

**MOUNTAIN BROOK CITY COUNCIL
PRE-MEETING DISCUSSION
AUGUST 8, 2022**

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

The City Council of the City of Mountain Brook, Alabama met informally in-person at 6:00 p.m. on the 8th day of August, 2022 (others were allowed to listen to the meeting by way of Internet video conference). The Council President called the pre-meeting to order and the roll was called with the following results:

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

Absent: None

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

1. EXECUTIVE SESSION

Council Member Shelton made a motion that the City Council convenes in executive session to discuss pending litigation and matters of real estate matter. The City Attorney certified that the subject matters were allowed to be discussed in executive pursuant to Alabama Law. The motion was seconded by Council President Pro Tempore Pritchard. Then, upon the question being put and the roll called, the vote was recorded as follows:

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

Nays: None

2. AGENDA

1. Amendments to the Animal Control ordinance

Whit Colvin-City Attorney

- Drafted Ordinance that further restricts dogs being on playing fields and in parks per the discussion that was had at last meeting
- Also updated the definition of service animals in the draft ordinance to make it ADA compliant

Virginia Smith-Council President

- Shanda Williams, the Parks and Recreation Superintendent, recommended the Ordinance go back to the Parks and Recreation Board for them to study
- Will bring back to council at the next meeting

Billy Pritchard-Council President Pro Tempore

- If the Ordinance is approved, enforcement will need to be addressed

Virginia Smith

- Want the residents to know the Ordinance is being discussed in the hopes the problem may resolve itself

Lloyd Shelton-Council Member

- Encountered a gentleman with a dog who defecated on the sidewalk in front of a business and the gentleman continued walking without picking up after his dog.
- Citizens have a responsibility to each other and it is common decency to pick up after their dogs

2. Add-On Crestline/Crestview Break-Ins

Billy Pritchard-Council President Pro Tempore

- Received call from resident that sent a video of a culprit, who is breaking in a vehicle, with a handgun
- Previously the Police Department put on a class for concerned residents regarding protective measures

Jaye Loggins-Police Chief

- There were 5 car break-ins last month and 6 the last quarter
- The car thefts have been from unlocked cars with keys inside the vehicle
- Break-Ins are not uncommon in this area
- Stepped up patrol and arrested 18 people (since January) pertaining to break-ins, theft of vehicles, and receiving stolen property from vehicles
- Conducted 4 community meetings in May
- Main point and biggest deterrent is to lock car doors
- Not locking doors makes Mountain Brook more of a target for thefts
- Relationship builds partnership, community needs to do their part in locking doors
- If residents see someone armed in their driveway they should call the police
- Crime is going to happen, the police department will do its best to deter it

Lloyd Shelton-Council Member

- The police department has an app called "Mountain Brook PD". Within the app you can call the police department for emergency and non-emergency
- Need to promote downloading the app to residents

Gerald Garner-Council Member

- The police department is open and receptive to anyone calling
- Would encourage all residents to call the police if needed

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

2. ADJOURNMENT

There being no further matters for discussion Council President adjourned the pre-meeting at approximately 6:56

3. CERTIFICATION

I, Heather Richards, City Clerk of the City of Mountain Brook, Alabama, certify the above is a true and correct synopsis of the discussion from the regular session of the City Council of the City of Mountain Brook, Alabama held at City Hall, Pre-Council Room (A-106) on August 8, 2022, and that the meeting was duly called and held in all respects in accordance with the laws of the State of Alabama and bylaws of the City and that no formal action or votes were conducted at said work session.


City Clerk, Approved by
City Council September 12, 2022

**MINUTES OF THE REGULAR MEETING OF THE
CITY COUNCIL OF THE CITY OF MOUNTAIN BROOK
AUGUST 8, 2022**

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

The City Council of the City of Mountain Brook, Alabama met in person at 7:00 p.m. on the 8th day of August, 2022 (others were allowed to listen to the meeting by way of Internet video conference). The Council President called the meeting to order and the roll was called with the following results:

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

Absent: None

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

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

1. INTRODUCED SPECIAL GUESTS-SCOUTS

Luke Cribs-Troup 53 out of St. Peters Church

- Present for Community Merit badge

2. CONSENT AGENDA

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

2022-115	Appoint poll workers for the August 23, 2022, general municipal election.	Exhibit 1
2022-116	Authorize the agreement for consulting services with Schoel Engineering Company Inc. for consulting services associated with the study of drainage problems in the vicinity of Lorena Lane and Fairmont Drive.	Exhibit 2, Appendix 1
2022-117	Authorize the agreement for consulting services with Schoel Engineering Company Inc. for consulting services associated with the drainage improvements in the vicinity of 129 Cherry Street.	Exhibit 3, Appendix 2

2022-118	Authorize the agreement for consulting services with Schoel Engineering Company Inc. for consulting services associated with the drainage improvements in the 800 Block of Euclid Avenue.	Exhibit 4, Appendix 3
2022-119	Authorize the agreement for consulting services with Schoel Engineering Company Inc. for consulting services associated with the review of City drainage Ordinance and recommendations as to changes to stormwater management practices.	Exhibit 5, Appendix 4
2022-120	Authorize the sale or disposal of surplus property (Police and Library)	Exhibit 6, Appendix 5

Thereupon, the foregoing resolutions (Nos. 2022-115 through 2022-120), were introduced by Council President Smith and a motion for their immediate adoption made by Council Member Womack. The resolutions were then considered by the City Council. Council President Pro Tempore Pritchard seconded the motion to adopt the foregoing resolutions. Then, upon the question being put and the roll called, the vote was recorded as follows:

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

Nays: None

Abstained: None

Council President Smith thereupon declared that said resolutions (Nos. 2022-115 through 2022-120) were adopted by a vote of 5—0 and as evidence thereof she signed the same.

3. PUBLIC NUISANCE HEARING 751 BENTLEY DRIVE (RESOLUTION NO. 2022-121 EXHIBIT 7, APPENDIX 6)

Steve Stine-City Attorney

- The property located at 751 Bentley Drive is owned by Geraldine Belt
- Last year a tree fell on the house and did significant damage to the structure
- The roof would have to be replaced in order to restore property
- There is significant water damage
- Front part of house would need to be completely redone to restore structure
- Glen Merchant, The City Building Official, made two different nuisance determinations regarding the condition of the structure.
- Mr. Merchant's recommendation is to demolish the structure
- Notice of the conditions have been provided to owner asking them to take appropriate action to abate the nuisance
- Under City's Ordinance, this property is considered an unsafe nuisance

Tim Hennessay-745 Bentley Drive

- This property has been a constant nuisance for 18 months.
- Neighbors have tried to upkeep the lawn

- Want to put a lien on the house to demolish the house so the neighborhood can move on

Andrew Gearhart-752 Bentley Drive

- Currently his house is on the market and this property is devaluing their home
- Property is an eye sore
- Feel helpless as neighbors

Isabelle Lawson-112 Camellia Drive

- There are around 40 kids that are under 10
- This property is a safety hazard for the neighborhood
- This property does affect the value of the other homes in the neighborhood
- Asking the council to expedite their decision

Sarah Sarcone-754 Bentley Drive

- Moved into the neighborhood a month ago
- Want to know the next steps and the steps to condemn a property

Steve Stine

- City has nuisance Ordinance that deals with these situations
- After nuisance determination has been made, then the owner is contacted and ask them to take appropriate action
- Notices have been posted
- City does have options: if owner will not abate then the City can step in to take action

Matthew Coe-749 Bentley Drive

- Conditions of property is unsafe and cause a hazard
- The trees and shrubs of this property is taking over his fence and yard

Matthew Brown-750 Bentley Drive

- Wants a timeline of when this property will be resolved

Virginia Smith-Council President

- The City Attorney, Steve Stine, drafted a Resolution that would permit the city to move forward with the demolition
- "Read Resolution 2022-121 aloud to council members"

Council President Pro Tempore made a motion to approve the abatement of nuisance conditions with structure at 751 Bentley Drive (Resolution No. 2022-121, Exhibit 7, Appendix 6).

Thereupon, the resolution was then considered by the City Council. Council Member Garner seconded the motion to approve the foregoing resolution. Then, upon the question being put and the roll called, the vote was recorded as follows:

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

Nays: None

Council President Smith thereupon declared that said Resolution No. 2022-121 is approved by a vote of 5—0.

4. COMMENTS FROM RESIDENTS AND ATTENDEES

Lisa Ripp-Grace Klein Community (Food Organization)

- Feed over 14,000 people a week with “rescue food”
- Partner with restaurants and grocery stores to get overages of food and this is how they are able to feed so many people
- Did 1,000 rescues last month and delivered 31,000 meals to the volunteers (and athletes) at the World Games and then rescued 12,000 plate lunches and delivered to shelters
- 40% of food produced is thrown away
- Implore businesses to donate non-perishable foods
- Have 700 “food rescue heroes” who pick up food from various locations
- Last year’s numbers: Delivered 163,000 food boxes, 885,000 meals, 4,200 food rescue pick-ups

Amanda Pridgen-818 Euclid Avenue

- Have been dealing with drainage issues since 2003
- Worked with Public Works to allow for more sufficient drainage
- Wants to know the timeline and master plan for drainage around Euclid

Sam Gaston-City Manager

- Should have final plans in 6-8 weeks
- Next step is to get the design

Ogden Deaton-130 Lorena Lane

- He cut down some gumball trees because they were clogging gutters, not realizing how bad the drainage issue was
- After trees were cut down, had two pieces of equipment stuck in his yard due to water and mud
- Any slight rain causes a problem
- Mud and silt comes down and clogs the drainage pipes
- Hired an engineer and devised a plan to retain water
- This was a significant unexpected expense (out of pocket) to maintain and keep water from running down. This still needs to be maintained.

Kyle Fessler-134 Lorena Lane

- Purchased home in 2018 and have been dealing with same water issues
- Retaining wall keeps failing. Has to spend thousands of dollars to continue to fix this issue

5. ANNOUNCEMENT

Council President Smith announced the next regular meeting of the City Council is August 22, 2022, 7:00p.m.

6. ADJOURNMENT

There being no further business to come before the City Council, President Smith adjourned the meeting at approximately 7:47p.m.

7. CERTIFICATION

I, Heather Richards, City Clerk of the City of Mountain Brook, Alabama, certify the above is a true and correct transcript of the regular meeting of the City Council of the City of Mountain Brook, Alabama held at City Hall, Council Chamber (Room A-108) on August 8, 2022, and that the meeting was duly called and held in all respects in accordance with the laws of the State of Alabama and bylaws of the City and that a quorum was present.

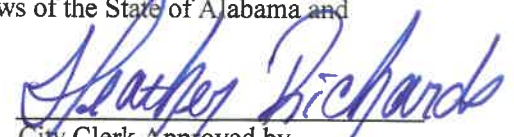

 City Clerk Approved by
 City Council September 12, 2022

EXHIBIT 1
RESOLUTION NO. 2022-115

WHEREAS, a municipal election has been called to be held on the 23rd day of August, 2022, and

WHEREAS, Section 11-46-27 of the Alabama Code of 1975, as amended, provides, in part, that the municipal governing body shall appoint from the qualified electors, officers to conduct the election,

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Mountain Brook, Alabama, that the election officers for said election shall be as follows:

Polling Location No. 1 - St. Luke's Episcopal Church

Diane M. Fisher	Chief	3829 Cove Drive 35213	879-8011	dianefisher@charter.net
Kimberly H. Carney	Asst.	12 Montrose Circle	871-1100	
Don Beville		2932 Balmoral Road	337-9409	
Linda Bryne		3526 Pine Ridge Road	531-7398	
Sally Yielding		51 Norman Drive	541-6710	
Katherine Garson		3825 Cove Drive	441-0646	
(1/2 day)				
Kathleen Britton	(1/2 day)	3869 Glencoe Drive	542-0998	
Diane Weatherford	(1/2 day)	3917 Montevallo Road	960-7896	
Katherine Trammell	(1/2 day)	3838 South Cove Drive	222-7814	

Polling Location No. 2 - Mountain Brook City Hall

Tricia Pugh	Chief	4162 Appomatox Lane, 35213	999-5752	pugh143@bellsouth.net
Stephanie Byrne	Asst	2426 Arlington Crest, 35205	907-8362	sbyrne@realtysouth.com
Sue Abele		3767 Jackson Blvd, 35213	821-7746	
Caroline Daniel		123 Greenbriar Lane, 35213	913-4321	
Alexis Burgess		1117 23 rd St., 35205	499-4538	
Naomi Cunningham		3621 Country Club Rd 35213	750-1083	
Celeste Henderson		3830 Glencoe Dr., 35213	441-1669	
Jeannie Dodson		108 Crestwood Dr., 35213	903-2368	
Laura Stacy		2716 Southview Terr., 35216	492-8897	
Leigh A. Haas		215 Dexter Ave., 35213	910-5978	
Anne Sherrod	(1/2)	2828 Overton Rd., 35223	970-4948	
Marjorie E. Breman	(1/2)	3774 Montevallo S. Rd., 35213	915-8553	

Absentee Ballot Counters - Mountain Brook City Hall

Steven Boone	Chief	3721 Forest Run Road 35223	937-5662	
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Janet Forbes Clerk
 Suzan Doidge Clerk
 Heather Richards Clerk

Polling Location No. 3 - Brookwood Baptist Church

Ronald B. Cohen	Chief	3267 Hillard Drive 35243	969-2340	avieron@bellsouth.net
Andrea M. May	Asst	4117 Shiloh Drive 35213	994-5323	
David M. Cohen		3267 Hilliard Drive, 35243	773-724-0907	

Avrin O. Cohen		3267 Hillard Drive 35243	422-4911
William H. May Jr.		4117 Shiloh Drive, 35213	572-9559
Bert A. Siegel		3532 Spring Valley Ct. 35223	960-0645
Phillip L. Teninbaum		3201 Stoningham Drive 35243	967-5577
Eva L. Wilensky		3340 Stoneridge Lane 35243	967-3340

Polling Location No. 4 – Mountain Brook Community Church

Carole C. Pitard	Chief	3327 Woodridge Road, 35223	617-1159
Martha Phillippi	Asst	3344 Eaton Road, 35223	531-3251
Pervival Faulconer		3829 Orleans Road, 35243	967-2707
Rachel Barton		3370 Hermitage Road, 35223	283-7215
Fred Martin		2933 Green Valley Rd.	967-5627
Helen Martin		2933 Green Valley Rd.	967-5627
Kelly Higgins		3325 Springhill Rd, 35223	967-3522

Polling Location No. 5 – Canterbury United Methodist Church

Camille S. Butrus	Chief	2724 Old Mill Lane, 35223	803-4197	camillebutrus@gmail.com
Martha Green Isom	Asst	2300 Highland Crescent, 35205	542-1124	
Joellyn M. Beckham		232 Calton Road, 35213	873-0887	
Mary C. Crowe		1612 Cahaba Road, 35223	960-7222	
Angelee A. Florie		4244 Caldwell Mill Rd, 35243	969-1732	
Norman K. Johnson		2215 Cahaba Rd., 35223	960-8902	

Polling Location No. 6 - Cherokee Bend Elementary School

K.C. Hairston	Chief	3928 Rock Creek Drive	999-3760	kchairston@balch.com
Monique Hairston		3928 Rock Creek Drive	999-3760	
Kristi Chopin		3902 Rock Creek Drive	662-549-1719	
Thomas Fox		3421 S. Brookwood Rd.	533-4476	
Patricia Fox		3421 S. Brookwood Rd.	533-4476	
Joseph Hudson		3677 Brookwood Road	382-4841	
Steven Maudin		4313 Corinth Drive	907-9769	
Aaron Nelson		4912 Brandywood Drive	769-3269	
Sarah Paulk		3637 Rockhill Road	478-2666	

BE IT FURTHER RESOLVED by the City Council of the City of Mountain Brook, Alabama, that the City Clerk, Chief inspectors, and/or Assistant Chief Inspectors/Clerks are hereby authorized to engage additional and replacement poll workers in the event persons appointed herein above fail to report for duty for any reason; and,

BE IT FURTHER RESOLVED by the City Council of the City of Mountain Brook, Alabama, that the City Clerk is hereby authorized and directed to pay the following amounts to those persons appointed herein above, or any replacement poll workers engaged by the Chief inspectors or Assistant Chief Inspectors/Clerks:

MINUTE BOOK 92

Chief Inspectors	\$250
Assistant Chief Inspectors/Clerks	\$200
Absentee Clerks	\$ 55

BE IT FURTHER RESOLVED by the City Council of the City of Mountain Brook, Alabama, that the City Clerk is hereby authorized and to provide refreshments on election day and at the poll worker training and to pay an additional \$25 to all poll workers for any poll workers training sessions hosted by the City.

EXHIBIT 2
RESOLUTION NO. 2022-116

BE IT RESOLVED by the City Council of the City of Mountain Brook, Alabama, that the City Council hereby authorize the agreement for consulting services between the City and Schoel Engineering Company, Inc. for consulting services associated with the study of drainage problems in the vicinity of Lorena Lane and Fairmont Drive in Mountain Brook, Alabama.

APPENDIX 1

EXHIBIT 3
RESOLUTION NO. 2022-117

BE IT RESOLVED by the City Council of the City of Mountain Brook, Alabama, that the City Council hereby authorize the agreement for consulting services between the City and Schoel Engineering Company, Inc. for consulting services associated with the drainage improvements in the vicinity of 129 Cherry Street in Mountain Brook, Alabama.

APPENDIX 2

EXHIBIT 4
RESOLUTION NO. 2022-118

BE IT RESOLVED by the City Council of the City of Mountain Brook, Alabama, that the City Council hereby authorize the agreement for consulting services between the City and Schoel Engineering Company, Inc. for consulting services associated with the drainage improvements in the 800 Block of Euclid Avenue in Mountain Brook, Alabama.

APPENDIX 3

EXHIBIT 5
RESOLUTION NO. 2022-119

BE IT RESOLVED by the City Council of the City of Mountain Brook, Alabama, that the

City Council hereby authorize the agreement for consulting services between the City and Schoel Engineering Company, Inc. for consulting services associated with the review of City drainage Ordinance and recommendations as to changes to stormwater management practices.

APPENDIX 4

EXHIBIT 6

RESOLUTION NO. 2022-120

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

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

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

Section 1. It is hereby established and declared that the following equipment, as described in the form as attached hereto as Exhibit A, owned by the City of Mountain Brook, Alabama is no longer needed for public or municipal purposes and is hereby declared surplus property; and

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

APPENDIX 5

EXHIBIT 7

RESOLUTION NO. 2022-121

WHEREAS, the main residential structure at the property in the City having the address of 751 Bentley Drive (the "Structure") and owned by Geraldine Belt ("Owner") was heavily damaged by a fallen tree in 2021;

WHEREAS, the City's Building Official previously has determined that the condition of the Structure is unsafe, uninhabitable, and dangerous and constitutes a Building Nuisance pursuant to City of Mountain Brook Code Chapter 34, Article II, Sec 34-41 *et. seq* (the "Building Nuisance Declaration");

WHEREAS, notice of the Building Nuisance Declaration previously has been provided to the Owner of the subject property; and

WHEREAS, the City Council conducted a public hearing on August 8, 2022, concerning the condition of the Structure and potential abatement of those conditions.

NOW WHEREFORE, having conducted a public hearing, received comments from citizens, considered the Nuisance Determination, and considered photographic and other evidence of the condition of the Structure, the Council of the City of Mountain Brook does hereby FIND and RESOLVE as follows:

1. The Nuisance Determination of the Building Official is affirmed.
2. The Owner of the subject property has been provided due and proper notice of the Nuisance Determination on at least two occasions, but has not taken action to abate the nuisance concerning the main Structure.
3. The City Building Official is directed to (1) contact the Owner of the property and direct that action be taken by her within thirty (30) days of this Resolution to demolish the main Structure and remove and properly dispose of all resulting debris; and (2) if the Owner does not take such action, retain a contractor for the City to take such remedial demolition actions with the expense thereof to be the responsibility of either the Owner or bourn by the City and later assessed to the property following submission of those costs to the Council at a subsequent public meeting.

APPENDIX 6

Agreement for Consulting Services

Lorena Lane and Fairmont Drive
Evaluation of Drainage Problems and Preliminary Design

August 02, 2022

This AGREEMENT, entered into by and between The City of Mountain Brook, Alabama, hereinafter referred to as the Client, and School Engineering Company, Inc., hereinafter referred to as the Consultant, is for Consulting Services associated with the study of drainage problems in the vicinity of Lorena Lane and Fairmont Drive in Mountain Brook, Alabama.

PROJECT OVERVIEW

Certain Properties along Lorena Lane and Fairmont Drive experience periodic flooding. Drainage is apparently bypassing a roadside inlet and causing flooding behind the residences. In this work, the local drainage system will be surveyed and evaluated, Preliminary hydrologic computations performed, and preliminary recommendations of measures to improve drainage conditions made. Final Design of measures if chosen by the City would be future work.

PROPOSED SCOPE & SERVICES

1. Surveying of drainage and improvements in the study area

The Consultant would field survey and document the existing drainage system in the vicinity Lorena Lane and Fairmont Drive. This information would be incorporated into the GIS drainage base map of the area. The detailed scope is as follows:

- Coordinate as required with Client
- Establish Survey control on State Plane Coordinates
- Field Survey drainage improvements and improvements in study area
- Process data and incorporate into CAD database

Lump Sum Fee \$ 5,500

2. Hydrologic/Hydraulic Modeling of drainage system and development of improvement options

The Consultant would prepare develop preliminary hydrologic and hydraulic models of the drainage basin and existing drainage infrastructure. Remediation options would be developed and design exhibits of potential improvements developed.

- Coordinate as required with Client
- Determine basin hydrologic parameters
- Develop hydraulic model, based on existing system configuration
- Develop and remediation options
- Develop design exhibits and brief narrative

Lump Sum Fee \$ 7,800

1. Final Design (future work, once scope is determined)
2. Studies of detention (not a suitable option)
3. Construction surveying
4. Work associated with easements, etc.
5. Private utility locations by utility locators

If additional services not included in the above scope are performed, those additional services should be approved by Client in advance and may be billed according to the attached Schedule of Unit Rates.

SCHEDULE OF UNIT RATES – EFFECTIVE THROUGH 12/31/2022

Senior Principal	\$ 275.00 per hour
Principal	\$ 200.00 per hour
Field Survey Party	\$ 185.00 per hour
Chief Land Surveyor/Assistant Director	\$ 175.00 per hour
Senior Project Manager	\$ 165.00 per hour
Project Manager	\$ 150.00 per hour
Senior Professional	\$ 140.00 per hour
Project Professional	\$ 125.00 per hour
Staff Professional	\$ 115.00 per hour
Senior Designer / Drafter / Specialist	\$ 115.00 per hour
Designer 2 / Drafter 2 / Specialist 2	\$ 100.00 per hour
Designer 1 / Drafter 1 / Specialist 1	\$ 90.00 per hour
Administrative / Technical Support	\$ 75.00 per hour
Transportation	\$ 0.56 per mile

Printing and other reimbursable expenses will be charged at cost plus 15% and are not included in the fee basis described above. Lodging and Meals and Incidentals (M&IE) will be billed according to government Services Administration (GSA) rates. Sub-consultant invoices will be billed to the client at a rate of 115% of the sub-consultant invoice amount. Overtime rates may apply for work required during non-standard work hours.

GENERAL TERMS AND CONDITIONS

- 1) Services performed under this Agreement will be conducted in a manner consistent with that level of care and skill exercised by members of the profession currently practicing under similar conditions. Plans, specifications, and submittals will be prepared in accordance with the written standards of the governing authorities having jurisdiction. Any extraordinary requirements for approvals will be considered additional services. Except as expressed herein, no other warranty, expressed or implied, is made. Nothing in this agreement is intended to create, nor shall it be construed to create, a fiduciary duty owed by either party to the other party.
- 2) Consultant agrees that, to the fullest extent permitted by law, it will defend, indemnify, reimburse and hold Client harmless from the expenses (including those for attorneys' fees, litigation costs and court expenses), damages (including those for bodily injury, death or damage to Clients' property or that owned by third parties) and losses that Client might incur that arise from the following types of claims, causes, suits or actions relating to the Project, the Project site, or Consultant's breach of its obligations under this Agreement (collectively, "Claims"):
 - (a) professional liability Claims by the Client against the Consultant to the extent caused by Consultant's negligent performance of its professional services contemplated hereunder
 - (b) Comprehensive General Liability with minimum limits of not less than One Million Dollars (\$1,000,000.00), combined single limit and aggregate for bodily injury and property damage. This Comprehensive General Liability policy shall include coverage on an occurrence basis for premises/operations, products/completed operations, assumed contractual obligations, and independent contractors; and
 - (c) Workers Compensation/Employer's Liability: Workers' Compensation as required by statute and Employer's Liability with limits of Five Hundred Thousand Dollars (\$500,000) per occurrence.

Consultant may satisfy its insurance obligations hereunder through a combination of primary, umbrella and excess policies. Before commencement of any Services, the Consultant shall provide Client a certificate(s) of insurance evidencing compliance with the requirements in this section. Further, through an endorsement, Client shall be named an additional insured on the Comprehensive General Liability and any applicable umbrella and excess policies

8) All reports, plans, documents, materials created by Consultant or its work product from its Services (collectively, the "Instruments of Service") shall remain the property of the Consultant, and are intended solely for use related to this Agreement and construction of the Project. Notwithstanding, Consultant grants Client a perpetual license to distribute to any third party, reproduce or otherwise use any of the Instruments of Service for purposes it deems reasonably necessary that relate to construction of the Project or conditions at the Project site. Client agrees and acknowledges any reuse of the Instruments of Service for purposes outside of this Agreement or the Project, or any failure to follow Consultant's recommendations in those Instruments without Consultant's written permission, shall be at the Client's and not user's sole risk.

9) This Agreement may be terminated by either party upon thirty (30) days written notice in the event of substantial failure to perform in accordance with its terms by the other party through no fault of the terminating party. If this Agreement is terminated by Consultant due to default of Client, it agrees that Consultant shall be paid for total charges for work performed prior to the termination notice date.

Additionally, at Client's convenience and without cause or default by Consultant, Client may suspend or cancel the Agreement, performance of Services or work on the Project at any time by providing written notice to Consultant. In the event of such suspension or cancellation, Client will compensate Consultant for Services performed up to through the date of that notice.

10) Delayed Performance/Force Majeure Events. Neither party to this Agreement shall be liable to the other for any failure to perform its respective obligations (including payment obligations) under it during any period in which its performance is delayed by circumstances beyond its reasonable control, such as fire, flood, war, embargo, strike, riot, or the intervention of any governmental authority (a "Force Majeure Event"). However, the delayed party must promptly provide the other with written notice of the Force Majeure Event, the delayed party's time for performance will be excused only for the duration of that Event, and, if that Event lasts longer than 30 days, then the other party may immediately terminate, in whole or in part, this Agreement by giving written notice to the delayed party.

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

12) Consultant shall not be responsible for construction safety or construction procedures at the Project site, nor will it be responsible for the quality of the work performed by the Contractor or any consultants that are not retained by it.

13) At Client's request and for its convenience, Consultant may provide documents and its work product in electronic format. Data, words, graphical representations, and drawings that are stored on electronic media or which are transmitted electronically, may be subject to uncontrollable alteration. The printed, signed and sealed hard copy is the actual professional instrument of Service. In the event of a discrepancy between the electronic document and the hardcopy document, the hardcopy document will prevail.

14) This Agreement is entered with the expectation that it will be the subject of a price comparison with other firms. Alabama law prohibits licensed engineers and land surveyors from participating in any process

that solicits prices from two or more licensed engineers or land surveyors simultaneously. The law defines this practice as bidding and participation by a licensee is prohibited. If this agreement is being used in this manner, by law, withdraw this agreement from consideration.

15) Limitation of Liability. In no event may Consultant recover from Client any special, incidental, consequential or any other indirect damages whatsoever of any description (including, without limitation, damages for lost profits, lost advantage, lost opportunity, loss of savings or revenues or for increased cost of operations) or amount arising from the Client's breach of its obligations hereunder or suspension or termination of this Agreement.

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

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

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

19) Consultant may not assign its rights, obligations or the benefits of this Agreement to any third party without the written consent of Client, which consent may be withheld for any reason.

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

21) Consultant is an independent contractor of Client. This Agreement does not create any partnership, joint venture or principal-agent relationship between the parties. Further, Client retains no control or authority with respect to its means and methods in which Consultant (or any of its employees or representatives) performs their work or Services.

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

23) Amendment. Neither this Agreement nor any of the provisions herein may be amended or modified except in accordance with the terms of a subsequent written instrument that is signed by both parties.

24) This instrument sets forth the entire understanding between the parties concerning the matters herein, and, unless expressed herein, all oral representations, prior negotiations, understandings, agreements, conditions, and terms discussed between them prior to acceptance and signing of this Agreement are of no effect and are deemed to have merged herein.

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

(Signature Page Follows)

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

CITY OF MOUNTAIN BROOK, ALABAMA (CLIENT)

By: [Signature]
Stewart H. Welch III

Its: Mayor

Date: 8-8-2022

SCHOEL ENGINEERING COMPANY, INC. (CONSULTANT)

By: [Signature]
Walter Schoel III

Its: President

Date: February 23, 2020

Below please print or type the following information for the individual to whom invoices for payment should be sent, and enter the names of the respective Project Representatives.

Company: _____
Client: _____
Street Address: _____
City, State, Zip: _____
Phone Number: _____ Fax Number: _____
Email Address: _____
Client's Project Number: _____ Client's Purchase Order Number: _____
Consultant's Project Representative: _____
Client's Project Representative: _____

APPENDIX 1

ADDENDUM TO PROFESSIONAL SERVICES AGREEMENT BETWEEN THE CITY OF MOUNTAIN BROOK AND SCHOEL ENGINEERING INC.

THIS ADDENDUM TO PROFESSIONAL SERVICES AGREEMENT ("the/this Addendum") between the City of Mountain Brook, Alabama ("the City") and Schoel Engineering, Inc. ("the Contractor") is entered between the parties.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

CITY: CITY OF MOUNTAIN BROOK CONTRACTOR: _____
By: *[Signature]* By: _____
Printed Name: Stewart Welch Printed Name: _____
Title: Mayor Title: _____
Date: 8-8-2022 Date: _____

Agreement for Consulting Services

Cherry Street Area Drainage Improvements
Design and Preparation of Construction Documents

August 02, 2022

This AGREEMENT, entered into by and between The City of Mountain Brook, Alabama, hereinafter referred to as the Client, and Schoel Engineering Company, Inc., hereinafter referred to as the Consultant, is for Consulting Services associated with the drainage improvements in the vicinity of 129 Cherry Street in Mountain Brook, Alabama.

PROJECT OVERVIEW

There has been periodic and serious flooding of residences fronting on Cherry Street. A preliminary design suggestion has been developed to mitigate the flooding. In this work, Final Design and the preparation of Construction Documents will be performed based on the preliminary design.

PROPOSED SCOPE & SERVICES

1. Required Topographic and Boundary Surveying of certain Items

The Consultant would field survey certain items which were identified as being needed to be located in the preliminary study. The detailed scope is as follows:

- Walk site with Survey Crew to identify needed locations
Field surveying of additional information
Process data and add to survey base map

Lump Sum Fee \$ 6,400

2. Final Design and Preparation of Construction Documents

The Consultant would prepare final design and Construction Documents of the Cherry Street drainage improvements as identified in the study phase. The detailed scope is as follows:

- Coordinate as required with Client
Develop final design of proposed drainage improvements
Preparation of Final Construction Plans, Including:
Cover Sheet
Layout Plan of drainage improvements
Demolition plan
Design Details
Preparation of technical specifications

Lump Sum Fee \$ 13,500

SCHEDULE OF UNIT RATES - EFFECTIVE THROUGH 12/31/2022

Table with 2 columns: Position and Rate. Includes Senior Principal (\$275.00 per hour), Principal (\$200.00 per hour), Field Survey Party (\$185.00 per hour), Chief Land Surveyor/Assistant Director (\$175.00 per hour), Senior Project Manager (\$165.00 per hour), Project Manager (\$150.00 per hour), Senior Professional (\$140.00 per hour), Project Professional (\$125.00 per hour), Staff Professional (\$115.00 per hour), Senior Designer / Drafter / Specialist (\$115.00 per hour), Designer 2 / Drafter 2 / Specialist 2 (\$100.00 per hour), Designer 1 / Drafter 1 / Specialist 1 (\$90.00 per hour), Administrative / Technical Support (\$75.00 per hour), Transportation (\$0.56 per mile).

Printing and other reimbursable expenses will be charged at cost plus 15% and are not included in the fee basis described above. Lodging and Meals and Incidentals (M&IE) will be billed according to government Services Administration (GSA) rates. Sub-consultant invoices will be billed to the client at a rate of 115% of the sub-consultant invoice amount. Overtime rates may apply for work required during non-standard work hours.

The above fees are inclusive of all expenses or charges that Consultant may incur in connection with provision of Services on the Project, including travel, mail, courier services, communication and a commercially reasonable quantity of copying and reproduction expenses.

GENERAL TERMS AND CONDITIONS

1) Services performed under this Agreement will be conducted in a manner consistent with that level of care and skill exercised by members of the profession currently practicing under similar conditions. Plans, specifications, and submittals will be prepared in accordance with the written standards of the governing authorities having jurisdiction. Any extraordinary requirements for approvals will be considered additional services. Except as expressed herein, no other warranty, expressed or implied, is made. Nothing in this agreement is intended to create, nor shall it be construed to create, a fiduciary duty owed by either party to the other party.

2) Consultant agrees that, to the fullest extent permitted by law, it will defend, indemnify, reimburse and hold Client harmless from the expenses (including those for attorneys' fees, litigation costs and court expenses), damages (including those for bodily injury, death or damage to Client's property or that owned by third parties) and losses that Client might incur that arise from the following types of claims, causes, suits or actions relating to the Project, the Project site, or Consultant's breach of its obligations under this Agreement (collectively, "Claims"):

- (a) professional liability Claims by the Client against the Consultant to the extent caused by Consultant's negligent performance of its professional services contemplated hereunder (a "Professional Liability Claim"); provided that (i) Consultant's total liability for a Professional Liability Claim (including, but not limited to, those arising from its negligence, errors and omissions, or those alleging strict liability, breach of contract or breach of warranty) shall not exceed the minimum limits of the Consultant's Professional Liability insurance coverage required herein in subpart 7(a) below; and (ii) nothing in this Agreement shall be construed to limit the Consultant's liability for Claims resulting from Client's negligence or willful misconduct;

3. Preparation of Legal Description and Exhibit of required drainage easement(s)

The Consultant would prepare a legal description and exhibit that depicts the required drainage easement on the property located south of Canterbury Road. It is assumed that the preparation of the formal easement document and its recording would be performed by the City's attorney. The Detailed Scope is as follows:

- Perform field surveying as required to develop easement
Prepare legal description and exhibit of required easement
Assist the City and the City's attorney, as required

Lump Sum Fee \$3,500

4. Assistance with bidding and Contractor Selection

The Consultant would assist the Client with contractor selection. This work would include assisting the City with the preparation of Bid Documents, attending pre-bid conference, answering contractor questions, and assisting the City in the review of the bids. The Detailed Scope is as follows:

- Assist in the selection of the Contractor
Attend pre-bid conference
Address questions posed by selected Contractor, issue clarifications if required
Assist client with contract preparation and coordinate Client/Contractor administration

Lump Sum Fee \$3,500

4. Construction Administration

The Consultant will perform Construction Review to evaluate the Contractor's general conformance with plans and specifications. The Consultant will review Shop Drawings, and work with the Contractor and Client in solving any minor construction related problems that may arise. The Consultant will review and approve pay request and assist with project closeout. The detailed scope is as follows:

- Review of shop drawings
Construction observation to be performed on an as-needed basis and at the direction of the Client
Minor construction-related revisions - Revisions required as a result of field conditions or as agreed upon by the Client

Lump Sum Fee \$ 3,500

NOT INCLUDED IN SCOPE OF WORK

- Structural engineering
Design or modification to public sanitary sewers (if required, this would be added to scope and a new developed)
Full Construction Engineering and Inspection (CEI), not assumed to be required
Construction surveying
Major revisions
Stormwater permitting with ADEM (not required)
Design or study of downstream improvements
Negotiations with property owners for easement rights (by City)

If additional services not included in the above scope are performed, those additional services should be approved by Client in advance and may be billed according to the attached Schedule of Unit Rates.

APPENDIX 2

(b) any Claims for bodily injury, death, or property damage by third parties against the Client that arise out of any "occurrence" as that term is defined by Consultant's policy of Commercial General Liability insurance required in section 7(b) below, provided that (i) Consultant's total liability under this provision shall not exceed the amount of the minimum limits of the Comprehensive General Liability policy required in subpart 7(b) below; and (b) nothing in this provision shall obligate Consultant to indemnify the Client for Claims by third parties that result from the sole negligence or the willful misconduct of the Client. Nothing herein is intended or shall be interpreted to demand or require Consultant to defend or indemnify the Client from and against any third-party claims, demands, actions, proceedings or suits alleging or in any way arising out of Consultant's breach of its professional services obligations or warranty hereunder, except to the extent provided for in subsection (a) above.

3) The fees for different phases of Services in this Agreement are based on the Scope of Services herein. If the above outlined Scope of Services is changed, or if there are other services that may be requested by the Client, these additional services will be performed at the above hourly rates, or at a revised fee that the parties will negotiate to their mutual satisfaction. If construction of the Project is delayed and completed more than six (6) months following the anticipated completion date set forth herein, the Consultant reserves the right to adjust its Hourly rates for inflation costs on a one-year interval from the date of this proposal.

4) If a claim, dispute, and other controversy arises between Consultant and Client concerning this Agreement or the alleged failure to perform their respective responsibilities hereunder (a "Dispute"), the respective Project Representatives for the Parties will use good faith efforts to amicably resolve such Dispute. If the Dispute is not resolved by the Project Representatives, it will be escalated to the senior official or manager level of each party for consideration. If a Dispute other than as a result of Client's failure to pay amounts undisputedly due hereunder is not resolved at the senior level, it will be submitted to mediation before, and as a condition precedent to, either party availing themselves of remedies provided by law. Mediation shall be held in the county where the Project is located, and if the parties cannot agree on a mediator, then one shall be appointed by the American Arbitration Association (AAA). The parties agree to equally split the cost billed by the mediator.

5) Services not expressly set forth in writing as basic or additional services and listed in the proposal to this Agreement are excluded from the scope of the Consultant's Services, and the Consultant assumes no duty to the Client to perform them unless agreed in a subsequent writing.

6) Client, at its expense, will provide the Consultant with all required site information, existing plans, reports, studies, project schedules and similar information that is contained in Client's files. The Consultant may rely on the information provided by the Client without verification. The Client shall participate with the Consultant by providing all information and criteria in a timely manner, review documents and make decisions on project alternatives to the extent necessary to allow the Consultant to perform the Scope of Services within established schedules.

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

(a) Professional Liability with minimum limits of not less than One Million Dollars (\$1,000,000.00) covering claims to the extent caused by Consultant's negligent performance of professional services or breach of professional warranty. This Professional Liability policy shall include coverage on an occurrence basis.

(b) Comprehensive General Liability with minimum limits of not less than One Million Dollars (\$1,000,000.00), combined single limit and aggregate for bodily injury and property damage. This Comprehensive General Liability policy shall include coverage on an occurrence basis for premises/operations, products/completed operations, assumed contractual obligations, and independent contractors; and

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

MINUTE BOOK 93

Consultant may satisfy its insurance obligations hereunder through a combination of primary, umbrella and excess policies. Before commencement of any Services, the Consultant shall provide Client a certificate(s) of insurance evidencing compliance with the requirements in this section. Further, through an endorsement, Client shall be named an additional insured on the Comprehensive General Liability and any applicable umbrella and excess policies

8) All reports, plans, documents, materials created by Consultant or its work product from its Services (collectively, the "Instruments of Service") shall remain the property of the Consultant, and are intended solely for uses related to this Agreement and construction of the Project. Notwithstanding, Consultant grants Client a personal license to distribute to any third party, reproduce or otherwise use any of the Instruments of Service for purposes it deems reasonably necessary that relate to construction of the Project or conditions at the Project site. Client agrees and acknowledges any reuse of the Instruments of Service for purposes outside of this Agreement or the Project, or any failure to follow Consultant's recommendations in those Instruments without Consultant's written permission, shall be at the Client's and other user's sole risk.

9) This Agreement may be terminated by either party upon thirty (30) days written notice in the event of substantial failure to perform in accordance with its terms by the other party through no fault of the terminating party. If this Agreement is terminated by Consultant due to default of Client, it agrees that Consultant shall be paid for total charges for work performed prior to the termination notice date.

Additionally, at Client's convenience and without cause or default by Consultant, Client may suspend or cancel the Agreement, performance of Services or work on the Project at any time by providing written notice to Consultant. In the event of such suspension or cancellation, Client will compensate Consultant for Services performed up to through the date of that notice.

10) Delayed Performance/Force Majeure Events. Neither party to this Agreement shall be liable to the other for any failure to perform its respective obligations (including payment obligations) under it during any period in which its performance is delayed by circumstances beyond its reasonable control, such as fire, flood, war, embargo, strike, riot, or the intervention of any governmental authority (a "Force Majeure Event"). However, the delayed party must promptly provide the other with written notice of the Force Majeure Event, the delayed party's time for performance will be excused only for the duration of that Event, and, if that Event lasts longer than 30 days, then the other party may immediately terminate, in whole or in part, this Agreement by giving written notice to the delayed party.

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

12) Consultant shall not be responsible for construction safety or construction procedures at the Project site, nor will it be responsible for the quality of the work performed by the Contractor or any consultants that are not retained by it.

13) At Client's request and for its convenience, Consultant may provide documents and its work product in electronic format. Data, words, graphical representations, and drawings that are stored on electronic media or which are transmitted electronically, may be subject to uncontrollable alteration. The printed, signed and sealed hard copy is the actual professional Instrument of Service. In the event of a discrepancy between the electronic document and the hardcopy document, the hardcopy document will prevail.

14) This Agreement is entered with the expectation that it is not being used in a price comparison with other firms. Alabama law prohibits licensed engineers and land surveyors from participating in any process that solicits prices from two or more licensed engineers or land surveyors simultaneously. The law defines this practice as bidding and participation by a licensee is prohibited. If this agreement is being used in this manner, we must by law, withdraw this agreement from consideration.

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

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

CITY OF MOUNTAIN BROOK, ALABAMA (CLIENT)

By: Stewart H. Welch III

Its: Mayor

Date: 8-8-2022

SCHOEL ENGINEERING COMPANY, INC. (CONSULTANT)

By: Taylor Schoel

Its: Principal

Date: 3/10/2022

Below please print or type the following information for the individual to whom invoices for payment should be sent, and enter the names of the respective Project Representatives.

Company:
Client:
Street Address:
City, State, Zip:
Phone Number: Fax Number:
Email Address:
Client's Project Number: Client's Purchase Order Number:
Consultant's Project Representative:
Client's Project Representative:

15) Limitation of Liability. In no event may Consultant recover from Client any special, incidental, consequential or any other indirect damages whatsoever of any description (including, without limitation, damages for lost profits, lost advantage, lost opportunity, loss of savings or revenues or for increased cost of operations) or amount arising from the Client's breach of its obligations hereunder or suspension or termination of this Agreement.

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

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

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

19) Consultant may not assign its rights, obligations or the benefits of this Agreement to any third party without the written consent of Client, which consent may be withheld for any reason.

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

21) Consultant is an independent contractor of Client. This Agreement does not create any partnership, joint venture or principal-agent relationship between the parties. Further, Client retains no control or authority with respect to its means and methods in which Consultant (or any of its employees or representatives) performs their work or Services.

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

23) Amendment. Neither this Agreement nor any of the provisions herein may be amended or modified except in accordance with the terms of a subsequent written instrument that is signed by both parties.

24) This instrument sets forth the entire understanding between the parties concerning the matters herein, and, unless expressed herein, all oral representations, prior negotiations, understandings, agreements, conditions, and terms discussed between them prior to acceptance and signing of this Agreement are of no effect and are deemed to have merged herein.

ADDENDUM TO PROFESSIONAL SERVICES AGREEMENT BETWEEN THE CITY OF MOUNTAIN BROOK AND SCHOEL ENGINEERING INC.

THIS ADDENDUM TO PROFESSIONAL SERVICES AGREEMENT ("the/this Addendum") between the City of Mountain Brook, Alabama ("the City") and Schoel Engineering, Inc. ("the Contractor") is entered between the parties.

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

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

A. "The City" refers to and includes the City of Mountain Brook, Alabama, and its constituent departments, boards, and agencies. The City may also be referenced in the Agreement as the "Client."

B. "The (this) Agreement" refers to the principal contract, agreement, proposal, quotation, or other document that sets forth the basic terms and conditions under which the Contractor is engaged to provide goods, materials, or services to the City, including the payment or other consideration to be provided by the City in exchange therefor.

C. "The Contractor" refers to the person, firm, or other legal entity that enters the Agreement with the City to provide goods, materials, or services to the City, and includes vendors and suppliers providing goods, materials, and services to the City with or without a formal contract as well as the Contractor's vendors, suppliers, and subcontractors. The Contractor may also be referenced in the Agreement as the "Consultant."

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

CITY: CITY OF MOUNTAIN BROOK CONTRACTOR: _____
By: [Signature] By: _____
Printed Name: Stewart Welch Printed Name: _____
Title: Mayor Title: _____
Date: 8-8-2022 Date: _____

Agreement for Consulting Services

Euclid Avenue Road Area Drainage Improvements
Design and Preparation of Construction Documents

August 03, 2022

This AGREEMENT, entered into by and between The City of Mountain Brook, Alabama, hereinafter referred to as the Client, and Schoel Engineering Company, Inc., hereinafter referred to as the Consultant, is for Consulting Services associated with the drainage improvements in the 800 Block of Euclid Avenue in Mountain Brook, Alabama. These improvements will be based on the recommendations and preliminary design of drainage improvements previously performed.

PROJECT OVERVIEW

The streetscape and certain residential properties along Euclid Avenue floods periodically. A preliminary design has been developed to mitigate the flooding. In this work, Final Design and the preparation of Construction Documents will be performed based on the preliminary design.

PROPOSED SCOPE & SERVICES

1. Additional Required Surveying of certain items

The Consultant would field survey certain items which were identified as being needed to be located in the preliminary study. The detailed scope is as follows:

- Walk site with Survey Crew to identify needed locations
- Field surveying of additional information
- Process data and add to survey base map

Lump Sum Fee \$ 3,400

2. Final Design and Preparation of Construction Documents

The Consultant would prepare final design and Construction Documents of the Euclid Avenue rainage improvements as identified in the study phase. The detailed scope is as follows:

- Coordinate as required with Client
- Develop final design of proposed drainage improvements
- Preparation of Final Construction Plans, including:
 - o Cover Sheet
 - o Layout Plan of drainage improvements
 - o Demolition plan
 - o Grading plan depicting pond improvements (if in scope)
 - o Plan/profile of new storm line
 - o Utility modification plan
 - o Design Details
- Preparation of technical specifications

Lump Sum Fee \$ 17,500

1

Senior Professional	\$ 140.00 per hour
Project Professional	\$ 125.00 per hour
Staff Professional	\$ 115.00 per hour
Senior Designer / Drafter / Specialist	\$ 115.00 per hour
Designer 2 / Drafter 2 / Specialist 2	\$ 100.00 per hour
Designer 1 / Drafter 1 / Specialist 1	\$ 90.00 per hour
Administrative / Technical Support	\$ 75.00 per hour
Transportation	\$ 0.56 per mile

Printing and other reimbursable expenses will be charged at cost plus 15% and are not included in the fee base described above. Lodging and Meals and Incidentals (M&IE) will be billed according to government Services Administration (GSA) rates. Sub-consultant invoices will be billed to the client at a rate of 115% of the sub-consultant invoice amount. Overtime rates may apply for work required during non-standard work hours.

The above fees are inclusive of all expenses or charges that Consultant may incur in connection with provision of Services on the Project, including travel, mail, courier services, communication and a commercially reasonable quantity of copying and reproduction expenses.

GENERAL TERMS AND CONDITIONS

1) Services performed under this Agreement will be conducted in a manner consistent with that level of care and skill exercised by members of the profession currently practicing under similar conditions. Plans, specifications, and submittals will be prepared in accordance with the written standards of the governing authorities having jurisdiction. Any extraordinary requirements for approvals will be considered additional services. Except as expressed herein, no other warranty, expressed or implied, is made. Nothing in this agreement is intended to create, nor shall it be construed to create, a fiduciary duty owed by either party to the other party.

2) Consultant agrees that, to the fullest extent permitted by law, it will defend, indemnify, reimburse and hold Client harmless from the expenses (including those for attorneys' fees, litigation costs and court expenses), damages (including those for bodily injury, death or damage to Client's property or that owned by third parties) and losses that Client might incur that arise from the following types of claims, causes, suits or actions relating to the Project, the Project site, or Consultant's breach of its obligations under this Agreement (collectively, "Claims"):

- (a) professional liability Claims by the Client against the Consultant to the extent caused by Consultant's negligent performance of its professional services contemplated hereunder (a "Professional Liability Claim"); provided that (i) Consultant's total liability for a Professional Liability Claim (including, but not limited to, those arising from its negligence, errors and omissions, or those alleging strict liability, breach of contract or breach of warranty) shall not exceed the minimum limits of the Consultant's Professional Liability insurance coverage required herein in subpart 7(a) below; and (ii) nothing in this provision obligates Consultant to indemnify Client from a Professional Liability Claims resulting from Client's negligence or willful misconduct;
- (b) any Claims for bodily injury, death, or property damage by third parties against the Client that arise out of any "occurrence" as that term is defined by Consultant's policy of Commercial General Liability insurance required in section 7(b) below, provided that (i) Consultant's total liability under this provision shall not exceed the amount of the minimum limits of the Comprehensive General Liability policy required in subpart 7(b) below; and (b) nothing in this provision shall obligate Consultant to indemnify the Client for Claims by third parties that result from the sole negligence or the willful misconduct of the Client. Nothing shall limit or agree to limit the amount or type of such Claims. Nothing shall obligate the Client from and against any third-party claims, demands, actions, proceedings

3

The Consultant would assist the Client with contractor selection. This work would include assisting the City with the preparation of Bid Documents, attending pre-bid conference, answering contractor questions, and assisting the City in the review of the bids. The Detailed Scope is as follows:

- Assist in the selection of the Contractor
- Attend pre-bid conference
- Address questions posed by selected Contractor, issue clarifications if required
- Assist client with contract preparation and coordinate Client/Contractor administration

Lump Sum Fee \$4,500

4. Construction Administration

The Consultant will perform Construction Review to evaluate the Contractor's general conformance with plans and specifications. The Consultant will review Shop Drawings, and work with the Contractor and Client in solving any minor construction related problems that may arise. The Consultant will review and approve pay request and assist with project closeout. The detailed scope is as follows:

- Review of shop drawings
- Construction observation to be performed on an as-needed basis and at the direction of the Client
- Minor construction-related revisions – Revisions required as a result of field conditions or as agreed upon by the Client

Lump Sum Fee \$ 3,500

NOT INCLUDED IN SCOPE OF WORK

1. Structural engineering
2. Work related to construction or drainage easements
3. Design of public sanitary sewers (if required, this would be added to scope and a new fee developed)
4. Full Construction Engineering and Inspection (CEI), not assumed to be required
5. Construction surveying
6. Major revisions
7. Stormwater permitting with ADEM (not required)
8. Design or study of downstream improvements
9. Negotiations with property owners for easement rights (by City)
10. Design of future phases (only final design of phase 1 work is included)

If additional services not included in the above scope are performed, those additional services should be approved by Client in advance and may be billed according to the attached Schedule of Unit Rates.

SCHEDULE OF UNIT RATES – EFFECTIVE THROUGH 12/31/2022

Senior Principal	\$ 275.00 per hour
Principal	\$ 200.00 per hour
Field Survey Party	\$ 185.00 per hour
Chief Land Surveyor/Assistant Director	\$ 175.00 per hour
Senior Project Manager	\$ 165.00 per hour
Project Manager	\$ 150.00 per hour

or suits alleging or in any way arising out of Consultant's breach of its professional services obligations or warranty hereunder, except to the extent provided for in subsection (a) above.

3) The fees for different phases of Services in this Agreement are based on the Scope of Services herein. If the above outlined Scope of Services is changed, or if there are other services that may be requested by the Client, these additional services will be performed at the above hourly rates, or at a revised fee that the parties will negotiate to their mutual satisfaction. If construction of the Project is delayed and completed more than six (6) months following the anticipated completion date set forth herein, the Consultant reserves the right to adjust its Hourly rates for inflation costs on a one-year interval from the date of this proposal.

4) If a claim, dispute, and other controversy arises between Consultant and Client concerning this Agreement or the alleged failure to perform their respective responsibilities hereunder (a "Dispute"), the respective Project Representatives for the Parties will use good faith efforts to amicably resolve such Dispute. If the Dispute is not resolved by the Project Representatives, it will be escalated to the senior official or manager level of each party for consideration. If a Dispute other than as a result of Client's failure to pay amounts undisputedly due hereunder is not resolved at the senior level, it will be submitted to mediation before, and as a condition precedent to, either party availing themselves of remedies provided by law. Mediation shall be held in the county where the Project is located, and if the parties cannot agree on a mediator, then one shall be appointed by the American Arbitration Association (AAA). The parties agree to equally split the cost billed by the mediator.

5) Services not expressly set forth in writing as basic or additional services and listed in the proposal to this Agreement are excluded from the scope of the Consultant's Services, and the Consultant assumes no duty to the Client to perform them unless agreed in a subsequent writing.

6) Client, at its expense, will provide the Consultant with all required site information, existing plans, reports, studies, project schedules and similar information that is contained in Client's files. The Consultant may rely on the information provided by the Client without verification. The Client shall participate with the Consultant by providing all information and criteria in a timely manner, review documents and make decisions on project alternatives to the extent necessary to allow the Consultant to perform the Scope of Services within established schedules.

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

(a) Professional Liability with minimum limits of not less than One Million Dollars (\$1,000,000.00) covering claims to the extent caused by Consultant's negligent performance of professional services or breach of professional warranty. This Professional Liability policy shall include coverage on an occurrence basis.

(b) Comprehensive General Liability with minimum limits of not less than One Million Dollars (\$1,000,000.00), combined single limit and aggregate for bodily injury and property damage. This Comprehensive General Liability policy shall include coverage on an occurrence basis for premises/operations, products/completed operations, assumed contractual obligations, and independent contractors; and

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

Consultant may satisfy its insurance obligations hereunder through a combination of primary, umbrella and excess policies. Before commencement of any Services, the Consultant shall provide Client a certificate(s) of insurance evidencing compliance with the requirements in this section. Further, through an endorsement, Client shall be named an additional insured on the Comprehensive General Liability and any applicable umbrella and excess policies

August 8, 2022

4

8) All reports, plans, documents, materials created by Consultant or its work product from its Services (collectively, the "Instruments of Service") shall remain the property of the Consultant, and are intended solely for uses related to this Agreement and construction of the Project. Notwithstanding, Consultant grants Client a perpetual license to distribute to any third party, reproduce or otherwise use any of the Instruments of Service for purposes it deems reasonably necessary that relate to construction of the Project or conditions at the Project site. Client agrees and acknowledges any reuse of the Instruments of Service for purposes outside of this Agreement or the Project, or any failure to follow Consultant's recommendations in those Instruments without Consultant's written permission, shall be at the Client's and other user's sole risk.

9) This Agreement may be terminated by either party upon thirty (30) days written notice in the event of substantial failure to perform in accordance with its terms by the other party through no fault of the terminating party. If this Agreement is terminated by Consultant due to default of Client, it agrees that Consultant shall be paid for total charges for work performed prior to the termination notice date.

Additionally, at Client's convenience and without cause or default by Consultant, Client may suspend or cancel the Agreement, performance of Services or work on the Project at any time by providing written notice to Consultant. In the event of such suspension or cancellation, Client will compensate Consultant for Services performed up to through the date of that notice.

10) Delayed Performance/Force Majeure Events. Neither party to this Agreement shall be liable to the other for any failure to perform its respective obligations (including payment obligations) under it during any period in which its performance is delayed by circumstances beyond its reasonable control, such as fire, flood, war, embargo, strike, riot, or the intervention of any governmental authority (a "Force Majeure Event"). However, the delayed party must promptly provide the other with written notice of the Force Majeure Event, the delayed party's time for performance will be excused only for the duration of that Event, and, if that Event lasts longer than 30 days, then the other party may immediately terminate, in whole or in part, this Agreement by giving written notice to the delayed party.

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

12) Consultant shall not be responsible for construction safety or construction procedures at the Project site, nor will it be responsible for the quality of the work performed by the Contractor or any consultants that are not retained by it.

13) At Client's request and for its convenience, Consultant may provide documents and its work product in electronic format. Data, words, graphical representations, and drawings that are stored on electronic media or which are transmitted electronically, may be subject to uncontrollable alteration. The printed, signed and sealed hard copy is the actual professional Instrument of Service. In the event of a discrepancy between the electronic document and the hardcopy document, the hardcopy document will prevail.

14) This Agreement is entered with the expectation that it is not being used in a price comparison with other firms. Alabama law prohibits licensed engineers and land surveyors from participating in any process that solicits prices from two or more licensed engineers or land surveyors simultaneously. The law defines this practice as bidding and participation by a licensee is prohibited. If this agreement is being used in this manner, we must by law, withdraw this agreement from consideration.

15) Limitation of Liability. In no event may Consultant recover from Client any special, incidental, consequential or any other indirect damages whatsoever of any description (including, without limitation, damages for lost profits, lost advantage, lost opportunity, loss of savings or revenues or for increased cost of operations) or amount arising from the Client's breach of its obligations hereunder or suspension or termination of this Agreement.

16) Project Representative. Each party shall appoint a representative who shall coordinate with the other party on all matters related to the performance of the Services and the administration of this Agreement (the "Project Representative"). Any notice required hereunder shall be sufficiently given when sent to the appropriate Project Representative via United States certified mail, return receipt requested, or via overnight

courier with receipt verification to the address set forth herein, or by personally delivering such notice to the party to be in receipt thereof.

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

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

19) Consultant may not assign its rights, obligations or the benefits of this Agreement to any third party without the written consent of Client, which consent may be withheld for any reason.

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

21) Consultant is an independent contractor of Client. This Agreement does not create any partnership, joint venture or principal-agent relationship between the parties. Further, Client retains no control or authority with respect to its means and methods in which Consultant (or any of its employees or representatives) performs their work or Services.

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

23) Amendment. Neither this Agreement nor any of the provisions herein may be amended or modified except in accordance with the terms of a subsequent written instrument that is signed by both parties.

24) This instrument sets forth the entire understanding between the parties concerning the matter herein, and, unless expressed herein, all oral representations, prior negotiations, understandings, agreements, conditions, and terms discussed between them prior to acceptance and signing of this Agreement are of no effect and are deemed to have merged herein.

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

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


CITY OF MOUNTAIN BROOK, ALABAMA (CLIENT)

By: 
Stewart H. Welch III

Is: Mayor

Date: 8-8-2022

SCHOEL ENGINEERING COMPANY, INC. (CONSULTANT)

By: 
Taylor Schoel

Is: Principal

Date: 8/03/2022

ADDENDUM TO PROFESSIONAL SERVICES AGREEMENT BETWEEN THE CITY OF MOUNTAIN BROOK AND SCHOEL ENGINEERING INC.

THIS ADDENDUM TO PROFESSIONAL SERVICES AGREEMENT ("the/this Addendum") between the City of Mountain Brook, Alabama ("the City") and Schoel Engineering, Inc. ("the Contractor") is entered between the parties.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

CITY: CITY OF MOUNTAIN BROOK CONTRACTOR: _____
By: Stewart Welch By: _____
Printed Name: Stewart Welch Printed Name: _____
Title: Mayor Title: _____
Date: 8-8-2022 Date: _____

Agreement for Consulting Services

Review of City Drainage Ordinances and Recommendations as to Changes to Management Practices

August 04, 2022

This AGREEMENT, entered into by and between The City of Mountain Brook, Alabama, hereinafter referred to as the Client, and Schel Engineering Company, Inc., hereinafter referred to as the Consultant, is for Consulting Services associated with revising the required stormwater management practices. This work will identify basins and sites where more strict management practices will be required and will define the additional practices.

PROJECT OVERVIEW

The City of Mountain Brook currently has a Stormwater Detention Ordinance that requires certain practices to be employed for intense development and for difficult sites. It is desired to extend these stringent practices to all sites within critical basins, such as those in Crestline and draining to Watkins Brook. In this work a base topographic map of the entire City of Mountain Brook East of Highway 280 will be developed. Major drainage basins will be delineated, and the sensitive basins identified. The practices required for these areas will be codified in an updated stormwater detention ordinance.

PROPOSED SCOPE & SERVICES

1. Development of GIS Topographic Base Map of the City of Mountain Brook

The Consultant would compile GIS topography for all areas east of Highway 280 to develop a comprehensive topographic base map. This would be used for the work covered in this proposal and for future work in the review of site development submittals.

Lump Sum Fee \$ 5,400

2. Delineation of Major Drainage Basins Within City

The Consultant would delineate the major drainage basins within the City of Mountain Brook. This information would be merged into the City of Mountain Brook topographic base map.

Lump Sum Fee \$ 4,500

3. Prioritization of Sensitive Basins and Development of Sensitivity Base Map

The Consultant would work with Public Works and City staff to locate all drainage complaints on the drainage basin and topographic base map. These complaints would be discussed and the complaints that resulted from infrastructure noted. Based on this evaluation, the Consultant would recommend that certain basins be designated as sensitive basins subject to enhanced stormwater management requirements. The Detailed Scope is as follows:

- Consult with the City to identify locations of identified drainage problems
• Evaluate problems to ascertain their cause
• Develop priority basins that are sensitive to impacts of development
• Develop and distribute basin sensitivity map

Lump Sum Fee \$ 5,500

GENERAL TERMS AND CONDITIONS

1) Services performed under this Agreement will be conducted in a manner consistent with that level of care and skill exercised by members of the profession currently practicing under similar conditions. Plans, specifications, and submittals will be prepared in accordance with the written standards of the governing authorities having jurisdiction. Any extraordinary requirements for approvals will be considered additional services. Except as expressed herein, no other warranty, expressed or implied, is made. Nothing in this agreement is intended to create, nor shall it be construed to create, a fiduciary duty owed by either party to the other party.

2) Consultant agrees that, to the fullest extent permitted by law, it will defend, indemnify, reimburse and hold Client harmless from the expenses (including those for attorneys' fees, litigation costs and court expenses), damages (including those for bodily injury, death or damage to Clients' property or that owned by third parties) and losses that Client might incur that arise from the following types of claims, causes, suits or actions relating to the Project, the Project site, or Consultant's breach of its obligations under this Agreement (collectively, "Claims"):

- (a) professional liability Claims by the Client against the Consultant to the extent caused by Consultant's negligent performance of its professional services contemplated hereunder (a "Professional Liability Claim"); provided that (i) Consultant's total liability for a Professional Liability Claim (including, but not limited to, those arising from its negligence, errors and omissions, or those alleging strict liability, breach of contract or breach of warranty) shall not exceed the minimum limits of the Consultant's Professional Liability insurance coverage required herein in subpart 7(a) below; and (ii) nothing in this provision obligates Consultant to indemnify Client from a Professional Liability Claim resulting from Client's negligence or willful misconduct;
(b) any Claims for bodily injury, death, or property damage by third parties against the Client that arise out of any "occurrence" as that term is defined by Consultant's policy of Commercial General Liability insurance required in section 7(b) below, provided that (i) Consultant's total liability under this provision shall not exceed the amount of the minimum limits of the Comprehensive General Liability policy required in subpart 7(b) below; and (b) nothing in this provision shall obligate Consultant to indemnify the Client for Claims by third parties that result from the sole negligence or the willful misconduct of the Client. Nothing herein is intended or shall be interpreted to demand or require Consultant to defend or indemnify the Client from and against any third-party claims, demands, actions, proceedings or suits alleging or in any way arising out of Consultant's breach of its professional services obligations or warranty hereunder, except to the extent provided for in subsection (a) above.

3) The fees for different phases of Services in this Agreement are based on the Scope of Services herein. If the above outlined Scope of Services is changed, or if there are other services that may be requested by the Client, these additional services will be performed at the above hourly rates, or at a revised fee that the parties will negotiate to their mutual satisfaction. If construction of the Project is delayed and completed more than six (6) months following the anticipated completion date set forth herein, the Consultant reserves the right to adjust its Hourly rates for inflation costs on a one-year interval from the date of this proposal.

4) If a claim, dispute, and other controversy arises between Consultant and Client concerning this Agreement or the alleged failure to perform their respective responsibilities hereunder (a "Dispute"), the respective Project Representatives for the Parties will use good faith efforts to amicably resolve each Dispute. If the Dispute is not resolved by the Project Representatives, it will be escalated to the senior official or manager level of each party for consideration. If a Dispute other than as a result of Client's failure to pay amounts undisputedly due hereunder is not resolved at the senior level, it will be submitted to mediation before, and as a condition precedent to, either party availing themselves of remedies provided by law. Mediation shall be held in the county where the Project is located, and if the parties cannot agree on a mediator, then one shall be appointed by the American Arbitration Association (AAA). The parties agree to equally split the cost billed by the mediator.

5) Services not expressly set forth in writing as basic or additional services and listed in the proposal to this Agreement shall be considered additional services and shall be performed at the Client's sole expense and duty to the Client to perform them unless agreed in a subsequent writing.

The Consultant would work with City staff and the City Council to develop revised and additional requirements for development or redevelopment in sensitive priority areas. The goal would be to develop an amended stormwater management or detention ordinance that would govern the develop of properties in sensitive areas or which involve sensitive sites. Certain development practices would be further defined with the goal of more successfully managing stormwater in the City of Mountain Brook. The Detailed Scope is as follows:

- Meet with City Staff and Council members to discuss the process and goals
• Develop exhibits, etc., that would depict the new priority areas
• Attend public involvement meetings, if required
• Develop language to define priority areas and the stormwater practices required therein
• Better define the engineering requirements and development practices required by the Stormwater Ordinance

Lump Sum Fee \$13,500

If additional services outside of the scope described herein are required, those additional services should be approved by Client in advance and may be billed according to the attached Schedule of Unit Rates.

SCHEDULE OF UNIT RATES - EFFECTIVE THROUGH 12/31/2022

Table with 2 columns: Position and Rate. Includes Senior Principal (\$275.00 per hour), Principal (\$200.00 per hour), Field Survey Party (\$185.00 per hour), Chief Land Surveyor/Assistant Director (\$175.00 per hour), Senior Project Manager (\$165.00 per hour), Project Manager (\$150.00 per hour), Senior Professional (\$140.00 per hour), Project Professional (\$125.00 per hour), Staff Professional (\$115.00 per hour), Senior Designer / Drafter / Specialist (\$115.00 per hour), Designer 2 / Drafter 2 / Specialist 2 (\$100.00 per hour), Designer 1 / Drafter 1 / Specialist 1 (\$90.00 per hour), Administrative / Technical Support (\$75.00 per hour), Transportation (\$0.56 per mile)

Printing and other reimbursable expenses will be charged at cost plus 15% and are not included in the fee basis described above. Lodging and Meals and Incidentals (M&IE) will be billed according to government Services Administration (GSA) rates. Sub-consultant invoices will be billed to the client at a rate of 115% of the sub-consultant invoice amount. Overtime rates may apply for work required during non-standard work hours.

The above fees are inclusive of all expenses or charges that Consultant may incur in connection with provision of Services on the Project, including travel, mail, courier services, communication and a commercially reasonable quantity of copying and reproduction expenses.

APPENDIX 4

6) Client, at its expense, will provide the Consultant with all required site information, existing plans, reports, studies, project schedules and similar information that is contained in Client's files. The Consultant may rely on the information provided by the Client without verification. The Client shall participate with the Consultant by providing all information and criteria in a timely manner, review documents and make decisions on project alternatives to the extent necessary to allow the Consultant to perform the Scope of Services within established schedules.

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

- (a) Professional Liability with minimum limits of not less than One Million Dollars (\$1,000,000.00) covering claims to the extent caused by Consultant's negligent performance of professional services or breach of professional warranty. This Professional Liability policy shall include coverage on an occurrence basis.
(b) Comprehensive General Liability with minimum limits of not less than One Million Dollars (\$1,000,000.00), combined single limit and aggregate for bodily injury and property damage. This Comprehensive General Liability policy shall include coverage on an occurrence basis for premises/operations, products/completed operations, assumed contractual obligations, and independent contractors; and
(c) Workers Compensation/Employer's Liability: Workers' Compensation as required by statute and Employer's Liability with limits of Five Hundred Thousand Dollars (\$500,000) per occurrence.

Consultant may satisfy its insurance obligations hereunder through a combination of primary, umbrella and excess policies. Before commencement of any Services, the Consultant shall provide Client a certificate(s) of insurance evidencing compliance with the requirements in this section. Further, through an endorsement, Client shall be named an additional insured on the Comprehensive General Liability and any applicable umbrella and excess policies

8) All reports, plans, documents, materials created by Consultant or its work product from its Services (collectively, the "Instruments of Service") shall remain the property of the Consultant, and are intended solely for uses related to this Agreement and construction of the Project. Notwithstanding, Consultant grants Client a perpetual license to distribute to any third party, reproduce or otherwise use any of the Instruments of Service for purposes it deems reasonably necessary that relate to construction of the Project or conditions at the Project site. Client agrees and acknowledges any reuse of the Instruments of Service for purposes outside of this Agreement or the Project, or any failure to follow Consultant's recommendations in those Instruments without Consultant's written permission, shall be at the Client's and another user's sole risk.

9) This Agreement may be terminated by either party upon thirty (30) days written notice in the event of substantial failure to perform in accordance with its terms by the other party through no fault of the terminating party. If this Agreement is terminated by Consultant due to default of Client, it agrees that Consultant shall be paid for total charges for work performed prior to the termination notice date.

Additionally, at Client's convenience and without cause or default by Consultant, Client may suspend or cancel the Agreement, performance of Services or work on the Project at any time by providing written notice to Consultant. In the event of such suspension or cancellation, Client will compensate Consultant for Services performed up to through the date of that notice.

10) Delayed Performance/Force Majeure Events. Neither party to this Agreement shall be liable to the other for any failure to perform its respective obligations (including payment obligations) under it during any period in which its performance is delayed by circumstances beyond its reasonable control, such as fire, flood, war, embargo, strike, riot, or the intervention of any governmental authority (a "Force Majeure Event"). However, the delayed party must promptly provide the other party with notice of the Force Majeure Event, the delayed party's time for performance will be excused only for the duration of that Event, and, if that Event

lasts longer than 30 days, then the other party may immediately terminate, in whole or in part, this Agreement by giving written notice to the delayed party.

- 11) The invalidity of any portion of this Agreement will not and shall not be deemed to affect the validity of any other provision. In the event that any provision of this Agreement is held to be invalid, the parties agree that the remaining provisions shall be deemed to be in full force and effect.
12) Consultant shall not be responsible for construction safety or construction procedures at the Project site, nor will it be responsible for the quality of the work performed by the Contractor or any consultants that are not retained by it.
13) At Client's request and for its convenience, Consultant may provide documents and its work product in electronic format. Data, words, graphical representations, and drawings that are stored on electronic media or which are transmitted electronically, may be subject to uncontrollable alteration. The printed, signed and sealed hard copy is the actual professional Instrument of Service. In the event of a discrepancy between the electronic document and the hardcopy document, the hardcopy document will prevail.
14) This Agreement is entered with the expectation that it is not being used in a price comparison with other firms. Alabama law prohibits licensed engineers and land surveyors from participating in any process that solicits prices from two or more licensed engineers or land surveyors simultaneously. The law defines this practice as bidding and participation by a licensee is prohibited. If this agreement is being used in this manner, we must by law, withdraw this agreement from consideration.
15) Limitation of Liability. In no event may Consultant recover from Client any special, incidental, consequential or any other indirect damages whatsoever of any description (including, without limitation, damages for lost profits, lost advantage, lost opportunity, loss of savings or revenues or for increased cost of operations) or amount arising from the Client's breach of its obligations hereunder or suspension or termination of this Agreement.
16) Project Representative. Each party shall appoint a representative who shall coordinate with the other party on all matters related to the performance of the Services and the administration of this Agreement (the "Project Representative"). Any notice required hereunder shall be sufficiently given when sent to the appropriate Project Representative via United States certified mail, return receipt requested, or via overnight courier with receipt verification to the address set forth herein, or by personally delivering such notice to the party to be in receipt thereof.
17) This Agreement may be executed in counterparts each of which when executed by the parties shall be deemed to be a complete original. An electronic or facsimile copy of the executed contract or counterpart shall be deemed, and shall have the same legal force and effect as, an original document.
18) Any forbearance or delay on the part of Client in enforcing any of its rights under this Agreement shall not be construed as a waiver of such rights. No terms of this Agreement shall be waived unless expressly waived in writing.
19) Consultant may not assign its rights, obligations or the benefits of this Agreement to any third party without the written consent of Client, which consent may be withheld for any reason.
20) This Agreement is made only for the benefit of the parties. It is not intended, nor shall it be construed, to grant or bestow any benefit, right or privilege to any third party.
21) Consultant is an independent contractor of Client. This Agreement does not create any partnership, joint venture or principal-agent relationship between the parties. Further, Client retains no control or authority with respect to its means and methods in which Consultant (or any of its employees or representatives) performs their work or Services.
22) Immigration Law Compliance. Consultant represents and warrants to Client that: (i) it does not knowingly employ, hire for employment, or continue to employ, in Alabama, an "unauthorized alien," as defined by the Beason-Hammon Alabama Taxpayer and Citizen Protection Act, §31-13-1, et seq., Code of Alabama 1975, as amended (the "Act"); (ii) it has enrolled or will enroll in the E-Verify program prior to

performing any Services on the Project in Alabama and shall provide documentation establishing that it is enrolled in the E-Verify program. During the performance of this Agreement, the Consultant shall participate in the E-Verify program as required under the terms of the Act and shall verify every employee in Alabama that is required to be verified according to the applicable federal rules and regulations; (iii) it will comply with all applicable provisions of the Act with respect to subcontractors, if any, that it engages on the Project by entering into an agreement with or by obtaining an affidavit from such subcontractors providing work on the Project in Alabama that such subcontractors are in compliance with the Act with respect to their participation in the E-verify program. Consultant further represents and warrants that it shall not hire, retain or contract with any subcontractor to work on the Project in Alabama which it knows is not in compliance with the Act; and (iv) by signing this Agreement, it affirms, for the duration of the Agreement, that it will not violate federal immigration law or knowingly employ, hire for employment, or continue to employ an unauthorized alien within the State of Alabama. Furthermore, if Consultant is found to be in violation of this provision, it shall be deemed in breach of the Agreement and shall be responsible for all damages resulting therefrom.

- 23) Amendment. Neither this Agreement nor any of the provisions herein may be amended or modified except in accordance with the terms of a subsequent written instrument that is signed by both parties.
24) This instrument sets forth the entire understanding between the parties concerning the matters herein, and, unless expressed herein, all oral representations, prior negotiations, understandings, agreements, conditions, and terms discussed between them prior to acceptance and signing of this Agreement are of no effect and are deemed to have merged herein.
25) This Agreement shall be governed by, construed and enforced in accordance with the laws of the State of Alabama.

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

CITY OF MOUNTAIN BROOK, ALABAMA (CLIENT)

By: Stewart H. Welch III
Mayor

Date: 8-8-2022

SCHOEL ENGINEERING COMPANY, INC. (CONSULTANT)

By: Walter School, III
President

Date: 8/04/2022

APPENDIX 4

Below please print or type the following information for the individual to whom invoices for payment should be sent, and enter the names of the respective Project Representatives.

Company:
Client:
Street Address:
City, State, Zip:
Phone Number: Fax Number:
Email Address:
Client's Project Number: Client's Purchase Order Number:
Consultant's Project Representative:
Client's Project Representative:

ADDENDUM TO PROFESSIONAL SERVICES AGREEMENT BETWEEN THE CITY OF MOUNTAIN BROOK AND SCHOEL ENGINEERING INC.

THIS ADDENDUM TO PROFESSIONAL SERVICES AGREEMENT ("the/this Addendum") between the City of Mountain Brook, Alabama ("the City") and Schoel Engineering, Inc. ("the Contractor") is entered between the parties.

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

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

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

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

3. ²⁴Attorney'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, or bills rendered to the City shall not be considered delinquent any earlier than thirty (30) days after rendition of a complete and accurate bill by the Contractor. Contested bills shall not be considered delinquent pending resolution of the dispute.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

CITY: CITY OF MOUNTAIN BROOK CONTRACTOR: _____
 By: [Signature] By: _____
 Printed Name: Stewart Welch Printed Name: _____
 Title: Mayor Title: _____
 Date: 8-8-2022 Date: _____

File Cabinet - 1

Putty. About 42" wide, 65" high, 18" deep. The library does not have a loading deck, and staff are not available to assist with moving/loading.



Cubicle - 1

About 78 1/2" x 78 1/2". Has been taken apart. The library does not have a loading deck, and staff are not available to assist with moving/loading.



Chairs - 1

One arm rest cover is missing. The library does not have a loading deck, and staff are not available to assist with moving/loading.



TV cart - 1

About 40.5" tall, table is 30"x30". The library does not have a loading deck, and staff are not available to assist with moving/loading shelving.



8/5/22, 2:39 PM

City of Mountain Brook Mail - Surplus Motorcycle Information



Heather Richards <richardsh@mtnbrook.org>

Surplus Motorcycle Information

1 message

Jay Loring <loringj@mtnbrook.org>
To: Heather Richards <richardsh@mtnbrook.org>
Cc: Jason Rhoads <rhoadsj@mtnbrook.org>

Fri, Aug 5, 2022 at 1:04 PM

Make:Victory Model:Commander VIN: 5VPDW36N3D3023251
Make:Victory Model:Commander VIN: 5VPDW36N9D3014134
Make:Victory Model:Commander VIN: 5VPDW36N4D3014137

Sergeant Jay Loring
Mountain Brook Police Department
101 Tibbett St.
Mountain Brook, AL 35213
205-802-3848



August 2, 2022

RE: Notice of Public Hearing – August 8, 2022, 7:00 P.M. Meeting of City Council of
City of Mountain Brook - Abatement of Nuisance Conditions at 751 Bentley Drive

To Whom It May Concern:

A public hearing will be conducted by the City Council of the City of Mountain Brook on Monday August 8, 2022, at 7:00 P.M. to consider (1) the previous determination by the City's enforcement officer (i.e., its Building Official) that, pursuant to Ordinance No. 2032, codified at Code of the City of Mountain Brook Chap. 34, Art II, Sec 34-41 et seq, the damaged structure at 751 Bentley Drive is a public building nuisance due to unsafe conditions there, and (2) potential action(s) that may be ordered to abate that nuisance. The owner of the property has received notice of the Building Official's nuisance determination and the City has requested that she abate same. At the time of this Notice, the requested abatement action has not been taken.

At the August 8 hearing the owner, and any other citizen, or interested party, may be heard and provide information to the City Council regarding the conditions at the subject property, the nuisance determination of the Building Official, or abatement of that nuisance.

If you have any questions about this Notice, you may contact me at 205-802-3823.

Heather Richards



City Clerk

cc: Geraldine Belt (by Cert. Mail No. 70192970000016136435)

Geraldine Belt c/o Keith Belt, Jr., Esq., Belt & Bruner (by Cert. Mail No.
70192970000016136442)

Glen Merchant, Building Official – City of Mountain Brook

APPENDIX 6