

**MEETING AGENDA
MOUNTAIN BROOK CITY COUNCIL**

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

MAY 28, 2024, 7 P.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 05282024).

1. Consideration: Resolution supporting an application for sidewalk(s) selected by the City Council for Transportation Alternative Program (TAP) funding.
2. Consideration: Resolution ratifying the execution of a contractor agreement between the City and Lower Brothers Tennis Courts with respect to the resurfacing of the Mountain Brook High School tennis courts.
3. Consideration: Resolution authorizing an agreement between the City of Mountain Brook and the City of Homewood with respect to the bilateral lending fire trucks and other firefighting equipment during emergencies and disasters.
4. Comments from residents and attendees.
5. Announcement: The next regular meeting of the City Council is June 10, 2024 at 7:00 p.m.
6. Adjourn.

RESOLUTION NO. 2024-077

BE IT RESOLVED by the City Council of the City of Mountain Brook, Alabama, that the City Council hereby supports the TAP application for the installation of sidewalk along _____ The total estimated project cost is \$ _____ with 80% to be paid by the Federal government and 20% to be paid by the City and;

BE IT FURTHER RESOLVED the City hereby commits to funding the match mentioned above and any non-federal costs incurred.

ADOPTED: This 28th day of May, 2024.

Council President

APPROVED: This 28th day of May, 2024.

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 meeting held on May 28, 2024, as same appears in the minutes or record of said meeting.

City Clerk

OPINION OF PROBABLE CONSTRUCTION COST
 SIDEWALK ON BROOKWOOD RD FROM 3629 BROOKWOOD RD TO 3665 BROOKWOOD RD (Approx 1500 LF)
 MOUNTAIN BROOK, AL

Item No.	Item Description	Quantity	Unit	Unit Price	Total
201A-002	Clearing and Grubbing	1	LS	\$ 8,000.00	\$ 8,000.00
206C-010	Removing Concrete Driveway	250	SY	\$ 30.00	\$ 7,500.00
206D-002	Removing Gutter	1400	LF	\$ 20.00	\$ 28,000.00
209A-000	Mailbox Reset, Single	10	EA	\$ 1,000.00	\$ 10,000.00
210A-000	Unclassified Excavation	500	CY	\$ 35.00	\$ 17,500.00
210D-000	Borrow Excavation	400	CY	\$ 55.00	\$ 22,000.00
305B-078	Crushed Aggregate, Section 825, Type B, For Miscellaneous Use	100	CY	\$ 45.00	\$ 4,500.00
405A-000	Tack Coat	270	GAL	\$ 7.00	\$ 1,890.00
408B-001	Micro-Milling Existing Pavement (approximately 1.10" Thru 2.0" Thick)	3500	SY	\$ 4.00	\$ 14,000.00
424A-360	Superpave Bituminous Concrete Wearing Surface Layer, 1/2" Maximum Aggregate Size Mix, ESAL Range C/D	315	TN	\$ 175.00	\$ 55,125.00
529A-010	Retaining Wall	400	SF	\$ 120.00	\$ 48,000.00
610D-003	Filter Blanket, Geotextile	100	SY	\$ 15.00	\$ 1,500.00
618A-000	Concrete Sidewalk, 4" Thick	850	SY	\$ 90.00	\$ 76,500.00
618B-002	Concrete Driveway, 6" Thick	350	SY	\$ 110.00	\$ 38,500.00
620A-000	Minor Structure Concrete	2	CY	\$ 2,000.00	\$ 4,000.00
621C-300	Replace Existing Inlet Top With Modified Type S Inlet Top	4	EA	\$ 3,500.00	\$ 14,000.00
623C-003	Concrete Curb, Type C (Modified)	1400	LF	\$ 45.00	\$ 63,000.00
623B-005	Concrete Curb, Type E	500	LF	\$ 60.00	\$ 30,000.00
641R-515	1 Inch Water Meter & Box Reset	11	EA	\$ 2,000.00	\$ 22,000.00
650A-000	Topsoil	250	CY	\$ 35.00	\$ 8,750.00
654A-000	Solid Sodding	750	SY	\$ 12.00	\$ 9,000.00
656A-010	Mulching	1	AC	\$ 1,000.00	\$ 1,000.00
659C-XXX	Erosion Control Product	1000	SY	\$ 4.00	\$ 4,000.00
665A-000	Temporary Seeding	1	AC	\$ 1,200.00	\$ 1,200.00
665B-001	Temporary Mulching	1	TN	\$ 750.00	\$ 750.00
665J-002	Silt Fence	1600	LF	\$ 6.00	\$ 9,600.00
665N-000	Temporary Coarse Aggregate, ALDOT Number 1	75	TN	\$ 60.00	\$ 4,500.00
665O-001	Silt Fence Removal	1600	LF	\$ 2.00	\$ 3,200.00
665P-005	Inlet Protection, Stage 3 or 4	4	EA	\$ 600.00	\$ 2,400.00
674A-000	Construction Safety Fence	200	LF	\$ 5.00	\$ 1,000.00
674A-XXX	Tree Protection Fence	200	LF	\$ 15.00	\$ 3,000.00
711A-000	Roadway Sign Relocation (2 Total)	1	LS	\$ 1,350.00	\$ 1,350.00
740B-000	Construction Signs	48	SF	\$ 30.00	\$ 1,440.00
740D-000	Channelizing Drums	60	EA	\$ 60.00	\$ 3,600.00
740E-000	Cones (36 Inches High)	25	EA	\$ 25.00	\$ 625.00
740M-001	Ballast for Cone	25	EA	\$ 15.00	\$ 375.00
780E-000	Special Design Brick Wall	25	LF	\$ 500.00	\$ 12,500.00
600A-000	Mobilization (9.7%)	1	LS	\$ 51,827.59	\$ 51,827.59
680A-001	Geometric Controls (1.3%)	1	LS	\$ 7,619.72	\$ 7,619.72
	Contingency (10%)	1	LS	\$ 59,375.23	\$ 59,375.23

SUBTOTAL	\$ 653,200.00
Construction Engineering and Inspection (15%)	\$ 98,000.00
Preliminary Engineering (15%)	\$ 98,000.00
ESTIMATED CONSTRUCTION COST (ELIGIBLE ITEMS)	\$ 849,200.00

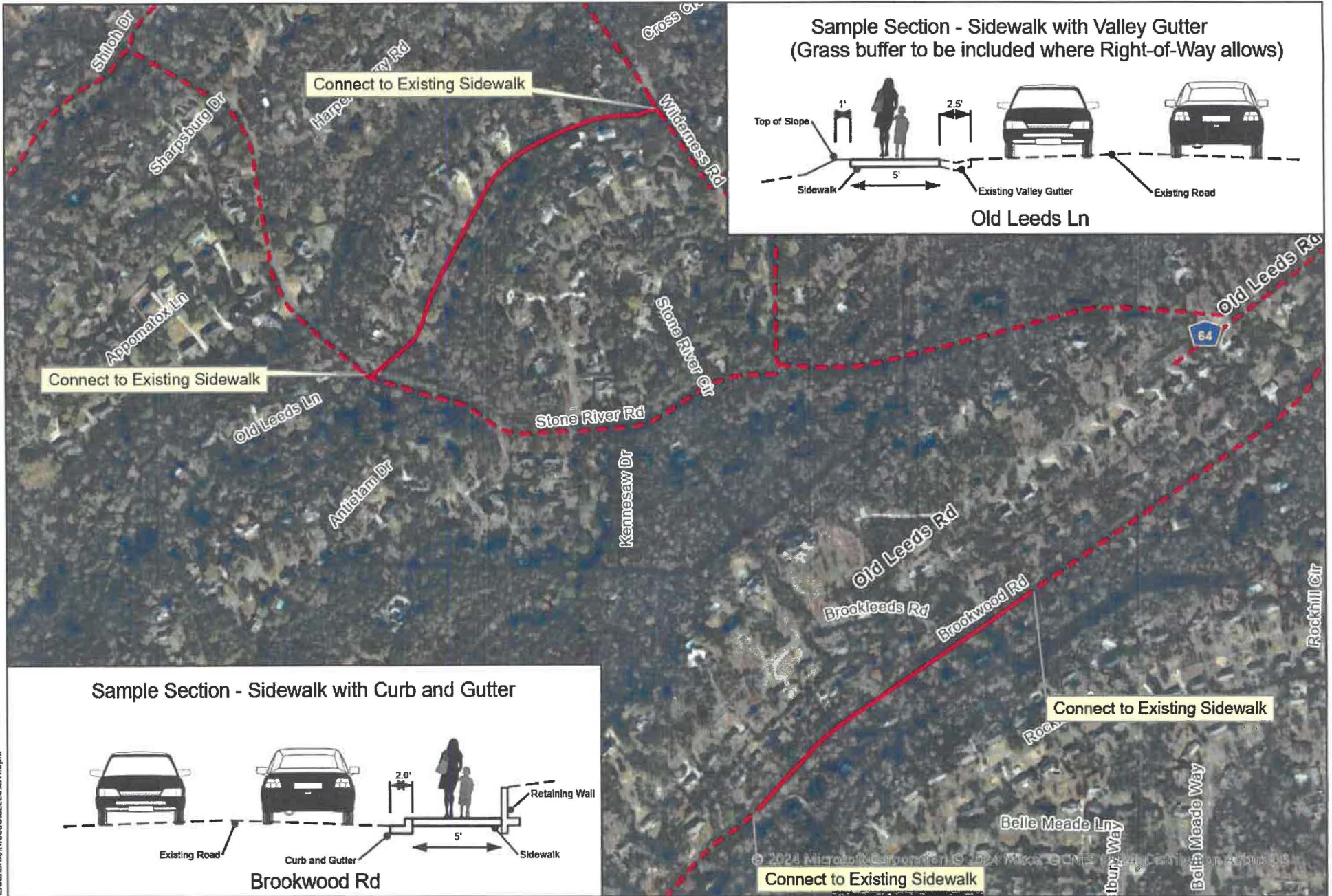
NOTE: ENGINEER'S OPINION OF PROBABLE CONSTRUCTION COST PROVIDED IS MADE ON THE BASIS OF ENGINEER'S EXPERIENCES AND QUALIFICATION AND REPRESENTS ENGINEER'S BEST JUDGMENT WITHIN THE INDUSTRY. ENGINEER DOES NOT GUARANTEE THAT PROPOSALS, BIDS, OR ACTUAL COST WILL NOT VARY FROM ENGINEER'S OPINION OF PROBABLE COST.

OPINION OF PROBABLE CONSTRUCTION COST
 SIDEWALK ON OLD LEEDS LANE FROM WILDERNESS ROAD TO STONE RIVER (Approx 1900 LF)
 MOUNTAIN BROOK, AL

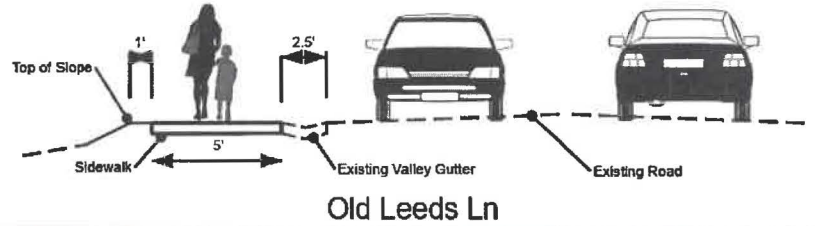
Item No.	Item Description	Quantity	Unit	Unit Price	Total
201A-002	Clearing and Grubbing	1	LS	\$ 8,000.00	\$ 8,000.00
206C-000	Removing Concrete Sidewalk	5	SY	\$ 40.00	\$ 200.00
206C-010	Removing Concrete Driveway	325	SY	\$ 30.00	\$ 9,750.00
206C-027	Removing Brick Pavement	22	SY	\$ 35.00	\$ 777.78
206D-002	Removing Curb	60	LF	\$ 20.00	\$ 1,200.00
206D-017	Removing Handrail	25	LF	\$ 60.00	\$ 1,500.00
206D-022	Removing Brick Retaining Wall	30	LF	\$ 200.00	\$ 6,000.00
209A-000	Mailbox Reset, Single	11	EA	\$ 1,000.00	\$ 11,000.00
210A-000	Unclassified Excavation	850	CY	\$ 35.00	\$ 29,750.00
210D-000	Borrow Excavation	1250	CY	\$ 35.00	\$ 43,750.00
305A-051	Coarse Aggregate, Section 801, For Miscellaneous Use	20	CY	\$ 75.00	\$ 1,500.00
424A-360	Superpave Bituminous Concrete Wearing Surface Layer, 1/2" Maximum Aggregate Size Mix, ESAL Range C/D	50	TN	\$ 250.00	\$ 12,500.00
517G-000	Ornamental Metal Fence	25	LF	\$ 250.00	\$ 6,250.00
529A-010	Retaining Wall	225	SF	\$ 160.00	\$ 36,000.00
610D-003	Filter Blanket, Geotextile	100	SY	\$ 15.00	\$ 1,500.00
613F-000	Brick Paving	200	SF	\$ 100.00	\$ 20,000.00
618A-000	Concrete Sidewalk, 4" Thick	1200	SY	\$ 90.00	\$ 108,000.00
618A-200	Turndown Sidewalk Wall (Includes Handrail)	100	LF	\$ 475.00	\$ 47,500.00
618B-002	Concrete Driveway, 6" Thick	325	SY	\$ 110.00	\$ 35,750.00
618C-001	Detectable Warning Surface	80	SF	\$ 50.00	\$ 4,000.00
618D-000	Curb Ramp	4	EA	\$ 1,500.00	\$ 6,000.00
621C-300	Replace Existing Inlet Top With Modified Type S Inlet Top	3	EA	\$ 3,000.00	\$ 9,000.00
623A-000	Concrete Gutter	200	LF	\$ 50.00	\$ 10,000.00
641R-515	1 Inch Water Meter & Box Reset	5	EA	\$ 2,000.00	\$ 10,000.00
650A-000	Topsoil	800	CY	\$ 35.00	\$ 28,000.00
654A-000	Solid Sodding	3500	SY	\$ 12.00	\$ 42,000.00
656A-010	Mulching	1	AC	\$ 1,000.00	\$ 1,000.00
659C-XXX	Erosion Control Product	1200	SY	\$ 3.00	\$ 3,600.00
665A-000	Temporary Seeding	1	AC	\$ 1,200.00	\$ 1,200.00
665B-001	Temporary Mulching	1	TN	\$ 750.00	\$ 750.00
665J-002	Silt Fence	2500	LF	\$ 6.00	\$ 15,000.00
665O-001	Silt Fence Removal	2500	LF	\$ 2.00	\$ 5,000.00
665P-005	Inlet Protection, Stage 3 or 4	3	EA	\$ 600.00	\$ 1,800.00
665N-000	Temporary Coarse Aggregate, ALDOT Number 1	75	TN	\$ 60.00	\$ 4,500.00
674A-000	Construction Safety Fence	200	LF	\$ 5.00	\$ 1,000.00
674A-XXX	Tree Protection Fence	200	LF	\$ 15.00	\$ 3,000.00
711A-000	Roadway Sign Relocation (4 Total)	1	LS	\$ 2,700.00	\$ 2,700.00
740B-000	Construction Signs	100	SF	\$ 30.00	\$ 3,000.00
740D-000	Channelizing Drums	60	EA	\$ 60.00	\$ 3,600.00
740E-000	Cones (36 Inches High)	25	EA	\$ 25.00	\$ 625.00
740M-001	Ballast for Cone	25	EA	\$ 15.00	\$ 375.00
780E-000	Special Design Brick Wall	30	LF	\$ 300.00	\$ 9,000.00
600A-000	Mobilization (9.7%)	1	LS	\$ 52,969.54	\$ 52,969.54
680A-001	Geometric Controls (1.3%)	1	LS	\$ 7,787.62	\$ 7,787.62
	Contingency (10%)	1	LS	\$ 59,883.49	\$ 59,883.49

SUBTOTAL \$ 666,800.00
 Construction Engineering and Inspection (15%) \$ 100,100.00
 Preliminary Engineering (15%) \$ 100,100.00
ESTIMATED CONSTRUCTION COST (ELIGIBLE ITEMS) \$ 867,000.00

NOTE: ENGINEER'S OPINION OF PROBABLE CONSTRUCTION COST PROVIDED IS MADE ON THE BASIS OF ENGINEER'S EXPERIENCES AND QUALIFICATION AND REPRESENTS ENGINEER'S BEST JUDGMENT WITHIN THE INDUSTRY. ENGINEER DOES NOT GUARANTEE THAT PROPOSALS, BIDS, OR ACTUAL COST WILL NOT VARY FROM ENGINEER'S OPINION OF PROBABLE COST.

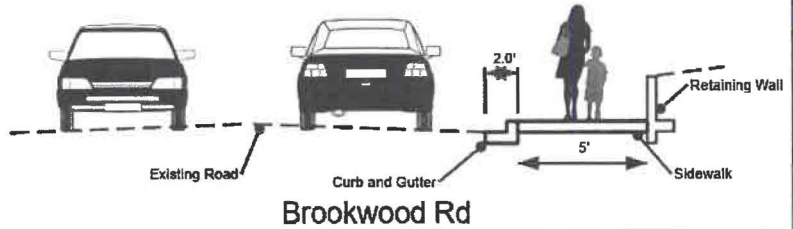


Sample Section - Sidewalk with Valley Gutter
(Grass buffer to be included where Right-of-Way allows)



Connect to Existing Sidewalk

Sample Section - Sidewalk with Curb and Gutter



Connect to Existing Sidewalk

Connect to Existing Sidewalk

Old Leeds Ln and Brookwood Rd Extension

FY-2025 TAP Application
Mountain Brook, Alabama

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NOT TO SCALE

RESOLUTION NO. 2024-079

BE IT RESOLVED by the City Council of the City of Mountain Brook, Alabama, that the City Council hereby ratifying the execution of a contractor agreement with Lower Bros Tennis Courts with respect to the repair and resurface of six tennis courts at the Mountain Brook High School.

ADOPTED: This 28th day of May, 2024.

Council President

APPROVED: This 28th day of May, 2024.

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 May 28, 2024, as same appears in the minutes of record of said meeting.

City Clerk

CONTRACTOR AGREEMENT

Lower Bros Tennis Courts, an Alabama limited liability company (hereinafter the “Contractor”) enters this Contractor Agreement (“Agreement”) with the **City of Mountain Brook, Alabama**, a municipal corporation (“City”), effective as of the date last executed by a party below (the “Effective Date”). Contractor and City may be individually referenced herein as “Party” or collectively as “Parties.”

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

Name of Project: Repair and Resurface six High school tennis courts

Site of Project: 3650 Bethune Dr. Mountain Brook Al 35223

2. **Scope of Work.** The Scope of Work is set forth on Exhibit A (which includes the May 14, 2024 Contractor Proposal and the Project Plans) that is attached and incorporated herein.

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

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

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

5. **Contract Price/Invoice/Certification.** Unless otherwise stated in the Special Conditions on Exhibit A or agreed in a writing signed by the Parties, City will pay Contractor the lump sum amount of Fifty One Thousand, Eight Hundred Dollars and Zero Cents (\$51,800.00) as compensation for performing the Work (the “Contract Price”). Unless agreed in a writing or amendment to this Agreement that is signed by duly authorized representatives of both Parties, the total amount payable to the Contractor for the Work shall not exceed the Contract Price.

The City will pay the Contract Price on this Project as follows:

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

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

- (a) that it expeditiously will perform its Work in a good and workmanlike manner that is consistent with level of skill and care that would be provided by other contractors performing operations under the same or similar conditions, and in accordance with the Project schedule;
- (b) that it, and all of its employees or any subcontractors (if authorized), will complete the Work in compliance with all codes, laws and regulations that are applicable to the Project;
- (c) that before commencing the Work, at its own expense, the Contractor will obtain all licenses, permits or other governmental authorizations needed to complete the Project, including without limitation, a business license and building permit issued by the City (collectively, "Licensing"). Contractor further agrees to maintain that Licensing throughout the performance of the Project;
- (d) that it has inspected the Site and any other locations at which it will perform the Work, and, based on that inspection and its expertise, that it has determined that each of those locations is reasonably suitable for Contractor to complete the Work;
- (e) that the Contractor shall be responsible to remove and properly dispose of any debris related to its completion of the Project, and that it will leave each location where the Work is performed in reasonably clean condition;
- (f) that the Work will be free of any material defects in workmanship and materials for a period of one (1) year that shall commence on the date of completion of the Project; and
- (g) that all actions required to be taken by or on behalf of the Contractor to enter or execute this Agreement, and to perform its obligations and agreements hereunder, have been duly taken, and the person signing below on behalf of Contractor is authorized to execute this Agreement.

7. Insurance/Safety/Indemnification.

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

(i) **Comprehensive General Liability:** Seven Hundred Fifty Thousand Dollars (\$750,000.00), combined single limit and aggregate for bodily injury and property damage. This Comprehensive General Liability policy shall include coverage for premises/operations, products/completed operations, assumed contractual obligations, independent contractors, and broad form property damage;

(ii) **Automobile Liability:** Automobile Liability covering owned and rented vehicles operated with policy limits of not less than Seven Hundred Fifty Thousand Dollars (\$750,000.00) combined single limit and aggregate for bodily injury and property damage;

(iii) **Workers Compensation/Employer's Liability:** Workers' Compensation as required by statute and Employer's Liability with limits of Five Hundred Thousand Dollars (\$500,000.00) per occurrence.

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

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

(c). *Indemnification.* Contractor agrees to defend, indemnify, and hold harmless City and its agents, employees and officials (hereinafter collectively, the "Indemnitees") from and against all demands, actions, liabilities, expenses (including reasonable attorney's fees) or claims for damages by any third parties (including any employee, subcontractor or representative of the Contractor, hereafter a "Contractor Representative") that arise out of, relate to or are caused by any negligent act, omission or conduct by Contractor or any Contractor Representative in performing or failing to

perform the Work or its (or their) responsibilities under this Agreement; provided that nothing herein shall obligate the Contractor to indemnify any of the Indemnitees for any claims resulting from the negligent conduct or the willful misconduct of the Indemnitees.

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

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

9. Miscellaneous Provisions.

a. This Agreement which is comprised of this instrument, the April 16, 2024 Contractor Proposal and the Project Plans (collectively, the "Contract Documents") sets forth the entire understanding between the Parties concerning the matters herein, and all oral representations, prior negotiations, understandings, agreements, conditions, and terms discussed between them prior to acceptance and signing of this Agreement are deemed to have merged herein.

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

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

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

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

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

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

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

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

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

(Signature Page Follows)

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

CITY OF MOUNTAIN BROOK, ALABAMA

By: _____

Its: _____

Date: _____

Lower Bros Tennis Courts

By: _____

Its: _____

Date: _____

Project: High School Tennis Courts Repair and Resurface

EXHIBIT A – SPECIFICATIONS

1. Scope of Work.

See attached May 14, 2024 Contractor Proposal.

If Contractor desires or is required to perform services on the Project that fall outside the Scope (“Additional Operations”), the Contractor shall advise the City Project Representative of the need for Additional Operations before undertaking those services, the parties shall reach agreement on the expense of any Additional Operations and the City Project Representative shall approve any such Additional Operations before the Contractor performs same.

2. Project Schedule. The Contractor will complete this project by July 30, 2024 unless an extension is requested in writing by the Contractor and approved in writing by the City.

3. Project Representatives.

City Project Representative:
Sam Harris
3698 Bethune Drive
Birmingham, AL 35223
Email: harriss@mtnbrook.org
Day Tel #: 205-438-5506

Contractor Project Representative:
Linn L. Lower
P.O. Box 43026
Birmingham, AL 35243
Email: linn@lowerbros.com
Day Tel #: 205-967-3901

4. Special Conditions:

Lower Bros will repair and resurface 6 tennis courts.

The work to be done includes the following:

- Clean the surface with a high-pressure washer as necessary to remove stains and dirt.
- Fill large structural cracks with crack filling compound and low areas which hold water deeper than 1/8 inch with Court Patch patching mix. (Effectiveness of patching will be determined by the existing slope & planarity of the court.)
- Sand the area with a power sander to remove small imperfections.
- Apply Acrylic Resurfacer as needed to reduce the surface porosity and provide a uniform textured surface.
- Apply a new colored acrylic playing surface. Colors to be selected by the owner.
- Paint new white playing lines. Reinstall the Mt. Brook HS logos (stencil provided by school)
- Sand & repaint net posts as needed.

CRACK REPAIR MEMBRANE - \$17.00 per foot

- Estimated cost is included in lump sum: 720 feet @ \$17.00 per foot = \$12,240, Price to be adjusted either up or down if quantities differ from that estimated.
- Includes installing a flexible crack repair system over existing structural cracks to help prevent open cracks from reappearing. (Some surface cracking is still possible along the edges.)

Proposal



P. O. Box 43026
Birmingham, AL 35243-0026
Phone: 205-967-3901
LowerBros.com

PROPOSAL SUBMITTED TO:

Mountain Brook Parks and Recreation
3698 Bethune Drive
Mountain Brook, AL 35223

Attn: Shanda Williams

JOBSITE PHONE:

205.438.2776 cell

DATE:

May 14, 2024

EMAIL::

williamssh@mtnbrook.org

JOB NAME:

Repair & Resurface six Tennis Courts

JOB LOCATION:

Mountain Brook High School Tennis Facility

We hereby submit specifications and estimates for the following:

Repair & resurface six tennis courts at Mountain Brook HS. Dimensions: 3 Areas, each 120' X 120'

RESURFACE COURTS - \$39,560.00 The work to be done includes the following:

- Clean the surface with a high-pressure washer as necessary to remove stains and dirt.
Fill large structural cracks with crack filling compound and low areas which hold water deeper than 1/8 inch with Court Patch patching mix.
Sand the area with a power sander to remove small imperfections.
Apply Acrylic Resurfacer as needed to reduce the surface porosity and provide a uniform textured surface.
Apply a new colored acrylic playing surface. Colors to be selected by the owner.
Paint new white playing lines. Reinstall the Mt. Brook HS logos (stencil provided by school)
Sand & repaint net posts as needed.

CRACK REPAIR MEMBRANE - \$17.00 per foot

- Estimated cost: 720 feet @ \$17.00 per foot = \$12,240
Includes installing a flexible crack repair system over existing structural cracks to help prevent open cracks from reappearing. (Some surface cracking is still possible along the edges.)

NOTES:

- Grass & vegetation to be poisoned and removed by owner prior to resurfacing.
Water supply to be provided by owner near the courts (for cleaning & surfacing).

WARRANTY: All workmanship and materials are guaranteed for a period of one year from the date of completion. Any existing cracks not covered by the crack membrane system will reappear after a short period of time and are not covered under this warranty.

We propose to furnish labor and materials - complete in accordance with the above specifications for the sum of:

Fifty-one thousand eight hundred and 00/100

Dollars: (\$ 51,800.00)

Payment to be made as follows:

Payment to be made in full upon completion of the project.

All material is guaranteed to be as specified. All work will be completed in a workmanlike manner according to standard practices. Any alteration or deviation from the above specifications involving extra costs will be executed only upon written orders, and will become an extra charge over and above this estimate.

Authorized Signature:

Linn L. Lower, ASBA Certified Tennis Court Builder

NOTE: This proposal may be withdrawn by us if not accepted within thirty days.

Acceptance of Proposal: The above prices, specifications and conditions are satisfactory and are hereby accepted. You are authorized to do the work as specified. Payment will be made as outlined above.

Authorized Signature:

Date of Acceptance:

RESOLUTION NO. 2024-080

BE IT RESOLVED by the City Council of the City of Mountain Brook, Alabama, that City Council hereby authorizes the execution of an agreement between the City and The City of Homewood, in the form as attached hereto as Exhibit A, with respect to lending fire trucks and other firefighting equipment to the City of Homewood Fire Department (and Homewood Fire Department lending to Mountain Brook) whenever the necessity arises during any emergency resulting from fire or other public disaster.

ADOPTED: This 28th day of May, 2024.

Council President

APPROVED: This 28th day of May, 2024.

Mayor

CERTIFICATION

I, Heather Richards, City Clerk of the City of the City of Mountain Brook, Alabama, hereby certify the above to be a true and correct copy of a resolution adopted by the City Council of the City of Mountain Brook at its meeting held on May 28, 2024, as same appears in the minutes of record of said meeting.

City Clerk

STATE OF ALABAMA
JEFFERSON COUNTY

AGREEMENT

THIS AGREEMENT, made and entered into on this the ____ day of May, 2024, by and between the CITY OF MOUNTAIN BROOK, ALABAMA, a municipal corporation, (hereinafter referred to as "Mountain Brook"), and the CITY OF HOMEWOOD, ALABAMA, a municipal corporation (hereinafter referred to as "Homewood").

RECITALS:

WHEREAS, the City of Mountain Brook, Alabama is a municipal corporation, organized, existing and operating a Fire Department pursuant to the authority of Ala Code § 11-43-140 (1975); and

WHEREAS, the City of Homewood, Alabama is a municipal corporation, organized, existing and operating a Fire Department pursuant to the authority of Ala Code § 11-43-140 (1975); and

WHEREAS, Ala Code § 11-43-141 (1975) authorizes municipal fire personnel to assist in emergencies beyond the corporate city limits; and

WHEREAS, Ala Code § 11-102-1 (1975) authorizes municipalities to enter into written contracts with counties or other municipalities for emergency aid services; and

WHEREAS, the Fire Departments of the Cities of Mountain Brook, Alabama and Homewood, Alabama desire for their respective municipalities to enter into a written agreement, which will provide, among other things, that the two Fire Departments may lend and borrow fire trucks and other firefighting equipment when needed; and

WHEREAS, the City Councils of both Mountain Brook and Homewood agree that lending and borrowing fire trucks and firefighting equipment between the cities will enhance public safety and the welfare of the residents of both cities.

NOW, THEREFORE, in consideration of the mutual covenants, promises and premises contained herein and other good and valuable consideration, the receipt of which is hereby acknowledged by each of the parties hereto, the City of Mountain Brook, Alabama and the City of Homewood, Alabama hereby mutually agree as follows:

1. **RECITALS:** The recitals set forth in the premises above are hereby incorporated into this Agreement by reference as though set out fully herein.

2. **MOUNTAIN BROOK AS LENDER:** The City of Mountain Brook Fire Department is hereby authorized to lend its fire trucks and other firefighting equipment to the City of Homewood Fire Department whenever the necessity arises during any emergency resulting from fire or other public disaster. The City of Mountain Brook Fire Department shall

retain the sole discretion to determine whether its fire trucks or other firefighting equipment shall be available for use by Homewood under this Agreement and may deny a request to borrow equipment when it determines that same are needed for operational or emergency use within the City or their use by Homewood would otherwise compromise the ability of Mountain Brook to provide fire protection within its own jurisdiction.

3. HOMEWOOD AS BORROWER: If the City of Homewood Fire Department borrows from and uses the fire trucks and other firefighting equipment owned by the City of Mountain Brook, then in such event the city of Homewood Fire Department shall, when the fire is extinguished and the emergency ended, promptly deliver the said fire trucks and other firefighting equipment back to the City of Mountain Brook in good repair and condition, cleaned, and resupplied back to the condition it was in when borrowed, reasonable wear and tear excepted. Should the said fire trucks and/or other firefighting equipment be damaged or destroyed during such use, then in such event the City of Homewood Fire Department shall be solely responsible for the repair or replacement thereof.

4. HOMEWOOD AS LENDER: The City of Homewood Fire Department is hereby authorized to lend its fire trucks and other firefighting equipment to the City of Mountain Brook Fire Department whenever the necessity arises during any emergency resulting from fire or other public disaster. The City of Homewood Fire Department shall retain the sole discretion to determine whether its fire trucks or other firefighting equipment shall be available for use by Mountain Brook under this Agreement and may deny a request to borrow equipment when it determines that same are needed for operational or emergency use within the City or their use by Mountain Brook would otherwise compromise the ability of Homewood to provide fire protection within its own jurisdiction.

5. MOUNTAIN BROOK AS BORROWER: If the City of Mountain Brook Fire Department borrows from and uses the fire trucks and other firefighting equipment owned by the City of Homewood, then in such event the city of Mountain Brook Fire Department shall, when the fire is extinguished and the emergency ended, promptly deliver the said fire trucks and other firefighting equipment back to the City of Homewood in good repair and condition, cleaned, and resupplied back to the condition it was in when borrowed, reasonable wear and tear excepted. Should the said fire trucks and/or other firefighting equipment be damaged or destroyed during such use, then in such event the City of Mountain Brook Fire Department shall be solely responsible for the repair or replacement thereof.

6. MISCELLANEOUS

A. NON-WAIVER: The failure of Mountain Brook or Homewood to insist, in any one or more instances, upon a strict performance of any of the covenants of this contract, or to exercise any option herein contained, shall not be construed as a waiver, or a relinquishment for the future of such covenant or option, but the same shall continue and remain in full force and effect.

B. WAIVER OR MODIFICATION: Any waiver, alteration or modification of any of the provisions of this Agreement or cancellation or replacement of this contract

shall not be valid unless in writing and signed by the Cities of Mountain Brook and Homewood. This agreement may be amended at any time by written agreement of the parties signatory hereto.

C. NOTICES: Any and all notices required or permitted to be given under this agreement will be sufficient if furnished in writing and sent by Registered Mail to:

If to Mountain Brook: Sam Gaston, City Manager
Mountain Brook City Hall
56 Church Street
Mountain Brook, Alabama 35213
Telephone No. 205-802-3803
E-Mail: gastons@mtnbrook.org

If to Homewood: Patrick McClusky, Mayor
Homewood City Hall
2850 19th Street South
Homewood, Alabama 35209
Telephone No. 205- 746-4695
E-Mail: patrick.mcclusky@homewoodal.org

D. CONSTRUCTION OF TERMS: The Cities of Mountain Brook and Homewood negotiated the terms, provisions and conditions of this agreement and both parties had the equal opportunity for input for the drafting of this agreement. Therefore, any ambiguities of this agreement shall be construed fairly and equitably regardless of the participation of either party in drafting this agreement.

E. GOVERNING LAW: This agreement shall be interpreted, construed and governed to the laws of the State of Alabama. The jurisdiction and venue for the resolution of any dispute shall be in Jefferson County, Alabama.

F. ARTICLE AND SECTION HEADINGS: The article and section headings and captions contained herein are included for convenience only and shall not be considered a part hereof or affect in any manner the construction or interpretation hereof.

G. EXECUTION IN COUNTERPARTS: The agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

H. BINDING EFFECT: The agreement shall inure to the benefit of and shall be binding upon the Cities of Mountain Brook and Homewood, and their successors and assigns.

I. SEVERABILITY: In the event any provision of this agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

J. TERMINATION: This Agreement may be terminated at any time by either party upon written notice to the other party.

K. ENTIRE AGREEMENT: This written Agreement contains the entire agreement between the Cities of Mountain Brook and Homewood, Alabama.

IN WITNESS WHEREOF, the City of Mountain Brook, Alabama, a municipal corporation, and the City of Homewood, Alabama, a municipal corporation, have hereunto caused this Agreement to be executed by their duly authorized officers on this the ___ day of May, 2024.

CITY OF MOUNTAIN BROOK, ALABAMA

By: _____
Stewart Welch, Its Mayor

By: _____
Sam Gaston, Its City Manager

ATTESTED

By: _____

CITY OF HOMEWOOD, ALABAMA

By: _____
Patrick McClusky, Its Mayor

ATTESTED

By: _____