

**MEETING AGENDA
MOUNTAIN BROOK CITY COUNCIL**

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

JULY 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 07112022). Unvaccinated in-person attendees are asked to mask.

1. Approval of the minutes of the June 27, 2022, regular meeting of the City Council.
2. Parks and Recreation Month Proclamation
3. Consideration: Resolution approving the agreement between the City and Granicus with respect to the Gov QA software program for the garbage services.
4. Consideration: Resolution approving the installation of a fire hydrant on Elm Street as part of Crestline Elementary School gym project.
5. Consideration: Resolution authorizing the City to join the State of Alabama and other local governments as participants in current and future Opioid settlements.
6. Consideration: Resolution awarding the bid to Mobile Communications of America for Patrol Vehicle outfitting.
7. Consideration: Resolution executing a contractor agreement between the City and Wilbanks Engineering & Environmental Solutions for the engineering for Streambank Restoration at Jemison Park.
8. Comments from residents and attendees.
9. Announcement: The City Council will hold a work session on Wednesday, July 20, 2022 to discuss drainage issues and priorities. The council will also receive a briefing from ALDOT about the proposed 4-laning of Highway 280 from Hollywood Boulevard to I-459 and the replacement of the Pumphouse Road Bridge.
10. Announcement: The next regular meeting of the City Council is July 25, 2022 at 7:00 p.m.
11. Adjourn.

**MOUNTAIN BROOK CITY COUNCIL
PRE-MEETING DISCUSSION
JUNE 27, 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 6:15 p.m. on the 27th day of June, 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
Gerald A. Garner
Lloyd C. Shelton
Stewart Welch III, Mayor

Absent: None

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

1. AGENDA

1. Drainage issues on Mountain Lane and Richmar Drive

Frank Long-110 Richmar Drive

- Lived in Mountain Brook for 10 years
- Provided documents regarding flooding issues on Mountain Lane and Richmar Drive to Council Members (Exhibit 1)
- In 13 months there have been 2 major flooding issues
- The cause of the flooding is “the cut” (as referenced in Exhibit 1)
- Culverts are not large enough to allow sufficient volumes of water to get to retention pond
- (Showed several videos of flooding of the area)
- Concern: Studies were done without taking upstream effects into account
- Children use “the cut” as a walkthrough and flooding causes a safety concern
- Requesting City to commission a study to examine options for improving drainage upstream from the Mountain Brook Junior High retention pond

Brad Cleage-26 Montevallo Lane

- Neighborhood floods monthly
- Lived at address since 2009
- The cause of flooding is due to the current drainage system being inefficient and cannot handle the water

Charlie Pringle-101 Richmar Drive

- Culverts in neighborhood are too small and are inefficient in carrying water
- Common thunderstorms cause flooding
- City needs to invest in infrastructure to accommodate water

- A broader assessment of flooding from upstream is needed

William Thomas-Schoel Engineering Inc.

- Has a proposal to extend study to look upstream and “the cut”
- 116 Hillsdale did not show significant benefit by increasing detention pond onto that property
- Able to almost double the size of existing detention pond on property of Junior High; therefore, Hillsdale property is not needed
- Timeline for study: 4-6 weeks

Houston Smith-114 Richmar Drive

- Ditch is not just a maintenance issue but a capacity issue
- Ditch between Richmar Drive and Hillsdale needs to be considered as well

Virginia Smith-Council President

- Item added to the formal agenda (Resolution 2022-089)

2. Increase Purchase Order limit from \$1,000 to \$3,000

Steve Boone-Assistant City Manager and Finance Director

- Current Purchase Order limit is \$1,000
- Recommend increasing limit to \$3,000

Virginia Smith

- Item added to the formal agenda (Resolution 2022-090)

3. Replacement/Repairs of weathered/damaged signs and awnings in commercial areas

Stewart Welch-Mayor

- Received complaints regarding dirty awning (Exhibit 2)
- Consider an ordinance to ensure the proper maintenance of awnings

Dana Hazen-Director of Planning, Building, and Sustainability

- Mechanisms are in place for signs; however, awnings are not signs unless there is verbiage is on the sign
- An awning without verbiage does not follow the sign regulations
- How to get maintenance of awnings: Need to define maintenance, through VDR, have applicant sign statement that awning will be kept in good condition
- If Ordinance is adopted, it would apply to all awnings in city (may set time limit for existing awnings to comply)
- Can define awnings that are deteriorating as prohibited

Whit Colvin

- Anything that is in or over right of way can have terms associated with it

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 7:10p.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 at City Hall, Pre-Council Room (A-106) on June 27, 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 July 11, 2022

**MINUTES OF THE REGULAR MEETING OF THE
CITY COUNCIL OF THE CITY OF MOUNTAIN BROOK
JUNE 27, 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 7:11 p.m. on the 27th day of June, 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
William S. Pritchard III Chairman, Council President Pro Tempore
Alice B. Womack
Gerald A. Garner
Lloyd C. Shelton
Stewart Welch III, Mayor

Absent: None

Also present were City Attorney Whit Colvin, 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. INTRODUCED SPECIAL GUESTS-SCOUTS

Par Rich-Troup 53 out of St. Peters

- Present for Citizenship and Community Merit badge

Isabel Dionne-Troup 186 out of St. Lukes

- Present for Communications Merit badge

2. CONSENT AGENDA

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

Approval of the minutes of the May 23, 2022, regular meeting of the City Council

2022-087	Award the bid for 5 2021 Dodge Charger Police Pursuit Vehicles to Stivers Chrysler, Dodge, Jeep, Ram	Exhibit 1, Appendix 1
2022-088	Forgive loan between the City and Mountain Brook Sports Park Foundation	Exhibit 2
2022-089	Authorize agreement for additional consulting services between City and Schoel Engineering Company, Inc. for the study and preliminary design of up-basin drainage in Mountain Brook Junior High area	Exhibit 3, Appendix 2

2022-090	Amend the City of Mountain Brook Accounting Policies and Procedures Manual with respect to the purchase order threshold of \$3,000	Exhibit 4, Appendix 3
2022-091	Authorize the creation of one Parks and Recreation Superintendent II position for the Park and Recreation Department	Exhibit 5
2022-092	Recommend to the ABC Board the issuance of a Special Events Retail license to TRO, Inc. (Oteys Fest).	Exhibit 6, Appendix 4

Thereupon, the foregoing minutes and resolutions (Nos. 2022-087 through 2022-092), were introduced by Council President Smith and a motion for their immediate adoption made by Council Member Shelton. The minutes and resolutions were then considered by the City Council. Council Member 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
Gerald A. Garner
Lloyd C. Shelton

Nays: None

Abstained: None

Council President Smith thereupon declared that said minutes and resolutions (Nos. 2022-087 through 2022-092) were adopted by a vote of 5—0 and as evidence thereof she signed the same.

3. CONSIDERATION OF AN ORDINANCE (NO. 2124) REDUCING THE SPEED LIMIT ON SURREY ROAD AND UPPER CANTERBURY ROAD TO 20MPH AND TO PROVIDE FOR PUNISHMENT FOR VIOLATIONS (EXHIBIT 7)

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

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

Nays: None

Council President Smith declared the motion carried by a vote of 5-0.

After said ordinance had been considered in full by the Council, Council President Pro Tempore Pritchard then moved for the adoption of said ordinance. The motion was seconded by

Council Member Womack. Thereupon, Council President Smith called for vote with the following results:

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

Nays: None

Council President Smith declared that the ordinance (No. 2124) is hereby adopted by a vote of 5-0 and, as evidence thereof, she signed the same.

4. CONSIDERATION OF AN ORDINANCE (NO. 2125) PROVIDING FOR AN INTERLOCAL AGREEMENT BETWEEN THE CITY OF MOUNTAIN BROOK AND THE CITY OF BIRMINGHAM FOR THE 2022 WORLD GAMES (EXHIBIT 8)

Council President Smith introduced the ordinance in writing. It was then moved by council Member Garner 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
Gerald A. Garner
Lloyd C. Shelton

Nays: None

Council President Smith declared the motion carried by a vote of 5-0.

After said ordinance had been considered in full by the Council, Council Member Garner 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
Gerald A. Garner
Lloyd C. Shelton

Nays: None

Council President Smith declared that the ordinance (No. 2125) is hereby adopted by a vote of 5-0 and, as evidence thereof, she signed the same.

5. CONSIDERATION OF AN ORDINANCE (NO. 2126) APPROVING THE REAL ESTATE CONTRACT FOR 116 HILLSDALE DRIVE (EXHIBIT 9)

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

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

Nays: None

Council President Smith declared the motion carried by a vote of 5-0.

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

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

Nays: None

Council President Smith declared that the ordinance (No. 2124) is hereby adopted by a vote of 5-0 and, as evidence thereof, she signed the same.

6. ANNOUNCEMENT

Council President Smith announced the next regular meeting of the City Council is July 11, 2022, 7:00p.m.

7. EXECUTIVE SESSION AND ADJOURNMENT

There being no further topics for discussion, Council President Pro Tempore Pritchard made a motion that the City Council convene in executive session to discuss a real estate matter. The City Attorney certified that the subject matters were allowed to be discussed in executive pursuant to

Alabama Law. The motion was seconded by Council President Smith. 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
Gerald A. Garner
Alice B. Womack
Lloyd C. Shelton

Nays: None

President Smith then adjourned the meeting at approximately 7:49 p.m.

8. CERTIFICATION

I, Heather Richards, City Clerk of the City of Mountain Brook, Alabama, certify the above is a true and correct transcript of the regular meeting of the City Council of the City of Mountain Brook, Alabama held at City Hall, Council Chamber (Room A-108) on June 27, 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 a quorum was present.

City Clerk Approved by
City Council July 11, 2022

EXHIBIT 1 RESOLUTION NO. 2022-087

BE IT RESOLVED by the City Council of the City of Mountain Brook, Alabama, that the City Council hereby awards the bid for five (5) 2021 Dodge Charger Police Pursuit Vehicles to Stivers Chrysler, Dodge, Jeep, Ram in the amount of \$153,215.75, having been determined by the City to have submitted the only bid in conformance with the expressed specifications.

APPENDIX 1

EXHIBIT 2 RESOLUTION NO. 2022-088

BE IT RESOLVED by the City Council of the City of Mountain Brook, Alabama, that the City Council hereby forgives the loan between the City and Mountain Brook Sports Park Foundation (Resolution No. 2021-089) with respect to the public improvements at Rathmel Sports Park.

EXHIBIT 3 RESOLUTION NO. 2022-089

**PROCLAMATION
PARKS AND RECREATION MONTH**

WHEREAS the U.S. House of Representatives has designated July as Parks and Recreation Month since they are an integral part of communities throughout this country, including Mountain Brook, Alabama; and

WHEREAS parks and recreation promotes time spent in nature, which positively impacts mental health by increasing cognitive performance and well-being, and alleviating illnesses such as depression, attention deficit disorders, and Alzheimer's; and

WHEREAS parks and recreation encourages physical activities by providing space for popular sports, hiking trails, and many other activities designed to promote active lifestyles; and

WHEREAS park and recreation programming and education activities, such as youth sports and environmental education, are critical to childhood development; and

WHEREAS parks and recreation increases a community's economic prosperity through increased property values, expansion of the local tax base, increased tourism, the attraction and retention of businesses, and crime reduction.

NOW, THEREFORE, I, Stewart H. Welch III, Mayor of the City of Mountain Book, Alabama, do hereby proclaim July 2022 as

PARKS AND RECREATION MONTH

in Mountain Brook, Alabama recognizing the benefits derived from parks and recreation resources.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the City of Mountain Brook to be affixed the 11th day of July of the year of our Lord 2022 and of the Independence of the United States of America, the 246th.

RESOLUTION NO. 2022-094

BE IT RESOLVED by the City Council of the City of Mountain Brook, Alabama, that the City Council hereby approves the proposal between the City and Granicus with respect to the Gov QA software program for the garbage services.

ADOPTED: This 11th day of July, 2022.

Council President

APPROVED: This 11th day of July, 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 July 11, 2022, as same appears in the minutes or record of said meeting.

City Clerk



408 Saint Peter Street, Suite 600
Saint Paul, MN 55102
United States

THIS IS NOT AN INVOICE

Order Form
Prepared for
Mountain Brook, AL

Granicus Proposal for Mountain Brook, AL

ORDER DETAILS

Prepared By: Gretchen Cox
Phone:
Email: gretchen.cox@granicus.com
Order #: Q-211579
Prepared On: 07/06/2022
Expires On: 08/28/2022

ORDER TERMS

Currency: USD
Payment Terms: Net 30 (Payments for subscriptions are due at the beginning of the period of performance.)
Period of Performance: The term of the Agreement will commence on the date this document is signed and will continue for 12 months.

PRICING SUMMARY

The pricing and terms within this Proposal are specific to the products and volumes contained within this Proposal.

One-Time Fees			
Solution	Billing Frequency	Quantity/Unit	One-Time Fee
CRM Setup and Configuration	Up Front	1 Each	\$0.00
SUBTOTAL:			\$0.00

New Subscription Fees			
Solution	Billing Frequency	Quantity/Unit	Annual Fee
CRM Module	Annual	1 Each	\$5,000.00
SUBTOTAL:			\$5,000.00

PRODUCT DESCRIPTIONS

Solution	Description
CRM Module	CRM Module
CRM Setup and Configuration	CRM Module Onboarding

TERMS & CONDITIONS

- Link to Terms: <https://granicus.com/legal/licensing>
- This quote is exclusive of applicable state, local, and federal taxes, which, if any, will be included in the invoice. It is the responsibility of Mountain Brook, AL to provide applicable exemption certificate(s).
- If submitting a Purchase Order, please include the following language: The pricing, terms and conditions of quote Q-211579 dated 07-06-2022 are incorporated into this Purchase Order by reference and shall take precedence over any terms and conditions included in this Purchase Order.
- Any lapse in payment may result in suspension of service and will require the payment of a setup fee to reinstate the subscription.
- Notwithstanding anything to the contrary, Granicus reserves the right to adjust pricing at any renewal in which the volume has changed from the prior term without regard to the prior term's per-unit pricing.

BILLING INFORMATION

Billing Contact:		Purchase Order Required?	[] - No [] - Yes
Billing Address:		PO Number: <i>If PO required</i>	
Billing Email:		Billing Phone:	

If submitting a Purchase Order, please include the following language:

The pricing, terms, and conditions of quote Q-211579 dated 07/06/2022 are incorporated into this Purchase Order by reference and shall take precedence over any terms and conditions included in this Purchase Order.

AGREEMENT AND ACCEPTANCE

By signing this document, the undersigned certifies they have authority to enter the agreement. The undersigned also understands the services and terms.

Mountain Brook, AL	
Signature:	
Name:	
Title:	
Date:	

RESOLUTION NO. 2022-095

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

1. That the Water Works and Sewer Board of the City of Birmingham, Alabama, be requested to install one fire hydrant to service the Crestline Elementary School located at:
 - 5 Elm Street, Mountain Brook, Alabama 35213
2. That the Clements Dean Building Company, LLC will pay the Water Works and Sewer Board of the City of Birmingham, Alabama, the installation cost.
3. That the Water Works and Sewer Board of the City of Birmingham, Alabama, be authorized to charge the Mountain Brook Board of Education tap fees for said fire hydrant to serve the Crestline Elementary School.
3. That the City Clerk be hereby directed to furnish the Water Works and Sewer Board of the City of Birmingham a certified copy of the resolution.

ADOPTED: This 11th day of July 2022.

Council President

APPROVED: This 11th day of July 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 July 11, 2022 as same appears in the minutes of record of said meeting.

City Clerk

RESOLUTION NO. 2022-096

A RESOLUTION AUTHORIZING THE CITY OF MOUNTAIN BROOK TO JOIN THE STATE OF ALABAMA AND OTHER LOCAL GOVERNMENTS AS PARTICIPANTS IN CURRENT AND FUTURE OPIOID SETTLEMENTS

WHEREAS, the opioid epidemic continues to impact communities in the United States, the State of Alabama, and the City of Mountain Brook, Alabama.

WHEREAS, the City of Mountain Brook has suffered harm and will continue to suffer harm as a result of the opioid epidemic;

WHEREAS, the State of Alabama and some Alabama local governments have filed lawsuits against opioid manufacturers, distributors, and retailers (“Opioid Litigation”);

WHEREAS, the State of Alabama has entered into various Settlement Agreements and are likely to enter into additional agreements in the future which include the claims for the State of Alabama’s local governments;

WHEREAS the City of Mountain Brook finds the terms of the current Settlement Agreements acceptable and in the best interest of the community and anticipates the terms of the future Settlement Agreements to be similarly acceptable;

WHEREAS, the State of Alabama has prepared and presented Settlement Sign-On Agreements to the local governments and the City of Mountain Brook finds the terms of the Sign-On Agreement acceptable and in the best interest of the community;

WHEREAS, the current and future Settlement Agreements and Sign-On Agreements will detail the allocation of Settlement Funds, which the City of Mountain Brook finds acceptable and in the best interest of the community;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MOUNTAIN BROOK, ALABAMA,

Section 1. That the City of Mountain Brook finds that participation in the various Opioid Settlements, Settlement Agreement and Sign-On Agreement is in the best interest of the City of Mountain Brook and its citizens because such a plan would ensure an effective structure for the commitment of Settlement Funds to abate and seek to resolve the opioid epidemic.

Section 2. That the City of Mountain Brook hereby expresses its support for the Settlement of various Opioid claims and allocation and use of Settlement Funds as generally described in the Settlement Agreement and Sign-On Agreement.

Section 3. That the City of Mountain Brooks’ Clerk (“City Clerk”) is hereby expressly authorized to execute the Settlement Sign-On Agreements and the City Clerk is hereby authorized to execute any formal agreements necessary to implement the Settlements and plan for the allocation and use of Settlement Funds.

Section 4. That the City Clerk is hereby expressly authorized to execute any formal

agreement and related documents evidencing the City of Mountain Brooks' agreement to the settlement of claims and litigation related to the Opioid Epidemic.

Section 5. That the City Clerk is authorized to take such other action as necessary and appropriate to effectuate the City of Mountain Brooks' participation in any Settlement related to the Opioid Epidemic.

Section 6. This Resolution is effective upon adoption, the welfare of the City of Mountain Brook, Alabama requiring it.

ADOPTED: This 11th day of July, 2022.

Council President

APPROVED: This 11th day of July, 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 July 11, 2022, as same appears in the minutes or record of said meeting.

City Clerk

EXHIBIT B
Settlement Participation Form

Governmental Entity:	State:
Authorized Official:	
Address 1:	
Address 2:	
City, State, Zip:	
Phone:	
Email:	

The governmental entity identified above (“Governmental Entity”), in order to obtain and in consideration for the benefits provided to the Governmental Entity pursuant to the Settlement Agreement dated April 1, 2022 (“Janssen Settlement”), and acting through the undersigned authorized official, hereby elects to participate in the Janssen Settlement, release all Released Claims against all Released Entities, and agrees as follows.

1. The Governmental Entity is aware of and has reviewed the Janssen Settlement, understands that all terms in this Election and Release have the meanings defined therein, and agrees that by this Election, the Governmental Entity elects to participate in the Janssen Settlement and become a Participating Subdivision or Special District as provided therein.
2. The Governmental Entity shall, within 30 days of the execution of this Settlement Participation Form, dismiss with prejudice any Released Claims that it has filed.
3. The Governmental Entity agrees to the terms of the Janssen Settlement pertaining to Subdivisions or Special Districts as defined therein.
4. By agreeing to the terms of the Janssen Settlement and becoming a Releasor, the Governmental Entity is entitled to the benefits provided therein, including, if applicable, monetary payments beginning after the Effective Date.
5. The Governmental Entity agrees to use any monies it receives through the Janssen Settlement solely for the purposes provided therein.
6. The Governmental Entity submits to the jurisdiction of the court in the Governmental Entity’s state where the Consent Judgment is filed for purposes limited to that court’s role as provided in, and for resolving disputes to the extent provided in, the Janssen Settlement.
7. The Governmental Entity has the right to enforce the Janssen Settlement as provided therein.

I have all necessary power and authorization to execute this Election and Release on behalf of the Governmental Entity.

Signature:

Name:

Title:

Date:

SIGN-ON

The undersigned, as a duly appointed representative of the County/City of _____, has read the attached Sign-On Agreement, understands its terms, and agrees to be bound by those terms.

Done, this _____ day of _____, 2022.

Title

City/County of _____

Exhibit D

Subdivision Settlement Participation Form

Governmental Entity:	State:
Authorized Official:	
Address 1:	
Address 2:	
City, State, Zip:	
Phone:	
Email:	

The governmental entity identified above (“*Governmental Entity*”), in order to obtain and in consideration for the benefits provided to the Governmental Entity pursuant to the Settlement Agreement dated **June 2, 2022** (“*Agreement*”), and acting through the undersigned authorized official, hereby elects to participate in the Agreement, release all Released Claims against all Released Entities, and agrees as follows.

1. The Governmental Entity is aware of and has reviewed the Agreement, understands that all terms in this Participation Form have the meanings defined therein, and agrees that by signing this Participation Form, the Governmental Entity elects to participate in the Agreement and become a Participating Subdivision as provided therein.
2. The Governmental Entity shall, within 14 days of the Execution Date and prior to the filing of the Consent Judgment, secure the dismissal with prejudice of any Released Claims that it has filed.
3. The Governmental Entity agrees to the terms of the Agreement pertaining to Subdivisions as defined therein.
4. By agreeing to the terms of the Agreement and becoming a Releasor, the Governmental Entity is entitled to the benefits provided therein, including, if applicable, monetary payments beginning on or after the Effective Date.
5. The Governmental Entity agrees to use any monies it receives through the Agreement solely for the purposes provided therein.
6. The Governmental Entity submits to the jurisdiction of the Circuit Court for Montgomery County, Alabama for purposes limited to that Court’s role as provided in, and for resolving disputes to the extent provided in, the Agreement. The Governmental Entity likewise agrees to arbitrate disputes to the extent provided in the Agreement.

7. The Governmental Entity has the right to enforce the Agreement as provided therein.
8. The Governmental Entity, as a Participating Subdivision, hereby becomes a Releasor for all purposes in the Agreement, including, but not limited to, all provisions of Section V of the Agreement, and along with all departments, agencies, divisions, boards, commissions, districts, instrumentalities of any kind and attorneys, and any person in their official capacity elected or appointed to serve any of the foregoing and any agency, person, or other entity claiming by or through any of the foregoing, and any other entity identified in the definition of Releasor, provides for a release to the fullest extent of its authority. As a Releasor, the Governmental Entity hereby absolutely, unconditionally, and irrevocably covenants not to bring, file, or claim, or to cause, assist or permit to be brought, filed, or claimed, or to otherwise seek to establish liability for any Released Claims against any Released Entity in any forum whatsoever. The releases provided for in the Agreement are intended by the Parties to be broad and shall be interpreted so as to give the Released Entities the broadest possible bar against any liability relating in any way to Released Claims and extend to the full extent of the power of the Governmental Entity to release claims. The Agreement shall be a complete bar to any Released Claim.
9. The Governmental Entity hereby takes on all rights and obligations of a Participating Subdivision as set forth in the Agreement.
10. A Releasor may hereafter discover facts other than or different from those which it knows, believes, or assumes to be true with respect to the Released Claims, but each Governmental Entity hereby expressly waives and fully, finally, and forever settles, releases and discharges, upon the Effective Date, any and all Released Claims that may exist as of such date but which Releasors do not know or suspect to exist, whether through ignorance, oversight, error, negligence or through no fault whatsoever, and which, if known, would materially affect the Governmental Entities' decision to participate in the Agreement.
11. Nothing herein is intended to modify in any way the terms of the Agreement, to which Governmental Entity hereby agrees. To the extent this Participation Form is interpreted differently from the Agreement in any respect, the Agreement controls.

I have all necessary power and authorization to execute this Participation Form on behalf of the Governmental Entity.

Signature: _____
 Name: _____
 Title: _____
 Date: _____

SIGN-ON

The undersigned, as a duly appointed representative of the County/City of _____, has read the attached Sign-On Agreement, understands its terms, and agrees to be bound by those terms.

Done, this _____ day of _____, 2022.

Title

City/County of _____

Begin forwarded message:

From: Keith Jackson <KJ@rileyjacksonlaw.com>

Subject: Opioid Settlements

Date: July 5, 2022 at 4:44:10 PM CDT

To: Keith Jackson <KJ@rileyjacksonlaw.com>

Cc: Rob Riley <Rob@rileyjacksonlaw.com>

I hope everyone had a safe holiday weekend celebrating the independence of our great country. This email is dense and lengthy, but it is important. Please review it closely.

I am attaching 6 documents, which are explained below. Documents 3 and 4 identified below require action. Either document 1 or document 2 will require action, depending on whether the action is taken by a city or county. If any part of this email is unclear or you have additional questions, please let me know.

These documents are a necessary part of moving forward with finalizing the McKesson and Johnson & Johnson opioid settlements and turning results into cash. We do not yet have the allocations for each local government. We will forward those as soon as they are published by the Special Master. In the meantime, please have the resolution authorizing your mayor or commission president to approve these settlements placed on the agenda for your last meeting in July. The allocations will be available before then.

For those of you who have not been through this process with us before, each general purpose government will know its allocation to the penny once the Special Master publishes his calculations and report. Because the McKesson settlement is funded over 10 years, much of the funding from these settlements will be paid over time. That will also be detailed in the Special Master's report. I have also briefly explained the economic model used to calculate the allocations at the end of this email for those of you who have not seen that information before.

The six attached documents are:

Document 1 – Form Resolution for Cities

I have attached as a Word document a proposed resolution authorizing your mayor to sign the necessary documents to accept these settlements and all future opioid settlements allocated under the Alabama allocation agreement. This will avoid having to go through this formality in the future. If your council requires a more limited resolution authorizing participation only in these 2 settlements, please let me know.

Document 2 – Form Resolution for Counties

I have attached as a Word document a proposed resolution authorizing your commission president to sign the necessary documents to accept these settlements and all future opioid settlements allocated under the Alabama allocation agreement. This will avoid having to go through this formality in the future. If your commission requires a more limited resolution authorizing participation only in these 2 settlements, please let me know.

Document 3 – JJ Action Pages

This document consists of 3 pages. Each city and county must complete the first page (titled Exhibit B with page number 19 at the bottom) and must sign and complete both of the following pages. The person signing the 2 required pages must be the person vested with that authority *via* the resolution.

Document 4 – McKesson Action Pages

This document consists of 3 pages. Each city and county must complete the first page (titled Exhibit D with page number D-1 at the bottom) and must sign and complete both of the following pages. The person signing the 2 required pages must be the person vested with that authority *via* the resolution.

Document 5 – JJ Settlement Agreement Combined Final

This is the Johnson & Johnson settlement agreement in its entirety. This is for review only.

Document 6 – McKesson Settlement Agreement Combined Final

This is the McKesson settlement agreement in its entirety. This is for review only.

Allocation Methodology

Allocations are calculated in 2 steps. The first step determines a county-level allocation. This allocation is based first upon 3 objective CDC data points (morphine milligram equivalency, number of opioid deaths within the county, and number of residents of the county without opioid use disorder). Once the county-level allocation is calculated, the second step allocates the total county funds among participating political subdivisions within the county and the county itself if the county is a participating entity (all but 2 in Alabama are). This second step allocation is based upon local government spending data published by the U.S. Census Bureau in 2017. This data is published every 5 years. The Endo allocation utilized 2012 data, and we asked the Special Master to use the most recent data for the new settlements. The economist who developed the national model utilized all local government spending data arguably related to the opioid epidemic and backed out capital expenditures. While it may intuitively seem that one city could compare itself by population to another city and presumably have a roughly equal allocation, that will not prove true.

We are here to assist in any way necessary to ensure timely approval of these settlements. With best regards,

Keith Jackson

RILEY & JACKSON, P.C.

3530 Independence Drive

Birmingham, Alabama 35209

205.879.5000

205.879.5901(f)

www.rileyjacksonlaw.com

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Connect with Us:

16 attachments



image006.png
4K



image007.png
3K



image005.png
3K



Untitled attachment 11745.htm
2K



Untitled attachment 11748.htm
2K



Untitled attachment 11751.htm

2K

 **Model Resolution for AL (Cities) all settlements.docx**
18K

 **Untitled attachment 11754.htm**
1K

 **Model Resolution for AL (Counties) all settlements.docx**
18K

 **Untitled attachment 11757.htm**
1K

 **JJ Action Pages.pdf**
73K

 **Untitled attachment 11760.htm**
1K

 **JJ Settlement Agreement - Combined - Final.pdf**
8842K

 **Untitled attachment 11763.htm**
1K

 **McKesson Settlement Agreement - Combined - Final.pdf**
1675K

 **Untitled attachment 11766.htm**
1K

RESOLUTION NO. 2022-097

BE IT RESOLVED by the City Council of the City of Mountain Brook, Alabama, that the City Council hereby awards the bid for Patrol Vehicle outfitting to Mobile Communications of America in the amount of \$40,077.00, having been determined by the City to have submitted the lowest responsible bid in conformance with the expressed specifications.

ADOPTED: This 11th day of July, 2022.

Council President

APPROVED: This 11th day of July, 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 regular meeting held on July 11, 2022, as same appears in the minutes of record of said meeting.

City Clerk

**BID TABULATION AND RECOMMENDATION
BID NUMBER B-20211025-760
CITY OF MOUNTAIN BROOK
PATROL VEHICLE OUTFITTING**

Two bids were received on July 8, 2022 by 10:00 am at Mountain Brook City Hall regarding equipping new take home patrol vehicles.

Mobile Communications of America	\$40,077.00
ProLogic ITS	\$40,470.00

It is my recommendation to award the bid to Mobile Communications of America. Mobile Communications of America has submitted the lowest responsible bid.

Lt. Jason Rhoads
Mountain Brook Police Dept.

CITY OF MOUNTAIN BROOK
56 CHURCH STREET
MOUNTAIN BROOK, ALABAMA 35213
OFFICE OF PURCHASING AGENT (CITY MANAGER)

BID COVER SHEET - BID NUMBER B-20220617808

Bid Request Posted this Date: June 17, 2022

Bids to be Opened this Date and Time: July 8, 2022 at 10:00am

To Whom It May Concern:

Bids shall be sealed and delivered to the Office of the Purchasing Agent in the City Hall, City of Mountain Brook, Alabama, prior to the above specified date and time. Bids shall be publicly opened at the date and time specified above or as soon as practicable thereafter.

To be considered by the City, a bid must comply with Alabama law, including, but not limited to, Ala. Code (1975) §§41-16-50 *et seq.* and 31-13-1 *et seq.*, and provide documentation of enrollment in the E-Verify program pursuant to Ala. Code §31-13-9.

All bidders must use the bid form provided by the City for the project. This Bid Cover Sheet should be completed and submitted with the bid. Bids completed in pencil will not be accepted. Bids should be clearly marked "SEALED BID" and indicate on the outside of the envelope the project for which the bid is submitted and the date of bid opening.

The City reserves the right to require a bid bond, in which case specific information shall be provided with the request for bids.

The City reserves the right to utilize life cycle cost analysis in determining the lowest responsible bidder, in which case specific information shall be provided with the request for bids.

The City reserves the right to accept or reject any or all bids and to waive formalities.

/s/ Sam Gaston, City Manager

Sam S. Gaston, City Manager and Purchasing Agent

BIDDER Mobile Communications America, Inc. **TELEPHONE** 206.591.8904

ADDRESS 4116 First Avenue North Birmingham AL 35222

EMAIL lisa@lawrence@callmc.com

CITY Birmingham **STATE** AL **ZIP** 35222

BID AMOUNT (AS PER SPECIFICATIONS) \$ 40,077.00

Note: MUNICIPALITIES ARE EXEMPT FROM STATE SALES TAX

This bid must be signed below by bidder's principal/officer/agent and notarized.

Auth. Signature: <u>[Signature]</u>	Sworn to and subscribed before me on this <u>27</u> day of <u>June</u> , 20 <u>22</u> .
Name: <u>Frank Vanderhill</u>	Notary Public
Title: <u>CEO</u>	My Commission Expires: <u>6/3/23</u>

**CITY OF MOUNTAIN BROOK
56 CHURCH STREET
MOUNTAIN BROOK, ALABAMA 35213
OFFICE OF PURCHASING AGENT (CITY MANAGER)**

BID COVER SHEET – BID NUMBER B-20220617808

Bid Request Posted this Date: June 17, 2022

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To be considered by the City, a bid must comply with Alabama law, including, but not limited to, Ala. Code (1975) §§41-16-50 *et seq.* and 31-13-1 *et seq.*, and provide documentation of enrollment in the E-Verify program pursuant to Ala. Code §31-13-9.

All bidders must use the bid form provided by the City for the project. This Bid Cover Sheet should be completed and submitted with the bid. Bids completed in pencil will not be accepted. Bids should be clearly marked "SEALED BID" and indicate on the outside of the envelope the project for which the bid is submitted and the date of bid opening.

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The City reserves the right to utilize life cycle cost analysis in determining the lowest responsible bidder, in which case specific information shall be provided with the request for bids.

The City reserves the right to accept or reject any or all bids and to waive formalities.

s/ Sam Gaston, City Manager

Sam S. Gaston, City Manager and Purchasing Agent

BIDDER ProLogic ITS, LLC TELEPHONE 866-923-0513

ADDRESS 106 Northpoint Parkway, Building 2, Suite 350



EMAIL Paul.Sprayberry@ProLogicITS.com

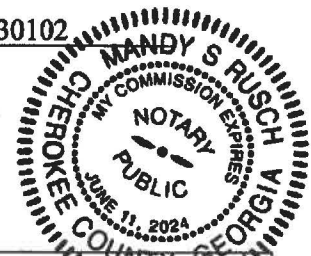
CITY Acworth STATE GA ZIP 30102

BID AMOUNT (AS PER SPECIFICATIONS) \$ 2,130.00 per unit

Note: MUNICIPALITIES ARE EXEMPT FROM STATE SALES TAX

This bid must be signed below by bidder's principal/officer/agent and notarized:

Auth. Signature: <u></u>	Sworn to and subscribed before me on this
Name: <u>Paul Sprayberry</u>	30th day of <u>June</u> 20 <u>22</u> .
Title: <u>Managing Partner</u>	<u></u>
	Notary Public
	My Commission Expires: June 11, 2024



RESOLUTION NO. 2022-098

BE IT RESOLVED by the City Council of the City of Mountain Brook, Alabama, that either the Mayor or the City Manager of the City is hereby authorized and directed, for and on behalf of the City, to execute a contractor agreement, in the form as attached hereto as Exhibit A, between the City and Wilbanks Engineering & Environmental Solutions, LLC. with respect to the engineering for Streambank Restoration at Jemison Park.

ADOPTED: This 11th day of July, 2022.

Council President Pro Tempore

APPROVED: This 11th day of July, 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 July 11, 2022, as same appears in the minutes of record of said meeting.

City Clerk



Heather Richards <richardsh@mtnbrook.org>

Jemison Park Streambank Restoration

Shanda Williams <williamssh@mtnbrook.org>

Fri, Jul 8, 2022 at 3:12 PM

To: Sam Gaston <gastons@mtnbrook.org>, Steve Stine <sstine@bishopcolvin.com>, Heather Richards <richardsh@mtnbrook.org>, Steve Boone <boones@mtnbrook.org>

I have attached a contract and quote from Wilbanks Engineering for design work to help us figure out how to stop some erosion on the banks of the creek in Jemison Park.

This contract is for \$8,500 for the engineering, but there is the possibility of paying them an additional \$3,500 for surveys that may be required by the Corps of Engineers.

The contract will not exceed \$12,000.

I wrote it up the best I could, but Steve Stine may need to make some changes.

I am hoping to get this on the agenda for Monday if possible.

Sorry for the last minute addition.

Shanda

--

Shanda Williams, CPRP
Parks & Recreation Superintendent
City of Mountain Brook
3698 Bethune Drive
Mountain Brook, AL 35223

T-205-802-3879

F-205-967-6522

[City of Mountain Brook Website](#)[Mountain Brook Parks and Recreation Home Page](#)

2 attachments

2022 7 Contract Draft Wilbanks Eng.docx
45K

CMB_SHADES_CK_20220708.pdf
245K

CONTRACTOR AGREEMENT

Wilbanks Engineering & Environmental Solutions, LLC (hereinafter the “Contractor”) enters this Contractor Agreement (“Agreement”) with the **City of Mountain Brook, Alabama**, a municipal corporation (“City”), effective as of the date last executed by a party below (the “Effective Date”). Contractor and City may be individually referenced herein as “Party” or collectively as “Parties.”

1. **Project.** Unless otherwise stated on the attached Exhibit A - Specifications (which is incorporated by reference), Contractor, at its expense, will furnish all the labor, materials, supplies, supervision, and equipment needed to perform the work, services and operations (collectively, the “Work”) on the understated project (the Project”)

Name of Project: **Engineering for Streambank Restoration at Jemison Park**

Site of Project: Jemison Park
2615 Mountain Brook Parkway
Mountain Brook, AL 35213

2. **Scope of Work.** See Exhibit A (which includes the **July 8, 2022** Contractor Proposal) that is attached and incorporated herein.

3. **Undertaking of Parties.** Contractor agrees to perform the Work in accordance with the terms, conditions and specification in this Agreement and on Exhibit A. City agrees to compensate Contractor and perform its other responsibilities set forth in the Contract Documents.

4. **Term/Termination.** The term of this Agreement shall commence on the Effective Date and thereafter continue in effect up to **two (2) months** (the “Term”). The period in which Contractor will complete the Project is set forth on Exhibit A.

Notwithstanding the provision immediately above or any other language herein, City may terminate this Agreement before the expiration of its Term at the time designated in a written notice to Contractor if each of the following have occurred: (a) Contractor has defaulted on a material obligation to the City hereunder (a “Default”); and (b) following the City’s provision of written notice of Default to Contractor, the Contractor fails to correct or remedy that Default within fifteen (15) days after receipt of that notice. The failure of the Contractor to timely perform the Work shall be considered an event of Default. This remedy is in addition to any other provided in the Agreement or available to City under law or in equity.

5. **Contract Price/Invoice/Certification.** Unless otherwise stated in the Special Conditions on Exhibit A or agreed in a writing signed by the Parties, City will pay Contractor the lump sum amount of **Eight Thousand, Five Hundred Dollars and Zero Cents (\$8,500.00)** as compensation for performing the Work (the “Contract Price”).

Unless agreed in a writing or amendment to this Agreement that is signed by duly authorized representatives of both Parties, the total amount payable to the Contractor for the Work shall not exceed the Contract Price.

The City will pay the Contract Price on this Project as follows:

Within ten (10) days following the successful completion of the Project, Contractor will submit to City Project Representative an invoice Contract Price (as adjusted by any mutually agreed change orders signed by both parties). With such invoice Contractor shall submit records reasonably supporting its payment. Within five (5) days following receipt of that invoice, City Project Representative will review same, consult with Contractor and make any mutually agreed modifications to it, certify that the invoice is due to be paid, and forward that certified invoice to the City Clerk. The City Clerk will remit to the Contractor the amount certified for payment within twenty (20) days after it receives that certification.

6. Warranties of Contractor. The Contractor warrants each of the following with respect to its Work:

- (a) that it expeditiously will perform its Work in a good and workmanlike manner that is consistent with level of skill and care that would be provided by other contractors performing operations under the same or similar conditions, and in accordance with the Project schedule;
- (b) that it, and all of its employees or any subcontractors (if authorized), will complete the Work in compliance with all codes, laws and regulations that are applicable to the Project;
- (c) that before commencing the Work, at its own expense, the Contractor will obtain all licenses, permits or other governmental authorizations needed to complete the Project, including without limitation, a business license and building permit issued by the City (collectively, "Licensing"). Contractor further agrees to maintain that Licensing throughout the performance of the Project;
- (d) that it has inspected the Site and any other locations at which it will perform the Work, and, based on that inspection and its expertise, that it has determined that each of those locations is reasonably suitable for Contractor to complete the Work;
- (e) that the Contractor shall be responsible to remove and properly dispose of any debris related to its completion of the Project, and that it will leave each location where the Work is performed in reasonably clean condition;

- (f) that the Work will be free of any material defects in workmanship and materials for a period of one (1) year that shall commence on the date of completion of the Project; and
- (g) that all actions required to be taken by or on behalf of the Contractor to enter or execute this Agreement, and to perform its obligations and agreements hereunder, have been duly taken, and the person signing below on behalf of Contractor is authorized to execute this Agreement.

7. Insurance/Safety/Indemnification.

(a) Insurance. For the duration of this Agreement and for limits not less than stated below, Contractor, at its sole expense, shall maintain the following insurance with a company(ies) lawfully authorized to do business in Alabama and reasonably acceptable to City:

(i) Comprehensive General Liability: Seven Hundred Fifty Thousand Dollars (\$750,000.00), combined single limit and aggregate for bodily injury and property damage. This Comprehensive General Liability policy shall include coverage for premises/operations, products/completed operations, assumed contractual obligations, independent contractors, and broad form property damage;

(ii) Automobile Liability: Automobile Liability covering owned and rented vehicles operated with policy limits of not less than Seven Hundred Fifty Thousand Dollars (\$750,000.00) combined single limit and aggregate for bodily injury and property damage;

(iii) Workers Compensation/Employer's Liability: Workers' Compensation as required by statute and Employer's Liability with limits of Five Hundred Thousand Dollars (\$500,000) per occurrence.

The Contractor may satisfy its insurance obligations hereunder through a combination of primary, umbrella and excess policies. Before the execution of this Agreement, the Contractor shall provide City a certificate(s) of insurance evidencing compliance with the requirements in this section. The certificate shall name City as an additional insured on the Comprehensive General Liability, Automobile Liability, and any applicable umbrella and excess policies.

(b). Safety. Contractor agrees that it (a) has the sole responsibility to identify any condition or hazard at the Site or other locations on City property that will prevent it from safely performing the Work, and (b) is exclusively responsible for performing the Work in a safe manner that does not put at risk the safety of persons or endanger property. Contractor shall take all reasonable precautions for the safety of, and shall provide all reasonable protection to prevent damage, injury or loss to: (i) its employees and all other persons who may be affected by the Work; (ii) all the Work and all materials and equipment to be incorporated therein, whether in storage on or off the Site, or under the care, custody or

control of the Contractor or any of its representatives; and (iii) other property at the Work Site or adjacent thereto.

(c). Indemnification. Contractor agrees to defend, indemnify, and hold harmless City and its agents, employees and officials (hereinafter collectively, the “Indemnitees”) from and against all demands, actions, liabilities, expenses (including reasonable attorney’s fees) or claims for damages by any third parties (including any employee, subcontractor or representative of the Contractor, hereafter a “Contractor Representative”) that arise out of, relate to or are caused by any negligent act, omission or conduct by Contractor or any Contractor Representative in performing or failing to perform the Work or its (or their) responsibilities under this Agreement; provided that nothing herein shall obligate the Contractor to indemnify any of the Indemnitees for any claims resulting from the negligent conduct or the willful misconduct of the Indemnitees.

(d). Limitation of Liability. In no event may Contractor recover from the City any special, incidental, consequential or any other indirect damages whatsoever of any description (including, without limitation, damages for lost profits, lost advantage, lost opportunity, loss of savings or revenues or for increased cost of operations) or amount arising from the City’s breach of its obligations hereunder.

8. Project Representative. Each Party shall appoint and indicate on Exhibit A its representative who shall coordinate with the other Party on all matters related to the performance of the Work and the administration of this Agreement (the “Project Representative”). . Any notice required hereunder shall be sufficiently given when sent to the appropriate Project Representative via United States certified mail, return receipt requested, or via overnight courier with receipt verification to the address set forth herein, or by personally delivering such notice to the party to be in receipt thereof.

9. Miscellaneous Provisions.

a. This Agreement which is comprised of this instrument, the **July 8, 2022** Contractor Proposal (collectively, the “Contract Documents”) sets forth the entire understanding between the Parties concerning the matters herein, and all oral representations, prior negotiations, understandings, agreements, conditions, and terms discussed between them prior to acceptance and signing of this Agreement are deemed to have merged herein.

b. This Agreement may be executed in counterparts each of which when executed by the parties shall be deemed to be a complete original. An electronic or facsimile copy of the executed contract or counterpart shall be deemed, and shall have the same legal force and effect as, an original document.

c. Any forbearance or delay on the part of City in enforcing any of its rights under this Agreement shall not be construed as a waiver of such rights. No terms of this Agreement shall be waived unless expressly waived in writing.

d. Contractor may not assign its rights, obligations or the benefits of this Agreement to any third party without the written consent of City, which consent may be withheld for any reason.

e. This Agreement is made only for the benefit of the Parties. It is not intended, nor shall it be construed, to grant or bestow any benefit, right or privilege to any third party.

f. Contractor is an independent contractor of City. This Agreement does not create any partnership, joint venture or principal-agent relationship between the Parties. Further, City retains no control or authority with respect to its means and methods in which Contractor (or any of its employees or representatives) performs the Work.

h. Immigration Law Compliance. Contractor represents and warrants to the City that: (i) it does not knowingly employ, hire for employment, or continue to employ, in Alabama, an "unauthorized alien," as defined by the Beason-Hammon Alabama Taxpayer and Citizen Protection Act, §31-13-1, *et seq.*, Code of Alabama 1975, as amended (the "Act"); (ii) it will enroll in the E-Verify program prior to performing any work on the Project in Alabama and shall provide documentation establishing that it is enrolled in the E-Verify program. During the performance of this Agreement, the Contractor shall participate in the E-Verify program as required under the terms of the Act and shall verify every employee in Alabama that is required to be verified according to the applicable federal rules and regulations; (iii) it will comply with all applicable provisions of the Act with respect to subcontractors, if any, that it engages on the Project by entering into an agreement with or by obtaining an affidavit from such subcontractors providing work on the Project in Alabama that such subcontractors are in compliance with the Act with respect to their participation in the E-verify program. Contractor further represents and warrants that it shall not hire, retain or contract with any subcontractor to work on the Project in Alabama which it knows is not in compliance with the Act; and (iv) by signing this Agreement, it affirms, for the duration of the Agreement, that it 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, if Contractor is found to be in violation of this provision, it shall be deemed in breach of the Agreement and shall be responsible for all damages resulting therefrom.

i. Amendment. Neither this Agreement nor any of the provisions herein (including, without limitation, those concerning the Project Schedule and Contract Price) may be amended or modified except in accordance with the terms of a written instrument (or change order) signed by both Parties.

j. Delayed Performance/Force Majeure Events. Neither Party shall be liable to the other for any failure to perform its respective obligations (including payment obligations) under this Agreement during any period in which its performance is delayed by circumstances beyond its reasonable control, such as fire, flood, war, embargo, strike, riot, or the intervention of any governmental authority (a "Force Majeure Event"). However, the delayed Party must promptly provide the other with written notice of the

Force Majeure Event, the delayed Party's time for performance will be excused only for the duration of that Event, and, if that Event lasts longer than 30 days, then the other Party may immediately terminate, in whole or in part, this Agreement by giving written notice to the delayed Party.

k. This Agreement shall be governed by, and construed in accordance with, the laws of the State of Alabama.

(Signature Page Follows)

Whereas, the undersigned, duly authorized representatives of the Parties execute this Agreement on behalf of their respective organization on the date(s) shown below.

CITY OF MOUNTAIN BROOK, ALABAMA

By: _____

Its: Mayor

Date: _____

WILBANKS ENGINEERING & ENVIRONMENTAL SOLUTIONS, LLC

By: _____

Its: _____

Date: _____

Project: Engineering of Streambank Restoration at Jemison Park

EXHIBIT A – SPECIFICATIONS

1. Scope of Work.

See attached **July 8, 2022** Contractor Proposal

If Contractor desires or is required to perform services on the Project that fall outside the Scope (“Additional Operations”), the Contractor shall advise the City Project Representative of the need for Additional Operations before undertaking those services, the parties shall reach agreement on the expense of any Additional Operations and the City Project Representative shall approve any such Additional Operations before the Contractor performs same.

2. Project Schedule. The Contractor will complete this project by September 30, 2022 unless an extension is requested in writing by the Contractor and approved in writing by the City.

3. Project Representatives.

City Project Representative:
Shanda Williams
3698 Bethune Drive
Birmingham, AL 35223
Email: williamssh@mtnbrook.org
Day Tel #: 205-802-3879

Contractor Project Representative:
Zach Wilbanks
210 Redmayne Road
Gardendale, AL 35071
Email: zach@wilbankseng.com
Day Tel #: 205-412-3373

4. Special Conditions:

The purpose of this contract is to remedy the recently extreme erosion of the streambank in Jemison Park. The contractor will develop plans to grade and stabilize the bank while working with the natural flow of the creek and limit further damage to the surrounding vegetation and banks.

After the engineered plans are completed, the contractor will get approval from the Corps of Engineers. If other surveys are required, the City will pay the Contractor up to Three Thousand, Five Hundred Dollars (\$3,500) to cover those costs. This contract will not exceed Twelve Thousand Dollars (\$12,000)



WILBANKS ENGINEERING & ENVIRONMENTAL SOLUTIONS, LLC

July 8, 2022

Shanda Williams, CPRP
Parks & Recreation Superintendent
City of Mountain Brook
williamssh@mtnbrook.org

Re: Jemison Park, Mountain Brook, Alabama
Shades Creek Streambank Stabilization
Engineering Services Proposal

Dear Ms. Williams:

In keeping with your request, Wilbanks Engineering & Environmental Solutions, LLC (Wilbanks) has prepared a proposal associated with preparing design plans for a streambank stabilization service along an eroding bank segment between 100 and 150 linear feet of Shades Creek within Jemison Park in Mountain Brook, Alabama. The work described within the proposal is associated with preparing the engineering plans/drawings, and U. S. Army Corps of Engineers permitting (if necessary). The work will consist of performing the following major items:

1.0 Engineering & Surveying

- a) Collect topographic survey data within the project extents.
- b) Collect stream design information.
- c) Conduct the design and prepare the engineering plans that consist of a construction drawing plan set necessary for a contractor to perform the work.
- d) Prepare Pre-Construction Notification (PCN) for authorization from the U. S. Army Corps of Engineers under Section 404 of the Clean Water Act.

PROCUREMENT

The fees to provide these deliverables are being provided and may be considered as fixed prices associated with each task. Billing is to be conducted on a percent completion basis unless otherwise specified in a work contract, but Wilbanks can be flexible on these terms to meet your needs. The following table will summarize the fees for each task.

Phase Description	Subtask	Description	Cost
Engineering & Surveying	a	Survey	\$8,500.00
	b	Collect Design Data	
	c	Prepared Plans	
	d	Edits/Contingency	
TOTAL:			\$8,500.00

After the design is completed, we will be able to determine whether authorization from the U. S. Army Corps of Engineers (Corps) will be necessary. In the event that it is necessary, we can prepare the application to the Corps, and facilitate all studies to comply with Section 7 of the Endangered Species Act (ESA) and Section 106 of the National Historic Preservation Act (NHPA). These are generally termed the habitat survey and the cultural resources survey, respectively. We can subcontract these surveys in order to prepare a complete Corps permit application. I would "estimate" the habitat survey to cost approximately \$1,000 and the cultural resources survey to costs approximately \$2,500. If a Corps permit becomes necessary, we would request an additional \$3,500 to cover these expenses.

As shown, the costs to prepare the deliverables for the project are estimated to total \$12,000.00.

You may consider this proposal good for a period of thirty (30) days from the date of this proposal. If you should have any questions or need additional information, please do not hesitate to contact our office at (205) 285-9696 or via email me at zach@wilbankseng.com.

Sincerely,



Zachary Wilbanks, PE
Principal Owner

