat and clean condition. Trash burning on the site of the work will be subject to the approval of the City and existing state and local regulations.

XXVI. IMMIGRATION

By signing this Contract, the contracting parties affirm, for the duration of the Contract, that they will not violate federal immigration law or knowingly employ, hire for employment or continue to employ an unauthorized alien within the State of Alabama. Furthermore, a contracting party found to be in violation of this provision shall be deemed in breach of the Contract and shall be responsible for all damages resulting therefrom.

XXVII. COMPLIANCE WITH TITLE 41-16-5, CODE OF ALABAMA, 1975, BOYCOTT LIMITATIONS

Act 2016-312 of the Alabama Legislature prohibits a governmental entity from entering into certain public contracts with a business entity unless the contract includes a representation that the business is not currently engaged in, and an agreement that the business will not engage in, the boycott of a person or an entity based upon the person or business doing business with a jurisdiction with which the state can enjoy open trade. The prohibition does not apply if a business offers to provide goods or services for at least 20 percent less than the lowest certifying business entity or to a contract with a value less than \$15,000.00. The Developer represents and warrants that it is not currently engaged in, and will not engage in, the boycott of a person or an entity based in or doing business with a jurisdiction with which this state can enjoy open trade.”

XXVIII. MISCELLANEOUS

A. **NON WAIVER:** The failure of the City to insist, in any one or more instances, upon a strict performance of any of the covenants of this Contract, or to exercise any option herein contained, shall not be construed as a waiver, or a relinquishment for the future of such covenant or option, but the same shall continue and remain in full force and effect.

B. **WAIVER OF MODIFICATION:** Any waiver, alteration or modification of any of the provisions of this Contract or cancellation or replacement of this agreement shall not be valid unless in writing and signed by the parties hereto. This Contract may be amended at any time by written agreement of the parties signatory hereto.

C. **NOTICES:** Any and all notices required or permitted to be given under this agreement will be sufficient if furnished in writing and sent by Registered Mail to the parties' last known address.

D. **GOVERNING LAW:** This agreement shall be interpreted, construed and governed to the laws of the State of Alabama.

E. **ARTICLE AND SECTION HEADINGS:** The article and section headings and captions contained herein are included for convenience only, and shall not be considered a part hereof or affect in any manner the construction or interpretation hereof.

F. **CONSTRUCTION OF TERMS:** Any ambiguities of this Contract shall be construed fairly and equitably regardless of the participation of either party in drafting this Contract. The reference in terms to gender and number shall be modified as may be appropriate.

G. **EXECUTION IN COUNTERPARTS:** The Contract may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

H. **BINDING EFFECT:** The Contract shall inure to the benefit of, and shall be binding upon City and Developer and their heirs, successors and assigns.

I. **SEVERABILITY:** In the event any provision of this Contract shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

J. **ENTIRE AGREEMENT:** This written Contract contains the entire agreement between the City and the Developer.

IN WITNESS WHEREOF, the City and Developer have hereunto caused this Contract to be executed by their duly authorized officers and their respective seals to be affixed hereto on this the _____ day of December, 2018.

CITY:
CITY OF VESTAVIA HILLS, ALABAMA
A Municipal Corporation

By _____
Ashley C. Curry
Its Mayor

By _____
Jeffrey D. Downes
Its City Manager

ATTESTED

By _____

DEVELOPER:
KADCO, LLC
An Alabama limited liability company

By _____
Its _____

ATTESTED

By _____

**STATE OF ALABAMA
JEFFERSON COUNTY**

ACKNOWLEDGMENT

I, the undersigned authority, a Notary Public in and for said County, in said State, hereby certify that Ashley C. Curry, whose name as Mayor of the City of Vestavia Hills, Alabama, a municipal corporation, is signed to the foregoing Contract, and who is known to me, acknowledged before me on this day that, being informed of the contents of the instrument, he, as such officer and with full authority, executed the same voluntarily for and as the act of said City of Vestavia Hills, Alabama.

Given under my hand and official seal, this the _____ day of December, 2018.

Notary Public

My Commission Expires:

SEAL
STATE OF ALABAMA
JEFFERSON COUNTY

ACKNOWLEDGMENT

I, the undersigned authority, a Notary Public in and for said County, in said State, hereby certify that Jeffrey D. Downes, whose name as City Manager of the City of Vestavia Hills, Alabama, a municipal corporation, is signed to the foregoing Contract, and who is known to me, acknowledged before me on this day that, being informed of the contents of the instrument, he, as such officer and with full authority, executed the same voluntarily for and as the act of said City of Vestavia Hills, Alabama.

Given under my hand and official seal, this the _____ day of December, 2018.

Notary Public

My Commission Expires:

SEAL

STATE OF ALABAMA
JEFFERSON COUNTY

ACKNOWLEDGMENT

I, the undersigned authority, a Notary Public in and for said County, in said State, hereby certify that Charles C Kessler, Jr., whose name as Member of Kadco, LLC, an Alabama limited liability company, is signed to the foregoing Contract, and who is known to me, acknowledged before me on this day that, being informed of the contents of the instrument, he, as such officer and with full authority, executed the same voluntarily for and as the act of said Kadco, LLC, an Alabama limited liability company.

Given under my hand and official seal, this the 23rd day of ^{January, 2019}~~December~~, 2018:

Jan B Richardson
Notary Public

My Commission Expires:

3/13/2020
SEAL.

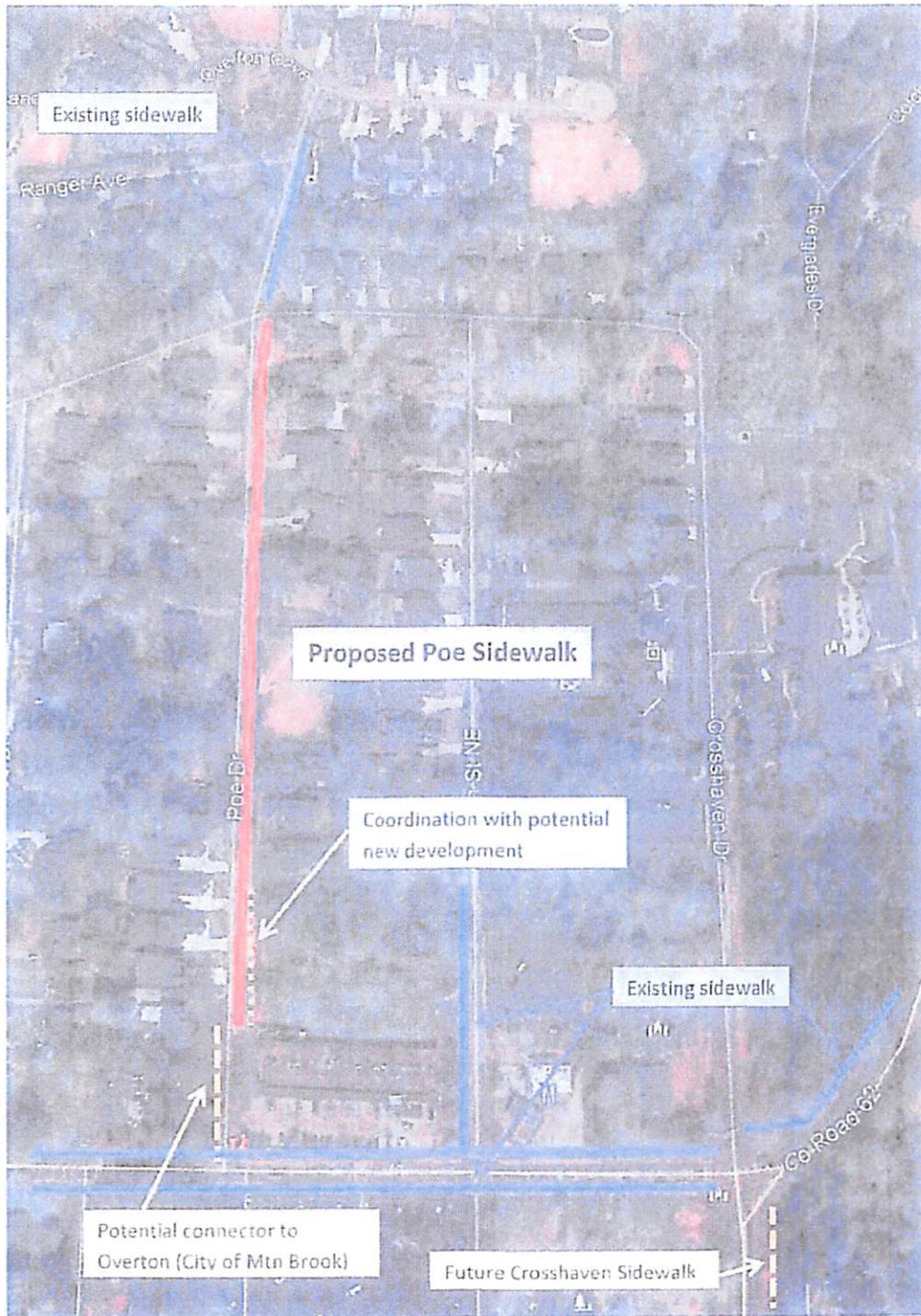
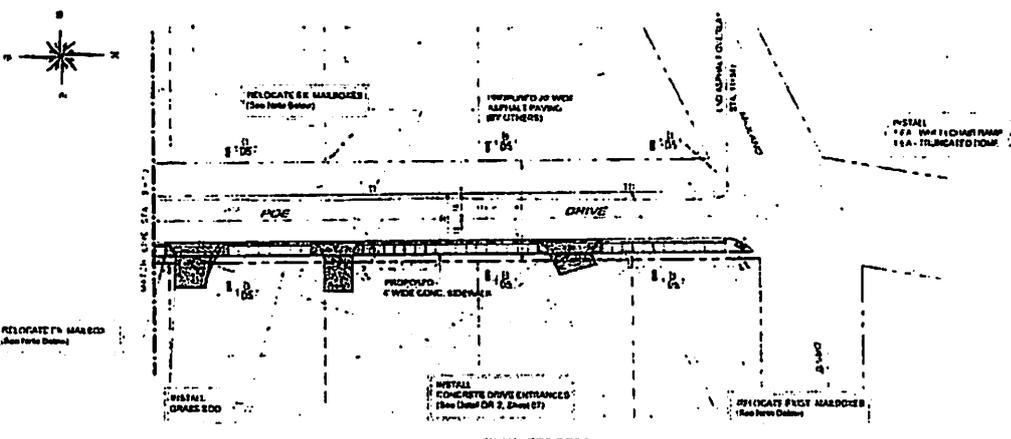


EXHIBIT 2

THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE CITY OF VESTAL, ALABAMA, AND THE ALABAMA DEPARTMENT OF TRANSPORTATION (ALDOT) PRIOR TO THE START OF CONSTRUCTION. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE CITY OF VESTAL, ALABAMA, AND THE ALABAMA DEPARTMENT OF TRANSPORTATION (ALDOT) PRIOR TO THE START OF CONSTRUCTION.

THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE CITY OF VESTAL, ALABAMA, AND THE ALABAMA DEPARTMENT OF TRANSPORTATION (ALDOT) PRIOR TO THE START OF CONSTRUCTION. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE CITY OF VESTAL, ALABAMA, AND THE ALABAMA DEPARTMENT OF TRANSPORTATION (ALDOT) PRIOR TO THE START OF CONSTRUCTION.

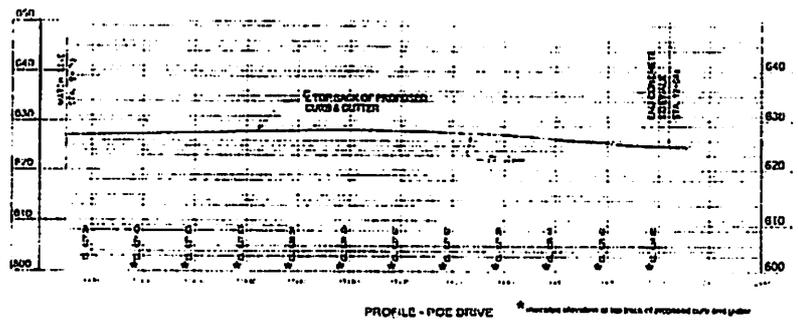


- 1. ALL CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE CITY OF VESTAL, ALABAMA, AND THE ALABAMA DEPARTMENT OF TRANSPORTATION (ALDOT) PERMITS AND APPROVALS.
- 2. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE CITY OF VESTAL, ALABAMA, AND THE ALABAMA DEPARTMENT OF TRANSPORTATION (ALDOT) PRIOR TO THE START OF CONSTRUCTION.
- 3. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE CITY OF VESTAL, ALABAMA, AND THE ALABAMA DEPARTMENT OF TRANSPORTATION (ALDOT) PRIOR TO THE START OF CONSTRUCTION.

8 05 TYPICAL ROADWAY SECTION

NOTES:
 1. Existing markers in conflict with grade of construction shall be relocated as directed by Engineer and approved by property owner. Contractor is responsible for the protection of existing markers and shall replace any damaged markers in kind.

PLAN SCALE 1" = 20'
 PROFILE SCALE 1" = 2' HORIZONTAL
 1" = 10' VERTICAL



A PROJECT FOR:
 The City Of
 Vestal, Alabama

KAISER HOMES

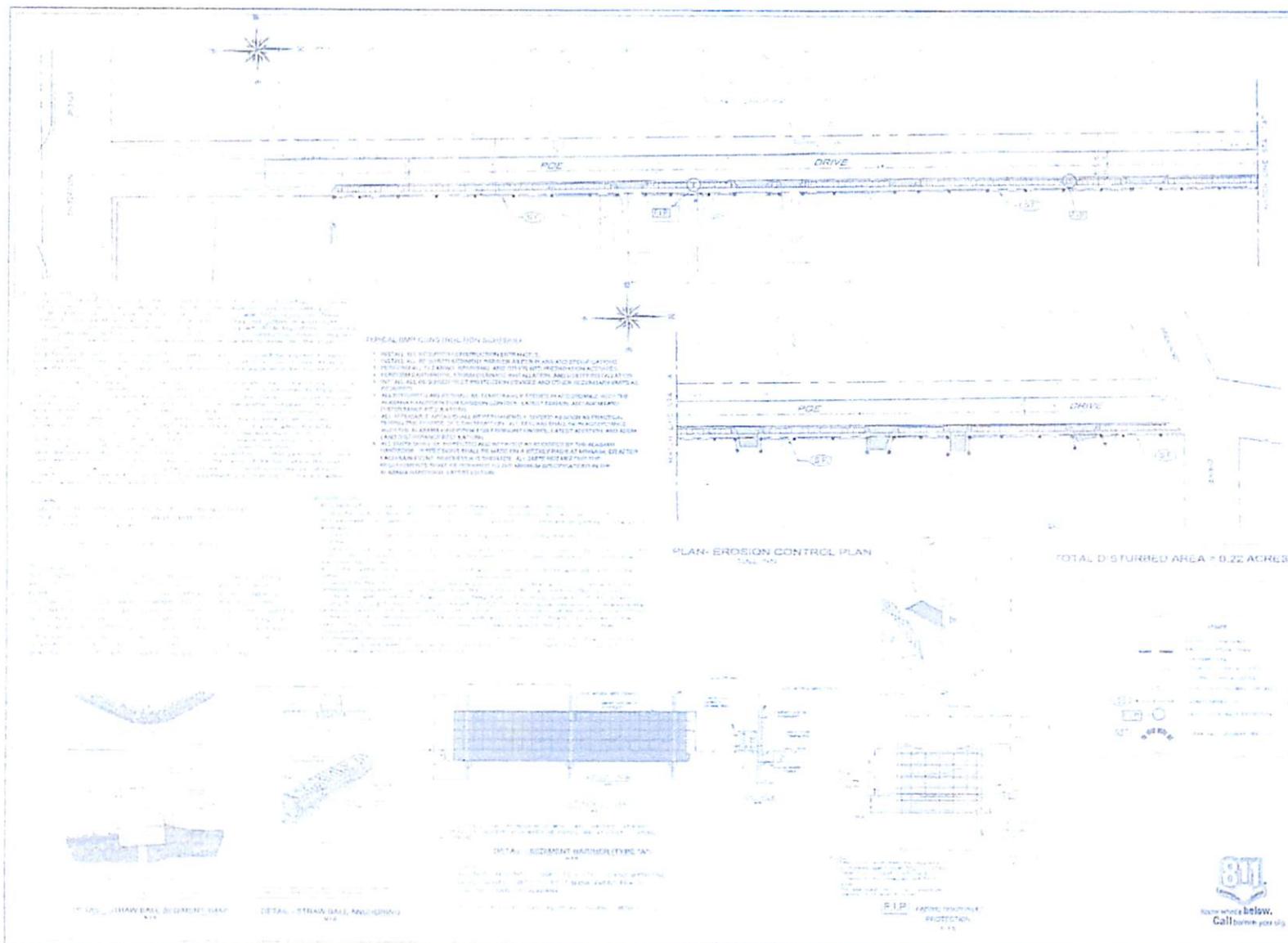
06/20/18

DETAILS

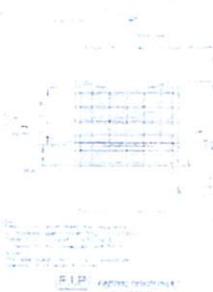
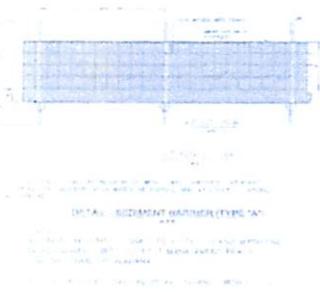
PROJECT:
 Street Improvements
 Location: POE Drive
 Client: HagerCo-LLC

Plan/Profile Sheet

SHEET NUMBER
 05



- TYPICAL BMP GUIDANCE FOR SUBMITTER**
1. INSTALL ALL REQUIRED CONSTRUCTION ENTRANCES.
 2. INSTALL ALL REQUIRED EROSION CONTROL MEASURES AND MAINTAIN THEM THROUGHOUT CONSTRUCTION AND STABILIZATION ACTIVITIES.
 3. PERFORM EROSION CONTROL AND STABILIZATION ACTIVITIES AS SOON AS POSSIBLE AFTER DISTURBANCE.
 4. MAINTAIN ALL EROSION CONTROL MEASURES AND STABILIZATION ACTIVITIES THROUGHOUT CONSTRUCTION AND STABILIZATION ACTIVITIES.
 5. ALL EROSION CONTROL MEASURES SHALL BE MAINTAINED THROUGHOUT CONSTRUCTION AND STABILIZATION ACTIVITIES.
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 10. ALL EROSION CONTROL MEASURES SHALL BE MAINTAINED THROUGHOUT CONSTRUCTION AND STABILIZATION ACTIVITIES.



A PROJECT FOR
The City Of
Vestavia, Alabama



KADCO HOMES

FOR A LIST OF ALL PROJECTS, VISIT
WWW.KADCOHOMES.COM
OR CALL 205.938.1234
© 2015 KADCO HOMES, LLC
DRAFT



062015

PROJECT	CONTRACT
DATE	NO.
BY	DATE
CHECKED	DATE
APPROVED	DATE

DETAILS

PROJECT
CONTRACT
CONTRACT NO.
DATE
NO.

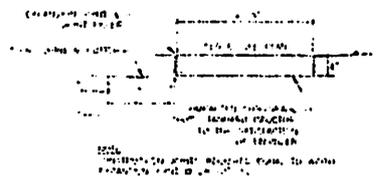
HagerCo-LLC

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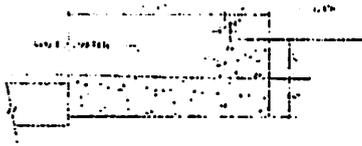
CSMP#

SHEET NUMBER
06





SECTION - TYPICAL 4' WIDE CONCRETE SIDEWALK



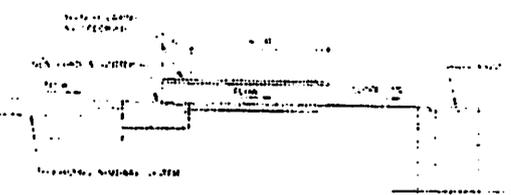
CURB AND GUTTER DETAIL



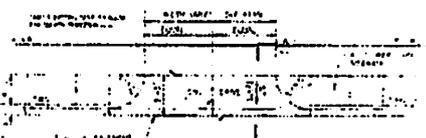
TYPE 'S' DOUBLE CURB INLET



PERSPECTIVE VIEW OF TRENCH DRAIN



TRENCH DRAIN SECTION



TYPICAL CONC. DRIVEWAY DETAIL DR-1



TYPICAL CONC. DRIVEWAY DETAIL DR-2

A PROJECT FOR:
The City Of
Vestavia, Alabama

KADCO HOMES

06/20/16

DETAILS

Project Details

SHEET NUMBER
07

KADCO Homes

**** Updated - June 2018**

Poe Drive Sidewalk and Roadway

Curb and Gutter	788 LF	\$	21.00	\$	16,548.00
4" Thick Sidewalk (4'-0" Wide)	360.0 SY	\$	85.00	\$	30,600.00
6" Thick Conc. For Driveways with Ramps	195.1 SY	\$	105.00	\$	20,485.50
Removal and Saw Cut Asphalt/Drives	95.1 SY	\$	50.00	\$	4,755.00
Asphalt Patch Stone and Binder	325.0 SY	\$	40.00	\$	13,000.00
ADA Ramps at Overton	2.0 Ea	\$	2,400.00	\$	<u>4,800.00</u>

Storm Drainage

New Double Wing Inlet	1 Ea	\$	3,500.00	\$	3,500.00
New Trench Drain in Sidewalk	1 Ea	\$	2,500.00	\$	2,500.00
Landscape / Sod	1 LS	\$	7,500.00	\$	<u>7,500.00</u>
Tree Removal	5 Ea	\$	850.00	\$	4,250.00
Remove and Replace Mailboxes	15 Ea	\$	200.00	\$	3,000.00
Erosion Control				\$	10,000.00
Traffic Control				\$	5,000.00
Construction Stakeout				\$	4,500.00

Engineers Estimate for Total Project Cost	\$ 130,438.50
--	----------------------

*** Estimate is based on concept design and published maps. Costs are taken from completed projects with similar scope of work. All costs are intended for planning and budget.*

A full engineering design will be required for a construction estimate and Plans.

AIA[®] Document A312™ – 2010

Performance Bond

CONTRACTOR:
(Name, legal status and address)

SURETY:
(Name, legal status and principal place of business)

OWNER:
(Name, legal status and address)

CONSTRUCTION CONTRACT
Date:
Amount: \$
Description:
(Name and location)

BOND
Date:
(Not earlier than Construction Contract Date)

Amount: \$
Modifications to this Bond: None See Section 16

CONTRACTOR AS PRINCIPAL **SURETY**
Company: *(Corporate Seal)* Company: *(Corporate Seal)*

Signature: _____ Signature: _____
Name and Name and
Title: Title:
(Any additional signatures appear on the last page of this Performance Bond.)

(FOR INFORMATION ONLY — Name, address and telephone)
AGENT or BROKER: **OWNER'S REPRESENTATIVE:**
(Architect, Engineer or other party.)

ADDITIONS AND DELETIONS:
The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

Any singular reference to Contractor, Surety, Owner or other party shall be considered plural where applicable.

EXHIBIT 5

§ 1 The Contractor and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors and assigns to the Owner for the performance of the Construction Contract, which is incorporated herein by reference.

§ 2 If the Contractor performs the Construction Contract, the Surety and the Contractor shall have no obligation under this Bond, except when applicable to participate in a conference as provided in Section 3.

§ 3 If there is no Owner Default under the Construction Contract, the Surety's obligation under this Bond shall arise after:

- .1 the Owner first provides notice to the Contractor and the Surety that the Owner is considering declaring a Contractor Default. Such notice shall indicate whether the Owner is requesting a conference among the Owner, Contractor and Surety to discuss the Contractor's performance. If the Owner does not request a conference, the Surety may, within five (5) business days after receipt of the Owner's notice, request such a conference. If the Surety timely requests a conference, the Owner shall attend. Unless the Owner agrees otherwise, any conference requested under this Section 3.1 shall be held within ten (10) business days of the Surety's receipt of the Owner's notice. If the Owner, the Contractor and the Surety agree, the Contractor shall be allowed a reasonable time to perform the Construction Contract, but such an agreement shall not waive the Owner's right, if any, subsequently to declare a Contractor Default;
- .2 the Owner declares a Contractor Default, terminates the Construction Contract and notifies the Surety; and
- .3 the Owner has agreed to pay the Balance of the Contract Price in accordance with the terms of the Construction Contract to the Surety or to a contractor selected to perform the Construction Contract.

§ 4 Failure on the part of the Owner to comply with the notice requirement in Section 3.1 shall not constitute a failure to comply with a condition precedent to the Surety's obligations, or release the Surety from its obligations, except to the extent the Surety demonstrates actual prejudice.

§ 5 When the Owner has satisfied the conditions of Section 3, the Surety shall promptly and at the Surety's expense take one of the following actions:

§ 5.1 Arrange for the Contractor, with the consent of the Owner, to perform and complete the Construction Contract.

§ 5.2 Undertake to perform and complete the Construction Contract itself, through its agents or independent contractors,

§ 5.3 Obtain bids or negotiated proposals from qualified contractors acceptable to the Owner for a contract for performance and completion of the Construction Contract, arrange for a contract to be prepared for execution by the Owner and a contractor selected with the Owner's concurrence, to be secured with performance and payment bonds executed by a qualified surety equivalent to the bonds issued on the Construction Contract, and pay to the Owner the amount of damages as described in Section 7 in excess of the Balance of the Contract Price incurred by the Owner as a result of the Contractor Default, or

§ 5.4 Waive its right to perform and complete, arrange for completion, or obtain a new contractor and with reasonable promptness under the circumstances:

- .1 After investigation, determine the amount for which it may be liable to the Owner and, as soon as practicable after the amount is determined, make payment to the Owner; or
- .2 Deny liability in whole or in part and notify the Owner, citing the reasons for denial.

§ 6 If the Surety does not proceed as provided in Section 5 with reasonable promptness, the Surety shall be deemed to be in default on this Bond seven days after receipt of an addition of written notice from the Owner to the Surety demanding that the Surety perform its obligations under this Bond, and the Owner shall be entitled to enforce any remedy available to the Owner. If the Surety proceeds as provided in Section 5.4, and the Owner refuses the payment or the Surety has denied liability, in whole or in part, without further notice the Owner shall be entitled to enforce any remedy available to the Owner.

§ 7 If the Surety elects to act under Section 5.1, 5.2 or 5.3, then the responsibilities of the Surety to the Owner shall not be greater than those of the Contractor under the Construction Contract, and the responsibilities of the Owner to the Surety shall not be greater than those of the Owner under the Construction Contract. Subject to the commitment by the Owner to pay the Balance of the Contract Price, the Surety is obligated, without duplication, for

- .1 the responsibilities of the Contractor for correction of defective work and completion of the Construction Contract;
- .2 additional legal, design professional and delay costs resulting from the Contractor's Default, and resulting from the actions or failure to act of the Surety under Section 5; and
- .3 liquidated damages, or if no liquidated damages are specified in the Construction Contract, actual damages caused by delayed performance or non-performance of the Contractor.

§ 8 If the Surety elects to act under Section 5.1, 5.3 or 5.4, the Surety's liability is limited to the amount of this Bond.

§ 9 The Surety shall not be liable to the Owner or others for obligations of the Contractor that are unrelated to the Construction Contract, and the Balance of the Contract Price shall not be reduced or set off on account of any such unrelated obligations. No right of action shall accrue on this Bond to any person or entity other than the Owner or its heirs, executors, administrators, successors and assigns.

§ 10 The Surety hereby waives notice of any change, including changes of time, to the Construction Contract or to related subcontracts, purchase orders and other obligations.

§ 11 Any proceeding, legal or equitable, under this Bond may be instituted in any court of competent jurisdiction in the location in which the work or part of the work is located and shall be instituted within two years after a declaration of Contractor Default or within two years after the Contractor ceased working or within two years after the Surety refuses or fails to perform its obligations under this Bond, whichever occurs first. If the provisions of this Paragraph are void or prohibited by law, the minimum period of limitation available to sureties as a defense in the jurisdiction of the suit shall be applicable.

§ 12 Notice to the Surety, the Owner or the Contractor shall be mailed or delivered to the address shown on the page on which their signature appears.

§ 13 When this Bond has been furnished to comply with a statutory or other legal requirement in the location where the construction was to be performed, any provision in this Bond conflicting with said statutory or legal requirement shall be deemed deleted herefrom and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein. When so furnished, the intent is that this Bond shall be construed as a statutory bond and not as a common law bond.

§ 14 Definitions

§ 14.1 Balance of the Contract Price. The total amount payable by the Owner to the Contractor under the Construction Contract after all proper adjustments have been made, including allowance to the Contractor of any amounts received or to be received by the Owner in settlement of insurance or other claims for damages to which the Contractor is entitled, reduced by all valid and proper payments made to or on behalf of the Contractor under the Construction Contract.

§ 14.2 Construction Contract. The agreement between the Owner and Contractor identified on the cover page, including all Contract Documents and changes made to the agreement and the Contract Documents.

§ 14.3 Contractor Default. Failure of the Contractor, which has not been remedied or waived, to perform or otherwise to comply with a material term of the Construction Contract.

§ 14.4 Owner Default. Failure of the Owner, which has not been remedied or waived, to pay the Contractor as required under the Construction Contract or to perform and complete or comply with the other material terms of the Construction Contract.

§ 14.5 Contract Documents. All the documents that comprise the agreement between the Owner and Contractor.

init.

§ 15 If this Bond is issued for an agreement between a Contractor and subcontractor, the term Contractor in this Bond shall be deemed to be Subcontractor and the term Owner shall be deemed to be Contractor.

§ 16 Modifications to this bond are as follows:

(Space is provided below for additional signatures of added parties, other than those appearing on the cover page.)

CONTRACTOR AS PRINCIPAL

SURETY

Company:

(Corporate Seal)

Company:

(Corporate Seal)

Signature: _____

Signature: _____

Name and Title: _____

Name and Title: _____

Address: _____

Address: _____

Init.

 **AIA** Document A312™ – 2010

Payment Bond

CONTRACTOR:
(Name, legal status and address)

SURETY:
(Name, legal status and principal place of business)

OWNER:
(Name, legal status and address)

CONSTRUCTION CONTRACT
Date:
Amount: \$
Description:
(Name and location)

BOND
Date:
(Not earlier than Construction Contract Date)

Amount: \$
Modifications to this Bond: None See Section 18

CONTRACTOR AS PRINCIPAL **SURETY**
Company: *(Corporate Seal)* Company: *(Corporate Seal)*

Signature: _____ Signature: _____
Name and Title: Name and Title:
(Any additional signatures appear on the last page of this Payment Bond.)

(FOR INFORMATION ONLY — Name, address and telephone)
AGENT or BROKER: **OWNER'S REPRESENTATIVE:**
(Architect, Engineer or other party:)

ADDITIONS AND DELETIONS:
The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

Any singular reference to Contractor, Surety, Owner or other party shall be considered plural where applicable.

EXHIBIT 6

§ 1 The Contractor and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors and assigns to the Owner to pay for labor, materials and equipment furnished for use in the performance of the Construction Contract, which is incorporated herein by reference, subject to the following terms:

§ 2 If the Contractor promptly makes payment of all sums due to Claimants, and defends, indemnifies and holds harmless the Owner from claims, demands, liens or suits by any person or entity seeking payment for labor, materials or equipment furnished for use in the performance of the Construction Contract, then the Surety and the Contractor shall have no obligation under this Bond.

§ 3 If there is no Owner Default under the Construction Contract, the Surety's obligation to the Owner under this Bond shall arise after the Owner has promptly notified the Contractor and the Surety (at the address described in Section 13) of claims, demands, liens or suits against the Owner or the Owner's property by any person or entity seeking payment for labor, materials or equipment furnished for use in the performance of the Construction Contract and tendered defense of such claims, demands, liens or suits to the Contractor and the Surety.

§ 4 When the Owner has satisfied the conditions in Section 3, the Surety shall promptly and at the Surety's expense defend, indemnify and hold harmless the Owner against a duly tendered claim, demand, lien or suit.

§ 5 The Surety's obligations to a Claimant under this Bond shall arise after the following:

§ 5.1 Claimants, who do not have a direct contract with the Contractor,

- .1 have furnished a written notice of non-payment to the Contractor, stating with substantial accuracy the amount claimed and the name of the party to whom the materials were, or equipment was, furnished or supplied or for whom the labor was done or performed, within ninety (90) days after having last performed labor or last furnished materials or equipment included in the Claim; and
- .2 have sent a Claim to the Surety (at the address described in Section 13).

§ 5.2 Claimants, who are employed by or have a direct contract with the Contractor, have sent a Claim to the Surety (at the address described in Section 13)

§ 6 If a notice of non-payment required by Section 5.1.1 is given by the Owner to the Contractor, that is sufficient to satisfy a Claimant's obligation to furnish a written notice of non-payment under Section 5.1.1

§ 7 When a Claimant has satisfied the conditions of Sections 5.1 or 5.2, whichever is applicable, the Surety shall promptly and at the Surety's expense take the following actions:

§ 7.1 Send an answer to the Claimant, with a copy to the Owner, within sixty (60) days after receipt of the Claim, stating the amounts that are undisputed and the basis for challenging any amounts that are disputed; and

§ 7.2 Pay or arrange for payment of any undisputed amounts.

§ 7.3 The Surety's failure to discharge its obligations under Section 7.1 or Section 7.2 shall not be deemed to constitute a waiver of defenses the Surety or Contractor may have or acquire as to a Claim, except as to undisputed amounts for which the Surety and Claimant have reached agreement. If, however, the Surety fails to discharge its obligations under Section 7.1 or Section 7.2, the Surety shall indemnify the Claimant for the reasonable attorney's fees the Claimant incurs thereafter to recover any sums found to be due and owing to the Claimant.

§ 8 The Surety's total obligation shall not exceed the amount of this Bond, plus the amount of reasonable attorney's fees provided under Section 7.3, and the amount of this Bond shall be credited for any payments made in good faith by the Surety.

§ 9 Amounts owed by the Owner to the Contractor under the Construction Contract shall be used for the performance of the Construction Contract and to satisfy claims, if any, under any construction performance bond. By the Contractor furnishing and the Owner accepting this Bond, they agree that all funds earned by the Contractor in the performance of the Construction Contract are dedicated to satisfy obligations of the Contractor and Surety under this Bond, subject to the Owner's priority to use the funds for the completion of the work.

§ 10 The Surety shall not be liable to the Owner, Claimants or others for obligations of the Contractor that are unrelated to the Construction Contract. The Owner shall not be liable for the payment of any costs or expenses of any Claimant under this Bond, and shall have under this Bond no obligation to make payments to, or give notice on behalf of, Claimants or otherwise have any obligations to Claimants under this Bond.

§ 11 The Surety hereby waives notice of any change, including changes of time, to the Construction Contract or to related subcontracts, purchase orders and other obligations.

§ 12 No suit or action shall be commenced by a Claimant under this Bond other than in a court of competent jurisdiction in the state in which the project that is the subject of the Construction Contract is located or after the expiration of one year from the date (1) on which the Claimant sent a Claim to the Surety pursuant to Section 5.1.2 or 5.2, or (2) on which the last labor or service was performed by anyone or the last materials or equipment were furnished by anyone under the Construction Contract, whichever of (1) or (2) first occurs. If the provisions of this Paragraph are void or prohibited by law, the minimum period of limitation available to sureties as a defense in the jurisdiction of the suit shall be applicable.

§ 13 Notice and Claims to the Surety, the Owner or the Contractor shall be mailed or delivered to the address shown on the page on which their signature appears. Actual receipt of notice or Claims, however accomplished, shall be sufficient compliance as of the date received.

§ 14 When this Bond has been furnished to comply with a statutory or other legal requirement in the location where the construction was to be performed, any provision in this Bond conflicting with said statutory or legal requirement shall be deemed deleted herefrom and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein. When so furnished, the intent is that this Bond shall be construed as a statutory bond and not as a common law bond.

§ 15 Upon request by any person or entity appearing to be a potential beneficiary of this Bond, the Contractor and Owner shall promptly furnish a copy of this Bond or shall permit a copy to be made.

§ 16 Definitions

§ 16.1 Claim. A written statement by the Claimant including at a minimum:

- .1 the name of the Claimant;
- .2 the name of the person for whom the labor was done, or materials or equipment furnished;
- .3 a copy of the agreement or purchase order pursuant to which labor, materials or equipment was furnished for use in the performance of the Construction Contract;
- .4 a brief description of the labor, materials or equipment furnished;
- .5 the date on which the Claimant last performed labor or last furnished materials or equipment for use in the performance of the Construction Contract;
- .6 the total amount earned by the Claimant for labor, materials or equipment furnished as of the date of the Claim;
- .7 the total amount of previous payments received by the Claimant, and
- .8 the total amount due and unpaid to the Claimant for labor, materials or equipment furnished as of the date of the Claim.

§ 16.2 Claimant. An individual or entity having a direct contract with the Contractor or with a subcontractor of the Contractor to furnish labor, materials or equipment for use in the performance of the Construction Contract. The term Claimant also includes any individual or entity that has rightfully asserted a claim under an applicable mechanic's lien or similar statute against the real property upon which the Project is located. The intent of this Bond shall be to include without limitation in the terms "labor, materials or equipment" that part of water, gas, power, light, heat, oil, gasoline, telephone service or rental equipment used in the Construction Contract, architectural and engineering services required for performance of the work of the Contractor and the Contractor's subcontractors, and all other items for which a mechanic's lien may be asserted in the jurisdiction where the labor, materials or equipment were furnished.

§ 16.3 Construction Contract. The agreement between the Owner and Contractor identified on the cover page, including all Contract Documents and all changes made to the agreement and the Contract Documents.

init.

§ 16.4 Owner Default. Failure of the Owner, which has not been remedied or waived, to pay the Contractor as required under the Construction Contract or to perform and complete or comply with the other material terms of the Construction Contract.

§ 16.5 Contract Documents. All the documents that comprise the agreement between the Owner and Contractor

§ 17 If this Bond is issued for an agreement between a Contractor and subcontractor, the term Contractor in this Bond shall be deemed to be Subcontractor and the term Owner shall be deemed to be Contractor.

§ 18 Modifications to this bond are as follows:

(Space is provided below for additional signatures of added parties, other than those appearing on the cover page.)

CONTRACTOR AS PRINCIPAL

SURETY

Company:

(Corporate Seal)

Company:

(Corporate Seal)

Signature: _____

Signature: _____

Name and Title:

Name and Title:

Address:

Address:

MAYORAL APPOINTMENT 2019-090

Mayoral Welch announced his appointment of Luther Barner (“Barney) Lanier to serve on the Planning Commission to fill the unexpired term of Richard Murray IV (No. 2018-054) to serve without compensation through May 31, 2023.

Stewart H. Welch, Mayor

CERTIFICATION

I, Steven Boone, City Clerk of the City of Mountain Brook, Alabama hereby certify the above to be a true and correct synopsis of an announcement by the Mayor of the City of Mountain Brook during the regular meeting of the City Council conducted on June 24, 2019, as same appears in the minutes of record of said meeting.

City Clerk

Luther Barner (Barney) Lanier

June 6, 2019

Barney Lanier is President of John H. Lanier Co., Inc. which is construction subcontractor and manufacturers representative providing construction products for various commercial and light industrial projects. I began with the company in 1976 as a salesperson and estimator and became the owner in 1989. The company experience deals in aluminum and steel windows for commercial glass and glazing, metal panels, translucent assemblies, architectural grilles, architectural fiberglass and precast concrete.

I was born in Mountain Brook and attended Crestline Elementary, Mt. Brook Jr. High and graduated from Mt. Brook High School in 1971. I graduated from Auburn University in 1975 with the degree of Bachelor of Science in Building Construction.

I am a member of and have served various organizations including Independent Presbyterian Church, the Alabama Golf Association (President in 1997-1998), Monday Morning Quarterback Club, the Country Club of Birmingham (President 2003), Willow Point Country Club (President 2012) and the Auburn University Alumni Association.

I am married to the former Barbara Barton who is also a lifetime Mountain Brook resident. We have two children; Dorothy Lanier Russell and Luther Barner Lanier, Jr. Barbara and I reside in Crestline at 10 Pine Ridge Lane.

**PROCEEDINGS PERTAINING TO
AN INCREASE IN AN AD VALOREM
TAX LEVIED IN THE CITY**

The following ordinance was introduced in writing by Council President Smith:

ORDINANCE NO. 2049

**AN ORDINANCE CALLING AN
ELECTION IN THE CITY OF
MOUNTAIN BROOK ON SEPTEMBER 24, 2019**

BE IT ORDAINED by the City Council (herein called "the Council") of the City of Mountain Brook (herein called "the City"), in the State of Alabama, as follows:

Section 1. Findings of Fact. The Council, upon evidence duly submitted to and considered by it, does hereby find and declare that the following facts are true and correct:

(a) A special election was duly called and held in the City on May 20, 1947, pursuant to Amendment No. 56 to the Constitution of Alabama of 1901, at which election a majority of the qualified electors of the City voting thereat did vote in favor of the levy and collection of a special additional annual ad valorem tax (herein called "the Amendment No. 56 Tax") for the purpose of providing additional funds for public school purposes. The said tax was originally authorized to be levied at the rate of 5 mills and, pursuant to proceedings taken under Amendment No. 325 and Amendment No. 373 to the Constitution of Alabama of 1901, is now being levied at the rate of 10.6 mills.

(b) The Council, by resolution adopted February 11, 2019, following a public hearing, proposed to increase the rate at which the Amendment No. 56 Tax is levied from 10.6 mills on each dollar to 20.6 mills on each dollar of the assessed value of taxable property in the City.

(c) The Legislature of Alabama, through the enactment of Act No. 2019-203, has approved the said increase.

(d) The levy of the Amendment No. 56 Tax at the rate of 20.6 mills on each dollar of assessed value of taxable property, if approved by the electorate, shall be in continuation of the levy of the Amendment No. 56 Tax.

Section 2. Call of Election. A special municipal election is hereby called to be held in the City on Tuesday, the 24th day of September, 2019, between the hours of 7:00 a.m. and 7:00 p.m. for the purpose of submitting the following question or proposition to the qualified electors of the City and determining by ballot their will with respect thereto:

Whether the City shall be authorized to levy and collect, in addition to all other taxes now or hereafter authorized, the special annual ad valorem tax at the per annum rate of 20.6 mills on each dollar of the assessed valuation of the

taxable property in the City referred to in the notice of election set out in Section 3 of this ordinance.

Section 3. Notice of Election. The Mayor is hereby directed to give notice of the said election in the manner provided by law in substantially the following form by posting in the Mountain Brook City Hall, 56 Church Street; Cahaba River Walk, 3053 Overton Road; Overton Park, 3020 Overton Road; and Gilchrist, 2805 Cahaba Road; the said posting to be made not later than the fourth Tuesday in September, 2019:

NOTICE OF SPECIAL MUNICIPAL ELECTION

Notice is hereby given that a special municipal election will be held in the City of Mountain Brook in the State of Alabama on Tuesday, the 24th day of September, 2019, between the hours of 7:00 a.m. and 7:00 p.m., Central Time, at which there will be submitted to the qualified electors of the said City, for their determination by ballot, the following proposition:

Shall the City of Mountain Brook be authorized to levy and collect at the rate of 2.06% (or 20.6 mills on each dollar) of the assessed value of taxable property in the City (being an increase of 10 mills), the special ad valorem tax authorized at an election held on May 20, 1947, and now being levied at the rate of 10.6 mills; said tax is to be levied and the proceeds thereof to be used for public school purposes in the City; said increase to be effective for each tax year of the City commencing with the tax year for which taxes of the City will become due and payable on October 1, 2020, and continuing for each successive tax year thereafter?

The said election shall be at the following regularly established voting places in the City at which shall be cast the ballots of the electors customarily voting at the said respective places:

Polling District No.	Polling Location
1	St. Luke's Episcopal Church (Precinct 46, Box 8) 3736 Montrose Road Mountain Brook, Alabama 35213
2	Mountain Brook City Hall (Precinct 46, Box 9) 56 Church Street Mountain Brook, Alabama 35213
3	Brookwood Baptist Church (Precinct 48, Box 6) 3449 Overton Road Mountain Brook, Alabama 35223

Polling
District
No.

Polling Location

4

Mountain Brook Community Church (Precinct 48, Box 4)
3001 U.S. Highway 280
Mountain Brook, Alabama 35243

[smart phone mapping location]
4428 Cahaba River Road
Birmingham, Alabama 35243

5

Canterbury United Methodist Church (Precinct 46, Box 7)
350 Overbrook Road
Mountain Brook, Alabama 35213

6

Cherokee Bend Elementary School (Precinct 45, Box 2)
4400 Fair Oaks Drive
Mountain Brook, Alabama 35223

Absentee Ballot Box

Mountain Brook City Hall
56 Church Street
Mountain Brook, Alabama 35223

By order of the City Council.

Mayor of the City of Mountain Brook

(End of form of notice)

Section 4. Form of Ballot. The following is hereby adopted as the form of the official ballot to be used at the said election on the proposition referred to in the Notice of Election set out in Section 3 of this ordinance, which ballot shall be prepared under the direction of the City Clerk for use in the voting machines at the respective voting places:

OFFICIAL BALLOT

**SPECIAL MUNICIPAL TAX ELECTION
10 MILL INCREASE IN EXISTING 10.6 MILL SCHOOL TAX
CITY OF MOUNTAIN BROOK, ALABAMA**

SEPTEMBER 24, 2019

INSTRUCTIONS TO VOTERS: [The appropriate instructions to voters shall be printed here.]

PROPOSITION

Shall the City of Mountain Brook be authorized to levy and collect, at the rate of 2.06% (or 20.6 mills on each dollar) of the assessed value of taxable property in the City (being an increase of 10 mills), the special ad valorem tax authorized at an election held on May 20, 1947, and now being levied at the rate of 10.6 mills; said tax to be levied and the proceeds thereof used for public school purposes in the City; said increase to be effective for each tax year of the City commencing with the tax year for which taxes of the City will become due and payable on October 1, 2020, and continuing for each successive tax year thereafter?

() FOR said proposed 10 mill increase in existing 10.6 mill tax,
resulting in said 2.06% (or 20.6 mills) additional rate of taxation

() AGAINST said proposed 10 mill increase in existing 10.6 mill tax,
resulting in said 2.06% (or 20.6 mills) additional rate of taxation

The form of the official absentee ballot to be used at the said election shall be the same as the foregoing form of the official ballot with the following exceptions:

In lieu of the words "Official Ballot" appearing at the head of the form thereof, there shall be inserted in the official absentee ballot the words "Official Absentee Ballot"; and there shall be included with the official absentee ballot the forms of affidavit for absent voters substantially equivalent to the forms of affidavit prescribed therefor by law.

Section 5. Polling Places and Election Officials. The polling or voting places in the City for the holding of the said election are hereby designated and appointed as follows:

<u>Polling District No.</u>	<u>Polling Location</u>
1	St. Luke's Episcopal Church (Precinct 46, Box 8) 3736 Montrose Road Mountain Brook, Alabama 35213
2	Mountain Brook City Hall (Precinct 46, Box 9) 56 Church Street Mountain Brook, Alabama 35213
3	Brookwood Baptist Church (Precinct 48, Box 6) 3449 Overton Road Mountain Brook, Alabama 35223
4	Mountain Brook Community Church (Precinct 48, Box 4) 3001 U.S. Highway 280 Mountain Brook, Alabama 35243 [smart phone mapping location] 4428 Cahaba River Road Birmingham, Alabama 35243
5	Canterbury United Methodist Church (Precinct 46, Box 7) 350 Overbrook Road Mountain Brook, Alabama 35213
6	Cherokee Bend Elementary School (Precinct 45, Box 2) 4400 Fair Oaks Drive Mountain Brook, Alabama 35223
Absentee Ballot Box	Mountain Brook City Hall 56 Church Street Mountain Brook, Alabama 35223

The Council will by resolution hereinafter to be adopted appoint and designate the election officials to conduct the said election at the said voting places.

Section 6. Canvass of Returns and Declaration of Results. The Council shall meet in the Council Chambers in the City Hall at 12:00 p.m., on October 1, 2019, being the first Tuesday after the holding of the election, for the purpose of canvassing the results and declaring the results of said election. The record of the results of the election shall be recorded in the minutes and proceedings of the Council and when so recorded said records shall be conclusive evidence of the matters therein stated and of the validity of the election, unless contested as required by law.

Section 7. Conduct of Election. Except as otherwise specifically provided herein, said special municipal election shall be conducted, canvassed, and the results thereof declared in the same manner as provided in Chapter 46 of Title 11 of the Code of Alabama 1975, as amended.

ADOPTED this the 24th day of June, 2019.

PRESIDENT OF THE CITY COUNCIL OF
THE CITY OF MOUNTAIN BROOK,
ALABAMA

APPROVED this the 24th day of June, 2019.

MAYOR OF THE CITY OF
MOUNTAIN BROOK, ALABAMA

CERTIFICATION

I, Steven Boone, City Clerk of the City of Mountain Brook,, Alabama, hereby certify the above to be a true and correct copy of an ordinance adopted by the City Council of the City of Mountain Brook, Alabama at its meeting held on June 24, 2019, as same appears in the minutes of record of said meeting, and published by posting copies thereof on June 24, 2019, at the following public places, which copies remained posted for five (5) days as required by law.

City Clerk

Councilmember _____ moved that the rules be suspended and unanimous consent be given for immediate consideration of and action on the said ordinance, which motion was seconded by Councilmember _____ and, upon the same being put to vote, the following vote was recorded:

<u>YEAS</u>	<u>NAYS</u>
Virginia C. Smith, President	None
William S. Pritchard III, President Pro Tempore	
Phillip E. Black	
Lloyd C. Shelton	
Alice B. Womack	

The chairman thereupon declared that the motion for unanimous consent for immediate consideration of and action on the said ordinance had been unanimously carried. Councilmember _____ thereupon moved that the foregoing ordinance be adopted, which motion was seconded by Councilmember _____ and, upon the same being put to vote, the following vote was recorded:

<u>YEAS</u>	<u>NAYS</u>
Virginia C. Smith, President	None
William S. Pritchard III, President Pro Tempore	
Lloyd C. Shelton	
Alice B. Womack	

ABSTAINED
Phillip E. Black

The chairman thereupon announced that the motion for the adoption of the said ordinance was adopted by a vote of 4—0.

* * *