

**MEETING AGENDA
MOUNTAIN BROOK CITY COUNCIL**

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

APRIL 11, 2022, 7 P.M.

As a matter of convenience, members of the public are invited to listen, observe and participate in public meetings by Internet video conference. Presenters and others interested in a particular matter for discussion are encouraged to attend the meeting in-person. The City is not responsible for technical issues that may occur that interfere with the virtual meeting. The City Council, at its sole discretion, may proceed with its in-person business meeting regardless of whether virtual attendees can hear and/or observe the proceedings. The City intends to make the meeting available by way of the Zoom app (re: Meeting ID 801-559-1126, password 04112022). Unvaccinated in-person attendees are asked to mask.

1. Incumbent Senator Dan Roberts, Senate District 15 candidate to address Council.
2. Ruth Robinson, Divorce Court Judge Place 20 candidate to address Council.
3. Approval of the minutes of the March 28, 2022, regular meeting of the City Council.
4. Consideration: Resolution authorizing the sale or disposal of certain surplus property.
5. Consideration: Resolution authorizing the City's participation in the 2022 "Back-to-School Sales Tax Holiday".
6. Consideration: Resolution executing an agreement between the City and the Alabama Department of Transportation (ALDOT) with respect to the installation and maintenance of special directional and/or political signs (World Games Welcome Sign).
7. Consideration: Resolution accepting the professional services proposal submitted by Sain Associates with the respect to preparation of a TAP application for the Montclair sidewalk project.
8. Consideration: Resolution accepting the professional services proposal submitted by BlackJack Horticulture with respect to the landscape renovation at Crestline Shell station project.
9. Comments from residents and attendees.
10. Announcement: The next regular meeting of the City Council has been moved from April 25th to April 26, 2022, at 7:00 p.m., due to the Mountain Brook School Showcase.
11. Adjourn.

**MOUNTAIN BROOK CITY COUNCIL
PRE-MEETING DISCUSSION
MARCH 28, 2022**

[As a convenience, members of the public were invited to listen, observe and participate in the public meeting by Internet video conference.]

The City Council of the City of Mountain Brook, Alabama met informally in-person at 6:12 p.m. on the 28TH day of March, 2022 (others were allowed to listen to the meeting by way of Internet video conference). The Council President called the pre-meeting to order and the roll was called with the following results:

Present: Virginia C Smith, Council President
William S. Pritchard III, Council President Pro Tempore
Alice B. Womack
Lloyd C. Shelton
Stewart Welch III, Mayor

Absent: Gerald A. Garner

Also present were City Attorney Carl Johnson, City Manager Sam Gaston, and City Clerk Heather Richards.

1. AGENDA

1. Three potential sidewalk projects

- Montclair Road between Old Country Club and Memory Lane

Nathan Currie-Sain Associates

- Looked at segment of sidewalk extending from Ramsey Park (west end) to Mountain Park community
- For this segment, TAP funding is available

Virginia Smith-Council President

- Move forward with the TAP grant for this project

- Brookwood Road from Crosshill to 3629 Brookwood Road

Nathan Currie

- Originally considered project for possible TAP grant; however due to some challenges, a TAP grant would not be favorable
- Sain's recommendation is for the City to fund the segment of sidewalk on the flatter areas then in future, look at getting TAP funding

Lloyd Shelton-Council Member

- Advocate for following Sain Associates recommendation for this project

- Locksley Drive from North Woodridge to Warrington Road

Sam Gaston-City Manager

- Public Works will put this project on their work list for summer of 2023 to complete sidewalk from Dunbarton to Warrington.
- In future will look at completing sidewalk to North Woodridge

2. Contract negotiations with AmWaste

Steve Boone-Assistant City Manager/Finance Director

- Committee met to discuss issue of loose leaf collection
- Public Works will collect the loose leaves and will need to purchase a new truck, equipment and add additional employees to get ready for loose leaf season
- Having Public Works (versus AmWaste) collect the loose leaf saves around \$200,000
- Current proposal for AmWaste:
 - Twice a week, curbside pickup, machine lift
 - First pick-up will be garbage only (that goes to landfill)
 - Second pick-up co-mingled (garbage and recycling)
 - Hand piles picked up on collection day, then knuckle boom on a 10 day cycle

3. Change Order #3 with respect to the Hagood sidewalk project

Nathan Currie

- Change Order is to place sod where ground is disturbed

Virginia Smith

- Item added to the formal agenda (Resolution No. 2022-048)

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

2. ADJOURNMENT

There being no further matters for discussion, Council President Smith adjourned the pre-meeting at approximately 6:56 p.m.

3. CERTIFICATION

I, Heather Richards, City Clerk of the City of Mountain Brook, Alabama, certify the above is a true and correct synopsis of the discussion from the work session of the City Council of the City of Mountain Brook, Alabama held by way of Internet videoconference on March 28, 2022, and that the meeting was duly called and held in all respects in accordance with the laws of the State of Alabama and bylaws of the City and that no formal action or votes were conducted at said work session.

City Clerk, Approved by
City Council April 11, 2022

**MINUTES OF THE REGULAR MEETING OF THE
CITY COUNCIL OF THE CITY OF MOUNTAIN BROOK
MARCH 28, 2022**

[As a convenience, members of the public were invited to listen, observe and participate in the public meeting by Internet video conference.]

The City Council of the City of Mountain Brook, Alabama met in person at 7:00 p.m. on the 28th day of March, 2022 (others were allowed to listen to the meeting by way of Internet video conference). The Council President called the meeting to order and the roll was called with the following results:

Present: Virginia C. Smith, Council President, Chairman
William S. Pritchard III, Council President Pro Tempore
Alice B. Womack
Lloyd C. Shelton
Stewart Welch III, Mayor

Absent: Gerald A. Garner

Also present were City Attorney Carl Johnson, City Manager Sam Gaston, and City Clerk Heather Richards.

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

1. DR. BRIAN CHRISTINE, SENATE DISTRICT 15 CANDIDATE

Dr. Christine-Senate District 15 Candidate

- Attended Medical School in Atlanta and has been a surgeon for 30 years
- Member of Urology Centers of Alabama
- Looks at the world through surgeon eyes and sees a sickness in state with lack of confidence in government in Washington
- Wants to represent the people of District 15 including the residents of Mountain Brook
- Running as a Republican

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 March 14, 2022, regular meeting of the City Council

2022-040	Award the bid for the bridge replacement on Caldwell Mill Road over Little Shades Creek to Gillespie Construction, LLC. and authorize the execution of a construction contract	Exhibit 1, Appendix 1
2022-041	Declare certain property surplus and authorize the sale at public internet auction, donate said items to another municipality of volunteer fire department or dispose of said items	Exhibit 2, Appendix 2

2022-042	Execute a contractor agreement between the City and Alabama Guardrail Inc. with respect to the installation of a new guardrail along Overton Road between Lockerbie Drive and Highway 280	Exhibit 3, Appendix 3
2022-043	Appoint Directors of the Educational Building Authority of the City of Mountain Brook-Highlands School	Exhibit 4, Appendix 4
2022-044	Re-appoint Lynn Ritchie as a regular member to the Village Design Review Committee, to serve without compensation; the term of which will end on March 25, 2025.	Exhibit 5, Appendix 5
2022-045	Execute lease agreements with Armans, LLC and Redstone Holdings, LLC. with respect to the two leased public parking lots located in English Village	Exhibit 6, Appendix 6
2022-046	Accept the professional services agreement between the City and Enviro Management Corp. with respect to the Wastewater Treatment Generator Plans and specifications for the Mountain Brook High School's Wastewater Treatment Facility	Exhibit 7, Appendix 7
2022-047	Execute a contractor agreement between the City and Wright Construction Company with respect to Manning Condominium Complex Curb Gutter Project	Exhibit 8, Appendix 8
2022-048	Authorize the execution of change order No. 3 with respect to the Hagood sidewalk project(TAPBH-TA19-(930))	Exhibit 9, Appendix 9

Thereupon, the foregoing minutes and resolutions (Nos. 2022-040 through 2022-048), were introduced by Council President Smith and a motion for their immediate adoption made by Council President Member Shelton. The minutes and resolutions were then considered by the City Council. Council Member Womack seconded the motion to adopt the foregoing minutes and resolutions. Then, upon the question being put and the roll called, the vote was recorded as follows:

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

Nays: None

Abstained: None

Council President Smith thereupon declared that said minutes and resolutions (Nos. 2022-040 through 2022-048) were adopted by a vote of 4—0 and as evidence thereof she signed the same.

3. CONSIDERATION OF AN ORDINANCE (NO. 2119) PROVIDING FOR A STOP SIGN ON CHRISTOPHER COURT AT ITS INTERSECTION WITH ORLEANS ROAD AND TO PROVIDE FOR PUNISHMENT THEREOF (EXHIBIT 10, APPENDIX 10)

Council President Smith introduced the ordinance in writing. It was then moved by council Member Womack that all rules and regulations which, unless suspended, would prevent the immediate consideration and adoption of said ordinance be suspended and that unanimous consent to the

immediate consideration of said ordinance be given and that the reading of the ordinance at length be waived. The motion was seconded by Council President Pro Tempore Pritchard and was unanimously carried, as follows:

Ayes: Virginia C. Smith
William S. ("Billy") Pritchard III
Alice B. Womack
Lloyd C. Shelton

Nays: None

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

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

Ayes: Virginia C. Smith
William S. ("Billy") Pritchard III
Alice B. Womack
Lloyd C. Shelton

Nays: None

Council President Smith declared that the ordinance (No. 2119) is hereby adopted by a vote of 4-0 and, as evidence thereof, she signed the same.

4. CONSIDERATION OF AN ORDINANCE (NO. 2120) REVISING THE ELECTION DATES AND TERMS OF THE CITY COUNCIL AND MAYOR (EXHIBIT 11, APPENDIX 11)

Council President Smith introduced the ordinance in writing. It was then moved by council President Member Womack that all rules and regulations which, unless suspended, would prevent the immediate consideration and adoption of said ordinance be suspended and that unanimous consent to the immediate consideration of said ordinance be given and that the reading of the ordinance at length be waived. The motion was seconded by Council President Pro Tempore Pritchard and was unanimously carried, as follows:

Ayes: Virginia C. Smith
William S. ("Billy") Pritchard III
Alice B. Womack
Lloyd C. Shelton

Nays: None

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

RESOLUTION NO. 2022-049

**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 equipment owned by the City of Mountain Brook, Alabama is no longer needed for public or municipal purposes and is hereby declared surplus property:

Item	Manufacturer	Model	Number
Printer	HP	OfficeJet Pro 8000	1
Monitor	HP	L1940T	1
Monitor	HP	LA1956x	1
Scanner	Epson	J232C	1
Printer	HP	OfficeJet Pro 8500A	1
Card Printer	MagiCard	Tango 2e std	1
Forensic Light	ISA/SPEX	MCS-400W	1
Digital Camera	Nikon	D70	1
Forensic Tool	Sirchie	ESP1000	1
DVD Recorder	Toshiba	DR430	1
UPS	APC Smart	UPS750	1
Shelving Lot	N.A.	N.A.	N.A.
White Boards	N.A.	N.A.	3

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

ADOPTED: This 11th day of April, 2022.

Council President

APPROVED: This 11th day of April, 2022.

Mayor

CERTIFICATION

I, Heather Richards, 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 April 11, 2022, as same appears in the minutes of record of said meeting.

City Clerk



On Thu, Mar 12, 2020 at 4:16 PM Steve Boone <boones@mtnbrook.org> wrote:

It did not for the 9th. I will get it on the next agenda.

On Thu, Mar 12, 2020 at 2:04 PM Scott Stephens <stephensc@mtnbrook.org> wrote:

Steve, did this list of property ever go before the city council?

Thanks
Scott

Corporal Scott Stephens

Evidence Unit Supervisor
USSS Electronic Crimes Task Force
Mountain Brook Police Department
101 Tibbett Street
Mountain Brook, AL 35213
Office - (205)802-3861
Fax - (205)874-0645
stephensc@mtnbrook.org



On Wed, Nov 27, 2019 at 3:24 PM Scott Stephens <stephensc@mtnbrook.org> wrote:

Steve,

The following list is City property that is no longer in use or needed. I request that the property be deemed surplus at the City Council's earliest convenience. Any property determined to have any value will be sold at auction while property determined to be damaged or have no value will be disposed of.

Qty	Item Type	Description	Serial Number
1	Printer	HP OfficeJet Pro 8000	CN08N3Q0XF
1	Computer Monitor	HP L1940T	CNC6201BVZ
1	Computer Monitor	HP LA1956x	CN43080GP8
1	Scanner	Epson J232C	RYTW028406
1	Printer	HP OfficeJet Pro 8500A	CN180CQ1RQ
1	Card Printer	MagiCard Tango 2e Std	45E9634
1	Forensic Light Source	ISA/SPEX Mini-Crimescope, MCS-400W	MCS-0342
1	Digital Camera	Nikon D70 w/ 28-80mm lens, Nikon SB600 flash, in Pelican case	3135645
1	Forensic Tool	Sirchie Electrostatic Print Lifting Kit, ESP1000	20853
1	DVD Recorder	Toshiba DR430 with remote	C34E39034U6300

1	DVD Recorder	Toshiba DR430 with remote	C34E31484U6300
1	UPS	APC Smart UPS 750	A50620110728

Thanks
Scott

Corporal Scott Stephens
Evidence Unit Supervisor
USSS Electronic Crimes Task Force
Mountain Brook Police Department
101 Tibbett Street
Mountain Brook, AL 35213
Office - (205)802-3861
Fax - (205)874-0645
stephensc@mtnbrook.org



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Steven Boone

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

www.mtnbrook.org
<http://mtnbrookcity.blogspot.com/>
Twitter®: @mountain_brook

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Steven Boone

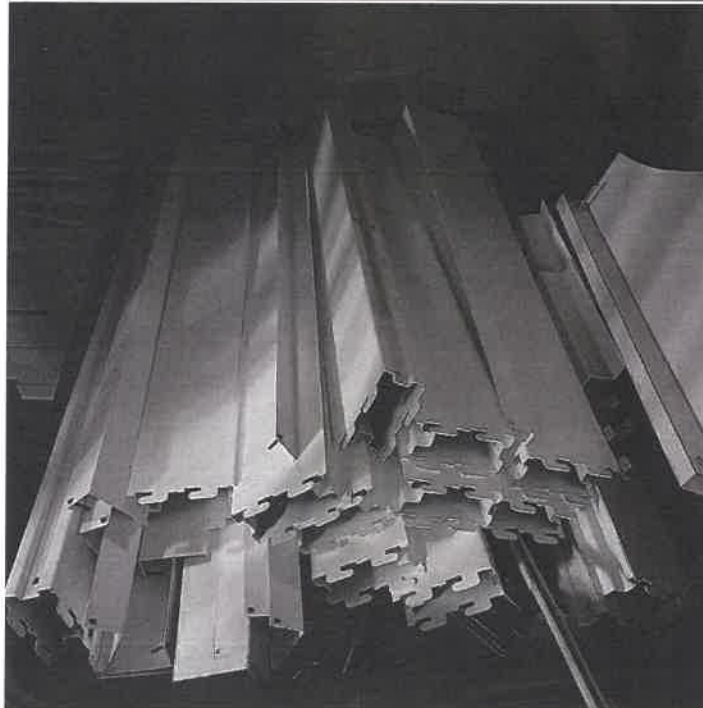
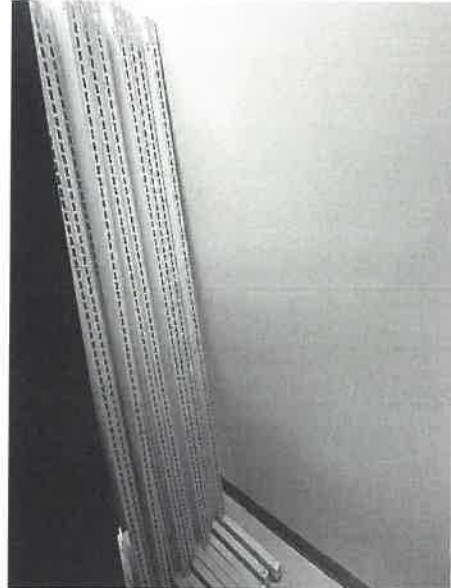
City of Mountain Brook
P. O. Box 130009
Mountain Brook, AL 35213-0009
Direct: (205) 802-3825
Facsimile: (205) 874-0611

www.mtnbrook.org
<http://mtnbrookcity.blogspot.com/>
Twitter®: @mountain_brook

Surplus

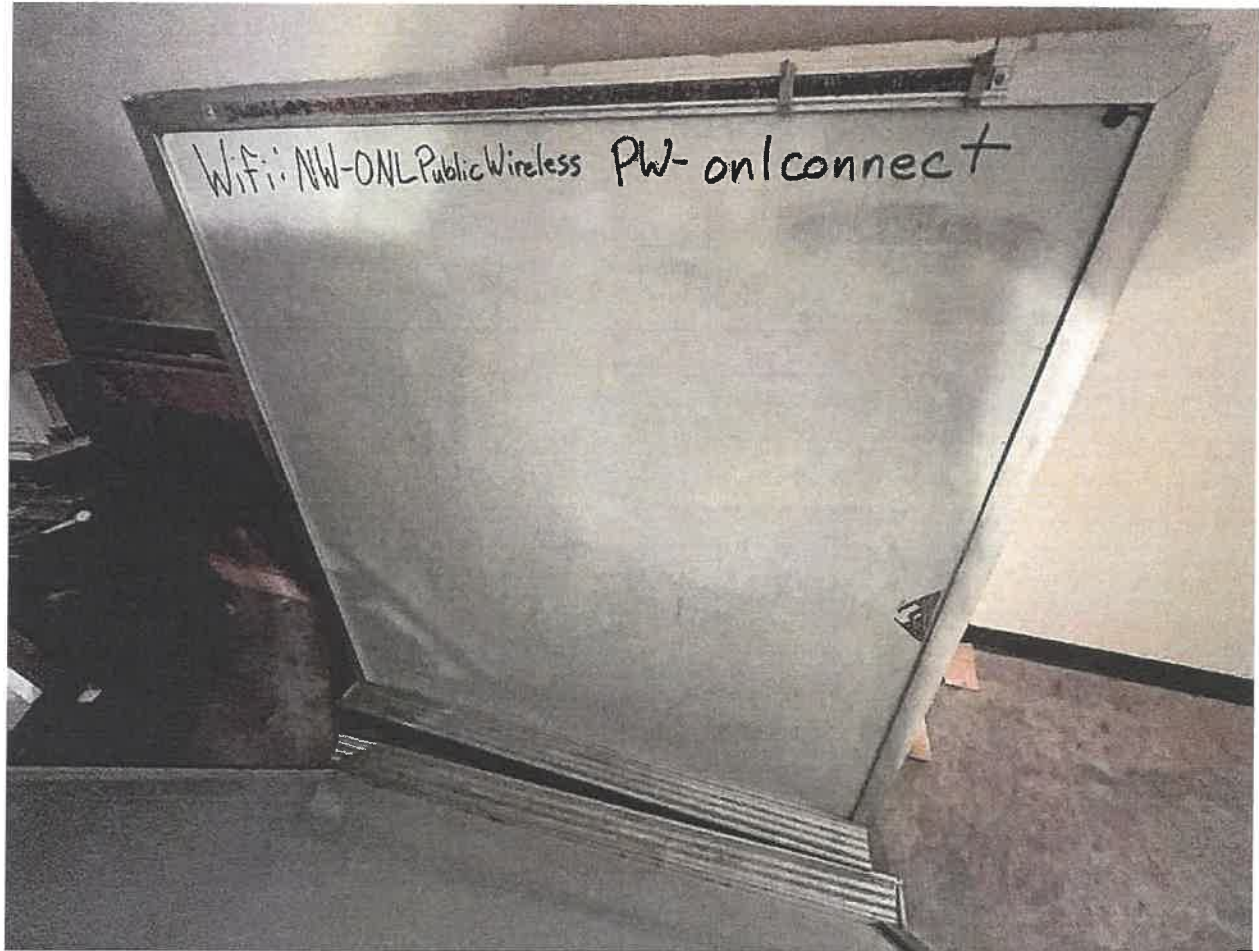
Lot of Shelving

Sizes vary (most are 35.5"x12"), quantity unknown. Lot includes dividers, 2 end panels (26 3/4"x78 3/4"), frames, and end brackets. The library does not have a loading deck, and staff are not available to assist with moving/loading shelving.



White Boards – 4.5'x4.5'

3 – White boards. The white boards have smudges that may not come off. The library does not have a loading deck, and staff are not available to assist with moving/loading the white boards.



RESOLUTION NO. 2022-050

BE IT RESOLVED by the City Council of the City of Mountain Brook, Alabama, that beginning at 12:01 a.m. on Friday, July 15, 2022, and ending at twelve midnight on Sunday, July 17, 2022, the City of Mountain Brook will exempt certain school supplies, computers, and clothing from municipal sales or use tax. Said sales and use tax exemption shall conform with respect to the time period, terms and conditions, and definitions as provided for the “State of Alabama Sales Tax Holiday”.

BE IT FURTHER RESOLVED by the City Council of the City of Mountain Brook, Alabama, that the City Clerk is hereby instructed to send a certified copy of this resolution to the Alabama Department of Revenue, Attention: Pamela Spears, Sales, Use & Business Tax Division, Post Office Box 327710, Montgomery, Alabama 36132-7710, (pspears@revenue.alabama.gov), or fax (334) 242-8919 as required by Sales Tax Holiday Rule 810-6-3-.65 and Code of Alabama 1975, §11-51-210(e).

ADOPTED: This 11th day of April, 2022.

Council President

APPROVED: This 11th day of April, 2022.

Mayor

CERTIFICATION

I, Heather Richards, City Clerk of the City of the City of Mountain Brook, Alabama, hereby certify the above to be a true and correct copy of a resolution adopted by the City Council of the City of Mountain Brook at its meeting held on April 11, 2022, as same appears in the minutes of record of said meeting.

City Clerk



State of Alabama Department of Revenue

(www.revenue.alabama.gov)
50 North Ripley Street
Montgomery, Alabama 36132

March 21, 2022

2022 “Back-to-School” Sales Tax Holiday

July 15-17, 2022

Deadline to notify ADOR: June 15, 2022

The 2022 “Back-to-School” Sales Tax Holiday begins at 12:01 a.m. on Friday, July 15, 2022, and ends at twelve midnight on Sunday, July 17, 2022. As required by Rule 810-6-3-.65, a participating county or municipality shall submit a certified copy of their adopted resolution or ordinance providing for the Sales Tax Holiday, and any subsequent amendments thereof, to the Alabama Department of Revenue before June 15, 2022. The Department will compile this information into a list of all counties and municipalities participating in the “Back-to-School” Sales Tax Holiday and issue a current publication of the list on its website at: <https://revenue.alabama.gov/sales-use/sales-tax-holidays/>. Notification of participation in the sales tax holiday may not be included in the published list if received after June 15, 2022.

Retail businesses and the public need to know whether or not your locality will participate in the 2022 “Back-to-School” Sales Tax Holiday. Please put it on your calendar to discuss and vote on this matter soon and notify the ADOR of the decision.

IMPORTANT

RESPONSE REQUIRED

IMPORTANT

Participating? Send a certified copy of any resolution, ordinance, or amendment adopted by your locality.

Not Participating? Send an email, fax or letter (with signature line) stating: “The (City/Town/County) of _____ will not be participating in the 2022 Back-to-School Sales tax holiday.” It is important that you inform us of that fact, otherwise, retailers and the public wonder if you are participating and forgot to notify the Department of Revenue.

Retailers and the public rely on the list provided by the Department of Revenue and the Department cannot post a locality’s participation status based on assumption; notification of nonparticipation or a copy of the resolution/ordinance from the locality is required.

Notification can be faxed, mailed or emailed:

FAX: 334-242-8916

MAIL: ALABAMA DEPARTMENT OF REVENUE

EMAIL: pspears@revenue.alabama.gov

ATTN: Pamela Spears
Sales & Use Tax Division
Post Office Box 327710

QUESTIONS: 334-242-1443

Montgomery, Alabama 36132-7710

RESOLUTION NO. 2022-051

WHEREAS, by the City Council of the City of Mountain Brook, Alabama, that either the Mayor or the City Manager of the City is hereby authorized and directed, for and on its behalf of the City, to execute an agreement, in the form as attached hereto as Exhibit A, between the City and the Alabama Department of Transportation (ALDOT) with respect to the installation and maintenance of special directional and/or political boundary signs (World Games Welcome Sign).

ADOPTED: This 11th day of April, 2022.

Council President

APPROVED: This 11th day of April, 2022.

Mayor

CERTIFICATION

I, Heather Richards, City Clerk of the City of the City of Mountain Brook, Alabama, hereby certify the above to be a true and correct copy of a resolution adopted by the City Council of the City of Mountain Brook at its meeting held on April 11, 2022, as same appears in the minutes of record of said meeting.

City Clerk



Heather Richards <richardsh@mtnbrook.org>

RE: World Games Welcome Sign - Hwy 280 Update 4.1.22

2 messages

Sam Gaston <gastons@mtnbrook.org> Fri, Apr 1, 2022 at 12:50 PM
To: Jay Kasten <jay.kasten@twg2022.com>, "Stewart Welch, III" <Stewart@welchgroup.com>, Patrick McClusky <patrick.mcclusky@homewoodal.org>
Cc: JENNIFER ANDRESS <andressk@bellsouth.net>, forbesj@mtnbrook.org, Heather Richards <richardsh@mtnbrook.org>

Looks like it has to be approved by the City Council first. I will put on our April 11th agenda.

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



From: Jay Kasten [mailto:jay.kasten@twg2022.com]
Sent: Friday, April 01, 2022 9:28 AM
To: Stewart Welch, III; Patrick McClusky
Cc: JENNIFER ANDRESS; Sam Gaston
Subject: FW: World Games Welcome Sign - Hwy 280 Update 4.1.22

Gentlemen,

See below and attached. Can you please shoot these back at your convenience?



Jay Kasten

Chief Operating Officer

p: 833-894-2021

m: 205-382-7081

w: www.twg2022.com

From: Matte, Frank <mattef@dot.state.al.us>

Date: Friday, April 1, 2022 at 9:24 AM

To: jay.kasten@twg2022.com <jay.kasten@twg2022.com>, bgates@knightsign.com <bgates@knightsign.com>

Cc: Mitchell, Roddy <MitchellR@dot.state.al.us>, Steele, Ashley S. <steelea@dot.state.al.us>, Miles, Wendell <milesw@dot.state.al.us>, Golson, W. Hunter <golsonwi@dot.state.al.us>, Johnson, Zeth H. <johnsonz@dot.state.al.us>, Hall, Alacyia <hallal@dot.state.al.us>

Subject: World Games Welcome Sign - Hwy 280 Update 4.1.22

Mr. Kasten,

ALDOT will require two MB-08 permits to be signed by The City of Mountain Brook and The City of Homewood. I have attached a blank MB-08 form to forward to each city. Page 5 of the permit requires that the Mayor of each town sign. Please email me the signed permits and I will move them up for ALDOT approval.

ALDOT addressed comments:

1. Does the Cities have permission to have "The World Games" on the sign?

Yes. Mr. Jay Kasten with the World Games is aware and working with each city.

2. The website on the sign needs to be removed.

The updated attached plan view has the website removed.

3. The MB-08 note 1 sets the maximum sign dimension as 8' x 4'. Is the proposed sign at 9' x 4' acceptable?

Yes. The slightly large sign will be acceptable according the Maintenance Bureau for ALDOT. The sign will be required to be removed after the World Games.



5959 Knight Ave. Tuscaloosa, AL 35405
www.knightsign.com 205.345.5242

NOTES

1. Single sided unpainted .080" aluminum DOT sign panel, with first surface applied 3M High Intensity Prismatic Reflective 3937 green film.
 2. Copy & outline border with 6" radius corners, to be 3M intensity Prismatic Reflective 3930 white film.
 3. Pre-drilled holes for 5/16" hex head bolts.
- * Back of sign to be unpainted raw aluminum.



BEFORE



AFTER

Date: March 10, 2022
Job Name: World Games
Job Location: Birmingham, AL
Salesperson: R. Philfar
Designer: J. Tippett
Drawing Number: 238860

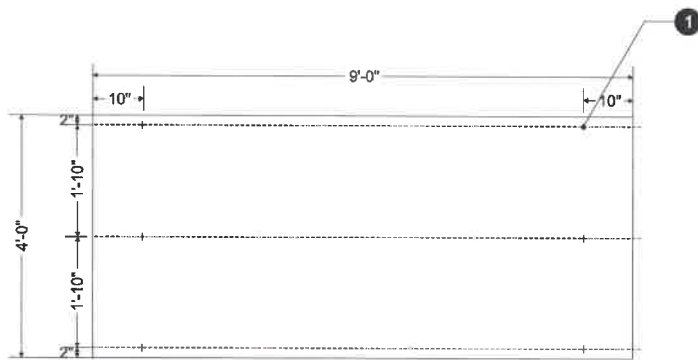
THIS SIGN IS INTENDED TO BE INSTALLED IN ACCORDANCE WITH THE REQUIREMENTS OF ARTICLE 600 OF THE NATIONAL ELECTRICAL CODE AND/OR OTHER APPLICABLE LOCAL CODES. THIS INCLUDES PROPER GROUNDING AND BONDING OF THE SIGN. SIGNS DESIGNED FOR 120V SERVICE. PLEASE NOTIFY KSI IF POWER SOURCE IS DIFFERENT.





5959 Knight Ave. Tuscaloosa, AL 35405
www.knightsign.com 205.345.5242

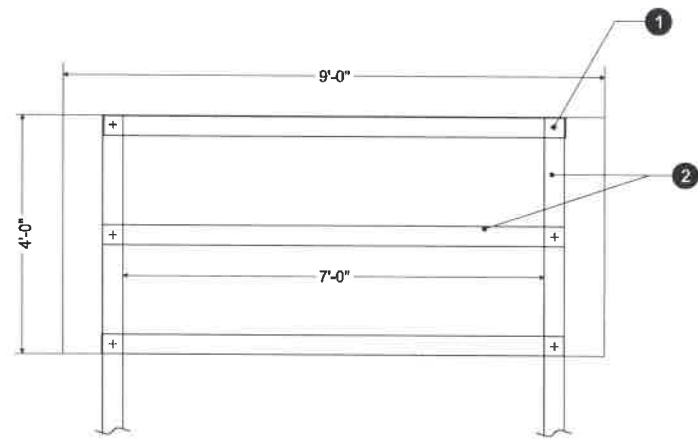
7-11-22



Bolt Hole Pattern
Scale: 1/2" = 1'-0"



Side Connection View
Scale: NTS



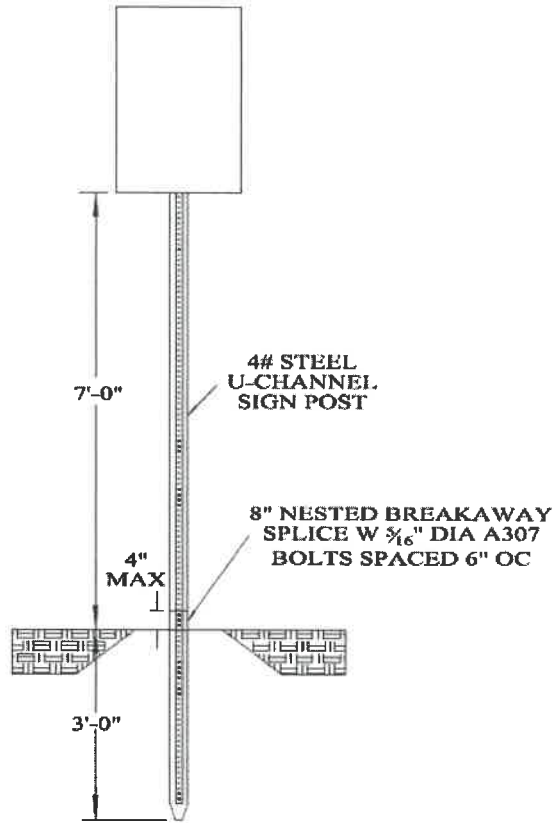
Back of Sign
Scale: 1/2" = 1'-0"

1. Bolt holes in aluminum for 5/16" dia. bolts.
 2. (2) Vertical 4# steel uchannel posts. (3) horizontal on back to stiffen sign. Uchannel posts to be galvanized 3lbs per foot.
- * Back of sign to be unpainted raw aluminum.

Date: March 31, 2022
Job Name: World Games
Job Location: Birmingham, AL
Salesperson: R. Phifer
Designer: J. Tippett
Drawing Number: 238860

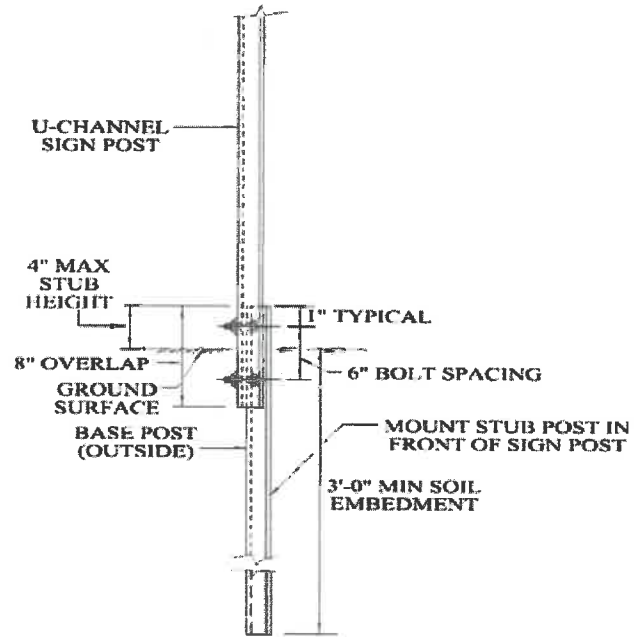
THIS SIGN IS INTENDED TO BE INSTALLED IN ACCORDANCE WITH THE REQUIREMENTS OF ARTICLE 600 OF THE NATIONAL ELECTRICAL CODE AND/OR OTHER APPLICABLE LOCAL CODES. THIS INCLUDES PROPER GROUNDING AND BONDING OF THE SIGN. SIGNS DESIGNED FOR 120V SERVICE; PLEASE NOTIFY KSI IF POWER SOURCE IS DIFFERENT.





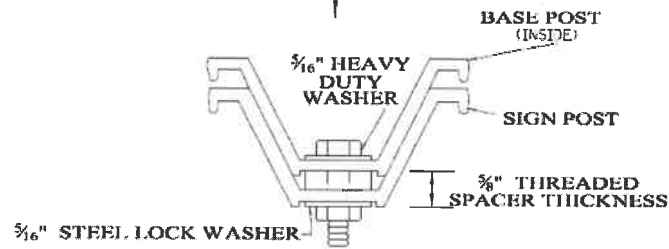
Breakaway Post Installation
NTS

DIRECTION OF LOAD APPLICATION



Elevation View
NTS

DIRECTION OF LOAD APPLICATION

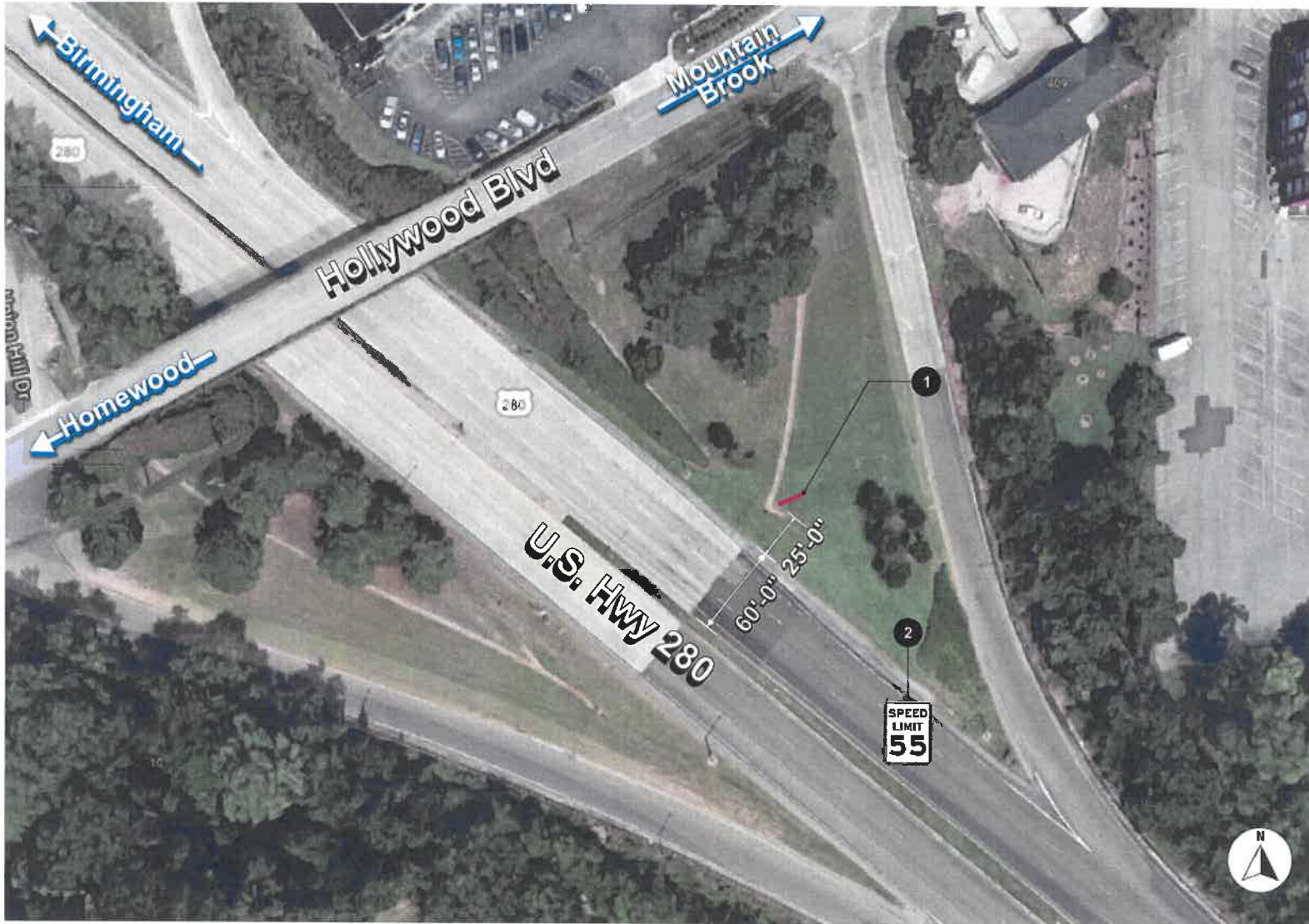


Section @ Breakaway Splice
NTS

Date:	March 31, 2022
Job Name:	World Games
Job Location:	Birmingham, AL
Salesperson:	R. Phifer
Designer:	J. Tippett
Drawing Number:	238860

THIS SIGN IS INTENDED TO BE INSTALLED IN ACCORDANCE WITH THE REQUIREMENTS OF ARTICLE 600 OF THE NATIONAL ELECTRICAL CODE AND/OR OTHER APPLICABLE LOCAL CODES. THIS INCLUDES PROPER GROUNDING AND BONDING OF THE SIGN. SIGNS DESIGNED FOR 120V SERVICE. PLEASE NOTIFY KSI IF POWER SOURCE IS DIFFERENT.





Site Plan
Scale: 1/64" = 1'-0"



5959 Knight Ave. Tuscaloosa, AL 35405
www.knightsign.com 205.345.5242

- NOTES**
1. World Games Sign.
 2. Posted speed limit is 55mph.

Date: March 31, 2022
Job Name: World Games
Job Location: Birmingham, AL
Salesperson: R. Phifer
Designer: J. Tippett
Drawing Number: 238860

THIS SIGN IS INTENDED TO BE INSTALLED IN ACCORDANCE WITH THE REQUIREMENTS OF ARTICLE 600 OF THE NATIONAL ELECTRICAL CODE AND/OR OTHER APPLICABLE LOCAL CODES. THIS INCLUDES PROPER GROUNDING AND BONDING OF THE SIGN. SIGNS DESIGNED FOR 120V SERVICE. PLEASE NOTIFY KSI IF POWER SOURCE IS DIFFERENT.



**ALABAMA DEPARTMENT OF TRANSPORTATION
AGREEMENT FOR THE INSTALLATION AND MAINTENANCE
OF SPECIAL DIRECTIONAL AND/OR POLITICAL BOUNDARY SIGNS
MUNICIPAL GOVERNMENTS**

County _____

Route Number _____

Milepost _____

Bonding Agency _____ Bond Number _____

Associated Permits and/or Documents _____

<p><i>FOR OFFICIAL USE ONLY</i></p> <p>DATE RECEIVED FROM APPLICANT: ___/___/___</p> <p>PERMIT NUMBER: _____</p>
--

THIS AGREEMENT is entered into this the ____ day of _____, 20____, by and between the Alabama Department of Transportation acting by and through its Transportation Director hereinafter referred to as ALDOT, and the City of _____, Alabama, hereinafter referred to as the APPLICANT.

WITNESSETH

WHEREAS, the APPLICANT proposes to install, maintain and/or landscape special directional and/or governmental boundary sign(s) limits on ALDOT right of way located and described as follows:

WHEREAS, the right-of-way should be preserved in a safe and functional condition:

NOW, THEREFORE, it is agreed between the parties hereto as follows:

1. The special directional and/or governmental boundary signs will be a maximum size of eight (8) feet wide x four (4) feet high. They will be mounted on generally accepted yielding or break-away support post.
2. The sign designs, fabrication materials and support post will be subject to approval by ALDOT prior to construction and will be as shown on the plans previously submitted to and approved by ALDOT, which are hereby made a part of this Agreement by reference, and the signs will be located and installed as shown on the plans.
3. The signs will be installed at or near the right-of-way line or other designated area approved by ALDOT to provide adequate sight distance. No signs will be allowed in the median area of a divided highway.

4. All grading on the right-of-way by the APPLICANT will be confined to the limits of the work site.

5. All work shall be subject to the inspection and approval of ALDOT and located as shown on the approved plans previously submitted to ALDOT which are hereby made a part of this Agreement by reference.

6. A copy of the Agreement and the plans will be kept at the site of work at all times by the APPLICANT.

7. ALDOT does not grant the APPLICANT any right, title, or claim to any highway right-of-way.

8. The APPLICANT will not store material, excess dirt, or equipment on the shoulders or pavement and in event of multi-lane highways, in the median strips. The pavement will be kept free by the APPLICANT from mud and from excavating waste from trucks or other equipment. On completion of work all excess material will be removed from the right-of-way by the APPLICANT.

9. All disturbed areas will be topsoiled, grassed and fertilized by the APPLICANT in accordance with standard specifications of ALDOT, and to the satisfaction of ALDOT.

10. No drainage structures or channels will be changed or altered by the APPLICANT other than shown on the approved plans.

11. The Federal Water Pollution Control Act, The Federal Insecticide, Fungicide, and Rodenticide Act, The Alabama Water Pollution Control Act, The Alabama Environmental Management Act, The Clean Water Act (1987), and the Alabama Nonpoint Source Management Program (1989) are hereby made a part of this permit by reference.

12. The APPLICANT will conform to the regulations of the Environmental Protection Agency (EPA) and of the Alabama Department of Environmental Management (ADEM), latest edition, for both installation and maintenance of such facilities.

The APPLICANT will provide proof of applicable permit coverage and conform to the above referenced regulations for both the facility installation and maintenance of permitted facilities and areas of rights-of-way. The APPLICANT must provide a copy of the Notice of Intent (NOI) issued by ADEM. This will assure compliance with Phase II of stormwater construction requirements. In the event that a NOI is not required, APPLICANT must submit to ALDOT a Best Management Practices (BMP) plan to control sediment run-off.

13. In the event that ALDOT is issued a citation or any other enforcement document by ADEM/EPA for failure to comply with applicable requirements, it shall be the responsibility of the APPLICANT to bring all BMPs into compliance and to pay for any fines, assessments, etc. that may be issued to ALDOT by ADEM/EPA.

14. Underground Damage Prevention Legislation, Alabama Act 94-487, is hereby made a part of this permit by reference. The APPLICANT will conform to the above referenced regulations for both the facility installation and maintenance of permitted facilities and areas of rights-of-way. Should the permitted work require a locate request ticket, no work shall begin until a copy of such ticket is obtained and the APPLICANT shall keep a copy of such ticket at the site of work.

15. The APPLICANT will provide all necessary and adequate safety precautions such as signs, flags, lights, barricades, and flagmen in accordance with the national MANUAL ON UNIFORM TRAFFIC CONTROL DEVICES, of record in ALDOT.

16. Subject to the limitations on damages applicable to municipal corporations under Ala. Code § 11-47-190 (1975), the APPLICANT shall defend, indemnify, and hold harmless the State of Alabama, ALDOT, its officers, officials, agents, servants, and employees, in both their official and individual capacities, from and against (1) claims, damages, losses, and expenses, including but not limited to attorneys' fees arising out of, connected with, resulting from or related to the work performed by the APPLICANT, or its officers, employees, contracts, agents or assigns (2) the provision of any services or expenditure of funds required, authorized, or undertaken by the APPLICANT pursuant to the terms of this Agreement, or (3) any damage, loss, expense, bodily injury, or death, or injury or destruction of tangible property (other than the work itself), including loss of use therefrom, and including but not limited to attorneys' fees, caused by the negligent, careless or unskillful acts of the APPLICANT its agents, servants, representatives or employees, or the misuse, misappropriation, misapplication, or misexpenditure of any source of funding, compensation or reimbursement by the APPLICANT, its agents, servants, representatives or employees, or anyone for whose acts the APPLICANT may be liable.

By entering into this agreement, the APPLICANT is not an agent of the State, its officers, employees, agents or assigns. The APPLICANT is an independent entity from the State and nothing in this agreement creates an agency relationship between the parties.

17. Any utility adjustment will be by agreement between the APPLICANT and the Utility, and any such agreement shall be subject to the approval of ALDOT.

18. The APPLICANT will comply with any and all existing ordinances, laws, and zoning regulations, applicable under this Agreement or to the work provided for herein.

19. Any planting and/or landscaping required shall be mutually agreed upon by ALDOT and the APPLICANT and a Cooperative Planting Memorandum of Understanding will be attached to this Agreement as a part of the Agreement.

20. This permit is valid for the contract period which is defined as follows: All proposed work as described and submitted in the permit documents must be completed within one year from the approved date of the permit and for a period covering one year from ALDOT acceptance of proposed work.

21. The APPLICANT will perform or cause to be performed the work applied for in this permit contract and will restore the highway in the work area in as good condition as the same was prior to the work and will maintain the accomplished work and highway work area in a condition satisfactory to ALDOT. Should the APPLICANT not maintain the work or create an unsafe condition during the contract period, ALDOT reserves the right to remove any work and restore the ROW to a safe condition at the expense of the APPLICANT and the APPLICANT agrees to pay ALDOT all such costs as a result.

22. Once work is begun, the APPLICANT shall pursue the work continuously and diligently until completion. Should the APPLICANT feel that the work cannot be completed in a one year period, they shall submit in writing (30 days prior to the termination date) to ALDOT the reasons for an extension of time. ALDOT will determine whether an extension may be approved.

23. The APPLICANT will file with ALDOT an acceptable certified check or bond in the penal amount of \$ _____ (Bond Number: _____) to guarantee the faithful performance of this permit contract in its entirety during the contract period as defined in item 20. Upon satisfactory completion and acceptance of all work provided for in this permit contract, the check or bond, as applicable, will be returned to the APPLICANT; otherwise, the proceeds from the check, or any amount received by ALDOT as a result of the bond, will be applied to complete and fulfill the permit contract terms.

This Agreement is deemed to be executed on the date hereinabove set forth by the parties hereto in their respective names by those persons and officials thereunto duly authorized. Witness our hands and seals, this the ____ day of _____, 20_____.

Attest: _____
City/Town Clerk

City/Town of _____, Alabama

By: _____
Signature of Mayor

Typed or Printed Name of Mayor

Address Line 1

Address Line 2

Telephone Number

FOR OFFICIAL USE ONLY

RECOMMENDED FOR APPROVAL:

DISTRICT: _____
Printed Name Signature Date

AREA: _____
Printed Name Signature Date

REGION: _____
Printed Name Signature Date

APPROVED:
ALABAMA DEPARTMENT OF TRANSPORTATION
ACTING BY AND THROUGH ITS TRANSPORTATION
DIRECTOR

(PLEASE CHECK APPROPRIATE BOX)

- CENTRAL OFFICE
- REGION
- AREA
- DISTRICT

By: _____
Printed Name Signature Date

RESOLUTION NUMBER _____

BE IT RESOLVED, by the Council of the City/Town of _____, Alabama, that the City/Town enter into an Agreement with the state of Alabama; acting by and through the Alabama Department of Transportation for:

The installation, maintenance and/or landscaping for special directional or political boundary sign(s).

Which agreement is before this Council, and that the agreement be executed in the name of the City/Town, by its Mayor, for and on its behalf and that it be attested by the City/Town Clerk and the seal of the City/Town affixed thereto.

BE IT FURTHER RESOLVED, that upon the completion of the execution of the agreement by all parties, that a copy of such agreement be kept on file by the City/Town Clerk.

Passed, Adopted, and approved this _____ day of _____, 20____.

ATTESTED:

City/Town Clerk

Mayor

I, the undersigned qualified and acting clerk of the City/Town of _____, Alabama, do hereby certify that the above and foregoing is a true copy of a resolution lawfully passed and adopted by the Council of the City/Town named therein, at a regular meeting of such Council meeting held on the _____ day of _____, 20____, and that such resolution is on file in the office of the City/Town Clerk.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the City/Town this _____ day of _____, 20____.

City/Town Clerk

RESOLUTION NO. 2022-052

BE IT RESOLVED by the City Council of the City of Mountain Brook, Alabama, that the City Council hereby accepts the professional services proposal submitted by Sain Associates Inc., in the form as attached hereto as Exhibit A, with respect to preparation of a Transportation Alternative Program (TAP) application for the Montclair sidewalk project.

ADOPTED: This 11th day of April, 2022.

Council President

APPROVED: This 11th day of April, 2022.

Mayor

CERTIFICATION

I, Heather Richards, 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 April 11, 2022, as same appears in the minutes or record of said meeting.

City Clerk



Heather Richards <richardsh@mtnbrook.org>

Sain Contract

Currie, Nathan <NCurrie@sain.com> Thu, Apr 7, 2022 at 3:16 PM
To: Sam Gaston <gastons@mtnbrook.org>, Heather Richards <richardsh@mtnbrook.org>
Cc: Janet Forbes <forbesj@mtnbrook.org>, Steve Boone <boones@mtnbrook.org>, "Bailey, Alicia" <abailey@sain.com>

Sam,

I've attached a proposal for Sain to prepare the TAP application for sidewalk along Montclair Road. This would include field review, preparation of maps, cost estimates, and the application.

I apologize for the delay in getting this to you, but please let us know if you have any questions. We appreciate the opportunity to submit this proposal!

Also, I spoke with Ann Holloway this morning, the HOA president of the Courtyards of Mountain Brook neighborhood. She expressed to me at the last Council meeting and on the phone that her neighborhood would like to be connected by sidewalk to the bus stop on the NW corner of the intersection of Montclair Rd and Memory Lane. This was included in the petition you received recently also. We can review the cost of that option as part of the application. She expressed that she would be present at the Council meeting Monday night.

Nathan Currie, P.E.

Sain Associates

Direct: 205.263.2129

Mobile: 404.983.7379

[Quoted text hidden]

 **Montclair Rd TAP proposal.pdf**
199K



WORK AUTHORIZATION

TO: Sam Gaston

FROM: Nathan Currie, P.E.
Alicia Bailey, P.E.

DATE: 4/7/22

SUBJECT: Montclair Road Sidewalk for TAP

PROJECT #: 21-0117

Two Perimeter Park South
Suite 500 East
Birmingham, Alabama 35243
Telephone: (205) 940-6420
www.sain.com

I. SCOPE

Sain Associates will review the project area for installation of a sidewalk along the south side of Montclair Road from Mountain Brook Park Drive to Country Club Road. Sain will prepare a cost estimate, map, and application for submittal to ALDOT and the Regional Planning Commission of Greater Birmingham for their review and consideration for Transportation Alternative Program (TAP) funding.

II. BUDGET

\$8,000 lump sum

III. STATUS

We can work immediately for preparation of the application for submittal to the City for review. The applications are expected to be due the end of May 2022.

IV. TERMS AND CONDITIONS

This contract is subject to the enclosed Terms and Conditions. All subsequent services required by you outside the scope of service specified will be performed on a time and materials basis according to the schedule of rates enclosed. Any modification to this contract document must be approved in writing by both parties with approval indicated by each signatory's initials and the date of approval.

V. PROPOSAL LIMITATIONS

We reserve the right to withdraw or modify this proposal if not contracted within 60 days.

Sain Associates has provided this proposal with the understanding that you have selected our firm to perform professional services based upon our staff's qualifications, experience and reputation and not solely upon the cost of the services proposed. We trust the fees outlined herein are acceptable and within your project budgetary plans. We look forward to commencement of the work and will be glad to address any questions or concerns you have regarding the technical scope and/or schedule of fees for this proposal. If you should request additional prices for the scope of work included herein from other consulting engineers and/or land surveyors, please consider our proposal withdrawn in order to comply with Alabama Administrative Code Chapter 330-X-14-.05(f).

Montclair Road sidewalk
Work Authorization
4/7/22
Page 2



Sincerely,

SAIN ASSOCIATES, INC.

Nathan Currie, P.E.
Project Manager/Associate
AL #32400

Alicia Bailey, P.E.
Practice Leader/Sr. Principal
AL \$26339

Enclosures: Terms & Conditions, (Sch. 2022)

APPROVED:
CITY OF MOUNTAIN BROOK

By: _____
Authorized Representative

Printed Name, Title

Date

SAIN ASSOCIATES, INC.

TERMS AND CONDITIONS

Rates:

Principal.....	\$190.00 - \$275.00 per Hour
Engineer/Planner.....	\$98.00 - \$148.00 per Hour
Senior Engineer.....	\$150.00 - \$210.00 per Hour
GIS Professional.....	\$125.00 - \$135.00 per Hour
Designer.....	\$87.00 - \$125.00 per Hour
Surveyor.....	\$100.00 - \$140.00 per Hour
Survey Crew (1-Person).....	\$100.00 per Hour
Survey Crew (1-Person + Robot).....	\$150.00 per Hour
Survey Crew (2-Person).....	\$175.00 per Hour
Survey Crew (3-Person).....	\$215.00 per Hour
Survey Per Diem.....	\$150.00 per person per Night
Administrative Support.....	\$60.00 - \$75.00 per Hour

Reimbursable Expenses

Printing, contract carrier service, and travel expenses are not included within Consultant's basic fee and will be passed along to Client at cost plus 10%.

Payment

Payment for services by Consultant is to be made monthly based upon the percentage of work completed and invoiced to Client. Client's obligation to pay for services rendered hereunder is in no way dependent upon its ability to obtain financing, to obtain payment from a third party, or to obtain approval of any governmental or regulatory agencies, or upon Client's successful completion of the project. Payment for services and expenses hereunder is due in full within thirty (30) days after receipt of invoice. For past due accounts in excess of 120 days Consultant will issue a past due statement with interest of 1½% per month from said thirtieth (30th) day. Consultant may elect to seek assistance in collection of accounts in excess of 120 days in which case Client will be billed for attorney's fees for collection in the amount of 1/3 of the outstanding balance or such greater amount as the court finds reasonable. Consultant reserves the right to suspend services under this agreement until receipt of payment in full for all amounts due for services rendered and expenses incurred.

AI Immigration Law Compliance

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

Standard of Care

The standard of care for all professional services performed or furnished by Consultant under this Agreement will be the skill and care ordinarily provided by members of Consultant's profession practicing under the same or similar circumstances and professional licenses at the same time and in the same locality, as expeditiously as is prudent considering the ordinary professional skill and care of a competent member of Consultant's profession. Consultant makes no warranties, express or implied, under this Agreement or otherwise, in connection with Consultant's services.

Responsibility of the Client

Client shall provide all criteria and full information as to Client's requirements for the Project, including budgetary limitations.

Reliance on Information Provided by Others

Consultant shall be entitled to rely, without liability, on the accuracy and completeness of any and all information provided by Client, Client's Consultants and Contractors, and information from public records, without the need for independent verification.

Schedules, Budgets and Estimates or Opinions of Cost

Any schedules or completion dates, budgets, or estimates of cost prepared by Consultant represent Consultant's professional judgment based on its experience and available information. Since neither Consultant nor Client has control over: the cost of labor, materials, or equipment, or contractor's methods of determining prices; competitive bidding or market conditions; utility conflicts or right-of-way acquisition; agency approval times or actions of a Consultant Program Manager not employed by Sain, the Consultant cannot and does not warrant or represent that actual schedules, budgets or completion dates or actual costs will not vary from schedules or completion dates, budgets or estimates of cost prepared by Consultant or proposed, established, or approved by Client.

Approvals

Client agrees and acknowledges that the approval process necessary to maintain a project timeline is both unpredictable and outside of the Consultant's control. Consequently, the Consultant makes no representations as to its ability to timely achieve or to obtain said permits or approvals from any governing authority or outside agency.

Site Visits/Jobsite Safety/Construction Phase Services

Consultant and Client acknowledge and agree that the Consultant shall not have responsibility and will not be liable for jobsite safety or construction means and methods, regardless of whether Consultant's scope of services documented herein include site visits during the construction phase. The Consultant is not responsible for, and shall by no means be liable for, the acts or omissions of any owner, contractor, subcontractor or material supplier.

Right of Entry

Client, at its sole cost and expense, shall furnish the Consultant, its agents, employees, and subcontractors a right-of-entry and any other authorizations or licenses needed for Consultant to enter the Project location to perform the services contemplated by this Agreement. Client agrees and acknowledges that the services provided by the Consultant may require certain activities that may disrupt the use of the Project's property location and may disturb, alter, or damage the terrain and vegetation thereabout and that Consultant will not restore the property to its original state.

Certifications

Consultant shall not be required to sign any documents, no matter by whom requested, that would result in Consultant's having to certify, guaranty, or warrant the existence of conditions that Consultant cannot ascertain or verify. Further, Consultant and Client acknowledge and agree that Consultant shall not be expected to provide any certifications unless expressly agreed upon by Consultant, as evidenced in writing within the scope of Consultant's work invoiced to Client.



SAIN ASSOCIATES, INC.

TERMS AND CONDITIONS

Unforeseen Conditions and Occurrences

If, during the course of performance of services pursuant to this Agreement, any unforeseen hazardous substance, material, object, element, or other unforeseen conditions or occurrences are encountered which, in the Consultant's judgment, materially affects or may affect the services to be provided hereunder, the risk involved in providing the services, or the scope of the services, Consultant will notify Client. Subsequent to that notification, Consultant may: (a) if practicable, in Consultant's judgment and with Client's approval, complete the original scope of services in accordance with this Agreement; (b) agree with Client to modify the scope of services and the estimate of costs to include the previously unforeseen conditions or occurrences, such revision to be in writing and signed by the Parties and incorporated herein; or (c) terminate the services effective on the date of notification for convenience.

Use of Electronic Media

Copies of documents that may be relied upon by the Client are limited to the printed copies (also known as hard copies) that are signed or sealed by Consultant. Files in electronic media format or text, data, graphic or other types that are furnished by Consultant to Client are only for convenience of the Client. Any conclusion or information obtained or derived from such electronic files will be at the user's sole risk. When transferring documents in electronic media format, Consultant makes no representations as to long-term compatibility, usability, or readability of documents resulting from the use of software application, operating systems or computer hardware differing from those in use by Consultant at the beginning of this assignment.

Limitation of Remedies

Liability of remedies of Sain Associates, Inc. resulting from errors, omissions, or the negligence of Sain Associates, Inc., its agents or employees, pursuant to work under this agreement shall not exceed the lesser of the value of engineering or surveying services required to correct the deficiency or the basic consulting fee for work covered hereunder or the actual cost of the remedies. This provision is being agreed to as a result of the fees being charged.

Consultant's Choice of Arbitration or Court

Client and Consultant agree that if a dispute arises out of or relates to this Agreement, the parties will attempt to settle the dispute through good faith negotiations. If direct negotiations do not resolve the dispute, the parties agree to endeavor to settle the dispute by mediation prior to the initiation of any legal action unless delay in initiating legal action would irrevocably prejudice one of the parties. Mediation shall take place in Jefferson County, Alabama, and if a mediator cannot be agreed upon by parties, then it is agreed that AAA (American Arbitration Association) will appoint a mediator. If mediation is unsuccessful, any such dispute shall be subject to and resolved at the election of Consultant, by either arbitration in accordance with the Rules of the AAA or by a trial by judge in either the Circuit Court for Jefferson County, Alabama, or the United States District Court for the Northern District of Alabama.

Indemnification

Client and Consultant each agree to indemnify and hold the other harmless, and their respective officers, employees, agents and representatives, from and against liability for all claims, losses, damages and expenses, including reasonable attorneys' fees, to the extent such claims, losses, damages, or expenses are caused by the indemnifying party's negligent acts, errors or omissions. In the event claims, losses, damages or expenses are caused by the joint or concurrent negligence of Client and Consultant, they shall be borne by each party in proportion to its negligence.

Force Majeure

Neither party shall be deemed in default of this Agreement to the extent that any delay or failure in the performance of its obligations results from any cause beyond its reasonable control and without its negligence.

Termination of Contract

Client may terminate this Agreement with seven days prior written notice to Consultant for convenience or cause. Consultant may terminate this Agreement for cause with seven days prior written notice to Client. Failure of Client to make payments when due shall be cause for suspension of services or, ultimately, termination, unless and until Consultant has been paid in full all amounts due for services, expenses and other related charges.

Ownership of Documents

All documents prepared or furnished by Consultant pursuant to this Agreement are instruments of Consultant's professional service, and Consultant shall retain an ownership and property interest therein. Consultant grants Client a license to use instruments of Consultant's professional service for the purpose of constructing, occupying and maintaining the Project. Reuse or modification of any such documents by Client, without Consultant's written permission, shall be at Client's sole risk, and Client agrees to indemnify and hold Consultant harmless from all claims, damages and expenses, including attorneys' fees, arising out of such reuse by Client or Client's disclosure of any such documents to any third party.

Third Parties

Nothing contained in this Agreement shall create a contractual relationship with, or a cause of action in favor of, a third party against either the Client or Consultant. Consultant's services hereunder are being performed solely for the benefit of the Client, and no other entity shall have any claim against Consultant because of this Agreement or Consultant's performance of services hereunder.

Consequential Damages Waiver

Neither the Client nor the Consultant shall be liable to the other or shall make any claim for any incidental, indirect or consequential damages arising out of, or connected in any way to the Project or this Agreement. This mutual waiver includes, but is not limited to, damages related to loss of use, loss of profits, loss of income, loss of reputation, unrealized savings or diminution of property value and shall apply to any cause of action including negligence, strict liability, breach of contract and breach of warranty.

Conflicting or Inconsistent Terms/Severability

In the event that any term, condition, provision, requirement or specification set forth in this body of the agreement conflicts with or is inconsistent with any term, condition, provision, requirement or specification in any exhibit and/or attachment to this agreement, the provisions of this body of the agreement shall prevail. Any provision of this Agreement which is held to be void or unenforceable shall be ineffective to the extent of such unenforceability without invalidating the remaining provisions.

Schedule 2022



ADDENDUM TO PROFESSIONAL SERVICES AGREEMENT BETWEEN THE CITY OF MOUNTAIN BROOK AND SAIN ASSOCIATES, INC.

THIS ADDENDUM TO PROFESSIONAL SERVICES AGREEMENT (“the/this Addendum”) between the City of Mountain Brook, Alabama (“the City”) and Sain Associates, Inc. (“the Contractor”) is entered between the parties.

This Addendum is a part of the Professional Services Agreement between the parties (the “Agreement”) concerning the work, services or project described in the Agreement. In the event of any conflict between the terms and provisions of this Addendum and the Agreement, the terms herein supersede and control any conflicting or inconsistent terms or provisions, particularly to the extent the conflicting or inconsistent terms or provisions in the Agreement purport either to (a) confer greater rights or remedies on the Contractor than are provided herein or under otherwise applicable law, or to (b) reduce, restrict, or eliminate rights or remedies that would be available to the City under otherwise applicable law. The Addendum shall remain in full force and effect with respect to any amendment, extension, or supplement of or to the principal Agreement, whether or not expressly acknowledged or incorporated therein. No agent, employee, or representative of the City is authorized to waive, modify, or suspend the operation of the Addendum or any of its terms or provisions without the express approval of the Mountain Brook City Council.

1. *Definitions.* For purposes of this Addendum, the terms below have the following meanings:

- A. “*The City*” refers to and includes the City of Mountain Brook, Alabama, and its constituent departments, boards, and agencies. The City may also be referenced in the Agreement as the “Client.”
- B. “*The (this) Agreement*” refers to the principal contract, agreement, proposal, quotation, or other document that sets forth the basic terms and conditions under which the Contractor is engaged to provide goods, materials, or services to the City, including the payment or other consideration to be provided by the City in exchange therefor.
- C. “*The Contractor*” refers to the person, firm, or other legal entity that enters the Agreement with the City to provide goods, materials, or services to the City, and includes vendors and suppliers providing goods, materials, and services to the City with or without a formal contract as well as the Contractor’s vendors, suppliers, and subcontractors. The Contractor may also be referenced in the Agreement as the “Consultant.”

2. *Dispute Resolution.* If a disagreement, claim, issue or disagreement arises between the parties with respect to the performance of this Agreement or the failure of a Party to perform their respective rights or obligations hereunder (a “Dispute”), the parties will use reasonable efforts to resolve any Dispute at the designated representative level. If the parties are unable to amicably resolve any Dispute at that level, each agree to escalate that matter to senior managers or senior officials for consideration by and potential resolution by them. If the Dispute is not resolved at the senior level, the dispute resolution mechanism shall be litigation in a court with competent jurisdiction that is located in Jefferson County, Alabama.

3. *Attorney's Fees; Court Costs; Litigation Expenses.* The City shall not be liable for attorney's fees, court costs, litigation expenses, and like charges except and to the extent such fees, costs, and charges would be assessed against the City under applicable law in the absence of any contractual provision imposing or assigning liability therefor.

4. *Late Payment Charges; Fees; Interest.* The City shall not be liable for any late payment charges, interest, or fees on any delinquent bill for goods, materials, or services, and bills rendered to the City shall not be considered delinquent any earlier than thirty (30) days after rendition of a complete and accurate bill by the Contractor. Contested bills shall not be considered delinquent pending resolution of the dispute.

5. *Indemnification; Hold-Harmless; Release; Waiver; Limitations of Liability or Remedies.* The City shall not and does not indemnify, hold harmless, or release the Contractor or any other person, firm, or legal entity for, from, or with respect to any claim, cause of action, cost, charge, fee, expense, or liability whatsoever arising out of or relating to the subject matter of the Agreement or the performance or nonperformance thereof; nor shall or does the City waive its right to assert or pursue any remedy or claim for relief of any kind that it may have against the Contractor or any other person, firm, or entity for any actual or alleged default or other breach of legal duty on the part of the Contractor or any person, firm, or entity in privity therewith or acting on Contractor's behalf. Any limitation or restriction regarding the type, nature, form, amount, or extent of any right, remedy, relief, or recovery that would otherwise be available to the City is expressly disavowed, excluded from the terms of the agreement, and void.

6. *Choice of Law; Choice of Venue or Forum.* The meaning, legal effect, and enforcement of terms and provisions of the Agreement and the resolution of any disputes arising thereunder or relating thereto shall be governed by the laws of the State of Alabama except to the extent otherwise required by applicable conflict-of-law principles. The venue of any suit, action, or legal proceeding brought to enforce or secure relief by reason of any asserted breach of duty arising out of or relating to the performance or nonperformance of the Agreement shall be Jefferson County, Alabama except to the extent otherwise required by applicable principles of law.

7. *Construction of Addendum.* Nothing in this Addendum shall be construed to create or impose any duty or liability on the City, to create a right or remedy in favor of the Contractor against the City, or to restrict or abrogate any right or remedy that is available to the City against the Contractor or any other person, firm, or entity under either the principal Agreement or as a matter of law.

8. *Independent Contractor.* Consultant's relationship to Client at all times is that of an independent contractor. Consultant exclusively controls the means and methods in which it performs its operations or provides the goods, services or undertaking described in the Agreement. The Client does not reserve any right of control over Consultant's operations or the activities it utilizes to perform its obligations in the Agreement.

9. *Contractor's Insurance Requirements:* For the duration of this Agreement and for limits not less than stated below, the Contractor shall maintain the following insurance with a company(ies) lawfully authorized to do business in the location of the Project and reasonably acceptable to the City:

.1 *Comprehensive General Liability:* This insurance shall cover all operations performed by or on behalf of Contractor, and provide coverage for bodily injury and

property damage with a combined single limit of not less than \$500,000 per occurrence.

.2 Automobile Liability: If the work or services performed by the Contractor involves use of motor vehicles on public streets, Automobile Liability covering owned and rented vehicles operated by Contractor with policy limits of not less than Five Hundred Thousand Dollars (\$500,000) combined single limit and aggregate for bodily injury and property damage, per occurrence.

.3 Workers Compensation: Workers' Compensation and Employers Liability as required by statute.

.4 Professional Liability: If Contractor is providing professional services, Professional Liability covering Contractor's negligent acts, errors and omissions in its performance of professional services with policy limits of not less One Million Dollars (\$1,000,000) per claim and in the aggregate.

Contractor may use umbrella or excess liability insurance to achieve the required coverage for Comprehensive General Liability and Automobile Liability, provided that such umbrella or excess insurance results in the same type of coverage as required for the individual policies. These insurance requirements are in addition to and do not affect any indemnification obligation of Contractor herein.

All policies, except for the Workers Compensation and Professional Liability policies shall contain endorsements naming the City, and its officers, employees and agents as additional named insured with respect to liabilities that arise out of and result from the operations of the Contractor or its performance of Services or work. The additional named insured endorsement shall not limit the scope of coverage to the City to vicarious liability, but shall allow coverage for the City to the fullest extent provided by the policy.

All insurance policies required herein are to be primary and non-contributory with any insurance or self-insurance program administered by the City.

Before commencement of Services hereunder, Contractor shall provide the City a certificate(s) of insurance and endorsements (including the additional insured endorsements) evidencing compliance with the requirements in this section. This certificate(s) shall provide that such insurance shall not be terminated or expire without thirty (30) days advance notice to the City.

10. *Indemnification for Claims by Third Parties.* The Contractor agrees to defend, indemnify, and hold harmless the City, and its agents, employees and officials (collectively hereinafter the "Indemnitees") from and against all demands, actions, damages, judgments, expenses (including but not limited to attorneys' fees, expert fees, court costs and other litigation costs), losses, damages, and claims (including those for bodily injury, sickness, disease or death, or to injury to, destruction or loss of use of tangible property, or those for financial loss or damages, collectively hereinafter "Claim(s)") that are made against the City by any third parties (including any employee, agent or representative of the Contractor, collectively "Third Parties") to the extent that such Claims are caused or allegedly caused by the negligence of the Consultant in the performance of its Services, its work on the Project described in the Agreement or its failure to perform its obligations in the Agreement.

11. *EXCLUSION OF CONSEQUENTIAL DAMAGES.* THE CONTRACTOR AGREES AND ACKNOWLEDGES THAT, IN THE EVENT THAT IT ASSERTS ANY CLAIM, DEMAND OR ACTION OF ANY TYPE AGAINST THE CITY ARISING FROM ITS ALLEGED BREACH OF THE AGREEMENT OR ITS FAILURE TO PERFORM ANY OF ITS OBLIGATIONS THEREUNDER, THE MAXIMUM AMOUNT THAT THE CONTRACTOR MAY RECOVER FROM THE CITY AS DAMAGES IN ANY SUCH ACTION IS LIMITED TO THE ACTUAL DAMAGES THAT DIRECTLY ARISE FROM THAT BREACH. THE CONTRACTOR FURTHER ACKNOWLEDGES THAT THE COMMERCIAL TERMS HEREIN WERE PROPOSED AND BASED ON THE ASSUMPTION THAT THIS SPECIFIC LIMITATION IS APPLICABLE, AND THAT THE CITY WOULD NOT ENTERED INTO THIS AGREEMENT WITHOUT INCLUDING THIS LIMITATION. IN NO EVENT WILL THE CITY BE LIABLE TO THE CONTRACTOR FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, PUNITIVE, RELIANCE OR OTHER SPECIAL DAMAGES, INCLUDING, WITHOUT LIMITATION, DAMAGES FOR LOST PROFITS, ADVANTAGE, SAVINGS OR REVENUES OR FOR INCREASED COST OF OPERATIONS. NOTHING IN THIS PROVISION IS INTENDED TO IMPACT, MODIFY, AMEND OR LIMIT THE TERMS OR APPLICATION OF THE INDEMNIFICATION PROVISION IN THE PROVISION ABOVE THAT PERTAINS TO CONTRACTOR'S OBLIGATIONS TO INDEMNIFY THE CITY FOR CLAIMS MADE AGAINST THE CITY BY THIRD PARTIES.

CITY: CITY OF MOUNTAIN BROOK

CONTRACTOR: _____

By: _____

By: _____

Printed Name: _____

Printed Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

RESOLUTION NO. 2022-053

BE IT RESOLVED by the City Council of the City of Mountain Brook, Alabama, that the City Council hereby accepts the professional services proposal submitted by BlackJack Horticulture, in the form as attached hereto as Exhibit A, with respect to the landscape renovation at Crestline Shell station project.

ADOPTED: This 11th day of April, 2022.

Council President

APPROVED: This 11th day of April, 2022.

Mayor

CERTIFICATION

I, Heather Richards, 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 April 11, 2022, as same appears in the minutes or record of said meeting.

City Clerk



Heather Richards <richardsh@mtnbrook.org>

RE: Shell Landscaping Easement

2 messages

Sam Gaston <gastons@mtnbrook.org>
To: Tyler Slaten <slatent@mtnbrook.org>
Cc: Heather Richards <richardsh@mtnbrook.org>, boones@mtnbrook.org

Mon, Apr 4, 2022 at 2:55 PM

What is it exactly and the costs?

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



From: Tyler Slaten [mailto:slatent@mtnbrook.org]
Sent: Monday, April 04, 2022 2:30 PM
To: Sam Gaston
Subject: Shell Landscaping Easement

Sam,

Can we add an item to the formal agenda for the Council meeting next week? This will be the landscaping easement agreement for the BLD tree project at the Crestline Shell. Whit almost has the agreement finished and asked me if we could still squeeze it on the agenda.

Thanks,

Tyler Slaten

Planner

City of Mountain Brook

56 Church St

Mountain Brook, AL 35213

Office 205-802-3811

Tyler Slaten <slatent@mtnbrook.org>

Mon, Apr 4, 2022 at 3:18 PM

To: Sam Gaston <gastons@mtnbrook.org>

Cc: Heather Richards <richardsh@mtnbrook.org>, Steve Boone <boones@mtnbrook.org>

I do not have the easement agreement from Whit yet, but it is a tree removal and replacement and landscaping project. The area to be improved and maintained is some right of way and is partially on the Crestline Shell's private property which is why the agreement is needed. Hopefully I will have it back from Whit tomorrow. Attached are the conceptual drawing and estimate for the project to come from BLD's budget.

Thanks,

Tyler Slaten

Planner

City of Mountain Brook

56 Church St

Mountain Brook, AL 35213

Office 205-802-3811

[Quoted text hidden]

2 attachments



Shell Station Project.pdf

1146K



Shell Tree and Landscaping Project Estimate.pdf

504K



5536 DERBY DRIVE
BIRMINGHAM, AL 35210

Tel 205 536 7523
Fax 205 536 7527

blackjackhorticulture.com

A LANDSCAPE PROPOSAL FOR

City of Mountain Brook Villages
56 Church Street
Mountain Brook, AL 35213

2/14/2022

<u>ITEM</u>	<u>QUANTITY</u>	<u>UNIT</u>	<u>PRICE</u>
Landscape Renovation			
Landscape Installation			\$7,854.12
Landscape Demolition and Prep	1.00	Labor	
<ul style="list-style-type: none"> • Remove (1) existing maple tree • Remove all shrubs and groundcover in designated planting bed near Shell Station parking lot • Prep area for new plant material installation 			
Elm, American	1.00	3-3.5" cal	
<ul style="list-style-type: none"> • Installation labor only • Tree will be provided by City of Mountain Brook 			
Holly, Dwarf Yaupon	15.00	7 gal	
<ul style="list-style-type: none"> • Planted in a single hedge row at 36" on-center spacing 			
Jasmine, Asiatic	576.00	4" cup	
<ul style="list-style-type: none"> • Planted at 12" on-center spacing • Based on a total square footage of (500 SF) 			
Topsoil Mix	9.00	cu yd	
<ul style="list-style-type: none"> • Depth of 4" in new planting bed • Includes adequate backfill for tree pit 			
Gravel #57	1.00	cu yd	
<ul style="list-style-type: none"> • Depth of 6" in tree planting pit • Gravel layer and topsoil layer separated by filter fabric 			
Pine Bark Mini Nuggets	6.00	cu yd	
<ul style="list-style-type: none"> • Depth of 3" installed in new planting bed where Elm and Asiatic jasmine is installed 			
Pinestraw	5.00	rolls	
<ul style="list-style-type: none"> • Installed between new holly hedge and Shell Station parking lot 			
Mobilization and Freight	1.00	ea	
		<u>TOTAL</u>	<u>\$7,854.12</u>

OPTIONAL SERVICES

Landscape Installation **\$820.65**

Initials

Opportunity Number: 7956

Holly, Dwarf Needlepoint

15.00

7 gal

- sub option for Dwarf Yaupon Holly #7

Terms and Conditions:

A) Blackjack Horticulture agrees to furnish all labor, materials, and equipment for the above described work unless otherwise specified and is licensed and insured to perform such work.

B) Blackjack Horticulture warrants its workmanship for a period of one year against any defective or detrimental workmanship or improper installation of material so long as Blackjack Horticulture is contracted by the owner to perform landscape maintenance services at the property. Plants will only be replaced one time under the terms of this warranty. Replacement plants are not warranted and liability does not exceed plant value. Sod is warranted for a period of 30 days after installation. Stated warranty specifically excludes but is not limited to, watering, damage due to watering practices, insects, disease, or other circumstances beyond our control arising after the installation. Blackjack Horticulture is not responsible for any damage resulting from watering or other restrictions imposed by public works entities or other civil authorities and does not warranty any planting not irrigated by an automatic irrigation system. Blackjack Horticulture is not responsible for and does not warranty plants that have been transplanted, uprooted, or otherwise disturbed/moved from their original location.

C) Blackjack Horticulture is not responsible for any subsurface obstacles or debris (i.e. rock) that may prevent plants, irrigation, masonry work, or any other part of the contract from being implemented as originally intended. Any excavation or removal of such items or any required re-design may result in additional charges to the owner. Blackjack Horticulture is not responsible for damage caused to any underground or hidden items not clearly guarded or marked.

D) The above proposal is a description of the work to be performed. Any item not specifically detailed above should be assumed to not be included unless otherwise stated. From time to time, certain types or variations of materials can become unavailable between the initial pricing of a proposed project and the time of construction/implementation. If a specific type, color, or size of material (i.e. plant types/sizes, masonry material color, stone, paver, etc.) is not available at the time of installation, a viable substitute that is as similar as possible to the original will be recommended to the owner along with any cost impact. Owner or owner's representative will be required to approve the change and any associated cost impact.

E) Blackjack Horticulture is not responsible for design flaws, errors, or omissions in a design provided by another party, nor is Blackjack Horticulture responsible for plant material, or any other material type, that does not survive or is not conducive to its location or use as required in a design or specifications by another party.

F) Final invoice will reflect actual quantities installed where applicable. If unit prices are provided, they are intended to give an approximate value to a specific item and do not always provide an exact price for additions and deletions. If material has been purchased for a project prior to a change being made, customer is obligated to pay for any cost associated with the material, any applicable freight/delivery, plus a 25% handling fee. If material has been installed prior to changes, customer is obligated to pay for the material in full at its original price, plus any costs associated with removing and replacing the material.

G) Customer agrees to pay Blackjack Horticulture a deposit in the amount of 35% of the total dollar amount listed above prior to commencement of work and further agrees to pay the remaining balance upon final completion of the work. Any project with a duration longer than one month may be subject to progress billing at the end of each month based upon completed work to date. All payments are due within the terms set forth on the invoice. Any past due payments are subject to late fees as detailed on the invoice.

H) Blackjack Horticulture reserves the right to engage the services of an attorney or collection agency in order to enforce the terms of this agreement and/or collect any late payments it may be due. Should this become necessary, any and all attorney or collection fees will be added to any previous amount owed Blackjack Horticulture and will be due and payable by the customer.

I) Prices good only if accepted within 30 days. In addition, Blackjack Horticulture cannot begin to schedule a project or include a project in planning and preparation stages until receiving a final, signed proposal and construction deposit.

J) By signing below, the customer represents that they are the responsible party for the agreement and its obligations and are legally able and authorized to enter into this agreement as the owner/customer, or on behalf of the owner. Customer further agrees with the terms and conditions set forth in this document and the description of work to be performed as described above and acknowledges that any other items outside the scope of work described above will be performed at an additional charge that becomes due and payable

Initials

Opportunity Number: 7956

upon completion.

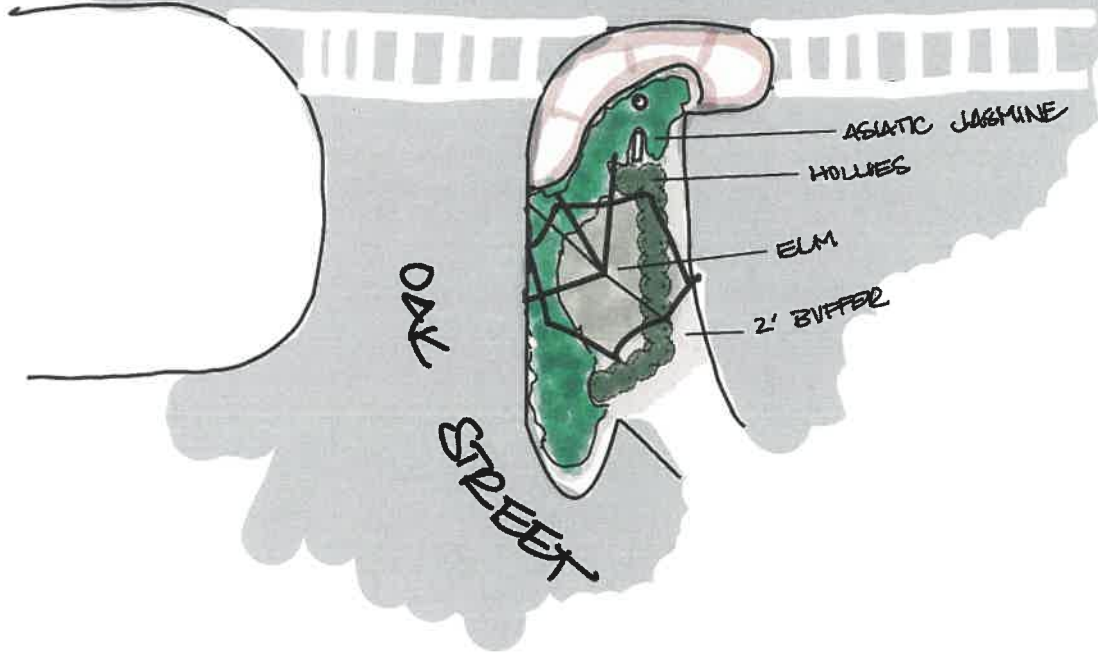
K) The contract price for this project has been calculated based on the current prices and availability for the materials required. However, the market for some of the materials that are specified herein is considered to be volatile, and sudden price increases could occur. The Contractor agrees to use his best efforts to obtain the lowest possible prices from available suppliers, but in the event of significant delay or an increase in the prices of specified materials beyond the Contractor's control that are purchased after execution of contract for use in this project, the Owner agrees to equitably adjust any specified time of completion and/or contract requirements as may be needed for completion and pay any difference between the originally priced material and any increase in costs to the Contractor. Any claim by the Contractor for payment of a cost increase, as provided above, shall be via written notice delivered by the Contractor to the Owner stating the increased cost, the building material, or materials in question for notice and approval by the Owner before Contractor proceeds further.

Eli Nichols
Blackjack Horticulture

Customer Signature

Date

CHURCH STREET



ADDENDUM TO PROFESSIONAL SERVICES AGREEMENT BETWEEN THE CITY OF MOUNTAIN BROOK AND BLACKJACK HORTICULTURE.

THIS ADDENDUM TO PROFESSIONAL SERVICES AGREEMENT (“the/this Addendum”) between the City of Mountain Brook, Alabama (“the City”) and Blackjack Horticulture (“the Contractor”) is entered between the parties.

This Addendum is a part of the Professional Services Agreement between the parties (the “Agreement”) concerning the work, services or project described in the Agreement. In the event of any conflict between the terms and provisions of this Addendum and the Agreement, the terms herein supersede and control any conflicting or inconsistent terms or provisions, particularly to the extent the conflicting or inconsistent terms or provisions in the Agreement purport either to (a) confer greater rights or remedies on the Contractor than are provided herein or under otherwise applicable law, or to (b) reduce, restrict, or eliminate rights or remedies that would be available to the City under otherwise applicable law. The Addendum shall remain in full force and effect with respect to any amendment, extension, or supplement of or to the principal Agreement, whether or not expressly acknowledged or incorporated therein. No agent, employee, or representative of the City is authorized to waive, modify, or suspend the operation of the Addendum or any of its terms or provisions without the express approval of the Mountain Brook City Council.

1. *Definitions.* For purposes of this Addendum, the terms below have the following meanings:

- A. “*The City*” refers to and includes the City of Mountain Brook, Alabama, and its constituent departments, boards, and agencies. The City may also be referenced in the Agreement as the “Client.”
- B. “*The (this) Agreement*” refers to the principal contract, agreement, proposal, quotation, or other document that sets forth the basic terms and conditions under which the Contractor is engaged to provide goods, materials, or services to the City, including the payment or other consideration to be provided by the City in exchange therefor.
- C. “*The Contractor*” refers to the person, firm, or other legal entity that enters the Agreement with the City to provide goods, materials, or services to the City, and includes vendors and suppliers providing goods, materials, and services to the City with or without a formal contract as well as the Contractor’s vendors, suppliers, and subcontractors. The Contractor may also be referenced in the Agreement as the “Consultant.”

2. *Dispute Resolution.* If a disagreement, claim, issue or disagreement arises between the parties with respect to the performance of this Agreement or the failure of a Party to perform their respective rights or obligations hereunder (a “Dispute”), the parties will use reasonable efforts to resolve any Dispute at the designated representative level. If the parties are unable to amicably resolve any Dispute at that level, each agree to escalate that matter to senior managers or senior officials for consideration by and potential resolution by them. If the Dispute is not resolved at the senior level, the dispute resolution mechanism shall be litigation in a court with competent jurisdiction that is located in Jefferson County, Alabama.

3. *Attorney's Fees; Court Costs; Litigation Expenses.* The City shall not be liable for attorney's fees, court costs, litigation expenses, and like charges except and to the extent such fees, costs, and charges would be assessed against the City under applicable law in the absence of any contractual provision imposing or assigning liability therefor.

4. *Late Payment Charges; Fees; Interest.* The City shall not be liable for any late payment charges, interest, or fees on any delinquent bill for goods, materials, or services, and bills rendered to the City shall not be considered delinquent any earlier than thirty (30) days after rendition of a complete and accurate bill by the Contractor. Contested bills shall not be considered delinquent pending resolution of the dispute.

5. *Indemnification; Hold-Harmless; Release; Waiver; Limitations of Liability or Remedies.* The City shall not and does not indemnify, hold harmless, or release the Contractor or any other person, firm, or legal entity for, from, or with respect to any claim, cause of action, cost, charge, fee, expense, or liability whatsoever arising out of or relating to the subject matter of the Agreement or the performance or nonperformance thereof; nor shall or does the City waive its right to assert or pursue any remedy or claim for relief of any kind that it may have against the Contractor or any other person, firm, or entity for any actual or alleged default or other breach of legal duty on the part of the Contractor or any person, firm, or entity in privity therewith or acting on Contractor's behalf. Any limitation or restriction regarding the type, nature, form, amount, or extent of any right, remedy, relief, or recovery that would otherwise be available to the City is expressly disavowed, excluded from the terms of the agreement, and void.

6. *Choice of Law; Choice of Venue or Forum.* The meaning, legal effect, and enforcement of terms and provisions of the Agreement and the resolution of any disputes arising thereunder or relating thereto shall be governed by the laws of the State of Alabama except to the extent otherwise required by applicable conflict-of-law principles. The venue of any suit, action, or legal proceeding brought to enforce or secure relief by reason of any asserted breach of duty arising out of or relating to the performance or nonperformance of the Agreement shall be Jefferson County, Alabama except to the extent otherwise required by applicable principles of law.

7. *Construction of Addendum.* Nothing in this Addendum shall be construed to create or impose any duty or liability on the City, to create a right or remedy in favor of the Contractor against the City, or to restrict or abrogate any right or remedy that is available to the City against the Contractor or any other person, firm, or entity under either the principal Agreement or as a matter of law.

8. *Independent Contractor.* Consultant's relationship to Client at all times is that of an independent contractor. Consultant exclusively controls the means and methods in which it performs its operations or provides the goods, services or undertaking described in the Agreement. The Client does not reserve any right of control over Consultant's operations or the activities it utilizes to perform its obligations in the Agreement.

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Contractor may use umbrella or excess liability insurance to achieve the required coverage for Comprehensive General Liability and Automobile Liability, provided that such umbrella or excess insurance results in the same type of coverage as required for the individual policies. These insurance requirements are in addition to and do not affect any indemnification obligation of Contractor herein.

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CITY: CITY OF MOUNTAIN BROOK

CONTRACTOR: _____

By: _____

By: _____

Printed Name: _____

Printed Name: _____

Title: _____

Title: _____

Date: _____

Date: _____