

**MEETING AGENDA OF THE  
MOUNTAIN BROOK CITY COUNCIL**

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

**TUESDAY, NOVEMBER 12, 2019, 7:00 P.M.**

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1. Small Business Saturday proclamation
2. Retired Teachers' Day proclamation
3. Approval of the minutes of the October 28, 2019, regular meeting of the Mountain Brook City Council.
4. Consideration: Resolution authorizing the placement of a street light on an existing utility pole between 2428-2430 Mountain Brook Circle to illuminate a walking path from Mountain Brook Village to Heathermoor Road at the Mountain Brook Elementary playing field.
5. Consideration: Resolution authorizing the expenditure of funds for traffic island improvements at Brook Manor Drive.
6. Consideration: Resolution reaffirming the City's commitment to promote safe workplace guidelines with respect to the City's workers' compensation program.
7. Consideration: Resolution authorizing the execution of an amendment, including the stacked stone bridge railing design modifications and preparation of 2019 Rebuild Alabama grant application, to the previously authorized professional services agreement (Resolution No. 2016-202) between the City and Gresham, Smith and Partners with respect the Caldwell Mill Road bridge replacement.
8. Consideration: Resolution authorizing the sale of certain personal property by way of public Internet auction or the disposal of said property not sold.
9. Consideration: Ordinance amending Sec. 30-3(a) of the City Code changing the time of municipal court from 4 p.m. to 3 p.m.
10. Public hearing: Consideration of an ordinance adopting the 2018 building code and 2017 electrical code.
11. Announcement: The next regular meeting of the City Council is November 25, 2019, at 7:00 p.m. in the Council Chamber of City Hall located at 56 Church Street, Mountain Brook, AL 35213.
12. Comments from residents.
13. Adjourn.

## PROCLAMATION

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**Whereas**, the government of the City of Mountain Brook, Alabama, celebrates its local small businesses and the contributions they make to its local economy and community; according to the United States Small Business Administration, there are currently 30.7 million small businesses in the United States, they represent 99.7 percent of all businesses with paid employees in the United States, are responsible for 64.9 percent of net new jobs created from 2000 to 2018; and

**Whereas**, small businesses employ 47.3 percent of the employees in the private sector in the United States; and

**Whereas**, 94% of consumers in the United States value the contributions small businesses make in their community; and

**Whereas**, 96% of consumers who plan to shop on Small Business Saturday® said the day inspires them to go to small, independently-owned retailers or restaurants that they have not been to before, or would not have otherwise tried; and

**Whereas**, 92% of companies planning promotions on Small Business Saturday said the day helps their business stand out during the busy holiday shopping season; and

**Whereas**, the City of Mountain Brook, Alabama supports its local businesses that create jobs, boost the local economy and preserve communities; and

**Whereas**, advocacy groups, public and private organizations across the country have endorsed the Saturday after Thanksgiving as Small Business Saturday.

**Now, Therefore, I**, Stewart H. Welch III, Mayor of the City of Mountain Brook, Alabama do hereby proclaim, November 30, 2019, as:

### ***“SMALL BUSINESS SATURDAY”***

and urge the residents of our community, and communities across the country, to support small businesses and merchants on Small Business Saturday and throughout the year.

**IN WITNESS WHEREOF**, I have hereunto set my hand and caused the Seal of the City of Mountain Brook to be affixed the 12th day of November of the year of our Lord 2019 and of the Independence of the United States of America, the 243rd.

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Stewart H. Welch III, Mayor

2019-164

## PROCLAMATION

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**Whereas**, public education is the foundation of our society and is the most critical element in the progress and enlightenment of our state and nation; and

**Whereas**, public educators in our educational system have carried the torch of knowledge, opening doors to the challenge and excitement of learning for countless youths; and

**Whereas**, public educators, because of their deep and abiding love of children, have displayed a commitment to their students and dedication to their profession; and

**Whereas**, our state's retired public educators have served long careers, laboring throughout their tenures to educate our state's school children; and

**Whereas**, retired public educators throughout Alabama are deserving of the highest praise and recognition our state can bestow for devotion to their profession.

**Now, Therefore, I**, Stewart H. Welch III, Mayor of the City of Mountain Brook, Alabama do hereby proclaim, November 19, 2019, as:

### ***“RETIRED TEACHERS’ DAY”***

in the City and encourage all residents to join together in paying tribute to its retired public educators.

**IN WITNESS WHEREOF**, I have hereunto set my hand and caused the Seal of the City of Mountain Brook to be affixed the 12th day of November of the year of our Lord 2019 and of the Independence of the United States of America, the 243rd.

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Stewart H. Welch III, Mayor

2019-168

**MOUNTAIN BROOK CITY COUNCIL  
PRE-MEETING DISCUSSION  
OCTOBER 28, 2019**

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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 28th day of October, 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. EXECUTIVE SESSION**

Council President Smith made a motion that the City Council convene in executive session to discuss a real estate matter and another matter involving a strategy in preparation for negotiations between the governing body and a group of public employees. The motion was seconded by Council President Pro Tempore Pritchard. Then, upon the question being put and the roll called, the vote was recorded as follows:

**Ayes:** Virginia C. Smith, 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 that the motion passed by a vote of 5—0 and then requested that the audience members leave the room and will be recalled upon conclusion of the executive session. The pre-meeting resumed at approximately 6:30 p.m.

**2. RECOGNITION OF GUESTS**

Council President Smith recognized Boy Scouts John Webb and Philip Cook of Troop 53.

**3. AGENDA**

1. Chamber of Commerce Semi—Annual Report to the City (Molly Wallace showed a video report to the audience.)
2. Discussion of expanding areas in Mountain Brook Village for prohibiting employee parking and reducing parking time from 4-hours to 3-hours - Ro Burrow and Molly Wallace (Appendix 1, Ordinance No. 2060 was added to the formal meeting agenda)
3. SRO Agreement with Board of Education (Appendix 2, This matter was continued for later discussion as the City is awaiting comments from School Board officials.)

4. Street Light request between 2428-2430 Mountain Brook Circle-Sam Gaston (Appendix 3, The City Manager was asked to notify area residents of the planned change and this matter shall come back for consideration on November 12, 2019.)
5. Caldwell Mill Road bridge replacement options and grant opportunities—Sammy Harton of Gresham Smith Partners (Resolution No. 2019-162 was added to the formal meeting agenda.)
6. Re-landscaping around the Jemison Trail pedestrian bridge—Sim Johnson (Resolution No. 2019-163 was added to the formal meeting agenda.)
7. Library Board appointment – (This matter was tabled for discussion.)
8. Act 2019-132 allowing cities to provide Tier 1 pension benefits to its Tier 2 employees—Steven Boone (Due to time constraints, this matter was tabled for discussion during the formal meeting.)
9. Review of the other matters to be considered at the formal (7 p.m.) meeting

#### 4. ADJOURNMENT

There being no further matters for discussion, Council President Smith adjourned the pre-meeting at approximately 7 p.m.

#### 5. 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 October 28, 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.

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City Clerk  
Approved by City Council November 12, 2019

**MINUTES OF THE REGULAR OF THE  
CITY COUNCIL OF THE CITY OF MOUNTAIN BROOK  
OCTOBER 28, 2019**

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The City Council of the City of Mountain Brook, Alabama and met in public session in the City Hall Council Chamber at approximately 7:00 p.m. on the 28th day of October, 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. PRESENTATION**

Mayor Welch read aloud and presented the American Indian Heritage Month Proclamation (No. 2019-157) to Ms. Jessie Schniper.

**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 October 14, 2019, regular meeting of the City Council

<b>2019-157</b>	American Indian Heritage Month proclamation	Exhibit 1
<b>2019-158</b>	Recommend to the ABC Board the issuance of a 070 – Retail Table Wine (Off Premises Only) license to Phoenix Wines, LLC (Trade name Finch Fine Wines) located at 2737 Highway 280, Suite 144, Mountain Brook, AL 35223	Exhibit 2, Appendix 1
<b>2019-159</b>	Authorize the execution of an agreement with the Birmingham-Jefferson County Transit Authority (BJCTA or MAX) for their provision of public transportation services in the City for fiscal year ending September 30, 2020	Exhibit 3, Appendix 2
<b>2019-160</b>	Authorize the execution of a contract between the City and Strengths Consulting, Inc., with respect to a city-wide employee engagement survey and related manager training	Exhibit 4, Appendix 3
<b>2019-162</b>	Authorize Gresham Smith to prepare on behalf of the City a \$250,000 Rebuild Alabama Act 2020 grant application with respect to the Caldwell Mill Road bridge replacement due on or before November 30, 2019	Exhibit 5, Appendix 4

**2019-163** Approve the bank stabilization, grading/drainage and (temporary) reforestation proposal in the vicinity of the pedestrian bridge located in Jemison Trail the estimated cost related thereto of \$30,000 to be shared equally between the City and Friends of Jemison Park

Exhibit 6,  
Appendix 5

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

Ayes: Virginia C. Smith, 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, proclamation (No. 2019-157) and resolutions (Nos. 2019-158 through 2019-160, 2019-162 and 2019-163) are adopted by a vote of 5—0 and that and as evidence thereof she signed the same.

**3. CONSIDERATION OF AN ORDINANCE (NO. 2060) ESTABLISHING TIME RESTRICTIONS FOR ON-STREET PUBLIC PARKING IN MOUNTAIN BROOK VILLAGE (BY CHANGING ALL SHORT-TERM 4-HOUR PARKING TO 3-HOUR PARKING) (EXHIBIT 7, APPENDIX 6)**

The ordinance was introduced in writing by Council President Smith who then invited comments. There being no comments or questions, 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 adoption of said ordinance be suspended, and that unanimous consent to the immediate consideration of said ordinance is given and that the reading of the ordinance at length be waived. The motion was seconded by Council member Black. Thereupon, Council President Smith called for vote with the following results:

Ayes: Virginia C. Smith  
William S. Pritchard, III  
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 President Pro Tempore Pritchard moved for the adoption of said ordinance. The motion was seconded by Council member Womack. Thereupon, Council President Smith called for vote with the following results:

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

Nays: None

The Council President Smith declared that the said ordinance (No. 2060) is hereby adopted by a vote of 5—0 and, as evidence thereof, she signed the same.

**4. CONSIDERATION: ACT 2019-132 ALLOWING CITIES TO PROVIDE TIER 1 PENSION BENEFITS TO ITS TIER 2 EMPLOYEES (RESOLUTION NO. 2019-161, EXHIBIT 8, APPENDIX 7)**

Council President Smith called on Steven Boone, Finance Director, to introduce the matter for discussion.

Steven Boone:

- The City joined the Employees' Retirement Systems of Alabama (RSA) in 1995 and shortly thereafter reported a funded status of 76%
- The City has realized a funded status of 84% in 1999, 86% in 2007. The City's funded status has since dropped to 64%-65% in 2013 where it has remained until the most recent reporting date of September 30, 2018.
- During this period, the City has contributed everything required by the actuaries plus an additional \$11.8 million
- The Tier 1 pension benefit has been determined to be 35%+ more than the Tier 2 pension benefit (due to the hazardous duty addendum fire and law enforcement (FLC) service credit bonus combined with the higher pension benefit factor)
- The RSA has provided all cities with individualized case studies of the impact of the change, if implemented. The City's combined case studies show an increase in the unfunded actuarial accrued liability (UAAL) of \$334,000 representing the Tier 2 to Tier 1 retroactive service credit.
- The increased UAAL shall be paid exclusively by the City over a 15-year period by a fractional percentage increase in the City's Tier 1 and converted Tier 2 wages. Additionally, the City's prospective normal cost for the converted Tier 2 employees shall be increased by approximately 2% of the converted Tier 2 wages. The estimated cost increase reported in the case study for year 1 is \$80,500.
- As Tier 1 employees retire, the converted Tier 2 wages shall increase. Boone estimates the City's additional cost after full conversion to be \$300,000+ (determined by applying the increased required contribution rate to the City's total salaries). This additional cost will not be realized in any year but rather incrementally as the Tier 1 employees retire and are replaced with employees with the same benefit structure rather than the lower retirement benefit Tier 2 employees.
- This analysis is somewhat different from other employers as Mountain Brook has already increased its Tier 1 employee withholdings to the maximum allowed. Employers who have not done so could realize a cost reduction by shifting 2.5% of their pension cost to their Tier 1 employees. This savings is temporary and will diminish over time as the Tier 1 wages decrease due to Tier 1 employee retirements.
- Since implementing this 2.5% cost transfer in 2012, the City's Tier 1 required contribution rate has almost doubled to 16%+ effective October 1, 2020. So, even those cities that shift a portion of their cost to the Tier 1 workers will experience an increase in their cost of the converted pension plan in the long run.
- Considering the City's current funded status and experiences, Boone does not recommend implementing the Tier 2 pension conversion plan and presented a resolution formally rejecting the change

Council member Shelton:

- The City has been concerned about the sustainability of the pension plan for well over a decade
- The City has contributed millions of dollars over the years more than actuarially required in order to improve the pension plan's financial condition
- The efforts have thus far not achieved the desired result
- In his view, an additional increase in the pension benefit is not prudent

Mr. Boone:

- In 2001 and 2007, the City contributed a total of \$9 million in lump sums.
- The City planned to contribute \$300,000 annually starting in 2008
- After making the 2008 contribution, the City did not realize the anticipated funding improvement and discontinued the annual contributions (instead saving the money internally)
- In 2017, the City resumed its annual excess funding strategy contributing \$600,000 in 2017, \$610,000 in 2018, \$638,000 in 2019 and has budgeted \$640,000 for 2020
- Boone still believes this strategy is exerting downward pressure on the City's required contribution rate expressed as a percentage of payroll, however, the contribution rate is continuing to grow.
- If the Tier 2 conversion is implemented, the added cost will diminish to a degree the positive effects the current excess funding strategy is yielding.
- Additionally, the Council has passed a resolution stating that retiree cost-of-living adjustments and one-time bonuses shall not be granted until the City achieves a funded status of 90%. Those costs are born solely by the City and offset the benefits achieved through the over funding strategy.

Mayor Welch:

- Was shocked after taking office and learning of the City's \$25 million UAAL.
- Was concerned that the City had made employee promises that the City may not be able to fulfill
- Out of this concern, the Council agreed to implement Mr. Boone's recommendation to resume making annual contributions in 2017 starting at \$600,000+
- Defined benefit pensions are very complicated
- Considers corporate chief executive officers to be among the sharpest business leaders. Corporations began to terminate their defined benefit pension plans decades ago as they realized the long-term costs were exorbitant, difficult to manage and detrimental to the balance sheet.
- The actuarial model is based on historical life expectancies. As life expectancies increase, pension costs increase significantly.
- The Council is concerned about sustainability of the current 2-tiered model. Considers taking on more cost to be irresponsible.
- The City values its employees greatly but recommends that the current 2-tiered pension remain in effect

Eric Meyer, a 16-year employee and Fire Lieutenant from Engine 3 on behalf of the City's employee federation members:

- Mr. Boone presented the results of his analysis to employee groups this past week
- Not all employees have been able to see or hear the information presented
- The employee federation requests that the City delay action for at least two weeks to allow time to communicate with the remaining employees
- Additionally, the employees would like to be involved in the discussion as to compensation and other budget changes that may ultimately be required to offset any future cost increases should the City determine later to implement the Tier 2 pension conversion
- The postponement simply allows the federation to communicate the results of the RSA case study to the remainder of the employees
- The employees do not see the harm in a delay

After said resolution (No. 2019-161) had been considered in full by the Council, Council President Smith asked whether the members of the Council wished to vote tonight or delay.

Council member Black:

- Hears the request for a delay but does not see how it affects the data that the Council has been studying for months
- Recommends the Council proceed with a vote tonight

## Council President Smith:

- Considering the information at-hand, agrees that the Council should vote “no” to the Tier 2 conversion plan
- Recognizes that new information may come available in the future and that a “no” vote tonight does not preclude the Council from revisiting this issue

## Council member Shelton:

- The implementation date ends May 8, 2021
- Bad math does not improve with age and the numbers will not change over the coming two weeks
- Agrees further study is warranted but agrees the Council should not delay
- Is prepared to reconsider this matter should new information come to light

## Council President Pro Tempore Pritchard:

- Encouraged Mr. Meyer to continue his dialogue with Mr. Boone
- If one keeps the magnitude of the \$31 million UAAL in perspective with respect to the City’s financials, no one can argue that this is not a huge problem for the City
- Agrees that the City should proceed with its vote to reject the Tier 2 conversion
- The City will have to remain vigilant is the management of its budget and operations in order to ensure that its employee promise can be honored

## Council member Womack:

- Joined the Finance Committee the same year as Mr. Shelton
- At that time, the pension was the number one concern of the City and continues to be today
- Has nothing further to say that has not already been said

There being no further discussion, President Smith called for a motion to adopt the resolution rejecting the Tier 2 pension conversion plan. Council member Black made a motion for the passage of the resolution. The motion was seconded by Council President Smith. Thereupon, Council President Smith called for vote with the following results:

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

Nays: None

The Council President Smith declared that the said resolution (No. 2019-161) is hereby adopted by a vote of 5—0 and, as evidence thereof, she signed the same.

## 5. ANNOUNCEMENTS

There will be a public hearing on Tuesday, November 12, 2019, to consider an ordinance adopting the 2018 building codes and 2017 electrical code.

The next regular meeting of the City Council will be November 12, 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 7:30 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 October 28, 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  
 Approved by City Council November 12, 2019

### EXHIBIT 1

#### PROCLAMATION NO. 2019-157

**Whereas**, the history and culture of our great nation have been significantly influenced by American Indians and indigenous peoples; and

**Whereas**, the contributions of American Indians have enhanced the freedom, prosperity, and greatness of America today; and

**Whereas**, their customs and traditions are respected and celebrated as part of a rich legacy throughout the United States; and

**Whereas**, Native American Awareness Week began in 1976 and recognition was expanded by Congress and approved by President George Bush in August 1990, designating the month of November, as National American Indian Heritage Month; and

**Whereas**, in honor of National American Indian Heritage Month, community celebrations as well as numerous cultural, artistic, educational, and historical activities have been planned;

**Now, Therefore**, I, Stewart H. Welch III, Mayor of the City of Mountain Brook, Alabama do hereby proclaim, November, 2019, as:

#### ***“NATIONAL AMERICAN INDIAN HERITAGE MONTH”***

and urge the residents of our community, and communities across the country, to observe this month with the appropriate programs, ceremonies and activities.

**IN WITNESS WHEREOF**, I have hereunto set my hand and caused the Seal of the City of Mountain Brook to be affixed the 28th day of October of the year of our Lord 2019 and of the Independence of the United States of America, the 243rd.

\_\_\_\_\_  
 Stewart H. Welch III, Mayor

**RESOLUTION NO. 2019-165**

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

1. That Alabama Power Company is requested to install one (1) 108 watt LED area, 4000K, gray – 8,500 to 14,000 lumens street light on an existing pole in the vicinity of 2428-2430 Mountain Brook Circle as more fully described in Exhibit A attached hereto (Lighting Services NESC Lease Agreement (Governmental-S)).
2. That the City Manager is hereby authorized to execute and deliver, or cause to be executed and delivered, on behalf of the City such documents, instruments, and agreements that may be deemed necessary or appropriate with respect to said street light upgrades/installations.
3. That the City Clerk is directed to furnish the Alabama Power Company a certified copy of this resolution.

**ADOPTED:** This 12th day of November, 2019.

\_\_\_\_\_  
Council President

**APPROVED:** This 12th day of November, 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 November 12, 2019, as same appears in the minutes or record of said meeting.

\_\_\_\_\_  
City Clerk

**Lighting Services NESC® Lease Agreement (Governmental)**



Customer Legal Name City of Mountain Brook DBA Walking Trail Light  
 Service Address MOUNTAIN BROOK CIR, BIRMINGHAM AL 35213 County Jefferson  
 Mailing Address P.O. Box 130009, Birmingham, AL 35213  
 Email Gaston@mtnbrook.org Tel # 205-802-3803 Alt Tel \_\_\_\_\_  
 Tax ID \_\_\_\_\_ Business Description Municipal

Existing Customer? Yes  No  If Yes (and if possible), does Customer want Equipment added to an existing account? Yes  No  Existing Account \_\_\_\_\_  
*For informational purposes only*

Equipment										
	Qty	Wattage	Type	Description	OH/UG	M/UM	Equipment Amount (\$)	Estimated Regulated Charge (\$)*	Estimated Monthly Charge (\$)*	
(1)	1	108	LED	LED Cobra - 4000k - gray - 8500 to 14000 Lumens	OH	UM	\$12.02	\$2.53	\$14.55	
(2)										
(3)										
(4)										
(5)										
(6)										
(7)										
(8)										
(9)										
(10)										
Monthly Total *										\$14.55

<b>Project Notes:</b>	To install light on existing secondary pole behind apartments to light up walking trail		
<b>Initial Term</b>	<b>36</b>	<b>months</b>	<b>Prepaid Amount</b> \$ 0.00

\* The Regulated Charge is subject to change at any time as dictated by the Alabama Public Service Commission. The amount shown is an estimate based on the Unmetered Outdoor Lighting (ODL) rate in effect at time of Agreement proposal; actual charges may vary.

Customer agrees to lease the Equipment referenced above from Alabama Power Company on the attached terms and conditions and authorizes all actions noted above.

Customer Authorized Signature	Date	Alabama Power Company	Date
Sign Here _____	_____	Sign Here _____	_____
Print Name _____	_____	Print Name _____	_____
Print Title _____	_____	Print Title _____	_____

APC Internal Use Only - APC Reference Number (if applicable): \_\_\_\_\_

## TERMS and CONDITIONS (NESC Governmental)

1. **Lighting Equipment Lease.** This Lease Agreement ("Agreement") states the agreed terms and conditions upon which Alabama Power Company ("APC") will (i) lease to "Customer" (identified on Page 1) the "Equipment" referenced on Page 1 for use at the stated "Service Address" (the "Premises"); and (ii) provide electric service to operate the Equipment. The "Equipment" includes all poles, bases, wiring, conduit, fixtures, controls, and related items necessary to provide lighting service through the listed fixtures, unless expressly noted otherwise in "Project Notes." Customer acknowledges that regulatory change during the Agreement term may require APC to modify or replace some Equipment.
2. **Intent and Title.** This Agreement is not a sale of the Equipment to Customer. Customer expressly acknowledges that APC retains title to the Equipment and agrees that this Agreement only gives Customer the right to use the Equipment during the Agreement term, so long as Customer complies with all terms and conditions. Customer acknowledges that the Equipment, although attached to real property, always will remain the exclusive personal property of APC and that APC may remove the Equipment when this Agreement ends. Customer authorizes APC, without further consent or action, to file any UCC financing statement or security agreement relating to the Equipment and agrees that APC may record those documents. APC makes no representation or warranty regarding treatment of this transaction by the Internal Revenue Service or the status of this Agreement under any federal or state tax law; Customer enters into this Agreement in sole reliance upon Customer's own advisors.
3. **Term.** The Initial Agreement term is stated on Page 1, calculated from the date of the first monthly bill. After the initial term, this Agreement automatically renews on a month-to-month basis until terminated by either party by providing written notice of intent to terminate to the other party at least 30 days before the desired termination date. APC's address for notice is P.O. Box 2641, Birmingham, Alabama 35203; Customer's mailing address is noted on Page 1.
4. **Payment.** APC will invoice Customer per the terms stated on Page 1, subject to any change in the electric service charge dictated by the Alabama Public Service Commission. Customer agrees to pay the amount billed by the due date (20 days after billing date). Applicable taxes included in the Equipment price are subject to change at any time. If a balance is outstanding past the due date, Customer agrees to pay the greater of 1.5% of the unpaid balance or \$2.00 and acknowledges that APC may require Customer to pay a deposit of up to two times the Estimated Monthly Charge in order to continue service. If applicable, Customer must provide a copy of its Alabama sales tax exemption certificate.
6. **Premises Activity.** Customer grants a license and right of access to APC, and its contractors and representatives, to enter the Premises with vehicles and equipment to: (i) install and connect the Equipment and, if applicable, remove or disconnect existing equipment (collectively, the "Installation"); (ii) inspect, maintain, test, replace, repair, or remove the Equipment; (iii) provide electric service for the Equipment; or (iv) conduct any other Agreement-related activity (items-iv) collectively, the "APC Activity"). Customer will not cause or permit any obstruction that may interfere with APC's access to the Equipment. Customer represents that the individual signing this Agreement on its behalf has authority to do so and that it has express authority from all Premises owners (and any other party with rights in the Premises) to enter into this Agreement and to authorize the APC Activity. Customer is solely responsible for safety of the Premises and agrees that APC has no obligation to ensure the safety of the Premises or persons or property entering onto Customer's Premises.
6. **Installation.** Customer represents that: (i) the Premises' final grade will vary no more than 6 inches from the grade existing at the time of Installation; and (ii) if applicable and required for proper Installation, Premises property lines will be clearly marked before Installation.
  - A. **Customer Work.** If APC, upon Customer's request, allows Customer to perform any part of the Installation (including trenching) itself or through a third party, Customer warrants that the work will meet APC's Installation specifications (which APC will provide to Customer and are incorporated by this reference). Customer is responsible for all reasonable additional costs arising from Customer's non-compliance with APC's specifications or lack of timely (i.e., 10 days') notice to APC that APC's Installation activity can commence.
  - B. **Underground Facility/Obstruction Not Subject to Dig Law.** Because APC Activity may require excavation not subject to the Alabama's Underground Prevention Legislation (Ala. Code §§ 37-15-1 - 37-15-11) ("Dig Law"), Customer must mark any private utility or facility (e.g., gas/ water/sewer line; irrigation facility; low voltage data/communication line) or other underground obstruction at the Premises that is not subject to the Dig Law. If APC causes or incurs damage due to Customer's failure to mark a private facility or obstruction before APC commences Installation, Customer is responsible for all damages and any resulting delay.
  - C. **Unforeseen Condition.** The estimated charges shown on Page 1 include no allowance for any subsurface rock, wetland, underground stream, buried waste, unsuitable soil, underground obstruction, archeological artifact, burial ground, threatened or endangered species, hazardous substance, etc. not properly marked or identified ("Unforeseen Condition"). If APC encounters an Unforeseen Condition, APC, in its sole discretion, may stop all APC Activity until Customer either remedies the condition or agrees to reimburse all APC costs arising from the condition. Customer is responsible for all costs of Equipment modification or change requested by Customer or dictated by an Unforeseen Condition or circumstance outside APC's control.
7. **Equipment Protection and Damage.** After Installation and throughout this Agreement's term, in the event of any work or digging near the Equipment, Customer (or any person or entity working on Customer's behalf) must: (i) provide notices and locate requests by calling Alabama 811 or 1-800-292-8525; and (ii) provide notices to other utilities or operators as required by the Dig Law.. As between Customer and APC, Customer is responsible for all damages arising from failure to comply with applicable law or for Equipment damage caused by anyone other than APC (or an APC contractor or representative).
8. **Maintenance.** During this Agreement's term, APC will maintain the Equipment and will bear the cost of routine repair or replacement. Customer must notify APC of any need for Equipment repair by calling the Business Service Center at 1-888-430-5787.
9. **Disclaimer: Damages.** APC makes no covenant, warranty, or representation of any kind (including warranty of fitness for a particular purpose or of merchantability) regarding the Equipment or any APC Activity. Customer also acknowledges that, due to the unique characteristics of the Premises, Customer's needs, or Equipment choice, the Equipment may not follow IESNA guidelines. Customer waives any right to consequential, special, indirect, treble, exemplary, incidental, punitive, loss of business reputation, or loss of use (including loss of revenue, profits, or capital costs) damages in connection with the Equipment or this Agreement, or arising from damage, hindrance, or delay involving the Equipment or this Agreement, whether or not reasonable, foreseeable, contemplated, or avoidable.
10. **Indemnity.** To the fullest extent allowed by law, Customer agrees to indemnify, release, hold harmless, and, at APC's request, defend APC and its affiliates and contractors (and their officers, directors, employees, representatives, and agents) from or against any loss, damage, cost, expense, or liability (including actual attorneys' fees reasonably incurred and all expenses of investigation and defense) for any damage or claim for personal or bodily injury (including death), property damage (including loss of use), monetary damage, or equitable relief caused by or arising out of any misrepresentation or act or omission of Customer involving this Agreement, the Equipment, or the Premises, whether or not caused by or arising out of the joint, concurrent, or contributory (but not sole) negligence of APC.
11. **Default.** Customer is in default if Customer does not pay the entire amount owed within 45 days of billing. APC's waiver of any past default will not waive any other default. If default occurs, APC, at its discretion, may immediately terminate this Agreement, collect all past due amounts (including late fees) and all amounts due for the Equipment during the remaining Agreement term, remove the Equipment from the Premises, and seek any other available remedy.
12. **Miscellaneous.** This Agreement contains the parties' entire agreement relating to the Equipment and replaces any prior agreement, written or oral. Only a written amendment signed by each party can modify this Agreement, except that either party may update administrative or contact information (e.g., address, phone, website) at any time by written notice to the other party. Customer will not assign, in whole or in part, this Agreement or its Agreement rights or obligations without APC's prior written consent. No assignment, whether with or without consent, relieves Customer of its Agreement obligations. Customer must provide advance notice of a change in control of all, or substantially all, of Customer's ownership or interest in the Premises. In this Agreement, "including" means "including, but not limited to." Alabama law governs this Agreement. If a court rules an Agreement provision unenforceable to any extent, the rest of that provision and all other provisions remain effective.

## **Sam Gaston**

---

**From:** Sam Gaston  
**Sent:** Monday, October 14, 2019 4:47 PM  
**To:** Howell, Alison Dyan; 'Rocker, Telra Shanae'  
**Subject:** FW: Between 2428-2430 Mountain Brook Circle  
**Attachments:** IMG\_4638.jpg; Untitled attachment 00847.txt

Alison,

There is a utility pole between 2428 -2430 Mountain Brook Circle. Here is a photo. It is between the concrete block apartments on this short cul-de-sac off of Heathermoor Road. Behind the utility pole is a walking path from Mountain Brook Village to Heathermoor and Mountain brook Elementary School and Field.

Can a street light go on this pole and be turned over the path, not towards the apartments?

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:** Sam Gaston [mailto:gastons@mtnbrook.org]  
**Sent:** Monday, October 14, 2019 4:37 PM  
**To:** Sam Gaston  
**Subject:** Between 2428-2430 Mountain Brook Circle

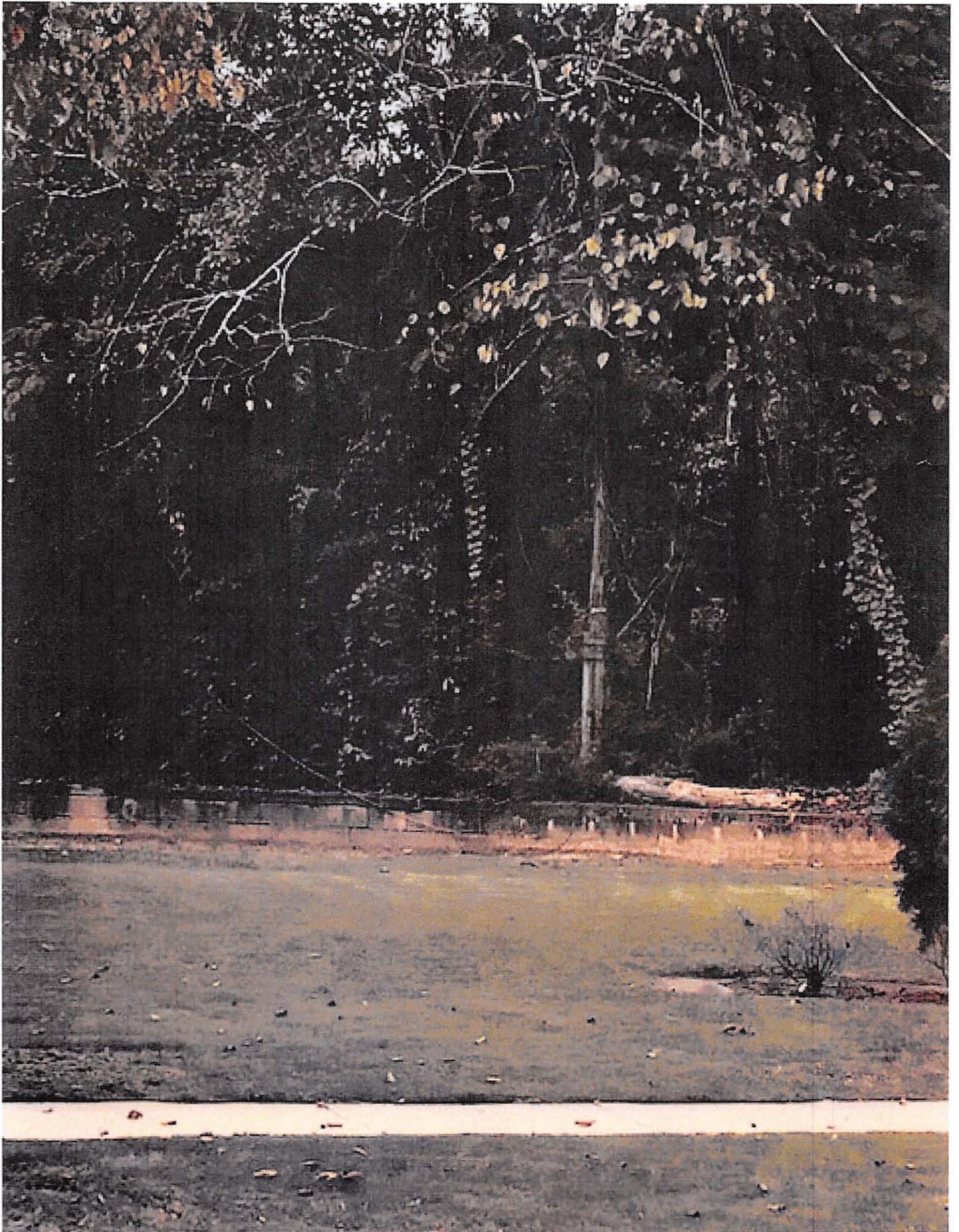


EXHIBIT A TO BE DISTRIBUTED UPON RECEIPT

RESOLUTION NO. 2019-166

**BE IT RESOLVED** by the City Council of the City of Mountain Brook, Alabama, that the City Council hereby authorizes City Manager to pay, or cause to be paid for and on behalf of the City, up to \$ \_\_\_\_\_ for materials and provide City labor and equipment to install beautification improvements at the Brook Manor Drove traffic island as illustrated in Exhibit A attached hereto.

**ADOPTED:** This 12th day of November, 2019.

\_\_\_\_\_  
Council President

**APPROVED:** This 12th day of November, 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 regular meeting held on November 12, 2019, as same appears in the minutes of record of said meeting.

\_\_\_\_\_  
City Clerk

**RESOLUTION NO. 2019-167**

**BE IT RESOLVED** by the City Council of the City of Mountain Brook, Alabama, that the City Council hereby reaffirms the City's commitment to promote safe workplace guidelines with respect to the City's workers' compensation program (Exhibit A attached hereto).

**ADOPTED:** This 12th day of November, 2019.

\_\_\_\_\_  
Council President

**APPROVED:** This 12th day of November, 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 regular meeting held on November 12, 2019, as same appears in the minutes of record of said meeting.

\_\_\_\_\_  
City Clerk



# MUNICIPAL WORKERS COMPENSATION FUND, INC.

P.O. BOX 1270 • 535 ADAMS AVENUE • MONTGOMERY, AL 36102  
334-262-2566 • FAX 334-263-0200  
CLAIMS 1-888-736-0210

TOM HENDERSON  
Mayor, Center Point  
President

SADIE BRITT  
Councilmember, Lincoln  
Vice President

JESSE MATTHEWS  
Councilmember, Bessemer  
Secretary/Treasurer

TOM WILLIAMS  
Mayor, Satsuma  
Director

MICKEY MURDOCH  
Mayor, Elba  
Director

KEN SMITH  
General Manager

RICHARD BUTTENSCHAW  
Operations Manager

STEVE MARTIN  
Finance Director

DATE: November 1, 2019

TO: All Members of MWCF, Inc.

FROM: Richard Buttenschaw  
MWCF Operations Manager

SUBJECT: Premium Discounts for the 2020 Fund Year

The Board of Directors of the Municipal Workers Compensation Fund, Inc. (MWCF) met on October 16th and approved premium discounts for those members that commit to certain safety guidelines, establish a medical protocol and adopt a drug and alcohol testing program that is 4th amendment compliant. A three (3) percent discount will be given for each program. Members that adopt all three programs will receive a ten (10) percent discount instead of nine (9) percent. For this past year, 56% of MWCF members took advantage of this 10% discount! For those members who have already adopted a medical protocol and/or a drug and alcohol testing program in prior years no action needs to be taken to receive the discounts for these programs. The Safe Workplace Guidelines however, must be renewed annually. If it is signed and returned by December 15th, the discount will appear on the initial billing for 2020-2021. We encourage each member to review the enclosed document(s) carefully. Please make a copy for your file and then return the completed forms to MWCF at the above address or faxed to 334-263-0200. **2020 Safe Workplace Guidelines must be in our office no later than February 1, 2020 for the discount to apply. No discount will be given for forms received after that date.**

If your municipality or municipal entity does not presently participate in the Drug and Alcohol testing program or have a Medical Protocol on file, that information has also been enclosed for your review.

For more details, see the article in the Fall 2019 issue of *Risk Management Solutions* mailed to you last month or download at [www.almwcf.org](http://www.almwcf.org).

## 2020 Safe Workplace Guidelines



Name of Municipality or Agency: City of Mountain Brook, Alabama  
Name of Safety Coordinator: Battalion Chief David Kennedy Email Address: kennedyd@mtnbrook.org  
Safety Coordinator Phone Number: ( 205 ) 802-3833 Fax Number: ( 205 ) 874-0653

The undersigned hereby confirms to the Municipal Workers Compensation Fund, Inc., our intent to implement the following safety standards relevant to our municipal entity:

### GENERAL SAFETY GUIDELINES

1. Adopt and implement a written safety manual or a statement of safety standards.
2. Establish a Safety Committee to recommend new safety policies, review and update existing safety policies, review accidents and establish methods to help prevent accidents, injuries and damages to equipment.
3. Have quality safety meetings for all employees once a month. At least one of these meetings each year should be a training session on proper lifting techniques and back wellness. Consider integrating health & wellness topics such as smoking, diabetes, management of stress and weight into these meetings. Document attendance, date, time and issues covered. Quality safety training can be provided utilizing tools such as the MWCF video library and/or LocalGovU online training center. These and other excellent free resources can be found at [www.losscontrol.org](http://www.losscontrol.org).
4. Have the designated Safety Coordinator or City Clerk meet with the designated Loss Control representative and review loss run reports. During this review, reports should be analyzed to make sure the records are correct. The Safety Coordinator or City Clerk should present a summary of the report to the Mayor or other Chief Executive Officer and all department heads.
5. Investigate all job related injuries regardless of the severity, determine the cause, maintain investigation records, and report all job related injuries immediately by completing a First Report of Injury Form at [www.almwcf.org](http://www.almwcf.org). Confer with any employee who has filed two or more claims in a 12 month period as to how their job can be made safer.
6. Provide a safety orientation for all new employees (including temporary and part-time) on how to do job tasks safely and document that this has been done.
7. Designate a doctor or medical group to be used by employees for non-emergency job-related injuries. This can be done via completion of the Medical Protocol Document (if not previously submitted) which also provides an additional premium discount. It is highly recommended that a supervisor or manager accompany injured employees to the medical facility on the initial visit. In life threatening emergencies, employee should be taken to the nearest medical facility.

### TRAINING AND PROCEDURES

8. Issue safety equipment where necessary, and provide proper tools for a job to employees to help prevent accidents and require the use of such safety equipment through a written policy.
9. Adopt a written infectious disease policy and consider providing hepatitis B shots for all police, fire, emergency medical technician, sanitation personnel, or any employee who has a high possibility of exposure.
10. Consider providing CPR/AED and first aid training to employees.
11. Emphasize the significance of good maintenance and housekeeping of equipment, work areas, building and grounds. Documented inspections of all equipment, work areas, building and grounds for safety hazards, including electrical, fire and life safety hazards should be done at least quarterly. Any problems discovered should be corrected immediately and documented.

**BOTH PAGES OF FORM MUST BE SUBMITTED TO MWCF BY FEBRUARY 1, 2020 TO BE ELIGIBLE FOR PREMIUM DISCOUNT**



**RESOLUTION NO. 2019-169**

**BE IT RESOLVED** by the City Council of the City of Mountain Brook, Alabama, that the City Council hereby authorizes either the Mayor or City Manager to execute, for and on behalf of the City, an amendment, including the stacked stone bridge railing design modifications and preparation of 2019 Rebuild Alabama grant application (Exhibit A attached hereto), to the previously authorized professional services agreement between the City and Gresham, Smith and Partners with respect the Caldwell Mill Road bridge replacement.

**ADOPTED:** This 12th day of November, 2019.

\_\_\_\_\_  
Council President

**APPROVED:** This 12th day of November, 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 regular meeting held on November 12, 2019, as same appears in the minutes of record of said meeting.

\_\_\_\_\_  
City Clerk

**AMENDMENT TO OWNER-ENGINEER AGREEMENT**  
**Amendment No. 2**

1. Background Data: Additional Design Services for Addition of Stacked Stone Bridge Railings and Preparation of 2019 Rebuild Alabama grant application

Effective Date of Owner-Engineer Agreement: December 12, 2016

Owner: City of Mountain Brook, AL

Engineer: Gresham Smith

Project: Design Services for Bridge Replacement on Caldwell Mill Road Bridge over Little Shades Creek

2. Description of Modifications: *(Check only those that are applicable. Refer to paragraph numbers used in the Agreement or previous amendment for clarity with respect to the modifications to be made. Use paragraph numbers in this document for ease of reference herein and in future correspondence or amendments.)*

- a. Engineer shall perform or furnish the following Additional Services: 1.) Design and detailing of stacked stone bridge rail and related modifications to roadway and bridge foundation design and plans – see attached Exhibit F-1, Engineer’s proposal dated October 25, 2019, and 2.) Preparation of 2019 Rebuild Alabama grant application – see attached Exhibit F-2, Engineer’s proposal dated October 24, 2019
- b. The Scope of Services currently authorized to be performed by Engineer in accordance with the Agreement and previous amendments, if any, is modified as follows: See attached Exhibits F-1 and F-2, Engineer’s proposals dated October 24, 2019 & October 25, 2019.
- c. The responsibilities of Owner are modified as follows: Not Applicable
- d. For the Additional Services or the modifications to services set forth above, Owner shall pay Engineer the following additional or modified compensation: 1.) \$9,000 lump sum fee for design of stacked stone bridge railings and 2.) \$1,750 lump sum fee for the preparation of the 2019 Rebuild Alabama grant application. Additional property owner negotiations to obtain letters of support from the affected property owners will be billed hourly in accordance with the Engineer’s proposal dated October 24, 2019
- e. The schedule for rendering services is modified as follows: Not Applicable
- f. Other portions of the Agreement (including previous amendments, if any) are modified as follows: Not Applicable

3. Agreement Summary (Reference only)

a. Original Agreement amount:	\$159,900	2016-202 dtd 12/12/2016
b. Net change for prior amendments:	\$35,743	
c. This amendment amount:	\$10,750	
d. Adjusted Agreement amount:	\$206,393	

Owner and Engineer hereby agree to modify the above-referenced Agreement as set forth in this Amendment as more specifically identified in item 2 above. All provisions of the Agreement not modified by this or previous Amendments remain in effect. The Effective Date of this Amendment is \_\_\_\_\_.

**OWNER: City of Mountain Brook, AL**

**ENGINEER: GRESHAM, SMITH AND PARTNERS**

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

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

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

Name: Blair C. Perry, P.E.

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

Title: Principal / Alabama State Transportation Leader

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

Date: 11/6/2019

EXHIBIT F-1



October 25, 2019

Mr. Sam Gaston, City Manager  
City of Mountain Brook  
56 Church Street  
Mountain Brook, AL 35213

Subject: Stone Barrier Rail Additional Project Cost  
Bridge Replacement on Caldwell Mill Road Over Little Shades Creek  
Mountain Brook, AL  
Gresham Smith Project No. 42480.00

Dear Mr. Gaston:

As you are aware, all of the citizens that either attended the recent Public Involvement meeting or provided written comments on the Caldwell Mill Road bridge replacement project felt very strongly that the new bridge must have stone railings similar to the other bridges around the City of Mountain Brook. As requested by the City of Mountain Brook (City), Gresham Smith has developed the following scope and cost for the addition of a stone barrier rail to the proposed bridge structure on Caldwell Mill Road Over Little Shades Creek.

The current proposed structure shown at the Public Involvement meeting is a 40' wide Conspan concrete arch structure. In order to provide the most cost-effective structure possible, the new bridge structure was sized to provide an opening under the bridge large enough to convey the flows in Little Shades Creek and not increase the flood elevation for the 100-year storm. Due to the arch shape of the bridge and the height of the arch relative to the roadway, dirt and asphalt pavement was to be placed across the structure, similar to a large pipe culvert. Rustic looking guardrails were proposed to protect drop-offs on both sides of the bridge.

Changing from guardrails to a stone barrier rail will allow the structure width to be reduce to 36' wide (perpendicular to the road), which will result in some cost savings for the Conspan concrete arch structure itself. In working with Contech, we are proposing to incorporate concrete bridge railings into the top the headwalls on both ends of the structure. The headwalls and bridge railings would then be covered with stacked stone matching the other bridge railings in Mountain Brook.

Below is a summary of the additional costs for adding stacked stone bridge railings across the new structure.

Genuine Ingenuity  
3595 Grandview Parkway  
Suite 300  
Birmingham, AL 35243  
205.298.9200  
GreshamSmith.com

EXHIBIT F-1



Mr. Sam Gaston  
October 25, 2019  
Page | 2

Additional engineering fees for roadway and bridge plan revisions and design & details for stacked stone bridge railings	\$9,000
Addition of reinforced concrete barrier rail across bridge (integral with bridge headwalls)	\$11,000
Stacked stone treatment for concrete barrier rails	\$10,200
Reduction of bridge width from 40' to 36'	(\$12,070)
Delete rustic guardrails across bridge	(\$1,750)
Add guardrail end anchors at ends of concrete bridge railings	\$12,000
<b>Total</b>	<b>\$28,380</b>

If you have any questions or need any additional information, please don't hesitate to contact me or Sammy Harton.

Sincerely,

Blair Perry, P.E.  
Principal/Project Manager

BCP/sh

Copy      Ronnie Vaughn – City of Mountain Brook

**Gresham  
Smith**



October 24, 2019

Mr. Sam Gaston, City Manager  
City of Mountain Brook  
56 Church Street  
Mountain Brook, AL 35213

Subject: Rebuild Alabama Act Annual Grant Program  
Bridge Replacement on Caldwell Mill Road Over Little Shades Creek  
Mountain Brook, AL  
Gresham Smith Project No. 42480.00

Dear Mr. Gaston:

Gresham Smith at the request of the City of Mountain Brook (City) has reviewed the requirements for the new Rebuild Alabama Act Annual Grant. Below is information on the grant program as it applies the Caldwell Mill Road bridge replacement project.

- The Caldwell Mill Road bridge replacement project qualifies for this grant program as it is a City owned and maintained road open to the public.
- The maximum grant award per project is \$250,000 which can only be used for construction. If awarded, the funds are available for one year after the project is awarded.
- There is no City funding match requirement for this grant program. Additional funding commitments by the City, which would be required to cover the total cost of this project, will be viewed favorably by the grant selection committee.
- ALDOT currently intends to be hands-off after the award of the grant and will not require the plans to go through ALDOT's plan development and review process. However, ALDOT advised this is subject to change pending upcoming internal meetings by ALDOT as they develop the details of the program.
- This project will require some right-of-way (ROW) and easement acquisitions. The additional ROW/easements will need to be identified in the grant application and include letters of support from the affected property owners. If the property owners do not support the project and ROW acquisition efforts will be intensive, ALDOT recommends not applying for the grant until property is acquired, due to the time limitation on the funds.
- If awarded, grant funds will be released to the City once ALDOT receives notice of award to a contractor from the City.
- Grant applications are due November 30, 2019 for the 2020 grant year. Applicants will be notified no later than January 15, 2020 if their application is selected for the grant.

**Genuine Ingenuity**

3595 Grandview Parkway  
Suite 300  
Birmingham, AL 35243  
205.298.9200  
GreshamSmith.com



We believe that this project is a strong candidate for a grant award under this program for the following reasons:

- The City's prior and ongoing efforts to assess the needs of the City's bridges and budget funds for the replacement and rehabilitation of several City bridges, including the Caldwell Mill Road bridge.
- The need for this project can be easily demonstrated due to the condition and current 4-ton load posting of the existing bridge. The existing bridge is also a hydraulic "choke point" in Little Shades Creek.
- The City's willingness to provide additional City funds to use with the grant funds to complete this project should be looked upon favorably by the grant selection committee.

If the City submitted and were awarded the maximum \$250,000 grant amount, this would cover approximately 35%-40% of the total estimated construction cost of the project. If the City elected to submit for this grant, it could delay the start of construction one to two months, as we would need to delay the bid opening until after the grants are awarded.

Gresham Smith would be glad to assist the City with the grant application process. Gresham Smith proposes a lump sum fee of \$1,750 to prepare the grant application for the City. This will include preparing the base grant application as well as supporting exhibits (drawings, maps, photos, etc.) to be attached to the application. Give the unknown amount of time it may take to discuss the project or meet with affected property owners to obtain property owner letters of support, the above fee does not include the time to obtain these letters of support. If the City would like our assistance with talking to or meeting with property owners to obtain letters of support, we propose to do this on an hourly basis using the hourly rate schedule below.

Hourly Rate Schedule

Staff Classification	Hourly Billing Rate
Project Manager	\$205.00
Project Engineer	\$120.00

If you have any questions or need any additional information, please don't hesitate to contact us.

Sincerely,

Blair Perry, P.E.  
Principal/Project Manager

BCP/sh

Attachments: Rebuild Alabama Procedural Guidelines  
Rebuild Alabama Act Annual Grant Program Application Fiscal Year 2020  
Rebuild Alabama Act Annual Grant Program (FAQ)

## **Rebuild Alabama Act Annual Grant Program Fiscal Year 2020 Program Guidelines**

This document contains information regarding the Rebuild Alabama Act (RAA) Annual Grant Program for Fiscal Year (FY) 2020. The RAA Annual Grant Program is administered by the Alabama Department of Transportation (ALDOT). Prospective project-sponsoring governmental agencies are encouraged to thoroughly review this document, as well as the FY 2020 RAA Annual Grant Program Application and FAQ document, when considering developing a project application.

### **A. ELIGIBILITY:**

Any political subdivision of the State of Alabama (Municipal and County Governments) is eligible to apply for funding under the RAA Annual Grant Program.

Project applications may be submitted for improvements to any road or bridge owned and maintained by the applicant that is open to public traffic.

The final eligibility of applications and proposed project activities will be determined by ALDOT upon evaluation of the application submitted.

### **B. COMPETITIVE SELECTION**

RAA Annual Grant Program funds are awarded through a competitive project selection process.

### **C. PROJECT FUNDING:**

The RAA Annual Grant Program was established by Legislative Act #2019-2. The program allocates no less than \$10 million annually to eligible projects as identified by ALDOT during a fiscal year.

The maximum funding provided to any project in FY2020 will be \$250,000.00.

RAA Annual Grant program funding is only available for eligible construction activities. No Preliminary Engineering, Right-of-Way, Utility Relocation, Construction Engineering & Inspection or Materials Testing costs will be eligible.

RAA Annual Grant Program awarded funds will be issued to the sponsoring agency either (1) upon ALDOT's receipt of a Notice of Award from the sponsoring agency to the contractor, or (2) upon ALDOT's receipt of a Purchase Order (PO) from the sponsoring agency issued against a valid, eligible in-place bid contract.

RAA Annual Grant Program awarded funds cannot be transferred to another project and may only be used to fund improvements consistent with the intent of the original project application.

RAA Annual Grant Program funds may be combined with other federal, state or local funds, where allowed by ALDOT. In such cases, the more restrictive funding requirements may apply to all funds utilized, if required by use of the funds.

A sponsoring governmental agency may only submit one project application per application cycle. Each County and Municipality will be viewed as an individual sponsor. Any project submitted by multiple sponsors shall be deemed as the eligible submission for all sponsors.

Sponsors with an active award may not submit another application until the awarded project has been let to contract or a purchase order utilizing a valid, eligible in-place bid contract has been issued.

Other funding sources to supplement RAA Annual Grant Program funds are not required, but projects containing a commitment to provide supplemental funding may be given favorable consideration.

**D. PROJECT PROGRESS:**

RAA Annual Grant Program funds are available to sponsoring agencies for a period of one (1) year from the notice of award. Funding awarded to a sponsoring agency not either let to contract or a purchase order issued against a valid, eligible in-place bid contract within one year of the notice of award are subject to rescission.

Any overrun in total project costs above the amount awarded shall be the responsibility of the sponsoring agency.

**E. MISCELLANEOUS PROVISIONS:**

Projects must be let to competitive bid. In-place bids may also be utilized as long as those bids were awarded following all required competitive bid laws for eligibility including the RAA. No other method of construction, such as force account, is allowed.

Any costs incurred prior to issuance of a Notice of Award or a Purchase Order are not eligible.

RAA Annual Grant Program funds have reporting requirements. Recipients will be required to furnish any and all requested data to ALDOT or required entities necessary to satisfy reporting requirements of the RAA.

**E. APPLICATION SUBMISSION & SELECTION**

Applications must be received or postmarked prior to November 30, 2019.

All sponsoring agencies selected to receive funding for the first round of grant applications shall be notified no later than January 15, 2020.

## Rebuild Alabama Act Annual Grant Program Application Fiscal Year 2020



### ALABAMA DEPARTMENT OF TRANSPORTATION

This document provides the format in which the required information is to be included in all applications seeking consideration for the Rebuild Alabama Act (RAA) Annual Grant Program. Applicants may develop and prepare their own applications; however, the headings (A through H) shall be listed with supporting narratives/attachments included. Prospective project sponsoring governmental agencies are encouraged to review the *FY 2020 RAA Annual Grant Program Guidelines* when considering the development of applications. Sponsors will be required to submit the original application and 3 color copies to the ALDOT Local Transportation Bureau no later than **November 30, 2019**.

A. Sponsoring local governmental entity

Sponsor Entity: \_\_\_\_\_  
Official: \_\_\_\_\_  
Title: \_\_\_\_\_  
Address: \_\_\_\_\_  
Phone: \_\_\_\_\_  
Email: \_\_\_\_\_

Project Manager: \_\_\_\_\_  
Title: \_\_\_\_\_  
Address: \_\_\_\_\_  
Phone: \_\_\_\_\_  
Email: \_\_\_\_\_

B. Briefly describe the proposed project improvements, identifying the points of origin, destination and all intermediate points of access. Detail the intended use of the project.

EXHIBIT F-2

- C. Provide a detailed preliminary pay item estimate of the total project cost, the amount of RAA Annual Grant Program funds requested, the amount and source of any other funds to be applied to the project and how the project will be constructed (let to contract locally, in-place bid, etc.).
- D. Identify any project phases that could adversely impact the project's progression. Note the following phases are not eligible for reimbursement:
  - a. Environmental and/or cultural resources
  - b. Right-of-way or temporary/construction easements
  - c. Utility relocations
- E. Describe the life expectancy of the project. Identify the agency responsible for maintenance, and the funding source for maintenance efforts.
- F. Provide any additional comments the sponsor wishes to be considered.
- G. Attach any supporting photographs, maps, drawings, or plans necessary to support the project application (all in Color).
- H. Applications should follow the format provided and specified, including all letters of support. Attachments should be limited in size to 11" by 17" (folded to 8-1/2" by 11").

The original application and 3 color copies, including all pertinent attachments, should be received or postmarked no later than November 30, 2019, at the following address:

Mr. D.E. (Ed) Phillips, Jr., P.E.  
Local Transportation Bureau Chief  
Alabama Department of Transportation  
1409 Coliseum Boulevard  
Room 110  
Montgomery, AL 36110

## Rebuild Alabama Act (RAA) Annual Grant Program

### FREQUENTLY ASKED QUESTIONS

***What is the RAA Annual Grant Program?*** The RAA Annual Grant Program is an ALDOT administered transportation infrastructure grant program for projects of local interest created in the Rebuild Alabama Act of 2019.

***What projects are eligible?*** Project applications may be submitted for improvements to any classified road or bridge open to public traffic.

***Who may apply?*** Any local governmental entity (county or municipality) within the State of Alabama.

***How much funding can be requested?*** The maximum awarded amount of funding per project is subject to change for any fiscal year. Please refer to the current fiscal year's procedural guidelines.

***Can the total cost of a project exceed the maximum awarded amount?*** Yes, however any overruns in total project costs, above the amount awarded, shall be the responsibility of the sponsor.

***Is a sponsor funding match required?*** There is no funding match required by the sponsor. However, projects containing a commitment to partial local funding may be given favorable consideration.

***Will a sponsor have to pay any funds "up-front"?*** No, the RAA Annual Grant Program is not a "cost reimbursement program" and invoicing ALDOT will not be required. Awarded funds will be issued to the sponsoring agency either (1) upon ALDOT's receipt of a Notice of Award from the sponsoring agency to the contractor, or (2) upon ALDOT's receipt of a Purchase Order from the sponsoring agency issued against an in-place annual bid.

***How many applications can I submit?*** Local project sponsors may only submit one application per application cycle. Once a project is selected, a local project sponsor may not submit another application until the awarded project has been let to contract or a purchase order issued against an in-place bid.

***How long is the funding available?*** Funds are available for 1 year from the notice of award. Funds awarded but not let to contract or had a purchase order issued against an in-place bid within 1 year are subject to rescission. If a project is in danger of exceeding the 1-year funding deadline, an extension request must be submitted by the sponsor and may be approved by ALDOT prior to the expiration of the funding deadline.

***Who is responsible for preliminary engineering?*** The sponsor will be responsible for the cost of all required preliminary engineering activities in accordance with program requirements at no cost to the project. This shall include but is not limited to costs associated with preparing the application, project development, environmental clearances, plan development, and contract letting. Furthermore, the sponsor is responsible for any environmental assessments, clearances, and permitting which may be required. Projects including preliminary engineering will be held to the funding deadlines established in the Annual Grant Program Guidelines.

***Must a project be on a certain Functional Classification of roadway?*** No. Project applications may be submitted for any classification of road or bridge open to public traffic.

***Will projects requiring right-of-way or easements be considered for award?*** Yes. Any application for project improvements that will require the acquisition of right-of-way or easements must be disclosed in the application. Non-adverse conditions (donation, value findings, etc.) should be documented with the application in the form of letters of support from the affected property owners. Applications that require significant and/or adverse right-of-way acquisition should be delayed until the subject right-of-way has been obtained.

Projects requiring right-of-way or easement acquisition will be held to the funding deadlines established in the ALDOT Annual Grant Program Guidelines.

Failure to disclose required right-of-way in the project application may be grounds for rescission and reallocation of awarded project funds.

***Who is responsible for right-of way or easement acquisition?*** The sponsor will be responsible for the cost of all right-of-way and easement acquisition in accordance with program requirements at no cost to the project. The nature of any required right-of-way or easements should be disclosed in the application.

***Will projects requiring permitted work on property owned by another entity be considered for award?*** Project improvement activities should only occur on property owned or on easements obtained by the sponsor. Applications involving work on property owned by another entity will generally not be considered unless the affected property owner is ALDOT. Any proposed work on ALDOT right-of way shall have the written support of the local ALDOT Region Engineer submitted with the application.

Failure to disclose necessary permitted work in the project application may be grounds for rescission and reallocation of awarded project funds.

***Who is responsible for obtaining necessary permits?*** The sponsor will be responsible for acquiring necessary permits at no cost to the project.

***Will projects requiring utility relocations be considered for award?*** Yes, however, any utility relocation costs will be the responsibility of the applicant and will not be an eligible cost to the project. Projects including utility relocations will be held to the funding deadlines established in the Annual Grant Program Guidelines.

Any utility relocations shall be identified in the project application. Failure to disclose required utility work / relocations in the project application may be grounds for rescission and reallocation of awarded project funds.

***Who will let the project to contract?*** The sponsoring governmental agency will be responsible for letting projects locally via competitive bid. In-place bids may also be utilized as long as the bids were awarded following all state and federal competitive bid laws. No other method of construction, such as force account will be allowed.

*Can a sponsor use an in-place annual bid to purchase materials and use their own forces to place the material?* Yes, but only the cost of the materials that were purchased through the in-place annual bid would be eligible for reimbursement. The cost of the sponsor's forces (labor and equipment) would not be eligible for reimbursement under this program.

*Who is responsible for construction engineering and inspection?* The sponsor will be responsible for the construction engineering and inspection (CE&I), as well as the testing and inspection of materials as required by program specifications.

*How does the RAA Annual Grant Program affect other Federal/State Funded Programs?* Projects identified to receive other sources of Federal and/or State funds may be supplemented with annual grant funds (where allowed by ALDOT). If Annual Grant Program funds are combined with federal funds, the more restrictive federal requirements shall apply to the Annual Grant Program funds as well.

*Due to the funding restrictions placed on Annual Grant projects, what potential issues should be taken into consideration when developing applications.*

- Right-of-way acquisition or easement/permitting
- Utility / service relocations
- Cultural resources
- Environmental impacts
- Fiscal capability and the sponsoring agency's ability to provide funds to cover overruns and/or total project costs in excess of the award.

*How do I apply?* Local project sponsors may apply for annual grant funding by submitting a complete and accurate project application. Detailed Annual Grant Program Guidelines and an Annual Grant Application can be found on the Annual Grant webpage: <https://www.dot.state.al.us/RAgrantprogram/>

*Who will select projects for funding?* Applications will be accepted, reviewed, and awarded by ALDOT through a competitive selection process.

*When will applicants know they have a project selected for funding?* All local project sponsors shall be notified in writing consistent with the deadlines established for each round of allocation.

**RESOLUTION NO. 2019-170**

**A RESOLUTION AUTHORIZING THE SALE OR DISPOSAL  
OF CERTAIN SURPLUS PROPERTY**

**WHEREAS**, the City of Mountain Brook, Alabama, has certain items of personal property which are no longer needed for public or municipal purposes; and

**WHEREAS**, Section 11-43-56 of the Alabama Code of 1975 authorizes the municipal governing body to dispose of unneeded personal property.

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Mountain Brook, as follows:

Section 1. It is hereby established and declared that the following property owned by the City of Mountain Brook, Alabama is not needed for public or municipal purposes and is hereby declared surplus property:

<b>Item</b>	<b>Brand</b>	<b>Model</b>	<b>Quantity</b>
Computer Tower	Dell	Optiplex 9020	11
Barcode Scanner	Metrologic	MS9540 Voyager	4
Computer Tower	Dell	Optiplex 3020	4
Computer Monitor	Dell	P2214Hb	2
Receipt Printer	Transact Technologies	iThaca iTerm 280	2
Barcode Scanner	1D	Scanner	1
Barcode Scanner	Sky	Scanner	1
Cash Register	Royal	alpha710ML	1
Computer Monitor	3M	9410 Self Check	1
Computer Monitor	Dell	P2012Ht	1
Computer Speakers	Insignia	NA	1
Computer Tower	Dell	Optiplex 790	1
Computer Tower	HP	rp5700	1
Copier	Kyocera	TASKAlpha3050	1
Laptop Computer	Dell	Inspiron 15-5547	1
Laptop Computer	Dell	Inspiron 5755	1
Laptop Computer	Apple	Macbook Pro 13"	1
Laptop Computer	Apple	Macbook Pro 15"	1
Laptop Computer	Sony	Vaio VPCS11FM	1
Portable Audio System	Anchor	Liberty LIB-6000C	1
Scanner	Avision	AV 186+	1
Scanner	Fujitsu	fi-6100	1
Tablet Computer	Apple	iPad A1396	1
Tablet Computer	Apple	iPad A1459	1
Video Camera	JVC	3CCD Everio	1

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

**ADOPTED:** This 12th day of November, 2019.

\_\_\_\_\_  
Council President

**APPROVED:** This 12th day of November, 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 November 12, 2019, as same appears in the minutes of record of said meeting.

\_\_\_\_\_  
City Clerk

**ORDINANCE NO. 2061**

**AN ORDINANCE AMENDING SECTION 30-3(a) OF THE CITY CODE –  
TIME AND PLACE OF HOLDING COURT**

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

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

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

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

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

**4. Effective Date.** This ordinance shall become effective the 1<sup>st</sup> day of January 2020.

**ADOPTED:** This 12th day of November, 2019.

\_\_\_\_\_  
Council President

**APPROVED:** This 12th day of November, 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 an ordinance adopted by the City Council of the City of Mountain Brook, Alabama, as its meeting held on November 12, 2019, as same appears in the minutes of record of said meeting, and published by posting copies thereof on November 13, 2019, at the following public places, which copies remained posted for five (5) days as required by law.

City Hall, 56 Church Street  
Gilchrist Pharmacy, 2850 Cahaba Road

Overton Park, 3020 Overton Road  
Cahaba River Walk, 3503 Overton Road

\_\_\_\_\_  
City Clerk

**ORDINANCE NO. 2062**

**AN ORDINANCE REPEALING SECTIONS 109-31, 109-56, 109-195, AND 109-227 OF THE CITY CODE AND ADOPTING BY REFERENCE 2018 VERSIONS OF SPECIFIED BUILDING AND TECHNICAL CODES AND THE 2017 VERSION OF THE ELECTRICAL CODE**

**WHEREAS**, the City Council of the City of Mountain Brook, Alabama (the "City Council") heretofore has adopted various technical codes promulgated by the International Code Council (the "ICC") and the National Fire Protection Association relating to buildings, residences and other structures in the City of Mountain Brook (the "City"), and operations in the City concerning fuel gas, mechanical, plumbing, and electrical systems (collectively, the "Technical Codes");

**WHEREAS**, the City Council desires that, except to the extent specified herein, the City adopt, the 2018 versions of the Building and Technical Codes except for the electrical code which is the 2017 version (the "Updated Building and Technical Codes") that are specified herein for use and application for buildings and structures within its corporate limits;

**WHEREAS**, the adoption of the Updated Building and Technical Codes by reference is authorized by §11-45-8 Code of Alabama (1975); and

**WHEREAS**, the adoption of the Updated Building and Technical Codes will facilitate the performance of inspection activities by the City, and promote the public safety, health and general welfare of its citizens and owners, occupants and users of buildings and structures in the City.

**NOW, THEREFORE, BE IT ORDAINED** by the City Council of the City as follows:

**Section 1.** Section 109-31 of the City Code is hereby repealed and replaced with the following:

**"Sec. 109-31. - Building codes—Adoption by reference.**

- (a) Except as provided herein, the International Building Code - 2018 Edition ("ICC Building Code") and International Residential Code - 2018 Edition (the "IRC") and International Swimming Pool and Spa Code – 2018 Edition (the "ISPSC"), as published by the ICC and available for purchase at 900 Montclair Road, Birmingham, Alabama, are hereby adopted as the building code of the city by reference as though they were set forth fully herein.
- (b) The building codes adopted by Section 109-31(a) are amended as follows:
  - (i) The following codes that are referenced in this Section [A]101.4 of the ICC Building Code are not adopted: (a) the International Property Maintenance Code referenced in Section 101.4.4; and (b) the International Existing Building Code referenced in Section 101.4.7.
  - (ii) Section [A] 109.2 of ICC Building Code & Section R108.2 of IRC are hereby repealed and are replaced in their entirety with the following:

**Schedule of Permit Fees.** On buildings, structures, electrical, gas, mechanical, and plumbing systems or alterations requiring a permit, a fee or fees as set forth in City Code Section 14-1 shall be paid at the time of filing application, in accordance with such fee schedule as shall be set from time to time by the city council. A list of such fees shall be kept on file in the city clerk's office.

2062

- (iii) Sections [A] 111.1 of ICC Building Code & R110.1 of IRC are hereby repealed and are replaced in their entirety with the following:

**Use and occupancy.** No residential building or structure shall be used or occupied, and no change in the existing occupancy classification of a residential building or structure or portion thereof shall be made until the building official has issued a certificate of occupancy which has been signed by the building official and the City Manager. No commercial building or structure shall be used or occupied, and no change in the existing occupancy classification of a commercial building or structure or portion thereof shall be made until the building official has issued a certificate of occupancy which has been signed by the building official, the fire official, and the City Manager. A certificate of occupancy shall not be issued until after the City Manager shall have determined that the building conforms to all provisions and regulations of the city with respect thereto, including its use under the zoning ordinances of the city. A certificate of occupancy (whether a temporary certificate or the regular certificate) issued without the signature of the building official, fire official (in the case of commercial buildings), and the City Manager shall not be deemed to be a certificate of occupancy issued under this code or under the city's zoning ordinance.

- (iv) Sections [A] 113 of ICC Building Code & R112 of the IRC are hereby repealed and are replaced in their entirety with the following:

Appeals regarding the application of the adopted building codes may be presented to the City Manager for consideration. The City Manager may elect to render a decision on such appeal or remand the appeal to the board of zoning adjustment. In cases where the appeal is heard by the City Manager and a decision is rendered, the appellant, if not satisfied with the decision, may then appeal to the board of zoning adjustment.

The board of zoning adjustment of the City of Mountain Brook, Alabama, as said board is prescribed by Section 11-52-80 Code of Alabama (1975), as amended, shall constitute a board of adjustments and appeals under these codes.

- (v) Sections [A]114.4 of ICC Building Code & R113.4 of IRC are hereby repealed and are replaced in their entirety with the following:

**R113.4 Violation Penalties.** Any person who violates a provision of these codes or fails to comply with any of the requirements thereof or who erects, constructs, alters or repairs a building or structure in violation of the approved construction documents or directive of the building official, or of a permit or certificate issued under the provisions of these codes, shall be subject to penalties as prescribed by law.

In instances where a person commences work prior to making application for a required permit, all applicable permit fees shall be doubled. Once notified in writing by the building official of the City that a report or building permit application must be submitted, such person must submit such report within ten (10) days. Persons who fail to make such report within the time period required shall be subject to additional penalties as provided under Sec. 1-6.1 of the City Code and by §13A-10-4 of the Code of Alabama.

- (vi) Chapter 11 of IRC is adopted except as follows: (a) notwithstanding any provisions contained in Chapter 11 or elsewhere in the IRC, the Energy Efficiency requirements in the

IRC shall not be applicable to the repair, renovation, alteration or reconstruction of existing buildings and structures; and (b) the minimum standards for insulation to be used in connection with the repair, renovation, alteration or reconstruction of existing buildings and structures shall not be less than R-30 for ceiling spaces, R-13 for walls and R-19 for floors.

- (vii) Section P2904 of the IRC- Dwelling Unit Fire Sprinkler Systems is adopted, but amended by adding the following provision as P2904.8.9:

**P2904.8.9 Residential Sprinkler Exemption.** Notwithstanding any provision in this Section P2904 or elsewhere in the IRC, any homeowner, upon application to the City's building official, may request an exemption to the sprinkler system requirements of P2904.1 for a dwelling and such exemption shall be granted upon satisfaction of each of the following:

- a. The applicant must either confer with the City Fire Marshal or his or her designee about the benefits of installing a residential fire sprinkler system or review presentation materials developed by the Fire Marshal concerning sprinkler systems;
- b. The applicant must certify that he or she has met the requirements in subsection (a) above, and fully understands and acknowledges the risks of opting not to install a residential fire sprinkler system;

Exceptions:

- i. No exemption shall be granted for any dwelling constructed less than 5 feet from the property line; and
  - ii. No exemption shall be granted for 2-family or more dwelling units.
- (viii) Section 506.2.1 of the 2018 IRC is adopted but is amended by adding the following language to such section:

Fill depths between 24-60" shall be permitted where fill consists of #57 compacted gravel stone backfill and where #4 rebar on 16" center tied in both directions or other approved reinforcement material, as specified by an engineer's report, is utilized."

**Section 2.** Section 109-56 of the City Code is repealed and replaced with the following:

**"Sec. 109-56. - Electrical code—Adopted by reference.**

The National Electrical Code, 2017 Edition, published by the National Fire Protection Association and available for purchase from the National Fire Protection Association, 1 Batterymarch Park, Quincy, MA, is hereby adopted by reference as though it were set forth fully herein as the electrical code of the city."

**Section 3.** Section 109-195 of the City Code is repealed and replaced with the following:

**"Sec. 109-195. - Gas and mechanical codes—Adoption by reference.**

- (a) Except as provided herein, the International Fuel Gas Code - 2018 Edition (the "Gas Code") and International Mechanical Code - 2018 Edition (the "Mechanical Code"), both published by International Code Council ("ICC") and available for purchase at 900 Montclair Road,

Birmingham, Alabama, are hereby adopted as the gas and mechanical code of the city by reference as though they were set forth fully herein.

(b) The Gas Code and the Mechanical Code, adopted by Section 109-195 are amended as follows:

(i) Sections [A]106.6.2 of Gas Code & [A]106.5.2 of Mechanical Code are hereby repealed and are replaced in their entirety with the following:  
Schedule of Permit Fees. On buildings, structures, electrical, gas, mechanical, and plumbing systems or alterations requiring a permit, a fee or fees as set forth in City Code Section 14-1 shall be paid at the time of filing application, in accordance with such fee schedule as shall be set from time to time by the city council. A list of such fees shall be kept on file in the city clerk's office.

(ii) Sections [A] 108.4 of Gas Code & Mechanical Codes are hereby repealed and are replaced in their entirety with the following:

**[A] 108.4 Violation Penalties.** Any person who violates a provision of these codes or fails to comply with any of the requirements thereof or who erects, constructs, alters or repairs a building or structure in violation of the approved construction documents or directive of the building official, or of a permit or certificate issued under the provisions of this code, shall be subject to penalties as prescribed by law.

In instances where a person commences work prior to making application for a required permit, all applicable permit fees shall be doubled. Once notified in writing by the building official of the City that a report or building permit application must be submitted, such person must submit such report within ten (10) days. Persons who fail to make such report within the time period required shall be subject to additional penalties as provided under Sec. 1-6.1 of the city code and by §13A-10-4 of the Code of Alabama.

(iii) Sections 109 of Gas Code & Mechanical Code are hereby repealed and are replaced in their entirety with the following:

Appeals regarding the application of the adopted building codes may be presented to the City Manager for consideration. The City Manager may elect to render a decision on such appeal or remand the appeal to the board of zoning adjustment. In cases where the appeal is heard by the City Manager and a decision is rendered, the appellant, if not satisfied with the decision, may then appeal to the board of zoning adjustment.

The Board of Zoning Adjustment of the City of Mountain Brook, Alabama, as said board is prescribed by Section 11-52-80 Code of Alabama (1975), as amended, shall constitute a board of adjustments and appeals under these codes."

**Section 4.** Section 109-227 of the City Code is repealed and replaced with the following:

**"Sec. 109-227. Plumbing Code—Adoption by reference.**

(a) Except as provided herein, the International Plumbing Code - 2018 Edition published by International Code Council ("ICC") (the "Plumbing Code") and available for purchase at 900 Montclair Road, Birmingham, Alabama, is hereby adopted as the Plumbing Code of the city by reference as though it were fully set forth herein.

(b) The Plumbing Code adopted by Section 10—227(a) is amended as follows:

- (i) Section [A] 106.6.2 of Plumbing Code - Fee Schedule. This Section is not adopted in the form proposed by the ICC, and is replaced in its entirety with the following:

**Schedule of Permit Fees.** On buildings, structures, electrical, gas, mechanical, and plumbing systems or alterations requiring a permit, a fee or fees as set forth in City Code Section 14-1 shall be paid at the time of filing application, in accordance with such fee schedule as shall be set from time to time by the city council. A list of such fees shall be kept on file in the city clerk's office.

- (ii) Section [A] 108.4 of Plumbing Code is hereby repealed and is replaced in its entirety with the following:

**[A] 108.4 Violation Penalties.** Any person who violates a provision of this code or fails to comply with any of the requirements thereof or who erects, constructs, alters or repairs a building or structure in violation of the approved construction documents or directive of the building official, or of a permit or certificate issued under the provisions of this code, shall be subject to penalties as prescribed by law.

In instances where a person commences work prior to making application for a required permit, all applicable permit fees shall be doubled. Once notified in writing by the building official of the City that a report or building permit application must be submitted, such person must submit such report within ten (10) days. Persons who fail to make such report within the time period required shall be subject to additional penalties as provided under Sec. 1-6.1 of the City Code and by §13A-10-4 of the Code of Alabama.

- (iii) Section 109 of Plumbing Code is hereby repealed and is replaced in its entirety with the following:

Appeals regarding the application of the adopted building code may be presented to the city manager for consideration. The City Manager may elect to render a decision on such appeal or remand the appeal to the board of zoning adjustment. In cases where the appeal is heard by the City Manager and a decision is rendered, the appellant, if not satisfied with the decision, may then appeal to the board of zoning adjustment.

The board of zoning adjustment of the City of Mountain Brook, Alabama, as said board is prescribed by Section 11-52-80 Code of Alabama (1975), as amended, shall constitute a board of adjustments and appeals under this code.

- (iv) Section 410.3 of the Plumbing Code is amended to add the following as Subpart “3” under **Exceptions**:

3. An approved water cooler with an accessible approved spout height and a bottled water dispenser and permanent affixed cup or water bottle holder shall be permitted to be substituted for a standard high low water cooler fixture complying with 410 in instances where the space is shown to be limited. Such substitution shall only be permitted where the update is part of renovation of an existing group B or M business space.

**Section 5.** This ordinance is cumulative in nature and is in addition to any power and authority which the City of Mountain Brook may have under any other ordinance or law.

**Section 6.** If any part, section or subdivision of this ordinance shall be held unconstitutional or invalid for any reason, such holding shall not be construed to invalidate or impair the remainder of this ordinance, which shall continue in full force and effect, notwithstanding such holding.

**Section 7.** Any provisions herein that the City has adopted that deviate from the Technical Codes that are adopted by reference shall prevail over any conflicting provision of those Technical Codes. All other ordinances or parts of ordinances heretofore adopted by the City Council of the City of Mountain Brook, Alabama, which are inconsistent with the provisions of this ordinance, are hereby expressly repealed.

In addition, when a provision in the adopted Technical Codes or this Ordinance refers to the duties of certain named officials, the official of the City of Mountain Brook, Alabama whose duties most closely correspond to those of such named official shall be deemed the official responsible for the enforcement of said provision.

**Section 8.** The effective date of this Ordinance shall be January 1, 2020.

### **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, as its meeting held on November 12, 2019, as same appears in the minutes of record of said meeting, and published by posting copies thereof on November 13, 2019, at the following public places, which copies remained posted for five (5) days as required by law.

City Hall, 56 Church Street  
Gilchrist Pharmacy, 2850 Cahaba Road

Overton Park, 3020 Overton Road  
Cahaba River Walk, 3503 Overton Road

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City Clerk