

**AGENDA
CITY OF MORRISTOWN, TENNESSEE
CITY COUNCIL MEETING
MARCH 15, 2016 – 5:00 P.M.**

1. CALL TO ORDER

Mayor Gary Chesney

2. INVOCATION

Mark Campbell, Senior Chaplain, Morristown Police Department.

3. PLEDGE OF ALLEGIANCE

4. ROLL CALL

5. APPROVAL OF MINUTES

1. March 1, 2016

6. PROCLAMATIONS/PRESENTATIONS

**7. CITIZEN COMMENTS ABOUT AGENDA ITEMS ONLY
(Other than items scheduled for public hearing.)**

8. OLD BUSINESS

8-a. Public Hearings & Adoption of Ordinances/Resolutions

9. NEW BUSINESS

9-a. Resolutions

9-b. Introduction and First Reading of Ordinances

1. Ordinance No. _____
An Ordinance of the City Council for the City of Morristown, Tennessee,
Amending Title 8 of the Morristown Municipal Code. (Alcoholic Beverages)
2. Ordinance No. _____
An Ordinance of the City Council for the City of Morristown, Tennessee,
Amending Title 13, Chapter 3 of the Morristown Municipal Code. (Tree
Board)

9-c. Awarding of Bids/Contracts

1. Approval of Architect Contract for Fire Station #4 to Fuller Architects in the amount of 8% of construction costs.
2. Approval of Change Order #1 to Stansell Electric Company, Inc., for the Traffic Signal Project at West First North Street and High Street increasing the contract amount by \$4,426.78 from \$160,072 to \$164,498.78, and completion time by 211 days, from 270 (November 2, 2015) to 481 days (May 31, 2016).
3. Approval of Change Order #1 to Stansell Electric Company, Inc. for the State Route 34 ITS Traffic Signal Coordination Project increasing the contract amount by \$22,415.66, from \$1,263,725 to \$1,286,140.66, and the completion time by 211 days from 270 (November 2, 2015) to 481 days (May 31, 2016).
4. Approval of Grant Amendment by the State of Tennessee Department of Transportation Aeronautics Division for Land acquisition for Future Development (amended for unanticipated environmental and acquisition expenses and increase estimated property value) in the amount of \$16,800 bringing total of grant from \$175,800 to \$192,600.
5. Approval of Stormwater Management/BMP Facilities Maintenance Agreement between Cherokee Crossing LLC, and the City of Morristown.
6. Approval of purchase of 8 Tasers in the amount of \$13,700 for the Police Department.
7. Approval of purchase for Police Department Litter Crew of 2006 Chevrolet 1500 H.D. Pick-up Truck in the amount of \$14,800 for the Police Department's Litter Crew.
8. Approval of acquisition and transport fee for Police Department Military Armored Vehicle in the amount of \$4,600 to Heavy Hauling, LLC.

9-d. Board/Commission Appointments

9-e. New Issues

1. Sale of property located at Lot Nos. 13, 14, 15, 16, 17-A, 17-B, 18 and 19 of the Fawbush Estate Subdivision, (West Elementary), to the Hamblen County Board of Education.
2. Sale of property consisting of 7.3555 acres in the Morristown Airport Industrial District (MAID) to Tuff Torq Corporation in the amount of \$1,000 per acre for a total of \$7,355.50.

3. Certificate of Compliance for Estate of Peter J. Balling, owner, (Edward Joseph Balling Executor), Morristown Beverage Associates, Inc., DBA Cork & Keg Package Store, 2304 Morningside Drive.

10. CITY ADMINISTRATOR'S REPORT

11. COMMUNICATIONS/PETITIONS

This is the portion of the meeting where members of the audience may speak subject to the guidelines provided.

12. COMMENTS FROM MAYOR/COUNCILMEMBERS/COMMITTEES

13. ADJOURN

City Council Meeting/Holiday Schedule:
Regular City Council Meeting with Work Session

March 25, 2016	(Friday)	City Employee's Holiday Good Friday
April 5, 2016	(Tues) 5:00 p.m.	Regular City Council Meeting with Work Session
April 19, 2016	(Tues) 4:00 p.m.	Finance Committee Meeting
April 19, 2016	(Tues) 5:00 p.m.	Regular City Council Meeting with Work Session
May 3, 2016	(Tues) 5:00 p.m.	Regular City Council Meeting with Work Session
May 17, 2016	(Tues) 4:00 p.m.	Finance Committee Meeting
May 17, 2016	(Tues) 5:00 p.m.	Regular City Council Meeting with Work Session
May 30, 2016	(Monday)	City Employee's Holiday Memorial Day
June 7, 2016	(Tues) 5:00 p.m.	Regular City Council Meeting with Work Session
June 21, 2016	(Tues) 4:00 p.m.	Finance Committee Meeting
June 21, 2016	(Tues) 5:00 p.m.	Regular City Council Meeting with Work Session

WORK SESSION AGENDA
MARCH 15, 2016
5:00 p.m.

1. No Work Session Schedule

**STATE OF TENNESSEE
COUNTY OF HAMBLLEN
CORPORATION OF MORRISTOWN
MARCH 1, 2016**

The City Council for the City of Morristown, Hamblen County, Tennessee, met in regular session at the regular meeting place of the Council in the Morristown City Center at 5:00 p.m., Tuesday, March 1, 2016, with the Honorable Mayor Gary Chesney, presiding and the following Councilmembers present; Bob Garrett, Kay Senter, Dennis Alvis, Ken Smith and Tommy Pedigo, absent; Chris Bivens.

Dr. Gary Brewster, Chaplain, Morristown Police Department led in the invocation and Councilmember Alvis led in the "Pledge of Allegiance".

Councilmember Alvis made a motion to approve the February 16, 2016, minutes as circulated. Councilmember Smith seconded the motion and upon roll call; all voted "aye".

A Public Hearing was held regarding Ordinance No. 3533.

Councilmember Senter made a motion to approve Ordinance No. 3533 on second and final reading. Councilmember Alvis seconded the motion and upon roll call; all voted: "aye".

**Ordinance No. 3533
Being an Ordinance of the City Council for the City of Morristown,
Tennessee, Amending Title 1 of the Morristown Municipal Code.
(General Administration)**

A Public Hearing was held regarding Ordinance No. 3534.

Councilmember Alvis made a motion to approve Ordinance No. 3534 on second and final reading. Councilmember Pedigo seconded the motion and upon roll call; all voted: "aye".

**Ordinance No. 3534
Being an Ordinance of the City Council for the City of Morristown,
Tennessee, Amending Title 2 of the Morristown Municipal Code.
(Boards and Commissions, Etc.)**

A Public Hearing was held regarding Ordinance No. 3535.

Councilmember Smith made a motion to approve Ordinance No. 3535 on second and final reading. Councilmember Alvis seconded the motion and upon roll call; all voted: "aye".

Ordinance No. 3535
Being an Ordinance of the City Council for the City of Morristown,
Tennessee, Amending Title 3 of the Morristown Municipal Code.
(Municipal Court)

A Public Hearing was held regarding Ordinance No. 3536.

Councilmember Senter made a motion to approve Ordinance No. 3536 on second and final reading. Councilmember Alvis seconded the motion and upon roll call; all voted: "aye".

Ordinance No. 3536
Being an Ordinance of the City Council for the City of Morristown,
Tennessee, Amending Title 4 of the Morristown Municipal Code.
(Municipal Personnel)

A Public Hearing was held regarding Ordinance No. 3537.

Councilmember Pedigo made a motion to approve Ordinance No. 3537 on second and final reading. Councilmember Smith seconded the motion and upon roll call; all voted: "aye".

Ordinance No. 3537
Being an Ordinance of the City Council for the City of Morristown,
Tennessee, Amending Title 5 of the Morristown Municipal Code.
(Municipal Finance & Taxation)

A Public Hearing was held regarding Ordinance No. 3538.

Councilmember Smith made a motion to approve Ordinance No. 3538 on second and final reading. Councilmember Alvis seconded the motion and upon roll call; all voted: "aye".

Ordinance No. 3538
Being an Ordinance of the City Council for the City of Morristown,
Tennessee, Amending Title 6 of the Morristown Municipal Code. (Law
Enforcement)

A Public Hearing was held regarding Ordinance No. 3539.

Councilmember Pedigo made a motion to approve Ordinance No. 3539 on second and final reading. Councilmember Smith seconded the motion and upon roll call; all voted: "aye".

Ordinance No. 3539

Being an Ordinance of the City Council for the City of Morristown, Tennessee, Amending Title 7 of the Morristown Municipal Code. (Fire Protection & Fireworks)

A Public Hearing was held regarding Ordinance No. 3540.

Councilmember Senter made a motion to approve Ordinance No. 3540 on second and final reading. Councilmember Pedigo seconded the motion and upon roll call; all voted: "aye".

Ordinance No. 3540

Being an Ordinance of the City Council for the City of Morristown, Tennessee, Amending Title 12 of the Morristown Municipal Code. (Building, Utility, Etc., Codes)

A Public Hearing was held regarding Ordinance No. 3541.

Councilmember Alvis made a motion to approve Ordinance No. 3541 on second and final reading. Councilmember Pedigo seconded the motion and upon roll call; all voted: "aye".

Ordinance No. 3541

Being an Ordinance of the City Council for the City of Morristown, Tennessee, Amending Title 13 of the Morristown Municipal Code. (Property Maintenance Regs)

A Public Hearing was held regarding Ordinance No. 3542.

Councilmember Garrett made a motion to approve Ordinance No. 3542 on second and final reading. Councilmember Alvis seconded the motion and upon roll call; all voted: "aye".

Ordinance No. 3542

Being an Ordinance of the City Council for the City of Morristown, Tennessee, Amending Title 18 of the Morristown Municipal Code. (Water & Sewers)

A Public Hearing was held regarding Ordinance No. 3543.

Councilmember Senter made a motion to approve Ordinance No. 3543 on second and final reading. Councilmember Pedigo seconded the motion and upon roll call; all voted: "aye".

Ordinance No. 3543

Being an Ordinance of the City Council of Morristown, Tennessee, Amending Title 14, Zoning and Land Use Control, Chapter 22. (Municipal Floodplain Zoning Ordinance)

Councilmember Smith made a motion to approve the contract in lieu of performance bonds for the Hamblen County Morristown, TN Sanitary Landfills, Permits #SNL320000152 Extension and SNL320000152 Original. Councilmember Pedigo seconded the motion and upon roll call; all voted: "aye".

Councilmember Senter made a motion to approve the bid/contract TruTech, Inc. in the amount of \$23,500 for Rose Center Bat Remediation. Councilmember Pedigo seconded the motion and upon roll call; all voted: "aye".

Councilmember Senter made a motion to approve the bid/contract to Mattern & Craig, Inc. for Engineering, Design & Bidding Negotiation Services for West Andrew Johnson Highway Project in the amount of \$165,020. Councilmember Smith seconded the motion and upon roll call; all voted: "aye".

Councilmember Pedigo made a motion to approve an amendment with McGill Associates for Turkey Creek Greenway Phases 4 & 5 Agreement in order to conduct a Phase I Environment Study for the Turkey Creek Greenway project in the lump sum fee of \$7,000. Councilmember Alvis seconded the motion and upon roll call; all voted "aye".

Councilmember Garrett made a motion to approve the proposal from Strategic Services Company, LLC, to develop a Concept Plan for the Public Works Department in the lump sum fee of \$90,000. Councilmember Alvis seconded the motion and upon roll call; all voted "aye".

Councilmember Alvis made a motion to approve the purchase of a Smithco Super Star Infield Conditioner for Parks & Recreation Department in the amount of \$15,787.80. Councilmember Pedigo seconded the motion and upon roll call; all voted "aye".

Councilmember Senter made a motion to approve the hiring of Joshua England to the Police Department as an entry-level Patrol Officer. Councilmember Alvis seconded the motion and upon roll call; all voted "aye".

Councilmember Pedigo made a motion to approve the hiring of Levi Beckelhimer to the Police Department as an entry-level Patrol Officer. Councilmember Smith seconded the motion and upon roll call; all voted "aye".

Mayor Chesney adjourned the March 1, 2016, City Council meeting at 5:41 p.m.

MAYOR

ATTEST:

CITY ADMINISTRATOR

ORDINANCE NO. _____
BEING AN ORDINANCE OF THE CITY COUNCIL FOR THE CITY
OF MORRISTOWN, TENNESSEE, AMENDING TITLE 8 OF THE
MORRISTOWN MUNICIPAL CODE.

BE IT ORDAINED BY THE CITY COUNCIL FOR THE CITY OF MORRISTOWN
TENNESSEE, THAT TITLE 8 OF THE MUNICIPAL CODE IS AMENDED AS
FOLLOWS:

“TITLE 8

ALCOHOLIC BEVERAGES¹

CHAPTER

1. INTOXICATING LIQUORS/LIQUOR STORES.
2. BEER.
3. INTOXICATING LIQUORS/LIQUOR-BY-THE-DRINK.
4. WINE SALES IN RETAIL FOOD STORES

CHAPTER 1

INTOXICATING LIQUORS/LIQUOR STORES

SECTION

- 8-101. Definitions.
- 8-102. Scope of chapter.
- 8-103. Compliance with state law required.
- 8-104. Purchases from persons without permit prohibited.
- 8-105. Interest in more than one retail business.
- 8-106. License holder--restrictions generally.
- 8-107. Regulations of sales and business hours.
- ~~8-108. Store location; off-street parking.~~
- 8-109. General restrictions on liquor stores.
- 8-110. Solicitation of orders by retailer and wholesaler.
- 8-111. **Municipal** inspection fees.
- 8-112. Certificate of compliance.
- 8-113. Duration of employee permit; reapplication.
- 8-114. Transfer prohibited; effect of change in business location.
- 8-115. Business taxes.
- 8-116. Other retail sales permitted.

¹State law reference

Tennessee Code Annotated, title 57, ch. 3.

Charter reference

Alcoholic beverages: § 5(25).

8-101. Definitions. For the purposes of this chapter, the following words and phrases shall have the meanings respectively ascribed to them herein, unless the text clearly indicates otherwise:

(1) "Alcoholic beverage" or "beverage" means and includes alcohol, spirits, liquor, wine, high alcohol content beer, and every liquid containing alcohol, spirits, wine, and high alcohol content beer and capable of being consumed by a human being, other than patent medicine or beer, as defined in Tennessee Code Annotated §57-5-101(b). Notwithstanding any provision to the contrary in this title, except for beer as defined in Tennessee Code Annotated §57-5-101(b), "alcoholic beverage" or "beverage" also includes any liquid product containing distilled alcohol capable of being consumed by a human being, manufactured or made with distilled alcohol, regardless of alcohol content. Liquid products intended for beverage purposes containing alcohol that do not meet the definition of beer under Tennessee Code Annotated §57-5-101(b) shall also be alcoholic beverages. ~~Notwithstanding this subdivision 8-101(1), products or beverages containing less than one-half of one percent (.5%) alcohol by volume, other than wine as defined in this section, shall not be considered to be alcoholic beverages, and shall not be subject to regulation or taxation pursuant to the Alcoholic Beverages title. Notwithstanding this subsection 8-101(1) definition, products or beverages containing less than one-half of one percent (.5%) alcohol by volume, other than wine as defined in Tennessee Code Annotated §57-3-101, shall not be considered to be alcoholic beverages, and shall not be subject to regulation or taxation pursuant to this title.~~

(2) "Residence." Actual physical residence accompanied by an intention to make such residence a permanent "home."

(3) "License." The license or permit issued pursuant to Tennessee Code Annotated, title 57, chapter 3.

(4) "Permit." The permit required or issued pursuant to this chapter, and "permittee" means any person, firm, or corporation to whom such permit has been issued pursuant to this chapter.

(5) "Person." Any natural person as well as any corporation, partnership, firm, or association.

(6) "Retail sale" or "sale at retail" means a sale to a consumer or to any person for any purpose other than for resale; provided, however, that it does not include any transaction between a licensee and its employee or employees in the normal course of employment for which no payment is expected or received or depletions from a licensee's inventory related to routine business or marketing purposes where all applicable taxes have been paid.

(7) "Retailer" or "dealer." Any person who sells at retail any beverage for the sale of which a permit is required under the provisions of this chapter. Words importing the masculine gender shall include the feminine and the neuter; the singular shall include the plural. (1979 Code, § 2-201, as replaced by Ord. #3442, June 2012)

8-102. Scope of chapter. It shall be unlawful to store, transport, sell, give away, distribute, possess, or receive alcoholic beverages in the city unless provisions of this chapter and the laws of the state have been complied with.

Nothing in this chapter regulates the transportation, storage, sale, distribution, possession, or receipt of or tax upon any beverage of alcoholic content of five percent (5%) by weight or less, and nothing in this code or other city ordinances related thereto is modified by this chapter. (1979 Code, § 2-202, as replaced by Ord. #3442, June 2012)

8-103. Compliance with state law required. No person, firm, corporation, association, or partnership shall engage in the retail liquor business unless all the necessary state licenses and permits have been obtained.

Intoxicating liquor regulations are addressed in Title 57 of the Tennessee Code Annotated. Any conflicts or omissions in this ordinance shall be governed by Title 57. (1979 Code, § 2-203, as replaced by Ord. #3442, June 2012)

8-104. Purchases from persons without permit prohibited. It shall be unlawful for any person to buy or purchase any alcoholic beverages from any person who, to the knowledge of the buyer or purchaser, does not hold the appropriate permit or license required under the provisions of this chapter or under the laws of the state, authorizing the sale of such beverages to the buyer. Furthermore, no retailer shall purchase any alcoholic beverages for resale from anyone other than a licensed wholesaler. (1979 Code, § 2-204, as replaced by Ord. #3442, June 2012)

8-105. Interest in more than one retail business. Except for retailers licensed under Tennessee Code Annotated §57-3-204, no person, corporation or other entity shall, directly or indirectly, operate any licensed retail establishment selling alcoholic spirituous beverages, not including wine, for off-premises consumption in this state. "Indirectly" means any kind of interest in such a retail business by way of stock ownership, loan, partner's interest or otherwise. A landlord shall be deemed to have an indirect interest in such a retail business when the lease agreement is based upon a percentage of profits or any other factor based upon sales of alcoholic beverages by the tenant as distinguished from being simply an interest in land for a period of time at a definite rate. Except as provided for in this section, nothing shall prohibit the holder of a retail license from having more than one (1) retail license. If two (2) or more retail licenses have been authorized, no retail licensee shall hold more than fifty percent (50%) of the licenses authorized for issuance in the city.

8-106. License holder—restrictions generally. ~~(1) No retail license under this section may be issued to any individual:~~

~~—— (A) Who has not been a bona fide resident of the state of Tennessee during the two (2) year period immediately preceding the date upon which application is made to the commission or, with respect to renewal of any license issued pursuant to Tennessee Code Annotated § 57-3-204, who has not at any time been a resident of the state of Tennessee for at least ten (10) consecutive years;~~

~~—— (B) Who has been convicted of a felony under the laws of the state of Tennessee, any other state or the United States;~~

~~—— (C) Who has had a license related to the manufacture, sale or distribution of any form of alcoholic beverages revoked for cause;~~

~~—— (D) Who is not twenty-one (21) years of age or older;~~

~~—— (E) Who has an interest, whether direct or indirect, in a manufacturer, distiller, rectifier, liquor wholesaler, winery, distributor, retail food store or farm winery selling alcoholic beverages that is licensed in the state of Tennessee, except that the spouse of an applicant for a retail license may own and hold a farm wine permit if the spouse does not hold a retailer's license issued under this section;~~

~~—— (F) Who, other than as a member of the governing body of a city or county, appoints or supervises any law enforcement officer, who is a law enforcement official or who is an employee of the commission;~~

~~—— (G) Who intends to carry on the business authorized by the license as the agent or on behalf of another;~~

~~—— (H) Who at the time of the time of application for renewal of any license issued under this section would not be eligible for the license upon a first application;~~

~~—— (I) Who is the holder of a valid existing license issued for the sale of wine in a retail food store under Tennessee Code Annotated § 57-3-803, and amendments thereto;~~

~~—— (J) Who does not own the premises for which a license is sought, or does not, at the time of application, have a written and enforceable lease thereon;~~

~~—— (K) Whose spouse would be ineligible to receive a license under this act for any reason other than citizenship, residence requirements or age, except that this subdivision shall not apply in determining eligibility for a renewal license; and~~

~~—— (L) Whose spouse has been convicted of a felony or other crime that would disqualify a person from licensure under this section and such felony or other crime was committed during the time that the spouse held a license under this section.~~

~~—— (2) The commission may, in its discretion, issue such a retail license to a corporation; provided, that no such license shall be issued to any corporation unless such corporation meets the following requirements:~~

~~—— (A) No retail license shall be issued to any corporation if any officer, director or stockholder owning any capital stock in the corporation, would be ineligible to receive a retailer's license for any reason specified above, if application for such retail license had been made by the officer, director or stockholder in their individual capacity;~~

~~—— (B) All of its capital stock must be owned by individuals who are residents of the state of Tennessee and either have been residents of the state for the two (2)~~

~~years immediately preceding the date application is made to the commission or, with respect to renewal of any license issued pursuant to Tennessee Code Annotated § 57-3-204, who has at any time been a resident of the state of Tennessee for at least ten (10) consecutive years;~~

~~—— (C) No person owning stock in such corporation shall have any interest as partner or otherwise, either direct or indirect, in any business licensed to engage in the distribution of liquor, spirits, wine or high alcohol content beer in Tennessee; and~~

~~—— (D) No stock of any corporation licensed under this section shall be transferred to any person who is not a resident of the state of Tennessee and either has not been a resident of the state for at least two (2) years next preceding or who at any time has not been a resident of Tennessee for at least ten (10) consecutive years.~~

~~—— (3) It is the intent of the general assembly to distinguish between licenses authorized generally under title 57 of the Tennessee Code Annotated and those specifically authorized under Tennessee Code Annotated §57-3-204. Because licenses granted under this section include the retail sale of liquor, spirits and high alcohol content beer which contain a higher alcohol content than those contained in wine or beer, as defined in Tennessee Code Annotated §57-5-101(b), it is in the interest of the state of Tennessee to maintain a higher degree of oversight, control and accountability for individuals involved in the ownership, management and control of licensed retail premises. For these reasons, it is in the best interest of the health, safety and welfare of the state of Tennessee to require all licensees to be residents of the state of Tennessee as provided herein and the commission is authorized and instructed to prescribe such inspection, reporting and educational programs as it shall deem necessary or appropriate to insure that the laws, rules and regulations governing such licensees are observed.~~

~~—— (4) Disclosure in application. It shall be unlawful for any person to have ownership in or participate, either directly or indirectly, in the profits of any retail business holding a permit under this chapter unless his interest in such business and the nature, extent, and character thereof shall appear on the application for a retail liquor dealer's permit; or, if the interest is acquired after the issuance of a permit, unless it shall be fully disclosed to the State of Tennessee Alcoholic Beverage Commission and approved by it. Where such interest is owned by such person on or before the application for any permit, the burden shall be upon such person to see that this section is fully complied with, regardless of who prepares and signs the application. If such interest is acquired after the issuance of a permit, the burden of such disclosure of the acquisition of such interest shall be upon both the seller and purchaser.~~

~~—— (5) Age limit. No retailer or any employee thereof engaged in an activity requiring a permit shall be a person under the age of eighteen (18) years. It shall be unlawful for any retailer or employee to permit any such person under such age in his place of business to engage in the sale of alcoholic beverages.~~

~~_____ (6) Employees. An individual seeking an employee permit shall make application for such permit by completing an application form in the manner prescribed by the State of Tennessee Alcoholic Beverage Commission. The applicant for employee permit must demonstrate that the applicant meets the following requirements:~~

~~_____ (A) The applicant has not been convicted of any crime involving the sale or distribution of alcohol over the previous eight (8) years;~~

~~_____ (B) The applicant has not been convicted of any felony within the previous five (5) years;~~

~~_____ (C) The applicant is at least eighteen (18) years of age;~~

~~_____ (D) The applicant has not had an employee or server permit or any similar type permit issued by the state, any local jurisdiction, or any foreign jurisdiction revoked by any issuing authority within the previous three (3) years;~~

~~_____ (E) The applicant does not hold any ownership interest in any licensee or permittee, licensed or permitted pursuant to Tennessee Code Annotated §57-3-203, §57-3-204, §57-3-207, §57-4-101 or §57-5-103 which has had its license or permit revoked by the issuing authority within the previous eight (8) years.~~

~~_____ (F) The applicant has not had an employee or server permit suspended by the commission unless the commission finds good cause to issue the permit notwithstanding such suspension. No retailer shall operate a retail package store or sell any alcoholic beverages within the City unless the requisite license and permit have been obtained pursuant to the rules and regulations provided for in Tennessee Code Annotated §57-3-204.~~

8-107. Regulations of sales and business hours. (1) Hours of sales on weekdays. Retail dealers in alcoholic beverages shall not engage in the sale of such beverages, except between the hours of 8:00 A.M. and 11:00 P.M., on weekdays and Saturdays. The store may not be open to the general public except during these regular business hours.

(2) Sales on Sundays and holidays. No retailer shall sell or give away any alcoholic beverage between 11:00 P.M. on Saturday and 8:00 A.M. on the following Monday of each week. Retail dealers shall be closed for business on the following holidays: New Year's Day, Fourth of July, Labor Day, Thanksgiving Day, and Christmas.

(3) Sales to minors. ~~No retailer shall sell or give away alcoholic beverages to a person under twenty-one (21) years of age, and it shall be unlawful for any such minor to purchase any alcoholic beverage. Also, it shall be unlawful for any person to present false evidence that he has attained the age of twenty-one (21) years of age.~~

~~_____ A retailer or any employee thereof shall not make or permit to be made any sales of alcoholic beverages or beer to minors. Prior to making a sale of alcoholic beverages for off-premise consumption, the adult consumer must present to the retailer or any employee of the retailer a valid, government-issued document, such as a driver's license or other form of identification deemed acceptable to the retailer~~

~~that includes the photograph and birth date of the adult consumer attempting to make an alcoholic beverage purchase. Persons exempt under state law from the requirement of having a photo identification shall present identification that is acceptable to the retailer. The retailer or employee shall make a determination from the information presented whether the purchaser is an adult. In addition to the prohibition of making a sale to a minor, no sale of alcoholic beverages for off-premises consumption shall be made to a person who does not present such a document or other form of identification to the license holder or any employee of the license holder in a face-to-face transaction. A retailer or any employee thereof shall not make or permit to be made any sales of alcoholic beverages or beer to minors. Prior to making a sale of alcoholic beverages for off-premises consumption, the adult consumer whose physical appearance does not reasonably demonstrate an age of fifty (50) years or older must present to the retailer or any employee of the retailer a valid, government-issued document, such as a driver license or other form of identification deemed acceptable to the retailer that includes the photograph and birth date of the adult consumer attempting to make an alcoholic beverage purchase. Persons exempt under state law from the requirement of having a photo identification shall present identification that is acceptable to the retailer. The retailer or employee shall make a determination from the information presented whether the purchaser is an adult. In addition to the prohibition of making a sale to a minor, no sale of alcoholic beverages for off-premises consumption shall be made to a person whose physical appearance does not reasonably demonstrate an age of fifty (50) years or older who does not present such a document or other form of identification to the license holder or any employee of the license holder in a face-to-face transaction.~~

(4) Keeping an unsealed bottle or container. No retailer of alcoholic beverages shall keep or permit to be kept upon the licensed premises any alcoholic beverages in any unsealed bottles or other unsealed containers except such open bottles and containers of damaged and unmarketable product retained by the retail licensee for purpose of return to a wholesaler or such open bottles and containers required for conducting a sales demonstration as permitted by Tennessee Code Annotated § 57-3-404(h).

(5) Sales to persons intoxicated. ~~No retailer shall sell or give away any alcoholic beverages to any person who is intoxicated, nor shall any retailer sell or give away any alcoholic beverages to any person accompanied by a person who is intoxicated.~~ No retailer shall sell any alcoholic beverages or beer to any person who is visibly intoxicated, nor shall any retailer selling alcoholic beverages or beer sell to any person accompanied by a person who is visibly intoxicated.

(6) Sales on credit. No holder of a permit for the sale of alcoholic beverages at retail shall sell, deliver, or cause, permit, or procure to be sold or delivered, any alcoholic beverages on credit.

(7) Discount sales. A retailer may offer a discount in such manner as the retailer deems appropriate as long as the discount being offered is not below the cost paid by the retailer to purchase the alcoholic beverages from the wholesaler.

~~(8) — Political advertising. No political advertising of or for any candidate or party by poster, handout card, matches or other similar election campaign material shall be placed or dispensed on the premises of a retail liquor store holding a permit under this chapter.~~

(98) Consumption on premises. No alcoholic beverages shall be sold for consumption, or consumed, on the premises of the seller, except that a retail licensee may offer complimentary samples of the products it sells for tastings to be held on the premises of the retail licensee. Such tastings shall be for sales, education and promotional purposes. No person holding a license under § 57-3-203 shall, directly or indirectly, provide any products, funding, labor, support or reimbursement to a retailer for the consumer tastings authorized by this subsection.

The tastings may be held at the option of the retail licensee during the hours the retail licensee is open for business, without filing any notice other than as provided with the commission, and no charge or fee may be assessed by the commission for a retail licensee to offer such complimentary samples.

The size of each sample shall be no greater than approximately two ounces (2 oz.) for each wine or high alcohol content beer sample and no greater than approximately one half ounce (1/2 oz.) for each liquor sample. It is the responsibility of the retail licensee to limit the number of tastings per customer and the number of products available for tasting.

Notwithstanding any law or rule to the contrary, a retail licensee or employee of the licensee may participate in tastings.

~~(10) — Advertising restricted—generally. Any and all signage or advertisement restrictions shall be controlled by the city's sign ordinance.~~

(119) Public display and public drinking prohibited. It shall be unlawful for any person to publicly drink any alcoholic beverage on any street or sidewalk, on any school ground or in any park, theatre, stadium, or school. It shall be unlawful for any person to display openly a bottle or other container of alcoholic beverage on any public street, sidewalk, or school ground, or in any park, theatre, stadium, or school. (1979 Code, § 2-208, as amended by Ord. #2555, Oct. 1988, and Ord. #3097, May 2002, and replaced by Ord. #3442, June 2012)

8-108. Store location; off-street parking. It shall be unlawful for any person to operate or maintain a liquor store in the city unless such store is located in the following manner:

(1) In the Intermediate Business Zone, on Highway 11E or the Highway 11E Bypass Morris Boulevard, but not both, a distance of at least six-tenths (.6) of a mile east of the intersection of Cumberland and Main Streets, there may be one (1) store.

(2) In the Intermediate Business Zone, on Highway 11E, a distance of at least six-tenths (.6) of a mile west of the intersection of Cumberland and Main Streets, there may be one (1) store.

(3) In the Intermediate Business Zone, on North Cumberland Street a distance of at least six-tenths (.6) of a mile north of the intersection of Cumberland and Main Streets, there may be one (1) store.

(4) In the Intermediate Business Zone, on South Cumberland Street, a distance of at least six-tenths (.6) of a mile south of the intersection of Cumberland and Main Streets, there may be one (1) store.

(5) No closer than seven thousand five hundred feet (7,500') in a direct line to any of the four (4) existing stores, but inside the perimeter of the four (4) stores, there may be one (1) store.

~~(6) No store shall be located within three hundred feet (300') of any church, school, or public building.~~

~~(7-6)~~ No store shall be located adjacent to property where any house used as a residence is located.

~~There will be three (3) square feet of off-street parking space required for each one (1) square foot of store floor space, available immediately adjacent to the liquor store, except for a store located in the Central Business District Zone as set out in subsection (5) of this section, in which case no such restriction is applied.~~ (1979 Code, § 2-209, as amended by Ord. #2523, Mar. 1988, and replaced by Ord. #3442, June 2012)

8-109. General restrictions on liquor stores. ~~No retail store shall be located except on the ground floor, and it may have two (2) main entrances opening on a public street, and such place of business shall have no other entrance for use by the public except as hereafter provided. When a wholesale or retail store is located on the corner of two (2) public streets, such wholesale or retail store may maintain a door opening on each of the public streets. Any sales room adjoining the lobby of a hotel or other public building may maintain an additional door into such lobby so long as same shall be open to the public. Every wholesale and retail store shall be provided with whatever entrances and exits may be required by existing or future municipal ordinances. When the location of a wholesale or retail liquor store is authorized to be located or operated within an established shopping center or shopping mall, and such liquor store cannot and does not have a main entrance or door opening onto a public street, but the main entrance or door would open or front on a shopping center parking area, the commission in its discretion may approve the issuance of a liquor license to cover such location within the shopping center or shopping mall, irrespective of the fact that the main entrance or door does not or would not open onto a public street. Retail liquor stores shall comply with such rules and restrictions, including but not limited to building requirements, as stated in Tennessee Code Annotated §57-3-404, as well as any applicable existing or future City ordinances.~~

8-110. Solicitation of orders by retailer and wholesaler. Retailers licensed under Tennessee Code Annotated § 57-3-204 are authorized, for a fee or without a fee, to provide, within the state, consulting services related to the products,

merchandise and supplies which the retailer is authorized to sell under § 57-3-404(e) and alcoholic beverages, and supply, deliver and install products authorized to be sold by the retailer to locations outside of the licensed premises in connection with special events, parties, alcoholic beverage tastings, educational classes and the establishment of private collections or wine cellars.

Any licensee making a delivery of alcohol, wine or beer is subject to Tennessee Code Annotated §§ 57-3-406(c) and 57-3-406(d). A record of all deliveries shall be maintained in writing and must contain all information concerning the recipient, products delivered, the time of delivery and place of delivery.

8-111. Municipal Inspection fees. ~~(1) Inspection and enforcement fee levied.~~ Each retailer dealer shall pay ~~an a municipal~~ inspection and enforcement fee ~~of five percent (5%) in an amount set by Tennessee Code Annotated 57-3-501~~ on the gross purchase price of alcoholic beverages purchased by him for resale. This fee is subject to change and any change in this fee amount shall be governed by title 57, chapter 3 of the Tennessee Code Annotated. The collection process for this fee shall be governed by Tennessee Code Annotated §57-3-501 et. seq.

~~(2) Collection. The inspection and enforcement fee shall be collected by the wholesaler and transmitted to the finance department of the city not later than the twentieth day of each month for the preceding month. The wholesaler is entitled to five percent (5%) of the gross collection to be deducted from his monthly remittance.~~

~~(3) Determining wholesale prices. The wholesale price of alcoholic beverages shall be determined at all times by reference to the wholesale price list issued to retailers by wholesalers.~~

~~(4) Failure to pay inspection fee. The wholesaler will collect the inspection fee from the retailer once the municipality notifies the wholesaler that an inspection fee has been imposed. The fee can be collected at the time of the sale or when the retailer makes payment for the delivery of the alcoholic beverages. [Tennessee Code Annotated § 57-3-502] The wholesaler will make a monthly report to the municipal government. This report will contain a list of the alcoholic beverages sold to any retailer, the wholesale price of the beverages sold, the amount of tax due, and any other information that the municipality may require. The report will be made not later than the 20th of the month following the month the sales were made. Failure to make a timely report or remittance will result in a 10% penalty. [Tennessee Code Annotated § 57-3-503]~~

8-112. Certificate of compliance. As a condition precedent to the issuance of a state liquor retailer's license by the state alcoholic beverage commission, city council may authorize the issuance of certificates of compliance by the city according to the terms contained herein. An applicant or applicant group for a retail liquor store permit shall file with the city recorder a completed written application on a form to be provided by the city recorder which shall contain all of the following information and whatever additional information the city council or city administrator may require:

(1) The name and street address of each person to have an interest, direct or indirect, in the retail liquor store as an owner, partner, stockholder or otherwise. That the applicant or applicants who are to be in actual charge of the business have not been convicted of a felony within a ten (10) year period immediately preceding the date of application and, if a corporation, that the executive officers or those in control have not been convicted of a felony within a ten (10) year period immediately preceding the date of the application.

(2) The name and address of the proposed retail liquor store. That the applicant or applicants have secured a location for the business, which complies with all restrictions of this chapter.

(3) That the applicant or applicants have complied with this chapter regulating the number of retail licenses to be issued.

~~(4) A statement that the applicant or applicants have been bona fide resident(s) of the state of Tennessee during the two (2) year period immediately preceding the date upon which application and renewal application is made. There is no residency requirement for an applicant who has continuously held a retail license for seven (7) consecutive years.~~

(5 4) A statement that the persons receiving the requested certificate to the best of their knowledge if awarded the certificate of compliance could comply with all the requirements for obtaining the required licenses and permits under state law and the provisions of this chapter for the operation of a retail liquor store within the city.

(6 5) The agreement of each applicant to comply with all applicable laws and ordinances and with the rules and regulations of the Tennessee Alcoholic Beverage Commission with reference to the sale of alcoholic beverages and the agreement of each applicant as to the validity and reasonableness of this chapter, including the fees and taxes imposed thereby with respect to the sale of retail alcoholic beverages.

(7 6) Fees. Each original Certificate of Compliance application shall be accompanied by a non-refundable two hundred fifty dollar (\$250.00) investigation fee. One (1) application fee per applicant group is sufficient.

(8 7) The Certificate of Compliance must be renewed every two (2) years. A renewal application will be provided by the city recorder. There is no fee charged for the renewal of the Certificate of Compliance.(1979 Code, § 2-217, as replaced by Ord. #3097, May 2002, and Ord. #3442, June 2012)

~~8-113. Duration of employee permit; reapplication. Each retail liquor dealer's employee permit(s) shall expire on December 31 of the year in which it was issued, whereupon the permittee must reapply for a new permit upon the same conditions and procedures as for the original permit. Refusal to issue a permit to any retail liquor dealer permittee holding a permit during all or part of the year immediately preceding the year for which application for a permit is made, shall be treated as a revocation of permit and shall be subject to all provisions of § 8-122 dealing with revocation.~~

~~_____ (1979 Code, § 2-220, as amended by Ord. #3097, May 2002, and replaced by Ord. #3442, June 2012)~~

~~8-114. Transfer prohibited; effect of change in business location. No holder of any permit shall sell, assign, or transfer such permit to any other person. In addition, there shall not be a transfer of any retail liquor dealer permit from one location to another, except in special instances to be fixed by rule or regulation of the city council. (1979 Code, § 2-221, as amended by Ord. #3097, May 2002, and replaced by Ord. #3442, June 2012)~~

8-115. Business taxes. Each permittee hereunder shall be subject to and shall pay the business taxes provided for under Tennessee Code Annotated, § 67-4-701, et seq., and in particular in compliance with Tennessee Code Annotated §§ 67-4-708(2)(G) and 67-4-709(a)(b)(2). (as added by Ord. #3097, May 2002, and replaced by Ord. #3442, June 2012)

8-116. Other retail sales permitted. Each permittee hereunder shall be permitted to sell retail items related to or incidental to the use, consumption, dispensing or storage of alcoholic beverages, together with merchandise and supplies related to special events or parties, subject to the restrictions in Tennessee Code Annotated §57-3-806(e). ~~Such items may include but are not limited to the following:~~

~~_____ (1) Newspapers, magazines, publications, videos and other media related to alcoholic beverages or food;~~

~~_____ (2) Utensils and supplies related or incidental to the use, consumption, dispensing or storage of alcoholic beverages, including, without limitation, corkscrews, beverage strainers, pourers, flasks, jiggers, stirrers, wine racks, wine refrigerators, wine cellars, decanters, carafes, glassware, ice crushers, bottle openers, can openers, and devices to maximize oxidation in uncorked wine bottles and other items used in connection with the consumption, storage or dispensing of alcoholic beverages;~~

~~_____ (3) Gift cards, packages and baskets that include alcoholic beverages and nonalcoholic items;~~

~~_____ (4) Nonalcoholic beverages;~~

~~_____ (5) Kegs and growlers, whether empty or filled with beer, wine or alcoholic beverages, on the licensed premises;~~

~~_____ (6) Concentrates and ingredients used in the preparation of mixed alcoholic beverages;~~

~~_____ (7) Beer and wine-making kits;~~

~~_____ (8) Products and supplies related to beer and wine-making;~~

~~_____ (9) Lemons, limes, cherries, olives and other food items used in the preparation or garnishment of alcoholic beverages or mixed alcoholic beverages;~~

~~_____ (10) Peanuts, pretzels, chips, cheese, crackers, appetizers and other snack foods;~~

- ~~—— (11) Beverage coolers, ice chests and ice in any form;~~
- ~~—— (12) Party supplies, party decorations, gift bags, greeting cards and other items for parties and special events;~~
- ~~—— (13) Articles of clothing and accessories imprinted with advertising, logos, slogans, trademarks or messages related to alcoholic beverages;~~
- ~~—— (14) Combined packages containing multiple alcoholic beverages;~~
- ~~—— (15) Cigarettes, cigars and lighters and other smoking or tobacco related products; and~~
- ~~—— (16) Lottery tickets if the retailer's application is approved by the Tennessee education lottery corporation as provided in Tennessee Code Annotated §4-51-115(e).~~

A retail licensee may sell nonalcoholic products to persons under twenty-one (21) years of age, including gift cards.

CHAPTER 2

BEER¹

SECTION

- 8-201. Beer board established.
- 8-202. Meetings of the beer board.
- 8-203. Record of beer board proceedings to be kept.
- 8-204. Requirements for beer board quorum and action.
- 8-205. Powers and duties of the beer board.
- 8-206. "Beer" defined.
- 8-207. Permit required for engaging in beer business.
- 8-208. Privilege tax.
- 8-209. Beer permits shall be restrictive.
- ~~8-210. Interference with public health, safety, and morals prohibited.~~
- 8-211. Issuance of permits to persons convicted of certain crimes prohibited.
- 8-212. Prohibited conduct or activities by beer permit holders.
- 8-213. Suspension and revocation of beer permits.
- 8-214. Civil penalty in lieu of suspension.
- 8-215. Open beverage containers prohibited.
- 8-216. Signage required.
- 8-217. Limitation on permits issued.
- 8-218. Adoption of the Tennessee Responsible Vendor Act.

¹Municipal code reference

Tax provisions: title 5.

State law reference

For a leading case on a municipality's authority to regulate beer, see Watkins v. Naifeh, 635 S.W.2d 104 (Tenn. 1982).

8-201. Beer board established. There is hereby established a beer board to be composed of the members of the city council. The mayor shall be the chairperson. All members of the beer board shall serve without compensation. (Ord. #2741, May 1994, as replaced by Ord. #2900, Nov. 1997, and Ord. #3442, June 2012)

8-202. Meetings of the beer board. All meetings of the beer board shall be open to the public. The board, when there is business to conduct, shall hold regular meetings in the city hall immediately **prior to or** following regular city council meetings. Special meetings may be called by the chairman provided he gives a reasonable notice thereof to each member. Special meetings may also be called by a majority of the board members, who also shall give reasonable notice thereof to each member. The board may adjourn a meeting at any time to another time and place. (Ord. #2741, May 1994, as replaced by Ord. #2900, Nov. 1997, and Ord. #3442, June 2012)

8-203. Record of beer board proceedings to be kept. The city administrator shall make a record of the proceedings of all meetings of the beer board. The record shall be a public record and shall contain at least the following: the date of each meeting; the names of the board members present and absent; the names of the members introducing and seconding motions and resolutions, etc., before the board; a copy of each such motion or resolution presented; the vote of each member thereon; and the provisions of each beer permit issued by the board. (Ord. #2741, May 1994, as replaced by Ord. #2900, Nov. 1997, and Ord. #3442, June 2012)

8-204. Requirements for beer board quorum and action. The attendance of at least a majority of the members of the beer board shall be required to constitute a quorum for the purpose of transacting business. Matters before the board shall be decided by a majority of the members present if a quorum is constituted. Any member present but not voting shall be deemed to have cast a "nay" vote. Applicants for beer permits shall appear in person before the board will consider their application. (Ord. #2741, May 1994, as replaced by Ord. #2900, Nov. 1997, and Ord. #3442, June 2012)

8-205. Powers and duties of the beer board. The beer board shall have the power and it is hereby directed to regulate the giving away, selling, storing for sale, distributing for sale, and manufacturing of beer within this municipality in accordance with the provisions of this chapter. (Ord. #2741, May 1994, as replaced by Ord. #2900, Nov. 1997, Ord. #3300, Aug. 2007, and Ord. #3442, June 2012)

8-206. "Beer" defined. The term "beer" as used in this chapter shall mean ~~and include all beers, of alcoholic content of not more than 5% alcohol by weight, or any other beverage of like alcohol content.~~ **beer, ale or other malt beverages, or any other beverages having an alcoholic content of not more than five percent (5%) by weight, except wine as defined in Tennessee Code Annotated § 57-3-101; provided,**

however, that no more than forty-nine percent (49%) of the overall alcoholic content of such beverage may be derived from the addition of flavors and other non-beverage ingredients containing alcohol. Should the Tennessee Code Annotated §57-5-101 statutory definition of “beer” change, that definition shall govern.

8-207. Permit required for engaging in beer business. Subject to State of Tennessee Public Chapter No. 554, Senate Bill No. 837 Tennessee Code Annotated §57-5-103, it shall be unlawful for any person to give away, sell, store for sale, distribute for sale, or manufacture beer without first making application to and obtaining a permit from the beer board.

(1) The beer board shall adopt by resolution the application form for a beer permit. Each application shall be furnished pursuant to Tennessee Code Annotated, § 57-5-103, and shall be accompanied by a non-refundable application fee of two hundred fifty dollars (\$250.00), plus any other requisite fees pertaining to the acquisition of the permit. Said fee shall be in cash or equivalent payable to the City of Morristown. The applicant shall fully and truthfully complete each portion of the application.

(2) Each applicantNo permit will be issued by the City unless the applicant has been a citizen or lawful resident of the United States for at least one (1) year immediately preceding the date of applying for the permit and the applicant must be a person of good moral character and he must certify that he has read and is familiar with the provisions of this chapter. No permit shall be issued hereunder to an individual who is an officer or employee of the City of Morristown, or to such individual's spouse.

(3) A sign of minimum size two feet by two feet (2' x 2') shall be posted on the premise for which application is being made at least fifteen (15) days prior to the meeting of the beer board at which the application will be considered. At least ten (10) days prior to being considered by the beer board, an announcement in a newspaper of general circulation must appear stating the name of the applicant, the type of permit desired, and the address of the premise at which the permit is desired.

(4) A permit is void at midnight of the day a permit holder ceases business for which the permit was granted and must be surrendered to the city cashier's office within five (5) working days.

(5) If application is being made for an establishment that has not been constructed or is under construction, a complete site plan and floor plan must be submitted with the application. The plans must provide a description of the entire premises, including open and parking areas available to and for the use of the business. If construction is not commenced within six (6) months or is not completed within eighteen (18) months from the date of approval of the beer permit; or if after completion of the construction, the facility differs materially from the submitted plans or violates any provisions of this chapter in effect at the time of approval of the permit, any permit issued for the facility becomes immediately void.

(6) A permit is not transferable. (Ord. #2741, May 1994, as amended by Ord. #2911, Jan. 1998, and Ord. #3300, Aug. 2007, and replaced by Ord. #3442, June 2012)

(7) An applicant can apply for the following types of permits:

(a) Off-premises permit for the retail sale of beer for consumption off the premises of the permittee.

(b) On-premises permit for the retail sale of beer for consumption on the premises of the permittee.

(c) On- and off-premise permit for the retail sale of beer for consumption on and off the premises of the permittee in which the business is a restaurant and engaged in the manufacture of beer of alcoholic content of not more than five percent (5%) by weight, and which sells the aforesaid beer for consumption on the . premises or off the premises, providing that the aggregate of sales shall not exceed twenty-five thousand (25,000) barrels of beer annually, in accordance with the provisions of Tennessee Code Annotated, Chapter 5, Title 57, as the same now reads, which chapter is hereby incorporated in its entirety by reference as fully as if set forth verbatim herein.

(8) The premises for which an applicant desires a beer permit shall be inspected by all necessary inspection officers of the City.

(9) A temporary permit may be issued by the City Administrator or his designee to allow the continued sale of alcoholic beverages and beer at a location which presently has a valid permit. A temporary permit may be issued in order to allow a new application to be administratively processed and considered by the beer board. The applicant for a temporary permit shall meet all requirements set forth in these ordinances, and the temporary permit shall not be issued for more than thirty (30) days. The City Administrator or his designee shall be entitled to immediately revoke the temporary permit upon discovering any violation of this chapter.

(10) Upon receiving approval and a permit from the beer board, the permit holder shall immediately notify the City Administrator or his designee of any change in business ownership, relocation of the business, changes in the business' name, or termination of the business. Failure to notify the City within five (5) days of any of these changes shall be grounds to cite the permit holder to the beer board to show cause why the permit should not be suspended or revoked.

(11) A beer permit shall be valid only for a single location except as provided in section (12) below, and cannot be transferred to another location.

(12) Where an owner operates two (2) or more restaurants or other businesses within the same building, the owner may in his discretion operate some or all such business pursuant to the same permit.

8-208. Privilege tax. There is hereby imposed on the business of selling, distributing, storing or manufacturing beer a privilege tax of one hundred dollars (\$100.00) per year. Any person, firm, corporation, joint stock company, syndicate or

association engaged in the sale, distribution, storage or manufacture of beer shall remit the tax on issuance of the permit, and each successive January 1, to the City of Morristown, Tennessee. A penalty of ten dollars (\$10.00) will be assessed on the second working day following January 1, and on each successive working day until the privilege tax is paid. If the renewal privilege tax is not paid by February 1 of each year, the permit shall become void and the holder must surrender the permit to the city. At the time a new permit is issued to any business subject to this tax, the permit holder shall be required to pay the privilege tax on a prorated basis for each month or portion thereof remaining until the next tax payment date. (Ord. #2741, May 1994, as deleted by Ord. #2900, Nov. 1997, amended by Ord. #2911, Jan. 1998, and Ord. #3391, June 2010, and replaced by Ord. #3442, June 2012)

8-209. Beer permits shall be restrictive. All beer permits shall be restrictive as to the type of beer business authorized under them.

(1) Separate permits shall be required for selling at retail, storing, distributing, and manufacturing. ~~Beer permits for retail sale of beer may be further restricted by the beer board so as to authorize sales only for off premises or on premises consumption.~~ It shall be unlawful for any beer permit holder to engage in any type or phase of the beer business not expressly authorized by his permit. It shall likewise be unlawful for him not to comply with any and all express restrictions or conditions that are written into his permit by the beer board.

(2) No on-premise permit shall be issued for a premise other than a nonprofit club or restaurant. ~~No on- and off- premise permit shall be issued for a premise other than a restaurant brewery.~~ For purposes of this chapter, "on premise", and "on-and off- premise" shall include the interior of the business enclosed by permanent walls and covered by a permanent roof, as well as all decks, patios and other outdoor serving areas that are contiguous to the exterior of the building in which the business is located, and in the case of a nonprofit club, a golf course that is a part of the establishment. ~~Decks, patios and outside serving areas must be surrounded by opaque fencing that is a minimum of five feet (5') in height, with an emergency exit. However, non-emergency ingress and egress from the area must be through the regular entrances and exits to and from the restaurant. On premise establishments must provide separate public restroom facilities for both sexes.~~ An outdoor serving area shall be defined as a patio, deck, courtyard or other outdoor area where the permitted establishment provides service to the outdoor serving area that is (1) contiguous to the exterior of the building in which the business is located, (2) operated and controlled by the business, and (3) fenced or surrounded on all sides except for designated entrances and exits. The fencing or surrounding barrier need not be permanent, but must consist of a barrier not less than forty (40) inches high and must be constructed of a substantial material without gaps or spaces that would allow ingress and egress of the premises except through designated entrances and exits. Examples of substantial material includes, but is not limited to, securely connected cattle gates, planters, decorative fencing or other decorative architectural or landscaping material. An outdoor serving area

may not include all or any part of an area otherwise used by the business or by the public for parking.

(a) "Restaurant" means any public place kept, used, maintained, advertised and held out to the public as a place where meals are served and where meals are actually and regularly served, such place being provided with adequate and sanitary kitchen and dining room equipment and a seating capacity of at least ~~seventy-five (75)~~ ~~forty (40)~~ **twenty five (25)** people at tables, having employed therein a sufficient number and kind of employees to prepare, cook and serve suitable food for its guests. The Restaurant should serve a ~~At least one (1) meal per day shall be served~~ at least five (5) four (4) days a week, with the exception of holidays, vacations and periods of redecorating, ~~and the~~ The serving of such meals shall be the principal business conducted, except where the restaurant is located in a hotel or motel which provides at least thirty (30) rooms or suites for guests, in which case, the restaurant business may be secondary to the hotel or motel business. A restaurant ~~shall also be eligible for an on-premise permit hereunder if the restaurant serves at least one (1) meal a day at least four (4) days a week with the exception of holidays, vacations and periods of redecorating, and if the serving of such meals is the principal business conducted, and if such restaurant is only open for four (4) days a week.~~ In no case shall beer be sold at times other than when meals are being served.

~~The seating capacity requirement as set forth in subsection (a) shall not apply to any restaurant which has been annexed by the City of Morristown which, on May 16, 1994, held a valid and duly authorized on-premise beer permit or license issued by the City of Morristown or Hamblen County.~~

(b) "Nonprofit club" means a corporation organized and in good standing under the laws of the State of Tennessee, not for profit, solely for the promotion of some common object of fellowship, recreation and other nonprofit purposes other than the sale and consumption of beverages containing alcohol.

(c) Annual sales of beer as defined in this chapter shall not exceed twenty-five percent (25%) of total taxable sales for any on premise permit holder.

In the application of this section, total taxable sales shall be defined as those food and non-alcoholic beverage sales subject to state and local sales taxes. The permittee shall provide the City Administrator or his designee with proof of compliance with this section when he applies for a renewal of his beer permit. It shall be a violation of this section if the beer sales exceed the twenty-five percent (25%) limit ~~in two (2) consecutive months or three (3) months in any calendar year.~~ Should a permittee violate this section, the City shall have the right to deny a permittee's request for renewal.

(3) No off-premise permit shall be issued for a premise other than full line grocery stores, drug stores, or convenience stores. For the application of this section,

a full line grocery store shall be defined as a store that maintains an inventory of staple food items including fresh meats, vegetables, produce, and fruits. A drug store shall be defined as a business whose primary business is the sale of prescription drugs and associated items. A convenience store shall be defined as a store that maintains an inventory of basic food items such as luncheon meats, snack items, milk products, bread products, and canned goods.

(4) Each holder of a beer permit shall continuously maintain in this city:

(a) A registered office which may be the same as the permitted place of business; and

(b) A registered agent, who shall be an individual whose business office is identical with the registered office.

(5) No brewer, wholesaler or manufacturer of beer, nor any agent of such brewer, wholesaler or manufacturer, shall be permitted to make a loan of money or furnish any fixtures of any kind or have any interest either directly or indirectly in the business of any retailer of beer, or in the premises occupied by such retailer. No person holding and/or exercising a valid permit issued pursuant to this chapter shall while so doing convey or grant or contract to convey or grant any interest in the business located at the place named on the permit, or an interest in the premise or any property therein, to any brewer, wholesaler or manufacturer of beer regulated by this chapter. No person holding and/or exercising a valid permit issued pursuant to this chapter shall incur or contract any indebtedness or financial obligation to any brewer, wholesaler or manufacturer of beer regulated by this chapter, except for the purchase of the beverages. No permit shall be granted under this chapter to any applicant who at the time of making application, is indebted or financially obligated to any such brewer, wholesaler or manufacturer, except for the purchase of the beverages. (Ord. #2741, May 1994, as amended by Ord. #2900, Nov. 1997, Ord. #3033, May 2000, Ord. #3145, Oct. 2003, Ord. #3163, Jan. 2004, Ord. #3300, Aug. 2007, Ord. #3391, June 2010, and Ord. #3417, June 2011, replaced by Ord. #3442, June 2012, and amended by Ord. #3485, Oct. 2013)

~~8-210. Interference with public health, safety, and morals prohibited. No permit authorizing the sale of beer will be issued when such business would cause congestion of traffic or would interfere with schools, churches, parks, or other places of public gathering, or would otherwise interfere with the public health, safety, and morals. For purposes of application of this section, in no event will an off-premise permit be issued authorizing the sale of beer within one hundred fifty feet (150') of any church, public or private school, or city park. The distances shall be measured in a straight line¹ from the nearest point of any portion of the building from which the beer will be sold to the nearest point on the property line of the church, school, or park. This distance restriction shall not apply to any premises which is wholly separated from any church, public or private school, or city park by a state or federal road or highway having at least four (4) lanes for traffic. A turning lane shall not be considered one of the required four (4) lanes. "Building" for these purposes shall mean the walls that enclose a grocery store, drug store or~~

~~convenience store, even though they may lie within a larger building such as in the case of a shopping center. The licensed premises within such building shall not have general access directly to or from other retail stores or shops within the center or other structure wherein the licensed premises is located. No permit shall be suspended, revoked or denied on the basis of proximity of the establishment to a school, church, or park if a valid permit had been issued to any business on that same location, unless beer is not sold, distributed or manufactured at that location during any continuous one (1) year period. "School" does not include private pre-school, private day care, home school or any institution of learning within the jurisdiction of the Tennessee Higher Education Commission as set forth in Tennessee Code Annotated, § 49-7-203. Issuance of a permit pursuant to this § 8-210 shall be subject to the provisions of § 8-207(5). No permit shall be denied on the basis of proximity to any facility described above if the application for the permit was duly filed and accompanied with the appropriate filing fee prior to commencement of the use of any facility described above for the purposes which would otherwise prohibit the issuance of the permit. (Ord. #2741, May 1994, as amended by Ord. #2900, Nov. 1997, Ord. #3042, Aug. 2000, Ord. #3145, Oct. 2003, and Ord. #3163, Jan. 2004, and replaced by Ord. #3300, Aug. 2007, and Ord. #3442, June 2012)~~

¹State law reference

~~See Watkins v. Naifeh, 625 S.W.2d 104 (Tenn. 1982) and other cases cited therein which establish the straight line method of measurement.~~

8-211. Issuance of permits to persons convicted of certain crimes prohibited. No beer permit shall be issued to any person who has been convicted for the possession, sale, manufacture, or transportation of beer or other alcoholic beverages, or the manufacture, delivery, sale or possession with intent to manufacture, deliver or sell any controlled substance or controlled substance analogue, or any crime involving moral turpitude within the past ten (10) years. No person, firm, corporation, joint-stock company, syndicate, or association having at least a five percent (5%) ownership interest in the business for which application is being made shall have been convicted of any violation of the laws against possession, sale, manufacture, or transportation of beer or other alcoholic beverages, or the manufacture, delivery, sale or possession with intent to manufacture, deliver or sell any controlled substance or controlled substance analogue or any crime involving moral turpitude within the past ten (10) years. (Ord. #2741, May 1994, as amended by Ord. #2900, Nov. 1997, and replaced by Ord. #3442, June 2012)

8-212. Prohibited conduct or activities by beer permit holders. It shall be unlawful for any beer permit holder, employee, or person engaged in the sale of beer to:

(1) Employ any person convicted for the possession, sale, manufacture, or transportation of intoxicating liquor, or any crime involving moral turpitude within the past ten (10) years.

(2) Employ any minor under eighteen (18) years of age in the sale, storage, distribution or manufacture of beer.

(3) Make or allow any sale of beer on Sunday between the hours of 3:00 A.M. and 10:00 A.M. or between the hours of 3:00 A.M. and 8:00 A.M. on any other day.

(4) Make or allow any sale of beer to a person under twenty-one (21) years of age.

(5) Allow on the premises an owner, co-owner, operator, proprietor, or employee to drink or be under the influence of any of the beverages regulated by this chapter.

(6) Allow any person under twenty-one (21) years of age to loiter in or about his place of business.

(7) Make or allow any sale of beer to any person who appears, or would reasonably appear to be under the influence of any intoxicant whatsoever.

(8) Allow intoxicated person to loiter about his premises.

(9) Make or allow the sale of beer directly to the occupants of a vehicle or through "drive-through" windows.

(10) Provide for or allow any gambling or games of chance involving exchange of money on the premises, excepting activities authorized pursuant to the Tennessee Education Lottery Implementation Law codified at Tennessee Code Annotated, § 4-51-101, et seq.

(11) Knowingly or intentionally permit or allow any person to appear in the establishment or on the premises for which the permit was issued and to:

(a) Publicly or openly perform acts or simulated acts of sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation or any other sexual acts prohibited by law;

(b) Publicly or openly engage in the actual or simulated touching with the hand, facial area or mouth, or caressing, or fondling of the breasts, buttocks, anus or genitals;

(c) Publicly or openly engage in the actual or simulated display to public view of any portion of the human male or female genitals, pubic area or buttocks with less than a fully opaque covering, the display of the female breast with less than a fully opaque covering of the areola, or the showing of covered male genitals in a discernibly turgid state; or

(d) Publicly or openly wear or use any device or covering exposed to public view which simulates the display to public view of any portion of the human male or female genitals, pubic area or buttocks with less than a fully opaque covering, the display of the female breast with less than a fully opaque covering of the areola, or the showing of covered male genitals in a discernibly turgid state; or

(e) Employ, use or allow any person in the sale or service of food, wine, beer or other alcoholic beverages while such person is publicly or openly unclothed or in such attire, costume or clothing as to expose to view any portion of the human male or female genitals, pubic area or buttocks with less than a fully opaque covering, the female breast with less than a fully opaque covering of the areola, or the showing of covered male genitals in a discernibly turgid state; or

(f) Employ, use or allow the services of any hostess or other person to mingle with patrons while such hostess or other person is unclothed or in such attire, costume or clothing as to expose to view any portion of the human male or female genitals, pubic area or buttocks with less than a fully opaque covering, the female breast with less than a fully opaque covering of the areola, or the showing of covered male genitals in a discernibly turgid state; or

(g) Publicly or openly permit any person to use artificial devices or any inanimate objects to depict any prohibited activities described above; or

(h) For the owner of the property, or the owner of any business operated thereon, or any employee thereof to allow or permit any person to remain in or upon the premises who is exposing to public view any portion of the human male or female genitals, pubic area, buttocks with less than a fully opaque covering, the female breast with less than a fully opaque covering of the areola, or the showing of covered male genitals in a discernibly turgid state;

(i) Publicly or openly show films, videotapes, laser discs, CD ROMS, electronic reproductions or other visual reproductions that involve movement depiction of any of the following:

(i) Acts or simulated acts of sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation or any sexual acts which are prohibited by law;

(ii) Any person being touched, caressed, or fondled on the breasts, buttocks, anus or genitals;

(iii) Scenes wherein the person displays the vulva, the anus or the genitals;

(iv) Scenes wherein artificial devices or inanimate objects are employed to depict, or drawings are employed to portray, any of the prohibited activities described above.

(j) Nothing contained in this section shall be construed to prohibit persons of either sex from engaging in swimming or related activities while clad in attire customarily worn in the community for such purpose;

(k) Nothing contained in this section shall be construed to prohibit the broadcast or display of any television program subject to regulation by the Federal Communications Commission of the United States on the permitted premises. (Ord. #2741, May 1994, as replaced by Ord. #2900, Nov. 1997, amended by Ord. #2911, Jan. 1998, Ord. #3173, March 2004, Ord.

#3300, Aug. 2007, Ord. #3356, Feb. 2009, and Ord. #3391, June 2010, and replaced by Ord. #3442, June 2012)

8-213. Suspension and revocation of beer permits. Subject to the provisions of The Tennessee Responsible Vendor Act codified at Tennessee Code Annotated, § 57-5-601, et seq., the beer board shall have the power to revoke any beer permit issued under the provisions of this chapter when the holder thereof is guilty of making a false statement or misrepresentation in his application or of violating any of the provisions of this chapter. The beer board is authorized to revoke a beer permit for any of the reasons which would disqualify an applicant in the first instance.¹ However, no beer permit shall be suspended or revoked until a public hearing is held by the board after reasonable notice to all the known parties in interest. Suspension or revocation proceedings may be initiated by the chief of police or by any member of the beer board. When a permit is revoked by the beer board, a new permit for the sale of beer on the same premises shall not be issued for one (1) year following the final effective date of the revocation. However, the board may, in its discretion, issue a new permit on the same premises before the expiration of the one (1) year period if the individual applying for the permit is not the original holder of the permit or the agent of the original holder of the permit. Revocations do not stay

8-214. Civil penalty in lieu of suspension. Subject to the provisions of Tennessee Code Annotated, § 57-5-601, et seq., the beer board may, at the time it imposes a revocation or suspension, offer a permit holder the alternative of paying a civil penalty not to exceed ~~one~~two thousand five hundred dollars (\$~~1~~2,500.00) for each offense of making or permitting to be made any sales to persons under twenty-one (21) years of age, or a civil penalty not to exceed one thousand dollars (\$1,000.00) for any other offense. The amount of the civil penalties shall be governed by Tennessee Code Annotated §57-5-108 and if the amounts are modified, the Tennessee statute shall control. If a civil penalty is offered as an alternative to revocation or suspension, the holder shall have seven (7) days within which to pay the civil penalty before the revocation or suspension shall be imposed. If the civil penalty is paid within that time, the revocation or suspension shall be deemed withdrawn. (Ord. #2741, May 1994, as replaced by Ord. #2900, Nov. 1997, amended by Ord. #3300, Aug. 2007, and Ord. #3391, June 2010, and replaced by Ord. #3442, June 2012)

8-215. Open beverage containers prohibited. It is unlawful for any person to possess open cans, bottles, or containers of beer in motor vehicles in the city or upon the public streets, sidewalks, or other public places in the city, not otherwise permitted by this chapter. There shall be rebuttable presumption that open containers of alcoholic beverages found in a motor vehicle, not within the physical possession of any individual, are in the possession of the driver of the vehicle. (Ord. #2741, May 1994, as replaced by Ord. #2900, Nov. 1997, and Ord. #3442, June 2012)

¹See Midgett v. Smith, 591 S.W.2d 765 (Tenn. 1970)
with the property when the property changes hands. (Ord. #2741, May 1994, as replaced by Ord. #2900, Nov. 1997, amended by Ord. #3300, Aug. 2007, and replaced by Ord. #3442, June 2012)

8-216. Signage required. Pursuant to Tennessee Code Annotated §57-5-301(f), permit holders shall post signs on the premises informing customers of the permit holder's policy against selling beer to underage persons. The signs shall be not less than eight and one half inches by five and one half inches (8 ½ " x 5 ½"), and shall contain the following language: "IF YOU AREN'T 21 AND ARE IN POSSESSION OF BEER, YOU COULD LOSE YOUR DRIVER LICENSE."

8-217. Limitation on permits issued. The beer board shall not issue permits for beer sales that would result in the number of permits in effect numbering more than one hundred and fifty (150). ~~The limiting number is based on the 1990 Federal Census and shall be adjusted by one (1) permit for each change of the population by two hundred fifty (250) persons as established by the most recent Federal Census or any special census conducted by the City of Morristown or the State of Tennessee.~~ Businesses which may be annexed, and which possess a valid beer license at the time of their annexation; and businesses which had been issued a valid permit which is existing at the time of the final passage of the ordinance comprising this chapter, but which experience a change of control (ownership) such as would require application for issuance of a new permit, shall not be denied a permit on the basis of the limitation of the number of permits to be issued by the city. (Ord. #2900, Nov. 1997, as replaced by Ord. #3442, June 2012)

8-218. Adoption of the Tennessee Responsible Vendor Act. There is hereby adopted and incorporated herein by reference the Tennessee Responsible Vendor Act, codified in Tennessee Code Annotated, § 57-6-601, et seq. Any provisions of title 8, chapter 2 of the municipal code in conflict with the provisions of the Act are hereby repealed. (as added by Ord. #3300, Aug. 2007, and replaced by Ord. #3442, June 2012)

CHAPTER 3

INTOXICATING LIQUORS/LIQUOR-BY-THE-DRINK

SECTION

8-301. Definitions of “alcoholic beverages.”

8-302. Consumption of alcoholic beverages on premises.

8-303. Privilege tax on retail sale of alcoholic beverages for consumption on the premises.

8-304. Annual privilege tax to be paid to the city clerk.

8-305. Concurrent sales of liquor by the drink and beer.

8-301. Definitions of “alcoholic beverages”. ~~As used in this chapter, unless the context indicates otherwise, “alcoholic beverages” means and includes alcohol, spirits, liquor, wine, and every liquid containing alcohol, spirits, liquor and wine capable of being consumed by a human being other than medicine or beer where the latter contains an alcohol content of 5% by weight or less. Products or beverages including beer containing less than ½% alcohol by volume, other than wine as defined by this chapter, shall not be considered alcoholic beverages and shall not be subject to regulation or taxation pursuant to this chapter unless specifically provided.~~

~~Words importing the masculine gender shall include the feminine and the neuter, and singular shall include the plural. As used in this chapter, unless the context indicates otherwise, “alcoholic beverage” or “beverage” means and includes alcohol, spirits, liquor, wine, and every liquid containing alcohol, spirits, wine and capable of being consumed by a human being, other than patented medicine or beer as defined in Tennessee Code Annotated §57-5-101. Notwithstanding any provision to the contrary in this chapter, “alcoholic beverage” or “beverage” also includes any product containing distilled alcohol capable of being consumed by a human being manufactured or made with distilled alcohol irrespective of alcoholic content, including any infused product.~~

8-302. Consumption of alcoholic beverages on premises. Tennessee Code Annotated Title 57, Chapter 4, inclusive, is hereby adopted so as to be applicable to all sales of alcoholic beverages for on-premises consumption which are regulated by the said code when such sales are conducted within the corporate limits of Morristown, Tennessee. It is the intent of the City Council that the said Tennessee Code Annotated Title 57, Chapter 4, inclusive, shall be effective in Morristown, Tennessee, the same as if said code sections were copied herein verbatim.

8-303. Privilege tax on retail sale of alcoholic beverages for consumption on the premises. Pursuant to the authority contained in Tennessee Code Annotated §57-4-301, there is hereby levied a privilege tax (in the same amounts levied by Tennessee Code Annotated §57-4-301, for the city general fund to be paid annually as provided in this chapter) upon any person, firm, corporation, joint stock company,

syndicate, or association engaging in the business of selling at retail in the city alcoholic beverages for consumption on the premises where sold.

8-304. Annual privilege tax to be paid to the city clerk. Any person, firm, corporation, joint stock company, syndicate or association exercising the privilege of selling alcoholic beverages for consumption on the premises in the city shall remit annually to the city clerk the appropriate tax described in section 8-103 hereof. Such payment shall be remitted within thirty (30) days following the end of each twelve (12) month period from the original date of the license. Upon the transfer of ownership of such business or the discontinuance of such business, said tax shall be filed within thirty (30) days following such event. Any person, firm, corporation, joint stock company, syndicate, or association failing to make payment of the appropriate tax when due shall be subject to the penalty provided by law.

8-305. Concurrent sales of liquor by the drink and beer. Any person, firm, corporation, joint stock company, syndicate or association which has received a license to sell alcoholic beverages in the city, pursuant to Tennessee Code Annotated Title 57, Chapter 4, shall, notwithstanding any other provision contained in the Morristown City Code, qualify to receive a beer permit from the city.

CHAPTER 4

WINE SALES IN RETAIL FOOD STORES

SECTION

8-401. ~~Application of this chapter.~~

8-402. Definitions.

8-403. Adoption of state law.

8-404. Issuance of retail food store wine license.

8-405. Certificate of compliance.

8-406. Issuance of certificate of compliance; appeal.

8-407. Issuance, renewal, suspension, and termination of retail food store wine license.

8-408. Regulation of sales.

~~8-401. Application of this chapter. This chapter shall apply and be effective immediately upon the passage, pursuant to Tennessee Code Annotated §57-3-106, of the referendum authorizing the sale of wine in retail food stores.~~

8-402. Definitions. For the purpose of this chapter, the following terms, phrases, words, and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and words in the

singular number the plural number. The word "shall" is always mandatory and not merely directory:

(1) "Retail food store" means an establishment that is open to the public that derives at least twenty percent (20%) of its taxable sales from the retail sale of food and food ingredients for human consumption taxed at the rate provided in Tennessee Code Annotated, §67-6-228(a) and has retail floor space of at least one thousand two hundred square feet (1,200 sq. ft.);

(2) "Wine" means the product of the normal alcoholic fermentation of the juice of fresh, sound, ripe grapes, with the usual cellar treatment and necessary additions to correct defects due to climatic, saccharine and seasonal conditions, including champagne, sparkling and fortified wine of an alcoholic content not to exceed eighteen percent (18%) by volume. No other product shall be called "wine" unless designated by appropriate prefixes descriptive of the fruit or other product from which the same was predominantly produced, or an artificial or imitation wine. "Wine" does not mean alcohol derived from wine that has had substantial changes to the wine due to the addition of flavorings and additives.

8-403. Adoption of state law. There is hereby adopted and incorporated herein by reference the applicable statutes on Retail Food Store Wine Sales, codified in Tennessee Code Annotated §57-3-801, et seq.

8-404. Issuance of retail food store wine license. Any person, partnership, limited liability company or corporation desiring to sell wine to patrons or customers within the premises of a retail food store, in sealed packages only, and not for consumption on the premises, shall make application to the Alcoholic Beverage Commission for a retail food store wine license. This application shall comply with all the terms and conditions set forth in Tennessee Code Annotated §57-3-801, et seq. The City shall not be permitted to limit the number of retail food store wine licenses issued within the City's jurisdiction.

8-405. Certificate of compliance. As a condition precedent to the issuance of a state liquor retailer's license by the state Alcoholic Beverage Commission, the mayor or a majority of the city council may authorize the issuance of certificates of compliance by the city according to the terms contained herein. An applicant or applicant group for a retail food store wine license shall file with the city recorder a completed written application on a form to be provided by the city recorder which shall contain all of the following information and whatever additional information the city council or city administrator may require:

(1) The name and street address of each person who will be in actual charge of or in control of the business, and a statement that the applicant or applicants who are to be in actual charge of the business have not been convicted of a felony within a ten (10) year period immediately preceding the date of the application with the state alcoholic beverage commission and, if a corporation, that the executive officers or those in control have not been convicted of a felony within a ten (10) year

period immediately preceding the date of the application;

(2) The name and address of the proposed retail food store applying for a retail food store wine license, and a statement that the applicant or applicants have secured a location for the business, which complies with all zoning laws of the city;

(3) That the applicant or applicants have complied with this chapter and the applicable state laws on retail food store wine sales.

8-406. Issuance of certificate of compliance; appeal. A failure on the part of the issuing authority to grant or deny the applicant's request for the certificate of compliance within sixty (60) days of the written application shall be deemed a granting of the certificate. If an applicant is denied a certificate of compliance, the applicant may seek review of such denial by instituting an action in Chancery Court within sixty (60) days of the denial.

8-407. Issuance, renewal, suspension, and termination of retail food store wine license. The issuance, renewal, suspension, and termination of retail food store wine licenses and the regulation of and operation by such license holders shall be governed by Tennessee Code Annotated §57-3-201, et seq., except where Tennessee Code Annotated §57-3-801, et seq. expressly states otherwise. ~~In order to renew a retail food store wine license, the licensee must maintain a minimum of twenty percent (20%) of the taxable sales from the retail of food and food ingredients for human consumption. If a licensee fails to comply with this requirement, the licensee shall have one (1) year to work with the alcoholic beverage commission to create a plan to become compliant. Failure to comply with this requirement after one (1) year shall result in the retail food store wine license being suspended or revoked by the alcoholic beverage commission.~~

8-408. Regulation of sales. (1) Hours of sales on weekdays. Retail food store wine licensees shall not engage in the sale of wine, except between the hours of 8:00 A.M. and 11:00 P.M. on weekdays and Saturdays.

(2) Sales on Sundays and holidays. No retail food store wine licensee shall sell or give away any wine between 11:00 P.M. on Saturday and 8:00 A.M. on the following Monday of each week. No retail food store wine licensee shall sell or give away wine on the following holidays: New Year's Day, Fourth of July, Labor Day, Thanksgiving Day, and Christmas.

(3) Sales to minors. No retail food store wine licensee, or any employee thereof, shall sell or give away wine- to minors. Prior to making a sale of wine for off-premises consumption, the adult consumer must present to the license holder or any employee of the license holder a valid, government-issued document, such as a driver license or other form of identification deemed acceptable to the license holder that includes the photograph and birth date of the adult consumer attempting to make a wine purchase. Persons exempt under state law from the requirement of having a photo identification shall present identification that is acceptable to the license holder. The license holder or employee shall make a determination from the

information presented whether the purchaser is an adult. In addition to the prohibition of making a sale to a minor, no sale of wine for off-premises consumption shall be made to a person who does not present such a document or other form of identification to the license holder or any employee of the license holder in a face-to-face transaction; however, it is an exception to any criminal punishment or adverse administrative action, including license suspension or revocation, for a violation of this section if the sale was made to a person who is or reasonably appears to be over fifty (50) years of age and who failed to present an acceptable form of identification.~~to a person under twenty-one (21) years of age, and it shall be unlawful for any such minor to purchase wine. Also, it shall be unlawful for any person to present false evidence that he has attained the age of twenty-one (21) years.~~

(4) Keeping an unsealed bottle or container. No retail food store wine licensee shall keep, or permit to be kept upon his premises, wine in any unsealed containers or bottles.

(5) Sales to persons intoxicated. No retail food store wine licensee shall sell or give away wine to any person who is intoxicated, nor shall any retail food store wine licensee sell or give away wine to any person accompanied by a person who is intoxicated.

(6) Sales on credit. No retail food store wine licensee shall sell, deliver, or cause, permit, or procure to be sold or delivered, wine on credit.

(7) Wine tastings. No retail food store wine licensee shall conduct tastings of wine on the premises of the retail food store.

(8) Consumption on premises. No wine shall be sold for consumption, or consumed, on the premises of the retail food store, except that a retail food store wine licensee may also hold a license to sell alcoholic beverages for consumption on premises pursuant to Tennessee Code Annotated §57-4-101, et seq., provided that the premises of the on-premise licensee shall be separate and distinct from the premises of the retail food store and the business of the on-premise licensee shall be operated separately and distinctly from the operation of the business of the retail food store wine licensee.

(9) Public display and public drinking prohibited. It shall be unlawful for any person to publicly drink wine or publicly display any bottle or container of wine on any street or sidewalk, on any school ground or in any park, theatre, stadium, or school."

This ordinance shall take effect upon second and final reading, the public welfare requiring same.

PASSED ON FIRST READING THIS THE 15TH DAY OF MARCH, 2016.

MAYOR

ATTEST:

CITY ADMINISTRATOR

PASSED ON SECOND AND FINAL READING THIS THE 5TH DAY OF APRIL,
2016.

MAYOR

ATTEST:

CITY ADMINISTRATOR

City of Morristown

Department of Community Development



MEMO

To: Morristown City Council
CC: Debbie Stamey
Date: March 10, 2016
From: Logan Engle, Planner
RE: Tree Ordinance Revision

Summary

According to the Arbor Day Foundation, the organization that sets Tree City USA standards, the tree ordinance “should be flexible enough to fit the needs and circumstances of the particular community” and ideally “provide clear guidance for planting, maintaining and removing trees from streets, parks and other public places”. The Morristown Tree Board has thoroughly reviewed the current ordinance and has determined that a few changes are necessary to encourage appropriate tree planting and maintenance. As a result, the attached draft for revisions to the ordinance is submitted for consideration by City Council.

The revisions to the ordinance will make the following changes:

- Added a definition for the term “American Nurseryman Standards.”
- Clearly defines who constitutes board membership.
- Encourages tree planting, maintenance, and care in accordance with currently-accepted ANSI standards.
- Other minor language changes or corrections that do not significantly change the scope of the ordinance.

Attachment: Tree Ordinance Revision Draft

ORDINANCE NO. _____

BEING AN ORDINANCE OF THE CITY COUNCIL FOR THE CITY OF MORRISTOWN, TENNESSEE, AMENDING TITLE 13, CHAPTER 3 [TREE ORDINANCE] OF THE MORRISTOWN MUNICIPAL CODE.

BE IT ORDAINED BY THE CITY COUNCIL FOR THE CITY OF MORRISTOWN, TENNESSEE, THAT TITLE 13, CHAPTER 3 [TREE ORDINANCE] OF THE MUNICIPAL CODE IS AMENDED AS FOLLOWS:

CHAPTER 3

TREE ORDINANCE

Sec. 13-301. - Tree ordinance.

The purpose of this tree ordinance is to provide a mechanism for the management of trees and woody vegetation in the city. Since adoption of an ordinance is one of the requirements for Tree City USA recognition, the city hereby adopts this ordinance in order to establish guidelines for tree planting, cutting and care in the city.

(Ord. No. 2639, 7-1991; Ord. No. 3467, 4-2013)

Sec. 13-302. - Definitions.

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

American Nurseryman Standards means the standards related to size and planting for newly planted landscaping materials as referenced in *The American Standard for Nursery Stock* prepared by the American Nursery and Landscape Association.

City forester means a city employee responsible for the city's tree program.

Crownsread means the distance from the ends of branches on one side of the tree, through the trunk, to the ends of the branches on the other side.

Drip line means all points directly underneath the end of the branches.

Mulch means a layer of organic materials placed on the surface of the soil around plants to retain moisture, prevent the growth of weeds, and to hold the soil in place or aid plant growth.

Private tree means a tree growing in an area owned by a private individual, business or commercial establishment, company, or industry, private institution, or other area not owned by government entities.

Pruning means selective removal and thinning of the upper portions of the tree, taking into account the shape and natural structure of the tree.

Public tree means a tree growing in an area owned by the community, including parks, public buildings, and other areas to which the public has free access.

Public utility means that section of local government in charge of electrical, water, sewer, natural gas, telephone or cable television distribution in the community and having responsibility for keeping distribution lines free of hazards, including trees.

Shrub means a self-supporting woody plant, growing 18 inches to 15 feet in height at maturity and characterized by multiple stems and branches continuous from the base; usually not more than ten feet in height at its maturity. Shrubs may be deciduous or evergreen.

Street tree means a tree growing within a public right-of-way along a street, in a median or in a similar area in which the public right-of-way borders areas owned by private individuals.

Topping means arbitrary removal of various portions of the tree, thereby leaving stubs, with no regard for the natural structure of the tree.

Tree means a woody plant with a single trunk or multiple trunk capable of growing to a height of 15 feet or more.

Tree sizes means:

- (1) Small tree. A tree that grows up to 25 feet in height.
- (2) Medium tree. A tree that grows between 25 feet and 45 feet in height.
- (3) Large tree. A tree that grows greater than 45 feet in height.

Utility easement means an easement conveyed, granted or dedicated for utility purposes (stormwater, wastewater, electrical, water systems, etc.).

(Ord. No. 2639, 7-1991; Ord. No. 3467, 4-2013)

Sec. 13-303. - Administration.

The city administrator shall be responsible for carrying out this chapter:

- (1) Creation of a tree board. There is hereby created a tree board for the city, which shall consist of 13 members, five members at large who are citizens and residents of the city or the city's urban growth boundary and one city council member that shall be appointed by the mayor with the approval of city council, and seven standing members of the board which shall include the Morristown Public Works Director, the Morristown Parks and Recreation Director, the city administrator or his or her designee, a Morristown Utility Systems representative, a representative from the local state division of forestry, a representative from the state soil conservation service, and a representative from the local Keep American Beautiful affiliate or their designated representative.
- (2) Term of office. Appointed members shall serve three-year terms, except the first board which will have two members appointed for one year and three members appointed for two years. In the event that a vacancy shall occur during the term of any member, that member's successor shall be appointed for the unexpired portion of the term. No member shall serve more than two successive terms.
- (3) Operation. The board shall choose its own officers, make its own administrative rules and regulations, and keep a record of its proceedings. Copies of the minutes shall be available to the governing body after each tree board meeting. Each board member or

his/her duly appointed designee shall have a voting privilege on any issue that may come before the board to vote. The voting shall carry or fail by simple majority of those present and casting votes. The results of voting shall be recorded in the minutes of such meeting.

- (4) Duties and responsibilities. The duties of the tree board shall include, but not be limited to the following:
- a. Promote proper tree pruning procedures;
 - b. Coordinate tree-related activities;
 - c. Conduct an Arbor Day ceremony;
 - d. Provide tree information to the community;
 - e. Maintain a recommended tree list for the community;
 - f. Recognize groups and individuals completing tree projects;
 - g. Coordinate publicity concerning trees and tree programs;
 - h. Coordinate donations of trees or money to purchase trees;
 - i. Hear citizen concerns regarding tree problems during scheduled meetings;
 - j. Perform other tree related duties and opportunities that arise from time to time.

The tree board may consult with arborists, foresters and others with specific expertise in the subject area when performing their duties and responsibilities. Any compensation or contracts for services performed by such experts or professionals shall be approved by the city council.

- (5) Compensation. Members of the board shall serve without compensation.
- (6) Review by city council. The city council shall have the right to review the conduct and acts of the tree board. Any person may appeal any ruling of the tree board to the city council who may hear the matter and make a final decision.

(Ord. No. 2639, 7-1991; Ord. No. 3467, 4-2013)

Sec. 13-304. - Tree planting.

Planting of trees on private property is encouraged, especially in areas where the public may have an extraordinary interest. The tree board will provide information about species, planting techniques, and placement guidelines when requested by residents in conformance with current American Nurseryman Standards (ANSI).

- (1) Tree planting shall be undertaken by the city on all public areas in a systematic manner to assure diversity of age classes and species. Areas to be planted, density, appropriate species, and other aspects of the planting function shall be recommended by the tree board, and contained in rules and regulations adopted by the board as well as current ANSI standards.

- (2) Size. All nursery stock planted on public property will conform to the most current ANSI nursery standards.
- (3) Grade. Trees to be planted shall be free of insects and diseases, mechanical injuries, and have reasonably straight trunks with a strong leader branch.
- (4) Spacing. Tree spacing shall be in accordance with mature spread.
- (5) Planting near existing objects. Trees shall not be planted within proposed or existing utility easements. In street plantings, no tree may be planted closer than ten feet to a fire hydrant, or utility pole or street light, 15 feet to a driveway/street intersection, or 30 feet from a street/street intersections as defined by sight-distance triangle guidelines. When planting between sidewalks and curbs, six feet between curb and sidewalk is the minimum distance required for small trees, eight feet for medium trees, and ten feet for large trees.
- (6) It is the responsibility of the tree planter to verify location of all utilities and their easements within the vicinity of the planting site in order to avoid personal injury or damage to the utilities.
- (7) Planting techniques. Holes shall be dug to give adequate room for the root system. The diameter of the hole should be at least 12 inches larger than the diameter of the root ball or root system. The depth of planting should be at the same level as the tree had grown previously with 10% of the root ball remaining above grade. Backfill should be the same material that was removed from the hole, with no additives except low nitrogen fertilizer which may be added if the tree board deems it necessary. Holes dug by power augers must have their sides chipped by a hand shovel to break glazing affected by the auger. Trees may be guyed in windy areas, or other areas where support is determined necessary by the tree board. All guy wires shall be removed within 18 months.

(Ord. No. 2639, 7-1991; Ord. No. 3467, 4-2013)

Sec. 13-305. - Tree care.

- (a) The practice of tree topping, except as the first stage of tree removal, is prohibited on all public trees and is strongly discouraged as a tree care practice for private trees. The standard tree pruning method will be branch collar pruning as opposed to stubs or flush cuts. Large limbs and branches will be pre-cut (three-cut method) to prevent excessive peeling of the bark, followed by cutting the remaining curb.
- (b) Tree maintenance rules and regulations may address pruning, fertilizing, watering, insect and disease control or other tree care activities. The city shall take responsibility for those maintenance activities needed to keep the public trees reasonably healthy and minimize the risk hazard trees could cause to residents and visitors of the city. Determination of maintenance needs will be made by the tree board. Tree care may be accomplished by city personnel or by contract with commercial tree care companies.
- (c) Care and maintenance of private trees are encouraged to minimize safety hazards to people and the health risk to other trees in the community. The tree board will provide information in a timely manner to residents about all aspects of tree care including the latest techniques and procedures currently being practiced.

- (d) Tree pruning in the vicinity of power lines shall be undertaken by the public utility to assure the supply of electricity to its customers. Drop crotch pruning and pruning to laterals are the required methods. Where practicable, the utility shall undertake a program of replacing removed trees with appropriate replacement tree species or cultivars recommended by the tree board.
- (e) Grade changes and trenching within the crownsread (ends of branches) of public trees should be conducted in such a way as to minimize root system damage. Owners of private trees are encouraged to consult the tree board before proceeding with these activities.
- (f) The tree board may recommend to the appropriate city department when trees in public areas need care such as pruning, fertilization or treatment.

(Ord. No. 2639, 7-1991; Ord. No. 3467, 4-2013)

Sec. 13-306. - Tree removal.

- (a) Dead, diseased and dying trees that pose a safety or health risk to residents, utility lines, service lines or to other trees shall be removed in a timely manner. This section applies to public trees, but it is recommended for private trees as well. The tree board will make the risk determination for public trees.
- (b) Tree removal to ground level is considered part of the public tree removal process.
- (c) Sprout control following tree removal will be accomplished by mechanical or chemical means. Any chemical used in sprout control shall be registered with the environmental protection agency and used according to the manufacturer's specifications.

(Ord. No. 2639, 7-1991; Ord. No. 3467, 4-2013)

Sec. 13-307. - Protection from construction, development and land use changes.

The city maintains that it is in the best interest of all concerned to save as many existing trees as practical. In this interest, as it pertains to commercial and residential development, the city may adopt regulations requiring developers and builders to create tree impact plans prior to removal of any tree from project sites. The regulations adopted by the city may further require minimum tree densities for different classes or types of developments, and developers/builders may be required to plant trees to meet such density requirements. The tree board will assist the city in drafting the regulations to be adopted, or by providing recommendations for regulations which should be adopted. Regulations adopted by the city may be incorporated into the subdivision regulations, to be enforced by the planning commission, or may be incorporated into the zoning ordinance, to be enforced by the board or official having authority over zoning issues.

(Ord. No. 2639, 7-1991; Ord. No. 3467, 4-2013)

PASSED ON FIRST READING THIS THE 15TH DAY OF MARCH, 2016.

MAYOR

ATTEST:

CITY ADMINISTRATOR

PASSED ON SECOND AND FINAL READING THIS THE 5TH DAY OF APRIL,
2016.

MAYOR

ATTEST:

CITY ADMINISTRATOR

AIA® Document B201™ – 2007

Standard Form of Architect's Services: Design and Construction Contract Administration

for the following PROJECT:

(Name and location or address)

Fire Station Four

THE OWNER:

(Name, legal status and address)

City of Morristown, Tennessee

100 West First North Street

Morristown, Tennessee 37814

THE ARCHITECT:

(Name, legal status and address)

Fuller Architects

326-A West First North Street

Morristown, Tennessee 37814

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

This document provides the Architect's scope of services only and must be used with an owner-architect agreement. It may be used with AIA Document B102™–2007, Standard Form of Agreement Between Owner and Architect without a Predefined Scope of Architect's Services, to provide the Architect's sole scope of services, or with B102 in conjunction with other standard form services documents. It may also be used with AIA Document G802™–2007, Amendment to the Professional Services Agreement, to create a modification to any owner-architect agreement.

THE AGREEMENT

This Standard Form of Architect's Services is part of or modifies the accompanying Owner-Architect Agreement (hereinafter, the Agreement) dated the fifteenth day of March in the year two thousand sixteen
(In words, indicate day, month, and year.)

TABLE OF ARTICLES

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| 6 | COMPENSATION |
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Init.

ARTICLE 1 INITIAL INFORMATION

§ 1.1 This Agreement is based on the Initial Information set forth in Article 1 and in optional Exhibit A, Initial Information: *(Complete Exhibit A, Initial Information and incorporate it into this services document at Section 7.1, or state below Initial Information such as details of the Project's site and program, Owner's contractors and consultants, Architect's consultants, Owner's budget for the Cost of the Work, authorized representatives, anticipated procurement method, and other information relevant to the Project.)*

The site is not selected at this time. The project budget is not finalized at this time.

§ 1.2 The Owner's anticipated dates for commencement of construction and Substantial Completion of the Work are set forth below:

- .1 Commencement of construction date: unknown at this time
- .2 Substantial Completion date: unknown at this time

§ 1.3 The Owner and Architect may rely on the Initial Information. Both parties, however, recognize that such information may materially change and, in that event, the Owner and the Architect shall appropriately adjust the schedule, the Architect's services and the Architect's compensation.

ARTICLE 2 SCOPE OF ARCHITECT'S BASIC SERVICES

§ 2.1 The Architect's Basic Services consist of those described in Article 2 and include usual and customary structural, mechanical, and electrical engineering services. Services not set forth in Article 2 are Additional Services.

§ 2.1.1 The Architect shall manage the Architect's services, consult with the Owner, research applicable design criteria, attend Project meetings, communicate with members of the Project team and report progress to the Owner.

§ 2.1.2 The Architect shall coordinate its services with those services provided by the Owner and the Owner's consultants. The Architect shall be entitled to rely on the accuracy and completeness of services and information furnished by the Owner and the Owner's consultants. The Architect shall provide prompt written notice to the Owner if the Architect becomes aware of any error, omission or inconsistency in such services or information.

§ 2.1.3 As soon as practicable after the date of this Agreement, the Architect shall submit for the Owner's approval a schedule for the performance of the Architect's services. The schedule initially shall include anticipated dates for the commencement of construction and for Substantial Completion of the Work as set forth in the Initial Information. The schedule shall include allowances for periods of time required for the Owner's review, for the performance of the Owner's consultants, and for approval of submissions by authorities having jurisdiction over the Project. Once approved by the Owner, time limits established by the schedule shall not, except for reasonable cause, be exceeded by the Architect or Owner. With the Owner's approval, the Architect shall adjust the schedule, if necessary, as the Project proceeds until the commencement of construction.

§ 2.1.4 The Architect shall not be responsible for an Owner's directive or substitution made without the Architect's approval.

§ 2.1.5 The Architect shall, at appropriate times, contact the governmental authorities required to approve the Construction Documents and the entities providing utility services to the Project. In designing the Project, the Architect shall respond to applicable design requirements imposed by such governmental authorities and by such entities providing utility services.

§ 2.1.6 The Architect shall assist the Owner in connection with the Owner's responsibility for filing documents required for the approval of governmental authorities having jurisdiction over the Project.

Init.

§ 2.2 Schematic Design Phase Services

§ 2.2.1 The Architect shall review the program and other information furnished by the Owner, and shall review laws, codes, and regulations applicable to the Architect's services.

§ 2.2.2 The Architect shall prepare a preliminary evaluation of the Owner's program, schedule, budget for the Cost of the Work, Project site, and the proposed procurement or delivery method and other Initial Information, each in terms of the other, to ascertain the requirements of the Project. The Architect shall notify the Owner of (1) any inconsistencies discovered in the information, and (2) other information or consulting services that may be reasonably needed for the Project.

§ 2.2.3 The Architect shall present its preliminary evaluation to the Owner and shall discuss with the Owner alternative approaches to design and construction of the Project, including the feasibility of incorporating environmentally responsible design approaches. The Architect shall reach an understanding with the Owner regarding the requirements of the Project.

§ 2.2.4 Based on the Project's requirements agreed upon with the Owner, the Architect shall prepare and present for the Owner's approval a preliminary design illustrating the scale and relationship of the Project components.

§ 2.2.5 Based on the Owner's approval of the preliminary design, the Architect shall prepare Schematic Design Documents for the Owner's approval. The Schematic Design Documents shall consist of drawings and other documents including a site plan, if appropriate, and preliminary building plans, sections and elevations; and may include some combination of study models, perspective sketches, or digital modeling. Preliminary selections of major building systems and construction materials shall be noted on the drawings or described in writing.

§ 2.2.5.1 The Architect shall consider environmentally responsible design alternatives, such as material choices and building orientation, together with other considerations based on program and aesthetics, in developing a design that is consistent with the Owner's program, schedule and budget for the Cost of the Work. The Owner may obtain other environmentally responsible design services under Article 3.

§ 2.2.5.2 The Architect shall consider the value of alternative materials, building systems and equipment, together with other considerations based on program and aesthetics in developing a design for the Project that is consistent with the Owner's program, schedule and budget for the Cost of the Work.

§ 2.2.6 The Architect shall submit to the Owner an estimate of the Cost of the Work prepared in accordance with Section 5.3.

§ 2.2.7 The Architect shall submit the Schematic Design Documents to the Owner, and request the Owner's approval.

§ 2.3 Design Development Phase Services

§ 2.3.1 Based on the Owner's approval of the Schematic Design Documents, and on the Owner's authorization of any adjustments in the Project requirements and the budget for the Cost of the Work, the Architect shall prepare Design Development Documents for the Owner's approval. The Design Development Documents shall illustrate and describe the development of the approved Schematic Design Documents and shall consist of drawings and other documents including plans, sections, elevations, typical construction details, and diagrammatic layouts of building systems to fix and describe the size and character of the Project as to architectural, structural, mechanical and electrical systems, and such other elements as may be appropriate. The Design Development Documents shall also include outline specifications that identify major materials and systems and establish in general their quality levels.

§ 2.3.2 The Architect shall update the estimate of the Cost of the Work.

§ 2.3.3 The Architect shall submit the Design Development Documents to the Owner, advise the Owner of any adjustments to the estimate of the Cost of the Work, and request the Owner's approval.

§ 2.4 Construction Documents Phase Services

§ 2.4.1 Based on the Owner's approval of the Design Development Documents, and on the Owner's authorization of any adjustments in the Project requirements and the budget for the Cost of the Work, the Architect shall prepare Construction Documents for the Owner's approval. The Construction Documents shall illustrate and describe the

further development of the approved Design Development Documents and shall consist of Drawings and Specifications setting forth in detail the quality levels of materials and systems and other requirements for the construction of the Work. The Owner and Architect acknowledge that in order to construct the Work the Contractor will provide additional information, including Shop Drawings, Product Data, Samples and other similar submittals, which the Architect shall review in accordance with Section 2.6.4.

§ 2.4.2 The Architect shall incorporate into the Construction Documents the design requirements of governmental authorities having jurisdiction over the Project.

§ 2.4.3 During the development of the Construction Documents, the Architect shall assist the Owner in the development and preparation of (1) bidding and procurement information that describes the time, place and conditions of bidding, including bidding or proposal forms; (2) the form of agreement between the Owner and Contractor; and (3) the Conditions of the Contract for Construction (General, Supplementary and other Conditions). The Architect shall also compile a project manual that includes the Conditions of the Contract for Construction and Specifications and may include bidding requirements and sample forms.

§ 2.4.4 The Architect shall update the estimate for the Cost of the Work.

§ 2.4.5 The Architect shall submit the Construction Documents to the Owner, advise the Owner of any adjustments to the estimate of the Cost of the Work, take any action required under Section 5.5, and request the Owner's approval.

§ 2.5 Bidding or Negotiation Phase Services

The Architect shall assist the Owner in establishing a list of prospective contractors. Following the Owner's approval of the Construction Documents, the Architect shall assist the Owner in (1) obtaining either competitive bids or negotiated proposals; (2) confirming responsiveness of bids or proposals; (3) determining the successful bid or proposal, if any; and (4) awarding and preparing contracts for construction.

§ 2.5.2 Competitive Bidding

§ 2.5.2.1 Bidding Documents shall consist of bidding requirements and proposed Contract Documents.

§ 2.5.2.2 The Architect shall assist the Owner in bidding the Project by

- .1 procuring the reproduction of Bidding Documents for distribution to prospective bidders;
- .2 distributing the Bidding Documents to prospective bidders requesting their return upon completion of the bidding process, and maintaining a log of distribution and retrieval and of the amounts of deposits, if any, received from and returned to prospective bidders;
- .3 organizing and conducting a pre-bid conference for prospective bidders;
- .4 preparing responses to questions from prospective bidders and providing clarifications and interpretations of the Bidding Documents to all prospective bidders in the form of addenda; and
- .5 organizing and conducting the opening of the bids, and subsequently documenting and distributing the bidding results, as directed by the Owner.

§ 2.5.2.3 The Architect shall consider requests for substitutions, if the Bidding Documents permit substitutions, and shall prepare and distribute addenda identifying approved substitutions to all prospective bidders.

§ 2.5.3 Negotiated Proposals

§ 2.5.3.1 Proposal Documents shall consist of proposal requirements and proposed Contract Documents.

§ 2.5.3.2 The Architect shall assist the Owner in obtaining proposals by

- .1 procuring the reproduction of Proposal Documents for distribution to prospective contractors, and requesting their return upon completion of the negotiation process;
- .2 organizing and participating in selection interviews with prospective contractors; and
- .3 participating in negotiations with prospective contractors, and subsequently preparing a summary report of the negotiation results, as directed by the Owner.

§ 2.5.3.3 The Architect shall consider requests for substitutions, if the Proposal Documents permit substitutions, and shall prepare and distribute addenda identifying approved substitutions to all prospective contractors.

§ 2.6 Construction Phase Services

§ 2.6.1 General

§ 2.6.1.1 The Architect shall provide administration of the Contract between the Owner and the Contractor as set forth below and in AIA Document A201™-2007, General Conditions of the Contract for Construction. If the Owner and Contractor modify AIA Document A201-2007, those modifications shall not affect the Architect's services under this Agreement unless the Owner and the Architect amend this Agreement.

§ 2.6.1.2 The Architect shall advise and consult with the Owner during the Construction Phase Services. The Architect shall have authority to act on behalf of the Owner only to the extent provided in this Agreement. The Architect shall not have control over, charge of, or responsibility for the construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work, nor shall the Architect be responsible for the Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. The Architect shall be responsible for the Architect's negligent acts or omissions, but shall not have control over or charge of, and shall not be responsible for, acts or omissions of the Contractor or of any other persons or entities performing portions of the Work.

§ 2.6.1.3 Subject to Section 3.3, the Architect's responsibility to provide Construction Phase services commences with the award of the Contract for Construction and terminates on the date the Architect issues the final Certificate for Payment.

§ 2.6.2 Evaluations of the Work

§ 2.6.2.1 The Architect shall visit the site at intervals appropriate to the stage of construction, or as otherwise required in Section 3.3.3, to become generally familiar with the progress and quality of the portion of the Work completed, and to determine, in general, if the Work observed is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. However, the Architect shall not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. On the basis of the site visits the Architect shall keep the Owner reasonably informed about the progress and quality of the portion of the Work completed, and report to the Owner (1) known deviations from the Contract Documents and from the most recent construction schedule submitted by the Contractor, and (2) defects and deficiencies observed in the Work.

§ 2.6.2.2 The Architect has the authority to reject Work that does not conform to the Contract Documents. Whenever the Architect considers it necessary or advisable, the Architect shall have the authority to require inspection or testing of the Work in accordance with the provisions of the Contract Documents, whether or not such Work is fabricated, installed or completed. However, neither this authority of the Architect nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect to the Contractor, Subcontractors, material and equipment suppliers, their agents or employees or other persons or entities performing portions of the Work.

§ 2.6.2.3 The Architect shall interpret and decide matters concerning performance under, and requirements of, the Contract Documents on written request of either the Owner or Contractor. The Architect's response to such requests shall be made in writing within any time limits agreed upon or otherwise with reasonable promptness.

§ 2.6.2.4 Interpretations and decisions of the Architect shall be consistent with the intent of and reasonably inferable from the Contract Documents and shall be in writing or in the form of drawings. When making such interpretations and decisions, the Architect shall endeavor to secure faithful performance by both Owner and Contractor, shall not show partiality to either, and shall not be liable for results of interpretations or decisions rendered in good faith. The Architect's decisions on matters relating to aesthetic effect shall be final if consistent with the intent expressed in the Contract Documents.

§ 2.6.2.5 Unless the Owner and Contractor designate another person to serve as an Initial Decision Maker, as that term is defined in AIA Document A201-2007, the Architect shall render initial decisions on Claims between the Owner and Contractor as provided in the Contract Documents.

§ 2.6.3 Certificates for Payment to Contractor

§ 2.6.3.1 The Architect shall review and certify the amounts due the Contractor and shall issue certificates in such amounts. The Architect's certification for payment shall constitute a representation to the Owner, based on the Architect's evaluation of the Work as provided in Section 2.6.2 and on the data comprising the Contractor's Application for Payment, that, to the best of the Architect's knowledge, information and belief, the Work has

progressed to the point indicated and that the quality of the Work is in accordance with the Contract Documents. The foregoing representations are subject (1) to an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, (2) to results of subsequent tests and inspections, (3) to correction of minor deviations from the Contract Documents prior to completion, and (4) to specific qualifications expressed by the Architect.

§ 2.6.3.2 The issuance of a Certificate for Payment shall not be a representation that the Architect has (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work, (2) reviewed construction means, methods, techniques, sequences or procedures, (3) reviewed copies of requisitions received from Subcontractors and material suppliers and other data requested by the Owner to substantiate the Contractor's right to payment, or (4) ascertained how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.

§ 2.6.3.3 The Architect shall maintain a record of the Applications and Certificates for Payment.

§ 2.6.4 Submittals

§ 2.6.4.1 The Architect shall review the Contractor's submittal schedule and shall not unreasonably delay or withhold approval. The Architect's action in reviewing submittals shall be taken in accordance with the approved submittal schedule or, in the absence of an approved submittal schedule, with reasonable promptness while allowing sufficient time in the Architect's professional judgment to permit adequate review.

§ 2.6.4.2 In accordance with the Architect-approved submittal schedule, the Architect shall review and approve or take other appropriate action upon the Contractor's submittals such as Shop Drawings, Product Data and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. Review of such submittals is not for the purpose of determining the accuracy and completeness of other information such as dimensions, quantities, and installation or performance of equipment or systems, which are the Contractor's responsibility. The Architect's review shall not constitute approval of safety precautions or, unless otherwise specifically stated by the Architect, of any construction means, methods, techniques, sequences or procedures. The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

§ 2.6.4.3 If the Contract Documents specifically require the Contractor to provide professional design services or certifications by a design professional related to systems, materials or equipment, the Architect shall specify the appropriate performance and design criteria that such services must satisfy. The Architect shall review shop Drawings and other submittals related to the Work designed or certified by the design professional retained by the Contractor that bear such professional's seal and signature when submitted to the Architect. The Architect shall be entitled to rely upon the adequacy, accuracy and completeness of the services, certifications and approvals performed or provided by such design professionals.

§ 2.6.4.4 Subject to the provisions of Section 3.3, the Architect shall review and respond to requests for information about the Contract Documents. The Architect shall set forth in the Contract Documents the requirements for requests for information. Requests for information shall include, at a minimum, a detailed written statement that indicates the specific Drawings or Specifications in need of clarification and the nature of the clarification requested. The Architect's response to such requests shall be made in writing within any time limits agreed upon, or otherwise with reasonable promptness. If appropriate, the Architect shall prepare and issue supplemental Drawings and Specifications in response to requests for information.

§ 2.6.4.5 The Architect shall maintain a record of submittals and copies of submittals supplied by the Contractor in accordance with the requirements of the Contract Documents.

§ 2.6.5 Changes in the Work

§ 2.6.5.1 The Architect may authorize minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time. Subject to the provisions of Section 3.3, the Architect shall prepare Change Orders and Construction Change Directives for the Owner's approval and execution in accordance with the Contract Documents.

§ 2.6.5.2 The Architect shall maintain records relative to changes in the Work.

§ 2.6.6 Project Completion

§ 2.6.6.1 The Architect shall conduct inspections to determine the date or dates of Substantial Completion and the date of final completion; issue Certificates of Substantial Completion; receive from the Contractor and forward to the Owner, for the Owner's review and records, written warranties and related documents required by the Contract Documents and assembled by the Contractor; and issue a final Certificate for Payment based upon a final inspection indicating the Work complies with the requirements of the Contract Documents.

§ 2.6.6.2 The Architect's inspections shall be conducted with the Owner to check conformance of the Work with the requirements of the Contract Documents and to verify the accuracy and completeness of the list submitted by the Contractor of Work to be completed or corrected.

§ 2.6.6.3 When the Work is found to be substantially complete, the Architect shall inform the Owner about the balance of the Contract Sum remaining to be paid the Contractor, including the amount to be retained from the Contract Sum, if any, for final completion or correction of the Work.

§ 2.6.6.4 The Architect shall forward to the Owner the following information received from the Contractor: (1) consent of surety or sureties, if any, to reduction in or partial release of retainage or the making of final payment; (2) affidavits, receipts, releases and waivers of liens or bonds indemnifying the Owner against liens; and (3) any other documentation required of the Contractor under the Contract Documents.

§ 2.6.6.5 Upon request of the Owner, and prior to the expiration of one year from the date of Substantial Completion, the Architect shall, without additional compensation, conduct a meeting with the Owner to review the facility operations and performance.

ARTICLE 3 ADDITIONAL SERVICES

§ 3.1 Additional Services listed below are not included in Basic Services but may be required for the Project. The Architect shall provide the listed Additional Services only if specifically designated in the table below as the Architect's responsibility, and the Owner shall compensate the Architect as provided in Section 6.2.

(Designate the Additional Services the Architect shall provide in the second column of the table below. In the third column indicate whether the service description is located in Section 3.2 or in an attached exhibit. If in an exhibit, identify the exhibit.)

Additional Services	Responsibility (Architect, Owner or Not Provided)	Location of Service Description (Section 3.2 below or in an exhibit attached to this document and identified below)
§ 3.1.1 Programming (B202™–2009)		
§ 3.1.2 Multiple Preliminary Designs		
§ 3.1.3 Measured Drawings		
§ 3.1.4 Existing Facilities Surveys		
§ 3.1.5 Site Evaluation and Planning (B203™–2007)		
§ 3.1.6 Building Information Modeling		
§ 3.1.7 Civil Engineering		
§ 3.1.8 Landscape Design		
§ 3.1.9 Architectural Interior Design (B252™–2007)		
§ 3.1.10 Value Analysis (B204™–2007)		
§ 3.1.11 Detailed Cost Estimating		
§ 3.1.12 On-Site Project Representation (B207™–2008)		
§ 3.1.13 Conformed Construction Documents		
§ 3.1.14 As-Designed Record Drawings		
§ 3.1.15 As-Constructed Record Drawings		
§ 3.1.16 Post Occupancy Evaluation		
§ 3.1.17 Facility Support Services (B210™–2007)		

Init.

Additional Services	Responsibility (Architect, Owner or Not Provided)	Location of Service Description (Section 3.2 below or in an exhibit attached to this document and identified below)
§ 3.1.18 Tenant-Related Services		
§ 3.1.19 Coordination of Owner's Consultants		
§ 3.1.20 Telecommunications/Data Design		
§ 3.1.21 Security Evaluation and Planning (B206™-2007)		
§ 3.1.22 Commissioning (B211™-2007)		
§ 3.1.23 Extensive Environmentally Responsible Design		
§ 3.1.24 Leed® Certification (B214™-2007)		
§ 3.1.25 Fast-Track Design Services		
§ 3.1.26 Historic Preservation (B205™-2007)		
§ 3.1.27 Furniture, Furnishings, and Equipment Design (B253™-2007)		

§ 3.2 Insert a description of each Additional Service designated above as the Architect's responsibility, if not further described in an exhibit attached to this document.

N/A

§ 3.3 Additional Services may be provided after execution of this Agreement, without invalidating the Agreement. Except for services required due to the fault of the Architect, any Additional Services provided in accordance with this Section 3.3 shall entitle the Architect to compensation pursuant to Section 6.3.

§ 3.3.1 Upon recognizing the need to perform the following Additional Services, the Architect shall notify the Owner with reasonable promptness and explain the facts and circumstances giving rise to the need. The Architect shall not proceed to provide the following services until the Architect receives the Owner's written authorization:

- .1 Services necessitated by a change in the Initial Information, previous instructions or approvals given by the Owner, or a material change in the Project including, but not limited to, size, quality, complexity, the Owner's schedule or budget for Cost of the Work, or procurement or delivery method;
- .2 Services necessitated by the Owner's request for extensive environmentally responsible design alternatives, such as unique system designs, in-depth material research, energy modeling, or LEED® certification;
- .3 Changing or editing previously prepared Instruments of Service necessitated by the enactment or revision of codes, laws or regulations or official interpretations;
- .4 Services necessitated by decisions of the Owner not rendered in a timely manner or any other failure of performance on the part of the Owner or the Owner's consultants or contractors;
- .5 Preparing digital data for transmission to the Owner's consultants and contractors, or to other Owner authorized recipients;
- .6 Preparation of design and documentation for alternate bid or proposal requests proposed by the Owner;
- .7 Preparation for, and attendance at, a public presentation, meeting or hearing;
- .8 Preparation for, and attendance at a dispute resolution proceeding or legal proceeding, except where the Architect is party thereto;
- .9 Evaluation of the qualifications of bidders or persons providing proposals;
- .10 Consultation concerning replacement of Work resulting from fire or other cause during construction; or
- .11 Assistance to the Initial Decision Maker, if other than the Architect.

Init.

§ 3.3.2 To avoid delay in the Construction Phase, the Architect shall provide the following Additional Services, notify the Owner with reasonable promptness, and explain the facts and circumstances giving rise to the need. If the Owner subsequently determines that all or parts of those services are not required, the Owner shall give prompt written notice to the Architect, and the Owner shall have no further obligation to compensate the Architect for those services:

- .1 Reviewing a Contractor's submittal out of sequence from the submittal schedule agreed to by the Architect;
- .2 Responding to the Contractor's requests for information that are not prepared in accordance with the Contract Documents or where such information is available to the Contractor from a careful study and comparison of the Contract Documents, field conditions, other Owner-provided information, Contractor-prepared coordination drawings, or prior Project correspondence or documentation;
- .3 Preparing Change Orders and Construction Change Directives that require evaluation of Contractor's proposals and supporting data, or the preparation or revision of Instruments of Service;
- .4 Evaluating an extensive number of Claims as the Initial Decision Maker;
- .5 Evaluating substitutions proposed by the Owner or Contractor and making subsequent revisions to Instruments of Service resulting therefrom; or
- .6 To the extent the Architect's Basic Services are affected, providing Construction Phase Services 60 days after (1) the date of Substantial Completion of the Work or (2) the anticipated date of Substantial Completion, identified in Initial Information, whichever is earlier.

§ 3.3.3 The Architect shall provide Construction Phase Services exceeding the limits set forth below as Additional Services. When the limits below are reached, the Architect shall notify the Owner:

- .1 (2) reviews of each Shop Drawing, Product Data item, sample and similar submittal of the Contractor
- .2 (15) visits to the site by the Architect over the duration of the Project during construction
- .3 (6) inspections for any portion of the Work to determine whether such portion of the Work is substantially complete in accordance with the requirements of the Contract Documents
- .4 (2) inspections for any portion of the Work to determine final completion

§ 3.3.4 If the services covered by this Agreement have not been completed within sixteen (16) months of the date of this Agreement, through no fault of the Architect, extension of the Architect's services beyond that time shall be compensated as Additional Services.

ARTICLE 4 OWNER'S RESPONSIBILITIES

§ 4.1 The Owner shall establish and periodically update the Owner's budget for the Project, including (1) the budget for the Cost of the Work as defined in Section 5.1; (2) the Owner's other costs; and, (3) reasonable contingencies related to all of these costs. If the Owner significantly increases or decreases the Owner's budget for the Cost of the Work, the Owner shall notify the Architect. The Owner and the Architect shall thereafter agree to a corresponding change in the Project's scope and quality.

§ 4.2 The Owner shall furnish surveys to describe physical characteristics, legal limitations and utility locations for the site of the Project, and a written legal description of the site. The surveys and legal information shall include, as applicable, grades and lines of streets, alleys, pavements and adjoining property and structures; designated wetlands; adjacent drainage; rights-of-way restrictions, easements, encroachments, zoning, deed restrictions, boundaries and contours of the site; locations, dimensions and necessary data with respect to existing buildings, other improvements and trees; and information concerning available utility services and lines, both public and private, above and below grade, including inverts and depths. All the information on the survey shall be referenced to a Project benchmark.

§ 4.3 The Owner shall furnish services of geotechnical engineers, which may include but are not limited to test borings, test pits, determinations of soil bearing values, percolation tests, evaluations of hazardous materials, seismic evaluation, ground corrosion tests and resistivity tests, including necessary operations for anticipating subsoil conditions, with written reports and appropriate recommendations.

§ 4.4 The Owner shall furnish tests, inspections and reports required by law or the Contract Documents, such as structural, mechanical, and chemical tests, tests for air and water pollution, and tests for hazardous materials.

§ 4.5 Except as otherwise provided in this Agreement, or when direct communications have been specially authorized, the Owner shall endeavor to communicate with the Contractor and the Architect's consultants through the Architect about matters arising out of or relating to the Contract Documents. The Owner shall promptly notify the Architect of any direct communications that may affect the Architect's services.

§ 4.6 Before executing the Contract for Construction, the Owner shall coordinate the Architect's duties and responsibilities set forth in the Contract for Construction with the Architect's services set forth in this Agreement. The Owner shall provide the Architect a copy of the executed agreement between the Owner and Contractor, including the General Conditions of the Contract for Construction.

§ 4.7 The Owner shall provide the Architect access to the Project site prior to commencement of the Work and shall obligate the Contractor to provide the Architect access to the Work wherever it is in preparation or progress.

ARTICLE 5 COST OF THE WORK

§ 5.1 For purposes of this Agreement, the Cost of the Work shall be the total cost to the Owner to construct all elements of the Project designed or specified by the Architect and shall include contractors' general conditions costs, overhead and profit. The Cost of the Work does not include the compensation of the Architect, the costs of the land, rights-of-way, financing, contingencies for changes in the Work or other costs that are the responsibility of the Owner.

§ 5.2 The Owner's budget for the Cost of the Work is provided in Initial Information, and may be adjusted throughout the Project as required under Sections 4.1, 5.4 and 5.5. Evaluations of the Owner's budget for the Cost of the Work, the preliminary estimate of the Cost of the Work and updated estimates of the Cost of the Work prepared by the Architect, represent the Architect's judgment as a design professional. It is recognized, however, that neither the Architect nor the Owner has control over the cost of labor, materials or equipment; the Contractor's methods of determining bid prices; or competitive bidding, market or negotiating conditions. Accordingly, the Architect cannot and does not warrant or represent that bids or negotiated prices will not vary from the Owner's budget for the Cost of the Work or from any estimate of the Cost of the Work or evaluation prepared or agreed to by the Architect.

§ 5.3 In preparing estimates of the Cost of Work, the Architect shall be permitted to include contingencies for design, bidding and price escalation; to determine what materials, equipment, component systems and types of construction are to be included in the Contract Documents; to make reasonable adjustments in the program and scope of the Project; and to include in the Contract Documents alternate bids as may be necessary to adjust the estimated Cost of the Work to meet the Owner's budget for the Cost of the Work. The Architect's estimate of the Cost of the Work shall be based on current area, volume or similar conceptual estimating techniques. If the Owner requests detailed cost estimating services, the Architect shall provide such services as an Additional Service under Article 3.

§ 5.4 If the Bidding or Negotiation Phase has not commenced within 90 days after the Architect submits the Construction Documents to the Owner, through no fault of the Architect, the Owner's budget for the Cost of the Work shall be adjusted to reflect changes in the general level of prices in the applicable construction market.

§ 5.5 If at any time the Architect's estimate of the Cost of the Work exceeds the Owner's budget for the Cost of the Work, the Architect shall make appropriate recommendations to the Owner to adjust the Project's size, quality or budget for the Cost of the Work, and the Owner shall cooperate with the Architect in making such adjustments.

§ 5.6 If the Owner's budget for the Cost of the Work at the conclusion of the Construction Documents Phase Services is exceeded by the lowest bona fide bid or negotiated proposal, the Owner shall

- .1 give written approval of an increase in the budget for the Cost of the Work;
- .2 authorize rebidding or renegotiating of the Project within a reasonable time;
- .3 terminate in accordance with Section 5.5 of AIA Document B102™-2007;
- .4 in consultation with the Architect, revise the Project program, scope, or quality as required to reduce the Cost of the Work; or
- .5 implement any other mutually acceptable alternative.

§ 5.7 If the Owner chooses to proceed under Section 5.6.4, the Architect, without additional compensation, shall modify the Construction Documents as necessary to comply with the Owner's budget for the Cost of the Work at the conclusion of the Construction Documents Phase Services, or the budget as adjusted under Section 6.6.1. The Architect's modification of the Construction Documents shall be the limit of the Architect's responsibility under this Article 5.

ARTICLE 6 COMPENSATION

§ 6.1 For the Architect's Basic Services described under Article 2, the Owner shall compensate the Architect as follows:
(Insert amount of, or basis for, compensation.)

Eight percent (8%) of the work as designated in Article 5.1

§ 6.2 For Additional Services designated in Section 3.1, the Owner shall compensate the Architect as follows:
(Insert amount of, or basis for, compensation. If necessary, list specific services to which particular methods of compensation apply.)

If additional services are encountered, the Owner and Architect shall execute a separate agreement to facilitate the work.

§ 6.3 For Additional Services that may arise during the course of the Project, including those under Section 3.3, during the course of the Project, the Owner shall compensate the Architect as follows:
(Insert amount of, or basis for, compensation.)

By hourly billing rate.

§ 6.4 Compensation for Additional Services of the Architect's consultants when not included in Section 6.2 or 6.3, shall be the amount invoiced to the Architect plus a fee of _____ ten _____ percent (10%), or as otherwise stated below:

§ 6.5 Where compensation for Basic Services is based on a stipulated sum or percentage of the Cost of the Work, the compensation for each phase of services shall be as follows:

Schematic Design Phase:	percent (10%)
Design Development Phase:	percent (10%)
Construction Documents Phase:	percent (55%)
Bidding or Negotiation Phase:	percent (5%)
Construction Phase:	percent (20%)

Total Basic Compensation:	One hundred percent (100%)
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§ 6.6 When compensation is based on a percentage of the Cost of the Work and any portions of the Project are deleted or otherwise not constructed, compensation for those portions of the Project shall be payable to the extent services are performed on those portions, in accordance with the schedule set forth in Section 6.5 based on (1) the lowest bona fide bid or negotiated proposal, or (2) if no such bid or proposal is received, the most recent estimate of the Cost of the Work for such portions of the Project. The Architect shall be entitled to compensation in accordance with this Agreement for all services performed whether or not the Construction Phase is commenced.

§ 6.7 The hourly billing rates for services of the Architect and the Architect's consultants, if any, are set forth below. The rates shall be adjusted in accordance with the Architect's and Architect's consultants' normal review practices. *(If applicable, attach an exhibit of hourly billing rates or insert them below.)*

Employee or Category	Rate
Senior Architect	\$120.00/hr.
Architect	\$100.00/hr.

ARTICLE 7 ATTACHMENTS AND EXHIBITS

The following attachments and exhibits, if any, are incorporated herein by reference:

(List other documents, if any, including Exhibit A, Initial Information, and any exhibits relied on in Section 3.1.)

N/A

AIA® Document B102™ – 2007

Standard Form of Agreement Between Owner and Architect without a Predefined Scope of Architect's Services

AGREEMENT made as of the Fifteenth day of March, two thousand sixteen.
in the year
(In words, indicate day, month and year.)

BETWEEN the Owner:
(Name, legal status, address and other information)

City of Morristown, Tennessee
100 West First North Street
Morristown, Tennessee 37814

This document has important legal
consequences. Consultation with
an attorney is encouraged with
respect to its completion or
modification.

and the Architect:
(Name, legal status, address and other information)

Fuller Architects
326-A West First North Street
Morristown, Tennessee 37814

for the following Project:
(Name, location and detailed description)

Fire Station Four
Morristown, Tennessee

The Owner and Architect agree as follows.

Init.

TABLE OF ARTICLES

1	ARCHITECT'S RESPONSIBILITIES
2	OWNER'S RESPONSIBILITIES
3	COPYRIGHTS AND LICENSES
4	CLAIMS AND DISPUTES
5	TERMINATION OR SUSPENSION
6	COMPENSATION
7	MISCELLANEOUS PROVISIONS
8	SPECIAL TERMS AND CONDITIONS
9	SCOPE OF THE AGREEMENT

ARTICLE 1 ARCHITECT'S RESPONSIBILITIES

§ 1.1 The Architect shall provide the following professional services:

(Describe the scope of the Architect's services or identify an exhibit or scope of services document setting forth the Architect's services and incorporated into this document in Section 9.2)

Provide design, construction documents, bidding and construction administration services for the design and construction of a new fire station located in Morristown, Tennessee. Site civil engineering is not a part of this agreement.

§ 1.2 The Architect shall perform its services consistent with the professional skill and care ordinarily provided by architects practicing in the same or similar locality under the same or similar circumstances. The Architect shall perform its services as expeditiously as is consistent with such professional skill and care and the orderly progress of the Project.

§ 1.3 The Architect shall identify a representative authorized to act on behalf of the Architect with respect to the Project.

§ 1.4 Except with the Owner's knowledge and consent, the Architect shall not engage in any activity, or accept any employment, interest or contribution that would reasonably appear to compromise the Architect's professional judgment with respect to this Project.

§ 1.5 The Architect shall maintain the following insurance for the duration of this Agreement. If any of the requirements set forth below exceed the types and limits the Architect normally maintains, the Owner shall reimburse the Architect for any additional cost:

(Identify types and limits of insurance coverage, and other insurance requirements applicable to the Agreement, if any.)

.1 General Liability

\$1,000,000.00

.2 Automobile Liability

100,000.00/300,000.00/100,000.00

.3 Worker Compensation

N/A

.4 Professional Liability

\$1,000,000.00 aggregate

ARTICLE 2 OWNER'S RESPONSIBILITIES

§ 2.1 Unless otherwise provided for under this Agreement, the Owner shall provide information in a timely manner regarding requirements for and limitations on the Project, including a written program which shall set forth the Owner's objectives, schedule, constraints and criteria, including space requirements and relationships, flexibility, expandability, special equipment, systems and site requirements. Within 15 days after receipt of a written request from the Architect, the Owner shall furnish the requested information as necessary and relevant for the Architect to evaluate, give notice of or enforce lien rights.

§ 2.2 The Owner shall identify a representative authorized to act on the Owner's behalf with respect to the Project. The Owner shall render decisions and approve the Architect's submittals in a timely manner in order to avoid unreasonable delay in the orderly and sequential progress of the Architect's services.

§ 2.3 The Owner shall coordinate the services of its own consultants with those services provided by the Architect. Upon the Architect's request, the Owner shall furnish copies of the scope of consulting services in the contracts between the Owner and the Owner's consultants. The Owner shall furnish the services of consultants other than those designated in this Agreement, or authorize the Architect to furnish them as an Additional Service, when the Architect requests such services and demonstrates that they are reasonably required by the scope of the Project. The Owner shall require that its consultants maintain professional liability insurance as appropriate to the services provided.

§ 2.4 The Owner shall furnish all legal, insurance and accounting services, including auditing services, that may be reasonably necessary at any time for the Project to meet the Owner's needs and interests.

§ 2.5 The Owner shall provide prompt written notice to the Architect if the Owner becomes aware of any fault or defect in the Project, including errors, omissions or inconsistencies in the Architect's Instruments of Service.

ARTICLE 3 COPYRIGHTS AND LICENSES

§ 3.1 The Architect and the Owner warrant that in transmitting Instruments of Service, or any other information, the transmitting party is the copyright owner of such information or has permission from the copyright owner to transmit such information for its use on the Project. If the Owner and Architect intend to transmit Instruments of Service or any other information or documentation in digital form, they shall endeavor to establish necessary protocols governing such transmissions.

§ 3.2 The Architect and the Architect's consultants shall be deemed the authors and owners of their respective Instruments of Service, including the Drawings and Specifications, and shall retain all common law, statutory and other reserved rights, including copyrights. Submission or distribution of Instruments of Service to meet official regulatory requirements or for similar purposes in connection with the Project is not to be construed as publication in derogation of the reserved rights of the Architect and the Architect's consultants.

§ 3.3 Upon execution of this Agreement, the Architect grants to the Owner a nonexclusive license to use the Architect's Instruments of Service solely and exclusively for the Project, provided that the Owner substantially performs its obligations, including prompt payment of all sums when due, under this Agreement. The Architect shall obtain similar nonexclusive licenses from the Architect's consultants consistent with this Agreement. The license granted under this section permits the Owner to authorize the Contractor, Subcontractors, Sub-subcontractors, and material or equipment

suppliers, as well as the Owner's consultants and separate contractors, to reproduce applicable portions of the Instruments of Service solely and exclusively for use in performing services for the Project. If the Architect rightfully terminates this Agreement for cause as provided in Sections 5.3 and 5.4, the license granted in this Section 3.3 shall terminate.

§ 3.3.1 In the event the Owner uses the Instruments of Service without retaining the author of the Instruments of Service, the Owner releases the Architect and Architect's consultant(s) from all claims and causes of action arising from such uses. The Owner, to the extent permitted by law, further agrees to indemnify and hold harmless the Architect and its consultants from all costs and expenses, including the cost of defense, related to claims and causes of action asserted by any third person or entity to the extent such costs and expenses arise from the Owner's use of the Instruments of Service under this Section 3.3.1.

§ 3.4 Except for the licenses granted in this Article 3, no other license or right shall be deemed granted or implied under this Agreement. The Owner shall not assign, delegate, sublicense, pledge or otherwise transfer any license granted herein to another party without the prior written agreement of the Architect. Any unauthorized use of the Instruments of Service shall be at the Owner's sole risk and without liability to the Architect and the Architect's consultants.

ARTICLE 4 CLAIMS AND DISPUTES

§ 4.1 General

§ 4.1.1 The Owner and Architect shall commence all claims and causes of action, whether in contract, tort, or otherwise, against the other arising out of or related to this Agreement in accordance with the requirements of the method of binding dispute resolution selected in this Agreement within the period specified by applicable law, but in any case not more than 10 years after the date of Substantial Completion of the Work. The Owner and Architect waive all claims and causes of action not commenced in accordance with this Section 4.1.1.

§ 4.1.2 To the extent damages are covered by property insurance, the Owner and Architect waive all rights against each other and against the contractors, consultants, agents and employees of the other for damages, except such rights as they may have to the proceeds of such insurance as set forth in AIA Document A201™-2007, General Conditions of the Contract for Construction, if applicable. The Owner or the Architect, as appropriate, shall require of the contractors, consultants, agents and employees of any of them similar waivers in favor of the other parties enumerated herein.

§ 4.1.3 The Architect and Owner waive consequential damages for claims, disputes or other matters in question arising out of or relating to this Agreement. This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination of this Agreement, except as specifically provided in Section 5.7.

§ 4.2 Mediation

§ 4.2.1 Any claim, dispute or other matter in question arising out of or related to this Agreement shall be subject to mediation as a condition precedent to binding dispute resolution. If such matter relates to or is the subject of a lien arising out of the Architect's services, the Architect may proceed in accordance with applicable law to comply with the lien notice or filing deadlines prior to resolution of the matter by mediation or by binding dispute resolution.

§ 4.2.2 The Owner and Architect shall endeavor to resolve claims, disputes and other matters in question between them by mediation which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Mediation Procedures in effect on the date of the Agreement. A request for mediation shall be made in writing, delivered to the other party to the Agreement, and filed with the person or entity administering the mediation. The request may be made concurrently with the filing of a complaint or other appropriate demand for binding dispute resolution but, in such event, mediation shall proceed in advance of binding dispute resolution proceedings, which shall be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a longer period by agreement of the parties or court order. If an arbitration proceeding is stayed pursuant to this Section, the parties may nonetheless proceed to the selection of the arbitrator(s) and agree upon a schedule for later proceedings.

§ 4.2.3 The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in the place where the Project is located, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.

§ 4.2.4 If the parties do not resolve a dispute through mediation pursuant to this Section 4.2, the method of binding dispute resolution shall be the following:

(Check the appropriate box. If the Owner and Architect do not select a method of binding dispute resolution below, or do not subsequently agree in writing to a binding dispute resolution method other than litigation, the dispute will be resolved in a court of competent jurisdiction.)

☐ Arbitration pursuant to Section 4.3 of this Agreement

☒ Litigation in a court of competent jurisdiction

☐ Other : *(Specify)*

§ 4.3 Arbitration

§ 4.3.1 If the parties have selected arbitration as the method for binding dispute resolution in this Agreement, any claim, dispute or other matter in question arising out of or related to this Agreement subject to, but not resolved by, mediation shall be subject to arbitration, which unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Arbitration Rules in effect on the date of this Agreement. A demand for arbitration shall be made in writing, delivered to the other party to this Agreement, and filed with the person or entity administering the arbitration.

§ 4.3.1.1 A demand for arbitration shall be made no earlier than concurrently with the filing of a request for mediation, but in no event shall it be made after the date when the institution of legal or equitable proceedings based on the claim, dispute or other matter in question would be barred by the applicable statute of limitations. For statute of limitations purposes, receipt of a written demand for arbitration by the person or entity administering the arbitration shall constitute the institution of legal or equitable proceedings based on the claim, dispute or other matter in question.

§ 4.3.2 The foregoing agreement to arbitrate and other agreements to arbitrate with an additional person or entity duly consented to by parties to this Agreement shall be specifically enforceable in accordance with applicable law in any court having jurisdiction thereof.

§ 4.3.3 The award rendered by the arbitrator(s) shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.

§ 4.3.4 Consolidation Or Joinder

§ 4.3.4.1 Either party, at its sole discretion, may consolidate an arbitration conducted under this Agreement with any other arbitration to which it is a party provided that (1) the arbitration agreement governing the other arbitration permits consolidation; (2) the arbitrations to be consolidated substantially involve common questions of law or fact; and (3) the arbitrations employ materially similar procedural rules and methods for selecting arbitrator(s).

§ 4.3.4.2 Either party, at its sole discretion, may include by joinder persons or entities substantially involved in a common question of law or fact whose presence is required if complete relief is to be accorded in arbitration, provided that the party sought to be joined consents in writing to such joinder. Consent to arbitration involving an additional person or entity shall not constitute consent to arbitration of any claim, dispute or other matter in question not described in the written consent.

§ 4.3.4.3 The Owner and Architect grant to any person or entity made a party to an arbitration conducted under this Section 4.3, whether by joinder or consolidation, the same rights of joinder and consolidation as the Owner and Architect under this Agreement.

ARTICLE 5 TERMINATION OR SUSPENSION

§ 5.1 If the Owner fails to make payments to the Architect in accordance with this Agreement, such failure shall be considered substantial nonperformance and cause for termination or, at the Architect's option, cause for suspension of performance of services under this Agreement. If the Architect elects to suspend services, the Architect shall give seven days' written notice to the Owner before suspending services. In the event of a suspension of services, the Architect shall have no liability to the Owner for delay or damage caused the Owner because of such suspension of services. Before resuming services, the Architect shall be paid all sums due prior to suspension and any expenses incurred in the

interruption and resumption of the Architect's services. The Architect's fees for the remaining services and the time schedules shall be equitably adjusted.

§ 5.2 If the Owner suspends the Project, the Architect shall be compensated for services performed prior to notice of such suspension. When the Project is resumed, the Architect shall be compensated for expenses incurred in the interruption and resumption of the Architect's services. The Architect's fees for the remaining services and the time schedules shall be equitably adjusted.

§ 5.3 If the Owner suspends the Project for more than 90 cumulative days for reasons other than the fault of the Architect, the Architect may terminate this Agreement by giving not less than seven days' written notice.

§ 5.4 Either party may terminate this Agreement upon not less than seven days' written notice should the other party fail substantially to perform in accordance with the terms of this Agreement through no fault of the party initiating the termination.

§ 5.5 The Owner may terminate this Agreement upon not less than seven days' written notice to the Architect for the Owner's convenience and without cause.

§ 5.6 In the event of termination not the fault of the Architect, the Architect shall be compensated for services performed prior to termination, together with Reimbursable Expenses then due and all Termination Expenses as defined in Section 5.7.

§ 5.7 Termination Expenses are in addition to compensation for the Architect's services and include expenses directly attributable to termination for which the Architect is not otherwise compensated, plus an amount for the Architect's anticipated profit on the value of the services not performed by the Architect.

§ 5.8 The Owner's rights to use the Architect's Instruments of Service in the event of a termination of this Agreement are set forth in Article 3 and Section 6.3.

ARTICLE 6 COMPENSATION

§ 6.1 The Owner shall compensate the Architect for services described in Section 1.1 as set forth below, or in the attached exhibit or scope document incorporated into this Agreement in Section 9.2.

(Insert amount of, or basis for, compensation or indicate the exhibit or scope document in which compensation is provided for.)

The Architect's compensation shall be eight percent (8%) of the cost of construction.

§ 6.2.1 Reimbursable Expenses are in addition to compensation for the Architect's professional services and include expenses incurred by the Architect and the Architect's consultants directly related to the Project, as follows:

- .1 Transportation and authorized out-of-town travel and subsistence;
- .2 Long distance services, dedicated data and communication services, teleconferences, Project Web sites, and extranets;
- .3 Fees paid for securing approval of authorities having jurisdiction over the Project;
- .4 Printing, reproductions, plots, standard form documents;
- .5 Postage, handling and delivery;
- .6 Expense of overtime work requiring higher than regular rates, if authorized in advance by the Owner;
- .7 Renderings, models, mock-ups, professional photography, and presentation materials requested by the Owner;
- .8 Architect's Consultant's expense of professional liability insurance dedicated exclusively to this Project, or the expense of additional insurance coverage or limits if the Owner requests such insurance in excess of that normally carried by the Architect's consultants;
- .9 All taxes levied on professional services and on reimbursable expenses;
- .10 Site office expenses; and
- .11 Other similar Project-related expenditures.

§ 6.2.2 For Reimbursable Expenses the compensation shall be the expenses incurred by the Architect and the Architect's consultants plus an administrative fee of ten percent (10%) of the expenses incurred.

§ 6.3 Compensation for Use of Architect's Instruments of Service

If the Owner terminates the Architect for its convenience under Section 5.5, or the Architect terminates this Agreement under Section 5.3, the Owner shall pay a licensing fee as compensation for the Owner's continued use of the Architect's Instruments of Service solely for purposes of the Project as follows:

Owner may continue to use the contract documents to complete the current project as defined in this agreement.

§ 6.4 Payments to the Architect

§ 6.4.1 An initial payment of

None required

(\$0) shall be made upon execution of this Agreement and is the minimum payment under this Agreement. It shall be credited to the Owner's account in the final invoice.

§ 6.4.2 Unless otherwise agreed, payments for services shall be made monthly in proportion to services performed.

Payments are due and payable upon presentation of the Architect's invoice. Amounts unpaid

(21) days after the invoice date shall bear interest at the rate entered below, or in the absence thereof at the legal rate prevailing from time to time at the principal place of business of the Architect.

(Insert rate of monthly or annual interest agreed upon.)

12% per annum

§ 6.4.3 The Owner shall not withhold amounts from the Architect's compensation to impose a penalty or liquidated damages on the Architect, or to offset sums requested by or paid to contractors for the cost of changes in the Work unless the Architect agrees or has been found liable for the amounts in a binding dispute resolution proceeding.

§ 6.4.4 Records of Reimbursable Expenses and services performed on the basis of hourly rates shall be available to the Owner at mutually convenient times.

ARTICLE 7 MISCELLANEOUS PROVISIONS

§ 7.1 This Agreement shall be governed by the law of the place where the Project is located, except that if the parties have selected arbitration as the method of binding dispute resolution, the Federal Arbitration Act shall govern Section 4.3.

§ 7.2 Terms in this Agreement shall have the same meaning as those in AIA Document A201-2007, General Conditions of the Contract for Construction.

§ 7.3 The Owner and Architect, respectively, bind themselves, their agents, successors, assigns and legal representatives to this Agreement. Neither the Owner nor the Architect shall assign this Agreement without the written consent of the other, except that the Owner may assign this Agreement to a lender providing financing for the Project if the lender agrees to assume the Owner's rights and obligations under this Agreement.

§ 7.4 If the Owner requests the Architect to execute certificates, the proposed language of such certificates shall be submitted to the Architect for review at least 14 days prior to the requested dates of execution. If the Owner requests the Architect to execute consents reasonably required to facilitate assignment to a lender, the Architect shall execute all such consents that are consistent with this Agreement, provided the proposed consent is submitted to the Architect for review at least 14 days prior to execution. The Architect shall not be required to execute certificates or consents that would require knowledge, services or responsibilities beyond the scope of this Agreement.

§ 7.5 Nothing contained in this Agreement shall create a contractual relationship with or a cause of action in favor of a third party against either the Owner or Architect.

§ 7.6 Unless otherwise required in this Agreement, the Architect shall have no responsibility for the discovery, presence, handling, removal or disposal of, or exposure of persons to, hazardous materials or toxic substances in any form at the Project site.

Init.

§ 7.7 The Architect shall have the right to include photographic or artistic representations of the design of the Project among the Architect's promotional and professional materials. The Architect shall be given reasonable access to the completed Project to make such representations. However, the Architect's materials shall not include the Owner's confidential or proprietary information if the Owner has previously advised the Architect in writing of the specific information considered by the Owner to be confidential or proprietary. The Owner shall provide professional credit for the Architect in the Owner's promotional materials for the Project.

§ 7.8 If the Architect or Owner receives information specifically designated by the other party as "confidential" or "business proprietary," the receiving party shall keep such information strictly confidential and shall not disclose it to any other person except to (1) its employees, (2) those who need to know the content of such information in order to perform services or construction solely and exclusively for the Project, or (3) its consultants and contractors whose contracts include similar restrictions on the use of confidential information.

ARTICLE 8 SPECIAL TERMS AND CONDITIONS

Special terms and conditions that modify this Agreement are as follows:

None

ARTICLE 9 SCOPE OF THE AGREEMENT

§ 9.1 This Agreement represents the entire and integrated agreement between the Owner and the Architect and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both Owner and Architect.

§ 9.2 This Agreement is comprised of the following documents listed below:

- .1 AIA Document B102™-2007, Standard Form Agreement Between Owner and Architect
- .2 AIA Document E201™-2007, Digital Data Protocol Exhibit, if completed, or the following:
- .3 Other documents:
(List other documents, including the Architect's scope of services document, hereby incorporated into the Agreement.)
None

This Agreement entered into as of the day and year first written above.

OWNER (Signature)

ARCHITECT (Signature)

(Printed name and title)

(Printed name and title)

February 23, 2016

Mr. Ken Hawkins
Project Manager
Smith Seckman Reid, Inc.
144 Market Place Blvd.
Knoxville, Tennessee 37922

Request for Change Order – Time Request

Contract No. 110074 and 110070

PIN: 115610.00 and 115609.00

County: Hamblen

Federal Project No.: STP-M-34 (78) and STP-M-66 (46)

State Project No.: 32LPLM-F3-024 and 32LPLM-F3-021

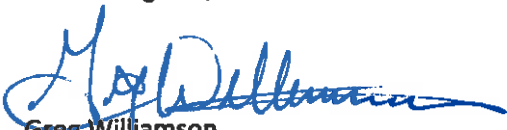
The State Route 34 ITS Traffic Signal Coordination Project and West First North Street at High Street Traffic Signal Project

Mr. Hawkins,

Attached you will find our Change Order Request 001 for the SR34 Signal Coordination Project (PIN 115610.00) as well as our CO Request 001 for the High St. Signal Project (PIN 115609.00). These Change Order Requests cover additional items to be added to the original contracts including signal cable, removal of pavement markings, traffic signal cabinet foundation, uniformed Police Officers, and a new traffic signal cabinet.

These additional items and additional work will require an extension to our original contract time. We expect to have all signal work with the exception of the additional traffic signal cabinet to be complete by March 6, 2016. With the extended lead time for the additional traffic signal cabinet this would extend the completion time to May 31, 2016.

Kindest regards,



Greg Williamson
gwilliamson@stansellelectric.com
Project Manager
Stansell Electric Company, Inc.

**Supplemental Agreement and/or Request for Construction Change
Change Order Request # 001**

Project Title/Termini:	West First North Street (SR 66) at High Street Traffic Signal Project		
Owner:	City of Morristown	PIN:	115609.00
Address:	100 West First North Street	State Project No.:	32LPLM-F3-021
	Morristown, Tennessee 37814	Federal Project No.:	STP-M-66 (46)
Date Prepared:	3/1/2016	Contract No.:	110070
		County:	Hamblen

Whereas, we Stansell Electric Company, Inc. with The Hanover Insurance Company, as a Surety, entered into a contract with The City of Morristown, on February 5, 2015, for the construction by said Contractor of the above designated contract; and Whereas, certain items of construction encountered, are not covered by the original contract, we desire to submit the following additional items of construction to be performed by the Contractor and paid by the Owner at the price(s) scheduled therefore below:

The purpose of this Change Order is to:

Add additional items.

As a result of this Change Order, contract time shall:

☐ Not Change, ☒ Increase by 211 days, ☐ Decrease by _____ days

Original contraction Completion Time: 270 days (Date: November 2, 2015)

Approved Change Orders: -

Current Change Order: 001

Contract Completion Time with Change Orders: 481 days (Date: May 31, 2016)

Unit prices listed below include labor, materials, profit, overhead, and incidentals necessary to complete this work. A separate attached spreadsheet with the same information may be used in lieu of the table below.

Item No.	Description	Unit	Current/ Pending Quantities	Revised Quantities	QTY Over + QTY Under	Contract Price	Net Amount Due Change
SEE	ATTACHMENT	01				\$	\$
						\$	\$
						\$	\$
						\$	\$
						\$	\$

Bid Contract Amount: \$160,072.00

Current Change Order: \$4,426.78

Approved Change Orders: \$-0-

Pending Change Orders: \$-0-

Total Change Orders to Date: \$-0-

**Supplemental Agreement and/or Request for Construction Change
Change Order Request # 001**

Project Title/Termini: <u>West First North Street (SR 66) at High Street Traffic Signal Project</u>	
Owner: <u>City of Morristown</u>	PIN: <u>115609.00</u>
Address: <u>100 West First North Street</u>	State Project No.: <u>32LPLM-F3-021</u>
<u>Morristown, Tennessee 37814</u>	Federal Project No.: <u>STP-M-66 (46)</u>
Date Prepared: <u>3/1/2016</u>	Contract No.: <u>110070</u>
	County: <u>Hamblen</u>

Now, Therefore, We, Stansell Electric Company, Inc., Contractors, and The Hanover Insurance Company, Surety, hereby agree to the Supplemental Agreement consisting of the above mentioned items and prices, and agree that this Supplemental Agreement is hereby made a part of the original contract and will be performed by this Contractor in accordance with specifications thereof, and that the original contract remain in full force and effect, except insofar as specifically modified by this Supplemental Agreement.

Recommended for Approval

By: [Signature] SSR (CEI) 3-08-16
Engineer/CEI Date

Approved By:

Stansell Electric Company, Inc
By: [Signature] 3/4/16
Contractor Date
THE HANOVER INSURANCE COMPANY

By: [Signature] 3/7/16
Surety Date
Mark Neal, Attorney-in-Fact

By: _____
Owner Date

Approved for Eligibility:

By: _____
Local Programs Planner Date

COM - High Street Traffic Signal Project Change Order Request 001

Attachment 01 - Additional Items

Contract Number 110070
 Federal Project Number STP-M-66 (46)
 State Project Number 32LPLM-F3-021

Item No.	Description	Unit	Current/Pending Quantities	Revised Quantities	QTY Over + QTY Under -	Contract Price	Net Amount Due Change
725-25.02	ETHERNET SWITCH (FIELD LAYER 2)	EACH	0	1	1	\$2,019.00	\$2,019.00
730-08.02	SIGNAL CABLE - 5 CONDUCTOR	LF	0	640	640+	\$1.20	\$768.00
730-24.08	FOUNDATION (TRAFFIC SIGNAL CABINET - W 1ST N STREET / HIGH STREET)	EACH	0	1	1+	\$1,639.78	\$1,639.78
							\$4,426.78

**Supplemental Agreement and/or Request for Construction Change
Change Order Request # 001**

Project Title/Termini: <u>State Route 34 ITS Traffic Signal Coordination Project</u>	
Owner: <u>City of Morristown</u>	PIN: <u>115610.00</u>
Address: <u>100 West First North Street</u>	State Project No.: <u>32LPLM-F3-024</u>
<u>Morristown, Tennessee 37814</u>	Federal Project No.: <u>STP-M-34 (78)</u>
Date Prepared: <u>2/22/2016</u>	Contract No.: <u>110074</u>
	County: <u>Hamblen</u>

Whereas, we Stansell Electric Company, Inc. with The Hanover Insurance Company, as a Surety, entered into a contract with The City of Morristown, on February 5, 2015, for the construction by said Contractor of the above designated contract; and Whereas, certain items of construction encountered, are not covered by the original contract, we desire to submit the following additional items of construction to be performed by the Contractor and paid by the Owner at the price(s) scheduled therefore below:

The purpose of this Change Order is to:

Add additional items.

As a result of this Change Order, contract time shall:

☐ Not Change, ☒ Increase by 211 days, ☐ Decrease by _____ days

Original contraction Completion Time: 270 days (Date: November 2, 2015)

Approved Change Orders: -

Current Change Order: 001

Contract Completion Time with Change Orders: 481 days (Date: May 31, 2016)

Unit prices listed below include labor, materials, profit, overhead, and incidentals necessary to complete this work. A separate attached spreadsheet with the same information may be used in lieu of the table below.

Item No.	Description	Unit	Current/ Pending Quantities	Revised Quantities	QTY Over + QTY Under -	Contract Price	Net Amount Due Change
SEE	ATTACHMENT	01				\$	\$
						\$	\$
						\$	\$
						\$	\$
						\$	\$

Bid Contract Amount: \$1,263,725.00

Current Change Order: \$22,415.66

Approved Change Orders: \$-0-

Pending Change Orders: \$-0-

Total Change Orders to Date: \$-0-

**Supplemental Agreement and/or Request for Construction Change
Change Order Request # 001**

Project Title/Termini:	State Route 34 ITS Traffic Signal Coordination Project		
Owner:	City of Morristown	PIN:	115610.00
Address:	100 West First North Street	State Project No.:	32LPLM-F3-024
	Morristown, Tennessee 37814	Federal Project No.:	STP-M-34 (78)
Date Prepared:	2/22/2016	Contract No.:	110074
		County:	Hamblen

Now, Therefore, We, Stansell Electric Company, Inc., Contractors, and The Hanover Insurance Company, Surety, hereby agree to the Supplemental Agreement consisting of the above mentioned items and prices, and agree that this Supplemental Agreement is hereby made a part of the original contract and will be performed by this Contractor in accordance with specifications thereof, and that the original contract remain in full force and effect, except insofar as specifically modified by this Supplemental Agreement.

Recommended for Approval

By: _____
Engineer/CEI Date

Approved By:

Stansell Electric Company, Inc.
By: *James Stansell* President 2/22/16
Contractor Date

THE HANOVER INSURANCE COMPANY
By: *Mark Neal* 2-22-16
Surety Mark Neal, Attorney-in-Fact Date

By: _____
Owner Date

Approved for Eligibility:

By: _____
Local Programs Planner Date

COM - SR34 Change Order Request 001

Attachment 01 - Additional Items

Contract Number 110074
Federal Project Number STP-M-34 (78)
State Project Number 32LPLM-F3-024

Item No.	Description	Unit	Current/Pending Quantities	Revised Quantities	QTY Over + QTY Under -	Contract Price	Net Amount Due Change
716-08.11	REMOVAL OF PAVEMENT MARKING (VARIOUS TURN LANE ARROWS)	EACH	0	8	8+	\$165.00	\$1,320.00
712-08.01	TRAFFIC CONTROL (UNIFORMED OFFICER)	DOLL	0	9100	9100	\$1.00	\$9,100.00
730-15.09	CABINET (16 PHASE BASE MOUNTED - CABINET ONLY - W ANDREW JOHNSON HIGHWAY / W ECONOMY RD)	EACH	0	1	1+	\$11,995.66	\$11,995.66
							\$22,415.66

THE HANOVER INSURANCE COMPANY
MASSACHUSETTS BAY INSURANCE COMPANY
CITIZENS INSURANCE COMPANY OF AMERICA

POWERS OF ATTORNEY
CERTIFIED COPY

KNOW ALL MEN BY THESE PRESENTS: That THE HANOVER INSURANCE COMPANY and MASSACHUSETTS BAY INSURANCE COMPANY, both being corporations organized and existing under the laws of the State of New Hampshire, and CITIZENS INSURANCE COMPANY OF AMERICA, a corporation organized and existing under the laws of the State of Michigan, do hereby constitute and appoint

Frank E. Neal, Frank E. Neal, III, Mark Neal, Brent W. Neal, Michael B. Mattox and/or Gayle Graves

of Nashville, TN and each is a true and lawful Attorney(s)-in-fact to sign, execute, seal, acknowledge and deliver for, and on its behalf, and as its act and deed any place within the United States, or, if the following line be filled in, only within the area therein designated any and all bonds, recognizances, undertakings, contracts of indemnity or other writings obligatory in the nature thereof, as follows:

Any such obligations in the United States, not to exceed Twenty Million and No/100 (\$20,000,000) in any single instance

and said companies hereby ratify and confirm all and whatsoever said Attorney(s)-in-fact may lawfully do in the premises by virtue of these presents. These appointments are made under and by authority of the following Resolution passed by the Board of Directors of said Companies which resolutions are still in effect:

"RESOLVED, That the President or any Vice President, in conjunction with any Vice President, be and they are hereby authorized and empowered to appoint Attorneys-in-fact of the Company, in its name and as its acts, to execute and acknowledge for and on its behalf as Surety any and all bonds, recognizances, contracts of indemnity, waivers of dation and all other writings obligatory in the nature thereof, with power to attach thereto the seal of the Company. Any such writings so executed by such Attorneys-in-fact shall be as binding upon the Company as if they had been duly executed and acknowledged by the regularly elected officers of the Company in their own proper persons." (Adopted October 7, 1981 - The Hanover Insurance Company; Adopted April 14, 1982 - Massachusetts Bay Insurance Company; Adopted September 7, 2001 - Citizens Insurance Company of America)

IN WITNESS WHEREOF, THE HANOVER INSURANCE COMPANY, MASSACHUSETTS BAY INSURANCE COMPANY and CITIZENS INSURANCE COMPANY OF AMERICA have caused these presents to be sealed with their respective corporate seals, duly attested by two Vice Presidents, this 1st day of February 2012.



THE HANOVER INSURANCE COMPANY
MASSACHUSETTS BAY INSURANCE COMPANY
CITIZENS INSURANCE COMPANY OF AMERICA


Robert Thomas, Vice President

THE COMMONWEALTH OF MASSACHUSETTS)
COUNTY OF WORCESTER) ss.


Joe Brenstrom, Vice President

On this 1st day of February 2012 before me came the above named Vice Presidents of The Hanover Insurance Company, Massachusetts Bay Insurance Company and Citizens Insurance Company of America, to me personally known to be the individuals and officers described herein, and acknowledged that the seals affixed to the preceding instrument are the corporate seals of The Hanover Insurance Company, Massachusetts Bay Insurance Company and Citizens Insurance Company of America, respectively, and that the said corporate seals and their signatures as officers were duly affixed and subscribed to said instrument by the authority and direction of said Corporations.



BARBARA A. GARLICK
Notary Public
Commonwealth of Massachusetts
My Commission Expires Sept. 21, 2018



Barbara A. Garlick, Notary Public
My Commission Expires September 21, 2018

I, the undersigned Vice President of The Hanover Insurance Company, Massachusetts Bay Insurance Company and Citizens Insurance Company of America, hereby certify that the above and foregoing is a full, true and correct copy of the Original Power of Attorney issued by said Companies, and do hereby further certify that the said Powers of Attorney are still in force and effect.

This Certificate may be signed by facsimile under and by authority of the following resolution of the Board of Directors of The Hanover Insurance Company, Massachusetts Bay Insurance Company and Citizens Insurance Company of America.

"RESOLVED, That any and all Powers of Attorney and Certified Copies of such Powers of Attorney and certification in respect thereto, granted and executed by the President or any Vice President in conjunction with any Vice President of the Company, shall be binding on the Company to the same extent as if all signatures therein were manually affixed, even though one or more of any such signatures thereon may be facsimile." (Adopted October 7, 1981 - The Hanover Insurance Company; Adopted April 14, 1982 - Massachusetts Bay Insurance Company; Adopted September 7, 2001 - Citizens Insurance Company of America)

GIVEN under my hand and the seals of said Companies, at Worcester, Massachusetts, this 22nd day of February 2016.

THE HANOVER INSURANCE COMPANY
MASSACHUSETTS BAY INSURANCE COMPANY
CITIZENS INSURANCE COMPANY OF AMERICA


Glenn Margosian, Vice President

[Return to Agenda](#)



**STATE OF TENNESSEE
DEPARTMENT OF TRANSPORTATION**

SUITE 700, JAMES K. POLK BUILDING
505 DEADERICK STREET
NASHVILLE, TN 37243-0349
(615) 741-2848

JOHN C. SCHROER
COMMISSIONER

BILL HASLAM
GOVERNOR

February 2, 2016

Gary Chesney, Mayor
City of Morristown
City Center
P. O. Box 1499
Morristown, TN 37816-1499

Dear Mayor Chesney:

I am pleased to inform you that your recent funding request amendment for Moore-Murrell Field has been approved by the Tennessee Department of Transportation, Aeronautics Division.

The additional amount of \$16,800 has been approved for Land Acquisition Future Development, as itemized in your request.

With this approval, the Aeronautics Division has prepared the enclosed contract. Please obtain required signatures and return it to our office within 15 days from the date the contract is transmitted from this office. If the signed contract is not received within that timeframe, the contract is subject to cancelation.

We are pleased to provide funding for this airport improvement project. Our aviation facilities are critical to the economic development of communities across the state. We look forward to continuing our joint efforts to ensure their successful operations.

Sincerely,


William B. Orellana
Aeronautics Director

WBO:bf

Enclosure

PSR: 2/1/2016

cc: Buddy Fielder, Assistant City Administrator



STATE OF TENNESSEE
DEPARTMENT OF TRANSPORTATION

AERONAUTICS DIVISION
607 HANGAR LANE
P. O. BOX 17326
NASHVILLE, TENNESSEE 37217
(615) 741-3208

JOHN C. SCHROER
COMMISSIONER

BILL HASLAM
GOVERNOR

March 3, 2016

The Honorable Gary Chesney
City of Morristown
PO Box 1499
Morristown, TN 37816-1499

Re: Land Acquisition (Future Development)
TAD Project No: 32-555-0152-04
TAD Grant No: AERO-15-118-01

Dear Mayor Chesney:

Attached is the grant for the above referenced approved project. Please sign the grant, obtain the appropriate legal counsel's signature and return (see below) or you may scan and upload your grant into Documents in BlackCat; follow up by notifying our office of the upload with an email to: Aero.Grants@tn.gov.

TDOT-Aeronautics Division
Budgets & Grants Program
P.O. Box 17326
Nashville, TN 37217


In accordance with Section Grantee Match. of the original grant, a local deposit was required totaling \$8,790.00. However this project amendment makes it necessary for an **additional local deposit in the amount of \$840.00**. Please make your check payable to the Tennessee Department of Transportation and mail the check to:

TDOT Finance Division
C/o Lacey Bryant
505 Deadrick Street
Suite 800, James K. Polk Building
Nashville, TN 37243-0329

Please return this grant and make your deposit (*note your TAD project number on deposit*) within the 15 day requested timeframe so that we may provide you with the required documentation necessary to proceed with this project.


If you have any questions, please give me a call at 615-741-3208.

Sincerely,



Belinda Hampton, GA III
Finance/Grants

[Return to Agenda](#)

 <h2 style="margin: 0;">GRANT AMENDMENT</h2>					
Agency Tracking # 40100-45315		Edison ID 41106		Contract # AERO-15-118-00	
Amendment # 1					
Contractor Legal Entity Name City of Morristown					Edison Vendor ID 4108
Amendment Purpose & Effect(s) Land Acquisition for Future Development (amended for unanticipated environmental and acquisition expenses and increase estimated property value)					
Amendment Changes Contract End Date: <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO				End Date: 06/30/2019	
TOTAL Contract Amount INCREASE per this Amendment (zero if N/A):					\$16,800.00
Funding —					
FY	State	Federal	Interdepartmental	Other	TOTAL Contract Amount
2015	\$8,790.00	\$158,220.00		\$8,790.00	\$175,800.00
2016	\$840.00	\$15,120.00		\$840.00	\$16,800.00
TOTAL:	\$9,630.00	\$173,340.00		\$9,630.00	\$192,600.00
American Recovery and Reinvestment Act (ARRA) Funding: <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO					
Budget Officer Confirmation: There is a balance in the appropriation from which obligations hereunder are required to be paid that is not already encumbered to pay other obligations.			<i>OCR USE</i>		
Speed Chart (optional)		Account Code (optional)			
#47					
TX00209123 #38					
		71302			

Address ID: 1

LOCATION CODE: MAIN

**AMENDMENT ONE
OF GRANT CONTRACT
AERO-15-118-00**

This Grant Contract Amendment is made and entered by and between the State of Tennessee, Department of Transportation, hereinafter referred to as the "State" and City of Morristown, hereinafter referred to as the "Grantee." It is mutually understood and agreed by and between said, undersigned contracting parties that the subject Grant Contract is hereby amended as follows:

1. The following is added as Grant Contract section A.4.

A.4. Incorporation of Federal Award Identification Worksheet. The federal award identification worksheet, which appears as Attachment Three, is incorporated in this Grant Contract.

2. Grant Contract section C.1. Maximum Liability is deleted in its entirety and replaced with the following:

C.1. Maximum Liability. In no event shall the maximum liability of the State under this Grant Contract exceed **One Hundred Ninety-Two Thousand Six Hundred Dollars and No Cents (\$192,600.00)** ("Maximum Liability"). The Grant Budget, attached and incorporated as Attachment Two is the maximum amount due the Grantee under this Grant Contract. The Grant Budget line-items include, but are not limited to, all applicable taxes, fees, overhead, and all other direct and indirect costs incurred or to be incurred by the Grantee.

3. Grant Contract section D.21. is deleted in its entirety and replaced with the following:

D.21. Force Majeure. "Force Majeure Event" means fire, flood, earthquake, elements of nature or acts of God, wars, riots, civil disorders, rebellions or revolutions, acts of terrorism or any other similar cause beyond the reasonable control of the party except to the extent that the non-performing party is at fault in failing to prevent or causing the default or delay, and provided that the default or delay cannot reasonably be circumvented by the non-performing party through the use of alternate sources, workaround plans or other means. A strike, lockout or labor dispute shall not excuse either party from its obligations under this Grant Contract. Except as set forth in this Section, any failure or delay by a party in the performance of its obligations under this Grant Contract arising from a Force Majeure Event is not a default under this Grant Contract or grounds for termination. The non-performing party will be excused from performing those obligations directly affected by the Force Majeure Event, and only for as long as the Force Majeure Event continues, provided that the party continues to use diligent, good faith efforts to resume performance without delay. The occurrence of a Force Majeure Event affecting Grantee's representatives, suppliers, subcontractors, customers or business apart from this Grant Contract is not a Force Majeure Event under this Grant Contract. Grantee will promptly notify the State of any delay caused by a Force Majeure Event (to be confirmed in a written notice to the State within one (1) day of the inception of the delay) that a Force Majeure Event has occurred, and will describe in reasonable detail the nature of the Force Majeure Event. If any Force Majeure Event results in a delay in Grantee's performance longer than forty-eight (48) hours, the State may, upon notice to Grantee: (a) cease payment of the fees until Grantee resumes performance of the affected obligations; or (b) immediately terminate this Grant Contract or any purchase order, in whole or in part, without further payment except for fees then due and payable. Grantee will not increase its charges under this Grant Contract or charge the State any fees other than those provided for in this Grant Contract as the result of a Force Majeure Event.

3. The following is added as Grant Contract section D.27.

D.27. HIPAA Compliance. The State and the Grantee shall comply with obligations under the Health Insurance Portability and Accountability Act of 1996 (HIPAA), Health Information

Technology for Economic and Clinical Health Act (HITECH) and any other relevant laws and regulations regarding privacy (collectively the "Privacy Rules"). The obligations set forth in this Section shall survive the termination of this Grant Contract.

- a. The Grantee warrants to the State that it is familiar with the requirements of the Privacy Rules and will comply with all applicable HIPAA requirements in the course of this Grant Contract.
- b. The Grantee warrants that it will cooperate with the State, including cooperation and coordination with State privacy officials and other compliance officers required by the Privacy Rules, in the course of performance of this Grant Contract so that both parties will be in compliance with the Privacy Rules.
- c. The State and the Grantee will sign documents, including but not limited to business associate agreements, as required by the Privacy Rules and that are reasonably necessary to keep the State and the Grantee in compliance with the Privacy Rules. This provision shall not apply if information received by the State under this Grant Contract is NOT "protected health information" as defined by the Privacy Rules, or if the Privacy Rules permit the State to receive such information without entering into a business associate agreement or signing another such document.

4. The following is added as Grant Contract section D.28.

D.28. Tennessee Department of Revenue Registration. The grantee shall be registered with the Tennessee Department of Revenue for the collection of Tennessee sales and use tax. This registration requirement is a material provision of this Grant Contract.

5. Grant Contract Attachment One is deleted in its entirety and replaced with the new attachment Attachment One attached hereto.
6. Grant Contract Attachment Two is deleted in its entirety and replaced with the new attachment Attachment Two attached hereto.

Required Approvals. The State is not bound by this Amendment until it is signed by the contract parties and approved by appropriate officials in accordance with applicable Tennessee laws and regulations (depending upon the specifics of this contract, said officials may include, but are not limited to, the Commissioner of Finance and Administration, the Commissioner of Human Resources, and the Comptroller of the Treasury).

Amendment Effective Date. The revisions set forth herein shall be effective **March 30, 2016**. All other terms and conditions of this Grant Contract not expressly amended herein shall remain in full force and effect.

IN WITNESS WHEREOF,

CITY OF MORRISTOWN:

32-0152/A1

GRANTEE SIGNATURE

DATE

GARY CHESNEY, CITY MAYOR

PRINTED NAME AND TITLE OF GRANTEE SIGNATORY (above)

GRANTEE'S LEGAL COUNSEL

DATE

DEPARTMENT OF TRANSPORTATION:

JOHN C. SCHROER, COMMISSIONER

DATE

**JOHN REINBOLD, GENERAL COUNSEL
APPROVED AS TO FORM AND LEGALITY**

DATE

City of Morristown

Incorporated 1855

Morristown Municipal Airport Commission



December 8, 2015

William B. Orellana, Director
Tennessee Department of Transportation
Aeronautics Division
P. O. Box 17326
Nashville, Tennessee 37217

Re: TAD Project Number: 32-555-0152-04
Contract Number: AERO-15-118-00
Federal Grant Number: 3-47- SBGP-38

Dear Mr. Orellana:

The Morristown Municipal Airport Commission respectfully requests an amendment to the above referenced grant for additional funding from the Tennessee Department of Transportation in the amount of \$16,800 to assist the City of Morristown with unanticipated acquisition and environmental cost, as well as an increase over the estimated property value. Please refer to the attached estimate.

The City of Morristown and the Morristown Municipal Airport Commission have available the necessary funds for the local match. I am authorized to provide additional information or assurances associated with this request. Thank you for your consideration.

Please let me know if you have any questions or need additional information.

Sincerely,

Louis "Doe" Jarvis, Chairman
Morristown Municipal Airport Commission

REQUEST FOR STATE FUNDING
FOR AIRPORT IMPROVEMENT

Airport: Moore-Murrell Field
Project Title: Land acquisition future development
Project Description: Land acquisition future development - purchase land that has recently become available for purchasing - future development

UPIN: BCG0000797
Submitted By: Kai Morilak
Date Submitted: 12/11/2015 4:14:05PM
Project Manager: Chuck Hoskins

Applicant: City of Morristown
Phone: 423-586-2483

Project in CIP?: Yes Date Entered in CIP:

Explanation of Need: Unanticipated environmental and acquisition expenses as well as an increase in the estimated property value require additional funding. Thank you for considering our request.

Estimated Cost:

Fiscal Year: 2,016
Federal: \$15,120
State: \$840
Local: \$840
Other:

Total: 100%

Matching Funds Available?: 840.00

Airport Sponsor Comments:

Morristown is requesting:
90% Federal funding: \$15,120
10% State funding: \$840
10% Local funding: \$840

TAD Comments:

TDOT USE ONLY

Staff Recommended: 32-0152 /A1

Approved

Rejected:

Moved:

PSR Signature:



Date:

02/01/2016

TAC Signature:

Date:

City of Morristown

Incorporated 1855

DEPARTMENT OF COMMUNITY DEVELOPMENT & PLANNING

January 10, 2014

ATTACHMENT ONE



William B. Orellana, Director
Tennessee Department of Transportation
Aeronautics Division
P. O. Box 17326
Nashville, Tennessee 37217

*WBO
1/10/14*

Dear Mr. Orellana,

The Morristown Municipal Airport Commission hereby requests financial assistance from the Tennessee Department of Transportation in the amount of \$175,800 for improvement to the Morristown Regional Airport. The improvement is the purchase of property for future growth. Our desire is to take advantage of property that has become available. It is located adjacent to and north of our T- Hangars. We are seeking an approved TDOT appraisal consultant's services. The funding request is based upon the Hamblen County Trustee's Appraisal.

Attached is a completed application form for state financial assistance for the improvements. We have available the necessary funds for the local share of the proposed improvements. I am authorized to provide additional information or assurances associated with this request.

Please let me know if you have any questions or need additional information.

Sincerely,

Doe Jarvis
Chairman,
Morristown Municipal Airport Commission
Morristown, Tennessee

**REQUEST FOR STATE FUNDING
FOR AIRPORT IMPROVEMENT**

ATTACHMENT ONE

Airport: Moore-Murrell Field
Project Title: Land acquisition future development
Project Description: Land acquisition future development - purchase land that has recently become available for purchasing - future development

UPIN: BCG0000797
Submitted By: Stefan Bobot
Date Submitted: 4/2/2014 6:16:45PM
Project Manager: Stefan Bobot

Applicant: City of Morristown
Phone: 423-588-2483

Project in CIP?: Yes **Date Entered in CIP:**

Explanation of Need: Land acquisition future development - purchase land that has recently become available for purchasing - future development

Estimated Cost:

Fiscal Year:	2014	
Federal:	\$0	0.0%
State:	\$87,900	50.0%
Local:	\$87,900	50.0%
Other:	\$0	0.0%
Total:	\$175,800	100%

Staff Recommendation Amended Cost Estimate		
State	87,500.00	(5%)
Local	8,750.00	(5%)
Federal	157,500.00	(90%)
Total	175,800.00	(%)

Matching Funds Available?: Yes

Airport Sponsor Comments:

TAD Comments:

TDOT USE ONLY

Staff Recommended:

Approved:

Rejected:

Moved:

PSR Signature: **Date:** 4/25/2014

TAC Signature: **Date:** 5/23/2014

GRANT BUDGET				
City of Morristown – Land Acquisition			AERO-15-118-01	
The grant budget line-item amounts below shall be applicable only to expense incurred during the following				
Applicable Period: BEGIN: July 1, 2014			END: June 30, 2019	
POLICY 03 Object Line-Item Reference	EXPENSE OBJECT LINE-ITEM CATEGORY ¹	GRANT CONTRACT	GRANTEE MATCH	TOTAL PROJECT
1. 2	Salaries, Benefits & Taxes	0.00	0.00	0.00
4, 15	Professional Fee, Grant & Award ²	\$182,970.00	\$9,630.00	\$192,600.00
5, 6, 7, 8, 9, 10	Supplies, Telephone, Postage & Shipping, Occupancy, Equipment Rental & Maintenance, Printing & Publications	0.00	0.00	0.00
11. 12	Travel, Conferences & Meetings	0.00	0.00	0.00
13	Interest ²	0.00	0.00	0.00
14	Insurance	0.00	0.00	0.00
16	Specific Assistance To Individuals	0.00	0.00	0.00
17	Depreciation ²	0.00	0.00	0.00
18	Other Non-Personnel ²	0.00	0.00	0.00
20	Capital Purchase ²	0.00	0.00	0.00
22	Indirect Cost	0.00	0.00	0.00
24	In-Kind Expense	0.00	0.00	0.00
25	GRAND TOTAL	\$182,970.00	\$9,630.00	\$192,600.00

¹ Each expense object line-item shall be defined by the Department of Finance and Administration Policy 03, *Uniform Reporting Requirements and Cost Allocation Plans for Subrecipients of Federal and State Grant Monies, Appendix A*. (posted on the Internet at: <http://www.state.tn.us/finance/act/documents/policy3.pdf>).

² Applicable detail follows this page if line-item is funded.

³ A Grantee Match Requirement is detailed by this Grant Budget, and the maximum total amount reimbursable by the State pursuant to this Grant Contract, as detailed by the "Grant Contract" column above, shall be reduced by the amount of any Grantee failure to meet the Match Requirement.

GRANT BUDGET LINE-ITEM DETAIL:

PROFESSIONAL FEE, GRANT & AWARD	AMOUNT
Land Acquisition for Future Development (amended for unanticipated environmental and acquisition expenses and increase estimated property value)	\$192,600.00
TOTAL	\$192,600.00

TAD 32-0152/A1

Project Breakdown: \$175,800.00 90% Federal #38 (NPE) 05% State 05% Local

Amendment 1: \$ 15,120.00 90% Federal #47 (NPE)
 \$ 840.00 05% State
 \$ 840.00 05% Local
 \$ 16,800.00 100%

Grant Total: \$192,600.00

Federal Award Identification Worksheet
(Subrecipient=Sponsor/Owner of Airport)

Subrecipient's name (must match registered name in DUNS)	✓
Subrecipient's DUNS number	✓
Federal Award Identification Number (FAIN)	3-47-SBGP-47
Federal award date	October 2014
CFDA number and name	20.106 Airport Improvement Program
Grant contract's begin date	July 1, 2014
Grant contract's end date	June 30, 2019
Amount of federal funds obligated by this grant contract	\$15,120
Total amount of federal funds obligated to the subrecipient (Federal dollars deposited in Sponsor's account in current FY (7/15-6/16) from ALL agencies)	✓
Total amount of the federal award to the pass-through entity (Grantor State Agency)	\$13,086,619
Name of federal awarding agency	Federal Aviation Administrative
Name and contact information for the federal awarding official	TN Department of Transportation Aeronautics Division-Grants Manager PO Box 17326 Nashville, TN 37217 615-741-3208
Is the federal award for research and development?	N/A
Indirect cost rate for the federal award (See 2 C.F.R. §200.331 for information on type of indirect cost rate)	N/A

Federal Award Identification Worksheet is a required document that must be completed by the sponsor (**Boxes checked**) and returned with signed grant for execution.

This Worksheet will need to be updated every six (6) months for the length of this project and uploaded into BlackCat in the Documents Tab under project 32555015204.

Any questions please contact the Finance/Grants Section, Belinda Hampton at 615-741-3208.

STORMWATER MANAGEMENT/BMP FACILITIES MAINTENANCE AGREEMENT

THIS AGREEMENT, made and entered into this 1st day of February, 2016, by and between Cherokee Crossing, LLC hereinafter called the "Landowner", and
(Insert Full Name of Owner)
the City of Morristown, TN hereinafter called "City".

WITNESSETH, that

WHEREAS, the Landowner is the owner of certain property described as 040 030.09 (Lot #2 in Cherokee Development Subdivision) as recorded by deed in the last land records of
(Insert Hamblen County Tax & Parcel Number)
Hamblen County, TN, Deed Book 1609 Page 310, hereafter called the "Property".

WHEREAS, the Landowner is proceeding to build on and develop the property; and

WHEREAS, the Site Plan/Subdivision known as Aldi Inc., Store #09
(Name of Plan/Development)

hereafter called the "Plan", which is expressly made a part hereof, as approved or to be approved by the City, provides for management of stormwater within the confines of the property; and

WHEREAS, the City and the Landowner, its successors and assigns, agree that the health, safety and welfare of the residents of the City of Morristown, Tennessee, require that on-site stormwater management/BMP facilities be constructed and maintained on the Property; and

WHEREAS, the City requires that on-site stormwater management/BMP facilities, as shown on the Plan,

be constructed and adequately maintained by the Landowner, its successors and assigns.

NOW, THEREFORE, in consideration of the foregoing premises, the mutual covenants contained herein, and the following terms and conditions, the parties hereto agree as follows:

1. The on-site stormwater management/BMP facilities shall be constructed by the Landowner, its successors, and assigns, in accordance with the plans and specifications identified in the Plan and shall, upon construction completion, be certified as such by the Plan's Engineer of Record.
2. The Landowner, its successors, and assigns, shall adequately maintain the stormwater management/BMP facilities as outlined in the Plan and contained within the Landowner's property. This includes all pipes and channels built to convey stormwater to and from the facility, as well as all structures, improvements, and vegetation provided to control the quantity and quality of the stormwater. Adequate maintenance is herein defined as good working condition, so that these facilities

are performing their design functions. Those maintenance procedures outlined in the Plan and the City's approved BMP guidelines shall be practiced at a minimum. Common maintenance shall include the removal of debris (leaves, lawn clippings, sticks, etc.) and trash after rainfall events, checking outlet structures for clogging and cleaning, as necessary, repairing erosive areas promptly upon observation, and removing accumulated sediment.

3. The Landowner, its successors, and assigns, shall inspect the stormwater management/BMP facility and report to the City Engineer if any major repairs (i.e. structural) are necessary. The purpose of the inspection and reporting is to assure safe and proper functioning of the facilities. The inspection shall cover the entire facilities, berms, outlet structure, pond areas, access roads, etc and shall be performed at such times and such manner as to accomplish these objectives.
4. The Landowner, its successors, and assigns, will perform the work necessary to keep these facilities in good working order as appropriate. In the event a maintenance schedule for the stormwater management/BMP facilities (including sediment removal) is outlined on the approved plans or in the City's BMP guidelines, the Landowner, its successors, and assigns, shall adhere to the schedule.
5. The Landowner, its successors, and assigns, hereby grant permission to the City, its authorized agents, and employees, to enter upon the Property and to inspect the stormwater management/BMP facilities whenever the City deems necessary. The purpose of inspection may be to check the facility for proper functioning, to follow-up on reported deficiencies or repairs, to respond to citizen complaints, and/or to check for any other reasons the City deems necessary. If problems are observed, the City shall provide the Landowner, its successors, and assigns, copies of the inspection findings and a directive to commence with the repairs within a specified timeframe.
6. In the event the Landowner, its successors, and assigns, fails to maintain the stormwater management/BMP facilities in good working condition acceptable to the City, the City may enter upon the Property and take the steps necessary to correct deficiencies identified in the inspection report. This provision shall not be construed to allow the City to erect any structure of permanent nature on the land of the Landowner, outside of the easement, for the stormwater management/BMP facilities. It is expressly understood and agreed that the City is under no obligation to routinely maintain or repair said facilities, and in no event shall this Agreement be construed to impose any such obligation on the City.
7. In the event the City, pursuant to this Agreement, performs work of any nature or expends any funds in performance of said work for labor, use of equipment, supplies, materials, and the like, the Landowner, its successors, and assigns, shall reimburse the City upon demand, within sixty (60) days of receipt thereof, for one hundred fifty percent (150%) of all actual costs incurred by the City hereunder.
8. If the Landowner fails to pay the City for one hundred fifty percent (150%) of their incurred expenses within sixty (60) days of receipt of written notice, the Landowner authorizes the City to place a lien against the property in an amount equal to one hundred fifty percent (150%) of said expenses.
9. If the Landowner fails to reimburse the City, as described above, the Landowner further authorizes the City to collect said expenses from the Landowner through other appropriate legal action, with the Landowner to be liable for the reasonable costs of collection, court costs, and attorney fees.

10. This Agreement imposes no liability of any kind whatsoever on the City, and the Landowner agrees to hold the City harmless from any liability in the event the stormwater management/BMP facilities fail to operate properly.
11. This Agreement shall be recorded among the land records of Hamblen County, Tennessee, and shall constitute a covenant running with the land, and shall be binding on the Landowner, its administrators, executors, assigns, heirs and any other successors in interests.

WITNESS the following signatures and seals:

Cherokee Crossing, LLC
Company/Corporation/Partnership Name (Seal)

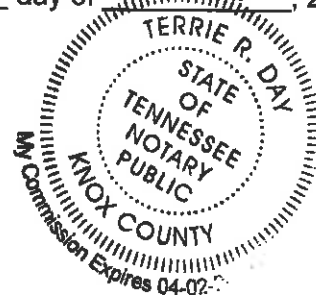
By: [Signature]
David B. Fiser
(Type Name)

member
(Type Title)

State of Tennessee
County of Knox

The foregoing Agreement was acknowledged before me this 1st day of Feb, 2016.

by [Signature] TERRIE DAY
[Signature]
Notary Public
My Commission Expires 4/2/17



Approved as to form:

[Signature] 2/24/16
City Attorney Date

OWNER/RESPONSIBLE TAXPAYER:
Cherokee Crossing, LLC
5731 Lyons View Pike, Suite 107
Knoxville, TN 37919
Map 040, Parcels 030.00 & 030.02

THIS INSTRUMENT PREPARED BY:
TENNESSEE VALLEY TITLE INSURANCE CO.
800 South Gay Street, Suite 1700
Knoxville, TN 37929
File No. 140232 (BMD)

WARRANTY DEED

THIS INDENTURE made as of this 12th day of March, 2015, between SHARON GAIL WINKLER DANIEL, unmarried, First Party, and CHEROKEE CROSSING, LLC, a Tennessee limited liability company, Second Party:

WITNESSETH

THAT SAID FIRST PARTY, for and in consideration of the sum of TEN AND NO/100 (\$10.00) DOLLARS, and other good and valuable consideration, to her in hand paid by said Second Party, the receipt of which is hereby acknowledged, has granted, bargained, sold and conveyed, and does by these presents grant, bargain, sell and convey unto Second Party, the real property described as follows:

SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF

With the hereditaments and appurtenances thereto appertaining, hereby releasing all claims therein, including homestead. TO HAVE AND TO HOLD the same unto the Second Party, its successors and assigns forever.

AND SAID FIRST PARTY, for herself and her heirs, representatives, successors and assigns, does hereby covenant with said Second Party, its successors and assigns, that she is lawfully seized in fee simple of the premises above conveyed and has full power, authority and right to convey the same, and that said premises are free from all encumbrances except the matters set forth on Exhibit "B" attached hereto and made a part hereof, and 2015 taxes, which shall be prorated as of the date of closing and which Second Party assumes and agrees to pay (the "Encumbrances"), and that she will forever warrant and defend the said premises and the title thereto against the lawful claims of all persons whomsoever, except as to the Encumbrances.

Whenever in this instrument a pronoun is used it shall be construed to represent either singular or plural, or the masculine, feminine or neuter gender, as the case may demand.

ASSESSOR OF PROPERTY

J. Keith Ely

DIST. 1 MAR 4 2015 PCL 30.00 + 30.00

H:\eforte\140232 Cherokee Crossing, LLC\WD.doc

BK/PG: 1609/310-317

15238985

8 PGS:AL-WARRANTY DEED	
MARSHA BATCH: 98143	
03/13/2015 - 11:40 AM	
VALUE	320000.00
MORTGAGE TAX	0.00
TRANSFER TAX	11840.00
RECORDING FEE	40.00
DP FEE	2.00
REGISTER'S FEE	1.00
TOTAL AMOUNT	11883.00

STATE OF TENNESSEE, HAMILTON COUNTY
JIM CLAWSON
REGISTER OF DEEDS


IN WITNESS WHEREOF, the said First Party hereunder has executed this instrument as of the day and year first above written.

Sharon Gail Winkler Daniel
SHARON GAIL WINKLER DANIEL

STATE OF TENNESSEE)
) SS
COUNTY OF Knox)

PERSONALLY appeared before me, the undersigned authority, a Notary Public in and for said County and State, SHARON GAIL WINKLER DANIEL, the within named bargainor, with whom I am personally acquainted, or proved to me on the basis of satisfactory evidence and who, upon oath, acknowledged that she executed the within instrument for the purposes therein contained.

WITNESS my hand and official seal, this 12th day of March, 2015.

My Commission Expires: 4-24-2017
Notary Public Suzette Byrd


I hereby swear or affirm that the actual consideration or true value of this transfer, whichever is greater, is \$ 3,200,000.00

[Signature]
Affiant

Subscribed and sworn to before me this 12th day of March, 2015.

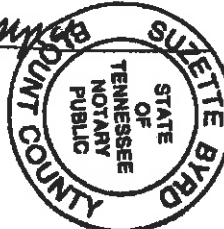
My Commission Expires: 4-24-2017
Notary Public Suzette Byrd


EXHIBIT "A"

TRACT I (CLT NO. 040-030.00)

SITUATE in the First (1st) Civil District of Hamblen County, Tennessee, within the corporate limits of the City of Morristown, Tennessee, being all of **Lot 2 of Hatfield and Winkler Subdivision**, as shown on plat of the same filed for record in Plat Cabinet E, Slide 4 in the Hamblen County Register of Deeds Office, and being more particularly bounded and described as follows:

BEGINNING at iron pin set in the northern right of way line of West Andrew Johnson Highway (US Highway 11E), said iron pin being located South 80 deg. 59 min. 12 sec. West, 242.00 feet from the point of intersection of the center lines of West Andrew Johnson Highway and Merchants Greene Boulevard (State Route 66); thence along the eastern boundary line of Sharon Gail Winkler Daniel, Parcel Number 040-030.02 as set forth in Deed Book 1396, Page 329, North 34 deg. 03 min. 47 sec. West, 475.05 feet to an iron pin set in the southern boundary line of Hampton West Subdivision as set forth in Plat Cabinet G, Slide 75; thence along said line, North 60 deg. 46 min. 52 sec. East, 337.34 feet to an iron rod found (1/2 inch rebar), corner to Lot 3 of the Subdivision of Ray D. Hall property as set forth in Plat Cabinet G, Slide 166; thence along the southern boundary line of Lot 3 of the Subdivision of Ray D. Hall property, North 60 deg. 28 min. 30 sec. East 547.64 feet to a 1 inch iron rod found, corner to Lot 1 of the Subdivision of Hatfield and Winkler as set forth in Plat Cabinet E, Slide 4; thence along the western boundary line of Lot 1 of the Subdivision of Hatfield and Winkler, South 31 deg. 31 min. 20 sec. East, 500.95 feet to an iron rod found (5/8 inch rebar) in the northern right of way line of West Andrew Johnson Highway (US Highway 11E); thence with said right-of-way line, South 62 deg. 27 min. 44 sec. West, 663.69 feet to an iron rod found at a right-of-way monument; thence with said right of way line, and a curve to the left having a radius of 22,981.32 feet, an arc length of 201.64 feet, and a chord bearing and distance of South 62 deg. 08 min. 44 sec. West, 201.64 feet to the iron pin marking the **POINT OF BEGINNING**, containing 9.753 acres, more or less, according to survey of Ryan S. Lynch, Surveyor, Tennessee RLS Number 2447, dated July 14, 2014, last revised February 10, 2015, bearing Project No. 3695. Surveyor's Address: Lynch Surveys LLC, 4405 Coster Road, Knoxville, TN 37912.

TRACT I BEING the same property conveyed to Sharon Gail Winkler Daniel by Executor's Quitclaim Deed from Sharon Gail Winkler Daniel and James W. Craine, as Co-Executors of the Estate of Lucille H. Winkler, dated July 26, 2009, filed for record in Book 1396, page 531 in the Hamblen County Register of Deeds Office. SEE ALSO the Last Will and Testament of Lucille H. Winkler dated May 29, 2009, probated August 4, 2009, entered in Will Book W3, page 780 in the Hamblen County Clerk & Master's Office, Docket No. 2009P126, and filed for record in Book 1396, page 329 in the Hamblen County Register of Deeds Office.

TRACT II (CLT NO. 040-030.02)

SITUATE in the First (1st) Civil District of Hamblen County, Tennessee, within the corporate limits of the City of Morristown, Tennessee, and being more particularly bounded and described as follows:

BEGINNING at iron pin set in the northern right of way line of West Andrew Johnson Highway (US Highway 11E), said iron pin being located South 80 deg. 59 min. 12 sec. West, 242.00 feet from the point of intersection of the center lines of West Andrew Johnson Highway and Merchants Greene Boulevard (State Route 66), said iron pin also marking corner to Lot 2, Hatfield & Winkler Subdivision as set forth in Plat Cabinet E, Slide 4; thence with said right-of-way line of West Andrew Johnson Highway, South 61 deg. 19 min. 52 sec. West, 537.50 feet to an iron rod found at a right-of-way monument, corner to Lot 3 of the Subdivision of Moyers and Carter Property, now or formerly belonging to C B J LLC, as set forth in Deed Book 814, Page 558; thence along the eastern boundary of Lot 3 of Moyers and Carter Property, and with a fence line, North 22 deg. 46 min. 01 sec. West, 470.40 feet to an iron rod found at an existing wood post in the southern boundary line of Hampton West Subdivision as set forth in Plat Cabinet G, Slide 75; thence with said line, and with a fence line, the following three (3) calls and distances: 1) North 60 deg. 41 min. 41 sec. East, 292.34 feet to an iron rod found (5/8 inch rebar); 2) North 60 deg. 36 min. 33 sec. East, 109.98 feet to an iron rod found (1/2 inch rebar BWSC); 3) North 60 deg. 46 min. 52 sec. East, 42.17 feet to an iron pin set, corner to Lot 2 of Hatfield and Winkler Subdivision as set forth in Plat Cabinet E, Slide 4; thence along the western boundary of Lot 2 of Hatfield and Winkler Subdivision, South 34 deg. 03 min. 47 sec. East, 475.05 feet to the iron pin marking the **POINT OF BEGINNING**, containing 5.303 acres, more or less, according to survey of Ryan S. Lynch, Surveyor, Tennessee RLS Number 2447, dated July 14, 2014, last revised February 10, 2015, bearing Project No. 3695. Surveyor's Address: Lynch Surveys LLC, 4405 Coster Road, Knoxville, TN 37912.

TRACT II BEING the same property conveyed to Earl Winkler and wife, Lucille H. Winkler, as tenants by the entirety, by Warranty Deed from Sallie B. Hatfield, dated October 1, 1977, filed for record in Warranty Book 282, page 26 in the Hamblen County Register of Deeds Office. Lucille H. Winkler died testate devising Tract II to her daughter, Sharon Gail Winkler Daniel, by Last Will and Testament dated May 29, 2009, probated August 4, 2009, entered in Will Book W3, page 780 in the Hamblen County Clerk & Master's Office, Docket No. 2009P126, and filed for record in Book 1396, page 329 in the Hamblen County Register of Deeds Office.

SEE Affidavit filed for record in Book 1609, page 309 in the Hamblen County Register of Deeds Office.

TOGETHER WITH, but without warranty, all right, title and interest of First Party in and to any streets, alleyways, walkways, roadways, appurtenant easements for access and/or utilities and any strips or gores of land adjacent to, abutting or adjoining the property conveyed hereby on all sides thereof.

EXHIBIT "B"

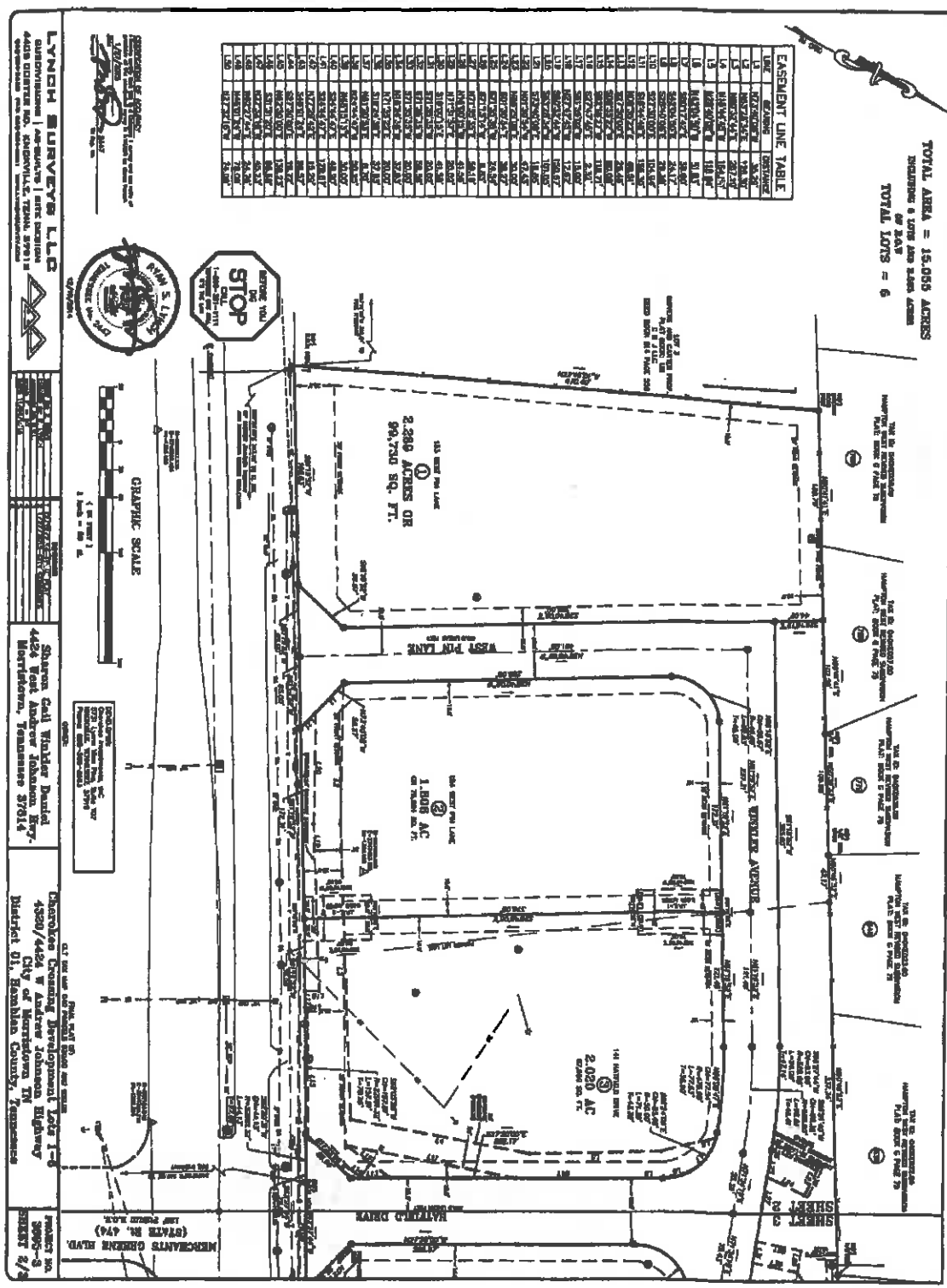
1. Deed of Easement for sanitary sewer made by Sally Hatfield to the City of Morristown, dated June 22, 1993, filed for record in Warranty Book 408, page 73 in the Hamblen County Register of Deeds Office, as shown on survey of Ryan S. Lynch, Surveyor, Tennessee RLS Number 2447, dated July 14, 2014, last revised February 10, 2015, bearing Project No. 3695. (Tract I)
2. Matters depicted and disclosed by survey of Ryan S. Lynch, Surveyor, Tennessee RLS No. 2447, dated July 14, 2014, last revised February 10, 2015, bearing Project No. 3695, a copy of which is attached hereto for reference.
3. Matters depicted and disclosed by final plat entitled Cherokee Crossing Development Lots 1 - 6, filed for record in Plat Cabinet 15, Slide 158 in the Hamblen County Register of Deeds Office.

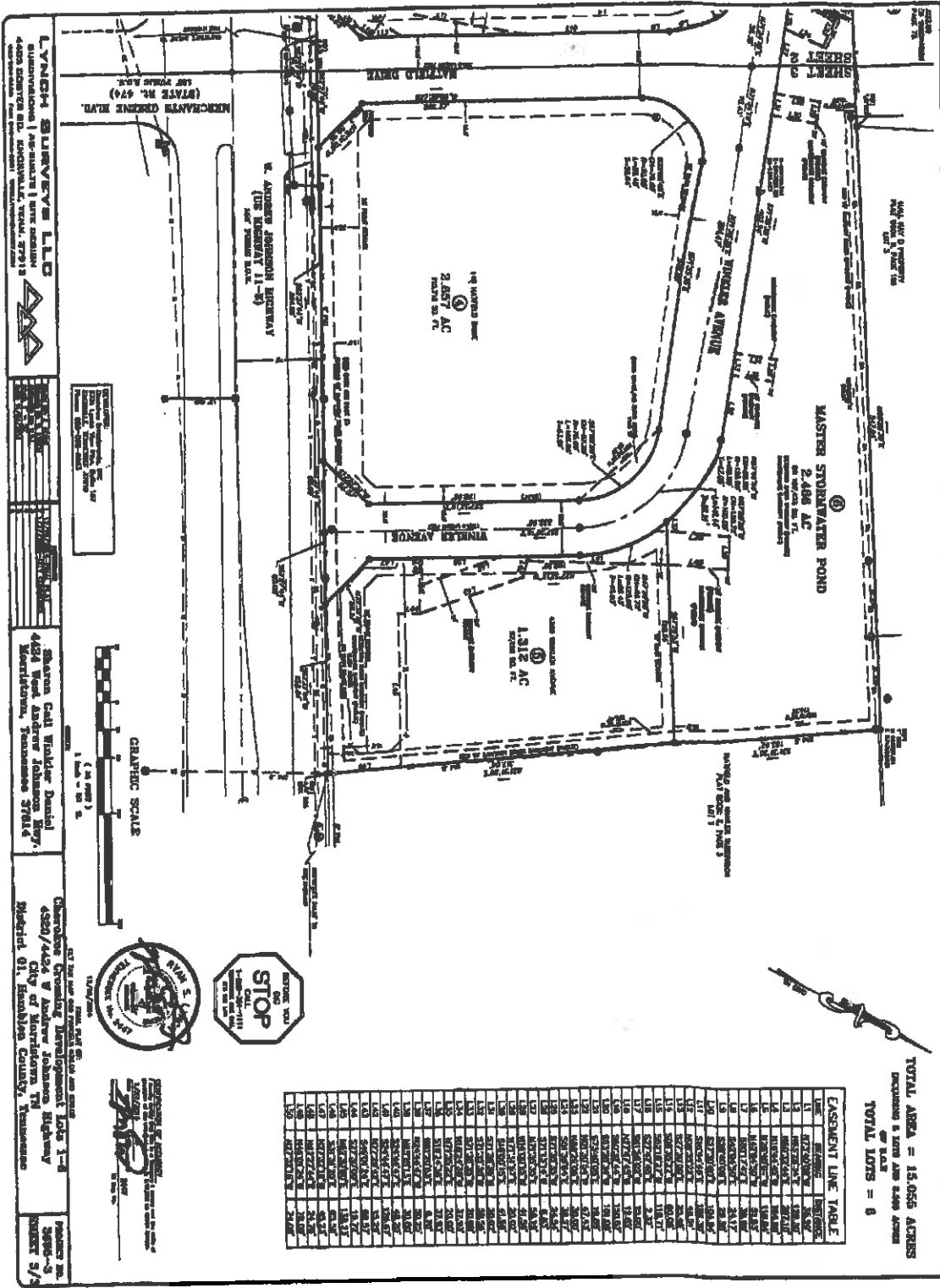
[Return to Agenda](#)

TOTAL AREA = 15.055 ACRES
 INCLUDING 6 LOTS AND 3.888 ACRES
 OF 24TH
 TOTAL LOTS = 6

EASEMENT LINE TABLE

LINE	BEARING	DISTANCE
1	N 42° 00' 00" E	18.32
2	N 42° 00' 00" E	18.32
3	N 42° 00' 00" E	18.32
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8	N 42° 00' 00" E	18.32
9	N 42° 00' 00" E	18.32
10	N 42° 00' 00" E	18.32
11	N 42° 00' 00" E	18.32
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13	N 42° 00' 00" E	18.32
14	N 42° 00' 00" E	18.32
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98	N 42° 00' 00" E	18.32
99	N 42° 00' 00" E	18.32
100	N 42° 00' 00" E	18.32





TOTAL AREA = 15.055 ACRES
 INCLUDING 5 LOTS AND 2.408 ACRES
 OF POND
 TOTAL LOTS = 8

LOT	AREA	PERCENT
1	0.125000	0.83%
2	0.125000	0.83%
3	0.125000	0.83%
4	0.125000	0.83%
5	0.125000	0.83%
6	0.125000	0.83%
7	0.125000	0.83%
8	0.125000	0.83%
9	0.125000	0.83%
10	0.125000	0.83%
11	0.125000	0.83%
12	0.125000	0.83%
13	0.125000	0.83%
14	0.125000	0.83%
15	0.125000	0.83%
16	0.125000	0.83%
17	0.125000	0.83%
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19	0.125000	0.83%
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34	0.125000	0.83%
35	0.125000	0.83%
36	0.125000	0.83%
37	0.125000	0.83%
38	0.125000	0.83%
39	0.125000	0.83%
40	0.125000	0.83%
41	0.125000	0.83%
42	0.125000	0.83%
43	0.125000	0.83%
44	0.125000	0.83%
45	0.125000	0.83%
46	0.125000	0.83%
47	0.125000	0.83%
48	0.125000	0.83%
49	0.125000	0.83%
50	0.125000	0.83%

Morristown Police Department

ROGER OVERHOLT
Chief of Police

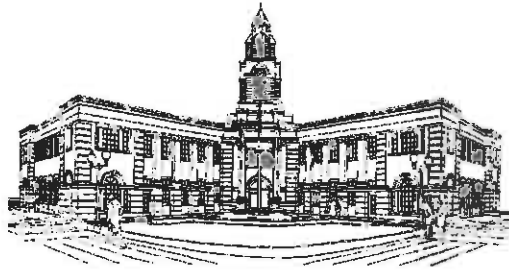


MEMORANDUM

TO: Mayor and Council
FR: ^{RDO} Roger Overholt, Chief of Police
DATE: March 10, 2016
RE: **Taser Purchase**

I am requesting approval to expend funds from our current fiscal year budget in the amount of approximately \$13,700 for the purchase of 8 Tasers. This purchase is to replace units that have reached the end of their lifecycle and are beginning to malfunction which could create a safety hazard for the officer.

I thank each of you for your continued support in keeping our citizens and officers safe.



Morristown City Council Agenda Item Summary

Date: March 11, 2016

Agenda Item: Approval to Purchase Used Litter Crew Truck

Prepared by: Joey Barnard

Subject: Litter Truck

Background/History: Due to recent and re-occurring maintenance problems with the existing litter crew truck, it has become necessary to replace it. At this point, it is more logical to replace the vehicle than to continue to make repairs. The litter crew truck is utilized by the Police Department to transport inmates that perform various duties throughout the city. The old litter crew truck will be surplus and sold as-is in the future.

Findings/Current Activity: Roger Overholt, Chief of Police, has located a used vehicle that best fits the needs for the litter crew. It is the desire to purchase a used vehicle instead of a new vehicle for this purpose.

Financial Impact: This capital expenditure was not planned or specifically appropriated in the 15-16 budget. However, through savings in other areas within the department, sufficient funds are available and appropriated within the department's budget to allow for this purchase. State statute allows for the purchase of used vehicles without bidding. The proposed purchase price of \$14,800 is within the guidelines set forth by state statute.

Action options/Recommendations: It is staffs' recommendation to make the purchase of the used vehicle for the litter crew.

Attachments: None

Morristown Police Department

ROGER OVERHOLT
Chief of Police



MEMORANDUM

TO: Mayor and Council

FR: ^{RJO} Roger Overholt, Chief of Police

DATE: March 7, 2016

RE: **Armored Personnel Vehicle (MRAP)**

I am requesting approval to expend funds from our current fiscal year budget in the amount of approximately \$4,500-\$5,000 to ship a military-awarded armored personnel vehicle from Texas. These funds will be diverted from savings in the department's fuel budget due to lower prices and conservative measures.

This vehicle will replace an armored vehicle which we were required to return to the Department of Defense by presidential order. This will also allow us to withdraw our request in the FY 2017 budget for an armored personnel vehicle at a cost of \$210,000. The awarded vehicle is superior to the one requested in the budget with a military estimated value of more than \$800,000.

I thank each of you for your continued support in keeping our citizens and officers safe.



PROPOSAL / SALES CONTRACT

P.O. Box 3068, Knoxville, TN 37927
Office: 865.540.4409 / Fax: 865.540.4407
www.ClaiborneHauling.com

03/04/2016

TO: Morristown Police Department
c/o Chris Wisecarver
423-585-4646

Heavy Haul, LLC is pleased to provide you a quote for the following equipment moves as described below:

Equipment: Military Armoured Vehicle MRAP Pro/ and Set of 4 tires

Pick-up Location: Red River Army Depot

Delivery Location: Morristown, Tennessee

Special Conditions: N/A

Notes:

Pricing: Hourly ☐ By the Job ☒

Total Price: \$ 4600.00

Conditions:

- * Above prices are TOTAL delivered prices and include all permits, taxes and delivery fees.
- ** Pricing is effective for 30 days from the date noted and are project specific
- *** Heavy Haul, LLC reserves the right to implement a Fuel Surcharge.

Heavy Haul, LLC Trucks are GPS equipped, monitored and dispatched to promote efficiency and cost savings to both Heavy Haul and YOU THE CUSTOMER!!

Sincerely,

Toby Claiborne
Heavy Haul, LLC
865.740.0013 / Toby.Claiborne@ClaiborneHauling.com

Acceptance of Proposal

The above prices, specification, and conditions above are satisfactory and hereby accepted as a contract for work. The undersigned hereby agrees that Heavy Haul LLC is authorized to do the work as specified and agrees to payment terms above. The undersigned hereby warrants to Heavy Haul LLC that all terms and conditions herein.

Accepted by: _____ Title: _____ Date: _____

Company Name: _____

[Return to Agenda](#)

Heavy Haul LLC
Terms of Sale Agreement

1. The parties agree that all purchases and transactions by and between Heavy Haul LLC ("HH") and (c/o Chris Wisecarver) (hereinafter "Customer") are subject to the following terms and conditions which constitute the entire agreement between the parties as a commercial business transaction for the purpose of arranging and securing the supply of goods and/or services from HH to Customer and the payment for said goods and/or services from Customer to HH.
2. Upon HH's acceptance and approval of the foregoing application for Credit ("Application"), HH may provide Customer credit terms and HH will request and Customer agrees to provide an updated credit application and terms and conditions of sale agreement. HH reserves the right to increase, decrease, or terminate credit terms at any time without prior notice to Customer except as where required by law.
3. Customer agrees to waive, defend, indemnify and hold harmless any claims for any lost profits, special, incidental, or consequential damages and waives all rights to claim any such damages against HH.
4. Customer hereby represents and warrants that it has, by all necessary organization proceedings, duly authorized the execution of this Agreement and the consummation of transactions described herein.
5. HH expressly makes no warranties on the goods and/or services sold other than the pass through warranty of the manufacturer's warranties available to end users of the goods and/or services.
6. *Customer agrees and understands that no products may be returned to HH without a approval issued by HH, and Customer is responsible for all transportation expenses to HH's stated location.*
7. HH will charge and Customer agrees to pay all amounts due from Customer per the terms approved by HH. The Customer agrees that all payments will be in United States Currency and payable by credit card, company check, certified funds, or electronic funds transfer. Customer agrees that amounts due will not be payable in installments, but all amounts due shall be paid in full within the time specified by the credit term. All amounts due from Customer shall be paid to HH at its offices at 6210 Rutledge Pike, Knoxville, TN 37924 or P.O. Box 3068, Knoxville, TN 37927. HH will charge and Customer agrees to pay a charge of \$50 associated with any credit card dispute brought about by Customer disputing charges to their Credit Card Company or issuing bank. Customer agrees that all payments to HH will be applied in the following order: (1) management, attorney, collection fees, (2) NSF fees, (3) court cost and other costs of debt recovery, (4) interest, (5) principle.
8. If Customer's account is considered delinquent by HH, HH reserves the right to call ALL outstanding invoices due, past due or not. If Customer's account is placed in HH's legal department, a 10% management fee will be added to the Customer's balance. If Customer is placed with a collection agency, Third Party Management Company and/or Attorney by HH, Customer agrees to pay 10% management fees, up to 30% collection fees, and attorney fees up to 20%. HH will charge and Customer agrees to pay any and all costs associated to the recovery of all amounts due HH, but not limited to deposition expenses, investigation fees, and court costs. Customer agrees to pay 1.5% interest per month on all invoices past their credit term.
9. HH will charge and Customer agrees to pay \$35.00 or 5% of the amount of the check, whichever is greater and/or allowed by law, for any check that is returned for non-payment for any reason whatsoever.
10. The parties hereby submit to the personal jurisdiction of the Courts of Tennessee and further to venue in Knox County, Tennessee and further agree that subject matter for the purposes of legal resolution of disputes between the parties over the terms or compliance with this agreement shall lie in Tennessee as the state where HH is principally located and where all negotiations, approvals, orders, shipments, billing, and records for all transactions between the parties were and will be originated, received, approved, determined and are kept.
11. The parties hereby agree that a faxed copy of these agreements will be deemed as the original.

TIME IS OF THE ESSENCE OF THIS AGREEMENT AND EACH PROVISION HEREOF.

Customer: _____

By: _____

Print Name: _____

Title: _____

Date: _____



Actual Vehicle

Vehicle Assessment Sheet

12

TYPE OF VEHICLE	max Pro	
SERIAL NUMBER	1 HTWEADR38J699577	
LESO NUMBER	MY03VR	
MILEAGE	76	
<u>PART</u>	<u>SATISFACTORY</u>	<u>NOTES</u>
ENGINE	✓	
BATTERY	X	needed Jump to Start
TRANSMISSION		
SERVICE BRAKE SYSTEM		
FENDERS	✓	
HOOD	✓	
BODY	✓	
CAB	✓	
GLASS	X	Passenger front very little fog

Materials Award Document

Michelle Jones

From: Chris Wisecarver
Sent: Sunday, March 06, 2016 2:53 PM
To: Michelle Jones; Todd King; Roger Overholt
Subject: Fwd: LESO FEPMIS Notice of Material Award under Requisition Number: 2YTH3J-6064-8694

Here is the official award of the MRAP to us.

Major Chris Wisecarver
Morristown Police Department
100 West 1st North St.
Morristown, TN 37814
423-585-1836

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

From: DoNotReply@fs.fed.us
Date: Mar 6, 2016 2:09 PM
Subject: LESO FEPMIS Notice of Material Award under Requisition Number: 2YTH3J-6064-8694
To: Chris Wisecarver <cwisecarver@mymorristown.com>
Cc:

DATE: 03/06/2016 13:08:05 CST

A Material Release Order (MRO) was awarded for the below material

CONTACT INFORMATION:
STATION: TN MORRISTOWN POLICE DEPT (2YTH3J)
NAME: Chris Wisecarver
PHONE: 4235854646
EMAIL: cwisecarver@mymorristown.com

MATERIAL INFORMATION:
REQUISITION NUMBER: 2YTH3J-6064-8694
DTID: SZ35876063S004
NSN: 2355016023357
REQUESTED QUANTITY: 1
AWARDED QUANTITY: 1
DEMIL CODE: C
DEMIL INTEGRITY CODE: 1
SUPPLY CONDITION CODE: F
UNIT OF ISSUE: EA - Each
UNIT COST: 0.0

ACTION:

Please contact the applicable Disposition Services Field Site to coordinate a pick-up or arrange for shipment of awarded material. If material is not shipped within 14 days it may be cancelled and returned to stock.

DISCLAIMER:

If at any time material is deemed prohibited by the Defense Logistics Agency Law Enforcement Support Office (DLA LESO) the material must be returned to a Disposition Services Field Office immediately.

Transfer of "Controlled Equipment" to another LEA must receive prior approval from the LESO office.

LEAs that acquire "Controlled Equipment" must abide by its requirements governing the return and/or disposal of "Controlled Equipment".

ADDITIONAL INFORMATION:

For additional information please contact your State Coordinator or the Law Enforcement Support Office at:

Email: LESO@DLA.MIL

Phone: 800.532.9946

System: FEPMIS Production

Shipping Information

DATE: 03/06/2016 13:08:05 CST

A Material Release Order (MRO) was awarded for the below material

CONTACT INFORMATION:

STATION: TN MORRISTOWN POLICE DEPT (2YTH3J)

NAME: Chris Wisecarver

PHONE: 4235854646

EMAIL: cwisecarver@mymorristown.com

MATERIAL INFORMATION:

REQUISITION NUMBER: 2YTH3J-6064-8694

DTID: SZ35876063S004

NSN: 2355016023357

REQUESTED QUANTITY: 1

AWARDED QUANTITY: 1

DEMIL CODE: C

DEMIL INTEGRITY CODE: 1

SUPPLY CONDITION CODE: F

UNIT OF ISSUE: EA - Each

UNIT COST: 0.0

ACTION:

Please contact the applicable Disposition Services Field Site to coordinate a pick-up or arrange for shipment of awarded material. If material is not shipped within 14 days it may be cancelled and returned to stock.

Our 19th day for pickup is March 17th

DISCLAIMER:

If at any time material is deemed prohibited by the Defense Logistics Agency Law Enforcement Support Office (DLA LESO) the material must be returned to a Disposition Services Field Office immediately.

Transfer of "Controlled Equipment" to another LEA must receive prior approval from the LESO office.

LEAs that acquire "Controlled Equipment" must abide by its requirements governing the return and/or disposal of "Controlled Equipment".

ADDITIONAL INFORMATION:

For additional information please contact your State Coordinator or the Law Enforcement Support Office at:

Email: LESO@DLA.MIL

Phone: 800.532.9946

System: FEPMIS Production

Michelle Jones

From: Chris Wisecarver
Sent: Monday, March 07, 2016 2:17 PM
To: Michelle Jones
Subject: FW: Morristown PD MRAP Information

FYI
Major Chris Wisecarver
Operations Division
Morristown Police Department
100 West 1st North Street
Morristown, TN 37814
423-585-1836

On Mar 6, 2016, at 2:52 PM, Chris Wisecarver <cwisecarver@mymorristown.com> wrote:

Toby,

Below is the information I received on our MRAP that was issued. I will forward any other information I receive on it. I have requested the 4 - wheel / tires to be picked up at same time if we are approved to receive them. I will let you know as soon as I do so you know what to do.

To invoice make it out to the Morristown Police Department care of Major Michelle Jones, P.O. Box 1283 Morristown, TN 37816. You can email it to mjones@mymorristown.com or fax to 423-581-4287. She said email is preferred.

Thank you for your help.

Major Chris Wisecarver
Operations Division
Morristown Police Department
100 West 1st North Street
Morristown, TN 37814
423-585-1836

From: DoNotReply@fs.fed.us
Date: Mar 6, 2016 2:09 PM
Subject: LESO FEPMIS Notice of Material Award under Requisition Number: 2YTH3J-6064-8694
To: Chris Wisecarver <cwisecarver@mymorristown.com>
Cc:

QUITCLAIM DEED

KNOW ALL MEN BY THESE PRESENTS: That for and in consideration of the sum of ONE DOLLAR (\$1.00), cash in hand paid the receipt of which is hereby acknowledged, the undersigned, CITY OF MORRISTOWN, a municipal corporation with situs in Hamblen County, Tennessee, created by the Private Acts of the Tennessee Legislature in 1903 by Chapter 103, formerly the Mayor and Aldermen of the Town of Morristown, Tennessee, a/k/a The Mayor and Board of Aldermen of the Town of Morristown, hereby quitclaims unto the HAMBLLEN COUNTY BOARD OF EDUCATION, and unto its successors and assigns, all of it right, title and interest in and to the following described real estate, to-wit:

SITUATE in the First Civil District of Hamblen County, Tennessee, to-wit:

PARCEL I: BEING Lot Nos. 13, 14 and 15 of the Fawbush Estate Subdivision as shown by plat of record in the Register's Office for Hamblen County, Tennessee in Plat Book 3, page 11 to which specific reference is made for a further description.

PARCEL II: BEING Lot No. 16 of the Fawbush Estate Subdivision as shown by plat of record in the Register's Office for Hamblen County, Tennessee in Plat Book 3, page 11 to which specific reference is made for a further description.

PARCEL III: BEING Lot No. 17-A of the Fawbush Estate Subdivision, and for further description, reference is here made to a revised plat of the Fawbush Estate Subdivision drawn up by B. G. Brock, Engineer and Surveyor, dated April 4, 1958, and of record in the Register's Office for Hamblen County, Tennessee in Plat Book 3, page 11.

This instrument prepared by: Bacon, Jessee & Perkins, 1135 West Third North Street, Morristown, Tennessee 37814

Any examination of title, title search or title insurance policy will be evidenced by a separate document, certificate or policy. By this instrument preparer makes no representations as to title or survey. Failure to promptly record this instrument may seriously impair your rights. rm

PARCEL IV: BEING Lot No. 17-B of the Fawbush Estate Subdivision as shown by plat of record in the Register's Office for Hamblen County, Tennessee in Plat Book 3, page 11 to which specific reference is made for a further description.

PARCEL V: BEING Lot No. 18 of the Fawbush Estate Subdivision as shown by plat of record in the Register's Office for Hamblen County, Tennessee in Plat Book 3, page 11 to which specific reference is made for a further description.

PARCEL VI: Lot No. 19 of the Fawbush Estate Subdivision, and for further description, reference is here made to a revised plat of the Fawbush Estate Subdivision drawn up by B. G. Brock, Engineer and Surveyor, dated April 4, 1958, and of record in the Register's Office for Hamblen County, Tennessee in Plat Book 3, page 11.

BEING a part of the same real estate conveyed to Hamblen County Board of Education by quitclaim deed of the City of Morristown, dated January 1, 2003 and of record in the Register's Office for Hamblen County, Tennessee in Record Book 1079, page 661. The purpose of this quitclaim deed is to transfer to the Hamblen County Board of Education all of that property excepted from TRACT VIII at Record Book 1079, page 661.

MAP/PARCEL 33 E A 75

IN WITNESS WHEREOF, the undersigned has caused his hands to be set on this _____ day of _____, 2016.

CITY OF MORRISTOWN

BY: _____
GARY CHESNEY, Mayor

This instrument prepared by: Bacon, Jessee & Perkins, 1135 West Third North Street, Morristown, Tennessee 37814

Any examination of title, title search or title insurance policy will be evidenced by a separate document, certificate or policy. By this instrument preparer makes no representations as to title or survey. Failure to promptly record this instrument may seriously impair your rights. rm

ATTEST:

ANTHONY W. COX, City Administrator

STATE OF TENNESSEE
COUNTY OF HAMBLLEN

Personally appeared before me, a Notary Public in and for the state and county aforesaid, GARY CHESNEY, with whom I am personally acquainted, and who, upon oath, acknowledged himself to be MAYOR, of CITY OF MORRISTOWN, a municipal corporation with situs in Hamblen County, Tennessee, of the within named bargainor, a Tennessee corporation, and that he as such officer, being authorized so to do, executed the foregoing instrument for the purpose therein contained, by signing the name of the corporation by himself as Mayor.

WITNESS my hand, at office, this ____ day of _____, 2015.

NOTARY PUBLIC

My commission expires:

This instrument prepared by: Bacon, Jessee & Perkins, 1135 West Third North Street, Morristown, Tennessee 37814

Any examination of title, title search or title insurance policy will be evidenced by a separate document, certificate or policy. By this instrument preparer makes no representations as to title or survey. Failure to promptly record this instrument may seriously impair your rights. rm

NAME AND ADDRESS OF PROPERTY OWNERS(S)

NAME AND ADDRESS OF PERSON(S) RESPONSIBLE FOR PAYMENT OF TAXES

TAX PARCEL IDENTIFICATION NO.

I hereby swear or affirm that the actual or true value of this transfer, whichever is greater is \$EXEMPT.

Affiant

Subscribed and sworn to before me this _____ day of _____, 2016.

NOTARY PUBLIC

My commission expires:

This instrument prepared by: Bacon, Jessee & Perkins, 1135 West Third North Street, Morristown, Tennessee 37814

Any examination of title, title search or title insurance policy will be evidenced by a separate document, certificate or policy. By this instrument preparer makes no representations as to title or survey. Failure to promptly record this instrument may seriously impair your rights. rm

Industrial Development Board of The City of



P.O. Box 9 • 825 West First North St. • Morristown, TN 37815 • Ph. 423-586-6382

March 10, 2016

Mr. Tony Cox
City of Morristown
P. O. Box 1499
Morristown, TN 37816

Dear Tony:

At a special called meeting on March 7, 2016, the Industrial Development Board of the City of Morristown reviewed a request from Tuff Torq Corporation to purchase a parcel of land consisting of 7.3555 acres in the Morristown Airport Industrial District. Tuff Torq Corporation proposes to use the land to construct a 60,000 sq. ft. building for a project that will create 100 new jobs. This acreage, immediately south of the power substation and identified in the attached, has not previously had a lot designation.

The Industrial Development Board of the City of Morristown hereby recommends to City Council to approve the sale of this land to Tuff Torq Corporation at \$1,000.00/acre for a total of \$7,355.50.

Please include this on the agenda for the City Council Meeting of Tuesday, March 15, 2016.

Sincerely,

A handwritten signature in black ink that reads "Marshall Ramsey". The signature is written in a cursive style.

Marshall Ramsey
Secretary

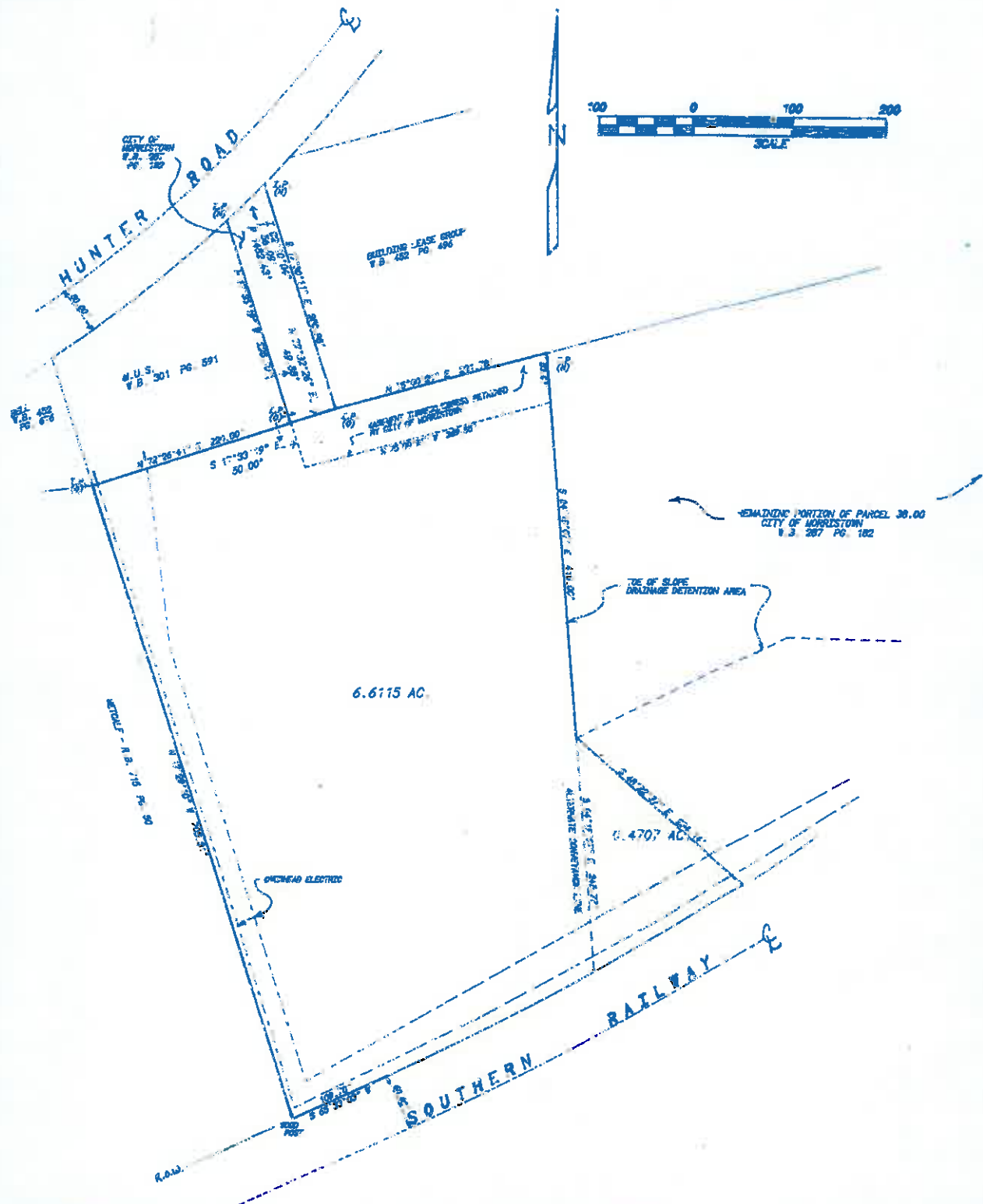
MR/jb
Attachment

Tuff Torq Corporation Request in the Morristown Airport Industrial District



2.3555 acres

[Return to Agenda](#)



MORRISTOWN AIRPORT INDUSTRIAL DISTRICT

MORRISTOWN, TENNESSEE
 FIRST CIVIL DISTRICT HAMILTON COUNTY
 SCALE: 1" = 100' DATE: 02/20/2016

70 MAP - 54 PARCEL - PT. 30.00
 V.S. 207 PG. 182

TOTAL AREA = 7.0822 AC.

PROPERTY SUBJECT TO EASEMENTS TO U.S.

SHOCKLEY LAND SURVEYORS
 WILLIAM H. SHOCKLEY
 REGISTERED LAND SURVEYOR
 2125 LAYTON ROAD
 MORRISTOWN, TN 37804
 (423) 581-2831

SURVEYOR'S CERTIFICATE
 I HEREBY CERTIFY THAT THIS IS A CLASS "P" SURVEY AND THE BASIS OF PRECISION OF THE UNADJUSTED SURVEY IS 1:100,000 AS SHOWN THEREON, WHICH MEETS OR EXCEEDS MINIMUM REQUIREMENTS FOR THE STATE OF TENNESSEE BY 1/10/11 DATE 2/20/16
 TENN. LIC. NO. 373

SURVEYOR'S CERTIFICATE
 I hereby certify that the information above shown is correct to the best of my knowledge.
 By W. H. Shockley
 Town Registered Land Surveyor No. 923



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Morristown Police Department

ROGER OVERHOLT
Chief of Police




March 8, 2016

Mayor and Councilmembers:

I have completed a background check on Edward J. Balling D.O.B. 6/14/66 (Executor for the estate of Peter J. Balling), for the purpose of signing a renewal Certificate of Compliance for the retail package store doing business as Cork & Keg Package Store located at 2304 Morningside Drive.

Based on my investigation, it is my belief that the executor has not been convicted of a felony in the ***last 10 years***. You can feel confident in signing the Certificate of Compliance as a careful background check was conducted.

If you have any further questions, please feel free to contact me at (423)318-1552.

Respectfully,
Lt. Billy Gulley 

Lt. Billy Gulley,
Support Services Supervisor
Morristown Police Department

cc: Roger D. Overholt, Chief of Police
file