

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

**PRE-COUNCIL ROOM (A106)
56 CHURCH STREET
MOUNTAIN BROOK, AL 35213**

SEPTEMBER 9, 2024 6:15p.m.

As a matter of convenience, members of the public are invited to listen, observe and participate in public meetings by Internet video conference. Presenters and others interested in a particular matter for discussion are encouraged to attend the meeting in-person. The City is not responsible for technical issues that may occur that interfere with the virtual meeting. The City Council, at its sole discretion, may proceed with its in-person business meeting regardless of whether virtual attendees can hear and/or observe the proceedings. The City intends to make the meeting available by way of the Zoom app (re: Meeting ID 801-559-1126, password 09092024).

1. Selection of consultant for the APPLE grant study of Memory Triangle for a future roundabout-Sam Gaston (See attached information. This item may be added to the formal agenda.)
2. Set a date for a work session regarding traffic counts and “calming” methods on Halbrook Lane and Arundel Drive-Virginia Smith (Have your calendars handy!)
3. Proposed Truck Route ordinance –Whit Colvin (See attached information. This item may be added to the formal agenda.)
4. Proposal to review the mechanical systems at the Municipal Complex-Steve Boone (See attached information. This item may be added to the formal agenda.)
5. Conditional Use for Dog Grooming located at 3150 Overton Road in Overton Village-Dana Hazen (See attached information. This item may be added to the formal agenda.)
6. Executive Session

**Statement of Interest
Advance Planning Programming and Logical Engineering (APPLE) Study
Memory Triangle Roundabout
Mountain Brook, Alabama**

Understanding of the Proposed Project

Skipper Consulting is pleased to provide this response to your Notice of Need of Professional Services for the preparation of an Advanced Planning Programming and Logical Engineering (APPLE) study of a proposed roundabout for Memory Triangle in Mountain Brook, Alabama. It is our understanding that the project will be to conduct a traffic operations study and conceptual design to determine the feasibility of constructing the proposed roundabout, including addressing environmental constraints, utility conflicts, and construction cost estimating. Coordination of the project will be required with the RPCGB and the City of Mountain Brook.

Elements to be included in the traffic study include new traffic counts, examination of crashes, existing and forecasted traffic operations, and development of design parameters for the roundabout. Work to be performed to develop a conceptual plan for a roundabout will include limited survey of existing right-of-way, design of pedestrian accommodations, right-of-way requirements, signage, and lighting.

Project Team

In order to perform the contemplated scope of work for the project, we have assembled a project team with specific expertise in the tasks to be performed and recent relevant experience in the City of Mountain Brook.

- Skipper Consulting, Inc. will serve as the project lead firm and will also perform traffic analyses for the project. Our project manager will be Richard L. Caudle, P.E. Mr. Caudle has served as project manager for 14 APPLE studies and performed traffic analyses and transportation planning for 17 APPLE studies since 2014. Three of the APPLE studies performed by Skipper have been for the City of Mountain Brook. One of the APPLE projects for the City of Mountain Brook included Memory Triangle as one of the study intersections.
- Surveying and conceptual design efforts will be undertaken by Sain Associates as a subconsultant to Skipper Consulting. The project manager for Sain will be Tony Montanaro. Sain Associates has performed 16 APPLE projects for the RPCGB. Two of the APPLE studies performed by Sain have been for the City of Mountain Brook. Sain Associates has just completed design of a roundabout for the intersection of Cahaba Road/Lane Park Road/Culver Road/US-280 in the City of Mountain Brook and was also the designer of the roundabout on Cahaba Road at the Birmingham Zoo entrance. Sain has also performed conceptual design, engineering, and CE&I for multiple roundabout projects across the State.

Approach to the Proposed Project

The scope of work to be performed for this project will be divided into tasks which will be managed by each firm in our team. The specific tasks are as follows:

- **Traffic Operations Analysis.** Skipper Consulting, Inc. will perform traffic engineering tasks for the project. This will include conducting intersection turning movement traffic counts and collecting existing traffic geometric data; obtaining and analyzing crash data; performing an analysis of existing traffic operations; projecting future traffic for the proposed roadway and intersections; and determining specific lane needs, roundabout configuration, traffic control devices, and lighting. Skipper Consulting, Inc. will also coordinate work sessions, presentations, review of project materials, and preparation of the final documentation for the project.
- **Civil Engineering.** Tasks to be performed by Sain Associates include limited survey of the existing right-of-way, assembling base mapping, identifying existing utilities and determining impacts on utilities, identifying potential environmental issues and any impacts which may be caused by the proposed roundabout, preparation of conceptual designs, addressing probable drainage needs, and preparing construction cost estimates.

PROJECT UNDERSTANDING

Highways and roads serve as the backbone of the U.S. transportation systems, allowing citizens to travel more than three trillion miles annually. Connectivity is a vital portion of any transportation system allowing efficient travel from community to community. Properly located intersections and contextual roadway improvements can serve as a catalyst for economic development within a community. Volkert has a thorough background in completing feasibility studies throughout the State of Alabama and has extensive experience in coordinating with federal, state, county, and local agencies to meet client and project goals and objectives. These studies analyzed information such as existing and future traffic demands and operations, developed conceptual design drawings, and crash data to illustrate improvements and developed planning level project cost estimates with identified potential funding sources.

Volkert's team of local professionals, specifically our Project Manager, James E. Thomas navigates through Memory Triangle several times per week, traveling to and from his home to the Crestline area and is familiar with the operational issues of Memory Triangle. Mr. Thomas and our team take pride in providing excellent service to our clients and believe that our expertise combined with our continued support of the RPCGB and MPO members through the APPLE program by completing other feasibility studies along Acton Road, Camp Horner Road, and Shelby County Road 440, positions us well to complete this study for Memory Triangle improvements. .

PROJECT APPROACH

TASK 1: EXISTING CONDITIONS

- **Initial Stakeholder Meeting** - Volkert will introduce key members of our team and make stakeholder introductions. Study objectives and responsibilities will be finalized, and stakeholder point(s) of contact verified to streamline data collection efforts.
- **Data Collection** – Volkert will develop a database to be utilized for project base mapping. The initial site audit / field review will be completed to collect existing and observable characteristics of the study area. A comprehensive desktop review of digital data will also be conducted to determine data items such as, but not limited to; traffic, geometric, crash, right-of-way (ROW), utility, land-use, socio-economic, environmental, and ecological data. Follow-up field reviews will be conducted to confirm desktop findings.
- **Existing Conditions Evaluation and Stakeholder Review** – Existing conditions data will be utilized to identify current issues and potential limitations for implementation. Guidance and industry best practices will be used to help identify existing shortfalls that could eliminate potential alternatives for consideration. Existing level-of-service and queue evaluation will be conducted. A stakeholder review will be conducted to review existing conditions findings.

TASK 2: CONCEPT PLAN DEVELOPMENT AND EVALUATION

- **Conceptual Development and Evaluation** – Volkert will develop a conceptual design that meets the needs of the Memory Triangle Roundabout Study. Key elements to be considered include improvements, capacity constraints requiring widening, ROW constraints, environmental considerations, utility constraints and possible relocations, and operational safety. Evaluation of all data from Task 1 will be utilized to develop a comparison of proposed alternatives including both existing and future data. Planning level cost estimates for proposed alternatives will be included.
- **Initial Alternatives and Cost Estimate Review** – Stakeholders will be presented with the initial tabulated alternatives evaluation comparison, including planning level cost estimates for review and comment. One public involvement meeting will be held to present the concept plan. Any applicable revisions from the comment period will be incorporated in the Draft Report.
- **Documentation** – All datum will be prepared into a Draft Report documenting the feasibility study and alternatives. The Draft Report will be submitted for stakeholder review and comment. Applicable revisions of the Draft Report will be made based on received stakeholder comments. Upon completion of Draft Report revisions, project close out will be indicated by submission of the Final Report.

STAFFING AND EXPERIENCE

Jonathan Grammer, PE | Project Principal Mr. Grammer serves as Regional Vice President for Volkert's North Alabama Engineering Division. He brings 24 years of experience in planning, design, and construction program management for numerous infrastructure and capital improvement programs.

Doug Seagle, PE | QA/QC Manager Mr. Seagle has 37 years of experience in Civil Engineering. He serves as a subject matter specialist across a variety of civil design service lines and provides leadership for Volkert's Birmingham office.

James E. Thomas, PE | Project Manager Mr. Thomas will lead the Volkert team and serve as the main point of contact. His 17 years of experience and cooperative leadership style make him well suited to lead this team and project from Volkert's Birmingham office.

James New, PE, RSP¹ | Traffic Engineer Mr. New is a professional engineer located in Birmingham, Alabama with over 8 years of experience and currently serves as a Traffic Engineer at Volkert which includes signal design, traffic analysis, and transportation planning .

Rob Vermillion, PE, CPESC | Roadway Engineering Mr. Vermillion has been with Volkert since 1998 and is responsible for civil engineering design for a variety of projects, including drainage, site development, utilities, and roadway.

Experts in Transportation Planning Evaluation and Engineering Analysis

- Planning
- Traffic Control Device Application
- Illumination & Landscaping
- Operational Analysis/Traffic Simulation
- Safety Analysis
- Construction Services
- Geometric Design
- Innovative Intersection Design
- Project Cost Estimating



RELEVANT PROJECT EXPERIENCE

- Evaluate a Roundabout Concept for Williams Avenue for the City of Huntsville
- Roundabout at Jeff Hamilton and Dawes Road for the Mobile County Commission
- McFarland Road/Dawes Lane/Three Notch Road Roundabout for the Mobile County Commission
- Roundabout at Broad Street and Canal Street Intersection City of Mobile
- McGregor Road/Museum Drive Roundabout in Mobile, AL for the City of Mobile
- CR 48 (Fairhope Avenue) and CR 13 Roundabout for the Baldwin County Commission
- Roundabout and Widening for CR 64 for the Baldwin County Commission
- North Section/Hwy 104/Veterans Drive Roundabout for the City of Fairhope
- Roundabout Lighting for Intersection Improvements as a sub to SAIN Associates
- Additional Roundabout projects in GA, LA, FL, VA, MO, IL, IN, MS, and TN

We thank you for your consideration and look forward to continuing to work with the RPCGB to improve the heavily traveled intersection known as Memory Triangle in the Mountain Brook area.

Jonathan D. Grammer, PE, CCM

James E. Thomas, PE



Statement of Interest for the Regional Planning Commission of Greater Birmingham (RPCGB)
Memory Triangle Roundabout APPLE Feasibility Study
Mountain Brook, Alabama

Gresham Smith is pleased to submit this letter of interest to perform a feasibility study for converting the intersection of County Club Road, Euclid Avenue, Memory Lane, and Cross Ridge Road, also known as Memory Triangle, into a roundabout to improve the safety and operations of this intersection. Gresham Smith has extensive experience with the planning and design of roundabouts in Alabama and across the southeast. We have completed feasibility studies, designs and conducted peer reviews for over 60 roundabouts across the southeast, including 25 roundabouts in Alabama. In particular, we have completed feasibility studies for 16 roundabouts across Alabama which had scopes very similar to the scope for this APPLE study. Several of these roundabouts received federal Highway Safety Improvement Program (HSIP) funding and have been constructed including:

- US-231 at US-411/CR-33, St. Clair County
- SR-79 at SR-160, Cleveland, AL
- SR-5 at CR-58, Brent, AL
- SR-147 (N College St) at CR-72 (Farmville Rd), Auburn, AL

Our roundabout design experience ranges from mini and compact single lane roundabouts to larger multi-lane roundabouts. We have studied and designed several roundabouts with five approaching streets similar to the Memory Triangle intersection.

Gresham Smith strives to stay up to date on the current best practices in roundabout design. Our staff, led by Blair Perry, served on the Steering Committee that contributed to and reviewed the first edition of the *ALDOT Roundabout Planning, Design, and Operations Manual*. We also partnered with ALDOT and the University of Alabama to develop and teach two, four-day courses on the analysis and design of roundabouts.

As mentioned previously, we have completed several of these roundabout feasibility studies and developed numerous conceptual roundabout layouts. From our experience, several key elements of these studies are:

- **Traffic Analysis** – the first step is to conduct a traffic analysis to determine the lane layout needed to handle the current and projected traffic volumes. In some cases, multiple lanes may be needed for some approaches and within the circle to handle heavy movements. Sometimes, right turn bypass may be needed to handle heavy right turn movements. Additionally, because roundabouts can move traffic much more efficiently than other intersection types, roundabouts can sometimes produce the unintended consequence creating or moving traffic backups to other nearby intersections. That could very well be the case at this location. A roundabout at this intersection could operate so well that the nearby signalized intersections on Euclid Avenue at Dan Watkins Drive and Church Street could back traffic up into the roundabout during peak traffic times. As part of this study, we would recommend that the traffic analysis include the two signalized intersections above to look at overall traffic operations of this area with a roundabout
- **Crash/Safety Analysis** – reviewing and understanding the crash locations and types can help determine the best geometric layout of a roundabout, or if other, less expensive intersection control and safety countermeasures are appropriate or better.
- **Understand the vehicle types that need to be accommodated** – does the roundabout need to accommodate large, interstate tractor trailer trucks? **Can the City's fire apparatus easily navigate the roundabout during an emergency response?** Are there other unique design vehicles that need to be considered in the roundabout design?
- **Bicycle and Pedestrian Accommodations** – at this location there are sidewalks along Country Club Road, Memory Lane and Euclid Avenue. Providing appropriate and safe pedestrian crossings through this roundabout needs to be carefully considered in the layout of this roundabout.
- **Constructability** – determining how the roundabout will be constructed will be a key aspect of determining the feasibility and estimated cost of the roundabout. The large triangular shaped island in the middle of this intersection should make this proposed roundabout easier to construct while maintaining traffic through the intersection.



Coalmont Rd at Hillsboro Pkwy
Helena, AL



N College St. at Farmville Rd.
Auburn, AL



SR-5 at CR-58
Brent, AL

Closing and Contact Person We would love the opportunity to put our roundabout design experience to work for the City of Mountain Brook. If you have any questions or need any additional information, feel free to contact Blair Perry.



2111 Parkway Office Circle
Suite 100
Birmingham, AL 35244
TEL 205.443.3080
FAX 205.313.6454
www.GarverUSA.com

August 26, 2024

Mr. Mike Kaczorowski, Principal Planner for Transportation
Regional Planning Commission of Greater Birmingham
2 North 20th Street, Suite 1200
Birmingham, AL 35203

Re: Statement of Interest for Advanced Planning Programming & Logical Engineering (APPLE)
Memory Triangle Roundabout Study

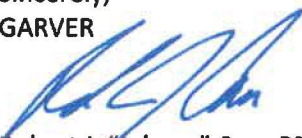
Dear Mr. Kaczorowski:

Garver has extensive experience on feasibility studies for RPCGB, ALDOT, MPO's, and numerous municipalities. Our in-house subject matter experts are great resources for successful feasibility studies. Garver is a very successful transportation consulting firm with several local Alabama offices. We are also currently moving other similar projects forward for several Alabama clients that have come to trust us for the important task of finding solutions to transportation challenges. Garver's traffic engineering team in Alabama has extensive experience analyzing intersections to develop the optimal solution to improve traffic flow. We enjoy working with local municipalities to find the best solutions for the City.

Garver's approach will begin with a Kick-off meeting with RPCGB and the City of Mountain Brook to obtain a clear understanding of priorities and ultimate goals of this study. We will collect location-specific data to perform the traffic study, analyze levels of services, and identify any other issues that will drive cost, schedule, or environmental considerations. Based on the traffic analysis, we will develop a conceptual layout illustrating geometrics of the roundabout considering pedestrian accommodations and present our findings and recommendations to the City. Then, we will proceed with Conceptual Plan Development as outlined in the Scope of Work and present the conceptual plans and draft report to the City for review prior to conducting a Public Involvement Meeting. We will then incorporate applicable comments received from the City and/or Public into the Final Report.

Garver is excited about the opportunity to work with the RPCGB and Mountain Brook on this very important study. We commit to providing the same high quality and timely services our clients have come to expect. Please contact me at 205-855-8892 or rijcarr@garverusa.com if you have questions or would like to discuss further. Thank you for considering Garver during the consultant selection process.

Sincerely,
GARVER



Robert J. "Johnny" Carr, PE
Senior Project Manager

CURRENT SECTION

Sec. 50-77. Using certain streets.

No driver of a motor truck or truck tractor shall operate such vehicles over any of the following streets within the limits of the city: Euclid Avenue, Montevallo Road, Old Leeds Road, Mountain Brook Parkway, Country Club Road, Dell Road, Overbrook Road, Memory Lane, Fairway Drive, Lane Park Road, Cherokee Road, Overcrest Road, East View Road, Brookwood Road, Sherwood Road or Montevallo Lane; except, that such vehicles may be operated over such streets for the purpose of making deliveries or service calls to points within the city; provided, that they take the most direct route over such streets to point of destination within the city and return therefrom.

POSSIBLE REVISED SECTION

Sec. 50-77. Using Certain Streets.

It shall be unlawful for any person to drive or operate a motor truck or truck tractor over any of the streets and roads within the limits of the city except as follows:

- (a) Such vehicles making deliveries or service calls to destinations located in Crestline Village, as defined in Sec. 129-557 of the Code may be operated on the streets located in such Village, as well as Montevallo Road, Memory Court and Montclair Road; provided that they take the most direct route over such streets to point of destination within the city and return therefrom.
- (b) Such vehicles making deliveries or service calls to destinations located in English Village, as defined in Sec. 129-557 of the Code may be operated on the streets located in such Village, as well as 21st Street and Cahaba Road; provided that they take the most direct route over such streets to point of destination within the city and return therefrom.
- (c) Such vehicles making deliveries or service calls to destinations located in Mountain Brook Village, as defined in Sec. 129-557 of the Code may be operated on the streets located in such Village, as well as Hollywood Boulevard; provided that they take the most direct route over such streets to point of destination within the city and return therefrom.
- (d) Such vehicles making deliveries or service calls to destinations located in Overton Village, as defined in Sec. 129-557 of the Code may be operated on the streets located in such Village, as well as Green Valley Road and the part of Overton Road between the intersection of Crosshaven Road and the Village Boundary Line; provided that they take the most direct route over such streets to point of destination within the city and return therefrom.
- (e) Such vehicles making deliveries or service calls to commercial destinations on River Run Drive may be operated on Overton Road south of and including the intersection of Overton Road and Oakdale Drive; provided that they take the most direct route over such streets to point of destination within the city and return therefrom.
- (f) Such vehicles making deliveries or service calls to commercial destinations on Shades Creek Parkway may be operated on such road up to the point where it intersects Cahaba Road.

Proposed

- (g) Such vehicles making deliveries or service calls to commercial destinations on Office Park Circle and Office Park Drive may be operated on those roads.
- (h) Such vehicles making deliveries or service calls to commercial areas abutting US 280 may be operated on roads within or abutting such commercial areas.
- (i) Such vehicles may be operated on US 280 without limitation.
- (j) Such vehicles making service calls to, deliveries to, or pick-ups from residential destinations within the City may be operated on streets and roads within the City; provided that the most direct route to and from such points within the City is followed in making such service call, delivery or pickup.

For purposes of this subsection, residential destinations shall include all lots zoned to the Residence A, B, C, Estate, E, F, G Clustered Residential, Residential Infill, and residential components of Planned Unit Development Districts.

ARTICLE IV. TRUCKS**Sec. 50-76. Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Motor truck means any motor-propelled vehicle designed for carrying freight or merchandise and not operated on fixed rails or tracks, but it shall not include self-propelled vehicles designed primarily for passenger transportation equipped with frames, racks or bodies having a loading capacity not exceeding 1,000 pounds.

Truck tractor means every motor vehicle designed and used primarily for drawing and not so constructed as to carry a load other than part of the weight of the vehicle and load so drawn.

(Code 1996, § 12-43; Ord. No. 195, §§ 2, 3)

Sec. 50-77. Using certain streets.

No driver of a motor truck or truck tractor shall operate such vehicles over any of the following streets within the limits of the city: Euclid Avenue, Montevallo Road, Old Leeds Road, Mountain Brook Parkway, Country Club Road, Dell Road, Overbrook Road, Memory Lane, Fairway Drive, Lane Park Road, Cherokee Road, Overcrest Road, East View Road, Brookwood Road, Sherwood Road or Montevallo Lane; except, that such vehicles may be operated over such streets for the purpose of making deliveries or service calls to points within the city; provided, that they take the most direct route over such streets to point of destination within the city and return therefrom.

(Code 1996, § 12-44; Ord. No. 195, § 1; Ord. No. 216, § 1)

Sec. 50-78. Certain types of trucks—Prohibited.

It shall be unlawful for any person to drive or operate upon any street within the city any motor truck, semitrailer truck or truck tractor if such vehicle or any vehicle which it is drawing either has in excess of two axles or has a total loaded weight in excess of 10,000 pounds.

(Code 1996, § 12-45; Ord. No. 489, § 1)

Sec. 50-79. Same—Exemptions.

The following provisions shall be exempt from the provisions of section 50-78:

- (1) The operation of any such vehicle, otherwise proscribed, for the purpose of making service calls to, deliveries to or pick-ups from points within the city; provided, that the most direct route to and from the points within the city is followed in making such service call, delivery or pick-up;
- (2) The operation of any such vehicle, otherwise proscribed, upon any federal highway, upon any state highway or upon any road designated by the state highway department as a municipal connecting link road;
- (3) The operation of any such vehicle, otherwise proscribed, by the United States, the state or any agency thereof; and
- (4) The temporary operation upon any roads of implements of husbandry.

(Code 1996, § 12-46; Ord. No. 489, § 2)

Sec. 50-80. Operation between 10:00 p.m. and 6:00 a.m.

- (a) It shall be unlawful for any person to operate or cause to be operated by and through any officer, agent, servant, employee or representative of such person between the hours of 10:00 p.m. and 6:00 a.m. of the following day upon any public street or thoroughfare any motor vehicle consisting of a combination of a motor powered truck or tractor and one or more trailers, cargo bodies or containers, except upon such street or thoroughfare of the city as may heretofore have been or hereafter may be designated by the city council as a truck route.
- (b) It shall be unlawful for any person to operate or cause to be operated by and through any officer, agent, servant, employee or representative of such person between the hours of 10:00 p.m. and 6:00 a.m. of the following day upon any public street or thoroughfare any two-axled motor vehicle or truck equipped for use as a single unit with actual unloaded weight of 13,000 pounds or more, except upon such street or thoroughfare of the city as may have heretofore been or hereafter be designated by the city council as a truck route.
- (c) There shall be exempt from the operation of this section the following:
 - (1) The operation of vehicles by the United States or the state;
 - (2) The operation of vehicles by the city or by any contractor performing municipal functions under contract with the city; provided, however, that municipal garbage collection services that require or involve the use of vehicles otherwise restricted or prohibited by subsection (a) or (b) of this section, whether provided by the city directly or by a private contractor on the city's behalf, shall not be conducted between the hours of 10:00 p.m. and 6:00 a.m. of the following day except under emergency conditions, so declared by the mayor. The operation of municipal street cleaning or sweeping vehicles shall be exempt altogether from the restrictions and prohibitions of subsections (a) and (b) of this section;
 - (3) The operation of emergency, public safety, or public service vehicles under emergency or exigent circumstances; and
 - (4) The operation of any vehicle otherwise restricted or prohibited by subsection (a) or (b) of this section for the purpose of delivering freight or merchandise to business establishments in commercial districts that require such deliveries between 10:00 p.m. and 6:00 a.m. of the following day, and for which no alternate delivery schedule can reasonably or feasibly be arranged.

(Code 1996, § 12-47; Ord. No. 397, §§ 1, 2; Ord. No. 859, 10-24-1983; Ord. No. 1632, § 1, 5-24-2004)

Secs. 50-81—50-103. Reserved.

ARTICLE IV. TRUCK ROUTES¹**DIVISION 1. GENERALLY****Sec. 9-86. Definitions.**

For the purposes of this article the following terms, phrases, words, and their derivations shall have the meaning given in this section. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

City means the City of Vestavia Hills, Alabama.

Deviating truck means a truck which leaves and departs from a truck route while traveling inside the city.

Person means any person, firm, partnership, association, corporation, company or organization of any kind.

Truck means any vehicle and/or trailer designed or operated for the transportation of property which has more than two axles.

Truck route means a way over certain streets, as designated herein, over and along which trucks coming into, traveling in and going out of the city must operate.

Ord. No. 2191, § 1, 6-18-07; Ord. No. 2303, § 1, 11-23-09)

Sec. 9-87. Application of regulation.

All trucks within the city shall be operated only over and along the truck routes established and on the other designated streets over which truck travel is permitted.

Exceptions. This section shall not prohibit:

- (1) *Operation on street of destination.* The operation of trucks upon any street where necessary to the conduct of business at a destination point, provided streets upon which such traffic is permitted are used until reaching the intersection nearest the destination point.
- (2) *Emergency vehicles.* The operation of emergency vehicles upon any street in the city.
- (3) *Public utilities.* The operation of trucks owned or operated by the city, public utilities, any contractor or material man, while engaged in the repair, maintenance or construction of streets, street improvements sidewalks, or utilities within the city.
- (4) *Detoured trucks.* The operation of trucks upon any officially established detour in any case where such truck could lawfully be operated upon the street for which such detour is established.
- (5) *Sanitation trucks.* The operation of trucks used for collection of residential garbage, recyclables and/or debris as contracted by the city.

¹Editor's note(s)—Ord. No. 2191, §§ 1—7, adopted June 18, 2007, amended Art. IV in its entirety and enacted similar provisions as set out herein. The former Art. IV derived from Ord. No. 211, §§ 1—3, adopted July 6, 1971.

(Ord. No. 2191, §§ 2, 3, 6-18-07; Ord. No. 2303, §§ 2, 3, 11-23-09)

Sec. 9-88. Truck traffic in the city.

(a) *Outside origin.*

- (1) *One inside destination point.* All trucks entering the city for a destination point in the city shall proceed only over an established truck route and shall deviate only at the intersection with the street, upon which such traffic is permitted, nearest to the destination point. Upon leaving the destination point, a deviating truck shall return to the truck route by the shortest permissible route.
- (2) *Multiple inside destination points.* All trucks entering the city for multiple destination points shall proceed only over established truck routes and shall deviate only at the intersection with the street, upon which such traffic is permitted, nearest to the first destination point. Upon leaving the first destination point a deviating truck shall proceed to other destination points by the shortest direction and only over streets upon which such traffic is permitted. Upon leaving the last destination point, a deviating truck shall return to the truck route by the shortest permissible route.

(b) *Inside origin.*

- (1) *Outside destination point.* All trucks on a trip originating in the city, and traveling in the city for a destination point outside the city shall proceed by the shortest direction over streets on which such traffic is permitted to a truck route as herein established.
- (2) *Inside destination points.* All trucks on a trip originating in the city, and traveling in the city for destination points in the city shall proceed only over truck routes or streets upon which such traffic is permitted intersecting with truck routes nearest the destination point.

(Ord. No. 2191, § 5, 6-18-07; Ord. No. 2303, § 6, 11-23-09)

Sec. 9-89. Enforcement.

The chief of police of the city shall cause all truck routes to be clearly sign-posted to give notice that this section is in effect.

(Ord. No. 2191, § 6, 6-18-a07)

Sec. 9-90. Penalties.

Any person, firm, or corporation violating any provisions of this article shall be deemed guilty of a misdemeanor and upon conviction thereof, shall be punished as provided for in section 1-5 of the Code of Ordinances for the City of Vestavia Hills, Repub. 2002. Each day such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such.

(Ord. No. 2191, § 7, 6-18-07)

Secs. 9-91—9-95. Reserved.

DIVISION 2. REGULATIONS ON CERTAIN STREETS

Sec. 9-96. Truck routes established.

There are hereby established within the city the following "truck routes":

- (1) Green Springs Highway (aka Columbiana Road);
- (2) U.S. Highway 31 (aka Montgomery Highway), from the southern City limits to the northern City limits;
- (3) Acton Road;
- (4) Cahaba River Road;
- (5) Cahaba Heights Road;
- (6) Crosshaven Drive;
- (7) U.S. Highway 280; and
- (8) Green Valley Road.

(Ord. No. 2191, § 4, 6-18-07; Ord. No. 2303, § 4, 11-23-09)

Sec. 9-97. Trucks prohibited.

Trucks are prohibited on all residential municipal streets unless posted as a truck route or a local delivery as defined in section 9-88.

- (1) Trucks with more than two axles and/or a maximum gross weight of 10,000 pounds or more are prohibited on residential municipal streets.
- (2) Signage will be posted as deemed necessary by the chief of police to indicate "Local Delivery Only" or maximum of two axles and/or a maximum gross weight of 10,000 pounds or more.

(Ord. No. 2303, § 5, 11-23-09)

Secs. 9-98—9-110. Reserved.

City Of Mountain Brook

| Ranking: 1-Top 2 3 4 5-Bottom | Dewberry Engineering | Bernhard | Building Diagnostics |
|---|--|--|--|
| Technical Proposal | 21 | 7 | 14 |
| Quality of Submission (well organized, complete, all items addressed) | 3 | 1 | 2 |
| Project Team | 3 | 1 | 2 |
| Relevant Experience | 3 | 1 | 2 |
| Due Diligence Proposal Phase Items a.,b. &c.) | 3 | 1 | 2 |
| Technical Proposal (item I.f.) | 3 | 1 | 2 |
| Project Phase II | 3 | 1 | 2 |
| Schedule (level of detail; realistic) | 3 | 1 | 2 |
| Pricing Proposal | 6 | 2 | 4 |
| FACILITY REPAIR MODIFICATIONS FEE | 3 | 1 | 2 |
| COMMISSIONING FEE | 3 | 1 | 2 |
| Total | 27 | 9 | 18 |
| Contact | Chuck Koski | Craig Phillips | Josh Bhate |
| Address 1 | 1900 Lakeland Drive | 400 Vestavia Parkway, Suite 310 | 5217 5th Avenue South |
| Address 2 | Jackson, MS 39216 | Vestavia Hills, AL 35216 | Birmingham, AL 35212 |
| Phone | (769) 867-8624 | (205) 829-2851 | (205) 439-7780 |
| Cell | (601) 720-0178 | (501) 680-8458 | (205) 515-4455 |
| Email | ckoski@dewberry.com | cphillips@bernhard.copm | jbhate@bdandps.com |
| Website | www.dewberry.com | www.bernhard.com | www.bldgdiagnostics.com |

Total fee proposal

\$38,834.00

Bernhard

Bernhard TME LLC • Engineering Division

Professional Services Fee Proposal

Date

July 29, 2024

Project

Project Name: Mountain Brook City Hall

Consultant Project #: 12-24-0053

Consultant

Bernhard TME, LLC
400 Vestavia Parkway, Suite 310
Vestavia Hills, AL 35216

Phone Number: 205.829.2851

Contacts: Project Manager/Director: Craig Phillips
Email: cphillips@bernhard.com

Additional Contact: Cx Vice President: Vince van Oostenbrugge
Email: vvanoostenbrugge@bernhard.com

Client

LEMOINE Program Services

Phone Number: 256.453.7666

Contact: Project Manager: Brett Twigg
Email: Brett.twigg@1lemoine.com

Owner

The City of Mountain Brook
Mountain Brook City Hall
56 Church St.
Mountain Brook, AL 35213

Project Definition

The Project consists of implementing a evaluating and assessing operation of the existing Mountain Brook City Hall, implementing identified control upgrades and providing recommendations and cost estimates to enhance the maintainability, energy efficiency and operability of the facility.

Scope of Services

Mountain Brook City Hall – Retro Commissioning
Consultant's Project No. 12-24-0053

Consultant proposes to provide Professional Retro-commissioning Services for the Project (hereinafter, the "Services"). Refer to Exhibit A – Scope of Retro Commissioning Services.

Fee

Refer to Exhibit B – Compensation for Basic Services.

Additional Services

Refer to Exhibit C – Compensation for Additional Services.

Reimbursable Expenses

Refer to Exhibit D – Reimbursable Expenses.

Subconsultant Services

Refer to Exhibit D – Reimbursable Expenses.

Form of Agreement

The form of agreement between Consultant and the Client will be consistent with Exhibit F - Terms and Conditions.

Exhibits

- Exhibit A – Scope of Retro-Commissioning Services
- Exhibit B – Compensation for Basic Services
- Exhibit C – Compensation for Additional Services
- Exhibit D – Reimbursable Expenses
- Exhibit E – Hourly Rate Schedule
- Exhibit F – Terms and Conditions
- Exhibit G – Engineer’s Insurance

Acceptance

By signing below, Client accepts and approves this proposal.

LEMOINE Program Services

Accepted By: _____ Date: _____
Authorized Representative

Print Name: _____ Title: _____

Bernhard TME, LLC

Accepted By: _____ Date: _____
Craig Phillips
Commissioning Director

Exhibit A - SCOPE OF RETRO-COMMISSIONING SERVICES

The Consultant (the "Commissioning Provider") will provide Retro-Commissioning HVAC and controls systems for the Mountain Brook City Hall facility.

1. Equipment & Systems to be Retro Commissioned
 - A. HVAC
 - 1) Seventy-Five (75) Water Source Heat Pumps
 - 2) Three (3) Condensing Boilers & Primary Hot Water Pumps
 - 3) One (1) Closed Circuit Fluid Cooler
 - 4) Two (2) Condenser Water Pumps
 - 5) Seven (7) Exhaust Fans
 - 6) Parking Garage Carbon Monoxide Purge System
 - 7) Two (2) Energy Recovery Ventilators
 - 8) Four (4) 100% Outside Air Water Source Heat Pumps
 - 9) One (1) Minisplit DX Unit
 - 10) Two (2) Electric Duct Heaters
 - 11) One (1) Fan Powered Filter Module
 - 12) Three (3) Electric Unit Heaters
 - 13) One (1) Supply Fan
 - 14) One (1) Expansion Tank
 - 15) Three (3) Radiant Heaters
 - 16) Four (4) Vehicle Exhaust Filtration Systems
 - B. Building Automation System
 - 1) Building Pressure Controls

Review Existing Systems and Documentation

1. Interview City of Mountain Brook support staff. Compile a list of complaints related to comfort, equipment failures, safety, poor indoor air quality, high energy use, etc.
 - A. Identify the Current Facility Requirements (CFR) and document those requirements into a written report. The CFR document shall contain and address the following:
 - 1) Project scope
 - 2) Owner's statement of existing concerns of poor performance
 - 3) Driving force for the RCx project
 - 4) Owner's overall goals and objectives
 - 5) Environmental and sustainability goals

- a) Anticipated energy use goals
- b) Anticipated water use goals
- 6) Quick fix allowances and definition of quick fixes
- 7) Owners list of staff assigned to the RCx project
- 8) Intended use of facility staff to assist RCx efforts
- 9) Intended use of outside contractors to assist RCx efforts
- 10) Communication methods between facility staff, occupants and commissioner
- 11) Design tolerances (safety factors, redundancy, etc.)
- 12) Equipment and system maintainability expectations
- 13) Security, Accessibility and Indoor Environmental requirements
- 14) Training requirements for Owner's personnel
- 15) Lifecycle cost requirements for system repair and upgrades
- 16) Disruption or displacement of occupants during project
- 17) Areas of the building that have changed use since original design and anticipated changes in building space use and/or performance.
 - a) Number of occupants per area
 - b) Special user/occupant's requirements
 - c) Current operating schedules with recommendations for temperature or ventilation setbacks for areas that are unoccupied for significant periods of time.

B. Review the existing building documentation to determine the original specifications, design intent, and their relevance to City of Mountain Brook requirements. Listed below is the documentation to be gathered and reviewed.

- 1) Utility data and energy bill (electric and gas) information for at least 12 months along with rate schedules. Create an energy star portfolio manager account and determine the facilities site and source energy usage index. Summarize the facilities energy use performance and identify areas for improvement.
- 2) Summarize current rate schedules and whether any other rate schedules are available from utility providers that would result in lower utility costs.
- 3) Review Drawings and specifications relevant to the systems scheduled for commissioning, especially control sequences of operation.
- 4) Review existing control points list for each building and the existing control submittal. Review and document operating strategies programmed into the Building Automation System.
- 5) Review and document all operator overrides and release as appropriate. All overrides that are released will be coordinated with facility personnel.

- 6) Create a one-line rise diagram for the heating water and condenser water piping system and for the outside air and exhaust systems.
- 7) Room Ventilation Schedule: Review the room ventilation schedule found on mechanical sheet M0.2 and provide a list of areas that are either deficient or excessive in the amount of ventilation air provided.
- 8) Review graphic displays and identify any deficiencies in the graphic displays and assist with the implementation of the updated graphics.
- 9) Review building automation system for the following:
 - a) Appropriate heating and cooling dead bands
 - b) Weekly occupancy schedule
 - c) Occupied heating and cooling allowable temperature ranges
 - d) Unoccupied heating and cooling set points
- 10) Control Loops: The Consultant will tune control loops for the following equipment and equipment parameters controlled by an automatic temperature control system using proportional-integral (PI) control loops:
 - a) Control valves
 - b) Dampers
 - c) Pump speeds
 - d) Fan Speed
- 11) Review equipment list with nameplate information for equipment controlled by the Building Automation system.
- 12) Review existing O&M and installation manuals for equipment. Provide a written list of missing manuals, source missing manuals and provide in a bookmarked PDF for use by Mountain Brook staff and subcontracted service or repair providers.
- 13) Review Test and balance reports and provide a written summary of potential areas for improvement to the reliability, energy efficiency or maintainability of the facility.
- 14) Review existing duct pressure testing reports (likely to be held by P&M mechanical).
- 15) Review chemical treatment reports of the condenser water system and closed loop fluid cooler system.
- 16) Review Commissioning reports and provide a written summary of potential areas for improvement.
- 17) Review Service reports and provide a written list of concerns and systemic issues.
- 18) Provide a written summary of potential areas for improvement to the reliability, energy efficiency or maintainability of the facility. Specifically, provide a list of recommended control upgrades that includes the required hardware, programming and associated costs with the proposed upgrades.

2. Develop Retro-Commissioning Plan for testing and reporting on the pertinent systems.
 - A. Perform a 20% spot check of calibration of control sensors, also known as a point to point check. Specifically, the carbon monoxide detection systems shall be checked at a sampling rate of 100%.
 - B. Based on issues found during the site survey of the equipment; provide a list of points to be trended, implement recommended trends, retrieve trend data after one week, analyze trend data and provide a written list of identified issues and concerns.
 - C. Assess and documents current operating strategies, and provide recommendations for improvements to current strategy. Proposed strategy shall be documented in the CFR.
3. Issues Log – The consultant will document all issues utilizing cloud-based Commissioning software (Cx Alloy) and manage assignment of issues to the appropriate team member.
4. Test and Balance Spot Checking – Review current balance of the air and water systems. Sample the air systems at a rate of 20% with a focus on the outside air units and exhaust systems. Sample the water systems at a rate of 100%. Provide a written summary of deficiencies and recommendations. Provide an associated cost estimate for proposed recommendations.
5. Functional Performance Testing - Develop project specific Functional Performance Tests for equipment or systems to be commissioned. Functionally test systems at the sampling rate outlined below:
 - A. HVAC
 - 1) Seventy-Five (75) Water Source Heat Pumps at a sampling rate of 20%.
 - 2) Three (3) Condensing Boilers & Primary Hot Water Pumps at a sampling rate of 100%
 - 3) One (1) Closed Circuit Fluid Cooler at a sampling rate of 100%
 - 4) Two (2) Condenser Water Pumps at a sampling rate of 100%
 - 5) Seven (7) Exhaust Fans at a sampling rate of 28%
 - 6) Parking Garage Carbon Monoxide Purge System at a sampling rate of 100%
 - 7) Two (2) Energy Recovery Ventilators at a sampling rate of 100%
 - 8) Four (4) 100% Outside Air Water Source Heat Pumps at a sampling rate of 100%
 - 9) One (1) Minisplit DX Unit at a sampling rate of 100%
 - 10) Two (2) Electric Duct Heaters at a sampling rate of 100%.
 - 11) One (1) Fan Powered Filter Module at a sampling rate of 100%
 - 12) Three (3) Electric Unit Heaters at a sampling rate of 33%
 - 13) One (1) Supply Fan at a sampling rate of 100%
 - 14) One (1) Expansion Tank at a sampling rate of 100%

- 15) Three (3) Radiant Heaters at a sampling rate of 33%
 - 16) Four (4) Vehicle Exhaust Filtration Systems at a sampling rate of 25%
- B. Building Automation System
- 1) Building Pressure Controls at a sampling rate of 100%

6. Reporting Phase

- A. Develop Final Retro-Commissioning Report. The final retro-commissioning report shall be issued once commissioning scoping activities are completed. This will be a separate deliverable from the proposal, documenting the actions specified herein. The final retro-commissioning report shall include the following information:
- 1) Executive summary
 - 2) Project background and scope of the commissioning project.
 - 3) Overview of activities conducted.
 - 4) Details of all potential improvements identified and other findings
 - 5) including:
 - a) Documentation of equipment conditions.
 - b) Recommended facility staff training.
 - c) Summary of missing critical documentation.
 - 6) The estimated implementation costs and the energy impacts for each improvement.
 - 7) Current system operation sequences for all equipment and systems included herein and proposed system operation sequences.
 - 8) Report Appendix shall include the following:
 - a) TAB Verification Report
 - b) O&M, and installation manuals.
 - c) Functional Performance Tests and blanks for future testing.
 - d) CFR.

7. Pre-identified Control Sequence of Operations Issues Phase

- A. Implement required system modifications and corrective measures to accomplish the control strategies listed below:
- 1) Lead lag operation of the WSHP loop pumps.
 - 2) Lead lag operation of the Hot Water Boilers.
 - 3) Proper operation and control of the Parking garage purge exhaust.
 - 4) Proper operation and control of the basement sump pumps & add lead lag capability.
8. Assumptions: Our scope and budget were developed based on the following assumptions:

- A. The Consultant will require access to the Building Automation System during implementation.
- B. The Consultant will require access to all areas of the facility and an owner escort as required.

EXHIBIT B

COMPENSATION FOR BASIC SERVICES

Fixed Fee:

Consultant will provide these services as outlined in the schedule below.

| Phase | Fee |
|---|-------------|
| Control Related Modifications, Testing & Commissioning of Pumps, Boilers & CO Purge | \$10,788.00 |
| Remote and On-Site Assessment & Testing Phase | \$26,426.00 |
| Report Phase | \$1,620.00 |
| Total | \$38,834.00 |

Reimbursable Expenses:

Reimbursable expenses are included in the proposed fee.

EXHIBIT C

COMPENSATION FOR ADDITIONAL SERVICES

If Additional Services (defined as any work not listed in the Scope of Services) are required, they will be billed on an hourly basis at the Consultant's current rates in place at the time Additional Services are approved. Refer to Exhibit E – Hourly Rate Schedule.

If the Services have not been completed within eighteen (18) months of the date of this Agreement, through no fault of the Consultant, extension of the Services beyond that time shall be compensated as Additional Services.

EXHIBIT D

REIMBURSABLE EXPENSES

Not Applicable (Reimbursable expenses are included in the proposed fee)

EXHIBIT E

CONSULTANT'S 2024 HOURLY RATE SCHEDULE

| Category | Hourly Rate (\$) |
|--|-------------------------|
| President | 310 |
| Senior Vice President | 300 |
| Vice President | 285 |
| Senior Director | 270 |
| Director / Senior Project Manager / Lead Engineer | 260 |
| Project Manager / Senior Engineer / Senior Controls Specialist / Senior Controls Analyst | 230 |
| Engineer / Senior Designer / Commissioning Provider / Controls Specialist / Controls Analyst | 195 |
| Designer / Construction Administrator | 165 |
| Analyst / Commissioning Technician | 155 |
| BIM/CADD Technician / Administrative | 120 |
| Intern | 95 |

EXHIBIT F

TERMS AND CONDITIONS

1. Consultant's Responsibilities

- A. The Consultant represents that it is properly licensed in the jurisdiction where the Project is located to provide the Services required by this Agreement or shall cause such services to be performed by appropriately licensed commissioning professionals.
- B. The Consultant shall provide the Services consistent with the professional skill and care ordinarily provided by engineers practicing in the same or similar locality under the same or similar circumstances. The Consultant shall perform its Services as expeditiously as is consistent with such professional skill and care and the orderly progress of the Project.
- C. The Consultant shall identify a representative authorized to act on its behalf with respect to the Project.
- D. The Services consist of those described in The Consultant's proposal and include usual and customary commissioning services. Services not set forth in the proposal are Additional Services.
- E. The Consultant shall coordinate its Services with those services provided by Client and Client's other consultants. The Consultant shall be entitled to rely on (1) the accuracy and completeness of the services and information furnished by Client and (2) Client's approvals. The Consultant shall not be responsible for the acts or omissions of the Client, its other consultants or contractors, their agents, employees, or other persons performing any of the Work. The Consultant shall provide prompt written notice to Client if it becomes aware of any error, omission, or inconsistency in such services or information.
- F. The Consultant shall provide copies of drawings, reports, specifications, and other necessary information to the Client and its other consultants in the format the Client requires.
- G. The Consultant shall assist the Client in connection with Client's responsibility for filing documents required for the approval of governmental authorities having jurisdiction over the Project.
- H. Except with the Client's knowledge and consent, the Consultant shall not engage in any activity, or accept any employment, interest or contribution that would reasonably appear to compromise its professional judgment with respect to this Project.
- I. The Consultant shall procure and maintain at its own expense, the insurance coverages and limits set forth in the attached sample Certificate of Insurance. To the fullest extent permitted by law, the Consultant shall cause the primary and excess or umbrella policies for Commercial General Liability and Automobile Liability to include the Client as an additional insured for claims caused in whole or in part by Consultant's negligent acts or omissions. The additional insured coverage shall be primary and non-contributory to any of the Client's insurance policies and shall apply to both ongoing and completed operations.

- J. The Consultant shall not be responsible for Client's directives or substitutions, or for the Client's acceptance of non-conforming Work, made or given without the Consultant's written approval.

2. Client's Responsibilities

- A. The Client shall provide information in a timely manner regarding requirements for and limitations on the Project, including a written program which shall set forth the Client's objectives, schedule, constraints and criteria, including space requirements and relationships, flexibility, expandability, special equipment, systems and site requirements.
- B. The Client shall identify a representative authorized to act on the Client's behalf with respect to the Project. The Client shall render decisions and approve the Consultant's submittals in a timely manner in order to avoid unreasonable delay in the orderly and sequential progress of the Services.
- C. The Client shall coordinate the services of its own consultants and contractors with those services provided by Consultant. Upon the Consultant's request, the Client shall furnish copies of the scope of services in the contracts between the Client and its other consultants. Client shall require that its Consultants and Contractors maintain insurance, including professional liability insurance, as appropriate to the services or work provided.
- D. The Client shall furnish tests, inspections and reports required by law or the Contract Documents, such as structural, mechanical, electrical, and chemical tests; tests for air and water pollution; and tests for hazardous materials.
- E. The Client shall provide prompt written notice to the Consultant if Client becomes aware of any fault or defect in the Project, including errors, omissions or inconsistencies in the Consultant's Instruments of Service.
- F. The Client shall include the Consultant in all communications with contractors or other consultants that relate to or affect the Services or Consultant's professional responsibilities. The Client shall promptly notify the Consultant of the substance of any direct communications between the Client and contractors or other consultants otherwise relating to the Project. Communications by and with Consultant's consultants shall be through Consultant.
- G. The Client shall provide the Consultant reasonable access to the Project site.

3. Additional Services

- A. Consultant may provide Additional Services after execution of this Agreement without invalidating the Agreement. Upon recognizing the need to perform Additional Services, Consultant shall notify Client. Consultant shall not provide the Additional Services until Consultant receives Client's written authorization. Except for services required due to the fault of The Consultant, any Additional Services provided in accordance with this Section shall entitle the Consultant to compensation pursuant to the payment terms herein.
- B. The Consultant shall provide as an Additional Service, those services necessitated by (1) a change in the intent of the Project and/or changes in previous instructions or approvals given by the Client, (2) a material change in the Project including size; quality; complexity; the Client's schedule or budget; or procurement or delivery method, (3) additional site trips, unforeseen existing conditions, change orders caused by other parties and redesign work required to adjust the overall contract

documents to within the Client's budget, or (4) a proposed change in the Services. The Consultant shall prepare revisions to its Instruments of Service as an Additional Service when such revisions are necessitated by change orders and/or construction change directives.

4. Copyrights and Licenses.

- A. The Consultant and Client warrant that in transmitting Instruments of Service, or any other information, the transmitting party is the copyright Owner of such information or has permission from the copyright Owner to transmit such information for its use on the Project.
- B. The Consultant and its consultants shall be deemed the authors and Owners of their respective Instruments of Service, including the Drawings and Specifications, and shall retain all common law, statutory and other reserved rights, including copyrights. Submission or distribution of Instruments of Service to meet official regulatory requirements or for similar purposes in connection with the Project is not to be construed as publication in derogation of the reserved rights of Consultant or its consultants.
- C. The Consultant grants to Client a nonexclusive license to use Consultant's Instruments of Service solely and exclusively for purposes of constructing, using, maintaining, altering and adding to the Project, provided that Client substantially performs its obligations under this Agreement, including prompt payment of all sums when due. The license granted under this section permits Client to authorize the general contractor, subcontractors, sub-subcontractors, suppliers, and Client's consultants and separate contractors to reproduce applicable portions of Consultant's Instruments of Service, subject to any protocols established by mutual agreement of the parties, solely and exclusively for use in performing services or construction for the Project. If Consultant rightfully terminates this Agreement, the license granted under this section shall terminate.
- D. In the event Client uses the Instruments of Service without retaining Consultant, Client releases Consultant and its consultants from all claims and causes of action arising from such uses. To the fullest extent permitted by law, Client further agrees to indemnify and hold harmless Consultant and its consultants from all costs and expenses, including the cost of defense, related to claims and causes of action asserted by any third person or entity to the extent such costs and expenses arise from Client's use of the Instruments of Service.
- E. Except for the licenses specifically granted herein, no other license or right shall be deemed granted or implied under this Agreement. Client shall not assign, delegate, sublicense, pledge or otherwise transfer any license granted herein to another party without the prior written agreement of Consultant. Any unauthorized use of the Instruments of Service shall be at Client's sole risk and without liability to Consultant or its consultants.
- F. The provisions of this Section shall survive termination of this Agreement.

5. Claims and Disputes.

- A. Client and Consultant shall commence all claims and causes of action against the other and arising out of or related to this Agreement, whether in contract, tort, or otherwise, in accordance with the requirements of the binding dispute resolution method set forth below and within the period specified by applicable law, but in any

case not more than 10 years after the date of Substantial Completion of the Work. Client and Consultant waive all claims and causes of action not commenced in accordance with this Section.

- B. To the extent damages are covered by property insurance, Client and Consultant waive all rights against each other and against the contractors, consultants, agents, and employees of the other, for damages, except such rights as they may have to the proceeds of such insurance. Client or Consultant, as appropriate, shall require of the contractors, consultants, agents, and employees of any of them, similar waivers in favor of the other parties enumerated herein.
- C. In no event shall Client or Consultant be liable to the other party for special, indirect, incidental, punitive or consequential damages, including without limitation, commercial loss, loss of use, or lost profits (collectively, "Consequential Damages"), even if either party has been advised of the possibility of such damages. This mutual waiver of Consequential Damages shall apply under all theories of liability or causes of action including, but not limited to, contract, warranty, tort (including negligence), indemnity, strict liability, or otherwise.
- D. Any claim dispute or other matter in question arising out of or related to this Agreement shall be subject to mediation as a condition precedent to binding dispute resolution. If such matter relates to or is the subject of a lien arising out of the Services, Consultant may proceed in accordance with applicable law to comply with the lien notice or filing deadlines prior to resolution of the matter by mediation or by binding dispute resolution.
- E. Mediation, unless the parties mutually agree otherwise, shall be administered in accordance with the Construction Industry Mediation Procedures of the American Arbitration Association then in effect at the time of the dispute. The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in the place where the Project is located, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.
- F. If the parties do not resolve a dispute through mediation, the method of binding dispute resolution shall be litigation in a court of competent jurisdiction.

6. Indemnification.

- A. Each party ("Indemnitor") shall indemnify and hold harmless the other party and its employees, officers, directors, and agents (each an "Indemnitee") from any suit, cause of action, judgment or claim ("Claim") for damages to property or bodily injury, loss of life, infringement, liability of any nature, costs, or expenses, including court costs and reasonable attorneys' fees ("Damages") to the extent caused directly by the negligent act or omission or intentional misconduct of the Indemnitor. Indemnification shall not apply to Damages proximately caused by the negligence of the Indemnitee.

7. Termination or Suspension.

- A. If Client fails to make payments to Consultant in accordance with this Agreement, such failure shall be considered a material breach of this Agreement and cause for (1) termination or (2) at Consultant's option, suspension of performance of Services. Consultant shall give seven (7) days' written notice to Client before suspending Services. Consultant shall have no liability to Client for delay or

damages incurred by Client because of such suspension of Services. Before resuming Services, Client shall pay Consultant all sums due prior to suspension and any expenses reasonably incurred by Consultant in the interruption and resumption of Services. Consultant's fee for the remaining Services and the Project schedule shall both be equitably adjusted.

- B. If Client suspends the Project, Consultant shall be compensated for Services performed prior to notice of such suspension. When the Project is resumed, Consultant shall be compensated for expenses reasonably incurred in the interruption and resumption of the Services. Consultant's fee for the remaining Services and the Project schedule shall both be equitably adjusted.
- C. Either party may terminate this Agreement upon not less than seven (7) days' written notice should the other party fail substantially to perform in accordance with the terms of this Agreement through no fault of the party initiating the termination.
- D. Client may terminate this Agreement for its convenience and without cause upon not less than seven (7) days' written notice to Consultant. In the event of termination for Client's convenience, Consultant shall be compensated for Services performed prior to termination and all costs directly attributable to such termination, including the costs attributable to Consultant's termination of its subconsultant agreements.
- E. Except as otherwise expressly provided herein, this Agreement shall terminate one year from the date on which Consultant completes its Services.

8. Payment

- A. Unless otherwise agreed, payments for Services shall be made monthly in proportion to Services performed. Payments are due and payable upon presentation of Consultant's invoice. Amounts unpaid sixty (60) days after the invoice date shall bear interest at the maximum rate allowed by applicable law.
- B. Client shall not withhold amounts from Consultant's compensation to impose a penalty or liquidated damages on Consultant, or to offset sums requested by or paid to contractors for the cost of changes in their work unless Consultant explicitly agrees in writing or has been found liable for such amounts in a binding dispute resolution proceeding.

9. Miscellaneous

- A. This Agreement shall be governed by the law of the place where the Project is located notwithstanding that jurisdiction's choice of law rules.
- B. Terms in this Agreement shall have the same meaning as those in AIA Document A201-2017, General Conditions of the Contract for Construction.
- C. Client and Consultant, respectively, bind themselves, their agents, successors, assigns and legal representatives to this Agreement. Neither Client nor Consultant shall assign this Agreement without the written consent of the other, except that Client may assign this Agreement to a lender providing financing for the Project if the lender agrees to assume Client's rights and obligations under this Agreement, including any payments due to Consultant by Client prior to the assignment.
- D. Nothing contained in this Agreement shall create a contractual relationship with, or a cause of action in favor of, a third party against either Client or Consultant.

- E. Consultant shall have no responsibility for the discovery, presence, handling, removal or disposal of, or exposure of persons to, hazardous materials or toxic substances in any form at the Project site.
- F. Consultant shall have the right to include photographic or artistic representations of the design of the Project among its promotional and professional materials. Consultant shall be given reasonable access to the completed Project to make such representations. However, Consultant's materials shall not include Client's confidential or proprietary information if Client has previously advised Consultant in writing of the specific information considered by the Client to be confidential or proprietary. Client shall provide professional credit for Consultant in the Client's promotional materials for the Project. This Section shall survive the termination of this Agreement unless Client terminates this Agreement for cause pursuant to Section 7 above.
- G. If either party receives information specifically designated as "confidential" or "business proprietary," the receiving party shall keep such information strictly confidential and shall not disclose it to any other person except as set forth in this Section. The receiving party may disclose "confidential" or "business proprietary" information after 7 days' notice to the other party, when required by law, arbitrator's order, or court order, including a subpoena or other form of compulsory legal process issued by a court or governmental entity, or to the extent such information is reasonably necessary for the receiving party to defend itself in any dispute. The receiving party may also disclose such information to its employees, consultants, or contractors in order to perform services or work solely and exclusively for the Project, provided those employees, consultants and contractors are subject to the restrictions on the disclosure and use of such information as set forth in this Section. This Section shall survive the termination of this Agreement.
- H. The invalidity of any provision of the Agreement shall not invalidate the Agreement or its remaining provisions. If it is determined that any provision of the Agreement violates any law, or is otherwise invalid or unenforceable, then that provision shall be revised to the extent necessary to make that provision legal and enforceable. In such case the Agreement shall be construed, to the fullest extent permitted by law, to give effect to the parties' intentions and purposes in executing the Agreement.
- I. This Agreement contains the entire understanding and agreement of the parties. All previous negotiations, whether oral or written, are superseded by this Agreement. This Agreement shall be amended or modified only in writing and shall be effective only when signed by authorized agents of both parties.
- J. Both parties participated equally in drafting the terms and conditions of this Agreement. Each party had opportunity to consult with legal counsel regarding the covenants, obligations, and representations of this Agreement, which will not be construed against either party as the drafting party.
- K. All notices required under this Agreement are valid only if in writing and delivered by commercial courier or U.S. mail, certified postage prepaid. Email notices are valid if accompanied by a delivery receipt.
- L. Liability for Design Errors and Omissions:
 - 1) The Additional Cost associated with Change Orders resulting from design errors and omissions shall be equal to the total cost of the Change Orders

resulting from design errors and omissions in excess of the Value Added to the project by such Change Orders. The Value Added to the project by such Change Orders shall be equal to the estimated cost of the work had it been included in the original contract. When unable to reasonably determine the Value Added to the project by a Change Order resulting from a design error or omission through cost estimating guides or other references, the Owner will assume that the Additional Cost associated with the Change Order is equal to 20% of the amount of the Change Order.

- 2) If the aggregate Additional Cost associated with Change Orders resulting from design errors and omissions is greater than 0.75% of the total Cost of Construction (inclusive of all Change Orders), the Consultant will be financially responsible for the aggregate Additional Cost associated with Change Orders resulting from design errors and omissions in excess of 0.75% of the total Cost of Construction. In this event, the Client will reduce the Basic Services fee of the Consultant by an amount equal to the aggregate Additional Cost associated with Change Orders resulting from design errors and omissions less 0.75% of the total Cost of Construction.
- 3) In order for Client to obtain the benefit of a fee which includes a lesser allowance for risk funding, Client agrees to limit Consultant's liability from Consultant's professional acts, errors or omissions such that the total liability of Consultant shall not exceed Consultant's total fee for the Services rendered on the Project.

EXHIBIT G

CERTIFICATE OF INSURANCE

Insurance certificate will be provided upon request.



August 29, 2024

Steven Boone
Assistant City Manager/Finance Director
City of Mountain Brook

Re: Municipal Facility Retro-Commissioning

Dear Mr. Boone,

We have qualified and evaluated several firms who responded to our request for proposal for retro-commissioning your municipal facility. We believe having this assessment performed on the building will be beneficial to the long-term operation of the facility in terms of maximizing capability and lifespan of your mechanical systems. At the beginning of our engagement with the City of Mountain Brook, the Lemoine Program Services team performed a facility assessment on the municipal complex and identified several key items that needed to be addressed, namely sequencing the loop pumps, adjusting the lead-lag sequence on the water boilers, and adjusting the operation of the garage exhaust fan. Releasing this retro-commissioning scope would allow the selected firm to evaluate each of these items as well as other essential systems such as your water source heat pumps, chill tower, and building pressure controls.

While we are confident in the teams of each of the respondents, we believe that Bernhard's proposal is the strongest as they went above and beyond to collect all information needed to perform the assessment and structure a tailored proposal for the facility. Further, they were the lowest in terms of cost by a wide margin, but we believe this to be the case only because their proposal was tailored to your facility. A comprehensive list of services to be performed is available in the fee proposal. We are happy to answer any questions you may have.

Thank you,

Brett Twigg
Assistant Program Manager

Cc: Jack Darnall

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CITY OF MOUNTAIN BROOK

Dana O. Hazen, AICP
Director of Planning, Building & Sustainability
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DATE: September 9, 2024

TO: Mayor, City Council and City Manager

FROM: Dana Hazen, Director of Planning, Building & Sustainability

RE: Conditional Use – Emily & Eli’s Dog Grooming Salon
3150 Overton Road (Overton Road shopping center)

See attached letter from the applicant outlining the proposed operational characteristics. It appears from the letter that the proposal meets the conditional use ordinance (see below) with respect to outdoor runs, overnight boarding and noise abatement.

Since this shopping center was constructed before incorporation into the City of Mountain Brook, it is nonconforming with respect to parking, with fifty-three (53) on-site parking spaces where seventy-two (72) would be required for a retail parking ratio by today’s code.

In 2011, the council approved an off-site parking agreement for this property, binding the on-site shopping center (and specifically the nail salon) to the parking lot on the opposite side of Fairhaven Drive, which contains 48 parking spaces. Twenty-four (24) of the off-site parking spaces were credited to the nail salon in 2011, and another 4 were credited to Villager Yoga in 2020; leaving 20 surplus parking spaces for employees and patrons of the shopping center.

Given that there are 20 surplus spaces in the off-site parking lot, it appears that there is sufficient parking to accommodate the dog grooming use as outlined in the applicant’s letter of operational characteristics.

The zoning ordinance requires council approval of a grooming use as follows:

“Section 129-192. Veterinary clinics/pet grooming, provided that there be no outdoor runs, and that business be conducted wholly within a building; no overnight boarding. Conditional review and approval shall ensure that sufficient areas for loading and unloading animals be provided, that appropriate measures be employed to minimize noise, odors, waste or other negative impacts incidental to operation of the business, and that the proposed use is compatible with the surrounding commercial and residential uses.”

08/27/2024

RE: ZONING FOR DOG GROOMING SALON

DEAR CITY COUNCIL,

My name is Liliana Jaimes currently owner of Emily and Eli's Dog Grooming Salon located in Hoover, AL. I want to expand my business in Mountain Brook at location 3150 Overton Rd, Birmingham, AL, I have a lot of clients from Mountain Brook which is why I am looking to lease closer to them. The business we do is for dog grooming, we will have 2 employees at this location, number of patrons expected is 12 daily, the square footage where we are looking to lease is 1200 SF, employees will park in private parking in the back of building, we will be accepting about 12 dogs daily, our hours will be Monday to Saturday from 7am to 6pm. There will be no outdoors runs, no overnight boarding, we will minimize noise, odors, waste or any other matter necessary for the operation of business. I ask for approval from the city council to be able to expand my business in Mountain Brook. Thank you.

Sincerely,
Liliana Jaimes
Emily and Eli's Dog Grooming Salon