

**SPECIAL MEETING AGENDA  
MOUNTAIN BROOK CITY COUNCIL**

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

**JULY 31, 2023, 8 A.M.**

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**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 07312023).**

1. Consideration: Resolution awarding the bid for the O'Neal Library Water Damage Restoration project.
2. Comments from residents and attendees.
3. Announcement: The next regular meeting of the City Council is August 14, 2023 at 7:00 p.m.
4. Adjourn.
5. Executive Session.



**CITY OF MOUNTAIN BROOK**

P. O. Box 130009  
Mountain Brook, Alabama 35213-0009  
Telephone: 205.802.2400  
[www.mtnbrook.org](http://www.mtnbrook.org)

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**Date:** July 27, 2023

**To:** Members of the City Council and Mayor

**From:** Steven Boone

**Bid Reference:** O'Neal Library Water Damage Restoration (B-20230615-875)

The City received sealed bids on July 26 from four pre-qualified contractors. The bidders were pre-qualified with assistance from the City's facilities consultant, Lemoine. The bids were evaluated on both price and project completion time. After review of the bids and a conversation with Bill Meadows of Meadows Contracting, who submitted the lowest bid, I am recommending the Council award the bid for the O'Neal Library Water Damage Restoration Project (B-20230615-875) to Meadows Contracting in the amount of \$166,120.00.

Meadows contemplates commencing the project on August 3 and completing the project by October 4. There is a \$300/day penalty should the project run beyond October 4.



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**Bid Reference:** O’Neal Library Water Damage Restoration (B-20230615-875)

**Bid opening date and time:** Wednesday, July 26, 2023 at 2:00p.m.

**Location:** Pre-Council Room A-106, City Hall, 56 Church Street, 35213

	<b>Contractor/Bidder</b>	<b>Fixed Price</b>	<b>Comments</b>
1	Meadows Contracting	\$166,120.00	10/04/2023
2	J D Morris Construction	\$277,000.00	09/08/2023
3	Watermark Construction	\$252,000.00	10/06/2023
4	ServPro of Birmingham	\$244,973.10	09/18/2023
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## CONTRACTOR AGREEMENT

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**Meadows Contracting, Inc.**, (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 O'Neal Library, 50 Oak Street, Mountain Brook, AL 35213 (the "Site") in accordance with the terms, conditions and specifications in this Agreement and on Exhibit A (the "Project").

2. **Term/Termination.** The term of this Agreement shall commence on the Effective Date and thereafter continue in effect for \_\_\_\_\_ ( ) months (the "Term") until the project is accepted by the City. The period in which Contractor will complete the Project is set forth on Exhibit A – Bid Form.

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.

3. **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 One hundred sixty-six thousand one hundred twenty and no/100 Dollars (\$166,120.00) as compensation for performing the Work (the "Contract Price"). Further, 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 shall pay the either 1) the contract sum within 30 days of acceptance OR 2) net 30 with progress billing for the percentage of work (labor and materials less 5% retainage) executed as of the close of each month after the project has started until project is completed and accepted. Prior to the release of the final payment to the Contractor by the City, Contractor shall certify to the City that all bills and payroll related to the project have been paid in full. Upon receipt of said certification, City shall post a notice of contract completion in the bulletin board located at City Hall, 56 Church Street, Mountain Brook, Alabama 35213 where such notice shall remain for a period of 30 day

4. **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.

#### **5. 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: One Million Dollars (\$1,000,000.00), combined single limit and aggregate for bodily injury and property damage. This Comprehensive General Liability policy shall include coverage 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 One Million Dollars (\$1,000,000.00) 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.

(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.

**7. 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.

#### **8. Miscellaneous Provisions.**

a. This Agreement (which is comprised of this instrument and Exhibit A) 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.

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 (including payment obligations) under this Agreement during any period in which its performance is delayed by circumstances beyond its reasonable control, such as fire, flood, war, embargo, strike, riot, or the intervention of any governmental authority (a "Force Majeure Event"). However, the delayed Party must promptly provide the other with written notice of the Force Majeure Event, the delayed Party's time for performance will be excused only for the duration of that Event, and, if that Event lasts longer than 30 days, then the other Party may immediately terminate, in whole or in part, this Agreement by giving written notice to the delayed Party.

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

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: \_\_\_\_\_

**MEADOWS CONTRACTING, INC.**

By: \_\_\_\_\_

Its: \_\_\_\_\_

Date: \_\_\_\_\_

**EXHIBIT A – SPECIFICATIONS**

1. Scope of Work. (Describe Project Below)

See Exhibit C  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(the "Scope"). 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. Contractor will commence performing the Work within no more than two (2) days after the City gives written or verbal notice to proceed, and successfully complete the Project within \_\_\_\_\_ ( ) days following its receipt of that notice.

3. Project Representatives.

City Project Representative:  
Lindsay Gardner  
O'Neal Library  
50 Oak Street  
Birmingham, AL 35213  
Email: [gardner@oneallibrary.org](mailto:gardner@oneallibrary.org)  
Day Tel #: 205-445-1192

Contractor Project Representative:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_, AL 3\_\_\_\_\_  
Email: \_\_\_\_\_  
Day Tel #: \_\_\_\_\_

4. Special Conditions.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



**EXHIBIT A – BID FORM**

The Library has been closed to the public since the flooding incident caused by the fire suppression system. Therefore, timeliness of project commencement and project completion will be a factor in the City's determination of the lowest responsive and responsible bid. Assuming a bid award by the City Council on July 31, 2023, 10-14 days for review and approval of the Application for Sales and Use Tax Exemption Certificate by the Alabama Department of Revenue, and wall covering and carpet tile to be provided by City are on-hand prior to the below project commencement date, please provide the following dates: Project commencement date 8-3-23. Project Completion Date 10-4-23.

As the above project completion date is provided by the bidder and, considering such date may be used to award the bid, the City may impose a penalty of \$300 per day for each calendar day that the project is not complete beyond the identified Project Completion Date.

1. Fixed price bid per description and scope of work described in Exhibit C	\$ <u>1,661,120.00</u>
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\*Detailed schedule of Values attached.

The quantities expressed in Exhibit C are based on the insurance company's repair estimate. If bidder determines that quantities must be changed, identify specific changes below. Attach additional pages, if necessary.

Description	Additions (Deductions)
2.	\$
3.	\$
4.	\$
5.	\$
6.	\$
7.	\$
8.	\$
9.	\$
10.	\$
11. <b>Total Fixed Price (sum of lines 1 through 10 above)</b>	\$

This bid form must be signed below by the bidder's principal/officer/agent and notarized:

Authorized Signature: [Signature]

Printed Name: William H Meadows, Jr

Title: President



Sworn to and subscribed before me on this 25<sup>th</sup> day of July, 2023.

Notary Public: Taylor Mott Powell

My Commission Expires: June 30, 2026

Printed Name: Taylor Mott Powell