

**WORK SESSION
MARCH 5, 2019
4:00 p.m.**

1. Agenda Review

**AGENDA
CITY OF MORRISTOWN, TENNESSEE
CITY COUNCIL MEETING
MARCH 5, 2019
5:00 P.M.**

1. CALL TO ORDER

Mayor Gary Chesney

2. INVOCATION

Pastor John Paul Freitag, Senior Chaplain, Morristown Police Department

3. PLEDGE OF ALLEGIANCE

4. ROLL CALL

5. APPROVAL OF MINUTES

1. February 19, 2019

6. PROCLAMATIONS/PRESENTATIONS

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

8. OLD BUSINESS

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

1. Ordinance No. 3628
An Ordinance of the City Council of Morristown, Tennessee Amending Title 14 (Zoning and Land Use Control), Chapter 2, Chapter 3 (R-1 Single Family Residential District), Chapter 4a (RD-1 Moderate Density Single Family Residential District) and Chapter 6 (R-2 Medium Density Residential District) of the Morristown Municipal Code.

2. Ordinance No. 3629

An Ordinance to Amend the Municipal Code of the City of Morristown, Tennessee, Appendix B. {Rezoning of certain properties located along Progress Parkway and South Davy Crockett Highway/25E from Heavy Industrial (HI) to Tourist Accommodation (TA)}.

3. Ordinance No. 3630

An Ordinance to Amend the Municipal Code of the City of Morristown, Tennessee, Appendix B. {Rezoning of West Park Commons, Lot 7R located along Old Highway 11E}.

9. NEW BUSINESS

9-a. Resolutions

1. Resolution No. _____

A Resolution of the City Council of Morristown, Tennessee, Authorizing the Application for the 2019 Federally Funded Home Grant for Housing Rehabilitation for Low income Households.

2. Resolution No. _____

A Resolution of the City Council of Morristown, Tennessee, Urging the Tennessee Legislature and Governor Bill Lee to Adopt a State Historic Tax Incentive Titled the Main Street Historic Rehabilitation and Tourism Revitalization Act.

9-b. Introduction and First Reading of Ordinances

9-c. Awarding of Bids/Contracts

1. Approval of Contract between Merit Construction, Inc. and the City of Morristown for the Morristown City Hall Plaza Garage in the amount of \$2,764,000.

2. Approval of Contract between the City of Morristown and Population Health and Sports Technology Centers, Inc. (PHAST Centers) for Food and Beverage Concessions for the Parks and Recreation Department (subject to attorney review).

3. Approval to Purchase Tiger Side Mower Deck via Statewide Contract #242 in the amount of \$9,979.

4. Design Innovation Architects (DIA) Contract Amendment for Plaza/Garage Design Fee -Services for Construction Administration and Close-out Phases in the amount of \$94,000.

5. Approval to Surplus 67 Mobile Data Terminals (MDT's).
6. Approval of Contract between the City of Morristown on behalf of the Lakeway Area Metropolitan Transportation Planning Organization (LAMTPO) and Mattern and Craig Associates for the Bicycle and Pedestrian Plan.
7. Approval of Inspection and Maintenance Agreement (I&M) between the City of Morristown and Cherokee Crossing, LLC (Chili's Grill and Bar).

9-d. Board/Commission Appointments

9-e. New Issues

1. Approval of hiring one (1) entry level Patrol Officer for Morristown Police Department.
2. Approval to Surplus (Retirement) of K-9 Dano.

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:

March 19, 2019	Tuesday	3:45 p.m.	Finance Committee Meeting Review
March 19, 2019	Tuesday	4:15 p.m.	Work Session – Council Agenda Review
March 19, 2019	Tuesday	5:00 p.m.	Regular City Council Meeting with Work Session
April 2, 2019	Tuesday	4:00 p.m.	Work Session – Council Agenda Review
April 2, 2019	Tuesday	5:00 p.m.	Regular City Council Meeting with Work Session
April 16, 2019	Tuesday	3:45 p.m.	Finance Committee Meeting Review
April 16, 2019	Tuesday	4:15 p.m.	Work Session – Council Agenda Review
April 16, 2019	Tuesday	5:00 p.m.	Regular City Council Meeting with Work Session
April 19, 2109	Friday		City Employee's Holiday - Good Friday
May 7, 2019	Tuesday		City Election Day
May 7, 2019	Tuesday	4:00 p.m.	Work Session – Council Agenda Review
May 7, 2019	Tuesday	5:00 p.m.	Regular City Council Meeting with Work Session
May 13, 2019	Monday	5:00 p.m.	"Sine Die" – Swear in of Councilmembers & Mayors
May 21, 2019	Tuesday	3:45 p.m.	Finance Committee Meeting Review
May 21, 2019	Tuesday	4:15 p.m.	Work Session – Council Agenda Review
May 21, 2019	Tuesday	5:00 p.m.	Regular City Council Meeting with Work Session

WORK SESSION AGENDA
MARCH 5, 2019

1. Tennessee College of Applied Technology (TCAT) Update
2. Health Benefits – Mark III

**STATE OF TENNESSEE
COUNTY OF HAMBLLEN
CORPORATION OF MORRISTOWN
FEBRUARY 19, 2019**

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, February 19, 2019, with the Honorable Mayor Gary Chesney, presiding and the following Councilmembers present; Bob Garrett, Kay Senter, Dennis Alvis, Ken Smith, and Tommy Pedigo, Chris Bivens.

Dr. Chris Dotson, Chaplain, Morristown Police Department led in the invocation and Councilmember Dennis Alvis led the “Pledge of Allegiance”.

Councilmember Smith made a motion to approve the February 5, 2019, minutes as circulated. Councilmember Alvis seconded the motion and upon roll call; all voted “aye”.

A Public Hearing was held relating to Ordinance 3625, Ordinance 3626 and Ordinance 3627. No one spoke.

Councilmember Smith made a motion to approve Ordinance No. 3625 on second and final reading. Councilmember Bivens seconded the motion and upon roll call; all voted “aye”.

Ordinance No. 3625

An Ordinance of the City Council of Morristown, Tennessee, Amending Both the Text and Boundary of Title 14 (Zoning and Land Use Control), Chapter 35 (Regional Gateway Commercial District) of the Morristown Municipal Code.

Councilmember Alvis made a motion to approve Ordinance No. 3626 on second and final reading. Councilmember Pedigo seconded the motion and upon roll call; all voted “aye”.

Ordinance No. 3626

An Ordinance of the City Council of Morristown, Tennessee, Amending Title 14 (Zoning and Land Use Control), Chapter 16 (Tourist Accommodation District) of the Morristown Municipal Code.

Councilmember Senter made a motion to approve Ordinance No. 3627 on second and final reading. Councilmember Alvis seconded the motion and upon roll call; all voted “aye”.

Ordinance No. 3627

An Ordinance of the City Council of Morristown, Tennessee, Amending Title 14 (Zoning and Land Use Control), Chapter 29 (Sign Regulations) of the Morristown Municipal Code.

Councilmember Senter made a motion to approve Resolution No. 03-19. Councilmember Smith seconded the motion and upon roll call; all voted “aye”.

RESOLUTION NO. 03-19

A RESOLUTION OF THE CITY OF MORRISTOWN, APPLICATION OF TVA INVESTPREP GRANT FUNDS.

WHEREAS, the Tennessee Valley Authority InvestPrep Grant has been established through the TVA Economic Development department to assist communities within the TVA territory in preparing sites and facilities for investment and job creation by providing funds to better position local industrial product; and

WHEREAS, the City of Morristown has a history of development industrial districts; and

WHEREAS, the City of Morristown does promote Morristown as a prime location for business and industry; and

WHEREAS, the City of Morristown proposes to apply for TVA InvestPrep Grant funds in the amount of \$500,000 for the purpose of further developing the East Tennessee Progress Center; and

WHEREAS, the City of Morristown will provide local financial support in conjunction with the TVA InvestPrep Grant funds to complete the above project;

NOW, THEREFORE BE IT RESOLVED that the City of Morristown, Tennessee will be responsible for the local cash/match, not to exceed \$500,000, should the grant be awarded and funded to further develop of the East Tennessee Progress Center.

This Resolution shall be effective from and after its adoption.

Passed on this the 19th day of February 2019.

MAYOR

ATTEST:

CITY ADMINISTRATOR

Councilmember Pedigo made a motion to approve Ordinance No. 3628 on first reading and schedule a public hearing relative to final passage of said ordinance for March 5, 2019; Councilmember Garrett seconded the motion and upon roll call; all voted “aye”.

Ordinance No. 3628

An Ordinance of the City Council of Morristown, Tennessee Amending Title 14 (Zoning and Land Use Control), Chapter 2, Chapter 3 (R-1 Single Family Residential District), Chapter 4a (Rd-1 Moderate Density Single Family Residential District) and Chapter 6 (R-2 Medium Density Residential District) of the Morristown Municipal Code.

Councilmember Smith made a motion to approve Ordinance No. 3629 on first reading and schedule a public hearing relative to final passage of said ordinance for March 5, 2019; Councilmember Pedigo seconded the motion and upon roll call; all voted “aye”.

Ordinance No. 3629

An Ordinance to Amend the Municipal Code of the City of Morristown, Tennessee, Appendix B. {Rezoning of certain properties located along Progress Parkway and South Davy Crockett Highway/25E from Heavy Industrial (HI) to Tourist Accommodation (TA)}.

Councilmember Senter made a motion to approve Ordinance No. 3630 on first reading and schedule a public hearing relative to final passage of said ordinance for March 5, 2019; Councilmember Alvis seconded the motion and upon roll call; all voted “aye”.

Ordinance No. 3630

An Ordinance to Amend the Municipal Code of the City of Morristown, Tennessee, Appendix B. {Rezoning of West Park Commons, Lot 7R located along Old Highway 11 E}.

Councilmember Senter made a motion to approve the recommendation from

Design Innovation Architects Inc. (DIA) to accept the best and lowest bid to Merit Construction in the amount of \$2,764,000 for the Morristown City Center Plaza Bid. Councilmember Alvis seconded the motion and upon roll call; all voted “aye”.

Councilmember Alvis made a motion to approve the Task Order with Design Innovation Architects Inc. (DIA) for Tennis Courts in the amount of \$8,650. Councilmember Smith seconded the motion and upon roll call; all voted “aye”.

Councilmember Smith made a motion to approve the purchase of real estate located at 402 Rosedale Avenue, purchase price of \$65,000. Councilmember Senter seconded the motion and upon roll call; all voted “aye”.

Councilmember Pedigo made a motion to award the best and lowest bid to BK Graphics for uniforms for the Public Works Department and the best and lowest bid from BSN Sports for uniforms for the Parks and Recreation department. Councilmember Alvis seconded the motion and upon roll call; all voted “aye”.

Councilmember Alvis made a motion to approve Request for Proposal for Food and Beverage Concessions for the Parks and Recreation Department provided to Population Health and Sports Technology Centers, Inc. (PHAST Centers) and to allow City Administrator to enter into contract negotiations. Councilmember Smith seconded the motion and upon roll call; all voted “aye”.

Councilmember Alvis made a motion to approve of Sale of Property in East Tennessee Progress Center to Project White Bear at \$12,000 per acre with acreage to be determined after survey. Councilmember Smith seconded the motion and upon roll call; all voted “aye”.

Councilmember Smith made a motion to accept the Site Development Grant in the amount \$1,000,000 for improvements in East Tennessee Progress Center. Councilmember Alvis seconded the motion and upon roll call; all voted “aye”.

Councilmember Senter made a motion to approve the surplus of property from the Morristown Police Department. Councilmember Pedigo seconded the motion and upon roll call; all voted “aye”.

Councilmember Pedigo made a motion to approve of Inspection and Maintenance Agreement (I&M) between the City of Morristown and Petoskey Plastics, Inc. Councilmember Alvis seconded the motion and upon roll call; all voted “aye”.

Councilmember Pedigo made a motion to appoint David Purkey to the Industrial Development Board of the City of Morristown for a term to expire June 30, 2020. Councilmember Senter seconded the motion and upon roll call; all voted “aye”

Mayor Chesney reappointed Frank McGuffin to the Morristown Regional Planning Commission for a term to expire March 1, 2023.

Mayor Chesney reappointed Ventrus Norfolk to the Morristown Regional Planning Commission for a term to expire March 1, 2023.

Mayor Chesney recessed the meeting for an Executive Session.

Mayor Chesney called the meeting back to order.

Mayor Chesney adjourned the February 19, 2019 City Council meeting at 5:30 p.m.

MAYOR

ATTEST:

CITY ADMINISTRATOR

ORDINANCE NO. 3628

BEING AN ORDINANCE OF THE CITY COUNCIL OF MORRISTOWN, TENNESSEE AMENDING TITLE 14 (ZONING AND LAND USE CONTROL), CHAPTER 2, CHAPTER 3 (R-1 SINGLE FAMILY RESIDENTIAL DISTRICT), CHAPTER 4A (RD-1 MODERATE DENSITY SINGLE FAMILY RESIDENTIAL DISTRICT) AND CHAPTER 6 (R-2 MEDIUM DENSITY RESIDENTIAL DISTRICT) 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, 14-203 Definitions; Chapter 3, R-1 Single Family Residential District; Chapter 4A, RD-1 Moderate Density Single Family Residential District; and Chapter 6, R-2 Medium Density Residential District be approved as follows:

Chapter 2, 14-203 Definitions

69. COMMUNITY THEATRE: shall mean a theatre where performances are given by or for people who live in that area.

144. MULTIFAMILY RESIDENTIAL DWELLING: shall mean a structure containing three or more dwelling units.

Chapter 3, R-1 SINGLE FAMILY RESIDENTIAL DISTRICT

14-301. SINGLE FAMILY RESIDENTIAL DISTRICT

This is the most restrictive residential district, intended to be used for single-family residential areas with low population densities. Additional permitted uses, by Review of the Board of Zoning Appeals, include related non-commercial recreational, religious and educational facilities normally required to provide the basic elements of a balanced and attractive residential area. These areas are intended to be defined and protected from the encroachment of uses not performing a function necessary to the residential environment.

14-302. USES PERMITTED

1. Accessory buildings.
2. Crop and Tree Farming
3. Group Homes

4. One-family dwellings.
5. The taking of roomers provided that no more than two (2) rooms are used for such purposes
6. Home Occupation with no additional employees, clients or students (3584-08/01/2017)
7. Utilities

14-303. USES PERMITTED ON REVIEW

1. Cemeteries. (2806-07/18/1995)
 - a. The Cemetery must be an accessory use to a church.
2. Churches, Synagogues, Temples, and other places of Worship.
 - a. The property shall have access from a collector or arterial street.
 - b. Minimum 30' greenspace setback on perimeter of lot
3. Country Clubs and Golf Courses (public or private)
 - a. The golf course consists of a minimum of eight (8) acres open space;
 - b. The clubhouse, parking, and any accessory buildings are no closer than fifty (50) feet to any property line; and
 - c. One sign shall be permitted and shall be oriented to the street giving access to the property.
 - d. The size, setbacks, and any lighting shall be the same as for other nonresidential uses permitted within the applicable zone; and
 - e. Noise and glare are to be minimized as follows: loud speakers, juke boxes, public address systems, electric amplifiers, and similar electronic devices shall not be permitted.
4. Home Occupation involving employees, clients and students. (3584-08/01/2017)
5. Public buildings, Parks, other Public/Governmental Uses, Schools (Public or Private).
 - a. The property shall have access from a collector or arterial street.
 - b. Minimum of 30' greenspace setback on perimeter of lot.

14-304. LOT WIDTH

Any lot shall be no less than ninety (90) feet at the building line.

14-305. DEPTH OF FRONT YARD

Any principal building on any lot shall be located no closer than twenty-five (25) feet to the front lot line. (3009-09/07/1999).

Minimum depth of front yard shall apply to all public right-of-ways.

14-306. DEPTH OF REAR YARD

Any principal building on any lot shall be located no closer than twenty-five (25) feet to the rear lot line. (3009-09/07/1999)

14-307. WIDTH OF SIDE YARDS

Any principal building on any lot shall be located no closer to each side lot line than fifteen (15) feet.

14-308. 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.

14-309. LOT AREA

Any lot shall be no less than 15,000 square feet in area.

14-310. BUILDING HEIGHT

Buildings shall not exceed three (3) stories or thirty-five (35) feet in height.

Churches, schools, and other public and semi-public buildings may exceed the height limitations of the district if the minimum depth of the front, side, and rear yards required in the district is increased one (1) foot for each two (2) feet by which the height of such public or semi-public building exceeds the prescribed height limit.

Chapter 4A, RD1 SMALL LOT SINGLE FAMILY RESIDENTIAL DISTRICT

14-4A01. RD-1 SMALL LOT SINGLE FAMILY RESIDENTIAL DISTRICT

The purpose of the small lot single-family residential district is to allow for increased flexibility in the design of new residential development in a manner that increases housing choices for residents, utilizes land resources efficiently, and ensures a high quality neighborhood.

14-4A02. USES PERMITTED (3584-08/01/2017).

1. Accessory buildings.
2. Crop and tree farming.
3. Group Homes

4. Home Occupation with no additional employees, clients or students. (3584-08/01/2017)
5. One-family dwellings.
6. The taking of roomers provided that no more than two (2) rooms are used for such purposes.
7. Utilities

14-4A03. USES PERMITTED ON REVIEW

1. Cemeteries. (2806-07/18/1995)
 - a. The Cemetery must be an accessory use to a church.
2. Churches, Synagogues, Temples, and other places of Worship.
 - a. The property shall have access from a collector or arterial street.
 - b. Minimum 30' greenspace setback on perimeter of lot
3. Country Clubs and Golf Courses (public or private)
 - a. The golf course consists of a minimum of eight (8) acres open space;
 - b. The clubhouse, parking, and any accessory buildings are no closer than fifty (50) feet to any property line; and
 - c. One sign shall be permitted and shall be oriented to the street giving access to the property.
 - d. The size, setbacks, and any lighting shall be the same as for other nonresidential uses permitted within the applicable zone; and
 - e. Noise and glare are to be minimized as follows: loud speakers, juke boxes, public address systems, electric amplifiers, and similar electronic devices shall not be permitted.
4. Home Occupation involving employees, clients and students. (3584-08/01/2017)
5. Public buildings, Parks, other Public/Governmental Uses, and Schools (public or private).
 - a. The property shall have access from a collector or arterial street.

14-4A04. LOT WIDTH

Any lot shall be no less than fifty (50) feet at the building line.

14-4A05. DEPTH OF FRONT YARD

Any principal building on any lot shall be located no closer than twenty-five (25) feet to the front lot line. (3009-09/07/1999)

Minimum depth of front yard shall apply to all public right-of-ways.

14-4A06. DEPTH OF REAR YARD

Any principal building on any lot shall be located no closer than twenty-five (25) feet to the rear lot line. (3009-09/07/1999)

14-4A07. WIDTH OF SIDE YARDS

Any principal building on any lot shall be located no closer to each side lot line than eight (8) feet.

14-4A08. BUILDING AREA

The principal building and accessory building on any lot shall not cover more than forty (40) percent of the total area of said lot.

14-4A09. LOT AREA

Any lot shall be no less than 5,500 square feet in area where one residential unit occupies said lot.

14-4A10. BUILDING HEIGHT

Buildings shall not exceed two (2) stories or twenty-five (25) feet in height.

Chapter 6, R-2 MEDIUM DENSITY RESIDENTIAL DISTRICT

14-601. R-2 MEDIUM DENSITY RESIDENTIAL DISTRICT

This is a residential district to provide for medium population density. The principal uses of land may range from single-family to medium density multi-family apartment uses. Certain uses which are more compatible functionally with intensive residential uses than with commercial uses are permitted. The recreational, religious, educational facilities, and other related uses in keeping with the residential character of the district may be permitted on Review by the Board of Zoning Appeals.

14-602. USES PERMITTED

1. Accessory Buildings
2. Crop and Tree Farming
3. Group Homes
4. Home Occupations with no additional employees, clients or students.
5. Kindergartens and child nurseries, provided that there are not more than six (6) pupils and provided that said activities are conducted as a customary home occupation.
6. Residential Dwellings (one-family, two-family, multifamily)
7. Rooming or boarding house.
8. Utilities

14-603. USES PERMITTED ON REVIEW

1. Bed and Breakfast Operations.
 - a. Must abide by the provisions governing Bed and Breakfast operations listed in 14-311.
2. Cemeteries
 - a. The Cemetery must be an accessory use
3. Churches, Synagogues, Temples, other places of Worship, and Orphanages
 - a. The property shall have access from a collector or arterial street.
 - b. Minimum of 30' greenspace setback on perimeter of lot.
4. Community Theatre
 - a. The property shall have access from a collector or arterial street.
 - b. It must meet the minimum off-street parking requirements as found in section 14-216-3.
5. County Clubs and Golf Courses (public or private)
 - a. The golf course consists of a minimum of eight (8) acres open space;
 - b. The clubhouse, parking, and any accessory buildings are no closer than fifty (50) feet to any property line; and
 - c. One sign shall be permitted and shall be oriented to the street giving access to the property.
 - d. The size, setbacks, and any lighting shall be the same as for other nonresidential uses permitted within the applicable zone; and
 - e. Noise and glare are to be minimized as follows: loud speakers, just boxes, public address systems, electric amplifiers, and similar electronic devices shall not be permitted.
6. Home Occupations involving employees, clients and students
7. Kindergartens and child nurseries with more than six (6) pupils.
 - a. The property shall have access from a collector or arterial street.
8. Plant and flower nurseries.
 - a. The property shall have access from a collector or arterial street.

9. Public buildings, Parks, other Public/Governmental Uses, and Schools.
 - a. The property shall have access from a collector or arterial street
 - b. Minimum of 30' greenspace on perimeter of lot.

14-604. LOT WIDTH

Any lot shall be no less than sixty-five (65) feet at the building line.

14-605. DEPTH OF FRONT YARD

Any principal building on any lot shall be located no closer than twenty-five (25) feet to the front lot line. (3009-09/07/1999)

Minimum depth of front yard shall apply to all public right-of-ways.

14-606. DEPTH OF REAR YARD

Any principal building on any lot shall be located no closer than twenty-five (25) feet to the rear lot line. (3009-09/07/1999)

14-607. WIDTH OF SIDE YARDS

Any principal building on any lot shall be no closer to each side lot line than ten (10) feet for a single family residential or a duplex dwelling and no closer than twenty (20) feet for a multifamily residential dwellings

14-608. 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.

14-609. LOT AREA

1. Any lot shall be no less than 7,500 square feet in area where one residential unit occupies said lot.
2. Any lot shall be no less than 11,000 square feet in area where two (2) residential units occupy said lot.
3. Any lot shall be no less than 14,500 square feet in area where three (3) or more residential units occupy said lot; and overall density not to exceed 12 units per acre.

14-610. BUILDING HEIGHT

Buildings shall not exceed three (3) stories or thirty-five (35) feet in height.

Churches, schools, and other public and semi-public buildings may exceed the height limitations of the district if the minimum depth of the front, side, and rear yards required in the district is increased one (1) foot for each two (2) feet by which the height of such public or semi-public building exceeds the prescribed height limit.

14-611. PROVISIONS GOVERNING BED AND BREAKFAST OPERATIONS (2630-06/18/1991)

1. Size of Operation

- a. Home-Stay Operation (1-3 rooms involved)
- b. Commercial Operation (4-12 rooms involved) (requires Health Department Inspection and Approval)

2. Parking Requirement

- a. (1-3 rooms) 2 spaces for the existing residence and one (1) space for each room for rent. The spaces for rental rooms shall be landscaped and/or screened from the neighbors and street.
- b. (4-12 rooms) 1 space for each two employees and one space for each room for rent. All spaces shall be included in an overall site-plan of the development.

3. Signage

A two square foot maximum non-illuminated sign in the style of the unique or historic nature of the structure or area will be allowed.

4. Traffic

Traffic generated is a function of the size of the operation. This shall be judged in accordance with the nature of the neighborhood, street capacity and existing traffic congestion.

5. Neighborhood Compatibility

This must be reviewed on a case by case basis and must take into consideration but not be limited to the following:

- a. Utilize the unique or historic nature of the dwelling or area as a theme of the operation.
- b. On a small (1-3 rooms) home-stay operation no visible outside evidence of a non-residential nature should be seen from the street or neighbors.
- c. Food served on large operation (4-12 rooms) inspected by Hamblen County Health Department.
- d. Food served on small operation (1-3 rooms) should contain no homemade, grown or produced milk, vegetables, meats, fowl or fish; and all kitchen utensils, work areas and plates and glasses must be clean and sanitary.

6. Length of Stay

The maximum length of stay by one individual at one stretch shall be seven (7) days.

7. Prohibited Uses

The small (1-3 rooms) operation shall not be utilized for the following functions:

- a. Receptions.
- b. Parties.
- c. Weddings.
- d. Club Meetings.
- e. Serving meals to other than overnight borders.

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 19 day of February 2019.

Mayor

ATTEST:

City Administrator

Passed on second and final reading this the 5 day of March 2019.

Mayor

ATTEST:

City Administrator

ORDINANCE NO. 3629, ENTITLED AN ORDINANCE TO AMEND THE MUNICIPAL CODE OF THE CITY OF MORRISTOWN, TENNESSEE, APPENDIX B. {Rezoning of certain properties located along Progress Parkway and South Davy Crockett Highway/25E from Heavy Industrial (HI) to Tourist Accommodation (TA)}

SECTION I. WHEREAS, the Morristown Planning Commission has recommended to the City Council of the City of Morristown that a certain amendment be made to Ordinance No. 2092, known as the Zoning Ordinance for the City of Morristown, Appendix B;

NOW, THEREFORE, in order to carry into effect the said amendment:

SECTION II. BE IT RESOLVED by the City Council of the City of Morristown that Ordinance No. 2092 be and the same hereby is amended so as to provide that the following described real estate be rezoned from R-2 (Medium Density Residential) to R-3 (Heavy Density Residential);

To include the whole of Lot 7R of the final plat as recorded in Plat Book LPlat, page 120 of West Park Commons, Lot 7 Davis and Stanley Property and Adjoining Property;

SECTION III. BE IT FURTHER ORDAINED that all maps, records and necessary minute entries be changed so as to effect the amendment as herein provided, to the extent that the area herein above described shall be permitted to be used for Heavy Density Residential (R-3) uses exclusively.

SECTION IV. BE IT FURTHER ORDAINED that all ordinances or parts of ordinances in conflict herewith be, and the same are, repealed to the extent of such conflict but not further or otherwise.

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

Passed on first reading the 19th day of February 2019.

Mayor

ATTEST:

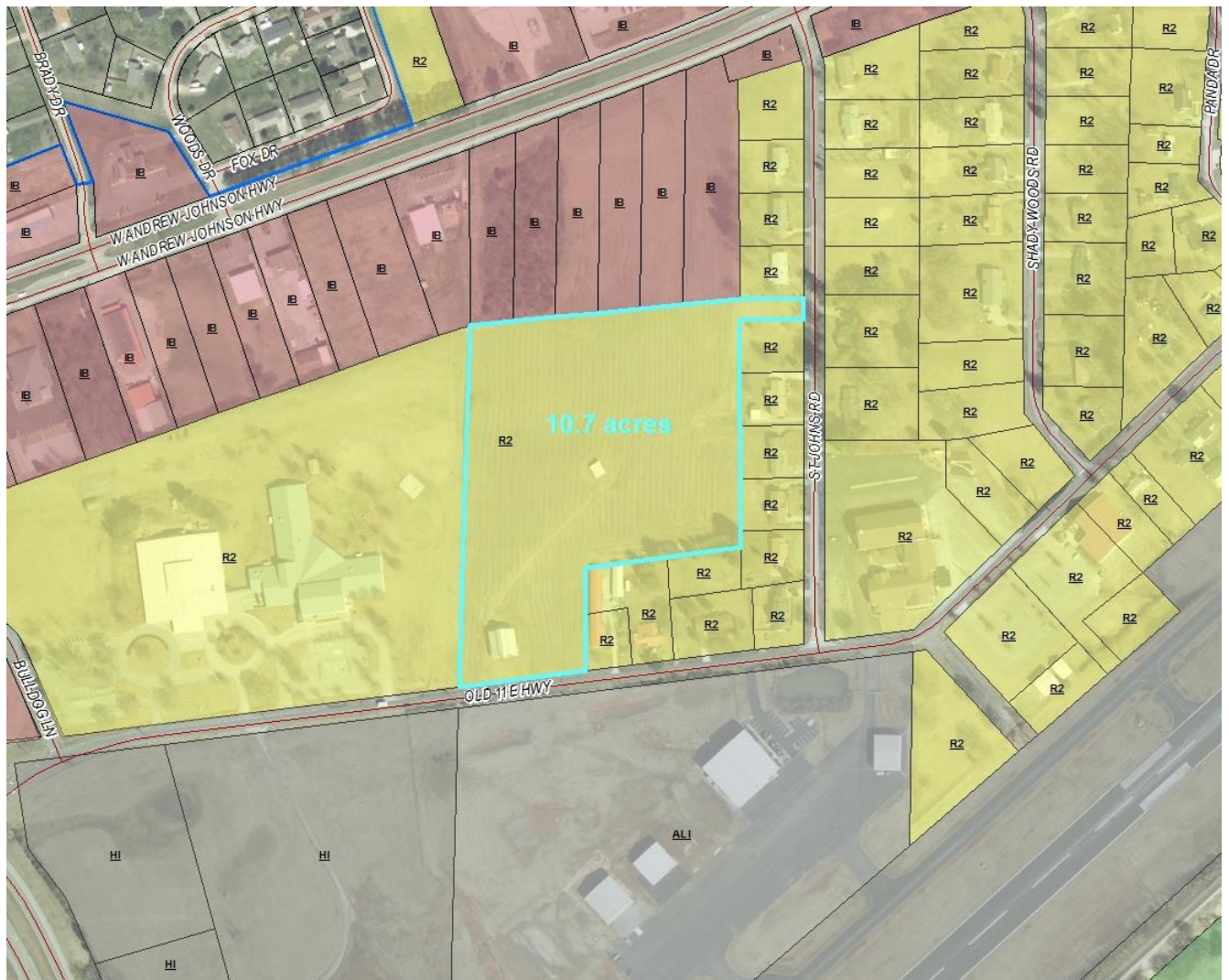
City Administrator

Passed on second and final reading the 5th day of March 2019.

Mayor

ATTEST:

City Administrator



ORDINANCE NO. 3630

ENTITLED AN ORDINANCE TO AMEND THE MUNICIPAL CODE OF THE CITY OF MORRISTOWN, TENNESSEE, APPENDIX B. *{Rezoning of West Park Commons, Lot 7R located along Old Highway 11E}*.

SECTION I. WHEREAS, the Morristown Planning Commission has recommended to the City Council of the City of Morristown that a certain amendment be made to Ordinance No. 2092, known as the Zoning Ordinance for the City of Morristown, Appendix B;

NOW, THEREFORE, in order to carry into effect the said amendment:

SECTION II. BE IT RESOLVED by the City Council of the City of Morristown that Ordinance No. 2092 be and the same hereby is amended so as to provide that the following described real estate be rezoned from R-2 (Medium Density Residential) to R-3 (Heavy Density Residential);

To include the whole of Lot 7R of the final plat as recorded in Plat Book L Plat, page 120 of West Park Commons, Lot 7 Davis and Stanley Property and Adjoining Property;

SECTION III. BE IT FURTHER ORDAINED that all maps, records and necessary minute entries be changed so as to effect the amendment as herein provided, to the extent that the area herein above described shall be permitted to be used for Heavy Density Residential (R-3) uses exclusively.

SECTION IV. BE IT FURTHER ORDAINED that all ordinances or parts of ordinances in conflict herewith be, and the same are, repealed to the extent of such conflict but not further or otherwise.

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

Passed on first reading the 19th day of February 2019.

Mayor

ATTEST:

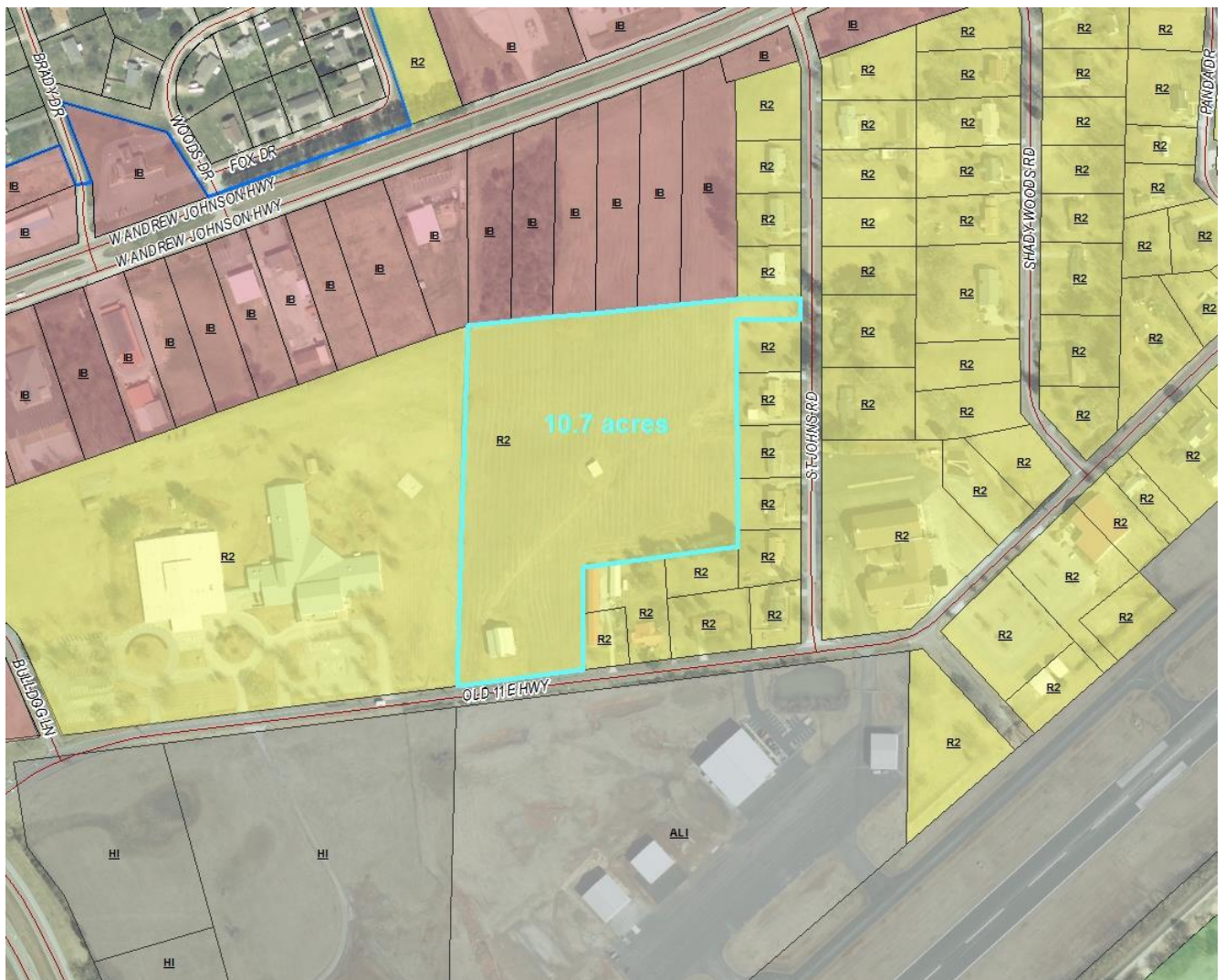
City Administrator

Passed on second and final reading the _____ day of _____, 2019.

Mayor

ATTEST:

City Administrator



RESOLUTION NO. _____
**AUTHORIZING THE APPLICATION FOR THE 2019 FEDERALLY
FUNDED HOME GRANT FOR HOUSING REHABILITATION FOR
LOW INCOME HOUSEHOLDS**

WHEREAS the City Council of Morristown recognizes the need for housing rehabilitation for low income residents residing within the city; and

WHEREAS the City Council of Morristown desires to provide housing rehabilitation services to these residents; and

WHEREAS the City Council of Morristown understands that the U.S. Department of Housing and Urban Development allows for assistance through the HOME program, administered by the Tennessee Housing Development Agency (THDA), to provide housing rehabilitation for low-income persons, and

NOW THEREFORE BE IT RESOLVED, that the City Council of Morristown does hereby authorize the Mayor of Morristown to file an application for 2019 HOME funds with Tennessee Housing Development Agency (THDA) not to exceed \$500,000.

BE IT FURTHER RESOLVED, that this resolution takes effect from and after its passage, the public welfare requiring it.

Adopted and approved this 5th day of March 2019

Gary Chesney, Mayor

ATTEST:

Anthony W. Cox, City Administrator

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF MORRISTOWN,
TENNESSEE, URGING THE TENNESSEE LEGISLATURE AND
GOVERNOR BILL LEE TO ADOPT A STATE HISTORIC TAX
INCENTIVE, TITLED THE MAIN STREET HISTORIC
REHABILITATION AND TOURISM REVITALIZATION ACT**

WHEREAS, thirty-five states offer tax incentives for rehabilitation of income-producing historic structures, including every state surrounding Tennessee; and;

WHEREAS, these rehabilitation incentives consistently demonstrate a strong return on investment in other states; and

WHEREAS, adoption of a state historic tax credit will enable the City of Morristown, Tennessee and other communities in the state of Tennessee to compete with neighboring states for investment in revitalizing historic structures and to spur economic activity throughout the state; and

WHEREAS, adoption of a state historic tax credit will be particularly beneficial for the City of Morristown, Tennessee, since its downtown commercial core has an abundance of historic buildings that contribute to the character and culture of the city and its appeal as a place to live; and

WHEREAS, a state historic tax incentive would offer investors in Morristown, Tennessee, a credit on approved rehabilitation of historic structures; and

WHEREAS, a state historic tax incentive could be combined with the 20 percent federal historic tax credit to improve the return on investment for approved rehabilitation of historic income-producing properties; and

WHEREAS, between fiscal years 2002 and 2017, the federal historic tax credit enabled the completion of 190 rehabilitation projects in the State of Tennessee; and

WHEREAS, Tennessee's historic rehabilitation tax incentive will require the private sector to make an initial investment and the state will not award any credits until a building's rehabilitation is certified; and

WHEREAS, redeveloping underutilized and vacant historic buildings puts them back into productive use, increases their value for property tax purposes, and reduces the potential for codes enforcement issues, as well as vandalism and other crimes involving those underutilized and vacant historic buildings; and

WHEREAS, these economic development incentives create highly paid local jobs that often require craftsmen skilled at repairing historic windows, plaster, masonry, and flooring; and

WHEREAS, historic tax incentives will enhance Tennessee's tourism economy because heritage tourists typically stay longer and spend more money when compared with other travelers; and

WHEREAS, for the reasons set out above, the Crossroads Downtown Partnership urges the City Council of the City of Morristown, Tennessee to express its support for The Main Street Historic Rehabilitation and Tourism Revitalization Act.

NOW, THEREFORE BE IT RESOLVED that the City of Morristown, Tennessee, that the City Council urges the Tennessee Legislature and the Governor of Tennessee to adopt a state historic tax incentive, titled **The Main Street Historic Rehabilitation and Tourism Revitalization Act**, or such substantially similar legislation as may be introduced under a different caption.

This Resolution shall be effective from and after its adoption.

Passed on this the 5th day of March 2019

Gary Chesney, Mayor

ATTEST:

Anthony W. Cox, City Administrator

Main Street Historic Tourism and Revitalization Act

(House/Senate Bill Numbers)

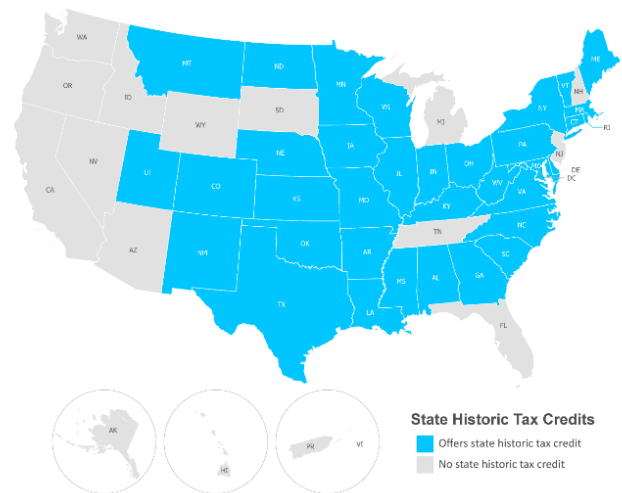
The Main Street Historic Tourism and Revitalization Act will drive private investment back into our smaller, rural towns by offering a tax incentive for the qualified rehabilitation of Tennessee's historic buildings. The incentive is tiered based on areas with the greatest need with a specific focus on reinvestment in our Main Street communities. While limited both at the individual project level and the total annual expenditure, the incentive will enable Tennessee to compete with neighboring states for outside investment. Joining the thirty-five states across the country that have enacted such incentives will help create good local jobs, promote small business development and bring more people back downtown.

Why Enact a Tennessee Historic Tax Incentive?

Create Highly Paid Local Jobs. Rehabilitation projects are on average 60 percent labor and 40 percent materials compared to new construction costs of about 40 percent labor and 60 percent materials. Labor is usually hired locally and often includes higher-paid craftsmen skilled at repairing historic windows, plaster, masonry, and flooring.

A Consistently Strong Return on Investment.

Tennessee's historic rehabilitation incentive will require the private sector to make an initial investment and the state will not award any credits until a building's rehabilitation is certified. According to the 2016 analysis by Baker Tilly Virchow Krause, LLP, Wisconsin Historic Tax Credit Analysis, 40 percent of the credit is paid back in state taxes before the building is finished and the remainder is recouped by the state in 4 years. After the repayment period, rehabilitated buildings continue to generate new local and state tax revenues.



Leverages Significant Private Investment. More than a dozen studies document the significant investment that is attracted to states that offer a state historic tax credit. A 2015 assessment conducted for the Ohio Development Services Agency, for example, estimates that every dollar in state historic tax credits attracts an average of \$6.20 in private investment.

Boosts Tourism and Creates Thriving Communities Attractive to Relocating Businesses.

Cultural heritage travel studies at the local, state and national level in the past 20 years have consistently shown that tourists who travel to experience culture and heritage will stay longer and spend more money at a destination. According to the last national study of heritage tourism, **72% tourists want to visit places where the destination, buildings and surroundings retain their historic character.** Tourism is Tennessee's second largest economic sector, and a historic tax incentive will expand this economy by creating more vibrant historic downtowns for visitors, locals, and businesses.



AFTER EXPANDING THE FEDERAL HISTORIC TAX CREDIT IN 1984, PRESIDENT RONALD REAGAN SAID, *"Our historic tax credits have made the preservation of our older buildings not only a matter of respect for beauty and history, **but of course for economic good sense.**"* To hear President Reagan's message, [*Click Here*](#)

Program Specifics

Tiered economic incentive focuses investment where it is needed most.

- 10% for Williamson and Davidson counties
- 20% for Knox, Hamilton and Shelby counties
- 30% for other counties in the state
- Main Street Incentive: an **additional 5 percent credit** will be available for historic rehabilitation projects in state-approved Main Street, Tennessee Downtown communities and smaller Certified Local Governments.

[Return to Agenda](#)

Offsets different types of tax liability to attract investment from a variety of taxpayers

- The Tennessee historic tax credit will reduce Premium taxes, Retaliatory taxes, Income taxes, Property taxes, Business taxes, Sales and Use taxes, and Bank and financial institution taxes

Ability to transfer historic tax credits to entities with actual tax liability.

- Where property owners do not have significant tax liability, the state will be able to issue a tax certificate that is transferrable to an entity with the state tax liability. Texas, another state without an income tax, uses this highly successful model and small Main Street business owners find it to be an effective incentive to encourage substantive rehabilitation of their properties because they do not have to create an expensive limited liability corporation.

To qualify, historic buildings must be income-producing and substantially rehabilitated.

- The incentive is only awarded after the building is rehabilitated, generating income, and certified by the Tennessee Historical Commission. Additionally, rehabilitation expenses must exceed 50% of the purchase price of the property, ensuring rehabilitation projects are significant and transformative.

Limits on the incentive ensure the State will meet its annual budget objectives.

- The Main Street Historic Rehabilitation and Tourism Revitalization Act limits the amount of tax credits to \$4 million per project and \$40 million annually. One half of the credits issued per year are reserved for historic rehabilitation projects in rural counties.

Framework to Administer a Tennessee historic tax credit is already in place.

- Historic rehabilitation incentives are approved by the Tennessee Historical Commission using the existing process for evaluating federal historic tax credits. The agency certifies the significance of the older building the rehabilitation work itself and keeps records impacts such as the number of jobs created both during and after the renovation process.
- Applications will be reviewed on a first-come, first-serve basis. The incentive allows businesses, nonprofits, and long-term lessees to renovate certified historic buildings according to the Secretary of the Interior's Standards for Rehabilitation. Work must start within 18 months of the approval by the Tennessee Historical Commission.



More projects like the 2014 conversion of the 1915 C.C. Card Auto Company building into 14 loft apartments and two commercial spaces would be encouraged by the adoption of a state historic tax credit. One new business in the renovated building, Stack Southern Bistro, hired 25 employees while the other new business, the AR Cleveland DIY Workshop, is hiring 11 employees for its opening on March 2, 2019.

Made possible by federal historic tax credits, the renovation also had a catalytic impact in the Main Street of Cleveland (pop. 44,400). The building next door was converted into the new Mash & Hops microbrewery and The Press winery opened just two doors away. MainStreet Cleveland director Sharon Marr says the renovation "has been a huge catalyst for downtown and is helping turn First Street into a developing entertainment district."

Photo courtesy of MainStreet Cleveland which promotes community economic health, local quality of life, pride and community history because they are all factors in industrial, commercial and professional recruitment.

For more information, contact:

Ashley E. Cates, Executive Vice President, AIA Tennessee PH: 615.255.3860 or E-mail: ashley@aiatn.org

Renee Kuhlman, Director of Policy Outreach, National Trust for Historic Preservation PH: 540.951.1661 or E-mail: ruhlman@savingplaces.org

[Return to Agenda](#)

AIA® Document A101™ – 2017

Standard Form of Agreement Between Owner and Contractor where the basis of payment is a Stipulated Sum

AGREEMENT made as of the day of in the year
(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
Telephone Number: 865-966-4100
Fax Number: 865-966-4101

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

Morristown City Hall Plaza Garage
Morristown, TN

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

Design Innovations Architects
402 S Gay Street, Suite 201
Knoxville, TN 37902
Telephone Number: 865-637-8540

The Owner and Contractor agree as follows.

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.

The parties should complete A101™–2017, Exhibit A, Insurance and Bonds, contemporaneously with this Agreement. AIA Document A201™–2017, General Conditions of the Contract for Construction, is adopted in this document by reference. Do not use with other general conditions unless this document is modified.

Init.

AIA Document A101™ – 2017. Copyright © 1915, 1918, 1925, 1937, 1951, 1958, 1961, 1963, 1967, 1974, 1977, 1987, 1991, 1997, 2007 and 2017 by The American Institute of Architects. All rights reserved. **WARNING: This AIA® Document is protected by U.S. Copyright Law and International Treaties. Unauthorized reproduction or distribution of this AIA® Document, or any portion of it, may result in severe civil and criminal penalties, and will be prosecuted to the maximum extent possible under the law.** This document was produced by AIA software at 15:23:27 ET on 02/21/2019 under Order No.5178825607 which expires on 02/01/2020, and is not for resale.

User Notes:

(1429567863)
[Return to Agenda](#)

TABLE OF ARTICLES

- 1 THE CONTRACT DOCUMENTS
- 2 THE WORK OF THIS CONTRACT
- 3 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION
- 4 CONTRACT SUM
- 5 PAYMENTS
- 6 DISPUTE RESOLUTION
- 7 TERMINATION OR SUSPENSION
- 8 MISCELLANEOUS PROVISIONS
- 9 ENUMERATION OF CONTRACT DOCUMENTS

EXHIBIT A INSURANCE AND BONDS

ARTICLE 1 THE CONTRACT DOCUMENTS

The Contract Documents consist of this Agreement, Conditions of the Contract (General, Supplementary, and other Conditions), Drawings, Specifications, Addenda issued prior to execution of this Agreement, other documents listed in this Agreement, and Modifications issued after execution of this Agreement, all of which form the Contract, and are as fully a part of the Contract as if attached to this Agreement or repeated herein. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations, or agreements, either written or oral. An enumeration of the Contract Documents, other than a Modification, appears in Article 9.

ARTICLE 2 THE WORK OF THIS CONTRACT

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

ARTICLE 3 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION

§ 3.1 The date of commencement of the Work shall be:

(Check one of the following boxes.)

- ☐ The date of this Agreement.
- ☐ A date set forth in a notice to proceed issued by the Owner.
- ☒ Established as follows:
(Insert a date or a means to determine the date of commencement of the Work.)

The Date of Commencement shall be the latter of the following:

1. The date in which a Notice to Proceed is received by Merit Construction, Inc.
2. The date in which a Building Permit is received by Merit Construction, Inc.
3. The date in which a signed contract is received by Merit Construction, Inc.
4. The date in which a letter of appropriated funds is received by Merit Construction, Inc.

If a date of commencement of the Work is not selected, then the date of commencement shall be the date of this Agreement.

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

§ 3.3 Substantial Completion

Init.

AIA Document A101™ – 2017. Copyright © 1915, 1918, 1925, 1937, 1951, 1958, 1961, 1963, 1967, 1974, 1977, 1987, 1991, 1997, 2007 and 2017 by The American Institute of Architects. All rights reserved. **WARNING: This AIA® Document is protected by U.S. Copyright Law and International Treaties. Unauthorized reproduction or distribution of this AIA® Document, or any portion of it, may result in severe civil and criminal penalties, and will be prosecuted to the maximum extent possible under the law.** This document was produced by AIA software at 15:23:27 ET on 02/21/2019 under Order No.5178825607 which expires on 02/01/2020, and is not for resale.

User Notes:

(1429567863)

[Return to Agenda](#)

§ 3.3.1 Subject to adjustments of the Contract Time as provided in the Contract Documents, the Contractor shall achieve Substantial Completion of the entire Work:
(Check one of the following boxes and complete the necessary information.)

☒ Not later than Two Hundred Eighty (280) calendar days from the date of commencement of the Work.

☐ By the following date:

§ 3.3.2 Subject to adjustments of the Contract Time as provided in the Contract Documents, if portions of the Work are to be completed prior to Substantial Completion of the entire Work, the Contractor shall achieve Substantial Completion of such portions by the following dates:

Portion of Work	Substantial Completion Date
-----------------	-----------------------------

§ 3.3.3 If the Contractor fails to achieve Substantial Completion as provided in this Section 3.3, liquidated damages, if any, shall be assessed as set forth in Section 4.5.

ARTICLE 4 CONTRACT SUM

§ 4.1 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 Two Million Seven Hundred Sixty-four Thousand Dollars and Zero Cents (\$ 2,764,000.00), subject to additions and deductions as provided in the Contract Documents.

§ 4.2 Alternates

§ 4.2.1 Alternates, if any, included in the Contract Sum:

Item	Price
Alternate No. 3 Rebuild existing CMU plater wall	\$35,000.00
Alternate No. 4 Replace on-grade paver system at North and West paved areas	\$15,000.00
Alternate No. 5 Install Uplighting at Medal of Honor Pedestals	\$24,000.00

§ 4.2.2 Subject to the conditions noted below, the following alternates may be accepted by the Owner following execution of this Agreement. Upon acceptance, the Owner shall issue a Modification to this Agreement.
(Insert below each alternate and the conditions that must be met for the Owner to accept the alternate.)

Item	Price	Conditions for Acceptance
------	-------	---------------------------

§ 4.3 Allowances, if any, included in the Contract Sum:
(Identify each allowance.)

Item	Price
Allowance #1	\$15.00/SF (7500 SF included in the Contract Sum)
Allowance #2	\$6.50/LF (2700 LF included in the Contract Sum)
Allowance #3	\$1.33/SF (750 SF included in the Contract Sum)
Allowance #4	\$950.00/M (15,000 ea included in the Contract Sum)
Allowance #5	\$10,000.00 (Lump sum amount included in the Contract Sum)

§ 4.4 Unit prices, if any:
(Identify the item and state the unit price and quantity limitations, if any, to which the unit price will be applicable.)

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

Init.

§ 4.5 Liquidated damages, if any:

(Insert terms and conditions for liquidated damages, if any.)

Five Hundred Dollars (\$500.00) per calendar day.

§ 4.6 Other:

(Insert provisions for bonus or other incentives, if any, that might result in a change to the Contract Sum.)

ARTICLE 5 PAYMENTS

§ 5.1 Progress Payments

§ 5.1.1 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.

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

§ 5.1.3 Provided that an Application for Payment is received by the Architect not later than the last day of a month, the Owner shall make payment of the amount certified to the Contractor not later than the 21st day of the following month. If an Application for Payment is received by the Architect after the application date fixed above, payment of the amount certified 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.)

§ 5.1.4 Each Application for Payment shall be based on the most recent schedule of values submitted by the Contractor in accordance with the Contract Documents. The schedule of values shall allocate the entire Contract Sum among the various portions of the Work. The schedule of values shall be prepared in such form, and supported by such data to substantiate its accuracy, as the Architect may require. This schedule of values shall be used as a basis for reviewing the Contractor's Applications for Payment.

§ 5.1.5 Applications for Payment shall show the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment.

§ 5.1.6 In accordance with AIA Document A201™–2017, General Conditions of the Contract for Construction, and subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

§ 5.1.6.1 The amount of each progress payment shall first include:

- .1 That portion of the Contract Sum properly allocable to completed Work;
- .2 That portion of the Contract Sum properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction, or, if approved in advance by the Owner, suitably stored off the site at a location agreed upon in writing; and
- .3 That portion of Construction Change Directives that the Architect determines, in the Architect's professional judgment, to be reasonably justified.

§ 5.1.6.2 The amount of each progress payment shall then be reduced by:

- .1 The aggregate of any amounts previously paid by the Owner;
- .2 The amount, if any, for Work that remains uncorrected and for which the Architect has previously withheld a Certificate for Payment as provided in Article 9 of AIA Document A201–2017;

Init.

- .3 Any amount for which the Contractor does not intend to pay a Subcontractor or material supplier, unless the Work has been performed by others the Contractor intends to pay;
- .4 For Work performed or defects discovered since the last payment application, any amount for which the Architect may withhold payment, or nullify a Certificate of Payment in whole or in part, as provided in Article 9 of AIA Document A201–2017; and
- .5 Retainage withheld pursuant to Section 5.1.7.

§ 5.1.7 Retainage

§ 5.1.7.1 For each progress payment made prior to Substantial Completion of the Work, the Owner may withhold the following amount, as retainage, from the payment otherwise due:

(Insert a percentage or amount to be withheld as retainage from each Application for Payment. The amount of retainage may be limited by governing law.)

Five percent (5%)

§ 5.1.7.1.1 The following items are not subject to retainage:

(Insert any items not subject to the withholding of retainage, such as general conditions, insurance, etc.)

§ 5.1.7.2 Reduction or limitation of retainage, if any, shall be as follows:

(If the retainage established in Section 5.1.7.1 is to be modified prior to Substantial Completion of the entire Work, including modifications for Substantial Completion of portions of the Work as provided in Section 3.3.2, insert provisions for such modifications.)

§ 5.1.7.3 Except as set forth in this Section 5.1.7.3, upon Substantial Completion of the Work, the Contractor may submit an Application for Payment that includes the retainage withheld from prior Applications for Payment pursuant to this Section 5.1.7. The Application for Payment submitted at Substantial Completion shall not include retainage as follows:

(Insert any other conditions for release of retainage upon Substantial Completion.)

§ 5.1.8 If final completion of the Work is materially delayed through no fault of the Contractor, the Owner shall pay the Contractor any additional amounts in accordance with Article 9 of AIA Document A201–2017.

§ 5.1.9 Except with the Owner's prior approval, the Contractor shall not make advance payments to suppliers for materials or equipment which have not been delivered and stored at the site.

§ 5.2 Final Payment

§ 5.2.1 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 Article 12 of AIA Document A201–2017, and to satisfy other requirements, if any, which extend beyond final payment; and
- .2 a final Certificate for Payment has been issued by the Architect.

§ 5.2.2 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:

§ 5.3 Interest

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.

Init.

(Insert rate of interest agreed upon, if any.)

1.5 % One and a half percent monthly

ARTICLE 6 DISPUTE RESOLUTION

§ 6.1 Initial Decision Maker

The Architect will serve as the Initial Decision Maker pursuant to Article 15 of AIA Document A201–2017, unless the parties appoint below another individual, not a party to this Agreement, to serve as the Initial Decision Maker.

(If the parties mutually agree, insert the name, address and other contact information of the Initial Decision Maker, if other than the Architect.)

§ 6.2 Binding Dispute Resolution

For any Claim subject to, but not resolved by, mediation pursuant to Article 15 of AIA Document A201–2017, the method of binding dispute resolution shall be as follows:

(Check the appropriate box.)

☒ [X] Arbitration pursuant to Section 15.4 of AIA Document A201–2017

☐ [] Litigation in a court of competent jurisdiction

☐ [] Other (Specify)

If the Owner and Contractor do not select a method of binding dispute resolution, or do not subsequently agree in writing to a binding dispute resolution method other than litigation, Claims will be resolved by litigation in a court of competent jurisdiction.

ARTICLE 7 TERMINATION OR SUSPENSION

§ 7.1 The Contract may be terminated by the Owner or the Contractor as provided in Article 14 of AIA Document A201–2017.

§ 7.1.1 If the Contract is terminated for the Owner's convenience in accordance with Article 14 of AIA Document A201–2017, then the Owner shall pay the Contractor a termination fee as follows:

(Insert the amount of, or method for determining, the fee, if any, payable to the Contractor following a termination for the Owner's convenience.)

§ 7.2 The Work may be suspended by the Owner as provided in Article 14 of AIA Document A201–2017.

ARTICLE 8 MISCELLANEOUS PROVISIONS

§ 8.1 Where reference is made in this Agreement to a provision of AIA Document A201–2017 or another Contract Document, the reference refers to that provision as amended or supplemented by other provisions of the Contract Documents.

§ 8.2 The Owner's representative:

(Name, address, email address, and other information)

Ashley Ahl
City of Morristown
100 West First North Street

Init.

AIA Document A101™ – 2017. Copyright © 1915, 1918, 1925, 1937, 1951, 1958, 1961, 1963, 1967, 1974, 1977, 1987, 1991, 1997, 2007 and 2017 by The American Institute of Architects. All rights reserved. **WARNING: This AIA® Document is protected by U.S. Copyright Law and International Treaties. Unauthorized reproduction or distribution of this AIA® Document, or any portion of it, may result in severe civil and criminal penalties, and will be prosecuted to the maximum extent possible under the law.** This document was produced by AIA software at 15:23:27 ET on 02/21/2019 under Order No.5178825607 which expires on 02/01/2020, and is not for resale.

User Notes:

[Return to Agenda](#) (1429567863)

Morristown, TN 37814
Telephone Number: 423-585-4622
Email: aahl@mymorristown.com

§ 8.3 The Contractor's representative:
(Name, address, email address, and other information)

Bruce Bosse, CEO
Merit Construction, Inc.
10435 Dutchtown Road
Knoxville, TN 37932
Telephone No. 865-966-4100
Email: bbosse@meritconstruction.com

§ 8.4 Neither the Owner's nor the Contractor's representative shall be changed without ten days' prior notice to the other party.

§ 8.5 Insurance and Bonds

§ 8.5.1 The Owner and the Contractor shall purchase and maintain insurance as set forth in AIA Document A101™–2017, Standard Form of Agreement Between Owner and Contractor where the basis of payment is a Stipulated Sum, Exhibit A, Insurance and Bonds, and elsewhere in the Contract Documents.

§ 8.5.2 The Contractor shall provide bonds as set forth in AIA Document A101™–2017 Exhibit A, and elsewhere in the Contract Documents.

§ 8.6 Notice in electronic format, pursuant to Article 1 of AIA Document A201–2017, may be given in accordance with AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, if completed, or as otherwise set forth below:
(If other than in accordance with AIA Document E203–2013, insert requirements for delivering notice in electronic format such as name, title, and email address of the recipient and whether and how the system will be required to generate a read receipt for the transmission.)

§ 8.7 Other provisions:

ARTICLE 9 ENUMERATION OF CONTRACT DOCUMENTS

§ 9.1 This Agreement is comprised of the following documents:

- .1 AIA Document A101™–2017, Standard Form of Agreement Between Owner and Contractor
- .2 AIA Document A101™–2017, Exhibit A, Insurance and Bonds
- .3 AIA Document A201™–2017, General Conditions of the Contract for Construction
- .4 AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, dated as indicated below:
(Insert the date of the E203-2013 incorporated into this Agreement.)

- .5 Drawings

Number	Title	Date
G000	Cover	12/21/18
G001	Project Information and Life Safety	12/21/18

G002	Architectural General Notes and Legends Information	12/21/18
C101	Existing Conditions	12/21/2018
C201	General Notes	12/21/2018
C301	Demolition Plan	12/21/2018
C401	Layout Plan	12/21/18
C501	Site Grading Plan	12/21/18
C601	Site Details	12/21/18
C602	Site Details	12/21/18
C603	Site Details	12/21/18
L101	Landscape Plan	12/21/18
L102	Irrigation Concept Plan	12/21/18
L201	Landscape Details	12/21/18
S-501	Structural Details	12/21/18
A1.1	Lower Level Floor Plan	7/31/95 / Issued 12/21/18
A1.2	Main Level Floor Plan	7/31/95 / Issued 12/21/18
A1.2A	Pavers Plan	3/20/95 / Issued 12/21/18
A3.1	Building Elevations	3/20/95 / Issued 12/21/18
A3.2	Building Elevations	3/20/95 / Issued 12/21/18
A4.1	Building Section / Elevation	8/11/95 / Issued 12/21/18
A4.2	Building Section / Elevation	7/17/95 / Issued 12/21/18
A4.4	Building Sections	3/20/95 / Issued 12/21/18
A4.5	Plaza Details	2/14/96 / Issued 12/21/18
A4.6	Plaza Details	2/14/96 / Issued 12/21/18
A8.1	Enlarged Plans and Details	3/20/95 / Issued 12/21/18
A8.2	Enlarged Plans and Details	3/20/95 / Issued 12/21/18
A101	Architectural Garage Plan	12/21/18
A102	Architectural Plaza Plan	12/21/18
A103	Deck Topping Modification Plan and Enlarged Plan Details	12/21/18
A201	Planter Wall Elevations	12/21/18
A202	Planter Wall Elevations	12/21/18
A203	Planter Wall Elevations	12/21/18
A501	Expansion Joint and Planter Wall Details	12/21/18
A502	Expansion Joint and Planter Wall Details	12/21/18
A502	Light Pole, Flag Pole and Other Plaza Details	12/21/18
E101	Garage Level Plan	12/21/18
E102	Plaza Plan – Electrical	12/21/18
E103	Legend, Schedules, Details	12/21/18

.6 Specifications

Section	Title	Date	Pages
00 00 01	Cover	12/21/18	1
00 00 02	Table of Contents	12/21/18	3
00 01 07	Seals Page	12/21/18	2

Init.

AIA Document A101™ – 2017. Copyright © 1915, 1918, 1925, 1937, 1951, 1958, 1961, 1963, 1967, 1974, 1977, 1987, 1991, 1997, 2007 and 2017 by The American Institute of Architects. **All rights reserved.** **WARNING: This AIA® Document is protected by U.S. Copyright Law and International Treaties. Unauthorized reproduction or distribution of this AIA® Document, or any portion of it, may result in severe civil and criminal penalties, and will be prosecuted to the maximum extent possible under the law.** This document was produced by AIA software at 15:23:27 ET on 02/21/2019 under Order No.5178825607 which expires on 02/01/2020, and is not for resale.

User Notes:

[Return to Agenda](#) (1429567863)

00 11 16	Invitation to Bid	12/21/18	6
00 21 13	Instructions to Bidders	12/21/18	3
00 25 13	Pre-Bid Meeting	12/21/18	1
00 41 13	Bid Form	12/21/18	3
00 47 13	Construction Bid	12/21/18	1
	Envelope		
00 52 13	Construction Agreement	12/21/18	4
	Form		
00 61 10	Contract Bond	12/21/18	2
00 61 43	Three Year	12/21/18	2
	Waterproofing Bond		
00 72 13	General Conditions	12/21/18	77
00 73 16	Supplementary	12/21/18	1
	Conditions		
01 11 00	Summary of work	12/21/18	2
01 14 00	Work Restrictions	12/21/18	2
01 21 00	Allowances	12/21/18	2
01 22 13	Unit Prices	12/21/18	1
01 22 15	List of Unit Price Items	12/21/18	1
01 23 00	Alternates	12/21/18	1
01 25 13	Product Substitution	12/21/18	1
	Procedures		
01 25 33	Product Substitution	12/21/18	2
	Request Form		
01 26 00	Contract Modification	12/21/18	1
	Procedures		
01 26 20	Weather Delays	12/21/18	2
01 26 25	Weather Delay Report	12/21/18	1
01 26 40	Form for Amendment,	12/21/18	1
	Change Order, or		
	Directive		
01 26 54	Form for Price Summary	12/21/18	1
01 26 55	Form for Price of Work	12/21/18	1
01 26 56	Form for Price of Time	12/21/18	1
01 29 73	Schedule of Values	12/21/18	1
01 29 76	Applications and	12/21/18	3
	Certificates for Payment		
01 31 19	Project Meetings	12/21/18	1
01 31 90	Administrative Logs	12/21/18	1
01 31 93	Visitor Log	12/21/18	1
01 32 15	Progress Schedules and	12/21/18	1
	Reports		
01 33 00	Submittal Procedures	12/21/18	8
01 40 00	Quality Requirements	12/21/18	4
01 41 15	Basic Regulatory	12/21/18	2
	Requirements		
01 45 33	Code-Required Special	12/21/18	6
	Inspections		
01 62 25	Product Options	12/21/18	1
01 73 29	Cutting and Patching	12/21/18	3
01 77 70	Closeout Procedures	12/21/18	3
01 78 21	Closeout Submittals	12/21/18	1
02 26 07B	Concrete Paving	12/21/18	6
02 41 16	Site Demolition	12/21/18	2
02 41 19	Selective Demolition	12/21/18	7
02 51 40	Surface Preparation for	12/21/18	3
	Patching and Overlay		

Init.

03 30 00	Cast-In-Place Concrete	12/21/18	6
03 37 60	Prepackaged Repair Mortar	12/21/18	6
04 20 00	Unit Masonry	12/21/18	6
04 72 00	Cast Stone Masonry	12/21/18	6
05 50 00	Metal Fabrications	12/21/18	2
07 14 16	Cold Fluid-Applied Waterproofing	12/21/18	12
07 19 00	Water Repellents	12/21/18	2
07 50 36	Total Waterproofing System	12/21/18	4
07 50 35	Total Waterproofing System Warranty	12/21/18	2
07 55 56	Cold Liquid-Applied Protected Membrane Waterproofing	12/21/18	16
07 55 57	Hot Rubberized Asphalt Protected Membrane Waterproofing	12 /21/18	10
07 92 00	Joint Sealants	12/21/18	6
09 96 00	High-Performance Coatings	12/21/18	4
10 14 00	Signage	12/21/18	2
26 00 00	General Electrical	12/21/18	3
26 05 19	Low-Voltage, 600V Conductors	12/21/18	1
26 05 26	Grounding and Bonding Electrical Systems	12/21/18	1
26 05 33	Raceways and Boxes	12/21/18	3
26 05 53	Equipment Identification and Labeling	12/21/18	1
26 27 26	Wiring Devices	12/21/18	1
26 51 00	Lighting Fixtures, Lamps and Ballasts	12/21/18	1
26 53 00	Exit Signs	12/21/18	1
32 14 13	Interlocking Pavers	12/21/18	8
32 80 00	Irrigation System	12/21/18	7
32 92 00	Turf and Grasses	12/21/18	10
32 93 10	Trees, Plants & Groundcover	12/21/18	15
33 40 00	Storm Drainage Systems	12/21/18	4

.7 Addenda, if any:

Number	Date	Pages
1	1/22/19	17
2	1/28/19	11

Portions of Addenda relating to bidding or proposal requirements are not part of the Contract Documents unless the bidding or proposal requirements are also enumerated in this Article 9.

.8 Other Exhibits:

(Check all boxes that apply and include appropriate information identifying the exhibit where required.)

[] AIA Document E204™–2017, Sustainable Projects Exhibit, dated as indicated below:

Init.

(Insert the date of the E204-2017 incorporated into this Agreement.)

[] The Sustainability Plan:

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

[] Supplementary and other Conditions of the Contract:

Document	Title	Date	Pages
----------	-------	------	-------

.9 Other documents, if any, listed below:

(List here any additional documents that are intended to form part of the Contract Documents. AIA Document A201™-2017 provides that the advertisement or invitation to bid, Instructions to Bidders, sample forms, the Contractor's bid or proposal, portions of Addenda relating to bidding or proposal requirements, and other information furnished by the Owner in anticipation of receiving bids or proposals, are not part of the Contract Documents unless enumerated in this Agreement. Any such documents should be listed here only if intended to be part of the Contract Documents.)

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

OWNER (Signature)

(Printed name and title)

CONTRACTOR (Signature)

Bruce A. Bosse, CEO

(Printed name and title)

Init.

Additions and Deletions Report for **AIA® Document A101™ – 2017**

This Additions and Deletions Report, as defined on page 1 of the associated document, reproduces below all text the author has added to the standard form AIA document in order to complete it, as well as any text the author may have added to or deleted from the original AIA text. Added text is shown underlined. Deleted text is indicated with a horizontal line through the original AIA text.

Note: This Additions and Deletions Report is provided for information purposes only and is not incorporated into or constitute any part of the associated AIA document. This Additions and Deletions Report and its associated document were generated simultaneously by AIA software at 15:23:27 ET on 02/21/2019.

PAGE 1

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

...

Merit Construction, Inc.
10435 Dutchtown Road
Knoxville, TN 37932
Telephone Number: 865-966-4100
Fax Number: 865-966-4101

...

Morristown City Hall Plaza Garage
Morristown, TN

...

Design Innovations Architects
402 S Gay Street, Suite 201
Knoxville, TN 37902
Telephone Number: 865-637-8540

PAGE 2

☒ Established as follows:

...

The Date of Commencement shall be the latter of the following:

1. The date in which a Notice to Proceed is received by Merit Construction, Inc.
2. The date in which a Building Permit is received by Merit Construction, Inc.
3. The date in which a signed contract is received by Merit Construction, Inc.
4. The date in which a letter of appropriated funds is received by Merit Construction, Inc.

PAGE 3

☒ Not later than Two Hundred Eighty (280) calendar days from the date of commencement of the Work.

...

§ 4.1 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 Two Million Seven Hundred Sixty-four Thousand Dollars and Zero Cents (\$ 2,764,000.00), subject to additions and deductions as provided in the Contract Documents.

...

<u>Alternate No. 3 Rebuild existing CMU plater wall</u>	<u>\$35,000.00</u>
<u>Alternate No. 4 Replace on-grade paver system at North and West paved areas</u>	<u>\$15,000.00</u>
<u>Alternate No. 5 Install Uplighting at Medal of Honor Pedestals</u>	<u>\$24,000.00</u>

...

<u>Allowance #1</u>	<u>\$15.00/SF (7500 SF included in the Contract Sum)</u>
<u>Allowance #2</u>	<u>\$6.50/LF (2700 LF included in the Contract Sum)</u>
<u>Allowance #3</u>	<u>\$1.33/SF (750 SF included in the Contract Sum)</u>
<u>Allowance #4</u>	<u>\$950.00/M (15,000 ea included in the Contract Sum)</u>
<u>Allowance #5</u>	<u>\$10,000.00 (Lump sum amount included in the Contract Sum)</u>

...

PAGE 4

Five Hundred Dollars (\$500.00) per calendar day.

...

§ 5.1.3 Provided that an Application for Payment is received by the Architect not later than the last day of a month, the Owner shall make payment of the amount certified to the Contractor not later than the 21st day of the following month. If an Application for Payment is received by the Architect after the application date fixed above, payment of the amount certified shall be made by the Owner not later than Twenty-One (21) days after the Architect receives the Application for Payment.

PAGE 5

Five percent (5%)

PAGE 6

1.5 % One and a half percent monthly

...

☒ Arbitration pursuant to Section 15.4 of AIA Document A201-2017

...

Ashley Ahl
City of Morristown
100 West First North Street
Morristown, TN 37814
Telephone Number: 423-585-4622
Email: aahl@mymorristown.com

PAGE 7

Bruce Bosse, CEO
Merit Construction, Inc.
10435 Dutchtown Road
Knoxville, TN 37932
Telephone No. 865-966-4100
Email: bbosse@meritconstruction.com

...

<u>G000</u>	<u>Cover</u>	<u>12/21/18</u>
<u>G001</u>	<u>Project Information and</u>	<u>12/21/18</u>
	<u>Life Safety</u>	
<u>G002</u>	<u>Architectural General</u>	<u>12/21/18</u>
	<u>Notes and Legends</u>	
	<u>Information</u>	
<u>C101</u>	<u>Existing Conditions</u>	<u>12/21/2018</u>
<u>C201</u>	<u>General Notes</u>	<u>12/21/2018</u>
<u>C301</u>	<u>Demolition Plan</u>	<u>12/21/2018</u>
<u>C401</u>	<u>Layout Plan</u>	<u>12/21/18</u>
<u>C501</u>	<u>Site Grading Plan</u>	<u>12/21/18</u>
<u>C601</u>	<u>Site Details</u>	<u>12/21/18</u>
<u>C602</u>	<u>Site Details</u>	<u>12/21/18</u>
<u>C603</u>	<u>Site Details</u>	<u>12/21/18</u>
<u>L101</u>	<u>Landscape Plan</u>	<u>12/21/18</u>
<u>L102</u>	<u>Irrigation Concept Plan</u>	<u>12/21/18</u>
<u>L201</u>	<u>Landscape Details</u>	<u>12/21/18</u>
<u>S-501</u>	<u>Structural Details</u>	<u>12/21/18</u>
<u>A1.1</u>	<u>Lower Level Floor Plan</u>	<u>7/31/95 / Issued 12/21/18</u>
<u>A1.2</u>	<u>Main Level Floor Plan</u>	<u>7/31/95 / Issued 12/21/18</u>
<u>A1.2A</u>	<u>Pavers Plan</u>	<u>3/20/95 / Issued 12/21/18</u>
<u>A3.1</u>	<u>Building Elevations</u>	<u>3/20/95 / Issued 12/21/18</u>
<u>A3.2</u>	<u>Building Elevations</u>	<u>3/20/95 / Issued 12/21/18</u>
<u>A4.1</u>	<u>Building Section /</u>	<u>8/11/95 / Issued 12/21/18</u>
	<u>Elevation</u>	
<u>A4.2</u>	<u>Building Section /</u>	<u>7/17/95 / Issued 12/21/18</u>
	<u>Elevation</u>	
<u>A4.4</u>	<u>Building Sections</u>	<u>3/20/95 / Issued 12/21/18</u>
<u>A4.5</u>	<u>Plaza Details</u>	<u>2/14/96 / Issued 12/21/18</u>
<u>A4.6</u>	<u>Plaza Details</u>	<u>2/14/96 / Issued 12/21/18</u>
<u>A8.1</u>	<u>Enlarged Plans and</u>	<u>3/20/95 / Issued 12/21/18</u>
	<u>Details</u>	
<u>A8.2</u>	<u>Enlarged Plans and</u>	<u>3/20/95 / Issued 12/21/18</u>
	<u>Details</u>	
<u>A101</u>	<u>Architectural Garage Plan</u>	<u>12/21/18</u>
<u>A102</u>	<u>Architectural Plaza Plan</u>	<u>12/21/18</u>
<u>A103</u>	<u>Deck Topping</u>	<u>12/21/18</u>
	<u>Modification Plan and</u>	
	<u>Enlarged Plan Details</u>	
<u>A201</u>	<u>Planter Wall Elevations</u>	<u>12/21/18</u>
<u>A202</u>	<u>Planter Wall Elevations</u>	<u>12/21/18</u>
<u>A203</u>	<u>Planter Wall Elevations</u>	<u>12/21/18</u>
<u>A501</u>	<u>Expansion Joint and</u>	<u>12/21/18</u>
	<u>Planter Wall Details</u>	
<u>A502</u>	<u>Expansion Joint and</u>	<u>12/21/18</u>
	<u>Planter Wall Details</u>	

<u>A502</u>	<u>Light Pole, Flag Pole and</u>	<u>12/21/18</u>
	<u>Other Plaza Details</u>	
<u>E101</u>	<u>Garage Level Plan</u>	<u>12/21/18</u>
<u>E102</u>	<u>Plaza Plan – Electrical</u>	<u>12/21/18</u>
<u>E103</u>	<u>Legend, Schedules,</u>	<u>12/21/18</u>
	<u>Details</u>	

PAGE 8

<u>00 00 01</u>	<u>Cover</u>	<u>12/21/18</u>	<u>1</u>
<u>00 00 02</u>	<u>Table of Contents</u>	<u>12/21/18</u>	<u>3</u>
<u>00 01 07</u>	<u>Seals Page</u>	<u>12/21/18</u>	<u>2</u>
<u>00 11 16</u>	<u>Invitation to Bid</u>	<u>12/21/18</u>	<u>6</u>
<u>00 21 13</u>	<u>Instructions to Bidders</u>	<u>12/21/18</u>	<u>3</u>
<u>00 25 13</u>	<u>Pre-Bid Meeting</u>	<u>12/21/18</u>	<u>1</u>
<u>00 41 13</u>	<u>Bid Form</u>	<u>12/21/18</u>	<u>3</u>
<u>00 47 13</u>	<u>Construction Bid</u>	<u>12/21/18</u>	<u>1</u>
	<u>Envelope</u>		
<u>00 52 13</u>	<u>Construction Agreement</u>	<u>12/21/18</u>	<u>4</u>
	<u>Form</u>		
<u>00 61 10</u>	<u>Contract Bond</u>	<u>12/21/18</u>	<u>2</u>
<u>00 61 43</u>	<u>Three Year</u>	<u>12/21/18</u>	<u>2</u>
	<u>Waterproofing Bond</u>		
<u>00 72 13</u>	<u>General Conditions</u>	<u>12/21/18</u>	<u>77</u>
<u>00 73 16</u>	<u>Supplementary</u>	<u>12/21/18</u>	<u>1</u>
	<u>Conditions</u>		
<u>01 11 00</u>	<u>Summary of work</u>	<u>12/21/18</u>	<u>2</u>
<u>01 14 00</u>	<u>Work Restrictions</u>	<u>12/21/18</u>	<u>2</u>
<u>01 21 00</u>	<u>Allowances</u>	<u>12/21/18</u>	<u>2</u>
<u>01 22 13</u>	<u>Unit Prices</u>	<u>12/21/18</u>	<u>1</u>
<u>01 22 15</u>	<u>List of Unit Price Items</u>	<u>12/21/18</u>	<u>1</u>
<u>01 23 00</u>	<u>Alternates</u>	<u>12/21/18</u>	<u>1</u>
<u>01 25 13</u>	<u>Product Substitution</u>	<u>12/21/18</u>	<u>1</u>
	<u>Procedures</u>		
<u>01 25 33</u>	<u>Product Substitution</u>	<u>12/21/18</u>	<u>2</u>
	<u>Request Form</u>		
<u>01 26 00</u>	<u>Contract Modification</u>	<u>12/21/18</u>	<u>1</u>
	<u>Procedures</u>		
<u>01 26 20</u>	<u>Weather Delays</u>	<u>12/21/18</u>	<u>2</u>
<u>01 26 25</u>	<u>Weather Delay Report</u>	<u>12/21/18</u>	<u>1</u>
<u>01 26 40</u>	<u>Form for Amendment,</u>	<u>12/21/18</u>	<u>1</u>
	<u>Change Order, or</u>		
	<u>Directive</u>		
<u>01 26 54</u>	<u>Form for Price Summary</u>	<u>12/21/18</u>	<u>1</u>
<u>01 26 55</u>	<u>Form for Price of Work</u>	<u>12/21/18</u>	<u>1</u>
<u>01 26 56</u>	<u>Form for Price of Time</u>	<u>12/21/18</u>	<u>1</u>
<u>01 29 73</u>	<u>Schedule of Values</u>	<u>12/21/18</u>	<u>1</u>
<u>01 29 76</u>	<u>Applications and</u>	<u>12/21/18</u>	<u>3</u>
	<u>Certificates for Payment</u>		
<u>01 31 19</u>	<u>Project Meetings</u>	<u>12/21/18</u>	<u>1</u>
<u>01 31 90</u>	<u>Administrative Logs</u>	<u>12/21/18</u>	<u>1</u>
<u>01 31 93</u>	<u>Visitor Log</u>	<u>12/21/18</u>	<u>1</u>
<u>01 32 15</u>	<u>Progress Schedules and</u>	<u>12/21/18</u>	<u>1</u>
	<u>Reports</u>		
<u>01 33 00</u>	<u>Submittal Procedures</u>	<u>12/21/18</u>	<u>8</u>
<u>01 40 00</u>	<u>Quality Requirements</u>	<u>12/21/18</u>	<u>4</u>
<u>01 41 15</u>	<u>Basic Regulatory</u>	<u>12/21/18</u>	<u>2</u>
	<u>Requirements</u>		

<u>01 45 33</u>	<u>Code-Required Special</u>	<u>12/21/18</u>	<u>6</u>
	<u>Inspections</u>		
<u>01 62 25</u>	<u>Product Options</u>	<u>12/21/18</u>	<u>1</u>
<u>01 73 29</u>	<u>Cutting and Patching</u>	<u>12/21/18</u>	<u>3</u>
<u>01 77 70</u>	<u>Closeout Procedures</u>	<u>12/21/18</u>	<u>3</u>
<u>01 78 21</u>	<u>Closeout Submittals</u>	<u>12/21/18</u>	<u>1</u>
<u>02 26 07B</u>	<u>Concrete Paving</u>	<u>12/21/18</u>	<u>6</u>
<u>02 41 16</u>	<u>Site Demolition</u>	<u>12/21/18</u>	<u>2</u>
<u>02 41 19</u>	<u>Selective Demolition</u>	<u>12/21/18</u>	<u>7</u>
<u>02 51 40</u>	<u>Surface Preparation for</u>	<u>12/21/18</u>	<u>3</u>
	<u>Patching and Overlay</u>		
<u>03 30 00</u>	<u>Cast-In-Place Concrete</u>	<u>12/21/18</u>	<u>6</u>
<u>03 37 60</u>	<u>Prepackaged Repair</u>	<u>12/21/18</u>	<u>6</u>
	<u>Mortar</u>		
<u>04 20 00</u>	<u>Unit Masonry</u>	<u>12/21/18</u>	<u>6</u>
<u>04 72 00</u>	<u>Cast Stone Masonry</u>	<u>12/21/18</u>	<u>6</u>
<u>05 50 00</u>	<u>Metal Fabrications</u>	<u>12/21/18</u>	<u>2</u>
<u>07 14 16</u>	<u>Cold Fluid-Applied</u>	<u>12/21/18</u>	<u>12</u>
	<u>Waterproofing</u>		
<u>07 19 00</u>	<u>Water Repellents</u>	<u>12/21/18</u>	<u>2</u>
<u>07 50 36</u>	<u>Total Waterproofing</u>	<u>12/21/18</u>	<u>4</u>
	<u>System</u>		
<u>07 50 35</u>	<u>Total Waterproofing</u>	<u>12/21/18</u>	<u>2</u>
	<u>System Warranty</u>		
<u>07 55 56</u>	<u>Cold Liquid-Applied</u>	<u>12/21/18</u>	<u>16</u>
	<u>Protected Membrane</u>		
	<u>Waterproofing</u>		
<u>07 55 57</u>	<u>Hot Rubberized Asphalt</u>	<u>12 /21/18</u>	<u>10</u>
	<u>Protected Membrane</u>		
	<u>Waterproofing</u>		
<u>07 92 00</u>	<u>Joint Sealants</u>	<u>12/21/18</u>	<u>6</u>
<u>09 96 00</u>	<u>High-Performance</u>	<u>12/21/18</u>	<u>4</u>
	<u>Coatings</u>		
<u>10 14 00</u>	<u>Signage</u>	<u>12/21/18</u>	<u>2</u>
<u>26 00 00</u>	<u>General Electrical</u>	<u>12/21/18</u>	<u>3</u>
<u>26 05 19</u>	<u>Low-Voltage, 600V</u>	<u>12/21/18</u>	<u>1</u>
	<u>Conductors</u>		
<u>26 05 26</u>	<u>Grounding and Bonding</u>	<u>12/21/18</u>	<u>1</u>
	<u>Electrical Systems</u>		
<u>26 05 33</u>	<u>Raceways and Boxes</u>	<u>12/21/18</u>	<u>3</u>
<u>26 05 53</u>	<u>Equipment Identification</u>	<u>12/21/18</u>	<u>1</u>
	<u>and Labeling</u>		
<u>26 27 26</u>	<u>Wiring Devices</u>	<u>12/21/18</u>	<u>1</u>
<u>26 51 00</u>	<u>Lighting Fixtures, Lamps</u>	<u>12/21/18</u>	<u>1</u>
	<u>and Ballasts</u>		
<u>26 53 00</u>	<u>Exit Signs</u>	<u>12/21/18</u>	<u>1</u>
<u>32 14 13</u>	<u>Interlocking Pavers</u>	<u>12/21/18</u>	<u>8</u>
<u>32 80 00</u>	<u>Irrigation System</u>	<u>12/21/18</u>	<u>7</u>
<u>32 92 00</u>	<u>Turf and Grasses</u>	<u>12/21/18</u>	<u>10</u>
<u>32 93 10</u>	<u>Trees, Plants &</u>	<u>12/21/18</u>	<u>15</u>
	<u>Groundcover</u>		
<u>33 40 00</u>	<u>Storm Drainage Systems</u>	<u>12/21/18</u>	<u>4</u>

PAGE 10

<u>1</u>	<u>1/22/19</u>	<u>17</u>
<u>2</u>	<u>1/28/19</u>	<u>11</u>

PAGE 11

Certification of Document's Authenticity

AIA® Document D401™ – 2003

I, Bruce A. Bosse, hereby certify, to the best of my knowledge, information and belief, that I created the attached final document simultaneously with its associated Additions and Deletions Report and this certification at 15:23:27 ET on 02/21/2019 under Order No. 5178825607 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document A101™ – 2017, Standard Form of Agreement Between Owner and Contractor where the basis of payment is a Stipulated Sum, as published by the AIA in its software, other than those additions and deletions shown in the associated Additions and Deletions Report.

(Signed)

(Title)

(Dated)

**SERVICE AGREEMENT
BETWEEN
City of Morristown, Parks and Recreation Department
AND
Population Health and Sports Technology Centers, Inc (PHAST)**

This Contract is made and entered into by and between the city of Morristown, TN, Department of Parks and Recreation, hereinafter referred to as the "DEPARTMENT", and the below named firm, hereinafter referred to as "CONTRACTOR."

PHAST
1516 Coleman Rd, Suite 204
Knoxville, TN 37909

WEBSITE:
-Email: Diamondacesports.com
Tele: (865) 410-5228
EIN: 83-3049624

PURPOSE

The purpose of this Agreement is to provide concession services for the following City of Morristown parks in accordance with the awarded RFP, dated February 13, 2019.

SCOPE OF WORK

- A. Exhibit A, attached hereto and incorporated by reference, contains the General Terms and Conditions governing work to be performed under this contract, the nature of the working relationship between the AGENCY and the CONTRACTOR, and specific obligations of both parties.
- B. The CONTRACTOR will provide services and staff, and otherwise do all things necessary for or incidental to the performance of work, as agreed upon in the RFP

PERIOD OF PERFORMANCE

Subject to other contract provisions, the period of performance under this contract will be from March 27, 2019 through June 30, 2022.

INSURANCE

The CONTRACTOR shall provide insurance coverage as set forth in the RFP. The intent of the required insurance is to protect the City of Morristown should there be any claims, suits, actions, costs, damages or expenses arising from any negligent or intentional act or omission of the CONTRACTOR or subcontractor or agents of either, while performing under the terms of this contract.

The CONTRACTOR shall provide insurance coverage that shall be maintained in full force and effect during the term of this contract, as follows:

Commercial General Liability Insurance Policy

Contractor will provide a Commercial General Liability Insurance Policy, including contractual liability, written on an occurrence basis, in adequate quantity to protect against legal liability arising out of contract activity but no less than \$1,000,000 per occurrence. Additionally, the CONTRACTOR is responsible for ensuring that any subcontractors provide adequate insurance coverage for the activities arising out of subcontracts.

Workers Compensation Insurance

CONTRACTOR will provide a Workers Compensation Insurance Policy in the amount \$500,000.

ENTIRE AGREEMENT

This contract, including referenced exhibits, represents all the terms and conditions agreed upon by the parties. No other understandings or representations oral or otherwise, regarding the subject matter of this contract shall be deemed to exist or to bind any of the parties hereto.

CONFORMANCE

If any provision of this contract violates any statute or rule of law of the state of Tennessee, it is considered modified to conform to that statute or rule of law.

APPROVAL

This contract shall be subject to the written approval of the DEPARTMENT'S authorized representative and shall not be binding until so approved. The contract may be altered, amended or waived only by a written amendment executed by both parties.

THIS CONTRACT is executed by the persons signing below who warrant that they have the authority to execute the contract.

Population Health and Sports Technology
Centers, Inc

Signature

CEO

Title

02/28/19

Date

City of Morristown, Department of Parks
and Recreation

Signature

Title

Date

Exhibit A

SCOPE OF SERVICES

1. Vendor shall, at their own expense, furnish and maintain enough movable equipment in usable condition to include, but not limited to soda fountains, show cases, cash registers, ice cream cabinets, popcorn machines, coolers, refrigerators, coffee urns, tables, utensils, dishes, and any other equipment deemed necessary.
2. Vendor shall service and dispense foods, refreshments, confectionery and beverages at such times as public needs require in quantities adequate for the needs of the public and at locations now in use and provided for the purpose.
3. The vendor shall not permit garbage and other refuse to accumulate or gather in or about any of the buildings or structures occupied by the concessionaire except in suitable covered receptacles.
4. Vendor must furnish all labor, services, material, supplies, and equipment necessary to maintain a clean, orderly, and inviting condition on all premises used and occupied by vendor.
5. Vendor shall provide enough employees to open on time and serve the public promptly and efficiently.
6. The vendor shall keep all concessions provided for in operation during all reasonable hours and at such times as the public needs require, except where the hours of operation are specified.
7. Vendor shall be responsible for contacting Parks and Recreation on playing conditions/schedules affected by weather such as rain, snow, and stormy conditions.
8. Parks and Recreation records indicate that the parks are patronized primarily by people of all ages, and family groups that have moderate to average incomes. The successful vendor shall offer concessions that are reasonably priced.
9. The vendor shall keep adequate records on all receipts and disbursements in connection with the operation of all concessions provided.
10. The vendor shall allow the City access to all premises at all reasonable hours for the purpose of examining and inspecting said premises.
11. The vendor will pay the City the amount of 3% of the gross profit of concession, based on cash basis. Fees will be paid bi-weekly.



Morristown City Council Agenda Item Summary

Date: February 26, 2019

Agenda Item: Approval of Purchase – TSR60 Tiger Side Mower Deck

Prepared by: Joey Barnard

Subject: Tiger Side Mower Deck Purchase via Statewide Contract #242

Background/History: Due to some equipment issues, it has become necessary for the Public Works Department to purchase a (5) five foot deck mower. The Public Works Department is currently using a (6) six foot deck mower which is resulting in broken draft beams. A (5) five foot deck mower will eliminate the issues which are causing the draft beams to break. The deck mower will attach to one of the departments existing tractors and is used for street maintenance and is required for mowing rights-of-way.

Financial Impact: This was not a planned expenditure in the 18-19 budget, however funds have been identified to cover the purchase.

Action options/Recommendations: It is staffs' recommendation to purchase the TSR60 Tiger Side Rotary Deck Assembly via Statewide Contract #242.

Attachments: Purchase Order and Statewide Contract #242



CITY OF MORRISTOWN
PURCHASING DIRECTOR

P.O. Box 1499
Morristown, TN 37815-0647
Phone: (423) 585-4622 Fax: (423) 585-4687

Purchase Order

Fiscal Year 2019

Page 1

THIS NUMBER MUST APPEAR ON ALL INVOICES,
PACKAGES AND SHIPPING PAPERS.

Purchase Order # **19001855-00**

Retain this purchase order for proof of tax exemption.

Tax Exempt #62-6000369

V
e
n
d
o
r

MAURY COUNTY EQUIPMENT (DICKSON CO. EQUIPM
552 HIGHWAY 46 SOUTH
DICKSON, TN 37055-2538

S
h
i
p
T
o

City of Morristown
400 Dice Street
aahl@mymorristown.com
Morristown, TN 37813

Vendor Phone Number		Vendor Fax Number	Requisition Number	Delivery Reference/Contact	
615-446-8114		615-446-2102	19002064	DAVID MARSHALL	
Date Ordered	Vendor Number	Date Required	Interoffice Delivery		Department/Location
02/25/19	006005				41610
Item#	Description/Part No.		Qty/Unit	Cost Each	Extended Price
001	ORIGINAL		1.00	9979.00000	9,979.00
			EACH		
	MODEL #: TSR60, TIGER SIDE ROTARY DECK ASSEMBLY COMPLETE WITH CHAINS 43140-960		9,979.00		
				PO Total	9,979.00

The City of Morristown is an equal
employment / affirmative action
employer EOE / AA

VENDOR COPY

Authorized Signature

Date

Authorized Signature

[Return to Agenda](#)

Date



**STATE OF TENNESSEE, DEPARTMENT OF GENERAL SERVICES
CENTRAL PROCUREMENT OFFICE**

Statewide Contract Issued to:

Dickson County Equipment
PO Box 1227

Dickson, TN 37056

Vendor ID: 0000001188

Contract Number: 000000000000000000045201

Title: SWC 242 Ground Maintenance Equ

Start Date : March 16, 2015 End Date: March 15, 2019

Is this contract available to local government agencies in addition to State agencies?: Yes

Authorized Users. This Contract establishes a source or sources of supply for all Tennessee State Agencies. "Tennessee State Agency" refers to the various departments, institutions, boards, commissions, and agencies of the executive branch of government of the State of Tennessee with exceptions as addressed in Tenn. Comp. R. & Regs. 0690-03-01-.01. The Contractor shall provide all goods or services and deliverables as required by this Contract to all Tennessee State Agencies. The Contractor shall make this Contract available to the following entities, who are authorized to and who may purchase off of this Statewide Contract ("Authorized Users"):

- a. all Tennessee State governmental entities (this includes the legislative branch; judicial branch; and, commissions and boards of the State outside of the executive branch of government);
- b. Tennessee local governmental agencies;
- c. members of the University of Tennessee or Tennessee Board of Regents systems;
- d. any private nonprofit institution of higher education chartered in Tennessee; and,
- e. any corporation which is exempted from taxation under 26 U.S.C. Section 501(c)(3), as amended, and which contracts with the Department of Mental Health and Substance Abuse to provide services to the public (Tenn. Code Ann. § 33-2-1001).

These Authorized Users may utilize this Contract by purchasing directly from the Contractor according to their own procurement policies and procedures. The State is not responsible or

liable for the transactions between the Contractor and Authorized Users.

Note: If "no", attach exemption request addressed to the Central Procurement Officer.

Contract Contact Information:

State of Tennessee
Department of General Services, Central Procurement Office
Contract Administrator: Lindsey Lattner
3rd Floor, William R Snodgrass, Tennessee Tower
312 Rosa L. Parks Avenue
Nashville, TN 37243-1102
Phone: 615-741-9282
Fax: 615-741-0684
Email: Lindsey.Lattner@tn.gov

Line Information

Line 1

Item ID:
1000168598 Ground Maintenance Equipment UTV's Utility Vehicles
Unit of Measure: EA
Vendor Item/Part #:
Manufacturer Item #:
Unit Price: \$ 0

Line 2

Item ID:
1000168599 Ground Maintenance Equipment UTV's Utility Vehicle Options
Unit of Measure: EA
Vendor Item/Part #:
Manufacturer Item #:
Unit Price: \$ 0

Line 3

Item ID:
1000168600 Ground Maintenance Equipment Walk Behind and Self Propelled Mowers
Unit of Measure: EA
Vendor Item/Part #:
Manufacturer Item #:
Unit Price: \$ 0

Line 4

Item ID:
1000168601 Ground Maintenance Equipment Walk Behind and Self Propelled Mower Options
Unit of Measure: EA
Vendor Item/Part #:
Manufacturer Item #:
Unit Price: \$ 0

Line 5

Item ID:
1000168603 Ground Maintenance Equipment Lawn Tractors, Zero Turn Mowers, Riding Type
Unit of Measure: EA
Vendor Item/Part #:
Manufacturer Item #:
Unit Price: \$ 0

Line 6

Item ID:

1000168604 Ground Maintenance Equipment Lawn Tractors, Zero Turn Mowers, Riding Type Options

Unit of Measure: EA

Vendor Item/Part #:

Manufacturer Item #:

Unit Price: \$ 0

Line 7

Item ID:

1000168615 Ground Maintenance Equipment Utility Tractors

Unit of Measure: EA

Vendor Item/Part #:

Manufacturer Item #:

Unit Price: \$ 0

Line 8

Item ID:

1000168616 Ground Maintenance Equipment Tractors Optional Equipment

Unit of Measure: EA

Vendor Item/Part #:

Manufacturer Item #:

Unit Price: \$ 0

Line 9

Item ID:

1000168611 Ground Maintenance Equipment Chain Saws

Unit of Measure: EA

Vendor Item/Part #:

Manufacturer Item #:

Unit Price: \$ 0

Line 10

Item ID:

1000168612 Ground Maintenance Equipment Edger, Trimmers, and Weed Cutters

Unit of Measure: EA

Vendor Item/Part #:

Manufacturer Item #:

Unit Price: \$ 0

Line 11

Item ID:

1000168613 Ground Maintenance Equipment Blowers, Lawn, Portable

Unit of Measure: EA

Vendor Item/Part #:

Manufacturer Item #:

Unit Price: \$ 0

Michael F.

Perry/AWB

APPROVED:

CHIEF PROCUREMENT OFFICER

Digitally signed by Michael F.
Perry/AWB
DN: cn=Michael F. Perry/AWB,
o=Central Procurement Office, ou,
email=Tony.Bybee@tn.gov, c=US
Date: 2018.01.25 06:58:15 -0600

BY:

PURCHASING AGENT

1/23/19

DATE



AIA Document G802™ – 2017

Amendment to the Professional Services Agreement

PROJECT: *(name and address)*
Morristown City Center Plaza
Morristown, TN

AGREEMENT INFORMATION:
Date: 2018-04-03

AMENDMENT INFORMATION:
Amendment Number: 04
Date: 2019-02-20

OWNER: *(name and address)*
City of Morristown
100 West First North Street
Morristown, TN 37902

ARCHITECT: *(name and address)*
Design Innovation Architects, Inc.
402 S Gay Street #201
Knoxville, TN 37902

The Owner and Architect amend the Agreement as follows:

Modify AIA B102 – 2017 fully executed agreement to add the following scope of Services for Phase 4: Construction Phase Services.

The Architect's compensation and schedule shall be adjusted as follows:

Compensation Adjustment:

Design services as outlined above and reimbursable expenses shall be a Lump-Sum fee of Ninety-four Thousand dollars & 00/100 (\$94,000.00). Unforeseen expenses are specifically excluded from this fee.

Schedule Adjustment:

To be determined

SIGNATURES:

Design Innovation Architects, Inc.
ARCHITECT *(Firm name)*

SIGNATURE

Gregory S Campbell, Vice President
of Operations

PRINTED NAME AND TITLE

2019-02-20

DATE

City of Morristown

OWNER *(Firm name)*

SIGNATURE

Gary Chesney, Mayor

PRINTED NAME AND TITLE

DATE

3. Facilitate a Pre-Bid meeting on site.
4. Issue any required Addendum.
5. Confirming responsiveness of bidding contractor's questions during bidding.
6. Reviewing the construction bids and making a recommendation of the most successful bid to the Owner.
7. Awarding and preparing contracts for construction.

Phase 4: Construction Phase Services

1. Upon the Owner's approval of executing the construction for the project based on Phase 3, DIA shall prepare a detailed scope of services to supplement this Agreement thus required to assist the Owner in the Construction phase of the project that are anticipated as follows.
2. Administrate the Contract between the Owner and the Contractor.
3. Review and process all construction submittals as required by the Construction Documents.
4. Issue Architectural Supplemental Information as needed.
5. Issue responses to Requests for Information from the Contractor.
6. Issue Proposal Requests if required.
7. Issue Change Orders if required.
8. Review and Certify Pay Applications.
9. Periodic site visits to observe construction for design compliance and schedule progress.
10. Prepare punch list at point of Substantial Completion and Receipt of Certificate of Occupancy.
11. Review close out documents.

PAGE 4

~~(List name, address, and other contact information.)~~ Design Innovation Architects, Inc.
Richard A. Norris
865-243-8443

...

§ 1.5.1 Commercial General Liability with policy limits of not less than ~~(\$)~~ One Million Dollars (\$1,000,000.00) for each occurrence and ~~(\$)~~ Two Million Dollars (\$2,000,000.00) in the aggregate for bodily injury and property damage.

§ 1.5.2 Automobile Liability covering vehicles owned, and non-owned vehicles used, by the Architect with policy limits of not less than One Million Dollars (\$ 1,000,000.00) per accident for bodily injury, death of any person, and property damage arising out of the ownership, maintenance and use of those motor vehicles, along with any other statutorily required automobile coverage.

...

§ 1.5.5 Employers' Liability with policy limits not less than ~~(\$)~~ each accident, ~~(\$)~~ each employee, and ~~(\$)~~ policy limit. One Million Dollars (\$ 1,000,000.00) each accident.

Additions and Deletions Report for AIA Document B102™ – 2017. Copyright © 1917, 1926, 1948, 1951, 1953, 1958, 1961, 1963, 1966, 1967, 1970, 1974, 1977, 1987, 1997, 2007 and 2017 by The American Institute of Architects. All rights reserved. WARNING: This AIA® Document is protected by U.S. Copyright Law and International Treaties. Unauthorized reproduction or distribution of this AIA® Document, or any portion of it, may result in severe civil and criminal penalties, and will be prosecuted to the maximum extent possible under the law. This document was produced by AIA software at 14:33:46 on 03/21/2018 under Order No.7569703280 which expires on 11/10/2018, and is not for resale.

User Notes:

(1213097776)



Morristown City Council Agenda Item Summary

Date: February 27, 2019

Agenda Item: Surplus Inventory

Prepared by: Joey Barnard

Subject: Approval to declare inventory items as surplus

Background/History: The Morristown Police Department has accumulated sixty-seven (67) Mobile Data Terminals (MDT's) that have been stored at the Dice Street location. These items can no longer be utilized, and the City of Morristown wishes to declare these items as surplus. This storage location has been cleaned out in preparation for the expansion of the Tennessee College of Applied Technology that will take over the property.


Financial Impact: None.

Action options/Recommendations: The City of Morristown is seeking approval to declare the inventory items as surplus and to properly dispose of them.

Attachments: None.

Memorandum

To: Morristown City Council

From: Richard DesGroseilliers, GISP 

Date: February 28, 2019

Subject: Mattern and Craig Contract for Bicycle Pedestrian Plan

Enclosed is a copy of the contract with Mattern and Craig Associates to do the LAMTPO Bicycle and Pedestrian Plan.

The total amount of the project is \$68,000.00. \$54,000.00 will be paid with CPG federal funds, the local match amount is \$13,600.00

The local match will be paid by the following entities:

Morristown	\$6,664.00
Hamblen County	\$4,624.00
Jefferson City	\$1,768.00
Jefferson County	\$ 544.00

The LAMTPO Executive Board approved the consultant and contract amount at their February 15, 2019 meeting.

If there are any questions or comments concerning this document, please feel free to contact me:

Rich DesGroseilliers, GISP, MTPO Coordinator
100 W 1st N St
Morristown, TN 37816-1499
richd@mymorristown.com

Thank you for your time and cooperation.

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.

Copyright © 2009 National Society of Professional Engineers
1420 King Street, Alexandria, VA 22314-2794
(703) 684-2882
www.nspe.org

American Council of Engineering Companies
1015 15th Street N.W., Washington, DC 20005
(202) 347-7474
www.acec.org

American Society of Civil Engineers
1801 Alexander Bell Drive, Reston, VA 20191-4400
(800) 548-2723
www.asce.org

Associated General Contractors of America
2300 Wilson Boulevard, Suite 400, Arlington, VA 22201-3308
(703) 548-3118
www.agc.org

The copyright for this EJCDC document is owned jointly by the four EJCDC sponsoring organizations and held in trust for their benefit by NSPE.

TABLE OF CONTENTS

	Page
Article 1 – SERVICES OF ENGINEER	1
1.01 Scope	1
1.02 Task Order Procedure	1
Article 2 – OWNER’S RESPONSIBILITIES	2
2.01 General	2
Article 3 – TERM; TIMES FOR RENDERING SERVICES	2
3.01 Term	2
3.02 Times for Rendering Services	2
Article 4 – INVOICES AND PAYMENTS	3
4.01 Invoices	3
4.02 Payments	4
Article 5 – OPINIONS OF COST	5
5.01 Opinions of Probable Construction Cost.....	5
5.02 Designing to Construction Cost Limit	5
5.03 Opinions of Total Project Costs	5
Article 6 – GENERAL CONSIDERATIONS	5
6.01 Standards of Performance.....	5
6.02 Design Without Construction Phase Services.....	7
6.03 Use of Documents.....	7
6.04 Insurance	8
6.05 Suspension and Termination	8
6.06 Controlling Law:.....	10
6.07 Successors, Assigns, and Beneficiaries:.....	10
6.08 Dispute Resolution:.....	10
6.09 Environmental Condition of Site:.....	11
6.10 Indemnification and Mutual Waiver	11
6.11 Miscellaneous Provisions	12
Article 7 – DEFINITIONS	13
7.01 Defined Terms.....	13
Article 8 – EXHIBITS AND SPECIAL PROVISIONS	17
8.01 Exhibits.....	17
8.02 Total Agreement	18
8.03 Designated Representatives.....	18
8.04 Engineer's Certifications	18

**AGREEMENT
BETWEEN OWNER AND ENGINEER
FOR
PROFESSIONAL SERVICES
TASK ORDER EDITION**

THIS IS AN AGREEMENT effective as of March 5, 2019 ("Effective Date") between
City of Morristown, Tennessee on behalf of the Lakeway Area Metropolitan
Transportation Planning Organization (LAMTPO) ("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. *In the event that federal and/or state funding is withheld, rescinded, or otherwise made unavailable to the Owner, the Owner shall either suspend or terminate the project immediately.*
- D. *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.
- E. *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

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: Mark Potts, LAMTPO Chair

By: _____

Name/Title: Gary Chesney, Mayor

By: _____

Name/Title: Lauren Carroll, City Attorney

Address for giving notices:

PO Box 1499

Morristown, TN 37816-1499

By: _____

Name/Title: Randy W. Beckner, P.E.

Title: _____

Chairman of the Board

Address for giving notices:

429 Clay Street

Kingsport, TN 37660

DESIGNATED REPRESENTATIVE
(Paragraph 8.03.A):

Rich DesGroseilliers

Title: MTPO Coordinator

Phone Number: 423-581-6277

Facsimile Number: 423-585-4679

E-Mail richd@mymorristown.com

Address: _____

DESIGNATED REPRESENTATIVE
(Paragraph 8.03.A):

Jason Carder, P.E.

Title: Principal/Project Manager

Phone Number: 423-245-4970

Facsimile Number: 423-245-5932

E-Mail jacarder@matternandcraig.com

Address: _____

STATE OF TENNESSEE

AGREEMENT WITH METROPOLITAN PLANNING ORGANIZATION

THIS AGREEMENT is made this 15th day, of February , 2019, by and between the State of Tennessee, acting through the Tennessee Department of Transportation, called the "Department;" the Lakeway Area Metropolitan Transportation Planning Organization (MTPO) , called "MPO," which has been designated as the MPO of the Morristown (or Lakeway Area) Urbanized Area ; and the East Tennessee Human Resource Agency (ETHRA), called the "Transit Agency" [or "Transit Agencies," if applicable].

WITNESSETH

WHEREAS, 23 U.S.C. § 134 and 23 Code of Federal Regulations (CFR), Part 450, require that MPOs, in cooperation with the Department and the Transit Agency, carry out a metropolitan planning process for urbanized areas of the State; and

WHEREAS, 23 CFR § 450.314 requires the MPO, the Department, and public transportation operators within each metropolitan planning area to enter into a written agreement to clearly identify the responsibilities of the parties in carrying out the metropolitan planning process; and

WHEREAS, T.C.A. § 54-18-101 authorizes the Department to enter into cooperative planning agreements that provide for a continuing and comprehensive transportation planning process; and

WHEREAS, the MPO is empowered to serve as the lead planning and programming agencies for its Metropolitan Planning Area, and to this end the Department, the MPO, and the Transit Agency[ies] jointly carry out an ongoing continuing, cooperative, and comprehensive multimodal transportation planning process that fully considers the planning factors required by applicable laws and regulations; and

WHEREAS, the Governor of State of Tennessee and the LAMTPO designated the metropolitan planning area (MPA), as defined in 23 CFR § 450.312, as the area within which the required metropolitan transportation planning activities shall take place; and

WHEREAS, the Transit Agency[ies] provides public transportation services within the LAMTPO Metropolitan Planning Area (MPA); and

WHEREAS, 23 CFR § 420.117(a) requires that the Department shall monitor all activities performed by its staff or by sub-recipients with Federal Highway Administration (FHWA) and Federal Transit Administration (FTA) planning and research funds, as dispersed in the Consolidated Planning Grant (CPG), to ensure that the work is being managed and performed satisfactorily and that time schedules are being met;

NOW THEREFORE, it is agreed as follows:

AGREEMENT

Article 1. Agreement Period

- A. This agreement becomes effective when signed by the last party whose signature makes the agreement fully executed. The Department shall not continue its obligation to the MPO under this agreement if the Governor's designation of the MPO is withdrawn, if federal funds cease to become available, or if the agreement is terminated.
- B. This agreement shall be reviewed every five (5) years or as needed, such as when a new transportation funding bill is passed by the United States Congress, and/or when new federal regulations are published by FHWA/FTA by the respective agencies' signatories, or their applicable designees or proxies. If all terms and conditions of this agreement remain viable and no amendment to the existing agreement or a new agreement is required, a renewal letter from the Department to the MPO, signed and accepted by the MPO and the Transit Agency[ies], shall constitute renewal of this agreement subject to all terms and conditions specified in the agreement. However, an amendment or a new agreement may be executed, if necessary. In such case, the signatures of all parties of this agreement would be required to fully execute an amended or new agreement.

Article 2. Responsibilities of the Department

The responsibilities of the Department are as follows:

- A. Maintain staff within the Long Range Planning Division to act as the primary point of contact for MPO coordination.
- B. In compliance with federal regulations, assist in the carrying out of the continuous, cooperative, and comprehensive metropolitan planning process, including, but not limited to, the development of the Unified Planning Work Program (UPWP), a Metropolitan Transportation Plan (MTP), Long Range Transportation Plan (LRTP), and/or Regional Transportation Plan (RTP); and the Transportation Improvement Program (TIP); and, where required by federal law or regulation, monitor the MPO's performance of activities and expenditures of all funds under a UPWP. The Department is responsible for reviewing the MPO's activities and expenditures of funds and will comment on and make suggestions relating to those activities and expenditures.
- C. Distribute federal and/or state transportation planning funds to the MPO based on a formula developed by the Department, in consultation with the MPO, and approved by FHWA, FTA, and other applicable federal agencies.
- D. Provide to the MPO, as appropriate, technical assistance and guidance for the collection, processing, and forecasting of socio-economic data needed for the development of traffic forecasts, plans, programs, and planning proposals within the metropolitan area, including the collection, processing, and forecasting of vehicular travel volume data in cooperation with the MPO.
- E. Consistent with MPO by-laws, jointly promote the development of transportation projects within the metropolitan area by identifying points in the system where access, connectivity, and coordination between the modes and inter-urban facilities would benefit the entire system.
- F. Coordinate with the MPO and Transit Agency[ies] in the preparation and maintenance of a Coordinated Public Transit – Human Services Transportation Plan.
- G. Update the MPO on relevant statewide transportation initiatives and priorities as needed. .
- H. Inform the MPO relative to federal and state statutes, policies, regulations, and guidelines which bear upon metropolitan transportation planning and programming activities and contractual arrangements.

- I. Monitor the MPO's transportation planning process, when such monitoring is required by federal law or regulation, to ensure compatibility with state and USDOT programs and objectives and compliance with all applicable federal requirements.

Article 3. Responsibilities of the MPO

The MPO is an organization created to ensure that existing and future expenditures on transportation projects and programs are based on a continuing, cooperative, and comprehensive planning process. The responsibilities of the MPO are as follows:

- A. Document planning activities in a UPWP to indicate who will perform the work, the schedule for completing the work, and all products or deliverables that will be produced, the proposed funding by activity/task, and a summary of the total amounts and sources Federal and matching funds. In cooperation with the Department and public transportation operators as defined by 23 CFR Part 450, the MPO must biennially develop a UPWP, subject to federal approval, that meets federal requirements.
- B. Use funds to develop and maintain a comprehensive regional transportation planning program in conformity with the requirements of 23 U.S.C. § 134, and 49 U.S.C. § 5303.
- C. Develop, adopt, and periodically review a MTP/LRTP/RTP, a TIP, and a UPWP for the Metropolitan Planning Area (MPA), consistent with applicable federal laws. At a minimum, the MPO shall consider in the planning process the applicable factors outlined in 23 U.S.C. § 134.
- D. Create and appoint members to the MPO Policy Board as stipulated by 23 CFR § 450.310. Additionally, for any MPO subject to T.C.A. § 64-8-301, a voting member who resides in the MPA shall be chosen in consultation with the Tennessee County Highway Officials Association to represent county highway departments operating within the planning area.
- E. Coordinate with the Department and the Transit Agency[ies] in the preparation and maintenance of a Coordinated Public Transit – Human Services Transportation Plan including, but not be limited to, an assessment of available services and transportation needs, identification of strategies, actions, and projects to address gaps between services and needs and improve service efficiencies, and identification of priorities for implementation.
- F. Assemble and maintain an adequate, competent staff with the knowledge and experience necessary to perform all appropriate MPO activities as required by law.
- G. Acquire, forecast, and maintain appropriate socio-economic, roadway, and travel data on a timely basis, in cooperation with the Department.
- H. Prepare all required plans, programs, reports, and data, and obtain all required certifications in a timely manner.
- I. Share information and sources of information concerning transportation planning issues with the Department, other jurisdictions and planning agencies, and interested members of the public, in a manner consistent with the provisions set forth in the approved Public Participation Plan.
- J. Ensure that all meetings and records concerning the business of the MPO comply with the requirements prescribed in 23 CFR Part 450 and T.C.A. Title 8, Chapter 44, Part 1.
- K. Comply with the Americans with Disabilities Act of 1990 plan certification procedures as required by 49 CFR § 37.139.
- L. Comply with Title VI of the Civil Rights Act of 1964 and maintain a current Title VI Program as required by FTA's Title VI Circular 4702.1B.
- M. Comply with DOT 5610.2(a) Environmental Justice; National Environmental Policy Act 42 U.S.C. § 4321 et seq.; and Executive Order 12898 Environmental Justice.
- N. Comply with DOT FR 239 Responsibilities to Limited English Proficiency (LEP) Persons.

- O. Ensure that no person shall be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination in the performance of this agreement or in the employment practices of the MPO 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 MPO shall, upon request, produce proof of nondiscrimination and shall post in conspicuous places, available to all employees and applicants, notices of nondiscrimination.

Article 4. Responsibilities of the Transit Agency[ies]

The responsibilities of the Transit Agency[ies] are as follows:

- A. Actively participate in the MPO activities to represent public transit interests and ensure awareness and consideration of public transit plans, programs, projects, and policies in MPO decision-making.
- B. Cooperate in the development and maintenance of the MTP/LRTP/RTP and TIP as a participating jurisdiction, providing information requested by the MPO in a timely manner relative to public transit projects and services to be deployed within the MPA in order to ensure consideration for inclusion in the MTP/LRTP/RTP and TIP. This includes information relative to the availability, or anticipated availability, of federal and local financial aids for public transit improvements and services within the MPA.
- C. Cooperate in the development and maintenance of the UPWP as a participating jurisdiction, providing information requested by the MPO in a timely manner related to transit planning activities or technical assistance to be deployed within the MPA for inclusion in the UPWP. This includes informing the MPO to the availability, or anticipated availability, of federal and state financial aids and technical assistance for public transit planning activities.
- D. Work cooperatively with the MPO and the Department in the preparation of an Annual Listing of Obligated Projects (ALOP) funded under 23 U.S.C. or 49 U.S.C. Chapter 53 to include supplying information about federal obligations of grant funds administered through FTA in a reasonable time following the end of the federal fiscal year.
- E. Cooperate with the Department in the development of the Statewide Long Range Transportation Plan (STIP) pursuant to the provisions of 23 U.S.C. 135.
- F. Coordinate with the MPO and the Department in the preparation and maintenance of a Coordinated Public Transit – Human Services Transportation Plan.
- G. Coordinate with the Department and the MPO on the conduct of short-range transit plans or operational analyses that affect or inform regional or statewide transportation plans and programs.
- H. Prepare and submit applications for federal public transportation capital assistance grants and state operating assistance grants and administer approved grants.
- I. Collect data to meet the requirements of 49 U.S.C. 5335 regarding the National Transit Database.
- J. At least once per year, present to the MPO an update on local public transit initiatives and priorities that either affect regional transportation plans and programs or that should be considered in their development.
- K. Prepare and update paratransit service plans in conformance with the Americans with Disabilities Act of 1990.
- L. Ensure that no person shall be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination in the performance of this agreement or in the employment practices of the Transit Agency[ies] 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 Transit Agency[ies] shall, upon request, produce proof of nondiscrimination and shall post in conspicuous places, available to all employees and applicants, notices of nondiscrimination.

Article 5. Unified Planning Work Program

- A. Every two (2) years, the MPO shall submit to the Department a program of work that includes goals, objectives, and tasks required by each of the relevant agencies involved in the metropolitan transportation planning process. This program of work is to be called the Unified Planning Work Program (UPWP), or any successor name. The UPWP shall be developed and adopted by the MPO Policy Board, in accordance with 23 CFR § 450.314, and must be approved by FHWA prior to the MPO carrying out any work items from the UPWP.
- B. The UPWP shall be prepared for a period of two (2) years. The UPWP shall reflect only the work that can be accomplished during the time period of the UPWP, in accordance with 23 CFR § 420.113 (a) (5) and 23 CFR § 420.115 (a).
- C. The UPWP shall reflect transportation planning work tasks to be funded by federal, state, or local transportation, or transportation-related (e.g., air quality), planning funds. The budget and statement of work will be included in the UPWP. The MPO may not incur costs until final approval of the UPWP by the Department and ultimate federal authorization.

Article 6. Metropolitan Transportation Plan (MTP), Long Range Transportation Plan (LRTP), and/or Regional Transportation Plan (RTP)

- A. Every five (5) years, or every four (4) years for MPOs in nonattainment or maintenance areas, the MPO shall develop and adopt a MTP/LRTP/RTP which shall include recommended transportation investments and strategies determined cooperatively by the MPO, the Department, and the Transit Agency[ies]. The MTP/LRTP/RTP shall be adopted by the MPO Policy Board, in accordance with 23 CFR § 450.324.
- B. The investments and strategies put forth in the MTP/LRTP/RTP shall address no less than a 20-year planning horizon.
- C. The MPO shall issue a formal call for projects from local government members and agency partners, including the Transit Agency[ies], the Department, and local governments, early in the MTP/LRTP/RTP development process. The projects will be considered through the MPO's project selection process.
- D. At the request of the MPO, the Department shall provide data to assist in the development of the MTP/LRTP/RTP.
- E. The Transit Agency[ies] shall provide to the MPO relevant data needed for the evaluation of existing and proposed transit projects and policies, including existing transit services and routes, existing and projected ridership figures, and existing and projected operations and maintenance costs.
- F. The MPO shall, in consultation with the Department, the Transit Agency[ies], and local government partners, set the inflation rates used to develop year of expenditure (YOE) costs in the MTP/LRTP/RTP.
- G. At the MPO's request, the Department shall provide the MPO with a description of the Department's performance measures and performance targets used in assessing the performance of the transportation system; provide the MPO with a system performance report and subsequent updates evaluating the condition and performance of the transportation system with respect to the performance targets described in 23 CFR § 450.306(d); and inform the MPO on progress

achieved by the Department in meeting the performance targets in comparison with system performance recorded in previous reports, including baseline data.

- H. Consistent with 23 CFR § 450.324(f), the MPO shall, in consultation with the Department, develop a methodology for financial planning for the MTP/LRTP/RTP, including system-level estimates of costs and revenue sources, estimates of funds that will be available to support plan implementation, additional financing strategies to fund projects and programs, and an inflation rate(s) to reflect year of expenditure (YOE) dollars based on reasonable financial principles and information.
- I. The MPO shall approve revenue forecasts and year of expenditure (YOE) cost estimates.
- J. Prior to the submittal of the first draft of the MTP/LRTP/RTP to the Department, MPOs in nonattainment and maintenance areas shall provide the Interagency Consultation Committee (IAC) with the MTP/LRTP/RTP project list for review and comment.
- K. The MPO must approve the MTP/LRTP/RTP and any subsequent revisions, and shall not delegate the approval authority, except for administrative adjustments. Administrative adjustments do not change the scope of work, result in an increase or decrease in the amount of task funding, or affect the overall budget. Examples include typographical, grammatical, or syntax corrections.

Article 7. Transportation Improvement Program (TIP)

- A. Every three (3) years the MPO, in cooperation with the Department and the Transit Agency[ies], shall develop and adopt a fiscally-constrained TIP which shall include the federally-funded and/or regionally significant (regardless of funding source) transportation projects anticipated in the MPA over the next four (4) years. Only projects consistent with the MTP/LRTP/RTP are eligible for inclusion in the TIP. The TIP shall be adopted by the MPO Policy Board, in accordance with 23 CFR § 450.326.
- B. The MPO shall issue a formal call for projects from local government members and agency partners, including the Transit Agency[ies] and the Department, early in the TIP development process. The projects will be considered through the MPO's project selection process.
- C. The MPO, in cooperation with TDOT, transit operators, and all constituent local governments, shall evaluate the candidate projects against regional priorities, goals and objectives, and funding availability.
- D. Each project sponsor shall provide cost estimates for any projects proposed or endorsed by the sponsor.
- E. The MPO shall, in consultation with the Department, the Transit Agency[ies], and local government partners, set the inflation rates used to develop YOE costs in the TIP.
- F. Prior to the submittal of the first draft of the TIP to the Department, MPOs in nonattainment and maintenance areas shall provide the Interagency Consultation Committee (IAC) with the conformity determination report for review and comment.
- G. In accordance with the MPO's established TIP policies and the existing Memorandum of Agreement (MOA) between the Department and the MPO regarding the definition and need for amendments/administrative adjustments to the STIP and TIP, the MPO must approve the TIP and any subsequent revisions, and shall not delegate the approval authority, except for administrative adjustments.
- H. After approval by the MPO and the Governor, the Department shall integrate the approved TIP, without change, into the STIP directly or by reference. Once complete, the STIP shall be forwarded by the Department to FHWA/FTA for review and action.
- I. TDOT shall inform the MPO upon FHWA/FTA's initial approval of the STIP.

Article 8. Annual Listing of Obligated Projects

In accordance with 23 CFR § 450.334, within ninety (90) days after the close of the federal fiscal year, the MPO shall publish an Annual Listing of Obligated Projects (ALOP). An obligation report shall be provided by the Department in funds obligated under 23 U.S.C. § 134 for the MPO area such that the MPO has sufficient time to develop and publish the ALOP by the prescribed deadline.

Article 9. Congestion Management Process

In accordance with 23 CFR § 450.322, every four (4) or five (5) years, as applicable, concurrent with the update to the MTP/LRTP/RTP, MPOs that are designated as TMAs shall, in cooperation with the Department and the Transit Agency[ies], develop a Congestion Management Process (CMP).

Article 10. Public Participation Plan

In accordance with 23 CFR § 450.316, the MPO shall adopt and maintain a formal, written Public Participation Plan. The Plan shall provide reasonable opportunity for involvement with all interested parties in carrying out the MPO's transportation planning and programming processes, including opportunities for preliminary review and comment at key decision points. Initial or revised Public Participation Plan procedures shall undergo a minimum forty-five (45) day draft public review and comment period.

Article 11. Performance Based Metropolitan Planning Process Responsibilities

In accordance with 23 CFR § 450.314 (h), the MPO, the Department, and the Transit Agency[ies] shall jointly agree upon and develop specific written provisions for cooperatively developing and sharing information related to transportation performance data, the selection of performance targets, the reporting of performance targets, the reporting of performance to be used in tracking progress toward attainment of critical outcomes for the region of the MPO (see 23 CFR § 450.306(d)), and the collection of data for the state asset management plan for the National Highway System (NHS).

These terms were formally agreed upon in the MOU for cooperatively developing, sharing, and reporting information related to performance measures and performance targets which was signed by the Department Commissioner, the MPO, and the Transit Agency[ies] on [insert relevant date].

Article 12. Travel Demand Modeling and Coordination on State Planning


The MPO is responsible for maintaining and updating the regional transportation model for all roadways of significance, including all interstates, freeways, and arterials, within the MPO study area. The model shall be developed and reviewed in a manner consistent with the guidance outlined in *Minimum Travel Demand Model Calibration and Validation Guidelines for the State of Tennessee*.

THE MPO

Signature

____ February 15, 2019 ____
Date

THE TRANSIT AGENCY


Signature

____ February 15, 2019 _____
Date

____Clay Bright____
Typed or Printed Name

Date

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.

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 March 5, 2019.

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 March 5, 2019.

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 March 5, 2019.

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 14/5/11

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 commencement 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

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 5 day of Feburary, 20 19, by and between Cherokee Crossing, LLC, a Tennessee limited liability company 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 _____
032040 0300, 141 Hotchkiss Dr. as recorded by deed in the last land records of
(Insert Hamblen County Tax & Parcel Number)

Hamblen County, TN, Deed Book 1609 Page 310, hereafter called the "Property".

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

WHEREAS, the Site Plan/Subdivision known as NA Chili's
(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:

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

By: David B. Fiser

David B. Fiser
(Type Name)

member
(Type Title)

State of Tennessee

County of Knox

The foregoing Agreement was acknowledged before me this 5th day of February, 2019,

by David Fiser

Kelly Belyea Kelly Belyea
Notary Public

My Commission Expires 9/06/2021

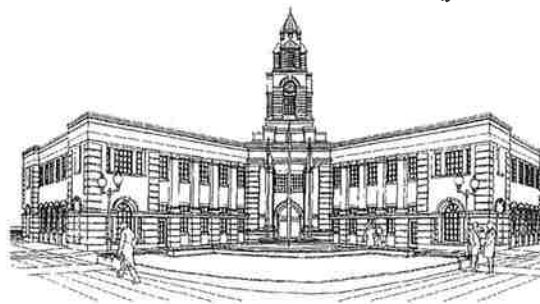


Approved as to form: [Signature] 2-20-19
City Attorney Date

Approved by the City: _____
Mayor Date

Morristown Police Department

ROGER OVERHOLT
Chief of Police



MEMORANDUM

To: Mayor Gary Chesney
City Council

From: Chief Roger D. Overholt *RDO*

Date: February 21, 2019

Re: Entry Level Patrol Officer

I am requesting to hire one entry level patrol officer at the March 5th council meeting contingent upon their successful completion of all pre-employment requirements. This is to backfill an existing vacancy. Attached is the current civil service roster of eligible candidates.

Thank you.

RDO/II

CIVIL SERVICE BOARD

P. O. BOX 1499 * MORRISTOWN, TN 37816

POLICE DEPARTMENT ENTRY LEVEL ROSTER

Revised on February 12, 2019 to Reflect Recent Testing, **Hiring** and/or Corrections

	RANK AND NAME	EXPIRES
1	Felix Cruz	12/31/2019
2	Tyler Harbin	12/31/2019
3	Ryan Johnson	12/31/2019
4	Todd Lewis	12/31/2019
5	Blake Bain	12/31/2019
6	Dustin Hill	12/31/2019
7	Langley Morgan	12/31/2019
8	Elijah Jinks	12/31/2019
9	Andrew Nordan	12/31/2019
10	James McClain	12/31/2019
11	Chesney Dunlap	12/31/2019
12	Roger Ortiz	12/31/2019
13	Michael Cameron	4/30/2019

For the Civil Service Board


Lee Parker, Chairman

Morristown Police Department

ROGER OVERHOLT
Chief of Police



MEMORANDUM

TO: Mayor and Council
FR: Roger Overholt, Chief of Police *RDO*
DATE: February 28, 2019
RE: **Request Surplus (Retirement) of K-9 Dano**

I am requesting to surplus K-9 Dano due to age and health restrictions. The animal is currently 10 years old and can no longer be utilized for patrol duties. This K-9 is scheduled to be replaced.

Canine handler Officer Paul Pressley has requested that the animal be transferred to him. This has historically been done with our K-9s after retirement.