

**MEETING AGENDA
MOUNTAIN BROOK CITY COUNCIL**

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

APRIL 25, 2023, 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 04252023).

1. Presentations (4) by Leadership Mountain Brook students.
2. Presentation of the annual financial audit of the City as of and for the year ended September 30, 2022.
3. Approval of the minutes of the April 10, 2023, regular meeting of the City Council.
4. Approval of the minutes of the April 19, 2023, special meeting of the City Council.
5. Consideration: Resolution authorizing the execution of an Employee Assistance Program Service Agreement with Employee Assistance Services (EAS).
6. Consideration: Resolution authorizing the sale or disposal of certain surplus property.
7. Public Hearing Discussion: Removal of the rumble strips near the "S" curve on Overton Road before the North Woodridge intersection
8. Comments from residents and attendees
9. Announcement: The City Council shall hold a Special Meeting on Monday, May 1st, 2023 at 6:00 p.m. for a public hearing - request to rezone property from Residence B district to Planned Unit Development (PUD) district - 2305 Montevallo Road, Montevallo Road Partners, LLC
10. Announcement: The City Council will have a Special Meeting on Tuesday, May 2nd, 2023 at 5:30 p.m. to discuss drainage options for Richmar Drive and Mountain Avenue
11. Announcement: The next regular meeting of the City Council is May 8, 2023 at 7:00 p.m.
12. Adjourn

Leadership Mountain Brook Presentations:

Documents to be sent separately

Annual Financial Audit:

Documents to be sent separately

**MOUNTAIN BROOK CITY COUNCIL
PRE-MEETING DISCUSSION
APRIL 10, 2023**

[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 6:00 p.m. on the 10th day of April, 2023 (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
Lloyd C. Shelton
Gerald A. Garner
Graham L. Smith
Stewart Welch III, Mayor

Absent: None

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

1. EXECUTIVE SESSION

Council President Pro Tempore Pritchard made a motion that the City Council convenes in executive session to discuss a legal matter and that the City Council shall reconvene upon conclusion of the executive session. 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 Virginia 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
Graham L. Smith
Lloyd C. Shelton

Nays: None

2. AGENDA

1. Drainage options for Richmar Drive and Mountain Avenue

Mark Simpson-Schoel Engineering

- Concluded study on “the cut”
- Goal was to identify flooding issue and come up with solutions to mitigate the flooding
- Primary issue for the “the cut” is a 48” pipe that flows down Richmar Drive into the open channel

- Looked at replacing pipe; however, this option would increase the volume and peak rate of water downstream that would require significant improvement to channel downstream which is very costly
- Replacing the pipe for a larger pipe was abandoned due to lack of storage for the water
- Some lots are at or below street level where water could leave the road and enter driveways
- On the western side of Richmar there is a landscape type feature that keeps water corralled in road
- Looked at upstream improvements-“Area 1”
- The problem with Area 1 is a lack of collection
- Developed a plan based on pipes that are currently in place and drainage paths
- Solution for Area 1 will corral water, put it under ground and re-direct it into “the cut which requires additional work to the open channel at “the cut”

Billy Pritchard-Council President Pro Tempore

- Inquired if the spanners in the driveways were removed if it would help with the water getting over some of the driveways

Mark Simpson

- The spanners are causing a problem; however, with large rain events the spanners become insignificant
- There is a natural rise behind the valley gutter that has a tendency to keep the water corralled in the streets

Lloyd Shelton-Council Member

- Inquired what affects the proposed improvements to Area 1 impact the water moving through the Junior High and on toward Canterbury
- Inquired why a larger pipe could not be installed

Mark Simpson

- If the improvements are contained within Area 1, there is no effect downstream.
- A larger pipe would allow additional flow to enter channel, which creates increases of water downstream that cannot be mitigated
- Replacing the pipe to a larger pipe would not increase capacity that much to handle historic events such as 6” rainfall

Brad Cleage-26 Montevallo Lane

- “The cut” is considered his side yard
- Question if the plans for Area 1 will put more water into “the cut” faster
- Putting more water into “the cut” seems like it would make it flood faster
- The 48” pipe is not sufficient and needs to be replaced
- Feels back yard is being utilized as a retention pond
- Need to find a place to detain the water downstream

Mark Simpson

- The water in Area 1 is water that is already going to “the cut” regardless
- The water will be put underground and will be discharged where it is going now
- A problem with Mr. Cleage’s yard flooding is the pipe that drains his yard has collapsed which creates an area in his backyard that will not drain
- There is nothing that can address containing all the water on the rare historic rain events

Charlie Pringle-101 Richmar Drive

- Normal weather is causing the system to fail
- Improvements to Area 1 do not address the root of the problem and are not adequate

Virginia Smith-Council President

- The Council will have a special meeting to discuss this matter further.
- The date and time of the meeting will be set at another date and the residents will be notified

2. Review of City Codes and Ordinances regarding storm water management

Mark Simpson-Schoel Engineering

- Wanted to target areas where there is a drainage problem
- Defined critical basin (watershed)
- Identified critical basins based on existing infrastructure and/or areas with a lot of development in the future
- Recommend these regulations be applied to the basins that are deemed critical basins only
- Additional regulations is consistent with the current post construction storm water ordinance for sites that are 1 acre or larger, now this would apply to sites smaller than 1 acre
- Want to manage run-off rate from site and run-off volume for 1.1 inch storm event
- Would require landscape architect to provide a drainage report to demonstrate compliance with ordinance and must comply with ordinance before a building permit would be issued

Billy Pritchard-Council President Pro-Tempore

- Want to get input from engineers, builders, etc. regarding these regulations before moving forward

3. Schoel's proposal to amend the FEMA flood map for Mountain Brook Village

Mark Simpson-Schoel Engineering

- In 2016 a Conditional Letter of Map Revision was provided to FEMA prior to work being done
- The work has been completed, now FEMA wants the study to be updated and mapping based on as-built conditions
- Once FEMA approves, it will change the flood maps
- The proposal is to do the as-built letter and update maps

Virginia Smith-Council President

- Items added to the formal agenda (Resolution No. 2023-064)

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 Virginia Smith adjourned the pre-meeting at approximately 7:18 pm.

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 regular session of the City Council of the City of Mountain Brook, Alabama held at City Hall, Pre-Council Room (A-106) on April 10, 2023, 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 25, 2023

**MINUTES OF THE REGULAR MEETING OF THE
CITY COUNCIL OF THE CITY OF MOUNTAIN BROOK
APRIL 10, 2023**

[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 7:20 p.m. on the 10th day of April, 2023 (others were allowed to listen to the meeting by way of Internet video conference). The Council President Virginia Smith called the meeting to order and the roll was called with the following results:

Present: Virginia C. Smith, Council President
William S. Pritchard III, Council President Pro Tempore
Lloyd C. Shelton
Gerald A. Garner
Graham L. Smith
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 Virginia Smith stated that a quorum was present and that the meeting was open for the transaction of business

1. FAIR HOUSING PROCLAMATION

Stewart Welch-Mayor

- Presented the Fair Housing Proclamation to Lewis Pitchford, ARC Realty, and ESP Realty

2. AUTISM AWARENESS PROCLAMATION

Stewart Welch-Mayor

- Presented the Autism Awareness Proclamation to Ashley and Turner Beard

3. CONSENT AGENDA

Council President Virginia 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 27, 2023, regular meeting of the City Council

| | | |
|-----------------|---|-----------|
| 2023-058 | Fair Housing Month Proclamation | Exhibit 1 |
| 2023-059 | Autism Awareness Month Proclamation | Exhibit 2 |
| 2023-060 | Appoint Jeffrey Brewer to the Mountain Brook Board of Education, to serve without compensation for the five (5) year term ending May 31, 2028 | Exhibit 3 |

| | | |
|-----------------|---|--------------------------|
| 2023-061 | Execute the Inter-Jurisdictional Automatic Aid agreement with Vestavia Hills Fire Department for Structured Fires | Exhibit 4, Appendix 1 |
| 2023-062 | Authorize the sale or disposal of certain surplus property | Exhibit 5, Appendix 2 |
| 2023-063 | 2023 “Back to School” Sales Tax Holiday, July 21-23, 2023 | Exhibit 6, Appendix 3 |
| 2023-064 | Authorize the agreement for consulting services with Schoel Engineering for services associated with the preparation and submittal of a Letter of Map Revision (LOMR) to FEMA to revise the Flood Insurance Study and Flood Insurance Rate maps to reflect the new conditions along Watkins Brook | Exhibit 7, Appendix 4 |

Thereupon, the foregoing minutes and resolutions (Nos. 2023-058 through 2023-064), were introduced by Council President Virginia Smith and a motion for their immediate adoption made by Council President Pro Tempore Pritchard. The minutes and resolutions were then considered by the City Council. Council Member Graham Smith 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
Lloyd C. Shelton
Gerald A. Garner
Graham L. Smith

Nays: None

Abstained: None

Council President Virginia Smith thereupon declared that said minutes and resolutions (Nos. 2023-058 through 2023-064) were adopted by a vote of 5—0 and as evidence thereof she signed the same.

4. CONSIDERATION: ORDINANCE NO. 2140 PROVIDING FOR A STOP SIGN ON LEWIS CIRCLE AT ITS INTERSECTION WITH WEATHERTON DRIVE AND TO PROVIDE FOR PUNISHMENT THEREOF(EXHIBIT 8)

Council President Virginia 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 Member Garner and was unanimously carried, as follows:

Ayes: Virginia C. Smith
William S. ("Billy") Pritchard III
Gerald A. Garner
Lloyd C. Shelton
Graham L. Smith

Nays: None

Council President Virginia 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 then moved for the adoption of said ordinance. The motion was seconded by Council Member Graham Smith. Thereupon, Council President Virginia Smith called for vote with the following results:

Ayes: Virginia C. Smith
 William S. ("Billy") Pritchard III
 Gerald A. Garner
 Lloyd C. Shelton
 Graham L. Smith

Nays: None

Council President Virginia Smith declared that the ordinance (No. 2140) is hereby adopted by a vote of 5—0 and, as evidence thereof, she signed the same.

5. ANNOUNCEMENT

Council President Virginia Smith announced the City is considering discontinuing zoom meetings of City Council and other boards by the end of April. If anyone has any comments, they need to direct them to the City Manager.

6. ANNOUNCEMENT

Council President Virginia Smith announced the next regular meeting of the City Council has been moved from April 24th to April 25th, 2023, 7:00p.m., due to the Mountain Brook School Showcase.

7. ADJOURNMENT

There being no further business to come before the City Council, Council President Virginia Smith adjourned the meeting at approximately 7:27 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 April 10, 2023, 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 April 25, 2023

EXHIBIT 1

RESOLUTION NO. 2023-058

**MOUNTAIN BROOK CITY COUNCIL
SPECIAL MEETING
APRIL 19, 2023**

The City Council of the City of Mountain Brook, Alabama met in-person at 4:00 p.m. on the 19th day of April, 2023. The Council President called the special 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
Graham L. Smith
Gerald A. Garner
Stewart Welch III, Mayor

Absent: Lloyd C. Shelton

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

1. EXECUTIVE SESSION

Council President Pro Tempore made a motion that the City Council convenes in executive session to discuss a real estate matter and that the City Council shall adjourn upon conclusion of the executive session. 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 Virginia 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
Graham L. Smith

Nays: None

2. 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 special session of the City Council of the City of Mountain Brook, Alabama held at City Hall, Pre-Council Room (A-106) on April 19, 2023, 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 25, 2023

RESOLUTION NO. 2023-066

BE IT RESOLVED by the City Council of the City of Mountain Brook, Alabama that the City Council hereby authorizes the execution of an Employee Assistance Program Service Agreement, in the form as attached hereto as Exhibit A subject to such minor changes as may be determined appropriate by the City Attorney, between the City and Employee Assistance Services (EAS).

ADOPTED: This 25th day of April, 2023.

Council President

APPROVED: This 25th day of April, 2023.

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 April 25, 2023, as same appears in the minutes of record of said meeting.

City Clerk



CITY OF MOUNTAIN BROOK
Employee Assistance Program Service Agreement
Effective Date:

This *Agreement* is made by and between EMPLOYEE ASSISTANCE SERVICES (EAS) and the CITY OF MOUNTAIN BROOK (Client company) to develop and provide an Employee Assistance Program for all employees and dependents, as defined below and subject to the following terms and conditions.

A. Description of Services

EAS will coordinate and operate the Behavioral Health Program (“Program”) established for the Client company, as described below, as an integral component of the Client company’s employee benefits program.

EAS will offer external, confidential assistance to enhance

- a. the health and safety of the Client company’s employees
- b. restoration of acceptable attendance, behavior and productivity of the Client company’s employees; and ultimately,
- c. reduction of losses to the Client resulting from such needs.

EAS will provide confidential counseling for the Client company’s employees and their covered family members (spouses and eligible unmarried children to age 26) for (but not limited to):

| | |
|-------------------------------|--------------------------------|
| Anger Management | Co-Dependency |
| Depression / Anxiety | Grief |
| Marital (Relationship) Issues | Substance Abuse and Dependency |
| Adolescent Issues | Blended Family Issues |

EAS providers will meet with employees and family members face-to-face, by phone or telehealth.

EAS provides short-term, solution-based counseling by highly qualified providers. Employees or Covered Family Members receive up to 6 sessions per year.

EAS will work with the Client company to provide training to designated employees on a variety of topics at a rate of \$350.00 per hour.

EAS will conduct Critical Incident Stress Debriefing for affected employees at a rate of \$350 per hour.

EAS CONTRACT (page 2)

EAS will conduct supervisory trainings on “How to Spot a Troubled Employee.” This training covers proper documentation and detailed instructions on how to include EAS in the corrective process when an employee’s performance is suffering. We will provide one of these supervisor trainings free of charge. If additional training sessions are required, we will provide them at \$350 per hour.

EAS will provide management and supervision with consultation on managing specific employer / employee problem areas.

EAS will assist in the counseling of employees with positive drug screens, as dictated by the Client company’s policy, through assessment, referral to the least restrictive appropriate treatment, and follow-up and supportive counseling for the employee and covered family members.

EAS will confidentially maintain records on Program operation, including case files, number of sessions and categories of problems encountered.

EAS will provide the Client company with utilization reports, but without disclosing the individuals’ identities.

EAS also provides:

- Wallet cards for all employees with EAS contact information
- Posters as a reminder of the benefits (to go in break rooms or posting areas)
- A quarterly on-line newsletter for each employee
- An “on line” library

A one-time charge of \$200 will be applied to cover the printing cost of these supplies.

B. Term

The effective start date for this *Agreement* is 2023. The term of this *Agreement* shall be for one year subject to the provisions of this *Agreement* with an automatic renewal for one-year periods after the initial term, unless terminated in accordance with paragraph K.

C. Compensation

EAS will be paid at a rate of \$688.80 per month (\$2.80 per employee per month) for counseling services, based on employee count of approximately 246. These payments will be made in advance on a monthly basis. If the employee population changes, adjustments will be made accordingly. In addition, the Client company will pay \$350 per hour for trainings provided.

D. Invoicing

EAS shall furnish the Client company, as directed, an invoice covering its fees on a monthly basis. Compensation shall be payable within thirty (30) days of receipt of invoice from the Client company.

E. Examination of Records

During the term of this *Agreement* and for a period of two years thereafter, the Client company shall have the right to audit EAS records related to this *Agreement* for purposes that include utilization review and

EAS CONTRACT (page 3)

performance evaluation. EAS shall not be required to make records available that would reveal the identity of persons receiving counseling services.

F. Independent Contractor Status

In the performance of services hereunder, the relationship of EAS to the Client company shall be that of an independent contractor, and not that of an employee or agent.

G. Confidentiality

All information furnished by the Client company shall be used only in performance of services hereunder. EAS shall not disclose to any person or organization, during the period of this *Agreement* or for five years thereafter, without prior written consent information not in the public domain relating to business, designs, plans, methods, or processes that EAS may acquire in performing services hereunder to otherwise. All information furnished to EAS or about employees receiving EAS services shall not be disclosed to any person or organization, except as permitted by applicable federal law and for carrying out the purposes of the EAP. Information about the activities performed under the *Agreement*, even though not identifying the employees, may be released only with permission of the Client company. Confidentiality is to be guaranteed by the Client company to all employees, with two exceptions: if the employee or family member has made threats to himself or herself, or to others; or if he/she places himself or herself in harm's way. The Client company will not have access to records in connection with aspects of private treatment provided to an individual employee. An exception to this access will be made if the employee authorizes a release of information with respect to general progress (excluding all other aspects of treatment). The release will specify the individual authorized to receive the information and be signed by the employee.

H. Insurance

EAS and all EAS providers shall, at their sole cost and expense, procure and maintain policies of general liability and professional liability and other insurance as may be necessary and considered "community standard" to protect themselves and their employees against any claims, liabilities, damages or judgments that may arise out of the EAS services provided, or to be provided, under this *Agreement*.

I. Indemnification

CITY OF MOUNTAIN BROOK and EAS agree to indemnify and hold harmless each other and its directors, officers, employees and agents from any claim, liability, cost, loss, expense of damage (including reasonable attorneys' and accountants' fees) that may be made by any participant or any other person or entity employed by either party in connection with this *Agreement*, unless such claim, liability, cost, loss, expense or damage results from the other party's gross negligence, willful misconduct or fraud.

EAS disclaims any responsibility for the actions of Client company's employees or covered family members who receive counseling services. The Client company agrees to indemnify, defend and hold EAS (together with its officers, directors, employees and providers) harmless against any and all suits, claims, demands or liabilities arising out of the actions of Client company's employees or covered family members who receive counseling services from EAS. It is expressly understood and agreed that the Client company's obligations to indemnify EAS shall survive any termination of this *Agreement*.

EAS CONTRACT (page 4)

J. Eligibility

The Client company will provide EAS, by the first working day or each month, an electronic file of all eligible participants with necessary demographic information in a mutually agreed upon format. The Client company shall inform EAS if and when individuals are added or terminated as soon as possible.

K. Termination

1. **Voluntary Termination.** After the first anniversary of this *Agreement*, the Client company may terminate this *Agreement* in its entirety, effective as of the last day of any month, by notifying EAS in writing at least 60 days prior thereto. Any such termination shall be without further payment except that payment shall be made for EAS services performed satisfactorily prior to termination, to the extent unpaid at termination.

2. **Termination for Breach.** Either party may terminate this *Agreement* at any time if the other party breaches a material term or condition of this *Agreement* and fails to cure the breach within thirty (30) days after receipt of written notice of the breach from the non-breaching party.

L. Governing Law

This *Agreement* shall be governed by, construed and enforced in accordance with the laws of the state of Alabama.

If the above terms and conditions are acceptable, please indicate by signing below.

EMPLOYEE ASSISTANCE SERVICES

Laura Dunson, Executive Director

Date

CITY OF MOUNTAIN BROOK

Signature of Authorized Administrator

Date

ADDENDUM TO PROFESSIONAL SERVICES AGREEMENT BETWEEN THE CITY OF MOUNTAIN BROOK AND EMPLOYEE ASSISTANCE SERVICES (EAS)

THIS ADDENDUM TO PROFESSIONAL SERVICES AGREEMENT (“the/this Addendum”) between the City of Mountain Brook, Alabama (“the City”) and Employee Assistance Services (EAS) (“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: Employee Assistance Services

By: _____

By: _____

Printed Name: _____

Printed Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

RESOLUTION NO. 2023-067

**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, as described in the form as attached hereto as Exhibit A, owned by the City of Mountain Brook, Alabama are no longer needed for public or municipal purposes and is hereby declared surplus property; and

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 25th day of April, 2023.

Council President

APPROVED: This 25th day of April, 2023.

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 25, 2023, as same appears in the minutes of record of said meeting.

City Clerk



Heather Richards <richardsh@mtnbrook.org>

Surplus Equipment

1 message

Micah Smith <smithm@mtnbrook.org>

Tue, Apr 18, 2023 at 4:09 PM

To: Heather Richards <richardsh@mtnbrook.org>

Cc: Chris Thompson <thompsonc@mtnbrook.org>, Drew Evans <evansdr@mtnbrook.org>

Heather,

Attached is a list of serial numbers for shotguns we have deemed as surplus. Upon surplus approval by the City Council, they will be traded in for credit on the purchase of new shotguns.

--

Corporal M. Smith

Technical Services Officer
Mountain Brook Police Department
101 Tibbett St.
Mountain Brook, AL 35213
(205)802-3854



CONFIDENTIALITY NOTICE: This communication with its contents may contain confidential and/or legally privileged information. It is solely for the use of the intended recipient(s). Unauthorized interception, review, use, dissemination or disclosure is prohibited and may violate applicable laws including the Electronic Communications Privacy Act. If you are not the intended recipient, please contact the sender and destroy all copies of the communication.

 **Remington 870 Pmax shotguns.docx**

13K

Remington 870 Pmax shotguns

Serial Numbers:

RS24137R

RS62384R

RS62405R

RS62371R

RS62385R

RS64288R

RS62372R

RS62402R

RS64290R

RS62374R

RS62403R

RS64296R

RS62377R

RS62404R

RS64297R

Parks and Recreation Surplus:

- One (1) 2012 Ford F-350 Truck Vin: 1FT8X3C66CEB62089 (This vehicle is wrecked and has been totaled by Travelers, Insurance)



Heather Richards <richardsh@mtnbrook.org>

office chairs

1 message

Steve O'Dell <odells@mtnbrook.org>
To: Heather Richards <richardsh@mtnbrook.org>

Fri, Apr 21, 2023 at 12:38 PM

One lot of 7 office chairs. Fair condition.





Steve O'Dell

City of Mountain Brook IT Dept

Office: 205-802-3820

Cell: 205-913-3176

Fax: 205-874-0610

Email: odells@mtnbrook.org

Overton Road at North Woodridge Road

Introduction

This report serves as an addendum to a report issued by Skipper Consulting, Inc. on October 20, 2021 regarding the intersection of Overton Road at North Woodridge Road in the City of Mountain Brook, Alabama. This previous report showed that, between the years 2011 and 2021, the intersection of Overton Road at North Woodridge Road experienced a total of 21 crashes, of which 10 crashes were rear end crashes on Overton Road eastbound (moving away from U.S. Highway 280) to the west of the intersection of North Woodridge Road. The specific crash reports indicated that drivers encountered an unexpected stopped queue of vehicles on Overton Road eastbound because of limited visibility due to the curve on Overton Road west of North Woodridge Road. The previous report recommended two actions to mitigate the crash pattern: 1) install a PREPARE TO STOP sign on Overton Road eastbound west of the curve, and 2) install a set of rumble strips on Overton Road eastbound west of the curve. The rumble strips were installed by the City of Mountain Brook Public Works Department around November 1, 2021.

Subsequent to the installation of the rumble strips, the City of Mountain Brook has received complaints from citizens living adjacent to the rumble strips on Overton Road because of the noise generated by the rumble strips. Therefore, the City commissioned this study to determine if the rumble strips should be removed and if the City should take any alternative action to replace the rumble strips with a different traffic control measure.

Crash History

In the previous Skipper Consulting, Inc. study the last crash record included in the study was dated October 28, 2020. Additional crash reports for the intersection of Overton Road at North Woodridge Road were obtained from the Mountain Brook Police Department. Since October 28, 2020, two crashes have occurred at the intersection of Overton Road at North Woodridge Road.

The first crash occurred on July 12, 2021. The crash occurred when a passenger car was turning left from Overton Road onto North Woodridge Road and was struck by a dump truck traveling westbound on Overton Road. The crash resulted in one injury. The crash occurred during daylight conditions and dry pavement

The second crash occurred on October 9, 2021. This was a single vehicle crash which occurred due to loss of control of a passenger vehicle traveling eastbound on Overton Road entering the curve. The crash resulted in property damage only. The crash occurred during nighttime conditions and dry pavement.

It should be noted that no crashes have occurred at the intersection of Overton Road at North Woodridge Road after installation of the rumble strips. However, it should not be assumed that there is a direct correlation between the installation of the rumble strips and the absence of crashes. The amount of time which has elapsed following the installation of the rumble strips (17 months) is not a sufficient amount of time to reach a conclusion regarding the safety effect of the rumble strips.

Video Observation

A video recording was made of traffic on Overton Road eastbound from the second rumble strip up to curve. The recording was made on Thursday, April 6, 2023, starting at 6:00 a.m. and ending at 7:30 p.m. (a total of 13.5 hours). A screenshot of the video view is provided below. The purpose of the video recording was to observe the interaction of vehicles approaching the end of a queue on Overton Road eastbound. The results of the observations are discussed below.



- 7:32 a.m. Three slow-moving trucks were at the beginning of the queue. The queue extended around the curve. All vehicles in queue came to a smooth stop. No additional vehicles joined the end of the queue.
- 8:14 a.m. Slow-moving truck with additional vehicles queued behind. The queue extended past the last set of three rumble strips. One pick-up truck stopped abruptly at the end of the queue.
- 8:18 a.m. Slow-moving queue of cars. The queue eventually stopped and backed around curve. One panel truck and one passenger car braked hard at the end of queue.
- 8:53 a.m. The queue extended around the curve. A panel truck approached the end of queue at higher than typical speed. Did not have to brake hard.
- 1:30 p.m. The queue extended around the curve. All vehicles came to a smooth stop.
- 3:10 p.m. Slow-moving dump truck. Long queue of cars behind truck. The queue backed up to the curve. No cars joined the end of queue after it stopped.
- 3:18 p.m. Long slow-moving queue of cars. Queue backed up around curve. No cars joined the end of queue after it stopped.
- 3:52 p.m. Queue of cars moving at moderate speed. Queue backed up around curve. No cars joined the end of the queue after it stopped.
- 4:00 p.m. The queue of cars was well-spaced out and moving at moderate speed. Queue extended back beyond curve. The queue began moving before any more cars joined the end of queue.
- 4:44 p.m. The queue of cars moving rapidly and slowing to make the curve. The queue stopped at the curve. No additional cars joined the end of queue.

In summary, during the 13.5 hours of observations, 10 queues were seen to back up to and/or around the curve. There were three instances where vehicles either braked hard or came to an abrupt stop at the end of these queues.

Alternatives and Recommendations

The purpose of the rumble strips on Overton Road is to draw drivers' attention to a potentially hazardous situation which may not be readily apparent due to curvature of the road. In an effort to accommodate the citizen requests, several alternatives were developed and a preliminary cost estimate for implementation was developed. These alternatives are enumerated as follows:

1. Leave the rumble strips in place (no cost)
2. Remove some, but not all of, the rumble strips (no significant cost)
3. Remove the rumble strips (no significant cost)
4. Remove the rumble strips and install a 24/7 flashing warning light (\$16,000 +/-)
5. Remove the rumble strips and install a flashing warning light with vehicle detection (\$24,000 +/-)
6. Remove the rumble strips and install a radar activated speed warning sign (\$24,000 +/-)

Skipper Consulting, Inc.'s comments on the alternatives are as follows:

- Alternative 3 – remove the rumble strips - is not recommended due to proven crash history.
- Alternatives 1 and 2 – leave the rumble strips or remove some of the rumble strips – are viable but are not the most desirable because there are alternatives which, in our opinion, could replace the rumble strips with another effective means of alerting drivers to the impending hazardous situation and thus provide a positive response to citizen complaints.
- Alternative 6 – remove the rumble strips and install a radar activated speed warning sign – is a viable option, but not recommended due to the increased rate of failure and subsequent maintenance requirements of a radar-based system. When the radar activated sign is non-functional, all warning is lost.
- Alternatives 4 and 5 – remove the rumble strips and install a flashing warning light – represent the recommended solution to provide driver warning and respond to the citizen complaints. Additional thoughts regarding Alternatives 4 and 5 are:
 - The choice between Alternative 4 and Alternative 5 comes down to two factors: 1) the increased cost to provide a vehicle detection system (+\$8,000) and 2) the ongoing maintenance required to ensure the vehicle detection system remains operational.
 - A potential drawback of Alternatives 4 and 5 are that the glow of the flashing lights may be visible from the back yards of 2807 and 2813 Overton Road. The lights would be aimed and shielded, preventing them from shining directly at the houses, but the glow of the lights may still be visible at night from the back yards of these two houses.
 - Should the vehicle detection fail (in Alternative 5), the warning lights would fail-safe to flashing operation (thus resulting in Alternative 4).

- The benefits of Alternative 5 over Alternative 4 are: 1) a vehicle detection system may draw driver attention to the impending hazardous situation more effectively as the flashing lights go from dark to flashing as the vehicle approaches the sign, and 2) the impacts of the glow of the lights on residences will be diminished.



CITY OF MOUNTAIN BROOK

56 Church Street
P.O. Box 130009
Mountain Brook, Alabama 35213
Telephone: 205.802.3803
Fax: 205.870.3577
gastons@mtnbrook.org

SAM S. GASTON
CITY MANAGER

April 14, 2023

Dear Resident:

The Mountain Brook City Council will conduct an informal public meeting on the night of Tuesday, April 25, 2023 as part of our regularly-scheduled City Council meeting to discuss the possible removal of the rumble strips on Overton Road near the intersection of North Woodridge Road. (See attached map.) The meeting will begin at 7:00 p.m. in the City Council Chambers located at 56 Church Street, Mountain Brook, Alabama, 35213.

The City's consulting engineer will make a presentation regarding potential traffic control devices to replace the rumble strips. The public is invited to participate in the discussion. If you would like to comment but are unable to attend the meeting, please email any comments to the City Manager, Sam Gaston, at gastons@mtnbrook.org or (205) 802-3800 before the meeting.

Sincerely,

Sam S. Gaston
City Manager

