

**REGULAR MEETING AGENDA OF THE
MOUNTAIN BROOK CITY COUNCIL**

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

JUNE 8, 2020, 7:00 P.M.

As authorized by the Governor of the State of Alabama on March 18, 2020, elected officials may deliberate by means of telephone conference, video conference or other similar means of communication. Members of the public are also invited to listen, observe and participate in public meetings by such means as well.

Due to COVID-19 and the mandate that public gatherings of 10 or more are generally not permitted without adequate social distancing, the City Council shall convene by way of electronic communications. Therefore, should anyone wish to listen, observe or participate in the City Council meetings of Tuesday, June 8, 2020 at 7 p.m., please join by way of the Zoom app (re: Meeting ID 801-559-1126, password 06082020).

1. Approval of the May 26, 2020, minutes of the regular meeting of the City Council.
2. Approval of the June 1, 2020, minutes of the special meeting of the City Council.
3. Approval of the June 3, 2020, minutes of the special meeting of the City Council.
4. Consideration: Resolution authorizing the execution of an agreement between the City and Morris-Shea Bridge Co., Inc. for the relocation of a light pole at Field 3 of the Athletic Complex.
5. Consideration: Ordinance establishing the City of Mountain Brook law enforcement retirement benefit policy.
6. Announcement: The next regular meeting of the City Council is Tuesday, June 22, 2020, at 7:00 p.m. (means and location to be announced).
7. Adjourn.

**MOUNTAIN BROOK CITY COUNCIL
PRE-MEETING DISCUSSION
MAY 26, 2020**

[Pursuant to a proclamation issued by Governor Kay Ivey on March 18, 2020, elected officials are allowed to meet remotely by means of Internet or telephone conference and the public was invited to listen to, observe, or participate in the meeting by such means.

The City Council of the City of Mountain Brook, Alabama met informally by way of Internet conference on the 26th day of May, 2020. The Council President called the pre-meeting to order and the roll was called with the following results:

Present: Virginia C. Smith, Council President
William S. Pritchard III, Council President Pro Tempore
Philip E. Black
Lloyd C. Shelton
Alice B. Womack
Stewart Welch III, Mayor

Absent: None

Also present were City Attorney Whit Colvin, City Manager Sam Gaston, and City Clerk Steven Boone.

1. AGENDA

1. After hours and emergency inspections requests and fees—Dana Hazen (Appendix 1). The proposal is in response to a request by the developer of Lane Parke in anticipation of “after hours” inspection services. This matter will be considered for adoption at the June 8, 2020, meeting of the City Council.
2. City Hall reopening plan—Sam Gaston (Motion No. 2020-080 was added to the formal meeting agenda.) City Hall shall continue to be closed indefinitely. Court is tentatively scheduled to resume June 17. The matter will be discussed again on June 8, 2020. The Police Department will continue to limit public access. The Fire Department will resume car seat installations and blood pressure checks but continue to limit access by children to the stations. The Library will start curbside service June 1 and will discuss its re-opening plan at the next Library Board meeting.
3. Employee Suggestion award recommendation—Steven Boone and Sam Gaston. Before the Council is the decision of awarding Officer Craig Fisher for his take home car suggestion. The issue of implementing the suggestion can be revisited in 2021 or 2022 once the economy and budget return to normal. The Council will likely want the Finance Committee to review the suggestion and make a recommendation to the Council regarding implementation or not. Council member Womack stated that Officer Fisher devoted considerable time and effort to this project and believes the City should reward employees who come up with creative ideas for the benefit of the City. Ms. Womack recommended an award of \$1,000. President Smith asked that the suggestion be circulated to the Finance Committee this year to begin the review process. Resolution No. 2020-078 was added to the formal meeting agenda.
4. Request to replace 3000k open globe street light with a 4000k 35 wattage LED light at Thornhill and Sterling—Sam Gaston (Appendix 2). The members of the City Council expressed their desire

that the light be changed and notification of adjacent residents be foregone. This matter will be brought back for formal consideration on June 8.

5. South Brookwood Road drainage project plans—Mark Simpson of Schoel Engineering (Resolution No. 2020-079 was added to the formal meeting agenda.)
6. Request to use public parking spaces for after-hours seating and service— Brandon Loper of Golden Age Wines and Dana Hazen, 2828 Culver Road (Motion No. 2020-081 was added to the formal meeting agenda.) The members of the City Council expressed their general consensus with the application noting that such applications must be considered on a case-by-case basis due to: 1) location and traffic considerations, 2) width of the sidewalks to be used and adherence to ADA regulations, and 3) other relevant parking, safety and accessibility issues. The motion to be considered at the 7 p.m. meeting is conditioned on: 1) the applicant and property owner executing a hold-harmless agreement, 2) the execution of a right-of-way encroachment/use agreement, and 3) site review by the Planning Department, Fire and Police Chiefs. The Council urged that the barriers should be more substantial than ribbons and the Fire Chief suggested reflective tape on the side of the barriers facing the street for safety reasons.
7. Amended Parks Re-opening Plan—Shanda Williams and Sam Gaston (Motion No. 2020-080 was added to the formal meeting agenda.) The ball fields at the Athletic Complex will be opened pursuant to the re-opening plan for practices and closed again as required for the upcoming construction work, as deemed necessary for safety reasons.
8. Review of the other matters to be considered at the formal (7 p.m.) meeting

Regarding Resolution No. 2020-077, the Police Department intends to purchase 16 license plate recognition cameras (facing in both directions) to be placed at seven locations within the City. These types of cameras (borrowed from other agencies) have proven useful for investigations by the Department in the past.

2. ADJOURNMENT

There being no further matters for discussion, Council President Smith adjourned the pre-meeting at approximately 7:18 p.m.

3. CERTIFICATION

I, Steven Boone, City Clerk of the City of Mountain Brook, Alabama, certify the above is a true and correct synopsis of the discussion from the work session of the City Council of the City of Mountain Brook, Alabama held by way of Internet teleconference on May 26, 2020, and that the meeting was duly called and held in all respects in accordance with the laws of the State of Alabama and bylaws of the City and that no formal action or votes were conducted at said work session.

City Clerk Approved by
City Council June 8, 2020

**MINUTES OF THE REGULAR OF THE
CITY COUNCIL OF THE CITY OF MOUNTAIN BROOK
MAY 26, 2020**

[Pursuant to a proclamation issued by Governor Kay Ivey on March 18, 2020, elected officials are allowed to deliberate remotely by means of Internet or telephone conference and the public was invited to listen to, observe, or participate in the meeting by such means.]

The City Council of the City of Mountain Brook, Alabama met in public session by way of Internet teleconference at 6:00 p.m. on the 26th day of May, 2020. The Council President called the meeting to order and the roll was called with the following results:

Present: Virginia C. Smith, Council President
William S. Pritchard III, Council President Pro Tempore
Philip E. Black
Lloyd C. Shelton
Alice B. Womack
Stewart Welch III, Mayor

Absent: None

Also present were City Attorney Whit Colvin, City Manager Sam Gaston, and City Clerk Steven Boone.

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

1. CONSENT AGENDA

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

Approval of the minutes of the May 11 2020, regular meeting of the City Council

Approval of the minutes of the May 13 2020, special meeting of the City Council

2020-073	2020 "Back to School" Sales Tax Holiday, July 17—19, 2020	Exhibit 1, Appendix 1
2020-074	Accept the building services proposal submitted by Williamson & Associates, Inc., with respect to the library flat EDPM roof replacement construction services (development of plans and specifications, preparation or bid documents, bidder pre-qualification and selection, and contract administration)	Exhibit 2, Appendix 2
2020-075	Authorize the execution of a Synthetic Turf Project Implementation Agreement between the City and Board of Education with respect to improvements of Fields 3 through 7 at the Athletic Complex	Exhibit 3, Appendix 3
2020-076	Surplus and authorize the sale of one Craftsman Lawn Tractor (model 917.288515, s/n 071912D030008) formerly used by the Fire Department	Exhibit 4, Appendix 4
2020-077	Authorize the execution of the 2-year Master Contract for Public Safety Services (Surveillance - Governmental) between the City and Alabama Power Company with respect to the use	Exhibit 5, Appendix 5

of APCO facilities for license plate recognition service

- | | | |
|----------------------------|--|--------------------------|
| 2020-078 | Authorize the City Manager to issue a [taxable] one-time, lump sum cash award to Officer Craig Fisher in the amount of \$1,000.00 in recognition of his Employee Suggestion Award application (take home vehicles for the police department) | Exhibit 6,
Appendix 6 |
| 2020-079 | Authorize the City Manager to proceed with the South Brookwood Road culvert repair as recommended by Schoel Engineering Company, Inc. | Exhibit 7,
Appendix 7 |
| 2020-080
Motion | Approve the municipal facilities re-opening plan | Appendix 8 |
| 2020-081
Motion | Conditionally approve the application of Golden Age Wines to use public spaces along the sidewalk for after-hours seating and service | Appendix 9 |

2. ANNOUNCEMENTS

The next regular meeting of the City Council will be June 8, 2020, at 7:00 p.m. with the location and means to be determined and announced at a later date.

3. ADJOURNEMENT

There being no further business or matters for discussion, Council President Smith adjourned the meeting at approximately 7:30 p.m.

4. CERTIFICATION

I, Steven Boone, City Clerk of the City of Mountain Brook, Alabama, certify the above is a true and correct transcript of the regular meeting of the City Council of the City of Mountain Brook, Alabama by Internet teleconference on May 26, 2020, and that the meeting was duly called and held in all respects in accordance with the laws of the State of Alabama and bylaws of the City and that a quorum was present.

City Clerk
Approved by City Council May 26, 2020

EXHIBIT 1

RESOLUTION NO. 2020-073

2020 "BACK TO SCHOOL" SALES TAX HOLIDAY

BE IT RESOLVED by the City Council of the City of Mountain Brook, Alabama, that beginning at 12:01 a.m. on Friday, July 17, 2020, and ending at twelve midnight on Sunday, July 19, 2020, the City of Mountain Brook will exempt certain school supplies, computers, and clothing from municipal sales or use tax. Said sales and use tax exemption shall conform with respect to the time period, terms and conditions, and definitions as provided for the "State of Alabama Sales Tax Holiday".

BE IT FURTHER RESOLVED by the City Council of the City of Mountain Brook, Alabama, that the City Clerk is hereby instructed to send a certified copy of this resolution to the Alabama Department of Revenue, Attention: Laura Reese, Sales, Use & Business Tax Division, Post Office Box 327900, Montgomery,

**MINUTES OF THE SPECIAL OF THE
CITY COUNCIL OF THE CITY OF MOUNTAIN BROOK
JUNE 1, 2020**

[Pursuant to a proclamation issued by Governor Kay Ivey on March 18, 2020, elected officials are allowed to meet remotely by means of Internet or telephone conference and the public was invited to listen to, observe, or participate in the meeting by such means.

The City Council of the City of Mountain Brook, Alabama met in public session in the Council Chamber (Room A-108) of City Hall located at 56 Church Street, Mountain Brook, AL 35213 at 3:00 p.m. on the 1st day of June, 2020. The Council President called the meeting to order and the roll was called with the following results:

Present: Virginia C. Smith, Council President
William S. Pritchard III, Council President Pro Tempore
Philip E. Black
Lloyd C. Shelton
Alice B. Womack
Stewart Welch III, Mayor

Absent: None

Also present were City Attorney Whit Colvin, City Manager Sam Gaston, and City Clerk Steven Boone.

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

1. EXECUTIVE SESSION

Council President Pro Tempore Pritchard made a motion that the City Council convene in executive session to discuss security plans, procedures, assessments and measures and/or security or safety of persons, structures, facilities the public disclosures of which could reasonably be expected to be detrimental to public safety or welfare. The City Attorney verbally certified that the subject matter of the executive session is permissible under the Open Meetings Act. The motion was seconded by Council member Black. There being no further discussion, the vote was called with the following results:

Ayes: Virginia C. Smith, Council President
William S. Pritchard III, Council President Pro Tempore
Philip E. Black
Lloyd C. Shelton
Alice B. Womack

Nays: None

Council President Smith thereupon declared that said motion carried by a vote of 5—0. She then announced that the City Council shall reconvene upon conclusion of the executive session at approximately 3:30 p.m. in Room A108.

2. CONSIDERATION: RESOLUTION (NO. 2020-082) DECLARING A CURFEW DAILY BETWEEN THE HOURS OF 7 P.M. UNTIL 6 A.M EFFECTIVE JUNE 1, 2020 UNTIL FURTHER NOTICE (EXHIBIT 1)

Council President Smith reconvened the meeting of the City Council at approximately 3:34 p.m. in Room A-108 of City Hall.

The resolution was introduced in writing by Council President Smith who then invited comments. There being no comments or questions, President Smith made a motion for adoption of the resolution. The motion was seconded by Council member Black. Thereupon, Council President Smith called for vote with the following results:

Ayes: Virginia C. Smith
William S. Pritchard, III
Philip E. Black
Lloyd C. Shelton
Alice B. Womack

Nays: None

The Council President Smith declared that the said resolution (No. 2020-082) is hereby adopted by a vote of 5—0 and, as evidence thereof, she signed the same

3. ADJOURNMENT

There being no further business or matters for discussion, Council President Smith adjourned the meeting at approximately 3:35 p.m.

4. CERTIFICATION

I, Steven Boone, City Clerk of the City of Mountain Brook, Alabama, certify the above is a true and correct transcript of the special meeting of the City Council of the City of Mountain Brook, Alabama on June 1, 2020, and that the meeting was duly called and held in all respects in accordance with the laws of the State of Alabama and bylaws of the City and that a quorum was present.

City Clerk
Approved by City Council June 8, 2020

EXHIBIT 1

RESOLUTION NO. 2020-082

RESOLUTION DECLARING CURFEW

WHEREAS, recent national events have resulted in outrage and protest regarding the treatment of African American citizens; and

WHEREAS, most of those protests have been peaceful but many have resulted in violence and destruction in many cities across the country; and,

WHEREAS, on May 31, 2020, following peaceful events in downtown Birmingham, crowds destroyed, damaged, defaced, and set fire to numerous buildings, businesses, automobiles and structures in the central business district of City of Birmingham, throwing bricks, breaking windows, and causing harm to property and to person; and

WHEREAS, in response to the civil unrest, the City of Birmingham implemented a mandatory curfew on June 1, 2020 until further notice as a result of the threat to public safety and health posed by activities such as those that occurred on the evening of May 31st;

WHEREAS, authority is granted to the City by Alabama Code Section 31-9-10 to implement a public safety curfew to protect the public peace, health, and safety, and to preserve the lives and property of the people of the state under the conditions stated therein;

WHEREAS, the City Council of Mountain Brook finds that implementation of a curfew with appropriate restrictions is necessary to protect the public peace, health, safety and to preserve the lives and property of those who live, work, and visit the City of Mountain Brook.

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

1. Pursuant to state law and due to the civil unrest and destruction occurring in the City of Birmingham on the night of May 31, 2020, the continuing threat of further rioting in surrounding communities such as the City, and the danger of such unrest to the lives, safety, health, welfare and the property of the people of the City, a public safety curfew shall be implemented in the City beginning June 1, 2020 and continuing in effect until further notice.
2. Beginning at 7:00 p.m. on June 1, 2020, no person shall between the hours of 7:00 p.m. and 6:00 a.m. each day while this curfew is in effect:
 - a. Hold or participate in any demonstration, parade, march, or vigil, on any of the public ways or upon any public property; and
 - b. Travel upon any public street, alley, or roadway or upon any other public property, except those in search of medical assistance, food, or other commodity or service necessary to sustain the well-being of themselves or their families or some member thereof; those traveling through the City from one location outside of the City to another location outside the City; those returning to one's place of residence or place of employment; or as necessary to comply with legally mandated government purposes, or an order of law enforcement or a court; or those attending school related events or activities.
3. These restrictions shall apply within the corporate limits of the City of Mountain Brook.
4. These restrictions shall not apply to such other classes of persons as may be essential to the preservation of public order and immediately necessary to serve the safety, health, and welfare needs of the citizens, including City law enforcement officers, firefighters and other public employees; doctors, nurses, employees of hospitals and other medical facilities; on-duty military personnel whether state or federal; on-duty employees of public utilities, public transportation companies, and newspaper, magazine, radio broadcasting, and television broadcasting corporations.
5. It shall be unlawful for any person to violate any provisions of this resolution.
6. If any part, section or subdivision of this resolution shall be held unconstitutional or invalid for any reason, such holding shall not be construed to invalidate or impair the remainder of this resolution, which shall continue in full force and effect notwithstanding such holding.

This resolution shall become effective immediately upon its approval, adoption, and publication as provided by law.

**MINUTES OF THE SPECIAL OF THE
CITY COUNCIL OF THE CITY OF MOUNTAIN BROOK
JUNE 3, 2020**

[Pursuant to a proclamation issued by Governor Kay Ivey on March 18, 2020, elected officials are allowed to meet remotely by means of Internet or telephone conference and the public was invited to listen to, observe, or participate in the meeting by such means.

The City Council of the City of Mountain Brook, Alabama met in the Council Chamber (Room A-108) of City Hall located at 56 Church Street, Mountain Brook, Alabama 35213 at 3 p.m. on the 3rd day of June, 2020. The Council President called the meeting to order and the roll was called with the following results:

Present: Virginia C. Smith, Council President
William S. Pritchard III, Council President Pro Tempore
Philip E. Black
Alice B. Womack
Stewart Welch III, Mayor

Absent: Lloyd C. Shelton

Also present were City Attorney Carl Johnson, City Manager Sam Gaston (by teleconference), and City Clerk Steven Boone.

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

1. EXECUTIVE SESSION

Council President Pro Tempore Pritchard made a motion that the City Council convene in executive session to discuss security plans, procedures, assessments and measures and/or security or safety of persons, structures, facilities the public disclosures of which could reasonably be expected to be detrimental to public safety or welfare. The City Attorney certified (Appendix 1) that the subject matter of the executive session is permissible under the Open Meetings Act. The motion was seconded by Council President Smith. There being no further discussion, the vote was called with the following results:

Ayes: Virginia C. Smith, Council President
William S. Pritchard III, Council President Pro Tempore
Philip E. Black
Alice B. Womack

Nays: None

Council President Smith thereupon declared that said motion carried by a vote of 4—0. She then announced that the City Council shall reconvene upon conclusion of the executive session in 15—20 minutes in Room A108.

2. CONSIDERATION: RESOLUTION (NO. 2020-083) MODIFYING THE CURFEW PREVIOUSLY DECLARED UPON THE ADOPTION OF RESOLUTION NO. 2020-082 ON JUNE 1, 2020 (EXHIBIT 1)

Council President Smith reconvened the meeting of the City Council at approximately 3:15 p.m. in Room A-108 of City Hall.

The resolution was introduced in writing by Council President Smith who then invited comments. There being no comments or questions, President Pro Tempore Pritchard made a motion for adoption of the

resolution. The motion was seconded by Council member Black. Thereupon, Council President Smith called for vote with the following results:

Ayes: Virginia C. Smith
William S. Pritchard, III
Philip E. Black
Alice B. Womack

Nays: None

The Council President Smith declared that the said resolution (No. 2020-083) is hereby adopted by a vote of 4—0 and, as evidence thereof, she signed the same

3. ADJOURNMENT

There being no further business or matters for discussion, Council President Smith adjourned the meeting at approximately 3:16 p.m.

4. CERTIFICATION

I, Steven Boone, City Clerk of the City of Mountain Brook, Alabama, certify the above is a true and correct transcript of the special meeting of the City Council of the City of Mountain Brook, Alabama on June 3, 2020, and that the meeting was duly called and held in all respects in accordance with the laws of the State of Alabama and bylaws of the City and that a quorum was present.

City Clerk
Approved by City Council June 8, 2020

EXHIBIT 1

RESOLUTION NO. 2020-083

RESOLUTION DECLARING CURFEW

WHEREAS, recent national events have resulted in outrage and protest regarding the treatment of African American citizens; and

WHEREAS, most of those protests have been peaceful but many have resulted in violence and destruction in many cities across the country; and,

WHEREAS, on May 31, 2020, following peaceful events in downtown Birmingham, crowds destroyed, damaged, defaced, and set fire to numerous buildings, businesses, automobiles and structures in the central business district of City of Birmingham, throwing bricks, breaking windows, and causing harm to property and to person; and

WHEREAS, in response to the civil unrest, the City of Birmingham implemented a mandatory curfew on June 1, 2020 until further notice as a result of the threat to public safety and health posed by activities such as those that occurred on the evening of May 31st;

WHEREAS, authority is granted to the City by Alabama Code Section 31-9-10 to implement a public safety curfew to protect the public peace, health, and safety, and to preserve the lives and property of the people of the state under the conditions stated therein;

WHEREAS, the City Council of Mountain Brook finds that implementation of a curfew with appropriate restrictions is necessary to protect the public peace, health, safety and to preserve the lives and property of those who live, work, and visit the City of Mountain Brook.

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

1. Pursuant to state law and due to the civil unrest and destruction occurring in the City of Birmingham on the night of May 31, 2020, the continuing threat of further rioting in surrounding communities such as the City, and the danger of such unrest to the lives, safety, health, welfare and the property of the people of the City, a public safety curfew shall be implemented in the City beginning June 1, 2020 and continuing in effect until further notice.
2. Beginning at ~~7:00~~ ~~8:00~~ p.m. on June 13, 2020, no person shall between the hours of ~~7:00~~ ~~8:00~~ p.m. and ~~6:00~~ ~~5:00~~ a.m. each day while this curfew is in effect:
 - a. Hold or participate in any demonstration, parade, march, or vigil, on any of the public ways or upon any public property; and
 - b. Travel upon any public street, alley, or roadway or upon any other public property, except those in search of medical assistance, food, or other commodity or service necessary to sustain the well-being of themselves or their families or some member thereof; those traveling through the City from one location outside of the City to another location outside the City; those returning to one's place of residence or place of employment; or as necessary to comply with legally mandated government purposes, or an order of law enforcement or a court; or those attending school related events or activities.

Provided, however, that the Mayor or the City Manager of Mountain Brook shall be authorized to modify the temporal duration of the curfew established above when, in his judgment, and upon consultation with appropriate City officials, such action is required or deemed necessary to meet exigent circumstances that threaten the public health, safety, and welfare of the City of Mountain Brook.

3. These restrictions shall apply within the corporate limits of the City of Mountain Brook.
4. These restrictions shall not apply to such other classes of persons as may be essential to the preservation of public order and immediately necessary to serve the safety, health, and welfare needs of the citizens, including City law enforcement officers, firefighters and other public employees; doctors, nurses, employees of hospitals and other medical facilities; on-duty military personnel whether state or federal; on-duty employees of public utilities, public transportation companies, and newspaper, magazine, radio broadcasting, and television broadcasting corporations.
5. It shall be unlawful for any person to violate any provisions of this resolution.
6. If any part, section or subdivision of this resolution shall be held unconstitutional or invalid for any reason, such holding shall not be construed to invalidate or impair the remainder of this resolution, which shall continue in full force and effect notwithstanding such holding.
7. This resolution amends and supersedes Resolution No. 2020-082, heretofore adopted on June 1, 2020.

This resolution shall become effective immediately upon its approval, adoption, and publication as provided by law.

CARL JOHNSON
carljohnson@bishopcolvin.com



June 3, 2020

Mr. Steve Boone
City Clerk
City of Mountain Brook
56 Church Street
Mountain Brook, AL 35213

Re: Executive Session (Council Meeting of June 3, 2020)

Dear Mr. Boone:

An executive session will be called at the June 3, 2020 special city council meeting to discuss matters that are properly the subject of an executive session under the Alabama Open Meetings Law, including matters related to security plans, procedures, assessments, measures, or systems, or the security or safety of persons, structures, facilities, or other infrastructures.

Sincerely,

Carl Johnson

CJ/mr

c: Mayor Stewart Welch
Council President Virginia Smith
City Manager Sam Gaston

APPENDIX I

RESOLUTION NO. 2020-084

BE IT RESOLVED by the City Council of the City of Mountain Brook, Alabama, that the City Council hereby authorizes the execution of a Contractor Agreement between City and Morris-Shea Bridge Company, in the form as attached hereto as Exhibit A, with respect to the relocation of two light poles in the outfield of Field 3 at the Athletic Complex.

ADOPTED: This 8th day of June, 2020.

Council President

APPROVED: This 8th day of June, 2020.

Mayor

CERTIFICATION

I, Steven Boone, City Clerk of the City of Mountain Brook, Alabama, hereby certify the above to be a true and correct copy of a resolution adopted by the City Council of the City of Mountain Brook at its regular meeting held on June 8, 2020, as same appears in the minutes of record of said meeting.

City Clerk

CONTRACTOR AGREEMENT

Morris Shea Building Company (“Contractor”) enters this Contractor Agreement (“Agreement”) with the **City of Mountain Brook, Alabama**, a municipal corporation (“City”), effective as of the date last executed by a party below (the “Effective Date”). Contractor and City may be individually referenced herein as “Party” or collectively as “Parties.”

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

Name of Project: Relocating (2) Field light poles on Field 3

Site of Project: Mountain Brook High School Athletic Complex
3650 Bethune Drive
Mountain Brook, AL 35223

2. **Scope of Work.** See Exhibit A (which includes the City Scope of Work and Site Plans, hereinafter the “Site 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 and perform its other responsibilities set forth in the Contract Documents.

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

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

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

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 Ten Thousand Dollars (**\$10,000.00**) 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, except for municipal permitting expenses that the City will waive for this Project, before commencing the Work, at its own expense, the Contractor will obtain all licenses, permits or other governmental authorizations needed to complete the Project, (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 acceptance 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) 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.

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

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

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

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

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

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

9. Miscellaneous Provisions.

a. This Agreement which is comprised of this instrument, the City Scope of Work and the Site Plan (collectively, the "Contract Documents") sets forth the entire understanding between the Parties concerning the matters herein, and all oral representations, prior negotiations, understandings, agreements, conditions, and terms discussed between them prior to acceptance and signing of this Agreement are deemed to

have merged herein. In the event of any conflict or inconsistency between provisions in the various Contract Documents, the provision(s) in the document in the order below shall control and take precedence: (1) this Agreement; (2) the City Scope of Work; and (3) the Site Plans.

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

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

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

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

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

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

Furthermore, if Contractor is found to be in violation of this provision, it shall be deemed in breach of the Agreement and shall be responsible for all damages resulting therefrom.

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

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

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

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

CITY OF MOUNTAIN BROOK, ALABAMA

By: _____

Its: Mayor

Date: _____

MORRIS SHEA BUILDING COMPANY

By: _____

Its: _____

Date: _____

EXHIBIT A – SPECIFICATIONS

1. Scope of Work

See attached City Scope of Work and Site Plans.

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

2. Project Schedule. Weather permitting, Contractor expects to complete the Work within an approximate 12 week period after execution of the Agreement and the City provides it a Notice to Proceed.

3. Project Representatives

City Project Representative:
Shanda Williams
3698 Bethune Drive
Birmingham, AL 35223
Email: williamssh@mtnbrook.org
Day Tel #: 205-802-3879

Contractor Project Representative:
Dick Shea
609 South 20th Street
Birmingham, AL 35210
Email: dshea@morrisshea.com
Day Tel #: 205-956-9518

4. Special Conditions

Scope of work

The following scope is for relocating two field light poles and respective lights at the Athletic Complex located on the campus of Mountain Brook High School. The two light poles are located in the outfield of Field 3 and will be moved back to increase the size of the field to 160 feet. See site plan below.

The following work will begin in June 2020 with the goal of finishing before this field is to be converted to artificial turf during the summer of 2020.

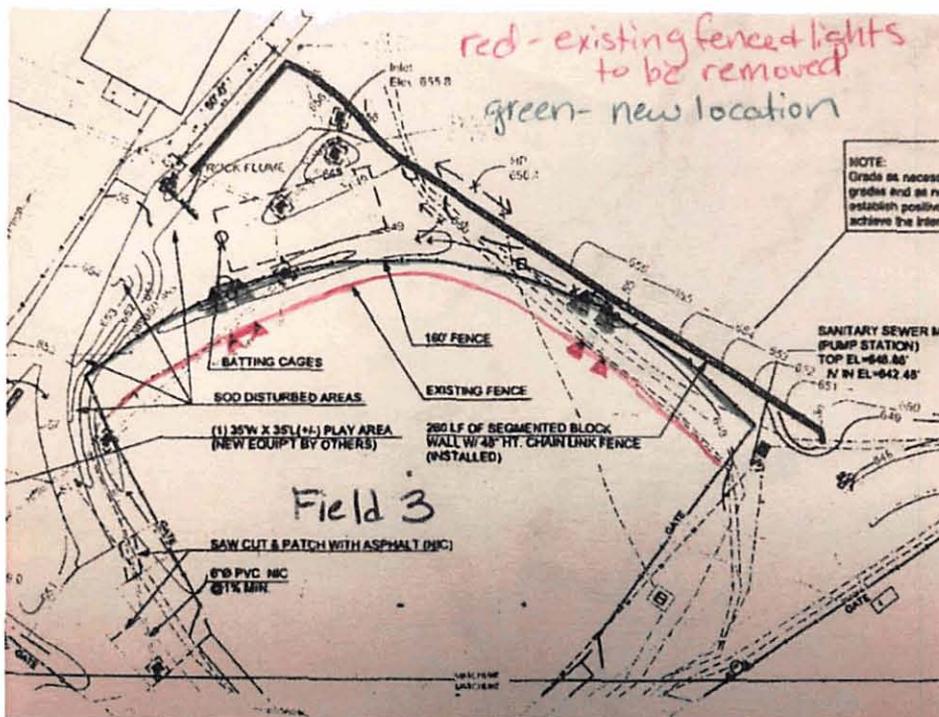
Morris-Shea will provide all equipment and supplies necessary to complete the relocation.

Morris-Shea will be responsible for all aspects of the relocation including, but not limited to, locating existing utilities, all electrical requirements to disconnect and reconnect the lights atop the poles, positioning the lights for optimal output on the field, and making sure all lights are fully operational upon completion.

Morris-Shea will be responsible for pulling all required City permits (City shall waive permit fees) and all work will be inspected pursuant to current municipal building codes.

Morris-Shea will be responsible for making sure this relocation will coincide with the construction plans for converting the field to artificial turf.

Morris-Shea will be responsible for any damages that may occur to the lights, poles, or surrounding property during the course of this project.



ORDINANCE NO. 2069

**AN ORDINANCE ESTABLISHING THE CITY OF MOUNTAIN BROOK
LAW ENFORCEMENT RETIREMENT BENEFIT POLICY**

WHEREAS the City Council of the City of Mountain Brook desires to recognize and honor long-term (10-years) law enforcement service to the City by awarding service weapons and badges to its full-time, sworn law enforcement officers at the time of their retirement in good standing with the police department, now therefore,

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

1. The Police Chief is hereby authorized to present duty weapons and badges to full-time, sworn law enforcement officers with at least 10-years of service to the City of Mountain Brook at the time of their retirement in good standing. Said duty weapon and badge are deemed by the City Council as compensation due to the officer for his prior service to the City.
2. Repealer. All ordinances or parts of ordinances heretofore adopted by the City Council of the City of Mountain Brook, Alabama, that are inconsistent with the provisions of this ordinance are hereby expressly repealed.
3. Severability. If any part, section or subdivision of this ordinance shall be held unconstitutional or invalid for any reason, such holding shall not be construed to invalidate or impair the remainder of this ordinance, which shall continue in full force and effect notwithstanding such holding.
4. Effective Date. This ordinance shall become effective immediately upon adoption and publication as provided by law.

ADOPTED: This 8th day of June, 2020.

Council President

APPROVED: This 8th day of June, 2020.

Mayor

CERTIFICATION

I, Steven Boone, City Clerk of the City of Mountain Brook, Alabama, hereby certify the above to be a true and correct copy of an ordinance adopted by the City Council of the City of Mountain Brook, Alabama, at its regular meeting held on June 8, 2020, as same appears in the minutes of record of said meeting, and published by posting copies thereof on June 9 12, 2020, at the following public places, which copies remained posted for five days as required by law:

City Hall, 56 Church Street
Gilchrist Pharmacy, 2850 Cahaba Road

Overton Park, 3020 Overton Road
Cahaba River Walk, 3503 Overton Road

City Clerk

OFFICE OF THE ATTORNEY GENERAL

83-00408



CHARLES A. GRADDICK
ATTORNEY GENERAL
STATE OF ALABAMA

JAMES R. SOLOMON, JR.
DEPUTY ATTORNEY GENERAL

WILLIAM M. BEKURS, JR.
EXECUTIVE ASSISTANT

WALTER S. TURNER
CHIEF ASSISTANT ATTORNEY GENERAL

JANIE NOBLES
ADMINISTRATIVE ASSISTANT

JUL 27 1983

ADMINISTRATIVE BUILDING
64 NORTH UNION STREET
MONTGOMERY, ALABAMA 36130
AREA (205) 834-5150

Honorable Robert S. Milner
118 1/2 East Bridge St.
Wetumpka, AL 36092

Municipalities -- Police
Officers -- Pistols

City of Wetumpka may, by ordinance, make pistol and badge a part of retirement benefits (compensation) of officers.

Dear Mr. Milner:

The opinion request of the City of Wetumpka has been received in the Office of the Attorney General. Your request presents the following information:

The City of Wetumpka desires to offer to its Police Officers who retire after ten (10) years or more of honorable service, their badges and pistols used by them, as a part of their retirement benefits. This would give the the same benefit accorded State Troopers or other law enforcement officers employed by the Alabama Department of Public Safety who are entitled to received their badges and pistols as a part of their retirement benefits under the provisions of Section 32-2-26, Code of Alabama 1975.

Your question is:

May the City of Wetumpka, by Ordinance, provide that when its Police Officers retire after ten

Honorable Robert S. Milner
Page Two

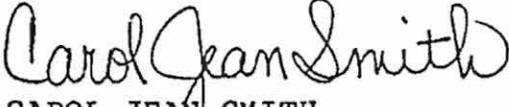
(10) years or more of honorable service, it can award, as a part of the retirement benefits of the retiring officers, the badge and pistol used by the retiring officers, without any cost to such officers?

Constitution of Alabama 1901, Section 94, as amended, prohibits gifts to individuals and, thus, would prohibit the gift of the pistol and badge to a retiring officer. However, your opinion request specifically states that the pistol and badge will be received as a part of retirement benefits. Stated differently, the monetary value of the pistol and badge would be a stated part of the compensation due the officer. It is the opinion, therefore, of this office that the City of Wetumpka may, by ordinance, provide that when its police officers retire after ten (10) or more years of honorable service, it can award, as a part of the retirement benefits of the retiring officers, the badge and pistol used by the retiring officers.

I do hope that this response fully answers your inquiry. If, however, we may be of further assistance, please do not hesitate to contact us.

Sincerely yours,

CHARLES A. GRADDICK
Attorney General
By--


CAROL JEAN SMITH
Assistant Attorney General

CJS:es