MEETING AGENDA
MOUNTAIN BROOK CITY COUNCIL

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

MAY 9, 2016, 7:00 P.M.

---

1. Semi-annual Mountain Brook Chamber of Commerce report to the City Council.

2. Approval of the minutes of the April 25, 2016 regular meeting of the City Council.

3. Consideration: Resolution approving the lunchtime restaurant conditional use application for Biscuit Boyz at 2708 Culver Road.

4. Consideration: Resolution accepting the professional services proposal submitted by Williamson & Associates, Inc. with respect to the library building exterior consulting services

5. Consideration: Resolution accepting the professional services proposal submitted by William Whittaker, Architect, with respect to design services for the joint fire and police training building.

6. Consideration: Resolution awarding the bid for the turn lane extension on Overbrook Road at Montevallo Road.

7. Announcement: The next regular meeting of the City Council is May 23, 2016, at 7:00 p.m. in the Council Chamber of City Hall located at 56 Church Street, Mountain Brook, AL 35213.

8. Comments from residents.

9. Adjourn.

MOUNTAIN BROOK CITY COUNCIL
PRE-MEETING DISCUSSION
APRIL 25, 2016

The City Council of the City of Mountain Brook, Alabama met in public session in the Pre-council Room (A106) of City Hall at 6:30 p.m. on Monday, the 25th day of April, 2016. The Council President called the meeting to order and the roll was called with the following results:

Present: Virginia C. Smith, Council President
Jack D. Carl
Lloyd C. Shelton
Alice B. Womack
Lawrence T. Oden, Mayor

Absent: William S. Pritchard, III, Council President Pro Tempore

Also present were City Attorney Steve Stine, City Manager Sam Gaston and City Clerk Steven Boone.

1. AGENDA

1. Stop sign on Hampshire Drive at Oakdale Drive (Ordinance No. 1951 was added to the formal meeting agenda.)

2. Stop sign on Montevallo Terrace at Park Lane (Ordinance No. 1952 was added to the formal meeting agenda.)

3. Library window replacement–Appendix 1. (Proceed with quotes for window replacement and obtain pricing for moisture/waterproofing consultant.)

4. Revision to approved sidewalks at the Grand Bohemian Inn (Appendix 1).

   The developer has installed a section of sidewalk along the inn that does not conform to the approved master development plan. In addition, the developer is seeking [advance] approval to install lighting along said sidewalk that is inconsistent with the mater development plan. It was the general consensus of the Council members present that the acorn lighting approved in the master development plan be studied further to determine if a shield to minimize lighting shining toward the first floor guest rooms can be added. The approved acorn lighting is preferred to the suggested pathway lighting.

   Regarding the approval of sidewalk deviation and lighting change, the Council reminded John Knutson (representing the developer) that any revisions to the master development plan had to be addressed in a public hearing, first before the Planning Commission and then before the City Council. Due to the process specified in the zoning ordinance, no approvals can be offered at this time. Furthermore, the members of the City Council stated that if the sidewalks (or other infrastructure components) are not installed in accordance with the master development plan such that an amendment to the master development plan is pursued, the City Council will most likely seek adjustments to the development incentive package approved in conjunction with the rezoning and approval of the master development plan.

5. Review of the matters to be considered at the formal [7 p.m.] meeting.

2. CERTIFICATION

I, Steven Boone, City Clerk of the City of Mountain Brook, Alabama, certify the above is a true and correct synopsis of the discussion from the meeting of the City Council of the City of Mountain Brook, Alabama held at City Hall, Pre-Council Room (A106) on April 25, 2016, 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 meeting.

_____
City Clerk

MINUTES OF THE REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF MOUNTAIN BROOK, ALABAMA APRIL 25, 2016

The City Council of the City of Mountain Brook, Alabama met in public session in the City Hall Council Chamber at 7:00 p.m. on Monday, the 25th day of April, 2016. The Council President called the meeting to order and the roll was called with the following results:

Present: Virginia C. Smith, Council President
Jack D. Carl
Lloyd C. Shelton
Alice B. Womack
Lawrence T. Oden, Mayor

Absent: William S. Pritchard, III, Council President Pro Tempore

Also present were City Attorney Steve Stine, City Manager Sam Gaston and City Clerk Steven Boone.

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

1. INTRODUCTION OF LEROY NIX, NEW ALABAMA POWER COMPANY CONTACT/REPRESENTATIVE

Mr. Nix introduced himself to the government body.

2. LEADERSHIP MOUNTAIN BROOK PRESENTATIONS

Participants of the 2015–2016 Leadership Mountain Brook class presented their project recommendations to the City Council. The projects included:

1. Public Art (Appendix 5)
2. City of Mountain Brook T-Shirt (branding) (Appendix 6)
3. Buttons Explores the Brook childrens' book written by the Leadership Mountain Brook class (Appendix 7)
4. ZYP Bike Share
    a. ZYP stations cost approximately $50,000 each depending on the number of bikes per station
    b. 6-8 stations would be optimal
    c. Operating costs but are not limited include bike maintenance, charging, rebalancing
    d. Grants may be available that can cover up to 80% of the initial cost (ZYP officials can assist with information about grant options and applications)
    e. The ZYP program seems to have been well received in Birmingham
    f. The City of Homewood is currently considering a ZYP program
    g. ZYP packages include: $75 annual (unlimited), $6 24-hour membership, $20 7-day membership, $200 2-year membership. All rides are 45-minutes. ZYP bikes are to be checked in at any ZYP station every 45-minutes to avoid add-on fees.

3. CONSENT AGENDA

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

Approval of the minutes of the April 11, 2016 regular meeting of the City Council.

2016-054	Declare certain property surplus and authorizing its sale at public Internet auction	Exhibit 1
2016-055	Authorize the City's participation in the 2016 "Back-to-School" Sales Tax Holiday, beginning at 12:01 a.m. on Friday, August 5, 2016, and ending at twelve midnight on Sunday, August 7, 2016, whereby the City of Mountain Brook will exempt certain school supplies, computers, and clothing from municipal sales or use tax in conformance with the time period, terms and conditions, and definitions as provided for the "State of Alabama Sales Tax Holiday"	Exhibit 2, Appendix 1
2016-056	Approve the conditional (service) use application for an veterinarian/pet grooming business at 253 Country Club Park subject to specified conditions	Exhibit 3, Appendix 2

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

Ayes: Virginia C. Smith, Council President
Jack D. Carl
Lloyd C. Shelton
Alice B. Womack

Nays: None

Council President Smith thereupon declared that said Council minutes and resolutions (Nos. 2016-054 through 2016-056) are adopted by a vote of 4—0 and as evidence thereof she signed the same.

4. CONSIDERATION: ORDINANCE (NO. 1951) PROVIDING FOR A STOP SIGN ON HAMPSHIRE DRIVE AT ITS INTERSECTION WITH OAKDALE DRIVE AND TO PROVIDE FOR PUNISHMENT FOR VIOLATIONS THEREOF (EXHIBIT 4 , APPENDIX 3)

The ordinance was introduced in writing by Council President Smith who then invited questions and comments from the audience.

There being no comments or discussion, Council President Smith called for a motion. Council member Carl made a motion that all rules and regulations which, unless suspended, would prevent the immediate consideration and adoption of said ordinance be suspended, and that unanimous consent to the immediate consideration of said ordinance is given and that the reading of the ordinance at length be waived. The motion was seconded by Council member Shelton and was carried, as follows:

Ayes: Virginia C. Smith, Council President
Jack D. Carl
Lloyd C. Shelton
Alice B. Womack

Nays: None

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

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

Ayes: Virginia C. Smith, Council President
Jack D. Carl
Lloyd C. Shelton
Alice B. Womack

Nays: None

The Council President Smith declared that the said ordinance (No. 1951) is hereby adopted by a vote of 4—0 and, as evidence thereof, she signed the same.

5. CONSIDERATION: ORDINANCE (NO. 1952) PROVIDING FOR A STOP SIGN ON MONTEVALLO TERRACE AT ITS INTERSECTION WITH PARK LANE AND TO PROVIDE FOR PUNISHMENT THEREOF (EXHIBIT 5, APPENDIX 4)

The ordinance was introduced in writing by Council President Smith who then invited questions and comments from the audience.

There being no comments or discussion, Council President Smith called for a motion. Council member Shelton made a motion that all rules and regulations which, unless suspended, would prevent the immediate consideration and adoption of said ordinance be suspended, and that unanimous consent to the immediate consideration of said ordinance is given and that the reading of the ordinance at length be waived. The motion was seconded by Council member Womack and was carried, as follows:

Ayes: Virginia C. Smith, Council President
Jack D. Carl
Lloyd C. Shelton
Alice B. Womack

Nays: None

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

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

Ayes: Virginia C. Smith, Council President
Jack D. Carl
Lloyd C. Shelton
Alice B. Womack

Nays: None

The Council President Smith declared that the said ordinance (No. 1952) is hereby adopted by a vote of 4—0 and, as evidence thereof, she signed the same

6. ANNOUNCEMENTS REGARDING THE NEXT REGULAR MEETING OF THE CITY COUNCIL

Council President Smith announced that the next meeting of the Mountain Brook City Council will be held on Monday, May 9, 2016 at 7:00 p.m. in the Council Chamber of City Hall located at 56 Church Street, Mountain Brook, AL 35213. Please visit the City's web site (www.mtnbrook.org) for more information.

7. ADJOURNMENT

There being no further business to come before the City Council, Council President Smith adjourned the meeting.

8. CERTIFICATION

I, Steven Boone, City Clerk of the City of Mountain Brook, Alabama, certify the above is a true and correct transcript of the regular meeting of the City Council of the City of Mountain Brook, Alabama held at City Hall, Council Chamber (Room A108) on April 25, 2016, 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

EXHIBIT 1

RESOLUTION NO. 2016-054

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

Item	Model	Description	Serial
1.00	Color LaserJet CP2025	Color laser printer	CNGS701345
1.01			
1.02	Color LaserJet CP2025	Color laser printer	CNGS336065
1.03	Photosmart C4580	All-in-One: Printer, Scanner, Copier	PRB-0721-02
1.04	Optiplex 790	CPU	3B9LKS1
1.05			
1.06	Optiplex 390	CPU	6PPHJS1
1.07	Optiplex 780	CPU	CGNFQN1
1.08	Optiplex 780	CPU	HFNFQN1
1.09			
1.10	Optiplex GX280	CPU	GLBMM71
1.11	Scanjet G4050	Photo Flatbed Scanner	CN77XA60RV
1.12	P206HL	20 inch widescreen LCD monitor	ETLQQ0C0051230[illegible]
1.13			
1.14	MS-6638	All-in-one touch screen computer	95S0131354
1.15	MS-6638	All-in-one touch screen computer	95S0131359
1.16	SP2309Wc	23-inch LCD monitor	CN-0U783F-64180-
1.17			
1.18	SP2309Wc	23-inch LCD monitor	CN-0U783F-64180-
1.19	P2314Ht	23-inch flat panel monitor	CN-07R1K3-74445-
1.20			
1.21	E198FPc	19-inch LCD monitor	CN-0CN078-72872-
1.22	E198FPc	19-inch LCD monitor	CN-0CNO78-72872
1.23	P2012Ht	20-inch flat panel monitor	CN-08VVND-7444[illegible]
1.24			
1.25	P2012Ht	20-inch flat panel monitor	CN-08VVND-7444[illegible]
1.26	P2012Ht	20-inch flat panel monitor	CN-08VVND-7444[illegible]
1.27			

RESOLUTION NO. 2016-057

BE IT RESOLVED by the City Council of the City of Mountain Brook, Alabama that the City Council hereby approves the lunchtime restaurant conditional use application for Biscuit Boyz at 2708 Culver Road.

ADOPTED: This 9th day of May, 2016.

_____
Council President

APPROVED: This 9th day of May, 2016.

_____
Mayor

CERTIFICATION

I, Steven Boone, City Clerk of the City of Mountain Brook, Alabama hereby certify the above to be a true and correct copy of a resolution adopted by the City Council of the City of Mountain Brook at its regular meeting held on May 9, 2016, as same appears in the minutes of record of said meeting.

_____
City Clerk

CITY OF MOUNTAIN BROOK

Dana O. Hazen, AICP
Dircetor of Planning, Building
& Sustainability
56 Church Street
Mountain Brook, Alabama 35213
Telephone: 205/802-3821
Fax: 205.879.6913
hazend@mtnbrook.org
www.mtnbrook.org

DATE: May 5, 2016

TO: Mayor, City Council, City Manager, City Attorney

FROM: Dana Hazen, City Planner

RE: Conditional Use for Biscuit Boyz (11am-1pm lunch service)
2708 Culver Road (previous iRevive and Melanie Pounds Interiors) Mountain Brook Village

Request for approval of a fast-casual restaurant in Mountain Brook Village. As may be seen in the attached letter of operational characteristics, although the restaurant is primarily a breakfast service, it is proposed to be open during the lunch peak hours of 11:00 a.m. to 1:00 p.m., thereby requiring approval of a conditional use.

The number of employees present between 11:00 a.m. and 1:00 p.m. will be four (4). There are two (2) on-site parking spaces along the alley which will be utilized by employees. Also, there is an agreement with Tom Sheffer of Avo-Dram to utilize the on-site parking at Avo-Dram for employee parking of this establsihment, so it is not expected that employees of this proposed establishment will have an impact on street parking.

The applicant's letter indicates seating for up to 25 patrons; however, it not anticipated that this will create a demand for 25 parking spaces, in that a portion of the patrons will already be parked in the Village as employees or patrons of other retail, office and service establishments in the Village.

As has been noted in past memos to council regarding parking on Montevallo, Petticoat and Culver, there is often ample parking along Petticoat and a fairly regular turnover of parking along Montevallo during the lunchtime hours. However, parking on the north end of Mountain Brook Village is on the cusp of change in the near future. Some of the Western parking lot will be lost in conjunction with the demolition of Western, Smith's and Ollie Irene and construction of Jemison Lane and associated improvements on the south end of Lane Parke. This is anticipated to take place beginning as early as fall of 2016. So, some on the Another Broken Egg patrons that currently utilize the Western parking lot will be forced to find street parking in the vicinity of this section of the Village. Ultimately, when Lane Parke is completed there will be new street parking added to the north side of Culver (see attached excerpt from the Skipper Traffic Study for Lane Parke).

The zoning ordinance requires council approval of a lunchtime conditional use, and states that any proposed conditional use will be reviewed as to the following:

- Whether the use would disparately impact public parking in the area;
- Whether vehicular or pedestrian circulation would be impacted by the use;
- Whether the use is compatible with surrounding existing uses;
- Whether the hours of operation or peak traffic times would impact existing uses.

4 May 2016

Dear Ladies and Sirs:

Thank you for the opportunity to present our proposal for operating hours from 11 AM to 1 PM, described as lunch hours by the City of Mountain Brook. We are working with Spitfire Realty, the group that owns the little building at 2710 Culver, and architect Pete Pritchard, whose plans and renderings you should also have received, to develop a small biscuit concept offering mostly breakfast but also a light carryout lunch and (we hope) office catering business.

We plan to operate from 7 AM to 2 PM, closing after lunch service, with the lion's share of the business to come from 7-10 AM. Biscuits mean breakfast, and while they are eaten at other times of day, they are tied tightly to breakfast in the minds of the public and the culture of the area. So well over half of our sales would come then. Still, since it's never cheap to open and operate a restaurant, additional revenue from what are thought of as lunch hours would be crucial to the success of the enterprise, not to mention to fully employ workers at enough daily hours to maintain an admittedly small staff.

On that note, just 3-4 employees at a time would run the operation, as the space is quite small at around 800-900 square feet, and some of the staff would come from Dram, where they would park in our spaces behind the Village Corners building at Montevallo and Cahaba roads or in the three spaces behind the Spitfire building. With such brief operating hours, some employees would have to get more hours at Dram to make their time worthwhile. Indeed, some of the preparation of items to be sold at Biscuit Boy would be done in the Avo+Dram kitchen itself. So we don't see employee parking having an impact on village spaces.

In rudimentary midday parking counts over the past few weeks (and with an eye to the additional parking that is changing the realities of Mountain Brook Village), it's evident to us that there are always a good number spaces on Petticoat Lane and, despite past controversies over such, on Montevallo itself during the lunch hours in question, as no lunch-focused restaurant operates there. Avo and Dram are not open then, and Another Broken Egg, like the proposed Biscuit Boy, is a breakfast- and thus morning-centered place. Obviously (and for decades), Gilchrist is open for lunch nearby, but it's also a small space without a ton of seating, and the service is fast as the lunches themselves tend to be (I know from experience as

I'm sure you all do better than I). So with our limited seating -- in the 20-25 range, say -- and what we expect to be the preponderance of to-go business, we don't see people lingering or parking long at all to enjoy our product. A biscuit sandwich, which represents the vast majority of our menu, is a rapidly prepared item and one rapidly consumed or easily taken away as well. We will have no table service and no bar and thus no reason for guests to linger long.

We expect the majority of our draw to be in the morning hours, when guests are grabbing breakfast and coffee to go or eating it quickly in the space. A community table proposed in front and a counter of sorts along the side would invite a quick sit-down at breakfast or lunch rather than a long meal as at Avo or Dram, for instance, or even as at Another Broken Egg, with a multitude of tables and table service to take food orders. And while we hope to be something of a destination, even a "drive-by" one, for breakfast, we don't see anyone coming from across Birmingham or nearby communities to grab a quick breakfast-oriented biscuit at lunch. True, we will offer a salad and a few more "lunchy" biscuit sandwiches, but grits and gravy aren't the stuff of business lunches. I see our lunch business coming mostly from the merchants and staff of the village itself, or people from the hotel and offices nearby. Indeed, we hope to sell pick-up biscuit platters for such groups on a regular basis during the week.

I hope this gives you all some basis for our request and I look forward to discussing the matter with you further as a group or individually as you see fit. Thank you for your review.

Respectfully,

Tom Sheffer

A rough but fairly detailed menu outline for what we would offer at Biscuit Boy in the Spitfire Realty-owned building on Culver:

BISCUIT BOY
Egg & Cheese
Bacon
Sausage
Conecuh
Country Ham
Chicken
Hot Chicken
Hot Brown
Cuban
PBLT (on English Muffin)
Burger Boy
Sloppy Joe
Pulled Pork (+slaw)
Benedict Boy (on English muffin or biscuit)
Early Riser (egg/meat/cheese/tots)
Po'Boy (w/ comeback sauce)
Border Boy (flour taco)

GRAVY
Sausage
Red-Eye
Smoked Tomato
Chocolate
Gravy Flight (choice of three)

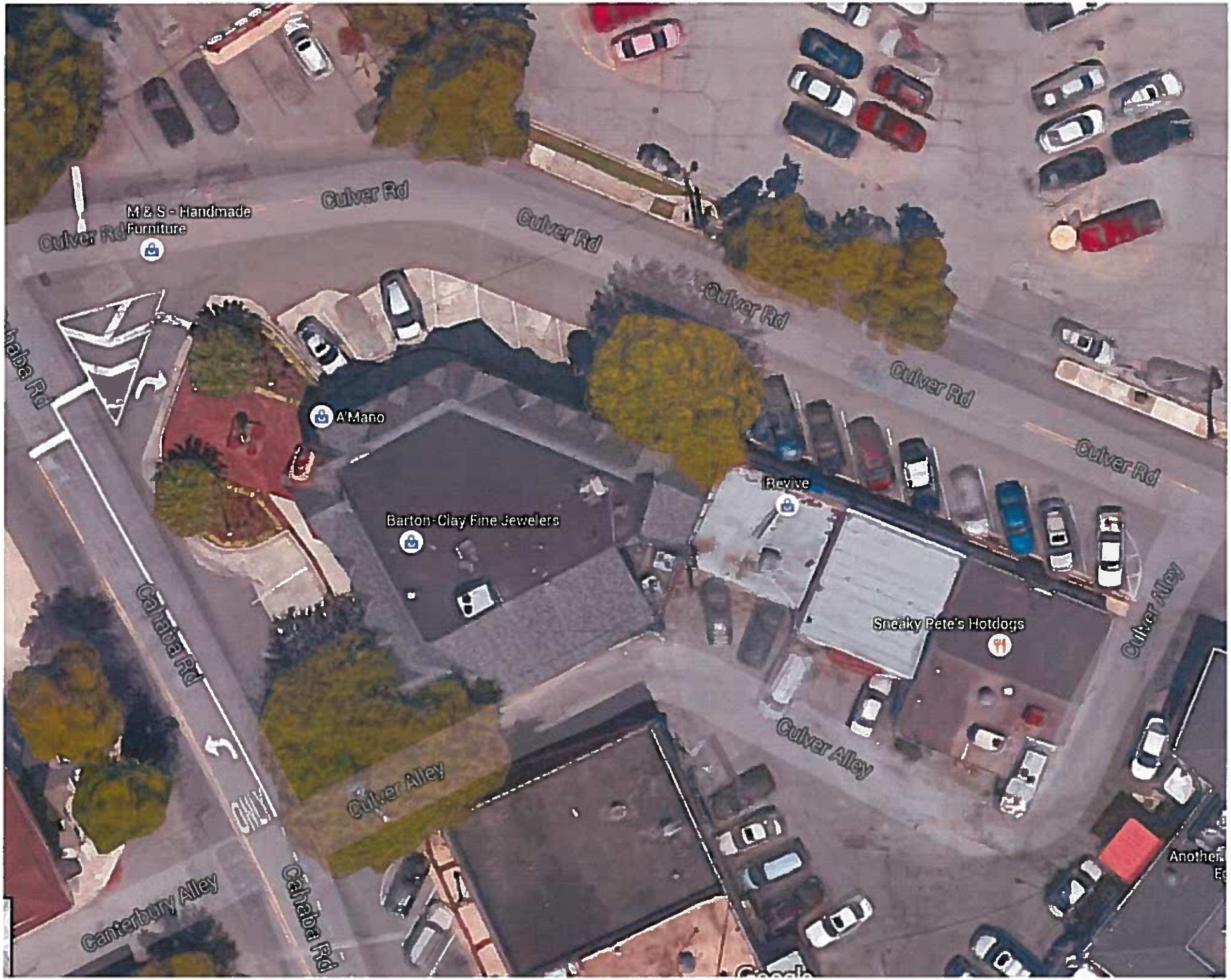
SIDES
Cheese Grits
Tater Tots (loaded: w/ cheese sauce)

SALAD
Kale Salad (cranberries/red-wine vinaigrette/biscuit croutons)

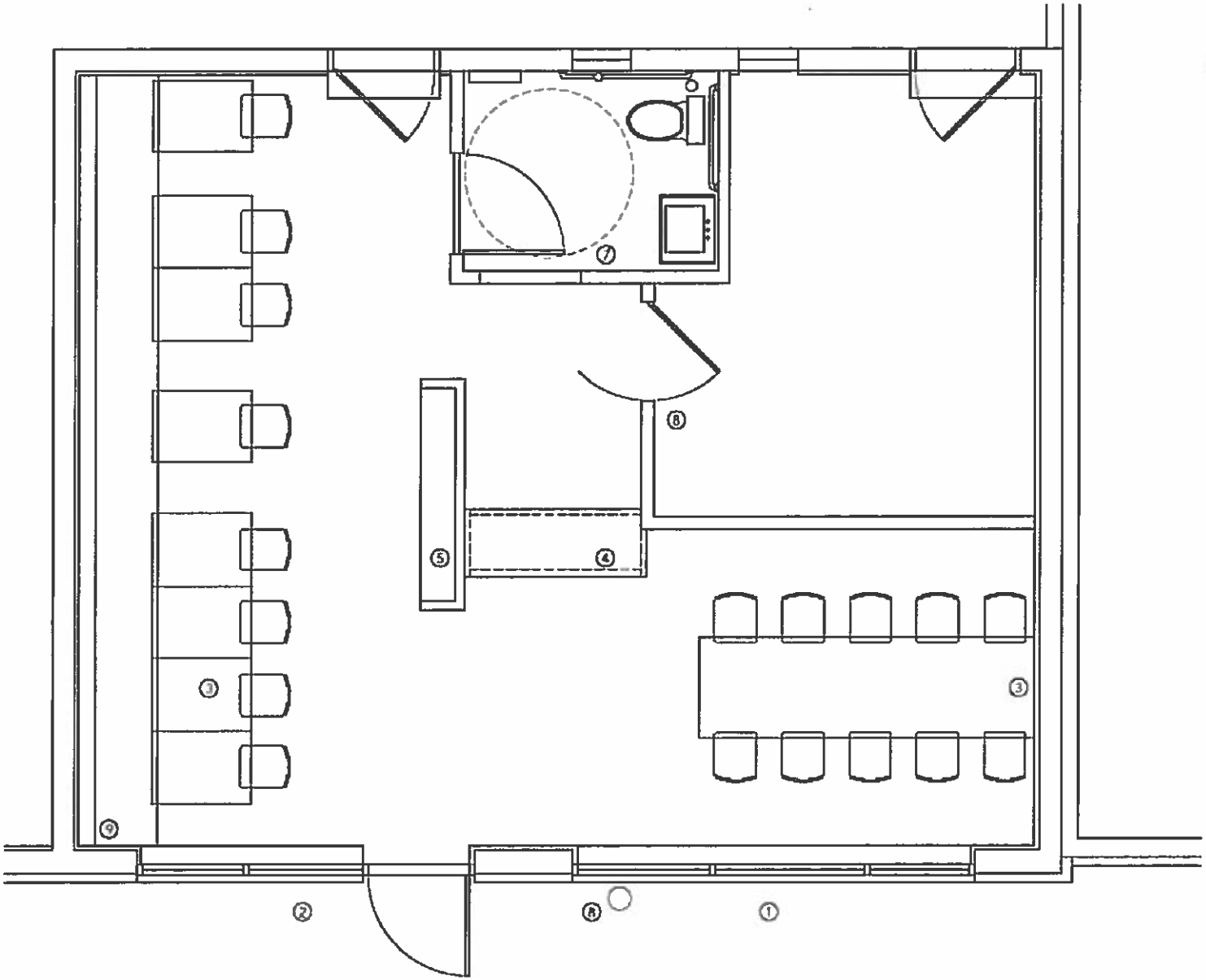
BREAKFAST PLATE

POOCH
Good Boy! (dog biscuit)

ERS
2710


Culver Rd
M & S - Handmade Furniture
Culver Rd
Culver Rd
Culver Rd
Culver Rd
Culver Rd
A'Mano
Barton-Clay Fine Jewelers
Revive
Sneaky Pete's Hotdogs
Culver Alley
Culver Alley
Culver Alley
Cahaba Rd
Cahaba Rd
ONLY
Canterbury Alley
Cahaba Rd

BISCUIT BOY



INDEX

1 NEW OVERHEAD DOOR
2 NEW FIXED STOREFRONT AND DOOR
3 SEATING
4 CASHIER
5 DRINK STATION
6 KITCHEN
7 BATHROOM
8 GAS METER
9 MIRRORED WALL

BISCUIT BOY – SPITFIRE REALTY

2708 Culver Road
Mountain Brook, AL 35255

FLOOR PLAN

Architect-PETE PRITCHARD inc.
SCALE: 1/4" = 1'-0"
4/5/16

VILLAGE GREEN
SERVICE
SERVICE
OLIVIER ROAD
MONTICELLO ROAD

RESOLUTION NO. 2016-058

BE IT RESOLVED by the City Council of the City of Mountain Brook, Alabama that the City Council hereby accepts the professional services proposal submitted by Williamson & Associates, Inc., in the form as attached hereto as Exhibit A, with respect to the library building exterior consulting services.

ADOPTED: This 9th day of May, 2016.

_____
Council President

APPROVED: This 9th day of May, 2016.

_____
Mayor

CERTIFICATION

I, Steven Boone, City Clerk of the City of Mountain Brook, Alabama hereby certify the above to be a true and correct copy of a resolution adopted by the City Council of the City of Mountain Brook at its regular meeting held on May 9, 2016, as same appears in the minutes of record of said meeting.

_____
City Clerk

W&A
Williamson & Associates, Inc.
Building Exterior Consultants

6100 Lake Forrest Drive, Suite 375
Atlanta, Georgia 30328
Office: (404) 256-2388
Fax: (404) 256-1457

April 27, 2016

Mr. Steven Boone
City of Mountain Brook
P. O. Box 130009
Mountain Brook, AL 35213-0009
Direct: (205) 802-3825
Facsimile: (205) 874-0611
Email: boones@mtnbrook.org

RE: Proposal for Building Exterior Consulting Services
Condition Evaluation of Exterior Wall and Roof Assemblies
Mountain Brook Library
Mountain Brook, AL
(W&A-Proposal)

Dear Mr. Boone:

Williamson & Associates is pleased to have this opportunity to submit a proposal for our building exterior consulting services. The purpose of our services in this instance will be to perform a general condition evaluation of the exterior wall and roof assemblies of the referenced building, and provide our recommendations for repairs to address the building. This proposal presents our proposed scope of services, support required, scheduling information, the applicable compensation, and a request for your formal authorization.

PROJECT

The Mountain Brook Library is a 2 story building with exterior walls are of masonry, cast stone, stucco or EIFS with punched window openings. The roofing is comprised of either low slope single ply roof membrane or steep slope roofing comprised of asphalt shingles. The building was constructed circa 2000.

SCOPE OF SERVICES

We propose to provide the following scope of services:

- Perform a general condition elevation study of the building exterior envelope and roofing, using a variety of techniques, to assess the building envelope. During this condition evaluation study, we will need to interview local property management personnel knowledgeable in the construction and maintenance history of the building. We will also

wish to interview to obtain information regarding known areas of reported leakage, air infiltration, or other known issues with the building exterior envelope. If there is a copy set of the original Architectural drawings, we would like to review those drawings while we are onsite. If they are available only in paper form, we would be glad to scan the building exterior elevations and roof plan, and other drawings as needed. We have this scanning capability in-house, and could provide back to the Owner a CD disc containing "pdf" files of each of the original drawings we scan, if that information has not already been compiled by the Owner.

- After initial interview and tour of the building, we will evaluate the exterior envelope condition by visual inspection from the grounds around the building and from accessible roof areas and with the use of a 24' ladder. No lifts or other access equipment is proposed. For the step sloped roofing, we will likely not access the roof but evaluate the roof from areas the ground, low sloped roofs or utilizing high-powered digital camera zoom lenses from around the base of the building. We may also use the high-powered camera while scanning the building exterior looking for areas of distress, such as cracking, failed or poor condition joints, shoving, spalling, and other distresses that may be present in the building exterior materials. As stated no lifts or other access methods will be provided for the visual evaluation. If during the evaluation we determine lifts or other means of access equipment becomes apparently needed, we will discuss that with the City of Mountain Brook to seek approval and support for the additional cost/efforts as may be recommended. If we have a copy set of the original Architectural drawings, that would be useful to allow us to compile or map in areas of significant distress that we may observe, onto the drawings.

- We may elect to perform limited water testing if there are areas found during the evaluation that are suspect to leakage. The amount of testing will be determined during the evaluation based on available time. Testing equipment (type and method) and water hoses will be provided by W&A. A water source at the property must be provided by the City of Mountain Brook.

- At this time, we do not plan on performing selective demolition evaluation techniques. If such level of investigation becomes apparently needed, we will discuss that with the City of Mountain Brook to seek approval and support for the additional cost/efforts as may be recommended.

- After performing the above evaluation techniques, we will compile our observations and prepare a written report presenting our observations and findings, along with our recommendations for repairs that we would consider appropriate to the building exterior envelope. Our report will include text discussion, photographs illustrating our observations, our recommendations in bullet repair outline format. Our report will be presented and provided in "pdf" format.

SUPPORT REQUIRED

As requested, we will need access to the building exterior, all roofing areas, and to the local property management staff. An escort from the property would need to accompany use during the evaluation. As described, the first step is to interview local property management and staff knowledgeable regarding construction and maintenance history, and the locations of known reported problems such as leakage or other issues.

If there is a copy set of the original Architectural drawings available, we would like to review them either onsite, or back in office. If those drawings have already been scanned and are available in "pdf" format, we would like a copy CD of those drawings. That would allow us to print the elevation and roof plan sheets, and use them in the field to help us record our observations by location and area.

SCHEDULING INFORMATION

We can begin our building exterior condition evaluation survey within two to three weeks after receiving mutually agreeable written authorization to proceed. For our baseline evaluation survey, we would estimate approximately two days onsite.

We estimate preparing and submitting our written report within approximately two weeks after completing the building exterior condition evaluation work onsite.

COMPENSATION

We propose to provide the outlined scope of services unit rate compensation based upon the time and expenses required. Our consulting fee rates are $150/hr. for Principal time, $135/hr. for Senior Associate time, $120/hr. for Associate time, and $70/hr. for Clerical time. Reimbursable expenses are charged at cost plus 10%, and include such items as lodging, mileage, parking, outside vendor copying or printing, shipping, and other directly job-related expenses. We charge $50/ per day for per diem when working outside of Georgia.

We estimate a fees and expenses budget of approximately $5,500.00 for the scope of our building exterior condition evaluation, including walls and roofing areas, without the use of a lift or other access equipment.

Invoices are issued monthly, and each invoice includes a $30 charge for the cost of our in-house copying and communications equipment. Payment terms are net 30 days after receipt of invoice.

AUTHORIZATION

We require confirming written authorization for our consulting services. For your convenience, you may authorize our services by executing the acceptance block at the end of this proposal, and returning a copy of the proposal to us. Please note that the attached "Terms and Conditions" are a part of this proposal, and any agreement formed between us for services. Please notify us if

we have proposed services other than what you require, so that we may modify our proposal to meet your needs.

We appreciate this opportunity to submit a proposal for our building exterior consulting services. Please contact us with any questions you may have regarding this proposal, or our services in general.

Sincerely,

WILLIAMSON & ASSOCIATES, INC.

Michael C. Allen
Senior Associate

ACCEPTANCE:

Accepted for: _____

Accepted by: _____
(Signature)

_____
(Printed Name/Title)

_____
(Date)

TERMS AND CONDITIONS FOR PROFESSIONAL SERVICES

1. **Services:** The Consultant agrees to perform for Client the services listed. Such services are hereinafter referred to as "Services." Client agrees that Consultant shall have ready access to Client's staff and resources as necessary to perform the Consultant's services provided for by this contract.

2. **Performance:** Consultant represents to Client that the services to be delivered or rendered hereunder will be the kind and quality designated and will be performed by qualified personnel. Consultant shall perform its services, to the level of competency presently maintained by other practicing professional consultants in the same type of work in the same community, at the same site and under the same or similar conditions. Consultant makes no other representations or warranties, whether expressed or implied, with respect to the services rendered hereunder.

3. **Staff:** Consultant is an independent contractor and neither Consultant nor Consultant's staff is or shall be deemed to be employed by Client. Client is hereby contracting with Consultant for the services described and Consultant reserves the right to determine the method, manner and means by which the services will be performed.

4. **Payment for Services:** Client agrees to pay Consultant amounts agreed to upon receipt of proper invoices for Services.

5. **Confidential Information:** Each party to this Agreement shall not disclose to any non-party to the Agreement, any confidential information of Such Other Party. Confidential information is information which relates to Such Other Party's research, development, trade secrets or business affairs, but does not include information which is generally known or easily ascertainable by non-parties of ordinary skill. Consultant hereby acknowledges that during the performance of this contract, the Consultant may learn or receive confidential Client information and therefore Consultant hereby confirms that all such information relating to the Client's business will be kept confidential by the Consultant. This section shall not apply to information in whatever form that comes into the public domain, nor shall it restrict the Consultant from giving notices required by law or complying with an order to provide information or data when such order is issued by a court, administrative agency or other authority with proper jurisdiction, or if it is reasonably necessary for the Consultant to defend itself from any suit or claim.

6. **Insurance:** Consultant shall maintain: a) commercial general liability insurance in the amount of not less than $1,000,000.00 for any one occurrence, b) worker's compensation insurance in amounts established by law, and c) professional liability insurance in the amount of not less than $1,000,000.00.

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

8. **Dispute Resolution:** Prior to the initiation of any legal proceedings, the parties to this Agreement agree to submit all claims, disputes or controversies arising out of or in relation to the interpretation, application or enforcement of this Agreement to non-binding mediation. Such mediation shall be conducted under the auspices of the American Arbitration Association or such other mediation service or mediator upon which the parties agree. The Party seeking to initiate mediation shall do so by submitting a formal, written request to the other party to this Agreement. This section shall survive completion or termination of this Agreement, but under no circumstances shall either party call for mediation of any claim or dispute arising out of this Agreement after such period of time as would normally bar the initiation of legal proceedings to litigate such claim or dispute under the laws of the State of Georgia.

9. **Complete Agreement:** This agreement contains the entire agreement between the parties hereto with respect to the matters covered herein. No other agreements, representations, warranties or other matters, oral or written, purportedly agreed to or represented by or on behalf of Consultant by any of its employees or agents, or contained in any sales materials or brochures, shall be deemed to bind the parties hereto with respect to the subject matter hereof.

10. **Assignment:** This Agreement may not be assigned by either party without the prior written consent of the other party.

11. **Documents:** All documents prepared by Consultant are instruments of Consultant's professional service, and Consultant shall retain ownership and property interest therein. Reuse or modification of any documents by Client, without Consultant's written permission, shall be at Client's sole risk and Client agrees to defend, indemnify and hold Consultant harmless from all claims, damages and expenses, resulting from such reuse by Client or by others acting through Client.

12. **Construction Cost:** Any opinions or estimates of probable construction cost by Consultant are prepared on the basis of Consultant's experience and qualifications and represent Consultant's judgment as a professional generally familiar with the industry. Consultant does not guarantee that proposals, bids, or actual construction cost will not vary from Consultant's opinions or estimates of probable construction cost.

13. **Construction Phase Services:** When construction-phase services are included in the Agreement, Consultant will provide personnel to determine in general whether construction is proceeding in a manner consistent with the Documents. Consultant is not responsible for construction means, methods, techniques, sequencing or procedures, or for safety precautions or programs in connection with the Project.

14. **Termination:** This Agreement may be terminated by either party by giving written notice to the other. If the Agreement is terminated, the Consultant shall be paid for all work performed prior to the notice. If Client does not make timely payments, it is cause for suspension of services.

End of Proposal

RESOLUTION NO. 2016-059

BE IT RESOLVED by the City Council of the City of Mountain Brook, Alabama that the City Council hereby accepts the professional services proposal submitted by William Whittaker, Architect, in the form as attached hereto as Exhibit A, with respect to design services for the joint fire and police training building.

ADOPTED: This 9th day of May, 2016.

_____
Council President

APPROVED: This 9th day of May, 2016.

_____
Mayor

CERTIFICATION

I, Steven Boone, City Clerk of the City of Mountain Brook, Alabama hereby certify the above to be a true and correct copy of a resolution adopted by the City Council of the City of Mountain Brook at its regular meeting held on May 9, 2016, as same appears in the minutes of record of said meeting.

_____
City Clerk

AGREEMENT FOR ARCHITECTURAL SERVICES

This **AGREEMENT FOR ARCHITECTURAL SERVICES** ("Agreement") is made between the **City of Mountain Brook, Alabama**, a municipal corporation (the "City" or "Owner") and **William Whittaker,** Architect, a sole proprietor (the "Architect") effective as of the date last signed below by a party.

Architect will provide professional design services on the following project:

POLICE/FIRE JOINT TRAINING BUILDING IN MOUNTAIN BROOK, AL ("PROJECT")

The Project generally consists of the development/construction of a 50' by 60' metal building ("Building") that will be located in the City on City-owned property at the end of East Street near the City's Fire Tower facility. The design services hereunder are described in more detail immediately below and elsewhere herein:

The Architect's professional design services for the Project collectively may be referenced herein as the "Services" or "Work".

Pursuant to the terms, covenants and provisions herein, the City and Architect agree as follows:

ARTICLE 1.1 INITIAL INFORMATION

§ 1.1.1.a Basic Services. Architect will perform the following basic architectural services for the Project ("Basic Services") in the following sequential stages: Schematic Design; Design Development; Construction Documents; Bidding or Negotiation; and Construction Administration (including Project closeout). The Architect will not commence Work or move from one phase of the Basic Services into another phase without the written authorization of the City. The Scope of the Basic Services to be performed during each of these phases is set forth on **Exhibit A,** which is incorporated by reference herein. Further details related to these Basic Services and deliverables to be furnished by the Architect that apply for this Project are set forth on **Attachment I to Exhibit A,** which is incorporated by reference.

§ 1.1.1.b Architect's Fee. Unless otherwise agreed in a written amendment to this Agreement, the lump sum fee for Basic Services payable to Architect with respect to its Work will not exceed $24,800, inclusive of expenses (the "Fee"). This Fee is set and it will not be adjusted if the amounts expended for construction of the Project are more or less than the City's budgeted sum or the Architect's estimated cost for construction of the Project.

Further, notwithstanding any provision to the contrary reflected on Attachment I to Exhibit A, the Architect will not be compensated on an hourly basis for its Services on this Project, and the amount payable to the Architect is not determinable by the number of hours he expends in performing the Services.

§ 1.1.1.c Understanding on Responsibility to Provide Other Services. The parties have delineated the responsibilities to perform other aspects, services and functions related to the Project on the attached **Exhibit B** and **Attachment I to Exhibit B,** both of which are incorporated by reference.

§ 1.1.1.d LEED Design. Architect will not be performing LEED Design services on this Project.

§ 1.1.2 PROJECT PARAMETERS

§ 1.1.2.1 The objective or use is:
See description of Project above.

§ 1.1.2.2 The physical parameters are:
The Project site is located in the City of Mountain Brook.

§ 1.1.2.3 The City's program is:
See above description of Project and the Architect's undertaking and the section immediately below.

§ 1.1.2.4 The legal parameters are:
The Project site is owned by the City of Mountain Brook. Architect is an independent contractor that will provide professional services to the City as detailed herein. If the City undertakes to construct the

improvements and renovations that are designed by the Architect, the City, utilizing procurement processes appropriate for the Project, may enter into a subsequent agreement with a contractor for it to construct the Project.

§ 1.1.2.5 The financial parameters are as follows.
The cost to construct the Project is estimated in the range of $ 325,000.

§ 1.1.2.6 The time parameters are:
Architect agrees that it will use commercially reasonable effort to complete its Work and return all deliverables up through the Contract Documents Phase within two (2) months of the effective date of this Agreement. Each party agrees to use its respective best effort to cooperate with the other so that this Work will be completed in an expeditious fashion.

§ 1.1.2.7 The proposed procurement or delivery for the construction work on the Project is:
Assuming availability of funding and that all required approvals are secured, construction on the Project is anticipated to commence on or about June 1, 2016.

§ 1.1.2.8 Other parameters are:
None.

§ 1.1.3 PROJECT TEAM
§ 1.1.3.1 The City's Designated Representatives are:

Chris Mullins, City of Mountain Brook Fire Department
Thomas Boulware, City of Mountain Brook Police Dept.

§ 1.1.3.2 In addition to the City's Designated Representative, the person(s) or entity(ies) who are required to review the Architect's submittals to the City is (are):

None.

§ 1.1.3.3 The City's other consultants and contractors are:
To be determined at later date.

§ 1.1.3.4 The Architect's Designated Representative is:

William Whittaker
2956 Old Gadsden Highway
Anniston, Alabama
P 256-689-0238; F 205-278-8731
Email: bill@billwarch.com

§ 1.1.3.5 The sub-consultants that, at Architect's sole expense, City have authorized Architect to retain to assist it to complete the Basic Services are as follows:

The sub-consultants being retained by the Architect that are approved by the City are listed on Attachment 1 to Exhibit A. The compensation payable by the Architect to its sub-consultants is included in the Fee for Basic Services; the City has no obligation to pay any of these sub-consultants listed on this Attachment for their work on the Project and the amounts reflected on Attachment 1 to Exhibit A as fees chargeable to the Architect by his sub-consultants with respect to various phases of the Basic Services are being provided to the City for informational purposes only.

The retention of any additional sub-consultants that Architect desires to retain must be authorized in advance by City.

Architect exclusively is responsible for coordinating and managing the work performed by sub-consultants that Architect retains, assuring the quality and timeliness of those services, and compensating them for those services.

§ 1.1.4 Insurance Requirements:
§ 1.1.4.1 For the duration of this Agreement and for limits not less than stated below, the Architect shall maintain the following insurance with a company(ies) lawfully authorized to do business in the location of the Project and reasonably acceptable to City:

.1 Comprehensive General Liability: This insurance shall cover all operations performed by or on behalf of the Architect, and provide coverage for bodily injury and property damage with a combined single limit of not less than $1,000,000 per occurrence, $2,000,000 aggregate.

.2 Automobile Liability: Automobile Liability covering owned and rented vehicles operated by the Architect with policy limits of not less than One Million Dollars ($1,000,000) combined single limit and aggregate for bodily injury and property damage, per occurrence.

.3 Workers Compensation: Workers' Compensation as required by statute.

.4 Professional Liability: Professional Liability covering the Architect'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.

The Architect 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 Architect herein.

§ 1.1.4.2. Additional Named Insured. 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 Architect or performance of its services. 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.

§ 1.1.4.3. Policies Primary. All insurance policies required herein are to be primary and non-contributory with any insurance program administered by the City.

§ 1.1.4.4. Waiver of Subrogation. Architect shall require the carriers of the above-required insurance coverage to waive all rights of subrogation against the City, and its officers, employees, agents, contractors and subcontractors. Further, Architect hereby waives any rights of subrogation against the City. All general or automobile liability coverage provided herein shall not prohibit the Architect or its employees, agents or representatives from waiving the right of subrogation prior to loss or claim.

§ 1.1.4.5. Proof of Coverage. Before commencement of Services hereunder, the Architect shall provide to 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.

§ 1.1.5 The information contained in this Article 1.1 may be reasonably relied upon by the City and Architect. The parties will negotiate in good faith to make any appropriate adjustments in schedule and to determine if any additional compensation should be paid if a Change in Service(s) (as defined in Section 1.3.3) occurs.

ARTICLE 1.2 RESPONSIBILITIES OF THE PARTIES
§ 1.2.1 The City and the Architect shall cooperate with one another to fulfill their respective obligations under this Agreement. Both parties shall endeavor to maintain good working relationships among all members of the Project team.

§ 1.2.2 CITY
§ 1.2.2.1 Unless otherwise provided under this Agreement, the City shall provide full information in a timely manner regarding requirements for and limitations on the Project.

§ 1.2.2.2 The City's Designated Representative(s) identified in Section 1.1.3 shall be authorized to act on its behalf with respect to the Project. The City shall render decisions in a timely manner pertaining to documents submitted by the Architect in order to avoid unreasonable delay in the orderly and sequential progress of its Services.

§ 1.2.2.3 If reasonably required to complete the Project and agreed by the City in advance following a recommendation by the Architect, the City shall furnish the services of consultants other than those designated in Section 1.1.3 or authorize the Architect to furnish them.

§ 1.2.2.4 Unless otherwise provided in this Agreement, the City shall furnish any tests, inspections and reports required by law (e.g. for hazardous materials if applicable).

§ 1.2.2.5 The City shall furnish all legal, insurance and accounting services, including auditing services, that may be reasonably necessary at any time on the Project to meet the City's needs and interests.

§ 1.2.2.6 The City shall provide prompt written notice to the Architect if the City becomes aware of any fault or defect in the Project, including any errors, omissions or inconsistencies in the Architect's Instruments of Service.

§ 1.2.3 ARCHITECT

§ 1.2.3.1 The Basic Services to be performed and deliverables to be furnished by the Architect, its employees and its sub-consultants during the various phases of the Project are enumerated in Articles 1.1. and 1.4, and set forth on Attachment **A** (Scope of Basic Services) and **Attachment I to Exhibit A** (Details of Basic Services and Deliverables by the Architect for this Project).

§ 1.2.3.2 The Architect agrees to perform its Services according to the terms and conditions herein and in a manner that is consistent with professional skill and care that would be provided by other architects in its industry under same or similar conditions, and in the orderly progress of the Project. The Architect shall submit for the City's approval a schedule for the performance of the Architect's Services which initially shall be consistent with the time periods established for this Project; upon mutual agreement, this schedule may be adjusted as the Project proceeds. This schedule shall include allowances for periods of time required for the City's review, for the performance of the City's sub-consultants (if any), and for approval of submissions by authorities having jurisdiction over the Project. Time limits established by this schedule approved by the City shall not, except for reasonable cause, be exceeded by the Architect or City; provided, however, that City reserves the right to suspend or abandon the Project for its convenience. In the event of such termination for convenience, the provisions of Sections 1.3.8.3 and 1.3.8.4 apply.

§ 1.2.3.3 The Architect's Designated Representative(s) identified in Section 1.1.3 shall be authorized to act on the Architect's behalf with respect to the Project.

§ 1.2.3.4 The Architect shall maintain the confidentiality of information specifically designated as confidential by the City, unless withholding such information would conflict with legal requirements, create the risk of significant harm to the public or prevent the Architect from establishing a claim or defense in an adjudicatory proceeding. The Architect shall require its sub-consultants to execute similar agreements to maintain the confidentiality of information specifically designated as confidential by the City.

§ 1.2.3.5 The Architect shall not engage in any activity, or accept any employment, interest or contribution that would reasonably appear to compromise its professional judgment with respect to this Project.

§ 1.2.3.6 The Architect shall review laws, codes, and regulations applicable to its Services. The Architect shall respond in the design of the Project to requirements imposed by governmental authorities having jurisdiction over it.

§ 1.2.3.7 The Architect shall be entitled to rely on the accuracy and completeness of services and information furnished by the City. The Architect shall provide prompt written notice to the City if the Architect becomes aware of any errors, omissions or inconsistencies in such services or information.

ARTICLE 1.3 TERMS AND CONDITIONS

§ 1.3.1 COST OF THE CONSTRUCTION WORK

§ 1.3.1.1 The cost to of the work to construct the Project does not affect or impact the calculation of the Fee or the amount payable to Architect for Services provided hereunder.

§ 1.3.2 INSTRUMENTS OF SERVICE

§ 1.3.2.1 All drawings, plans, data, calculations, reports and other documents, specifications or data created by Architect in connection with the Project shall be collectively referenced herein as the "Instruments of Service". The Architect warrants that in transmitting Instruments of Service, or any other information, it the copyright owner of such information or has permission from the copyright owner to transmit such information for use on the Project. If

the Owner and Architect intend to transmit Instruments of Service or any other information or documentation in digital form, they shall endeavor to establish necessary protocols governing such transmissions.

§ 1.3.2.2 The Architect and the Architect's sub-consultants shall be deemed the authors and owners of their respective Instruments of Service, including the Drawings and Specifications, and shall retain all common law, statutory and other reserved rights, including copyrights. Submission or distribution of Instruments of Service to meet official regulatory requirements or for similar purposes in connection with the Project is not to be construed as publication in derogation of the reserved rights of the Architect and the Architect's sub-consultants.

§ 1.3.2.3 Upon execution of this Agreement, the Architect grants to the Owner a nonexclusive license to reproduce and use the Architect's Instruments of Service for purposes of constructing, using, maintaining, altering adding to the Project or other uses related to the announcement, approval, advertisement or publication of the Project, provided that the Owner substantially performs its obligations, including payment of all sums when due, under this Agreement. The Architect shall obtain similar nonexclusive licenses from the Architect's sub-consultants that will run in favor of the Owner and be consistent with this Agreement. The license granted under this section also permits the Owner to authorize the construction Contractor, its subcontractors, any sub-subcontractors, and material or equipment suppliers, as well as the Owner's consultants and separate contractors on the Project, to reproduce applicable portions of the Instruments of Service for use in performing services or construction for the Project or in announcing, securing approval or publicizing the Project. Except for the licenses granted in this section, no other license or right shall be deemed granted or implied under this Agreement.

§ 1.3.2.4 In the event the Owner uses the Instruments of Service on a different project without retaining the author of the Instruments of Service on that project or uses them in a manner that is inconsistent with the license granted herein, the Owner releases the Architect and Architect's sub-consultant(s) from all claims and causes of action arising from such uses.

§ 1.3.2.5 The Owner shall not assign, delegate, sublicense, pledge or otherwise transfer any license granted herein to another party without the prior written agreement of the Architect. Any unauthorized use of the Instruments of Service by the Owner shall be at its sole risk and without liability to the Architect and the Architect's sub-consultants.

§ 1.3.3 CHANGE IN SERVICE

§ 1.3.3.1 The Architect shall notify the City if Architect recommends that any work or service that was not initially contemplated hereunder (a "Change in Service") is required to complete its Work. If the City rejects the Architect's recommendation for a Change in Service, the City shall give prompt written notice to the Architect and it will not provide those additional services.

If the City agrees that the additional work identified by the Architect constitutes a Change in Service, Architect may perform those services and receive an adjustment in compensation pursuant to Section 1.5.2 (along with any associated Reimbursable Expenses for that additional service if agreed by the City), or for additional compensation as otherwise agreed by the parties. Without prior written approval by the City, it will not make any pay for additional work or services not contemplated herein.

Further, a Change in Service (which may include additional services required of Architect's sub-consultants) may occur after execution of this Agreement if that Change is mutually agreed in writing. Circumstances that may entitle the Architect to an adjustment in compensation for additional work are as follows:

(a) The making of revisions in drawings, specifications, or other Instruments of Service when such revisions are:

1. required by a significant change in the Project that is inconsistent with the approvals or instructions previously given by the City, including, but not limited to, significant changes in the size, quality, complexity of the Project, or the City's schedule, budget, or procurement method;

2. required by the enactment or revision of codes, laws or regulations subsequent to the preparation of such documents;

3. required as a result of the City's failure to render decisions in a timely manner, or the failure of performance on the part of the City or its consultants or contractors;

4. required in connection with the evaluation and subsequent revisions of documentation resulting from substitutions proposed by contractors; or

5. required in connection with any change orders or construction change directives in any contract between the City and its construction contractor.

(b) Providing consultation concerning replacement of work on the Project that is damaged by fire or other casualty during construction, and furnishing services required in connection with the replacement of such work; or

(c) Providing services in connection with a public hearing or legal proceeding, except where the Architect is a party thereto.

No compensation shall be payable to Architect for any additional work or services that are attributable to the fault, error, or nonperformance of the Architect of its obligations under this Agreement.

§ 1.3.4 DISPUTE RESOLUTION

§ 1.3.4.1 If a disagreement, claim, issue or disagreement arises between the parties with respect to the performance of this Agreement, the failure of a party to perform or their respective rights or obligations hereunder (a "Dispute"), the parties will use reasonable efforts to resolve any Dispute at the Project Team level. If the parties are unable to amicably resolve any Dispute at that level, each agree to escalate that matter to the senior official level 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.

§ 1.3.4.2 If (i) the City should employ attorneys or incur other expenses in any legal action regarding a Dispute concerning negligent performance of professional services or the Architect's other failure to perform its obligations under the Agreement, and (ii) the City secures a final judgment before a court of competent jurisdiction or obtains other relief from an administrative body related thereto against the other party, the Architect will pay the reasonable attorneys' fees and other reasonable expenses incurred by the City in that action.

§ 1.3.5 - INTENTIONALLY OMITTED.

§ 1.3.6 INDEMNIFICATION OF CITY/EXCLUSION OF CONSEQUENTIAL DAMAGES

§ 1.3.6.1 Claims by City against Architect. If the Architect breaches its professional-service warranty or otherwise defaults in performing its duties and obligations to the City hereunder, the City agrees that its claim for damages against the Architect for any such default shall be limited to and not exceed Three Hundred Fifty Thousand Dollars ($350,000.00). The provisions in this section do not impact, modify, amend, or limit the extent or application of the indemnification provisions herein.

§ 1.3.6.2 Claims against City by Third Parties. To the fullest extent permitted by law, the Architect shall defend, indemnify, and hold harmless the City, and its respective agents, employees, officials and consultants (hereinafter collectively referred to as the "Indemnitees") from and against all demands, actions, damages, judgments, losses, expenses (including but not limited to attorneys' fees, expert fees, court costs and other litigation costs) and claims (including those for bodily injury, sickness, disease or death, or to injury to, destruction or loss of use of tangible property (collectively hereinafter a "Claim") by third parties that arise out of, relate to, or result from (i) Architect's breach of its professional-service warranty; (ii) Architect's failure to perform its obligations under this Agreement; and (iii) the negligent acts, errors or omissions of Architect and its employees, agents, sub-consultants and other contractors, and representatives in performing its Services and Work on the Project. The parties acknowledge that, with respect to such Claims against the City by third parties, the scope of Architect's indemnification obligation under this provision (i) shall not exceed One Million Dollars ($1,000,000) and (ii) the Architect is not obligated to indemnify the City for Claims caused by the sole negligence or willful misconduct of the Indemnitees.

§ 1.3.6.3 Notwithstanding any provision in this Agreement to the contrary, in no event shall the City be liable to Architect for any special, consequential, exemplary, punitive, economic or indirect damages (including, without limitation, any lost profits or loss of business, loss of revenue, or loss of goodwill) arising from the City's breach, suspension or termination of this Agreement.

§ 1.3.7 MISCELLANEOUS PROVISIONS

§ 1.3.7.1 This Agreement shall be governed by the law of the State of Alabama.

§ 1.3.7.2 With respect to acts or omissions occurring prior to substantial completion of the contemplated agreement between City and the contractor engaged to construct the Project, causes of action between the parties to this Agreement for such acts or omissions shall be deemed to have accrued, and the applicable statutes of limitations shall commence to run, not later than the date of substantial completion of that agreement. With respect to acts or omissions occurring after the substantial completion of the contemplated agreement contract between City and the contractor engaged to construct the Project, causes of action between the parties to this Agreement for such acts or omissions shall be deemed to have accrued, and the applicable statutes of limitations shall commence to run, the date of issuance of the final certificate for payment under that agreement.

§ 1.3.7.3 Nothing contained in this Agreement shall create or be construed to create a right, benefit or contractual relationship with or a cause of action in favor of a third party against either the City or Architect.

§ 1.3.7.4 Unless otherwise provided in this Agreement, the Architect and Architect's consultants shall have no responsibility for the discovery, presence, handling, removal or disposal of or exposure of persons to hazardous materials or toxic substances in any form at the Project site.

§ 1.3.7.5 With the written consent of City (which consent may not be unreasonably withheld), the Architect may include photographic or artistic representations of the design of the Project in its promotional and professional materials. The Architect shall be given reasonable access to the completed Project to make such representations. However, the Architect's materials shall not include the City's confidential or proprietary information if it has previously advised the Architect in writing of the specific information considered by the City to be confidential or proprietary. The City shall provide professional credit for the Architect in the City's promotional materials for the Project.

§ 1.3.7.6 If the City requests the Architect to execute certificates, the proposed language of such certificates shall be submitted to the Architect for review at least fourteen (14) days prior to the requested dates of execution. The Architect shall not be required to execute certificates that would require knowledge, services or responsibilities beyond the scope of this Agreement.

§ 1.3.7.7 The City and Architect bind themselves, and their respective partners, successors, assigns and legal representatives, to this Agreement and to all covenants herein. Neither the City nor the Architect shall assign this Agreement without the written consent of the other, except that the City may assign this Agreement to an institutional lender providing financing for the Project. In such event, the lender shall assume the City's rights and obligations under this Agreement. The Architect shall execute all consents reasonably required to facilitate such assignment.

§ 1.3.7.8 The Architect warrants that no person or selling agency has been employed or retained to solicit or secure this Agreement upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee.

§ 1.3.7.9 & § 1.3.7.10. Intentionally Omitted.

§ 1.3.7.11 All notices that may at any time be required to be given hereunder shall be deemed to have been properly given if sent by registered or certified mail, postage prepaid, and addressed as follows:

If to City/Owner as follows:
City of Mountain Brook, Alabama
Attention: Christopher Mullins
56 Church Street
Mountain Brook, AL 35213
P 205-802-3837; F 205-879-5919
Email: mullinsc@mtnbrook.org

and

City of Mountain Brook, Alabama
Attention: Thomas Boulware
56 Church Street
Mountain Brook, AL 35213
P 205-802-3845; F 205-874-0639
Email: boulwaret@mtnbrook.org

With copy to:
City of Mountain Brook, Alabama
Attention: Sam Gaston, City Manager
56 Church Street
Mountain Brook, AL 35213
P 205-802-3803
Email: gastons@mtnbrook.org

Or to Architect, as follows:
William Whittaker
2956 Old Gadsden Highway
Anniston, Alabama
P 256-689-0238; F 205-278-8731
Email: bill@billwarch.com

§ 1.3.7.12 Parts of the Agreement. The Agreement is comprised of the following documents:

- This **Agreement for Architectural Services**;
- **Exhibit A** – Scope of Basic Services
- **Attachment I to Exhibit A** (Details of Basic Services and Deliverables by the Architect for this Project);
- **Exhibit B** – Understanding on Responsibility To Provide Other Services
- **Attachment I to Exhibit B**
- **Exhibit C** - Hourly Rates for Additional Service if City Approves Change in Service

These writings are the entire and integrated agreement between the City and the Architect, and supersede all prior negotiations, representations or agreements, either written or oral, concerning the matters herein. This Agreement may be amended only by written instrument signed by both the City and the Architect. In the event of any conflict or inconsistency between the terms of this Agreement and those in the Exhibits or the Attachments thereto, the terms and provisions in this Agreement shall govern and control. In the event of any conflict between the Exhibits and the Attachments thereto, the terms and provisions in the Attachments shall govern and control.

§ 1.3.7.13 This Agreement may be executed (a) in counterparts, a complete set of which together shall constitute an original and (b) in duplicates, each of which shall constitute an original. Copies of this Agreement showing the signatures of the respective parties, whether produced by photographic, digital, computer, or other reproduction, may be used for all purposes as originals.

§ 1.3.8 TERMINATION OR SUSPENSION

§ 1.3.8.1 If either party defaults on a material obligation to the other under this Agreement (a "Default"), the non-defaulting party may terminate this Agreement if (i) the Default did not result from the acts or omission of the party desiring to terminate, and (ii) following the provision of written notice of Default by the non-defaulting party to the defaulting party, the defaulting party fails to correct or remedy the Default within ten (10) days after receipt of written notice. Failure of the City to make payments to the Architect in accordance with this Agreement, and the failure of the Architect to timely provide deliverables to City, shall be considered events of Default.

§ 1.3.8.2 If the Project is suspended by the City for more than thirty (30) consecutive days, the Architect shall be compensated for Services performed prior to notice of such suspension. When the Project is resumed, the Architect shall be compensated for expenses incurred (if any) in the interruption and resumption of the Architect's Services. The Architect's fees for the remaining services and the time schedules shall be equitably adjusted.

§ 1.3.8.3 Notwithstanding any other provision herein, the City may terminate this Agreement for its convenience upon not less than seven (7) days' written notice to the Architect. If the Project is abandoned by the City for more than 120 consecutive days, the Architect may terminate this Agreement by giving not less than seven (7) days' written notice written to City.

§ 1.3.8.4 In the event of termination that does not occur as the result of a Default by the Architect, the Architect shall be compensated for Services performed prior to termination (together with Reimbursable Expenses, if any, that are payable by City) then due. The Fee payable to the Architect at the time of termination will be calculated in proportion to services actually performed by the Architect effective when the City provides notice of termination to the Architect. Architect acknowledges that the payment of this compensation is its sole and exclusive remedy arising from City's termination of this Agreement.

§ 1.3.8.5 If the City fails to make payment when due the Architect for Services (and expenses if payable), the Architect may, upon ten (10) days' written notice to the City, suspend performance of services under this Agreement. Unless payment in full is received by the Architect within thirty (30) days of the date of the notice of that Default, the suspension shall take effect without further notice. In the event of a suspension of Services resulting from City's failure to make payment, the Architect shall have no liability to the City for delay or damage caused the City because of such suspension.

§ 1.3.9 PAYMENTS TO THE ARCHITECT

§ 1.3.9.1 No deductions shall be made from the Architect's compensation on account of penalty, liquidated damages or other sums withheld from payments to contractors, or on account of the cost of changes in the expense of the Project.

§ 1.3.9.2 Reimbursable Expenses (as defined in the following section) will not____X___/will _____ be paid to Architect on this Project. (Please enter "X" in appropriate place). The Fee is inclusive of all expenses for travel, materials or other costs incurred by Architect (and any of its sub-Consultants) in performing the Services.

§ 1.3.9.3 If the City agrees to pay Reimbursable Expenses, the City will pay such amounts in addition to compensation for Basic Services (or for additional services resulting from a Change in Service). These are actual, out-of-pocket expenses incurred by the Architect (and its employees and approved sub-consultants) on the Project and are limited to the items below:

a. Expenses in connection with out-of-town travel that is authorized in advance; long-distance communications; and fees paid for securing approval of authorities having jurisdiction over the Project.
b. Expense of renderings, models and mock-ups requested by the City.
c. If requested by the City, the expense of computer-aided design and drafting equipment time when used in connection with the Project.

§ 1.3.9.4 Architect shall submit invoices to City to request payment of compensation due hereunder. Architect shall include with each invoice supporting records that reasonably document the requested payment (including support for payment for any Change in Service or Reimbursable Expense, if such are payable hereunder.). The Architect shall maintain its supporting records for a period not less than one year after the final Project certificate for payment, and make those records available for inspection by City at mutually convenient times.

§ 1.3.9.5 Payments by City for compensation due Architect hereunder are due and payable thirty (30) days from the date of the Architect's invoice. Architect will submit invoices for Basic Services at the time of the completion of the respective Phases of the Architect's work.

§ 1.3.9.6 Notwithstanding any other provision herein, Architect acknowledges and agrees that City has the right to deduct from the total amount of consideration to be paid to Architect under this Agreement all unpaid, delinquent, or overdue license fees, taxes, fines, penalties and other amounts due the City from Architect.

ARTICLE 1.4 SCOPE OF SERVICES AND OTHER SPECIAL TERMS AND CONDITIONS

§ 1.4.1. Scope. The Basic Services to be provided by Architect and deliverables to be submitted to City for the Project are detailed in § 1.1, in this section, on **Exhibit A** and **Attachment I to Exhibit A**.

§ 1.4.2 Special Terms and Conditions.

- The City, at its expense, will provide any geotechnical services of soils at the Project site.
- The City, at its expense, the City shall furnish tests, inspections and reports of construction materials, or tests at the Project site for hazardous or toxic materials.
- The City is responsible for printing, advertising and distributing the construction documents that

Architect will furnish and that will be used to bid and award the construction contract for the Project.
-Architect, at its expense, will accommodate the City's reasonable requests to produce media pertinent to the Project.

ARTICLE 1.5 COMPENSATION

§ 1.5.1 Compensation to Architect for its performance of the Basic Services shall be computed and paid as follows:

At the conclusion of each respective phase of Basic Services, City will pay the Fee on the following schedule:

Phase	% of Fee	Amount Pd When Phase Completed
Schematic Design -	10%	$ 2480
Design Development -	15%	$ 3720
Construction Documents -	60%	$ 14,880
Bidding or Negotiation -	5%	$ 1240
Construction Admin. (includ. closeout)-	10%	$ 2480
Total Fee		$ 24,800

Overall Fee Summary

Basic Services (including Civil Engineering)	$ 24,800
Reimbursable Expenses	None
Maximum Total Amount Payable	$ 24,800

Unless otherwise agreed in writing, in no event will the maximum compensation for Services payable to Architect (inclusive of expenses) under this Agreement exceed $24,800.

§ 1.5.2 If a Change of Service occurs and the City authorizes payment for additional service as provided in Section 1.3.3.1, the compensation payable to Architect may exceed the amount stated immediately above. In the event that the City authorizes such a payment based on an hourly rate basis, **Exhibit C** (Hourly Rates for Additional Service if City Approves Change in Service), which is attached and incorporated herein, sets forth the hourly rates for additional compensation of Architect (including any additional compensation attributable to services of its sub-consultants).

§ 1.5.3. Charges for LEED Design. Not applicable.

(Signature page follows)

In Witness Whereof, this Agreement is entered into by the undersigned, duly authorized persons or representatives of the respective parties.

CITY OF MOUNTAIN BROOK, ALABAMA
(City or Owner)

By: _____
(Signature)

_____
(Type or Print Name)

Its: _____
(Title)

Date: _____

Attest: _____
City Clerk

_____
WILLIAM WHITTAKER (Architect)

Witness: _____

Date: _____

EXHIBIT A - SCOPE OF ARCHITECT'S BASIC SERVICES

GENERAL

§ 1.1 The Architect's Basic Services consist of those described in this Exhibit and include usual and customary structural, mechanical, and electrical engineering services. Services not set forth in this Exhibit or otherwise agreed to be provided by the Architect are Additional Services.

§ 1.2 The Architect shall manage the Architect's services, consult with the Owner, research applicable design criteria, attend Project meetings, communicate with members of the Project team and report progress to the Owner.

§ 1.3 The Architect shall coordinate its services with those services provided by the Owner and the Owner's consultants. The Architect shall be entitled to rely on the accuracy and completeness of services and information furnished by the Owner and the Owner's consultants. The Architect shall provide prompt written notice to the Owner if the Architect becomes aware of any error, omission or inconsistency in such services or information.

§ 1.4 As soon as practicable after the date of this Agreement, the Architect shall submit for the Owner's approval a schedule for the performance of the Architect's Services. The schedule initially shall include anticipated dates for the commencement of construction and for Substantial Completion of the Work as set forth in the Initial Information. The schedule shall include allowances for periods of time required for the Owner's review, for the performance of the Owner's consultants, and for approval of submissions by authorities having jurisdiction over the Project. Once approved by the Owner, time limits established by the schedule shall not, except for reasonable cause, be exceeded by the Architect or Owner. With the Owner's approval, the Architect shall adjust the schedule, if necessary, as the Project proceeds until the commencement of construction.

§ 1.5 The Architect shall not be responsible for an Owner's directive or substitution made without the Architect's approval.

§ 1.6 The Architect shall, at appropriate times, contact the governmental authorities required to approve the Construction Documents and the entities providing utility services to the Project. In designing the Project, the Architect shall respond to applicable design requirements imposed by such governmental authorities and by such entities providing utility services.

§ 1.7 The Architect shall assist the Owner in connection with the Owner's responsibility for filing documents required for the approval of governmental authorities having jurisdiction over the Project.

SCHEMATIC DESIGN PHASE SERVICES

§ 2.1 The Architect shall review the program and other information furnished by the Owner, and shall review laws, codes, and regulations applicable to the Architect's services.

§ 2.2 The Architect shall prepare a preliminary evaluation of the Owner's program, schedule, budget for the cost of the work, Project site, and the proposed procurement or delivery method and other Initial Information, each in terms of the other, to ascertain the requirements of the Project. The Architect shall notify the Owner of (1) any inconsistencies discovered in the information, and (2) other information or consulting services that may be reasonably needed for the Project.

§ 2.3 The Architect shall present its preliminary evaluation to the Owner and shall discuss with the Owner alternative approaches to design and construction of the Project, including the feasibility of incorporating environmentally responsible design approaches. The Architect shall reach an understanding with the Owner regarding the requirements of the Project.

§ 2.4 Based on the Project's requirements agreed upon with the Owner, the Architect shall prepare and present for the Owner's approval a preliminary design illustrating the scale and relationship of the Project components.

§ 2.5 Based on the Owner's approval of the preliminary design, the Architect shall prepare Schematic Design Documents for the Owner's approval. The Schematic Design Documents shall consist of drawings and other documents including a site plan, if appropriate, and preliminary building plans, sections and elevations; and may

include some combination of study models, perspective sketches, or digital modeling. Preliminary selections of major building systems and construction materials shall be noted on the drawings or described in writing.

§ 2.6 The Architect shall consider environmentally responsible design alternatives, such as material choices and building orientation, together with other considerations based on program and aesthetics, in developing a design that is consistent with the Owner's program, schedule and budget for the cost of the work. The Owner may obtain other environmentally responsible design services under Article 4.

§ 2.7 The Architect shall consider the value of alternative materials, building systems and equipment, together with other considerations based on program and aesthetics, in developing a design for the Project that is consistent with the Owner's program, schedule and budget for the cost of the work.

§ 2.8 The Architect shall submit to the Owner an estimate of the cost of the work.

§ 2.9 The Architect shall submit the Schematic Design Documents to the Owner, and request the Owner's approval.

DESIGN DEVELOPMENT PHASE SERVICES

§ 3.1 Based on the Owner's approval of the Schematic Design Documents, and on the Owner's authorization of any adjustments in the Project requirements and the budget for the cost of the work, the Architect shall prepare Design Development Documents for the Owner's approval. The Design Development Documents shall illustrate and describe the development of the approved Schematic Design Documents and shall consist of drawings and other documents including plans, sections, elevations, typical construction details, and diagrammatic layouts of building systems to fix and describe the size and character of the Project as to architectural, structural, mechanical and electrical systems, and such other elements as may be appropriate. The Design Development Documents shall also include outline specifications that identify major materials and systems and establish in general their quality levels.

§ 3.2 The Architect shall update the estimate of the cost of the work.

§ 3.3 The Architect shall submit the Design Development Documents to the Owner, advise the Owner of any adjustments to the estimate of the cost of the work, and request the Owner's approval.

CONSTRUCTION DOCUMENTS PHASE SERVICES

§ 4.1 Based on the Owner's approval of the Design Development Documents, and on the Owner's authorization of any adjustments in the Project requirements and the budget for the Project, the Architect shall prepare Construction Documents for the Owner's approval. The Construction Documents shall illustrate and describe the further development of the approved Design Development Documents and shall consist of Drawings and Specifications setting forth in detail the quality levels of materials and systems and other requirements for the construction of the Project. The Owner and Architect acknowledge that in order to construct the Project the Contractor will provide additional information, including Shop Drawings, Product Data, Samples and other similar submittals, which the Architect shall review in accordance with the Submittals section herein.

§ 4.2 The Architect shall incorporate into the Construction Documents the design requirements of governmental authorities having jurisdiction over the Project.

§ 4.3 During the development of the Construction Documents, the Architect shall assist the Owner in the development and preparation of (1) bidding and procurement information that describes the time, place and conditions of bidding, including bidding or proposal forms; (2) the form of agreement between the Owner and Contractor; and (3) the Conditions of the Contract for Construction (General, Supplementary and other Conditions). The Architect shall also compile a Project manual that includes the Conditions of the Contract for Construction and Specifications and may include bidding requirements and sample forms.
§ 4.4 The Architect shall update the estimate for the Project.

§ 4.5 The Architect shall submit the Construction Documents to the Owner, advise the Owner of any adjustments to the estimate of the cost of the Project, make recommendations to adjust the cost of the Project to conform to the Owner's budget, and request the Owner's approval.

BIDDING OR NEGOTIATION PHASE SERVICES

§ 5.1 General. The Architect shall assist the Owner in establishing a list of prospective contractors. Following the Owner's approval of the Construction Documents, the Architect shall assist the Owner in (1) obtaining either competitive bids or negotiated proposals; (2) confirming responsiveness of bids or proposals; (3) determining the successful bid or proposal, if any; and, (4) awarding and preparing contracts for construction.

§ 5.2 Competitive Bidding
§ 5.2.1 Bidding Documents shall consist of bidding requirements and proposed Contract Documents.

§ 5.2.2 The Architect shall assist the Owner in bidding the Project by

.1 procuring the reproduction of Bidding Documents for distribution to prospective bidders;
.2 distributing the Bidding Documents to prospective bidders, requesting their return upon completion
of the bidding process, and maintaining a log of distribution and retrieval and of the amounts of deposits, if any, received from and returned to prospective bidders;
.3 organizing and conducting a pre-bid conference for prospective bidders;
.4 preparing responses to questions from prospective bidders and providing clarifications and interpretations of the Bidding Documents to all prospective bidders in the form of addenda; and
.5 organizing and conducting the opening of the bids, and subsequently documenting and distributing
the bidding results, as directed by the Owner.

§ 5.2.3 The Architect shall consider requests for substitutions, if the Bidding Documents permit substitutions, and shall prepare and distribute addenda identifying approved substitutions to all prospective bidders.

§ 5.3 Negotiated Proposals (If Applicable)
§ 5.3.1 Proposal Documents shall consist of proposal requirements and proposed Contract Documents.

§ 5.3.2 The Architect shall assist the Owner in obtaining proposals by

.1 procuring the reproduction of Proposal Documents for distribution to prospective contractors, and
requesting their return upon completion of the negotiation process;
.2 organizing and participating in selection interviews with prospective contractors; and
.3 participating in negotiations with prospective contractors, and subsequently preparing a summary
report of the negotiation results, as directed by the Owner.

§ 5.3.3 The Architect shall consider requests for substitutions, if the Proposal Documents permit substitutions, and shall prepare and distribute addenda identifying approved substitutions to all prospective contractors.

CONSTRUCTION PHASE SERVICES

§ 6.1 General
§ 6.1.1 The Architect shall provide administration of the Contract between the Owner and the Contractor as set forth below and in the General Conditions of the Contract for Construction. If the Owner and Contractor modify AIA Document A201–2007, those modifications shall not affect the Architect's services under this Agreement unless the Owner and the Architect amend this Agreement.

§ 6.1.2 The Architect shall advise and consult with the Owner during the Construction Phase Services. The Architect shall have authority to act on behalf of the Owner only to the extent provided in this Agreement. The Architect shall not have control over, charge of, or responsibility for the construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work, nor shall the Architect be responsible for the Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. The Architect shall be responsible for the Architect's negligent acts or omissions, but shall not have control over or charge of, and shall not be responsible for, acts or omissions of the Contractor or of any other persons or entities performing portions of the construction work.

§ 6.1.3 The Architect's responsibility to provide Construction Phase Services commences with the award of the contract for construction and terminates on the date the Architect issues the final Certificate for Payment.

§ 6.2 Evaluations of the Construction Work

§ 6.2.1 The Architect shall visit the Project site at intervals appropriate to the stage of construction, or as otherwise Agreed to become generally familiar with the progress and quality of the portion of the construction work that is completed, and to determine, in general, if that work observed is being performed in a manner indicating that the work, when fully completed, will be in accordance with the Contract Documents. However, the Architect shall not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. On the basis of the site visits, the Architect shall keep the Owner reasonably informed about the progress and quality of the portion of the construction work completed, and report to the Owner (1) known deviations from the Contract Documents and from the most recent construction schedule submitted by the Contractor, and (2) defects and deficiencies observed in that work.

§ 6.2.2 The Architect has the authority to reject construction work that does not conform to the Contract Documents. Whenever the Architect considers it necessary or advisable, the Architect shall have the authority to require inspection or testing of the Work in accordance with the provisions of the Contract Documents, whether or not such Work is fabricated, installed or completed. However, neither this authority of the Architect nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect to the Contractor, subcontractors, material and equipment suppliers, their agents or employees or other persons or entities performing portions of the construction work.

§ 6.2.3 The Architect shall interpret and decide matters concerning performance under, and requirements of, the Contract Documents on written request of either the Owner or construction Contractor. The Architect's response to such requests shall be made in writing within any time limits agreed upon or otherwise with reasonable promptness.

§ 6.2.4 Interpretations and decisions of the Architect shall be consistent with the intent of and reasonably inferable from the Contract Documents and shall be in writing or in the form of drawings. When making such interpretations and decisions, the Architect shall endeavor to secure faithful performance by both Owner and Contractor, shall not show partiality to either, and shall not be liable for results of interpretations or decisions rendered in good faith. The Architect's decisions on matters relating to aesthetic effect shall be final if consistent with the intent expressed in the Contract Documents.

§ 6.2.5 Unless the Owner and Contractor designate another person to serve as an initial decision maker, the Architect shall render initial decisions on Claims between the Owner and Contractor as provided in the Contract Documents.

§ 6.3 Certificates for Payment to Construction Contractor

§ 6.3.1 The Architect shall review and certify the amounts due the Contractor and shall issue certificates in such amounts. The Architect's certification for payment shall constitute a representation to the Owner, based on the Architect's evaluation of the construction work and on the data comprising the Contractor's Application for Payment, that, to the best of the Architect's knowledge, information and belief, the Work has progressed to the point indicated and that the quality of the work is in accordance with the Contract Documents. The foregoing representations are subject (1) to an evaluation of the work for conformance with the Contract Documents upon Substantial Completion, (2) to results of subsequent tests and inspections, (3) to correction of minor deviations from the Contract Documents prior to completion, and (4) to specific qualifications expressed by the Architect.

§ 6.3.2 The issuance of a Certificate for Payment shall not be a representation that the Architect has (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work, (2) reviewed construction means, methods, techniques, sequences or procedures, (3) reviewed copies of requisitions received from subcontractors and material suppliers and other data requested by the Owner to substantiate the Contractor's right to payment, or (4) ascertained how or for what purpose the Contractor has used money previously paid on account of the construction contract sum.

§ 6.3.3 The Architect shall maintain a record of the Applications and Certificates for Payment.

§ 6.4 Submittals

§ 6.4.1 The Architect shall review the construction Contractor's submittal schedule and shall not unreasonably delay or withhold approval. The Architect's action in reviewing submittals shall be taken in accordance with the approved submittal schedule or, in the absence of an approved submittal schedule, with reasonable promptness while allowing sufficient time in the Architect's professional judgment to permit adequate review.

§ 6.4.2 In accordance with the Architect-approved submittal schedule, the Architect shall review and approve or take other appropriate action upon the Contractor's submittals such as Shop Drawings, Product Data and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. Review of such submittals is not for the purpose of determining the accuracy and completeness of other information such as dimensions, quantities, and installation or performance of equipment or systems, which are the construction Contractor's responsibility. The Architect's review shall not constitute approval of safety precautions or, unless otherwise specifically stated by the Architect, of any construction means, methods, techniques, sequences or procedures. The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

§ 6.4.3 If the Contract Documents specifically require the Contractor to provide professional design services or certifications by a design professional related to systems, materials or equipment, the Architect shall specify the appropriate performance and design criteria that such services must satisfy. The Architect shall review Shop Drawings and other submittals related to the Work designed or certified by the design professional retained by the Contractor that bear such professional's seal and signature when submitted to the Architect. The Architect shall be entitled to rely upon the adequacy, accuracy and completeness of the services, certifications and approvals performed or provided by such design professionals.

§ 6.4.4 The Architect shall review and respond to reasonable requests for information about the Contract Documents. The Architect shall set forth in the Contract Documents the requirements for requests for information. Requests for information shall include, at a minimum, a detailed written statement that indicates the Specific Drawings or Specifications in need of clarification and the nature of the clarification requested. The Architect's response to such requests shall be made in writing within any time limits agreed upon, or otherwise with reasonable promptness. If appropriate, the Architect shall prepare and issue supplemental Drawings and Specifications in response to requests for information.

§ 6.4.5 The Architect shall maintain a record of submittals and copies of submittals supplied by the Contractor in accordance with the requirements of the Contract Documents.

§ 6.5 Changes in the Work

§ 6.5.1 The Architect may authorize minor changes in the construction work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the construction contract sum or an extension of the Contract Time. The Architect shall prepare Change Orders and Construction Change Directives for the Owner's approval and execution in accordance with the Contract Documents.

§ 6.5.2 The Architect shall maintain records relative to changes in the construction work.

§ 6.6 Project Completion

§ 6.6.1 The Architect shall conduct inspections to determine the date or dates of Substantial Completion and the date of final completion; issue Certificates of Substantial Completion; receive from the Contractor and forward to the Owner, for the Owner's review and records, written warranties and related documents required by the Contract Documents and assembled by the Contractor; and issue a final Certificate for Payment based upon a final inspection indicating the Work complies with the requirements of the Contract Documents.

§ 6.6.2 The Architect's inspections shall be conducted with the Owner to check conformance of the Work with the requirements of the Contract Documents and to verify the accuracy and completeness of the list submitted by the construction Contractor of work to be completed or corrected.

§ 6.6.3 When the work is found to be substantially complete, the Architect shall inform the Owner about the balance of the construction contract sum remaining to be paid the Contractor, including the amount to be retained from that contract sum, if any, for final completion or correction of the work.

§ 6.6.4 The Architect shall forward to the Owner the following information received from the Contractor: (1) consent of surety or sureties, if any, to reduction in or partial release of retainage or the making of final payment; (2) affidavits, receipts, releases and waivers of liens or bonds indemnifying the Owner against liens; and (3) any other documentation required of the Contractor under the Contract Documents.

§ 6.6.5 Upon request of the Owner, and prior to the expiration of one year from the date of Substantial Completion, the Architect shall, without additional compensation, conduct a meeting with the Owner to review the facility operations and performance.

ATTACHMENT I TO EXHIBIT A – FURTHER DETAILS ON BASIC SERVICES AND DELIVERABLES BY THE ARCHITECT ON THIS PROJECT

See following pages.

EXHIBIT B – UNDERSTANDING ON RESPONSIBILITY TO PROVIDE OTHER SERVICES

Other Services	**Responsibility** *(Architect, Owner or Not Provided)*	**Service Description** *(See Description, Notes or Attachment I below)*
Programming (B202™–2009)	Not provided	
Multiple preliminary designs	Not provided	
Measured drawings	Not Provided	
Existing facilities surveys	Not Provided	
Site Evaluation and Planning (B203™–2007)	Not Provided	
Building Information Modeling (E202™–2008)	Not Provided	
Civil Engineering	Provided by Architect	See Attachment I to Exh B for scope of these services to be provided by Architect's sub-consultant ; charges for these services are included in Fee for Basic Services
Landscape design	Not Provided	
Architectural Interior Design (B252™–2007)	Not Provided	
Value Analysis (B204™–2007)	Not Provided	
Detailed cost estimating	Not Provided	
On-site Project Representation (B207™–2008)	Not Provided	
Conformed construction documents	Not Provided	
As-Designed Record drawings	Not Provided	
As-Constructed Record drawings	Not Provided	
Post occupancy evaluation	Not Provided	
Facility Support Services (B210™–2007)	Not Provided	
Tenant-related services	Not Provided	
Coordination of Owner's consultants	Not Provided	
Telecommunications/data design	Not Provided	
Security Evaluation and Planning (B206™–2007)	Not Provided	
Commissioning (B211™–2007)	Not Provided	
Extensive environmentally responsible design	Not Provided	
LEED® Certification (B214™–2012)	Not Provided	
Fast-track design services	Not Provided	
Historic Preservation (B205™–2007)	Not Applicable	
Furniture, Furnishings, and Equipment Design (B253™–2007)	Not Provided	
Geotechnical Services	Not Provided by Architect	

Special Notes: The Architect is not providing any materials testing or services related to special inspections as part of its Basic Service.

ATTACHMENT I TO EXHIBIT B

See following pages.

EXHIBIT C
HOURLY RATES FOR ADDITIONAL SERVICE IF CITY APPROVES CHANGE IN SERVICE

See hourly rates for Architect and Architect's Sub-consultants shown on Attachment I to Exhibit A.

Attachment 1 to

EXHIBIT "A"

Bill Whittaker, AIA
www.billwarch.com

bill@billwarch.com
256.689.0238
2956 Old Gadsden Hwy
Anniston, Alabama 36206

January 25, 2016

Chris J. Mullins, MSEM
Deputy Chief
Mountain Brook Fire Department
102 Tibbett Street
Birmingham, Alabama 35213

Re: FEE PROPOSAL
A NEW 50'X60' MBFD / FD TRAINING FACILITY

Mr. Mullins,

I would like to thank you for the opportunity to present a proposal for your review and commend. Below is an outline of the proposed services for your review and comment.

PROJECT SERVICES SUMMARY **Stipulated Sum of $24,800.000**

Architectural services

- Building code analysis and life safety plan
- Construction drawings: Floor plans, Building sections, Wall section, Elevations, Schedules, and Details
- Bidding and Negotiations with contractors
- Specification manual
- Construction observation – periodic
- *Additional services billing rates: $150 per hour*

Structural Engineering services by Barnett, Jones, Wilson

- Foundation design
- Framing plans and details.
- Two site visits included in fee
- Does not include retaining wall design if required
- *Additional services billing rates: $500 per additional site visit/ $150 per hour*

Civil Engineering services, JBW&T Enbineers

- Survey of scope of work limits
- Site Layout Plan
- Drainage, Grading, and Utility Plans
- Erosion Control Plans
- Details
- Retaining wall design specifications
- See attached services letter for full description of work.
- *Additional services billing rates: $150 per hour*

Mechanical Engineering services, Whorton Engineering – fee $4000

- HVAC design
- Plumbing design
- Site visits included in fee
- *Additional services billing rates: $250 per hour senior engineer, $80 per hour drafter*

Electrical Engineering services, McCarter Engineering – fee $3000

- Electrical design
- Site lighting, canopy lighting, and surface mounted building lighting
- Site visits included in fee
- *Additional services billing rates: $150 per hour*

DELIVERABLES:

- All printing needed for review and approval of owner
- 10 copies of 24x36 final construction / permit drawings / bidding
- Electronic PDFs of final construction / permit drawings (no restrictions and may reproduce as needed)

EXCLUSIONS AND LIMITATIONS:

- Fire alarm and sprinkler design services, if required, are not included
- Fixed fee has been proposed, but under no circumstances shall work provided by architect to exceed 200 hours. All work required over 200 hours requested by Owner shall be paid as additional services.
- No Landscape design is included
- A limit of 10 drawings sets for permitting / bidding/ permitting. All additional sets to be billed at cost to the Owner.
- Geotechnical services are excluded.
- All Newspaper ads required for bidding will be paid by Owner. Owner will contact newspaper and arrange to run ads. Architect will provide wording for the Advertisement for Bids.

ADDITIONAL SERVICES:

Any additional services not defined in the tiered services and requested by the client will be billed at a rate as indicated in the project services summary.. No additional work will be performed without written request by Owner.

GENERAL REQUIREMENTS AND COMMENTS:

I recommend on all of my projects a geotechnical report to get accurate data on the soil conditions for foundations, retaining walls, paving, etc. Geotechnical engineering is not included in the above tiered services. As always our team's ability to perform a quality service is directly related to the information you provide us for the project.

Again thank you for the opportunity to present a proposal. We hope that we will be able to work on your project and deliver an outstanding service. Please feel free to call or email me if you have any questions.

Sincerely,

William A. Whittaker

Bill Whittaker, AIA

STATE OF ALABAMA
WILLIAM
WHITTAKER
6524
REGISTERED ARCHITECT

Attachment 1 to
Exhibit "B"

JBW&T, INC.

CONSULTING ENGINEERS AND LAND SURVEYORS

P O BOX 631 • 154A JESTER PARKWAY
GADSDEN, ALABAMA 35902 • RAINBOW CITY, ALABAMA 35906
TELEPHONE (256) 547-8379 • FAX (256) 547-3464
www.jbwt.com

January 8, 2016

Bill Whittaker, AIA
2956 Old Gadsden Hwy
Anniston, AL 36206

Re: Proposal for Joint Training Facility
Police Department and Fire Department of
Mountain Brook, Alabama

Dear Bill:

As per your request, our firm has prepared this proposal to provide civil engineering services for the development of site plans for the above referenced project. The following are the services we will provide along with the associated fees:

1) Site Survey (Topography, set control points, utility locations, location of planned onsite sewer disposal area with survey locations of any known infrastructure between the proposed building and the effluent disposal field and storm water detention area topography)(See attached survey limits map)

FEE hourly not to exceed = $2,700.00

2) Civil Engineering:
   A) Existing Conditions
   B) Demolition Plan (Sitework only)
   C) Site Layout Plan
   D) Grading Plan
      - Stormwater detention design, details and calculations to comply with Mountain Brook Muni-Code.
   E) BMP Plan
      - A Construction General Permit will be required for this site. Operators / owners of all regulated construction sites must implement and maintain effective erosion and sediment controls in accordance a Construction Best Management Practices Plan (CBMPP) prepared and certified by a Qualified Credentialed Professional (QCP). Also, due to the location of the site within the Cahaba River Watershed, we will be required to submit a CBMPP with the request for ADEM permit coverage. Construction cannot commence until ADEM's approval or 30 days have passed after submittal of documentation to ADEM. A QCP or Qualified Credentialed Inspector (QCI) conduct regular inspections of regulated construction activities to ensure effective erosion and sediment controls are being maintained. Due to the proximity of the site to the Cahaba River, it is possible that ADEM could require turbidity monitoring for the construction site.

Construction General Permit-ADEM

- Notice of Intent ($1155.00-ADEM fees)
- Construction Best Management Practices Plan (CBMPP) (Submitted with NOI)
- Spill Prevention Controls and Countermeasures Plan (SPCC)
- Stormwater Inspections
- Turbidity Monitoring (ADEM)

Stormwater Detention Permit-City of Mountain Brook

- Pre-design conference
- Stormwater Velocity Calculations
- Detention 2-yr thru 100-yr, 24-hour storms
- Dry Reservoir Design
- Letter of Application
- Review Fees ($400.00-city fees)

F) BMP Notes And Details (Note: The plans, specs, etc must comply with the MS4 requirements.)
G) Misc. Details
H) Contract Specifications
I) Utility Design and Details Coordination and design for potable water supply connection, sanitary sewer effluent discharge, piping, pump, etc. in order to coordinate with the onsite sanitary sewer disposal system (permit obtained by others).

FEE= $3,700.00
(Note: This fee does not include and local or state permit fees)

As always our firm appreciates the opportunity to provide our services to you. If you have any questions in regard to this proposal, please contact our office. If this proposal meets your approval, please sign below and return a copy to our office as a notice to proceed.

Sincerely,

JBW&T, INC.

Houston Jenkins Jr.

Houston Jenkins, Jr., P.E./P.L.S.

HJ/jo

Architect will sign agreement with civil engineer once Owner / Architect Agreement is signed. This service will be included within the architect's proposed fee

Proposal Accepted By:_____

Authorized Signature Date

NOTE Compensation will be in accordance with the above reference proposal. Client agrees to pay all charges not in dispute within 30 days of receipt of invoice and recognizes that charges not paid within 30 days are subject to a late payment charge of 1 5 percent of the balance due for each additional month or fraction thereof that undisputed charges remain unpaid. Client agrees to pay cost of collection, including reasonable attorney's fees, if invoices are collected by law or through an attorney. Client further agrees that JBW&T has the right to suspend or terminate service if undisputed charges are not paid within 45 days of receipt of JBW&T invoice and agrees to waive any claim against JBW&T and to indemnify, defend and hold JBW&T harmless from and against any claims arising from JBW&T's suspension or termination due to Client's failure to provide timely payment P:\PROPOSAL\Proposals - 2015 - Houston\Bill Whittaker\Mountain Brook Fire Training Facility\Proposal 1-7 16 doc

ADDENDUM TO AGREEMENT BETWEEN
THE CITY OF MOUNTAIN BROOK AND
BLACKJACK HORTICULTURE, INC.
DATED MAY 9, 2016

THIS ADDENDUM ("the/this Addendum") to the principal agreement between the **City of Mountain Brook, Alabama** ("the City") and **William Whittaker, Architect** ("the Contractor") dated May 9, 2016.

This Addendum is a part of the principal agreement, but supersedes and controls any conflicting or inconsistent terms or provisions in the principal agreement, particularly to the extent the conflicting or inconsistent terms or provisions 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 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.

   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 into an 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.

2. ***Arbitration; Mediation; Alternate Dispute Resolution.*** The City agrees to arbitrate disputes or to engage in alternate dispute resolution (ADR) if arbitration or ADR is required by the agreement as a means of resolving disagreements arising thereunder or is a precondition to the pursuit of other legal remedies, but only to the extent (1) the rights and remedies available under such arbitration rules or processes do not afford the Contractor greater relief (e.g., attorney's fees, damages, etc.) than would be available under otherwise applicable law, (2) the venue for the arbitration or mediation proceeding is in Jefferson County, Alabama, and (3) the costs of such proceedings (including the fees of the arbitrator or mediator) are divided evenly between the parties.

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 at a rate higher than two-thirds of one percent per month (eight percent per annum), but 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 subject to late payment charges 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. ***Alabama Immigration Law Compliance Contract.*** Contractor agrees that it will fully comply with the Immigration Reform and Control Act of 1986, as amended by the Immigration Act of 1990, and the Beason-Hammon Alabama Taxpayer and Citizen Protection Act, which makes it unlawful for an employer in Alabama to knowingly hire or continue to employ an alien who is or has become unauthorized with respect to such employment or to fail to comply with the 1-9 requirements or fails to use E-Verify to verify the eligibility to legally work in the United States for all of its new hires who are employed to work in the State of Alabama. Without limiting the foregoing, Contractor shall not knowingly employ, hire for employment, or continue to employ an unauthorized alien, and shall have an officer or other managerial employee who is personally familiar with the Contractor's hiring practices to execute an affidavit to this effect on the form supplied by the Board and return the same to the City. Contractor shall also enroll in the E-Verify

Program prior to performing any work, or continuing to perform any ongoing work, and shall remain enrolled throughout the entire course of its performance hereunder, and shall attach to its affidavit the E-Verify Program for Employment Verification and Memorandum of Understanding and such other documentation as the Board may require to confirm Contractor's enrollment in the E-Verify Program. Contractor agrees not to knowingly allow any of its subcontractors, or any other party with whom it has a contract, to employ in the State of Alabama any illegal or undocumented aliens to perform any work in connection with the Project, and shall include in all of its contracts a provision substantially similar to this paragraph. If Contractor receives actual knowledge of the unauthorized status of one of its employees in the State of Alabama, it will remove that employee from the project, jobsite or premises of the City and shall comply with the Immigration Reform and Control Act of 1986, as amended by the Immigration Act of 1990, and the Beason-Hammon Alabama Taxpayer and Citizen Protection Act. Contractor shall require each of its subcontractors, or other parties with whom it has a contract, to act in a similar fashion. If Contractor violates any term of this provision, this Agreement will be subject to immediate termination by the City. To the fullest extent permitted by law, Contractor shall defend, indemnify and hold harmless the City from any and all losses, consequential damages, expenses (including, but not limited to, attorneys' fees), claims, suits, liabilities, fines, penalties, and any other costs arising out of or in any way related to Contractor's failure to fulfill its obligations contained in this paragraph.

DATED this 9th day of May, 2016.

William Whittaker, Architect

By : _____

Its : _____

City of Mountain Brook, Alabama

By : _____

Its : _____

RESOLUTION NO. 2016-160

BE IT RESOLVED by the City Council of the City of Mountain Brook, Alabama, that the [sole] bid to extend the left turn lane on Overbrook Road at Montevallo Road presented by Dunn Construction Company, Inc. is hereby accepted.

BE IT FURTHER RESOLVED by the City Council of the City of Mountain Brook, Alabama, that the City Manager of the City is hereby authorized and directed to issue a purchase order and to execute such other documents determined to be necessary with respect to said turn lane extension.

ADOPTED: This 9th day of May, 2016.

_____
Council President

APPROVED: This 9th day of May, 2016.

_____
Mayor

CERTIFICATION

I, Steven Boone, City Clerk of the City of the City of Mountain Brook, Alabama, hereby certify the above to be a true and correct copy of a resolution adopted by the City Council of the City of Mountain Brook at its meeting held on May 9, 2016, as same appears in the minutes of record of said meeting.

_____
City Clerk

City of Mountain Brook

Steve Boone <boones@mtnbrook.org>

Overbrook @ Montevallo Turn Lane Extension

1 message

Ronald Vaughn <vaughnr@mtnbrook.org> Thu, May 5, 2016 at 1:31 PM
To: Steve Boone <boones@mtnbrook.org>
Cc: Sam Gaston <gastons@mtnbrook.org>

Steve,

We opened bids for the subject project this morning and received only one bid. The bid from Dunn Construction is $141,000.00 and everything appears to be in order. With this amount being under what we have budgeted I recommend we award the contract to Dunn Construction.

Thanks

Ronnie Vaughn
Public Works Director
City of Mountain Brook AL
3579 East Street
Birmingham , Alabama 35243
205.802.3865 Office
205.967.2631 Fax
vaughnr@mtnbrook.org

AGREEMENT

THIS AGREEMENT made the 9th day of May, 2016, by and between Dunn Construction Company, Inc. ("CONTRACTOR") and THE CITY OF MOUNTAIN BROOK, ALABAMA ("the City").

WHEREAS, Contractor has been determined by the City to be the lowest responsible bidder in response to the City's invitation to bid for Right Turn Lane Extension on Overbrook Road at Montevallo Road, dated May 9, 2016; and

WHEREAS, the City and Contractor deem it desirable to formalize and memorialize the terms and conditions of their contract;

NOW, THEREFORE, this agreement:

1. Contractor shall provide a Right Turn Lane Extension on Overbrook Rd at Montevallo Rd in Mountain Brook, AL in accordance with the terms, provisions and conditions of the specifications made the basis of the City's invitation to bid and at the rate proposed by Contractor in the proposal submitted to the City in response thereto. The City's invitation to bid and the bid specifications set forth therein, as well as Contractor's bid proposed in response thereto (Appendix 1), are incorporated herein and made a part hereof by reference.

2. This contract shall be terminable by the City for cause on ten days' written notice to Contractor, provided that Contractor shall have a reasonable opportunity to cure or correct any deficiency in performance that is the basis of a proposed termination for cause. Either party may terminate the contract without cause on sixty days' notice to the non-terminating party.

ATTEST

DUNN CONSTRUCTION COMPANY, INC.

By:_____ By:_____

Its:_____ Its:_____

ATTEST

THE CITY OF MOUNTAIN BROOK, ALABAMA

By:_____ By:_____

Its:_____ Its:_____

ADDENDUM TO AGREEMENT BETWEEN
THE CITY OF MOUNTAIN BROOK AND
DUNN CONSTRUCTION COMPANY, INC.
DATED MAY 9, 2016

THIS ADDENDUM ("the/this Addendum") to the principal agreement between the **City of Mountain Brook, Alabama** ("the City") and **Dunn Construction Company, Inc.** ("the Contractor") dated May 9, 2016.

This Addendum is a part of the principal agreement, but supersedes and controls any conflicting or inconsistent terms or provisions in the principal agreement, particularly to the extent the conflicting or inconsistent terms or provisions 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 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.

   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 therefore.

   C. *"The Contractor"* refers to the person, firm, or other legal entity that enters into an 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.

2. ***Arbitration; Mediation; Alternate Dispute Resolution.*** The City agrees to arbitrate disputes or to engage in alternate dispute resolution (ADR) if arbitration or ADR is required by the agreement as a means of resolving disagreements arising thereunder or is a precondition to the pursuit of other legal remedies, but only to the extent (1) the rights and remedies available under such arbitration rules or processes do not afford the Contractor greater relief (e.g., attorney's fees, damages, etc.) than would be available under otherwise applicable law, (2) the venue for the arbitration or mediation proceeding is in Jefferson County, Alabama, and (3) the costs of such proceedings (including the fees of the arbitrator or mediator) are divided evenly between the parties.

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 therefore.

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 at a rate higher than two-thirds of one percent per month (eight percent per annum), but 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 subject to late payment charges 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. ***Alabama Immigration Law Compliance Contract.*** Contractor agrees that it will fully comply with the Immigration Reform and Control Act of 1986, as amended by the Immigration Act of 1990, and the Beason-Hammon Alabama Taxpayer and Citizen Protection Act, which makes it unlawful for an employer in Alabama to knowingly hire or continue to employ an alien who is or has become unauthorized with respect to such employment or to fail to comply with the 1-9 requirements or fails to use E-Verify to verify the eligibility to legally work in the United States for all of its new hires who are employed to work in the State of Alabama. Without limiting the foregoing, Contractor shall not knowingly employ, hire for employment, or continue to employ an unauthorized alien, and shall have an officer or other managerial employee who is personally familiar with the Contractor's hiring practices to execute an affidavit to this effect on the form supplied by the Board and return the same to the City. Contractor shall also enroll in the E-Verify Program prior to performing any work, or continuing to perform any ongoing work, and shall remain enrolled throughout the entire course of its performance hereunder, and shall attach to its affidavit the E-Verify Program for Employment Verification and Memorandum of Understanding and such other documentation as the Board may require to confirm Contractor's enrollment in the E-Verify Program. Contractor agrees not to knowingly allow any of its subcontractors, or any

other party with whom it has a contract, to employ in the State of Alabama any illegal or undocumented aliens to perform any work in connection with the Project, and shall include in all of its contracts a provision substantially similar to this paragraph. If Contractor receives actual knowledge of the unauthorized status of one of its employees in the State of Alabama, it will remove that employee from the project, jobsite or premises of the City and shall comply with the Immigration Reform and Control Act of 1986, as amended by the Immigration Act of 1990, and the Beason-Hammon Alabama Taxpayer and Citizen Protection Act. Contractor shall require each of its subcontractors, or other parties with whom it has a contract, to act in a similar fashion. If Contractor violates any term of this provision, this Agreement will be subject to immediate termination by the City. To the fullest extent permitted by law, Contractor shall defend, indemnify and hold harmless the City from any and all losses, consequential damages, expenses (including, but not limited to, attorneys' fees), claims, suits, liabilities, fines, penalties, and any other costs arising out of or in any way related to Contractor's failure to fulfill its obligations contained in this paragraph.

DATED this 9th day of May, 2016.

Dunn Construction Company, Inc.	**City of Mountain Brook, Alabama**
By : _____	By : _____
Its : _____	Its : _____

RECEIVED
DUNN
BIRMINGHAM, ALABAMA
2016 APR 21 AM 11:21

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

RIGHT TURN LANE EXTENSION ON OVERBROOK RD. AT MONTEVALLO RD.

Bid Request Posted this Date: April 24, 2016 **Bid to be opened this Date and Time:** May 5, 2016 @ 9:00 a.m.

To Whom It May Concern:

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

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

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

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

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

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

Sam S. Gaston

Sam S. Gaston, City Manager and Purchasing Agent

Specifications For Project No. M1 07-2016: For the Right Turn Lane Extension on Overbrook Rd. at Montevallo Rd. in the City of Mountain Brook, AL.

BIDDER Dunn Construction Company, Inc. TELEPHONE 205-592-3866

ADDRESS P.O. Box 11967-35202

EMAIL cpritchard@dunnconstruction.com

CITY Birmingham STATE AL ZIP 35222

BID TOTAL (PER SPECIFICATIONS) $ 141,000.00

Note: MUNICIPALITIES ARE EXEMPT FROM STATE SALES TAX

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

Auth Signature: Evans Dunn Printed Name: Evans Dunn Title: Vice President	Sworn to and subscribed before me on this 5 day of May, 2016 Courtney Leigh Dodd Notary Public My Commission Expires: 10/29/17

Project Manager: Ronald Vaughn 205-802-3865; email vaughnr@mtnbrook.org

Specifications for Project No. MI 07-2016: For Right Turn Lane Extension on Overbrook Road at Montevallo Rd.

General Requirements:

The successful bidder shall provide traffic control, furnish all materials, supplies, equipment, fuel, tools, and perform all labor to properly complete the Right Turn Lane Extension on Overbrook Road at Montevallo Rd. to meet the City of Mountain Brook's regulations.

Work can not start before May 30, 2016 and must be completed by August 5, 2016.

Bidder must carry the following types of insurance with minimum coverage limits as specified below:

A. Worker's Compensation: as required by law
B. Employer's Liability: $1,000,000 each occurrence
C. Bodily Injury, except auto; $1,000,000 each occurrence
D. Property Damage, except auto; $1,000,000 each occurrence
E. Excess Umbrella; $1,000,000 each occurrence

Bidder must furnish the city with a satisfactory certificate of insurance specifically naming the City of Mountain Brook as the insured. During the term of this contract, the contractor shall furnish the City evidence of the renewal of all insurance policies at least thirty (30) days prior to their expiration.

Specific Requirements:

The objective of this project is to extend the existing northbound right turn lane on Overbrook Road at the Montevallo Road intersection to include 200 feet of storage and 100 feet of taper. To accommodate the 10 foot wide lanes the centerline of the road will be shifted slightly, the existing sidewalk and curb and gutter will be removed to allow for the construction of the turn lane. The entire width of Overbrook Road from Overbrook Lane to the crosswalk at Montevallo Road shall be milled 1.5" and overlaid with 1.5" wearing surface.

The pavement structure shall be:

1.5" wearing surface, 3" binder course, and 6" of asphalt base.
300 linear feet of 24" valley gutter
20 linear feet of 18" curb and gutter with a
transition of 10 feet.

350 linear feet of 4' wide sidewalk will connect to the existing sidewalk.

Additional items will include three (3) driveway crossing, two (2) mailboxes relocation, two (2) water meter relocation, stripping and pavement markings.

All new striping shall be thermoplastic. Any existing striping in conflict with the proposed improvements shall be removed.

Project Manager: Ronald Vaughn 205-802-3865; email vaughnr@mtnbrook.org

One (1) ADA compliant sidewalk ramp will be installed at the existing crosswalk

All concrete shall be ochre colored with a minimum 3000 psi.

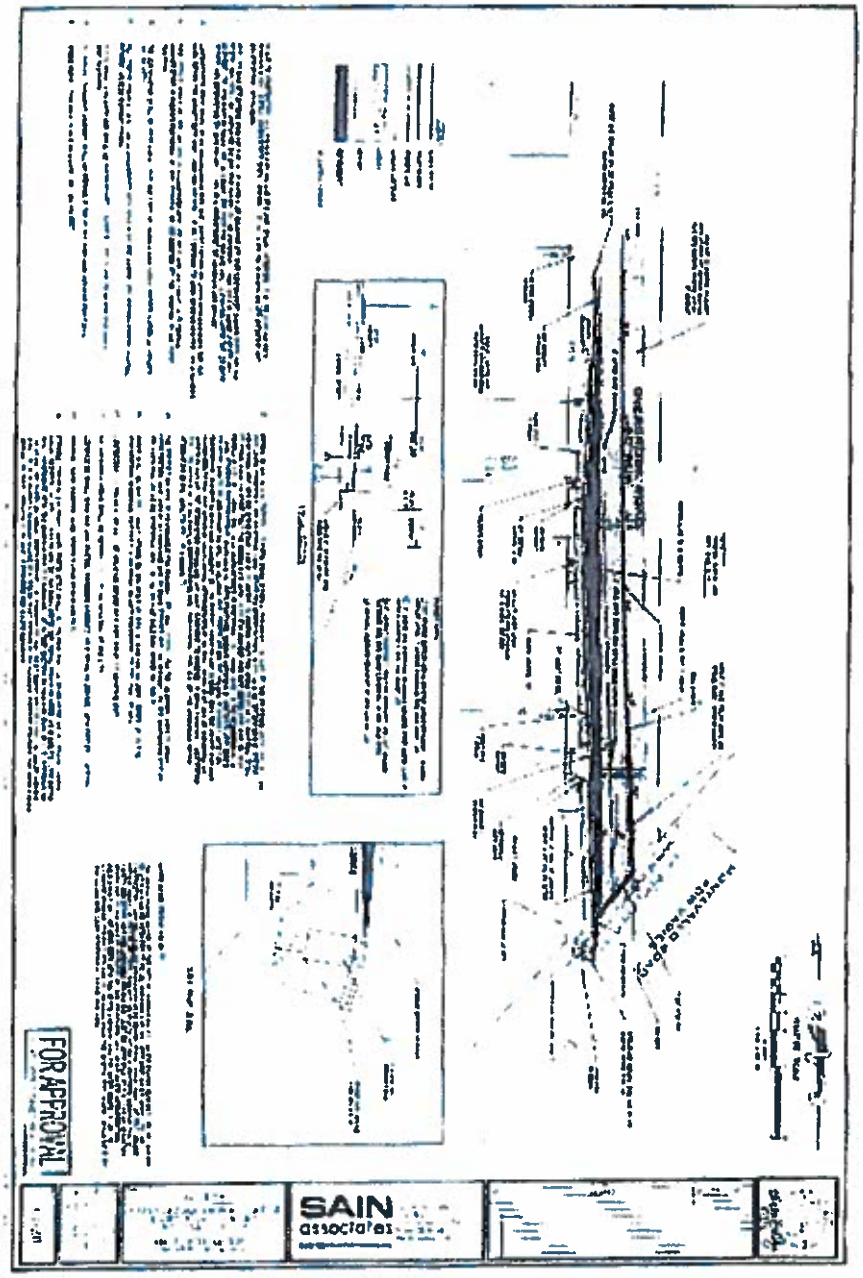
Two (2) new quadruple loops with lead-in wires and conduit run to cabinet will be required. One (1) new pull box shall be installed in alignment with existing directional bore.

Additional items shall include one (1) new 5-Section Signal Head to be installed along with a 7 Conductor Signal Wire run to the cabinet, and the possible need for the P1 Pedestrian Pushbutton height be adjusted to meet ADA height requirements.

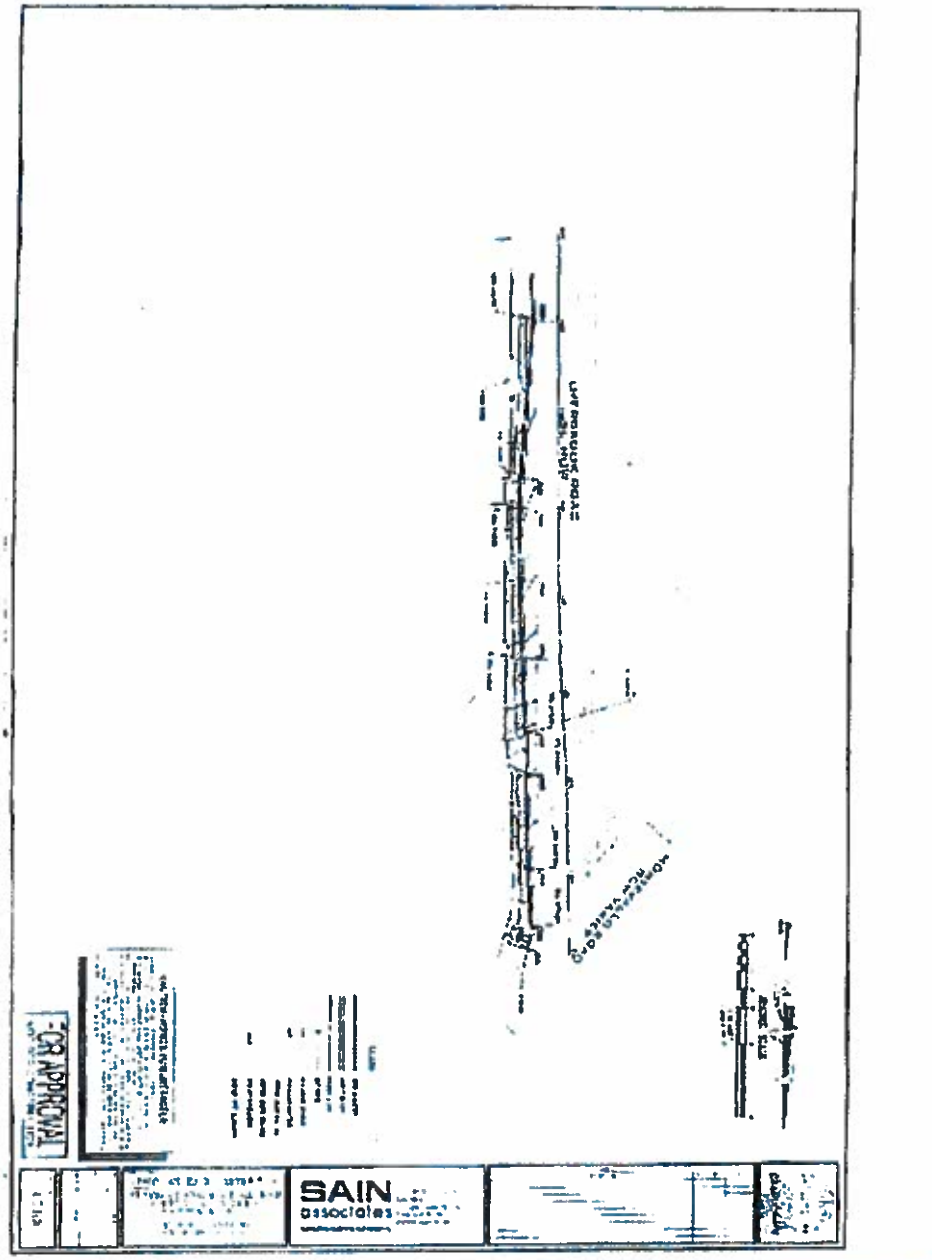
Refer to the accompanying diagrams and project worksheet when reviewing this project.

Large plans may be obtained at The Mountain Brook Public Works Department located at 3579 East Street Mountain Brook, AL 35243.

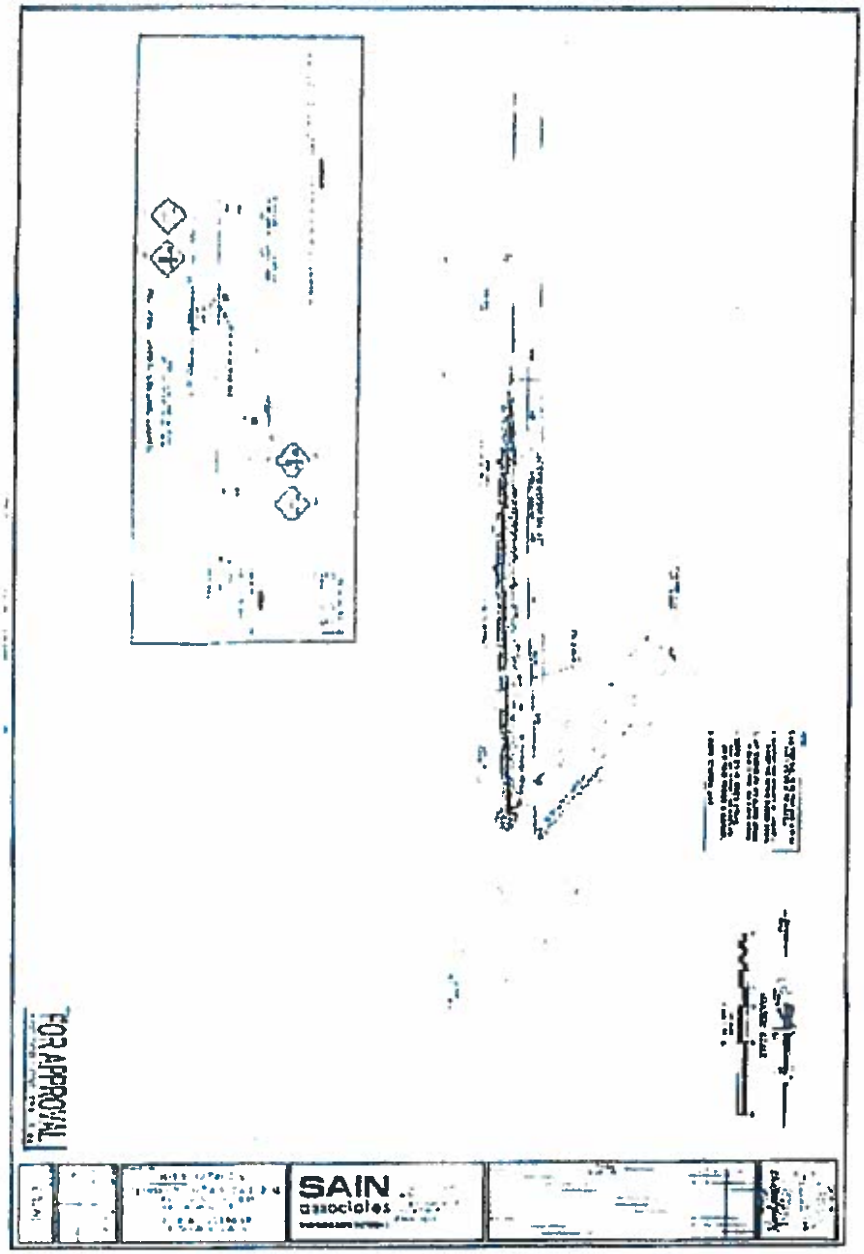
Project Manager: Ronald Vaughn 205-802-3865: email vaughnr@mtnbrook.org



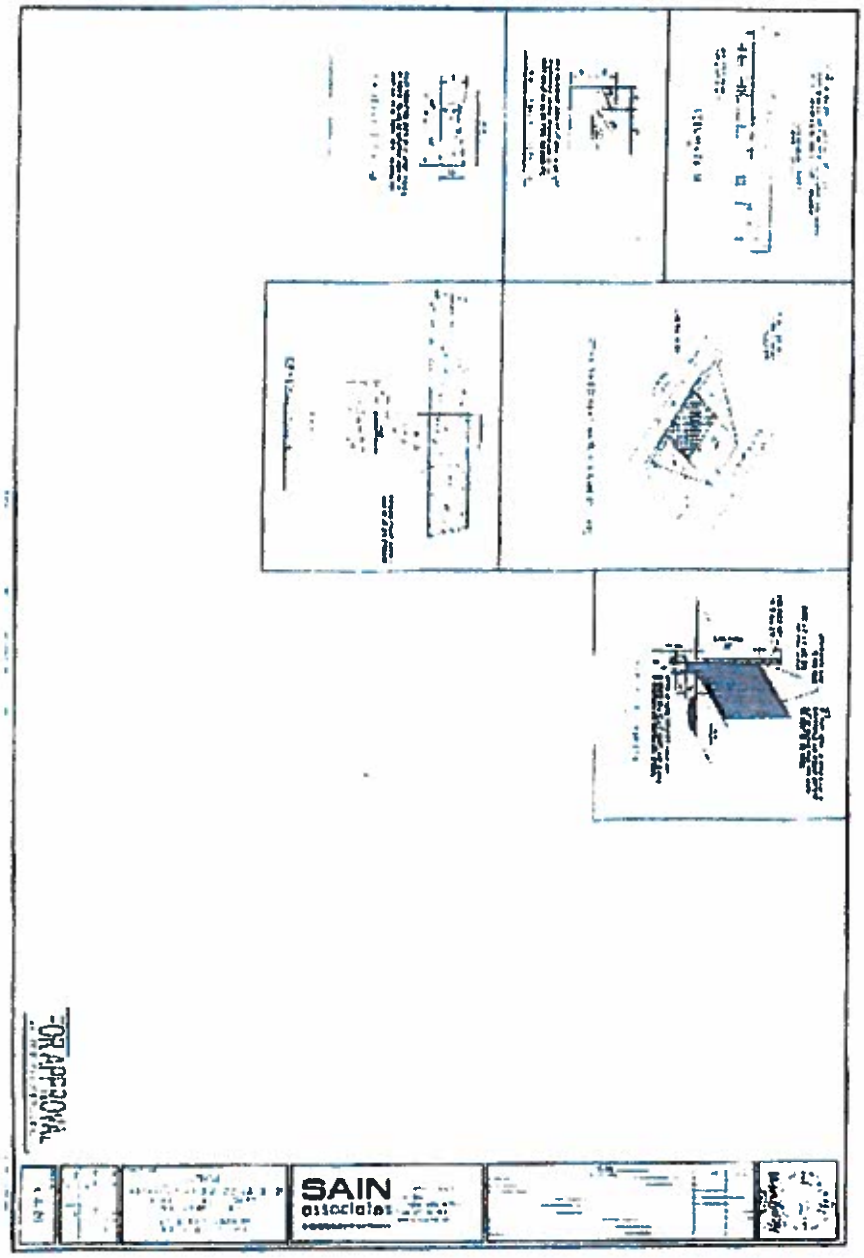
Project Manager: Ronald Vaughn 205-802-3865; email vaughnr@mtnbrook.org



Project Manager: Ronald Vaughn 205-802-3865; email vaughnr@mtnbrook.org



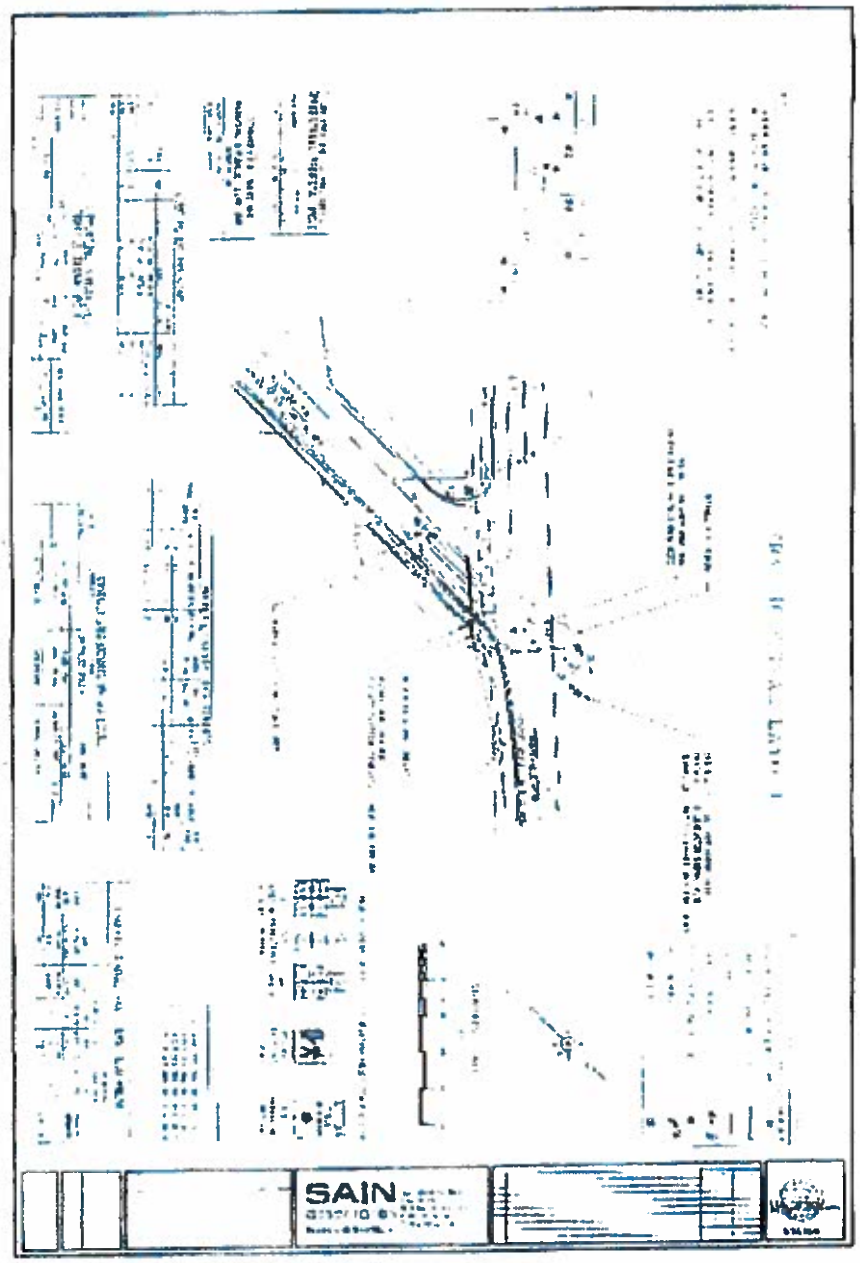
Project Manager: Ronald Vaughn 205-802-3865; email vaughnr@mtnbrook.org



Project Manager: Ronald Vaughn 205-802-3865; email vaughnr@mtnbrook.org

PROJECT TRAFFIC SIGNAL GENERAL NOTES

Project Manager: Ronald Vaughn 205-802-3865; email vaughnr@mtnbrook.org



Project Manager: Ronald Vaughn 205-802-3865; email vaughnr@mtnbrook.org

Overbrook Road at Montevallo Road - Right Turn Lane Extension

Description	Materials / Quantity Estimates	Unit
Unclassified Excavation	50	CY
Borrow Excavation	10	CY
Removing existing curb and gutter	360	LF
Removing existing driveway	60	SY
Removing existing sidewalk	160	SY
Saw-cut existing pavement	350	LF
Wearing Surface	98	Ton
Binder Layer	30	Ton
Base Layer	74	Ton
Milling (1.5")	1200	SY
Tack Coat	195	Gal
24" Valley Gutter	265	LF
18" Curb and Gutter	20	LF
Gutter to curb Transition	10	LF
Gutter Crossing Driveways	65	LF
Sidewalk	160	SY
Handicap Ramp	1	EA
Driveway Concrete	30	SY
✓ Solid White Stripe	455	LF
✓Dashed White Stripe	110	LF
✓Double Yellow Stripe	80	LF
✓Pavement Markings(Stop bar+2 Turn arrows)	100	SF
✓Raised Pavement Markers	35	EA
Brick border	25	LF
Topsoil	25	CY
Sod	165	SY
Water Meter Reset	2	EA
Manhole height adjustment	1	EA
Mailbox Reset	2	EA
Loop Wire	800	LF
Loop Detector Lead-In-Cable	160	LF
Vehicle Loop Detector	2	EA
Traffic Signal Junction Box	1	EA
1" Non-Metallic Conduit	35	LF
Vehicular Signal Head, 12", 5 Section, Type LED	1	EA
Silt Fence	400	LF
Traffic Control Drums	20	EA
Construction Signs	96	SF
Mobilization	1	LS
☆ Engineering Controls	1	LS

Project Manager: Ronald Vaughn 205-802-3865; email vaughnr@mtnbrook.org

NOTICE OF ALABAMA IMMIGRATION LAW COMPLIANCE REQUIREMENTS TO ALL CONTRACTORS OF THE CITY OF MOUNTAIN BROOK, ALABAMA ("ALABAMA IMMIGRATION COMPLIANCE CONTRACT") As a Contractor, as defined in the Act, to THE CITY OF MOUNTAIN BROOK, ALABAMA ("the City"), it is critical to your relationship (future or continuing) with the City that you comply with the Immigration Reform and Control Act of 1986, as amended by the Immigration Act of 1990, and the Beason - Hammon Alabama Taxpayer and Citizen Protection Act. Accordingly, please provide your Affidavit of Immigration Compliance with attached E - **Verify** Memorandum of Understanding, as requested in the attached memorandum. If you do not believe these obligations apply to you, please notify the City immediately. Effective January 1, 2012, every contract entered into by the City a contractor will contain the following clause or one substantially similar: Alabama Immigration Law Compliance Contract: Contractor agrees that it will fully comply with the Immigration Reform and Control Act of 1986, as amended by the Immigration Act of 1990, and the Beason - Hammon Alabama Taxpayer and Citizen Protection Act, which makes it unlawful for an employer in Alabama to knowingly hire or continue to employ an alien who is or has become unauthorized with respect to such employment or to fail to comply with the I - 9 requirements or fails to use E - Verify to verify the eligibility to legally work in the United States for all of its new hires who are employed to work in the State of Alabama Without limiting the foregoing, Contractor shall not knowingly employ, hire for employment, or continue to employ an unauthorized alien, and shall have an officer or other managerial employee who is personally familiar with the Contractor's hiring practices to execute an affidavit to this effect on the form supplied by the Board and return the same to the City. Contractor shall also enroll in the E - Verify Program prior to performing any work, or continuing to perform any ongoing work, and shall remain enrolled throughout the entire course of its performance hereunder, and shall attach to its affidavit the E - Verify Program for Employment Verification and Memorandum of Understanding and such other documentation as the Board may require to confirm Contractor's enrollment in the E - Verify Program. Contractor agrees not to knowingly allow any of its subcontractors, or any other party with whom it has a contract, to employ in the State of Alabama any illegal or undocumented aliens to perform any work in connection with the Project, and shall include in all of its contracts a provision substantially similar to this paragraph. If Contractor receives actual knowledge of the unauthorized status of one of its employees in the State of Alabama, it will remove that employee from the project, jobsite or premises of the City and shall comply with the Immigration Reform and Control Act of 1986, as amended by the Immigration Act of 1990, and the Beason - Hammon Alabama Taxpayer and Citizen Protection Act. Contractor shall require each of its subcontractors, or other parties with whom it has a contract, to act in a similar fashion. If Contractor violates any term of this provision, this Agreement will be subject to immediate termination by the City. To the fullest extent permitted by law, Contractor shall defend, indemnify and hold harmless the City from any and all losses, consequential damages, expenses (including, but not limited to, attorneys' fees), claims, suits, liabilities, fines, penalties, and any other costs arising out of or in any way related to Contractor's failure to fulfill its obligations contained in this

paragraph. To the extent that there is no formal written contract between the City and the Contractor (e.g., where business is conducted by purchase order), this document shall serve as the Alabama Immigration Compliance Contract. Alabama Immigration Law Compliance Contract Notice Acknowledged and Agreed by Contractor whose name appears below:

Contractor Officer or Owner Signature/Date

Evans Dunn / Vice President / Dunn Construction Company, Inc.
Print Name/Title/Company

Please execute and return to THE CITY OF MOUNTAIN BROOK, ALABAMA within the next 10 days.

AFFIDAVIT OF ALABAMA IMMIGRATION COMPLIANCE BY A SUBCONTRACTOR TO A POLITCIAL SUBDIVISION OF THE STATE OF ALABAMA (To be completed as a condition for the award of any [sub]contract, grant, or incentive by the State of Alabama, any political subdivision thereof, or any state - funded entity to a business entity. TO BE RETURNED TO THE CONTRACTOR OR GRANTEE OF THE CITY OF MOUNTAIN BROOK, ALABAMA) City of Mountain Brook, Alabama FORM FOR SECTIONS 9 (a) and (b) BEASON - HAMMON ALABAMA TAXPAYER AND CITIZEN PROTECTION ACT; CODE OF ALABAMA, SECTIONS 31 - 13 - 9 (a) and (b)

State of Alabama County of Jefferson Before me, a notary public, personally appeared Evans Dunn (print name) who, being duly sworn, says as follows: As a condition for the award of any [sub]contract, [sub]grant, or incentive by the State of Alabama, any political subdivision thereof, or any state - funded entity to a business entity or employer that employs one or more employees, I hereby attest that in my capacity as Vice President (state position) for Dunn Construction Company, Inc (state business entity/employer/contractor name) that said business entity/employer/[sub]contractor shall not knowingly employ, hire for employment, or continue to employ an unauthorized alien. I further attest that said business entity/employer/contractor is enrolled in the E - Verify program.

(ATTACH A COPY OF YOUR ORGANIZATION'S E - VERIFY MEMORANDUM OF UNDERSTANDING TO DOCUMENT THAT THE BUSINESS ENTITY/EMPLOYER/ [SUB] CONTRACTOR IS ENROLLED IN THE E - VERIFY PROGRAM.) I further attest that all sub - contractors in my employment are duly enrolled in the E - Verify program and upon request can produce the appropriate forms verifying such action.

_____ Signature of Affiant (an Officer or Owner of [Sub] Contractor) Dunn Construction Company, Inc.

E - Verify User Identification Number Sworn to and subscribed before me this 5 day of May, 2016. I certify that the affiant is known (or made known) to me to be the identical party he or she claims to be.

_____ Signature and Seal of Notary Public My Commission Expires: 10/29/2017 [Seal]

Form **W-9**
(Rev. December 2014)
Department of the Treasury
Internal Revenue Service

Request for Taxpayer Identification Number and Certification

Give Form to the requester. Do not send to the IRS.

Print or type
See Specific Instructions on page 2.

1 Name (as shown on your income tax return). Name is required on this line; do not leave this line blank.
Dunn Construction Company, Inc.

2 Business name/disregarded entity name, if different from above

3 Check appropriate box for federal tax classification; check only one of the following seven boxes:
☐ Individual/sole proprietor or single-member LLC ☐ C Corporation ☑ S Corporation ☐ Partnership ☐ Trust/estate
☐ Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=partnership) ▶
Note. For a single-member LLC that is disregarded, do not check LLC; check the appropriate box in the line above for the tax classification of the single-member owner.
☐ Other (see instructions) ▶

4 Exemptions (codes apply only to certain entities, not individuals; see instructions on page 3):
Exempt payee code (if any)
Exemption from FATCA reporting code (if any)
(Applies to accounts maintained outside the U.S.)

5 Address (number, street, and apt. or suite no.)
3905 Messer Airport Hwy

Requester's name and address (optional)

6 City, state, and ZIP code
Birmingham, AL 35222

7 List account number(s) here (optional)

Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on line 1 to avoid backup withholding. For individuals, this is generally your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the Part I instructions on page 3. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN* on page 3.

Note. If the account is in more than one name, see the instructions for line 1 and the chart on page 4 for guidelines on whose number to enter.

Social security number
☐☐☐ – ☐☐ – ☐☐☐☐

or

Employer identification number
6 3 – 0 0 6 2 8 4 0

Part II Certification

Under penalties of perjury, I certify that:

1. The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me); and
2. I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding; and
3. I am a U.S. citizen or other U.S. person (defined below); and
4. The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct.

Certification instructions. You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions on page 3.

Sign Here | **Signature of U.S. person ▶** W Wade Edwards, CFO | **Date ▶** 3/11/15

General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

Future developments. Information about developments affecting Form W-9 (such as legislation enacted after we release it) is at *www.irs.gov/fw9*.

Purpose of Form

An individual or entity (Form W-9 requester) who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) which may be your social security number (SSN), individual taxpayer identification number (ITIN), adoption taxpayer identification number (ATIN), or employer identification number (EIN), to report on an information return the amount paid to you, or other amount reportable on an information return. Examples of information returns include, but are not limited to, the following:

- Form 1099-INT (interest earned or paid)
- Form 1099-DIV (dividends, including those from stocks or mutual funds)
- Form 1099-MISC (various types of income, prizes, awards, or gross proceeds)
- Form 1099-B (stock or mutual fund sales and certain other transactions by brokers)
- Form 1099-S (proceeds from real estate transactions)
- Form 1099-K (merchant card and third party network transactions)
- Form 1098 (home mortgage interest), 1098-E (student loan interest), 1098-T (tuition)
- Form 1099-C (canceled debt)
- Form 1099-A (acquisition or abandonment of secured property)

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN.

If you do not return Form W-9 to the requester with a TIN, you might be subject to backup withholding. See What is backup withholding? on page 2.

By signing the filled-out form, you:

1. Certify that the TIN you are giving is correct (or you are waiting for a number to be issued),
2. Certify that you are not subject to backup withholding, or
3. Claim exemption from backup withholding if you are a U.S. exempt payee. If applicable, you are also certifying that as a U.S. person, your allocable share of any partnership income from a U.S. trade or business is not subject to the withholding tax on foreign partners' share of effectively connected income, and
4. Certify that FATCA code(s) entered on this form (if any) indicating that you are exempt from the FATCA reporting, is correct. See *What is FATCA reporting?* on page 2 for further information.

STATE OF ALABAMA

BID LIMIT: U

AMOUNT: UNLIMITED

LICENSE NO.: 8

TYPE: RENEWAL

State Licensing Board for General Contractors

THIS IS TO CERTIFY THAT

DUNN CONSTRUCTION CO INC

BIRMINGHAM, AL 35202

is hereby licensed a General Contractor in the State of Alabama and is authorized to perform the following type(s) of work:

BC: BUILDING CONSTRUCTION, H/RR: HEAVY AND RAILROAD, HS: HIGHWAYS AND STREETS, MU: MUNICIPAL AND UTILITY

until **September 30, 2016** when this Certificate expires.

Witness our hands and seal of the Board, dated Montgomery, Ala.,

115485

1st day of **September, 2015**

SECRETARY-TREASURER

CHAIRMAN

THE AMERICAN INSTITUTE OF ARCHITECTS

AIA Document A310
Bid Bond

KNOW ALL MEN BY THESE PRESENTS, THAT WE Dunn Construction Company, Inc.
P.O. Box 11967, Birmingham, AL 35202

as Principal, hereinafter called the Principal, and Federal Insurance Company
15 Mountain View Road, Warren, NJ 07059

a corporation duly organized under the laws of the State of IN
as Surety, hereinafter called the Surety, are held and firmly bound unto City of Mountain Brook
56 Church Street, Mountain Brook, AL 35213

as Obligee, hereinafter called the Obligee, in the sum of Ten Thousand Dollars and 00/100
Dollars ($ $10,000),
for the payment of which sum well and truly to be made, the said Principal and the said Surety, bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, the Principal has submitted a bid for Right Turn Lane Extension on Overbrook Rd. at Montevallo Rd.,
Project No. MI 07-2016

NOW, THEREFORE, if the Obligee shall accept the bid of the Principal and the Principal shall enter into a Contract with the Obligee in accordance with the terms of such bid, and give such bond or bonds as may be specified in the bidding or Contract Documents with good and sufficient surety for the faithful performance of such Contract and for the prompt payment of labor and materials furnished in the prosecution thereof, or in the event of the failure of the Principal to enter such Contract and give such bond or bonds, if the Principal shall pay to the Obligee the difference not to exceed the penalty hereof between the amount specified in said bid and such larger amount for which the Obligee may in good faith contract with another party to perform the Work covered by said bid, then this obligation shall be null and void, otherwise to remain in full force and effect.

Signed and sealed this 5th day of May , 2016

Courtney Judd
(Witness)

Dunn Construction Company, Inc.
(Principal) (Seal)
By: VP
(Title)

Renee Ellis
Renee Ellis (Witness)

Federal Insurance Company
(Surety) (Seal)
By: Billie Jo Sanders
Attorney-in-Fact Billie Jo Sanders (Title)

Chubb Surety	POWER OF ATTORNEY	Federal Insurance Company Vigilant Insurance Company Pacific Indemnity Company	Attn: Surety Department 15 Mountain View Road Warren, NJ 07059

Know All by These Presents, That **FEDERAL INSURANCE COMPANY,** an Indiana corporation, **VIGILANT INSURANCE COMPANY,** a New York corporation, and **PACIFIC INDEMNITY COMPANY,** a Wisconsin corporation, do each hereby constitute and appoint David J. Durden, Renee Ellis, Thomas J. Gentile, Billie Jo Sanders and Paul B. Scott, Jr. of Montgomery, Alabama —

each as their true and lawful Attorney- in- Fact to execute under such designation in their names and to affix their corporate seals to and deliver for and on their behalf as surety thereon or otherwise, bonds and undertakings and other writings obligatory in the nature thereof (other than bail bonds) given or executed in the course of business, and any instruments amending or altering the same, and consents to the modification or alteration of any instrument referred to in said bonds or obligations.

In Witness Whereof, said FEDERAL INSURANCE COMPANY, VIGILANT INSURANCE COMPANY, and PACIFIC INDEMNITY COMPANY have each executed and attested these presents and affixed their corporate seals on this 13th day of **October, 2015.**

Dawn M. Chloros, Assistant Secretary

David B. Norris, Jr., Vice President

STATE OF NEW JERSEY

ss.

County of Somerset

On this 13th day of **October, 2015** before me, a Notary Public of New Jersey, personally came Dawn M. Chloros, to me known to be Assistant Secretary of FEDERAL INSURANCE COMPANY, VIGILANT INSURANCE COMPANY, and PACIFIC INDEMNITY COMPANY, the companies which executed the foregoing Power of Attorney, and the said Dawn M. Chloros, being by me duly sworn, did depose and say that she is Assistant Secretary of FEDERAL INSURANCE COMPANY, VIGILANT INSURANCE COMPANY, and PACIFIC INDEMNITY COMPANY and knows the corporate seals thereof, that the seals affixed to the foregoing Power of Attorney are such corporate seals and were thereto affixed by authority of the By- Laws of said Companies; and that she signed said Power of Attorney as Assistant Secretary of said Companies by like authority; and that she is acquainted with David B. Norris, Jr., and knows him to be Vice President of said Companies; and that the signature of David B. Norris, Jr., subscribed to said Power of Attorney is in the genuine handwriting of David B. Norris, Jr., and was thereto subscribed by authority of said By- Laws and in deponent's presence.

Notarial Seal

KATHERINE J. ADELAAR NOTARY PUBLIC NEW JERSEY

KATHERINE J. ADELAAR
NOTARY PUBLIC OF NEW JERSEY
No. 2316685
Commission Expires July 16, 2019

Notary Public

CERTIFICATION

Extract from the By- Laws of FEDERAL INSURANCE COMPANY, VIGILANT INSURANCE COMPANY, and PACIFIC INDEMNITY COMPANY:

> "Except as otherwise provided in these By-Laws or by law or as otherwise directed by the Board of Directors, the President or any Vice President shall be authorized to execute and deliver, in the name and on behalf of the Corporation, all agreements, bonds, contracts, deeds, mortgages, and other instruments, either for the Corporation's own account or in a fiduciary or other capacity, and the seal of the Corporation, if appropriate, shall be affixed thereto by any of such officers or the Secretary or an Assistant Secretary. The Board of Directors, the President or any Vice President designated by the Board of Directors may authorize any other officer, employee or agent to execute and deliver, in the name and on behalf of the Corporation, agreements, bonds, contracts, deeds, mortgages, and other instruments, either for the Corporation's own account or in a fiduciary or other capacity, and, if appropriate, to affix the seal of the Corporation thereto. The grant of such authority by the Board or any such officer may be general or confined to specific instances."

I, Dawn M. Chloros, Assistant Secretary of FEDERAL INSURANCE COMPANY, VIGILANT INSURANCE COMPANY, and PACIFIC INDEMNITY COMPANY (the "Companies") do hereby certify that

(i) the foregoing extract of the By- Laws of the Companies is true and correct,
(ii) the Companies are duly licensed and authorized to transact surety business in all 50 of the United States of America and the District of Columbia and are authorized by the U.S. Treasury Department; further, Federal and Vigilant are licensed in the U.S. Virgin Islands, and Federal is licensed in Guam, Puerto Rico, and each of the Provinces of Canada except Prince Edward Island; and
(iii) the foregoing Power of Attorney is true, correct and in full force and effect.

Given under my hand and seals of said Companies at Warren, NJ this May 5, 2016

Dawn M. Chloros, Assistant Secretary

IN THE EVENT YOU WISH TO NOTIFY US OF A CLAIM, VERIFY THE AUTHENTICITY OF THIS BOND OR NOTIFY US OF ANY OTHER MATTER, PLEASE CONTACT US AT ADDRESS LISTED ABOVE, OR BY Telephone (908) 903- 3493 Fax (908) 903- 3656 e-mail: surety@chubb.com

E-Verify

Company ID Number: 245291

THE E-VERIFY PROGRAM FOR EMPLOYMENT VERIFICATION MEMORANDUM OF UNDERSTANDING

ARTICLE I

PURPOSE AND AUTHORITY

This Memorandum of Understanding (MOU) sets forth the points of agreement between the Department of Homeland Security (DHS) and **Dunn Construction Company Inc.** (Employer) regarding the Employer's participation in the Employment Eligibility Verification Program (E-Verify). This MOU explains certain features of the E-Verify program and enumerates specific responsibilities of DHS, the Social Security Administration (SSA), and the Employer. E-Verify is a program that electronically confirms an employee's eligibility to work in the United States after completion of the Employment Eligibility Verification Form (Form I-9). For covered government contractors, E-Verify is used to verify the employment eligibility of all newly hired employees and all existing employees assigned to Federal contracts.

Authority for the E-Verify program is found in Title IV, Subtitle A, of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA), Pub. L. 104-208, 110 Stat. 3009, as amended (8 U.S.C. § 1324a note). Authority for use of the E-Verify program by Federal contractors and subcontractors covered by the terms of Subpart 22.18, "Employment Eligibility Verification", of the Federal Acquisition Regulation (FAR) (hereinafter referred to in this MOU as a "Federal contractor") to verify the employment eligibility of certain employees working on Federal contracts is also found in Subpart 22.18 and in Executive Order 12989, as amended.

ARTICLE II

FUNCTIONS TO BE PERFORMED

A. RESPONSIBILITIES OF SSA

1. SSA agrees to provide the Employer with available information that allows the Employer to confirm the accuracy of Social Security Numbers provided by all employees verified under this MOU and the employment authorization of U.S. citizens.

2. SSA agrees to provide to the Employer appropriate assistance with operational problems that may arise during the Employer's participation in the E-Verify program. SSA agrees to provide the Employer with names, titles, addresses, and telephone numbers of SSA representatives to be contacted during the E-Verify process.

3. SSA agrees to safeguard the information provided by the Employer through the E-Verify program procedures, and to limit access to such information, as is appropriate by law, to individuals responsible for the verification of Social Security Numbers and for evaluation of the E-Verify program or such other persons or entities who may be authorized by SSA as governed by the Privacy Act (5 U.S.C. § 552a), the Social Security Act (42 U.S.C. 1306(a)), and SSA regulations (20 CFR Part 401).

4. SSA agrees to provide a means of automated verification that is designed (in conjunction with DHS's automated system if necessary) to provide confirmation or tentative nonconfirmation of U.S. citizens' employment eligibility within 3 Federal Government work days of the initial inquiry.

5. SSA agrees to provide a means of secondary verification (including updating SSA records as may be necessary) for employees who contest SSA tentative nonconfirmations that is designed to provide final confirmation or nonconfirmation of U.S. citizens' employment eligibility and accuracy of SSA records for both citizens and aliens within 10 Federal Government work days of the date of referral to SSA, unless SSA determines that more than 10 days may be necessary. In such cases, SSA will provide additional verification instructions.

B. RESPONSIBILITIES OF DHS

1. After SSA verifies the accuracy of SSA records for aliens through E-Verify, DHS agrees to provide the Employer access to selected data from DHS's database to enable the Employer to conduct, to the extent authorized by this MOU:

- Automated verification checks on alien employees by electronic means, and
- Photo verification checks (when available) on employees.

2. DHS agrees to provide to the Employer appropriate assistance with operational problems that may arise during the Employer's participation in the E-Verify program. DHS agrees to provide the Employer names, titles, addresses, and telephone numbers of DHS representatives to be contacted during the E-Verify process.

3. DHS agrees to provide to the Employer a manual (the E-Verify User Manual) containing instructions on E-Verify policies, procedures and requirements for both SSA and DHS, including restrictions on the use of E-Verify. DHS agrees to provide training materials on E-Verify.

4. DHS agrees to provide to the Employer a notice, which indicates the Employer's participation in the E-Verify program. DHS also agrees to provide to the Employer anti-discrimination notices issued by the Office of Special Counsel for Immigration-Related Unfair Employment Practices (OSC), Civil Rights Division, U.S. Department of Justice.

5. DHS agrees to issue the Employer a user identification number and password that permits the Employer to verify information provided by alien employees with DHS's database.

6. DHS agrees to safeguard the information provided to DHS by the Employer, and to limit access to such information to individuals responsible for the verification of alien employment eligibility and for evaluation of the E-Verify program, or to such other persons or entities as may be authorized by applicable law. Information will be used only to verify the accuracy of Social Security Numbers and employment eligibility, to enforce the Immigration and Nationality Act (INA) and Federal criminal laws, and to administer Federal contracting requirements.

7. DHS agrees to provide a means of automated verification that is designed (in conjunction with SSA verification procedures) to provide confirmation or tentative

nonconfirmation of employees' employment eligibility within 3 Federal Government work days of the initial inquiry.

8. DHS agrees to provide a means of secondary verification (including updating DHS records as may be necessary) for employees who contest DHS tentative nonconfirmations and photo non-match tentative nonconfirmations that is designed to provide final confirmation or nonconfirmation of the employees' employment eligibility within 10 Federal Government work days of the date of referral to DHS, unless DHS determines that more than 10 days may be necessary. In such cases, DHS will provide additional verification instructions.

C. RESPONSIBILITIES OF THE EMPLOYER

1. The Employer agrees to display the notices supplied by DHS in a prominent place that is clearly visible to prospective employees and all employees who are to be verified through the system.

2. The Employer agrees to provide to the SSA and DHS the names, titles, addresses, and telephone numbers of the Employer representatives to be contacted regarding E-Verify.

3. The Employer agrees to become familiar with and comply with the most recent version of the E-Verify User Manual.

4. The Employer agrees that any Employer Representative who will perform employment verification queries will complete the E-Verify Tutorial before that individual initiates any queries.

   A. The Employer agrees that all Employer representatives will take the refresher tutorials initiated by the E-Verify program as a condition of continued use of E-Verify, including any tutorials for Federal contractors if the Employer is a Federal contractor.

   B. Failure to complete a refresher tutorial will prevent the Employer from continued use of the program.

5. The Employer agrees to comply with current Form I-9 procedures, with two exceptions:

- If an employee presents a "List B" identity document, the Employer agrees to only accept "List B" documents that contain a photo. (List B documents identified in 8 C.F.R. § 274a.2(b)(1)(B)) can be presented during the Form I-9 process to establish identity.) If an employee objects to the photo requirement for religious reasons, the Employer should contact E-Verify at 888-464-4218.
- If an employee presents a DHS Form I-551 (Permanent Resident Card) or Form I-766 (Employment Authorization Document) to complete the Form I-9, the Employer agrees to make a photocopy of the document and to retain the photocopy with the employee's Form I-9. The employer will use the photocopy to verify the photo and to assist DHS with its review of photo non-matches that are contested by employees. Note that employees retain the right to present any List A, or List B and List C, documentation to complete the Form I-9. DHS may in the future designate other documents that activate the photo screening tool.

6. The Employer understands that participation in E-Verify does not exempt the Employer from the responsibility to complete, retain, and make available for inspection Forms I-9 that relate to its employees, or from other requirements of applicable regulations or laws, including the obligation to comply with the antidiscrimination requirements of section 274B of the INA with respect to Form I-9 procedures, except for the following modified requirements applicable by reason of the Employer's participation in E-Verify: (1) identity documents must have photos, as described in paragraph 5 above; (2) a rebuttable presumption is established that the Employer has not violated section 274A(a)(1)(A) of the Immigration and Nationality Act (INA) with respect to the hiring of any individual if it obtains confirmation of the identity and employment eligibility of the individual in compliance with the terms and conditions of E-Verify; (3) the Employer must notify DHS if it continues to employ any employee after receiving a final nonconfirmation, and is subject to a civil money penalty between $550 and $1,100 for each failure to notify DHS of continued employment following a final nonconfirmation; (4) the Employer is subject to a rebuttable presumption that it has knowingly employed an unauthorized alien in violation of section 274A(a)(1)(A) if the Employer continues to employ an employee after receiving a final nonconfirmation; and (5) no person or entity participating in E-Verify is civilly or criminally liable under any law for any action taken in good faith based on information provided through the confirmation system. DHS reserves the right to conduct Form I-9 compliance inspections during the course of E-Verify, as well as to conduct any other enforcement activity authorized by law.

7. The Employer agrees to initiate E-Verify verification procedures for new employees within 3 Employer business days after each employee has been hired (but after both sections 1 and 2 of the Form I-9 have been completed), and to complete as many (but only as many) steps of the E-Verify process as are necessary according to the E-Verify User Manual. The Employer is prohibited from initiating verification procedures before the employee has been hired and the Form I-9 completed. If the automated system to be queried is temporarily unavailable, the 3-day time period is extended until it is again operational in order to accommodate the Employer's attempting, in good faith, to make inquiries during the period of unavailability. In all cases, the Employer must use the SSA verification procedures first, and use DHS verification procedures and photo screening tool only after the SSA verification response has been given. Employers may initiate verification by notating the Form I-9 in circumstances where the employee has applied for a Social Security Number (SSN) from the SSA and is waiting to receive the SSN, provided that the Employer performs an E-Verify employment verification query using the employee's SSN as soon as the SSN becomes available.

8. The Employer agrees not to use E-Verify procedures for pre-employment screening of job applicants, in support of any unlawful employment practice, or for any other use not authorized by this MOU. Employers must use E-Verify for all new employees, unless an Employer is a Federal contractor that qualifies for the exceptions described in Article II.D.1.c. Except as provided in Article II.D, the Employer will not verify selectively and will not verify employees hired before the effective date of this MOU. The Employer understands that if the Employer uses E-Verify procedures for any purpose other than as authorized by this MOU, the Employer may be subject to appropriate legal action and termination of its access to SSA and DHS information pursuant to this MOU.

9. The Employer agrees to follow appropriate procedures (see Article III. below) regarding tentative nonconfirmations, including notifying employees of the finding, providing written referral instructions to employees, allowing employees to contest the finding, and not taking

adverse action against employees if they choose to contest the finding. Further, when employees contest a tentative nonconfirmation based upon a photo non-match, the Employer is required to take affirmative steps (see Article III.B. below) to contact DHS with information necessary to resolve the challenge.

10. The Employer agrees not to take any adverse action against an employee based upon the employee's perceived employment eligibility status while SSA or DHS is processing the verification request unless the Employer obtains knowledge (as defined in 8 C.F.R. § 274a.1(l)) that the employee is not work authorized. The Employer understands that an initial inability of the SSA or DHS automated verification system to verify work authorization, a tentative nonconfirmation, a case in continuance (indicating the need for additional time for the government to resolve a case), or the finding of a photo non-match, does not establish, and should not be interpreted as evidence, that the employee is not work authorized. In any of the cases listed above, the employee must be provided a full and fair opportunity to contest the finding, and if he or she does so, the employee may not be terminated or suffer any adverse employment consequences based upon the employee's perceived employment eligibility status (including denying, reducing, or extending work hours, delaying or preventing training, requiring an employee to work in poorer conditions, refusing to assign the employee to a Federal contract or other assignment, or otherwise subjecting an employee to any assumption that he or she is unauthorized to work) until and unless secondary verification by SSA or DHS has been completed and a final nonconfirmation has been issued. If the employee does not choose to contest a tentative nonconfirmation or a photo non-match or if a secondary verification is completed and a final nonconfirmation is issued, then the Employer can find the employee is not work authorized and terminate the employee's employment. Employers or employees with questions about a final nonconfirmation may call E-Verify at 1-888-464-4218 or OSC at 1-800-255-8155 or 1-800-237-2515 (TDD).

11. The Employer agrees to comply with Title VII of the Civil Rights Act of 1964 and section 274B of the INA by not discriminating unlawfully against any individual in hiring, firing, or recruitment or referral practices because of his or her national origin or, in the case of a protected individual as defined in section 274B(a)(3) of the INA, because of his or her citizenship status. The Employer understands that such illegal practices can include selective verification or use of E-Verify except as provided in part D below, or discharging or refusing to hire employees because they appear or sound "foreign" or have received tentative nonconfirmations. The Employer further understands that any violation of the unfair immigration-related employment practices provisions in section 274B of the INA could subject the Employer to civil penalties, back pay awards, and other sanctions, and violations of Title VII could subject the Employer to back pay awards, compensatory and punitive damages. Violations of either section 274B of the INA or Title VII may also lead to the termination of its participation in E-Verify. If the Employer has any questions relating to the anti-discrimination provision, it should contact OSC at 1-800-255-8155 or 1-800-237-2515 (TDD).

12. The Employer agrees to record the case verification number on the employee's Form I-9 or to print the screen containing the case verification number and attach it to the employee's Form I-9.

13. The Employer agrees that it will use the information it receives from SSA or DHS pursuant to E-Verify and this MOU only to confirm the employment eligibility of employees as

authorized by this MOU. The Employer agrees that it will safeguard this information, and means of access to it (such as PINS and passwords) to ensure that it is not used for any other purpose and as necessary to protect its confidentiality, including ensuring that it is not disseminated to any person other than employees of the Employer who are authorized to perform the Employer's responsibilities under this MOU, except for such dissemination as may be authorized in advance by SSA or DHS for legitimate purposes.

14. The Employer acknowledges that the information which it receives from SSA is governed by the Privacy Act (5 U.S.C. § 552a(i)(1) and (3)) and the Social Security Act (42 U.S.C. 1306(a)), and that any person who obtains this information under false pretenses or uses it for any purpose other than as provided for in this MOU may be subject to criminal penalties.

15. The Employer agrees to cooperate with DHS and SSA in their compliance monitoring and evaluation of E-Verify, including by permitting DHS and SSA, upon reasonable notice, to review Forms I-9 and other employment records and to interview it and its employees regarding the Employer's use of E-Verify, and to respond in a timely and accurate manner to DHS requests for information relating to their participation in E-Verify.

D. RESPONSIBILITIES OF FEDERAL CONTRACTORS

1. The Employer understands that if it is a Federal contractor subject to the employment verification terms in Subpart 22.18 of the FAR it must verify the employment eligibility of any "employee assigned to the contract" (as defined in FAR 22.1801) in addition to verifying the employment eligibility of all other employees required to be verified under the FAR. Once an employee has been verified through E-Verify by the Employer, the Employer may not reverify the employee through E-Verify.

a. Federal contractors not enrolled at the time of contract award: An Employer that is not enrolled in E-Verify as a Federal contractor at the time of a contract award must enroll as a Federal contractor in the E-Verify program within 30 calendar days of contract award and, within 90 days of enrollment, begin to use E-Verify to initiate verification of employment eligibility of new hires of the Employer who are working in the United States, whether or not assigned to the contract. Once the Employer begins verifying new hires, such verification of new hires must be initiated within 3 business days after the date of hire. Once enrolled in E-Verify as a Federal contractor, the Employer must initiate verification of employees assigned to the contract within 90 calendar days after the date of enrollment or within 30 days of an employee's assignment to the contract, whichever date is later.

b. Federal contractors already enrolled at the time of a contract award: Employers enrolled in E-Verify as a Federal contractor for 90 days or more at the time of a contract award must use E-Verify to initiate verification of employment eligibility for new hires of the Employer who are working in the United States, whether or not assigned to the contract, within 3 business days after the date of hire. If the Employer is enrolled in E-Verify as a Federal contractor for 90 calendar days or less at the time of contract award, the Employer must, within 90 days of enrollment, begin to use E-Verify to initiate verification of new hires of the contractor who are working in the United States, whether or not assigned to the contract. Such verification of new hires must be initiated within 3 business days after the date of hire. An Employer enrolled as a Federal contractor in E-Verify must initiate verification of each employee assigned to the

contract within 90 calendar days after date of contract award or within 30 days after assignment to the contract, whichever is later.

c. Institutions of higher education, State, local and tribal governments and sureties: Federal contractors that are institutions of higher education (as defined at 20 U.S.C. 1001(a)), State or local governments, governments of Federally recognized Indian tribes, or sureties performing under a takeover agreement entered into with a Federal agency pursuant to a performance bond may choose to only verify new and existing employees assigned to the Federal contract. Such Federal contractors may, however, elect to verify all new hires, and/or all existing employees hired after November 6, 1986. The provisions of Article II.D, paragraphs 1.a and 1.b of this MOU providing timeframes for initiating employment verification of employees assigned to a contract apply to such institutions of higher education, State, local and tribal governments, and sureties.

d. Verification of all employees: Upon enrollment, Employers who are Federal contractors may elect to verify employment eligibility of all existing employees working in the United States who were hired after November 6, 1986, instead of verifying only those employees assigned to a covered Federal contract. After enrollment, Employers must elect to do so only in the manner designated by DHS and initiate E-Verify verification of all existing employees within 180 days after the election.

e. Form I-9 procedures for Federal contractors: The Employer may use a previously completed Form I-9 as the basis for initiating E-Verify verification of an employee assigned to a contract as long as that Form I-9 is complete (including the SSN), complies with Article II.C.5, the employee's work authorization has not expired, and the Employer has reviewed the information reflected in the Form I-9 either in person or in communications with the employee to ensure that the employee's stated basis in section 1 of the Form I-9 for work authorization has not changed (including, but not limited to, a lawful permanent resident alien having become a naturalized U.S. citizen). If the Employer is unable to determine that the Form I-9 complies with Article II.C.5, if the employee's basis for work authorization as attested in section 1 has expired or changed, or if the Form I-9 contains no SSN or is otherwise incomplete, the Employer shall complete a new I-9 consistent with Article II.C.5, or update the previous I-9 to provide the necessary information. If section 1 of the Form I-9 is otherwise valid and up-to-date and the form otherwise complies with Article II.C.5, but reflects documentation (such as a U.S. passport or Form I-551) that expired subsequent to completion of the Form I-9, the Employer shall not require the production of additional documentation, or use the photo screening tool described in Article II.C.5, subject to any additional or superseding instructions that may be provided on this subject in the E-Verify User Manual. Nothing in this section shall be construed to require a second verification using E-Verify of any assigned employee who has previously been verified as a newly hired employee under this MOU, or to authorize verification of any existing employee by any Employer that is not a Federal contractor.

2. The Employer understands that if it is a Federal contractor, its compliance with this MOU is a performance requirement under the terms of the Federal contract or subcontract, and the Employer consents to the release of information relating to compliance with its verification responsibilities under this MOU to contracting officers or other officials authorized to review the Employer's compliance with Federal contracting requirements.

ARTICLE III

REFERRAL OF INDIVIDUALS TO SSA AND DHS

A. REFERRAL TO SSA

1. If the Employer receives a tentative nonconfirmation issued by SSA, the Employer must print the tentative nonconfirmation notice as directed by the automated system and provide it to the employee so that the employee may determine whether he or she will contest the tentative nonconfirmation.

2. The Employer will refer employees to SSA field offices only as directed by the automated system based on a tentative nonconfirmation, and only after the Employer records the case verification number, reviews the input to detect any transaction errors, and determines that the employee contests the tentative nonconfirmation. The Employer will transmit the Social Security Number to SSA for verification again if this review indicates a need to do so. The Employer will determine whether the employee contests the tentative nonconfirmation as soon as possible after the Employer receives it.

3. If the employee contests an SSA tentative nonconfirmation, the Employer will provide the employee with a system-generated referral letter and instruct the employee to visit an SSA office within 8 Federal Government work days. SSA will electronically transmit the result of the referral to the Employer within 10 Federal Government work days of the referral unless it determines that more than 10 days is necessary. The Employer agrees to check the E-Verify system regularly for case updates.

4. The Employer agrees not to ask the employee to obtain a printout from the Social Security Number database (the Numident) or other written verification of the Social Security Number from the SSA.

B. REFERRAL TO DHS

1. If the Employer receives a tentative nonconfirmation issued by DHS, the Employer must print the tentative nonconfirmation notice as directed by the automated system and provide it to the employee so that the employee may determine whether he or she will contest the tentative nonconfirmation.

2. If the Employer finds a photo non-match for an employee who provides a document for which the automated system has transmitted a photo, the employer must print the photo non-match tentative nonconfirmation notice as directed by the automated system and provide it to the employee so that the employee may determine whether he or she will contest the finding.

3. The Employer agrees to refer individuals to DHS only when the employee chooses to contest a tentative nonconfirmation received from DHS automated verification process or when the Employer issues a tentative nonconfirmation based upon a photo non-match. The Employer will determine whether the employee contests the tentative nonconfirmation as soon as possible

after the Employer receives it.

4. If the employee contests a tentative nonconfirmation issued by DHS, the Employer will provide the employee with a referral letter and instruct the employee to contact DHS through its toll-free hotline (as found on the referral letter) within 8 Federal Government work days.

5. If the employee contests a tentative nonconfirmation based upon a photo non-match, the Employer will provide the employee with a referral letter to DHS. DHS will electronically transmit the result of the referral to the Employer within 10 Federal Government work days of the referral unless it determines that more than 10 days is necessary. The Employer agrees to check the E-Verify system regularly for case updates.

6. The Employer agrees that if an employee contests a tentative nonconfirmation based upon a photo non-match, the Employer will send a copy of the employee's Form I-551 or Form I-766 to DHS for review by:

- Scanning and uploading the document, or
- Sending a photocopy of the document by an express mail account (furnished and paid for by DHS).

7. The Employer understands that if it cannot determine whether there is a photo match/non-match, the Employer is required to forward the employee's documentation to DHS by scanning and uploading, or by sending the document as described in the preceding paragraph, and resolving the case as specified by the Immigration Services Verifier at DHS who will determine the photo match or non-match.

ARTICLE IV

SERVICE PROVISIONS

SSA and DHS will not charge the Employer for verification services performed under this MOU. The Employer is responsible for providing equipment needed to make inquiries. To access the E-Verify System, an Employer will need a personal computer with Internet access.

ARTICLE V

PARTIES

A. This MOU is effective upon the signature of all parties, and shall continue in effect for as long as the SSA and DHS conduct the E-Verify program unless modified in writing by the mutual consent of all parties, or terminated by any party upon 30 days prior written notice to the others. Any and all system enhancements to the E-Verify program by DHS or SSA, including but not limited to the E-Verify checking against additional data sources and instituting new verification procedures, will be covered under this MOU and will not cause the need for a supplemental MOU that outlines these changes. DHS agrees to train employers on all changes made to E-Verify through the use of mandatory refresher tutorials and updates to the E-Verify User Manual. Even without changes to E-Verify, DHS reserves the right to require employers to take

mandatory refresher tutorials. An Employer that is a Federal contractor may terminate this MOU when the Federal contract that requires its participation in E-Verify is terminated or completed. In such a circumstance, the Federal contractor must provide written notice to DHS. If an Employer that is a Federal contractor fails to provide such notice, that Employer will remain a participant in the E-Verify program, will remain bound by the terms of this MOU that apply to non-Federal contractor participants, and will be required to use the E-Verify procedures to verify the employment eligibility of all newly hired employees.

B. Notwithstanding Article V, part A of this MOU, DHS may terminate this MOU if deemed necessary because of the requirements of law or policy, or upon a determination by SSA or DHS that there has been a breach of system integrity or security by the Employer, or a failure on the part of the Employer to comply with established procedures or legal requirements. The Employer understands that if it is a Federal contractor, termination of this MOU by any party for any reason may negatively affect its performance of its contractual responsibilities.

C. Some or all SSA and DHS responsibilities under this MOU may be performed by contractor(s), and SSA and DHS may adjust verification responsibilities between each other as they may determine necessary. By separate agreement with DHS, SSA has agreed to perform its responsibilities as described in this MOU.

D. Nothing in this MOU is intended, or should be construed, to create any right or benefit, substantive or procedural, enforceable at law by any third party against the United States, its agencies, officers, or employees, or against the Employer, its agents, officers, or employees.

E. Each party shall be solely responsible for defending any claim or action against it arising out of or related to E-Verify or this MOU, whether civil or criminal, and for any liability wherefrom, including (but not limited to) any dispute between the Employer and any other person or entity regarding the applicability of Section 403(d) of IIRIRA to any action taken or allegedly taken by the Employer.

F. The Employer understands that the fact of its participation in E-Verify is not confidential information and may be disclosed as authorized or required by law and DHS or SSA policy, including but not limited to, Congressional oversight, E-Verify publicity and media inquiries, determinations of compliance with Federal contractual requirements, and responses to inquiries under the Freedom of Information Act (FOIA).

G. The foregoing constitutes the full agreement on this subject between DHS and the Employer.

H. The individuals whose signatures appear below represent that they are authorized to enter into this MOU on behalf of the Employer and DHS respectively.

E-Verify

Company ID Number: 245291

To be accepted as a participant in E-Verify, you should only sign the Employer's Section of the signature page. If you have any questions, contact E-Verify at 888-464-4218.

Employer **Dunn Construction Company Inc.**

William L Hopper III
Name (Please Type or Print) | Title

Electronically Signed | 09/02/2009
Signature | Date

Department of Homeland Security – Verification Division

USCIS Verification Division
Name (Please Type or Print) | Title

Electronically Signed | 09/02/2009
Signature | Date

E-Verify

Company ID Number: 245291

Information Required for the E-Verify Program

Information relating to your Company:

Company Name: Dunn Construction Company Inc.

Company Facility Address: 3905 Messer Airport Highway

Birmingham, AL 35222

Company Alternate Address: P O Box 11967

Birmingham, AL 35202

County or Parish: JEFFERSON

Employer Identification Number: 630662810

North American Industry Classification Systems Code: 237

Parent Company:

Number of Employees: 100 to 499

Number of Sites Verified for: 1

Are you verifying for more than 1 site? If yes, please provide the number of sites verified for in each State:

- ALABAMA 1 site(s)

E-Verify

Company ID Number: 245291

Information relating to the Program Administrator(s) for your Company on policy questions or operational problems:

Name:	Charles R Miller		
Telephone Number:	(205) 592 - 3866 ext. 207	Fax Number:	(205) 592 - 4632
E-mail Address:	cmiller@dunnconstruction.com		
Name:	Judith J Torres		
Telephone Number:	(205) 592 - 3866 ext. 269	Fax Number:	(205) 510 - 0275
E-mail Address:	jtorres@dunnconstruction.com		
Name:	William L Hopper III		
Telephone Number:	(205) 592 - 3866 ext. 236	Fax Number:	(205) 510 - 0275
E-mail Address:	whopper@dunnconstruction.com		
Name:	Janice F Goldstein		
Telephone Number:	(205) 592 - 3866 ext. 257	Fax Number:	(205) 592 - 4632
E-mail Address:	jgoldstein@dunnconstruction.com		

DUNNINV-01 DUBEAA

ACORD

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY) 12/30/2015

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER
Willis of Alabama, Inc.
P.O. Box 730416
Dallas, TX 75373-0416

CONTACT NAME: Willis Certificate Center
PHONE (A/C, No, Ext): (877) 945-7378 FAX (A/C, No): (888) 467-2378
E-MAIL ADDRESS: certificates@willis.com

INSURER(S) AFFORDING COVERAGE	NAIC #
INSURER A : Travelers Property Casualty Company of America	25674
INSURER B : Phoenix Insurance Company	25623
INSURER C :	
INSURER D :	
INSURER E :	
INSURER F :	

INSURED
Dunn Construction Company, Inc.
3905 Airport Highway
P.O. Box11967
Birmingham, AL 35202

COVERAGES CERTIFICATE NUMBER: REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS		
A	X COMMERCIAL GENERAL LIABILITY			VTC2JCO5802B77A-TIL-15	12/31/2015	12/31/2016	EACH OCCURRENCE	$	2,000,000
	CLAIMS-MADE X OCCUR						DAMAGE TO RENTED PREMISES (Ea occurrence)	$	300,000
							MED EXP (Any one person)	$	10,000
							PERSONAL & ADV INJURY	$	2,000,000
	GEN'L AGGREGATE LIMIT APPLIES PER						GENERAL AGGREGATE	$	4,000,000
	POLICY X PRO-JECT X LOC						PRODUCTS - COMP/OP AGG	$	4,000,000
	OTHER.							$	
A	AUTOMOBILE LIABILITY			VTC2JCAP5802B781-TIL-15	12/31/2015	12/31/2016	COMBINED SINGLE LIMIT (Ea accident)	$	2,000,000
	X ANY AUTO						BODILY INJURY (Per person)	$	
	ALL OWNED AUTOS / SCHEDULED AUTOS						BODILY INJURY (Per accident)	$	
	HIRED AUTOS / NON-OWNED AUTOS						PROPERTY DAMAGE (Per accident)	$	
								$	
	UMBRELLA LIAB / OCCUR						EACH OCCURRENCE	$	
	EXCESS LIAB / CLAIMS-MADE						AGGREGATE	$	
	DED / RETENTION $							$	
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY			VTC2NUB9D459956-PHX-15	12/31/2015	12/31/2016	X PER STATUTE / OTH-ER		
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) Y/N N	N/A					E.L. EACH ACCIDENT	$	1,000,000
	If yes, describe under: DESCRIPTION OF OPERATIONS below						E.L. DISEASE - EA EMPLOYEE	$	1,000,000
							E.L. DISEASE - POLICY LIMIT	$	1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

CERTIFICATE HOLDER

For Information Only

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE
Jones C. Morris

© 1988-2014 ACORD CORPORATION. All rights reserved.

The ACORD name and logo are registered marks of ACORD