

**WORK SESSION AGENDA
AUGUST 21, 2018
4:00 p.m.**

1. Agenda Review

**AGENDA
CITY OF MORRISTOWN, TENNESSEE
CITY COUNCIL MEETING
AUGUST 21, 2018 – 5:00 P.M.**

1. CALL TO ORDER

Mayor Gary Chesney

2. INVOCATION

Dr. Chris Dotson, Chaplain Morristown Police Department

3. PLEDGE OF ALLEGIANCE

4. ROLL CALL

5. APPROVAL OF MINUTES

1. August 7, 2018

6. PROCLAMATIONS/PRESENTATIONS

1. Presentation of the Preservation Award from the Society for the Preservation & Appreciation of Antique Motor Fire Apparatus in America (SPAAMFAA) for maintaining and preserving an antique fire apparatus.

**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 of Morristown, Tennessee, Amending Title 12 (Fire and Construction Codes), of the Morristown Municipal Code.
{Public Hearing September 4, 2018}
2. Ordinance No. _____
An Ordinance of the City Council of Morristown, Tennessee, Amending Title 14 (Zoning and Land Use Control), Residential Development (RP1) and High Density Residential (R3) Zoning Text.
{Public Hearing September 4, 2018}

9-c. Awarding of Bids/Contracts

1. Approval of Tennessee Department of Agriculture Division of Forestry Urban Tennessee Agricultural Enhancement Program grant in the amount of \$18,675.
2. Approval of Agreement from Mattern & Craig, Task Order No. 1, for Project Coordination & Preliminary Engineering Services on East Morris Boulevard Project in the amount of \$339,000.
3. Approval of Interlocal Agreement between the Hamblen County Board of Education and the Police Department of the City of Morristown for School Resource Officer program.
4. Approval of Bid from Merit Construction, Inc., for Phase 2 of Public Works Building in the amount of \$12,393,600.
5. Approval of Agreement with Merit Construction, Inc. for Public Works Facility, Phase 2.
6. Approval of Change Order No. 2 for Progress Parkway extension to Summers-Taylor, Inc. in the amount of \$19,486.25 due to final contract quantities.
7. Approval of Stormwater Inspection and Maintenance Agreement (I&M) between City of Morristown and Morristown Self Storage, LLC, 219 New Line Road, Morristown, TN.

9-d. Board/Commission Appointments

9-e. New Issues

1. Approval of Promotion to Training Officer, from Battalion Chief Roster, Morristown Fire Department.
2. Approval of Promotion to Lieutenant, from Lieutenant Roster, Morristown Fire Department.
3. Approval of Promotion to Driver, from Driver Roster, Morristown Fire Department.

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

Sep. 3, 2018	(Monday)	City Employee's Holiday Labor Day
Sep. 4, 2018	(Tues) 4:00 p.m.	Work Session – Council Agenda Review
Sep. 4, 2018	(Tues) 5:00 p.m.	Regular City Council Meeting with Work Session
Sep. 18, 2018	(Tues) 3:45 p.m.	Finance Committee Meeting
Sep. 18, 2018	(Tues) 4:15 p.m.	Work Session – Council Agenda Review
Sep. 18, 2018	(Tues) 5:00 p.m.	Regular City Council Meeting with Work Session
Oct. 2, 2018	(Tues) 4:00 p.m.	Work Session – Council Agenda Review
Oct. 2, 2018	(Tues) 5:00 p.m.	Regular City Council Meeting with Work Session
Oct. 16, 2018	(Tues) 4:00 p.m.	Work Session – Council Agenda Review
Oct. 16, 2018	(Tues) 5:00 p.m.	Regular City Council Meeting with Work Session
Nov. 6, 2018	(Tues) 4:00 p.m.	Work Session – Council Agenda Review
Nov. 6, 2018	(Tues) 5:00 p.m.	Regular City Council Meeting with Work Session
Nov. 20, 2018	(Tues) 3:45 p.m.	Finance Committee Meeting
Nov. 20, 2018	(Tues) 4:15 p.m.	Work Session – Council Agenda Review
Nov. 20, 2018	(Tues) 5:00 p.m.	Regular City Council Meeting with Work Session
Nov. 22-23, 2018	Thurs & Friday	City Employee's Holiday Thanksgiving
Dec. 4, 2018	(Tues) 4:00 p.m.	Work Session – Council Agenda Review
Dec. 4, 2018	(Tues) 5:00 p.m.	Regular City Council Meeting with Work Session
Dec. 18, 2018	(Tues) 4:00 p.m.	Work Session – Council Agenda Review
Dec. 18, 2018	(Tues) 5:00 p.m.	Regular City Council Meeting with Work Session
Dec. 25, 2018	Tuesday	City Employee's Holiday Christmas Day
Jan. 1, 2019	Tuesday	City Employee's Holiday New Years Day

**WORK SESSION AGENDA
AUGUST 21, 2018**

1. Delinquent Taxes/Accounts Receivable

**STATE OF TENNESSEE
COUNTY OF HAMBLLEN
CORPORATION OF MORRISTOWN
AUGUST 7, 2018**

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, August 7, 2018, with the Honorable Mayor Gary Chesney, presiding and the following Councilmembers present; Bob Garrett, Chris Bivens, Kay Senter, Dennis Alvis, Ken Smith, and Tommy Pedigo.

Mark Campbell, 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 July 17, 2018, minutes as circulated. Councilmember Smith seconded the motion and upon roll call; all voted "aye".

Councilmember Senter made a motion to open the agenda and add the following items: 9-c. 17. Approval of second lowest bid for Greenway Phase IV to Summers-Taylor, Inc. and 9-c. 18. Approval of Amendment No. 2 for City Center Plaza to Design Innovation Architects, Inc. Councilmember Alvis seconded the motion and upon roll call; all voted "aye".

Councilmember Senter made a motion to approve the Tennessee Department of Transportation, Aeronautics Division, Grant in the amount of \$73,000 for replacement of REIL System with a funding split of 90/5/5; approved by the Municipal Airport Commission at their July 26th, 2018 meeting. Councilmember Bivens seconded the motion and upon roll call; all voted "aye".

Councilmember Alvis made a motion to approve the following contract(s) with Michael Baker International, Inc., approved by Municipal Airport Commission at their July 26th, 2018 meeting: Work Authorization # 18-1 to provide General Consulting services in the not to exceed amount of \$10,000; Work Authorization # 14-2018 for Taxiway Relocation Programming Project in the not to exceed amount of \$88,258 and Work Authorization # 15-2018 for REIL System Replacement in the not to exceed amount of \$14,875. Councilmember Smith seconded the motion and upon roll call; all voted "aye".

Councilmember Senter made a motion to approve the Short-Term Hangar Lease to D&R Aero, Inc., in the amount of \$1,500 per month for two months, then month-to-month thereafter; approved by Municipal Airport Commission at their July 26th, 2018 meeting. Councilmember Smith seconded the motion and upon roll call; all voted "aye".

Councilmember Pedigo made a motion to approve the agreement between the City of Morristown and Andrew & Hoskins Construction, Inc., for Heritage Park Phase I. Councilmember Alvis seconded the motion and upon roll call; Councilmembers Bivens, Senter, Alvis, Smith, Pedigo and Mayor Chesney voted “aye”, Councilmember Garrett voted “no”.

Councilmember Alvis made a motion to approve the Professional Services Agreement for Storm Water items with LDA Engineering, in the not to exceed amount of \$20,000. Councilmember Smith seconded the motion and upon roll call; all voted “aye”.

Councilmember Senter made a motion to approve the project oversight for Freshour and Cumberland Storm Water Projects to LDA Engineering; base amounts are \$20,000 each for oversight, inspection services & GIS up to budget amounts of \$47,000 and \$4,500 respectively for each project. Councilmember Alvis seconded the motion and upon roll call; all voted “aye”.

Councilmember Pedigo made a motion to approve the following agreement(s) with King General Contractors, Inc.: South Cumberland Stormwater Drainage Improvements in the amount of \$459,505.80 and Freshour Stormwater Culvert Replacement, Phase I in the amount of \$446,758.70. Councilmember Alvis seconded the motion and upon roll call; all voted “aye”.

Councilmember Smith made a motion to approve the Application for a Justice Assistance Grant (JAG) in the amount of \$13,472. Councilmember Alvis seconded the motion and upon roll call; all voted “aye”.

Councilmember Senter made a motion to approve the Municipal Advisory Agreement between the City of Morristown and Cumberland Securities with the following amendments: Modify the agreement to only apply to the two bond resolutions passed by the Council on July 17, 2018 and amend the following four (4) sections in the contract: Section 22 add the language “with Council approval”; Section 23 add the wording “with council approval”; Section 24 change “financial advisor” to “municipal advisor”; Section 25 add “city council” to the last line. Councilmember Pedigo seconded the motion and upon roll call; all voted “aye”.

Councilmember Alvis made a motion to approve the Right-of-Way Acquisition for West Andrew Johnson in the additional amount of \$4,500, subject to concurrence by the Tennessee Department of Transportation (TDOT). Councilmember Bivens seconded the motion and upon roll call; all voted “aye”.

Councilmember Smith made a motion to approve the Testing for Public Safety Positions with CPS Consulting; amounts are based on the number of tests purchased; two (2) year contract. Councilmember Alvis seconded the motion and upon roll call; all voted “aye”.

Councilmember Smith made a motion to approve the purchase from Wavetronix, a Sole Source Provider, to upgrade several intersections in the amount of \$148,275. Councilmember Pedigo seconded the motion and upon roll call; all voted "aye".

Councilmember Senter made a motion to approve the payment to Morristown Utilities System for Water Line Boring Merchants Greene to Durham Landing in the amount of \$64,500. Councilmember Smith seconded the motion and upon roll call; all voted "aye".

Councilmember Alvis made a motion to Surplus the Large Plotter Equipment, OCE' TCS 500; plotter is outdated and no longer under maintenance. Councilmember Pedigo seconded the motion and upon roll call; all voted "aye".

Councilmember Senter made a motion to Surplus Fire Station #4 located at 3835 West Andrew Johnson Highway and move forward to sell the property. Councilmember Bivens seconded the motion and upon roll call; all voted "aye".

Councilmember Smith made a motion to approve the Stormwater Inspection and Maintenance Agreement (I&M) between the City of Morristown and Morristown Emergency Medical Services (EMS). Councilmember Alvis seconded the motion and upon roll call; all voted "aye".

Councilmember Pedigo made a motion to approve the second lowest bid from Summers-Taylor, Inc., in the amount of \$656,057.75 for the Freddie Kyle Greenway Project. Councilmember Smith seconded the motion and upon roll call; all voted "aye".

Councilmember Smith made a motion to approve Amendment No. 2 with Design Innovation Architects, Inc. for the City Center Plaza Project in the amount of \$12,075 for design services. Councilmember Alvis seconded the motion and upon roll call; all voted "aye".

Mayor Chesney adjourned the August 7, 2018, City Council meeting at 5:38 p.m.

MAYOR

ATTEST:

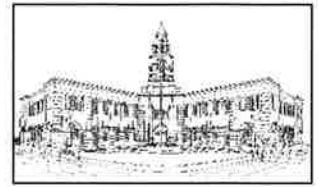
CITY ADMINISTRATOR

DRAFT

City of Morristown

Incorporated 1855

DEPARTMENT OF COMMUNITY DEVELOPMENT & PLANNING



TO: Morristown City Council
FROM: Steve Neilson, Community Development Director *Sign*
DATE: August 21, 2018
SUBJECT: Text Amendment – Title 12, Chapter 4, Electrical Code

BACKGROUND:

This is a proposed amendment to Title 12, Chapter 4, Electrical Code of the Municipal Code of Ordinances to adopt the 2017 National Electrical Code (NEC) replacing the previously adopted 2008 NEC.

The State recently adopted the 2017 National Electrical Code (NEC) which will take effect October 1, 2018. The City has until then to adopt the new code. The adoption of the 2017 NEC is mandatory by the State. No city, town, or county is exempt from adopting these provisions, nor can they adopt less stringent standards unless specifically allowed by the State.

The biggest change between the codes is the requirement of more stringent Arc Fault Circuit Interrupters (AFCI) circuit protection for residential installations. AFCI devices are designed to detect an arcing situation that can be found mostly in loose connections that cause overheating situations and eventually lead to a fire hazard. Depending on the size of the home and the number of circuit breakers installed, it is estimated that the new regulations will add approximately \$300 to \$700 per dwelling.

RECOMMENDATION:

Staff recommends adopting the 2017 National Electrical Code.

ORDINANCE NO. _____
BEING AN ORDINANCE OF THE CITY COUNCIL OF MORRISTOWN,
TENNESSEE AMENDING TITLE 12 (FIRE AND CONSTRUCTION
CODES), OF THE MORRISTOWN MUNICIPAL CODE.

BE IT ORDAINED BY THE CITY COUNCIL of the City of Morristown that the text of Title 12 (FIRE AND CONSTRUCTION CODES), Chapter 4 – ELECTRICAL CODE be amended to states:

Delete: Sec. 12-401. – Electrical code adopted. in its entirety and replace it with:

Sec. 12-401. - Electrical code adopted.

- i. Pursuant to authority granted by T.C.A. §§6-54-501—6-54-506 and for the purpose of providing practical minimum standards for the safeguarding of persons and of buildings and their contents from hazards arising from the use of electricity for light, heat, power, radio, signaling, or for other purposes, the National Electrical Code (NFPA 70), 2017 edition, as prepared by the National Fire Protection Association, is hereby adopted and incorporated by reference as a part of this code and is hereinafter referred to as the electrical code. Pursuant to the requirements of T.C.A. § 6-54-502, one copy of the electrical code has been placed on file in the recorder's office and shall be kept there for the use and inspection of the public.

ii. Modifications.

- (a) Article 300-50 along with Table 300-50 of the 2017 edition of the National Electrical Code is deleted in its entirety and the following substituted therefore:
Article 300-50. Underground installations.

Underground conductors shall be identified for the voltage and conditions under which they are installed.

All underground conductors with a potential of more than six hundred (600) volts shall be installed in:

- (1) Rigid metal conduit at a minimum depth of thirty-six (36) inches; or
- (2) Schedule forty (40) nonmetallic conduit encased in a minimum of two (2) inches of concrete at a minimum depth of thirty-six (36) inches; or
- (3) Schedule eighty (80) nonmetallic conduit at a minimum depth of forty-two (42) inches. All depth measurements are to top of conduits.

These minimum depth requirements may be reduced six (6) inches for each two (2) inches of concrete or equivalent protection placed in the trench over the underground installation. Lesser depths shall be permitted where conductors rise for terminations or splices or where access is required.

Special permission may be obtained for lesser depths where solid rock is encountered.

- (b) The 2017 amendments to Chapter 0780-2-1 of the Tennessee Department of Commerce and Insurance, Division of Fire Prevention, Rules Regarding Electrical Installations are hereby adopted by reference.

BE IT FURTHER ORDAINED that this ordinance shall take effect from and after the date of its final passage, the public welfare requiring it.

Passed on first reading this the 21st day of August 2018.

Mayor

ATTEST:

City Administrator

Passed on second and final reading this the 4th day of September 2018.

Mayor

ATTEST:

City Administrator

City of Morristown

Incorporated 1855

DEPARTMENT OF COMMUNITY DEVELOPMENT & PLANNING

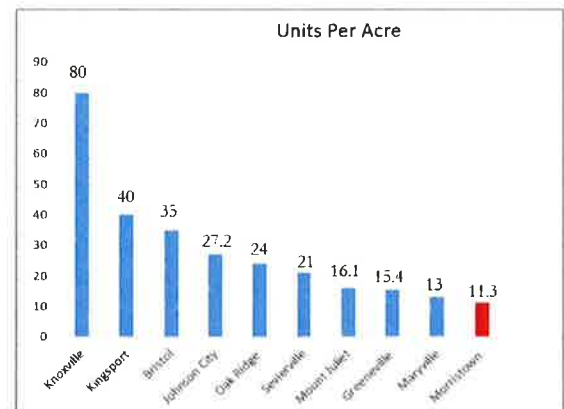


TO: Morristown City Council
FROM: Steve Neilson, Community Development Director *SN*
DATE: August 21, 2018
SUBJECT: Text Amendment – R3 and RP-1 Districts

BACKGROUND:

As part of staff's continuing effort to update the Zoning Ordinance, staff has begun reviewing the residential districts. The proposed changes to the R-3, High Density Residential District, and the RP-1, Planned Residential District are attached.

At the July 10th Planning Commission workshop, staff discussed the various densities in each of the district. Staff pointed out that Morristown allowed the lowest residential densities compared to other cities in the region of relatively compatible size. With the tremendous growth of the local manufacturing industry, there is an increase pressure on the housing market to provide diverse and affordable housing. Allowing higher densities will help the city address these issues.



Staff has received letters from Jack Fishman, Chairman of the Industrial Development Board and Marshall Ramsey, President of the Chamber of Commerce supporting code amendment to allow higher residential densities.

In addition to amending densities, staff is proposing other amendments which include:

R-3, High Density Residential District

- Removed requirement that property must be zoned R2 prior to be rezoned to R3.
- Removed retail and office uses from district
- Amending minimum front yard setback from twenty (20) feet to twenty-five (25) feet
- Increasing multi-family residential density from 11.3 to 20 units per acre
- Add twenty (20) percent open space requirement

RP-1, Planned Residential District

- Increasing multi-family residential density from 10 to 20 units per acre.
- Density could be increased to twenty-five (25) provided the petitioner meets certain conditions.
- Added a requirement for building elevations/renderings for all new proposed buildings
- Increase open space requirement from ten (10) percent to twenty (20) percent.

- Removed parking requirements (parking is already addressed in Ch. 2 – General Zoning Provisions)
- Removed subdivision standards (these standards are addressed in the City’s Subdivision Regs.)
- Moved landscape buffer requirements to Ch.33 – Landscape , Buffers and Screening
- Moved Pedestrian Walkway requirements to Ch. 2 – General Zoning Provisions

The Planning Commission at its August 14th meeting recommended approval voted 8 to 0.

RECOMMENDATION:

Staff recommends approval of the proposed text amendments.

**ORDINANCE NO. _____
BEING AN ORDINANCE OF THE CITY COUNCIL OF
MORRISTOWN, TENNESSEE AMENDING TITLE 14 (ZONING AND
LAND USE CONTROL), OF THE MORRISTOWN MUNICIPAL
CODE.**

BE IT ORDAINED BY THE CITY COUNCIL of the City of Morristown that the text of Title 14 (ZONING AND LAND USE CONTROL), Chapter 2 - General Provisions, Chapter 4 PLANNED Residential Development (RP-1) District, Chapter 7 - R-3 High Density Residential District, and Chapter 33 – Landscape, Buffers and Screening be amended to states:

Delete: Sec. 14-401. – PLANNED RESIDENTIAL DEVELOPMENT (RP-1) DISTRICT in its entirety and replace it with:

14-401. PLANNED RESIDENTIAL DEVELOPMENT (RP-1) DISTRICT

14-402. PURPOSE

The purpose of this district is to encourage creativity and flexibility in planned residential developments. Higher development density may be obtained through the protection of scenic vistas, waterways, hillsides (mountains) while creating open spaces and promoting a pedestrian friendly atmosphere.

All development within the RP-1 must be approved by the Planning Commission. Any change of use, increase in density, or significant modification to the approved plan must be approved by the Planning Commission.

14-403. USES PERMITTED

1. Bed-and-Breakfast.
2. Clubhouse and amenities as an accessory to the overall development.
3. Day Care Centers.
4. Golf Courses (public or private).
5. Group Homes
6. Home Occupation require Board of Zoning Appeals approval (3584-08/01/2017).
7. Marinas.
8. Convalescent and Nursing Homes, retirement homes, orphanages, and assisted living facilities.
9. Churches, Synagogues, Temples, Parsonages and Parish Houses and other Places of Worship.
10. Private Schools.
11. Public Buildings, Parks, other Public/Governmental Uses, and Utilities.
12. Residential Dwellings (one-family, two-family, multifamily)

14-404. REQUIREMENTS FOR EACH DEVELOPMENT WITHIN A RP-1 DISTRICT

1. Minimum Development Size: 5 acres

2. Minimum Frontage (For Development): 200 feet adjacent to a public right-of-way
3. RP-1 District Locations: Must be located adjacent to a public right-of-way that is classified as a collector or arterial street.
4. Minimum Lot Size: N/A
5. Minimum Lot Frontage per Residential Unit: N/A
6. Density Permitted: Twenty (20) dwelling units per acre.
7. The density permitted may be increased up to twenty-five (25) units per acre if two or more of the following enhancements are applied to the proposed development:
 - a. Preservation of hillside vistas on ridges or other steep topographic regions having a slope of 25% or greater (River Ridge, Crockett Ridge, Kidwells Ridge, Boatmans Ridge, and Bays Mountain). This can be achieved by clustering development away from scenic vistas.
 - b. Protect existing trees and/or other natural vegetation areas, preserve 75% of the existing, natural healthy hardwoods area when greater than seven (7) acres.
 - c. Clustering development within areas that have been previously disturbed (land grading) instead of developing onto undisturbed, pristine areas.
 - d. Preservation of scenic views of major water bodies by clustering development away from lake banks, streams, and rivers.
 - e. Increase the land area for wildlife, natural vegetation, or wetland (floodplain area) protection and enhancements.
 - f. Use and maintenance of permeable pavements.
 - g. Creation and maintenance of new recreational facilities such as playgrounds, trails, golf courses, and marinas.
8. Maximum Building Height: 45 feet, or what is determined by the height limitation within the Airport Overlay District, whichever is more strict.
9. Minimum Amount of Open Space: twenty (20%)
10. Yard Setback Requirements:

Front: Twenty-five (25) feet if adjacent to a public right-of-way, otherwise N/A.

Side: If adjacent to a public right-of-way – twenty-five (25)
If interior – zero lot line

Rear: If adjacent to a public right-of-way – twenty-five (25)
If interior – zero lot line

Perimeter: Twenty-five (25) foot setback for all improvements along the perimeter of the development.

11. Utilities: All proposed utilities, including but not limited to, cable, gas, electric, water, sewer, and telephone lines, for any new developments must be underground.
12. Building elevations/renderings are required for proposed new development.

Delete: Sec. 14-701. – R-3 HIGH DENSITY RESIDENTIAL DISTRICT in its entirety and replace it with:

14-701. R-3 HIGH DENSITY RESIDENTIAL DISTRICT

This residential district is intended to promote and encourage the establishment of a suitable environment for urban residence in areas appropriate by location and character for occupancy by high-density, zero lot line development.

14-702. USES PERMITTED

1. Any use permitted and as regulated in the R-1 and R-2 Residential Districts.
2. Zero lot line town homes.

14-703. USES PERMITTED ON REVIEW

1. Any use permitted on review in the R-1 and R-2 Residential Districts.
2. Convalescent and Nursing Homes, retirement homes, orphanages, and assisted living facilities.
 - a. The property shall have access from a collector or arterial street.

14-704. LOT WIDTH

Minimum lot width shall be no less than fifty (50) feet at the building line, corner lots shall have a minimum lot width of fifty-five (55) feet at the building line.

14-705. DEPTH OF FRONT YARD

Minimum depth of front yard for a principal building shall be no less than twenty-five (25) feet to the front lot line. Minimum depth of front yard shall apply to all public right-of-ways.

Any lot within a newly proposed subdivision which does not have primary access on a road network internal to the newly proposed subdivision but has access on an already existing street network shall be subject to additional front yard requirements as determined by the Morristown Planning Commission for the purpose of safe vehicular ingress and egress. (3009-09/07/1999)

14-706. DEPTH OF REAR YARD

Minimum depth of rear yard for a principal building shall be no less than twenty (20) feet to the rear lot line.

14-707. WIDTH OF SIDE YARDS

Other than zero-lot line development, the minimum depth of side yard for a principal building shall be no less than ten (10) feet to the side lot line.

14-708. BUILDING AREA

The principal building and accessory building on any lot shall not cover more than thirty (30) percent of the total area of said lot.

14-709. LOT AREA

1. Minimum lot size for a single-family dwelling shall be no less than 5,500 square feet in area.
2. Minimum lot size for two (2) family dwellings shall be no less than 11,000 square feet in area.
3. Minimum density for three (3) or more dwelling units is twenty (20) units per acre.

14-710 OPEN SPACE

Minimum open space of twenty (20) percent for all multi-family developments of three (3) or more dwelling units.

Chapter 33- Landscape, Buffers and Screening

14-3304. E. Buffer Yard

1. Applicability

To minimize the impact of higher impact uses on surrounding properties, a Buffer Yard is required when:

- a. A nonresidential site borders any agricultural or residential zoning district or use; and
- b. A multi-family site borders an agricultural or single-family district or use.

Buffer yards may be included in the building setback requirements but cannot interfere with existing or proposed utility easements.

Chapter 2- General Zoning Provisions

Pedestrian Movement

A pedestrian walkway is required to connect all buildings to a public right of way. A pedestrian walkway can be a concrete sidewalk, or a bright white-painted striped marking, or a five-foot paved hard asphalt surface. The asphalt surface

may be recommended in order to connect to the City's Greenway Project, if applicable.

BE IT FURTHER ORDAINED that this ordinance shall take effect from and after the date of its final passage, the public welfare requiring it.

Passed on first reading this the 21st day of August 2018.

Mayor

ATTEST:

City Administrator

Passed on second and final reading this the 4th day of September 2018.

Mayor

ATTEST:

City Administrator

August 01, 2018

Tracy Stroud
City of Morristown
100 West First North Street
Morristown TN 37814

Dear Tracy Stroud:

On behalf of the Tennessee Division of Forestry, I am pleased to inform you we have started processing your contract for the Urban Tennessee Agricultural Enhancement Program (TAEP).

Enclosed is your Urban TAEP grant contract. Please review the entire contract, sign the signature page in the contract and return the entire signed contract, no later than **Friday, September 14, 2018** to:

Kelly Lang | Grants Management Specialist
Division of Forestry
PO Box 40627
Nashville TN 37204

You will receive your copy of the contract after it has been signed by the Commissioner of the Tennessee Department of Agriculture.

ANY ITEMS PURCHASED OR INVOICED OUTSIDE OF THE CONTRACT DATES WILL NOT BE REIMBURSED

Also enclosed is a Title VI packet, please review and return the Title VI Pre-Award Self Survey with your signed contract, no later than Friday, September 14th.

Thanks for your interest in our Urban Tennessee Agricultural Enhancement Program. If you have any questions, please contact Kelly Lang at kelly.lang@tn.gov; or 615-837-5421 (office).

Sincerely,



Brian Rucker
Urban Forest Program Specialist
BR/ksl



GOVERNMENTAL GRANT CONTRACT

(cost reimbursement grant contract with a federal or Tennessee local governmental entity or their agents and instrumentalities)

Begin Date November 01, 2018	End Date April 30, 2019	Agency Tracking # 32510-02219	Edison ID
Grantee Legal Entity Name City of Morristown			Edison Vendor ID 4108
Subrecipient or Contractor <input checked="" type="checkbox"/> Subrecipient <input type="checkbox"/> Contractor		CFDA #	
		Grantee's fiscal year end June 30	
Service Caption (one line only) Complete a TAEP Community Tree Planting Project per DGA Edison ID 57822			
Funding —			
FY	State	Federal	Interdepartmental
2019	18675.00		
TOTAL:	18675.00		
TOTAL Grant Contract Amount 18675.00			
Grantee Selection Process Summary			
<input checked="" type="checkbox"/> Competitive Selection		Grant proposals were accepted, scored based on quality and merit and the highest rated are approved.	
<input type="checkbox"/> Non-competitive Selection			
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.		CPO USE - GG	
Speed Chart (optional)	Account Code (optional) 71302000		

**GRANT CONTRACT
BETWEEN THE STATE OF TENNESSEE,
DEPARTMENT OF AGRICULTURE
AND
CITY OF MORRISTOWN**

This grant contract ("Grant Contract"), by and between the State of Tennessee, Department of Agriculture, hereinafter referred to as the "State" or the "Grantor State Agency" and Grantee City of Morristown, hereinafter referred to as the "Grantee," is for the provision of a urban tree planting project, as further defined in the "SCOPE OF SERVICES AND DELIVERABLES."

Grantee Edison Vendor ID # 4108

A. SCOPE OF SERVICES AND DELIVERABLES:

- A.1. The Grantee shall provide all service and deliverables as required, described, and detailed by this Scope of Services and shall meet all service and delivery timelines specified in the Scope of Services section or elsewhere in this Grant Contract.
- A. 2. Trees will be planted on public land or private Non-Profit land unless an exception is granted by the State.
- A.3. A riparian area is defined as the 35 foot buffer extending from either side of a creek, stream or river bank. Riparian tree plantings are allowed on both public and private lands.
- A. 4. Tree purchases must come from a Tennessee Nursery. Trees purchased must meet the ANSI Z-60.1-2004, American Standard for Nursery Stock.
- A. 5. Trees must be planted according to the Tennessee Department of Agriculture, Forestry Division planting specifications.
- A. 6. Trees must be watered during dry periods for at least one growing season after being planted. Bare root seedlings must be planted by March 30, 2019 and containerized/ balled and bur lapped trees must be planted by April 15, 2019.
- A. 7. The Grantee will install a sign with the following statement: (THE GRANTEE NAME, IN PARTNERSHIP WITH THE TENNESSEE DEPARTMENT OF AGRICULTURE DIVISION OF FORESTRY, HAS COMPLETED THIS COMMUNITY TREE PLANTING PROJECT. This sign will remain through the contract period.
- A. 8. The Grantee will appoint a minimum 3 person panel of citizens in the local community to provide project oversight to ensure tax dollars are spent efficiently and effectively. Members of the panel shall not have any relation to any entity supplying the trees to the grantee or any economic interest in the planting thereof. Existing tree boards may serve in this oversight function.
- A. 9. Additional requirements specific to the Grantee's project are listed in the grantee's project summary, which is Attachment Two (2) to this contract. These requirements are primarily listing the species, size and number of trees the Grantee will plant.
- A.14. Change in species, size or location during the purchasing or tree planting time period is available with prior written approval from the urban staff

B. TERM OF CONTRACT:

This Grant Contract shall be effective for the period beginning on November 01, 2018 ("Effective Date") and ending on April 30, 2019, ("Term"). The State shall have no obligation to the Grantee for fulfillment of the Scope outside the Term.

C. PAYMENT TERMS AND CONDITIONS:

- C.1. Maximum Liability. In no event shall the maximum liability of the State under this Grant Contract exceed Eighteen Thousand Six Hundred Seventy Five Dollars (\$18675.00.) ("Maximum Liability"). The Grant Budget, attached and incorporated as Attachment One 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.
- C.2. Compensation Firm. The Maximum Liability of the State is not subject to escalation for any reason unless amended. The Grant Budget amounts are firm for the duration of the Grant Contract and are not subject to escalation for any reason unless amended, except as provided in Section C.6.
- C.3. Payment Methodology. The Grantee shall be reimbursed for actual, reasonable, and necessary costs based upon the Grant Budget, not to exceed the Maximum Liability established in Section C.1. Upon progress toward the completion of the Scope, as described in Section A of this Grant Contract, the Grantee shall submit invoices prior to any reimbursement of allowable costs.
- C.4. Travel Compensation. Reimbursement to the Grantee for travel, meals, or lodging shall be subject to amounts and limitations specified in the "State Comprehensive Travel Regulations," as they are amended from time to time, and shall be contingent upon and limited by the Grant Budget funding for said reimbursement.
- C.5. Invoice Requirements. The Grantee shall invoice the State no more often than monthly, with all necessary supporting documentation, and present such to:

Tennessee Department of Agriculture Division of Forestry
 % Kelly Lang
 PO Box 40627
 Nashville TN 37204
Kelly.Lang@tn.gov

- a. Each invoice shall clearly and accurately detail all of the following required information (calculations must be extended and totaled correctly).
- (1) Invoice/Reference Number (assigned by the Grantee).
 - (2) Invoice Date.
 - (3) Invoice Period (to which the reimbursement request is applicable).
 - (4) Grant Contract Number (assigned by the State).
 - (5) Grantor: Tennessee Department of Agriculture Division of Forestry.
 - (6) Grantor Number (assigned by the Grantee to the above-referenced Grantor).
 - (7) Grantee Name.
 - (8) Grantee Tennessee Edison Registration ID Number Referenced in Preamble of this Grant Contract.
 - (9) Grantee Remittance Address.
 - (10) Grantee Contact for Invoice Questions (name, phone, or fax).

- (11) Itemization of Reimbursement Requested for the Invoice Period— it must detail, at minimum, all of the following:
- i. The amount requested by Grant Budget line-item (including any travel expenditure reimbursement requested and for which documentation and receipts, as required by "State Comprehensive Travel Regulations," are attached to the invoice).
 - ii. The amount reimbursed by Grant Budget line-item to date.
 - iii. The total amount reimbursed under the Grant Contract to date.
 - iv. The total amount requested (all line-items) for the Invoice Period.

b. The Grantee understands and agrees to all of the following.

- (1) An invoice under this Grant Contract shall include only reimbursement requests for actual, reasonable, and necessary expenditures required in the delivery of service described by this Grant Contract and shall be subject to the Grant Budget and any other provision of this Grant Contract relating to allowable reimbursements.
- (2) An invoice under this Grant Contract shall not include any reimbursement request for future expenditures.
- (3) An invoice under this Grant Contract shall initiate the timeframe for reimbursement only when the State is in receipt of the invoice, and the invoice meets the minimum requirements of this section C.5.
- (4) An invoice under this Grant Contract shall be presented to the State within thirty (30) days after the end of the calendar month in which the subject costs were incurred or services were rendered by the Grantee. An invoice submitted more than thirty (30) days after such date will NOT be paid. The State will not deem such Grantee costs to be allowable and reimbursable by the State unless, at the sole discretion of the State, the failure to submit a timely invoice is warranted. The Grantee shall submit a special, written request for reimbursement with any such untimely invoice. The request must detail the reason the invoice is untimely as well as the Grantee's plan for submitting future invoices as required, and it must be signed by a Grantee agent that would be authorized to sign this Grant Contract.

C.6. Budget Line-items. Expenditures, reimbursements, and payments under this Grant Contract shall adhere to the Grant Budget. The Grantee may vary from a Grant Budget line-item amount by up to one percent (20%) of the line-item amount, provided that any increase is off-set by an equal reduction of other line-item amount(s) such that the net result of variances shall not increase the total Grant Contract amount detailed by the Grant Budget. Any increase in the Grant Budget, grand total amounts shall require an amendment of this Grant Contract.

C.7. Disbursement Reconciliation and Close Out. The Grantee shall submit any final invoice and a grant disbursement reconciliation report within thirty (30) days of the Grant Contract end date and in form and substance acceptable to the State.

- a. The Grant Budget specifies a Grantee Match Requirement and the final grant disbursement reconciliation report shall detail all Grantee expenditures recorded to meet this requirement.
 - i. No Grantee expenditure shall be recorded and reported toward meeting a Grantee Match Requirement of more than one grant contract with the State.
 - ii. The final grant disbursement reconciliation report shall specifically detail the exact amount of any Grantee failure to meet a Match Requirement, and the maximum total amount reimbursable by the State pursuant to this Grant

Contract, as detailed by the Grant Budget column "Grant Contract," shall be reduced by the amount that the Grantee failed to contribute to the Total Project as budgeted.

- b. If total disbursements by the State pursuant to this Grant Contract exceed the amounts permitted by the section C, payment terms and conditions of this Grant Contract (including any adjustment pursuant to subsection a.ii. above), the Grantee shall refund the difference to the State. The Grantee shall submit the refund with the final grant disbursement reconciliation report.
 - c. The State shall not be responsible for the payment of any invoice submitted to the state after the grant disbursement reconciliation report. The State will not deem any Grantee costs submitted for reimbursement after the grant disbursement reconciliation report to be allowable and reimbursable by the State, and such invoices will NOT be paid.
 - d. The Grantee's failure to provide a final grant disbursement reconciliation report to the state as required shall result in the Grantee being deemed ineligible for reimbursement under this Grant Contract, and the Grantee shall be required to refund any and all payments by the state pursuant to this Grant Contract.
 - e. The Grantee must close out its accounting records at the end of the contract period in such a way that reimbursable expenditures and revenue collections are NOT carried forward.
- C.8. Indirect Cost. Should the Grantee request reimbursement for indirect costs, the Grantee must submit to the State a copy of the indirect cost rate approved by the cognizant federal agency or the cognizant state agency, as applicable. The Grantee will be reimbursed for indirect costs in accordance with the approved indirect cost rate and amounts and limitations specified in the attached Grant Budget. Once the Grantee makes an election and treats a given cost as direct or indirect, it must apply that treatment consistently and may not change during the Term. Any changes in the approved indirect cost rate must have prior approval of the cognizant federal agency or the cognizant state agency, as applicable. If the indirect cost rate is provisional during the Term, once the rate becomes final, the Grantee agrees to remit any overpayment of funds to the State, and subject to the availability of funds the State agrees to remit any underpayment to the Grantee.
- C.9. Cost Allocation. If any part of the costs to be reimbursed under this Grant Contract are joint costs involving allocation to more than one program or activity, such costs shall be allocated and reported in accordance with the provisions of Department of Finance and Administration Policy Statement 03 or any amendments or revisions made to this policy statement during the Term.
- C.10. Payment of Invoice. A payment by the State shall not prejudice the State's right to object to or question any reimbursement, invoice, or related matter. A payment by the State shall not be construed as acceptance of any part of the work or service provided or as approval of any amount as an allowable cost.
- C.11. Non-allowable Costs. Any amounts payable to the Grantee shall be subject to reduction for amounts included in any invoice or payment that are determined by the State, on the basis of audits or monitoring conducted in accordance with the terms of this Grant Contract, to constitute unallowable costs.
- C.12. State's Right to Set Off. The State reserves the right to set off or deduct from amounts that are or shall become due and payable to the Grantee under this Grant Contract or under any other agreement between the Grantee and the State of Tennessee under which the Grantee has a right to receive payment from the State.

C.13. Prerequisite Documentation. The Grantee shall not invoice the State under this Grant Contract until the State has received the following, properly completed documentation.

- a. The Grantee shall complete, sign, and return to the State an "Authorization Agreement for Automatic Deposit (ACH Credits) Form" provided by the State. By doing so, the Grantee acknowledges and agrees that, once this form is received by the State, all payments to the Grantee under this or any other grant contract will be made by automated clearing house ("ACH").
- b. The Grantee shall complete, sign, and return to the State the State-provided W-9 form. The taxpayer identification number on the W-9 form must be the same as the Grantee's Federal Employer Identification Number or Social Security Number referenced in the Grantee's Edison registration information.

D. STANDARD TERMS AND CONDITIONS:

D.1. Required Approvals. The State is not bound by this Grant Contract until it is signed by the parties and approved by appropriate officials in accordance with applicable Tennessee laws and regulations (depending upon the specifics of this Grant Contract, the 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).

D.2. Modification and Amendment. This Grant Contract may be modified only by a written amendment signed by all parties and approved by the officials who approved the Grant Contract and, depending upon the specifics of the Grant Contract as amended, any additional officials required by Tennessee laws and regulations (the 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).

D.3. Termination for Convenience. The State may terminate this Grant Contract without cause for any reason. A termination for convenience shall not be a breach of this Grant Contract by the State. The State shall give the Grantee at least thirty (30) days written notice before the effective termination date. The Grantee shall be entitled to compensation for authorized expenditures and satisfactory services completed as of the termination date, but in no event shall the State be liable to the Grantee for compensation for any service that has not been rendered. The final decision as to the amount for which the State is liable shall be determined by the State. The Grantee shall not have any right to any actual general, special, incidental, consequential, or any other damages whatsoever of any description or amount for the State's exercise of its right to terminate for convenience.

D.4. Termination for Cause. If the Grantee fails to properly perform its obligations under this Grant Contract, or if the Grantee violates any terms of this Grant Contract, the State shall have the right to immediately terminate this Grant Contract and withhold payments in excess of fair compensation for completed services. Notwithstanding the exercise of the State's right to terminate this Grant Contract for cause, the Grantee shall not be relieved of liability to the State for damages sustained by virtue of any breach of this Grant Contract by the Grantee.

D.5. Subcontracting. The Grantee shall not assign this Grant Contract or enter into a subcontract for any of the services performed under this Grant Contract without obtaining the prior written approval of the State. If such subcontracts are approved by the State, each shall contain, at a minimum, sections of this Grant Contract pertaining to "Conflicts of Interest," "Lobbying," "Nondiscrimination," "Public Accountability," "Public Notice," and "Records" (as identified by the section headings). Notwithstanding any use of approved subcontractors, the Grantee shall remain responsible for all work performed.

- D.6. Conflicts of Interest. The Grantee warrants that no part of the total Grant Contract Amount shall be paid directly or indirectly to an employee or official of the State of Tennessee as wages, compensation, or gifts in exchange for acting as an officer, agent, employee, subcontractor, or consultant to the Grantee in connection with any work contemplated or performed relative to this Grant Contract.
- D.7. Lobbying. The Grantee certifies, to the best of its knowledge and belief, that:
- a. No federally appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.
 - b. If any funds other than federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this contract, grant, loan, or cooperative agreement, the Grantee shall complete and submit Standard Form-LLL, "Disclosure of Lobbying Activities," in accordance with its instructions.
 - c. The Grantee shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into and is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. § 1352.

- D.8. Communications and Contacts. All instructions, notices, consents, demands, or other communications required or contemplated by this Grant Contract shall be in writing and shall be made by certified, first class mail, return receipt requested and postage prepaid, by overnight courier service with an asset tracking system, or by email or facsimile transmission with recipient confirmation. All communications, regardless of method of transmission, shall be addressed to the respective party as set out below:
- The State:

Kelly Lang | Grant Management Specialist
 Department of Agriculture Division of Forestry
 PO Box 40627
 Nashville TN 37204
Kelly.Lang@tn.gov
 Telephone # 615.837.5421

The Grantee:

Tracy Stroud | Coommunity Develpment Coordina
 City of Morristown
 100 West First North Street
 Morristown TN 37814
tstroud@mymorristown.com
 Telephone # 423.585.1834

A change to the above contact information requires written notice to the person designated by the other party to receive notice.

All instructions, notices, consents, demands, or other communications shall be considered effectively given upon receipt or recipient confirmation as may be required.

- D.9. Subject to Funds Availability. This Grant Contract is subject to the appropriation and availability of State or Federal funds. In the event that the funds are not appropriated or are otherwise unavailable, the State reserves the right to terminate this Grant Contract upon written notice to the Grantee. The State's right to terminate this Grant Contract due to lack of funds is not a breach of this Grant Contract by the State. Upon receipt of the written notice, the Grantee shall cease all work associated with the Grant Contract. Should such an event occur, the Grantee shall be entitled to compensation for all satisfactory and authorized services completed as of the termination date. Upon such termination, the Grantee shall have no right to recover from the State any actual, general, special, incidental, consequential, or any other damages whatsoever of any description or amount.
- D.10. Nondiscrimination. The Grantee hereby agrees, warrants, and assures that no person shall be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination in the performance of this Grant Contract or in the employment practices of the Grantee on the grounds of handicap or disability, age, race, color, religion, sex, national origin, or any other classification protected by federal, Tennessee state constitutional, or statutory law. The Grantee shall, upon request, show proof of nondiscrimination and shall post in conspicuous places, available to all employees and applicants, notices of nondiscrimination.
- D.11. 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.
- D.12. Public Accountability. If the Grantee is subject to Tenn. Code Ann. § 8-4-401 *et seq.*, or if this Grant Contract involves the provision of services to citizens by the Grantee on behalf of the State, the Grantee agrees to establish a system through which recipients of services may present grievances about the operation of the service program. The Grantee shall also display in a prominent place, located near the passageway through which the public enters in order to receive

Grant supported services, a sign at least eleven inches (11") in height and seventeen inches (17") in width stating:

NOTICE: THIS AGENCY IS A RECIPIENT OF TAXPAYER FUNDING. IF YOU OBSERVE AN AGENCY DIRECTOR OR EMPLOYEE ENGAGING IN ANY ACTIVITY WHICH YOU CONSIDER TO BE ILLEGAL, IMPROPER, OR WASTEFUL, PLEASE CALL THE STATE COMPTROLLER'S TOLL-FREE HOTLINE: 1-800-232-5454.

The sign shall be on the form prescribed by the Comptroller of the Treasury. The Grantor State Agency shall obtain copies of the sign from the Comptroller of the Treasury, and upon request from the Grantee, provide Grantee with any necessary signs.

- D.13. Public Notice. All notices, informational pamphlets, press releases, research reports, signs, and similar public notices prepared and released by the Grantee in relation to this Grant Contract shall include the statement, "This project is funded under a grant contract with the State of Tennessee." All notices by the Grantee in relation to this Grant Contract shall be approved by the State.
- D.14. Licensure. The Grantee, its employees, and any approved subcontractor shall be licensed pursuant to all applicable federal, state, and local laws, ordinances, rules, and regulations and shall upon request provide proof of all licenses.
- D.15. Records. The Grantee and any approved subcontractor shall maintain documentation for all charges under this Grant Contract. The books, records, and documents of the Grantee and any approved subcontractor, insofar as they relate to work performed or money received under this Grant Contract, shall be maintained in accordance with applicable Tennessee law. In no case shall the records be maintained for a period of less than five (5) full years from the date of the final payment. The Grantee's records shall be subject to audit at any reasonable time and upon reasonable notice by the Grantor State Agency, the Comptroller of the Treasury, or their duly appointed representatives.

The records shall be maintained in accordance with Governmental Accounting Standards Board (GASB) Accounting Standards or the Financial Accounting Standards Board (FASB) Accounting Standards Codification, as applicable, and any related AICPA Industry Audit and Accounting guides.

In addition, documentation of grant applications, budgets, reports, awards, and expenditures will be maintained in accordance with U.S. Office of Management and Budget's *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards*.

Grant expenditures shall be made in accordance with local government purchasing policies and procedures and purchasing procedures for local governments authorized under state law.

The Grantee shall also comply with any recordkeeping and reporting requirements prescribed by the Tennessee Comptroller of the Treasury.

The Grantee shall establish a system of internal controls that utilize the COSO Internal Control - Integrated Framework model as the basic foundation for the internal control system. The Grantee shall incorporate any additional Comptroller of the Treasury directives into its internal control system.

Any other required records or reports which are not contemplated in the above standards shall follow the format designated by the head of the Grantor State Agency, the Central Procurement Office, or the Commissioner of Finance and Administration of the State of Tennessee.

- D.16. Monitoring. The Grantee's activities conducted and records maintained pursuant to this Grant Contract shall be subject to monitoring and evaluation by the State, the Comptroller of the Treasury, or their duly appointed representatives.

- D.17. Progress Reports. The Grantee shall submit brief, periodic, progress reports to the State as requested.
- D.18. Annual and Final Reports. The Grantee shall submit, within three (3) months of the conclusion of each year of the Term, an annual report. For grant contracts with a term of less than one (1) year, the Grantee shall submit a final report within three (3) months of the conclusion of the Term. For grant contracts with multiyear terms, the final report will take the place of the annual report for the final year of the Term. The Grantee shall submit annual and final reports to the Grantor State Agency and the Department of Finance and Administration ("F&A"). Send electronic copies of annual and final reports to F&A at fa.audit@tn.gov. At minimum, annual and final reports shall include: (a) the Grantee's name; (b) the Grant Contract's Edison identification number, Term, and total amount; (c) a narrative section that describes the program's goals, outcomes, successes and setbacks, whether the Grantee used benchmarks or indicators to determine progress, and whether any proposed activities were not completed; and (d) other relevant details requested by the Grantor State Agency. Annual and final report documents to be completed by the Grantee shall appear on the Grantor State Agency's website or as an attachment to the Grant Contract.

- D.19. Audit Report. For purposes of this Section, pass-through entity means a non-federal entity that provides a subaward to a subrecipient to carry out part of a federal program.

The Grantee shall provide audited financial statements to the Tennessee Comptroller of the Treasury ("Comptroller") if during the Grantee's fiscal year, the Grantee: (1) expends seven hundred fifty thousand dollars (\$750,000) or more in direct and indirect federal financial assistance and the State is a pass-through entity; (2) expends seven hundred fifty thousand dollars (\$750,000) or more in state funds from the State; or (3) expends seven hundred fifty thousand dollars (\$750,000) or more in federal financial assistance and state funds from the State, and the State is a pass-through entity. At least ninety (90) days before the end of its fiscal year, the Grantee shall complete Attachment Three to notify the State whether or not Grantee is subject to an audit. The Grantee should submit only one, completed Notice of Audit Report document during the Grantee's fiscal year. Any Grantee that is subject to an audit and so indicates on Attachment Three shall complete Attachment Four. If the Grantee is subject to an audit, Grantee shall obtain the Comptroller's approval before engaging a licensed, independent public accountant to perform the audit. The Grantee may contact the Comptroller for assistance identifying auditors.

All audits shall be performed in accordance with the Comptroller's requirements, as posted on its web site. When a federal single audit is required, the audit shall be performed in accordance with U.S. Office of Management and Budget's *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards*.

A copy of the audit report shall be provided to the Comptroller by the licensed, independent public accountant. Audit reports shall be made available to the public.

The audit contract between the Grantee and the Auditor shall be on a contract form prescribed by the Comptroller. The Grantee shall be responsible for payment of fees for an audit prepared by a licensed, independent public accountant. Payment of the audit fees by the Grantee shall be subject to the provision relating to such fees contained within this Grant Contract. The Grantee shall be responsible for reimbursing the Comptroller for any costs of an audit prepared by the Comptroller.

- D.20. Procurement. If other terms of this Grant Contract allow reimbursement for the cost of goods, materials, supplies, equipment, or contracted services, such procurement shall be made on a competitive basis, including the use of competitive bidding procedures, where practical. The Grantee shall maintain documentation for the basis of each procurement for which reimbursement is paid pursuant to this Grant Contract. In each instance where it is determined that use of a competitive procurement method is not practical, supporting documentation shall include a written justification for the decision and for use of a non-competitive procurement. If the Grantee is a subrecipient, the Grantee shall comply with 2 C.F.R. §§ 200.317—300.326 when

procuring property and services under a federal award.

The Grantee shall obtain prior approval from the State before purchasing any equipment under this Grant Contract.

For purposes of this Grant Contract, the term "equipment" shall include any article of nonexpendable, tangible, personal property having a useful life of more than one year and an acquisition cost which equals or exceeds five thousand dollars (\$5,000.00).

- D.21. Strict Performance. Failure by any party to this Grant Contract to insist in any one or more cases upon the strict performance of any of the terms, covenants, conditions, or provisions of this Grant Contract is not a waiver or relinquishment of any term, covenant, condition, or provision. No term or condition of this Grant Contract shall be held to be waived, modified, or deleted except by a written amendment signed by the parties.
- D.22. Independent Contractor. The parties shall not act as employees, partners, joint venturers, or associates of one another in the performance of this Grant Contract. The parties acknowledge that they are independent contracting entities and that nothing in this Grant Contract shall be construed to create a principal/agent relationship or to allow either to exercise control or direction over the manner or method by which the other transacts its business affairs or provides its usual services. The employees or agents of one party shall not be deemed or construed to be the employees or agents of the other party for any purpose whatsoever.
- D.23. Limitation of State's Liability. The State shall have no liability except as specifically provided in this Grant Contract. In no event will the State be liable to the Grantee or any other party for any lost revenues, lost profits, loss of business, loss of grant funding, decrease in the value of any securities or cash position, time, money, goodwill, or any indirect, special, incidental, punitive, exemplary or consequential damages of any nature, whether based on warranty, contract, statute, regulation, tort (including but not limited to negligence), or any other legal theory that may arise under this Grant Contract or otherwise. The State's total liability under this Grant Contract (including any exhibits, schedules, amendments or other attachments to the Contract) or otherwise shall under no circumstances exceed the Maximum Liability originally established in Section C.1 of this Grant Contract. This limitation of liability is cumulative and not per incident.
- D.24. 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.

- D.25. Tennessee Department of Revenue Registration. The Grantee shall comply with all applicable registration requirements contained in Tenn. Code Ann. §§ 67-6-601 – 608. Compliance with applicable registration requirements is a material requirement of this Grant Contract.
- D.26. Charges to Service Recipients Prohibited. The Grantee shall not collect any amount in the form of fees or reimbursements from the recipients of any service provided pursuant to this Grant Contract.
- D.27. No Acquisition of Equipment or Motor Vehicles. This Grant Contract does not involve the acquisition and disposition of equipment or motor vehicles acquired with funds provided under this Grant Contract.
- D.28. State and Federal Compliance. The Grantee shall comply with all applicable state and federal laws and regulations in the performance of this Grant Contract. The U.S. Office of Management and Budget's Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards is available here: http://www.ecfr.gov/cgi-bin/text-idx?SID=c6b2f053952359ba94470ad3a7c1a975&tpl=/ecfrbrowse/Title02/2cfr200_main_02.tpl
- D.29. Governing Law. This Grant Contract shall be governed by and construed in accordance with the laws of the State of Tennessee. The Grantee agrees that it will be subject to the exclusive jurisdiction of the courts of the State of Tennessee in actions that may arise under this Grant Contract. The Grantee acknowledges and agrees that any rights or claims against the State of Tennessee or its employees hereunder, and any remedies arising there from, shall be subject to and limited to those rights and remedies, if any, available under Tenn. Code Ann. §§ 9-8-101 through 9-8-407.
- D.30. Completeness. This Grant Contract is complete and contains the entire understanding between the parties relating to the subject matter contained herein, including all the terms and conditions agreed to by the parties. This Grant Contract supersedes any and all prior understandings, representations, negotiations, or agreements between the parties, whether written or oral.
- D.31. Severability. If any terms and conditions of this Grant Contract are held to be invalid or unenforceable as a matter of law, the other terms and conditions shall not be affected and shall remain in full force and effect. To this end, the terms and conditions of this Grant Contract are declared severable.
- D.32. Headings. Section headings are for reference purposes only and shall not be construed as part of this Grant Contract.
- D.33. Iran Divestment Act. The requirements of Tenn. Code Ann. § 12-12-101, *et seq.*, addressing contracting with persons as defined at Tenn. Code Ann. §12-12-103(5) that engage in investment activities in Iran, shall be a material provision of this Grant Contract. The Grantee certifies, under penalty of perjury, that to the best of its knowledge and belief that it is not on the list created pursuant to Tenn. Code Ann. § 12-12-106.
- D.34. Debarment and Suspension. The Grantee certifies, to the best of its knowledge and belief, that it, its current and future principals, its current and future subcontractors and their principals:
- a. are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal or state department or agency;

- b. have not within a three (3) year period preceding this Grant Contract been convicted of, or had a civil judgment rendered against them from commission of fraud, or a criminal offence in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or grant under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification, or destruction of records, making false statements, or receiving stolen property;
- c. are not presently indicted or otherwise criminally or civilly charged by a government entity (federal, state, or local) with commission of any of the offenses detailed in section b. of this certification; and
- d. have not within a three (3) year period preceding this Grant Contract had one or more public transactions (federal, state, or local) terminated for cause or default.

The Grantee shall provide immediate written notice to the State if at any time it learns that there was an earlier failure to disclose information or that due to changed circumstances, its principals or the principals of its subcontractors are excluded or disqualified, or presently fall under any of the prohibitions of sections a-d.

E. SPECIAL TERMS AND CONDITIONS:

- E.1. Conflicting Terms and Conditions. Should any of these special terms and conditions conflict with any other terms and conditions of this Grant Contract, the special terms and conditions shall be subordinate to the Grant Contract's other terms and conditions.

IN WITNESS WHEREOF,

CITY OF MORRISTOWN:

ANTHONY COX, CITY ADMINISTRATOR

DATE

DEPARTMENT OF AGRICULTURE:

JAI TEMPLETON, COMMISSIONER

DATE

ATTACHMENT ONE

GRANT BUDGET				
The Grant Budget line-item amounts below shall be applicable only to expenses incurred during the following applicable period:				
BEGIN: November 01, 2018		END: April 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	5625.00	5625.00	11,250.00
5, 6, 7, 8, 9, 10	Supplies, Telephone, Postage & Shipping, Occupancy, Equipment Rental & Maintenance, Printing & Publications	13,050.00	13,050.00	26,100.00
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
n/a	Grantee Match Requirement (for any amount of the required Grantee Match that is <u>not</u> specifically delineated by budget line-items above)	0.00	0.00	0.00
25	GRAND TOTAL	18,675.00	18,675.00	37,350.00

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.tn.gov/finance/topic/fa-policyinfo>).

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.

ATTACHMENT ONE**GRANT BUDGET LINE-ITEM DETAIL:**

PROFESSIONAL FEE, GRANT & AWARD	AMOUNT
Contracted Tree Planting	5625.00
TOTAL	5625.00

SUPPLIES, TELEPHONE, POSTAGE & SHIPPING, OCCUPANCY, EQUIPMENT RENTAL & MAINTENANCE, PRINTING & PUBLICATIONS	AMOUNT
Trees & Shipping	9150.00
Mulch	1875.00
Tree Labels	1875.00
Acknowledgment Signs	150.00
TOTAL	13,050.00

ATTACHMENT TWO

#	Size	Species
10	1.5"	Sugar Maple
5	1.5"	European Alder, Common Alder
5	1.5"	Downy Serviceberry
5	1.5"	River Birch
5	1.5"	American Hornbeam, Ironwood
5	1.5"	Eastern Redbud
5	1.5"	Flowering Dogwood
5	1.5"	Washington Hawthorn
5	1.5"	American Beech
5	1.5"	Carolina Silverbell
5	1.5"	American Holly
5	1.5"	Black Gum
10	1.5"	Sourwood
10	1.5"	Eastern White Pine
5	1.5"	Sycamore
5	1.5"	Black Cherry
5	1.5"	White Oak
5	1.5"	Scarlet Oak
5	1.5"	Bur Oak
5	1.5"	Chestnut Oak
5	1.5"	Chinkapin Oak, Chinquapin Oak
5	1.5"	Water Oak
5	1.5"	Willow Oak
5	1.5"	Northern Red Oak
5	1.5"	Post Oak
5	1.5"	Black Oak
5	1.5"	Black Locust
150		

ATTACHMENT THREE

Notice of Audit Report

Check one of the two boxes below and complete the remainder of this document as instructed. Send completed documents as a PDF file to cpo.auditnotice@tn.gov. ***The Grantee should submit only one, completed "Notice of Audit Report" document to the State ninety (90) days prior to the Grantee's fiscal year.***

- ☐ City of Morristown is subject to an audit for fiscal year 2019.
- ☐ City of Morristown is not subject to an audit for fiscal year 2019.

Grantee's Edison Vendor ID Number:4108

Grantee's fiscal year end: June 30

Any Grantee that is subject to an audit must complete the information below.

Type of funds expended	Estimated amount of funds expended by end of Grantee's fiscal year
Federal pass-through funds	
i. Funds passed through the State of Tennessee	i.
j. Funds passed through any other entity	j.
Funds received directly from the federal government	
Non-federal funds received directly from the State of Tennessee	

ATTACHMENT FOUR**Parent Child Information**

The Grantee should complete this form and submit it with the Grant Contract. The Grantee should submit only one, completed "Parent Child Information" document to the State during the Grantee's fiscal year.

"Parent" means an entity whose IRS filing contains the information of at least one other entity.

"Child" means an entity whose information is contained in another entity's IRS filing.

Grantee's Edison Vendor ID number: 4108

Is City of Morristown a parent?

Yes ☐ No ☐

If yes, provide the name and Edison Vendor ID number, if applicable, of any child entities.

Is City of Morristown a child?

Yes ☐ No ☐

If yes, complete the fields below.

Parent entity's name: _____

Parent entity's tax identification number: _____

Note: If the parent entity's tax identification number is a social security number, this form must be submitted via US mail to:

Central Procurement Office, Grants Program Manager
3rd Floor, WRS Tennessee Tower
312 Rosa L Parks Avenue
Nashville, TN 37243

Parent entity's contact information

Name of primary contact person: _____

Address: _____

Phone number: _____

Email address: _____

Parent entity's Edison Vendor ID number, if applicable: _____

This document has important legal consequences; consultation with an attorney is encouraged with respect to its use or modification. This document should be adapted to the particular circumstances of the contemplated Project and the controlling Laws and Regulations.

AGREEMENT BETWEEN OWNER AND ENGINEER FOR PROFESSIONAL SERVICES

TASK ORDER EDITION

Prepared by



and

Issued and Published Jointly by



AMERICAN COUNCIL OF ENGINEERING COMPANIES

ASSOCIATED GENERAL CONTRACTORS OF AMERICA

AMERICAN SOCIETY OF CIVIL ENGINEERS

PROFESSIONAL ENGINEERS IN PRIVATE PRACTICE
A Practice Division of the
NATIONAL SOCIETY OF PROFESSIONAL ENGINEERS

This Agreement has been prepared for use with the Standard General Conditions of the Construction Contract (EJCDC C-700, 2007 Edition). Their provisions are interrelated, and a change in one may necessitate a change in the other.

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**AGREEMENT
BETWEEN OWNER AND ENGINEER
FOR
PROFESSIONAL SERVICES**

TASK ORDER EDITION

THIS IS AN AGREEMENT effective as of August 22, 2018 (“Effective Date”) between
City of Morristown, Tennessee (“Owner”) and
Mattern & Craig, Inc. (“Engineer”).

From time to time Owner may request that Engineer provide professional services for Specific Projects. Each engagement will be documented by a Task Order. This Agreement sets forth the general terms and conditions which shall apply to all Task Orders duly executed under this Agreement.

Owner and Engineer further agree as follows:

ARTICLE 1 – SERVICES OF ENGINEER

1.01 *Scope*

- A. Engineer’s services will be detailed in a duly executed Task Order for each Specific Project. Each Task Order and Exhibit C, if included, will indicate the specific services to be performed and deliverables to be provided as well as the Basic and Additional Services to be provided.
- B. This Agreement is not a commitment by Owner to Engineer to issue any Task Orders.
- C. Engineer shall not be obligated to perform any prospective Task Order unless and until Owner and Engineer agree as to the particulars of the Specific Project, including the scope of Engineer's services, time for performance, Engineer's compensation, and all other appropriate matters.

1.02 *Task Order Procedure*

- A. Owner and Engineer shall agree on the scope of, time for performance for, and basis of compensation for each Task Order. Each duly executed Task Order shall be subject to the terms and conditions of this Agreement.
 - 1. [Reimbursable Costs shall meet the requirements of Tennessee Department of Transportation \(TDOT\) or the strictest requirements of any other funding agencies contributing to the project.](#)

- B. Engineer will commence performance as set forth in the Task Order.

ARTICLE 2 – OWNER’S RESPONSIBILITIES

2.01 *General*

- A. Owner shall have the responsibilities set forth herein, in Exhibit B, "Owner's Responsibilities," and in each Task Order.
- B. Owner shall compensate Engineer as set forth in each Task Order, pursuant to the applicable terms of Exhibit C, if included in the Agreement.
- C. Owner shall be responsible for, and Engineer may rely upon, the accuracy and completeness of all requirements, programs, instructions, reports, data, and other information furnished by Owner to Engineer pursuant to this Agreement. Engineer may use such requirements, programs, instructions, reports, data, and information in performing or furnishing services under this Agreement. The Engineer agrees, however, that because information in the City’s GIS database is based on aerial surveys and is provided on an “as-is” basis, it is the Engineer’s responsibility to field-verify the information prior to relying on it.

ARTICLE 3 – TERM; TIMES FOR RENDERING SERVICES

3.01 *Term*

- A. This Agreement shall be effective and applicable to Task Orders issued hereunder for five (5) years from the Effective Date of the Agreement.
- B. The parties may extend or renew this Agreement, with or without changes, by written instrument establishing a new term.

3.02 *Times for Rendering Services*

- A. The times for performing services or providing deliverables will be stated in each Task Order and are hereby agreed to be reasonable. If no times are so stated, Engineer will perform services and provide deliverables within a reasonable time.
- B. If, through no fault of Engineer, such periods of time or dates are changed, or the orderly and continuous progress of Engineer’s services is impaired, or Engineer’s services are delayed or suspended, then the time for completion of Engineer’s services, and the rates and amounts of Engineer’s compensation, shall be adjusted equitably.
- C. If Owner authorizes changes in the scope, extent, or character of the Specific Project, then the time for completion of Engineer’s services, and the rates and amounts of Engineer’s compensation, shall be adjusted equitably.
- D. Owner shall make decisions and carry out its other responsibilities in a timely manner so as not to delay the Engineer’s performance of its services.
- E. If Engineer fails, through its own fault, to complete the performance required in a Task Order within the time set forth, as duly adjusted, then Owner shall be entitled, as its sole remedy, to the recovery of direct damages, if any, resulting from such failure.

- F. With respect to each Task Order, the number of Construction Contracts for Work designed or specified by Engineer upon which the Engineer's compensation has been established shall be identified in the Task Order. If the Work designed or specified by Engineer under a Task Order is to be performed or furnished under more than one prime contract, or if Engineer's services are to be separately sequenced with the work of one or more prime Contractors (such as in the case of fast-tracking), then Owner and Engineer shall, prior to commencement of final design services, develop a schedule for performance of Engineer's remaining services in order to sequence and coordinate properly such services as are applicable to the work under such separate Construction Contracts. This schedule is to be prepared and included in or become an amendment to the authorizing Task Order whether or not the work under such contracts is to proceed concurrently.

ARTICLE 4 – INVOICES AND PAYMENTS

4.01 *Invoices*

- A. Engineer shall prepare invoices in accordance with its standard invoicing practices, the terms of Exhibit C (if included in the Agreement), and the specific Task Order. Engineer shall submit its invoices to Owner on a monthly basis. Invoices are due and payable within 30 days of receipt of an invoice meeting the requirements of this section. All invoices submitted for payment shall be original hard copies and shall include the following:
1. City Project number, City Account Code, and TDOT PIN (if applicable)
 2. Summary of work completed by consultant for period of invoice, including:
 - a. the Task and/or Phase of the project
 - b. deliverable(s) provided
 - c. design milestone(s) achieved
 3. Summary of design and/or construction progress for both the invoice period and the overall project, including:
 - a. design and/or construction progress for each phase and for the overall project
 - b. explanation of any variances from the original schedule and an action plan to return the project to the schedule
 4. Summaries of design and/or construction budget progress for both the invoice period and the overall project, including:
 - a. design and/or construction budget progress for each phase and for the overall project
 - b. explanation of any variances from the original budget and an action plan to return the project to the budget
- B. Any proposed reallocation of design funds to different phases of the project must be approved by the Owner in writing prior to the work being performed.
1. Additional written approval must be granted by all funding agencies participating in the project.

C. For a Project with grant or other agency funding participation:

1. The Engineer shall be knowledgeable of reimbursement rules of those agencies.
2. Engineer shall provide notice to the Owner of any tasks or actions which the Owner must undertake to accomplish project funding adjustments.
3. Within 14 days of receipt of payment from the Owner for services under this Agreement, Engineer shall submit a properly-prepared request for reimbursement of the Owner's payment to the appropriate funding agency or agencies.

4.02 *Payments*

- A. *Application to Interest and Principal:* Payment will be credited first to any interest owed to Engineer and then to principal.
- B. *Failure to Pay:* If Owner fails to make any payment due Engineer for services and expenses within 30 days after receipt of Engineer's invoice and Owner's failure to pay is not as a result of a dispute regarding an invoice, or a portion thereof, pursuant to 4.02.C, then:
 1. the compounded amount due Engineer will be increased at the rate of 1.0% per month (or the maximum rate of interest permitted by law, if less) from said thirtieth day; and
 2. Engineer may, after giving seven days written notice to Owner, suspend services under any Task Order issued until Owner has paid in full all amounts due for services, expenses, and other related charges. Owner waives any and all claims against Engineer for any such suspension.
- C. *Disputed Invoices:* If Owner contests an invoice, Owner shall promptly advise Engineer of the specific basis for doing so, may withhold only that portion so contested, and must pay the undisputed portion. Upon notice to Engineer that an invoice, or a portion thereof, is subject to dispute, the parties may immediately commence the dispute resolution process pursuant to Exhibit H. Engineer shall continue performance pursuant to this Agreement while the dispute resolution process is underway.
- D. *Legislative Actions:* If after the Effective Date of a Task Order any governmental entity takes a legislative action that imposes sales or use taxes, fees, or charges on Engineer's services or compensation under the Task Order, then the Engineer may invoice such new taxes, fees, or charges as a Reimbursable Expense to which a factor of 1.0 shall be applied. Owner shall reimburse Engineer for the cost of such invoiced new taxes, fees, and charges; such reimbursement shall be in addition to the compensation to which Engineer is entitled under the terms of Exhibit C (if included in the Agreement) and the specific Task Order.

ARTICLE 5 – OPINIONS OF COST

5.01 *Opinions of Probable Construction Cost*

- A. Engineer's opinions of probable Construction Cost are to be made on the basis of Engineer's experience and qualifications and represent Engineer's estimate as an experienced and qualified professional generally familiar with the construction industry. However, because Engineer has no control over the cost of labor, materials, equipment, or services furnished by others, or over

contractors' methods of determining prices, or over competitive bidding or market conditions, Engineer cannot and does not guarantee that proposals, bids, or actual Construction Cost will not vary from opinions of probable Construction Cost prepared by Engineer. If Owner requires greater assurance as to probable Construction Cost, Owner must employ an independent cost estimator as provided in Exhibit B.

5.02 *Designing to Construction Cost Limit*

- A. If a Construction Cost limit for a Specific Project is established between Owner and Engineer in a Task Order, Engineer's rights and responsibilities with respect thereto will be governed by Exhibit F, "Construction Cost Limit," to this Agreement.

5.03 *Opinions of Total Project Costs*

- A. The services, if any, of Engineer with respect to Total Project Costs for a Specific Project shall be limited to assisting the Owner in collating the various cost categories which comprise Total Project Costs. Engineer assumes no responsibility for the accuracy of any opinions of Total Project Costs.

ARTICLE 6 – GENERAL CONSIDERATIONS

6.01 *Standards of Performance*

- A. *Standard of Care:* The standard of care for all professional engineering and related services performed or furnished by Engineer under this Agreement will be the care and skill ordinarily used by members of the subject profession practicing under similar circumstances at the same time and in the same locality. Engineer makes no warranties, express or implied, under this Agreement or otherwise, in connection with Engineer's services.
- B. *Technical Accuracy:* Owner shall not be responsible for discovering deficiencies in the technical accuracy of Engineer's services. Engineer shall correct deficiencies in technical accuracy without additional compensation unless such corrective action is directly attributable to deficiencies in Owner-furnished information.
- C. *Consultants:* Engineer shall serve as Owner's prime professional under each Task Order. Engineer may employ such Consultants as Engineer deems necessary to assist in the performance or furnishing of the services, subject to reasonable, timely, and substantive objections by Owner.
- D. *Reliance on Others:* Subject to the standard of care set forth in Paragraph 6.01.A, Engineer and its Consultants may use or rely upon design elements and information ordinarily or customarily furnished by others, including, but not limited to, specialty contractors, manufacturers, suppliers, and the publishers of technical standards.
- E. *Compliance with Laws and Regulations, and Policies and Procedures:* Engineer and Owner shall comply with applicable Laws and Regulations.
 - 1. Prior to the Effective Date of each Task Order, Owner will make available to Engineer any and all policies and procedures of Owner applicable to Engineer's performance of services under such Task Order, including the City's current policy regarding Temporary Traffic Control (Exhibit J). Engineer shall comply with such policies and procedures pursuant to the standard of care set forth in Paragraph 6.01.A, and to the extent compliance is not inconsistent with professional practice requirements.

2. Each Task Order is based on Laws and Regulations and Owner-provided written policies and procedures as of the Effective Date of such Task Order. Changes after the Effective Date to these Laws and Regulations, or to Owner-provided written policies and procedures, may be the basis for modifications to Owner's responsibilities or to Engineer's scope of services, times of performance, or compensation.

- F. Engineer shall not be required to sign any documents, no matter by whom requested, that would result in Engineer having to certify, guarantee, or warrant the existence of conditions whose existence Engineer cannot ascertain within its services for that Specific Project. Owner agrees not to make resolution of any dispute with Engineer or payment of any amount due to the Engineer in any way contingent upon Engineer signing any such certification.
- G. The General Conditions for any construction contract documents prepared hereunder are to be the "Standard General Conditions of the Construction Contract" as prepared by the Engineers Joint Contract Documents Committee (EJCDC C-700, 2007 Edition) unless both parties mutually agree in a Task Order to use other General Conditions.
- H. Engineer shall not at any time supervise, direct, control, or have authority over any contractor work, nor shall Engineer have authority over or be responsible for the means, methods, techniques, sequences, or procedures of construction selected or used by any contractor, for the safety precautions and programs incident thereto, for security or safety at the Site, nor for any failure of a contractor to comply with Laws and Regulations applicable to such contractor's furnishing and performing of its work.
- I. Engineer neither guarantees the performance of any Contractor nor assumes responsibility for any Contractor's failure to furnish and perform the Work in accordance with the Contract Documents.
- J. Engineer shall not provide or have any responsibility for surety bonding or insurance-related advice, recommendations, counseling, or research, or for enforcement of construction insurance or surety bonding requirements.
- K. Engineer shall not be responsible for the acts or omissions of any Contractor, Subcontractor, or Supplier, or of any of their agents or employees or of any other persons (except Engineer's own employees and its Consultants) at a Site or otherwise furnishing or performing any of a Contractor's work; or for any decision made regarding the Contract Documents, or any application, interpretation, or clarification of the Contract Documents other than those made by or upon the advice of the Engineer.
- L. While at a Site, Engineer's employees and representatives shall comply with the specific applicable requirements of Contractor's and Owner's safety programs of which Engineer has been informed in writing.

6.02 *Design Without Construction Phase Services*

- A. For each design performed or furnished, Engineer shall be responsible only for those Construction Phase services that have been itemized and expressly required of Engineer in the authorizing Task Order. With the exception of such expressly required services, Engineer shall have no design, shop drawing review, or other obligations during construction and Owner assumes all responsibility for the application and interpretation of the Contract Documents, contract administration, construction observation and review, and all other necessary Construction Phase engineering and professional services. Owner waives all claims against the Engineer that may be in any way connected to

Construction Phase engineering or professional services except for those services that are expressly required of Engineer in the authorizing Task Order.

6.03 *Use of Documents*

- A. All Documents are instruments of service in respect to a Specific Project, and Engineer shall retain an ownership and property interest therein (including the copyright and the right of reuse at the discretion of the Engineer) whether or not the Specific Project is completed. Owner shall not rely in any way on any Document unless it is in printed form, and signed or sealed by the Engineer or one of its Consultants.
- B. Either party to this Agreement may rely that data or information set forth on paper (also known as hard copies) that the party receives from the other party by mail, hand delivery, or facsimile, are the items that the other party intended to send. Files in electronic media format of text, data, graphics, or other types that are furnished by one party to the other are furnished only for convenience and should not be relied upon by the receiving party. Any conclusion or information obtained or derived from such electronic files will be at the user's sole risk. If there is a discrepancy between the electronic files and the hard copies, the hard copies govern. If the parties agree to other electronic transmittal procedures, such procedures are set forth in Exhibit J.
- C. Because data stored in electronic media format can deteriorate or be modified inadvertently or otherwise without authorization of the data's creator, the party receiving electronic files agrees that it will perform acceptance tests or procedures within 60 days, after which the receiving party shall be deemed to have accepted the data thus transferred. Any transmittal errors detected within the 60-day acceptance period will be corrected by the party delivering the electronic files.
- D. When transferring documents in electronic media format, the transferring party makes no representations as to long term compatibility, usability, or readability of such documents resulting from the use of software application packages, operating systems, or computer hardware differing from those used by the documents' creator.
- E. Owner may make and retain copies of Documents for information and reference in connection with use on the Specific Project by Owner. Engineer grants Owner a limited license to use the Documents on the Specific Project, on extensions of the Specific Project, and for related uses of the Owner, subject to receipt by Engineer of full payment for all services relating to preparation of the Documents and subject to the following limitations: (1) Owner acknowledges that such Documents are not intended or represented to be suitable for use on the Specific Project unless completed by Engineer, or for use or reuse by Owner or others on extensions of the Specific Project, on any other project, or for any other use or purpose, without written verification or adaptation by Engineer; (2) any such use or reuse, or any modification of the Documents, without written verification, completion, or adaptation by Engineer, as appropriate for the specific purpose intended, will be at Owner's sole risk and without liability or legal exposure to Engineer or its Consultants; (3) Owner shall indemnify and hold harmless Engineer and Engineer's Consultants from all claims, damages, losses, and expenses, including attorneys' fees, arising out of or resulting from any use, reuse, or modification of the Documents without written verification, completion, or adaptation by Engineer; and (4) such limited license to Owner shall not create any rights in third parties.

- F. If Engineer at Owner's request verifies or adapts the Documents for extensions of the Specific Project or for any other purpose, then Owner shall compensate Engineer at rates or in an amount to be agreed upon by Owner and Engineer.

6.04 *Insurance*

- A. At all times when any Task Order is under performance, Owner and Engineer shall each procure and maintain insurance as set forth in Exhibit G, "Insurance."
- B. Owner and Engineer shall each deliver to the other certificates of insurance evidencing the coverages indicated in Exhibit G. Such certificates shall be furnished prior to commencement of Engineer's services under any Task Order and at renewals thereafter during the life of this Agreement.
- C. Both parties agree that required insurance will remain in force during the duration of this Agreement and that any lapse in coverage will not relieve the breaching party of liability.
- D. Engineer will maintain Professional Liability coverage for three years after completion of services performed under the terms of any Task Order.
- E. Under the terms of any Task Order, or after commencement of performance of a Task Order, Owner may request that Engineer or its Consultants, at Owner's sole expense, provide additional insurance coverage, increased limits, or revised deductibles that are more protective than those specified in Exhibit G. If so requested by Owner, and if commercially available, Engineer shall obtain and shall require its Consultants to obtain such additional insurance coverage, different limits, or revised deductibles for such periods of time as requested by Owner.
- F. When applicable, the Engineer will incorporate the Owner's insurance requirements for Contractors into the bidding documents. The Engineer, when under contract to perform bidding phase services, will verify that the selected Contractor meets the Owner's insurance requirements.

6.05 *Suspension and Termination*

A. *Suspension*

- 1. *By Owner:* Owner may suspend a Task Order upon seven days written notice to Engineer.
- 2. *By Engineer:* If Engineer's services are substantially delayed through no fault of Engineer, then Engineer may, after giving seven days written notice to Owner, suspend services under a Task Order.

- B. *Termination:* The obligation to provide further services under this Agreement, or under a Task Order, may be terminated:

- 1. For cause,
 - a. By either party upon 30 days written notice in the event of substantial failure by the other party to perform in accordance with the terms of this Agreement or any Task Order through no fault of the terminating party.

b. By Engineer:

- 1) upon seven days written notice if Owner demands that Engineer furnish or perform services contrary to Engineer's responsibilities as a licensed professional; or
- 2) upon seven days written notice if the Engineer's services under a Task Order are delayed or suspended for more than 90 days for reasons beyond Engineer's control.
- 3) Engineer shall have no liability to Owner on account of such termination.

c. Notwithstanding the foregoing, neither this Agreement nor the Task Order will terminate under Paragraph 6.05.B.1.a if the party receiving such notice begins, within seven days of receipt of such notice, to correct its substantial failure to perform and proceeds diligently to cure such failure within no more than 30 days of receipt thereof; provided, however, that if and to the extent such substantial failure cannot be reasonably cured within such 30 day period, and if such party has diligently attempted to cure the same and thereafter continues diligently to cure the same, then the cure period provided for herein shall extend up to, but in no case more than, 60 days after the date of receipt of the notice.

2. For convenience,

a. By Owner effective upon Engineer's receipt of notice from Owner.

C. *Effective Date of Termination:* The terminating party under Paragraph 6.05.B may set the effective date of termination at a time up to 30 days later than otherwise provided to allow Engineer to demobilize personnel and equipment from the Site, to complete tasks whose value would otherwise be lost, to prepare notes as to the status of completed and uncompleted tasks, and to assemble Task Order materials in orderly files.

D. *Payments Upon Termination:*

1. In the event of any termination under Paragraph 6.05, Engineer will be entitled to invoice Owner and to receive full payment for all services performed or furnished in accordance with this Agreement and all Reimbursable Expenses incurred through the effective date of termination. Upon making such payment, Owner shall have the limited right to the use of Documents, at Owner's sole risk, subject to the provisions of Paragraph 6.03.E.
2. In the event of termination by Owner for convenience or by Engineer for cause, Engineer shall be entitled, in addition to invoicing for those items identified in Paragraph 6.05.D.1, to invoice Owner and to payment of a reasonable amount for services and expenses directly attributable to termination, both before and after the effective date of termination, such as reassignment of personnel, costs of terminating contracts with Engineer's Consultants, and other related close-out costs, using methods and rates for Additional Services as set forth in the Task Order or Exhibit C, if included.

6.06 *Controlling Law:*

- A. This Agreement is to be governed by the [laws of the State of Tennessee](#).

6.07 *Successors, Assigns, and Beneficiaries:*

- A. Owner and Engineer each is hereby bound and the successors, executors, administrators, and legal representatives of Owner and Engineer (and to the extent permitted by Paragraph 6.07.B the assigns of Owner and Engineer) are hereby bound to the other party to this Agreement and to the successors, executors, administrators and legal representatives (and said assigns) of such other party, in respect of all covenants, agreements and obligations of this Agreement.
- B. Neither Owner nor Engineer may assign, sublet, or transfer any rights under or interest (including, but without limitation, moneys that are due or may become due) in this Agreement without the written consent of the other, except to the extent that any assignment, subletting, or transfer is mandated or restricted by law. Unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under this Agreement.
- C. Unless expressly provided otherwise in this Agreement:
 - 1. Nothing in this Agreement shall be construed to create, impose, or give rise to any duty owed by Owner or Engineer to any Contractor, Subcontractor, Supplier, other individual or entity, or to any surety for or employee of any of them.
 - 2. All duties and responsibilities undertaken pursuant to this Agreement will be for the sole and exclusive benefit of Owner and Engineer and not for the benefit of any other party.
 - 3. The Owner agrees that the substance of the provisions of this Paragraph 6.07.C shall appear in any Contract Documents prepared for any Specific Project under this Agreement.

6.08 *Dispute Resolution:*

- A. Owner and Engineer agree to negotiate all disputes between them in good faith for a period of 30 days from the date of notice prior to invoking the procedures of Exhibit H or other provisions of this Agreement, or exercising their rights under law. [The Parties also agree to set a mediation date during this 30 day period in order to expedite reaching a resolution in the event that negotiation fails.](#)
- B. If the parties fail to resolve a dispute through negotiation or mediation under Paragraph 6.08.A, then either or both may invoke the procedures of Exhibit H [but must participate in good faith in the mediation set pursuant to 6.08.A](#). If Exhibit H is not included, or if no dispute resolution method is specified in Exhibit H, then the parties may exercise their rights under law.

6.09 *Environmental Condition of Site:*

- A. With respect to each Task Order, Specific Project, and Site:
 - 1. Owner has disclosed to Engineer in writing the existence of all known and suspected Asbestos, PCBs, Petroleum, Hazardous Waste, Radioactive Material, hazardous

substances, and other Constituents of Concern located at or near the Site, including type, quantity, and location.

2. Owner represents to Engineer that to the best of its knowledge no Constituents of Concern, other than those disclosed in writing to Engineer, exist at the Site.
3. If Engineer encounters or learns of an undisclosed Constituent of Concern at the Site, then Engineer shall notify (a) Owner and (b) appropriate governmental officials if Engineer reasonably concludes that doing so is required by applicable Laws or Regulations.
4. It is acknowledged by both parties that Engineer's scope of services does not include any services related to Constituents of Concern. If Engineer or any other party encounters an undisclosed Constituent of Concern, or if investigative or remedial action, or other professional services, are necessary with respect to disclosed or undisclosed Constituents of Concern, then Engineer may, at its option and without liability for consequential or any other damages, suspend performance of services on the portion of the Specific Project affected thereby until Owner: (1) retains appropriate specialist consultant(s) or contractor(s) to identify and, as appropriate, abate, remediate, or remove the Constituents of Concern; and (2) warrants that the Site is in full compliance with applicable Laws and Regulations.
5. If the presence at the Site of undisclosed Constituents of Concern adversely affects the performance of Engineer's services under this Agreement, then the Engineer shall have the option of (a) accepting an equitable adjustment in its compensation or in the time of completion, or both; or (b) terminating this Agreement for cause on 30 days notice.
6. Owner acknowledges that Engineer is performing professional services for Owner and that Engineer is not and shall not be required to become an "owner," "arranger," "operator," "generator," or "transporter" of hazardous substances, as defined in the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), as amended, which are or may be encountered at or near the Site in connection with Engineer's activities under this Agreement.

6.10 *Indemnification and Mutual Waiver*

- A. *Indemnification by Engineer:* To the fullest extent permitted by law, Engineer shall indemnify and hold harmless Owner, and Owner's officers, directors, members, partners, agents, consultants, and employees from claims, costs, losses, and damages arising out of or relating to this Agreement, any Task Order, or any Specific Project, provided that any such claim, cost, loss, or damage is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property (other than the Work itself), including the loss of use resulting therefrom, but only to the extent caused by any negligent act or omission of Engineer or Engineer's officers, directors, members, partners, agents, employees, or Consultants.
- B. *Percentage Share of Negligence:* To the fullest extent permitted by law, a party's total liability to the other party and anyone claiming by, through, or under the other party for any cost, loss, or damages caused in part by the negligence of the party and in part by the negligence of the other party or any other negligent entity or individual, shall not exceed the percentage share that the

party's negligence bears to the total negligence of Owner, Engineer, and all other negligent entities and individuals.

- C. *Mutual Waiver*: To the fullest extent permitted by law, Owner and Engineer waive against each other, and the other's employees, officers, directors, members, agents, insurers, partners, and consultants, any and all claims for or entitlement to special, incidental, indirect, or consequential damages arising out of, resulting from, or in any way related to a Specific Project.

6.11 *Miscellaneous Provisions*

- A. *Notices*: Any notice required under this Agreement will be in writing, addressed to the Designated Representative at its address on the signature page and given personally, by e-mail, by facsimile, by registered or certified mail postage prepaid, or by a commercial courier service. All notices shall be effective upon the date of receipt.
- B. *Survival*: All express representations, waivers, indemnifications, and limitations of liability included in this Agreement will survive its completion or termination for any reason.
- C. *Severability*: Any provision or part of the Agreement held to be void or unenforceable under any Laws or Regulations shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon Owner and Engineer, which agree that the Agreement shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.
- D. *Waiver*: A party's non-enforcement of any provision shall not constitute a waiver of that provision, nor shall it affect the enforceability of that provision or of the remainder of this Agreement.
- E. *Accrual of Claims*: To the fullest extent permitted by law, all causes of action arising under this Agreement shall be deemed to have accrued, and all statutory periods of limitation shall commence, no later than the date of Substantial Completion of each particular Specific Project.
- F. *Applicability to Task Orders*: The terms and conditions set forth in this Agreement apply to each Task Order as if set forth in the Task Order, unless specifically modified. In the event of conflicts between this Agreement and a Task Order, the conflicting provisions of the Task Order shall take precedence for that Task Order. The provisions of this Agreement shall be modified only by a written instrument. Such amendments shall be applicable to all Task Orders issued after the effective date of the amendment if not otherwise set forth in the amendment.
- G. *Non-Exclusive Agreement*: Nothing herein shall establish an exclusive relationship between Owner and Engineer. Owner may enter into similar agreements with other professionals for the same or different types of services contemplated hereunder, and Engineer may enter into similar or different agreements with other project owners for the same or different services contemplated hereunder.

ARTICLE 7 – DEFINITIONS

7.01 *Defined Terms*

- A. Wherever used in this Agreement (including the Exhibits hereto and any Task Order) terms (including the singular and plural forms) printed with initial capital letters have the meanings indicated in the text above, in the exhibits or Task Order, or in the following provisions:

1. *Addenda*: Written or graphic instruments issued prior to the opening of Bids which clarify, correct, or change the Bidding Documents.
2. *Additional Services*: Services to be performed for or furnished to Owner by Engineer in accordance with a Task Order which are not included in Basic Services for that Task Order.
3. *Agreement*: This Agreement between Owner and Engineer for Professional Services – Task Order Edition including those Exhibits listed in Article 8 and any duly executed Task Order.
4. *Application for Payment*: The form acceptable to Engineer which is to be used by a Contractor in requesting progress or final payments for the completion of its Work and which is to be accompanied by such supporting documentation as is required by the Contract Documents.
5. *Asbestos*: Any material that contains more than one percent asbestos and is friable or is releasing asbestos fibers into the air above current action levels established by the United States Occupational Safety and Health Administration.
6. *Basic Services*: Specified services to be performed for or furnished to Owner by Engineer in accordance with a Task Order.
7. *Bid*: The offer or proposal of a bidder submitted on the prescribed form setting forth the prices for the Work to be performed.
8. *Bidding Documents*: The advertisement or invitation to Bid, instructions to bidders, the Bid form and attachments, the Bid bond, if any, the proposed Contract Documents, and all Addenda, if any.
9. *Change Order*: A document recommended by Engineer, which is signed by a Contractor and Owner to authorize an addition, deletion or revision in the Work, or an adjustment in the Contract Price or the Contract Times.
10. *Constituent of Concern*: Any substance, product, waste, or other material of any nature whatsoever (including, but not limited to, Asbestos, Petroleum, Radioactive Material, and PCBs) which is or becomes listed, regulated, or addressed pursuant to (a) the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §§9601 et seq. (“CERCLA”); (b) the Hazardous Materials Transportation Act, 49 U.S.C. §§1801 et seq.; (c) the Resource Conservation and Recovery Act, 42 U.S.C. §§6901 et seq. (“RCRA”); (d) the Toxic Substances Control Act, 15 U.S.C. §§2601 et seq.; (e) the Clean Water Act, 33 U.S.C. §§1251 et seq.; (f) the Clean Air Act, 42 U.S.C. §§7401 et seq.; and (g) any other federal, state, or local statute, law, rule, regulation, ordinance, resolution, code, order, or decree regulating, relating to, or imposing liability or standards of conduct concerning, any hazardous, toxic, or dangerous waste, substance, or material.
11. *Construction Agreement*: The written instrument which is evidence of the agreement, contained in the Contract Documents, between Owner and a Contractor covering the Work.
12. *Construction Contract*: The entire and integrated written agreement between Owner and Contractor concerning the Work.

13. *Construction Cost:* The cost to Owner of those portions of an entire Specific Project designed or specified by Engineer. Construction Cost does not include costs of services of Engineer or other design professionals and consultants; cost of land or rights-of-way, or compensation for damages to properties; Owner's costs for legal, accounting, insurance counseling or auditing services; interest or financing charges incurred in connection with a Specific Project; or the cost of other services to be provided by others to Owner pursuant to Exhibit B of this Agreement. Construction Cost is one of the items comprising Total Project Costs.
14. *Consultants:* Individuals or entities having a contract with Engineer to furnish services with respect to a Specific Project as Engineer's independent professional associates, consultants, subcontractors, or vendors. The term Engineer includes Engineer's Consultants.
15. *Contract Documents:* Those items so designated in the Construction Contract, including the Drawings, Specifications, construction agreement, and general and supplementary conditions. Only printed or hard copies of the items listed in the Construction Contract are Contract Documents. Approved Shop Drawings, other Contractor submittals, and the reports and drawings of subsurface and physical conditions are not Contract Documents.
16. *Contract Price:* The moneys payable by Owner to a Contractor for completion of the Work in accordance with the Contract Documents and as stated in the Construction Agreement.
17. *Contract Times:* The numbers of days or the dates stated in a Construction Agreement to: (i) achieve Substantial Completion, and (ii) complete the Work so that it is ready for final payment as evidenced by Engineer's written recommendation of final payment.
18. *Contractor:* The entity or individual with which Owner has entered into the Construction Contract.
19. *Correction Period:* The time after Substantial Completion during which a Contractor must correct, at no cost to Owner, any Defective Work, normally one year after the date of Substantial Completion or such longer period of time as may be prescribed by Laws or Regulations or by the terms of any applicable special guarantee or specific provision of the Contract Documents.
20. *Defective:* An adjective which, when modifying the word Work, refers to Work that is unsatisfactory, faulty, or deficient, in that it does not conform to the Contract Documents, or does not meet the requirements of any inspection, reference standard, test, or approval referred to in the Contract Documents, or has been damaged prior to Engineer's recommendation of final payment.
21. *Documents:* Data, reports, Drawings, Specifications, Record Drawings, and other deliverables, whether in printed or electronic media format, provided or furnished in appropriate phases by Engineer to Owner pursuant to this Agreement.
22. *Drawings:* That part of the Contract Documents prepared or approved by Engineer which graphically shows the scope, extent, and character of the Work to be performed by a Contractor. Shop Drawings are not Drawings as so defined.
23. *Effective Date of the Construction Agreement:* The date indicated in a Construction Agreement on which it becomes effective, but if no such date is indicated, it means the date

on which the Construction Agreement is signed and delivered by the last of the two parties to sign and deliver.

24. *Effective Date of the Agreement*: The date indicated in this Agreement on which it becomes effective, but if no such date is indicated, it means the date on which the Agreement is signed and delivered by the last of the two parties to sign and deliver.
25. *Effective Date of the Task Order*: The date indicated in the Task Order on which it becomes effective, but if no such date is indicated, it means the date on which the Task Order is signed and delivered by the last of the two parties to sign and deliver.
26. *Engineer*: The individual or entity named as such in this Agreement.
27. *Field Order*: A written order issued by Engineer which directs minor changes in the Work but which does not involve a change in the Contract Price or the Contract Times.
28. *General Conditions*: That part of the Contract Documents which sets forth terms, conditions, and procedures that govern the Work to be performed or furnished by a Contractor with respect to a Specific Project.
29. *Hazardous Waste*: The term Hazardous Waste shall have the meaning provided in Section 1004 of the Solid Waste Disposal Act (42 USC Section 6903) as amended from time to time.
30. *Laws and Regulations; Laws or Regulations*: Any and all applicable laws, rules, regulations, ordinances, codes, standards, and orders of any and all governmental bodies, agencies, authorities, and courts having jurisdiction.
31. *Owner*: The individual or entity with which Engineer has entered into this Agreement and for which the Engineer's services are to be performed. Unless indicated otherwise, this is the same individual or entity that will enter into any construction contracts concerning the Project.
32. *PCBs*: Polychlorinated biphenyls.
33. *Petroleum*: Petroleum, including crude oil or any fraction thereof which is liquid at standard conditions of temperature and pressure (60 degrees Fahrenheit and 14.7 pounds per square inch absolute), such as fuel oil, oil sludge, oil refuse, gasoline, kerosene, and oil mixed with other non-Hazardous Waste and crude oils.
34. *Project*: The total construction of which the Work to be performed under the Contract Documents may be the whole, or a part.
35. *Radioactive Materials*: Source, special nuclear, or byproduct material as defined by the Atomic Energy Act of 1954 (42 USC Section 2011 et seq.) as amended from time to time.
36. *Record Drawings*: The Drawings as issued for construction on which Engineer, upon completion of the Work, has shown changes due to Addenda or Change Orders and other information which Engineer considers significant based on record documents furnished by Contractor to Engineer and which were annotated by Contractor to show changes made during construction.

37. *Reimbursable Expenses:* The expenses incurred directly by Engineer in connection with the performing or furnishing of Basic and Additional Services for a Specific Project for which Owner shall pay Engineer as indicated in the Task Orders.
38. *Resident Project Representative:* The authorized representative, if any, of Engineer assigned to assist Engineer at the Site of a Specific Project during the Construction Phase. As used herein, the term Resident Project Representative or "RPR" includes any assistants or field staff of the RPR agreed to by Owner. The duties and responsibilities of the RPR, if any, will be as set forth in each Task Order.
39. *Samples:* Physical examples of materials, equipment, or workmanship that are representative of some portion of the Work and which establish the standards by which such portion of the Work will be judged.
40. *Shop Drawings:* All drawings, diagrams, illustrations, schedules, and other data or information which are specifically prepared or assembled by or for a Contractor and submitted by a Contractor to Engineer to illustrate some portion of the Work.
41. *Site:* Lands or areas indicated in the Contract Documents for a Specific Project as being furnished by Owner upon which the Work is to be performed, rights-of-way and easements for access thereto, and such other lands furnished by Owner which are designated for use of a Contractor.
42. *Specifications:* That part of the Contract Documents prepared by Engineer consisting of written technical descriptions of materials, equipment, systems, standards, and workmanship as applied to the Work to be performed by a Contractor and certain administrative details applicable thereto.
43. *Specific Project:* An undertaking of Owner as set forth in a Task Order.
44. *Subcontractor:* An individual or entity having a direct contract with Contractor or with any other Subcontractor for the performance of a part of the Work at a Site.
45. *Substantial Completion:* The time at which the Work has progressed to the point where, in the opinion of Engineer, the Work is sufficiently complete, in accordance with the Contract Documents, so that the Work can be utilized for the purposes for which it is intended.
46. *Supplementary Conditions:* That part of the Contract Documents which amends or supplements the General Conditions.
47. *Supplier:* A manufacturer, fabricator, supplier, distributor, materialman, or vendor having a direct contract with Contractor or with any Subcontractor to furnish materials or equipment to be incorporated in the Work by Contractor or Subcontractor.
48. *Task Order:* A document executed by Owner and Engineer, including amendments if any, stating the scope of services, Engineer's compensation, times for performance of services and other relevant information for a Specific Project.
49. *Total Project Costs:* The sum of the Construction Cost, allowances for contingencies, the total costs of services of Engineer or other design professionals and consultants, cost of land, rights-of-way, or compensation for damages to properties, or Owner's costs for legal,

accounting, insurance counseling, or auditing services, or interest and financing charges incurred in connection with a Specific Project, or the cost of other services to be provided by others to Owner pursuant to Exhibit B of this Agreement.

50. *Work*: The entire completed construction or the various separately identifiable parts thereof required to be provided under the Contract Documents for a Specific Project. Work includes and is the result of performing or providing all labor, services, and documentation necessary to produce such construction and furnishing, installing, and incorporating all materials and equipment into such construction, all as required by those Contract Documents.
51. *Work Change Directive*: A written directive to a Contractor signed by Owner upon recommendation of the Engineer, ordering an addition, deletion, or revision in the Work, or responding to differing or unforeseen subsurface or physical conditions under which the Work is to be performed or to emergencies. A Work Change Directive will not change the Contract Price or the Contract Times but is evidence that the parties expect that the change directed or documented by a Work Change Directive will be incorporated in a subsequently issued Change Order following negotiations by the parties as to its effect, if any, on the Contract Price or Contract Times.

ARTICLE 8 – EXHIBITS AND SPECIAL PROVISIONS

8.01 Exhibits

Exhibit A, Engineer's Services [*NOTE: Services, tasks, and terms in Exhibit A are for reference in preparing specific Task Orders, and are contractually binding only to the extent expressly incorporated in a specific Task Order*].

Exhibit B, Owner's Responsibilities

Exhibit C, Payments to Engineer for Services and Reimbursable Expenses

Exhibit D, Duties, Responsibilities and Limitations of Authority of Resident Project Representative

Exhibit E, Notice of Acceptability of Work – NOT INCLUDED

Exhibit F, Construction Cost Limit

Exhibit G, Insurance

Exhibit H, Dispute Resolution

Exhibit J, Special Provisions

8.02 Total Agreement

- A. This Agreement (together with the Exhibits identified as included above) constitutes the entire agreement between Owner and Engineer and supersedes all prior written or oral understandings. This Agreement may only be amended, supplemented, modified, or canceled by a duly executed written instrument based on the format provided in Exhibit K to this Agreement, "Amendment to Task Order."

8.03 *Designated Representatives*

- A. With the execution of this Agreement, Engineer and Owner shall designate specific individuals to act as Engineer's and Owner's representatives with respect to the services to be performed or furnished by Engineer and responsibilities of Owner under this Agreement. Such individuals shall have authority to transmit instructions, receive information, and render decisions relative to the Agreement on behalf of each respective party. Each Task Order shall likewise designate representatives of the two parties.

8.04 *Engineer's Certifications*

- A. Engineer certifies that it has not engaged in corrupt, fraudulent, or coercive practices in competing for or in executing the Agreement. For the purposes of this Paragraph 8.04:
 - 1. "corrupt practice" means the offering, giving, receiving, or soliciting of any thing of value likely to influence the action of a public official in the selection process or in the Agreement execution;
 - 2. "fraudulent practice" means an intentional misrepresentation of facts made (a) to influence the selection process or the execution of the Agreement to the detriment of Owner, or (b) to deprive Owner of the benefits of free and open competition;
 - 3. "coercive practice" means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the selection process or affect the execution of the Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement, the Effective Date of which is indicated on Page 1.

OWNER:

ENGINEER:

By: _____

Name: _____

Title: _____

Date Signed: _____

Address for giving notices:

P.O. Box 1499

Morristown, Tennessee 37816-1499

DESIGNATED REPRESENTATIVE
(Paragraph 8.03.A):

Larry Clark

Title: Assistant City Administrator

Phone Number: 423-585-4617

Facsimile Number: 423-586-4661

E-Mail lclark@mymorristown.com

Address: _____

By: Randy W. Beckner

Name: Randy W. Beckner, P.E.

Title: Chairman of the Board

Engineer License or Firm's
Certificate No. PE# 101559

State of : Tennessee

Date Signed: 8/10/18

Address for giving notices:

429 Clay Street

Kingsport, Tennessee 37660

DESIGNATED REPRESENTATIVE
(Paragraph 8.03.A):

Jason Carder, P.E.

Title: Project Manager

Phone Number: 423-245-4970

Facsimile Number: 423-245-5932

E-Mail jacarder@matternandcraig.com

Address: _____

This is **EXHIBIT B**, consisting of 3 pages, referred to in and part of the **Agreement between Owner and Engineer for Professional Services – Task Order Edition** dated August 22, 2018.

Owner's Responsibilities

Article 2 of the Agreement is amended and supplemented to include the following responsibilities unless expressly stated otherwise in a Task Order.

B2.01 In addition to other responsibilities of Owner as set forth in this Agreement, with respect to each Task Order the Owner shall at its expense:

- A. Provide Engineer with all criteria and full information as to Owner's requirements for the Specific Project, including design objectives and constraints, space, capacity and performance requirements, flexibility, and expandability, and any budgetary limitations; and furnish copies of all design and construction standards which Owner will require to be included in the Drawings and Specifications; and furnish copies of Owner's standard forms, conditions, and related documents for Engineer to include in the Bidding Documents, when applicable.
- B. Furnish to Engineer any other available information pertinent to the Specific Project including reports and data relative to previous designs, or investigation at or adjacent to the Site of the Specific Project.
- C. Following Engineer's assessment of initially-available Specific Project information and data and upon Engineer's request, furnish or otherwise make available such additional Specific Project related information and data as is reasonably required to enable Engineer to complete its Basic and Additional Services. Such additional information or data would generally include the following:
 - 1. Property descriptions.
 - 2. Zoning, deed, and other land use restrictions.
 - 3. Property, boundary, easement, right-of-way, and other special surveys or data, including establishing relevant reference points.
 - 4. Explorations and tests of subsurface conditions at or contiguous to the Site, drawings of physical conditions relating to existing surface or subsurface structures at the Site, or hydrographic surveys, with appropriate professional interpretation thereof.
 - 5. Environmental assessments, audits, investigations and impact statements, and other relevant environmental or cultural studies as to a Specific Project, the Site and adjacent areas.
 - 6. Data or consultations as required for a Specific Project but not otherwise identified in the Agreement, the Exhibits thereto, or the Task Order.
- D. Give prompt written notice to Engineer whenever Owner observes or otherwise becomes aware of the presence at the Site of any Constituent of Concern, or of any other development that

affects the scope or time of performance of Engineer's services, or any defect or nonconformance in Engineer's services, the Work, or in the performance of any Contractor.

- E. Authorize Engineer to provide Additional Services as set forth in each Task Order as required.
- F. Coordinate with Engineer to arrange for access to and make all provisions for Engineer to enter upon public property as required for Engineer to perform services under the Task Order.
- G. Examine all alternate solutions, studies, reports, sketches, Drawings, Specifications, proposals, and other documents presented by Engineer for the Specific Project (including obtaining advice of an attorney, insurance counselor, and other advisors or consultants as Owner deems appropriate with respect to such examination) and render in writing timely decisions pertaining thereto.
- H. Recognizing and acknowledging that Engineer's services and expertise do not include the following services, provide, as required for the Specific Project:
 - 1. Accounting, bond and financial advisory, independent cost estimating, and insurance counseling services.
 - 2. Legal services with regard to issues pertaining to the Specific Project as Owner requires, a Contractor raises, or Engineer reasonably requests.
 - 3. Such auditing services as Owner requires to ascertain how or for what purpose a Contractor has used the moneys paid.
- I. Place and pay for Advertisement for Bids in appropriate publications.
- J. Advise Engineer of the identity and scope of services of any independent consultants employed by Owner to perform or furnish services in regard to the Specific Project, including, but not limited to, cost estimating, project peer review, value engineering, and constructability review.
- K. Furnish to Engineer data as to Owner's anticipated costs for services to be provided by others (including, but not limited to, accounting, bond and financial, independent cost estimating, insurance counseling and legal advice) for Owner so that Engineer may assist the Owner in collating the various cost categories which comprise Total Project Costs.
- L. If Owner designates a construction manager or an individual or entity other than, or in addition to, Engineer to represent Owner at the Site, define and set forth in the Task Order the duties, responsibilities, and limitations of authority of such other party and the relation thereof to the duties, responsibilities, and authority of Engineer.
- M. If more than one prime contract is to be awarded for the Work of the Specific Project designed or specified by Engineer, designate in the Task Order a person or entity to have authority and responsibility for coordinating the activities among the various prime Contractors. Define and set forth in the Task Order the duties, responsibilities, and limitations of authority of such individual or entity and the relation thereof to the duties, responsibilities, and authority of Engineer.
- N. Attend the pre-bid conference, bid opening, pre-construction conferences, construction progress and other job related meetings, and Substantial Completion and final payment visits to the Site.

- O. Provide Engineer with the findings and reports generated by any independent testing laboratory, if Engineer is required to review such documents.
- P. Inform Engineer of any specific requirements of safety or security programs that are applicable to Engineer, as a visitor to the Site.

This is **EXHIBIT C**, consisting of 3 pages, referred to in and part of the **Agreement between Owner and Engineer for Professional Services – Task Order Edition** dated August 22, 2018.

Payments to Engineer for Services and Reimbursable Expenses

Article 2 of the Agreement is amended and supplemented to include the following agreement of the parties:

ARTICLE 2 – OWNER'S RESPONSIBILITIES

C2.01 *Method of Payment*

A. Owner shall pay Engineer for services in accordance with one or more of the following methods as identified in each Task Order:

1. Method A: Lump Sum
2. Method C: Direct Labor Costs Times a Factor

C2.02 *Explanation of Methods*

A. Method A – Lump Sum

1. Owner shall pay Engineer a Lump Sum amount for the specified category of services.
2. The Lump Sum will include compensation for Engineer's services and services of Consultants, if any. Appropriate amounts will be incorporated in the Lump Sum to account for labor, overhead, profit, and Reimbursable Expenses.
3. The portion of the Lump Sum amount billed for Engineer's services will be based upon Engineer's estimate of the proportion of the total services actually completed during the billing period to the Lump Sum.

B. Method C – Direct Labor Costs Times a Factor

1. For the specified category of services, the Owner shall pay Engineer an amount equal to Engineer's Direct Labor Costs times a Factor of 3.4 for the services of Engineer's employees engaged on the Specific Project, plus Reimbursable Expenses, and Engineer's Consultant's charges, if any. Direct Labor Costs means salaries and wages paid to employees but does not include payroll related costs or benefits.
2. Engineer's Reimbursable Expenses Schedule is attached to this Exhibit as Appendix 1.
3. The total estimated compensation for the specified category of services shall be stated in the Task Order. This total estimated compensation incorporates all labor, overhead, profit, Reimbursable Expenses, and Engineer's Consultant's charges, if any.

4. The amounts billed will be based on the applicable Direct Labor Costs for the cumulative hours charged to the specified category of services on the Specific Project during the billing period times the above-designated Factor, plus Reimbursable Expenses and Engineer's Consultant's charges, if any.
5. The Direct Labor Costs and the Factor applied to Direct Labor Costs will be adjusted annually (as of June 1) to reflect equitable changes in the compensation payable to Engineer.

C2.03 *Reimbursable Expenses*

Costs incurred by Engineer in the performance of the Task Order in the following categories constitute Reimbursable Expenses:

- A. Transportation and subsistence incidental thereto; advertisements, postage, and shipping costs; providing and maintaining field office facilities including furnishings and utilities; subsistence and transportation of Resident Project Representative and their assistants; toll telephone calls, faxes, and telegrams; and reproduction of reports, Drawings, Specifications, Bidding Documents, and similar Specific Project-related items in addition to those required under Exhibit A. If authorized in advance by Owner, Reimbursable Expenses will also include expenses incurred for computer time and the use of other highly specialized equipment. Reimbursable expenses shall be paid at rates set forth in Appendix 1 to this Exhibit C which shall be adjusted annually (as of June 1) to reflect equitable changes in the rates.
- B. The amounts payable to Engineer for Reimbursable Expenses will be the project-specific internal expenses actually incurred or allocated by Engineer, plus all invoiced external Reimbursable Expenses allocable to a Specific Project, the latter multiplied by a Factor of 1.1.

C2.05 *Other Provisions Concerning Payment*

- A. *Extended Contract Times.* Should the Contract Times to complete the Work be extended beyond the period stated in the Task Order, payment for Engineer's services shall be continued based on the Standard Hourly Rates Method of Payment.
- B. *Estimated Compensation Amounts*
 1. Engineer's estimate of the amounts that will become payable for services are only estimates for planning purposes, are not binding on the parties, and are not the minimum or maximum amounts payable to Engineer under the Agreement.
 2. When estimated compensation amounts have been stated in a Task Order and it subsequently becomes apparent to Engineer that a compensation amount thus estimated will be exceeded, Engineer shall give Owner written notice thereof. Promptly thereafter Owner and Engineer shall review the matter of services remaining to be performed and compensation for such services. Owner shall either agree to such compensation exceeding said estimated amount or Owner and Engineer shall agree to a reduction in the remaining services to be rendered by Engineer so that total compensation for such services will not exceed said estimated amount when such services are completed. If Engineer exceeds the estimated amount before Owner and Engineer have agreed to an increase in the

compensation due Engineer or a reduction in the remaining services, the Engineer shall give written notice thereof to Owner and shall be paid for all services rendered thereafter.

This is **Appendix 1 to EXHIBIT C**, consisting of 1 page, referred to in and part of the **Standard Form of Agreement between Owner and Engineer for Professional Services – Task Order Edition**, dated August 22, 2018.

Reimbursable Expenses Schedule

Current agreements for engineering services stipulate that the Reimbursable Expenses are subject to review and adjustment per Exhibit C. Rates for reimbursable expenses effective on the date of this Agreement are:

Photo-copies	<u>\$ 0.08</u>	per sheet
Full Size Plan Sheets (bond)	<u>0.40</u>	per sheet
Half Size Plan Sheets (bond)	<u>0.20</u>	per sheet
Full Size Plan Sheets (mylar)	<u>5.00</u>	per sheet
Overnight postage – letter	<u>15.00</u>	per shipment
Overnight postage – plans	<u>30.00</u>	per shipment
Mileage (Auto)	<u>0.47</u>	per mile
Parking Fee	<u>8.00</u>	per day
Lodging	<u>77.00</u>	per night
Meals	<u>46.00</u>	per day

Schedule of Duties, Responsibilities, and Limitations of Authority of Resident Project Representative

The following duties, responsibilities, and limitations of authority may be incorporated in the Task Order for a Specific Project:

D1.01 Resident Project Representative

- A. Engineer shall furnish a Resident Project Representative ("RPR") to assist Engineer in observing progress and quality of the Work. The RPR may provide full time representation or may provide representation to a lesser degree.
- B. Through RPR's observations of Contractor's work in progress and field checks of materials and equipment, Engineer shall endeavor to provide further protection for Owner against defects and deficiencies in the Work. However, Engineer shall not, during such RPR field checks or as a result of such RPR observations of Contractor's work in progress, by the RPR, supervise, direct, or have control over Contractor's work, nor shall Engineer (including the RPR) have authority over or responsibility for the means, methods, techniques, sequences, or procedures selected or used by any contractor, for security or safety at the Site, for safety precautions and programs incident to any contractor's work in progress, or for any failure of a contractor to comply with Laws and Regulations applicable to such contractor's performing and furnishing of its work. The Engineer (including RPR) neither guarantees the performances of any contractor nor assumes responsibility for any contractor's failure to furnish and perform the Work in accordance with the Contract Documents. In addition, the specific limitations set forth in Paragraph A1.05 of Exhibit A as incorporated in the Task Order are applicable.
- C. The duties and responsibilities of the RPR are limited to those of Engineer in the Agreement with the Owner and in the Contract Documents, and are further limited and described as follows:
 1. *General*: RPR is Engineer's representative at the Site, will act as directed by and under the supervision of Engineer, and will confer with Engineer regarding RPR's actions.
 - RPR's dealings in matters pertaining to a Contractor's work in progress shall in general be with Engineer and Contractor.
 - RPR's dealings with Subcontractors shall only be through or with the full knowledge and approval of Contractor.
 - RPR shall generally communicate with Owner only with the knowledge of and under the direction of Engineer.
 2. *Schedules*: Review the progress schedule, schedule of Shop Drawing and Sample submittals, and schedule of values prepared by a Contractor and consult with Engineer concerning acceptability.

3. *Conferences and Meetings:* Attend meetings with Contractor, such as preconstruction conferences, progress meetings, job conferences and other project-related meetings, and prepare and circulate copies of minutes thereof.
4. *Liaison:*
 - a. Serve as Engineer's liaison with Contractor. Working principally through Contractor's authorized representative or designee, and assist in providing information regarding the intent of the Contract Documents.
 - b. Assist Engineer in serving as Owner's liaison with Contractor when Contractor's operations affect Owner's on-Site operations.
 - c. Assist in obtaining from Owner additional details or information, when required for proper execution of the Work.
5. *Interpretation of Contract Documents:* Report to Engineer when clarifications and interpretations of the Contract Documents are needed and transmit to Contractor clarifications and interpretations as issued by Engineer.
6. *Shop Drawings and Samples:*
 - a. Record date of receipt of Samples and approved Shop Drawings.
 - b. Receive Samples which are furnished at the Specific Project Site by Contractor, and notify Engineer of availability of Samples for examination.
 - c. Advise Engineer and Contractor of the commencement of any portion of the Work requiring a Shop Drawing or Sample submittal for which RPR believes that the submittal has not been approved by Engineer.
7. *Modifications:* Consider and evaluate Contractor's suggestions for modifications in Drawings or Specifications and report such suggestions, together with RPR's recommendations, to Engineer. Transmit to Contractor in writing decisions as issued by Engineer.
8. *Review of Work and Rejection of Defective Work:*
 - a. Conduct on-Site observations of Contractor's work in progress to assist Engineer in determining if the Work is in general proceeding in accordance with the Contract Documents.
 - b. Report to Engineer whenever RPR believes that any part of Contractor's work in progress will not produce a completed project that conforms generally to the Contract Documents or will imperil the integrity of the design concept of the completed Specific Project as a functioning whole as indicated in the Contract Documents, or has been damaged, or does not meet the requirements of any inspection, test or approval required to be made; and advise Engineer of that part of work in progress that RPR believes should be corrected or rejected or should be uncovered for observation, or requires special testing, inspection or approval.

9. *Inspections, Tests, and System Start-ups:*

- a. Consult with Engineer in advance of scheduled inspections, tests, and systems start-ups.
- b. Verify that tests, equipment, and systems start-ups and operating and maintenance training are conducted in the presence of appropriate Owner's personnel, and that Contractor maintains adequate records thereof.
- c. Observe, record, and report to Engineer appropriate details relative to the test procedures and systems start-ups.
- d. Accompany visiting inspectors representing public or other agencies having jurisdiction over a Specific Project, record the results of these inspections, and report to Engineer.

10. *Records:*

- a. Maintain at the Site orderly files for correspondence, reports of job conferences, reproductions of original Contract Documents including all change orders, field orders, work change directives, addenda, additional Drawings issued subsequent to the execution of the Construction Contract, Engineer's clarifications and interpretations of the Contract Documents, progress reports, Shop Drawing and Sample submittals received from and delivered to Contractor, and other Specific Project-related documents.
- b. Prepare a daily report or keep a diary or log book, recording Contractor's hours on the Site, weather conditions, data relative to questions of change orders, field orders, work change directives, or changed conditions, Site visitors, daily activities, decisions, observations in general, and specific observations in more detail as in the case of observing test procedures; and send copies to Engineer.
- c. Record names, addresses, fax numbers, e-mail addresses, web site locations and telephone numbers of all Contractors, Subcontractors, and major Suppliers of materials and equipment.
- d. Maintain records for use in preparing project documentation.
- e. Upon completion of the Work, furnish original set of all RPR Specific Project documentation to Engineer.

11. *Reports:*

- a. Furnish to Engineer periodic reports as required of progress of the Work and of Contractor's compliance with the progress schedule and schedule of Shop Drawing and Sample submittals.
- b. Draft and recommend to Engineer proposed change orders, work change directives, and Field Orders. Obtain backup material from Contractor.
- c. Furnish to Engineer and Owner copies of all inspection, test, and system startup reports.

- d. Immediately notify Engineer of the occurrence of any Site accidents, emergencies, acts of God endangering the Work, damage to property by fire or other causes, or the discovery of any Constituent of Concern..

12. *Payment Requests:*

- a. Review applications for payment with Contractor for compliance with the established procedure for their submission and forward with recommendations to Engineer, noting particularly the relationship of the payment requested to the schedule of values, Work completed, and materials and equipment delivered at the Site but not incorporated in the Work.

13. *Certificates, Operation and Maintenance Manuals:*

- a. During the course of the Work, verify that materials and equipment certificates, operation and maintenance manuals and other data required by the Specifications to be assembled and furnished by a Contractor are applicable to the items actually installed and in accordance with the Contract Documents, and have these documents delivered to Engineer for review and forwarding to Owner prior to payment for that part of the Work.

14. *Completion:*

- a. Participate in visits to the Project to assist in determining Substantial Completion, assist in the determination of Substantial Completion and the preparation of lists of items to be completed or corrected.
- b. Participate in a final visit to the Project in the company of Engineer, Owner, and Contractor and prepare a final list of items to be completed and deficiencies to be remedied.

D. Resident Project Representative shall not:

1. Authorize any deviation from the Contract Documents or substitution of materials or equipment (including "or-equal" items).
2. Exceed limitations of Engineer's authority as set forth in this Agreement.
3. Undertake any of the responsibilities of a Contractor, subcontractors, suppliers, or a Contractor's superintendent.
4. Advise on, issue directions relative to, or assume control over any aspect of the means, methods, techniques, sequences or procedures of the Contractor's work.
5. Advise on, issue directions regarding, or assume control over security safety practices, precautions and programs in connection with the activities or operations of Owner or Contractor.
6. Participate in specialized field or laboratory tests or inspections conducted off-site by others except as specifically authorized by Engineer.
7. Accept Shop Drawing or Sample submittals from anyone other than Contractor.

8. Authorize Owner to occupy a Specific Project in whole or in part.

Construction Cost Limit

Paragraph 5.02 of the Agreement is amended and supplemented to include the following agreement of the parties:

F5.02 *Designing to Construction Cost Limit*

- A. Owner and Engineer hereby agree to a Construction Cost limit equal to the amount approved by City Council.
- B. Engineer will be permitted to determine what types and quality of materials, equipment and component systems are to be included in the Drawings and Specifications. Engineer may make reasonable adjustments in the scope, extent, and character of the Project to the extent consistent with the Project requirements and sound engineering practices, to bring the Project within the Construction Cost limit.
- C. If the lowest bona fide proposal or Bid exceeds the established Construction Cost limit, Owner shall (1) give written approval to increase such Construction Cost limit, or (2) authorize negotiating or rebidding the Project within a reasonable time, or (3) cooperate in revising the Project's scope, extent, or character to the extent consistent with the Project's requirements and with sound engineering practices. In the case of (3), Engineer shall modify the Contract Documents as necessary to bring the Construction Cost within the Construction Cost Limit. Owner shall pay Engineer's cost to provide such modification services, including the costs of the services of Engineer's Consultants, all overhead expenses reasonably related thereto, and Reimbursable Expenses. The providing of such services will be the limit of Engineer's responsibility in this regard and, having done so, Engineer shall be entitled to payment for services and expenses in accordance with this Agreement and will not otherwise be liable for damages attributable to the lowest bona fide proposal or Bid exceeding the established Construction Cost limit.

Insurance

Paragraph 6.04 of the Agreement is amended and supplemented to include the following agreement of the parties.

G6.04 Insurance

- A. The limits of liability for the insurance required by Paragraph 6.04.A of the Agreement are as follows:

1. By Engineer

- a. Workers' Compensation Statutory

- b. Employer's Liability –

- | | |
|---------------------------|------------------|
| 1) Each Accident | <u>\$100,000</u> |
| 2) Disease, Policy Limit | <u>\$500,000</u> |
| 3) Disease, Each Employee | <u>\$100,000</u> |

- c. General Liability –

- | | |
|--|--------------------|
| 1) Each Occurrence (Bodily Injury and Property Damage) | <u>\$1,000,000</u> |
| 2) General Aggregate | <u>\$2,000,000</u> |

- d. Excess or Umbrella Liability –

- | | |
|----------------------|--------------------|
| 1) Each Occurrence | <u>\$5,000,000</u> |
| 2) General Aggregate | <u>\$5,000,000</u> |

- e. Automobile Liability –

- | | |
|---|--------------------|
| 1) Combined Single Limit (Bodily Injury and Property Damage)
Each Accident | <u>\$1,000,000</u> |
|---|--------------------|

- f. Professional Liability –

- | | |
|---------------------|--------------------|
| 1) Each Claim Made | <u>\$4,000,000</u> |
| 2) Annual Aggregate | <u>\$4,000,000</u> |

2. By Owner

- a. Workers' Compensation Statutory

b. Employer's Liability –

1) Each Accident	<u>\$100,000</u>
2) Disease, Policy Limit	<u>\$500,000</u>
3) Disease, Each Employee	<u>\$100,000</u>

c. General Liability –

1) General Aggregate	<u>\$2,000,000</u>
2) Each Occurrence (Bodily Injury and Property Damage)	<u>\$1,000,000</u>

d. Excess Umbrella Liability –

1) Each Occurrence	<u>N/A</u>
2) General Aggregate	<u>N/A</u>

e. Automobile Liability –

1) Combined Single Limit (Bodily Injury and Property Damage) Each Accident	<u>\$1,000,000</u>
---	--------------------

B. Additional Insureds

1. The Owner shall be listed as an additional insured on all of the following policies which the Engineer has in effect: General Liability, Excess Liability, Umbrella Liability, Environmental Liability, and Automobile Liability.
 - a. The Engineer will provide a copy of the insurance policy endorsement along with their Certificate of Insurance to verify the Liability Insurance Additional Insured status.

C. Workers' Compensation

1. Waiver of Subrogation for the City of Morristown is required.
 - a. The Engineer will provide a copy of the insurance policy endorsement along with their Certificate of Insurance to verify the Workers' Compensation Wavier of Subrogation.
2. The City of Morristown will not accept any owner-partner-member or officer to be excluded from the Workers' compensation coverage except according to Tennessee State law regarding contractors' exemptions.
 - a. A copy of the Workers' Compensation Exemption must be provided with the Certificate of Insurance.

This is **EXHIBIT H**, consisting of 1 page, referred to in and part of the **Agreement between Owner and Engineer for Professional Services – Task Order Edition** dated August 22, 2018.

Dispute Resolution

Paragraph 6.08 of the Agreement is supplemented to include the following agreement of the parties:

H6.08 Dispute Resolution

- A. Owner and Engineer agree that they shall first submit any and all unsettled claims, counterclaims, disputes, and other matters in question between them arising out of or relating to this Agreement, including any Task Order, or the breach thereof ("Disputes") to mediation by a mediator or mediation service to be jointly selected and agreed upon by both Owner and Engineer. Owner and Engineer agree to participate in the mediation process in good faith. The process should be conducted on a confidential basis, and shall be completed within 120 days. If such mediation is unsuccessful in resolving a Dispute, then (1) the parties may mutually agree to a dispute resolution of their choice, or (2) either party may seek to have the Dispute resolved by a court of competent jurisdiction located in Hamblen County, Tennessee or in the United State Federal Court located in Greeneville, Tennessee.

This is **EXHIBIT J**, consisting of 2 pages, referred to in and part of the **Agreement between Owner and Engineer for Professional Services** dated August 22, 2018 .

Special Provisions

Paragraph 6.01E(2) of the Agreement is amended to include the City's current policy regarding Temporary Traffic Control as listed in the City Engineer's Directive #01-11 (please see attached).

City of Morristown

Incorporated 1855

OFFICE OF CITY ENGINEER



CITY ENGINEER'S DIRECTIVE #01-11

Temporary Traffic Control (TTC)

Issued October 5, 2011

Sub 10/5/11

The City of Morristown hereby adopts *Guidelines for Temporary Traffic Control*, 2009 Edition, US Department of Transportation, Federal Highway Administration (Publication No. FHWA-CFL/TD-11-001, January 2011) as the reference for all construction work within the City of Morristown which requires Temporary Traffic Control (TTC).

This reference shall be followed regarding tapers, flagging, warning lights, nighttime operations, arrow panels, channelizing devices, and signs, and all other components of TTC. A copy of the manual shall be maintained on site by each crew performing work which requires TTC.

Contractors' attention is directed in particular to the following applications which are likely to be encountered within the City:

- Lane Closure on Two-Lane Road Using Flaggers (TA-10)
- Lane Closure on Two-Lane Road with Low Traffic Volumes (TA-11)
- Temporary Road Closure (TA-13)
- Work in Center of Road with Low Traffic Volumes (TA-15)
- Lane Closure on Minor Street (TA-18)
- Closure in Center of Intersection (TA-26)
- Sidewalk Detour or Diversion (TA-28)

Note that the reference manual contains scenarios which may be encountered other than those listed above and shall be followed in those situations as well. For situations not addressed in the reference manual, the *Manual of Uniform Traffic Control Devices*, 2009 Edition, shall be followed and a TTC Plan shall be submitted to the City for review and approval before work begins.

Contractors are required to sign this form below and return it to the City Engineer's office prior to the commence of construction activities.

I, Randy W. Beckner (print name), serving as Chairman of the Board (title)
of Mattern & Craig, Inc. (company), have read and understand the information above and
agree to provide Temporary Traffic Control measures as outlined in this directive and referenced materials.

Signature:

Randy W. Beckner

Date:

11/14/12

P.O. Box 1499 • Morristown, TN 37816-1499 • Phone (423) 581-0100 • Fax (423) 586-1205

Page 2 of 2

(Exhibit J – Special Provisions)

EJCDC E-500 Standard Form of Agreement Between Owner and Engineer for Professional Services.

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[Return to Agenda](#)

Project Understanding

Based on the information provided, Mattern & Craig (ENGINEER) proposes the following general Scope of Services, Fee, and Schedule for the rehabilitation of E. Morris Boulevard, from US-25E to 450 feet east of Jones Franklin Road, in the City of Morristown (OWNER). The ENGINEER will provide engineering services for the following: roadway milling and resurfacing, installation of traffic signals at the intersections with Jaybird Road and Dover Road, pavement markings, handicap ramps and other ADA-compliant intersection improvements as necessary, updated regulatory signage, and replacement of storm sewer as necessary.

The ENGINEER will provide contract administration, design, environmental, support services including conducting Tennessee Department of Transportation (TDOT) required public hearings, establish roadway markings and signage consistent with the MUTCD, plan distribution for the remaining phases, construction administration, and construction engineering inspection (CEI).

The ENGINEER will be responsible for managing project funds and advising the OWNER concerning project funding limits for all phases of the project.

All services will be performed in accordance with the latest edition of the TDOT Local Government Guidelines for the Management of Federal and State Funded Transportation Projects.

Task 1 – Project Coordination & Preliminary Engineering/Environmental Documentation (NEPA Phase)

Task 1.1 – Preliminary Engineering, including Preliminary Estimate & Project Budget Assistance

Task 1.2 – Project Status Meetings

Task 1.3 – Survey & Mapping

Collect all available mapping data (aerial photos & surveys, GIS data, etc.) from available sources. Supplement as needed at the intersections at Jaybird Road and Dover Road, to locate utilities and right-of-way lines. Investigate storm sewer (using CCTV or similar method) to determine any areas needing replacement or rehabilitation.

Task 1.4 – Preliminary Engineering

Prepare preliminary plans and cost estimates for the proposed work, for use in preparation of the NEPA document.

Task 1.5 – NEPA Document

Prepare a NEPA Document (we anticipate this document will be a Categorical Exclusion) for the project, including coordinating and submitting letters and exhibits to appropriate agencies for compliance. Services do not include additional studies or investigations that may be required as a result of regulatory agency review.

Task 1 Deliverables:

Draft and Final NEPA Document for TDOT review (PDF format)
Meeting agendas, Meeting Minutes, Action Items (PDF format)
Invoices on a Monthly Basis (Hard copy original)

Task 2 – Design Services (*Design Phase*)

Task 2.1 – Safety Review

Conduct a site visit to identify any potential safety issues that exist along the corridor. Using TDOT's "Resurfacing Safety Review Checklist", identify any applicable countermeasures to address said safety issues.

Task 2.2 – Design

Plans will be prepared based on the Project Understanding detailed above. Design will be in accordance with TDOT guidelines (including the latest edition of both the Standard Specifications and Standard Drawings). The ENGINEER shall provide the following:

- Prepare plans which include all data necessary for construction.
- Submit to OWNER and TDOT a review set of plans and contract documents at the Preliminary (30%), Right-of-Way (60%), and Construction (90%) stages. Coordinate with OWNER and make agreed upon revisions at each stage.
- Prepare and Engineer's Opinion of Probable Cost at each stage of the work.
- Prepare contract documents for the execution of the construction contract.

Task 2 Deliverables:

Preliminary Plans package (PDF format)
Preliminary Engineer's Opinion of Probable Cost (PDF format)
R.O.W. Plans package (PDF format)
Construction Plans package (PDF format)
Final Engineer's Opinion of Probable Cost (PDF format)

Task 3 – Right-of-Way Services (*R.O.W. Phase*)

Task 3.1 – R.O.W. Documents

Prepare documents describing any right-of-way to be acquired for the project. These documents will then be used by the OWNER to prepare legal documents for the acquisition.

Task 3.2 – Negotiation and Appraisals

Negotiate with property owners, provide appraisals, and provide recommendation to OWNER for acquisition of real estate necessary for the project. These services are based on the assumption that four tracts will be affected.

Task 3 Deliverables:

R.O.W. Documents
Acquired real estate

Task 4 – Bidding & Negotiation Services (*Construction Phase*)

After acceptance by OWNER & TDOT of the bidding documents, and upon written authorization to proceed by the OWNER and TDOT, the ENGINEER shall provide the following services:

- Advertise the project in the appropriate publications.
- Issue Addenda as appropriate to clarify, correct, or change the Bid documents.
- Assist the OWNER in responding to questions from prospective bidders prior to the bid opening and issue responses to questions to all prospective bidders.
- Attend a bid opening, and tabulate and evaluate all bids.

- Issue a Notice of Award.

Task 4 Deliverables: *Executed Contract Documents*

Task 5 –Construction Engineering Inspection Services (*Construction Phase*)

Construction Administration, Construction Engineering Inspection, and layout services shall be performed by the ENGINEER based on a scope of work, schedule and fee negotiated with the OWNER at a later date. Such work will be performed in accordance with TDOT guidelines and only upon written authorization by the OWNER.

Information Provided by the Owner

Owner to provide any available GIS data, based on aerial mapping, for the project area.

Schedule

Task	Milestone
Environmental Documentation:	60 days following NTP and receipt of executed agreement
Preliminary Design Submittal:	90 days following TDOT NTP for design phase
R.O.W. Design Submittal:	60 days following TDOT NTP for R.O.W. phase
Final Design Submittal:	60 days following TDOT NTP for Construction phase
Bid Documents:	30 days following consolidated final design comments from City
Bidding & Negotiation Phase:	Beginning after TDOT NTP for construction phase

Please note that Engineer has no control over internal OWNER and TDOT review processes as they relate to environmental approvals and the issuances of notices to proceed.

Fee and Expenses

<i>Task 1 – Project Coordination & Preliminary Engineering (NEPA Phase)</i>	<i>\$198,000.00</i>
<i>Task 2 – Design Services (Design Phase)</i>	<i>\$99,000.00</i>
<i>Task 3 – Right-of-Way Services (R.O.W. Phase)</i>	<i>\$35,000.00</i>
<i>Task 4 – Bidding & Negotiation Services (Construction Phase)</i>	<i>\$7,000.00</i>

Total: **\$339,000.00**

The ENGINEER will perform the services described above for the lump sum fees detailed above, to be invoiced monthly based upon the overall percentage of services performed. Payment will be due within 30 days of your receipt of the invoice. All permitting, application, and similar project fees will be paid directly by the OWNER.

Closure

In addition to the matters set forth herein, our Agreement shall include and be subject to, and only to, the City of Morristown's Engineers Joint Contract Documents Committee (EJCDC) Agreement: E-505, Standard Form of Agreement Between Owner and Engineer for Professional Services – Task Order Edition. This exhibit is considered Task Order Number 001 for the above referenced contract. As used in the Agreement, “Engineer” shall refer to **Mattern & Craig, Inc.**, and “Owner” shall refer to the **City of Morristown, Tennessee**.

 X Please ONLY provide a hard copy invoice to the address listed above to the attention of
 Larry Clark or provide alternative address).

The Effective Date of Task Order 001 is August 22, 2018.

OWNER:

ENGINEER:

By: _____

By: Randy W. Beckner

Name: _____

Name: Randy W. Beckner, P.E.

Title: _____

Title: Chairman of the Board

Engineer License or

Firm's Certificate Number: PE# 101559

State of: Tennessee

DESIGNATED REPRESENTATIVE:

DESIGNATED REPRESENTATIVE:

By: _____

By: Jason Carder

Name: Larry Clark

Name: Jason Carder, P.E.

Title: Assistant City Administrator

Title: Project Manager

Address:

P. O. Box 1499

Morristown, Tennessee 37816-1499

Address:

429 Clay Street

Kingsport, Tennessee 37660

E-mail Address:

lclark@mymorristown.com

E-mail Address:

jacarder@matternandcraig.com

Phone: 423-585-4617

Phone: 423-245-4970

Fax: 423-586-4661

Fax: 423-245-5932

AGREEMENT FOR SCHOOL RESOURCE OFFICERS

This agreement made and entered into by and between the Hamblen County Board of Education (hereinafter "BOARD") and the Chief of Police and City of Morristown, Tennessee (hereinafter "CHIEF" and "CITY" or, collectively, as "CITY")

W I T N E S S E T H :

The following recitals are deemed necessary as antecedents to this agreement:

The parties recognize that there are benefits to be derived by each party from cooperative programs;

The parties desire to implement a School Resource Officer (SRO) program which is designed to improve the lines of communication between the parties, provide assistance to schools in introducing instructional material, encourage discussion among students on topics of current interest, provide the additional security derived from having an officer present at school functions, as well as other benefits;

The parties desire to enter into an agreement defining the program and the rights and responsibilities of the parties in this program;

Now therefore, in consideration of the foregoing, and other good and valuable considerations, the receipt and sufficiency of which are hereby acknowledged, the following agreement is made:

1. This document supersedes all previous School Resource Officer agreements.
2. The CITY shall provide the BOARD four full-time School Resource/DARE Officers, assigned by the BOARD to individual schools as deemed appropriate. The School Resource Officers shall be employees of the CITY, and the CITY shall have ultimate control and supervision over the School Resource Officers. The CITY shall be solely responsible for the pay and benefits for the School Resource Officers and shall be responsible for employment, discipline, and discharge of such officer. The BOARD shall reimburse to the CITY twenty thousand dollars (\$20,000) for each of the four School Resource Officers. The total amount the BOARD shall reimburse to the CITY is eighty thousand dollars (\$80,000) for four School Resource Officers.

3. The CHIEF shall select the persons to be designated as the School Resource Officers, but the BOARD may reject any such selection. The parties agree to cooperate to find officers acceptable to both parties.

4. The CHIEF shall be responsible for supervising and assigning the duties of the School Resource Officers. However, the BOARD shall work with the CHIEF in identifying the areas where the School Resource Officers are needed and to develop a schedule for the School Resource Officers. In addition, the BOARD shall provide an organization, or chain of command, to work with the School Resource Officers in implementing programs desired by the parties.

5. The School Resource Officers shall be assigned to schools on a full time basis, but their hours may be adjusted to permit attendance at certain extracurricular activities such as athletic contests, club meetings, etc. When school is not in session due to vacations, weather, or other reasons, the CHIEF may assign the School Resource Officers to other non-school-related tasks.

6. Among the duties and responsibilities of the School Resource Officers, but not limited to such activities, are the following:

- A. Act as instructors for specialized, short-term programs at schools;
- B. Be guest speakers at school and school-related functions;
- C. Recommend and assist in the implementation of programs designed to encourage law and order and discipline within the schools;
- D. Attend parent, faculty, and/or student meetings as indicated to ascertain needed programs in areas where involvement of a School Resource Officer could be beneficial;
- E. Be available for conferences with students, parents, teachers, and administrators to assist them with their responsibilities of law enforcement and crime prevention;
- F. Gain and maintain a familiarity with community agencies which offer assistance to young people and their families and recommend to the BOARD personnel referrals to such agencies as the School Resource Officer deems necessary or beneficial to students, faculty, and staff;
- G. Provide assistance to the BOARD in developing and implementing security plans and programs designed to encourage order and discipline in the schools;
- H. Maintain detailed and accurate records of daily operations of the School Resource Officer program and make recommendations and other reports of an instructional nature as required by the school administration or the CHIEF;
- I. Provide assistance as requested by BOARD officials in developing and maintaining discipline and order in the schools;
- J. Maintain confidentiality of all student records and other material deemed confidential under State and Federal law.

7. It is not intended that a School Resource Officer shall act as a school disciplinarian, although it is expected that the School Resource Officers will provide assistance in maintaining discipline and order in the schools. School Resource Officers shall not be used for regularly-assigned lunch duty, or other student monitoring duties. Nothing herein is intended to limit a School Resource Officer's authority as a law enforcement officer employed by the CITY.

8. The BOARD shall provide to each School Resource Officer the following materials and facilities:

- A. Access to a well-ventilated and properly-lighted private office which shall include a telephone to be used for general business purposes;
- B. A location where files and records can be properly secured;
- C. A desk with drawers, a chair, a work table, filing cabinets, and the requisite office supplies.

9. The CHIEF shall have full authority over the School Resource Officer program and may, subject to the BOARD's right to reject such assignment, assign a different officer as School Resource Officer at his discretion. The BOARD, or the administration of the BOARD, may reject any proposed School Resource Officer, but does not have the right to select the School Resource Officer. If a problem arises with a particular School Resource Officer, the BOARD may request that the officer be removed from the School Resource Officer program, but the ultimate decision in this regard shall rest with the CHIEF.

10. This agreement shall be effective for the period from July 1, 2018, until June 30, 2019. Either party may terminate the agreement, with or without cause, by giving the other party ninety (90) days written notice. If either party breaches any provision of this agreement, then the non-breaching party may terminate the agreement upon thirty (30) days written notice to the breaching party.

11. Notices and other communications required to be made under this agreement shall be effective when deposited in the United States Postal Service as regular mail, postage prepaid, and addressed as follows

To the BOARD:

Director of Schools
Hamblen County Department of Education
210 East Morris Boulevard
Morristown, TN 37813

To the CHIEF:

Chief of Police
Morristown Police Department
P. O. Box 1283
Morristown, TN 37816

To the CITY:

Mayor
City of Morristown
100 West First North Street
Morristown, TN 37814

12. The parties pledge their good faith efforts to cooperate in fulfilling the terms of this agreement and in developing and implementing the School Resource Officer program.

13. This agreement may not be assigned without the expressed written consent of the BOARD and the CITY.

IN WITNESS WHEREOF, the parties hereto have executed this agreement on this the _____ day of _____, 20_____.

HAMBLEEN COUNTY BOARD OF EDUCATION

BY: _____
Board Chair

BY: _____
Director of Schools

M. P. D. CHIEF OF POLICE



CITY OF MORRISTOWN, TENNESSEE

BY: _____



August 14, 2018

Ms. Ashley Ahl, Purchasing Assistant
City of Morristown
100 West First North Street
Morristown, Tennessee 37814

RE: Morristown Public Works Bid Package 2 – Bid Opening

Dear Ms. Ahl:

This letter shall serve as our recommendation to accept the bid of Merit Construction, Incorporated for Phase 2 of the Public Works Facility submitted on August 9, 2017. We are recommending that the base bid and all alternates be approved for a total project cost of \$12,393,600.00.

Please contact me if you have any questions

Sincerely,

Chris Camp,
President

AIA® Document A107™ – 2007

Standard Form of Agreement Between Owner and Contractor for a Project of Limited Scope

AGREEMENT made as of the fourteenth day of August in the year 2018
(In words, indicate day, month and year.)

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

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

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

Merit Construction, Inc. 10435 Dutchtown Road
Knoxville, TN 37932

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

Morristown Public Works Facility, Phase 2

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

Lose Design.
2809 Foster Ave.
Nashville, TN 37210
Telephone Number: 615-242-0040

The Owner and Contractor agree as follows.

Construction of Building and Site Improvements, including Base Bid & Alternates, as submitted on bid dated August 9, 2018.

ADDITIONS AND DELETIONS:

The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

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

Init.

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EXHIBIT A DETERMINATION OF THE COST OF THE WORK

ARTICLE 1 THE WORK OF THIS CONTRACT

The Contractor shall execute the Work described in the Contract Documents, except as specifically indicated in the Contract Documents to be the responsibility of others.

ARTICLE 2 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION

§ 2.1 The date of commencement of the Work shall be the date of this Agreement unless a different date is stated below or provision is made for the date to be fixed in a notice to proceed issued by the Owner.

(Insert the date of commencement, if it differs from the date of this Agreement or, if applicable, state that the date will be fixed in a notice to proceed.)

Init.

To be determined.

§ 2.2 The Contract Time shall be measured from the date of commencement.

§ 2.3 The Contractor shall achieve Substantial Completion of the entire Work not later than four hundred eighty five (485) days from the date of commencement, or as follows:

(Insert number of calendar days. Alternatively, a calendar date may be used when coordinated with the date of commencement. If appropriate, insert requirements for earlier Substantial Completion of certain portions of the Work.)

Portion of Work	Substantial Completion Date
All work	485 day from Notice to Proceed

, subject to adjustments of this Contract Time as provided in the Contract Documents.

(Insert provisions, if any, for liquidated damages relating to failure to achieve Substantial Completion on time or for bonus payments for early completion of the Work.)

ARTICLE 3 CONTRACT SUM

§ 3.1 The Owner shall pay the Contractor the Contract Sum in current funds for the Contractor's performance of the Contract. The Contract Sum shall be one of the following:

(Check the appropriate box.)

- ☒ [x] Stipulated Sum, in accordance with Section 3.2 below
- ☐ [] Cost of the Work plus the Contractor's Fee, in accordance with Section 3.3 below
- ☐ [] Cost of the Work plus the Contractor's Fee with a Guaranteed Maximum Price, in accordance with Section 3.4 below

(Based on the selection above, complete Section 3.2, 3.3 or 3.4 below.)

§ 3.2 The Stipulated Sum shall be twelve million three hundred ninety three thousand six hundred dollars and zero cents (\$ 12,393,600.00), subject to additions and deductions as provided in the Contract Documents.

§ 3.2.1 The Stipulated Sum is based upon the following alternates, if any, which are described in the Contract Documents and are hereby accepted by the Owner:

(State the numbers or other identification of accepted alternates. If the bidding or proposal documents permit the Owner to accept other alternates subsequent to the execution of this Agreement, attach a schedule of such other alternates showing the amount for each and the date when that amount expires.)

Alternates, See Attached Bid dated August 9, 2018.

§ 3.2.2 Unit prices, if any:

(Identify and state the unit price, and state the quantity limitations, if any, to which the unit price will be applicable.)

Item	Units and Limitations	Price Per Unit (\$0.00)
NA		

§ 3.2.3 Allowances included in the stipulated sum, if any:

(Identify allowance and state exclusions, if any, from the allowance price.)

Item	Allowance
NA	

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§ 3.3 COST OF THE WORK PLUS CONTRACTOR'S FEE

§ 3.3.1 N/A.

§ 3.3.2 The Contractor's Fee:

(State a lump sum, percentage of Cost of the Work or other provision for determining the Contractor's Fee and the method of adjustment to the Fee for changes in the Work.)

NA

§ 3.4 COST OF THE WORK PLUS CONTRACTOR'S FEE WITH A GUARANTEED MAXIMUM PRICE

§ 3.4.1 The Cost of the Work is as defined in Exhibit A, Determination of the Cost of the Work.

§ 3.4.2 The Contractor's Fee:

(State a lump sum, percentage of Cost of the Work or other provision for determining the Contractor's Fee and the method of adjustment to the Fee for changes in the Work.)

NA

§ 3.4.3 GUARANTEED MAXIMUM PRICE

§ 3.4.3.1 The sum of the Cost of the Work and the Contractor's Fee is guaranteed by the Contractor not to exceed (\$ 12,393,600.00), subject to additions and deductions by changes in the Work as provided in the Contract Documents. Such maximum sum is referred to in the Contract Documents as the Guaranteed Maximum Price. Costs which would cause the Guaranteed Maximum Price to be exceeded shall be paid by the Contractor without reimbursement by the Owner.

(Insert specific provisions if the Contractor is to participate in any savings.)

§ 3.4.3.2 The Guaranteed Maximum Price is based on the following alternates, if any, which are described in the Contract Documents and are hereby accepted by the Owner:

See Attached Bid dated August 9, 2018.

§ 3.4.3.3 Unit Prices, if any:

(Identify and state the unit price, and state the quantity limitations, if any, to which the unit price will be applicable.)

Item	Units and Limitations	Price Per Unit (\$0.00)
------	-----------------------	-------------------------

§ 3.4.3.4 Allowances included in the Guaranteed Maximum Price, if any:

(Identify and state the amounts of any allowances, and state whether they include labor, materials, or both.)

Item	Allowance
------	-----------

§ 3.4.3.5 Assumptions, if any, on which the Guaranteed Maximum Price is based:

ARTICLE 4 PAYMENTS

§ 4.1 PROGRESS PAYMENTS

§ 4.1.1 Based upon Applications for Payment submitted to the Architect by the Contractor and Certificates for Payment issued by the Architect, the Owner shall make progress payments on account of the Contract Sum to the Contractor as provided below and elsewhere in the Contract Documents.

Init.

§ 4.1.2 The period covered by each Application for Payment shall be one calendar month ending on the last day of the month, or as follows:

§ 4.1.3 Provided that an Application for Payment is received by the Architect not later than the 25th day of a month, the Owner shall make payment of the certified amount to the Contractor not later than the 21st day. If an Application for Payment is received by the Architect after the date fixed above, payment shall be made by the Owner not later than twenty-one (21) days after the Architect receives the Application for Payment.
(Federal, state or local laws may require payment within a certain period of time.)

§ 4.1.4 Retainage, if any, shall be withheld as follows:

5%

§ 4.1.5 Payments due and unpaid under the Contract shall bear interest from the date payment is due at the rate stated below, or in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is located.
(Insert rate of interest agreed upon, if any.)

Legal prevailing rate.

§ 4.2 FINAL PAYMENT

§ 4.2.1 Final payment, constituting the entire unpaid balance of the Contract Sum, shall be made by the Owner to the Contractor when

- .1 the Contractor has fully performed the Contract except for the Contractor's responsibility to correct Work as provided in Section 18.2, and to satisfy other requirements, if any, which extend beyond final payment;
- .2 the contractor has submitted a final accounting for the Cost of the Work, where payment is on the basis of the Cost of the Work with or without a guaranteed maximum price; and
- .3 a final Certificate for Payment has been issued by the Architect.

§ 4.2.2 The Owner's final payment to the Contractor shall be made no later than 30 days after the issuance of the Architect's final Certificate for Payment, or as follows:

ARTICLE 5 DISPUTE RESOLUTION

§ 5.1 BINDING DISPUTE RESOLUTION

For any claim subject to, but not resolved by, mediation pursuant to Section 21.3, the method of binding dispute resolution shall be as follows:

(Check the appropriate box. If the Owner and Contractor 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, claims will be resolved in a court of competent jurisdiction.)

- ☐ Arbitration pursuant to Section 21.4 of this Agreement
- ☒ Litigation in a court of competent jurisdiction
- ☐ Other (Specify)

ARTICLE 6 ENUMERATION OF CONTRACT DOCUMENTS

§ 6.1 The Contract Documents are defined in Article 7 and, except for Modifications issued after execution of this Agreement, are enumerated in the sections below.

Init.

§ 6.1.1 The Agreement is this executed AIA Document A107–2007, Standard Form of Agreement Between Owner and Contractor for a Project of Limited Scope.

§ 6.1.2 The Supplementary and other Conditions of the Contract:

Document	Title	Date	Pages
Bid Manual		July 23, 2018	

§ 6.1.3 The Specifications:

(Either list the Specifications here or refer to an exhibit attached to this Agreement.)

See Bid Manual dated July 23, 2018.

Section	Title	Date	Pages
---------	-------	------	-------

§ 6.1.4 The Drawings:

(Either list the Drawings here or refer to an exhibit attached to this Agreement.)

See Bid Manual dated June 13, 2018.

Number	Title	Date
--------	-------	------

§ 6.1.5 The Addenda, if any:

Number	Date	Pages
Addendum #1	7/31/2018	2
Addendum #2	8/7/2018	3

Portions of Addenda relating to bidding requirements are not part of the Contract Documents unless the bidding requirements are enumerated in this Article 6.

§ 6.1.6 Additional documents, if any, forming part of the Contract Documents:

.1
AIA Document E201™–2007, Digital Data Protocol Exhibit, if completed, or the following:

.2 Other documents:
Bid dated August 9, 2018

.3 Payment and Performance Bonds

(List here any additional documents that are intended to form part of the Contract Documents.)

ARTICLE 7 GENERAL PROVISIONS

§ 7.1 THE CONTRACT DOCUMENTS

The Contract Documents are enumerated in Article 6 and consist of this Agreement (including, if applicable, Supplementary and other Conditions of the Contract), Drawings, Specifications, Addenda issued prior to the execution of this Agreement, other documents listed in this Agreement and Modifications issued after execution of this Agreement. A Modification is (1) a written amendment to the Contract signed by both parties, (2) a Change Order, (3) a Construction Change Directive or (4) a written order for a minor change in the Work issued by the Architect. The intent of the Contract Documents is to include all items necessary for the proper execution and completion of the Work by the Contractor. The Contract Documents are complementary, and what is required by one shall be as binding as if required by all; performance by the Contractor shall be required to the extent consistent with the Contract Documents and reasonably inferable from them as being necessary to produce the indicated results.

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§ 7.2 THE CONTRACT

The Contract Documents form the Contract for Construction. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations or agreements, either written or oral. The Contract may be amended or modified only by a Modification. The Contract Documents shall not be construed to create a contractual relationship of any kind between any persons or entities other than the Owner and the Contractor.

§ 7.3 THE WORK

The term "Work" means the construction and services required by the Contract Documents, whether completed or partially completed, and includes all other labor, materials, equipment and services provided or to be provided by the Contractor to fulfill the Contractor's obligations. The Work may constitute the whole or a part of the Project.

§ 7.4 INSTRUMENTS OF SERVICE

Instruments of Service are representations, in any medium of expression now known or later developed, of the tangible and intangible creative work performed by the Architect and the Architect's consultants under their respective professional services agreements. Instruments of Service may include, without limitation, studies, surveys, models, sketches, drawings, specifications, and other similar materials.

§ 7.5 OWNERSHIP AND USE OF DRAWINGS, SPECIFICATIONS AND OTHER INSTRUMENTS OF SERVICE

§ 7.5.1 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 will retain all common law, statutory and other reserved rights, including copyrights. The Contractor, Subcontractors, Sub-subcontractors, and material or equipment suppliers shall not own or claim a copyright in the Instruments of Service. Submittal or distribution to meet official regulatory requirements or for other purposes in connection with this Project is not to be construed as publication in derogation of the Architect's or Architect's consultants' reserved rights.

§ 7.5.2 The Contractor, Subcontractors, Sub-subcontractors and material or equipment suppliers are authorized to use and reproduce the Instruments of Service provided to them solely and exclusively for execution of the Work. All copies made under this authorization shall bear the copyright notice, if any, shown on the Instruments of Service. The Contractor, Subcontractors, Sub-subcontractors, and material or equipment suppliers may not use the Instruments of Service on other projects or for additions to this Project outside the scope of the Work without the specific written consent of the Owner, Architect and the Architect's consultants.

§ 7.6 TRANSMISSION OF DATA IN DIGITAL FORM

If the parties intend to transmit Instruments of Service or any other information or documentation in digital form, they shall endeavor to establish necessary protocols governing such transmission, unless otherwise provided in the Agreement or in the Contract Documents.

ARTICLE 8 OWNER

§ 8.1 INFORMATION AND SERVICES REQUIRED OF THE OWNER

§ 8.1.1 The Owner shall furnish all necessary surveys and a legal description of the site.

§ 8.1.2 The Contractor shall be entitled to rely on the accuracy of information furnished by the Owner but shall exercise proper precautions relating to the safe performance of the Work.

§ 8.1.3 Except for permits and fees that are the responsibility of the Contractor under the Contract Documents, including those required under Section 9.6.1, the Owner shall secure and pay for other necessary approvals, easements, assessments and charges required for the construction, use or occupancy of permanent structures or for permanent changes in existing facilities.

§ 8.2 OWNER'S RIGHT TO STOP THE WORK

If the Contractor fails to correct Work which is not in accordance with the requirements of the Contract Documents, or repeatedly fails to carry out the Work in accordance with the Contract Documents, the Owner may issue a written order to the Contractor to stop the Work, or any portion thereof, until the cause for such order is eliminated; however, the right of the Owner to stop the Work shall not give rise to a duty on the part of the Owner to exercise this right for the benefit of the Contractor or any other person or entity.

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§ 8.3 OWNER'S RIGHT TO CARRY OUT THE WORK

If the Contractor defaults or neglects to carry out the Work in accordance with the Contract Documents, and fails within a ten-day period after receipt of written notice from the Owner to commence and continue correction of such default or neglect with diligence and promptness, the Owner, without prejudice to any other remedy the Owner may have, may correct such deficiencies and may deduct the reasonable cost thereof, including Owner's expenses and compensation for the Architect's services made necessary thereby, from the payment then or thereafter due the Contractor.

ARTICLE 9 CONTRACTOR

§ 9.1 REVIEW OF CONTRACT DOCUMENTS AND FIELD CONDITIONS BY CONTRACTOR

§ 9.1.1 Execution of the Contract by the Contractor is a representation that the Contractor has visited the site, become generally familiar with local conditions under which the Work is to be performed and correlated personal observations with requirements of the Contract Documents.

§ 9.1.2 Because the Contract Documents are complementary, the Contractor shall, before starting each portion of the Work, carefully study and compare the various Contract Documents relative to that portion of the Work, as well as the information furnished by the Owner pursuant to Section 8.1.1, shall take field measurements of any existing conditions related to that portion of the Work and shall observe any conditions at the site affecting it. These obligations are for the purpose of facilitating coordination and construction by the Contractor and are not for the purpose of discovering errors, omissions, or inconsistencies in the Contract Documents; however, the Contractor shall promptly report to the Architect any errors, inconsistencies, or omissions discovered by or made known to the Contractor as a request for information in such form as the Architect may require. It is recognized that the Contractor's review is made in the Contractor's capacity as a contractor and not as a licensed design professional unless otherwise specifically provided in the Contract Documents.

§ 9.1.3 The Contractor is not required to ascertain that the Contract Documents are in accordance with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, but the Contractor shall promptly report to the Architect any nonconformity discovered by or made known to the Contractor as a request for information in such form as the Architect may require.

§ 9.2 SUPERVISION AND CONSTRUCTION PROCEDURES

§ 9.2.1 The Contractor shall supervise and direct the Work, using the Contractor's best skill and attention. The Contractor shall be solely responsible for and have control over construction means, methods, techniques, sequences and procedures, and for coordinating all portions of the Work under the Contract, unless the Contract Documents give other specific instructions concerning these matters.

§ 9.2.2 The Contractor shall be responsible to the Owner for acts and omissions of the Contractor's employees, Subcontractors and their agents and employees, and other persons or entities performing portions of the Work for or on behalf of the Contractor or any of its Subcontractors.

§ 9.3 LABOR AND MATERIALS

§ 9.3.1 Unless otherwise provided in the Contract Documents, the Contractor shall provide and pay for labor, materials, equipment, tools, construction equipment and machinery, water, heat, utilities, transportation, and other facilities and services necessary for proper execution and completion of the Work whether temporary or permanent and whether or not incorporated or to be incorporated in the Work.

§ 9.3.2 The Contractor shall enforce strict discipline and good order among the Contractor's employees and other persons carrying out the Work. The Contractor shall not permit employment of unfit persons or persons not skilled in tasks assigned to them.

§ 9.3.3 The Contractor may make a substitution only with the consent of the Owner, after evaluation by the Architect and in accordance with a Modification.

§ 9.4 WARRANTY

The Contractor warrants to the Owner and Architect that materials and equipment furnished under the Contract will be of good quality and new unless the Contract Documents require or permit otherwise. The Contractor further

Init.

warrants that the Work will conform to the requirements of the Contract Documents and will be free from defects, except for those inherent in the quality of the Work the Contract Documents require or permit. Work, materials, or equipment not conforming to these requirements may be considered defective. The Contractor's warranty excludes remedy for damage or defect caused by abuse, alterations to the Work not executed by the Contractor, improper or insufficient maintenance, improper operation or normal wear and tear under normal usage.

§ 9.5 TAXES

The Contractor shall pay sales, consumer, use and other similar taxes that are legally enacted when bids are received or negotiations concluded, whether or not yet effective or merely scheduled to go into effect.

§ 9.6 PERMITS, FEES, NOTICES, AND COMPLIANCE WITH LAWS

§ 9.6.1 Unless otherwise provided in the Contract Documents, the Contractor shall secure and pay for the building permit as well as other permits, fees, licenses and inspections by government agencies necessary for proper execution and completion of the Work that are customarily secured after execution of the Contract and legally required at the time bids are received or negotiations concluded.

§ 9.6.2 The Contractor shall comply with and give notices required by applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities applicable to performance of the Work. If the Contractor performs Work knowing it to be contrary to applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, the Contractor shall assume appropriate responsibility for such Work and shall bear the costs attributable to correction.

§ 9.7 ALLOWANCES

The Contractor shall include in the Contract Sum all allowances stated in the Contract Documents. The Owner shall select materials and equipment under allowances with reasonable promptness. Allowance amounts shall include the costs to the Contractor of materials and equipment delivered at the site and all required taxes, less applicable trade discounts. Allowance amounts shall not include the Contractor's costs for unloading and handling at the site, labor, installation, overhead, and profit.

§ 9.8 CONTRACTOR'S CONSTRUCTION SCHEDULES

§ 9.8.1 The Contractor, promptly after being awarded the Contract, shall prepare and submit for the Owner's and Architect's information a Contractor's construction schedule for the Work. The schedule shall not exceed time limits current under the Contract Documents, shall be revised at appropriate intervals as required by the conditions of the Work and Project, shall be related to the entire Project to the extent required by the Contract Documents, and shall provide for expeditious and practicable execution of the Work.

§ 9.8.2 The Contractor shall perform the Work in general accordance with the most recent schedule submitted to the Owner and Architect.

§ 9.9 SUBMITTALS

§ 9.9.1 The Contractor shall review for compliance with the Contract Documents and submit to the Architect Shop Drawings, Product Data, Samples and similar submittals required by the Contract Documents in coordination with the Contractor's construction schedule and in such sequence as to allow the Architect reasonable time for review. By submitting Shop Drawings, Product Data, Samples and similar submittals, the Contractor represents to the Owner and Architect that the Contractor has (1) reviewed and approved them; (2) determined and verified materials, field measurements and field construction criteria related thereto, or will do so; and (3) checked and coordinated the information contained within such submittals with the requirements of the Work and of the Contract Documents. The Work shall be in accordance with approved submittals.

§ 9.9.2 Shop Drawings, Product Data, Samples and similar submittals are not Contract Documents.

§ 9.10 USE OF SITE

The Contractor shall confine operations at the site to areas permitted by applicable laws, statutes, ordinances, codes, rules and regulations, lawful orders of public authorities, and the Contract Documents and shall not unreasonably encumber the site with materials or equipment.

§ 9.11 CUTTING AND PATCHING

The Contractor shall be responsible for cutting, fitting or patching required to complete the Work or to make its parts fit together properly.

§ 9.12 CLEANING UP

The Contractor shall keep the premises and surrounding area free from accumulation of waste materials or rubbish caused by operations under the Contract. At completion of the Work, the Contractor shall remove waste materials, rubbish, the Contractor's tools, construction equipment, machinery and surplus material from and about the Project.

§ 9.13 ROYALTIES, PATENTS AND COPYRIGHTS

The Contractor shall pay all royalties and license fees. The Contractor shall defend suits or claims for infringement of copyrights and patent rights and shall hold the Owner and Architect harmless from loss on account thereof, but shall not be responsible for such defense or loss when a particular design, process or product of a particular manufacturer or manufacturers is required by the Contract Documents or where the copyright violations are contained in Drawings, Specifications or other documents prepared by the Owner or Architect. However, if the Contractor has reason to believe that the required design, process or product is an infringement of a copyright or a patent, the Contractor shall be responsible for such loss unless such information is promptly furnished to the Architect.

§ 9.14 ACCESS TO WORK

The Contractor shall provide the Owner and Architect access to the Work in preparation and progress wherever located.

§ 9.15 INDEMNIFICATION

§ 9.15.1 To the fullest extent permitted by law, the Contractor shall indemnify and hold harmless the Owner, Architect, Architect's consultants and agents and employees of any of them from and against claims, damages, losses and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work, provided that such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), but only to the extent caused by the negligent acts or omissions of the Contractor, a Subcontractor, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity which would otherwise exist as to a party or person described in this Section 9.15.1.

§ 9.15.2 In claims against any person or entity indemnified under this Section 9.15 by an employee of the Contractor, a Subcontractor, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, the indemnification obligation under Section 9.15.1 shall not be limited by a limitation on amount or type of damages, compensation or benefits payable by or for the Contractor or Subcontractor under workers' compensation acts, disability benefit acts or other employee benefit acts.

ARTICLE 10 ARCHITECT

§ 10.1 The Architect will provide administration of the Contract and will be an Owner's representative during construction, until the date the Architect issues the final Certificate for Payment. The Architect will have authority to act on behalf of the Owner only to the extent provided in the Contract Documents, unless otherwise modified in writing in accordance with other provisions of the Contract.

§ 10.2 The Architect will visit the site at intervals appropriate to the stage of the construction 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 will not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. The Architect will 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, since these are solely the Contractor's rights and responsibilities under the Contract Documents.

§ 10.3 On the basis of the site visits, the Architect will 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. The Architect will not be responsible for the Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. The Architect will not have control over or charge of and will not be responsible for acts or omissions of the Contractor, Subcontractors, or their agents or employees, or any other persons or entities performing portions of the Work.

§ 10.4 Based on the Architect's evaluations of the Work and of the Contractor's Applications for Payment, the Architect will review and certify the amounts due the Contractor and will issue Certificates for Payment in such amounts.

§ 10.5 The Architect has authority to reject Work that does not conform to the Contract Documents and to require inspection or testing of the Work.

§ 10.6 The Architect will 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.

§ 10.7 The Architect will interpret and decide matters concerning performance under, and requirements of, the Contract Documents on written request of either the Owner or Contractor. The Architect will make initial decisions on all claims, disputes and other matters in question between the Owner and Contractor but will not be liable for results of any interpretations or decisions rendered in good faith.

§ 10.8 The Architect's decisions on matters relating to aesthetic effect will be final if consistent with the intent expressed in the Contract Documents.

§ 10.9 Duties, responsibilities and limitations of authority of the Architect as set forth in the Contract Documents shall not be restricted, modified or extended without written consent of the Owner, Contractor and Architect. Consent shall not be unreasonably withheld.

ARTICLE 11 SUBCONTRACTORS

§ 11.1 A Subcontractor is a person or entity who has a direct contract with the Contractor to perform a portion of the Work at the site.

§ 11.2 Unless otherwise stated in the Contract Documents or the bidding requirements, the Contractor, as soon as practicable after award of the Contract, shall furnish in writing to the Owner through the Architect the names of the Subcontractors or suppliers for each of the principal portions of the Work. The Contractor shall not contract with any Subcontractor or supplier to whom the Owner or Architect has made reasonable written objection within ten days after receipt of the Contractor's list of Subcontractors and suppliers. If the proposed but rejected Subcontractor was reasonably capable of performing the Work, the Contract Sum and Contract Time shall be increased or decreased by the difference, if any, occasioned by such change, and an appropriate Change Order shall be issued before commencement of the substitute Subcontractor's Work. The Contractor shall not be required to contract with anyone to whom the Contractor has made reasonable objection.

§ 11.3 Contracts between the Contractor and Subcontractors shall (1) require each Subcontractor, to the extent of the Work to be performed by the Subcontractor, to be bound to the Contractor by the terms of the Contract Documents, and to assume toward the Contractor all the obligations and responsibilities, including the responsibility for safety of the Subcontractor's Work, which the Contractor, by the Contract Documents, assumes toward the Owner and Architect, and (2) allow the Subcontractor the benefit of all rights, remedies and redress against the Contractor that the Contractor, by these Contract Documents, has against the Owner.

ARTICLE 12 CONSTRUCTION BY OWNER OR BY SEPARATE CONTRACTORS

§ 12.1 The Owner reserves the right to perform construction or operations related to the Project with the Owner's own forces, and to award separate contracts in connection with other portions of the Project or other construction or operations on the site under conditions of the contract identical or substantially similar to these, including those

portions related to insurance and waiver of subrogation. If the Contractor claims that delay or additional cost is involved because of such action by the Owner, the Contractor shall make such claim as provided in Article 21.

§ 12.2 The Contractor shall afford the Owner and separate contractors reasonable opportunity for introduction and storage of their materials and equipment and performance of their activities, and shall connect and coordinate the Contractor's activities with theirs as required by the Contract Documents.

§ 12.3 The Owner shall be reimbursed by the Contractor for costs incurred by the Owner which are payable to a separate contractor because of delays, improperly timed activities or defective construction of the Contractor. The Owner shall be responsible to the Contractor for costs incurred by the Contractor because of delays, improperly timed activities, damage to the Work or defective construction of a separate contractor.

ARTICLE 13 CHANGES IN THE WORK

§ 13.1 By appropriate Modification, changes in the Work may be accomplished after execution of the Contract. The Owner, without invalidating the Contract, may order changes in the Work within the general scope of the Contract consisting of additions, deletions or other revisions, with the Contract Sum and Contract Time being adjusted accordingly. Such changes in the Work shall be authorized by written Change Order signed by the Owner, Contractor and Architect, or by written Construction Change Directive signed by the Owner and Architect.

§ 13.2 Adjustments in the Contract Sum and Contract Time resulting from a change in the Work shall be determined by mutual agreement of the parties or, in the case of a Construction Change Directive signed only by the Owner and Architect, by the Contractor's cost of labor, material, equipment, and reasonable overhead and profit, unless the parties agree on another method for determining the cost or credit. Pending final determination of the total cost of a Construction Change Directive, the Contractor may request payment for Work completed pursuant to the Construction Change Directive. The Architect will make an interim determination of the amount of payment due for purposes of certifying the Contractor's monthly Application for Payment. When the Owner and Contractor agree on adjustments to the Contract Sum and Contract Time arising from a Construction Change Directive, the Architect will prepare a Change Order.

§ 13.3 The Architect will have authority to order minor changes in the Work not involving adjustment in the Contract Sum or extension of the Contract Time and not inconsistent with the intent of the Contract Documents. Such changes shall be effected by written order and shall be binding on the Owner and Contractor. The Contractor shall carry out such written orders promptly.

§ 13.4 If concealed or unknown physical conditions are encountered at the site that differ materially from those indicated in the Contract Documents or from those conditions ordinarily found to exist, the Contract Sum and Contract Time shall be equitably adjusted as mutually agreed between the Owner and Contractor; provided that the Contractor provides notice to the Owner and Architect promptly and before conditions are disturbed.

ARTICLE 14 TIME

§ 14.1 Time limits stated in the Contract Documents are of the essence of the Contract. By executing the Agreement the Contractor confirms that the Contract Time is a reasonable period for performing the Work.

§ 14.2 Unless otherwise provided, Contract Time is the period of time, including authorized adjustments, allotted in the Contract Documents for Substantial Completion of the Work.

§ 14.3 The term "day" as used in the Contract Documents shall mean calendar day unless otherwise specifically defined.

§ 14.4 The date of Substantial Completion is the date certified by the Architect in accordance with Section 15.4.3.

§ 14.5 If the Contractor is delayed at any time in the commencement or progress of the Work by changes ordered in the Work, by labor disputes, fire, unusual delay in deliveries, abnormal adverse weather conditions not reasonably anticipatable, unavoidable casualties or any causes beyond the Contractor's control, or by other causes which the Architect determines may justify delay, then the Contract Time shall be extended by Change Order for such reasonable time as the Architect may determine, subject to the provisions of Article 21.

ARTICLE 15 PAYMENTS AND COMPLETION

§ 15.1 APPLICATIONS FOR PAYMENT

§ 15.1.1 Where the Contract is based on a Stipulated Sum or the Cost of the Work with a Guaranteed Maximum Price, the Contractor shall submit to the Architect, before the first Application for Payment, a schedule of values, allocating the entire Contract Sum to the various portions of the Work, prepared in such form and supported by such data to substantiate its accuracy as the Architect may require. This schedule, unless objected to by the Architect, shall be used in reviewing the Contractor's Applications for Payment.

§ 15.1.2 With each Application for Payment where the Contract Sum is based upon the Cost of the Work, or the Cost of the Work with a Guaranteed Maximum Price, the Contractor shall submit payrolls, petty cash accounts, receipted invoices or invoices with check vouchers attached, and any other evidence required by the Owner to demonstrate that cash disbursements already made by the Contractor on account of the Cost of the Work equal or exceed (1) progress payments already received by the Contractor, less (2) that portion of those payments attributable to the Contractor's Fee; plus (3) payrolls for the period covered by the present Application for Payment.

§ 15.1.3 Payments shall be made on account of materials and equipment delivered and suitably stored at the site for subsequent incorporation in the Work. If approved in advance by the Owner, payment may similarly be made for materials and equipment stored, and protected from damage, off the site at a location agreed upon in writing.

§ 15.1.4 The Contractor warrants that title to all Work covered by an Application for Payment will pass to the Owner no later than the time of payment. The Contractor further warrants that upon submittal of an Application for Payment all Work for which Certificates for Payment have been previously issued and payments received from the Owner shall, to the best of the Contractor's knowledge, information and belief, be free and clear of liens, claims, security interests or other encumbrances adverse to the Owner's interests.

§ 15.2 CERTIFICATES FOR PAYMENT

§ 15.2.1 The Architect will, within seven days after receipt of the Contractor's Application for Payment, either issue to the Owner a Certificate for Payment, with a copy to the Contractor, for such amount as the Architect determines is properly due, or notify the Contractor and Owner in writing of the Architect's reasons for withholding certification in whole or in part as provided in Section 15.2.3.

§ 15.2.2 The issuance of a Certificate for Payment will constitute a representation by the Architect to the Owner, based on the Architect's evaluations of the Work and the data comprising the 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 to an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, to results of subsequent tests and inspections, to correction of minor deviations from the Contract Documents prior to completion and to specific qualifications expressed by the Architect. The issuance of a Certificate for Payment will further constitute a representation that the Contractor is entitled to payment in the amount certified. However, the issuance of a Certificate for Payment will 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) made examination to ascertain how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.

§ 15.2.3 The Architect may withhold a Certificate for Payment in whole or in part, to the extent reasonably necessary to protect the Owner, if in the Architect's opinion the representations to the Owner required by Section 15.2.2 cannot be made. If the Architect is unable to certify payment in the amount of the Application, the Architect will notify the Contractor and Owner as provided in Section 15.2.1. If the Contractor and the Architect cannot agree on a revised amount, the Architect will promptly issue a Certificate for Payment for the amount for which the Architect is able to make such representations to the Owner. The Architect may also withhold a Certificate for Payment or, because of subsequently discovered evidence, may nullify the whole or a part of a Certificate for Payment previously issued, to such extent as may be necessary in the Architect's opinion to protect the Owner from loss for which the Contractor is responsible, including loss resulting from acts and omissions described in Section 9.2.2, because of

- .1 defective Work not remedied;

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- .2 third party claims filed or reasonable evidence indicating probable filing of such claims unless security acceptable to the Owner is provided by the Contractor;
- .3 failure of the Contractor to make payments properly to Subcontractors or for labor, materials or equipment;
- .4 reasonable evidence that the Work cannot be completed for the unpaid balance of the Contract Sum;
- .5 damage to the Owner or a separate contractor;
- .6 reasonable evidence that the Work will not be completed within the Contract Time and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay; or
- .7 repeated failure to carry out the Work in accordance with the Contract Documents.

§ 15.2.4 When the above reasons for withholding certification are removed, certification will be made for amounts previously withheld.

§ 15.3 PROGRESS PAYMENTS

§ 15.3.1 The Contractor shall pay each Subcontractor, no later than seven days after receipt of payment, the amount to which the Subcontractor is entitled, reflecting percentages actually retained from payments to the Contractor on account of the Subcontractor's portion of the Work. The Contractor shall, by appropriate agreement with each Subcontractor, require each Subcontractor to make payments to sub-subcontractors in similar manner.

§ 15.3.2 Neither the Owner nor Architect shall have an obligation to pay or see to the payment of money to a Subcontractor except as may otherwise be required by law.

§ 15.3.3 A Certificate for Payment, a progress payment, or partial or entire use or occupancy of the Project by the Owner shall not constitute acceptance of Work not in accordance with the Contract Documents.

§ 15.4 SUBSTANTIAL COMPLETION

§ 15.4.1 Substantial Completion is the stage in the progress of the Work when the Work or designated portion thereof is sufficiently complete in accordance with the Contract Documents so that the Owner can occupy or utilize the Work for its intended use.

§ 15.4.2 When the Contractor considers that the Work, or a portion thereof which the Owner agrees to accept separately, is substantially complete, the Contractor shall prepare and submit to the Architect a comprehensive list of items to be completed or corrected prior to final payment. Failure to include an item on such list does not alter the responsibility of the Contractor to complete all Work in accordance with the Contract Documents.

§ 15.4.3 Upon receipt of the Contractor's list, the Architect will make an inspection to determine whether the Work or designated portion thereof is substantially complete. When the Architect determines that the Work or designated portion thereof is substantially complete, the Architect will issue a Certificate of Substantial Completion which shall establish the date of Substantial Completion, establish responsibilities of the Owner and Contractor for security, maintenance, heat, utilities, damage to the Work and insurance, and fix the time within which the Contractor shall finish all items on the list accompanying the Certificate. Warranties required by the Contract Documents shall commence on the date of Substantial Completion of the Work or designated portion thereof unless otherwise provided in the Certificate of Substantial Completion.

§ 15.4.4 The Certificate of Substantial Completion shall be submitted to the Owner and Contractor for their written acceptance of responsibilities assigned to them in such Certificate. Upon such acceptance and consent of surety, if any, the Owner shall make payment of retainage applying to such Work or designated portion thereof. Such payment shall be adjusted for Work that is incomplete or not in accordance with the requirements of the Contract Documents.

§ 15.5 FINAL COMPLETION AND FINAL PAYMENT

§ 15.5.1 Upon receipt of the Contractor's written notice that the Work is ready for final inspection and acceptance and upon receipt of a final Application for Payment, the Architect will promptly make such inspection and, when the Architect finds the Work acceptable under the Contract Documents and the Contract fully performed, the Architect will promptly issue a final Certificate for Payment stating that to the best of the Architect's knowledge, information and belief, and on the basis of the Architect's on-site visits and inspections, the Work has been completed in accordance with terms and conditions of the Contract Documents and that the entire balance found to be due the Contractor and noted in the final Certificate is due and payable. The Architect's final Certificate for Payment will

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constitute a further representation that conditions stated in Section 15.5.2 as precedent to the Contractor's being entitled to final payment have been fulfilled.

§ 15.5.2 Final payment shall not become due until the Contractor has delivered to the Owner a complete release of all liens arising out of this Contract or receipts in full covering all labor, materials and equipment for which a lien could be filed, or a bond satisfactory to the Owner to indemnify the Owner against such lien. If such lien remains unsatisfied after payments are made, the Contractor shall refund to the Owner all money that the Owner may be compelled to pay in discharging such lien, including costs and reasonable attorneys' fees.

§ 15.5.3 The making of final payment shall constitute a waiver of claims by the Owner except those arising from

- .1 liens, claims, security interests or encumbrances arising out of the Contract and unsettled;
- .2 failure of the Work to comply with the requirements of the Contract Documents; or
- .3 terms of special warranties required by the Contract Documents.

§ 15.5.4 Acceptance of final payment by the Contractor, a Subcontractor or material supplier shall constitute a waiver of claims by that payee except those previously made in writing and identified by that payee as unsettled at the time of final Application for Payment.

ARTICLE 16 PROTECTION OF PERSONS AND PROPERTY

§ 16.1 SAFETY PRECAUTIONS AND PROGRAMS

The Contractor shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the performance of the Contract. The Contractor shall take reasonable precautions for safety of, and shall provide reasonable protection to prevent damage, injury or loss to

- .1 employees on the Work and other persons who may be affected thereby;
- .2 the Work and materials and equipment to be incorporated therein, whether in storage on or off the site, under care, custody or control of the Contractor or the Contractor's Subcontractors or Sub-subcontractors; and
- .3 other property at the site or adjacent thereto, such as trees, shrubs, lawns, walks, pavements, roadways, structures and utilities not designated for removal, relocation or replacement in the course of construction.

The Contractor shall comply with and give notices required by applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities bearing on safety of persons and property and their protection from damage, injury or loss. The Contractor shall promptly remedy damage and loss to property caused in whole or in part by the Contractor, a Subcontractor, a sub-subcontractor, or anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable and for which the Contractor is responsible under Sections 16.1.2 and 16.1.3, except for damage or loss attributable to acts or omissions of the Owner or Architect or by anyone for whose acts either of them may be liable, and not attributable to the fault or negligence of the Contractor. The foregoing obligations of the Contractor are in addition to the Contractor's obligations under Section 9.15.

§ 16.2 HAZARDOUS MATERIALS

§ 16.2.1 The Contractor is responsible for compliance with the requirements of the Contract Documents regarding hazardous materials. If the Contractor encounters a hazardous material or substance not addressed in the Contract Documents, and if reasonable precautions will be inadequate to prevent foreseeable bodily injury or death to persons resulting from a material or substance, including but not limited to asbestos or polychlorinated biphenyl (PCB), encountered on the site by the Contractor, the Contractor shall, upon recognizing the condition, immediately stop Work in the affected area and report the condition to the Owner and Architect in writing. When the material or substance has been rendered harmless, Work in the affected area shall resume upon written agreement of the Owner and Contractor. By Change Order, the Contract Time shall be extended appropriately and the Contract Sum shall be increased in the amount of the Contractor's reasonable additional costs of shutdown, delay and start-up.

§ 16.2.2 To the fullest extent permitted by law, the Owner shall indemnify and hold harmless the Contractor, Subcontractors, Architect, Architect's consultants and agents and employees of any of them from and against claims, damages, losses and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work in the affected area, if in fact, the material or substance presents the risk of bodily injury or death as described in Section 16.2.1 and has not been rendered harmless, provided that such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property

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(other than the Work itself), except to the extent that such damage, loss or expense is due to the fault or negligence of the party seeking indemnity.

§ 16.2.3 If, without negligence on the part of the Contractor, the Contractor is held liable by a government agency for the cost of remediation of a hazardous material or substance solely by reason of performing Work as required by the Contract Documents, the Owner shall indemnify the Contractor for all cost and expense thereby incurred.

ARTICLE 17 INSURANCE AND BONDS

§ 17.1 The Contractor shall purchase from, and maintain in a company or companies lawfully authorized to do business in the jurisdiction in which the Project is located, insurance for protection from claims under workers' compensation acts and other employee benefit acts which are applicable, claims for damages because of bodily injury, including death, and claims for damages, other than to the Work itself, to property which may arise out of or result from the Contractor's operations and completed operations under the Contract, whether such operations be by the Contractor or by a Subcontractor or anyone directly or indirectly employed by any of them. This insurance shall be written for not less than limits of liability specified in the Contract Documents or required by law, whichever coverage is greater, and shall include contractual liability insurance applicable to the Contractor's obligations under Section 9.15. Certificates of Insurance acceptable to the Owner shall be filed with the Owner prior to commencement of the Work. Each policy shall contain a provision that the policy will not be canceled or allowed to expire until at least 30 days' prior written notice has been given to the Owner. The Contractor shall cause the commercial liability coverage required by the Contract Documents to include: (1) the Owner, the Architect and the Architect's Consultants as additional insureds for claims caused in whole or in part by the Contractor's negligent acts or omissions during the Contractor's operations; and (2) the Owner as an additional insured for claims caused in whole or in part by the Contractor's negligent acts or omissions during the Contractor's completed operations.

§ 17.2 OWNER'S LIABILITY INSURANCE

The Owner shall be responsible for purchasing and maintaining the Owner's usual liability insurance.

§ 17.3 PROPERTY INSURANCE

§ 17.3.1 Unless otherwise provided, the Owner shall purchase and maintain, in a company or companies lawfully authorized to do business in the jurisdiction in which the Project is located, property insurance on an "all-risk" or equivalent policy form, including builder's risk, in the amount of the initial Contract Sum, plus the value of subsequent modifications and cost of materials supplied and installed by others, comprising total value for the entire Project at the site on a replacement cost basis without optional deductibles. Such property insurance shall be maintained, unless otherwise provided in the Contract Documents or otherwise agreed in writing by all persons and entities who are beneficiaries of such insurance, until final payment has been made as provided in Section 15.5 or until no person or entity other than the Owner has an insurable interest in the property required by this Section 17.3.1 to be covered, whichever is later. This insurance shall include interests of the Owner, the Contractor, Subcontractors and sub-subcontractors in the Project.

§ 17.3.2 The Owner shall file a copy of each policy with the Contractor before an exposure to loss may occur. Each policy shall contain a provision that the policy will not be canceled or allowed to expire, and that its limits will not be reduced, until at least 30 days' prior written notice has been given to the Contractor.

§ 17.3.3 The Owner and Contractor waive all rights against (1) each other and any of their subcontractors, sub-subcontractors, agents and employees, each of the other, and (2) the Architect, Architect's consultants, separate contractors described in Article 12, if any, and any of their subcontractors, sub-subcontractors, agents and employees for damages caused by fire or other causes of loss to the extent covered by property insurance obtained pursuant to Section 17.3 or other property insurance applicable to the Work, except such rights as they have to proceeds of such insurance held by the Owner as fiduciary. The Owner or Contractor, as appropriate, shall require of the Architect, Architect's consultants, separate contractors described in Article 12, if any, and the subcontractors, sub-subcontractors, agents and employees of any of them, by appropriate agreements, written where legally required for validity, similar waivers each in favor of other parties enumerated herein. The policies shall provide such waivers of subrogation by endorsement or otherwise. A waiver of subrogation shall be effective as to a person or entity even though that person or entity would otherwise have a duty of indemnification, contractual or otherwise, did not pay the insurance premium directly or indirectly, and whether or not the person or entity had an insurable interest in the property damaged.

§ 17.3.4 A loss insured under the Owner's property insurance shall be adjusted by the Owner as fiduciary and made payable to the Owner as fiduciary for the insureds, as their interests may appear, subject to requirements of any applicable mortgagee clause. The Contractor shall pay Subcontractors their just shares of insurance proceeds received by the Contractor, and by appropriate agreements, written where legally required for validity, shall require Subcontractors to make payments to their sub-subcontractors in similar manner.

§ 17.4 PERFORMANCE BOND AND PAYMENT BOND

§ 17.4.1 The Owner shall have the right to require the Contractor to furnish bonds covering faithful performance of the Contract and payment of obligations arising thereunder as stipulated in bidding requirements or specifically required in the Contract Documents on the date of execution of the Contract.

§ 17.4.2 Upon the request of any person or entity appearing to be a potential beneficiary of bonds covering payment of obligations arising under the Contract, the Contractor shall promptly furnish a copy of the bonds or shall authorize a copy to be furnished.

ARTICLE 18 CORRECTION OF WORK

§ 18.1 The Contractor shall promptly correct Work rejected by the Architect or failing to conform to the requirements of the Contract Documents, whether discovered before or after Substantial Completion and whether or not fabricated, installed or completed. Costs of correcting such rejected Work, including additional testing and inspections, the cost of uncovering and replacement, and compensation for the Architect's services and expenses made necessary thereby, shall be at the Contractor's expense, unless compensable under Section A.2.7.3 in Exhibit A, Determination of the Cost of the Work.

§ 18.2 In addition to the Contractor's obligations under Section 9.4, if, within one year after the date of Substantial Completion of the Work or designated portion thereof or after the date for commencement of warranties established under Section 15.4.3, or by terms of an applicable special warranty required by the Contract Documents, any of the Work is found to be not in accordance with the requirements of the Contract Documents, the Contractor shall correct it promptly after receipt of written notice from the Owner to do so unless the Owner has previously given the Contractor a written acceptance of such condition. The Owner shall give such notice promptly after discovery of the condition. During the one-year period for correction of Work, if the Owner fails to notify the Contractor and give the Contractor an opportunity to make the correction, the Owner waives the rights to require correction by the Contractor and to make a claim for breach of warranty.

§ 18.3 If the Contractor fails to correct nonconforming Work within a reasonable time, the Owner may correct it in accordance with Section 8.3.

§ 18.4 The one-year period for correction of Work shall be extended with respect to portions of Work first performed after Substantial Completion by the period of time between Substantial Completion and the actual completion of that portion of the Work.

§ 18.5 The one-year period for correction of Work shall not be extended by corrective Work performed by the Contractor pursuant to this Article 18.

ARTICLE 19 MISCELLANEOUS PROVISIONS

§ 19.1 ASSIGNMENT OF CONTRACT

Neither party to the Contract shall assign the Contract without written consent of the other, except that the Owner may, without consent of the Contractor, assign the Contract to a lender providing construction financing for the Project if the lender assumes the Owner's rights and obligations under the Contract Documents. The Contractor shall execute all consents reasonably required to facilitate such assignment.

§ 19.2 GOVERNING LAW

The Contract 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 21.4.

§ 19.3 TESTS AND INSPECTIONS

Tests, inspections and approvals of portions of the Work required by the Contract Documents or by applicable laws, statutes, ordinances, codes, rules and regulations or lawful orders of public authorities shall be made at an appropriate time. Unless otherwise provided, the Contractor shall make arrangements for such tests, inspections and approvals with an independent testing laboratory or entity acceptable to the Owner, or with the appropriate public authority, and shall bear all related costs of tests, inspections and approvals. The Contractor shall give the Architect timely notice of when and where tests and inspections are to be made so that the Architect may be present for such procedures. The Owner shall bear costs of (1) tests, inspections or approvals that do not become requirements until after bids are received or negotiations concluded, and (2) tests, inspections or approvals where building codes or applicable laws or regulations prohibit the Owner from delegating the costs to the Contractor.

§ 19.4 COMMENCEMENT OF STATUTORY LIMITATION PERIOD

The Owner and Contractor shall commence all claims and causes of action, whether in contract, tort, breach of warranty or otherwise, against the other arising out of or related to the Contract in accordance with the requirements of the final dispute resolution method selected in the 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 Contractor waive all claims and causes of action not commenced in accordance with this Section 19.4.

ARTICLE 20 TERMINATION OF THE CONTRACT

§ 20.1 TERMINATION BY THE CONTRACTOR

If the Architect fails to certify payment as provided in Section 15.2.1 for a period of 30 days through no fault of the Contractor, or if the Owner fails to make payment as provided in Section 4.1.3 for a period of 30 days, the Contractor may, upon seven additional days' written notice to the Owner and the Architect, terminate the Contract and recover from the Owner payment for Work executed, including reasonable overhead and profit, costs incurred by reason of such termination, and damages.

§ 20.2 TERMINATION BY THE OWNER FOR CAUSE

§ 20.2.1 The Owner may terminate the Contract if the Contractor

- .1 repeatedly refuses or fails to supply enough properly skilled workers or proper materials;
- .2 fails to make payment to Subcontractors for materials or labor in accordance with the respective agreements between the Contractor and the Subcontractors;
- .3 repeatedly disregards applicable laws, statutes, ordinances, codes, rules and regulations or lawful orders of a public authority; or
- .4 otherwise is guilty of substantial breach of a provision of the Contract Documents.

§ 20.2.2 When any of the above reasons exists, the Owner, upon certification by the Architect that sufficient cause exists to justify such action, may, without prejudice to any other remedy the Owner may have and after giving the Contractor seven days' written notice, terminate the Contract and take possession of the site and of all materials, equipment, tools, and construction equipment and machinery thereon owned by the Contractor and may finish the Work by whatever reasonable method the Owner may deem expedient. Upon request of the Contractor, the Owner shall furnish to the Contractor a detailed accounting of the costs incurred by the Owner in finishing the Work.

§ 20.2.3 When the Owner terminates the Contract for one of the reasons stated in Section 20.2.1, the Contractor shall not be entitled to receive further payment until the Work is finished.

§ 20.2.4 If the unpaid balance of the Contract Sum exceeds costs of finishing the Work, including compensation for the Architect's services and expenses made necessary thereby, and other damages incurred by the Owner and not expressly waived, such excess shall be paid to the Contractor. If such costs and damages exceed the unpaid balance, the Contractor shall pay the difference to the Owner. The amount to be paid to the Contractor or Owner, as the case may be, shall be certified by the Architect, upon application, and this obligation for payment shall survive termination of the Contract.

§ 20.3 TERMINATION BY THE OWNER FOR CONVENIENCE

The Owner may, at any time, terminate the Contract for the Owner's convenience and without cause. The Contractor shall be entitled to receive payment for Work executed, and costs incurred by reason of such termination, along with reasonable overhead and profit on the Work not executed.

ARTICLE 21 CLAIMS AND DISPUTES

§ 21.1 Claims, disputes and other matters in question arising out of or relating to this Contract, including those alleging an error or omission by the Architect but excluding those arising under Section 16.2, shall be referred initially to the Architect for decision. Such matters, except those waived as provided for in Section 21.8 and Sections 15.5.3 and 15.5.4, shall, after initial decision by the Architect or 30 days after submission of the matter to the Architect, be subject to mediation as a condition precedent to binding dispute resolution.

§ 21.2 If a claim, dispute or other matter in question relates to or is the subject of a mechanic's lien, the party asserting such matter may proceed in accordance with applicable law to comply with the lien notice or filing deadlines.

§ 21.3 The parties shall endeavor to resolve their disputes by mediation which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with their 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 this Agreement, and filed with the person or entity administering the mediation. The request may be made concurrently with the 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 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.

§ 21.4 If the parties have selected arbitration as the method for binding dispute resolution in the Agreement, any claim, 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 the Construction Industry Arbitration Rules in effect on the date of this Agreement. Demand for arbitration shall be made in writing, delivered to the other party to the Contract, and filed with the person or entity administering the arbitration. The award rendered by the arbitrator or arbitrators shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.

§ 21.5 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).

§ 21.6 Any party to an arbitration 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 a Claim not described in the written Consent.

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

§ 21.8 CLAIMS FOR CONSEQUENTIAL DAMAGES

The Contractor and Owner waive claims against each other for consequential damages arising out of or relating to this Contract. This mutual waiver includes

- .1 damages incurred by the Owner for rental expenses, for losses of use, income, profit, financing, business and reputation, and for loss of management or employee productivity or of the services of such persons; and
- .2 damages incurred by the Contractor for principal office expenses including the compensation of personnel stationed there, for losses of financing, business and reputation, and for loss of profit except anticipated profit arising directly from the Work.

This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination in accordance with Article 20. Nothing contained in this Section 21.8 shall be deemed to preclude an award of liquidated damages, when applicable, in accordance with the requirements of the Contract Documents.

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

OWNER (Signature)

CONTRACTOR (Signature)

(Printed name and title)

(Printed name and title)

Init.

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User Notes:

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(3B9ADA23)

[Return to Agenda](#)

PROJECT: **Morristown Public Works Facility – Bid Pkg. 2
Morristown, TN**

OWNER: **CITY OF MORRISTOWN
100 WEST FIRST NORTH STREET
MORRISTOWN, TN 37814**

ARCHITECT: **LOSE DESIGN
2309 FOSTER AVENUE
NASHVILLE, TN 37210**

DATE: **AUGUST 9, 2018 @ 2:00 P.M. ET**

BIDDER'S NAME: **MERIT CONSTRUCTION, INC.
10435 DUTCHTOWN ROAD
KNOXVILLE, TN 37932
(865) 966-4100 (PHONE)
(865) 966-4101 (FAX)**

CONTRACTORS LICENSE NUMBER: **20853**
STATE INCORPORATED: **TENNESSEE**
LICENSE LIMIT: **UNLIMITED**

EXPIRATION DATE: **9/30/19**
CLASSIFICATION OF LICENSE NUMBER:
BC; MU; HRA; LMC

PLUMBING SUBCONTRACTOR: <u>BK Plumbing, Inc.</u> LICENSE LIMITATIONS: <u>\$900,000.00</u>	LICENSE NO. <u>603160</u> CLASSIFICATION: <u>CMC-A</u>	EXPIRATION DATE: <u>11-30-2019</u>
MECHANICAL SUBCONTRACTOR: <u>United Services, Inc.</u> LICENSE LIMITATIONS: <u>\$1,913,600.00</u>	LICENSE NO. <u>47699</u> CLASSIFICATION: <u>CMC, CE</u>	EXPIRATION DATE: <u>10-31-2019</u>
ELECTRICAL SUBCONTRACTOR: Shoffnerkalthoff Mechanical Electrical Service, LLC License No. 13837 Expiration: 8/30/2019 Class: BC-16,18,28; 32; CE; CMC; MU-A Limit: Unlimited	LICENSE NO. _____ CLASSIFICATION: _____	EXPIRATION DATE: _____ <div>RECEIVED BY: <u>1:57 pm</u></div>
MASONRY SUBCONTRACTOR: <u>Merit Construction, Inc.</u> LICENSE LIMITATIONS: <u>Unlimited</u>	LICENSE NO. <u>20853</u> CLASSIFICATION: <u>BC; MU; HRA; LMC</u>	EXPIRATION DATE: <u>9-30-19</u>
GEO THERMAL SUBCONTRACTOR: <u>N/A</u> LICENSE LIMITATIONS: _____	LICENSE NO. _____ CLASSIFICATION: _____	EXPIRATION DATE: _____

CITY OF MORRISTOWN, TENNESSEE
INVITATION TO BID - MORRISTOWN PUBLIC WORKS FACILITY - BID PACKAGE 2

INVITATION TO BID

Office of Finance
100 West First North Street
Morristown, TN 37814

INTRODUCTION

The City of Morristown is accepting sealed bids for the Morristown Public Works Facility - Bid Package 2 with specifications stated herein.

Proposer shall return bids in **SEALED** envelope to:

City of Morristown
Attn: Ashley Ahl, Purchasing Assistant
100 West First North Street
Morristown, TN 37814

Public opening of sealed bids will be held at the above address at the deadline date and time listed below.

DATE ISSUED:	July 23, 2018
BID TITLE:	Morristown Public Works Facility - Bid Package 2 Bid Number 1902
BID DEADLINE DATE & TIME:	August 9, 2018 at 2:00 pm. Eastern Time (local prevailing time)
BID OPENING LOCATION:	Morristown City Center, Training Room on 1 st Floor
BID CONTACT:	Ashley Ahl, Purchasing Assistant
CONTACT PHONE:	423.585.4622
CONTACT EMAIL:	purchasing@mymorristown.com
PRE-BID MEETING:	No Pre-Bid Meeting for this bid.
DEADLINE FOR QUESTIONS:	The deadline to submit questions in writing is 4:00 pm Eastern Time on August 2, 2018. Questions to be submitted to Ashley Ahl.

CITY OF MORRISTOWN, TENNESSEE
INVITATION TO BID - MORRISTOWN PUBLIC WORKS FACILITY - BID PACKAGE 2

TERMS AND CONDITIONS

1. **REQUIREMENTS FOR SEALED BID SUBMISSION.**
 - a. COMPLETE, UNBOUND, ORIGINAL, sealed bid.
 - b. Complete and original invitation to bid with "Bidder Initial" completed by authorized representative.
 - c. All bids shall be submitted SEALED, envelope clearly marked with the bid name, date, and time ON THE OUTSIDE OF THE SEALED ENVELOPE.
 - d. Copy of IRS W-9 Form.
2. **BIDS RECEIVED ON TIME.** Bids and amendments thereto, if received by the City of Morristown's Finance Office after the date and time specified for opening, will not be considered. It will be the responsibility of the BIDDER to see that the bid is received by the City of Morristown's Finance Office by the specified time and date. There will be no exceptions. Date of postmark will not be considered. Telephone, facsimile, electronic, and verbal bids will not be accepted. Any bid received after the opening date and time will remain unopened and on file. The City of Morristown will not be responsible for bids received late because of delays by a third party delivery service, i.e., U.S. Mail, UPS, Federal Express, etc.
3. **TAX EXEMPT.** The City of Morristown is a tax exempt entity. The successful vendor will be provided with an executed copy of tax exempt form.
4. **ANTI-COLLUSION.** The bidder certifies by signing this document that the bid is made without prior understanding, agreement, or accord with any person submitting a bid for the same services and that this bid is in all respects bona fide, fair, and not the result of any act of fraud or collusion with another person engaged in the same line of business or commerce. Any false statement hereunder constitutes a felony and can result in a fine and imprisonment, as well as civil damages.
5. **AWARD IN WHOLE OR IN PART.** The City of Morristown reserves the right to: award by item, groups of items, or total bid; to reject any and/or all bids in whole or in part, and to waive any informality if it is determined to be in the best interest of City of Morristown.
6. **OPEN RECORDS ACT.** Once the bid document is submitted to the City of Morristown and is opened, it constitutes a public record and is subject to open records requests pursuant to the Tennessee Open Records Act.
7. **PAYMENT TERMS.** The City of Morristown pays from monthly statements for services rendered. Payments are made within 15 days of the previous month's statement being received in the City of Morristown's Finance Office.
8. **RECEIPT DOES NOT CONSTITUTE AWARD.** Receipt of your bid by the City of Morristown is not to be construed as an award for services.

Bidder Initial 

CITY OF MORRISTOWN, TENNESSEE
INVITATION TO BID - MORRISTOWN PUBLIC WORKS FACILITY - BID PACKAGE 2

9. **AVAILABILITY OF FUNDS.** Obligations on those contracts that envision extended funding through successive fiscal periods shall be contingent upon actual appropriations for the following years.
10. **AUTHORIZED SIGNATURE.** All bids must be signed by an authorized, responsible officer or employee having the authority to enter into contracts. Obligations assumed by such signature must be fulfilled.
11. **NO SUBMISSION.** If you choose to not respond to this sealed bid request, advise City of Morristown of your intent and state the reason. Failure to do so may risk removal of your name from our mailing list/e-mail list.
12. **KNOWLEDGE OF LAWS AND REGULATIONS.** The bidder agrees that all applicable Federal, State and Local laws, municipal ordinances, and the rules and regulations of all authorities having jurisdiction over construction of the project shall apply to the contract throughout and they will be deemed to be included in the contract the same as though written in full. The bidder shall observe and comply with all such laws, ordinances, and regulations and shall protect and indemnify the City of Morristown and its representatives against any claim or liability arising from or based on any violations of the same, whether by the bidder, the bidder's subcontractors, suppliers, or others by the bidder or the employee of any of them.
13. **DRUG-FREE WORKPLACE.** The bidder understands that the City of Morristown operates a drug-free workplace program. Any good or service provided to the City of Morristown by the bidder must comply with all State and Federal drug-free workplace laws, rules and regulations. The bidder agrees to comply by the execution of the "Bidder Initial" located at the bottom of the page.
14. **DIRECT CONTACT PROHIBITED.** Direct contact with City Departments other than the City of Morristown's Finance Office representatives on the subject of this bid is expressly forbidden except with the foreknowledge and permission of the City of Morristown Finance's Office.
15. **NON-DISCRIMINATION.** During the performance of this contract, the bidder agrees as follows: he/she will not discriminate against any employees or applicants for employment because of race, religion, color, sex, national origin, age, disability or any other basis prohibited by federal or state law relating to discrimination in employment, except where one or more of these are a bona fide occupational qualification reasonably necessary to the normal operations of the bidder. The bidder agrees to post in conspicuous places available to employees and applicants for employment, notices setting forth the provisions of this non-discrimination clause.
16. **RIGHT TO WITHDRAWAL.** Bidders have the right to request withdrawal of their bid from consideration due to error by giving notice at any time before and not later than two (2) days after bids are publicly opened.
17. **ORIGINAL BID DOCUMENT.** The original bid document maintained by the City of Morristown's Finance Office shall be considered the official copy document.

Bidder Initial 

CITY OF MORRISTOWN, TENNESSEE
INVITATION TO BID - MORRISTOWN PUBLIC WORKS FACILITY - BID PACKAGE 2

18. **CLOSED FOR BUSINESS.** If the City of Morristown is closed for business at the time scheduled for the bid opening, for whatever reason, sealed bids will be accepted and opened on the next business day of the City, at the originally scheduled hour.
19. **BID APPROVAL BY LEGISLATIVE BODY.** The bid awarding must be approved by the City of Morristown, City Council.
20. **REFERENCE TO BRAND NAMES.** Any reference to brand names, trade names, model numbers, catalog numbers or other descriptions peculiar to any item is made to establish a required level of quality and functional capabilities and is for reference only; it is not intended to exclude other products of that level. Please include with bid any specifications, brochures, catalogs, etc., or other data as will provide adequate basis of determining the quality and functional capabilities of the product offered if applicable.
21. **VENDOR POOR PERFORMANCE.** The City of Morristown may cancel the contract with the vendor at any time for vendor poor performance. Cancellation shall not release the vendor from legal remedies available to the City of Morristown.
22. **FORCE MAJEURE.** The City of Morristown or bidder shall not be liable for any failure of or delay in the performance of this contract for the period that such delay or failure is due to causes beyond reasonable control, including but not limited to acts of God, labor disputes, government orders or any other force majeure event.
23. **PURCHASE ORDERS.** The City of Morristown utilizes purchase orders for ordering goods and/or services. An order may not be fulfilled without a purchase order number from the City of Morristown.
24. **IRAN DIVESTMENT ACT.** By submission of this bid, each bidder and each person signing on behalf of any bidder certifies, and in the case of a joint bid each part thereto certifies as to its own organization, under penalty of perjury, that to the best of its knowledge and belief that each bidder is not on the list created pursuant to TCA 12-12-106.
25. **PAST PERFORMANCE.** If it is determined to be in the best interest of the City of Morristown, the City reserves the right to reject any proposal based on unsatisfactory past performance.
26. **ADDENDA.** In the event that it becomes necessary to revise any part of this bid, written addenda will be issued. Any and all addenda will be numbered in sequence, dated as of the date of issue, and sent via fax or email to all prospective proposers. The proposer shall acknowledge receipt of each addendum by signing in the space provided on the issued addendum and by submitting all addenda with their bid.
27. **QUESTIONS.** All questions shall be directed to the bid contact listed on the first page of this document unless otherwise stated. All communication shall be received by email to purchasing@mymorristown.com.


Biden Metal

CITY OF MORRISTOWN, TENNESSEE
INVITATION TO BID – MORRISTOWN PUBLIC WORKS FACILITY – BID PACKAGE 2

Project Description

This project includes the site work for a parking lot and public works yard, including: vehicular pavement; pedestrian pavement; fencing; storm, water, and sanitary sewer service connections, and landscaping; and construction of 6 buildings (public works administration and maintenance building, public work sign shop, storage building, covered parking buildings (2), and salt storage bin) as outline on the plans and specifications. Mass grading for the project site is to be completed with the improvements for Bid Package 1, and all utility infrastructure is to be installed with Bid Package 1.

<u>Item</u>	<u>Lump Sum Price</u>
Base Bid Morristown Public Works Facility – Bid Package 2	\$ <u>11,549,000.00</u>
Alternate No. 1 Morristown Police Impound Lot	\$ <u>86,000.00</u>
Alternate No. 2 Landscaping Beyond Code Minimum Requirements	\$ <u>-70,000.00</u>
Alternate No. 3 Gravel for Lay-Down Yard	\$ <u>-34,000.00</u>
Alternate No. 4 P.E.M. B. Canopies	\$ <u>-44,000.00</u>
Alternate No. 5 Building C Materials Storage	\$ <u>-570,000.00</u>
Alternate No. 6 Building D – Unit Price	\$ <u>375,000.00</u>
Alternate No. 7 Building E	\$ <u>-130,000.00</u>
Alternate No. 8 Oil Unit Heater	\$ <u>5,600.00</u>
Alternate No. 9 Vehicle Lifts	\$ <u>129,000.00</u>
Alternate No. 10 Overhead 10-Tonne Crane	\$ <u>-53,000.00</u>



CITY OF MORRISTOWN, TENNESSEE
INVITATION TO BID - MORRISTOWN PUBLIC WORKS FACILITY - BID PACKAGE 2

Alternate No. 11

Heated Water Pressure Pump

\$ 3000.00

Warranty	- 1yr	
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Warranty & Service Information

Manufacturer's standard warranty shall apply to system components that are warranted for longer than one year. Warranty will begin on date the system is accepted by the owner.

Bioscience

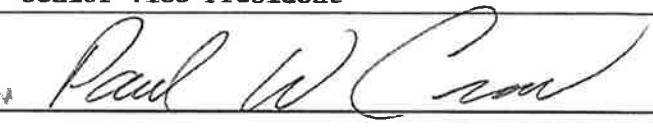

CITY OF MORRISTOWN, TENNESSEE
INVITATION TO BID – MORRISTOWN PUBLIC WORKS FACILITY – BID PACKAGE 2

VENDOR INFORMATION and ANTI-COLLUSION STATEMENT

Please print or type clearly. Complete each section entirely and verify for accuracy.

By signing this form the proposer agrees that he/she has not divulged to, discussed, or compared his/her bid with other proposers and has not colluded with any other proposer or parties regarding the bid whatsoever. Note: no premiums, rebates or gratuities to any employee or agent are permitted with, prior to, or after any delivery of service and or materials. Any such violation will result in the cancellation and/or return of material (as applicable) and the removal from the bid list and could constitute a felony and result in a fine, imprisonment, as well as civil damages.

In compliance with this sealed bid invitation, and subject to all the conditions thereof, the undersigned offers, if this bid is accepted, to furnish any or all of the items and/or services as described herein. The undersigned certifies that he/she has read, understands, and agrees to all terms, conditions, and requirements of this bid, and is authorized to contract on behalf of the firm named below. This form must be signed personally by the proposer or the proposer's authorized agent. All signatures must be original and not photocopies.

COMPANY NAME:	Merit Construction, Inc.
CONTACT PERSON:	Wes Crow
CONTACT PERSON TITLE:	Senior Vice President
SIGNATURE OF AUTHORIZED REPRESENTATIVE:	
FEDERAL TAX ID # (or Social Security #, if applicable)	62-1143997
LICENSE #	20853
STREET ADDRESS:	10435 Dutchtown Road
CITY, STATE, ZIP:	Knoxville, TN 37932
TELEPHONE NUMBER:	(865) 966-4100
FAX NUMBER:	(865) 966-1020
EMAIL:	wcrow@meritconstruction.com
DATE:	August 9, 2018

****By signing this form, the proposer signifies understanding and agreement with the City of Morristown's Terms and Conditions.**

Bidder Initial 

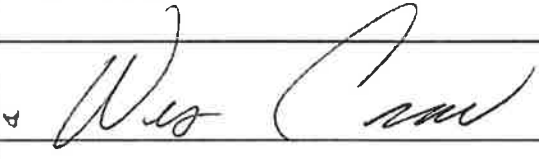
CITY OF MORRISTOWN, TENNESSEE
INVITATION TO BID - MORRISTOWN PUBLIC WORKS FACILITY - BID PACKAGE 2

EXCEPTIONS

Proposer MUST sign the appropriate statement below, as applicable.



Proposer understands and agrees to all terms, conditions, requirements and specifications stated herein. NO EXCEPTIONS ARE TAKEN.

FIRM NAME:	Merit Construction, Inc.
AUTHORIZED REPRESENTATIVE: (printed)	Wes Crow
AUTHORIZED REPRESENTATIVE: (signature)	
DATE:	August 9, 2018



Proposer takes exception to the following terms, conditions, requirements and specifications stated herein.

FIRM NAME:	
AUTHORIZED REPRESENTATIVE: (printed)	
AUTHORIZED REPRESENTATIVE: (signature)	
DATE:	
EXCEPTIONS TO NOTE:	

Vendors should note that any exceptions taken from the stated terms and/or specifications may be cause for their submittal to be deemed "Non-Responsive", risking the rejection of their submittal.

Bidder Initials 

CITY OF MORRISTOWN, TENNESSEE
INVITATION TO BID - MORRISTOWN PUBLIC WORKS FACILITY - BID PACKAGE 2

**THE CITY OF MORRISTOWN, TENNESSEE
COMPANY/CONTRACTOR AFFIDAVIT FORM**
Conflict of Interest Statement

THE AFFIANT STATES TO CITY OF MORRISTOWN, TENNESSEE:

I (WE) HEREBY CERTIFY THAT IF THE CONTRACT IS AWARDED TO OUR FIRM THAT NO MEMBER OR MEMBERS OF THE GOVERNING BODY, ELECTED OFFICIAL OR OFFICIALS, EMPLOYEE OR EMPLOYEES OF SAID CITY OF MORRISTOWN, TENNESSEE, OR ANY PERSON REPRESENTING OR PURPORTING TO REPRESENT CITY OF MORRISTOWN, TENNESSEE, OR ANY FAMILY MEMBER INCLUDING SPOUSE, PARENTS, CHILDREN OF SAID GROUP, HAS RECEIVED OR HAS BEEN PROMISED, DIRECTLY, OR INDIRECTLY, ANY FINANCIAL BENEFIT, BY WAY OF FEE, COMMISSION, FINDER'S FEES OR ANY OTHER FINANCIAL BENEFIT ON ACCOUNT OF THE ACT OF AWARDED AND/OR EXECUTING THE CONTRACT.

THE UNDERSIGNED HEREBY CERTIFIES THAT HE/SHE HAS FULL AUTHORITY TO BIND THE COMPANY AND THAT HE/SHE HAS PERSONALLY REVIEWED THE INFORMATION CONTAINED IN THIS SEALED BID, INCLUDING ALL ATTACHMENTS, ENCLOSURES, APPENDICES, ETC. AND DO HEREBY ATTEST TO THE ACCURACY OF ALL INFORMATION CONTAINED IN THIS BID, INCLUDING ALL ATTACHMENTS, ENCLOSURES, EXHIBITS, ETC.

THE UNDERSIGNED ACKNOWLEDGES THAT ANY MISREPRESENTATION WILL RESULT IN IMMEDIATE DISQUALIFICATION FROM ANY CONTRACT CONSIDERATION.

THE UNDERSIGNED FURTHER RECOGNIZES THAT THE CITY OF MORRISTOWN CITY COUNCIL HAS THE RIGHT TO MAKE THE CONTRACT AWARD FOR ANY REASON CONSIDERED IN THE BEST INTEREST OF CITY OF MORRISTOWN.

This certification shall be included with the bid. Failure of this properly executed document to be included with the bid shall render the bid as incomplete and void.

COMPANY NAME Merit Construction, Inc.

NAME (PRINT) Wes Crow PHONE (865) 966-4100

TITLE Senior Vice President FAX (865) 966-1020

SIGNATURE  DATE 8/9/2018

(TO BE COMPLETED BY NOTARY)

STATE OF: Tennessee

COUNTY OF: Knox

Before me personally appeared Wes Crow, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who acknowledged that such person executed the foregoing for the purposes therein contained.

Witness my hand and seal at office this day of August 20 18

 Notary Public
Kimberly J. Kane

My commission expires: 10-31-2020

Bidder Initial 



BID BOND

Travelers Casualty and Surety Company of America Hartford, Connecticut 06183

CONTRACTOR:

(Name, legal status and address)

Merit Construction, Inc.
10435 Dutchtown Road
Knoxville, TN 37932-2512

OWNER:

(Name, legal status and address)

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

SURETY:

(Name, legal status and principal place of business)

Travelers Casualty and Surety Company of America
One Tower Square
Hartford, CT 06183

BOND AMOUNT: 5% Five Percent of Amount Bid

PROJECT:

(Name, location or address, and Project number, if any)

Morristown Public Works Facility-Bid Package 2

The Contractor and Surety are bound to the Owner in the amount set forth above, for the payment of which the Contractor and Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, as provided herein. The conditions of this Bond are such that if the Owner accepts the bid of the Contractor within the time specified in the bid documents, or within such time period as may be agreed to by the Owner and Contractor, and the Contractor either (1) enters into a contract with the Owner in accordance with the terms of such bid, and gives such bond or bonds as may be specified in the bidding or Contract Documents, with a surety admitted in the jurisdiction of the Project and otherwise acceptable to the Owner, for the faithful performance of such Contract and for the prompt payment of labor and material furnished in the prosecution thereof; or (2) pays to the Owner the difference, not to exceed the amount of this Bond, between the amount specified in said bid and such larger amount for which the Owner may in good faith contract with another party to perform the work covered by said bid, then this obligation shall be null and void, otherwise to remain in full force and effect. The Surety hereby waives any notice of an agreement between the Owner and Contractor to extend the time in which the Owner may accept the bid. Waiver of notice by the Surety shall not apply to any extension exceeding sixty (60) days in the aggregate beyond the time for acceptance of bids specified in the bid documents, and the Owner and Contractor shall obtain the Surety's consent for an extension beyond sixty (60) days.

If this Bond is issued in connection with a subcontractor's bid to a Contractor, the term Contractor in this Bond shall be deemed to be Subcontractor and the term Owner shall be deemed to be Contractor.

When this Bond has been furnished to comply with a statutory or other legal requirement in the location of the Project, any provision in this Bond conflicting with said statutory or legal requirement shall be deemed deleted herefrom and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein. When so furnished, the intent is that this Bond shall be construed as a statutory bond and not as a common law bond.

Signed and sealed this 9th day of August, 2018

Kimberly J. Kane
(Witness) Kimberly J. Kane

Endia Williams
(Witness) Endia Williams

Merit Construction, Inc.

(Principal)

(Seal)

By: Wes Crow

(Title) **Wes Crow, Senior Vice President**

Travelers Casualty and Surety Company of America

(Surety)

(Seal)

By: Catherine L. McMillan

(Title) Catherine L. McMillan Attorney-in-Fact





POWER OF ATTORNEY

Farmington Casualty Company
Fidelity and Guaranty Insurance Company
Fidelity and Guaranty Insurance Underwriters, Inc.
St. Paul Fire and Marine Insurance Company
St. Paul Guardian Insurance Company

St. Paul Mercury Insurance Company
Travelers Casualty and Surety Company
Travelers Casualty and Surety Company of America
United States Fidelity and Guaranty Company

Surety Bond No. Bid Bond

Principal: Merit Construction, Inc.

OR

Project Description: Morristown Public Works Facility-Bid Package

Obligee: City of Morristown

2

KNOW ALL MEN BY THESE PRESENTS: That Farmington Casualty Company, St. Paul Fire and Marine Insurance Company, St. Paul Guardian Insurance Company, St. Paul Mercury Insurance Company, Travelers Casualty and Surety Company, Travelers Casualty and Surety Company of America, and United States Fidelity and Guaranty Company, are corporations duly organized under the laws of the State of Connecticut, that Fidelity and Guaranty Insurance Company is a corporation duly organized under the laws of the State of Iowa, and that Fidelity and Guaranty Insurance Underwriters, Inc. is a corporation duly organized under the laws of the State of Wisconsin (herein collectively called the "Companies"), and that the Companies do hereby make, constitute and appoint **Catherine L. McMillan** of the City of **Knoxville**, State of **TN**, their true and lawful Attorney-in-Fact, to sign, execute, seal and acknowledge the surety bond(s) referenced above.

IN WITNESS WHEREOF, the Companies have caused this instrument to be signed and their corporate seals to be hereto affixed, this **24th** day of **June, 2016**.

Farmington Casualty Company
Fidelity and Guaranty Insurance Company
Fidelity and Guaranty Insurance Underwriters, Inc.
St. Paul Fire and Marine Insurance Company
St. Paul Guardian Insurance Company

St. Paul Mercury Insurance Company
Travelers Casualty and Surety Company
Travelers Casualty and Surety Company of America
United States Fidelity and Guaranty Company



State of Connecticut

City of Hartford ss.

By:

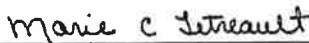

Robert L. Raney, Senior Vice President

On this the **24th** day of **June, 2016**, before me personally appeared **Robert L. Raney**, who acknowledged himself to be the Senior Vice President of Farmington Casualty Company, Fidelity and Guaranty Insurance Company, Fidelity and Guaranty Insurance Underwriters, Inc., St. Paul Fire and Marine Insurance Company, St. Paul Guardian Insurance Company, St. Paul Mercury Insurance Company, Travelers Casualty and Surety Company, Travelers Casualty and Surety Company of America, and United States Fidelity and Guaranty Company, and that he, as such, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing on behalf of the corporations by himself as a duly authorized officer.

In Witness Whereof, I hereunto set my hand and official seal.

My Commission expires the **30th** day of **June, 2021**.




Marie C. Tetreault, Notary Public

This Power of Attorney is granted under and by the authority of the following resolutions adopted by the Boards of Directors of Farmington Casualty Company, Fidelity and Guaranty Insurance Company, Fidelity and Guaranty Insurance Underwriters, Inc., St. Paul Fire and Marine Insurance Company, St. Paul Guardian Insurance Company, St. Paul Mercury Insurance Company, Travelers Casualty and Surety Company, Travelers Casualty and Surety Company of America, and United States Fidelity and Guaranty Company, which resolutions are now in full force and effect, reading as follows:

RESOLVED, that the Chairman, the President, any Vice Chairman, any Executive Vice President, any Senior Vice President, any Vice President, any Second Vice President, the Treasurer, any Assistant Treasurer, the Corporate Secretary or any Assistant Secretary may appoint Attorneys-in-Fact and Agents to act for and on behalf of the Company and may give such appointee such authority as his or her certificate of authority may prescribe to sign with the Company's name and seal with the Company's seal bonds, recognizances, contracts of indemnity, and other writings obligatory in the nature of a bond, recognizance, or conditional undertaking, and any of said officers or the Board of Directors at any time may remove any such appointee and revoke the power given him or her; and it is

FURTHER RESOLVED, that the Chairman, the President, any Vice Chairman, any Executive Vice President, any Senior Vice President or any Vice President may delegate all or any part of the foregoing authority to one or more officers or employees of this Company, provided that each such delegation is in writing and a copy thereof is filed in the office of the Secretary; and it is

FURTHER RESOLVED, that any bond, recognizance, contract of indemnity, or writing obligatory in the nature of a bond, recognizance, or conditional undertaking shall be valid and binding upon the Company when (a) signed by the President, any Vice Chairman, any Executive Vice President, any Senior Vice President or any Vice President, any Second Vice President, the Treasurer, any Assistant Treasurer, the Corporate Secretary or any Assistant Secretary and duly attested and sealed with the Company's seal by a Secretary or Assistant Secretary; or (b) duly executed (under seal, if required) by one or more Attorneys-in-Fact and Agents pursuant to the power prescribed in his or her certificate or their certificates of authority or by one or more Company officers pursuant to a written delegation of authority; and it is

FURTHER RESOLVED, that the signature of each of the following officers: President, any Executive Vice President, any Senior Vice President, any Vice President, any Assistant Vice President, any Secretary, any Assistant Secretary, and the seal of the Company may be affixed by facsimile to any Power of Attorney or to any certificate relating thereto appointing Resident Vice Presidents, Resident Assistant Secretaries or Attorneys-in-Fact for purposes only of executing and attesting bonds and undertakings and other writings obligatory in the nature thereof, and any such Power of Attorney or certificate bearing such facsimile signature or facsimile seal shall be valid and binding upon the Company and any such power so executed and certified by such facsimile signature and facsimile seal shall be valid and binding on the Company in the future with respect to any bond or understanding to which it is attached.

I, Kevin E. Hughes, the undersigned, Assistant Secretary, of Farmington Casualty Company, Fidelity and Guaranty Insurance Company, Fidelity and Guaranty Insurance Underwriters, Inc., St. Paul Fire and Marine Insurance Company, St. Paul Guardian Insurance Company, St. Paul Mercury Insurance Company, Travelers Casualty and Surety Company, Travelers Casualty and Surety Company of America, and United States Fidelity and Guaranty Company, do hereby certify that the above and foregoing is a true and correct copy of the Power of Attorney executed by said Companies, which is in full force and effect and has not been revoked.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seals of said Companies this 9th day of August, 2018.

Kevin E. Hughes

Kevin E. Hughes, Assistant Secretary



To verify the authenticity of this Power of Attorney, call 1-800-421-3880 or contact us at www.travelersbond.com. Please refer to the Attorney-In-Fact number, the above-named individuals and the details of the bond to which the power is attached.

BIDDER AFFIDAVIT ON COMPLIANCE WITH DRUG-FREE WORKPLACE ACT AND CERTIFICATE

State of Tennessee

County of Knox

Bidder, after being first duly sworn, affirms that it has a Drug-Free Workplace Program that complies with Tennessee Code Annotated, Title 50, Chapter 9, in effect at the time of submission of its bid, at least to the extent required of governmental entities. Bidder affirms that:

1. It has received a Certificate of Compliance with the applicable sections of the Drug-Free Workplace Act from the Department of Labor and Workforce Development and has attached a copy of such certificate to this affidavit; or
2. It operates a drug and alcohol testing program at least as stringent as the City of Murfreesboro's drug and alcohol testing program as contained in Sections 3005 and 3008 of the City of Morristown Employee Handbook and shall, upon request, provide documentation of such program to the city.

Merit Construction, Inc.

Name of Bidder

Wes Crow, Senior Vice President

Printed Name and Title of Principal Officer

[Signature]

Signature of Principal Officer

Sworn to and subscribed before me a Notary Public for the above state and county, on

This 9th day of August 2018



Kimberly J. Kane

Notary Public Kimberly J. Kane

10-31-2020

My Commission Expires

END OF SECTION

NON-COLLUSION AFFIDAVIT OF PRIME BIDDER

State of Tennessee

County of Knox

Wes Crow, being first duly sworn, deposes and says that:

1. The undersigned is the (owner, ~~partner~~, officer, ~~representative~~, or agent) of Merit Construction, Inc., the bidder submitting the attached bid.
2. Bidder is fully informed respecting the preparation and contents of the attached bid and of all pertinent circumstances respecting such bid.
3. Neither the said bidder nor any of its officer, partners, owners, agents, representatives, employees or parties in interest, including this affiant has in any way collude, conspired, connived or agreed, directly or indirectly, with any other bidder, firm or person to submit an collusive or sham bid in connection with the contract for which the attached bid has been submitted or to refrain from bidding in connection with such contract, or has in any manner, directly or indirectly, sought by agreement or collusion or communication or conference with any other bidder, or, to fix any overhead, profit, or cost element of the bid price or unlawful agreement any advantage against the City of Morristown or any person interested in the proposed contract.
4. The price(s) quoted in the attached bid are fair and proper and are not tainted by any collusion, conspiracy, connivance, or unlawful agreement on the part of the bidder or any of its agent, representatives, owners, employees, or parties in interest including this affidavit.

Wes Crow
Name of Bidder

Wes Crow, Senior Vice President
Printed Name and Title

Sworn to and subscribed before me, a Notary Public for the above state and county, on
This 9th day of August, 2018



Kimberly J. Kane
Notary Public

10-31-2020
My Commission Expires

END OF SECTION

ADDENDUM #1

Date: July 31, 2018
Project No. 17007
Project Name: Morristown Public Works Compound – Bid Package 2 Rebid

This addendum supersedes and supplements all portions of the bidding documents and becomes part of the Contract Documents for the above-referenced project.

Failure to acknowledge this addendum as directed in the Invitation to Bid may result in the Bid being deemed non-responsive.

Where any original item is amended, voided, or superseded hereby, the provision of such item not so specifically amended, voided, or superseded shall remain in effect.

NARRATIVE:

This addendum includes substitution requests and responses to questions received up to the issue date of this addendum.

Clarifications

1. None.

Project Drawing Revisions

1. None

Project Specification Revisions

1. Section 133419 Pre-Engineered Metal Building Systems

Received Bidder Questions

1. Is there a Demolition Portion for the project?
 - a. *There is no demolition in Bid Package 2.*
2. Can the second part of Building 'A' Office be priced as a conventional structural steel building in lieu of Pre-engineered metal building or even a design change?
 - a. *The second part of Building 'A' Office is to be bid as shown on the drawings.*
3. Would it be possible for this project to bid at a later date?
 - a. *No, the bids will be opened on August 9th as initially set forth in the bid documents.*
4. What are the collateral loads for the pre-engineered metals buildings?
 - a. *A collateral load of 5 psf has been considered in the foundation design. This load is in addition to the self weight of the building components (ie beams, columns, purlins, roofing, insulation, etc.). The PEMB supplier should verify all loads from MEP, ceilings, etc. that are attached to the PEMB structure are also accounted for in addition to this 5 psf collateral loading.*

Substitution Requests – APPROVED (Pending review for compliance with Construction Documents).

1. Machflow hand dryers by Saniflow Corp. for Section 102800
2. Hydralastic 836 Cold-Applied, Single Component Waterproofing for Section 071416
3. Multiwall Polycarbonate Window System for Section 084513
4. Versico 60 mil Fleeceback TPO for Section 012533
5. Securock Roof Board for Section 012533

Substitution Requests – DENIED

1. None.

Attachments

1. General:
 - a. None
2. Plan Sheets:
 - a. None.
3. Specification Sections:
 - a. Section 133419 Pre-Engineered Metal Building Systems
4. Exhibits:
 - a. None

NOTE: Receipt of this Addendum must be acknowledged by signing below:

✶


Wes Crow, Senior Vice President

Date: August 9, 2018

END OF ADDENDUM

ADDENDUM #2

Date: August 7, 2018
Project No. 17007
Project Name: Morristown Public Works Compound – Bid Package 2 Rebid

This addendum supersedes and supplements all portions of the bidding documents and becomes part of the Contract Documents for the above-referenced project.

Failure to acknowledge this addendum in the Bid Form may result in the Bid being deemed non-responsive.

Where any original item is amended, voided, or superseded hereby, the provision of such item not so specifically amended, voided, or superseded shall remain in effect.

NARRATIVE:

This addendum includes clarifications, substitution requests and responses to questions received up to the issue date of this addendum

Clarifications

1. The intent is for the GC is to provide a full and complete project – Site work, utilities, landscaping, and all buildings. All buildings are to be complete and whole as indicated within the drawings and specifications. GC is to select a PEMB Manufacturer whom is in accordance to the project specifications. GC is to coordinate and provide any scoping, materials, or systems not provided by their selected PEMB Manufacturer.
2. Detail 5/S3.01 note reading "FOR COLUMN SIZE, BASE PLATE AND ANCHOR BOLTS SEE COLUMN SCHEDULE ON SHEET S0.03" should read "For Column size, base plate and anchor bolts See PEMB supplier"

Project Drawing Revisions

1. None

Project Specification Revisions

1. 133400 Membrane Structure

Received Bidder Questions

1. The specified gauge metal for the embossed panels is nonstandard for pre-engineered metal buildings as well as the manufacture has said they will not guarantee even embossing or texture as any samples you may have seen. Can the standard 26-gauge panels be used for the PEMB panels? This is AWIP recommended.
 - a. *Yes, 26-gauge panels will be accepted.*
2. The specification in addendum one specifies "Nucor Classic" roof panel. This is a screw down panel which I am assuming this is an error and you want the PEMB manufacture's standard standing seam.
 - a. *The design intent is for the buildings to receive standing seam metal roof panels.*
3. Is H/400 lateral deflection truly required? H/100 is standard for buildings with CMU walls.
 - a. *It is acceptable to alter the Drift on Rigid Frames under wind load to H/200 consistent with the requirements of MBMA Metal Building Systems Manual Table 3.3 using the 10 yr mean recurrence interval wind loading for reinforced masonry exterior walls. All other drift/deflection limits shown in the general notes should remain as shown.*
4. Can we use 22Ga. Galvanized 1.5B-Deck for the EPDM roof system in the administration areas of Building A? This is standard.

Addendum #1 – Page 1 of 3

- a. 1 1/2", Type B Roof deck is structurally acceptable. The roof deck gauge is dependent on the structural framing spacing supporting it although 22 gauge would be acceptable given the appropriate purlin spacing for the giving and deflection conditions. There are areas in building A that require a perforated acoustical deck. In those locations, Type BA (acoustical deck) with insulation will be required. The locations where acoustical deck is required are shown on the architectural drawings.
5. Is the 20 psf live load reducible per code?
 - a. The roof live load of 20 psf is reducible as allowed by 2012 IBC. The roof snow load is not reducible.
6. Is a 36" wide 26Ga, standard ribbed panels in PVDF (Kynar) finish acceptable for ceiling liner panel?
 - a. Yes.
7. The PEMB manufactures will not provide a flat roof design for the administration portion of building A. They will supply a minimum 12" per foot slope in which we will have to use 14" tapered insulation to bring it back to flat and then add the required insulation to meet the designed slope. Will it be possible to adjust the roof drainage post bid to adjust the drainage to be a single slope with all of the roof drains on one side wall?
 - a. Refer to Clarification Number 1 of this addendum. The designer recognizes that during the shop drawing process, systems may need to be adjusted to accommodate the selected PEMB's product. These adjustments shall be minor in nature. All attempts shall be made to provide a product that conforms to the design intent.
8. While working through our take off for the Morristown Public Works project, I have found that Division 12 specs call for horizontal louver blinds in addition to the roller shades but I do not see where the blinds are to be applied based on the drawings. Can you possibly point me in the right direction, please?
 - a. Refer to A8.03 – Horizontal Louver Blinds are not specified for any windows.
9. Plan A4.A3 shows metal lockers for keynote 22. Where are the metal lockers for keynote 23?
 - a. Keynote 23 is not used on the plans.
10. The benches located on Plan A4.A3. Keynote 20 and Keynote 21 what bench type are these? Metal or Solid?
 - a. Benches to be Solid Phenolic Locker Bench, refer to Spec. Section 105113.2.10.
11. States All-welded Athletic metal lockers – Where are the metal lockers for Keynote 23 stated on plan A4.A3?
 - a. See response to question 9.
12. Solid Plastic Lockers. – Location?
 - a. Not used
13. Plastic Laminate Plywood Lockers – Location?
 - a. Not used.
14. Wood lockers – Location?
 - a. Not Used
15. Solid Phenolic Lockers – Location?
 - a. See drawings.
16. Locker benches – Location?
 - a. See drawings and response to question 10
17. Solid phenolic locker benches. – Location?
 - a. See drawings and response to question 10.

Substitution Requests – APPROVED (Pending review for compliance with Construction Documents).

1. LIFTS by Rotary Lifts for Section 144513
2. LOCKERS by Elite Storage Products for Section 105113
3. CFI Foam Inc. Masonry Foam Insulation for Section 072119.13

Substitution Requests – DENIED

1. None.

Attachments

1. General:
 - a. None
2. Plan Sheets:
 - a. None.

3. Specification Sections:
a. 133400 Membrane Structure.

4. Exhibits:
a. None

NOTE: Receipt of this Addendum must be acknowledged by signing below:



Date: 8-7-18

END OF ADDENDUM

Change Order No. 2

Date of Issuance: 8/10/18 Effective Date: 8/10/18
 Owner: City of Morristown, Tennessee Owner's Contract No.:
 Contractor: Summers-Taylor, Inc. Contractor's Project No.:
 Engineer: McGill Associates, P.A. Engineer's Project No.: 17.06510
 Project: 2017 InvestPrep & SDG Progress Parkway Extension Contract Name:

The Contract is modified as follows upon execution of this Change Order:

Description: Adjustments due to final contract quantities.

Attachments: Summary spreadsheet, headwall invoice, undercut quote & undercut quantity records

CHANGE IN CONTRACT PRICE	CHANGE IN CONTRACT TIMES [note changes in Milestones if applicable]
Original Contract Price: \$ 635,844.25	Original Contract Times: Substantial Completion: _____ Ready for Final Payment: 90 days days or dates
[Increase] [Decrease] from previously approved Change Orders No. <u>1</u> to No. <u>1</u> : \$ 19,486.25	[Increase] [Decrease] from previously approved Change Orders No. ____ to No. ____: Substantial Completion: _____ Ready for Final Payment: _____ days
Contract Price prior to this Change Order: \$ 655,330.75	Contract Times prior to this Change Order: Substantial Completion: _____ Ready for Final Payment: 90 days days or dates
[Increase] [Decrease] of this Change Order: \$ 25,611.11	[Increase] [Decrease] of this Change Order: Substantial Completion: _____ Ready for Final Payment: _____ days or dates
Contract Price incorporating this Change Order: \$629,719.64	Contract Times with all approved Change Orders: Substantial Completion: _____ Ready for Final Payment: 90 days days or dates

By: [Signature] By: [Signature] By: _____
 Engineer (If required) CFR (Authorized Signature) Owner (Authorized Signature)
 Title: Project Manager Title: Construction Administrator Title: _____
 Date: 8/10/18 Date: 8-12-18 Date: _____

ACCEPTED: _____ ACCEPTED: _____
 By: [Signature] By: _____
 Contractor (Authorized Signature) Funding Agency (If applicable)
 Title: EXECUTIVE VICE-PRESIDENT Title: _____
 Date: 8/15/18 Date: _____

ITEM	DESCRIPTION	TOTAL				Totals per CO #1		Totals per CO #2			% of original
		QUANTITY	UNIT	UNIT PRICE	TOTAL	Qty	Total	Qty	Unit Price	Total	
1	Contractor Mobilization (5% of construction cost)	1	LS	5%	\$ 21,600.00	1	\$ 21,600.00	1	5%	\$ 21,600.00	100.0%
2	Clearing & Grubbing	7.0	AC	\$ 1,500.00	\$ 10,500.00	7.00	\$ 10,500.00	2.05	\$ 1,500.00	\$ 3,075.00	29.3%
3	Topsoil Removal, Stockpile & Spreading	5,760	CY	\$ 4.50	\$ 25,920.00	9,212	\$ 41,454.00	9,212	\$ 4.50	\$ 41,454.00	159.9%
4	Asphalt Removal	1,410	SY	\$ 4.25	\$ 5,992.50	1,410	\$ 5,992.50	0	\$ 4.25	\$ -	0.0%
5	Site Grading	35,315	CY	\$ 4.65	\$ 164,214.75	36,165	\$ 168,167.25	31,392	\$ 4.65	\$ 145,972.80	88.9%
6	Seeding	20,940	SY	\$ 0.30	\$ 6,282.00	20,940	\$ 6,282.00	21,403.20	\$ 0.30	\$ 6,420.96	102.2%
7	Silt Fence	3,000	LF	\$ 1.60	\$ 4,800.00	3,000	\$ 4,800.00	3,631	\$ 1.60	\$ 5,809.60	121.0%
8	Type I Slope Matting Slope	12,230	SY	\$ 1.00	\$ 12,230.00	12,230	\$ 12,230.00	14,744.36	\$ 1.00	\$ 14,744.36	120.6%
9	Type III Slope Matting & Ditch Stabilization	8,710	SY	\$ 1.30	\$ 11,323.00	8,710	\$ 11,323.00	8,171.62	\$ 1.30	\$ 10,623.11	93.8%
10	Rip Rap	340	TON	\$ 36.00	\$ 12,240.00	340	\$ 12,240.00	413.41	\$ 36.00	\$ 14,882.76	121.6%
11	Mineral Aggregate, Type A Base Grading D	5,450	TON	\$ 21.00	\$ 114,450.00	5,450	\$ 114,450.00	5,666.53	\$ 21.00	\$ 118,997.13	104.0%
12	Binder Course	1,000	TON	\$ 82.00	\$ 82,000.00	1,000	\$ 82,000.00	960.25	\$ 82.00	\$ 78,740.50	96.0%
13	Surface Course	480	TON	\$ 112.00	\$ 53,760.00	480	\$ 53,760.00	447.26	\$ 112.00	\$ 50,093.12	93.2%
14	16" Casing Pipe	150	LF	\$ 98.00	\$ 14,700.00	150	\$ 14,700.00	160	\$ 98.00	\$ 15,680.00	106.7%
15	Signage & Traffic Control	1	LS	\$ 6,500.00	\$ 6,500.00	1	\$ 6,500.00	1	\$ 6,500.00	\$ 6,500.00	100.0%
16	Striping	1	LS	\$ 4,500.00	\$ 4,500.00	1	\$ 4,500.00	1	\$ 4,500.00	\$ 4,500.00	100.0%
17	24" RCP	68	LF	\$ 69.00	\$ 4,692.00	68	\$ 4,692.00	68	\$ 69.00	\$ 4,692.00	100.0%
18	54" RCP	312	LF	\$ 202.00	\$ 63,024.00	312	\$ 63,024.00	312	\$ 202.00	\$ 63,024.00	100.0%
19	Headwalls (Standard)	2	EA	\$ 1,250.00	\$ 2,500.00	2	\$ 2,500.00	2	\$ 1,250.00	\$ 2,500.00	100.0%
20	Headwalls (Double Culvert)	2	EA	\$ 4,500.00	\$ 9,000.00	2	\$ 9,000.00	2	\$ 4,500.00	\$ 9,000.00	100.0%
21	36" RCP	48	LF	\$ 117.00	\$ 5,616.00	48	\$ 5,616.00	48	\$ 117.00	\$ 5,616.00	100.0%
22	Undercut	-	CY	\$ -	\$ -	0	\$ -	250.8	\$ 20.50	\$ 5,137.30	-
23	36" Headwall	-	LF	\$ -	\$ -	0	\$ -	1	\$ 657.00	\$ 657.00	-
Construction Subtotal					\$ 635,844.25		\$ 655,330.75			\$ 629,719.64	99.0%

C.R. Barger & Sons, Inc.

P.O. Box 370
Kingston, TN 37763

Invoice

49566

Bill To

Summers-Taylor, Inc.
P.O. Box 1628
Elizabethton, TN 37644

Ship To

Summers-Taylor
End of Progress Pkwy
Morristown, TN
Billy 423-791-0618

A periodic rate of one and one-half (1 1/2%) percent monthly, as a finance charge, will be added on balances over thirty (30) days.
Annual Percentage Rate of Eighteen Percent (18%).
Customer is responsible for all collection costs, including, but not limited to, court costs, expenses, and attorney fees.

Date	Ship	Via	P.O. Number	Terms	Rep	Ref #
5/23/2018	5/23/2018	Ripley	201811	Net 30	RS	
Quantity	Item Code	Description	Price Each	Amount		
1	CPS-HW-MED	Medium Head Wall (48" Hole) w/ toe and energy dissipators Summers - Taylor, Inc Approved By: J.T.B. Date: 6/5/18 Job #: 201811 Phase #: 001001-1 Ex Cost: 2 mag RECEIVED MAY 31 2018 Cost Code _____ Approved By _____	600.00	600.00T		
All products were inspected and determined to be acceptable.						
X Signature				Subtotal	\$600.00	
Terms and Conditions apply				Sales Tax (9.5%)	\$57.00	
Phone # 865.270.8080 Web Site www.bargerandsons.com				Total	\$657.00	



Summers-Taylor, Inc.

Box 1628, 300 West Elk Avenue
Elizabethton, TN 37644-10628
Phone (423) 543-3181 Fax (423) 543-6189
www.summerstaylor.com

June 6, 2018

McGill Associates
2240 Sutherland Ave., Suite 2
Knoxville, TN 37919

Attn: Mr. Bill Hunigan

Re: Investprep & SDG Progress Parkway Extension - Undercutting

Mr. Hunigan;

Addressing the soft area which was found at approximate stations 2+00 to 2+50, Summers-Taylor, Inc. proposes the following. Without knowledge of the depth we will encounter, unit prices would need to be used for this construction. Since we have a unit price established for rip rap stone in the current project we could use that number for the stone and geofabric layer. In addition we have worked up a number for undercutting and using on site backfill.

RIP RAP STONE	\$ 36.00 PER TON
UNDERCUTTING OUT & IN	\$ 20.50 PER CUBIC YARD
Based On Dirt Coming From Onsite	

We appreciate the opportunity to work with you on this project. If you have any further questions or need any additional information do not hesitate to contact us.

Best Regards,

John T. Bowman
Estimator
SUMMERS-TAYLOR, INC.

Project Name: Progress Parkway Extension

GEOS Project No: 52-18042

Client: City of Morristown

Contractor(s): Summers-Taylor Inc.

Temperature: 70's °F **Weather:** Clear

GEOS Personnel: Josh Stroud

Date: June 4, 2018

Time: 4.0 hours

**166.7 CY
undercut**

A. Description of Work and Locations:

At the request of Ricky Davis with Summers-Taylor, Mr. Stroud of GEOServices traveled to the project site to meet with Mr. Davis and observe some unsuitable organic material the crew encountered on this day. The crew cut out an area of 30' x 50' x 3' at stations 2+00 to 2+50 Mr. Stroud used a steel probe rod to probe the area, and there were several soft spots with water leaching in. Mr. Stroud advised Mr. Davis that he would have to cut out a ditch across the roadway, place a layer of rip rap, and daylight out one side for the ground water to escape.

B. Observations/Test Results Reported to:

Ricky Davis/Summers-Taylor

C. Plans/Specs Available Onsite:

☒ Yes ☐ No

Forms Attached (check all that apply):

- | | |
|--|--|
| <input type="checkbox"/> Structural Fill Observations | <input type="checkbox"/> Masonry - Grout Observations |
| <input type="checkbox"/> Summary of Field Density Tests | <input type="checkbox"/> Masonry - Mortar Observations |
| <input type="checkbox"/> Footing Excavation Observations | <input type="checkbox"/> Grout Truck Field Log |
| <input type="checkbox"/> Reinforcing Steel Observations | <input type="checkbox"/> Asphalt Field Density Tests |
| <input type="checkbox"/> Concrete Placement Observations | <input type="checkbox"/> Site Photographs |
| <input type="checkbox"/> Concrete Truck Field Log | <input type="checkbox"/> Other: _____ |

Project Name: Progress Parkway Extension
GEOS Project No: 52-18042
Client: City of Morristown
Contractor(s): Summers-Taylor Inc.
Temperature: 80s °F **Weather:** Sunny
GEOS Personnel: Nathan Turner
Date: June 8, 2018
Time: 6.0 hours

45.9 CY
undercut

A. Description of Work and Locations:				
<p>As requested by Mr. Billy Byington with Summers-Taylor Inc., Mr. Turner traveled to the project site to observe dark saturated soils encountered in the roadway between stations 2+00 to 2+50. Upon arrival to the project site Mr. Turner met with Mr. Ricky Davis and discussed the encountered soils. Summers & Taylor had previously removed the majority of the organic soils that were encountered. Mr. Turner observed water puddling in the bottom of the undercut. GEOServices recommended to install a rock drain rapped in geofabric to allow the water to escape from underneath the proposed roadway around Station 2 +15. Summers & Taylor excavated a 57' long x 4' wide x 2' deep and then a 28' long x 4' wide x 7' deep ditch for the rock drain. The excavation halted on this day due to a gas line running parallel to the roadway. Summers and Taylor installed 8oz non-woven geofabric in the ditch followed by rip-rap. After the installation of rip-rap the ditch was wrapped with fabric as recommended by GEOServices. The ditch was not able to be daylighted and will have to have the gas line located before work can proceed. Mr. Turner notified Mr. Ricky Davis with Summers-Taylor of the site observations and departed the project site.</p>				
B. Observations/Test Results Reported to:		Ricky Davis/Summers-Taylor		
C. Plans/Specs Available Onsite:		<input checked="" type="checkbox"/>	Yes	<input type="checkbox"/> No

Forms Attached (check all that apply):

- | | |
|--|--|
| <input type="checkbox"/> Structural Fill Observations | <input type="checkbox"/> Masonry - Grout Observations |
| <input type="checkbox"/> Summary of Field Density Tests | <input type="checkbox"/> Masonry - Mortar Observations |
| <input type="checkbox"/> Footing Excavation Observations | <input type="checkbox"/> Grout Truck Field Log |
| <input type="checkbox"/> Reinforcing Steel Observations | <input type="checkbox"/> Asphalt Field Density Tests |
| <input type="checkbox"/> Concrete Placement Observations | <input checked="" type="checkbox"/> Site Photographs |
| <input type="checkbox"/> Concrete Truck Field Log | <input type="checkbox"/> Other: _____ |

Project Name: Progress Parkway Extension
GEOS Project No: 52-18042
Client: City of Morristown
Contractor(s): Summers-Taylor Inc.
Temperature: 70s to 80s °F **Weather:** Partly Cloudy
GEOS Personnel: Nathan Turner
Date: June 15, 2018
Time: 5.5 hours

A. Description of Work and Locations:				
<p>At the request of Mr. Billy Byington with Summers-Taylor, Mr. Turner of GEOServices traveled to the project site to observe proofrolling. Upon arrival to site, Mr. Turner observed proofrolling with a fully loaded tandem axle dump truck at station numbers 1+50 to 34+00 on Progress Parkway and 0+00 to 4+00 on Howard Allen Road. During proofrolling, Mr. Turner observed minimal to no pumping and rutting of the subgrade material under the weight of the loaded equipment throughout the majority of the roadways. However, Mr. Turner did observe pumping and rutting at five isolated locations on Progress Parkway. The approximate locations and measurements are as follows: Station 4+50 left and right lane 30'x30'x8" equaling approximately 22.2 cubic yards, Station 8+00 right lane 27'x5'x8" equaling approximately 3.33 cubic yards, Station 13+00 right lane 12'x16'x8" equaling approximately 4.74 cubic yards, Station 27+50 right lane 12'x14'x8" equaling approximately 4.15 cubic yards, and Station 28+50 left lane 9'x16'x8" equaling approximately 3.56 cubic yards. The total required undercut is approximately 37.98 cubic yards, Mr. Turner notified Mr. Davis that the undercuts should be backfilled with compacted dense graded aggregate or rip-rap. Mr. Turner notified Mr. Ricky Davis with Summers-Taylor of the site observations and departed the project site.</p>				
B. Observations/Test Results Reported to:		Ricky Davis/Summers-Taylor		
C. Plans/Specs Available Onsite:		<input checked="" type="checkbox"/>	Yes	<input type="checkbox"/> No

Forms Attached (check all that apply):

- | | |
|--|--|
| <input type="checkbox"/> Structural Fill Observations | <input type="checkbox"/> Masonry - Grout Observations |
| <input type="checkbox"/> Summary of Field Density Tests | <input type="checkbox"/> Masonry - Mortar Observations |
| <input type="checkbox"/> Footing Excavation Observations | <input type="checkbox"/> Grout Truck Field Log |
| <input type="checkbox"/> Reinforcing Steel Observations | <input type="checkbox"/> Asphalt Field Density Tests |
| <input type="checkbox"/> Concrete Placement Observations | <input checked="" type="checkbox"/> Site Photographs |
| <input type="checkbox"/> Concrete Truck Field Log | <input type="checkbox"/> Other: _____ |

Debra Stamey

From: Joey Barnard
Sent: Thursday, August 16, 2018 9:16 AM
To: Debra Stamey
Cc: Tony Cox
Subject: FW: Progress Parkway SDG & InvestPrep Project (Morristown, TN) - Final Pay Applications
Attachments: ProgPkwy - Change Order #2.pdf

Debbie,

Please add to agenda. This is a final closeout change order. It is subject to ECD and TVA approval (I may have that by tomorrow and final packets)

Thanks,

Joey

Joey Barnard, CGFM, CFE, MBA
Assistant City Administrator
City of Morristown
100 West First North Street
Morristown, TN 37814
423.585.4614
jbarnard@mymorristown.com

From: Jake Greear <Jake.Greear@Mcgillengineers.Com>
Sent: Thursday, August 16, 2018 9:13 AM
To: Leanne Cox <Leanne.Cox@tn.gov>; Tim Tidwell <ttidwell@tn.gov>
Cc: Joey Barnard <jbarnard@mymorristown.com>
Subject: Progress Parkway SDG & InvestPrep Project (Morristown, TN) - Final Pay Applications

Leanne & Tim,

Attached is Change Order #2 for the Progress Pkwy SDG & InvestPrep project. It adjusts the contract to match final quantities and adds a couple of items that were needed (replace busted headwall & poor soils). Overall, the change order will reduce the total construction cost by ~\$25,000 . Because the added work (undercut & headwall) fell disproportionately on the InvestPrep side of the project, the total cost relative to that grant decreased less from the previous contract total (\$250,942.50 down to \$245,400.55) than that of the SDG (\$404,388.25 down to \$384,319.09).

Let me know if there are questions and forward your approvals when ready so that the City may move forward with City Council approval and the final application for payment.

Thanks,

John "Jake" Greear, PE
Project Manager



2240 Sutherland Avenue, Suite 2 | Knoxville, TN 37919

Phone: 865.540.0801 | Direct: 865.444.7011 | Cell: 865.603.2188 | Fax: 865.595.4999

jake.greear@mcgillengineers.com | www.mcgillengineers.com

Inspection and Maintenance Agreement

(I&M Agreement)

City of Morristown, TN
100 West 1st North Street
Morristown, TN 37814
(423) 581-0100

Inspection and Maintenance Agreement (I&M Agreement)

THIS AGREEMENT, made and entered into this 19th day of July, 2018, by and between Morristown Self Storage 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 219 New Line Road
Map 41-H, Group "C", parcel 1.02
(Insert Hamblen County Tax & Parcel Number)
as recorded by deed in the last land records of
Hamblen County, TN, Deed Book 1681 Page 012, hereafter called the "Property".

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

WHEREAS, the Site Plan/Subdivision known as Morristown Self Storage
(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 an easement 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 two hundred percent (200%) of all actual costs incurred by the City hereunder.
8. If the Landowner fails to pay the City for two hundred percent (200%) 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 two hundred percent (200%) 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 interest.

WITNESS the following signatures and seals:

Morristown Self Storage, LLC
Company/Corporation/Partnership Name (Seal)

By: [Signature]

Alan Boruff
(Type Name)

Member
(Type Title)

State of Tennessee

County of Hamblen

The foregoing Agreement was acknowledged before me this 19th day of July, 2018,

by Alan Boruff

[Signature]
Notary Public

My Commission Expires 8/27/19



Approved as to form:
[Signature] 8-5-18
City Attorney Date

Approved by the City:

Mayor Date

Memo

To: Mayor and Council
From: Bill Honeycutt, Fire Chief
Date: August 13, 2018
RE: **Promotions**

I'm requesting the Mayor and Council to make three (3) separate Promotions during the scheduled City Council meeting on August 21, 2018.

The first appointment will be to the position of **Training Officer** for the Morristown Fire Department. Council's appointment will be taken from the *top three eligible candidates on the Battalion Chief's roster willing to accept a lateral transfer to the position of Training Officer.*

Internally, based on the workload, I've already made a lateral assignment to fill the existing vacancy, transferring the top ranked name on the pertinent eligibility roster and would make that individual my recommendation for Council's appointment. With Council's action, the newly appointed individual would progress from the current rank of Lieutenant to **the rank of Battalion Chief** with a more permanent lateral assignment to the Training Division.

The second promotion would be to fill the vacancy at **Lieutenant** which results from the first appointment; while the final promotion would be to fill a vacancy at **Driver** created by the second appointment.

Copies of the three pertinent Civil Service eligibility rosters will be a part of your Council packet; from those you may consider the top three (3) names for each position. As always, I'm prepared to make a recommendation.

CIVIL SERVICE BOARD

P.O. Box 1499 • MORRISTOWN, TN 37816

FIRE DEPARTMENT ROSTER - BATTALION CHIEF

UPDATED ON JULY 20, 2018 TO REFLECT TESTING, HIRING AND/OR CORRECTIONS

	NAME		EXPIRES
1	Anthony Livesay	Yes	1/31/2020
2	Rob Croxdale	No	1/31/2020
3	David Large	No	1/31/2019
4	Greg Williams	No	1/31/2020
5	Tom Ucciardi	Yes	1/31/2020
6	Shane Kyle	No	1/31/2020
7	Kevin Jarnigan	Yes	1/31/2019
8	Marty Bryant	No	1/31/2020
9	Scott Kimbrough	No	1/31/2020
10	Billy Hale	No	1/31/2020
11	Darrell Hodge	No	1/31/2019
12	Anthony Lakins	No	1/31/2019

Willing to accept position

Lee Parker has contacted everyone on the Battalion Chief Roster and the highlighted names are those who are willing to accept the Training Officers Position.

For the Civil Service Board


Lee Parker, Chairman

Memo

To: Mayor and Council
From: Bill Honeycutt, Fire Chief
Date: August 13, 2018
RE: **Promotions**

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CIVIL SERVICE BOARD

P.O. Box 1499 • MORRISTOWN, TN 37816

FIRE DEPARTMENT ROSTER - LIEUTENANT

UPDATED ON APRIL 10, 2018 TO REFLECT TESTING, HIRING AND/OR CORRECTIONS

	NAME	EXPIRES
1	Brandon Williams	1/31/2020
2	Keith Rouse	1/31/2020
3	Brian Wallace	1/31/2019
4	Nathan Atkins	1/31/2020
5	Doug Lephew	1/31/2020
6	Mark Brewer	1/31/2020
7	Paul Bean	1/31/2020
8	Jonathan Benfield	1/31/2019
9	Harold Shults	1/31/2020
10	Doug Allison	1/31/2020
11	Doyle Whitmill	1/31/2019
12	Terry Click	1/31/2020

For the Civil Service Board



Lee Parker, Chairman

Memo

To: Mayor and Council
From: Bill Honeycutt, Fire Chief
Date: August 13, 2018
RE: **Promotions**

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Internally, based on the workload, I've already made a lateral assignment to fill the existing vacancy, transferring the top ranked name on the pertinent eligibility roster and would make that individual my recommendation for Council's appointment. With Council's action, the newly appointed individual would progress from the current rank of Lieutenant to **the rank of Battalion Chief** with a more permanent lateral assignment to the Training Division.

The second promotion would be to fill the vacancy at **Lieutenant** which results from the first appointment; while the final promotion would be to fill a vacancy at **Driver** created by the second appointment.

Copies of the three pertinent Civil Service eligibility rosters will be a part of your Council packet; from those you may consider the top three (3) names for each position. As always, I'm prepared to make a recommendation.

CIVIL SERVICE BOARD

P.O. Box 1499 • MORRISTOWN, TN 37816

FIRE DEPARTMENT ROSTER - DRIVER

UPDATED ON APRIL 10, 2018 TO REFLECT TESTING, HIRING AND/OR CORRECTIONS

	NAME	EXPIRES
1	Gary Underwood	1/31/2020
2	Chris Hurst	1/31/2020
3	Steven Keller	1/31/2020
4	Greg Yount	1/31/2020
5	Lisa Kirkpatrick	1/31/2020
6	Jeramy Shope	1/31/2019
7	Sean West	1/31/2020
8	Ben Lowe	1/31/2019
9	Scott Seal	1/31/2019
10	John Heatherly	1/31/2019
11	Michael Bowlin	1/31/2020
12	Brian Williams	1/31/2019
13	Brad Cooper	1/31/2020

For the Civil Service Board



Lee Parker, Chairman