

**PRE-MEETING AGENDA
MOUNTAIN BROOK CITY COUNCIL**

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

NOVEMBER 13, 2023 6:00pm

As a matter of convenience, members of the public are invited to listen, observe and participate in public meetings by Internet video conference. Presenters and others interested in a particular matter for discussion are encouraged to attend the meeting in-person. The City is not responsible for technical issues that may occur that interfere with the virtual meeting. The City Council, at its sole discretion, may proceed with its in-person business meeting regardless of whether virtual attendees can hear and/or observe the proceedings. The City intends to make the meeting available by way of the Zoom app (re: Meeting ID 801-559-1126, password 11132023).

1. Guardrail costs for east Cherokee Road-Ronnie Vaughn (See attached information. This item may be added to the formal agenda.)
2. Update on the City's United Way campaign-Ronnie Vaughn
3. Speed limit recommendations for Colonial Hills-Chief Loggins (See attached information.)
4. Contract amendment with Gresham Smith Partners for the Old Brook Trail and Canterbury Road bridge projects-Sammy Harton of Gresham Smith Partners (See attached information. This item may be added to the formal agenda.)
5. Conditional Use for an office in the 2nd floor of the old Barton Clay Jewelers location at 2701 Cahaba Road-Dana Hazen (See attached information. This item may be added to the formal agenda.)
6. ROW encroachment agreement for property at 3613 Montclair Road between Brookshire Condos and Gaywood Circle-Dana Hazen (See attached information. This item may be added to the formal agenda.)
7. Executive Session

Sam Gaston

From: Ronald Vaughn <vaughnr@mtnbrook.org> on behalf of Ronald Vaughn
Sent: Monday, November 06, 2023 2:02 PM
To: Sam Gaston
Cc: Daniel Davis; Steven Gay
Subject: Re: Alabama Guardrail

My bad, I only added one additional anchor. The final cost should actually be \$52,875.00

Ronnie Vaughn

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

On Mon, Nov 6, 2023 at 1:57 PM Ronald Vaughn <vaughnr@mtnbrook.org> wrote:
Sam,

The second page with the largest quote of \$44,875.00 is for the Cortin or rust looking guardrail. However, we need to add \$4,000.00 for two additional end anchors which will make the estimate come to \$48,875.00.

Ronnie Vaughn

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

----- Forwarded message -----

From: Daniel Davis <davisda@mtnbrook.org>
Date: Fri, Oct 27, 2023 at 1:00 PM
Subject: Fwd: Alabama Guardrail
To: Ronnie Vaughn <vaughnr@mtnbrook.org>, Steven Gay <gayj@mtnbrook.org>

Quote's for guardrail on Cherokee Rd.
One is for normal gaurdail, the other is for the Cor-Ten

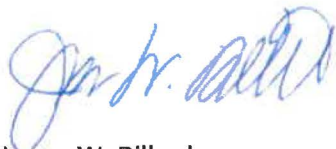
City of Mountain Brook
Cherokee Road
Guardrail Installation - Standard

Alabama Guardrail, Inc.
P.O. Box 126
Cleveland, Alabama 35049

DESCRIPTION	QTY	UNIT	UNIT COST	TOTAL COST
Steel Beam Guardrail Class A Type 2	737.5	LF	40.00	29,500.00
Guardrail End Anchor TY 20 Series(MASH)	2	EA	3,600.00	7,200.00

Total Quote 36,700.00

Signature:



James W. Dillard
Vice President

Date: October 26, 2023

Quote is good for 60 Days
Utilities located by others
Must be staked for installation

City of Mountain Brook
Cherokee Road
Guardrail Installation - Corten

Alabama Guardrail, Inc.
P.O. Box 126
Cleveland, Alabama 35049

DESCRIPTION	QTY	UNIT	UNIT COST	TOTAL COST
Steel Beam Guardrail Class A Type 4	737.5	LF	50.00	36,875.00
Guardrail End Anchor TY 20 Series(MASH)	2	EA	4,000.00	8,000.00

Total Quote 44,875.00

Signature:



James W. Dillard
Vice President

Date: October 26, 2023

Quote is good for 60 Days
Utilities located by others
Must be staked for installation
End Anchors will be painted SW6041



Mountain Brook Police Department
Chief Jaye Loggins
101 Tibbett Street
Mountain Brook, Alabama 35213
Phone: 205.879.0486
Fax: 205.802.2415

To: City Council
From: J. Loggins, Chief of Police
Date: November 08, 2023
Re: Speed Limits

Per your request, I verified posted speed limits in the Colonial Hills neighborhood. The following are the posted speed limits in the area:

Alden Lane 20 mph
Norman Drive 25 mph
Winthrop Avenue 25 mph

These speed limits are typical in a residential area. I am unaware of any speeding concerns in this area. I do not see a need in reducing the speed limit(s) in the area and feel they are sufficient. I will defer to the traffic engineering consultant for a formal recommendation.



November 9, 2023

Mr. Sam Gaston, City Manager
City of Mountain Brook
56 Church Street
Mountain Brook, AL 35213

Subject: Revised Additional Services Proposal (Supplemental Agreement #1)
ALDOT Project No. STPBH-3716(256)
Bridge Replacement on Old Brook Trail Over Little Shades Creek and
Bridge Rehabilitation on Canterbury Road Over Watkins Creek
Mountain Brook, AL
Gresham Smith Project No. 43695.00

Dear Mr. Gaston:

On June 26, 2023, the City Council approved our additional services proposal for the above referenced project in the amount of \$124,253. Please reference our additional services proposal dated April 27, 2023 and Resolution No. 2023-096 (attached for reference). Since April, ALDOT has been reviewing, and we have been coordinating with ALDOT on the scope of work, labor effort and the associated fee for these additional services. Based on our discussions with ALDOT, we have been able to reduce our scope of work and fee for the additional services to \$115,794.

However, in our discussions with ALDOT, they will only agree to a supplemental fee amount of \$78,917 (pending final ALDOT approval) as a basis for the 80% federal reimbursement. The biggest reductions are:

- Utility coordination – Because of difficulties we’ve had coordinating with all of the utility companies to date, we have already significantly exceeded our original budget for utility coordination, and we estimate that we still have a significant amount of utility coordination remaining to perform (reference 4/27/2023 proposal for additional information). ALDOT advised that they understood that the utility coordination efforts are very time consuming, and they run into the same issues and delays when performing the utility coordination on their projects. However, ALDOT would not agree to the amount of utility coordination that we submitted.
- Bridge redesign effort – ALDOT would not agree to the amount of effort and fee that we feel is needed to complete the bridge redesign work to hang the water main under the bridge and redesign the north bridge abutment to avoid having to relocate the existing 21” sanitary sewer main (at a cost of nearly \$1M).

Genuine Ingenuity

2222 Arlington Avenue South
Suite 202
Birmingham, AL 35205
205.298.9200

GreshamSmith.com



Mr. Sam Gaston
November 9, 2023

Based on the scope of work for these additional services, we feel like the total cost/fee for this work can be reduced to \$115,794. As stated above, ALDOT has only agreed to a fee amount of \$78,917, which will be the basis of the 80% federal reimbursement (\$63,134 federal reimbursement + \$15,783 local matching funds). We are requesting that the City of Mountain Brook pay the \$36,877 difference. Our re-design work, much of which will result in avoiding the relocation of the Jefferson County sanitary sewer main, will save nearly \$1M (City savings of 20% or \$200,000).

Attached is a table showing the breakdown of the original additional services proposal approved by the City on June 26, 2023, our revised proposal, the ALDOT approved amount and the difference we are requesting that the City pay.

In terms of the City funds for these additional services, the total City funds required for these additional services would be \$52,660:

20% of ALDOT approved amount (20% x \$78,917)	\$15,783
<u>Additional City funding for additional services</u>	<u>\$36,877</u>
Total City funds	\$52,660

Summary – In summary, what is being requested of the City with this amended additional services request is:

1. Approval of revised total additional services fee amount of \$115,794 for scope of services outlined in April 27, 2023 proposal.
2. Approval of additional \$36,877 of City funds (total City funding amount of \$52,660) for additional services.

Note that we have submitted our revised proposal to ALDOT in the amount of \$78,917, but we have not received their final approval, so the numbers above could change some based on the final amount approved by ALDOT.

If you have any questions or would like to discuss this revised additional services further, please don't hesitate to contact Sammy Harton or I.

Sincerely,

Sammy Harton, P.E.
Project Manager

Blair Perry, P.E.
Principal/Alabama State Transportation Leader

Attachments	Supplemental #1 Fee Summary April 27, 2023 Additional Services Proposal
Copy	Ronnie Vaughn – City of Mountain Brook

ALDOT Project No. STPBH-3716(256)**Bridge Replacement on Old Brook Trail over Little Shades Creek and Bridge Rehabilitation on Canterbury Road over Watkins Creek****City of Mountain Brook****Supplemental Agreement #1****Fee Summary**

Task	Originally submitted to and approved by City 6/26/2023	Revised Proposal 11/6/2023	Approved by ALDOT	Difference
Update Environmental Documents (Old Brook Trail and Canterbury Road)	\$7,372	\$3,209	\$3,209	\$0
Bridge Redesign and Plans (Old Brook Trail)	\$45,009	\$46,492	\$36,317	\$10,175
Additional Geotechnical Investigation and Recommendations (Old Brook Trail)	\$10,474	\$10,474	\$10,474	\$0
Update Roadway Plans (Old Brook Trail and Canterbury Road)	\$25,864	\$19,849	\$28,917	(\$9,068)
Additional Utility Coordination (Old Brook Trail)	\$35,534	\$35,770		\$35,770
Total	\$124,253	\$115,794	\$78,917	\$36,877

Note - ALDOT approved a small amount of additional utility coordination but wanted it as a line item in the Update Roadway Plans task

City funds

Original City approved supplement (20% of total)	\$24,851
Revised (20% of ALDOT approved + 100% of Difference)	\$52,660

City funds - Alternative

Relocate Jefferson County Sewer Main (20% of \$1M)	\$200,000
Update Environmental Documents (20% of ALDOT approved amount)	\$642
Bridge Redesign(Water Main)(Old Brook Trail)(20% of ~ \$15k)	\$3,000
Additional Utility Coordination (20% of ~ \$30k)	\$6,000
Total City funds (Alternative)	\$209,642

ALDOT Project No. STPBH-3716(256)

Bridge Replacement on Old Brook Trail over Little Shades Creek and Bridge Rehabilitation on Canterbury Road over Watkins Creek

City of Mountain Brook

Supplemental Agreement #1

Fee Summary

Task	Originally submitted to and approved by City 6/26/2023	Revised Proposal 11/6/2023	Approved by ALDOT	Difference
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Total	\$124,253	\$115,794	\$78,917	\$36,877

Note - ALDOT approved a small amount of additional utility coordination but wanted it as a line item in the Update Roadway Plans task

City funds (Additional Costs)
 Original City approved supplement (20% of total)
 Revised (20% of ALDOT approved + 100% of Difference)

\$24,851 ~~ORIGINAL City Costs~~
 \$52,660 ~~TOTAL EXTRA City Costs~~

City funds - Alternative (Cost Savings)
 Relocate Jefferson County Sewer Main (20% of \$1M)
 Update Environmental Documents (20% of ALDOT approved amount)
 Bridge Redesign(Water Main)(Old Brook Trail)(20% of ~ \$15k)
 Additional Utility Coordination (20% of ~ \$30k)
Total City funds (Alternative)

\$200,000
 \$642
 \$3,000
 \$6,000
 \$209,642

SAVINGS
 By Re-Design
 of bypassing!
 ① Sewer line +
 ② water line relocated
 underneath.
 ③ Move AT+T + ALPCO
 + Spire Lines

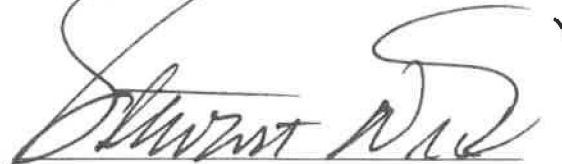
RESOLUTION NO. 2023-096

BE IT RESOLVED by the City Council of the City of Mountain Brook, Alabama, that the City Council hereby accepts the additional services proposal submitted by Gresham, Smith, in the form as attached hereto as Exhibit A, with respect to the Bridge replacement on Old Brook Trail over Little Shades Creek and Bridge Rehabilitation on Canterbury Road over Watkins Creek.

ADOPTED: This 26th day of June, 2023.


Council President

APPROVED: This 26th day of June, 2023.


Mayor

CERTIFICATION

I, Heather Richards, City Clerk of the City of Mountain Brook, Alabama hereby certify the above to be a true and correct copy of a resolution adopted by the City Council of the City of Mountain Brook at its regular meeting held on June 26, 2023, as same appears in the minutes of record of said meeting.


City Clerk



CITY OF MOUNTAIN BROOK

Dana O. Hazen, AICP
City Planner
56 Church Street
Mountain Brook, Alabama 35213
Telephone: 205/802-3816
Fax: 205.879.6913
hazend@mtnbrook.org
www.mtnbrook.org

MEMO

DATE: November 13, 2023

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

FROM: Dana Hazen, City Planner

RE: 2701 Cahaba Road, Mountain Brook Village (previous Barton-Clay building)
Conditional Use – Office Use

The Barton-Clay building is under new ownership, and the new owner seeks to establish his personal business office use on the second floor. The future tenant for the first floor has not been selected, but it is anticipated that it may be may be food use or retail use (*proper city approvals to be applied for at such time*).

The proposed second floor office use is what has been described by the new owner of the building as an alternate (second location); the primary office use being located in Birmingham is to remain. As such, it is not anticipated that there will be full-time use of the proposed second floor office.

The attached floor plan indicates 5 offices with one a reception desk, for a potential for 6 people to utilize the offices at any given time. The applicant has indicated that the second floor previously contained offices for three people (in conjunction with the Barton-Clay operation). Of course the previous second floor office use was ancillary to the primary retail use on the first floor (Barton-Clay), so there were likely no full-time employees utilizing the second floor.

The total square footage for the leasable area of both floors is 7,343 (4091 for the first floor, and 3252 for the second floor; the basement is excluded from parking calculations per the zoning code). The on-site parking required for the building (based on second floor office and first floor retail) is 33 parking spaces.

Attached is a survey of the property indicating that all of the street parking abutting this site along Cahaba Road and Culver Road is in the public ROW (even though it has historically been signed for private use by Barton-Clay patrons). Therefore, the 13 parking spaces shown on the survey cannot be credited toward on-site parking. However, the zoning code allows existing uses (that are non-conforming with regard to on-site parking) to continue and be replaced with like uses in spite of on-site parking deficits. Therefore, this office use (and any future retail use or evening food use on the first floor) would be allowed without parking being to-code.

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

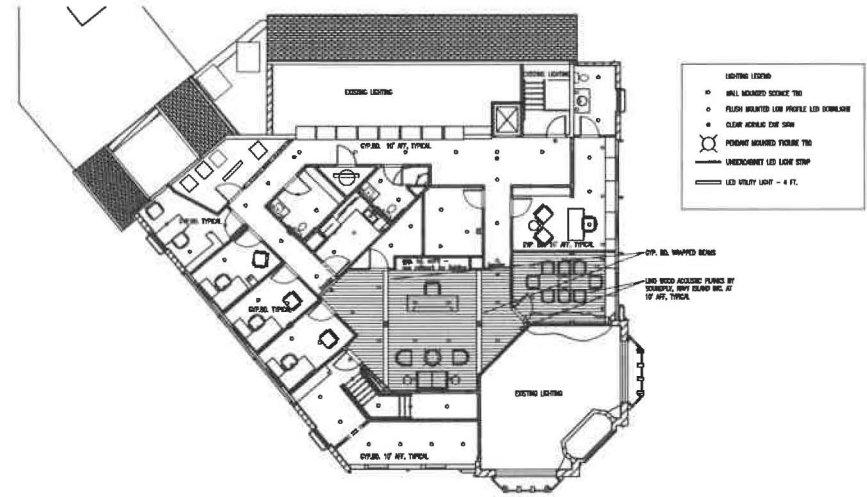
- Whether the use would disparately impact public parking in the area;
- Whether vehicular or pedestrian circulation would be impacted by the use;
- Whether the use is compatible with surrounding existing uses;
- Whether the hours of operation or peak traffic times would impact existing uses.

Notes from Applicant:

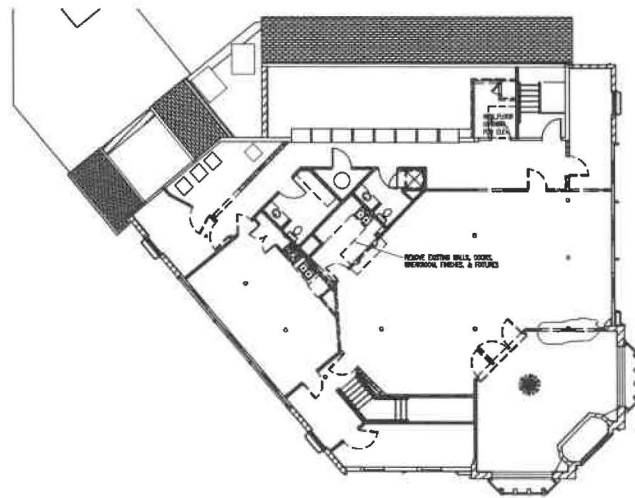
- number of employees during peak hour; [3-5 depending on the day. Most employees do not live local and one has another office downtown Birmingham]
- where the employees will park [long term parking on perimeter of village]
- hours of operation; [9:00 am -5:00 pm]
- days of the week; [Monday – Friday]
- general description; [The space is to be primarily for the owner's family office and related entities. One initial tenant will be Trivela, a European League Soccer Club owner. There will be 3-4 offices used by Trivela and the most employees do not live in Alabama. The building owner will occupy 2 spaces for his family office. The owner has a business that is primarily located in downtown Birmingham and will not be full time at the Mtn Brook location often.]
- patrons expected during a peak hour; [This is not an office for regular visitors/customers. I can only estimate it would average less than one per day]



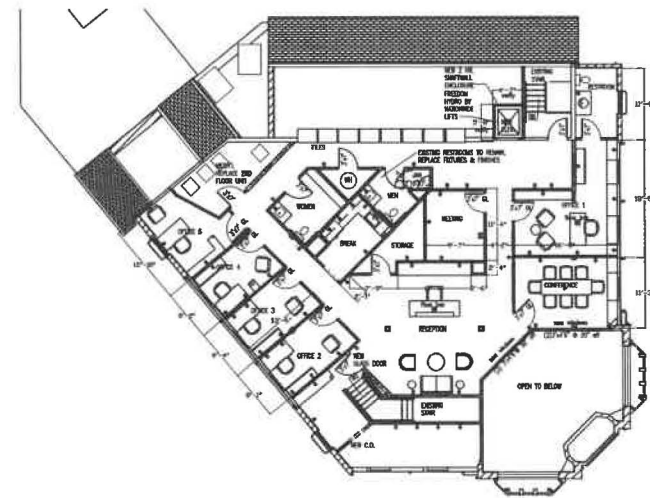
RENOVATION OF
2701 CAHABA ROAD
MOUNTAIN BROOK, ALABAMA



LEVEL 2 - REFLECTED CEILING PLAN
1/8" = 1'-0"



LEVEL 2 - DEMOLITION PLAN
1/8" = 1'-0"



LEVEL 2 - NEW FLOOR PLAN
1/8" = 1'-0" 2332 SF



FUTURE REM. TOWNS HAVE BIG SPACE
SINK PARACHUTES, DOORS, FIBERS, & FIGURES AS SHOWN
DENSE LIGHTS, SUFFICIENT & CEILING EXCEPT IN REMAINING OFFICE
CLIP OF FLOOR, WALLS, ETC. FOR MARKETING OF SPACE
SHOWN LOBBY TO BE CLEANED & PAINTED, INCLUDING WOOD DOORS & FRAMES
NEW GLASS & WOOD STONEFRONT TO BE INSTALLED SEPARATING NEW LOBBY
DOORS TO BE CLEANED & PAINTED
COORDINATE NEW LIFT INSTALLATION REQUIREMENTS

GENERAL NOTES

1. BUILDING CODES: 2021 INTERNATIONAL BUILDING CODE
2021 INTERNATIONAL FIRE CODE
2021 INTERNATIONAL MECHANICAL CODE
2021 INTERNATIONAL PLUMBING CODE
2021 INTERNATIONAL ELECTRIC CODE
2. ALL WORK MUST MEET APPLICABLE BUILDING CODES & ORDINANCE.
3. CONTRACTOR TO DEMOLISH EXISTING PARTITIONS, DOORS, & FINISHES AS SHOWN.
4. CONTRACTOR TO NOTIFY ARCHITECT IN ADVANCE OF ANY DISCREPANCIES IN EXISTING CONDITIONS, DIMENSIONS, ETC.
5. CONTRACTOR TO PROVIDE SUBMITTALS ON ALL MATERIALS, LIGHTING, FINISHES, EQUIPMENT FOR REVIEW AND APPROVAL.
6. ALL MATERIALS TO BE NEW AND FIRST QUALITY. INSTALL MATERIALS IN ACCORDANCE WITH INDUSTRY STANDARDS AND MANUFACTURER'S INSTRUCTIONS.
7. CONTRACTOR TO COORDINATE OWNER CONSULTANTS FOR TELEPHONE, DATA, SECURITY, FURNITURE, & EQUIPMENT.

1. BUILDING CODES: 2021 INTERNATIONAL BUILDING CODE
2021 INTERNATIONAL FIRE CODE
2021 INTERNATIONAL MECHANICAL CODE
2021 INTERNATIONAL PLUMBING CODE
2021 INTERNATIONAL ELECTRIC CODE
2. ALL WORK MUST BE APPLICABLE BUILDING CODES & ORDINANCE.
3. CONTRACTOR TO DEMOLISH EXISTING PARTITIONS, DOORS, &
FINISHES AS SHOWN.
4. CONTRACTOR TO NOTIFY ARCHITECT IN ADVANCE OF ANY
EXTRAORDINARY CONDITIONS, SUCH AS, BUT NOT LIMITED TO,
5. CONTRACTOR TO PROVIDE SUBMITTALS ON ALL MATERIALS, LIGHTING,
FINISHES, EQUIPMENT FOR REVIEW AND APPROVAL.
6. ALL MATERIALS TO BE INSTALLED IN ACCORDANCE WITH
IN ACCORDANCE WITH INDUSTRY STANDARDS AND MANUFACTURER'S
INSTRUCTIONS.
7. CONTRACTOR TO COORDINATE OWNER CONSULTANTS FOR
TELEPHONE, DATA, SECURITY, FURNITURE, & EQUIPMENT.

CODE SYNOPSIS

CONSTRUCTION TYPE: EXISTING MASONRY & STEEL STRUCTURE
TYPE IIA SPRINKLERED

OCCUPANCY:
GROUP B BUSINESS & M MERCANTILE

2ND FLOOR AREA: 3848 CSF EXISTING
1ST FLOOR AREA: 4031 CSF EXISTING
BASEMENT AREA: 2188 CSF EXISTING

TYPE IIB - GROUP B
19,000 SF PER FLOOR & 3 STORIES ALLOWED

STRUCTURAL FRAME 0 HOURS - EXISTING
BEARING WALL 2 EXTERIOR
INTERIOR NONBEARING 0
FLOOR CONSTRUCTION 0 HOUR - EXISTING
ROOF CONSTRUCTION 0 HOUR - EXISTING

SHAFT ENCLOSURE 2 HOURS

MINIMUM INTERIOR FINISHES ARE TO BE CLASS C

OCCUPANT LOADS:
2ND FLOOR - 14 OCCUPANTS BUSINESS
1ST FLOOR - 6 OCCUPANTS RETAIL
BASEMENT - STORAGE
EXISTING 36" EXIT DOORS ALLOW 160 OCCUPANTS

COMMON PATH OF TRAVEL DISTANCE - 100 FEET
EXIT ACCESS TRAVEL DISTANCE - 100 FEET
MINIMUM CORRIDOR WIDTH 44" PROVIDED
DEAD END CORRIDOR 50 FEET MAXIMUM

NUMBER OF REQUIRED EXITS: (LESS THAN 48 OCCUPANTS & LESS
THAN 75 FEET EXIT ACCESS TRAVEL DISTANCE)

EXITS PROVIDED: 1 - SECOND FLOOR
2 - FIRST FLOOR
1 - BASEMENT

RESTROOMS - 2 REQUIRED AND 2 EXISTING FOR 2ND FLOOR BUILDOUT

OCCUPANCY: _____

2ND FLOOR AREA: 3548 GSF EXISTING

TYPE III B - GROUP B

19,000 SF PER FLOOR & 3 STORIES ALLOWED

STRUCTURAL FRAME	0 HOURS - EXISTING
------------------	--------------------

STREETSIDE FLOOR	6 FLOORS - EXISTING
BEARING WALL	2 EXTERIOR
ENTRANCE - MECHANICAL	2

EXTERIOR NONBEARING	0
INTERIOR NONBEARING	0

FLOOR CONSTRUCTION	0 HOUR - EXISTING
BASE CONSTRUCTION	0 HOUR - EXISTING

ROOF CONSTRUCTION 0 HOUR - EXISTING

SHAFT ENCLOSURE 2 HOURS

MINIMUM INTERIOR FINISHES ARE TO BE CLASS

OCCUPANT LOADS:

2ND FLOOR - 14 OCCUPANTS BUSINESS

1ST FLOOR - 6 OCCUPANTS RETAIL
BASEMENT - STORAGE

EXISTING 36" EXIT DOORS ALLOW 160 OCCUPANCY

COMMON PATH OF TRAVEL DISTANCE = 100 FT.

COMMON PATH OF TRAVEL DISTANCE = 100 FEET

EXIT ACCESS TRAVEL DISTANCE - 100 FEET

MINIMUM CORRIDOR WIDTH 44" PROVIDED

DEAD END CORRIDOR 50 FEET MAXIMUM

MINUTE OF RESERVE FUEL: 14.500 GALLON

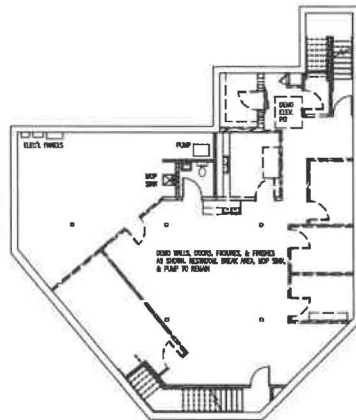
NUMBER OF REQUIRED EXITS: 1 (LESS THAN 4
THAN 75 FEET EXIT ACCESS)

EXITS PROVIDED: 1 - SECOND FLOOR

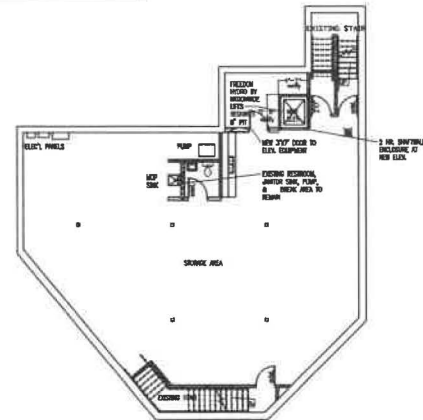
2 - FIRST FLOOR
1 - BASEMENT

SECTION 1 - 2. REARER AND 3. EXISTING 5.

RESTROOMS - 2 REQUIRED AND 2 EXISTING FOR



BASEMENT - DEMOLITION PLAN
1/8" = 1'-0"



← BASEMENT - NEW FLOOR PLAN
1/8" = 1'-0" 1987 SF

BASMENT WHITE BOX TENANT SPACE
 DEMO PARTITIONS, DOORS, FINISHES, & FIXTURES AS SHOWN
 CLEAN & PAINT WHITE BOX SPACE FOR FUTURE TENANT

TABLE A NOTES

TABLE A1: ALL MAJOR PROPERTY BOUNDARY CORNERS HAVE BEEN FOUND OR SET AS SHOWN ON SURVEY.

TABLE A2: THE ADDRESS OF THE PROPERTY IS 2701 CANADA ROAD, MOUNTAIN BROOK, AL 35223.

TABLE A3: THE SUBJECT PROPERTY IS LOCATED IN THE ZONE X, SHADED (AREAS OF 0.2% ANNUAL CHANCE FLOOD, AREAS OF 1% ANNUAL CHANCE FLOOD WITH AVERAGE DEPTHS OF LESS THAN 1 FOOT OR WITH DRAINAGE AREAS LESS THAN 1 SQUARE MILE, AND ARE PROTECTED BY LEVEES FROM 1% ANNUAL CHANCE FLOOD). ZONE X, UNSHADED (AREAS DETERMINED TO BE OUTSIDE THE 0.2% ANNUAL CHANCE FLOODPLAIN) ZONE AE, BASE FLOOD ELEVATIONS DETERMINED. AS SHOWN ON FEMA FLOOD INSURANCE RATE MAP # 17070C0002, PANEL 027 OF 775 MAP EFFECTIVE DATE SEPTEMBER 24, 2021.

THE SPECIAL FLOOD HAZARD AREAS SHOWN ON THIS SURVEY WERE TAKEN FROM THE CURRENT NATIONAL FLOOD HAZARD LAYER (NFHL). THE NFHL IS A GEOGRAPHIC DATA BASE AND A PART OF FEMA'S NATIONAL FLOOD INSURANCE PROGRAM.

TABLE A4: THE GROSS LAND AREA OF THE SUBJECT PROPERTY IS 5098 SQUARE FEET OR 0.14 ACRES, BASED ON MONUMENTS FOUND OR SET.

TABLE A5: THE SURVEYOR WAS NOT PROVIDED WITH ANY ZONING INFORMATION FROM THE CLIENT. THE PROPERTY IS ZONED LOCAL BUSINESS DISTRICT ACCORDING TO CITY OF MOUNTAIN BROOK ZONING MAP POSTED AT 1000 W. MOUNTAIN BROOK AVENUE, MOUNTAIN BROOK, AL 35223. THE ZONING REQUIREMENTS SHOWN ON THIS SURVEY ARE BASED ON THE MOUNTAIN BROOK ZONING ORDINANCE.

TABLE A6: ALL SUBSTANTIAL FEATURES AS DESCRIBED BY THE ALTA/NSPS STANDARDS ARE SHOWN ON THE SURVEY.

TABLE A7: ALL PARKING SPACES HAVE BEEN SHOWN ON THE SURVEY. THE SURVEYOR DOES NOT CERTIFY THAT THE PARKING SPACES MEET ZONING CODE OR THAT THE PARKING SPACES ARE AVAILABLE TO ALL.

TABLE A8: THE CLIENT DID NOT SPECIFY ANY PARTY WALLS TO BE OBSERVED.

TABLE A9: THE LOCATION OF THE UTILITIES SHOWN ON THIS SURVEY ARE BASED ON OBSERVED EVIDENCE OF ABOVE GROUND UTILITIES AND DOCUMENTATION. THE SURVEYOR WAS NOT PROVIDED A UNDERGROUND UTILITY MAP.

TABLE A10: THE NAME OF THE ADJOINING PROPERTY OWNERS SHOWN ON THE SURVEY WERE OBTAINED FROM THE JEFFERSON COUNTY ALABAMA TAX ACCESSORS' WEBSITE ON 2.3.2023.

TABLE A11: THE SURVEYOR OBSERVED NO EVIDENCE OF EARTH MOVING WORK, BUILDING CONSTRUCTION OR BUILDING ADDITIONS, ON THE DATE SHOWN HEREON.

TABLE A12: THE SURVEYOR IS NOT AWARE OF ANY PROPOSED CHANGES IN STREET RIGHT OF WAY LINES AND OBSERVED NO EVIDENCE OF RECENT STREET OR SIDEWALK CONSTRUCTION OR REPAIRS.

TABLE A13: THE SURVEYOR WAS NOT PROVIDED WITH ANY DOCUMENTATION OF OFFSITE BASEMENTS OR STRUCTURES THAT SERVED THE SUBJECT PROPERTY.

SCHEDULE B ITEMS

SCHEDULE B SECTION B FACILITIES (IF N/A) ARE DATED APRIL, JANUARY 4, 2023 AT 8:00 AM (EXCEPTIONS ARE INDICATED THE SAME AS THE TITLE COMMITMENT) (EXCEPTIONS 1, 2, 3, 6, 7, 8 AND 10 ARE NOT A SURVEY MATTER).

1. ANY ENCROACHMENT, ENCUMBRANCE, VIOLATION, VARIATION, OR ADVERSE CIRCUMSTANCE AFFECTING THE TITLE THAT WOULD BE DISCLOSED BY AN ATTORNEY AND COMPLETE LIAISONMENT OF THE LAND AND ENCUMBRANCES SETTING ON THE DATE OF THE SURVEY ARE AS SHOWN AND OR NOTED ON THE SURVEY. APPROXIMATELY 1/4 AC. SQUARE PART OF THE SUBJECT LOT IS DISCLOSED BY THE SURVEYOR AND AS SHOWN ON THE SURVEY.
2. EASEMENT, BUILDING LINES, NOTES AND RESTRICTIONS AS SHOWN ON RECORDED MAP, DOES NOT APPLY. SUBJECT PROPERTY THERE ARE NO EASEMENTS, BUILDING LINES, OR RESTRICTIONS ON THE MAP. THE PROPERTY IS SUBJECT TO 10000 RESUBDIVISIONS AND WILL BE SUBDIVIDED.

STATEMENT OF ENCROACHMENTS

1. THE CURB AND GUTTER OF CULVER ROAD ON THE NORTH SIDE OF THE SUBJECT PROPERTY ENCROACHES 0 TO 2.8 FEET ONTO THE PROPERTY WITHOUT A KNOWN EASEMENT.
2. THE BUILDING ON THE NORTHEAST SIDE OF THE SUBJECT PROPERTY ENCROACHES 0.9 FEET ONTO THE CULVER ROAD RIGHT OF WAY WITHOUT A KNOWN EASEMENT.

LEGEND

TO: UTILITY POLE	OF: OVERHEAD ELECTRIC
W: WATER METER	ASPHALT
C: GAS METER	CONCRETE
O: CORNER MONUMENT	

ZONING INFORMATION

THE PROPERTY IS ZONED M2 HEAVY INDUSTRIAL DISTRICT		
ZONING CONDITION	REQUIRED	EXISTING
FRONT SETBACK	NONE	VARIES
REAR SETBACK	NONE	VARIES
SIDE SETBACK	NONE	VARIES
MAXIMUM HEIGHT	30'	
PARKING SPACES	NONE	NONE

GRAPHIC SCALE



ALTA/NSPS LAND TITLE SURVEY OF Lot 14-A, according to the Resurvey of Lots 14, 15, 16 and 17, Block "A", Mountain Brook Village, as recorded in Map Book 183, Page 48, in the Probate Office of Jefferson County, Alabama

SURVEYOR'S CERTIFICATION

TO: STEWART TITLE GUARANTY, AND MAN STREET CAPITAL LLC, ALABAMA LIMITED LIABILITY COMPANY, ITS SUCCESSORS AND/OR ASSIGNEES AS THEIR INTEREST MAY APPEAR.

THIS IS TO CERTIFY THAT THIS MAP OR PLAN AND THE SURVEY ON WHICH IT IS BASED WERE MADE IN ACCORDANCE WITH THE 2021 MINIMUM STANDARD DETAIL REQUIREMENTS FOR ALTA/NSPS LAND TITLE SURVEYS, JOINTLY ESTABLISHED AND ADOPTED BY ALA AND NSPS, AND INCLUDES ITEMS # 1, 2, 3, 4, 5, 10, 11, 12, 14, 16, 17, 18 OR TABLE A THEREOF. THE FIELD WORK WAS COMPLETED ON 1-15-2023.

SURVEYOR

JEFF D. ARNOLD

DATE: 2-4-2023

ALABAMA NO. 19884

BEING THE SAME TRACT OF LAND DESCRIBED IN A TITLE REPORT PREPARED BY STEWART TITLE GUARANTY, COMMITMENT FILE NUMBER A-9918 DATED JANUARY 4, 2022 AT 10:00 AM.

LEGAL DESCRIPTION FROM TITLE COMMITMENT

Lot 14-A, according to the Resurvey of Lots 14, 15, 16 and 17, Block "A", Mountain Brook Village, as recorded in Map Book 183, Page 48, in the Probate Office of Jefferson County, Alabama.

NOTES

1. ALL BEARINGS AND/OR ANGLES, AND DISTANCES ARE GIVEN AND ACTUAL UNLESS OTHERWISE NOTED. DEEDS BY MEASUREMENT (M) PLATTECODED MAPS (M).
2. UNDERGROUND PORTIONS OF FOUNDATIONS, FOOTINGS, OR OTHER UNDERGROUND STRUCTURES WERE NOT LOCATED UNLESS OTHERWISE NOTED.
3. THIS SURVEY IS VALID ONLY WITH AN ORIGINAL SIGNATURE AND A LEGIBLE SEAL.

UTILITY STATEMENT

THE EXISTING UNDERGROUND UTILITIES SHOWN ARE BASED ON ABOVE GROUND EVIDENCE.

AN UNDERGROUND UTILITY SURVEY WAS NOT PERFORMED. THIS ENGINEER/SURVEYOR MAKES NO GUARANTEE THE UNDERGROUND UTILITIES SHOWN COMPRISE ALL SUCH UTILITIES IN THE AREA, EITHER IN SERVICE OR ABANDONED. THE ENGINEER/SURVEYOR FURTHER DOES NOT WARRANT THAT THE UNDERGROUND UTILITIES SHOWN ARE IN THE EXACT LOCATION INDICATED. THE SURVEYOR HAS NOT PHYSICALLY LOCATED THE UNDERGROUND UTILITIES. THE CONTRACTOR SHALL LOCATE ALL UTILITIES IN THE AREA PRIOR TO CONSTRUCTION. THIS LOCATION SHALL INCLUDE NOTIFYING ALL UTILITY COMPANIES AND ALABAMA ONE CALL AT 1-800-262-2626. THIS MAY ALSO REQUIRE EXCAVATION HAND EXCAVATION TO DETERMINE THE EXACT LOCATION OF THE UTILITIES.

THIS SURVEY HAS BEEN PREPARED SOLELY FOR THE BENEFIT OF THE PARTIES SET FORTH IN THIS SURVEYOR'S CERTIFICATION AND MAY NOT BE USED FOR ANY OTHER PURPOSE. NO MAY CORRECTIONS BE DELIVERED TO ANY OTHER PARTY OR USED FOR ANY OTHER PURPOSE. WITHOUT LIMITATION, ARRINGTON ENGINEERING AND LAND SURVEYING INC. EXPRESSLY DISCLAIMS ANY DUTY OR OBLIGATION TOWARDS ANY PARTY THAT IS NOT IDENTIFIED IN THE SURVEYOR'S CERTIFICATE.

SURVEYOR'S E-MAIL ADDRESS: jeff@arrington-engineering.com

		ARRINGTON ENGINEERING Civil Engineers - Surveyors - Land Planners	
		OFFICE: 2000 3RD AVENUE SUITE 100 35312 VALLEY ROAD MOUNTAIN BROOK, AL 35224	
SURVEYOR'S E-MAIL ADDRESS: jeff@arrington-engineering.com	PROJECT NO.: 18172	DATE: 2-4-2023	CHECKED BY: JDA
SURVEYOR'S E-MAIL ADDRESS: jeff@arrington-engineering.com	PROJECT NO.: 18172	DATE: 2-4-2023	CHECKED BY: JDA
SURVEYOR'S E-MAIL ADDRESS: jeff@arrington-engineering.com	PROJECT NO.: 18172	DATE: 2-4-2023	CHECKED BY: JDA

811
 Know what's below.
 Call before you dig.
 Call 2 working days before digging.
 It's the law!



CITY OF MOUNTAIN BROOK

Dana O. Hazen, AICP
Director of Planning, Building & Sustainability
56 Church Street
Mountain Brook, Alabama 35213
Telephone: 205/802-3816
Fax: 205.879.6913
hazend@mtnbrook.org
www.mtnbrook.org

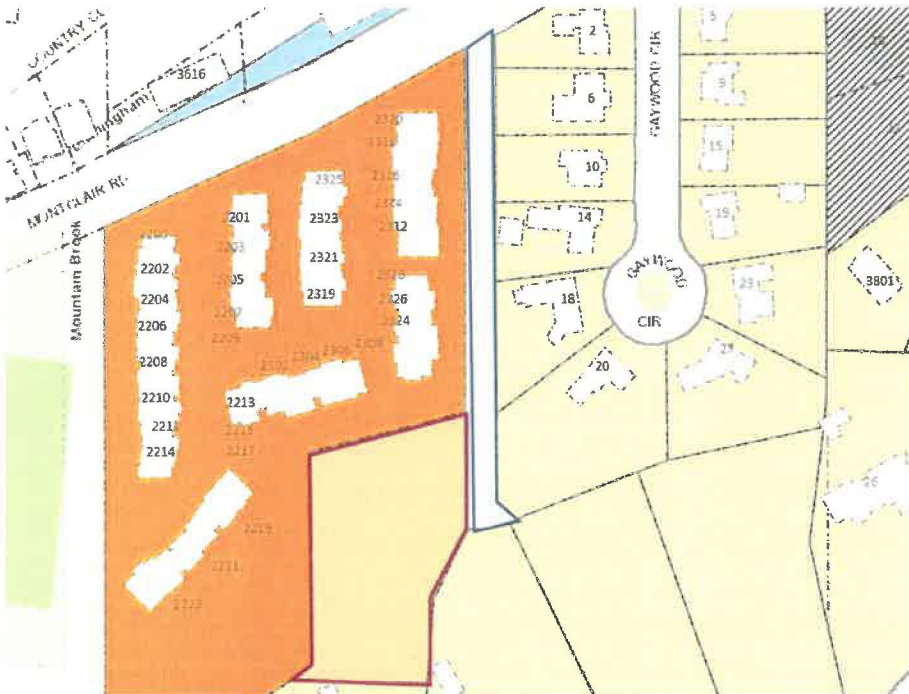
DATE: November 13, 2023

TO: Mayor, City Council & City Manager

FROM: Dana Hazen, City Planner

RE: ROW Encroachment Agreement – 3613 Montclair Road

The applicant wishes to build a single family dwelling on the Res-A site shown below in red. This property has road frontage on the unpaved road ROW shown in blue:



The subject ROW was created in 1927 as a 40-foot right-of-way to serve 4 lots at the southern terminus of the ROW, in the City of Birmingham at that time. The subject single family lot (taken together with several acres on the south side of Montclair Road) was subsequently annexed into the city of Mountain Brook and zoned Residence-A.

See attached plan and profile for the driveway (embedded in the encroachment agreement). The applicant has been working with the Fire Marshal on the driveway as to its ability to support emergency vehicles weight and turnaround; it has been approved accordingly.

THIS INSTRUMENT PREPARED BY:

Whit Colvin
Bishop Colvin, LLC
1910 First Avenue North
Birmingham, AL 35203

JEFFERSON COUNTY }
STATE OF ALABAMA }

RIGHT-OF-WAY ENCROACHMENT AGREEMENT

This **Right of Way Encroachment License Agreement** (the “Agreement”) is entered this _____ day of _____, 2023, by and between the **City of Mountain Brook, Alabama**, a municipal corporation (hereinafter the “City” or “Licensor”), and **Patrick S. Cooney and Virginia L. Cooney as trustees of the Lizbeth B. Cooney 2011 Qualified Personal Residence Trust No. 1** (hereinafter individually or collectively referenced for purposes of this Agreement as the “Licensee”).

W I T N E S S E T H:

WHEREAS, the Licensee represents that they own the following real property located in the City of Mountain Brook, Jefferson County, Alabama:

Address: 3613 Montclair Road, Mountain Brook, Alabama 35213
Parcel ID #: 28-00-05-1-002-019.000
Legal Description: See attached ***Exhibit A***

(the “Property”);

WHEREAS, the Licensee has proposed to develop the Property as a single family, detached, residential dwelling (the “Development Plan”); and

WHEREAS, access to the Property is provided by a forty (40) foot wide, unimproved public right-of-way which extends to the Property from Montclair Road, as depicted on the survey attached hereto as ***Exhibit B*** (the “City Right-of-Way”); and

WHEREAS, the Licensee desires to install and maintain a private drive within the City Right-of-Way in accordance with the plan (the “Plan”) prepared by Live Oak Engineering, dated the 17th day of February, 2023, a copy of which is attached hereto as ***Exhibit C*** (hereinafter the “Improvement”), and intends that the Improvement will be used as access to the Property by the occupants of the Property, their guests and invitees, City fire, police and emergency vehicles, and other service and emergency vehicles; and

WHEREAS, part or all of the area in which the Improvement will be installed lies within and encroaches upon the City Right of Way (hereinafter, the “Encroachment Area”); and

WHEREAS, the City finds and determines that, under the specific facts and circumstances, the significant public benefit of constructing the Improvement within the City Right-of-Way justifies the use of City Right-of-Way for the purposes requested; and

WHEREAS, subject to terms, conditions, and understandings herein, the City agrees to grant the Licensee a license to install and use the encroaching Improvement within the City Right-of-Way.

NOW, THEREFORE, in consideration of the mutual covenants herein, and other good and valuable consideration, the receipt and sufficiency of which is acknowledged, the parties agree as follows:

1. The City grants the Licensee license to utilize the City Right-of-Way for purposes reasonably related to the construction, installation, maintenance and use of above-described encroaching Improvement within the Encroachment Area (the "License").

2. The Licensee agrees and acknowledges that this Agreement grants only a license, not any interest, title, permanent right, or estate. The grant made hereunder runs with land and to Licensee and subsequent purchasers, mortgagees, and occupants of the Property, but not to any other lands or parties. Further, the Licensee agrees to not claim any title interest in the Encroachment Area by entering into this Agreement or by its use of any contemplated encroaching Improvement, the Licensee, for itself and its successors and assigns, recognizing that the Encroachment Area remains a public way.

3. The Licensee agrees to (a) keep the Encroachment Area clean and free of debris, weeds or overgrown grass, (b) maintain the contemplated encroaching Improvement in good and sound condition, and (c) not use the Encroachment Area or any encroaching Improvement in a manner that creates a hazard or causes damage to any third persons or adjacent properties.

4. The Licensee may not assign or transfer this Agreement (or any benefit, right or obligation hereunder) to any third party (except to subsequent purchasers, mortgagees, and occupants of the Property) without advance written consent by the City, which consent shall not be unreasonably withheld.

5. All plans, designs and work to construct any contemplated encroaching Improvement shall be subject to review and approval of the City's Building Inspection Department, or such other department as the City may designate. Further, the Licensee agrees that all operations related to the installation or maintenance of any such Improvement will comply with applicable federal, state and local laws, ordinances and regulations (including but not limited to, license and permit requirements) that relate to those operations.

6. The Licensee shall not permit any mechanic's or materialman's lien to be filed against the City or concerning the Encroachment Area by reason of any labor, services, materials or equipment supplied or claimed to have been supplied to construct or maintain any encroaching Improvement (collectively, a "Lien"). If such a Lien is filed, then the Licensee, after notice of its filing, promptly shall either (a) cause the same to be discharged by depositing adequate funds in court or issuing a bond; or (b) indemnify the City against any loss from a Lien by posting security or taking other actions that are reasonably satisfactory to the City.

7. The Licensee, for itself and on behalf of any of its heirs, personal representatives, authorized assigns or other persons or entities that may succeed to its interest in this Agreement (collectively the "Licensee" for purposes of this provision) agrees to waive, release, indemnify, defend and hold harmless the City, and its officers, employees, and representatives (collectively for purposes of this provision, the "City"), from and against any claim, liability, loss, expense (including, reasonable attorney fees and costs of court), demand or action asserted against the City by the Licensee or by any third party claiming personal injury, property damage or any other loss of any kind (collectively, a "Claim") that arises from or is in any manner related to (a) the Licensee's use of the License granted herein or the Encroachment Area, or (b) any encroaching Improvement placed in the City Right-of-Way. The scope of this indemnification obligation includes Claims that are caused or allegedly caused in whole or part by the negligence of the City; provided that the Licensee shall not be obligated hereunder to indemnify the City for Claims that are caused by the gross negligence or willful misconduct of the City.

8. If the Licensee removes or substantially modifies an encroaching Improvement after this Agreement is executed, it shall not replace or construct another or different Improvement or structure in the City Right-of-Way without advance approval from the City; provided that nothing herein shall prohibit the Licensee from maintaining, repairing or refurbishing any encroaching Improvement contemplated by this Agreement.

9. In the event that the City elects to improve, or otherwise authorizes the improvement of, the City Right of Way as a public street or road such that access to the Property is provided thereby, the License shall be revoked, and this Agreement terminated. In such event, all Improvements may be removed by City at its discretion.

10. All notices that may be required to be given hereunder shall be deemed to have been properly given if in writing and (a) if personally delivered, or (b) sent either by registered or certified mail, postage prepaid, and addressed as follows, or by nationally recognized overnight courier to the following address (or such other address as a party may designate in writing):

To the City:

City of Mountain Brook, Alabama
Attention: City Manager
56 Church Street
Mountain Brook, AL 35213

To the Licensee:

Patrick S. Cooney and Virginia L. Cooney as trustees of the Lizbeth B. Cooney
2011 Qualified Personal Residence Trust No. 1

_____, AL _____

Notices shall be deemed given upon receipt or refusal of delivery.

11. Miscellaneous Provisions.

(a) This Agreement may not be amended or modified unless all parties execute a writing that is signed by their duly authorized representatives.

(b) The failure of the City to enforce any of the terms, conditions or provisions of this Agreement shall not be construed as a waiver of its right to subsequently compel enforcement of that or any other term, condition or provision herein. The rights, benefits and obligations under this Agreement may be waived only in a writing signed by the parties.

(c) This Agreement, and the conditions, terms and provisions herein, do not create, and are not intended to create or confer any benefit to any third party, except as set forth in this Agreement.

(d) This Agreement contains the complete agreement of the parties concerning the subject matter herein. Any prior negotiation, agreement or understanding, whether oral or written, concerning the matters addressed herein is superseded and of no effect unless expressed herein.

(e) This Agreement may be signed in one or more counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same agreement. Signature pages may be transmitted by facsimile or other form of electronic transmission, and any signature so transmitted will be given the same force and effect as an original signature.

(f) If requested by the City, Licensee shall record a fully executed form of this Agreement in the real property records of the Probate Court for Jefferson County.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed on the date hereinabove set forth.

LICENSOR:

ATTEST:

CITY OF MOUNTAIN BROOK, ALABAMA

City Clerk

By:

Stewart H. Welch, III
Its Mayor

LICENSEE:

Patrick S. Cooney as trustee of the Lizbeth B.
Cooney 2011 Qualified Personal Residence Trust
No. 1

Virginia L. Cooney as trustee of the Lizbeth B.
Cooney 2011 Qualified Personal Residence Trust
No. 1

STATE OF ALABAMA)
COUNTY OF JEFFERSON)

I, the undersigned authority, a Notary Public duly commissioned in and for the County and State aforesaid, hereby certify that Stewart H. Welch, III, whose name as Mayor of the City of Mountain Brook, Alabama, is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day that, being informed of the contents of the instrument, he, as such Mayor and with full authority, executed same voluntarily for and as the act of said municipal corporation.

Given under my hand and official seal this _____ day of _____, 2023.

NOTARY PUBLIC

My Commission expires: _____

STATE OF ALABAMA)
COUNTY OF JEFFERSON)

I, the undersigned authority, a Notary Public duly commissioned in and for the County and State aforesaid, hereby certify that Patrick S. Cooney, whose name as trustee of the Lizbeth B. Cooney 2011 Qualified Personal Residence Trust No. 1, is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day that, being informed of the contents of the instrument, he, as such Trustee and with full authority, executed same voluntarily for and as the act of said Trust.

Given under my hand and official seal this _____ day of _____, 2023.

NOTARY PUBLIC

My Commission expires: _____

STATE OF ALABAMA)
COUNTY OF JEFFERSON)

I, the undersigned authority, a Notary Public duly commissioned in and for the County and State aforesaid, hereby certify that Virginia L. Cooney, whose name as trustee of the Lizbeth B. Cooney 2011 Qualified Personal Residence Trust No. 1, is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day that, being informed of the contents of the instrument, she, as such Trustee and with full authority, executed same voluntarily for and as the act of said Trust.

Given under my hand and official seal this _____ day of _____, 2023.

NOTARY PUBLIC

My Commission expires: _____

EXHIBIT A

The Property

Legal Description:

A tract of land situated in the northwest quarter of the northeast quarter of Section 5, Township 18 South, Range 2 West, Jefferson County, Alabama, being more particularly described as follows: Commence at the southwest corner of said quarter-quarter section and thence run east along the south line of said quarter-quarter for a distance of 816.65 feet to a point; thence turn an angle to the left of 87 degrees 40 minutes 44 seconds and run northeasterly for a distance of 61.31 feet to the point of beginning; thence continue along last stated course for a distance of 105.78 feet to a point; thence turn an angle to the right of 24 degrees 16 minutes 00 seconds and run northeasterly for a distance of 107.80 feet to a point; thence turn an angle to the left of 28 degrees 15 minutes 34 seconds and run northerly for a distance of 148.92 feet to a point; thence turn an angle to the left of 102 degrees 46 minutes 35 seconds and run southwesterly for a distance of 218.92 feet to a point; thence turn an angle to the left of 77 degrees 16 minutes 34 seconds and run south for a distance of 279.97 feet to a point; thence turn an angle to the right of 56 degrees 16 minutes 51 seconds and run southwesterly for a distance of 25.71 feet to a point; thence turn an angle to the left of 144 degrees 02 minutes 48 seconds and run east for a distance of 176.33 feet to the point of beginning.

EXHIBIT B

Survey

EXHIBIT C

The Plan

