

**MEETING AGENDA
MOUNTAIN BROOK CITY COUNCIL**

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

MARCH 11, 2024, 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 03112024).

1. Colorectal Cancer Awareness Proclamation.
2. Arbor Day Proclamation.
3. Approval of the minutes of the February 26, 2024, regular meeting of the City Council.
4. Consideration: Resolution authorizing an agreement with United Ability (dba Gone for Good) with respect to a community document destruction and e-waste recycling event.
5. Consideration: Resolution accepting the professional service agreement with Skipper for the on-call traffic engineering services.
6. Consideration: Resolution authorizing the sale or disposal of certain surplus property.
7. Consideration: Resolution amending Resolution 2023-139 with respect to surplus property.
8. Comments from residents and attendees.
9. Announcement: The next regular meeting of the City Council is March 25, 2024 at 7:00 p.m.
10. Adjourn.

COLORECTAL CANCER AWARENESS MONTH PROCLAMATION

WHEREAS, colorectal cancer is the second leading cause of cancer-related deaths for men and women combined in Alabama and the lifetime risk of being diagnosed with cancer of the colon or rectum is 4.4 percent for men and 4.1 percent for women in the United States;

WHEREAS, the vast majority of colon cancer deaths can be prevented through proper screening and early detection and if 80 percent of adults were screened for colon cancer, 203,000 fewer people will die by 2030;

WHEREAS, the survival rate of individuals who have colorectal cancer is 90 percent when detected in the early stages versus only a 10 percent survival rate when colorectal cancer is diagnosed after it has spread to other organs;

WHEREAS, the American Cancer Society estimates 2,570 new cases of colorectal cancer will be diagnosed in Alabama this year and 900 people will die from the disease, and deaths from colorectal cancer occur disproportionately among those who are underserved or underinsured;

WHEREAS, when detected early the five-year survival rates for colon cancer is 90%; however, only 39% of colorectal cancers are diagnosed at this stage, mostly due to low rates of screening;

WHEREAS, greater awareness of colon cancer and the means to prevent it could save the lives of hundreds of Alabamians every year because colorectal cancer is preventable, treatable, and beatable in most cases; and

NOW, THEREFORE, I, Stewart H. Welch III, Mayor of Mountain Brook, Alabama recognize the importance of colorectal screenings and hereby proclaim March 2024 as

“COLORECTAL CANCER AWARENESS MONTH”

throughout the City and encourage all residents of Mountain Brook who are 45 and over to get a colorectal screening for Colorectal Cancer Awareness in Mountain Brook, Alabama.

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 March of the year 2024.

Stewart H. Welch III, Mayor



CITY OF MOUNTAIN BROOK

56 Church Street
Mountain Brook, Alabama 35213
Telephone: 205.802.3800
Facsimile: 205.879.6913
www.mtnbrook.org

ARBOR WEEK PROCLAMATION

Whereas, in 1872, J. Sterling Morton proposed to the Nebraska Board of Agriculture that a special day be set aside for the planting of trees, and

Whereas, this holiday, called Arbor Day, was first observed with the planting of more than a million trees in Nebraska, and

Whereas, Arbor Day is now observed throughout the nation and the world, and

Whereas, trees can reduce the erosion of our precious topsoil by wind and water, cut heating and cooling costs, moderate the temperature, clean the air, produce life-giving oxygen, and provide habitat for wildlife, and

Whereas, trees are a renewable resource giving us paper, wood for our homes, fuel for our fires and countless other wood products, and

Whereas, trees in our city increase property values, enhance the economic vitality of business areas, and beautify our community, and

Now, Therefore, I, Stewart H. Welch III, Mayor of the City of Mountain Brook, do hereby **proclaim** April 8 through April 12, 2024, as

ARBOR WEEK

in the City of Mountain Brook, and I urge all residents to celebrate the occasion and to support efforts to protect our trees and woodlands, and

Further, I urge all residents to plant trees to gladden the heart and promote the well-being of this and future generations.

Given under my hand and the City of Mountain Brook, Alabama,
on this 11th day of March, in the year of our Lord, 2024, and of
the Independence of the United States of America, 248th.

Stewart H. Welch III, Mayor

**MOUNTAIN BROOK CITY COUNCIL
PRE-MEETING DISCUSSION
FEBRUARY 26, 2024**

[As a convenience, members of the public were invited to listen and observe in the public meeting by Internet video conference. There was 1 virtual attendee at the meeting.]

The City Council of the City of Mountain Brook, Alabama met informally in-person at 6:00 p.m. on the 26th day of February, 2024 (others were allowed to listen to the meeting by way of Internet video conference-1 attended). Council President Virginia Smith 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
Graham L. Smith
Lloyd C. Shelton
Gerald A. Garner
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. Street light request at Overton Road at Knollwood Lane

Sam Gaston-City Manager

- Received a request for a street light
- Notices were sent out to the surrounding residents
- Received objections to the street light

Virginia Smith-Council President

- Not in favor of pursuing the street light

Billy Pritchard-Council President Pro Tempore

- Not in favor of pursuing the street light

Lloyd Shelton-Council Member

- Not in favor of pursuing the street light

2. Thornhill Road drainage issues

Norman Jetmundsen-2901 Thornhill Road

- Have lived on Thornhill for 28 years
- The drain in front of his house overflows several times
- Installed a French drain in his front yard
- The City cleans the drain periodically; however, 6 months later it gets clogged again
- This is an ongoing problem
- Wants to work with the City to figure out a solution

Virginia Smith-Council President

- There was a study with Hill Engineering several years ago
- That study concluded an option that required getting an easement from Red Mountain Gardens
- Red Mountain Gardens said no to the easement
- Another study could be done to see what options are available

Ronnie Vaughn-Public Works Director

- The path of least resistance is going across the property of Red Mountain Gardens which needs an easement

Billy Pritchard-Council President Pro Tempore

- Will ask Mark Simpson with Schoel Engineering to take another look at options

3. Requests by residents of Caldwell Mill Trace, a private street, for the City to assume maintenance

Carolyn Jackson-2104 Caldwell Mill Trace

- Passed out documents (Appendix 1)
- The residents of Caldwell Mill Trace are burdened with the extra taxation of maintaining their road
- There are no visible benefits of a private road: there are no amenities such as a club house, sidewalks, gate, etc.
- There is a sign at the beginning of the road that states it is private but that does not deter motorists
- Each lot is designated on the plat map as 2 acres; however, they are not 2 acres
- The original investors established the homeowner's association for the sole purpose of maintaining the road
- In 1989 the City changed the Ordinance that allowed the developer to extend property lines to the middle of the street so each lot would add up to 2 acres
- There was a fund that was set up but it was not put in an escrow and the residents do not have control of the money in this fund
- None of the residents knew there was a homeowner's association and no one told prospective buyers there was a homeowner's association

Michael Reddington-2100 Caldwell Mill Trace

- Was told 4 years ago by lawyer and title company that the homeowner's association was defunct and had been for years

John Price-2109 Caldwell Mill Trace

- Was told the same thing regarding the homeowner's association being defunct
- Discovered there was a homeowner's association at closing

Jerry Jackson (Carolyn's husband)-2104 Caldwell Mill Trace

- Purchased home 24 years ago
- Discovered there was a homeowner's association 3 years ago when they did a title search
- Was never informed there was a homeowner's association

Ronnie Vaughn-Public Works Director

- The road is marked as a private road

Virginia Smith-Council President

- From reading the minutes, it was intended to be a private road from the beginning

Whit Colvin-City Attorney

- A private road is a road that is not in a public domain and is owned by the property owners that have title to it
- Public roads do not arise just because of usage
- An example: Lane Parke streets are private, even though they are used by the public, until the City accepts the dedication of those roads
- There is a difference in saying the City has an obligation to accept or maintain something versus the City has the discretion to accept or maintain

Billy Pritchard-Council President Pro Tempore

- There are other private roads in Mountain Brook (ex. Shook Hill Road)
- Everyone on Caldwell Mill Trace purchased their property with the understanding that it was a private road

Jerry Jackson

- There is some money (around \$16,000) that could be contributed to the City in exchange for the City taking over the street

Sam Gaston-City Manager

- Ronnie Vaughn with Public Works inspected the road and it was in good shape
- The road is not utilized much and does not require paving often

Gerald Garner-Council Member

- It would be a fair conversation to look into what it takes to make it a public road if the homeowner's donated some land

Billy Pritchard

- The City would need to look into if the road meets the requirements for a public road

Virginia Smith

- The council will take it under advisement

4. Drainage plans for "The Cut" at Richmar Drive and Mountain Avenue

Mark Simpson-Schoel Engineering

- There are two elements to the project: 1) Improvement to the open channel area to "The Cut"
- 2) New Storm pipes north of "The Cut"
- This opens up the open channel by clearing trees and excavating the channel
- In order to improve the channel, it will need to be cleared out
- Will stabilize stream and provide some level of flood mitigation
- Will maintain the pedestrian only access
- All work will be done on city right-of-way
- Construction documents will be finalized then it will go to public bid
- Next steps would be to have a meeting with the residents

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

2. EXECUTIVE SESSION AND ADJOURNMENT

Council President Pro Tempore made a motion that the City Council convenes in executive session to discuss matters of safety and security and that the City Council shall reconvene upon conclusion of the executive session to the regular council meeting. 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
William S. Pritchard III
Graham L. Smith
Lloyd C. Shelton
Gerald A. Garner

Nays: None

There being no further matters for discussion Council President Virginia Smith adjourned the pre-meeting at approximately 6:55 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 February 26, 2024, 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 March 11, 2024

**MINUTES OF THE REGULAR MEETING OF THE
CITY COUNCIL OF THE CITY OF MOUNTAIN BROOK
FEBRUARY 26, 2024**

[As a convenience, members of the public were invited to listen and observe in the public meeting by Internet video conference. There were 2 virtual attendees at the meeting.]

The City Council of the City of Mountain Brook, Alabama met in person at 7:06 p.m. on the 26th day of February, 2024 (others were allowed to listen to the meeting by way of Internet video conference-there was 2 attendees). 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
Graham L. Smith
Lloyd C. Shelton
Gerald A. Garner
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. RECOGNITION OF SPECIAL GUESTS-BOY SCOUTS

Asher Reddington with Troup 76 out of Liberty Park

- Working on Communications Merit Badge

2. LAKITIA HALL-WRIGHT JEFFERSON COUNTY FAMILY COURT JUDGE CANDIDATE TO ADDRESS COUNCIL

Lakitia Hall-Wright

- Has worked with the Jefferson County Family court for 16 years
- Started as a juvenile probation officer now works in the Clerk's office as a Chief Court Clerk on court administration team
- Received law degree from Miles Law School
- Will be empathetic and fair
- Ask the council for their support

3. PRESENTATION OF THE ANNUAL FINANCIAL AUDIT OF THE CITY AS OF AND FOR THE YEAR ENDED SEPTEMBER 30, 2023

Jason Harpe-Carr Riggs & Ingram

- The rule of thumb is to have about 90 days in the General Fund
- Mountain Brook has 185 days in their General Fund
- Pension liability (runs 1 year behind) is based off of 2022 activity
- The net pension liability is 48 million

- Issuing a unmodified opinion when it is finalized-which is a good thing

Rian Turner-Carr Riggs & Ingram

- Annual report is the same as last year
- Finding-lack of segregation of duties
- There were no issues or disagreements
- No outside opinions were sought

4. **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 February 12, 2024, regular meeting of the City Council

2024-026	Ratify the professional service agreement with MAK Engineering with respect to the Mountain Brook Fire Station No. 2 Storm Shelter Peer Review	Exhibit 1, Appendix 1
2024-027	Accept the proposal with Mobile Communications America with respect to the location of Amplifier and base radio at Fire Station No. 2	Exhibit 2, Appendix 2
2024-028	Accept the proposal with BHATE Geosciences Corporation for the construction materials testing and IBC Special Inspection Services at Fire Station No. 2	Exhibit 3, Appendix 3
2024-029	Authorize the sale or disposal of certain surplus property	Exhibit 4, Appendix 4
2024-030	Execute a contract agreement between O'Neal Library and LibraryPass with respect to a digital comic book subscription service	Exhibit 5, Appendix 5
2024-031	Issue a purchase order for labor and materials for the cedar trim and lower landing for the deck project at City Hall	Exhibit 6, Appendix 6
2024-032	Establish the advisory Environmental Sustainability committee	Exhibit 7
2024-033	Appoint Clay Ragsdale as a member to the Environmental Sustainability committee	Exhibit 8
2024-034	Appoint Laney DeJonge as a member to the Environmental Sustainability committee	Exhibit 9
2024-035	Appoint Jeffrey Lisenby as a member to the Environmental Sustainability committee	Exhibit 10
2024-036	Appoint Emily Debuys as a member to the Environmental Sustainability committee	Exhibit 11

2024-037 Appoint Helen Harmon as a member to the Environmental Sustainability committee

Exhibit 12

Thereupon, the foregoing minutes and resolutions (Nos. 2024-026 through 2024-036), were introduced by Council President Virginia 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 President Pro Tempore Pritchard 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
 William S. Pritchard III
 Graham L. Smith
 Lloyd C. Shelton
 Gerald A. Garner

Nays: None

Abstained: None

Council President Virginia Smith thereupon declared that said minutes and resolutions (Nos. 2024-026 through 2024-036) were adopted by a vote of 5—0 and as evidence thereof he signed the same.

5. COMMENTS FROM RESIDENCES AND ATTENDEES

(There were no public comments)

6. ANNOUNCEMENT

Council President Virginia Smith announced the next regular meeting of the City Council is March 11, 2024, 7:00p.m.

7. ADJOURNMENT

There being no further matters for discussion Council President Virginia Smith adjourned the formal meeting at approximately 7:20 pm.

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 February 26, 2024, 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 March 11, 2024

EXHIBIT 1

RESOLUTION NO. 2024-026

RESOLUTION NO. 2024-040

BE IT RESOLVED by the City Council of the City of Mountain Brook, Alabama that the City Council hereby authorizes the execution of an agreement between the City and United Ability, Inc. (dba Gone For Good Document Destruction and E-Waste Recycling), in the form as attached hereto as Exhibit A, with respect to a community document destruction and e-waste recycling event to be held in Mountain Brook.

ADOPTED: This 11th day of March, 2024.

Council President

APPROVED: This 11th day of March, 2024.

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 March 11, 2024, as same appears in the minutes of record of said meeting.

City Clerk



THIS AGREEMENT ("Agreement") is made effective as of the 26th day of February, 2024, by and between UNITED ABILITY, INC, an Alabama nonprofit corporation, doing business as GONE FOR GOOD DOCUMENT DESTRUCTION (hereinafter called "GFG") and the CITY OF MOUNTAIN BROOK, ALABAMA with a billing address of 56 Church Street, Mountain Brook, AL 35213, (hereinafter called "Client"). GFG and Client hereby agree as follows:

Terms and Conditions

1. Event Address: Mountain Brook High School, 3650 Bethune Drive, Mountain Brook, AL 35223
2. Event Date and Time: Saturday, April 6, 2024 from 9:00 pm until 12:00 pm.
3. Sole Terms. All services provided by GFG to Client for the Event are subject solely to the terms contained herein and any addenda agreed to by the parties in writing and attached hereto. No term or condition on Client's purchase order or any other instrument, agreement or understanding shall be binding upon GFG unless agreed to by the parties in writing. All typographical and clerical errors are subject to correction.
4. Authorized Representative: Client's authorized representative ("Authorized Representative") shall be Tyler Slaten, slaten@mtnbrook.org, 205-802-3811.
5. Services.
 - (a) Paper Materials. GFG Mobile-based operations: At the Event GFG staff will receive and dump paper material delivered by the public for shredding into a large rolling container, which will be locked when not in use by GFG staff and during transport to the mobile shred truck. Containers filled with sensitive Materials will be tipped and shredded on the mobile GFG truck. Paper material that has been shredded will be transported by GFG to a contracted recycling entity for baling within GFG's sole discretion.
 - (b) E-Waste. At the Event GFG Staff will receive electronic waste delivered by the public and properly dispose of that waste in the manner selected by GFG.
6. Service Fees.

Gone for Good will provide paper and e-waste disposal services for the Event at no charge.
7. Limitation of Liability. GFG is not liable for (a) any loss or damage whatsoever relating to the Material or its destruction by GFG or (b) for the repair, replacement or restoration of any destroyed Material. GFG's aggregate liability, if any, arising under this Agreement or the provision of services to Client is limited to the amount of the Service Fees received by GFG from Client during the last year of the term of this Agreement. Notwithstanding the foregoing, in no event will GFG be liable for any special, indirect, consequential, exemplary, or punitive damages, loss of profits or revenue, or loss of use even if informed of the possibility of such damages. To the extent permitted by applicable law, these exclusions and limitations will apply regardless of whether liability arises from breach of contract, warranty, tort (including but not limited to negligence), by operation of law, or otherwise.
8. Setoff. Client will not set off invoiced amounts or any portion thereof against sums that are due or may

become due from GFG, its parent, affiliates, subsidiaries or other divisions or units.

9. Indemnification; Attorney's Fees and Collection Costs. Intentionally Deleted because Service Fees are not contemplated pursuant to this Agreement.
10. Miscellaneous. This Agreement and any addenda attached hereto and agreed to by the parties in writing represents the entire agreement between the parties and supersedes any and all prior agreements and arrangements, whether oral or written between the parties that relate to the Event. No modification of this Agreement shall be binding unless in writing, attached hereto, and signed by both parties. This Agreement shall be construed in accordance with the laws of the State of Alabama. All words and phrases in this Agreement shall be construed to include the singular or plural number, and the masculine, feminine or neutral gender, as the context requires. The failure of either party to insist upon the performance of any provision of this Agreement, or to exercise any right or privilege granted to that party under this Agreement, will not be construed as a waiver of that provision or any other provision, and the provision will continue to be in full force and effect. If any provision is found to be illegal, invalid, or otherwise unenforceable by any judicial or administrative body, then other provisions will not be affected and will remain in full force and effect. Provisions herein which by their very nature are intended to survive termination or cancellation of this Agreement will survive such termination or cancellation. Any notices to be given by one party to the other will be considered properly given if deposited in the United States Mail or by express mail, sent to Client at its billing address identified on the first page of this Agreement, and if to GFG, to the respective GFG branch with whom the original contract was signed unless notice of a new address is given and received in accordance with this paragraph.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement effective as of the day and year first shown above.

UNITED ABILITY, INC. – “GFG”



By: _____

Name: Abe Bernstein

Its: Director

Date: 2/29/2024

CITY OF MOUNTAIN BROOK, ALABAMA – “CLIENT”

By: _____

Name: _____

Its: _____

Date: _____

RESOLUTION NO. 2024-041

BE IT RESOLVED by the City Council of the City of Mountain Brook, Alabama that the City Council hereby accepts the professional service agreement submitted by Skipper Consulting, Inc., in the form as attached hereto as Exhibit A, with respect to on-call traffic engineering services.

ADOPTED: This 11th day of March, 2024.

Council President

APPROVED: This 11th day of March, 2024.

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 March 11, 2024, as same appears in the minutes of record of said meeting.

City Clerk

PROFESSIONAL SERVICES AGREEMENT
Between
The City of Mountain Brook and Skipper Consulting, Inc.

This Agreement is made by and between the **City of Mountain Brook, Alabama ("Client")**, doing business at 56 Church Street, Mountain Brook, Alabama 35213 and, **Skipper Consulting, Inc. ("Consultant")**, doing business at 3644 Vann Road, Suite 100, Birmingham, Alabama 35235.

WHEREAS, during the duration of this Agreement, the City Manager for the Client may request in a writing to the Consultant's undersigned representative that it perform general traffic engineering services on small matters or projects affecting the City of Mountain Brook (the "Services" or collectively a "Project");

WHEREAS, the Consultant may commence work on a request for Services after, in writing, it acknowledges the City Manager's request and furnishes Client a scope of work (which will include a schedule) for the work it will perform in response thereto (the "Scope of Work"); and

WHEREAS, the Client and Consultant agree that the Services will be performed according to the terms of this Agreement (which include Exhibit A), the City Manager's written request, and Consultant's Scope of Work, all of which along with the Addendum constitute the entire Agreement concerning the performance of Services hereunder.

1. PROFESSIONAL SERVICES: The Consultant agrees to perform its Services in a manner that is consistent with professional skill and care that would be provided by other professionals in its industry under same or similar conditions, and in the orderly progress of the Project.

2. CLIENT'S RESPONSIBILITIES: Client, at its expense, will provide the Consultant with all required site information, existing plans, reports, studies, project schedules and similar information that is contained in its files. The Consultant may rely on the information provided by the Client without verification.

The Client will designate a representative who shall have the authority to act on behalf of the Client for this project.

The Client shall participate with the Consultant by providing all information and criteria in a timely manner, review documents and make decisions on project alternatives to the extent necessary to allow the Consultant to perform the scope of work within established schedules.

3. COMPENSATION/ BILLING/ PAYMENT: Skipper Consulting Inc. will undertake and perform the work and services as requested by the City on a time and materials basis, including reimbursement of out-of-pocket expenses, according to the labor rate and expense schedule included in Exhibit A. The maximum amount billable under this contract shall be **\$30,000.00**. The duration of the contract shall be for a period not to exceed twenty-four (24) months from the date of execution of the agreement, or until such a time that the maximum amount billable under this agreement has been expended.

The CLIENT will bill for its Services monthly based on the work completed during the billing period. Invoices for uncontested amounts are payable within 30 days from the receipt by the Client, and such payment shall not be contingent or dependent upon any conditions or any action or undertaking of the Client other than those conditions, if any, specifically set forth in this Agreement.

If for any reason, payment for uncontested amounts reflected on invoices is more than 30 days delinquent, the Consultant shall have the right to stop work on the assignment until such payment is made. The Consultant will not be liable for any delays to project schedules caused for such work stoppage.

4. STANDARD TERMS AND CONDITIONS

The Client shall have final right of review and approval of all plans and specifications that shall be delivered in connection with the performance of the Services; however, review and approval shall not be withheld unreasonably.

The rights and obligations of the parties to this Agreement may not be assigned or transferred to any other person, firm, corporation, or other entity without the prior, express, and written consent of the other party.

Either party may terminate this Agreement upon 10 days' written notice to the other party should the defaulting party substantially fail to perform any or its material responsibilities in the Agreement through no fault of the party desiring to terminate. In the event of termination of this Agreement, due to the fault of a person or party other than the Consultant, Consultant shall be paid for Services performed to termination date.

The Consultant agrees to furnish consulting services only related to the Project. Consultant shall be responsible for coordination of its work with that of Client.

This Agreement (including Exhibit A and the Addendum) shall constitute the entire agreement between the parties concerning the matters herein, and any prior understanding or representation of any kind preceding the date of this agreement shall not be binding upon either party except to the extent incorporated into this Agreement.

Any modification or amendment of this Agreement shall be binding only if placed in writing and signed by each party or an authorized representative of each party.

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

The failure of either party to this agreement to insist upon the performance of any of the terms and conditions of this agreement, or the waiver of any breach of any of the terms and conditions of this agreement, shall not be construed as thereafter waiving any such terms and conditions but the same shall continue and remain in full force and effect as if no such forbearance or waiver had occurred.

The invalidity of any portion of this Agreement will not and shall not be deemed to affect the validity of any other provision. In the event that any provision of this agreement is held to be invalid, the parties agree that the remaining provisions shall be deemed to be in full force and effect.

Neither party to this Agreement shall be liable to the other for any loss, cost, or damages, arising out from or resulting from, any failure to perform in accordance with its terms where the causes of such failure shall occur due to events beyond a party's reasonable control, include, but not limited to, the following: acts of God, strikes, lockouts, or other industrial disturbances, wars, whether declared or undeclared, blockades, insurrections, riots, governmental action, explosions, fire, floods, or any other cause not within the reasonable control of either party.

Consultant shall secure and maintain such insurance as is reflected on the Addendum.

Client shall provide Consultant access to the Project site necessary for the Consultant to provide the services outlined.

The Client's reuse of any report, documents or other deliverables prepared by the Consultant for the Project on any other project without written verification by the Consultant shall be at the Client's risk.

The persons signing this Agreement warrant that they have the authority to sign on behalf of the Client and Consultant.

CLIENT: CITY OF MOUNTAIN BROOK, AL

CONSULTANT: SKIPPER CONSULTING INC.

By: _____

By: Richard L. Caudle

Printed Name: _____

Printed Name: Richard L. Caudle, P.E.

Title: _____

Title: Senior Traffic Engineer

Date: _____

Date: February 26, 2024

EXHIBIT "A"

Skipper Consulting, Inc.
Hourly Labor Rates

<u>Classification</u>	<u>Hourly Rate</u>
Clerical	\$ 50.00/hour
Engineering Technician	\$ 90.00/hour
Technician/CADD I	\$ 50.00/hour
Technician/CADD II	\$ 105.00/hour
Traffic Engineer I	\$ 105.00/hour
Traffic Engineer II	\$ 115.00/hour
Traffic Engineer III	\$ 190.00/hour
Senior Traffic Engineer I	\$ 200.00/hour
Sr. Transportation Engineer/Planner	\$ 210.00/hour
Senior Traffic Engineer II	\$ 225.00/hour
Principal	\$ 245.00/hour
<u>Direct Expenses</u>	
Mileage	IRS current rate plus 10%
Traffic counts, etc.	cost plus 10%
Misc. Direct Expenses	cost plus 10%

ADDENDUM TO PROFESSIONAL SERVICES AGREEMENT BETWEEN THE CITY OF MOUNTAIN BROOK AND SKIPPER CONSULTING, INC. – TRAFFIC ENGINEERING SERVICES (On-Call Traffic Engineering Services)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

CITY: CITY OF MOUNTAIN BROOK

CONTRACTOR: SKIPPER CONSULTING INC.

By: _____

By: Richard L. Caudle

Printed Name: _____

Printed Name: Richard L. Caudle, P.E.

Title: _____

Title: Senior Traffic Engineer

Date: _____

Date: February 26, 2024

RESOLUTION NO. 2024-042

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

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

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

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

Section 1. It is hereby established and declared that the following property, 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 11th day of March, 2024.

Council President

APPROVED: This 11th day of March, 2024.

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 March 11, 2024, as same appears in the minutes of record of said meeting.

City Clerk

Surplus

Book Carts – 6, various sizes.



Platform Carts – 3, various sizes, some have issues



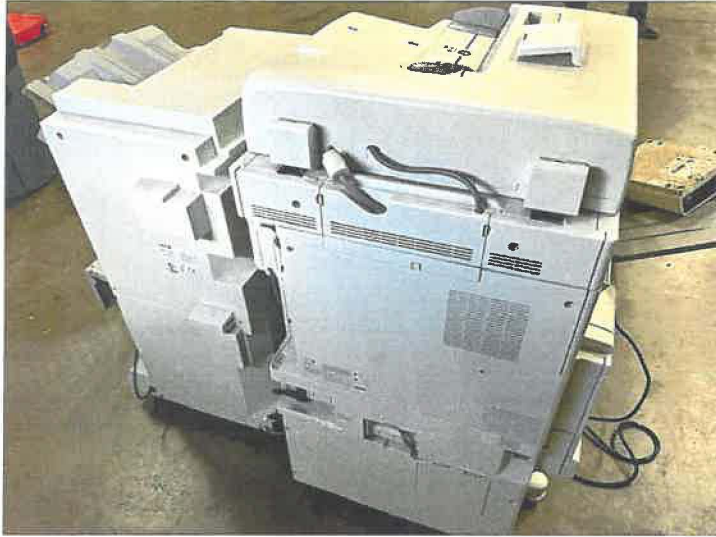
Mini Fridge – 1, freezer does not work properly.

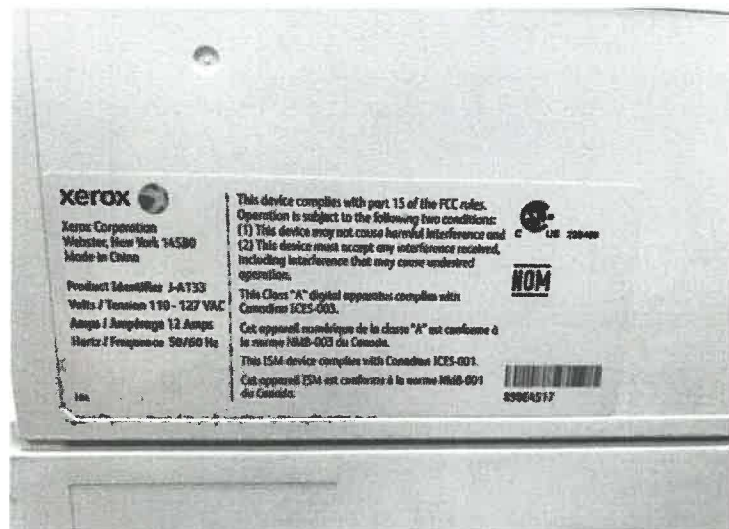
2007 GE 3.2 Cu. Ft. Compact Refrigerator H 32.5" X D 19" X W 17.75" Model # SFR03BAPABB



Xerox WorkCentre 7855







City of
Mountain Brook

Heather Richards <richardsh@mtnbrook.org>

New Council Item (Surplus property mix-up)

Heather Richards <richardsh@mtnbrook.org>

Thu, Mar 7, 2024 at 2:39 PM

To: VIRGINIA C SMITH <wood967@icloud.com>, Sam Gaston <gastons@mtnbrook.org>

Cc: David Kennedy <kennedyd@mtnbrook.org>

In September of 2023 the fire department informed me of a vehicle they wanted to surplus and trade for a stretcher. The council did indeed surplus the property. Last week, David Kennedy informed me that the fire department sent over the incorrect VIN when we surplussed that vehicle. Luckily the vehicle was traded to another fire department. Kennedy spoke with that fire department and they have not registered the vehicle to their department yet. I spoke with Whit on how to correct this mistake. He stated the council would need to amend the original resolution and we would have to do a new bill of sale. Whit stated the Resolution will need to be amended before we can exchange titles. I drafted a resolution and Whit has reviewed and approved. I would like to add this to Monday's agenda. A copy of the resolution is attached.

Heather Richards

City Clerk

City of Mountain Brook

P.O. Box 130009

Mountain Brook, AL 35213

Direct - 205-802-3823**Facsimile** - 205-874-0611**2024-.doc**

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RESOLUTION NO. 2024-043

A RESOLUTION AMMENDING RESOLUTION 2023-139

WHEREAS, the City of Mountain Brook, Alabama, per Resolution 2023-139 declared the 2012 Chevrolet Tahoe (VIN 1GNSK2E0XCR260694) owned by the City of Mountain Brook, Alabama as surplus property; and

WHEREAS, the City Manager, or his designated representative, was hereby authorized and directed to trade said property for a Stryker Powered Stretcher (Serial Number: 110940453)

WHEREAS, it was determined that the above listed vehicle identification number was incorrect; and

WHEREAS, the correct vehicle identification number is 1GNSK2EO4DR207653, and

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Mountain Brook, that Resolution 2023-139 be amended to reflect the correct vehicle identification number.

ADOPTED: This 11th day of March, 2024.

Council President

APPROVED: This 11th day of March, 2024.

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 March 11, 2024, as same appears in the minutes of record of said meeting.

City Clerk