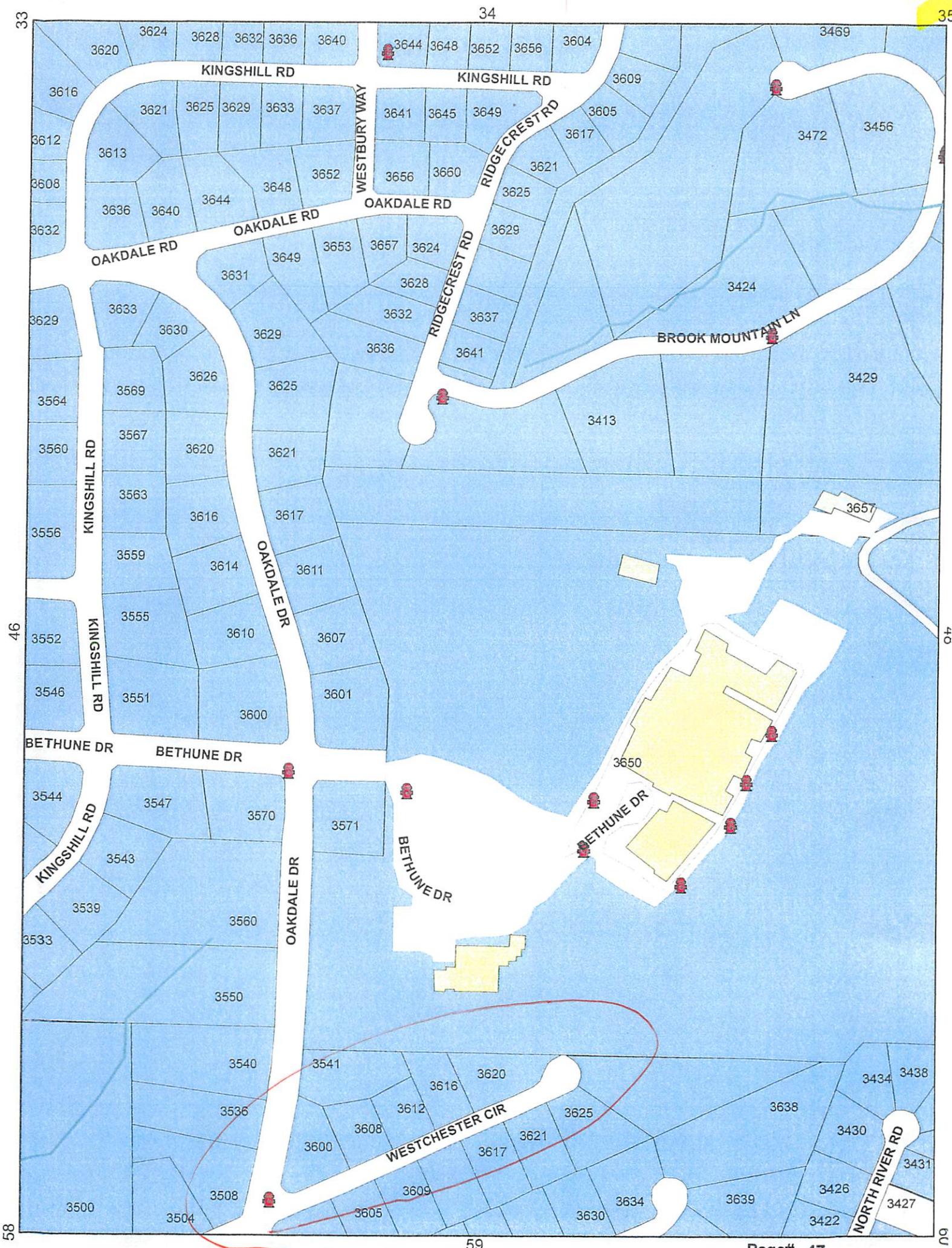


**PRE-MEETING AGENDA
MOUNTAIN BROOK CITY COUNCIL**

**CITY HALL PRE-COUNCIL ROOM (A106)
56 CHURCH STREET
MOUNTAIN BROOK, AL 35213**

MAY 28, 2019 6:15 P.M.

1. Westchester Road parking situation-Chief Cook (See attached map.)
2. Request by Red Mountain Search Dog Association to utilize some of our Public Works/Fire Tower area for training-Kenny Powell (See attached information.)
3. Poe Drive sidewalk update-Sam Gaston (See attached information.)
4. Executive Session



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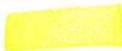
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Sam Gaston

From: Steve Stine
Sent: Thursday, May 23, 2019 9:55 AM
To: Sam Gaston
Cc: Ted Cook; Christopher Mullins; Ronnie Vaughn
Subject: RE: Red Mountain Search Dog insurance

Sam and Ronnie, per this Insurance Policy, the K-9 Association only has General Liability coverage, and they have not named the City as an additional insured on their coverage.

Another risk to the City here is their people get hurt while on City property. The Association does not have any coverage (i.e., akin to Workers Compensation) for risk of injury to the training participants who go onto the City's site or occupy buildings there. If you are going to allow this, each individual associated with this organization who goes onto site would need to sign a Personal Waiver & Release before entering City property.

This is certainly a good cause, but to allow this the City needs multiple agreements here to protect its interests: (i) a License Agreement with the Association and (ii) each individual participating in the K-9 training should sign a Personal Release – plus them adding the City as an Additional insured.

Sam, do you want to speak with your contact at the K-9 Association to see that, if they still want to move forward with their training, they are willing to abide by all these conditions?

Steve

From: Sam Gaston [mailto:gastons@mtnbrook.org]
Sent: Wednesday, May 22, 2019 4:39 PM
To: Steve Stine
Cc: Ted Cook; Christopher Mullins; Ronnie Vaughn
Subject: FW: Red Mountain Search Dog insurance

Steve ,
Here is their insurance certificate.

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

From: Janet Forbes [mailto:forbesj@mtnbrook.org]
Sent: Wednesday, May 22, 2019 4:34 PM
To: Sam Gaston
Subject: Red Mountain Search Dog insurance

Sam Gaston

From: Sam Gaston
Sent: Friday, May 10, 2019 3:22 PM
To: 'Kenny powell'
Subject: RE: Training

Kenny,

I have sent this information to our city attorneys for their review. Our City Council meets Monday night and then Tuesday, May 28th due to Memorial Day on the 27th. I will ask them to review, see about an agreement being drafted for the city council to consider on May 28th. I know they will probably want your organization to issue a certificate of insurance covering the City of MB for this use.

Sam S.Gaston

City Manager

City of Mountain Brook, AL.

56 Church Street

P.O. Box 130009

Mountain Brook AL. 35213

(205) 802-3803 Phone

(205) 870-3577 Fax

-----Original Message-----

From: Kenny powell [mailto:kennyrp59@gmail.com]
Sent: Friday, May 10, 2019 11:35 AM
To: Sam Gaston
Subject: Re: Training

Sam,

Specifically I would like use the fire tower, the rubble pile and culverts mainly for the air scent dogs. I would just use the land for the tracking/ trailing dogs. The burned out cars and the firing range would NOT be used at all.

As for days and times, we train on the weekends and starting Memorial Day we will train in the evenings, starting at 5:30 and finishing by sunset.....trying to avoid the heat. We train every weekend so if one date works better than another we are flexible.

Please let me know if there is anything else you need.

Thank you,

Kenny

Sent from my iPad

> On May 10, 2019, at 8:42 AM, Sam Gaston <gastons@mtnbrook.org> wrote:

>

> Send me an outline of what you want to do out there, the

> facilities/equipment you want to use and the days/times. We will need
> to run this by our city attorneys to see if an agreement is needed.
>
> Sam S.Gaston
>
> City Manager
>
> City of Mountain Brook, AL.
>
> 56 Church Street
>
> P.O. Box 130009
>
> Mountain Brook AL. 35213
>
> (205) 802-3803 Phone
>
> (205) 870-3577 Fax
>
> -----Original Message-----
> From: Kenny powell [mailto:kennyrp59@gmail.com]
> Sent: Friday, May 10, 2019 8:08 AM
> To: gastons@mtnbrook.org
> Subject: Training
>
> Sam,
> Thank you so much for making it possible for me to meet with the
> Police Chief and the Fire Chief about K9 training in the Maintenance/
> training compound. I think the area will be terrific with many
> different types of obstacles and possible scenarios. Thank you for making it happen!
>
> Kenny
>
>
> Sent from my iPad

American Alternative Insurance Corporation

(a stock insurance company)

Administrative Office: 555 College Road East • Princeton, NJ 08543-5241 • (800) 305-4954
Statutory Office: 2711 Centerville Road, Suite 400 • Wilmington, DE 19805

Administered by: VFIS • 153 Leader Heights Road • York, PA 17402
(800) 233-1957 • www.vfis.com



COMMON POLICY DECLARATIONS

Named Insured and Mailing Address:
RED MOUNTAIN SEARCH DOG
ASSOCIATION
51770 HIGHWAY 25
VANDIVER AL 35176

Policy Number: VFIS-TR 2069383-02/000
Renewal of: VFIS-TR-2069383-01

Policy Period: From 06-27-2018
To 06-27-2019

at 12:01 AM Standard Time at your mailing address
shown above

Type of Entity: CORPORATION

Business Description: EMERGENCY SERVICE ORGANIZATION

This policy consists of the following coverage parts:

		<u>Premium</u>
Property	\$	NOT COVERED
Crime	\$	NOT COVERED
Portable Equipment	\$	NOT COVERED
Auto	\$	NOT COVERED
General Liability	\$	350.00
Management Liability	\$	250.00
Excess Liability	\$	NOT COVERED

Taxes / Fees / Surcharges: \$

Estimated Total Premium: \$ 600.00

The policy premium is payable on the dates and in the amounts shown below:

See Installment Schedule

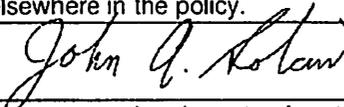
Named Insured:
RED MOUNTAIN SEARCH DOG ASSOCIATION

Policy Number: VFIS-TR-2069383-02/000
Policy Period: From 06-27-2018
To 06-27-2019

Common Forms

See Schedule of Forms and Endorsements

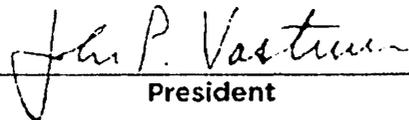
In return for payment of the premium, and subject to all the terms of this policy, we agree with you to provide the insurance as stated in the policy. The policy consists of the coverage parts where a premium is shown on page 1 of these Common Policy Declarations. In addition to any common forms, each coverage part consists of a Coverage Part Declarations and any coverage forms and endorsements listed on the Coverage Part Declarations or elsewhere in the policy.



Authorized representative (countersignature, where required)

Date

The Company has caused this policy to be signed by its President and Secretary:


President
Secretary

Policy Number
VFIS-TR-2069383-02/000

SCHEDULE OF FORMS AND ENDORSEMENTS

Named Insured RED MOUNTAIN SEARCH DOG ASSOCIATION Effective Date: 06-27-18
12:01 A.M., Standard Time

Agency Name VFIS

COMMON POLICY FORMS AND ENDORSEMENTS

VCO300 03-03 COMMON POLICY CONDITIONS
CG 21 70 01-15 CAP ON LOSSES FROM CERTIFIED ACTS OF TER

GENERAL LIABILITY FORMS AND ENDORSEMENTS

VGL101 08-03 ESO GENERAL LIABILITY COVERAGE FORM
VGL317 04-14 LINE OF DUTY ACCIDENTAL DEATH BENEFITS
VGL320 06-17 UNMANNED AIRCRAFT COVERAGE
GGL300 01-05 MOBILE EQUIPMENT SUBJECT TO MV INS LAWS

MANAGEMENT LIABILITY FORMS AND ENDORSEMENTS

VML102 03-03 ESO - MANAGEMENT LIAB - OCCURRENCE
VML202 10-13 EXCLUSION ELECTRONIC INFO SECURITY EVENT
VML310 08-14 AMENDATORY ENDORSEMENT MANAGEMENT LIAB

POLICYHOLDER NOTICES

Policy Number
VFIS-TR-2069383-02/000

INSTALLMENT SCHEDULE

Named Insured RED MOUNTAIN SEARCH DOG ASSOCIATION

Effective Date: 06-27-18
12:01 A.M., Standard Time

Agency Name VFIS

**IT IS HEREBY AGREED AND UNDERSTOOD THAT THIS POLICY IS
PAYABLE ON INSTALLMENTS AS FOLLOWS:**

	DUE	PREMIUM	SURCHARGE	REVISED INSTALLMENT TOTAL
DEPOSIT	06/27/2018	\$ 600.00		\$ 600.00

Failure to pay the Installment Premium by the Date Due shown shall constitute non-payment of premium for which we may cancel this policy.

Named Insured:
RED MOUNTAIN SEARCH DOG ASSOCIATION

Policy Number: VFIS-TR-2069383-02/000
Policy Period: From 06-27-2018
To 06-27-2019

GENERAL LIABILITY COVERAGE PART DECLARATIONS

Limits of Insurance

Each Occurrence or Medical Incident	\$ 1,000,000	
Medical Expense	\$ 5,000	Any One Person
Personal & Advertising Injury	\$ 1,000,000	
General Aggregate	\$ 3,000,000	
Products - Completed Operations Aggregate	\$ 3,000,000	
Products - Completed Operations are subject to the General Aggregate limit unless indicated otherwise		
Employers' Liability	NOT COVERED	
Bodily Injury by Accident	\$	Each Accident
Bodily Injury by Disease	\$	Policy Limit
Bodily Injury by Disease	\$	Each Employee or Volunteer

Estimated Coverage Part Premium:	\$	350.00
Taxes, Fees and Surcharges:		
Total Premium:	\$	350.00

General Liability Forms

See Schedule of Forms and Endorsements.

Named Insured:
RED MOUNTAIN SEARCH DOG ASSOCIATION

Policy Number: VFIS-TR-2069383-02/000
Policy Period: From 06-27-2018
To 06-27-2019

MANAGEMENT LIABILITY COVERAGE PART DECLARATIONS

Limits of Insurance

Aggregate Limit	\$ 3,000,000	Coverage A and B Combined
Coverage A	\$ 1,000,000	Each Wrongful Act or Offense
Coverage B	\$ 50,000	Each Action for Injunctive Relief
Deductible (Coverage A only)	\$ 0	Each Wrongful Act or Offense

Estimated Coverage Part Premium: \$ 250.00

Taxes, Fees and Surcharges:

Total Premium: \$ 250.00

Management Liability Forms

See Schedule of Forms and Endorsements

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 (~~1,200~~) 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 HargerCo-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, LLC, 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 Vestavia 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

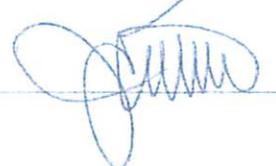
ATTESTED

By _____

DEVELOPER:
KADCO, LLC
An Alabama limited liability company

By  _____
Its member _____

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 ~~December~~, ^{JANUARY, 2019} 2018:

Jane B Richardson
Notary Public

My Commission Expires:

3/13/2020
SEAL.

CITY OF VESTAVIA HILLS

PUBLIC WORKS MANUAL
Engineering Standards



Adopted by the Planning and Zoning Commission
of the City of Vestavia Hills, Alabama on

April 8, 2010

EXHIBIT 1

Article 2 CONSTRUCTION STANDARDS

§2.1. Clearing and Grubbing

All areas that receive fill material shall be cleared of vegetation, trees, stumps, large rocks, and other objectionable or unsuitable material prior to placing fill material.

§2.2. Embankment

The City Engineer or designated agent shall determine what material is suitable for embankment. Natural ground areas shall be properly compacted prior to placing embankment. Embankment material shall be placed in uniform lifts of ten (10) inches or less and compacted to ninety-five (95) percent of standard density as determined by ALDOT (Alabama Department of Transportation) standards. In-place density method pursuant to ALDOT standards may be used.

§2.3. Sub-grade

Finish grade shall conform to the grades, grades and cross-section as shown on the approved plan unless specific permission is required in writing from the City Engineer. All sub-grade construction shall be compacted to a 95 percent of modified Proctor density as determined by ASTM designation D-1557, as revised from time to time.

§2.4. Bases

Prior to placing any base material, the subgrade shall be prepared and tested. The type material to be used for base and required thickness shall be stated on the approved plan.

Base material consisting of crushed rock, stone particles, or slag shall contain an approved filler of sand or other fine mineral filler. Required six (6) inch base of this material shall be spread without segregation and may be placed and compacted to full depth in one (1) layer. Required base layer greater than six (6) inches shall be placed in approximately equal layers. Compaction shall be by vibratory, steel wheel rollers or other approved rollers to obtain a density of 100 percent when tested as determined by ALDOT standards method. In place density method pursuant to ALDOT standards may be used.

§2.5. Paving Requirements

All public streets, alleys and driveways shall be paved and conform to the following minimum requirements:

- 2.5.1. A two (2) inch bituminous binder and a one (1) inch seal course on a sub-grade primed material base eight (8) inches thick on a properly defined and compacted sub-grade is required.
- 2.5.2. Minimum plant mix requirements for all residential streets will be as follows:
 - Binder - 110 lbs. per square yard.
 - Seal - 89 lbs. per square yard.
- 2.5.3. Greater thickness may be required dependent upon street classification as provided in the Subdivision Regulations. Should any problem be encountered with the sub-grade, base, or binder layers, or should much immediate construction traffic be projected following any construction, the City Engineer may require the placement of one course of plant mix be delayed for a minimum period of six (6) months. If problems are encountered relative to pavement thickness, curing or plant mix may be required. Double Bituminous Surface Treatment pavement on a approved crushed stone base may be approved, where curbs and gutters are not required, for the following cases:

1. Entrance roads into subdivided areas where projected average weekday volumes will not exceed 400
 2. Roads serving large lot subdivisions
- 2.5.4. On all roadways the seal course shall not be applied until one (1) year after the binder has been properly installed. Before the seal is applied, all work previously required shall be repaired to meet minimum City standards.

§2.6. Culverts

A special design drawing shall be required for any drainage structure having a required end area of twenty (20) sq. ft. or more. Reinforced concrete drainage structures shall be constructed in accordance with standard drawings and specifications approved by the City Engineer. Standard specification drawings for many minor structures may be obtained through ALDOT or some concrete companies.

- 2.6.1. Reinforced concrete pipe and arch pipe class and installation shall be in accordance with current specifications of ALDOT.
- 2.6.2. Corrugated metal pipe and arch pipe culverts shall be fully coated with asphalt with a paved invert or fully coated with a polymeric coating. Gauge, corrugations and installation shall be in accordance with current specifications of ALDOT.
- 2.6.3. All storm drain pipes shall be a minimum of eighteen (18) inches and subject to review and approval by the City Engineer.

§2.7. Swales and Ditches

- 2.7.1. The minimum flow line slope for paved ditches shall be 0.33% and shall be 1.0% for unpaved ditches.
- 2.7.2. Eight (8) inches of masonry, stone, tile, concrete block or brick walls shall have a minimum flair of one (1) inch per foot and a maximum flair of six (6) inches per foot. Culvert pipe may be utilized if such sewers and drainage ditches shall be of sufficient size to provide for future extensions into adjacent areas.

§2.8. Headwalls

Headwall with wing walls and end walls shall be installed on pipe culverts. Headwalls for pre-cast concrete or brick masonry construction shall be approved by the City Engineer. Headwalls for pipe sizes larger than forty-eight (48) inches shall be shown on the approved plans. Headwalls for multi-line installation shall be shown on the approved plans.

§2.9. Combination Curb and Gutters, Valley Curbs

- 2.9.1. Portland cement concrete having a compressive strength of 3000 PSI at twenty-eight (28) days shall be used. Granite, as approved by the City Engineer, may be substituted. Combination curb and gutter and valley curbs shall be constructed of Portland cement concrete. Installation shall be on a prepared sub-grade and conform to the cross-section shown on the plans. The surface finish of the concrete shall have a tight broomed or harlap drag texture. The edges shall be smoothed with a radius type tool.
- 2.9.2. Transverse contraction joints shall be constructed at intervals not exceeding twenty (20) feet in combination curb and gutter and valley curb. Joint depth shall be no less than 1/5 of the cross-section and concrete. Sawed contraction joints shall be done early after the concrete has set to prevent the formation of uncontrolled cracking. Expansion joints shall be constructed at immovable structures and at points of

curvature for sharp radius curves. Filler material for expansion joints shall be approved by the City Engineer or authorized agent. Construction joints may be either expansion or butt-type joints.

- 2.9.3 No combination curb and gutter, valley curb or sidewalk shall be placed on frozen or soft earth or when other unsuitable conditions exist.
- 2.9.4 Gutters shall be constructed of 3,000 PSI concrete six (6) inches thick. Valley gutters shall not be less than thirty (30) inches wide.
- 2.9.5. Combination curb and gutter shall be used where negative grade entering or within a curve exceeds two (2) percent.

§2.10. Inlets

Inlet design for installation on eighteen (18) inch through forty-two (42) inch pipe shall be approved by the City Engineer. Depth for this type inlet shall not exceed six (6) feet from invert of inlet to top of pipe. Storm drain inlet shall not be supported by the storm drain pipe. Special design installation shall be required for pipes larger than forty-two (42) inches in diameter. This design shall be submitted with street drainage plan for approval by the City Engineer.

§2.11. Sidewalks

Sidewalks shall be constructed in accordance with the specifications shown in Figure 2.11 and as provided herein.

- 2.11.1. Sidewalk installation shall be on an unfrozen prepared sub-grade.
- 2.11.2. Concrete mix: straight cement mix, no fly ash, ochre coloring added at 25 lbs/cyd, maximum 5 inch slump.
- 2.11.3. Sidewalks shall have expansion joints at all concrete-to-concrete connections, such as driveways, curbs, curb ramps and private sidewalks and every thirty (30) ft on straight runs. One-half (1/2) inch expansion joints shall be provided between all fixed objects including steps and walls.
- 2.11.4. Five (5) foot wide sidewalks shall have contraction joints every five (5) feet, wider sidewalks shall have contraction joints spaced as required by the City Engineer.
- 2.11.5. All construction debris shall be removed and disposed off site.
- 2.11.6. Contact City Engineer for final approval of work.

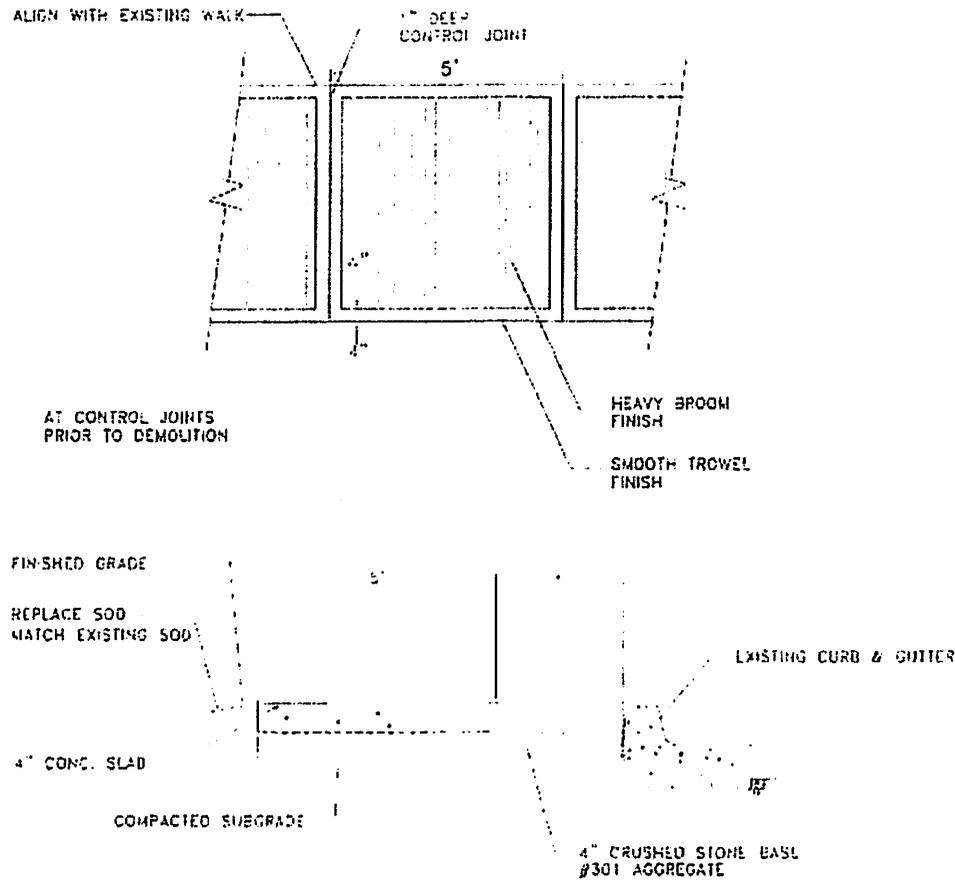


Figure 2-1 Sidewalk Specifications

2-11.7. The cross slope of a sidewalk shall be a minimum of 0.25 inch per foot and a maximum of 0.5 inch per foot sloping to the street. The planting strip between the curb and the edge of the sidewalk shall have minimum cross slopes as provided in Table 2.11. In cases of extreme topography, the City Engineer may permit greater cross slopes within planting strips only. Adjustments to such cross slopes should be gradual to avoid abrupt grade changes.

Table 2.11 Planting Strip Slope Requirements			
Centerline Grade of Street	1-4%	4 1/2-8%	Greater than 8%
Planting Strip Cross Slope	0.5" inch per ft.	1" inch per ft.	1 1/2" inch per ft.

§2.12. Drainage and Grading

- 2-12.1. The finished slope along the bottom centerline of any lot drainage easement shall not be less than one (1) percent.
- 2-12.2. The side slopes of any lot drainage easement shall not be greater than 4 (horizontal) to 1 (vertical).

§2.13. Utilities

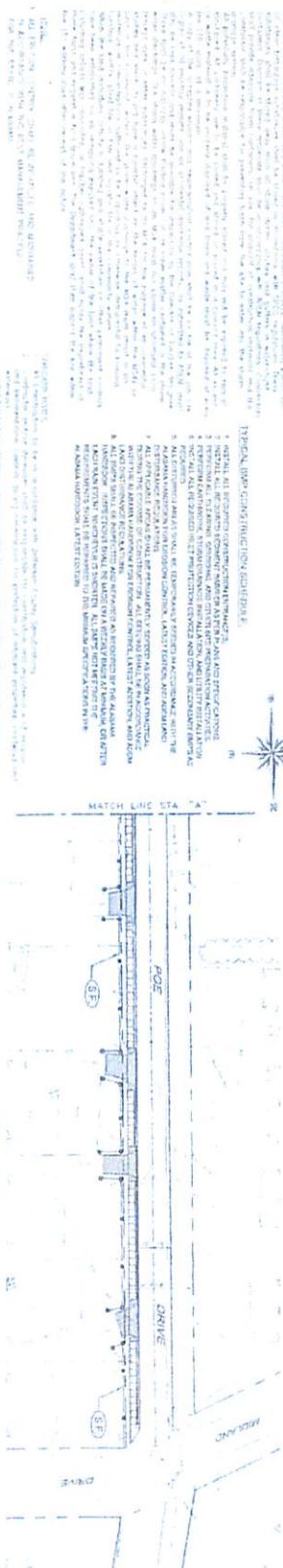
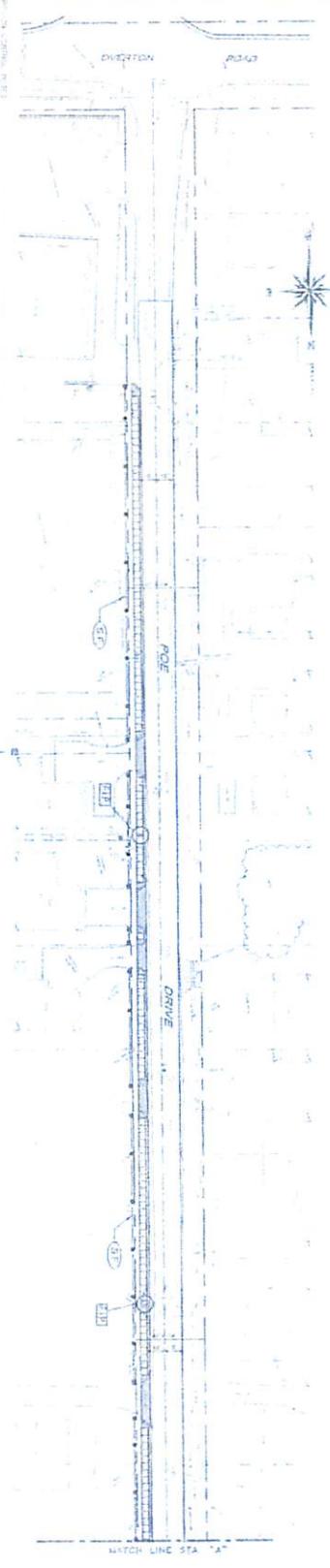
- 2.13.1. Water, gas, and sanitary mains, and appurtenances if applicable, will be considered prior to installation of paving with all mains being extended for service to all lots so that no subsequent cutting of pavement will be required to permit service to all lots.
- 2.13.2. Permits for utility installation on existing or proposed rights-of-way. Any person, firm, or corporation wishing to place a utility facility within a street right-of-way shall apply to the agency controlling said street on the proper prescribed utility permit forms.
- 2.13.3. Location and French Backfill. Utilities shall generally be located a minimum of six (6) feet from the edge of existing or proposed paving. In areas where location less than the minimum is approved, incompressible backfill material (sand, slag, crushed stone or gravel) shall be required.
- 2.13.4. Backfill for utilities crossing any proposed roadway section shall conform to the ALDOT Standard Specifications for Highways and Bridges in force at the time of installation.
- 2.13.5. Incompressible backfill material may be used to backfill such open trenches in lieu of compacted backfill material. The material used shall be of a type approved by the City Engineer for this purpose.
- 2.13.6. All open cuts, under existing paving shall be backfilled with compacted stone. The stone used must be of a type approved by the City Engineer for this purpose. A permanent pavement patch shall be in accordance with the typical repair section made available by the City Engineer.
- 2.13.7. Cased and Uncased Construction. All polyvinyl chloride (PVC) pipe used for water lines shall be encased with a casing approved by the Public Works Director, City Engineer or authorized agent.

§2.14. Road and Street Inspection and Testing

- 2.14.1. Notification of Work. It shall be the duty and responsibility of the developer or contractor to give notification to the City Engineer, twenty-four (24) hours prior to starting each phase of construction and to notify the City Engineer the day work is resumed after a delay for any reason. This includes all phases of construction: clearing, grading, drainage, gutters, inlets, base, surfacing and any work that pertains to streets or development. Failure to notify as specified may be grounds for non-acceptance.
- 2.14.2. Inspection. The contractor and developer shall be notified of any unacceptable work found by the City Engineer or authorized agent.
- 2.14.3. Testing. Testing shall be at the cost of the developer and shall be by a testing company approved by the City.
- 2.14.4. Embankment Density Tests shall be required by the City Engineer or authorized agent. Subgrade and base minimum density testing shall include one test representative of each 1000 linear feet of each street or portion thereof. Additional tests may be required by the City Engineer or authorized agent.
- 2.14.5. See §1.5 regarding design requirements.



EXHIBIT 2

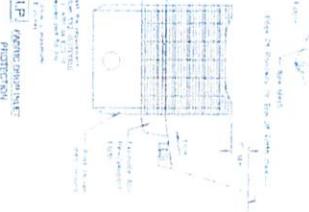
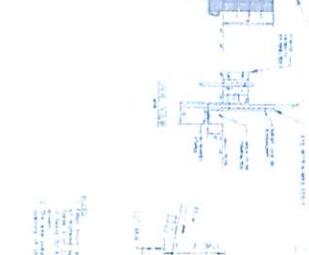
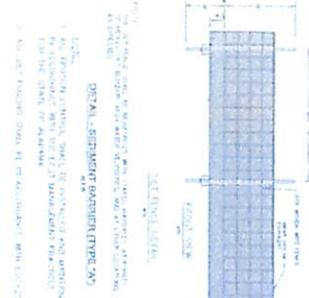


PLAN-EROSION CONTROL PLAN
SCALE: AS SHOWN

TOTAL DISTURBED AREA = 0.22 ACRES

GENERAL NOTES:

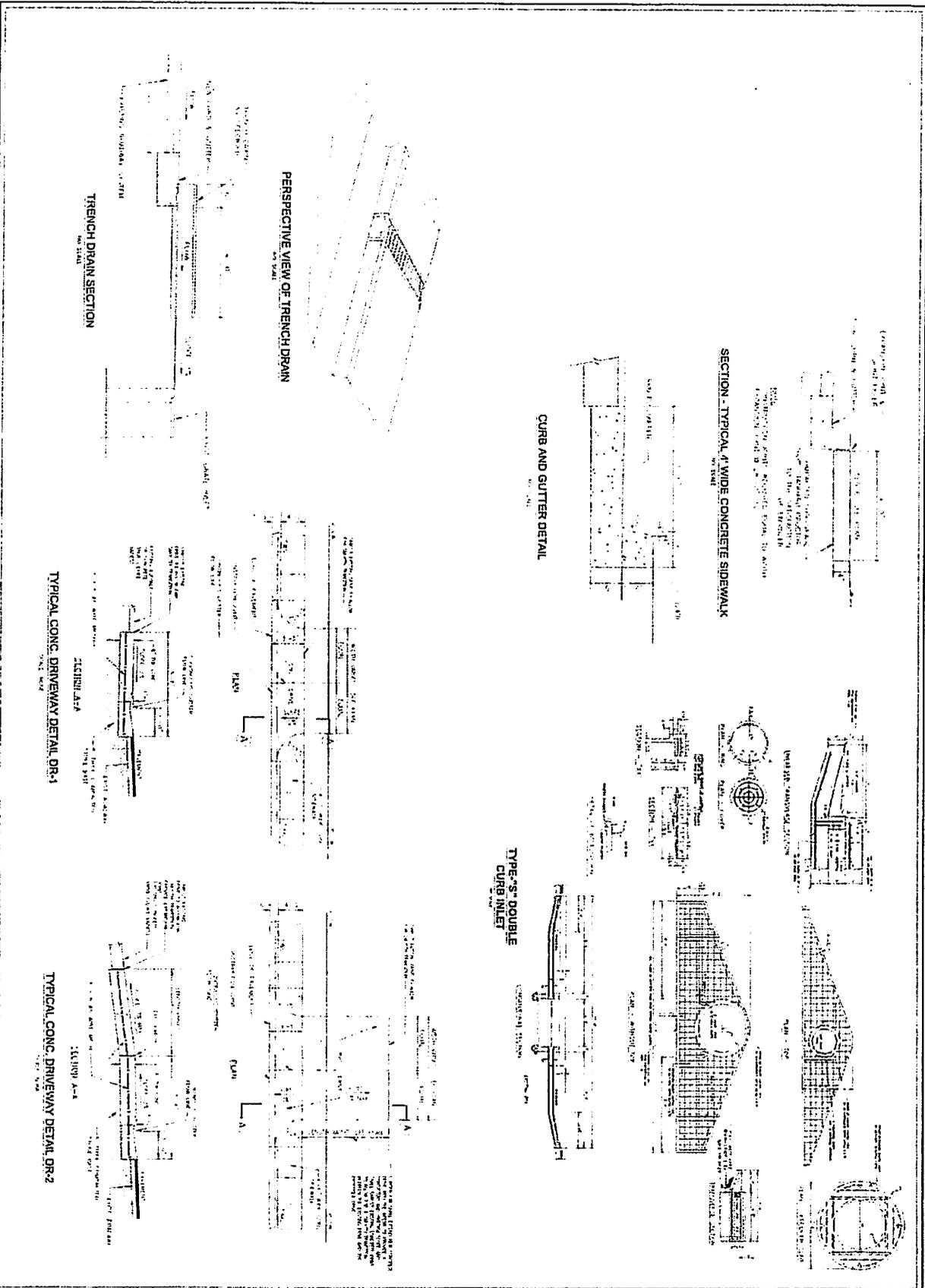
1. ALL DISTURBED AREAS SHALL BE RESTORED TO ORIGINAL OR BETTER CONDITION WITH EROSION CONTROL MEASURES AS SHOWN ON THIS PLAN.
2. THE DISTURBED AREA SHALL BE RESTORED TO ORIGINAL OR BETTER CONDITION WITH EROSION CONTROL MEASURES AS SHOWN ON THIS PLAN.
3. THE DISTURBED AREA SHALL BE RESTORED TO ORIGINAL OR BETTER CONDITION WITH EROSION CONTROL MEASURES AS SHOWN ON THIS PLAN.



<p>A PROJECT FOR: The City of Vestavia, Alabama</p>		<p>KADCO HOMES</p>	
<p>PROJECT INFORMATION</p> <p>Client: HagerCo-LLC</p> <p>Address: 10000 Highway 20, Vestavia Hills, AL 35296</p>		<p>DATE: 08/20/18</p>	
<p>PROJECT INFORMATION</p> <p>Client: HagerCo-LLC</p> <p>Address: 10000 Highway 20, Vestavia Hills, AL 35296</p>		<p>DATE: 08/20/18</p>	
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<p>PROJECT INFORMATION</p> <p>Client: HagerCo-LLC</p> <p>Address: 10000 Highway 20, Vestavia Hills, AL 35296</p>		<p>DATE: 08/20/18</p>	



5-SHEET NUMBER
06



A PROJECT FOR:
 The City of
 Vestavia, Alabama



06/20/18

PROJECT:
 Street Improvements
 Location: For Drive
 Curbed Inlets,
 Alameda

HagerCo-LLC
 1410 Peachtree-Duck
 Lane
 Atlanta, GA 30309
 404.525.1111

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	\$	4,800.00

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	\$	7,500.00
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
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** 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

Init.

§ 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 additional 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

Company:

(Corporate Seal)

SURETY

Company:

(Corporate Seal)

Signature: _____

Name and Title:

Address:

Signature: _____

Name and Title:

Address:

Init.



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 Name and
Title: 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

Init.

§ 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:

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CONTRACTOR AS PRINCIPAL

SURETY

Company:

(Corporate Seal)

Company:

(Corporate Seal)

Signature: _____

Name and Title:

Address:

Signature: _____

Name and Title:

Address:

Int.