

**MOUNTAIN BROOK CITY COUNCIL
PRE-MEETING DISCUSSION
DECEMBER 11, 2023**

[As a convenience, members of the public were invited to listen and observe in the public meeting by Internet video conference. There were 0 virtual attendees at the meeting.]

The City Council of the City of Mountain Brook, Alabama met informally in-person at 6:30 p.m. on the 11th day of December, 2023 (others were allowed to listen to the meeting by way of Internet video conference-no one did). Council President Pro Tempore Pritchard called the pre-meeting to order and the roll was called with the following results:

Present: William S. Pritchard III, Council President Pro Tempore
Graham L. Smith
Lloyd C. Shelton
Gerald A. Garner
Stewart Welch III, Mayor

Absent: Virginia C. Smith, Council President

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

1. AGENDA

1. Little Betty Steakhouse Alcoholic Beverage Control Board-020-Restaurant Retail Liquor license request

Billy Pritchard-Council President Pro Tempore

- This is an add on for Little Betty Steakhouse
- They have an application for a 020 Restaurant Retail Liquor license
- Item added to the formal agenda (Resolution 2023-205)

2. Creation of a temporary Records Clerk position for the Police Department

Jaye Loggins-Police Chief

- This is for a temporary position that should last six months
- This position will be filled immediately if approved

Billy Pritchard-Council President Pro Tempore

- Item added to the formal agenda (Resolution No. 2023-203)

3. Editorial Board appointment (Kitty Rogers Brown)

Billy Pritchard-Council President Pro Tempore

- Item added to the formal agenda (Resolution No. 2023-204)

4. Request by the City of Birmingham for our City to participate in a drainage project on Montclair Road in conjunction with the TAP sidewalk project

Nathan Currie-Sain Association

- The City of Birmingham reached out regarding this issue

- There is a drainage ditch along the road (at Ramsey Park) that is eroding and it is not exposing some utilities
- The City of Birmingham will repair the ditch and pipe the ditch to cover the area
- The City of Birmingham is offering to construct that segment of the sidewalk and requesting \$50,000 from the City of Mountain Brook to contribute to the project
- Since Mountain Brook's TAP project is tied to either end of this project, if approved, this would not impact the park or go through the extra environmental requirements

Nathan Currie

- If the city is not interested in participating with Birmingham then the other option would be to wait until Birmingham has completed their project before the TAP project can begin
- If approved, then the TAP project could move forward at the same time with Birmingham's project

Lloyd Shelton-Council Member

- Inquired where the savings from Mountain Brook's TAP is coming from if approved

Nathan Currie

- There will be around 400 feet of sidewalk that will be taken out of the TAP project therefore, the cost associated will not be involved with the TAP
- Will work on an intergovernmental agreement with Birmingham for a future meeting

5. Proposed ordinance prohibiting using public parking spaces for commercial purposes

Emily Jensen-Chamber of Commerce Director

- Received complaints from merchants who have experienced mobile businesses operating out of buses coming into villages and parking in public parking spaces
- This ordinance would not allow individuals to operate commercial businesses out of public parking spots
- The problem is when a vehicle has a "trunk show" from the vehicle, it takes up multiple parking spots

Lloyd Shelton-Council Member

- Inquired if the Chamber Board has vetted this ordinance

Emily Jensen

- The Chamber Board has vetted this ordinance

Billy Pritchard

- Inquired if this affected sidewalk sales

Emily Jensen

- This only applies to public parking spaces

Sam Gaston-City Manager

- Wants to ensure there is language in the ordinance that did not affect tent sales and other similar events

Whit Colvin-City Attorney

- There are a number of requirements in the parking section that are not enforced when the roads are shut down

- It would be a good idea to look at the section (and other sections) for special events for where the right-of-way is closed for city-wide event or something else the council approved
- If that is the case, the parking rules are suspended

Billy Pritchard

- Item added to the formal agenda (Ordinance No. 2153)

6. 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 Pro Tempore Pritchard adjourned the pre-meeting at approximately 7:02 pm.

3. CERTIFICATION

I, Heather Richards, City Clerk of the City of Mountain Brook, Alabama, certify the above is a true and correct synopsis of the discussion from the regular session of the City Council of the City of Mountain Brook, Alabama held at City Hall, Pre-Council Room (A-106) on December 11, 2023, and that the meeting was duly called and held in all respects in accordance with the laws of the State of Alabama and bylaws of the City and that no formal action or votes were conducted at said work session.

City Clerk, Approved by
City Council January 8, 2024

**MINUTES OF THE REGULAR MEETING OF THE
CITY COUNCIL OF THE CITY OF MOUNTAIN BROOK
DECEMBER 11, 2023**

[As a convenience, members of the public were invited to listen and observe in the public meeting by Internet video conference. There were 0 virtual attendees at the meeting.]

The City Council of the City of Mountain Brook, Alabama met in person at 7:04 p.m. on the 11th day of December, 2023 (others were allowed to listen to the meeting by way of Internet video conference-no one did). Council President Pro Tempore Pritchard called the meeting to order, and the roll was called with the following results:

Present: William S. Pritchard III, Council President Pro Tempore
Graham L. Smith
Lloyd C. Shelton
Gerald A. Garner
Stewart Welch III, Mayor

Absent: Virginia C. Smith, Council President

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

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

1. RECOGNITION OF SPECIAL GUESTS-BOY SCOUTS

David Borasino with Troup 86 out of Saint Luke's Episcopal Church

- Representing several members with Troup 86
- Working on Citizenship in the Community badge

2. CONSENT AGENDA

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

Approval of the minutes of the November 27, 2023, regular meeting of the City Council

2023-198	Accept the proposal submitted by Sain Associates for the professional traffic engineering services for Mountain Brook Village .	Exhibit 1, Appendix 1
2023-199	Authorize the agreement for consulting services with Schoel Engineering for consulting services associated with a comprehensive drainage study of three proposal developments in the Watkins Brook Drainage basin in Mountain Brook	Exhibit 2, Appendix 2
2023-200	Execute a contractor agreement with AR Construction for the Public Works Equipment Shed	Exhibit 3, Appendix 3

2023-201	Authorize the sale or disposal of certain surplus property	Exhibit 4, Appendix 4
2023-202	Execute an elevator service and repair order with Otis Elevator Company for elevator repairs at O'Neal Library	Exhibit 5, Appendix 5
2023-203	Create one temporary Administrative Assistant position (Class no. 00066, G16/4) for the Police Department for the purpose of a records purge and scheduled records maintenance	Exhibit 6, Appendix 6
2023-204	Appoint Kitty Rogers Brown as a member of the Editorial Board to fill the unexpired term of Vince Schilleci, with the term of office to end August 8, 2024	Exhibit 7, Appendix 7
2023-205	Recommends to the State of Alabama Alcoholic Beverage Control Board (ABC) the issuance of a 020-Restaurant Retail Liquor license to Mountain Brook Village Holdings, LLC (trade name: Little Betty), 321 Rele Street Suite E8	Exhibit 8, Appendix 8

Thereupon, the foregoing minutes and resolutions (Nos. 2023-198 and 2023-205), were introduced by Council President Pro Tempore Pritchard and a motion for their immediate adoption made by Council Member Shelton. The minutes and resolutions were then considered by the City Council. Council Member Graham Smith seconded the motion to adopt the foregoing minutes and resolutions. Then, upon the question being put and the roll called, the vote was recorded as follows:

Ayes: William S. Pritchard III
Graham L. Smith
Lloyd C. Shelton
Gerald A. Garner

Nays: None

Abstained: None

Council President Pro Tempore Pritchard thereupon declared that said minutes and resolutions (Nos. 2023-198 and 2023-205) were adopted by a vote of 4—0 and as evidence thereof he signed the same.

3. **CONSIDERATION OF ORDINANCE (NO. 2153) AMENDING CHAPTER 50, ARTICLE V OF THE CITY CODE "SEC. 50-120 USE OF PARKING SPACES FOR COMMERCIAL PURPOSES PROHIBITED" (EXHIBIT 9)**

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

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

Gerald A. Garner

Nays: None

Council President Pro Tempore Pritchard declared the motion carried by a vote of 4-0.

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

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

Nays: None

Council President Pro Tempore Pritchard declared that the ordinance (No. 2153) is hereby adopted by a vote of 4—0 and, as evidence thereof, she signed the same.

4. COMMENTS FROM RESIDENCES AND ATTENDEES

Lura Denson-2917 Pump House Road

- Asking for another meeting with the council to discuss Highway 280 as a whole
- Concerned about property values decreasing and impacts on the safety of the neighborhood
- Inquired as to the noise ordinance because ALDOT plans to be doing most of the work at night which will affect the neighborhood
- Would like the results from the traffic study and speed study

Billy Pritchard-Council President Pro Tempore

- The council does not have a lot of "say-so" with ALDOT projects
- Will communicate any concerns to ALDOT
- Suggested issues and concerns be submitted to the City Manager who can circulate to the council
- Would be happy to have a special meeting to listen to concerns

5. ANNOUNCEMENT

Council President Pro Tempore announced the next regular meeting of the City Council is January 8, 2024, 7:00p.m.

6. ADJOURNMENT

There being no further business to come before the City Council, Council President Pro Tempore Pritchard adjourned the meeting at approximately 7:19 p.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 December 11, 2023, and that the meeting was duly called and held in all respects in accordance with the laws of the State of Alabama and bylaws of the City and that a quorum was present.

City Clerk Approved by
City Council January 8, 2024

EXHIBIT 1

RESOLUTION NO. 2023-198

BE IT RESOLVED by the City Council of the City of Mountain Brook that the City Council hereby accepts the proposal submitted by Sain Associates, in the form as attached hereto as Exhibit A, with respect to professional traffic engineering services for the Mountain Brook Village.

APPENDIX 1

EXHIBIT 2

RESOLUTION NO. 2023-199

BE IT RESOLVED by the City Council of the City of Mountain Brook, Alabama, that the City Council hereby authorizes the agreement for consulting services, attached hereto as Exhibit A, between the City and Schoel Engineering Company, Inc. for consulting services associated with a comprehensive drainage study of three proposal Developments in the Watkins Brook Drainage basin in Mountain Brook.

APPENDIX 2

EXHIBIT 3

RESOLUTION NO. 2023-200

BE IT RESOLVED by the City Council of the City of Mountain Brook, Alabama, that either the Mayor or the City Manager of the City is hereby authorized and directed, for and on behalf of the City, to execute a contractor agreement, in the form as attached hereto as Exhibit A, between the City and AR Construction LLC with respect to the Public Works Equipment Shed.

APPENDIX 3

EXHIBIT 4

RESOLUTION NO. 2023-201

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

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

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

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

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

APPENDIX 4

EXHIBIT 5

RESOLUTION NO. 2023-202

BE IT RESOLVED by the City Council of the City of Mountain Brook, Alabama, that the O'Neal Library Director, Lindsay Gardner is hereby authorized and directed, for and on behalf of the City, to execute an elevator Service and Repair Order, in the form as attached hereto as Exhibit A, between O'Neal Library and Otis Elevator Company with respect to elevator repairs.

APPENDIX 5

EXHIBIT 6

RESOLUTION NO. 2023-203

BE IT RESOLVED by the City Council of the City of Mountain Brook, Alabama that the City Council hereby authorizes the creation of one (1) temporary Administrative Assistant position (Class no. 00066, G16/4) for the Police Department to be filled at the discretion of the Police Chief in accordance with the "Rules and Regulations" of the Personnel Board of Jefferson County for the purpose of a records purge and scheduled records maintenance creation until approximately May of 2024.

APPENDIX 6

EXHIBIT 7

RESOLUTION NO. 2023-204

BE IT RESOLVED by the City Council of the City of Mountain Brook, Alabama, that Kitty Rogers Brown is hereby appointed as a member of the Editorial Board of the City of Mountain Brook, to fill the unexpired term of Vince Schilleci, to serve without compensation, with the term of office to end August 8, 2024.

APPENDIX 7

EXHIBIT 8**RESOLUTION NO. 2023-205**

BE IT RESOLVED by the City Council of the City of Mountain Brook, Alabama, that the City Council hereby recommends to the State of Alabama, Alcoholic Beverage Control Board, the issuance of a 020 – Restaurant Retail Liquor license to Mountain Brook Village Holdings, LLC, (trade name: Little Betty), 321 Rele Street Suite EB, Mountain Brook, AL 35223.

BE IT FURTHER RESOLVED that the City Clerk is hereby instructed to forward a copy of this resolution to the State of Alabama, Alcoholic Beverage Control Board.

APPENDIX 8

EXHIBIT 9**ORDINANCE NO. 2153**

BE IT ORDAINED by the City Council of the City of Mountain Brook as follows:

Section 1. Chapter 50, Article V of the City Code shall be amended by adding the following as Section 50-120:

“Sec. 50-120 Use of parking spaces for commercial purposes prohibited.

(a) It shall be unlawful for any person to conduct commercial sales, or to offer to conduct commercial sales, to the general public from any on-street parking space that is wholly or partially located within the right of way.

(b) Any person who admits to, or who is convicted of, violating the provisions of subsection (a) of this section, shall be fined \$250.00.

(c) In addition to the remedies provided by subsection (b) of this section, the violation of the provisions of subsection (a) of this section shall constitute grounds for revocation or suspension of the business license of the person, firm or corporation in violation of such subsection.”

Section 2. This ordinance is cumulative in nature and is in addition to any power and authority which the City of Mountain Brook may have under any other ordinance or law.

Section 3. Severability. If any part, section, or subdivision of this ordinance shall be held unconstitutional or invalid for any reason, such holding shall not be construed to invalidate or impair the remainder of this ordinance, which shall continue in full force and effect, notwithstanding such holding.

Section 4. Repeal of Conflicting Ordinances. All other ordinances or parts of ordinances heretofore adopted by the City Council of the City of Mountain Brook, Alabama which are inconsistent with the provisions of this ordinance are hereby expressly repealed.

Section 7. Effective Date. This ordinance shall be effective immediately after adoption and publication as provided by law.

December 5, 2023

Sam S. Gaston
City Manager
56 Church Street
PO Box 130009
Mountain Brook, AL 35213

SUBJECT: Mountain Brook Village Traffic Review
Scope and Fee
Mountain Brook, AL

Dear Sam:

We appreciate the opportunity to submit our firm's proposal for professional traffic engineering services for your project. Following is a description of our understanding of your project and the scope of services that we propose to undertake.

Scope of Services

Sain Associates will review three potential developments near Mountain Brook Village and determine their impact on the proposed roundabouts on Cahaba Road. Mountain Brook will provide the traffic impact studies from the three developments. We will compare previously completed traffic projections to the projected trip generation from the three potential developments. If any deficiencies are noted, we will make recommendations to mitigate those.

We will summarize our findings into a draft memorandum for review and preliminary planning purposes. After we address any comments you may have, we will seal and finalize the memorandum. We will attend the city council meetings on January 8, 2024 to present these findings.

Exclusions

- Conceptual plan of proposed improvements
- Surveying/design plans for recommended roadway improvements
- Construction cost estimate for recommended improvements

If any of these services become necessary as the project progresses, we can prepare an amendment to this work authorization to perform additional services, with your authorization.

Fee:

We propose to provide the above-described services for the following fee:

Traffic Review Lump Sum \$4,500

Reimbursable expenses such as printing, shipping, mileage, etc. are included in the above fees.

Two Perimeter Park South, Suite 500 East | Birmingham, Alabama 35243 | p: 205.940.6420 | f: 205.940.6433 | sain.com

Traffic Review – Mountain Brook Village
Scope and Fee
Page 3

Thank you for the opportunity to provide this proposal. If you have any questions or need clarification on any item, please call me. We look forward to working with you.

Sincerely,
SAIN ASSOCIATES, INC.



Charles Cochran, P.E., PTOE, RSP
Project Manager
AL P.E. # 36282

OFFERED: SAIN ASSOCIATES, INC.
BY: Becky White, PTP
Sr. Principal/COO



Signature of Authorized Representative

Date: December 5, 2023

ACCEPTED: CITY OF MOUNTAIN BROOK

BY: 

Signature of Authorized Representative

Stewart Welch Mayor

Print Name & Title

Date: 12-11-2023

Schedule:

We are available to begin work immediately upon receipt of a signed contract. We anticipate completing the memorandum by January 3, 2024 for distribution to council members.

Terms and Conditions

This contract is subject to the enclosed Terms and Conditions. All subsequent services required by you outside the scope of service specified will be performed on a time and materials basis according to the schedule of rates enclosed. Any modification to this contract document must be approved in writing by both parties with approval indicated by each signatory's initials and the date of approval.

Procedures for Changes in Scope of Work

The scope of work documented herein is based upon information known as of the date of this proposal. Should future changes (e.g. site plan, regulatory, project phasing, additional meetings, etc.) necessitate changes in the scope of work, we will contact you to discuss the scope of the additional work and its impact to our contracted fees and project schedule. No additional work will be undertaken by Sain or our subconsultants without your authorization.

Proposal Limitations

We reserve the right to withdraw or modify this proposal if not contracted within 60 days.

Sain Associates has provided this proposal with the understanding that you have selected our firm to perform professional services based upon our staff's qualifications, experience and reputation and not solely upon the cost of the services proposed. We trust the fees outlined herein are acceptable and within your project budgetary plans. We look forward to commencement of the work and will be glad to address any questions or concerns you have regarding the technical scope and/or schedule of fees for this proposal. If you should request additional prices for the scope of work included herein from other consulting engineers and/or land surveyors, please consider our proposal withdrawn in order to comply with Alabama Administrative Code Chapter 330-X-14-.05(f).

Two Perimeter Park South, Suite 500 East | Birmingham, Alabama 35243 | p: 205.940.6420 | f: 205.940.6433 | sain.com

SAIN ASSOCIATES, INC.
TERMS AND CONDITIONS

Basis:	
Principal	\$210.00 - \$300.00 per Hour
Engineer/Planner	\$105.00 - \$160.00 per Hour
Senior Engineer	\$165.00 - \$230.00 per Hour
GIS Professional	\$130.00 - \$150.00 per Hour
Designer	\$95.00 - \$140.00 per Hour
Surveyor	\$110.00 - \$155.00 per Hour
Survey Crew (1-Person)	\$110.00 per Hour
Survey Crew (1-Person + Robot)	\$165.00 per Hour
Survey Crew (2-Person)	\$190.00 per Hour
Survey Crew (3-Person)	\$240.00 per Hour
Survey Per Diem	\$170.00 per person per Night
Administrative Support	\$65.00 - \$98.00 per Hour

Reimbursable Expenses

Printing, contract carrier service, and travel expenses are ~~not~~ included within Consultant's basic fee and will be passed along to Client at cost plus 10%.

Payment

Payment for services by Consultant is to be made monthly based upon the percentage of work completed and invoiced to Client. Client's obligation to pay for services rendered hereunder is in no way dependent upon its ability to obtain financing, to obtain payment from a third party, or to obtain approval of any governmental or regulatory agencies, or upon Client's successful completion of the project. Payment for services and expenses hereunder is due in full within thirty (30) days after receipt of invoice. For past due accounts in excess of 120 days Consultant will issue a past due statement with interest of 1.5% per month from said thirty (30) day. Consultant may elect to seek assistance in collection of accounts in excess of 120 days in which case Client will be billed for attorney's fees for collection in the amount of 1/3 of the outstanding balance or such greater amount as the court finds reasonable. Consultant reserves the right to suspend services under this agreement until receipt of payment in full for all amounts due for services rendered and expenses incurred.

Standard of Care

The standard of care for all professional services performed or furnished by Consultant under this Agreement will be the skill and care ordinarily provided by members of Consultant's profession practicing under the same or similar circumstances and professional licenses at the same time and in the same locality, as expeditiously as is prudent considering the ordinary professional skill and care of a competent member of Consultant's profession. Consultant makes no warranty, express or implied, under this Agreement or otherwise, in connection with Consultant's services.

Responsibility of the Client

Client shall provide all criteria and full information as to Client's requirements for the Project, including budgetary limitations.

Reliance on Information Provided by Others

Consultant shall be entitled to rely, without liability, on the accuracy and completeness of any and all information provided by Client. Client's Consultants and Contractors, and information from public records, without the need for independent verification.

Schedules, Budgets and Estimates or Options of Cost

Any schedules or completion dates, budgets, or estimates of cost prepared by Consultant represent Consultant's professional judgment based on its experience and available information. Since neither Consultant nor Client has control over the cost of labor, materials, or equipment, or contractor's methods of determining prices; competitive bidding or market conditions; utility conflicts or right-of-way acquisition; agency approval times or actions of a Consultant Program Manager not employed by Sain, the Consultant cannot and does not warrant or represent that actual schedules, budgets or completion dates or actual costs will not vary from schedules or completion dates, budgets or estimates of cost prepared by Consultant or proposed, established, or approved by Client.

Approvals

Client agrees and acknowledges that the approval process necessary to maintain a project timeline is both unpredictable and outside of the Consultant's control. Consequently, the Consultant makes no representations as to its ability to timely achieve or to obtain said permits or approvals from any governing authority or outside agency.

Site Visits/Job Site Safety/Construction Phase Services

Consultant and Client acknowledge and agree that the Consultant shall not have responsibility and will not be liable for jobsite safety or construction means and methods, regardless of whether Consultant's scope of services documented herein include site visits during the construction phase. The Consultant is not responsible for, and shall by no means be liable for, the acts or omissions of any owner, contractor, subcontractor or material supplier.

Right of Entry

Client, at its sole cost and expense, shall furnish the Consultant, its agents, employees, and subcontractors a right-of-entry and any other authorizations or licenses needed for Consultant to enter the Project location to perform the services contemplated by this Agreement. Client agrees and acknowledges that the services provided by the Consultant may require certain activities that may disrupt the use of the Project's property location and may disturb, alter, or damage the terrain and vegetation thereabout and that Consultant will not restore the property to its original state.

Certifications

Consultant shall not be required to sign any documents, no matter by whom requested, that would result in Consultant's having to certify, guarantee, or warrant the existence of conditions that Consultant cannot ascertain or verify. Further, Consultant and Client acknowledge and agree that Consultant shall not be expected to provide any certifications unless expressly agreed upon by Consultant, as evidenced in writing within the scope of Consultant's work involved to Client.

Unforeseen Conditions and Occurrences

If, during the course of performance of services pursuant to this Agreement, any unforeseen hazardous substance, material, object, element, or other unforeseen conditions or occurrences are encountered which, in the Consultant's judgment, materially affects or may affect the services to be provided hereunder, the fee involved in providing the services, or the scope of the services, Consultant will notify Client. Subsequent to that notification, Consultant may: (a) if practicable, in Consultant's judgment and with Client's approval, complete the original scope of services in accordance with this Agreement; (b) agree with Client to modify the scope of services and the estimate of costs to include the previously unforeseen conditions or occurrences, such revision to be in writing and signed by the Parties and incorporated herein; or (c) terminate the services effective on the date of notification for convenience.

Use of Electronic Media

Copies of documents that may be relied upon by the Client are limited to the printed copies (also known as hard copies) that are signed or sealed by Consultant. Files in electronic media format or text, data, graphic or other types not are furnished by Consultant to Client are only for convenience of the Client. Any conclusion or information obtained or derived from such electronic files will be at the user's sole risk. When transferring documents in electronic media format, Consultant makes no representations as to long-term compatibility, stability, or readability of documents resulting from the use of software application, operating systems or computer hardware differing from those in use by Consultant at the beginning of this assignment.

Limitation of Remedies

Liability of remedies of Sain Associates, Inc. resulting from errors, omissions, or the negligence of Sain Associates, Inc., its agents or employees, pursuant to work under this agreement shall not exceed the lesser of the value of engineering or surveying services required to correct the deficiency or the basic consulting fee for work covered hereunder or the actual cost of the remedies. This provision is being agreed to as a result of the fees being charged.

Consultant's Choice of Arbitration or Court

Client and Consultant agree that if a dispute arises out of or relates to this Agreement, the parties will attempt to settle the dispute through good faith negotiations. If direct negotiations do not resolve the dispute, the parties agree to endeavor to settle the dispute by mediation prior to the initiation of any legal action unless delay in initiating legal action would irrevocably prejudice one of the parties. Mediation shall take place in Jefferson County, Alabama, and if a mediator cannot be agreed upon by parties, then it is agreed that AAA (American Arbitration Association) will appoint a mediator. If mediation is unsuccessful, any such dispute shall be subject to and resolved at the election of Consultant, by either arbitration in accordance with the Rules of the AAA or by a trial by judge in either the Circuit Court for Jefferson County, Alabama, or the United States District Court for the Northern District of Alabama.

Indemnification

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

Force Majeure

Neither party shall be deemed in default of this Agreement to the extent that any delay or failure in the performance of its obligations results from any cause beyond its reasonable control and without its negligence.

Termination of Contract

Client may terminate this Agreement with seven days prior written notice to Consultant for convenience or cause. Consultant may terminate this Agreement for cause with seven days prior written notice to Client. Failure of Client to make payments when due shall be cause for suspension of services or, ultimately, termination, unless and until Consultant has been paid in full of amounts due for services, expenses and other related charges.

Ownership of Documents

All documents prepared or furnished by Consultant pursuant to this Agreement are instruments of Consultant's professional service, and Consultant shall retain ownership and property interest therein. Consultant grants Client a license to use instruments of Consultant's professional service for the purpose of constructing, occupying and maintaining the Project. Reuse or modification of any such documents by Client, without Consultant's written permission, shall be at Client's sole risk, and Client agrees to indemnify and hold Consultant harmless from all claims, damages and expenses, including attorneys' fees, arising out of such reuse by Client or Client's disclosure of any such documents to any third party.

Third Parties

Nothing contained in this Agreement shall create a contractual relationship with, or a cause of action in favor of, a third party against either the Client or Consultant. Consultant's services hereunder are being performed solely for the benefit of the Client, and no other entity shall have any claim against Consultant because of this Agreement or Consultant's performance of services hereunder.

Consequential Damages Waiver

Neither the Client nor the Consultant shall be liable to the other or shall make any claim for any incidental, indirect or consequential damages arising out of, or connected in any way to the Project or this Agreement. This mutual waiver includes, but is not limited to, damages related to loss of use, loss of profits, loss of income, loss of reputation, unrealized savings or diminution of property value and shall apply to any cause of action including negligence, strict liability, breach of contract and breach of warranty.

Conflicting or Inconsistent Terms/Severability

In the event that any term, condition, provision, requirement or specification set forth in this body of the agreement conflicts with or is inconsistent with any term, condition, provision, requirement or specification in any exhibit and/or attachment to this agreement, the provisions of this body of the agreement shall prevail. Any provision of this Agreement which is held to be void or unenforceable shall be ineffective to the extent of such unenforceability without invalidating the remaining provisions.

Schedule 2023



Comprehensive Drainage Review of Three Proposed Developments In the Watkins Brook Drainage Basin

December 07, 2023

This AGREEMENT, entered into by and between The City of Mountain Brook, Alabama, hereinafter referred to as the Client, and Schuel Engineering Company, Inc., hereinafter referred to as the Consultant, is for Consulting Services associated with a comprehensive drainage study of three proposed Developments in the Watkins Brook Drainage basin in Mountain Brook, Alabama.

PROJECT OVERVIEW

Developments are proposed on the Village Dermatology site on Cahaba Road, the Shades Mountain Presbyterian site, and on Heathermoor Road. All of these projects are in the Watkins Brook Basin. In this work, the drainage impacts of the projects will be studied in a comprehensive manner. The potential impacts of the proposed projects on local drainage conditions as well as on the Watkins Brook basin as a whole will be examined. A brief report will be prepared and any recommendations or requirements will be detailed in the report.

PROPOSED SCOPE & SERVICES

1. Assemblage of existing information into a project base map

The Consultant has materials on all three sites that was developed in earlier work performed for the City. The materials will be assembled and merged into a base map generally derived from the base map for the previous Watkins Brook drainage project. The detailed scope is as follows:

- Coordinate as required with Client
- Locate information from previous work
- Assemble materials (topography and boundary information) into the Watkins Brook base map
- Review base with Client

Lump Sum Fee \$ 3,520

2. Review of drainage plans and modeling of potential impacts

The Consultant would review the drainage and development plans of the three proposed projects. This review would evaluate the potential impacts on local drainage conditions and also evaluate the potential impacts on flooding in Watkins Brook and tributary streams. The detailed scope is as follows:

- Obtain development plans for the Surgical Dermatology site
- Review drainage report(s)
- Evaluate the impact of the Heathermoor site (the Ansell) on the Floodplain/Floodway of Watkins Brook
- Assess impacts of Surgical Dermatology site on local drainage conditions and on Watkins Brook
- Model the developments as appropriate in the Watkins Brook model

Lump Sum Fee \$11,700

The Consultant will develop recommendations for the three projects. These recommendations may or may not be consistent with the proposed development schemes. A report on the likely impacts of the projects would be prepared and presented to the City. The detailed scope is as follows:

- Develop drainage recommendations or development recommendation for the three projects
- Prepare brief report on the study findings
- Submit to City and present findings in a presentation

Lump Sum Fee \$ 4,500

NOT INCLUDED IN SCOPE OF WORK

1. Any Civil Design
2. Studies of projects not mentioned above
3. Surveying of any type

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.

PAYMENT TERMS

The Consultant will bill the Client monthly based on work completed during the billing period. Work completed will be based upon a percentage of completion for Lump Sum Fees, and will be based on time and materials at the attached schedule of unit rates for Hourly Estimates and Not to Exceed agreements. Payments are due within thirty (30) days of invoice date. The Client's obligation to pay for services is in no way dependent upon the Client's ability to obtain financing, obtain approval from any governmental or regulatory agencies, real estate closing, receipt of payment from other parties or upon successful completion of the project. If payment is not received within thirty (30) days from date of invoice, the amounts may include a late charge of 1½ % per month, calculated from said thirtieth (30th) day. Should Consultant incur attorney's fees for collection of payment, the amount owed to Consultant shall include any and all said fees. Failure to make payment within sixty (60) days shall constitute a waiver of the right to dispute the accuracy and appropriateness of the invoice. In addition, Consultant reserves the right to suspend services under this Agreement until such time as payment is made in full for all amounts due for services rendered and expenses incurred has been received.

SCHEDULE OF UNIT RATES – EFFECTIVE THROUGH 12/31/2024

Senior Principal	\$ 350.00 per hour
Principal	\$ 230.00 per hour
Department Manager/Chief Land Surveyor	\$ 210.00 per hour
Survey Field Crew	\$ 205.00 per hour
Senior Project Manager	\$ 200.00 per hour
Project Manager	\$ 185.00 per hour
Senior Professional	\$ 175.00 per hour
Construction Administration Manager	\$ 150.00 per hour
Project Professional	\$ 140.00 per hour
Staff Professional	\$ 130.00 per hour
Senior Designer / Drafter / Specialist	\$ 130.00 per hour
Designer 2 / Drafter 2 / Specialist 2	\$ 120.00 per hour
Designer 1 / Drafter 1 / Specialist 1	\$ 105.00 per hour
Administrative / Technical Support	\$ 95.00 per hour

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 billed as reimbursables will be invoiced to the client at a rate of 115% of the invoice amount.

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 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 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 subcontractors.

(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 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

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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: 
Stewart H. Welch III

Its: Mayor

Date: 12-11-2023

SCHOEL ENGINEERING COMPANY, INC. (CONSULTANT)

By: 
Walter Schoel III

Its: CEO

Date: December 07, 2023

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.

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 2

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1144

Heather Richards <richardsh@mtnbrook.org>

MINUTE BOOK 93

CONTRACTOR AGREEMENT

2023 PW Equipment Building Project

1 message

James Gay <jay@mtnbrook.org>

Fri, Dec 8, 2023 at 9:33 AM

To: Heather Richards <richardsh@mtnbrook.org>

The attached drawings to the AR Constructions quote is what was sent to all contractors. This gives everyone the specs and details that would be needed to quote this project. Below are items that are not covered in the drawings. Most of which is on the list page of the contract.

City will take care of these items:

1. Permit fee will be waived. Still will need to be licensed and bonded in Mountain Brook for this project.
2. The drawing that I sent will satisfy. No rendering needed otherwise.
3. Prep for the site will be done by Mountain Brook. To include clogging out, materials to be disposed of on site or hauled off, at least a 4" depth #57 stone base for slab.
4. City will supply concrete and set forms.

AR Construction LLC. ("Contractor") enters this Contractor Agreement ("Agreement") with the City of Mountain Brook, Alabama, a municipal corporation ("City"), effective as of the date last executed by a party below (the "Effective Date"). Contractor and City may be individually referenced herein as "Party" or collectively as "Parties."

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

Name of Project: Public Works Equipment Shed

Site of Project: 3579 East Street
Mountain Brook, AL 35243

2. **Scope of Work.** See Exhibit A (which includes the City Scope of Work and November 21, 2023 Contractor Proposal, hereinafter the "Contractor Proposal") that is attached and incorporated herein.

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

4. **Term/Termination.** The term of this Agreement shall commence on the Effective Date and thereafter continue in effect for six (6) months (the "Term"). The period in which Contractor will complete the Project is set forth on Exhibit A.

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

Contractor's obligations herein shall survive the termination or expiration of the Term for these periods: Section 6(f) (Warranty on workmanship and materials) for one year following Project acceptance; other warranties in Section 6 for a period of one year, and Section 7(c) (Indemnification) for a period of two (2) years.

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APPENDIX 3

<https://mail.google.com/mail/u/0/?ik=80&4775052&view=pt&search=all&permthid=thread-f:1764728391659727434&siml=msg-t:17647283916597274...> 1/1

5. **Contract Price/Invoice/Certification.** Unless otherwise stated in the Special Conditions on Exhibit A or agreed in a writing signed by the parties, City will pay Contractor the lump sum amount of forty-three thousand one hundred & fifty dollars (\$43,150.00) as compensation for performing the Work (the "Contract Price"). Unless agreed in a writing signed by duly authorized representatives of both parties, the total amount payable to the Contractor for the Work shall not exceed the Contract Price (and agreed sum(s) payable for any Additional Operations contemplated on Exhibit A). In no event will the total amount paid to Contractor for its Work (including the Contract Price or any amount paid for Additional Operations) exceed \$100,000.00.

The City will pay the Contract Price on this Project on the following schedule:

- (a) The balance of the Contract Price after the following certification of completion of Work.

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

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

- that it expeditiously will perform its Work in a good and workmanlike manner that is consistent with level of skill and care that would be provided by other contractors performing operations under the same or similar conditions, and in accordance with the Project schedule;
- that it, and all of its employees or any subcontractors (if authorized), will complete the Work in compliance with all codes, laws and regulations that are applicable to the Project;
- that before commencing the Work, at its own expense, the Contractor will obtain all licenses, permits or other governmental authorizations needed to complete the Project, including without limitation, a business license and building permit issued by the City (collectively, "Licensing"). Contractor further agrees to maintain that Licensing throughout the performance of the Project;
- that it has inspected the Site and any other locations at which it will perform the Work, and, based on that inspection and its expertise, that

it has determined that each of those locations is reasonably suitable for Contractor to complete the Work;

- that the Contractor shall be responsible to remove and properly dispose of any debris related to its completion of the Project, and that it will leave each location where the Work is performed in reasonably clean condition;
- that the Work will be free of any material defects in workmanship and materials for a period of one (1) year that shall commence on the date of acceptance of the Project; and
- that all actions required to be taken by or on behalf of the Contractor to enter or execute this Agreement, and to perform its obligations and agreements hereunder, have been duly taken, and the person signing below on behalf of Contractor is authorized to execute this Agreement.

7. Insurance/Safety/Indemnification.

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

- Comprehensive General Liability:** Seven Hundred Fifty Thousand Dollars (\$750,000.00), combined single limit and aggregate for bodily injury and property damage. This Comprehensive General Liability policy shall include coverage for premises/operations, products/completed operations, assumed contractual obligations, independent contractors, and broad form property damage;
- Automobile Liability:** Automobile Liability covering owned and rented vehicles operated with policy limits of not less than Seven Hundred Fifty Thousand Dollars (\$750,000.00) combined single limit and aggregate for bodily injury and property damage;
- Workers Compensation/Employer's Liability:** Workers' Compensation as required by statute and Employer's Liability with limits of Five Hundred Thousand Dollars (\$500,000) per occurrence.

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

December 11, 2023

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The City will not furnish any type, form, coverage or amount of insurance in connection with the Project.

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

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

The City will not indemnify Contractor (or any of its representatives or authorized subcontractors) for any claims that relate to or arise out of the Project.

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

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

9. Miscellaneous Provisions.

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a. This Agreement which is comprised of this instrument, the City Scope of Work and the November 21, 2023 Contractor Proposal (collectively, the "Contract Documents") sets forth the entire understanding between the Parties concerning the matters herein, and all oral representations, prior negotiations, understandings, agreements, conditions, and terms discussed between them prior to acceptance and signing of this Agreement are deemed to have merged herein. In the event of any conflict or inconsistency between provisions in the various Contract Documents, the provision(s) in the document in the order below shall control and take precedence: (1) this Agreement; (2) the City Scope of Work; and (3) the Contractor Proposal.

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

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

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

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

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

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

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warrants that it shall not hire, retain or contract with any subcontractor to work on the Project in Alabama which it knows is not in compliance with the Act; and (iv) by signing this Agreement, it affirms, for the duration of the Agreement, that it will not violate federal immigration law or knowingly employ, hire for employment, or continue to employ an unauthorized alien within the State of Alabama. Furthermore, if Contractor is found to be in violation of this provision, it shall be deemed in breach of the Agreement and shall be responsible for all damages resulting therefrom.

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

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

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

(Signature Page Follows)

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

CITY OF MOUNTAIN BROOK, ALABAMA

By: 

Its: Mayor

Date: 12-11-2023

AR Construction LLC. CONTRACTOR.

By: _____

Its: _____

Date: _____

CONTRACT

1. **Scope of Work.** 20' wide 75' long height 16'2" high side & 14'6" low side Metal Structure Roof 26 Gauge Galvalume R Panels All Walls Open Simple Trim Anchor Bolts Set and Concrete Finish Work By Contractor

See attached City Scope of Work and November 21, 2023 Contractor Proposal.

If Contractor desires or is required to perform services on the Project that fall outside the Scope ("Additional Operations"), the Contractor shall advise the City Project Representative of the need for Additional Operations before undertaking those services, the parties shall reach agreement on the expense of any Additional Operations and the City Project Representative shall approve any such Additional Operations before the Contractor performs same. No compensation for Additional Operations will be paid unless those Operations are approved in advance.

2. **Project Schedule.** Weather permitting, Contractor expects to complete the Work within an approximate 10 week period after execution of the Agreement and the City provides it a Notice to Proceed.

3. **Project Representatives.**

City Project Representative:
James Gay
3579 East Street
Birmingham, AL 35243
Email: gayj@mtmbrook.org
Day Tel #: 205-802-3870

Contractor Project Representative:
John Looney
3819 Canaan Drive
Bessemer, AL 35022
Email: arconstructionllc@yahoo.com
Day Tel #: 205-453-2261

4. **Special Conditions.** Permit fee will be waived. Site preparation will be done By Mountain Brook Public Works. Forms will be set and and Concrete supplied by City.

8



City of Mountain Brook
56 Church Street
Mountain Brook, Alabama 35213
Bund No. 5040973

KNOW ALL MEN BY THESE PRESENTS that we, John Looney d/b/a A&R Construction LLC, ("Principal") and Employers Mutual Casualty Company, ("Surety") are held and firmly bound unto the City of Mountain Brook, an Alabama municipal corporation ("City") in the penal sum of ten thousand dollars (\$10,000.00), for the payment of which said sum and only to be made, we hereby bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, the Principal desires to engage in the following business in the City of Mountain Brook, and is providing this bond as required by the Building Code and the municipal ordinances of the City:

- ☐ Plumber/Plum Pipe ☐ Electrician Contractor ☐ Sewer and Septic Tank Contractor ☐ Electrician
- ☒ Building Contractor ☐ Paving Contractor ☐ Sprinkler System Contractor

(CHECK ONLY ONE CONTRACTOR CATEGORY BECAUSE THERE WILL BE ONE BOND FOR EACH)

The condition of the above obligation is such that, if the Principal shall faithfully observe all ordinances and laws of the City pertaining to said business or businesses, whether now or hereafter enacted, together with all rules and regulations established under the authority of said laws or ordinances, and shall perform in a workmanlike manner all work undertaken by the Principal in the prosecution of said business or businesses, and shall indemnify and save harmless the City from all liability occasioned or arising from acts done or omitted by the Principal, its servants and agents, in doing said work, or from any negligent or incompetent work, of the City, and shall ensure, or cause to be ensured, in a workmanlike manner, to their former condition, all such portions of said streets uncovered by the Principal, in whole or in part, upon any act or default for which the Principal is responsible, and pay the costs and expenses thereof, and shall maintain said restored portions in a safe condition for the period of one year from the date of the restoration of such excavation, and shall defend all suits brought against the City based, in whole or in part, upon any act or default for which the Principal is responsible, and pay the costs and expenses thereof, and shall pay all such damages as may accrue, firm or corporation, or by reason of the negligence of the Principal, its servants or agents, in the prosecution of said business or businesses, then due and to be paid, otherwise in remains in full force and effect.

Any person, firm or corporation injured in person or property by reason of any violation of said laws, ordinances, rules or regulations by the Principal, or by any act, default or omission constituting a breach of any of the conditions of this bond, may maintain a suit or action thereon for such injury.

This bond shall remain in full force and effect until thirty (30) days after notice by the City Clerk of the City of written notice of the Surety's intent to cancel this bond. Except with respect to liability occurring prior to the effective date of the cancellation of this bond, the Surety's liability hereunder shall terminate thirty (30) days after receipt by the City Clerk of such written notice.

IN WITNESS WHEREOF, the Principal and Surety have hereunto set their hands and seals at Montgomery, Alabama, on this 8th day of November, 2022.

Confession/Principal:
John Looney d/b/a A&R Construction LLC
By: *[Signature]*
(Print name and title)
Address: 3819 Canaan Dr.
Bessemer, AL 35022
Phone: _____
City of Mountain Brook, Alabama
By: *[Signature]*
(Print name and title)
Address: P.O. Box 712
Des Moines, IA 50306-0712
Phone: 205-987-1407

Received and approved on this _____ day of _____

[Attach Power of Attorney]

J:\Minutes & Agendas\Council\2023\1211 Minutes.docx

We will supply metal shed as follows 11-08-2023

20' wide
75' long
16'2" high side 14'6" low side
Roof only 26 gauge galvalume R panels
All walls opens simple trim
We will pour and set anchor bolts and finish slab
We will supply license and bond

**** mountain brook to form up pad and supply concrete

Total price material and labor \$43,150.00 to be paid in full upon completion

Accepted by _____ Date _____

APPENDIX 3

P.O. Box 712 • Des Moines, Iowa 50306-0712

EMC INSURANCE

POWER OF ATTORNEY APPOINTING INDIVIDUAL ATTORNEY-IN-FACT

KNOW ALL MEN BY THESE PRESENTS, that:

- Employers Mutual Casualty Company, an Iowa Corporation
- EMCSCO Insurance Company, an Iowa Corporation
- Union Insurance Company of Providence, an Iowa Corporation
- Winco EMCASCO Insurance Company, an Iowa Corporation
- Defacto Fire Insurance Company, a North Dakota Corporation
- EMC Property & Casualty Company, an Iowa Corporation

hereinafter referred to severally as "Company" and collectively as "Companies", each does, by these presents, make, constitute and appoint:

Lakesha Taylor

its true and lawful attorney-in-fact, with full power and authority conferred to sign, seal, and execute the following Surety Bond(s):

Surety Bond Number: **5040973** Principal: **John Looney d/b/a A&R Construction LLC** Obligor: **City of Mountain Brook**

and to bind each Company thereby as fully and to the same extent as if such Instruments were signed by the duly authorized officers of each such Company, and all of the acts of said attorney pursuant to the authority hereby given are hereby ratified and confirmed.

AUTHORITY FOR POWER OF ATTORNEY

This Power-of-Attorney is made and executed pursuant to and by the authority of the following resolution of the Boards of Directors of each of the Companies at the first regularly scheduled meeting of each company duly called and held in 1998:

RESOLVED: The President and Chief Executive Officer, any Vice President, the Treasurer and the Secretary of Employers Mutual Casualty Company shall have power and authority to (1) appoint attorneys-in-fact and authorize them to execute on behalf of each Company and attach the seal of the Company thereto, bonds and undertakings, recognizances, contracts of indemnity and other writings obligatory in the nature thereof, and (2) to remove any such attorney-in-fact at any time issued to them, to execute and deliver on behalf of the Company, and to attach the seal of the Company thereto, bonds and undertakings, recognizances, contracts of indemnity and other writings obligatory in the nature thereof, and any such instrument executed by any such attorney-in-fact shall be fully and in all respects binding upon the Company. Certification as to the validity of any power-of-attorney authorized herein made by an officer of Employers Mutual Casualty Company shall be fully and in all respects binding upon the Company. The legitimate or mechanically reproduced signature of such officer, whether made herebefore or hereafter, whenever appearing upon a certified copy of any power-of-attorney of the Company, shall be valid and binding upon the Company with the same force and effect as though manually affixed.

IN WITNESS WHEREOF, the Companies have caused these presents to be signed for each by their officers as shown, and the Corporate seals to be hereunto affixed this 22nd day of September, 2022.

Seals: *[Signatures and Seals of Officers]*

Scott R. Jean, President & CEO of Companies 1, 2, 3, 4, 5 & 6
Todd Strother, Executive Vice President of Companies 1, 2, 3, 4, 5 & 6

On this 22nd day of September, 2022 before me a Notary Public in and for the State of Iowa, personally appeared Scott R. Jean and Todd Strother, who, being by me duly sworn, did say that they are, and are known to me to be the CEO, Chairman, President, Executive Vice President, Chief Legal Officer and/or Secretary, respectively, of each of the Companies above, that the seals affixed to this instrument are the seals of said corporations, that said instrument was signed and sealed on behalf of each of the Companies by authority of their respective Boards of Directors; and that the said Scott R. Jean and Todd Strother, as such officers, acknowledged the execution of said instrument to be their voluntary act and deed, and the voluntary act and deed of each of the Companies.

My Commission Expires October 10, 2025.

[Signature]
Notary Public in and for the State of Iowa

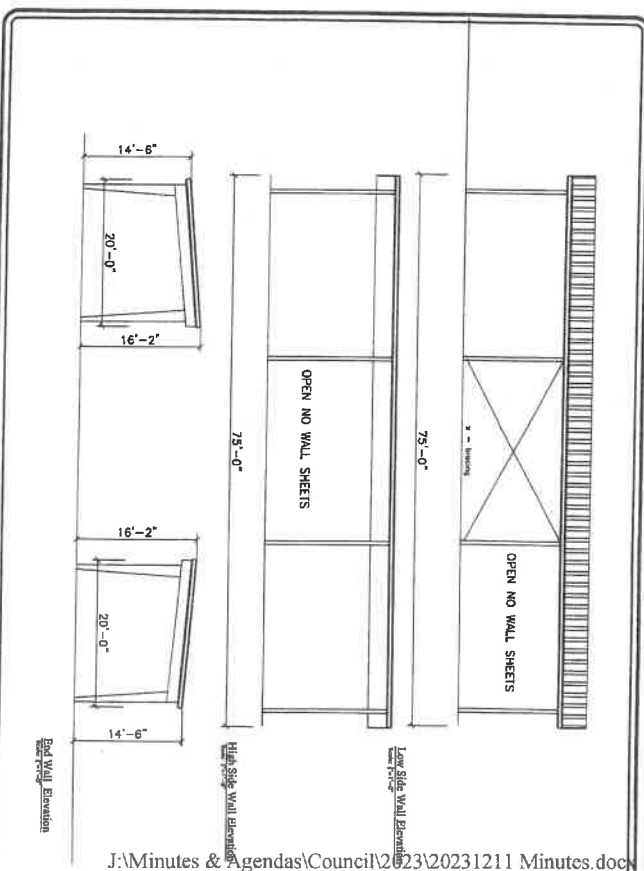
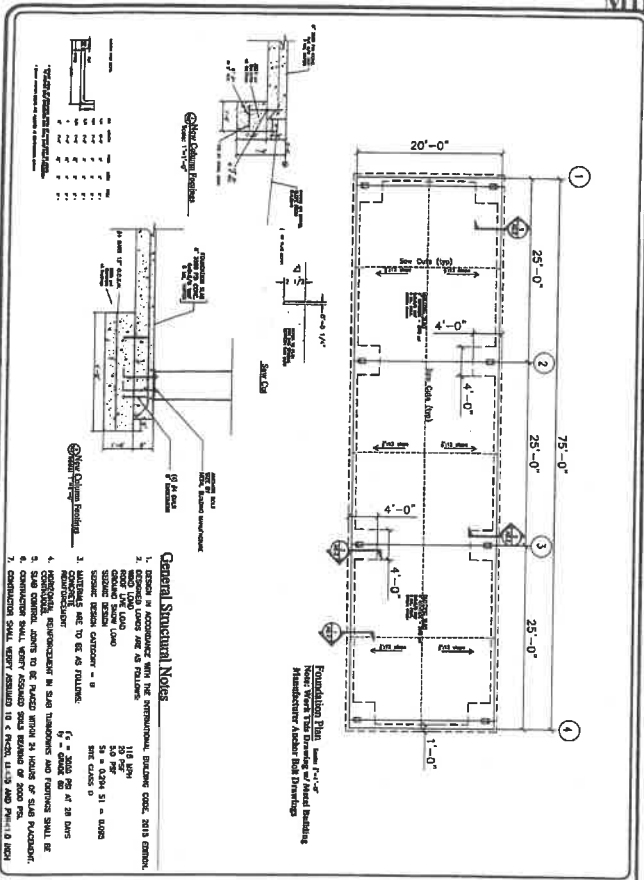
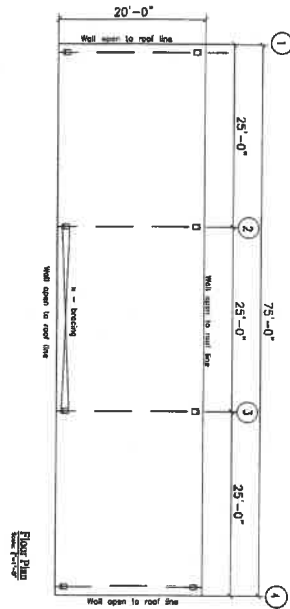
CERTIFICATE

I, Ryan J. Springer, Vice President of the Companies, do hereby certify that the foregoing resolution of the Boards of Directors by each of the Companies, and this Power of Attorney issued pursuant thereto on 22nd day of September, 2022, are true and correct and are still in full force and effect.

In Testimony Whereof I have subscribed my name and affixed the facsimile seal of each Company this 8th day of November, 2023.

December 11, 2023 *[Signature]* Vice President

APPENDIX 3



Description	Qty.	Asset Number (Year-Ledger-Item #)
5-Drawer Filing Cabinet; Metal; Black	6	2007-441-3590-6730-3505-008
U-Shaped Desk with Hutch	1	2007-441-3590-6730-3505-006
2-Drawer Wooden Filing Cabinet	1	2007-441-3590-6730-3505-007
Burgandy Leather Waiting Room Chair	1	2007-441-3590-6730-3505-005
Wooden Desk	1	2007-441-3590-6730-3505-002
Cabinet with Hutch	1	2007-441-3590-6730-3505-003
Wooden Desk	1	2007-441-3590-6730-3505-001
Wooden Bookcase	1	2007-441-3590-6730-3505-004
Wooden Meeting Table	1	2007-441-3590-6730-3505-009

MINUTE BOOK 93

Otis Service and Repair Order

MINUTE BOOK 9

PRICE
\$54,860.00

1149

Fifty-four thousand eight hundred sixty dollars

5/19/2023

CUSTOMER NAME
Emmet O Neal Library
50 Oak Street
Birmingham, AL 35213

OTIS ELEVATOR COMPANY
2194 PARKWAY LAKE DR, STE B
BIRMINGHAM, AL 35244

OTIS CONTACT
Kathleen Scerra
Phone:
Email: Kathleen.Scerra@otis.com

PROJECT LOCATION
EMMETT O'NEAL LIBRARY
50 OAK STREET
MOUNTAIN BROOK, AL 35223

PROPOSAL NUMBER
QTE-001660411

We propose to furnish the necessary material and labor on the following units:

Unit	Customer Designation
460263	ELV 1,871-2659

SCOPE OF WORK

ELEVATOR REPAIR - WATER DAMAGE

OTIS will provide parts and labor necessary to replace the following components due to water damage.

Rollers and Uphrust
Locks
Relating equipment
Oil change
Packing
211 hydro enhance
Door operator

This proposal does not cover future repair or replacement to unseen items that experienced exposure to water damage.

NOTE: With water damage many problems are not visible and they are known to create many unforeseen problems over a period of time that is past the actual occurrence date. Please be aware we will bring these items to your attention and we will send you an additional proposal for any repairs relating to the damage for this occurrence. In addition to the originating service call.

You understand and agree that payment for our services shall not be predicated, contingent, conditioned upon, or otherwise related to any reimbursement from any insurance company or any other third party.

Material provided shall be installed in accordance with the ASME A17.1 Safety Code for Elevators and Escalators.

The customer will be responsible for paying local inspection fees if applicable.

A representative will contact you to schedule the work. All work will be performed during regular working days and hours of the Elevator Trade unless otherwise specified above.

This price is based on a one hundred percent (100%) downpayment in the amount of \$54,860.00

Payment Terms:

- The base proposal price is contingent upon receiving a downpayment of one hundred percent (100%) of the base contract amount.
- The downpayment amount is due in full prior to Otis ordering material and/or mobilizing.
- If you choose the alternative downpayment amount listed below, the corresponding add shall be applied to the base contract amount.

Downpayment Amount	Price Adjustment Percentage	Authorization (Initial)
50%	+10%	

In the event 100% of the contract price is not paid up front, we must be paid the remaining balance no later than the completion of work. Final invoice will be submitted once work is scheduled.

This proposal, including the provisions printed on the pages following, shall be a binding contract between you, or the party identified below for whom you are authorized to contract (collectively referred to herein as "you"), and us when accepted by you through execution of this proposal by you and approved by our authorized representative; or by your authorizing us to perform work for the project and our commencing such work.

Accepted in Duplicate

Emmet O Neal Library Otis Elevator Company

Date: _____ Date: _____

Signed: _____ Signed: _____

Print Name: _____ Print Name: Anthony Vittorio

Title: _____ Title: Regional Field Operations Manager -

New Equipment

Email: _____ Email: anthony.vittorio@otis.com

Company Name: Emmet O Neal Library

a Principal, Owner or Authorized Representative of
Principal or Owner

a Agent
(Name of Principal or Owner)

Page 1 of 4

Page 2 of 4

TERMS AND CONDITIONS

- This quotation is subject to change or withdrawal by us prior to acceptance by you.
- The work shall be performed for the agreed price plus any applicable sales, excise or similar taxes as required by law, in addition to the agreed price, you shall pay to us any future applicable tax imposed on us, our suppliers or you in connection with the performance of the work described.
- Payments shall be made as follows: A down payment of One Hundred percent (100.0%) of the price shall be paid by you upon your signing of this document. Full payment shall be made on completion if the work is completed within a thirty days period. If the work is not completed within a thirty day period, monthly progress payments shall be made based on the value of any equipment ready or delivered. We reserve the right to discontinue our work at any time until payments shall have been made as agreed and we have assurance satisfactory to us that subsequent payments will be made when due. Payments not received within thirty (30) days of the date of invoice shall be subject to interest at the rate of eighteen percent (18%) per annum or at the maximum rate allowed by applicable law, whichever is less. We shall also be entitled to reimbursement from you of the expenses, including attorney's fees, incurred in collecting any overdue payments.
- Our performance is conditioned upon your securing any required governmental approvals for the installation of any equipment provided hereunder and your providing our workmen with a safe place in which to work. Additionally, you agree to notify us if you are aware or become aware prior to the completion of the work of the existence of asbestos or other hazardous material in any elevator hoistway, machine room, hallway or other place in the building where Otis personnel are or may be required to perform their work. In the event it should become necessary to abate, encapsulate or remove asbestos or other hazardous materials from the building, you agree to be responsible for such abatement, encapsulation or removal, and in such event Otis shall be entitled to delay its work until it is determined to our satisfaction that no hazard exists and compensation for delays encountered if such delay is more than sixty (60) days. In any event, we reserve the right to discontinue our work in the building whenever in our opinion this provision is being violated.
- Unless otherwise agreed in writing, it is understood that the work shall be performed during our regular working hours of our regular working days. If overtime work is mutually agreed upon and performed, an additional charge therefore, at our usual rates for such work, shall be added to the contract price. The performance of our work hereunder is conditioned on your performing the preparatory work and supplying the necessary data specified on the front of this proposal or in the attached specification. If any, should we be required to make an unscheduled return to your site to begin or complete the work due to your request, acts or omissions, then such return visits shall be subject to additional charges at our then current labor rates.
- Title to any material to be furnished hereunder shall pass to you when full payment for such material is received. In addition, we shall retain a security interest in all material furnished hereunder and not paid for in full. You agree that a copy of this Agreement may be used as a financing statement for the purpose of placing upon public record our interest in any material furnished hereunder, and you agree to execute a UCC-1 form or any other document reasonably requested by us for that purpose.
- Except insofar as your equipment may be covered by an Otis maintenance or service contract, it is agreed that we will make no examination of your equipment other than that necessary to do the work described in this contract and assume no responsibility for any part of your equipment except that upon which work has been done under this contract.
- Otis shall not be liable for any loss, damage or delay due to any cause beyond our reasonable control including, but not limited to, acts of government, strikes, lockouts, other labor disputes, fire, explosion, theft, floods, water damage, weather damage, extreme weather, traffic conditions, epidemic, pandemic, quarantine (including Covid-19), sabotage, cyber security, national emergency, act of terrorism, earthquake, riot, civil commotion, war or insurrection, vandalism, misuse, abuse, mischief, or acts of God or nature.
- We warrant that all services furnished will be performed in a workmanlike manner. We also warrant that any equipment provided hereunder shall be free from defects in workmanship and material. Our sole responsibility under this warranty shall be at our option to correct any defective services and to either repair or replace any component of the equipment found to be defective in workmanship or material provided that written notice of such defects shall have been given to us by you within ninety (90) days after completion of the work or such longer period as may be indicated on the front of this form. All defective parts that are removed and replaced by us shall become our property. We do not agree under this warranty to bear the cost of repairs or replacements due to vandalism, abuse, misuse, neglect, normal wear and tear, modifications not performed by us, improper or insufficient maintenance by others, or any cause beyond our control. We shall conduct, at our own expense, the entire defense of any claim, suit or action alleging that, without further combination, the use by you of any equipment provided hereunder directly infringes any patent, but only on the conditions that (a) we receive prompt written notice of such claim, suit or action and full opportunity and authority to assume the sole defense thereof, including settlement and appeals, and all information available to you for such defense; (b) said equipment is made according to a specification or design furnished by us; and (c) the claim, suit or action is brought against you. Provided all of the foregoing conditions have been met, we shall, at our own expense, either settle said claim, suit or action or shall pay all damages excluding consequential damages and costs awarded by the court therein and, if the use or resale of such equipment is finally enjoined, we shall, at our option, (i) procure for you the right to use the equipment, (ii) replace the equipment with equivalent noninfringing equipment, (iii) modify the equipment so it becomes noninfringing but equivalent, or (iv) remove the equipment and refund the purchase price (if any) less a reasonable allowance for use, damage and obsolescence.
- THE EXPRESS WARRANTIES SET FORTH HEREIN ARE THE EXCLUSIVE WARRANTIES GIVEN; WE MAKE NO OTHER WARRANTIES EXPRESS OR IMPLIED, AND SPECIFICALLY MAKE NO WARRANTY OF MERCHANTABILITY OR OF FITNESS FOR ANY PARTICULAR PURPOSE; AND THE EXPRESS WARRANTIES SET FORTH IN THIS ARTICLE ARE IN LIEU OF ANY SUCH WARRANTIES AND ANY OTHER OBLIGATION OR LIABILITY ON OUR PART.
- Under no circumstances shall either party be liable for special, indirect, liquidated, or consequential damages in contract, tort, including negligence, warranty or otherwise, notwithstanding any indemnity provision to the contrary. Notwithstanding any provision in any contract document to the contrary, our acceptance is conditioned on being allowed additional time for the performance of the Work due to delays beyond our reasonable control. Your remedies set forth herein are exclusive and our liability with respect to any contract, or anything done in connection therewith such as performance or breach thereof, or from

the manufacture, sale, delivery, installation, repair or use of any equipment furnished under this contract, whether in contract, in tort (including negligence), in warranty or otherwise, shall not exceed the price for the equipment or services rendered.

- It is agreed that after completion of our work, you shall be responsible for ensuring that the operation of any equipment being furnished hereunder is periodically inspected. The interval between such inspections shall not be longer than what may be required by the applicable governing safety code. Notwithstanding any other provisions hereof, if any part delivered hereunder incorporates software, the transaction is not a sale of such software; rather, you are hereby granted merely a license to use such software solely for operating the equipment for which such part was ordered. By accepting delivery of such part, you agree not to copy or let others copy such software for any purpose whatsoever, to keep such software in confidence as a trade secret, and not to transfer possession of such part to others except as a part of a transfer of ownership of the equipment in which such part is installed, provided that you inform us in writing about such ownership transfer and the transferee agrees in writing to abide by the above license terms.
- In furtherance of OSHA's directive contained in 29 C.F.R. § 1910.147(f)(2)(ii), which requires that a service provider (an "outside employer") and its customer (an "on-site employer") must inform each other of their respective lock out/tag out ("LOTO") procedures whenever outside servicing personnel are to be engaged in control of hazardous energy activities on the customer's site, Otis incorporates by reference its mechanical LOTO procedures and its electrical LOTO procedures. These procedures can be obtained at www.otis.com by clicking on "Tools & Resources" on the home page, selecting "Lockout/Tagout Policy" under the "Safety Information" column and downloading the "Lockout Tagout Policy Otis 6.0" and "Mechanical Energy Policy Otis 7.0," or the then most current version, both of which are in .pdf format. You agree that you will disseminate these procedures throughout your organization to the appropriate personnel who may interact with Otis personnel while Otis personnel are working on site at your facility and will ensure that such personnel comply with these LOTO procedures while Otis personnel are working on site.
- This Agreement constitutes the entire understanding between the parties regarding the subject matter hereof and may not be modified by any terms on your order form or any other document and supersedes any prior written or oral communication relating to the same subject. Any amendment or modifications to this Agreement shall not be binding upon either party unless agreed to in writing by an authorized representative of each party.
- This Contract will be deemed voidable, even after execution, if it is determined by Otis that performance of the services and/or engagement in the contractual relationship/transaction will violate, or is otherwise restricted by, any and all laws, regulations and/or orders, including sanctions laws, that are applicable to Otis or otherwise apply to Otis' operations.
- By accepting delivery of parts incorporating software, you agree that the transaction is not a sale of such software but merely a license to use such software solely for operating the unit(s) for which the part was provided, not to copy or let others copy such software for any purpose whatsoever, to keep such software in confidence as a trade secret, and not to transfer possession of such part to others except as a part of a transfer of ownership of the equipment in which such part is installed, provided that you inform us in writing about such ownership transfer and the transferee agrees in writing to abide by the above license terms prior to any such transfer.



Mountain Brook Police Department
Chief Jaye Loggins
101 Tibbett Street
Mountain Brook, Alabama 35213
Phone: 205.879.9486
Fax: 205.802.2415

MINUTE BOOK 93

12/8/23, 10:10 AM

The Personnel Board of Jefferson County Alabama

To: Mountain Brook City Council
From: J. Loggins, Chief of Police
Date: December 6, 2023
Re: Creation of Temporary Administrative Assistant Position

As you are aware, the Mountain Brook Police Department will be conducting a records purge and scheduled records maintenance creation over the next several months. The initiative will be intensive and time consuming for all that will be involved. The police department's records have never been purged and consist of all records since the inception of the department. This initiative will be overwhelming and will require many employees to dedicate time to the project intermittently. I request the approval of a temporary position of Administrative Assistant be immediately created and continue existence until approximately May of 2024. The position can be funded through current budgeted salaries of the police department. I have attached a "Job Description" that the position will adhere to. Thank you for any and all consideration.

Job Description

Class Title: Administrative Assistant
Class Number: 00086
Grade: 16

SUMMARY:

Administrative Assistants provide a variety of non-routine administrative and support services requiring independent judgment and knowledge of department operations. Administrative Assistants provide more advanced clerical support to departments and perform a moderate level of financial duties compared to Administrative Clerks, such as processing accounts receivable and payable and performing payroll duties. Employees require substantial knowledge regarding the use of computers to create and exchange correspondence, maintain databases, create graphs, and manage spreadsheets. Administrative Assistants work in an office setting and may lead or train a small group of employees as lead workers.

TYPICAL JOB DUTIES:

Provides service to internal and/or external customers.
Provides clerical support to a department by processing mail, creating and updating paper and digital files, maintaining office equipment, attending and taking notes at meetings, transcribing minutes, tracking information, making copies, and/or gathering documentation.
Creates or maintains departmental communication by maintaining the public areas of a department, answering departmental phone lines or emails, tracking internal communications, maintaining departmental schedules or calendars, and creating or editing correspondence coming from the department.
Generates and processes invoices and/or payments.
Manages departmental accounts receivable and payable.
Plans, organizes, and directs the activities of the payroll function within the department to ensure that payroll is accurate and distributed properly.
Procures and/or manages inventory (i.e., supplies and equipment) to ensure the products and services are available to meet the operational needs of each department.

MINIMUM QUALIFICATIONS:

This job is being posted as "open-promotional" as defined under the Methods of Recruitment section of our Rules & Regulations. For open-promotional jobs, competition is open to all applicants within and outside of the Classified Service who meet the outlined qualifications for the job. Current Merit System employees who meet the defined Promotional Requirements will be treated as promotional candidates and will receive seniority points and "home field" advantages. All other applicants must meet the defined Minimum Qualifications in order to be eligible for further testing.

Promotional Requirements:

- Must be a Merit System employee with Regular status (i.e., having completed a one-year probationary period).
- At least one year (1) of experience on or before closing date of announcement in one of the following classes: Administrative Clerk, Medical Clerk, Court Clerk, Senior County Court Clerk, Senior Municipal Court Clerk, Office Assistant, Legal Secretary, Medical Secretary, Medical Records Clerk, Medical Billing Specialist, Accounting Assistant I, or Accounting Assistant II.

<https://www.pbjcal.org/employment/Details?jobCode=00086>

1/3

12/8/23, 10:10 AM

The Personnel Board of Jefferson County Alabama

- Currently employed in one of the following classes: Administrative Clerk, Medical Clerk, Court Clerk, Senior County Court Clerk, Senior Municipal Court Clerk, Office Assistant, Legal Secretary, Medical Secretary, Medical Records Clerk, Medical Billing Specialist, Accounting Assistant I, or Accounting Assistant II.

Minimum Qualifications:

Experience providing customer service to internal and external customers including responding to inquiries, explaining policies and procedures, and resolving issues or complaints.
Experience performing administrative functions including coordinating schedules, drafting correspondence, producing reports, and maintaining and updating files and records in order to support professional staff.
Experience using computer software (e.g., Microsoft Word, Excel, Outlook, Google Docs,) to develop and update written correspondence, reports, memos, and spreadsheets.

PREFERRED QUALIFICATIONS:

None.

COMPETENCIES:

Adaptability & Flexibility.
Computer & Technology Operations.
Learning & Memory.
Mathematical & Statistical Skills.
Oral Communication & Comprehension.
Physical Abilities.
Planning & Organizing.
Problem Solving & Decision Making.
Professionalism & Integrity.
Researching & Referencing.
Reviewing, Inspecting & Auditing.
Self-Management & Initiative.
Teamwork & Interpersonal.
Technical & Job-Specific Knowledge.
Technical Skills.
Written Communication & Comprehension.

CRITICAL KNOWLEDGES:

Knowledge of accounting software programs to perform the tasks associated with the position, such as reviewing data, monitoring payroll, reviewing accounts payable and accounts receivable, tracking inventory, creating reports, reviewing financial statements, and other similar functions as required by the job.
Knowledge of administrative and clerical procedures and systems such as word processing, managing files and records, designing forms, and other office procedures and terminology.
Knowledge of basic office equipment (e.g., telephone, smartphone, fax machine, copier, computer, calculator).

WORK ENVIRONMENT:

Work is conducted almost exclusively indoors in an office setting. Work involves use of standard office equipment, such as computer, phone, copier, etc.

PHYSICAL DEMANDS:

Job is primarily sedentary involving sitting for long periods of time, but may involve occasional walking or standing for brief periods.

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12/8/23, 10:10 AM

The Personnel Board of Jefferson County Alabama

DISCLAIMER: This job description is not meant to be an all-inclusive list of the job duties, responsibilities, or skills and abilities required to do the job and may be changed at the discretion of the Personnel Board at any time.

Performance Appraisal Competencies

Written Communication & Comprehension; Technical & Job Specific Knowledge; Teamwork & Interpersonal; Self-Management & Initiative; Reviewing, Inspecting & Auditing; Researching & Referencing; Professionalism & Integrity; Problem Solving & Decision Making

COMPENSABLE FACTORS:

High School Diploma or G.E.D. and three years of responsible clerical experience.

Survey Year:

2024

MINUTE BOOK 93

City of Mountain Brook Public Service Application

Date: August 26, 2022 Name Kitty Rogers Brown

Phone Number: (205) 478-7978

Email: KittyRBrown@gmail.com

Address: 2905 Virginia Road Mountain Brook Alabama 35223
Street City State Zip Code

How long have you been a resident of Mountain Brook? Since 2009

Which Board/Commission/Committee are you applying for? (check only one)

Planning Commission	Board of Zoning Adjustments	Board of Landscape Design
Village Design and Review	Board of Education	Parks and Recreation Board
Editorial Board	Finance Committee	O'Neal Library Board

Previous Board Appointments

Please list any current or previous board appointments you have held for the City of Mountain Brook.

Name of Board	Dates Served
N/A	

Community Activities

Please list any current or past experience you have with civic, fraternal, volunteer, non-profit organizations in which you are or have been active.

Name of organization	Dates Served	Title, Specific Projects, or Other Info.
Mountain Brook Elementary Parent-Teacher Organization	2016-2022	Sixth Grade Committee Chair (2021-2022); PTO Board, Vice-President Communications (2019-2020); <i>Village Living</i> contributing writer (2018-2019)
YWCA Central Alabama	2008-present	Junior Board (2008-2014, president 2013-2014); "Kids in Crisis" volunteer (2015); Purse and Passion committees (2014-2022), Board of Directors (2017-present, Vice President Development (2020), Executive Board (2020))
Junior League of Birmingham	2006-present	Community of Lights Torchbearer (2018); Sustainer (2017-present); Active Member (2007-2017); Research and Development Committee (2014-2015; 2016-2017); YWCA "Kids in Crisis" volunteer (2015); Communications Council (2014-2015; 2009-2010); Membership Advisor (2013-2014); Fund Development Council (2013-2014);

Certification

By initialing here (KRB), I certify the following:

I am a resident of Mountain Brook.
I understand the commitment requirements for the board for which I am applying.
I understand that I will be serving without compensation.
I will report to the city if a conflict of interest arises or something changes that would affect my membership on the Board.
I will keep an open mind and consider all sides of issues presented to the board.
I understand that this application and appointment will become public record.

Kitty Rogers Brown KRB 8/26/22
Printed Name of Applicant Signature Date

Note: If additional space is needed to complete the application, you may either write on the back of one of the pages or add additional pages. You may also attach any valid documentation you feel necessary to give us a better understanding of your qualifications. This includes a resume, copy of licenses or degrees, etc.
Submit the application to: www.mtnbrook.org or Sam Gaston, City Manager at sgastons@mtnbrook.org.

Applications will be kept for three years from the date listed on the front page. You will need to re-apply periodically if you are still interested in serving on any of the boards. If your contact information changes within the three years, please submit a new application.

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Safety and Crisis Intervention Impact Area, Chair (2012-2013); Volunteer Council (2012-2013); President's Society, Co-Chair (2011-2012); Shiftwork Co-Chair (2010-2011); Junior League of Birmingham's Leadership Institute, Graduate (2010); *Newsheet*, Editor (2009-2010); Fund Development Council (2009); Foundation Donors, Co-Chair/Chair (2008-2009); "Woman to Watch" (2008-2009); Provisional Member (2006-2007)

Appointment Interest

Please provide a brief statement describing your interest in serving on the selected board.

Clear, timely, and accurate communication is foundational to a functional government. If selected to serve on the Editorial Board, I would work to ensure that the information our city departments and community partners need and want to share with our citizens is disseminated in as efficient and concise a manner as possible.

What specific objectives would you work towards as a member of the selected board?

*Information is only as valuable as it is timely, understandable, and accessible. One of my objectives would be working to ensure that the City's newsletter, *The Reporter*, meets all three of those touchstones. Potentially making *The Reporter* available as an option on the City's email subscription sign-up and/or pushed out as a link through our text alert system would be objectives of mine, as would ensuring the most recent versions of *The Reporter* as well as historical information are available and easily accessible on the City's website.*

Summarize your qualifications that you believe would benefit the selected board. Include education, experience, licenses, etc. You may attach a resume also.

I have attached a copy of my extended biography, but specifically as to this position: my past leadership in communications capacities in both the Junior League of Birmingham and the Mountain Brook Elementary PTO would be beneficial should I be selected to serve.

KITTY ROGERS BROWN

2905 Virginia Road
Mountain Brook, Alabama 35223
(205) 478-7978 KittyRBrown@gmail.com

PROFESSIONAL PROFILE:

Originally from Russellville, Alabama, Ms. Brown joined White Arnold & Dowd P.C. as an attorney in 2006 and was named a shareholder in 2013. She practices in both state and federal courts, as well as in administrative proceedings. Ms. Brown represents individual and corporate defendants in white collar criminal actions, primarily in the areas of healthcare fraud, financial crimes, and environmental crimes, as well as in parallel civil and criminal proceedings. She also represents both plaintiffs and defendants in complex civil litigation as well as pharmaceutical and environmental tort actions, whistleblower cases, healthcare matters, and consumer class actions, and handles executive severance and compensation matters.

CIVIC AFFILIATIONS:

YWCA Central Alabama

Board of Directors (2017-present)
Vice President, Development (2020)
Executive Committee (2020)
Purse and Passion Development Chair (2022); Table Captains Committee Chair (2019); Committee Member (2014-2018)
"Kids in Crisis" volunteer (2015)
Junior Board: President (2013-2014); President-Elect (2012-2013); Executive Committee (2011-2014); Member (2008-2014)

During my term of service as president, the YWCA Junior Board successfully transitioned from its historic fund and "friendraiser," the Mother's Day Flower Sale, to a primary focus on the KIDS Korner Luncheon, which raises funds for the only nationally-accredited child development program for homeless children in Alabama. The Junior Board also organized the first annual Walk a Mile in Her Shoes® event to raise awareness about domestic violence and the services the YWCA provides for victims.

The Junior League of Birmingham

Community of Lights Torchbearer (2018); Sustainer (2017-present); Active Member (2007-2017); Research and Development Committee (2014-2015; 2016-2017); YWCA "Kids in Crisis" volunteer (2015); Communications Council (2014-2015; 2009-2010); Membership Advisor (2013-2014); Fund Development Council (2013-2014); Safety and Crisis Intervention Impact Area, Chair (2012-2013); Volunteer Council (2012-2013); President's Society, Co-Chair (2011-2012); Shiftwork Co-Chair (2010-2011); Junior League of Birmingham's Leadership Institute, Graduate (2010); *Newsheet*, Editor (2009-2010); Fund Development Council (2009); Foundation Donors, Co-Chair/Chair (2008-2009); "Woman to Watch" (2008-2009); Provisional Member (2006-2007)

As a Torchbearer for the 2018 Community of Lights campaign, I was able to work with my network to achieve a significant fundraising goal in support of a permanent home for One Place Metro Alabama Family Development Center, as raise social and

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community awareness about its good work in the fight against domestic violence and sexual assault.

Samford University

Howard College of Arts and Sciences Advisory Board (2019-present); Alumni Council Activities Board (2011-2015); Chi Omega Advisory Board Member (2005-2014), Chair (2007-2012); Alumni Council Executive Committee (2008-2010); Alumni Council Regional Representative (2007-2008)

Alabama Law Alumni Society

Treasurer (2022-2023); Leadership Council (2018-present)

University of Alabama School of Law Farrah Law Alumni Society

Board of Trustees (2010-2018)

St. Mary's-on-the-Highlands Episcopal Church

Senior High Sunday School Teacher; Chancellor (2016); Preschool Advisory Committee; Parish Personnel/Human Resource Committee;

Mountain Brook Elementary Parent-Teacher Organization

Sixth Grade Committee Chair (2021-2022)

PTO Board, Vice-President Communications (2019-2020)

Village Living contributing writer (2018-2019)

The Ballet Guild of Birmingham

Sustainer (2018-present); Special Guests Chair (2015-2016, 2012-2013) Men's Committee Dinner (2014-2015; 2012); General Meeting Chair (2013-2014)

Junior Women's Committee of 100

Past President (2018-2019); President (2017-2018); Vice-president for Fundraising (2016-2017); Secretary (2015-2016), Development Committee (2015-2016)

As president of the group, I spearheaded a recruitment effort that resulted in the largest new member class in recent memory. During my year as Vice President for Fundraising, our team was able to raise and then donate funds at a historic level -- \$51,000 in honor of O'Neal Library's 51st Anniversary.

Mountain Brook City Schools Early Warning Panel

Volunteer Attorney Panel Member (2009-2016)

The Club

Young Executive Board, Member (2015-2017)

Children's Arts Guild

Sustainer (2021-present); Member (2016-2020)

Symphony 30

Sustainer (2022-present); Member (2016-2022)

Old Mill Garden Club

Member

Jemison Social Club

Member

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PROFESSIONAL AND CIVIC DISTINCTIONS:

Martindale-Hubbell AV Peer Review Rating

Mid-South Super Lawyers (2016-2021)

Alabama State Bar "President's Award" in recognition of exemplary service to the profession (2018, 2020)

B-Metro Magazine, Top Lawyers (2016-2020)

B-Metro Magazine, Top Women Attorneys (2015-2020)

Birmingham Business Journal, Rising Stars of Law (2018)

Torchbearer, Junior League of Birmingham's "Community of Lights"

Centennial Campaign (2018)

Children's Hospital Committee for the Future (2015)

"Top 40 Under 40," Birmingham Business Journal (2014)

Leadership UAB (2013); LUAB Steering Committee (2014-2016)

Alabama Super Lawyers (2013-2015)

Alabama State Bar Leadership Forum, Class 8 (2012)

Alabama Super Lawyers, Rising Star (2011, 2012)

Birmingham Magazine, Top Attorneys 2012, Rising Star

B-Metro Magazine, Rising Star of the Birmingham Bar (2012)

Samford University Outstanding Young Alumnus Award (2011)

Birmingham Bar Association Future Leaders Forum, Graduate (2009)

PROFESSIONAL AFFILIATIONS:

American Bar Association

Fellow of The American Bar Foundation (2015-present)

House of Delegates, Delegate for the State of Alabama (2014-2015)

Young Lawyers Division, Assembly Delegate for the State of Alabama (2011-2013)

Alabama State Bar

Leadership Forum Selection & Program Committee (2019-2023)

Bench and Bar Relations Committee (2022-2023)

Quality of Life, Health and Wellness Committee (2022-2023)

Governmental Relations Liaison Committee (2020-2023)

Bench and Bar Relations Task Force (2020-2022)

Disciplinary Rules and Enforcement Committee (2020-2022)

Diversity in the Profession Committee (2019-2022)

Lawyer in Every Classroom Task Force (2020-2021)

Quality of Life, Health and Wellness Task Force (2020-2021)

Mid-Year Meeting Task Force (2019-2020)

Member Benefits Committee (2019-2020)

Consolidated Fundraising Task Force, Vice Chair (2018-2020)

Section Coordination & Evaluation Task Force (2019-2020)

Foster Care Task Force (2017-2019)

Lawyer University Task Force (2016-2019)

Lawyer Incubator Task Force (2017-2019)

Leadership Forum Section, Executive Council (2014-2018)

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Young Lawyers Section: Executive Committee (2007-2014); Immediate Past President (2013-2014); President (2012-2013); Vice President (2011-2012); Secretary (2010-2011); Treasurer (2009-2010)

Criminal Justice Section, White Collar Committee

Committee on Volunteer Lawyers/Access to Legal Services

Women's Section

Mentoring Program, Pilot Program Participant (2007)

Birmingham Bar Association

Grievance Committee (2017-2022), Group Chair (2021)

Birmingham Connection Committee (2021-2022)

Diversity and Inclusion Committee (2021)

2020 Focus Group (2020)

Scholarship Committee: Co-Chair (2010, 2013), Member (2016)

Future Leaders Forum Committee (2012)

Public Service Committee: Committee Co-Chair (2009); Book Drive Chair (2009); Service Juris Chair (2009); Steering Committee (2007, 2008)

Women Lawyers Section

Young Lawyers Section

Birmingham Inns of Court

Women's White Collar Defense Association

EDUCATION:

University of Alabama School of Law (J.D., 2005); ALABAMA LAW REVIEW, Senior Editor; John A. Campbell Moot Court Board; Robert F. Wagner Labor and Employment Moot Court Team; Bench and Bar Honor Society; Order of the Barristers; Order of the Samaritan; Dean's Award for Community Service

Samford University (Bachelor of Arts, History and Spanish, *summa cum laude*, 2001); Omicron Delta Kappa; Phi Kappa Phi; Order of Omega, President; Chi Omega Fraternity, Vice President; Phi Alpha Theta, Secretary; Robert Leland Tindal Award; Wheeler, Tower, and Seal Medals; Dean's List



STATE OF ALABAMA 1153
ALCOHOLIC BEVERAGE CONTROL BOARD
ALCOHOL LICENSE APPLICATION
Confirmation Number: 20231208085520389



December 12, 2023

Ms. Valencia Johnson
Alabama ABC Board
234 Aquarius Drive, Suite 103
Homewood, AL 35209

Facsimile: (205) 942-2101

Gentlemen:

Attached is a copy of a resolution passed at the December 11, 2023, City Council meeting recommending the issuance of 020 - Restaurant Retail Liquor license as follows:

Mountain Brook Village Holdings, LLC
Trade name: Little Betty
321 Rele Street, Suite EB
Mountain Brook, AL 35223

If you have any questions, please call me at 802-3823.

Sincerely,

Heather Richards
Heather Richards
City Clerk

Enclosure

c: Benjamin Shirah
benjie@southcapitalpartners.com

Type License: 020 - RESTAURANT RETAIL LIQUOR State: \$300.00 County: \$300.00
Type License:
Trade Name: LITTLE BETTY State: County:
Applicant: MOUNTAIN BROOK VILLAGE HOLDINGS LLC Filing Fee: \$50.00
Location Address: 321 RELE STREET; SUITE EB MOUNTAIN BROOK, AL 35223 Transfer Fee:
Mailing Address: 3717 ROSWELL RD ATLANTA, GA 30342
County: JEFFERSON Tobacco sales: NO Tobacco Vending Machines:
Product Type: Type Ownership: LLC
Book, Page, or Document Info: 22210421
Do you sell Draft Beer?:
Date Incorporated: 09/28/2022 State Incorporated: GA County Incorporated:
Date of Authority: 01/17/2023
Federal Tax ID: 92-1290110 Alabama State Sales Tax ID: R011959463

Name:	Title:	Date and Place of Birth:	Residence Address:
JAMES SHIRAH 048587122 - GA	OWNER/PARTNER	5/05/1987 ALBANY	25 MICHELLE CIR NE ATLANTA, GA 30342
BENJAMIN SHIRAH 054282510 - GA	OWNER/PARTNER	12/03/1982 ALBANY	2817 HARRISMAN RD ATLANTA, GA 30305

Has applicant complied with financial responsibility ABC RR 20-X-5-.14? YES
Does ABC have any actions pending against the current license? NO
Has anyone, including manager or applicant, had a Federal/State permit or license suspended or revoked? NO
Has a liquor, wine, malt or brewed license for these premises ever been denied, suspended, or revoked? NO
Are the applicant(s) named above, the only person(s), in any manner interested in the business sought to be licensed? YES
Are any of the applicants, whether individual, member of a partnership or association, or officers and directors of a corporation itself, in any manner monetarily interested, either directly or indirectly, in the profits of any other class of business regulated under authority of this act? NO
Does applicant own or control, directly or indirectly, hold lien against any real or personal property which is rented, leased or used in the conduct of business by the holder of any vinous, malt or brewed beverage, or distilled liquors permit or license issued under authority of this act? NO
Is applicant receiving, either directly or indirectly, any loan, credit, money, or the equivalent thereof from or through a subsidiary or affiliate or other licensee, or from any firm, association or corporation operating under or regulated by the authority of this act? NO

Contact Person: BENJAMIN SHIRAH Home Phone: 229-328-6123
Business Phone: 706-402-5893 Cell Phone: 229-328-6123
Fax: E-mail: BENJIE@SOUTHCAPITALPARTNERS.COM

PREVIOUS LICENSE INFORMATION: Previous License Number(s)
Trade Name: License 1:
Applicant: License 2:

APPENDIX 8



STATE OF ALABAMA
ALCOHOLIC BEVERAGE CONTROL BOARD
ALCOHOL LICENSE APPLICATION
Confirmation Number: 20231208085520389



If applicant is leasing the property, is a copy of the lease agreement attached? YES
Name of Property owner/lessor and phone number: LANE PARKE RETAIL LLC 205-980-4428
What is lessors primary business? RESTAURANT
Is lessor involved in any way with the alcoholic beverage business? NO
Is there any further interest, or connection with, the licensee's business by the lessor? NO

Does the premise have a fully equipped kitchen? YES
Is the business used to habitually and principally provide food to the public? YES
Does the establishment have restroom facilities? YES
Is the premise equipped with services and facilities for on premises consumption of alcoholic beverages? YES

Will the business be operated primarily as a package store? NO
Building Dimensions Square Footage: 4235 Display Square Footage:
Building seating capacity: 118 Does Licensed premises include a patio area? YES
License Structure: SINGLE STRUCTURE License covers: ENTIRE STRUCTURE
Number of licenses in the vicinity: Nearest:
Nearest school: Nearest church: Nearest residence: 0 blocks
Location is within: CITY LIMITS Police protection: CITY

Has any person(s) with any interest, including manager, whether as sole applicant, officer, member, or partner been charged (whether convicted or not) of any law violation(s)? NO

Name:	Violation & Date:	Arresting Agency:	Disposition:

J:\Minutes & Agendas\Council\2023\20231211 Minutes.docx



STATE OF ALABAMA
ALCOHOLIC BEVERAGE CONTROL BOARD
ALCOHOL LICENSE APPLICATION
Confirmation Number: 20231208085520389



Initial each
In reference to law violations, I attest to the truthfulness of the responses given within the application.
In reference to the Lease/property ownership, I attest to the truthfulness of the responses given within the application.
In reference to ACT No. 80-528, I understand that if my application is denied or discontinued, I will not be refunded the filing fee required by this application.
In reference to Special Retail or Special Events retail license, Wine Festival and Wine Festival Participant License, and Food or Beverage Truck License, I agree to comply with all applicable laws and regulations concerning this class of license, and to observe the special terms and conditions as indicated within the application.
In reference to the Club Application Information, I attest to the truthfulness of the responses given within the application.
In reference to the transfer of license/location, I attest to the truthfulness of the information listed on the attached transfer agreement.
In accordance with Alabama Rules & Regulations 20-X-5-.01(4), any social security number disclosed under this regulation shall be used for the purpose of investigation or verification by the ABC Board and shall not be a matter of public record.
The undersigned agree, if a license is issued as herein applied for, to comply at all times with and to fully observe all the provisions of the Alabama Alcoholic Beverage Control Act, as appears in Code of Alabama, Title 28, and all laws of the State of Alabama relative to the handling of alcoholic beverages.
The undersigned, if issued a license as herein requested, further agrees to obey all rules and regulations promulgated by the board relative to all alcoholic beverages received in this State. The undersigned, if issued a license as herein requested, also agrees to allow and hereby invites duly authorized agents of the Alabama Alcoholic Beverage Control Board and any duly commissioned law enforcement officer of the State, County or Municipality in which the license premises are located to enter and search without a warrant the licensed premises or any building owned or occupied by him or her in connection with the aforementioned laws his or her license shall be subject to revocation and no license can be again issued to said licensee for a period of one year. The undersigned further understands and agrees that no changes in the manner of operation and no deletion or discontinuance of any services or facilities as described in this application will be allowed without written approval of the proper governing body and the Alabama Alcoholic Beverage Control Board.
I hereby swear and affirm that I have read the application and all statements therein and facts set forth are true and correct, and that the applicant is the only person interested in the business for which the license is required.

Applicant Name (print): Benjamin Shirah
Signature of Applicant: *Benjamin Shirah*
Notary Name (print): Anna Washington
Notary Signature: *Anna Washington* Commission expires: 3/22/27

Application Taken: App. Inv. Completed: Forwarded to District Office:
Submitted to Local Government: Received from Local Government:
Received in District Office: Reviewed by Supervisor: Forwarded to Central Office:

December 11, 2023

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Receipt Confirmation Number: 20231208085520389
Application Payment Confirmation Number: 96886336

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Payment Summary		
Payment Item		Fee
Application Fee for License 020		\$50.00
Total Amount to be Charged		\$50.00

License Payment Confirmation Number:

Payment Summary			
Payment Item	County Fee	State Fee	Total Fee
020 - RESTAURANT RETAIL LIQUOR	\$300.00	\$300.00	\$600.00
Total Amount to be Charged		\$300.00	\$600.00

Application Type

Application Type: APPLICATION

Applicant Information

License Type 1: 020 - RESTAURANT RETAIL LIQUOR
License Type 2:
License County: JEFFERSON
Business Type: LLC
Trade Name: LITTLE BETTY
Applicant Name: MOUNTAIN BROOK VILLAGE HOLDINGS LLC
Location Address: 321 RELE STREET, SUITE EB
MOUNTAIN BROOK, AL 35223
Mailing Address: 3717 ROSWELL RD
ATLANTA, GA 30342
Contact Person: BENJAMIN SHIRAH
Contact Home Phone: 228-328-6123
Contact Business Phone: 708-402-5693
Contact Fax:
Contact Cell Phone: 228-328-6123
Contact Email Address:
Contact Web Address: